COUNCIL ASSESSMENT PANEL

NOTICE OF MEETING

TO:    Presiding Member: Dr Michael Llewellyn-Smith
       Members: Mr Mike Canny, Ms Fleur Bowden, Mr Ross Bateup, Mr
               Nathan Shanks

NOTICE is hereby given that a Meeting of the Town of Gawler Council Assessment
Panel will be held in Meeting Room 4, Town of Gawler Administration Centre, 43 High
Street, Gawler East, on Wednesday 30 January 2019, commencing at 6.30pm.

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

Ryan Viney
Manager Development, Environment and Regulatory Services
24 January 2019
For the Meeting of the Town of Gawler Council Assessment Panel to be held on Monday Wednesday 30 January 2019 in Meeting Room 4, Town of Gawler Administration Centre, 43 High Street, Gawler East, commencing at 6.30PM.

Welcome and Presiding Member Introductions

1. Attendance Record
   1.1 Roll Call
   1.2 Apologies
   1.3 Leave of Absence

2. Confirmation of Minutes – That the minutes of the Council Assessment Panel Meeting held on Monday 26 November 2018 be confirmed as a true and correct record of proceedings.

3. Business Arising from Previous Minutes

4. Declaration of Interest by Members of the Panel

5. Reports:

<table>
<thead>
<tr>
<th>5.1 Development Application:</th>
<th>490/594/2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant:</td>
<td>MCDONALDS AUSTRALIA LIMITED</td>
</tr>
<tr>
<td>Address:</td>
<td>40-42 Adelaide Road GAWLER SOUTH 5118</td>
</tr>
<tr>
<td>Nature of Development:</td>
<td>Removal of Condition 3 of Development Authorisation 490/634/934 comprising of an Extension of Trading Hours (to 24/7 facility).</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>5.2 Development Application:</th>
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<tbody>
<tr>
<td>Applicant:</td>
<td>QUICKDRAW DRAFTING</td>
</tr>
<tr>
<td>Address:</td>
<td>39 Theen Avenue WILLOSTON 5118</td>
</tr>
<tr>
<td>Nature of Development:</td>
<td>Construction of 5 warehouse buildings (industrial use), signage, onsite car parking, landscaping and combined fence and retaining walls exceeding 2.1m</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>5.3 Development Application:</th>
<th>490/219/2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant:</td>
<td>BLEEZE NEALE &amp; ASSOCIATES</td>
</tr>
<tr>
<td>Address:</td>
<td>17 Cockshell Drive GAWLER EAST 5118</td>
</tr>
<tr>
<td>Nature of Development:</td>
<td>Land Division - 1 into 2 Allotments</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>5.4 Development Application:</th>
<th>490/341/2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant:</td>
<td>R G CALLOW</td>
</tr>
<tr>
<td>Address:</td>
<td>6 Duldig Avenue GAWLER EAST 5118</td>
</tr>
<tr>
<td>Nature of Development:</td>
<td>Land Division by Torrens Title (1 into 2)</td>
</tr>
</tbody>
</table>
COUNCIL ASSESSMENT PANEL
AGENDA

Wednesday 30 January 2019

6. Information Items:

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>6.1 Appeal Matters</td>
<td>59</td>
</tr>
<tr>
<td>6.2 Matters previously deferred</td>
<td>60</td>
</tr>
</tbody>
</table>

7. Other Business


9. Closure
## DEVELOPMENT APPLICATION OVERVIEW

<table>
<thead>
<tr>
<th>Item Number</th>
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<tr>
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</tr>
<tr>
<td>Owner</td>
<td>MCDONALD’S AUSTRALIA LIMITED</td>
</tr>
<tr>
<td>Subject Land</td>
<td>40-42 Adelaide Road GAWLER SOUTH 5118</td>
</tr>
<tr>
<td>Certificate of Title</td>
<td>LOT: 3 PLN: F125590 CT: 5223/48</td>
</tr>
<tr>
<td>Description of Development</td>
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<tr>
<td>Zone</td>
<td>Town Centre Historic (Conservation) Zone</td>
</tr>
<tr>
<td>Policy Area</td>
<td>Town Centre Gawler South Policy Area</td>
</tr>
<tr>
<td>Nature of Development</td>
<td>Merit</td>
</tr>
<tr>
<td>Public Notification Category</td>
<td>Nil/Category 1</td>
</tr>
<tr>
<td>Representations</td>
<td>Nil</td>
</tr>
<tr>
<td>Referral Agencies</td>
<td>Nil</td>
</tr>
</tbody>
</table>
| Key Issues / Considerations | • Appropriateness of hours of operation;  
• Interface with adjoining land uses; and  
• Anti-social behaviour |
| Previous Motion | Nil |
| Lodgement Date | 15/11/2018 |
| Development Plan | 20 February 2018 |
| Attachments Under Separate Cover | Attachment 1 - Application Documentation |
| Author(s) | Development Assessment Planner (Scott Twine) |
| Reviewed | Team Leader Development Services (David Bielatowicz) |
| Delegation | Any form of development which the Manager, Development, Environment and Regulatory Services deems would be more appropriately considered by the Council Assessment Panel. |
| Recommendation | Development Plan Consent be Granted |
1. DESCRIPTION OF PROPOSAL

1.1. The subject development proposal seeks to remove Condition 3 of Development Authorisation 490/634/934 (1993-1994 Development Application). The removal of condition is proposed to facilitate the 24 hour operation of the existing restaurant facility, 7 days a week.

1.2. Condition 3 in its current form, outlines the following:

   The hours of operation of the premises shall be restricted to the following times:

   6.00am to 12 midnight Sunday to Wednesday

   6.00am to 1.00am the following day, Thursday to Saturday

1.3. Other than the proposed change in operating hours, no other elements are proposed as part of this subject application.

   A copy of the application’s documentation is contained within Attachment 1.

2. BACKGROUND

2.1. In summary, the key aspects pertaining to the assessment

2.2. of this application are:

   2.2.1. Appropriateness of hours of operation;

   2.2.2. Interface with adjoining land uses; and

   2.2.3. Anti-social behaviour.

3. RELEVANT DEVELOPMENT APPLICATION HISTORY

3.1. Table 2 below provides a summary of the previous applications and their associated status:

Table 1:

<table>
<thead>
<tr>
<th>DA#</th>
<th>DESCRIPTION OF PROPOSAL</th>
<th>STATUS</th>
</tr>
</thead>
<tbody>
<tr>
<td>490/634/934</td>
<td>Restaurant with associated landscaping and car parking</td>
<td>Approved and completed</td>
</tr>
<tr>
<td>490/635/934</td>
<td>Signage</td>
<td>Approved and completed</td>
</tr>
<tr>
<td>490/636/934</td>
<td>Signage</td>
<td>Approved and completed</td>
</tr>
<tr>
<td>490/066/956</td>
<td>Addition to Restaurant (Party Room)</td>
<td>Approved and completed</td>
</tr>
<tr>
<td>490/308/2000</td>
<td>Drive-through canopy and signage</td>
<td>Approved and completed</td>
</tr>
<tr>
<td>Reference</td>
<td>Description</td>
<td>Decision</td>
</tr>
<tr>
<td>------------</td>
<td>-----------------------------------------------------------------------------</td>
<td>---------------------------</td>
</tr>
<tr>
<td>490/212/2001</td>
<td>Signage</td>
<td>Refused</td>
</tr>
<tr>
<td>490/378/2004</td>
<td>Alterations to Restaurant</td>
<td>Development Plan Consent</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Granted and Lapsed</td>
</tr>
<tr>
<td>490/840/2005</td>
<td>Alterations to Restaurant</td>
<td>Approved and completed</td>
</tr>
<tr>
<td>490/559/2006</td>
<td>Alterations to drive-through and associated signage</td>
<td>Approved and completed</td>
</tr>
<tr>
<td>490/673/2007</td>
<td>Extension to Trading Hours</td>
<td>Refused</td>
</tr>
<tr>
<td>490/468/2008</td>
<td>Alterations to drive-through</td>
<td>Approved and completed</td>
</tr>
<tr>
<td>490/723/2009</td>
<td>Alterations to drive-through (additional service lane) and Playground</td>
<td>Approved and completed</td>
</tr>
<tr>
<td>490/096/2017</td>
<td>Alterations and additions to existing Restaurant and illuminated signage</td>
<td>Development Plan Consent</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Granted (still active)</td>
</tr>
</tbody>
</table>

### 4. LOCALITY

4.1. The subject land is situated wholly within the Town Centre Historic Conservation Zone and more specifically, the Gawler South Policy Area.

4.2. The confines of the locality are considered to be limited to the following parameters:

4.2.1. North: Adelaide Road
4.2.2. East: Fourth Street
4.2.3. South: Fifth Street
4.2.4. West: Adelaide Road

The parameters of the locality are demonstrated within the locality plan provided below in Figure 1.

4.3. The main characteristics of the locality are as follows:

<table>
<thead>
<tr>
<th>LOCALITY</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>NORTH</td>
<td>The northern locality consists of a continuation of the Town Centre (Historic) Conservation Zone and comprises predominately commercial land uses. These uses include but are not limited to offices, restaurants, consulting rooms and a car wash.</td>
</tr>
<tr>
<td>EAST</td>
<td>George Lane abutting the rear of the subject land separates the site from the adjoining Residential Historic (Conservation) Zone. The adjoining zone is predominately residential in character consisting mainly of detached dwellings dating from the period 1860-1910.</td>
</tr>
<tr>
<td>SOUTH</td>
<td>The southern locality demonstrates the transition from the Town Centre Historic (Conservation) Zone to the Residential Historic (Conservation) Zone. The area comprises a mixture of residential and commercial land uses.</td>
</tr>
<tr>
<td>WEST</td>
<td>The western locality consists of a continuation of the Town Centre (Historic) Conservation Zone and comprises predominately commercial land uses.</td>
</tr>
</tbody>
</table>
5. SUBJECT SITE

5.1. The subject site is located at 40-42 Adelaide Road, Gawler South and comprises of three (3) allotments. The allotments are legally recognised as Lots 2, 3 and 71 contained within the following Certificate of Title Volume/Folios; 5319/833, 5223/48 and 5457/934 respectively.

5.2. The subject land is burdened by two (2) easements; being for sewage and electricity purposes. Neither easement is impacted by the proposal.
5.3. The subject land has two separate frontages to Adelaide Road separated by an existing office building. The combined frontage to Adelaide Road is approximately 53 metres, with a total combined allotment area of 2,925m².

5.4. The site is relatively flat and contains the following:

5.4.1. A restaurant facility (approximately 540m²) and associated drive through;

5.4.2. Playground;

5.4.3. Car parking area (containing 40 car parks); and

5.4.4. Established landscaping.

6. NATURE OF DEVELOPMENT

6.1. The application seeks to remove a previous condition imposed on Development Authorisation 490/634/934. The removal of the condition does not fall within the ambit of ‘Complying’ development prescribed by Schedule 4 of the Development Regulations 2008 or Town Centre (Historic) Conservation Zone Principle of Development Control 40. Similarly, the proposal does not fall within a type of development outlined as ‘Non-Complying’ by way of Town Centre (Historic) Conservation Zone Principle of Development Control 41. As such, the proposal represents an ‘on-merits’ form of development.

