

**FLINDERS REGIONAL  
DEVELOPMENT ASSESSMENT PANEL**

**NOTICE OF MEETING**

**NOTICE** is hereby given that an Ordinary Meeting of the Flinders Regional Development Assessment Panel will be held as follows:-

**Time:** 4.00 pm

**Date:** Wednesday 1<sup>st</sup> September 2010

**Venue:** Via Teleconference

.....  
**Sean Richard CHERITON**  
Public Officer

**FLINDERS REGIONAL  
DEVELOPMENT ASSESSMENT PANEL**

**AGENDA**

**FOR THE MEETING BEING HELD  
4.00 PM WEDNESDAY 1<sup>st</sup> SEPTEMBER  
VIA TELECONFERENCE**

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1. **PRESENT:**
2. **APOLOGIES:**
3. **DECLARATIONS OF INTEREST:**
4. **CONFIRMATION OF MINUTES:**
  - 4.1 **ORDINARY MEETING - HELD 24<sup>TH</sup> MAY 2010**
5. **BUSINESS ARISING FROM MINUTES:**
6. **GOVERNANCE MATTERS:**
7. **APPLICATIONS FOR CONSIDERATION:**
  - 7.1 **THE FLINDERS RANGES COUNCIL**
    - 7.1.1 **DA 740/0036/10 – Pratt – Detached Dwelling**
  - 7.2 **DISTRICT COUNCIL OF MOUNT REMARKABLE**
    - 7.2.1 **DA 830/D003/10 – McCallum – Land Division**
    - 7.2.2 **DA 830/D006/10 – Caputo, Gaudio, Pansini & Caputo – Land Division**
    - 7.2.3 **DA 830/D004/10 – Worby – Land Division**
    - 7.2.4 **DA 830/D009/10 – Kotz & Harvie – Land Division**
    - 7.2.5 **DA 830/D007/10 – Jacka – Land Division**
  - 7.3 **DISTRICT COUNCIL OF ORROROO CARRIETON**
  - 7.4 **DISTRICT COUNCIL OF PETERBOROUGH**
8. **OTHER BUSINESS:**
  - 8.1 **THE FLINDERS RANGES COUNCIL**
  - 8.2 **DISTRICT COUNCIL OF MOUNT REMARKABLE**
  - 8.3 **DISTRICT COUNCIL OF ORROROO CARRIETON**
  - 8.4 **DISTRICT COUNCIL OF PETERBOROUGH**
9. **NEXT MEETING:**
10. **CLOSURE:**

**FLINDERS REGIONAL  
DEVELOPMENT ASSESSMENT PANEL**

**REPORTS**

**FOR THE MEETING BEING HELD  
4.00 PM WEDNESDAY 1<sup>st</sup> SEPTEMBER  
VIA TELECONFERENCE**

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Legend:  indicates *attachment*  
 indicates *recommendation*  
 indicates *Panel action required*

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**1. PRESENT:**

Ms S.L.S. Ditter (Presiding Member)  
Mr G.C. Thompson  
Mr T.C. Roocke  
Ms L.A. Lock  
Mr C.R. Parkyn

**IN ATTENDANCE:**

Mr T.D. Barnes, Chief Executive Officer, District Council of Peterborough  
Mr S.R. Cheriton, Chief Executive Officer, District Council of Mount Remarkable  
Mr C.J. Davies, Chief Executive Officer, The Flinders Ranges Council  
Mr I.A. Wilson, Chief Executive Officer, District Council of Ororoo Carrieton  
Mr D. Hutchison, Access Planning (SA) Pty Ltd

**2. APOLOGIES:**

**3. DECLARATIONS OF INTEREST:**

4. **CONFIRMATION OF MINUTES:**

4.1 **ORDINARY MEETING**

**Subject:** Meeting held 24<sup>th</sup> May 2010  
**Report By:** Public Officer  
**Report Date:** 27/05/2010  
**File Reference:** No File  
**Action:** Yes  
**Attachments:** Yes



A copy of the Minutes from the Meeting (as previously circulated) are attached for the reference of Panel Members.



Subject to any identified corrections, the Minutes will need to be formally confirmed.



***Recommendation:***

**That** the Minutes of the Ordinary Meeting of the Flinders Regional Development Assessment Panel held on 24<sup>th</sup> May 2010 as circulated, be taken as read and confirmed.

*~~Options:~~*

(i) /

(ii) /

**FLINDERS REGIONAL  
DEVELOPMENT ASSESSMENT PANEL**

**MINUTES**

**OF THE MEETING BEING HELD ON  
MONDAY 24<sup>TH</sup> MAY 2010, EYRE PENINSULA MEETING ROOM  
LOCAL GOVERNMENT HOUSE, 148 FROME STREET, ADELAIDE  
COMMENCING AT 3.45 PM**

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1. **PRESENT:** Ms S.L.S. Ditter (Presiding Member); Mr G.C. Thompson; Mr T.C. Roocke;  
Ms L.A. Lock & Mr C.R. Parkyn
- Mr T.D. Barnes, Chief Executive Officer, DC of Peterborough  
Mr S.R. Cheriton, Chief Executive Officer, DC of Mount Remarkable  
Mr C.J. Davies, Chief Executive Officer, The Flinders Ranges Council  
Mr D. Hutchison, Planning Consultant
2. **APOLOGIES:** Mr I.A. Wilson, Chief Executive Officer, DC of Ororoo Carrieton NOTED
3. **CONFIRMATION OF MINUTES:** NIL
4. **BUSINESS ARISING FROM MINUTES:** NIL
5. **DECLARATIONS OF INTEREST:** NIL
6. **GOVERNANCE MATTERS:**
- 6.1 TERMS OF REFERENCE**
- The Terms of Reference for the Panel, as formally adopted by each of the four Member Councils, were provided for the reference of Panel Members.
- That** the Terms of Reference for the Flinders Regional Development Assessment Panel as adopted by each of the constituent Councils, circulated and tabled, be received and accepted.
- G.C. Thompson / C.R. Parkyn**  
**CARRIED**  
[001.2010]
- 6.2 MEETING PROCEDURES**
- The Meeting Procedures for the Panel, as formally adopted by each of the four Member Councils, were provided for the reference of Panel Members.
- That** the Meeting Procedures for the Flinders Regional Development Assessment Panel as adopted by each of the constituent Councils, circulated and tabled, be received and accepted.
- T.C. Roocke / L.A. Lock**  
**CARRIED**  
[002.2010]
- 6.3 CODE OF CONDUCT**
- The Code of Conduct adopted by the Minister for Urban Development and Planning pursuant to subsection 21A (1) (b) of the Development Act 1993 was provided for the reference of Panel Members.
- NOTED

#### 6.4 DEPUTY PRESIDING MEMBER

The Agenda Report advised the Panel that the Terms of Reference provide that the each constituent Council may appoint one additional deputy member and by agreement, a Deputy Presiding Member.

Following due consideration, the Panel felt that there was not a need to appoint a Deputy Presiding Member at the current time.

#### 6.5 PUBLIC OFFICER

The Agenda Report advised the Panel that subsection 34 (18b) of the Development Act 1993 requires that each Regional Development Assessment Panel must have a public officer (who must not be a member of the panel) appointed by the Panel, and that following such appointment, the Panel must ensure that notice of the appointment (including the public officer's name and contact details) is published in the Gazette.

**That** pursuant to the provisions of Subsection 34 (18b) of the Development Act 1993, that Mr Sean Richard Cheriton, Chief Executive Officer of the District Council of Mount Remarkable, be appointed as the Public Officer of the Flinders Regional Development Assessment Panel for a term concluding at the date of the next periodic Local Government election.

**C.R. Parkyn / G.C. Thompson**  
**CARRIED**  
 [003.2010]

#### 6.6 COST SHARING ARRANGEMENTS

The Agenda Report provided the Panel with a general outline of the agreed cost sharing arrangements in respect of the Panel's operations.

NOTED

#### 6.7 PROCEDURAL MATTERS

The Agenda Report provided the Panel with a general outline of the agreed procedural and administrative arrangements in respect of meetings.

NOTED

### 7. APPLICATIONS FOR CONSIDERATION:

#### 7.1 THE FLINDERS RANGES COUNCIL

NIL

#### 7.2 DISTRICT COUNCIL OF MOUNT REMARKABLE

##### 7.2.1 DA 830/D001/2010 - McCallum - Land Division

The Agenda Report advised the Panel of details of the application for land division involving the boundary realignment of three land parcels.

The Agenda Report provided further advice to the Panel in respect of the Application and detailed the assessment of the proposal against the applicable Development Plan Principles.

Following due consideration, the Panel determined its position in respect of the application.

**That** Development Application 830/D001/10 that seeks to divide and realign the boundaries of Allotment 148 (DP 74968) Hundred of Booleroo and Sections 1 and 2 Hundred of Willowie is not seriously at variance with the District Council of Mount Remarkable Development Plan, Consolidated 4 February 2010; and

**That** following consideration and having regard to all relevant matters, that Development Plan and Land Division consent be **GRANTED** to Development Application 830/D001/10 at Allotment 148 (DP 74968) Hundred of Booleroo & Sections 1 & 2 Hundred of Willowie, Hundred Line Road, Melrose, subject to the following conditions:

*Requirements of Development Assessment Commission*

1. The applicant shall proceed strictly in accordance with the plans prepared by Sawley Lock O'Callaghan (surveyors), Drawing Number 12980-01, Revision 1, dated 12/05/2010, submitted and conditions imposed by this consent.
2. A copy of a certified plan shall be lodged for Certificate purposes

*Conditions of Council*

3. That the allotments resultant from the division be renumbered 283 & 284 (Hundred of Booleroo) and 267 (Hundred of Willowie).

REASON: To maintain unique identification in the numbering system within the Hundreds of Booleroo and Willowie.

**T.C. Roocke / G.C. Thompson**  
**CARRIED**  
 [004.2010]

## 7.2.2 DA 830/D002/2010 - Carman - Land Division

The Agenda Report advised the Panel of details of the application for land division involving the division of the existing land parcel (Section 33 Hundred of Darling CT 5952/77) into two proposed allotments for the purpose of separating the existing timber treatment plant, saw mill and small pine plantation from the balance of the land which is used for general farming purposes.

The Agenda Report provided further advice to the Panel in respect of the Application and detailed the assessment of the proposal against the applicable Development Plan Principles.

Following due consideration, the Panel determined its position in respect of the application.

**That** Development Application 830/D002/10 that seeks to divide Section 33 Hundred of Darling into two allotments is not seriously at variance with the District Council of Mount Remarkable Development Plan, Consolidated 4 February 2010; and

**That** following consideration and having regard to all relevant matters, that Development Plan and Land Division consent be **GRANTED** to Development Application 830/D002/10 at Section 33 Hundred of Darling into two allotments, subject to the following conditions:

*Requirements of Development Assessment Commission*

1. The applicant shall proceed strictly in accordance with the plans, Drawing Number 12085-01, Revision 1, dated 23/02/2010, submitted and conditions imposed by this consent.
2. A copy of a certified plan shall be lodged for Certificate purposes

*Conditions of Council*

3. That the allotments resultant from the division be renumbered 407 & 408.

REASON: To maintain unique identification in the numbering system within the Hundred of Darling.

**T.C. Roocke / C.R. Parkyn**  
**CARRIED**  
 [005.2010]

### 7.2.3 DA 830/0012/2010 - Piggott - Category 3 Shed

The Agenda Report advised the Panel of details of the Category 3 application to erect a large colorbond-clad shed (dimensions 30.48 metres x 9.144 metres x 3.048 metres wall height) to be used for normal domestic and vintage vehicle storage purposes only on Allotment 704 FP184786, 15 Edwin Street, Booleroo Centre. The Report further advised that the shed will be setback 10 metres from the frontage of Edwin Street (which will be equal with the existing dwelling on the allotment) and 5 metres from the southern boundary. It was further noted that no representations were received in respect of the application.

The Agenda Report provided further advice to the Panel in respect of the Application and detailed the assessment of the proposal against the applicable Development Plan Principles.

Following due consideration, the Panel determined its position in respect of the application.

**That** Development Application 830/0012/10 - Lot 704 FP184786, 15 Edwin Street, Booleroo Centre - David John Piggott, seeking to erect a shed for normal domestic and vintage vehicle storage, is not seriously at variance with the District Council of Mount Remarkable Development Plan, Consolidated 4 February 2010; and

**That** following consideration and having regard to all relevant matters, that Development Application 830/0012/10 be **GRANTED** Development Plan consent subject to the following conditions:

#### 1. GARAGE USAGE

This approval is for a Class 10a building only and as such shall not be used for any other purposes eg for storage or sale of items for business or commercial nature, or for living purposes, including temporary accommodation on weekends etc.

#### 2. STORM WATER DISPOSAL - TOWNSHIPS

Any water from the roof or roofs of any building or water flowing from any carpark, or walkway or other paved area shall be disposed of in such a manner that none of the following conditions shall occur:

- (i) the water enters or lies against any building;
- (ii) the water unduly affects the stability of any building on the same site;
- (iii) the water unduly creates any unhealthy or dangerous condition on the site.

Water from the roof or roofs of every building or water flowing from any car park, or walkway or other paved area shall be disposed of in such a manner that it does not flow or discharge onto land of an adjoining owner.

Storm water from private property may not be discharged over the footpath but should be carried under the footpath in an approved type of pipe. Approval must be obtained from Council before any such work is carried out.

**L.A. Lock / G.C. Thompson**  
**CARRIED**  
 [006.2010]

**7.3 DISTRICT COUNCIL OF ORROROO CARRIETON** NIL

**7.4 DISTRICT COUNCIL OF PETERBOROUGH** NIL



**8. OTHER BUSINESS:**

The Panel gave general consideration to a number of matters including provision of manuals / folders, hard and electronic copies of development plans, a familiarisation tours for members and media comment.

**That** the Public Officer be appointed as and authorised to act as the principal spokesperson of the Flinders Regional Development Assessment Panel.

**T.C. Roocke / G.C. Thompson**

**CARRIED**

[007.2010]

**9. NEXT MEETING:**

No date was set for the next Meeting of the Panel, with its timing dependent on having applications for consideration and assessment.

**10. CLOSURE:**

The Presiding Member closed the Meeting at 4.15 pm.

**CONFIRMATION:**

Minutes confirmed at the Meeting of the Panel held .....

.....  
Presiding Member

TO BE CONFIRMED

**5. BUSINESS ARISING FROM MINUTES:**

NIL

**6. GOVERNANCE MATTERS:**

NIL

**7. APPLICATIONS FOR CONSIDERATION:**

**7.1 THE FLINDERS RANGES COUNCIL**

**7.1.1 DA 740/0036/10 – Pratt- Land Division**

**Subject:** For Consideration  
**Report By:** Chief Executive Officer  
**Report Date:** 23/07/2010  
**File Reference:** DA 740/0036/10  
**Action:** Yes  
**Attachments:** Yes

Please refer to the attached Report prepared by Mr David Hutchison of Access Planning in respect of this application.

