



I hereby give notice that the Council Assessment Panel Meeting will be held on:

Date: Tuesday, 22 September 2020
Time: 9.30am
Location: Council Chambers
Minlaton Town Hall
57 Main Street
Minlaton

AGENDA

Council Assessment Panel Meeting

22 September 2020

Roger Brooks
ASSESSMENT MANAGER

Yorke Peninsula Council
Assessment Panel Membership

Debra Agnew – Presiding Member

Ben Green

Peter Allen

Elinor Walker

John Rich

Richard Carruthers

CONFLICT OF INTEREST

Council Assessment Panel Members are reminded of the requirements for disclosure by Members of direct or indirect personal or pecuniary interest in an item listed for consideration on the Agenda. Section 56A of the Development Act 1993 requires that Members declare any interest and provide full and accurate details of the relevant interest to the Council Assessment Panel prior to consideration of that item on the Agenda.

Each Member of a Council Assessment Panel has a duty to vote at all meetings unless excepted by legislation.

The major exception being where a Member has a conflict of interest.

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1 WELCOME BY PRESIDING MEMBER

Meeting declared opened

2 PRESENT

3 GALLERY

4 APOLOGIES

Nil

5 LEAVE OF ABSENCE

Nil

6 MINUTES OF PREVIOUS MEETING – FOR CONFIRMATION

Council Assessment Panel Meeting – 28 July 2020

7 CONFLICT OF INTEREST

8 VISITORS TO THE MEETING

Report Item 9.1 - 544/1184/2020 - Outhred English & Associates (Goss) - Port Victoria – Planning Consultant John Outhred speaking in support of the Application.

Report Item 9.2 - 544/1096/2018 - Construction Services Australia Pty Ltd (McFarlane) - Black Point – Applicant Sue Thompson speaking in support of the Application.

REPORTS

REPORTS

9 DEVELOPMENT APPLICATIONS**9.1 544/1184/2020 - OUTHRED ENGLISH & ASSOCIATES (GOSS) - PORT VICTORIA****Document #:** 20/84715**Department:** Development Services**PROPOSAL OUTLINE****Author:** Susan Hadley – Planning Officer, Development Services**Application No.:** 544/1184/2020**Applicant:** Outhred English & Associates Pty Ltd**Owner:** SM & VM Goss**Development Proposal:** Dwelling, Garage (umr), Alfresco Area & Verandah.**Lodgement Date:** 15/06/2020**Subject Land:** Lot 19 Pebble Beach Road, Hd Wauraltee**Zone:** Primary Production**Nature of Development:** Non-complying**Public Notification:** Category 3**Representations:** 1 – in support**Referrals:** N/A**Development Plan Version:** 29 November 2018**Development Legislation:** Development Act, 1993**RECOMMENDATION**

- A. That the Development Assessment Panel resolves that Development Application 544/1184/2020 for a Dwelling, Garage (UMR), Alfresco Area and Verandah at Lot 19 Pebble Beach Road, Port Victoria is not seriously at variance with the provisions of the Yorke Peninsula Council Development Plan, consolidated 29 November 2018.**
- B. That following consideration and having regard to all relevant matters concerning the construction of a Dwelling, Garage (UMR), Alfresco Area and Verandah at Lot 19 Pebble Beach Road, Port Victoria (Development Application 544/1184/2020) the proposal be GRANTED Development Plan Consent, subject to the following conditions of consent:**

CONDITIONS:

- 1 The applicant shall proceed strictly in accordance with the plans submitted and conditions imposed by this consent, except where minor changes are required to comply with the Building Code of Australia.**
- 2 Where a Private Certifier is engaged for Building Rules Consent, the Private Certifier is to provide Council with a certified statement to verify that the Building Rules Consent is consistent with the Development Plan Consent.**

- 3 The Applicant or Landowner shall apply and obtain the necessary approvals for a waste control system in accordance with the South Australian Public Health Act 2011, prior to obtaining Development Approval.**
- 4 Where no mains water is available, the gutters of the dwelling shall be connected to on-site rainwater storage tanks(s) with a minimum capacity of 45,000 litres, reticulated to the dwelling.**
- 5 The land shall be suitably landscaped to the satisfaction of Council and, in particular, plantings which create a buffer between the dwelling and farmed land, shall be established to minimise potential impacts of chemical spray drift and other impacts associated with primary production.**
- 6 Development in a General Bushfire Risk Area in a Bushfire Protection Area shall:**
 - Have a dedicated firefighting water supply of at least 5,000 litres to comply with Minister’s Code: Undertaking Development In Bushfire Protection Areas**
 - Ensure that gaps between the dwelling floor and the ground are enclosed to prevent burning debris from entering**
 - Be located and designed to minimise risk from bushfires**
 - Have access roads and tracks that are appropriately designed and built for entry and exit of vehicles, including fire fighting vehicles, during a fire.**

NATURE OF THE DEVELOPMENT

The applicant proposes to erect a new dwelling at Lot 19 Pebble Beach Road, Port Victoria (Hd Wauraltee).

