



NOTICE

of

COUNCIL ASSESSMENT PANEL MEETING

Pursuant to the provisions of Section 82 of the Planning, Development and Infrastructure Act 2016

TO BE HELD IN

**COUNCIL CHAMBERS
PLAYFORD CIVIC CENTRE
10 PLAYFORD BOULEVARD, ELIZABETH**

MEMBERS MAY PARTICIPATE BY ELECTRONIC MEANS

ON

THURSDAY, 18 JANUARY 2024 AT 6:00PM

THIS MEETING WILL ALSO BE VIEWABLE AT
<https://www.youtube.com/user/CityOfPlayford>

A handwritten signature in blue ink, appearing to read "A Squires".

**ADAM SQUIRES
ASSESSMENT MANAGER**

Issue Date: Thursday, 11 January 2024

MEMBERSHIP

MR GEOFF PARSONS – PRESIDING MEMBER

Mr Aaron Curtis
Mr Paul Mickan

Ms Cherie Gill (*Deputy*)
Ms Misty Norris

Mr Nathan Grantham
Ms Jane Onuzans (*Deputy*)

**City of Playford
Council Assessment Panel Meeting**

**AGENDA
THURSDAY, 18 JANUARY 2024 AT 6:00PM**

ACKNOWLEDGEMENT OF COUNTRY

We would like to acknowledge that this land we meet on today is the traditional land of the Kaurna people, and that we respect their spiritual relationship with their country. The City of Playford would also like to pay respects to Elders past, present and emerging.

1 ATTENDANCE RECORD

- 1.1 Present
- 1.2 Apologies
- 1.3 Not Present

2 CONFIRMATION OF MINUTES

RECOMMENDATION

The Minutes of the Council Assessment Panel Meeting held 21 December 2023 be confirmed as a true and accurate record of proceedings.

3 APPLICATIONS WITHDRAWN

4 DECLARATIONS OF INTEREST

5 APPLICATIONS FOR CONSIDERATION – PERSONS WISHING TO BE HEARD

- 5.1 Outdoor bar and hosting of outdoor functions (DA 21028021) (Attachments).....6

Representors: Mr Douglas and Mrs Deborah Whiting
Ms Angela Cestaro
Mr Simon Lloyd

Applicant: Mrs Jeanette Rosadoni

- 5.2 23017118- 18 Bogan Road, Hillbank SA. - Earthworks - Excavation and filling of land at the rear of the property involving 55.3 cubic metres of material (Retrospective) (Attachments).....69

Representors: Mr Mahmut Karaduman
Ms Clare Rae

Applicant: Mr Shane Bentley

6 APPLICATIONS FOR CONSIDERATION – NO PERSONS TO BE HEARD

Nil

7 APPLICATIONS FOR CONSIDERATION - CATEGORY 1

Nil

8 OUTSTANDING MATTERS – APPEALS AND DEFERRED ITEMS

Nil

9 OTHER BUSINESS**9.1 STAFF REPORTS**

Nil

10 CONFIDENTIAL MATTERS

Nil

11 POLICY DISCUSSION FORUM

Nil

12 CLOSURE

APPLICATIONS FOR CONSIDERATION

APPLICATIONS FOR CONSIDERATION – PERSONS WISHING TO BE HEARD

5.1 OUTDOOR BAR AND HOSTING OF OUTDOOR FUNCTIONS (DA 21028021)

Snapshot

Author:	Danni Biar
Proposal:	Outdoor bar and hosting of outdoor functions
Development Number:	21028021
Date of Lodgement:	14 October 2021
Owner:	Virgara Wines Pty Ltd
Applicant:	Mrs Jeanette Rosadoni
Location:	143 (Lot 5001) Heaslip Road, Angle Vale
Zone:	Suburban Activity Centre
Classification:	Performance Assessed
Public Notification:	Yes
Representation Received:	Yes
Request for Additional Information Made?	Yes

Recommendation:	To Grant Planning Consent
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Attachments:	1 1 . Application Documents
	2 2 . Cirqa Report and Response to RFI
	3 3 . Sonus Environmental Noise Assessment Report
	4 4 . Copy of Representations Applicant's
	5 5 . Response to Representations

1. The Subject Land

The subject land comprises of Certificate of Title Volume 6267 Folio 406 currently known as Lot 5001 Heaslip Road, Angle Vale (previously Volume 6250 Folio 24, known as 143 Heaslip Road, Angle Vale at the time the application was lodged). The features of the subject land include:

- A frontage of 173 metres to Heaslip Road which is a State Maintained Road
- A frontage of approximately 277 metres to Virgara Way.
- An approximate area of 62382 square metres
- An irregular shaped allotment and is generally flat.
- The subject land is well maintained with two large grassed areas on Heaslip Road separated between the two unsealed car parking areas comprising of compacted gravel. Several large, mature trees (many of which are significant and regulated trees) surround this area and provide a significant amenity contribution to the subject land and locality.
- Virgara Wines and Sneaky's Restaurant currently operate from the subject land within the two buildings fronting Heaslip Road, the southern building being the Cellar Door. The restaurant started operations in 2013 and cater for weddings, birthday celebrations and other large functions within the existing building and more recently have been holding these events outdoors within the gardens. The current capacity is 250 patrons across Sneaky's Restaurant and the Cellar Door.

- The balance of the subject land contains what remains of the original vineyard.
- The proposed structures, including the outdoor bar and umbrellas are visible from Heaslip Road but are somewhat screened by the existing large trees.

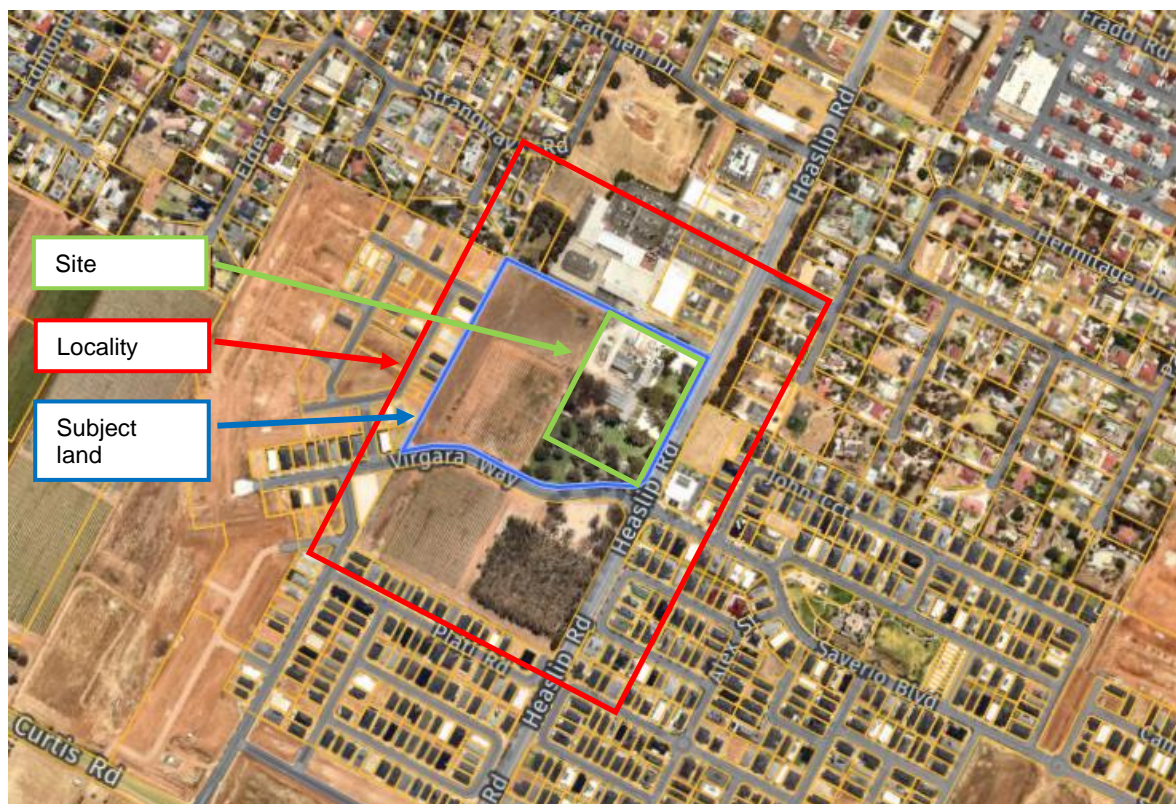
Based on the proposal, the 'site' of the development is considered to include the buildings, grassed areas and car parking areas as depicted in the Locality Plan below.

2. The Locality

The adjacent locality is predominantly characterised by residential development and the Angle Vale Shopping Centre to the north. The centre comprises of a supermarket, a variety of small shops and food outlets, gym, medical centre and a petrol station.

The adjacent residential area comprises of a mix of existing township area and newer housing developments. The eastern side of Heaslip Road comprises of very low density, residential dwellings and the south this, the Miravale residential development comprising of low density housing with a childcare centre on the corner of Heaslip Road and Saverio Boulevard. 'The Entrance' has been developed as a residential sub-division around the subject land to the west in the form of low density dwellings. South of the subject land, separated by Virgara Way, is a woodlot which has been retained through the development of The Entrance.

2.1 Locality Plan



2.2 Zoning

By virtue of its location, the subject land depicted in blue above, is located within:

- Suburban Activity Centre and *Master Planned Township Zones*
- *Emerging Township Activity Sub Zone*
- Covered by the following Overlays:
 - Affordable Housing
 - Building Near Airfields
 - Defence Aviation Area (All structures over 45 metres)

- Hazards (Bushfire - Urban Interface)
- Hazards (Flooding - General)
- Noise and Air Emissions
- Prescribed Wells Area
- Regulated and Significant Tree
- Traffic Generating Development
- Urban Transport Routes
- Water Resources
- Is covered by the following Technical and Numerical Variations (TNVs):
 - Concept Plan (Concept Plan 16 - Angle Vale Infrastructure)
 - Concept Plan (Concept Plan 17 - Angle Vale)
 - Concept Plan (Concept Plan 81 - Edinburgh Defence Airfield Lighting Constraints)
 - Interface Height (Development should be constructed within a building envelope provided by a 30 or 45 degree plane, depending on orientation, measured 3m above natural ground at the boundary of an allotment)

In accordance with *Part 1 - Rules of Interpretation* of the Planning and Design Code, where a zone, subzone, overlay or technical and numeric variation (TNV) does not spatially apply to the whole of a site that is the subject of the development application, the spatially based rules of the zone, subzone, overlay or TNV are only applicable to the portion of the site to which the zone, subzone, overlay or TNV spatially covers.

Based on this, the Master Planned Township Zone and Emerging Township Activity Sub Zone are not relevant to the assessment of the application as the site of the development that is subject to the application is wholly located within the Suburban Activity Centre as identified in the Planning and Design Code see Zone Map extracted from SAPPA.

2.3 Zone Map



3. Background

3.1 Approval History

Council records indicate that a change of use to café and winery was approved in December 2013. Further, an extension was granted consent for additions and alterations to the existing restaurant in November 2016.

3.2 Compliance History

Council staff were first made aware Sneaky's Restaurant were hosting functions outdoors though a noise complaint, received by two residents on 10 March 2021. Investigations and discussions occurred with Council's Compliance Team and the Applicant, and as a result, met with Council Staff on 29 June 2021 to facilitate a development application. An application was subsequently lodged on 14 October 2021.

4. The Proposal

The Applicant seeks retrospective approval for an outdoor bar, installation of three fixed umbrellas and the hosting of outdoor functions associated with Sneaky's Restaurant. Photos of the bar and an example of the set up at an event are depicted within Attachment 1. Photos from site inspections are shown below; Image One taken from Heaslip Road looking north west, Image 2 taken from in front of the entrance to the restaurant looking south east).





The outdoor bar and associated umbrellas are located between the southern car park and the entrance to Sneaky's Restaurant within the existing paved area. The outdoor bar is 2.4 metres by 6 metres with a wall height of 2.4 metres and is painted blue with pink ceramic tiles surrounding the serving area. The bar is to be utilised for the function patrons to use as a waiting area and restaurant patrons by providing additional outdoor seating areas.

Outdoor functions will take place within the large, grassed areas (Lawned Area 1 between both car parks and Lawned Area 2 to the south of the Cellar Door Building) and depending on the event and weather, a marquee could be temporarily installed on the grassed area, in front of the restaurant.

The large outdoor functions will include wedding ceremonies and receptions, birthdays and other larger style functions and will occur up to six times a financial year. Live music and background music is also proposed to be played within the lawned area next to the bar for patrons from both the restaurant and cellar door to enjoy.

Hours of operation proposed are as follows:

- Restaurant:
 - Monday to Thursday 11am to 10:30pm
 - Friday to Sunday 11am to 12 midnight
- Live music:
 - Friday 6pm to 10pm
 - Sunday 12 noon to 4pm
 - Saturday 12noon to 4pm – only during the Christmas/Festive season (the 2 weeks prior to Christmas Day)
- Outdoor functions (up to six times a year):
 - Friday and Saturday 6.00pm to 10pm
 - Sunday 12 noon to 4pm

It is noted that the application does not propose to increase the number of patrons therefore the current capacity of 250 patrons across Sneaky's Restaurant and Virgara Wines Cellar Door will remain.

5. Procedural Matters

5.1 Classification

The proposed development comprises of outdoor bar and hosting of outdoor functions.

The above elements are not classified as an Accepted, Deemed-to-Satisfy or Restricted development within the relevant Tables of the Zone. The proposed development is therefore a Code Assessed - Performance Assessed development pursuant to Sections 105(b) and 107 of the *Planning, Development and Infrastructure Act 2016* (the Act), requiring an on-merit assessment against the relevant provisions of the Code.

5.2 Public Notification

Generally, all classes of performance assessed development require public notification unless, pursuant to Section 107(6) of the Act, the class of development is excluded from notification by the Code in Table 5 – Procedural Matters (PM) - Notification of the relevant Zone.

Public notification was required as the proposal did not meet any of requirements of Table 5 to be excluded from notification.

The notification process commenced on 4 September 2023 to 22 September 2023 and Council received three representations as detailed below:

Representor	Summary of Issues Raised	Wish to be heard
Simon Lloyd 34 Traminer Drive, Angle Vale	<ul style="list-style-type: none">NoiseSecurityTraffic and car parkingRequest to improve security and reduce noise impacts to property	Yes
Angela Cestaro 30 Traminer Drive, Angle Vale	<ul style="list-style-type: none">NoiseSecurityTraffic and car parkingRequest to improve security and reduce noise impacts to property	No
Douglas and Deborah Whiting 21 Traminer Drive, Angle Vale	<ul style="list-style-type: none">NoiseHours of operation	No

The Applicant's Planning Consultant has responded to the representation addressing the following concerns:

- More recent outdoor functions are being monitored in accordance with the recommendations from the Sonus Environmental Noise Report including music finishing no later than 10:30pm and events concluding by 12 midnight.
- Car parking area in front of Sneaky's has been realigned and staff car parking allocated to the rear of the property to accommodate additional off street car parking.

5.3 Statutory Referrals

Pursuant to Schedule 9 of the Regulations, no statutory referrals were required as part of this application.

5.4 Internal Referrals

Internal referrals were undertaken to Council staff to review traffic management, car parking and the consideration of a waste control system.

Council's Health Team raised no concerns with application as the outdoor bar was required to be connected to the existing wastewater system and approved back on 22 April 2021.

Council's Engineering Team have considered stormwater and internal traffic movements on site. Further, the CIRQA report has demonstrated that the proposed car parking area can accommodate safe vehicle movements and an acceptable number of car parking spaces which are discussed in detail below.

6. Key Issues

The following matters are considered pertinent in reaching a recommendation for the proposal:

- Whether the proposal is an appropriate form of development in the Suburban Activity Centre Zone
- Whether the proposal will create an adverse impact and conflict between other land uses within the locality
- Whether the proposal is consistent with the general policies of the Planning and Design Code
- Whether the development will create an adverse traffic impact on the existing road network in the locality

7. Planning Assessment

7.1 Land Use and Intensity

The subject land is located within the Suburban Activity Centre Zone (Zone). The Desired Outcome 1 (DO) for the Zone envisages an active commercial precinct supporting neighbourhood-scale shopping, business, entertainment and recreation facilities to provide a focus for business and community life and most daily and weekly shopping needs of the community.

Wineries hosting functions such as weddings and large scale events are becoming increasingly popular and anticipated by patrons. The patron numbers of the existing Virgara Wines and Sneaky's Restaurant will remain as currently operating, at a maximum of 250 patrons. The intensity of the site is not changing however the nature of use of the site is changing due to the restaurant expanding upon its existing operations and the way in which the site is being used and utilising the well maintained garden areas that is well known to Virgara Wines. The change in nature of intensity of portions of the site is not considered to be inappropriate when considered against the objectives of the Zone.

Further, by enhancing and supporting the existing Sneaky's Restaurant business with its long-standing history in Angle Vale, the proposal aligns with the DO 1.

The proposal incorporates an outdoor bar and outdoor functions in association with the existing Sneaky's Restaurant, supported by Performance Outcome 1.1 (PO) which seeks businesses that provide a range of services to the surrounding neighbourhood and district including entertainment facilities, aligning with DO 1. The live music and outdoor functions with an outdoor bar are considered to maintain and enhance vibrancy within centre, sought in PO 1.6 and create a more active precinct.

The proposal is considered to be appropriate within the Zone and is considered to complement surrounding businesses in the Suburban Activity Centre.

7.2 Built Form and Character

The proposed outdoor bar and associated umbrellas are permanent structures that are located between the southern car park and the entrance to Sneaky's Restaurant, within the existing paved area. The three white umbrellas have a setback of 45 metres to the front boundary and have a total height of approximately 3.4 metres. The outdoor bar has a set back of 38 meters from the front boundary, is 2.4 metres by 6 metres, with a wall height of 2.4 metres, painted blue with pink ceramic tiles surrounding the serving area. The structures are small in scale, well set back from the front boundary, grouped with the existing buildings on the site and given they are screened well when travelling both directions on Heaslip Road by the large existing trees, will maintain the existing open character. The structures do not prohibit the existing pedestrian linkages on the site.

Based on the above and in accordance with PO 2.1 and 2.2, it is considered that it is an appropriate form of development.

7.3 Interface between Land Uses

The subject land is located within the Suburban Activity Centre Zone and is adjacent sensitive noise receivers. The proposed hours of operation are as follows:

- Restaurant:
 - Monday to Thursday 11am to 10:00pm
 - Friday to Sunday 11am to 12 midnight
- Live music and background music:
 - Friday 6pm to 10pm
 - Sunday 12 noon to 4pm
 - Saturday 12noon to 4pm – only during the Christmas/Festive season (the 2 weeks prior to Christmas Day)
- Outdoor functions (up to six times a year):
 - Friday and Saturday 6.00pm to 10pm
 - Sunday 12 noon to 4pm

Interface between Land Uses (General Development Policies) DPF 2.1 does not provide policy guidance relating to the hours of operation for such a proposal. In determining the appropriateness of the proposal hours of operation, the characteristics of the site and the locality are taken into account.

The proposed development has a separation distance of approximately 40 metres from the front boundary of the site to the rear boundary of the closest sensitive receiver and a Zone intended to accommodate sensitive receivers (adjoining Masterplanned Township Zone). This is separated by Heaslip Road between the site and closest sensitive receivers, with Heaslip Road being an arterial road.

An environmental noise assessment prepared by Sonus has been undertaken of the proposed development (Report) considering both the noise generated from

“Patron Nosie” and music including unamplified soloist, background level music and music such as an occasional band or DJ associated with the outdoor functions with up to 250 patrons, referred to as “Music Nosie” in the Report. Sonus measured the noise levels from the subject site from 27 August 2021 to 3 September 2021 during which a large function occurred, and have based their assessment on these findings and noise measurements from other, similar sites. These noise levels have been assessed against requirements from various Victorian noise policies for ‘noise from the occasional outdoor events’ for the large outdoor functions (only), in addition to the Environment Protection (Noise) Policy 2007, EPA Music Noise Guidelines 2015 and Planning and Design Code.

The Report reviewed the background and live music which sets an overall noise level of 60dB(A) for background music and 75dB(A) for live music (when measured 5 metres from the speakers or performer). Page 8 of the Report identifies the highest predicted noise levels at the sensitive receivers for both background and live music against the relevant criteria based on the noise level (dB(A)) by Octave Band Centre Frequency (Hz) which complies on the basis that the music ceases by 10pm.

