AGENDA

COUNCIL ASSESSMENT PANEL MEETING

16 DECEMBER 2019
at 13:30pm
KANGAROO ISLAND COUNCIL

NOTICE is hereby given that a Development Assessment Panel Meeting is to be held at the Kangaroo Island Council Chambers, Dauncey Street, Kingscote on Monday, 16 December 2019 at 1:30pm.

Greg Georgopoulos
Chief Executive Officer
AGENDA

1.0 APOLOGIES
NIL

2.0 CONFLICT OF INTEREST DECLARATION
NIL

3.0 REPRESENTATIONS
NIL

4.0 CAP MINUTES OF MEETING HELD 1 JULY 2019 (YELLOW PAGES)
That the Minutes of the Council Assessment Panel Meeting held on 1 July 2019 be confirmed.

5.0 BUSINESS ARISING FROM MINUTES OF 1 JULY 2019
Nil

6.0 DEVELOPMENT SERVICES DEPARTMENT REPORTS
Chairperson and Panel Members, the following reports are submitted to the 9 December 2019 Council Assessment Panel Meeting.

RECOMMENDATION
That the Development Services Department Reports be received.

7.0 DEVELOPMENT SERVICES DEPARTMENT APPLICATIONS
JUNE - NOVEMBER 2019
Register of Planning and Building applications report tabled for Development Assessment Panel information.

RECOMMENDATION
That the report detailing applications approved and / or being processed under delegated authority by the Development Services Department be received and noted.

8.0 APPLICATIONS REQUIRING COMMITTEE DECISION
Individual reports are attached hereabouts for committee decision.
### ITEM 8.1

**APPLICATION NO.** 520/D004/19

**DEVELOPMENT DETAILS** Non-Complying Land Division, 1 Allotment into 2 Allotments, within the Coastal Conservation Zone.

**Applicant** Mr. R. Hartley  
c/- Weber Frankiw & Associates P/L  
178 Main Road  
McLaren Vale SA

**Owner** Mr. R.E.R. Hartley  
15 Grand View Avenue  
5171Urrbrae SA 5064

**Site Address** Allotment 105 DP12638, Muston Road, Muston, Hundred of Haines.

**Property Details** Certificate of Title Volume 5282 Folio 685

**Zone** Coastal Conservation Zone, Map Kl/13.

**Public Notification** Non-Complying, Category 3 form of development – Full Public Notification undertaken. Two (2) representations received (one further representation was withdrawn by its author).

**Application Date** 29 May 2019

**Relevant Development Plan** **Consolidated 17 September 2017**

**Department** Development and Environmental Services  
Aaron Wilksch  
Development Services Manager

**Issues Summary** Non-Complying Development – Delegated Authority to Council’s Assessment Panel.

The proposed development purports division of land to separate the existing dwelling and portion of land from the more recently established tourist accommodation.

A New Land Management Agreement is proposed to preclude fencing of land and to preclude further division of land on the basis of proliferation and precedent for further division.

The proposed Land Division is at variance with the zone land division provisions.
BACKGROUND

A comparable application was lodged in 2016 for the division of the subject land, which was supported by Council’s Assessment Panel, but ultimately refused by the Commission.

The applicant has lodged a new ‘Non-Complying’ application with the Commission on 29 May 2019 for division of land within the Coastal Conservation zone.

The required Statement of Support (Combined Statement of Support & Effect) was provided by URPS planning consultants upon lodgement, pursuant to Regulation 17 (1) of the Development Regulations 2008. This statement outlines the nature of the proposal and the considered merits of the proposal. The Statement also provides legal interpretation of the proposed division in respect of a number of factors including case law and interpretation stemming from it.

With consideration of the Statement of Support & Effect dated 27 May 2019, the application was resolved under delegated authority, on 8 August 2019, to proceed with assessment of the Non-Complying development application under Regulation 17 (3) (b) of the Development Regulations 2008.

The Combined Statement of Support & Effect provided at lodgement satisfies the requirements of Regulation 17 (4) and the applicant’s revised Land Management Agreement pursuant to Section 57A of the Act was provided also for the purpose of Category 3 Public Notification.

The application has proceeded through all statutory planning processes and accordingly the application is prepared for presentation to the Council Assessment Panel.

SUBJECT LAND AND LOCALITY

The subject land in this proposal is identified as Allotment 105 DP12638 Muston Road, Muston, Hundred of Haines, identified in Certificate of Title Volume 5282 Folio 685.

The subject land is located north-by-north-west of the Muston Road / Hog Bay Road intersection, west of the shores of Pelican Lagoon and north of Prospect Hill landmarks. The land is a composite of sandy and rocky limestone terrain, typically demonstrating coastal characteristics including coastal vegetation.

The land exhibits coastal landscape qualities shared by vast areas of Pelican Lagoon and south Coast KI, particularly shared in the surrounding locality.

The land is considered to be somewhat elevated amongst its surroundings, particularly giving way to Pelican Lagoon to the northeast, though in contrast to Prospect hill to the south, the land remains far more concealed in the landscape.

The land is in the order of 37.25 Ha in total area, currently for both private residence, (dwelling and shed established approximately 1985) and more recently, tourist accommodation established approximately 2012.
A 20.12 metre wide easement crosses the south-west corner of the land, appurtenant to the *Electricity Trust of South Australia* for transmission of power. There are no other encumbrances or existing Land Management Agreements on the subject site.

The subject land is located wholly within the Coastal Conservation Zone. Land bordering the site to the west is zoned Primary Production. The subject land is contained in Map KI/13 of the Kangaroo Island Development Plan. The site is identified in the following maps and images:


PROPOSAL

The Development Application seeks Development Plan Consent and Land Division Consent for the division of 1 allotment into 2 allotments, separating the long established dwelling and domestic garage (circa 1985) from the more recently established tourist accommodation (2012).

The resulting allotments are proportioned 12.93 Ha in proposed Lot 20, containing the dwelling and domestic garage in the northern portion of the land and obtaining 227.19 metres frontage to Muston Road, and Proposed Lot 21, at 24.48 Ha, occupying the southern portion of the land containing the existing tourist accommodation building, with frontage exceeding 1516 metres to both Muston Road and Hog Bay Road.

Both allotments attain existing access to Muston Road and avoid access to Hog Bay Road, a DPTI controlled road. Resulting allotments are somewhat unconventional in shape, however, reasonable effort has been made to avoid disrupting native vegetation with logical recognisable boundary alignment coinciding with existing driveways and the borders of native vegetation.

The proposal is accompanied by an LMA pursuant to Section 57A which will need to be considered by Council with the specific intent of restricting any further division of land, no internal boundary fencing and no further tourist accommodation will be established on the resulting allotments (if approved).

The intention of the Proposed LMA being to amend / replace the provisions of the formerly approved LMA (2016) and to confirm the applicants intent to mitigate any additional impact or intensification of use upon the land.

NOTE: an LMA is not assessed as a planning matter, it does not absolve the Planning Authority of applying the provisions of the Development Plan, and forms a separate and additional tool for the management of land. The LMA must be agreed by Council (as a governing body) for the agreement to have any effect upon the land.

Differences to previous proposal:
The proposal is substantially the same division as previously lodged in 2016: the proposed dividing boundary assumes generally the same alignment, however introduces slightly altered alignment and additional boundary segments, to be positioned closer to the northern (dwelling) driveway alignment, which accords the former advice of the Native Vegetation Council in 2016.

The Land Management Agreement which accompanies the application is intended to replace the existing endorsed LMA which exists for the property. The new LMA is intended to replace the existing LMA, and must, if successful go to Council for consideration.

It is considered best that the planning considerations be made before CAP and if successful through CAP and the Commission, that the LMA can be considered by Council without any concern of it influencing the planning determination.

The proposed plan of division, and DRAFT LMA Document are provided in (Attachment A).
DETERMINATION OF APPLICATION, PUBLIC NOTIFICATION & OTHER STATUTORY REQUIREMENTS

Development Classification:
The Kangaroo Island Development Plan, Consolidated 17 September 2015, Map KI/13 indicates that the land lies wholly within the Coastal Conservation zone.

Within the zone, the Non-Complying list details that land division is a Non-Complying form of development except where either of the following apply: Except where:

(a) no additional allotments are created wholly or partly within the zone
(b) it results in allotments of greater than 2 hectares
(c) there is no increase in the number of allotments with frontage or direct access to the coast.

Accordingly the application is determined to constitute 'Non-Complying' development subject to (a) creation of an additional allotment within the zone.

On 8 August 2019, it was formally determined that the proposal demonstrated adequate merit to proceed, on the basis that the proposal presents:

• (consistent with the previous application) the proposal purports separation of the existing land uses i.e. the existing and highly operational tourist accommodation from the long existing dwelling, and
• On separating the strongly supported tourist accommodation land use from the residential use, still retains only one residential dwelling land use / allotment within the zone,

Accordingly it was resolved to proceed with a full assessment of the application pursuant to Regulation 17 (3) (b).

Statement of Effect:
The combined Statement of Support & Effect prepared provides a detailed assessment of the proposal, examining the proposal's relevance to the provisions of the Kangaroo Island Development Plan, as well as the social, economic and environmental effect of the proposed development.

The statement, in conjunction with the legal opinion (attachment 1) focuses upon the concept of planning harm and the effect of the proposal in this respect. The Statement of Effect uses this concept to not only illustrate that no harm is done by way of the development, but identifies that there will be three positive outcomes of the proposed development which are tangibly linked to the Kangaroo Island Development Plan’s pursuits, including:

• The resultant protection of all other native vegetation via the land management agreement (controlling no internal boundary fencing, no further land division),
• Survival of the successful tourist accommodation development, which is envisaged / supported in the zone / planning policy, and
• Substantially limited further development of the sites for further tourist accommodation development to reduce any further impact to the natural environment.

The Statement of Effect includes in Attachment 2, an Environmental Impact Assessment by Assoc. Professor Rob Thomas, to qualify that no damage in an environmental sense will occur as a result of the proposed development – thus is tangibly linked to the legal opinion in Attachment 1 of ‘no planning damage’ occurring as a result of the proposal.

The assessment identifies a history of environmental improvements on the land since its acquisition by the applicant from the early 1990’s onwards, including revegetation following the removal of livestock from the land. Aerial imagery from 1996 and 2018 provides a very clear indication of the renewal of native vegetation on the site.

