



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

Date: Thursday, 16 November 2023
Time: 5.00 p.m.
Location: Council Chamber
District Council of Grant
324 Commercial Street West
Mount Gambier

AGENDA

Limestone Coast Southern Regional Assessment Panel 16 November 2023

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

**Tracy Tzioutziouklaris
Assessment Manager
9 November 2023**

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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 - 19 October 2023

RECOMMENDATION

That the minutes of the Limestone Coast Southern Regional Assessment Panel meeting held on 19 October 2023 be confirmed as an accurate record of the proceedings of the meeting.

4 QUESTIONS WITHOUT NOTICE**5 INVITEES**

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

Invitees for Item 6.1 - 19 Boomerang Avenue, Mount Gambier

The Owners - James and Lynne Jackway

Invitees for Item 6.2 - 7 Bill James Court, Compton

The Representor - David Mcginn

The Representor - Mal Sneddon

The Representor - Kerrie Sneddon

The Representor - John Williams on behalf of Wade Larsson

The Applicant - Frank Brennan Consulting Services

Invitees for Item 6.3 - 120 Orchard Road, Moorak

The Representor - Frank Brennan Consulting Services

The Applicant - Mark Baade, SAQ Consulting

Invitees for Item 6.4 - Lot 95 Southern Ports Highway, Robe

The Representor - Clare Ryan

The Applicant - Frank Brennan Consulting Services

6 REPORTS**6.1 DA:23026077 - 19 BOOMERANG AVENUE, MOUNT GAMBIER - REVIEW OF DECISION OF ASSESSMENT MANAGER – REPORT NO. AR23/75218**

Development No:	DA 23026077
Applicant:	Thomson Bilt
Property Address:	19 Boomerang Avenue, Mount Gambier
Property Owner:	Mrs Lynne Jackaway
Report No:	AR23/75218
CM9 Reference:	AF22/276
Author:	Roslyn Snaauw, Senior Planner
Authoriser:	Jane Fetherstonhaugh, General Manager Corporate and Regulatory Services
Nature of Development:	To construct a carport (outbuilding) on the site of an existing detached dwelling
Description:	To construct a carport (outbuilding) on the site of an existing detached dwelling
Zoning:	Suburban Neighbourhood Zone
Policy Area:	City of Mount Gambier
Heritage:	Heritage Adjacency Overlay (Local Heritage Place to the North)

REPORT RECOMMENDATION

1. That Limestone Coast Southern Regional Assessment Panel Report No. AR23/75218 titled 'DA:23026077 - 19 Boomerang Avenue, Mount Gambier - Review of Decision of Assessment Manager' as presented on 16 November 2023 be noted.
2. Having had regard to the provisions of the Planning and Design Code, the Application and all supporting documentation, the development is at variance to the provisions of the Planning and Design Code and the decision of the Assessment Manager be upheld and Planning Consent be refused for the following reasons:
 - (i) The carport is to be constructed in front of the existing dwelling to which it is ancillary.
 - (ii) The carport is to be setback less than 5.5 metres to the street frontage.
 - (iii) The carport will detract from the character and amenity of the subject locality.



BACKGROUND

Pursuant to delegated authority, Planning Consent was refused by Notice dated 6 October 2023 for this Development Application seeking to construct a carport (outbuilding) on the site of an existing detached dwelling at 19 Boomerang Avenue, Mount Gambier.

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

PROPOSED DEVELOPMENT

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

The proposed development involves the construction of a carport in front of the existing dwelling with a setback of 4.03 metres to Boomerang Avenue (primary street), a 0.03m setback to the eastern side boundary and 21.61 metre setback to the western side property boundary.

The carport is to be 6 metres by 6 metres, having a total site area of 36 square metres.

The carport is to have a post height of 3 metres, an apex height of 3.217 metres, being constructed with a skillion roof. The carport is to be constructed using colour coated metal.

DEVELOPMENT PLAN PROVISIONS

As per the attached extract from the Planning and Design Code

PLANNING ASSESSMENT

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

A detached dwelling and associated outbuildings are existing on the subject site which is adjacent to a Local Heritage Place (north of subject land).

The desired outcome for the Suburban Neighbourhood Zone is for *low density housing is consistent with the existing local context and development pattern.*

Performance Outcome PO 11.1 of this Zone, states that *residential ancillary buildings are sited and designed to not detract from the streetscape or appearance of primary residential buildings on the site or neighbouring properties* with a Designated Performance Feature being:

- (b) are not constructed, added to or altered so that any part is situated:
 - (i) in front of any part of the building line of the dwelling it is ancillary
- (d) in the case of a garage or carport, the garage or carport:
 - (i) is setback at least 5.5m from a boundary of the primary street

The subject land is also located within the Heritage Adjacency Overlay which has a Desired Outcome that *development adjacent to State and Local Heritage Places maintains the heritage and cultural values of those Places* with a Performance Outcome PO 1.1 that *development adjacent to a State or Local Heritage Place does not dominate, encroach on or unduly impact on the setting of the Place.*

The proposed development of the carport (outbuilding) that is forward of the existing dwelling and building line, including a reduced front boundary setback, will have a significant impact on the visual character of the subject locality including the Local Heritage Place to the north.



The carport will be the visually dominant feature of the subject allotment as it is to be built in front of the existing dwelling which is not in context with the surrounding neighbourhood character including the Local Heritage Place to the north.

The character of the subject site and surrounding locality is with dwellings being the primary visual built form of the allotments with garages/carports having the same setback or set behind the main face of dwellings.

It is noted there is an existing garage under the main roof of the dwelling with a further existing carport and garage constructed along the eastern side of the dwelling.

The development as proposed is at variance and not in context with the character and visual appearance of properties within the subject locality and does not warrant support or the granting of Planning Consent.

CONCLUSION

Pursuant to Section 107(2)(c) of the Planning, Development and Infrastructure Act 2016 and having undertaken an assessment of the application against the Planning and Design Code, the application is considered to be at variance to the provisions of the Planning and Design Code and the Regional Assessment Panel is asked to uphold the decision of the Assessment Manager with Planning Consent to not be supported and refused.

INVITES

James and Lynne Jackway - The Owners

ATTACHMENTS

1. Application to Assessment Panel - Review of the Assessment Manager Decision
2. Code Rules - OutbuildingToCarportOrSheda - valuation 3852764004_Code_performance - Assessment Start
3. DAP Submission Snapshot Appl 23026077
4. DecisionNotificationForm-Application23026077
5. Planning Assessment Report - Application 23026077 - 19 Boomerang Avenue
6. Plans



6.2 DA:23017196 - 7 BILL JAMES COURT, COMPTON - RETAIL PLANT NURSEY (SERVICE TRADE PREMISES) – REPORT NO. AR23/78062

Development No:	23017196
Applicant:	Frank Brennan Consulting Services
Property Address:	7 Bill James Court, Compton
Report No:	AR23/78062
CM9 Reference:	AF22/276
Author:	Ben Victory, Planning Consultant
Authoriser:	Tracy Tzioutziouklaris, Assessment Manager
Nature of Development:	Service Trade Premises
Description:	Retail plant nursery (service trade premises) for the sale and display of garden plants (primarily in an outdoor setting) including the construction of a 2 metre high shade-cloth fence, shop, signage and a compacted rubble driveway and carpark
Zoning:	Zones: <ul style="list-style-type: none"> • Rural Living Overlays: <ul style="list-style-type: none"> • Hazards (Bushfire - Medium Risk) • Hazards (Flooding - Evidence Required) • Native Vegetation • Prescribed Wells Area • Water Protection Area Technical Numeric Variations (TNVs): <ul style="list-style-type: none"> • Finished Ground and Floor Levels (Minimum finished ground level is 2.95m AHD; Minimum finished floor level is 3.2m AHD) • Minimum Site Area (Minimum site area is 2 ha)
Category of Development:	Code Assessed - Performance Assessed
Notification:	Yes
Referrals Statutory:	Nil
Referrals Non-Statutory:	Nil

REPORT RECOMMENDATION

1. That Limestone Coast Southern Regional Assessment Panel Report No. AR23/78062 titled 'DA:23017196 - 7 Bill James Court, Compton - Retail Plant Nursey (Service Trade Premises)' as presented on 16 November 2023 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 23017196, by Frank Brennan Consulting Services, is granted Planning Consent subject to the following conditions:

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 (if any).

Condition 2

The building and site including the driveway, car park, signage and shade cloth fence, must be maintained in good condition at all times with a suitable dust suppressant used whenever necessary to control dust nuisance on the driveway and carparking areas, to the reasonable satisfaction of the council.

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 neighbouring properties, and so that it does not create an unhealthy condition on the site.

Condition 4

The retail plant nursery area shall not exceed 800m², as demarcated by the shade-cloth screens.

Condition 5

No more than one staff member shall be employed in association with the retail plant nursery who is not a resident in the dwelling on the land.

Condition 6

The operating hours of the retail plant nursery are restricted to Thursdays to Sundays, 10am to 2pm.

Condition 7

Deliveries associated with the retail plant nursery shall be restricted to no more than two per week, using a vehicle no larger than a small sized transit van style vehicle with a 4 tonne capacity.

Condition 8

Advertising signage visible from Bill James Court shall be limited to one sign not exceeding 1200mm x 700mm (0.84m²), attached to the front fence near the entrance to the site. The sign shall direct visitors to the driveway entry and confirm the approved operating hours.

Condition 9

Noise that affects sensitive receivers, particularly neighbouring dwellings, shall achieve the relevant Environment Protection Policy criteria, currently set by the *Environment Protection (Commercial and Industrial Noise) Policy 2023*.



ADVISORY NOTES

Planning Consent

1. The details provided in the development application state that a maximum of 10-12 vehicles per day are expected to attend the nursery. The operators of the business are obliged to take all reasonable steps to ensure that this expectation is monitored and adhered to.
2. Other legislation may also apply to operations on the land, including the *Local Nuisance and Litter Control Act 2016*.



BACKGROUND

This is partially a retrospective Development Application (DA) for the unauthorised retail plant nursery that previously commenced for a short time before the use ceased, following compliance action by the District Council of Grant. The photographs in Attachment 7 were taken by council staff on 27 April and 2 May 2023.

DA 23007175 for an outbuilding received Development Approval on 18 July 2023.

DA 21023026 for 'Change of Land Use - Conduct Cookery/Art/Gardening Classes from a private residence' received Development Approval on 13 April 2023, including the following conditions of Planning Consent:

- *Each class is to be for a maximum of 10 persons (not including staff).*
- *Only one class is to occur per day and classes are to be held between 9am – 8pm Monday to Sunday (inclusive of public holidays).*

An extension of the outbuilding for use in association with the cooking/art/gardening classes is subject to a separate DA.

PROPOSED DEVELOPMENT

The proposal is described as a retail plant nursery (service trade premises) for the sale and display of garden plants (primarily in an outdoor setting) including the construction of a 2 metre high shade-cloth fence, shop, signage and a compacted rubble driveway and carpark.

Refer to Attachment 1 for the application documents, including:

- Site plan (as amended) showing:
 - a plant nursery display area of up to approximately 800m² (18-20m x 40m)
 - 2m high shade cloth fence around the display area
 - a nursery shop building of 15m² (3m x 5m and 2.7m wall height with 3.1m to the roof pitch), with a 10m² veranda (5m x 2m and 2.5m – 2.7m high)
 - a paved car park with 17 spaces and a 6m wide compacted rubble driveway joined to the existing dwelling driveway, with an overflow/ trailer parking and turning area
 - existing/ proposed signage at the entry.
- Floor plan, elevations and photograph of the 15m² shop building, featuring zincalume sheeting, windows and doors, plus the attached veranda.
- Planning information including the following operational matters:
 - operating hours Thursday-Sunday 10am-2pm
 - one staff member to be employed
 - 10-12 vehicles per day expected to attend, and one to two deliveries per week by a 'small sized transit van vehicle (4 tonne capacity)'
 - a sign of 1200mm x 700mm (0.84m²) attached to the front fence.

Site Description:

Location reference: 7 BILL JAMES CT COMPTON SA 5291

Title ref.: CT 5875/651 **Plan Parcel:** D59982 AL4 **Council:** THE DC OF GRANT



The allotment is an irregular, roughly triangular shape of 1.962 hectares at the end of Bill James Court. Total frontage is 54.14m around the cul-de-sac head, with a general depth of about 145-160m and rear width of 219.06m. As seen on the site plan, an existing dwelling is central on the land, although the onsite wastewater system is an aerated/aerobic tank with an irrigation system (not septic/soakage). The existing outbuilding and water tanks are about 20m southwest of the dwelling, and a buffer of established trees is around most of the allotment boundaries.

Note that the Subject Land Map in Attachment 2 has the aerial photography slightly skewed from the allotment boundaries on the cadastre layer (as taken from the SA Property & Planning Atlas).

Locality

Compton is a rural living area just to the west of Mount Gambier. The Rural Living Zone is on the north and south sides of Cafpirco Road, with allotments generally about 2ha in area, in accordance with Technical and Numeric Variation (TNV) set by the Planning and Design Code. Low intensity agricultural uses and horse keeping are associated with dwellings and outbuildings.

The subject land is at the southern edge of the Rural Living Zone, with the Rural Zone to the south having larger allotments generally used for farming. Further to the west in the Rural Zone are more intensive land uses including commercial forestry, quarrying, motor sport and a shooting range. Within the Rural Zone on the southern side of Cafpirco Road between Compton and Mount Gambier, is the 'Sandyridge Landfill' (in operation since the 1980s) and 'Koppers Chemicals' (also in operation for decades).

DEVELOPMENT PLAN PROVISIONS

Consent Type Required:

Planning Consent

Category Of Development:

- **Per Element:**
 - Advertisement: Code Assessed - Performance Assessed
 - Change of use: Code Assessed - Performance Assessed
 - Shop: Code Assessed - Performance Assessed
 - Service trade premises: Code Assessed - Performance Assessed
- **Overall Application Category:**
 - Code Assessed - Performance Assessed
- **Reason**
 - P&D Code

Public Notification

- **Reason**
 - Service Trade Premises is not exempt from notification in the zone, and the nature of the use was not considered to be minor and not unreasonably impacting neighbours.

