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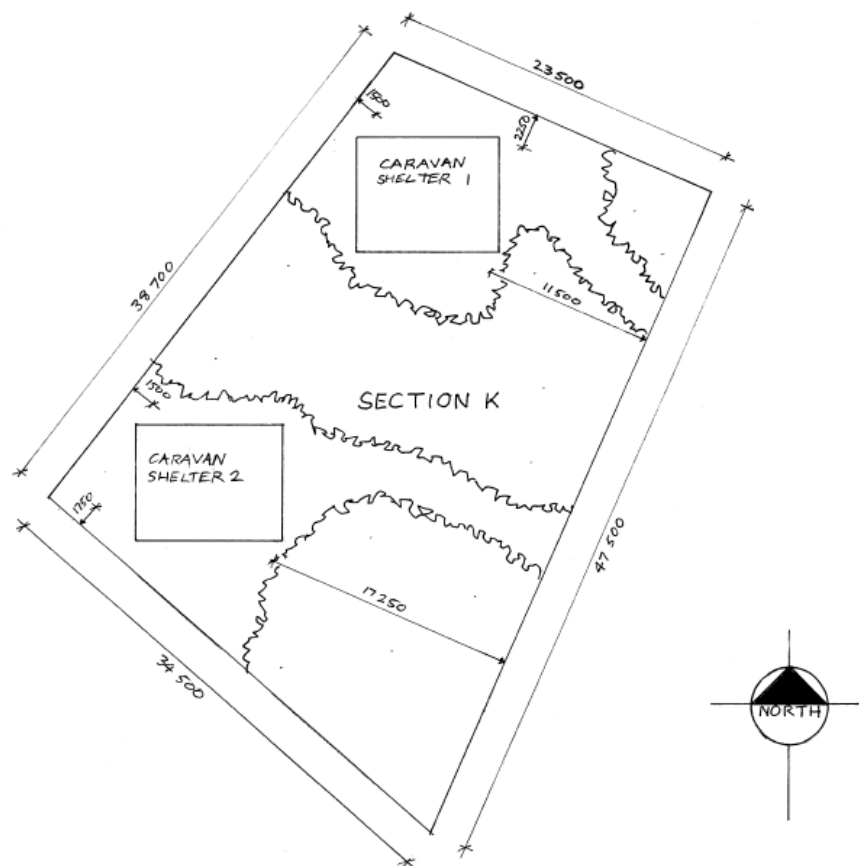
K McCarthy

Two (2) caravan shelters

Lot K, Q12 in DP55064, Hundred of Kevin (CT 6127/543)

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OVERVIEW

Application No	010/U021/19
Unique ID/KNET ID	2019/08044/01; #14239021; APP ID 4305
Applicant	K McCarthy
Proposal	Construction of Two (2) Caravan Shelters
Subject Land	Lot K, Q12 in DP55064, Hundred of Kevin (CT 6127/543)
Zone/Policy Area	Coastal Conservation Zone
Relevant Authority	State Commission Assessment Panel (SCAP) Section 33(2) of the <i>Development Act 1993</i>
Lodgement Date	28 June 2019
Council	Out of Council
Development Plan	Land Not Within A Council Area Eyre, Far North, Riverland and Whyalla Development Plan (not consolidated 12 December 2013)
Type of Development	Merit
Public Notification	Category 1
Representations	N/A
Referral Agencies	Coastal Protection Board, Outback Communities Authority, Native Vegetation Council
Report Author	Nicholas Giannakodakis
RECOMMENDATION	Grant Development Plan Consent

PREAMBLE

The State Commission Assessment Panel (SCAP) has previously considered ten separate and retrospective development applications for caravan shelters and associated improvements at Cactus Beach. Whilst seven of these applications have now been determined (six approved, one refused and three on hold), the current application seeks to relocate the leaseholder and development interest from Lot K (whose previously constructed shelter was refused by SCAP on 8 November 2018). The reasons for refusal, namely the dwelling like appearance of this structure, it's relative bulk and scale, and close proximity to the Port Sinclair Road, have sought to be addressed in a new application (based on schemes that have since gained approval on other lots).

EXECUTIVE SUMMARY

The application seeks development approval for the construction of two (2) caravan shelters at Cactus Beach. The area is situated in the Out of Council Areas part of the State, and accordingly the State Commission Assessment Panel (SCAP) is the relevant authority.

The structures are situated in the Coastal Conservation Zone. The locality comprises a sensitive and undeveloped coastal landscape of high scenic, environmental, biodiversity and amenity value. Very little built form is envisaged in the zone and any development proposed should complement the natural landscape in form and scale, and in building materials, textures, colours and tones, so that the natural elements of the locality remain dominant to any introduced elements, and the scenic quality of the coast and its dune systems are protected.

The locality has a history of bush camping related primarily to the world class surf breaks at Cactus Beach. Originally Crown land, the land was sold and a private camp ground was established. Another area used more exclusively by regular campers to the north of the formal camp ground was subsequently established with some ten lease sites, of which this application is one of (but now in a revised location, with an increased setback from the

public road, and proximate with other development). The relocation of Lot K and the construction of replacement shelters (for each of the individual lease holders) is the subject of this development application. The lease area is located further from the main road on land that has previously been used for camping. Two smaller, standalone shelters have been proposed, consistent SCAP's previous guidance based on discussions and other approvals granted on similar developments in the locality.

The amended application has been assessed against the relevant provisions of the Development Plan and is considered to be sufficiently consistent to warrant consent to be granted subject to conditions. It is noted, that whilst the application was lodged under the *Development Act 1993*, the decision – due to the introduction of the *Planning, Development and Infrastructure Act 2016* on 1 July 2019 - will need to be made under the new Act.

ASSESSMENT REPORT

1. BACKGROUND

The history of the Cactus Beach area is important to help understand what existing use rights may exist in relation to camping on the subject land. DEWNR and Coast Protection Board (CPB) records and staff have assisted in providing information and the following descriptions are drawn primarily from that information, as well as from interviews with the land owner and information provided with the applications. (Investigations have been undertaken to assist in understanding the historical context of the application are not purported to be a comprehensive historical account of the area and the accuracy of the information in this respect cannot be guaranteed).

Cactus Beach comprises a number of nationally recognised surfing breaks and in 2013 the area was declared a National Surfing Reserve. Records of camping in the area commence from the early 1960's, although it is likely camping occurred prior to that date.

The Coast Protection Board (CPB) and Department of Environment Water and Natural Resources (DEWNR) became particularly interested in the management of the area from the 1970s after the environment became heavily impacted from visitation and the establishment of ad-hoc shacks.

Originally crown land, the land was leased to a Mr Witzig in the mid-seventies. Mr Witzig managed the land and permitted camping to continue, but removed a number of what records describe as "illegal structures", ramshackle shacks around 1976. It is understood there have been two periods of removal of shack structures from the land.

The land was subsequently purchased by the current owner, Mr Gates, and granted freehold title in 2001. Over this time, two types of camping areas were established. A formal camping ground was been established on piece 13, and developed over time into a well laid out, structured camp ground with a basic level of amenities, owned and managed by Mr Gates. A caretaker's residence and shop were constructed further to the south west of the camp ground.

A second camping area established on Piece 12 (which contains the subject land along with another 10 lease sites with all but one containing a similar development) where a number of specific sites were allocated to a small number of the long-term regular visitors to the area. It is understood these "allocated" camping sites formed the basis of the current leasehold arrangement for this and the other ten sites.

Over 2006/2007 a number of leasehold sites were created including the site the subject of this application. It is presumed the grant of tenure precipitated the construction of the improvements on the land that were the subject of a retrospective development application on the 'old' Lot K.

It appears that with the development of the caravan shelters came the desire for a more comfortable and permanent occupation of the land and led to the development of various other improvements including wind breaks and screens, enclosures and lockable stores, decks, waste disposal facilities, rain water tanks, and the like.

This is considered to be a considerable progression from an occasional but regular camping activity.

The Coast Protection Board has provided funding and assistance in the past to assist the landowners in the management and conservation of the land. The formalisation of camping into the two current areas has been instrumental in the improved management of the land and no doubt assisted in rehabilitation of areas previously badly impacted.

The original structure on the 'old' Lot K, along with the other nine, had been constructed without approval. The remoteness of the area, ignorance to the State's development laws in remote areas, and the previous shack development of the land could be mitigating factors as to why the applicant, and the other land owners, did not seek approval.

The unauthorised development came to the attention of the then Development Assessment Commission (DAC), now superseded by the State Commission Assessment Panel (SCAP) being the relevant authority, following correspondence from DEWNR in February 2012.

In the initial contact with landowners, DAC's former Enforcement Officer Mr John Paynter wrote to the owner Mr Gates requesting that all building work cease immediately and that pending any further action, Development Applications be submitted for the works.

Following further investigations and discussions with Mr Gates, it was found that the unauthorised works were being undertaken by the lease holders. In August 2012, letters were subsequently sent to the separate lease holders requesting development applications be lodged to make good the breaches of the Act. This resulted in a number of development applications being lodged and subsequently considered and/or determined by the SCAP.

The current application is seeking Development Plan Consent for the construction of two (2) structures on the subject land on an amended lot K – being smaller, replacement structures on the same land, following the refusal of DA 010/U001/13, which accommodated two (2) caravans, a deck area and a storage area.

The applicant has now sought to relocate the lease area to an area previously used for camping further from the main road (Point Sinclair Road) and propose two (2) smaller and identical shelters that are consistent with SCAP's guidance based on discussions and other approvals granted on similar developments in the locality.

2. DESCRIPTION OF PROPOSAL

Application details are contained in the ATTACHMENTS.

In summary the application comprises the following:

- installation of two (2) 10.1m x 8.1m x 4.5m caravan shelters;
- low-pitched skillion roofs (4.5m at highest and 4.1m at lowest) and slatted walls on two sides for weather protection (south and west); and
- comprises dull coloured and non-reflective materials.

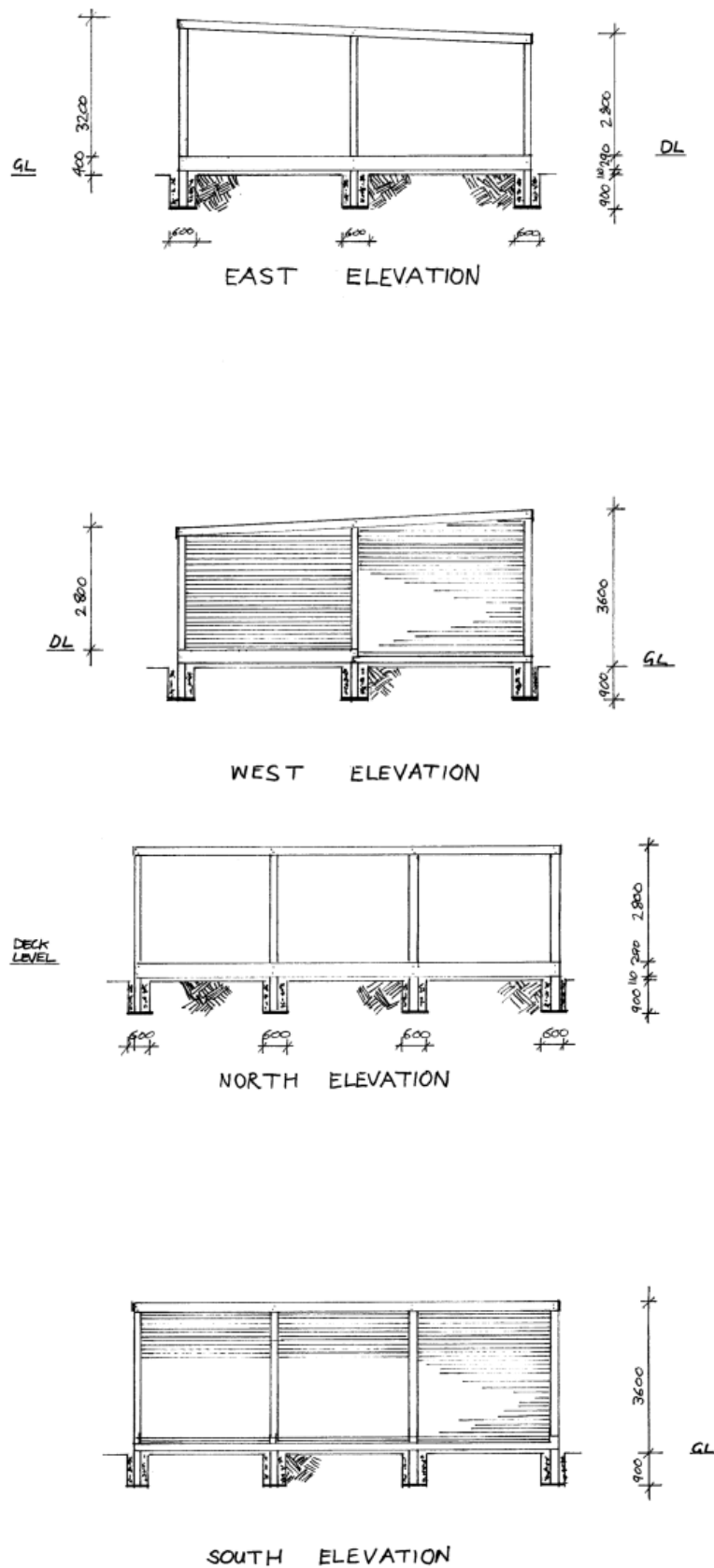


Figure 1: Lodged Plans

3. SITE AND LOCALITY

3.1 Site Description

The subject land comprises Lot K, Q12 in DP55064, Hundred of Kevin (CT 6127/543) as shown below. The site is leased to McCarthy, Griffin and Gates from 1 January 2006 and expires on 31 December 2027.

3.2 Locality

The locality comprises the Cactus Beach area situated on the lower tip of Point Sinclair, a small peninsula on the coast of the Great Australian Bight. The subject land is approximately 94km by road to the west of Ceduna (via Penong).

The area can be typically described as being of high landscape, scenic and amenity value consisting of the beach, sand dunes, cliff tops and large areas of low-lying coastal vegetation. To the north is a field of large dunes situated between the subject land and sea. The dunes are readily visible from, and form a back drop to, the subject land. The coastline comprises a series of headlands and bays, sandy beaches and reef platforms.

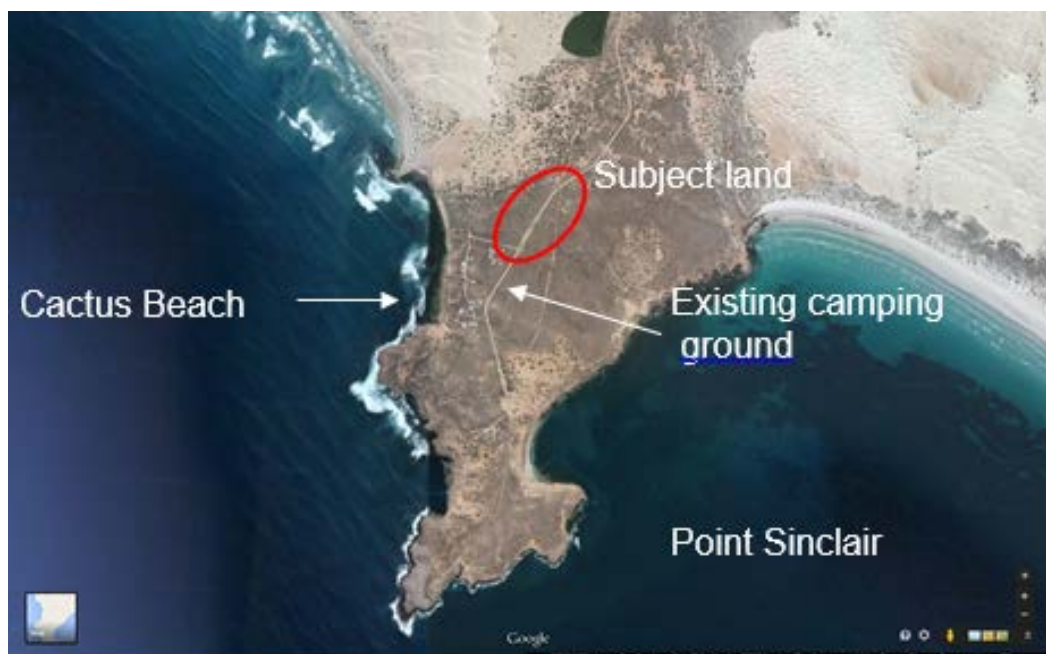


Figure 2 - locality map

An unsealed public road (Point Sinclair Road) is the only access into the area and runs from the Highway 1, and generally bisects the Peninsula north to south. Point Sinclair Road is to the south of the subject land, and provides access to a number of other similar leasehold sites in the locality via internal tracks. This road continues to pass the subject land and terminates at the seaward end of the Peninsula providing access to a number of facilities including the Point Sinclair Jetty, a formal camp ground and a number of car parks at various surfing locations.

The Cactus Beach area is a national and world class surfing area and has hosted local, national and world surfing titles. Because of its high natural, scenic and tourist

value it supports a range of other recreational pursuits including a formal bush camp ground, fishing, bush walking and nature experiences.

