



Development Assessment Panel

17 December 2012

MID MURRAY COUNCIL

DEVELOPMENT ASSESSMENT PANEL

Agenda

Meeting to be held in the Council Chambers, Main Street, Cambrai

Monday 17 December 2012, 10.00am

1. **PRESENT**

Bruce Ballantyne (Presiding Member), David Hughes, James Miller,
Graham Gaston, Mardi Jennings, Peter Raison and Brian Taylor

2. **IN ATTENDANCE**

Kelvin Goldstone, Director – Development & Environmental Services
Geoff Parsons, Manager – Development Services
Aaron Curtis, Senior Development Officer – Planning
Jake McVicar, Development Officer – Planning
Melissa Marschall, Minute Secretary

3. **COMMENCEMENT AND WELCOME** AM

4. **APOLOGIES**

5. **APPOINTMENT OF DEPUTY PRESIDING MEMBER**

Pursuant to Section 56A (4b) of the Development Act 1993, Council's Development Assessment Panel is required, at its first meeting, to appoint the Deputy Presiding Member.

Whilst the Act is silent in respect to whether or not the Deputy Presiding Member must be chosen from the pool of Independent Members on the Panel, it would seem appropriate that the Deputy Presiding Member, similar to the Presiding Member, is not a member of the Council. By adopting this approach it will ensure that the spirit and intent of the legislation, i.e. having a person independent of Council Chairing the meeting, is upheld.

The appointment of the Deputy Presiding Member is open for nomination and will be resolved if necessary through a secret ballot at the meeting.

RECOMMENDATION

moved that _____ be appointed to the position of Deputy Presiding Member of Mid Murray Council's Development Assessment Panel for a two year term pursuant to Section 56A (4b) of the Development Act 1993.

Seconded

MID MURRAY COUNCIL

6. **DEVELOPMENT ASSESSMENT PANEL – MEETING SCHEDULE**

The Development Assessment Panel at its first meeting is required to establish a meeting schedule for the ensuing twelve (12) month period.

Previously the Panel convened on the last Monday of each month, with meetings commencing at 10.00am at the Council Chambers, Main Street, Cambrai.

The Development Assessment Panel may elect to endorse existing arrangements or alternatively resolve an amended meeting schedule that satisfies personal schedules of newly appointed members.

The following recommendation is listed on the presumption there is no objection to the retention of existing meeting arrangements.

RECOMMENDATION

**moved that the Mid Murray Council Development Assessment Panel resolve to convene on the last Monday of each month at the Council Chambers, Main Street, Cambrai commencing at 10.00am.
Seconded**

7. **TERMS OF REFERENCE AND OPERATING AND MEETING PROCEDURES**

Attached are two documents:-

1. Terms of Reference of the Mid Murray Council Development Assessment Panel (DAP) March 2011
2. Operating and Meeting Procedures Mid Murray Council Development Assessment Panel (the DAP) Draft 1 dated 7 December 2012.

The Terms of Reference for the Development Assessment Panel have been formally adopted by Council and continue to apply.

The Operating and Meeting Procedures are determined by the Development Assessment Panel, the attached draft version indicates amendments suggested by the Presiding Member.

The following recommendation endorses the Operating and Meeting Procedures Mid Murray Council Development Assessment Panel (the DAP) for the term of the current Panel or until further amended.

RECOMMENDATION

**moved that the Operating and Meeting Procedures Mid Murray Council Development Assessment Panel (the DAP) Draft 1 dated 7 December 2012 (as amended) be endorsed.
Seconded**

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8. **CONFIRMATION OF PREVIOUS MINUTES**

(Page 2827 – 19/11/2012)

Minutes of the Mid Murray Council Development Assessment Panel meeting held on 19 November 2012.

RECOMMENDATION

moved that the minutes of the Mid Murray Council Development Assessment Panel Meeting held on 19 November 2012 be taken as read and confirmed.

Seconded

9. **DECLARATION OF INTEREST BY MEMBERS OF PANEL**

10. **DEVELOPMENT REPORT**

RECOMMENDATION

moved that the report be received.

Seconded

11. **LATE CORRESPONDENCE**

12. **OTHER BUSINESS**

13. **NEXT MEETING**

14. **CLOSURE**

MID MURRAY COUNCIL

DEVELOPMENT ASSESSMENT PANEL

Development Report

Meeting to be held in the Council Chambers, Main Street, Cambrai

Monday 17 December 2012, 10.00am

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MID MURRAY COUNCIL – DEVELOPMENT REPORT
10.1 DEVELOPMENT APPLICATION 711/221/12 – J OFFLER

<i>Reporting Officer:</i>	<i>Aaron Curtis</i>
<i>Position:</i>	<i>Senior Development Officer - Planning</i>
Development No.	711/221/12
Applicant	J Offler
Subject Land	Lot 82 of FP203, South Punyelroo Road, South Punyelroo, Hundred of Fisher
Proposal	Amendment to Development Plan Consent 711/446/10, Domestic Outbuilding (Shed) and Associated Excavation and Filling within a Floodplain

BACKGROUND

Development Application 711/446/10 was lodged with Council by the lessee, W Owen back in December 2010. The applicant sought approval for demolition of the existing dwelling, construction of a new dwelling with attached decking, underfloor wet area, storage enclosure and associated excavation and filling.

Development Plan Consent was granted for that application on 23 December 2011. Following receipt of this Consent, the applicant lodged a fresh Development Application 711/221/12 on 15 June 2012, for amendment to the previous application, to include filling up to 600mm above existing ground level and also a domestic outbuilding (shed).

I understand the applicant sought approval to raise the finished ground floor level of the dwelling, so as to provide greater immunity of the building from flood. This part of South Punyelroo is very low lying, with the majority of shacks in this small cluster being inundated in the past two years.

Due to the extent of filling proposed, the application was processed as a non-complying form of development. The application was subject to Category 3 public notification, with one representation being received from the neighbour on the upstream side, objecting to the extent of filling proposed.

The application was presented to Council's September DAP meeting. The previous assessing officer recommended refusal of the application, primarily on grounds of flood flow impacts and the building's height. Despite the recommendation, the Panel deferred the matter, pending further information as follows:

- a) submission of a hydrologist report, including a site survey; and
- b) undertaking of a site inspection, prior to making a decision.

The applicant has submitted amended plans, lowering the overall height of the building. In addition, the applicant has submitted a hydrologist report, prepared by Southfront Consulting Engineers, dated 31 October 2012. Accordingly, the application is presented back to the Panel for a final decision.

If the Panel agrees to grant Development Plan Consent, its decision is subject to the concurrence of the State Government's Development Assessment Commission. If the Panel wishes to refuse the application, the applicant does not have any right of appeal, given that it is a non-complying form of development.

Copies of plans and details submitted with the application are attached.

SUBJECT LAND

The subject site is Lot 82, South Punyelroo Road, South Punyelroo, Hundred of Fisher as contained in Certificate of Title Volume 5145 Folio 754. The site comprises one leasehold site of about 1,300m² having a width of about 37m and depth of about 35m. The site is relatively uniform in shape.

The site abuts the main channel of the River Murray on its eastern side, and abuts a shallow backwater lagoon area on its western side. The site is very low lying, with the whole of the site being below 2.5m above sea level.

The site is devoid of any buildings or structures. The middle part of the site is generally 'open', due to it being previously occupied by an elevated dwelling. The site is densely occupied by native vegetation adjacent the main channel and backwater lagoon.

Photos taken while on-site on 5 November 2012 are attached with written annotations confirming the viewing angle of the photos taken.

DESCRIPTION OF LOCALITY

The site forms part of the South Punyelroo shack settlement, comprising a linear/strip settlement of more than 100 shack sites, abutting the main channel of the River Murray, on its western side.

This site forms part of a cluster of more than 10 shack sites, upstream of the entrance road to the South Punyelroo Progress Association Inc. site, which is very low lying. The access tracks for these shacks regularly inundate even under moderately high water levels.

There is a break in the line of shacks south (downstream) of this site, with such land being under common ownership by South Punyelroo Progress Association Inc. Dense vegetation abuts the shack site downstream of this site.

The majority of the shack sites contain dwellings in a range of forms, some being elevated, some at ground level and some a hybrid of both. Ancillary buildings and structures such as sheds, carports, rainwater tanks and river structures are common.

The whole of the shack group is located within the 1956 flood plain of the River Murray. Large River Red Gums and Black Box line the edges of the River Murray, and also the backwater lagoon, which abuts the site on its western side.

DESCRIPTION OF PROPOSAL

The application includes the following components which constitute "Development" and have thus been incorporated into the nature of the proposed development:

1. Construction of an elevated dwelling;
2. Attached covered balconies;
3. Underfloor wet area and storage enclosure;
4. Construction of a domestic outbuilding (shed); and
5. Associated excavation and filling within a floodplain.

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The dwelling will be sited 9.2m to the site's western boundary, 3m from the upstream side boundary, and 14.3m from the downstream side boundary. The dwelling will be sited about in line with the setback of the neighbouring dwelling from the water's edge.

The dwelling will be elevated 2.7m from finished floor level up to the underside of the elevated floor. The finished floor will be raised between 330mm and 600mm above existing ground. The dwelling will have a height of 6.9m above finished ground floor level.

The upper floor includes two bedrooms, each with walk-in-robe, ensuite and individual balconies, central kitchen, dining and living area, covered balconies and steps. The ground floor includes a laundry, storage area and rainwater tank.

The upper floor (living) will have an area of 131.50m², attached covered balconies of 166.4m², ground floor wet area of 13.4m² and ground floor storage area of 54m². The total floor area of the building will be 365.30m².

The external design of the building features a central 'living' element with high glass windows and aluminium stacked doors to the river elevation with low angled roof at 3 degrees pitch in Colorbond cladding.

'Wings' are provided over the two end elements at low 5 degree pitch in Colorbond cladding. The vertical end columns will be at 7 degree angle. Wall sheeting will be in horizontal Colorbond wall cladding, with 1m high open balustrades to external balconies.

The application also includes a shed of 54m², to be sited in the site's south-western corner. This building will have a wall height of 3.3m, roof pitch at 17 degrees, clad in Colorbond "Jasper" with sliding doors fixed to its eastern/western ends.

CLASSIFICATION OF DEVELOPMENT

The site is located within the River Murray Zone and Shack Settlement Policy Area of the Mid Murray Council Development Plan. Principle of Development Control 29 of the Shack Settlement Policy Area states that:

29 *The following forms of development are non-complying in the Shack Settlement Policy Area:*

...

Dwelling, except where the dwelling is an elevated dwelling and all of the following are achieved:

(a) The dwelling will either replace an existing dwelling (or dwellings) on an allotment (or lease site) or will be a new dwelling proposed on a vacant allotment (or lease site) so that not more than one dwelling will exist on the allotment (or lease site) and the following apply:

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- i. The allotment (or lease) site has been identified for residential purposes in Figures Sh/1 to 47;*
 - ii. Where the dwelling is replacing an existing dwelling (or dwellings) on an allotment (or lease site) that the existing dwelling (or dwellings) has (have) been demolished or is proposed to be demolished as part of the Application;*
 - iii. In a shack settlement identified in Figures Sh/1 to 47 where there are 5 or more allotments (or lease sites) identified for residential purposes in a shack settlement, the proposed dwelling is connected or proposed to be connected (as part of the Application) to the Communal Wastewater Management Scheme that complies with the relevant public and environmental health legislation applying to that type of system;*
 - iv. The dwelling does not exceed one storey in height (excluding the height of any elevation required to minimise the potential for personal or property damage as a result of a flood);*
 - v. A verandah, pergola, deck, stairs or balcony does not exceed a maximum depth of 3 metres when measured from the principal facade (river side) of the dwelling (as depicted in Principle 8 and Figure 8.1) and provided that those structures are left open on all remaining sides.*
- (b) Subject to (c) and (d) below, the underfloor area beneath the proposed elevated dwelling is not enclosed on any side;*
- (c) The enclosed underfloor area beneath the elevated dwelling achieves all of the following:*
 - i. The area is only used for storage purposes or vehicle parking;*
 - ii. The maximum floor area that is enclosed does not exceed 54 square metres;*
 - iii. The area is enclosed using roller doors or removable panels, and each removable panel does not exceed the dimensions of 3 metres by 2.7 metres;*
 - iv. The area should have no internal walls, partitions or cladding.*
- (d) A portion of the underfloor area beneath the proposed elevated dwelling may be enclosed for use as a wet area (ie. bathroom, toilet and/or laundry) in addition to the enclosed 54 square metre storage area, provided that the floor area of the enclosed wet area does not exceed 15 square metres;*
- (e) The minimum vertical distance between the existing ground level and the underside of the floor level of the elevated dwelling at any point is 2.3 metres;*
- (f) The maximum vertical distance between the existing ground level and the underside of the floor level of the dwelling at any point is 2.7 metres in height;*

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- (g) *The principal facade (river side) of any portion of the dwelling is not forward of the alignment of the principal facade (river side) of the alignment of the principal facade (river side) of any portion of the nearest part of a dwelling on an adjoining allotment to the development site as depicted in Figure 8.1 and Figure 8.2;*
- (h) *In the event that the adjoining allotments to the development site are vacant, the principal facade (riverside) of any portion of the dwelling is not forward of the alignment of the principal facade (river side) of any portion of the nearest existing dwelling of any side boundary of the development site as depicted in Figure 8.1.*

The site levels where the dwelling is proposed vary from a high of 1.96m Australian Height Datum (AHD) down to a low of 1.65m AHD. Therefore, the site levels vary where the dwelling is proposed by about 310mm.

