



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

**Date:** Tuesday, 6 September 2022  
**Time:** 5.00 p.m.  
**Location:** Civic and Arts Centre  
Wattle Range Council  
George Street  
Millicent

# **AGENDA**

## **Limestone Coast Southern Regional Assessment Panel 6 September 2022**

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

**Tracy Tzioutziouklaris  
Manager Development Services  
1 September 2022**

**Order Of Business**

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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 - 10 August 2022

**RECOMMENDATION**

That the minutes of the Limestone Coast Southern Regional Assessment Panel meeting held on 10 August 2022 be confirmed as an accurate record of the proceedings of the meeting.

**4 QUESTIONS WITHOUT NOTICE****5 INVITEES**

- As from 1 October 2017, every Council is required to establish an Assessment Panel under provisions within the Planning, Development and Infrastructure Act 2016 to determine and make decisions on development applications as delegated to the Panel.
- When the Panel is considering an application, it must assess the proposal against the Planning and Design Code.
- The meeting itself is informal, however, all decisions made by the Assessment Panel are formal.
- Representors will be allocated 5 minutes to make their presentation, after which, Panel Members may ask questions to clarify any issues. It is solely a question and answer session. There will be no debate entered into.
- Council Officers will advise you of the decision as soon as practical after the meeting.

**Invitees for Item 6.1 - Unit 3/10 William Street, Mount Gambier**

The Representor - Mr Trevor Clark

The Applicant - Mrs Alexandra Williams

**Invitees for Item 6.2 - Unit 9/6 Jardine Street, Mount Gambier**

The Applicant - Mr Heath Mitchell, Empak Homes

**Invitees for Item 6.3 - Lot B and R1074A Ridge Terrace, Millicent**

The Representor, Mr Frank Brennan, Frank Brennan Consulting Services

The Applicant, Mr Philip Harnett

**6 REPORTS****6.1 SHORT TERM TOURIST ACCOMMODATION - UNIT 3/10 WILLIAM STREET, MOUNT GAMBIER – REPORT NO. AR22/59729**

<b>Development No:</b>	<b>22024528</b>
<b>Applicant:</b>	<b>Mrs Alexander Williams</b>
<b>Property Address:</b>	<b>Unit 3/10 William Street, Mount Gambier</b>
<b>Property Owner:</b>	<b>CMAJ Williams Family trust</b>
<b>Report No:</b>	<b>AR22/59729</b>
<b>CM9 Reference:</b>	<b>AF22/276</b>
<b>Author:</b>	<b>Tracy Tzioutziouklaris, Manager Development Services</b>
<b>Nature of Development:</b>	<b>Performance Assessed/Public Notification</b>
<b>Description:</b>	<b>To change the use of a detached dwelling to short term tourist accommodation</b>
<b>Zoning:</b>	<b>Established Neighbourhood Zone, Overlays – Affordable Housing, Historic Area, Heritage Adjacency, Hazards (Flooding), Native Vegetation, Prescribed Wells Area, Water Protection Area</b>
<b>Policy Area:</b>	<b>Historic Area</b>
<b>Heritage:</b>	<b>Historic Area/Heritage Adjacency</b>

**REPORT RECOMMENDATION**

1. That Limestone Coast Southern Regional Assessment Panel Report No. AR22/59729 titled 'Short Term Tourist Accommodation - Unit 3/10 William Street, Mount Gambier' as presented on 06 September 2022 be noted.
2. Having had regard to the provisions of the Planning and Design Code, the Application and all supporting documentation, the development is not seriously at variance to the provisions of the Planning and Design Code and Planning Consent be granted subject to the following conditions:
  - (a) The development shall be carried out in accordance with the Plan/s as approved and with the Conditions of Approval.
  - (b) At all times whomsoever may be occupying the property, shall take all measures to ensure the residential amenity of the immediate area is not affected by nuisance or disturbance associated with the operation of the Tourist Accommodation.
  - (c) All waste materials and refuse accumulated on the property shall be removed on a regular basis to ensure the property is maintained in a clean and sanitary condition.
  - (d) The building and land shall be maintain in a state of good repair and tidy condition at all times.



## **BACKGROUND**

The subject site is generally regular in shape with a street frontage to William Street. A residential flat building comprised of 4 dwellings is located on the subject land.