*~~Options:~~*

(i) /

(ii) /



23 July 2010

Ref: 5237non-complyplanningreport

The Chief Executive Officer  
The Flinders Ranges Council  
PO Box 43  
QUORN SA 5433

ATTENTION: Mr. Ron Ashendon  
Development Officer

Dear Ron,

**RE: PROPOSED DWELLING SECTION 181 ARDEN VALE ROAD HUNDRED OF  
YARRAH DEVELOPMENT APPLICATION 740/0036/10**

As instructed, the following is a general planning assessment of the abovementioned development application.

## **1.0 DEVELOPMENT DETAILS**

Proposed Development:	Detached dwelling
Development Application Number:	740/0036/10
Owner/Applicant:	I G & A F Pratt PO Box 1338 Nairne SA 5252
Property Address:	Section 181 Arden vale Road, Hd. of Yarrah,
Certificate of Title:	Volume 6015 Folio 140
Zone:	Rural (Landscape Protection) Zone Map FIRa/7
Public Notification:	Non-Complying Category 3
Authorised Development Plan:	Flinders Ranges Development Plan – consolidated 7 February 2008

## **2.0 BACKGROUND**

By application dated 25 November 2008 Ian and Anita Pratt applied to the Council for approval for a rural shed.

The shed was to be used for the storage purposes only in conjunction with their occasional use of the land for horse riding and for the collection of roof runoff water.

### **TOWN PLANNING CONSULTANTS**

**ACCESS PLANNING (SA) PTY LTD ABN 57 089 702 241  
200 KENSINGTON ROAD, MARRYATVILLE, SOUTH AUSTRALIA 5068  
TELEPHONE (08) 8364 1956 FAX (08) 8364 1960 EMAIL [plan@accessplanning.com.au](mailto:plan@accessplanning.com.au)**

The plans accompanying both the Development Plan and Building Rules consents were of an Olympic garage of rectangular shape, 9 metres long by 6 metres wide with zincalume wall cladding.

A small lean to and open verandah was proposed along the long elevation of the building together with one door for access purposes.

Development approval for the above development was granted on the 8<sup>th</sup> April 2009.

It subsequently came to the Councils attention that the building constructed on the site was being used for, at least has been built as a dwelling and that part of the verandah had been enclosed, a septic tank installed with an outdoor shower and toilet erected.

The building erected on the land was not an Olympic garage but a purpose built structure of timber frame with compressed cement sheet cladding.

No part of the structure has approval and I am advised that the footings/slab under the structure do not meet the provisions of the Building Code of Australia.

In response to Council becoming aware of the illegal development a letter was sent to Mr. Pratt on the 8<sup>th</sup> April 2010, advising him of the illegal nature of the development and warning him to comply with the approved development and to return the land fully to the approved use within 2 months of the date of the letter or risk prosecution.

Subsequent discussions with Mr. Pratt indicated that he 'thought he would get away' with building an illegal structure on the land.

Further time was afforded Mr. Pratt to respond to the Councils letter and despite advice that a dwelling was unlikely to be approved on the land, he has prepared and lodged the present development application.

The proposal, to construct a dwelling on the land is non-complying.

### **Rural (Landscape Protection) Zone Procedural Matters Non-complying Development**

*Development (including building work, a change in the use of land, or division of an allotment) for the following is non-complying:*

#### **Form of Development**

#### **Exceptions**

Dwelling

Except for a detached dwelling that will not result in more than one dwelling on the allotment and where either of the following applies:  
(a) the allotment existed prior to 20 December 2007  
(b) an allotment is created after 20 December 2007 and the allotment is at least 40 hectares.

The subject land has an area of only 5.77 hectares and the title dates from 11<sup>th</sup> August 2008

The development thus fails to meet clauses (a) and (b) of the non complying exceptions above.

In accordance with Regulation 17(1) of the Development Regulations 1998, if a person applies for consent in respect to a type of development categorised as non-complying, that person must provide a brief Statement in Support of the application.

No statement in support has been requested as it is my view that there is nothing the applicant could add by way of justification that would warrant the Council proceeding with an assessment of the development.

Pursuant to Regulation 17(3) (see below) of the Development Regulations 1998, the next step Council has to undertake is to determine whether to either:

- Refuse the application pursuant to section 39(4)(d) of the Development Act 1993 and notify the applicant accordingly; or
- Resolve to proceed with an assessment of the application

### **DEVELOPMENT REGULATIONS 2008**

#### **Regulation 17—Non-complying development**

- (3) A relevant authority may, after receipt of an application which relates to a kind of development that is described as a non-complying development under the relevant Development Plan—**
- (a) refuse the application pursuant to section 39(4)(d) of the Act, and notify the applicant accordingly; or**
  - (b) resolve to proceed with an assessment of the application.**

The following report provides a brief assessment of the proposal against the relevant parts of Council's Development Plan, and makes a recommendation pursuant to Regulation 17(3) of the Development Regulations 1998.

### **3.0 THE SUBJECT LAND**

The subject land is an irregular shaped parcel of land some 600 metres in length along Arden Vale Road and varying in width from 43 metres to about 200 metres. The land is undulating, falling away from Arden vale Road to a dry watercourse that roughly parallels the Arden Vale Road.

The land is covered with scattered native vegetation and is depicted in the image below.

### **4.0 THE LOCALITY**

The subject land is located some 20 kilometers to the north of the township of Quorn.

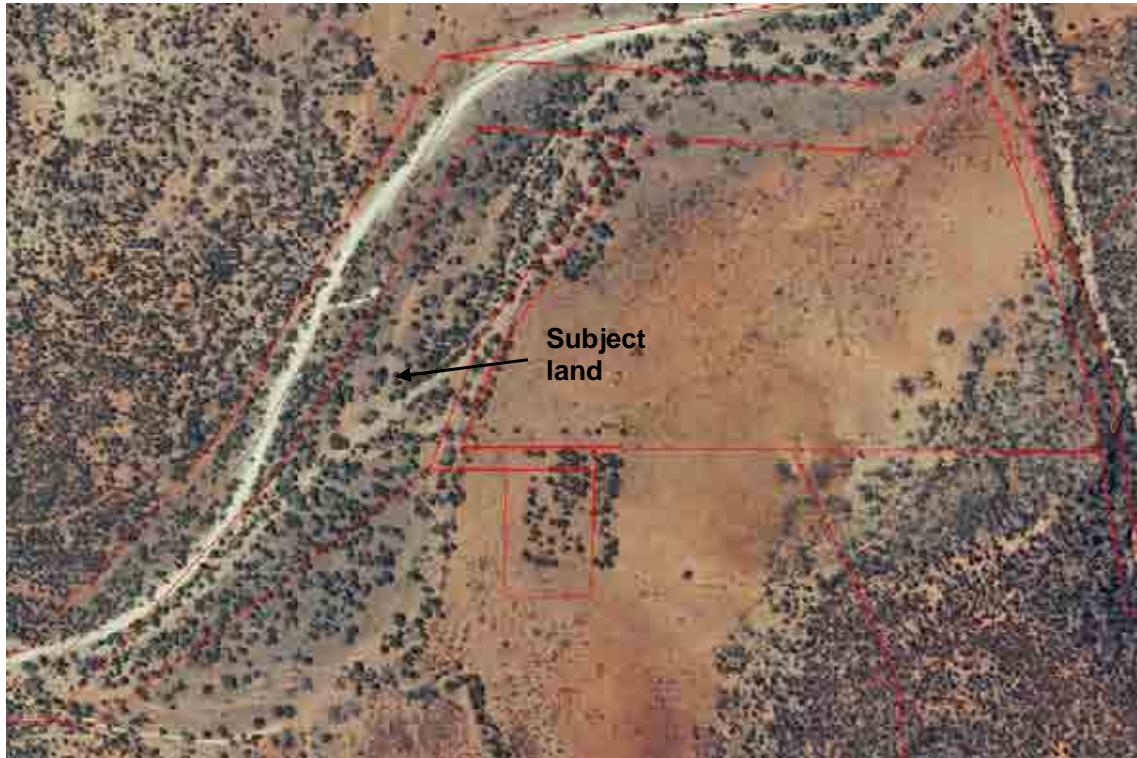
Land in the locality as more generally in the area is given over to grazing, much of the land comprising undulating terrain, semi arid vegetation with occasional scattered and for the most part long established farm buildings, including the occasional dwelling.

### **5.0 THE PROPOSED DEVELOPMENT**

Details of the proposal are as set out in a plans prepared by ENS Drafting and essentially reflect the development as built (illegally) on the subject land.

The development is a single storey gable ended structure 10 metres in length, 6.0 metres wide to comprise a kitchen/meals area, 2 bedrooms with an enclosed section of the lean to verandah to accommodate a bathroom and laundry.

As indicated above the applicant has already established (without approval) a septic tank for effluent drainage purposes.



**Subject land and locality (title boundary shown in red)**

**Source: NatureMaps 2010**

## 6.0 DEVELOPMENT PLAN ASSESSMENT

### Rural Landscape Protection Zone

The following are the most relevant provisions of the Development Plan.

I have not dealt in detail with the Council wide provisions as they largely reflect and reinforce the following zone provisions.

#### OBJECTIVES

- 1 Preservation of the natural and rural character and scenic features of the zone.
- 2 Low-intensity rural activities on large land holdings.
- 3 Tourist facilities, attractions, and accommodation that are secondary to farming and blend with the natural environment.
- 5 Development that contributes to the desired character of the zone.

### DESIRED CHARACTER

The zone incorporates a large part of the Council area and stretches along its western edge and across the northern half of the district. It comprises the southern end of the Flinders Ranges as well as the foreground of the most prominent ranges in the region. The landscapes of the zone exhibit high scenic value, containing many features of outstanding natural beauty and environmental importance, with parts being of scientific interest.

The land needs to be kept free of development that is not a necessary part of pastoral activity or structures used for shelter by walkers and persons on horseback, and for rainwater storage. Where development exists, any additional development needs to be in keeping with the existing use of the land and in close proximity to the principal groups of buildings on the land.

### PRINCIPLES OF DEVELOPMENT CONTROL

#### Land Use

- 1 The following forms of development are envisaged in the zone:
  - conservation of native vegetation
  - detached dwellings and buildings associated with farming activities
  - low intensity farming and grazing
  - recreation and tourist infrastructure for the interpretation and appreciation of the natural features of the zone
  - supplementation of existing farming activities through small scale tourist accommodation:
    - within existing buildings; or
    - in the form of farm stay, guesthouse, rural or nature retreat or bed and breakfast accommodation as an integral part of the group of farm buildings
- 2 Development listed as non-complying is generally inappropriate and not acceptable unless it can be demonstrated that it does not undermine the objectives and principles of the Development Plan.
- 4 A dwelling should only be developed if:
  - (a) there is a demonstrated connection with farming or other primary production or a tourist-related use
  - (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 unless used in association with that activity
  - (d) it does not result in more than one dwelling per allotment.
- 7 Buildings should primarily be limited to farm buildings, a detached dwelling associated with primary production or a tourist-related use on the allotment and residential outbuildings that are:
  - (a) grouped together on the allotment and set back from allotment boundaries to minimise the visual impact of buildings on the landscape as viewed from public roads
  - (b) screened from public roads and adjacent land by existing vegetation or landscaped buffers.

The above policies recognise the sensitivity of the rural landscape to development and the impact of development on the visual qualities of the landscape. In part, the non complying provisions that seek to make a dwelling non complying recognise that in some areas the



fragmented nature of land tenure could result in the conversion of rural land to de facto rural living use and recognise that farming land is a very important economic asset of the state and in fact the district, quite apart from its value to the individual owners.

However, its value for visual, landscape or farming purposes can be compromised or lost if it is fragmented into small pieces that are not useful for farming purposes and are subsequently developed for housing. Some fragmentation of land holdings is already evident in the locality, but should not be used as further justification for incremental fragmentation of land or variation from the intent of the relevant planning policy.

The demand for rural houses and rural subdivisions comes from people wanting to exploit the residential value, as opposed to the rural value, of such land. Such is the case in this matter.

There is a demand from people who like to live in the country on rural residential lots or hobby farms. Such use is essentially residential, rather than rural in nature.

Fragmentation of land into small holdings and its conversion to essentially rural living use inflates the value of the land by endowing it with a residential or rural residential value rather than rural land values.

The land value so inflated often means that the land is removed from farming.

Notwithstanding that some rural activity may be undertaken on the land in association with the proposed dwelling (although none is evident in the documentation provided to Council), it is unlikely that this would compare with the proper, managed development of the land for rural purposes.

The introduction of rural living uses can often be detrimental to genuine farming. It can result in poor land management practice that gives rise to vermin and noxious weeds and dogs, all of which impact on viability of adjoining farmland. Further, the establishment of a house on the property is likely to lead to additional potential conflicts with farming activities on the neighbouring land.

Furthermore, rural residents frequently start demanding town services which are uneconomic to provide to scattered houses in what is supposed to be farming land.

These demands involve seeking to have other ratepayers, whether real farmers or urban dwellers, subsidise rural residential lifestyles. The inefficiency of trying to provide urban services in such areas is obvious enough.

Whilst the land on its own may not be a viable farming property that is not justification for a further shift away from the intended use of the land for rural purposes and sets a precedent for similar development on other like sized allotments and pressure for subdivision in due course.

Whilst the design and siting of the development are generally in accord with those provisions of the Development Plan relating to these criteria, the land use is fundamentally inappropriate and does not warrant the support of the Panel

### **7.0 Conclusion**

The proposed development on the site is not an envisaged use within the zone and is categorised as non-complying.

Non complying uses, such as that proposed are generally considered to be inappropriate and not acceptable unless it can be demonstrated that the proposed use will not undermine the objectives and principles of the Development Plan.

