



Development Assessment Panel

31 May 2010

MID MURRAY COUNCIL

DEVELOPMENT ASSESSMENT PANEL

Agenda

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

Monday 31 May 2010, 10.00am

1. **PRESENT**

Frank Wieser (Presiding Member), James Miller, Graham Gaston, Ross Dawkins, Jeff Howie, Mick Morrissey and Marie Rudloff

2. **IN ATTENDANCE**

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

3. **COMMENCEMENT AND WELCOME** AM

4. **APOLOGIES**

5. **CONFIRMATION OF PREVIOUS MINUTES**

(Page 2631 – 27/4/2010)

Minutes of the Mid Murray Council Development Assessment Panel meeting held on 27 April 2010.

RECOMMENDATION

moved that the minutes of the Mid Murray Council Development Assessment Panel Meeting held on 27 April 2010 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, 28 June 2010, 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 31 May 2010, 10.00am

Table of Contents

Item No.	Subject	Page No.
	Development Report	
7.1	711/385/09 – B Rowett	1
7.2	711/365/09 – F Hambour	22
7.3	711/475/08 – Brown Falconer Architects	30
7.4	711/452/09 – F Mikula & B Stevens	41
7.5	711/123/10 – TP Foster	62
7.6	711/050/10 – JG Booth	67
7.7	711/503/09 – Selecta Homes & Building Co	75

MID MURRAY COUNCIL – DEVELOPMENT REPORT

7.1 DEVELOPMENT APPLICATION 711/385/09 – B ROWETT

Reporting Officer: Aaron Curtis
Position: Development Officer - Planning

Development No.	711/385/09
Applicant	B Rowett
Subject Land	Site 11, Lot 60 of DP49431, Section 928, Khartoum Road, Bolto Reserve, Hundred of Younghusband
Proposal	Demolition of Existing Single Storey Detached Dwelling and Domestic Outbuilding (Shed), Construction of an Elevated Detached Dwelling, Attached Balconies, Underfloor Wet Area and Enclosure (Removable Panels) and Associated Excavation and Filling within a Floodplain

INTRODUCTION

The Applicant lodged the above Development Application with Council on 16 September 2009 seeking approval for an elevated detached dwelling.

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

SUBJECT LAND

The subject land is Site 11, Lot 60 of DP49431, Section 928, Khartoum Road, Bolto Reserve, Hundred of Younghusband. The site comprises one Torrens Title allotment of 407m² having a narrow frontage to Khartoum Road of 8.91m and a depth of 43.64m. The site is rectangular in shape.

The site contains a single storey detached dwelling (not elevated) and covered deck facing the river. The land is cleared of native vegetation and slopes gently from the road down to the rear boundary.

At the rear of the site is a Crown reserve of approximately 10m wide which runs along the back of all allotments fronting Khartoum Reserve parallel with the River Murray. Many of the allotments have approved and licensed river structures attached to this Crown land.

There is a Land Management Agreement registered on the Certificate of Title. The LMA contains a development envelope which prevents development within 10m of the rear boundary of the site.

Photos taken while on-site on 18 September 2009 are attached with written annotations confirming the viewing angle of the photos taken.

Attached are maps which identify the subject site and locality of the subject site.

DESCRIPTION OF PROPOSAL

The Application comprises the following components which constitute “development” and have been incorporated into the nature of the proposed development:

1. Demolition of the existing single storey detached dwelling and domestic outbuilding (shed);
2. Elevated detached dwelling;
3. Attached balconies;
4. Underfloor wet area and enclosure (removable panels);
5. Associated excavation and filling within a floodplain.

The dwelling will be sited 6.5m at its nearest point from the Khartoum Road boundary. It will be sited on the south-western side boundary for a length of 22.8m and be sited 600mm at its nearest point from the north-eastern side boundary.

The dwelling will be elevated between 2.2m (closest to Khartoum Road) and 2.5m (facing the river) and have a maximum overall height of 6.9m. The upper storey is 2.7m high to the underside of the eave and 3m to the top of the fire rated wall (on side boundary).

The dwelling comprises main bedroom, ensuite, bedrooms 2, 3 and 4, bathroom, kitchen, dining, living room, balcony at the front and rear, underfloor wet area and underfloor enclosure (removable panels).

The total upper floor area (living) is 150m², the balconies at the front and rear of 53m² combined, underfloor wet area of 10m² and underfloor enclosure (removable panels) of 54m². The total floor area of the dwelling combined is 267m².

The overall appearance of the dwelling comprises a gable roofed (Colorbond) elevated dwelling with glass balustrades and render to the façade and tilt up roller doors, rendered walls to the side elevations, flat balcony roof and underfloor wet area and enclosure.

NATURE OF THE LOCALITY

The locality comprises a mix of ground level and elevated detached dwellings and associated sheds, balconies, verandahs and carports on individual Torrens Title allotments fronting Khartoum Road.

The rear of the shacks comprises open grassed areas adjacent the River Murray. Large native Eucalypts are common on this grassed area. A range of river structures including jetties and pontoons adjoin this land serving an ancillary purpose to the shacks adjacent.

REFERRALS

The Application triggered a referral to the Department of Water, Land & Biodiversity Conservation under Schedule 8(19)(g) of the *Development Regulations 2008* on the basis that it constitutes construction of a new dwelling within the River Murray Floodplain area established under the *River Murray Act 2003*.

While the Application is non-complying and is within the Water Protection Area established under the *Environment Protection Act 1993*, a referral to the Environment Protection Authority under Schedule 8(10) of the *Development Regulations 2008* was not triggered on the basis that the site is connected to a CWMS scheme.

The Department of Water, Land & Biodiversity Conservation has provided a referral response for this Application. The Department have no objections to the Application and have directed that if approved, conditions be attached to the Development Plan Consent. A copy of their referral response is attached.

CLASSIFICATION OF DEVELOPMENT

The subject site is located within the River Murray Zone and Shack Settlement Policy Area of the Mid Murray Council Development Plan (consolidated 13 December 2007). Principle of Development Control 25 of the Shack Settlement Policy Area states that:

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

Dwelling (replacement of or on a vacant site) except where:

- a) the development is not sited closer to the waterfront than any part of existing dwelling on either side;*
- b) the development will result in an elevated dwelling with a maximum underfloor clearance of no greater than 2.5 metres above natural ground level; and*
- c) the requirements of the SA Health Commission and Local Government for wastewater and effluent disposal for permanent occupation of the dwelling are met or provided for in the Development Application;*
- d) The total number of dwellings for a designated Shack Settlement Policy Area (including those existing, approved for construction and under construction) does not exceed dwellings shown in Principle of Development Control 19).*

The proposed dwelling will be located closer to the waterfront than the dwellings on either side of this site. On this basis, the Application does not satisfy Principle of Development Control 25(a) quoted above. Therefore, this Application is subject to the non-complying process.

PUBLIC NOTIFICATION

Principle of Development Control 27 of the Shack Settlement Policy Area states that:

26 *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 kind of development, the Application was subject to the Category 3 public notification process.

The Application underwent the Category 3 public notification period with one representation being received from Mr David Rowland of Lot 59, Khartoum Road, Bolto Reserve. The representors wish to be heard in support of their representation.

MID MURRAY COUNCIL – DEVELOPMENT REPORT

7.1 DEVELOPMENT APPLICATION 711/385/09 – B ROWETT

A summary of the concerns raised by Mr David Rowland is given below as well as the response from the Applicant. Copies of the representation and reply are also contained as attachments for your information.

Issues raised by Mr David Rowland, Lot 59, Khartoum Road, Bolto Reserve

- The boundaries of the property should be surveyed prior to construction to ensure that the building is constructed wholly on the subject land in accordance with the proposal plans and is set off their side boundary at its nearest point 600mm.
- The owners/Applicant shall be financially responsible for any damage caused by the development to their existing CWMS pipework located directly adjacent the subject land near the side boundary on Lot 59. Any repairs should be completed within 24 hours of the damage occurring.
- Their dwelling is serviced by an overhead power cable which connects to the stobie pole adjacent the subject land and which traverses this land. This cable is protected by a statutory easement. If the powerline must be moved as a result of the development, the owners/Applicant shall be financially responsible for moving the cable and shall comply with the requirements of ETSA Utilities and the Office of the Technical Regulator. They shall be given 14 days notice of any remedial works to occur and any disconnection should not exceed 12 hours.
- The owners/Applicant should be aware that the proposed windows of the upper storey facing north-east into their site should not preclude them from developing their site in the future, by reason that their future dwelling might block views of the river enjoyed through these proposed windows.

Response from Jeff Smith, Planning Chambers

- The Applicant will complete an outer boundary survey of the site prior to construction. The representor can also commission his own survey to identify the correct location of the side boundary.
- The proposal plans do not need amendment because they clearly show the dwelling will not encroach onto the adjoining property. Council cannot provide any undertaking with respect to a future dwelling on the representors land.
- If the Applicant damages any effluent disposal pipe located on the adjoining property, they will be responsible to remedy the damage. If the representors infrastructure is located on land of the proposed development, the parties will need to rectify this situation in cooperation.
- The existing electricity supply servicing the representor's land will need to be moved off the subject land in accordance with the requirements of ETSA Utilities. Had the representor proceeded with a development on his land prior to this Application, they would have been financially responsible for service relocation.

- The proposed windows facing north-east onto the representor's land are designed to comply with the Building Code of Australia and will not impede the development rights of the representor next door. Council cannot give assurances with respect to siting of a dwelling on their site at this time.

In my opinion, the Applicant has addressed the majority of the issues raised by the representor. My response to each of the above issues is that:

1. It is the Applicant's responsibility to build the dwelling in accordance with the proposal plans. A notation will be attached to this Approval advising the Applicant that the siting of the dwelling must be constructed in accordance with the approved plan. The Applicant has advised that the site will be surveyed prior to construction to identify the correct outer boundaries of the site. This will ensure the proposed building is not constructed on the representor's land.
2. It is the Applicant's responsibility to ensure that the proposed building work does not adversely impact upon the representor's site, whether that be underground pipe or other buildings or structures located above ground. If damage were to occur, this is a civil matter for the parties to resolve and is not a town planning issue relevant to the assessment of this Application.
3. Clearly, the existing powerline traversing the subject land but serving the representor's land will need to be relocated. The relocation of the powerline is a matter for the Applicant and representor to resolve between them. Any relocation of the powerline should be in accordance with the requirements of ETSA Utilities.
4. While I appreciate the proposed windows facing north-west from the living room will enjoy some views of the river, it would be unreasonable for the owner/Applicant of this dwelling to expect that the representor's development rights on their site be limited because of these windows. In my view, it is reasonable to suggest that the representor could build up to a similar line from the waterfront to what is proposed in this Development Application.

RELEVANT PROVISIONS OF THE MID MURRAY COUNCIL DEVELOPMENT PLAN

Council Wide

Objectives: 1, 5, 6, 7, 8, 9, 11, 13, 14, 15, 31, 32, 38, 39, 40, 41, 42, 43, 51, 52, 55 & 56

Principles of Development Control: 1, 2, 3, 4, 5, 6, 7, 15, 16, 17, 18, 19, 20, 21, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 107, 108, 109, 110, 111, 113, 114, 115, 116, 117, 120, 121, 122, 123, 125, 126, 127, 128, 129, 134, 135, 136, 140, 142, 186, 187, 188, 189 & 192

River Murray Zone

Objectives: 1, 2, 3, 4, 7, 8, 9, 15, 16, 17, 19 & 20

Principles of Development Control: 15, 16, 17 & 18

Shack Settlement Policy Area

Objectives: 1, 2, 3, 4 & 6

Principles of Development Control: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 12, 13, 15, 16, 17, 18, 19, 25, 26 & 27

ASSESSMENT

Land Use

The following uses are acceptable in the Shack Settlement Policy Area:

- Residential development, as specified in conditions including new dwellings on vacant sites which can be adequately serviced and with floor levels elevated above ground level;
- Limited residential outbuildings;
- Retail uses where in association with a caravan park, tourist or recreation facilities;
- Minor recreation uses such as playground, BBQ area, picnic shelter;
- Access roadways and essential residential infrastructure;
- River structures for boat mooring/swimming/fishing/pump stands; and
- Land division to create allotments for identified dwelling sites. (my underlining)

The proposed development is clearly "acceptable" in the Shack Settlement Policy Area.

Appearance of Development

I have broken this heading into various sub-headings below given that they are all separate but inter-related issues.

Building Height

Principle of Development Control 9 of the Shack Settlement Policy Area states that:

- 9 Dwellings should not exceed one storey in height (3.0 metres), excluding the elevation to minimise the potential for personal or property damage as a result of a flood. (my underlining)

The proposed dwelling has an upper storey wall height of 3m (excluding the roof). The overall height of the dwelling is 6.9. This Development Plan (Consolidated 13 December 2007) stipulates that the maximum height for a dwelling is 5.5m.

This has since been amended (Consolidated 3 December 2009) to 7.5m on the basis that 5.5m is insufficient to construct an elevated dwelling when the upper storey and roof is taken into account.

The dwelling has a maximum height of less than 7.5m and the wall height for the elevated floor does not exceed 3m. The building height is considered to be acceptable and consistent with the height of other elevated dwellings in the locality.

Side Setbacks

The Shack Settlement Policy Area does not stipulate any side setback for dwellings. Despite this, in the Shack Settlement Policy Area, Council officers adopt the view that dwellings should generally be setback at least 900mm from a side boundary.

In Bolto Reserve, a practical approach has been taken by Council officers which allows for the construction of a dwelling on one side boundary due to the narrow width of the allotments (less than 10m).

The Applicant proposes the dwelling on the south-western side boundary for a length of 22.8m and is proposed to be set off the north-eastern side boundary 600mm at it's nearest point.

This is consistent with the setbacks of dwellings at Allotments 58 and 62 which have been constructed at least 1m from one side boundary. In my view, this achieves some sense of space around the side of the dwelling without unreasonably restricting the development potential on the site.

Front Setbacks

In addition, the Shack Settlement Policy Area does not stipulate any front setback for dwellings. While this is so, dwellings should be sited a reasonable distance from the road boundary consistent with the setback of other dwellings within the street.

The proposed dwelling is to be sited 6.5m from the road boundary at it's nearest point and 7.790m to the main façade. This exceeds the setback of the dwelling at Site 10 (5.5m) and is consistent with the setback of the dwelling on site 12 (6.2m).

Given this, the siting of the proposed dwelling will achieve a reasonable transition between the dwellings on either side, notwithstanding that these dwellings are both likely to be replaced in the future.

Rear Setback

Principle of Development Control 10 of the Shack Settlement Policy Area states that:

10 Replacement of an existing dwelling, or construction of a dwelling on an allotment where no dwelling currently exists requires

- a) siting not occur closer to the waterfront than any part of the existing dwelling on either side and in any event the setback from the waterfront is not less than 30 metres;*
- b) wastewater and effluent disposal with on-site treatment and land-based disposal off the River Murray flood plain in accordance with P3 and P4.*
- c) A maximum underfloor clearance of no greater than 2.5 metres above existing ground level. (my underlining)*

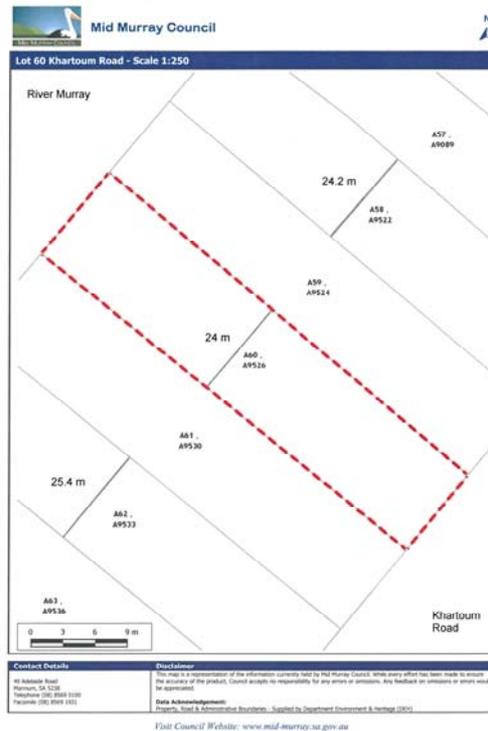
Clearly, the proposed dwelling does not comply with (a) quoted above. In Bolto Reserve, as older ground level dwellings have been replaced with new dwellings, the new dwellings have generally been sited much closer to the River Murray resulting in such Applications being processed as non-complying.

MID MURRAY COUNCIL – DEVELOPMENT REPORT

7.1 DEVELOPMENT APPLICATION 711/385/09 – B ROWETT

The setback from the waterfront has varied with some dwellings being sited up to the edge of the development envelope identified in the Land Management Agreement registered over this site. Some dwellings have been constructed into the development envelope and some sited back from the development envelope.