The subject land is located in the Primary Production Zone, as depicted in the Yorke Peninsula Council Development Plan, consolidated 29 November 2018.

New dwellings are non-complying in the Primary Production Zone unless they meet a number of requirements as outlined below:

- | | |
|----------|---|
| Dwelling | Except for a dwelling that satisfies one of the following: <ul style="list-style-type: none">(a) it is located on land held at Point Pearce by the Aboriginal Lands Trust and the dwelling will meet the needs of the local aboriginal population, provided it is restricted to the existing or planned expansion areas of the Point Pearce settlement(b) it is in the form of workers accommodation(c) it is for the replacement of an existing freehold dwelling. |
|----------|---|

The proposal is not covered by any of the exceptions listed above therefore the application is determined to be non-complying.

In accordance with Regulation 17(1) of the Development Regulations, 2008, the applicant provided a Brief Statement in Support of the non-complying application which was tabled at the Council Assessment Panel meeting on Tuesday 30th June 2020 (*refer ATTACHMENT 1*).

Regulation 17(3) of the above Regulations enables Council, at its discretion, to refuse the application at this preliminary stage or to proceed with an assessment of the proposal. No right of appeal exists against a refusal by Council to proceed to an assessment or refuse consent following an

assessment, nor against a concurrence not being granted by the Development Assessment Commission.

At its meeting on Tuesday 30th June 2020, the Council Assessment Panel resolved to proceed to a full assessment of the proposal and requested the applicant address concerns raised by the Panel (*refer ATTACHMENT 2*).

No additional request for a Statement of Effect was made as the applicant's Brief Statement in Support was also provided as the Statement of Effect in accordance with the requirements of Regulation 17(5). This Statement of Effect is attached in the application documents for consideration (*refer ATTACHMENT 3, page 7*).

DESCRIPTION OF THE PROPOSAL

The application is for a new dwelling on a parcel of land outside of the township of Port Victoria, being Lot 19 Pebble Beach Road, Port Victoria (Hd Wauraltee) located within the Primary Production Zone. A garage with a footprint of 200 square metres was approved for farming use on the allotment in 2011.

The proposal consists of the following elements (*refer ATTACHMENT 3*):

- Single storey, four/five bedroomed detached dwelling (225m²)

- Garage under the main roof (42.3m²)

- Verandahs (37.5m²)

- Alfresco (27m²)

- 2 x 22500 litre rainwater tanks

- 1 x 5000 litre dedicated fire-fighting water tank

The total footprint of the proposal is 331.8 square metres and uses a variety of external cladding materials, comprising walls of weatherboard cladding (Dulux Off-White), corrugated iron (galvanised), texture coating (Dulux Hog's Bristle/Blue Ridge) and a Colorbond Shale Grey roof.

The dwelling is proposed to be erected approximately 283 metres from Pebble Beach Road and approximately 40 metres from the side boundary, south of the existing shed within an area of approximately 1.26ha which has been set aside for non-cropping use several years earlier.

SUBJECT LAND AND LOCALITY

The legal description of the subject land is Allotment 19 Deposited Plan 62529 in the area named Port Victoria, Hundred of Wauraltee, as contained within the Certificate of Title Volume 5900 Folio 603.

The subject land is rectangular in shape, 43.58 hectares in size and is currently leased annually for cropping barley, lupins and wheat. Allotment 19 has a frontage of approximately 820 metres to Pebble Beach Road with vehicle access in the southwestern corner.

The only building on the subject land is a 200m² Colorbond shed located about 10 metres from the western boundary and 240 metres from Pebble Beach Road.

The land in the locality has a variety of allotment sizes ranging from 1.55ha to 79.57ha with a median size of 43.58ha. Land in the locality is generally undeveloped and utilised for cereal cropping and grazing. A strip of land zoned Rural Living exists on the northern side of Wauraltee Road and extends to the north. The subject land is almost completely surrounded by land in the Primary Production Zone.

The adjacent western allotment has an existing farmhouse with associated buildings which appear to have been there for some time. An implement shed exists on the adjoining southern allotment which was approved in 2013.

An application for a new dwelling and garage on a nearby parcel of land to the north-west was lodged in 2012 prior to such development being classified as non-complying. On 22 November 2012, the Development Plan was amended to list dwellings as a non-complying form of development in the Primary Production Zone, where previously they were not unless on an allotment less than 40ha.

There are no other dwellings within the immediate locality.

PUBLIC NOTIFICATION

The Development Plan makes no reference to dwellings within the public notification table of the Primary Production Zone and refers to Schedule 9 of the Development Regulations. Schedule 9 of the Development Regulations provides the schedule for Category 1 and Category 2 public notification and this proposal does not fall within either Category 1 or Category 2 of this schedule.

Section 38(2)(c) states that where an application fails to be assigned as either a Category 1 or Category 2 then it shall be processed as a Category 3 development.

Accordingly, the proposed development was assessed as Category 3 for the purpose of public notification in accordance with Section 38(2)(c) of the *Development Act, 1993*.