The proposed development is considered to undermine the objectives and principles of the Flinders Ranges Development Plan and for reason the application should not be approved for further assessment

### **10.0 RECOMMENDATION**

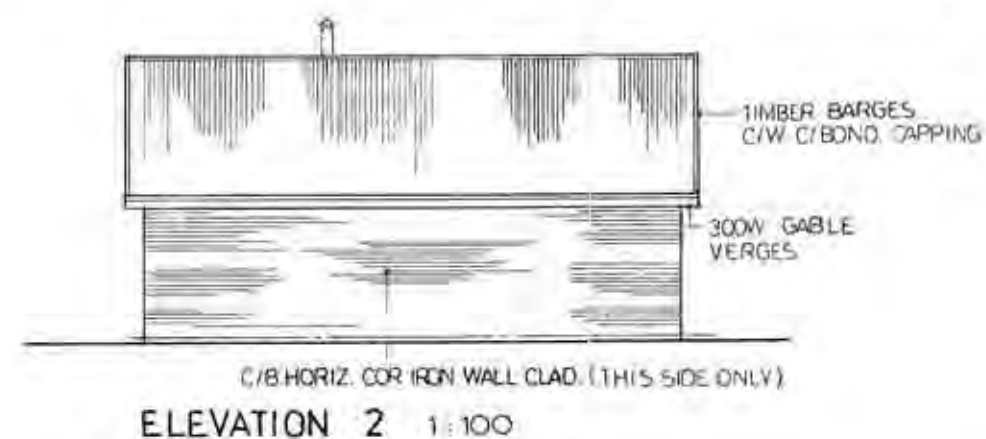
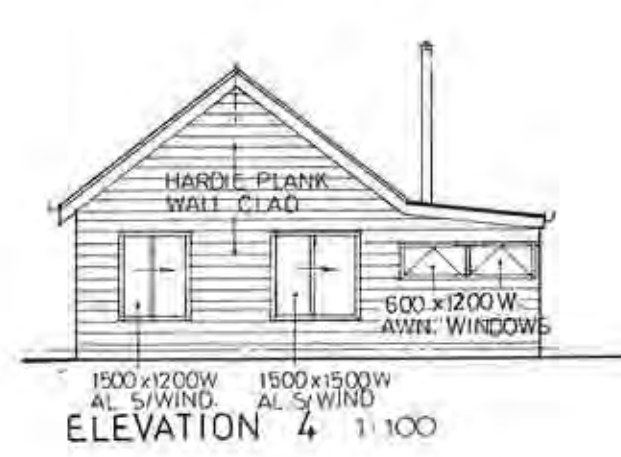
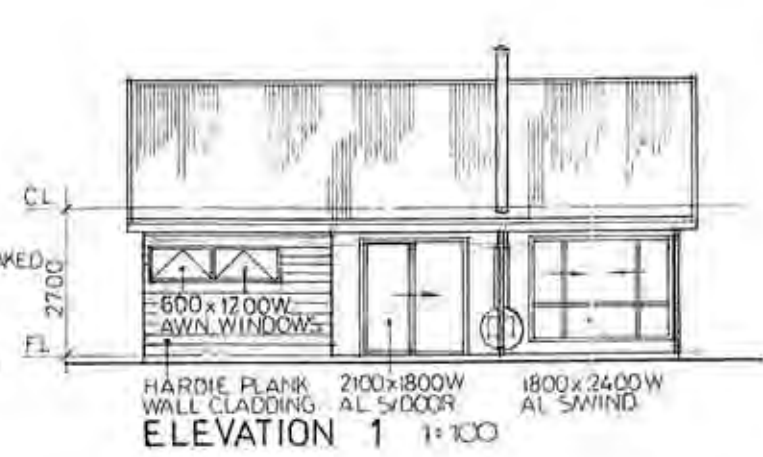
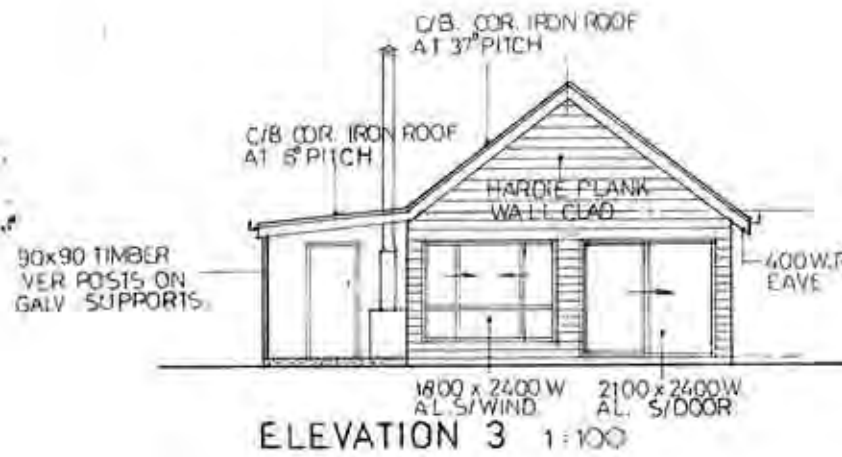
Having regard to the above, and pursuant to Regulation 17(3) of the Development Regulations 1998 and Section 39(4)(d) of the Development Act 1993, I recommend Flinders Ranges Council refuse the application by Ian and Anita Pratt for dwelling at Section 181 Arden vale Road, Hundred of Yarrah.

Further, I recommend that the Panel resolve to commence proceedings pursuant to Section 85 of the Development Act 1993 against Ian and Anita Pratt for the illegal development of a building and the illegal use of that building as a dwelling.

Should you wish to discuss any aspects of this report please do not hesitate to contact me on 8364 1956.

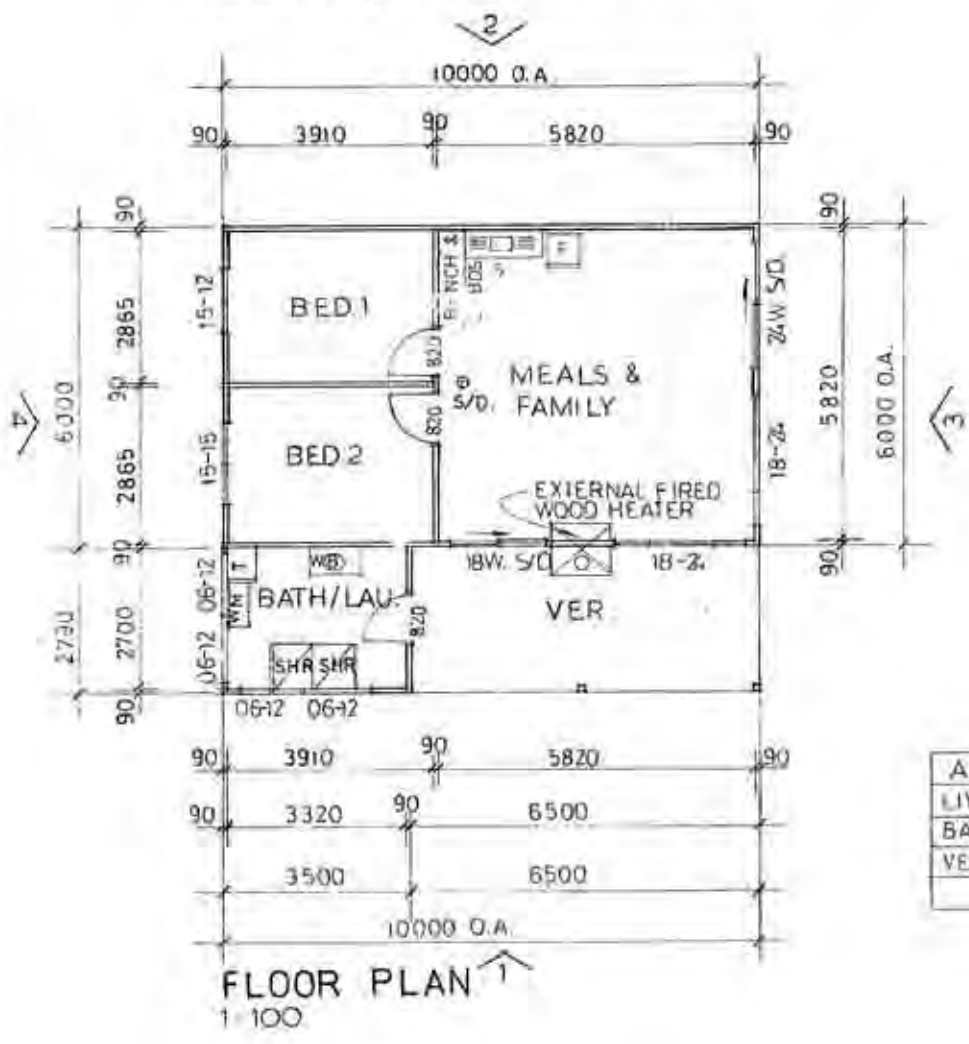
Yours sincerely,

David Hutchison CPP MPIA  
ACCESS PLANNING (SA) Pty Ltd

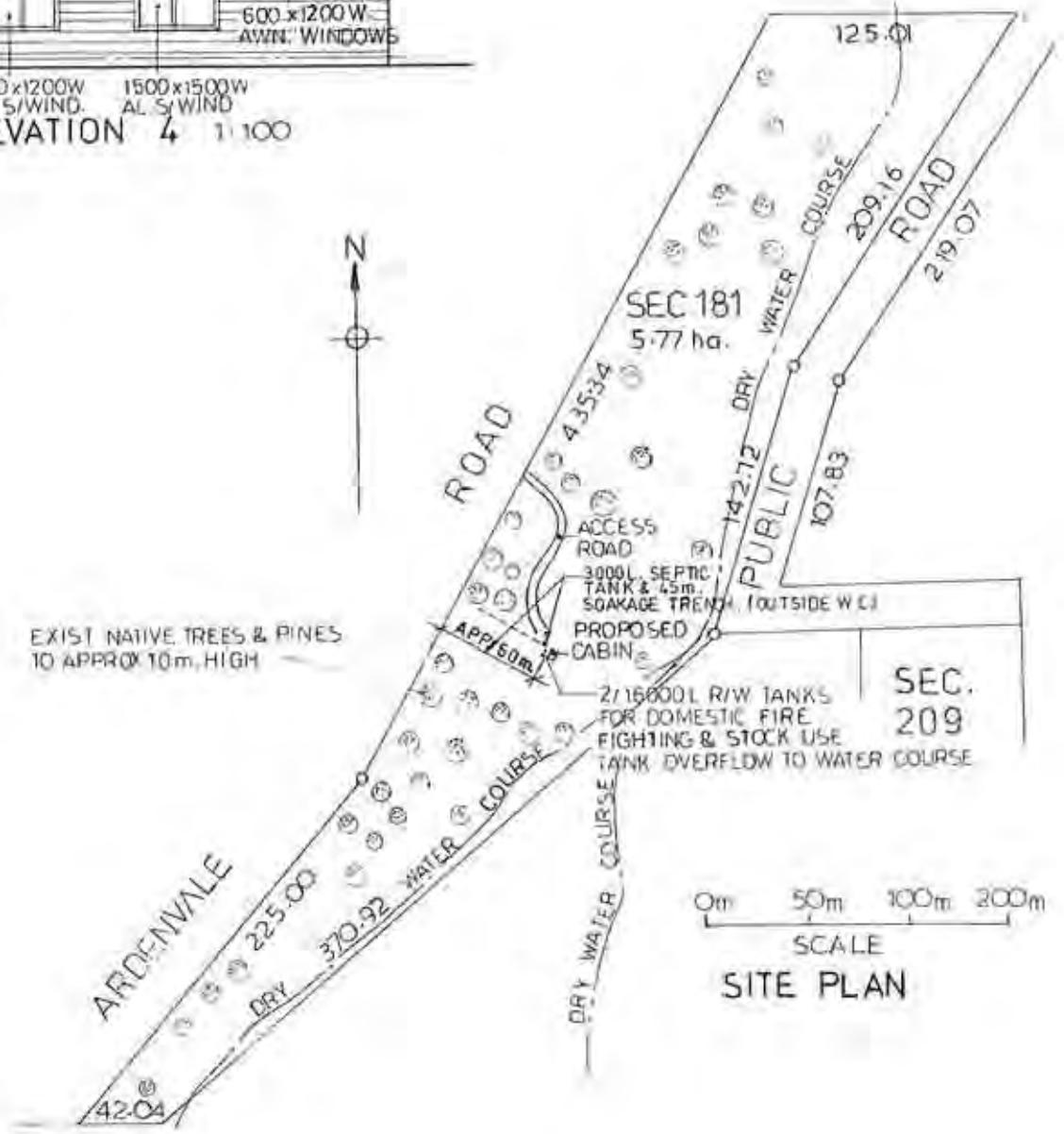


COLOUR SCHEDULE	
ROOF - COLORBOND WOODLAND GREY	
GUTTERS & DOWNPIPES -	" "
FASCIAS & BARGES -	" "
WALLS -	" "
WINDOWS & DOORS -	" "

TIMBER FRAMED STRUCTURE  
CONCRETE SLAB FLOOR.  
⊙ SMOKE DETECTOR ALARM TO AS 3786



AREAS (m <sup>2</sup> )	
LIVING	60.00
BATH & LAU.	9.26
VERANDAH	18.13
<b>TOTAL</b>	<b>87.39m<sup>2</sup></b>



**PROPOSED DWELLING FOR -**  
I. & A. PRATT AT, -  
SECT. 181 HD. YARRA, -  
QUORN, S. A. 5433

ENS Drafting = gumeracha. SA 5233 83891348  
FLOOR PLAN ELEVATIONS & SITE Sheet 1 of 2

7. APPLICATIONS FOR CONSIDERATION (CONT.):

7.2 DISTRICT COUNCIL OF MOUNT REMARKABLE

7.2.1 DA 830/D003/10 – McCallum - Land Division

**Subject:** For Consideration  
**Report By:** Chief Executive Officer  
**Report Date:** 15/07/2010  
**File Reference:** DA 830/D003/10  
**Action:** Yes  
**Attachments:** Yes

Please refer to the attached Report prepared by Mr Ron Ashenden, Council's Development Officer, in respect of this application.

*~~Options:~~*

(i) /

(ii) /

## **1.0 DEVELOPMENT DETAILS**

Application Number:	830/D003/10
Proposed Development:	Land Division - 4 into 2
Applicant:	Jeff & David McCallum
Property Details:	Sects 408, 411 & 412 & Lot 896 FP184978 Hd Wongyarra – Whitby Street, Jeff Arthur Road and Cemetery Road, Melrose
Certificate of Title:	Volume 5544 Folio 757; Volume 5666 Folio 212 & Volume 5463 Folio 703
Zone:	Country Township, Fringe & Rural Zones, Maps MtR/7, 18 & 30
Public Notification:	Nil – Category One
Lodgment Date:	31 March 2010
Authorised Development Plan:	Mount Remarkable (DC) 4 February 2010

## **2.0 THE PROPOSED DEVELOPMENT**

As shown by Figure 1 (next page), the proposal involves the reduction of four existing land parcels back to two allotments. In summary the proposal involves the amalgamation of Lot 896 and Section 408 with appropriately half of Section 411 to create proposed allotment 100. The remainder of Section 411 and Section 412 are then amalgamated to form the proposed Lot 101.

The proposal does not envisage the change in the existing use of the subject land for cropping purposes.

## **3.0 THE SUBJECT LAND AND LOCALITY**

The subject land consists of four land parcels.

Lot 896 FP184978 is located on the western side of proposed land division. It contains an area of 0.4ha and has a frontage of 20.12 metres to Whitby Street (sealed road).

Sections 408 and 411 are land-locked properties with currently gain access from the adjoining parcels of land, Section 412 and Lot 869. They contain an area of 45.32ha and 41.90ha respectively.

Section 412 is located on the western side of Cemetery Road (unsealed) with a frontage of 718.37 metres. Jeff Arthur Road (unsealed) is to the north-east of the Section and has a frontage of 165.75 metres. The Section contains an area of 38.78ha.