In assessing the setback of the proposed dwelling from the waterfront, I have had regard to the setbacks of the approved and constructed new dwellings at Allotments 58 and 62 Khartoum Road (see map below). The map shows that the proposed setback from the river is relatively consistent (within 1m) with the setbacks of these new dwellings.



When new dwellings are constructed on Allotments 59 and 61 Council officers would be looking for a similar setback from the waterfront to ensure that the new dwellings achieve a relatively consistent line of development to ensure that these sites can enjoy unimpeded views of the River Murray.

Given all of the above, despite being a non-complying form of development on this issue alone, this aspect of the development is considered to be acceptable.

Building Design

Principle of Development Control 12 of the Shack Settlement Policy Area states that:

- 12 Development should display a built form consistent with the Desired Future Character so as to provide visual interest through building elements which include wide verandahs, balconies, integrated roof designs and pitches and building materials and finishes which complement each other and the riverine character of the locality.*

There are various Design Techniques which accompany this Principle of Development Control relating to scale, roofs, verandahs and decks, roof and wall materials, architectural detailing etc. I have not quoted the Design Techniques here. However, I consider that the proposed development is generally consistent with these as follows:

1. The building layout is simple in form being rectangular with the exception of a small portion of bedrooms 2, 3 and 4 tapering out at an angle;
2. The roof form comprises a simple gable roof with Colorbond cladding in “Slate Grey” with flat roof for the balcony at the rear;
3. Balconies are proposed to the front and rear of the dwelling comprising transparent glass balustrades;
4. Lightweight and low reflective wall and roof cladding is proposed in the form of rendered unitex and weathertex and Colorbond roller and tilt up doors and aluminium window frames;
5. Simple architectural detailing in the form of rectangular vertically and horizontally emphasised windows, glass balustrades and gable roof are proposed.

Overshadow Impact

I appreciate that elevated buildings being located near or on a side boundary have the potential to overshadow adjoining properties. The proposed dwelling will have a height of approximately 6.5m, positioned on the south-western side boundary for a length of 22.8m.

Given the orientation of the site, overshadow of the site at Number 12 is expected to be relatively high, given the amount of building length and height on the side boundary. While I appreciate this, given the narrow width of the site, it is almost impossible to design a reasonable sized dwelling without being sited on the side boundary.

Further, it is expected that any future dwelling to be constructed on Site 12 will be sited either abutting the side boundary or sited close to the side boundary. In short, the proposed dwelling will overshadow the Site No. 12 but this is unavoidable given the narrow width of the subject land.

Overlooking Impact

Council-Wide Principle of Development Control 135 states that:

135 The provision of adequate privacy and daylight in relation to neighbouring residential allotments, and the maintenance of amenity and landscape quality in the locality, should be assured by each development.

The proposed balcony and bedroom to the street will only view out onto the road. Given this, the front balcony design is considered to be acceptable. Along the south-western side boundary, there are also no upper storey windows given that this wall must be fire rated in accordance with the Building Code of Australia.

Along the north-eastern side boundary, there are fixed windows from bedrooms 3 and 4, fixed glass windows in aluminium frames from the living room and the balcony facing the river. The balcony will have a 1m high glass balustrade. I appreciate that some views into the adjoining property will be evident from these windows and balcony.

While I acknowledge this, the overlooking is not considered to be unreasonable, given that the balcony and north-west facing windows will face out onto public reserve and the river which is unfenced and public. In addition, when any dwelling is constructed on the adjacent Site No. 10 this dwelling will be constructed to the approximate same level.

Flood Impact

The subject site is located wholly within the 1956 flood level of the River Murray. Objective 4 and Principle of Development Control 13 of the Shack Settlement Policy Area state that:

Objective 4: Buildings, or structures, or levee banks, or earth mounds which do not impede or be damaged by flood waters.

13 Underneath areas of elevated dwellings

- a) should not be used for living purposes;*
- b) may be used for storage purposes, or for a toilet, or a shower, or laundry facilities (subject to limits scheduled below); and*
- c) may be enclosed using roller doors, removable panels, or other material which can easily be removed during times of flood:*
 - Maximum area for storage purposes – 54 square metres*
 - Maximum area for use as toilet/shower/laundry facilities – 10 square metres*
 - No storage of caravans (my underlining)*

The proposed development is appropriately designed to reduce impedence of floodwaters and potential damage by flood waters as sought in the above Objective and Principle of Development Control as follows:

1. The dwelling is proposed to be elevated more than 2.2m but less than 2.5m above natural ground level up to the underside of the elevated floor;
2. The underfloor wet area does not exceed 10m²;
3. The underfloor enclosure (removable panels) does not exceed 54m²;
4. The underfloor enclosure is designed of removable panels in the form of tilt-up panel doors and removable fixed frames with sheets attached to the frame.
5. A shed of 17.5m² (approx.) will be removed.

Native Vegetation Impact

Objective 7 of the River Murray Zone states that:

Objective 7: Minimum disturbance to the shape of the bank and riparian native vegetation in any development of river front land. (my underlining)

The proposed dwelling will be sited wholly on cleared land. The nearest mature native tree is sited approximately 7m south-west of the nearest projection of the proposed dwelling. In my opinion, this is a sufficient clearance from the existing tree to ensure its root system and canopy are not adversely affected by the proposed dwelling.

Private Open Space

I acknowledge there are no relevant Objectives or Principles of Development Control in the Mid Murray Council Development Plan relating to the provision and quality of private open space. Despite this, the proposed dwelling achieves a high level of quality private open space.

Two balconies are proposed facing the road and river of 53m² combined. The balcony at the rear is 48m² (8m x 6m) and comprises a level area of useable dimension, directly linked to the internal living areas of the dwelling and has a desirable northern orientation. In addition, the rear of the site comprises grassed open space which is also useable.

Overall, the proposed dwelling will be serviced with a suitable area of private open space of high quality.

Energy Efficiency

Council-Wide Objective 42 states that:

Objective 42: Conservation of Energy.

The explanatory text for this Objective states that "Building orientation and siting, appropriate window design, sun protection, solar water heating, insulation and landscaping assists in reducing energy requirements" (my underlining).

The dwelling is considered to achieve a reasonable level of energy efficiency. The north-west facing windows from the dining and living room are screened by the proposed covered balcony facing the river. This balcony provides considerable screening from the hot afternoon northern and western sun onto the windows facing this direction.

In addition, openings are proposed to the north-eastern side elevation into the living room, dining and kitchen to maximise light entry and light and ventilation is achieved to bedrooms 3 and 4 via a roof window. The Eucalypts between this site and the River also provide some screening of the western and northern sun.

Stormwater Discharge

Principle of Development Control 16 of the River Murray Zone states that:

16 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;*
- 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 a new 22,500 litre rainwater tank and proposed 2 x 2,500 litre fire fighting tanks. Overflow from the tanks will discharge via 90mm PVC pipe to the rear lawned area into a 4m long soakage trench via perforated PVC pipe.

The proposed stormwater discharge method will ensure that all roof water collected on-site will be retained. Any overflow from the tanks in the event they are full can be safely discharged onto open lawn area away from the River Murray, adjoining properties and buildings. This aspect of the development is considered to be acceptable.

Bushfire Impact

The subject site is located within a "general" bushfire risk area of the Mid Murray Council Development Plan. Council-Wide Principle of Development Control 187 states that:

187 *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.* (my underlining)

The Applicant proposes 2 x 2,500 litre rainwater tanks for fire fighting, positioned adjacent the north-eastern side boundary of the site. Given that the tanks are positioned underneath the proposed dwelling, they will be made of non-combustible material. Conditions will be imposed to ensure they have a fire fighting fitting, pump and hose.

The proposed dwelling cannot achieve a clearance of more than 20m from the large Eucalypts adjacent the site at the rear. While I acknowledge this, the existing dwelling is already located within 20m of this vegetation and so are all of the other dwellings within Bolto Reserve.

The site is accessible via an all-weather sealed public road able to be used by large fire fighting trucks. In the event of an emergency it is also likely that a fire fighting truck would enter the site from the rear across the Crown reserve adjacent the river and draw water from the river.

Given all of the above, the proposal is considered to be consistent with the relevant Council-Wide provisions of the Development Plan relating to bushfire impact.

Effluent Disposal

Principle of Development Control 3 of the Shack Settlement Policy Area states that:

- 3 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 subject site is provided with a connection point to the Bolto Reserve CWMS scheme. The Applicant has lodged a Waste Control Application (S46/10) to connect to the scheme which was approved by Council on 4 March 2010. In short, the proposed development complies with Principle of Development Control 3 quoted above.

Car Parking and Vehicular Access

Council-Wide Principle of Development Control 16 states that:

- 16 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)

The proposal includes an underfloor enclosure (removable panels) of 54m² which is accessible from Khartoum Road via two panel tilt up doors. This area is capable of accommodating at least two vehicles undercover.

There is a stobie pole positioned adjacent the site within the Khartoum Road verge. The Applicant has demonstrated that vehicular access can be achieved to the tilt up doors 1m clear of the stobie pole.

Overall, the dwelling is serviced with adequate on-site car parking which is accessible from a sealed public road and which can be accessed via an internal driveway of adequate dimension (3m or more) and slope (less than 1:5).

Land Management Agreement

There is a Land Management Agreement (LMA) registered over this site on Certificate of Title Volume 5783 Folio 35. While I acknowledge Council is not a party to this LMA, Council officers and the Applicant have had regard to it.

All of the proposed building work is located within the development envelope established under the LMA. In addition, the Applicant has amended the proposal plans to identify the removal of a shed located outside of the development envelope near the rear boundary.

The proposal is considered to be consistent with the other parts of the LMA relating to effluent disposal, native vegetation impact and fencing.

CONCLUSION

The proposed land use is considered to be acceptable. In addition, the proposed development is generally consistent with the Objectives and Principles of Development Control of the River Murray Zone and Shack Settlement Policy Area of the Mid Murray Council Development Plan.

This report has concluded that the proposal warrants approval on the basis that it adequately addresses a range of planning concerns relating to land use, appearance of development, bushfire impact, flood impact, native vegetation impact, car parking and vehicular access, effluent disposal, private open space and energy efficiency.

RECOMMENDATION

moved that pursuant to Section 35(2) of the *Development Act 1993*, Development Application 711/385/09 is not “Seriously at Variance” with the relevant provisions of the Mid Murray Council Development Plan (Consolidated 13 December 2007) and that pursuant to Section 33(1)(a) of the *Development Act 1993* Development Plan Consent be granted 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 2-23 inclusive:

Plan Number	Plan Type	Dated	Prepared By
09.05 1 of 1 Amendment 15.02.10	Site Plan, Floor Plans, Elevations and Removable Panel Details	15.02.10	Murray Roberts & Associates

2. The underfloor enclosure (removable panels) shall not be used for human habitation.

3. All exterior surfaces of the dwelling (including balconies, underfloor wet area and enclosure) shall be of non-reflective materials and colours which blend in with the natural features of the environment as shown on the approved plan, prepared by Murray Roberts & Associates dated 15.02.10.
4. The underneath area of the elevated dwelling shall be enclosed in accordance with the approved plan, prepared by Murray Roberts & Associates dated 15.02.10.
5. The dwelling must be connected to an approved waste water disposal system before it can be used for human habitation.
6. Stormwater from the roof of the dwelling shall be discharged into rainwater tanks as shown on the approved plan, prepared by Murray Roberts & Associates dated 15.02.10. Any overflow shall be directed away from buildings, property boundaries and the River Murray into a soakage trench, as shown on the same approved plan.
7. The freestanding sides of the balconies shall remain open. No walls being permanent or semi-permanent shall be attached to these sides of the building at any time.
8. Except where shown to be enclosed on the approved plan, prepared by Murray Roberts & Associates dated 15.02.10, the underside area of the elevated dwelling and underside of the balconies/verandahs at ground level are to 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 and balconies/verandahs at ground level at any time.
9. The existing shed located at the rear of the site shall be removed prior to occupation of the dwelling, in accordance with the approved plan, prepared by Murray Roberts & Associates dated 15.02.10.
10. A dedicated water supply for fire fighting purposes shall be provided prior to the dwelling being occupied which is a minimum of 5,000 litres, as shown on the approved plan, prepared by Murray Roberts & Associates, dated 15.02.10 and be designed as follows:-
 - a) tanks for fire fighting purposes should be no closer to a building than 10m to allow access away from radiant heat;
 - b) tanks shall be provided with a fire service adaptor fitted in the tank wall near the bottom of the tank with a minimum outlet of 50mm terminating in a 64mm London round thread;
 - c) where CFS access is available immediately adjacent the tank a removable inspection lid shall be provided on top of the tank;
 - d) bushfire water supply tanks (including any tank support structure) shall be constructed of non-combustible material.

11. The water supply used for fire fighting shall be pressurised by a pump that has a minimum inlet diameter of 38mm and powered by a petrol or diesel engine with a power rating of at least 3.7kW (5hp) or a system that operates independently of mains electricity and is capable of pressurising the water for bushfire fighting purposes.
12. The pump and any flexible connections to the water supply shall be protected by a non-combustible cover that allows adequate air circulation and ventilation.
13. All pipes and connections between the water supply and pump shall be no smaller in diameter than the diameter of the pump outlet.
14. All non-metal water supply pipes for bushfire fighting (other than flexible connections and hoses for fire fighting) shall be buried to a minimum depth below ground of 300mm.
15. A hose (or hoses) used for fire fighting shall:-
 - a) be located so that all parts of the building shall be within the reach of the nozzle end of the hose and if more than one hose is required they should be positioned to provide maximum coverage of the building; and
 - b) be capable of withstanding the pressures of the supplied water; and
 - c) be of reinforced construction manufactured in accordance with AS2620 or AS1221; and
 - d) have a minimum internal diameter of 18mm; and
 - e) have an adjustable metal or PVC nozzle to AS1221; and
 - f) have a minimum length of 30m; and
 - g) be readily available at all times.
16. The dwelling shall be connected to rainwater tank(s) with a minimum capacity of at least 10,000 litres (independent of the 5,000 litre fire fighting tank) to ensure the dwelling is provided with adequate domestic water supply.
17. The underfloor enclosure (removable panels) shall not have any internally lined walling or have any floor coverings.

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 that any waste materials are placed into bins, to ensure that no pollutants (including excavation or fill material) enter the River Murray.
19. 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.

20. 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 or pathogenic material.
21. Stormwater run-off from the dwelling must be directed to a storage tank or tanks. The capacity of tank storage on site should be equal to or greater than 20 litres per square metre of total roof area of all buildings on the site. Any overflow from the tank or tanks must be managed to prevent erosion or pollution of the site and the River Murray and diverted away from wastewater disposal areas, such as septic tanks and aerobic systems.
22. The enclosed ground floor area of the dwelling must be constructed with roller doors, removable panels or similar, such that in the event of a flood, the panels can be easily detached and removed and the roller doors opened, so as to not impede any potential floodwaters.
23. The dwelling must be constructed with appropriate materials and colours that ensure that the dwelling will appear unobtrusive and blend with the natural environment.

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. 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.
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 proposed building and shall ensure that the building is sited on the allotment in accordance with the approved site plan.

13. 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.
14. 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.
15. Please note there is a Land Management Agreement registered on Certificate of Title Volume 5783 Folio 35. You are bound to comply with all terms of the Land Management Agreement.

Notations as issued by the Minister for the River Murray

16. 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.
17. The following actions should be taken within 24 hours of a flood warning being issued for the district so as to not impede floodwaters or pollute water resources:
 - a) Remove the panels of the ground floor area and transport them to a site above the 1956 flood level;
 - b) Fix all doors in an open position;
 - c) Remove the contents of the ground floor area, particularly materials that may pollute water resources (eg. Chemicals, pesticides, fuel, fertilisers etc.), and transport them to a site above the 1956 flood level.
18. Low water levels have reduced riverbank stability along some sections of the River Murray between Blanchetown and Wellington, with areas susceptible to riverbank collapse presenting potentially catastrophic risks to life and property. Indicators of riverbank collapse include cracking, leaning trees and bubbling in the water near the riverbank, however these signs are not always obvious and may occur more than 20 metres from the river's edge. Fenced-off areas, previously collapsed areas, and steep riverbanks should be avoided. For more information or to report potential collapse sites call the 24-hour Riverbank Collapse hotline on 1800 751 970 or visit http://www.dwlbc.sa.gov.au/murray/drought/riverbank_collapse.html.
19. The site is located within the Branched Broomrape Quarantine Area. Development must be undertaken in accordance with the legally enforceable protocols of the *CODE – CONTROL OF BRANCHED BROOMRAPE* which was issued by the Authority of the Minister for Environment and Conservation in January 2008.

