



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

Date: Tuesday, 15 November 2022
Time: 5.00 p.m.
Location: Level 1 Meeting Room
Civic Centre
10 Watson Terrace
Mount Gambier

AGENDA

Limestone Coast Southern Regional Assessment Panel 15 November 2022

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

**Tracy Tzioutziouklaris
Manager Development Services
10 November 2022**

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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 - 6 September 2022

RECOMMENDATION

That the minutes of the Limestone Coast Southern Regional Assessment Panel meeting held on 6 September 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 6.4 – 13 Tenison Drive, Mount Gambier

The Applicant – Mr Mike Stevens

The Representor – Mrs Heather Teakle

Invitees for Item 6.5 – 19 Foster Street, Beachport

The Representor, Nicole Harris

The Representor, Kerry McManus

The Representor, Christina Mowbray

The Representor, Trevor Munro

The Applicant, Frank Brennan

The Applicant, James Green

The Applicant, Sabrina Green

6 REPORTS**6.1 REGIONAL ASSESSMENT PANEL - MEETING PROCEDURES – REPORT NO. AR22/77630**

Committee:	Limestone Coast Southern Regional Assessment Panel
Meeting Date:	15 November 2022
Report No.:	AR22/77630
CM9 Reference:	AF22/276
Author:	Tracy Tzioutziouklaris, Manager Development Services
Authoriser:	Julie Scoggins, Manager Financial Services
Summary:	To provide an overview 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. AR22/77630 titled 'Regional Assessment Panel - Meeting Procedures' as presented on 15 November 2022 be noted.



TYPE OF REPORT

Legislative

BACKGROUND

An enquiry has been received from a member of the Limestone Coast Southern Regional Assessment Panel (RAP), specifically in respect to the attendance of the public at the meetings of the RAP.

A copy of the meeting procedures for the RAP have been attached to this report for members information and perusal. It is noted the meeting procedures do not contain any reference to the attendance of the public at the meetings as observers.

PROPOSAL

For the purpose of this report, Members attention is drawn to the Planning, Development and Infrastructure Act 2016 and associated regulations. It is this Act that specifies the creation of Assessment Panels.

It is Regulation 13 which specifically manages public access to RAP meetings. It is here where it identifies the public are entitled to attend a meeting of an assessment panel, unless the assessment panel determines to exclude the public. The assessment panel may exclude the public from attending a meeting for the following reasons:

- To discuss information which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead);
- The disclosure of information which could unreasonably be expected to confer a commercial advantage on a person or to prejudice the commercial position of a person and would, on balance, be contrary to the public interest;
- The disclosure of information which would reveal a trade secret;
- Commercial information of a confidential nature (not being a trade secret) the disclosure of which could reasonably be expected to prejudice the commercial position of the person who supplied the information, or to confer a commercial advantage on a third party and would on balance, be contrary to the public interest;
- Matters affecting the safety or security of any person or property;
- Information the disclosure of which could reasonably be expected to prejudice the maintenance of law, including by affecting the prevention, detection or investigation of a criminal offence, or the right to a fair trial;
- Matters that should be considered in confidence in order to ensure that the assessment panel, or any other entity, does not breach any law, or any order or direction of a court or tribunal constituted by law, any duty of confidence, or other legal obligation or duty;
- Legal advice;
- Information relating to actual litigation, or litigation that the assessment panel believes on reasonable grounds will take place;
- Information the disclosure of which would divulge information provided on a confidential basis by or to a Minister of the Crown, the Commission, or another public authority or official and would on balance, be contrary to the public interest; and
- During so much of the meeting that consists of its discussion or determination of any application or other matter that falls to be determined by the assessment panel.

As outlined above, the Planning, Development and Infrastructure Act 2016 and Regulations now contain the criteria which must be met for the Assessment Panel to exclude the attendance of the public from a meeting. Whilst it is recognised this may raise some matters for individual panel members, the attendance of the public at the meeting helps to improve the understanding of the



public as to why an Assessment Panel has made the decision through transparent decision making processes.

LEGAL IMPLICATIONS

To ensure ongoing legislative compliance including good decision making through transparency and accountability.

STRATEGIC PLAN

N/A

COUNCIL POLICY

N/A

ECONOMIC IMPLICATIONS

N/A

ENVIRONMENTAL IMPLICATIONS

N/A

SOCIAL IMPLICATIONS

To ensure good decision making through transparency and accountability and improvement of the community's understanding of the role of the Assessment Panel.

CULTURAL IMPLICATIONS

N/A

RESOURCE IMPLICATIONS

N/A

VALUE FOR MONEY

N/A

RISK IMPLICATIONS

N/A

EQUALITIES AND DIVERSITY IMPLICATIONS

To ensure good decision making through transparency and accountability and improvement of the community's understanding of the role of the Assessment Panel.

ENGAGEMENT AND COMMUNICATION STRATEGY

N/A

IMPLEMENTATION STRATEGY

N/A

CONCLUSION AND RECOMMENDATION

It is acknowledged legislation now contains specific criteria that must be met in order for a matter to be considered in confidence by an Assessment Panel.

The attendance of the public at meetings of the Regional Assessment Panel may help to ensure transparency and accountability through good decision making processes. This may also help to improve the knowledge within the community of the role and function of the Assessment Panel.



ATTACHMENTS

1. Attachment to report AR22/42841 (Title: Limestone Coast Southern Regional Assessment Panel (LCSRAP) - Meeting Procedures - July 2022)



6.2 DELEGATIONS - PLANNING, DEVELOPMENT AND INFRASTRUCTURE ACT 2016 – REPORT NO. AR22/78035

Committee:	Limestone Coast Southern Regional Assessment Panel
Meeting Date:	15 November 2022
Report No.:	AR22/78035
CM9 Reference:	AF22/276
Author:	Tracy Tzioutziouklaris, Manager Development Services
Authoriser:	Julie Scoggins, Manager Financial Services
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.
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. AR22/78035 titled 'Delegations - Planning, Development and Infrastructure Act 2016' as presented on 15 November 2022 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. AR22/78035 (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 Thursday 16th November, 2022 and remain in force until varied or revoked by the Council Assessment Panel, or a Regional Assessment Panel established including the City of Mount Gambier.



- (a) Previous delegations granted by the Council Assessment Panel are varied as identified within the report with effect from Wednesday 16th November, 2022



TYPE OF REPORT

Legislative

BACKGROUND

The Limestone Coast Southern Regional Assessment Panel (RAP) at its meeting held on Wednesday 10th August, 2022 considered its delegations pursuant to the Planning, Development and Infrastructure Act, 2016. These delegations came into operation on 1st July, 2022 when the Limestone Coast Southern Regional Assessment Panel was declared operational.

PROPOSAL

There has been a minor amendment to the Instrument of Delegation for the RAP which includes the following new provision:

Urban Tree Canopy Offset Scheme cl9

66. Use of Money from Fund

66.1 The power pursuant to Clause 9 of the UTCOS to use money distributed from the fund for any of the following purposes (and for no other purpose):

66.1.1 To provide for the planting, establishment and maintenance of trees within reserves or public land anywhere within a designated local government area; or

66.1.2 The purchase of land within a designated local government area to ensure:

66.1.2.1 The preservation of trees; or

66.1.2.2 that trees can be established in an area with a low urban tree canopy level or a demonstrated urban tree canopy loss.

