



**Riverland
Regional Assessment Panel
meeting**

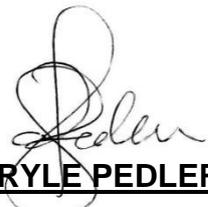
AGENDA

21 March 2019

at 1-30pm.

**BERRI BARMERA COUNCIL
DISTRICT COUNCIL OF LOXTON WAIKERIE
RENMARK PARINGA COUNCIL**

Notice is hereby given that a meeting of the Riverland Regional Assessment Panel will be held in the District Council of Loxton Waikerie Council Chamber, 29 East Terrace, Loxton, on Thursday 21 March 2019, commencing at 1.30pm.



CHERYLE PEDLER
ASSESSMENT MANGER

13 March 2019

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THE BERRI BARMERA COUNCIL, DISTRICT COUNCIL OF LOXTON WAIKERIE, RENMARK PARINGA COUNCIL
AGENDA FOR A MEETING OF THE RIVERLAND REGIONAL ASSESSMENT PANEL TO BE HELD
THURSDAY MARCH 21 2019 AT 1.30 PM AT THE
DISTRICT COUNCIL OF LOXTON WAIKERIE COUNCIL CHAMBER, 29 EAST TERRACE, LOXTON.

Members:

| | |
|-------------------------------------|---|
| <i>Independent Presiding Member</i> | Mr B.G. Ballantyne |
| <i>Independent Members</i> | Messrs G.D. Parsons, J.B. McVicar, Ms J Lewis |
| <i>Elected Member</i> | Mr T Norton |

Staff

| | |
|--|--|
| <i>Berri Barmera Council</i> | Mr D. Grieve (Senior Development Officer – Planning) |
| <i>District Council of Loxton Waikerie</i> | Mr J. Hunt (Development Officer – Planning) |
| <i>Renmark Paringa Council</i> | Mr R. Semrau (Principal Planner) |

| | |
|---------------------------|-----------------|
| <i>Assessment Manager</i> | Mrs C.G. Pedler |
|---------------------------|-----------------|

ITEM 1 **WELCOME:**

ITEM 2 **PRESENT:**

ITEM 3 **APOLOGIES:**

ITEM 4 **CONFIRMATION OF MINUTES**

The minutes of the meeting held February 21 2019 are attached at appendix for members information and adoption.

RECOMMENDATION:

That the minutes of the meeting held February 21 2019 be taken as read and confirmed.

ITEM 5 BUSINESS ARISING FROM THE PREVIOUS MINUTES

ITEM 6 DECLARATION OF INTEREST BY MEMBERS OF PANEL:

ITEM 7 HEARING OF REPRESENTATIONS:

ITEM 8 REPORTS:

| | | |
|----------|--|----|
| Item 8.1 | Development Application 752/117/16 – Mr R Nobile Ms D Hooper | 1 |
| Item 8.2 | Development Application 752/D004/18 – Mr and Mrs Jury..... | 7 |
| Item 8.3 | Development Application 551/005/13 - A-Culture Holdings Pty Ltd..... | 20 |
| Item 8.4 | Development Application 753/018/19 - Mr P James-Young | 25 |

Item 8.1 Development Application 752/117/16 – Mr R Nobile Ms D Hooper

| | |
|--|---|
| Application No: | 752/117/16 |
| Council: | Berri Barmera Council |
| Relevant Authority: | Berri Barmera Council |
| Applicant: | Raffaella Nobile and Danielle Hooper |
| Owner: | Raffaella Nobile and Danielle Hooper |
| Lodgement date: | 19 September 2016 |
| Description of development: | Shop (retail) and associated store within a shed building, separate amenities building, rainwater tanks and car park. |
| Property details: | Lot 1 Sturt Highway, Monash, as contained in Certificate of Title Volume 6009 Folio 335 |
| Zone / Policy Area: | River Murray Fringe Zone Map BeBa/7 |
| Development plan provisions: | Berri Barmera Council Development Plan, consolidated 29 November 2012 |
| Referrals / Agency consultations: | DPTI |
| Form of assessment: | Non-complying |
| Public notification category: | Category 3 – not yet undertaken |
| Recommendation: | Determine to proceed with an assessment pursuant to the <i>Development Act 1993 and Regulation 17(3)(b) of the Development Regulations 2008</i> . |
| Officer: | Dylan Grieve |
| File reference: | A6388 |
| Appendices follow report: | Site Plan Floor Plan |

BACKGROUND:

The applicant is seeking Development Plan Consent for a change of use of the subject land to a shop (retail) and associated store within a proposed shed building, separate amenities building, rainwater tanks and car park.

The applicants currently operate a roadside stall on the subject land that has been operating for some time and granted Development Approval on 27 April 2015. The applicants want to formalise their operation in the form of a more permanent arrangement and buildings.

A full copy of the application plans and other relevant information is attached for Members reference.

PROPOSED DEVELOPMENT:

The proposed development comprises an 18.05m long, 9.05m wide shed for use as a shop (retail) and store.

The proposed floor area has 80m² designated for a shop (retail) and 80m² for the associated store.

Elevations have not been provided by the applicant, but will be requested should the Panel determine to proceed with an assessment of the proposed land use.



Figure 2 – Aerial view of the subject site



Figure 3 – View of the subject site



Figure 4 – View of the subject site

RELEVANT AUTHORITY

The relevant authority is the Berri Barmera Council and the application has been referred to the Riverland Regional Assessment Panel for a decision with respect to a non-complying application to proceed with an assessment in accordance with Regulation 17(3)(b) of the Development Regulations 2008.

NATURE OF DEVELOPMENT:

The proposed land use is identified as a non-complying form of development within the River Murray Fringe Zone as the proposed shop (retail) land use is not less than 80m² nor ancillary to and in association with tourist development and the application proposes a 'store' land use that is also a non-complying with the River Murray Fringe Zone.

REFERRALS:

If this application is to proceed to an assessment it will require referral to the Department of Planning, Transport and Infrastructure as the subject site is located along a Primary Arterial Road.

PUBLIC NOTIFICATION:

If this application is to proceed it will require Category 3 public notification in The Murray Pioneer and notices sent to adjoining land owners. Following public notification and referral responses, a detailed report would then be presented to the Panel for a decision.

STATEMENT OF SUPPORT

A Statement of Support has been provided by the applicant, in accordance with Regulation 17(1) of the Development Regulations 2008; it is attached to this report.

SERIOUSLY AT VARIANCE:

In making an assessment of the application, section 35(2) of the Act provides direction to the Panel, in that it must give consideration as to whether the application is seriously at variance with the Berri Barmera Development Plan.

35—Special provisions relating to assessment against Development Plan

(2) Subject to subsection (1), a development that is assessed by a relevant authority as being seriously at variance with the relevant Development Plan must not be granted consent.

The concept of being “seriously at variance” with the Development Plan is always difficult to define with precision. Debelle J said at (33) in *Mar Mina (SA) Pty Ltd v City of Marion Anor* “... the expression “seriously at variance with the Development Plan” refers to that which is an important or grave departure in either quantity or degree from the Development Plan.” And it “...is not enough that the proposal might conflict with the Development Plan; it must be seriously at variance with it...”

The application is for a ‘shop’ (retail) and associated ‘store’ within a shed building, separate amenities building, rainwater tanks and car park within the River Murray Fringe Zone.

Within the River Murray Fringe Zone it is clear that the wider locality has been identified for small scale tourism orientated development. While the proposed development is not strictly considered as tourism orientated development, the current roadside fruit stall has become somewhat of a landmark attraction at the eastern corner of the Sturt Highway.

Given this unofficial status it can not therefore be considered seriously at variance with the Development Plan.

