



Development Assessment Panel

21 October 2013

MID MURRAY COUNCIL

DEVELOPMENT ASSESSMENT PANEL

Agenda

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

Monday 21 October 2013, 10.00am

1. PRESENT

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

2. IN ATTENDANCE

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

3. COMMENCEMENT AND WELCOME AM

4. APOLOGIES

5. CONFIRMATION OF PREVIOUS MINUTES

(Page 2915 – 16/9/2013)

Minutes of the Mid Murray Council Development Assessment Panel meeting held on 16 September 2013.

RECOMMENDATION

**moved that the minutes of the Mid Murray Council Development Assessment Panel Meeting held on 16 September 2013 be taken as read and confirmed.
Seconded**

6. DECLARATION OF INTEREST BY MEMBERS OF PANEL

MID MURRAY COUNCIL

7. DEVELOPMENT REPORT

RECOMMENDATION

moved that the report be received.

Seconded

8. LATE CORRESPONDENCE

9. OTHER BUSINESS

10. NEXT MEETING

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

11. CLOSURE

MID MURRAY COUNCIL

DEVELOPMENT ASSESSMENT PANEL

Development Report

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

Monday 21 October 2013, 10.00am

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7.1 DEVELOPMENT APPLICATION 711/182/13 – JL HOWIE

| | |
|---------------------------|---|
| <i>Reporting Officer:</i> | <i>Aaron Curtis</i> |
| <i>Position:</i> | <i>Senior Development Officer - Planning</i> |
| Development No. | 711/182/13 |
| Applicant | JL Howie |
| Subject Land | Sections 599, 600 & 601, Caloote Road, Caloote, Hundred of Finniss |
| Proposal | Three Single Storey Detached Dwellings |

INTRODUCTION

The applicant lodged the above Development Application with Council on 22 May 2013 for construction of three single storey detached dwellings at Sections 599, 600 and 601, Caloote Road, Caloote.

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

BACKGROUND

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

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

Council has granted Section 51 clearance for the land division, meaning the applicant is now able to seek release of the titles with the Lands Titles Office. I understand the allotments have now been created, but that Council has not yet been formally advised in writing of their creation by the Lands Titles Office.

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

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

SUBJECT LAND

At the time the application was lodged and subsequently advertised (Category 3 public notification), the relevant allotments were Sections 599, 600 and 601. These sections of land have the following attributes in terms of land size and road frontage:

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| Allotment | Area | Frontage Width |
|-----------|---------|--|
| 599 | 26.06ha | 710.82m (Caloote Road) |
| 600 | 24.76ha | 577.26m (Caloote Road) |
| 601 | 22.63ha | 973.78m (Caloote Road) and 690.69m (Gerogles Road) |

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

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

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

LOCALITY

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

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

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

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

DESCRIPTION OF PROPOSAL

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

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

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

These dwellings will have a maximum height of about 5m above finished bench level up to the ridgeline. They will have a living area of about 196m² and garage space of about 36m², accessible via two single roller doors. Therefore, the total floor area per dwelling will be about 232m².

The applicant has submitted a separate design for the third dwelling, designed by Kookaburra Homes, to be constructed on Section 600 (newly created Allotment 58). I understand the applicant has signed a contract with a party to sell Section 600, who seeks to build the dwelling, designed by Kookaburra Homes.

This dwelling will be single dwelling of rectangular plan form, having an encircling verandah around the perimeter walls and pitched hipped roof at 22.5 degrees, clad in Colorbond with walls in hardiplank or similar cladding. The building will have 3 bedrooms (one with walk in robe and ensuite), kitchen, meals, family and bathroom/laundry.

This dwelling will have a wall height of 2.44m and maximum height of less than 5m above the finished bench level up to the ridgeline. The total living area will be 180m² with the encircling verandahs being 210m². Therefore, the building’s total footprint will be some 390m².

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

Experience with similar types of applications in the past, suggests that future purchasers of Sections 599 and 601 will lodge future development applications with Council to amend the ‘standard’ design proposed under this application. Accordingly, it is unlikely the designs for Sections 599 and 601 will ever get built.

CLASSIFICATION OF DEVELOPMENT

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

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

...

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

... (my underlining)

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

REFERRALS

The application triggered a referral to the Minister administering the River Murray Act 2003 under Schedule 8(19)(g) of the Development Regulations 2008 on the basis that building work is proposed on land within the River Murray Floodplain Area established under the River Murray Act 2003.

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

The Minister and the Environment Protection Authority have provided a referral response. I note neither body has objected to the development, subject to the imposition of conditions and notations. A copy of the referral responses are attached.

PUBLIC NOTIFICATION

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

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

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

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

The application underwent the Category 3 public notification period with two representations being received from:

- Ms Annette Dempsey;
- Mr Peter Smith OAM.

I note neither of the above representors own land abutting the subject land, although I also appreciate they are entitled to lodge a submission during the Category 3 public notification period.

Mr Smith OAM wishes to be heard at the Development Assessment Panel meeting.