Soil, in bulk or attached to plant and equipment may contain small Branched Broomrape seeds. Therefore, plant and machinery, including certain work vehicles, will require decontamination at the worksite or designated location before moving from the quarantine area. All areas require inspection prior to soil extraction. Any movement of soil from the Branched Broomrape Quarantine Area requires a written approval from an inspector issued prior to its removal from the Quarantine Area. Failure to obtain a written approval is a breach of the requirements of the 'Notice Concerning the Control of Branched Broomrape' issued under the provisions of the *Fruit and Plant Protection Act 1992*. A penalty of up to \$20,000 applies to such a breach. Protocols also apply to agricultural production. Cleaning and decontamination of plant, machinery and work vehicles may be supplied free of charge by DWLBC staff if arranged in advance. To obtain Approvals, or for further information, contact the Branched Broomrape Operations Centre at Thomas Street, Murray Bridge on telephone 1800 245 704 or visit:

<http://www.dwlbc.sa.gov.au/biodiversity/bbep/index.html>.

20. The Applicant is advised that any proposal to clear native vegetation on the land, unless the proposed clearance is subject to an exemption under the Regulations of the *Native Vegetation Act 1991*, requires the approval of the Native Vegetation Council. 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 of branches, drainage and reclamation of wetlands, and in some circumstances grazing by animals. Further, it should be noted that Native Vegetation Regulation 5(1)(k) – clearance up to 20 metres around prescribed buildings – does not apply to trees in the River Murray Floodplain with a trunk circumference of 2 metres or more when measured at 300mm above the ground. For further information about *Native Vegetation Act 1991* requirements, telephone 8303 9741 or visit: <http://www.dwlbc.sa.gov.au/native>.
21. 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 www.stateflora.com.au.
22. For guidance on rainwater tank use please visit the SA Murray-Darling Basin Natural Resources Management Board's website, which includes Rainwater Tank Size Selection Tables for several areas within the region: http://www.samdbnrm.sa.gov.au/Board_Projects/Rainwater_Tank_Use.aspx.

23. If the Applicant wishes to use water from the River Murray (other than for firefighting purposes), which is a prescribed watercourse, they may be required to apply to the Department of Water, Land and Biodiversity Conservation (DWLBC) for a Water Licence. Further, should the Applicant wish to drill a bore, they will need to apply to the DWLBC for a Well Construction Permit. For further information contact the DWLBC Water Licensing Unit on 8595 2203 or visit <http://www.dwlbc.sa.gov.au/licensing/forms/index.html>.
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 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.
25. This advice does not obviate any considerations that may apply to the *Environment Protection and Biodiversity Conservation Act 1999* (Cwth).

Seconded

MID MURRAY COUNCIL – DEVELOPMENT REPORT
7.2 DEVELOPMENT APPLICATION 711/365/09 – F HAMBOUR

Reporting Officer: Geoff Parsons
Position: Manager – Development Services

Development No. 711/365/09
Applicant F Hambour
Subject Land Allotment 101 of DP15273, Part Section 299, 10 Rob Loxton Road, Walker Flat, Hundred of Ridley
Proposal Partial Demolition of Existing Dwelling, Dwelling Addition and Associated Minor Site Levelling

INTRODUCTION

Development Plan Consent is sought for an addition to existing dwelling in the Shack Settlement Policy Area at Walker Flat. The addition will be in the form of a new rumpus room and enlarged 4th bedroom to the rear (roadside) of the existing dwelling.

The existing dwelling is partially elevated, sitting on stumps/supports, to a varying height of between 1 and 1.5 metres. The dwelling is situated on allotment with direct riverfront access.

SUBJECT LAND AND LOCALITY

The subject land is identified as Allotment 101 of DP15273, Part Section 299, 10 Rob Loxton Road, Walker Flat, Hundred of Ridley, as contained in Certificate of Title Volume 5684 Folio 379.

The land is located within a “shack area” and falls within the Shack Settlement Policy Area of Mid Murray Council’s Development Plan. An existing dwelling and outbuilding, together with other minor structures (deck, verandah etc) are located on the land.

The allotment enjoys direct private access to the River Murray and is accessed by vehicles via Rob Loxton Road, a recently sealed road in good condition.

The land slopes gently towards the River Murray, with the slope increasing towards the river’s edge. A number of large trees exist on site, most being situated between the dwelling and river’s edge.

The allotment has an area of approximately 4000 square metres.

Attached are maps which identify the subject land and locality of the subject site.

DESCRIPTION OF PROPOSAL

The application seeks Development Plan Consent to partially demolish the existing dwelling and to construct a dwelling addition to the rear (i.e. roadside) of the existing dwelling.

The dwelling addition would be in the form of a rumpus room, extension to existing bedroom 4 and a new landing and stairs. The addition (rumpus room and extension to bedroom 4) would add an additional 28.2 square metres to the existing dwelling which has an area of approximately 142.05 square metres. Thus the total floor area of the building would be approximately 170.25 square metres.

The extension would be placed on stumps/supports, similar to the existing dwelling, to a height of approximately 1.2 metres. The gap between the floor level and ground level would be enclosed using a series of timber battens which will be screw fixed to the structure.

The materials, finishes and colours of the extension will match the existing external surfaces of the existing dwelling.

NATURE OF THE LOCALITY

The allotment is situated in a “shack area” at Walker Flat. It is bounded by the River Murray and Rob Loxton Road to the east and west and by other land containing holiday homes and used for recreation purposes to the north, south and west.

Most of the allotments within the locality contain holiday homes and other associated structures such as carports, verandahs, decks, and jetties/pontoons.

Land outside of the shack area is predominantly rural land which has either been left as natural scrub, or used for primary production purposes.

REFERRALS

One referral was required to be undertaken to the Minister administering the River Murray Act (DWLBC on the Minister's behalf) pursuant to Schedule 8 Part 2 (19)(g).

The Department of Water, Land & Biodiversity Conservation have responded allowing the development to proceed subject to a number of conditions and notations. Council must now make a determination as to whether to grant Development Plan Consent.

CLASSIFICATION

The development was not listed as a complying or non-complying form of development in the Council's Development Plan or in Schedule 4 of the Development Regulations 2008.

Accordingly the application was required to be processed as a merit form of development with an assessment of the proposal undertaken against the Development Plan (consolidated 13 December 2007).

PUBLIC NOTIFICATION

Principle of Development Control 26 of the Shack Settlement Policy Area resulted in the proposal being assessed as a Category 1 development.

Accordingly no public notification was undertaken.

RELEVANT PROVISIONS OF THE MID MURRAY COUNCIL DEVELOPMENT PLAN

Council Wide

Objectives: 1, 2, 6, 7, 15, 31, 36, 51, 52, 55 & 56

Principles of Development Control: 1, 6, 24, 28, 29, 34, 35, 40, 41, 43, 108, 120, 134, 139, 140 & 188

River Murray Zone

Objectives: 1, 2, 16, 17, 19 & 20

Principles of Development Control: Ni

Shack Settlement Policy Area

Objectives: 1, 4 & 6

Principles of Development Control: 1, 2, 9, 11, 12, 13, 24, 25 & 26

ASSESSMENT

An assessment of the proposal against the Development Plan is provided for below, together with a background section advising of the rationale behind the classification of the application.

Background

The application has been assessed as a merit form of development. Initially Council staff was of the view that the application should have been classified as non-complying development pursuant to Principles of Development Control 11 and 13 of the Shack Settlement Policy Area and advised the applicant accordingly.

However this decision was appealed by the applicant and upon review of the classification from Council's solicitors, Council elected not to fight the appeal and to assess the application as a merit form of development.

This can be discussed further in confidence if required.

Land Use/General Assessment

The type of development proposed (i.e. residential/holiday home development) is not at variance with the Council's Development Plan. The use of land in the Shack Settlement Policy Area for residential/holiday home/recreational development is supported and encouraged.

The continuing re-development of the shack areas further facilitates tourism within the region and assists the local economy. In addition, the strict guidelines adhering to the re-development of holiday homes assists in facilitating upgrades to such development and the associated infrastructure to provide for environmental improvements such as CWMS and building designs which minimise the risk to development in the event of a flood.

MID MURRAY COUNCIL – DEVELOPMENT REPORT
7.2 DEVELOPMENT APPLICATION 711/365/09 – F HAMBOUR

However while the type of development proposed is encouraged, the design of this particular development is questioned in terms of whether it meets the 'requirements' or intent of the Development Plan. This is discussed further below, but initially, what follows is a list of the various components of the proposal which appear to meet the criteria of the Development Plan:

- Amenity – The addition will occur at the rear (roadside) of the existing dwelling. It is unlikely that it will be visible from the River Murray channel.

While it will be visible from Rob Loxton Road, the colours, materials and finishes of the addition will match those of the existing building. Moreover the bulk and scale of the proposed addition is not considered out of character when compared to other built form on the allotment.

Accordingly it is considered that the proposal will satisfy the requirements of Council's Development Plan in terms of compatibility with the amenity of the locality.

- Bushfire – In accordance with the comments from Mr Jeff Smith of Planning Chambers dated 5 February 2010, an existing rainwater tank on site (10 000 litre capacity) can be used for fire fighting purposes as per the requirements of Council's Development Plan.

In addition, the development is appropriately sited having regard to existing vegetation and the topography of the land to avoid being in a specific hazardous area in terms of bushfire risk. As such the proposal is considered to satisfy the Development Plan in this regard.

- Stormwater/Wastewater – Stormwater from the development is able to be disposed of to the existing rainwater tank on site. In any event the stormwater generated from the structure is likely to be minimal and it is a requirement that it be managed such that it does not flow onto adjoining properties or cause a nuisance/hazard.

In terms of wastewater, the dwelling is connected to the CWMS for Rob Loxton Road and the development does not propose to alter any of the existing wet areas. Although it is noted that the pump chamber is located in close proximity to the existing shack and accordingly it may be necessary for the applicant to alter the location of the pump chamber (via an amended Wastewater Control Application) prior to constructing the development, should the Panel resolve to grant Development Plan Consent to the proposal.

- Native Vegetation – The development will not necessitate the need for the removal of native vegetation, although some planted shrubs may need to be removed. Such removal is considered acceptable.

It can be seen that the proposal satisfies a majority of the assessment matters noted above. However further discussion is warranted in relation to the design of the development, it's location within a recognised floodplain and it's potential impact in the event of a flood.

Flood Impact

The allotment falls within the 1956 floodplain, as noted on maps MiMu/28, MiMu/88 and MiMu/113. Map MiMu/113 best illustrates the extent of the floodplain in relation to the subject land.

Additional data obtained from the Department of Water, Land and Biodiversity Conservation, through the assessment process, indicates the following heights in relation to pool level, the height of the 1956 flood and ground level:

- Typical Pool Level – 0.75m AHD;
- Ground Level – Below the 5m AHD contour (it is impossible to give an exact height without having the site surveyed);
- 1956 Flood Level – 7.68m AHD (at Walker Flat).

Therefore, assuming the best case scenario (that being the subject land is at 5m AHD – which is unknown) the 1956 flood would still have seen the property inundated with flood waters to height of 2.68m above ground level.

As previously indicated the existing dwelling on site is partially elevated on stumps/supports to a height varying between 1 metre and 1.5 metres. The addition will be elevated to a height of approximately 1.2 metres to match the floor level of the existing dwelling.

The development will occur within the floodplain, and at a height where it is likely to be affected by floodwaters should a flood similar to 1956 occur again. As such one must examine whether the design meets the requirements/intent of the Development Plan with respect to development that will be constructed within a recognised floodplain.

Development Plan

It is important to note that in previous instances such as that proposed (i.e. extensions to existing dwellings), Council staff has been conscious of the following Principle of Development Control:

Shack Settlement Policy Area Principle of Development Control 11 – Alteration of, or addition to an existing dwelling should:

.....

(d) result in an elevated dwelling in situations where the proposed development would increase the total floor area, not including the area of any bathroom, toilet or laundry, beyond 90 square metres with a maximum underfloor clearance of no greater than 2.5 metres above existing ground level.

Council staff and the Panel have previously formed the view that the above Principle of Development Control meant that if an applicant proposed to extend their ground level dwelling over the 90 square metre limit, then the entire building should be elevated (i.e. demolished and a new elevated dwelling constructed to a height of 2.5 metres above existing ground level).

MID MURRAY COUNCIL – DEVELOPMENT REPORT
7.2 DEVELOPMENT APPLICATION 711/365/09 – F HAMBOUR

Council staff still considers that to be the intent of the Principle of Development Control, which is reiterated in the diagram on page 96 of the Development Plan, is to ensure ground level dwellings/holiday homes are not continually extended and improved, but instead demolished and replaced with elevated dwellings to a height of 2.5 metres above natural ground level to ensure the hazard to development from flooding is minimised as far as is possible.

This view is maintained given a number of other provisions in Council's Development Plan which indicate the importance of elevation and minimising the hazard risk to development within floodplains:

Council Wide Objective 6 – Land liable to flooding from the River Murray, either kept free of development which could be damaged or which would impede floodwaters, or designed and located to minimise property damage or impede flood waters.

Council Wide Objective 51 – Protection of life and property from the effects of flooding.

Development in floodplains of the River Murray Valley and Marne Valley increases the risk of both life and property. Areas known to be subject to occasional flooding should be kept free of new development or developed to protect property whilst development itself should not impede the flow of flood waters.

Council Wide Objective 52 – Prevention of development which could lead to a potential hazard in the event of a major flood.

Council Wide PDC 6 – Generally buildings should not be erected on land liable to inundation by water other than in designated areas where designed to protect property and maintain flood flows.

Shack Settlement Policy Area Objective 4 – Buildings, or structures, or levee banks, or earth mounds which do not impede or be damaged by flood waters.

Shack Settlement Policy Area Objective 6 – Upgrading or replacement of existing dwellings to assist environmental improvements.

Upgrading of existing dwellings within the flood plain of the River Murray is appropriate subject to meeting various criteria in order to assist environmental improvements, including: the provision of approved waste control systems and effluent disposal; building set-backs and site coverage requirements; the raising of living areas above the level of hazard risk or to reduce the level of hazard risk; and other environmental considerations like water pollution control.

A common theme throughout the above provisions and the Development Plan appears to be that the buildings should be designed to: (a) not pose a hazard in the event of a flood; (b) not impede or be likely to be damaged by flood waters; and (c) be designed to minimise the risk to life, property and other unrelated property in the event of a flood.

Design

Council staff have always interpreted the above provisions, in terms of dwelling additions, as requiring the existing dwellings to be demolished, and new elevated dwellings constructed, if the floor area was to be expanded over 90 square metres. Alternatively, the dwelling could remain in its current state.

Such a position was seen as the best way to achieve the desired outcomes of the Development Plan as listed in points (a), (b) and (c) listed above.

However, as correctly noted by the Mr Jeff Smith of Planning Chambers, the Development Plan does not specifically state that *“if the floor area of an existing dwelling is expanded over 90 square metres, the dwelling must be elevated to a height of 2.5 metres above natural ground level”*. Instead, the Development Plan notes that such development should result in an elevated dwelling to a maximum height of 2.5 metres above ground level (my underlining).

Mr Smith correctly notes that the dwelling on site is currently elevated to an average height of 1.3 metres above existing ground level, and that such elevation is sufficient to satisfy Principle of Development Control 11(d) of the Shack Settlement Policy Area.

In addition, and in response to a condition previously imposed by the Department of Water, Land & Biodiversity Conservation (which has now been removed – refer condition 2 on Department’s correspondence dated 14 April 2010) the applicant has amended the proposal to allow for full length louvered windows on the northern and western elevations of the rumpus room and on the western elevation of bedroom 4.

Such windows, it is argued, will facilitate the free flow of flood waters through the addition in the event of another flood.

Therefore the applicant is asserting that through a mixture of elevation and openings, the development will not pose a hazard in the event of a flood, not impede or be likely to be damaged by flood waters and is designed to minimise the risk to life and property in the event of a flood.

Given the lack of clear and precise guidance in Council’s Development Plan for situations such as this, it is obviously now a matter of deciding whether the proposal currently before Council is sufficient to satisfy the provisions of Council’s Development Plan, and the three suggested desired outcomes of the Plan as were previously noted in final paragraph of the “Development Plan” section noted above.

Assessment

The approach proposed by the applicant varies from that previously adopted by Council staff and the Panel, although obviously this alone does not render such an approach as inappropriate.

It is considered that the design proposed by the applicant does incorporate measures to address Council staffs concerns and such measures (full length louvered windows and partial elevation may assist in facilitating the free flow of flood waters in the event of a flood).

However the Development Plan allows for an elevation height of a maximum of 2.5 metres, and given the height data in relation to the 1956 flood level at Walker Flat, further elevation would greatly assist in minimising the risk to life and property. Ground level development (or development not elevated to its full extent) is inherently at greater risk of impeding or being damaged by flood waters.

In addition ground level development is more likely to pose a hazard to emergency vehicles/boats etc. in the event of a flood and dependant on the force of the flow of flood waters, could be more likely to be demolished, contributing to debris which can also be a hazard to other property and life.

