



# Development Assessment Panel

15 July 2013

**MID MURRAY COUNCIL**

**DEVELOPMENT ASSESSMENT PANEL**

**Agenda**

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

**Monday 15 July 2013, 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  
Aaron Curtis, Senior Development Officer – Planning  
Jake McVicar, Development Officer – Planning  
Melissa Marschall, Minute Secretary

3. **COMMENCEMENT AND WELCOME** AM

4. **APOLOGIES**

5. **CONFIRMATION OF PREVIOUS MINUTES**

(Page 2875 – 20/5/2013)

Minutes of the Mid Murray Council Development Assessment Panel meeting  
held on 20 May 2013.

**RECOMMENDATION**

**moved that the minutes of the Mid Murray Council Development  
Assessment Panel Meeting held on 20 May 2013 be taken as read and  
confirmed.**

**Seconded**

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

## MID MURRAY COUNCIL

7. **DEVELOPMENT REPORT**

**RECOMMENDATION**

                  moved that the report be received.  
**Seconded**

8. **LATE CORRESPONDENCE**

9. **OTHER BUSINESS**

10. **NEXT MEETING**

To be held in the Council Chambers, Main Street, Cambrai on Monday,  
19 August 2013, commencing at 10.00am.

11. **CLOSURE**

**MID MURRAY COUNCIL**

**DEVELOPMENT ASSESSMENT PANEL**

**Development Report**

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

**Monday 15 July 2013, 10.00am**

**Table of Contents**

Item No.	Subject	Page No.
	Development Report	
7.1	711/182/13 – JL Howie.....	1
7.2	711/123/13 – A Wehrmann.....	9
7.3	711/200/13 – TrustPower Australia Holdings Pty Ltd.....	15
7.4	711/198/13 – TrustPower Australia Holdings Pty Ltd.....	25

**MID MURRAY COUNCIL – DEVELOPMENT REPORT**  
**7.1 DEVELOPMENT APPLICATION 711/182/13 – JL HOWIE**

<i>Reporting Officer:</i>	<i>Aaron Curtis</i>
<i>Position:</i>	<i>Senior Development Officer - Planning</i>
<b>Development No.</b>	<b>711/182/13</b>
<b>Applicant</b>	<b>JL Howie</b>
<b>Subject Land</b>	<b>Allotments 57 &amp; 58 in Development No. 711/D013/11, Section 599, Caloote Road and Gerogles Road, Caloote, Hundred of Finniss</b>
<b>Proposal</b>	<b>Three Single Storey Detached Dwellings with Attached Garage (Under Main Roof)</b>

***INTRODUCTION***

The applicant lodged the above development application with Council on 22 May 2013 seeking approval for three detached dwellings.

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

Due to the non-complying nature of the application the Panel is requested at this stage to consider whether to:

***Refuse the application without proceeding to make an assessment***  
***OR***  
***Resolve to proceed with an assessment of the application.***

If the Panel does not wish to proceed with an assessment, the application will be refused. The applicant does not have any right of appeal.

If the Panel wishes to proceed with an assessment, the application will be subject to the following process:

- a) Submitting a Statement of Effect;
- b) Category 3 public notification (letter to adjoining property owners and notice in the "MV Standard");
- c) Referral to the Minister administering the River Murray Act 2003;
- d) Referral to the Environment Protection Authority.

Following this process, the application would be presented again to the Panel for a final decision. If the Panel were to approve the application at this later stage, the Development Assessment Commission would need to concur with its decision.

***BACKGROUND***

The applicant obtained Development Approval in DA 711/D013/11 on 26 February 2013 for Land Division (Torrens Title) – Creation of two additional allotments. This land division involved the rearrangement of allotment boundaries of four existing allotments and the creation of two new allotments.

As a consequence of this land division, Allotments 57 and 58 were created, both having a frontage to Caloote Road. Allotment 57 was created at the corner of Gerogles Road and Caloote Road, having an area of 15.37ha. Allotment 58 was created immediately to the south of Allotment 57, fronting Caloote Road, and having an area of 22.25ha.

**MID MURRAY COUNCIL – DEVELOPMENT REPORT**  
**7.1 DEVELOPMENT APPLICATION 711/182/13 – JL HOWIE**

The applicant is now seeking Development Plan Consent for the construction of detached dwellings on Allotments 57 and 58. In addition, the applicant is also seeking Development Plan Consent for the construction of a detached dwelling on Section 599, located immediately to the south of Allotment 58, not forming part of the previous division.

Due to the allotments all having areas under 36ha in size, a 'dwelling' is a non-complying form of development in the Primary Production Policy Area. I understand the applicant intends to sell these allotments with a valid Development Plan Consent applicable to each of the lots, thereby improving the prospects of sale for the relevant allotments.

***SUBJECT LAND***

The new Allotments (57 and 58) approved under DA 711/D013/11 have not yet been created by the Lands Titles Office. Consequently, the subject site is still regarded as Section 599, 600 and 601, Caloote Road, Caloote. These sections of land have the following attributes in terms of land size and road frontage:

<b>Allotment</b>	<b>Area</b>	<b>Frontage Width</b>
599	26.06ha	710.82m (Caloote Road)
600	24.76ha	577.26m (Caloote Road)
601	22.63ha	973.78m (Caloote Road) and 690.69m (Gerogles Road)

The total land area is some 73.45ha, flanking Caloote Road on its northern side. The land is moderately undulating, with rolling crests and some shallow gullies, which I note flow intermittently during rainfall events. The majority of the land is devoid of any vegetation, other than a few clusters of remnant Mallee scrub on Sections 599 and 600.

Section 601 contains an existing single storey detached dwelling and shed, located next to the site's eastern side boundary. Both of these buildings are to be located on proposed Allotment 56, approved to be created under DA 711/D013/11, as a new allotment of 7.264ha. The remainder of the land is devoid of any buildings or structures.

The majority of the subject site is located above the 1956 flood level of the River Murray. I note that the lowest part of Sections 599 and 600, being only a small portion of the total site area of these allotments, is located within the 1956 flood level, due to such land being in close proximity to the Reedy Creek backwater lagoon.

***LOCALITY***

The site is positioned some 5kms south-west of the Mannum township and some 1km north-west of the river settlement of Caloote. The main channel of the River Murray is less than 1km east of Section 599, with the Reedy Creek backwater lagoon positioned between the Section 599/600 and the River Murray channel.

The locality comprises moderately to steeply undulating land, rising up on either side above Reedy Creek, which I note flows downhill from land west of the site and eventually feeds into the backwater lagoon, positioned west of the River Murray channel. The creek and backwater lagoon are set aside primarily for conservation purposes.

**MID MURRAY COUNCIL – DEVELOPMENT REPORT**  
**7.1 DEVELOPMENT APPLICATION 711/182/13 – JL HOWIE**

The land either side of the catchment comprises generally open cleared land, used primarily for sheep grazing and some cropping. Some smaller allotments exist within the locality, most of which contain dwellings. The Caloote cemetery is positioned on nearby land on the opposite side of Gerogles Road from Section 601.

The Mannum – Murray Bridge Road traverses the land nearby to the west of Section 601. South of Section 599 is the Caloote township, comprising smaller residential and rural living sized allotments, occupied mainly by single and two storey dwellings. The settlement of Caloote Landing is adjacent to the Caloote township at the river edge.

***DESCRIPTION OF PROPOSAL***

The applicant seeks approval for three detached dwellings with attached garage (under main roof). A single dwelling is proposed on each section of land. The dwellings have been positioned to take maximum advantage of views and vistas achievable of the Reedy Creek valley, and accordingly are positioned on each site as follows:

- Section 599 – south-eastern corner on high part of site;
- Section 600 – central part of site on slight crest;
- Section 601 – south-eastern corner on high part of site.

The applicant has submitted plans for a ‘standard’ design to be used for the three dwellings. The design is for a single storey brick veneer home built on a raft slab, having a pitched hipped roof in Colorbond cladding, with double garage under main roof. The floor layout includes family, meals, dining, lounge, 3 bedrooms, laundry and bathroom.

