



Development Assessment Panel

17 December 2010

MID MURRAY COUNCIL

DEVELOPMENT ASSESSMENT PANEL

Agenda

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

Friday 17 December 2010, 10.00am

1. **PRESENT**

Bruce Ballantyne (Presiding Member), Simon Channon, Ross Dawkins,
Graham Gaston, Jeff Howie and Kevin Myers

2. **IN ATTENDANCE**

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

3. **COMMENCEMENT AND WELCOME** AM

4. **APOLOGIES**

Kerry Yeates

RECOMMENDATION

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

5. **APPOINTMENT OF DEPUTY PRESIDING MEMBER**

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

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

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

MID MURRAY COUNCIL

5. APPOINTMENT OF DEPUTY PRESIDING MEMBER CONT'D

RECOMMENDATION

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

Seconded

6. DEVELOPMENT ASSESSMENT PANEL – MEETING SCHEDULE

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

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

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

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

RECOMMENDATION

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

Seconded

7. CONFIRMATION OF PREVIOUS MINUTES

(Page 2680 – 26/7/2010)

Minutes of the Mid Murray Council Development Assessment Panel meeting held on 26 July 2010.

RECOMMENDATION

moved that the minutes of the Mid Murray Council Development Assessment Panel Meeting held on 26 July 2010 be taken as read and confirmed.

Seconded

8. DECLARATION OF INTEREST BY MEMBERS OF PANEL

MID MURRAY COUNCIL

9. **DEVELOPMENT REPORT**

RECOMMENDATION

 moved that the report be received.
Seconded

10. **LATE CORRESPONDENCE**

11. **OTHER BUSINESS**

12. **NEXT MEETING**

13. **CLOSURE**

MID MURRAY COUNCIL

DEVELOPMENT ASSESSMENT PANEL

Development Report

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

Friday 17 December 2010, 10.00am

Table of Contents

Item No.	Subject	Page No.
	Development Report	
9.1	711/124/10 – BJ Carter.....	1
9.2	711/377/10 – A Smith	26
9.3	711/290/10 – JBG Architects	41
9.4	711/250/06 – WV Bromley	48

MID MURRAY COUNCIL – DEVELOPMENT REPORT

9.1 DEVELOPMENT APPLICATION 711/124/10 – BJ CARTER

<i>Reporting Officer:</i>	<i>Aaron Curtis</i>
Development No.	711/124/10
Applicant	BJ Carter
Subject Land	Part Piece 147 of DP69861, Bowhill Road, Hundred of Younghusband
Proposal	Aircraft Hangar and Associated Aircraft Standing and Manoeuvring Areas, Taxi-way and Turn-around Areas at either end of Existing Airstrip

INTRODUCTION

The applicant lodged the above Development Application with Council on 13 May 2010 seeking approval for an aircraft hangar and associated aircraft standing and manoeuvring areas, taxi-way and turn around areas at either end of the existing airstrip.

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

BACKGROUND

There is an extensive history to this site. In 1972, it is understood that a private airstrip was built on piece 147 on the floodplain to the west of the Schmidt's orchard and vineyard. The original runway was approximately 650m long and was graded leaving a low embankment to the east and west of the airstrip on each side.

In 2003, the owner's commenced a project to extend the airstrip by approximately 110m at the southern end, thereby increasing its overall length to 760m. On each side of the airstrip (15m wide) an overrun area of approximately 15m wide and further 7.5m wide fly-over area was formalised. In addition, an approach and take-off area of approximately 100m was created at each end of the airstrip.

In 2004, the owner's lodged a Development Application with Council for these works, since none of the works had ever been approved. Development Application 711/204/10 was described by Council as the "*Resurfacing, upgrading and partial resiting of an existing airstrip*". The Application was treated as a Category 2 form of development and received numerous representations, most of which objected to the development.

Council also referred the application to the then Department of Water, Land & Biodiversity Conservation. Through this referral, Council were directed to refuse the application by the Department under Section 37(4)(b) of the *Development Act 1993*. Subsequently, the application was refused and the applicant appealed the decision to the Environment, Resources and Development Court.

Through the appeal proceedings, the Environment, Resources and Development Court allowed the Appeal, subject to the applicant entering into a Land Management Agreement (LMA) with the Council relating to the future conservation, management and development of the subject land. This LMA is now registered on the Certificate of Title. A copy of the LMA is attached.

MID MURRAY COUNCIL – DEVELOPMENT REPORT
9.1 DEVELOPMENT APPLICATION 711/124/10 – BJ CARTER

Under the LMA, there is reference to the construction of an “access track (taxi-way)” and “aircraft storage facility” which are permitted subject to complying with certain criteria. In addition, maintenance, repair and replacement of the airstrip are permitted subject to also complying with certain criteria. The applicant has now lodged this Development Application to undertake some of these works anticipated in the LMA.

I have quoted the relevant sections of the LMA below.

5 USE OF THE AIRSTRIP

5.1 Except in the case of an emergency;

- 5.1.1 the airstrip must not be used by any aircraft having more than one engine;*
- 5.1.2 the airstrip must not be used for more than 156 aircraft operations in any calendar year;*
- 5.1.3 the airstrip must not be used for more than 3 aircraft operations in any calendar week;*
- 5.1.4 the airstrip must not be used for more than 1 aircraft operation on any Saturday, Sunday or public holiday; and*
- 5.1.5 the airstrip must not be used by any helicopter, autogyro or similar aircraft.*

6 AIRSTRIP SERVING INFRASTRUCTURE

6.1 Subject to clause 6.2, the Owner must not cause, suffer or permit any permanent infrastructure or any other structure associated with the airstrip to be established on the floodplain.

6.2 Notwithstanding clause 6.1 the Owner may (subject to complying with all applicable Acts and laws):

- 6.2.1 erect a windsock and place runway strip markers, in accordance with any development approval issued for the development proposed in the Application;*
- 6.2.2 establish no more than one track (taxi-way) providing all-weather access between the airstrip and any aircraft storage facility in accordance with clause 6.3 of this Deed;*
- 6.2.3 undertake ongoing maintenance of the airstrip in accordance with clause 7 of this Deed;*
- 6.2.4 establish fences on or around the land, including the floodplain;*
- 6.2.5 establish any infrastructure which is wholly or primarily situated underground such as water supply pipes, drains etc;*
- 6.2.6 establish any other infrastructure with the written approval of the Council under this clause of this Deed.*

6.3 Any access track (taxi-way) established between the airstrip and an aircraft storage facility must be:

- 6.3.1 situated generally in accordance with the Aircraft Storage and Access Concept Plan attached as Schedule “C” to this Deed;*
- 6.3.2 no greater than 5 metres in width;*
- 6.3.3 constructed entirely of permitted filling material, or such other materials may be approved in writing by the Council under this clause.*

MID MURRAY COUNCIL – DEVELOPMENT REPORT
9.1 DEVELOPMENT APPLICATION 711/124/10 – BJ CARTER

7 MAINTENANCE, REPAIR AND REPLACEMENT

6.4 *The Owner may maintain and repair the airstrip (or any part thereof) by any or a combination of, the following means:*

- 6.4.1 *re-grading or re-levelling any part of the airstrip which has previously been graded or levelled;*
- 6.4.2 *re-compacting any part of the airstrip which has previously been compacted;*
- 6.4.3 *repairing of pot-holes, points of erosion, edges etc, provided that any additional filling is minor in nature and limited to permitted filling material;*
- 6.4.4 *slashing or mowing vegetation (including native vegetation subject to all applicable laws).*

6.5 *In the event that the runway is by whatever means damaged, degraded, or otherwise deteriorates, such that it cannot be reasonably safely used nor made reasonably safe for use by repair under clause 7.1, the Owner must not cause, suffer or permit any replacement or reinstated airstrip to be constructed except for:*

- 6.5.1 *a grassed runway strip; or*
- 6.5.2 *a graded earth runway strip; or*
- 6.5.3 *a strip comprised of a combination of both a grassed and graded earth runway, or any other means as may be approved in writing by the Council under this clause.*

6.6 *Except in case of emergency the Owner must not refuel, maintain, repair, clean or otherwise service or work upon any aircraft anywhere within the floodplain (including upon the airstrip).*

SUBJECT LAND

The subject site is Part Piece 147, Bowhill Road, Hundred of Youngusband. The overall allotment comprises 7 pieces having a combined area of 73.58ha. Pieces 144, 148, 149, 150, 151 and 152 are part of this allotment but are situated on the river side of Providence Drive. All of these pieces are vacant and within the 1956 flood level.

The majority of the overall allotment area is held in Piece 147 (73.42ha), situated on the opposite side of Providence Drive. This land contains an existing airstrip on land below the 1956 flood level. The portion of the land above the 1956 flood level contains an existing dwelling, sheds (approximately 6), rainwater tanks and viticultural land.

Photos taken while on-site on 15 May 2010 are attached with written annotations confirming the viewing angle of the photos taken.

DESCRIPTION OF PROPOSAL

The application has been described as “*aircraft hangar and associated aircraft standing and manoeuvring areas, taxi-way and turn-around areas at either end of existing airstrip*”. The application comprises various components which constitute “development” and have thus been incorporated into the nature of the proposed development as follows:-

1. Construction of an aircraft hangar;
2. Excavation and filling within a flood plain (aircraft standing and manoeuvring areas, taxi-way and turn around areas at either end of airstrip).

MID MURRAY COUNCIL – DEVELOPMENT REPORT

9.1 DEVELOPMENT APPLICATION 711/124/10 – BJ CARTER

The aircraft hangar is proposed on land above the 1956 flood level of the River Murray, sited approximately 210m from River View Road and 200m from Providence Drive. It will have a total floor area of 165m², a wall height of 5m and height to the ridgeline of 6.15m. It will be clad in Colorbond “Surf Mist” for the roof and Colorbond “Wilderness” for the walls and will have four large sliding doors facing north with outrigger frames.

A taxi-way is proposed from the northern end of the airstrip connecting up to the proposed aircraft hangar. The taxi-way is proposed within existing cleared areas and will partly correspond with an existing track. The taxi-way will have a width of 5m, and will be constructed of compacted rubble sourced from land within the 1956 flood level. It will have a maximum grade of 1:28 and necessitate filling of no greater than about 1m.

Semi-circular turn-around areas are proposed at either end of the existing airstrip. These areas will each have a diameter of approximately 60m and will be constructed of compacted rubble sourced from land within the 1956 flood level. The southern turn-around area will have a finished level of 1.5m Australian Height Datum and the northern turn-around area at 2m (AHD).

An aircraft standing and manoeuvring area is proposed next to the site for the aircraft hangar. The hardstand area will have a total area of approximately 960m² (40m x 24m) and will have a finished floor level of 5m AHD. A grassed turn-around area is also proposed immediately west of the hardstand area. The hardstand area will be constructed of compacted rubble sourced from land within the 1956 flood level.

NATURE OF THE LOCALITY

The character of the locality comprises a mix of uses. Land on the opposite side of Providence Drive comprises freehold and leasehold sites containing holiday dwellings and ancillary buildings. Land to the south and south-west is used for viticultural activities, dryland grazing and cropping. The township of Bowhill is positioned nearby to the east and land to the south-east is predominantly used for dryland grazing and cropping.

REFERRALS

The application triggered a referral to the Department for Water under Schedule 8(19)(g) of the *Development Regulations 2008* on the basis that the development involves the construction of a building (aircraft hangar) and excavation and filling on land within the River Murray Floodplain Area established under the *River Murray Act 2003*.