At the conclusion of the public notification period Council had received one (1) written representation in support of the application (*refer ATTACHMENT 5*).

Representor Details	Property Address
Mary Louise & Guy Freeman	140 Pebble Beach Road, Port Victoria

CONSULTATION

No Schedule 8 referrals to other authorities or agencies are required as part of the assessment of the proposal. Due to the COVID19 Emergency Response Amendment Bill 2020, where Council is the relevant authority, the requirement to obtain concurrence of SCAP for a non-complying application has been removed.

As the land is considered to be 'sensitive land' as defined under the Indigenous Land Use Agreement (ILUA), the recipient of development authorisation would be notified of its obligations under the Aboriginal Heritage Act 1988 as per that agreement.

ASSESSMENT

Determination of whether the application is seriously at variance

Pursuant to Section 35(2) of the *Development Act 1993*, the proposal has been assessed and is considered not to be seriously at variance with the Yorke Peninsula Council Development Plan, consolidated 29 November 2018.

Council's Assessment Panel (the Panel) considered the Brief Statement in Support of the proposal at its meeting held on 30 June 2020 and resolved to proceed with an assessment of the application and requested the applicant address concerns raised as a result of discussion (*refer ATTACHMENT 4*).

Development Plan

The following provisions of the Yorke Peninsula Council Development Plan, consolidated 29 November 2018 (the Plan) are applicable to the assessment of the proposed development:

Primary Production Zone Provisions

Objectives: 1, 2, 4 & 6

Principles of Development Control: 2, 5, 9, 10, 11 & 12

General Section ProvisionsDesign and Appearance

Objectives: 1

Principles of Development Control: 3, 6, 17

Energy Efficiency

Objectives: 1, 2

Principles of Development Control: 1, 2, 3

Hazards

Objectives: 1, 2, 5

Principles of Development Control: 1, 6, 7, 9, 11, 16

Infrastructure

Objectives: 1, 2, 5

Principles of Development Control: 1, 6, 9, 12

Interface Between Land Uses

Objectives: 1, 2, 3

Principles of Development Control: 1, 2, 5, 15, 16, 17

Landscaping, Fences and Walls

Objectives: 1

Principles of Development Control: 1, 2

Natural Resources

Objectives: 1, 3, 5, 6, 7, 8, 10, 11, 12, 13

Principles of Development Control: 1, 2, 5, 7, 26, 27, 28, 36, 38

Orderly and Sustainable Development

Objectives: 1, 2, 3, 4, 6

Principles of Development Control: 1, 2, 4, 5

Residential Development

Objectives: 1, 2

Principles of Development Control: 14, 18, 19, 20, 21, 22

Siting and Visibility

Objectives: 1

Principles of Development Control: 1, 2, 3, 4, 5, 6, 7, 8

Transportation and Access

Objectives: 2

Principles of Development Control: 1, 13, 22, 23, 28

Waste

Objectives: 1, 2

Principles of Development Control: 1, 2, 3, 5, 7, 10, 11, 13, 14, 15

Primary Production Zone Provisions

Zone Objectives clearly emphasise primary production land being retained for farming activities and being protected from sensitive land uses.

A dwelling is not listed as an envisaged development for the zone, it is listed as a non-complying development and generally non-complying development is inappropriate in the zone.

Development listed as non-complying is generally inappropriate in the zone and a dwelling should only be developed if:

- (a) there is a demonstrated connection with farming or other primary production
- (b) the location of the dwelling will not inhibit the continuation of farming, other primary production or other development that is in keeping with the provisions of the zone
- (c) it is located more than 500 metres from an existing intensive animal keeping operation, or other noise or odour generating activity, unless used in association with that activity
- (d) it does not result in more than one dwelling per allotment

In consideration of the proposal against the above parameters for dwellings, the following observations are made:

Since purchasing the land in 2008 with the intention to revegetate the land the landowners, S & V Goss have carried out extensive native planting around the perimeter of the allotment whilst continuing to lease the land out for cropping.

The subject land will continue to be cropped, however management of the land will be taken over by the landowners, S & V Goss, who intend to register as primary producers with seeding and harvesting contracted to local farmer from Thiepvale Pty Ltd each season. Permanent occupation of the land by the owners will provide them with the ability to more effectively manage and maintain the land including the control of weeds and pests, caring for vegetation, fire protection and prevention, and the reclamation of salt affected areas through planting selected plant species.

The landowners have carried out extensive planting with 3900 native species of plants to revegetate the property and reduce salinity levels with the intention of producing a higher yield of crops.

The dwelling is proposed to be located on the least productive portion of the land and as mentioned, it is intended that the remaining land will continue to be cropped. Whilst the dwelling will not inhibit the continuation of this land use as such, a dwelling is considered a sensitive land use and normal farming activities such as spraying and extended hours of harvesting. The proposed dwelling is only approximately 36 metres from the closest adjoining allotment therefore future development of a legitimate activity in the zone is unlikely to be further impacted as a result of this dwelling.