CONCLUSION

The arguments noted above must also be weighed against a certain level of practicality. The existing dwelling on site is in good condition and contributes to the high level of visual amenity in the locality. The Development Plan encourages the development of holiday homes within the Shack Settlement Policy Area, and the addition proposed in this instance, is relatively minor in floor area when compared to the existing dwelling.

Conversely, while the design has made an allowance for the free flow of flood waters, the design is not considered to be the optimal design suggested by Council's Development Plan in various Objectives, Principles of Development Control and diagrams; that being the elevation of floor levels to a maximum height of 2.5 metres to lift living areas as far as practical above the level of hazard risk.

Raising the addition to a height of 2.5 metres without adjusting the height of the existing dwelling is also impractical as it would have a negative impact on the visual amenity of the locality, and would still offend Shack Settlement Policy Area Principle of Development Control 11(d), which does not solely refer to the "the addition".

Accordingly it is considered that the proposal is sufficiently at variance with the Development Plan to warrant refusal.

RECOMMENDATION

moved that pursuant to Section 35(2) of the *Development Act 1993*, Development Application 711/365/09 is not "Seriously at Variance" with the relevant provisions of the Mid Murray Council Development Plan but is sufficiently at variance to warrant refusal for, amongst others, the following reasons:

- 1) The development offends the following provisions of Council's Development Plan:

Council Wide Objectives 6, 7, 51 & 52

Council Wide Principles of Development Control 6

River Murray Zone Objective 19

Shack Settlement Policy Area Objectives 4 & 6

Shack Settlement Policy Area Principles of Development Control 11 & 13

The proposal is unable to be designed to take account of, and comply with the above provisions, and intent of the Development Plan; that being to control development in the floodplain to ensure the free flow of flood waters, prevention of hazards, and minimise the risk of damage to life and property.

Seconded

Reporting Officer: Geoff Parsons
Position: Manager – Development Services

Development No. 711/475/08
Applicant Brown Falconer Architects
Subject Land Allotment 102 of DP63543, 7 Parker Street, Mannum, Hundred of Finniss
Proposal Two Storey Detached Dwelling together with Attached Decking, Privacy Screens, Two Rainwater Tanks, Vehicles Access Bridge, Retaining Wall and Associated Excavation/Filling

INTRODUCTION

The application seeks Development Plan Consent for a two storey detached dwelling together with a number of additional components of the development including attached decking, privacy screens, two 15 000 litre rainwater tanks, vehicle/pedestrian access bridge, a retaining wall and associated site leveling.

The application is proposed in an area which has significant challenges which need to be overcome for residential development to be appropriate, though it is noted that the land falls within the Residential Zone.

SUBJECT LAND

The subject land is identified as Allotment 102 of DP63543, 7 Parker Street, Mannum, Hundred of Finniss as contained in Certificate of Title Volume 5919 Folio 909.

The land slopes heavily having a difference in ground levels of approximately 8 metres over the width of the allotment, which itself only measures approximately 14.5 metres. Despite the significant difference in levels, the land contains a section in the approximate “middle” of the allotment which is relatively level, and appears to contain a concrete slab. It is upon this section of the land that a majority of the development is to be located.

The land is sparsely vegetated containing a number of small bushes and shrubs, but no trees which could be considered significant in the context of the locality.

The site is accessed via Parker Street, an unsealed road in poor condition, albeit providing access to an already established dwelling. Parker Street is proposed to be upgraded by Council and will subsequently be a sealed road capable of accommodating two-way traffic. The upgrading will also incorporate stormwater infrastructure to cater for run-off from the road.

The land forms part of the cliff face/escarpment of the township of Mannum and is considered extremely important from a visual amenity perspective.

Attached are maps which identify the subject land and locality of the subject site.

DESCRIPTION OF PROPOSAL

As previously noted the proposal constitutes a two storey detached dwelling together with a number of other components.

The two storey design has been proposed as a way to accommodate residential development on the site which is faced with significant constraints given its topography.

A majority of the living area will be on the lower storey of the dwelling, which also incorporates the decking area, which has been provided with sections that are enclosed to minimize the potential for overlooking.

The top level of the dwelling is limited to provide a garage, carport, and entry to the dwelling coupled with stairs.

Privacy screens are proposed adjacent the dining/living area to restrict the potential for overlooking of properties adjacent River Lane. Two rainwater tanks will also be located adjacent the living area to provide for stormwater disposal from the dwelling.

A vehicle/pedestrian bridge is proposed to provide access to the garage/carport area from Parker Street. The bridge will also serve as a turn-a-round area for other vehicles and will be capable of supporting refuse vehicles. The bridge has been designed to take account of the levels incorporated in the final design for Parker Street.

NATURE OF THE LOCALITY

The subject land lies in between allotments fronting River Lane at the base of the escarpment, and Parker Street which is located towards the top of the escarpment.

Only three other allotments along Parker Street enjoy a similar situation to the subject land, two of which are built on. The allotment to the south of the subject land contains an existing elevated detached dwelling which was recently constructed. Allotments further to the south are single allotments between Parker Street and River Lane, most of which contain buildings which are adjacent River Lane.

The allotment immediately to the north is vacant, however the next allotment further north contains an existing detached dwelling and garage which appear to have been in existence for a number of years.

Land to the west of the subject land is largely occupied by residential development together with the hospital.

REFERRALS

No referrals were required to satisfy the provisions of Schedule 8 of the Development Regulations 2008.

PUBLIC NOTIFICATION

The proposal was classified as a Category 1 form of development pursuant to Schedule 9 Part 1 (2)(a)(i) of the Development Regulations 2008.

Accordingly public notification was not undertaken.

RELEVANT PROVISIONS OF THE MID MURRAY COUNCIL DEVELOPMENT PLAN

Council Wide

Objectives: 1, 2, 3, 7, 12, 14, 15, 31, 36 & 42

Principles of Development Control: 1, 2, 7, 15, 16, 18, 19, 20, 25, 28, 29, 34, 35, 36, 40, 41, 42, 43, 45, 120, 121, 134, 135, 139 & 140

Residential Zone

Objectives: 1 & 4

Principles of Development Control: 1, 5, 6 & 7

ASSESSMENT

The allotment falls within the Residential Zone and as such, development of the nature proposed (i.e. a detached dwelling and associated structures) is generally acceptable, subject to the design, siting and various other components of the development meeting the provisions of Council's Development Plan.

Appearance

The proposed dwelling will be two storeys in height. The building will have a total height of 7.4 metres (measured from the base of the lower floor level to the top of the roof line). This will equate to a height of approximately 4 metres above the level of Parker Street.

The building displays a modern design and incorporates a level roof (i.e. no pitch) for a majority of the dwelling. Such a design has been used to minimise the obstruction to the view from those dwellings to the west of the subject land.

Under the separate heading of "Appearance" in Council's Development Plan, the following provisions are noted:

Council Wide Principle of Development Control 34 – Development, including alterations and additions to buildings, should not be undertaken unless it involves a high standard of design with regard to external appearance, building materials, colours, siting and landscaping, so as to preserve and enhance the character of the locality or desired future character of an area.

Council Wide Principle of Development Control 35 – Development should not be undertaken unless:

- (a) it conforms with the desired future character of an area; and*
- (b) it is sited so as to protect scenic views from public roads or reserves, and is not located on visually-significant ridgelines.*

Council Wide Principle of Development Control 40 – Development should take place in a manner which will minimize alteration to the existing land form.

Council Wide Principle of Development Control 43 – Buildings and structures should be sited unobtrusively and be of a character and design which will blend naturally with the landscape.

The changes proposed in the Mannum Township DPA will see this land, and other land on the escarpment throughout Mannum, re-zoned to fall within the Residential Escarpment Zone. The proposed changes to the zoning are irrelevant and unable to be considered, but the background to the changes is relevant – that being the visual importance of the escarpment of the River Murray Valley throughout the district.

Council's current Development Plan reinforces this through the provisions noted above and others, which discuss the importance of ensuring the appearance of all development is appropriate to the locality.

While some cutting and filling of land is inevitable, the dwelling has been designed such that a majority of the lower level is placed upon an existing relatively level area on the site. The siting has enabled the level of cut/fill required to be minimised, but more importantly, will ensure that cut/fill which is undertaken will be mostly screened from the surrounding area, particularly from land to the east (which is at a level much lower than the subject land).

In addition and in a further attempt to ensure the appearance of the development meet the criteria in Council's Development Plan, the applicant submitted a landscape plan dated 3 March 2009 (which still remains valid despite the plans being amended). The landscaping plan indicates that the landscaping to be provided is extensive and it is considered that it would meet the relevant provisions of Council's Development Plan, and will also assist in ensuring the development is adequately screened and maintains a pleasant visual appearance.

The external colour scheme for the dwelling has altered several times, but a final colour scheme has been submitted and is attached (both the individual colours and a coloured elevation plan). The colours are mostly neutral and are considered appropriate. They will ensure the development maintains a pleasant external appearance.

The subject land is extremely difficult to develop given its constraints, and generally, it is considered that the development now proposed, which has been amended several times, comprises a design which takes account of the site constraints, and displays a visual appearance which is as pleasant as possible given the circumstances.

Privacy

The following provision in Council's Development Plan is noted:

Council Wide Principle of Development Control 135 – The provision of adequate privacy and daylight in relation to neighbouring residential allotments, and the maintenance of amenity and landscape quality in the locality, should be assured by each development

The upper floor level of the dwelling will include the garage, carport and entry hall/stairs. On both the upper floor plan and elevation plans windows are shown on both the garage and stairs. The windows are not proposed to comprise obscure glazing however that is not considered necessary in this instance. Both rooms are not living areas and are only likely to be occupied for short periods of time when the owners/occupiers of the dwelling are either entering or leaving the home. Thus these areas are not considered to have any impact on the privacy of the dwellings/businesses to the east of the subject land.

The ground floor will incorporate four bedrooms, two bathrooms, a third w/c toilet, a laundry and a combined kitchen/dining/living room. An outdoor area (partially enclosed deck) is also provided for. The partial enclosure of the decking was included at the request of Council staff to ensure that the potential for overlooking was minimised.

Privacy screens are also proposed adjacent the kitchen/dining/living room with the same intention – to minimise the potential for overlooking. While perhaps not being the ideal solution, they will provide an additional measure which should minimise any casual overlooking of the land to the east. The southern elevation Dwg. No. 2530/0005B shows the line of sight for people standing in the living area of the dwelling. The height of the privacy screens was increased by 300mm at the request of Council staff.

The windows in bedrooms 2 and 3 have, at the request of Council staff, been provided with obscure glazing to a height of 1.2 metres above floor level. Such glazing will assist in limiting casual overlooking of the land to the east, while still allowing for views of the River Murray to be obtained.

Accordingly it is considered that the dwelling has been designed to deliberately protect the privacy of those dwellings/businesses to the east of the subject land, while still allowing views of the River Murray Valley to be obtained from the development. Council staff made various requests of the applicant in regards to this issue, and through negotiation, a majority of Council's proposed amendments were accommodated.

Views

The applicants lawyer notes on page 5 of his correspondence (dated 6 March 2009), that the Mid Murray Council Development Plan does not, in any way, strive for protection of views and therefore such concerns cannot be considered.

The above statement is contested, but it is agreed that there is a lack of policy in this regard. In any event the proposal has been designed to take account of views from dwellings to the west by incorporating a flat roof design of the upper, and some of the lower storey, and also by the deletion of the games room, which was originally proposed on the upper storey.

In addition the applicant attempted to lower the level of the dwelling as far as possible to ensure the minimum disturbance to the existing views which are enjoyed by those in the dwellings to the west. Council staff have requested the level be raised slightly to allow for engineering concerns in relation to the driveway (refer amended elevation plan), however it is not considered that the increase in height will have a substantial negative impact on current views.

The upper level of the dwelling is proposed to accommodate a 2-car garage, an open single-car carport, and an entry hall and stairs to access the lower level. Such components of the dwelling are necessary on the upper level in this instance given the substantial difficulties in developing the site due to the topography of the land. It is considered that they have been designed in the best possible way to achieve the outcomes the applicant desires without offending the Development Plan provisions.

Access & Parking

Council's Development Plan notes the following in terms of access & parking:

Council Wide Principle of Development Control 20 – Driveways, access tracks and parking areas should:

- (a) follow the natural contours of the land;*
- (b) follow the geometric pattern of plantings;*
- (c) be designed and constructed with a minimum amount of excavation and/or fill;*
- (d) be designed and constructed to minimize the potential for erosion from run-off; and*
- (e) not involve the removal of existing vegetation.*

Council Wide Principle of Development Control 21 – Development should not be undertaken if the design and location of access points will create unsafe conditions or cause interference with the free flow of traffic on any adjoining road.

Council Wide Principle of Development Control 42 – Driveways and access tracks to properties should be designed and constructed to blend sympathetically with the landscape and to minimize interference with natural vegetation and landforms.

Access to the dwelling will be obtained via Parker Street. Parker Street is currently an unsealed road in what is considered to be, a poor condition. Parker Street currently only provides access for three dwellings, two of which are located near the intersection of Parker Street and Adelaide-Mannum Road.

Nevertheless, Council has recognised the need to upgrade Parker Street and a final design has been completed for the upgrade. It is understood that an appropriate allocation has been included in Council's draft 2010/2011 budget.

The upgrade will see Parker Street sealed and able to accommodate two-way traffic. Stormwater infrastructure will also be incorporated in the works.

It is considered that access to the site is possible at present, but that it does not constitute safe and convenient access. As such the upgrade of Parker Street is necessary to ensure access/egress arrangements for the development are appropriate.

In addition the upgrade of Parker Street should occur prior to construction of the dwelling to ensure the construction of the driveway can take place in an appropriate fashion without disturbance to the driveway or road in the future. Accordingly, should the Panel resolve to grant Development Plan Consent to the proposal it is suggested that a reserved matter be imposed noting that construction of the dwelling cannot commence until the construction of Parker Street is complete.

The access to the dwelling from Parker Street is proposed to be obtained via a bridge, which will stretch from the edge of Parker Street to the garage and carport on the upper level of the dwelling. The bridge will be 6.5 metres in width at the intersection with Parker Street, gradually widening to 10.1 metres in width at the garage/carport.

The bridge is an unusual method of obtaining access to the dwelling however in this instance it is considered the best option. Obtaining an easement over land to the north was not possible due to the future plans of the owner of that land, and while that may have provided “ground level” access to the dwelling, it still would’ve been necessary to have a two storey dwelling to accommodate a reasonable dwelling size. Accordingly while the design may have altered, the basic “form” of the dwelling was unlikely to have changed.

The access to the dwelling will meet a majority of the criteria in Council’s Development Plan in that it will not require the removal of native vegetation, it will not involve any substantial excavation or filling, and run-off from the driveway will be managed to prevent erosion.

In reference to the issue of parking, it is noted that Council’s Development Plan, in Table MiMu/1 does not provide an amount of car parks which should be provided for a detached dwelling. However past experience dictates that generally, the amount of car parks provided for a detached dwelling should be one less than the amount of bedrooms. Therefore 3 car parks should be provided for the dwelling, which has been accommodated.

Members will note the applicant has submitted a Traffic & Parking Report (dated August 2008) from Bruce Howard & Associates. A review of the report together with the other reports and proposal as a whole was undertaken by Council’s Consultant Engineer. The review revealed that the report was acceptable subject to the garage/carport entry level and bridge level being reviewed and amended (which has occurred) and the bridge being designed to accommodate a turn-around movement by a waste collection vehicle (which the applicant has confirmed they will do in writing (dated 8 April 2010).

Accordingly it is considered that the access and parking arrangements proposed for the development are acceptable.

Wastewater & Stormwater

The subject of some discussion, it is considered that the stormwater and wastewater concerns of Council have been addressed.

Wastewater is proposed to be disposed of the Parker Street connection point, which was originally installed at the land division stage. Council’s Consulting Engineer has reviewed the documentation provided and has indicated satisfaction with the approach adopted.

Combe Pearson Reynolds have submitted a further report in regards to stormwater management (dated 29 March 2010) which has provided the information necessary to demonstrate that the proposed arrangements for stormwater management from the dwelling can occur in an appropriate manner.

However it is noted that an easement is required to facilitate the adequate disposal of stormwater. Accordingly it is suggested that a second reserved matter be incorporated into the resolution of the Panel to ensure that the easement is granted (it does not currently exist). This is critical to ensure adequate stormwater management is facilitated.

Land Stability

Both Council's planning staff and Engineering Consultant had concerns in regards to the stability of the land, the potential for landslip and therefore whether or not the development would be likely to cause a hazard in the future:

Council Wide Objective 7 – Development safe from natural and man-made hazards and to be compatible with land capability.

