BAROSSA ASSESSMENT PANEL

MINUTES OF THE SEVENTEENTH MEETING OF THE BAROSSA ASSESSMENT PANEL held on

Tuesday, 4 June 2019 commencing at 5:00pm

in the Council Chambers, 43-51 Tanunda Road, Nuriootpa
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1. WELCOME

The Presiding Member welcomed everyone, and opened the meeting at 5:01pm.

2. ATTENDANCE

2.1 Present

Panel Members
Bruce Ballantyne       Presiding Member
Rob Veitch            Member
Grant Hewitt          Member
Deirdre Reiman        Member
Richard Miller        Member
Louis Monteduro       Assessment Manager

Council Staff
Gary Mavrinac         Director, Development and Environmental Services
Janine Lennon         Senior Assessment Officer, Planning
Jake Boswell          Assessment Officer, Planning
Ashleigh Gade         Assessment Officer, Planning
Steve Kaesler         Manager, Engineering Services
Chris Kruger          Minute Secretary

2.2 Apologies

Nil.

2.3 Absent

Nil.

3. CONFIRMATION OF MINUTES

Moved: G Hewitt       Seconded: D Reiman
That the minutes of the Barossa Assessment Panel meeting held on Tuesday 7 May 2019 be received and confirmed.

CARRIED
4. BUSINESS ARISING

Nil.

5. DECLARATION OF INTEREST BY MEMBERS OF THE PANEL

Nil.

6. REPORTS - APPLICATIONS FOR DECISION

6.1 960/91/2019 (228 Nuraip Road Nuriootpa)

Simon and Nicole Hahn, and Jason and Kim Hahn (Representors) provided a submission but did not attend to address the Panel.

Michael Richardson (Masterplan SA Pty Ltd) on behalf of the Applicant, answered questions from the Panel.

Recommendation

The Barossa Assessment Panel, having considered the application for consent to carry out development of land and pursuant to the provisions of the Development Act 1993 resolves:

(a) Pursuant to Section 6(2) of the Character Preservation (Barossa Valley) Act 2012, the Barossa Assessment Panel has had regard to the objects of that Act and, in determining this application, seeks to further the objects of that Act.

(b) That the proposed development is not seriously at variance with The Barossa Council Development Plan.

(c) To GRANT Development Plan Consent for Application No. 960/91/2019 by BGI Building Group Pty Ltd C/o MasterPlan SA Pty Ltd to undertake Partial change of use of existing dwelling to restaurant and associated internal fitout; partial change of use of existing outbuilding to toilet facilities; creation of eighteen vehicle carpark associated with the restaurant; and demolition of outbuilding at 228 Nuraip Road, Nuriootpa (CT 5869/663) subject to the following conditions and advisory notes:

Council Conditions

(1) The development shall be undertaken in accordance with the endorsed plans and documentation (as amended) accompanying Application No. 960/91/2019 and including:
• Planning Report – Additional use of Restaurant, prepared by MasterPlan SA Pty Ltd, dated February 2019, received 18 February 2019 (inclusive of amended Site Plan and Floor Plans received 16 April 2019)

except where varied by any condition(s) listed below.

Reason: To ensure that the proposal is constructed in accordance with the plans stamped as approved by the Planning Authority.

(2) Unless with the prior written consent of Council, the use authorised herein may only operate between the following hours:

9.00 am – 7.00 pm: Monday – Wednesday
9.00 am – 9.30 pm: Thursday – Sunday

Reason: To ensure that the proposal is operated in accordance with the submitted/authorised documentation.

(3) Unless with the prior written consent of Council, the capacity of the use authorised herein shall not exceed 50 patrons at any time.

Reason: To ensure that the proposal is operated in accordance with the submitted/authorised documentation.

(4) All stormwater from buildings, paving and from areas that immediately surround the perimeter of the building shall be disposed of in a manner that does not result in entry of water into the building, or affect the stability of the building, or create an unhealthy or dangerous condition, or run onto or over land of an adjoining owner.