The policies concerning primary production recognise that farming land is a very important economic asset of the Council area, quite apart from its value to individual owners. An inflated land value may threaten to remove the parcel of land from farming altogether and the siting of a dwelling brings the very real potential of land use conflict as well as the possibility of increased demand for other such rural living in the area.

Despite the establishment of one new dwelling in recent years with a perceived rural living use in the area, the surrounding parcels of land, which are of a similar size, are primarily used for agricultural purposes. Whilst on their own they may not be a viable farming property, they are not unique in terms of size with many larger farm holdings across the Peninsula comprising of a number of allotments.

The dwelling will not result in more than one dwelling per allotment.

In line with other policies for the zone, the site of the dwelling will ensure that it is grouped together with the existing shed, is more than the required 30 metres from a public road and there will be substantial screening given the plantings the owners have already undertaken on the land.

General Section Provisions – Design and Appearance

Applicable provisions for Design and Appearance seek to maintain and enhance visual attractiveness of a locality through minimising visual bulk and ensuring appropriate building setbacks from road boundaries.

The proposed building is single storey, has sufficient articulation in built form, materials and colours and would be somewhat screened from view from public roads. However, the dwelling is located on higher ground than the road and the effect of the screening will be dependent upon the successful establishment and growth of plantings.

Table YoP/2 contained within Council's Development Plan states that buildings within the Primary Production Zone should be set back 30 metres from a road boundary. The proposed dwelling setback of about 287 metres from Pebble Beach Road is significantly further than this requirement.

General Section Provisions – Energy Efficiency

The proposed dwelling is appropriately orientated and designed to provide for efficient solar access and energy conservation.

General Section Provisions – Hazards

The development is located in a General Bushfire Risk Area, as depicted on Bushfire Protection Area Maps 10 and 44 contained within Council's Development Plan.

Objectives of the Hazards General Section seek to locate development where the threat and impact of bushfires on life and property are minimised.

PDC 7 states that the provisions of the *Minister's Code: Undertaking Development in Bushfire Protection Areas* are designated as mandatory for Development Plan Consent Purposes.

The proposal includes some of the measures identified such as an all-weather driveway, which allows fire-fighting vehicles to travel in a continuous forward movement and a dedicated fire-fighting water supply. The Minister's Code states that buildings should be set back at least 20 metres from existing hazardous vegetation but only a 10 metre firebreak to cropped land is proposed with some of the undertaken and proposed plantings occurring within this area. Conditions can be included on any consent granted to ensure compliance with the code.

General Section Provisions – Infrastructure

Council's Development Plan seeks to ensure that development has adequate access to the utilities and services required.

The site is serviced by power and the combination of existing and proposed rainwater tanks will provide approximately 90,000 litres of storage which should be adequate water for the needs of the development.

General Section Provisions – Interface between Land Uses

The General provisions pertaining to the interface between land uses seek to prevent adverse impact and conflict between incompatible land uses where desired land uses are protected from the encroachment of incompatible development.

PDC 2 states that residential development should be sited and designed to minimise negative impacts on existing and potential future land uses considered appropriate in the zone and PDC 16 and 17 suggest that development should include appropriate setbacks and vegetative plantings designed to minimise the potential impacts of chemical spray drift and other impacts, citing a buffer

of at least 40 metres wide (inclusive of any fuel break, emergency vehicle access or road) separating urban and rural activities.

Whilst the proposal does not include a 40 metre buffer, a set-back of 20 metres with a fire break from cropped land is proposed, this setback and the proposed vegetative plantings may go some way in assisting to minimise potential impacts. The more expansive the buffer, the more land is removed from primary production purposes.

General Section Provisions – Landscaping, Fences and Walls

This general section encourages the enhancement of the amenity of the land and development through appropriate plantings and landscaping using locally indigenous plant species where possible.

The species already planted on the allotment are native species and are clearly intended to enhance the amenity of the site as well as reduce the effects of salinity of on the land, for which the applicant advises higher yield are being returned on the adjacent land to the south as a result. The applicant's Statement of Effect also addresses the proposal for further planting to address salinity and plant species that would provide an income through producing 'bush tucker'.

General Section Provisions – Natural Resources

Natural Resources provisions applicable to the proposed development seek to protect the quality and quantity of native vegetation, soil characteristics, ground and surface water resources.

The proposed development does not impact on any existing native vegetation in the locality. In fact, as mentioned previously, the applicant has already planted a substantial number of native species to enhance the amenity of the area as well as to reduce the effects of salinity on the land.

Provisions for water sensitive design are considered to be adequately met by the proposal given the extensive capacity for storage of roof water for use on site.

Soil characteristics are not likely to be degraded with on-site wastewater disposal required to meet the requirements of the *On-site Wastewater Systems Code*.

Subsequently, there is not expected to be any detrimental impact upon natural resources as a result of the proposed development, but in fact as previously discussed, the proposal will improve the soil characteristics, ground and surface water through the revegetation being carried out.

General Section Provisions – Orderly and Sustainable Development

Applicable provisions for Orderly and Sustainable Development state that land outside of townships should primarily be used for primary production and conservation purposes, and that development should not prejudice development of a zone for its intended purpose. Development should occur in an orderly sequence and compact form (not ribbon development along the coast or arterial roads) to enable the efficient provision of public services and facilities.