The risk to life and property caused by natural and man-made hazards including flooding, land slip, bushfire, industrial explosion or discharge is an important consideration. The capability of land in terms of terrain, soil, geology, erosion potential, and land use to support a proposed development is an important consideration before allowing the development to proceed. Development should not lead to deterioration in the quality of surface or underground water.

Council's Consultant Engineer suggested the proponent undertake geotechnical investigations and tests to ensure the land could accommodate a detached dwelling without posing a hazard to other surrounding development.

Despite some reluctance, the applicant arranged for a geotechnical engineers report (prepared by Combe Pearson Reynolds (dated 9 December 2009 & attached) to be submitted. This was later reviewed by Council's Consultant Engineer who advised (in correspondence dated 28 January 2010) that the geotechnical information was sufficient, but that any further changes to the dwelling design may necessitate the need for further investigations (however no further amendments other than a change to the height of the dwelling has since been undertaken).

Accordingly Council staff are satisfied that the appropriate measures have been taken to minimise the potential for the development to either be subject to, or cause a hazard.

Conclusion

As previously noted the subject land poses a number of difficulties which have made development of it difficult to accommodate.

The application proposes a dwelling and associated structures which take account of the various site constraints and provide a design which is both suited to the site, and, although contemporary, not considered out of character with adjacent development within the locality.

In addition all of the various engineering concerns Council staff had with the application have been suitably alleviated.

Accordingly it is recommended that Development Plan Consent be granted to the application, subject to two reserved matters and a number of conditions/notations.

RECOMMENDATION

moved that pursuant to Section 35(2) of the *Development Act 1993*, Development Application 711/475/08 is not “Seriously at Variance” with the relevant provisions of the Mid Murray Council Development Plan and that pursuant to Section 33(1)(a) of the *Development Act 1993* Development Plan Consent be granted subject to the following reserved matters and conditions and notations:-

Reserved Matters

1. Construction of the development can only commence upon completion of the construction of Parker Street. This is to ensure safe and convenient access can be provided to the development and that construction of both Parker Street and the access bridge is undertaken appropriately to minimise damage/additional work required to both the road and bridge.
2. That an easement of sufficient dimensions to cater for infrastructure from both Allotments 102 and 281 be granted over Allotment 281 (and Allotment 282 if necessary) to ensure stormwater can be adequately disposed of to River Lane, in accordance with the report prepared by Combe Pearson Reynolds (dated 29 March 2010).

Conditions

1. The development shall be carried out with the stamped details and plans submitted with, and forming part of, Development Application 711/475/08, comprising the following (other than where required to be varied by other conditions below):
 - Site Plan; March 2008; Dwg. No. 2530/0001B;
 - Site Elevations; March 2008; Dwg. No. 2530/0002B;
 - Upper Floor Plan; July 2008; Dwg. No. 2530/0003B;
 - Ground Floor Plan; March 2008; Dwg. No. 2530/0004B;
 - Elevations; March 2008; Dwg. No. 2530/0005B;
 - Elevations; March 2008; Dwg. No. 2530/0006B;
 - Sections; March 2008; Dwg. No. 2530/0007B;
 - Roof Plan; March 2008; Dwg. No. 2530/0008B;
 - 3D Images; March 2008, Dwg. No. 2530/0009B;
 - Materials; July 2008; Dwg. No. 2530/0010A;
 - Summit Projects & Construction * Landscape; Site Plan (Landscaping Plan); 3 March 2009; Dwg. No. 2530 0001;
 - Traffic & Parking Report; Bruce Howard & Associates; August 2008;
 - Combe Pearson Reynolds Report; 4 August 2008;
 - Correspondence from Botten Levinson; 14 July 2009;
 - Combe Pearson Reynolds Report; 21 July 2009;
 - Correspondence from Botten Levinson; 23 July 2009;
 - Correspondence from Botten Levinson; 18 December 2009;
 - Combe Pearsons Reynolds Report; 9 December 2009;
 - Combe Pearsons Reynolds Report; 29 March 2010;
 - Correspondence from Botten Levinson; 8 April 2010;
 - Amended Elevation Plans submitted 19 May 2010.

2. All exterior surfaces of the building are to be of non-reflective materials and colours (in accordance with the colour scheme noted on Dwg. No. 2530/0010A).
3. Stormwater management must be undertaken in accordance with the Combe Pearson Reynolds Report dated 29 March 2010, and in any event, stormwater must be managed such that that it does not flow onto, or cause nuisance to, adjoining privately owned land.
4. Landscaping shall be provided as marked on the landscaping plan (dated 3 March 2009; Dwg. No. 2530/0001). Such landscaping must be established within 6 months of the construction (i.e. lock-up stage) of the development and watered and maintained to reasonable satisfaction of Council thereafter.
5. In accordance with the correspondence from Botten Levinson (dated 8 April 2010) and the Combe Pearson Reynolds Report (dated 29 March 2010), the vehicle and pedestrian access bridge shall be designed/constructed to adequately support/enable a turning movement by a Council refuse vehicle.
6. The dwelling must be connected to the SA Water Sewer and the applicant shall satisfy all of SA Waters requirements in this regard.
7. The dwelling shall be constructed in accordance with the amended elevation plans submitted 19 May 2010.
8. The windows in bedrooms 2 & 3 shall incorporate obscure glazing to a height of 1.2 metres above the finished floor level.
9. The applicant shall lodge, and have approved by Council, a Section 221 permit, prior to construction of the vehicle and pedestrian access bridge.

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. Applicants are advised that the Sewerage Act requires plans for building work in the sewerage area to be lodged with the SA Water Corporation, PO Box 796, Murray Bridge, 5253, 14 days prior to commencing work.
5. 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.

Seconded

MID MURRAY COUNCIL – DEVELOPMENT REPORT

7.4 DEVELOPMENT APPLICATION 711/452/09 – F MIKULA & B STEVENS

Reporting Officer: Aaron Curtis
Position: Development Officer - Planning

Development No.	711/452/09
Applicant	F Mikula & B Stevens
Subject Land	Piece 72 of DP76559, Burdett Road, Hundred of Younghusband
Proposal	Convert Existing Building to Dwelling, Alterations and Additions to Existing Building and Attached Verandah, Change of Land Use to Native Animal Rehabilitation Facility, Shed with Attached Verandah (Wildlife Treatment Centre), Shelter Shed (Kangaroo Yard), Bird Aviaries (10), Freestanding Advertisement (Sign), and Associated Fencing, Lighting and Revegetation

INTRODUCTION

The Applicant lodged the above Development Application with Council on 2 November 2009 seeking approval for conversion of an existing shed to a dwelling, a native animal rehabilitation facility and other associated works.

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

SUBJECT LAND

The subject site is Pieces 71 and 72, Burdett Road, Hundred of Younghusband. The two pieces make up one Certificate of Title of 45.5ha. Piece 71 has a frontage to Burdett Road of 391m and Weidenhofer Road of 1,236m² with a total piece area of 28.6ha. Piece 72 has a frontage to Weidenhofer Road of 817m and a total area of 16.9ha.

The works associated with this Application are concerned only with Piece 72. Piece 72 is predominantly cleared of vegetation and is relatively level across the whole of the piece. The southern portion of this piece contains an existing building and fenced enclosure which have recently been used for the keeping of wombats.

Photos taken while on-site on 30 September 2009 are attached with written annotations confirming the viewing angle of the photos taken.

Attached are maps which identify the subject site and locality of the subject site.

DESCRIPTION OF PROPOSAL

The Application comprises the following components which constitute "development" and have been incorporated into the nature of the proposed development:

1. Conversion of an existing farm building to a dwelling;
2. Alterations and additions to the existing building;
3. Attached verandah;
4. Change of land use to native animal rehabilitation facility;
5. Shed with attached verandah (wildlife treatment centre);

6. Shelter shed (kangaroo yard);
7. Bird aviaries (10);
8. Freestanding advertisement (sign).

The existing building is approximately 50m² and will be increased by 48m² making the total floor area of the building 98m². A verandah of 10m² is proposed to the northern side. This building will be used as a dwelling and will include a living, dining and kitchen within the existing building and 2 bedrooms, bathroom and laundry in the additions.

The new additions will have a pitched skillion roof finished in corrugated Colorbond wall and roof cladding. The building will have a wall height of 2.7m and a height to the tallest end of approximately 4m. The downpipes and wall cladding will be finished in “Loft” and the window frames in “Evening Haze”.

The proposed native animal rehabilitation facility is essentially a service provided by the Applicant's who rescue injured wildlife (particularly wombats) suffering from various illnesses and injuries. Animals are brought to the centre and cared for. Some will remain at the centre and others will be distributed back into the wild.

The facility will involve the following activities:

1. Stages 1 and 2 will be capable of accommodating up to 40 wombats at any one time recovering from various illnesses and injuries including sarcoptic mange, starvation and road accident.
2. The service is provided for all native wildlife including:
 - a) Eastern, Western, Red Kangaroos and Wallaroos (Euros);
 - b) Brushtail and Ringtail Possums;
 - c) Other small native mammals (hopping mice);
 - d) Echidnas;
 - e) Native parrots, magpies, crows, honeyeaters;
 - f) Pelicans;
 - g) Eagles, Kites, Falcons, Goshawks and Owls;
 - h) Murray Darling Pythons;
 - i) Shingleback Lizards, Monitors, Dragons, Geckoes and other non-venomous reptiles.
3. The facility will not be open to the public with the exception of pre-arranged visits by conservation groups etc. Emergency care will occur during all hours which involves specialised persons dropping off and picking up animals.

A shed of 111m² is proposed with an attached verandah of 31m². It will be located approximately 75m south of Weidenhofer Road. This building will have a height of 3.318m to the gutter and 4.620m to the ridgeline and will be clad in Colorbond “Woodland Grey”. This building will be used as the Wildlife Treatment Centre.

A shelter shed designated specifically for kangaroos of 16m² is proposed approximately 150m south of Weidenhofer Road. This yard will have a floor area of 16m² with a wall height at the low side of 1.8m and 2m at the high side. It will be clad in Colorbond sheeting for the walls and roof.

10 bird aviaries are proposed approximately 200m south of Weidenhofer Road. The bird aviaries will be made of two different designs having a floor area of either 15m² or 28m² and a wall height of 2m or 2.7m. These will be constructed from materials including Villaboard, nylon netting, timber and Colorbond steel.

A corflute sign is proposed adjacent the entrance to Piece 72 from Weidenhofer Road. The sign will have an area of 0.48m² and have a height of 1m. Two timber pine upright posts will be fixed by two 50mm square timber horizontal pieces. The sign will advertise the "Wombat Awareness Organisation Ltd" and "24 Hour Wombat Rescue".

NATURE OF THE LOCALITY

The locality is made up predominantly of open and cleared rangeland situated above the 1956 flood level comprising sections and allotments predominantly of 40ha and less used primarily for dryland grazing and cropping. Some residential and holiday homes are situated on similar sized allotments which enjoy views of the River Murray and valley.

Land within the locality is undulating and is generally cleared of native vegetation with the exception of some scattered pockets. Land west of the site is partly located within the 1956 flood level and comprises smaller Sections used for dryland grazing and cropping and some dairying. Land further west comprises larger allotment sizes.

REFERRALS

The Application triggered a referral to the Department of Water, Land & Biodiversity Conservation under Schedule 8(19)(g) of the *Development Regulations 2008* on the basis that additions are proposed to the dwelling (proposed) exceeding 94m² within the River Murray Floodplain area established under the *River Murray Act 2003*.

The Application was also informally referred to the Fauna Permits Unit of the Department for Environment and Heritage. The Department has provided specialist advice in its response, dated 27 April 2010 with respect to the keeping of native animals regulated under the *National Parks and Wildlife Act 1972*. A copy is attached for your information.

The Department of Water, Land & Biodiversity Conservation has provided a referral response for this Application. The Department have no objections to the Application and have directed that if approved, conditions be attached to the Development Plan Consent. A copy of their referral response is attached.

CLASSIFICATION OF DEVELOPMENT

The subject site is located within the River Murray Zone and Primary Production Policy Area of the Mid Murray Council Development Plan (consolidated 13 December 2007). Principle of Development Control 33 of the Primary Production Policy Area states that:

27 *The following kinds of development are non-complying in the Primary Production Policy Area*

Caravan Park

Dwelling other than a dwelling on an allotment of 36ha or greater in size (my underlining)

Horse Keeping

Industry other than:

(a) associated with processing of primary production;

(b) the total floor area of buildings for manufacture, storage or associated activities does not exceed 200 square metres; and

(c) involvement in the industry by people who are not resident on the site does not exceed two persons; and

(d) the industry does not involve the use of vehicles exceeding eight tonnes in weight and no more than one vehicle over one tonne in weight.

Intensive animal keeping

Land division except for the purpose of accommodating Acceptable land uses for the Primary Production Policy Area

Motel in excess of five rooms or accommodation units

Organic waste processing facility

Petrol filling station

Service trade premises.

The Applicant has amalgamated two Certificates of Title to increase their allotment size to in excess of 36ha. Accordingly, the conversion of the existing building to a dwelling shall be assessed "on-merit" within the Primary Production Policy Area.

The native animal rehabilitation facility is an undefined use when assessed against Schedule 1 of the *Development Regulations 2008*. This use is neither listed as a complying or non-complying form of development in this Policy Area.

PUBLIC NOTIFICATION

Principle 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.*

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

Acceptable forms of development in this Policy Area are:

- *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; and*
- *Wood lots to assist in management of irrigated development.*

The proposed native animal rehabilitation facility is not an "acceptable" form of development in this Policy Area. Accordingly, the Application was subject to the Category 2 public notification process.

The Application underwent the Category 2 public notification period with one representation received from Mr Shane Carter of Section 390 (Lot 62), Burdett Road, Hundred of Younghusband. The representor has not expressed a desire to be heard.

A summary of the concerns raised by Mr Shane Carter is given below as well as the response from the Applicant. Copies of the representation and reply are also contained as attachments for your information.

Issues raised by Mr Shane Carter, Section 390 (Lot 62), Burdett Road, Hundred of Younghusband

- The proposal is an unknown use which has not been tested.
- There will be an increased risk of spread of disease from wild animals having Sarcoptic Mange.
- There will be a higher risk of animals escaping the facility and damaging adjoining properties including fences, vegetation and produce.
- The proposed use does not contribute to the character of the area.
- The proposed use will be visible from two major roads.
- The parcel of land is approximately 45.5ha which is divided by Weidenhofer Road. This Application relates to the southern portion of land (approximately 28.6ha) which is less than the 36ha required for a residence.

Response from the Applicant

- The proposed land use on paper is 'unknown'. However, wildlife rehabilitation centres have operated widely across Australia without any adverse effects to the environment and adjoining land. Within the Murraylands region there are several small rehabilitation facilities on privately owned land.
- Quarantine of animals with infectious disease is a high priority. To eliminate the risk of disease spreading from the facility to native wildlife outside of the facility, various quarantine procedures have been established as follows:

- a) Isolation of infectious patients within their own quarters within the boundaries of the facility;
 - b) Infectious patients are not permitted into the outside areas of the facility until they have finished the appropriate veterinary course of treatment and no longer carry the disease;
 - c) Immediate veterinary care and treatment is undertaken on infectious animals to reduce the risk of cross contamination;
 - d) All bedding used by infectious patients is washed in anti-bacterial detergents and allowed to air and sun dry using the suns UV to eliminate the disease;
 - e) Non-washable bedding such as straw/hay is disposed of through incineration within the boundaries of the facility;
 - f) The treatment area of the facility is cleared and disinfected on a daily basis using products such as Avisafe, F10, chlorine and other antibacterial chemicals.
- The fence design and facility layout has been approved by the Department of Environment and Heritage and satisfies the minimum standards for animal enclosures set by the Australasian Regional Association for Zoological Parks and Aquaria.
 - The majority of the property is visible from Weidenhofer Road and Burdett Road. Revegetation has commenced on the site to create a visual screen of the facility when viewed from Weidenhofer and Burdett Roads. Due to the rise in elevation of Burdett Road further north of this site, it is not feasible to obscure views of the site from this location. More than 300 endemic native trees and shrubs have been planted and a further 1,000 are proposed.
 - Allotments 388 and 389 have been amalgamated to form Pieces 71 and 72 and are considered by the Lands Titles Office to be a single parcel of land despite being split in half by Weidenhofer Road. The combined site area is greater than 36ha which exceeds the minimum allotment size for a dwelling of 36ha in this location.

With respect to the last point raised by the representor, the Applicant is correct that this site is considered to be one allotment, despite being made up of two pieces. With this in mind, the conversion of the existing building to a dwelling has been assessed by Council officers "on-merit" on the basis that the site exceeds 36ha in size.

The remainder of the issues raised by the representor have been assessed and discussed further under headings below.