Storm water disposal systems must be fully installed at the completion of the construction of the building with adequate measures deployed during construction to ensure the temporary disposal of surface or roof water does not affect neighbouring properties, to the satisfaction of Council.

Reason: To ensure that stormwater is managed within the curtilage of the allotment to the satisfaction of Council.

(5) The development authorised herein shall be managed so that the amenity of the area is not detrimentally affected, through the:

(a) Transport of materials, good or commodities to or from the land
(b) Appearance of any building, works or materials
(c) Emissions of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil
(d) Presence of vermin

Reason: To ensure that there is no adverse amenity impacts on the locality.
(6) Unless with the prior written consent from Council, no events in association with the restaurant shall occur, notwithstanding typical operations and gatherings within authorised operative hours.

Reason: To ensure that there is no adverse amenity impacts on the locality.

(7) No external sound amplification equipment or loud speakers are to be used for the purpose of announcement, broadcast, playing of music or similar purpose, to the satisfaction of Council.

Reason: To ensure that there is no adverse amenity impacts on the locality.

(8) Any noise generating activity undertaken at the site must be undertaken in accordance with the provisions of the Environment Protection (Noise) Policy 2007, such that any resulting noise is not considered a nuisance, to the satisfaction of Council.

Reason: To ensure that the proposal is able to comply with the requirements of the Environment Protection (Noise) Policy 2007.

(9) All car parking, driveways and vehicle manoeuvring areas shall be constructed and finished in bitumen, brick paving or concrete in accordance with approved engineering procedures prior to the occupation or use of the development.

Reason: To ensure that all carparking is sealed and constructed to the satisfaction of Council.

(10) All external lighting must be designed, baffled and located so as to prevent adverse effect on adjoining land, to the reasonable satisfaction of Council.

Reason: To ensure that there is no adverse amenity impacts on the locality.

(11) Prior to the issuing of Development Approval, the applicant shall lodge and have approved by Council an application to install a wastewater system pursuant to the provisions of the South Australian Public Health Act 2011 and South Australian Public Health (Wastewater) Regulations 2013.

Reason: To ensure compliance with the South Australian Public Health Act 2011.

(12) Provision shall be made for the appropriate storage and disposal of garbage to the reasonable satisfaction of Council. All garbage storage areas must be screened from public view.

Reason: To ensure that there is no adverse amenity impacts on the locality.
(13) All waste material not required for further on site processing must 
be regularly removed from the site such that no odour is created 
to the extent that it is considered a nuisance, to the reasonable 
satisfaction of Council.

Reason: To ensure that there is no adverse amenity impacts on the 
locality.

(14) Unless with the prior written consent of Council, the removal of all 
solid waste from the site shall be undertaken between 7.00 am – 
7.00 pm, to the reasonable satisfaction of Council.

Reason: To ensure that there is no adverse amenity impacts on the 
locality.

(15) Unless with the prior written consent of Council, all deliveries to the 
site shall be undertaken between 7.00 am – 7.00 pm, to the 
reasonable satisfaction of Council.

Reason: To ensure that there is no adverse amenity impacts on the 
locality.

Advisory Notes

(1) Any variation from the approved use or the approved application 
and the conditions of consent will require further application and 
approval from Council or other relevant planning authority. 
Approval of this application does not imply that future applications 
for variations will be approved. Any future application will be 
assessed by having regard to the relevant rules in force at the time 
it is lodged.

(2) Any portion of Council’s infrastructure damaged as a result of work 
undertaken within the development site or associated with the 
development shall be repaired/reinstated to Council’s satisfaction 
at the developer’s expense.

(3) Events are not approved generally as part of this application and 
are subject to specific information being provided to council when 
individual event details are known. The nature and extent of any 
events would be subject to council assessment and if liquor is to be 
served at such events an appropriate licence is to be sought which 
is also subject to Council assessment.

(4) Prior to the commencement of the use authorised herein, 
notification is required to be given to Council’s Health Services. 
Contact can be made by phone (08) 8563 8444, or by email to 
barossa@barossa.sa.gov.au

(5) The applicant is reminded of its general environmental duty as per 
Section 25 of the Environment Protection Act, to take all 
reasonable and practical measures to ensure that its activities on 
the whole site, including construction, do not pollute the
environment in any way which causes or has the potential to cause environmental harm.

