



I hereby give notice that a Limestone Coast Southern Regional Assessment Panel will be held on:

Date: Thursday, 15 August 2024
Time: 5.00 p.m.
Location: Council Chamber
Civic Centre
10 Watson Terrace
Mount Gambier

AGENDA

Limestone Coast Southern Regional Assessment Panel 15 August 2024

A handwritten signature in black ink, appearing to read "Tracy Tzioutziouklaris".

**Tracy Tzioutziouklaris
Assessment Manager
8 August 2024**

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1 ACKNOWLEDGEMENT OF COUNTRY

WE ACKNOWLEDGE THE BOANDIK PEOPLES AS THE TRADITIONAL CUSTODIANS OF THE LAND WHERE WE MEET TODAY. WE RESPECT THEIR SPIRITUAL RELATIONSHIP WITH THE LAND AND RECOGNISE THE DEEP FEELINGS OF ATTACHMENT OUR FIRST NATIONS PEOPLES HAVE WITH THE LAND.

2 APOLOGY(IES)

Nil

3 CONFIRMATION OF MINUTES

Limestone Coast Southern Regional Assessment Panel - 20 June 2024

RECOMMENDATION

That the minutes of the Limestone Coast Southern Regional Assessment Panel meeting held on 20 June 2024 be confirmed as an accurate record of the proceedings of the meeting.

4 QUESTIONS WITHOUT NOTICE**5 INVITEES****Invitees for Item 6.1 - 60 Tollner Road, Mount Gambier**

The Applicant - Frank Brennan Consulting Services on behalf of Thomson Bilt

Invitees for Item 6.2 - 1 Marston Drive, Mount Gambier

The Applicant - Frank Brennan Consulting Services on behalf of Thomson Bilt

Invitees for Item 6.3 - 1 Cary Court, Suttontown

The Applicant - Frank Brennan Consulting Services on behalf of Thomson Bilt

Invitees for Item 6.4 - 8 Norwich Place, Mount Gambier

The Applicant - Frank Brennan Consulting Services on behalf of Naralilla Homes Pty Ltd

6 REPORTS

6.1 REVIEW OF COUNCIL DECISION - 60 TOLLNER ROAD, MOUNT GAMBIER – REPORT NO. AR24/56882

Development No:	DA:24007784
Applicant:	Thomson Bilt
Property Address:	60 Tollner Road, Mount Gambier
Property Owner:	Michael Stafford
Report No:	AR24/56882
CM9 Reference:	AF22/276
Author:	Roslyn Snaauw, Senior Planner
Authoriser:	Tracy Tzioutziouklaris, Assessment Manager
Nature of Development:	To construct an outbuilding
Description:	To construct an outbuilding
Zoning:	Rural Living Zone
Policy Area:	City of Mount Gambier
Heritage:	N/A

REPORT RECOMMENDATION

1. That Limestone Coast Southern Regional Assessment Panel Report No. AR24/56882 titled 'Review of Council Decision - 60 Tollner Road, Mount Gambier' as presented on 15 August 2024 be noted.
2. Section 107(2)(c) of the Act requires the Relevant Authority (Council in this instance) to determine whether the development is seriously at variance with the Planning and Design Code (The Code), disregarding minor variations. A development that is seriously at variance with the Code must not be granted consent.

The Supreme Court previously explained:

"The expression "seriously at variance with the Development Plan" refers to that which is an important or grave departure in either quantity or degree from the Development Plan) It denotes something which is plainly not light or trifling. It is not enough that the proposal might conflict with the Development Plan; it must be seriously at variance with it (Mar Mina SA Pty Ltd v City of Marion [008] SASC 120)."

A more recent judgment of the Supreme Court has confirmed that planning authorities are to approach the 'seriously at variance question' in the same way it was approached under the predecessor Act.

3. The above question has been considered and it has been determined that the proposal is not seriously at variance with the Planning and Design Code.
4. Having had regard to the provisions of the Planning and Design Code, the Application and all supporting documentation, the development is considered to be at variance to the



provisions of the Planning and Design Code and the decision to refuse Planning Consent be affirmed subject to the following reasons:

- a) The garage is to be constructed in front of the existing dwelling from the primary street frontage.
- b) The proposed location of the development detracts from the visual amenity and character of the area.



BACKGROUND

Pursuant to delegated authority, Planning Consent was refused by Notice dated 19 June 2024, 2023 for this Development Application seeking to construct an outbuilding at 60 Tollner Road in Mount Gambier.

The Planning, Development and Infrastructure Act, 2016 introduces new appeal options for Applicants. As this Development Application was determined using delegated authority, the Applicant is provided the opportunity to apply for a review of the decision to the Regional Assessment Panel or the Environment, Resources and Development Court. Should the Applicant be aggrieved by the decision of the Regional Assessment Panel, the Applicant remains able to lodge a further appeal to the Environment, Resources and Development Court against the decision of the Regional Assessment Panel.

PROPOSED DEVELOPMENT

A copy of the assessment report for this development application is attached to this report for Members information and perusal.

This application is for the construction of an outbuilding which will be ancillary to an existing dwelling.

It is proposed that the outbuilding will be located with an eastern boundary setback to Avey Road 9.09 metres and to the southern boundary to Tollner Road being 40.18 metre. The proposed outbuilding will be located 13.26 metres to the south east of the existing dwelling and will have a northern boundary setback of 56.55 metres and western boundary setback of 23.93 metres.

The outbuilding will have the dimensions of 12.0 metres by 12.0 metres (total floor area of 144 square metres) with a wall height of 3.6 metres and an overall height of 4.65 metres.

The northern elevation will contain three roller doors and the western elevation will contain a pedestrian door with two (2) sky lights in the roof and two (2) whirly bird wind vents.

The outbuilding will have wall cladding in steel and the roof cladding corrugated. The outbuilding will have the cladding color of 'Classic Cream'.



Figure 1: Proposed location of development

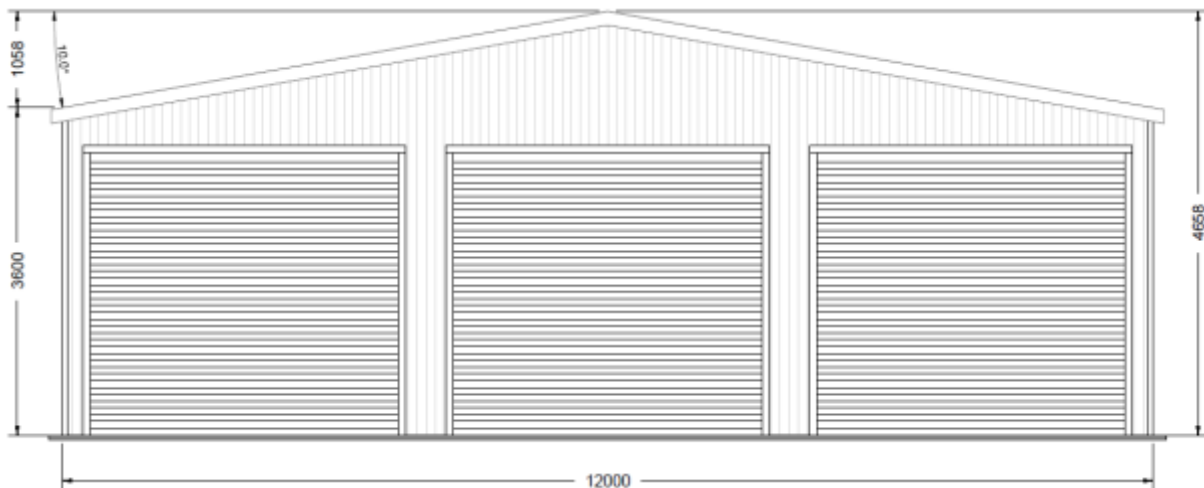


Figure 2: Northern elevation

LOCATION OF DEVELOPMENT:

The land is located within the Rural Living Zone as identified by the P&D Code (in effect) Version 2024.5 14/03/2024 on land that is a north-western corner allotment to Tollner Road and Avey Road.

This allotment has an irregular rectangular configuration with a south eastern corner cut off and lot size of approximately 4,690.65 square metres

The subject land is located in an area of rural living on larger allotment sizes to the north, west and east of Tollner Road and a row of smaller allotment sizes to the south of Tollner Road.

Allotments within this area are constructed with dwellings and outbuildings of varying sizes.

The subject land has an existing dwelling located toward the north western corner of this allotment with access provided toward the north eastern boundary from Avey Road.



Figure 3: Subject land highlighted in blue





Figure 4: Subject site shown with blue arrow (Source: Nearmaps dated 29 March 2024) (Note that all outbuildings within this area including 48 Tollner Road have an outbuilding set behind the dwelling as required)

Location reference: 60 TOLLNER RD MOUNT GAMBIER SA 5290

Title ref.: CT 5873/213 **Plan Parcel:** D58379 AL1 **Council:** CITY OF MOUNT GAMBIER

CONSENT TYPE REQUIRED:

Planning Consent

CATEGORY OF DEVELOPMENT:

- **PER ELEMENT:**

Shed

Outbuilding (Shed): Code Assessed - Performance Assessed

- **OVERALL APPLICATION CATEGORY:**

Code Assessed - Performance Assessed

- **REASON**

P&D Code; outbuilding is forward of the dwelling building line

PUBLIC NOTIFICATION

Pursuant to Table 5 of the Planning and Design Code public notification of a detached dwelling is exempt.

AGENCY REFERRALS

N/A

INTERNAL REFERRALS



N/A

PLANNING & DESIGN CODE POLICIES

In assessing the merits of the proposal, Council have reviewed the Zone, Overlays, and General Development policies as contained within the P&D Code (in effect) Version 2024.5 14/03/2024.

PLANNING ASSESSMENT

Zoning

This application is proposing to construct an outbuilding on the subject land which is located within the Rural Living Zone. This Zone has the desired outcome for *a spacious and secluded residential lifestyle within semi-rural or semi-natural environments, providing opportunities for a range of low-intensity rural activities and home-based business activities that complement that lifestyle choice.*

This Zone encourages the use of this land for the development of an outbuilding that are sited, designed and of a scale that reinforces the semi-rural or semi-rural natural character and amenity.

Designated Performance Feature 2.5 states that outbuildings have a primary street setback that is behind the building to which it is ancillary.

The proposed outbuilding is ancillary to an existing dwelling that is located toward the north west of the allotment.

The dwelling has a primary street setback to Avey Road of @23.0 metres it is proposed that the outbuilding will have a primary street setback to Avey Road of 9.09 metres which will be forward of the dwelling.

The Applicant has stated that the proposed outbuilding has been sited to take advantage of the existing infrastructure on the site and in particular the sealed driveways that will provide access to the outbuilding.

Council Response

On an allotment that has an allotment area of approximately 4,690 square metres an appropriate location for the outbuilding should be achieved with access to infrastructure and the sealed driveway still able to be provided if the location of the outbuilding is moved toward the western boundary and more in line with the dwelling that it is ancillary to.