The western property boundary is adjacent to a residential dwelling and the St Martins Kindergarten which is a place of local heritage value. To the east, north and south of the subject site are residential dwellings.

## **PROPOSED DEVELOPMENT**

The proposed development involves the change of use of one of the dwellings within the Residential flat building to short term tourist accommodation. No changes are proposed to the external appearance of the dwelling.

## **DEVELOPMENT PLAN PROVISIONS**

The relevant provisions from the Planning and Design Code for this Development Application is attached to this report for Members perusal and information.

## **PLANNING ASSESSMENT**

This application has been referred to the Regional Assessment Panel for a decision as one representation was received as part of the public notification process.

The issues raised with the representation include the following:

- The Application should be refused as it will impact on the amenity and residential character of the subject site for the other occupants
- The nature of short term accommodation makes excessive or nuisance noise
- Carparking on site and in William Street is limited
- Access to the dwellings is via a common driveway with the nature of short term accommodation impacting on other occupants privacy and security
- Impacts on the Strata Title Article Compliance
- Questions regarding the division of costs for common utilities, public risk and general insurance liability and premium costs.

The Applicant has responded with the following:

- The accommodation is to be aimed at small families
- Will have a strict no party or excessive noise policy
- No sound system is to be provided within the accommodation
- Parking in the driveway is to be prohibited
- Signs to be erected to help prevent access to other tenants yards.

The Planning and Design Code identifies the Established Neighbourhood Zone envisages a range of housing types, with new buildings sympathetic to the predominant built form character and development. It is noted no external alterations are proposed to be undertaken on the subject property with the external appearance to remain in character with the existing built form.

Complementary non-residential activities are able to occur within the zone and could consist of ancillary accommodation, community facilities, consulting rooms, dwelling, office, recreation area and shop, in particular if they are of a scale and type to maintain the residential amenity.

Short Term Accommodation can be considered to be for a similar form of land use to residential activities and is not anticipated to impact on the residential use of the subject site. Whilst tourist accommodation is not specifically identified to occur within the zone, the development as proposed is of a scale and type of development which will maintain the residential amenity of the subject locality.

Access to the short term tourist accommodation is to be via the existing common driveway, with on site carparking available for the accommodation which will not impact on access to the occupiers of the other dwellings within the residential flat building.

It is highlighted the assessment of this application is against the provisions of the Planning and Design Code and cannot take into consideration the legal consequences associated with the Strata Title Article Compliance, the division of utilities and insurance implications. It is the responsibility of the Applicant to ensure they have obtained all the necessary approvals prior to the operation of the accommodation from this site in addition to meeting the requirements for Development Approval pursuant to the Planning, Development and Infrastructure Act 2016.

With appropriate management the impacts of the tourist accommodation can be minimised.

## **CONCLUSION**

The development as proposed is envisaged to integrate with the residential character and amenity of the subject locality. The development is not considered to be seriously at variance to the provisions of the Planning and Design Code and warrants the granting of planning consent subject to appropriate conditions and advice.

## **INVITES**

The Representor, Mr Trevor Clark

The Applicant, Mrs Alexandra Williams

## **ATTACHMENTS**

1. Application Snapshot - Unit 3/10 William Street, Mount Gambier
2. Site Plan - Unit 3/10 William Street, Mount Gambier
3. Floor Plan - Unit 3/10 William Street, Mount Gambier
4. Code Rules - Unit 3/10 William Street, Mount Gambier
5. Representation - Form - Unit 3/10 William Street, Mount Gambier
6. Representation - Unit 3/10 William Street, Mount Gambier
7. Response to Representation - Unit 3/10 William Street, Mount Gambier

**6.2 REVIEW OF THE DECISION OF THE REGIONAL ASSESSMENT MANAGER - UNIT 9/6 JARDINE STREET, MOUNT GAMBIER – REPORT NO. AR22/59574**