7. CATEGORISATION (PUBLIC NOTIFICATION)

7.1. In order to determine the category of the proposed variation, the original development application (being 490/634/934) must be considered relative to Section 39(7) of the Development Act 1993. Section 39(7) provides for the following:

7.1.1. in a case where the development to which the development authorisation previously given was Category 3 development—must also be dealt with under section 38 as an application for Category 3 development if any representations were made under subsection (7) of that section, unless the relevant authority determines that no such representation related to any aspect of the development that is now under consideration on account of the application for variation and that, in the circumstances of the case, it is unnecessary to deal with the matter as Category 3 development;

7.2. The original development application was determined as a category 3 form of development however, none of the 26 representations originally received related to hours of operation. The previous representations were generally limited to the appropriateness of the built form, demolition of previous buildings and traffic concerns.
7.3. It is noted that an application seeking to vary hours of operations have previously been considered by the Environment, Resource and Development Court in relation to categorisation. In the matter between Hannon & Anor V Adelaide Hills Council & Anor [2010] SAERDC 57, the court noted the following (paragraphs 25, 26 and 28):

7.3.1. The Act, in s 38, provides for the categorisation of “development” for the purposes of public notification. The variation application in this matter is an application to vary a condition to increase the hours during which it is permissible for delivery vehicles to attend the site for the purposes of the retail development. This does not come within the definition of “development” pursuant to the Act. The Act provides, in s 39(7)(b) that an application for variation, to the extent of the proposed variation, is to be treated as a new application for development authorisation. This does not mean, however, that it should be treated as “development” when the variation does not fall within the definition of that term in the Act (see Eliza Jane Investments Pty Ltd v City of Playford.[4] per Bleby J). The Act, in s 39(7)(c), makes specific provision for the public notification of a variation application as a Category 3 development when the development authorisation which is sought to be varied was for a Category 3 development, and representations were received in relation to that development authorisation. The Act does not otherwise provide for the public notification of variation applications pursuant to s 39(6) which do not, in themselves, constitute development.

7.3.2. In my opinion, the variation application should not have been assigned to a Category at all. However, because the consequence of assigning it to Category 1 was the same as not assigning it to a Category, in that no public notification ensued, there is no need to interfere with the Council’s decision on that account.

7.3.3. If I am wrong about that, and the variation application somehow falls to be treated as “development” and categorised pursuant to s 38 of the Act, then I determine that Ms Atkinson’s decision that the variation came within Schedule 9, paragraph 2(g) was formed reasonably on all of the material before the Council and, indeed, on all of the material before the Court. I would decline to interfere with that decision.

7.4. Given the proposal is limited to the removal/variation of an existing condition of consent, the subject application is similar in nature to the above mention matter. In the above matter, the court held that public notification was not required however, should that determination be incorrect, that the proposal could appropriately be considered Category 1 minor.

7.5. To ensure due consideration has been given to the categorisation, it is considered that given the provided acoustic report has demonstrated there will be no resulting detrimental amenity impact on neighbouring allotments and the existing use remains the same (albeit without operational restriction), the proposal appropriately falls within the ambit of Schedule 9 (2)(g) of the Development Regulations 2008. As such, the proposal represents a Category 1 form of Development.
7.6. In light of the above, this application was not required to be advertised pursuant to Section 38 of the Development Act 1993.

8. REFERRALS

8.1. No Internal referrals or External referrals in accordance with Schedule 8 of the Development Regulations 2008 were required to be undertaken during the assessment of the subject application.

9. ASSESSMENT

9.1. The zoning of the land and relevant provisions

9.1.1. The following Town of Gawler Development Plan Objectives and Principles of Development Control (PDC’s) were considered in the assessment of this application:

Table 3:

<table>
<thead>
<tr>
<th>Development Plan</th>
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</tr>
</thead>
<tbody>
<tr>
<td>Zone</td>
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<tr>
<td>Policy Area</td>
<td>Town Centre Gawler South Policy Area</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Section</th>
<th>Objectives</th>
<th>Principles of Development Control</th>
</tr>
</thead>
<tbody>
<tr>
<td>Council Wide:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Centres and Shops</td>
<td>5, 6, 7, 8</td>
<td>21, 25</td>
</tr>
<tr>
<td>Commercial Development</td>
<td>9</td>
<td>-</td>
</tr>
<tr>
<td>Crime Prevention</td>
<td>20</td>
<td>42</td>
</tr>
<tr>
<td>Interface Between Land Uses</td>
<td>42, 43, 44</td>
<td>107, 108, 109, 111, 112, 113, 115, 117, 118</td>
</tr>
</tbody>
</table>

| Zone:                        |            |                                   |
| Town Centre Historic (Conservation) Zone | 1, 2, 5, 12, 15 | 10 |

Policy Area: Town Centre Gawler South Policy Area | 1, 2 | - |

9.2. Appropriateness of Hours of Operation

9.2.1. The proposed transition to a 24 hour facility has previously been considered before the Full Court of the Supreme Court in the matter between Caltex Australia
Petroleum Pty Ltd v City of Holdfast Bay [2014] SASCFC 59. In this matter, the court noted the following with respects to a proposed change to facilitate a 24 hour petrol filling station within paragraphs 59-61 inclusive:

9.2.1.1 Neither the building work, nor the additional shopping and parking spaces it creates, change the use of the Caltex site. There is no change in the individual activities engaged in on the land or in their relative mix. The planning use of the land remains that of a petrol filling station and shop.

9.2.1.2 To my mind, nor would the increase to 24 hour trading change that use. Plainly enough, the use between 6.00 am and 10.00 pm would not be altered or affected in any way by the additional trading undertaken between 10.00 pm and 6.00 am. It is difficult to see therefore how the extended hours affect a change in the “genus” of the use of the land. In effect, Holdfast Bay contends that there is one class of use which can be described as a late night petrol filling station and shop, and another which is a “24 hour” petrol filling station and shop. Generally, the courts have rejected sub-classification of uses by reference to times of operation.[37] The general relaxation in trading hours over several decades also militates against categorising pre-existing uses by reference to times of operation. To my mind against that general relaxation, the extension of trading hours can be seen as “a natural change” in the use of the land.

9.2.1.3 There is no basis in the Development Plan, in land use practices or in the nature of shops and petrol filling stations in contemporary South Australian socio-economic conditions to classify the use of the Caltex site differently by reference to whether or not it trades overnight.

9.2.2 Similar to the Caltex proposal, the increase in operating hours will not result in a ‘change in use’ of the existing restaurant facility. The manner in which the existing use operates will remain the same following the proposed change; albeit for longer periods of time.

9.2.3 The existing commercial use is considered to represent an appropriate use consistent with the intent and objectives of the Town Centre (Historic) Conservation Zone. The proposed change in operating hours does not offend Zone Objectives 2 and 15.

9.2.4 The proposed change in operating hours is therefore considered to be appropriate subject to the change not having a detrimental impact on adjoining land uses.

9.3 Interface with Adjoining Land Uses

9.3.1 The subject land is situated on the boundary of the Town Centre (Historic) Conservation Zone and shares an interface with the adjoining Residential (Historic) Conservation Zone. George Lane to the rear physically separates the subject site from adjoining residential properties.

9.3.2 No vehicle access/egress to/from the subject site is achieved via George Lane and as such, the impact of the existing use and proposed change in operating hours is considered to be limited to that of noise and odour. The interface with adjoining
residential land uses is considered to be the principle consideration of the subject proposal.

9.3.3 Detrimental odour emission is not anticipated to occur as a result of the proposal. The applicant has noted the following with respects to the existing and continued operation of the site within the planning submission prepared by Access Planning:

9.3.3.1 The key sources of potential odours from the development are associated with cooking and waste storage on the premises.

9.3.3.2 With regard to cooking, the kitchen will be operated in accordance with the Food Standards Code under the Food Act 2003 and Australian Standard 4674 – Design, Construction and Fit out of Food Premises; and will accord with the Environment Protection (Air Quality) Policy 1994, under the Environment Protection Act, both of which are intended to minimise the potential for the site to generate cooking odours.

9.3.3.3 McDonald’s adopt a strict regime of cleaning and maintenance of exhaust systems to ensure that any build-up of fat is removed from filters and exhaust hoods daily and from ducting and mechanical plant monthly.

9.3.3.4 All waste is be stored in an existing waste storage area. This area is of a sufficient size to accommodate the number of required bins and is cleaned regularly as part of the premises ongoing operation.

9.3.3.5 The design and operation of the restaurant will incorporate an exhaust ventilation system which complies with the relevant Australian Standard for cooking, odour extraction, and operations which will minimise any odour that may be discharged by the development.

9.3.4 The additional operation of the site within the extended hours of operation is not considered to give rise to detrimental odour emissions. The proposal therefore satisfies Council Wide Principle of Development Control 107(a).

9.3.5 To aid in the consideration of the resulting impact in the proposed hours of operation, the applicant engaged Sonus to undertake an Environmental Noise Assessment. In summary, Sonus concluded the following:

9.3.5.1 The assessment considered the environmental noise from activities at the site during the proposed extended hours (being midnight to 6am on Monday to Thursday, 1am to 6am on Friday to Sunday), which include the use of the drive through facility; use of the car park; and operation of mechanical plant. All of these activities already occur during the approved hours and are not new to the site.

9.3.5.2 There is an existing 2m high solid fence along the south-western and south-eastern boundary of the site adjacent to the drive through facility. The fence blocks line of sight between vehicle movements and ordering activity at the site and the dwellings and provides specific and significant noise reduction to the dwellings.

9.3.5.3 Based on the predictions, the noise level at the closest dwellings from operation of the site during the extended hours of operation will be no greater than 49 dB(A),
therefore achieving the 50 dB(A) night-time goal noise level of the Environment Protection (Noise) Policy 2007.

9.3.5.4 It is considered that the relevant environmental noise provisions in the Gawler Council Development Plan are satisfied and the extension in hours will not cause an unreasonable interference in the existing amenity at the dwellings.

9.3.6 In light of the above environment Noise Impact Assessment, it is considered that the proposed increase in operating hours will not detrimentally impact the amenity of the adjoining residential properties. It is noted that no deliveries or waste collection is proposed to occur within the additional timeframes for operation proposed.

9.3.7 As such, the proposed increase in operating hours satisfies Council Wide Principles of Development Control 107, 108, 111 and 112.

9.4 Anti-social Behaviour

9.4.1 The consideration of antisocial behaviour is limited when determining the merits of a proposal against the relevant provisions of a Development Plan. The ERD Court matter between Reichelt & Ors v City of Charles Sturt & Anor [2016] SAERDC 38 held the following in the context of a proposed fast food restaurant:

9.4.1.1 We do not regard the possibility of such behaviour occurring, in and of itself, to be a warrant for refusing approval to the proposed development.

9.4.1.2 The occurrence of anti-social, even criminal, behaviour is an unfortunate fact of life to be encountered at a broad range of shopping, commercial and entertainment facilities. If development approvals for such facilities were refused in order to ensure that detrimental impacts on the amenity of nearby residents were avoided altogether and in every case, there would be very few such facilities ever approved. As such, whilst a proposal can inevitably be improved through the implementation of various crime prevention techniques, anti-social behaviour may inevitably result. The management of such behaviour, falls under the responsibility of the property owner/occupier and where appropriate the South Australian Police.

9.4.2 Subsequently, the proposed extension to operating hours from a planning perspective does not exacerbate the concern for anti-social behaviour to occur. Rather the ongoing site presence resulting from staff being on site 24/7, will increase the passive surveillance of the subject site in addition to land uses located within the immediate locality.