LEGAL IMPLICATIONS

Delegations enables effective administration of the Planning, Development and Infrastructure Act 2016.

STRATEGIC PLAN

N/A

COUNCIL POLICY

N/A

ECONOMIC IMPLICATIONS

N/A

ENVIRONMENTAL IMPLICATIONS

N/A

SOCIAL IMPLICATIONS

N/A

CULTURAL IMPLICATIONS

N/A

RESOURCE IMPLICATIONS

N/A

VALUE FOR MONEY

N/A



RISK IMPLICATIONS

N/A

EQUALITIES AND DIVERSITY IMPLICATIONS

N/A

ENGAGEMENT AND COMMUNICATION STRATEGY

N/A

IMPLEMENTATION STRATEGY

N/A

CONCLUSION AND RECOMMENDATION

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, and revocation of previous delegations granted by the Council Assessment Panel.

ATTACHMENTS

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



6.3 DEVELOPMENT APPLICATION 22023649 - CHILD CARE CENTRE - 77-87 SUTTONTOWN ROAD, SUTTONTOWN – REPORT NO. AR22/77765

Development No:	22023649
Applicant:	Scotch Enterprises Pty Ltd
Property Address:	77-87 Suttontown Road, Suttontown
Property Owner:	Mrs Catherine Rymill and Mrs Mary Walters
Report No:	AR22/77765
CM9 Reference:	AF22/276
Author:	Tracy Tzioutziouklaris, Manager Development Services
Authoriser:	Julie Scoggins, Manager Financial Services
Nature of Development:	Performance Assessed/Public notification
Description:	To construct a child care centre
Zoning:	Suburban Neighbourhood
Policy Area:	Overlays – Affordable Housing, Hazards (Flooding), Native Vegetation, Prescribed Wells Area, Water Protection Area
Heritage:	N/A

REPORT RECOMMENDATION

1. That Limestone Coast Southern Regional Assessment Panel Report No. AR22/77765 titled 'Development Application 22023649 - Child Care Centre - 77-87 Suttontown Road, Suttontown' as presented on 15 November 2022 be noted.
2. Pursuant to Section 108(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 warrants the granting of Planning Consent subject to the following conditions:
 - (a) The development shall be carried out in accordance with the Plan/s as approved by the Council Assessment Panel and with the Conditions of Approval.
 - (b) The carparking and driveway areas and footpath crossover as shown on the plan/s approved by the Council Assessment Panel, shall be graded, paved and sealed with bitumen or other similar material and maintained in a useable condition at all times.
 - (c) The carparking spaces shall measure not less than 2.6 metres in width and 5.5 metres in length and shall be linemarked, with the accessible car parking space appropriately identified.
 - (d) The Applicant shall submit a Works and Service application to establish the new invert and crossover between the subject land and the road carriageway, and close the existing invert/crossover in accordance with the plan approved by the Council Assessment Panel and reinstate the footpath at the Applicant's expense.
 - (e) The Applicant shall be required to make arrangements with Council in relation to the disposal of stormwater and surface drainage, which may involve the connection to existing street drain and incorporate and inspection/access pit, at the Applicant's expense.



- (f) The stormwater to be directed to Council's stormwater drainage system shall not exceed 20L/s. Should the stormwater drainage exceed 20L/s a downstream contribution will be required to be paid to Council, which is calculated on the site area of the development at \$0.95 per square metre.
- (g) Landscaping shall be undertaken in accordance with the plans as approved and be maintained at all times.
- (h) The fencing to be constructed on the western and northern property boundaries shall be 2100mm high colorbond fence sealed airtight at all junctions, including the ground, the retaining walls and other fences to achieve the required acoustic performance.
- (i) All commercial waste and refuse generated on the subject site shall be contained within the screened holding place and be removed on a regular basis.
- (j) Whomsoever may be making use of this planning consent, shall take all measures that are reasonably possible to keep within the boundaries of the subject land all noise associated with the operation of the business or the coming and going of persons to the subject land, the sound of voices, vehicle noises, radio set or other amplified music, so as to not intrude upon the residential component of the locality.
- (k) Any lights on the subject land must be directed and screened so that overspill of light into nearby residential premises is avoided and drivers are not distracted.
- (l) The building and surroundings shall be maintained in a state of good repair and tidy condition at all times.
- (m) The subject land shall not be used/occupied for the purposes approved by Council until conditions (b), (c), (d), (e), (g) and (h) are completed.



BACKGROUND

The subject site is has a street frontage of approximately 62.38 metres to Wireless Road West, a street frontage of 36.1 metres to Suttontown Road and a corner cut off frontage of 22 metres, having a total site area of approximately 3900 square metres. The subject site is currently vacant land and has previously been used for the grazing of livestock.

To the south and east of the subject land is residential development, and to the north and west are dwellings on larger rural living type landholdings. A timber mill, a university campus/tafe campus and a local shopping centre including a child care centre are located within the immediate locality.

PROPOSED DEVELOPMENT

The proposed development involves the construction of a child care centre including car parking and outside play areas.

The building is to have a setback of 23 metres to Wireless Road and a 17 metre setback to Wireless Road East. The building is to have a setback of 10.7 metres to the western side boundary and 18.8 metres to the northern side property boundary.

A carpark is to be constructed in front of the building, with access and egress via Wireless Road West and Suttontown Road. The inverts are to be located as far away from the roundabout as possible. The carpark is to be comprised of 24 car parking spaces.

The proposed building is to be 729 square metres in area and will be comprised of 6 rooms for different age groupings of children, child toilet facilities, dining room and kitchen, laundry, staff room, office and meeting room.

The proposed building is to have a total height of approximately 4 metres, with a wall height of approximately 2.7 metres and will be constructed using a combination of materials including brick walls and limestone feature walling, and metal roofing shale grey in colour and monument window frames. The maximum number of children that can be accommodated within the building will be 100.

A comprehensive land scaping plan has been provided as part of the documentation associated with the application.

Stormwater is proposed to be drained to onsite swales and rainwater tanks, with the overflow to be directed to Wireless Road West, Mount Gambier.

The child care centre is to be operated from 6.30a.m. to 6.30p.m. Monday to Friday, 52 weeks/year, with the centre closed on weekends and public holidays.

DEVELOPMENT PLAN PROVISIONS

As per the Planning and Design Code extract.

PLANNING ASSESSMENT

This application is referred to the Regional Assessment Panel as one representation was received as part of the public notification process.

The representation raised the following:

- Support the development subject to some concerns
- The area experiences some traffic congestion
- The locality experiences a lot of truck movements due to the locality of the timber mill
- The land uses within the locality including the shops add to traffic congestion in the area
- Traffic management in the subject locality should be further investigated.



The Applicant has responded to the representation with the following:

- Traffic movement through the site will be one way with traffic entering the site from Wireless Road West and exiting onto Suttontown Road.
- Both driveways provide for adequate separation distances from the roundabout and accommodate for adequate site distances
- The driveway into the child care centre is off set from the driveway to the local shopping centre.

A Child Care Centre / Pre School is an envisaged form of development within the Suburban neighbourhood Zone. It is a type of land used considered to be a complementary non residential use within this zone. Non residential developments such as a pre school / child care centres are envisaged to occur within the Suburban Neighbourhood Zone to improve community accessibility to services.