The dwellings will each have a maximum height of about 5m above finished bench level up to the ridgeline. Each dwelling will have a living area of about 196m<sup>2</sup> and garage space of about 36m<sup>2</sup>, accessible via two single roller doors. Therefore, the total floor area per dwelling will be about 232m<sup>2</sup>.

The dwellings will be serviced by their own independent on-site effluent disposal systems. While a waste control system application has not yet been lodged, I note that the new allotments (57 and 58) were created in consultation with Council’s Manager – Health Services, such that a waste control system of some kind can be accommodated.

Experience with similar types of applications in the past, suggests that future purchasers of the separate allotments will lodge future development applications with Council to amend the ‘standard’ design proposed under this application. Accordingly, it is unlikely that the present designs will ever get built.

***CLASSIFICATION OF DEVELOPMENT***

The development is proposed on land within the River Murray Zone and Primary Production Policy Area of the Mid Murray Council Development Plan as identified on Map MiMu/97. Principle of Development Control 33 of the Primary Production Policy Area states that:

**MID MURRAY COUNCIL – DEVELOPMENT REPORT**  
**7.1 DEVELOPMENT APPLICATION 711/182/13 – JL HOWIE**

**33** *The following forms of development are non-complying in the Primary Production Policy Area:*

...

*Dwelling, other than a detached dwelling on an allotment of 36ha or greater in size*

...

The application comprises construction of three detached dwellings, each on an allotment of less than 36ha in size. Given this, the application must be a non-complying form of development under Principle of Development Control 33.

**REFERRALS**

The application triggers a referral to the Minister administering the River Murray Act 2003 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.

In addition, the application triggers a referral to the Environment Protection Authority under Schedule 8(10) of the Development Regulations 2008 on the basis that the application is non-complying and is proposed on land within the River Murray Water Protection Area established under the Environment Protection Act 1993.

**PUBLIC NOTIFICATION**

Principles of Development Control 34 and 35 of the Primary Production Policy Area state that:

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

**35** *Forms of development which are neither acceptable or non-complying for the Policy Area are assigned Category 2.*

Given that the application is a non-complying form of development in the Primary Production Policy Area, the application must be a Category 3 form of development.

**RELEVANT PROVISIONS OF THE MID MURRAY COUNCIL DEVELOPMENT PLAN**

**River Murray Zone**

*Objectives: 1, 2, 3, 4, 5, 6, 9, 10 & 20*

*Principles of Development Control: 19, 20, 21, 22, 23 & 24*

**Primary Production Policy Area**

*Objectives: 1, 2, 3, 4, 5, 6, 12, 13, 14, 15, 16, 17, 18 & 19*

*Principles of Development Control: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 24, 32, 33, 34 & 35*

### **ASSESSMENT**

As mentioned earlier, the Panel is only being asked at this stage to consider whether to proceed with the non-complying application. If the Panel is of the mind to proceed with the non-complying application, then a detailed assessment of the proposal against the relevant provisions of the Development Plan can take place.

The information which has been submitted in support of the application is adequate in my view to enable a 'general' assessment of the key impacts of the proposal. However, I expect that further information will need to be requested from the applicant, if the Panel agrees to proceed with the non-complying application.

It is not necessary at this stage to provide a detailed assessment of the proposal against the relevant provisions of the Development Plan. Instead, the following section of this report provides a brief assessment of the proposal against key issues being 'land use', 'land use conflict', 'appearance of development' and 'effluent disposal'.

#### Land Use

The following forms of development are listed as being "Acceptable" and "Unacceptable" in the Primary Production Policy Area:

##### *Acceptable*

- *Farming and farm buildings;*
- *Horticulture particularly viticulture and vegetable and fruit production and associated storage and processing buildings;*
- *Irrigated pasture;*
- *Land based aquaculture;*
- *Residential use associated with farming, horticulture, viticulture, land based aquaculture;*
- *Infrastructure to support acceptable uses in the Policy Area and effluent disposal derived from the Shack Settlement Policy Area;*
- *Tourist accommodation associated with existing farm dwellings;*
- *Interpretation of natural areas and the region's natural heritage;*
- *Wood lots to assist in management of irrigated development;*
- *Filling and or excavation of land (or excavation and filling) where it is in direct consequence of and is reasonably incidental to building work for an acceptable form of development where it does not involve any excavation or filling (or excavation and filling) exceeding a vertical height of 1 metre;*
- *Water storage tank (above or below ground), associated tank stand and dedicated water storage tank for fire fighting purposes; and*
- *Alterations and additions to an existing lawful dwelling. (my underlining)*

**MID MURRAY COUNCIL – DEVELOPMENT REPORT**  
**7.1 DEVELOPMENT APPLICATION 711/182/13 – JL HOWIE**

*Unacceptable*

- *Retail apart from the sale of farm produce;*
- *Urban residential;*
- *Industry and commercial not associated with farming, horticulture or viticulture excluding small scale home industry on an allotment of which its size, existing use and land capability do not support economic primary production; and*
- *Outdoor advertising other than information signage or relative to the sale of produce from the land on which the sign is sited. (my underlining)*

In addition, Principle of Development Control 19 of the Primary Production Policy Area further states that:

**19** *A dwelling should only be established on an allotment with a minimum size of 36ha.*

As quoted above, the Policy Area permits the construction of a ‘dwelling’ where built on an allotment of 36ha or greater in size and where used in “association with farming, horticulture, viticulture or land based aquaculture”. The above provisions do not suggest the ‘farming...’ activity needs to be undertaken on a permanent or ‘productive’ basis.

Given that the allotments are devoid of any vegetation and have previously been grazed, I note it is possible the new dwellings could be used in association with some form of farming activity on their respective allotments. That being the case, the proposed development could potentially constitute an “Acceptable” form of development.

The allotments appear capable of supporting some form of agricultural activity, in which case, I expect that some form of farming would be undertaken by future purchasers on the land. Grazing of livestock aids in keeping the pasture/weed growth down while also being a food source and providing some supplementary income from wool and meat.

That said, I acknowledge it is difficult to pre-empt how the future allotments will be used in conjunction with dwellings. Use of these allotments will be heavily influenced by the individual desires of future purchasers. Some purchasers may be interested in revegetating, some in hobby farming and some in share farming.

What is known is the size of the relevant allotments. As stated earlier, the subject allotments are each below 36ha in size. Consequently, this aspect of the proposal does not comply with Principle of Development Control 19. Despite this, I consider the departure from this standard to be justified because:

- a) The subject allotments are still of ‘rural size’ (> 20ha);
- b) There are at least 5 examples of dwellings in the locality sited on allotments of less than 36ha in size;
- c) The dwellings will not prejudice the use of nearby land in the locality for primary production purposes;
- d) The site has a frontage to a sealed public road and situated in close proximity to major regional centres, being Mannum and Murray Bridge.

**MID MURRAY COUNCIL – DEVELOPMENT REPORT**  
**7.1 DEVELOPMENT APPLICATION 711/182/13 – JL HOWIE**

Land Use Conflict

Principle of Development Control 24 of the Primary Production Policy Area states that:

**24** *Siting of dwellings should not limit the use for primary production which requires chemical spraying.*

Inspection of the site and locality suggests the majority of the land in the locality is used for dryland grazing of sheep. Intensive horticulture, viticulture, aquaculture and/or intensive animal keeping do not exist within this locality.

In my experience, dryland grazing results in few off-site impacts such as spray drift. Consequently, I am of the view that dwellings, where sited on rural sized allotments such as the ones proposed, can be accommodated without material land use conflict.

However, in the event that some farming land in the locality is used more intensively (i.e. for cropping). I am of the view that the buffers proposed for the new dwellings are acceptable, given that:

- a) Dwellings on Sections 600 and 601 will achieve a setback of at least 200m from the Caloote Road boundary and are buffered by the Reedy Creek backwater lagoon on the opposite side (eastern side).
- b) The dwelling on Section 599 is to be sited about 100m from Caloote Road. Land to the east of Section 599 does not appear to be farmed. Rather, it appears to comprise 'rural living' type use.
- c) There are a considerable number of dwellings in the locality. Nine dwellings appear to exist within 500m of the subject allotments. Such dwellings exist in co-location with dryland grazing activities in the locality.

For these reasons, I believe the proposed development will not limit the use of nearby land in the Policy Area for primary production.