<b>Development No:</b>	<b>22011849</b>
<b>Applicant:</b>	<b>Empak Homes</b>
<b>Property Address:</b>	<b>Unit 9/6 Jardine Street, Mount Gambier</b>
<b>Property Owner:</b>	<b>Ms Keryn Morrison</b>
<b>Report No:</b>	<b>AR22/59574</b>
<b>CM9 Reference:</b>	<b>AF22/276</b>
<b>Author:</b>	<b>Tracy Tzioutziouklaris, Manager Development Services</b>
<b>Nature of Development:</b>	<b>Performance Assessed/State Heritage Referral</b>
<b>Description:</b>	<b>To construct a group dwelling within a residential complex</b>
<b>Zoning:</b>	<b>Suburban Neighbourhood/Overlays – Affordable Housing, Heritage Adjacency, Hazards (Flooding – Evidence Required), Native Vegetation, Prescribed Wells Area, Water Protection Area</b>
<b>Heritage:</b>	<b>Heritage Adjacency</b>

**REPORT RECOMMENDATION**

1. That Limestone Coast Southern Regional Assessment Panel Report No. AR22/59574 titled 'Review of the Decision of the Regional Assessment Manager - Unit 9/6 Jardine Street, Mount Gambier' as presented on 06 September 2022 be noted.
2. Having had regard to the provisions of the Planning and Design Code, the Application and all supporting documentation, the development is seriously at variance to the provisions of the Planning and Design Code the decision of the Assessment Manager be upheld and Planning Consent be refused subject to the following reasons:
  - (a) The proposed development is considered to be seriously at variance to the provisions of the Planning and Design Code.
  - (b) The total site coverage of the allotment is significantly greater than the maximum 50% site coverage identified within the Planning and Design Code.
  - (c) The setback of the dwelling to the rear boundary is significantly less than the 4 metre setback as identified within the Planning and Design Code.
  - (d) The setback of the dwelling to the front property boundary is significantly less than the 8 metre setback as identified within the Planning and Design Code.
  - (e) The amount of private open space provided on the allotment is significantly less than the private open space required to be provided as identified within the Planning and Design Code.
  - (f) The percentage of the subject site available for soft landscaping is significantly less than what is identified as being required within the Planning and Design Code.
  - (g) The setbacks to the side and rear property boundaries do not provide sufficient access to natural light and ventilation and exceed 45% of the length of the boundaries.

## **BACKGROUND**

The Assessment Manager by notice dated 29 August, 2022 refused to grant Planning Consent for this Development Application seeking to construct a group dwelling within a residential complex at 9/6 Jardine Street, Mount Gambier.

The subject site is irregular in shape with a frontage of 18.05 metres to the common driveway, 15.94 metres in depth, having a total site area of 344 square metres and is currently vacant land. The subject site is one allotment out of 12 that were created as part of a land division - community title.

A 1.5 metre high retaining wall is built along the southern and western property boundaries, with a colourbond fence approximately 1.8 metres high built on top of the retaining wall. A two storey detached dwelling has been constructed on the allotment immediately to the east, a carpark associated with the church and associated land uses is located to the south of the subject property with a church hall located to the west of the subject site.

## **PROPOSED DEVELOPMENT**

The proposed development involves the construction of a group dwelling within a residential complex comprised of 12 allotments. The dwelling is to have a setback of 1.886 metres to the front property boundary, a 900mm setback to the eastern property boundary, a 1 metre setback to the rear property boundary and a 703mm setback to the western property boundary.

A courtyard is to be constructed to the north of the dwelling (in front of the dwelling) which is enclosed by a 1500mm high wall.

The dwelling is to be comprised of 3 bedrooms, open plan kitchen/living/meals area, a double garage under the main roof, walk in robe, ensuite, main bathroom/toilet and a laundry. A small courtyard is located off the laundry for clothes drying and an outside alfresco courtyard area 19.11 square metres in area is located in front of the dwelling. This alfresco walled area is to be enclosed by a 1500mm high wall.

The dwelling is to have a wall height of 2.74 metres from the floor level to the ceiling and a total building height of approximately 5.857 metres. The dwelling is to be constructed using paperbark render finish over Mount Gambier stone and a colourbond roof 'manor red' in colour.

The garage door is to be a double door, 2.445 metres high and 4800mm wide.

As identified on the floor plan, the total floor area of the dwelling, including the residence, garage, verandah and alfresco area is to be 218.86 square metres.