9.4.3 The proposal is therefore consistent with Council Wide Objective 20 and Principle of Development Control 42.

10. CONCLUSION

10.1 Upon consideration of the relevant provisions of the Town of Gawler Development Plan, the proposed increase in the existing restaurant facilities hours of operation, will not detrimentally detract from the amenity of the locality.
10.2 The increase in hours of operation will not alter the ‘genus’ of the existing use, which remains an appropriate use within the context of the Town Centre (Historic) Conservation Zone.

10.3 The proposal is considered to accord with the relevant provisions of the Town of Gawler Development Plan and be appropriate for the Granting of Development Plan Consent.

11. RECOMMENDATION

It is recommended that the Town of Gawler Council Assessment Panel resolves:

1. That having regard to the relevant provisions of the Gawler (CT) Development Plan, pursuant to Section 33(1) of the Development Act 1993, that the application is not seriously at variance with the Development Plan.

2. That DEVELOPMENT PLAN CONSENT be GRANTED to Development Application 490/594/2018 by MCDONALDS AUSTRALIA LIMITED for Removal of Condition 3 of Development Authorisation 490/634/934 comprising of an Extension of Trading Hours (to 24/7 facility) at 40-42 Adelaide Road GAWLER SOUTH 5118, subject to the following conditions:
   1. The development hereby approved shall be undertaken in accordance with Development Application No 490/594/2018, the approved plans, details and conditions therein. 
      Reason: To ensure development is undertaken in accordance with approved plans
   2. Except where varied by this consent, all other conditions, plans and details relating to the subject land continue to apply to this amended consent.
      Reason: To ensure development is undertaken in accordance with previously approved plans
   3. Noise from devices and/or activities on the subject site should not unreasonably impair or impinge on the amenity of the properties within the locality at any time, and shall comply with the Environment Protection (Noise) Policy 2007 at all times.
      REASON: To minimise nuisance to adjacent sites and to preserve the amenity of the locality.
### DEVELOPMENT APPLICATION OVERVIEW

<table>
<thead>
<tr>
<th>Item Number</th>
<th>5.2</th>
</tr>
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<tbody>
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<tr>
<td>Owner</td>
<td>THAUTO PTY. LTD.</td>
</tr>
<tr>
<td>Subject Land</td>
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<td>Certificate of Title</td>
<td>LOT: 13 PLN: 84159 CT: 6062/863</td>
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<td>Description of Development</td>
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<tr>
<td>Policy Area</td>
<td>n/a</td>
</tr>
<tr>
<td>Nature of Development</td>
<td>Merit</td>
</tr>
<tr>
<td>Public Notification Category</td>
<td>Category 1</td>
</tr>
<tr>
<td>Representations</td>
<td>n/a</td>
</tr>
<tr>
<td>Referral Agencies</td>
<td>Nil</td>
</tr>
</tbody>
</table>
| Key Issues / Considerations | • Appropriateness of land use  
• Interface between land uses;  
• Visual amenity and landscaping;  
• Signage;  
• Stormwater management and water quality treatment;  
• Waste management;  
• Access/egress and car parking |
| Previous Motion | nil |
| Lodgement Date | 05/01/2018 |
| Development Plan | 28/04/2016 |
| Attachments Under Separate Cover | Attachment 1 - Application documentation and plans |
| Author(s)      | Development Assessment Planner (Jessica Lewig) |
| Reviewed       | Team Leader Development Services (David Bielatowicz) |
| Delegation     | An application for consent for major commercial/industrial development (being developments where the proposed building floor area of additional retail, office or other commercial/industrial usage exceeds 500 square metres). |
| Recommendation | Development Plan Consent Granted subject to Conditions |
1. DESCRIPTION OF PROPOSAL

1.1. The subject development proposal seeks Development Plan Consent for the subject application, which comprises the following elements:

1.1.1. Construction of 5 warehouse buildings
1.1.2. Signage (4.0metres x 0.6metres with 4.0metres canopy return for corner signs, and 3metres x 0.6metres over entry doors);
1.1.3. Provision of onsite car parking (16 total car parks);
1.1.4. Provision of landscaping; and
1.1.5. Combined fence and retaining walls exceeding 2.1metres.

1.2. Copies of the plans and documentation relating to this application are contained within Attachment 1.

2. BACKGROUND

2.1. Whilst the nature of development has not changed, the plans were amended following an additional information request by the assessing officer in order to clarify:

2.1.1. Provision of further articulation to warehouse facades;
2.1.2. Proposed use of the warehouses;
2.1.3. Dimensions of signage;
2.1.4. Stormwater management;
2.1.5. Vehicle manoeuvrability and access;
2.1.6. Provision of adequate car parking spaces in accordance with Table Ga/1 of the Gawler (CT) Development Plan.

3. RELEVANT DEVELOPMENT APPLICATION HISTORY

Table 2:

<table>
<thead>
<tr>
<th>DA#</th>
<th>DESCRIPTION OF PROPOSAL</th>
<th>STATUS</th>
</tr>
</thead>
<tbody>
<tr>
<td>490/372/2008</td>
<td>Land Division by Torrens Title (1 into 16)</td>
<td>Enacted</td>
</tr>
</tbody>
</table>
4. **LOCALITY**

4.1. The locality generally comprises of various industrial land uses utilised for varying purposes. These uses include warehousing, storage, service trade premises and motor repair stations.

4.2. The main characteristics of the locality are as follows:

<table>
<thead>
<tr>
<th>Location</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>NORTH-EAST</td>
<td>Special Use Zone consisting of the Elliot Goodger Memorial Park that is utilised for various sport and recreational activities including Willaston Football/Netball Club. Two Wells Road which forms the extents of the Gawler Council boundary with Light Regional Council.</td>
</tr>
<tr>
<td>SOUTH-EAST</td>
<td>Further south than the Special Uses Zone lies the General Industry Zone and Light Industry Zone adjoin the allotment to the east, typically comprising of large buildings associated with industrial uses such as warehouses, service industries and storage facilities.</td>
</tr>
<tr>
<td>SOUTH-WEST</td>
<td>General Industry Zone consisting of large warehouse buildings and the Rural Living Zone typically consisting of low density detached dwellings.</td>
</tr>
<tr>
<td>NORTH-WEST</td>
<td>General Industry Zone to the immediate west of the subject allotment, comprising of multiple vacant and undeveloped allotments and two warehouses for industrial uses. Further west, the General Industry Zone is bounded by the Rural Living Zone predominately comprising of low density detached dwellings and the Town of Gawler boundary.</td>
</tr>
</tbody>
</table>

A Locality Plan is provided below:
5. SUBJECT SITE

5.1. The subject site is commonly known as 39 (lot 13) Theen Avenue, Willaston. Whilst the site is identified as 39 Theen Avenue Willaston, the site does not have direct access to Theen Avenue. Rather, access is obtained from Kellys Road.

5.2. The site is legally recognised as Certificate of Title Volume 6062 Folio 863, allotment 13 in Deposited Plan 84159 in the Area named Willaston within the Hundred of Mudla Wirra.

5.3. There are no documents or easements registered against the subject site.

5.4. The site has a frontage to Kellys Road of 69.1metres and a frontage to Two Wells Road of 31.62metres. It has a total area of 2002 square metres.

5.5. The site itself is relatively flat, but does drop off to the eastern corner. The Council verge however does have quite a steep gradient towards Kellys Road, with a height difference of approximately 2metres.
5.6. The site is currently vacant.

6. NATURE OF DEVELOPMENT

6.1. The proposed form of development is not listed as either 'complying' or 'non-complying' for the Zone under the Gawler (CT) Development Plan consolidated 28/04/2016.

6.2. The application must therefore be assessed as a 'merit' form of development as per Section 35(5) of the Development Act 1993.

7. CATEGORISATION (PUBLIC NOTIFICATION)

7.1. This application was not required to be advertised pursuant to Section 38 of the Development Act, 1993.

7.2. The application was determined to be a Category 1 form of Development in accordance with Schedule 9 (2)(g) of the Development Regulations 2008.

7.3. Whilst the subject land is situated on a zone boundary (adjacent to Special Use Zone), the establishment of the proposed industrial use is not considered to detrimentally detract from the amenity of the recreational land uses occurring within the adjacent site.

8. REFERRALS

8.1. No external referrals in accordance with Schedule 8 of the Development Regulations 2008 were required to be undertaken.

8.2. The following internal referrals were undertaken:

Table 2:

<table>
<thead>
<tr>
<th>Internal Departments</th>
<th>Reason</th>
</tr>
</thead>
<tbody>
<tr>
<td>Engineering</td>
<td>Stormwater review</td>
</tr>
</tbody>
</table>

**Comments**

- Adequate detention has been provided both in the form of above-ground tanks to capture roof stormwater, and underground detention for the driveway and car parking area;
- The maximum flow rate from the proposed discharge point has been reduced to an acceptable rate;
- A water quality control device has been provided to the satisfaction of Council’s engineering department which will
ensure rubbish, oils, and chemicals from the proposed car parking area and site area

**Car parking and manoeuvrability**

**Comments**
- Based on the statement by the developer that HRV class vehicles will not enter the site, access is acceptable
- Car parking and aisle widths comply with the Australian Standard

---

### 9. ASSESSMENT

#### 9.1 The zoning of the land and relevant provisions

The following Town of Gawler Development Plan Objectives and Principles of Development Control (PDC's) were considered in the assessment of this application:

Table 3:

<table>
<thead>
<tr>
<th>Development Plan</th>
<th>Consolidated April 28 2016</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Zone</strong></td>
<td>General Industry</td>
</tr>
<tr>
<td><strong>Section</strong></td>
<td><strong>Objectives</strong></td>
</tr>
<tr>
<td>Council Wide</td>
<td></td>
</tr>
<tr>
<td>Appearance of Land, Buildings and the Public Environment</td>
<td>1</td>
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<tr>
<td>Commercial Development</td>
<td>9</td>
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<tr>
<td>Energy Efficiency</td>
<td>18, 19</td>
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<td>Form of Development</td>
<td>20, 21</td>
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<td>Industrial Development</td>
<td>30, 31, 32</td>
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<td>Infrastructure</td>
<td>33, 37</td>
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<td>Interface Between Land Uses</td>
<td>39, 40</td>
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<tr>
<td>Natural Resources</td>
<td></td>
</tr>
<tr>
<td>Outdoor Advertisements</td>
<td>65, 66, 67</td>
</tr>
<tr>
<td>Sloping Land</td>
<td>85</td>
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</tbody>
</table>
9.2 The key aspects pertaining to the assessment of this proposal are:

9.2.1 Appropriateness of Land Use

9.2.2 Interface between land uses

9.2.3 Visual Amenity and Landscaping;

9.2.4 Signage

9.2.5 Stormwater management and water quality treatment;

9.2.6 Waste management;

9.2.7 Access/egress and car parking

9.3 Appropriateness of Land Use

9.3.1 The proposal seeks for the establishment of five (5) warehouses which are defined by Schedule 1 of the Development Regulations 2008 as the following:

A building or enclosed land used for the storage of goods and the carrying out of commercial transactions involving the sale of such goods, but does not include and land or building used for sale by retail.

9.3.2 A warehouse represents a desired use in the General Industry Zone, conforming to Zone Objective 1 and Principle of Development Control (PDC) 1 and 2.

9.3.3 The proposed use is consistent with existing land uses within the locality and as such will not detrimentally detract from the prevailing character of the locality. The proposal is therefore conforms to CW PDC 32.