(6) The applicant is advised that any proposal to clear, remove limbs or trim native vegetation, unless subject to an exemption under the Native Vegetation Act 1991, requires the approval of the Native Vegetation Council. Any queries regarding the clearance of native vegetation should be directed to the Native Vegetation Council Secretariat on 8303 9777.

(7) The building located on the subject site adjacent the eastern allotment boundary does not benefit from existing use rights for residential or dwelling purposes.

Panel Decision

Moved: D Reiman
Seconded: G Hewitt

The Barossa Assessment Panel, having considered the application for consent to carry out development of land and pursuant to the provisions of the Development Act 1993 resolves:

(a) Pursuant to Section 6(2) of the Character Preservation (Barossa Valley) Act 2012, the Barossa Assessment Panel has had regard to the objects of that Act and, in determining this application, seeks to further the objects of that Act.

(b) That the proposed development is not seriously at variance with The Barossa Council Development Plan.

(c) To GRANT Development Plan Consent for Application No. 960/91/2019 by BGI Building Group Pty Ltd C/o MasterPlan SA Pty Ltd to undertake Partial change of use of existing dwelling to restaurant and associated internal fitout; partial change of use of existing outbuilding to toilet facilities; creation of eighteen vehicle carpark associated with the restaurant; and demolition of outbuilding at 228 Nuraip Road, Nuriootpa (CT 5869/663) subject to the following conditions and advisory notes:

Council Conditions

(1) The development shall be undertaken in accordance with the endorsed plans and documentation (as amended) accompanying Application No. 960/91/2019 and including:

- Planning Report – Additional use of Restaurant, prepared by MasterPlan SA Pty Ltd, dated February 2019, received 18 February 2019 (inclusive of amended Site Plan and Floor Plans received 16 April 2019)

except where varied by any condition(s) listed below.

Reason: To ensure that the proposal is constructed in accordance with the plans stamped as approved by the Planning Authority.
(2) Unless with the prior written consent of Council, the use authorised herein may only operate between the following hours:

9.00 am – 7.00 pm: Monday – Wednesday
9.00 am – 9.30 pm: Thursday – Sunday

Reason: To ensure that the proposal is operated in accordance with the submitted/authorised documentation.

(3) Unless with the prior written consent of Council, the capacity of the use authorised herein shall not exceed 50 patrons at any time.

Reason: To ensure that the proposal is operated in accordance with the submitted/authorised documentation.

(4) All stormwater from buildings, paving and from areas that immediately surround the perimeter of the building shall be disposed of in a manner that does not result in entry of water into the building, or affect the stability of the building, or create an unhealthy or dangerous condition, or run onto or over land of an adjoining owner.

Storm water disposal systems must be fully installed at the completion of the construction of the building with adequate measures deployed during construction to ensure the temporary disposal of surface or roof water does not affect neighbouring properties, to the satisfaction of Council.

Reason: To ensure that stormwater is managed within the curtilage of the allotment to the satisfaction of Council.

(5) The development authorised herein shall be managed so that the amenity of the area is not detrimentally affected, through the:

(a) Transport of materials, good or commodities to or from the land
(b) Appearance of any building, works or materials
(c) Emissions of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil
(d) Presence of vermin

Reason: To ensure that there is no adverse amenity impacts on the locality.

(6) Unless with the prior written consent from Council, no events in association with the restaurant shall occur, notwithstanding typical operations and gatherings within authorised operative hours.

Reason: To ensure that there is no adverse amenity impacts on the locality.

(7) No external sound amplification equipment or loud speakers are to be used for the purpose of announcement, broadcast, playing of music or similar purpose, to the satisfaction of Council.
Reason: To ensure that there is no adverse amenity impacts on the locality.

(8) Any noise generating activity undertaken at the site must be undertaken in accordance with the provisions of the Environment Protection (Noise) Policy 2007, such that any resulting noise is not considered a nuisance, to the satisfaction of Council.