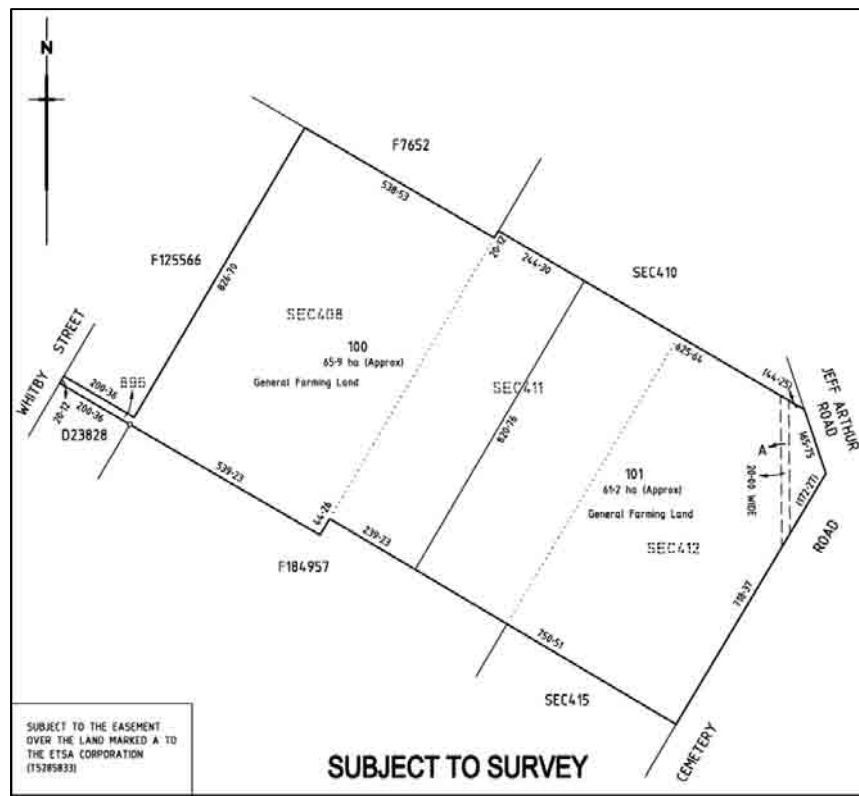


Figure 1: Proposed Plan of Division (from EDALA [www.edala.sa.gov.au](http://www.edala.sa.gov.au))

The subject land is to the north-east of the township of Melrose, with Allotment 896 being within the Melrose township boundary.

All land parcels are currently used for broad-acre farming purposes (cropping) and as such have been cleared to facilitate cropping. The land has been separated spatially into several paddocks. There is some scattered mature vegetation on the land parcel.

An easement for electricity purposes is located in the north-east corner of Section 412.

Figures 2 and 3 (next page) depict the subject land and locality.

#### 4.0 CONSULTATION WITH GOVERNMENT AGENCIES

The Development Assessment Commission (DAC) in relation to the proposed land division undertook consultation with the following agencies:

- Development Assessment Commission
- SA Water Corporation
- ETSA Utilities

The comments of each agency are summarised individually below.



**Figure 2:** Subject land and locality  
(from EDALA [www.edala.sa.gov.au](http://www.edala.sa.gov.au))



**Figure 3:** Aerial Photograph depicting the subject land and locality  
Source: Google Maps, 2010 [maps.google.com.au](http://maps.google.com.au)



#### **4.1 Development Assessment Commission (DAC)**

*It is requested pursuant to section 33(1)(c) of the Development Act, 1993 that the Council include in its Development Approval the following requirements of the Commission;*

*1. A copy of a certified plan shall be lodged for Certificate purposes*

#### **4.2 SA Water Corporation**

*In response to the abovementioned proposal, I advise that pursuant to Section 33 of the Development Act it is necessary for the developer to satisfy this Corporation's requirements, which are listed below.*

*On approval of the application, all internal water piping that crosses the allotment boundaries must be severed or redirected at the developers/owners cost to ensure that the pipework relating to each allotment is contained within its boundaries.*

#### **4.3 ETSA Utilities**

*ETSA Utilities registered easement marked A provides tenure for our 33,000 volt overhead mains crossing this land.*

*Buildings or structures are not permitted to be erected on this easement. It would seem, however, that the proposed allotments are large enough to site buildings without encroaching on the easement.*

*Where there are other existing mains/infrastructure located on land for which there is no registered easement, we have a statutory easement pursuant to Schedule 1 Paragraph 2 of the Electricity Corporations (Restructuring and Disposal) Act 1999. A statutory easement is of undefined width and enables ETSA to enter the land and maintain and upgrade the existing equipment.*

*Regulations 39 and 39A of the Electricity (General) Regulations 1996 stipulate the requirements and distances that are to be kept between buildings and structures and both overhead and underground powerlines. The developer should be made aware of these regulations if it is proposed to erect buildings or structures near the powerlines. Any enquiries should be directed to the Office of the Technical Regulator (telephone: 8226 5500).*

#### **5.0 PUBLIC NOTIFICATION**

The 9<sup>th</sup> Schedule of the Development Regulations 2008 identifies land division as a Category 1 Development for the purposes of public notification. Pursuant to Section 38 of the Development Act 1993, no public notification of the application was required.

#### **6.0 DEVELOPMENT ASSESSMENT**

The subject land is located within Country Township, Fringe and Rural Zones as depicted on Maps MtR/18 and MtR/7 of the Mount Remarkable (DC) Development Plan, consolidated 4 February 2010.

The following is an assessment of the proposal against the relevant provisions of the Development Plan as they apply specifically to the Rural and Fringe Zones, as well as the provisions that are applicable to development generally within the Council (Council Wide).



It is recognised that Lot 896 is within the Country Township Zone but it is not considered by Staff to be of significance given its small area.

An assessment of the relevant provisions of the Development Plan is detailed below.

## **6.1 Rural Zone**

Objective: 1, 2, 9

Principle: 1, 7, 8

**Objective 2:** *Development of a wide range of pastoral, agricultural, horticultural and forestry activities complementary to the land capability of the zone, provided productive agricultural land is not further fragmented through land division.*

**Principle 1** *Development undertaken within the zone should maintain the diversity of agricultural, horticultural, pastoral, forestry and rural related activities complementary to land capability and to the conservation of biodiversity.*

The proposed development involves an amalgamation of four land parcels, currently used for cropping purposes, into two land parcels. It is noted that the existing use of the land is consistent with the intent of Objective 2 and Principle 1 above, which promote a diversity of farming activities. With respect to Objective 2, the proposal will not result in further fragmentation of the land and will in fact reduce the number of allotments.

**Objective 1:** *Preservation of the natural character, and the scenic, scientific and heritage features of the Southern Flinders Ranges, whilst maintaining water quality and accommodating a diversity of established pastoral, agricultural and forestry activities.*

**Objective 9:** *Protection and enhancement of biodiversity including native vegetation, reserves, waterways and scattered trees.*

No change in land use is envisaged as a result of the proposed division and as such the proposal will not directly result in a change to the appearance and character of the local area.

**Principle 7** *Rural land should not be divided unless:*

- (a) the resulting allotments are for farming, horticulture, commercial forestry or intensive animal keeping and will be for the purpose of maintaining or improving the efficiency and viability of an existing agricultural holding;*
- (b) the division will rationalise existing boundaries to improve the efficiency and viability of farming, horticulture, commercial forestry or intensive animal keeping activities without creating any additional allotments; or*
- (c) the division will create an allotment not greater than one hectare to contain a habitable dwelling existing prior to 2 April 1987 and the balance of the allotment has been, and is likely to continue to be used for primary production.*

**Principle 8** *Rural land should not be divided where the new allotment boundaries would pass through native vegetation or where the proposed or likely use(s) of the resultant allotments would be likely to disturb natural biodiversity.*

Council has been informed that the proprietors of the land are dissolving their business partnership and their intention is to divide up the land between the owners. The rearranging and amalgamation of property boundaries will assist in this division of assets between parties.

The proposed land division is not considered to result in any detrimental impact to the viability and efficiency of farming activities on the subject land. The owners of the subject land own various land parcels in the locality, and plan to continue to operate and manage existing farming activities, albeit in a reshuffled manner.

No additional disturbance to natural biodiversity is likely to occur as there is only a scattering of trees and shrubs on the property and the use of the property is likely to continue as is currently been undertaken.

In summary the proposal will be consistent with the provisions of the Zone relevant to the assessment of land divisions. The proposed land division will reasonably promote the viability and efficiency of ongoing farming activities on the subject land.

## **6.2 Fringe Zone**

Objective: 1  
Principle: 1

**Objective 1:** *A zone surrounding the Country Township Zone at Wilmington, Wirrabara and Melrose and primarily accommodating a range of activities compatible with adjoining township development.*

**Principle 1** *Development should be primarily for low-intensity rural-related activities which do not prejudice the future orderly urban development or land within the zone.*

The intended use of the allotments is the continuation of the farming practices currently being undertaken. Farming is a complying use of the land within this Zone.

## **6.3 Mount Remarkable (DC) Council Wide Provisions**

### **GENERAL Form of Development**

Objective: 1, 2  
Principles: 2

**Objective 1:** *Orderly and economic development.*

As previously stated above, the proposed division seeks to realign the boundaries of four existing land parcels into two allotments to support even distribution of land between the land proprietors. Given no additional allotments are being created and is in fact a reduction of allotments, no fragmentation of farming land will occur. Given this, the proposal is considered to be orderly.

## Land Division

Principles: 19, 21, 22

**Principle 19** *Land should not be divided where the plan of division does not take account of any significant topographic features.*

The topography on the subject land does not present any substantial constraints for ongoing use of the land for farming activities.

**Principle 21** *Land should not be divided:*

- (a) *in a manner which would prevent the satisfactory future division of the land, or any part thereof;*
- (b) *if the proposed use, or the establishment of the proposed use, is likely to lead to undue erosion of the land or land in the vicinity thereof;*
- (c) *unless wastes produced by the proposed use of the land, or any use permitted by the principles of development control, can be managed so as to prevent pollution of a public water supply or any surface or underground water resources;*
- (d) *if the size, shape and location of, and the slope and nature of the land contained in, each allotment resulting from the division is unsuitable for the purpose for which the allotment is to be used;*
- (e) *if any part of the land is likely to be inundated by tidal or floodwaters and the proposed allotments are to be used for a purpose which would be detrimentally affected when the land is inundated;*
- (f) *where community facilities or public utilities are lacking or inadequate;*
- (g) *where the proposed use of the land is the same as the proposed use of other existing allotments in the vicinity, and a substantial number of the existing allotments have not been used for that purpose; or*
- (h) *if it would cause an infringement of any provisions of the Building Act or any by-law or regulation made thereunder.*

**Principle 22** *When land is divided:*

- (a) *any reserves or easements necessary for the provision of public utility services should be provided;*
- (b) *stormwater should be capable of being drained safely and efficiently from each proposed allotment and disposed of from the land in a satisfactory manner;*
- (c) *a water supply sufficient for the purpose for which the allotment is to be used should be made available to each allotment;*
- (d) *provision should be made for the disposal of waste waters, sewage and other effluents from each allotment without risk to health;*
- (e) *roads or thoroughfares should be provided where necessary for safe and convenient communication with adjoining land and neighbouring localities;*
- (f) *each allotment resulting from the division should have safe and convenient access to the carriageway of an existing or proposed road or thoroughfare;*
- (g) *proposed roads should be graded, or be capable of being graded to connect safely and conveniently with an existing road or thoroughfare;*
- (i) *and the land borders a river, lake or creek, the land immediately adjoining the river, lake or creek, should be public open space, with a public road fronting the open space.*

Principles 21 and 22 are primarily tailored to 'urban' type development, with little reference to rural land division issues. Many of these parameters could be addressed by future development on each allotment.

## **Transportation (Movement of People & Goods)**

Objective: 16, 19

Principles: 25

**Objective 16:** *A road network providing for the safe and efficient movement of traffic within the council area.*

**Objective 19:** *The free flow of traffic on roads by minimising interference from adjoining development.*

**Principle 25** *Development and the location of associated points of access and egress, should not create conditions which are unsafe or interfere with the free flow of traffic on adjoining roads.*

Each allotment will maintain frontage to a public road. Both roads are 'local' in nature and do not carry high volumes of traffic. Any future access for the each allotment proposed from either road can be done in a manner that would maintain the reasonable safety and efficient of traffic flows throughout the local road network.

## **LAND USE Rural Development**

Objective: 30,

Principles: 25, 27, 28, 29

**Objective 30:** *The retention of rural areas for agricultural and pastoral purposes and the maintenance of the natural character and rural beauty of such areas.*

**Objective 31:** *Rural land retained for a wide diversity of primary and pastoral production.*

**Principle 80** *Rural areas should be retained for a diversity of agricultural, pastoral and forestry activities.*

The above provisions relating to Rural Development are prescriptively very general. The general nature of these provisions will be satisfied by the proposed division, given both allotments can maintain farming activities and the proposal will not create any additional allotments.

## **Bushfire Protection**

Principles: 265

**Principle 265** *Where land division does occur it should be designed to:*

- (a) minimise the danger to residents, other occupants of buildings and fire fighting personnel;*
- (b) minimise the extent of damage to buildings and other property during a bushfire;*
- (c) ensure each allotment contains a suitable building site that is located away from vegetation that would pose an unacceptable risk in the event of bushfire; and*
- (d) ensure provision of a fire hazard separation zone isolating residential allotments from areas that pose an unacceptable bushfire risk by containing the allotments within a perimeter road or through other means that achieve an adequate separation.*

The subject land is located in an area that is identified as a 'general' bushfire protection area with reference to Figure MtR(BPA)/20.

If buildings were constructed on both proposed allotments, the cleared nature of the land will ensure sufficient separation from hazardous vegetation is achieved in accordance with the above provision.

## **7.0 CONCLUSION**

Having regard to the above assessment of the proposed development against the relevant provisions of the Mount Remarkable (DC) Development Plan, I consider that the proposed boundary realignment to be an appropriate form of development. The land division (rearranging and amalgamation of 4 allotments into 2) will promote the ongoing viability and efficiency of farming activities on the subject land.

## **8.0 RECOMMENDATION**

Following consideration and having regard to all relevant matters, it is recommended that consent to land division 830/D003/10 at Sections 408, 411 & 412 and Allotment 896 FP184978 Hd Wongyarra - Whitby Street, Jeff Arthur Road and Cemetery Road, Melrose - be **GRANTED** Development Approval, subject to the following conditions:

1. The applicant shall proceed strictly in accordance with the plans prepared by Sawley Lock O'Callaghan (surveyors), Drawing Number 13021-01, Revision Number 1, dated 18<sup>th</sup> March 2010, submitted and conditions imposed by this consent.
2. A copy of a certified plan shall be lodged for Certificate purposes.
3. That the allotments resultant from the division be renumbered 581 & 582.

REASON: To maintain unique identification in the numbering system within the Hd of Wongyarra.

NOTE TO APPLICANT: SA Water advise that all internal pipe-work that cross the allotment boundaries will be required to be severed, such that the pipe-work relating to each allotment is contained within its boundaries.

7. APPLICATIONS FOR CONSIDERATION (CONT.):

7.2 DISTRICT COUNCIL OF MOUNT REMARKABLE (CONT.)

7.2.2 DA 830/D008/10 – Caputo, Gaudio, Pansini & Caputo – Land Division

**Subject:** For Consideration  
**Report By:** Chief Executive Officer  
**Report Date:** 14/07/2010  
**File Reference:** DA 830/D008/10  
**Action:** Yes  
**Attachments:** Yes

Please refer to the attached Report prepared by Mr Ron Ashenden, Council's Development Officer, in respect of this application.