The proposed development has been sited as close as possible to the western boundary where the existing building is located. The adjoining property is sited near the same boundary therefore it is considered the development will result in a compact form of development that does not prejudice continuation of primary production on the subject land or surrounding land.

General Section Provisions – Residential Development

There is sufficient land for the proposed development to adequately meet provisions such as private open space, off-street parking, privacy and appropriate setbacks under the general section for Residential Development.

General Section Provisions – Siting and Visibility

The protection of scenically attractive areas, particularly natural, rural and coastal landscapes is the sole objective of this section. Development should be sited in unobtrusive locations and designed to minimise visual impact.

Whilst the subject allotment is slightly higher than the surrounding area, making development more visible from both Pebble Beach Road and Wauraltee Road, the proposed dwelling will be well set back and single storey in nature with plantings to assist in softening the built form on the landscape. The dwelling will be sited close to the existing farm building and is approximately 150 metres away from the farm house and associated farm buildings on the adjacent property.

As such, the proposed building would not look entirely out of place on the landscape.

General Section Provisions – Transportation and Access

The development proposes vehicle access from Pebble Beach Road which allows safe and convenient movement to/from the site for all anticipated modes of transport. In addition, an all-weather driveway is proposed which enables emergency service vehicles to travel in a continuous forward movement.

General Section Provisions – Waste

As mentioned previously, the site has sufficient area to allow the on-site disposal of treated waste and wastewater produced as a result of the residential use of the land, subject to the appropriate approvals under the relevant legislation.

CONCLUSION

This is the third application by the applicant for the same proposal, it is clear that the landowners are intent to demonstrate that they shall continue farming the allotment with the proposed dwelling having a negligible impact on the productivity of the land.

Whilst a dwelling located within a primary production zone is a sensitive land use, it is envisaged in the Development Plan as demonstrated by zone provisions, in particular zone PDC 5.

The application has addressed the requirements of the Development Plan, both those for the zone and the Council wide General provisions along with providing credible data to support the proposed use. Further information provided addresses concerns raised by the Panel when considering whether or not to proceed with an assessment of this application.

The proposal includes appropriate setbacks, landscaping, open space, off-street parking and fire protection measures in accordance with the Development Plan. The proposed use will not significantly reduce the productivity of the land and is unlikely to negatively impact on established or proposed land uses in the locality.

The site has ample space to provide for the disposal of wastewater on site without harm to human health, soil or biodiversity. The site abuts an all-weather public road and access to a reticulated mains power supply. Safe and convenient access is available to the site and extensive landscaping, some of which is well established, is proposed to soften the visual impact of the development and generally improve biodiversity and the visual amenity of the locality.

The site is not subject to flooding, has no known contamination issues and whilst in a General Bushfire Zone, the applicant has made appropriate precautions with access, plantings and storage of fire water to address the requirements of the Minister's Code for undertaking development in bushfire areas.

When assessed against the relevant provisions of the Development Plan and having regard to the context of the locality and the nature of the proposed development, it is considered that the proposal on balance satisfies the relevant provisions of the Development Plan.

The proponent has demonstrated the subject land is marginal farmland, however with the plantings already carried out, crop production has been improved and will be further improved with additional plantings. The Goss' intend to continue farming the property along with value adding by producing bush tucker from native plant species. The dwelling is proposed to be clustered with existing buildings and does not encroach on the area under crop.

The proposal is not harmful to the desired character of the zone and is not considered to have a detrimental impact upon the intended use of the zone.

Accordingly, the proposal warrants the granting of Development Plan Consent subject to conditions of consent.

ATTACHMENTS

- 1. Council Assessment Panel Report - 30 June 2020**
- 2. Summary of Concerns Raised by Council Assessment Panel - 30 June 2020**
- 3. Application Documents - 544/1184/2020**
- 4. Response to Council Assessment Panel information request**
- 5. Representation - 544/1184/2020 - Freeman**

9.2 544/1096/2018 - CONSTRUCTION SERVICES AUSTRALIA PTY LTD (MCFARLANE) - BLACK POINT**Document #:** 20/84749**Department:** Development Services**PROPOSAL OUTLINE****Author:** Access Planning – David Hutchison**Application No.:** 544/1096/2018**Applicant:** Construction Services Australia**Owner:** WR McFarlane**Development Proposal:** Compromise proposal for two storey dwelling with verandah and balcony and retrospective consent for earthworks.**Lodgement Date:** 6/04/2018**Subject Land:** Allotment 9 Black Point Drive, Black Point**Zone:** Settlement Zone**Nature of Development:** Merit**Public Notification:** Category 3**Representations:** 2**Referrals:** Nil**Development Plan Version:** 31 October 2017**Development Legislation:** Development Act, 1993**RECOMMENDATION**

- A. That Development Application 544/1096/2018, that seeks to construct a two storey dwelling with verandah and balcony as well as retrospective consent for earthworks (filling of site) at Allotment 9 Black Point Drive, Black Point, is not seriously at variance with the Yorke Peninsula Council Development Plan, Consolidated 31 October 2017.
- B. That Development Plan Consent to Development Application 544/1096/2018, that seeks to construct a two-storey dwelling with verandah and balcony as well as retrospective consent for earthworks (filling of site) at Allotment 9 Black Point Drive, Black Point, be approved subject to the following conditions:

Conditions

1. The development being carried out in accordance with the approved plans except for any minor variations that may be required to comply with the Building Code of Australia.
2. The finished floor level for the dwelling shall be set at 98.35mAHD and shall be confirmed by the applicant by survey plans provided to Council prior to the footings being poured.