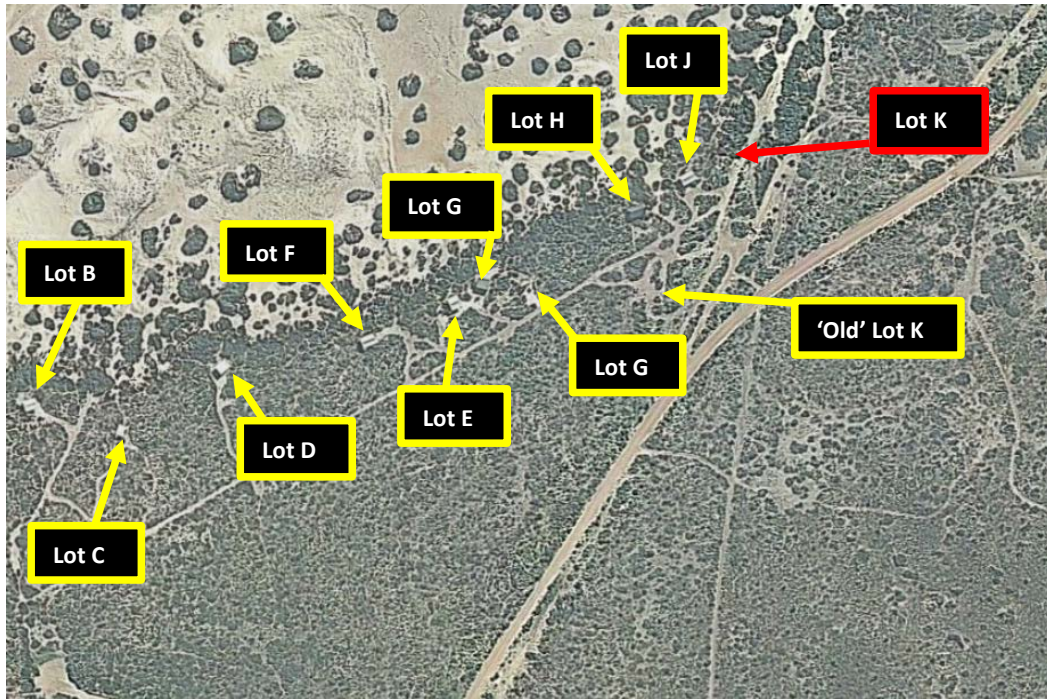


Figure 3 - Aerial of site

4. STATUTORY REFERRAL BODY COMMENTS

Referral responses are contained in the ATTACHMENTS

4.1 Coast Protection Board

The Coast Protection Board (CPB) responded to the subject application together with a number of other similar applications. In summary the CPB does not support the application for the following reasons;

- It does not represent orderly development
- It comprises scattered coastal development which is contrary to effective coastal management
- It impacts on the conservation of the coastal areas of high landscape and scenic amenity value
- It impacts on the conservation and biodiversity values off this area.

The Coast Protection Board does not have the power of "direction", but recommends the application be refused.

4.2 Native Vegetation Council

A referral was issued to the Native Vegetation Council (NVC) to seek non-mandatory technical advice.

A response was received on 13 August 2019 who provided the following response:

Although the application documentation states that proposed shelters area located in areas devoid of native vegetation and access to the site will be via

existing cleared tracks, insufficient detail is provided to confirm this. Aerial imagery (Google Earth 10/07/18) shows that native vegetation may be present at the proposed location. If any native vegetation removal is required to undertake the proposed development the proponent should seek advice from the Native Vegetation Branch DEW and approval under the Native Vegetation Act 1991 or Regulations, if necessary prior to undertaking clearance.

The subject site is devoid of any native vegetation. Furthermore, the applicant has confirmed that the proposed caravan shelters would be located in an area previously used for camping and devoid of native vegetation.

Should there be a need for any future clearance of native vegetation on the subject land, an advisory note is attached to ensure the appropriate approvals are undertaken prior to any potential clearance.

4.3 Outback Communities Authority

A response was received by the OCA on 8 August 2019 who provided no comment on the proposed development.

5. PUBLIC NOTIFICATION

The specific land use "caravan shelter" is an undefined use in the Coastal Conservation Zone. The development is not listed as either comply or non-complying in the Zone, and must therefore be regarded as a "merit" form of development.

Having regard to the remoteness of the locality, the presence of like development, and the lack of neighbouring development, the applications was determine to be Category 1 for the purposes of public notification in accordance with Schedule 9, Part 1, Clause 2(g) of the *Development Regulations 2008*, development "of a minor nature only and will not unreasonably impact on the owners or occupiers of land in the locality..."

6. POLICY OVERVIEW

The relevant Development Plan for assessment of the application is the Land Not Within a Council Area (Eyre, Far North, Riverland, and Whyalla) Development Plan (not consolidated on 12 December 2013). The subject land is situated within the Coastal Conservation Zone as identified in the Plan.

In summary, the zone seeks the following policy outcomes –

- The conservation and enhancement of the natural landscape containing coastal features and habitats including visual amenity, landforms, fauna and flora.
- Development that borrows from, and complements, the natural landscape in form and scale.
- Where buildings and structures are proposed, they are mainly for essential purposes, such as shelters and toilet facilities associated with public recreation, navigation purposes or necessary minor public works.
- Minimal road construction and limited to that which is required to access a car park.
- Development that is protected from coastal hazards such as flooding, erosion, sand drift and acid sulfate soils.
- High quality, nature-based tourist accommodation that complements the natural landscape with minimal impact on the natural environment.

A copy of the relevant policies is provided in the ATTACHMENTS.

7. PLANNING ASSESSMENT

The application has been assessed against the relevant provisions of the Land Not Within A Council Area Eyre, Far North, Riverland and Whyalla Development Plan (not consolidated 12 December 2013). Note – the Section 29 Development Plan change does not affect the relevant policies of the previous plan for this assessment.

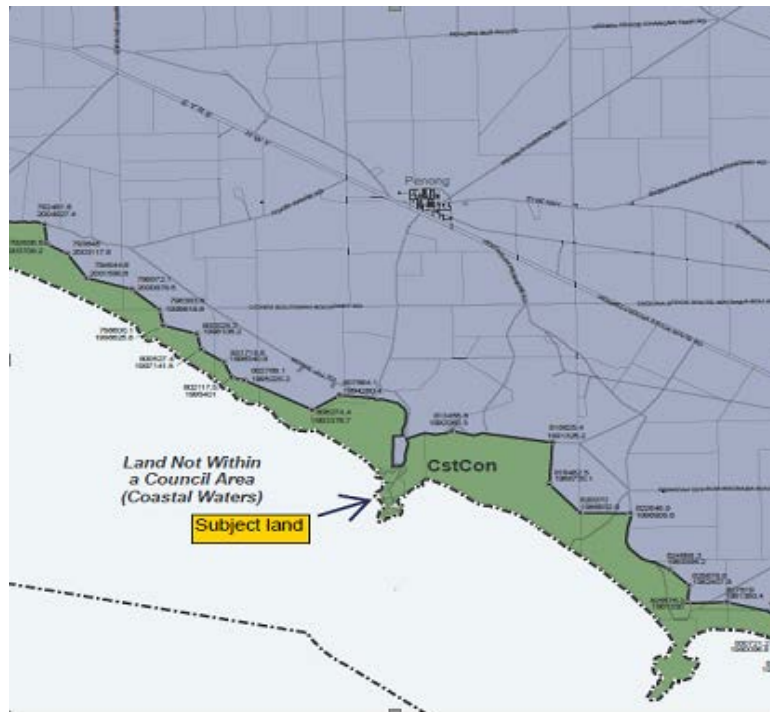


Figure 4 - Zoning Map

7.1 Existing Use rights

The applicant (via their planning consultant) has previously provided advice on the prior use of the land and presumptive existing use rights.

Government files and documents provided by DEWNR Coast Protection contain reference to and acknowledge the use of the land for camping over a long time period. It is apparent the area was used variously for free camping prior to the introduction of formal planning controls over the land.

Government records include a draft "Point Sinclair Planning Report" prepared by the then Coastal Management Branch in January 1984. It appears the report was never formally adopted, however it effectively set out a management plan for the area, incorporating two camping areas. Section 3.3 of the report notes as follows:

"Camping is generally restricted to the camping ground established by Mr Witzig in the mid sixties in between Castles and Cactus. The most popular camping sites are those closest to the beach. Several camping sites have also been developed in between the costal sites and the main road and are used during periods of peak usage.

The triangular piece of land north of Castles is used by long term campers obviously preferring the seclusion that this area offers. Unfortunately this area is probably not supervised as closely as the others and this may explain

the extensive removal of the larger trees evidenced in this area over the last ten years."

The latter reference is understood to include the subject land.

Sufficient evidence exists to conclude that the two camping areas can be regarded to have existing use rights for camping, on the basis that the land was Crown Land, the Crown was aware of the activity, and took no apparent steps to stop it. This existing use right could not however be extended to include any permanent occupation of the land for residential purposes, nor the construction of any structures currently on the land.

7.2 Land Use

The proposed development and land use has been defined by the relevant authority as "Caravan Shelter". The site proposes no storage areas. The structures would take the form of large flat roofed caravan shelters, with a partial enclosure on two sides and timber decks.

From some angles and from a distance, the structures would have the appearance of a smaller, domestic structure (see Figure 5 below). However, at closer proximity would "read" as open-sided and/or permeable shelter structures.



Figure 5 – Example of shelter appearance in locality

The Coastal Conservation Zone (CCZ) policies do not support the development of such permanent structures of the nature proposed. The Desired Character statement for the Zone states:

Within this zone coastal features and scenic quality are conserved; appropriate public access is maintained; and development is not subject to coastal hazards and is subservient to the conservation of the coastal environment. The Zone includes Point Bell Conservation Park, Chadinga

Conservation Reserve, Fowlers Bay Conservation Park, Wahgunyah Conservation Park and Nullarbor National Park.

Development borrows from, and complements, the natural landscape in form and scale, and in building materials, textures, colours and tones, so that the natural elements of the site/locality remain dominant to any introduced elements, and the scenic quality of the coast is protected.

... only a limited number of 'iconic', nature-based/eco tourism development, located a minimum of 25 kilometres apart.

The principles for the Zone in relation to land use and built form state:

1. *The following forms of development are envisaged in the zone:*
 - *Conservation works*
 - *Interpretive signage and facilities*
 - *Nature based/eco-tourist accommodation.*
- 3 *Buildings and structures should mainly be for essential purposes, such as shelters and toilet facilities associated with public recreation, navigation purposes or necessary minor public works.*

The structures are proposed for personal use and is not associated with any of the activities listed above. As structures for personal use, they would not strictly fit the definition of structures in a camping ground or area, as such structures would be for communal use, and for temporary hire. In this context the application is quite unique in that it is a permanent structure associated with a private and historic use of land.

Furthermore, the structures, and the use of land generally, cannot be regarded as tourist accommodation due to the exclusivity of ownership and use. Tourist accommodation typically involves accommodation options such as motels, hotels, guest houses, serviced apartments, hostels, holiday flats/units, caravan parks, and camping grounds available for short term hire to the general public.

The land use policies for the Region envisage residential development in defined settlements only and provide for a specific "Coastal Settlement Zone" for this purpose. The subject land is not within a defined settlement zone identified in the Development Plan.

The proposed structures could be regarded as supporting the historic use of the land for camping, although the structures are not essential for that historic activity to continue. It will therefore be important to determine if the physical nature and impact of the structures sufficiently meet the relevant provisions of the Development Plan to determine on balance their acceptability.

7.3 Design and Appearance

The Coastal Conservation Zone and Coastal Areas provisions of the Development Plan are mainly concerned with the conservation, protection and enhancement of the natural features of the coast. The Desired Character and Objectives for the Zone include the following:

Desired Character: The zone continues to be a predominately natural landscape containing coastal features and habitats such as wetlands, samphire flats, beaches, sand dunes and cliff tops. A wide variety of plant communities occur within these habitats.

The topography varies from low-lying samphire flats near Fowlers Bay to high cliff formations such as those along the Nullarbor. A variety of vegetated and unvegetated dune systems are found, including extensive sand drifts such as those at the Head of the Bight. The variety of land forms reflects major geological differences and variation in the influence of wind and waves along the coast.

The area is abundant in native wildlife, including the Osprey, White-bellied Sea-Eagle and Australian Sea Lion, all of which depend on the natural coastline for survival.

Development borrows from, and complements, the natural landscape in form and scale, and in building materials, textures, colours and tones, so that the natural elements of the site/locality remain dominant to any introduced elements, and the scenic quality of the coast is protected.

Objective 1: To enhance and conserve the natural features of the coast including visual amenity, landforms, fauna and flora.

Objective 4: Development that contributes to the desired character of the zone.

In relation to the appearance of structures in particular the principles include the following:

Principle 7: Development should not be undertaken unless it is consistent with the desired character for the zone.

Principle 8: Development should be designed and sited to be compatible with conservation and enhancement of the coastal environment and scenic beauty of the zone.

Principle 11: Development should:

(a) be self-sufficient in terms of infrastructure and services, such as water, sewerage, electricity and waste disposal, unless existing infrastructure is available that can accommodate the projected demand from the development

(b) minimise impacts on the natural surrounding environment by containing construction within a tightly defined site boundary, accepting that wind farms and ancillary development may require an extended and/or dispersed development pattern

(c) not obscure existing views to coastal features or be visibly prominent from key public vantage points, including public roads or car parking areas, accepting that wind farms and ancillary development need to be located in areas where they can take advantage of the natural resource upon which they rely and, as a consequence, may be located in visually prominent locations

(d) avoid areas that may endanger or threaten important nesting or breeding areas or the movement/migration patterns of fauna.

The proposed development is consistent with some of the above provisions in that it can be self-sufficient and does not require additional public infrastructure, and the development is generally confined to one side of the lease site, along the western allotment boundary, despite comprising two distinct shelters.

The proposal is however contrary to other provisions as follows:

- Does not enhance or complement the natural character of the area as they are buildings and not natural features. However because of their compact and simplistic form, they are a minimal intrusion on the landscape and their impact could be further minimised if one or more walls were removed and the structures took on a more open appearance.
- Does not enhance or conserve the natural features of the coast including visual amenity, landforms, fauna and flora.
- Is not compatible with the coastal environment or scenic beauty of the area.
- Is visible (but not overwhelmingly so) from the adjoining public road.
- Is not consistent with the Desired Character of the Zone.

7.4 Visibility

The above provisions refer to the visibility of development with the natural landscape. The applicant's planning consultant has made a general observation on behalf of a number of similar applications, that the proposed development is not visible from the beach. Whilst this is so, the Coastal Conservation Zone is not confined to its beachside aspect, but comprises in this locality a much broader strip of coastal land including the coastal dune system and adjacent land.

The proposed development is visible from the public road and other areas within this landscape and detracts from its natural character. The Development Plan identifies some areas and circumstances where this may be appropriate, but these do not include the subject land. However, in considering its current context, regard must now be given to the fact that the majority of the existing structures have obtained – albeit with modifications – a planning consent and/or approval (such that their continued, lawful presence on the land needs to be taken into account).

The relocation of the lease point further from Point Sinclair Road, the utilisation of dull coloured and non-reflective materials and the small scale of the proposed shelters will assist in the minimising the visibility of the development from the coast and other public areas.



Figure 6 – Locality context

The visual impact of the structure could be reduced if one or more of the side enclosures were removed. The windows in one of the side walls gives a dwelling-like appearance from that perspective. Such modifications could potentially result in structures that would more comfortably sit within the landscape and minimise their visual impact in terms of the relevant policies for the zone.

7.5 Coastal Environment

The above policies include reference to the impact of development on coastal areas, landforms and processes. In addition the zone and general Coastal Areas policies in the Development Plan include the following:

CCZ Principles

8: Development should:

- (a) not adversely impact on the ability to maintain the coastal frontage in a stable and natural condition*
- (b) minimise vehicle access points to the area that is the subject of the development*
- (c) be landscaped with locally indigenous plant species to enhance the amenity of the area and to screen buildings from public view*
- (d) utilise external low reflective materials and finishes that will minimise glare and blend in with the features of the landscape.*

Coastal Areas Objectives:

- 1 The protection and enhancement of the natural coastal environment, including environmentally important features of coastal areas such as mangroves, wetlands, sand dunes, cliff-tops, native vegetation, wildlife habitat shore and estuarine areas.*
- 2 Protection of the physical and economic resources of the coast from inappropriate development.*
- 3 Preservation of areas of high landscape and amenity value including stands of vegetation, shores, exposed cliffs, headlands, islands and hill tops, and areas which form an attractive background to urban and tourist areas.*
- 5 Development that maintains and/or enhances public access to coastal areas with minimal impact on the environment and amenity.*
- 6 Development only undertaken on land which is not subject to or that can be protected from coastal hazards including inundation by storm tides or combined storm tides and stormwater, coastal erosion or sand drift, and probable sea level rise.*

It is considered the development will not in itself directly threaten coastal processes or the economic resources of the coast or will be at risk from coastal hazards.

Nor is it located in a critically fragile or sensitive part of the coastal landscape (i.e. it is not on a samphire flat or directly on the coastal dune formation). As man-made structures they have some impact, however if the pitched roofs and solid walls were removed (in lieu of screen walls providing weather protection), their impact would be further minimised.

It is acknowledged the former activities in the locality and the camping use of the land has impacted on native vegetation both in terms of clearance of camping sites, the creation of access tracks, and removal of vegetation for firewood, and the current leaseholder may have been pro-active in repairing some of that damage.

However, the proposed structures will make use of a modified environment – including internal access tracks.



Figure 7 - Example of Flora within Locality

It is noted the Coastal Protection Board has raised concerns regarding the impact of the development on the biodiversity and conservation value of the coastal area, with regard to vegetation damage/clearance, disturbance to native fauna, erosion risk and site degradation.

Notwithstanding, the development will be within close proximity to existing development and the proposed shelters would be positioned on originally cleared campground sites with minimal site disturbance required, as indicated by the applicant.

7.6 Access

The above provisions relate to the implementation of appropriate access requirements for development. The policies in the Development Plan include the following:

Access

16 Development should have direct access from an all weather public road.

17: Development should be provided with safe and convenient access which:

- (a) avoids unreasonable interference with the flow of traffic on adjoining roads*
- (b) accommodates the type and volume of traffic likely to be generated by the development or land use and minimises induced traffic through over-provision*
- (c) is sited and designed to minimise any adverse impacts on the occupants of and visitors to neighbouring properties.*

22: Driveways, access tracks and parking areas should be designed and constructed to:

- (a) follow the natural contours of the land*

- (b) minimise excavation and/or fill*
- (c) minimise the potential for erosion from run-off*
- (d) avoid the removal of existing vegetation*
- (e) be consistent with Australian Standard AS 2890 Parking facilities.*

The development will not be directly accessible by an all-weather public road, however the proposed leaseholder access is appropriate considering the desire to maintain the natural landscape and its consistency with access paths to existing shelters within the locality. The proposed development will also not infringe upon the movement of vehicles nor restrict access to existing shelters within the locality.