The Department for Water 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, the Flood Plain Policy Area and the Primary Production Policy Area of the Mid Murray Council Development Plan. The 1956 flood level forms the boundary between the Flood Plain Policy Area and the Primary Production Policy Area. Given that the site is located within both Policy Areas, the application has been assessed against the relevant provisions of both Policy Areas.

In the Primary Production Policy Area, development of the kind proposed is neither listed as a Complying or Non-complying form of development. However under Principle of Development Control 37 of the Flood Plain Policy Area, all forms of development are non-complying other than some listed exceptions. Excavation and filling is not listed as an exception and would therefore have made the application non-complying.

Despite this, Council has obtained legal advice from its lawyers who have reviewed the classification of the proposed development. In short, Council's lawyers have advised that the proposed development is for the continuation or reasonable development of an existing non-complying use. For this reason, Council's lawyers have confirmed that the application should be treated as an "on-merit" form of development.

PUBLIC NOTIFICATION

Principles of Development Control 38 and 39 of the Flood Plain Policy Area (and Principles of Development Control 34 and 35 of the Primary Production Policy Area) state that:

"All forms of development which are acceptable for the Policy Area are classified Category 1".

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

Development of the kind proposed is not listed as an "acceptable" form of development in the Flood Plain Policy Area. Given that the application is not non-complying, the application must be a Category 2 form of development in accordance with Principle of Development Control 39 of the Flood Plain Policy Area.

The application underwent the Category 2 public notification period with 34 representations being received. This includes a single representation received from the Trustee, B J Carter in his capacity as landowner for the estate of Paul Gerhard Schmidt Deceased (26 properties in total).

A majority of the representations received objected to the development, although it is noted that many of the shack owners in Bowhill did not submit a representation to Council. Some representors also raised questions rather than purely objecting to the development. Most representors who objected wanted the application refused.

MID MURRAY COUNCIL – DEVELOPMENT REPORT
9.1 DEVELOPMENT APPLICATION 711/124/10 – BJ CARTER

A summary of the concerns raised by the representors is given below as well as the response from the applicant. Copies of the representation and reply are contained as attachments. Due to the large number of representations, each key issue is summarised in short form under bullet points with issues relevant to this application underlined.

I make it clear that the summary of the representors is in brief form and cannot in any way to be taken to include every individual issue/comment raised.

Concerns raised by Representors

- This land has high conservation value and is not suitable for an airstrip;
- Filling to create the taxi-way and turn-around areas will alter the surface flows of water within the flood plain and further degrade the fragile wetland area;
- Additional filling within the flood plain will present a hazard to flood waters and increase the potential risk of flooding to the adjoining residential area;
- The development will result in the removal of native vegetation;
- This land is flood prone and is not suitable for an airstrip;
- Bird strike is a risk to aviation safety and the prolific bird life;
- The airstrip (including use of the taxi-way and turn-around areas) will generate unreasonable noise and dust (propeller wash);
- This is a residential area and is not appropriate to have an airstrip next door;
- There is a high risk that a plane could crash into the residential area adjacent;
- There is a powerline which crosses the airstrip which is a safety issue;
- There is a risk the airstrip will be used for commercial activity;
- The development is contrary to the LMA applying over the site;
- The airstrip does not comply with the guidelines of the Civil Aviation Authority and does not appear to be useable;
- An Environmental Management Plan applies over the site, registered under the LMA, which has not been implemented;
- They (many of the representors) were not aware of the airstrip when they purchased their land;
- The development will reduce land values;
- The development will increase the potential for fuel and chemicals to be stored on land within the flood plain which is an environmental and fire risk;
- The development should have been treated as a non-complying form of development and subject to Category 3 public notification;
- Large amounts of plantings of native species should be undertaken to reduce the incidence of dust;
- Is the airstrip open to be used by other aircraft or to ride motor-bikes and can the airstrip be used in an emergency?
- The airstrip should only be used during weekdays and during reasonable hours;
- The aircraft hangar will be out of character with other buildings in the area, noting its large size and height;
- The pilot is not qualified to land a plane at this location;
- Tall trees should not be planted within the take-off and flightpath of the airstrip as they reduce the effectiveness of the existing fire break and may potentially interfere with the function of the airstrip.

MID MURRAY COUNCIL – DEVELOPMENT REPORT
9.1 DEVELOPMENT APPLICATION 711/124/10 – BJ CARTER

Response from the Applicant, Trustee, BJ Carter, Ferrier Hodgson in his capacity as landowner for the estate of Paul Gerhard Schmidt Deceased

- The existing airstrip on Torrens Title land has the same right to be there as the existing holiday homes (dwellings) on the subdivided Torrens Title land;
- The airstrip has existing use rights for private use and for the enjoyment of the owner of the subject land;
- Visitors are permitted to use the airstrip, provided that it is within the limits of the LMA and any other conditions imposed by the land owner;
- Apart from the aircraft turn-around areas, other aspects of this application were considered at the time of the formation of the LMA;
- The risk of bird strike is no greater here than anywhere else and the risk is more likely to come from speed boats hitting birds on the water;
- The existing powerline traversing the airstrip does not prevent it from being safely used. This powerline has been there since 1961 and has markers on it in recognition of the existing airstrip;
- The aircraft hangar is proposed on land above the 1956 flood level;
- The LMA anticipates that sufficient fill from authorised sources can be used. All fill be sourced from Approved areas in accordance with the LMA;
- The LMA permits existing tracks to be upgraded to all-weather tracks;
- Being a private airstrip, CASA standards are voluntary. However, the Applicant wishes to meet these standards as closely as possible;
- Noise from the aircraft will not be substantially greater than any other existing uses in the locality including lawn mowers, motor bikes, motor vehicles, speed boats, jet skis, fireworks, guns, loud music etc.;
- Tugs will be employed to pull the aircraft from the runway up to the hangar;
- The LMA refers to an aircraft storage facility, not a storage area;
- The development will not increase the risk of flooding to residential properties;
- Due to the need to gain approval for this development, the fencing repairs on the highland side of the floodplain have not yet been completed as desired by the Environmental Management Plan;
- This application is not contrary to the Environmental Management Plan and will not result in the removal of colonies of barren cane grass;
- The Environmental Management Plan is in the process of implementation – some vegetation will need to be removed within 10m of the fenceline on the highland side of the temporary lagoon to enable it to be repaired;
- Any vegetation clearance required to facilitate compliance with the Environmental Management Plan will be approved under the *Native Vegetation Act 1991*;
- A future windsock on the site is unlikely to be readily visible and will not be out of character with other existing buildings in the locality;
- The length of the airstrip will not be increased, given that the turn-around areas will be positioned within the existing 100m over-run area;
- It was agreed that motor bike activity on the floodplain, by majority vote of the lessees of Trust land, cease to prevent further damage to it and surrounding farm land;
- The turn-around areas will reduce the likelihood of dust by enabling simple turning around with the minimum of power used;

MID MURRAY COUNCIL – DEVELOPMENT REPORT

9.1 DEVELOPMENT APPLICATION 711/124/10 – BJ CARTER

- If dust from propeller wash is a problem, it can be addressed by closely planted low Melaleuca Armillaris bushes positioned on the lagoon side of the fire break created adjacent to the fence on the southern side of Providence Drive;
- The take-off and landing path for the planes is not directly over the majority of shacks and the risk of a plane crash is no greater than risk of a boat accident;
- The airstrip is available for air ambulances which is clearly contemplated by the LMA in emergency circumstances;
- Any pilot using the airstrip must go through rigorous training and testing to obtain their CASA license;
- Any fuel will be stored off the floodplain as far removed from Providence Drive as possible;
- The proposed hangar will be clad in natural colours and will be largely screened by existing vegetation.

Many of the issues raised by the representors are not relevant to the present application. Concerns with respect to the airstrip being there or how it was established and the consequences that might flow from this in terms of potential risk of bird strike, air crash, noise and dust during landing and take-off are not relevant.

In the previous determination of the Environment, Resources and Development Court, it was found there was sufficient evidence to conclude the airstrip did exist and on that basis, the development was allowed. Given this, any issues associated with the use of this airstrip can only be assessed insofar as they relate to this Development Application.

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

- The proposed aircraft hangar will be sited above the 1956 flood level;
- Council has received legal advice which confirms that the development is consistent with the LMA applying over the site;
- The LMA envisages the construction of a taxi-way from the airstrip up to an aircraft storage facility;
- The application has been processed "on-merit" as a Category 2 form of development in accordance with legal advice;
- The filling that will take place in the floodplain to construct the turn-around areas, taxi-way and aircraft standing and manoeuvring areas will take place using permitted filling material deposited predominantly within existing cleared areas and predominantly on top of existing tracks;
- The plane will be pulled by a tug to and from the runway at low speed, which will reduce the potential for noise and dust, and the frequency of these events will be controlled under the LMA.
- The applicant has agreed to plant closely planted low Melaleuca Armillaris bushes on the lagoon side of the fire break adjacent to the fence on the southern side of Providence Drive to reduce potential propeller dust wash;
- No fuel or chemicals will be stored on land within the 1956 flood level;
- The Department for Water have not raised any objections to the proposed works that will occur within the 1956 flood level.

Overall, I am satisfied that the majority of the relevant issues raised by the representors with respect to this Application have been addressed.

MID MURRAY COUNCIL – DEVELOPMENT REPORT
9.1 DEVELOPMENT APPLICATION 711/124/10 – BJ CARTER

RELEVANT PROVISIONS OF THE MID MURRAY COUNCIL DEVELOPMENT PLAN

Council Wide

Objectives: 1, 6, 7, 12, 33, 34, 36, 38, 39, 40, 51 & 52

Principles of Development Control: 1, 5, 6, 6, 28, 29, 34, 35, 36, 37, 40, 42, 43, 45, 107, 108, 109, 110, 111, 112, 113, 115, 116, 117, 120, 122, 123, 125, 126, 127 & 128

River Murray Zone

Objectives: 1, 2, 3, 4, 5, 6, 8, 9, 10, 13 & 19

Principles of Development Control: 16, 17 & 18

Flood Plain Policy Area

Objectives: 1, 2, 3, 4, 5, 6, 7, 8, 9, 17, 18 & 21

Principles of Development Control: 1, 2, 3, 4, 5, 6, 7, 8, 9, 15, 16, 19, 20, 21, 25, 29, 30, 31, 32, 37, 38 & 39

Primary Production Policy Area

Objectives: 1, 2, 3, 4, 5, 6, 11, 12, 13 & 17

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

ASSESSMENT

Land Use

The subject site is located within the Flood Plain Policy Area and the Primary Production Policy Area of the Mid Murray Council Development Plan (Consolidated 3 December 2009). “Acceptable” and “unacceptable” kinds of development are identified in each Policy Area as follows:

Flood Plain Policy Area

The following uses are acceptable in the Flood Plain Policy Area:

- *River structures for irrigation management (channels, pumping stands);*
- *River structures for recreation (landings, jetties);*
- *Recreation uses;*
- *Continuation of existing primary production including horticulture but with improvements to existing management practice; and*
- *Upgrading or replacement of existing dwelling and ancillary buildings subject to conditions regarding protection from flood waters.*

The following uses are unacceptable in the Flood Plain Policy Area

- *All forms of urban development (residential, industry, commercial, retail);*
- *Land division to create additional allotments;*
- *Farming, horticulture, viticulture and land based aquaculture apart from upgrading of existing uses;*
- *Intensive animal keeping;*
- *Horsekeeping; and*
- *Outdoor advertising other than information signage.*

MID MURRAY COUNCIL – DEVELOPMENT REPORT
9.1 DEVELOPMENT APPLICATION 711/124/10 – BJ CARTER

Primary Production Policy Area

The following uses are acceptable for the Primary Production Policy Area:

- *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. (my underlining)*

The following uses are unacceptable in the Primary Production Policy Area:

- *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.*

The proposed development will not introduce a new use to the land. The development involves the construction of an aircraft hangar, aircraft standing and manoeuvring areas, taxi-way and turn-around areas, all of which are ancillary or incidental to the primary use of the land which is the airstrip.