## **DEVELOPMENT PLAN PROVISIONS**

The extract from the Planning and Design Code is attached to this report for the perusal and information of the Regional Assessment Panel Members.

## **PLANNING ASSESSMENT**

The Planning, Development and Infrastructure Act 2016 introduces new appeal options for Applicants. As this Development Application was for a form of development to be determined by the Assessment Manager, 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.

In this matter the Applicant has lodged for a review of the decision made by the Assessment Manager to the Regional Assessment Panel.

The Application was referred to the Minister responsible for the administration of the Heritage Places Act 1993 as the subject site is located within the Heritage Adjacency Overlay. The referral response raised no objection with advice recommending at least two advanced canopy shade trees should be planted on the site prior to the occupation of the dwelling.

There are concerns the subject site is over developed as:

- The total site coverage for the allotment is approximately 63%
- The building has a setback of 1.8 metres to the front property boundary
- Whilst not built on the property boundaries, there are minimal setbacks to the eastern, southern and western property boundary, where the length of walls exceed 45% of the length of the boundary.
- The setback to the rear boundary is less than 4 metres for the whole length of the boundary.
- It is questionable as to whether any private open space has been provided on site and is not 60 square metres located behind the building line. The open space provided is not meaningful and useable open space. It is also questionable as to whether a 1.5 metre high wall provides adequate screening for the alfresco area for this area to be considered to be private open space.
- 20% of the site is not available for soft landscaping and 30% of any land between the primary street boundary and the primary building line is not available for soft landscaping.

The Planning and Design Code identifies:

- Development does not result in site coverage exceeding 50%
- The front setback should be 8 metres
- Side boundary walls do not exceed 45% of the length of the boundary
- Buildings are setback from side boundaries to provide access to natural light and ventilation.
- Buildings are setback 4 metres from the rear boundaries to provide separation between dwellings, access to natural light and ventilation, private open space and space for landscaping and vegetation.
- Dwellings are provided with suitable sized areas of usable private open space to meet the needs of the occupants.
- Soft landscaping is incorporated into development to minimise heat absorption and reflection, contribute to shade and shelter, provide for stormwater infiltration and enhance the appearance of land and streetscapes.

It is acknowledged other dwellings constructed within the subject locality have higher site coverages, than found throughout residential areas however the location, design and siting of these dwellings were more acceptable forms of development when considering total site coverage, private open space, space for landscaping, and setbacks to the allotment boundaries. A summary of other dwellings already approved within this residential complex since the City of Mount Gambier went live in the new planning system is as follows.

Table of dwellings approved at 6 Jardine Street, since March 2021

Address	% Site Coverage	Setbacks	Open Space
12/6 Jardine Street	58%	Front 3.5m Rear 3.299 Side 1.32m and 1.1 m	62.6m <sup>2</sup>
2/6 Jardine Street	55%	Front 4.1m Side 2.2m and 1.1m Varies Rear 2.5m and 5.5m	69.9 m <sup>2</sup>
1/6 Jardine Street	53%	Front 4.12m Side 1.25m and 1.1 m	70m <sup>2</sup>

		Rear 4.18m	
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**CONCLUSION**

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, the application is seriously at variance with the provisions of the Planning and Design Code and the Regional Assessment Panel uphold the decision for Planning Consent be refused.

**INVITES**

The Applicant, Empak Homes

**ATTACHMENTS**

1. Application for Appeal to the Regional Assessment Panel
2. Application Lodgement Submission - Unit 6/9 Jardine Street, Mount Gambier
3. Plans - Unit 6/9 Jardine Street, Mount Gambier
4. Code Rules - Unit 6/9 Jardine Street, Mount Gambier
5. Empak Homes - Response to RFI - Unit 6/9 Jardine Street, Mount Gambier
6. Letter of Support - Application to Appeal to the Council Assessment Panel - 6 Jardine Street, Mount Gambier
7. Dwelling examples - Jardine Street, Mount Gambier

<b>6.3</b>	<b>UNSTAFFED FUEL OUTLET - LOT B AND R1074A RIDGE TERRACE, MILLICENT – REPORT NO. AR22/59669</b>
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**Development No:** 21033622