Representations

Name	Address (if known)	Issues	Request to be heard
David McGinn	4 Bill James Court	Traffic & parking Land use & amenity Property value	Yes
Lynton Thompson	1 Bill James Court	Traffic Property value	No
Tanya Ridley	22 Greenwood Court, Suttontown	Safety	No
Amanda Fox	-	Traffic safety	No



Dane Paproth	485A Cafpirco Road, Compton	Traffic & amenity	No
Mal Sneddon	-	Traffic Land use & amenity	Yes
Kerrie Sneddon	2 Bill James Court	Amenity Property value Traffic	Yes
Andrew Ridley	76 Penola Road, Mount Gambier	Proximity to homes	No
Matthew Fox	-	Privacy and amenity Traffic and safety	No
Susan Fox	5 Mt Percy Road, Compton	Safety & traffic Amenity	No
Lyn Ebert	11 Neville Aveune, Mount Gambier	Amenity Safety & traffic	No
Murray Ebert	11 Neville Aveune, Mount Gambier	Traffic & privacy	No
Brodie Wealleans Koenig	1/193 Commercial Street West, Mount Gambier	Privacy & land use	No
Rebecca Wilke	14 Calvary Road, Mount Gambier	Privacy	No
David Wilke	14 Calvary Road, Mount Gambier	Commercial need	No
Julie von Stanke	-	Traffic & amenity Property value Land use	No
Calum Haygarth	-	Land use Scale of use Other business on site Business competition Traffic Biosecurity	No
Wade Larsson (represented by John Williamson)	6 Bill James Court	Privacy Land use Amenity & noise Products prepared/sold Property value Previous activity/hours Traffic Biosecurity Shadecloth maintenance Advertising signage	Yes

Response to Representations

In response, the applicant's planning consultant has re-confirmed the operational details for the proposal, including the limited operating hours and estimated traffic/parking. In particular:

- operating hours are limited to Thursday-Sunday 10am-2pm
- 10-12 vehicles per day are expected to attend during operating hours, and one to two deliveries per week by a 'small sized transit van vehicle (4 tonne capacity)'
- adequate paved car parking and manoeuvring areas are to be provided with allowance for trailers
- noise will not to exceed the limits prescribed in the Environment Protection (Noise) Policy 2007



- any chemical spray use has general obligations and are typically used in a rural living area
- shop area is 25m² (including veranda), which in itself is less than the 50m² guidance in the Code, and is separate to the retail plant nursery (service trade premises) area subject to a performance assessment
- it is acknowledged that the nursery was previously operating without approval, but has since been closed until an approval is granted
- perceived property value impacts are not a consideration for assessment in the Planning and Design Code.

Agency Referrals

Nil

Internal Referrals

No internal referrals were undertaken for this planning assessment. However, the photographs in Attachment 7 were taken by council officers on 27 April and 2 May 2023.

PLANNING ASSESSMENT

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

Approach to Planning Assessment

Part 1 of the Code is entitled 'Rules of Interpretation'. It includes the following information on the role of Designated Performance Features:

Policies - Desired Outcomes and Performance Outcomes

Zone, subzone, overlay and general development policies are comprised of desired outcomes (DOs) and performance outcomes (POs). These are applicable to performance assessed development and to restricted development.

Desired outcomes

Desired outcomes are policies designed to aid the interpretation of performance outcomes by setting a general policy agenda for a zone, subzone, overlay or general development policies module. Where a relevant authority is uncertain as to whether or how a performance outcome applies to a development, the desired outcome(s) may inform its consideration of the relevance and application of a performance outcome, or assist in assessing the merits of the development against the applicable performance outcomes collectively.

Performance outcomes

Performance outcomes are policies designed to facilitate assessment according to specified factors, including land use, site dimensions and land division, built form, character and hazard risk minimisation.

Designated performance features

In order to assist a relevant authority to interpret the performance outcomes, in some cases the policy includes a standard outcome which will generally meet the corresponding performance outcome (a designated performance feature or DPF). A DPF provides a guide to a relevant authority as to what is generally considered to satisfy the corresponding performance outcome but does not need to necessarily be satisfied to meet the performance outcome, and does not derogate from the discretion to determine that the outcome is met in another way, or from the need to assess development on its merits against all relevant policies. (underlining added)

DPFs are provided for general guidance. They are not mandatory. What matters most is the satisfaction of Performance Outcomes.



Land Use

The following provisions of the Rural Living Zone are most relevant to the land use assessment:

Desired Outcome (DO)

Desired Outcome	
DO 1	A spacious and secluded residential lifestyle within semi-rural or semi-natural environments, providing opportunities for a range of low-intensity rural activities and home-based business activities that complement that lifestyle choice.

Performance Outcomes (PO) and Deemed-to-Satisfy (DTS) Criteria / Designated Performance Feature (DPF)

Performance Outcome	Deemed-to-Satisfy Criteria / Designated Performance Feature
Land Use and Intensity	
<p>PO 1.1</p> <p>Residential development 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.</p>	<p>DTS/DPF 1.1</p> <p>Development comprises one or more of the following:</p> <ul style="list-style-type: none"> (a) Agricultural Buildings (b) Animal Keeping (c) Carport (d) Consulting room (e) Detached dwelling (f) Dwelling addition (g) Farming (h) Horse keeping (i) Kennel (j) Light industry (k) Office (l) Outbuilding (m) Shelter/Stable (n) Shop (o) Verandah



<p>PO 1.4</p> <p>Non-residential development complements the semi-rural or semi-natural residential character and amenity and:</p> <p>(a) is ancillary to a <u>dwelling</u> erected on the same allotment</p> <p>(b) avoids interface conflicts with other land uses.</p>	<p>DTS/DPF 1.4</p> <p>Non-residential business activities located on the same allotment and in conjunction with a <u>dwelling</u> where one of the following is satisfied:</p> <p>(a) <u>shop, consulting room or office</u> (or any combination thereof) where all the following are satisfied:</p> <p>(i) does not exceed 50m² <u>gross leasable floor area</u></p> <p>(ii) does not involve the display of goods in a window or about the <u>dwelling</u> or its curtilage</p> <p>(b) <u>light industry</u> where the combined (existing and proposed) <u>total floor area</u> on the allotment used for such purposes does not exceed 100m².</p>
<p>PO 1.5</p> <p>Non-residential development sited and designed to complement the semi-rural or semi-natural residential character and amenity.</p>	<p>DTS/DPF 1.5</p> <p>None are applicable.</p>

A 'shop' in association with a dwelling is envisaged in the zone, but with a limited scale of up to 50m² to meet the DPF, as one way of satisfying PO 1.4. The shop element of the proposal partly meets the DPF, by being 25m² (including the veranda) and in conjunction with a dwelling. However, it does involve the display of goods about the curtilage of the dwelling. It is also noted that a shop with a gross leasable floor area more than 1000m² is a restricted form of development in the zone.

In any event, the proposed use is a retail plant nursery, which falls within the definition of a 'service trade premises', which means (with underlining added):

...premises used primarily for the sale, rental or display of any of the following:

- a) basic plant, equipment or machinery used in agriculture or industry; or*
- b) boats; or*
- c) caravans and recreational vehicles (RVs); or*
- d) domestic garages; or*
- e) sheds; or*
- f) outbuildings; or*
- g) motor vehicles; or*
- h) marquees; or*
- i) trailers; or*
- j) swimming pools, equipment and accessories; or*
- k) building materials in bulk supply; or*
- l) landscaping materials; or*



- m) garden plants (primarily in an outdoor setting); or
- n) *agricultural supplies such as agricultural chemicals, fertilisers, seed and animal feed*; or
- o) *rainwater tanks and irrigation supplies*;
- or similar articles or merchandise.

The use may also include the servicing and repair of any of the listed items (but not vehicle panel beating or spray painting).

Another relevant definition in the Code is 'horticulture', which means 'the use of land for market gardening, viticulture, floriculture, orchards, wholesale plant nurseries or commercial turf growing'. However, it is understood that the plants are not grown on site, but rather are delivered, stored and sold by retail rather than wholesale.

The Rural Living Zone is silent on 'service trade premises' as a land use (and also 'horticulture').

Service trade premises is listed in the Code as an envisaged use for the following zones/subzones:

- Employment Zone
- Retail Activity Centre Subzone
- Employment (Enterprise) Zone
- Light Industry Subzone
- Emerging Activity Centre Subzone
- Emerging Township Activity Centre Subzone
- Adelaide Showgrounds Subzone
- Strategic Employment Zone
- Gillman Subzone
- Suburban Business Zone
- Township Activity Centre Zone
- Urban Corridor (Business) Zone
- Mixed Use Transition Subzone

It is noted that Mount Gambier nearby to the east has Employment and Strategic Employment Zones.

As the proposed service trade premises is not listed as a land use in DPF 1.1, it needs to be assessed on its merits against the DO and relevant POs, which seek:

DO 1 - A spacious and secluded residential lifestyle within semi-rural or semi-natural environments, providing opportunities for a range of low-intensity rural activities and home-based business activities that complement that lifestyle choice.

PO 1.1 - Residential development 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.

PO 1.4 - Non-residential development complements the semi-rural or semi-natural residential character and amenity and:

- a) *is ancillary to a dwelling erected on the same allotment*
- b) *avoids interface conflicts with other land uses.*



PO 1.5 – Non-residential development sited and designed to complement the semi-rural or semi-natural residential character and amenity.

The zone clearly contemplates home based businesses, but subject to:

- complementing and being compatible with the semi-rural or semi-natural character and amenity (being spacious and secluded)
- associated rural activities being low-intensity
- avoiding conflicts with other land uses
- not placing additional demands on services and infrastructure.

In this regard, there is potential for the proposed land use to be acceptable, subject to appropriate limits on its scale, intensity and impacts. The shop building itself is of a suitable size, being similar to a minor outbuilding/ garden shed. However, the siting, appearance, scale and intensity of the plant nursery area and use needs careful assessment, as do the traffic arrangements.

Scale of retail plant nursery use

At approximately 800m², the retail plant nursery area is significantly more than other floor area guidance for comparable uses such as:

- 30m² for a 'home activity' (home based business) to not need development approval (also subject to other criteria including up to one non-resident employee and amenity impacts)
- 30m² for the display and sale of food produce to not need development approval (again subject to amenity impacts)
- 50m² for the shop area guidance discussed above for zone DPF 1.4
- 100m² for a light industry home based business also noted above for zone DPF 1.4.

By comparison, the following floor area guidance is taken from DPFs in the **Rural Zone**, which contemplates larger scale agricultural and value-adding uses, and on larger allotments, than the Rural Living Zone:

Rural Industry DPF 4.1 - Industries, storage, warehousing, produce grading and packing and transport distribution activities and similar activities (or any combination thereof):

- a) are directly related and ancillary to a primary production use on the same or adjoining allotment*
- b) are located on an allotment not less than 20ha in area*
- c) have a total floor area not exceeding 500m².*

Shops, Tourism and Function Venues DPF 6.1 - Shops:

- a) are ancillary to and located on the same allotment or an adjoining allotment used for primary production or primary production related value adding industries*
- b) offer for sale or consumption produce or goods that are primarily sourced, produced or manufactured on the same allotment or adjoining allotments*
- c) have a gross leasable floor area not exceeding 100m² or 250m² in the case of a cellar door*



d) *have an area for the display of produce or goods external to a building not exceeding 25m².*

As also noted above, a shop in the Rural Living Zone is performance assessed on its merits up to 1000m² in area, before it becomes a 'restricted' development for assessment through that process by the State Planning Commission.

For the zones where a service trade premises is envisaged, there are no DPFs to guide appropriate floor areas. The only direct quantitative provision relating to service trade premises in the Code is for car parking to be at the following rates:

- *2.5 spaces per 100m² of gross leasable floor area (for the building)*
- *1 space per 100m² of outdoor area used for display purposes.*

This would require 9 parking spaces for the proposal, which is more than satisfied by the 17 spaces provided.

The scale of the approximately 800m² area for the retail plant nursery is of relevance to the assessment. It significantly exceeds the 50m² to 100m² guidance for shops and light industry uses in the Rural Living Zone, and even exceeds the 500m² guidance for rural industries in the Rural Zone on much larger allotments.

However, the retail plant nursery is an outdoor use of land rather than being within a large building, and could be considered to have a semi-rural appearance in the form of plants stored on the land. It is also noted that other zones in the Code that contemplate a service trade premises do not provide any floor area guidance, suggesting the outdoor floor areas are inherently large and can have less impacts than large buildings.

In this case, the 800m² floor area is not considered to be fatal to the proposal, in the way that a building of that size would be. Its impacts are not dissimilar to growing plants or trees, and there are spaces between the storage/display of plants and goods to allow for people to move around. The area is not particularly visible given the siting, setbacks, shade-cloth fence and buffer trees, and is relatively small in the context of the 1.962ha allotment.

Siting and appearance

As above, the siting and appearance of the building and nursery area is considered to be acceptable. The shop building is a small shed and veranda that would otherwise be close to not needing development approval, if considered as an outbuilding less than 15m² and 2.5m high. Colorbond or painted cladding would normally be preferred to a zincalume finish, however in this case, the zincalume finish is acceptable given the siting of the building and its modifications with the veranda, doors and windows.

The siting and appearance of the nursery area is also considered to be acceptable. It is open in nature, clustered with other buildings and away from property boundaries, so as to complement and be compatible with the semi-rural/ semi-natural character and amenity. The shade-cloth fencing provides some screening and wind protection for the plants and if approved, a condition is recommended for maintenance.

There is really only one neighbour potentially affected by the siting and appearance of the development, being 6 Bill James Ct directly to the northwest. The shop building is approximately 30m from that boundary, and portions of the nursery area and car park are closer – refer to the site plan provided in Attachment 1. However, as the plan also shows, there is a buffer of mature trees planted along this boundary to substantially reduce the impacts. Again, if Planning Consent is granted, a condition is recommended for this buffer to be maintained.

Intensity of use and traffic

The intensity of the proposed use, with the associated traffic generation and car parking, is considered to be critical to this assessment. As above, the Rural Living Zone clearly contemplates home based businesses, but subject to:



- complementing and being compatible with the semi-rural or semi-natural character and amenity (being spacious and secluded)
- associated rural activities being low-intensity
- avoiding conflicts with other land uses
- not placing additional demands on services and infrastructure.