*~~Options:~~*

(i) /

(ii) /

**DEVELOPMENT NUMBER: 830/D008/09**

Applicant: **Domenico Caputo**  
Owner: **Camela Gaudio, Salvatore Caputo, Rosa Pansini & Sabastian Caputo**  
Proposal: **Land Division – 1 allotment into 3**  
Land: **Lot 317 DP68621 Port Flinders – Mount Ferguson Drive / South Flinders Esplanade / Flensburg Drive**  
Zone: **Holiday House Zone**

Report By: Ron Ashenden, Development Officer

Report Date: 14<sup>th</sup> July 2010

**Proposal**

To divide an existing allotment into three new allotments; two vacant allotments being 1200 square metres, and the other 1744 square metres containing an existing dwelling. Proposed allotments 1 and 2 will be accessible from Mount Ferguson Drive with the existing dwelling having access from South Flinders Esplanade and Flensburg Drive.

**Zoning**

The subject land is within the Holiday House Zone, a zone intended to accommodate dwellings and recreational facilities for residents and holiday makers. Land division is an acceptable form of development in the zone, in that it is the first process by which dwelling sites can be made available provided infrastructure provision, terrain and land suitability are not issues inhibiting the potential use of sites for residential purposes.

**Processing**

DAC has provided its report but has no comment to make. DAC has, nonetheless, one standard requirement to be included in any Development Approval issued.

SA Water had no requirements or comment to make.

The Department of Health – Environmental Health Section was consulted during the processing of the application by DAC. Their comment referred to the existing wastewater management system becoming non-compliant with the relevant Standards and Codes as a result of the subdivision. This advice has been attached as a Note to the Applicant in the recommended approval.

There is no statutory requirement to undertake public notification.

**Assessment**

Land division within the zone is to be expected, the issue principally being the resultant allotment size. In the present case, the applicant has ensured that each new allotment is at least 1,200 square metres in area.

The slope across the subject land does not present a constraint to the ultimate development of the new allotment for housing.

There do not appear to be any significant relevant factors in the Development Plan or the Zone policies that argue against the proposal. The zone is set up to accommodate residential development and the creation of housing blocks through subdivision to achieve this aim is therefore anticipated by the Development Plan framework.

## **Conclusion**

It is felt that the application is not at variance to the Development Plan and can be supported based on the provisions of the Development Plan and the area's zoning. The application can be approved as essentially the division of land for dwellings is a use anticipated in the Holiday House Zone.

## **RECOMMENDATION**

That pursuant to Section 33(1)(a) and (c) of the Development Act 1993 the application for land division DA 830/D006/10 – Lot 317 DP6862, Mount Ferguson Drive / South Flinders Esplanade / Flensburg Drive, Port Flinders – Domenico Caputo – be **approved** subject to the following conditions:

### *Requirements of Development Assessment Commission*

1. Payment of \$5188.00 shall be made into the Planning and Development fund (2 allotments @ \$2,594.00 per allotment). Cheques shall be made payable and marked 'Not Negotiable' to the Development Assessment Commission and payment made on the 5<sup>th</sup> Floor, Roma Mitchell House, 136 North Terrace, Adelaide, or sent to GPO Box 1815, Adelaide, 5001 or via the internet at [www.edala.sa.gov.au](http://www.edala.sa.gov.au).

### *Conditions of Council*

#### 1. NUMBERING - UNIQUE IDENTIFICATION

That the allotments resultant from the division be renumbered 371, 372 & 373.

REASON: To maintain unique identification in the numbering system within Port Flinders.

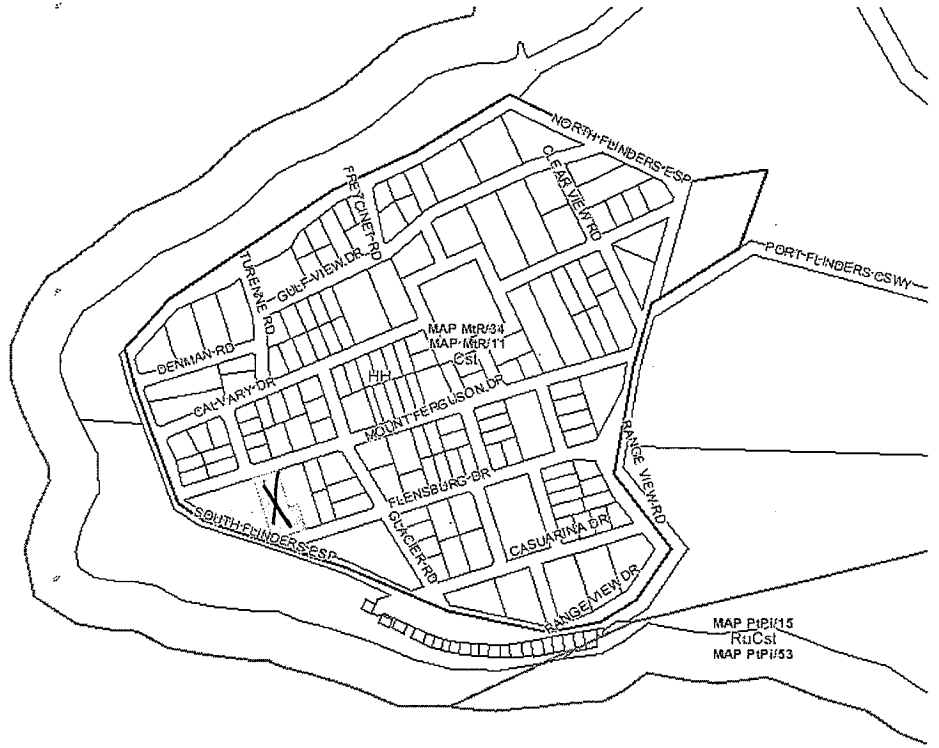
2. Native vegetation to be retained where possible for purpose of controlling water run-off from the land.
3. The financial, augmentation and contractual requirements of the District Council of Mount Remarkable for the Port Flinders Water Supply being met for the provision of water supply.

Any such required easements shall be granted to the District Council of Mount Remarkable free of cost.

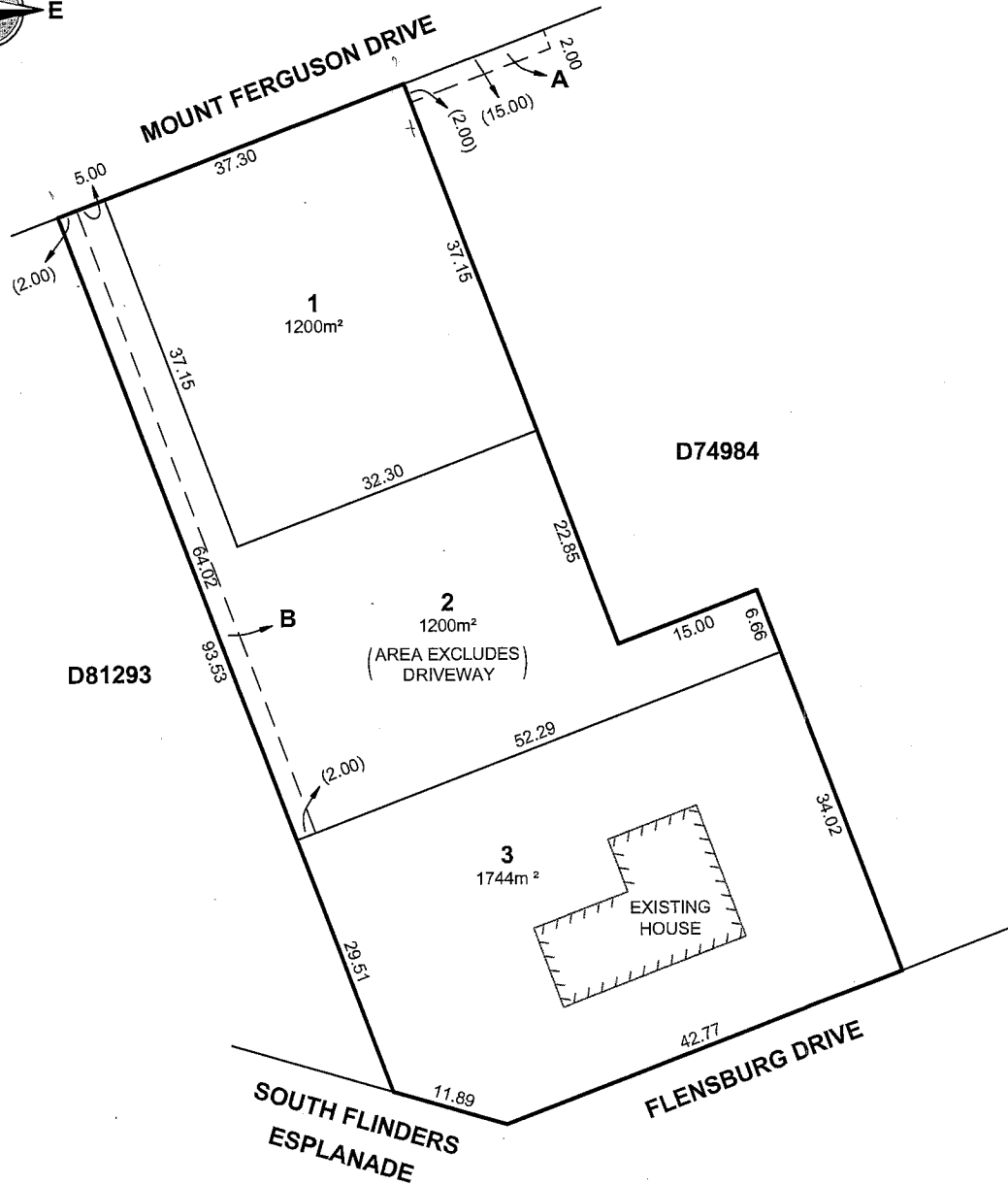
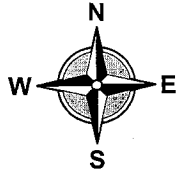
### Note to Applicant:

The Department of Health – Environmental Health section advises that the location of the new boundary must not result in the existing wastewater management system for the existing dwelling becoming non-compliant with the relevant Standards and Codes. This must be to the satisfaction of Council's Environmental Health Officer or the Department of Health's wastewater management section.





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Development No. / /  
 The District Council of  
 Mount Remarkable

Proposed Plan of Division  
 Allotment 317 in DP 68621  
 Hundred of PIRIE  
 in the area named  
**PORT FLINDERS**

CT 5962/42



1:500

Portion of Allotment 2 marked B is to be subject to an easement in favour of Allotment 3 for power and water supply by underground services.

Allotment 1 is together with an easement for the transmission of electricity by underground cable (RTC 10372662)

Dimensions and areas are subject to survey.

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Original Sheet Size A3

LICENSED SURVEYOR

REF A041610:00

DWG No. A041610PROP1(A)

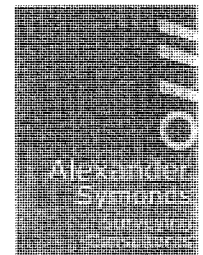
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SEM 09.06.2010

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7. APPLICATIONS FOR CONSIDERATION (CONT.):

7.2 DISTRICT COUNCIL OF MOUNT REMARKABLE (CONT.)

7.2.3 DA 830/D004/10 - Worby – Land Division

**Subject:** For Consideration  
**Report By:** Chief Executive Officer  
**Report Date:** 23/07/2010  
**File Reference:** DA 830/D004/10  
**Action:** Yes  
**Attachments:** Yes

Please refer to the attached Report prepared by Mr David Hutchison of Access Planning in respect of this application.

*~~Options:~~*

(i) /

(ii) /



21<sup>st</sup> July 2010

Ref:5322Report

The Chief Executive Officer  
District Council of Mount Remarkable  
PO Box 94  
MELROSE SA 5483

ATTENTION: Ann Frick

Dear Ann,

**RE: PROPOSED LAND DIVISION – ALLOTMENTS 218 & 219 TOWN OF PORT GERMEIN DA: 830/D004/10**

The following is a general planning assessment of the abovementioned development application for the consideration of the District of Mount Remarkable Development Assessment Panel.

In preparing this report I have reviewed the application documents and proposal plans, inspected the subject land and generally familiarised myself with the relevant provisions of the District Council Mount Remarkable Development Plan, Consolidated 4 February 2010.

### **1.0 Development Details**

Development No.:	830/D004/10
Applicant(s) / Owner(s)	David Worby C/- Mosel Browne Surveyors 6 Graves Street KADINA SA 5554
Site Address:	Esplanade Port Germein
Property Details:	Allotments 218 and 219 Town of Pt Germein.
Certificate(s) of Title:	Volume 5285 Folio 8 and Volume 6014 Folio 4
Existing Use(s):	Private Dwelling and Vacant land
Proposed Development:	Land Division (2 into 3)
Zone:	Township Zone (Port Germein) , Map MtR/20 & MtR/21
Public Notification:	Category 1 (Merit)
Authorised Development Plan:	District Council of Mount Remarkable Consolidated

### **TOWN PLANNING CONSULTANTS**

ACCESS PLANNING (SA) PTY LTD ABN 57 089 702 241  
200 KENSINGTON ROAD, MARRYATVILLE, SOUTH AUSTRALIA 5068  
TELEPHONE (08) 8364 1956 FAX (08) 8364 1960 EMAIL [plan@accessplanning.com.au](mailto:plan@accessplanning.com.au)

**2.0 Subject Site and Locality**

The subject land comprises two regular shaped allotments each of similar dimension and with a combined frontage of 50.29 metres to the Esplanade with a secondary frontage of 42.85 metres to High Street, returning a combined area of 2213m<sup>2</sup>.

The land is level, the northernmost allotment, lot 218 being occupied the old Pier/Continental Hotel building, a 2 storey colonial structure which is sited on both street alignments and with a verandah and balcony extending over the footpath along the Esplanade. To the east of the subject land is the Port Germein caravan park and on the opposite side of the road is the the state heritage listed Port Germein Jetty and two Railway Sheds.

The locality has an open character derived from the wide road alignments of the Esplanade and High Street, the open waterfront of the coast and the generally low density of development to the east and west.

**3.0 Proposed Development**

The proposed development is a conventional land division (2 allotments into 3).

Allotments are to be disposed as follows.

Allotment	Frontage (m)	Depth (m)	Area (m <sup>2</sup> )	Use
1	23 m to Esplanade	41.85 to High Street	982	Old Pier Hotel
2	14m to Esplanade	44.06 m	611	Vacant
3	14 m to Esplanade	45.06 m	620	Vacant

Figure 1: Proposed plan of division



**Figure 2:** Subject Land and Locality (subject land shown in red outline)



**Source:** Nature Maps, 2010 ([www.naturemaps.sa.gov.au](http://www.naturemaps.sa.gov.au))

Council is currently assessing an application for two dwellings on proposed allotments 2 and 3 , an outline of which is shown on the plan of division.

Discussions with the Council staff have confirmed that the effluent system for the existing building on lot 1 is in fact fully located within proposed lot 1 and meets the relevant setback requirements of the Department of Health. (see the departments comments below).

Similarly, I am advised that lots 2 and 3 are capable of accommodating the on site effluent needs of the two proposed dwellings.

#### **4.0 Agency Comments**

Comments from the various reporting agencies are summarised below.

##### **4.1 Planning SA**

1. The financial requirements of the SA Water Corporation shall be met for the provision of water supply.

2. Payment of \$2594 shall be made into the Planning and Development Fund (1 allotments @ \$2594/allotment). Cheques shall be made payable and marked "Not Negotiable" to the Development Assessment Commission and payment made on the 5<sup>th</sup> Floor, Roma Mitchell House, 136 North Terrace, Adelaide, or sent to GPO Box 1815, Adelaide, or via the internet at [www.edala.sa.gov.au](http://www.edala.sa.gov.au)
3. A copy of a certified survey plan shall be lodged for Certificate purposes.