In addition to the above, music for outdoor functions have been assessed as being able to achieve a restriction of no more than “65 dB(A). It is noted that constraints of following were accounted for in this; *when measurement point is located outdoors, within a noise sensitive area*” and the relevant authority issues a permit for any event that *“is outside of the hours 12pm to 11pm, has a duration of more than 8 hours and has not more than six ‘concerts’ occur at the same location in one financial year”*.

During Sonus’ noise monitoring that occurred in 2021, a large event occurred which recorded a noise level of 91 dB(A) at 5m from the speakers. Per the Sonus report, this noise level equates to 62 dB(A) to the nearest sensitive receiver which complies with the relevant criteria utilised in the Report and therefore satisfies PO 4.6 and PO 4.5 of Interface between Land Uses. As per the Report and in line with the criteria from the relevant Victorian policies, the following restrictions are recommended to be imposed on this type of large outdoor event/function:

- *Prepare and implement a Noise Management Plan;*
- *Limit the number of events to no more than six per financial year;*
- *Limit music to the hours between 12 noon and 11pm;*
- *Limit the duration of the music to no more than 8 hours;*
- *Restrict the level of music from the occasional events such that the speaker arrangement generates no more noise than an equivalent noise level of 91 dB(A) at a distance of 5 meters from the speakers (as this equates to 62 dB(A) to the nearest sensitive receiver).*

Based on the existing locality and the music from the site as described above, noise from patrons will not be a dominant feature, as described in the Report. By restricting patron numbers to 190 during the night after 10pm on Lawned Area 1 (in front of restaurant and outdoor bar), the proposal would demonstrate appropriate compliance with relevant noise policies. Based on this, it is considered that the proposal has been designed appropriately to minimise impacts of the adjacent dwellings in the locality.

On balance, it is considered that the proposed activities and hours of operation can be supported with the recommendations from the Sonus Report and are considered appropriate within a Suburban Activity Centre Zone. The development would support the operation of entertainment and commercial activities which provide a range of services for local communities, consistent with the Desired Outcome for the Zone.

In summary, it is considered that the proposed development has satisfactorily addressed the interface between land uses requirements subject to the inclusion of conditions of consent relating to compliance with the Report, contained within the recommendation.

7.4 Traffic, Access and Car Parking

Cirqa have undertaken a traffic and parking assessment report for the proposed development. The report concludes that there is sufficient onsite car parking to meet the anticipated demand as the patron numbers are not increasing, the access requirements and design vehicles will remain as per the existing arrangements. The proposed development satisfies the policies within the Transport, Access and Parking module, as follows:

- It has been demonstrated that all vehicles can enter and exit in a forward direction to ensure the safety of vehicle users and minimise interference with the traffic flow of the State maintained road (Urban Transport Routes Overlay PO 1.1).
- Loading area located to the rear of the site avoids conflict with pedestrian and passenger vehicle movements in accordance with PO 1.4 and PO 6.6.
- Based on the demand from the proposed use, small bus areas and drop off and pick up areas for short term parking is accommodated within the car park.

Table 1 - General Off-Street Car Parking Requirements sets out the parking rates for classes of development however it does not identify a rate for events of function uses. The proposal will not alter the existing operations of the site or increased the daily patrons. The proposed outdoor functions will accommodate up to 250 patrons, noting that typical operations are normally up to 125. The maximum number of staff on site is 25, with 20 associated with the restaurant and functions and (up to) 5 within the cellar door.

Through Cirqa's assessment, the car parking and maneuvering areas have been redesigned to accommodate staff car parking to the rear of the building, resulting in a total of 113 car parking spaces on site. The front car park to the north (Car Park A) has been realigned to create additional spaces resulting in a total of 88 spaces accessible to the public, as follows:

- 42 spaces within Car Park A
- 46 spaces within Car Park B
- 25 spaces (staff parking at rear of site).

On-site visitor parking spaces are sited and designed to be always accessible to all visitors, with staff parking allocated to the rear of the existing buildings, in accordance with PO 6.7. In reality, Cirqa notes that the parking demands associated with large functions such as proposed, are usually lower than a typical restaurant, due to the nature of attendance to the site (bus, car pooling or taxi). Due to this, a condition is included within the recommendation to ensure that temporary short term car parking is allocated for the large outdoor events for pick up and drop off. The bus parking area will be available at all times. Based on the above, Council staff are satisfied that PO 5.1 has been appropriately demonstrated in terms of the provision of off-street car parking for the proposed use.

It is noted that the proposal maintains the existing, unsealed condition of the car parking areas. Justification was requested by Council staff given no upgrade was proposed and Cirqa advised this was 'unnecessary'. In addition, the Applicant advised that the unsealed condition is *"more welcoming to our customers than a*

hard finished surface and is in character with our winery/café/function offering". Council staff maintain, given Sneaky's is within an evolving urban area surrounded by existing commercial uses and residential development, it would be best practice for the car parking areas to be sealed and line marked, as sought in PO 6.2.

Council's engineering staff have reviewed the traffic and parking related matters of the proposed development and confirmed that they are satisfied that the proposal provides adequate onsite car parking when assessed against the Code. The existing conditions of the car parking areas are to remain unsealed which is not considered to be consistent with the provisions of the Code, however this is not considered to be fatal to the application and conditions are contained within the recommendation to address elements of the carpark.

The proposal will have sufficient off-street car parking to accommodate the proposed outdoor functions and accordingly, it is considered that the proposal satisfies the relevant traffic, access and car parking provisions of the Planning and Design Code.

8. Conclusion

The proposed development is considered to be consistent with the desired outcomes of the Suburban Activity Neighbourhood Zone, relevant overlays and generally accords with the relevant general provisions.

The proposal is considered to be appropriate within the context of the Zone and is considered to complement surrounding businesses in the Suburban Activity Centre in a manner which meets the objectives of the Zone.

The Environmental Noise Assessment Report prepared by Sonus that assessed the proposal against relevant criteria demonstrated compliance with relevant noise policies. The report proposes restrictions including no more than six outdoor functions per functions year, all outdoor music ceasing by 10pm, no more than 190 patrons within Lawned Area 1 after 10pm, and requirements for large outdoor events that do not comply with criteria to require a permit. These limitations ensure that the proposal will not have any adverse impacts and not unreasonably affect the amenity of the sensitive receivers. These limitations are reflected in the recommended conditions of consent.

Cirqa's Report has demonstrated that the access requirements and design vehicles will remain as per the existing arrangements. The proposal has sufficient onsite car parking and appropriate car parking measures for large outdoor functions can be accommodated, through allocation of a designated bus parking space and temporary short term car parking spaces, in accordance with the Report.

For the reasons outlined above, the proposed development is not considered to be 'seriously at variance' with the relevant provisions of the Planning and Design Code and the proposal is considered to generally comply with the provisions that Planning Consent is warranted.

9. Recommendation

STAFF RECOMMENDATION

That pursuant to the authority delegated to the Council Assessment Panel by the Council, it is recommended that the Council Assessment Panel:

- a) DETERMINES that the proposed development is not seriously at variance with the policies in the Planning and Design Code; and

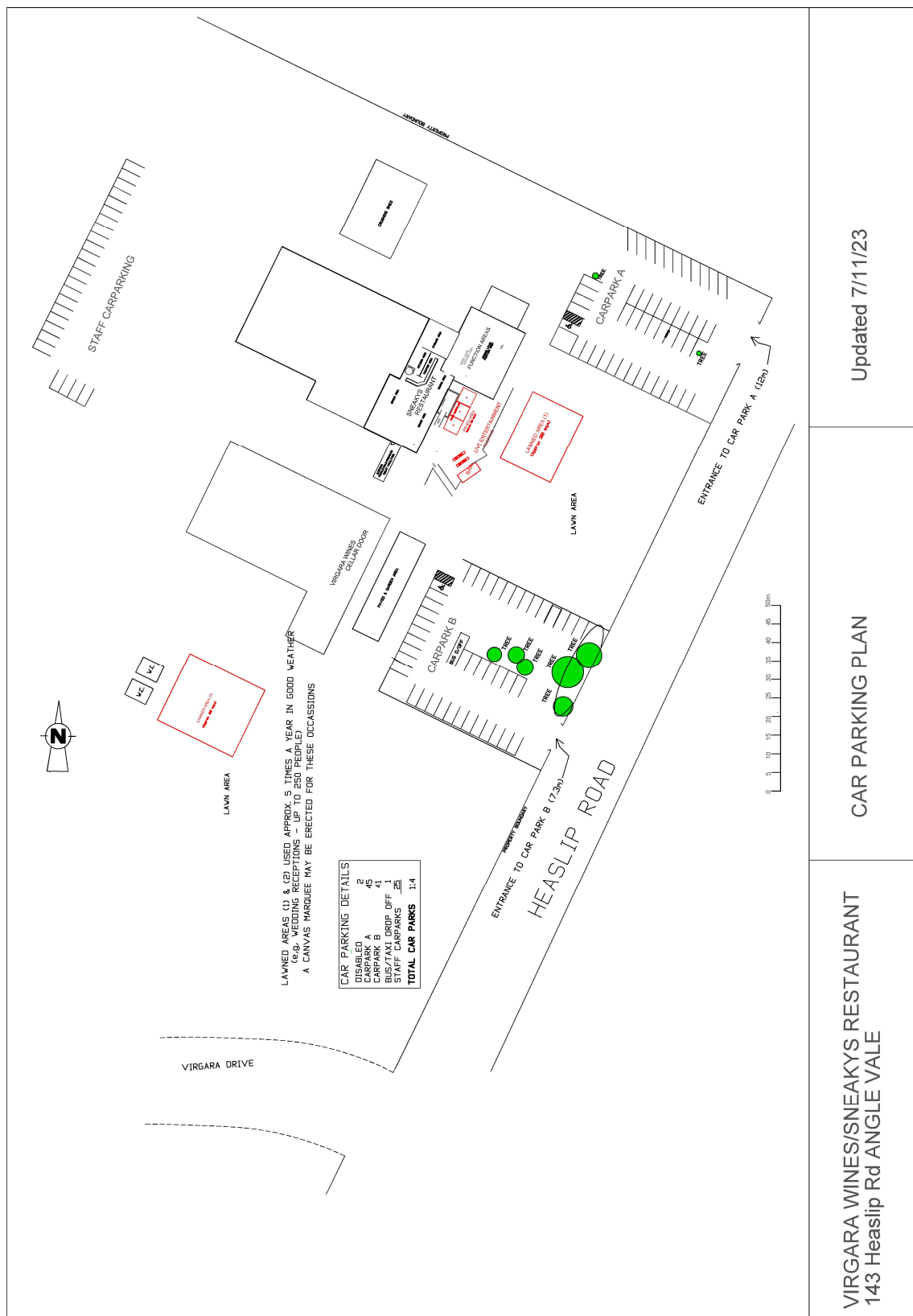
- b) GRANTS Planning Consent to the application by Mrs Jeanette Rosadoni for Outdoor bar and hosting of outdoor functions at 143 (Lot 5001) Heaslip Road, Angle Vale as detailed in Development Application ID 21028021 subject to the conditions and notes:

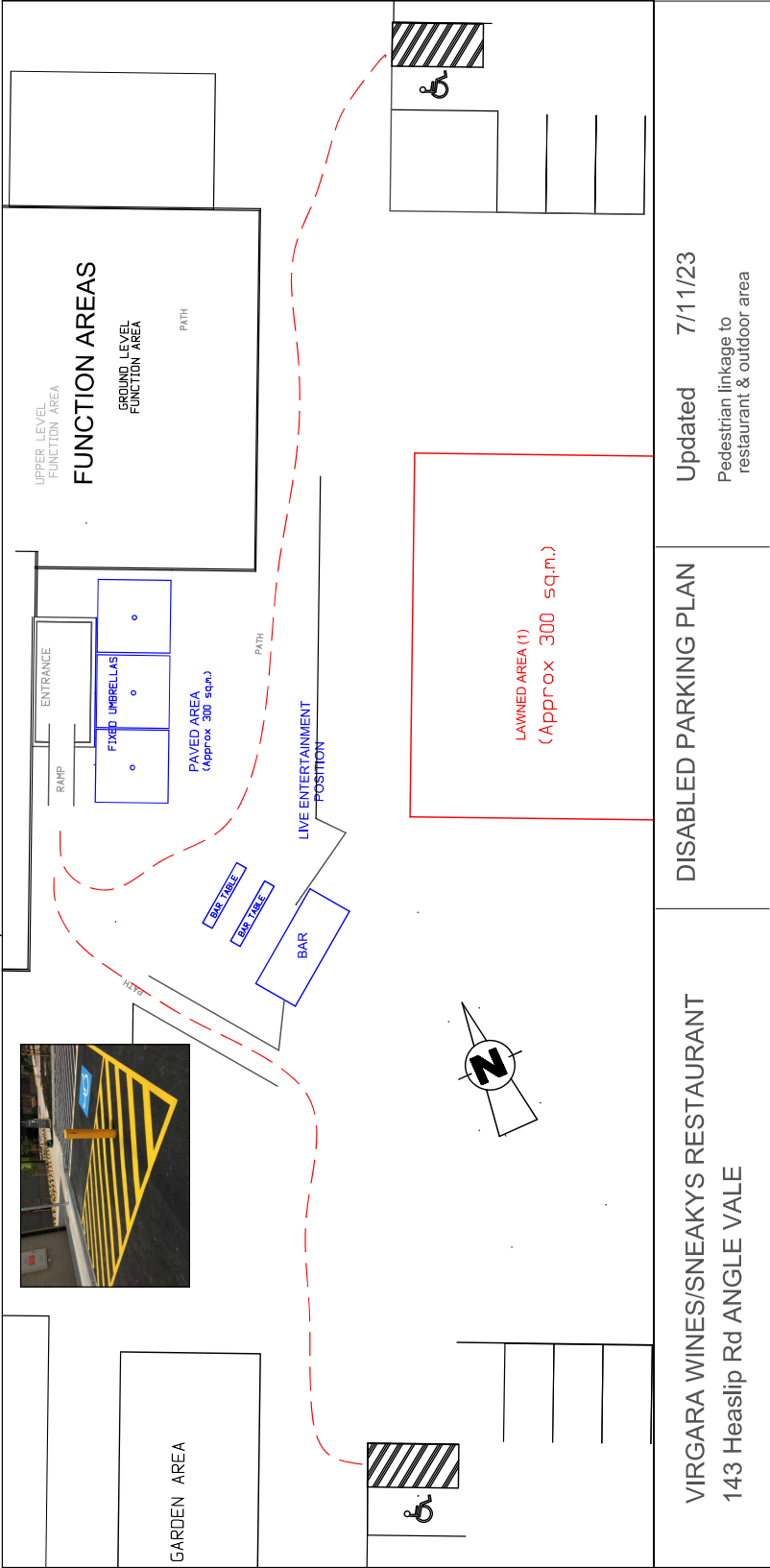
Conditions

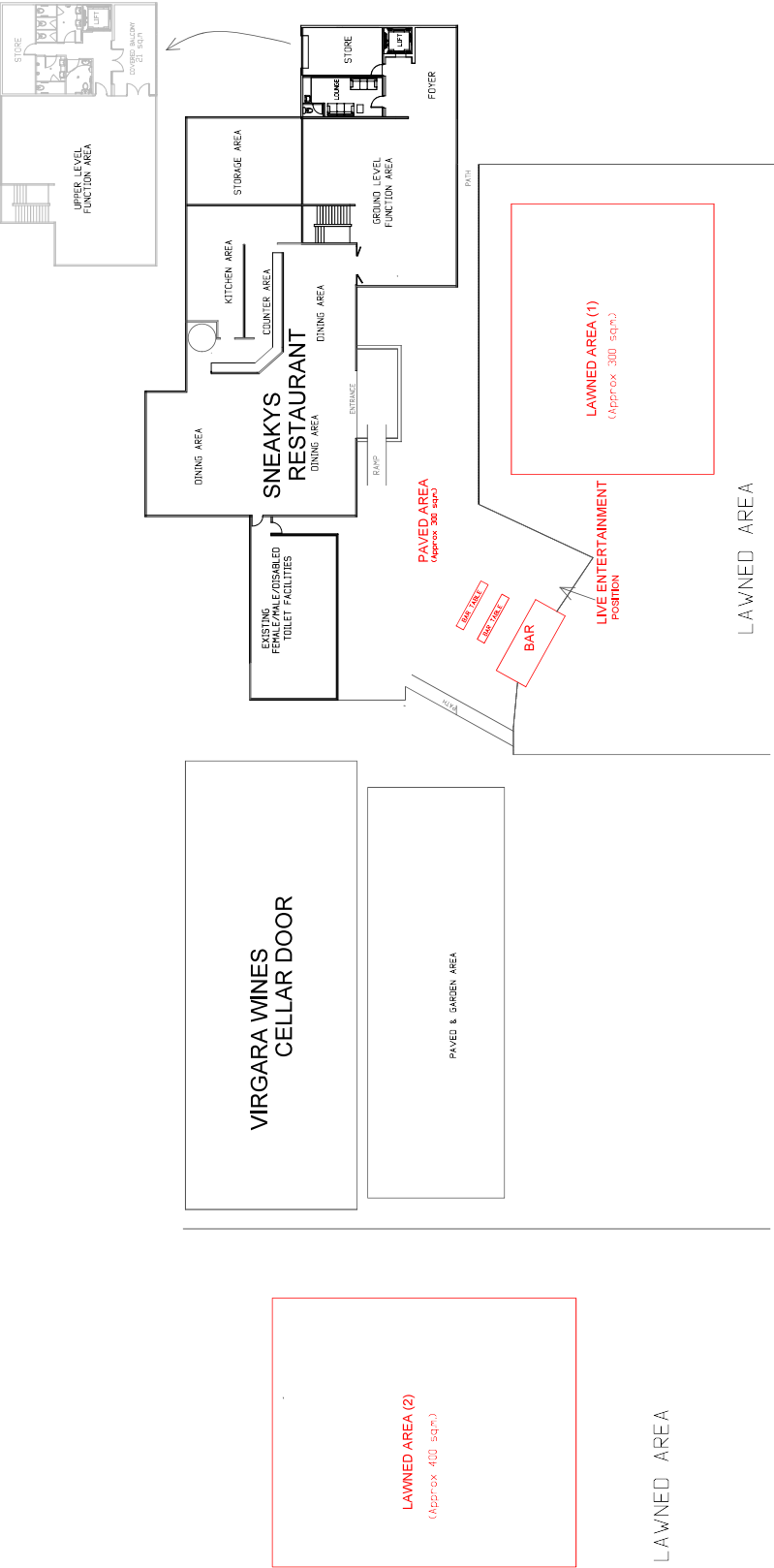
1. The development must be undertaken, completed and maintained in accordance with the plan(s) and information detailed in this Application except where varied by any condition(s) listed below.
2. The hours of operation herein approved are as follows:
 - Restaurant:
 - Monday to Thursday 11am to 10:00pm
 - Friday to Sunday 11am to 12 midnight
 - Live music and background music:
 - Friday 6pm to 10pm
 - Sunday 12 noon to 4pm
 - Saturday 12noon to 4pm – only during the Christmas/Festive season (the 2 weeks prior to Christmas Day)
 - Outdoor functions (up to six times a year):
 - Friday and Saturday 6.00pm to 10pm
 - Sunday 12 noon to 4pm
3. All recommendations contained within the Environmental Noise Assessment Report by Sonus Document Reference S7074C2 dated November 2021, shall be implemented prior to occupation of the site, and complied with at all times.
4. In accordance with Environmental Noise Assessment Report by Sonus Document Reference S7074C2 dated November 2021, all outdoor music shall cease by 10pm, unless prior written consent from Council is obtained.
5. In accordance with Environmental Noise Assessment Report by Sonus Document Reference S7074C2 dated November 2021, patron numbers shall be restricted to 190 within Lawned Area 1 after 10pm on Friday to Sundays.
6. In accordance with Environmental Noise Assessment Report by Sonus Document Reference S7074C2 dated November 2021, the following shall occur for a large outdoor event/function:
 - Prepare and implement a Noise Management Plan;
 - Limit the number of events to no more than six per financial year;
 - Limit music to the hours between 12 noon and 11pm;
 - Limit the duration of the music to no more than 8 hours;
 - Restrict the level of music from the occasional events such that the speaker arrangement generates no more noise than an equivalent noise level of 91 dB(A) at a distance of 5 meters from the speakers.
7. The proposal herein approved with a maximum capacity of 250 patrons across the winery, cellar door, restaurant and outdoor areas.
8. Wheel stops shall be installed in accordance with the updated 'Site Plan' and 'Disabled Parking Plan' dated 7 November 2023 in conjunction with the Cirqa Report dated 3 August 2023, within three months of the date of development approval.
9. Carparking spaces within the development must be provided for motorists with a

disability in accordance with the *Australian Standard 2890.6.2009* and must be line marked and signposted. The line marking and signposting must be maintained to a clear and visible standard at all times.

