

**MINUTES OF LIMESTONE COAST SOUTHERN REGIONAL ASSESSMENT PANEL  
HELD AT THE COUNCIL CHAMBER, CIVIC CENTRE, 10 WATSON TERRACE, MOUNT  
GAMBIER  
ON THURSDAY, 15 AUGUST 2024 AT 5.00 P.M.**

<b>PRESENT:</b>	Mr Mark Teakle, Ms Lamorna Alexander, Mr Carlin McNeil, Ms Cheryle Pedler ( <i>virtual</i> )	
<b>OFFICERS IN ATTENDANCE:</b>	Assessment Manager Executive Administrator	- Mrs T Tzioutziouklaris - Ms S Wilson
<b>OFFICERS AS OBSERVERS:</b>	Senior Planning Officer	- Roslyn Snaauw

### 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)

**LIMESTONE COAST SOUTHERN REGIONAL ASSESSMENT PANEL RESOLUTION**

The Limestone Coast Southern Regional Assessment Panel moved:  
That the apology from Mr Ian Von Stanke be received.

**CARRIED**

### 3 CONFIRMATION OF MINUTES

**LIMESTONE COAST SOUTHERN REGIONAL ASSESSMENT PANEL RESOLUTION**

The Limestone Coast Southern Regional Assessment Panel moved:  
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.

**CARRIED**

### 4 QUESTIONS WITHOUT NOTICE

Nil

### 5 INVITEES

**Invitees for Item 6.1 - 60 Tollner Road, Mount Gambier**

The Applicant - Frank Brennan Consulting Services (on behalf of Thomson Bilt) spoke in relation to Item 6.1 at 5:03pm.

**Invitees for Item 6.2 - 1 Marston Drive, Mount Gambier**

The Applicant - Frank Brennan Consulting Services (on behalf of Thomson Bilt) spoke in relation to Item 6.2 at 5:14pm.

**Invitees for Item 6.3 - 1 Cary Court, Suttontown**

The Applicant - Frank Brennan Consulting Services (on behalf of Thomson Bilt) spoke in relation to Item 6.3 at 5:34pm.

**Invitees for Item 6.4 - 8 Norwich Place, Mount Gambier**

The Applicant - Frank Brennan Consulting Services (on behalf of Naralilla Homes Pty Ltd) spoke in relation to Item 6.4 at 6:01pm.

**Invitees for Item 6.5 - 20 Blackwood Street, Mount Gambier**

The Applicant - Frank Brennan Consulting Services spoke in relation to Item 6.5 at 6:26pm.

## 6 REPORTS

### 6.1 REVIEW OF COUNCIL DECISION - 60 TOLLNER ROAD, MOUNT GAMBIER

#### LIMESTONE COAST SOUTHERN REGIONAL ASSESSMENT PANEL RESOLUTION

The Limestone Coast Southern Regional Assessment Panel moved:

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 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 Code.
4. The Limestone Coast Southern Regional Assessment Panel resolves to set aside the decision of the Assessment Manager to refuse planning consent to DA No 24007784 and grant planning consent subject to the following conditions:
  - a) The development is to take place in accordance with the supporting documentation and plans relating to Development Application Number 24007784, except as modified by any conditions attached to this Decision Notification.
  - b) The existing plantings to all boundaries of the subject land must be maintained, and where necessary replaced and nurtured to maturity, to the Council's satisfaction.
  - c) The garage shall only be used for purposes associated with the existing residential land use of the subject property.

- d) All of the building, including the roof, shall be constructed of a colour coated metal material or other similar finish.

**CARRIED**

## 6.2 REVIEW OF COUNCIL DECISION - 1 MARSTON DRIVE, MOUNT GAMBIER

### LIMESTONE COAST SOUTHERN REGIONAL ASSESSMENT PANEL RESOLUTION

The Limestone Coast Southern Regional Assessment Panel moved:

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. That this matter be deferred for the purpose of additional information to be provided, as listed below:
  - To show a reduction in overall height of the western wall of the garage to 3 metres.
  - Provision of correct plans which clearly identify the proposed development.