The proposed development meets the Planning and Design Code in respect to setbacks, building height, floor area and building design and siting.

The proposed development does not meet the Planning and Design Code in respect to the amount of carparking provided on the subject site. The development has been designed to minimise impact on the adjoining public road and the neighbouring residential properties through the construction of an on site carparking area at the front of the development. The design and layout of the carpark is a functional design. The access point has been designed and sited to accommodate the type and volume of traffic likely to be generated by the proposed development. The number of access points have also been minimised which helps to optimise the provision of on street visitor parking.

The Planning and Design Code identifies carparking to be provided at a rate of .25 spaces per child for a Child Care Centre. On this basis, at the maximum number of children being 100, a total of 25 carparking spaces are required to be provided as part of the development. As shown on the site plan 24 on site car parking spaces have been provided, including one accessible carparking space, as part of the development. The shortfall of one car parking space can be easily accommodated for within the subject locality.

One of the issues raised as part of the public notification process was traffic management and congestion currently occurring within the subject locality. Whilst the child care centre will increase traffic within the subject locality, the increase in traffic anticipated to be generated will occur throughout the whole day, with child care drop off and pick-ups occurring on a staggered basis from 6.30a.m. until 6.30p.m.

CONCLUSION

The development as proposed meets the requirements of the Planning and Design Code and is considered an appropriate form of development within the Suburban Neighbourhood Zone. A Child Care centre is an envisaged form of development within this zone. The development as proposed will not detract from the character and amenity of the subject location.

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 warrants the granting of Planning Consent.

INVITES

N/A

ATTACHMENTS

1. 77-87 Suttontown - Application snap shot
2. 77-87 Suttontown - Certificate of Title



3. 77-87 Suttontown - Planning Report
4. 77-87 Suttown - Site Plan
5. 77-87 Suttontown - elevations
6. 77-87 Suttontown - Landscaping plan
7. 77-87 Suttontown - Floor plan
8. 77-87 Suttontown - Isometrics
9. 77-87 Suttontown - Stormwater Report
10. 77-87 Suttontown - Acoustic report
11. 77-87 Suttontown - Site contamination report
12. 77-87 Suttontown - Representation
13. 77-87 Suttontown - response to representation
14. 77-87 Suttontown - Planning and Design Code



6.4 DA 22033635 - 13 TENISON DRIVE, MOUNT GAMBIER - SHORT TERM ACCOMMODATION – REPORT NO. AR22/77804

Development No:	22033635
Applicant:	Mr Mike Stevens
Property Address:	13 Tenison Drive, Mount Gambier
Property Owner:	Mr Mike Stevens
Report No:	AR22/77804
CM9 Reference:	AF22/276
Author:	Tracy Tzioutziouklaris, Manager Development Services
Authoriser:	Julie Scoggins, Manager Financial Services
Nature of Development:	Performance Assessed, Public Notification
Description:	To change the use of an existing building to Short Term Tourist Accommodation
Zoning:	Rural Living, Overlays – Hazards (Bushfire/Flooding), Local Heritage Place, Native Vegetation, Prescribed Wells Area, Water Protection Area
Policy Area:	
Heritage:	Local Heritage Place

REPORT RECOMMENDATION

1. That Limestone Coast Southern Regional Assessment Panel Report No. AR22/77804 titled 'DA 22033635 - 13 Tenison Drive, Mount Gambier - Short Term Accommodation' as presented on 15 November 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 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 maintained in a state of good repair and tidy condition at all times.



BACKGROUND

The subject site is irregular in shape with a street frontage of approximately 62 metres to Tenison Drive, is 112 metres in depth, having an approximate site area of 6944 square metres.

A detached dwelling and an associated barn (outbuilding) is located on the subject site. The barn/former stables is identified as a place of local heritage with the extent of the listing being external form, materials and detailing of the c1840s stable building including face stone and simple form.

PROPOSED DEVELOPMENT

The proposed development involves the change of use of portion of the barn to short term accommodation.

The proposed development involves internal alterations to the barn involving the creation of a lounge area with ensuite on the lower level and a bedroom on the mezzanine floor. The external alterations to the building include a new glass door to replace the existing door and the installation of two skylights on the western and eastern side of the roof.

A sealed carpark is proposed to be located in front of the barn and will be visible from the street.

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 three representations were received as part of the public notification process.

The issues raised within the representations is summarised as follows:

- The development will impact on the quiet residential amenity
- Will create a precedence for future development within the locality
- Is not a form of development envisaged within the zone
- Having frequent unknown people in the area is a safety risk
- An increase in traffic within the locality is a safety risk
- There is no information how the accommodation will be operated
- Access/egress from the western most driveway would be safer
- The location of the carpark should be via the western most driveway

The Applicant had not yet responded to the representations as summarised:

- The buildings are pre existing with two driveway access and egress points
- All traffic can enter and exit the property in a forward manner
- The barn/stabled was previously use for the manufacturing of confectionary
- The property is a cul de sac and is speed restricted to 50km/hr
- The B&B is to cater for travelling professionals and couples, allowing for 1 vehicle and 2 guests
- The Operators of the B&B Live on site and will be available to manage and incidents should they occur.

The subject property is located within the Rural Living Zone, with envisaged development to include a spacious and secluded residential lifestyle with 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. Within the zone it is recognised residential development will occur



within the zone with complementary ancillary non-residential uses that do not place additional demands on services and infrastructure, and compatible with a secluded semi-rural or semi-natural residential character.

The short-term tourist accommodation, whilst operated as a business, provides for accommodation where people will occupy the premises similar to a residential dwelling. The proposed development is to be located within an existing building that is used in association with the dwelling located on the subject land. The accommodation is being operated by the property owner and the occupier of the dwelling located on the subject site.

A wide range of land uses are envisaged to occur within this zone including more business uses such as consulting rooms, offices and shops. These types of land use would have a more significant impact on the character and amenity of the subject locality than the proposed short-term accommodation.

The accommodation provides for one bedroom with one bed and is aimed primarily for couples. It is unlikely this form of accommodation will create impacts on the character and nature of the subject locality through excessive traffic and/or noise. The accommodation is to be developed within portion of an existing building and apart from the proposed carpark, no changes are proposed to the existing driveways or garden areas to accommodate the development.

The proposed development maintains the heritage fabric of the Local Heritage Place through conservation, ongoing use and adaptive reuse of the existing building.

Tourist accommodation operated within the existing building will not detract from the character and amenity of the subject site or the surrounding locality and will not impact on the adjoining and nearby residential dwellings and warrants the support of the Regional Assessment Panel.