SA Water Corporation further advise that should this application be approved and new assessment numbers created, all internal water pipe-work that cross the allotment boundaries would be required to be severed, such that the pipe-work relating to each allotment is contained within its boundaries.

#### **4.2 SA Water**

The requirements of SA Water have been noted in comments from DAC above.

#### **4.3 Transport SA**

No comment

#### **4.4 Dept. of Health**

Seeking to ensure that the existing wastewater system for the building on proposed allotment 1 is still compliant with the setback distances prescribed in the Standard for the Construction and Operation of Septic Tanks Systems in SA.

Allotments 2 and 3 must have the capacity for a suitable wastewater management system in accord with the relevant Standards and Codes.

The abovementioned land division should not be approved until the above requirements can be met.

### **5.0 Development Assessment**

The subject land is located in both the Township Zone (Port Germein) as indicated in Map MtR/20 and MtR/21 in the Mount Remarkable (DC) Development Plan

The following Objectives and Principles of Development Control (PDC) of the Mount Remarkable (DC) Development Plan are considered relevant to the assessment of this application;

#### **Township Zone (Port Germein)**

Objectives 2 & 4  
PDC's: 2, 5 and 10

#### **Council Wide**

#### **Form of Development**

Objectives: 1 & 2  
PDC's: 1, 2, 4 - 6, 13 & 14

**Land Division**

PDC's: 18, 19 & 20

It is relevant to note that a detached dwelling is a complying development within the zone subject to the flowing site area parameters.

Area of site (square metres) 600  
Width of frontage (metres) 15  
Average width of site (metres) 15  
Average depth of site (metres) 30

The most relevant provisions are reproduced below.

**5.1 Township Zone (Port Germein)**

**Objective 2: Increased mix in the range of dwellings available to cater for changing demographics, particularly smaller household sizes and supported accommodation.**

**Desired Character**

The zone is characterised by a mix of housing styles comprising a mix of bungalows built in the mid 1920's and contemporary and conventional house styles constructed post World War 2, including recent transportable dwellings. The mix of housing styles contributes to the area's informal character with generous proportions of open space surrounding dwellings and wide and spacious streetscapes.

The character of the zone should continue to reflect its small coastal township context where low density development and a mix of built-form dominate.

**Principles**

- 2 Residential development should be mainly in the form of low-density detached dwellings, with a limited range of increased density development.**
- 5 Development should not be undertaken unless it is consistent with the desired character for the zone.**
- 10 Allotments should vary in size and be suitable to facilitate a use of land consistent with the objectives for the zone and should have:
  - (a) an area of not less than 1000 square metres; and**
  - (b) an average width of at least 20 metres.****

**Council Wide**

**Form of Development**

**Principles**

- 2 Development should be orderly and economic and:
  - (a) form a compact and continuous extension of existing built-up areas;**
  - (b) be located so as to create economy in the provision of public services; and**
  - (c) create a safe and convenient and pleasant environment in which to live.****
- 4 Land division for urban or township purposes should be in the nature of in-filling, or in the form of compact and contiguous extensions to existing developed areas.**
- 7 Development should not occur on land which is unsuitable for the proposed use or building.**
- 5 Development should not occur on land which is unsuitable for the proposed use or building.**



- 13 Geotechnical advice and certification should be provided for all development, to ensure that waste waters can be satisfactorily disposed of on-site without risk to public health.
- 14 Waste water from any disposal system should be contained on the subject allotment and should not adversely affect public land or adjoining private land.
- 15 Development, including land division, should not occur where site contamination has occurred unless the site has been assessed and remediated as necessary to ensure that they are suitable and safe for the proposed use.

### Land Division Principles

- 21 Land should not be divided:
  - (a) in a manner which would prevent the satisfactory future division of the land, or any part thereof;
  - (b) if the proposed use, or the establishment of the proposed use, is likely to lead to undue erosion of the land or land in the vicinity thereof;
  - (c) unless wastes produced by the proposed use of the land, or any use permitted by the principles of development control, can be managed so as to prevent pollution of a public water supply or any surface or underground water resources;
  - (d) if the size, shape and location of, and the slope and nature of the land contained in, each allotment resulting from the division is unsuitable for the purpose for which the allotment is to be used;
  - (e) if any part of the land is likely to be inundated by tidal or floodwaters and the proposed allotments are to be used for a purpose which would be detrimentally affected when the land is inundated;
  - (f) where community facilities or public utilities are lacking or inadequate;
  - (g) where the proposed use of the land is the same as the proposed use of other existing allotments in the vicinity, and a substantial number of the existing allotments have not been used for that purpose; or
  - (h) if it would cause an infringement of any provisions of the Building Act or any by-law or regulation made there under.
- 22 When land is divided:
  - (a) any reserves or easements necessary for the provision of public utility services should be provided;
  - (b) stormwater should be capable of being drained safely and efficiently from each proposed allotment and disposed of from the land in a satisfactory manner;
  - (c) a water supply sufficient for the purpose for which the allotment is to be used should be made available to each allotment;
  - (d) provision should be made for the disposal of waste waters, sewage and other effluents from each allotment without risk to health;
  - (e) roads or thoroughfares should be provided where necessary for safe and convenient communication with adjoining land and neighbouring localities;
  - (f) each allotment resulting from the division should have safe and convenient access to the carriageway of an existing or proposed road or thoroughfare;
  - (g) proposed roads should be graded, or be capable of being graded to connect safely and conveniently with an existing road or thoroughfare;
  - (h) for urban purposes, provision should be made for suitable land to be set aside for useable local open space; and
  - (i) and the land borders a river, lake or creek, the land immediately adjoining the river, lake or creek, should be public open space, with a public road fronting the open space.

It is notable that the desired character statement, principles for development control and complying development provisions are in some tension.

The Desired Character statement for the zone identifies that the town should continue to reflect its small coastal township context where low density development and a mix of built-form dominate.

In support of the desired character statement the zone principles seek that land division should create large allotments with a frontage of 20 metres and an area of 1000m<sup>2</sup>.

On the other hand, the complying development provisions allow a detached dwelling on a site (as opposed to an allotment) down to 600m<sup>2</sup> and with a frontage of 15metres, significantly less than prescribed in zone principle 10.

I consider that the appropriate approach to adopt in assessing this land division is to determine its suitability of the land for a dwelling on each of the two (rather than one) allotments. This is the implied purpose and use for the allotments sought to be created. However, once created and potentially sold there is no guarantee or requirement that either dwelling or any particular land use would eventuate.

It must be borne in mind that the proposal before the Council is for land division only and that subsequent Provisional Development Plan Consent and Development Approval are required for any changes of use, where detailed proposals would need to be designed, applied for, assessed and determined by the Council based on the guidelines in the relevant Development Plan at the time.

The two proposed allotments with areas and frontages as listed above, could facilitate/enable the establishment of two dwellings, as planned and Council staff have already confirmed that the land is of sufficient size to accommodate effluent disposal and the normal requirement for outbuildings and open space.

The land has the substantial benefit of being able to adopt a lesser street setback than the 8 metres normally prescribed for a dwelling given the location of the substantial adjoining building on the street alignment. This results in the more efficient use of the land at the rear of any future development and assists in justifying an allotment area less than provided for in principle 10 for the zone.

The land is of adequate frontage, dimension and area to accommodate;

- a dwelling and accessory structures;
- an area of outdoor open space;
- vehicle parking;
- domestic outbuildings;
- landscaping; and
- the disposal of effluent in accordance with SA Health Commission standards and, where off site effluent disposal facilities are available or planned, make provision for connection to those facilities.

On that basis, and having regard to the relevant provisions of the Development Plan, the application warrants the approval of the Council.

**6.0 Recommendation**

That Development Plan and Land Division Consent be **granted**, to the applicant, in respect to DA 830/D004/10 for the division of Allotments 218 and 219 Town of Port Germein, subject to the following conditions;

1. The applicant shall proceed strictly in accordance with the plans, reference K09571P1.0/MEL-60/CMP as submitted and conditions imposed by this consent.
2. The financial requirements of the SA Water Corporation shall be met for the provision of water supply.
3. Payment of \$2594 shall be made into the Planning and Development Fund (1 allotments @ \$2594/allotment).
4. That two copies of a certified survey plan shall be lodged for Certificate purposes
5. That the allotments resultant from the division be renumbered 504, 505 & 506.

REASON: To maintain unique identification in the numbering system within the Port Germein Township.

Notes

N1: You are advised that on approval of the application, all internal water piping that crosses the allotment boundaries must be severed or redirected at the developers/owners cost to ensure that the pipework relating to each allotment is contained within its boundaries.

N2: The development must be substantially commenced or application for certificate made within 12 months of the date of this Notification, unless this period has been extended by the Development Assessment Commission

N3: You are also advised that the final land division certificate must be obtained from the Development Assessment Commission to complete the development within 3 years of the date of the notification unless this period is extended by the Commission

You have a right of appeal against the conditions which have been imposed on this provisional Development Plan consent or Development Approval

Please do not hesitate to contact me on (08) 8364 1956, should you have any questions regarding the above report and recommendations.

Yours sincerely,



David Hutchison  
ACCESS PLANNING Pty Ltd

7. APPLICATIONS FOR CONSIDERATION (CONT.):

7.2 DISTRICT COUNCIL OF MOUNT REMARKABLE (CONT.)

7.2.4 DA 830/D009/10 – Kotz & Harvie – Land Division

**Subject:** For Consideration  
**Report By:** Chief Executive Officer  
**Report Date:** 29/07/2010  
**File Reference:** DA 830/D009/10  
**Action:** Yes  
**Attachments:** Yes

Please refer to the attached Report prepared by Mr Ron Ashenden, Council's Development Officer, in respect of this application.

*~~Options:~~*

(i) /

(ii) /

## **1.0 DEVELOPMENT DETAILS**

Application Number:	830/D009/10
Proposed Development:	Land Division (Boundary Realignment – 2 into 2)
Applicant:	Timothy Kotz
Owners:	Timothy Kotz & Phillip and Christine Harvie
Property Details:	Lots 251 FP185143 & 252 FP185144 Hd Appila – Crn Appila-Laura and Pine Creek-Almond Tree Track Roads, Appila
Certificate of Title:	Volume 5368 Folio 285 Volume 5368 Folio 286
Zone:	Rural Zone Map MtR/3
Public Notification:	Nil – Category One
Lodgment Date:	7 <sup>th</sup> July 2010
Authorised Development Plan:	Mount Remarkable (DC) 4 February 2010

## **2.0 THE PROPOSED DEVELOPMENT**

As shown by Figure 1 (next page), the proposal involves the re-arranging of boundaries between two landowners, being allotment 251 FP185143 (owned by Phillip & Christine Harvie) and allotment 252 FP185144 (owned by Timothy Kotz).

The proposal does not envisage the change in the existing use of the larger parcel of land for cropping purposes.

## **3.0 THE SUBJECT LAND AND LOCALITY**

The subject land consists of two land parcels:

Lot 252 FP185143 is surrounded by Lot 251 FP185143 and has frontage to the Appila-Laura Road. It contains approximately 1.33 hectares. A secondhand transportable dwelling has recently been approved by Council and has been sited on the allotment.

Lot 251 FP185143 which surrounds Lot 252, contains an area of approximately 115 hectares and has frontage to two roads, being the Appila-Laura Road and Pine Creek – Almond Tree Track Roads. This allotment is currently used for broad-acre farming purposes (cropping) and as such have been cleared to facilitate cropping.

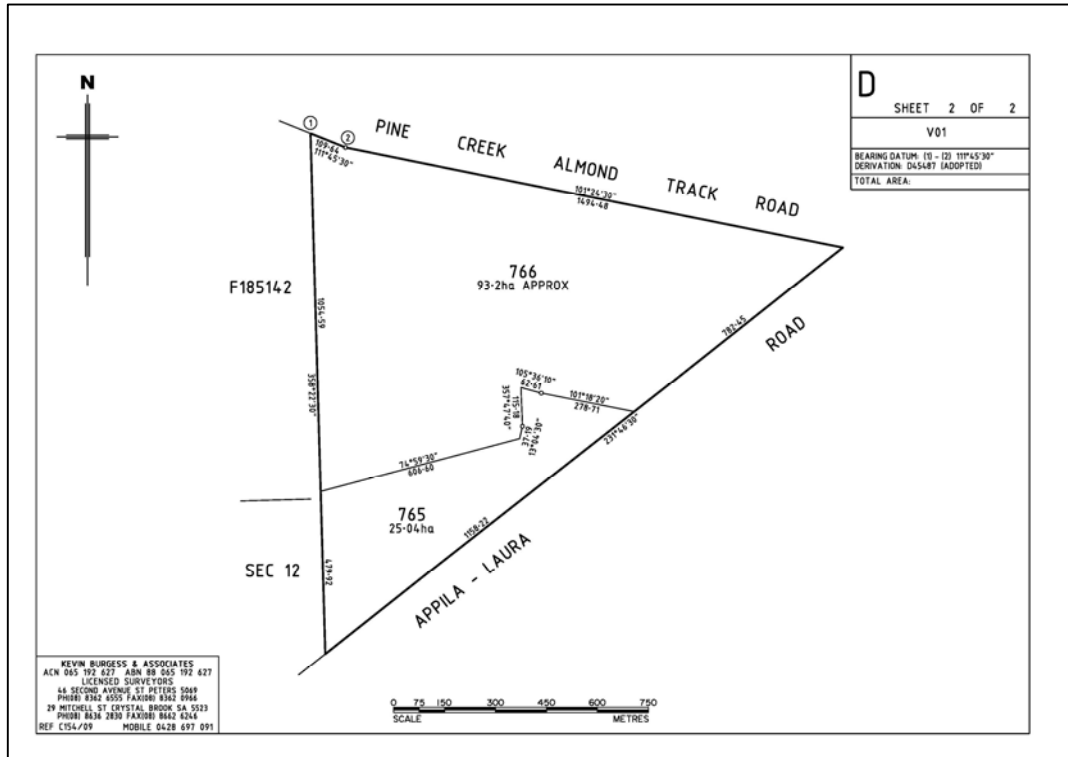


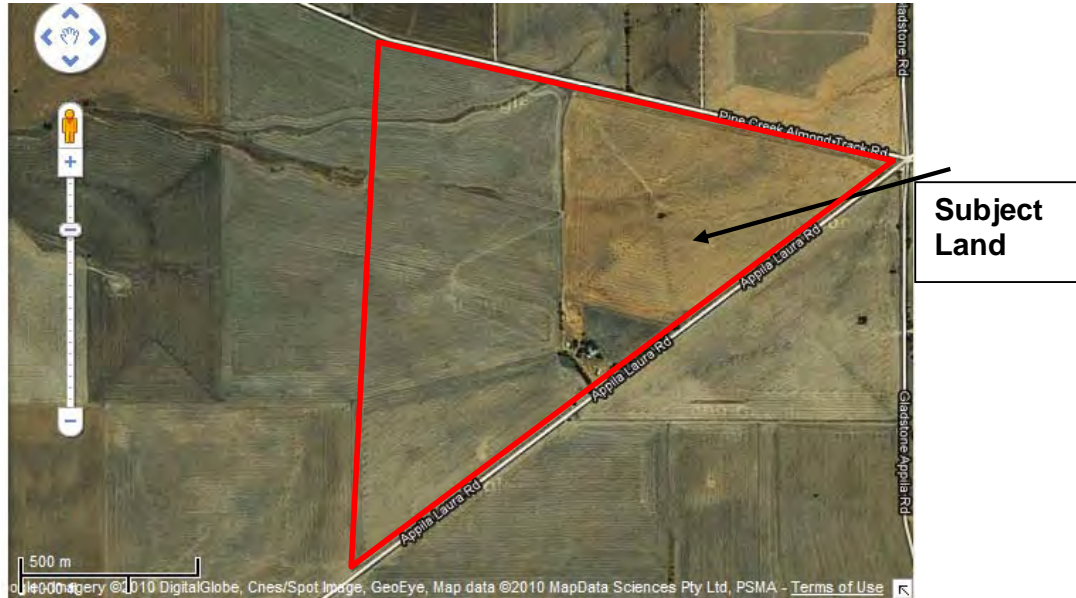
Figure 1: Proposed Plan of Division (from EDALA [www.edala.sa.gov.au](http://www.edala.sa.gov.au))

The subject land is to the south-west of the township of Appila (approximately 5 ½ kilometres), all contained within the Rural Zone.