Appearance of Development

Principle of Development Control 17 of the Primary Production Policy Area states that:

- 17** *The external appearance and design of buildings and structures visible from a public road should minimise their visual obtrusiveness by:*
- (a) Reducing the building's profile;*
  - (b) Reducing the mass of buildings into smaller components by variations in wall and roof lines; and*
  - (c) Using eaves, verandahs and similar techniques to create shadowed areas.*

As mentioned earlier, the dwellings are sited to take maximum advantage of views and vistas achievable of the Reedy Creek valley and background landscape. While the buildings are to be built on elevated parts of the site, I do not believe their positioning is unreasonable, given that:

## MID MURRAY COUNCIL – DEVELOPMENT REPORT

### 7.1 DEVELOPMENT APPLICATION 711/182/13 – JL HOWIE

- a) The buildings are of single storey construction and are of average plan size.
- b) The massing of the buildings are reduced by variations in the wall plane and roof pitch, and additional articulation can be achieved in the future by adding verandahs.
- c) The landscape is gently to moderately undulating. By no means could the position for the new dwellings be described as ‘prominent’.
- d) Several dwellings already exist in the locality on land elevated to a similar height – I note such buildings are not prominent features of the locality.

If the Panel agrees to proceed with the application, the applicant will be asked to clarify the external materials and colours to be used in their construction. The selections will need to be carefully chosen, such that the buildings can blend in with the natural surrounds of the locality. In this regard, tones of green, brown and grey are encouraged.

#### Effluent Disposal

Principle of Development Control 19 of the River Murray Zone states that:

**19** *Development that produces any sewage or effluent should be connected to a waste treatment system that complies with (or can comply with) the relevant Department of Health legislation applying to that type of development.*

As mentioned earlier, Council’s Manager – Health Services, has confirmed that an approved on-site effluent disposal system can be accommodated on each of the respective allotments. Subject to an application being made, I am satisfied this application can comply with Principle of Development Control 19, quoted above.

#### **CONCLUSION**

The applicant seeks approval for the construction of three single storey detached dwellings with attached garage (under main roof). Due to the allotments each having an area of less than 36ha, the application is a non-complying form of development, within the Primary Production Policy Area.

Preliminary assessment of the proposal, as outlined in this report, suggests the dwellings can be used in conjunction with farming activities, will also be sited such that they will not prejudice existing farming operations in the locality, will not have an unreasonable visual impact on the landscape and can be serviced by on-site effluent disposal systems.

For the above reasons, I consider the proposal to have sufficient merit to proceed with a full assessment of the non-complying application.

#### **RECOMMENDATION**

**moved 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 6 December 2012) and that the Development Assessment Panel resolve to proceed with an assessment of Development Application 711/182/13 pursuant to Regulation 17(3)(b) of the Development Regulations 2008.  
Seconded**

**MID MURRAY COUNCIL – DEVELOPMENT REPORT**  
**7.2 DEVELOPMENT APPLICATION 711/123/13 – A WEHRMANN**

*Reporting Officer:* Jake McVicar  
*Position:* Development Officer - Planning

**Development No.** 711/123/13  
**Applicant** A Wehrmann  
**Subject Land** Allotments 49 & 50, 29-31 Porter Street,  
Cowirra, Hundred of Younghusband  
**Proposal** Perimeter Fencing comprising Post and Rail  
Fence with Corrugated Sheeting and Pool Style  
Fencing to be located in a Flood Plain

***INTRODUCTION***

The applicant, Allen Wehrmann, lodged the above development application with Council on 12 April 2013, seeking approval for perimeter fencing comprising a post and rail fence with corrugated sheeting and pool style fencing to be located in a flood plain located at 29-31 Porter Street, Cowirra.

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

***BACKGROUND***

A meeting was held with the applicant at the Cambrai Office on 2 April 2013, to discuss, amongst other matters, solid fencing at the subject land. My advice was that it is possible that solid fencing would be supported if it was the direct replacement of existing solid fencing. It is unlikely that any new solid fencing would be supported. The applicant advised that it would be replacement fencing.

Subsequently, this development application was lodged on 12 April 2013 and I undertook a site inspection of the subject land on 1 May 2013 to discover the proposed fence had already been constructed, additionally Council received correspondence on 7 May 2012 from a concerned ratepayer stating that the fence had been constructed and that no fence had ever existed at the subject land. At present, the proposed fence has been constructed unlawfully without any Council approval. The only portion of the proposed fence that has not been constructed is the pool style fencing to the front property boundary.

I requested that the applicant provide photographic evidence showing that a solid fence had previously existed around the perimeter of the two allotments in order to allow me to support the application. The applicant provided some photographs, copies of which are attached, which show that limited solid fencing may have existed at the subject land prior to the new fence being constructed.

The applicant has stated that the proposed fence is required primarily for the safety of both children and pets.

***SUBJECT LAND***

The subject site is 29-31 (Lots 49 and 50) Porter Street, Cowirra. Both allotments are rectangular in shape with Allotment 49 measuring approximately 1,039 square metres in area and Allotment 50 measuring 1,014 square metres. Both allotments have frontage to Porter Street to the north and Edward Terrace to the rear (south) boundary, with Allotment 50 also have a third frontage to Edward Terrace along its eastern boundary.

## **MID MURRAY COUNCIL – DEVELOPMENT REPORT**

### **7.2 DEVELOPMENT APPLICATION 711/123/13 – A WEHRMANN**

Allotment 49 contains a single storey detached dwelling, outbuilding and caravan. Allotment 50 contains shedding and a caravan. Both allotments have solid perimeter fencing, contain some vegetation and are relatively level.

Photos taken while on-site on 1 & 22 May 2013 are attached.

#### ***DESCRIPTION OF LOCALITY***

The subject land is located within the settlement of Cowirra. The settlement comprises a mixture of permanent residents and holiday makers, and therefore the population can fluctuate during different periods.

There are a number of detached dwellings within the area, some of which are elevated along with associated outbuildings and other residential structures. Many allotments within the settlement have existing solid fencing.

#### ***DESCRIPTION OF PROPOSAL***

The applicant seeks approval for perimeter fencing comprising a post and rail fence with corrugated sheeting and pool style fencing to be located in a flood plain, comprising the following key elements:

- a) 131.9 metres of post and rail fencing with corrugated sheeting;
- b) 45 metres of pool style fencing;
- c) 1.9 metres in height;
- d) Colour 'Rivergum Green'.

The post and rail fence with corrugated sheeting extends the length of the side and rear boundaries of 29-31 Porter Street, Cowirra. The pool style fencing is proposed to extend the length of the front property boundary of both allotments.

Detailed plans in support of the proposed construction are attached.

#### ***CLASSIFICATION OF DEVELOPMENT***

The site is located within the River Murray Zone and Shack Settlement Policy Area of the Mid Murray Council Development Plan (Consolidated 6 December 2012) as identified on Map MiMu/37 and Map MiMu/126.

Any style of fencing is neither listed as complying or non-complying within the Shack Settlement Policy Area. On this basis, the application is subject to an "on-merit" assessment against the relevant provisions of the Mid Murray Council Development Plan.

#### ***REFERRALS***

The subject land is located within the River Murray Flood Plain Area, however as the proposed fencing is less than 2 metres in height referral to the Department of Environment, Water and Natural Resources is not required pursuant to Schedule 8, 19, (g) (iii) of the Development Regulations 2008.

**MID MURRAY COUNCIL – DEVELOPMENT REPORT**  
**7.2 DEVELOPMENT APPLICATION 711/123/13 – A WEHRMANN**

***PUBLIC NOTIFICATION***

For the purposes of public notification Principles of Development Control 31 and 32 of the Shack Settlement Policy Area state that:

- 31** *All forms of development which are acceptable for the Policy Area are Category 1 (except where non-complying)*
- 32** *Forms of development which are neither acceptable or non-complying for the Policy Area are assigned Category 2.*

Solid fencing is listed as being an unacceptable form of development within the Shack Settlement Policy Area. As the proposed development is neither acceptable or non-complying, the application is considered to be a Category 2 form of development.

The application underwent the Category 2 public notification period with one representation being received, raising no objection to the development.