CONCLUSION

The development as proposed is envisaged to integrate with the character and amenity of the subject locality. The proposed development involves the adaptive reuse and revitalisation of a Local heritage Place to support its retention in a manner that respects the original use of the building. 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 Applicant – Mr Mike Stevens

Representor – M/s Heather Teakle

ATTACHMENTS

1. Application Snap Shot - 13 Tenison Drive
2. Site Plan - 13 Tenison Drive
3. Representations - 13 Tension Drive
4. 13 Tenison Drive - Response to representations
5. Code Rules - 13 Tenison Drive



6.5 DWELLING ADDITIONS AND GARAGE – REPORT NO. AR22/78186

Development No:	22023470
Applicant:	James Green and Sabrina Green
Property Address:	19 Foster Street, Beachport SA 5280
Property Owner:	James Green and Sabrina Green
Report No:	AR22/78186
CM9 Reference:	AF22/276
Author:	Rajat Shah, Planning Officer
Nature of Development:	Performance Assessed / Public Notification / Referrals South Australian Country Fire Service
Description:	The subject applicant seeks to construct dwelling additions and a garage upon the subject land.
Zoning:	Zones: - Neighbourhood Overlays: - Hazards (Bushfire – High Risk) - Hazards (Flooding – Evidence Required) - Native Vegetation - Prescribed Wells Area - Water Protection Area Technical Numeric Variations (TNVs): - Maximum Building Height (Metres) (Maximum building height is 8m) - Minimum Frontage (Minimum frontage for a detached dwelling in 15m; semi-detached dwelling is 10m; row dwelling is 10m; group dwelling is 20m; residential flat building is 10m) - Minimum Site Area (Minimum site area for a detached dwelling is 400 sqm; semi-detached dwelling is 300 sqm; row dwelling is 200 sqm; group dwelling is 300 sqm; residential flat building is 300 sqm)
Lodgement Date	27 July 2022

REPORT RECOMMENDATION

1. That Limestone Coast Southern Regional Assessment Panel Report No. AR22/78186 titled 'Dwelling Additions and Garage - 19 Foster Street, Beachport' as presented on 15 November 2022 be noted.
2. That the Limestone Coast Southern 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 22023470, by James Green and Sabina Green is GRANTED Planning Consent, subject to the following conditions and reserved matter:
RESERVED MATTERS



Planning Consent

A wastewater application is to be approved in accordance with Public Health Act 2011 prior to development approval being granted.

CONDITIONS**Planning Consent****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.

Condition 2

Landscaping shall be established along the southern boundary (equal to the length of the additions) with species capable of reaching mature heights exceeding three metres (e.g., Conifers). The landscaping shall be established prior to occupation of the additions and maintained in good conditions.

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 finished floor level of the additions shall be a minimum 300mm above:

- top of kerb, or
- NGL if no kerb, or
- the height of a 1% AEP flood event - whichever is greater.

Condition 5

The external appearance, materials and finishes of the additions shall match or complement those of the existing dwelling, to the reasonable satisfaction of Council.

Condition 6

All first floor and mezzanine level eastern and southern facing windows shall be fixed and obscured to a minimum height of 1.5metres above the relevant Finished Floor Level, prior to occupation of the additions.

Condition 7

All eastern elevations of all upper-level balconies and decks are to incorporate obscured glass balustrades with 25% transparency to a minimum height of 1.5metres above the relevant Finished Floor Level, prior to occupation of the buildings.

Condition 8

A detailed colours and finishes schedule shall be provided to and supported by Council prior to the grant of Development Approval.

Condition 9

The dwelling together with the additions shall be used as one residence. Any conversion of any portion/ level of the dwelling to a separate occupancy will require a separate development application, as it constitutes a change in use of the building.



Conditions imposed by South Australian Country Fire Service under Section 122 of the Act**Condition 10****ACCESS TO HABITABLE BUILDING**

The 'Planning and Design Code' Hazards (Bushfire – High Risk) Overlay (Performance Outcome 6.2) details the mandatory requirements for 'Private' roads and driveways to facilitate safe and effective use, operation and evacuation for firefighting and emergency personnel and evacuation of residents, occupants and visitors where required. These requirements apply when the furthest point of the building is more than 60m from the nearest public road.

SA CFS notes the proposed development is sited less than 60 metres from the public road.

Condition 11**WATER SUPPLY & ACCESS (to dedicated water supply)**

Ministerial Building Standard MBS008 "Designated bushfire prone areas - additional requirements" 2020, as published under the Planning, Development and Infrastructure Act 2016, provides the technical details of the dedicated water supply for bushfire fighting for the bushfire zone.

In accordance with MBS 008 Table 5.2.1 and the BAL rating, as assessed by SA CFS as BAL Low, there is no requirement for a firefighting water supply.

Condition 12**MAINTAIN AN ASSET PROTECTION ZONE (APZ) - VEGETATION MANAGEMENT**

The 'Planning and Design Code' Hazards (Bushfire – High Risk) Overlay (Performance Outcome 4.2) details the mandatory requirements to establish and maintain an asset protection zone. As such, landscaping shall include bushfire protection features that will prevent or inhibit the spread of bushfires and minimise the risk to life and/or damage to buildings and property and maintain a fuel reduced zone for safe movement of occupants and fire fighters.

An APZ shall be implemented and maintained in line with the vegetation management conditions below:

- Vegetation management shall be established and maintained within 20 metres of the habitable building (or to the property boundaries – whichever comes first) as follows:
 1. Grasses within the zone shall be reduced to a maximum height of 10cm during the Fire Danger Season.
 2. Flammable objects such as plants, mulches and fences must not be located adjacent to vulnerable parts of the building such as windows, decks and eaves
 3. The APZ shall be maintained to be free of accumulated dead vegetation during the fire danger season.

ADVISORY NOTES**Planning Consent****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 note 2

Classification of building

Any Building Rules Assessment should recognise any changes required to the current class of building, noting the assessment has considered the proposal to be additions to a Class 1a building.

Advisory Notes by South Australian Country Fire Service under Section 122 of the Act

Advisory Note 3

BUILDING CONSIDERATIONS

Ministerial Building Standard MBS008 "Designated bushfire prone areas - additional requirements" 2020, as published under the Planning, Development and Infrastructure Act 2016 applies to this site.

Please refer to the National Construction Code (NCC), relevant standards and state provisions for construction requirements and performance provisions.

A site Bushfire Attack Level (BAL) assessment was conducted in accordance with the NCC and Australian Standard™ 3959 (AS3959) "Construction of Buildings in Bushfire Prone Areas".

Category of Bushfire Attack Level: BAL LOW

This BAL rating is conditional upon the establishment and maintenance of a 20 metre Asset Protection Zone, in accordance with the Asset Protection Zone – Vegetation Management condition of consent placed on the planning consent with the same application reference.

This report is considered relevant at the date of assessment with respect to the elevations detailed on Site Plans and Elevations (n.d. uploaded 21/10/2022) and shall not be considered as SA CFS endorsement of any subsequent development.



DETAILED DESCRIPTION OF PROPOSAL:

The applicant proposes to construct a dwelling addition adjoining to the eastern rear of the existing detached dwelling, together with a freestanding garage, which is to be positioned toward the front road boundary and on the northern boundary of the allotment.

The proposed dwelling addition with an associated outbuilding and existing dwelling together will have a footprint of 561m² on an allotment area of 1220m², which would result in a site coverage of 46%. The overall area of the proposed dwelling addition (including ground, first, and mezzanine floor) and outbuilding is 362m². The proposed overall height of the dwelling addition is to be 9 metres, with a floor-to-ceiling height of 2.4 metres for the ground and first floor level and 2.576 metres for the proposed bedroom and study area on the mezzanine level.