DEVELOPMENT PLAN PROVISIONS:

General Section

Design and Appearance

Objectives: 1 and 2

PDCs: 1, 2, 3, 6, 8, 9, 10, 11, 12, 13, 16, 17, 21 and 23

Interface between Land Uses

Objectives: 1, 2 and 3

PDCs: 1, 2, 5, 14, 15, 16 and 17

Orderly and Sustainable

Objectives: 1, 2, 3, 4, 10 and 11

Development

PDCs: 1, 2, 3, 6, 7 and 8

Tourism Development

Objectives: 1, 3, 4, 5 and 6

PDCs: 1, 2, 3, 11, 12, 13, 14, 16, 18 and 19

Transportation and Access

Objectives: 1 and 2

PDCs: 1, 22, 23, 24, 25, 26, 27, 28, 29, 30, 32, 33, 34, 36, 37, 38, 39, and 41

Zone Section

River Murray Fringe Zone Objectives: 1, 2, 3 and 5

PDCs: 1, 2, 3, 7, 9 and 11

The reasons for recommending proceeding with the assessment of the application include:

1. The proposed change of use of the subject site to a shop and store has merit given its approved existing use as a roadside stall.
2. The proposed change in land use is not likely to prejudice the attainment of any future primary production on the land or desired character of the broader locality.
3. The land use is non-invasive by its nature, producing no detrimental noise or air emissions and the hours of operation are limited.

If this application is to proceed to an assessment the applicant will be requested to provide a Statement of Effect pursuant to Regulation 17 of the Development Regulations 2008.

SUMMARY:

The proposed development application seeks planning consent for a shop (retail) and associated store within a shed building, separate amenities building, rainwater tanks and car park. The proposal is a non-complying form of development within the zone, as the proposal contains a shop that is not less than 80m² and a store. Both of these elements are non-complying forms of development within the River Murray Fringe Zone.

RECOMMENDATION:

The Riverland Regional Assessment Panel resolves to determine to proceed with an assessment of Development Application 752/117/16 pursuant to the Development Act 1993 and Regulation 17(3)(b) of the Development Regulations 2008.

Item 8.2 Development Application 752/D004/18 – Mr and Mrs Jury

| | | |
|--|---|---|
| Application No: | 752/D004/18 | |
| Council: | Berri Barmera Council | |
| Relevant Authority: | Berri Barmera Council | |
| Applicant: | Peter Jury | |
| Owner: | Peter and Jennifer Jury | |
| Lodgement date: | 27 June 2018 | |
| Description of development: | Land division – one (1) allotment into two (2) to create one (1) additional allotment (non-complying). | |
| Property details: | 274 Jury Road, Glossop, as contained in Certificate of Title Volume 5842 Folio 774 and Crown Record Volume 6033 Volume 312 | |
| Zone / Policy Area: | Primary Production Zone, Horticultural Policy Area 1 and Rural Landscape Protection Zone Map BeBa/12 | |
| Development plan provisions: | Berri Barmera Development Plan, consolidated - 8 December 2016 | |
| Referrals / Agency consultations: | DEWNR – Native Vegetation Council APA Group SA Water Corporation Central Irrigation Trust | |
| Form of assessment: | Non-complying | |
| Public notification category: | Category 3 | |
| Recommendation: | Grant Development Plan Consent, Land Division Consent and Development Approval subject to the concurrence of the State Planning Commission, and subject to conditions and notes | |
| Officer: | Dylan Grieve | |
| File reference: | A6502 | |
| Appendices follow report: | <ul style="list-style-type: none"> • Application Form • Certificates of Title • Plan of Division – reference 03518PROPrevA 26/04/2018 | <ul style="list-style-type: none"> • SCAP Advice • DEWNR–Native Vegetation • Statement of Support • Statement of Effect |

BACKGROUND:

The applicant seeks Development Plan and Land Division Consent for land division of one (1) existing allotment, to create two (2) allotments from the subject land, comprising:

- Existing Piece 5, proposed Allotment 43 – 1.022 hectares – Rural Landscape Protection Zone
- Existing Piece 6, proposed Allotment 45 – 2.789 hectares – Primary Production Zone

The proposed lot 43 does not meet the non-complying exception criteria of the Rural Landscape Protection Zone as the proposal will result in an allotment less than 4 hectares. Accordingly, the subject application is for a non-complying form of development.

HISTORY OF THE SITE:

The subject site (Pieces 5 and 6) was part of a larger site that included the land immediately adjoining the southern boundary of Piece 6 that is now known as Lot 7 Cornish Road, Glossop as contained in Certificate of Title Volume 5842 Folio 775. This land division application, 752/D027/99, was granted consent on 20/01/2000 with Titles deposited on 12/01/2001.

Pieces 5 and 6 are separated by a former railway reserve that is now used for the Berri-Mildura natural gas pipeline (underground) reserve, known as Allotment 100 in Filed Plan 35764, Berri Irrigation Area as comprised in Crown Record Volume 6033 Folio 312.

HISTORY OF THE APPLICATION

Council staff resolved, under delegation to proceed with an assessment of the proposal on 13 September 2018. The application is now presented to the Panel for a decision.

The reasons for proceeding with the assessment pursuant to Regulation 17(3)(b) of the Development Regulations include.

- (1) The proposed land division would not result in any negative alteration to the character of the immediate locality
- (2) The proposed land division does not involve land that is currently used for viable primary production
- (3) The proposed land division would not prejudice the Rural Landscape Zone

The applicant has provided a Statement of Effect pursuant to Regulation 17 of the *Development Regulations 2008*.

PROPOSED DEVELOPMENT:

The proposal seeks land division of one (1) existing allotment, to create two (2) allotments from the subject land. The proposed allotment boundaries follow the existing boundaries of Pieces 5 and 6 that are currently separated by a former railway reserve that is now used for the Berri-Mildura natural gas pipeline (underground) reserve. Proposed Allotment 43 (Piece 5) is north of the gas pipeline (underground) reserve and is vacant of any built form but contains native vegetation. Proposed Allotment 45 will contain the existing dwelling and will be located south of the gas pipeline (underground) reserve.

The land division is intended to create allotments that are effectively rural living type allotments. Should proposed Allotment 43 be released to the market for sale, it can be anticipated that potential purchasers would seek approval for a dwelling and outbuildings.

Access to proposed Allotment 43 is proposed from the existing access point at the north-eastern corner of the site along McKay Road and does not require any rights-of-way or access to Crown Land.

Access to Allotment proposed 45, containing the existing dwelling, is, and proposed from, a right-of-way over Crown Land. Crown Lands, on 8 November 2018, advised that approval has been granted to an easement over the gas pipeline (underground) reserve, known as Allotment 100 in Filed Plan 35764, Berri Irrigation Area as comprised in Crown Record Volume 6033 Folio 312 for right-of-way purpose.

SUBJECT LAND AND LOCALITY:

The subject land is known as 274 Jury Road, Glossop, as contained in Certificate of Title Volume 5842 Folio 774 and Crown Record Volume 6033 Volume 312.