**Applicant:** Perry's Fuel Distributors

**Property Address:** Lot B and R1074A Ridge Terrace, Millicent

**Report No:** AR22/59669

**CM9 Reference:** AF22/276

**Author:** John Mason, Consultant Planner

**Nature of Development:** Performance Assessed / Public Notification / Referrals  
Commissioner of Highways, Environment Protection Authority

**Description:** The subject application seeks to establish an unstaffed fuel outlet upon the subject land.

**Zoning:** **Zone:**

- Community Facilities

**Overlays:**

- Hazards (Bushfire - Urban Interface)
- Hazards (Flooding - Evidence Required)
- Key Outback and Rural Routes
- Native Vegetation
- Prescribed Wells Area
- Water Protection Area
- Water Resources

**Lodgement Date:** 18 November 2021

### REPORT RECOMMENDATION

1. That Limestone Coast Southern Regional Assessment Panel Report No. AR22/59669 titled 'Unstaffed Fuel Outlet - Lot B and R1074A Ridge Terrace, Millicent' as presented on 06 September 2022 be noted.
2. That the Regional Assessment Panel resolve that:
  - (a) 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, the application is not seriously at variance with the provisions of the Planning and Design Code; and
  - (b) Development Application Number 21033622, by Perry's Fuel Distributors is granted Planning Consent subject to the following conditions:
 

**Condition 1**

The development granted Planning Consent shall be undertaken and completed in accordance with the stamped plans and documentation except where varied by conditions below (if any).

**Condition 2**

The building and site must be maintained in good condition at all times.

**Condition 3**

Stormwater from the proposed development shall be disposed of so that it does not affect the stability of the proposed development or any other building on the site or the neighbouring property, and so that it does not create an unhealthy condition on the site.

**Condition 4**

The footpath network on Ridge Terrace shall be designed to be retained with the development and plans illustrating this provided to and supported by Council prior to development approval being granted.

*Conditions imposed by Commissioner of Highways under Section 122 of the Act*

**Condition 5**

Access to/from Ridge Terrace shall cater for left turn in, left turn out and right turn in movements only and the access points shall be designed and constructed as shown on CIRQA, Project No. 21475, Sheet #01\_SH01, Revision E dated 26 April 2022 and associated correspondence dated 27 May 2022.

These works shall be designed and constructed in accordance with the relevant Austroads Guides, Australian Standards and to the satisfaction of the Department for Infrastructure and Transport with all associated costs (including and not limited to project management and any necessary road lighting, signage and drainage upgrades) to be borne by the applicant.

**Condition 6**

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

**Condition 7**

Any infrastructure within the road reserve (including stobie pole, street light and directional sign/s) that is demolished, altered, removed or damaged during the construction of the project shall be reinstated to the satisfaction of the relevant asset owner, with all costs being borne by the applicant.

**Condition 8**

All off-street parking and vehicle manoeuvring areas shall be designed in accordance with *AS/NZS 2890.1:2004*, *AS/NZS 2890.6:2009* and *AS2890.2:2018*. Additionally, clear sightlines, as shown in Figure 3.3 'Minimum Sight Lines for Pedestrian Safety' in *AS/NZS 2890.1:2004*, shall be provided at the property line to ensure adequate visibility between vehicles leaving the site and pedestrians on the adjacent footpath.

**Condition 9**

Stormwater run-off shall be collected on-site and discharged without impacting the safety or integrity of the adjacent road network. Any alterations to the road drainage infrastructure required to facilitate this shall be at the applicant's expense.

*Conditions imposed by Environment Protection Authority under Section 122 of the Act*

**Condition 10**

Prior to operation, all fuel storage tanks (apart from diesel and LPG) must be fitted with a Stage 1 vapour recovery system (which includes underground storage tank vent pipes being fitted with a pressure vacuum relief valve) that directs the displaced vapours back into the tank during filling.

**Condition 11**

Prior to operation, all underground fuel storage tanks must be double-walled and fitted with a leak detection system designed and installed in accordance with clause 4.5 of *Australian Standard 4897-2008 The design, installation and operation of underground petroleum storage systems*.



**Condition 12**

Prior to operation, all fuel lines between the underground storage tanks and fuel dispensers must be double contained and fitted with a leak detection system, designed and installed in accordance with clause 4.5 of *Australian Standard 4897-2008 The design, installation and operation of underground petroleum storage systems*.