It is considered that a full-scale retail plant nursery that opens every day should be within an employment-type zone, such as those zones available within Mount Gambier. To be acceptable here in the Rural Living Zone, it needs to be relatively small in scale and with strict limitations on matters such as size, opening hours, employees, deliveries and likely customer numbers.

The nature of the representations from the public notification process indicates there were some conflicts with other land uses in the locality when the retail plant nursery was previously operating without authorisation. However, the proposal now includes a number of limitations to provide certainty and ensure the intensity of development is not excessive. These include:

- confining the retail plant nursery area to less than 800m², demarcated by shade-cloth screens
- formalising and surfacing the driveway, car park and manoeuvring areas
- a commitment to engaging contractors to apply Tach-12 dust suppressant on the driveway and carparking areas if necessary
- one staff member to be employed
- operating hours restricted to Thursday to Sunday, 10am to 2pm
- expectation of 10-12 vehicles per day attending the nursery
- 1-2 deliveries per week to be made using a small sized transit van style vehicle with a 4 tonne capacity.

These limitations are considered to be appropriate to ensure an acceptable level of intensity for this site and locality within the Rural Living Zone. Having only one staff member employed is consistent with the home activity criteria and combined with the restricted operating hours, should assist with limiting the intensity of the use and associated impacts.

It is possible to condition the delivery frequency and vehicle size in accordance with the proposal. However, the number of customer vehicles estimated at 10-12 per opening day could be more difficult to enforce if compliance action was necessary. It would likely be unreasonable to strictly enforce a maximum of 12 vehicles per day, but given it is an expectation in the proposal, it could be used as a reference if needed for compliance purposes, in the event that customer numbers were to significantly exceed that expectation in the future. These estimated vehicle and delivery numbers are considered to have a negligible impact on the capacity and function of Bill James Court, Cafpirco Road and the wider road network.

17 car parking spaces are indicated on the plan, which exceeds the 12 vehicles estimated per day and also the Code requirements of 9 spaces for a service trade premises, based on:

- 2.5 spaces per 100m² of gross leasable floor area
- 1 space per 100m² of outdoor area used for display purposes.

In the circumstances, it is considered appropriate to allow this many car parks, to reduce the possibility of customers parking on the public road rather than onsite. It also allows for any crossover with the approved cookery/ art/ gardening classes, which have the following planning conditions:

- *Each class is to be for a maximum of 10 persons (not including staff).*
- *Only one class is to occur per day and classes are to be held between 9am – 8pm Monday to Sunday (inclusive of public holidays).*



Signage

The site plan indicates existing and proposed signs, but with limited details other than an indication of a 1200mm x 700mm (0.84m²) sign attached to the front fence at the entrance to the site. This exceeds the relevant DPF 5.1 for the zone below, but is considered to satisfy the PO, to identify the business activity and not detract from the residential character of the locality. It's size at less than one square metre is relatively small, and in the circumstances, it is appropriate to direct customers to the entry and confirm opening times.

Advertisements	
PO 5.1	DTS/DPF 5.1
Advertisements identify the associated business activity, and do not detract from the residential character of the locality.	Advertisements relating to a lawful business activity associated with a residential use do not exceed 0.3m ² and mounted flush with a wall or fence.

CONCLUSION

This planning assessment is finely balanced. A full-scale service trade premises would not normally be acceptable in the Rural Living Zone under the Planning and Design Code. However, it is considered that a retail plant nursery in the form of a home-based business with limited scale, can be acceptable in this circumstance given the proposed restrictions including:

- confining the retail plant nursery area to less than 800m², demarcated by shade-cloth screens
- formalising and surfacing a driveway, car park and manoeuvring area
- a commitment to engaging contractors to apply Tach-12 dust suppressant on the driveway and carparking areas if necessary
- one staff member to be employed
- operating hours restricted to Thursday to Sunday, 10am to 2pm
- expectation of 10-12 vehicles per day attending the nursery
- 1-2 deliveries per week to be made using a small sized transit van style vehicle with a 4 tonne capacity.

These limitations are considered to be appropriate to ensure an acceptable level of intensity for this site and locality within the Rural Living Zone. Strict conditions can be applied to reinforce the details of the proposal, as recommended below.

INVITES

David McGinn - The Representor

Mal Sneddon - The Representor

Kerrie Sneddon - The Representor

John Williams on behalf of Wade Larsson - The Representor

Frank Brennan Consulting Services - The Applicant

ATTACHMENTS

1. Application Documents
2. Subject Land Map
3. Zoning Map
4. Representor Map
5. Representations



6. Response to Representations
7. Photographs
8. Appendix 1: Relevant P & D Code Policies



6.3	DA:23022267 - 120 ORCHARD ROAD, MOORAK - TELECOMMUNICATIONS FACILITY – REPORT NO. AR23/78260
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Development No:	23022267
Applicant:	Waveconn Operations Pty Ltd
Property Address:	120 Orchard Road, Moorak
Report No:	AR23/78260
CM9 Reference:	AF22/276
Author:	Trudy Glynn, Planning Officer
Authoriser:	Tracy Tzioutziouklaris, Assessment Manager
Nature of Development:	Telecommunications Facility
Description:	Telecommunications Facility including a 30m monopole, six panel antennas, equipment shelter, cabinets and compound security fencing
Zoning:	Zones: <ul style="list-style-type: none"> • Rural Horticulture Overlays: <ul style="list-style-type: none"> • Dwelling Excision • Hazards (Bushfire - General) • Hazards (Flooding - Evidence Required) • Limited Land Division • Native Vegetation • Prescribed Wells Area • Water Protection Area Technical Numeric Variations (TNVs): <ul style="list-style-type: none"> • Finished Ground and Floor Levels (Minimum finished ground level is 1.85m AHD; Minimum finished floor level is 2.1m AHD) • Minimum Site Area (Minimum site area is 15 ha)
Category of Development:	Code Assessed - Performance Assessed
Notification:	Yes - 1 Representation (wishes to be heard)
Referrals Statutory:	Nil
Referrals Non-Statutory:	Nil

REPORT RECOMMENDATION

1. That Limestone Coast Southern Regional Assessment Panel Report No. AR23/78260 titled 'DA:23022267 - 120 Orchard Road, Moorak - Telecommunications Facility' as presented on 16 November 2023 be noted.
2. 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
3. Development Application 23022267, by Waveconn Operations Pty Ltd is granted Planning Consent subject to the following conditions:

CONDITIONS**Planning Consent**

Condition 1

The development must be undertaken in accordance with the plans and associated documentation comprising the Development Application, except where varied by the following conditions and/or where changes are required to comply with the National Construction Code of Australia and/or relevant Australian Standards and Codes.

Condition 2

Construction and maintenance of the telecommunications facility and associated equipment shall only occur between the hours of 7.00am and 7.00pm.

Condition 3

Dense tree/shrub planting shall be established along the southern side of the development, or the southern property boundary, to the reasonable satisfaction of Council, so as to provide a screen/buffer between the development and the adjacent properties.

Condition 4

The entire structure must be finished in an unobtrusive, natural, earthy colour. The paintwork or pre-coloured steel finish must be maintained in good condition at all times. This condition must be complied with within 2 months of the erection of the structures.

Condition 5

The facility and associated equipment site and surrounds shall be maintained in an attractive clean and tidy condition at all times to the reasonable satisfaction of Council.

ADVISORY NOTES**Planning Consent**

Nil



BACKGROUND

Nil

PROPOSED DEVELOPMENT

The Applicant seeks Planning Consent to establish a new Telecommunications Facility in the form of a 30-metre-high monopole and ground-based equipment. Specifically the development proposal comprises the following:

- a 30-metre-tall monopole and 8m x 10m compound
- a headframe mounted at the top of the monopole to accommodate up to nine (9) panel antennas
- an equipment shelter (2.5m x 3.0m x 3.0m) located to the south of the monopole and connected with a cable tray
- equipment cabinets (2.87m x 0.75m x 2.32m) located to the west of the monopole and connected with a cable tray
- security fencing with double gates for security purposes

Access to the facility is provided by an existing all-weather sealed road, Orchard Road.

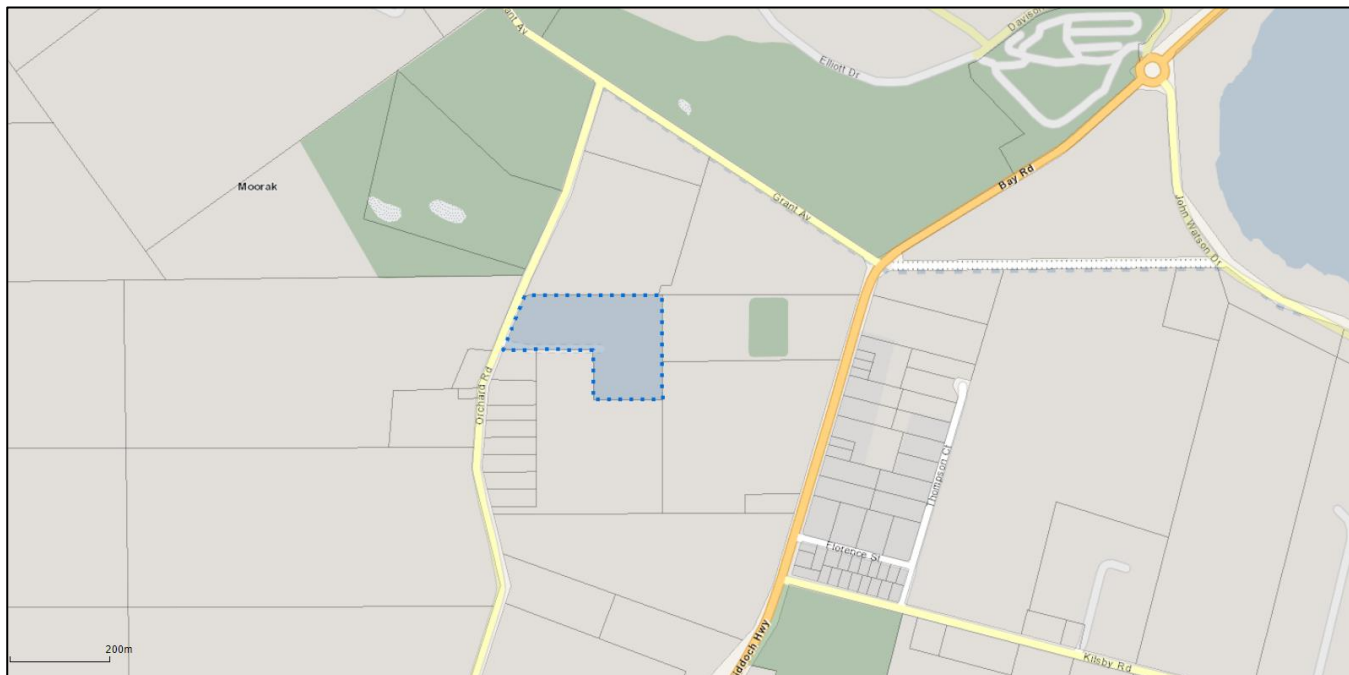
The development proposal was determined not to meet the assessment pathway criteria for Accepted Development, Deemed to Satisfy Development or Restricted Development and therefore defaulted to Performance Assessed Development, with public notification, since it was not an exempt form of development in 'Table 5 – Procedural Matters (PM) – Notification'.

Subject Land & Locality:

Site Description:

Location reference: 120 ORCHARD RD MOORAK SA 5291

Title ref.: CT 5566/560 **Plan Parcel:** H420200 SE261 **Council:** THE DC OF GRANT



SAPPA mapping – 7 November 2023





Google Earth Mapping – 7 November 2023

The subject land is located on Orchard Road, Moorak which is south of Mount Gambier, and contains a dwelling with outbuildings and a large area of vacant land fenced into smaller paddocks.

The L-shaped allotment has a road frontage of approximately 120 metres, an area of 4.755 ha and is predominantly screened from the road and adjoining properties with established trees on all boundaries except the driveway boundary on the south-west.

The subject land is slightly undulating towards the site of the proposed telecommunications facility in the north-western corner.

Locality

The locality is south of Mount Gambier and the Valley Lakes area and contains many different land uses, including a Golf Course and Clubrooms, a Soccer ground and Clubrooms, a small shopping precinct on Bay Road, many smaller rural living type allotments, and some larger primary production allotments.

The nearest sensitive receiver is approximately 110 metres from the proposed development, with a sensitive receiver on the southern side approximately 130 metres away with the highest visual impact.

DEVELOPMENT PLAN PROVISIONS

Consent Type Required:

Planning Consent

Category of Development:

- **Per Element:**
Telecommunications facility: Code Assessed - Performance Assessed
- **Overall Application Category:**
Code Assessed - Performance Assessed
- **Reason**



P&D Code

Public Notification

Public Notification was undertaken since the development proposal was determined to be Performance Assessed with public notification since the proposed development was not listed as exempt in 'Table 5 - Procedural Matters (PM) - Notification'.

Nine adjoining landowners were notified that the development proposal was on public notification from 4 September 2023 until 22 September 2023.

List of Representations

One representation was received from Planning Consultant, Frank Brennan on behalf of ten landowners and residents who live in the vicinity of the proposed development.

It is noted that Mr Brennan submitted an earlier representation which was withdrawn due to a 'typo' error in one of the representor's names and subsequently superseded by the representation included as '*Attachment 4 - Representations*' of this Report.