9.3.4 It is noted that should the proposed warehouses be used for any other land use than warehousing, a change of land use Development Application will be required.

9.4 Interface between land uses

9.4.1 As mentioned above, the proposed development is located within the General Industry Zone. Objective 1 and PDC 2 for the Zone describe it as one which
primarily accommodates industries other than special or extractive industrial development.

9.4.2 The subject site is well separated from any residential or other sensitive uses.

9.4.3 The existing amenity of the locality is low due to its zoning as an industrial area.

9.4.4 The adjoining properties on the same side of Kellys Road as the subject site currently have industry uses, and thus have an expectation of some noise, odour etc. due to their location within the Zone. It is therefore considered any amenity impacts to these properties will be low.

9.4.5 The land on the north-eastern side of Kellys Road is zoned Special Uses and is currently used as a sporting ground. This area is sufficiently separated from the subject site by Holmes Street and existing vegetative screening. It is considered that the addition of a desired use on the subject site would have negligible amenity impacts to the adjacent land.

9.4.6 Land to the north-west of the site located within Light Regional Council (the Gawler airfield) is separated from the subject site by the Northern Expressway, which itself generates a high level of amenity impacts. It is not considered that the proposed use will have noticeable amenity impacts the adjacent land.

9.4.7 It is not anticipated that the proposed warehouse use will generate excessive noise and/or odours.

9.4.8 Council Wide Objectives 39, 40, PDC's 97, 98, 102 and 103 regarding the interface between land uses are considered to be satisfied.

9.5 Visual Amenity

9.5.1 One of the proposed warehouse building is only set back 3metres from the boundary adjacent to Kellys Road. In order to minimise visual amenity impacts, Council staff requested additional façade articulation to this warehouse (unit 3).

9.5.2 The applicant has proposed rendered 'power panel' to a height of 2.4metres, with the balance of the wall being ‘colourbond’ cladding to match the rest of the warehouse buildings.

9.5.3 Additionally, a window has been included to the front office component, and the proposed signage to the front of Unit 3 has a return to the side façade (signage discussed further below).
9.5.4 These design techniques are considered to provide acceptable management of the visual amenity impacts of the proposed warehouses in proximity to Kellys Road in accordance with Council Wide PDC 80.

9.5.5 A 2metre high retaining wall facing Kellys Road is proposed as part of the subject application.

9.5.6 It is worth noting that minimal land formation works are proposed as part of the subject application, rather the proposed retaining walls seeks to retain existing soil that is currently battered towards Kellys Road.

9.5.7 Further it is acknowledged that retaining within industrial areas is generally accepted at larger extents due to the requirement of industrial land to accommodate sufficient area for buildings, storage and vehicle manoeuvring in order to render the land suitable for its intended use.

9.5.8 This approach has previously been accepted within previous adjoining Development Applications and sites within the immediate locality as per the examples below:
Lot 16 Kellys Road, Willaston

Lot 15 Kellys Road, Willaston

Lot 2 and 3 Theen Avenue, Willaston
9.5.9 Whilst the Development Plan seeks primarily to reduce the extent of cut and fill where practical, this is considered more specifically within more sensitive areas (e.g. residential zones) to reduce the subsequent visual impacts of such retaining.

9.5.10 Given the original steep batter of the land and the requirement to retain this batter to accommodate a functional use of the site, is considered to be acceptable.

9.5.11 It is not considered that the proposed retaining wall is out of character with existing and prevailing locality of the General Industry Zone broadly and Kellys Road more specifically.

9.5.12 Accordingly, the proposed retaining is considered to not detrimentally impact the amenity of the locality and accords with CW Objective 85 and PDC 310.

9.5.13 As part of Councils additional information request, a detailed landscaping plan was requested. The applicant has not provided a detailed plan, however an indicative landscaping plans has been included within the application documents.

9.5.14 It is considered that this plan has demonstrated that landscaping can be accommodated on site, however recommended Condition 17 seeks for a detailed landscaping plan be provided to and approved by Council with the Building Rules Consent documentation and prior to the issue of Development Approval.

9.5.15 The fencing in front of the location indicated to be landscaped is propose to be tubular fencing, thus whilst the landscaping is proposed behind the fence, it will be visible from Kellys Road.

9.5.16 When considering all of the abovementioned treatments, it is considered that the visual amenity of the locality will not be detrimentally impacted by the proposed development.

9.6 Signage

9.6.1 The proposal includes three (non-illuminated) flat wall signs over entry doors (units 2, 4 and 5) and two (non-illuminated) flat wall signs with side returns for the corner units (units 1 and 3)

9.6.2 The flat wall signs over the entry doors of units 2, 4 and 5 have dimensions 3.0metres x 0.6metres.

9.6.3 The corner units have signs which are 4.0metres x 0.6metres with a 4.0metre side return.
9.6.4 General Industry Zone PDC 4 provides for flat wall signage as being a desired form of development within the zone. The desired character statement further outlines that “flat wall signs involving direct application to large scale walls is encouraged providing the overall size is in proportion to the building.” It further notes, that “Priority should be given to legibility and avoiding clutter.”

9.6.5 The proposed signage is in keeping with the form of the building and does not unreasonably clutter the façade of the building or conceal any architectural elements. Accordingly, the proposed signage is considered appropriate and in keeping with General Industry Zone PDC 1, 3 and 4.

9.7 Stormwater management and water quality treatment

9.7.1 Council’s engineering department have reviewed the proposed development with respect to on-site stormwater management and water quality control.

9.7.2 The proposal is considered to be acceptable in this regard due to the following reasons:

9.7.2.1 Adequate detention has been provided both in the form of above-ground tanks to capture roof stormwater, and underground detention for the driveway and car parking area;

9.7.2.2 The maximum flow rate from the proposed discharge point has been reduced to an acceptable rate;

9.7.2.3 A water quality control device has been provided to the satisfaction of Council’s engineering department which will ensure rubbish, oils, and chemicals from the proposed car parking area and site are removed prior to entering Council’s public stormwater infrastructure.

9.7.3 It is therefore considered that the proposal meets the requirements for stormwater management and water quality treatment outlined within Council Wide PDCs 84, 86, 127, 131, 133, 134, 1369, 137, 138, 140 and 141.

9.8 Waste management

9.8.1 There is adequate space on site for the storage of waste materials.

9.8.2 It has also been demonstrated that there is adequate manoeuvrability on site to accommodate a waste disposal vehicle.

9.8.3 Given that the proposal is located within an industrial area, the level of amenity impacts of waste disposal are lower than if the application were for a residential
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area. Regardless, a condition shall be included to ensure any waste receptacle areas are screened from view of the street and not within the car parking area.

9.9 Access/egress and car parking

9.9.1 The car parking rate in Table Ga/1 of the Gawler CT Development Plan lists the following car parking requirements for the proposed uses:

9.9.1.1 4 spaces per 100sqm for office component; plus
9.9.1.2 2 spaces per 100sqm for non-office component up to 200sqm
9.9.1.3 1.33 spaces per 100sqm for non-office component 200sqm-2000sqm.

9.9.2 Based on Table Ga/1, the total number of carparks required for the subject site is 15 car parks.

9.9.3 The applicant has provided 16 car parks, and thus is in excess of the number of car parks required. The requirements of Table Ga/1 and Council Wide PDC 364 are satisfied.

9.9.4 Of those 16 carparks, one (1) has been provided as ‘universal access’ (disabled) park. Council Wide PDCs 344 and 370 are satisfied.

9.9.5 The largest vehicle to be accommodated on site is a Medium Rigid Vehicle (MRV – approximately 8.8metres in length).

9.9.6 Manoeuvring paths have been provided by the applicant demonstrating the turning paths required for a vehicle of this size.

9.9.7 The car parking layout and vehicle manoeuvring paths have been reviewed by Councils engineering department and have been determined to meet the requirements of Australian Standard AS 2890. Council Wide PDCs 328, 345, 346, 352, 363 and 371 are therefore considered met.

9.9.8 The car parking area is proposed to be sealed with bitumen to provide an all-weather hard wearing surface. As previously mentioned, a stormwater management plan has been reviewed by Council’s Engineering Department.

9.9.9 One access point is proposed. The dimensions and specifications of this point have been reviewed by Council’s Engineering Department and have been determined to be compliant with Council and Australian Standards for the proposed vehicles sizes.
9.9.10 It has been sufficiently demonstrated that all vehicles can access/egress the site in a forward direction, satisfying CW PDC 359 and 363. The proposal will therefore not cause unsafe or inconvenient traffic conditions.

10. CONCLUSION

10.1 The proposed development is considered to be an appropriate form of development within the Light Industry Zone.

10.2 The applicant has demonstrated that the proposed use will have minimal impact upon the existing locality with regards to:
   10.2.1 Appropriateness of Land Use
   10.2.2 Interface between land uses
   10.2.3 Visual Amenity and Landscaping;
   10.2.4 Signage
   10.2.5 Stormwater management and water quality treatment;
   10.2.6 Waste management;
   10.2.7 Access/egress and car parking

10.3 Accordingly, the proposal represents an appropriate form of development within the General Industry Zone that is not considered to be seriously at variance with the Development Plan.

10.4 Subsequently, the proposal warrants the granting of Development Plan Consent subject to appropriate conditions.

11. RECOMMENDATION

It is recommended that the Town of Gawler Council Assessment Panel resolves:

1. That having regard to the relevant provisions of the Gawler (CT) Development Plan, pursuant to Section 33(1) of the Development Act 1993, that the application is not seriously at variance with the Development Plan.

2. That DEVELOPMENT PLAN CONSENT be GRANTED to Development Application 490/10/2018 by QUICKDRAW DRAFTING for Construction of 5 warehouse buildings (industrial use), signage, onsite car parking, landscaping and combined fence and
retaining walls exceeding 2.1m at 39 Theen Avenue WILLASTON 5118, subject to the following conditions:

1) The development hereby approved shall be undertaken in accordance with Development Application No 490/10/2018, the approved plans, details and conditions therein.

   *REASON: to ensure the development is undertaken in accordance with the approved plans.*

2) The subject land and all structures on the land shall be maintained to the reasonable satisfaction of Council at all times.

   *REASON: to ensure the development is maintained.*

3) Fencing shall be maintained to the reasonable satisfaction of Council at all times.

   *REASON: to ensure the development is maintained.*

4) All loading and unloading of vehicles and manoeuvring of vehicles in connection with the now approved land use shall be carried out entirely within the subject land.

   *REASON: to ensure vehicles associated with the subject land do not cause a nuisance or restrict the flow of traffic on a public road.*

5) Prior to Building Rules consent, full engineering details and specifications shall be submitted to Council for approval or privately certified with building documents, for any retaining wall over 1 metre in height or fence and retaining wall combination exceeding 2.1 metres in height.

   *REASON: to ensure the retaining walls obtain the required approvals.*

6) The car parking/hardstand area shall be bituminised prior to the commencement of use of the site to the reasonable satisfaction of the council.

   *REASON: to ensure the development is undertaken in accordance with the approved plans.*

7) All parking areas shall be line-marked in a distinctive fashion to delineate each car parking space and maintained in good condition at all times to the reasonable satisfaction of Council.

   *REASON: to ensure the development satisfies the relevant Australian Standards.*

8) No materials, goods or containers shall be stored in the car park or driveway at any time unless otherwise approved by Council.