7.7 Erosion Buffers

The above provisions relate to the mitigation of associated risks to development in coastal areas by ensuring appropriate design measures are taken to inhibit the impacts of coastal erosion. The policies in the Development Plan include the following:

Erosion Buffers

24 Development should be set back a sufficient distance from the coast to provide an erosion buffer which will allow for at least 100 years of coastal retreat for single buildings or small scale developments, or 200 years of coastal retreat for large scale developments (i.e. new townships) unless either of the following applies:

- (a) the development incorporates appropriate private coastal protection measures to protect the development and public reserve from the anticipated erosion.*
- (b) the council is committed to protecting the public reserve and development from the anticipated coastal erosion.*

While private coastal protection measures have not been undertaken, it is considered the development will be of a significant distance from the coastline that will ensure its protection from coastal retreat for at least 100 years, noting that Lot K is the furthestmost lot from the coastline of the Piece 12 lease sites, of which, several have been retrospectively approved.

The Coastal Protection Board were also satisfied with the development relating to the mitigation of flooding and erosion hazard risks.

8. CONCLUSION

The application seeks Development Plan consent for two (2) caravan shelters on a relocated lease site in the Point Sinclair/Cactus Beach locality, situated in the Coastal Conservation Zone.

The Development Plan does not envisage the development of any new private structures in the zone, and the structures are not essential to the continued existing use of the land as a public camp ground, but it is noted that the land has been used for bush camping over a long period of time, such that the establishment of the development would not represent a significant departure from what currently exists.

Whilst private caravan structures are not envisaged in the Zone, this assessment has been undertaken in the context of a number of other similar applications for structures in the locality that share the same history and circumstances. Previously, ten development applications were lodged with SCAP, with the majority having obtained consent or approval (with one, a structure on the previous Lot K being refused).

The current application (following and related to this refusal) seeks to address the SCAP's concerns with a revised proposal on a different site that better accords with adjacent, lower-impact development. It is considered that the application, which includes two (2) shelters comprising lower roof forms, two enclosed sides (with a slatted wall design), and no enclosed spaces, windows or separate storage areas, meet the SCAP's previous requirements to essentially 'strip back' each development to a basic shelter design.

Accordingly, it is recommended the application be granted consent pending the provision of appropriately scaled, dimensioned and detailed plans.

9. RECOMMENDATION

It is recommended that the State Commission Assessment Panel:

1. That the proposed development is not seriously at variance with the policies in the Development Plan.
2. That the proposal generally accords with the related Objectives and Principles of Development Control of the Land Not Within a Council Area (Eyre, Far North, Riverland and Whyalla) Development Plan.
3. RESOLVE to grant Development Plan Consent to the proposal by K McCarthy to construct two (2) caravan shelters at Lot K, Q12 in DP55064, Hundred of Kevin (CT 6127/543) subject to the following conditions and advisory notes:

Conditions – General

1. Except where minor amendments may be required by other relevant Acts, or by conditions imposed by this application, the development shall be established in strict accordance with the stamped plans, amended documentation and correspondence submitted in Development Application No 010/U021/19.

Reason for condition: to ensure the development is constructed in accordance with endorsed plans and application details.

2. Vehicle access and manoeuvring areas shall be confined to the access tracks existing as at the date of application.

Reason for condition: to ensure appropriate vehicle access is provided for the subject land.

3. No further clearance of native vegetation shall be undertaken on the subject land (unless approved under the Native Vegetation Act).

Reason for condition: to ensure the loss and disturbance of native flora is minimised.

4. The site shall be maintained in an orderly and tidy manner at all times, and all rubbish be stored in sealed containers prior to removal and disposal off-site to the satisfaction of the State Commission Assessment Panel.

Reason for condition: to ensure the subject land is adequately maintained and minimise the impact of human activity in the locality.

5. All external finishes shall have surfaces which are of a low light reflective nature and be of muted natural colours to the satisfaction of the State Commission Assessment Panel.

Reason for condition: to ensure the natural elements of the locality remain dominant to the introduced elements of the development, and the scenic quality of the coast is protected.

6. A Bushfire Survival Plan shall be developed and implemented to ensure all visitors to the development are aware of specific measures to safeguard the property and what actions need to be taken on fire risk days or if a fire threatens.

Reason for condition: to ensure there are specific measures to safeguard the property and visitors in the event of a bushfire or on fire risk days.

7. The development shall not be permanently occupied.

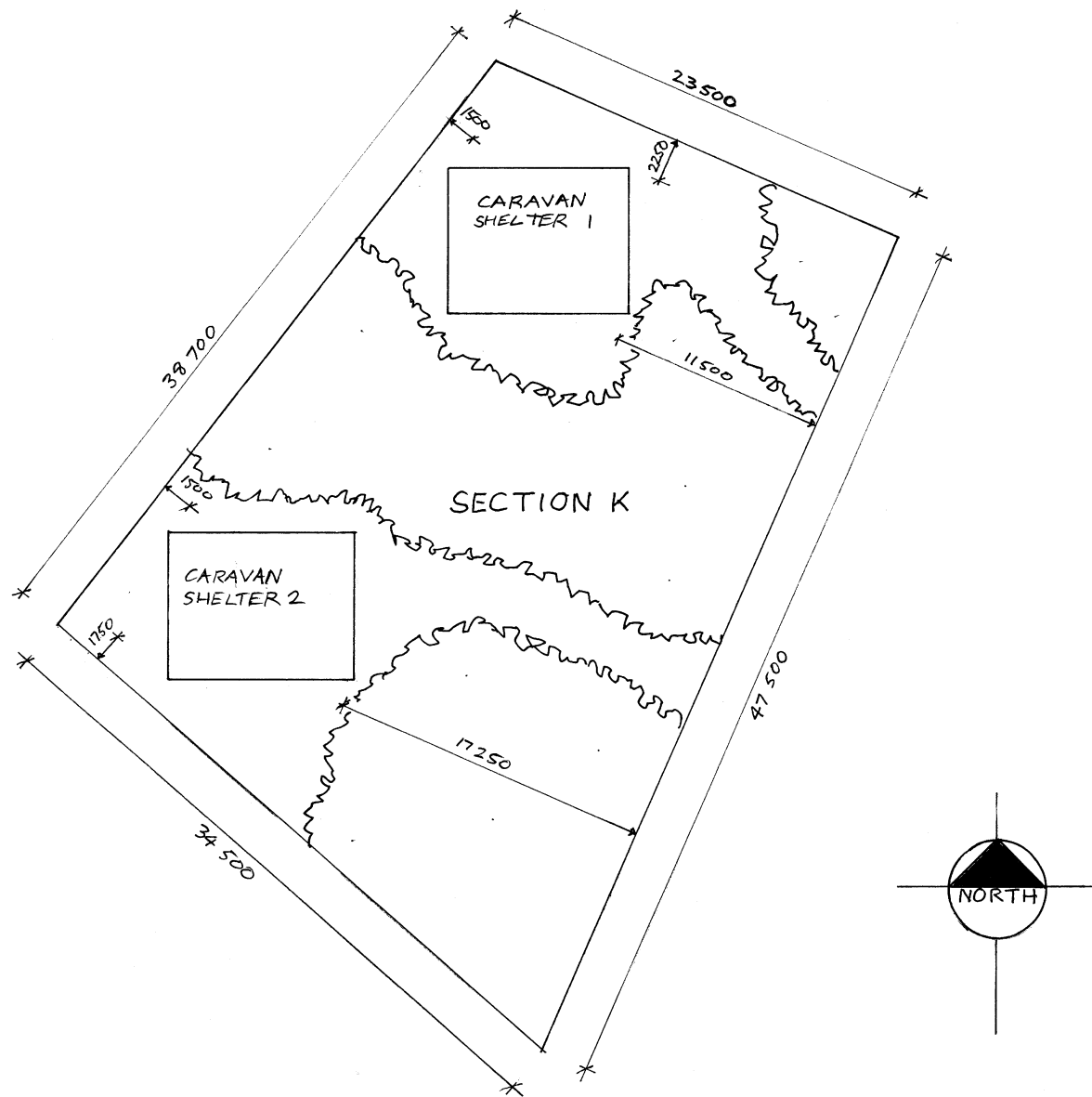
Reason for condition: to ensure the development does not constitute a form of permanent human settlement.

Advisory Notes

1. Appeal rights – General rights of review and appeal exist in relation to any assessment, request, direction or act of a relevant authority in relation to the determination of this application, including conditions.
2. Development granted full Development Approval must be substantially commenced within 12 months of the date of Development Approval, and completed within 3 years from the operative date of the approval, unless this period has been extended by the relevant authority.
3. If there is an intention to clear native vegetation on the land at any time, the applicant should consult the Native Vegetation Council to determine relevant requirements under the *Native Vegetation Act 1991* and its Regulations, which may include the provision of a Significant Environmental Benefit. Note that 'clearance' means any activity that could cause any substantial damage to native plants, including cutting down and removing plants, burning, poisoning, slashing of understorey, removal or trimming of branches, severing roots, drainage and reclamation of wetlands, and in some circumstances grazing by animals. For further information contact the Native Vegetation Council on telephone 8303 9777 or visit: <http://www.nvc.sa.gov.au>.



Nicholas Giannakodakis
PLANNING OFFICER
PLANNING AND DEVELOPMENT (DPTI)



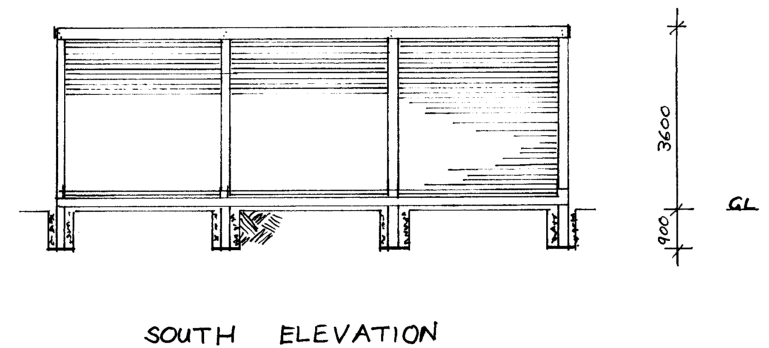
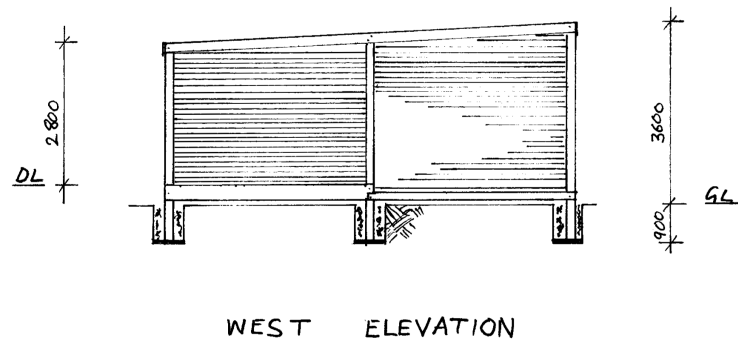
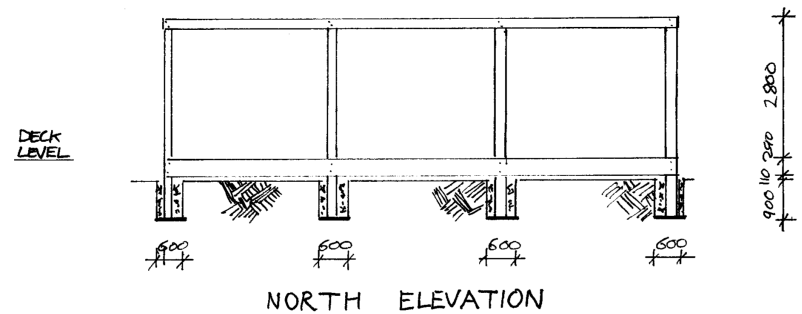
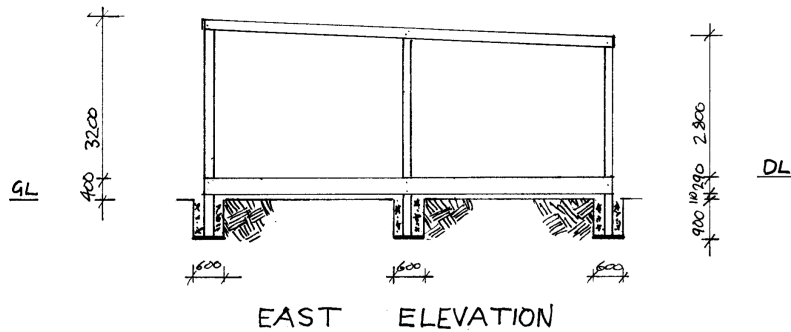
SITE PLAN

CARAVAN SHELTERS 1 + 2

LOCATION: SECTION K
OF PIECE 12 IN DP 55064
OF SELS 29 + 59 AND
CLOSED RD. HD KEVIN.

NOTES: PROPOSED CARAVAN SHELTERS POSITIONED ON
ORIGINAL CLEARED CAMPGROUND SITES WHICH
OVERLAP SECTION K. MINIMAL SITE DISTURBANCE
REQUIRED. BALANCE LOW SCRUB.

CLIENTS: J. GRIFFEN + K. MCCARTHY
DRAWN BY: B. DURANT
SCALE: 1:250-43
DATE: JUNE 2019



ELEVATIONS AND FOOTINGS DETAILS

NOTES: CARAVAN SHELTER "1 & 2" LOCATED WITHIN LOT K IN G787/2002; Q12 IN DP 55064 [CT6127/543]. FOOTINGS DESIGNED WITHIN PARAMETERS OF AS.1684 & AS.2870
NATURAL LEVEL SITE. NO CUT OR FILL REQUIRED. SOIL TYPE A. STORMWATER COLLECTED BY TANK. HORIZONTAL WIND MITIGATION SLATS-90X22MM CCA H3PINUS @110 CTS.

CLIENTS: J. GRIFFIN & K. MCCARTHY
DRAWN BY: B. DURANT
SCALE: 1:100-A3
DATE: JUNE 2019

ADDITIONAL STUMPS 100-125 mm Ø H4 PINUS
RIBBOARD: 290 x 45 mm + 90 x 45 mm
BEARERS: 2 x 140 x 35 mm CONTINUOUS SPAN
3 x 140 x 35 mm CONTINUOUS SPAN
DECKING: 90 x 22 mm
SLATTING:
BEARERS: 140 x 45 mm TOP AND BOTTOM
STUPE: 70 x 45 mm @ 600 CENTRES
SLATS: 90 x 22 mm @ 110 mm CENTRES

[illegible]

CLIENTS: J. GRIFFIN & K. McCARTHY
DRAWN BY: B. DURANT
SCALE: 1:100-A3
DATE: JUNE 2019

TIMBER SIZES

POLES 200 mm Ø
BEAMS 190 x 45 mm
BARGE ENDS 190 x 35 mm
RAFTERS 140 x 45 mm
ROOF BATTENS 45 x 70 mm

RAFTER FIXED TO BARGE END

COMMON RAFTER SINGLE SPAN

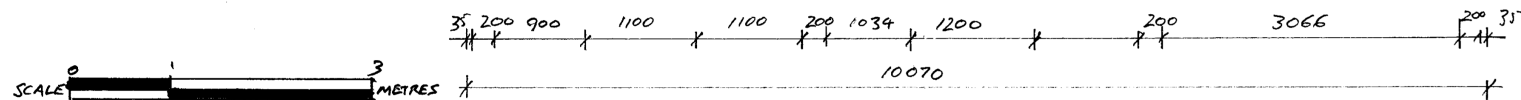
CCA H5 POLE

ROOF BATTEN

1.8 x 25 mm G.I. STRAP BRACING

BATTEN FIXED TO END BEAM + RAFTER

1200 190 x 45 x 1200 FISH PLATE JOINT



NOTES: 200MM DIAMETER POLES CCA H5
BARGE, BEAM, RAFTERS & BATTENS.
TIMBER: ALL MGP10 CCA H3
ROOF MASS 10 KG.M2. N2 WIND CLASS

CARAVAN SHELTER "1&2" ROOF PLAN

LOCATION: SECTION K OF PIECE 12 IN DP 55064 OF SECTIONS 29 & 59
AND CLOSED ROAD, HUNDRED OF KEVIN. DESIGN SPECIFIC TO AS 1684.2

CLIENTS: J. GRIFFIN & K. MCCARTHY
DRAWN BY: B. DURANT
SCALE: 1:100-A3
DATE: JUNE 2019

DEVELOPMENT APPLICATION FORM

PLEASE USE BLOCK LETTERS

COUNCIL: Out of Council Areas - Eyre

APPLICANT: Ken McCarthy

Postal Address: C/- S K Planning Pty Ltd
9 Camden Street
ALBION QLD 4010

Owners: Ronald Paul Gates
Pt Sinclair via Penong
Penong PO
PENONG SA 5690

FOR OFFICE USE

Development No: _____

Previous Development No: _____

Assessment No: _____

- ☐ Complying
- ☐ Non Complying
- ☐ Notification Cat 2
- ☐ Notification Cat 3
- ☐ Referrals/Concurrences
- ☐ DA Commission

Application forwarded to DA

Commission/Council on

/ /

Decision: _____

Type: _____

Date: / /

CONTACT PERSON FOR FURTHER INFORMATION

Name: Mark Baade

Telephone: 0417 088 000 [work] [Ah]

Fax [work] [Ah]

EXISTING USE: Camping ground

	Decision required	Fees	Receipt No	Date
Planning:	_____	_____	_____	_____
Building:	_____	_____	_____	_____
Land Division:	_____	_____	_____	_____
Certificate:	_____	_____	_____	_____
Development Approval				

DESCRIPTION OF PROPOSED DEVELOPMENT: Caravan shelter

LOCATION OF PROPOSED DEVELOPMENT:

Allotment: Q12 in DP55064

Hundred: Kevin

Volume: 6127

Folio: 543

LAND DIVISION:

Site Area [m²]: _____ Reserve Area [m²]: _____ No of existing allotments: _____

Number of additional allotments [excluding road and reserve]: _____ Lease: YES ☐ NO ☐

BUILDING RULES CLASSIFICATION SOUGHT: _____ Present classification: _____

If Class 5, 6, 7, 8 or 9 classification is sought, state the proposed number of employees: _____ Male: _____ Female: _____

If Class 9a classification is sought, state the number of persons for whom accommodation is provided: _____

If Class 9b classification is sought, state the proposed number of occupants of the various spaces at the premises: _____

DOES EITHER SCHEDULE 21 OR 22 OF THE DEVELOPMENT REGULATIONS 1993 APPLY? YES ☐ NO ☐

HAS THE CONSTRUCTION INDUSTRY TRAINING FUND ACT 1993 LEVY BEEN PAID? YES ☐ NO ☐

DEVELOPMENT COST [do not include any fit-out costs]: \$50,000

I acknowledge that copies of this application and supporting documentation may be provided to interested persons in accordance with the Development Regulations 2008.