Summary

Mr Brennan's representation opposes the proposed development on behalf of the representors based on the following reasons:

- Detrimental to the surrounding rural vistas and residential amenity of Orchard Road.
- Land Use and Intensity – not listed as an envisaged land use in the zone and considered inappropriate.
- Built Form and Character – Sited at the front of the allotment, no substantial setback which impacts the surrounding scenic and rural vistas. Maintaining the character of Orchard Road and immediate locality is of significant importance to the surrounding residents. Unsightly and will have a negative impact on the local amenity.
- Infrastructure & Renewable Energy Facilities – The siting and location of the facility does not manage adverse visual impact on natural and rural landscapes or the residential amenity of the surrounding locality. Maintaining a 'rural living' style feel and residential amenity is important to the opposing residents. Overlooking of the proposed development by some residents on the higher side of Orchard Road.
- Telecommunication Facilities – To mitigate clutter and visual amenity on the surrounding locality, co-location on a nearby tower would be supported. Unsightly and negative impact on local amenity.
- Health concerns – recommend that as a precautionary measure the tower being located in close proximity to residences should be avoided.
- Devaluation of properties – reasonable concerns but not valid in accordance with the Planning and Design Code.
- Would like to understand if the Applicant has investigated alternative nearby locations, which do not have the same detrimental impact upon the residential amenity of the Orchard Road locality. Recommend alternative locations such as the Blue Lake Golf Course, or other rural locations.
- Request that Planning Consent be refused.

Response to Representations



Mr Mark Baade, Applicant has responded to the concerns raised by Mr Frank Brennan in his representation on behalf of the landowners within the vicinity of the proposed development.

Summary

Mr Baade has addressed these matters as follows:

- A Telecommunications Facility is not specifically listed as an envisaged use in the zone, however, is an essential infrastructure requirement that is generally accepted in zones such as the Rural Horticulture Zone to provide telecommunication services which will benefit residents within the vicinity.
- It is disagreed that the proposed facility could be classified as a 'large building' as it is a tall, but quite slight element in the landscape, with nowhere near the same impact as the bulk of a 'large building.' The ERD Court has found that telecommunication facilities are not buildings in the sense of the height and bulk provisions – *Reference 'Telstra Corporation Ltd v City of Marion, [2000] SAERDC 70'*. Further some impact is anticipated to the amenity, but not fatal to the development of necessary infrastructure such as a Telecommunications Facility.
- It is expected that there will be some impact on scenic amenity and rural vistas as a result of development within the zone, similar to other envisaged land uses, however, the proposed facility, whilst tall for purely operational reasons, has little impact on such amenity and virtually no material impact on vistas.
- Co-location has been addressed within the application documents, which demonstrates that there are no similar structures within 1.8 km, with such a distance too great to achieve the improvements sought by the proposed facility.

As such, with respect to PO 6.3:

- There are no such structures, making it technically infeasible to consider this outcome.
- Landscape features, including vegetation and the setbacks from dwellings, have been used to obscure and interrupt views of the facility to the extent practical.
- The facility can be painted to further mitigate any residual impact.
- Screening vegetation used effectively, particularly for the ground-based component.

Agency Referrals

Nil

Internal Referrals

Nil

PLANNING ASSESSMENT

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

Rural Horticulture Zone

Assessment Provisions (AP)

Desired Outcome (DO)

DO 1 Intensive agriculture in the form of horticulture and associated value-adding enterprises and activities.



DO 2 The establishment of appropriately scaled industries for washing, processing, bottling and packaging primary produce and servicing and supporting horticulture.

DO 3 Manage interface conflict between horticulture and other land uses.

Land Use and Intensity

PO 1.1 – DTS/DPF 1.1 (a) (b) (c) (d) (e) (f) (g) (h) (i) (j) (k) (l) (m) (n) (o) (p) (q) (r) (s) (t) (u)

The productive value of horticultural land for a range of agricultural, intensive horticultural activities and associated value adding, processing, warehousing and distribution activities is supported, protected and maintained. The proliferation of other land uses that may be sensitive to those activities is avoided.

Development comprises one or more of the following:

- a) Advertisement
- b) Agricultural building
- c) Brewery
- d) Carport
- e) Cidery
- f) Distillery
- g) Dwelling
- h) Dwelling addition
- i) Horse keeping
- j) Horticulture
- k) Industry
- l) Low intensity animal husbandry
- m) Outbuilding
- n) Shop
- o) Small-scale ground mounted solar power facility
- p) Tourist Accommodation
- q) Transport distribution
- r) Verandah
- s) Warehouse
- t) Winery
- u) Worker's accommodation

- The proposed telecommunications facility is not listed as an envisaged land use; however is an infrastructure facility that is generally envisaged in almost all zones to provide telecommunications across the Council area and connect with other facilities across the region.

Siting and Design

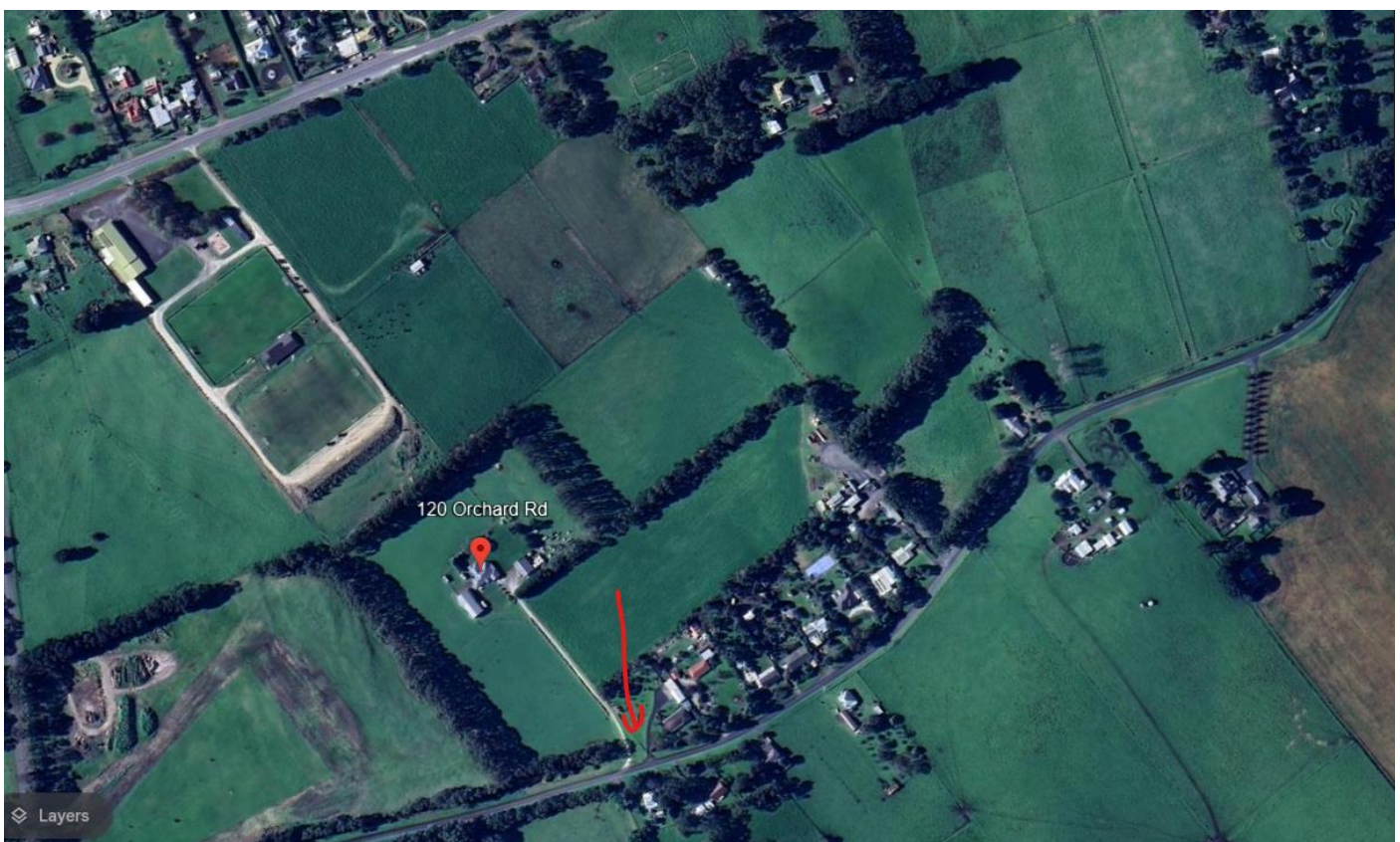
PO 2.1 – DTS/DPF 2.1

- The proposed development is serviced by an all-weather sealed trafficable public road, Orchard Road, Moorak.

PO 2.2 – DTS/DPF 2.2 (a) (b)



- The proposed development is located on a 4.755 ha land parcel that adjoins Orchard Road and is undulating in nature.
- The facility is proposed on the north-western corner of the subject land.
- The land parcel is lower in the site of the proposed development site and rises towards the southern portion of the allotment.
- Visual impact is unavoidable with the height of the structure at 30 metres, however, has been sited to lessen the impact by being sited in the lower portion of the allotment where the base and associated facilities will be screened by the existing tall vegetation on the northern and western sides of the allotment.
- Additional landscaping could be added around the structure, or on the southern side of the allotment in the to lessen the impact to the nearest neighbour and other neighbours along Orchard Road as shown in the image below:



Built Form and Character

PO 11.1 – DTS/DPF 1.1

Large buildings are designed and sited to reduce impacts on scenic and rural vistas by:

- (a) Having substantial setbacks from boundaries and adjacent public roads
 - (b) Using low-reflective materials and finishes that blend with the surrounding landscape
 - (c) Being located below ridgelines
- The proposed development does not have substantial setbacks to the adjacent boundary and public road as desired within the Rural Horticulture for development, however the proposed location is supported as it will lessen the visual impact of the structure by being closer to the existing tall vegetation on the northern and western boundaries which is of a



substantial height to screen the lower part of the monopole and the associated equipment shelter, cabinet and compound.

- The documentation provided does not specify the proposed finish and colour of the monopole and associated equipment and it can only be assumed that this will be of a pre-coloured grey finish. It does however state that ‘the materials and finishes of the monopole and antennas are of low reflectivity but can be painted to further blend into the landscape’.
- I am supportive of grey colours for the pole which will be best to minimise visual impact; the grey is less visible in clear skies, but during rain or moisture conditions will darken up which is of a shade that better fits with darker skies. A grey colour will be consistent with the existing NBN 40-metre monopole at 21444 Riddoch Highway, Moorak on the south-west side of Riddoch Highway, which is to the south-east of the proposed development.
- Accordingly a condition has been added to ensure that the entire structure is finished in an unobtrusive, natural, earthy colour.

Part 3 - Overlays

Hazards (Bushfire – General Risk) Overlay

Assessment Provisions (AP)

DO 1

Development, including land division responds to the general level of bushfire risk by siting and designing buildings in a manner that mitigates the threat and impact of bushfires on life and property taking into account the increased frequency and intensity of bushfires as a result of climate change.

DO 2

To facilitate access for emergency service vehicles to aid the protection of lives and assets from bushfire danger.

- The proposed development is considered supportive of the desired outcomes of this Overlay and is unlikely to cause any additional risk to life or assets.

Native Vegetation Overlay

Assessment Provisions (AP)

DO 1

Areas of native vegetation are protected, retained and restored in order to sustain biodiversity, threatened species and vegetation communities, fauna habitat, ecosystem services, carbon storage and amenity values.

- No vegetation is to be removed as part of this development proposal, therefore no trigger for referral.

Part 4 - General Development Policies

Clearance from Overhead Powerlines

Assessment Provisions (AP)

DO 1

PO 1.1 – DTS/DPF 1.1 (a) (b)

- There are powerlines that run along Orchard Road that are no closer than the minimum prescribed safety clearance distances under the ‘Building Savely Near Powerlines’ guidelines.



- All care should be taken by the contractors during the construction phase and any future maintenance to the site.

Design

Assessment Provisions (AP)

DO 1 Development is:

- (a) contextual - by considering, recognising and carefully responding to its natural surroundings or built environment and positively contributes to the character of the immediate area
- (b) durable - fit for purpose, adaptable and long lasting
- (c) inclusive - by integrating landscape design to optimise pedestrian and cyclist usability, privacy and equitable access, and promoting the provision of quality spaces integrated with the public realm that can be used for access and recreation and help optimise security and safety both internally and within the public realm, for occupants and visitors
- (d) sustainable - by integrating sustainable techniques into the design and siting of development and landscaping to improve community health, urban heat, water management, environmental performance, biodiversity and local amenity and to minimise energy consumption.

All Development

External Appearance

PO 1.1 – DTS/DPF 1.1

- The proposed telecommunications facility will be visible at 30 metres.
- Visual impact will be minimised with existing screening on the northern and western boundaries and with additional screening on the eastern and southern sides of the allotment as required.
- The colours and materials of the development will be of unobtrusive, natural, earthy tones to compliment the existing amenity of the area.

Infrastructure and Renewable Energy Facilities

Assessment Provisions (AP)

DO 1 Efficient provision of infrastructure networks and services, renewable energy facilities and ancillary development in a manner that minimises hazard, is environmentally and culturally sensitive and manages adverse visual impacts on natural and rural landscapes and residential amenity.

General

PO 1.1 – DTS/DPF 1.1

- No anticipated hazard or nuisance is anticipated with this development proposal since it will not be accessed regularly other than for general maintenance after construction.

Visual Amenity

PO 2.1 (a) (b) (c) (d) (e) (f) – DTS/DPF 2.1

- The proposed telecommunications facility will be visible at 40 metres
- The undulating nature of the subject land and surrounding area as well as existing screening trees on the northern and western boundaries will soften the visual impact from the adjoining road and land parcels.



- The materials and colours of the proposed development will be sympathetic with the existing character of the area and consistent with other existing towers for telecommunications within the District Council of Grant area, and in particular at 21444 Riddoch Highway, Moorak where a 40-metre monopole is located on a much higher allotment within this area.
- The visual impact of the structure has been discussed in both the representations and the response to representations. It is acknowledged that the overall height of the monopole will result in it being a prominent structure within the landscape, however when considering the overarching need for the facility, the structure has been designed to minimise the visual impact as much as feasible.

Hazard Management

PO 4.2 – DTS/DPF 4.2

PO 4.3 – DTS/DPF 4.3

- The development proposal has been separated from dwellings and sensitive receivers as much as possible in this area, whilst still ensuring that it is in proximity of the Moorak area to provide better coverage to the residents and businesses, and recreational facilities within the vicinity for future 5G connection.
- The overall need for this coverage in future is a contributing factor to the suitability of the proposed location.