As can be seen in the aerial map in Figure 4, no other properties located within this area have outbuildings forward of the building line of the dwelling.

Whilst Council note that landscaping is located on the subject land the retention of this landscaping cannot be guaranteed and the proposed outbuilding is not contextual to its surroundings or built environment with regards to its proposed siting/location.

Council note that at the time of the construction of the dwelling a proposed outbuilding was being located to the north and west of the dwelling.

All outbuildings within this area are sited behind the dwelling. This is the character of the area even to the east of the subject land which has an outbuilding closer to its western boundary but in accordance with the Code being set behind the dwelling.

Application for Review

Frank Brennan Consulting Services is acting on behalf of Thomson Built

CONCLUSION









Council have determined that the location of the proposed outbuilding, in front of the dwelling, will not be in context with the desired outcome nor performance criteria of the Planning and Design Code. The outbuilding in its proposed location will not be in keeping with the character and pattern of construction within this area which show outbuildings being set behind the building line of a dwelling and as such this application was not supported on the grounds provided above in this Report.



INVITES

Acting on Behalf of Thomson Bilt - Frank Brennan Consulting Services

ATTACHMENTS

1. Council request for further information 
2. Code Rules - Outbuilding Assessment Start 
3. DAP Consent verification snapshot 
4. Request for further information response 
5. Maps 
6. Planning Assessment Report - Refusal 
7. Application plans - Refused 
8. Application for Review 



6.2	REVIEW OF COUNCIL DECISION - 1 MARSTON DRIVE, MOUNT GAMBIER – REPORT NO. AR24/57061
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Development No:	DA:24004806
Applicant:	Thomson Bilt
Property Address:	1 Marston Drive, Mount Gambier
Property Owner:	Richard Howard
Report No:	AR24/57061
CM9 Reference:	AF22/276
Author:	Roslyn Snaauw, Senior Planner
Authoriser:	Tracy Tzioutziouklaris, Assessment Manager
Nature of Development:	Performance Assessed
Description:	To construct an outbuilding on the site of a detached dwelling
Zoning:	Suburban Neighbourhood Zone
Policy Area:	City of Mount Gambier
Heritage:	N/A

REPORT RECOMMENDATION

1. That Limestone Coast Southern Regional Assessment Panel Report No. AR24/57061 titled 'Review of Council Decision - 1 Marston Drive, Mount Gambier' as presented on 15 August 2024 be noted.
2. Section 107(2)(c) of the Act requires the Relevant Authority (Council in this instance) to determine whether the development is seriously at variance with the Planning and Design Code (The Code), disregarding minor variations. A development that is seriously at variance with the Code must not be granted consent.

The Supreme Court previously explained:

“The expression “seriously at variance with the Development Plan” refers to that which is an important or grave departure in either quantity or degree from the Development Plan) It denotes something which is plainly not light or trifling. It is not enough that the proposal might conflict with the Development Plan; it must be seriously at variance with it (Mar Mina SA Pty Ltd v City of Marion [008] SASC 120).”

A more recent judgment of the Supreme Court has confirmed that planning authorities are to approach the 'seriously at variance question' in the same way it was approached under the predecessor Act.

When considering the above question it has been determined that the proposal is not seriously at variance with the Planning and Design Code.

3. Having had regard to the provisions of the Planning and Design Code, the Application and all supporting documentation, the development is considered to be at variance to the provisions of the Planning and Design Code and the decision to refuse to grant Planning Consent be affirmed for the following reasons:



- (a) The proposed location and floor area of the outbuilding does not ensure orderly and proper development with limited side boundary setback and separation between buildings not a character of the locality.
- (b) The outbuilding appearance from the primary street, Marston Drive, will dominate and detract from the streetscape and appearance of the dwelling to which it is associated with and will dominate the character and amenity of the subject locality.
- (c) The proposed development does not improve or enhance the amenity and character of the area with regards to location of the outbuilding and side boundary setbacks.



BACKGROUND

Pursuant to delegated authority, Planning Consent was refused by Notice dated 19 June 2024 for this Development Application seeking to construct an outbuilding at 1 Marston Drive in Mount Gambier.

The Planning, Development and Infrastructure Act, 2016 introduces new appeal options for Applicants. As this Development Application was determined using delegated authority, the Applicant is provided the opportunity to apply for a review of the decision to the Regional Assessment Panel or the Environment, Resources and Development Court. Should the Applicant be aggrieved by the decision of the Regional Assessment Panel, the Applicant remains able to lodge a further appeal to the Environment, Resources and Development Court against the decision of the Regional Assessment Panel.

PROPOSED DEVELOPMENT

A copy of the Assessment Report for Refusal for this development application is attached to this report for Members information and perusal

This application is for the construction of an outbuilding to the west of an existing dwelling on the subject land.

The outbuilding will have the dimensions of 7.0 metres by 10.0 metres (total floor area of 70 square metres) with a maximum wall height located toward the west having a height of 3.9 metres. The skillion roof will have a 5.0 degree pitch.

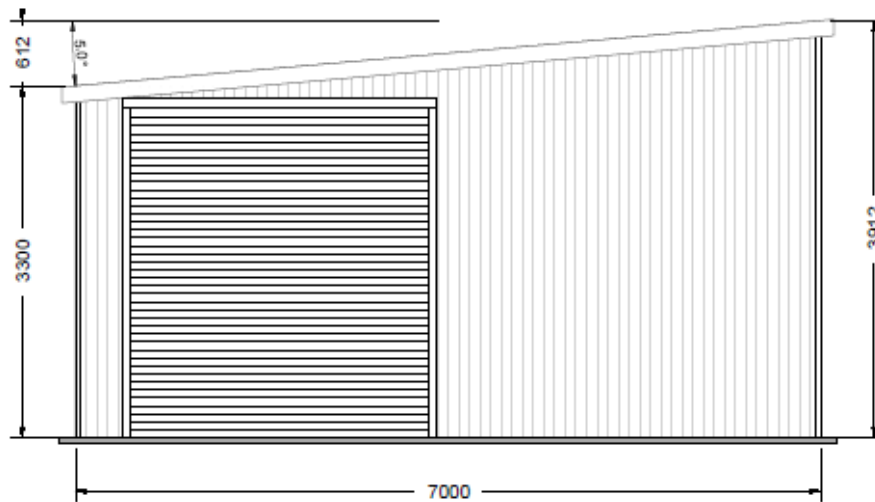
The outbuilding will be setback from the front primary street boundary to Marston Drive 11.29 metres, western boundary 1.0 metre and southern/rear boundary to Wireless Road 12.64 metres.

The outbuilding will have wall cladding of steel with corrugated roof cladding with cladding in the proposed color of 'Monument' and 'Evening Haze'.

The front/northern elevation facing Marston Drive and southern/rear elevation facing Wireless Road both contain a sliding door. The eastern elevation facing the dwelling garage and alfresco area will have a pedestrian door and a window.



Figure 1: Proposed site plan



FRONT ELEVATION

Figure 2: Elevation facing Marston Drive.

LOCATION OF DEVELOPMENT:

The subject land is located in the Suburban Neighbourhood Zone as identified in the P&D Code (in effect) Version 2024.3 15/02/2024.

The subject land is located within a residential area that is being developed with newly constructed residential dwellings that contain double car garages with good separation between dwellings and the boundaries. No outbuildings are being developed as yet.

The subject land contains a single storey dwelling that is located on a corner allotment to Wireless Road West (to the south) and Marston Drive to the east and north.

This is a rectangular shaped corner allotment which has a front/northern boundary length to Marston Drive of 22.4 metres, north eastern corner splay length of 7.07 metres, eastern boundary length to Marston Drive of 24.0 metres, south eastern corner splay length of 6.93 metres, southern/rear boundary length along Wireless Road West being 22.5 metres and a western boundary length of 33.9 metres. The total allotment area is approximately 904 square metres.

The subject land is an allotment that is located on a low contour and one of the lower ground levels within this area, being lower than Wireless Road West and Norwich Place as can be seen in Figure 3 below.





Figure 3: Subject site shown with red arrow (Nearmaps dated 29 March 2024)



Figure 4: Subject land highlighted in blue showing contour fall of land

Location reference: 1 MARSTON DR MOUNT GAMBIER SA 5290



Title ref.: CT 6193/329 **Plan Parcel:** D116034 AL22 **Council:** CITY OF MOUNT GAMBIER

CONSENT TYPE REQUIRED:

Planning Consent

CATEGORY OF DEVELOPMENT:

- **PER ELEMENT:**

Shed

Outbuilding (Shed): Code Assessed - Performance Assessed

- **OVERALL APPLICATION CATEGORY:**

Code Assessed - Performance Assessed

- **REASON**

P&D Code; floor area greater than 60 sqm and wall height greater than 3.0 metres

PUBLIC NOTIFICATION

Pursuant to Table 5 of the Planning and Design Code public notification of an outbuilding is exempt.

AGENCY REFERRALS

N/A

INTERNAL REFERRALS

N/A

PLANNING & DESIGN CODE POLICIES

In assessing the merits of the proposal, Council have reviewed the Zone, Overlays, and General Development Policies as contained within the P&D Code (in effect) Version 2024.3 15/02/2024.

PLANNING ASSESSMENT

Zoning

This application proposal is for the construction of an outbuilding on the subject land which is located within the Suburban Neighbourhood Zone. This Zone has the desired outcome DO 1 that *low density housing is consistent with the existing local context and development pattern*. The Zone encourages the use of this land for the development of an outbuilding.

The proposed outbuilding footprint will not result in site coverage exceeding 50% however the proposed development will not be in character with this area as it is not creating sufficient space around the building with minimal separation. This is not a neighbourhood character of this area to with no other allotments with this type of proposed dominant street presentation of near boundary to boundary development. This development has minimal side boundary setbacks with the proposed western wall height of 3.9 metres also not a character of the area. The size of this outbuilding and location of the outbuilding, will visually impact upon the character of this area as can be seen Neighbourhood Character photos attached to this Report which shows dwellings being provided with suitable side boundary setbacks that provide an open and attractive outlook from the primary street.

Side Boundary Setback - Performance Outcome PO 8.1 has a performance outcome that buildings are setback from side boundaries to provide:

- a) Separation between buildings in a way that complements the character of the locality
- b) Access to natural light and ventilation for neighbours



Designated Performance Feature DPF 8.1 is that building walls are to be setback from side boundaries in accordance with the following:

- a) Where the wall height does not exceed 3m – at least 900mm
- b) For a wall that is not south facing and the wall height exceeds 3m – at least 900mm from the boundary of the site plus a distance of 1/3 of the extent to which the height of the wall exceeds 3m from the top of the footings
- c) For a wall that is south facing and the wall height exceeds 3m – at least 1.9m from the boundary of the site plus a distance of 1/3 of the extent to which the height of the wall exceeds 3m from the top of the footings.