Given that this airstrip has lawful existing use rights, and that a “taxi-way” and “aircraft storage facility” are clearly anticipated under the LMA applying over the subject land, the proposed development is considered to be ‘in-principle’ appropriate.

Noise

Principle of Development Control 19 of the Flood Plain Policy Area states that:

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

As part of assessment of this application in terms of noise impact, it must be assumed that single engine planes can land and take off from the airstrip a maximum of 156 times per year. The noise generated from this activity cannot be considered as part of this application because this has no relevance to the application at hand.

It must also be assumed that a “taxi-way” and “aircraft storage facility” are appropriate forms of development as they are anticipated under the LMA. While I appreciate that some noise will be generated by this activity, the LMA clearly envisages it and so it could be said that the accompanying noise is also envisaged.

MID MURRAY COUNCIL – DEVELOPMENT REPORT
9.1 DEVELOPMENT APPLICATION 711/124/10 – BJ CARTER

Given this, really the only noise that could be assessed as part of the proposal is the noise from the planes utilising the turn-around areas at either end of the airstrip. While this is acknowledged, the noise from this activity is unlikely to offend Principle of Development Control 19 quoted above because:

1. The noise generated by planes turning around is expected to be much lower than that generated when taking off, because the engine will be running at low revs per minute (RPM);
2. Planes are already able to turn-around within the 100m over-run area at either end of the airstrip, albeit that this area is currently not finished with a compacted rubble surface;
3. Noise from a single engine plane at low RPM is unlikely to be much greater than one or more speed boats on the water.

The applicant has also confirmed that the plane will not taxi into the hangar, but rather be pulled by tugs (ie. a tractor) which would not generate any more noise than a standard lawn mower or motor bike. Given all of the above, the noise to be generated as part of the proposed development is considered to be acceptable.

Despite this, the applicant/owner must still comply with the noise quality requirements of the *Environment Protection (Noise) Policy 2007* insofar as they relate to any tug pulling a plane to/from the hangar. It is noted that aircraft noise is exempted from the same *Environment Protection (Noise) Policy 2007*.

Dust

Principle of Development Control 12 of the Primary Production Policy Area states that:

12 *Development should have regard to the possible impacts in terms of air quality both in terms of odour and air borne particles (eg. Dust) on:*

- (a) *horticulture and viticulture;*
- (b) *residential and tourist accommodation;* and
- (c) *sensitive industries.* (my underlining)

The same approach (ie. to noise) must be taken with respect to dust. It must be assumed that some dust disturbance may arise during landing and take-off of planes and it is also assumed that some dust transfer may occur during movement of the plane from the airstrip to the hangar and vice versa as this is contemplated under the LMA.

Given this, really the only part of the proposal that could be assessed for dust impact is the potential for propeller wash from the planes utilising the turn-around areas at either end of the airstrip. While this is acknowledged, the dust transfer from this activity, in my view, is unlikely to offend Principle of Development Control 12 quoted above because:

1. The turn-around areas will reduce the likelihood of dust by enabling simple turning around with the minimum of power used;
2. The plane will be pulled by a tug to and from the runway at low speed, which will reduce the potential for dust disturbance;
3. The applicant has agreed to closely plant low Melaleuca Armillaris bushes positioned on the lagoon side of the fire break created adjacent to the fence on the southern side of Providence Drive.

MID MURRAY COUNCIL – DEVELOPMENT REPORT
9.1 DEVELOPMENT APPLICATION 711/124/10 – BJ CARTER

Revegetation

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.*

As mentioned above, the applicant has agreed to plant low Melaleuca Armillaris bushes positioned on the lagoon side of the fire break created adjacent to the fence on the southern side of Providence Drive.

The applicant has subsequently submitted a landscaping plan of proposed plantings. This plan identifies the location for two rows of plantings of up to 100m in length immediately adjacent to where the turn-around areas are proposed.

This revegetation will have the effect of creating a low screen to mitigate the blow of any dust propeller wash while also enhancing the appearance of the site and providing habitat for native fauna.

The Mid Murray Local Action Planning (LAP) Project Officer was consulted in the review of the landscaping plan. The Project Officer confirmed that some Melaleuca species were endemic to the region but not this particular kind.

Given this, they have suggested that new plantings be undertaken in accordance with their document “Revegetation species on floodplain sites”. This list includes 24 native species, endemic to the area varying in height between 50 cm and 40m.

To ensure that the plantings undertaken will grow, I recommend that a condition be imposed, requesting that all plantings be undertaken in accordance with the “Revegetation species on floodplain sites” at an average height of at least 1m.

Such replanting is clearly consistent with Council-wide Principle of Development Control 37 quoted above.

Flood Impact

Principle of Development Control 16 of the Flood Plain Policy Area states that:

- 16** *Structures (apart from purpose built flood control levees), including fencing and the filling of land should:*
- (a) not impede the flow of floodwaters or change the pattern of movement of floodwaters; and*
 - (b) when feasible, mitigate any existing impediments to floodwaters.*

The plans submitted by Masterplan identify the 1956 flood level of the River Murray, which was recorded at 6.8m Australian Height Datum (AHD). The aircraft hangar will have a finished floor level of 5m AHD which is some 1.8m less than the 1956 flood level height. Despite this, the site where the shed is proposed is clearly above the 1956 flood level as determined by Council’s Development Plan and the LMA.

MID MURRAY COUNCIL – DEVELOPMENT REPORT

9.1 DEVELOPMENT APPLICATION 711/124/10 – BJ CARTER

It is unclear whether the 1956 flood level boundary contained in the Development Plan is correct. Having said that, it is not uncommon for the flood level boundary in the Development Plan to be at odds with elevation heights for specific parcels of land, partly because often the flood level boundary is inaccurate but also because I am told they do not always match up, due to variations in water current, topography and wind direction.

Despite the above, the shed as proposed has been accepted in its current location without requesting relocation or flood openings, because:

1. The site is identified as being located above the 1956 flood level as determined by Council's Development Plan and the LMA;
2. The land cannot be regarded as flood prone because it is located above the 1956 flood level;
3. The site where the aircraft hangar is proposed is consistent with the location of the "aircraft storage facility" identified in the LMA.

The Department for Water have supported this approach by confirming that the site of the proposed aircraft storage facility will be constructed to a finished floor level of 5m AHD, but will be constructed outside of the 1956 flood extent. As such, they have considered that the hangar is unlikely to adversely affect environmental flows.

Surface Water Flows

Principle of Development Control 2 of the Flood Plain Policy Area states that:

- 2** *No adverse impact on natural hydrological systems and environmental flows by ensuring the quality of water leaving the site is of a physical, chemical and biological condition equivalent to or better than pre-development flow characteristics conditions.*

The entire length of the taxi-way, the turn-around areas and a portion of the aircraft standing and manoeuvring area will be positioned within the 1956 flood level. From an inspection of the site on 1st December 2010 it was found that some parts of the site below the 1956 flood level were already inundated, due to the high water level.

The SA Water Riverland Office have confirmed that the current water level for Bowhill is approximately 1.1m AHD which is significantly higher than "normal pool level" (0.75m AHD). Based on survey spot heights and contours submitted by the Applicant, all of the lagoon areas and some parts of the land outside of the lagoon areas are inundated.

The levels where the turn-around areas are proposed as well as the taxi-way from the northern turn-around area up to the point where it turns at 90 degrees vary in level from about 2.34m AHD at the northern end of the airstrip, 1.67m AHD at the southern end of the airstrip and between 1.5m and 2m AHD for that length of the taxi-way.

However, where the taxi-way is proposed to correspond with the existing track from the point at which it turns 90 degrees up to the diversion channel, shown on the site plan, prepared by Masterplan, at this time it was underwater by about 100mm – 200mm of water. Given this, it is expected the level of this track is about 1m AHD.

MID MURRAY COUNCIL – DEVELOPMENT REPORT

9.1 DEVELOPMENT APPLICATION 711/124/10 – BJ CARTER

It is expected that culverts or pipes will be needed underneath this section of the taxi-way to preserve environmental flows and to ensure its structural integrity in the event of a flood. The remaining portion of the taxi-way and the turn-around areas do not require culverts or pipes underneath because they will generally always be above water.

The Department for Water have assessed the proposal and have recommended that the applicant consider including culverts in the design of the access track to ensure environmental water flows can continue in the event that the wetland becomes inundated. However, this was not a mandatory requirement of the Department.

Despite the Department for Water not requesting redesign of the taxi-way to include culverts or pipes underneath, Council's Works Manager and Council's Building Officer have confirmed that they are essential in its design. Given this, a Reserved Matter has been included in the recommendation requesting an engineer's report from the Applicant.

The applicant has submitted an approximate location, next to the existing diversion channel, for a 12m – 15m x .38m reinforced concrete pipe (RCP). While of some use, this plan is basic and is not accompanied by professional civil and structural advice as to its adequacy and purpose.

Given this, an engineer's report will need to be prepared by a professional engineer as defined under the *Development Regulations 2008* and will need to identify the design, size and number of culverts or pipes underneath this section of the taxi-way and whether a low point is required with a spillway on either side to cater for large flood events.

Finally, the Department for Water have confirmed that the proposed turn-around areas at either end of the airstrip of between 1.5m and 2m AHD and the aircraft standing and manoeuvring area at 5m AHD are unlikely to result in any significant impediment to environmental flows or potential floodwaters.

In summary, the Department for Water are satisfied that the works proposed within the 1956 flood level will not result in any significant impediment to environmental flows or floodwaters, but have recommended that culverts be considered in their design. This issue can be resolved subject to a Reserved Matter.

Stormwater

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;*

MID MURRAY COUNCIL – DEVELOPMENT REPORT
9.1 DEVELOPMENT APPLICATION 711/124/10 – BJ CARTER

- 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)*

All roof water from the proposed aircraft hangar will be collected into a 22,500 litre rainwater tank, positioned on the eastern side of the hangar. In the event that this tank is full, the applicant has confirmed that any outflow will be directed away from the building to the land via a pipe with a perforated agricultural spreader fitted on the end.

Overall, stormwater from the roof of the building can be collected and stored on-site without causing any damage or nuisance to adjoining properties or causing erosion of the subject site. With this in mind, this aspect of the development is considered to be acceptable, subject to condition.

Excavation and Filling

Council-wide Principle of Development Control 120 states that:

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

Land below the level of the existing diversion channel shown on the Site Plan prepared by Masterplan is about 2.5m AHD. Below this point, the land varies in slope down to a low point of less than 0.75m AHD, meaning that the existing lagoons will be inundated when the water level sits at “normal pool level”.

As mentioned earlier, the levels where the turn-around areas are proposed as well as the taxi-way from the northern turn-around area up to the point where it turns at 90 degrees vary in level from about 2.34m AHD at the northern end of the airstrip, 1.67m AHD at the southern end of the airstrip and between 2m and 1.5m AHD for this part of the taxi-way.

Where the taxi-way is proposed to correspond with the existing track from the point at which it turns at 90 degrees up to the diversion channel, the level varies in slope from about 1m AHD up to 2.5m AHD. Land above the diversion channel rises up to the 1956 flood level which is defined as 6.8m AHD.