SIGNATURE:



Dated: 28 June 2019



28 June 2019

Mr Simon Neldner
Team Leader – Development Assessment
Development Division
Department of Planning, Transport and Infrastructure
GPO Box 1815
ADELAIDE SA 5001

S K Planning Pty Ltd

ABN 76 108 325 435

9 Camden Street
ALBION QLD 4010

m: 0417 088 000

e: markb@skplanning.com.au

Dear Simon

NEW DEVELOPMENT APPLICATION – LOT K (revised location)
Q12 in DP55064 (Hundred of Kevin CT 6127/543) Cactus Beach, Point Sinclair

I advise S K Planning acts for Ken McCarthy in respect this application. The application is for two caravan shelters on a revised location on a leased area at the Port Sinclair camping ground.

The applicant had a previous application (DA 010/U001/13) in the same general area (Lot K) for an unapproved caravan shelter, which accommodated two caravans, deck area and storage. SCAP determined the proposal was inappropriate in that location and refused planning consent.

Based on the advice received throughout the SCAP assessment and determination process, the applicant has now sought to, effectively, relocate the lease area to a point further from the main road and propose two smaller, more modest and identical caravan shelters that are in keeping with SCAP's guidance on this issue (by way of discussions and other approvals granted).

As such, this letter and attached documentation form a new planning application lodged under the same Development Plan regime as those already approved or in the process of final approval.

Please find attached:

- Development application form
- Marked-up lease plan showing the new location and size of revised Lot K
- Site plan (marked as section K) showing the intended location of the caravan shelters
- Three (3) sheets showing elevations, roof plan and deck and wall plans

The proposed shelters are based on the design of the shelter owned by T Eleftheriou (Lot G, DA 010/U079/12), which was approved by SCAP on 8 November 2018, with minimal changes.

The shelters have low-pitched skillion roofs, slatted walls on two sides for weather protection (south and west) and no storage areas are proposed. A dull colour and non-reflective materials are proposed.

The shelters are located in an area previously used for camping and devoid of native vegetation. The existing access gate from the main road will be used and existing cleared tracks will be used to access the location. As such, any native vegetation removal will be minor and incidental.



The revised Lot K location is 1224 sqm in area and located to the north-east of existing Lot J. I am advised the Lands Title Office has confirmed with the applicant that the relocation of Lot K has occurred. The associated lease agreement is between the same parties as before – McCarthy and Griffin and Gates (hence two shelters). The new location gives it a setback of approximately 110 metres from the main road into Point Sinclair, as shown on the Google Earth extract below. This is a similar setback to the existing lots H and J.



The land is located in the *Coastal Conservation Zone* of the Land Not Within a Council Area Eyre, Far North, Riverland and Whyalla (version dated but unconsolidated 12 December 2013). This version of the Development Plan is the same as the previous version (consolidated 18 October 2012) with respect to the subject land and the proposal.

Given the issues associated with the caravan shelters in this area have been extensively discussed and documented over a number of years, as well as carefully considered on a number of occasions by SCAP, and this proposal is based upon one of the more successful outcomes, the Commission would be well aware of the key matters to be considered.

Please advise of any additional information you might require to process the application further, which I anticipate will require a referral to the Coast Protection Board.

Yours sincerely

MARK BAADE

B.Planning (Hons)

M: 0417 088 000

markb@skplanning.com.au

Certificate of Title

Title Reference CT 6127/543
Status CURRENT
Easement NO
Owner Number 12652444
Address for Notices PENONG SA 5690
Area 131.0HA (CALCULATED)

Estate Type

Fee Simple

Registered Proprietor

RONALD PAUL GATES
 OF PENONG SA 5690

Description of Land

ALLOTMENT COMPRISING PIECES 10, 11, 12, 13 AND 14 DEPOSITED PLAN 55064
 IN THE AREA NAMED PENONG
 HUNDRED OF KEVIN

Last Sale Details

There are no sales details recorded for this property

Constraints

Encumbrances

Dealing Type	Dealing Number	Beneficiary
MORTGAGE	9341120	AUSTRALIA & NEW ZEALAND BANKING GROUP LTD.
LEASE	10653403	LYNETTE SHARON HUTCHENS PETER ROBERT REEVES
LEASE	10653404	SCOTT BRIAN CANE
LEASE	10653405	BEN HUSSEY TERRY ROBERT HUSSEY
LEASE	10653406	PETA LYNN OFFORD ROBERT ANDREW OFFORD
LEASE	10653407	IAN EDGAR SMITH JOHN CHARLES HINKS REECE GYNELL
LEASE	10653408	MICHAEL SCHOEMAN SCOTT ANTHONY LOMBE THERIOU PTY. LTD. (ACN: 125 790 230)
LEASE	10653409	NEIL JOHN MCARTHUR SUSAN MARGARET MCARTHUR
LEASE	10653410	WESTON MEDICAL DEVICES PTY.

Dealing Type	Dealing Number	Beneficiary
		LTD.
LEASE	10653411	JULE FLORINDA MCCARTHY JUNE MARY GRIFFIN

Stoppers

NIL

Valuation Numbers

Valuation Number	Status	Property Location Address
6821302011	CURRENT	1910 POINT SINCLAIR ROAD, PENONG, SA 5690

Notations

Dealings Affecting Title

NIL

Notations on Plan

NIL

Registrar-General's Notes

PLAN FOR LEASE PURPOSES VIDE G87/2002
APPROVED FILED PLAN FOR LEASE PURPOSES FX254620

Administrative Interests

NIL

Valuation Record

Valuation Number	6821302011
Type	Site & Capital Value
Date of Valuation	01/01/2019
Status	CURRENT
Operative From	01/07/2001
Property Location	1910 POINT SINCLAIR ROAD, PENONG, SA 5690
Local Government	UIA EYRE
Owner Names	RONALD PAUL GATES
Owner Number	12652444
Address for Notices	PENONG SA 5690
Zone / Policy / Precinct	CstCon - Coastal Conservation\\
Water Available	No
Sewer Available	No
Land Use	7510 - Camping And/Or Caravaning

Description CARAVAN PARK

Local Government Description Commercial - Other

Parcels

Plan/Parcel	Title Reference(s)
D55064 PIECE 14	CT 6127/543
D55064 PIECE 13	CT 6127/543
D55064 PIECE 11	CT 6127/543
D55064 PIECE 12	CT 6127/543
D55064 PIECE 10	CT 6127/543

Values

Financial Year	Site Value	Capital Value	Notional Site Value	Notional Capital Value	Notional Type
Current	\$290,000	\$340,000			
Previous	\$275,000	\$325,000			

Building Details

Valuation Number 6821302011

Building Style Not Available

Year Built Not Available

Building Condition Not Available

Wall Construction Not Available

Roof Construction Not Available

Equivalent Main Area Not Available

Number of Main Rooms Not Available

Ref: CPB 070/19
27 August 2019

Nicholas Giannakodakis
State Commission Assessment Panel

Level 4, 81-91 Waymouth Street
Adelaide SA 5000
GPO Box 1047
Adelaide SA 5001
Australia

BY EMAIL

Contact Officer: Kym Gerner
Ph: 8124 4885
Email: kym.gerner2@sa.gov.au

Dear Nicholas

COAST PROTECTION BOARD
Development Applications Email:
DEW.CoastProtectionBoardDevelopmentApplications@sa.gov.au

Development Application No	010/U021/19
Applicant	Ken McCarthy
Description	Two Caravan Shelters
Location	Area K, Piece 12, DP55064, Cactus Beach
Development Plan Zone	Coastal Conservation
Council	Land not Within a Council Area
Planning Authority	State Commission Assessment Panel

I refer to the above development application forwarded to the Coast Protection Board (the Board) in accordance with Section 37 of the Development Act 1993. The planning authority is required to have regard to this response prior to making a decision on the proposal.

In accord with part 43 of the Development Regulations, a copy of the decision notification must be forwarded to the Board at the above address.

The following response is provided under delegated authority for the Board, in compliance with the policies within its Policy Document 2016 at:

http://www.environment.sa.gov.au/about-us/boards-and-committees/Coast_Protection_Board/Policies_strategic_plans

More information on coastal development assessment and planning policy is contained in the Coastal Planning Information Package at:

<http://www.environment.sa.gov.au/our-places/coasts>

Background

Cactus Beach has a long history of camping and unauthorised development activity going back to the 1960s, with a range of structures being introduced (and in some instances subsequently removed) during that period. In the period since the granting of freehold title in 2001, two type of camping areas have been established over time, namely:

- 'Piece 13'-structured camp ground with amenities owned and managed by land owner
- 'Piece 12'-a second 'camping area' on which 11 lease sites have been created (2006/7) where the introduction of 'caravan shelters' and associated development (wind breaks, stores, decks, waste disposal units, tanks etc) has evolved.

In total 10 structures were constructed on Piece 12 without approval and subsequent correspondence by the former Development Assessment Commission-DAC (now State Commission Assessment Panel-SCAP) to the leaseholders in 2012 requested all building works cease and retrospective DAs be lodged.

10 separate applicants have been represented by one planning consultant (Mark Baade) who recently coordinated the lodgement of ten applications that were subsequently considered together by the SCAP, at meetings on 8 November 2018 and 24 January 2019.

The SCAP have now provided planning consent to five of the applications with four being deferred (subject to further changes to reduce scale and bulk) and one being refused (an application for a 'shelter' by the current applicant on the previous site of Lot K. The subject of this development application is for an amended proposal on a relocated allotment K.

Proposal

The proposal is for two caravan shelters on a relocated Lot K. The site is within the Coastal Conservation Zone and outside of Council areas.



Figure 1-location of proposed development showing approximate locations of the former Lot K and recently refused 'shelter' (yellow) and the new Lot K (green)

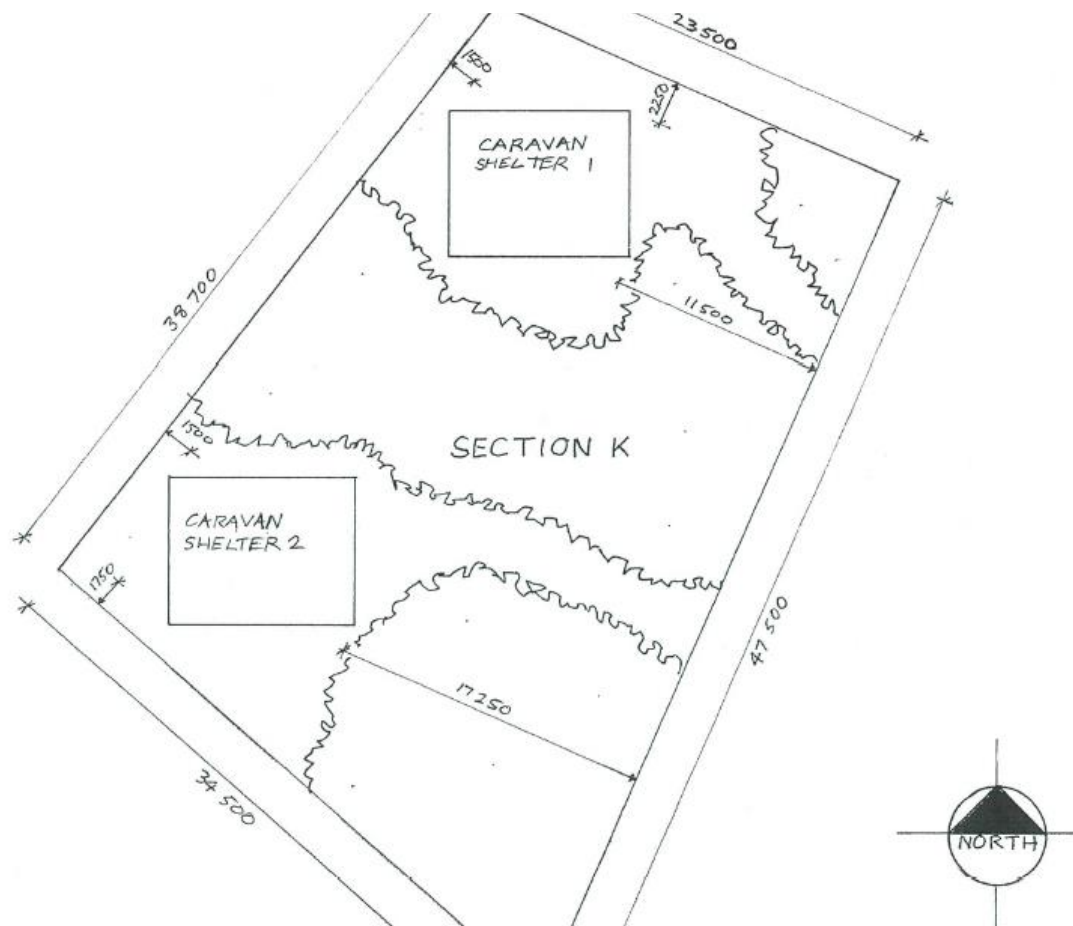


Figure 2-site plan showing the tow proposed caravan shelters within the relocated Lot K

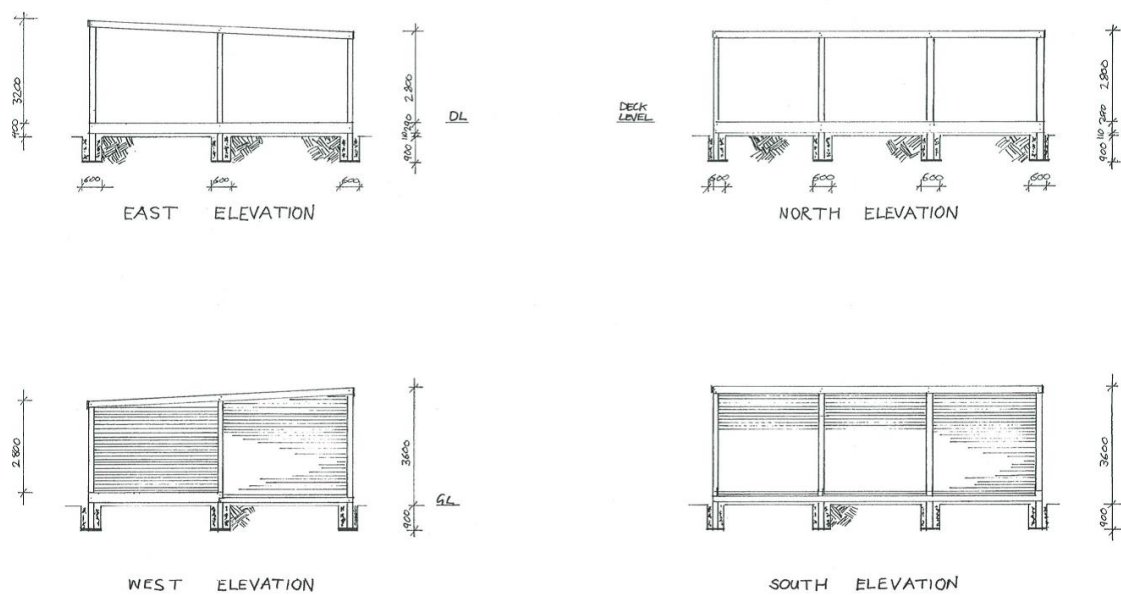


Figure 3-proposed design of shelters

Comments

Flooding and Erosion

Coast Protection Board Policy 1.4(b):

“The Board will seek to minimise the exposure of new and existing development to risk of damage from coastal hazards and risks to development on the coast.”

The Board's flooding and erosion policies are reflected in the General Section of the Land Not Within a Council Area Eyre, Far North, Riverland and Whyalla Development Plan.

The development site is well set back from the coastline and considered to satisfy the Board's flooding and erosion hazard risk policies.

Native Vegetation and Coastal Biodiversity

Coast Protection Board Policy 4.2(a):

“The Board will seek to identify, protect and manage coastal environments with high conservation values.”

The Board seeks to identify, protect and manage coastal biodiversity. The Eyre Peninsula Coastal Action Plan and Conservation Priorities Study 2011, identifies the coast in this area as having a medium conservation value, with the area important for Aboriginal Heritage, rare and endemic species and floristic communities, habitat for butterflies and threatened flora and fauna species.

The proposed development is likely to impact on these biodiversity and conservation values through increased human occupation potentially resulting in disturbance to native fauna, increased weed introduction and spread, vegetation damage and/or clearance and increased potential for damage from feral species such as cats and dogs. The landforms of the site and surrounds are subject to erosion risks and degradation and this risk would be exacerbated through additional development pressures including dwellings, fire safety vegetation clearance requirements, vehicle access, and other development.