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

Items/Issues raised by Ms Dempsey

- Any dwelling on an allotment of less than 36ha in size is a non-complying form of development and as such, should be refused.
- Approval of dwellings on these sites will likely result in these allotments being used for 'rural living' or as 'hobby farms', which is discouraged within the Primary Production Policy Area. If this type of development is to be considered, then the Council should first amend the Zone policies to allow rural living and then accept future applications later.
- Approval for dwellings on these sites will not lead to better conservation management of the land. The applicant argued that approval for the original land division would reduce likelihood for pollution of the Reedy Creek lagoon by providing a buffer. Rural living typically involves some grazing of livestock or 'share farming' and may also involve more degrading type activities such as horse keeping, motor bike riding etc. With the exception of re-vegetation, these types of activities are likely to increase potential for pollution and degradation beyond the existing situation.
- Council does not enjoy a high level of control over the future built form on this site, given the lack of compliance by Council with development matters in the district and the lack of any other land management tools registered under the newly created Certificates of Title such as an encumbrance or Land Management Agreement.
- The development will set precedent for others to apply for dwellings on similar sized allotments. If this application is approved, then others should be given the same opportunity to seek and obtain approval.

Items/Issues raised by Mr Smith OAM

- The previous subdivision (DA 711/D013/11) was a non-complying form of development. The application should not have been sent to the Development Assessment Commission with written support, but rather refused by the Council.
- Land division to create allotments of less than 36ha in size should not be permitted within the Primary Production Policy Area and Conservation Policy Area, given that neither of these Policy Areas permits dwellings on land of less than 36ha in size.
- This application is non-complying and as such, should be refused by the Council. If Council grants approval, the decision will be inconsistent with numerous other decisions of the Council to refuse permission to build on allotments of less than 36ha in size.

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Response from Wayne Gladigau, Masterplan SA Pty Ltd on behalf of Applicant, JL Howie

- *The representors make reference to the applicant being Councillor JL Howie. This is inaccurate, as the applicant is making an application in his own capacity as a landowner in the Council area. His title as a Councillor has no relevance to this application.*
- *The Development Act 1993 provides opportunity for the relevant authority to grant approval for a non-complying form of development, provided that the proposal has significant or special merit, and where it can be demonstrated that the proposal is not seriously at variance with the Development Plan as a whole.*
- *The application has been processed by the Council correctly as a non-complying form of development. A Statement of Support and Statement of Effect have both been prepared in support of the proposal. The Council agreed to proceed with the non-complying application for the first stage at the July 2013 Panel meeting.*
- *The subject allotment sizes are considered to be ‘rural’ in size, given that they range in size between 15.37ha and 26.06ha. Ms Dempsey’s reference to other smaller allotments within the locality appears to relate to existing small allotments within the general locality, already containing dwellings, which are not affected by this application.*
- *Some form of farming activities may be accommodated on the subject parcels in association with the dwellings. However, such activities are expected to be ‘small in scale’, thereby reducing the negative environmental impacts from such activities on the adjacent Reedy Creek lagoon.*
- *Development of dwellings on the respective allotments is expected to yield improved environmental outcomes, as a result of the revegetation of the allotments and the above-mentioned scaling back of intensive farming activities on the allotments.*
- *If the application is approved, the applicant is subject to carrying out all of the works anticipated by the development. Any conditions imposed by the relevant authority and the referral agencies must be adhered to by the applicant.*
- *While two of the dwellings are proposed to consist of ‘standard’ type designs, they still feature all of the necessary design elements that one would expect for a dwelling. This application has demonstrated that the buildings are of appropriate single storey scale, well orientated and sited, serviced with rainwater tanks, formed access tracks and suitable fire fighting water supply tanks. Council may consider an ‘amendment’ application at a later time, however, it may only grant approval to such, if the amendments are permitted by the Development Plan.*
- *The application will not set a precedent for others. Each application is assessed separately on its own merits.*
- *The previous land division application (711/D013/11) was subject to a non-complying assessment. Due to part of the land being within the Conservation Policy Area, the Development Assessment Commission were the relevant authority as assigned by Schedule 10 of the Development Regulations 2008.*

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From my review of the representations and the applicant's reply, I can confirm that:

- The Development Act 1993 provides opportunity for the Council to grant approval for a non-complying form of development, subject to it having special merit and in any case not being "Seriously at Variance" with the relevant Development Plan. A non-complying form of development is subject to an onerous assessment process, including preparation of a Statement of Support and Statement of Effect, Category 3 public notification, referrals to the Environment Protection Authority and Minister for Water and the River Murray and concurrence from the Development Assessment Commission.
- A presumption that the applicant will not carry out the proposed development legally and in accordance with the relevant conditions of approval should not be made. Any concerns relating to lack of development compliance by the Council, including references to a lack of resources and lack of legislative power is a separate issue, not relevant to this application.
- References to precedent are not relevant. Each site brings with it their own individual circumstances which must be taken into account as part of a development proposal and considered on their merits. The facts of each case are unique, such that they are generally not transferrable from site to site.
- Any reference to the previous land division application (711/D013/11) is not relevant to this application.
- The applicant's role as a Councillor is not relevant to this application. The applicant is entitled to lodge a development application with the Council for approval. The Council have assessed this application in the same manner it would with any other application. I note the applicant has been subjected to a rigorous and transparent assessment process, which included presentation of the application to the July Panel meeting for the first stage of the process.
- Council may consider application for amendment at a later time, provided the variation application is submitted while the Consent is still valid (i.e. operative). Council may only consider an amendment by way of a fresh development application, as required under Section 39(6) of the Development Act 1993.