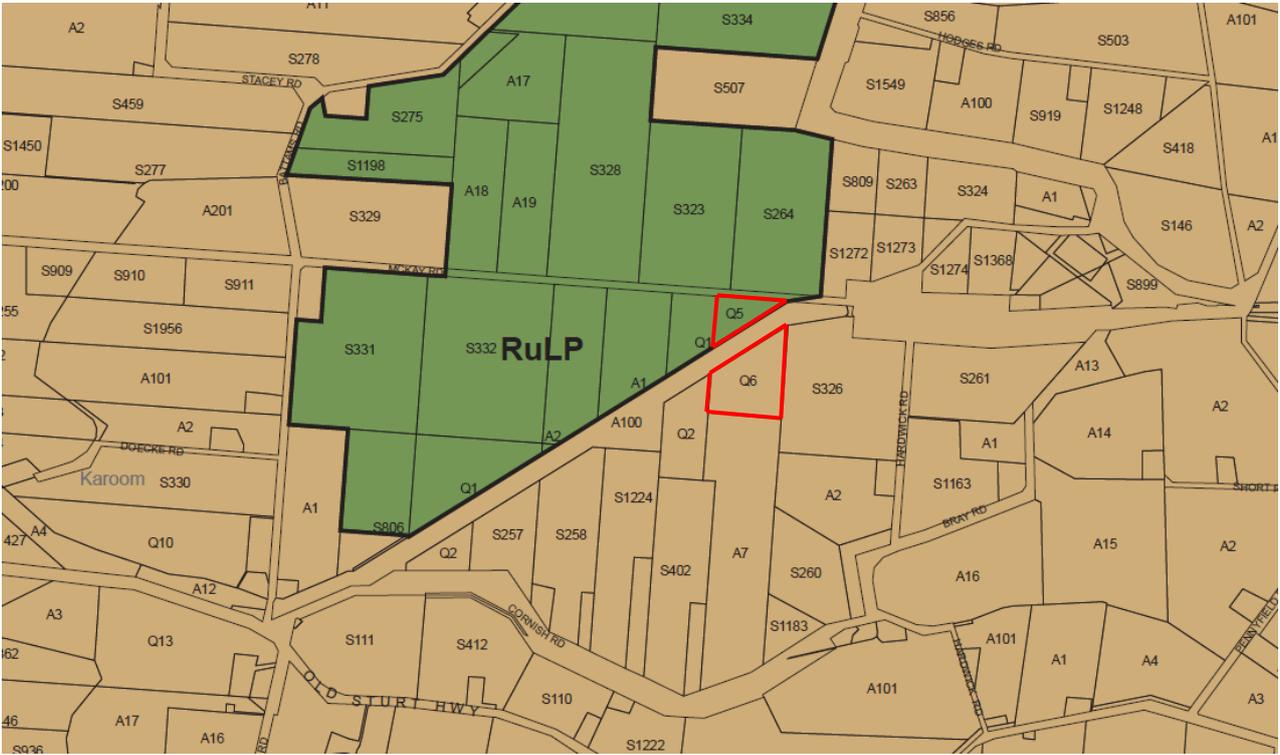


Figure 1: Zone Map (extract) BeBa/12

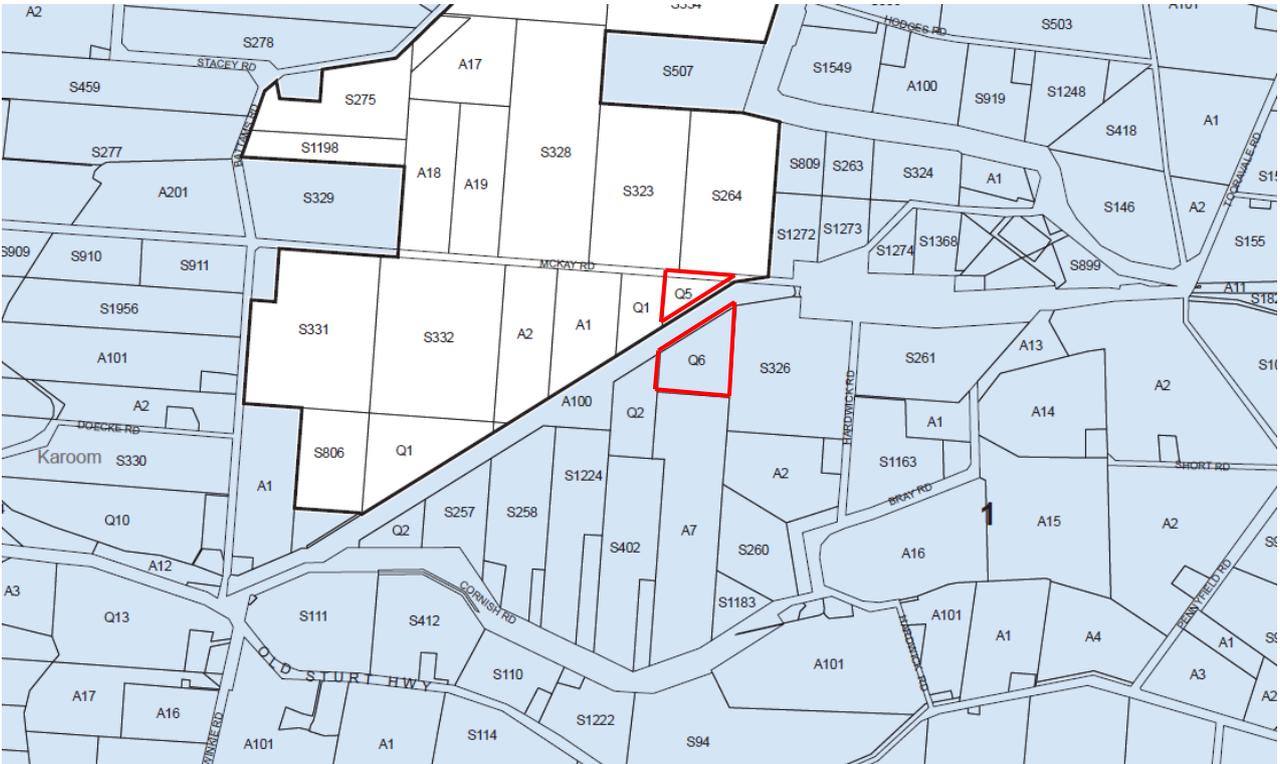


Figure 2: Policy Map (extract) BeBa/12



Figure 3: Aerial – Locality

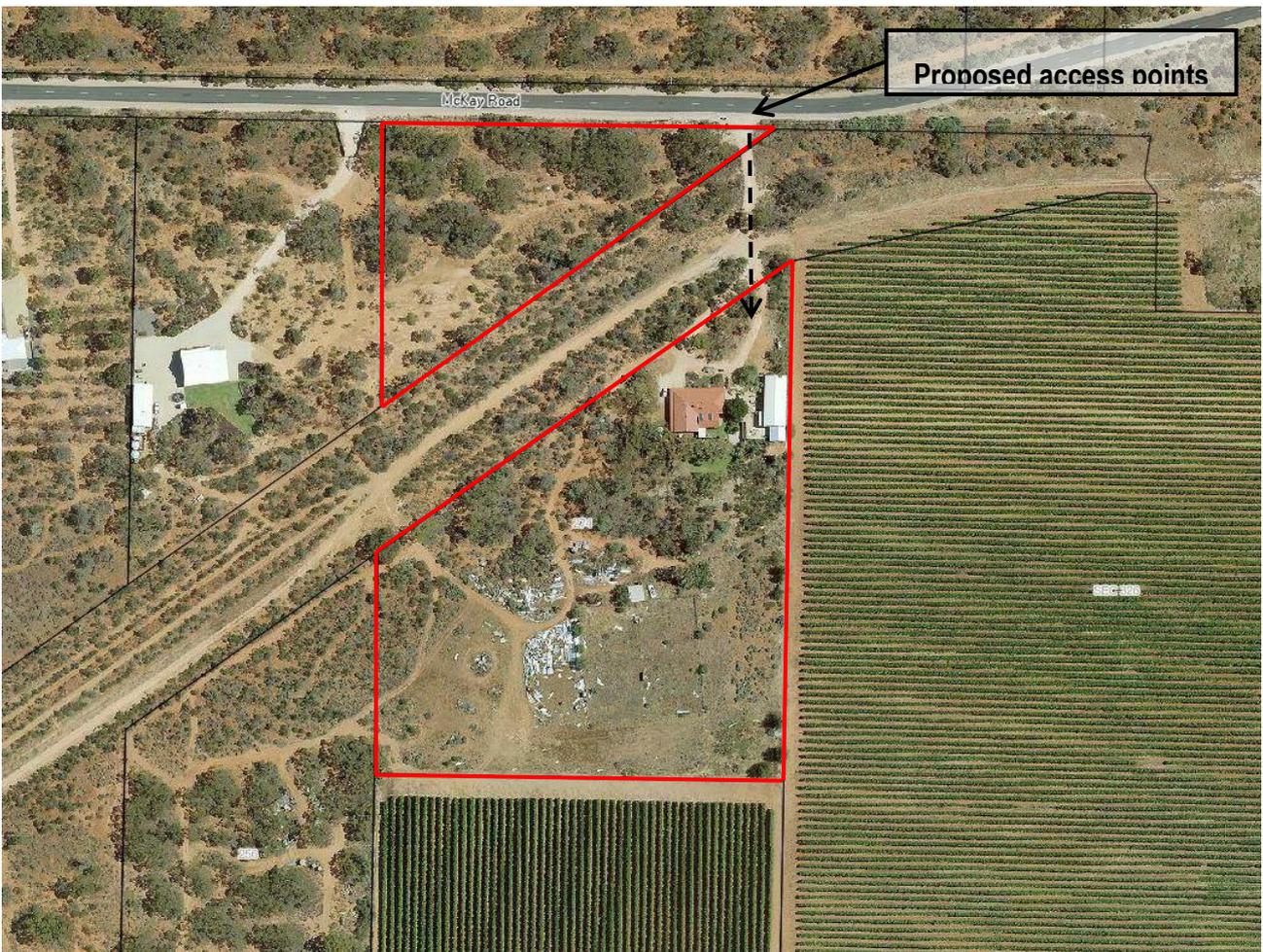


Figure 4: Aerial – Site



Figure 5: McKay Road – allotment access point



Figure 6: Natural gas pipeline (underground) reserve



Figure 7: Potential building envelope

Piece 5 of the existing allotment is relatively flat and does not contain any buildings. There is scattered native vegetation over the site, however, there is a portion of land, approximately 1,500m², in the south-west corner of Piece 5 that is suitable for a building envelope.

Piece 6 of the existing allotment is relatively flat. The existing dwelling is slightly elevated above natural ground level. The existing dwelling is located to the north-east corner of Piece 6, adjacent the Crown Land. The remainder of Piece 6 contains a mixture of native vegetation, vehicle tracks and small outbuildings.

The subject site has one access point along McKay Road. This access point is located at the north-east corner of Piece 5 and is a gravel, all-weather, constructed access way. It is proposed that each proposed allotment will utilise this access point with no additional access points proposed along McKay Road. A free and unrestricted right-of-way is proposed over proposed Allotment 43 (existing Piece 5) and the gas pipeline (underground) reserve, known as Allotment 100 in Filed Plan 35764 to proposed Allotment 46 (existing Piece 6).

RELEVANT AUTHORITY

The relevant authority is the Berri Barmera Council and the application has been referred to the Riverland Regional Assessment Panel for a decision with respect to a non-complying application to seek concurrence from the State Planning Commission to grant consent.

SERIOUSLY AT VARIANCE:

In making an assessment of the application, section 35(2) of the Act provides direction to the Panel, in that it must give consideration as to whether the application is seriously at variance with the Berri Barmera Development Plan.

35—Special provisions relating to assessment against Development Plan

- (3) Subject to subsection (1), a development that is assessed by a relevant authority as being seriously at variance with the relevant Development Plan must not be granted consent.

The concept of being “seriously at variance” with the Development Plan is always difficult to define with precision. Debelle J said at (33) in *Mar Mina (SA) Pty Ltd v City of Marion Anor* “... the expression “seriously at variance with the Development Plan” refers to that which is an important or grave departure in either quantity

or degree from the Development Plan.” And it “...is not enough that the proposal might conflict with the Development Plan; it must be seriously at variance with it...”

The application is for a land division within the Primary Production (Horticulture Policy Area 1) and Rural Landscape Protection Zone. Within the Primary Production Zone (Horticulture Policy Area 1) and Rural Landscape Protection Zone, it is clear that the Zone and Policy Area both envisage land division, albeit it not at the intensity this application proposes. However, given the application does propose land division, it can not therefore be considered seriously at variance with the Development Plan.

REFERRALS:

| | |
|--|---|
| State Commission Assessment Panel | <p>Should Council decide to approve this application, the following requirements of the SCAP must be included as a condition of approval, pursuant to Section 33 (1) (c) of the Development Act.</p> <ol style="list-style-type: none"> 1. The financial requirements of the SA Water Corporation shall be met for the provision of water supply. (SA Water H0074456) 2. A final plan complying with the requirements for plans as set out in the Manual of Survey Practice Volume 1 (Plan Presentation and Guidelines) issued by the Registrar General to be lodged with the Development Assessment Commission for Land Division Certificate purposes. |