   *REASON: to ensure car parking is provided on site.*
9) Unless otherwise approved by Council, outside lighting shall be restricted to that necessary for security purposes only and shall be directed and shaded in such a manner so as not to cause light overspill and/or nuisance to adjacent occupiers or distraction to drivers on adjacent public roads.

**REASON:** to ensure the development doesn’t detrimentally impact the amenity of the locality.

10) All stormwater from buildings and paved areas shall be disposed of in accordance with recognised engineering practices in a manner and with materials that do not result in the entry of water onto any adjoining property or any building, and does not affect the stability of any building.

**REASON:** to ensure stormwater is appropriately managed on site.

11) Prior to the commencement of the approved use on site, the Gross Pollutant Trap indicated on the hereby approved plans shall be installed on site in a working order on site.

**REASON:** to ensure the appropriate water quality measures are in place on site prior to the commencement of the approved use.

12) The advertising approved herein shall be erected in a workmanlike manner and maintained in a state of good repair and tidy condition to the reasonable satisfaction of Council.

**REASON:** to ensure the signage does not detrimentally impact upon the amenity of the locality.

13) Access driveway between the property boundary and the kerb line shall be constructed in accordance with the approved plans and in accordance with Council’s standard detail SK-303. The driveway shall be sealed with an approved durable material such as concrete, bricks, pavers or asphalt.

**REASON:** to ensure the development is undertaken in accordance with Council standards.

14) The proposed access driveway shall be located a minimum of one metre from, but not limited to any water metres street tree, light, light pole or stormwater pit otherwise the applicant shall pay for the full cost of relocation of these items.

**REASON:** to provide safe and efficient movement of people and goods.
15) During construction, precautions shall be taken to prevent the pollution of stormwater by mud, silt, dust or other debris from the site in accordance with EPA Code of Practice for the Building and Construction Industry.

**REASON:** to prevent stormwater pollution during construction.

16) All refuse and stored materials shall be screened from public view to the reasonable satisfaction of Council.

**REASON:** to ensure the development doesn’t detrimentally impact the amenity of the locality.

17) Prior to the issue of Development Approval, a detailed landscaping plan shall be provided to the satisfaction of Council including the species and location of all landscaping proposed as part of the subject application.

**REASON:** to enhance the amenity of the locality.

18) Landscaping shall be completed on site within 6 months of the practical completion of the development herein approved and in accordance with approved plan.

**REASON:** to ensure the development is undertaken in accordance with the approved plans.

19) The landscaping shall be nurtured and maintained in good condition at all times, with any dying or diseased plant replaced to the reasonable satisfaction of Council.

**REASON:** to ensure the landscaping is maintained at all times.

Advisory Notes:

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

2) Materials capable of polluting water including paint, waste, wash water, concrete residue, brick cutting, waste sediment and other construction waste or contaminants shall not be allowed to enter the stormwater system or any other surface or underground water resource.

3) Should the hereby approved warehouses be used for any other land use, a change of use Development Application will be required to be lodged.
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**Wednesday 30 January 2019**

**DEVELOPMENT APPLICATION OVERVIEW**

<table>
<thead>
<tr>
<th>Item Number</th>
<th>5.3</th>
</tr>
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<tbody>
<tr>
<td>Development Application</td>
<td>490/219/2018</td>
</tr>
<tr>
<td>Applicant</td>
<td>BLEEZE NEALE &amp; ASSOCIATES</td>
</tr>
<tr>
<td>Owner</td>
<td>K E LAUNER &amp; D J LAUNER</td>
</tr>
<tr>
<td>Subject Land</td>
<td>17 Cockshell Drive GAWLER EAST 5118</td>
</tr>
<tr>
<td>Certificate of Title</td>
<td>LOT: 34 PLN: D7969 CT: 5577/167</td>
</tr>
<tr>
<td>Description of Development</td>
<td>Land Division - 1 into 2 Allotments</td>
</tr>
<tr>
<td>Zone</td>
<td>Residential Zone</td>
</tr>
<tr>
<td>Policy Area</td>
<td>Wheatsheaf Policy Area</td>
</tr>
<tr>
<td>Nature of Development</td>
<td>Merit</td>
</tr>
<tr>
<td>Public Notification Category</td>
<td>Category 1</td>
</tr>
<tr>
<td>Referral Agencies</td>
<td>SCAP and SA Water</td>
</tr>
</tbody>
</table>

**Key Issues / Considerations**
- Consistency of proposed division with existing/desired character;
- Ability of proposal to achieve Desired Character;
- Impact of division on future development potential;
- Provision of Infrastructure.

| Previous Motion | Nil |
| Lodgement Date | 24 April 2018 |
| Development Plan | 20 February 2018 |

**Attachments Under Separate Cover**
- Attachment 1 - Proposed Plan of Division
- Attachment 2 - Planning Statement
- Attachment 3 - Superseded/original Plan of Division

**Author(s)**
Development Assessment Planner (Scott Twine)

**Reviewed**
Team Leader Development Services (David Bielatowicz)

**Delegation**
- f) Any form of development which the Manager –, Development, Environment and Regulatory Services deems would be more appropriately considered by the Council Development Assessment Panel.

**Recommendation**
Development Plan Consent be Refused
1. DESCRIPTION OF PROPOSAL

1.1 The subject development proposal seeks consent to divide an existing allotment located at 17 Cockshell Drive, Gawler East into one (1) additional allotment. The division is proposed to occur by way of Torrens Title.

1.2 The proposed division will result in two allotments with the following perimeters:

Table 2:

<table>
<thead>
<tr>
<th>Allotment #</th>
<th>Frontage width (m)</th>
<th>Area (sqm)</th>
<th>Configuration</th>
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</thead>
<tbody>
<tr>
<td>700</td>
<td>32.89</td>
<td>4127</td>
<td>Irregular</td>
</tr>
<tr>
<td>701</td>
<td>25.00</td>
<td>1600</td>
<td>Irregular</td>
</tr>
</tbody>
</table>

Copies of the plans and documentation relating to this application are contained within Attachment 1. A planning statement prepared by Regional Planning Directions in support of the application is contained within Attachment 2.

2. BACKGROUND

2.1 Following an initial assessment of the subject application Council administration sought for the proposal to be amended to greater align with the existing pattern of division within the locality,

2.2 Upon receipt of Council’s request the proposal was amended, however the amendments were not considered sufficient to warrant officer support of the application.

2.3 Council administration sought for further amendments to the proposed plan of division however the applicant elected to proceed with the application in its current form. A planning statement was prepared by Regional Planning Directions in support of the subject proposal.

2.4 Following an impasse in planning opinion and request for the application to proceed in its current form, the application is presented to the Panel for consideration.

3. RELEVANT DEVELOPMENT APPLICATION HISTORY

3.1 Council records do not indicate any previous Development Applications relative to the subject site.
4. LOCALITY

4.1 The subject land is situated entirely within the Wheatsheaf Policy Area of the Residential Zone.

4.2 The locality is generally characterised by semi-rural living styled allotments comprising of detached dwellings on large residential allotments.

4.3 Allotments within the locality range in size from 800 square metres to 5000 square metres and generally reflect a consistent regular shape with the exclusion of hammer-head/battle-axed styled allotments.

4.4 A Locality Plan is provided below:

Figure 1:
5. SUBJECT SITE

5.1 The subject site is located at 17 Cockshell Drive, Gawler East. The land is legally recognised as Lot 34 within Certificate of Title Volume 5577 Folio 167.

5.2 The land is not burdened by any easements, or agreements.

5.3 The site has a frontage to Cockshell Drive of 57.89 metres and an average depth of 60.10 metres. The total area of the site is 5,727m².

5.4 The site consists of two single storey dwellings with associated outbuildings. One dwelling is substantially larger in floor area (being approximately 240 square metres) than the other dwelling located on site (being approximately 80 square metres). The site contains various vegetation.

Figure 2:

Legend

Legend

Subject Land

Proposed boundary

6. NATURE OF DEVELOPMENT

6.1 The proposal is not listed as either a complying or non-complying form of development within the Residential Zone as delineated within the Gawler (CT) Development Plan. It its noted land division within the Wheatsheaf policy area can be non-complying where conformity with Policy Area Principle of Development Control 2 is not achieved. The subject proposal achieves the quantitative requirements of the provision and therefore the application represents a merit form of development.
7. CATEGORISATION (PUBLIC NOTIFICATION)

7.1 The proposal seeks for the division of land creating not more than 4 additional allotments and as such, falls within the ambit of Clause 2(f) of Schedule 9 of the Development Regulations 2008. Subsequently, the application has been categorised as a Category 1 form of development and does not require public notification pursuant to Section 38 of the Development Act, 1993.

8. REFERRALS

8.1 The following referrals were undertaken:

Table 3:

<table>
<thead>
<tr>
<th>External Departments</th>
<th>Reason</th>
</tr>
</thead>
<tbody>
<tr>
<td>SA Water</td>
<td>Required under Section 33 of the Development Act 1993</td>
</tr>
</tbody>
</table>

**Comments**

- The financial requirements of SA Water shall be met for the provision of water supply and sewerage services.
- On receipt of the developer details and site specifications an investigation will be carried out to determine if the connections to your development will be standard or nonstandard fees.
- On approval of the application, all internal water piping that crosses the allotment boundaries must be severed or redirected at the developers/owners cost to ensure that the pipework relating to each allotment is contained within its boundaries.

<table>
<thead>
<tr>
<th>State Commission Assessment Panel</th>
<th>Required under Section 33 of the Development Act 1993</th>
</tr>
</thead>
</table>

**Comments**

- Payment of $6836 into the Planning and Development Fund (1 allotment(s) @ $6830/allotment).

Payment may be made by credit card via the internet at www.edala.sa.gov.au or by phone (7109 7018), by cheque payable to the State Planning Commission marked "Not Negotiable" and sent to GPO Box 1815, Adelaide 5001 or in person, at Ground Floor, 101 Grenfell Street, Adelaide.
A final plan complying with the requirements for plans as set out in the Manual of Survey Practice Volume 1 (Plan Presentation and Guidelines) issued by the Registrar General to be lodged with the State Commission Assessment Panel for Land Division Certificate purposes.

9. ASSessment

9.1 The following Town of Gawler Development Plan Objectives and Principles of Development Control (PDC’s) were considered in the assessment of this application:

Table 4:

<table>
<thead>
<tr>
<th>Development Plan</th>
<th>20 February 2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>Zone</td>
<td>Residential Zone</td>
</tr>
<tr>
<td>Policy Area</td>
<td>Wheatsheaf Policy Area</td>
</tr>
<tr>
<td><strong>Section</strong></td>
<td><strong>Objectives</strong></td>
</tr>
<tr>
<td>Council Wide:</td>
<td></td>
</tr>
<tr>
<td>Appearance of Land, Buildings and the Public Environment</td>
<td>1</td>
</tr>
<tr>
<td>Contaminated Land</td>
<td>19</td>
</tr>
<tr>
<td>Form of Development</td>
<td>23</td>
</tr>
<tr>
<td>Infrastructure</td>
<td>41</td>
</tr>
<tr>
<td>Land Division</td>
<td>45</td>
</tr>
<tr>
<td>Regulated Trees</td>
<td>73, 74</td>
</tr>
<tr>
<td>Residential</td>
<td>78, 79</td>
</tr>
<tr>
<td>Transportation and Access</td>
<td>-</td>
</tr>
<tr>
<td>Transportation (Movement of People and Goods)</td>
<td>-</td>
</tr>
<tr>
<td>Structure plan</td>
<td>Map Ga/1 (Overlay 1) Enlargement C</td>
</tr>
<tr>
<td><strong>Zone:</strong></td>
<td></td>
</tr>
<tr>
<td>Residential Zone</td>
<td>1</td>
</tr>
<tr>
<td><strong>Policy Area:</strong></td>
<td></td>
</tr>
<tr>
<td>Wheatsheaf Policy Area</td>
<td>1</td>
</tr>
</tbody>
</table>
9.2 Consistency with Desired Character

9.2.1 Council Wide Objectives 23 and 45 seek to ensure that new development, including land division proceeds in an orderly, convenient and economic manner to avoid piecemeal and haphazard development. Similarly, the desired character statement of the Wheatsheaf Policy Area seeks to maintain the semi-rural character of the policy area, noting:

9.2.1.1 Wheatsheaf should continue to provide an alternative residential environment as a consequence of its large allotments, deeper than typical building set-backs from front, side and rear boundaries and potential for low-key business uses provided they are associated with residential use of the land. The Barossa Valley Way commences on the northern side of Wheatsheaf and the roadside edges have considerable potential to be upgraded as a gateway to Gawler.