Figures 2 (below) and 3 (next page) depict the subject land and locality.



Figure 2: Subject land and locality (from EDALA [www.edala.sa.gov.au](http://www.edala.sa.gov.au))



**Figure 3:** Aerial Photograph depicting the subject land and locality  
 Source: Google Maps, 2010 [maps.google.com.au](http://maps.google.com.au)

#### 4.0 CONSULTATION WITH GOVERNMENT AGENCIES

The Development Assessment Commission (DAC) in relation to the proposed land division undertook consultation with the following agencies:

- Development Assessment Commission
- SA Water Corporation
- Transport SA

The comments of each agency are summarised individually below.

#### 4.1 Development Assessment Commission (DAC)

*It is requested pursuant to Section 33(1)(c) of the Development Act, 1993 that the Council include in its Development Approval the following requirements of the Commission:*

1. *Plans shall be in accordance with the requirements for plans under the Real Property Act (Land Division) Regulations 1982.*

#### 4.2 SA Water Corporation

*In response to the abovementioned proposal, I advise that this Corporation has no requirements pursuant to Section 33 of the Development Act.*

*Boundary Alteration – Status Quo Maintained – On approval of the application, all internal water piping that crosses the allotment boundaries must be severed or redirected at the developers / owners cost to ensure that the pipe-work relating to each allotment is contained within its boundaries.*

#### 4.3 Transport SA

Transport SA has advised that they have no comment to make in relation to this proposal.

## **5.0 PUBLIC NOTIFICATION**

The 9<sup>th</sup> Schedule of the Development Regulations 2008 identifies land division as a Category 1 Development for the purposes of public notification. Pursuant to Section 38 of the Development Act 1993, no public notification of the application was required.

## **6.0 DEVELOPMENT ASSESSMENT**

The subject land is located within the Rural Zone as depicted on Map MtR/3 and of the Mount Remarkable (DC) Development Plan, consolidated 4 February 2010.

The following is an assessment of the proposal against the relevant provisions of the Development Plan as they apply specifically to the Rural Zone, as well as the provisions that are applicable to development generally within the Council (Council Wide).

An assessment of the relevant provisions of the Development Plan is detailed below.

### **6.1 Rural Zone**

Objective: 1, 2, 9

Principle: 1, 7, 8

**Objective 2:** *Development of a wide range of pastoral, agricultural, horticultural and forestry activities complementary to the land capability of the zone, provided productive agricultural land is not further fragmented through land division.*

**Principle 1** *Development undertaken within the zone should maintain the diversity of agricultural, horticultural, pastoral, forestry and rural related activities complementary to land capability and to the conservation of biodiversity.*

With respect to Objective 2, the proposal does result in the re-organisation of the parcels of land and will, in fact, provide a further buffer area between the dwelling and the farming activities undertaken on the land surrounding the dwelling. Council Staff are aware that negotiations are underway for Mr Kotz to purchase land from Mr & Mrs Harvie.

**Objective 1:** *Preservation of the natural character, and the scenic, scientific and heritage features of the Southern Flinders Ranges, whilst maintaining water quality and accommodating a diversity of established pastoral, agricultural and forestry activities.*

**Objective 9:** *Protection and enhancement of biodiversity including native vegetation, reserves, waterways and scattered trees.*



The activity of farming will be reduced by approximately 22 hectares. This reduction is considered as a minimal change in land use envisaged as a result of the proposed division. It is believed that the proposal will not directly result in a change to the appearance and character of the local area.

**Principle 7** *Rural land should not be divided unless:*

- (a) the resulting allotments are for farming, horticulture, commercial forestry or intensive animal keeping and will be for the purpose of maintaining or improving the efficiency and viability of an existing agricultural holding;*
- (b) the division will rationalise existing boundaries to improve the efficiency and viability of farming, horticulture, commercial forestry or intensive animal keeping activities without creating any additional allotments; or*
- (c) the division will create an allotment not greater than one hectare to contain a habitable dwelling existing prior to 2 April 1987 and the balance of the allotment has been, and is likely to continue to be used for primary production.*

**Principle 8** *Rural land should not be divided where the new allotment boundaries would pass through native vegetation or where the proposed or likely use(s) of the resultant allotments would be likely to disturb natural biodiversity.*

With respect to Principle 7(b), the division is seen to be rationalising the exiting boundaries between properties, without creating additional allotments.

No additional disturbance to natural biodiversity is likely to occur as there does not appear to be any substantial trees and shrubs on the property and the use of the majority of the said property is likely to continue as is currently been undertaken.

In summary the proposal will be consistent with the provisions of the Zone relevant to the assessment of land divisions. The proposed land division will reasonably promote the viability and efficiency of ongoing farming activities on the subject land.

## **6.2 Mount Remarkable (DC) Council Wide Provisions**

### **GENERAL Form of Development**

Objective: 1, 2  
Principles: 2

#### ***Objective 1: Orderly and economic development.***

As previously stated above, the proposed division seeks to realign the boundaries of two existing land parcels to provide a larger land holding for Mr Kotz. Given no additional allotments are being created, it is not considered that farming practices will be dramatically affected. Given this, the proposal is considered to be orderly.

## **Land Division**

Principles: 19, 21, 22

**Principle 19** *Land should not be divided where the plan of division does not take account of any significant topographic features.*

The topography on the subject land does not present any substantial constraints for ongoing use of the land for farming activities.

**Principle 21** *Land should not be divided:*

- (a) in a manner which would prevent the satisfactory future division of the land, or any part thereof;*
- (b) if the proposed use, or the establishment of the proposed use, is likely to lead to undue erosion of the land or land in the vicinity thereof;*
- (c) unless wastes produced by the proposed use of the land, or any use permitted by the principles of development control, can be managed so as to prevent pollution of a public water supply or any surface or underground water resources;*
- (d) if the size, shape and location of, and the slope and nature of the land contained in, each allotment resulting from the division is unsuitable for the purpose for which the allotment is to be used;*
- (e) if any part of the land is likely to be inundated by tidal or floodwaters and the proposed allotments are to be used for a purpose which would be detrimentally affected when the land is inundated;*
- (f) where community facilities or public utilities are lacking or inadequate;*
- (g) where the proposed use of the land is the same as the proposed use of other existing allotments in the vicinity, and a substantial number of the existing allotments have not been used for that purpose; or*
- (h) if it would cause an infringement of any provisions of the Building Act or any by-law or regulation made thereunder.*

**Principle 22** *When land is divided:*

- (a) any reserves or easements necessary for the provision of public utility services should be provided;*
- (b) stormwater should be capable of being drained safely and efficiently from each proposed allotment and disposed of from the land in a satisfactory manner;*
- (c) a water supply sufficient for the purpose for which the allotment is to be used should be made available to each allotment;*
- (d) provision should be made for the disposal of waste waters, sewage and other effluents from each allotment without risk to health;*
- (e) roads or thoroughfares should be provided where necessary for safe and convenient communication with adjoining land and neighbouring localities;*
- (f) each allotment resulting from the division should have safe and convenient access to the carriageway of an existing or proposed road or thoroughfare;*
- (g) proposed roads should be graded, or be capable of being graded to connect safely and conveniently with an existing road or thoroughfare;*
- (i) and the land borders a river, lake or creek, the land immediately adjoining the river, lake or creek, should be public open space, with a public road fronting the open space.*

Principles 21 and 22 are primarily tailored to 'urban' type development, with little reference to rural land division issues. Many of these parameters could be addressed by any future development on each allotment.

### **Transportation (Movement of People & Goods)**

Objective: 16, 19

Principles: 25

**Objective 16:** *A road network providing for the safe and efficient movement of traffic within the council area.*

**Objective 19:** *The free flow of traffic on roads by minimising interference from adjoining development.*

**Principle 25** *Development and the location of associated points of access and egress, should not create conditions which are unsafe or interfere with the free flow of traffic on adjoining roads.*

Each allotment will maintain frontage to a public road. Both roads are 'local' in nature and do not carry high volumes of traffic. Any future access for the each allotment proposed from either road can be done in a manner that would maintain the reasonable safety and efficient of traffic flows throughout the local road network.

### **LAND USE Rural Development**

Objective: 30,

Principles: 25, 27, 28, 29

**Objective 30:** *The retention of rural areas for agricultural and pastoral purposes and the maintenance of the natural character and rural beauty of such areas.*

**Objective 31:** *Rural land retained for a wide diversity of primary and pastoral production.*

**Principle 80** *Rural areas should be retained for a diversity of agricultural, pastoral and forestry activities.*

The above provisions relating to Rural Development are prescriptively very general. The general nature of these provisions will be satisfied by the proposed division, given that proposal will not create any additional allotments.

## **Bushfire Protection**

Principles: 265

- Principle 265** *Where land division does occur it should be designed to:*
- (a) minimise the danger to residents, other occupants of buildings and fire fighting personnel;*
  - (b) minimise the extent of damage to buildings and other property during a bushfire;*
  - (c) ensure each allotment contains a suitable building site that is located away from vegetation that would pose an unacceptable risk in the event of bushfire; and*
  - (d) ensure provision of a fire hazard separation zone isolating residential allotments from areas that pose an unacceptable bushfire risk by containing the allotments within a perimeter road or through other means that achieve an adequate separation.*

The subject land is located in an area that is identified as a 'general' bushfire protection area with reference to Figure MtR(BPA)/1.

If buildings were constructed on both proposed allotments, the cleared nature of the land will ensure sufficient separation from hazardous vegetation is achieved in accordance with the above provision.

## **7.0 CONCLUSION**

Having regard to the above assessment of the proposed development against the relevant provisions of the Mount Remarkable (DC) Development Plan, I consider that the proposed boundary realignment to be an appropriate form of development. The land division will promote the ongoing viability and efficiency of farming activities on the subject land and provide a larger buffer zone between the dwelling and farming activities.

## **8.0 RECOMMENDATION**

Following consideration and having regard to all relevant matters, it is recommended that consent to land division application 830/D009/10 at Allotments 251 FP185143 & 252 FP185144 – Cnr Appila-Laura and Pine Creek-Almond Tree Track Roads, Appila - be **GRANTED** Development Approval, subject to the following conditions:

1. Plans shall be in accordance with the requirements for plans under the Real Property Act (Land Division) Regulations 1982.
2. That the allotments resultant from the division be renumbered 778 & 779.

REASON: To maintain unique identification in the numbering system within the Hd of Appila.

NOTE TO APPLICANT: SA Water advise that all internal pipe-work that cross the allotment boundaries will be required to be severed, such that the pipe-work relating to each allotment is contained within its boundaries.

7. APPLICATIONS FOR CONSIDERATION (CONT.):

7.2 DISTRICT COUNCIL OF MOUNT REMARKABLE (CONT.)

7.2.5 DA 830/D007/10 - Jacka – Land Division

**Subject:** For Consideration  
**Report By:** Chief Executive Officer  
**Report Date:** 30/07/2010  
**File Reference:** DA 830/D007/10  
**Action:** Yes  
**Attachments:** Yes

Please refer to the attached Report prepared by Mr David Hutchison of Access Planning in respect of this application.

*~~Options:~~*

(i) /

(ii) /



30<sup>th</sup> July 2010

Ref: 5329 DAP\_report

The Chief Executive Officer  
District Council of Mount Remarkable  
PO Box 94  
MELROSE SA 5483

ATTENTION: Ms. Ann Frick

Dear Ann,

**RE: PROPOSED LAND DIVISION (3 INTO 3)  
LOTS 281, Q277 & Q278, JACKA'S ROAD, BOOLEROO CENTRE  
DA 830/D007/10**

The following is a general planning assessment of the above mentioned development application.

In preparing this report I have reviewed the subject land, inspected the subject land whilst in the locality, reviewed the application documents and generally familiarised myself with the relevant provisions of the Development Plan.

## **1.0 DEVELOPMENT DETAILS**

Proposed Development:	Land Division (2 into 3)
Application Number:	830/D007/10
Applicant:	Mr. D W Jacka 10 Butterick Street PORT PIRIE SA 5540
Property Details:	Lots 281 Q277 and 278, Jacka's Road, Booleroo Centre
Certificates of Title:	Volumes 6052 Folio 187 and 188
Zone:	Rural Zone, Map MtR/3
Public Notification:	Nil – Category One
Lodgment Date:	24 June 2010
Authorised Development Plan:	Mount Remarkable (DC) 4 February 2010

### **TOWN PLANNING CONSULTANTS**

**ACCESS PLANNING (SA) PTY LTD ABN 57 089 702 241  
200 KENSINGTON ROAD, MARRYATVILLE, SOUTH AUSTRALIA 5068  
TELEPHONE (08) 8364 1956 FAX (08) 8364 1960 EMAIL [plan@accessplanning.com.au](mailto:plan@accessplanning.com.au)**

**2.0 BACKGROUND**

The applicant has previously submitted a land division application to separate the house and sheds from the property to create lot 282, the elongated allotment fronting Jackas Road.

**3.0 THE SUBJECT LAND AND LOCALITY**

The subject land consists of an irregular shaped holding comprising two allotments (allotment 282, the house allotment is not varied in any way by the proposed division) allotment 281 which has an area of 243 hectares and pieces 277 and 278, which together comprise one allotment of 212 hectares, the line separating the two pieces being formed by the old railway line which traverses the land.

The land is located approximately 4 kilometres west from Booleroo Centre and 7 kilometres east of Main North Road. Jacka's Road is an unsealed local road servicing a number of rural properties.

The land comprises undulating terrain which has been cleared and used for cropping purposes. The farming land has been separated into a number of paddocks.

Two watercourses traverse the land generally aligned parallel with the eastern and northern land boundaries with scattered mature vegetation bordering the watercourses.

The subject land is surrounded by cleared gently undulating farming land primarily used for cropping purposes.