The Proposed garage is to be setback behind the setback of the main wall of the existing dwelling to the primary street boundary. The ground and first floor dwelling additions are to be setback 1.2metres, slightly behind the existing dwelling line from the southern boundary. The mezzanine level is to be recessed and achieve a 2.4m setback to the stairs and study rooms and 4.6m to the bedroom and balcony.

The ground level additions are to be comprised of 2 bedrooms, an open living room with kitchen and dining, and a wet area. The first floor is to be comprised of a theatre room, a kitchen and dining area with shared living area that opens to a deck on the northern side and eastern sides, and a wet area. The mezzanine floor is to be comprised of a bedroom opening to a balcony on its eastern side, a study and a wet area.

The first floor of the dwelling addition is to be provided with an access from two staircases, one located at the southern side of the dwelling (the family room in the existing dwelling), and the other one located at the northern side of the dwelling (which is to connect the dwelling addition with the proposed garage on its northern side and the existing verandah/porch). The mezzanine floor is to be accessed from an internal staircase, which is to be accessible only from the first-floor level. The proposed lift is to service all the floors and has access at ground level only from the lobby on the northern side adjacent the stairs.

Two balconies are proposed along the eastern façade. The floor area of each balcony is to be approximately 4m². A deck is proposed on first floor level along the northern façade with an approximate area of 25m². All of the upper-level balconies/ deck are to incorporate glass balustrades on their eastern façades to a height of 1.5metre above the FFL.

Vehicle access to the subject site and proposed garage is to be gained from the existing driveway that is via Foster Street.

The application documents are provided in Attachment 1 to the report.

BACKGROUND:

Allotment 1 was created via development application 894/D013/09 one into three allotments, with areas 1220m², 400m² and 400m² respectively, refer to Appendix (2). Prior to the subdivision, the subject land (which comprised of lots 1, 2 and 3) retained a dwelling and outbuildings, with a garage sited on the southern Blacketer Street road boundary, which serviced the dwelling.

There were no conditions imposed on DA 894/D013/09 that required the demolition of the garage sited on the Blacketer Street road boundary, which as a result of the division was retained on lot 3.

Council has recently become aware the garage on Lot 3 Blacketer Street has been converted to a dwelling without any approval and the owner has been requested to obtain approval for the unapproved development.

It is worth noting, it is common practice to require the removal of outbuildings from vacant lots as part of land division applications and approvals to ensure there is adequate area on the lots to support the development of dwellings, provide rear yard space etc. Further, an outbuilding is an



ancillary structure to dwellings and is sought to be developed in conjunction with them, otherwise it is technically defined as a 'store' and is not an envisaged form of development.

A shed was approved for domestic storage in July 2021 on the subject land however, it is not shown on the proposed site plan. Refer to Appendix (3) for attached Decision Notification Form and drawings for details.

The existing dwelling on the subject site was approved as a Guest House, class 3 building, in November 2004 via a change of use application to the Council. The applicant has confirmed the dwelling to the best of their knowledge, has not been used for such purposes. Refer to Appendix (4) for attached Decision Notification Form and relevant documents.

SUBJECT LAND & LOCALITY:

Site Description:

The subject land is described in Certificate of Title Volume 6105 Folio 913 as Allotment 1 in Division 87426. The subject site has a site area of 1220m with street frontage of approximate 24metres to Foster Street (refer Figure 1). The allotment consists of an existing dwelling, a carport and an existing shed. The subject allotment is relatively flat, noting it falls marginally to the rear of the site, and no retaining walls are present. There is also no notable vegetation on the site and access is via Foster Street.

Location reference: 19 FOSTER ST BEACHPORT SA 5280

Title ref.: CT 6105/913 **Plan Parcel:** D87426 AL1 **Council:** WATTLE RANGE COUNCIL

Locality

The locality is predominantly characterised by a mixture of single-storey and two-storey dwellings located on moderately sized allotments ranging from 400m² to 1220m². The immediate locality to the east is characterised with two x double-storey dwellings and a single-storey detached dwelling. One of the two allotments adjoining the subject land's southern side is developed with an outbuilding/store and the other (21 Foster Street) is vacant. The northern neighbouring allotment of the subject site retains a Church.

There are examples of two storey dwellings within the locality that achieve short setbacks to side boundaries, including 18 Beach Road (less than one metre setback to northern boundary), 16 Beach Road (less than one metre setback to southern boundary), 6 Beach Road (less than one metre setback to southern boundary) and 2 Beach Road (less than one metre setback to southern boundary).





Figure 1: Subject land

CONSENT TYPE REQUIRED:

Planning Consent

CATEGORY OF DEVELOPMENT:

- **PER ELEMENT:**
 Dwelling alteration or addition
 Carport or garage
 Dwelling addition: Code Assessed - Performance Assessed
 Outbuilding (Carport or garage): Code Assessed - Performance Assessed
- **OVERALL APPLICATION CATEGORY:**
 Code Assessed - Performance Assessed
- **REASON**
 P&D Code

PUBLIC NOTIFICATION

Required.

- **REASON**



Pursuant to dot point 3, Table 5 of the Zone, the proposed additions exceed the maximum height sought in DTS/DPF 4.1 identified in the exceptions column and therefore, public notification is required.



REPRESENTATION MAP

• LIST OF REPRESENTATIONS

Representations Received			
		Support / Oppose	Wish to be Heard
1	Christina Mowbray 14 Beach Road, Beachport SA 5280	Oppose	Yes
2	Trevor Munro 16 Beach Road, Beachport SA 5280	Support with some concerns	No
3	Kerry McManus 18 Beach Road, Beachport SA 5280	Oppose	Yes
4	Nicole Harris Lot 3 Blacketer St, Beachport SA 5280	Oppose	Yes



- SUMMARY**

Representors issues	Applicant's Response
<i>Overall structure height</i>	<p><i>The elevations of the proposed dwelling additions clearly show the overall height of the additions is 9.0 metres and note this exceeds the maximum building height of 8.0 metres provided in DPF 4.1 (Building Height) in the Neighbourhood Zone.</i></p> <p><i>In this regard, existing dwellings in the vicinity of the subject land are of similar size and scale of the proposed overall height of the dwelling additions, noting they comprise only a small portion of the dwelling footprint.</i></p>
<i>3-Storey Structure / Mezzanine Floor</i>	<p>The Planning & Design Code provides that a mezzanine is “an intermediate floor within a building level that is open to the floor below and does not extend over the whole floor space.” I confirm the upper floor overlooks into the living area of the floor below and does not extend across the whole floor space of the lower floor. Accordingly, the upper floor has been described in the plans submitted as a mezzanine.</p>
<i>Multiple Dwelling</i>	<p><i>We confirm the Greens’ are to use the dwelling (when completed) as a single dwelling and there is no intention to utilise the dwelling as three independent residences. It should be noted that the upper levels of the dwelling can only be accessed via entering the dwelling at the ground floor making its use as independent residences unachievable. Further, there is no intention by the Green’s to sublet or lease out any rooms or floors within their dwelling. It is further noted that any such change to the use of the dwelling as expressed in the representations would require Development Approval.</i></p>
<i>Overlooking</i>	<p><i>The plans for the dwelling additions have been amended to incorporate permanently obscured windows on all windows facing side & rear boundaries to a height of 1.5 metres above finished floor level and are to be not capable of being opened more than 200 mm.</i></p>