10. Short term parking spaces shall be temporarily allocated and sign posted accordingly for all outdoor functions that occur up to six times per financial year, as per the Cirqa Report dated 3 August 2023.

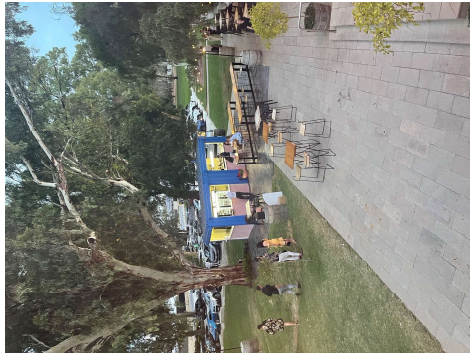
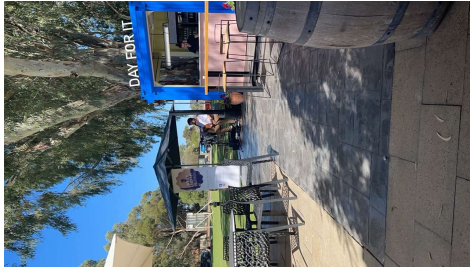
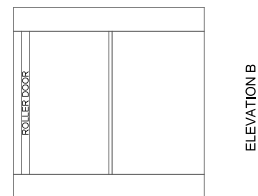
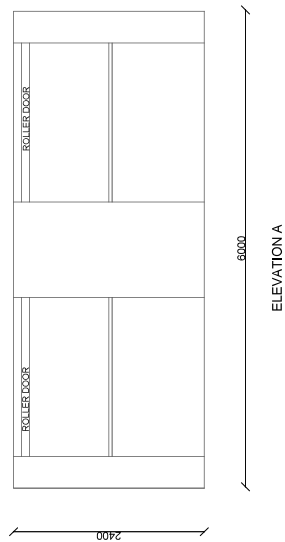
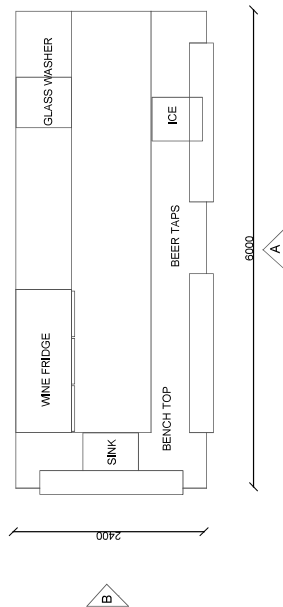






TOTAL CAPACITY OF ALL AREAS (INSIDE & OUTSIDE) IS 400 PEOPLE.
LAWNED AREAS (1) & (2) USED OCCASIONALLY IN GOOD WEATHER
(e.g, WEDDING RECEPTIONS – UP TO 250 PEOPLE)

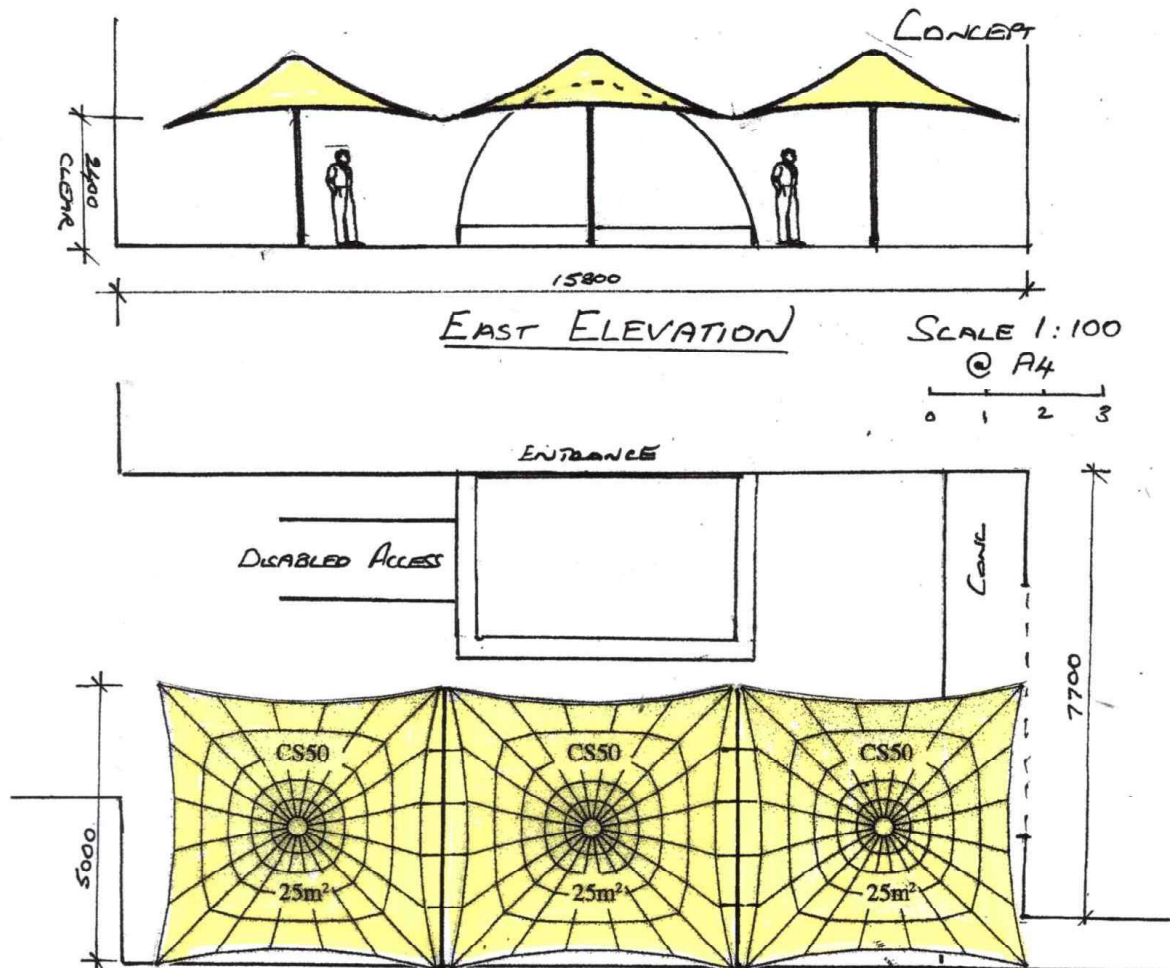
OUTSIDE FLOOR PLAN	
SCALE : 1:300 @ A3	
VIRGARA WINES/SNEAKYS RESTAURANT 143 Heoslip Rd /ANGLE VALE	



SNEAKY'S RESTAURANT

ADELAIDE
**Shade
Solutions**
Pty Ltd

ABN 57 088 326 925
Lic. No. RL144938



SNEAKY'S RESTAURANT
143 HEASLIP RD
ANGLE VALE

PLAN

N
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TO WHOM IT MAY CONCERN

Re Development Application Virgara/Sneakys Restaurant

The application reflects the discussion at our last meeting on Tuesday 29th June 2021 in your office.

Since Sneakys Restaurant began in 2013 we have built up a successful business catering to the local community and beyond and we are asked from time to time whether we can accommodate special birthday celebrations, weddings and associated receptions and other larger style functions. This style of catering for us has increased over the last few years, partly due to Covid19, and we have been using the outside lawned area which has worked out well but more recently we had a container bar built outside the restaurant building and the existing paving extended so that these outside functions can be more easily managed. The bar area also helps when a large booking is made for the restaurant, but we don't want patrons to be seated inside until we are ready for them, so this way they can enjoy a drink outside in the bar & paved area whilst they are waiting.

The maximum number of patrons on the premises at any one time is 400 and this can be spread out amongst the Cellar Door, Sneakys Restaurant and the outside areas. Lawned area (1) is approx. 300 sq.m and Lawned area (2) is approx. 400 sq.m. The extended paving area at the front of Sneaky's Restaurant is approx. 300 sq.m.

Generally, the position for setup of music will be next to the bar as shown on the FLOOR PLAN (This may be just one person singing with a guitar or similar or there could be a DJ or very occasionally there could be a band).

This application requests that formal permission be granted to use the two lawned areas as shown on the SITE PLAN marked **Lawned area (1) and Lawned area (2)** for dining & dancing with entertainment and bar facilities & snacks service being conducted in the **Container Bar and paved area** in front of the restaurant.

Please contact me if you require further clarification for this application.



Kind Regards,

Jeanette Rosadoni/COOL ADVICE

on behalf of Virgara Wines/Sneaky's Restaurant

Danni Biar

From: Jeanette Rosadoni <jeanetterosadoni@gmail.com>
Sent: Tuesday, 4 April 2023 1:23 PM
To: Danni Biar
Cc: anthony@sneakysrestaurant.com.au
Subject: Development application - 21028021: 143 Heaslip Rd Angle Vale SA 5117

 **EXTERNAL EMAIL:** Do not click any links or open any attachments unless you trust the sender and know the content is safe. 

Hi Danni,

I am confident that we can achieve enough carparking within the existing Sneakys/Winery sight using a combination of .2 and .4 parks per person requirement as stated by Cirqa in their letter of 9th February 2022.

Information from Sneaky's Restaurant owner Anthony Pilaia, is that the parking should cater for 200-250 people as their business does not generally exceed these numbers. There have been some parking in the street by Sneakys customers in the past, but if all current and proposed parks on the property are properly utilised this is unlikely to occur in the future.



I will prepare an **updated CAR PARKING PLAN** showing the number of parks and including the permanent **umbrellas** and the temporary **marquees** and will also submit a letter from **Cirqa** dealing with the updated CAR PARKING PLAN.

I request an extension of time for information you require and would appreciate an extension of at least a month.

Kind Regards
Jeanette Rosadoni
0433 189855
COOL ADVICE

Danni Biar

From: Jeanette Rosadoni <jeanetterosadoni@gmail.com>
Sent: Thursday, 30 March 2023 4:11 PM
To: Danni Biar
Subject: Development application - 21028021: 143 Heaslip Rd Angle Vale SA 5117

 **EXTERNAL EMAIL:** Do not click any links or open any attachments unless you trust the sender and know the content is safe. 

Hi Danni,

I left a message for you yesterday regarding an extension of time on getting the requested information to you on this DA.

I have a site meeting with Michael Virgara and Anthony/Sneakys next Tuesday about the car parking issue.

At the moment I am feeling we do not need the extra parking for Sneakys. I am quite confident that we can achieve enough carpaking within the existing Sneakys/Winery sights using the .4 parks per person requirement.

I feel the consideration for visitors to the winery would be less than .4 car parks per person so by my reckoning their should be anywhere between 114-120 parks available for customers and staff.

On odd occasions there may be some parking in the street, but if all parks on the property are properly utilised this would be at a minimum.

I formerly request an extension of time for information you require and would appreciated a month.

Kind Regards
Jeanette Rosadoni
0433 189855
COOL ADVICE

Plan SA

Danni Biar

City of Playford

7th November 2023

Application ID: 21028021

Proposed Development: Outdoor Bar and hosting of outdoor functions

Subject Land: 143 Heaslip Rd Angle Vale 5117

Further information re existing car parks and disabled parking

- The CAR PARKING PLAN dated 7th November shows a slight variation in order to capture 8 more customer parking places and shows the location of the 2 disabled car parks.
- The addition of the 8 car parks is achieved by taking 2m of lawned area so a double bay in the middle of CARPARK A can be created and at the same time this plan works around the tree mentioned for removal - it no longer needs to be removed. These extra car spaces will be functional after the 14th November 2023.
- The 2 Disabled Car Parking spaces which connect to the existing pathways will be concreted and functional after the 14th November 2023 – refer to Disabled Parking Plan dated 7th November 2023.
- The predominant surface in winery carparks is neat white gravel which is why we have chosen to keep this surface as it is much more welcoming to our customers than a hard finished surface and is in character with our winery/café/function offering.

Please read these comments in conjunction with the comments made in our letter dated 11th October 2023 and together with the CAR PARKING PLAN & DISABLED PARKING PLAN both dated 7th November 2023.

This now completes the 6th request for further information.

Kind Regards

Jeanette Rosadoni

Applicant

0433 189855

cooladvice@me.com

Attached: CAR PARKING PLAN dated 7th November 2023

DISABLED PARKING PLAN dated 7th November 2023

RE: Extra information

Subject: RE: Extra information
From: Jeremy Bayly <jeremy@cirqa.com.au>
Date: 2/05/2023, 3:26 pm
To: Jeanette Rosadoni <cooladvice@bigblue.net.au>

Hi Jeanette,

As mentioned during our phone call, we were previously advised (during our previous work in 2022) that the existing facilities had a capacity of 250 people. If there are no changes proposed to the existing patron capacity, the existing on-site parking provision would not be required to increase (i.e. the site can continue to operate as per the existing arrangement).

Kind regards,

Jeremy Bayly | Technical Officer

Planning and Design of Networks to Move People
T: (08) 7078 1801 | M: 0438 482 323 | E: jeremy@cirqa.com.au | 150 Halifax
Street, Adelaide SA 5000 | PO Box 144, Glenside SA 5065 | ABN: 12 681 029 983

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Ref: 21575|JJB

3 August 2023

Jeanette Rosadoni
Cool Advice Pty Ltd
76 Turners Avenue
HAWTHORNDENE SA 5051

Dear Jeanette,

**VIRGARA WINES
143 HEASLIP ROAD, ANGLE VALE**

I refer to the proposed increase in patron capacity for the cellar door and restaurant at 143 Heaslip Road, Angle Vale. As requested, I have reviewed the comments received from the City of Playford in relation to traffic, parking and/or access aspects of the proposal. Accordingly, this letter summarises the responses received from Council followed by my response.

"a. Existing land use/car parking numbers in conjunction with the proposed outdoor bar and outdoor functions"

The site is currently occupied by Virgara Wines' cellar door, production facility and restaurant (Sneaky's Restaurant). It is understood that current facilities operate with up to 250 patrons on-site during events and large functions. This number of people is generally infrequent with typical operations accommodating in the order of 125 patrons on-site during a busy day (generally on weekends). Parking for the site is provided informally in two parking areas at the front of the site.

A maximum of 25 staff are typically on-site at any one time (including 20 associated with the restaurant and 5 associated with the wineries cellar door and production facilities).

While the parking spaces are not formally delineated within the public parking areas, in the order of 80 spaces are available within the two existing public parking areas. Both public parking areas are accessed via separate two-way access points on Heaslip Road.

The Development Application comprises an outdoor bar and outdoor functions. It is understood that outdoor activities and functions currently occur on-site with up to 250



patrons accommodated. However, the Development Application seeks to add an outdoor bar and formalise an operating capacity of 250 patrons. The proposal will not change the existing operation of the site or alter typical day to day operations (i.e. day to day patron numbers are expected to remain up to 125 people).

It is understood that the site's existing 80 space parking provision adequately accommodates parking demands associated with up to 250 patrons on-site. However, a parking assessment has been undertaken for the site to alleviate Council's concerns.

The Planning and Design Code identifies the following parking rates relevant to the proposal:

- hall/meeting hall - 0.2 spaces per seat;
- concert hall/theatre – 0.2 spaces per seat; and
- shop (in the form of a restaurant or involving a commercial kitchen) - 0.4 spaces per seat.

The Planning and Design Code does not identify a parking rate for events or function uses. However, the development types identified above would be similar in nature to that of the proposal. Based upon the above rates, the proposal would require 50 to 100 parking spaces to accommodate 250 patrons. If it were conservatively assumed that, at any one time, four staff would be on-site working within the production facilities, and each person drive to the site, there would be a parking requirement of 54 to 104 parking spaces.

The on-site parking provision has been adjusted to accommodate an additional 25 unsealed staff parking spaces to the rear of the site. Two accessible parking spaces and a small bus parking space have also been designated within the public parking areas.

The proposed parking arrangement is illustrated in the attached plans (refer C21575_01A-SH01). The proposed parking arrangement will result in a total of 104 on-site parking spaces and readily satisfy the parking requirements identified above.

In reality, parking demands associated with large functions and events (i.e. 250 patrons) are typically lower than those associated with traditional restaurants with parking demands anticipated to be less than identified above. In addition, full capacity functions on the site would be infrequent. Virgara Wines has advised that during typical operation there would be up to 125 patrons on-site. Typical parking demands would therefore be less than stated above and be easily accommodated on-site. Nevertheless, even if a full capacity event occurred there would be adequate parking within the site to accommodate demands.



"b. Proposed car spaces on the northern boundary and any conflicts with access/service vehicles and demonstrate new waste refuge area"

An indicative bin storage location has been nominated on the attached plans (refer C21575_01A – SH03). Turn paths for a 12.5 m HRV (Heavy Rigid Vehicle) can be demonstrated accessing the bins during collection.

"c. Review and provide swept path for the existing car parking with conflicted reversing areas e.g. near trees in the north eastern car park or south western car park"

The parking areas illustrated in the attached plans generally comply with the requirements of Australian/New Zealand Standard, *Parking Facilities Part 1: Off-street car parking* (AS/NZS 2890.1:2004) and Australian/New Zealand Standard, *Parking Facilities Part 6: Off-street parking for people with disabilities* (AS/NZS 2890.6:2022) in that:

- regular unsealed parking spaces will be 2.7 m wide and 5.4 m long;
- the disabled parking spaces will be at least 2.4 m wide and 5.4 m long (with an adjacent shared space of the same dimension);
- the parking aisle will be at least 6.2m wide; and
- 0.3 m clearance will be provided to all objects greater than 0.15 m in height.

Noting that the parking area is unsealed, parking spaces can be delineated using pavement markers or similar.

Two trees are located within the parking aisle in the north eastern parking area. One tree is proposed to be removed to improve access while turn paths can be demonstrated around the second tree for the adjacent spaces (refer C21575_01A – SH06).

"d. Confirm the largest service vehicle on site and its manoeuvring/loading zone if any"

The site is currently serviced by vehicles up to the size of a 19 m Semi-Trailer. Turn paths are illustrated in the attached plans (refer C21575_01A – SH02). It is noted that access for Semi-Trailers is primarily required during vintage and infrequently required during the remainder of the year.



General deliveries to the site are undertaken by a small rigid vehicle. A small bus parking space has been nominated in the public parking area. Turn paths are illustrated in the attached plans (refer C21575_01A)

It is noted that the above commercial vehicle movements are existing and there are no changes are proposed to the site's access arrangements. The proposed parking to the rear of the site will reduce the manoeuvring area for semi-trailers. However, access can be demonstrated with turn paths.

"e. Provide separate drop-off/pick-up zone and taxis/car-share zone on site"

Short term parking and set-down/pick-up movements for light vehicles can be undertaken within the site's regular parking spaces. If desired, short term parking spaces can allocated and signed accordingly to accommodate these movements. Notably, short term parking demands are included in the relevant parking provision rates.

"f. Provide adequate parking spaces on site for people with disabilities located conveniently next to major entrances"

Two accessible parking spaces have been provided in the public parking areas (one within each of the public parking areas).

"g. Considering the subject site is surrounded by the existing commercial and ongoing residential development within the proximity, review and provide sealed off-street carpark for all weather accessible carpark for all users including pedestrians and people with disabilities and dust/mud free carpark"

The existing parking area is currently unsealed which is typical for wineries (and similar developments) across South Australia. Sealing the parking area is considered unnecessary as the site currently operates in this manner.

The accessible parking spaces will be provided in accordance with the Australian Standards.

"h. Associated with the proposed additional traffic demand, upgrade the existing driveways onto Heaslip Road"



The access requirements and design vehicles will remain as per the existing arrangement. As such, no changes are required.

Please feel free to contact me on (08) 7078 1801 should you require any additional information.