Reason: To ensure that the proposal is able to comply with the requirements of the Environment Protection (Noise) Policy 2007.

(9) All car parking, driveways and vehicle manoeuvring areas shall be constructed and finished in bitumen, brick paving or concrete in accordance with approved engineering procedures prior to the occupation or use of the development.

Reason: To ensure that all carparking is sealed and constructed to the satisfaction of Council.

(10) All external lighting must be designed, baffled and located so as to prevent adverse effect on adjoining land, to the reasonable satisfaction of Council.

Reason: To ensure that there is no adverse amenity impacts on the locality.

(11) Prior to the issuing of Development Approval, the applicant shall lodge and have approved by Council an application to install a wastewater system pursuant to the provisions of the South Australian Public Health Act 2011 and South Australian Public Health (Wastewater) Regulations 2013.

Reason: To ensure compliance with the South Australian Public Health Act 2011.

(12) Provision shall be made for the appropriate storage and disposal of garbage to the reasonable satisfaction of Council. All garbage storage areas must be screened from public view.

Reason: To ensure that there is no adverse amenity impacts on the locality.

(13) All waste material not required for further on site processing must be regularly removed from the site such that no odour is created to the extent that it is considered a nuisance, to the reasonable satisfaction of Council.

Reason: To ensure that there is no adverse amenity impacts on the locality.

(14) Unless with the prior written consent of Council, the removal of all solid waste from the site shall be undertaken between 7.00 am – 7.00 pm, to the reasonable satisfaction of Council.
Reason: To ensure that there is no adverse amenity impacts on the locality.

(15) Unless with the prior written consent of Council, all deliveries to the site shall be undertaken between 7.00 am – 7.00 pm, to the reasonable satisfaction of Council.

Reason: To ensure that there is no adverse amenity impacts on the locality.

(16) Prior to the issuing of Development Approval, an amended car parking layout plan (prepared by a suitably qualified professional) to the satisfaction of Council shall be submitted and approved by Council to redesign car parking spaces such that all existing vegetation on the subject land is retained and un-impinged. Upon authorisation, the plan(s) shall be endorsed and form part of this development authorisation.

Reason: To accommodate all car parking on-site to minimise impact on existing vegetation.

(17) Prior to the issuing of Development Approval, plans shall be submitted to Council detailing the construction of fencing located adjacent the southern allotment boundary of the subject land, to the reasonable satisfaction of Council. Any fencing shall be designed in a manner so as to deny pedestrian access from/to Nuraip Road, and such that on-street car parking is discouraged. Upon authorisation, the plan(s) shall be endorsed and form part of this development authorisation.

Reason: To ensure safe and convenient access to the subject land and impacts to the amenity of the locality are minimised, and to discourage on-street car parking.

(18) Prior to the commencement of use of the development herein, fencing (as endorsed by Council) shall be constructed adjacent to the southern allotment boundary of the subject land, to the reasonable satisfaction of Council.

Reason: To ensure safe and convenient access to the subject land and impacts to the amenities of the locality are minimised, and to discourage on-street parking.

(19) The southern verandah area is not to be used for outdoor patron dining after 7:00pm on any day.

Reason: To maintain the character and amenity of the locality.

Advisory Notes

(1) Any variation from the approved use or the approved application and the conditions of consent will require further application and approval from Council or other relevant planning authority.
Approval of this application does not imply that future applications for variations will be approved. Any future application will be assessed by having regard to the relevant rules in force at the time it is lodged.

(2) Any portion of Council’s infrastructure damaged as a result of work undertaken within the development site or associated with the development shall be repaired/reinstated to Council’s satisfaction at the developer’s expense.

(3) Events are not approved generally as part of this application and are subject to specific information being provided to council when individual event details are known. The nature and extent of any events would be subject to council assessment and if liquor is to be served at such events an appropriate licence is to be sought which is also subject to Council assessment.