The proposed turn-around areas will have a finished level of 1.5m AHD (southern end) and 2m AHD (northern end) and the taxi-way of 2m AHD. This means that the turn-around areas will result in no more than about 500mm of filling and the taxi-way of about 500mm from its northern end up to the existing track.

Where the taxi-way meets with the existing track, due to the recessed level of the track, additional filling will be required up to about 1m. Above the diversion channel, the taxi-way will rise up to 5m AHD where it meets with the hardstand area and aircraft hangar, both of which will have a level of 5m AHD.

The taxi-way is designed to rise in 500mm intervals, thereby ensuring that the amount of filling necessitated does not exceed 1m above natural ground level. The hardstand area will necessitate some modification to the land up to a maximum of 500mm of cut in the north-east corner and a maximum of about 1m of fill.

MID MURRAY COUNCIL – DEVELOPMENT REPORT

9.1 DEVELOPMENT APPLICATION 711/124/10 – BJ CARTER

The aircraft hangar will have a finished floor level of 5m AHD. The site where the hangar is proposed varies in level between 4.5m AHD and 5.5m AHD. Given this, part excavation of 500mm and part fill of 500mm is required to create a level platform for the aircraft hangar.

Overall, the amount of modification to the land, while substantial, it not considered to be unreasonable, on the basis that the increments in the slope of the taxi-way follow the natural rise of the land, do not exceed 1m of either cut or fill, and the aircraft standing and manoeuvring area is located within a relatively level portion of the site.

Therefore, the development is considered to be consistent with Council-wide Principle of Development Control 120 in that the amount of excavation and filling has been minimised. I also note that the Department for Water have not objected to the amount of cut and fill proposed.

Storage of Fuels and Chemicals

Principle of Development Control 21 of the Flood Plain Policy Area states that:

21 *No storage of biological organisms and chemicals in the Flood Plain Policy Area.*

Clause 7.4 of the LMA also prohibits such activity as follows:

6.7 Except in case of emergency the Owner must not refuel, maintain, repair, clean or otherwise service or work upon any aircraft anywhere within the floodplain (including upon the airstrip).

The applicant has confirmed that any fuel will be stored off the floodplain and far removed from Providence Drive. The applicant may be permitted to store fuel and other chemicals within the aircraft hangar.

It is recommended that a condition be imposed on the Development Plan Consent, if approved, that any fuel or chemicals stored within the hangar are contained within an appropriately designed bunded area to prevent escape of fuel or chemicals.

Vegetation Impact

The applicant has lodged an application with the Native Vegetation Council to clear some native vegetation, positioned between the airstrip and the aircraft hangar. In their assessment, the Native Vegetation Council have confirmed that the clearance is likely to affect the following three plant associations:

- (a) *Atriplex rhagodioides* sparse tall shrubland over sparse *Halosarcia pergranulata* ssp. *Pergranulata* and introduced species;
- (b) *Muehlenbeckia florulenta* sparse shrubland;
- (c) *Halosarcia pergranulata*, *Suaeda australis* +/- *Disphyma crassifolium* var. *clavellatum* low shrubland.

The Native Vegetation Council is satisfied that clearance is required for the provision of infrastructure and that the clearance has been minimised. Given this, the Native Vegetation Council has allowed clearance of 0.5 hectares of vegetation, exempt under Regulation 5(1)(d) of the *Native Vegetation Regulations 2003*, subject to the following conditions:

MID MURRAY COUNCIL – DEVELOPMENT REPORT
9.1 DEVELOPMENT APPLICATION 711/124/10 – BJ CARTER

- That clearance is restricted to the areas shown on Regulation Advice Plan 2010/3034/711;
- Any vegetation cleared is not stockpiled in areas with native vegetation;
- Machinery used and spoil excavated in the installation of the pipeline be confined to the immediate construction area;
- That Development Approval is granted from the Mid Murray Council for the work to be undertaken in the floodplain, prior to clearance occurring;
- That the Significant Environmental Benefit is agreed to and provided for.

As part of this approval, the applicant must either make a one-off payment of \$2,275 into the Native Vegetation Fund or alternatively set aside at least 3.0 hectares of land for the protection and growth of native vegetation and to prepare a management plan to the satisfaction of the Native Vegetation Council.

In short, the applicant has obtained approval for the removal of native vegetation, which the Native Vegetation Council has agreed to allow, subject to a Significant Environmental Benefit off-set. Given that they are satisfied the clearance is acceptable, I am satisfied that the clearance is not unreasonable in the circumstances.

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 minimum 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 proposed aircraft hangar will have a total floor area of 165m², a wall height of 5m and height to the ridgeline of 6.15m. It will be clad in Colorbond "Surf Mist" for the roof and Colorbond "Wilderness" for the walls and will have four large sliding doors facing north with outrigger frames.

I appreciate the aircraft hangar is relatively large in terms of floor area and has a reasonably high wall height. Despite this, in my view, its visual obtrusiveness has been minimised, as desired by Principle of Development Control 17 quoted above in the following ways:

1. The aircraft hangar will be setback approximately 210m from River View Road and 200m from Providence Drive;
2. The aircraft hangar will be sited on land above the 1956 flood level of the River Murray;
3. The aircraft hangar will be partly screened by existing native vegetation positioned in the general vicinity where the building is proposed;
4. The aircraft hangar will be clad externally in natural colours (off white and green) to fit with the natural features of the locality;

MID MURRAY COUNCIL – DEVELOPMENT REPORT
9.1 DEVELOPMENT APPLICATION 711/124/10 – BJ CARTER

In addition, I note that a shed of this size would not be out of place with other large farm buildings erected on land within the Primary Production Policy Area. Buildings of this size and wall height are not uncommon on farming land and in my view, are reasonably anticipated in the Primary Production Policy Area.

Given all of the above, the bulk and scale of the proposed aircraft hangar is considered to be acceptable.

I have also had regard to the appearance of the aircraft standing and manoeuvring areas, the taxi-way and turn-around areas at either end of the airstrip. In my view, these are unlikely to look out of character with the remainder of the appearance of the site and the locality in general because:

1. The turn-around areas will add an additional 30m of compacted area at either end of the airstrip which is more than 700m long;
2. The taxi-way will partly correspond with existing tracks, meaning that it will not be indifferent in its appearance to the existing tracks;
3. The taxi-way is no greater than 5m in length which is consistent with the LMA applying over the site;
4. The aircraft standing and manoeuvring area is setback approximately 200m from Providence Drive and River View Road;

Given the above, I also consider the appearance of the proposed aircraft standing and manoeuvring areas, the taxi-way and turn-around areas to be acceptable.

Compliance with LMA

The application was forwarded to Council's lawyers for their review. In particular, they were requested to consider whether the proposed development was consistent with the LMA applying over the subject land. In short, they have confirmed that the development is consistent with the LMA in the following ways:

- a) The proposed development is "generally in accordance" with the Access Concept Plan attached as Schedule 3 to the LMA;
- b) The proposed taxi-way will have a width of 5m which is consistent with Clause 6.3.2 of the LMA;
- c) The proposed development will be established using "permitted filling material" which is consistent with Clause 6.3.3 of the LMA;
- d) While a hangar is not contemplated by the LMA, this is to be constructed outside the floodplain and is therefore not restricted by the LMA;

Given all of the above, I am satisfied that the proposed development is consistent with the LMA.

CONCLUSION

While the land may not appear to be suited to an airstrip, the airstrip exists and has existing use rights. The proposed development is regarded as ancillary to the primary use of the land, the airstrip and on that basis has been assessed "on-merit" as a Category 2 form of development in accordance with legal advice.

MID MURRAY COUNCIL – DEVELOPMENT REPORT

9.1 DEVELOPMENT APPLICATION 711/124/10 – BJ CARTER

In addition, the application was referred to the Department for Water, the experts with respect to flood impact, environmental flows, native vegetation clearance etc. and have no objections to the development, and have directed that if Approved, conditions be attached to the Development Plan Consent.

In this report, a range of planning and environmental issues have been addressed in detail including noise, dust, revegetation, appearance of development, stormwater management, vegetation impact, storage of fuel and chemicals, flood impact, surface water flows and excavation and filling.

Overall, the development is reasonably consistent with the relevant Objectives and Principles of Development Control of the Mid Murray Council Development Plan, subject to conditions and one Reserved Matter, requesting preparation of an engineering report to ensure that the taxi-way and culvert design is appropriate.

Given all of the above, the application is recommended for Development Plan Consent.

RECOMMENDATION

moved that pursuant to Section 35(2) of the Development Act 1993, the proposed development is not “Seriously at Variance” with the relevant provisions of the Mid Murray Council Development Plan (Consolidated 29 April 2010) and that pursuant to Section 33(1)(a) of the Development Act 1993 Development Plan Consent be granted to Development Application 711/124/10 subject to the following reserved matters and conditions and notations:-

Reserved Matters

- 1. The applicant shall submit a report from a professional engineer as defined under Regulation 55 of the Development Regulations 2008, confirming the design of culverts or pipes, their size and number underneath the taxi-way between the diversion channel and the point at which the taxi-way turns at 90 degrees, as shown on the Approved Site Plan, prepared by Masterplan, dated July 2010, to preserve environmental flows on either side of the taxi-way (east and west) and to protect its structural integrity during flood events. In addition, the report shall consider whether the taxi-way needs to be graded to a low point with a spillway on either side to cater for large flood events; and**
- 2. Following approval of the report prepared under Reserved Matter 1 by Council staff, the recommendations of the report shall be adopted and carried out on-site in full, prior to commencement of use.**

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 2-11 inclusive:-**

MID MURRAY COUNCIL – DEVELOPMENT REPORT

9.1 DEVELOPMENT APPLICATION 711/124/10 – BJ CARTER

Plan Number	Plan Type	Dated	Prepared By
Jul 2010_DS:12659_1.4	Site Plan	July 2010	MasterPlan
Jul 2010_DS:12659_1.4	Detail Site Plan and Elevations	July 2010	MasterPlan
Jul 2010_DS:12659_1.4	Landscaping Plan	July 2010	MasterPlan with hand-mark up by Terry Schmidt

2. The aircraft hangar shall not be used for human habitation, commercial or industrial purposes.
3. All exterior surfaces of the aircraft hangar shall be of non-reflective materials (factory applied colour coated steel or equivalent) and colours which blend in with the natural features of the environment, as stated in the letter from Masterplan, dated 23 July 2010.
4. Stormwater from the roof of the aircraft hangar shall be discharged into a rainwater tank or tanks having a capacity of at least 22,500 litres. Any overflow from the rainwater tank or tanks shall be directed well away from buildings and property boundaries to the land in accordance with the letter from Masterplan, dated 23 July 2010.
5. Any fuel or chemicals stored within the aircraft hangar shall be contained within an appropriately designed bunded area to prevent escape of fuel or chemicals from the building.
6. Two rows of closely planted shrubs, bushes and trees shall be planted, consisting of species identified in the document “Revegetation species on floodplain sites”, prepared by the Mid Murray Local Action Planning Association, in accordance with the Approved Landscaping Plan, prepared by Masterplan with hand mark-up by Terry Schmidt, dated July 2010. The shrubs, bushes and trees shall achieve an average vertical height of at least 1m at maturity. Such shrubs, bushes and trees shall be planted prior to commencement of use and maintained in good health and condition thereafter. Any dead or diseased plants shall be replaced.

Conditions as required by the Minister for the River Murray:-

7. During construction the property must be appropriately managed so as to prevent erosion and pollution of the subject site and the environment, including keeping the area in a tidy state and ensuring any waste materials are appropriately contained, to ensure no pollutants (including excavation or fill material) enter the River Murray system.