3. Prior to final Development Approval, the applicant shall provide to the Council the following information:
 - a. An amended site plan providing details of the location of the driveway and manoeuvring areas associated with gaining access to the proposed carport, with reversing areas shown to ensure that all vehicles can access and egress the land in a forward direction.
 - b. Elevation plans and construction detail for the proposed carport.
 - c. An amended effluent disposal plan which accords with the requirement under the LMA for the system to an aerobic type.
 - d. A detailed landscaping plan, in particular addressing the landscaping of any battered slope but also more generally across the site with such landscaping to be suitable local native trees shrubs and groundcovers all to the satisfaction of Council.
4. Landscaping shall be established on the land within 6 months of the first occupation of the dwelling and thereafter shall be maintained in a neat and healthy state, with any dead or diseased plants being replaced immediately on identification, all to the reasonable satisfaction of Council.

NATURE OF THE DEVELOPMENT

Attachment 1 - Refer 2.0 - Background, page 2 of Access Planning report.

DESCRIPTION OF THE PROPOSAL

Attachment 1 - Refer 4.0 – Proposed Development, Page 5 of Access Planning report.

SUBJECT LAND AND LOCALITY

Attachment 1 - Refer 3.0, Subject Land and Locality, page 3 of Access Planning report.

PUBLIC NOTIFICATION

Attachment 3 – previous CAP meeting Agenda 24 March 2020 – Refer 5.0 Characterisation & Public Notification, page 6 of Access Planning report.

CONSULTATION

N/A

ASSESSMENT

Attachment 1 - Refer 5.0 – Development Plan Assessment – page 6 of Access Planning report.

CONCLUSION

Attachment 1 - Refer 5.2 – Development Plan Assessment – page 10 of Access Planning report.

ATTACHMENTS

1. Access Planning Report - 544/1096/2018 - Compromise Proposal
2. Amended Site Plan

- 3. Access Planning Report - Presented at 24 March 2020 Council Assessment Panel Meeting**
- 4. Proposal Documents - Presented at 24 March 2020 Council Assessment Panel Meeting**

10 MATTERS DEFERRED

Nil

11 REVIEW OF DECISION OF ASSESSMENT MANAGER

Nil

12 ERD COURT MATTERS

(Compromise Proposal for Variation to Existing Garage) - 544/1207/2018 – Variation to Existing Garage – BP32 Pty Ltd – Black Point Drive, Black Point

(Compromise Proposal to Existing Dwelling)- 544/1208/2018 – Variation to Existing Dwelling – BP32 Pty Ltd – Black Point Drive, Black Point

13 CONCURRENCE APPROVALS

544/1086/2020 – Dwelling, Garage & Water Tanks (Non-Complying) – Section 1 South Coast Road, Foul Bay (Hd Coonarie)

544/1416/2019 – Dwelling & Outbuilding (Non-Complying) – (Lot 15) 193 Fenely Road, White Hut (Hd Coonarie)

544/1365/2019 – Convert Existing Dwelling to Workers Accomodation & New Dwelling (Non-Complying) – Lot, 173 Didlyamulka Road, Koolywurtie

14 PROCEDURAL MATTERS

14.1 UPDATE - COUNCIL ASSESSMENT PANEL TERMS OF REFERENCE

Document #: 20/77046

Department: Development Services

PURPOSE

To advise the Yorke Peninsula Council Assessment Panel of updates to the Yorke Peninsula Council Assessment Panel Terms of Reference (TOR), endorsed by Council at the 12 August 2020 Council meeting.

RECOMMENDATION

That the report be received.

DISCUSSION

Further to the PDI Act 2016 being fully implemented on 31 July 2020, Council endorsed updates to the TOR at the 12 August 2020 Council Meeting.

The updates to the TOR now include paragraphs 2.22 and 2.23 of the **Term of Appointment** section, as per the following:

2.22 In accordance with Planning, Development and Infrastructure (General) Regulations 2017, Independent and Elected Members of the CAP must complete a Section 83 Notice of Appointment and submit to Council at the commencement of their term.

2.23 Independent CAP Members must take all steps necessary to maintain their accreditation under Section 88 of the Planning, Development and Infrastructure Act 2016 and the Planning, Development and Infrastructure (Accredited Professional) Regulations 2019 and ensure a copy of their renewed annual Accreditation Certificate is submitted to Council within 14 business days of receiving confirmation of the renewal as per PO180 Notification – Accredited Professionals Policy.