| DEWNR - Native Vegetation Council | <p>No significant impacts to native vegetation are envisaged as a result of this proposal. NVB advises that the subdivider must seek NVC approval at the subdivision stage for any native vegetation clearance that may be required to provide adequate space for a house site under the Native Vegetation Regulation 12(35) residential subdivisions. The area of impact includes building footprint, vehicle access, CFS clearance and ancillary structures such as sheds, tanks, septic systems.</p> |
| Department for Energy and Mining (gas) | <p>The proponent must contact the pipeline operator for any proposed dwellings or buildings within 40 metres of the pipeline.</p> |
| SA Water Corporation | <ol style="list-style-type: none"> 1. The financial requirements of SA Water shall be met for the provision of water supply. 2. Subject to our new process, on receipt of the developer details and site specifications an investigation will be carried out to determine if the connections to your development will be standard or non standard fees. 3. On approval of the application, all internal water piping that crosses the allotment boundaries must be severed or redirected at the developers/owners cost to ensure that the pipework relating to each allotment is contained within its boundaries. |
| Central Irrigation Trust | <p>No Comment</p> |
| DEWNR - Crown Lands - River Councils | <p>Easement for a portion of Allotment 100 in Filed Plan 35764, Berri Irrigation Area as comprised in Crown Record Volume 6033 Folio 312 for a right-of-way purpose approval has been granted.</p> |
| Berri Barmera Council | <p>No issues raised – recommended a condition of approval relating to the existing dwelling’s wastewater system.</p> |

PUBLIC NOTIFICATION:

The application was given Category 3 public notification in The Murray Pioneer on December 14 2018 and notices sent to adjoining and adjacent land owners.

No representations were received.

DEVELOPMENT PLAN PROVISIONS:

Infrastructure Objectives: 1
PDCs: 1 and 2

The proposed allotments will each have access to an available electricity supply. Water supply is by the capture of rainwater stored in rainwater tanks, as is the case with the exiting dwelling on existing Piece 6. Should a development application for a dwelling be lodged in the future, rainwater tanks will need to be provided to sustain water supply to the dwelling on proposed Allotment 43.

All other Objectives and PDCs are deemed to comply.

Interface between land uses Objectives: 1, 2 and 3
PDCs: 17, 20 and 23

The existing dwelling on existing Piece 6 has a dwelling located 30m from the eastern boundary that is adjoining a horticulture use, albeit that there is an existing shed that forms a buffer between the dwelling and allotment boundary that mitigates potential interface impacts.

The proposed Allotment 43 is uninhabited of any built form and is within the Rural Landscape Protection Zone. The un-vegetated area in the south-west corner of the proposed allotment has a suitable area for an envisaged building envelope that is approximately 150m from the nearest horticulture use boundary, to the east and similarly to the nearest boundary to the south.

The proposed land division will not affect the continued operation of the Berri-Mildura natural gas pipeline as the proposed allotment boundaries maintain the existing boundaries of Pieces 5 and 6 of the existing allotment.

All other Objectives and PDCs are deemed to comply.