8. 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 (subject to the protocols of the *Code – Control of Branched Broomrape*);
 - 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.
9. 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.
10. 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.
11. Stormwater run-off from all hard surfaces and structures associated with the development 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 of the aircraft storage facility to a water storage tank would assist in complying with this condition.

Notations

1. The storage of bulk fuels, oils and hazardous chemicals shall not occur below the 1956 flood level.
2. 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.

3. **Development Approval Required Before Commencement**

No site works or construction can be undertaken on the land or building by any 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.

4. 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.

5. 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.

6. Any conditions are imposed so as to maintain the natural character of the River Valley and to attain the Objectives of the River Murray Zone.

7. The applicant is reminded that the aircraft hangar has been Approved as a Class 10a domestic structure only, and as such cannot be used for human habitation, industrial or commercial purposes.

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 shall 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.

MID MURRAY COUNCIL – DEVELOPMENT REPORT

9.1 DEVELOPMENT APPLICATION 711/124/10 – BJ CARTER

12. The applicant is responsible for the correct siting of the aircraft hangar, aircraft standing and manoeuvring areas, taxi-way and turn-around areas and shall ensure that they are sited on the allotment in accordance with the Approved site plan.
13. The applicant is advised that Council will instigate appropriate action should the aircraft hangar be used for human habitation, commercial or industrial purposes.
14. The granting of this consent does not absolve the applicant from obtaining all other consents which they may be required to do, pursuant to the provisions of any other statutes.
15. 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.
16. The depositing of fill within the existing diversion channel as referred to in the letter from Ferrier Hodgson, dated 28 September 2010, does not form part of this Development Authorisation. Accordingly, if this work is to be undertaken, it must first be approved by the Council under the *Development Act 1993*.
17. Please note there is a Land Management Agreement registered on the Certificate of Title Volume 5964 Folio 69. You are bound to comply with all terms of the Land Management Agreement.
18. 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.

Notations as issued by the Minister for the River Murray:-

19. 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.
20. In order to mitigate the potential for an access track crossing the wetland area to impede environmental water flows (including floodwaters), and for the protection of its structural integrity during flood events, it is strongly recommended that the applicant consider the inclusion of culverts in the access track designs. The Applicant is advised to consult with Mid Murray Council engineers (telephone 8564 6020) and the SA Murray-Darling Basin Natural Resources Management Board (telephone 8532 1432) in this regard.

21. The River Murray and many of its tributaries and overflow areas have abundant evidence of Aboriginal occupation and Aboriginal sites, objects or artefacts may be present on the subject land (eg. Scarred trees, campsites, burial sites, middens, etc). Under section 20 of the *Aboriginal Heritage Act 1988* (the Act), an owner or occupier of private land, or an employee or agent of such an owner or occupier, must report the discovery on the land of any Aboriginal sites, objects and remains to the Minister responsible for the administration of the Act, as soon as practicable, giving the particulars of the nature and location of the Aboriginal sites, objects or remains.

It is an offence to damage, disturb or interfere with any Aboriginal site or damage any Aboriginal object (registered or not) without the authority of the Minister for Aboriginal Affairs and Reconciliation (the Minister). If the planned activity is likely to damage, disturb or interfere with a site or object, authorisation of the activity must be first obtained from the Minister under Section 23 of the Act. Penalties may apply for failure to comply with the Act.

22. The applicant is advised that there is an Aboriginal site recorded for the subject land. The applicant should consult with the relevant Aboriginal organisation prior to the commencement of any works:

Mannum Aboriginal Community Association

Chairperson: Ms Isobelle Campbell

Mail: PO Box 4
NILDOTTIE SA 5238

Telephone: (08) 8570 1196

Mobile: 0407 006 651

Email: issy.ngautngaut@yahoo.com.au

23. The applicant should avoid storing large amounts of chemicals (such as fuel, fertiliser, pesticides, etc.) in the aircraft storage facility to minimise the potential for chemical materials to contaminate soil and water resources in the event of a spill. The applicant is advised to refer to the *EPA Guideline 080/07 for Bunding and Spill Management* (June 2007) with regard to the chemical storage, available at: <http://www.epa.sa.gov.au>.
24. The applicant should ensure that any works are undertaken in a manner so as to minimise the potential to disturb residential neighbours and to comply with the construction noise provisions of the *Environment Protection (Noise) Policy 2007*. The applicant is advised to refer to the *EPA Guidelines for the Use of the Environment Protection (Noise) Policy 2007* (June 2009), available at: <http://epa.sa.gov.au>.

25. 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, contact the Native Vegetation Council on telephone 8303 9741 or visit: <http://www.nvc.sa.gov.au>.
26. The applicant is strongly encouraged to incorporate locally indigenous plant species into any landscaping, screen planting or revegetation activity at the site to enhance the natural character of the locality, stabilise soils and provide habitat for native species. For information on appropriate species to be planted, please contact State Flora at Bremer Road, Murray Bridge on telephone 8539 2105, or within Belair National park on telephone 8278 7777 or visit: <http://www.stateflora.com.au>.
27. 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 *Plant Health Act 2009*. Cleaning and decontamination of plant, machinery and work vehicles may be supplied free of charge by PIRSA 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.
28. This approval does not obviate any considerations that may apply to the *Environment Protection and Biodiversity Conservation Act 1999* (Cwth). For further information visit: <http://www.environment.gov.au/epbc>.

Seconded

MID MURRAY COUNCIL – DEVELOPMENT REPORT
9.2 DEVELOPMENT APPLICATION 711/377/10 – A SMITH

Reporting Officer: Aaron Curtis

Development No. 711/377/10
Applicant A Smith
Subject Land Allotment 290, 6 Egerton Street, Blanchetown,
Hundred of Skurray
Proposal Change of Land Use from Store to Shop

INTRODUCTION

The applicant lodged the above Development Application with Council on 11 October 2010 seeking approval for a change of land use from store to shop.

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

SUBJECT LAND

The subject land is Allotment 290, 6 Egerton Street, Blanchetown, Hundred of Skurray. The site comprises one Torrens Title allotment of 794m² (approx.), having a frontage to Egerton Street of 20.14m (approx.). The site is rectangular in shape.

The site contains an existing shed (store) of 108m², positioned at the rear of the land. The site is fenced around the perimeter with 1.8m high Colorbond post and rail fencing. The land is generally level and cleared of vegetation.

Photos take while on-site on 24 September 2010 are attached with written annotations confirming the viewing angle of the photos taken.

DESCRIPTION OF PROPOSAL

The application comprises a change of land use from store to shop. The shop will have a total gross floor area of 140m², 32m² of which comprises a verandah which has been Approved to the front of the building in a separate Development Application.

The business is designed as a convenience supermarket and store, stocking groceries, fruit and vegetables, dairy food, deli lines, café items, drinks as well as some recreational items like fishing gear, water products, reading material and gift ware.

The applicant's have advised that the business will operate between 7 am and 7 pm, seven days a week and will be part of the Lucky 7 chain. A maximum of two staff will be present on the site at any one time.

The site layout comprises an 8m wide driveway from Egerton Street, a row of four 90 degree car parking spaces on either side of the aisle, raised garden beds on either side of the driveway adjacent the front boundary and a toilet block and store room (subject to a separate Development Application) positioned next to the front of the existing building.

The driveway will be constructed of 75mm thick scalps and will have a minimum width of 8m. Six standard car parking spaces of 5.5m long by 2.5m wide are proposed, and a loading bay and disabled car parking space, both of 5.5m long by 3.8m wide.

MID MURRAY COUNCIL – DEVELOPMENT REPORT
9.2 DEVELOPMENT APPLICATION 711/377/10 – A SMITH

The applicant has confirmed that waste generated on-site will be limited due to the implementation of a just-in-time ordering system. The applicant intends to deposit waste generated from the business into two wheelie bins, which will be stored within a screened area on-site when they are not out for collection.

The majority of stock will be picked up by a courier truck from a warehouse in Adelaide and transported to a private warehouse in Blanchetown. The owners will then pick up the stock in a light van and transported back to the site.

All cartons used to transport the goods will be re-used to pack home deliveries. Some larger trucks will deliver ice creams, ice and soft drinks. The applicant anticipates these trucks will park within the Egerton Street road verge while loading and unloading stock.

NATURE OF THE LOCALITY

The locality comprises a mix of uses. The site immediately to the western side has Approval for a landscape supply centre. The site immediately to the eastern side contains an existing single storey detached dwelling.

The site immediately to the rear (north) and to the north-east (diagonal from site) are vacant, and the site diagonally to the north-west contains another single storey detached dwelling.

Land on the opposite side of Egerton Street comprises several single storey detached dwellings on individual allotments, one vacant allotment and one containing a shed. Land in the locality is generally fenced, cleared of vegetation and reasonably level.

The township allotment pattern in the locality is consistent, comprising rectangular shaped Torrens Title allotments of at least 1,000m². Land west of West Terrace is larger in size and is vacant.

REFERRALS

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

CLASSIFICATION OF DEVELOPMENT

The subject site is located within the Service Centre Zone of the Mid Murray Council Development Plan (consolidated 29 April 2010). The proposed land use best fits the definition of a “shop” as defined under Schedule 1 of the *Development Regulations 2008* as follows:

Shop means –

- (a) *premises used primarily for the sale by retain, rental or display of goods, foodstuffs, merchandise or materials; or*
- (b) *a restaurant; or*
- (c) *a bulky goods outlet or a retail showroom; or*
- (d) *a personal service establishment,*

but does not include –

- (a) *a hotel; or*
- (b) *a motor repair station; or*
- (c) *a petrol filling station; or*

MID MURRAY COUNCIL – DEVELOPMENT REPORT
9.2 DEVELOPMENT APPLICATION 711/377/10 – A SMITH

- (d) a plant nursery where there is no sale by retail; or
- (e) a timber yard; or
- (f) service trade premises;
- (g) service industry. (my underlining)

A shop is neither listed as a Complying or non-complying form of development under Principle of Development Control 25 of the Service Centre Zone. Accordingly, the application is to be assessed “on-merit” against the relevant provisions of the Mid Murray Council Development Plan.

PUBLIC NOTIFICATION

Principles of Development Control 26 and 27 of the Service Centre Zone state that:

26 Category 1 forms of development are:

Bank
Bed and Breakfast Accommodation
Post Office
Recreation Area
Residential Outbuildings ancillary to a dwelling if the wall height is equal to or less than 2.4 metres, the floor area is equal to or less than 75 square metres and the minimum set-back from adjoining allotment boundaries is 1.0 metre

27 Category 2 forms of development are:

Educational Establishment
Hotel
Light Industry
Motel
Motor Repair Station
Petrol Filling Station
Public Service Depot
Residential Flat Building
Restaurant
Service Industry
Shop with a gross leaseable floor area of 150 square metres or less

As mentioned above, the development fits the definition of a “shop” as defined under Schedule 1 of the *Development Regulations 2008*. The total gross floor area of the shop will be 140m², 32m² of which comprises a verandah which has been approved to the front of the building in a separate Development Application.

Given that the gross leaseable floor area of the shop is less than 150m², the proposed development is clearly a Category 2 form of development under Principle of Development Control 27 of the Service Centre Zone. The application underwent the Category 2 public notification period with no representations being received.