To summarise the above, independent members will need to ensure management of their annual renewal for professional accreditation in a timely manner to ensure they remain accredited at all times, whilst performing their role on the Yorke Peninsula Council Assessment Panel in accordance with the Professional Accreditation Scheme.

ATTACHMENTS

1. Updated - Council Assessment Panel Terms of Reference



Council Assessment Panel

Terms of Reference

Adopted - by Council 12 August 2020 minute reference **195/2020(12/08/2020)**

1. ESTABLISHMENT AND ROLE OF COUNCIL ASSESSMENT PANEL

- 1.1 Pursuant to Section 83 of the *Planning, Development and Infrastructure Act 2016 (PDI Act)*, the Council has established a Council Assessment Panel to be known as the Yorke Peninsula Council Assessment Panel (**CAP**) for the purpose of performing the functions assigned to it under Part 4 of the *Development Act 1993 (Development Act)*.
- 1.2 The functions of the CAP are:
 - 1.2.1 to act as a delegate of the Council in accordance with the requirements of the PDI Act, the Development Act and any relevant instrument of delegation;
 - 1.2.2 to provide advice and reports to the Council as it thinks fit on trends, issues and other matters relating to planning or development that have become apparent or arisen through its assessment of applications under the Development Act; and
 - 1.2.3 to perform other functions (other than functions involving the formulation of policy) assigned to the CAP by the PDI Act or the Planning, Development and Infrastructure (General) Regulations 2017 (**PDI Regulations**) from time to time.

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2. MEMBERSHIP OF CAP

Appointment of Members

- 2.1 The CAP will be constituted of 5 Members (**CAP Members**), to be appointed by the Council, comprising:
 - 2.1.1 one Member of the Council (**Council Member**); and
 - 2.1.2 four Independent Members (**Independent Members**), not being Members of the Council or State Parliament.
- 2.2 The Council may determine that the CAP will be constituted by a different number of members for different classes of development, in which case the relevant details will be specified by the Council.
- 2.3 When appointing CAP Members, the Council may have regard to the following:
 - 2.3.1 the candidate's knowledge of the operation and requirements of the Act and, during transition to the Act, the Development Act;
 - 2.3.2 in relation to Independent Members, the candidate's qualifications or experience in a field that is relevant to the activities of the CAP;
 - 2.3.3 in relation to the Council Member, the candidate's experience in local government;
 - 2.3.4 that a balance of qualifications and experience among CAP Members is desirable;
 - 2.3.5 that gender diversity among CAP Members is desirable; and
 - 2.3.6 such other matters as the Council considers relevant.

Appointment of Deputy Members

- 2.4 The Council shall appoint one person to be a Deputy Member of the CAP for the purpose of filling in for a CAP Member who is unable to attend a CAP meeting or part of a CAP meeting.
- 2.5 The Deputy Member shall hold their position for a term determined by the Council.
- 2.6 The Deputy Member will, subject to clause 2.7, be entitled to sit as a Member of the CAP if one of the Members appointed under clause 2.3 of these Terms of Reference is not present at a meeting.
- 2.7 If a Deputy Member appointed is an elected Council member that person will only be entitled to sit as a Member of the CAP when the member

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appointed under clause 2.1.1 (the Council Member) is not present at a meeting.

- 2.8 If a Deputy member is an independent person (not an elected Council member) they will be entitled to sit if any Member of the CAP is not present at a meeting.
- 2.9 CAP Members who are not elected members of the Council (including an appointed Deputy Member who is not an elected member of the Council) shall be accredited professionals as required by section 83 of the PDI Act.
- 2.10 Unless the context otherwise requires, a reference to a CAP Member in this document includes a Deputy Member.

Expression of Interest

The Council will call for expressions of interest for appointment of CAP Members.

Presiding Member and Acting Presiding Member

- 2.11 The Council will appoint an Independent Member to be the Presiding Member of the CAP for such term and on such conditions as determined by the Council.
- 2.12 The Presiding Member will preside at any CAP meeting at which he or she is present.
- 2.13 In the event that the Presiding Member is not present at a meeting (or part thereof) an Acting Presiding Member will be appointed by those CAP Members who are present at the meeting.
- 2.14 A Presiding Member is eligible to be reappointed as the Presiding Member at the expiry of his or her term of office as Presiding Member.
- 2.15 In the event that the Presiding Member resigns or is removed from office, the Council will appoint an Independent Member to be the Presiding Member for such term and on such conditions as determined by the Council.

Term of Appointment

- 2.16 Subject to clause 5, Independent Members will be appointed for a term of up to 2 years and on such other conditions as determined by the Council.
- 2.17 Subject to clause 5, the Council Member will be appointed for a term of up to 2 years and on such other conditions as determined by the Council.