***RELEVANT PROVISIONS OF THE MID-MURRAY COUNCIL DEVELOPMENT PLAN***

**Council Wide**

*Principles of Development Control: 220, 221 & 222*

**River Murray Zone**

*Objective: 19*

**Shack Settlement Policy Area**

*Objectives: 1 & 3*

*Principles of Development Control: 1 & 23*

***ASSESSMENT***

Detailed assessment of the proposal has taken place against the relevant provisions of the Mid Murray Council Development Plan (Consolidated 6 December 2012), as provided below under headings.

Land Use

Shack Settlement Policy Area Objective 1 states:

- 1** *Development that contributes to the desired character of the policy area.*

Principle of Development Control 1 of the Shack Settlement Policy Area states that:

- 1** *Development should not be undertaken unless it is consistent with the desired character and acceptable forms of development for the policy area.*

**MID MURRAY COUNCIL – DEVELOPMENT REPORT**  
**7.2 DEVELOPMENT APPLICATION 711/123/13 – A WEHRMANN**

Whilst it is accepted that fencing is generally an appropriate form of development, particularly in association with a residential land use it is the type of fencing that is being disputed in this instance.

Considering the subject land is located in a locality that is potentially flood prone it is considered that post and wire or pool style fencing is far more appropriate. This style of fencing would also preserve the character of the locality, which, when viewed from East Front Road, is one of an open nature.

In addition to the above, the Shack Settlement Policy Area lists types of development which are considered to be either acceptable or unacceptable forms of development. Solid fencing is considered to be an unacceptable form of development.

It is considered that the proposed development does not contribute to the desired character of the locality, nor is it considered an acceptable form of development within the Shack Settlement Policy Area.

Flood Impact

Council Wide Principles of Development Control 220, 221 and 222 provide guidance to development and flooding as follows:

**220** *Development should not occur on land where the risk of flooding is likely to be harmful to safety or damage property.*

**221** *Development should not be undertaken in areas liable to inundation by drainage or flood waters unless the development can achieve all of the following:*

- (a) it is developed with a public stormwater system capable of catering for a 1 in 100 year average return interval flood event;*
- (b) buildings are designed and constructed to prevent the entry of floodwaters in a 1 in 100 year average return interval flood event.*

**222** *Development, including earthworks associated with development, should not do any of the following:*

- (a) impede the flow of floodwaters through the land or other surrounding land;*
- (b) increase the potential hazard risk to public safety of persons during a flood event;*
- (c) aggravate the potential for erosion or siltation or lead to the destruction of vegetation during a flood;*
- (d) cause any adverse effect on the floodway function;*
- (e) increase the risk of flooding of other land;*
- (f) obstruct a watercourse.*

In addition to the above, Shack Settlement Policy Area Objective 3 states that:

**3** *Buildings, or structures, or levee banks, or earth mounds which do not impede or will not be damaged by flood waters.*

The subject land is located within the 1956 flood level. Development should not occur on land where there is a risk of flooding, unless it can be demonstrated that the risk of flood waters causing damage or risk to safety is minimised i.e. elevated dwellings, flood openings on outbuildings, open style fencing.

Solid fencing is generally discouraged and considered unacceptable within the flood plain and specific policy area as it has the potential to impede or be damaged by flood waters. The style of fencing proposed also has the potential to alter the natural course of flood waters which may exacerbate the impact of any flooding to adjoining properties within the locality.

The only style of fencing that is supported is post and wire fencing or tubular style (pool fencing) fencing which would allow flood water to flow relatively freely without any possible impediment.

This type of information is also consistent with the advice that is regularly given to other land owners within the Shack Settlement Policy Area who enquire about fencing their properties.

The proposed development does not comply with the Council Wide Principles of Development Control relating to flooding and Objective 3 of the Shack Settlement Policy Area.

#### Appearance

Shack Settlement Policy Area Principle of Development Control 23 states that:

- 23** *Fencing should be avoided or where proposed it is only to define an allotment boundary or individual lease site and should:*
- (a) *be of an open design (not solid) so as to not impede water flow (post and wire or similar open style fencing)*
  - (b) *be 1.2 metres or less in height above the lowest of the two adjoining ground levels; and*
  - (c) *be of a galvanised finish or finished in neutral colours which blend with the natural colours of the landscape; and*
  - (d) *in the case of tubular style fencing, be constructed in sections such that those sections can be easily removed by two people without mechanical assistance the event of a flood*

The proposed perimeter fence has been located to define allotment boundaries and also provide an amount of safety for the owners of the subject land. However, the fence is primarily solid in nature apart from the length of fence across the front property boundary which is proposed to be open style pool fencing. Furthermore, the overall height of the fence is to be 1.9 metres, some 700mm above the recommended maximum height for fencing within the policy area.

I would be supportive of the open style pool fencing which has been proposed to be used as part of the overall development, but am unable to support the proposed solid fencing which is clearly at odds with the provisions of the Development Plan.

**MID MURRAY COUNCIL – DEVELOPMENT REPORT**  
**7.2 DEVELOPMENT APPLICATION 711/123/13 – A WEHRMANN**

The proposed development is not consistent with Principle of Development Control 23 of the Shack Settlement Policy Area.

***CONCLUSION***

The proposed development will result in solid fencing that has the potential to impede the flow of flood waters and become a hazard to the public during a flood event.

In addition, the fence is to be predominantly constructed of materials that are not consistent with the policy for fencing in the Shack Settlement Policy Area. The policy only supports open style fencing and lists any form of solid fencing within the Shack Settlement Policy Area as an unacceptable use.

It is considered that on balance that the proposed development is considered to be sufficiently at variance with the relevant provisions the Mid Murray Council Development Plan (Consolidated 6 December 2012). Consequently, I recommend that Development Plan Consent be refused.

**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 6 December 2012) but that pursuant to Section 33(1)(a) of the Development Act 1993 Development Application 711/123/13 is “Sufficiently at Variance” with the relevant provisions of the Mid Murray Council Development Plan (Consolidated 6 December 2012) to warrant refusal for, amongst others, the following reasons:-**

- 1. The proposed development will result in the impediment of flood waters and become a potential hazard during a flood event.**

**Council Wide Principles of Development Control 220, 221 and 223.**

- 2. The proposed development is not a suitable style of fencing in the Shack Settlement Policy Area.**

**River Murray Zone – Shack Settlement Policy Area Principle of Development Control 23.**

## MID MURRAY COUNCIL – DEVELOPMENT REPORT

### 7.3 DEVELOPMENT APPLICATION 711/200/13 – TRUSTPOWER AUSTRALIA HOLDINGS PTY LTD

*Reporting Officer:* Aaron Curtis  
*Position:* Senior Development Officer - Planning

**Development No.** 711/200/13  
**Applicant** TrustPower Australia Holdings Pty Ltd  
**Subject Land** Lot 201 of FP217815, Borthwick Brae Road, Tungkillio, Hundred of Tungkillio  
**Proposal** Wind Monitoring Tower (70m) with Attached Guy Wires

#### **INTRODUCTION**

The applicant lodged the above development application with Council on 30 May 2013 for a wind monitoring tower (70m) with attached guy wires.

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

#### **BACKGROUND**

Council had previously granted TrustPower Australia Holdings Pty Ltd development approval in 2010 (711/260/09) for a wind monitoring mast on this site on a temporary basis for up to 3 years. That application was subject to a non-complying assessment, and was approved by Council staff under delegation, given the absence of any representations.

The tower was subsequently erected in accordance with the Development Approval for Development Application 711/260/09. Earlier this year that application lapsed (after a period of 3 years). TrustPower Australia Holdings Pty Ltd subsequently lodged this development application for the same development, seeking a further extension of 36 months.

#### **SUBJECT LAND**

The subject site is Allotment 201 of FP217805, Borthwick Brae Road, Tungkillio, Hundred of Tungkillio. The site comprises one Torrens Title allotment of 20.2ha, having frontages to unmade roads along its eastern and western boundaries. The site is irregular in shape.

The site is moderately to steeply undulating, and is located within a rocky outcrop, typical of this part of the hills escarpment. The site is generally bare and devoid of any vegetation, other than a few individual trees.

The site is devoid of any buildings or structures other than a wind monitoring mast with attached guy wires, located in the south-western corner of the site, being the highest part of the site, known as Scott Hill.