I have considered the remaining issues raised by the representors and the applicants reply under the "Assessment" section of this report. In particular, the discussion is given under sub-headings "land use" and "environmental management".

RELEVANT PROVISIONS OF THE MID MURRAY COUNCIL DEVELOPMENT PLAN

River Murray Zone

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

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

Primary Production Policy Area

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

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

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ASSESSMENT

Land Use

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

Acceptable

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

Unacceptable

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

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

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

As quoted above, the construction of a ‘dwelling’ is an “Acceptable” form of development within the Primary Production Policy Area where used in “association with farming, horticulture, viticulture or land based aquaculture”. The above provisions do not suggest the ‘farming...’ activity needs to be undertaken on a permanent or ‘productive’ basis.

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

I note that associated farming of the individual allotments may be encouraged by future owners, given that the allotments will be fenced and are available for grazing. Grazing of livestock aids in keeping the pasture/weed growth down while also being a food source and providing some supplementary income from wool and meat.

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

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

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

Given all of the above, I find the proposed form of development as being acceptable.

Environmental Management

Council-wide Principles of Development Control 168, 175, 180 and 271 state that:

168 *Development should retain existing areas of native vegetation and where possible contribute to revegetation using locally indigenous plant species.*

175 *Development should be located and occur in a manner which:*

- a) *Does not increase the potential for, or result in, the spread of pest plants, or the spread of any non-indigenous plants into areas of native vegetation or a conservation zone;*
- b) *Avoids the degradation of remnant native vegetation by any other means including as a result of spray drift, compaction of soil, modification of surface water flows, pollution to groundwater or surface water or change to groundwater levels;*
- c) *Incorporates a separation distance and/or buffer area to protect wildlife habitats and other features of nature conservation significance.*

180 *Development or change in land use which has the potential to damage or interfere with the hydrology or water regime of a swamp or wetland, or pollution of surface or groundwater, through its proximity of location or other reasons, should not occur.*

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271 Landscaping should be designed to:

- a) *Enhance the site;*
- b) *Incorporate existing vegetation, where practicable;*
- c) *Complement built form (i.e. taller and broader plantings, against taller and bulky building components); and*
- d) *Contribute to energy efficiency and amenity by providing substantial shade in summer, especially to north and west-facing windows, open space and open car park areas, and admitting winter sunlight to open space and outdoor and indoor living areas.*

Ms Dempsey raised concern with respect to the future use of the allotments, which she believes will not result in improved environmental outcomes. The applicant argues the development will likely result in improved environmental outcomes by providing for a buffer between the Reedy Creek lagoon and more intensive farming activities to the west.

In contrast, Ms Dempsey submits that approval of dwellings on the allotments is likely to result in the land being used for horse keeping, motor bike riding, keeping of multiple types of animals and other nuisance activities like shooting and animal hunting. In conclusion she argues the end result will be increased potential for pollution.

Approval for a dwelling on the land may have some influence on the future use of the allotments, but I do not believe it is a fundamental influence. Rather, I believe it is the sale of the allotments themselves into separate ownership, and the subsequent choices the individual purchasers make about use of the lots that will define the impacts.

Many of the activities that Ms Dempsey raise concern with, take place on allotments that do not contain dwellings. Horse keeping, motor bike riding, keeping of animals etc. can all take place without necessarily having a dwelling on the site. Council has limited control over such activities, unless “Development” is undertaken under the Act.

In my experience, future purchasers who build dwellings will tend to revegetate their properties, for the purpose of providing shade, wind breaks, amenity and habitat for wildlife. Some farming activity may continue, which I note is encouraged by the Policy Area, but is likely to be at a less intensive scale.

It is unhelpful in my view to speculate whether the proposal will or will not result in improved environmental outcomes. There are too many uncertainties surrounding this question, to make any meaningful conclusions. In any case, such consideration might be argued to be outside the scope of this application.

What can be considered is the impact of the dwellings themselves on existing vegetation and the potential for some revegetation to be incorporated into this application. As quoted above, Council-wide Principles of Development Control 168 and 271 clearly encourage new plantings in conjunction with development.

I note the development will preserve all of the native vegetation that currently exists on the site. In the absence of any nominated plantings, I believe it is reasonable to request that a landscaping concept plan be submitted to Council for approval. The applicant would need to nominate the group location for all proposed plantings and their species.