	<p><i>Further, the balustrades to the upper-level balconies are to incorporate obscured glass (25% transparency) to a height of 1.50 metres above the finished floor level.</i></p> <p><i>These amendments accord with the DPF 10.1 & DPF 10.2 (Overlooking / Visual Privacy) in the Neighbourhood Zone.</i></p>
<i>Overshadowing</i>	<p><i>The overshadowing plans submitted with the Development Application clearly show the proposed dwelling extensions comply with DPF 3.1 & DPF 3.2 (Overshadowing) as follows –</i></p> <ul style="list-style-type: none"> <i>i) The north facing windows of adjacent dwellings receive at least 3 hours of direct sunlight between 9:00 am and 3:00 pm on 21 June; and</i> <i>ii) The private open space areas of adjacent dwellings receive at least 2 hours of direct sunlight between 9:00 am and 3:00 pm on 21 June.</i> <p><i>The photographs submitted with one of the representations and taken from the balcony of an adjacent residence clearly shows the extent of overshadowing from the Green's existing dwelling and support our overshadowing plans and complies with relevant Code provisions.</i></p>
<i>Setbacks</i>	<p><i>The proposed dwelling addition is setback slightly more than with the setback of the existing dwelling to the southern property boundary being 1200 mm.</i></p> <p><i>This setback is considered to be appropriate, given the proposed development is an extension to an existing dwelling.</i></p>
<i>Private Open Space</i>	<p><i>A total of 33.165 m² of private open space (balconies & decks) is provided to the upper floors and this exceeds the private opens space requirements for dwellings (above ground level) detailed in Table 1 (Private Open Space) of the Design General Policy.</i></p> <p><i>Further the ground level open space accessible from the living area exceeds the private opens space requirements for dwellings (at ground level) detailed in Table 1 (Private Open Space) of the Design General Policy</i></p>
<i>Mass of the Structure</i>	<p><i>It is our view that the proposed dwelling additions (when completed) will not</i></p>



<i>(Size & Bulk)</i>	<i>present as an 'overbearing and intrusive structure' but be commensurate with the form of development in this locality of the Beachport township with numerous dwellings greater in height than single storey.</i>
<i>Site Coverage</i>	<i>The Green's property has an area of 1,220 m² and the combined area of the existing dwelling & shed and the proposed additions, balconies / decks and garage is 561 m². This provides a site coverage of 46% which is well under the 60% detailed in DPF 3.1 (Site Coverage) for the Neighbourhood Zone.</i>

Council's Response to the representations

- The applicant has responded satisfactorily to the issues raised by the representors with respect to the overall height of the structure, mezzanine floor, overlooking, mass of the structure, private open space and site coverage.
- The additions if approved to the existing dwelling, have the potential to be converted to more than one dwelling (noting, three kitchens are contained within the dwelling on separate floors), which would be defined as a residential flat building and require a separate application and approval from Council. To alleviate this issue, it is recommended a condition be imposed on any approval that requires the building to be used/ occupied as one residence.
- To resolve any building class issue, an advisory note is to be added to any approval advising the applicant the application has been considered as Class 1a additions and if any change in classification is required then this may necessitate a separation application to Council.
- Although the proposed additions exceed the maximum height sought in DTS/DPF 4.1, the height achieved is only for a small portion of the dwelling and the maximum height and southern setback achieved is considered compatible with other existing dwellings in the locality. Further, the additions are not considered to unreasonably impact upon neighbouring properties with bulk and scale or overshadowing impact.
- I note, consideration of the appropriateness of the southern upper storey setbacks is not considered relevant to the existing southern setback achieved by the ground level portion of the dwelling.

AGENCY REFERRALS

- South Australian Country Fire Service

No further information has been requested and the CFS has no objection to the proposed development, subject to conditions being imposed on any approval relating to 'Access to Habitable Building', 'Water Supply & Access', and 'Vegetation Management'.

INTERNAL REFERRALS

NIL

PLANNING ASSESSMENT

The application has been assessed against the relevant provisions of the Planning & Design Code, which are contained in Appendix (1) One.

The subject allotment is located within the Neighbourhood Zone. The assessment of the proposal has been limited to the provisions within the Zone along with the relevant Overlays and General Development Policies, as outlined within the attached extract of the Code provisions.





ZONE MAP

Quantitative Provisions

The following table provides an assessment against the relevant quantitative provisions contained within the P&D Code.

	Requirement	Proposal
Building Height	Max 8 metres (2 Levels)	Considered acceptable - 9metres (2 Storey and a Mezzanine). Height is compatible with other two storey buildings in the locality and the impact created by the overall height exceeding 8m is not considered unreasonable (refer discussion later in report).
Site Coverage	60%	Achieved - the total site coverage of 46% is well less than 60%.
Primary Street Setback	The building line of a building setback from the primary street boundary: (a) at least the average setback to the building line of existing buildings on adjoining sites which face the same primary street (including those buildings that would adjoin	Achieved - 6m setback proposed to the garage, which is positioned behind the alignment of the dwelling.



	<p>the site if not separated by a public road or a vacant allotment)</p> <p>(b) where there is only one existing building on adjoining sites which face the same primary street (including those that would adjoin if not separated by a public road or a vacant allotment), not less than the setback to the building line of that building</p> <p>(c) not less than 5m where no building exists on an adjoining site with the same primary street frontage</p>	
Side Boundary Setback	<p>Building walls are setback from the side boundary at least:</p> <p>On sites 800m² or less, and other than walls located on a side boundary:</p> <p>(i) at least 900mm where the wall is up to 3m</p> <p>(ii) other than for a wall facing a southern side boundary, at least 900mm plus 1/3 of the wall height above 3m</p> <p>(iii) at least 1900mm plus 1/3 of the wall height above 3m for walls facing a southern side boundary.</p>	<p>Northern Boundary – 6.9m to north facing first floor balcony, which is considered acceptable and well beyond the 1700mm sought for a wall height exceeding 3m.</p> <p>Southern Boundary – 1.2 metres to first floor, 2.4m to mezzanine level at nearest point (study and stairwell). The first floor southern setback (5.3m wall height) is desired to comply with a 2700mm setback and 3400mm for the mezzanine level.</p> <p>Due to the compatibility of the setbacks with other dwellings in the locality, the acceptable bulk and scale impacts and the sufficient availability a light accessible to the southern neighbouring lots, the southern upper level setbacks are considered acceptable.</p>
Rear Boundary Setback	<p>Dwelling walls are setback from the rear boundary at least:</p> <p>if the size of the site is 301m² or more—</p> <p>(i) 4m in relation to the ground floor of the dwelling</p> <p>(ii) 6m in relation to any second building level of the dwelling</p> <p>(iii) 6m plus an additional 1m setback added for every 1m height increase above a wall height of 7m.</p>	<p>Achieved, with a 10m + setback proposed.</p>



Land Use

As noted below the Desired Outcome of the Neighbourhood Zone encourages the development of dwellings consistent with the existing characteristics of the locality.

Desired Outcome	
DO 1	Housing supports a range of needs and complements the existing local context. Services and community facilities contribute to making a convenient place to live without compromising the residential amenity and character of the neighbourhood.