RELEVANT PROVISIONS OF THE MID MURRAY COUNCIL DEVELOPMENT PLAN

Council Wide

Objectives: 1, 2, 7, 9, 11, 12, 13, 14, 15, 31, 32, 33, 34, 36, 37, 38, 39, 40, 41, 42, 45, 46, 47, 48, 50, 55, 56, 57 & 58

Principles of Development Control: 1, 4, 5, 6, 7, 15, 16, 17, 18, 19, 20, 21, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 134, 135, 137, 140, 143, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 186, 187, 188, 189, 192 & 196

River Murray Zone

Objectives: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 13 & 20

Principles of Development Control: 14, 16, 17 & 18

Primary Production Policy Area

Objectives: 1, 2, 3, 4, 5, 6, 11, 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, 33, 34 & 35

ASSESSMENT

Land Use

Objective 1 of the Primary Production Policy Area states that:

Objective 1: Operation and sustainability of rural production and primary industries. (my underlining)

I acknowledge that the proposed native animal rehabilitation facility is neither listed as an acceptable or unacceptable kind of development in the Primary Production Policy Area. It is also not recognised in any of the Objectives or Principles of Development Control in the Primary Production Policy Area.

The Zone seeks to principally promote agricultural activities of various kinds, and limited development in the form of dwellings associated with farming, tourist accommodation and infrastructure associated with adjacent zones. Urban types of development such as retail, urban residential, industry and commercial are not appropriate.

Much of the Primary Production Policy Area is also concerned with eliminating unreasonable effects of development on agricultural productivity, hydrological systems and environmental flows, native vegetation, soils, air quality, noise, waste, and appearance of development.

The proposed land use, in my opinion, is more akin to a rural type of development such as that envisaged in the Zone. It will result in fencing and outbuildings, which are readily associated with farming type activities and will occur on land of greater than 36ha. In addition, the majority of the site is still available for farming activities.

While not discussed under this heading, the Applicant has also adequately demonstrated that the effects of the proposed land use will not have any unreasonable impact on adjoining land. Conditions can also be imposed to regulate incidental management issues associated with the proposed land use.

Given the above, the proposed land use is considered to be appropriate, subject to satisfying a range of other impact based provisions of the Development Plan. In my opinion, it would be unreasonable to refuse this Application on the basis that it is not an envisaged land use in the Primary Production Policy Area.

Land Use Impact

The proposed land use is considered to be relatively low in impact in terms of visitation, vehicular traffic and noise. The Applicant has confirmed that the site will not be open to the public. Pre-arranged visits by community groups such as Conservation Volunteers will occur as well as emergency visits by persons picking up and dropping off animals.

Conditions have been imposed preventing the opening of the site to the public. Council officers do not want this land use to turn into a tourist park. Persons reasonably associated with the activity on the land such as Conservation volunteers, vet staff etc. will be permitted to visit during normal business hours.

The fence enclosure layout is designed to comply with the requirements of the Department for Environment and Heritage. The fences are not capable of being traversed by the wombats due to a return buried 50mm below the surface of the ground. Wombats crawl up to the fence and dig only to find there is a fence buried below.

The potential for noise and odour from the proposed use is expected to be low. The enclosures are sited more than 50m from boundaries and the nearest dwelling is more than 140m away to the south. This is considered to be an acceptable buffer to minimise any nuisance arising from noise or odour.

The impact of the proposed dwelling on the surrounding locality has also been considered. Such dwellings have the potential to reduce the agricultural productivity of the land by creating the potential for land use conflict. To address this, Principle of Development Control 19 of the Primary Production Policy Area states that:

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

The purpose of this provision is in part to avoid dwellings being located adjacent intensive animal keeping, horticulture and primary production activities which have off-site impacts. The proposed dwelling is sited on an allotment which exceeds 36ha on land used in the locality for low intensive dryland grazing and cropping.

Appearance of Development

Principle of Development Control 4 of the Primary Production Policy Area states that:

- 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; or*
 - d) *other heritage significance.*

I acknowledge that the proposed buildings and enclosure will be visible from Burdett Road which is identified as a Major Local Road in the Mid Murray Council Development Plan. Importantly, Burdett Road is not identified as a Scenic Route in the Mid Murray Council Development Plan.

The proposed dwelling, associated sheds and aviaries are not dissimilar to what might be reasonably expected with a farm residence and farm buildings on land within this Policy Area. Such development is clearly anticipated in this Policy Area. Further, the proposed buildings are sited a considerable distance from Burdett Road (more than 300m).

In addition, the Applicant intends to revegetate within the enclosures and around their perimeter to create a significant habitat for the animals and to obscure the enclosures from public view. Such revegetation will reduce the visual impact the Colorbond and mesh fencing might have on the locality.

Given all of the above, the appearance of the proposed development is considered to be acceptable.

Native Vegetation Impact

Objective 7 of the River Murray Zone states that:

Objective 7: Minimum disturbance to the shape of the bank and riparian native vegetation in any development of river front land. (my underlining)

All of the proposed works including enclosures are sited on cleared land. On this basis, the proposal is consistent with Objective 7 of the River Murray Zone.

Landscaping

Council-Wide Principle of Development Control 37 states that:

- 37 *Trees, other vegetation and earth mounding should be retained or provided as part of the development where the environment will be visually improved by such a provision.*

The Applicant has advised that more than 300 endemic native trees and shrubs have been planted within the enclosures and a further 1,000 are proposed. A planting plan proposes new plantings along the outer perimeter of the enclosures to screen them from view while also internally providing new habitat for the animals.

The proposed plantings seek to reduce the visual prominence of the enclosures and buildings when viewed from Burdett Road, provide additional habitat for the enclosed animals and enhance the overall appearance of the site. I consider that the proposal is consistent with Council-Wide Principle of Development Control 37 quoted above.

Provision of Water and Food

The site is serviced with water drawn from the River Murray via a water agreement with the owners of Section 386. This water is stored in tanks on the site and is distributed to the building and enclosures via one inch poly lines. Small water bowls scattered throughout the enclosure are filled daily having a capacity of no greater than 3 litres.

Wombats are fed with either dry food in the form of pellet mix and fresh food in the form of fresh vegetables. Food is stored in two single door household fridges and a single medium sized chest freezer shell for the pellets. Oaten hay mix bales may also occasionally be distributed within the enclosure.

Private Open Space

I acknowledge there are no relevant Objectives or Principles of Development Control in the Mid Murray Council Development Plan relating to the provision and quality of private open space. Despite this, the proposed dwelling achieves a reasonable level of private open space.

A 10m² verandah is proposed to the northern side of the kitchen, living and dining area which is covered, adjoining the internal living area of the building, has a good northern orientation and is level. In addition, there is sufficient area surrounding the curtilage of the building of adequate orientation, dimension and slope to also be useable.

Overall, the proposed dwelling will be serviced with a suitable area of private open space of reasonable standard.

Energy Efficiency

Council-Wide Objective 42 states that:

Objective 42: Conservation of Energy.

The explanatory text for this Objective states that "*Building orientation and siting, appropriate window design, sun protection, solar water heating, insulation and landscaping assists in reducing energy requirements*" (my underlining).

The proposed dwelling will have a verandah attached to its northern side to reduce the amount of northern sunlight directed straight onto the kitchen, dining and living area. In addition, the bedrooms 1 and 2 can be partitioned off from the remainder of the building to reduce the areas needed to be heated and cooled internally.

Given all of the above, the building will achieve a reasonable level of energy efficiency from a planning perspective.

Outdoor Lighting

Principle of Development Control 15 of the Primary Production Policy Area states that:

15 Outdoor lighting should not cause nuisance. (my underlining)

The Applicant has advised that four low wattage (23 watt, 4100 k) lights will be erected to each corner of the existing building. The proposed lighting is considered to be acceptable and in accordance with Principle of Development Control 15 quoted above, given the limited number of lights, their setback from boundaries and low wattage.

Signage

Council-Wide Principle of Development Control 166 states that:

166 Erection of advertising hoardings should not be undertaken on land outside of townships unless:

- a) the land is associated with the product advertised;*
- b) the sign is of a size, style and height which will not detract from the character of the locality; and*
- c) the sign will not create a hazard to traffic.*

The advertisement will be associated with the proposed land use on the site, will be located adjacent a local Council Road (Weidenhofer Road) and is of a size, style and height which will not detract from the character of the locality. In addition, the Applicant will remove an existing sign displayed on the site adjacent Weidenhofer Road.

Given this, the proposed freestanding advertisement is considered to be consistent with Council-Wide Principle of Development Control 166 quoted above.

Stormwater Discharge

Principle of Development Control 16 of the River Murray Zone states that:

17 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:*
 - v. the availability of unbuilt upon or unsealed areas;*
 - vi. the ability of soils to absorb water;*
 - vii. the ability of building footings on and adjacent to the site to withstand the likely effects of retained water; and*
 - viii. potential adverse impacts on the level and quality of groundwater;*
- 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 will be discharged via gutters and downpipes into a 20,000 litre rainwater tank. While the Applicant has not made this clear, it is expected that stormwater from the roof of the large shed with attached verandah would also be discharged to rainwater tanks. Stormwater from the remainder of the proposed buildings can discharge to the land immediately adjacent, given their limited floor area.

The potential for degradation of surface waters from the animal enclosures has been considered. In my opinion, the proposed enclosures are unlikely to have any unreasonable impact on surface water quality because the land is relatively level where they are proposed, the number of animals kept within the enclosure is low and the rainfall in this location is also low. Revegetation may actually improve water quality.

Bushfire Impact

The subject site is located within a “general” bushfire risk area of the Mid Murray Council Development Plan. Council-Wide Principle of Development Control 187 states that:

188 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:*
 - iv. is located adjacent to the building or in another convenient location on the allotment accessible to fire fighting vehicles;*
 - v. comprises a minimum of 5,000 litres in areas shown as General or Medium Bushfire Risk on Bushfire Protection Area figures; or*
 - vi. comprises a minimum of 22,000 litres in areas shown as High Bushfire Risk on Bushfire Protection Area figures. (my underlining)*

A 5,000 litre fire fighting tank is located more than 10m south-west of the existing building located directly adjacent the car parking area. This tank is accessible to fire fighting vehicles via the existing/proposed internal driveway. In addition, the dwelling achieves a separation of more than 20m from existing vegetation.

Given all of the above, the proposal is considered to be consistent with the relevant Council-Wide provisions of the Development Plan relating to bushfire impact.

Effluent Disposal

Principle of Development Control 14 of the River Murray Zone states that:

14 Domestic wastewater should be treated on site by an approved system.

The Applicant has lodged an Application for an on-site waste control system (S120/09) which comprises an on-site ri-treat tank and dedicated irrigation area. While this Application has not yet been approved, Council's Environmental Health Officer has confirmed that the proposed system is acceptable.

Waste

Principle of Development Control 8 and 9 of the Primary Production Policy Area state that:

- 8 *Untreated waste should not be spread or discharged to land or water either on-site or elsewhere.*
- 9 *On-site waste treatment and the spreading or discharging of treated waste on-site should not occur.*

All dead wildlife bodies will be disposed of through a free service provided by the Animal Welfare League. A condition will be imposed requiring that all dead animals are not disposed of to the subject land.

The Applicant has advised that the faeces from the Wombats within the enclosures will naturally break down and provide enrichment to the soil. All faeces collected within the buildings will be deposited into a compost bin and discharged to a compost pile.

Given that this waste is organic and can be broken down naturally, the proposed compost pile is considered to be acceptable. A condition will be imposed requiring that all faeces be disposed of to the compost pile.

Car Parking and Vehicular Access

Council-Wide Principle of Development Control 16 states that:

- 16 *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)

The site will not be open to the public with the exception of pre-arranged visits by conservation groups such as Conservation Volunteers. This aspect of the development will be conditioned.

Therefore, the demand for on-site car parking associated with the new use is expected to be low. Notwithstanding this, a suitable car parking area is proposed for up to 10 vehicles next to the fenced off enclosure.

This is considered to be an adequate number of on-site car parking spaces to service the proposed use. In addition, the car parking area has been sited west of the dwelling, meaning that cars parked in this location will be largely screened from public roads.

A condition has been imposed requesting that the vehicular access and car parking area be made of an all-weather surface capable of supporting the expected amount of vehicular traffic to the site.

CONCLUSION

While the proposed land use is not envisaged in this Policy Area, it is considered to be similar in nature to various agricultural activities anticipated in the Policy Area. Further, the proposal can occur on the site without any unreasonable impacts on adjoining land.

MID MURRAY COUNCIL – DEVELOPMENT REPORT

7.4 DEVELOPMENT APPLICATION 711/452/09 – F MIKULA & B STEVENS

Various issues associated with the Application have been considered including noise, odour, waste, effluent disposal, traffic, car parking and access, lighting, revegetation, native vegetation impact, bushfire impact, stormwater discharge and appearance.

Overall, the proposal is considered to warrant Development Plan Consent, subject to conditions.

RECOMMENDATION

moved that pursuant to Section 35(2) of the *Development Act 1993*, Development Application 711/452/09 is not “Seriously at Variance” with the relevant provisions of the Mid Murray Council Development Plan (Consolidated 13th December 2007) and that pursuant to Section 33(1)(a) of the *Development Act 1993* Development Plan Consent be granted 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 2-26 inclusive:

Plan Number	Plan Type	Dated	Prepared By
Sheet 3 of 5	Site Plan and Enlarged Site and Services Plan	16.10.09	Rob Walters Building Design
Sheet 1 of 5	Dwelling Additions – Floor Plan, Perspective and Elevations	16.10.09	Rob Walters Building Design
Not Stated	Planting Plan (Enlargment)	14.10.09	Frank Mikula
Not Stated	Planting Plan	16.10.09	Frank Mikula
Not Stated	Phase 1 Services Plan	16.10.09	Frank Mikula
Not Stated	Fence Enclosure Elevations	15.10.09	Frank Mikula
Not Stated	Small Treatment Aviary	06.03.08	Frank Mikula
Not Stated	Sea-Eagle Aviary Elevation	01.05.08	Frank Mikula
Not Stated	Shelter Shed (Kangaroo Yard) Elevation	10.02.10	Frank Mikula

LITTLE-2798 Page 2 of 2	Shed with attached verandah (Wildlife Treatment Centre) Elevation	2008	Ranbuild
LITTLE-2798 Page 1 of 2	Shed with attached verandah (Wildlife Treatment Centre) Elevation	2008	Ranbuild
Not Stated	Phase 2 Site Layout	14.10.09	Frank Mikula
Not Stated	Phase 1 Site Layout with car parking details included	16.10.09	Frank Mikula
Not Stated	Sign Graphics Detail	Not Dated	Frank Mikula
Not Stated	Freestanding Corflute Sign Details	14.02.10	Frank Mikula

2. The approved shed with attached verandah (wildlife treatment centre), shelter shed (kangaroo yard) and bird aviaries (10) must not be used for human habitation.
3. All exterior surfaces of the dwelling additions (and attached verandah), shed with attached verandah (wildlife treatment centre), shelter shed (kangaroo yard) and bird aviaries (10) shall be of non-reflective materials and colours which blend in with the natural features of the environment, as shown on the approved plans and Application documentation.
4. The existing advertisement attached to the post and wire fence on the subject land adjacent Weidenhofer Road shall be removed and replaced with the freestanding conflute sign as shown on the approved plans. This sign and its supporting structure shall be kept in a state of good repair at all times.
5. The site shall be landscaped as shown on the approved plans and Application documentation. All plants, shrubs and trees shall be planted prior to occupation of the building and shall be watered and maintained in reasonable health and condition thereafter. Any diseased or dying plants shall be replaced.
6. The dwelling must be connected to an approved waste water disposal system before it can be used for human habitation.
7. Stormwater from the roof of the dwelling (including additions and verandah) and the shed with attached verandah (wildlife treatment centre) shall be discharged into rainwater tanks as shown on the approved plans. Any overflow from the tanks shall be discharged away from allotment boundaries (except Weidenhofer Road), buildings, septic tank and effluent disposal areas into the landscaped areas shown on the approved planting plan, dated 14 October 2009.