The proposed development is not located along the southern boundary however the proposed wall height of the western elevation to the outbuilding will be 3.9 metres. Whilst the Designated Performance Feature is being achieved this proposal does not provide separation between buildings in a way that complements the character of the locality due to the level of presentation to the primary street.

Ancillary Buildings and Structure – Performance Outcome 11.1 is that Residential ancillary buildings are sited and designed to not detract from the streetscape or appearance of residential buildings on the site or neighbourhood properties.

Designated Performance Feature DPF 11.1 is for Ancillary buildings:

- a) Are ancillary to a dwelling erected on the same site
- b) Have a floor area not exceeding 60 square metres
- h) have a wall height not exceeding 3m above natural ground level

The proposed development will have a floor area of 70 square metres and a western minimum wall height of 3.9 metres which exceeds the Designated Performance Feature requirements of 60 square metres for floor area and 3.0 metres for a wall height. These features, including the level of development facing Marston Drive with limited structural separation between boundaries, contributes to the visual impact that the proposed development will have on the immediate neighbourhood character

Part 4 – General Development Policies

Design –Desired Outcome DO 1 is that Development is *(a) contextual – by considering, recognising and carefully responding to its natural surroundings or building environments and positively contributes to the character of the immediate area.*

All Development – External Appearance - Performance Outcome PO 1.1 states that Buildings reinforce corners through changes in setback, articulation, materials, color and massing (including height, width, bulk, roof form and slope).

No Designated Performance Feature is being provided within the Planning and Design Code, however, as previously stated, with limited structural separation between boundaries the visual massing of the outbuilding and the dwelling, including the overall height contributes to the negative visual impacts that the proposed development will have on the immediate neighbourhood character

All Residential development – Ancillary Development – Performance Outcome PO 13.1 states that Residential ancillary buildings and structures are sited and designed to not detract from the streetscape or appearance of buildings on the site or neighbouring properties.

Designated Performance Feature 13.1 – ancillary buildings:

- a) are ancillary to a dwelling erected on the same site
- b) have a floor area not exceeding 60m²
- h) have a wall height or post height not exceeding 3m above natural ground level



The proposed outbuilding will be ancillary to the existing dwelling that is on site however the floor area of the outbuilding exceeds 60 square metres and has a wall height greater than 3m.

Council consider that the cumulative effect of the proposed development will impact on the visual amenity and character of this area which does not contain development that is near boundary to boundary when viewed from the primary streets.

Council consider that the proposed outbuilding does not respond to its surrounding built form and is not contextual by considering, recognising and carefully responding to its natural surroundings or building environment and does not positively contribute to the character of the locality.

The subject land is located on one of the lowest points within this area and as such is easily viewed from Wireless Road West, Marston Drive and Norwich Place.

Council have determined that the proposal will not be in the context with the desired outcome nor performance criteria as it will not be consistent with the character and pattern of construction within this area with the appearance of the outbuilding being a visually dominant feature.

Having regard to the context and nature of the subject site and locality, the relevant policies within the Planning and Design Code, the proposal is not considered appropriate for the subject site and neighbourhood.

Application for Review

Frank Brennan Consulting Services is acting on behalf of Thomson Bilt.









CONCLUSION

The location of the proposed outbuilding with minimal boundary setback to the west, a western wall height of 3.9 metres will not be in context with the desired outcome nor performance criteria of the Planning and Design Code and as such this application was not supported on the grounds provided above in this Report.

INVITES

Acting on Behalf of Thomson Bilt – Frank Brennan Consulting Services

ATTACHMENTS

1. Applicant response to Council RFI 
2. Application for Review 
3. Council request for further information 
4. DAP submission snapshot 
5. Planning Assessment Report 
6. Marston Drive plans - Refused 
7. Neighbourhood Character photos 
8. P & D Code Rules 



6.3	REVIEW OF COUNCIL DECISION - 1 CAREY COURT, SUTTONTOWN – REPORT NO. AR24/57102
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Development No:	DA:24009145
Applicant:	Frank Brennan Consulting Service
Property Address:	1 Carey Court, Suttontown
Property Owner:	Steven & Stacey Wenman
Report No:	AR24/57102
CM9 Reference:	AF22/276
Author:	Roslyn Snaauw, Senior Planner
Authoriser:	Tracy Tzioutziouklaris, Assessment Manager
Nature of Development:	Performance Assessed
Description:	Construction of an outbuilding (135 m2 in floor area) with a wall height of 3.9 metres in association with an existing dwelling
Zoning:	Suburban Neighbourhood Zone
Policy Area:	City of Mount Gambier
Heritage:	N/A

REPORT RECOMMENDATION

1. That Limestone Coast Southern Regional Assessment Panel Report No. AR24/57102 titled 'Review of Council Decision - 1 Carey Court, Suttontown' as presented on 15 August 2024 be noted.
2. Section 107(2)(c) of the Act requires the Relevant Authority (Council in this instance) to determine whether the development is seriously at variance with the Planning and Design Code (The Code), disregarding minor variations. A development that is seriously at variance with the Code must not be granted consent.

The Supreme Court previously explained:

"The expression "seriously at variance with the Development Plan" refers to that which is an important or grave departure in either quantity or degree from the Development Plan) It denotes something which is plainly not light or trifling. It is not enough that the proposal might conflict with the Development Plan; it must be seriously at variance with it (Mar Mina SA Pty Ltd v City of Marion [008] SASC 120)."

A more recent judgment of the Supreme Court has confirmed that planning authorities are to approach the 'seriously at variance question' in the same way it was approached under the predecessor Act.

The above question has been considered and determined the proposal is not seriously at variance with the Planning and Design Code.

3. Having had regard to the provisions of the Planning and Design Code, the Application and all supporting documentation, the development is at variance to the provisions of the Planning and Design Code and the decision to refuse Planning Consent be affirmed for the following reasons:

- a) The proposed footprint of the outbuilding does not ensure orderly and proper development.
- b) The outbuilding appearance from the primary street, Carey Court, and from the Railway pathway to the west, will dominate and detract from the appearance of the dwelling to which it is associated with and will dominate the character and amenity of the subject locality.
- c) The total floor area and wall height of the proposed outbuilding is significantly greater than what is envisaged within the Planning and Design Code for a building ancillary to a dwelling.



BACKGROUND

Pursuant to delegated authority, Planning Consent was refused by Notice dated 26 June 2024 for this Development Application seeking the construction of an outbuilding (135 m² in floor area) with a wall height of 3.9 metres in association with an existing dwelling at 1 Carey Court in Suttontown.

The Planning, Development and Infrastructure Act, 2016 introduces new appeal options for Applicants. As this Development Application was determined using delegated authority, the Applicant is provided the opportunity to apply for a review of the decision to the Regional Assessment Panel or the Environment, Resources and Development Court. Should the Applicant be aggrieved by the decision of the Regional Assessment Panel, the Applicant remains able to lodge a further appeal to the Environment, Resources and Development Court against the decision of the Regional Assessment Panel.

PROPOSED DEVELOPMENT

A copy of the Assessment Report for Refusal for this development application is attached to this report for Members information and perusal.

This application is for the construction of an outbuilding to the west/rear of an existing dwelling on the subject land.

The outbuilding originally had the dimensions of 16.0 metres by 10.0 metres (160sqm floor area) with a wall height of 4.0 metres and an overall height of 4.882 metres. Amended plans were received for an outbuilding with the dimensions of 15.0 metres by 9.0 metres (135sqm floor area) with a wall height of 3.9 metres and an overall height of 4.69 metres.

The outbuilding will be setback behind the dwelling 4.0 metres to the west, southern boundary 1.8 metres and the western boundary 1.3 metres.

The outbuilding will have wall cladding of steel with a corrugated roof all in the color of 'Monument'.

The left elevation will contain two (2) roller doors and a double glass sliding door with the rear elevation containing a roller door and pedestrian door.



Figure 1: Proposed site plan

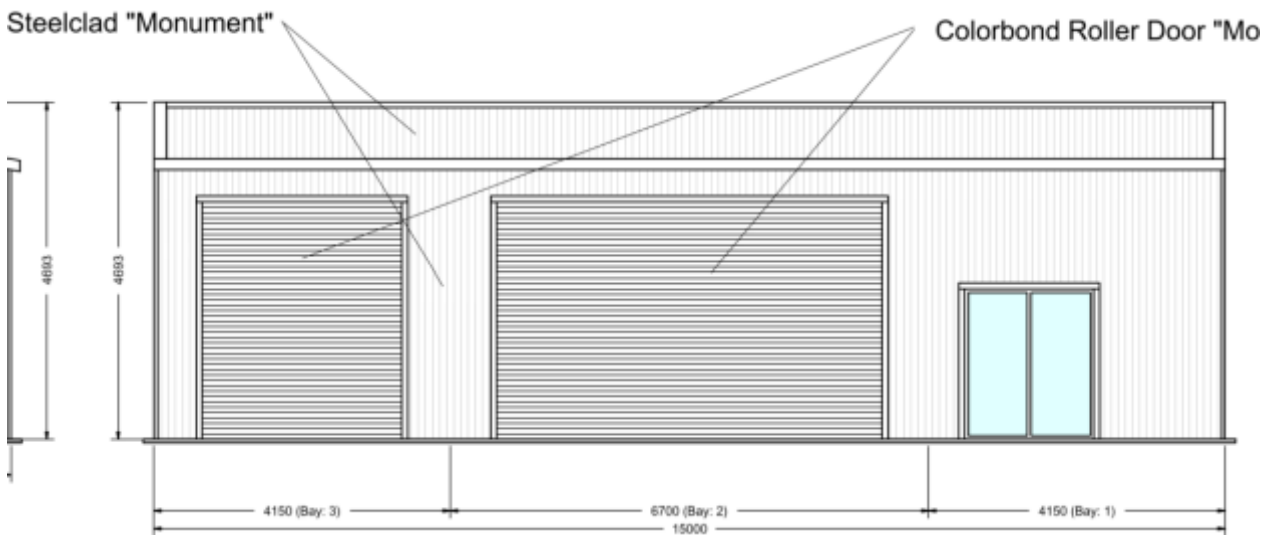


Figure 2: Northern elevation

LOCATION OF DEVELOPMENT:

The subject land is located in the Suburban Neighbourhood Zone as identified in the P&D Code (in effect) Version 2024.6 04/04/2024.

The subject land is located within a residential area that is part of a multi staged land division.

Development within this area originally received approval pursuant to the previous legislation and was affected by a Development Plan – Low Density Policy 5 Area which had a desired character of detached dwellings on large allotments with the design and siting of any development acknowledging and having regard to any potential impact to the Railway Line walking track to the rear of the subject land. At that time this Policy 5 Area had design parameters for outbuildings with a maximum floor area of 100sqm and a maximum wall height of 4.5 metres and overall building height of 5.0 metres.

The subject land contains a single storey dwelling that has access to the east from Carey Court.

The subject land is a rectangular shaped allotment with a total area of 1,778 square metres.