Any native vegetation on the site is protected under the Native Vegetation Act 1991 and Native Vegetation Regulations 2017 and its clearance would be subject to a native vegetation clearance assessment process under the legislation. Note that 'clearance' means any activity that could cause any substantial damage to native plants, including cutting down and removing plants, burning, poisoning, slashing of understory, removal or trimming of branches, severing roots, drainage and reclamation of wetlands, and in some circumstances grazing by animals. For further information visit: <http://www.nvc.sa.gov.au> which includes an online interactive guide that helps to determine if an application to clear native vegetation is required, alternatively the Native Vegetation Council can be contacted on 8303 9777 or nvc@sa.gov.au.

The proposed development is at odds with the Boards Native Vegetation and Coastal Biodiversity policies.

Orderly Development and scenic amenity

Coast Protection Board Policy 1.5(a):

“The Coast Protection Board opposes linear or scattered coastal development, with the exception of tourist accommodation development or that which has a significant public or environmental benefit, as per Policy 1.6. The Board prefers development to be concentrated within existing developed areas or appropriately chosen nodes.”

Coast Protection Board Policy 1.6:

“The Coast Protection Board may support development, including tourist accommodation or that which has a significant public or environmental benefit, in coastal areas outside of urban areas provided:

- It is sited and designed in a manner that is subservient to important natural values within the coastal environment;*
- It is not subject to unaddressed coastal hazards;*
- Adverse impacts on natural features, landscapes, habitats, threatened species and cultural assets are avoided or minimised; and*
- It will not significantly impact on the amenity of scenic coastal vistas.*

Coast Protection Board Policy 1.4(e):

“The Board will seek to ensure that the siting and design of development on the coast minimises its impact on the environment, heritage and visual amenity of the coast.”

The Coast Protection Board policy opposes scattered coastal development with a preference for development concentrated within existing developed areas or appropriately chosen nodes. More specifically the Board encourages development to be clustered along the coast in planned, distinctive and compact coastal towns. The Board strongly discourages development that adds to incremental sprawl and which has the potential to detract from the visual appearance and overall appeal of the natural coastline. The proposed development cannot be considered to be within a planned, compact township, and due to existing constraints is not envisaged to become one in the future.

The beach, sand dunes, vegetation and cliff tops of this area are of high landscape, environmental and amenity value. The Board has a duty to protect coastal environments of high scenic value and in doing so ensures that incremental development does not detract from the aesthetic appearance of the coast. In this regard, the Board seeks to ensure the siting and design of development on the coast minimises its impact on the visual amenity of the coast.

The proposed development is along coastline that is relatively free of built development and has a highly valued scenic amenity. Scenic amenity is an important feature of the tourism economy of this region, noting that this cluster of caravans and shelters is largely visible from the only access road to the nationally and internationally recognised Cactus Beach surfing areas and formal campground. The appeal of this landscape should not be threatened by incremental development such as that proposed by the subject application.

Whilst the positioning of the development is less prominent than the retrospective application recently refused by SCAP, it involves two structures that will have a significant impact on the visual amenity and appeal of this coastal conservation area where this type of development is not envisaged by the Development Plan.

The Board is also concerned that the applicant is seeking approval for two structures on a single lease site, which has the potential to create a precedent for future applications for two (or more) structures per lease site, resulting in further environmental and visual amenity impacts.

The proposed development also does not incorporate any measures that could be considered to provide a significant environmental benefit. The types of things that the Board would typically seek, include:

- Development that is sited and designed to conserve, and preferably enhance, the coastal values of the site, e.g. development to be set well back from the coast, and in an area that is currently cleared from vegetation.
- Closure of unnecessary existing tracks and access points.
- Professionally developed environmental management plan over a significantly large area for the entire site that seeks to reduce potential impacts and increase biodiversity. At the least this would include native vegetation revegetation and pest species management programs.
- A long term commitment to maintaining and improving the biodiversity value of the site through a Native Vegetation Heritage Agreement or Land Management Agreement.

The proposed development is not sited within a planned coastal settlement and the application (as with other applications recently considered by SCAP) is considered to be contrary to the Board's orderly development and scenic amenity policies.

Coast Protection Board Response

In summary the Board's key relevant policies seek to:

- retain coastal open space
- minimise impacts of development on the coast
- protect coastal biodiversity
- protect scenic amenity, and
- maintain compact coastal settlements and restrain 'sprawl' along the coastline.

The Coast Protection Board is unable to support the proposed development as it is considered at variance with the Board's orderly development, scenic amenity and environmental policies. In particular it is considered that the proposal:

- does not represent orderly development, being scattered coastal development, which is contrary to effective coastal management
- impacts on the preservation of coastal areas of high landscape and scenic amenity value
- impacts on the conservation and biodiversity values of this area.

As such it is at odds with policies 1.4 (e) 1.5(a), 1.5(c), 1.6 and 4.2 (a) of its *Policy Document 2016* and the Board recommends that it be refused.

Yours sincerely



Murray Townsend
Manager
Coastal and Marine Branch
Department for Environment and Water
Delegate for the Coast Protection Board

RESPONSE DETAILS - NATIVE VEGETATION COUNCIL

Chosen Standard Planning Conditions

None Selected

Other Authored Planning Conditions

Chosen Standard Advisory Notes

None Selected

Other Authored Advisory Notes

Although the application documentation states that proposed shelters are located in an areas devoid of native vegetation and access to the site will be via existing cleared tracks, insufficient detail is provided to confirm this. Aerial imagery (Google Earth 10/07/18) shows that native vegetation may be present at the proposed location. If any native vegetation removal is required to undertake the proposed development the proponent should seek advice from the Native Vegetation Branch DEW and approval under the Native Vegetation Act 1991 or Regulations, if necessary prior to undertaking clearance.

Additional Comments

Outback Communities Authority Referral Response – Submitted 8 August 2019

RESPONSE DETAILS - OUTBACK COMMUNITIES AUTHORITY

Chosen Standard Planning Conditions

None Selected

Other Authored Planning Conditions


Chosen Standard Advisory Notes

None Selected

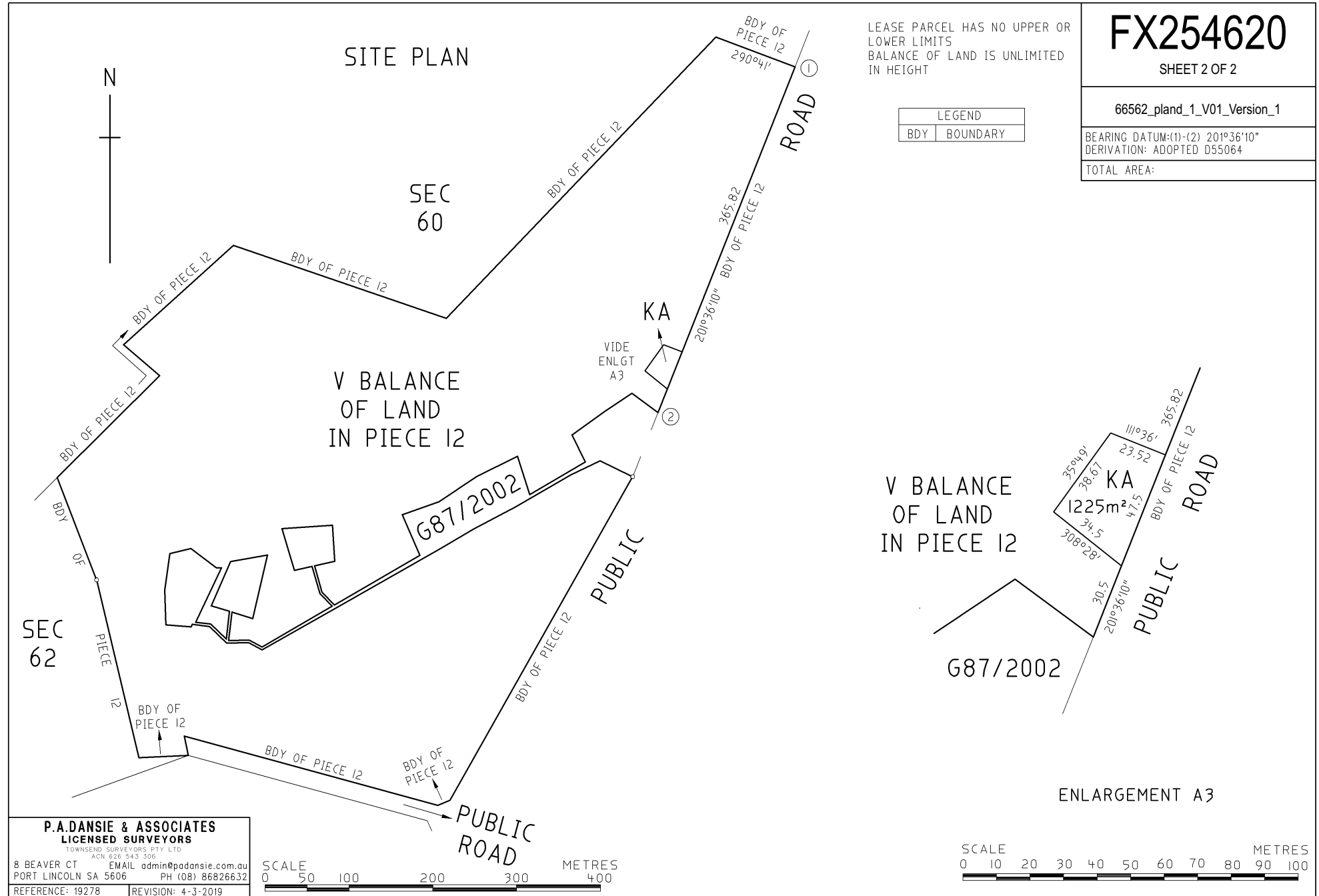
Other Authored Advisory Notes

Additional Comments

NOT YET APPROVED

PURPOSE: LEASE		AREA NAME: PENONG		APPROVED:		<div> FX254620 SHEET 1 OF 2 66562_text_01_v01_Version_1</div>			
MAP REF: 5433/1		COUNCIL: OUTSIDE L.G.A. BOUNDARIES		FILED:					
LAST PLAN:		DEVELOPMENT NO:							
AGENT DETAILS: P A DANSIE & ASSOCIATES PTY LTD 8 BEAVER CT PORT LINCOLN SA 5606 PH: 0481826632 FAX:		SURVEYORS CERTIFICATION:							
AGENT CODE: PAD8P									
REFERENCE: 19278									
SUBJECT TITLE DETAILS:									
PREFIX	VOLUME	FOLIO	OTHER	PARCEL	NUMBER	PLAN	NUMBER HUNDRED / IA / DIVISION	TOWN	REFERENCE NUMBER
PT CT	6127	543		PIECE(S)	12	D	55064 KEVIN KEVIN		SECTION 29 SECTION 59
OTHER TITLES AFFECTED:									
EASEMENT DETAILS:									
STATUS	LAND BURDENED	FORM	CATEGORY	IDENTIFIER	PURPOSE	IN FAVOUR OF	CREATION		
ANNOTATIONS: TO SUPERSEDE K BALANCE OF LAND IN CT IN G87/2002									

NOT YET APPROVED



Coastal Conservation Zone

Refer to the [Map Reference Table LNWCA \(Eyre\) and LNWCA \(Whyalla\)](#) for a list of the maps that relate to this zone.

OBJECTIVES

- 1 To enhance and conserve the natural features of the coast including visual amenity, landforms, fauna and flora.
- 2 Low-intensity recreational and tourist accommodation located where environmental impacts on the coast will be minimal.
- 3 Development that contributes to the desired character of the zone.

DESIRED CHARACTER

Within this zone coastal features and scenic quality are conserved; appropriate public access is maintained; and development is not subject to coastal hazards and is subservient to the conservation of the coastal environment. The Zone includes Point Bell Conservation Park, Chadinga Conservation Reserve, Fowlers Bay Conservation Park, Wahgunyah Conservation Park and Nullarbor National Park.

The zone continues to be a predominately natural landscape containing coastal features and habitats such as wetlands, samphire flats, beaches, sand dunes and cliff tops. A wide variety of plant communities occur within these habitats.

The topography varies from low-lying samphire flats near Fowlers Bay to high cliff formations such as those along the Nullarbor. A variety of vegetated and unvegetated dune systems are found, including extensive sand drifts such as those at the Head of the Bight. The variety of land forms reflects major geological differences and variation in the influence of wind and waves along the coast.

The area is abundant in native wildlife, including the Osprey, White-bellied Sea-Eagle and Australian Sea Lion, all of which depend on the natural coastline for survival.

Development borrows from, and complements, the natural landscape in form and scale, and in building materials, textures, colours and tones, so that the natural elements of the site/locality remain dominant to any introduced elements, and the scenic quality of the coast is protected.

The zone includes only a limited number of 'iconic', nature-based/eco-tourism developments, located a minimum of 25 kilometres apart. These developments provide experiences that relate to the natural environment, whether for relaxation, discovery and/or adventure, and meet the needs of tourists and the people who live in the region, while protecting and enhancing opportunities for the future. These developments achieve excellence in environmental protection and management by ensuring their impacts (activities, visitation and buildings) on the ecology and natural environment are minimal and their design is of a high quality that complements the natural environment, site features and conditions.

Those parts of the zone at risk from coastal hazards such as flooding, erosion, sand drift and acid sulfate soils are kept free from development. Road construction is minimal and limited to that which is required to access a car park. Access over dunes and beaches is pedestrian only, using boardwalks to protect sand dunes from erosion.

PRINCIPLES OF DEVELOPMENT CONTROL

Land Use

- 1 The following forms of development are envisaged in the zone:
 - conservation works
 - interpretive signage and facilities
 - nature-based/eco-tourist accommodation.
- 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.
- 3 Buildings and structures should mainly be for essential purposes, such as shelters and toilet facilities associated with public recreation, navigation purposes or necessary minor public works.
- 4 Development involving the removal of shell grit or sand, other than for coastal protection works purposes, or the disposal of domestic and industrial waste should not be undertaken.
- 5 Aquaculture inlet and outlet pipes are anticipated in the zone, where the adjoining land is located in an aquaculture zone, or where the environmental impacts will be minimal.

Form and Character

- 6 Development should not be undertaken unless it is consistent with the desired character for the zone.
- 7 Development should be designed and sited to be compatible with conservation and enhancement of the coastal environment and scenic beauty of the zone.
- 8 Development should:
 - (a) not adversely impact on the ability to maintain the coastal frontage in a stable and natural condition
 - (b) minimise vehicle access points to the area that is the subject of the development
 - (c) be landscaped with locally indigenous plant species to enhance the amenity of the area and to screen buildings from public view
 - (d) utilise external low reflective materials and finishes that will minimise glare and blend in with the features of the landscape.
- 9 Where public access is necessary in sensitive locations, walkways and fencing should be provided to effectively control access.
- 10 Development should:
 - (a) be self-sufficient in terms of infrastructure and services, such as water, sewerage, electricity and waste disposal, unless existing infrastructure is available that can accommodate the projected demand from the development
 - (b) minimise impacts on the natural surrounding environment by containing construction within a tightly defined site boundary
 - (c) not obscure existing views to coastal features or be visibly prominent from key public vantage points, including public roads or car parking areas
 - (d) avoid areas that may endanger or threaten important nesting or breeding areas or the movement/migration patterns of fauna.

- 11 Tourist accommodation should be limited to:
 - (a) high quality nature-based development that contributes to the local economy, complements the natural landscape and has minimal impact on the natural environment
 - (b) one tourist accommodation development per 25 kilometres, measured in a straight line from allotment boundary to allotment boundary, within the zone.
- 12 Tourist accommodation should be designed to minimise the potential conversion of buildings into dwellings such as through shared facilities, grouped accommodation and/or shared parking.
- 13 Car parking and access points to development should, wherever practicable, be:
 - (a) constructed of a permeable surface
 - (b) located on cleared land or along property boundaries to avoid the unnecessary removal of important native vegetation.
- 14 Parking for tourist accommodation should be:
 - (a) a maximum of 1 space per tourist accommodation unit, plus parking for employees
 - (b) grouped in one location, unless it can be demonstrated that an alternative arrangement will reduce the impact on the natural environment
 - (c) located in an area where minimal vegetation clearance is required.

Land Division

- 15 Land should not be divided unless either of the following applies:
 - (a) the division would create an allotment greater than 5 hectares to accommodate an existing tourist accommodation development
 - (b) the division would not create any additional allotments either wholly or partly within the zone and would not increase the number of allotments with direct access to the coast or a reserve, including through the creation of land under rights of way or community title.

PROCEDURAL MATTERS

Complying Development

Complying developments are prescribed in Schedule 4 of the *Development Regulations 2008*.

No other forms of development are complying in the zone.

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
Advertisement and/or advertising hoarding	Except in association with conservation works or for tourist information purposes
Amusement machine centre	
Bus depot	

Coastal Areas

OBJECTIVES

- 1 The protection and enhancement of the natural coastal environment, including environmentally important features of coastal areas such as mangroves, wetlands, sand dunes, cliff-tops, native vegetation, wildlife habitat shore and estuarine areas.
- 2 Protection of the physical and economic resources of the coast from inappropriate development.
- 3 Preservation of areas of high landscape and amenity value including stands of vegetation, shores, exposed cliffs, headlands, islands and hill tops, and areas which form an attractive background to urban and tourist areas.
- 4 Development that maintains and/or enhances public access to coastal areas with minimal impact on the environment and amenity.
- 5 Development only undertaken on land which is not subject to or that can be protected from coastal hazards including inundation by storm tides or combined storm tides and stormwater, coastal erosion or sand drift, and probable sea level rise.
- 6 Development that can accommodate anticipated changes in sea level due to natural subsidence and probable climate change during the first 100 years of the development.
- 7 Development which will not require, now or in the future, public expenditure on protection of the development or the environment.
- 8 Management of development in coastal areas to sustain or enhance the remaining natural coastal environment.
- 9 Low intensity recreational uses located where environmental impacts on the coast will be minimal.

PRINCIPLES OF DEVELOPMENT CONTROL

- 1 Development should be compatible with the coastal environment in terms of built-form, appearance and landscaping including the use of walls and low pitched roofs of non-reflective texture and natural earth colours.