The dwelling is proposed to have a finished ground floor level of 2.25m AHD, meaning that the finished ground floor level will be raised above existing ground level at its highest point by 600mm.

The dwelling will be elevated up to the underside of the elevated floor 2.7m, meaning that the datum level up to the underside of the elevated floor will be 4.95m AHD. The finished elevated floor level will be 5.3m AHD.

The distance between the underside of the elevated floor (4.95m) and the lowest point of existing ground level will be 3.3m. Given that this exceeds the maximum clearance set under (f) above of 2.7m, the application is non-complying.

REFERRALS

The application triggered a referral to the Department for Environment, Water and Natural Resources (DEWNR) under Schedule 8(19)(g) of the *Development Regulations 2008* on the basis that building work is proposed on land within the River Murray Floodplain Area established under the *River Murray Act 2003*.

DEWNR has now provided a referral response, dated 7 August 2012, advising that it has no objections with the development, subject to Council imposing conditions and notations on the Development Plan Consent. A copy of the DEWNR referral response is attached.

Despite being a non-complying form of development, the application did not trigger a referral to the Environment Protection Authority under Schedule 8(10) of the *Development Regulations 2008*, on the basis that the site has a connection point to the South Punyelroo Communal Wastewater Management Scheme (CWMS).

PUBLIC NOTIFICATION

Principles of Development Control 30 and 31 of the Shack Settlement Policy Area state that:

- 30** *All forms of development which are acceptable for the Policy Area are assigned Category 1 (except where non-complying).*

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- 31** *Forms of development which are neither acceptable nor non-complying for the Policy Area are assigned Category 2.*

Given that the application is a non-complying form of development, the application must be a Category 3 form of development.

The application underwent the Category 3 public notification period with one representation received from Mr Tully of Lot 83, South Punyelroo Road, South Punyelroo. Mr Tully made his concerns heard at the September DAP meeting.

A summary of the concerns raised by Mr Tully in his submission is given below as well as a summary response from the applicant. Copies of the representations and the applicant's reply are also contained as attachments.

Items/issues raised by Mr Tully, Lot 83, South Punyelroo Road, South Punyelroo (site abutting subject land on upstream side)

Submission dated 16 July 2012:-

- *Increased site filling will result in sludge and silt build-up upstream of the subject site, due to the 'weir-like' structure building built on the subject site.*
- *The total building height will exceed 7.5m.*
- *By allowing filling in this application, it sets grounds for the same type of proposal to take place on lot 84, which is the vacant site upstream of Mr Tully's property.*

Submission dated 24 November 2011:-

- *Any flood that is lower than the top of the elevated pad platform for the new dwelling will cause major issues on the upstream side, as at least half Mr Tully's property will consequently function as a reservoir.*
- *When flood waters recede, the water will not be able to drain from Mr Tully's property – instead the water would need to soak into waterlogged ground, which is likely to increase cleanup time after a flood by weeks, also increasing incidence of mosquitoes.*
- *The development will involve construction of a 'massive' earthen ramp from the site's north-western corner.*
- *The development will offend Council's Development Plan by having living areas downstairs and having removable panels.*
- *The development is "Seriously at Variance" with the Mid Murray Council Development Plan and should be refused. Alternatively, the filling that is proposed should be removed from the proposal, and dwelling built on natural ground level.*

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Response from Applicant, W Owen (On behalf of the Applicant, J Offler)

- *Mr Tully’s submission incorrectly claims that the height increase will be 900mm build-up at it’s highest point. The maximum build-up proposed is 600mm from the lowest point.*
- *Mr Tully’s submission incorrectly claims that a “28m high wall’ will be constructed, that will dam the flooding River. The wall is in fact 15.2m in length.*
- *The proposed development will not result in ‘damming’ of the river or accumulation of silt and debris upstream of the site, on the basis that:*
 - a) *Circulation of flood waters in this area are dynamic – much of the flow is from the backwater lagoon on the upstream side, rather than just from the main channel on the upstream side;*
 - b) *The extent of flooding in terms of width (not including the main channel) of this section of South Punyelroo is some 200m or more;*
 - c) *The existing shack (now demolished) was built to the ground, with a solid wall in the exact location as for the new retaining wall, thereby having a similar design effect as that now proposed. There was no evidence of water, silt or debris being retained by that previous construction;*
 - d) *Flood waters will obey gravity. The extent of filling proposed is not substantial enough to alter flood flows – the flows will simply go around the raised pad, in the same way it did around the existing shack (now demolished) and Mr Tully’s shack. None of the shacks in this area accumulated silt/water on the upstream side.*
- *Mr Tully’s claim in his submission regarding the “massive earthen ramp” is an exaggeration. The ramp will be sympathetic to the surrounds, and be designed with pipes under the driveway ramp to assist with flow, such that it does not impede flood waters.*
- *Mr Tully’s submission incorrectly claims that raising the pad height is in order to accommodate a ski boat underneath. The ski boat will be accommodated within a shed (also proposed in this application). Raising the pad height is in consequence to flooding – to properly plan to minimise impact of flood waters.*
- *The proposal does not seek to create living areas downstairs. The ground floor storage area will be enclosed in accordance with Council’s requirements.*

From my review of the representations and the applicant’s response, I can confirm that:-

- The hydrological report and contour survey has removed all doubt as to what the existing site levels are and what the finished ground floor level will be. The following conclusions can be drawn from reviewing both documents:-
 - a) The site levels where the dwelling is proposed varies between 1.96m AHD and 1.65m AHD (variation of 310mm);

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- b) The dwelling is proposed to have a finished ground floor level of 2.25m AHD, meaning that max filling of 500mm is needed plus 100mm concrete floor;
 - c) The dwelling will be elevated up to the underside of the elevated floor 2.7m, with a 350mm thick floor and finished elevated floor level of 5.3m AHD;
 - d) The distance between the elevated floor (4.95m AHD) and the lowest and highest points of existing ground level is 3.3m and 3.03m respectively.
 - e) The concrete slab for the dwelling will form the 'retaining wall' on its eastern, northern and southern sides, having an average height of about 350mm;
 - f) A compacted rubble ramp is proposed to span the full length of the dwelling's western side, having a grade of 1:10, involving max vertical filling of 600mm.
- It is apparent the raised pad is not for the purpose of accommodating a boat underneath. The dwelling will be elevated up 2.7m above the finished ground floor level, which is consistent with Council's Development Plan. Most wake boats will not fit their tower underneath a clearance of 2.7m.
 - Living areas are not proposed downstairs, other than the wet area of less than 15m², which is permitted under Council's Development Plan. In addition, the ground floor storage area will comply with Council's Development Plan insofar as it is less than 54m² and will be enclosed using roller doors/'removable panels'.

Any outstanding issues raised by Mr Tully which have not been addressed above are discussed under the "Assessment" section of this report. In particular, the discussion is given under sub-headings "Appearance of Development", "Flood Impact", "Car Parking" and "Vehicular Access".

RELEVANT PROVISIONS OF THE MID MURRAY COUNCIL DEVELOPMENT PLAN

River Murray Zone

Objectives: 1, 2, 4, 5, 6, 7, 8, 9, 10, 18, 20 & 21

Principles of Development Control: 16, 17, 18, 19, 20, 21, 22 & 23

Shack Settlement Policy Area

Objectives: 1, 2, 3 & 5

Principles of Development Control: 1, 2, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 25, 26, 27, 29, 30 & 31

ASSESSMENT

Land Use

The following forms of development are listed as being ‘acceptable’ in the Shack Settlement Policy Area:-

- *A replacement dwelling, or a new dwelling on a vacant allotment, which is connected to a communal wastewater management scheme and includes all living areas elevated above ground level to minimise the risk of flooding;*
- *Alterations and additions to an existing dwelling (in accordance with total floor area and site coverage restrictions);*
- *A residential outbuilding which includes a garage, carport or shed, or ancillary structures such as a pergola or garden shelter/gazebo (in accordance with total floor area and site coverage restrictions);*
- *Alterations and additions to a residential outbuilding (in accordance with total floor area and site coverage restrictions);*
- *Minor recreation uses such as a playground, BBQ area, picnic shelter that is accessible to the general public;*
- *Access roadways and essential residential infrastructure;*
- *A jetty or a floating pontoon provided there is not more than one river structure per dwelling site;*
- *Water supply pump and related infrastructure provided that there is not more than one per dwelling site;*
- *Land division in the form of a boundary realignment to remove an anomaly in the current boundaries with respect to the location of existing buildings or structures; and*
- *Land division to realign a public road reserve or to create a public road or public reserve. (my underlining)*

The proposed development, being the construction of an elevated dwelling and shed, are both clearly envisaged in the Shack Settlement Policy Area, as highlighted above.

Appearance of Development

“Appearance of Development” is taken here to refer to the height, setbacks, bulk and scale and design of the dwelling and shed. All of these issues are to some extent inter-related with one another and so are difficult to separate into distinct elements. For ease of understanding, they have been grouped under sub-headings below.

Building Height

With respect to the dwelling, Principle of Development Control 9 of the Shack Settlement Policy Area states that:-

- 9** *Dwellings should not exceed the following maximum heights:*
- a) *One habitable storey of 2.7 metres;*
 - b) *Roof of 1.8 metres;*
 - c) *Underfloor clearance of 2.5 metres;*
 - d) *Total combined height of 7.5 metres. (my underlining)*

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The proposed dwelling will have a maximum height above finished floor level of 6.9m. With the additional filling proposed at its maximum (600mm), the maximum building height comes to 7.5m. This is consistent with the maximum building height anticipated under Principle of Development Control 9.

With respect to the shed, Principle of Development Control 18 states that:

18 An outbuilding or structure should:

- a) Be located behind the dwelling, not the river side of the dwelling so as not to detract from the character of the waterfront;
- b) Be substantially smaller in building envelope, height and scale than the dwelling;
- c) In the case of a garage, carport or shed, have a roof pitch between 15 to 25 degrees;
- d) Have a maximum roof span of 6m and a maximum wall height of 3.2m;
- e) In the case of a garage or shed, be fitted with roller doors, openings or similar on two ends or sides (whichever elevations face the direction of the river flow). (my underlining)

The shed will have a wall height of 3.3m and a roof pitch of 17 degrees. The building's roof pitch is acceptable in the Policy Area, though I note the wall height is marginally higher (100mm) than the maximum standard.

Having regard to the positioning of the shed (south-western corner of the site), which I note is away from the River and being largely screened by vegetation, I consider this 100mm departure to be negligible.

Side Building Setbacks

Council-wide Principle of Development Control 263 states that:-

	Height	Setback Distance
<i>Side Wall</i>	< 3m	1m
	> 3m and < 6m	(a) <u>3m if wall located adjacent to the southern boundary of the allotment;</u> or (b) <u>2m in all other situations.</u>
	> 6m	(a) minimum of 3m plus a distance equal to the measurement of the increase in wall height above 6m if the wall is located along the southern boundary of the allotment; or (b) a minimum of 2m plus a distance equal to the measurement of the increase in wall height above 6m in all other situations.
<i>Rear</i>	Single storey	6m (with a 3m incursion into this setback of portion of the building where that portion has a width no greater than half the width of the allotment).
	Two Storey	8m from the two storey component of the dwelling.

The dwelling will have a wall height at the side ends of the building of 2.4m. Given that the side ends at ground floor level are not proposed to be enclosed, the wall height of the underfloor wet area and storage enclosure has not been included.