Telecommunication Facilities

PO 6.1 – DTS/DPF 6.1

- Whilst co-location is desirable, it is not available within this specific area and will not be feasible to achieve the improvements sought by the development proposal with the nearest facility being 1.8 km away from this area.
- Co-location has been discussed and considered in both the representations and the response to representations. The proposed telecommunications facility will provide a tower that can be utilised for co-location of telecommunications providers in the future.
- It is further noted that this development will not be constructed until such time as a carrier elects to locate on it, that is it will not be speculatively built in the hope that it will be co-located on.

PO 6.2 – DTS/DPF 6.2

- The antennae are located as close as practicable to the support structure to manage the overall bulk and mitigate impacts on visual impact.

PO 6.3 (a) (b) (c) (d) – DTS/DPF 6.3

- It is not possible to co-locate this facility, and service this area.
- Whilst co-location is desirable, it is not available within this specific area and will not be feasible to achieve the improvements sought by the development proposal with the nearest facility being 1.8 km away from this area.
- Co-location has been discussed and considered in both the representations and the response to representations. The proposed telecommunications facility will provide a tower that can be utilised for co-location of telecommunications providers in the future.



- It is further noted that this development will not be constructed until such time as a carrier elects to locate on it, that is it will not be speculatively built in the hope that it will be co-located on.
- Existing landscaping on the northern and western sides of the allotment will assist in visually reducing this facility somewhat from main traffic movements
- The materials and colours will be sympathetic with the existing character of the area and consistent with other existing towers for telecommunications within the District Council of Grant area.

Interface between Land Uses

Assessment Provisions (AP)

DO 1

Development is located and designed to mitigate adverse effects on or from neighbouring and proximate land uses.

General Land Use Compatibility

PO 1.1 – DTS/DPF 1.1

PO 1.2 – DTS/DPF 1.2

Activities Generating Noise or Vibration

PO 4.1 – DTS/DPF 4.1

- As discussed, the proposed development has been located and designed on the allotment to minimise adverse impact and conflict between land uses.
- Any noise generated by the facility is not considered to be unreasonable and is likely to satisfy the relevant standards identified by the Environment Protection Authority's Noise Policy.
- With regard to traffic generation, once constructed the facility will only require periodic visits for maintenance purposes, generally 1-4 times per year. The facility can otherwise operate on an unmanned basis.
- It is acknowledged that the proposed facility may result in the perception of adverse health impacts and devaluation of properties. As referred to in Mr Brennan's representation, whilst these are reasonable concerns, they are not valid in accordance with the provisions of the Planning and Design Code and in the assessment of this development proposal.

Interface with Rural Activities

PO 9.1 – DTS/DPF 9.1

PO 9.2 – DTS/DPF 9.2

PO 9.3 – DTS/DPF 9.3

PO 9.4 – DTS/DPF 9.4

PO 9.5 – DTS/DPF 9.5

PO 9.6 – DTS/DPF 9.6

PO 9.7 – DTS/DPF 9.7

- No issue is anticipated once the construction is completed.
- No significant or long-term interface issues anticipated.



CONCLUSION

Having regard to the provisions of the Planning and Design Code, the proposed Telecommunications Facility is supported in the Rural Horticulture Zone and warrants planning Consent.

The proposed development to construct a Telecommunications Facility in the form of a 30-metre monopole and associated ground-based equipment at 120 Orchard Road, Moorak will assist to meet the future projected need for improved telecommunications in this area.

The use is appropriately located within the existing character and amenity of the area and will not negatively affect the use of any existing land parcel.

Co-location is not feasible for this proposal.

The siting and design of the proposal has an appropriate level of visual impact on the character and amenity of the locality.

The environmental impact of the proposal is minimal and acceptable.

The proposed facility in the Rural Horticulture Zone, is separated adequately from neighbouring properties, has no land use conflicts and a visual impact consistent with other telecommunications facilities.

INVITES

Frank Brennan Consulting Services - The Representor

Mark Baade, SAQ Consulting - The Applicant

ATTACHMENTS

1. Application Documents
2. Subject Land Map
3. Representation Map
4. Representations
5. Response to Representations
6. Appendix 1 - Relevant P&D Code Policies



6.4 DA:23018466 - LOT 95 SOUTHERN PORTS HIGHWAY, ROBE - UNMANNED 24 HOUR RETAIL FUEL OUTLET – REPORT NO. AR23/78129

Development No:	23018466
Applicant:	Frank Brennan Consulting Services
Property Address:	Lot 95 Southern Ports Highway, Robe
Report No:	AR23/78129
CM9 Reference:	AF22/276
Author:	Ben Green, Planning Consultant
Authoriser:	Tracy Tzioutziouklaris, Assessment Manager
Nature of Development:	Unmanned 24 Hour Retail Fuel Outlet
Description:	<p>Construction of an Unmanned 24 Hour Retail Fuel Outlet (in conjunction with an existing Car & Boat Wash Facility) including 4 fuel bowsers, 100,000 litre underground double bunded fuel tank, new access driveway and landscaping.</p> <p>Note - Canopy structure and advertising signage shown on application plans does not form part of the proposal and as such is not assessed in this Report.</p>
Zoning:	<p>Zones:</p> <ul style="list-style-type: none"> • Neighbourhood <p>Overlays:</p> <ul style="list-style-type: none"> • Affordable Housing • Hazards (Bushfire - Urban Interface) • Hazards (Flooding - Evidence Required) • Key Outback and Rural Routes • Native Vegetation • Prescribed Wells Area • Water Protection Area <p>Technical Numeric Variations (TNVs):</p> <ul style="list-style-type: none"> • Minimum Frontage (Minimum frontage for a detached dwelling is 10m; semi-detached dwelling is 10m; row dwelling is 10m; group dwelling is 10m; residential flat building is 10m) • Minimum Site Area (Minimum site area for a detached dwelling is 450 sqm; semi-detached dwelling is 450 sqm; row dwelling is 450 sqm; group dwelling is 450 sqm; residential flat building is 450 sqm) • Maximum Building Height (Levels) (Maximum building height is 1 level)
Category of Development:	Code Assessed - Performance Assessed - All-other Code Assessed
Notification:	<p>Required</p> <p>Public Notification undertaken between the dates of 7 July 2023 to 27 July 2023:</p>



- **3 Representations received in opposition to the proposed development.**
- **1 Representor desires to be heard by the Panel.**

Recommending Officer:	Ben Green - Consultant Planner
Referrals Statutory:	Commissioner of Highways (DIT) Environment Protection Authority (EPA)
Referrals Non-Statutory:	Nil
Category of Development:	Code Assessed - Performance Assessed - All-other Code Assessed

REPORT RECOMMENDATION

1. That Limestone Coast Southern Regional Assessment Panel Report No. AR23/78129 titled 'DA:23018466 - Lot 95 Southern Ports Highway, Robe - Unmanned 24 Hour Retail Fuel Outlet' as presented on 16 November 2023 be noted.
2. That the proposal Retail Fuel Outlet on the site of an existing car and boat wash facility is considered, 'on-balance' to be acceptable in respect of preserving an acceptable level of amenity for the Neighbourhood Zone, notwithstanding its actual interface is considered to provide reasonable containment and separation from residential land, and the context of the proposal's location, at interface with the State-maintained road network, and accordingly, it is recommended 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, as follows:
 - a. Non-residential uses in the subject Neighbourhood are supported under the Code when sited in an appropriate location and designed to mitigate external impacts which is considered to be achieved by this application as discussed in this report; and
 - b. Access and environmental elements of the proposal have been worked through to the satisfaction of the relevant referral agencies as discussed in this report.
 - (b) Development Application Number 23018466, by Frank Brennan Consulting Services for the Construction of an Unmanned 24 Hour Retail Fuel Outlet (in conjunction with an existing Car & Boat Wash Facility) including 4 fuel bowsers, 100,000 litre underground double bunded fuel tank, new access driveway and landscaping at 95 Southern Ports Highway, Robe is granted Planning Consent subject to the following reasons/conditions/reserved matters:

CONDITIONS

Planning Consent



Condition 1

The Development shall be undertaken and completed in accordance with the stamped plan/s and documentation except where varied by condition(s) below (if any).

Condition 2

All stormwater design and construction will be in accordance with Australian Standards and recognised engineering best practices to ensure that stormwater does not adversely affect any adjoining property or public road and for this purpose stormwater drainage will not at any time:

- (a) result in the entry of water into a building; or
- (b) affect the stability of a building or;
- (c) create unhealthy or dangerous conditions on the site or within the building; or
- (d) flow or discharge onto the land or an adjoining owner and not flow across property boundaries and onto the adjoining road.

Condition 3

Landscaping must be designed, undertaken and maintained in accordance with the plans and details forming part of the development authorisation, with planting to be undertaken within the first available planting season following practical completion of building / civil works and maintained thereafter in healthy condition, to the reasonable satisfaction of Council, with any diseased or dying plants being replaced, when required.

Condition 4

Acoustic treatment of northern fence shall be undertaken in accordance with the recommendations contained in the Marshall Day Acoustic Consultants report 'Rp001 20230467', dated 28 July 2023, to achieve compliant acoustic attenuation for the adjacent neighbourhood developments.

Condition 5

The spillceptor infrastructure recovered wastewater shall be lawfully discharged via connection to the Council CWMS infrastructure as trade waste as applicable, with all relevant approvals of the Council Health Authority to be obtained prior to any building or plumbing works occurring on site.

Condition 6

All directional signage and line-marking identified in the MFY Traffic Consultants submission to the Commissioner of Highways, dated 30 October 2023 shall be installed prior to operation, with all such signage and line-marking being maintained in good & functional condition at all times to the reasonable satisfaction of Council.

Condition 7

All external lighting of the site, including parking areas and buildings, shall be designed and constructed to conform with relevant Australian Standards and shall not create unreasonable light spill nuisance to any adjoining property.

Condition 8

All noise from the development must at all times achieve the relevant criteria of the Environment Protection Authority, Environmental (Noise) Protection Policy.

Condition 9

All surfaces for vehicle car parks, driveways, vehicle entry and manoeuvring areas shall be hard-standing, sealed, all-weather surface, designed, constructed and maintained in accordance with Australian Standards (AS/NZS 2890.1:2004 and AS/NZS 2890.6:2009, and shall be maintained in good condition to the reasonable satisfaction of Council.

Conditions of Consent applied by the Commissioner of Highways:**Condition 1**

Access to the site to/from the Southern Ports Highway shall be gained via the left turn in only and two-way access points shown on MFY Site Layout, Drawing No. MFY_230019_01_SH01, Revision C dated 10 October 2023.

Condition 2

The new access to Southern Ports Highway shall include shoulder sealing to match into the sealed shoulder associated with the existing left turn lane in to prevent deterioration to the road edge. All road works shall be undertaken to the satisfaction of the Department for Infrastructure and Transport with all costs borne by the applicant. All works shall be completed prior to the development being operational.

Note: The applicant shall contact Mr Victor Ling, DIT Asset Manager – South on telephone (08) 8104 5630 or mobile 0467 784 657 (email: victor.ling@sa.gov.au) to obtain approval and discuss any technical issues regarding the required works.

Condition 3

The (existing and new) access points shall be suitably signed and/or line marked to reinforce the desired traffic flow through the site.

Condition 4

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

Condition 5

Any infrastructure within the road reserve that is demolished, altered, removed or damaged during the construction of the project shall be reinstated to the satisfaction of the relevant asset owner, with all costs being borne by the applicant.

Condition 6

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

Conditions of Consent applied by the Environment Protection Authority:**Condition 1**

Prior to operation, all fuel storage tanks (apart from diesel and LPG) must be fitted with a Stage 1 vapour recovery system that directs the displaced vapours back into the tank during filling.

Condition 2

Prior to operation, all fuel dispensers (apart from diesel and LPG) must be fitted with a Stage 2 vapour recovery system that directs vapours back into the tank during refueling.

Condition 3

Stormwater runoff from the trafficable and forecourt areas must be managed in accordance with the letter from Frank Brennan Consulting Services to the EPA, dated 4 September 2023 and the Stormwater Management Plan (Drawing No. 23049), prepared by Southfront, dated August 2023 and must be directed via grade changes and grated inlet pits to the Atlan Spillceptor oil/water separator (no bypass function) that:

- has a minimum spill capture capacity of 8,000 litres.
- reduces oil content in the outlet to less than 5mg/L at all times
- operates effectively in the event of a power failure



- is fitted with high level and maintenance alarms which are connected by telemetry to appropriate maintenance personnel

Condition 4

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

Condition 5

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

ADVISORY NOTES**Planning Consent*****Advisory Notes applied by the Environment Protection Authority:*****Advisory Note 1**

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

Advisory Note 2

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

Advisory Note 3

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

Advisory Note 4

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

Advisory Note 5

More information about the Environment Protection Authority and the Environment Protection Act and policies can be found at: www.epa.sa.gov.au

Advisory Notes applied by the Commissioner of Highways:

Nil

General Advisory Notes:

When will this consent or approval lapse? - This consent or approval will lapse at the expiration of 24 months from its operative date, subject to the following.



An approved development must be substantially commenced within 24 months of the date of Development Approval and completed within 4 years from the operative date of the approval, unless this period has been extended by the relevant authority.

Encumbrance Compliance

The owner shall ensure that the requirements of any encumbrance(s) applicable to the property are complied with. You should check your obligations under the encumbrance prior to work commencing.

Street Numbering - Once construction is complete please ensure that your property is identified with a reflective Street Number (not allotment number). Please contact the Council on 87682003 for further information.

Toilets for Workers - Health regulations require that toilet facilities be provided on or adjacent to any Development site prior to commencement of any development work for use by persons involved with the development. Penalties are prescribed for non compliance.

Responsibility for Siting - Allotment boundaries will not be certified by Council staff. The onus of ensuring that the development is sited in the approved position on the correct allotment is the responsibility of the owner and builder.

Building Rubbish Containment and Segregation of Rubbish - The builder must at all times provide and maintain a waste receptacle to the reasonable satisfaction of Council on the site in which and at all times all builders waste shall be **segregated** and contained for the duration of the construction and the contents of such receptacle must be **SEGREGATED** before being emptied as and when required. Upon completion all remaining waste shall be disposed of at a licensed waste disposal depot and the receptacle removed from the site. Reason: To prevent building rubbish being spread onto adjoining public or private land to the detriment of the amenity of the area.