Figure 3: Subject site shown with red arrow (Nearmaps dated 29 March 2024)





Figure 4: Zoning map. Subject land highlighted in blue

Location reference: 1 CAREY CT SUTTONTOWN SA 5291

Title ref.: CT 6163/657 **Plan Parcel:** D111026 AL200 **Council:** CITY OF MOUNT GAMBIER

CONSENT TYPE REQUIRED:

Planning Consent

CATEGORY OF DEVELOPMENT:

- **PER ELEMENT:**

Shed

Outbuilding (Shed): Code Assessed - Performance Assessed

- **OVERALL APPLICATION CATEGORY:**

Code Assessed - Performance Assessed

- **REASON**

P&D Code; Outbuilding floor area greater than 60sqm, wall height greater than 3.0 metres

PUBLIC NOTIFICATION

Pursuant to Table 5 of the Planning and Design Code public notification of an outbuilding is exempt.

AGENCY REFERRALS

N/A

INTERNAL REFERRALS

N/A

PLANNING & DESIGN CODE POLICIES

This development had the assessment pathway as Performance Assessed development within a Suburban Neighbourhood Zone as the floor area of the outbuilding exceeded 60 square metres



(proposed to be 135 square metres) and the wall height exceeds 3.0 metres (proposed to be 3.9 metres).

PLANNING ASSESSMENT

Zoning

This application proposal is for the construction of an outbuilding on the subject land which is located within the Suburban Neighbourhood Zone. This Zone has the desired outcome DO 1 that *low density housing is consistent with the existing local context and development pattern*. This Zone encourages the use of this land for the development of an outbuilding.

The new Planning and Design Code (Code) and associated legislation was introduced in 2021. This replaced the previous Development Plan that applications were assessed under as stated previously.

Some of the outbuilding development within this area has incrementally pushed the boundaries of floor area within the previous Development Plan and now with the Planning and Design Code.

Development within this area originally received approval pursuant to the previous legislation and a Development Plan – Low Density Policy 5 Area which had a desired character of detached dwellings on large allotments with the design and siting of any development acknowledging and having regard to any potential impact that the Railway Line may have. At that time Policy 5 Area had design parameters for outbuildings with a maximum floor area of 100sqm and a maximum wall height of 4.5 metres and overall building height of 5.0 metres.

The new Planning and Design Code has the desired footprint of an outbuilding to be 60 square metres. The introduction of the Planning and Design Code in March 2021, provided consistency and stability of the development of outbuildings within this residential area. The average floor area of outbuildings now being constructed within the Springview Estate, have an average a floor area of approximately 108sqm with a wall height of 3.6 metres and with an overall height of 4.0 metres or under.

This ensures that the size of outbuildings, within a residential area, stay appropriately sized and are not the size that is more akin to being found in a commercial/industrial area or in storage facilities.

The proposed outbuilding footprint will not result in site coverage exceeding 50% however the development will not be contextual with the evolving character and sizes (floor area, wall height and overall height) of outbuildings within the location and immediate area as detailed below.

Council note that within this Estate, there are 76 outbuildings that have been constructed on similar sized allotments. The Applicant has provided seven (7) examples of outbuildings within Springview Estate.

An Outbuilding Development Snapshot is provided in the Attachments.

The aerial imagery below and provided in the Attachment 'Location aerial map', shows that the developing character is now presenting with smaller residential sized outbuildings with an average floor area of 108 square metres.





Figure 5: Aerial maps. Source Near Maps dated 29 March 2024

Side Boundary Setback - Performance Outcome PO 8.1 has a performance outcome that buildings are setback from side boundaries to provide:

- a) Separation between buildings in a way that complements the character of the locality
- b) Access to natural light and ventilation for neighbours

Designated Performance Feature DPF 8.1 is that building walls are to be setback from side boundaries in accordance with the following:

- a) Where the wall height does not exceed 3m – at least 900mm
- b) For a wall that is not south facing and the wall height exceeds 3m – at least 900mm from the boundary of the site plus a distance of 1/3 of the extent to which the height of the wall exceeds 3m from the top of the footings
- c) For a wall that is south facing and the wall height exceeds 3m – at least 1.9m from the boundary of the site plus a distance of 1/3 of the extent to which the height of the wall exceeds 3m from the top of the footings.

Council Response

The proposed development is located 1.8 metres from the southern boundary. To achieve the Designated Performance Feature of 1.9 metres for a wall height of 3.0 metres plus 1/3 of the extent of which the height of the wall exceeds 3.0 metres (wall height of 3.9 metres), the outbuilding should be setback from the southern boundary a total of 2.2 metres.

Ancillary Buildings and Structure – Performance Outcome 11.1 is that Residential ancillary buildings are sited and designed to not detract from the streetscape or appearance of residential buildings on the site or neighbourhood properties.

Designated Performance Feature DPF 11.1 is for Ancillary buildings:

- a) Are ancillary to a dwelling erected on the same site



- b) Have a floor area not exceeding 60 square metres
- h) have a wall height not exceeding 3m above natural ground level

Council Response

The proposed development will have a floor area of 135 square metres and a wall height of 3.9 metres which exceeds the Designated Performance Feature requirements of 60 square metres for floor area and 3.0 metres for a wall height. These features, contribute to the visual impact that the proposed development will have on the immediate and local neighbourhood character and Railway pathway to the west, with the outbuilding footprint being more akin to a commercial/industrial outbuilding to be used as a 'store' and not a residential outbuilding.

For an outbuilding to be ancillary to a dwelling, the recommended floor area detailed in the Planning and Design Code is 60sqm.

Part 4 – General Development Policies

Design –Desired Outcome DO 1 is that Development is *(a) contextual – by considering, recognising and carefully responding to its natural surroundings or building environments and positively contributes to the character of the immediate area.*

All Residential development – Ancillary Development – Performance Outcome PO 13.1 states that Residential ancillary buildings and structures are sited and designed to not detract from the streetscape or appearance of buildings on the site or neighbouring properties.

Designated Performance Feature 13.1 – ancillary buildings:

- a) are ancillary to a dwelling erected on the same site
- b) have a floor area not exceeding 60m²
- h) have a wall height or post height not exceeding 3m above natural ground level

Council Response

The proposed development will have a floor area of 135 square metres and a wall height of 3.9 metres which exceeds the Designated Performance Feature requirements as stated above. The proposed development exceeds the requirements and has a design feature that will contribute to the visual impact on the immediate and local neighbourhood character including the Railway path to the rear, with the outbuilding footprint being more akin to a commercial/industrial outbuilding and not a residential outbuilding.

The proposal will not be in the context with the desired outcome nor performance criteria with a floor area that is 75sqm greater than the Planning and Design Code area (more than double of the Code requirement of 60sqm). The outbuilding does not respond to its surrounding built form and is not contextual with no consideration toward its natural surroundings or building environment with the proposal not making a positive contribution to the character of the locality.

The average floor area within the Springview Estate is 108sqm, which helps to assist in ensuring outbuilding footprints are being consistently applied.

The Regional Assessment Panel recently upheld the decision of the Assessing Officer to Refuse a similar application at Fitzgibbon Court (within the Springview Estate) which proposed an outbuilding with the same floor area dimension of 15.0 metres by 9.0 metres and with a wall height of 3.6 metres and an overall height of 4.4 metres.

Having regard to the context and nature of the subject site and locality, the relevant policies within the Planning and Design Code, the proposal is not considered appropriate for the subject site and neighbourhood.

CONCLUSION

Development within this area should consider and have regard to any potential visual impact to the character of the area including when viewed from the Railway Line walking track to the rear of the













subject land. It is noted the existing dwelling has a floor to ceiling height of 2.74 metres and this outbuilding is proposing a wall height of 3.9 metres. It has been determined the proposal will not be in context to the character of the neighbourhood with performance outcomes as detailed in the Zone and Policies of the Planning and Design Code not being achieved and as such is recommending that the decision of the Assessing Officer be upheld and this application not be supported on the grounds provided above in this Report.

INVITES

Frank Brennan Consulting Services

ATTACHMENTS

1. Applicant reponse to Council request for information 
2. Application documents 
3. Application for Review 
4. Application Plans Refused 
5. Code Rules - Outbuilding - Assessment Start 
6. Council request for Amended Plans 
7. DAP Application Snapshot 
8. Location Aerial Map 
9. Outbuilding Development Snapshot 
10. Assessment Report - Refusal 



6.4	REVIEW OF COUNCIL DECISION - 8 NORWICH PLACE, MOUNT GAMBIER – REPORT NO. AR24/56994
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Development No:	DA: 24011957
Applicant:	Naralilla Homes Pty Ltd
Property Address:	8 Norwich Place, Mount Gambier
Property Owner:	Naralilla Homes Pty Ltd
Report No:	AR24/56994
CM9 Reference:	AF22/276
Author:	Roslyn Snaauw, Senior Planner
Authoriser:	Tracy Tzioutziouklaris, Assessment Manager
Nature of Development:	To construct a detached dwelling
Description:	To construct a detached dwelling
Zoning:	Suburban Neighbourhood Zone
Policy Area:	City of Mount Gambier
Heritage:	Heritage Adjacency Overlay

REPORT RECOMMENDATION

1. That Limestone Coast Southern Regional Assessment Panel Report No. AR24/56994 titled 'Review of Council Decision - 8 Norwich Place, Mount Gambier' as presented on 15 August 2024 be noted.
2. Section 107(2)(c) of the Act requires the Relevant Authority (Council in this instance) to determine whether the development is seriously at variance with the Planning and Design Code (The Code), disregarding minor variations. A development that is seriously at variance with the Code must not be granted consent.

The Supreme Court previously explained:

“The expression “seriously at variance with the Development Plan” refers to that which is an important or grave departure in either quantity or degree from the Development Plan) It denotes something which is plainly not light or trifling. It is not enough that the proposal might conflict with the Development Plan; it must be seriously at variance with it (Mar Mina SA Pty Ltd v City of Marion [008] SASC 120).”

A more recent judgment of the Supreme Court has confirmed that planning authorities are to approach the 'seriously at variance question' in the same way it was approached under the predecessor Act.

When considering the above question it has been determined that the proposal is not seriously at variance with the Planning and Design Code.

3. Having had regard to the provisions of the Planning and Design Code, the Application and all supporting documentation, the development is considered to be at variance to the provisions of the Planning and Design Code and the decision to issue a Refusal for Planning Consent be affirmed for the following reasons:



- (a) The proposed two (2) garages do not ensure orderly and proper development.
- (b) The garage appearance from the primary street, Norwich Place, will dominate and detract from the streetscape and appearance of the dwelling to which it is associated with and will dominate the character and amenity of the subject locality.
- (c) The proposed development does not improve or enhance the amenity and character of the area.
- (d) The proposed southern boundary setback including the southern elevation wall height will have a direct impact on the adjoining dwelling to the south.



BACKGROUND

Pursuant to delegated authority, Planning Consent was refused by Notice dated 17 June 2024 for this Development Application seeking to a detached dwelling at 8 Norwich Place in Mount Gambier.