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The dwelling will be setback 3m from the upstream side boundary at its nearest dimension and 14.3m from the downstream side boundary. This is consistent with the side setbacks anticipated under Council Wide Principle of Development Control 263.

The shed will have a wall height of 3.3m, meaning that it should be setback 2m from the downstream side boundary. As mentioned earlier, the shed is proposed to be setback 900mm from that boundary, some 1.1m less than the minimum standard.

Despite this variation, the site abuts 'common reserve' area under ownership of South Punyelroo Progress Association Inc. The positioning of the shed in this location will have no untoward consequences – therefore, I consider it to be acceptable.

Front Building Setback

Council Wide Principle of Development Control 261 states that:-

261 *Setback of dwellings from public roads should:*

- a) Contribute to the desired character of the streetscape;*
- b) Be similar to or compatible with setbacks of buildings on adjoining land and dwellings in the locality; and*
- c) Not dominate the streetscape character of the locality.*

The dwelling will be sited 13.4m to its western boundary which compares with the setback of Mr Tully's dwelling at 18.2m. Despite this, I consider the siting of the dwelling to be acceptable given that:-

- a) The access track is basically a private track serving this site and other sites. The lagoon on the opposite side of the track screens any view of the building.
- b) The side setback from the western boundary is still significant (13.4m) and is reflective of the setback of other buildings in the locality (i.e. Lot 87).
- c) By allowing the building nearer to the road boundary, this allows for an increased setback from the river, which is of greater importance.

Overall, I consider this aspect of the development to be acceptable.

Bulk and Scale

Principles of Development Control 6, 7 and 16 of the Shack Settlement Policy Area state that:-

6 *On allotments intended for residential purposes, the total ground area covered by buildings should not cover greater than 70% of the allotment. Buildings include but are not limited to:*

- a) A dwelling (floor area including all additional roofed area); and*
- b) Outbuildings including a garden shed, carport, garage, pergola, gazebo or other roofed structure (including permeable or semi-permeable material such as shade sails) and other open sided structures (but not including a rainwater tank or other water storage tank or tank stand).*

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- 7 *A dwelling should not exceed the following:*
- a) *In the case of an elevated dwelling, a maximum elevated floor area of 300 square metres (ie. excluding any permitted underfloor enclosure and ground level wet area);*
 - b) *In the case of a ground level dwelling, a maximum total floor area of 90 square metres but not including the floor area described in part (c);*
 - c) *In any case, a maximum total floor area of 15 square metres at ground level for use as a wet area (a bathroom, toilet or laundry or any combination).*
- 16 *The number and size of a residential outbuilding or ancillary structure (but not including a water storage tank or a tank stand) per dwelling should be limited in accordance with the following:*
- a) *One garage, one carport or one shed for domestic storage, or a combination of these (under the same roof), provided in any case, the outbuilding does not exceed 54 square metres in floor area or roof area;*
 - b) *An open sided structure such as a pergola (solid roof or shade cloth or similar) or a gazebo or other roofed structure, or a deck area, provided the total floor area or roof area does not exceed 20 square metres.*

The dwelling will have a total footprint of 298m². When the additional footprint of the shed is included, the total area of building's on-site will be 352m². The site has an approximate area of 1,300m², meaning that the proposed site coverage will be 27%.

The dwelling's footprint (even including balconies) is less than the maximum floor plate envisaged under Principle of Development Control 7(a). In addition, the total site coverage is well below the maximum permitted of 75%.

With respect to the shed, this will be the only enclosed outbuilding constructed on the site, and will have a total floor area of 54m², which is consistent with the maximum permitted under Principle of Development Control 16, quoted above.

Building Design

The Desired Future Character Statement for The Shack Settlement Policy Area states that:-

The Policy Area has and will continue to exhibit a unique residential character and physical form of development that seeks to achieve the following:

- (h) *Buildings of individual designs (but not including designs that are identified as inappropriate in Table MiMu/4) which contribute to a consistent architectural theme through external building colours that blends with the natural environs. Design and floor plans for buildings of individual design should have an absence of fussy architectural detailing, inclusion of verandahs, appropriate pitch and forms of roof, limits on building height and building envelopes and appropriate use of materials.*

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The proposed dwelling is contemporary in style, having a central 'module' with angled roof at 3 degree pitch in Colorbond cladding, with 'wings' to either side, also having angled roofs but in different plane, at 5 degree pitch in Colorbond cladding.

The proposed architectural style is envisaged within the Policy Area. Lightweight cladding is used in natural tones, with high proportions of glass to the river elevation. Balustrades are open, with wide balconies featured under the main roof.

Overall, I find the external design of the dwelling to be acceptable.

View Impact

Principle of Development Control 8 of the Shack Settlement Policy Area states that:

- 8** *The construction, alteration or addition to a dwelling should not occur where one or more of the following is achieved:*
- a) *The principal facade of the proposed dwelling is sited forward (in the direction of the river) of the principal facade of a dwelling on an adjoining allotment on either side as illustrated in the following figure:*
 - b) *The development encloses an existing verandah or deck or similar outdoor area on the river side of the existing dwelling;*
 - c) *A verandah, pergola, deck or balcony exceeds a depth of 3.0 metres measured from the principal facade of the dwelling (unless no part of the verandah, pergola, deck or balcony is forward of the alignment of the principal facade of the adjoining dwelling on either side as illustrated in Figure 8.1);*

The dwelling is proposed to be setback at its projecting end of the balcony about 11m from the water's edge of the River Murray (as at 24 October 2012), which compares with the projecting end of Mr Tully's balcony at about 9.3m.

If one were to draw an 'imaginary line' extending the 'principal facade' of Mr Tully's dwelling across the subject site, I note that no part of the 'principal facade' of the proposed dwelling would encroach beyond that line.

It is clear the new dwelling will not obstruct views of the river, enjoyed by Mr Tully's dwelling while standing at elevated or ground level. Therefore, I believe the siting for the new dwelling is acceptable.

Overshadow Impact

Council Wide Principles of Development Control 245 and 246 state that:

- 245** *Development should ensure that north-facing windows to habitable rooms of existing dwelling(s) on the same allotment, and on adjacent allotments, receive at least 3 hours of direct sunlight over a portion of their surface between 9am and 5pm on the 21st June.*

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246 *Development should ensure that ground-level open space of existing buildings receives direct sunlight for a minimum of two hours between 9.00am and 3.00pm on 21st June to at least the smaller of the following:*

- a) Half of the existing ground-level open space; or*
- b) 35 square metres of the existing ground-level open space (with at least one of the area's dimensions measuring 2.5 metres).*

The dwelling is proposed to be sited 3m at its nearest dimension to the upstream side boundary. Given that the site is located directly south of Mr Tully's site, the proposed dwelling is not expected to overshadow that property in any way.

In addition, I note the dwelling is proposed to be setback 14.3m from the downstream side boundary. The substantial side setback on that side means that the majority of the overshadow cast by the building will be internal to the site.

Given all of the above, this aspect of the development is considered to be acceptable.

Overlooking Impact

Council-wide Principle of Development Control 274 states that:

261 *Direct overlooking from habitable room windows and onto the useable private open spaces of other dwellings from windows, especially from upper-level habitable rooms and external balconies, terraces and decks, should be minimised through the adoption of one or more of the following:*

- a) Building layout;*
- b) Location and design of windows and balconies;*
- c) Screening devices;*
- d) Landscaping; or*
- e) Adequate separation.*

There will be some opportunity for persons standing within the elevated balcony and upper storey rooms and living spaces of the dwelling to look into the balcony and yard of Mr Tully's property. This situation is partly unavoidable, given that new dwellings in the Shack Settlement Policy Area must be elevated.

In addition, high screens, fences and the like are not part of the envisaged character for the Shack Settlement Policy Area, given that such structures have the potential to impede flood waters while also obstructing views of the River Murray. As such, some overlooking of adjoining properties must be tolerated.

Despite this, I believe overlooking will still be minimised. Due to the dwelling being sited slightly further back from the water's edge than Mr Tully's dwelling, the balcony on the upstream side will be positioned adjacent the solid downstream end wall of Mr Tully's dwelling, consequently alleviating much of the views between the two balconies.

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To provide some privacy to Mr Tully's balcony, I recommend that a condition be imposed, requiring that a privacy screen be fixed to the upstream end of the last bay of 2.94m wide (i.e. nearest to the river). Screens are not deemed necessary on the other bays, because they will be located opposite to the solid end wall of Mr Tully's residence.

Subject to this condition, I consider this aspect of the development to be acceptable.

Flood Impact

The subject site is located wholly within the 1956 flood level of the River Murray. I have separated the discussion for the dwelling and shed under headings below.

Dwelling

Objective 4, Principle of Development Control 9 and 13 state that:

Objective 3: *Buildings, or structures, or levee banks, or earth mounds which do not impede or be damaged by flood waters.* (my underlining)

9 *Dwellings should not exceed the following maximum heights:*

- a) *One habitable storey of 2.7 metres;*
- b) *Roof of 1.8 metres;*
- c) *Underfloor clearance of 2.5 metres;*
- d) *Total combined height of 7.5 metres. (my underlining)*

13 *The underneath area of an elevated dwelling should only be enclosed (excluding the 15 square metres maximum of allowable wet area) in accordance with the following:*

- a) *The floor area enclosed by any of the above acceptable methods of enclosure does not exceed 54 square metres in total floor area;*
- b) *Notwithstanding part (a), at least one third of the underfloor area remains open (not enclosed) from the principal river elevation through to its opposite elevation (without screening or walls whether permanent or removable) such that there is at least one underneath area that is permanently open on three sides from the river through to the opposite elevation;*
- c) *The enclosure is designed to open up to allow flood water through the enclosure or is comprised of panels that can be easily removed to a site above the 1956 flood plain in the event of a flood;*
- d) *Acceptable methods of enclosure are: roller doors; tilt-up panel doors; roller blinds / awnings; removable panels that can be detached from the support structure and handled easily by two people without mechanical assistance; and external cladding (without internal lining) screw fixed spanning the width of one removable panel (such as cement fibre sheeting, pre-coated steel or timber);*

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- e) *Where removable panels are proposed:*
 - i) *No panel exceeds the dimensions of 3m by 2.7m;*
 - ii) *The panels are designed and incorporate materials that allow easy removable and handling, without requiring demolition, destruction or engineering assistance to achieve removal;*

- f) *The method of enclosure or other internal fittings and fixtures does not include:*
 - i) *Permanent fixed cladding;*
 - ii) *Cladding fixed to permanent framework;*
 - iii) *External cladding spanning more than one removable panel width;*
 - iv) *Internal cladding;*
 - v) *Sliding doors or glass doors and floor-ceiling windows;*
 - vi) *Floor fixtures and coverings;*
 - vii) *Ceiling linings other than where the underside of an elevated dwelling must be protected with a non-combustible sheet material to meet the requirements of the relevant legislation to comply with buildings constructed in bushfire risk areas.*

The dwelling is proposed to be elevated 2.7m from finished ground floor level up to the underside of the elevated floor. This is the maximum permitted in the Shack Settlement Policy Area, without triggering a non-complying assessment.

However, the applicant wishes to raise the pad platform for the dwelling between 290mm and 600mm above existing ground level. When the 600mm of fill is included, then the actual underfloor clearance at its highest dimension will be 3.3m.

This aspect of the development exceeds the desired clearance of 2.5m as sought under Principle of Development Control 9(c) by some 800mm and exceeds the maximum “on-merit” limit of 2.7m by some 600mm.

While this departure from the Development Plan is acknowledged, I am able to support the underfloor clearance for the following reasons:-

- a) The site levels vary by some 310mm. As a result, even if the applicant desired to keep the finished floor level as low as possible, they would still need to undertake filling at the low points of the site by some 300mm or so.
- b) While some increase in filling is proposed for the purpose of offering the new residence greater flood immunity, the finished ground floor level is estimated to be only about 250mm higher than Mr Tully’s dwelling.
- c) The underfloor clearance of the building itself will be 2.7m. It is not as if the actual underfloor clearance is proposed at 3.3m. The remaining 600mm of site build-up is mainly at the western elevation, which is not in view of the river.

The underfloor area beneath the elevated dwelling is proposed to remain open, with the exception of a ground floor storage area of 54m², and underfloor wet area of 13.2m², both of which are permitted in the Shack Settlement Policy Area.

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The storage area will be enclosed using roller doors and removable panels. The applicant has submitted a removable panel layout, demonstrating how the panels will be constructed, such that they can be easily removed in the event of a flood.