**Condition 13**

Stormwater runoff from all hardstand areas of the petrol station (including the refueling and fuel delivery areas) must be managed in accordance with the 'Response to Information Request' prepared by URPS and dated 5 April 2022 and the Site Drainage Plan with Drawing No. C-211104-01 and C-211104-02 prepared by Epic Projects and Consulting and dated 18 March 2022 and must be directed via grates and grade changes to the SPEL Purceptor full retention oil/water separator (no bypass function) that:

- (a) has a minimum spill capture capacity of 10,000 litres.
- (b) reduces oil content in the outlet to less than 5mg/L at all times (as confirmed by independent third-party scientific testing).
- (c) operates effectively in the event of a power failure.

**Advisory Note 1****Certificate of Title**

If a current (within the last 3 months) copy of the property's Certificate of Title has not been provided to the relevant authority, the owner(s) is advised to obtain a Certificate of Title from Land Services SA. The Certificate of Title provides additional information not available to the relevant authority. It is the owner(s) responsibility to ensure that development does not breach an encumbrance on the title such as a restrictive covenant, or other obligation such as an easement (e.g. water, power, gas, wastewater) or building envelope. A Certificate of Title can be purchased from <https://www.landservices.com.au/publications-and-reports/get-a-copy-of-your-certificate-of-title>.

*Advisory Notes imposed by Commissioner of Highways under Section 122 of the Act*

**Advisory Note 2**

The applicant shall contact DIT Road Assets - South, Asset Enhancement Engineer, Mr Victor Ling (08) 8104 5630 or mobile 0467 784 657 (victor.ling@sa.gov.au) to obtain approval and discuss any technical issues regarding the required works.

*Advisory Notes imposed by Environment Protection Authority under Section 122 of the Act*

**Advisory Note 3**

The applicant/owner/operator are reminded of its general environmental duty, as required by section 25 of the Environment Protection Act 1993, to take all reasonable and practicable measures to ensure that activities on the site and associated with the site (including during construction) do not pollute the environment in a way which causes or may cause environmental harm.

**Advisory Note 4**

The applicant/owner/operator are reminded that any sludge or oily residue collected within the forecourt full retention oil/water separator is required to be removed by an EPA licensed waste transporter to a licensed waste depot.

**Advisory Note 5**

An environmental authorisation (licence) is required for this development. Before commencing operation, the applicant/operator should contact the Environment Protection Authority on (08) 8204 2058 or email [EPALicensing@sa.gov.au](mailto:EPALicensing@sa.gov.au) for information about the licensing application process and requirements.

**Advisory Note 6**

A licence application may be refused where conditions of Development Approval directed by the Environment Protection Authority have not been complied with.

**Advisory Note 7**

More information about the Environment Protection Authority and the Environment Protection Act and policies can be found at: [www.epa.sa.gov.au](http://www.epa.sa.gov.au).





*Figure 1: Subject Land*



*Figure 2: Subject Land as viewed from Ridge Terrace*





**Figure 3:** Subject Land as viewed from George Street looking east.



**Figure 4:** Subject Land as viewed from Ridge Terrace looking south west.

**Locality**

The Community Facilities Zone contains a mix of uses including the Council offices, civic and visitor centre, gallery, sporting fields and a nursery to the south of the land. Neighbouring to the west of the subject land is a restaurant, car wash and Mobil fuel outlet. These uses are captured within the Neighbourhood Zone.



**Figure 5: Locality**

**DEVELOPMENT PLAN PROVISIONS**

**Consent Type Required:**

Planning Consent

**Category of Development:**

**Per Element:**

Change of use: Code Assessed - Performance Assessed  
 Petrol filling station: Code Assessed - Performance Assessed  
 Advertisement: Code Assessed - Performance Assessed

**Overall Application Category:**

Code Assessed - Performance Assessed

**Reason:**

P&D Code

**PLANNING ASSESSMENT**

**Public Notification:**

• **REASON**

Not listed in Table 5 and not considered to be a development of a minor nature that could be captured by dot point 1.