#### **LOCALITY**

The site is positioned at the eastern escarpment of the Mount Lofty Ranges, approximately half way between the Angas Valley Road to the north and Randell Road to the south. The township of Palmer is located some 5.5kms to the south-east, and the township of Tungkillio some 5.5kms to the south-west.

7.3 DEVELOPMENT APPLICATION 711/200/13 – TRUSTPOWER AUSTRALIA HOLDINGS PTY LTD

The locality comprises steeply undulating land, with the majority of the land being devoid of any buildings or structures, and being bare of any vegetation. The land is used predominantly for dryland grazing, mainly sheep. The escarpment is made up of rolling crests and deep valleys, with tributaries flowing intermittently within the valleys.

The land enjoys substantial views of the Murray Plains out to the east, due to the elevated position of the land. The Apamurra silos are particularly visible some 7.5kms to the south-east, with the Mannum township further in the background, located some 19kms south-east.

**DESCRIPTION OF PROPOSAL**

The application comprises erection of a wind monitoring tower (70m high) with attached guy wires. The tower will be positioned in the south-western corner of the site, about 50m from the western and southern boundaries. The tower will sit within a fenced enclosure of 92m wide by 92m long.

The tower comprises a thin galvanised steel tube with 7 sets of guy wires at regular intervals. The total tower height is 70.03m. The tower diameter is 219mm up to 42m in height with the remaining section of tower having a lesser diameter of 152mm. The top of the tower includes an antenna and sensor for data collection.

The tower is held in place by stainless steel guy wires, four of which are installed at each level (28 in total) facing north, south, east and west and anchored at a radius of between 38m and 45m from the tower. A stainless steel plate is positioned at the base of the tower with base station at ground level for data collection powered by a small solar panel.

**CLASSIFICATION**

The subject site is located within the Rural Zone and Hills Policy Area of the Mid Murray Council Development Plan (Consolidated 6 December 2012). Principle of Development Control 44 of the Zone states that:

**45** *The following kinds of development are non-complying in the Rural Zone:*

...

*And in addition, within Marne Watercourse Policy Area 13 and Hills Policy Area 14, all kinds of development other than those listed below are non-complying.*

...

*Wind monitoring mast located outside of the Barossa Valley Character Preservation District as defined by Character Preservation legislation (my underlining)*

The development involves construction of a wind monitoring mast. I note this site is located outside of the Barossa Valley Character Preservation District, as quoted above. Consequently, the application shall be assessed “on-merit” against the relevant provisions of the Mid Murray Council Development Plan.

## MID MURRAY COUNCIL – DEVELOPMENT REPORT

### 7.3 DEVELOPMENT APPLICATION 711/200/13 – TRUSTPOWER AUSTRALIA HOLDINGS PTY LTD

#### **REFERRALS**

The application did not trigger any referrals to any agencies under Schedule 8 of the Development Regulations 2008.

#### **PUBLIC NOTIFICATION**

Principle of Development Control 47 of the Rural Zone states that:

**47** *For the purposes of public notification, the following activities are assigned Category 2:*

...  
*Wind monitoring mast and ancillary development located outside of the Barossa Valley Character Preservation District as defined by Character Preservation legislation (my underlining)*

The development involves construction of a wind monitoring mast. As mentioned above, the site is located outside of the Barossa Valley Character Preservation District. Consequently, the application must be a Category 2 form of development under Principle of Development Control 47, quoted above.

The application underwent the mandatory Category 2 public notification period with one representation being received from MR & VM Krause. I note the representor did not raise any objection to the proposed development. A copy of their representation is attached.

#### **RELEVANT PROVISIONS OF THE MID MURRAY COUNCIL DEVELOPMENT PLAN**

##### **Rural Zone**

*Objectives: 1, 2, 5, 6, 7, 15, 16, 20, 21, 22 & 23*

*Principles of Development Control: 4, 5, 6, 7, 12, 14, 15, 16, 18, 19, 20, 22, 23, 44, 45, 46 & 47*

##### **Hills Policy Area**

*Objectives: 1, 2 & 3*

*Principles of Development Control: 1, 3 & 4*

#### **ASSESSMENT**

##### Land Use

The following forms of development are listed as being “Acceptable” in the Rural Zone:

- *Farming and farm buildings;*
- *Horticulture particularly viticulture, vegetable and fruit production and associated storage and processing buildings;*
- *Irrigated pasture;*
- *Residential use providing it is associated with farming, horticulture, viticulture;*

- *Infrastructure to support acceptable uses;*
- *Tourist accommodation associated with existing farm dwellings;*
- *Tourism development associated with the natural environment;*
- *Uses which aid interpretation of natural areas and the region's natural heritage;*
- *Intensive animal keeping providing specified separation distances can be achieved;*
- *Land-based aquaculture providing specified separation distances can be achieved;*
- *Land extensive uses to support urban areas such as waste disposal or waste treatment;*
- *Wind farm and ancillary development outside of the Barossa Valley Character Preservation District; and*
- *Wind monitoring mast and ancillary development outside of the Barossa Valley Character Preservation District. (my underlining)*

The proposed development is clearly envisaged within the Rural Zone, as highlighted above. Therefore, I consider the form of development proposed on the subject site to be acceptable.

In addition, I note that the proposed development will not undermine the clearly stated Objectives of the Zone, which seek continued operation and sustainability of rural production and primary industries.

The tower will sit within a fenced enclosure of 8,464m<sup>2</sup>, which I note is some 4% of the total site area. The remainder of the land will continue to be available for dryland grazing. Therefore, I conclude the tower will not compromise the ability to farm this land.

#### Appearance of Development

Principle of Development Control 22 of the Rural Zone states that:

**22** *Wind farms and ancillary development should be located in areas outside of the Barossa Valley Character Preservation District as defined by Character Preservation legislation which provide opportunity for harvesting of wind and efficient generation of electricity and may therefore be sited:*

- (a) In visually prominent locations;*
- (b) Closer to roads than envisaged by generic setback policy.*

I accept that the tower is to be positioned on a prominent site and is visible from two secondary arterial roads. Despite this, I note the policy clearly envisages the erection of wind farms and ancillary development on prominent sites, as quoted above, where located outside of the Barossa Valley Character Preservation District.

I also consider the extent of visual impact on the locality to be acceptable because:

- a) The tower is tall and slender, and fades quickly into the backdrop of the landscape, as you move away from the tower;
- b) On cloudy and overcast weather, the tower is barely recognisable;
- c) The tower is not readily visible from the Murray Plains;
- d) The tower is to be setback some 800m from the nearest dwelling.

I also note the tower has existed in this position for the past 3.5 years, without any complaint with regard to its appearance. Given the above, in my opinion, the proposed tower will not disfigure the character of the eastern face of the Mount Lofty Ranges.

#### Waste/Emissions Impact

Objective 18 of the Rural Zone states that:

**Objective 18:** *No adverse impacts from the treatment of wastes.*

The activity will not generate any emissions, discharges or waste. Consequently, the proposed tower is not expected to have any negative impacts on the environment.

#### Native Vegetation Impact

Council-wide Principle of Development Control 177 states that:

**177** *No change of land use should occur in or near areas of native vegetation which is likely to adversely impact on the vegetation.*

The tower already exists, such that there will be no impact on the small amount of native trees positioned on the site. Therefore, the proposed development will not adversely impact on native vegetation, as desired under Council-wide Principle of Development Control 177, quoted above.

#### Noise

Objective 16 and Principle of Development Control 12 of the Rural Zone state that:

**Objective 16:** *Protection of sensitive uses from external noise.*

**12** *Development designed to minimise adverse acoustic impacts on adjoining uses which would be sensitive to acoustic interference.*

I note the tower generates small amounts of noise from the sensors located between each section of the mast and from deflected wind impacting with the tower. While this is noted, the extent of noise is considered to be reasonable because:

- a) The noise would not be audible to any person standing on an adjacent property;
- b) The tower does not contain any moving or rotating parts;
- c) The nearest dwelling from the tower site is some 800m away.