(4) Prior to the commencement of the use authorised herein, notification is required to be given to Council’s Health Services. Contact can be made by phone (08) 8563 8444, or by email to barossa@barossa.sa.gov.au

(5) The applicant is reminded of its general environmental duty as per Section 25 of the Environment Protection Act, to take all reasonable and practical measures to ensure that its activities on the whole site, including construction, do not pollute the environment in any way which causes or has the potential to cause environmental harm.

(6) The applicant is advised that any proposal to clear, remove limbs or trim native vegetation, unless subject to an exemption under the Native Vegetation Act 1991, requires the approval of the Native Vegetation Council. Any queries regarding the clearance of native vegetation should be directed to the Native Vegetation Council Secretariat on 8303 9777.

(7) The building located on the subject site adjacent the eastern allotment boundary does not benefit from existing use rights for residential or dwelling purposes.

CARRIED

6.2 960/664/2018 (182 Kalimna Road Light Pass)

Recommendation

The Barossa Assessment Panel, having considered the application for consent to carry out development of land and pursuant to the provisions of the Development Act 1993 resolves:

(a) Pursuant to Section 6(2) of the Character Preservation (Barossa Valley) Act 2012, the Barossa Assessment Panel has had regard to the objects of
that Act and, in determining this application, seeks to further the objects of that Act.

(b) That the development proposal is not seriously at variance to The Barossa Council Development Plan.

(c) To GRANT Development Plan Consent for Application No. 960/664/2018 by D Falkenberg to undertake Alterations and additions to an existing light industry building (carpentry and building), enclosure of existing loading bay and extension to existing building to construct a new loading bay (measuring 10.75m x 6.0m x 3.6m wall height) at 183 Kalimna Road, Light Pass (CT 5597/717) subject to the concurrence of the State Planning Commission, and subject to the following conditions and advisory notes:

Council conditions

(1) The development shall be undertaken in accordance with the endorsed plans and documentation accompanying Application No. 960/664/2018 except where varied by any condition(s) listed below.

- Working Drawings, drawn by Brooksby Design & Drafting for D. Falkenberg dated November 2018, Sheet 1 of 1.

Reason: To ensure that the proposal is constructed in accordance with the plans stamped as approved by the Planning Authority.

(2) The conditions of Development Approval 960/1099/2008 shall continue to apply except where varied by any condition(s) listed below.

Reason: To ensure that the site is managed in accordance with proposals approved by the Planning Authority.

(3) The use of the building shall be managed so that the amenity of the area is not detrimentally affected through:

- transport of materials, goods or commodities to or from the land
- emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil
- presence of vermin
- any other noise emissions.

Reason: To ensure there are no adverse impacts upon the amenity of the locality.

(4) All roof water shall be directed to the existing stormwater system. All stormwater from buildings, paving and from areas that immediately surround the perimeter of the building shall be disposed of in a manner that does not result in entry of water into the building, or affect the stability of the building, or create an
unhealthy or dangerous condition, or run onto or over land on an adjoining owner.

Reason: To ensure that the proposal is used, run and maintained as approved by the Planning Authority.

(5) There is to be sufficient manoeuvring area available to all car parking and loading/unloading areas to enable all vehicles to enter and exit the site in a forward direction.

Reason: To ensure safe vehicular access to and from the development.

(6) Before the completion of the development, the area(s) set aside for the parking of vehicles and access lanes as shown on the endorsed plans must be, to the satisfaction of Council:

- constructed
- properly formed such that they can be used in accordance with the plans
- surfaced with an all-weather material to the satisfaction of Council to prevent dust and gravel being emitted from the site
- drained and maintained
- delineated to indicate each car space and all access lanes

Reason: To ensure that all car parking areas and access ways are sealed and constructed to the satisfaction of Council.

(7) During construction or installation of the development measures shall be taken so that:

- dust generated on site shall be reasonably controlled at all times to prevent nuisance to occupants of adjoining land.
- noise generated at the site shall be kept to the minimum level that is reasonably practicable.
- appropriate erosion measures shall be employed to prevent soil removal from the site by stormwater runoff, and to prevent siltation of watercourses, to the reasonable satisfaction of Council’s Director – Works and Engineering.
- any dirt or debris from the site deposited onto existing roadways by the applicant’s contractors or sub-contractors shall be cleared immediately.