Land Division Objectives: 2, 4 and 5
PDCs: 1, 2, 3, 21 and 22

The proposed land division creates proposed Allotment 43 that is 1.022 hectares and proposed Allotment 45 that is 2.789 hectares. The proposed allotments are intended to be rural living type allotments. The sizes of the proposed allotments are greater than 1 hectare is suitable for its intended use.

The proposed allotment boundaries are integrated with the existing site characteristics, landscape features, existing transport network and adjacent land uses. The proposed allotments will not alter the configuration or access to the existing dwelling and will not create a new access point for and future proposed dwelling on proposed Allotment 43.

The proposed land division is located along a zone boundary. Existing Piece 5, proposed Allotment 43, is within the Rural Landscape Protection Zone and has no value as primary production land, while infrastructure, particularly rainwater tank provision, is not uneconomic.

Existing Piece 6, proposed Allotment 45, is within the Primary Production Zone and contains an existing dwelling and outbuilding, is serviced by infrastructure and is being used as a rural living type allotment.

The creation of an additional allotment will not limit the efficient use of land for primary production in the immediate locality.

The proposed land division will not impact, nor require removal of native vegetation to create proposed Allotment 43 or 45.

All other Objectives and PDCs are deemed to comply.

Natural Resources Objectives: 1

PDCs: 31 and 37

The proposed land division will have no impact on the natural environment as the proposed allotment boundaries follow the exiting boundaries of Pieces 5 and 6. Proposed Allotment 43 should not require the removal of any vegetation in the future should a future dwelling (that will need the lodgement of a separate development application) be proposed to be established. Proposed Allotment 45 contains an existing dwelling and outbuilding and no development is proposed on this existing Piece. The proposed land division will not result in the removal or degradation of any native vegetation.

All other Objectives and PDCs are deemed to comply.

Orderly and Sustainable Objectives: 3

Development PDCs: 1

The proposed land division will not influence the continuance of adjoining authorised land uses. The adjoining allotments west of the subject site are used for rural living and are set amongst native vegetation. To the east and south land is used for horticultural purposes and the proposed land division will not have a detrimental impact on these activities.

Proposed Allotment 43 is within the Rural Landscape Protection Zone where the intended use is to preserve the natural and rural character and scenic features of the zone. It also aims to protect and retain vegetation. The proposed land division will not restrict the development of the zone for its intended purpose as the land division will not require the removal of any vegetation in order for proposed Allotment 43 to be developed. The character and scenic features of the Zone will remain unchanged as any future development of proposed Allotment 43 will not be visible from McKay Road.

All other Objectives and PDCs are deemed to comply.

Transportation and Access Objectives: 2

PDCs: 2

The proposed land division will not result in any additional access points to McKay Road therefore will have a minimal impact on the traffic capacity of McKay Road. There will be an increase in car movements, should proposed Allotment 43 be developed. The existing transport network has the capacity to accommodate the increased traffic movements.

All other Objectives and PDCs are deemed to comply.

Zone Section

Rural Landscape Zone

Desired Character

The zone contains large areas of significant vegetation of high biodiversity conservation value that needs to be protected and retained.

The zone also has a mix of other established land uses including wineries, horticulture and rural living. It is not contemplated that these types of land uses be allowed to intensify within the zone.

The proposed land division and existing native vegetation on proposed Allotment 43 will not be compromised by being on a separate allotment. While it is inevitable that the proposed Allotment 43 will be eventually used as a rural living allotment, along with proposed Allotment 45, its division will not cause any further fragmentation of land and as the two Pieces are separate parcels of land. A dwelling on each proposed allotment would not be uncharacteristic of the rural living predominance of the immediate locality and will have minimal visual impact and no requirement to remove native vegetation.

Objectives: 1, 2 and 4

PDCs: 2, 3 and 6

The proposed land division will not result in significant changes to, or detrimental impacts to, the natural and rural character of the Zone. Proposed Allotment 43 will be 1.022 hectares in area that will enable development to be consistent with the desire for low density rural activities on large land holdings.

The existing vegetation on the proposed Allotment 43 will screen any development of the allotment that may occur in the future.

The proposed land division creates an additional allotment, which is not envisaged in the Zone. However, the existing physical fragmentation of the two proposed allotments and that native vegetation will be retained on proposed Allotment 43, mitigates the result of an additional allotment create by the proposed land division.

All other Objectives and PDCs are deemed to comply

Primary Production Zone

Desired Character

The zone comprises of the agricultural areas that underpin the regions rural economy, primary consisting of general farming, grazing and horticulture with associated rural based industry, services and facilities.

It is intended that the dominant rural character of the zone be maintained by the retention of farming and horticultural activities and significant tracts of bushland. It is important for non-agricultural development to recognise and appreciate that the zone is designed for agriculture first and foremost, and that non-agricultural development is required to accommodate itself to the potential effects of such development (e.g. dust, spray drift, noise, as well as use of machinery and equipment at different times of the day, night and year). If non-agricultural development (including dwellings) cannot accommodate this situation, it would be better for development to be located in another zone. The primacy of agriculture and horticulture to the region's economy and identity is very important and it is incumbent on this zone to facilitate its continuation (and potential intensification). As a result, this hierarchy is to be treated as the first priority in considering new development.

Proposed Allotment 45 is contained within the Primary Production Zone and follows the boundary of existing Piece 6. This portion of the Allotment has never been used for primary production but does contain a track of native vegetation. This proposed Allotment contains an existing dwelling and outbuilding. The creation of a separate allotment for Piece 6 will not have a detrimental impact on the adjoining horticultural uses.

Primary Production Zone

Objectives: 1, 2 and 5

PDCs: 2, 11 and 14

The existing allotment (Pieces 5 and 6) is 3.811 hectares with the land division proposing two (2) allotments. Existing Piece 5, proposed Allotment 43 is 1.022 hectares and existing Piece 6, proposed Allotment 45 is 2.789 hectares. As the existing allotment is already fragmented and not of a sufficient size to be used for horticultural purposes its proposed division is considered acceptable as it does not and will not have any horticultural purpose.

All other Objectives and PDCs are deemed to comply.

Policy Section

Horticulture Policy Area 1

Desired Character

The policy area also includes some large expanses of dryland, the majority of which contains some native vegetation. The development of detached dwellings on large allotments is appropriate where sited and designed sensitively with natural landforms and existing vegetation and in a manner that minimises disturbance of these fragile areas. It is also important that native vegetation is preserved and buildings and structures are sited unobtrusively so as to preserve the established visual character of the area.

The existing allotment has not been used for any horticulture use, but developed with a dwelling and outbuilding for rural living type purposes. Its current use has not had any negative impact on the adjoining horticultural activities. The land division will not have a detrimental impact on the rural bushland that exists on the existing allotment and on those allotments to the north and west. The proposed land division will not have a negative impact on the desired character of the policy area.

Horticulture Policy Area 1

Objectives: 1 and 3

PDCs: 7 and 8

The existing allotment less than 8 hectares. Due to the unique configuration of the allotment, fragmented by the former railway reserve, now the location of the natural gas pipeline (underground) reserve, the proposed land division is considered appropriate as the allotment sizes are reflective of an allotment that would be created to accommodate an existing dwelling when excising it from an existing allotment.

Each of the proposed allotments are greater than 1 hectare, however, the larger portion of the existing allotment, proposed Allotment 45, will not be used as productive farm land. Aside from this variance with the intent of this part of the policy, the proposed land division facilitates the orderly development and use of the subject land, given its existing and proposed site areas, as rural living type allotments.

All other Objectives and PDCs are deemed to comply.

SUMMARY:

When assessed against the relevant provisions of the Development Plan and having regard to the context of the locality and the nature of the proposed development, it is considered that the proposal, in its current form, on balance satisfies the relevant provisions of the Development Plan. The proposal is broadly consistent with the desired character of the zone and will not detrimentally impact upon the amenity of the adjoining properties of the locality.