Environmental Protection

- 2 The coast should be protected from development that would adversely affect the marine and onshore coastal environment, whether by pollution, erosion, damage or depletion of physical or biological resources, interference with natural coastal processes or any other means.
- 3 Development should not be located in delicate or environmentally-sensitive coastal features such as sand dunes, cliff-tops, wetlands or substantially intact strata of native vegetation.
- 4 Development should not be undertaken where it will create or aggravate coastal erosion, or where it will require coast protection works which cause or aggravate coastal erosion.
- 5 Development should be designed so that solid/fluid wastes and stormwater runoff is disposed of in a manner that will not cause pollution or other detrimental impacts on the marine and on-shore environment of coastal areas.

- 6 Effluent disposal systems incorporating soakage trenches or similar should prevent effluent migration onto the inter-tidal zone and be sited at least 100 metres from whichever of the following requires the greater distance:
 - (a) the mean high-water mark at spring tide, adjusted for any subsidence for the first 50 years of development plus a sea level rise of 0.7 metres
 - (b) the nearest boundary of any erosion buffer determined in accordance with the relevant provisions in this Development Plan.
- 7 Development that proposes to include or create confined coastal waters, as well as water subject to the ebb and flow of the tide should be designed to ensure the quality of such waters is maintained at an acceptable level in accordance with the current *Environment Protection (Water Quality) Policy*.
- 8 Development should be designed and sited so that it does not prevent natural landform and ecological adjustment to changing climatic conditions and sea levels and should allow for the following:
 - (a) the unrestricted landward migration of coastal wetlands
 - (b) new areas to be colonised by mangroves, samphire and wetland species
 - (c) sand dune drift
 - (d) where appropriate, the removal of embankments that interfere with the abovementioned processes.

Maintenance of Public Access

- 9 Development should maintain or enhance public access to and along the foreshore.
- 10 Development should provide for a public thoroughfare between the development and any coastal reserve.
- 11 Other than small-scale infill development in a predominantly urban zone, development adjacent to the coast should not be undertaken unless it has, or incorporates an existing or proposed public reserve, not including a road or erosion buffer, of at least 50 metres width between the development and the landward toe of the frontal dune or the top edge of an escarpment. If an existing reserve is less than 50 metres wide, the development should incorporate an appropriate width of reserve to achieve a total 50 metres wide reserve.
- 12 Except where otherwise specified in a particular zone or policy area, buildings on land abutting coastal reserves should be set back either a distance of 8 metres from any boundary with the reserve or in line with adjacent development, whichever is the greater distance.
- 13 Development that abuts or includes a coastal reserve should be sited and designed to be compatible with the purpose, management and amenity of the reserve, as well as to prevent inappropriate access to the reserve.
- 14 Development, including marinas and aquaculture, should be located and designed to ensure convenient public access along the waterfront to beaches and coastal reserves is maintained, and where possible enhanced through the provision of one or more of the following:
 - (a) pedestrian pathways and recreation trails
 - (b) coastal reserves and lookouts
 - (c) recreational use of the water and waterfront
 - (d) safe public boating facilities at selected locations

- (e) vehicular access to points near beaches and points of interest
 - (f) car parking.
- 15 Where a development such as a marina creates new areas of waterfront, provision should be made for public access to, and recreational use of, the waterfront and the water.
- 16 Public access through sensitive coastal landforms, particularly sand dunes, wetlands and cliff faces, should be restricted to defined pedestrian paths constructed to minimise adverse environmental impact.
- 17 Access roads to the coast and lookouts should preferably be spur roads rather than through routes, other than tourist routes where they:
- (a) do not detract from the amenity or the environment
 - (b) are designed for slow moving traffic
 - (c) provide adequate car parking.

Hazard Risk Minimisation

- 18 Development and its site should be protected against the standard sea-flood risk level which is defined as the 1 in 100 year average return interval flood extreme sea level (tide, stormwater and associated wave effects combined), plus an allowance to accommodate land subsidence until the year 2100.
- 19 Development including associated roads and parking areas, other than minor structures unlikely to be adversely affected by flooding, should be protected from sea level rise by ensuring all of the following apply:
- (a) site levels are at least 0.3 metres above the standard sea-flood risk level
 - (b) building floor levels are at least 0.55 metres above the standard sea-flood risk level
 - (c) there are practical measures available to protect the development against an additional sea level rise of 0.7 metres, plus an allowance to accommodate land subsidence until the year 2100 at the site.
- 20 Buildings to be sited over tidal water or which are not capable of being raised or protected by flood protection measures in future, should have a floor level of at least 1.25 metres above the standard sea-flood risk level.
- 21 Development that requires protection measures against coastal erosion, sea or stormwater flooding, sand drift or the management of other coastal processes at the time of development, or in the future, should only be undertaken if all of the following apply:
- (a) the measures themselves will not have an adverse effect on coastal ecology, processes, conservation, public access and amenity.
 - (b) the measures do not nor will not require community resources, including land, to be committed.
 - (c) the risk of failure of measures such as sand management, levee banks, flood gates, valves or stormwater pumping, is acceptable relative to the potential hazard resulting from their failure.
 - (d) binding agreements are in place to cover future construction, operation, maintenance and management of the protection measures.
- 22 Development should not compromise the structural integrity of any sea wall or levee bank adjacent to the foreshore, or compromise its capacity to protect against coastal flooding and erosion.

Erosion Buffers

- 23 Development should be set back a sufficient distance from the coast to provide an erosion buffer which will allow for at least 100 years of coastal retreat for single buildings or small scale developments, or 200 years of coastal retreat for large scale developments (ie new townships) unless either of the following applies:
- (a) the development incorporates appropriate private coastal protection measures to protect the development and public reserve from the anticipated erosion.
 - (b) the council is committed to protecting the public reserve and development from the anticipated coastal erosion.
- 24 Where a coastal reserve exists or is to be provided it should be increased in width by the amount of any required erosion buffer. The width of an erosion buffer should be based on the following:
- (a) the susceptibility of the coast to erosion
 - (b) local coastal processes
 - (c) the effect of severe storm events
 - (d) the effect of a 0.3 metres sea level rise over the next 50 years on coastal processes and storms
 - (e) the availability of practical measures to protect the development from erosion caused by a further sea level rise of 0.7 metres per 50 years thereafter.
- 25 Development should not occur where essential services cannot be economically provided and maintained having regard to flood risk and sea level rise, or where emergency vehicle access would be prevented by a 1 in 100 year average return interval flood event, adjusted for 100 years of sea level rise.

Land Division

- 26 Land in coastal areas should only be divided if:
- (a) it or the subsequent development and use of the land will not adversely affect the management of the land, adjoining land or the coast
 - (b) sand dunes, wetlands and substantially intact strata of native vegetation are maintained or consolidated within single allotments.
- 27 Land division in coastal areas outside of designated urban or settlement zones should not increase either of the following:
- (a) the number of allotments abutting the coast or a reserve
 - (b) the number of allotments, including community title allotments and those that incorporate rights of way, with direct access to the coast or a reserve.
- 28 Land should not be divided for commercial, industrial or residential purposes unless a layout can be achieved whereby roads, parking areas and development sites on each allotment are at least 0.3 metres above the standard sea-flood risk level, unless the land is, or can be provided with appropriate coastal protection measures.

Protection of Economic Resources

- 29 Development should be sited, designed and managed so as not to conflict with or jeopardise the continuance of an existing aquaculture development.

Development in Appropriate Locations

- 30 Development along the coast should be in the form of infill in existing developed areas or concentrated into appropriately chosen nodes and not be in a scattered or linear form.
- 31 Development of a kind or scale (eg commercial or large-scale retail) that does not require a coastal location and would not significantly contribute to the community's enjoyment of the coast should not be located in coastal areas.

Design and Appearance

OBJECTIVES

- 1 Development of a high architectural standard that responds to and reinforces positive aspects of the local environment and built form.
- 2 Roads, open spaces, buildings and land uses laid out and linked so that they are easy to understand and navigate.

PRINCIPLES OF DEVELOPMENT CONTROL

- 1 The design of a building may be of a contemporary nature and exhibit an innovative style provided the overall form is sympathetic to the scale of development in the locality and with the context of its setting with regard to shape, size, materials and colour.
- 2 Buildings should be designed and sited to avoid creating extensive areas of uninterrupted walling facing areas exposed to public view.
- 3 Buildings should be designed to reduce their visual bulk and provide visual interest through design elements such as:
 - (a) articulation
 - (b) colour and detailing
 - (c) small vertical and horizontal components
 - (d) design and placing of windows
 - (e) variations to facades.
- 4 Where a building is sited on or close to a side boundary, the side boundary wall should be sited and limited in length and height to minimise:
 - (a) the visual impact of the building as viewed from adjoining properties
 - (b) overshadowing of adjoining properties and allow adequate sun light to neighbouring buildings.
- 5 Building form should not unreasonably restrict existing views available from neighbouring properties and public spaces.
- 6 Transportable buildings and buildings which are elevated on stumps, posts, piers, columns or the like, should have their suspended footings enclosed around the perimeter of the building with brickwork or timber, and the use of verandas, pergolas and other suitable architectural detailing to give the appearance of a permanent structure.
- 7 The external walls and roofs of buildings should not incorporate highly reflective materials which will result in glare.
- 8 Structures located on the roofs of buildings to house plant and equipment should form an integral part of the building design in relation to external finishes, shaping and colours.
- 9 Building design should emphasise pedestrian entry points to provide perceptible and direct access from public street frontages and vehicle parking areas.

- 10 Development should provide clearly recognisable links to adjoining areas and facilities.
- 11 Buildings, landscaping, paving and signage should have a coordinated appearance that maintains and enhances the visual attractiveness of the locality.
- 12 Buildings (other than ancillary buildings or group dwellings) should be designed so that their main façade faces the primary street frontage of the land on which they are situated.
- 13 Where applicable in townships and settlements, development should incorporate verandas over footpaths to enhance the quality of the pedestrian environment.
- 14 Development should be designed and sited so that outdoor storage, loading and service areas are screened from public view by an appropriate combination of built form, solid fencing and/or landscaping.
- 15 Outdoor lighting should not result in light spillage on adjacent land.
- 16 Balconies should:
 - (a) be integrated with the overall architectural form and detail of the building
 - (b) be sited to face predominantly north, east or west to provide solar access
 - (c) have a minimum area of 2 square metres.

Building Setbacks from Road Boundaries

- 17 The setback of buildings from public roads should:
 - (a) be similar to, or compatible with, setbacks of buildings on adjoining land and other buildings in the locality
 - (b) contribute positively to the streetscape character of the locality
 - (c) not result in or contribute to a detrimental impact upon the function, appearance or character of the locality.
- 18 Lesser setback distances may be considered where the proposed building will be substantially screened by existing vegetation, natural form and features of the land or adjacent existing buildings.
- 19 Except where otherwise specified in a zone or policy area, the setback of development from a secondary street frontage should reflect the setbacks of the adjoining buildings and other buildings in the locality.

Infrastructure

OBJECTIVES

- 1 Infrastructure provided in an economical and environmentally sensitive manner.
- 2 Infrastructure, including social infrastructure, provided in advance of need.
- 3 Suitable land for infrastructure identified and set aside in advance of need.
- 4 The visual impact of infrastructure facilities minimised.
- 5 The efficient and cost-effective use of existing infrastructure.

PRINCIPLES OF DEVELOPMENT CONTROL

- 1 Development should not occur without the provision of adequate utilities and services, including:
 - (a) electricity supply
 - (b) water supply
 - (c) drainage and stormwater systems
 - (d) waste disposal
 - (e) effluent disposal systems
 - (f) formed all-weather public roads
 - (g) telecommunications services
 - (h) social infrastructure, community services and facilities
 - (i) gas services.
- 2 Development should not take place until adequate and coordinated drainage of the land is assured.
- 3 Development in urban areas should not occur without provision of an adequate reticulated domestic quality mains water supply and an appropriate waste treatment system.
- 4 In areas where no reticulated water supply is available, buildings whose usage is reliant on a water supply should be equipped with an adequate and reliable on-site water storage system.
- 5 Electricity infrastructure should be designed and located to minimise its visual and environmental impacts.
- 6 Utilities and services, including access roads and tracks, should be sited on areas already cleared of native vegetation. If this is not possible, their siting should cause minimal interference or disturbance to existing native vegetation and biodiversity.
- 7 Utility buildings and structures should be grouped with non-residential development where possible.
- 8 Development in proximity to infrastructure facilities should be sited and be of a scale to ensure adequate separation to protect people and property.

Natural Resources

OBJECTIVES

- 1 Retention, protection and restoration of the natural resources and environment.
- 2 Protection of the quality and quantity of South Australia's surface waters, including inland, marine and estuarine and underground waters.
- 3 The ecologically sustainable use of natural resources including water resources, including marine waters, ground water, surface water and watercourses.
- 4 Natural hydrological systems and environmental flows reinstated, and maintained and enhanced.
- 5 Development sited and designed to:
 - (a) maximise the use of stormwater
 - (b) protect stormwater from pollution sources
 - (c) protect or enhance the environmental values of receiving waters
 - (d) prevent the risk of downstream flooding
 - (e) minimise the loss and disturbance of native vegetation.
- 6 Storage and use of stormwater which avoids adverse impact on public health and safety.
- 7 Native flora, fauna and ecosystems protected, retained, conserved and restored.
- 8 Restoration, expansion and linking of existing native vegetation to facilitate habitat corridors for ease of movement of fauna.
- 9 Minimal disturbance and modification of the natural landform.
- 10 Protection of the physical, chemical and biological quality of soil resources.
- 11 Protection of areas prone to erosion or other land degradation processes from inappropriate development.
- 12 Protection of the scenic qualities of natural and rural landscapes.

PRINCIPLES OF DEVELOPMENT CONTROL

- 1 Development should be undertaken with minimum impact on the natural environment, including air and water quality, land, soil, biodiversity, and scenically attractive areas.
- 2 Development should ensure that South Australia's natural assets, such as biodiversity, water and soil, are protected and enhanced.
- 3 Development should not significantly obstruct or adversely affect sensitive ecological areas such as creeks, wetlands, estuaries and significant seagrass and mangrove communities.
- 4 Development should not have an adverse impact on the natural, physical, chemical or biological quantity and characteristics of soil resources.

- 5 Development should be appropriate to land capability and the protection and conservation of water resources and biodiversity.

Water Catchment Areas and Water Quality

- 6 Development should not take place if it may result in over exploitation of surface or underground water resources.
- 7 Development should be designed to minimise consumption, maximise conservation and encourage re-use of water resources.
- 8 Development should ensure watercourses and their beds, banks, wetlands and floodplains are not damaged or modified and are retained in their natural state, except where modification is required for essential access or maintenance purposes.
- 9 No development should occur where its proximity to a swamp or wetland will damage or interfere with the hydrology or water regime of the swamp or wetland.
- 10 A wetland or low-lying area providing habitat for native flora and fauna should not be drained, except temporarily for essential management purposes to enhance environmental values.
- 11 Development should be sited and designed to:
 - (a) minimise surface water runoff
 - (b) not obstruct a watercourse
 - (c) prevent soil erosion and water pollution
 - (d) protect stormwater from pollution sources
 - (e) protect and enhance natural water flows required to meet the needs of the natural environment
 - (f) protect water quality by providing adequate separation distances from watercourses and other water bodies
 - (g) not contribute to an increase in salinity levels
 - (h) avoid the water logging of soil or the release of toxic elements
 - (i) maintain natural hydrological systems and not adversely affect:
 - (i) the quantity and quality of groundwater
 - (ii) the depth and directional flow of groundwater
 - (iii) the quality and function of natural springs.
- 12 The quality of water leaving the site of a development should be of a physical, chemical and biological condition equivalent to or better than pre-development conditions, and the rate of water discharged from the site should not exceed the rate of discharge from the site in pre-development conditions.
- 13 Along watercourses, areas of remnant native vegetation, or areas prone to erosion, that are capable of natural regeneration should be fenced off to limit stock access.
- 14 Development such as cropping, intensive animal keeping, residential, tourism, industry and horticulture, that increases the amount of surface run-off should include a strip of land at least 20 metres wide measured from the top of existing banks on each side of a watercourse that is:
 - (a) fenced to exclude livestock

- (b) kept free of development, including structures, formal roadways or access ways for machinery or any other activity causing soil compaction or significant modification of the natural surface of the land
 - (c) revegetated with indigenous vegetation comprising trees, shrubs and other groundcover plants to filter run-off so as to reduce the impacts on native aquatic ecosystems and to minimise soil loss eroding into the watercourse.
- 15 Development resulting in the depositing of an object or solid material in a watercourse or floodplain or the removal of bank and bed material should not:
- (a) adversely affect the migration of aquatic biota
 - (b) adversely affect the natural flow regime
 - (c) cause or contribute to water pollution
 - (d) result in watercourse or bank erosion
 - (e) adversely affect native vegetation upstream or downstream that is growing in or adjacent to a watercourse.
- 16 The location and construction of dams, water tanks and diversion drains should:
- (a) occur off watercourse
 - (b) not take place in ecologically sensitive areas or on erosion-prone sites
 - (c) provide for low flow by-pass mechanisms to allow for migration of aquatic biota
 - (d) protect the needs of downstream users
 - (e) minimise in-stream or riparian vegetation loss
 - (f) incorporate features to improve water quality (eg wetlands and floodplain ecological communities)
 - (g) protect ecosystems dependent on water resources.
- 17 Irrigated horticulture and pasture should not increase groundwater-induced salinity.
- 18 Development should comply with the current Environment Protection (Water Quality) Policy.

Stormwater

- 19 Development should include stormwater management systems to protect it from damage during a minimum of a 1 in 100 year average return interval flood.
- 20 Development should, where practical, capture and re-use stormwater.
- 21 Development should have adequate provision to control any stormwater over-flow run-off from the site and should be sited and designed to improve the quality of stormwater and minimise pollutant transfer to receiving waters.
- 22 Development should include stormwater management systems to mitigate peak flows and manage the rate and duration of stormwater discharges from the site to ensure downstream systems are not overloaded.
- 23 Development should include stormwater management systems to minimise the discharge of sediment, suspended solids, organic matter, nutrients, bacteria, litter and other contaminants to the stormwater system.