In summary, the underfloor clearance proposed exceeds the maximum clearance, but mainly due to the 600mm of filling proposed. The enclosure of the area underneath the dwelling is consistent with the Shack Settlement Policy Area provisions.

Mr Tully has objected to the development on grounds that the proposed build-up/retaining walls and the proposed ramp will cause flooding and silting/erosion issues of his property.

I have considered this issue in detail and believe the proposed development is unlikely to cause flooding of his property or result in greater incidence of silting/sludge, for the following reasons:-

- a) The site previously contained an elevated dwelling, which had enclosure of its ground floor, which I understand was enclosed in a manner not consistent with Council's Development Plan. The enclosure at ground level would have similar design effect as that now proposed. The applicant has indicated that there has been no evidence of water, silt or debris being retained by the previous construction.
- b) Mr Tully has an enclosure of his dwelling at ground floor level on its upstream end. Inspection of that area suggests that it is not enclosed of removable panels, and that in the past flood event, the enclosure was not removed. If silt were to accumulate anywhere in the locality, one would expect that it would accumulate on the upstream side of that shed.
- c) DEWNR, in their referral response dated 7 August 2012, have confirmed that "*the proposed development is unlikely to adversely impact on the natural flow regime of the River Murray system*".
- d) The applicant has submitted a hydrologist report, prepared by a qualified consulting engineer, in support of the development. This report has nominated the desired finished ground floor level and finished elevated floor level, and recommended that a culvert crossing be provided underneath the ramp. The report has concluded that the development will have no unreasonable flood impacts, principally because:-
 - i) The width of the river under a 90,000 ML/day flow event is some 900m, only 200m less than the 1956 flood level scenario;
 - ii) The proposed development will have a footprint of 2% of the overall flood water width during a major flood;
 - iii) The shape of the allotment and location of its ridge, means that floodwaters are likely to recede east toward the river and west toward the lagoon.

I concur with the key conclusions contained in the hydrologist report.

For these reasons, I consider the flood impacts of the dwelling component to be acceptable.

Shed

18 An outbuilding or structure should:

- a) *Be located behind the dwelling, not the river side of the dwelling so as not to detract from the character of the waterfront;*
- b) *Be substantially smaller in building envelope, height and scale than the dwelling;*
- c) *In the case of a garage, carport or shed, have a roof pitch between 15 to 25 degrees;*
- d) *Have a maximum roof span of 6m and a maximum wall height of 3.2m;*
- e) *In the case of a garage or shed, be fitted with roller doors, openings or similar on two ends or sides (whichever elevations face the direction of the river flow).* (my underlining)

The shed is proposed to have sliding doors fixed to its front and rear ends (east and west) and personal access doors on opposing sides in the direction of the river flow (north and south). This complies with (e) quoted above.

Native Vegetation Impact

Objective 8 of the River Murray Zone states that:-

Objective 8: *Minimum disturbance to the shape of the bank and riparian native vegetation in any development of river front land.* (my underlining)

The site is devoid of any vegetation where the dwelling and shed are proposed. That said, I note the dwelling will be sited 2m from a large River Red Gum next to the site's upstream side boundary and 5m from another large River Red Gum, west of the dwelling.

Both trees can be retained as a consequence of the proposed development. In the absence of an arborist report, it is unclear what impact the footings for the new construction will have on either tree.

While that is unknown, I note that DEWNR, in their referral response dated 7 August 2012, did not raise any objection with the siting of the dwelling and its impact on either of these trees.

Private Open Space

Council Wide Principle of Development Control 269 and 270 state that:-

269 *Dwellings, particularly those with ground-level habitable rooms should include private open space that conforms to the requirements identified in the following table:*

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Site area of dwelling	Minimum area of private open space	Provisions
<u>250m² or greater</u>	<u>20% of site area</u>	<p><u>Balconies, roof patios, decks and the like, can comprise part of this area provided the area of each is 10m² or greater.</u></p> <p><u>One part of the space should be directly accessible from a living room and have an area equal to or greater than 10% of the site area with a minimum dimension of 5m and a maximum gradient of 1 in 10.</u> (my underlining)</p>
Less than 250m ²	35 m ²	<p>Balconies, roof patios, decks and the like, can comprise part of this area provided the area of each is 8m² or greater, with a minimum dimension of:</p> <ul style="list-style-type: none"> a) 2.5m for ground level or roof-top private open space; b) 2.0m for upper level balconies or terraces. <p>One part of the space is directly accessible from a living room and has an area of 16m² with a minimum dimension of 4m and a maximum gradient of 1 in 10.</p>

270 *Balconies should made a positive contribution to the internal and external amenity of residential buildings and should be sited adjacent to the main living areas, such as the living room, dining or kitchen, to extend the dwelling's living space.*

The subject site has a total area of about 1,300m². Given that the site area exceeds 250m², at least 20% of the site's area should be available as 'private open space'. One part of this space must comprise at least 10% of the site area and be accessible from a living room, have a minimum dimension of 5m and a maximum gradient of 1 in 10.

A main covered balcony is proposed, to the front and sides of the living/dining/kitchen area, having a variable depth of between 2.9m and 7.9m and having a maximum length of 19m. In addition, private balconies are proposed to the western elevation, adjacent the kitchen, and ensuite of bedrooms 1 and 2. The total balcony area will be some 166m².

The balconies will be covered, will be of level grade, will be directly accessible to the internal living and sleeping areas of the dwelling, will have a minimum dimension of at least 5m, will be of desirable orientation and view and comprise more than 10% of the site's total area.

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In addition, the dwelling will be setback some 10m from the water's edge. Given that the site is about 37m long, an additional 370m² of grassed area by the waterfront will be available as 'private open space'. This area will be shaded by the large Eucalypts, have a desirable view of the river, be of useable dimension and be of relatively level slope.

Overall, the amount and quality of private open space proposed is acceptable, having regard to the above quoted Principles of Development Control.

Energy Efficiency

Council Wide Principles of Development Control 224, 225 and 228 state that:-

- 211** *Development should provide for efficient solar access to buildings and open spaces all year around.*
- 212** *Buildings should be sited and designed so that the open spaces associated with the main living areas face north for exposure to winter sun.*
- 215** *Development should be designed to minimise consumption of non-renewable energy through designing the roof of buildings with a north facing slope to accommodate solar collectors.*

The dwelling design has had regard to energy efficiency performance in terms of its layout and design. Wide balconies are proposed to be fixed to the northern and eastern elevations, all living areas have substantial access to light, and the internal layout is designed to allow for independent heating and cooling of separate parts of the building.

Due to the site facing South Punyelroo Road to the west, bedrooms 1 and 2 will face in that direction which is not ideal, but is unavoidable in the circumstances. That said, balconies are proposed to the full length of the western end of the building, thereby providing some screening effect over the west facing windows.

Overall, the dwelling design will achieve a reasonably high level of energy efficiency from a planning perspective. In addition, the applicant will need to obtain a mandatory 6 star energy efficiency rating under the Building Rules assessment against the Building Code of Australia.

Stormwater Discharge

Principle of Development Control 20 of the River Murray Zone states that:-

- 20** Site drainage should:
 - a) include, where practicable, on-site stormwater detention, retention and use, including the collection and storing of water from roofs and communal car parks in appropriate devices;
 - b) provide on-site infiltration where practicable, having regard to:
 - i. *the availability of unbuilt upon or unsealed areas;*
 - ii. *the ability of soils to absorb water;*
 - iii. *the ability of building footings on and adjacent to the site to withstand the likely effects of retained water; and*
 - iv. *potential adverse impacts on the level and quality of groundwater;*

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- c) *allow convenient access to all components of the drainage system for maintenance purposes;*
- d) *not cause damage or nuisance flows on-site or to adjoining properties; and*
- e) *not cause contamination of surface water. (my underlining)*

Stormwater from the roof of the dwelling is proposed to be discharged via gutters and downpipes into two rainwater tanks, one being a poly tank located underneath the dwelling and the other being a fire fighting tank of 5,000 litres. It will be a condition of the Development Plan Consent, that the poly tank has a capacity of at least 10,000 litres.

Roof water from the tanks, in the event that they are full, is proposed to be directed to lawned area east of the dwelling, via level spreader. Surface waters are expected to drain away from the dwelling, given that it will be lifted up between 300mm and 600mm above existing ground.

Bushfire Impact

The site is located within a “general” bushfire risk area. Council Wide Principles of Development Control 394 and 400 state that:-

- 394** *Residential, tourist accommodation and other habitable buildings should:*
- a) *be sited on the flatter portion of allotments and avoid steep slopes, especially upper slopes, narrow ridge crests and the tops of narrow gullies, and slopes with a northerly or westerly aspect;*
 - b) *be sited in areas with low bushfire hazard vegetation and set back at least 20 metres from existing hazardous vegetation; and*
 - c) *have a dedicated water supply available at all times for fire fighting which:*
 - i. *is located adjacent to the building or in another convenient location on the allotment accessible to fire fighting vehicles;*
 - ii. *comprises a minimum of 5,000 litres in areas shown as General or Medium Bushfire Risk on Bushfire Protection Area figures; or*
 - iii. *comprises a minimum of 22,000 litres in areas shown as High Bushfire Risk on Bushfire Protection Area figures.*
- 400** *Development in a Bushfire Protection Area should be in accordance with those provisions of the Minister’s Code: Undertaking development in Bushfire Protection Areas that are designated as mandatory for Development Plan Consent purposes.*

The applicant has incorporated provision for a supply of water for fire fighting in the form of a fire fighting tank, to be positioned east of the shed, next to the site’s upstream side boundary. The tank is located in a position where it may be accessed by a fire fighting truck, parked within the entrance road.

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The tank is compliant with Council Wide Principle of Development Control 394, quoted above. In addition, I note additional supply of water in the form of the river, is also available for fire fighting, in the event that the 5,000 litre fire fighting tank is empty. Overall, this aspect of the development is considered to be acceptable.

Effluent Disposal

Principle of Development Control 25 of the Shack Settlement Policy Area states that:-

25 Sewage and sullage shall be disposed through any of the following options:

- a) a sewerage scheme;
- b) into a septic tank connected to a septic tank effluent disposal scheme;
- c) other authorised waste treatment and disposal systems where effluent is not stored or disposed on the flood plain;
- d) septic tank holding tanks where the total number of dwellings in the Shack Settlement Policy Area is less than five dwellings, including allowance for eventual utilisation of vacant sites; and
- e) in all cases there is no land based disposal in the Policy Area or the adjoining Flood Plain Policy Area. (my underlining)

The site has a connection point to the South Punyelroo Communal Wastewater Management Scheme (CWMS). The applicant has obtained Council approval to connect the new dwelling to the South Punyelroo CWMS (S167/10). Subject to connection, the effluent disposal arrangements satisfy Principle of Development Control 3, quoted above.

Car Parking

Council Wide Principle of Development Control 36 states that:-

36 Development should be provided with off-street car parking on the site, or on a suitable site nearby, in accordance with the standards in Table MiMu/1 and provide parking areas with suitable access for the disabled. (my underlining)

A specific car parking rate is set for a “detached dwelling” under Table MiMu/1 “On-Site Car Parking” as follows:-

Detached Dwelling, Semi Detached Dwelling and Row Dwelling

2 parking spaces per dwelling including one undercover plus 1 additional parking space for a dwelling containing 4 bedrooms or more (my underlining)

The dwelling has 2 bedrooms meaning that it must provide two car parking spaces, one of which must be covered. As mentioned earlier, the underfloor of the elevated dwelling will remain open, other than a ground floor storage area of 54m² and underfloor wet area of 13.4m². This leaves 230m² of ‘open’ area at ground level.

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The ground floor storage area is not intended to accommodate parking of vehicles. However, I note the 'open' area at ground level is capable of accommodating room for at least another four vehicles undercover. Clearly, this aspect of the development is compliant with Table MiMu/1 as highlighted above.

Vehicular Access

Due to the dwelling being lifted up at the western end some 600mm, it is obviously necessary to construct a graded ramp from the entry access track up to the open underfloor beneath the elevated dwelling. In this regard, a compacted rubble ramp is proposed to span the full length of the dwelling's western side.

It is my view that the ramp need not extend the full length of the building's width. The ground floor plan suggests that a single vehicle may park underneath the upstream end bay (northern end), with the next available parking space being some 3 bays further downstream.

I estimate that 9.84m of the upstream end of the ramp will be constructed, that will serve only one car parking space. This seems excessive, given that two of the three bays opposite the ramp will not be useable, because they will be occupied by the rainwater tank and underfloor wet area.