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

Land Use Conflict

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

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

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

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

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

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

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

Appearance of Development

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

- 17** *The external appearance and design of buildings and structures visible from a public road should minimise their visual obtrusiveness by:*

- a) Reducing the building’s profile;
- b) Reducing the mass of buildings into smaller components by variations in wall and roof lines; and
- c) Using eaves, verandahs and similar techniques to create shadowed areas.

The dwellings are to be sited to take maximum advantage of views and vistas achievable of the Reedy Creek valley and background landscape. While the buildings are to be built on elevated parts of the site, I believe the proposal has minimised their visual obtrusiveness, as desired by Principle of Development Control 17 because:

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- a) They are of single storey construction and of average plan size.
- b) They incorporate variations in the wall plane and roof pitch, and use of verandahs to provide additional light and shade contrast.
- c) They are to be built on gently to moderately sloping terrain. By no means could the position for the new dwellings be described as ‘prominent’.
- d) They are to be built within a landscape already featuring numerous dwellings, built on land elevated to a similar height – such buildings are not prominent features.
- e) They are to be constructed of new materials in natural tones, thereby allowing the buildings to blend with the background landscape features.

Flood Impact

Council-wide Principle of Development Control 220 states that:

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

All of the dwellings are to be sited on land above the 1956 flood level. Inspection of the dwelling sites suggests these areas are not subject to inundation. Therefore, I believe the proposal will comply with Council-wide Principle of Development Control 220.

Native Vegetation Impact

Council-wide Principles of Development Control 169 and 170 state that:

- 169** *Development should be designed and sited to minimise loss and disturbance of native flora and fauna.*
- 170** *The provision of services, including power, water, effluent and waste disposal, access roads and tracks should be sited on areas already cleared of native vegetation.*

The site where the dwellings are proposed is devoid of any native vegetation. In addition, I note the proposed access tracks, fire truck turn-around areas, rainwater tank locations and future on-site effluent disposal systems, can be accommodated without necessitating removal of native vegetation.

This aspect of the development clearly satisfies Council-wide Principles of Development Control 169 and 170, quoted above.

Private Open Space

Council-wide Principles of Development Control 268 and 270 state that:

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

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

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

As the subject allotments exceed 250m², at least 20% of the allotment areas should be available as 'private open space'. One part of this space must comprise at least 10% of the site area and be accessible from a living room, have a minimum dimension of 5m and a maximum gradient of 1 in 10.

I note the majority of the allotment areas will remain undeveloped. Consequently, such areas can qualify as 'private open space'. The curtilage surrounding the dwellings appears adequate to provide high quality private open space in the future. Such areas are relatively level, achieve a desirable northerly aspect and are 'private'.

The yard area may be further developed in the future, by way of adding a covered verandah or pergola of suitable size, attached to the dwellings. The resultant space would be covered, achieve a useable dimension, desirable orientation and be directly accessible to the internal living areas of the dwelling.

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

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Energy Efficiency

Council-wide Principles of Development Control 223, 224 and 227 state that:

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

The dwelling design has had regard to energy efficiency performance in terms of its layout and design. The main living areas are orientated to the north to maximise exposure to winter sun, all rooms have adequate access to light and ventilation and the internal layout is designed to allow for independent heating and cooling.

As mentioned earlier, there is scope to erect a verandah or pergola, attached to the side or rear of the dwelling in the future, designed to minimise heat loading onto the northern and/or western facing windows in summer, while still allowing some light penetration in winter, when the sun is positioned lower in the sky.

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

Stormwater Discharge

Principle of Development Control 22 of the River Murray Zone states that:

- 22** *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)

Roof water from the dwellings is proposed to be directed into their own individual 10,000 litre rainwater tank and 10,000 litre fire fighting tank. In the event that the tanks are full, overflow can be directed away from the dwelling and on-site effluent disposal system, onto landscaped/vegetated areas.

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The proposed method of roof water disposal involves the retention of water for subsequent use as desired by (a) above. The method of overflow, in the event that the tanks are full, can be accommodated within the site boundaries, without adverse impacts to adjoining properties or to surface water as desired by (d) and (e).

Cut and Fill

Council-wide Principle of Development Control 185 states that:

185 *Development should be undertaken so as to minimise excavation and filling of land.*

The dwellings are to be sited on reasonably level ground, at the top of several slight crests. The applicant has confirmed they do not intend to cut and/or fill by more than 500mm either above or below natural ground level at any one point.

Where cut/fill is required, the applicant intends to batter the edges of the platforms to a gentle angle back to the existing ground level, and then landscape such areas, so as to screen them from view and to stabilise them from erosion.

Having regard to the significant setback of the dwelling platforms from the road and the limited amount of cut and fill necessary to build the dwellings, I consider the proposed works to be consistent with Council-wide Principle of Development Control 185.