RELEVANT PROVISIONS OF THE MID MURRAY COUNCIL DEVELOPMENT PLAN

Council Wide

Objectives: 1, 2, 4, 8, 9, 11, 13, 14, 15, 16, 18 & 19

Principles of Development Control: 1, 2, 5, 7, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 28, 29, 30, 31, 32, 34, 35, 36, 37, 39, 42, 46 & 47

Service Centre Zone

Objective: 1

Principles of Development Control: 1, 5, 6, 25, 26 & 27

ASSESSMENT

Land Use

A range of land uses are identified as being appropriate within the Service Centre Zone. These are identified within the Zone and also in the Council-wide section of the Development Plan as follows:

Service Centre Zone

The following uses are acceptable in the Service Centre Zone:

- *Dwellings;*
- *Educational establishment;*
- *Grain handling and storage;*
- *Light industry;*
- *Local community facilities;*
- *Local shops;*
- *Minor public service depot;*
- *Motor repair station;*
- *Petrol filling station;*
- *Recreation area; (my underlining)*

Council-wide Section

Objective 16: *Shopping, administrative, cultural, community, entertainment, educational, religious and recreational facilities located in designated centres or country townships. (my underlining)*

Grouping of facilities will benefit the community by encouraging economic development and shared use of facilities, providing a meeting place for communities, and encouraging ready access by community, public and private transport.

Retail, commercial and community development in designated areas will:

- (a) *cater for existing and future shopping needs;*
- (b) *improve access to the population to be served;*
- (c) *contribute to a safe environment for users;*
- (d) *reduce adverse impacts on residential areas; and*
- (e) *reinforce the local economy and existing investment. (my underlining)*

MID MURRAY COUNCIL – DEVELOPMENT REPORT
9.2 DEVELOPMENT APPLICATION 711/377/10 – A SMITH

The following facilities are appropriate in centres within Townships and Service Centre Zones:

<i>Bank</i>	<i>Indoor Recreation Centre</i>
<i>Child Minding/Child Care Centre</i>	<i>Library</i>
<i>Church</i>	<i>Motel</i>
<i>Cinema</i>	<i>Office</i>
<i>Civic Centre</i>	<i>Outdoor recreation, sport and open space</i>
<i>Club/Meeting Hall</i>	<i>Personal Service Establishments</i>
<i>Community Health Centre</i>	<i>Police Station</i>
<i>Commercial Development</i>	<i>Pre-School</i>
<i>Consulting Room</i>	<i>Restaurant</i>
<i>Day Care Centre</i>	<i>Service Station</i>
<i>Discount Department Store</i>	<i>Specialty Shop</i>
<i>Education Establishments</i>	<i><u>Supermarket</u></i>
<i>Hospital/Ambulance Station</i>	<i>Swimming Pool</i>
<i>Hotel/Tavern</i>	

“Local shops” of less than 150m² in total gross floor area are clearly listed as an appropriate form of development in the Service Centre Zone and a “supermarket” is also clearly listed as being appropriate within a Service Centre Zone. On this basis, I consider the proposed land use to be acceptable.

Effluent Disposal

Section 20 of the *Public & Environmental Health Act 1987* states that:

20 – Provision of adequate sanitation

- (1) *Where the authority is of the opinion that premises have inadequate facilities for sanitation or personal hygiene, the authority may, by notice in writing, require an owner of the premises to take such action as the authority thinks necessary, and specifies in the notice, to provide adequate facilities within such time, and in such manner, as is specified in the notice.*

The provision of toilet facilities as part of a development proposal such as this one is not a core planning requirement. Despite this, as quoted above, the *Public & Environmental Health Act 1987* requires that such facilities be provided.

The number of facilities to be provided within the premises and their design must be in accordance with the Building Code of Australia as required by the *Code of Practice for the Provision of Facilities for Sanitation and Personal Hygiene*.

The applicant proposes a freestanding toilet block and garden store room at the front of the existing building which will include a staff toilet and client unisex toilet. This building is proposed in a separate Development Application.

The applicant has also lodged a Waste Control System Application with Council which proposes a 3,000 litre septic tank, positioned 2.5m south of the toilet block and connecting to 2 x 7 metre long plastic tunnel trenches (1.2m x 400mm).

The freestanding toilet and the Waste Control System Application have not yet been approved. Despite this, I am satisfied the development can proceed subject to a condition that these facilities be constructed prior to commencement of use.

MID MURRAY COUNCIL – DEVELOPMENT REPORT
9.2 DEVELOPMENT APPLICATION 711/377/10 – A SMITH

Noise

The proposed land use will not generate any significant noise from the site. Some increase in noise activity is likely to occur during “normal business hours” resulting from the light van/truck entering and leaving the site and customers entering and leaving the site. Trucks parked within the Egerton Street road verge may also generate some noise.

While some noise transmission is inevitable, in my view this would not be inconsistent with the use of adjoining land and in any event would not, in my view, cause unreasonable nuisance impact to adjoining properties for the following reasons:

1. “Local Shops” of less than 150m² total gross floor area are listed as an “acceptable” form of development in the Service Centre Zone;
2. The site adjoins an existing landscape supply centre, situated at the corner of West Terrace and Egerton Street, also within the Service Centre Zone;
3. The site fronts the main road (Egerton Street) in and out of Blanchetown;
4. The site is situated on the western edge of the township;
5. The items to be sold and the activities carried out on-site will not have any unreasonable impact in terms of noise;
6. Land immediately to the north of the subject land is vacant.

Accordingly, in my opinion, I believe the proposal will comply with the noise limits contained in the *Environment Protection (Noise) Policy 2007*.

Vegetation Impact

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 site is wholly cleared of native vegetation on the site. Despite this, the applicant has identified the location for raised garden beds of 300mm higher than the car parking surface and 500mm wide garden beds running along the side boundaries of the land.

The applicant has confirmed that the garden beds will be planted with native revegetation species suited to the sandy soils in the area, as recommended by the Mid Murray Local Action Planning Project Officer.

Overall, the area dedicated to landscaping is considerable and can visually improve the site, which is currently not able to be seen from Egerton Street, due to it being screened by a 1.8m high fence.

Appearance of Development

Council-wide Objective 15 states that:

Objective 15: *Amenity of localities not impaired by the appearance of land, buildings and structures including landscape.*

I acknowledge that no additional built form is proposed in this application. Despite this, in my view, the proposed development will result in some change to the appearance of the subject land.

In my view, the site is quite prominent given that it is one of the first properties flanking the main road (Egerton Street) into Blanchetown. Therefore, development on the subject land should be neat and tidy and orderly in appearance.

The site layout submitted by the applicant proposes the delineation of new garden beds to be planted with native species suited to the area. Between the raised gardens beds, a designated driveway area and car parking spaces will be constructed of a hardstand compacted surface of 75mm scalps.

In addition, the existing 1.8m high Colorbond fence positioned on the roadside boundary will be removed to enable views into the subject site. The existing building will also be improved externally by the erection of a bull-nose verandah, approved by Council under a separate Development Application to the front of the building.

In short, the proposed development will improve the appearance of the site by removing an existing 1.8m high fence, landscaping the site within defined garden beds, creating an unsealed but formed driveway and building a verandah to the front of the existing blank wall facing Egerton Street.

To ensure that the site is not used to store excess landscape supplies within open areas on-site or to store other materials, junk, rubbish or the like out in the open, I recommend that a condition be imposed requiring that the open portion of the site (south of the existing building) remain uncluttered at all times.

Signage

The applicant is aware that any freestanding sign or sign erected above the verandah or fascia line of the existing building constitutes “development” and requires Council Approval. Under Schedule 3 of the *Development Regulations 2008*, clause 1(e) sets out the criteria by which signage are exempt from Approval as follows:

- (e) *other than within the City of Adelaide, that is displayed on a building or a building in separate occupation (other than the side or rear walls of the building) used primarily for retail, commercial, office or business purposes, subject to the following conditions:*
 - i. *that the advertisement is not displayed or erected above any verandah or the fascia of a verandah or, in a case where there is no verandah, that no part of the advertisement is more than 3.7 metres above ground level; and*

MID MURRAY COUNCIL – DEVELOPMENT REPORT
9.2 DEVELOPMENT APPLICATION 711/377/10 – A SMITH

ii. that the advertising display –

- (A) does not move; and
- (B) does not flash; and
- (C) does not reflect light so as to be an undue distraction to motorists; and
- (D) is not internally illuminated.

If the applicant obtains Development Approval, he will be able to fix signage to the front of the building, subject to the condition that it is not displayed or erected above the verandah and where the signage does not move, flash, reflect light or illuminate light.

The applicant has confirmed in writing that a future Development Application will be submitted for a freestanding sign, positioned adjacent the Egerton Street boundary of the subject land. It is understood that this sign will display the Lucky 7 branding, match with other signage on-site and be no higher than the existing buildings in the locality.

In short, the applicant has the right to erect signage to the front of the building, once Development Approval has been issued to use the building as a shop. Any other signage will require a separate Development Application and their design, height and bulk can be considered at this time.

Car Parking

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)

Six standard car parking spaces of 5.5m long by 2.5m wide are proposed, and a loading bay and disabled car parking space of 5.5m long by 3.8m wide. Therefore, a total of 8 car parking spaces will be provided, divided into two rows of four 90 degree angled car parking spaces, positioned either side of the 8m aisle.

Table MiMu/1 of the Mid Murray Council Development Plan contains a list of car parking rates which should be satisfied for different types of land uses. While this table is out of date, it is still a relevant table for the purposes of assessment of this Development Application. Under the heading “shop”, Table MiMu/1 states that:

<i>Shop (excluding restaurant)</i>	<i>One per 15m² of total floor area</i>
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The proposed development will have a total gross floor area of 140m², but this also includes 32m² of verandah area that may contain outdoor café tables. If the verandah is included in the total floor area, then the development should provide a total number of 9.3 car parking spaces (rounded up to 10). This results in a shortfall of 2 spaces.

MID MURRAY COUNCIL – DEVELOPMENT REPORT
9.2 DEVELOPMENT APPLICATION 711/377/10 – A SMITH

However, if the verandah is excluded from the calculation, then the total floor area is 108m² and the development should then provide a total number of 7.2 car parking spaces (rounded up to 8). The proposed development would then satisfy the required number of spaces under the Development Plan, assuming the loading bay is included.

I appreciate the proposed development only provides 8 on-site car parking spaces, two of which are set aside as a loading bay and a disabled car parking bay. Despite this, I consider the proposed number of spaces to be adequate to service the proposed development because:

1. The site is likely to be used predominantly by customers purchasing a few essential items like bread and milk. As a result, the turnover of the car parking spaces is expected to be high.
2. The times at which the car park will be full are expected to be infrequent.
3. Historically, the car parking rate for a shop (1 space per 15m²) has been excessive and in my experience, traffic engineers have often argued that a lesser car parking rate is acceptable for particular types of retail development.
4. The Egerton Road verge is cleared and available to accommodate additional on-site car parking in peak demand times.
5. The reduced number of spaces is offset by raised landscaped beds which will enhance the appearance of the site but are also required to accommodate the soakage trench needed to comply with the *Public & Environmental Health Act 1987*.

With this in mind, the number of on-site car parking spaces is considered to be acceptable.

Vehicular Access

Council-wide Principle of Development Control 18 states that:

- 18** *Development should include an appropriate provision on the site to enable the parking, loading, unloading, turning and fueling of vehicles and pedestrian or cycle movement in a safe and convenient manner. Shared parking areas or sites located elsewhere other than on-site should only be provided where such an arrangement is to the benefit of the community.*

The applicant proposes an 8m wide aisle from Egerton Street which will be constructed of 75mm compacted scalps. On either side of the aisle, a row of four car parking spaces is proposed, three of which will be conventional car parking spaces, a loading bay (on one side) and disabled bay on the other. The spaces will also be constructed of scalps.