The Planning, Development and Infrastructure Act, 2016 introduces new appeal options for Applicants. As this Development Application was determined using delegated authority, the Applicant is provided the opportunity to apply for a review of the decision to the Regional Assessment Panel or the Environment, Resources and Development Court. Should the Applicant be aggrieved by the decision of the Regional Assessment Panel, the Applicant remains able to lodge a further appeal to the Environment, Resources and Development Court against the decision of the Regional Assessment Panel.

PROPOSED DEVELOPMENT

A copy of the Assessment Report for Refusal for this development application is attached to this report for Members information and perusal.

This application is for the construction of a detached dwelling on the subject vacant land which is located on a south east corner allotment to Norwich Place.

Access to the proposed land will be to the west from Norwich Place with a driveway width of 13.8 metres to provide vehicle access to two (2) proposed garages under the roof line of the proposed dwelling. One garage will be a double car garage and the southern garage will be a single car garage.

The front primary street boundary length is 22.00 metres and the proposed dwelling will have a western elevation length of 19.92 metres along Norwich Place to the west with approximately 10.78 metres of this length being provided for garages door openings.

The dwelling will have a minimum western primary street boundary setback of 6.0 metres, northern boundary (secondary street) setback of 3.573 metres, minimum eastern/rear boundary setback of 1.5 metres and a southern boundary setback of 1.5 metres.

The dwelling will have a minimum wall height from floor level of approximately 2.4 metres with an overall height of 4.450 metres. The southern elevation of the single car garage will have a wall height of approximately 3.9 metres from floor level.

The proposed dwelling will be constructed of brickwork, James Hardie Scyon axon cladding with rendered Hebel cladding to the single car garage elevations. The roof of the dwelling and garages will be constructed in custom Orb colorbond cladding.

The dwelling will be comprised of an entrance porch that leads into an entry. The dwelling will contain a study, laundry, store room, separate bathroom, powder room and separate toilet. This dwelling is proposing to provide three (3) bedrooms with bedroom 1 containing an ensuite and walk in robe. The dwelling will contain an open plan kitchen, dining and lounge rooms with the kitchen having a walk-in pantry. Access to the patio will be near the dining room. This application is also proposing to construct an enclosed alfresco area. The Applicant has provided that the site has a total area of



770 square metres and the development will have a site coverage of 49% (376.8 square metres).

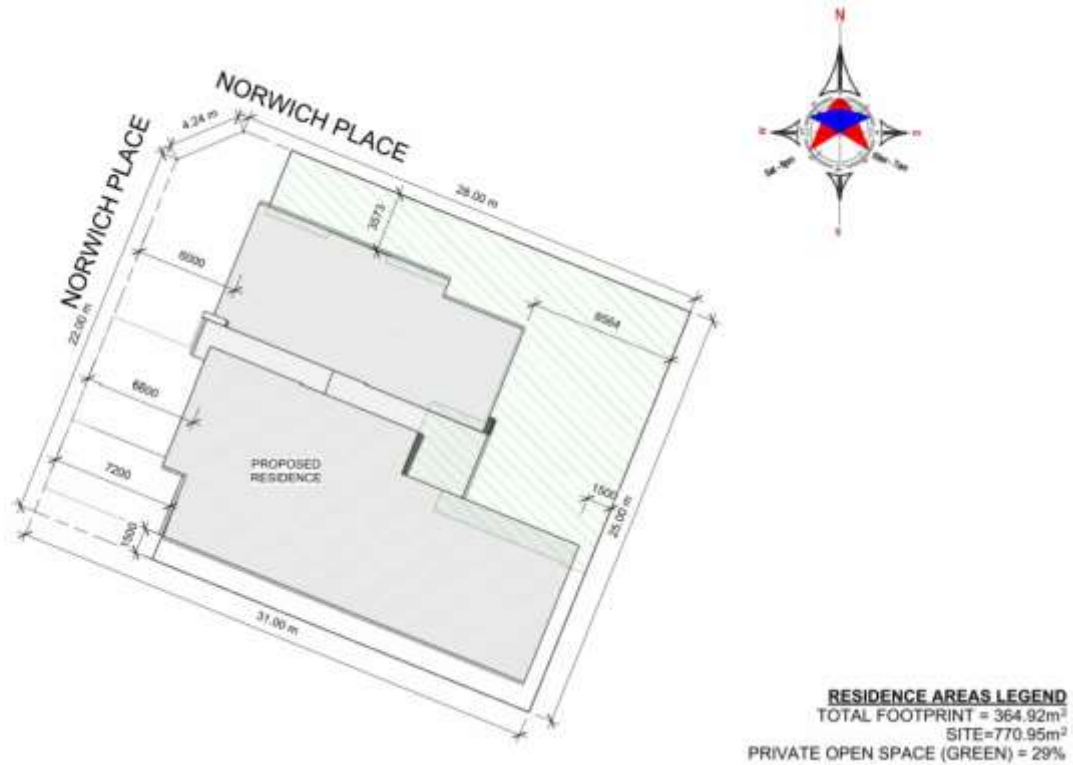


Figure 1: Proposed site plan



Figure 2: Proposed floor plan

LOCATION OF DEVELOPMENT:

Location reference: 8 NORWICH PL MOUNT GAMBIER SA 5290

Title ref.: CT 6279/935 **Plan Parcel:** D131138 AL9 **Council:** CITY OF MOUNT GAMBIER



The subject land is located in the Suburban Neighbourhood Zone and is affected by the Heritage Adjacency Overlay as identified in the P&D Code (in effect) Version 2024.7 18/04/2024.

The subject land is located within a residential area that is being developed with newly constructed residential dwellings that contain a double car garage only.

This is a rectangular shaped corner allotment that has a front/western boundary length of 22.0 metres, corner splay length of 4.24 metres, northern boundary length of 28.0 metres, eastern boundary length of 25.0 metres and a southern boundary length of 31.0 metres with a total allotment area as shown on the title as 770 square metres.

The subject land has a fall from north to the south.

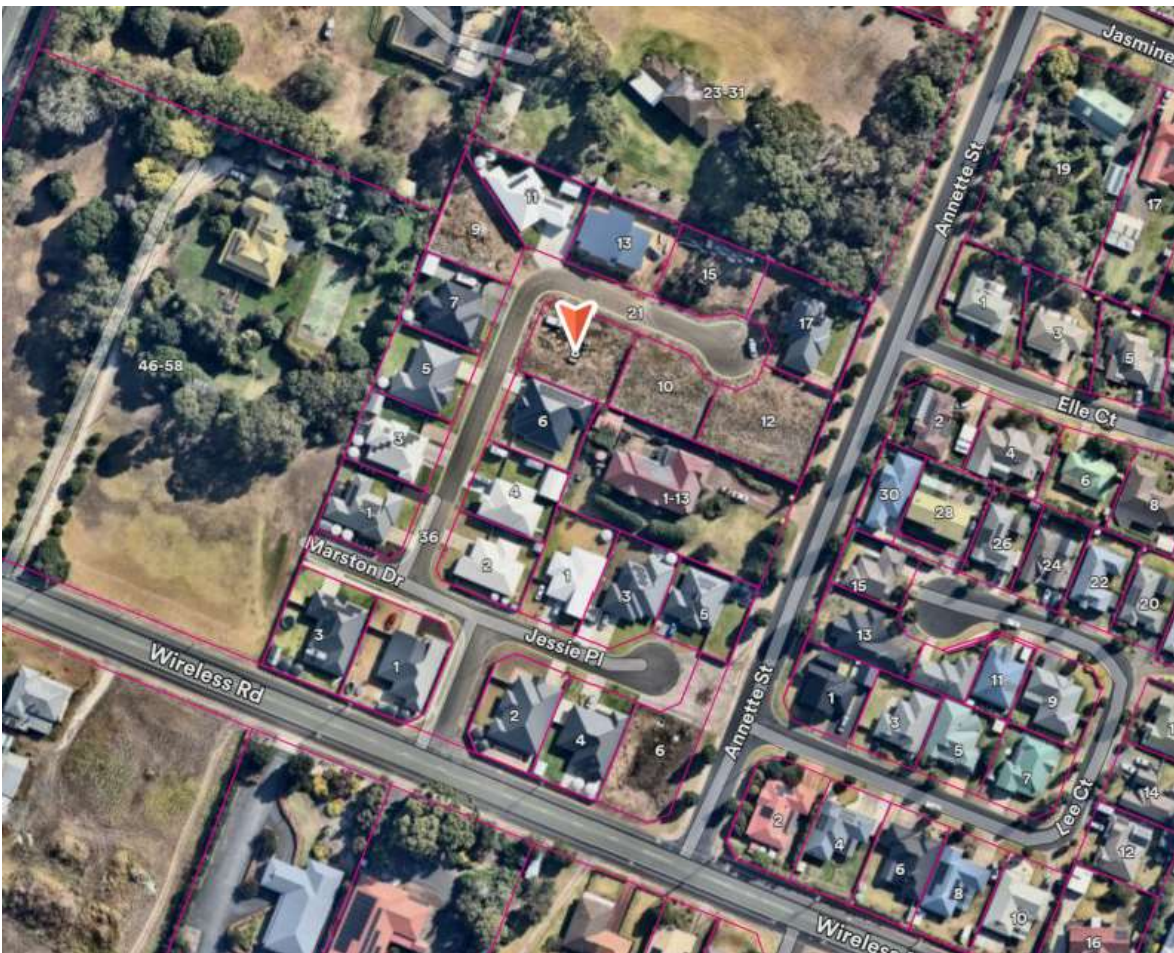


Figure 3: Subject site shown with red arrow (Source: Nearmaps dated 29 March 2024)





Figure 4: Subject land highlighted in blue showing contour fall of land north to south

CONSENT TYPE REQUIRED:

Planning Consent

CATEGORY OF DEVELOPMENT:

- **PER ELEMENT:**
Detached dwelling: Code Assessed - Performance Assessed
New housing
- **OVERALL APPLICATION CATEGORY:**
Code Assessed - Performance Assessed
- **REASON**
P&D Code; the subject land is located within the Heritage Adjacency Overlay and the proposed development has a reduced front primary street boundary setback and rear boundary setback with a wall height greater than 3.0 metres.

PUBLIC NOTIFICATION

Pursuant to Table 5 of the Planning and Design Code public notification of a detached dwelling is exempt.

AGENCY REFERRALS

N/A

INTERNAL REFERRALS

N/A

PLANNING & DESIGN CODE POLICIES

In assessing the merits of the proposal, Council have reviewed the Zone, Overlays, and General Development Policies as contained within the P&D Code (in effect) Version 2024.7 18/04/2024

PLANNING ASSESSMENT

Zoning



This application is proposing the construction of a single storey dwelling on the subject land which is located within the Suburban Neighbourhood Zone. This Zone has the desired outcome that *low density housing is consistent with the existing local context and development pattern*. The use of this land for the development of a dwelling is encouraged.