To avoid the ramp being constructed in close proximity to Mr Tully's property, it seems reasonable to me that the wet area (to line up with the upstream end of the storage area) and rainwater tank be shifted further upstream, thereby allowing for a vehicle to park where the rainwater tank and wet area are currently positioned.

The applicant has been notified of this, and has agreed that it will accept a condition requiring that this change be made to the ground floor plan and elevation plans. This will mean that a ramp shall not be constructed within 6.5m of the upstream end of the dwelling.

Subject to this change being made, I believe the ramp will have limited impact on flood waters. The ramp will be constructed at a grade not exceeding 1 in 10 and will incorporate provision of a longitudinal culvert, thereby allowing flood waters to flow underneath the ramp in the event of a flood.

CONCLUSION

The site is zoned for the purpose of building an elevated dwelling. The proposed development satisfies the majority of the relevant provisions of the Mid Murray Council Development Plan.

I acknowledge that some standards in Council's Development Plan will be offended, most importantly relating to the underfloor clearance height, which is proposed to be 3.3m, after filling is taken into account.

The key issue associated with the proposal is with the extent of filling proposed, which has implications for other key planning issues relating to building height, underfloor clearance height, flood impacts and vehicular access.

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While the extent of filling proposed is at the outer margins of what I believe is ‘reasonable’, I am able to support the development, subject to the additional conditions imposed/included in the recommendation.

RECOMMENDATION

moved that pursuant to Section 35(2) of the *Development Act 1993* that the proposed development is not “Seriously at Variance” with the relevant provisions of the Mid Murray Council Development Plan (Consolidated 19 April 2012) and that pursuant to Section 33(1)(a) of the *Development Act 1993*, Development Plan Consent be granted to Development Application 711/221/12, subject to the concurrence of the Development Assessment Commission and the following conditions and notations:-

Conditions

1. The development shall be carried out in accordance with the details submitted with the application and the following approved plans, other than where required to be varied by conditions 2-20 inclusive:

Plan Number	Plan Type	Dated	Prepared By
DWG No. 211-035 Sheet No. 1 Amendment B	Site Plan	18.10.12	Plans Ink.
DWG No. 211-035 Sheet No. 2 Amendment B	Floor Plan	18.10.12	Plans Ink.
DWG No. 211-035 Sheet No. 3 Amendment B	Upper Floor Plan 1	18.10.12	Plans Ink.
DWG No. 211-035 Sheet No. 4 Amendment B	Upper Floor Plan 2	18.10.12	Plans Ink.
DWG No. 211-035 Sheet No. 5 Amendment B	Elevation A & B	18.10.12	Plans Ink.
DWG No. 211-035 Sheet No. 6 Amendment B	Elevation C & D	18.10.12	Plans Ink.
Not Stated	3D Perspective View – Angle, 1, 2, 3 and 4	18.10.12	Plans Ink.
Not Stated	Statement of Effect	Not Stated	Jeff Offler
Pages 01, 02 and 03	Shed – Elevation Plan	Received by Council dated 30.11.12	Jeff Offler
12058-1b	Hydrologist Report	31.10.12	Southfront Consulting Engineers

2. The ground floor storage enclosure and domestic outbuilding (shed) shall not be used for human habitation, commercial or industrial purposes, at any time.

- 3. Except where otherwise approved, all exterior surfaces of the dwelling (including attached covered balconies, steps, underfloor wet area and storage enclosure) and domestic outbuilding (shed) shall:-**
 - a) be of non-reflective materials; and**
 - b) be of natural tones, in accordance with the Approved Elevation Plans, prepared by Plans Ink., dated 18 October 2012 and the Approved Elevation Plan, prepared by Jeff Offler, received by Council dated 30 November 2012; and**
 - c) be maintained in good and reasonable condition at all times.**
- 4. The domestic outbuilding (shed) shall be fitted with openings on opposing sides in the direction of the river flow, in accordance with the Approved Elevation Plan, prepared by Jeff Offler, received by Council dated 30 November 2012, at all times.**
- 5. The ground floor storage enclosure shall be enclosed using removable panels and roller doors, which can be easily removed (or opened up in the case of roller doors) in the event of a flood, in accordance with the Approved Ground Floor Plan, prepared by Plans Ink., dated 18 October 2012.**
- 6. The dwelling shall be connected to the South Punyelroo Communal Wastewater Management Scheme (CWMS) via an approved connection under the *Public & Environmental Health Act 1987*, at all times.**
- 7. Stormwater shall be managed on the site at all times, such that:**
 - a) all roof water from the dwelling (including attached covered balconies) and domestic outbuilding (shed) is directed into rainwater tanks having a total capacity of at least 15,000 litres; and**
 - b) any rainwater tank overflow, in the event that the tank (or tanks) are full, is discharged away from the dwelling and from adjoining privately owned land; and**
 - c) any surface stormwater collected by impervious areas constructed on-site, shall be directed away from the dwelling and from adjoining privately owned land; and**
 - d) stormwater (roof water and/or surface stormwater) does not flow onto, or cause nuisance to adjoining privately owned land at any time.**
- 8. Except where otherwise approved, the freestanding sides of the attached covered balconies and steps shall remain open at all times. No walls being permanent or semi-permanent shall be attached to these sides of the attached covered balconies and/or steps at any time.**
- 9. Except where otherwise approved, the underside area of the elevated dwelling (including underneath the attached covered balcony and steps) shall remain open and unobstructed at all times. This means that no material or object shall be fixed or placed permanently or temporarily to enclose any part of the underside area of the elevated dwelling (including underneath the attached covered balcony and/or steps) at any time.**

- 10. A dedicated water supply for fire fighting purposes of at least 5,000 litres shall be available at all times for bushfire fighting purposes, in accordance with the Approved Site Plan, prepared by Plans Ink., dated 18 October 2012.**
- 11. The dwelling shall be connected to rainwater tanks, having a total capacity of at least 15,000 litres, at all times, so as to ensure that the dwelling is provided with an adequate domestic water supply at all times.**
- 12. The ground floor storage enclosure shall not have any internally lined walling or any floor coverings at any time.**
- 13. The dwelling shall:**
 - a) have a finished ground floor level of 2.25m Australian Height Datum (AHD);**
 - b) have an underfloor clearance (measured from finished ground floor level up to the underside of the elevated floor) of 2.7m;**
 - c) have an elevated floor thickness of 350mm;**
 - d) have an elevated finished floor level of 5.3m AHD.**
- 14. An access ramp shall be constructed, generally in accordance with the Approved Site Plan, prepared by Plans Ink., dated 18 October 2012, prior to occupation of the dwelling, except where varied as follows:**
 - a) filling (for the purpose of forming the ramp) shall not take place within 6.5m of the northern (upstream) end wall of the dwelling; and**
 - b) the ramp shall achieve a grade not exceeding 1:10 at any one point of the ramp; and**
 - c) a concrete pipe of at least 350mm in diameter shall be installed underneath the highest part of the ramp; and**
 - d) the concrete pipe shall span the full length of the ramp, and have headwalls installed at both ends; and**
 - e) the invert of the pipe shall be constructed at a level of 1.65m AHD or lower; and**
 - f) the ramp and concrete pipe shall be maintained in good and reasonable condition at all times.**
- 15. The ground floor (including underfloor wet area, ground floor storage area and rainwater tank) shall be constructed in accordance with the Approved Ground Floor Plan, prepared by Plans Ink., dated 18 October 2012, except where varied as follows:**
 - a) the underfloor wet area shall be shifted further north (i.e. upstream), such that its northern wall (upstream wall) is parallel with the northern wall of the ground floor storage area;**
 - b) the rainwater tank shall be shifted further north (i.e. upstream), such that it is located immediately west of the relocated underfloor wet area as required under (a) above.**

Note: This condition seeks to shift the underfloor wet area further north, thereby allowing a vehicle to park south (downstream) of the wet area, instead of as is currently proposed (north). By making this change, construction of a ramp within 6.5m of the northern end wall of the dwelling is unnecessary (see condition 14 above).

- 16. A 1.7m high privacy screen (above finished elevated floor level), having a solid to void ratio of at least 80%, shall be fixed to the full length of the 2.94m end bay of the balcony – upstream side, prior to occupation of the dwelling. The privacy screen shall be maintained for this purpose in good and reasonable condition at all times.**
- 17. The dwelling envelope shall be positioned in accordance with the “String Line” identified on the Survey Plan, prepared by Adelaide Complete Surveys Pty Ltd, dated 26 October 2010.**

Conditions as required by the Minister for the River Murray

- 18. During demolition and construction activities the property must be managed in a manner so as to prevent erosion and pollution of the subject site and the environment, including keeping the area in a tidy state and ensuring any waste materials are appropriately contained so as to ensure no pollutants (including excavation or fill material) enter the River Murray system.**
- 19. Any excavation or fill material surplus to the requirements of the development must be disposed of such that it will not:
 - a. be located within the 1956 floodplain;**
 - b. adversely impact native vegetation;**
 - c. impede the natural flow of any surface waters;**
 - d. allow sediment to re-enter any water body;**
 - e. facilitate the spread of pest plant and pathogenic material.****
- 20. Stormwater run-off from the structure must be managed so as to prevent erosion or pollution of the site and the environment, and diverted away from wastewater disposal areas, such as septic tanks and aerobic systems. Connection to a water storage tank would assist in complying with this condition.**

Notations

- 1. The underside of the elevated dwelling shall not be enclosed without the approval of Council.**
- 2. The storage of bulk fuels, oils and hazardous chemicals, shall not occur below the 1956 flood level.**
- 3. This approval does not imply compliance with the *Electricity Act 1996* (as amended), or the Regulations thereunder. It is the responsibility of the owner and the person undertaking development to ensure compliance with the same.**

You are advised to contact appropriate authorities including ETSA, Telstra, SA Water and Council’s STEDS department in relation to the location of supply lines and other requirements prior to commencing work.

4. Development Approval Required Before Commencement

No site works or construction can be undertaken on the land or building by a person unless Development Approval has been granted.

If this Decision Notification Form refers only to Development Plan Consent, Building Rules Consent must be granted before the Development Approval is obtained.

5. Expiry Date for Planning and Building Consents and Development Approvals

Development Plan Consent is valid for 12 months. The applicant must obtain Development Approval within 12 months of the date of the decision or the consent will lapse.

It is necessary to obtain Building Rules Consent (if shown as STILL REQUIRED on this Decision Notification Form) before full Development Approval is granted.

Once Development Approval is obtained, substantial work on the approved development must be commenced within twelve months of the date of Development Approval or the approval will lapse.

The approved development must be substantially completed within 36 months (3 years) of the operative date of Development Approval, or the approval will lapse and a new application must be lodged with the relevant authority.

6. The Council also advises that the proposed development will be located within the “River Murray Floodplain” which is subject to periodic flooding, which may cause extensive or total loss. Neither the Council or any of its Servants, Agents or officers accept any responsibility for any such loss which may occur. Any conditions are imposed so as to maintain the natural character of the River valley and to attain the Objectives of the River Murray Zone.

7. The applicant is reminded that the ground floor storage area and domestic outbuilding (shed) have been approved as Class 10a domestic buildings only, and as such cannot be used for human habitation, industrial or commercial purposes at any time.

8. This application has been assessed and approved pursuant to the provisions of the *Development Act 1993*. The approval of the owner of the land to which this consent relates must be obtained prior to commencement of work.

9. During the period that the development is being undertaken, all waste materials associated with the building work is to be secured and contained within the site. Upon completion of the development all wastes are to be removed and appropriately disposed of.

10. All building work shall be carried out in accordance with the requirements of the *Development Act 1993* as amended and its Regulations.