8. The freestanding sides of the verandahs (attached to the dwelling and attached to the wildlife treatment centre) shall remain open. No walls being permanent or semi-permanent shall be attached to these parts of the buildings at any time.
9. A dedicated water supply for fire fighting purposes shall be provided prior to the dwelling being occupied which is a minimum of 5,000 litres, as shown on the approved plans, and be designed as follows:-
 - a) Tanks for fire fighting purposes should be no closer to a building than 10m to allow access away from radiant heat;
 - b) Tanks shall be provided with a fire service adaptor fitted in the tank wall near the bottom of the tank with a minimum outlet of 50mm terminating in a 64mm London round thread;
 - c) Where CFS access is available immediately adjacent the tank a removable inspection lid is to be provided on top of the tank;
 - d) Bushfire water supply tanks (including any tank support structure) shall be constructed of non-combustible material.
10. The water supply used for fire fighting shall be pressurised by a pump that has a minimum inlet diameter of 38mm and powered by a petrol or diesel engine with a power rating of at least 3.7kW (5hp) or a system that operates independently of mains electricity and is capable of pressurising the water for bushfire fighting purposes.
11. The pump and any flexible connections to the water supply shall be protected by a non-combustible cover that allows adequate air circulation and ventilation.
12. All pipes and connections between the water supply and pump shall be no smaller in diameter than the diameter of the pump outlet.
13. All non-metal water supply pipes for bushfire fighting (other than flexible connections and hoses for fire fighting) shall be buried to a minimum depth below ground of 300mm.
14. A hose (or hoses) used for fire fighting shall:-
 - a) be located so that all parts of the building shall be within the reach of the nozzle end of the hose and if more than one hose is required they should be positioned to provide maximum coverage of the building; and
 - b) be capable of withstanding the pressures of the supplied water; and
 - c) be of reinforced construction manufactured in accordance with AS2620 or AS1221; and
 - d) have a minimum internal diameter of 18mm; and
 - e) have an adjustable metal or PVC nozzle to AS1221; and
 - f) have a minimum length of 30m; and
 - g) be readily available at all times.

15. The dwelling shall be connected to rainwater tank(s) with a minimum capacity of at least 10,000 litres (independent of the 5,000 litre fire fighting tank) to ensure the dwelling is provided with adequate domestic water supply.
16. An all-weather driveway and car parking area shall be constructed from the Weidenhofer Road boundary up to the fenced facility, as shown on the approved plans. The driveway shall be formed of materials which enable all year round use such as compacted rubble, gravel, pavers or bitumen and shall be maintained in good and useable condition thereafter.
17. The native animal rehabilitation facility shall not be open to the public as stated in the letter from the Applicant's dated 11 February 2010. Pre-arranged visits by veterinary personnel, conservation volunteers and other related persons associated with the facility are permitted during normal business hours only excepting emergency care.
18. No external lighting shall be erected on-site with the exception of that stated in the letter from the Applicant's, dated 11 February 2010.
19. All native animals required to be licensed under the *National Parks and Wildlife Act 1972* must be retained within the fenced enclosure shown on the approved plans at all times excepting transport of the animals to and from the subject land.
20. All animal faeces collected from buildings shall be discharged into a compost bin and disposed of at the compost pile identified on the approved plans.
21. Dead animals shall not be disposed of on the subject land.
22. The existing caravans located on the subject land shall be removed from the site prior to occupation of the dwelling.

Conditions as required by the Minister for the River Murray

23. During construction 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 placed into bins to ensure no pollutants (including excavation or fill material) enter the River Murray.
24. Any exposed areas created or exacerbated during the works must be appropriately stabilised to minimise the potential for erosion and the entry of sediment into the River Murray. Revegetation with locally indigenous species or the use of geosynthetic materials may assist in complying with this condition.

25. 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.
26. 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 or pathogenic material.

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. 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 reminded that the shed with attached verandah (wildlife treatment centre), shelter shed (kangaroo yard) and bird aviaries (10) have been approved for the keeping of animals only, and as such cannot be used for habitation, industrial or commercial purposes.
6. 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.
7. 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.
8. All building work shall be carried out in accordance with the requirements of the *Development Act 1993* as amended and its Regulations.
9. All existing trees on the site shall be retained wherever practicable.
10. 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.
11. The Applicant is advised that Council will instigate appropriate action should the shed with attached verandah (wildlife treatment centre), shelter shed (kangaroo yard) and bird aviaries (10) be used for anything other than the keeping of animals.
12. 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.
13. 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.

Notations as issued by the Minister for the River Murray

14. 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.

15. The site is located within the Branched Broomrape Quarantine Area. Development must be undertaken in accordance with the legally enforceable protocols of the *CODE – CONTROL OF BRANCHED BROOMRAPE*, which was issued by the Authority of the Minister for Environment and Conservation in January 2008.

Soil, in bulk or attached to plant and equipment may contain small Branched Broomrape seeds. Therefore, plant and machinery, including certain work vehicles, will require decontamination at the worksite or designated location before moving from the quarantine area. All areas require inspection prior to soil extraction. Any movement of soil from the Branched Broomrape Quarantine Area requires a written approval from an inspector issued prior to its removal from the Quarantine area. Failure to obtain a written approval is a breach of the requirements of the 'Notice Concerning the Control of Branched Broomrape' issued under the provisions of the *Fruit and Plant Protection Act 1992*. A penalty of up to \$20,000 applies to such a breach. Protocols also apply to agricultural production, and native animal keeping (wombats). Cleaning and decontamination of plant, machinery and work vehicles may be supplied free of charge by DWLBC staff if arranged in advance.

Livestock (including wildlife and wombats) are required to be kept in a secure manner and fed approved foodstuff for 10-days prior to removal from the Branched Broomrape Quarantine Area. To obtain Approvals, or for further information, contact the Branched Broomrape Operations Centre at Thomas Street, Murray Bridge on telephone 1800 245 704 or visit: <http://www.dwlbc.sa.gov.au/biodiversity/bbep/index.html>.

16. The Applicant must hold a Fauna Permit authorising the keeping of certain species of native animals, pursuant to the *National Parks and Wildlife Act 1972*. Should any current Fauna Permit held by the Applicant not endorse the keeping of a particular species intended to be kept at the site, the Applicant must seek the appropriate authorisation from the Department for Environment and Heritage (DEH). The Applicant is strongly encouraged to contact the DEH Fauna Permits Unit on 8124 4972, or 1 Richmond Road, Keswick SA 5035 to obtain relevant authorisations. For further information visit: <http://www.environment.sa.gov.au/biodiversity/faunapermits/>.
17. The Applicant is advised that any proposal to clear native vegetation on the land, unless the proposed clearance is subject to an exemption under the Regulations of the *Native Vegetation Act 1991*, requires the approval of the Native Vegetation Council. 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 of branches, drainage and reclamation of wetlands, and in some circumstances grazing by animals. For further information about *Native Vegetation Act 1991* requirements, telephone 8303 9741 or visit: <http://www.dwlbc.sa.gov.au/native>.

18. 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 www.stateflora.com.au.
19. The River Murray and many of its tributaries and overflow areas have abundant evidence of Aboriginal occupation. Under section 20 of the *Aboriginal Heritage Act 1998* (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.

20. This advice does not obviate any considerations that may apply to the *Environment Protection and Biodiversity Conservation Act 1999* (Cwth).

Seconded

Reporting Officer: Jennifer Brewis
Position: Development Officer - Planning

Development No. 711/123/10
Applicant TP Foster
Subject Land Lot 420 of FP208796, 23 Rudolf Street, Mannum,
Hundred of Finniss
Proposal Domestic Outbuilding (Shed Extension)

INTRODUCTION

The above mentioned Development Application has been lodged with Council for a lean-to extension to an existing shed in the Mannum township.

This application is before the Panel due to the bulk and scale of the building being beyond what is considered a normal residential outbuilding.

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

SUBJECT LAND

The subject site is identified as Lot 420 of FP208796, 23 Rudolf Street, Mannum, Hundred of Finniss as contained in Certificate of Title Volume 5706 Folio 807.

The subject site is a corner allotment with frontage to both Rudolf Street and Diercks Road. A dwelling is located on the site towards Diercks Road.

The land is located in the Residential Zone as defined by the Mid Murray Council Development Plan MiMu/60.

The site currently has a 120 square metre zincalume shed accessible via Rudolf Street and a solid colourbond fence running the length of the sites Rudolf Street boundary. The application will result in a structure of approximately 200m².

Attached are maps which identify the subject site and locality of the subject site.

DESCRIPTION OF PROPOSAL

The proposed development is for a lean-to extension to an existing shed. The building will be 4 metres wide. The lean-to will be 72 square metres. The building will be 2.4 metres high on the side fronting the existing shed and the other will have a wall height of 3.472 metres. This is to give the roof a northern aspect for future solar panels to gain maximum sunlight.

The proposed external materials of the lean-to are zincalume.

The applicant seeks to construct the lean-to extension for the placement of solar panels on its roof and rainwater catchment.

NATURE OF THE LOCALITY

The existing streetscape is of residential development. The allotment on the opposing side of Rudolf Street fronts Diercks Road with shedding and access to the rear of the site similar to the subject site.

The allotment directly to the north of the site is the rear yard of a dwelling which fronts Walker Avenue.

REFERRALS

No referrals were required to be undertaken pursuant to Section 37 of the Development Act, 1993.

PUBLIC NOTIFICATION

Pursuant to Schedule 9 (20) of the Development Regulations 2008 the application was determined to be a type which warranted Category 2 public notification.

Letters were sent to the adjoining owners in accordance with the provisions of the Development Act and Regulations. At the end of the public notification period no representations had been received by Council.

RELEVANT PROVISIONS OF THE MID MURRAY COUNCIL DEVELOPMENT PLAN

Council Wide

Objectives: 9, 15 & 31

Principles of Development Control: 29, 34, 35, 43 & 143

Residential Zone

Objectives: 1 & 4

Principle of Development Control: 6

ASSESSMENT

Character

Given the existing solid fence and the existing streetscape the lean-to extension will have limited impact upon the locality's amenity apart from the 6 metre wide shed frontage being expanded to 10 metres.

The proposed extension will be constructed from zincalume and designed so the roof is angled towards the existing shed roof. This should reduce the impact of the reflective nature of zincalume upon adjoining allotments and the public road. It is also considered that should the extension be constructed from a different material it will increase the buildings prominence due to the variance in materials.

Council Wide Principle of Development Control 34 seeks that buildings have an external appearance which preserves and enhances the character of the locality and desired Future Character of the Zone. The building will have minimal impact upon the locality's character as the building is an extension which will be predominantly screened behind an existing solid fence.

Bulk and Scale

The existing shed is considered large for a residential outbuilding. The extension will cause the building to go beyond what is considered an ancillary residential building. The shed will not be in proportion to the dwelling upon the site.

Due to the sheds extension located behind the existing fence the sheds visual bulk and scale will not be excessively prominent from Rudolf Street. The sheds frontage to this street will only increase from 6 metres to 10 metres.

There are no provisions currently within Council's Development Plan which specifically set out an acceptable shed size in residential areas. The existing shed is located on the boundary and the existing fence will shield the extension from view. Therefore, the overall impact of the proposed lean-to extension is not significant enough for refusal based solely on impact on the locality's amenity.

Private Open Space

Due to the allotments size a large amount of land will still remain for usable private open space even though the shed will be close to 200 square metres.

Stormwater

Council Wide Principle of Development Control 29 seeks that development incorporate stormwater harvesting. The proposed development will enable further stormwater harvesting to occur via rainwater tanks upon the site.

Infrastructure

The applicant advised upon lodgement of the application that he seeks the construction of the lean-to for solar panels. He said the lean-to design will offer reduced visibility from public and reduce risk of vandalism.

The applicant explained that he was unable to use the existing shed for the solar panels as the building was not constructed in a manner which will support the panels weight.

Solar Panels are an exempt form of development Pursuant to Schedule 3 of the Development Regulations 2008.

CONCLUSION

While the proposed development will result in a shed that is not in proportion with the existing dwelling upon the site and will be larger than other residential outbuildings within the locality there are insufficient provisions presently within Council's Development Plan to refuse the application.

Overall the lean-to extension will have limited if any impact upon the wider locality's amenity as the building will predominantly be hidden by the existing solid fencing.

The proposed development is not considered to be seriously at variance with the provisions listed within the Mid Murray Council Development Plan and warrants approval.

RECOMMENDATION

moved that pursuant to Section 35(2) of the Development Act 1993, Development Application 711/123/10 is not "Seriously at Variance" with the relevant provisions of the Development Plan and that pursuant to Section 33(1)(a) of the Development Act 1993 Development Plan Consent be granted subject to the following conditions and notations:-

Conditions

1. The development shall be carried out in accordance with the details and plans submitted with the application, other than where required to be varied by the following conditions.
2. The structure/building shall not be used for human habitation.
3. Stormwater from the building/structure shall be drained to the reasonable satisfaction of Council in accordance with the site plan provided to Council as part of the development application details on 12 April 2010 and managed so that it does not flow onto adjoining privately owned land.

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 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.

3. 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.
4. 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.
5. 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.

Seconded

MID MURRAY COUNCIL – DEVELOPMENT REPORT

7.6 DEVELOPMENT APPLICATION 711/050/10 – JG BOOTH

Reporting Officer: Jennifer Brewis
Position: Development Officer - Planning

Development No. 711/050/10
Applicant JG Booth
Subject Land Lot 22 of DP17795, East Front Road, Hundred of Younghusband
Proposal Extension to Domestic Outbuilding

INTRODUCTION

The above mentioned application has been lodged for the extension of a domestic outbuilding. The applicant was advised prior to paying the application fees that the proposed shed extension was a non-complying form of development.

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

SUBJECT LAND

The subject site is identified as Lot 22 of DP17795, East Front Road, Hundred of Younghusband as contained in Certificate of Title Volume 5407 Folio 227.

The site is located in the Shack Settlement Policy Area of the River Murray Zone as defined by the Mid Murray Council Development Plan Map MiMu/29.

The land is accessible by East Front Road. The site is elevated above East Front Road and also the 1956 flood boundary.

There is an existing ground level holiday home, garage and carport upon the site. The built form is mostly hidden from view by vegetation along the road side.

Attached are maps which identify the subject site and locality of the subject site.

DESCRIPTION OF PROPOSAL

The proposal is for the extension of an existing domestic outbuilding. The existing shed is (5.5 m x 9.1 m) 50.05 m². The proposal is for a (5.5m x 3.05m) 16.775m² extension on the road side of the existing shed. The shed shall have a total floor area of 66.825m².

NATURE OF THE LOCALITY

The subject site is located in a shack group known as The Peppers. In this shack group some of the dwellings are located on land above the 1956 flood. A few are elevated dwellings located below the 1956 flood boundary.

East Front Road is a defined scenic route.

REFERRALS

Pursuant to Schedule Eight of the Development Regulations 2008 the application was required to be referred to the Minister administering the River Murray Act and the Environment Protection Agency.

Copies of the responses received are attached.

PUBLIC NOTIFICATION

Pursuant to Section 38(2)(c) the application was considered to be a form of development which warranted Category 3 public notification.

At the conclusion of this process no representations were received.

RELEVANT PROVISIONS OF THE MID MURRAY COUNCIL DEVELOPMENT PLAN

Council Wide

Objectives: 9 & 15

Principles of Development Control: 34, 35, 43 & 143

Shack Settlement Policy Area

Objective: 4

Principles of Development Control: 7 & 16

ASSESSMENT

Amenity & Character

The shed extension is on the road side of the existing shed. The extension will not increase the size of the shed when viewed from the road and as the building is setback from the road behind vegetation it will have limited impact upon the buildings visible bulk. So even though the extension will be visible from the road it will not significantly alter the existing street appearance of the shed.

The proposed extension will increase the shed nearly 13m² above the allowable size specified in Principle of Development Control 16 of the Shack Settlement Policy Area of the River Murray Zone. Generally variance from this provision is not considered acceptable or supported. However given the location of the shed above the flood boundary and that its size and overall bulk will not be visible its variance with Principle of Development Control 16 is considered minor.

Flood Protection

As mentioned in the applicants' correspondence the subject site is located above the 1956 flood boundary. The building being larger than the allowable size will not increase built form in a flood prone area nor impede flood waters.

Due to the shed being located above the flood boundary it is not necessary that the building have openings in the direction of the river flow as required by Principle of Development Control 16(b) of the Shack Settlement Policy Area of the River Murray Zone.

CONCLUSION

While sheds in shack sites larger than 54 square metres are generally not supported in this instance variance is considered minor. This is due to

- the shed being located above the 1956 flood boundary so it won't unduly impede flood waters;
- it is only 13m² more than the allowable 54m²; and
- it will not significantly alter the visual bulk of the shed when viewed from the road.

RECOMMENDATION

moved that pursuant to Section 35(2) of the Development Act 1993, Development Application 711/050/10 is not "Seriously at Variance" with the relevant provisions of the Development Plan and that pursuant to Section 33(1)(a) of the Development Act 1993 Development Plan Consent be granted 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 and plans submitted on 8/2/10, other than where required to be varied by the following conditions.
2. The structure/building shall not be used for human habitation.
3. Stormwater from the building/structure shall be drained to the reasonable satisfaction of Council and managed so that it does not flow onto adjoining privately owned land.
4. All exterior surfaces of the building/structure are to be of non-reflective materials, (factory applied colour coated steel or equivalent), and colours which blend in with the natural features of the environment.

Conditions as required by the Minister for the River Murray

5. During construction 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 placed into bins to ensure no pollutants (including excavation or fill material) enter the River Murray.