Yours sincerely,

JEREMY BAYLY

Technical Officer | CIRQA Pty Ltd

(Encl. CIRQA plans C21575_01A SH01 to SH06)

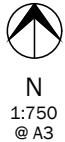




ABN: 12 681 029 983 | PO Box 144, Glenside SA 5065 | E: info@cirqa.com.au

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DRAWING AMENDMENTS				
VER	DATE	DESCRIPTION	DWN	CHK
A	02/08/2023	PARKING PLAN	JJB	BNW
C21575_01A.DWG		3/8/2023 10:20 AM		

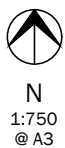


VIRGARA WINERY
143 HEASLIP ROAD, ANGLE VALE
19 M SEMI-TRAILER TURN PATHS
PROJECT # 21575 SHEET # 01_SH02





DRAWING AMENDMENTS				
VER	DATE	DESCRIPTION	DWN	CHK
A	02/08/2023	PARKING PLAN	JJB	BNW
C21575_01A.DWG		3/8/2023 10:20 AM		

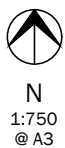




DRAWING AMENDMENTS				
VER	DATE	DESCRIPTION	DWN	CHK
A	02/08/2023	PARKING PLAN	JJB	BNW
C21575_01A.DWG		3/8/2023 10:20 AM		



DRAWING AMENDMENTS				
VER	DATE	DESCRIPTION	DWN	CHK
A	02/08/2023	PARKING PLAN	JJB	BNW
C21575_01A.DWG		3/8/2023 10:20 AM		



Virgara Wines

Sneaky's Restaurant

143 Heaslip Road, Angle Vale

Environmental Noise Assessment

S7074C2

November 2021

sonus.

Chris Turnbull

Principal

Phone: +61 (0) 417 845 720

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Virgara Wines Sneaky's Restaurant – 143 Heaslip Road, Angle Vale
Environmental Noise Assessment
S7074C2
November 2021

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Document Title : Virgara Wines Sneaky's Restaurant – 143 Heaslip Road, Angle Vale
Environmental Noise Assessment

Document Reference : S7074C2

Date : November 2021

Prepared By : Chris Turnbull, MAAS

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Virgara Wines Sneaky's Restaurant – 143 Heaslip Road, Angle Vale
Environmental Noise Assessment
S7074C2
November 2021

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INTRODUCTION

An environmental noise assessment has been made of the proposed change of use of Sneaky's Restaurant at Virgara Wines, 143 Heaslip Road, Angle Vale.

The proposal seeks to expand the current use of the site to include functions, such as wedding receptions, in the outdoor areas to the east and south of the current restaurant. In addition, music is proposed to be played adjacent to the existing outdoor bar. The locations of the proposed outdoor areas and where music is to be played can be seen on the site plan included as Appendix A.

The assessment has considered the noise from music and patrons within the development for the expected hours of operation, based on the existing liquor licence for the premises. The potential impact of noise is considered for the closest noise sensitive locations, being the residences shown in Appendix B.

The assessment has been based on:

- Architectural drawing set of the proposal, provided to Sonus by email on 16 September 2021;
- The current liquor licence for the premises with reference number "57604635", granted 16 November 2019;
- The assumption that the dwelling on the same allotment as the restaurant is associated with the development and has therefore been excluded from this assessment;
- Continuous noise monitoring of the background noise environment at the subject site from 27 August 2021 to 3 September 2021; and,
- Previous noise measurements from other similar sites for the noise from patrons and music played at the facility.

Virgara Wines Sneaky's Restaurant – 143 Heaslip Road, Angle Vale
 Environmental Noise Assessment
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PLANNING AND DESIGN CODE

The subject site is located within a *Suburban Activity Centre Zone* of the South Australian Planning and Design Code. The surrounding residences are located in an *Emerging Township Activity Centre Subzone* of the *Master Planned Township Zone*. The Planning and Design Code has been reviewed and the following provisions considered relevant to the noise assessment.

Part 4 - General Development Policies

Interface between Land Uses

DESIRED OUTCOME

1. Development is located and designed to mitigate adverse effects on or from neighbouring and proximate land uses.

Performance Outcome	Deemed-to-Satisfy Criteria / Designated Performance Feature				
General Land Use Compatibility					
PO 1.2 Development adjacent to a site containing a sensitive receiver (or lawfully approved sensitive receiver) or zone primarily intended to accommodate sensitive receivers is designed to minimise adverse impacts	DTS/DPF 1.2 None are applicable				
Activities Generating Noise or Vibration					
PO 4.1 Development that emits noise (other than music) does not unreasonably impact the amenity of sensitive receivers (or lawfully approved sensitive receivers).	DTS/DPF 4.1 Noise that affects sensitive receivers achieves the relevant Environment Protection (Noise) Policy criteria.				
PO 4.5 Outdoor areas associated with licensed premises (such as beer gardens or dining areas) are designed and/or sited to not cause unreasonable noise impact on existing adjacent sensitive receivers (or lawfully approved sensitive receivers).	DTS/DPF 4.5 None are applicable				
PO 4.6 Development incorporating music achieves suitable acoustic amenity when measured at the boundary of an adjacent sensitive receiver (or lawfully approved sensitive receiver) or zone primarily intended to accommodate sensitive receivers.	DTS/DPF 4.6 Development incorporating music includes noise attenuation measures that will achieve the following noise levels: <table border="1"> <tr> <th>Assessment location</th><th>Music noise level</th></tr> <tr> <td>Externally at the nearest existing or envisaged noise sensitive location</td><td>Less than 8dB above the level of background noise ($L_{90,15min}$) in any octave band of the sound spectrum ($LOCT_{10,15} < LOCT_{90,15} + 8dB$)</td></tr> </table>	Assessment location	Music noise level	Externally at the nearest existing or envisaged noise sensitive location	Less than 8dB above the level of background noise ($L_{90,15min}$) in any octave band of the sound spectrum ($LOCT_{10,15} < LOCT_{90,15} + 8dB$)
Assessment location	Music noise level				
Externally at the nearest existing or envisaged noise sensitive location	Less than 8dB above the level of background noise ($L_{90,15min}$) in any octave band of the sound spectrum ($LOCT_{10,15} < LOCT_{90,15} + 8dB$)				

Virgara Wines Sneaky's Restaurant – 143 Heaslip Road, Angle Vale
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MUSIC NOISE

Criteria

Deemed-to-Satisfy Criteria / Designated Performance Feature 4.6 establishes music noise criteria based on the existing background noise levels in the environment. This is consistent with the requirements of the *EPA Music Noise Guidelines 2015* (the **Music Guidelines**). It should be noted that the Music Guidelines are based on the assumption that music will be played late into the night every day of the week and do not provide guidance for events that occur on a limited number of occasions. To inform the music noise criteria, the background noise levels have been measured continuously at a location on the subject site (shown in Appendix B), which is representative of the closest residences. The results of the noise monitoring, conducted from 27 August 2021 to 3 September 2021, are provided as Appendix C of this report.

It is proposed that music be assessed in two different ways. For music played on a regular basis, an assessment will be conducted in accordance with the provisions of the Planning and Design Code and the Music Guidelines. For sources of music that occur on a limited number of occasions per year, such an assessment is not considered appropriate. The SA EPA document, *"Noise management for outdoor events"* provides recommendations for the minimisation of noise from outdoor events, such as those that will occur occasionally at the site. It recommends that for the small number of events, a noise management plan be prepared to document measures taken to minimise noise, but does not provide any objective criteria.

To determine reasonable measures to be included in the noise management plan, reference has been made to the following Victorian legislation, which specifically references outdoor entertainment:

- The *Noise Limit and Assessment Protocol*;
- The *Environment Protection Regulations*; and,
- The *Victoria Environment Protection Authority*.

The legislation imposes the following restrictions on the noise from outdoor entertainment:

- A noise level at nearby residences of no more than:
 - a. 65 dB(A) when the measurement point is located outdoors, within a noise sensitive area; and
 - b. 55 dB(A) when the measurement point is located indoors, in a sensitive room within a noise sensitive area.

Virgara Wines Sneaky's Restaurant – 143 Heaslip Road, Angle Vale
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- A permit must be approved by the authority for any event where:
 - a. the event is proposed outside of the standard operating hours of 12 pm–11 pm;
 - b. the event is proposed with a duration of more than 8 hours; or,
 - c. more than six concerts¹ at the same location in a financial year.

In order to determine the noise criteria for regular music, the measurement data have been analysed to determine the lowest background noise level experienced during the hours of operation of the restaurant. The corresponding criteria have been determined in accordance with the provisions of Deemed-to-Satisfy Criteria / Designated Performance Feature 4.6. It is noted that there are periods when the background noise levels are below the threshold of perception at low frequencies (63 Hz in particular). In such a circumstance, the criterion in the relevant octave band has been adjusted up to the threshold of perception using the *International Standard ISO226:2003*².

The following table provides the lowest measured background noise levels ($L_{90,15min}$) during the hours of operation. The hours of operation for the site have been determined based on the current liquor licence applicable to the site, and are understood to be from 6am to 2am the following day, seven days a week. The table shows the resulting music noise criteria ($L_{A10,15min}$) applicable at the nearby residences for this period. Where the background noise levels have been adjusted up to the threshold of perception, the values have been shown in **RED** in the below table.

Period	Noise Level	Noise Level (dB(A)) by Octave Band Centre Frequency (Hz)						
		63	125	250	500	1000	2000	4000
Operating Hours	Lowest Measured Background Noise Level (L_{A90})	16	20	19	19	20	16	13
	Music Noise Criteria (L_{A10})	24	28	27	27	28	24	21

¹ A concert is an event louder than 55 dB(A) in a 24-hour period when measured outdoors at a residence or other nearby sensitive area.

² The adjustment also requires a conversion from one third octave bands (as specified in ISO226:2003) to octave bands to enable comparison with the Planning and Design Code and EPA Guidelines.

Virgara Wines Sneaky's Restaurant – 143 Heaslip Road, Angle Vale
 Environmental Noise Assessment
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Assessment

The typical music level experienced within an outdoor area has previously been measured at other similar facilities. It is understood that live music is desired and is proposed to be played between the hours of 1pm and 4pm on a Sunday, as well as between 6pm and 10pm on any day, including Sunday. This will generally consist of an unamplified soloist located adjacent to the existing container bar. This assessment has therefore considered live music during the above hours, a background level of music located in this area at other times, and occasional events exhibiting a higher level of music.

In order to predict the level of noise from music at the premises, a noise model of the restaurant and surrounding area (including buildings and fences) has been developed using the SoundPlan modelling software. The model considers the music level in the nominated area, the separation distance to residences, and the effect of shielding from buildings and fences.

Based on the noise modelling, the following acoustic treatments are recommended in order to achieve the noise criteria at all residences:

- Ensure that the levels of music played within the outdoor areas are no more than the levels specified in the below table for background and live music when measured at a distance of 5m from the speaker/s or performer.

Noise Level	Noise Level (L ₁₀ , dB(A)) by Octave Band Centre Frequency (Hz)							Overall Noise Level (dB(A))
	63	125	250	500	1000	2000	4000	
Background Music Level Limit (L _{A10})	22	42	50	52	56	53	46	60
Live Music Level Limit (L _{A10})	37	57	65	67	71	68	61	75

- Ensure that live music is only played in the designated area and not after 10pm.

In order to determine compliance when live music is played, the background noise monitoring has been consulted for the additional period stated above. The lowest measured background noise levels and corresponding music noise criteria for this period can be seen in the below table.

Virgara Wines Sneaky's Restaurant – 143 Heaslip Road, Angle Vale
Environmental Noise Assessment
S7074C2
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Period	Noise Level	Noise Level (dB(A)) by Octave Band Centre Frequency (Hz)						
		63	125	250	500	1000	2000	4000
Until 10pm	Lowest Measured Background Noise Level (L_{A90})	20	25	28	32	35	31	22
	Music Noise Criteria (L_{A10})	28	33	36	40	43	39	30

Based on the above, the following table provides a comparison of the highest predicted noise level with the criteria for different levels of music.

Scenario	Noise Level	Noise Level (dB(A)) by Octave Band Centre Frequency (Hz)						
		63	125	250	500	1000	2000	4000
Background music	Highest predicted noise level at nearby residences (L_{A10})	<10	12	21	24	28	24	15
	Music Noise Criteria (L_{A10})	24	28	27	27	28	24	21
Live music	Highest predicted noise level at nearby residences (L_{A10})	<10	27	36	39	43	39	30
	Music Noise Criteria (L_{A10})	28	33	36	40	43	39	30

With regard to the noise from occasional events, an event occurred during the period in which the noise monitoring was conducted. Based on the level measured during this period it was determined that a level of 91 dB(A) when measured at 5m from the speaker and is considered to be representative of a typical event in this location. Predictions of the noise level at the nearby residences from this level of activity have been made. These predictions indicate that a level of 62 dB(A) at the nearest residence is expected from such a level of activity. It is therefore recommended that any event which is expected to feature a level of music higher than those specified above for live and background music be subject to the following limitations:

- Prepare and implement a Noise Management Plan for each such event;
- Limit the number of outdoor concerts to no more than six per calendar year;
- Limit music to the hours between 12 noon and 11pm;
- Limit the duration of the music to no more than 8 hours; and,
- Restrict the level of music from the occasional events such that the speaker arrangement generates no more than an equivalent noise level L_{eq} of 91 dB(A) at a distance of 5m from the speakers.

Virgara Wines Sneaky's Restaurant – 143 Heaslip Road, Angle Vale
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PATRON NOISE

Criteria

Deemed-to-Satisfy Criteria / Designated Performance Feature 4.1 of the Planning and Design Code references the *Environment Protection (Noise) Policy 2007* (the Policy). While the Policy specifically excludes the noise from a licensed premises, consideration has been given to the provisions of the Policy to provide an indication of an appropriate level of amenity.

The Policy is based on the World Health Organisation Guidelines to prevent community annoyance, sleep disturbance and adverse impacts on the amenity of a locality. Therefore, compliance with the Policy will also satisfy the subjective requirements of the relevant provisions in the Code.

The Policy establishes goal noise levels to be achieved at dwellings based on the Planning and Design Code zones in which the proposed development and the nearby dwellings are located, and the land use that the zones principally promote. In this circumstance, the following goal noise levels are provided by the Policy to be achieved at the nearby residences in the Master Planned Township Zone:

- An average (L_{eq}) noise level of 52 dB(A) during the day (between 7:00am and 10:00pm);
- An average (L_{eq}) noise level of 45 dB(A) during the night (before 7:00am or after 10:00pm); and,
- An instantaneous maximum (L_{max}) noise level of 60 dB(A) during the night.

For the purpose of this assessment, it is the night time levels that are considered most relevant.

When measuring or predicting noise levels for comparison with the Policy, adjustments may be made to the average goal noise levels for each “annoying” characteristic of tone, impulse, low frequency, and modulation of the noise source. The characteristic must be dominant within the existing acoustic environment and therefore the application of a penalty varies depending on the assessment location, time of day, the noise source being assessed, and the predicted noise level. A penalty for modulation can at times be warranted when considering the noise from patrons. The application of a penalty is discussed further in the Assessment section below.

Virgara Wines Sneaky's Restaurant – 143 Heaslip Road, Angle Vale
Environmental Noise Assessment
S7074C2
November 2021

sonus.

Assessment

The noise level from patron activity at the site has been predicted. The predictions have used a sound power level of 75 dB(A) for a single patron. It is understood that the proposed function areas are desired to accommodate up to 250 patrons. The predictions of noise from patrons within the new outdoor areas have been based on the noise model described in the Music section of this report. Consideration has been given to an event occurring in either Lawned Area 1 or Lawned Area 2, though not both at the same time.

Based on the background noise measurements conducted on site, the existing acoustic environment is already exposed to modulating sources, as indicated by the large difference between the average and maximum noise levels. This variation in noise is likely from traffic on Heaslip Road, located between the subject site and the nearby sensitive receivers, which will also demonstrate a modulating characteristic. Due to this, the modulation of noise from patrons will not be a dominant feature of the noise environment and a penalty is not considered to be warranted.

Based on the predictions of the noise from patrons in the proposed outdoor areas, some capacity restrictions will be required for the night period in order to meet the noise criterion at this time. For times after 10pm, the number of patrons present in Lawned Area 1 should be restricted to a maximum of 190 patrons. Lawned Area 2 can still accommodate the desired 250 patrons after 10pm.

With the above capacity restrictions, the below table indicates the highest predicted noise levels at the nearby residences and compares them to the criteria determined in accordance with the Policy. Consideration has been given to patrons located in either outdoor area during the day and night periods.

Time of Day	Lawned Area 1		Lawned Area 2		Criterion
	Capacity	Prediction	Capacity	Prediction	
Day	250	47 dB(A)	250	45 dB(A)	52 dB(A)
Night	190	45 dB(A)	250	45 dB(A)	45 dB(A)

As can be seen from the above table, the noise from patrons will achieve the criteria of the Policy subject to the capacity restrictions provided above. Therefore, it can be considered that the noise from the development will not cause unreasonable noise impact on the existing adjacent sensitive receivers, thereby achieving the relevant provisions of the Planning and Design Code.

Virgara Wines Sneaky's Restaurant – 143 Heaslip Road, Angle Vale
Environmental Noise Assessment
S7074C2
November 2021

sonus.

CONCLUSION

An environmental noise assessment has been made of the proposed change of use of Sneaky's Restaurant at Virgara Wines, 143 Heaslip Road, Angle Vale.

The assessment considers the noise levels from the proposed change of use at the nearby existing residences. Predictions have been made of the potential impact of activity from both music and patrons at the site.

Appropriate criteria for the assessment have been determined in order to meet the requirements of the South Australian Planning and Design Code, with reference to the Environment Protection (Noise) Policy 2007 and the EPA Music Noise Guidelines 2015. Additional guidance has been taken from various Victorian noise policies in relation to the noise from occasional outdoor events.

It is predicted that the noise from the facility will achieve the criteria, determined in accordance with the above policies, subject to incorporation of the acoustic treatments recommended in this report, generally comprising:

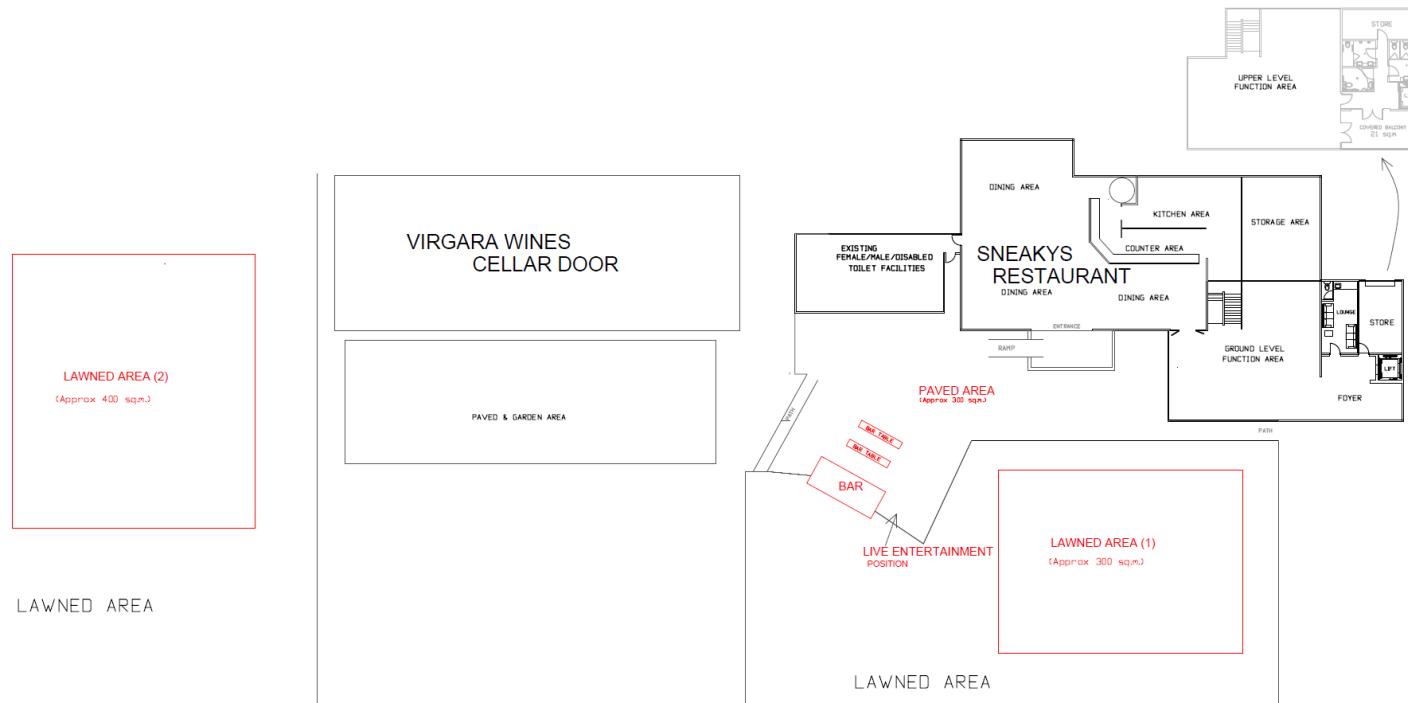
- Restricting the level and times at which music can be played;
- Implementing a noise management plan for occasional outdoor events where high levels of music are to be played; and,
- Restricting the number of patrons within Lawned Area 1 after 10pm.