The proposed land division of one (1) allotment into two (2) to create one (1) additional allotment (non-complying) at 274 Jury Road, Glossop, as contained in Certificate of Title Volume 5842 Folio 774 and Crown

Record Volume 6033 Volume 312 warrants consent, subject to conditions and subject to the concurrence of the State Planning Commission.

RECOMMENDATION:

1. The Riverland Regional Assessment Panel determines that Development Application 752/D004/18 is not seriously at variance with the Berri Barmera Council Development Plan.
2. The Riverland Regional Assessment Panel determines to grant Development Plan Consent and Land Division Consent to Development Application 752/D004/18 subject to the following conditions and notes:

Council conditions:

1. Development is to take place in accordance with the supporting documentation and plans relating to Development Application Number 752/D004/18, except as modified by any conditions attached to this Decision Notification, specifically:

| <i>Plan type</i> | <i>Reference</i> | <i>Dated</i> | <i>Received</i> | <i>Prepared By</i> |
|--|-------------------|--------------|-----------------|-------------------------------|
| Proposed Land Division & Re-designation of Parcel Plan | 03518PRO PrevA | 16/04/18 | 27/06/18 | Anderson Surveyors Pty Ltd |

Land division conditions:

1. The financial requirements of the SA Water Corporation shall be met for the provision of water supply. (SA Water H0074456)

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

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

2. All internal water piping that crosses the allotment boundaries must be severed or redirected at the developers/owners cost to ensure that the pipework relating to each allotment is contained within its boundaries.
3. A final plan complying with the requirements for plans as set out in the Manual of Survey Practice Volume 1 (Plan Presentation and Guidelines) issued by the Registrar General to be lodged with the Development Assessment Commission for Land Division Certificate purposes.

Notes:

1. The development must be substantially commenced within 12 months of the date of this Notification, unless this period has been extended by Council.
2. You are advised that any act or work authorised or required by this Notification must be completed within three years of the date of the Notification unless this period is extended by the Council.
3. The applicant is reminded of its general environmental duty, as required by section 25 of the *Environment Protection Act 1993*, to take all reasonable and practical measures to ensure that the activities on the whole site, including during construction, do not pollute the environment in a way which causes or may cause environmental harm.
4. The River Murray and many of its tributaries and overflow areas have abundant evidence of Aboriginal occupation. Under Section 20 of the *Aboriginal Heritage Act 1988* (The Act), as an owner or occupier of private land, or an employee or agent of such an owner or occupier, must report the discovery on the land of any Aboriginal sites, objects and remains to the Minister for Aboriginal Affairs and Reconciliation, as soon as practicable, giving the particulars of the nature

and location of the Aboriginal sites, objects or remains. Penalties may apply for failure to comply with the Act.

5. It is an offence to damage, disturb or interfere with any Aboriginal site or damage any Aboriginal object (registered or not) without the authority of the Minister for Aboriginal Affairs and Reconciliation (the Minister). If the planned activity is likely to damage, disturb or interfere with a site or object, authorisation of the activity must be first obtained from the Minister under Section 23 of the Act.
6. Should any removal or trimming of native vegetation be intended at any stage, the application should consult the Native Vegetation Council to ascertain relevant requirements under the Native Vegetation Act 1991 and its Regulations.
7. The applicant shall contact the pipeline operator for any proposed dwellings or buildings within 40 metres of the pipeline.

Item 8.3 Development Application 551/005/13 - A-Culture Holdings Pty Ltd

| | |
|--|---|
| Application No: | 551/005/13 |
| Council: | District Council of Loxton Waikerie |
| Relevant Authority: | District Council of Loxton Waikerie |
| Applicant: | A-Culture Holding Pty Ltd |
| Owner: | District Council of Loxton Waikerie |
| Lodgement date: | 12 December 2012 |
| Description of development: | Prawn and fin fish farm, hatchery, grow out and processing facility, comprising of three stages (land based Aquaculture) |
| Property details: | 37 Ekins Road, Waikerie, Deposited Plan: 89736, as contained in Certificate of Title Volume 6098 Folio 671 |
| Zone / Policy Area: | Primary Production Zone - Map LoWa/11 |
| Development plan provisions: | Loxton Waikerie Development Plan, consolidated 1 December 2011 |
| Referrals / Agency consultations: | Nil required for this report |
| Form of assessment: | Merit |
| Public notification category: | Not applicable to this report |
| Recommendation: | Grant an extension of 5 years to the current commencement operative date - 13 April 2024 Grant an extension of 15 years to the current completion operative date – 13 April 2034 |
| Officer: | Jordan Hunt |
| Appendices follow report: | 10 April 2014 - RRDAP report and attachments 10 April 2014 – Minutes Approved Plans Applicants extension request |

BACKGROUND:

Development Application 551/005/13 was originally presented to the Riverland Regional Development Assessment Panel on the 10 April 2014; where the panel chose to follow the recommendation, which was to issue Development Plan Consent, subject to a number of conditions and notes, and a reserved matter.

Almost a year after the panel's decision, the applicant submitted amended plans to Council. The amended plans included a new trial facility, amendments to the approved hatchery (relocation, increase in floor area, deletion of car parking), and two additional sediment ponds and evaporation pans. The plans were accepted as amendments, as the variations were considered to be minor in nature.

Prior to the issuing of Development Approval, the applicant provided plans to Council which were considered to satisfy the requirements of the reserved matter. Stage 1 of the application was granted Development Approval on the 13 April 2016. Council granted two, one year extensions to the both the commencement and completion operative dates, with the current expiry dates now being set as 13 April 2019.

The following information is provided as background to the application, in consideration of the extension to the Development Plan Consent sought.

PROPOSED DEVELOPMENT:

The applicant, A-Culture Holding Pty Ltd, sought Development Plan Consent for a prawn and fin fish farm, hatchery, grow out and processing facility (land based Aquaculture) on rural land to the south east of Waikerie, comprising of three stages, each with the following elements:

- Inflow header tank (588,000 litre colorbond tank), for storage of saline bore water inflow
- Integrated water system for 60 concrete grow out tanks (each of 285,000 litre capacity – 30m x 8m x 1.5m high), enclosed in a grow out buildings incorporating associated infrastructure
- High-density polyethylene (HDPE) lined in-ground settlement and evaporation ponds for wastewater treatment and disposal
- Associated ancillary buildings, miscellaneous equipment and infrastructure

The project comprises of three separate modules, staged over a three year period – where each stage has an approximate throughput of 500 tonnes of prawns/fin fish per annum, with 1500 tonnes throughput by the third year.