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- 2.18 Deputy Members will be appointed for a term of up to 2 years and on such other conditions as determined by the Council.
- 2.19 A CAP Member is eligible for reappointment for a further term, or further terms, upon the expiry of his or her current term.
- 2.20 A CAP Member whose term of office has expired may nevertheless continue to act as a Member until the vacancy is filled or for a period of six months from the expiry of the Member's term of office, whichever occurs first.
- 2.21 CAP Members will be bound by the rules and delegations contained in Council's policy - PO127 Council Assessment Panel Delegations Policy.
- 2.22 In accordance with Planning, Development and Infrastructure (General) Regulations 2017, Independent and Elected Members of the CAP must complete a Section 83 Notice of Appointment and submit to Council at the commencement of their term.
- 2.23 Independent CAP Members must take all steps necessary to maintain their accreditation under Section 88 of the Planning, Development and Infrastructure Act 2016 and the Planning, Development and Infrastructure (Accredited Professional) Regulations 2019 and ensure a copy of their renewed annual Accreditation Certificate is submitted to Council within 14 business days of receiving confirmation of the renewal as per PO180 Notification – Accredited Professionals Policy.

3. VACANCY IN MEMBERSHIP

- 3.1 In the event of a vacancy arising in the office of a CAP Member, the Council may appoint a person to be a CAP Member for the balance of the original CAP Member's term of office as soon as is reasonably practicable in the same manner as the original CAP Member was appointed.
- 3.2 The CAP Member appointed to fill a vacancy may be a Deputy Member in which case that person will automatically cease to be a Deputy Member.
- 3.3 In appointing a CAP Member pursuant to clause 3.1, the Council may have regard to the matters in clause 2.2 or **Error! Reference source not found.** as the case requires.
- 3.4 A vacancy in the membership of the CAP will not invalidate any decisions of the CAP, provided a quorum is maintained during meetings.

4. CONDITIONS OF APPOINTMENT

- 4.1 At all times, CAP Members must act honestly, lawfully, in good faith, and in accordance with any code of conduct applicable to CAP Members.

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- 4.2 CAP Members may be remunerated as determined by the Council for the reasonable time and costs incurred by CAP Members in attending CAP meetings. CAP Members who reside in the Yorke Peninsula Council district will be paid the base rate (per kilometre) as per recommended by the Australian Tax Office. CAP Members who reside outside of the Yorke Peninsula Council district will be paid a fixed flat fee as travel reimbursement, determined by Council.
- 4.3 Different levels of remuneration may be fixed by the Council for Independent Members, the Council Member, the Presiding Member and Deputy Members.

5. REMOVAL FROM OFFICE

- 5.1 A CAP Member will automatically lose office where:
- 5.1.1 the CAP Member has become bankrupt or has applied to take the benefit of a law for the relief of insolvent debtors;
 - 5.1.2 the CAP Member has been convicted of an indictable offence punishable by imprisonment;
 - 5.1.3 in the case of a Council Member, the Member ceases to be a member of the Council; and
 - 5.1.4 the CAP Member dies.
- 5.2 Subject to Clause 5.4, the Council may by resolution remove a CAP Member from office where, in the opinion of the Council, the behaviour of the CAP Member amounts to:
- 5.2.1 a breach of a condition of his or her appointment as a CAP Member;
 - 5.2.2 misconduct;
 - 5.2.3 a breach of any legislative obligation or duty of a CAP Member;
 - 5.2.4 neglect of duty in attending to role and responsibilities as a CAP Member;
 - 5.2.5 a failure to carry out satisfactorily the duties of his or her office;
 - 5.2.6 a breach of fiduciary duty that arises by virtue of his or her office;
 - 5.2.7 inability to carry out satisfactorily the duties of his or her office.
 - 5.2.8 except in relation to Deputy Members, a failure without reasonable excuse to attend three consecutive CAP meetings without the CAP previously having resolved to grant a leave of absence to the CAP Member; or

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- 5.2.9 in relation to a Deputy Member, a failure without reasonable excuse on three consecutive occasions to attend a meeting of the CAP when requested to do so; or
- 5.2.10 for any other reason the Council considers appropriate.
- 5.3 The removal of the CAP Member pursuant to clause 5.2 will take effect upon the Council passing a resolution to remove the CAP Member from office (unless the Council resolves otherwise), and such resolution will be confirmed in writing to the CAP Member within 7 days of being passed.
- 5.4 Prior to resolving to remove a CAP Member from office pursuant to clause 5.2, the Council must:
 - 5.4.1 give written notice to the CAP Member of:
 - 5.4.1.1 its intention to remove the CAP Member from office pursuant to clause 5.2; and
 - 5.4.1.2 the alleged behaviour of the CAP Member falling within clause 5.2.1 or reason the Council considers it appropriate to remove the CAP Member,

not less than 7 days before the meeting of the Council at which the matter is to be considered;
 - 5.4.2 give the CAP Member an opportunity to make submissions to the Council on its intention to remove the CAP Member from office either orally at the Council meeting at which the matter is to be considered, or in writing by such date as the Council reasonably determines; and
 - 5.4.3 have due regard to the CAP Member's submission in determining whether to remove the CAP Member from office.

15 NEXT MEETING

27 October 2020

16 CLOSURE