• **LIST OF REPRESENTATIONS (Not Shown on map)**

<b>Representor</b>	<b>Address</b>
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Angela Turner	PO Box 887, Millicent
Frank Brennan on behalf of K&S Corporation Limited	PO Box 96, Beachport

<b>Summary of issues raised.</b>	<b>Applicant's response (summary)</b>
Plans are overly basic and do not show traffic lanes, fuel bowsers, kerbing, traffic control devices and stormwater management systems.	<p>Fuel bowsers are to be positioned beneath the refuelling canopy which is similar to typical petrol stations.</p> <p>Traffic lanes, turning movements, traffic control devices are shown on the plans and detailed in the Cirqa report.</p> <p>Stormwater management information is detailed on the engineering draws prepared by Epic Projects and Consulting.</p>
Land use – not an envisaged form of development.	<p>Whilst the proposed use is not explicitly envisaged in the Zone, it is possible to develop other commercial activities in the Zone at a greater scale and intensity than what is proposed, including shops, restaurants, offices at a particular scale, and other land uses.</p> <p>This should be balanced with, the land is not being prescribed as community open space, the proposal is not considered to displace land uses typically anticipated in the Community Facilities Zone, the land abuts a Neighbourhood Zone that supports commercial uses, the use will provide a service that complements the function of Ridge Terrace.</p>
Amenity	<p>The previous use of the land is a railway corridor and the current owners have offered the land to the private market, regardless of any maintenance Council may have previously undertaken.</p> <p>The development will remove some grass land however, Apex Park and its large trees will be retained along with various other green corridors throughout the township.</p> <p>It needs to be acknowledged the locality comprises various commercial buildings, all of which are within close proximity to the subject land.</p> <p>Landscaping proposed will support the development and will contribute to the visual amenity of the locality.</p>
Traffic Congestion	Cirqa have influenced the design of the development and carpark to ensure it complies with relevant Australian Standards.

	DIT supports the proposed development, subject to conditions.
Carpark location	Carparking has been designed in accordance with Australian Standards and DIT supports the development.
Fuel Deliveries	All vehicle movements within the confines of the sites have been determined by Cirqa to be safe and convenient and meet Aust Standards, for which DIT is also supportive of. There are also no environmental impacts of concern, noting the application is supported by the EPA.
Landscaping	Landscaping plan details have been updated to include species. The trees selected are anticipated to complement those that are established in the locality.
Employment	<p>The development does create wider employment and economic benefit. The development would still require maintenance staff, cleaners and gardeners, refuelling vehicles, off-site administrative staff.</p> <p>The development will also provide an essential refuelling service to support other businesses and domestic commuters.</p>
Demand	The presence of other petrol stations in the region is not a planning consideration that could be used to determine the proposal.

### Council comments:

- Plans are considered adequate to detail the proposal and undertake a thorough assessment of the proposal.
- It is noted there may have been a missed opportunity to capture the site as part of an open space corridor, however, we can only assess the proposal against the policies that are currently legislated, for which the proposal on balance, is considered to meet.
- Employment opportunities is not a consideration of this proposal however, the applicant has satisfactorily responded to this issue.
- Demand is not a valid planning consideration pursuant the *Planning, Development and Infrastructure Act 2016* and *Regulations 2017*.

### Agency Referrals

- Commissioner of Highways
- Environment Protection Authority

It is noted that both agencies are supportive of the proposal following receipt of further information from the applicant.

Copies of both agency comments are attached.

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





**Figure 6: Zone Map**

### Land Use

It should be acknowledged the locality is developed with a mixture of land uses, mostly commercial that are within the Neighbourhood Zone, with a nursery approved and operating on the southern abutting property within the Community Facilities Zone. Of particular note is the retail fuel outlet that currently exists to the west within the Neighbourhood Zone. Given the range of uses across the two zones it would appear that the zones aren't performing explicitly in accordance with what the Code seeks in these areas.

The Community Facilities Zone contemplates the provision of community, educational, recreational and health care services, for which the proposal fails to meet. That said, the Zone also contemplates small scale shops, offices and consulting rooms and the proposal is not considered too distant from these such uses. A shop if developed on the site would require parking provision, signage, potentially multiple access points and a large expanse of sealed area, which is not dissimilar to the proposed non-staffed fuel outlet. Shops can also require deliveries from larger commercial vehicles at times. If anything, the proposed built form is less than what would be required for a shop and provides more of an open feel.