**CARRIED**

## 6.3 REVIEW OF COUNCIL DECISION - 1 CAREY COURT, SUTTONTOWN

### LIMESTONE COAST SOUTHERN REGIONAL ASSESSMENT PANEL RESOLUTION

The Limestone Coast Southern Regional Assessment Panel moved:

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. The Limestone Coast Southern Regional Assessment Panel resolves set aside the decision of the Assessment Manager to refuse planning consent to DA No 24009145 and grant planning consent subject to the following conditions:

- a) The development is to take place in accordance with the supporting documentation and plans relating to Development Application Number 24009145, except as modified by any conditions attached to this Decision Notification.
- b) The garage shall be setback 2.2 metres from the southern side property boundary.
- c) The garage shall only be used for purposes associated with the existing residential land use of the subject property.
- d) All of the building, including the roof, shall be constructed of a colour coated metal or other similar finish.
- e) Provision shall be made for the onsite disposal of storm water and surface drainage.

**CARRIED**

#### **6.4 REVIEW OF COUNCIL DECISION - 8 NORWICH PLACE, MOUNT GAMBIER**

##### **LIMESTONE COAST SOUTHERN REGIONAL ASSESSMENT PANEL RESOLUTION**

The Limestone Coast Southern Regional Assessment Panel moved:

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 and are at variance to Performance Outcome 14.1.
  - 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, and is at variance to Performance Outcome 14.1.

- c) The proposed southern boundary setback including the southern elevation wall height will have a direct impact on the adjoining dwelling to the south, and is at variance to Performance Outcome 8.1 which results in poor visual from the south of the dwelling.
- c) The proposed development does not improve or enhance the amenity and character of the area, and is at variance to DTS/DPF 8.1.

**CARRIED**

**6.5 DA:23022854 – CHANGE OF USE TO COMMUNITY FACILITY (DISABILITY OPTIONS CARE PREMISES) – RESPONSE TO FURTHER INFORMATION REQUEST – 20 BLACKWOOD STREET, MOUNT GAMBIER**

**LIMESTONE COAST SOUTHERN REGIONAL ASSESSMENT PANEL RESOLUTION**

The Limestone Coast Southern Regional Assessment Panel moved:

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).

**CARRIED**

**6.6 LIMESTONE COAST SOUTHERN REGIONAL ASSESSMENT PANEL - TERMS OF REFERENCE****LIMESTONE COAST SOUTHERN REGIONAL ASSESSMENT PANEL RESOLUTION**

The Limestone Coast Southern Regional Assessment Panel moved:

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.

**CARRIED**

**6.7 LIMESTONE COAST SOUTHERN REGIONAL ASSESSMENT PANEL - MEETING PROCEDURES****LIMESTONE COAST SOUTHERN REGIONAL ASSESSMENT PANEL RESOLUTION**

The Limestone Coast Southern Regional Assessment Panel moved:

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.

**CARRIED**

**6.8 CODE OF CONDUCT FOR ASSESSMENT PANEL MEMBERS****LIMESTONE COAST SOUTHERN REGIONAL ASSESSMENT PANEL RESOLUTION**

The Limestone Coast Southern Regional Assessment Panel moved:

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.

**CARRIED**

**6.9 REVIEW OF DECISIONS BY THE ASSESSMENT MANAGER****LIMESTONE COAST SOUTHERN REGIONAL ASSESSMENT PANEL RESOLUTION**

The Limestone Coast Southern Regional Assessment Panel moved:

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, with the date of 8.1 to be updated to August 2024.

**CARRIED**

## 6.10 MANAGEMENT OF ENVIRONMENT, RESOURCES AND DEVELOPMENT COURT APPEALS

### LIMESTONE COAST SOUTHERN REGIONAL ASSESSMENT PANEL RESOLUTION

The Limestone Coast Southern Regional Assessment Panel moved:

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 scheduled or special meeting - 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.

**CARRIED**

## 6.11 INSTRUMENT C - AMENDMENTS - DELEGATIONS

### LIMESTONE COAST SOUTHERN REGIONAL ASSESSMENT PANEL RESOLUTION

The Limestone Coast Southern Regional Assessment Panel moved:

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.

**CARRIED**

**7 MOTIONS WITHOUT NOTICE**

Nil

**8 MEETING CLOSE**

**The Meeting closed at 6:54pm.**

**The minutes of this meeting were confirmed at the Limestone Coast Southern Regional Assessment Panel held on 19 September 2024.**

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**PRESIDING MEMBER**