## MID MURRAY COUNCIL – DEVELOPMENT REPORT

### 7.3 DEVELOPMENT APPLICATION 711/200/13 – TRUSTPOWER AUSTRALIA HOLDINGS PTY LTD

Given the above, the proposed development will satisfy Objective 16 of the Rural Zone, quoted above. At the same time, it is expected that the noise output will easily fall within the noise limits set by the Environment Protection Authority under the Environment Protection (Noise) Policy 2007.

#### Decommissioning

As mentioned earlier, the tower is physically anchored to the land by 4 sets of guy wires (north, south, east and west) and a base plate at the bottom of the mast. Despite being physically anchored into natural ground, the overall footprint is small, and as such, the anchor points will not result in any visual scarring or lasting adverse effect on the site.

The applicant has sought approval to keep the mast on the site for a further 3 years. I note the policy permits the construction of a wind monitoring mast in the Rural Zone under any circumstance (i.e. not subject to any time limitation), in which case I have not included a condition requesting removal of the tower within 36 months of approval.

However, at some period in the future, the applicant is likely to remove the tower. At that time, the applicant has a duty by way of condition, to restore the land to its previous condition, as best as can be possibly achieved. This will ensure that the site is returned to its former state.

#### Lightning Strike

The proposed tower has potential to be struck by lightning. I note the tower is engineered and certified as being safe with respect to lightning strike. This is achieved by way of earthing at the base of the tower. Given this, I do not believe the proposed development will give rise to a safety or fire hazard.

#### Civil Aviation

The proposed development did not trigger referral to an airport authority or the Civil Aviation Safety Authority (CASA) under Schedule 8 of the Development Regulations 2008 on the basis that the Mid Murray Council Development Plan does not contain any airport height limit maps. In addition, I note that structures only require formal referral to CASA outside of the Development Regulations 2008 where they exceed 110m in height.

While a formal referral to CASA is not required, the applicant is required to notify CASA of the erection of the proposed tower under their "Tall Structures" database. CASA requires that all structures of greater than 45m in height be notified under the RAAF AIS "Tall Structures" database. A notation is included in the recommendation to advise the applicant of this.

#### Land Management of Enclosure

The proposed tower will be located within a fenced area of 92m x 92m (post and wire fencing) to prevent entry of stock. The enclosure is intended to accommodate the tower, guy wires and associated base infrastructure.

## MID MURRAY COUNCIL – DEVELOPMENT REPORT

### 7.3 DEVELOPMENT APPLICATION 711/200/13 – TRUSTPOWER AUSTRALIA HOLDINGS PTY LTD

The landowner has an obligation to keep high grasses down within the fenced enclosure, so that it does not constitute a fire hazard under the Fire and Emergency Services Act 2005. A condition is included to ensure that this occurs at all times.

#### Precedent

Panel members should keep in mind that this application is for a wind monitoring tower, not a wind farm. If the Panel approves the application, it does not imply in any way that a wind farm might be approved on this site in the future.

#### **CONCLUSION**

The applicant seeks approval for a wind monitoring mast with attached guy wires at Allotment 201 of FP217815, Borthwick Brae Road, Tungkillo, Hundred of Tungkillo. The mast already sits upon the land, having been previously approved by Council under Development Application 711/260/09. The tower is to remain in its present location.

A wind monitoring mast is clearly envisaged within the Rural Zone. While the tower will be positioned on a prominent site at the eastern escarpment of the Mount Lofty Ranges, the Rural Zone envisages the erection of wind infrastructure on such sites, where located outside of the Barossa Valley Preservation District.

I note the tower will not generate any emissions, waste or wastewater. At the same time, the tower will generate minimal noise, not be audible to any nearby dwelling, will not result in the removal of any native vegetation, and is engineered and certified to withstand lightning strike.

Other incidental matters such as management of grasses within the enclosure, decommissioning of the tower after removal and impact on aviation can be addressed by way of conditions and notations. Subject to these conditions and notations, I consider the development warrants Development Plan Consent.

#### **RECOMMENDATION**

**moved that pursuant to Section 35(2) of the Development Act 1993, the proposed development is not “Seriously at Variance” with the relevant provisions of the Mid Murray Council Development Plan (Consolidated 6 December 2012) and that pursuant to Section 33(1)(a) of the Development Act 1993 Development Plan Consent be granted to Development Application 711/200/13 subject to 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 2-4 inclusive:**

**MID MURRAY COUNCIL – DEVELOPMENT REPORT**

**7.3 DEVELOPMENT APPLICATION 711/200/13 – TRUSTPOWER AUSTRALIA HOLDINGS PTY LTD**

<b>Plan Number</b>	<b>Plan Type</b>	<b>Dated</b>	<b>Prepared By</b>
Not Stated	Site Plan – Topographic Map	Received by Council dated 30.05.13	Trustpower
Not Stated	Statement of Support	July 2009	Trustpower
70mC1 Mast Manual Version 2.01	General Tube Arrangement	Received by Council dated 30.05.13	Nexgen
70mC1 Mast Manual Version 2.01	Design Specification	Received by Council dated 30.05.13	Nexgen
Not Stated	Part Site Plan	30.09.09	Parsons Brinckerhoff
Not Stated	Site Plan	30.09.09	Parsons Brinckerhoff
Not Stated	Product Brochure and Design Specification	Received by Council dated 30.05.13	Nexgen
09-0725-01-2160032A	Statement of Effect	30.09.09	Parsons Brinckerhoff

2. The site (i.e. the ‘fenced off enclosure’, as shown on the Approved Part Site Plan, prepared by Parsons Brinckerhoff, dated 30 September 2009) shall be remediated to its original state (i.e. as it existed prior to erection of the tower and guy wires), as best as reasonably can be achieved, within 3 months from the date of removal of the tower and guy wires.
3. Throughout a proclaimed fire danger season, the applicant shall cut and thereafter maintain any grasses growing within the ‘fenced off enclosure’, as shown on the Approved Part Site Plan, prepared by Parsons Brinckerhoff, dated 30 September 2009, such that the said grasses do not exceed a height of ten centimetres (10cm) above natural ground level.
4. The tower shall only be used for the purpose of monitoring wind speed, as stated in the Approved Statement of Support and Statement of Effect.

**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. 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 commenced 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.**

- 3. 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 the commencement of work.**
- 4. During the period that the development is being undertaken, all waste materials associated with the building work are to be secured and contained within the site. Upon completion of the development all wastes are to be removed and appropriately disposed of.**
- 5. All building work shall be carried out in accordance with the requirements of the Development Act 1993, as amended and its Regulations.**
- 6. All existing trees on the site are to be retained wherever practicable.**
- 7. 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.**
- 8. 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.**
- 9. 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.**
- 10. 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.**

**MID MURRAY COUNCIL – DEVELOPMENT REPORT**

**7.3 DEVELOPMENT APPLICATION 711/200/13 – TRUSTPOWER AUSTRALIA HOLDINGS PTY LTD**

- 11. 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.**
  
- 12. The applicant should provide details of the proposed construction to the Civil Aviation Safety Authority (CASA), in accordance with the “Reporting of Tall Structures” Advisory Circular, AC 139-08(0), dated April 2005. For more information, you may contact the Aeronautical Data Officer, RAAF AIS, Victoria Barracks on 03 9282-6400.**

## MID MURRAY COUNCIL – DEVELOPMENT REPORT

### 7.4 DEVELOPMENT APPLICATION 711/198/13 – TRUSTPOWER AUSTRALIA HOLDINGS PTY LTD

*Reporting Officer:* Jake McVicar  
*Position:* Development Officer - Planning

**Development No.** 711/198/13  
**Applicant** Trustpower Australia Holdings Pty Ltd  
**Subject Land** Piece 279 of FP170028, Three Chain Road, Cambrai, Hundreds of Angas and Jutland  
**Proposal** Wind Monitoring Tower (70m) with Attached Guy Wires

#### **INTRODUCTION**

The applicant, Trustpower Australia Holdings Pty Ltd, lodged the above development application with Council on 30 May 2013, seeking approval for the construction of a wind monitoring mast (70m) with attached guy wires located at Piece 279 of FP170028, Three Chain Road, Cambrai, Hundreds of Angas and Jutland

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

#### **SUBJECT LAND**

The subject site is Piece 279 of FP170028, Three Chain Road, Cambrai, Hundreds of Angas and Jutland. The site is irregular in shape and is undulating in nature rising from the eastern portion of the allotment to the west to a ridge line.