- 11. All existing trees on the site are to be retained wherever practicable.**
- 12. The applicant is responsible for the correct siting of the dwelling and domestic outbuilding (shed) and shall ensure that the dwelling and domestic outbuilding (shed) are sited on the allotment in accordance with the approved site plan.**
- 13. The applicant is advised that Council will instigate appropriate action should the ground floor storage area and domestic outbuilding (shed) be used for anything other than domestic storage.**
- 14. The granting of this consent does not absolve the applicant from obtaining all other consents which they may be required to do, pursuant to the provisions of any other statutes.**
- 15. You are advised to contact other authorities such as Telstra, SA Water etc. in relation to the location of their supply lines and requirements prior to commencing work on-site.**
- 16. Prior to Development Approval being issued, the applicant shall lodge and have approved by Council an application to connect the dwelling to the South Punyelroo CWMS.**
- 17. 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 any way which causes or may cause environmental harm.**
- 18. The applicant is advised that any proposal to clear, remove limbs or trim native vegetation, unless subject to an exemption under the *Native Vegetation Act 1991* requires the approval of the Native Vegetation Council. Any queries regarding the clearance of native vegetation should be directed to the Native Vegetation Council Secretariat on 8124 4744.**
- 19. Please note that a rainwater tank (and any support structure) requires Council Development Approval where it does not comply with the following criteria:**
 - a) is part of a roof-drainage system; and**
 - b) has a total floor area not exceeding 10 square metres; and**
 - c) is located wholly above ground; and**
 - d) has no part higher than 4 metres above the natural surface of the ground.**
- 20. The applicant is advised of their obligation under the *Electricity Act 1996* and Regulations to comply with relevant safe working procedures, including legislated distances between persons or machinery and powerlines. Given this, it is recommended that you have regard to the “Working Safely near Overhead Powerlines” Brochure, prepared by the Department for Transport, Energy and Infrastructure. For further information, you can contact the Office of the Technical Regulator on 8226 5500.**

21. Please note that all conditions and notations of this Consent (Development Plan Consent) hereby supersede all previous conditions and notations of Development Application 711/441/10 (Development Plan Consent and Building Rules Consent).

Notations as required by the Minister for the River Murray

22. The applicant is advised of their general duty of care under the *River Murray Act 2003* to take all reasonable measures to prevent any harm to the River Murray through his or her actions or activities.
23. If there is an intention to clear native vegetation on the land at any time, the applicant should consult the Native Vegetation Council to determine relevant requirements under the *Native Vegetation Act 1991* and its Regulations. Note that ‘clearance’ means any activity that could cause any substantial damage to native plants, including cutting down and removing plants, burning, poisoning, slashing of understorey, removal or trimming of branches, severing roots, drainage and reclamation of wetlands, and in some circumstances, grazing by animals. For further information contact the Native Vegetation Council on telephone 8303 9741 or visit: <http://www.nvc.sa.gov.au>.
24. The River Murray and many of its tributaries and overflow areas have abundant evidence of Aboriginal occupation and Aboriginal sites, objects or artefacts may be present on the subject land (eg. scarred trees, campsites, burial sites, middens, etc.). Under section 20 of the *Aboriginal Heritage Act 1988* (the Act), an owner or occupier of private land, or an employee or agent of such an owner or occupier, must report the discovery on the land of any Aboriginal sites, objects and remains to the Minister responsible for the administration of the Act, as soon as practicable, giving the particulars of the nature and location of the Aboriginal sites, objects or remains. It is an offence to damage, disturb or interfere with any Aboriginal site or damage any Aboriginal object (registered or not) without the authority of the Minister for Aboriginal Affairs and Reconciliation (the Minister). If the planning 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. Penalties may apply for failure to comply with the Act.
25. The applicant is advised that should it be intended to store chemicals or chemical products in bulk or in containers having a capacity exceeding 200 litres, the activity may require an environmental authorisation under the *Environment Protection Act 1993*. The Applicant may contact the Environment Protection Authority to ascertain relevant requirements on telephone 8204 2000, e-mail: epainfo@epa.sa.gov.au or visit: <http://www.epa.sa.gov.au>.

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

27. This approval does not obviate any considerations that may apply to the *Environment Protection and Biodiversity Conservation Act 1999* (Cwth). For further information visit:
<http://www.environment.gov.au/epbc>.

Seconded

MID MURRAY COUNCIL – DEVELOPMENT REPORT
10.2 DEVELOPMENT APPLICATION 711/443/11 – F & H SHILTON

<i>Reporting Officer:</i>	<i>Geoff Parsons</i> <i>Manager – Development Services</i>
Development No.	711/443/11
Applicant	F & H Shilton
Subject Land	Lot 6 of FP108183, 108 River Lane, Mannum, Hundred of Finniss
Proposal	Demolition of Existing Dwelling, Construction of New Elevated Dwelling with Attached Balcony, Ground Floor Storage & Wet Area and Minor Associated Excavation & Fill

INTRODUCTION

Development Application 711/443/11 was previously presented to the Development Assessment Panel on 16 April 2012 and 17 September 2012. At the meeting held on 16 April 2012 the Development Assessment Panel adopted the following resolution:-

2793/1 G Gaston moved that pursuant to Section 35(2) of the Development Act 1993, Development Application 711/443/11 is not “Seriously at Variance” with the relevant provisions of the Mid Murray Council Development, but is sufficiently at variance to warrant refusal for the following reasons:

- 1. The proposed development will unreasonably impede views of the River Murray and negatively impact upon the amenity of the locality by being sited closer to the River Murray than adjoining dwellings.*

*Council Wide
Objectives 18 & 51
Principles of Development Control 54, 60, 81, 82, 156 & 261*

*Policy Area 5 (Residential Floodplain)
Objective 2
Principles of Development Control 2 & 11*

- 2. The development will require the removal of established native vegetation of high amenity value in the locality.*

*Council Wide
Objective 57
Principles of Development Control 71, 169, 170, 172 & 174*

*Policy Area 5 (Residential Floodplain)
Objective 3.*

Seconded R Dawkins

CARRIED.

The applicant subsequently lodged an appeal with the Environment, Resources and Development Court. This appeal was lodged outside of the timeframe to appeal, but the Environment, Resources and Development Court permitted the appeal as the reasons supplied by the applicant were sound.

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10.2 DEVELOPMENT APPLICATION 711/443/11 – F & H SHILTON

Through the Environment, Resources and Development Court process the applicants decided to put forward a compromise proposal, in the hope of obtaining approval for a design which would meet the requirements of all parties rather than pursue the appeal through the legal process.

The compromise proposal put forward by the applicants was presented to the Development Assessment Panel at its meeting held on 17 September 2012. At that meeting the Development Assessment Panel adopted the following resolution:-

*2825/2 D Hughes moved that the compromise proposal put forward (DWG No. 211-093 dated 21/5/12) as part of the Environment, Resources and Development Court Appeal (ERDC 12-179) against the decision of the Development Assessment Panel to refuse Development Application 711/443/11, satisfactorily resolves the concerns of the Development Assessment Panel which formed the reasons for refusal of 711/443/11, subject to the Development Assessment Panel receiving and approving of an arborist report detailing the impacts of the development on the existing vegetation on site.
Seconded G Gaston.*

CARRIED.

This motion was supported by all members in attendance with the exception of one member.

DISCUSSION

The applicant has now presented both a final set of drawings/plans for the development and an arborist report. These documents are attached, as are the plans presented to the Development Assessment Panel at the April and September meetings. Refer attached.

The report presented to the Development Assessment Panel on 17 September 2012 summarised the main changes between the original proposal (which was presented to the April meeting and refused) and the compromise proposal presented to the September meeting which was supported. The following is the relevant excerpt from that report:

“Original Proposal

- *Rectangular elevated dwelling design, setback approximately 3 metres from the riverfront elevation of the existing dwelling;*
- *4 bedroom (plus study), 2 bathroom elevated dwelling, with balcony/deck surrounding each elevation of the dwelling and an internal lift;*
- *54 square metres of ground level storage and 10 square metres of ground level wet area;*
- *Stairs incorporated within the deck to the ground floor area.*

This design and layout was to result in the loss of 3 trees from the site, one of which was a very large established river red gum (noted as Tree 1 on the Site Plan) which the Development Assessment Panel considered to be of importance to the area.

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The rear of the dwelling was to be (approximately) level with the forward most part of the balcony of the dwelling to the north. This would have resulted in a loss of view of the River Murray from that balcony.

Compromise Proposal

- *Irregular elevated dwelling design, with setbacks from the River Murray virtually identical to existing dwelling;*
- *4 bedroom (plus study), 2 bathroom elevated dwelling, with balcony/deck surrounding each elevation of the dwelling and an internal lift;*
- *49.4 square metres of ground level storage area and 10 square metres of ground level wet area;*
- *Stairs incorporated within and adjacent to the deck.*

The internal design of the dwelling has altered such that the parents retreat has been deleted, the design of bedroom 1 has been altered, there has been a reduction and shift in the ground level enclosed areas and some of the internal components (i.e. lift and bathroom) have changed locations.

Furthermore the setback of the dwelling has changed such that it is in a position which is virtually identical to the existing dwelling on site. While the footprint of the proposed dwelling would be larger than the existing dwelling, the setback would minimise the loss of view from adjacent properties.

In addition only two trees would now need to be removed, with the larger and more significant river red gum (marked as Tree 1 on the Site Plan) at the rear of the dwelling being retained (although it may require some trimming).

This alternate design would appear to address the concerns of the Development Assessment Panel.”

The final version of the compromise plans put forward to Council, which the Development Assessment Panel are now being asked to consider, differ slightly from those put forward to the Development Assessment Panel at its September meeting. The changes which have been made are summarised below:-

1. **Setbacks** – The setbacks from the northern and southern boundaries of the allotment have altered. The setback of the dwelling from the northern boundary of the site has increased by 700mm while the setback of the building from the southern boundary has reduced from 1.3 metres to 0.607 metres.
2. **Roof Form** – The roof design has also changed by orientating a dutch gable in a different direction to that proposed previously.
3. **Internal Layout** – The internal layout of the first floor level has changed significantly, this however will not be visible or noticeable to any person outside of the dwelling.
4. **Bedroom One** – The eastern wall of bedroom one has been altered to comprise a square shape as opposed to the irregular shape previously proposed.

These changes are considered minor when compared to the plans which were supported by the Development Assessment Panel at its September meeting.

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It is suggested that the changes do not alter the nature of the application, nor do they impact upon the issues previously considered by the Development Assessment Panel (i.e. loss of view, impacts on vegetation, setback, impact on amenity).

With respect to the vegetation on the land and in accordance with the previous resolution of the Development Assessment Panel from its September meeting, the applicant has submitted an arborist report.

The main points of the arborist report can be summarised as follows:-

- Trees 3 and 4 are to be removed. Tree 3 is not native and that Tree 4 is in fair health only.
- Recommendations regarding the pruning of the remaining trees have been made and it appears that such pruning is unlikely to impact on the health of the trees or lessen the positive impact of the trees on the amenity of the locality.
- The waffle pod footing design system is supported as such systems generally minimise the impact of buildings and their footings on nearby tree root systems.

The trees to remain are considered to be those with the most benefit to the locality visually. Trimming of these trees is unlikely to substantially diminish their visual prominence or cause the health of the trees to be threatened.

Accordingly Council staff suggests that, in accordance with the previous recommendation of the Development Assessment Panel, the compromise proposal should be supported.

NEXT STEP

At the Development Assessment Panel meeting on 17 September 2012 there was some discussion regarding what process would need to be followed should a suitable compromise be reached.

Advice from Council's Solicitors indicates that if the Development Assessment Panel agrees that the compromise proposal put forward alleviates the issues identified at the April meeting and is an appropriate development given the relevant provisions of the Development Plan, then a new development application need not be lodged.

Instead the Development Assessment Panel should resolve that it supports the amended proposal and list any conditions and notations that it thinks should be attached to the Development Plan Consent. The Environment, Resources and Development Court will then be advised of the Development Assessment Panel's position and will issue the Development Plan Consent accordingly.

A recommendation is listed below enabling the above to occur. Once the Environment, Resources and Development Court issues the Development Plan Consent the appeal will be finalised and the matter concluded.

RECOMMENDATION

moved that the Development Assessment Panel advises the Environment, Resources and Development Court that the plans and details noted below, submitted as part of ERDC 12-179, form a suitable and acceptable compromise:

- Site Plan, project no. SM-274, drawing no. PA01, revision A;
- Floor Plan, project no. SM-274, drawing no. PA02, revision A;
- 1st Floor Plan, project no. SM-274, drawing no. PA03, revision A;
- Elevation A & Elevation B, project no. SM-274, drawing no. PA04, revision A;
- Elevation B & Elevation D, project no. SM-274, drawing no. PA05, revision A;
- Preliminary Foundation Recommendations, MQZ Consulting Engineers, 21 November 2012;
- Arborist Report, Acer Horticultural Services, Mark Eitzen, 22 October 2012.