Boundaries - It is recommended that as the applicant is undertaking work on or near the boundary, the applicant should ensure that the boundaries are clearly defined, by a Licensed Surveyor, prior to the commencement of any building work.

Fences Act 1975 - The Applicant is reminded of the requirements of the Fences Act 1975. Should the proposed works require the removal, alteration or repair of an existing boundary fence a 'Notice of Intention' must be sent to adjoining owners. Please contact Legal Services Commission for further advice on 8463 3555 or www.lsc.sa.gov.au

Consultation with Adjoining Owners - In addition to notification and other requirements under the *Planning, Development & Infrastructure Act 2016* and *Fences Act 1975*, it is recommended that the Applicant/Owner consult with adjoining Owners and occupiers at the earliest possible opportunity after Development Approval, advising them of proposed development work so as to identify and discuss and issues needing resolution such as boundary fencing, retaining walls, trees/roots, drainage changes, temporary access, waste discharges, positioning of temporary toilets etc.

Construction Hours - That construction shall take place between 7am and 7pm Monday to Saturday and between 9am and 6pm on Sundays and public holidays. All such work shall be undertaken in such a manner so as not to cause any nuisance or annoyance to any of the occupiers of buildings within the locality. For further information on these requirements please contact the Environment Protection Authority on 1800 623 445

Requirements of other authorities - The issue of a development approval does not exempt any person from the responsibility to comply with the relevant requirements of other authorities and or acts.

BACKGROUND



The eastern portion of the subject site has formerly been developed with a car-wash facility (DA 822/66/10), whereby Planning consent was granted on the 25 August 2010.

An application for a variation to the original approval was later granted planning consent on the 21 October 2010) identified as '*Robe Car and Boat Wash*', which operates also as an 'un-manned facility, i.e. 24 hour available, card / coin operated 3-bay 'self wash' facility.

This facility is comprised within an (approximate) 20 metres x 10 metres shed structure and is accompanied with a further (approximate) 23 metres x 6 metres brick-walled building and canopy at the rear allotment boundary containing vacuum / detailing facilities for vehicle cleaning that was supported by an Acoustic Report confirming the facility met with the relevant Environmental Noise Policy at the time.

DPTI also supported the car & boat wash facility application subject to a number of conditions that were incorporated in the facility. The facility also currently includes a dog wash which will be removed with the proposed additional development of the fuel outlet on the site.

PROPOSED DEVELOPMENT

It is proposed to construct an unmanned 24-hour *retail fuel outlet* including the following elements:

- Construction of 4 fuel bowsers (2 x double sided) for use 24 hours a day.
- Double bunded 100,000L underground fuel tank.
- Lighting – lighting on the site will be 'directional' lights that contains light spill within the site boundaries.
- Partial demolition of existing fence and kerb (to make way for new fuel outlet).
- Construction of acoustic fence to Acoustic Engineer requirements on the northern boundary to a minimum height of 1800 mm and constructed to provide adequate noise attenuation constructed in a material of minimum surface density of 12 kg/m² and is free of holes or gaps.
- Relocation of existing 22.5 kl tank and services to northern boundary.
- Provision of an additional 22.5kL tank along with a spillceptor and pump station near northern boundary.
- New access point on the north western boundary will be "Left Turn In-only" from Southern Ports Highway (North) along with driveway and vehicle movement signage / modifications to confirm traffic movements of the traffic engineer (Note: the proposal plans state "in and out" access which is no-longer proposed).
- Two new car parks on the northern boundary (free of traffic movements) and the balance of the subject land to be sealed with concrete / asphalt.
- Retention of the existing "in and out" access on Southern Ports Highway (East).
- Additional Landscaping (with infiltration swales) along the road boundaries and northern boundary

The proposed fuel bowsers will work in conjunction with the existing car and boat wash established upon the land.

The application is accompanied by a traffic engineering report from MFY Consultants in respect of traffic movements to & from the site, and an acoustic environmental noise assessment report from Marshall Day acoustic consultants has been provided in respect of the anticipated noise impact from the proposed development.



The Applicant has confirmed the canopy including corporate signage shown in the elevations is **not** part of this application and a separate application will be lodged to include a fuel price board sign in the future.

Subject Land & Locality:

Site Description:

Location reference: 95 SOUTHERN PORTS HWY ROBE SA 5276

Title ref.: CT 5998/811 **Plan Parcel:** D74912 AL201 **Council:** DC OF ROBE

The subject land has a site area of approximately 2220m² and a frontage of approximately 25 metres to Southern Ports Highway at its north-western frontage and approximately 45 metres to Southern Ports Highway at its south-western frontage.

The site exhibits a large, approximately 22 metre corner cut-off at the intersection of the road boundaries, and has an irregular south-eastern side boundary which is 'staggered' and appears to be established in this way relative to the adjacent buildings' wall alignment.

There are no easements, encumbrances or Land Management Agreements on the subject land.

The site is currently developed with a car and boat wash facility, which is enclosed to its respective portion of the land by a colourbond fence enclosing the south-eastern side & rear boundaries and contains the north-western perimeter of the facility and its sealed surface of the car wash facility.

Landscaping has been established on the south-eastern side boundary and at the site frontage to Southern Ports Highway, which is sealed, to the carriageway and un-kerbed, with a grassed verge of approximately 5 metres to the property boundary.

The land is relatively flat and level, with the undeveloped balance of the land being maintained grassland.

Locality

The locality is primarily characterised by residential use, which is particularly reinforced by the residential Neighbourhood zoned land developed to the north of the subject land, fronting the more recently established Mary Ellen Court, as well as the long established residential neighbourhood land opposite to the north-west between Main Road and Denning Street.

The site is adjacent to a broad area of Conservation Zoned land to the south, which is predominantly undeveloped and contains a substantively vegetated natural lagoon and wetland system.

The locality extending south-east exhibits a mixture of residential and commercial uses including undefined commercial building (*which until three years ago contained the Robe Town Brewery*), adjoining the south-eastern side boundary of the subject land, and also a nearby adjacent automotive collision repair business, before yielding to Deferred Urban zoned land, 'in holding pattern' under pastoral use.

Figure 1 – Subject Land & Locality – Allotment 201 (No. 95) Main Road / Southern Ports Hwy, Robe.





Image Source - SAPPA

Figure 2 – Subject Land & Locality Enlargement – Allotment 201 (No. 95) Main Road / Southern Ports Hwy, Robe.



Image Source - SAPPA

Figure 3 – Subject Land - Streetview (from south west facing north-east) – Allotment 201 (No. 95) Main Road (Southern Ports Hwy. Robe.





Image Source - Streetview

Figure 4 – Subject Land – Streetview (from south-east facing north-west) – Allotment 201 (No. 95) Main Road (Southern Ports Hwy. Robe.



Image Source - Streetview

DEVELOPMENT PLAN PROVISIONS

Consent Type Required:



The proposal seeks Planning Consent and will subsequently seek Building Rules Consent for the proposed development prior to issue of full Development Approval.

Category of Development:

- **Per Element:**
Retail fuel outlet: Code Assessed - Performance Assessed – All-other Code Assessed
- **Overall Application Category:**
Code Assessed - Performance Assessed – All-other Code Assessed
- **Reason**
The P&D Code does not define an assessment pathway under *Accepted*, *Deemed to Satisfy* or *Performance Assessed* classifications and is not a *Restricted* form of development. – Resultantly, the proposal ‘defaults’ to ‘*Performance Assessed – All-other Code Assessed*’ classification and must be assessed broadly against **all** the relevant provisions of the Code.

Public Notification

Yes - Public Notification required.

Reason

The proposal does not fall within any exemptions within the Neighbourhood Zone pursuant to Table 5 of the Code.

Public Notification of the application was undertaken between the dates of 7th July 2023 to 27th July 2023, in accordance with the PDI Regulations 2016.

Following the Public Notification period, three (3) representations were received that were all *in opposition* to the proposed development.

It should be noted that Representation #2 identifies that it is submitted on behalf of occupants of seven other properties in the locality of Denning Street, Sturt Street, Acacia Street & Laurel Terrace.

Representation #2 also indicated a desire to be heard before the Panel.

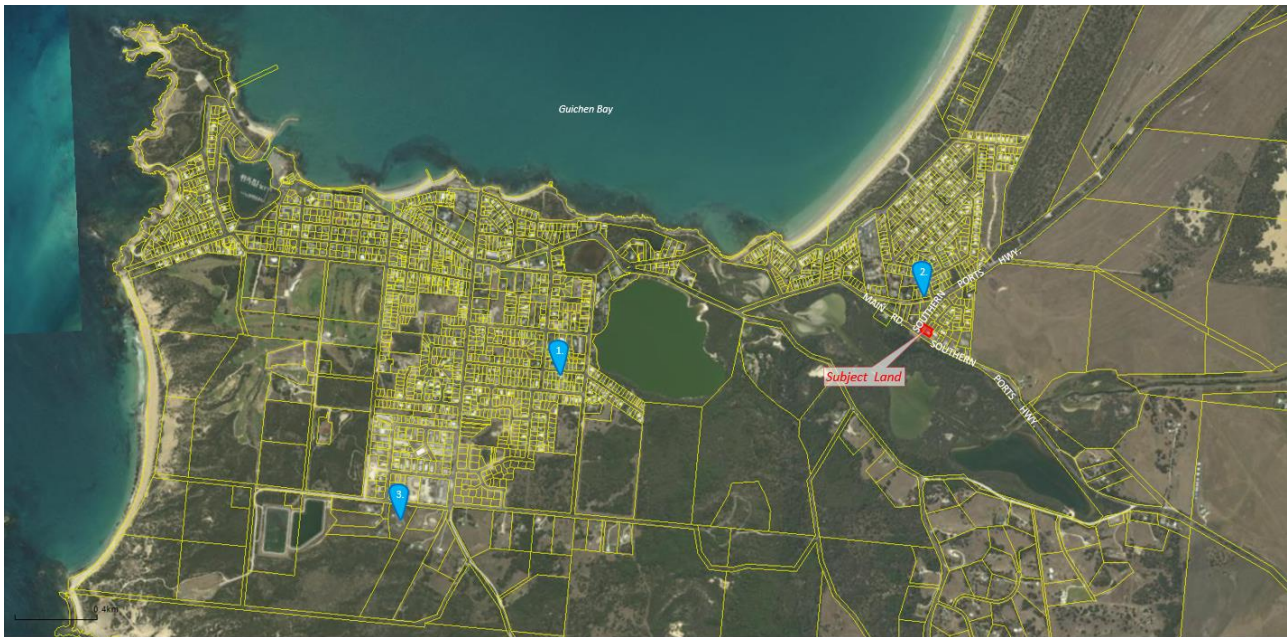
List of Representations

Representations			
#	Representor Name	Support/Oppose	Wish to be Heard
1	Ernest Jury 36 McFarlane Street, Robe	Oppose	No
2	Clare Ryan 1 Laurel Terrace, Robe	Oppose	Yes
3	Kerry Ward 27 Evans Cave Road, Robe	Support with some concerns	No

Representations Map

Figure 4 – Location of representors:





Summary

Summary of Representations	
Representation	Applicant's Response
<p>Traffic Impact – Located on a major T-intersection and high volume of traffic is estimated during holiday season</p>	<p><i>The traffic movement / turning path plans for the site prepared by traffic engineers, MFY, submitted with the development application clearly demonstrate the refuelling truck can access and egress the site; that 4WD vehicles & caravans and vehicles can appropriately circulate through the site.</i></p> <p><i>The traffic plans also demonstrate there is sufficient circulation distance and queuing capacity for drivers accessing / egressing the site.</i></p> <p><i>Further with two-way traffic flow through the site both queuing and demand management will be mitigated through the provision of two double-sided bowsters (ie: 4 vehicle lanes).</i></p> <p><i>In response to the Department of Infrastructure & Transport's request for further information in relation to our application we have elected to amend the northern driveway entrance as an ingress only. Appropriate traffic control devices (regulatory signs & linemarking) will be installed requiring drivers who might be facing north at the fuel bowsters to turn right and exit at the southeastern access point.</i></p>



	<p><i>It is also noted that the site is located in a 60 kph speed limit zone and that traffic at the northern approach to the intersection will be travelling slower than the signposted 60 kph.</i></p> <p><i>There is to be no trucks (other than the refuelling truck) accessing the site and this will be controlled by the configuration of the access driveways and installation of regulatory signage.</i></p> <p><i>Please find attached updated traffic movement / turning path plans as described above. It is our contention the traffic arrangements associated with the proposed unmanned 24 retail fuel outlet (in conjunction with the existing car & boat wash facility) on the site are appropriate.</i></p>
<p>Noise Impact</p>	<p><i>An environmental noise assessment report for the operation of the proposed unmanned 24 retail fuel outlet (in conjunction with the existing car & boat wash facility) on the site has been prepared by acoustic engineers, Marshall Day Acoustics.</i></p> <p><i>A copy of the Marshall Day Acoustics, environmental noise assessment report is attached.</i></p> <p><i>The report demonstrates that noise levels associated with site operations can operate within the provisions of the Environment Protection (Noise) Policy during typical operations, subject to the existing boundary fence to the north of the site be made good and increased in height to a minimum 1800 mm and is to be constructed to provide adequate noise attenuation.</i></p> <p><i>The acoustic fence material is to be constructed from a material of minimum surface density of 12 kg/m² and must be free of holes or gaps.</i></p> <p><i>I can confirm acoustic fence on the northern boundary as recommended in the Marshall Day Acoustics report is to be installed.</i></p>