Reason: To ensure that the construction process is managed in a manner which prevents adverse off-site impacts.

(8) Construction shall take place between 7:00am and 7:00pm Monday to Saturday, and the relevant builders must take all practicable steps to minimise the impact of noise emissions on neighbouring properties.

Reason: To ensure no adverse impacts during construction of the development.
Advisory Notes

(1) Any variation from the approved use or the approved application and the conditions of consent will require further application and approval from Council or other relevant planning authority. Approval of this application does not imply that future applications for variations will be approved. Any future application will be assessed by having regard to the relevant rules in force at the time it is lodged.

(2) Any portion of Council’s infrastructure damaged as a result of work undertaken within the development site or associated with the development shall be repaired/reinstated to Council’s satisfaction at the developer’s expense.

(3) Please note that the subject land may be affected by the Native Vegetation Act 1991 and Native Vegetation Regulations 2017 and as such further approval from the Native Vegetation Council may be required should any native vegetation be sought to be removed or adversely affected.

Panel Decision

Moved: R Miller          Seconded: R Veitch
That the recommendation be adopted.

CARRIED

7. REPORTS - APPLICATIONS TO PROCEED/NOT TO PROCEED TO ASSESSMENT

7.1 960/722/2017 (30 Murray Street Angaston)

Recommendation

The Barossa Assessment Panel, having considered the application, resolves that the development proposed is REFUSED without proceeding to make an assessment of the application pursuant to Section 39(4)(d) of the Development Act for the following reasons:

The proposed development is contrary to:

• General Section, Heritage Places Module Objectives 1, 2, 3 and 4; Principles of Development Control 1(a and b), 2(a-i), 3 and 4.
  Reason: Will result in the demolition of a State Heritage listed item.

• General Section, Historic Conservation Module Objectives 2, 4 and 5; Principles of Development Control 1, 3 and 6.
Reason: The proposal involves the demolition of a State Heritage listed item without evidence that it is structurally unsafe and/or unsound and cannot reasonably be rehabilitated nor is it associated with a proposed development that supports the desired character for the policy area.

- District Town Centre Zone Objective 4; Principle of Development Control 5

Reason: Demolition of a State Heritage listed item is not consistent with the desired character for the Zone.

Panel Decision

Moved: R Miller  
Seconded: D Reiman

That the recommendation be adopted.  

CARRIED

8. REPORTS – DEFERRED APPLICATIONS FOR DECISION

Nil.

9. REPORTS - PANEL UPDATES

9.1 SCAP Concurrence Matter

Recommendation

That the report be received.

Panel Decision

Moved: R Veitch  
Seconded: G Hewitt

That the recommendation be adopted.  

CARRIED

9.2 ERD Court Appeals and Enforcement Matters

ERD Court Appeal – Development Application 960/279/2017 – JBG Architects (M and K Fitzpatrick) – Lot 897 N Herbig Road Springer – Detached Dwelling with Verandahs Under Main Roof and Domestic Outbuilding (Shed)
Recommendation

That the report be received.

Panel Decision

Moved: G Hewitt  Seconded: D Reiman

That the recommendation be adopted.

CARRIED

10. REPORTS - OTHER BUSINESS

Re-Appointment of Barossa Assessment Panel
At its meeting held 21 May 2019, Council resolved to re-appoint current members of the Barossa Assessment Panel pursuant to the Planning, Development and Infrastructure Act 2016 and Planning, Development and Infrastructure (General) Regulations 2017 for the period 1 July 2019 – 30 June 2020.

Meeting apologies
R Miller tendered an apology for the July and August 2019 meetings, and B Ballantyne tendered an apology for the July 2019 meeting.

11. REPORTS – CONFIDENTIAL

Nil.

12. NEXT MEETING

Tuesday 2 July 2019 commencing at 5.00pm.

13. CLOSURE OF MEETING

The Presiding Member declared the meeting closed at 5:40pm.

Confirmed

Date: ..........................................  Chairman: ..................................................