It is therefore considered that the facility has been designed to *minimise adverse impacts and not unreasonably affect the amenity of sensitive receivers*, thereby achieving the relevant provisions of the Planning and Design Code related to environmental noise.

Virgara Wines Sneaky's Restaurant – 143 Heaslip Road, Angle Vale
Environmental Noise Assessment
S7074C2
November 2021

sonus.

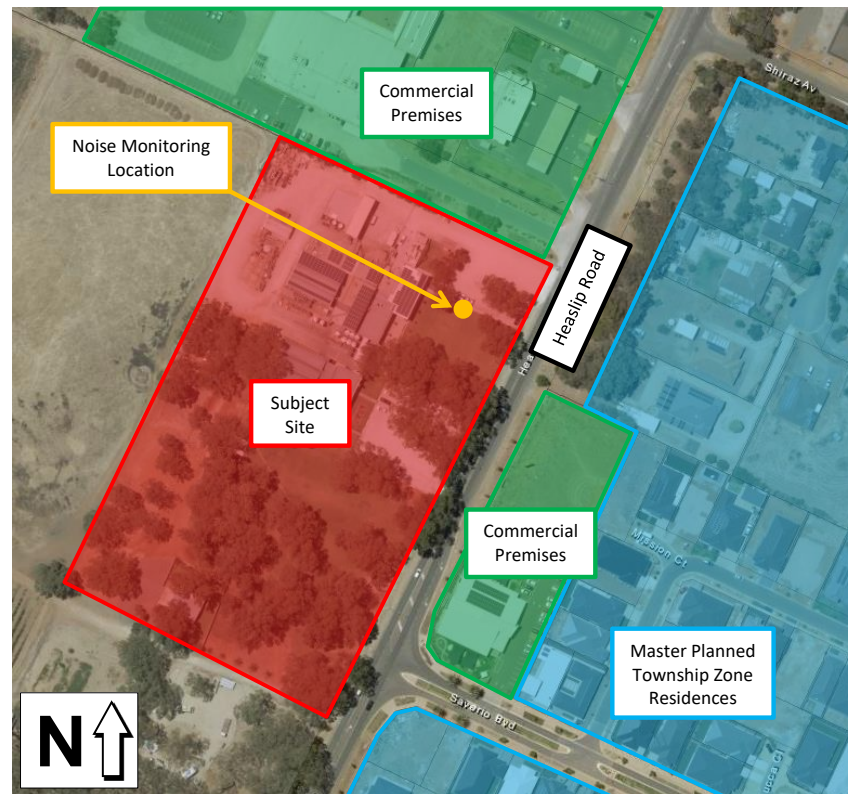
APPENDIX A: Proposed Site Plan



Virgara Wines Sneaky's Restaurant – 143 Heaslip Road, Angle Vale
Environmental Noise Assessment
S7074C2
November 2021

sonus.

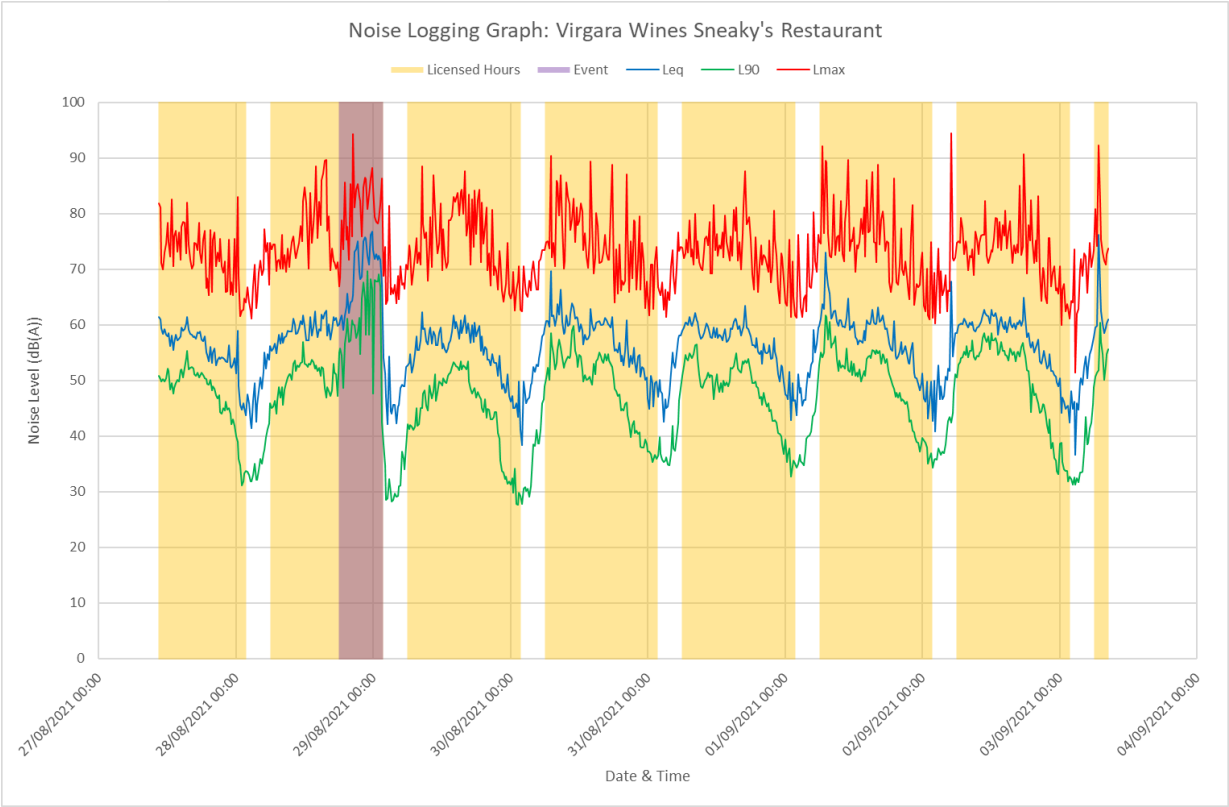
APPENDIX B: Site Locality and Nearby Residences.



Virgara Wines Sneaky's Restaurant – 143 Heaslip Road, Angle Vale
Environmental Noise Assessment
S7074C2
November 2021



APPENDIX C: Noise Monitoring Results



Details of Representations

Application Summary

Application ID	21028021
Proposal	Outdoor bar and hosting of outdoor functions
Location	143 HEASLIP RD ANGLE VALE SA 5117

Representations

Representor 1 - Simon Lloyd

Name	Simon Lloyd
Address	34 Traminer Drive ANGLE VALE SA, 5117 Australia
Submission Date	21/09/2023 07:59 PM
Submission Source	Online
Late Submission	No
Would you like to talk to your representation at the decision-making hearing for this development?	Yes
My position is	I support the development with some concerns

Reasons

We have a number of concerns and worries, mainly in relation to Noise disturbances and security. Noise disturbances. As Sneakys has increased in its success and popularity, as has the loudness of the music and the DJs, the intensity of the bass, and the lateness of the shows. In the previous years, there were regularly a minimum of 2 shows a week, whereby the noise disturbance was such that it prevented sleep until the early hours of the morning. Upon cessation of a show, the guests leaving the venue disturb the many dogs in this suburb, and their barking exacerbates this noise disturbance. Shows regularly finish later than midnight. Complaints to Council, police and directly to Sneakys have been made and disregarded. Sneakys continue to have little regard for homeowners in their vicinity, most of which have been very long time residents of this community. We note in the Plans the intent to regularly monitor noise levels and keep them to an acceptable level. We have little faith that this will be the case, based on a long history of issues that has worsened with time. We are therefore requesting our homes be sound proofed with double glazed windows, and rollershutters. Security and safety is of concern too. Patrons often use the reserve behind our property to park (it was previously a no parking zone, we are unsure when the signs were removed). Cars are regularly parked in an unsafe manner, and we feel its only a matter of time until there is an accident. People can directly see into our backyards, which poses a security risk. And then there are the unfortunate people who urinate against the fence. We note in the application that there are no intentions to increase the parking available on Sneakys side, apart from the staff carpark at the rear of the restaurant. We don't agree with this finding, as there are always people parked on the east side of Heaslip Rd. With this in mind, we are requesting that the fence along the back of our properties be raised up higher, to reduce the security risk to our properties, and to help reduce the impact of the noise disturbances. Please consider installing an acoustic wall We are not sound engineers or acoustic specialists, but is there a way directing the speakers so that the music 'travels' south, so that the trees absorb the impact? It seems like those of us in the Anglesey Estate are coping the brunt of the noise disturbance. We are very happy to see Sneakys success. But we cannot continue to be affected by the noise disturbance and security risk that we have had to endure over the 5 or so years it has been providing weddings. With this application for an outdoor bar and more outdoor functions, we fear this intrusion is only going to get worse, and severely impact our quality of life. We note in the plans the intent to abide to finishing by midnight, and keeping the noise to an acceptable level, but sadly this hasn't been the case up until now.

Complaints fall on deaf ears. And we fail to see how anyone would expect that is a fair way to live. This is why we are requesting 1) Our homes have double glazed windows installed to reduce the noise disturbance. This is our key request. 2) Roller shutters installed to reduce noise and increase security. 3) The back fence be raised and an acoustic wall installed. 4) Positioning the speakers or directing the sound so that the trees on the south side absorb the brunt of the noise. This application is on the behalf of 34 Traminer Drive, 32 Traminer Drive and 30 Traminer Drive, Angle Vale

Attached Documents

Representations

Representor 2 - Angela Cestaro

Name	Angela Cestaro
Address	30 Traminer Drive ANGLE VALE SA, 5117 Australia
Submission Date	21/09/2023 08:05 PM
Submission Source	Online
Late Submission	No
Would you like to talk to your representation at the decision-making hearing for this development?	No
My position is	I support the development with some concerns

Reasons

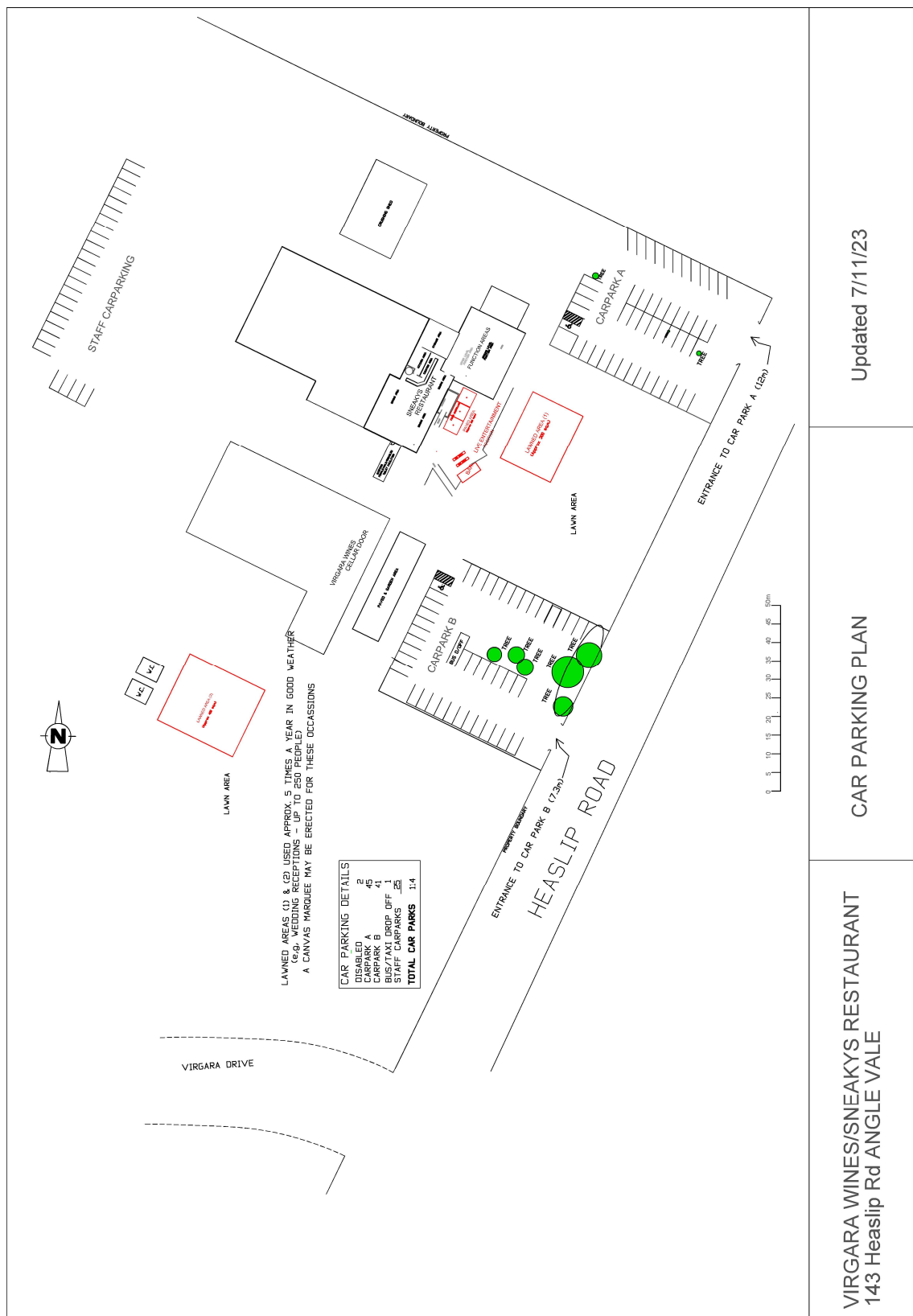
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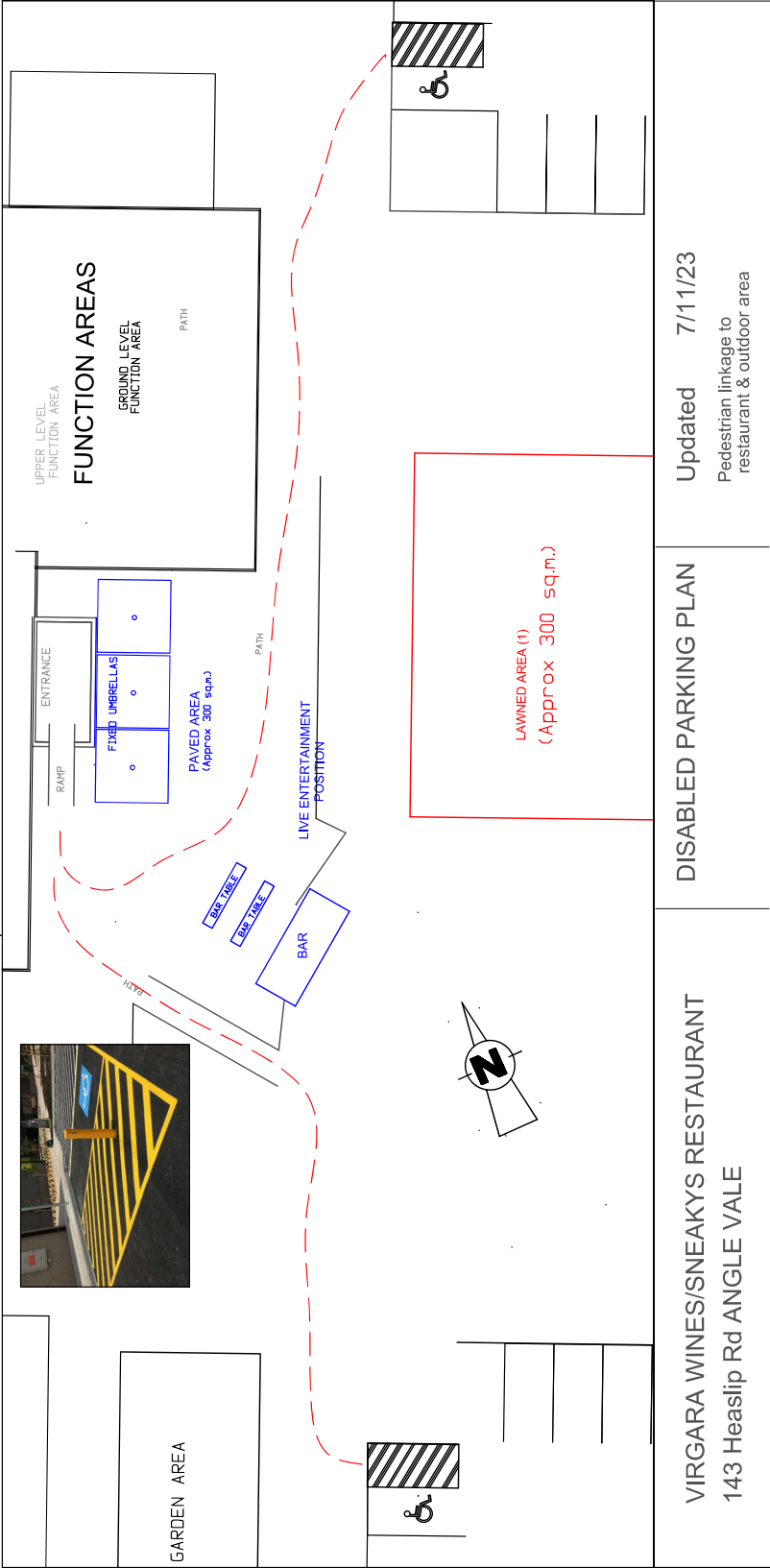
Attached Documents

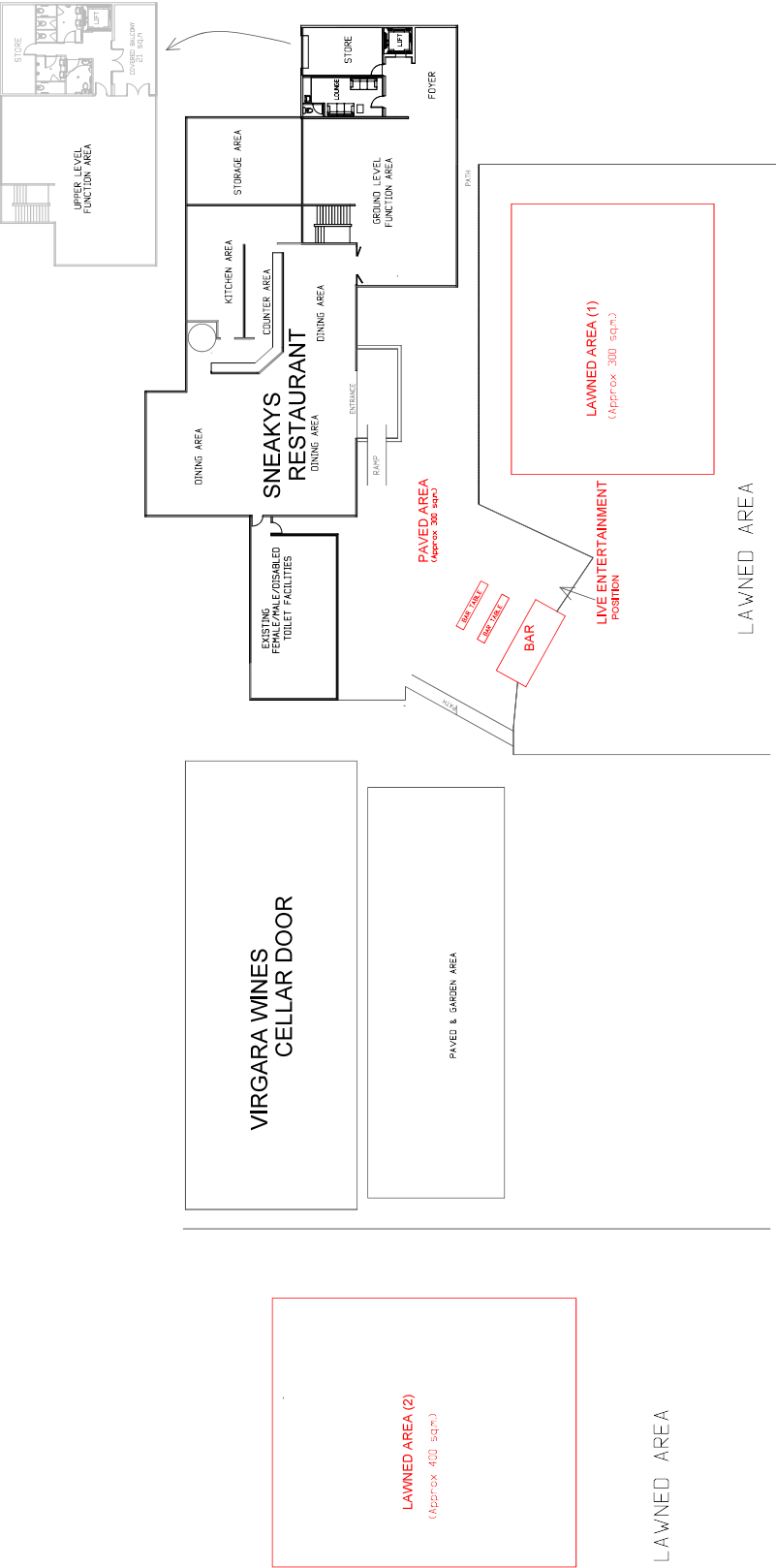
Representations**Representor 3** - Douglas and Deborah Whiting

Name	Douglas and Deborah Whiting
Address	21 traminer drive ANGLE VALE SA, 5117 Australia
Submission Date	22/09/2023 04:19 PM
Submission Source	Online
Late Submission	No
Would you like to talk to your representation at the decision-making hearing for this development?	No
My position is	I oppose the development
Reasons Loud music until after midnight. Unable to open doors or windows for ventilation. Sleep disturbances. Customers leaving premises in an unruly manner with excessive noise at late times. We have a right to not have our peace disturbed as it already is and this development will only cause further stress and disturbance to neighbourhood which was well established before sneakys arrival.	