The proposal is considered consistent with the intent of the Desired Outcome for the Zone, as well as achieving the criteria in Performance Outcome (PO)1.1 and Designated Performance Feature (DPF)1.1 which lists dwellings as an envisaged land use.

Dwelling additions is therefore considered an acceptable form of development.

With regard to discussion above, there is potential for the dwelling to be occupied as separate residences and if this was to occur then a separate application would be required, as the building would be defined as a residential flat building. An approval of this application would not prevent Council from pursuing this further, in the event it occurs.

Building Height

The Neighbourhood Zone provides the following guidance in relation to building height:

PO 4.1 – Building height is consistent with the maximum height expressed in any relevant Building Height Technical and Numeric Variation, or are generally consistent with the prevailing character of the locality and complement the height of nearby buildings.

*DTS/DPF 4.1 – Building height (excluding garages, carports and outbuildings) is no greater than: **Maximum building height is 8 metres***

The proposed two-storey dwelling addition with a mezzanine floor exceeds the maximum building height by one metre. This considered, the locality is predominantly made of mixture of one-storey and two-storey dwellings with compatible building heights, and so the additional building height is considered not to detract from the character of the locality and the dwelling additions complement the height of nearby buildings. Specifically, I note, 10,16,18 and 20 Beach Road dwellings and the dwellings at 13 and 23 Foster Street all exceed the height proposed.

The extent of the portion of building that graduates to 9m is also quite small in comparison to the overall footprint of the dwelling, which minimises the extent of potential impacts.



On balance, the proposed building height is appropriate within the locality, is not considered to unreasonably impact upon the amenity of adjoining properties and achieves the intent of the above policies.

Setbacks, Design & Appearance

The proposed dwelling addition, other than the newly proposed garage is to be situated at the rear of the existing dwelling and is considered not to impact the streetscape of Foster Street.

Following policies provide guidance as to the appropriate setback of development from side boundaries:

PO 8.1 – Buildings are setback from side boundaries to provide:

- (a) separation between dwellings in a way that complements the character of the locality*
- (b) access to natural light and ventilation for neighbours.*

DTS/DPF 8.1 – Building walls are setback from the side boundary at least:

- (b) On sites 800m² or less, and other than walls located on a side boundary:*
 - (i) at least 900mm where the wall is up to 3m*
 - (ii) other than for a wall facing a southern side boundary, at least 900mm plus 1/3 of the wall height above 3m*
 - (iii) at least 1900mm plus 1/3 of the wall height above 3m for walls facing a southern side boundary.***

As outlined within *DTS/DPF 8.1(b),(iii)* above, the proposed side boundary walls are desired to adhere with a setback of 2.7m to the wall height of the first floor (5.4m) and 3.4m to the mezzanine level (7.7m wall height). The proposed additions will retain the existing side setback of the lower/ground level which is 1.2metres from the southern boundary.

It is considered that the siting of the proposed additions will not significantly detract from the amenity of either of the southern abutting neighbouring properties and they will receive adequate sunlight throughout the day. The setbacks are also considered compatible with other previously approved two storey dwellings within the locality, which are approximately one metre with wall heights up to 6m and above.

Although allotment 2 (21 Foster Street) is vacant at present, the additions are too far separated from to the northeast to impair the design and functionality of a future dwelling constructed on this lot. Allotment 3 Blacketer Street will receive some overshadowing during the day however, the building that has been converted to a dwelling is some 8-9m separated from the additions and although there will be some bulk and scale impacts from the additions, these are not considered unreasonable, noting sufficient sunlight will be available to the site (also in the event the existing garage/store building is approved to be converted to a dwelling and the immediate area to the north of it is used as private open space).



With respect to the 'Massing' assessment below, landscaping along the southern boundary will create additional privacy between the subject land and lot 3 and improve the outlook when viewed from the south.

The additions are too far separated to impact on neighbouring properties to the east, noting overlooking issues will be resolved with screening measures to windows and balconies. The building is also quite well articulated on the eastern elevation.

Hazards (Bushfire – High Risk) Overlay

PO 2.1 – Buildings and structures are located away from areas that pose an unacceptable bushfire risk as a result of vegetation cover and type, and terrain.

PO 3.1 – Buildings and structures are designed and configured to reduce the impact of bushfire through using designs that reduce the potential for trapping burning debris against or underneath the building or structure, or between the ground and building floor level in the case of transportable buildings and buildings on stilts.

PO 3.2 – Extensions to buildings, outbuildings and other ancillary structures are sited and constructed using materials to minimise the threat of fire spread to residential and tourist accommodation (including boarding houses, hostels, dormitory style accommodation, student accommodation and Workers' accommodation) in the event of bushfire.

PO 6.2 – Access to habitable buildings is designed and constructed to facilitate the safe and effective:

- (a) use, operation and evacuation of fire-fighting and emergency personnel*
- (b) evacuation of residents, occupants and visitors.*

PO 6.3 – Development does not rely on fire tracks as means of evacuation or access for fire-fighting purposes unless there are no safe alternatives available.

The proposal is to involve appropriate clearance surrounding the dwelling and is to provide a dedicated water supply for fire fighting with vegetation management. Adequate access for firefighting vehicles can be achieved from Foster Street.

Hazards (Flooding – Evidence Required) Overlay

PO 1.1 Development is sited, designed and constructed to minimise the risk of entry of potential floodwaters where the entry of flood waters is likely to result in undue damage to or compromise ongoing activities within buildings.

DTS/DPF 1.1 Habitable buildings, commercial and industrial buildings, and buildings used for animal keeping incorporate a finished floor level at least 300mm above:



- (a) *the highest point of top of kerb of the primary street, or*
- (b) *the highest point of natural ground level at the primary street boundary where there is no kerb*

The proposal is considered to comply with proposing floor levels above the 1:100 year flood level and compliance with these levels is recommended to be required as a condition imposed on any approval decision.

Native Vegetation Overlay

PO 1.1 Development avoids, or where it cannot be practically avoided, minimises the clearance of native vegetation taking into account the siting of buildings, access points, bushfire protection measures and building maintenance.

There is no native vegetation clearance proposed or required.

Overlooking/Visual Privacy (in building 3 storey or less)

PO 10.1 Development mitigates direct overlooking from upper-level windows to habitable rooms and private open spaces of adjoining residential uses.

DTS/DPF 10.1 Upper level windows facing side or rear boundaries shared with a residential allotment/site satisfy one of the following:

- (a) *are permanently obscured to a height of 1.5m above finished floor level and are fixed or not capable of being opened more than 200mm*
- (b) *have sill heights greater than or equal to 1.5m above finished floor level*
- (c) *incorporate screening with a maximum of 25% openings, permanently fixed no more than 500mm from the window surface and sited adjacent to any part of the window less than 1.5 m above the finished floor level.*

PO 10.2 Development mitigates direct overlooking from balconies, terraces and decks to habitable rooms and private open space of adjoining residential uses.