When you consider the above, it seems reasonable to determine the land use, although not be explicitly sought in the Zone, to be closely enough associated with uses that are desired and not out of character with similar forms of existing development on neighbouring sites.

For these reasons, the land use is not considered at variance with the land use provisions of the Zone.

The Panel could take a different reading of the policies of the zone in that, the proposed use is not linked with community, educational, recreational and or health care services and on this basis, it is not considered an appropriate use. Rebuttal to this interpretation would be, on the periphery of the Zone there is greater flexibility and consideration should be given to existing land uses on neighbouring sites, for which is argued above to be land uses that are also not explicitly sought in the Neighbourhood Zone.

I note, if the site was to be incorporated as part of an open space corridor then it should have been captured within an Open Space Zone or similar. Subjectively, this may have been the best outcome for the site.

### **Setbacks, Design & Appearance**

The fuel bowsers and canopy are positioned centrally on the site well distanced from boundaries and are simple structures. The character provisions of the Zone seek for development in the zone to minimise visual bulk and massing on residential development, together with overshadowing and access to light and ventilation. There are no residential properties within close proximity to the site (closest at 1 Fifth Street – 70m separated at nearest point).

The simple designed development will not overshadow any dwellings, restrict access to sunlight nor create unreasonable visual impact on residential properties.

The landscaping proposed will provide some visual improvement to the site and offset the removal of several large trees. That said, if the applicant was amenable, it would be a good outcome for them to replace the large trees that require removal within the neighbouring site to the west.

### **Traffic Impact, Access and Parking**

The vehicle access points have been designed to provide safe and convenient access from both Ridge Terrace and Cattle Bridge Road for private vehicles and the largest 30 metre road train to be used in support of the development. The proposed access arrangements are supported by Cirqa and DIT.

Cirqa have clarified there is adequate room on the site for road trains to manoeuvre and exit in a forward direction without disrupting the movement of other private vehicles. The peak movements into and out of the site are also considered to be catered for onsite and within the existing road network.

The carparks appear to be designed in accordance with Australian Standards however, they are not dimensioned on the plans. Condition 8 will require for this to occur, and so no additional conditions are required here.

The inverts and crossovers required to create access to Ridge Terrace will impact an existing footpath network, and so a condition is recommended to be imposed that requires for the footpath to be maintained and designed into the project accordingly.

### **Environmental Factors**

Amenity impacts associated with the development are limited to noise. Given there is a 70 metre separation to the nearest sensitive receiver, it is unlikely the noise generated will exceed the levels sought within the *Environment Protection Noise Policy 2007*.

If the Panel considers necessary, a condition requiring adherence with the policy could be imposed on any approval. Irrespective of whether it is imposed, the development will be required to adhere with it.

Lighting of the site will be required and this should be achieved without creating unreasonable light spill, given the separation to the nearest dwellings. Lighting at night will improve the safety of the site when vehicles are accessing it and exiting onto Ridge Terrace and Cattle Bridge Terrace.

### **Signage**

The advertising pricing board exceeds the DTS criteria of 3.1, with a total height of 2.4m and sign display areas exceeding 2 sq m per side. The marginal exceedance of the DTS criteria is considered acceptable, given the sign will not be a visually dominant element in the locality and is associated with an acceptable use of the land.

### **CONCLUSION**

In summary, the following conclusions have been reached:

- The land use proposed is considered acceptable on the grounds it is closely linked to envisaged uses in the zone and responds acceptably to the existing uses and development within the locality.
- The built form is simple and will not be visually dominant in the locality nor impact unreasonably on residential properties with overshadowing or limiting access to sunlight.

- The access and functionality of the site is supported by Cirqa and DIT and will work acceptably. The signage although marginally exceeds the DTS criteria applicable in the zone, is considered to not be visually dominant and supports an acceptable use of the site.

**INVITES**

The Representor, Mr Frank Brennan

The Applicant, Mr Philip Harnett

**ATTACHMENTS**

1. Application and Assessment Documentation - Lot B and R1074A Ridge Terrace, Millicent

**7 URGENT MOTIONS WITHOUT NOTICE**

**8 MEETING CLOSE**