Attached Documents







TOTAL CAPACITY OF ALL AREAS (INSIDE & OUTSIDE) IS 400 PEOPLE.
LAWNED AREAS (1) & (2) USED OCCASIONALLY IN GOOD WEATHER
(e.g, WEDDING RECEPTIONS – UP TO 250 PEOPLE)

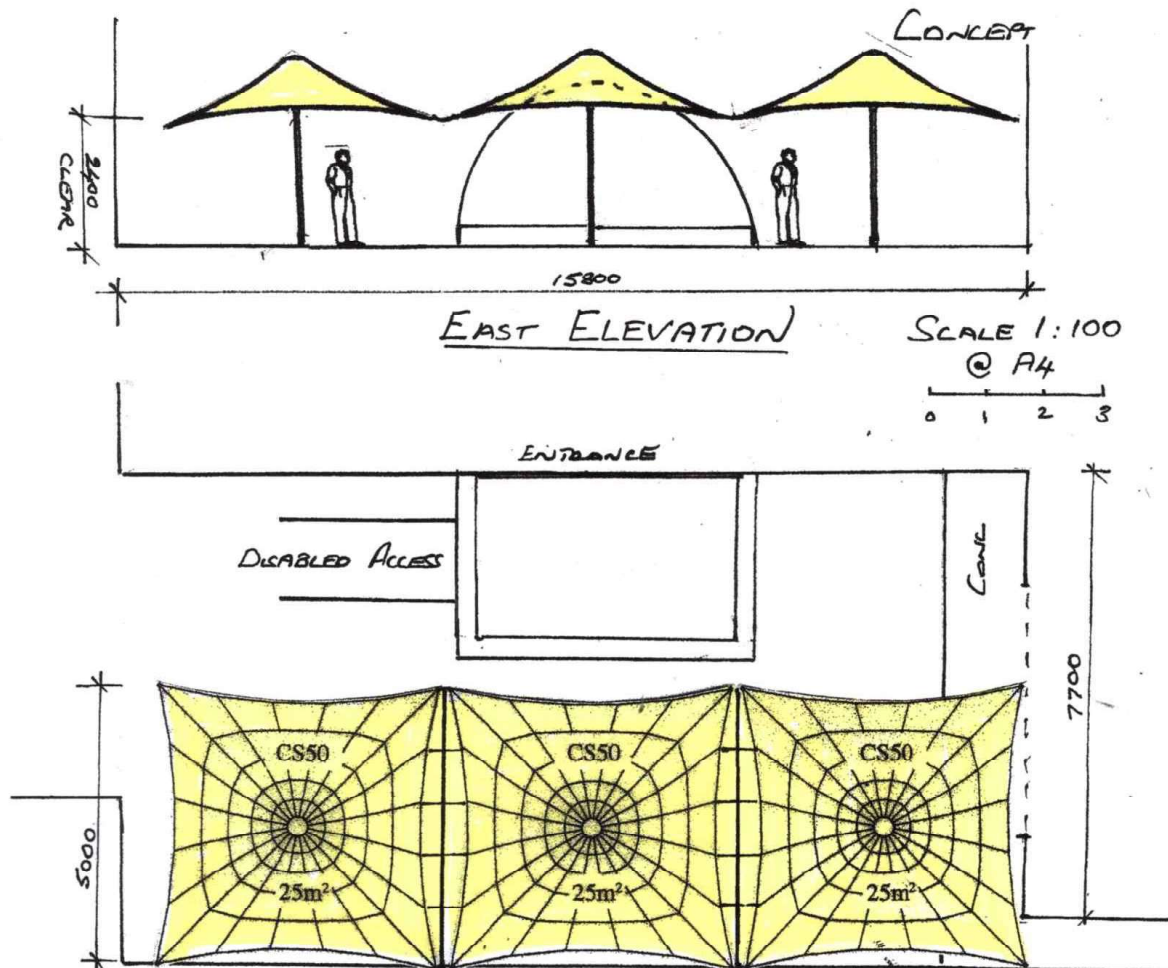
OUTSIDE FLOOR PLAN SCALE : 1:300 @ A3	
VIRGARA WINES/SNEAKYS RESTAURANT 143 Heoslip Rd ANGLE VALE	



SNEAKY'S RESTAURANT

ADELAIDE
**Shade
Solutions**
Pty Ltd

ABN 57 088 326 925
Lic. No. RL144938



SNEAKY'S RESTAURANT
143 HEASLIP RD
ANGLE VALE

COPYRIGHT

TO WHOM IT MAY CONCERN

Re Development Application Virgara/Sneakys Restaurant

The application reflects the discussion at our last meeting on Tuesday 29th June 2021 in your office.

Since Sneakys Restaurant began in 2013 we have built up a successful business catering to the local community and beyond and we are asked from time to time whether we can accommodate special birthday celebrations, weddings and associated receptions and other larger style functions. This style of catering for us has increased over the last few years, partly due to Covid19, and we have been using the outside lawned area which has worked out well but more recently we had a container bar built outside the restaurant building and the existing paving extended so that these outside functions can be more easily managed. The bar area also helps when a large booking is made for the restaurant, but we don't want patrons to be seated inside until we are ready for them, so this way they can enjoy a drink outside in the bar & paved area whilst they are waiting.

The maximum number of patrons on the premises at any one time is 400 and this can be spread out amongst the Cellar Door, Sneakys Restaurant and the outside areas. Lawned area (1) is approx. 300 sq.m and Lawned area (2) is approx. 400 sq.m. The extended paving area at the front of Sneaky's Restaurant is approx. 300 sq.m.

Generally, the position for setup of music will be next to the bar as shown on the FLOOR PLAN (This may be just one person singing with a guitar or similar or there could be a DJ or very occasionally there could be a band).

This application requests that formal permission be granted to use the two lawned areas as shown on the SITE PLAN marked **Lawned area (1) and Lawned area (2)** for dining & dancing with entertainment and bar facilities & snacks service being conducted in the **Container Bar and paved area** in front of the restaurant.

Please contact me if you require further clarification for this application.



Kind Regards,

Jeanette Rosadoni/COOL ADVICE

on behalf of Virgara Wines/Sneaky's Restaurant

Danni Biar

From: Jeanette Rosadoni <jeanetterosadoni@gmail.com>
Sent: Tuesday, 4 April 2023 1:23 PM
To: Danni Biar
Cc: anthony@sneakysrestaurant.com.au
Subject: Development application - 21028021: 143 Heaslip Rd Angle Vale SA 5117

 **EXTERNAL EMAIL:** Do not click any links or open any attachments unless you trust the sender and know the content is safe. 

Hi Danni,

I am confident that we can achieve enough carparking within the existing Sneakys/Winery sight using a combination of .2 and .4 parks per person requirement as stated by Cirqa in their letter of 9th February 2022.

Information from Sneaky's Restaurant owner Anthony Pilaia, is that the parking should cater for 200-250 people as their business does not generally exceed these numbers. There have been some parking in the street by Sneakys customers in the past, but if all current and proposed parks on the property are properly utilised this is unlikely to occur in the future.

I will prepare an **updated CAR PARKING PLAN** showing the number of parks and including the permanent **umbrellas** and the temporary **marquees** and will also submit a letter from **Cirqa** dealing with the updated CAR PARKING PLAN.

I request an extension of time for information you require and would appreciate an extension of at least a month.

Kind Regards
Jeanette Rosadoni
0433 189855
COOL ADVICE

PLAN SA

APPLICATION ID: 21028021

PROPOSED DEVELOPMENT: Outdoor bar and hosting of outdoor functions including 3 fixed umbrellas

SUBJECT LAND: 143 Heaslip Rd ANGLE VALE S.A. 5117

Title Ref: 6267/406 **Plan Parcel:** D129312 **Piece** *5001 **Council:** City of Playford

Attention: Danni Biar

Dear Danni,

I am replying to your 3rd request for further information dated 11/4/23.

Please note that since the original application was submitted there have been changes to the land because of the residential development and the creation of Virgara Drive, as a result the revised title shows as 2 pieces of land comprising of *5001 & *5002.

This application only deals with the activities on portion of land marked *5001.

Car Parking

- We intend to create a car park at the rear of the property which will cater for 20 staff cars (shown in red on the plan) and add approximately 27 general car parking spaces (shown in green on the plan) in addition to the 78 we have now. We have 2 disabled car spaces in addition to these numbers making a total of 127 overall
- Hours of operation - Monday to Thursday 11.00am to 10.30pm
 Friday, Saturday & Sunday 11.00am to 12midnight
- Staff numbers on site during peak times approx. 20 & 6 in off peak times.

Noise/Interface

- a) Noise levels will be monitored regularly and readings recorded.
- b) Regular noise level readings taken at all outdoor functions and recorded. If there is noise in excess of acceptable limit this will be attended to by management and rectified.
Generally, the lawned area is only used by children running around. The only time it is used is late afternoon & night when there is a wedding or engagement party and it is not practical to restrict the number of guests until the party has finished, but we take noise level readings to make sure we are complying. A marquee was erected 3 times in 2022 and only in lawned area 1. There have been no marquees erected on lawn area 2 for several years. The marquees that are erected are generally 30m x 10m. There would only be one marquee erected at any one time.

Application Documents

- a) Updated Site Plan attached showing car parking, location of 3 outdoor umbrellas & marquee general locations, existing bar (all shown in red on the plan).
- b) Copy of email dated 2/5/23 from Cirqa relating to car parking numbers.
- c) Copy of the current title and plan parcel as per the details at the top of this submission as the current and correct property details.

Kind Regards

Jeanette Rosadoni

On behalf of Sneakys Restaurant

Danni Biar

From: Jeanette Rosadoni <jeanetterosadoni@gmail.com>
Sent: Thursday, 30 March 2023 4:11 PM
To: Danni Biar
Subject: Development application - 21028021: 143 Heaslip Rd Angle Vale SA 5117

⚠ **EXTERNAL EMAIL:** Do not click any links or open any attachments unless you trust the sender and know the content is safe. ⚠

Hi Danni,

I left a message for you yesterday regarding an extension of time on getting the requested information to you on this DA.

I have a site meeting with Michael Virgara and Anthony/Sneakys next Tuesday about the car parking issue.

At the moment I am feeling we do not need the extra parking for Sneakys. I am quite confident that we can achieve enough carpaking within the existing Sneakys/Winery sights using the .4 parks per person requirement.

I feel the consideration for visitors to the winery would be less than .4 car parks per person so by my reckoning their should be anywhere between 114-120 parks available for customers and staff.

On odd occasions there may be some parking in the street, but if all parks on the property are properly utilised this would be at a minimum.

I formerly request an extension of time for information you require and would appreciated a month.

Kind Regards
Jeanette Rosadoni
0433 189855
COOL ADVICE

Plan SA

Danni Biar

City of Playford

7th November 2023

Application ID: 21028021

Proposed Development: Outdoor Bar and hosting of outdoor functions

Subject Land: 143 Heaslip Rd Angle Vale 5117

Further information re existing car parks and disabled parking

- The CAR PARKING PLAN dated 7th November shows a slight variation in order to capture 8 more customer parking places and shows the location of the 2 disabled car parks.
- The addition of the 8 car parks is achieved by taking 2m of lawned area so a double bay in the middle of CARPARK A can be created and at the same time this plan works around the tree mentioned for removal - it no longer needs to be removed. These extra car spaces will be functional after the 14th November 2023.
- The 2 Disabled Car Parking spaces which connect to the existing pathways will be concreted and functional after the 14th November 2023 – refer to Disabled Parking Plan dated 7th November 2023.
- The predominant surface in winery carparks is neat white gravel which is why we have chosen to keep this surface as it is much more welcoming to our customers than a hard finished surface and is in character with our winery/café/function offering.

Please read these comments in conjunction with the comments made in our letter dated 11th October 2023 and together with the CAR PARKING PLAN & DISABLED PARKING PLAN both dated 7th November 2023.

This now completes the 6th request for further information.

Kind Regards

Jeanette Rosadoni

Applicant

0433 189855

cooladvice@me.com

Attached: CAR PARKING PLAN dated 7th November 2023

DISABLED PARKING PLAN dated 7th November 2023

5.2 23017118- 18 BOGAN ROAD, HILLBANK SA. - EARTHWORKS - EXCAVATION AND FILLING OF LAND AT THE REAR OF THE PROPERTY INVOLVING 55.3 CUBIC METRES OF MATERIAL (RETROSPECTIVE)**Snapshot**

Assessing Officer:	Tom Gregory	
Proposal:	Earthworks - Excavation and filling of land at the rear of the property involving 55.3 cubic metres of material (Retrospective)	
Development Number:	23017118	
Date of Lodgement:	07/11/2023	
Owner:	Shane Bentley, Sarah Spencer	
Applicant:	Shane Bentley, Sarah Spencer	
Location:	18 Bogan Road, Hillbank	
Zone:	Hills Neighbourhood Zone	
Classification:	Performance Assessed	
Public Notification Category:	Public Notification required	
Representation Received:	Yes (3 Representations – 2 opposed; 1 in support with concerns)	
Planning and Design Code Version:	Version 2023.16 (dated 20 July 2023)	
Request for Additional Information Made?	Yes – Request for additional details requested (dated 7 November 2023)	
Recommendation:	To Grant Planning Consent and Development Approval, subject to conditions and notes.	
Attachments:	1 ↓ . 2 ↓ . 3 ↓ .	Proposed Plans Public Notification Representations Applicant response to Representations

1. The Subject Land

The subject land consists of a single allotment legally referred to as Allotment 9 of D10551, Certificate of Title Volume 5514 Folio 336. The land is more commonly referred to as 18 Bogan Road, Hillbank.

The subject land is a rectangular shaped allotment of approximately 1221m². The site has its primary frontage to Bogan Road with a width of 19.06 metres and an allotment depth of 57.3m along the eastern boundary.

The site contains a single storey detached dwelling and associated carport that is located towards the Bogan Road frontage, and a shed (outbuilding) located to the rear of the property within the southeast corner of the allotment. The remaining portion of land and rear yard is open with low tiered retaining walls that present as a terraced landscaped area. An SA Water sewer easement dissects the property to the north of the existing shed.

The land naturally falls from the northeast to the southwest, and as evidenced in the documentation provided by the Applicant the rear of the land changes in elevation from the eastern boundary down to the western boundary. A Subject Site Map showing the site is shown below.

Subject Site Map



Source: Nearmaps (Date: 5 November 2023)

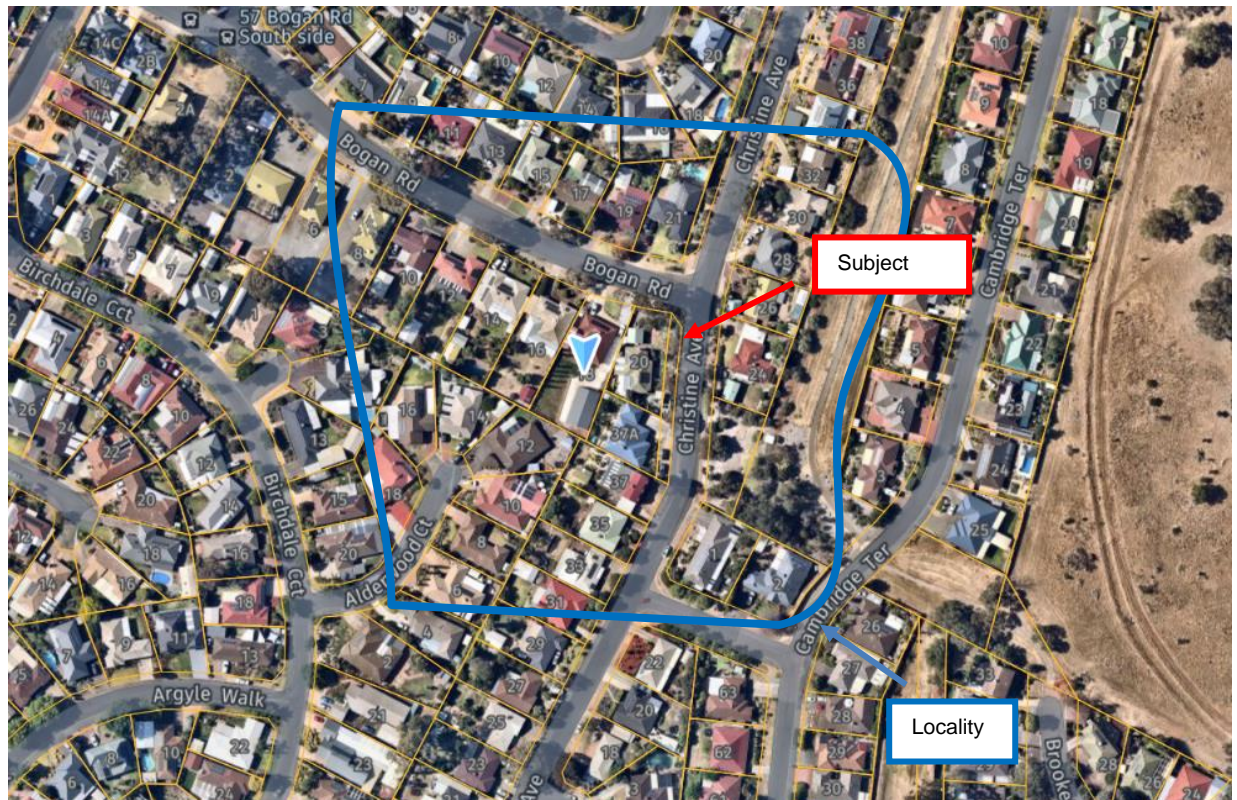
2. The Locality and Zoning

The locality primarily consists of residential properties at low densities, containing single storey detached dwellings with associated outbuildings.

There is a small cluster of commercial properties located to the west of the locality that include consulting rooms, offices and shops that form the Bogan Road shopping Centre that contribute to the local Neighbourhood and are on the periphery of the locality.

The broad topography of the locality is generally sloping. Dwellings and outbuildings are generally located on modified flat land and surrounded by vegetation which contributes to an attractive residential hills landscape. The locality displays a moderate level of amenity, not too dissimilar to other Hills Neighbourhood Zoned areas that have developed in a similar era.

2.1 Locality Plan



Source: Nearmaps

2.2 Zoning

The subject land is located wholly within the Hills Neighbourhood Zone of the Planning and Design Code.

The following Overlays and Technical or Numeric Variations also apply to the subject land:

Overlays:

- Airport Building Heights (Regulated) (All structures over 45 metres)
- Building Near Airfields
- Defence Aviation Area (All structures over 45 metres)
- Hazards (Bushfire - Urban Interface)
- Prescribed Wells Area
- Regulated and Significant Tree
- Stormwater Management
- Urban Tree Canopy

Local Variation (TNV) (relevant only):

- Maximum Building Height (Metres) (Maximum building height is 9m)
- Maximum Building Height (Levels) (Maximum building height is 2 levels)

3. The Proposal

The application seeks retrospective consent (Planning Consent and Development Approval) for earthworks, including both excavation and filling of land at 18 Bogan Road, Hillbank.