Bushfire Impact

The site is located within a “general” bushfire risk area. I have had regard to the relevant Council-wide Principles of Development Control pertaining to bushfire risk in the Development Plan, which relate primarily to setback from vegetation, vehicular access and fire fighting water supply. I have grouped the discussion under headings below.

Setback from Vegetation

Council-wide Principle of Development Control 389 states that:

389 *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 and accessible water supply available at all times for fire fighting. (my underlining)*

The dwellings are to be sited in cleared areas and where a buffer of at least 20m from any vegetation can be achieved. Therefore, I regard the hazard risk at these locations to be low. Consequently, I believe this aspect of the development satisfies Council-wide Principle of Development Control 389.

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Vehicular Access

Council-wide Principle of Development Control 395 states that:

- 395** *Development in a Bushfire Protection Area should be in accordance with those provisions of the Minister's Code: Undertaking development in Bushfire Protection Areas that are designated as mandatory for Development Plan Consent purposes.*

Under Section 2.3.3.1 of the Minister's Code, an extract states:

Private roads and driveways to buildings, where the furthest point of the building from the nearest public road is more than 30m, should:

- be connected to an all-weather public road;
- be constructed with a formed, all-weather surface;
- be constructed away from hazardous vegetation such as overhanging limbs and continuous cover of thick vegetation;
- be located such that the need to clear native vegetation or a significant tree is avoided;
- have a minimum formed width of 3m (or 4m in steeper terrain), unless otherwise required by 2.3.4.1;
- have a gradient of not more than 16 degrees (i.e. a maximum slope of 1:3.5) at any point along the road or driveway;
- Allow fire-fighting vehicles to travel in a continuous forward movement by constructing curved roads and driveways with curves that have a minimum external radius of 12.5m;
- Allow fire-fighting vehicles to safely enter and exit an allotment in a forward direction by incorporating either –
 - A loop road around the building;
 - A turning area with a minimum radius of 12.5m;
 - A 'T' or 'Y' shaped turning area with a minimum formed length of 11m and minimum internal radii of 9.5m.
- Incorporate solid, all-weather crossings that are capable of supporting fire-fighting vehicles with a gross vehicle mass (GVM) of 21 tonnes, over any watercourse identified on either a current State Government topographic map (1:50,000) or otherwise identified as a crossing required to provide appropriate access for fire-fighting vehicles. A current State Government topographic map (1:50,000) can be obtained from the Map Shop www.mapshop.net.au/msnindex.htm.
- Incorporate passing bays with a minimum formed width of 6m (or 7m in steeper terrain) including the road or driveway width, and a minimum formed length of 17m. The passing bays should be constructed at 200m intervals along the road or driveway. Where it is necessary to provide adequate visibility, such as the nearest point to a public road or other passing bay, passing bays may be required at intervals of less than 200m.

The applicant has amended the plans to incorporate three separate driveways, constructed from the edge of the sealed Caloote Road, up to the new dwellings. The driveways will have a width of 3m, be formed of all-weather material, be located clear of vegetation and be served by a fire truck turn-around area opposite the dwellings.

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Overall, this aspect of the development is considered to be acceptable, subject to condition.

Fire Fighting Water Supply

Council-wide Principle of Development Control 395 states that:

- 395** *Development in a Bushfire Protection Area should be in accordance with those provisions of the Minister's Code: Undertaking development in Bushfire Protection Areas that are designated as mandatory for Development Plan Consent purposes.*

Under Section 2.3.4 of the Minister's Code, an extract states:

A water storage capacity of 2,000 litres is required in general, medium and excluded areas within 500m of a high bushfire risk area, if the allotment is or will be connected to a mains water supply. Where there is no mains water supply connected, a water storage capacity of 5,000 litres is required. (my underlining)

The site is not serviced with any mains water supply. On this basis, the dwellings should be provided with a supply of water for fire fighting of at least 5,000 litres.

The dwellings will each be provided with a 10,000 litre fire fighting tank, which I note is double the minimum capacity sought under the Minister's Code.

This aspect of the development is clearly acceptable.

Effluent Disposal

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

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

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

Car Parking

Council-wide Principle of Development Control 36 states that:

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

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

| | |
|---|---|
| <u>Detached Dwelling, Semi Detached Dwelling and Row Dwelling</u> | <u>2 parking spaces per dwelling including one undercover plus 1 additional parking space for a dwelling containing 4 bedrooms or more</u> (my underlining) |
|---|---|

The dwellings each have 3 bedrooms meaning that they must be served by two on-site car parking spaces, one of which must be covered. The standard dwelling design incorporates a double garage under the main roof, while the third design for proposed Allotment 58 does not incorporate any roofed car parking on the site.

The standard dwelling design (for Section 599 and 601) incorporates two covered spaces and room for multiple parking spaces within the driveway area (uncovered). This aspect of the proposal clearly satisfies Council-wide Principle of Development Control 36 and the associated Table MiMu/1.