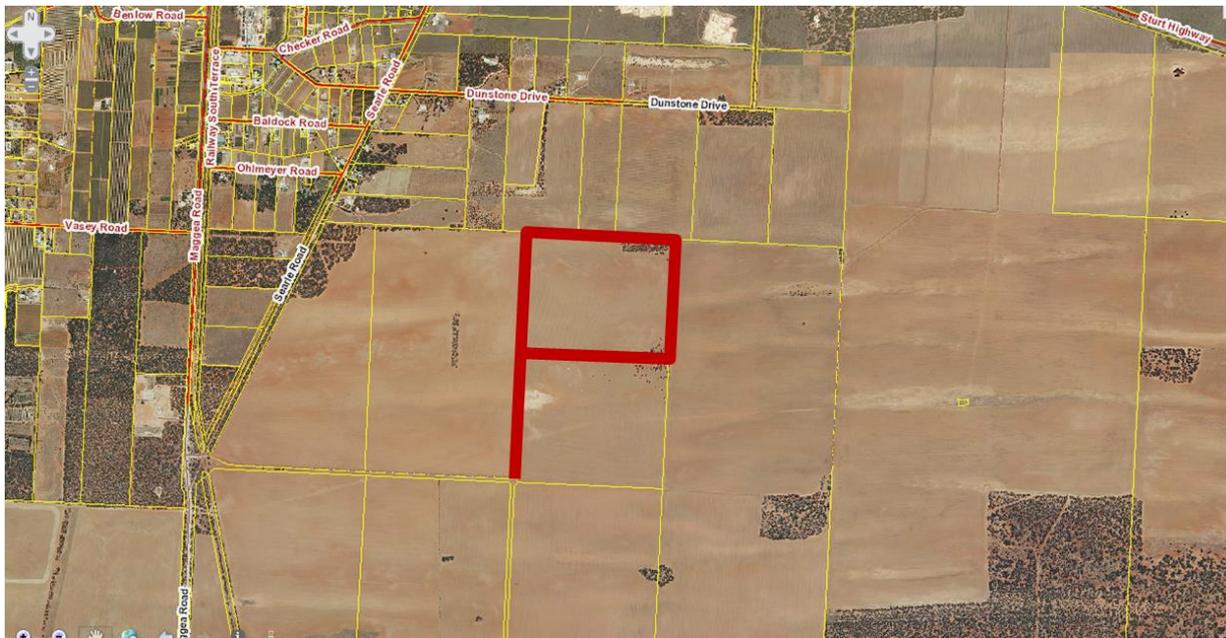
The combination of the three stages is proposed to be serviced by a common office, processing and hatchery building to the south western portion of the land. The proposed development is also serviced by an internal access road, car parking and incorporates perimeter buffer landscaping.

Although the site plan has a notation for five stages, the proposed development seeks approval for three stages only. The applicant has advised that the reference to five stages on the site plan relates to 'five sites' for the purpose of a possible future land division proposal, whereby the land division (subject to a separate assessment process, if/when lodged) would provide for investment options into the aquaculture project.

The proposal was amended in 2015 to include a trial facility, an expansion and relocation of the hatchery building, and an additional two evaporation pans and sediment ponds.

SUBJECT LAND AND LOCALITY:

The subject land is located approximately three kilometres to the south east of the township of Waikerie – and approximately one kilometre from the Waikerie (east) Rural Living Zone.



The subject land is described in Certificate of Title Volume 6098 Folio 671, as:-

- Lot 37 in Deposited Plan 89736 Hundred of Holder

- Being owned by the A-Culture Holding Pty Ltd
- Having registered easements for the purpose of infrastructure
- Having an area of 51.75 hectares.

The subject land is generally flat with gentle undulations, including a slight rise to the northern boundary. The land is vacant land generally devoid of vegetation, except for a small area adjacent to the north eastern and south eastern boundary.

Access to the site is via Government Road, off of Searle Road – this road also serves the winery wastewater disposal site (to the south of the subject land). Land to the north along Dunstone Drive has a mixed use rural/rural living nature within the Primary Production zone, and the land to the immediate south is used for the disposal of treated winery wastewater.

The general locality is characterised by its rural and agricultural setting.

DEVELOPMENT PLAN PROVISIONS:

The proposal was originally assessed against the following development plan provisions, which related to the Loxton Waikerie Development Plan – Consolidated 1 December 2011.

The original planning assessment was broken down into four key areas: land use, design, siting and separation distances, and environmental. The proposal was originally assessed against the following provisions of the Development Plan:

| | |
|--|---|
| Animal Keeping Module Objective 1-2, 4 Principle of Development Control 1, 2, 11, 14, 16, 21, 22-24 | Design and Siting Module Principle of Development Control 1-8, 18, 21 |
| Interface between Land Uses Module Objective 1 Principle of Development Control 1, 2, 5, 8, 9, 11 | Orderly and Sustainable Development Module Objectives 1, 3 Principle of Development Control 1-3 |
| Hazards Module Objectives 1 Principle of Development Control 2, 6 | Infrastructure Module Objective 1 Principle of Development Control 1, 6, 9 |
| Primary Production Zone Objectives 1, 3, 5 Principle of Development Control 1, 6, 9 | Natural Resources Module Objective 1 Principle of Development Control 1, 2, 4-9, 14, 16, 26-28, 37, 39 |
| Transportation and Access Module Principle of Development Control 22, 23, 28, 29, 32, 39 | Waste Module Objective 1 Principle of Development Control 1-8, 10 |

A review of the provisions from the original Development Plan (11 December 2011 Consolidation) was undertaken against the provisions of the current Development Plan (19 April 2017 Consolidation).

Whilst several of the PDC's did not align with the numbering system of the current development plan, most of the provisions were still in place, with only several provisions reflecting minor changes in wording.

PDC 8 of the Interface between Land Uses Module of the 11 December 2011 consolidation of Council's Development Plan was the only provision which is not reflected in the current Development Plan (19 April 2017 consolidation):

Principle of Development Control 8

Development should be sited, designed and constructed to minimise negative impacts of noise and to avoid unreasonable interference.

This provision however can be seen to be captured by PDC 9 of the Interface between land uses Module of the 19 April 2017 Consolidation of Council's Development Plan:

Principle of Development Control 9

Development with the potential to emit significant noise (e.g. industry) should incorporate noise attenuation measures that prevent noise from causing unreasonable interference with the amenity of noise sensitive premises.

It is considered that the proposal still contains sufficient merits and accords with the provisions of Council's current Development Plan.

EXTENSION OF TIME TO THE CURRENT OPERATIVE DATE

Council may consider an extension of time to commencement and completion dates pursuant to the *Development Act 1993, s40(3)*. In considering a request to extend the operative date of a consent or approval, the judgment made by Her Honour Judge Trenorden of the Environment, Resources and Development Court regarding the matter of *Parry & Anor vs City of Holdfast Bay (7 May 2007)* provides the terms under which such request can be considered.

The case identifies the following principles and "tests" that must be applied when considering a request to extend the operative date of a consent or approval. These tests are addressed in turn:

The relevant authority should not assess the development again on its merits. A fresh assessment against the same relevant provisions of the Development Plan is not required.

This report does not assess the application again on its merits.

The relevant authority must take into account whether there have been any significant amendments to the Development Act 1993 or Development Regulations 2008 since the date of the granting of the original Development Approval.

Since the date of Development Plan Consent, the *Development Act 1993* and the *Development Regulations 2008* have not undergone any significant amendments which directly impact the assessment pathway or classification of the proposal.

The relevant authority must take into account whether there have been any material changes to the relevant provisions of the appropriate Development Plan since the date of the granting of the original Development Approval.

Her Honour made it clear that an extension of the operative date of a consent or approval can be made, notwithstanding that the consent or approval may have lapsed prior to the request for the extension. An assessment of each of these issues is given below in order to determine whether the extension should be granted.

The 2011 consolidation of Council's Development Plan does not significantly differ from the current Development Plan. The proposal is considered to accord with the current provisions, and is still classified as a merit form of development, as the zoning has not changed; therefore the application meets point 3.

The relevant authority must have regard to the period of time that had elapsed after the lapse of the Development Approval.

The application has been granted two one year extensions in the past for both the commencement and completion operative dates. The current commencement date lapses at 13 April 2019.

The relevant authority should consider the reasons for the need for the extension.

The applicant has outlined in his email to Council that the reasoning for the extension request, is due to the difficulties the team has faced in regard to seeking private investment, partnerships, and funding. The applicant has advised that the project is 'shovel ready' and that the funding is the only aspect slowing the construction and completion of the proposal.

FURTHER MATTERS

The applicant has requested an extension to commence works and to complete works, for a period of five years and fifteen years respectively. Whilst the 15 year timeframe seems considerable, to provide surety for the applicant during the implementation phase of the *Planning Development and Infrastructure Act 2016*, Council staff feel that the timeframe is appropriate.