The Statement of Effect also presents the Social, Economic and Environmental effects of the proposed development. It is noted that since its establishment of the tourist accommodation, the owners have developed and can demonstrate an admirable standard of occupancy and value return for the tourist accommodation which supports its independence from the residential portion of the property.

Whilst economics do not feature as a part of a development plan assessment, anecdotal evidence demonstrating the success of the development is an obvious representation of the achievement of the objectives of tourism development in the zone.

Limiting further future impacts of fencing or additional development on the proposed land parcels addresses the environmental effects of the proposal whilst retaining Status Quo in all other respects.

The Combined Statement of Support & Effect is contained in Attachment B.

Categorisation:
The proposed development was determined to constitute a Category 3 ‘Non-complying’ form of development, in accordance with Section 38 of the Act. The proposed development does not fall within the ambit of either Part 1 or Part 2 of Schedule 9 of the Development Regulations 2008.

PUBLIC NOTIFICATION
In accordance with the determined category of development, the application was placed on full Public Notification commencing 15 August 2019 through until 30 August 2019, by way of notices directly to adjacent land owners and occupiers of land and a notice published in The Islander Newspaper.

Two (2) representations were received by Council as a result of the public notification process. One further representation received was withdrawn by its author on 10 October 2019.

Representations:
Representations received on this application have some issues which need clarification to assure the panel is not misinformed about the land division:

The land division is Non Complying due to its creation of an additional allotment in the Coastal Conservation zone, however both representations incorrectly suggests that
the land is situated on the foreshore or with frontage or direct access to the coast of Pelican Lagoon, whereas the land is situated on the opposite side of Muston Road and therefore does not have direct access to the coast or coastal reserve.

Both representations indicate that the proposal sets a precedent for other similar types of land division. It is a long established doctrine of planning law that no application sets precedent, this is because every application has its own unique circumstances. Whilst there may be other instances where an application could present comparable factors, no precedent is set and approvals could not be guaranteed – favourable decision would be subject to comprehensive assessment, as it is in this current application.

One representation queries the validity of the proposed LMA in the context that it may be no deterrent to further development by a new owner. A Land Management Agreement, once established is binding upon all and any persons owning the land. LMA’s have often been criticised by some state agencies and Councils for being inadequate or inappropriate, however ‘good LMA’s’ with simple, unambiguous obligations do not present a legacy of enforcement / compliance for Councils. They are a recognised method of applying constraints to land uses within the available controls of the Development Act 1993 (and will continue under new PDI Act legislation also).

Representations received during Public Notification and the applicant’ response to representations are contained in Attachment C (Note the attachments exclude the representation which was withdrawn by its author).

REFERRALS AND AGENCY CONSULTATION
The application was not subject to any mandatory referrals pursuant to the Eighth Schedule of the Development Regulations 2008 noting that no access is proposed from the DPTI controlled Hog Bay Road, thus no DPTI Roads Referral.

Informal referrals were undertaken via the EDALA land division lodgement system, to the SA Water Corporation, SA Power Networks, SA Coast Protection Board and The Native Vegetation Council SA.

DEWNR SA Coast Protection Board:
The SA CPB provided its response on 23 July 2019, recommending refusal upon its variance to the Board’s policies on orderly development, creation of new allotments in coastal areas, protection of sensitive coastal landscapes & vegetation. The SA CPB Policies appear to have been amended since the previous application was assessed in 2016.

Orderly Development:
Of particular note are:

*Coast Protection Board Policy 1.5(b):*
“The Coast Protection Board opposes development, including land division, which is subject to coastal hazards or impact on areas of significance.

*Coast Protection Board Policy 1.5(d):*
“The Coast Protection Board opposes land division that increases the number of allotments abutting the coast, except where the subdivision is an orderly development of existing developed areas or concentrated into appropriately chosen nodes.
Policy Items 1.5(a), 1.6 and the material quoted from Appendix 3 are somewhat irrelevant as they respond to land uses and associated impacts, which in the context of the current proposal are already established.

Coastal protection policy 1.5b relates to land division in areas subject to coastal hazards. The CPB have indicated that the land is not subject to coastal hazards in its first paragraph under the heading *Coastal Flooding and Erosion*.

Coastal protection policy 1.5(d) regards the Board’s opposition to land division which creates additional allotments abutting the coast. The proposal, as foreshadowed earlier in the report, is proximate to the coast but neither procures an additional access or frontage directly abutting the coast, from which it is separated from Coastal reserve Lot 201 by Muston Road.

The proposal does not purport any further linear or scattered development, seeking land division consent only. Any further development would be subject to separate application as either Merit or Non-complying development and would (other than minor additions or alterations to existing buildings) be subject to further referral to the Board.

**Coastal Biodiversity and Native Vegetation:**
Of particular note is:

*Coast Protection Board Policy 1.5(b):*
“The Coast Protection Board opposes development, including land division, which is subject to coastal hazards or impact on areas of significance.

Reiterating the previous item, Coastal protection policy 1.5b relates to land division in areas subject to coastal hazards. The CPB have indicated that the land is not subject to coastal hazards in its first paragraph under the heading *Coastal Flooding and Erosion*.

*Coast Protection Board Policy 1.4(e):*
“The Board will seek to ensure that the siting and design of development on the coast minimises its impact on the environment, heritage and visual amenity of the coast.”

Coast protection policy 1.4(e) again relates to the expected impacts of establishing land uses. In this respect, the land division could impart impacts such as fencing and associated clearance, however the fencing of land is currently controlled by the existing LMA (established in 2016) and would be captured under the proposed amendment / replacement LMA submitted with this application and therefore mitigates any such impacts including any further development of the land.

Notably the Native Vegetation Council has not objected to the proposed boundary and is supportive of the LMA and its controls, with no internal fencing or associated clearance permitted, and therefore is not considered to jeopardise environment, heritage or visual amenity of the land or the locality.

Council acknowledges the approval for the existing tourist accommodation development and refers to the assessment of that development, including its referral to the Coast Protection Board and the careful consideration of siting, impact to land, vegetation and the landscape which was assessed at that time.
Other comments:
The Board’s assessment contends that the applicant’s reasoning for the proposed creation of separate allotments for each building, to:
(a) allow the current owners to remain on the site, and
(b) ensure the continuance of a successful tourist accommodation business, which “would otherwise have to close due to ill health”.
have no veracity, or relevance with respect to the assessment (against the Board’s policies).

However in a development plan / development legislation context, these reasons express in common language, the representation of allowing / preserving continuance of an existing land use, i.e. enjoyment of lawful & existing land use rights for the dwelling / residential land use, despite that form of development becoming inappropriate (non-complying) in the zone since 2010, and in respect of the continuance and success of a favourable form of development, the tourist accommodation, which is identified as an envisaged form of development and desirable land use outcome in the zone.

**DEWNR Native Vegetation Council:**
The NVC provided its response on the EDALA site on 12 August 2019, re-issuing their previous comments from 2016 - raising no objection generally to this subdivision providing 1) the eastern portion of the proposed boundary is more closely aligned to an access track and 2) the western portion aligns with the edge of remnant vegetation, and traverses adjacent direct-seeding and regenerating areas. NVB supports the agreement not to fence the boundary.

**SA Water Corporation:**
The SA Water Corporation provided its final response on 20 June 2019, advising that it had no requirements / no services that exist in the area.

**SA Power Networks:**
SA Power Networks provided its response on the EDALA site on 4 July 2019 and have not raised any objection to the proposal, providing that no buildings are permitted on registered easement A which provides tenure for their 33,000 v electricity Infrastructure, and that building near powerline clearances and statutory easement provisions apply existing 19,000 v overhead power lines crossing the property.

**Development Assessment Commission:**
The Development Assessment Commission provided its final consultation report on 29 July 2019, requiring by condition pursuant to sec 33(1):

- A final plan complying with the requirements for plans as set out in the Manual of Survey Practice Volume 1 (Plan Presentation and Guidelines) issued by the Registrar General to be lodged with the Development Assessment Commission for Land Division Certificate purposes.

DAC has specifically drawn Council’s attention to the comments of the SA Coast Protection Board’s response in determining the application.

DAC also foreshadows that the commission generally does not support non-complying land division applications without adequate and detailed justification.
It should be noted that the Native Vegetation Council response was received after the overdue date and after the Commission finalised its consultation report.

In considering the points raised by SA Coast Protection Board, Council has weighed up the Board’s applied policies and the Kangaroo Island Development Plan policies to consider the validity of the Board’s reasons to consider its recommended refusal.

The Board’s assessment in some respects fails (in the opinion of the assessing officer) to recognise and objectively apply the intent of its own policy, for example its policy intent to protect the ‘natural scenic landscape’, but fails to recognise the measures proposed to mitigate any impacts (or dismisses them).

The board discusses the proliferation of buildings creating ‘sprawl’ but does not recognise that the proposal comprises buildings already existing in that landscape (not further proliferation) and the application’s proposed measures to substantively limit further development of the land.

State Agency responses received via EDALA are contained in Attachment D.

DEVELOPMENT PLAN & POLICY

The proposal is presented to the Panel in accordance with Council Delegations – for a decision on a Non-Complying form of Development.

The following Objectives and Principles of Development Control (PDC) of the Kangaroo Island Development Plan – Consolidated 17 September 2015, are considered relevant to the assessment of this application.

Coastal Conservation Zone
Objectives: 1, 3
Desired Character Statement, Para 1, 2, 3, 5 & 6
PDC’s: 2, 13

Coastal Areas:
Objectives: 3
PDC’s: 23 & 24

Land Division
Objective: 2 & 3

Orderly and Sustainable Development
Objective: 3 & 4
PDC’s: 1 & 2

PLANNING ASSESSMENT

Coastal Conservation Objective 1: To enhance and conserve the natural features of the coast including visual amenity, landforms, fauna and flora.

Coastal Conservation PDC 13: Land should not be divided except where:
(a) no additional allotments are created wholly or partly within the zone
(b) there is no increase in the number of allotments with direct access to the coast or a reserve including by creation of land under rights of way or community titles.
Orderly & Sustainable Dev. Objective 3: Development that does not jeopardise the continuation of adjoining authorised land uses.

Orderly & Sustainable Dev. Objective 4: Development should not prejudice the achievement of the provisions of the Development Plan.

Orderly & Sustainable Dev. PDC 1: Development that does not prejudice the development of a zone for its intended purpose.

Orderly & Sustainable Dev. PDC 2: Land outside of townships and settlements should primarily be used for primary production and conservation purposes.

The proposal seeks to divide the existing allotment in order to separate the existing dwelling and a 12.93 Ha portion of the land, from the existing tourist accommodation and the 24.48 Ha portion of the land. The application combined statement of support & effect confirms, the application’s intent to allow separate ownership and operation of the existing tourist accommodation building and retain the private dwelling.

The proposal substantially maintains status quo with respect to the established land uses and the natural surrounding environment insofar that there is limited further prospect for any further development such as dwelling or further accommodation accompanying what is established, being an express intention of the accompanying draft LMA.

Accordingly, within the provisions of the LMA, the land would not suffer any further impact occurring to the surrounding native vegetation by way of internal boundary fencing (already secured under the existing LMA) or any further substantial development of the land (noting that development of a further ‘dwelling’ would be captured as non-complying development and are generally not supported by Council in any case.

Inherent in the division is the use of the residential dwelling on proposed lot 20, even though establishing new dwellings is not envisaged under the Current Development Plan Policy for the zone, the owner’s continue to enjoy existing use rights. The tourist accommodation continues its use which is strongly in accordance with the intent of the zone and generally supporting achievement of the objectives of the Development Plan.

In terms then of the land division proposal, the division of the land separates (a) a dwelling which existed before the tourist accommodation was established and seeks to allow both uses to continue their lawful uses, albeit separately on independent land parcels. It does not prejudice either existing use of the land.

Coastal Conservation Objective 3: Development that contributes to the desired character of the zone.

Coastal Conservation Zone Desired Character Statement:
Para 1: The zone defines the coastal areas of high landscape or conservation value and incorporates policy to ensure the preservation of the coastal landscape resource.
Para 2: Pelican Lagoon, Prospect Hill and Sapphrietown Peninsula in particular, have been identified as having high conservation value and should be protected. In addition, the high scenic value of Chapman River and the surrounding area at Antechamber Bay should be protected for camping and recreational use.
Para 3: However, the coastal environment plays an important role in Kangaroo Island’s economy and the tourist attraction provided by the coastal environment,
coastal scenery and abundant wildlife is expected to see growth in visitor numbers that will need to be appropriately managed and catered for. The provision of facilities, including tourist accommodation and recreational facilities, may be established in the zone provided they are sited and designed in a manner that is subservient to the natural and coastal environment and adverse impact on natural features, landscapes, habitats and cultural assets is minimised.

**Para 5:** In order to reinforce the Island’s scenic and landscape experiences, tourism development should maintain a strong visual impression of a sparsely developed or undeveloped coastline from public roads and land-based vantage points.

**Para 6:** The design and siting of tourist accommodation should ensure emphasis is given to raising consciousness and appreciation of the natural, rural, coastal and cultural surroundings.

**Coastal Conservation PDC 2:** Development listed as non-complying is generally inappropriate and not acceptable unless it can be demonstrated that it does not undermine the objectives and principles of the Development Plan.

The proposal is unequivocally non-complying with the creation of allotments appearing to be defined as being inappropriate in the zone, other than boundary realignments in certain circumstances, and where such development does not undermine the principles of the development plan. This land division although seemingly at odds with the Development Plan’s land division principles, maintains the existing dwelling, promotes the continuance of the tourist accommodation land use favoured by the Development Plan and in doing so has proposed measures to mitigate any impacts to the environment which is strongly represented in the plan.

To this end, it is intended that the change in boundaries, ownership and administration of the divided land will in fact be so discreet that it will be impossible to recognise any actual change has occurred.

Contemplating the negligible physical effect of the division upon the land and continuance of the same land uses over fundamentally the same physical areas of land, and the proposed LMA reinforcing that further development is substantially limited, it is considered that there would be no precedent set for ‘wholesale’ division of coastal allotments.

The development attempts to accord the Desired Character of the zone through its proposal of absolute avoidance of impact to landform and vegetation via fencing and associated clearance.

The proposal does not involve any further fragmentation of land which would compromise the desired character of the zone – It does not establish new allotments with vast prospect of development which would alienate the Coastal Conservation zone or the environment – In this case, the land has been presented by the applicant as having reached its critical mass and that it will not develop any further beyond the division of the land.

**Land Division Objective 2:** Land division that creates allotments appropriate for the intended use.

**Land Division Objective 3:** Land division that is integrated with site features, including landscape and environmental features, adjacent land uses, the existing transport network and the availability of infrastructure.

**Coastal Areas Objective 3:** Preservation of areas of high landscape and amenity value including stands of vegetation, shores, exposed cliffs, headlands, islands and hill tops, and areas which form an attractive background to urban and tourist areas.
Coastal Areas PDC 23: Land in coastal areas should only be divided if:
(a) it or the subsequent development and use of the land will not adversely affect the management of the land, adjoining land or the coast
(b) sand dunes, wetlands and substantially intact strata of native vegetation are maintained or consolidated within single allotments.

Coastal Areas PDC 23: Land division in coastal areas outside of designated urban or settlement zones should not increase either of the following:
(a) the number of allotments abutting the coast or a reserve
(b) the number of allotments, including community title allotments and those that incorporate rights of way, with direct access to the coast or a reserve.

The proposed division is considered to finely accord the pursuits of the Coastal Conservation zone, supporting the continuance of the tourist accommodation land use and the existing use rights for the dwelling whilst maintaining a high level of conservation of the land.

Establishment of the proposed boundary, excluding fence lines and clearances is secured by the existing Land Management Agreement registered to the land title and is therefore not considered to be prejudicial to the natural landscape and visual amenity of the area, including outlook from landmarks such as Prospect Hill, or from across Pelican Lagoon (i.e. Pelican Lagoon Conservation Park) from which outlooks are only affected by the presence of the established buildings upon the land, rather than the division of the land.

At the time of writing the former report in February 2017, Prospect Hill was inaccessible for public safety reasons – We can now provide actual viewscapes from prospect Hill from March 2019 which evidences the minor level of visual impact from the existing development and driveways and the level of coverage provided by the existing vegetation when viewed from this aspect.
It is considered upon the merits of the application, including the effect of the existing LMA and the further effect of the proposed amendment / replacement LMA, that the proposed division will not jeopardise the coastal environment, sensitive landscapes, native vegetation or landform, and therefore demonstrates consistency broadly with the Coastal Land and Land Division provisions of the Kangaroo Island Development Plan.
CONCLUSION

The proposed division of Allotment 105 DP12638 to separate existing land uses into two separate land holdings initially presents as being strongly at odds with the intent of the Coastal Conservation zone.

The zone’s objective, to restrict the division of land reflects the intent to limit proliferation of development in the zone by not allowing creation of any further additional allotments which would support further development and the associated impacts upon the coastal environment.

The distinguishing feature of this application (remains) that it has acquitted a high level of use of the land, through the historic establishment of the dwelling and the more recent establishment of the tourist accommodation. The applicant has provided evidence previously to account for the economy that the development has sustained, and the validity of dividing this development to stand alone.

The proposal, including the proposed LMA purports a division with no prospect of any impact upon the environment as a result of dividing the land and provides neoteric but credible reasoning for its consideration.

Achieving division of the existing allotment, the proposal goes to lengths to demonstrate avoidance of impact to the environment, dis-allows further division and development of land and rules out prospect of new development and further impacts to the land. The proposal is therefore considered ‘on fine balance’, to warrant the Panel’s approval.

RECOMMENDATION

The Development Assessment Panel resolve (i) that the development application is not at serious variance with the Kangaroo Island Development Plan consolidated 17 September 2015, and (ii) the panel resolve to approve Land Division Application 520/D004/19 for division of 1 allotment into 2 allotments, at Lot 105 DP12638 in the Hundred of Haines for Mr. R.E.R. Hartley c/- Weber Frankiw & Associates Pty. Ltd. subject to Council’s favourable resolution to accept the proposed amendment / replacement Section 57A Land Management Agreement, and its deposit with the Land Titles Office, before further proceeding to seek concurrence of the State Commission Assessment Panel (SCAP) subject to (but not limited) to the following conditions of consent:

Kangaroo Island Council Planning & Land Division Conditions:

1. The Development herein approved must, except as varied by the conditions of consent, be carried out in accordance with the approved plans prepared by Weber Frankiw & Associates Pty. Ltd. marked ‘CAD Ref: 232108div’ and details to the satisfaction of Council.

Note - You have a right of appeal against the conditions which have been imposed on this Development Plan consent or Development Approval.
Such an appeal must be lodged at the Environment, Resources and Development Court within two months of the day on which you receive this notice or such longer time as the Court may allow.

Please contact the Court if you wish to appeal. The Court is located in the Sir Samuel Way Building, Victoria Square, Adelaide, Ph.: 8204 0300.

State Commission Assessment Panel – Land Division Conditions:

2. A final plan complying with the requirements for plans as set out in the Manual of Survey Practice Volume 1 (Plan Presentation and guidelines) issued by the registrar General to be lodged with the Development Assessment Commission for Land Division Certificate purposes.
ITEM 8.2

APPLICATION NO. 520/157/19

DEVELOPMENT DETAILS Establishment of a Domestic Garage on vacant allotment within the Rural Living Zone.

Applicant
Mr. Patrick Smith
52 Investigator Avenue
Kingscote SA 5223

Owner
Mr. Patrick Smith
52 Investigator Avenue
Kingscote SA 5223

Site Address
Allotment 72, Summervista Boulevard, Hundred of Menzies.

Property Details
Certificate of Title Volume 5928 Folio 322

Zone
Rural Living Zone, Map KI/23

Public Notification
Merit Category 3
Full public notification undertaken, one representation received which was later withdrawn upon revision of the positioning of the shed.

Application Date
24 October 2019

Relevant Development Plan
Consolidated 17 September 2015

Department
Development Services
Monika Matej - Development Services Officer

Issues Summary
Merit, Category 3 Development –
Delegated Authority to CAP

The development is referred to the Panel in accordance with the CAP terms of reference as the shed is considered to be significantly at variance with the building scale and bulk provisions in the Development Plan relevant to the Rural Living zone.
BACKGROUND
An application was lodged by the applicant on 24 October 2019 for a new domestic garage on a vacant allotment in the Rural Living zone.

The proposed shed exceeds the prescribed floor area of 115 square metres and is 139.8 square metres. The overall height also exceeds the prescribed limit of 3.6 metres and is 4.7 metres high. The shed has a gable roof structure with a pitch of 13 degrees.

The proposed shed is to be used for domestic garaging of vehicles and other domestic items and equipment. It is to be located in the north-western corner of the allotment predominantly obscured by existing vegetation on the site.

The application has proceeded through all statutory elements of the assessment and is presented to the Panel, subject to this report for a final decision.

SUBJECT LAND AND LOCALITY
The subject land is identified as Allotment 72 Deposited Plan 66109, Summervista Boulevard in the Hundred of Menzies, identified in CT 5928/322. The land is situated approximately 1.3 km south from the Bay of Shoals coastline.

The corner allotment is approximately 1.8 hectares in area. Driveway access to the allotment is from the Summervista Boulevard road with the perimeter of this boundary lined with vegetation. Vegetation also traverses along the Bullock Track allotment boundary within the 25 metre wide road reserve.

The locality exhibits distinct rural living characteristics incorporating hobby scale animal keeping on large allotments with single detached dwellings and large domestic sheds. In the immediate vicinity, the allotment to the north exhibits such characteristics with a single dwelling and shed. The allotment to the west of the subject site is extensively vegetated with only a very limited building envelope available. The subject allotment has a pocket of native vegetation on the site located near the western allotment boundary which is protected by the Land Management Agreement.

The Land Management Agreement on the subject property defines the protected vegetated areas as well as the building envelopes. The LMA delineates a small portion of the subject site to protect the native vegetation and equates to approximately 10 per cent of the total site area. The remaining land is predominantly clear of any vegetation. The proposed shed is to be located north of this protected area and approximately 11 metres from substantial vegetation within this area. The proposed shed is to be situated in the north-western corner of the allotment, and is within the acceptable parameters for built form on the site.

The proposed shed is to be located 152 metres from the Summervista road boundary line and 93 metres from the Bullock Track road boundary. The setback from the western allotment boundary is to be 4 metres and 14 metres from the northern allotment boundary.

The subject land is contained within the Rural Living Zone as delineated in Map KI/23 of the Kangaroo Island Development Plan, and is identified on the following maps and images:
Zone Map, Kangaroo Island Development, Consolidated 17 September 2015.


LiDAR aerial image, detailed landscape enlargement.
PROPOSAL

The proposal seeks Development Approval for a domestic shed. The proposed shed is to be screened by existing vegetation on the allotment and will be further concealed from the street view by vegetation traversing the eastern and southern perimeters of the site. The shed is to be located in the north-western corner of the site setback 4 metres from the western boundary and 14 metres from the northern boundary. The proposed shed is 15.2 metres x 9.2 metres (139.8m²) with 3.6 metre wall height and 4.7 metres to the top of the ridgeline of the gable roof with a 13 degree pitch.

The proposed shed is to have extensive setbacks from the two road boundaries to the east and south of the site. The setback of the proposed shed is to be 153 metres from the eastern allotment boundary at Summervista Boulevard and 93 metres from the southern allotment boundary at Bullock Track.

The shed is to have corrugated cladding in a ‘Pale Eucalypt’ finish and a corrugated roof decking in ‘Pale Eucalypt’.

The location of the proposed shed is extensively screened from public view with established vegetation on the site and it is believed the impact of the proposal in the vicinity will be negligible.

The application plans and details are contained in Attachment A.

DETERMINATION OF APPLICATION, PUBLIC NOTIFICATION & OTHER STATUTORY REQUIREMENTS

Development Classification:
The Kangaroo Island Development Plan, Consolidated 17 September 2015, Map KI/23 indicates that the allotment lies wholly within the Rural Living Zone.

The proposed building is determined to constitute a domestic garage / outbuilding, for the storage of vehicles and other equipment in association with the domestic use of the land. Hence, the proposal is determined to be a ‘merit’ form of development.

Categorisation:
The proposed development was determined to constitute a Category 3 form of development, pursuant to the Section 38 (2) of the Development Act 1993, as the proposal fails to fall within Category 1 or Category 2 Development in Part 1 or Part 2 of Schedule 9 of the Development Regulations 2008.

Public Notification:
A Category 3 public notification process was undertaken between the dates of 7 November and 22 November 2019. There was one representation received in relation to the proposal. The representation was later withdrawn upon the applicant’s amendment of the location of the proposed shed to be further south from the northern neighbouring allotment.

REFERRALS AND AGENCY CONSULTATION

Pursuant to Schedule 8 of the Development Regulations 2008, there were no mandatory referrals undertaken.
DEVELOPMENT PLAN & POLICY

The proposal is presented to the Panel in accordance with Council Delegations – where it is considered that the nature of the development warrants the consideration of the CAP, particularly due to the scale and bulk of the proposed building.

The following Objectives and Principles of Development Control (PDC) of the Kangaroo Island Development Plan – Consolidated 17 September 2015, are considered relevant to the assessment of this application.

Rural Living Zone
Objectives: 1, 2 & Desired Character Statement
PDC’s: 1, 7 & 9

Residential Development – Garages, Carport & Outbuildings
PDC’s: 11, 12, & 13

Design and Appearance
Objective: 1
PDC’s: 2, 5, 7, 18 & 20

Siting and Visibility
PDC’s: 1 & 2

PLANNING ASSESSMENT

Rural Living Zone

RuL Objective 1: A zone consisting of large allotments, detached dwellings, tourist accommodation, supported accommodation and rural activities that do not adversely impact the amenity of the locality.

RuL Objective 2: Development that contributes to the desired character of the zone.

Desired Character Statement: The zone has a high standard of amenity that will be retained, primarily through extensive vegetation, screening of buildings, structures and uses of land. The development of detached dwellings on large allotments is intended.

Parts of the zone have coastal frontages which feature coastal dunes, which will be protected from excavation and similar interference. Indeed, the natural landform of the zone is valued and further excavation and filling of land is not encouraged.

Development throughout the zone will be largely self-sufficient in terms of water supply and effluent disposal. To maximise water re-use, development will be expected to provide for rainwater storage and on-site sewage treatment systems that allows re-use of water for irrigation.

Domestic outbuildings will be considered where accompanied by an application for a dwelling and built in association with the dwelling or on a staged basis consistent with an agreed staging plan for the domestic outbuilding and dwelling that accompanies the application – outbuildings will not be allowed to be used for human habitation.

RuLPDC 1: The following forms of development are envisaged in the zone:

- bed and breakfast
- detached dwelling
The proposed shed is to be the first building on the site with the intention to later build a dwelling. The Desired Character Statement and PDC 1 for the Rural Living zone envisages domestic outbuilding structures, and although currently not in association with a dwelling, this type of development is in keeping with the zone’s rural living characteristics.

The prescribed floor area for a domestic outbuilding within this zone is 115 square metres as per PDC 9. The proposed development exceeds this floor area by 24.8 square metres. The overall height of the proposed shed is 4.7 metres, 1.1 metres above the prescribed height limitation. It is believed that the variance to these policies is alleviated by the surrounding vegetation, along the perimeter of the subject site to the east and south of the allotment as well as the existing pocket of vegetation along the western boundary, minimising any potential sighting of the scale and bulk which the proposal may exhibit.

Allotments in the vicinity demonstrate the characteristics of the rural living zone with residential developments and associated shed structures. The proposal for a single domestic shed on the site is not uncharacteristic for the zoning.

Residential Development – Garages, Carports and Outbuildings

Residential Development PDC 11: Garages, carports and outbuildings should have a roof form and pitch, building materials and detailing that complement the associated dwelling.

Residential Development PDC 12: Garages and carports facing the street should not dominate the streetscape.

Residential Development PDC 13: Outbuildings should satisfy all of the following requirements:

(a) be in association with an existing dwelling
(b) not be greater than 75 square metres in floor area except within the Rural Living Zone and Primary Production Zone where they should not exceed 115 square metres of floor area
(c) not be greater than 3.1 metres in height from natural ground level to the top of the walls
(d) not be greater than 3.6 metres in height from natural ground level to the top of the gable (if relevant)
(e) be finished in external surfaces in a colour that matches or blends with any existing dwelling on the site, and is in keeping with the character of the locality.
The proposed shed is to have wall cladding in a ‘Pale Eucalypt’ colour and corrugated roof decking also in ‘Pale Eucalypt’ and is to be set behind an existing area of vegetation on the site. It is believed to be of a sympathetic nature with the surrounding landscape and locality.

The proposed shed exceeds the maximum prescribed size limitations set in PDC 13 for the height and floor area. The height of the structure is 4.7 metres to the gable’s ridgeline and the floor area is 139.8 square metres. This policy allows for a shed in a Rural Living zone to be 115 square metres with an overall height of 3.6 metres of which the proposed shed is exceeding this height provision by 1.1 metres.

Given the location of the shed behind extensive landscape screening, it is believed that this will significantly contribute to alleviating the scale and bulk of the building. This existing vegetation is believed to help mitigate the building’s visibility from neighbouring views and from the dual street frontage.

Design and Appearance

**Design and Appearance Objective 1:** Development of a high architectural standard that responds to and reinforces positive aspects of the local environment and built form.

**Design and Appearance PDC 2:** Buildings should be designed and sited to avoid creating extensive areas of uninterrupted walling facing areas exposed to public view.

**Design and Appearance PDC 5:** Building form should not unreasonably restrict existing views available from neighbouring properties and public spaces.

**Design and Appearance PDC 7:** The external walls and roofs of buildings should not incorporate highly reflective materials which will result in glare.

**Design and Appearance PDC 18:** The setback of buildings from public roads should:
(a) be similar to, or compatible with, setbacks of buildings on adjoining land and other buildings in the locality
(b) contribute positively to the streetscape character of the locality
(c) not result in or contribute to a detrimental impact upon the function, appearance or character of the locality.

**Design and Appearance PDC 20:** Lesser setback distances may be considered where the proposed building will be substantially screened by existing vegetation, natural form and features of the land or adjacent existing buildings.

Siting and Visibility

**Siting and Visibility PDC 1:** Development should be sited and designed to minimise its visual impact on:
(a) the natural, rural or heritage character of the area
(b) areas of high visual or scenic value, particularly rural and coastal areas
(c) views from the coast, near-shore waters, public reserves, tourist routes and walking trails
(d) the amenity of public beaches.

**Siting and Visibility PDC 2:** Buildings should be sited in unobtrusive locations and, in particular, should:
(a) be grouped together
(b) where possible be located in such a way as to be screened by existing vegetation when viewed from public roads.
The Design and Appearance provisions and the Siting and Visibility PDCs are believed to be accorded. The proposed shed is to be setback 153 metres and 93 metres from the road boundaries of Summervista Boulevard to the east and Bullock Track to the south respectively. The setback requirement of 30 metres from the road boundary prescribed in the Rural Living zone is well surpassed. The external wall and roof colour of ‘Pale Eucalypt’ is believed to blend in well with the surrounding landscape.

It can be expected that the design and appearance of a shed will incorporate uninterrupted walling, however, given the extensive setback of the proposed shed from the two road boundaries and the existing vegetation on and surrounding the site, the proposed shed will be obscured from public view and from neighbouring properties.

CONCLUSION

The proposed shed is intended to be used for domestic garaging of vehicles and other domestic equipment within the Rural Living zone. The prescribed height and floor area provisions described in the Kangaroo Island Development Plan are in excess of this limit set for the Rural Living zone. The proposed shed exceeds the prescribed floor area by 24.8 square metres and the overall height of the proposed shed is 4.7 metres, 1.1 metres over the prescribed height limit.

The existing vegetation on the site plays a vital role in obscuring potential sighting of the shed from the public roads to the east and south of the subject site. The pocket of native vegetation along the western boundary, which is protected by the LMA, further obscures potential sighting of the building. The proposed shed is to be in a location which is set back extensively from the road boundary, in the order of 153 metres and 93 metres respectively from Summervista Boulevard and Bullock Track roads mitigating the potential scale and bulk of the building to the streetscape.

The proposal attempts to minimise the scale and bulk of the structure on the neighbouring property to the north of the site, allotment 73 Summervista Boulevard, by positioning the shed 14 metres from this northern allotment boundary. It is expected there will be minimal impact of the siting of the shed to the neighbouring property to the west, allotment 80 Bullock Track which is to be set back from this boundary by 4 metres, considering the small building envelope for this property is also located to the west of its own allotment. The Pale Eucalypt colour of the proposed shed is complementary and blends well with the surrounding landscape.

In summary of all the discussed factors, including the limited visibility of the building and the appearance which blends with the natural surrounding landscape the proposal is considered upon fine balance to warrant the Panel’s support subject to conditions.

RECOMMENDATION

The Council Assessment Panel (i) resolve that the Development Application is not seriously at variance with the Kangaroo Island Development Plan consolidated 17 September 2015, and (ii) the panel resolve to approve Development Application 520/157/19 for the establishment of a shed at Allotment DP6109, 72 Summervista Boulevard in the Hundred of Menzies, identified in CT 5928/322. By the applicant and owner Mr. Patrick Smith, subject to (but not limited to) the following conditions of consent.
Kangaroo Island Council – Planning Conditions:

1. The Development herein approved must, except as varied by the condition of consent be carried out in accordance with the approved plans and details to the satisfaction of Council.

2. The building shall not be used for any purpose other than that described on this notification.

3. All excess stormwater from roofed buildings, sealed areas and tank overflows shall be discharged within the allotment boundaries so that no erosion, nuisance or inconvenience will occur off-site.

4. There shall be no human habitation of the shed herein approved. Human habitation includes overnight and weekend accommodation. Changing the use of a building or structure without approval is a contravention of the Development Act 1993, and can result in legal action under the Act, and may incur significant penalty.

5. The development shall not impair the amenity of nearby areas by way of nuisance or inconvenience to neighbouring properties. In this regard, the site must be kept in a neat and tidy manner at all times and no unreasonable disturbance or pollution to the amenity of the locality shall be created by way of dust, pollution, noise, electrical interference or other means.

6. The building must not be used as a commercial workshop or for the purpose of storing machinery for use within the shed. Only those activities normally associated with domestic shed may be undertaken provided such activities do not impair the residential amenity of the locality.

7. Rainwater tanks shall be situated immediately adjacent to the northern end wall of the shed in accordance with the approved plans and details.

Note -

Note - Building Site Fire Safety Requirements
The applicant/owner shall ensure that there is adequate water supply and hoses or prescribed water spray fire fighting implement in accordance with Regulation 41 of the Fire and Emergency Services Act 2005 available on site during the performance of building work in order to prevent the outbreak of fire at the premises, or the spread of fire from the premises Pursuant to Subdivision 6 of the Fire and Emergency Services Act 2005. Maximum Penalty $10,000.00

Note -
You have a right of appeal against the conditions which have been imposed on this provisional Development Plan consent or Development Approval.

Such an appeal must be lodged at the Environment, Resources and Development Court within two months of the day on which you receive this notice or such longer time as the Court may allow.

Please contact the Court if you wish to appeal. The Court is located in the Sir Samuel Way Building, Victoria Square, Adelaide, Ph. 8204 0300.

Note -
Class 10 Notification - Regulation 74
A person undertaking building work (Class 10) must give Council one business day notice of commencement of the building work.
ITEM 8.3

APPLICATION NO. 520/D011/19

DEVELOPMENT DETAILS Non-Complying Boundary Realignment, 2 Allotments into 2 Allotments, within the Primary Production Zone.

Applicant J. & B. Turner & G. Turner c/- Weber Frankiw & Associates P/L 178 Main Road McLaren Vale SA 5171

Owner(s) J. & B. Turner & G. Turner c/- Weber Frankiw & Associates P/L 178 Main Road McLaren Vale SA 5171

Site Address Allotment 1 DP69691 and Allotment 2 DP69691 Hundred of Menzies.

Property Details Certificate of Title Volume 5960 Folio 83 (Lot 1) Certificate of Title Volume 5960 Folio 84 (Lot 2)

Zone Primary Production Zone, Map KI/3.

Public Notification Non-Complying, Category 1 No public notification required Pursuant to (Schedule 9 Part 1 (3)(c)).

Application Date 28 August 2019

Relevant Development Plan Consolidated 17 September 2015

Department Development & Environmental Services Aaron Wilksch Manager, Development & Environmental Services

Issues Summary Non-Complying Development – Delegated Authority to Council Assessment Panel.

Boundary re-alignment of 2 allotments seeks to exchange a proportion of land areas to increase land use capacity for the larger parcel and generally maintain status quo for the smaller parcel.

SUBJECT LAND AND LOCALITY

The subject land is situated to the south-west side of North Coast Road, some 4 kilometres west of the Emu Bay (Gap Road) and approximately 2.5 kilometres east of Smith Bay in the area generally referred to as Wisanger Hills.
The proposal involves two allotments historically created in the zone under the former General Farming zone provisions for 40 Ha minimum land division size, in place in 2003.

Both Lot 1, which is approximately 48 Ha and Lot 2 at 40.03 Ha, are comprised predominantly open cleared and arable farming land, with a band of sparse vegetation upon the brow of the Wisanger range (between 130 metres and 180 metres elevation above sea level) with the plateau itself also being clear and arable land.

Lot 1 contains a dwelling and farm sheds which were likely pre-soldier settlement, pioneer buildings and farm dams, much of which likely pre-date development legislation in SA (Planning and Development Act 1966). The land also contains the landmark G Turner’s Castle (Fort George ? uncited), representing the outer form of a castle and other ornaments adorned with lights which is usually a drawcard at Christmas time for its colourful light display which has been Mr. Turners legacy of some decades.

Lot 2 contains a farm shed constructed in 2008, and farm dams supporting its primary production activities.

The land is generally exhibits a strong rural character and a distant coastal interface from the coastline some 2km to the north- northwest. The land comprises gentle-to-steeply sloping hillsides and high quality farming land which is generally utilised for high intensity primary production activities including broad-acre grazing and cropping.

The subject land is identified on the following maps & Images:

Zone Overlay – KIDP 17 September 2015 – Location SA Viewer

Bushfire Risk Overlay – KIDP 17 September 2015 – Location SA Viewer
PROPOSAL

The proposal seeks Development Plan Consent and Land Division Consent for the realignment of the common boundary between Lots 1 & 2, to re-distribute 15.34 Ha from Lot 1, reducing its area (proposed Lot 40) to 33.65 Ha, to enlarge lot 2, (proposed Lot 41) increasing its area to 55.36 Ha.

Road frontage arrangements do not substantially alter – Proposed Lot 40 reduces slightly to 583.44 metres frontage and proposed lot 41 increases slightly to 424.49 metres frontage to North Coast Road.

Points of access to the land parcels are not altered by way of the boundary realignment.

A plan of the proposed boundary realignment and the accompanying statement of support are included in Attachment A.

DETERMINATION OF APPLICATION, PUBLIC NOTIFICATION & OTHER STATUTORY REQUIREMENTS

Development Classification:
The Kangaroo Island Development Plan, Consolidated 17 September 2015, Maps KI/3 identify that the land lies wholly within the Primary Production Zone.

Within the Primary Production Zone the Non-Complying list details that land division is a Non-Complying form of development except where either of the following apply:

(a) Each allotments is at least 100 Ha in area and has a frontage to a public road of greater than 200 metres
(b) the allotment will contain an existing building or buildings (or a building or buildings that are substantially complete) involved in the processing, packaging and/ or transportation of farming, horticultural or aquaculture products.

Accordingly the application is determined to constitute ‘Non-Complying’ development upon its failure to accord elements of (a) as the realignment does not meet the
minimum 100 Ha. allotment size for either of the resulting allotments under the current planning policy, notwithstanding that the current composition of land sees both allotments already below that threshold.

On 16 October 2019 it was formally determined that the proposal demonstrated adequate merit to proceed, on the basis that the proposal:

- The proposed re-distribution of land area is largely indifferent to the overall use of the land contained in both parcels – the distribution of the 15 Ha makes the southern allotment larger, to contribute to its continued farming activities – resultantly, the northern allotment’s capacity is marginally reduced. And,
- The creation of the current arrangement of allotments is historic – it created allotments well below the current minimum prescribed by the Development Plan, which from 2010 onward was considered to compromise the intent of the zone. Notwithstanding the current arrangement cannot be un-done, the realignment is resultantly somewhat inconsequential.

Accordingly it was resolved to proceed with a full assessment of the application pursuant to Regulation 17 (3)(b).

**Statement of Effect:**
Pursuant to Regulation 17 (6) (c) a Statement of Effect (SoE) is not required for this application as the development consists (wholly or substantially) of:

> the division of land where the number of allotments to result from the division is equal to or less than the number of existing allotments, and the relevant authority considers that the proposed development is of a minor nature.

**Categorisation:**
The proposed development constitutes a Category 1 form of development, pursuant to Schedule 9 (3)(c) of the Development Regulations 2008, which captures this proposal as:

> Any development classified as non-complying under the relevant Development Plan which comprises—

> (c) the division of land where the number of allotments resulting from the division is equal to or less than the number of existing allotments.

Accordingly, no public notification was undertaken.

**REFERRALS AND AGENCY CONSULTATION**
There were no mandatory referrals required pursuant to the eighth schedule of the Development Regulations 2008.

Informal referrals were made to the SA Water Corporation & SA Power Networks via the EDALA land division lodgement system.

**SA Water Corporation:**
The SA Water Corporation provided a no services / no requirements response on 11 September 2019.

**SA Power Networks:**
SAPN provided a no objection response on 17 September 2019 providing:

*Registered easement B - 11000 overhead power line crossing through allotments 40 & 41. No buildings or permanent structures are permitted on the easement. We also have a 19000 overhead power line feeding from North Coast Road to the existing dwelling and buildings on allotment 40. This power line is protected by our statutory easement provisions.*

Which remains unaltered and unaffected by the proposed boundary realignment.

**Development Assessment Commission:**
The Development Assessment Commission provided its consultation report on 20 September 2019, requiring by condition pursuant to sec 33(1) that:

- A final plan complying with the requirements for plans as set out in the Manual of Survey Practice Volume 1 (Plan Presentation and Guidelines) issued by the registrar General to be lodged with the Development Assessment Commission for Land Division Certificate purposes.

And, drawing Council’s attention to the comments & recommended conditions by SAPN.

State Agency responses received via EDALA are contained in *Attachment B.*

**DEVELOPMENT PLAN & POLICY**

The proposal is presented to the Panel in accordance with Council Delegations – for a decision on a Non-Complying form of Development.

The following Objectives and Principles of Development Control (PDC) of the Kangaroo Island Development Plan – Consolidated 17 September 2015, are considered relevant to the assessment of this application.

Primary Production Zone
Objectives: 1, 2, 3, 4, 6 & Desired Character Statement, Para 1 & 6.
PDC: 2

Land Division
Objective: 2 & 4
PDC’s: 18 & 19

Orderly and Sustainable Development
Objective: 4
PDC’s: 1 & 2

**PLANNING ASSESSMENT**

*Primary Production Objective 1*: The long term continuation of Primary Production.

*Primary Production Objective 2*: Economically productive, efficient and environmentally sustainable primary production.

*Primary Production Objective 3*: Allotments of a size and configuration that promote the efficient use of land for primary production.
Primary Production Objective 4: Protection of primary production from encroachment by incompatible land uses and protection of scenic qualities of rural landscapes.

Orderly & Sustainable Dev. Objective 4: Development should not prejudice the achievement of the provisions of the Development Plan.

Orderly & Sustainable Dev. PDC 1: Development that does not prejudice the development of a zone for its intended purpose.

Orderly & Sustainable Dev. PDC 2: Land outside of townships and settlements should primarily be used for primary production and conservation purposes.

The proposed realignment of boundaries and re-distribution of land area substantially maintains status quo with respect to both allotment’s size and composition and therefore is of negligible overall impact to either of the allotments in respect of the lands capability to continue comparable levels of primary production activities into the future.

Specifically, the larger allotment (proposed Lot 41) expands its land parcel, in the order of 15 Ha, absorbing substantially clear & productive land whilst the smaller allotment (proposed Lot 40) reduces in size by the same margin, which generally preserves the same level of use for farming activities.

The proposal purports a realigned boundary which appears logical in terms of alignment through open land areas, though does encounter two areas of sparse vegetation on the brow of the Wisanger Hills, which would appear to be sparse enough to enable fence lines to negotiate through the vegetation without requiring any clearance.

Primary Production Objective 6: Development that contributes to the desired character of the zone.

Primary Production Zone Desired Character Statement:
Para 1: The farming and rural character of Kangaroo Island is a feature which is a strong economic and tourism asset. It is envisaged that development within the zone will reinforce these roles. Inappropriate development, unsightly structures, indiscriminate land fragmentation for purposes other than primary production and poor land management will quickly erode its economic potential and special character. As such, careful control over the nature, integrity and siting of development needs to occur.
Para 6: The Island’s land ownership pattern generally reflects relatively large holdings; pressure to create smaller titles in response to genuine value added economic opportunities directly associated with primary production is likely. It is envisaged that the creation of small allotments will be linked to outcomes which reinforce economic viability and environmental improvement with regard to primary production and which is sensitively designed and sited in keeping with the areas natural and rural character. Land fragmentation for the purposes of rural living is not contemplated within the zone.

The proposal does not create any further fragmentation primary production land, insofar that it only proposes realignment of boundaries such that it does not create any adverse effect upon the overall land capacity for farming activities or the natural / rural landscape character of the area.

The smaller resulting allotment 40 maintains an area of land which would be described as having limited primary production capacity, though still capable of
contributing to genuine farming activities, acknowledging existence of the farm sheds including shearing shed and capacity of the vast majority of the remaining land being capable of supporting grazing, cropping or hay.

The proposal does not compromise the zone’s capacity to be used in accord with the desired character or intended land uses, nor introduce any further development proliferation of dwellings (or other buildings) beyond what the land is already capable of, nor introduce dissimilar land use conflicts which could deteriorate the rural character of the zone.

*Primary Production PDC 2*: Development listed as non-complying is generally inappropriate and not acceptable unless it can be demonstrated that it does not undermine the objectives and principles of the Development Plan.

Inclusion of the approximate 15 Ha of land from proposed Lot 40 into proposed Lot 41 provides a land holding in the order of 100ha when the additional contiguous land in lot 3 (to the south of proposed Lot 41) under the same ownership is considered – demonstrating that the increased area resulting from the proposal increases the overall capability of the land.

*Land Division Objective 2*: Land division that creates allotments appropriate for the intended use.

*Land Division Objective 4*: Land division restricted in rural areas to ensure the efficient use of rural land for primary production and avoidance of uneconomic infrastructure provision.

*Land Division (Rural Areas) PDC 18*: Rural land should not be divided if the resulting allotments would be of a size and configuration likely to impede the efficient use of rural land for any of the following:
(a) primary production
(b) value adding industries related to primary production.
(c) protection of natural resources.

*Land Division (Rural Areas) PDC 19*: Rural land should not be divided where new allotments would result in any of the following:
(a) fragmentation of productive primary production land.
(d) prejudice against the proper and orderly development of townships.

The proposed realignment of boundaries is not considered prejudicial to the Primary Production zone, continuing to support the provisions of the plan in respect of the land used carried on both allotments, albeit with realigned property boundaries.

Importantly, no further allotments are to be created within the Primary Production zone will occur as a result of the proposed development, ensuring that fragmentation of viable primary production land, and proliferation of buildings should not occur, for all intents and purposes, retaining the visual amenity and character and productivity of the area.

**CONCLUSION**

The proposed realignment of boundaries of Allotment 1 and 2 DP69691 Hundred of Menzies, reflects a reasonable re-distribution of land and adjustment of boundaries and is considered acceptable, assessed against the provisions of the Kangaroo Island Development Plan, notwithstanding its non-complying status.
The proposal will neither fragment nor erode the potential for the land to function in accordance with the intent of the Primary Production zone, albeit only comparable with the existing capability of the allotments in their existing configuration and in this respect is considered to warrant approval.

RECOMMENDATION

The Development Assessment Panel resolve (i) that the development application is not at serious variance with the Kangaroo Island Development Plan consolidated 17 September 2015, and (ii) the panel resolve to approve Land Division Application 520/D011/19 for realignment of 2 allotments into 2 allotments, at Allotment 1 & 2 on DP69691 Hundred of Menzies for Messrs J. & B. Turner & G. Turner, c/- Weber Frankiw & Associates P/L and to proceed to seek concurrence of the State Commission Assessment Panel (SCAP) subject to (but not limited) to the following conditions of consent:

Kangaroo Island Council Planning Conditions:

1. The Development herein approved must, except as varied by the conditions of consent, be carried out in accordance with the approved plans prepared by Weber Frankiw & Associates P/L. marked ‘CAD Ref: 293206div.’ and details to the satisfaction of Council.

Note -

You have a right of appeal against the conditions which have been imposed on this Development Plan consent or Development Approval.

Such an appeal must be lodged at the Environment, Resources and Development Court within two months of the day on which you receive this notice or such longer time as the Court may allow.

Please contact the Court if you wish to appeal. The Court is located in the Sir Samuel Way Building, Victoria Square, Adelaide, Ph.: 8204 0300.

State Commission Assessment Panel – Land Division Conditions:

3. A final plan complying with the requirements for plans as set out in the Manual of Survey Practice Volume 1 (Plan Presentation and guidelines) issued by the registrar General to be lodged with the Development Assessment Commission for Land Division Certificate purposes.
ITEM 8.4

APPLICATION NO. 520/149/19

DEVELOPMENT DETAILS Establishment of 3 x signs within the Primary Production zone over two allotments.

Applicant Emu Ridge Eucalyptus Pty Ltd
691 Willsons Road
MacGillivray SA 5223

Owner Mr. Larry & Mrs. Beverley Turner
PO Box 299
Kingscote SA 5223

Site Address Allotment 101, 703 Willsons Road MacGillivray Hundred of MacGillivray.
Allotment 102, 317 South Coast Road MacGillivray Hundred of MacGillivray.

Property Details Certificate of Title Volume 5343 Folio 329
Certificate of Title Volume 6091 Folio 458

Zone Primary Production Zone, Map KI/10

Public Notification Non-complying, Category 3
Full public notification undertaken, no representations received.