6. Stormwater run-off from the outbuilding 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.
7. 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 or pathogenic material.
8. 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.

Conditions as required by the Environment Protection Authority

9. The development must be undertaken in accordance with the plans and specifications contained in development application number DA 71/052/10, except for as varied by any conditions that follow.
10. Dust generated by machinery and vehicular movement during construction and any open stockpiling of soil or building materials at the site, must be controlled to ensure that it does not become a nuisance off site.
11. During construction all reasonable and practicable measures must be taken to prevent the contamination of any waters (including the Council stormwater system) in accordance with the Stormwater Pollution Prevention Code of Practice for the Building and Construction Industry <http://www.epa.sa.gov.au/pdfs/bccop1.pdf>. Further guidance can be found in the EPA Handbook for Pollution Avoidance on Commercial and Residential Building Sites at: http://www.epa.sa.gov.au/pdfs/building_sites.pdf.

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 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.

3. 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.
4. 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.
5. 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.

Notations as issued by the Minister for the River Murray

6. 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.
7. The River Murray and many of its tributaries and overflow areas have abundant evidence of Aboriginal occupation. Under section 20 of the Aboriginal Heritage Act 1988 (the Act), 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.

8. The site is located within the Branched Broomrape Quarantine Area, but have not been found to be infested with branched broomrape. Development must be undertaken in accordance with the legally enforceable protocols of the CODE – CONTROL OF BRANCHED BROOMRAPE, which was issued by the Authority of the Minister for Environment and Conservation in January 2008.

Soil, in bulk or attached to plant and equipment may contain small Branched Broomrape seeds. Therefore, plant and machinery, including certain work vehicles, will require decontamination at the worksite or designated location before moving from the quarantine area. All areas require inspection prior to soil extraction. Any movement of soil from the Branched Broomrape Quarantine Area requires a written approval from an inspector issued prior to its removal from the Quarantine Area. Failure to obtain a written approval is a breach of the requirements of the 'Notice Concerning the Control of Branched Broomrape' issued under the provisions of the Fruit and Plant Protection Act 1992. A penalty of up to \$20,000 applies to such a breach. Protocols also apply to agricultural production. Cleaning and decontamination of plant, machinery and work vehicles may be supplied free of charge by DWLBC staff if arranged in advance.

To obtain Approvals, or for further information, contact the Branched Broomrape Operations Centre at Thomas St, Murray Bridge on telephone 1800 245 704 or visit:
<http://www.dwlbc.sa.gov.au/biodiversity/bbep/index.html>.

9. Low water levels have reduced riverbank stability along some sections of the River Murray between Blanchetown and Wellington, with areas susceptible to riverbank collapse presenting catastrophic risks for life and property. Therefore, it would be appropriate to have an appropriate qualified and experienced geotechnical engineer, registered with Engineers Australia, review the design and the site to consider the possibility and effect of riverbank collapse within structural considerations.

Indicators of riverbank collapse include cracking, leaning trees and bubbling in the water near the riverbank, however these signs are not always obvious and may occur more than 20 metres from the river's edge. Fenced-off areas, previously collapsed areas, and steep riverbanks should be avoided. For more information or to report potential collapse sites call the 24-hour hotline on 1800 751 970 or visit:
http://www.dwlbc.sa.gov.au/murray/drought/riverbank_collapse.html

10. The applicant is advised that any proposal to clear native vegetation on the land, unless the proposed clearance is subject to an exemption under the Regulations of the Native Vegetation Act 1991, requires the approval of the Native Vegetation Council. 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 of branches, drainage and reclamation of wetlands, and in some circumstances grazing by animals. For further information about Native Vegetation Act 1991 requirements, visit:
<http://www.dwlbc.sa.gov.au/native>.
11. 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 or pollute water resources:
 - a. Remove or open or the outbuilding (whichever elevations face the direction from which potential floodwaters may approach the structure);
 - b. Remove the contents of the outbuilding, particularly materials that may pollute water resources (eg. chemicals, fuel, fertilisers etc.), and transport them to a site above the 1956 flood level.
12. For guidance on rainwater tank use please visit the SA Murray-Darling Basin Natural Resources Management Board’s website, which includes Rainwater Tank Size Selection Tables for several areas within the region:
http://www.samdbnrm.sa.gov.au/Board_Projects/Rainwater_Tank_Use.aspx.
13. This advice does not obviate any considerations that may apply to the Australian Government’s Environment Protection and Biodiversity Conservation Act 1999 (Cwth Act).

Notations as issued by the Environment Protection Authority

14. The applicant is reminded of its general environmental duty, as required by Section 25 of the Environment Protection Act 1993, to take all reasonable and practical measures to ensure that the activities on the whole site, including during construction, do not pollute the environment in a way which causes or may cause environmental harm.
15. Construction noise can cause a nuisance to nearby residents. In order to comply with the construction noise provisions contained in Division 1 of Part 6 of the Environment Protection (Noise) Policy 2007, construction machinery should generally only be operated between the hours of 7AM and 7Pm Monday to Saturday (9AM to 7PM Sunday or Public Holidays), except in the case of a concrete pour on days when the forecast temperature is greater than 35 C. Further guidance can be obtained from the EPA Information Sheets on Construction noise
http://www.epa.sa.gov.au/pdfs.info_construction.pdf.

16. The EPA recommends that stormwater is managed as a resource and to protect receiving waters by harvesting, treating (as necessary) and utilising it on site as much as possible (e.g. in the hot water system, toilet or landscaping), in accordance with the principles of Water Sensitive Urban Design (WSUD). The following web sites may assist in this respect: <http://wsud.melbounrewater.com.au> and <http://www.wsud.org>.
17. Any information sheets, guidelines documents, codes of practice, technical bulletins etc. that are referenced in this response can be accessed on the following web site: <http://www.epa.sa.gov.au/pub.html>.

Seconded

MID MURRAY COUNCIL – DEVELOPMENT REPORT

7.7 DEVELOPMENT APPLICATION 711/503/09 – SELECTA HOMES & BUILDING CO

Reporting Officer: Kelvin Goldstone
Position: Director - Development & Environmental Services

Development No. 711/503/09
Applicant Selecta Homes & Building Co
Subject Land Section 346, Murray Bridge - Mannum Road,
Hundred of Finniss
Proposal Detached Dwelling with Attached Verandah/Deck

Members would recall this application was considered at the April Development Assessment Panel meeting. A copy of the original report is attached. The Panel resolved to approve the application subject to the following reserve matter being addressed:-

- The applicant is to provide the appropriate justification (preliminary odour modeling or similar investigation) as to why a departure from the Environment Protection Authority's guidelines relating to separation distances to piggeries is warranted.

Mrs Brooks was advised of the Panel's resolution and issues associated with satisfying the reserve matter were discussed.

Mr & Mrs Brooks have subsequently forwarded the attached correspondence.

Given the accusations in correspondence from Mr & Mrs Brooks dated 11 May 2010 and previous correspondence dated 23 April 2010 I have interviewed each officer involved, namely Aaron Curtis and Jennifer Brewis, reviewed the application file and the property file, a summary of relevant excerpts are listed below.

- 11 August 2009 – File notes reveal Aaron Curtis spoke to a prospective purchaser of the property about development of the site.

The file note confirms that among the general advice given there were four references to issues associated with an adjoining piggery namely:-

- *There is a major piggery on the opposite side of the main road fronting Piggery Road.*
 - *We would have major concerns with proximity of a dwelling close to the piggery as we do not want to impact on the production/operation of a lawful piggery.*
 - *There are no applicable quantitative setback guidelines for separation from a piggery in this Policy Area however there are in the Rural Zone which we apply (at least 500m).*
 - *If a dwelling were to be considered on the land it would have to be setback in the far western corner of the property (900m or so from the piggery lagoons) and as far back from the road as possible.*
- 17 August 2009 – Email correspondence to/from the then owner of the property D Lush and Aaron Curtis specifically discussing issues associated with separation distances associated with the adjoining piggery. Comments contained in the emails include:-

- *I have spoken with Jennifer Brewis and we together can advise of the following merits in erecting a dwelling on the land:-*
 - *Development of dwellings in close proximity to a piggery can cause land use conflicts (principally odour). The EPA have guidelines they use for separation distances from a piggery to any sensitive receptor (dwellings). The EPA separation distances guidelines and the National Environmental Guidelines for Piggeries recommend a separation of at least 500m from the piggery boundary to any dwelling site. From scaling our mapping system, it appears that a dwelling could be sited in various location on-site that would achieve this separation.*
 - *The Murray Bridge-Mannum Road is an identified tourist route under our Development Plan. Given this and the location of the creek near the road frontage and the existence of the piggery to the east, it would be preferable that any dwelling be sited to the rear closer to the back (south-west) corner.*
- *As I explained on the phone the separation distances are only guidelines and should be interpreted this way. The guideline is a starting point for an approximate adequate separation from a piggery. Where a site-specific variation is proposed such as going below the guideline, as a guide the EPA recommend the following criteria should be addressed/considered:-*
 - *The scale of operation of the piggery (e.g. if the piggery is significantly smaller than the normal operation for the activity and it will produce substantially lower emissions);*
 - *The existence of exceptional topographic, meteorological or other circumstances that will affect the emission or dispersion of residual emissions;*
 - *Details of any history of complaints arising from residual emissions from an existing plant, on the proposed site or a similar plant at another site*
 - *An environmental audit of residual emissions (air, water, noise, waste) from an existing plant, on the proposed site or a similar plant at another site that has been carried out and made available to the EPA;*
 - *Evidence from tools such as odour modelling, demonstrating that the potential odour impact is less than the EPA odour criteria for normal conditions and other conditions including times of higher emissions from accident, power failure, equipment failure, unusual meteorological conditions or human error.*

- 28 August 2009 – File notes reveal Aaron Curtis spoke to another prospective purchaser of the property again providing general development advice including five references to issues associated with the adjoining piggery namely:-
 - *There is a major piggery on the opposite side of the main road fronting Piggery Road.*
 - *We would have major concerns with proximity of a dwelling close to the piggery as we do not want to impact on the production/operation of a lawful piggery.*
 - *There are no applicable quantitative setback guidelines for separation from a piggery in this Policy Area however there are in the Rural Zone which we apply (at least 500m).*
 - *If a dwelling were to be considered on the land it would have to be setback in the far western corner of the property (900m or so from the piggery lagoons) and as far back from the road as possible.*

- *Land division would not be supported as it would increase the number of allotments adjacent to a piggery and would reduce the productive capacity of the land.*
- 31 August 2009 – File notes reveal Aaron Curtis spoke with Juanita Brooks, who was looking at purchasing the property, providing general development advice including four references to issues associated with the adjoining piggery namely:-
 - *There is a major piggery on the opposite side of the main road fronting Piggery Road.*
 - *We would have major concerns with proximity of a dwelling close to the piggery as we do not want to impact on the production/operation of a lawful piggery.*
 - *There are no applicable quantitative setback guidelines for separation from a piggery in this Policy Area however there are in the Rural Zone which we apply (at least 500m).*
 - *If a dwelling were to be considered on the land it would have to be setback in the far western corner of the property (900m or so from the piggery lagoons) and as far back from the road as possible.*
- 14 December 2009 – File notes reveal Aaron Curtis spoke with Daryl Brooks, who advised they had purchased the property, providing additional development advice including:-
 - *I confirmed that I had some preliminary involvement in this site when it was for sale.*
 - *Our major concerns were with proximity of the site to the piggery, accessibility from the main road and setback from the road, given it is a tourist route.*
 - *Their preliminary proposal is for a dwelling located approximately 200m from the main road and 100m from Marks Road.*
 - *We would need to consider the setback of the dwelling from the piggery in more detail.*
- 1 February 2010 – Application for a farm shed lodged and approved on 1 March 2010. A copy of the internal planning assessment report is attached.
- 10 December 2009 – Application for a dwelling lodged by Selecta Homes on behalf of J & D Brooks. The development application file contained amongst other things:-
 - *A site plan indicating the proposed dwelling being sited 200m from the Murray Bridge-Mannum Road property boundary (approximately 489m from the nearest portion (effluent dam) of the adjoining piggery.*
 - *Correspondence from Council (Jennifer Brewis) to the applicant Selecta Homes dated 6 January 2010 referencing the National Environmental Guidelines for Piggeries indicating a calculated separation distance of 768m, also requesting additional information.*
 - *File note from Aaron Curtis dated 1 February 2010 stating amongst other things:-*
 - *Jennifer is the assessing officer for his application for a dwelling on land fronting the Murray Bridge-Mannum Road.*
 - *Jennifer has requested that the dwelling be sited approximately 200m further away from the existing piggery.*

- *Moving the dwelling further from the piggery will stretch his budget and he will not be able to build on the land.*
- *He believes the advice from Jennifer is contrary to the preliminary advice I gave him and his wife which identified a 500m setback requirement from the piggery.*
- *I would need to check my file not discussion with his wife prior to lodgement – however I recall that I confirmed there is a 500m setback requirement in the Development Plan.*
- *I also recall stating that any dwelling should be sited in the far western corner of the land as far away from the piggery as possible.*
- *I understand that there is a formula used by the EPA to calculate the setback requirement for a piggery.*
- *I understand this setback figure is approximately 760m which is greater than that required by the Development Plan.*
- *Correspondence from J & D Brooks discussing piggery separation distances and power supply costs.*
- *Correspondence from Jennifer Brewis confirming the application will be tabled at the Development Assessment Panel meeting scheduled for 27 April 2010.*

Turning to the accusations in the two pieces of correspondence from J & D Brooks, the thrust of which are the claim Council staff advised of a separation distance of 500m before purchasing the property and further being advised the EPA had changed their guidelines for separation distances.

Application and property file information summarised above indicates Mrs Brooks was advised prior to purchasing the property:-

- There are no applicable quantitative setback guidelines for separation from a piggery in this Policy Area however there are in the Rural Zone which we apply (at least 500m).
- If a dwelling were to be considered on the land it would have to be setback in the far western corner of the property (900m or so from the piggery lagoons) and as far back from the road as possible.

This advice was consistent with information provided to the then owner of the property and other prospective purchasers.

In assessing the application for a dwelling when lodged Council staff contacted the EPA to discuss separation requirements and were directed to the National Guidelines for Piggeries (a document staff were unaware of until this time).

It is possible that Mrs Brooks may have interpreted advice about Council being made aware of the National Guidelines for Piggeries and its contents as meaning the EPA guidelines had changed, however this is clearly not the case.

The review of application and property file contents suggest advice regarding concerns associated with separation distances from the adjoining piggery has been consistent and noted prior to the sale of the property. Arguments for approval or review of decision based on accusations relating to advice provided by staff is not particularly relevant.

Panel members should consider Mrs Brooks recent correspondence as a request to review the decision made at the April meeting. In this regard the focus obviously is on the issue of the relevance of the reserve matter.

It appears a few options exist including:-

- reconfirm the decision and resolution from April 2010 meeting;
- determine the reserve matter not relevant and approve the application subject to the previous listed conditions.

In considering this issue members may wish to revisit the tabled recommendation from the April 2010 agenda which listed reasons for refusal including Development Plan provisions considered not met or at variance with, namely:-

The dwelling will not retain or protect existing rural activities by encroaching within an existing piggery buffer.

Council Wide Objective 33

Retention of rural areas for agricultural and pastoral purposes.

Council Wide Objective 34

Maintenance of the character of rural areas.

Rural areas should be retained primarily for agricultural and pastoral purposes and horticultural use where natural resources such as groundwater supplies and surface catchments are not adversely affected. Conservation of bushland and wildlife are also important considerations. The design and siting of buildings in rural areas should be compatible with the object of conserving rural character.

The use of rural land for residential use should be discouraged because it diminishes rural character; makes the provision of public services uneconomic; increases land values with consequential upward pressure on rates and taxes; and contributes to land use conflicts which has the affect of limiting the right to farm.

The removal of primary production from rural areas also places greater dependence upon the diminishing fertile areas. It is in the community interest therefore as much agricultural land as possible be retained in primary production and without residential incursions other than where residential use if required to manage land.

River Murray Zone Objective 1

Ecologically sustainable development.

River Murray Zone, Primary Production Policy Area Objective 1

Operation and sustainability of rural production and primary industries.

River Murray Zone, Primary Production Policy Area Objective 11

Prevention of environmental nuisance or harm resulting from odour and other airborne particles.

It can be seen that the various Objectives listed as not being met do not include specific reference to separation distances measured in metres. The view of the author of the original report presumably was that not meeting separation distances from the National Environmental Guidelines for Piggeries effectively triggered non-compliance with the Council Wide and zone Objectives listed in the refusal recommendation.

If members are of this view the original recommendation will undoubtedly be supported, if not then approval of the application without the reserve matter is perhaps more appropriate.

For consideration.

Kelvin Goldstone

DIRECTOR – DEVELOPMENT & ENVIRONMENTAL SERVICES