Further, as the application is considered to meet with all the criteria set down by Her Honour in *Parry & Anor vs City of Holdfast Bay*, I recommend that the Panel grant the requested extensions of consent:

RECOMMENDATION:

- 1. The Riverland Regional Assessment Panel determines to grant an extension of 5 years to the commencement date for Development Application 551/005/13 to 19 April 2024.**
- 2. The Riverland Regional Assessment Panel determines to grant an extension of 15 years to the completion date for Development Application 551/005/13 to 19 April 2034.**

Item 8.4 Development Application 753/018/19 - Mr P James-Young

| | |
|--|--|
| Application No: | 753/018/19 |
| Council: | Renmark Paringa Council |
| Relevant Authority: | Renmark Paringa Council |
| Applicant: | Peter James-Young |
| Owner: | Peter James-Young |
| Lodgement date: | 30 January 2019 |
| Description of development: | Carport forward of dwelling |
| Property details: | Lot 37, 36 Nineteenth Street, Renmark, SA, contained in Certificate of Title Volume 5365 Folio 686 |
| Zone / Policy Area: | Residential Zone - Medium Density Policy Area |
| Development plan provisions: | Development Plan, consolidated – 31 October 2017 |
| Referrals / Agency consultations: | Nil |
| Form of assessment: | Merit |
| Public notification category: | Category 1 |
| Recommendation: | Refusal |
| Officer: | Ralph Semrau |
| File reference: | A2435 |
| Appendices follow report: | <ul style="list-style-type: none">• Development Application Form• Electricity Declaration Form• Site Plan• Elevations inclusive of specifications for structure• Sketch of septic location |

BACKGROUND:

The carport structure being assessed is a retrospective form of development and it is estimated that it was erected at the property in July 2018.

HISTORY OF THE SITE:

The property has a well established dwelling and associated outbuildings, with some well established trees and shrubs located mainly to the sides and front of the property.

The property has access both from Nineteenth Street and the rear laneway (refer to Figure 5 below) located toward the rear of the allotment.

There is record of a flat roof carport being granted consent on 4 October 2007 and access to this structure is via the rear laneway, Doevys Lane. The approved carport is the structure located at the far rear of the allotment, and is labelled as a shed on the site plan.

PROPOSED DEVELOPMENT:

The Applicant/property owner has described the nature of the proposed development as a shade house & carport and is seeking full approval for this structure. The site plan indicates the structure being applied for as one structure.

The proposed open iron carport structure, measurements are 5 metres in length and 2.3 metres wide, with a post height of 2 metres. The gable roof is clad with silver/grey iron sheets and there are six posts measuring 65mm x 65mm. The structure is located 500mm from the front property boundary and is located 5 metres from the side boundary. (Refer to Figures 1 – 5 below)



Figure 1



Figure 2



Figure 3



Figure 4



Figure 5

SUBJECT LAND AND LOCALITY:

The subject land is known as Lot 37, 36 Nineteenth Street, Renmark, SA, contained in Certificate of Title Volume 5365 Folio 686.

The property is approximately 800 square metres in total area and is a typical rectangular shaped allotment. It is located within a well established Residential Zone and is in the Medium Density Policy Area. The built form at the property is not intensive and is in proportion with the size of the allotment. (refer to Figure 6 below).

The locality within this Residential area is best described as a wide street with good established vegetation on the residential properties and on both sides of the footway. Most of the properties comprise of residential buildings and associated outbuildings, with a Community Health Service, Shiralee House, located nearby at 29 Nineteenth Street.

Renmark Square comprising of a shopping precinct, is located to the north west of the locality and the residential area extends to the rear of the land and further south down Nineteenth Street.

RELEVANT AUTHORITY

Council is the relevant authority for assessing this application, however in terms of the recommendation; it is an application that has been determined as one that is best presented to the Riverland Regional Assessment Panel for a decision.

NATURE OF DEVELOPMENT:

As the relevant authority and in accordance with Regulation 16 of the *Development Regulations 2008*, the nature of the development has been determined as a 'Carport forward of dwelling'. Refer to Figure 6 below for approximate siting of the proposed carport.



Figure 6

SERIOUSLY AT VARIANCE:

After consideration of the overall relevant Development Plan provisions, a carport which is ancillary to a dwelling is not considered to be seriously at variance, although it is at odds with a couple of the more crucial provisions.

REFERRALS:

Internal – Environmental Health Officer has advised after reviewing the sketch of the location of the septic tank that there will be no impacts on the septic tank from the proposed structure.

PUBLIC NOTIFICATION:

The proposal does not specify a list of developments for Category 1 or Category 2, of the Public Notification heading on page 170 of Council's Development Plan. Council in accordance with Schedule 9 of the Development Regulations 2008 therefore considered and determined the development as a Category 1 development in accordance with Schedule 9 Part 1- Category 1 development Clause 2(d) of the Development Regulations 2008.

DEVELOPMENT PLAN PROVISIONS AND ASSESSMENT:

Carports should be designed and sited in a manner that is complementary to the associated dwelling, prevailing landscape and other built form in the locality. A carport should be set back from the front property boundary, so that it contributes positively to the streetscape character of the locality. Whilst there is some vegetation screening at the property, the carport being only 500mm from the front boundary, is still visible from the street. The structure although having open sides, looks out of place in terms of colour and design and does not complement the associated dwelling, nor does it contribute to the amenity of the locality.

Residential Zone

Principle of Development Control 1 Land use – the structure is consistent with the envisaged land use for this zone as a carport and is a domestic related structure that is ancillary to an existing dwelling.

However, the proposed carport structure is at odds with PDC 9 for parameters in regard to the set back distances that sheds, garages and similar outbuildings should be designed. In this case the proposed carport is set back only 500mm from the front property boundary opposed to 6 metres, or no closer to the boundary than the existing dwelling. This has an impact on the amenity of the area, given that the locality has no other similar outbuilding structures that are located forward of the associated dwelling.

Residential Development – General Section

The proposed carport is at odds with PDC 17 (a) as it dominates the streetscape by being located only 500mm from the front property boundary.

The proposed carport being of very basic design and finish has no design detail to integrate it with the objective of it complementing the associated dwelling. It is therefore also at odds with PDC 16.

Design and Appearance – General Section

The proposed structure is at odds with Objective 1 and PDC 3(b) as it is a basic structure that has no high architectural standard, has an unsuitable matching colour scheme and does not reinforce the positive aspects of the local environment and built form.

SUMMARY:

In conclusion, after carrying out an assessment of the relevant Development Plan provisions and in particular the more crucial ones, the proposed carport structure is at odds with these provisions. The design and siting of the carport would detract from the prevailing streetscape character and amenity of the locality.

It is therefore recommended that Development Plan consent be Refused.

RECOMMENDATION:

1. The Riverland Regional Assessment Panel determines that Development Application 753/018/19 for a carport forward of dwelling at Lot 37, 36 Nineteenth Street, Renmark CT: 5365/686 is not seriously at variance with the Renmark Paringa Council Development Plan.
2. The Riverland Regional Assessment Panel determines to REFUSE Development Plan Consent to Development Application 753/018/19 for a carport forward of dwelling at Lot 37, 36 Nineteenth Street, Renmark CT: 5365/686 for the following reasons:
 - a. The application is at variance with Principle of Development Control 9 of the Residential Zone provisions as it is not set back in accordance with the parameters.
 - b. The application is at variance with Principle of Development Control 16 of the Residential Development General Section provisions as it has no design and detail to complement it with the existing dwelling.
 - c. The application is at variance with Principle of Development Control 17(a) of the Residential Development provisions of the General Section, as the proposed carport dominates the streetscape by being located only 500mm from the front property boundary.
 - d. The application is at variance with Objective 1 and Principle of Development Control 3(b) of the Design and Appearance provisions of the General Section, as it is a basic structure with no real high architectural standards, has no matching colour scheme and also does not contribute positively towards the streetscape.

ITEM 9 OTHER BUSINESS:

ITEM 10 NEXT MEETING:

The next scheduled meeting of the RRAP is April 18 2019.

ITEM 11 CLOSE: