COUNCIL ASSESSMENT PANEL MEETING

4 MAY 2020 at 13:30pm

ZOOM MEETING - DETAILS

Join Zoom Meeting
https://us02web.zoom.us/j/87661614908?pwd=bkZybo7tV1FsODYzQk9GMHJ5Tljp3dz09

Meeting ID: 876 6161 4908
Password: 891789

Dial by your location
+61 731 853 730 Australia
+61 861 193 900 Australia
+61 8 7150 1149 Australia
+61 2 8015 6011 Australia
+61 3 7018 2005 Australia
KANGAROO ISLAND COUNCIL

NOTICE is hereby given that a Council Assessment Panel Meeting is to be held via Video Conferencing on **Monday, 4 MAY 2020 at 1:30pm.**

[Signature]

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 2 MARCH 2020 (YELLOW PAGES)
That the Minutes of the Council Assessment Panel Meeting held on 2 March 2020 be confirmed.

5.0 BUSINESS ARISING FROM MINUTES OF 2 MARCH 2020
Nil

6.0 DEVELOPMENT SERVICES DEPARTMENT REPORTS
Chairperson and Panel Members, the following reports are submitted to the 4 MAY 2020 Council Assessment Panel Meeting.

RECOMMENDATION
That the Development Services Department Reports be received.

7.0 DEVELOPMENT SERVICES DEPARTMENT APPLICATIONS
FEBRUARY - MARCH 2020
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/C018/19

DEVELOPMENT DETAILS  Community Title Land Division - 1 Allotment into 2 Community Lots + Common property, within the Rural Living Zone, Precinct 20 - Emu Bay.

Applicant  Mr. C.J & Mrs. G Amadio  
c/- Alexander Symonds P/L  
PO Box 1000  
Kent Town   SA   5071

Owner  Mr. C.J & Mrs. G Amadio  
c/- Alexander Symonds P/L  
PO Box 1000  
Kent Town   SA   5071

Site Address  Allotment 43 DP119286, Salty Air Circuit, Emu Bay, Hundred of Menzies.

Property Details  Certificate of Title Volume 6214 Folio 408

Zone  Rural Living Zone, Precinct 20 (Emu Bay South Mixed Use) Map KI/13.

Public Notification  Category 1 'Merit' form of development – No Public Notification required or permitted.

Application Date  10 December 2019

Relevant Development Plan  Consolidated 17 September 2015

Department  Development and Environmental Services  
Aaron Wilksch  
Development Services Manager

Issues Summary  The proposed development purports division of land into Community Title allotments below the minimum lot size prescribed in the zone, relevant to development of Community Titled dwellings within the recently established land release.

BACKGROUND

Preceding this application, the applicant has lodged a Land Management Agreement pursuant to Section 57A of the Development Act 1993. The proposed LMA intended to formalise an intention to further divide land within this land release, by way of community title land division, to create a mixture of land sizes and diversity in development.
The whole of the land within the zone precinct was subject to land division consent in 2016 creating 78 development allotments all in the order of 1500m² under ‘Rural Living’ zoning and specific planning policy area.

The Development Plan provisions envisage some more intensive development of the land, including the undefined term ‘comprehensive development’, which through collaboration of Council, Council’s Lawyers and the Applicant was defined in the LMA.

The LMA intended that a maximum of 30% of the entire development land (23 Lots out of 78 Lots) could realise more intensive development including duplex / semi-detached dwellings, community titled retirement living or tourist accommodation and a greater diversity of housing opportunities character interspersed throughout the precinct.

The LMA was considered to clarify and reasonably pursue the intent of the Zone and Precinct’s planning provisions, including establishing certainty over the maximum densification of residential development, however was refused by Council.

The applicant now seeks to pursue the further division of this land in the absence of the LMA, assessed against the provisions of the Kangaroo Island Development Plan.

The Applicant has also established a dwelling on this subject allotment (520/163/17) in which the assessment contemplated the establishment of a second dwelling within a future Community Title land division.

Accordingly, throughout the dwelling’s assessment, the applicant made provision for, and evidenced additional plans and details to justify that the second dwelling, including detailing that the required wastewater treatment system and effluent disposal areas, private open space, relevant setbacks, and car parking requirements could be spatially accommodated on site in a complying fashion.

**SUBJECT LAND AND LOCALITY**

The subject land in this proposal is identified as Allotment 43 DP119286 Salty Air Circuit, Emu Bay, Hundred of Menzies, and is identified in Certificate of Title Volume 6214 Folio 408.

The subject land is located south of the established Emu Bay ‘township’ settlement and north-west of the intersection of Emu Bay Road, Gap Road and Hamilton Drive, in the prominent eastward hillside facing the main road approach to Emu Bay.

The land is the subject of the recent land division 520/D001/16 for some 78 allotments if 1500m² within Rural Living zoning, representing large scale urban / semi-rural development allotments.

The land zoning was the subject of the Emu Bay Structure Plan and resultant Development Plan Amendment (2013 – 2015) wherein the subject zone was initially prescribed 2000m² allotments, but were reduced in the DPA to 1500m².

Also noteworthy, is the size of subject Lot 43, which had increased in size from 1500m² to 1800m² to support this proposal.
The land is somewhat elevated amongst its surroundings, though not necessarily prominent in the whole landscape of Emu Bay (other than at the aforementioned intersection upon entry into Emu Bay), and by design would become less prominent in time as development occurs throughout the estate.

The entirety of the subject land is located within the Rural Living zone, common with its surrounding land. The subject land is contained in Map KI/22 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 Community Title Land Division Consent for the division of 1 existing allotment into 2 Community Title Lots, with common land component.

Both Community Lots attain frontage to the Salty Air Circuit road frontage within the new land release, which is accessed from Gap Road, south of the intersection of Gap & Emu Bay Roads and Hamilton Drive.

The resulting allotments are proportioned as follows:

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<tr>
<th>Comm. Lot No.</th>
<th>Frontage</th>
<th>Width</th>
<th>Depth</th>
<th>Area</th>
</tr>
</thead>
<tbody>
<tr>
<td>431</td>
<td>18.14m</td>
<td>18.28m</td>
<td>50.00</td>
<td>898m²</td>
</tr>
<tr>
<td>432</td>
<td>18.14m</td>
<td>18.28m</td>
<td>50.00</td>
<td>887m²</td>
</tr>
<tr>
<td>C1 (Common)</td>
<td>n/a</td>
<td>3.54m</td>
<td>4.28m</td>
<td>15m²</td>
</tr>
</tbody>
</table>

Resulting allotments are conventional in shape and attain adequate frontage / width and site area which designed to meet the minimum appropriate area for residential Torrens Titled allotments having considered: the building footprint, private open space, wastewater treatment / disposal system, potable water / fire water storage, driveways / car parking and setback requirements described in the Kangaroo Island Development Plan.

Copies of plan of division is 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 Rural Living zone and Precinct 20 (Emu Bay South Mixed Use) sub zone.

Division of land is neither Complying, nor Non-complying within Rural Living Zone Precinct 20 as provided by the Kangaroo Island Development Plan. Land division areas do not define non-complying thresholds, therefore the proposal is subject to ‘Merit’ assessment.

Categorisation:
The proposed development was determined to constitute a Category 1 form of development, pursuant to Section 38 of the Act and Schedule 9 Part 1 (2)(f) of the Development Regulations 2008.

Accordingly, there is no public notification required nor permitted by the Act.

REFERRALS AND AGENCY CONSULTATION
The application was not subject to any mandatory referrals pursuant to the Eighth Schedule of the Development Regulations 2008.

Informal referrals were undertaken by the State Planning Commission via the EDALA land division lodgement system to the SA Water Corporation.

SA Water Corporation:
The SA Water Corporation provided its final response on 10 January 2020, advising that it had no requirements / no services in the area.

State Planning Commission:
The Development Assessment Commission provided its consultation report on 14 January 2019, requiring by condition pursuant to sec 33(1):

- Payment of $3058.00 into the Planning and Development Fund (1 allotment/s @ $3058.00 /allotment). Payment may be made by credit card via the internet at www.edala.sa.gov.au or by phone (7109 7018), by cheque payable to the State Planning Commission marked “Not Negotiable” and sent to GPO Box 1815, Adelaide 5001 or in person, by cheque or credit card, at Level 5, 50 Flinders Street, Adelaide.

- 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.

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 Assessment Panel Terms of Reference and Delegations – for a decision on a matter which
purports a variance with the provisions of the Kangaroo Island Development Plan, which warrants the consideration of the Panel.

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 (Precinct 20)
PDC’s: 18, 19, 47, 48, 49, 53

Land Division
Objective: 2 & 3

Orderly and Sustainable Development
Objective: 4
PDC: 1

**Preliminary - Concept of Comprehensive Development:**

As a preliminary matter of assessment, the Kangaroo Island Development Plan refers to ‘comprehensive development’ within The Rural Living, Precinct 20, Desired Character Statement and in PDC’s 49 & 53. The term is not defined in the Act or Regulations.

The formerly proposed LMA did attempt to define ‘comprehensive development’, such that it was able to be interpreted with the Development Plan provisions, as the development of multiple dwellings or units and potentially other buildings or features to support a group or community residency, which is foreshadowed in the Precinct 20 Desired Character Statement as being for tourist accommodation (including associated land uses and facilities), retirement living or aged care facilities.

In practical terms, distilling from The Desired Character Statement (Paragraph 1) and PDC’s 49 & 53, it would be a sensible interpretation that ‘comprehensive development’ relates specifically to development of more densified community divisions and multiple, row, or group dwelling type living, notwithstanding the scale or intensity of such is not defined.

**PLANNING ASSESSMENT**

**Rural Living 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.

**Rural Living Objective 2:** Development that contributes to the desired character of the zone.

**Rural Living PDC 47:** Development should not be undertaken unless it is consistent with the desired character for the precinct.

**Rural Living Zone Precinct 20 Emu Bay South Mixed Use Desired Character Statement:**
Para. 1 This precinct will provide the opportunity for a wide range of developments to occur including low density residential development and comprehensive developments such as tourist accommodation (including associated land uses and facilities), retirement living or aged care accommodation.

Para. 2 Comprehensive developments will be designed and sited to complement the character of the existing township and the surrounding natural environment.

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.

The proposal seeks to divide the existing allotment in order to separate the existing dwelling along with 887m² of the, leaving the remaining allotment of 898m² and common property relative to the approved / installed septic tank system, designed to operate for two dwellings within a community development.

Development in this format substantially reflects the Desired Character Statement intent for a wide range of developments to occur including low density residential development and comprehensive developments such as tourist accommodation (including associated land uses and facilities), retirement living or aged care accommodation.

The proposal to divide the land substantially maintains characteristics of large allotments detached dwellings, tourist accommodation and other residential land uses as described in Rural Living Objective 1 and 2.

The size of resulting allotments is not inconsistent with the Emu Bay township (Residential Zone) wherein allotments of 1000m² exist throughout and is not inconsistent with the Desired Character or the zone provisions (Orderly and Sustainable Development Objective 4 & PDC 1) specifically referring to creation of ‘smaller than prescribed’ allotments in Rural Living PDC 19.

The further residential development of the land is strongly in accordance with the intent of the zone and supports achievement of the objectives of the Development Plan.

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.

Rural Living PDC 18: The division of land should not be undertaken if the dimensions of any proposed allotment are such that the ratio of depth to frontage is greater than 4-in-1.

Rural Living PDC 48: Land division should result in allotments of at least 1500 square metres.

Rural Living PDC 19: Land division which proposes the creation of an allotment with an area less than specified by the zone or relevant precinct provisions should only be undertaken where it can be demonstrated that:

(a) the proposed allotment can accommodate development which is consistent with that envisaged by the desired character for the zone or relevant precinct
(b) the proposed land division is linked to a development that is consistent with the desired character for the zone or relevant precinct

(c) a sustainable water supply of sufficient quantity and quality is available to supply the intended land use

(d) the allotments are of a suitable size to promote sustainable treatment and disposal of wastewater

(e) the arrangement of the allotment boundaries will not result in adverse environmental impacts, such as undue removal of vegetation, impact from natural hazards or impact on the natural features of the land

(f) the allotments have safe and convenient access to a formed public road.

The proposed division is considered to support the provisions of the plan in respect of creating allotments appropriate for the intended use. Assessment of the development requirements for the land, being: the building footprint, private open space, wastewater treatment / disposal system, potable water / fire water storage, driveways / car parking and setback requirements described in the Kangaroo Island Development Plan have been taken into account to demonstrate compliance with the requirements to be fit for the intended purpose (Land Division Objective 2 and Rural Living PDC’s 48 and 19).

The configuration of this division does not create any adverse effect on accessibility, the allotments will be conveniently accessed from existing sealed road frontages with conventional crossover points (Land Division Objective 3).

Configuration of allotments does not create obtusely narrow / deep allotments. Each resulting allotment achieves frontage to depth ratios of less than 3:1 (Rural Living PDC 18) and frontages which are almost double the expected minimum frontages for residential allotments.

It is considered that the proposed division will not jeopardise the character intended in the zone. Its effect will create some variations in the overall development patterns, i.e. size and configuration of houses, which is considered to be a positive effect to mitigate an overly homogenous built environment, and therefore is considered to pursue Land division Objective 2, Rural Living PDC 19 and the Rural Living Precinct 20 Desired Character Statement, paragraph 1.

**Rural Living PDC 49:** Comprehensive developments should:

(a) not dominate, over commercialise or detract from the natural or rural character of the area

(b) be sited in unobtrusive areas and behind vegetated buffers where practicable

(c) be setback at least 30 metres from all public roads

(d) be no greater than two storeys in height or 6.5 metres above natural ground level

(e) demonstrate a high standard of urban design incorporating architectural features which:
   (i) provide shelter in the form of verandahs, canopies and awnings to external elevations
   (ii) avoid large areas of blank wall which are visible from public roads, internal and external open space areas or adjoining land
(f) ensure services including associated functions and areas are screened from view and separated physically and visually from public spaces

(g) include an approved waste water disposal system.

**Rural Living PDC 53:** Comprehensive developments should incorporate landscaping in accordance with the following:

(a) be comprised extensively of planted indigenous or native species to restore and enhance the natural character of the locality

(b) be integrated and form linkages within the precinct and to adjoining public and township areas.

The matter of whether the proposed division is a ‘comprehensive development’ is unclear, however the proposed development certainly creates opportunity for more dense development of a residential nature.

Rural Living PDC 49, purports measures for apparently substantive, potentially dominating or commercial buildings. These may include developments described in Rural Living Precinct 20 Desired Character Statement as tourist accommodation (including associated land uses and facilities), as distinct from development of the scale or nature presented in the subject application.

Whilst the proposed development may not be directly relevant to Rural Living PDC 49 or 53, as a ‘comprehensive development’ it is not prejudicial or offensive to those provisions, i.e. the development proposed does not exceed or create undesirable effect(s) identified in those principles.

The development does substantially accord the provisions of Rural Living PDC 19 assessed above relative to the creation of allotments below the prescribed minimum size and will thereafter need to pursue the objects of the planning policy in terms of its further development of a dwelling, its built form and appearance etc. and in this respect is considered to be in accord with the Kangaroo Island Development Plan.

**CONCLUSION**

The proposed division of Allotment 43 DP119286, Salty Air Circuit, Emu Bay, Hundred of Menzies into two Community Titled Lots pursues the opportunity provided by the Rural Living zone, specifically the Precinct 20 provisions, to further divide land and intensify development, most relevantly, within Rural Living Objective 1, Rural Living Precinct 20 Desired Character Statement paragraph 1 and Rural Living PDC 19.

The minimum prescribed lot size in the zone sets a standard for the character of the zone, but does not set a Non-complying threshold for land divisions. Rural Living zone Principle 19 further reinforces that division below the minimum allotment size is envisaged by the Development Plan.

The zone’s Objectives, Desired Character Statement and Principles seek to ensure that the Precinct and the locality is not adversely affected by over-development, obtuse densification or over-commercialisation.
The proposed development creating variation in Lot sizes, creating diversity in development (development opportunities) and built form, scale and appearance is supported by the Kangaroo Island Development Plan.

Whilst it would be undesirable to have an entire locality develop to the highest density permissible, this does not readily occur wholesale through any localities.

The residential zones on Kangaroo Island are testament to this, where the Development Plan(s) of the past 17 years have permitted minimum allotment sizes of as little as 450m² yet still the vast majority of townships’ residential allotments remain in the 800m² minimum range. This example reflects that the Rural Living zone provisions relevant to this assessment provide opportunity for design variations & flexibility and create opportunities for a range of developments in the locality.

The absence of the refused LMA proposed for this area removes some certainty of the overall densification which would be acceptable, and although this would have been desirable, it remains the planning authority’s role to assess the appropriateness of further divisions on the merits of each application. It should be not misconstrued that this application alone (if approved) sets a precedent.

In respect of its assessment against the above provisions of the Kangaroo Island Development Plan, the proposal 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/C018/19 for division of 1 allotment into 2 Community Titled Lots at 43 DP119286, Salty Air Circuit, Emu Bay, Hundred of Menzies for Mr. C.J and Mrs G. Amadio c/- Alexander Symonds Surveying Consultants, 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: 232107div’ and dated 12/10/2016 and details to the satisfaction of Council.

2. The connection of driveways to the existing carriageway shall be undertaken to the satisfaction of Council’s Asset Services Department Manager, with the cost of all work being borne by the applicant.

**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.

Development Assessment Commission – Land Division Conditions:

2. Payment of $3058.00 into the Planning and Development Fund (1 allotment/s @ $3058.00 /allotment). Payment may be made by credit card via the internet at www.edala.sa.gov.au or by phone (7109 7018), by cheque payable to the State Planning Commission marked “Not Negotiable” and sent to GPO Box 1815, Adelaide 5001 or in person, by cheque or credit card, at Level 5, 50 Flinders Street, Adelaide.

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 8.2

APPLICATION NO. 520/C017/19

DEVELOPMENT DETAILS Community Title Land Division - 1 Allotment into 2 Community Lots + Common property, within the Rural Living Zone, Precinct 20 - Emu Bay.

Applicant Mr. C.J & Mrs. G Amadio
c/- Alexander Symonds P/L
PO Box 1000
Kent Town SA 5071

Owner Mr. C.J & Mrs. G Amadio
c/- Alexander Symonds P/L
PO Box 1000
Kent Town SA 5071

Site Address Allotment 39 DP119286, Salty Air Circuit, Emu Bay, Hundred of Menzies.

Property Details Certificate of Title Volume 6214 Folio 404

Zone Rural Living Zone, Precinct 20 (Emu Bay South Mixed Use) Map KI/13.

Public Notification Category 1 ‘Merit’ form of development – No Public Notification required or permitted.

Application Date 10 December 2019

Relevant Development Plan Consolidated 17 September 2015

Department Development and Environmental Services
Aaron Wilksch
Development Services Manager

Issues Summary The proposed development purports division of land into Community Title allotments below the minimum lot size prescribed in the zone, relevant to development of Community Titled dwellings within the recently established land release.

BACKGROUND
Preceding this application, the applicant has lodged a Land Management Agreement pursuant to Section 57A of the Development Act 1993. The proposed LMA intended to formalise an intention to further divide land within this land release, by way of community title land division, to create a mixture of land sizes and diversity in development.
The whole of the land within the zone precinct was subject to land division consent in 2016 creating 78 development allotments all in the order of 1500m² under ‘Rural Living’ zoning and specific planning policy area.

The Development Plan provisions envisage some more intensive development of the land, including the undefined term ‘comprehensive development’, which through collaboration of Council, Council’s Lawyers and the Applicant was defined in the LMA.

The LMA intended that a maximum of 30% of the entire development land (23 Lots out of 78 Lots) could realise more intensive development including duplex / semi-detached dwellings, community titled retirement living or tourist accommodation and a greater diversity of housing opportunities character interspersed throughout the precinct.

The LMA was considered to clarify and reasonably pursue the intent of the Zone and Precinct’s planning provisions, including establishing certainty over the maximum densification of residential development, however was refused by Council.

The applicant now seeks to pursue the further division of this land in the absence of the LMA, assessed against the provisions of the Kangaroo Island Development Plan.

The Applicant has obtained approval for, but not yet established a dwelling on this allotment (520/162/17) in which the assessment contemplated the establishment of a second dwelling within a future Community Title land division.

Accordingly, throughout the dwelling’s assessment, the applicant made provision for, and evidenced additional plans and details to justify that the second dwelling, including detailing that the required wastewater treatment system and effluent disposal areas, private open space, relevant setbacks, and car parking requirements could be spatially accommodated on site in a complying fashion.

**SUBJECT LAND AND LOCALITY**

The subject land in this proposal is identified as Allotment 39 DP119286 Salty Air Circuit, Emu Bay, Hundred of Menzies, and is identified in Certificate of Title Volume 6214 Folio 404.

The subject land is located south of the established Emu Bay ‘township’ settlement and north-west of the intersection of Emu Bay Road, Gap Road and Hamilton Drive, in the prominent eastward hillside facing the main road approach to Emu Bay.

The land is the subject of the recent land division 520/D001/16 for some 78 allotments if 1500m² within Rural Living zoning, representing large scale urban / semi-rural development allotments.

The land zoning was the subject of the Emu Bay Structure Plan and resultant Development Plan Amendment (2013 – 2015) wherein the subject zone was initially prescribed 2000m² allotments, but were reduced in the DPA to 1500m².

Also noteworthy, is the size of subject Lot 39, which had increased in size from 1500m² to 1990m² to support this proposal. This is comparable to any of the existing Emu Bay township’s residential allotments.
The land is slightly elevated amongst its surroundings, being at the lower end of Salty Air Circuit, and is not prominent in the whole landscape of Emu Bay (other than being visible at the aforementioned intersection upon entry into Emu Bay), and by design would become less prominent in time as development occurs throughout the estate.

The entirety of the subject land is located within the Rural Living zone, common with its surrounding land. The subject land is contained in Map KI/22 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 Community Title Land Division Consent for the division of 1 existing allotment into 2 Community Title Lots, with common land component.

Both Community Lots attain frontage to the Starfish Drive road frontage within the new land release, which is accessed from Gap Road, south of the intersection of Gap & Emu Bay Roads and Hamilton Drive.

The resulting allotments are proportioned as follows:

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<tr>
<td>391</td>
<td>29.40m</td>
<td>29.40m</td>
<td>34.00</td>
<td>1000m²</td>
</tr>
<tr>
<td>392</td>
<td>51.33m</td>
<td>32.93</td>
<td>34.00</td>
<td>962m²</td>
</tr>
<tr>
<td>C1 (Common)</td>
<td>7.19</td>
<td>6.70</td>
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Resulting allotments are conventional in shape and attain adequate frontage / width and site area which designed to meet the minimum appropriate area for residential Torrens Titled allotments having considered: the building footprint, private open space, wastewater treatment / disposal system, potable water / fire water storage, driveways / car parking and setback requirements described in the Kangaroo Island Development Plan.

Copies of plan of division is 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 Rural Living zone and Precinct 20 (Emu Bay South Mixed Use) sub zone.

Division of land is neither Complying, nor Non-complying within Rural Living Zone Precinct 20 as provided by the Kangaroo Island Development Plan. Land division areas do not define non-complying thresholds, therefore the proposal is subject to 'Merit' assessment.

Categorisation:
The proposed development was determined to constitute a Category 1 form of development, pursuant to Section 38 of the Act and Schedule 9 Part 1 (2)(f) of the Development Regulations 2008.

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REFERRALS AND AGENCY CONSULTATION
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purports a variance with the provisions of the Kangaroo Island Development Plan, which warrants the consideration of the Panel.

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 (Precinct 20)
PDC’s: 18, 19, 47, 48, 49, 53

Land Division
Objective: 2 & 3

Orderly and Sustainable Development
Objective: 4
PDC: 1

**Preliminary - Concept of Comprehensive Development:**

As a preliminary matter of assessment, the Kangaroo Island Development Plan refers to ‘comprehensive development’ within The Rural Living, Precinct 20, Desired Character Statement and in PDC’s 49 & 53. The term is not defined in the Act or Regulations.

The formerly proposed LMA did attempt to define ‘comprehensive development’, such that it was able to be interpreted with the Development Plan provisions, as the development of multiple dwellings or units and potentially other buildings or features to support a group or community residency, which is foreshadowed in the Precinct 20 Desired Character Statement as being for tourist accommodation (including associated land uses and facilities), retirement living or aged care facilities.

In practical terms, distilling from The Desired Character Statement (Paragraph 1) and PDC’s 49 & 53, it would be a sensible interpretation that ‘comprehensive development’ relates specifically to development of more densified community divisions and multiple, row, or group dwelling type living, notwithstanding the scale or intensity of such is not defined.

**PLANNING ASSESSMENT**

**Rural Living 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.

**Rural Living Objective 2:** Development that contributes to the desired character of the zone.

**Rural Living PDC 47:** Development should not be undertaken unless it is consistent with the desired character for the precinct.

**Rural Living Zone Precinct 20 Emu Bay South Mixed Use Desired Character Statement:**
Para. 1 This precinct will provide the opportunity for a wide range of developments to occur including low density residential development and comprehensive developments such as tourist accommodation (including associated land uses and facilities), retirement living or aged care accommodation.

Para. 2 Comprehensive developments will be designed and sited to complement the character of the existing township and the surrounding natural environment.

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.

The proposal seeks to divide the existing allotment into two allotments of 1000m² and 962m² respectively, with common property relative to the approved septic tank system, designed to operate for two dwellings within a community development.

Development in this format substantially reflects the Desired Character Statement intent for a wide range of developments to occur including low density residential development and comprehensive developments such as tourist accommodation (including associated land uses and facilities), retirement living or aged care accommodation.

The proposal to divide the land substantially maintains characteristics of large allotments detached dwellings, tourist accommodation and other residential land uses as described in Rural Living Objective 1 and 2.

The size of resulting allotments is not inconsistent with the Emu Bay township (Residential Zone) wherein allotments of 1000m² exist throughout and is not inconsistent with the Desired Character or the zone provisions (Orderly and Sustainable Development Objective 4 & PDC 1) specifically referring to creation of ‘smaller than prescribed’ allotments in Rural Living PDC 19.

The further residential development of the land is strongly in accordance with the intent of the zone and supports achievement of the objectives of the Development Plan.

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.

Rural Living PDC 18: The division of land should not be undertaken if the dimensions of any proposed allotment are such that the ratio of depth to frontage is greater than 4-in-1.

Rural Living PDC 48: Land division should result in allotments of at least 1500 square metres.

Rural Living PDC 19: Land division which proposes the creation of an allotment with an area less than specified by the zone or relevant precinct provisions should only be undertaken where it can be demonstrated that:

(a) the proposed allotment can accommodate development which is consistent with that envisaged by the desired character for the zone or relevant precinct
(b) the proposed land division is linked to a development that is consistent with the desired character for the zone or relevant precinct

(c) a sustainable water supply of sufficient quantity and quality is available to supply the intended land use

(d) the allotments are of a suitable size to promote sustainable treatment and disposal of wastewater

(e) the arrangement of the allotment boundaries will not result in adverse environmental impacts, such as undue removal of vegetation, impact from natural hazards or impact on the natural features of the land

(f) the allotments have safe and convenient access to a formed public road.

The proposed division is considered to support the provisions of the plan in respect of creating allotments appropriate for the intended use. Assessment of the development requirements for the land, being: the building footprint, private open space, wastewater treatment / disposal system, potable water / fire water storage, driveways / car parking and setback requirements described in the Kangaroo Island Development Plan have been taken into account to demonstrate compliance with the requirements to be fit for the intended purpose (Land Division Objective 2 and Rural Living PDC’s 48 and 19).

The configuration of this division does not create any adverse effect on accessibility, the allotments will be conveniently accessed from existing sealed road frontages with conventional crossover points (Land Division Objective 3).

Configuration of allotments does not create obtusely narrow / deep allotments. Each resulting allotment achieves frontage to depth ratios just marginally greater than 1:1 (Rural Living PDC 18) and frontages which are double (or greater) than the expected minimum frontages for residential allotments.

It is considered that the proposed division will not jeopardise the character intended in the zone. Its effect will create some variations in the overall development patterns, i.e. size and configuration of houses, which is considered to be a positive effect to mitigate an overly homogenous built environment, and therefore is considered to pursue Land division Objective 2, Rural Living PDC 19 and the Rural Living Precinct 20 Desired Character Statement, paragraph 1.

**Rural Living PDC 49:** Comprehensive developments should:

(a) not dominate, over commercialise or detract from the natural or rural character of the area

(b) be sited in unobtrusive areas and behind vegetated buffers where practicable

(c) be setback at least 30 metres from all public roads

(d) be no greater than two storeys in height or 6.5 metres above natural ground level

(e) demonstrate a high standard of urban design incorporating architectural features which:
   (i) provide shelter in the form of verandas, canopies and awnings to external elevations
   (ii) avoid large areas of blank wall which are visible from public roads, internal and external open space areas or adjoining land
(f) ensure services including associated functions and areas are screened from view and separated physically and visually from public spaces

(g) include an approved waste water disposal system.

**Rural Living PDC 53:** Comprehensive developments should incorporate landscaping in accordance with the following:

(a) be comprised extensively of planted indigenous or native species to restore and enhance the natural character of the locality

(b) be integrated and form linkages within the precinct and to adjoining public and township areas.

The matter of whether the proposed division is a ‘comprehensive development’ is unclear, however the proposed development certainly creates opportunity for more dense development of a residential nature.

Rural Living PDC 49, purports measures for apparently substantive, potentially dominating or commercial buildings. These may include developments described in Rural Living Precinct 20 Desired Character Statement as tourist accommodation (including associated land uses and facilities), as distinct from development of the scale or nature presented in the subject application.

Whilst the proposed development may not be directly relevant to Rural Living PDC 49 or 53, as a ‘comprehensive development’ it is not prejudicial or offensive to those provisions, i.e. the development proposed does not exceed or create undesirable effect(s) identified in those principles.

The development does substantially accord the provisions of Rural Living PDC 19 assessed above relative to the creation of allotments below the prescribed minimum size and will thereafter need to pursue the objects of the planning policy in terms of its further development of a dwelling, its built form and appearance etc. and in this respect is considered to be in accord with the Kangaroo Island Development Plan.

**CONCLUSION**

The proposed division of Allotment 39 DP119286, Salty Air Circuit, Emu Bay, Hundred of Menzies into two Community Titled Lots pursues the opportunity provided by the Rural Living zone, specifically the Precinct 20 provisions, to further divide land and intensify development, most relevantly, within Rural Living Objective 1, Rural Living Precinct 20 Desired Character Statement paragraph 1 and Rural Living PDC 19.

The minimum prescribed lot size in the zone sets a standard for the character of the zone, but does not set a Non-complying threshold for land divisions. Rural Living zone Principle 19 further reinforces that division below the minimum allotment size is envisaged by the Development Plan.

The zone’s Objectives, Desired Character Statement and Principles seek to ensure that the Precinct and the locality is not adversely affected by over-development, obtuse densification or over commercialisation.
The proposed development creating variation in Lot sizes, creating diversity in development (development opportunities) and built form, scale and appearance is supported by the Kangaroo Island Development Plan.

Whilst it would be undesirable to have an entire locality develop to the highest density permissible, this does not readily occur wholesale through any localities.

The residential zones on Kangaroo Island are testament to this, where the Development Plan(s) of the past 17 years have permitted minimum allotment sizes of as little as 450m² yet still the vast majority of townships’ residential allotments remain in the 800m² minimum range. This example reflects that the Rural Living zone provisions relevant to this assessment provide opportunity for design variations & flexibility and create opportunities for a range of developments in the locality.

The absence of the refused LMA proposed for this area removes some certainty of the overall densification which would be acceptable, and although this would have been desirable, it remains the planning authority’s role to assess the appropriateness of further divisions on the merits of each application. It should be not misconstrued that this application alone (if approved) sets a precedent.

In respect of its assessment against the above provisions of the Kangaroo Island Development Plan, the proposal 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/C017/19 for division of 1 allotment into 2 Community Titled Lots at 39 DP119286, Salty Air Circuit, Emu Bay, Hundred of Menzies for Mr. C.J and Mrs G. Amadio c/- Alexander Symonds Surveying Consultants, 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: 232107div’ and dated 12/10/2016 and details to the satisfaction of Council.

2. The connection of driveways to the existing carriageway shall be undertaken to the satisfaction of Council’s Asset Services Department Manager, with the cost of all work being borne by the applicant.

**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.
Development Assessment Commission – Land Division Conditions:

2. Payment of $3058.00 into the Planning and Development Fund (1 allotment/s @ $3058.00 /allotment). Payment may be made by credit card via the internet at www.edala.sa.gov.au or by phone (7109 7018), by cheque payable to the State Planning Commission marked “Not Negotiable” and sent to GPO Box 1815, Adelaide 5001 or in person, by cheque or credit card, at Level 5, 50 Flinders Street, Adelaide.

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 8.3

APPLICATION NO. 520/C017/19

DEVELOPMENT DETAILS Community Title Land Division - 5 Allotments into 10 Community Lots + Common property, within the Rural Living Zone, Precinct 20 - Emu Bay.

Applicant Mr. C.J & Mrs. G Amadio
c/- Alexander Symonds P/L
PO Box 1000
Kent Town SA 5071

Owner Mr. C.J & Mrs. G Amadio
c/- Alexander Symonds P/L
PO Box 1000
Kent Town SA 5071

Site Address Allotment(s) 49, 50, 51, 52 & 201 DP119286, Starfish Drive & Gap Road, Emu Bay, Hundred of Menzies.

Property Details Certificates of Title:
Volume 6214 Folio 414 – Lot 49
Volume 6214 Folio 415 – Lot 50
Volume 6214 Folio 416 – Lot 51
Volume 6214 Folio 417 – Lot 52
Volume 6214 Folio 421 – Lot 201

Zone Rural Living Zone, Precinct 20 (Emu Bay South Mixed Use) Map KI/13.

Public Notification Category 1 ‘Merit’ form of development – No Public Notification required or permitted.

Application Date 10 December 2019

Relevant Development Plan Consolidated 17 September 2015

Department Development and Environmental Services
Aaron Wilksch
Development Services Manager

Issues Summary The proposed development purports division of land into Community Title allotments below the minimum lot size prescribed in the zone, relevant to development of Community Titled dwellings within the recently established land release.

BACKGROUND
Preceding this application, the applicant has lodged a Land Management Agreement pursuant to Section 57A of the Development Act 1993. The proposed LMA intended
to formalise an intention to further divide land within this land release, by way of community title land division, to create a mixture of land sizes and diversity in development.

The whole of the land within the zone precinct was subject to land division consent in 2016 creating 78 development allotments all in the order of 1500m² under ‘Rural Living’ zoning and specific planning policy area.

The Development Plan provisions envisage some more intensive development of the land, including the undefined term ‘comprehensive development’, which through collaboration of Council, Council’s Lawyers and the Applicant was defined in the LMA.

The LMA intended that a maximum of 30% of the entire development land (23 Lots out of 78 Lots) could realise more intensive development including duplex / semi-detached dwellings, community titled retirement living or tourist accommodation and a greater diversity of housing opportunities character interspersed throughout the precinct.

The LMA was considered to clarify and reasonably pursue the intent of the Zone and Precinct’s planning provisions, including establishing certainty over the maximum densification of residential development, however was refused by Council.

The applicant now seeks to pursue the further division of this land in the absence of the LMA, assessed against the provisions of the Kangaroo Island Development Plan.

The Applicant has obtained approval for, but not yet established a dwelling on this allotment (520/162/17) in which the assessment contemplated the establishment of a second dwelling within a future Community Title land division.

Accordingly, throughout the dwelling’s assessment, the applicant made provision for, and evidenced additional plans and details to justify that the second dwelling, including detailing that the required wastewater treatment system and effluent disposal areas, private open space, relevant setbacks, and car parking requirements could be spatially accommodated on site in a complying fashion.

**SUBJECT LAND AND LOCALITY**

The subject land in this proposal is identified as Allotments 49, 50, 51, 52 and 201 DP119286 Starfish Drive and Gap Road, Emu Bay, Hundred of Menzies, and is identified in the Certificates of Title identified above.

The subject land is located south of the established Emu Bay ‘township’ settlement and south-west of the intersection of Emu Bay Road, Gap Road and Hamilton Drive, and on the south side of newly formed Starfish Drive within the new land release.

The land is the subject of the recent land division 520/D001/16 for some 78 allotments if 1500m² within Rural Living zoning, representing large scale urban / semi-rural development allotments.

The land zoning was the subject of the Emu Bay Structure Plan and resultant Development Plan Amendment (2013 – 2015) wherein the subject zone was initially prescribed 2000m² allotments, but were reduced in the DPA to 1500m².
The land subject to this application has also been subject to a separate application to amalgamate the individual allotments subject of this application into one ‘Primary development Lot’ of 10,000m² (1.0 Ha) for the purpose of facilitating this proposal (if approved) and separating it from the 3.88 Ha. balance of Lot 201.

The land is not elevated, rather it is predominantly concealed immediately west of the stormwater detention basin and reserve which lies immediately adjacent to the aforementioned Gap Rd. & Emu Bay Rd. intersection.

The entirety of the subject land is located within the Rural Living zone, common with its surrounding land. The subject land is contained in Map KI/22 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 Community Title Land Division Consent for the division of 5 existing allotments into 10 Community Title Lots, with common land components (as driveways and common effluent disposal area).

Each Community Lot fronting Starfish Drive attains direct frontage in the order of 22.4m (or greater) and common driveway frontage of 30.0m.

Rear Community Lots attain common driveway frontage of 17.32m, other than the proposed ‘hammer-head’ Lot 30 which has 6.19m width of its driveway frontage to the common access it shares with proposed Lot 302.

All Common access points attain frontage to the Starfish Drive road frontage within the new land release.

The resulting allotments are proportioned as follows:

<table>
<thead>
<tr>
<th>Comm. Lot No.</th>
<th>Frontage</th>
<th>Width</th>
<th>Depth</th>
<th>Area</th>
</tr>
</thead>
<tbody>
<tr>
<td>301</td>
<td>6.19m</td>
<td>25.0m</td>
<td>30.0m</td>
<td>970m²</td>
</tr>
<tr>
<td>302</td>
<td>43.89m</td>
<td>26.5m</td>
<td>30.0m</td>
<td>889m²</td>
</tr>
<tr>
<td>303</td>
<td>22.4m</td>
<td>22.4m</td>
<td>30.0m</td>
<td>672m²</td>
</tr>
<tr>
<td>304</td>
<td>17.32m</td>
<td>25.0m</td>
<td>30.0m</td>
<td>712m²</td>
</tr>
<tr>
<td>305</td>
<td>17.32m</td>
<td>25.0m</td>
<td>30.0m</td>
<td>712m²</td>
</tr>
<tr>
<td>306</td>
<td>22.4m</td>
<td>22.4m</td>
<td>30.0m</td>
<td>672m²</td>
</tr>
<tr>
<td>307</td>
<td>22.4m</td>
<td>22.4m</td>
<td>30.0m</td>
<td>672m²</td>
</tr>
<tr>
<td>308</td>
<td>17.32m</td>
<td>25.0m</td>
<td>30.0m</td>
<td>712m²</td>
</tr>
<tr>
<td>309</td>
<td>17.32m</td>
<td>25.0m</td>
<td>30.0m</td>
<td>712m²</td>
</tr>
<tr>
<td>310</td>
<td>22.4m</td>
<td>22.4m</td>
<td>30.0m</td>
<td>672m²</td>
</tr>
<tr>
<td>C1 (effluent disp.)</td>
<td>-</td>
<td>125.0m</td>
<td>16.4m</td>
<td>2050m²</td>
</tr>
<tr>
<td>C2 (access for 301 &amp; 302)</td>
<td>-</td>
<td>9.54</td>
<td>13.04</td>
<td>567m²</td>
</tr>
<tr>
<td>C3 (driveway ctr.)</td>
<td>-</td>
<td>5.2m</td>
<td>44.72m</td>
<td></td>
</tr>
<tr>
<td>C4 (driveway west)</td>
<td>-</td>
<td>5.2m</td>
<td>44.72m</td>
<td></td>
</tr>
</tbody>
</table>

Resulting allotments are conventional in shape and attain adequate frontage / width and site areas to meet the minimum appropriate area for residential allotments having considered: the building footprint, private open space, potable water / fire water storage, driveways / car parking and setback requirements described in the Kangaroo Island Development Plan.

Each allotment is currently proposed to contain its relevant wastewater treatment system, with the disposal area being situated on the Common Property described as C1 in the above table.

Copies of plan of division is 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 Rural Living zone and Precinct 20 (Emu Bay South Mixed Use) sub zone.

Division of land is neither Complying, nor Non-complying within Rural Living Zone Precinct 20 as provided by the Kangaroo Island Development Plan.

Land division areas do not define non-complying thresholds, therefore the proposal is subject to ‘Merit’ assessment.

**Categorisation:**
The proposed development was determined to constitute a Category 1 form of development, pursuant to Section 38 of the Act and Schedule 9 Part 1 (5) of the Development Regulations 2008.

Accordingly, there is no public notification required nor permitted by the Act.

**REFERRALS AND AGENCY CONSULTATION**
The application was not subject to any mandatory referrals pursuant to the Eighth Schedule of the Development Regulations 2008.

Informal referrals were undertaken by the State Planning Commission via the EDALA land division lodgement system to the SA Water Corporation.

**SA Water Corporation:**
The SA Water Corporation provided its final response on 7 January 2020, advising that it had no requirements / no services in the area.

**State Planning Commission:**
The Development Assessment Commission provided its consultation report on 9 January 2019, requiring by condition pursuant to sec 33(1):

- Payment of $3058.00 into the Planning and Development Fund (1 allotment/s @ $3058.00 /allotment). Payment may be made by credit card via the internet at [www.edala.sa.gov.au](http://www.edala.sa.gov.au) or by phone (7109 7018), by cheque payable to the State Planning Commission marked “Not Negotiable” and sent to GPO Box 1815, Adelaide 5001 or in person, by cheque or credit card, at Level 5, 50 Flinders Street, Adelaide.

- 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.

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 Assessment Panel Terms of Reference and Delegations – for a decision on a matter which
purports a variance with the provisions of the Kangaroo Island Development Plan, which warrants the consideration of the Panel.

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 (Precinct 20)
PDC’s: 18, 19, 47, 48, 49, 53

Land Division

Objective: 2 & 3

Orderly and Sustainable Development

Objective: 4

PDC: 1

**Preliminary - Concept of Comprehensive Development:**

As a preliminary matter of assessment, the Kangaroo Island Development Plan refers to ‘comprehensive development’ within The Rural Living, Precinct 20, Desired Character Statement and in PDC’s 49 & 53. The term is not defined in the Act or Regulations.

The formerly proposed LMA did attempt to define ‘comprehensive development’, such that it was able to be interpreted with the Development Plan provisions, as the development of multiple dwellings or units and potentially other buildings or features to support a group or community residency, which is foreshadowed in the Precinct 20 Desired Character Statement as being for tourist accommodation (including associated land uses and facilities), retirement living or aged care facilities.

In practical terms, distilling from The Desired Character Statement (Paragraph 1) and PDC’s 49 & 53, it would be a sensible interpretation that ‘comprehensive development’ relates specifically to development of more densified community divisions and multiple, row, or group dwelling type living, notwithstanding the scale or intensity of such is not defined.

**PLANNING ASSESSMENT**

**Rural Living 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.

**Rural Living Objective 2:** Development that contributes to the desired character of the zone.

**Rural Living PDC 47:** Development should not be undertaken unless it is consistent with the desired character for the precinct.

**Rural Living Zone Precinct 20 Emu Bay South Mixed Use Desired Character Statement:**
Para. 1 This precinct will provide the opportunity for a wide range of developments to occur including low density residential development and comprehensive developments such as tourist accommodation (including associated land uses and facilities), retirement living or aged care accommodation.

Para. 2 Comprehensive developments will be designed and sited to complement the character of the existing township and the surrounding natural environment.

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.

The proposal seeks to divide the existing allotments in order to create a series of allotments ranging between 672m² and 970m² as well as common property for the purpose of shared access driveways, as well as a dedicated 2050m² area relative to waste water disposal from the dwelling(s) on-site septic tank systems.

Development in this format is considered to reflect the Desired Character Statement intent for a wide range of developments to occur including low density residential development and comprehensive developments such as tourist accommodation (including associated land uses and facilities), retirement living or aged care accommodation and particularly with relevance to 'comprehensive development' discussed in this assessment.

The proposal to divide the land substantially maintains characteristics of large allotments (Rural Living Objective 1 and 2), that is to say that large residential allotments generally throughout Kangaroo Island appear to fall within the range of 1200m² and 700m² depending on locality, whereas small allotments begin to occur in the range of 600m² to 450m² particularly within CWMS serviced areas.

The size of resulting allotments is marginally smaller than those existing within the Emu Bay Township (Residential Zone) wherein allotments of 1000m² exist, which is unlikely to be considered as compromising the objectives of the Development Plan – even if it is considered incongruous with the adjacent Residential zone’s established character (Orderly and Sustainable Development Objective 4 & PDC 1).

Most notably different is that the proposal makes provision for common land specifically for the disposal of effluent from the development of dwellings on the resultant Lots (Rural Living PDC 19).

The further residential development of the land is strongly in accordance with the intent of the zone and supports achievement of the objectives of the Development Plan.

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.

Rural Living PDC 18: The division of land should not be undertaken if the dimensions of any proposed allotment are such that the ratio of depth to frontage is greater than 4-in-1.
Rural Living PDC 48: Land division should result in allotments of at least 1500 square metres.

Rural Living PDC 19: Land division which proposes the creation of an allotment with an area less than specified by the zone or relevant precinct provisions should only be undertaken where it can be demonstrated that:

(a) the proposed allotment can accommodate development which is consistent with that envisaged by the desired character for the zone or relevant precinct

(b) the proposed land division is linked to a development that is consistent with the desired character for the zone or relevant precinct

(c) a sustainable water supply of sufficient quantity and quality is available to supply the intended land use

(d) the allotments are of a suitable size to promote sustainable treatment and disposal of wastewater

(e) the arrangement of the allotment boundaries will not result in adverse environmental impacts, such as undue removal of vegetation, impact from natural hazards or impact on the natural features of the land

(f) the allotments have safe and convenient access to a formed public road.

The proposed division is considered to support the provisions of the plan in respect of creating allotments appropriate for the intended use.

Assessment of the development requirements for the land, being: the building footprint, private open space, wastewater treatment, potable water / fire water storage, driveways / car parking and setback requirements described in the Kangaroo Island Development Plan (with the required wastewater disposal system situated on Common land) have been taken into account to demonstrate compliance with the requirements to be fit for the intended purpose (Land Division Objective 2 and Rural Living PDC’s 48 and 19).

The configuration of this division does not create any adverse effect on accessibility, the allotments will be accessed from existing sealed, public road frontages with internal Common property driveways within the plan of division (Land Division Objective 3).

Configuration of allotments does not create obtusely narrow / deep allotments. Each resulting allotment achieves frontage to depth ratios of 1:2 or less (Rural Living PDC 18) and frontages which larger than the expected minimum frontages for residential allotments.

It is considered that the proposed division will not jeopardise the character intended in the zone. Its effect will create some variations in the overall development patterns, i.e. size and configuration of allotments and houses, which is considered to be a positive effect to mitigate an overly homogenous built environment.

This particular development ostensibly, pursues opportunities which may match market demand for smaller, more compact allotments or affordable development opportunities in the Emu Bay area which are not available anywhere else in the district.
The proposal is therefore is considered to pursue Land division Objective 2, Rural Living Precinct 20 Desired Character Statement, paragraph 1, to create: opportunity for a wide range of developments to occur including low density residential development and comprehensive developments such as tourist accommodation (including associated land uses and facilities), retirement living or aged care accommodation.

**Rural Living PDC 49:** Comprehensive developments should:

(a) not dominate, over commercialise or detract from the natural or rural character of the area
(b) be sited in unobtrusive areas and behind vegetated buffers where practicable
(c) be setback at least 30 metres from all public roads
(d) be no greater than two storeys in height or 6.5 metres above natural ground level
(e) demonstrate a high standard of urban design incorporating architectural features which:
   (i) provide shelter in the form of verandahs, canopies and awnings to external elevations
   (ii) avoid large areas of blank wall which are visible from public roads, internal and external open space areas or adjoining land
(f) ensure services including associated functions and areas are screened from view and separated physically and visually from public spaces
(g) include an approved waste water disposal system.

**Rural Living PDC 53:** Comprehensive developments should incorporate landscaping in accordance with the following:

(a) be comprised extensively of planted indigenous or native species to restore and enhance the natural character of the locality
(b) be integrated and form linkages within the precinct and to adjoining public and township areas.

For this development, it is far more certain that the ‘comprehensive development’ provisions become relevant to this community division, which creates opportunity for more dense development of various residential forms.

Rural Living PDC 49, purports measures for apparently substantive, potentially dominating or commercial buildings. These may include developments described in Rural Living Precinct 20 Desired Character Statement as tourist accommodation (including associated land uses and facilities), as distinct from development of the scale or nature presented in the subject application – however, the nature of this development is substantially dedicated to residential development (refer to the Community Title Scheme Description in Attachment A).

The proposed development is therefore considered to be relevant to assessment against Rural Living PDC 49 or 53, as a ‘comprehensive development’ although can be confirmed as being neither prejudicial or offensive to those provisions, i.e. does not create undesirable effect(s) identified in those principles.
The development does substantially accord the provisions of Rural Living PDC 19 assessed above relative to the creation of allotments below the prescribed minimum size.

Future development on these allotments will need to pursue the objects of the planning policy in terms of its further development of a dwelling, its built form and appearance etc. and in this respect is considered to be in accord with the Kangaroo Island Development Plan.

CONCLUSION

The proposed division of Allotment(s) 49, 50, 51, 52 and 201 in DP119286, Starfish Drive and Gap Road, Emu Bay, Hundred of Menzies into ten (10) Community Titled Lots with common property components, pursues the opportunity provided by the Rural Living zone, specifically the Precinct 20 provisions, to further divide land and intensify development, most relevantly, within Rural Living Objective 1, Rural Living Precinct 20 Desired Character Statement paragraph 1 and Rural Living PDC 19.

Developing land in this area below the minimum lot size prescribed by the zone is not at odds with the Development Plan provisions, however it is acknowledged that it is slightly dissimilar to the existing pattern of development in the adjacent Residential Zone which forms the Emu Bay township, which more specifically the product of a new and different development zone.

The development does not create an inappropriate development character, which is further reinforced by Rural Living zone Principle 19, that division below the minimum allotment size is envisaged by the Development Plan.

The proposed development creating variation in Lot sizes, creating diversity in development (development opportunities) and built form, scale and appearance is supported by the Kangaroo Island Development Plan. In this zone it is not considered to represent over-development, obtuse densification or over commercialisation.

Whilst it would be undesirable to have an entire locality develop to the highest density permissible, this does not readily occur wholesale through any localities.

The residential zones on Kangaroo Island are testament to this, where the Development Plan(s) of the past 17 years have permitted minimum allotment sizes of as little as 450m² yet still the vast majority of townships’ residential allotments remain in the 800m² minimum range. This example reflects that the Rural Living zone provisions relevant to this assessment provide opportunity for design variations & flexibility and create opportunities for a range of developments in the locality.

The absence of the refused LMA proposed for this area removes some certainty of the overall densification which would be acceptable, and although this would have been desirable, it remains the planning authority’s role to assess the appropriateness of further divisions on the merits of each application. It should be not misconstrued that this application alone (if approved) sets a precedent.

In respect of its assessment against the above provisions of the Kangaroo Island Development Plan, the proposal 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/C016/19 for division of 5 allotments into 10 Community Titled Lots and Common property, at Lots 49, 50, 51, 52 and 201 DP119286, Starfish Drive and Gap Road, Emu Bay, Hundred of Menzies for Mr. C.J and Mrs G. Amadio c/- Alexander Symonds Surveying Consultants, 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: 232107div’ and dated 12/10/2016 and details to the satisfaction of Council.

2. The connection of driveways to the existing carriageway shall be undertaken to the satisfaction of Council’s Asset Services Department Manager, with the cost of all work being borne by the applicant.

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.

Development Assessment Commission – Land Division Conditions:

2. Payment of $3058.00 into the Planning and Development Fund (1 allotment/s @ $3058.00 /allotment). Payment may be made by credit card via the internet at [www.edala.sa.gov.au](http://www.edala.sa.gov.au) or by phone (7109 7018), by cheque payable to the State Planning Commission marked “Not Negotiable” and sent to GPO Box 1815, Adelaide 5001 or in person, by cheque or credit card, at Level 5, 50 Flinders Street, Adelaide.

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/D014/19

DEVELOPMENT DETAILS Non-Complying Land Division, 1 Allotment into 3 Allotments, within the Deferred Urban Zone.

Applicant
Mr. Richard Southgate & Ms. Pip Masters
c/- John Carter
33 Bollard Avenue
Seaford Meadows SA

Owner
Mr. Richard Southgate & Ms. Pip Masters
PO Box 305
Kingscote SA 5223

Site Address
Allotment 791 FP180823, Seaview Road, Kingscote, Hundred of Menzies.

Property Details
Certificate of Title Volume 5435 Folio 754

Zone
Deferred Urban Zone, Map KI/24.

Public Notification
Non-Complying, Category 3 form of development – Full Public Notification undertaken. One representation received & resolved upon amendment to the proposed plan if division, according the concerns of the representation.

Application Date 22 November 2019

Relevant Development Plan Consolidated 17 September 2017

Department Development and Environmental Services
Monika Matej
Development Services Officer

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

The proposed development is for a division of land from one allotment into three allotments in a Deferred Urban zone.

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

The applicant lodged a ‘Non-Complying’ application with the State’s Planning Commission on 22 November 2019 for division of land within the Deferred Urban zone.

The required Statement of Effect (Combined Statement of Support & Effect) was provided by Outhred English & Associates planning consultants upon lodgement, pursuant to Regulation 17 (1) of the Development Regulations 2008. This statement was last updated in April 2020 and outlines the nature and the considered merits of the proposed land division.

With consideration of the Statement of Effect, the application was resolved under delegated authority, on 11 February 2020, to proceed with assessment of the Non-Complying development application under Regulation 17 (3) (b) of the Development Regulations 2008.

The Statement of Effect provided at lodgement satisfies the requirements of Regulation 17 (4).

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 is identified as Allotment 791 FP180823, Seaview Road, Kingscote, Hundred of Menzies, in Certificate of Title Volume 5435 Folio 754.

The subject land is located north of the Kingscote township and is zoned Deferred Urban with an area of 16.96 hectares. The surrounding allotments adjacent to the subject site are zoned Coastal Conservation to the east, Residential zoning to the south and the adjoining western and south-western allotments are also zoned Deferred Urban.

The subject allotment has a road frontage of Seaview Road to the south and to the north is bounded by Governor Wallen Drive. Access to the site is to be via Seaview Road.

The land has a sloping terrain with the highest point at the Seaview Road (61.5m AHD) and the lowest point to the north of the site at Governor Wallen Drive (12m AHD).

The site contains an established dwelling (approved 521/20/81) and garage (approved 521/12/76), studio (approved 520/215/99) and implement shed (approved 520/192/01). The site also contains an approval for horticulture and poultry land use (520/129/01). The site contains some native vegetation and grassland and is primarily used for sheep grazing and for growing cappers.

The land has a northern coastal outlook. To the east of the subject site the allotment contains a helipad and further east is the Reeves Point Heritage Precinct.
The subject land is contained in Map KI/24 of the Kangaroo Island Development Plan. The site is identified in the following maps and images:

- Aerial image of site – NatureMaps
  [Link](http://spatialwebapps.environment.sa.gov.au/naturemaps/?viewer=naturemaps)
Photos of the subject site and surrounding area taken 20 April 2020

Aerial image Plan, LiDAR imaging of site showing the contours of the site ranging from 61.5 metres AHD to 12 metres AHD

Subject site – view along Governor Wallen Drive looking eastwards
PROPOSAL

The Development Application seeks Development Plan Consent and Land Division Consent for the division of 1 allotment into 3 allotments, with the established buildings on the site to be contained on allotment 801. Allotments 802 and 803 are to have driveway access from Seaview Road. Along the Governor Wallen Drive frontage the allotments are to have a one metre wide reserve in order to restrict access to the site from this roadway.

The resulting allotments are proportioned 4.8 Ha for Lot 801 containing the dwelling, garage, studio and implement shed and is to have a 288.73 metre frontage along Seaview Road. Allotment 802 is to have a battleaxe form with a 20 metre wide x 177.3 metre long handle accessed from Seaview Road. This allotment is to have an area of 6.8 Ha and is to have a northern coastal frontage. Lot 803 is rectangular in form with a total of 5.2 Ha and has a northern coastal frontage along Governor Wallen Drive and a 149.71 metre wide frontage along Seaview Road.

The allotment sizes are comparable to those in the vicinity. The allotment to the west of the subject site is 1.6 Ha within the Deferred Urban zone and the allotment to the east of the subject site which contains the helipad is 5.1 Ha in total area and is within the Coastal Conservation zone.

The proposed plan of division is 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/24 indicates that the land lies wholly within the Deferred Urban zone.

Land division is listed as a Non-Complying Development of the Procedural Matters within the Deferred Urban zone. An exception to this Non-Complying form of development applies as stated below:
Except where no additional allotments are created wholly or partly within the zone.

Accordingly the application is determined to constitute ‘Non-Complying’ development with the creation of two additional allotments within the zone.
On 11 February 2020, it was formally determined that the proposal demonstrated adequate merit to proceed, on the basis that the proposal presents:

- Creates 'master lots' in the Deferred Urban zone with limited scope for additional development to occur, and
- Protects environmental and aesthetic aspects of the northern face of the land

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 (See Attachment B) 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 of Effect illustrates that the proposed development will not undermine the objectives and principles within the Development Plan and will not compromise any possible future expansion into this Deferred Urban zone should such an expansion occur. It is argued that the land division will not impinge of the established rural and coastal nature of the locality as relatively large allotment sizes are still retained and are consistent with other allotment sizes in the direct vicinity.

The applicant has identified some constraints entailed with a potential future urban expansion on the subject site including:

- The adjacent land to the east contains a helipad for emergency services, that could impact the potential of residential development on the eastern portion of the subject land.
- The adjacent land to the east is within the Coastal Conservation Zone and the Nationally significant Reeves Point Heritage Precinct
- The subject land slopes down from Seaview Road to Governor Wallan Drive from a height a little over 60 metres AHD to about 5 metres AHD. The northern two-thirds of the land is steep and visually prominent from the Bay of Shoals, the foreshore and Governor Wallen Drive
- Soils are vulnerable to erosion, especially on the steeply sloping northern section of the land.
- Revegetation of the slopes with locally indigenous plant species is occurring to complement the existing native vegetation, providing a link of habitat between Reeves Point and Lot 6 to the immediate west of the subject land.
- The nationally endangered Southern Brown Bandicoot and Echidna have been recorded within the patch of woodland contiguous with the Reeves Point Coastal Conservation area. In addition, Rosenburgs Goanna, Bush Stone-curlew and Grey Kangaroos are resident.

Limiting future impacts by establishing a one metre reserve to the northern allotment boundary along Governor Wallen Drive limits the access to the proposed new land parcels and also limits 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 27 February 2020 until 16 March 2020, by way of notices directly to adjacent land owners and occupiers of land and a notice published in The Islander Newspaper.

One representation was received by Council as a result of the public notification process, upon which amendment to the land division proposal was made, which satisfied the representor’s concern. The land division proposal was amended to show the battle-axe handle to be between allotments 801 and 803 rather than along the western boundary of the site where it initially had created concern to traffic movement at the sharp corner of Cordes Rd and Seaview Rd.

**REFERRALS AND AGENCY CONSULTATION**
The application was not subject to any mandatory referrals pursuant to the Eighth Schedule of the Development Regulations 2008.

Informal referrals were undertaken via the EDALA land division lodgement system, to the SA Water Corporation.

**SA Water Corporation:**
The SA Water Corporation provided its final response on 9 December 2019, advising that:

- Financial requirements of SA Water shall be met for the provision of water supply
- An on-site investigation is required to determine if water main extensions are required
- On approval of the application, it is the developers/owners responsibility to ensure all internal pipework (water and wastewater) that crosses the allotment boundaries has been severed or redirected at the developers/owners cost to ensure that the pipework relating to each allotment is contained within its boundaries.

**State Commission Assessment Panel:**
The State Commission Assessment Panel provided its final consultation report on 28 January 2020, requiring by condition pursuant to sec 33(1):

1. The financial requirements of the SA Water Corporation shall be met for the provision of water supply. (SA Water H0092902)

SA Water advises on receipt of the developer details and site specifications an investigation will be carried out to determine if the connections to your development will be standard or non-standard fees.

On approval of the application, it is the developers/owners responsibility to ensure all internal pipework (water and wastewater) that crosses the allotment boundaries has been severed or redirected at the developers/owners cost to ensure that the pipework relating to each allotment is contained within its boundaries.
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 State Commission Assessment Panel for Land Division Certificate purposes.

SCAP has specifically drawn Council’s attention to the comments of the SA Water’s in determining the application.

SCAP also foreshadows that the commission generally does not support non-complying land division applications without adequate and detailed justification.

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

**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.

**Deferred Urban Zone**
Objectives: 1, 2, 3 and 4
Desired Character Statement
PDC’s: 1, 2, 3, 4 and 5

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

**Land Division**
Objective: 2 & 3
PDC 6

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

**Building new Airfields**
PDC’s: 1

**Sloping Land**
PDC 1 & 2

**Interface between Land Uses**
Objective 1 & 3
PDC 5
PLANNING ASSESSMENT

Deferred Urban Objective 1: A zone accommodating a restricted range of rural uses that are not prejudicial to development of the land for urban purposes and maintain the rural appearance of the zone.

Deferred Urban Objective 2: A zone comprising land to be used primarily for broad-acre cropping and grazing purposes until required for future urban expansion.

Deferred Urban Objective 3: Prevention of development likely to be incompatible with long-term urban development, or likely to be detrimental to the orderly and efficient servicing and conversion of the land for urban use.

Orderly & Sustainable Dev. Objective 3: Development that does not jeopardise the continuance 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 into 3 allotments separating the existing dwelling and associated buildings on the site into a 4.8 Ha portion of the land on Lot 801.

Allotment 802 is to be 6.8 Ha and allotment 803 is to be 5.2 Ha in area.

The land is currently used for grazing sheep and for the growing of capers. The division of this allotment into three is not believed to be ‘prejudicial to the development of the land for urban purposes’ should this be the intended future use of this land.

The rural appearance of the divided allotments will not be compromised as relatively large allotment sizes are retained which are comparable to surrounding allotment sizes. Comparable surrounding allotments are located directly to the east and west of the subject site. Lot 4, 6 Cordes Road with a Deferred Urban zoning is located to the west of the subject site and is 1.6 Ha in size.

The allotment to the east, Section 460 Seaview Road, zoned Coastal Conservation, has an area of 5.1 Ha.

The proposal substantially maintains status quo with respect to the established surrounding environment insofar that the proposed allotments would be limited to developments consisting of single dwellings and ancillary structures on the site. As discussed in the applicant’s Statement of Effect, the positioning of potential future dwellings and structures would be envisaged on an already cleared portion and gentler sloping part of the site.

Thus, the proposed division does not prejudice the existing use of the land given that the potential expansion of the Kingscote area would be limited to the gentler sloping portion of the subject site. Furthermore, the division from one into three allotments maintains the rural appearance of the zone with relatively large allotment sizes which
are comparable to other allotments in the direct vicinity and limiting the intensification of the divided allotments to single dwellings and associated structures further justifies support of the proposed division.

**Deferred Urban Zone Objective 4:** Development that contributes to the desired character of the zone.

**Deferred Urban Zone - Desired Character Statement:**
The zone exists in several areas, namely around the towns of American River, Emu Bay, Kingscote, Parndana, and Penneshaw.

Development within the zone is expected to maintain the 'status quo' and not intensify the use of land, including the division of land, which has been identified as potentially being required for the expansion of existing developed areas. In the meantime, the zone will be characterised by farming development conducted in an orderly manner.

**Deferred Urban PDC 1:** The following forms of development are envisaged in the zone:
- farming,
- recreation area.

**Deferred Urban 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.

**Deferred Urban PDC 3:** Development should not be undertaken if it will be prejudicial to the orderly and economic development of future urban land uses within the zone.

**Deferred Urban PDC 4:** Development should not be undertaken unless it is consistent with the desired character for the zone.

**Deferred Urban PDC 5:** Land division should not occur unless it is in the form of an alteration to the boundaries of an allotment and no additional allotments are created in the zone.

**Sloping Land PDC 1:** Development and associated driveways and access tracks should be sited and designed to integrate with the natural topography of the land and minimise the need for earthworks.

**Sloping Land PDC 2:** Development and associated driveways and access tracks, including related earthworks, should be sited, designed and undertaken in a manner that:
(a) minimises their visual impact
(b) reduces the bulk of the buildings and structures
(c) minimises the extent of excavation and fill
(d) minimises the need for, and the height of, retaining walls
(e) does not cause or contribute to instability of any embankment or cutting
(f) avoids the silting of watercourses
(g) protects development and its surrounds from erosion caused by water run-off.

The proposal is classed as non-complying with further division of land deemed inappropriate in this zone, other than boundary realignments in certain circumstances and where the development does not undermine the principles of the Development Plan.
Although the proposed land division appears to be contrary with the land division principles within the Deferred Urban zoning, the proposal maintains the fundamental values of the provisions within the Development Plan, in so far that the preservation of the rural appearance of the area is maintained and the limiting of the potential intensification of land with the possibility of only two additional dwellings on the proposed allotments.

The proposed division would not compromise potential future expansion of the Kingscote area into this Deferred Urban zone given the sloping nature of the site. Any potential expansion development would be limited to the gentler sloping areas of the site located closer toward Seaview Road.

The intensification of the land is also limited with the implementation of a one metre wide reserve along Governor Wallen Drive. This reserve is to impede the vehicle access from this coastal road and importantly preserves the northern coastal face of this site from driveway development and in turn the scarring of the land further ensuring the ‘status quo’ is upheld and will further mitigate these environmental impacts.

**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.

**Land Division PDC 6:** Allotments in the form of a battleaxe configuration should:

(a) have a site area stipulated in the Residential Zone provisions excluding the area of the ‘handle’ of such an allotment

(b) provide for an access onto a public road, with the driveway ‘handle’ being not less than 5 metres in width nor more than 50 metres in length

(c) contain sufficient area on the allotment for a vehicle to turn around to enable it to egress the allotment in a forward direction

(d) not be created where it would lead to multiple access points onto a road which would dominate or adversely affect the amenity of the streetscape

(e) be avoided where their creation would be incompatible with the prevailing pattern of development

**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.

**Building near Airfields PDC 1:** The height and location of buildings and structures should not adversely affect the long-term operational, safety, commercial and military aviation requirements of airfields.
**Interface between Land Uses Objective 1:** Development located and designed to minimise adverse impact and conflict between land uses.

**Interface between Land Uses Objective 3:** Protect desired land uses from the encroachment of incompatible development.

**Interface between Land Uses PDC 5:** Sensitive uses likely to conflict with the continuation of lawfully existing developments and land uses desired for the zone should be designed to minimise negative impacts.

The proposed division is to maintain a high level of conservation in that the native vegetation on the site and the native habitats for wildlife are preserved, particularly as the potential developments as a result of the land division would be limited to two dwellings or small scale tourist accommodation.

The interface between land uses policies within the Kangaroo Island Development Plan are well accorded as there would not be any adverse impacts on neighbouring allotments. Furthermore, it would be accorded in that the proposed rectangular allotment – Lot 803, could act as a future buffer between the adjoining allotment which contains the helipad (in the Coastal Conservation zone) and any potential development that could occur as a result of residential expansion in the Deferred Urban zone on allotment 801 and 802.

Allotment 802 is to have a battleaxe form. In relation to Land Division – PDC 6, the ‘handle’ of this allotment is 20metres wide and the length exceeds the specified 50 metres. The proposed handle is to be 177.3 metres in length. Given the rural nature of the site and its exclusive access only to this allotment, it is believed that this variance is acceptable in this context.

In considering the application upon its merits the proposed division will not jeopardise the coastal environment, the native vegetation or the existing landform, and as such are consistent with the Coastal Areas and Land Division provisions within the Development Plan.

**CONCLUSION**

Although the proposed division of Allotment 791 FP180823 into three parcels of land is classified as non-complying in the Deferred Urban zone, the application demonstrates strong merits which are not believed to undermine the objectives outlined in the Development Plan.

The zone’s objective is to retain the ‘status quo’ and preserve the rural nature of the land in order to allow for possible future expansion of Deferred Urban sites. The proposed division is not believed to compromise these provisions within the Development Plan, and limits potential development in the zone on two of the allotments as lot 803 is to contain the existing dwelling and associated structure on the site. The proposed division further limits access to the site to be via Seaview Road rather than from Governor Wallen Drive. This in turn prevents potential impacts upon the coastal environment.

The proposal has been demonstrated not to be at odds with the Kangaroo Island Development Plan and in particular, the provisions within the Deferred Urban zoning
as the division retains the nature of the existing landscape and does not jeopardise the potential for future expansion of the site. The proposal is therefore considered ‘on fine balance’ to warrant the Panel’s approval.

**RECOMMENDATION**

The Council 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/D014/19 for division of 1 allotment into 3 allotments, at Lot 791 FP180823 in the Hundred of Menzies for Mr. R. Southgate and Ms. P. Master c/- John Carter & Associates and 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 John Carter marked ‘Amended Plan 17.04.20’ 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:

1. The financial requirements of the SA Water Corporation shall be met for the provision of water supply. (SA Water H0092902)

   SA Water advises on receipt of the developer details and site specifications an investigation will be carried out to determine if the connections to your development will be standard or non-standard fees.

   On approval of the application, it is the developers/owners responsibility to ensure all internal pipework (water and wastewater) that crosses the allotment boundaries has been severed or redirected at the developers/owners cost to ensure that the pipework relating to each allotment is contained within its boundaries

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 State Commission Assessment Panel for Land Division Certificate purposes.
ITEM 8.5

APPLICATION NO. 520/D001/20

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

Applicant Tiffany Bell
c/- Weber Frankiw & Associates P/L
178 Main Road
McLaren Vale SA 5171

Owner(s) Bellevista Nominees Pty Ltd
c/- Weber Frankiw & Associates P/L
178 Main Road
McLaren Vale SA 5171

Site Address Allotment 1 DP69824 and Allotment 2 DP69824 Hundred of Menzies.

Property Details Certificate of Title Volume 5965 Folio 438 (Lot 1)
Certificate of Title Volume 5965 Folio 439 (Lot 2)

Zone Primary Production Zone, Map KI/4
Primary Production Zone, Map KI/9

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

Application Date 19 February 2020

Relevant Development Plan Consolidated 17 September 2015

Department Development & Environmental Services
Georgia Davidson-Parish
Development Services Officer

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

Boundary re-alignment of 2 allotments seeks realign the boundaries to move one current title back to its original location (prior to 520/D029/04).
Intended to provide a more suitable building site for the owners and continue family involvement in the existing Primary Production enterprise.
SUBJECT LAND AND LOCALITY

The subject land is situated to the north-west of the Playford Highway, and is bordered by Boxer Road to the west, Gum Creek Road to the south and Playford Highway to the east. The subject land is located approximately 2 kilometres north-east of the intersection commonly referred to as ‘Airport Corner’ (Playford Highway, Birchmore Road and Arranmore Road).

The proposal involves two allotments historically created under the former General Farming Zone provisions, in place when Application 520/D0029/04 was lodged and approved. The subject allotments are located within the Primary Production Zone of the Development Plan, and are in the Medium Bushfire Risk Zone.

Both Lot 1 and Lot 2 are comprised of predominately open cleared Primary Production land, with a band of vegetation bordering the outside of the entirety. There are some thin vegetation bands within Lot 2, which appear to section the allotment into a paddock style arrangement.

Lot 1, which is approximately 0.73ha in overall size is uniform in shape and features vegetation on both the southern and western boundaries, with the allotment entrance being situated on the intersection of these two boundaries. Lot 1 is bounded by both Boxer Road and Gum Creek Road. The allotment does not contain any development.

Lot 2, approximately 144.6ha in overall size, is bounded by both Gum Creek Road and the Playford Highway. The allotment does not contain any development, but contains vegetation and fence lines supporting the existing Primary Production activities.

The land generally exhibits a strong rural character and has historically been used for the purposes of Primary Production. The land comprises of relatively flat terrain which is utilised for a combination of broad-acre cropping and sheep grazing.

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

PROPOSAL

The proposal seeks Development Plan Consent and Land Division Consent for the realignment of the common boundary between Lots 1 and 2, to redistribute 3.63ha from Lot 2, reducing its area (proposed Lot 12) to 14.2ha, and to enlarge Lot 1 (proposed Lot 11) to a total of 4.36ha. The proposal seeks to return the allotment layout to the original layout prior to application 520/D029/04.

The road frontage arrangements to alter as part of the proposal. Currently, Lot 1 has frontage to both Boxer and Gum Creek Roads, the proposed realignment would see Lot 11 have a frontage to Playford Highway of 241 metres. As a result, the proposed Lot 12 would have frontage to Playford Highway of 523 metres, frontage to Gum Creek Road of 772 metres and frontage to Boxer Road of 1050 metres.

As a result of the proposed boundary realignment, it is expected that there will be an additional vehicle access point created, to service proposed Allotment 11. It is further understood that the existing access points at the intersection of Playford Highway and Gum Creek Road, and at the intersection of Gum Creek Road and Boxer Road will remain.

A plan of the proposed boundary realignment and the accompanying Statement of Support are included in Attachment A.

The plan of division from application 520/D029/04 is included in Attachment B.

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 24\textsuperscript{th} March 2020 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 does not create any further fragmentation of Primary Production land, And,
- The proposed boundary realignment supports an approach to secure succession of farming opportunities on the subject land.

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**
Pursuant to Schedule 8 of the Development Regulations 2008, the application was subject to a mandatory referral to the Commissioner of Highways (DPTI – Transport Services Division) due to the plan of division having a frontage to the Playford Highway. This referral was made through the EDALA land division system.
Furthermore, an informal referral was also made to the SA Water Corporation through the EDALA land division system. The State Planning Commission also made comment on the proposal.

**DPTI - Transport Services Division:**
The DPTI – Transport Services Division returned comment on the 20 March 2020, stating:

The Department of Planning, Transport and Infrastructure would prefer that the plan of division be amended so that access to/from Playford Highway is not required. However, DPTI further stated that should Council contemplate approving the application, that:

Any access to/from proposed Allotment 11 should be located as far as possible from the Playford Highway/Shell Track junction.

Finally stating that should the proposal be approved by the relevant authority, that the following conditions be added to the consent:

1) Access to/from Allotment 11 shall be located as far as possible from the Playford Highway/Shell Track junction.
2) Access to/from Allotment 11 shall be designed and constructed in general accordance with Figure 7.2 or 7.4 in Ausroads Guide to Road Design Part 4: Intersections and Crossings – General (depending on vehicle size).
3) All vehicles shall enter and exit the site in a forward direction.
4) Stormwater run-off shall be collected on-site and discharged without jeopardising the safety and integrity of the road network. Any alterations to the road drainage infrastructure required to facilitate this shall be at the applicant’s expense.

**SA Water:**
SA Water provided no objection to the proposal on 28 February 2020, as long as pursuant to Section 33 of the Development Act 1993 the developer satisfies the following requirements:

1) The financial requirements of SA Water shall be met for the provision of water supply.
2) On receipt of the developer details and site specifications, an investigation will be carried out to determine if the connections to your development will be standard or non-standard fees.
3) On approval of the application, it is the developers/owners responsibility to ensure all internal pipework (water and wastewater) that crosses the allotment boundaries has been severed or redirected at the developers/owners cost to ensure that the pipework relating to each allotment is contained within boundaries.

**State Commission Assessment Panel:**
The State Commission Assessment Panel (SCAP) provided its consultation report on 24 March 2020, requiring by condition pursuant to sec 33(1) that:

1) The final requirements of the SA Water Corporation shall be met for the provision of water supply (SA Water H0095180). On approval of the application, it is the developers/owners responsibility to ensure all internal pipework (water and wastewater) that crosses the allotment boundaries has been severed or redirected at the developers/owners cost to ensure that the pipework relating to each allotment is contained within boundaries.

SA Water advises on receipt of the developer detail and site specifications an
investigation will be carried out to determine if the connections to your development will be standard or non-standard fees.

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 State Commission Assessment Panel for Land Division Certificate purposes.

Further, drawing Council’s attention to the comments & recommended conditions by DPTI – Transport Services Division.

Finally, SCAP stated the following:

Should Council decide to approve this proposal as a non-complying land division, all relevant details pertaining to the application will need to be send to the SCAP for concurrence purposes. You are referred to Section 35 (3) of the Development Act 1993 and Regulation 25 (b) of the Development Regulations 2008 with respect to the details required.

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

**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 and 6
  - Desired Character Statement: Para 1 and 6
  - PDC: 1 and 2

- **Land Division**
  - Objective: 2 and 4
  - PDC’s: 18 and 19

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

- **Transportation and Access**
  - Objective: 2
  - PDC’s: 2 and 26

**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 redistribution of land area aims to enhance the primary production nature of the subject land and enable the property owners to maintain succession farming on the land. Given the proposal aims to return the allotment pattern to one largely similar to that prior to a realignment in 2004, it is therefore considered that the overall impact will be minor to the continuation of the site and locality.

Although the proposed realignment creates a new allotment pattern that reduces the size of the larger allotment (proposed Lot 12), it is understood that there will be no prejudice to the intended purpose of the land and overall zone. This is further supported by the applicant’s intention to continue cropping and grazing at the same intensity as it currently is post-realignment.

Based on aerial imagery assessment, the vegetation on the subject land will not require large amounts of clearance in order for the proposed realignment to occur. If any clearance is required, it will be to create a vehicle crossover for proposed Lot 11 on the Playford Highway.

**Transportation and Access Objective 2:** Development that:

- a) Provides safe and efficient movement for all motorised and non-motorised transport modes
- b) Ensures access for vehicles including emergency services, public infrastructure maintenance and commercial vehicles
- c) Provides off street parking
- d) Is appropriately located so that it supports and makes best use of existing transport facilities and networks.

**Transportation and Access PDC 2:** Development should be integrated with existing transport networks, particularly road corridors, as shown on Overlay Maps – Transport, and designed to minimise its potential impact on the functional performance of the transport networks.

**Transportation and Access PDC 26:** Development with access from arterial roads or roads as shown on Overlay Maps – Transport should be sited to avoid the need for vehicles to reverse on to the road.

The proposed boundary realignment will result in the creation of an additional access point to the subject land. Proposed Lot 11 will require a vehicle access point, due to the future intention for the site to be utilised for residential purposes. The application was referred to DPTI as part of the Schedule 8 mandatory referral process, and should the proposal be approved a number of conditions will be applied in order to ensure safe and efficient movement of vehicles to and from proposed Lot 11. It is
also understood that the two existing access points to the land will remain, one on the corner of the Playford Highway and Gum Creek Road, and the other at the corner of Gum Creek Road and Boxer Road.

**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 proposed boundary realignment does not create any further fragmentation of viable primary production land, and furthermore the proposed does not create any adverse implications on the land capacity for primary production purposes.

Returning the subject land to the allotment layout that was in place prior to application 520/D029/04, creates an allotment (proposed Lot 11) which is of a sufficient size for a future residential development in order to succession farming for the applicant and their family, as well as creating cohesive relationship between residential and primary production land uses without causing significant reduction to the productivity of the land.

The proposal does not compromise the zone’s capacity to be used in accord with the desired character or intended land uses, nor does it introduce any detrimental increase of dwellings (or other buildings) beyond what the land is capable of. The proposal is not believed to create any detriment to the existing rural character of the locality either.

**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.

Proposed Lot 11 falls considerably under the Development Plan guideline of allotments within the Primary Production Zone having a minimum area of 40ha. However, the total land holding area of proposed Lot 11 and Lot 12 equate to approximately 146.4ha. the proposal intends to maintain the same ownership for the continued operation of the allotments and greater Bellevista Nominees farming enterprise. As previously addressed, the alteration in allotment size as a result of the proposed development is not believed to be detrimental or prejudicial to the continuation of efficient primary production on 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.
(b) prejudice against the proper and orderly development of townships.

The proposed realignment of boundaries is not considered to be detrimental to the long term continuing of the Primary Production Zone. The proposal continues to support the provisions of the Development Plan in respect to current and future land use and development on both allotments.

Most importantly, as a result of the proposed development, there are no additional allotments to be created. This ensures that viable and well utilised primary production land will not be fragmented, and there will not be a dramatic increase in development on the land. The proposal seeks to realign boundaries on the existing land to continue succession farming within the Bell family, and enable family members to eventually reside on the proposed Lot 11, further continuing involvement in the primary production operations.

CONCLUSION

The proposed realignment of boundaries of Allotment 1 and 2 DP69824 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, especially considering the proposed realignment is returning the land to its original configuration pre-2004.

RECOMMENDATION

The Council Assessment Panel resolve (i) 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 Land Division Application 520/D001/20 for realignment of 2 allotments into 2 allotments, at Allotment 1 and 2 on DP69824 Hundred of Menzies for Tiffany Bell (Bellevista Nominees Pty Ltd), 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

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. The final requirements of the SA Water Corporation shall be met for the provision of water supply (SA Water H0095180). On approval of the application, it is the developers/owners responsibility to ensure all internal pipework (water and wastewater) that crosses the allotment boundaries has been severed or redirected at the developers/owners cost to ensure that the pipework relating to each allotment is contained within boundaries. SA Water advises on receipt of the developer detail and site specifications an investigation will be carried out to determine if the connections to your development will be standard or non-standard fees.

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 State Commission Assessment Panel for Land Division Certificate purposes.

DPTI - Transport Services Division - Land Division Conditions:

4. Access to/from Allotment 11 shall be located as far as possible from the Playford Highway/Shell Track Junction.

5. Access to/from Allotment 11 shall be designed and constructed in general accordance with Figure 7.2 or 7.4 in Ausroads Guide to Road Design Part 4: Intersections and Crossings – General (depending on vehicle size).

6. All vehicles shall enter and exit the site in a forward direction.

7. Stormwater run-off shall be collected on-site and discharged without jeopardising the safety and integrity of the road network. Any alterations to the road drainage infrastructure required to facilitate this shall be at the applicant’s expense.
9.0 LAND DIVISION APPLICATIONS - APPROVED UNDER DELEGATED AUTHORITY (GREEN PAGES)

JANUARY 2020 - MARCH 2020

10.0 GENERAL BUSINESS

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