From my review of the submitted site plan, there is sufficient area on-site for manoeuvring to enable vehicles to safely enter and reverse from the car parking spaces, loading bay and disabled car parking space. In addition, the aisle width, and the dimensions of the car parking spaces satisfies Australian Standard 2890.

MID MURRAY COUNCIL – DEVELOPMENT REPORT
9.2 DEVELOPMENT APPLICATION 711/377/10 – A SMITH

The loading bay is of a location and dimensions which will enable a light van or truck to deliver items to the site. To ensure that this bay is set aside for this purpose, it is recommended that a condition be imposed, requiring that this loading bay be clearly identified as a “loading bay only”.

It is clear that the internal driveway and loading bay is not capable of being used by any vehicle larger than a light truck (ie. drinks truck). However, the applicant has put forward a proposal for larger delivery trucks to either park within the adjoining site (landscape supply centre) or within the Egerton Street road verge.

The use of adjoining land for the loading and unloading of products to this site is not appropriate, given that ownership of the two land parcels could be separated in the future. While it is not ideal, the infrequent use of the Egerton Street road verge for deliveries by larger trucks may be acceptable due to the verge being wide in this location.

The proposal is considered to be a logical, safe and convenient layout which permits safe and convenient car parking, access and egress to/from the site. In addition, the delivery of items purchased by the owners in their light van can occur within the driveway area and larger trucks can park on an infrequent basis within the Egerton Street road verge.

Traffic Generation

Council-wide Principle of Development Control 15 states that:

- 15** *Development liable to generate traffic volumes which cannot safely and conveniently be accommodated on the existing or proposed road system should not be undertaken.*

The subject site is adjacent the main thoroughfare in and out of Blanchetown, connecting to the Sturt Highway. Due to the limited gross floor area of the shop and the limited number of staff to be employed, the business is not expected to generate a considerable number of additional traffic movements, relative to other businesses in the town.

In my opinion, the proposed development will not alter the nature or function of Egerton Street in terms of the number of additional traffic movements. It may increase the number of short trips within Blanchetown to purchase convenience goods but this would not be substantial. Overall, I believe Egerton Street is capable of handling the small amount of additional traffic because:

1. It is sealed along it's full length;
2. It is the main thoroughfare in and out of Blanchetown;
3. It is straight and has clear lines of sight in either direction to enable safe access and egress to/from the site.

Given all of the above, the proposal is considered to satisfy Council-wide Principle of Development Control 15 quoted above.

MID MURRAY COUNCIL – DEVELOPMENT REPORT
9.2 DEVELOPMENT APPLICATION 711/377/10 – A SMITH

Waste

The applicant has confirmed that cartons used to deliver goods and products to the site will be used to repack sold items delivered personally to customers. Given this, the Applicant believes that two wheelie bins will be adequate to cater for the small amount of rubbish generated, which can be collected regularly by garbage truck.

An internal discussion with Environmental Services staff has revealed that two wheelie bins is not adequate to cater for the amount of waste generated. The business will generate a significant amount of food waste including scraps, cartons, food and veg waste etc. which must be disposed of into a receptacle of adequate capacity.

Given this, I recommend that a condition be imposed requesting that a waste receptacle of commercial capacity be available at all times and that it be collected regularly from the site. I also recommend that a second condition be imposed requesting that the waste receptacle be screened from view.

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

CONCLUSION

The proposed development, being a “shop” as defined under Schedule 1 of the *Development Regulations 2008* of less than 150m² in gross total floor area is clearly envisaged within the Zone. Where non-residential development is proposed such as a shop, it should not unreasonably impact on the residential amenity of the locality. In my opinion, the shop will not unreasonably impact on the amenity of adjoining land, taking into account the nature of the business, operating hours, number of staff, deliveries etc.

This report has concluded that the proposed development warrants Development Plan Consent on the basis that it adequately addresses a range of planning concerns of the Mid Murray Council Development Plan relating to land use, appearance of development, revegetation, effluent disposal, car parking, vehicular access, traffic impact, signage and off-site impacts (noise).

RECOMMENDATION

moved that pursuant to Section 35(2) of the Development Act 1993, the proposed development is not “Seriously at Variance” with the relevant provisions of the Mid Murray Council Development Plan (Consolidated 29 April 2010) and that pursuant to Section 33(1)(a) of the Development Act 1993 Development Plan Consent be granted to Development Application 711/377/10 subject to the following conditions and notations:-

Conditions

- 1. The development shall be carried out in accordance with the details submitted with the Application and the following approved plans, other than where required to be varied by conditions 2-12 inclusive:**

Plan Number	Plan Type	Dated	Prepared By
Not Stated	Site Plan	Received by Council dated 25.11.10	Allan Smith
Not Stated	Internal Floor Layout	Received by Council dated 05.11.10	Allan Smith

2. The business shall operate only between the hours of 7:00am and 7:00pm.
3. No more than two (2) staff members (including the owners) shall work on the subject land at any one time, in accordance with the email from Allan Smith, dated 4 November 2010.
4. An internal driveway (aisle) of 8m wide shall be constructed of 75mm compacted scalps, from the Egerton Street property boundary up to the southern edge of the existing building (including the verandah attached to it), as shown on the Approved Site Plan, prepared by Allan Smith, received by Council dated 25 November 2010. The driveway shall be constructed prior to commencement of use and shall be maintained in good and useable condition thereafter.
5. Eight (8) on-site car parking spaces shall be provided, as shown on the Approved Site Plan, prepared by Allan Smith, received by Council dated 25 November 2010 and shall be designed and constructed prior to commencement of use as follows:
 - a) Six (6) visitor car parking spaces shall be provided, having dimensions of 2.5m wide by 5.5m long; and
 - b) One (1) loading bay shall be provided, having dimensions of 3.8m wide by 5.5m long; and
 - c) One (1) disabled car parking space shall be provided, having dimensions of 3.8m wide by 5.5m long; and
 - d) The loading bay shall be clearly identified in a prominent way that it is for “loading bay only”; and
 - e) The disabled car parking space shall be clearly identified in a prominent way that it is for disabled car parking only; and
 - f) The base of the car parking spaces shall be constructed of 75mm compacted scalps; and
 - g) All car parking spaces shall remain available for this purpose at all times.
6. Any security lighting displayed on the subject land shall be designed so that no unreasonable light overspill transfers onto adjoining privately owned land.
7. The storage or display of materials, products, items, equipment, goods and the like shall not occur on the subject land south of the southern external wall of the existing building to ensure that the site is kept in a neat and tidy manner at all times.

- 8. Landscaping beds shall be created in accordance with the Approved Site Plan, prepared by Allan Smith, dated 25 November 2010. The landscaping beds shall be densely covered with native species contained in the Schedule “Revegetation Species on Sandy Sites”, prepared by the Mid Murray Local Action Planning Association within 3 months of the commencement of use and maintained in good health and condition thereafter. Any dead or diseased plants shall be replaced.**
- 9. A waste receptacle of commercial capacity shall be available on the subject land at all times. The waste receptacle shall be regularly emptied and cleaned to avoid the attraction of vermin and emission of offensive odours.**
- 10. A bin storage area shall be provided in accordance with the Approved Site Plan, prepared by Allan Smith, dated 25 November 2010. The bin storage area shall be screened in accordance with the same Approved Site Plan so any waste receptacle contained inside the area is not visible to the public.**
- 11. A unisex toilet designed in accordance with Australian Standard 1428.1 and approved under the Building Code of Australia and on-site effluent disposal system approved under the *Public & Environmental Health Act 1987* shall be provided on the subject land prior to commencement of use and made available to staff and customers at all times during operating hours.**
- 12. The existing 1.8m high Colorbond post and rail fence, positioned on the Egerton Street boundary of the site shall be removed in accordance with the email from Allan Smith, dated 4 November 2010 prior to commencement of use.**

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 any 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. 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.**
- 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.**
- 6. 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.**
- 7. The preparation of food and sale of food and drinks from the premises will require approval under the *Food Act 2001*. If you have any questions regarding this legislation, please contact Council's Manager – Health Services at the Cambrai Office on 8564 6020.**
- 8. The applicant is reminded of its general environmental duty, as required by Section 25 of the Environment Protection Act, to take all reasonable and practicable 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.**
- 9. The use of the subject land for the purposes of a shop is subject to the provisions of the *Environment Protection (Noise) Policy 2007*. The applicant is advised to refer to the *EPA Guidelines for the Use of the Environment Protection (Noise) Policy 2007* (June 2009), available at: <http://epa.sa.gov.au>.**

- 10. The “toilet block including staff toilet, client uni-sex toilet and garden store room”, shown on the Approved Site Plan, prepared by Allan Smith, received by Council dated 25 November 2010 does not form part of this Development Authorisation. Accordingly, you will need to submit a separate Development Application to Council for this building.**

- 11. 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.**

- 12. The display of any advertisement on the subject land will constitute “development” and require Council Approval except where it is displayed or fixed to the front of the building, subject to the following conditions:**
 - a) that the advertisement is not displayed or erected above any verandah or the fascia of a verandah; and**
 - b) that the advertising display –**
 - (A) does not move; and**
 - (B) does not flash; and**
 - (C) does not reflect light so as to be an undue distraction to motorists; and**
 - (D) is not internally illuminated.**

Seconded

MID MURRAY COUNCIL – DEVELOPMENT REPORT

9.3 DEVELOPMENT APPLICATION 711/290/10 – JBG ARCHITECTS

Reporting Officer: Jennifer Brewis

Development No. 711/290/10
Applicant JBG Architects
Subject Land Lot 899 of FP209275, Part Section 252,
Stonefield Road, Stonefield, Hundred of Anna
Proposal Glider Hangar, Clubroom with Associated
Amenities and Taxi Strip

INTRODUCTION

An application was lodged with Council on 10 August 2010 for the construction of a glider hangar, clubroom with associated amenities and taxi strip to be located at an existing glider airfield.

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

SUBJECT LAND

The development will be located on land identified as Lot 899 of FP209275, Part Section 252, Stonefield Road, Stonefield, Hundred of Anna as contained in Certificate of Title Volume 5564 Folio 157.

The site has frontage to two existing gravel roads, Stonefield Road and Old Railway Road. The existing site access is from Stonefield Road. This road provides all weather road access.

The site is level land with a scattering of vegetation along the property boundaries. This is similar to nearby agricultural land and other airfields within the locality.

The site has an existing airstrip and associated hangars.

DESCRIPTION OF PROPOSAL

The proposal is for a glider hangar, clubroom with associated amenities and taxi airstrip.

The hangar will have the capacity to house 12 gliders. The existing airstrip utilises a winch system to enable the gliders to become airborne.

The building will have a wall height of 3.82 metres and total height of 5.46 metres. The building will be 15.6 metres wide and 105 metres long.

The building will be constructed from Colourbond with the roof being in Shale Gray and the walls Surf Mist.

The taxi strip will lead from the new hangar to the airstrip. It will be constructed from compacted material.

The clubroom and associated amenities are located within main hangar building.

NATURE OF THE LOCALITY

The Stonefield Lutheran Church is located on the corner of Stonefield Road and Old Railway Road.

There is a private dwelling located next to the Church with frontage to Old Railway Road.

The surrounding land is primarily utilised for cropping and associated residential dwellings.

REFERRALS

As the proposed hangar will increase the number of gliders utilising the airstrip beyond 2,000 flight movements per year and is located within 3 kilometres from a residential premises the application was referred to the Environment Protection Authority pursuant to Schedule 22, 8, (1) (a) & (b) of the Development Regulations, 2008.

A copy of correspondence from the Environment Protection Authority and the final response received is attached.