The subject land is presently vacant and used for farming (grazing) purposes by the owner of the land. The site is generally bare and devoid of any vegetation, other than a few corridors of trees that follow the watercourse which traverses the subject land.

The subject land totals some 324.1 hectares in area. The site is bordered by other large land holdings of a similar size and used for similar farming purposes.

A portion of the subject land is located within the Barossa Valley Character Preservation District, however the site of the proposed wind monitoring tower is not located within this defined area.

The nearest dwelling is located approximately 2.8km east of the subject site of the proposed wind monitoring tower.

Photos taken while on-site on 11 June 2013 are attached.

#### **DESCRIPTION OF LOCALITY**

The site is positioned at the eastern escarpment of the Mount Lofty Ranges and the township of Cambrai is located some 6kms to the north-east.

The locality comprises steeply undulating land, with the majority of the land being devoid of any buildings or structures, and being bare of any vegetation. The land is used predominantly for dryland grazing, mainly sheep. The escarpment is made up of rolling crests and deep valleys, with tributaries flowing intermittently within the valleys.

## MID MURRAY COUNCIL – DEVELOPMENT REPORT

### 7.4 DEVELOPMENT APPLICATION 711/198/13 – TRUSTPOWER AUSTRALIA HOLDINGS PTY LTD

The land enjoys substantial views of the Murray Plains out to the east, due to the elevated position of the land.

#### **DESCRIPTION OF PROPOSAL**

The application comprises erection of a wind monitoring tower (70m high) with attached guy wires. The tower will be positioned in the eastern portion of the site, about 600m from the western boundary and 750m from the eastern boundary of Piece 279. It is yet to be determined whether or not the site requires fencing.

The tower comprises a thin galvanised steel tube with 7 sets of guy wires at regular intervals. The total tower height is 70.03m. The tower diameter is 219mm up to 42m in height with the remainder having a lesser diameter of 152mm. The top of the tower includes an antenna and sensor for data collection.

The tower is held in place by stainless steel guy wires, four of which are installed at each level (28 in total) facing north, south, east and west and anchored at a radius of between 38m and 45m from the tower. A stainless steel plate is positioned at the base of the tower with base station at ground level for data collection powered by a small solar panel.

Detailed plans in support of the proposed construction are attached.

#### **CLASSIFICATION OF DEVELOPMENT**

The site is located within the Rural Zone and Marne Watercourse Policy Area of the Mid Murray Council Development Plan (Consolidated 6 December 2012) as identified on Map MiMu/3 and Map MiMu/78. Principle of Development Control 45 of the Zone states that:

**45** *The following kinds of development are non-complying in the Rural Zone:*

...

*And in addition, within Marne Watercourse Policy Area 13 and Hills Policy Area 14, all kinds of development other than those listed below are non-complying.*

...

*Wind monitoring mast located outside of the Barossa Valley Character Preservation District as defined by Character Preservation legislation*

The development involves construction of a wind monitoring mast. I note the site of the proposed development is located outside of the Barossa Valley Character Preservation District, as quoted above. Consequently, the application shall be assessed “on-merit” against the relevant provisions of the Mid Murray Council Development Plan.

#### **REFERRALS**

No agency referrals were required pursuant to Schedule 8 of the Development Regulations 2008.

## MID MURRAY COUNCIL – DEVELOPMENT REPORT

### 7.4 DEVELOPMENT APPLICATION 711/198/13 – TRUSTPOWER AUSTRALIA HOLDINGS PTY LTD

#### **PUBLIC NOTIFICATION**

For the purposes of public notification Principle of Development Control 47 of the Rural Zone states that:

**47** *For the purposes of public notification, the following activities are assigned Category 2:*

*Wind monitoring mast and ancillary development located outside of the Barossa Valley Character Preservation District.*

The development involves construction of a wind monitoring mast. As mentioned above, the site is located outside of the Barossa Valley Character Preservation District, as quoted above. Consequently, the application must be a Category 2 form of development under Principle of Development Control 47, quoted above.

The application underwent the mandatory Category 2 public notification period with one representation being received from H Graetz. I note the representor did not raise any objection with the proposed development. A copy of their representation is attached.

#### **RELEVANT PROVISIONS OF THE MID-MURRAY COUNCIL DEVELOPMENT PLAN**

##### **Rural Zone**

*Objectives: 1, 2, 5, 6, 7, 15, 16, 20, 21, 22 & 23*

*Principles of Development Control: 4, 5, 6, 7, 12, 14, 15, 16, 18, 19, 20, 22, 23, 44, 45, 46 & 47*

##### **Marne Watercourse Policy Area**

*Objectives: 1 & 4*

*Principles of Development Control: 1, 4, 5, 10 & 11*

#### **ASSESSMENT**

A detailed assessment of the proposal has taken place against the relevant provisions of the Mid Murray Council Development Plan (Consolidated 6 December 2012), as provided below under headings.

##### Land Use

Rural Zone Objective 1 states:

**1** *Long-term operation and sustainability of rural production and primary industries.*

The proposed wind monitoring facility will not hinder or frustrate the intent of the zone as the majority of the land will function as a rural production allotment. When considering the overall size of the subject land only a minor portion of the overall allotment will be required for the location of the wind monitoring tower.

## MID MURRAY COUNCIL – DEVELOPMENT REPORT

### 7.4 DEVELOPMENT APPLICATION 711/198/13 – TRUSTPOWER AUSTRALIA HOLDINGS PTY LTD

Rural Zone Objective 2 states:

- 2** *Accommodation of wind farms and ancillary development outside of the Barossa Valley Character Preservation District as defined by Character Preservation legislation.*

The following forms of development are listed as being “Acceptable” in the Rural Zone:

- *Farming and farm buildings;*
- *Horticulture particularly viticulture, vegetable and fruit production and associated storage and processing buildings;*
- *Irrigated pasture;*
- *Residential use providing it is associated with farming, horticulture, viticulture;*
- *Infrastructure to support acceptable uses;*
- *Tourist accommodation associated with existing farm dwellings;*
- *Tourism development associated with the natural environment;*
- *Uses which aid interpretation of natural areas and the region’s natural heritage;*
- *Intensive animal keeping providing specified separation distances can be achieved;*
- *Land-based aquaculture providing specified separation distances can be achieved;*
- *Land extensive uses to support urban areas such as waste disposal or waste treatment;*
- *Wind farm and ancillary development outside of the Barossa Valley Character Preservation District; and*
- *Wind monitoring mast and ancillary development outside of the Barossa Valley Character Preservation District. (my underlining)*

The proposed development is clearly envisaged within the Rural Zone, as highlighted above. Therefore, I consider the form of development proposed on the subject site to be acceptable.

#### Visual Impact and Appearance

There are a range of Objectives and Principles of Development Control in the Rural Zone and Marne Watercourse Policy Area that relate to the appearance of development as follows:

#### **Rural Zone**

**Objective 6:** *Maintenance and enhancement of the landscape character.*

**Objective 20:** *Buildings and structures compatible with the environmental qualities, built form and character of the surrounding area and landscape.*

Principles of Development Control

- 4 *Development should be designed and sited to respect and maintain the landscape character of an area which is of:*
- a) *historical (including archaeological) significance;*
  - b) *scientific interest;*
  - c) *scenic value or natural beauty;*
  - d) *other heritage significance; or*
  - e) *conservation significance.*
- 22 *Wind farms and ancillary development should be located in areas outside of the Barossa Valley Character Preservation District as defined by Character Preservation legislation which provide opportunity for harvesting of wind and efficient generation of electricity and may therefore be sited:*
- (a) *in visually prominent locations;*
  - (b) *closer to roads than envisaged by generic setback policy.*

**Marne Watercourse Policy Area**

**Objective 1:** *The character, aesthetic appearance, scenic beauty and amenity of the River Marne and River Somme and its environs are preserved and enhanced in order to:*

- (a) *undertake sustainable primary production;*
- (b) *protect water systems;*
- (c) *provide recreation areas, particularly passive recreation areas;*
- (d) *provide for native flora and fauna habitats; and*
- (e) *protect areas of scientific, archaeological or cultural significance*

Principles of Development Control

- 4 *Buildings should be sited unobtrusively and should be constructed out of materials that blend with the riverine landscape.*
- 5 *No buildings should be developed on the eastern face of the ranges as defined in Marne Watercourse Policy Area Figures HF(MWPA)/1 to 5.*

The proposed wind monitoring mast will be located in a visually prominent position on top of a ridge line on the subject land. A wind monitoring mast is clearly envisaged within these types of location as stated in Rural Zone Principle of Development 22. Notwithstanding this visually prominent location, the proposed tower is slimline in appearance allowing it to fade into its natural surroundings and is to be located at distances of approximately 2.8km from the nearest public road, Three Chain Road. It is considered that when viewed from public positions, the visual impact on the landscape will be minimal. Further to this, the tower will only exist for a temporary period. Given the nearest dwelling is located approximately 2.8km away along with the undulating nature of the surrounding topography, the visual impact from the nearest dwelling is considered to be acceptable.