I note the third dwelling is not provided with any covered space, which is at odds with Table MiMu/1, quoted above. Despite this, I note the uncovered driveway area is capable of accommodating room for multiple vehicles undercover. It is expected the future purchasers of Allotment 58 will build a garage of some kind in the future.

Overall, I believe this aspect of the development is acceptable.

CONCLUSION

The applicant seeks approval for the construction of three single storey detached dwellings. Due to the allotments each having an area of less than 36ha, the application is a non-complying form of development. Despite this, I consider the departure from this standard to be justified because:

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

The Zone seeks use of dwellings in conjunction with farming activities. While it is uncertain how the remaining land surrounding the dwellings will be used, it is expected that some form of farming activity is likely to continue in the future, for the purpose of keeping high grasses down, providing meat supply and some supplementary income.

It is unknown whether the development will lead to improved environmental outcomes or not. As such, I believe it is unhelpful to speculate about this. What can be considered by this proposal is the planting of new vegetation, which I note is encouraged by the Development Plan, and which has subsequently been requested by way of condition.

The remaining parts of the development, relating to flood impact, native vegetation impact, private open space, energy efficiency, stormwater discharge, cut and fill, bushfire impact, effluent disposal and car parking are all considered adequate and consistent with the Mid Murray Council Development Plan.

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Given the above, I recommend that Development Plan Consent be granted, subject to the concurrence of the Development Assessment Commission.

RECOMMENDATION

moved that pursuant to Section 35(2) of the Development Act 1993 that the proposed development is not “Seriously at Variance” with the relevant provisions of the Mid Murray Council Development Plan (Consolidated 6 December 2012) and that pursuant to Section 33(1)(a) of the Development Act 1993, Development Plan Consent be granted to Development Application 711/182/13, 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 2-16 inclusive:**

| Plan Number | Plan Type | Dated | Prepared By |
|--------------------------------|--|------------------|--------------------|
| DS: 13898_1.0 | Dwelling (lot 57 and Section 599) – Standard Floor Plan, Elevation and Perspective | May 2013 | Masterplan |
| DS:13898_1.0 | Overall Site Plan | May 2013 | Masterplan |
| 13898SIS01 | Statement of Support | 21.05.13 | Masterplan |
| 13898SOE1a | Statement of Effect | 22.07.13 | Masterplan |
| Sheet 2 of 7 DWG No. HAR-86-11 | Dwelling (lot 58) – Elevation Plan | Amended 24.04.12 | Kookaburra Homes |
| Sheet 1 of 7 DWG No. HAR-86-11 | Dwelling (lot 58) – Floor Plan | Amended 24.04.12 | Kookaburra Homes |
| DS: 13898_1.1 | Dwelling (lot 57 and Section 599) – Standard Floor Plan, Elevation and Perspective | August 2013 | Masterplan |
| DS: 13898_1.0 | Site Plan – Section 599 | August 2013 | Masterplan |
| DS: 13898_1.0 | Site Plan – Lot 58 | August 2013 | Masterplan |
| DS: 13898_1.0 | Site Plan – Lot 57 | August 2013 | Masterplan |
| Not Stated | Letter to Council | 16.08.13 | Masterplan |

- 2. The applicant shall submit to Council, prior to the commencement of site excavation, a Planting Concept Plan for approval by Council’s Director – Development & Environmental Services. The Planting Concept Plan shall:**
 - a) Identify the group location for all proposed plantings; and**
 - b) Identify the types of species to be used.**

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- 3. The Planting Concept Plan, approved by Council's Director – Development & Environmental Services under Development Plan Consent Condition 2, shall be carried out within 36 months from the date of Development Approval, and shall be maintained in good health and condition thereafter. Any dead or diseased plants shall be replaced.**
- 4. Except where otherwise approved, all exterior surfaces of the dwellings (including attached garages and verandahs) shall:**
 - a) Be of non-reflective materials; and**
 - b) Be of natural tones, in accordance with the Approved Elevation Plans, prepared by Masterplan and the Approved Letter to Council, prepared by Masterplan, dated 16 August 2013; and**
 - c) Be maintained in good and reasonable condition at all times.**
- 5. In the event of damage being caused to Council infrastructure, the damaged infrastructure shall be repaired and/or reinstated, at the applicant's cost, to the satisfaction of Council's Director – Infrastructure Services:**
 - a) To it's original condition; or**
 - b) Where (a) is not achievable, in accordance with the relevant Australian Standard (applicable to that particular type of infrastructure).**
- 6. The dwellings shall be connected to individual approved on-site effluent disposal systems under the South Australian Public Health Act 2011, at all times.**
- 7. Stormwater shall be managed on the site at all times, such that:**
 - a) All roof water from each dwelling (including attached garages and verandahs) is directed into a rainwater tank or tanks, having a total capacity of at least 10,000 litres; and**
 - b) Any rainwater tank overflow, in the event that the tank (or tanks) are full, is discharged away from buildings and effluent disposal systems onto existing vegetated/landscaped areas at all times; and**
 - c) Any surface stormwater collected by impervious areas constructed on-site, shall be directed away from buildings and effluent disposal systems at all times; and**
 - d) Stormwater (roof water and/or surface stormwater) does not flow onto, or cause nuisance to adjoining privately owned land at any time.**
- 8. Except where otherwise approved, the freestanding sides of any attached carport, verandah, pergola, porch, alfresco area or similar open sided structures hall remain open at all times. No walls being permanent or semi-permanent shall be attached to the sides of any structure of this kind at any time.**
- 9. A dedicated water supply for fire fighting purposes of at least 10,000 litres shall be available in conjunction with each dwelling at all times for bushfire fighting purposes, in accordance with the Approved Site Plans (Section 599 and Lots 57 and 58), prepared by Masterplan, dated August 2013.**