The Environment Protection Authority response covers issues of dust, noise and water quality. Overall the EPA conclude the additional usage of the airstrip will have an acceptable level of impact upon the nearby residents.

PUBLIC NOTIFICATION

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

There was one representation received at the conclusion of the public notification period. It raised concerns relating to dust nuisance and visual impact upon the rural landscape.

The applicants provided an amended plan in response to the representation to include a landscaped strip near the road side boundary.

RELEVANT PROVISIONS OF THE MID MURRAY COUNCIL DEVELOPMENT PLAN

Council Wide

Objectives: 1, 15 & 55

Principles of Development Control: 5, 15, 16, 27, 34, 35, 40, 43, 188 & 189

Rural Zone

Objectives: 5, 14, 15 & 20

Principles of Development Control: 1, 3, 4, 12, 18, 19 & 22

Murray Plains Policy Area

Principle of Development Control: 1

ASSESSMENT

Amenity and Character

The existing character is of dry land cropping with patches of scrub. Each farm holding has several large sheds associated with agricultural uses. The proposed shed will have an area greater than a normal agricultural shed and will be constructed from Colourbond where farm buildings are usually constructed from zincalume

A representation was made surrounding the impact of the shed upon the rural landscape character. In response to this the applicant has agreed to screen the building with a vegetation buffer by the road side. The building is also located near existing built form upon the site. This will reduce the buildings visibility from the road side and maintain the rural landscape.

The proposed hangar will increase the number of gliders stored upon the site which in turn increases the level of non rural related built form upon the land. The building will not increase the area used for a non rural activity nor will it increase land use conflict between the rural activities and the airfield.

The site is not visible from a scenic route and in my opinion will not impact upon the locality's overall rural character.

Dust

The adjoining land owners' representation mentions issues relating to dust produced from the use of the airstrip.

The Environment Protection Authority mentions in their report that to reduce dust they recommend vehicle movement be restricted to 15 kilometres per hour. This has been recommended in an Environment Protection Authority notation.

The nearby roads, Stonefield Road and Old Railway Road are all unsealed roads. The use of the unsealed roads by the public is not restricted in this manner so dust nuisance from the roads will still be a problem for the representor. Taking into account the Environment Protection Authority response and the location of nearby dirt roads and the low usage of the site the increase in dust will have a minor impact upon the representor.

The applicant was asked to plant vegetation along the eastern boundary between the runway and the dwelling. It was mentioned they may discuss this with the Gliding Club however it is beyond their lease site and therefore their capability to agree to the planting of vegetation without the glider clubs permission to do so.

Noise

The applicants provided an acoustic report which estimates noise to be below Environment Protection Authority requirements. The proposed development will increase the occurrence of noise created upon the site but not the level. The representor did not raise concerns in relation to noise.

MID MURRAY COUNCIL – DEVELOPMENT REPORT

9.3 DEVELOPMENT APPLICATION 711/290/10 – JBG ARCHITECTS

Access

The proposed hangar will increase the number of people accessing the site. The main road to the airfield is an unsealed all weather road.

The applicant has advised people utilising the new hangar will use the existing car parking and access area. No additional car parking is proposed as part of the development.

The car parking area and site access are considered suitable for the number of people using the site.

Bushfire Provisions

The shed site is located in the General Bushfire Risk Area. The applicant confirmed in a response to my initial enquiry that the new hangar will not be used for overnight accommodation. The building will maintain suitable setbacks from hazardous vegetation.

The application has been sent to the CFS for comment as part of the Building Rules Assessment. At this stage the applicant is still negotiating with the CFS about appropriate fire fighting requirements for tank sizes and location. This means the plans referenced in Condition 1 may be altered to accommodate building bushfire requirements.

CONCLUSION

The building will be in association with an existing non rural use of the land. The building will not reduce the usability of adjoining land for agricultural purposes.

The construction of the hangar will increase the usage of the site and aircraft movements. This may generate additional dust and occurrence of noise however this is considered to be of an acceptable level and minor when compared to the sites location.

Overall the development will have a minor impact upon the locality and is supported.

RECOMMENDATION

moved that pursuant to Section 35(2) of the Development Act 1993, the proposed development is not “Seriously at Variance” with the relevant provisions of the Mid Murray Council Development Plan (Consolidated 29 April 2010) and that pursuant to Section 33(1)(a) of the Development Act 1993 Development Plan Consent be granted to Development Application 711/290/10 subject to the following conditions and notations:-

Conditions

- 1. Other than required to be varied by the following conditions (and where needed to be varied to meet the bushfire requirements of the Building Code of Australia) the development shall be completed in accordance with the following approved plans and details:-**

Plan Number	Plan type	Dated	Prepared By
001 RO1 2010339	Acoustic report	15 November 2010	MARSHALL DAY Acoustics
A.001	Block Plan	09.07.10	JBC Architects
A.002	Site plan	18.10.10	JBC Architects
A.101	Floor Plan	09.07.10	JBC Architects
A.201	Elevations	09.07.10	JBC Architects

2. 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.
3. All exterior surfaces of the building/structure are to be of non-reflective materials, (factory applied colour coated steel or equivalent), as shown in the elevation detail date 09.07.10.
4. The development shall be screened by landscaping in accordance with the site plan date 18.10.10 submitted to Council. All plants, shrubs and trees shall be planted within four months of practical completion of the structure and watered and maintained thereafter with any diseased or dying plants being replaced.

Conditions as required by the Environment Protection Authority

5. The development must be undertaken according to the plans and specification provided with Development Application 711/290/10, including:
 - the report by Russell Consulting Engineers, dated 10 September 2010
 - use of a Tost Dotrowi 05 launch winch powered by a BMW V8 motor with muffler.
6. The septic tank and soakage trenches must be protected from vehicle damage by suitable barriers that restrict vehicles passing over them or standing on them. These barriers must be installed immediately following the installation of the septic tank and trenches.
7. All litter and wastes produced as a result of erecting the hangar and amenities must be contained in bins or rubbish skips for subsequent removal to a licensed waste depot.

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 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.**
- 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.**
- 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.**

Notations as required by the Environment Protection Authority

- 7. The applicant is reminded of its general environmental duty, as required by Section 25 of the Environment Protection Act, to take all reasonable and practical measures to ensure that the activities on the whole site, including during construction, do not pollute the environment in a way which causes or may cause environmental harm.**
- 8. To reduce the risk of dust impacting on the neighbouring residents to the south west, it is recommended that when winds are from the north around to the east, cars not exceed 15 kilometres per hour when driving within 150 metres of the nearest house in the south west corner.**

MID MURRAY COUNCIL – DEVELOPMENT REPORT

9.3 DEVELOPMENT APPLICATION 711/290/10 – JBG ARCHITECTS

9. 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

9.4 DEVELOPMENT APPLICATION 711/250/06 – WV BROMLEY

Reporting Officer: Jennifer Brewis

Development No. 711/250/06
Applicant WV Bromley
Subject Land Lot 78 of DP53187, Section 171, Pelde Street,
Punyelroo, Hundred of Fisher
Proposal Time Extension of Development Authorisation
711/250/06 for a Dwelling

INTRODUCTION

Development Application 711/250/06 for a dwelling gained Full Development Approval on 31 July 2006. A copy of the Decision Notification Form and approved plans are attached for information.

Three time extensions have been sought and approved since the application gained Development Authorisation. A copy of the requests and time extension are attached for information.

The last time extension lapsed on 31 July 2010. An application to once again extend the Development Authorisation was received by Council on 27 August 2010 (attached). A letter seeking the extension of time application fee and issues relating to this time extension was posted to the applicant on 30 August 2010 (attached) which was responded to on 14 October 2010.

There are two components to the Development Authorisation, the Development Plan Consent and the Building Rules Consent. The Panel's decision will only relate to the Development Plan Consent component of this decision.

SUBJECT LAND

The subject site is identified as Lot 78 of DP53187, Section 171, Pelde Street, Punyelroo, Hundred of Fisher, as contained in Certificate of Title Volume 5849 Folio 847. The site is located in the Shack Settlement Policy Area of the River Murray Zone as defined in the Mid Murray Development Plan Map MiMu/106.

The site is located within the 1956 flood boundary.

There is an existing single storey dwelling upon the site.

REFERRALS

No referrals are required for time extensions pursuant to Schedule 8 of the Development Regulations 2008.

PUBLIC NOTIFICATION

The time extension application does not require public notification.

ASSESSMENT

The application is for the time extension. Previous Court decisions confirm that the merits of the built form cannot be readdressed or looked into when a time extension application is being considered.

MID MURRAY COUNCIL – DEVELOPMENT REPORT
9.4 DEVELOPMENT APPLICATION 711/250/06 – WV BROMLEY

The decision of Parry & Anor v City of Holdfast Bay [2007] clearly sets out the factors a relevant authority must consider when determining if a request for time extension should be approved or refused:-

- Reasons for Inability to Commence

The latest letter from the applicant states that they have moved from the building and are looking at using it as an investment property.

Attached is an advertisement printed from River Estates First National website which shows this property is For Sale.

It appears the applicant has no intension of constructing the approved dwelling. In the case of Hall & Anor V City of Burnside & City Apartments Pty Ltd [2005] the extension of time application was partly refused based on the evidence the applicant was shown to have no intention of constructing the approved development. In this case due to the property being on the market it is assumed the applicants do not intend to construct the building but are using the approval as a sale point for future purchasers of the site.

- Delay in Seeking Extension of Time

The request to extend the authorisation was received on the 27 August 2010. This is under one month from when the previous extension expired. This is a reasonable timeframe from the extension expiring and the request.

However, it should be noted Full Development Authorisation was gained in 2006. No works have commenced on site to enable the construction of the proposed building. Four years from the date of approval is not considered to be a reasonable time frame.

- Legislative Change

There have been several amendments relating to the Development Act and Regulations since the time of the applications lodgement. These would impact upon the processing of the application.

- Changes to the Development Plan

Since the lodgement of this application there have been four Development Plan Amendments.

The most recent on these occurred on 29 April 2010 for the Ministerial Bushfires Development Plan Amendment. This has altered how dwellings in shack settlements are assessed and increased requirements on dwellings within these areas.

- Built Form in Surrounding Locality

The locality's built form has not significantly altered from when the application was originally assessed.

- Prejudice to Public Interest

The original application did not require public notification. There will be no prejudice to the public should the extension be granted.

MID MURRAY COUNCIL – DEVELOPMENT REPORT
9.4 DEVELOPMENT APPLICATION 711/250/06 – WV BROMLEY

Building Rules Assessment

The engineering plans approved as part of this application were dated 2002, it is now 8 years later and these engineering plans have expired. There have also been numerous changes to the Building Code of Australia since the applications approval.

Council's Assistant Building Surveyor advised the Building Rules Consent for this authorisation can not be granted a time extension for the above reasons.

CONCLUSION

The delay from the original operative date of the application until present is not considered to be of a reasonable timeframe. From the Real Estate sale documentation it can be reasonably assumed the applicants do not intend to construct the dwelling.

There have been legislative and Development Plan Amendments which impact upon the processing of applications and the requirements of dwellings in shack sites.

RECOMMENDATION

moved that pursuant to Section 40(3) of the Development Act 1993, the application for an extension of time for Development Plan Consent of Development Authorisation 711/250/06 be refused for the following reasons:-

- **there has been an unreasonable lapse of time from the date of Full Development Authorisation;**
- **policy changes within Council's Development Plan;**
- **legislative changes have occurred since Full Development Authorisation was granted.**

Seconded

Kelvin Goldstone
Director – Development & Environmental Services