7.4 DEVELOPMENT APPLICATION 711/198/13 – TRUSTPOWER AUSTRALIA HOLDINGS PTY LTD

It is considered that the proposed development does not detract from the eastern face of the Mount Lofty Ranges and will not impair the amenity of the locality.

Native Vegetation Impact

Council-wide Principle of Development Control 177 states that:

**177** *No change of land use should occur in or near areas of native vegetation which is likely to adversely impact on the vegetation.*

Considering the subject land is largely devoid of any remnant vegetation given its long standing use as a farming allotment, the proposed development will not adversely impact on any native vegetation, as desired under Council-wide Principle of Development Control 177, quoted above.

Noise

Objective 16 and Principle of Development Control 12 of the Rural Zone state that:

**Objective 16:** *Protection of sensitive uses from external noise.*

**12** *Development designed to minimise adverse acoustic impacts on adjoining uses which would be sensitive to acoustic interference.*

I note the tower generates small amounts of noise from the sensors located between each mast section of the wind monitoring tower and from deflected wind impacting with the tower. While this is noted, I note that the extent of noise is considered to be reasonable because:

- a) The noise would not be audible to any person standing on an adjacent property;
- b) The tower does not contain any moving or rotating parts;
- c) The nearest dwelling from the tower site is some 2.8km away.

Given the above, the proposal development will satisfy Objective 16 of the Rural Zone, quoted above. At the same time, extent of noise output will easily fall within the noise limits set by the Environment Protection Authority under the Environment Protection (Noise) Policy 2007.

Decommissioning of Tower

As mentioned earlier, the tower is physically anchored to the land by 4 sets of guy wires (north, south, east and west) and a base plate at the bottom of the mast. Despite being physically anchored into natural ground, I note the overall footprint is small, and as such, the anchor points will not result in any visual scarring or lasting adverse effect on the site.

The applicant has sought approval to keep the mast on the site for a further 3 years. I note the policy permits the construction of a wind monitoring mast in the Rural Zone under any circumstance (i.e. not subject to any time limitation), in which case I have not included a condition requesting removal of the tower within 36 months of approval.

## MID MURRAY COUNCIL – DEVELOPMENT REPORT

### 7.4 DEVELOPMENT APPLICATION 711/198/13 – TRUSTPOWER AUSTRALIA HOLDINGS PTY LTD

However, at some period in the future, the applicant is likely to remove the tower. At that time, the applicant has a duty by way of condition, to restore the land to its previous condition, as best as can be possibly achieved. This will ensure that the site is returned to its former state.

#### Aviation

The proposed development did not trigger any formal referral to any airport authority or the Civil Aviation Safety Authority (CASA) under Schedule 8 of the Development Regulations 2008. This is because Council does not contain any airport height limit maps in the Development Plan. In addition, structures only require formal referral to CASA outside of the Development Regulations 2008 where they exceed 110m.

While a formal referral to CASA is not required, I note the applicant is required to notify CASA of the erection of the proposed tower under their “Tall Structures” database. CASA requires that all structures of greater than 45m in height be notified under the RAAF AIS “Tall Structures” database. A notation is included in the recommendation to advise the applicant of this.

#### Environmental Impact

It is not expected that the wind monitoring tower will have a negative impact on the environment as the applicant has confirmed the structure produces no emissions, discharges or waste.

#### Lightning Strike

The proposed tower has potential to be struck by lightning. I note the tower is engineered and certified as being safe with respect to lightning strike. This is achieved by way of earthing at the base of the tower. Given this, I do not believe the proposed development will become a safety or fire hazard.

#### Precedent

Panel members should keep in mind that this application is for a wind monitoring tower, not a wind farm. If the Panel approves the application, it does not imply in any way that a wind farm might be approved on this site in the future.

### **CONCLUSION**

The proposed development does not compromise the zone from achieving its primary objective, which is to accommodate agricultural pursuits on large properties, as the portion of land to be used is minimal when considering the overall size of the subject land.

The visual and environmental impacts of the wind monitoring tower are considered to be minimal and have been addressed by the applicant.

A wind monitoring tower is clearly envisaged within the Rural Zone. While the tower will be positioned on a prominent site at the eastern escarpment of the Mount Lofty Ranges, the Rural Zone envisages the erection of wind infrastructure on such sites, where located outside of the Barossa Valley Preservation District.

**MID MURRAY COUNCIL – DEVELOPMENT REPORT**

**7.4 DEVELOPMENT APPLICATION 711/198/13 – TRUSTPOWER AUSTRALIA HOLDINGS PTY LTD**

It also must be noted that the proposed development is not for a wind farm. Any application for a future wind farm would require a separate and full assessment.

It is considered that on balance that the proposed development is not considered to be seriously at variance with the relevant provisions the Mid Murray Council Development Plan (Consolidated 6 December 2012). I recommend that Development Plan Consent be granted.

**RECOMMENDATION**

**moved that pursuant to Section 35(2) of the Development Act 1993, the proposed development is not “Seriously at Variance” with the relevant provisions of the Mid Murray Council Development Plan (Consolidated 6 December 2012) and that pursuant to Section 33(1)(a) of the Development Act 1993 Development Plan Consent be granted to Development Application 711/198/13 subject to 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 2-4 inclusive:**

<b>Plan Number</b>	<b>Plan Type</b>	<b>Dated</b>	<b>Prepared By</b>
<b>Not Stated</b>	<b>Site Plan</b>	<b>Received by Council 30<sup>th</sup> May 2013</b>	<b>Applicant</b>
<b>Not Stated</b>	<b>Enlarged Site Plan</b>	<b>Received by Council 30<sup>th</sup> May 2013</b>	<b>Applicant</b>
<b>D. Structural Diagram</b>	<b>Elevation</b>	<b>Received by Council 30<sup>th</sup> May 2013</b>	<b>Applicant</b>
<b>Not stated</b>	<b>Correspondence</b>	<b>Received by Council 30<sup>th</sup> May 2013</b>	<b>Applicant</b>

- 2. The site shall be remediated to its original state prior to erection of the tower and guy wires as best as reasonably can be achieved within 6 months of the date of removal of the tower.**
- 3. Land surrounding the structure shall be maintained at all times so as to prevent high grasses from becoming a fire hazard.**
- 4. The tower shall only be used for the purpose of monitoring wind speed as stated in the application correspondence, received by Council 30 May 2013.**

**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. 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 commenced 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.**

- 3. 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 the commencement of work.**
- 4. During the period that the development is being undertaken, all waste materials associated with the building work are to be secured and contained within the site. Upon completion of the development all wastes are to be removed and appropriately disposed of.**
- 5. All building work shall be carried out in accordance with the requirements of the Development Act 1993, as amended and its Regulations.**
- 6. All existing trees on the site are to be retained wherever practicable.**
- 7. 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.**

8. 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.
9. 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.
10. 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.
11. 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.
12. The applicant should provide details of the proposed construction to the Civil Aviation Safety Authority (CASA), in accordance with the “Reporting of Tall Structures” Advisory Circular, AC 139-08(0), dated April 2005. For more information, you may contact the Aeronautical Data Officer, RAAF AIS, Victoria Barracks on 03 9282-6400.

Kelvin Goldstone  
**Director – Development & Environmental Services**