Application Date 20 September 2019

Relevant Development Plan Consolidated 17 September 2015

Department Development Services
Aaron Wilksch - Development Services Manager
Monika Matej - Development Services Officer

Issues Summary Non-complying, Category 3 Development –
Delegated Authority to CAP

The development is referred to the Panel in accordance with the CAP terms of reference as the proposed development is non-complying as per the Procedural Matters in the Development Plan.
BACKGROUND
An application was lodged on 20 September 2019 for 3 x signs in association with the Emu Ridge Eucalyptus business which comprises an ‘old fashioned eucalyptus distillery, gift shop, café and generally operates as a farm gate tourist destination in addition to the actual production of eucalyptus oil.

The proposed signs were determined to be Non-Complying within the zone as the advertisements did not meet the specified exemptions, as the adjacent roads have a speed limit over the specified 80km/h and the overall size of the signs exceed the 2 square metres defined within the Procedural Matters of the Primary Production zone of the Development Plan. If one of these exemptions were met it would preclude the non-complying status.

The application has proceeded through all statutory elements of the assessment including provision of a Statement of Support and Category 3 Public Notification. No Statement of Effect was required pursuant to Regulation 17 (6) as the proposed development is in association with the use of an existing building and which would facilitate the better enjoyment of the existing use of the existing building.

The application is presented to the Panel, subject to this report for a final decision.

SUBJECT LAND AND LOCALITY
The subject land is identified as Allotment 101 Deposited Plan 40022, Willsons Road Hundred of MacGillivray, identified in CT 5343/329 which incorporates one sign to the north-western aspect of the site and Allotment 102 Deposited Plan 40022, South Coast Road Hundred of MacGillivray, identified in CT 6091/458 incorporates two of the signs, one in the north-eastern aspect of the site and the other at the entry point to Emu Ridge along Willsons Road.

Allotment 101 is approximately 3.386 hectares and allotment 102 is 257.4 hectares. Allotment 102 contains two fresh water lagoons and also contains several farm dams on the site. The allotments are densely vegetated toward the north, the upper western aspect and the north-western corner of the site. The remaining two thirds of the site, located within allotment 102 is extensively cleared of vegetation and has an agricultural land use.

Several buildings exist on the two sites. Allotment 101 contains the old MacGillivray Post Office and a toilet block and production and display buildings. Allotment 102 contains a dwelling toward the far southern side of the property with associated sheds and outbuildings. This allotment also contains the main retail/café building located in the northern aspect of the site in close proximity to the Willsons Road frontage.

The locality exhibits a rural character and the proposed signage is to be positioned to identify and direct visitors to the Emu Ridge business which is currently not clearly visible within this rural setting.

The subject land is contained within the Primary Production zone as delineated in Map KI/10 of the Kangaroo Island Development Plan, and is identified on the following maps and images:
Zone Map, Kangaroo Island Development, Consolidated 17 September 2015.

PROPOSAL

The proposal seeks Development Approval for three signs. Each of the proposed signs are to be setback 1 metre from the allotment boundary. The signs are to advertise the Emu Ridge business and are to be located on the two corners of the allotments, one at the South Coast Road and Willsons Road north-western corner and one sign to be located on the Willsons Road and Elsegood Road, in the north-eastern corner. The third sign is to be located at the vehicle entry point to the business along Willsons Road.

Dense vegetation exists on the site along the Willsons Road boundary making visibility of the business difficult. The signage is to identify the site and the direct visitors to the business.

The proposed signs are constructed of 75mm square hollow steel section that is to be 4.1 metres in height, each frame proposed to have a black painted finish. The two signs situated in the northeast and northwest corners of the property are to be 1.2 metres wide and the central sign to be situated at the main entry, is to be 1.7 metres wide. A removable banner is to be incorporated within this frame and a smaller banner found below the main banner is to indicate opening times and is to be interchangeable.

The proposed signage design incorporates a neutral colour scheme which is believed will not be offensive to the surrounding landscape or the locality as it utilises predominantly yellow and green colours.

The applicant has provided a Statement of Support pursuant to Regulation 17 (1) of the Development Regulations 2008 accompanying the application.

The application plans & details and Applicant’s Statement of Support are contained in Attachment A.

DETERMINATION OF APPLICATION, PUBLIC NOTIFICATION & OTHER STATUTORY REQUIREMENTS

Development Classification:
The Kangaroo Island Development Plan, Consolidated 17 September 2015, Map Kl/10 indicates that the allotment lies wholly within the Primary Production zone.

The proposed application for 3 x advertisements is determined to constitute a ‘non-complying’ development as per the Procedural Matters of the Development Plan. The proposal does not meet the exemptions described:

(a) is adjacent to a road within an 80km/h speed restriction or less, or
(b) has an advertisement area of 2 square metres or less and achieves all of the following:
   i. the message contained thereon relates entirely to a lawful use of land
   ii. the advertisement is erected on the same allotment as the use it seeks to advertise
   iii. the advertisement will not result in more than two advertisement on the allotment

On 13 November 2019 it was formally determined that the proposal demonstrated adequate merit to proceed, on the basis that the proposal:
The signs are located wholly within the subject allotments boundaries and identifies the existing & long established tourist attraction. And,

The design and content of the signage is subtle incorporating yellows and green colours, neutral tones that blend with the surrounding environment. And,

The proposed signs are not offensive in terms of their scale and bulk within their surrounding environment, i.e. they will not skyline above their natural native vegetation backdrop(s) nor be obtusely visible from afar.

Accordingly it was resolved to proceed with a full assessment of the application pursuant to Regulation 17 (3)(b).

Statement of Effect:
Pursuant to Regulation 17 (6) (b) a Statement of Effect (SoE) is not required for this application as the development consists (wholly or substantially) of:

(b) the construction of a new building which is to be used in a manner which is ancillary to, or in association with, the use of an existing building and which would facilitate the better enjoyment of the existing use of the existing building; or

As the signage structures (building by definition) are accessory to the principal established buildings of the Emu Ridge tourist attraction the signs are determined to be exempt from the requirement for a Statement of Effect.

Categorisation:
The proposed development was determined to constitute a Category 3 form of development, pursuant to the Section 38 (2) of the Development Act 1993, as the proposal fails to fall within Category 1 or 2 Development in Part 1 or Part 2 of Schedule 9 of the Development Regulations 2008.

Public Notification:
A Category 3 public notification process was undertaken between the dates of 21 November and 6 December 2019. There were no representation received in relation to the proposal.

REFERRALS AND AGENCY CONSULTATION

There were no mandatory referrals required Pursuant to Schedule 8 of the Development Regulations 2008.

DEVELOPMENT PLAN & POLICY

The proposal is presented to the Panel in accordance with Council Delegations – for a decision on a Non-Complying form of Development.

The following Objectives and Principles of Development Control (PDC) of the Kangaroo Island Development Plan – Consolidated 17 September 2015, are considered relevant to the assessment of this application.

Primary Production Zone
Objectives: 1, 2, 3 & Desired Character Statement
PDC's: 1, 2, 16 & 17

Outdoor Advertisements
Objective: 1
PDC's: 1, 2, 4, 5, 10, 13, & 19

Design and Appearance
Objective: 2
PDC's: 1, 2, 3, 5, 9, 17, 18 & 20

Siting and Visibility
PDC's: 1, 2 & 5

**PLANNING ASSESSMENT**

**Primary Production Zone**

*PrPro Objective 1*: The long term continuation of primary production.

*PrPro Objective 2*: Economically productive, efficient and environmentally sustainable primary production.

*PrPro Objective 3*: Allotments of a size and configuration that promote the efficient use of land for primary production

**Desired Character Statement:**

**Paragraph 1:** The farming and rural character of Kangaroo Island is a feature which is a strong economic and tourism asset. It is envisaged that development within the zone will reinforce these roles. Inappropriate development, unsightly structures, indiscriminate land fragmentation for purposes other than primary production and poor land management will quickly erode its economic potential and special character. As such, careful control over the nature, integrity and siting of development needs to occur.

**Paragraph 2:** Development within the zone will retain native vegetation and protect existing ecosystems to ensure the heritage and environmental significance of Kangaroo Island can continue to underpin the Island’s character and values.

**Paragraph 3:** The Island’s agricultural economy, landscape character and natural environmental features need to be protected based on best practice farm management. The Kangaroo Island Natural Resource Management Board’s Natural Resources Management Plan provides a useful framework for the preparation of farm management plans. Industry and warehousing may be developed where it supports primary production, processing, storage and distribution of local primary produce.

**Paragraph 7:** The intent of the zone is primarily to strengthen the role and value of primary production. The quality of Island produce is high and the burgeoning food and wine industries is a testimony to this. However, the opportunity also exists to provide tourist accommodation and tourism activities within the zone where such development is designed to put people back in touch with the natural and rural environment, or would positively contribute to the Island’s tourism experiences. It is expected that such development will cater primarily for the “get away” nature or adventure orientated market which is environmentally conscious, although other niche tourism development opportunities will also be considered where they strengthen the Island’s tourism appeal.
Paragraph 9: The introduction of home based industry within the zone is one means of achieving value added economic development. The intention is to allow for a range of home based industries where the primary components and ingredients used to create the industry products are derived from the land or from the surrounding rural locality. Home based industry is not meant to involve the servicing, repair or restoration of vehicles or vehicle parts, the carrying out of manufacturing activities at the scale of general, light and service industry.

PrPro PDC 1: The following forms of development are envisaged in the zone:
- bulk handling and storage facility
- conference facility (in association with tourist accommodation or tourism facilities)
- dairy farming
- farming
- farm building
- home based industry
- horticulture
- intensive animal keeping
- land-based aquaculture
- tourist accommodation (including through the diversification of existing farming activities and conversion of farm buildings)
- tourism activities and facilities
- wind farm and ancillary development
- wind monitoring mast and ancillary development.

Form and Character

PrPro PDC 2: Development listed as non-complying is generally inappropriate and not acceptable unless it can be demonstrated that it does not undermine the objectives and principles of the Development Plan.

PrPro PDC 16: The type and volume of traffic likely to be generated by a development or land use should not:
(a) unreasonably interfere with the flow of traffic on the external road network, both adjoining the site of the development and more widely
(b) result in the need for upgrading, or additional maintenance of, the road network
(c) result in uneconomic costs to the community for the provision of road services.