DTS/DPF 10.2 One of the following is satisfied:

- (a) *the longest side of the balcony or terrace will face a public road, public road reserve or public reserve that is at least 15m wide in all places faced by the balcony; or*
- (b) *terrace all sides of balconies or terraces on upper building levels are permanently obscured by screening with a maximum 25% transparency/openings fixed to a minimum height of:*
 - (i) *1.5m above finished floor level where the balcony is located at least 15 metres from the nearest habitable window of a dwelling on adjacent land; or*
 - (ii) *1.7m above finished floor level in all other cases*



The representors to rear (eastern boundary) of the property have expressed concerns in relation to possible overlooking of their property from upper levels of the proposed development. To address these concerns, the dwelling additions are to now include fixed obscured windows on all windows facing side (southern) and rear (eastern) boundaries to a height of 1.5 metres above finished the floor level and are to have limited openings of not more than 200mm.

Additionally, the balconies and deck facing the rear (eastern) boundary are to incorporate obscured glass balustrades with 25% transparency, to a height of 1.5 metres, above the relevant finished floor levels. These measures are recommended to be required as imposed conditions on any approval decision and adequately resolve overlooking.

All Residential Development

Front elevations and passive surveillance

PO 11.1 Dwellings incorporate windows along primary street frontages to encourage passive surveillance and make a positive contribution to the streetscape.

DTS/DPF 11.1 Each dwelling with a frontage to a public street:

- (a) includes at least one window facing the primary street from a habitable room that has a minimum internal room dimension of 2.4m*
- (b) has an aggregate window area of at least 2m² facing the primary street.*

Existing dwelling and upper floor additions to the structure to provide a level of passive surveillance over Foster Street and have habitable rooms that have internal dimensions greater than 2.4m wide that face the street.

Outlook and amenity

PO 12.1 Living rooms have an external outlook to provide a high standard of amenity for occupants.

DTS/DPF 12.1 A living room of a dwelling incorporates a window with an outlook towards the street frontage or private open space, public open space, or waterfront areas.

The living rooms proposed as part of the additions are to have an outlook onto private open space in the rear yard. The additions offer little with respect to providing living room windows with an outlook to the street, however, the existing dwelling already provides passive surveillance opportunities at ground level.

Massing



PO 15.1 The visual mass of larger buildings is reduced when viewed from adjoining allotments or public streets.

The proposed dwelling addition is to cover only a portion of the existing dwelling footprint at the rear side. Therefore, the mass of the building is reduced when viewed from the street and adjoining allotments. The mass of the proposed development is also considered to be consistent with the existing dwellings in the locality. To further reduce any visual impact, landscaping is recommended to be imposed as a condition along the southern boundary on any approval, equal to the length of the additions proposed. Landscaping in the form of Conifers or similar could work well in this short setback area and still provide room down the southern for cleaning and maintenance of the property.

Private Open Space

PO 17.1 – Dwellings are provided with suitable sized areas of usable private open space to meet the needs of occupants.

DTS/DPF 17.1 – Private open space is provided in accordance with Design Table 1 - Private Open Space.

The proposal of dwelling addition is to provide sufficient private open space at ground level to the rear of the dwelling, which meets the minimum dimension of three metres and is to be directly accessible from living and dining areas. The proposal also provides upper level open space on the first floor deck, which will be functional for the occupants.

Interface between Land Uses

PO 3.1 Overshadowing of habitable room windows of adjacent residential land uses in:

- (a) a neighbourhood-type zone is minimised to maintain access to direct winter sunlight*
- (b) other zones is managed to enable access to direct winter sunlight.*

DTS/DPF 3.1 North-facing windows of habitable rooms of adjacent residential land uses in a neighbourhood-type zone receive at least 3 hours of direct sunlight between 9.00am and 3.00pm on 21 June.

The two southern neighbouring lots that were formerly part of the same of the site with the subject land are considered to be impacted to some degree by the proposal and the existing dwelling. Although the garage/ store building on Allotment 3 Blacketer Street has been converted to a dwelling without approval, for the purposes of considering the above provisions, the area to the rear garage/ store is considered likely to be used as a rear yard. A future dwelling on Allotment 2, is likely to present to Foster Street and its rear yard will be to the east of it.



The shadowing diagrams prepared by Pike Building Designers indicate that allotment 3 will not be shadowed during the morning hours however, will be shadowed at midday and in the afternoon hours to some degree. The provision of three hours morning sunlight to the existing garage/ store building is more than required by DTS/DPF 3.1, noting it is not 100% clear as to whether there is a living room proposed for the rear of the building and there are no large north facing windows on the building that are designed to take advantage of northern aspect.

Rear yard areas should be able to access sunlight for at least two hours during the winter solstice. If the rear of the garage/ store building is intended to be used as private open space then it would have access to sunlight virtually until 3pm, which is acceptable.

Consideration needs to be given to how a future dwelling work on allotment 2 and ensuring a future dwelling is not hampered by the proposed development to an unreasonable degree. Noting the existing dwelling creates a fair extent of the shadowing, the additional shadowing as a result of the additions creates minimal impact. It is really only morning hours where the anticipated rear yard of a future dwelling would be shadowed to any large extent. It appears the dwelling and rear yard area would have access to sunlight for much of the afternoon and this is deemed sufficient.

Traffic Impact, Access and Parking

PO 5.1 Sufficient on-site vehicle parking and specifically marked accessible car parking places are provided to meet the needs of the development or land use having regard to factors that may support a reduced on-site rate such as:

- (a) availability of on-street car parking*
- (b) shared use of other parking areas*
- (c) in relation to a mixed-use development, where the hours of operation of commercial activities complement the residential use of the site, the provision of vehicle parking may be shared*
- (d) the adaptive reuse of a State or Local Heritage Place.*

DTS/DPF 5.1 Development provides a number of car parking spaces on-site at a rate no less than the amount calculated using one of the following, whichever is relevant:

- (a) Transport, Access and Parking Table 1 - General OffStreet Car Parking Requirements*
- (b) Transport, Access and Parking Table 2 - Off-Street Vehicle Parking Requirements in Designated Areas*
- (c) if located in an area where a lawfully established carparking fund operates, the number of spaces calculated under (a) or (b) less the number of spaces offset by contribution to the fund.*

The proposal includes a new double-door garage to be positioned on the northern side of the existing dwelling. With the garage included, four parking spaces are provided (two undercover), which is adequate and in accordance with Table 1 for a detached dwelling.

CONCLUSION



The proposal seeks for a dwelling addition of two-storey with a mezzanine floor and associated internal works. Whilst the addition will not meet the quantitative side setbacks and building height criteria of the Zone, they are considered consistent with other dwelling heights and setbacks within the locality and the shadowing and bulk, and scale impacts are considered to be resolved satisfactorily. Further, the design is considered to work and associate appropriately with the existing building.

Overlooking is considered to be addressed with screening measures and conditions recommended to be imposed to ensure these measures are maintained.

Landscaping recommended to be imposed along the southern boundary will complement the design and provide additional privacy with the neighbouring allotment 3 abutting to the south.

Accordingly, and on balance, the proposal is considered to be consistent with the Planning and Design Code policies and warrants support.

INVITES

The Representor, Nicole Harris

The Representor, Kerry McManus

The Representor, Christina Mowbray

The Representor, Trevor Munro

The Applicant, Frank Brennan

The Applicant, James Green

The Applicant, Sabrina Green

ATTACHMENTS

1. Application and Assessment Documents - 19 Foster Street, Beachport



7 URGENT MOTIONS WITHOUT NOTICE

8 MEETING CLOSE