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- 10. Each dwelling shall be connected (by way of gutters, downpipes and stormwater pipe) to a rainwater tank or tanks, having a capacity of at least 10,000 litres, in accordance with the Approved Site Plans (Section 599 and Lots 57 and 58), prepared by Masterplan, dated August 2013, such that each dwelling is provided with an adequate domestic water supply at all times.**
- 11. Internal driveways and fire truck turn-around areas (1 per dwelling) shall be constructed, prior to occupation of the dwellings, from the Caloote Road boundary up to the dwellings, generally in accordance with the Approved Site Plans (Section 599 and Lots 57 and 58), prepared by Masterplan, dated August 2013. The internal driveways and fire truck turn-around areas shall be constructed as follows:**
 - a) The driveways and fire truck turn-around areas shall have a minimum formed width of at least 3m along their entire length; and**
 - b) The driveways and fire truck turn-around areas shall be formed of materials which enable all year round use such as rubble, limestone or scalps; and**
 - c) The driveways and fire truck turn-around areas shall be constructed so as to avoid clearance and/or felling of major limbs of native vegetation; and**
 - d) Overhanging vegetation, capable of obstructing use of the driveway network and fire truck turn-around areas shall be avoided at all times;**
 - e) All inner track curves shall have a radius of not less than 9.5m at any point of any inner track curve; and**
 - f) All outer track curves shall have a radius of not less than 12.5m at any point of any outer track curve; and**
 - g) The driveway network and fire truck turn-around areas shall have a gradient not exceeding 16 degrees (1 in 3.5) at any one point along the driveway network and/or fire truck turn-around areas; and**
 - h) The driveway network and fire truck turn-around areas shall be maintained in good and useable condition at all times.**
- 12. Access points (1 per dwelling) shall be constructed, from the edge of the Caloote Road pavement up to the property boundaries (for the respective allotments), generally in accordance with the Approved Site Plans (Section 599 and Lots 57 and 58), prepared by Masterplan, dated August 2013. The access points shall be constructed, prior to occupation of the dwellings, as follows:**
 - a) Have a formed width of at least 3m along their entire length; and**
 - b) Be formed of all-weather material such as rubble, limestone or scalps; and**
 - c) The access points shall be flared where it meets with the Caloote Road edge, so as to account for turning movements; and**
 - d) Overhanging vegetation, capable of obstructing use of the access points shall be avoided at all times; and**
 - e) The access points shall be maintained in good and reasonable condition at all times.**

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Conditions as required by the Minister for Water and the River Murray

- 13. During construction activities, the subject land 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 appropriately contained so as to ensure that no pollutants (including excavation or fill material) enters the River Murray system.**
- 14. 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.**
- 15. Any excavation or fill material surplus to the requirements of the development must be disposed of such that it will not:**
 - a. Be located within the 1956 floodplain;**
 - b. Adversely impact native vegetation;**
 - c. Impede the natural flow of any surface waters;**
 - d. Allow sediment to re-enter any water body;**
 - e. Facilitate the spread of pest plant and pathogenic material.**
- 16. Stormwater run-off from the dwellings must be managed so as to prevent erosion or pollution of the site and the environment, and diverted away from wastewater disposal areas, such as septic tanks and aerobic systems. Connection to a water storage tank would assist in complying with this condition.**

Notations

- 1. 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 CWMS 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.

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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. During the period that the development is being undertaken, all waste materials associated with the building work shall be secured and contained within the site. Upon completion of the development all wastes are to be removed and appropriately disposed of.**
- 6. All building work shall be carried out in accordance with the requirements of the Development Act 1993 as amended and its Regulations.**
- 7. All existing trees on the site are to be retained wherever practicable.**
- 8. The applicant is responsible for the correct siting of the dwellings and shall ensure that the dwellings are sited on the allotment in accordance with the approved plans.**
- 9. 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.**
- 10. Prior to Development Act 1993 Approval being granted, the applicant shall lodge and have approved by Council an application to connect the new dwellings to individual Approved on-site effluent disposal systems under the South Australian Public Health Act 2011.**
- 11. The applicant is reminded of its general environmental duty, as required by Section 25 of the Environment Protection Act 1993, to take all reasonable and practical measures to ensure that the activities on the whole site, including during construction, do not pollute the environment in any way which causes or may cause environmental harm.**