... The minimum allotment size should be 2000 square metres with the dwelling density at that level. Hammerhead allotments will be considered providing that part of the allotment which is designed for vehicular access has a minimum width of 6 metres.

Wheatsheaf is intended to be used for detached dwellings only, although small dwellings, commonly referred to as granny flats, (that are attached to dwellings), will be considered.

9.2.2 With this in mind, the proposed division of land needs to be carefully considered with regard for the site and locality characteristics, the intended use of the proposed allotments, and the key Objectives and Desired Character for the Zone.

9.2.3 The consideration of character impact for the subject division is considered to comprise of whether the following elements are appropriate:

9.2.3.1 Allotment frontage and area;

9.2.3.2 Allotment pattern and shape; and

9.2.3.3 Boundary setbacks and site coverage.

Allotment Frontage and Area

9.2.4 Principle of Development Control 2 and 3 of the Wheatsheaf Policy Area provides some guidance for land division, particularly with respect to the minimum frontage and area requirements of new allotments. In particular, these principle prescribes a ‘minimum’ frontage to a public road of 25 metres and a ‘minimum’ resulting
allotment size of 2000 square metres (noting this may also be varied by 20% if the overall resulting density of 2000 square metres is maintained).

9.2.5 Whilst the proposed allotments would meet the minimum frontage and area requirements, and therefore satisfy the abovementioned principle, the assessment of the proposal against this principle is not the only test in determining the suitability of the proposed allotments. Accordingly, whilst the minimum frontage and size requirements of the Development Plan have been met, the proposed pattern and shape of division should also be considered.

9.2.6 The Supreme Court has held the view that minimum standards “are not a statement of desired standards” (City of Mitcham v Terra Equities [2007] SASC 244). This means the overall merits of the proposal should be appropriately balanced against the objectives and other qualitative provisions of the Development Plan.

Allotment Pattern and Shape

9.2.7 Of consideration to the assessment of the proposed division is the existing allotment pattern within the locality and how the proposed shape of the allotments relate to that pattern.

9.2.8 The existing pattern of the division is mixed and comprises of regular shaped allotments, hammer-head/battle-axe allotments and sporadic irregular allotments. The existing pattern of division is indicated below:

Figure 3:
9.2.9 Wheatsheaf Policy Area Principle of Development Control 2 indicates within figures 33.1 to 33.3 (inclusive), the manner in which land division in the policy area should occur. An extract of the Development Plan’s expressed guidance is provided below:

**Figure 4:**

9.2.10 The Development Plan extract portrayed above demonstrates a desire to maintain regular and battle-axe shaped allotments that conform to minimum prescribed requirements. The relevant provision references a desire for minimum allotment frontages however the figures provided within the provision demonstrate a more generic desire for regular allotment width.

9.2.11 The proposed approach of the subject division is to provide two irregular shaped allotments that facilitate the retention of two primary buildings situated on site; being the two existing dwellings. This approach is not considered to be consistent with figures 33.1 to 33.3 outlined above.

9.2.12 Similar to the context of the subject application, the Environment, Resource and Development Court in the matter between *Ellis v Norwood, Payneham and St Peters CC* [2001] SAERDC 18, held the following:

9.2.12.1 Whilst lot size is an important two dimensional element covered by Development Plan, there other significant elements of consideration;

9.2.12.2 Two dimensional elements must be put together with three dimensional elements to consider character as a whole (including size, shape and resulting frontages);

9.2.12.3 Whilst a proposal may have no resulting change to streetscape, the streetscape is only one part of a locality’s character.
9.2.13 The proposed division is not consistent with the existing character and pattern of division within the locality. Whilst two allotments within the locality (being 18/18a and 6/6a Cockshell Drive) resulted in similar allotment shapes to the subject proposal, these allotments in themselves do not reflect the predominate character of the locality.

9.2.14 The ‘precedence effect’ in planning has been considered at length by the Courts and it has been held in various matters that the existence of other inappropriate developments does not in itself render a new development appropriate (city of Charles Sturt v Hatch [1991] SASC 523, Just v City of Mitcham [2008] SAERDC 37, Harvey v City of Holdfast Bay (No 1) [2012] SAERDC 44). It is noted however, that when the cumulative effect of such a precedent results in a change in the material character of an area, such precedence’s may inevitably require consideration.

9.2.15 The existence of the two irregular shaped allotments within the locality is not considered to represent the predominate character of the area and as a result, does not reflect the general pattern of division within the locality.

9.2.16 The extent of infill that has occurred within the area has generally occurred in a manner that is consistent with the intent of figures 33.1-33.3. The proposed allotments seek to provide a boundary that is irregular and against the natural pattern in which boundary cadastres are presented within the locality.

9.2.17 Whilst the existence of irregular shaped allotments is noted and although their existence does not form the predominate character, the incremental increase in such allotments could result in a material change in character. This is to say, that the incremental approval of such allotments could in turn, vary the character of the locality to a point where such allotments are considered generally consistent. This notion has been held in the matter between Wrobel v City of Mitcham [2008] SAERDC 7. Subsequently, the approval of the subject application would result in an incremental departure that could inevitably weaken the application of figures 33.1-33.3.

9.2.18 The proposal is not considered to satisfy Council Wide Objective 1 and Principe of Development Control 4 and Residential Zone Principle of Development Control 10. The division is also not considered to satisfy the intent of Wheatsheaf Policy Area Principle of Development Control 2 as indicated within associated figures 33.1 to 33.3 (inclusive).
Boundary Setbacks/Site Coverage

9.2.19 The desired character statement of the Policy Area outlines the intention to maintain a semi-rural character as a consequence of its large allotments, deeper than typical building set-backs from front, side and rear boundaries. This desire is reinforced through Policy Area Principle of Development Controls 4 and 5 which seek to enforce minimum boundary setbacks and site coverage requirements for all buildings.

9.2.20 These requirements have been weakened by the introduction of outbuildings located on or within closer proximity to allotment boundaries than that desired by the policy area. This incremental change is considered to be largely attributable to the introduction of ‘Complying’ development that facilitates smaller boundary setback requirements. That being said, dwellings within the locality generally reflect this desire and accord with the prescribed setback requirements. Despite this, there are some examples of existing dwellings which fall short of this provision.

9.2.21 Whilst no built form is proposed within the subject application, the proposal would result in the introduction of an intersecting side within close proximity to the existing dwellings on site. Proposed allotment 701 satisfies the desire of Principle of Development Control 4, however a setback of approximately 1.6 metres increasing to 1.9 metres would be provided for the existing dwelling on allotment 700. This setback does not accord with the minimum desired side setback of 3 metres for single-storey buildings.

9.2.22 Due to the size of the allotments proposed within the subject application and the limited extent of existing built form on site, the proposal does not exceed the maximum 40% site coverage identified within Principle of Development Control 5.

9.3 Ability to achieve Desired Character

9.3.1 A relevant consideration of the proposal is whether the proposed division in any event can be undertaken in a manner that is consistent with the existing/desired character of the area. In this respect, it is considered that there is sufficient opportunity for the land to be divided in a fashion that would not be to the detriment of the existing/desired character (being of a regular shape and pattern).

9.3.2 One manner which this could be achieved involves the demolition of the centrally located dwelling on proposed allotment 700, to facilitate a clear and orderly allotment pattern consistent with the existing pattern of division in the locality. Such a proposal
would satisfy the minimum frontage and allotment size requirements as well as achieving an appropriate pattern of division consistent with figures 33.1 to 33.3.

9.3.3 Correspondence between Council staff and the applicant to this effect has occurred, however the applicant has advised that they do not wish to amend the proposal accordingly. Therefore the applicant seeks to proceed with the application in its current form. It is noted that the internal boundary alignment has been improved following an amendment after the application’s lodgement however not to an extent considered acceptable. The original Plan of Division is contained within Attachment 3.

9.3.4 Similarly, whilst not generally encouraged due to the smaller than desired resulting allotment size, the application could have involved a non-complying proposal that sought for a regular allotment pattern. It is noted that such a proposal (due to its non-complying nature) would have required additional information in accordance with Regulation 17 of the Development Regulations 2008 and Category 3 public notification.

9.4 Future Development

9.4.1 A further consideration of the proposal is whether the subject division will prohibit the future development of the land. This desire is expressed through Council Wide Principle of Development Control 126(d).

9.4.2 Given the existing built form situated on the respective allotments proposed as part of the subject division, the resulting allotments are intended to be used for a residential purpose consistent with the objective of the Residential Zone.

9.4.3 Proposed allotment 701 contains an existing habitable building comprising of a footprint of 80 square metres. Should the land be divided, it is reasonable to assume that there would be a desire to expand the footprint of this building to a degree that is more accommodating of a typical dwelling.

9.4.4 Whilst the proposed allotment size is capable of accommodating further development, the existing location of the building on proposed allotment 701 would result in some difficulties for future additions. Namely this difficulty is evident with the alignment of the intersecting allotment boundary. As a consequence, future additions to allotment 701 would likely result in a built form located with a closer alignment to the proposed side boundary than that desired by Principle of Development Control 4.
9.4.5 During the assessment of the application, it was requested of the applicant that a plan confirming the location of any regulated trees be provided for consideration. The applicant elected not to provide this detail due to the existing developed nature of the site. Whilst Council administration acknowledge that no building work is proposed to occur as a result of the subject application, meaning no tree damaging activity will occur as a result of the division of the land, the purpose of the request was to assist in determining whether future development may impact any Regulated Trees on site.

9.4.6 Given no built form is proposed as part of the subject division, the proposal does not result any tree damaging activity. The proposal does therefore not offend Council Principle of Development Control 224, 225 and 226.

9.4.7 Whilst the proposal does not seek to incorporate built form, the division of land does give rise to limited concerns relative to proposed allotment 701 and its ability to be developed further to a reasonable and expected degree. This concern is not necessarily fatal to the merits of the application however as a consequence, the proposal does not entirely satisfy Council Wide Principle of Development Control 126(d).

9.4.8 It is noted that the developed nature of the site does not in itself provide justification for the land to be divided. The Court has supported this notion with the decision in Paior & Anor v City of Marion & Ors (No. 3) [2014] SAERDC 42, where the court expressed the need for a land division to be approved before any built form on that allotment. This was considered to be required to ensure the approval of any built form does not fetter the relevant authority’s discretion in determining the appropriateness of a land division with regard to the relevant provisions of the Development Plan.