- 24 Stormwater management systems should preserve natural drainage systems, including the associated environmental flows.
- 25 Stormwater management systems should maximise the potential for stormwater harvesting and reuse, including aquifer recharge, either on-site or as close as practicable to the source.
- 26 Where not detained or disposed on site, stormwater should be drained to a public stormwater disposal system.
- 27 Detention and retention basins should be sited and designed to:
 - (a) ensure public health and safety is protected, particularly in regard to high velocity drainage points and access to water bodies
 - (b) minimise potential health risks from exposure to mosquitoes.

Biodiversity and Native Vegetation

- 28 Development should retain existing areas of native vegetation and where possible contribute to revegetation using locally indigenous plant species.
- 29 Development should be designed and sited to minimise the loss and disturbance of native flora and fauna, including marine animals and plants, and their breeding grounds and habitats.
- 30 The provision of services, including power, water, effluent and waste disposal, access roads and tracks should be sited on areas already cleared of native vegetation.
- 31 Native vegetation should be conserved and its conservation value and function not compromised by development if the native vegetation does any of the following:
 - (a) provides an important habitat for wildlife or shade and shelter for livestock
 - (b) has a high plant species diversity or includes rare, vulnerable or endangered plant species or plant associations and communities
 - (c) provides an important seed bank for indigenous vegetation
 - (d) has high amenity value and/or significantly contributes to the landscape quality of an area, including the screening of buildings and unsightly views
 - (e) has high value as a remnant of vegetation associations characteristic of a district or region prior to extensive clearance for agriculture
 - (f) is growing in, or is characteristically associated with a wetland environment.
- 32 Native vegetation should not be cleared if such clearing is likely to lead to, cause or exacerbate any of the following:
 - (a) erosion or sediment within water catchments
 - (b) decreased soil stability
 - (c) soil or land slip
 - (d) deterioration in the quality of water in a watercourse or surface water runoff
 - (e) a local or regional salinity problem
 - (f) the occurrence or intensity of local or regional flooding.

- 33 Development that proposes the clearance of native vegetation should address or consider the implications that removing the native vegetation will have on the following:
- (a) provision for linkages and wildlife corridors between significant areas of native vegetation
 - (b) erosion along watercourses and the filtering of suspended solids and nutrients from run-off
 - (c) the amenity of the locality
 - (d) bushfire safety
 - (e) the net loss of native vegetation and other biodiversity.
- 34 Where native vegetation is to be removed, it should be replaced in a suitable location on the site with vegetation indigenous to the local area to ensure that there is not a net loss of native vegetation and biodiversity.
- 35 Development should be located and occur in a manner which:
- (a) does not increase the potential for, or result in, the spread of pest plants, or the spread of any non-indigenous plants into areas of native vegetation or a conservation zone
 - (b) avoids the degradation of remnant native vegetation by any other means including as a result of spray drift, compaction of soil, modification of surface water flows, pollution to groundwater or surface water or change to groundwater levels
 - (c) incorporates a separation distance and/or buffer area to protect wildlife habitats and other features of nature conservation significance.
- 36 Development should promote the long-term conservation of vegetation by:
- (a) avoiding substantial structures, excavations, and filling of land in close proximity to the trunk of trees and beneath their canopies
 - (b) minimising impervious surfaces beneath the canopies of trees
 - (c) taking other effective and reasonable precautions to protect both vegetation and the integrity of structures and essential services.
- 37 Horticulture involving the growing of olives should be located at least:
- (a) 500 metres from:
 - (i) a national park
 - (ii) a conservation park
 - (iii) a wilderness protection area
 - (iv) the edge of a substantially intact stratum of native vegetation greater than 5 hectares in area
 - (b) 50 metres from the edge of stands of native vegetation 5 hectares or less in area.
- 38 Horticulture involving the growing of olives should have at least one locally indigenous tree that will grow to a height of at least 7 metres sited at least every 100 metres around the perimeter of the orchard.

Soil Conservation

- 39 Development should not have an adverse impact on the natural, physical, chemical or biological quality and characteristics of soil resources.

Land Not Within a Council Area Eyre, Far North, Riverland and Whyalla
General Section
Natural Resources

- 40 Development should be designed and sited to prevent erosion.
- 41 Development should take place in a manner that will minimise alteration to the existing landform.
- 42 Development should minimise the loss of soil from a site through soil erosion or siltation during the construction phase of any development and following the commencement of an activity.

Orderly and Sustainable Development

OBJECTIVES

- 1 Orderly and economical development that creates a safe, convenient and pleasant environment in which to live.
- 2 Development occurring in an orderly sequence and in a compact form to enable the efficient provision of public services and facilities.
- 3 Development that does not jeopardise the continuance of adjoining authorised land uses.
- 4 Development that does not prejudice the achievement of the provisions of the Development Plan.
- 5 Urban development **generally** contained within existing townships and settlements.

PRINCIPLES OF DEVELOPMENT CONTROL

- 1 Development should not prejudice the development of a zone for its intended purpose.
- 2 The economic base of the region should be expanded in a sustainable manner.
- 3 Urban development should form a compact extension to an existing built-up area.
- 4 Ribbon development should not occur along the coast, water frontages or arterial roads as shown on the *Overlay Maps - Transport* (refer to the Map Reference Tables).
- 5 Development should be located and staged to achieve the economical provision of public services and infrastructure, and to maximise the use of existing services and infrastructure.
- 6 Where development is expected to impact upon the existing infrastructure network (including the transport network), development should demonstrate how the undue effect will be addressed.
- 7 Vacant or underutilised land should be developed in an efficient and co-ordinated manner to not prejudice the orderly development of adjacent land.
- 8 Development should be undertaken in accordance with the [*Concept Plan Maps LNWCA\(FN\)/1 - Innamincka Township and Environs; LNWCA\(FN\)/2 - Innamincka Town Common; LNWCA\(FN\)/3 - Potential Petroleum Related Settlements; LNWCA\(FN\)/4 - Mining Settlement; LNWCA\(FN\)/5 - Airfield; and LNWCA\(FN\)/6 - Infrastructure Alignment Corridor.*](#)

Transportation and Access

OBJECTIVES

- 1 A comprehensive, integrated, affordable and efficient air, rail, sea, road, cycle and pedestrian transport system that will:
 - (a) provide equitable access to a range of transport services for all people
 - (b) ensure a high level of safety
 - (c) effectively support the economic development of the State
 - (d) have minimal negative environmental and social impacts
 - (e) maintain options for the introduction of suitable new transport technologies.
- 2 Development that:
 - (a) provides safe and efficient movement for all motorised and non-motorised transport modes
 - (b) ensures access for vehicles including emergency services, public infrastructure maintenance and commercial vehicles
 - (c) provides off street parking
 - (d) is appropriately located so that it supports and makes best use of existing transport facilities and networks.
- 3 A road hierarchy that promotes safe and efficient transportation in an integrated manner throughout the State.
- 4 Provision of safe, pleasant, accessible, integrated and permeable pedestrian networks.
- 5 Safe and convenient freight movement throughout the State.

PRINCIPLES OF DEVELOPMENT CONTROL

Land Use

- 1 Land uses arranged to support the efficient provision of sustainable transport networks and encourage their use.

Movement Systems

- 2 Development should be integrated with existing transport networks, particularly major rail and road corridors as shown on [the Overlay Maps - Transport](#) (refer to the Map Reference Tables), and designed to minimise its potential impact on the functional performance of the transport networks.
- 3 Transport corridors should be sited and designed so as to not unreasonably interfere with the health and amenity of adjacent sensitive land uses.
- 4 Roads should be sited and designed to blend with the landscape and be in sympathy with the terrain.

- 5 Development generating high levels of traffic, such as schools, shopping centres and areas, entertainment and sporting facilities, should incorporate passenger pick-up and set down areas. The design of such areas should ensure interference to existing traffic is minimised and give priority to pedestrians, and cyclists.
- 6 Development should provide safe and convenient access for all anticipated modes of transport including cycling, walking and motor vehicles.
- 7 Development at intersections, pedestrian and cycle crossings, and crossovers to allotments should maintain or enhance sightlines for motorists, cyclists and pedestrians to ensure safety for all road users and pedestrians.
- 8 Driveway cross-overs affecting pedestrian footpaths should maintain the level of the footpath.
- 9 Development should discourage commercial and industrial vehicle movements through residential streets and adjacent other sensitive land uses such as schools.
- 10 Industrial/commercial vehicle movements should be separated from passenger vehicle car-parking areas.
- 11 Development should make sufficient provision on site for the loading, unloading and turning of all traffic likely to be generated.

Cycling and Walking

- 12 Development should ensure that a permeable street and path network is established that encourages walking and cycling through the provision of safe, convenient and attractive routes with connections to adjoining streets, paths, open spaces, schools, public transport stops and activity centres.
- 13 Developments should encourage and facilitate cycling as a mode of transport by incorporating end-of-journey facilities including:
 - (a) showers, changing facilities, and secure lockers
 - (b) signage indicating the location of bicycle facilities
- 14 Pedestrian facilities and networks should be designed and provided in accordance with relevant provisions of the Australian Standards and Austroads Guide to Traffic Engineering Practice Part 13.
- 15 Cycling facilities and networks should be designed and provided in accordance with the relevant provisions of the Australian Standards and Austroads Guide to Traffic Engineering Practice Part 14.

Access

- 16 Development should have direct access from an all weather public road.
- 17 Development should be provided with safe and convenient access which:
 - (a) avoids unreasonable interference with the flow of traffic on adjoining roads
 - (b) accommodates the type and volume of traffic likely to be generated by the development or land use and minimises induced traffic through over-provision
 - (c) is sited and designed to minimise any adverse impacts on the occupants of and visitors to neighbouring properties.
- 18 Development should not restrict access to publicly owned land.
- 19 The number of vehicle access points onto arterial roads shown on the *Overlay Maps - Transport* (refer to the Map Reference Tables) should be minimised, and where possible access points should be:

- (a) limited to local roads
 - (b) shared between developments.
- 20 The number of access points for cyclists and pedestrians onto all adjoining roads should be maximised.
- 21 Development with access from arterial roads or roads as shown on *the Overlay Maps - Transport* (refer to the Map Reference Tables) should be sited to avoid the need for vehicles to reverse on to the road.
- 22 Driveways, access tracks and parking areas should be designed and constructed to:
- (a) follow the natural contours of the land
 - (b) minimise excavation and/or fill
 - (c) minimise the potential for erosion from run-off
 - (d) avoid the removal of existing vegetation
 - (e) be consistent with Australian Standard AS 2890 Parking facilities.

Access for People with Disabilities

- 23 Development should be sited and designed to provide convenient access for people with a disability.
- 24 Where appropriate and practical, development should provide for safe and convenient access to the coast and beaches for disabled persons.

Vehicle Parking

- 25 Development should provide off-street vehicle parking and specifically marked disabled car parking places to meet anticipated demand.
- 26 Development should be consistent with Australian Standard AS 2890 Parking facilities.
- 27 Vehicle parking areas should be sited and designed in a manner that will:
- (a) facilitate safe and convenient pedestrian linkages to the development and areas of significant activity or interest in the vicinity of the development
 - (b) include safe pedestrian and bicycle linkages that complement the overall pedestrian and cycling network
 - (c) not inhibit safe and convenient traffic circulation
 - (d) result in minimal conflict between customer and service vehicles
 - (e) avoid the necessity to use public roads when moving from one part of a parking area to another
 - (f) minimise the number of vehicle access points to public roads
 - (g) avoid the necessity for backing onto public roads
 - (h) where reasonably possible, provide the opportunity for shared use of car parking and integration of car parking areas with adjoining development to reduce the total extent of vehicle parking areas and the requirement for access points
 - (i) not dominate the character and appearance of a centre when viewed from public roads and spaces
 - (j) provide landscaping that will shade and enhance the appearance of the vehicle parking areas.

- 28 Vehicle parking areas should be designed to reduce opportunities for crime by:
- (a) maximising the potential for passive surveillance by ensuring they can be overlooked from nearby buildings and roads
 - (b) incorporating walls and landscaping that do not obscure vehicles or provide potential hiding places;
 - (c) being appropriately lit
 - (d) having clearly visible walkways.
- 29 Where parking areas are not obviously visible or navigated, signs indicating the location and availability of vehicle parking spaces associated with businesses should be displayed at locations readily visible to customers.
- 30 Parking areas that are likely to be used during non daylight hours should provide floodlit entrance and exit points and site lighting directed and shaded in a manner that will not cause nuisance to adjacent properties or users of the car park.
- 31 Parking areas in townships and settlements should be sealed or paved in order to minimise dust and mud nuisance.
- 32 Parking areas in townships and settlements should be line-marked to indicate parking bays, movement aisles and direction of traffic flow.

CONSENTS OF MORTGAGEES AND SECTION 32 DEVELOPMENT ACT 1993 CERTIFICATION

This Lease does not contravene the provisions of Section 32 of the Development Act 1993.

Australia and New Zealand Banking Group Ltd hereby consents to the within lease under and by virtue of Mortgage No. 9341120

Dated 8 / 2 / 2006

EXECUTED by AUSTRALIA AND NEW ZEALAND
BANKING GROUP LIMITED
by being Signed by its Attorney Robert John Howlett
under Power of Attorney No. 9480083
and Substitution of Power No. 10215638
in the presence of

Manager Securities

Philip Norman Richardson

Ph 82148000

DATED 16/2/07

EXECUTION

Signature of the LESSOR

Signature of WITNESS - Signed in my presence by the LESSOR who is either personally known to me or has satisfied me as to his or her identity. *

Print Full name of Witness (BLOCK LETTERS)

Address of Witness

Business Hours Telephone Number

Signature of the LESSEE

Signature of WITNESS - Signed in my presence by the LESSEE who is either personally known to me or has satisfied me as to his or her identity. *

Print Full name of Witness (BLOCK LETTERS)

Address of Witness

Business Hours Telephone Number

MEMORANDUM OF LEASE

CERTIFICATES OF TITLE BEING LEASED

DP 8312002
 Allotment K in DP 55664 being portion of the land comprised in Certificate of Title Register
 Book Volume 5851 Folio 904

ESTATE AND INTEREST
 FEE SIMPLE

ENCUMBRANCES
 Subject to Mortgage No. 9341120

LESSOR (Full Name and Address)

RONALD PAUL GATES of Point Sinclair Via Penong South Australia 5690

RevenueSA - Stamp Duty - ABN 19 040 349 865 ©	113779640
RevNetID/PRA Bundle No:	113779640
Orig/Copy	1 of 2 copies
Consideration/Value/Security:	\$21,000
SA Proportion (if applicable):	\$Nil
SD: \$Nil	LTO Fees: \$Nil
Int: \$Nil	Pen/Add Tax: \$Nil
Signature:	Q. Gates Date: 19/2/07

LESSEE (Full Name, Address and Mode of Holding)

CHRISTINE ANNE MIDDLETON of 35A Woottona Terrace, St Georges SA 5064

TERM OF LEASE

COMMENCING ON 1ST DAY OF JANUARY 2006EXPIRING ON 31ST DAY OF DECEMBER 2027

RENT AND MANNER OF PAYMENT (OR OTHER CONSIDERATION)

ONE THOUSAND DOLLARS (\$1,000.00) per annum payable by one (1) yearly instalments of ONE THOUSAND DOLLARS (\$1,000.00) the first of which payments becomes due and payable on the 1st day of January and which thereafter shall be paid on the 1st day of each and every year during the term.

OPERATIVE CLAUSE ^(a) delete the inapplicable

ABOVE

The Lessor LEASES TO THE LESSEE the land ~~hereinafter~~ described and the LESSEE ACCEPTS THIS LEASE of the land for the term and at the rent stipulated, subject to the covenants and conditions expressed herein and to the powers and covenants implied by the Real Property Act 1886 (except to the extent that the same are modified or negated below).

DEFINE THE LAND BEING LEASED INCORPORATING THE REQUIRED EASEMENT(S) ETC.

~~Allotment K in DP 55064 being portion of the land comprised in Certificate of Title Register Book Volume 5851 Folio 904~~

NOT APPLICABLE

IT IS COVENANTED BY AND BETWEEN THE LESSOR AND THE LESSEE as follows:
(Covenants, where not deposited, to be set forth on insert sheet(s) and securely attached)

COVENANTS OF LEASE

1.0 Interpretation

1.1 It is hereby mutually covenanted that in the covenants of this Lease hereinafter set forth unless repugnant to the context:

1.1.1 The following expressions shall have the meanings or be interpreted in manner set out hereunder:

- (a) "the Lessor" means the said Ronald Paul Gates and his respective executors or administrators and assigns, servants and agents and any person authorised by them or either of them;
- (b) "the Lessee" means the said **Christine Anne Middleton** together with her heirs executors and assigns, the servants agents contractors invitees tenants licensees visitors and customers of the corporation being the Lessee under this lease for the time being;
- (c) "the premises" means the land described in DP 55064 and marked K together with all improvements on the land and all fixtures fittings plant machinery and equipment of the Lessor now or afterwards installed in the premises.
- (d) "term" includes as well as the period mentioned above any extension or renewal.

1.1.2 Words importing the singular shall embrace the plural and words importing the masculine gender shall embrace the feminine or neuter genders and vice versa.

1.1.3 Any reference to a person shall be deemed to include a corporate body.

1.1.4 References to a statute include all amendments for the time being in force and any other statute enacted in substitution for and the regulations, by-laws or orders for the time being made under that statute.

1.2 In the event of any part of this Lease being or becoming void or unenforceable then that part shall be severed from this Lease to the intent that all parts that shall not be or become void or unenforceable shall remain in full force and effect and be unaffected by any severance.