Seconded

RECOMMENDATION

moved that the Development Assessment Panel advises the Environment, Resources and Development Court that it supports the granting of Development Plan Consent to Development Application 711/443/11 subject to the inclusion of the following conditions and notations:

Conditions

1. Other than where required to be varied by conditions 2 to 8 inclusive, the development shall be undertaken in strict accordance with the plans and details submitted with Development Application 711/443/11 including, but not limited to, the following:

Plan Number	Plan Type	Dated	Prepared By
Drawing no. PA01	Site Plan	Not dated	Salvatore Marzullo Building Design
Drawing no. PA02	Floor Plan	Not dated	Salvatore Marzullo Building Design
Drawing no. PA03	1st Floor Plan	Not dated	Salvatore Marzullo Building Design
Drawing no. PA04	Elevation A & Elevation B	Not dated	Salvatore Marzullo Building Design
Drawing no. PA05	Elevation B & Elevation D	Not dated	Salvatore Marzullo Building Design
CO1/P1, CO2/P1, FO1/P1, FO2/P1, WP1, WP2, WP3	Preliminary Foundation Recommendations	21 November 2012	MQZ Consulting Engineers
Not stated	Arborist Report	22 October 2012	Acer Horticultural Services – Mark Eitzen

- 2. All sections/parts of the ground floor area (other than those shown to be enclosed on the Flood Plan {marked: project no. SM-274, drawing no. PA02, revision A}) are to remain open, and must not be enclosed with any structure, cladding or material, whether permanent or movable, at any time.**
- 3. The section of the ground floor area shown to be enclosed (i.e. the areas noted as “storage”, “lift” and “stairs”) on the Floor Plan (marked: project no. SM-274, drawing no. PA02, revision A) may only be enclosed using removable panels. Such panels are to be easily fixed to a removable frame, such that they can be removed by two persons, without mechanical assistance (other than a drill) within 24 hours of a flood or high river warning being issued for the area.**
- 4. All stormwater is required to be managed and appropriately disposed of such that it does not flow onto, or cause nuisance to, adjoining privately owned land.**
- 5. All wet areas in the dwelling must be connected to the SA Water sewer system, to the satisfaction of SA Water, prior to the dwelling being occupied and used for human habitation.**
- 6. All exterior surfaces of the dwelling and verandahs/deck are to be of non-reflective materials, (factory applied colour coated steel, weatherboard, timber or equivalent), and colours which complement the built form of the area. A colour scheme must be submitted to and approved by Council prior to construction commencing.**
- 7. The ground floor storage/garage area shall not have internally lined walling or have any floor coverings.**
- 8. The ground floor storage/garage area shall not be used for human habitation including overnight stays under any circumstances.**

Conditions as required by the Minister for the River Murray

- 9. During demolition and construction activities the property must be managed in a manner as to prevent erosion and pollution of the subject site and the environment, including keeping the area in a tidy state and ensuring any waste materials are appropriately contained to ensure no pollutants (including excavation or fill material) enter the River Murray.**
- 10. Any excavation or fill material surplus to the requirements of the development must be disposed of such that it will not:**
 - a. be located within the 1956 floodplain;**
 - b. adversely impact native vegetation;**
 - c. impede the natural flow of any surface waters;**
 - d. allow sediment to re-enter any water body;**
 - e. facilitate the spread of pest plant and pathogenic material.**

- 11. Any fill material brought to the site must be clean and not contaminated by construction or demolition debris, industrial or chemical matter, or pest plant or pathogenic material.**
- 12. Stormwater run-off from the dwelling must be managed to prevent erosion or pollution of the site and the environment, and diverted away from wastewater disposal areas, such as septic tanks and aerobic systems. Connection to a water storage tank would assist in complying with this condition.**

Notations

- 1. This approval does not imply compliance with the Electricity Act 1996 (as amended), or the Regulations thereunder. It is the responsibility of the owner and the person undertaking development to ensure compliance with the same.**

You are advised to contact appropriate authorities including ETSA, Telstra, SA Water and Council's STEDS department in relation to the location of supply lines and other requirements prior to commencing work.

- 2. Development Approval Required Before Commencement**

No site works or construction can be undertaken on the land or building by a person unless Development Approval has been granted.

If this Decision Notification Form refers only to Development Plan Consent, Building Rules Consent must be granted before the Development Approval is obtained.

- 3. Expiry Date for Planning and Building Consents and Development Approvals**

Development Plan Consent is valid for 12 months. The applicant must obtain Development Approval within 12 months of the date of the decision or the consent will lapse.

It is necessary to obtain Building Rules Consent (if shown as STILL REQUIRED on this Decision Notification Form) before full Development Approval is granted.

Once Development Approval is obtained, substantial work on the approved development must be commenced within twelve months of the date of Development Approval or the approval will lapse.

The approved development must be substantially completed within 36 months (3 years) of the operative date of Development Approval, or the approval will lapse and a new application must be lodged with the relevant authority.

- 4. The Council also advises that the proposed development will be located within the “River Murray Floodplain” which is subject to periodic flooding, which may cause extensive or total loss. Neither the Council or any of its Servants, Agents or Officers accept any responsibility for any such loss which may occur. Any conditions are imposed so as to maintain the natural character of the River Valley and to attain the Objectives of the River Murray Zone.**
- 5. The applicant is responsible for the correct siting of the proposed building and shall ensure that the building is sited on the allotment in accordance with the approved site plan.**
- 6. The granting of this consent does not absolve the applicant from obtaining all other consents which they may be required to do, pursuant to the provisions of any other statutes.**
- 7. The applicant is reminded of its general environmental duty, as required by Section 25 of the Environment Protection Act, 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 any way which causes or may cause environmental harm.**
- 8. The proximity of the dwelling to the southern boundary of the land may result in the need for some level of fire rating of the building. This matter should be discussed/addressed through the Building Rules assessment process if necessary.**

Notations as required by the Minister for the River Murray

- 9. The applicant is advised of their general duty of care to take all reasonable measures to prevent any harm to the River Murray through his or her actions or activities.**
- 10. The following actions should be taken within 24 hours of a flood warning being issued for the district so as to not impede any floodwaters, pollute water resources or become a safety hazard:**
 - a. Remove the panels of the understorey area and transport them to a site above the 1956 flood level;**
 - b. Fix the roller door(s) of the ground floor area in an open position;**
 - c. Remove the contents of the understorey area of the dwelling, particularly materials that may pollute water resources (eg. chemicals, pesticides, fuel, fertilisers etc.), and transport them to a site above the 1956 flood level.**

- 11. If there is an intention to clear native vegetation on the land at any time, the applicant should consult the Native Vegetation Council to determine relevant requirements under the Native Vegetation Act 1991 and its Regulations. Note that “clearance” means any activity that could cause any substantial damage to native plants, including cutting down and removing plants, burning, poisoning, slashing of understorey, removal or trimming of branches, severing roots, drainage and reclamation of wetlands, and in some circumstances grazing by animals. For further information contact the Native Vegetation Council on telephone 8303 9741 or visit:
<http://www.nvc.sa.gov.au>.**
- 12. If the applicant wishes to use water (other than for firefighting purposes) from the River Murray, which is a prescribed watercourse, then they may be required to apply to the Department for Water for a water licence. Further, should the applicant wish to drill a well, they will also need to apply to the Department for a Well Construction Permit. For further information contact the Department on 8595 2053 or visit:
<http://www.sa.gov.au/subject/Water%2C+energy+and+environment/Water/Water+use+for+irrigators/Water+licences+and+permits>.**
- 13. The River Murray and many of its tributaries and overflow areas have abundant evidence of Aboriginal occupation and Aboriginal sites, objects or artefacts may be present on the subject land (eg. scarred trees, campsites, burial sites, middens, etc). Under section 20 of the Aboriginal Heritage Act 1988 (the Act), an owner or occupier of private land, or an employee or agent of such an owner or occupier, must report the discovery on the land of any Aboriginal sites, objects and remains to the Minister responsible for the administration of the Act, as soon as practicable, giving the particulars of the nature and location of the Aboriginal sites, objects or remains. It is an offence to damage, disturb or interfere with any Aboriginal site or damage any Aboriginal object (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. Penalties may apply for failure to comply with the Act.**
- 14. The applicant is strongly encouraged to incorporate locally indigenous plant species into any landscaping, screen planting or revegetation activities at the site to enhance the natural character of the locality, stabilise soils and provide habitat for native species. For information on appropriate species to be planted, please contact State Flora at Bremer Road, Murray Bridge on telephone 8539 2105, or within Belair National Park on telephone 8278 7777 or visit:
<http://www.stateflora.com.au>.**
- 15. This approval does not obviate any considerations that may apply to the Environment Protection and Biodiversity Conservation Act 1999 (Cth). For further information visit:
<http://www.environment.gov.au/epbc>.**

Seconded

MID MURRAY COUNCIL – DEVELOPMENT REPORT
10.3 DEVELOPMENT APPLICATION 711/286/12 – E ARMSTRONG

<i>Reporting Officer:</i>	<i>Geoff Parsons</i> <i>Manager – Development Services</i>
Development No.	711/286/12
Applicant	E Armstrong
Subject Land	Lot 43 of T750801, 17 Porter Street, Cowirra, Hundred of Younghusband
Proposal	Store, Retaining Walls and Associated Filling of Land

INTRODUCTION

Development Application 711/286/12 proposes the construction of a store on an existing vacant allotment within the shack area of Cowirra.

The building will be 54 square metres in area measuring 7.2 metres wide by 7.5 metres long, and will be used for storage of a boat and associated equipment. Retaining walls and filling of land to accommodate the building are also proposed (although such works have already been undertaken).

The owner of the allotment owns a shack on a separate allotment within the shack area. That allotment is small in area and only of sufficient size to accommodate the dwelling. There is no room for an outbuilding on the land hence this application.

The Development Assessment Commission is the relevant authority for the assessment of Development Application 711/286/12. Council's role in the process will be limited to providing comments to assist the Development Assessment Commission in its role as the decision making authority (Council may also need to make a decision regarding concurrence if necessary).

This report contains a recommendation which is designed to inform the Commission of the Development Assessment Panel's view on the proposal.

Copies of plans and details submitted with the application are attached.

SUBJECT LAND

The subject land is identified as Lot 43 of T750801, 17 Porter Street, Cowirra, Hundred of Younghusband as contained in Certificate of Title Volume 5220 Folio 869.

The site falls within the Cowirra shack settlement and is approximately 1014 square metres in area. It is currently void of built form with the exception of some houseboat pontoons which appear to be stored on the land, and treated pine retaining walls and fill (shown on the site plan) which have been constructed without Development Approval.

A majority of the land is void of any significant vegetation, with the exception of several large trees adjacent Porter Street.

The land falls away from Porter Street but the slope is gentle and there are no significant topographical features.

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Porter Street is a sealed road in reasonable condition, but there is no formal kerbing or drainage provided.

The subject land is identified on the attached maps.

NATURE OF LOCALITY

The land falls within the Cowirra shack settlement.

Land to the east and north of the site comprises small 'residential sized' allotments, most of which contain detached dwellings (some elevated) and domestic outbuildings.

Land to the west is similar in nature, but there are a number of vacant allotments directly to the west of the subject land.

Land to the south of the subject land forms a small depression and this area can flood in times of high river. At most times however it remains dry and is covered with small bushes and shrubs.

Other land uses including farming and tourist accommodation operate in the area, and the River Murray is the major topographical feature in the locality.

DESCRIPTION OF PROPOSAL

Development Plan Consent is sought to establish a store on an existing allotment within the Cowirra shack settlement.

Schedule 1 of the *Development Regulations 2008* provides the following definition of a store:-

Store means a building or enclosed land used for the storage of goods, and within which or upon no trade (whether wholesale or retail) or industry is carried on, but does not include a junk yard, timber yard or public service depot.

The building will be used for the storage of a boat and associated equipment and therefore falls within the definition of a store.

The building will be 54 square metres in area measuring 7.2 metres wide by 7.5 metres long. The building will comprise a height of 3 metres between ground level (being filled ground level, the height would be 3.4 metres if measured from natural ground level) and the gutters. The building will have a total height of 4 metres above the filled ground level (4.4 metres above natural ground level).

The building will include two roller doors facing Porter Street, and will have two personnel access doors, one on the eastern elevation and one on the western elevation, in accordance with Development Plan requirements.

The building will sit on a partially filled area, which is retained by treated pine retaining walls, to a maximum height of 400mm above natural ground level. The fill and retaining walls are already in place on the land.

A rainwater tank will be located alongside the building (south eastern corner) for the purposes of stormwater management.

CLASSIFICATION

The allotment falls within the River Murray Zone – Shack Settlement Policy Area. Principle of Development Control 29 of the Shack Settlement Policy Area states:-

*PDC 29 – The following forms of development are **non-complying** in the Shack Settlement Policy Area:*

.....
Store
.....

Accordingly the application must be assessed through the non-complying assessment process.