Visual Impact – Canopy lighting will impact the neighbouring properties	<i>Lighting under the proposed canopy and elsewhere on the site will be ‘directional’ lights that contains light spill within the site boundaries.</i>
Negative impact / detracts from the Robe town centre / Detracts from the neighbouring residential allotments.	<i>The proposed development will be of a high standard and incorporate landscaping that will provide a pleasant outlook and not have a negative impact on the visual amenity to the entrance to the Robe Township.</i>
Negative impact on the Robe entry sign and sculpture	<p>The subject land and its relationship / impact to the Robe entry statement adjacent, is a subjective consideration – The subject land affords a generally open landscape and line of sight from the north-eastern approach to the intersection on Southern Ports Highway, including a broad corner cut-off.</p> <p>The entry statement is considered to ‘stand alone’ and maintain a visually dominant address at the intersection and will remain in clear and unimpeded view, daytime or night-time (<i>due to its illumination</i>) and in this respect is not considered to be directly impacted by the proposed development.</p>
Impact on heritage listed dwellings	Note – the proposal is not within any <i>heritage adjacency overlay area</i> appurtenant to any heritage listed places nearby or adjacent to the site.
Environmental impact – site is located close to the wetlands, runoff of fuel in the waterways and bioaccumulation of petrol particles	<p><i>A Stormwater Management Plan (SMP) prepared by Southfront (copy attached) for the site has been submitted to the EPA in response to their request for further information.</i></p> <p><i>The SMP demonstrates how stormwater runoff and spills generated on the forecourt area are to be directed (via surface grades) to grated inlet pits across the forecourt, with spills entering these pits are to be conveyed to the downstream treatment and spill management system via underground drainage.</i></p> <p><i>A Spillceptor unit is to be installed on the site to capture any hydrocarbon spill and is a full retention separator that treats all flows. The proposed method of managing stormwater & spills on the site is</i></p>



	<i>considered appropriate in protecting environmental harm.</i>
Toilet facilities should be provided	<p>Toilet facilities are typically addressed as a requirement of the Building Code (National Construction Code) according to building classification / occupancy.</p> <p>The proposal does not specifically trigger requirements for toilet facilities due to its utilitarian nature, however, presents a reasonable and valid planning consideration in respect of the amenity of the site and its operation and avoidance of undesirable / informal activity on the site due to increased use and absence of amenities.</p>
Car parking spaces – Two car parks are not sufficient	<p><i>Carparking – for a retail fuel outlet the Planning & Design Code requires the provision of 3 spaces per 100m².</i></p> <p><i>The proposed development does not include a shop and as such the customers will be refuelling using a credit card and driving off, therefore the requirement to provide on-site parking is significantly reduced. Accordingly, the provision of 2 on-site carparking spaces is considered adequate.</i></p>
Non-Compliant Development	<i>The proposed development is not 'non-compliant', but under the Planning & Design Code is a form of Performance Assessed development.</i>

A complete copy of the Public Notice Representations received and the applicant's response to representations, along with the supporting documentation referenced, are provided in Attachment 5 and Attachment 6 respectively.

Agency Referrals

- **Commissioner of Highways**

Referral to the Commissioner of Highways was responded to on 27/10/2023, following RFI issued pursuant to Section 122 (3) on 19 July 2023 and response to RFI subsequently provided by the applicant on 2 August 2023 and further response on 10 October 2023 provided by MFY Traffic Consultants, following detailed discussions with DIT Roads regarding preferential traffic movements to the site.



The office of the *Commissioner of Highways* provided its response pursuant to Regulation 41 (1), on 27 October 2023, providing advice *by direction*, with comments, conditions and/or notes as follows:

Condition 1

Access to the site to/from the Southern Ports Highway shall be gained via the left turn in only and two-way access points shown on MFY Site Layout, Drawing No. MFY_230019_01_SH01, Revision C dated 10 October 2023.

Condition 2

The new access to Southern Ports Highway shall include shoulder sealing to match into the sealed shoulder associated with the existing left turn lane in to prevent deterioration to the road edge. All road works shall be undertaken to the satisfaction of the Department for Infrastructure and Transport with all costs borne by the applicant. All works shall be completed prior to the development being operational.

Note: The applicant shall contact Mr Victor Ling, DIT Asset Manager – South on telephone (08)8104 5630 or mobile 0467 784 657 (email: victor.ling@sa.gov.au) to obtain approval and discuss any technical issues regarding the required works.

Condition 3

The (existing and new) access points shall be suitably signed and/or line marked to reinforce the desired traffic flow through the site.

Condition 4

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

Condition 5

Any infrastructure within the road reserve that is demolished, altered, removed or damaged during the construction of the project shall be reinstated to the satisfaction of the relevant asset owner, with all costs being borne by the applicant.

Condition 6

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

- **Environment Protection Authority**

Referral to the Environment Protection Authority was responded to on 20/09/2023, following RFI's issued pursuant to Section 122 (3) on 5 July 2023, and response provided on 4 September 2023, and a second RFI issued on 15 September 2023 and further response provided by the applicant on 18 September 2023.



The *Environment Protection Authority* provided its response pursuant to Regulation 41 (1), on 20 September 2023, concluding that:

The EPA is satisfied that the proposed unstaffed fuel retailing operations would not lead to unacceptable environmental impacts, based on the supportive information and provided the conditions below are implemented.

And have provided advice *by direction*, with comments, conditions and/or notes as follows:

Condition 1

Prior to operation, all fuel storage tanks (apart from diesel and LPG) must be fitted with a Stage 1 vapour recovery system that directs the displaced vapours back into the tank during filling.

Condition 2

Prior to operation, all fuel dispensers (apart from diesel and LPG) must be fitted with a Stage 2 vapour recovery system that directs vapours back into the tank during refueling.

Condition 3

Stormwater runoff from the trafficable and forecourt areas must be managed in accordance with the letter from Frank Brennan Consulting Services to the EPA, dated 4 September 2023 and the Stormwater Management Plan (Drawing No. 23049), prepared by Southfront, dated August 2023 and must be directed via grade changes and grated inlet pits to the Atlan Spillceptor oil/water separator (no bypass function) that:

- has a minimum spill capture capacity of 8,000 litres.*
- reduces oil content in the outlet to less than 5mg/L at all times*
- operates effectively in the event of a power failure*
- is fitted with high level and maintenance alarms which are connected by telemetry to appropriate maintenance personnel*

Condition 4

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

Condition 5

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

Advisory Note 1

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



Advisory Note 2

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

Advisory Note 3

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

Advisory Note 4

A licence application may be refused where conditions of Development Approval directed by the Environment Protection Authority have not been complied with. • More information about the Environment Protection Authority and the Environment Protection Act and policies can be found at: www.epa.sa.gov.au .

If you have any questions about this response, please contact Alexandra Winston on 8204 2129 or email alexandra.winston@sa.gov.au.

Copies of the mandatory Agency referrals to the Commissioner of Highways and EPA, along with the applicant's response(s) are provided in Attachment 7 and Attachment 9 respectively.

Internal Referrals

No internal referrals were required for the proposed development.

PLANNING ASSESSMENT

The application has been assessed against the relevant provisions of the Planning & Design Code at the date of lodgement, which are contained in Appendix 1.

Of note, Part 1 of the Planning and Design Code provides the rules and Interpretation of the Code. In particular, it is worthy to acknowledge the following:

- Desired Outcomes (DO) are designed to aid the interpretation of Performance Outcomes by setting a general policy agenda.
- Performance Outcomes (PO) are policies designed to facilitate assessment according to specified factors, including site dimensions, built form, character etc.
- Designated Performance Features (DPF) assist to interpret PO's by providing a guide to what is generally considered to satisfy the corresponding PO. The DPF does not need to necessarily be satisfied to meet the PO and does not derogate from the discretion to determine that the outcome is met in another way.

Quantitative Provisions

The following table provides a summary of the proposal against the relevant provisions of the Planning and Design Code:

Parameter	Guideline / Provision	Proposal	Satisfies
Neighbourhood Zone			
Site Coverage	60%	Site is approximately 2184m ² with building footprints of	Satisfied



		491m ² - equating to site coverage of <25%	
Building Height	1 level (<i>no metric height limitation</i>)	The proposed fuel outlet presents as a single building level.	Satisfied
Primary Street Setback	Equivalent average of adjoining buildings / Not less than 5.0m <i>NOTE (b) any proposed projections such as a verandah, porch, balcony, awning or bay window may encroach not more than 1.5 metres into the minimum setback prescribed in the table.</i>	4.4 metres (<i>canopy line / No walls</i>) – canopy extends 600mm into the prescribed setback to the north-western frontage to Southern Ports Highway.	Satisfied
Secondary Street Setback	900mm from a secondary street frontage.	16.5 metres to the south-western frontage to Southern Ports Highway.	Satisfied
Boundary Walls	11.5m maximum length / 3.2m maximum height on boundary	No boundary walls proposed.	Satisfied
Side Boundary Setbacks	On sites greater than 800m ² : <ul style="list-style-type: none"> at least 1900mm. for a wall that is south facing, and the wall height exceeds 3m measured from the lower of natural or finished ground level - at least 1.9m from the boundary of the site plus a distance of 1/3 of the extent to which the height of the wall exceeds 3m from the lower of natural or finished ground level. 	<ul style="list-style-type: none"> 15.8 metres for the north-eastern side setback. 32.4 metres for the south-eastern side setback. 	Satisfied
Rear Boundary Setback	On sites of 301m ² or greater: <ul style="list-style-type: none"> 4m in relation to the ground floor of the dwelling 	Refer above – both north-eastern and south-eastern boundaries are side boundary relationships to the adjoining land parcels.	Satisfied




	<ul style="list-style-type: none"> 6m in relation to any second building level of the dwelling 6m plus an additional 1m setback added for every 1m height increase above a wall height of 7m. 	In any case the setbacks as 'rear setbacks', are surpassed.	
Ancillary Buildings and Structures (<i>Non-Residential Use</i>)	<ul style="list-style-type: none"> On sites exceeding 500m²: Floor area not exceeding 80m² Wall Height not exceeding 3 metres Roof height not exceeding 5 metres. 	The proposed building is not considered to represent an 'ancillary building' – as it is proposed to share a primary use of the site with the <i>domestic services establishment</i> (car & boat wash)	Satisfied
Overlays			
Hazards (Bushfire – Urban Interface) Overlay			
Vehicle Access – Roads Driveways and Fire Tracks	<p>Roads / Driveways:</p> <ul style="list-style-type: none"> have a gradient of not more than 1-in-3.5 have a cross fall of not more than 1-in-9.5 have a minimum formed road width of 6m provide overhead clearance of not less than 4.0m allow fire-fighting services continuous forward movement by constructing circulation areas with a minimum external radius of 12.5m 	<p>The site is relatively flat and level – the site does not approach gradients close to 1:9.5.</p> <p>Driveway crossover widths are 8.0 metres to 10.0 metres.</p> <p>Clearance beneath the fuel canopy is 4.1 metres.</p> <p>The proposal is designed for up to Class 9 – 19m articulated <i>semi-trailer</i> combination vehicles in accordance with Austroads Standards (<i>for the purpose unloading bulk fuel</i>), providing manoeuvring areas adequate for prescribed firefighting appliance manoeuvring.</p>	Satisfied
Hazards (Flooding - Evidence Required) Overlay			
Flood Resilience	Commercial buildings incorporate a finished floor level at least 300mm above:	The proposal has been assessed against the Environment Protection Authority's <i>Environment</i>	Not explicitly Satisfied – <i>but considered acceptable</i>



	<p>(a) the highest point of top of kerb of the primary street</p> <p>or</p> <p>(b) the highest point of natural ground level at the primary street boundary where there is no kerb</p>	<p><i>Protection (Water Quality) Policy 2015</i> in respect of the potential for the development resulting in pollution through discharge of waste or a pollutant into waters or onto land and</p> <p>Is required to incorporate a <i>containment device</i> capable of managing potential spills & must have the capacity to contain 1 compartment of a fuel tanker (<i>approximately 8000 litres</i>) as well as stormwater runoff. Additionally, the proposal purports containment and separation of pollutants within a separator apparatus.</p>	
Key Outback and Rural Routes Overlay			
Access	<i>All access matters pertaining to a State-maintained Road are at the discretion of the Commissioner of Highways.</i>		Satisfied – See Response under 'Agency Referrals'.
General			
Advertisements			
Appearance	<p>Advertisements attached to a building satisfy the following:</p> <ul style="list-style-type: none"> if located at canopy level, are in the form of a fascia sign 	Advertisement – although not specified within the proposal, is identified as a <i>flush mounted fascia sign</i> .	Satisfied
Safety	<p>Advertisements satisfy the following:</p> <ul style="list-style-type: none"> are not located in a public road or rail reserve, are located wholly outside the land shown as '4.5 metres x 4.5 metre Corner Cut-Off Area' in the following diagram: 	<p>Advertising is contained wholly within the subject site boundaries.</p> <p>The signage does not encroach within 4.5 metres of the road intersection 'corner' – the existing corner cut-off is larger in dimension, at approximately 16 metres.</p>	Satisfied



	 <ul style="list-style-type: none"> on an un-kerbed road with a speed zone of 60km/h or less, the advertisement or advertising hoarding is located at least 5.5m from the edge of the seal. 		
<p>Discussion:</p> <p>The Applicant has confirmed the canopy including corporate signage shown in the elevations is not part of this application and a separate application will be lodged to include a fuel price board sign. The canopy and signage aspects of this proposal are therefore excluded from this assessment.</p>			
<p>Design</p>			
<p>Earthworks</p>	<p>Development does not involve any of the following:</p> <ul style="list-style-type: none"> excavation exceeding a vertical height of 1m filling exceeding a vertical height of 1m a total combined excavation and filling vertical height of 2m or more. 	<p>The proposal utilises the existing, predominantly flat & level site and does not purport any cutting / filling or landform modification beyond site preparation and installation of infrastructure.</p>	<p>Satisfied</p>
<p>Driveway Gradient</p>	<p>Driveways and access tracks on sloping land (with a gradient exceeding 1 in 8) satisfy (a) and (b):</p> <p>(a) do not have a gradient exceeding 25% (1-in-4) at any point along the driveway</p> <p>(b) are constructed with an all-weather trafficable surface.</p>	<p>Driveway gradients do not exceed 1:4 and are to be sealed.</p>	<p>Satisfied</p>
<p>Transport, Access and Parking</p>			
<p>Off Street Car Parking</p>	<p>Retail fuel outlet :</p>	<p>2 Vehicle parking spaces (ancillary to the use of the fuel bowzers and Existing car & boat wash facility) appurtenant to the</p>	<p>Not explicitly Satisfied – but considered acceptable</p>



	<ul style="list-style-type: none"> • 3 spaces per 100m2 gross leasable floor area. 		
<p>Discussion:</p> <p>As foreshadowed in the applicant's response to representations, the proposed development does not include a shop, such as might be anticipated at a retail fuel outlet (<i>generally also providing conveniences such as food and beverage items / take-away food and basic grocery or other retail items</i>), instead in this instance, customers will be refuelling and paying via 'swipe and go; type credit card transactions and driving off.</p> <p>The requirement to provide on-site parking at the prescribed rate contemplates those car parks assigned for customers to park <i>after fuelling their vehicles</i>, whilst paying and / or purchasing other items. In the context of the proposed development, the parking demand is significantly reduced – <u>and in reality, not likely required for the normal operation</u> of the retail fuel facility. However irregular car parking demand may warrant the provision of some car parking – i.e. trade servicing of the facilities on the site (whether for the fuel facility or the car / boat wash facility) for instance.</p> <p>Accordingly, the provision of 2 on-site carparking spaces, whilst not explicitly in accord with the Code's off-street parking ratio provision, is considered adequate.</p>			

Qualitative Assessment

The following provides further assessment against the relevant qualitative provisions of the Planning and Design Code:

Land Use

The Neighbourhood Zone contemplates a range of limited commercial / non-residential activities, which are referenced within the Desired Outcomes for the Zone (DO1 & envisaged uses in PO/DPF 1.1) as follows:

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.