2.0 THE LESSEE HEREBY COVENANTS AND AGREES with the Lessor as follows:

2.1 That during the term or any extended term or any period during which the Lessee shall hold over or be or remain a tenant or be in occupation of the premises:

2.1.1 To pay the agreed rent on the days and in the manner hereby stipulated without deduction.

2.1.2 To pay when due all telephone and electricity charges during the term or any extension of it for such services used by the Lessee in the course of his business at the premises.

- 2.2 Not to assign, transfer, sublet or part with the possession of the premises or any part of the premises or permit the premises or any part to be assigned, transferred, sublet or put into possession of any person without the prior consent in writing of the Lessor whose consent shall not be unreasonably or capriciously withheld PROVIDED THAT the Lessee is not then in default in the performance and observance of any covenant or agreement on the Lessee's part contained in this Lease.
- 2.3 Not to use the premises or permit them to be used otherwise than for the purpose of a residence and not to be or permit to be done anything which may become unlawful or an annoyance or nuisance or damage to the Lessor or to any other person in the neighbourhood, or use or permit the premises to be used for residential purposes.
- 2.4 To maintain, replace, repair and keep the whole of the premises and all the Lessor's partitions, fixtures and fittings in good and substantial repair, order and condition other than damage resulting from fire, flood, lightning, storm, tempest, fair wear and tear, inevitable accident or Act of God and at the expiration or earlier determination of this lease to deliver up the premises to the Lessor together with the Lessor's partitions, fixtures and fittings in good and substantial repair and condition in all respects and where appropriate in the same working order as they now are including all lights, and electrical fittings, bulbs, tubes, airconditioning (if any) floor finishes and glazing, other than damage resulting from fire, flood, lightning, storm, tempest, fair wear and tear, inevitable accident or Act of God PROVIDED THAT this covenant shall not impose on the Lessee any obligation in respect of any structural maintenance, replacement or repair except where it is rendered necessary by any act or omission on the part of the Lessee the servant, agent, contractor, sub-tenant or employee or any person on the premises with the consent of the Lessee or by the use of the premises by the Lessee.
- 2.5 Without affecting the generality of the preceding covenants at the Lessee's expense:
- 2.5.1 To keep and maintain in good order, repair and condition all fittings, plant, furnishings and equipment (including carpets) of the Lessee to the extent necessary to prevent any hazard to or deterioration in the condition of the premises.
- 2.5.2 To make good any breakage, defect or damage to the premises or any associated facility caused by lack of care, misuse or abuse by the Lessee or the Lessee's servants, agents, contractors, sub-tenants or licensees of the Lessee or otherwise caused by any breach or default of the Lessee under this lease or under any rules or regulations (and any modification and amendments to them) under this lease except for usual wear and tear.
- 2.5.3 To comply with all statutes, orders or regulations present or future affecting or relating to the Lessee's use of the premises and with all requirements which may be made or notices or orders which may be given by any Governmental, municipal, civic or other authority in respect of the use of the premises including compliance with regulations concerning the installation and maintenance of fire safety equipment and to keep the Lessor indemnified in respect of all matters referred to in this paragraph PROVIDED THAT this covenant shall not impose on the Lessee any obligation in respect of any structural maintenance, replacement or repair except where it is rendered necessary by any act or omission on the part of the Lessee the servant, agent, contractor, sub-tenant or employee of the Lessee or any

person on the premises with the consent of the Lessee or by the use of the premises by the Lessee.

- 2.6 Not to use or permit the servants, sub-tenants, contractors agents or employees of the Lessee or any person on the premises with the consent of the Lessee to use the lavatories, toilets, sinks and drainage and other plumbing facilities in the premises for any purpose other than that for which they were constructed and not to deposit or allow any rubbish or other material to be deposited in them and any damage caused by such misuse shall be made good by the Lessee FORTHWITH.
- 2.7 To give to the Lessor prompt notice in writing of any circumstances including any accident to or defect in or need to repair any service to or fittings in the premises of which the Lessee should be aware and which might cause any danger, risk or hazard to the premises or any person in them.
- 2.8 Not without the previous consent in writing of the Lessor to make any alteration or addition in or to the premises nor without the consent in writing of the Lessor which consent shall not be unreasonably withheld to install or alter any partitioning work, fixed equipment or other fixed installation in or on the premises. However where such consent is given the materials and design shall first be approved by the Lessor and such work, equipment or installation shall be installed or altered in accordance with approval so given. All such partitioning work and such installations other than the Lessor's fixtures and/or fittings shall remain the property of the Lessee who shall be responsible for their maintenance and (in the case of any plant or equipment) for the repair and running costs and such partitioning work and/or installations may and if required by the Lessor, shall be removed by the Lessee at or immediately prior to the expiration of the lease but the Lessee shall upon such removal immediately repair and reinstate the premises to the condition they were in prior to such installation.
- 2.9 Not to bring upon the premises any heavy machinery or other plant or equipment not reasonably necessary or proper for the Lessee's permitted use of the premises and in no circumstances shall the Lessee bring upon the premises any heavy machinery or other plant or equipment of a nature or size as to cause or (in the reasonable opinion of the Lessor) be likely to cause any structural or other damage to the floors or walls or any other parts of the premises nor shall it be of such construction or manufacture as to cause any noise or vibration, noxious odour, fumes or gas that could pervade the premises or escape from them to the discernible notice of any person outside the premises nor shall the Lessee bring or allow any dangerous, noxious, toxic, volatile, explosive or inflammable substance to be brought onto the premises without the prior written consent of the Lessor. Before bringing any heavy machinery or other plant or equipment upon the premises the Lessee shall inform the Lessor of the Lessee's intention to do so and the Lessor may direct the routing, installation and location of all such machinery, plant and equipment and for this purpose the Lessor may employ the services of its architects or engineers to ascertain the safest and most favourable and convenient method of routing, installing and locating such machinery and the Lessee shall observe and comply with all such directions that the Lessor or its authorised agents may give.
- 2.10 To permit the Lessor and its authorised agents during business hours upon giving reasonable notice to the Lessee (except in the case of emergency when no notice shall be required) to enter upon the premises and examine their state of repair and the Lessor may then serve upon the Lessee a notice in writing of any lack of repair for which the Lessee is

responsible under this lease requiring the Lessee within a reasonable time to carry out such repair and if the Lessee fails to do so the Lessor may (without any obligation on the part of the Lessor to do so) enter and execute the required repairs as if it were the Lessee and for that purpose the Lessor its architects, contractors, workmen and agents may enter the premises and remain for the purpose of planning, preparing for and completing the work and any reasonable expenses and costs of carrying out such work shall FORTHWITH be payable by the Lessee to the Lessor.

2.11 Not at any time during the term do or permit to be done any act on the premises which may result in any insurance in respect of the premises in respect of becoming void or voidable. Any increase in the rate of premium on the Lessor's insurance arising out of the business activities of the Lessee shall forthwith be made good by the Lessee to the Lessor.

2.12 Not at any time during the term do or permit to be done any act on the premises which may result in any insurance in respect of the premises becoming void or voidable or as a result of which the rate of premium on any insurance shall be liable to be increased.

2.13 To indemnify the Lessor from and against all and any actions, claims, demands, losses, damages, costs and expenses for which the Lessor shall or may be or become liable in respect of or arising from:

2.13.1 The negligent use, misuse, waste or abuse by the Lessee or any agent, servant, sub-tenant of the Lessee or any other person claiming through or under the Lessee or any person on the premises with the consent of the Lessee of the water, gas, electricity, oil, lighting and other services and facilities of the premises.

2.13.2 Overflow or leakage of water (including rain water) in or from the premises but having origin inside the premises caused or attributed to by any act or omission on the part of the Lessee its servant, agent, sub-tenant or other persons previously referred to.

2.13.3 Loss or damage or injury from any cause to property or persons caused or contributed to by the use of the premises by the Lessee or any servant, agent, sub-tenant or other persons previously referred to.

2.13.4 Loss, damage or injury from any cause to property or persons within or without the premises caused or contributed to by an act, omission, neglect, breach or default of the Lessee or any servant, agent, sub-tenant or other persons previously referred to.

2.14 To occupy, use and keep the premises at the risk of the Lessee and the Lessee HEREBY RELEASES the Lessor its servants and agents to the full extent permitted by law from all and any claims, demands, and damages of every kind resulting from any accident, damage, or injury occurring on the premises except where deriving from any wilful act of the Lessor or any agent of the Lessor and the Lessee EXPRESSLY AGREES that the Lessor shall have no responsibility or liability for any loss or damage to fixtures, fittings or personal property of the Lessee.

3. THE LESSOR HEREBY COVENANTS AND AGREES with the Lessee as follows:

3.1 That the Lessee paying the rent and observing and performing the covenants, obligations and provisions in this lease to be observed and performed by the Lessee shall peaceably

possess and enjoy the premises for the term and any extension without any interruption or disturbance from the Lessor its servants or agents.

3.2 That the Lessor shall pay all rates taxes levies and other outgoings in relation to the premises as and when the same shall fall due for payment.

3.3 That the Lessee may at or prior to the expiration of the lease take, remove and carry away from the premises all fixtures, fittings, plant, equipment or other articles on the premises in the nature of trade or tenants fixtures brought upon the premises by the Lessee but the Lessee shall not cause any damage to the premises or if the Lessee does so SHALL FORTHWITH repair such damage and reinstate the premises to the condition they were in prior to the installation of such fixtures, fittings, plant or equipment.

4. THE LESSOR AND THE LESSEE HEREBY MUTUALLY COVENANT AND AGREE as follows:

4.1 If the rent or any part of the rent is not paid for fourteen (14) days after any of the days on which the rent ought to have been paid in accordance with the covenant for payment contained in this lease (although no formal or legal demand shall have been made by the Lessor) or the Lessee commits any breach or default in the observance and performance of any of the covenants, obligations and provisions of this lease or of any rules and regulations made under it or if (the Lessee being a company) an order is made or resolution is effectively passed for the winding up of the Lessee (except for the purpose of reconstruction or amalgamation with the written consent of the Lessor which consent shall not be unreasonably withheld) or if the Lessee goes into liquidation or makes an assignment for the benefit of or enters into an arrangement or composition with its creditors or stops payment or is unable to pay its debts within the meaning of the Corporations Act 1992 or if execution is levied against the Lessee and not discharged within fourteen (14) days THEN and in any one or more of such events the Lessor at any time thereafter shall have the right to re-enter and re-possess the premises as if this lease had never been made but without prejudice to any right of action or other remedy which the Lessor may have for arrears of rent or breach of covenant or for damages as a result of any such event and upon re-entry the Lessor shall be discharged from any action, suit, claim or demand by or obligation to the Lessee by virtue of this lease.

4.2 That in case of a breach of any covenant or condition contained in this lease then the notice to the Lessee to be given pursuant to the Landlord and Tenant Act 1936 shall provide that the period of fourteen (14) days is the time within which the Lessee is to remedy any such breach or default if it is capable of remedy or to pay reasonable compensation or make restitution to the satisfaction of the Lessor.

4.3 That without prejudice to the rights, powers and remedies of the Lessor otherwise under this lease the Lessee will pay to the Lessor interest at the rate of twelve percent (12%) on any moneys due but unpaid fourteen (14) days after the due date such interest to be calculated from the due date for payment until payment of such moneys is made in full, and to be recoverable in the same manner as arrears of rental.

4.4 That in the event that the Lessor becomes entitled to re-enter and take possession of the premises and to determine this lease after necessary compliance with any relevant statutory provisions regarding forfeiture (of which the statutory declaration of an officer of the Lessor shall be conclusive evidence for the purpose of the Registrar General) the Lessee

HEREBY IRREVOCABLY APPOINTS the Lessor the attorney of the Lessee in the Lessee's name and as the Lessee's act and deed from time to time for the purpose of giving full effect to the power of re-entry or to sign a surrender of this lease and to arrange registration of such surrender and to record this Power of Attorney and to arrange any act, matter or thing to be done which may be required according to the Real Property Act or any law or regulation for the time being in force in the State of South Australia.

- 4.5 That the reasonable costs of recovery of rent due and unpaid interest and the Lessor's costs and expenses incurred by remedying or attempting to remedy any breach of the Lessee's covenants contained in this lease, including professional charges, workmen's wages and the amount paid by the Lessor by way of damages and penalties resulting from such breach whether by law or otherwise shall be treated as additional rent falling due and payable on the date on which such rent, interest, costs, expenses, wages, charges, damages, or penalties became due and owing and attaching to the Lessor's rights and remedies under this lease for the recovery of rent.
- 4.6 That if the whole or any part of the premises shall be destroyed or damaged on the happening of and in consequence of any event or risk against which the Lessor is insured the Lessor shall as soon as practicable apply all moneys which shall be received by the Lessor from the insurer towards rebuilding or reinstating the premises or such part of the premises as shall be so destroyed or damaged and that in rebuilding or reinstating the premises the Lessor may make any structural alteration in the buildings (including any increase or reduction in the size of them) as the Lessor may think fit and the rent or a fair and reasonable proportion of it according to the nature and extent of the damage (if any) sustained by the premises shall from the date of such destruction or damage be suspended until the premises shall have been put in proper condition by the Lessor for use and occupation by the Lessee.
- 4.7 That in the event of the Lessee holding over after the expiration or sooner determination of the said term with the consent of the Lessor the Lessee shall become a monthly tenant of the Lessor and the lease shall be determinable by fourteen (14) days prior notice expiring at any time at a monthly rental equivalent to a monthly proportion of the total annual rent payable under this lease at the expiration of such term and otherwise on the same terms and conditions (*mutatis mutandis*) as those contained in this lease where applicable.
- 4.8 In the event that at any time during the term of this Lease the Lessor shall be desirous of offering up for sale the land comprising the demised premises alone and no other portion of the Complex then the Lessor shall first offer to the Lessee the right to purchase the demised premises or the relevant part or parts thereof subject to and upon the terms and conditions upon which the Lessor is desirous of offering up the demised premises or part or parts thereof for sale as aforesaid by delivering to the Lessee a Law Society Form of Contract for Sale and Purchase of Land (in triplicate) containing all the terms and conditions upon which the Lessor is desirous of selling the demised premises or part or parts thereof as the case may be.
- 4.9 The Lessee shall be at liberty to accept such offer by the execution by the Lessee of one (1) copy of the Contract delivered to the Lessee pursuant to sub-clause 4.8 hereof and the delivery of same to the Lessee at any time within one (1) calendar month after service by the Lessor upon the Lessee of the Contract pursuant to sub-clause 4.8 hereof in which event the Lessor shall proceed to sell the demised premises to the Lessee subject to and upon all the terms and conditions of such Contract.

- 4.10 In the event that the Lessee shall not accept the offer referred to in sub-clause 4.9 hereof then the Lessor shall be at liberty at any time within one (1) year after the date of such offer to offer up the demised premises or part or parts thereof as the case may be for sale to any person or corporation subject to and upon terms and conditions no more favourable than offered to the Lessee pursuant to sub-clause 4.8 hereof.
- 4.11 In the event that the Lessor shall offer up the demised premises for sale during the period referred to in Clause 4.9 and such offer shall not be accepted within that period then in the event that the Lessor shall still desire to sell the demised premises subject to and upon terms and conditions no more favourable than offered to the Lessee pursuant to clause 4.8 hereof then the Lessor shall first offer to the Lessee the right to purchase the demised premises upon such terms and conditions by the delivery to the Lessee of a Contract (in triplicate) contained all such terms and conditions which offer the Lessee shall be at liberty to accept in the manner provided in clause 4.9 hereof.
- 4.12 In the event that the Lessee shall not accept the offer referred to in clause 4.8 hereof and the Lessor shall thereafter be desirous of offering up the demised premises or any part or parts thereof for sale upon terms and conditions no more favourable than already offered to the Lessee then the Lessor shall first offer to the Lessee the right to purchase the demised premises upon such other terms and conditions as to those said matters by the delivery to the Lessee of a Contract (in triplicate) contained all such other terms and conditions which offer the Lessee shall be at liberty to accept in the manner provided in clause 4.9 hereof.
- 4.13 4.13.1 Expressions used in this clause have the meanings given to them in the GST Act.
- 4.13.2 An amount payable by a party under this Lease in respect of a taxable supply by the other party, unless expressed to be exclusive of GST, represents the value of the taxable supply and the recipient must in addition to that amount and at the same time, pay to the supplier the GST payable on the cost of the supply.
- 4.13.3 If the Lease requires the Lessee to pay, reimburse or contribute to an amount paid or payable by the Lessor in respect of a creditable acquisition from a third party the total amount payable will be the amount required to pay, reimburse or contribute to the expense plus the GST payable in respect of that portion of the supply.
- 4.13.4 A party is not obliged under this clause to pay the GST on a taxable supply to it under the Lease until that party is given a valid tax invoice for that supply.
- 4.14 The Lessee shall reinstate the premises to the same state and condition as detailed in the original plan of the premises upon expiration or earlier termination of the Lease unless otherwise agreed between the Lessor and the Lessee.
- 4.15 That no waiver by the Lessor of one breach of any covenant obligation or provision contained in this lease or implied by law shall operate as a waiver of another breach of the lease or of any other covenants obligations or provisions contained in this lease or implied by law.
- 4.16 That without prejudice to any other means of giving notices required to be served under this lease such notice or notices shall be adequately served on the Lessor or Lessee if served personally or if left addressed to the Lessor or Lessee and forwarded to the Lessor or Lessee by pre-paid post to the last known place of business or residence of the Lessor or

the Lessee and any notices sent by post shall be deemed to be given at the time when it ought to be delivered in the ordinary course of post.

- 4.17 This lease is SUBJECT TO the special terms and conditions (if any) as specified and in the event of there being any inconsistency between any such terms and conditions and any of the provisions of this lease then such special terms and conditions shall prevail.
- 5.1 The Lessee is to ensure that the premises are to be occupied by no more than a caravan fixed annex and shade provision at all times;
- 5.2 The premises are not to be used at any time for a permanent residence;
- 5.3 The premises are not to be sublet without the prior written consent of the Lessor.