The landowner has submitted the application to remedy a breach of the *Planning, Development and Infrastructure Act 2016* (PDI Act). The earthworks were undertaken to create a tiered rear yard providing a benched area for the construction of a domestic outbuilding shed (which has already occurred), and a flat lawned area below the structure (to the west). Documentation provided in the application identifies a total of 55.3 cubic metres of material/soil that has been shifted and reformed on site creating the benched areas are the rear of the site. The applicant states that no material was brought in or taken away from the site.

The development involves the excavation (cutting) of soil from the southwestern corner of the site (lower level) and filling of soil to the southeastern portion of the site (upper level) to create a benched level that has allowed for the construction of a shed and a lower flat lawned area.

Development Approval has been granted for the domestic outbuilding (shed) on the benched site. The excavation and filling earthworks were not accounted for within that application. At the request of Council staff, the proponent has submitted the current application to resolve the unapproved works.

The earthworks constitutes 'development' pursuant to Schedule 3 (1) *Planning, Development and Infrastructure (General) Regulations 2017* (the Regulations) and Part 5, Table 1 of the Code. That is the development involves '*...excavation or filling (or excavation and filling of land in...this Hills Neighbourhood Zone... of a volume of material which exceeds 9m³*'.

It is noted that the earthworks alone would not have constituted development under the former planning regime prior to the inception of the Planning and Design Code (the Code) on 19 March 2021. The inclusion of fill over 9 cubic meters being development was introduced statewide for the Hills Neighbourhood Zone as part of the introduction of the Planning & Design Code in March 2021.

Nevertheless, the works and original approval for the outbuilding and retaining wall occurred after this time and do not have a valid consent, hence the retrospective nature of this proposal.

4. Background

The Applicant lodged a Development Application (DA 22016129) for the approval of a domestic outbuilding (shed) on 5 July 2022 which has since been constructed.

The shed is for domestic storage purposes and is ancillary and subordinate to the single storey dwelling. The shed has a 3-metre wall height and 4.1 metre overall with dimensions of 9.1m wide by 15m long for a floor area of 139m². The application for the shed was assessed as a Performance Assessed development and was approved following an assessment against the relevant provisions of the Code.

The assessment considered the shed as being appropriate given the size of the allotment, setbacks from boundaries and noted that on-site functionality remains including the provision of private open space and the like.

The assessment noted the topography of the land and that benching the site would assist to minimise the perceived scale and impact. The report noted that the topography would result in some impact to the adjoining neighbour to the rear. The existing ground level of this neighbour is set lower (as the subject site has been benched and retained) and it was opined

that the setback to this boundary would provide opportunities for landscaping and screening to assist to lessen any impact, minimise perceived bulk and provide adequate separation between buildings.

The assessment noted the retaining walls on the subject land were confirmed as not having a height of not more than 1.0 metre. Thereby they were exempt from constituting 'development' pursuant to Schedule 4 of the Regulations.

Upon review of Nearmap imagery the retaining walls and associated earthworks appear to have occurred sometime after 9 March 2022 and before 22 May 2022 (the application for the outbuilding was submitted on 12 May 2022 and lodged 5 July 2022).



March 2022 Nearmap imagery

May 2022 Nearmap Imagery

Council was contacted in December 2022 during the construction of the outbuilding by members of the public due to concerns regarding the status of approvals on the land.

Members of Council's Building & Compliance team attended the site to undertake an inspection to determine if the development was proceeding in accordance with the approved plans for the outbuilding. While the construction of the shed was in accordance with the approval, on further consideration, it was identified that the cut and fill was development within the Zone.

As this had not been included as an 'element' of the original approval, it was an unapproved aspect of the development and the owner was requested to lodge a retrospective application for the cut and fill, which is currently before the Panel for assessment.

In retrospect it is suggested that the assessing officer may not have been aware of the 'recent' change to include the Hills Neighbourhood Zone as an area identified by the Code where the act/activity of earthworks exceeding 9m³ in its own right constitutes development.

Generally speaking, ancillary incidental excavation or filling of land is captured within the definition of 'building work' (and thus 'development') pursuant to Section 3 of the (PDI Act):

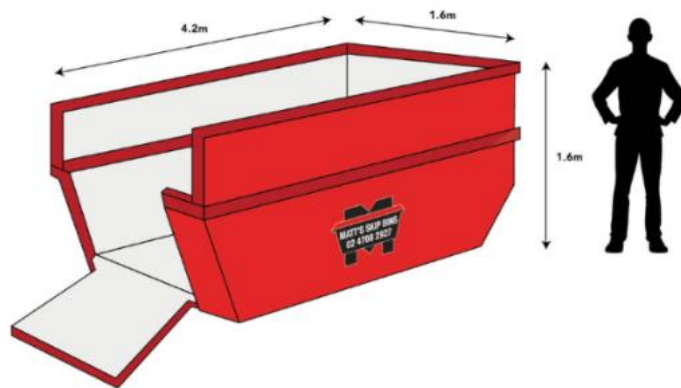
building work means work or activity in the nature of—

- (a) the construction, demolition or removal of a building (including any incidental excavation or filling of land); or
- (b) any other prescribed work or activity,
but does not include any work or activity that is excluded by regulation from the ambit of this definition;

Further, the act of excavation and filling within the Hills Neighbourhood Zone is an additional act/activity specifically identified within Schedule 3(1) of the PDI Regs as 'development' where the volume of material exceeds 9m³ in total, subject to a number of exceptions (which are not applicable in this instance).

It should be noted that prior to the Code this clause did not apply to the subject land and would have been limited to the Hills Face Zone and any Local Heritage Place within the City of Playford.

The following image has been included to assist in the visualisation. The image depicts a 9m³ skip bin for comparison purposes.



Following investigation by Council compliance staff the landowner was made aware that the earthworks constitute development and has made application to rectify the breach of the PDI Act.

The below images demonstrate the 'before' and 'after' scenario.

Figure 1 – Rear Property 18 Bogan Road, Hillbank



View of Rear Property - looking southeast prior to excavation (top) and following the installation of the shed (below)

5. Procedural Matters

5.1 Classification

The earthworks undertaken are considered to be 'development' pursuant to Schedule 3 (Clause 1) of the Regulations on the basis the volume of material shifted and reformed on-site exceeds 9 m³.

The element for assessment purposes includes 'earthworks'.

'Earthworks' is not identified as either Accepted, Deemed to Satisfy or Restricted Development by the Code and as such is a Performance Assessed class of development.

There is no designated assessment pathway for 'earthworks' within the Hills Neighbourhood Zone and therefore the application is an 'all other code assessed' development pursuant to Section 105 & 107 of the Act.

This requires an on-merit assessment against the relevant provisions of the Code.

5.2 Public Notification

All classes of Performance Assessed development require public notification unless pursuant to Section 107(6) of the Act the class of development is excluded from notification by Table 5 of the Procedural Matters Section of the relevant Zone.

'Earthworks' is not identified in Table 5 of the Hills Neighbourhood Zone, and nor is the development considered 'minor' for the purposes of Table. The application therefore required Public Notification.

Public notification occurred between 17 November 2023 and 7 December 2023.

Three (3) representations were received during the public notification period.

A map of the representors is shown below (Figure 2).

Two of the Representors (adjoining to the east/side) are opposed to the development, and 1 Representor (to the south/rear) is in support with concerns.

Both Representors in opposition wish to be heard by the Panel.

The Representors identified the following concerns:

Representor	Issues Raised	Wishes to be Heard
Mr Mark Halliwell 12 Alderwood Court, Hillbank	1. Loss of privacy. 2. The proposal poses a safety and security risk for children and pet that lives in the backyard. 3. At a minimum the height should be brought back to previous height. 4. The constructed shed on the fill has no storm water catchment at all and this potentially will cause flooding and foundation issues to my property in future.	No

<p>Mr Mahmut Karaduman</p> <p>37A Christine Avenue, Hillbank</p>	<ol style="list-style-type: none">1. The planning consent for the excavation and filling of land for the construction of the shed should be denied, given that it was erected without proper assessment and relevant permits.2. The construction of the shed has significantly diminished views from the property3. There was no notification of the proposed development. Consulting with neighbours could have alleviated several issues.4. The application was not adequately assessed by Council.5. If the shed had been built further down on the owner's 1210 sqm land, many problems could have been avoided without impacting our view.6. The obstruction of our view, attributed to the shed, has diminished the value of our property, as confirmed by our property value agent.7. Noise generated by machinery within the shed has severely impacted our quality of life. The excessive grinding noise prevents us from enjoying our backyard, forcing us to keep windows closed.	<p>Yes</p>
<p>Ms Clare Rae</p> <p>20 Bogan Road, Hillbank</p>	<ol style="list-style-type: none">1. The proposed development adversely impacts and unreasonably interferes with the serenity of neighbouring premises.2. There has been significant impacts and damage to property ie sinking and cracking of driveway.3. There is a valid approval for a shed, but no fill approval, was granted.4. Query as to how the applicant can now apply for approval for the fill because now there's also a shed on top of it, making this an entirely different development with entirely different impacts to his neighbours.5. Whilst outbuilding does not require public notification, the retaining walls do. As the outbuilding is reliant on the retaining walls, which require Development Approval in their own right, the retaining walls are rightly able to be considered an element of the proposal, requiring public notification.	<p>Yes</p>

The Applicant provided a response to the Representation. The response is summarised as follows:

In response to Representation 1: *Applicant has planted pittosporum vegetation along the length of the southern fence line. This will mature to a height of 4 metres and width of 2 metres. Applicant has planted the plants 1 metre apart to create a hedge that will provide complete screening and privacy for this neighbour. Applicant has installed water tanks at the back of the shed and connected the shed stormwater. This no longer possesses any potential risk of water run off or flooding to the neighbouring property.*

In response to Representation 2: *Applicant confirms that the application is in relation to the excavation and filling of land on our property, not in relation to the approval of the shed. The height of the shed was a consideration of the council approval, which was approved.*

It was also part of the application process that the shed was to be built in a position that had sufficient access from the road, there would not have been sufficient access to the shed if they built it on the lower level of the property. All factors were considered by the council as part of the application process and the shed was approved.

In response to Representation 3: *All photos provided in this representation are prior works that were commenced at the property by the previous owner. The photos provided are from works commenced approximately 4 years ago. The excavation works we are now applying for have no effect on the fill of the neighbouring property. In relation to the retaining walls installed by the previous owner 4 years ago, this was also approved by the council with engineering planning and approval. The council have also since attended our property, and confirmed they were constructed to the approved plan and structurally sound.*

The retaining walls that the Applicant installed are 1 metre of height and did not require council approval, the council have since attended our property measured the retaining walls and confirmed they do not require any council approval.

The Response also states:

- Before any works had commenced on the property the Applicant advised that the back yard was unusable as it was a very steep slope. The purpose of the earthworks was to create a use-able back yard for the Applicant's family. The original steep slope resulted in water runoff in heavy rain fall. This pooled at the bottom of the property and against the neighbouring fence to the southern and western boundaries. In the process of the excavation this problem has been rectified.
- The Applicant also had a severe problem with the nuisance weed, caltrop on the property which had a risk of spreading to the neighbouring properties. The Applicant has rectified this problem in the process of the earthworks.
- The excavation and filling of land did not add or bring in any new soil to the property. The Applicant used the existing soil to rectify a steep slope and create 2 flat usable surfaces.
- The top levelled surface does not exceed the level of the existing dwelling, being at a lower ground level than the dwelling. The Applicant cut in approximately 1 metre at its highest point and then created a flat surface.
- The Applicant has connected a new 1000L rainwater tank to the existing shed to capture stormwater from the shed.

Copies of the representations and response from the applicant are included within the appendices to this report.

Figure 2: Location Map of Representors



5.3 Statutory Referrals

No statutory referrals were undertaken for this application.

5.4 Internal Referrals

No internal referrals were undertaken for this application.

6. Key Issues

The following matters are considered pertinent in reaching a recommendation for the proposal:

- Whether the earthworks are appropriate within the Hills Neighbourhood Zone.
- Whether the proposal poses any unreasonable or adverse impacts to adjoining properties and other properties in the locality.
- Whether the proposal presents itself as a suitable development in its location

7. Planning Assessment

In accordance with Court determinations and practice, a retrospective development application must be assessed as if the development did not exist, and no weight can be given to the fact that the proposed development for which consent is being sought has already been undertaken.

In addition, the approval and construction of a shed on the benched site is not to be included with the assessment of the application. Despite the history of the site and the consequential connection between the earthworks enabling the development of the shed it is important that these matters are set aside in the determination of the retrospective application. For the purposes of assessment, the cut and fill should be considered with no regard to the work or structures which have been constructed on the site.

Any concern that may arise as to the consequences of the application being refused, including any hardship this may place on the applicant, is not a matter that should influence the decision-making process and is separate to any determination made by the Panel.

7.1 Appropriate Land Use in the Hills Neighbourhood Zone

The Desired Outcome of the Hills Neighbourhood Zone seek to accommodate low density residential development which minimises disturbance to natural landforms and existing vegetation to mitigate the visible extent of buildings, earthworks and retaining walls.

Additionally, the outcomes seek to ensure that development provides a complementary transition to adjacent natural and rural landscapes.

Although earthworks are not specifically identified as a (standalone) anticipated form of development on its own, it is reasonably anticipated that some form of excavation and filling will occur on sloping sites to provide flat useable areas of land to provide opportunities for low rise residential development as sought and anticipated by the Zone. These forms of cut and fill are evident in multiple sites throughout the locality and highlight the balance that should be sought between development to facilitate reasonable use of land and buildings, while minimizing over disturbance to natural land forms.

Whilst it is noted that the amount of excavation appears considerable in numerical form (55.3 cubic metres) the earthworks are considered reasonable given the context of the site and locality given the intent to create a useable benched areas on the property to enable opportunities for low rise residential development for the better enjoyment of the site by its occupants. The terraced nature of the earthworks are considered to minimize the overall level of earthworks to the site by providing a transition in level down the slope of the site, as opposed to the use of extensive fill to extent the levelled apron on the western side of the pad adjacent the eastern boundary

Overall, when considered against the performance outcomes of the Hills Neighbourhood Zone the size and design of the proposed development is compatible with the residential character of the local area which is typified by low rise development on benched sites within a sloping due to the undulating nature of the locality.

7.2 Earthworks and Retaining

The development creates two level benched areas separated by lowset tiered retaining walls. The earthworks are to manage the sloping topography on the land to integrate residential development, being the development of an outbuilding and usable flat lawn.

The earthworks incorporate landscaping and vegetation to screen buildings and excavation or filling from view and to limit the visual impacts of development. This satisfies PO 11.2 of the Zone – *‘Vegetation is used to screen buildings and excavation or filling from view.’*

The use of retaining walls over a series of terraces constructed of natural-coloured materials assist to mitigate height differences between lower areas and to provide structural integrity to reformed land. This satisfies PO 11.3 of the Zone – *‘Retaining walls*

are stepped series of low walls constructed of dark, natural coloured materials and screened by landscaping.'

The (exempt) retaining walls satisfy the intent of this provision and the associated Designated Performance Feature which encourages low walls that do not exceed 1m in height and separated by at least 700mm.

For these reasons outlined the development is considered to be appropriate and in line with the requirements of the Zone, and furthermore is contextually appropriate to the subject land and locality.

8. Overlays

An assessment of the proposed development has been made against the relevant Overlays.

8.1 Hazards (Bushfire – Urban Interface) Overlay

The earthworks will not impact the safe and effective use, operation and evacuation of firefighting and emergency personnel evacuation of residents, occupants and visitors given the works are at the rear of the property.

8.2 Regulated and Significant Tree Overlay

There are no regulated or significant trees on the subject land or neighbouring properties.

8.3 Stormwater Management Overlay

The Applicant has connected a rainwater tank to the shed to assist in managing stormwater runoff and it is considered that this would satisfy the intent of the overlay. If the Panel were minded to approve the application, a condition relating to stormwater disposal has been included within the recommendation.

9. General Development Policies

An assessment of the proposed development has been made against the relevant Modules of the General Development Policies.

9.1 Design

The earthworks area considered reasonable to address the sloping nature of the site and are appropriate to enable ancillary residential development to occur on the land.

The development is contextual in its location by recognising and complementing to its natural surroundings and reinforces the residential character of the immediate area. This complies with the desired outcome of the Design General Development Policies Module.

9.2 Interface between Land Uses

In assessment of the application, it is noted that the level of the fill to the southern boundary of the site does present some risk to overlooking, with this being reinforced in the representation provided from the downhill property on the southern boundary. The applicant has identified that plantings have occurred along this boundary, with this being shown on the plans of the application. When considering the nature of use of the benched level to the rear of the site, with it being located to the rear of the outbuilding, it is considered that this would not be an area of the site which would have a high frequency or intensity of use. The space to the rear of the outbuilding would not provide

space for functional use aside from general maintenance access to the landscaping and this is considered to alleviate some interface concern along the southern boundary of the site.

On the basis of the above, the height and benched levels are not anticipated to result in adverse overlooking or overshadowing of adjoining properties. Despite some levels of noise and dust generated during the construction process, the development is unlikely to generate any long-term impacts, particularly along the boundaries of the site.

Whilst this assessment does not address the recent shed it is considered that the excavation and resultant benched site is to create an opportunity for an outbuilding or similar residential development where it can achieve appropriate proportions and design attributes without having any adverse impacts to adjoining neighbours and on the amenity of the locality.

It is considered that the proposed development has been designed and sited to not cause unreasonable impacts on existing adjacent residential properties and is in accordance with the Performance Outcomes of the Interface between Land Uses Module.

If the panel are minded to approve the application, a condition relating to the ongoing maintenance of the landscaping along the southern boundary has been recommended for inclusion.

10. Conclusion

Overall the proposed development is considered to be generally consistent with the intent of the Hills Neighbourhood Zone, the relevant Overlays and generally provisions of the Code.

The proposed development is considered appropriate in the context of the subject site in that it responds appropriately to the area's residential character and sloping topography.

The development facilitates the reasonable use of the land in a manner generally envisaged by the Zone and provides the ability for the landowner to undertake safe and suitable future development of the site whilst mitigating any potential adverse impacts to adjoining neighbours.

For the reasons outlined herein the development is not considered to be 'seriously at variance' with the Planning and Design Code and as such displays sufficient merit to warrant the issuing of Planning Consent and Development Approval.

11. Recommendation

STAFF RECOMMENDATION

That pursuant to the authority delegated to the Council Assessment Panel by the Council, it is recommended that the Council Assessment Panel:

- a. DETERMINES that the proposed development is not seriously at variance with the policies in the Planning and Design Code; and
- b. GRANTS Planning Consent and Development Approval to the application by Shane Bentley and Sarah Spencer for earthworks - excavation and filling of land at the rear of the property involving 55.3 cubic metres of material (retrospective) at 18 Bogan Road, Hillbank as detailed in Development Application ID 23017118 subject to conditions:

Conditions

Council Conditions:

1. The development must be undertaken, completed and maintained in accordance with the plan(s) and information detailed in this Application except where varied by any condition(s) listed below.



Reason: To ensure that the development is constructed and operated in accordance with the plans and details provided.

2. All storm-water drainage shall discharge so that it does not flow or discharge onto land of adjoining owners or, in the opinion of the relevant authority, detrimentally affect structures on this site, any adjoining land or public road.
3. The planting and landscaping identified in the approved plans, showing 13 Phittoporum plantings along the southern boundary of the site must be completed in the first planting season following approval of the subject application. Such planting and landscaping must not be removed, nor the branches of any tree lopped and any plants which become diseased, or die must be replaced by suitable species. Such landscaping to be maintained in good order at all times, to the reasonable satisfaction of Council.



Tom Gregory

From: spencersarah11@outlook.com
Sent: Tuesday, 7 November 2023 9:25 PM
To: Tom Gregory
Cc: Adam Squires; Michael King; Danni Biar
Subject: Re: 18 Bogan Road - Urgent
Attachments: Request for Information - Application 23017118 - Planning Consent.pdf;
PastedGraphic-1.tiff

 **EXTERNAL EMAIL:** Do not click any links or open any attachments unless you trust the sender and know the content is safe. 

Hi Tom,

In Regards to the request for further information, please see below all questions answered

1. Material

I can confirm that the fill used to back fill on our property is clean fill. I can confirm we cut into our land which provided us with the soil to back fill, no additional soil was out sourced in the fill process. However, soil was removed and disposed of as part of this process.

2. Interface/Amenity

I can confirm we have planted Pittosporum hedging plant along the south fence line. This plant has a mature height of 4 metres. We have planted the Pittosporum plants 1 metre apart, the recommended distance to create apart to plant to create a hedge is 1-1.5 metres apart. 13 plants have been planted behind the shed along the southern fence line.