The first step in the non-complying process will involve the Development Assessment Commission making a decision to either proceed to assess the application, or to refuse it at this preliminary stage.

RELEVANT AUTHORITY

In determining who the relevant authority is for the assessment of the application, one must turn to Schedule 10 of the *Development Regulations 2008*. Schedule 10 concludes that the Development Assessment Commission will be the relevant authority for the assessment of the application in the following circumstances:-

9 – River Murray Zones

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- (3) *Those classes of development to which this subclause applies in the River Murray Zone in the Development Plan that relates to the Mid Murray Council, other than –*
- (a) *development in the Primary Production Policy Area or the River Settlement Policy Area within that zone; or*
 - (b) *in respect of development within the ambit of subclause (4)(b) – development in the Shack Settlement Policy Area within that zone.*
- (4) *Subclause (3) applies to –*
- (a) *the division of an allotment;*
 - (b) *The erection or construction of a dwelling on an allotment where no dwelling currently exists (but not the alteration of or addition to an existing dwelling);*
 - (c) *The erection or construction of a marina, or mooring facilities, for more than 10 boats;*
 - (d) *The erection, construction, conversion or alteration of, or addition to, residential accommodation for tourists;*
 - (e) *the erection or construction of a building, except where the building will be used in conjunction with an existing or proposed dwelling and –*
 - (i) *the dwelling and the building are situated on land held by 1 or more persons pursuant to the 1 tenure; or*
 - (ii) *the building is a jetty, wharf, pontoon or retaining wall.*

(my underlining)

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The applicant does own another allotment in the Cowirra shack settlement on which a dwelling is present, and therefore it could be argued that the building will be used in conjunction with an existing dwelling. However the building will not be sited on the same land as the dwelling, and will not be held on land pursuant to the one tenure.

Legal advice received by Council indicates that the allotments cannot be amalgamated (as they are not contiguous) and even if they were put under the same title (i.e. two separate allotments under one title), this would not be sufficient to state that both the building and the dwelling are on land pursuant to the one tenure.

Accordingly the Development Assessment Commission is the relevant authority for the assessment of Development Application 711/286/12.

Council's role in the assessment process will be limited to providing comments, and should the Development Assessment Commission decide to grant Development Plan Consent to the proposal, the Council will need to determine whether or not they wish to concur with that decision.

CATEGORY

The type of development proposed is not captured by the Category 1 or 2 lists in the Shack Settlement Policy Area, nor those in Schedule 9 of the *Development Regulations 2008*.

Accordingly the application will need to be advertised as a Category 3 level. This will involve the giving of notice to adjoining owners in writing, and the placement of an advertisement in the local paper.

This will only occur if the Development Assessment Commission decides to proceed with the assessment of the application.

REFERRALS

The following referrals will be required:-

- Environment Protection Authority (Sch 8, Part 2 {10}{a}) – as the development is non-complying in the River Murray Water Protection Area in an area where there is no CWMS; and
- Department for Environment, Water and Natural Resources (Sch 8, Part 2 {19}{g}) – as the application proposes the construction of a building, which is not exempt, in the River Murray Water Protection Area.

The referrals will only take place if the Development Assessment Commission decides to proceed with the assessment of the application.

RELEVANT PROVISIONS OF THE MID MURRAY COUNCIL DEVELOPMENT PLAN

The following are the provisions of the Development Plan (consolidated 19 April 2012) relevant to the assessment of Development Application 711/286/12:-

Council Wide

Objectives: 1, 6, 18, 19, 91, 92, 96 & 97

Principles of Development Control: 1, 6, 40, 48, 49, 54, 56, 58, 66, 70, 76, 77, 78, 79, 81, 82, 83, 157, 162, 222, 223, 238, 241, 254, 257, 258, 260, 265, 386, 387, 388 & 395

River Murray Zone

Objectives: Nil

Principle of Development Control: 20

Shack Settlement Policy Area

Desired Character Statement

Objectives: 1 & 3

Principles of Development Control: 1, 2, 15, 17, 18, 19, 20, 29, 30 & 31

ASSESSMENT

The purpose of this report is to provide the Development Assessment Commission with the Development Assessment Panel's comments in relation to Development Application 711/286/12. The Development Assessment Panel is not making a decision as to whether to approve or refuse the application, and further the Development Assessment Commission is under no obligation to form the same view as the Development Assessment Panel.

With respect to an assessment of the application against the relevant provisions of the Development Plan, it is noted that the design and form of the outbuilding is consistent with the provisions of the Development Plan. Particularly, the following are noted:-

- The building complies with the floor area limitation of 54 square metres;
- The building complies with the height restrictions (maximum wall height of 3.2 metres);
- The building will be used for the storage of a boat and associated equipment;
- The building incorporates personnel access doors on the elevations which align with the direction of river flow;
- A rainwater tank is provided for stormwater management purposes;
- The building will be sited at the rear of the allotment;
- The site plan indicates that landscaping will be planted so as to provide for partial screening of the building; and
- The access way and manoeuvring area have been constructed appropriately (albeit without the benefit of Development Plan Consent).

The above aspects of the development are considered appropriate as they generally conform to the relevant requirements of the Development Plan.

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It is recommended however, that if the Development Assessment Commission decides to proceed with an assessment of the application, they seek confirmation from the applicant regarding the external materials and colours of the building.

Regardless of the above, one additional issue requires consideration. Council's Development Plan places a significant emphasis on ensuring that sheds are not constructed on allotments which do not contain a dwelling. Provisions of this nature are contained within both the Council Wide and Shack Settlement Policy Area sections of the Development Plan, as follows:-

Council Wide PDC 258 – Residential outbuildings, including garages and sheds, should not be constructed unless in association with an existing dwelling.

Council Wide PDC 260 – The erection of a shed, garage, or outbuilding on an allotment should only be undertaken where:

- (a) In rural areas:*
 - (i) It is associated with residential development; or*
 - (ii) Is essential for the purposes of primary production or approved use of the land;*
- (b) In townships and other areas designated for residential use:*
 - (i) It is ancillary to an existing dwelling or business; or*
 - (ii) On vacant allotments, it is erected:*
 - To enable the erection of a dwelling on the same allotment to proceed and is removed at the expiration of twelve months if the dwelling has not been substantially commenced; and*
 - Is used for storage of building materials or tools only.*

Shack Settlement Policy Area Desired Character Statement:-

*The following forms of development are **unacceptable**:*

*.....
store (including a shed or garage on a vacant allotment).*

Shack Settlement Policy Area PDC 15 – An outbuilding should only be constructed if it is ancillary to and in association with an existing dwelling on the same allotment.

Clearly the above policies do not encourage the construction of sheds on vacant allotments. Reasons for this stance are understood to include the following:-

- Residential Use – In shack areas in particular, Council has experienced numerous instances of people residing in sheds on vacant allotments. Use of sheds for human habitation, even if only on a sporadic basis, is undesired and dangerous (lack of appropriate effluent disposal, no smoke alarms, insufficient insulation etc.).

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- Amenity – Sheds on vacant allotments do not contribute to enhancing the amenity of an area or achieving the desired character of an area. While a shed in association with a dwelling may have a standard and acceptable appearance, the proliferation of sheds on vacant allotments is considered to have a negative impact on the amenity of various shack settlements.
- Future Use – The applicant has provided clear reasoning for the proposal which is discussed further below. However typically a source of concern for Council in the past has been in situations where allotments which only contain sheds change ownership, and subsequently the sheds can be used for purposes other than those originally approved, creating enforcement issues.

The applicant, in an effort to address the above concerns, is proposing the following:-

- Placement of both allotments under the same CT – The applicant originally proposed the amalgamation of the allotments such that the land would be considered one allotment, but in two pieces (meaning land division approval would be required before the pieces could be split thereby giving Council an element of control). This however is not possible as the allotments are not contiguous.

The applicant is now proposing to place both allotments under the one Certificate of Title. This means that both allotments can be separated without the need for land division approval at any point in the future, but it does demonstrate that there is some link between the parcels of land.

- Land Management Agreement – The applicant is also proposing a Land Management Agreement. It is understood that the Land Management Agreement would contain provisions regarding the use of the shed (i.e. that it could only be used for storage and could not be used for human habitation) and the need for the shed to be demolished if ownership of the land ever changes.

Both options proposed by the applicant are acknowledged however it is suggested that they do little to alleviate the concerns raised.

Placement of both allotments under the one Certificate of Title does enhance the relationship between both parcels of land, but does nothing to stop the future selling of either land parcel. Both can be placed under separate Certificates of Title and on sold without Council even being contacted.

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Similarly a Land Management Agreement is also unlikely to alleviate the concerns raised for the reasons outlined below:-

- Not legally valid – Section 57 of the *Development Act 1993*, states the following:-
 - (2a) *The Minister or a council must, in considering whether to enter into an agreement under this section which relates to the development of land and, if such an agreement is to be entered into, in considering the terms of the agreement, have regard to –*
 - (a) *The provisions of the appropriate Development Plan and to any relevant development authorisation under this Act; and*
 - (b) *The principle that the entering into of an agreement under this section by the Minister or a council should not be used as a substitute to proceeding with an amendment to a Development Plan under this Act.*

In other words, the *Act* states that a Land Management Agreement should not be used to circumvent the provisions or intent of a Development Plan. If a Council wishes to grant Development Plan Consent to something which the Development Plan does not encourage, then a Land Management Agreement should not be used to enable support to be given. Instead Council should change the policy in the Development Plan.

What is proposed is a Land Management Agreement which is clearly being used in an effort to circumvent the relevant Development Plan provisions which do not encourage the type of development proposed.

Such a Land Management Agreement would not accord to Section 57(2a) of the *Development Act 1993* and may therefore be legally invalid.

- Proliferation of Land Management Agreements – The desire to construct a shed on a vacant allotment is common, but it is widely known and accepted in shack settlement areas that such development is not a permitted or desired use due to the abuse of such previously.

While the idea of precedent does not exist in planning, allowing a shed on a vacant allotment subject to a Land Management Agreement is likely to lead to similar requests. While it could be argued this is a unique circumstance given the owner also owns separate land (containing a dwelling) within the same shack area this is unlikely to stop further requests being put before Council.

- Variation – Land Management Agreements are not “final” in that there is still the ability for a Land Management Agreement to be varied if Council sees fit.

It may be that, even if a Land Management Agreement could be made to be valid and was entered into, a request could still come when the allotment was on sold to retain the shed and not demolish it. Such a request could be granted if Council saw fit to do so, in effect contradicting the original purpose of the Land Management Agreement.

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For the above reasons, it is considered that a Land Management Agreement is not a suitable option. It is unlikely to be legally valid and will not, in the authors view, alleviate the concerns which have been raised.

Other options are open to the applicant including storing their boat at their residence in Adelaide, or hiring a storage facility in Mannum or other nearby town.

The Development Plan does not support/encourage the construction of sheds on vacant allotments and while the applicant has made an effort to alleviate the concerns raised, a Land Management Agreement and consolidated Certificate of Title are insufficient to make the development acceptable.

The application is at variance with the relevant provisions of the Development Plan and cannot be supported.

CONCLUSION

The Development Plan clearly discourages the construction of sheds on vacant allotments, particularly in the Shack Settlement Policy Area. This stance has been consistent since the freeholding of shacks in the 1990s. While special circumstances can be considered, it is important that Council maintains a consistent position.

Sheds on vacant allotments have the potential to be abused and it is suggested that they have a detrimental impact on the amenity of the locality. The placement of both parcels of land under one Certificate of Title does not prevent the ability for the land to be split in the future. Similarly a Land Management Agreement is unlikely to address Council's concerns and may in fact be invalid.

For the above reasons it is suggested that the applicant should pursue other options and the Development Assessment Panel should indicate to the Development Assessment Commission that the application should not be supported and should be refused.

RECOMMENDATION

moved that the Development Assessment Panel advises the Development Assessment Commission that Development Application 711/286/12 is not “seriously at variance” with the Mid Murray Council Development Plan (consolidated 19 April 2012), however the Development Assessment Panel does not support Development Application 711/286/12 as the development is considered to be at variance with the following provisions of the Mid Murray Council Development Plan (consolidated 19 April 2012):

- **Council Wide Principles of Development Control 258 & 260;**
- **Shack Settlement Policy Area Desired Character Statement (Unacceptable Uses List); and**
- **Shack Settlement Policy Area Principle of Development Control 15.**

Reason – The application proposes the construction of a store (shed) on a vacant allotment which is specifically discouraged through the above provisions in the Development Plan.

Seconded