9.5 Infrastructure

9.5.1 As required under Section 33 of the Development Act 1993, the applicant will be required to provide all necessary water supply and sewerage services if the application is to be approved. The provision of other services would not be problematic as the subject land is within an established residential area that is serviced with the appropriate infrastructure.

10. CONCLUSION

10.1 When assessed against the relevant provisions of the Gawler (CT) Development Plan and having regard to the context of the locality and the nature of the proposed development, it
is considered that the proposal is sufficiently at variance with the relevant provisions of the Development Plan to warrant refusal.

10.2 Accordingly, the proposed division of land would adversely impact upon the character, pattern and amenity of the locality and thus the application does not warrant the granting of Development Plan Consent, Land Division Consent or Development Approval.

11. RECOMMENDATION

It is recommended that the Town of Gawler Council Assessment Panel resolves:

1. That having regard to the relevant provisions of the Gawler (CT) Development Plan, pursuant to Section 33(1) of the Development Act 1993, that the application is not seriously at variance with the Development Plan.

2. That DEVELOPMENT PLAN CONSENT be REFUSED to Development Application 490/219/2018 by BLEEZE NEALE & ASSOCIATES for Land Division - 1 into 2 Allotments at 17 Cockshell Drive GAWLER EAST 5118, for the following reasons:

1. The proposed division of land would not be consistent with the existing character and pattern of division within the locality, contrary to the following provisions of the Development Plan:
   - Council Wide Objective 1
   - Council Wide Principle of Development Control 10
   - Residential Zone Principle of Development Control 10

2. The proposed irregular pattern of division is not in keeping with the intent of Wheatsheaf Policy Area Principle of Development Control 2 as indicated within associated figures 33.1 to 33.3 (inclusive).

3. The proposed division would result in boundary setbacks from existing buildings situated on site that do not accord with Wheatsheaf Policy Area Principle of Development Control 4.
DEVELOPMENT APPLICATION OVERVIEW

<table>
<thead>
<tr>
<th>Item Number</th>
<th>5.4</th>
</tr>
</thead>
<tbody>
<tr>
<td>Development Application</td>
<td>490/341/2018</td>
</tr>
<tr>
<td>Applicant</td>
<td>R G CALLOW</td>
</tr>
<tr>
<td>Owner</td>
<td>R G CALLOW &amp; B J CALLOW</td>
</tr>
<tr>
<td>Subject Land</td>
<td>6 Duldig Avenue Gawler East 5118</td>
</tr>
<tr>
<td>Certificate of Title</td>
<td>Lot 1 Plan 139787 CT 5258/9</td>
</tr>
<tr>
<td>Description of Development</td>
<td>Land Division by Torrens Title (1 into 2)</td>
</tr>
<tr>
<td>Zone</td>
<td>Residential Zone</td>
</tr>
<tr>
<td>Policy Area</td>
<td>Gawler East Policy Area</td>
</tr>
<tr>
<td>Nature of Development</td>
<td>Merit</td>
</tr>
<tr>
<td>Public Notification Category</td>
<td>Category 1</td>
</tr>
<tr>
<td>Representations</td>
<td>n/a</td>
</tr>
<tr>
<td>Referral Agencies</td>
<td>Nil</td>
</tr>
</tbody>
</table>
| Key Issues / Considerations | • Suitability of division in Residential Zone  
• Allotment size and configuration  
• Suitability for intended use |
| Previous Motion | Nil |
| Lodgement Date | 06/07/2018 |
| Development Plan | 20 February 2018 |
| Attachments Under Separate Cover | Attachment 1 - Application plans and documentation  
Attachment 2 - Plan showing location of Significant tree  
Attachment 3 - Indicative Community Title division plan |
| Author(s) | Development Assessment Planner (Jessica Lewig) |
| Reviewed | Team Leader Development Services (David Bielatowicz) |
| Delegation | An application for consent for land division where one or more "Significant or Regulated" Trees as defined under the Development Act are present on the land that is the subject of the application for consent but not where the tree base is more than 10 metres from the boundary of any proposed allotment. |
| Recommendation | Development Approval Granted subject to Conditions |
1. DESCRIPTION OF PROPOSAL

1.1 The subject development proposal seeks to Land Division by Torrens Title (1 into 2). More specifically, the proposal includes:

<table>
<thead>
<tr>
<th>ALLOTMENT #</th>
<th>DIMENSIONS</th>
<th>SIZE*</th>
<th>SHAPE</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Approx. 50.7 metres x 57.05 metres</td>
<td>Approx. 2949 sqm</td>
<td>Regular ✔ irregular □ battle-axe □</td>
</tr>
</tbody>
</table>

Table 3:

<table>
<thead>
<tr>
<th>ALLOTMENT #</th>
<th>DIMENSIONS</th>
<th>SIZE*</th>
<th>SHAPE</th>
</tr>
</thead>
<tbody>
<tr>
<td>101</td>
<td>Approx. 35 metres x 27.52 metres</td>
<td>916 sqm</td>
<td>Regular ✔ irregular □ battle-axe □</td>
</tr>
<tr>
<td>102</td>
<td>Handle – 35.04 metres x 23.71 metres Total depth – 57.05 metres Max width – 50.57 metres</td>
<td>2033 sqm</td>
<td>Regular □ irregular □ battle-axe ✔</td>
</tr>
</tbody>
</table>

1.2 Copies of the plans and documentation relating to this application are contained within Attachment 1.

2. BACKGROUND

2.1 The subject Torrens Title division was originally lodged with an associated Community Title division (490/C013/18). This application demonstrated that the subject site could be further divided into 3 allotments by Community Title.

2.2 The applicant has since withdrawn this application as they are looking at on-selling the proposed allotment (subject to a favourable decision on the subject application by the Panel), at which point it may be further divided by a new owner (subject to Development Approval).

2.3 An application was also received for the removal of the Significant tree on the subject site. This application has also since been withdrawn. The location of the Significant tree is within 10 metres of the proposed allotment boundary therefore requires the application to be determined by the Council Assessment Panel in accordance with Council’s Development Delegations Policy.
3. RELEVANT DEVELOPMENT APPLICATION HISTORY

Table 4:

<table>
<thead>
<tr>
<th>DA#</th>
<th>DESCRIPTION OF PROPOSAL</th>
<th>STATUS</th>
</tr>
</thead>
<tbody>
<tr>
<td>490/342/2018</td>
<td>Land Division by Community Title (1 into 3)</td>
<td>Withdrawn</td>
</tr>
<tr>
<td>490/311/2018</td>
<td>Tree Damaging Activity (Removal of a Significant Tree)</td>
<td>Withdrawn</td>
</tr>
</tbody>
</table>

4. LOCALITY

4.1 The locality generally comprises residential allotments of various shapes and sizes.

4.2 The main characteristics of the locality are as follows:

Table 3:

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>NORTH</td>
<td>Residential properties of varying sizes and types, predominately detached dwellings on larger allotments. Mix of regular and irregular shaped allotments</td>
</tr>
<tr>
<td>EAST</td>
<td>Duldig Avenue immediately to the east. Residential allotments of varying sizes.</td>
</tr>
<tr>
<td>SOUTH</td>
<td>Residential allotments of varying sizes and shapes. Further south lies Calton Road.</td>
</tr>
<tr>
<td>WEST</td>
<td>Residential allotments, predominately irregular shaped community titles. Further west is the Residential Historic Conservation Zone which also contains several irregularly shaped community titled allotments.</td>
</tr>
</tbody>
</table>

A Locality Plan is included below:
5. SUBJECT SITE

5.1 The subject site is located at 6 Duldig Avenue, Gawler East.

5.2 The site is legally recognised as Allotment 1 within Certificate of Title Volume 5258 Folio 9, Filed Plan 1397878 in the area named Gawler East in the Hundred of Nuriootpa.

5.3 There are no documents or easements registered over the subject allotment.

5.4 The site has frontage to Duldig Avenue of 50.37 metres and an average depth of 58.2 metres. It has a total area of 2949 square metres.

5.5 The site is relatively flat, however does grade slightly to the north-west.
5.6 The site is currently occupied by a single storey detached dwelling and associated ancillary structures. There are several trees located on site, one of which is defined as a Significant tree in accordance with the Development Act 1993.

6. NATURE OF DEVELOPMENT

6.1 The proposed form of development is not listed as either 'complying' or 'non-complying' for the Zone under the Gawler (CT) Development Plan consolidated 28/04/2016.

6.2 The application must therefore be assessed as a 'merit' form of development as per Section 35(5) of the Development Act 1993.

7. CATEGORISATION (PUBLIC NOTIFICATION)

7.1 This application was not required to be advertised pursuant to Section 38 of the Development Act, 1993.

7.2 The application was determined to be a Category 1 form of Development in accordance with Schedule 9 (2)(f) of the Development Regulations 2008.

8. REFERRALS

8.1 No external referrals in accordance with Schedule 8 of the Development Regulations 2008 were required to be undertaken.

8.2 The following internal referrals were undertaken:

Table 4:

<table>
<thead>
<tr>
<th>Internal Departments</th>
<th>Reason</th>
</tr>
</thead>
<tbody>
<tr>
<td>Engineering</td>
<td>Stormwater review</td>
</tr>
<tr>
<td>Comments</td>
<td>• The majority of stormwater comments related to the further development of the site by Community title. It is considered that stormwater could appropriately be managed if the site were to be further divided.</td>
</tr>
<tr>
<td></td>
<td>• Whilst stormwater could be detained in Lot 102 and discharged via gravity to Harradine Street, a private drainage easement would be required over 14 Harradine Street in order to discharge stormwater runoff from Lot 102 to Harradine Street. This would require further negotiation with the adjoining land owner.</td>
</tr>
</tbody>
</table>
Therefore with regards to the Torrens Title division, it is considered that stormwater can be detained on Lot 102 and pumped to Duldig Avenue.

Further consideration of stormwater management would be given following assessment of a future built form application or further land division application.

9. ASSESSMENT

9.1 The zoning of the land and relevant provisions

The following Town of Gawler Development Plan Objectives and Principles of Development Control (PDC’s) were considered in the assessment of this application:

Table 5:

<table>
<thead>
<tr>
<th>Development Plan</th>
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</tr>
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<td></td>
</tr>
<tr>
<td>Interface Between Land Uses</td>
<td>42</td>
</tr>
<tr>
<td>Land Division</td>
<td>45</td>
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<td>Regulated Trees</td>
<td>73, 74</td>
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<td>Residential</td>
<td>78</td>
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<td>Significant Trees</td>
<td>88</td>
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<tr>
<td>Transportation and Access</td>
<td>91</td>
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<tr>
<td>Structure plan</td>
<td>GA/1 (Overlay 1)</td>
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<td>Enlargment C</td>
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<td>Zone:</td>
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<td>Residential</td>
<td>1</td>
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<td>Policy Area:</td>
<td></td>
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<tr>
<td>Gawler East</td>
<td>Desired Character Statement, 1</td>
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</tbody>
</table>
9.2 The key aspects pertaining to the assessment of this proposal are:

9.2.1 Suitability of division within Residential Zone

9.2.2 Allotment size and configuration

9.2.3 Suitability for intended use

9.3 Suitability of division within Residential Zone

9.3.1 The subject allotment is located within the Residential Zone, which is identified within Zone Objective 1 and Principle of Development Control (PDC) 1 as a Zone primarily for residential development and a range of housing types.