Side Boundary Setback - Performance Outcome PO 8.1 has a performance outcome that buildings are setback from side boundaries to provide:

- a) Separation between buildings in a way that complements the character of the locality
- b) Access to natural light and ventilation for neighbours

Designated Performance Feature DPF 8.1 is that building walls are to be setback from side boundaries in accordance with the following:

- a) Where the wall height does not exceed 3m – at least 900mm
- b) For a wall that is not south facing and the wall height exceeds 3m – at least 900mm from the boundary of the site plus a distance of 1/3 of the extent to which the height of the wall exceeds 3m from the top of the footings
- c) For a wall that is south facing and the wall height exceeds 3m – at least 1.9m from the boundary of the site plus a distance of 1/3 of the extent to which the height of the wall exceeds 3m from the top of the footings.

The proposed development will have a southern boundary setback of 1.5 metres. The southern wall height of the second garage and alfresco area wall is proposed to be 3.9 metres (retaining sub natural ground level) for a southern elevation length of 22.3 metres. This requires a southern boundary setback of 2.2 metres which is not being achieved.

Council notes that the adjoining residential dwelling to the south has a garage and three (3) habitable room windows located along the northern elevation which has a 1.5 metre northern boundary setback. The subject land is on higher ground which will further exacerbate impacts to the southern existing dwelling. Council consider that with the accumulative affect of the elevated height of the subject land, the wall height and total length of the proposed garage and alfresco area and the southern boundary setback being proposed, that the proposed development will have an immediate impact on the southern neighbour with regards to natural light and ventilation.

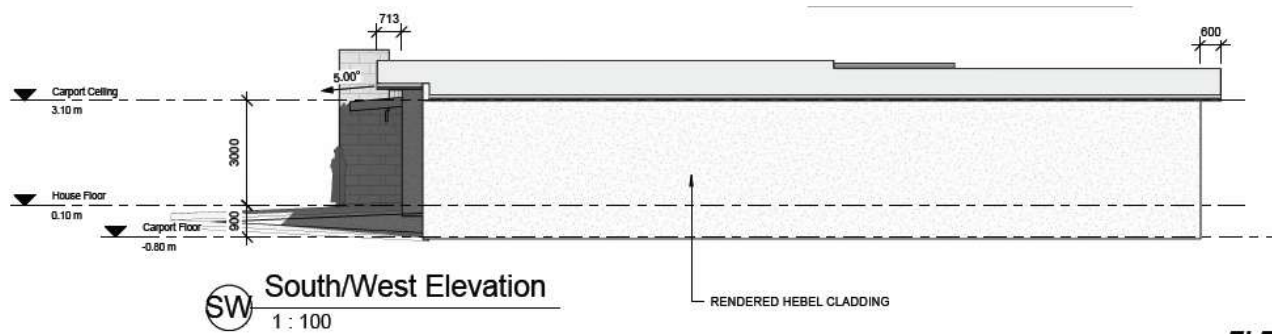


Figure 5: Southern boundary wall length of 22.3 metres with a height of 3.9 metres

Part 4 – General Development Policies

Design –Desired Outcome DO 1 is that Development is (a) *contextual – by considering, recognising and carefully responding to its natural surroundings or building environments and positively contributes to the character of the immediate area*.

All Residential Development – Garage - Performance Outcome PO 14.1 states that Garaging is designed to not detract from the streetscape or appearance of a dwelling with a Designated Performance Feature for a garage, facing a street that:

- (a) Are situated so that no part of the garage is in front of any part of the building line of the dwelling



This is being achieved. Garage one is in line with the proposed dwelling and Garage 2 is setback a further 0.600mm behind the building line.

- (b) Are setback at least 5.5 metres from the boundary of the primary street boundary.

This is being achieved with the double car garage having a primary street boundary setback of 6.6 metres and the single car garage having a primary street boundary setback of 7.2 metres.

- (c) Have a garage door/opening not exceeding 7.0 metre in width.

Not being met.

This development is proposing two (2) garage doors that together will have a garage door width/opening of @10.78 metres.

This is not a feature within the character of this area as can be seen in Figure 8 below with development only providing a double car garage.

- (d) Have a garage door/opening width not exceeding 50% of the site frontage unless the dwelling has two or more building levels at the building line fronting the same public street.

The western primary street boundary has a length of 22.00 metres with the combined garage door openings of this development being @10.78 metres which is 49%.



Figure 6: Western primary street elevation

Application for Review

Frank Brennan Consulting Services is acting on behalf of Naralilla Homes Pty Ltd.






CONCLUSION

Council have determined that the proposed dwelling with two (2) garages and southern boundary setback and wall height of 3.9 metres, is not be in context with the desired outcome, nor performance criteria of the Planning and Design Code or with the character and pattern of construction within this area and as such this application was not supported on the grounds provided above in this Report.




INVITES

Acting on Behalf of Naralilla Homes Pty Ltd – Frank Brennan Consulting Services

ATTACHMENTS

1. Application response to Council RFI 
2. Application for Review 
3. Application plans 
4. Code Rules - Detached Dwelling 
5. Council request for further information 



6. DAP consent verification snapshot 
7. Neighbourhood Character photos 
8. Planning Assessment Report - Refusal 



6.5 DA:23022854 - CHANGE OF USE TO COMMUNITY FACILITY (DISABILITY OPTIONS CARE PREMISES) - RESPONSE TO FURTHER INFORMATION REQUEST - 20 BLACKWOOD STREET, MOUNT GAMBIER – REPORT NO. AR24/47737

Development No:	DA: 23022854
Applicant:	Frank Brennan Consulting Services
Property Address:	20 Blackwood Street, Mount Gambier
Property Owner:	Mr Divya Rachamalla
Report No:	AR24/47737
CM9 Reference:	AF22/276
Author:	Roslyn Snaauw, Senior Planner
Authoriser:	Tracy Tzioutziouklaris, Assessment Manager
Nature of Development:	Change of use to a community facility (disability options care premises)
Description:	Change of use to a community facility (disability options care premises)
Zoning:	Employment
Policy Area:	City of Mount Gambier
Heritage:	None

REPORT RECOMMENDATION

1. That Limestone Coast Southern Regional Assessment Panel Report No. AR24/47737 titled 'DA:23022854 - Change of Use to Community Facility (Disability Options Care Premises) - Response to Further Information Request - 20 Blackwood Street, Mount Gambier' as presented on 15 August 2024 be noted.
2. That the Limestone Coast Southern Regional Assessment Panel, pursuant to Section 107(2)c) of the Planning, Development and Infrastructure Act 2016, and having undertaken an assessment of the application against the Planning and Design Code, resolve that the development application is NOT seriously at variance with the Planning and Design Code, for the following reasons:
 - (a) The proposed land use is not prejudicial to the Desired Outcome of the Employment Zone.
 - (b) The identified departures from the Planning and Design Code are not considered to be "important or grave".
 - (c) The proposed development is for a commercial type purpose and is the reuse of an existing building.
3. That the Limestone Coast Southern Regional Assessment Panel resolve that:
 - (a) Pursuant to Section 107(2) of the *Planning, Development and Infrastructure Act 2016*, and having undertaken an assessment of the application against the Planning and Design Code, the application is NOT seriously at variance with the provisions of the Planning and Design Code; and
 - (b) Development Application Number 23022854, by Frank Brennan Consulting Services, that consent is granted subject to the following conditions:



CONDITIONS

Condition 1

The development shall be carried out in accordance with the Plan/s as approved by the Council and with the Conditions of Approval.

Condition 2

The building and land shall not be used for the purposes other than those approved by Council (Community Facility).

Condition 3

The building and land shall be maintained in a state of good repair and tidy condition at all times.

Condition 4

The operating hours of the use of the land hereby approved shall be limited to:

Monday to Friday only 9.00am to 3.00pm

Condition 5

The hours of operation of the business and use of the property shall not create a nuisance and/or disturbance for any person/s and/or property in the immediate area.

Condition 6

No signs are to be erected or displayed on the land or on any building, structure, gate or fence. Further permission is required from Council for the erection or display of any sign.

ADVISORY NOTES

Nil

GENERAL NOTES

1. No work can commence on this development unless a Development Approval has been obtained. If one or more consents have been granted on this Decision Notification Form, you must not start any site works or building work or change of use of the land until you have received notification that Development Approval has been granted.
2. Appeal rights – General rights of review and appeal exist in relation to any assessment, request, direction or act of a relevant authority in relation to the determination of this application, including conditions.
3. This consent or approval will lapse at the expiration of 2 years from its operative date, subject to the below or subject to an extension having been granted by the relevant authority.
4. Where an approved development has been substantially commenced within 2 years from the operative date of approval, the approval will then lapse 3 years from the operative date of the approval (unless the development has been substantially or fully completed within those 3 years, in which case the approval will not lapse).
5. A decision of the Commission in respect of a development classified as restricted development in respect of which representations have been made under section 110 of the Act does not operate—
 - a. until the time within which any person who made any such representation may appeal against a decision to grant the development authorisation has expired; or
 - b. if an appeal is commenced—
 - i. until the appeal is dismissed, struck out or withdrawn; or



ii. until the questions raised by the appeal have been finally determined (other than any question as to costs).



BACKGROUND

The Limestone Coast Regional Assessment Panel, at its meeting held on Thursday 14 December 2023, considered this application and requested the Applicant, to assist the determination of the application, provide the following additional information:

- a) Confirmation of the number of employees on site at any time.
- b) A Traffic Management Plan identifying the number of traffic movements to be generated at the site each day, a drop off and collection point and turning circles for the on site carparking.
- c) Confirmation if there is an opportunity to provide additional car parking spaces at the front of the dwelling.

The subject land is developed with a single story structure and outbuildings that have previously been used for residential purposes and have been used in the past year, without Planning, Building or Development Consent, as a Community Facility.

RESPONSE FROM APPLICANT TO THE LCRAP REQUEST

The Applicant has provided the following response to the Panel's previous request for additional information:

- a) Confirmation of the number of employees on site at any time.

Applicant Response

Maximum of 5 employees on site at any time

- b) A Traffic Management Plan identifying the number of traffic movements to be generated at the site each day, a drop off and collection point and turning circles for the on site carparking.

Applicant Response

Two carparking spaces including one disabled accessible carparking space are provided at the rear of the premises – as shown on the site plan submitted with the application. This is the maximum number of carparking spaces that can be provided on the site due to the layout of existing buildings and driveways.

For staff there is available on-street parking and carparking at the rail trail adjacent Oak Street being a short walk to the premises. The majority of clients/participants (and some staff) are dropped off and collected and do not require carparking on-site.

- c) Confirmation if there is an opportunity to provide additional car parking spaces at the front of the dwelling.

Applicant Response

The option of utilizing the area in front of the building has been explored, however this area is utilized for day activities for the disabled clients (ie: gardening, play equipment).

The Applicant further wished to confirm that Dream to Create lease the property and there is limited opportunity to remove/alter structures on the site to improve traffic flow & carparking.

PROPOSED DEVELOPMENT

This application is applying for the use of the existing dwelling and sundry outbuildings for the proposed use as a Community Facility (Disability Options Care premises).