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- 12. You are advised to contact other authorities such as Telstra, SA Water etc. in relation to the location of their supply lines and requirements prior to commencing work on-site.**
- 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.**
- 14. Please note that a rainwater tank (and any support structure) requires Council Development Approval where it does not comply with the following criteria:**
 - a) is part of a roof-drainage system; and**
 - b) has a total floor area not exceeding 10 square metres; and**
 - c) is located wholly above ground; and**
 - d) has no part higher than 4 metres above the natural surface of the ground.**
- 15. The applicant is advised of their obligation under the Electricity Act 1996 and Regulations to comply with relevant safe working procedures, including legislated distances between persons or machinery and powerlines. Given this, it is recommended that you have regard to the “Working Safely near Overhead Powerlines” Brochure, prepared by the Department for Transport, Energy and Infrastructure. For further information, you can contact the Office of the Technical Regulator on 8226 5500.**
- 16. A building owner who proposes to carry out any excavation and/or filling of a nature prescribed in Regulation 75 of the Development Regulations 2008 is required to serve upon the owner a notice of their intention to perform that work at least 28 days prior to commencing work as required by Section 60 of the Development Act 1993.**
- 17. In the event of a conflict between the Approved Site Plan – Lot 58, prepared by Masterplan, dated August 2013 and the Approved Dwelling (Lot 58) – Floor Plan, prepared by Kookaburra Homes, dated 24 April 2012, the latter Approved Dwelling (Lot 58) – Floor Plan, prepared by Kookaburra Homes, shall prevail.**

Notations as issued by the Minister for Water and the River Murray

- 18. The applicant is advised of their general duty of care under the River Murray Act 2003 to take all reasonable measures to prevent any harm to the River Murray through his or her actions or activities.**

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19. If the applicant wishes to use water (other than for firefighting purposes) from the River Murray Prescribed Watercourse or wells, then they may be required to apply to the Department for Environment, Water and Natural Resources for a water license, pursuant to the Natural Resources Management Act 2004. Further, a permit is required from the Department for any work to be carried out on a well or for new wells to be drilled. For further information contact the Department on 8595 2053 or visit: <http://www.environment.sa.gov.au/licences-and-permits/water-liscence-and-permit-forms>.
20. The River Murray and many of its tributaries and overflow areas have abundant evident of Aboriginal occupation and Aboriginal sites, objects or artefacts may be present on the subject land (e.g. scarred trees, campsites, burial sites, middens, etc.). Under Section 20 of the Aboriginal Heritage Act 1988 (the Act), an owner or occupier of private land, or an employee or agent of such an owner or occupier, must report the discovery on the land of any Aboriginal sites, objects and remains to the Minister responsible for the administration of the Act, as soon as practicable, giving the particulars of the nature and location of the Aboriginal sites, objects or remains. It is an offence to damage, disturb or interfere with any Aboriginal site or damage any Aboriginal object (registered or not) without the authority of the Minister for Aboriginal Affairs and Reconciliation (the Minister). If the planned activity is likely to damage, disturb or interfere with a site or object, authorisation of the activity must be first obtained from the Minister under Section 23 of the Act. Penalties may apply for failure to comply with the Act.
21. If there is an intention to clear native vegetation on the land at any time, the applicant should consult the Native Vegetation Council to determine relevant requirements under the Native Vegetation Act 1991 and its Regulations, which may include the provision of a Significant Environmental Benefit. Note that ‘clearance’ means any activity that could cause any substantial damage to native plants, including cutting down and removing plants, burning, poisoning, slashing of understorey, removal or trimming of branches, severing roots, drainage and reclamation of wetlands, and in some circumstances grazing by animals. For further information, contact the Native Vegetation Council on telephone 8303 9741 or visit: <http://www.nvc.sa.gov.au>.
22. The applicant is encouraged to incorporate locally indigenous plant species into any landscaping, screening planting or revegetation activities at the site to enhance the natural character of the locality, stabilise soils and provide habitat for native species. For information on appropriate species to be planted, please contact State Flora at Bremer Road, Murray Bridge on telephone 8539 2105, or within Belair National Park on telephone 8278 7777 or visit: http://www.environment.sa.gov.au/our-places/State_Flora.
23. This approval does not obviate any considerations that may apply to the Environment Protection and Biodiversity Conservation Act 1999 (Cwth). For further information visit: <http://www.environment.gov.au/epbc>.

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Notations as issued by the Environment Protection Authority

- 24. 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.**
- 25. All reasonable and practical measures should be taken during the construction of the dwelling and associated structures, and the access track, to prevent or minimise dust, litter or other materials being blown off-site and causing environmental nuisance or harm. Note: Further guidance can be found in the EPA Handbook for Pollution Avoidance on Commercial and Residential Building Sites, Second Edition (2004):
http://www.epa.sa.gov.au/extd_files/Water/Report/building_sites.pdf.**

Seconded

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Director – Development & Environmental Services