9.3.2 Objective 1 of the Gawler East Policy Area within which the subject allotment is located, seeks for an area where the existing housing stock is maintained and the number of dwellings increased through the development of vacant large land parcels.

9.3.3 The proposed land division seeks to retain the existing dwelling on one allotment, with a vacant allotment to be created for future residential purposes (either the construction of a dwelling or further division by Community Title).

9.3.4 Therefore the use is considered to an appropriate form of development within the Residential Zone and Gawler East Policy Area.

9.4 Allotment size and configuration

9.4.1 The existing allotment has dimensions 50.7 metres x 57.05 metres and a total size of approximately 2949 square metres.

9.4.2 There are a large variety of allotment shapes and sizes within the locality. However, the average size of allotments within the locality are approximately 800 square metres with a minimum size of 200 square metres and a maximum size of approximately 3000 square metres.

9.4.3 The frontages of allotments within the locality range from 12 metres to 55 metres with the average frontage being 22 metres.

9.4.4 Whilst allotments within the locality generally have regular (i.e. rectangular) configuration, it is noted that there are many exceptions which have irregular shaped allotments.
9.4.5 The proposed division seeks to create two new allotments with the following dimensions:

<table>
<thead>
<tr>
<th>ALLOTMENT #</th>
<th>FRONTAGE</th>
<th>SIZE*</th>
<th>SHAPE</th>
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</thead>
<tbody>
<tr>
<td>101</td>
<td>27.52m</td>
<td>916sqm</td>
<td>Regular  ✓  irregular  □  battle-axe  □</td>
</tr>
<tr>
<td>102</td>
<td>23.71m</td>
<td>2033sqm</td>
<td>Regular  □  irregular  □  battle-axe  ✓</td>
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</table>

9.4.6 Whilst the proposed allotment is irregular in shape, it is anticipated that this allotment will be further divided by Community Title. This is in accordance with
Council Wide PDC 126(a). Further discussion regarding the suitability of proposed allotment for further division (if pursued by a future owner) is included below.

9.4.7 Irrespective of the above, the frontage to the street is consistent with the existing character of the locality. Further development of the rear of the allotment will not be visible from the street and thus is not anticipated to have an adverse impact on the character or amenity of the locality. It is noted that any further character impact of further division would be assessed as part of a separate future application.

9.4.8 It is therefore considered that the proposed allotment size and configuration is acceptable within the locality.

9.5 Suitability for intended use

9.5.1 As raised previously, the applicant submitted and later withdrew a community title division for the proposed development lot. They have since indicated that should the proposed development be approved, they would be looking to on-sell the allotment to a future purchaser.

9.5.2 Whilst this application was still under assessment by Council’s planning and engineering staff, with outstanding information and amendments being required, it demonstrated that the allotment has the potential for future development by community title. This indicative community title plan has been included within Attachment 3 to demonstrate an example of future development potential for proposed allotment 102.

9.5.3 Irrespective of the above, the proposed allotment is large enough to accommodate a single dwelling meeting Council’s quantitative requirements regarding setback, private open space and site coverage, meeting Council Wide PDC 234, 235 and 236.

9.5.4 There is a significant tree on the subject site, which is located on proposed allotment 102. As mentioned above, the applicant originally sought for the removal of this tree, however this application was later withdrawn. Given that the proposal does not seek for the removal of the subject tree, Council Wide Objectives 73, 74, 88 and PDCs 224, 225, 322, 323, 324 and 325 are satisfied.
COUNCIL ASSESSMENT PANEL
AGENDA

Wednesday 30 January 2019

Image 3: Significant Tree
9.5.5 The proposed land division does not propose any tree damaging activity to the significant tree, and the impact of the tree on any future built form or land division application would be assessed once that application were to be lodged.

9.5.6 Given the size of proposed allotment 102, it is considered that a dwelling could be accommodated on the subject site which would not cause tree damaging activity. Council Wide PDC 326 is achieved.

9.5.7 The existing allotment has two crossovers currently. The proposed land division will result in both proposed allotments having a crossover each. Access is therefore provided to each of the allotments in accordance with Council Wide Objective 91 and PDCs 342, 354, 355, 357.

9.5.8 Council’s engineering department have reviewed the proposed division and considered that stormwater can be detained on Lot 102 and pumped to Duldig Avenue. Council Wide PDCs 93, 94, 96, 250, 252 are satisfied. A note advising future owners of the requirement for pumping has been recommended should approval be granted.

9.5.9 Further consideration of stormwater management would be given following assessment of a future built form application or further land division application.

9.5.10 The applicant has also provided a stormwater management plan for allotment 101 to ensure all existing stormwater pipes are re-directed to be contained entirely within proposed allotment 101. A requirement for this stormwater management plans to be implemented on site prior to the issue of Section 51 Clearance is recommended as Council Land Division Consent Condition 5.

9.5.11 The existing shed and retaining wall that will be located on proposed allotment 102 will be required to be removed from the subject allotment prior to the issue of Section 51 Clearance to ensure allotment 102 is vacant. This is enforced via recommended Land Division Consent Condition 2.

9.5.12 It is considered that proposed allotment 101 can accommodate the existing dwelling on site as well as associated stormwater management for this dwelling. Further, it has been demonstrated that proposed allotment 102 could accommodate future development which does not detrimentally impact the existing Significant tree. Thus it is considered that the proposed allotments are suitable for their intended use.
10. CONCLUSION

10.1 The proposed development is considered to be an appropriate form of development within the Residential Zone.

10.2 The applicant has demonstrated that the proposed land division is acceptable with regards to:
   10.2.1 Allotment size and configuration
   10.2.2 Suitability for intended use
   10.2.3 Impact on Significant tree

10.3 Accordingly, the proposal represents an appropriate form of development within the Residential Zone that is not considered to be seriously at variance with the Development Plan.

10.4 Subsequently, the proposal warrants the granting of Development Plan Consent and Land Division Consent subject to appropriate conditions.

11. RECOMMENDATION

It is recommended that the Town of Gawler Council Assessment Panel resolves:

1. That having regard to the relevant provisions of the Gawler (CT) Development Plan, pursuant to Section 33(1) of the Development Act 1993, that the application is not seriously at variance with the Development Plan.

2. That DEVELOPMENT PLAN CONSENT and LAND DIVISION CONSENT be GRANTED to Development Application 490/341/2018 by R G CALLOW for Land Division by Torrens Title (1 into 2) at 6 Duldig Avenue GAWLER EAST 5118, subject to the following conditions:

   Development Plan Consent Conditions

1) The development hereby approved shall be undertaken in accordance with Development Application Number 49/341/2018 (EDALA number 490/D012/18) the approved plans, details and conditions therein.

   REASON: To ensure the application is undertaken in accordance with the approved plans.
Development Plan Consent Notes

1) The owner/applicant is advised that future development of allotment 102 may require pumping to the street to manage stormwater.

Land Division Consent Conditions

1) Prior to the granting of Section 51 clearance the developer shall contribute $1486 per new allotment towards upgrading downstream drainage infrastructure.

   REASON: To accommodate the impact of additional stormwater flows due to the creation of an additional allotment.

2) Prior to Section 51 Clearance, the shed and retaining wall located on allotment 201 shall be removed to the satisfaction of Council.

   REASON: To ensure allotment 102 is vacant and suitable for its intended use.

3) Any obsolete pipes, building material, rubbish and deleterious material shall be removed from the site to Council's satisfaction, prior to Section 51 clearance.

   REASON: To ensure allotment 102 is vacant and suitable for its intended use.

4) Prior to Section 51 Clearance, all stormwater pipes that cross allotment boundaries shall be severed and re-directed at the developers cost to ensure that the stormwater pipework relating to each allotment is contained within its boundaries. Photographic evidence shall be provided to Council demonstrating these works have been undertaken.

   REASON: To ensure stormwater for allotment 101 is managed on site.

5) Prior to Section 51 Clearance, the stormwater management plan hereby approved shall be constructed on site to the reasonable satisfaction of Council.

   REASON: To ensure stormwater for allotment 101 is managed on site.

Land Division Consent Notes

1) The applicant is reminded to contact Council when all the Council's conditions have been complied with and accordingly, the Development Assessment Commission will then be notified that the Council has no objections to the issue of the Certificate of Approval.

2) If the applicant or owner requires an invoice for any contributions or fees requested in the conditions of consent attached to this decision then they must contact Council to request one. Payment of contributions or fees may be done at any time during business hours by contacting Council's Development Services department on (08) 8522 9211.
Development Assessment Commission Conditions

1) The financial requirements of SA Water shall be met for the provision of water supply and sewerage services.

   The alteration of internal drains to the satisfaction of SA Water is required.

   On receipt of the developer details and site specifications an investigation will be carried out to determine if the connections to your development will be standard or non-standard fees.

   SEWER EXT REQUIRED TO LOT 101.

   On approval of the application, all internal water piping that crosses the allotment boundaries must be severed or redirected at the developers/owners cost to ensure that the pipework relating to each allotment is contained within its boundaries.

2) Payment of $6830 into the Planning and Development Fund (1 allotment(s) @ $6830/allotment).

   Payment may be made by credit card via the internet at www.edala.sa.gov.au or by phone (7109 7018), by cheque payable to the Department of Planning, Transport and Infrastructure and marked "Not Negotiable" and sent to GPO Box 1815, Adelaide 5001 or in person, at Level 5, 50 Flinders Street, Adelaide.

3) A final plan complying with the requirements for plans as set out in the Manual of Survey Practice Volume 1 (Plan Presentation and Guidelines) issued by the Registrar General to be lodged with the State Commission Assessment Panel for Land Division Certificate purposes.

SA Water Conditions

1) The financial requirements of SA Water shall be met for the provision of water supply and sewerage services.

2) The alteration of internal drains to the satisfaction of SA Water is required.

3) On receipt of the developer details and site specifications an investigation will be carried out to determine if the connections to your development will be standard or non-standard fees.

   SEWER EXT REQUIRED TO LOT 101.

4) On approval of the application, all internal water piping that crosses the allotment boundaries must be severed or redirected at the developers/owners cost to ensure that the pipework relating to each allotment is contained within its boundaries.
### Item Number
6.1

### Title
INFORMATION ITEM - APPEAL MATTERS

### Date
30 January 2019

### Author(s)
Team Leader Development Services

<table>
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<tr>
<th>Name</th>
<th>Issue</th>
<th>Address</th>
<th>Officer Decision</th>
<th>DAP Decision</th>
<th>Appellant</th>
<th>Status</th>
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**RECOMMENDATION:**

That the contents of this report be received and noted.
Item Number 6.2
Title INFORMATION ITEM – MATTERS PREVIOUSLY DEFERRED
Date 30 January 2019
Author(s) Team Leader Development Services

<table>
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<tr>
<th>Application</th>
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<th>Proposed Development</th>
<th>Applicant</th>
<th>Address</th>
<th>Officer</th>
<th>Status</th>
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<tr>
<td>490/532/2017</td>
<td>26 November 2018</td>
<td>Demolition of Outbuilding (Non-Complying) adjacent to Finniss Street Frontage and Construction of Replacement Masonry Wall (Maximum height of 1.5 metres).</td>
<td>RS Turner</td>
<td>16 Finniss Street Gawler</td>
<td>Scott Twine</td>
<td>Awaiting response from applicant.</td>
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</table>

RECOMMENDATION:
That the contents of this report be received and noted.