- Site plan showing:



- existing residence, alfresco area, carport and outbuildings;
- existing sealed driveway;
- proposed location of two (2) car spaces (includes an accessible car space)
- waste storage area
- Floor plan which details minor changes to access doors and internal doors
- Planning information including the following operational matters:
 - operating hours Monday to Friday 9.00am to 3.00pm.
 - number of staff to be five (5) staff members
 - number of clients to be twelve (12)

Site Description

Location reference: 20 BLACKWOOD ST MOUNT GAMBIER SA 5290

Title ref.: CT 5570/938 **Plan Parcel:** D2481 AL24 **Council:** CITY OF MOUNT GAMBIER

The subject allotment has a rectangular configuration with a total area of approximately 1,026.5 square metres and is located on the northern side of Blackwood Street in Mount Gambier as seen in Attachments Subject land aerial map.

The site contains existing structures, including a single storey dwelling, previously used for residential purposes.

Locality

The subject land is located within the Employment Zone and is surrounded by land that is also located within this Zone and contain structures used for light industrial, commercial purposes and business activities, with a small number of residential dwellings remaining within this locality.

The Employment Zone has a Desired Outcome (DO) in the Planning and Design Code for a *diverse range of low-impact industrial, commercial and business activities that complement the role of other zones accommodating significant industrial, shopping and business activities.*

DEVELOPMENT PLAN PROVISIONS

As noted in LCRAP Report dated 14 December 2023.

Consent Type Required:

Planning Consent

Category Of Development:

- **PER ELEMENT:**

Change of use: Code Assessed - Performance Assessed

- **OVERALL APPLICATION CATEGORY:**

Code Assessed - Performance Assessed

- **REASON**

P&D Code; No assessment pathway has been identified for this development. Development not classified as accepted, deemed-to-satisfy, restricted or impact assessed will be performance assessed on its merits against the Code.

Public Notification

- **Reason**



The development proposal was determined to be Performance Assessed with public notification required since the proposed development (change of use to a Community facility) is not listed as exempt in 'Table 5 - Procedural Matters (PM) - Notification'.

Thirty-three (33) adjoining landowners/occupiers were notified of the development with the proposal on public notification from the 23 October 2023 until 11:59pm on 10 November 2023.

A total number of two (2) representations were received as detailed below:

Representations

Full detailed copy of Representations are provided in Attachments.

Name	Address (if known)	Position	Issues	Request to be heard
Greg Cameron	20 Blackwood Street, Mount Gambier	Concerns	Pedestrian/visitor safety Traffic Management Residential access Health & Safety	Yes
Neil Mossop	155 Road, Hindmarsh	In support with some concerns	Carparking on site for staff and users of the facility	No

Response to Representations

Frank Brennan, the Applicant, has responded to the concerns raised by the Representations which can be summarised as follows:

- Provision of car spaces on site provided to the rear.
- Majority of clients/participants and some staff are dropped off and collected and do not require carparking on-site.
- On street car parking available within close proximity to subject land.

A full, detailed copy of the response to the Representations by the Applicant is provided in Attachments.

ASSESSMENT

The application has been assessed against the relevant provisions of the Planning & Design Code, which are contained in Attachments.

The Employment Zone is silent on 'Community Facility' as a land use in DPF 1.1 and as such was assessed upon its merits against the DO and the PO's, which seek:

Desired Outcome

DO 1 - A diverse range of low-impact light industrial, commercial and business activities that complement the role of other zones accommodating significant industrial, shopping and business activities.

Performance Outcome

Land Use and Intensity

PO 1.1 - A range of employment-generating light industrial, service trade, motor repair and other compatible businesses servicing the local community that do not produce emissions that would detrimentally affect local amenity.

Built form and Character/Building height and setbacks/landscaping

It is noted that the subject site contains existing landscaping and structures. This proposal does not propose any extensions to existing structures.

Advertisement



No advertisement is proposed as part of this application.

This application is for a retrospective change of use (Applicant has stated that the Facility has been operating for over a year) with the site containing existing structures that are being used for the purpose of a Community Facility which provides a 'Creative Person Centred Program (day options program) for people with disabilities encouraging creative thought, imagination, self expression and fostering artistic potential.

There are up to five (5) staff members with twelve (12) clients/participants, Monday to Friday between the hours of 9.00am to 3.00pm on site.

Council do not have any record of complaints being made with regards to this use in the previous year.

The land is located within the Employment Zone and is predominantly surrounded by sheds and previously used dwellings being used for light industrial and business purposes. A small amount of residential dwellings are retained within this area.

The proposed use will achieve the Employment Zone's Desired Outcome by providing a use that will integrate and be compatible with light industry, commercial and business activities existing within this neighbourhood.

The associated traffic generation and car parking requirements, is considered to be critical to this assessment with concerns raised in both Representations as part of the Public Notification process.

Part 4 – General Development Policies – Table 1 General Off-Street Car Parking Requirements details a parking rate for a 'Community Facility' being 10 spaces per 100sqm of total floor area. This application is providing two (2) car spaces on site (provision of one (1) accessible car space) to the rear under an existing carport.

Council consider the provision of these two (2) car spaces sufficient for this particular use, with clients being dropped off and collected at the end of the day from the Facility and sufficient car parking provided in the street for staff members.



CONCLUSION

Having regard to the provisions of the Planning and Design Code, the proposed change of use of the subject land to a 'Community Facility' is supported and warrants planning Consent.

INVITES

None

ATTACHMENTS

1. LCRAP RFI response from Applicant 
2. Previous Report, Attachments and Minute Extract 



6.6 LIMESTONE COAST SOUTHERN REGIONAL ASSESSMENT PANEL - TERMS OF REFERENCE – REPORT NO. AR24/56850

Meeting: Limestone Coast Southern Regional Assessment Panel
CM9 Reference: AF22/276
Author: Tracy Tzioutziouklaris, Assessment Manager

REPORT RECOMMENDATION

1. That Limestone Coast Southern Regional Assessment Panel Report No. AR24/56850 titled 'Limestone Coast Southern Regional Assessment Panel - Terms of Reference' as presented on 15 August 2024 be noted.



BACKGROUND

Pursuant to the Planning, Development and Infrastructure Act 2016 (PDI Act), a Regional Assessment Panel (the Panel) established by the Minister for Planning must act in accordance with the PDI Act, which requires a Terms of Reference for the Panel.


DISCUSSION

As the Panel has commenced a new term or appointment, It is now timely to review the Terms of Reference for the Panel and is attached for Members perusal and Information.

CONCLUSION

The Panel is required to have a Terms of Reference and it is recommended the Panel adopts the Terms of Reference as attached to this report.

ATTACHMENTS

1. RAP Report Attachment - Limestone Coast Southern Regional Assessment Panel - Terms of Reference - August 2024 



6.7 LIMESTONE COAST SOUTHERN REGIONAL ASSESSMENT PANEL - MEETING PROCEDURES – REPORT NO. AR24/56622

Committee:	Limestone Coast Southern Regional Assessment Panel
Meeting Date:	15 August 2024
Report No.:	AR24/56622
CM9 Reference:	AF22/276
Author:	Tracy Tzioutziouklaris, Assessment Manager
Summary:	The meeting procedures guide the conduct of the formal activities of the Limestone Coast Southern Regional Assessment Panel.
Strategic Plan Reference:	Goal 1: Our People
	Goal 2: Our Location
	Goal 3: Our Diverse Economy
	Goal 4: Our Climate, Natural Resources, Arts, Culture and Heritage
	Goal 5: Our Commitment

REPORT RECOMMENDATION

1. That Limestone Coast Southern Regional Assessment Panel Report No. AR24/56622 titled 'Limestone Coast Southern Regional Assessment Panel - Meeting Procedures' as presented on 15 August 2024 be noted.
2. That the Limestone Coast Southern Regional Assessment Panel Meeting procedures as attached to Report No AR24/56622 be adopted.



TYPE OF REPORT

BACKGROUND

The Limestone Coast Southern Regional Assessment Panel (the Panel) has been established under the Planning, Development and Infrastructure Act 2016 (the Act) to operate in relation to a defined scope of development assessment matters across four local government areas of the Southern Limestone Coast.

The Panel first commenced operation in July 2022, with the membership of the panel expiring in June 2024. The process to appoint a new membership of the panel was undertaken in early 2024, with the new Membership commencing in July 2024.

It is now timely for the Panel to review its Meeting procedures.

PROPOSAL

It is necessary for the Panel to adopt a meeting procedures policy to guide the conduct of its formal activities. The Local Government Association (LGA) of SA has provided template meeting procedures prepared by Norman Waterhouse Lawyers to assist in this decision. The proposed Limestone Coast Southern Regional Assessment Panel (LCSRAP) meeting procedures have been developed in line with the template and are attached to this report for Members perusal and information.

LEGAL IMPLICATIONS

It is a legal requirement for the Panel to adopt meeting procedures to guide the conduct of its formal activities and promotes good governance practices.

STRATEGIC PLAN

N/A

COUNCIL POLICY

N/A

ECONOMIC IMPLICATIONS

The efficient and effective operation of the panel assists in the assessment of Development Applications which provides economic benefits to the region.

ENVIRONMENTAL IMPLICATIONS

N/A

SOCIAL IMPLICATIONS

The efficient and effective operation of the panel helps to promote community confidence in the decision making process of the panel.

CULTURAL IMPLICATIONS

N/A

RESOURCE IMPLICATIONS

Helps to provide for the efficient and effective operation of the panel.

VALUE FOR MONEY

The efficient and effective operation of the panel promotes value for money for the Member Council's of the panel.



RISK IMPLICATIONS

There is significant risk in not providing clear guidelines for the operation of the panel.

EQUALITIES AND DIVERSITY IMPLICATIONS

N/A

ENGAGEMENT AND COMMUNICATION STRATEGY

N/A


IMPLEMENTATION STRATEGY

N/A

CONCLUSION AND RECOMMENDATION

It is recommended that the meeting procedures as attached to this report be adopted as the meeting procedures policy of the LCSRAP.

ATTACHMENTS

1. RAP Report Attachment - Draft - Limestone Coast Southern Regional Assessment Panel (LCSRAP) - Meeting Procedures - August 2024 



6.8 CODE OF CONDUCT FOR ASSESSMENT PANEL MEMBERS – REPORT NO. AR24/56947

Meeting: Limestone Coast Southern Regional Assessment Panel
CM9 Reference: AF22/276
Author: Tracy Tzioutziouklaris, Assessment Manager

REPORT RECOMMENDATION

1. That Limestone Coast Southern Regional Assessment Panel Report No. AR24/56947 titled 'Code of Conduct for Assessment Panel Members' as presented on 15 August 2024 be noted.



BACKGROUND

Under Schedule 3 of the Planning, Development and Infrastructure Act 2016 (PDI Act) the Minister may adopt a code of conduct to be observed by members of an assessment panel established under the PDI Act.