Land Use and Intensity

PO 1.1

Predominantly residential development with complementary non-residential uses that support an active, convenient, and walkable neighbourhood.

DTS/DPF 1.1

Development comprises one or more of the following:

- (a) Ancillary accommodation
- (b) Child care facility
- (c) Community facility



- (d) Consulting room
- (e) Dwelling
- (f) Educational facility
- (g) Office
- (h) Outbuilding
- (i) Recreation area
- (j) Retirement facility
- (k) Shop
- (l) Supported accommodation.

Acknowledging that *Part 1 - Interpretation*, of the code identifies that *Designated Performance Features* (DPF) are intended to assist to interpret PO's by providing a guide to what is generally considered to satisfy the corresponding PO, and provides further, that the DPF does not need to necessarily be satisfied to meet the PO and does not derogate from the discretion to determine that the outcome is met in another way, there are considered to be reasonable considerations within the Neighbourhood Zone Performance Assessment in terms of the suitability of the proposed development, that includes:

- ***The existing commercial use of the subject land:***

The existing use of portion of the subject site established by the 24/7 coin / card operated (*i.e. unmanned*) car / boat wash facility is not dissimilar in use / context to the proposed *retail fuel outlet* development – it is common to see these two activities operating in tandem as both serve similar service convenience roles for the customers.

Both activities will attract activity at all hours of the day or night, it is further likely that customers may utilise both facilities in a single action – *i.e. washing and fuelling of the vehicle or boat (or both)* together.

- ***The location fronting a State Maintained Road:***

In this instance, being a corner address with both public road frontages to State Maintained Roads, and a larger site of approximately 2000m² potentially lends itself to a non-residential use (coupled with being located adjoining other non-residential uses to the east) subject to design and mitigation of impacts on the character and amenity of the subject locality.

In some instances, a site such as this may have the capability to contain an internal common driveway (*i.e. community title*) or public road entry to serve a residential subdivision, however where both road frontages interface with State Maintained roads and their associated higher volumes of traffic movement, the interface is not always highly desirable for residential or other sensitive forms of development (citing DTS/DPF 1.1 (b), (c), (f), (i), (j) or (l) for instance.

The proposal provides for an additional non-residential activity on the subject land which is somewhat linked to the movement of traffic on the Southern Ports Highway (for its commercial success). The activity will attract the passing traffic to and from Robe along with clientele from the surrounding Robe township given the limited fuel offerings currently available in the town. It is noted that activity on the site will generally be quite brief as the Fuel Outlet does not include other shop, food or beverage retail which would otherwise propagate further activity at a conventional fuel service station, particularly in later evening / overnight hours where other such conveniences are not available and as such reducing impacts on adjoining non-residential uses.



- **Reduced impact within township areas:**

It is also considered that there is the potential for containment of some vehicle movements, which would otherwise enter the Robe township area, to the State Highway network with the ability to purchase fuel on the outskirts of the Robe township.

In doing so, the proposal, to some degree contributes to a more pleasant locality for activated streets and vital township activity centres, where there is fewer competing or conflicting traffic & pedestrian interfaces for residents and visitors, and can allow tourism visitation and trade within the town to experience less traffic impact and in this regard siting of a retail fuel outlet on the outskirts of Robe is also considered to provide some positive affect to the broader Neighbourhood zones and township areas.

Building Height & Bulk

The proposed development presents a relatively light-weight built form to view at the site – comprised mainly by the canopy-cover over the fuel bowser service area, it adds little in terms of overall bulk and is of a modest height / scale at less than 5.0 metres high (top of awning fascia) and an approximately 142m² ‘footprint’, which is not out of context with the existing use of the land.

Setbacks, Design & Appearance

In conjunction with the building height consideration given above, the proposal also affords considerable setbacks from adjoining property boundaries (*setbacks details provided in the quantitative Provisions section above*) and the large setbacks relative to adjoining dwellings on neighbouring sites also affords some latitude for landscaping for screening and to create noise attenuation and some visual buffering (subject to the nature of the landscaping) for the adjacent neighbourhood zone.

Further landscaping of the periphery of the site, augmenting existing landscaping, will assist in improving the visual appearance of the land and buildings beyond that which currently exists.

The overall siting and design of the proposed retail fuel outlet, including its relationship to Southern Ports Highway, and the relative containment within the subject land is considered to be aesthetically consistent with the existing built form on the site and the streetscape in this locality, citing the mix of residential and commercial buildings and operations immediately south-east of the subject land.

Given the above considerations on this matter, the proposal is considered to satisfy the Performance Outcome PO values, being consistent and complementary to the mixed-use character of the locality and to the existing buildings and land uses established within the locality.

Traffic Impact, Access and Parking

Vehicle access and car parking provisions are considered to be acceptable as represented in the MFY Traffic Engineering assessment of the proposal and support from DIT on formal referral.

As foreshadowed in the applicant’s response to representations and in the quantitative provisions assessment above, the proposed development does not include a shop, such as might be anticipated at a retail fuel outlet (*generally also providing conveniences such as food and beverage items / take-away food and basic grocery or other retail items*), instead in this instance, customers will be refuelling and paying via ‘swipe and go’ type credit card transactions, and driving off again,. As such, the requirement to provide on-site parking at the prescribed rate under the Code contemplates a higher number of car parks assigned for customers to park *after fuelling their vehicles*, whilst paying and / or purchasing other items, which is not occurring in this instance.

In the context of the proposed development, the parking demand is significantly reduced – and in reality, not likely required for the normal operation of the retail fuel facility. However, some other, irregular or infrequent car parking demand *may* warrant the provision of some car parking – i.e. trade servicing or maintenance operations of the facilities on the site (whether for the fuel facility or the car / boat wash facility) for instance.



Accordingly, the provision of 2 on-site carparking spaces, whilst not explicitly in accord with the Code's off-street parking ratio provision, is considered adequate.

Gradients and sightlines to the relatively straight and sub 60km/h approaches to the site and the intersection are within acceptable limits for the proposed access arrangements, including the requirements for semi-trailer access / unloading of bulk fuel, and firefighting appliance movements, which are considered to have been appropriately met, subject to DIT and MFG Traffic Consultants agreed position on the 'left-turn in only' treatment of the northern approach to the facility on Southern Ports Hwy, and left / right turn-in from the southern approach on Southern Ports Highway, along with adjustments to internal layout to achieve satisfactory vehicle access, circulation and egress from the site (as shown in the final version of the MFY Traffic Consultants turning path analysis plans dated 10 October 2023).

Environmental Performance & Water Protection Area Overlay

Subject also to the Environment Protection Authority's mandatory referral and response direction, which has identified that *the EPA is satisfied that the proposed unstaffed fuel retailing operations would not lead to unacceptable environmental impacts, based on the supportive information* and subject to the directed conditions being implemented, the proposed activity is considered to present appropriate technical measures to address and mitigate risk of environmental harm, to both the terrestrial locality, through odour and vapour, and to the land and adjacent wetland environments in respect of designed containment of spills or pollutants from entering the environment.

The operation includes separation apparatus, which facilitates the removal of pollutants and particulates from surface water run-off and recovery by way of trade-waste removal to licensed receivers. Cleaned excess water is directed to the Council CWMS.

Notwithstanding that the proposal is contradictory to the Water Protection Area Overlay, citing in particular DTS/DPF 1.1 (a), the proposal has employed technical measures in the proposal to ensure that *potential to expose the water supply role of the Water Protection Area to significant adverse water quality risk is avoided to maintain the long term function of the Water Protection Area* in accord with PO 1.1 performance values.

The proposal has been assessed in detail by the Environment Protection Authority in respect of the environmental performance against EPA policies and criteria and is considered to present an appropriately risk-mitigated proposal.

Out of Activity Centres Development

The out of Activity Centres provisions generally seek in DO 1 and PO 1.1, that non-residential satellite developments outside *Activity Centres* do not diminish the role of Activity Centres as a primary locality for shopping, business, cultural, entertainment and community services, and further identifies in PO 1.2 that out of Activity Centre non-residential development complements Activity Centres through the provision of services and facilities which support certain needs, *particularly in underserviced locations* and

at the edge of *Activity Centres* where containment within the activity centre is contradictory to the better function of the Activity Centre.

In this instance, the proposal is considered to support the role of the Activity Centre of Robe by way of diverting otherwise bypass-traffic which does not seek to utilise the township conveniences or facilities other than to purchase fuel whilst en-route on the Southern Ports Highway. In doing so, the proposal has potential positive effect of reducing additional unnecessary traffic within the township and in turn supporting a more pleasant locality for activated streets and vital township activity centres, which are more conducive to pedestrian, cycling and the local and visitor traffic movements with decreased competing or conflicting traffic movements.

In this regard siting of a retail fuel outlet on the outskirts of Robe can be viewed as having some positive affect to the broader Neighbourhood zones and Township Activity Centre areas.



CONCLUSION

The proposal has been assessed under the *Performance Assessed – All-Other Code Assessment pathway*, which requires an assessment against a broad cross-section of the Code Assessment Provisions, and has taken into account and responded to the matters raised within the public notice responses from adjoining landowners / occupiers of in the locality generally in respect of amenity and interface between land uses and has committed to appropriate acoustic treatments in accordance with the independent engineering advice to ameliorate noise impacts within the prescribed parameters of the Code and EPA Noise EPP.

The proposal purports a relatively low-key, small-scale retail fuel operation in addition to the existing car / boat wash facility, and has, otherwise received no objection from any of the nearby adjoining landowners in Mary Ellen Court adjoining the site to the north or from directly adjacent landowners on the north-west side of Southern Ports Highway.

In this instance, the proposal presents a diversification of an existing 24/7 facility, which provides a commercial service to the public, which is readily accessible from Southern Ports Highway and the State-maintained Road network. The additional retail fuel facility presents an orderly and economic expansion of the commercial activities within a reasonably small scale and contained facility.

The matter of '*need for public toilet facilities*' raised in public notification, is considered to be a matter addressed under the National Construction Code (NCC) Building Rules according to specific building use classifications, and is in a planning sense not dissimilar to any other self-service kind of facility i.e. *car-wash, pet-wash, 24 hour laundromat*, or other similar service use, where the NCC does not prescribe the inclusion of sanitary facilities. Inclusion of such facilities is considered desirable but is also acknowledged as being unenforceable within the planning scheme.

Similarly, in consultation with Council, inclusion of a general waste and recycling bin bank could also be a valuable addition to mitigate waste / litter from emanating from the site.

The proposal as represented in the above assessment has demonstrated a high degree of compliance with the prescribed quantitative and qualitative provisions (represented in the DTS /DPF provisions) in the above assessment, and where the proposal does not specifically accord with the PO/DPF provisions, it is considered instead, to demonstrate suitable accord with the applicable Performance Outcome values.

The proposed retail fuel facility, along with its associated landscaping and fencing (including specified acoustic treatment) is considered to be appropriate in its location, form and scale, and includes appropriate technical elements, to mitigate potential for environmental impacts within the prescribed requirements of the Environment Protection Authority. In this respect the proposal is not considered to be prejudicial to the surrounding natural environment in this locality, or to the existing amenity, and is considered capable of cohabitating this locality at the outskirts of the Neighbourhood Zone without obtuse interface issues creating adverse effect.

INVITES

Clare Ryan - The Representor

Frank Brennan Consulting Services - The Applicant

ATTACHMENTS

1. Application Documents
2. Subject Land & Locality Maps
3. Zoning Map
4. Representor Location Map
5. Public Notice Representations
6. Response to Representations
7. EPA Referral Response (and Applicants communications - chronological order)



8. DIT Roads Referral Response (and Applicants communications - chronological order)
9. Appendix 1 - Relevant P&D Code Policies



6.5 MEETING DATE - DECEMBER 2023 – REPORT NO. AR23/78016

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

REPORT RECOMMENDATION

1. That Limestone Coast Southern Regional Assessment Panel Report No. AR23/78016 titled 'Meeting Date - December 2023' as presented on 16 November 2023 be noted.
2. The December meeting of the Limestone Coast Southern Regional Assessment Panel be rescheduled to Thursday, 14 December 2023 commencing at 5:00 pm.



BACKGROUND

The next meeting of the Limestone Coast Southern Regional Assessment Panel (RAP) is scheduled to be held on Thursday, 21 December 2023.

DISCUSSION

Thursday, 21 December 2023 is the second to last business day before the Christmas/New Year period. To enable sufficient time to complete administrative processes and requirements after a meeting of the RAP it is advised to reschedule the next meeting to the second Thursday of the month, being the 14 December 2023 commencing at 5:00 pm or another alternative day or time suitable for Assessment Panel Members.

CONCLUSION

When considering the Christmas/New Year period it is recommended the December meeting of the RAP be rescheduled.

ATTACHMENTS

Nil



7 URGENT MOTIONS WITHOUT NOTICE

8 MEETING CLOSE