**4.0 THE PROPOSED DEVELOPMENT**

The proposal involves a land division re-aligning the property boundaries and creating a an additional title to establish the following allotment areas.

<b>Allotment</b>	<b>Area (ha)</b>
<b>283</b>	<b>133</b>
<b>284</b>	<b>186</b>
<b>285 One lot in two pieces</b>	<b>137ha</b>
<b>286</b>	

The applicant has advised that the division is necessary to sell the land, on the basis that the third allotment will make the property more attractive to potential buyers and make the land easier to work with modern machinery.

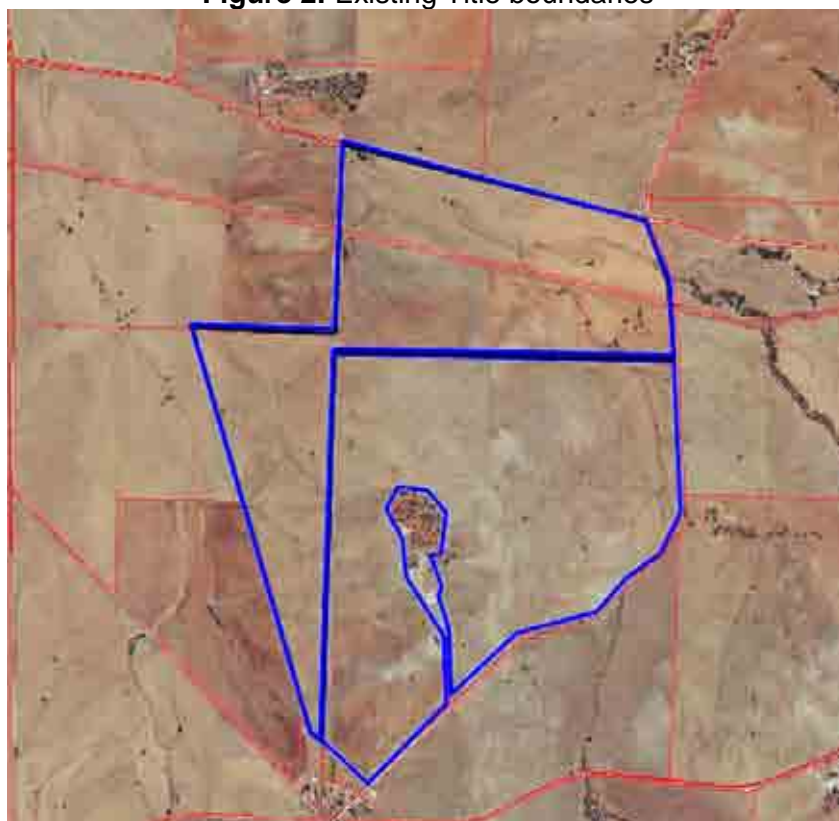
A series of plans follow depicting the land titles as they are and as proposed.

**Figure 1:** Subject land and locality



**Source:** Nature Maps, 2010 [www.naturempas.sa.gov.au](http://www.naturempas.sa.gov.au)

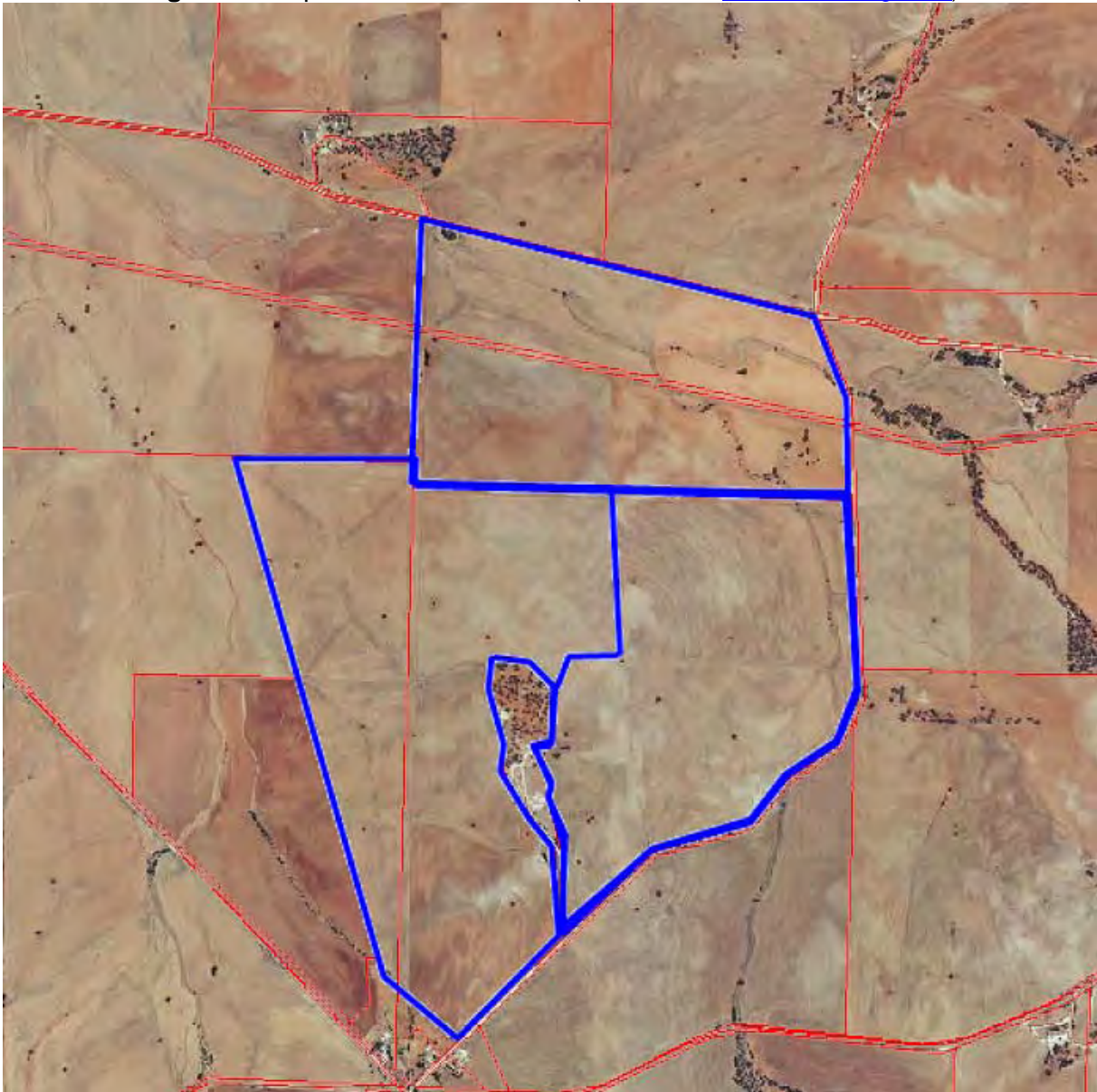
**Figure 2:** Existing Title boundaries



**Source:** Nature Maps, 2010 [www.naturempas.sa.gov.au](http://www.naturempas.sa.gov.au)



**Figure 3:** Proposed Plan of Division (from EDALA [www.edala.sa.gov.au](http://www.edala.sa.gov.au))



## 5.0 CONSULTATION WITH GOVERNMENT AGENCIES

The Development Assessment Commission (DAC) undertook consultation with the following agencies:

- Planning SA
- SA Water Corporation

The comments of each agency are summarised individually below.

### 4.1 Planning SA

It is pointed out that the proposal may be AT VARIANCE with the Development Plan for the following reason(s):

- Principle 7 (a) and (c) of the Rural Zone

Should council wish to approve this application the following requirements of the commission must be included as conditions of approval. (Pursuant to Section 33 (1) (c) of the Development Act)

1. *A copy of a certified survey plan shall be lodged for Certificate purposes.*

### 4.2 SA Water

In response to the abovementioned proposal, I advise that this Corporation has no requirements pursuant to Section 33 of the Development Act.

### 5.0 PUBLIC NOTIFICATION

The 9<sup>th</sup> Schedule of the Development Regulations 2008 identifies land division as a Category 1 Development for the purposes of public notification. Pursuant to Section 38 of the Development Act 1993, no public notification of the application was required.

### 6.0 DEVELOPMENT ASSESSMENT

The subject land is located within Rural Zone as depicted on Maps MtR/3 of the Mount Remarkable (DC) Development Plan, consolidated 26 July 2007.

Land division is a consent use in the zone as is a dwelling. There is no prescribed minimum allotment size in the Rural zone.

The applicant has provided no justification for the proposed division only that it would be easier to sell and that allotment 227 has limited road access from Jackas Road.

The following is an assessment of the proposal against the relevant provisions of the Development Plan as they apply specifically to the Rural Zone, as well as the provisions that are applicable to development generally within the Council (Council Wide).

An assessment of the most relevant provisions of the Development Plan is detailed below.

#### 6.1 Rural Zone

**Objective 2: Development of a wide range of pastoral, agricultural, horticultural and forestry activities complementary to the land capability of the zone, provided productive agricultural land is not further fragmented through land division.**

The associated text reads

**It is desirable that the zone continues to maintain a diversity of activities suited to the terrain, rainfall and capability of the land. Retention of the agricultural productivity within the zone by preserving or increasing rural property holdings should be an important consideration in ensuring that the established rural character is maintained.**

#### Principles

- 1 **Development undertaken within the zone should maintain the diversity of agricultural, horticultural, pastoral, forestry and rural related activities complementary to land capability and to the conservation of biodiversity.**

- 7 Rural land should not be divided unless:
- (a) the resulting allotments are for farming, horticulture, commercial forestry or intensive animal keeping and will be for the purpose of maintaining or improving the efficiency and viability of an existing agricultural holding;
  - (b) the division will rationalise existing boundaries to improve the efficiency and viability of farming, horticulture, commercial forestry or intensive animal keeping activities without creating any additional allotments; or
  - (c) the division will create an allotment not greater than one hectare to contain a habitable dwelling existing prior to 2 April 1987 and the balance of the allotment has been, and is likely to continue to be used for primary production.

## 6.2 Council Wide Provisions

### Form of Development

**Objective 1:** Orderly and economic development.

### Land Division

#### Principle

21 Land should not be divided:

- (d) if the size, shape and location of, and the slope and nature of the land contained in, each allotment resulting from the division is unsuitable for the purpose for which the allotment is to be used;

### Rural Development

**Objective 30:** The retention of rural areas for agricultural and pastoral purposes and the maintenance of the natural character and rural beauty of such areas.

**Objective 31:** Rural land retained for a wide diversity of primary and pastoral production.

#### Principle

80 Rural areas should be retained for a diversity of agricultural, pastoral and forestry activities.

It is evident that the Development Plan discourages indiscriminate land fragmentation, and in fact it would seem that the opposite is true, the explanatory statement for zone objective 1 actually refers to increasing rural property size.

Rural planning policies recognise that farming land is a very important economic asset of the state and in fact the district, quite apart from its value to the individual owners.

However, its value for farming purposes can be compromised or lost if it is fragmented into small pieces that are not useful for farming purposes and potentially leads to pressure for further land division on the premise that the land is of an unviable size for farming.

The land is of limited value for more intensive farming practices, and certainly no evidence has been provide by the applicant that the division is for more intensive farming use. As broadacre grazing and cropping property, the allotment sizes proposed are unlikely to be viable in the their own right.

In some respects it is apparent that the application is more about exploiting the residential value, as opposed to the rural value, of the land.

In this respect it is notable that a dwelling is a consent use in the zone, and once the land division is approved, the likelihood of the Council being able to refuse an application for a dwelling on each of the allotments would be negligible.

There is a demand from people who want to live in the country on rural residential lots or hobby farms, even on the larger sized allotments proposed.

Fragmentation of land into small holdings and its conversion to rural living or a use other than for farming purposes, inflates the value of the land by endowing it with a residential or rural residential rather than rural land values.

The land value so inflated often means that the land is removed from farming.

Notwithstanding that some rural activity may be undertaken on the land, it is unlikely that this would compare with the proper, managed development of the land for rural purposes. It will be further compromised by the approval of dwellings on each of the allotments.

The introduction of rural living uses or additional dwellings on the land as an outcome of the land division can often be detrimental to genuine farming. It can result in poor land management practice that gives rise to vermin and noxious weeds and dogs, all of which impact on viability of adjoining farmland. Further, the establishment of additional houses on the property is likely to lead to additional potential conflicts with farming activities on the neighbouring land. This may include late night activity associated with sowing or cropping, spraying or the noise from stock.

Furthermore, rural residents frequently start demanding town services which are uneconomic to provide to scattered houses in what is supposed to be farming land.

These demands involve seeking to have other ratepayers, whether real farmers or urban dwellers, subsidise rural residential lifestyles. The inefficiency of trying to provide urban services in such areas is obvious enough.

There is no evidence before the Council that suggest the land is not a viable farming property. Its fragmentation into a number of smaller allotments can only erode its potential and viability that will encourage a shift away from the intended use of the land for rural purposes and set a precedent for similar development on other like sized allotments and pressure for further subdivision in due course.

## 7.0 CONCLUSION

Having regard to the assessment above the proposed development is considered to be an inappropriate development within the Rural Zone as it will;

- reduce the agricultural potential of the land and land in the locality'
- result in the unwarranted fragmentation of rural land,
- not for the more intensive use of the land for farming,
- have the potential to lead to land use conflicts with surrounding farming activities,
- set a precedent for rural living type development within the locality and for the further division and fragmentation of land.

## **8.0 RECOMMENDATION**

Following consideration and having regard to all relevant matters that consent to land division 830/D007/18 at lots 281, Q277 and Q278, Jacka's Road, Booleroo Centre be **REFUSED** Development Approval, for the following reasons:

The development will;

- reduce the agricultural potential of the land and land in the locality'
- result in the unwarranted fragmentation of rural land,
- not for the more intensive use of the land for farming,
- have the potential to lead to land use conflicts with surrounding farming activities,
- set a precedent for rural living type development within the locality and for the further division and fragmentation of land, and as a consequence does not accord with the following provisions of the Development Plan..

Rural Zone, Objective 2, principles 1 and 7.

Council wide Objectives 1, 30 and 31, principles 21(d) and 80.

Please do not hesitate to contact me on 8364 1956 or at [dhutchison@accessplanning.com.au](mailto:dhutchison@accessplanning.com.au) should you have any questions regarding the above report and recommendation.

Yours sincerely,



David Hutchison

**ACCESS PLANNING (SA) PTY LTD**

**7. APPLICATIONS FOR CONSIDERATION (CONT.):**

**7.3 DISTRICT COUNCIL OF ORROROO CARRIETON**

No Applications for the District Council of Orroroo Carrieton require consideration at this Meeting.

**7. APPLICATIONS FOR CONSIDERATION (CONT.):**

**7.4 DISTRICT COUNCIL OF PETERBOROUGH**

No Applications for the District Council of Peterborough require consideration at this Meeting.

8. **OTHER BUSINESS:**

8.1 **THE FLINDERS RANGES COUNCIL**

8.2 **DISTRICT COUNCIL OF MOUNT REMARKABLE**

8.3 **DISTRICT COUNCIL OF ORROROO CARRIETON**

8.4 **DISTRICT COUNCIL OF PETERBOROUGH**

9. **NEXT MEETING:**

10. **CLOSURE:**