DISCUSSION

As the Membership of the Panel has been reappointed for another two year term, it is timely to provide the Code of Conduct for Panel Member's information and perusal.

The code of conduct sets out standards of conduct and professionalism that are to be observed by all members of assessment panels of the PDI Act.

For the purposes of the PDI Act, a key requirement is that all members of assessment panels must carry out, and be seen to carry out, their functions with the highest ethical standards so as to maintain public confidence in the integrity of development assessment under the act.


The code of conduct is the key tool to ensure all members of assessment panels act honestly and ethically with a high degree of accountability. If a member of an assessment panel has any doubt in regard to any function they may perform under the Act they should seek the advice of the Assessment Manager or another appropriate person.

While some members of an assessment panel may also be bound by other codes of conduct or professional standards issued by their respective professional associations, they have no legal status under the Act. If there is a conflict between a requirement in this code of conduct and any other professional code of standard this code prevails for the purposes of the Act in undertaking activities associated with the panel.

CONCLUSION

It is recommended that the Limestone Coast Southern Regional Assessment Panel receives and notes the Plan SA Assessment Panel Members - Code of Conduct as attached.

ATTACHMENTS

1. Plan SA - Assessment Panel Members - Code of Conduct - Limestone Coast Southern Regional Assessment Panel 



6.9 REVIEW OF DECISIONS BY THE ASSESSMENT MANAGER – REPORT NO. AR24/56962

Meeting: Limestone Coast Southern Regional Assessment Panel
CM9 Reference: AF22/276
Author: Tracy Tzioutziouklaris, Assessment Manager

REPORT RECOMMENDATION

1. That Limestone Coast Southern Regional Assessment Panel Report No. AR24/56962 titled 'Review of Decisions by the Assessment Manager' as presented on 15 August 2024 be noted.



BACKGROUND

As the Panel Membership has been reappointed for a new two year term, it is timely to review the Limestone Coast Southern Regional Assessment Panel Review of Decision of Assessment Manager Policy.

DISCUSSION

The Planning, Development and Infrastructure Act 2016 provides an opportunity for an applicant who is dissatisfied with a decision made by an Assessment Manager in respect of a development application to apply to the Regional Assessment Panel (RAP) for a review of that decision,

The attached policy has been developed to ensure the RAP meets its legislative obligations under Section 202 of the Act and to make sure there is a fair, consistent and structured review process in place. The draft policy is based on the Local Government Association of South Australia template for such a policy.

The implementation of this policy does not derogate the ability for an applicant to lodge an appeal in the Environment, Resources and Development Court (ERD Court) instead of applying to the RAP for a review of a decision by an Assessment Manager. If an applicant applied to the Panel for a review of a decision and the original decision of the Assessment Manager was upheld, the applicant is still able to appeal the decision in the ERD Court. Such an appeal would be against the decision of the RAP in reviewing the development authorisation, not against the original decision of the Assessment Manager.

The fee to apply for a review of the Assessment Manager decision is currently set at \$573.00 in accordance with the Planning, Development and Infrastructure (Fees, Charges and Contributions) Regulations 2019.

CONCLUSION

To assist in the process for appeals against a decision of the Assessment Manager it is recommended the policy for the review of decisions made by the Assessment Manager be adopted.

ATTACHMENTS

1. Attachment to report AR22/42844 (Title: Policy for Assessment Panel Review of Assessment Manager Decisions - July 2022) 



6.10 MANAGEMENT OF ENVIRONMENT, RESOURCES AND DEVELOPMENT COURT APPEALS – REPORT NO. AR24/56977

Meeting: Limestone Coast Southern Regional Assessment Panel

CM9 Reference: AF22/276

Author: Tracy Tzioutziouklaris, Assessment Manager

REPORT RECOMMENDATION

1. That Limestone Coast Southern Regional Assessment Panel Report No. AR24/56977 titled 'Management of Environment, Resources and Development Court Appeals' as presented on 15 August 2024 be noted.
2. The Assessment Manager be requested to manage the conduct of appeals to the Environment, Resources and Development Court against decisions of the Limestone Coast Southern Regional Assessment Panel or its delegates, subject to the Assessment Manager undertaking the following actions in each case:
 - (a) Consult the Panel – either at a meeting or by out-of-session communication – and have regard to response/s received before agreeing to a compromise settlement;
 - (b) Consult with the relevant Chief Executive Officer and have regard to any response/s received, in relation to matters likely to have an impact, other than minor, on the conduct, cost or outcome of the appeal; and
 - (c) Inform the Panel at scheduled meetings, or otherwise as appropriate, of the status of any appeal matters at any point in time.



BACKGROUND

As the Membership of the Limestone Coast Southern Regional Assessment Panel has been appointed for a new two year term, it is timely to review the management of appeals to the Environment, Resources and Development Court.

The Limestone Coast Southern Regional Assessment Panel (the Panel) has been established under the Planning, Development and Infrastructure Act 2016 (the PDI Act) to operate in relation to a defined scope of development assessment matters across four Local Government Areas of the Limestone Coast. These four Councils are the District Council of Grant, Wattle Range Council, District Council of Robe and the City of Mount Gambier. Under the Act the Panel is now the relevant authority for the assessment of Development Applications required to be publicly notified and the Panel is the respondent to ERD Court appeals and not the respective Council.

DISCUSSION

Section 202 of the Planning, Development and Infrastructure Act 2016 sets out the right of appeal in various circumstances.

It will be impractical for the Panel in its constituted form to manage appeal matters in a timely and efficient manner, and appropriate arrangements need to be made to provide for the management of appeal and related matters for the Panel.

It is noted that:

- The arrangements between the councils that have initiated the Panel provide for appeal costs to be borne by the council in whose area the development application is lodged;
- ERD Court appeals are conducted as de novo matters, not involving the 'defence' of a Panel or delegate decision; and
- The PDI Act provision for a 'review of a decision of an Assessment Manager' may result in some matters that otherwise would have been appealed to the ERD Court, not proceeding to the ERD Court.

In the circumstances, it is considered appropriate for the Assessment Manager to manage appeal matters on behalf of the Panel on the following basis:

- Consult the Panel - either at a meeting or by out-of-session communication - and have regard to response/s received before agreeing to a compromise settlement;
- Consult with the Chief Executive Officer of the relevant council and have regard to any response/s received, in relation to matters likely to have an impact, other than minor, on the conduct, cost or outcome of the appeal; and
- Inform the Panel at scheduled meetings, or otherwise as appropriate, of the status of any appeal matters at any point in time.

CONCLUSION

This report is to help ensure appeal matters to the Environment, Resources and Development Court against decisions made in respect to Development Applications are handled in a timely and efficient manner.

ATTACHMENTS

Nil



6.11 INSTRUMENT C - AMENDMENTS - DELEGATIONS – REPORT NO. AR24/57105

Meeting:	Limestone Coast Southern Regional Assessment Panel
Meeting Date:	15 August 2024
Report No:	AR24/57105
CM9 Reference:	AF22/276
Author:	Tracy Tzioutziouklaris, Assessment Manager
Summary:	This report presents the instrument of delegation under the Planning, Development and Infrastructure Act 2016 as they apply to the Regional Assessment Panel as a relevant authority.
Community Plan Reference:	Goal 1: Our People
	Goal 2: Our Location
	Goal 3: Our Diverse Economy
	Goal 4: Our Climate, Natural Resources, Arts, Culture and Heritage

REPORT RECOMMENDATION

1. That Limestone Coast Southern Regional Assessment Panel Report No. AR24/57105 titled 'Instrument C - Amendments - Delegations' as presented on 15 August 2024 be noted.
2. Pursuant to Section 100 of the Planning, Development and Infrastructure Act 2016, the Limestone Coast Southern Regional Assessment Panel (RAP) delegates each function or power of the Regional Assessment Panel as identified in Attachment 1 Regional Assessment Panel Report No. AR23/53485 (marked as Instrument C) to the Chief Executive Officer of the District Council of Grant, the District Council of Robe, Wattle Range Council, the City of Mount Gambier and Assessment Manager subject to the following conditions and limitations:
 - a) The delegations may be sub delegated by the Chief Executive Officer or Assessment Manager;
 - b) Each delegation of a power or function granted under this instrument is independent of, and severable from, every other delegation granted under this instrument;
 - c) If two or more (sub)delegates are nominated in respect of a power or function, then each nominated person is granted a (sub)delegation and may exercise the power or function independently of any other (sub)delegate;
 - d) Delegates must exercise a delegate or power in accordance with applicable legislative and legal requirements; and due regard to relevant policies and guidelines adopted by the Council;
 - e) If a delegation of a power or function under this instrument is determined to be invalid or unlawful, the invalid or unlawful delegation will be deemed to be severed from this instrument and remaining delegation will continue to operate according to their terms;
 - f) These delegations will come into operation on Friday 19 August, 2024 and remain in force until varied or revoked by the stone Coast Southern Regional Assessment Panel.
 - g) Previous delegations granted by the Limestone Coast Southern Regional Assessment Panel are varied as identified within this report with effect from Friday 16 February, 2024.

BACKGROUND

The Limestone Coast Southern Regional Assessment Panel (RAP) last considered its delegations pursuant to the Planning, Development and Infrastructure Act, 2016 following legislative changes at its meeting held on 15 February 2024.

DISCUSSION

There have been minor amendments to the Instrument of Delegation for the RAP which includes the following new provisions as highlighted in the attached Instrument C - Instrument of Delegation under the Planning, Development and Infrastructure Act 2016, Regulations, Planning and Design Code and Practice Directions of powers of an Assessment Panel:

New Provision (*shown in green*)

- 736981 State Planning Commission Practice Direction 18 Outline Consent cl5(1)(b)
68 Circumstances in Which Outline Consent May be Granted
68.1 The power pursuant to clause 5(1)(b) of the State Planning Practice Direction 18 Outline Consent (PD 18) to provide advice to an applicant that if the application were to be for planning consent, the council would request the Minister to give notice under Section 94(1)(g) of the PDI Act.

Changed Provisions (*shown in red*)

- 312556 Preliminary advice and agreement
Referral to a prescribed body.
312611 Notice of Decision
The power to provide notice via the SA Planning portal of a decision or to give notice to an applicant some other way determined to be appropriate.


Deleted Provisions (*shown in red and striked out*)

- 312549 Outline Consent
The power to grant a consent in the nature of an outline consent
312550 Outline Consent
To grant consent to a variation contemplated by an outline consent
To not impose a requirement inconsistent with the outline consent.

CONCLUSION

This report includes recommendations for granting of delegations of powers and functions of the Limestone Coast Southern Regional Assessment Panel as provided for in Instrument C - Instrument of Delegations under the Planning, Development and Infrastructure Act 2016, Regulations, Planning and Design Code and Practice Directions of Powers of an Assessment Panel, as varied.

ATTACHMENTS

1. Instrument C - Limestone Coast Southern Regional Assessment Panel - Powers of an Assessment Panel 



7 URGENT MOTIONS WITHOUT NOTICE

8 MEETING CLOSE