Please find below amended plan showing where these plants are situated.

As this plant is an extremely low maintenance plant, no irrigation has been installed for these plants.

3. Easement

As part of the shed approval process it was not a requirement to get approval from SA water the build the shed where it is has been built, so we are unable to provide you any documents from them.

It was also confirmed by Development Officer, Laura Golden that there is no issue with the retaining wall positioning and she confirmed that positioning the shed 3 metres setback from the fence line was a suitable position to erect the shed.

Thank you, Sarah

On 7 Nov 2023, at 2:25 pm, Tom Gregory <tgregory@playford.sa.gov.au> wrote:

Thanks Sarah.

Currently preparing a formal RFI... happy to discuss once you've read and received as needs.

Regards
Tom



Details of Representations

Application Summary

Application ID	23017118
Proposal	Earthworks - Excavation and filling of land at the rear of the property involving 55.3 cubic metres of material (Retrospective)
Location	18 BOGAN RD HILLBANK SA 5112

Representations

Representor 1 - Mark Halliwell

Name	Mark Halliwell
Address	12 Alderwood Court HILLBANK SA, 5112 Australia
Submission Date	05/12/2023 03:53 PM
Submission Source	Online
Late Submission	No
Would you like to talk to your representation at the decision-making hearing for this development?	No
My position is	I support the development with some concerns

Reasons

I have some concerns that I think need to be addressed in regards to the fill that has been added at 18 Bogan road. The newly retained height of the ground sits only 650mm from the top of my backyard fence. I have lost all privacy on that side of my property and it poses a safety and security risk for my 2 young boys and my dog that lives in the backyard. I do not believe I should be worse off now than before the work was undertaken. At a minimum the height should be brought back to previous height. On top of this issue; the newly constructed shed on the fill has no storm water catchment at all and this potentially will cause flooding and foundation issues to my property in future.

Attached Documents

New-fill-height-1310993.jpg
Shed-stormwater-pipe-1310994.jpg





Representations

Representor 2 - Mahmut Karaduman

Name	Mahmut Karaduman
Address	37A Christine Avenue HILLBANK SA, 5112 Australia
Submission Date	05/12/2023 10:11 PM
Submission Source	Online
Late Submission	No
Would you like to talk to your representation at the decision-making hearing for this development?	Yes
My position is	I oppose the development

Reasons

I contend that planning consent should be denied for the excavation and filling of land for the construction of the shed, given that it was erected without proper assessment and relevant permits. Upon purchasing our residence in 2017, the primary allure was the breathtaking view, particularly the splendid sunset visible throughout the year. Unfortunately, the construction of the shed has significantly diminished this view. This alteration has taken a toll on my wife's psychological and emotional well-being, as she now gazes upon a massive shed. The unwarranted height of the shed's walls and roof, resulting from the unauthorized filling of a substantial amount of soil, has restricted our once-advertised panoramic view. The initial advertisement in 2017 touted our home as a "2013 custom designed and built home located in Hillbank with views you've always wished for" (link attached). We were never informed about the shed before its development, receiving no notification from the owner of 18 Bogan Road out of common courtesy. Even if the shed itself didn't necessitate notification, the excavation and land filling certainly did and were supposed to be completed before the shed's construction. A conversation with Michael King from the Playford Council on November 21st at 11:34 am revealed a significant oversight in the approval process. When asked about the untimely soil application, Mr. King admitted, "We've made a mistake in the approval of the shed; people can make mistakes, so we're doing it now." Clearly, the application was not adequately assessed, adversely affecting the neighboring properties. The haphazard selection of the shed's placement and size by the owner of 18 Bogan Road demonstrates a lack of consideration. Consulting with neighbors or making decisions in a more thoughtful manner could have alleviated numerous issues. If the shed had been built further down on the owner's 1210 sqm land, many problems could have been avoided without impacting our view. The obstruction of our view, attributed to the shed, has diminished the value of our property, as confirmed by our property value agent. We can no longer advertise the once-beautiful views we enjoyed. Furthermore, the noise generated by machinery within the shed has severely impacted our quality of life. The excessive grinding noise prevents us from enjoying our backyard, forcing us to keep windows closed. This predicament could have been avoided had the approval for excavation and land filling been assessed prior construction of the shed or not been granted, or the shed was not constructed in its current size and position.


Attached Documents

real-estate-website-1311137.jpg
view-before-shed-2-1311138.jpg
backyard-before-the-shed-1311139.jpg
view-after-shed-1311140.jpeg
view-after-shed-2-1311141.jpg

← → ↻ 🏠 realestate.com.au/sold/property-house-sa-hillbank-125321418

W News

Looking to buy a place like this?
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Looking to sell a similar property?
[See how the selling agents can help you](#)



4 bedroom family home with style to surprise!

37A CHRISTINE AVENUE, HILLBANK

This property has all your needs for a family with all the high quality upgraded features.

Allow me to welcome you to this beautiful 2013 custom designed and built home located in Hillbank with views you've always wished for. This property is stunning and has all your family needs!

Upon entering you will find high ceilings, high quality floating floorboards and a modern colour scheme throughout the home. To the right, you will find the formal living room overlooking the newly landscaped front garden.

On the left is the master bedroom featuring ensuite and built in robe with plenty of room and style to be impressed. Adjacent is bedroom 2 with a built in robe which is perfect for a family who could use this room as a baby room by being close or those who would like a study and would like to be tucked away from the main area of the home.

With a grand entrance into the open kitchen, dining and family area, this is the heart of the home. The kitchen is amazing, styled to surprise, thoroughly thought out with plenty of cupboards and high quality features. Who wouldn't love this?

Over to the dining room where eating breakfast, lunch and tea is what you'd want to do all day with views like these overlooking the ocean side.

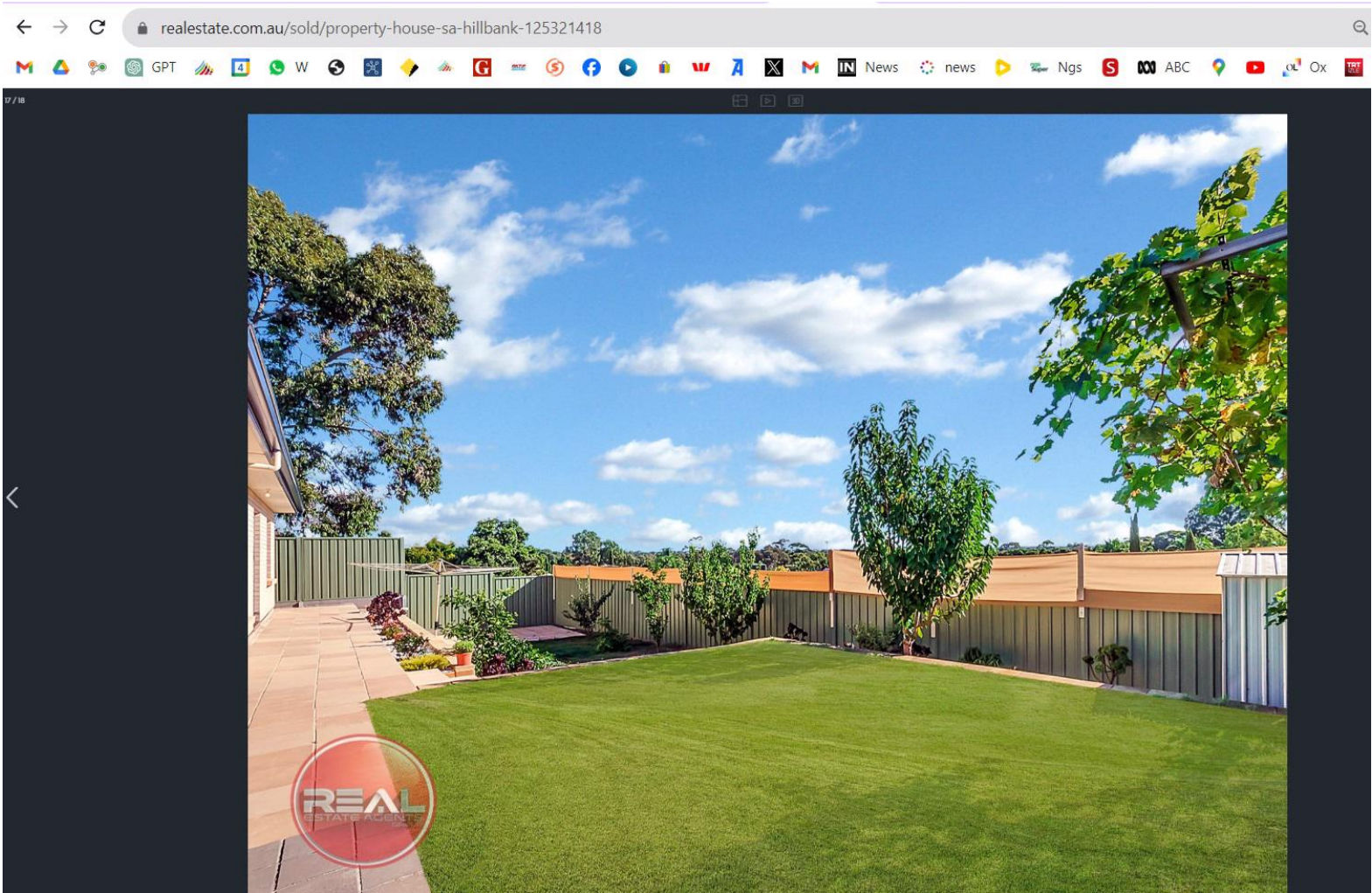
The family room has plenty of space for the family's 60" plasma T.V to fit nicely into the recessed wall and also having enough space to entertain the family with a movie and popcorn.

There are two other bedrooms which are both generous in size with built in robes and one with views to impress. The family will be fighting over this bedroom at the rear of the home...

With the seasons changing, this home caters for your needs with evaporative air conditioning and ducted heating all year round so there is no need to worry about being too hot or too cold!

Not only do we have great views, we also have an undercover entertaining area and









Representations

Representor 3 - Clare Rae

Name	Clare Rae
Address	20 Bogan road HILLBANK SA, 5112 Australia
Submission Date	07/12/2023 10:45 PM
Submission Source	Online
Late Submission	No
Would you like to talk to your representation at the decision-making hearing for this development?	Yes
My position is	I oppose the development
Reasons <p>To whom it may concern RE: Proposed Development Application - Retrospective application for 18 Bogan Road HILLBANK APPLICATION ID: 23017118 The occupant's decision to develop their suburban home in this way has adversely impacted our lives in so many ways that I am still struggling to understand how this has occurred. After trying to discuss the development with the neighbour (Applicant) there was a refusal to respectfully discuss the potential impacts and the concerns of the neighbours surrounding the new development, regarding the position/elevation/light/ stability of our boundaries prior to development on unapproved fill and elevation level. PRIVACY/SECURITY /NOISE ACTIVITY: This structure impacts and unreasonably interferes with the serenity of neighbouring premises including heat intensity/environmental/noise contamination? ?? A request for full internal review made for fill There has been significant impacts and damage to my property ie sinking and cracking of my driveway. There is a valid approval for a shed, but no fill approval, was granted . An unapproved shed on a large amount of fill at unapproved elevation was built. Are they not all related to one another? What has been built is an unapproved shed on a large amount of fill that was not part of the application or approval. Therefore, would not the applicant logically now need approval for what has been built which is a shed on a large amount of fill that's what the retrospective DA is for. Logically how can the applicants now just apply for approval for the fill because now there's also a shed on top of it logically making this an entirely different development with entirely different impacts to his neighbours. While the outbuilding I understand does not require public notification, the retaining walls do. As the outbuilding is reliant on the retaining walls, which require Development Approval in their own right, the retaining walls are rightly able to be considered an element of the proposal, requiring public notification. Thank you for time and consideration. I look forward to discussing further. Without prejudice Clare Rae</p>	

Attached Documents

RepresentationClareRae-7122242.pdf
Img_6829-7122243.jpg
Img_6830-7122244.jpg
Img_6833-7122245.jpg
Img_6834-7122246.jpg
Img_6835-7122247.jpg
Img_6842-7122248.jpg
Img_6848-7122249.jpg
Img_6849-7122250.jpg
Img_6859-7122251.jpg

Tom Gregory

From: Tom Gregory
Sent: Friday, 8 December 2023 10:11 AM
To: 'Clare Rae'
Cc: Adam Squires
Subject: RE: Character count -Plan SA

Good morning Clare

I note that you made a representation on the Portal and provided me with the below email within the prescribed notification period.

On this basis I can upload the below as an attachment to the information provided on the Portal. I understand there may be some double-up in the text however uploading the information in this manner will ensure there is an appropriate record/document trail.



I also note that you have also provided a number of images, albeit outside of the notification period. I can upload these too as I note the intent was for these to supplement the written representation.

I trust this is suffice.

The Applicant will soon be afforded the opportunity to provide a written response to Council addressing the matters raised in the Representations, following which the application will be presented to a future Council Assessment Panel meeting for a decision. As a Representer who has made a written representation, you will be notified in due course of the date/time of the CAP meeting.

Regards
Tom

From: Clare Rae <choc-eclare@hotmail.com>
Sent: Thursday, 7 December 2023 11:13 PM
To: Tom Gregory <tgregory@playford.sa.gov.au>
Subject: Character count -Plan SA

 **EXTERNAL EMAIL:** Do not click any links or open any attachments unless you trust the sender and know the content is safe. 

Dear Tom

I am sending this to your email which Microsoft character count was 3700 however the planSA portal says 0-4000 characters but would not accept my full representation and I had to severely cull my efforts in very rushed fashion.

Could you please assist with why this has occurred and what is the best way moving forward ?

I was unable to upload pictures at this time.

Please contact me at your earliest convenience
0439650042

Kind regards

Clare

To whom it may concern

**RE: Proposed Development Application - Retrospective application for 18 Bogan Road
HILLBANK
APPLICATION ID: 23017118**

The occupant's decision to develop their suburban home in this way has adversely impacted our lives in so many ways that I am still struggling to understand how this has occurred.

ORIGINAL APPLICATION TO COUNCIL

Following discussion and conciliation with the neighbours in relation to the development application the following are some of comments made by them, the applicants adopted a defensive and assertive attitude with comments such as:

"It's always been my partner's dream to have a trailer welding business " Nov 2022
quote by "Sarah".

"We didn't need approval on the walls"

"You don't own the view, it's my land I can do whatever I want"

"Take it up with council they approved it"

"It will be used as storage for my cars and boats it's none of your business " Shane Bentley DEC
2/22 -
2 witnesses heard this comment.

It appears that the applicants withheld mandatory information from the council which would have triggered public notification in the first instance on the application. This is a chance act from my viewpoint.

After trying to discuss the development with the neighbour (Applicant) there was a refusal to respectfully discuss the potential impacts and the concerns of the neighbours surrounding the new development, regarding the position/elevation/light/ stability of our boundaries prior to development on unapproved fill and elevation level.

PRIVACY/SECURITY /NOISE ACTIVITY:

This structure impacts and unreasonably interferes with the serenity of neighbouring premises including heat intensity/environmental/noise contamination?

The potential was there from the start to negotiate and discuss adequate safeguards and effective remedies against abuse.

PUBLIC SAFETY:

1 To protect against danger to the safety of persons to their life or physical integrity or serious damage to their property. (See pictures and video recording and decibel readings and logbook of activities) of fires / welding /grinding/quick cut and chainsaw and extensive business activity by the applicant for gain.

2 A request for full internal review made for fill and application DEC 2022. See email thread.

3 A request to pause development until a review was complete was not undertaken. Are you querying a mistake/error/missing mandatory information?

Approximately 50-100 tonne of fill has been excavated from the eastern front and side of property from the 'minor 35LM 4.8 M H wall excavation in 2020'

PUBLIC NOTICE:- provisions were to not notify as the wall could not be seen from the road and impacts were not unreasonable to adjoining occupant, which was me decided by someone who never asked the question.

There has been significant impacts and damage to my property ie sinking and cracking of my driveway.

The wall is visible from the road. These were unreasonable impacts on me. See pictures included.

The excavation for minor wall 2020 adding to the amount of fill and creating significant changes to natural land level and adding to the cubic meters calculated in the retrospect of fill but excluded changes to natural land shown on surveyor report.

There is a valid approval for a shed, but no fill approval, was granted .

An unapproved shed on a large amount of fill at unapproved elevation was built.

Are they not all related to one another?

What has been built is an unapproved shed on a large amount of fill that was not part of the application or approval.

Therefore, would not the applicant logically now need approval for what has been built which is a shed on a large amount of fill that's what the retrospective DA is for.

Logically how can the applicants now just apply for approval for the fill because now there's also a shed on top of it logically making this an entirely different development with entirely different impacts to his neighbours.

While the outbuilding I understand does not require public notification, the retaining walls do. As the outbuilding is reliant on the retaining walls, which require Development Approval in their own right, the retaining walls are rightly able to be considered an element of the proposal, requiring public notification.

Thank you for time and consideration.

I look forward to discussing further.

Without prejudice

Clare Rae

Sent from my iPhone

On 7 Dec 2023, at 7:44 pm, Tom Gregory <tgregory@playford.sa.gov.au> wrote:

Thank you for your email.

I am currently contracting to the City of Playford 1 to 2 days per week (Tues and/or Thurs) and will endeavour to attend to your email as soon as practicable.

<Sig_Logo_abc411c1-d2c0-45f6-858f-7c888781cdba.gif>

Tom Gregory

Consultant - Planning Services •
City of Playford

P. (08) 8256 0337 • E. tgregory@playford.sa.gov.au
12 Bishopstone Road, Davoren Park, SA 5113

www.playford.sa.gov.au

<[Post-LaunchEmailSignature_09a2f09f-1e1f-43da-bde8-b1e440a62d71.jpg](#)>



















Tom Gregory

To: spencersarah11@outlook.com
Subject: 18 Bogan Road - Response to Representations ID 23017118

From: spencersarah11@outlook.com <spencersarah11@outlook.com>

Sent: Tuesday, 12 December 2023 11:17 AM

Please see below our response to our request for development approval for the excavation and filling of land on our property of 55.3 cubic metres of soil (retrospective):

Directly in response to representation 1:

Please see photo evidence attached that we have planted pittosporum along the length of our western fence line. This plant has a mature height of 4 metres tall and mature width of 2 metres. We have planted the plants 1 metre apart to create a hedge that will provide complete screening and privacy for this neighbour. Please also see photo evidence that we have installed water tanks at the back of our shed and connected the shed stormwater. This no longer poses any potential risk of water run off or flooding to the neighbouring property.

Directly in response to representation 2:

This application is in relation to the excavation and filling of land on our property, not in relation to the approval of the shed.

However, to address the points mentioned, as part of the application process the council attended our property, and assessed the property before approving the shed. The height of the shed was a consideration of the council approval, which was approved.

It was also part of the application process that the shed was to be built in a position that had sufficient access from the road, we would have not had sufficient access to the shed if we built it on the lower level of our property. All factors were considered by the council as part of the application process and the shed was approved.

Directly in response to representation 3:

All photos provided in this representation are prior works that were commenced at our property by the previous owner. The photos provided are from works commenced approximately 4 years ago.

The excavation works we are now applying for have no effect on the fill of the neighbouring property. In relation to the retaining walls installed by the previous owner 4 years ago, this was also approved by the council with engineering planning and approval. The council have also since attended our property, and confirmed they were constructed to the approved plan and structurally sound.

The retaining walls we installed are 1 metre of height and did not require council approval, the council have since attended our property measured the retaining walls and confirmed they do not require any council approval.

As a summary of the works we are applying for,

Before any works had commenced on our property our back yard was unusable as it was a very steep slope. The purpose of the earthworks was to create a use-able back yard for our family.

The original steep slope resulted in water run off in heavy rain fall. This pooled at the bottom of our property and against the neighbouring fence. In the process of the excavation this problem has been rectified.

We also had a severe problem with the nuisance weed, caltrop on our property which had a risk of spreading to our neighbouring properties. We have rectified this problem in the process of our earthworks.

In the process of the excavation and filling of land we did not add any soil to our property. We used the existing soil to instead of having a steep slope, have 2 flat usual-able surfaces. The top levelled surface does not exceed the level our house sits at, it is at a lower ground level than our house. We haven't gone to the maximum height of our land, we cut in approximately 1 metre at the highest point and then created a flat surface.

Had we known this application was required, we would have applied for the earthworks prior to commencing work. We sincerely apologies that we are now applying retrospectively. We have worked closely with the council to ensure

all actions have been made to make sure our property is compliant. We deeply hope this is taken into consideration.

Thank you for your time.