Tourism Development

PrPro PDC 17: Tourism developments should not exceed a building height of 6.5 metres above natural ground level.

The desired character of the Primary Production zone speaks strongly of tourism activities and facilities which strengthen the role and value of primary production and also contributes to the rural experience of visitors. The established Emu Ridge business does this by providing retail and café spaces in the location that the products are produced. The proposed advertisement displays are accessory to, and will contribute to the ongoing success of the business by way of directing tourists and visitors to the site. The height of the proposed development is substantial, though does not exceed the maximum building height limitation of 6.5 metres and in this respect is unlikely to skyline above surrounding landscape and natural vegetation backdrops.

The non-complying status of the application lies in the fact that exemptions could not be met within the Procedural Matters of the Zone, that being the speed limit of the surrounding roads exceed 80km/h and the size of the signs exceed 2 square metres. If one of these exemptions was satisfied the non-complying status would be discharged.
The non-complying status of the proposed signs are not believed to compromise the objectives and policies within the Development Plan, but rather, they would support the existing business which is a type of development reinforced within the Primary Production zone and these signs would direct visitors to an area which is not immediately visible when travelling in this locality.

The signs are not believed to increase the volume of traffic to this area as the Emu Ridge business is established within the locality.

Outdoor Advertisements

**Outdoor Advertisements Objective 1:** Urban and rural landscapes that are not disfigured by advertisements and/or advertising hoardings.

**Outdoor Advertisements PDC 1:** The location, siting, design, materials, size, and shape of advertisements and/or advertising hoardings should be:
(a) consistent with the predominant character of the urban or rural landscape
(b) in harmony with any buildings or sites of historic significance or heritage value in the area
(c) co-ordinated with and complement the architectural form and design of the building they are to be located on.

**Outdoor Advertisements PDC 2:** The number of advertisements and/or advertising hoardings associated with a development should be minimised to avoid:
(a) clutter
(b) disorder
(c) untidiness of buildings and their surrounds.

**Outdoor Advertisements PDC 4:** The content of advertisements should be limited to information relating to the legitimate use of the associated land.

**Outdoor Advertisements PDC 5:** Advertisements and/or advertising hoardings should:
(a) be completely contained within the boundaries of the subject allotment
(b) be sited to avoid damage to, or pruning or lopping of, on-site landscaping or street trees
(c) not obscure views to vistas or objects of high amenity value.

**Outdoor Advertisements PDC 10:** Advertisements should convey the owner/occupier and/or generic type of business, merchandise or services using simple, clear and concise language, symbols, print style and layout and a small number of colours.

**Outdoor Advertisements PDC 13:** Advertisements and/or advertising hoardings should not create a hazard by:
(a) being so highly illuminated as to cause discomfort to an approaching driver, or to create difficulty in the driver's perception of the road or persons or objects on the road
(b) being liable to interpretation by drivers as an official traffic sign, or convey to drivers information that might be confused with instructions given by traffic signals or other control devices, or impair the conspicuous nature of traffic signs or signals
(c) distracting drivers from the primary driving task at a location where the demands on driver concentration are high
(d) obscuring a driver's view of other road or rail vehicles at/or approaching level crossings, or of pedestrians or of features of the road that are potentially hazardous (eg junctions, bends, changes in width, traffic control devices).

**Outdoor Advertisements PDC 19:** Advertising and/or advertising hoardings should not be placed along arterial roads that have a speed limit of 80 km/h or more.
The proposed signage is located in a co-ordinated manner along Willsons Road to capture traffic from opposing corners of the site, from South Coast Road and from Elsegood Road. The signage is completely contained within the allotment’s boundaries and setback 1 metre from these boundaries in areas that do not require the removal of native vegetation as the proposed siting of the signage is on already cleared sections of land. The road reserve located parallel to the subject property boundary adjacent to the South Coast Road carriageway is 28 metres wide which further separates the sign at this South Coast Road corner from the alignment of the road.

The content of the advertisements clearly conveys the Emu Ridge business in a manner which is easy to interpret for drivers. The subtle colours of the signs are not believed to detract from the natural setting of the locality and it is believed will not distract driver’s perception of the road.

Design and Appearance

Design and Appearance Objective 2: Roads, open spaces, buildings and land uses laid out and linked so that they are easy to understand and navigate.

Design and Appearance PDC 1: The design of a building may be of a contemporary nature and exhibit an innovative style provided the overall form is sympathetic to the scale of development in the locality and with the context of its setting with regard to shape, size, materials and colour.

Design and Appearance PDC 2: Buildings should be designed and sited to avoid creating extensive areas of uninterrupted walling facing areas exposed to public view.

Design and Appearance PDC 3: Buildings should be designed to reduce their visual bulk and provide visual interest through design elements such as:
(a) articulation
(b) colour and detailing
(c) small vertical and horizontal components
(d) design and placing of windows
(e) variations to facades.

Design and Appearance PDC 5: Building form should not unreasonably restrict existing views available from neighbouring properties and public spaces.

Design and Appearance PDC 9: Building design should emphasise pedestrian entry points to provide perceptible and direct access from public street frontages and vehicle parking areas.

Design and Appearance PDC 17: The external materials and colours of a building should not result in a detrimental impact upon the existing character of the locality.

Design and Appearance PDC 18: The setback of buildings from public roads should:
(a) be similar to, or compatible with, setbacks of buildings on adjoining land and other buildings in the locality
(b) contribute positively to the streetscape character of the locality
(c) not result in or contribute to a detrimental impact upon the function, appearance or character of the locality.

Design and Appearance PDC 20: Lesser setback distances may be considered where the proposed building will be substantially screened by existing vegetation, natural form and features of the land or adjacent existing buildings.
Siting and Visibility PDC 1: Development should be sited and designed to minimise its visual impact on:
(a) the natural, rural or heritage character of the area
(b) areas of high visual or scenic value, particularly rural and coastal areas
(c) views from the coast, near-shore waters, public reserves, tourist routes and walking trails
(d) the amenity of public beaches.

Siting and Visibility PDC 2: Buildings should be sited in unobtrusive locations and, in particular, should:
(a) be grouped together
(b) where possible be located in such a way as to be screened by existing vegetation when viewed from public roads.

Siting and Visibility PDC 5: The nature of external surface materials of buildings should not detract from the visual character and amenity of the landscape.

The provisions within the Design and Appearance of the Development Plan specifies that wayfinding of sites should be easy to understand and navigate. The proposed signage will contribute to the navigation to this site which is not currently easily identifiable.

The proposed signs are placed strategically along Willsons Road, at the corner points of the subject land only – they are not proliferated anywhere else along the tourist route and otherwise rely upon conventional approved forms of road signs for wayfinding, and at the entry point, so that visitors are able to recognise their destination and navigate their way to the entry of the Emu Ridge business. These locations are not believed to detract from the surrounding locality given the subtle colours of the signs.

CONCLUSION

The proposal is categorised as a non-complying development by the Kangaroo Island Development Plan, as the surrounding roads are over the 80km/h threshold and the size of the signage is over 2 square metres in area. The application did not meet either of these exemptions which would discharge the non-complying status.

The public consultation process undertaken received no objections from adjacent land owners or from the public.

The proposed three signs are sited in strategic locations along Willsons Road which capture passing traffic along South Coast Road and Elsegood Road so as to provide direction and identify the Emu Ridge business.

The subtle colours and the clear and simple design of the proposed advertisements contributes to the signs suitably blending in with the rural landscape. The signs are to be located within the allotment boundaries of the subject sites, setback 1 metre from these boundaries. The road reserve parallel to South Coast Road also contributes to providing a further setback of the signage from this road.

The application has been assessed through the non-complying development assessment process and as part of the assessment process would require the further
concurrency of the State Commission’s Assessment Panel prior to a final decision being issued.

The proposal is considered to not be at serious variance to the Kangaroo Island Development Plan, and is, considered ‘on fine balance’ that the proposal demonstrates adequate merit to warrant Council’s support.

**RECOMMENDATION**

The Council Assessment Panel (i) resolve that the Development Application is **not seriously at variance** with the Kangaroo Island Development Plan consolidated 17 September 2015, and (ii) the panel resolve to **approve** Development Application 520/149/19 for the establishment of the proposed 3 signs located at Allotment DP40022, Willsons Road, in CT 5343/329 and Allotment 102 Deposited Plan 40022, South Coast Road, identified in CT 6091/458 in the Hundred of MacGillivray by the applicant and owner Mr. L & Mrs.B Turner, and to **proceed to seek concurrence of the State Commission Assessment Panel (SCAP)** subject to (but not limited) to the following conditions of consent:

**Kangaroo Island Council – Planning Conditions:**

1. The Development herein approved must, except as varied by the condition of consent be carried out in accordance with the approved plans and details to the satisfaction of Council.

2. The building shall not be used for any purpose other than that described on this notification.

3. The site must be kept in a neat and tidy manner at all times.

4. The sign and its supporting structure shall at all times be kept in good repair and condition to the reasonable satisfaction of Council.

5. No sign shall be placed on the site that moves, flashes, reflects light so as to be an undue distraction to motorists or is internally illuminated.

**Note**

You have a right of appeal against the conditions which have been imposed on this provisional Development Plan consent or Development Approval. Such an appeal must be lodged at the Environment, Resources and Development Court within two months of the day on which you receive this notice or such longer time as the Court may allow.

Please contact the Court if you wish to appeal. The Court is located in the Sir Samuel Way Building, Victoria Square, Adelaide, Ph. 8204 0300.

**Note**

**Class 10 Notification - Regulation 74**

A person undertaking building work (Class 10) must give Council one business day notice of commencement of the building work.
9.0 LAND DIVISION APPLICATIONS – APPROVED UNDER DELEGATED AUTHORITY (GREEN PAGES)

JUNE - NOVEMBER 2019

10.0 GENERAL BUSINESS

Verbal updates will be provided on the following:

- Response to SCAP on Smith Bay EIS Addendum
- Refusal by Council of Amadio LMA – Emu Bay

11.1 CONFIDENTIAL REPORTS

NOTE – Pursuant to Section 56A (12) of the Development Act 1993 the Panel reserve the right to move proceedings ‘in camera’ for deliberations of Development Applications to be considered under Section 11.0 of this Agenda.

12.0 CLOSURE