

BAROSSA ASSESSMENT PANEL

MINUTES OF THE TWENTY NINTH MEETING OF THE BAROSSA ASSESSMENT PANEL
held on

Tuesday, 6 October 2020 commencing at 5:00pm

in the Council Chambers, 43-51 Tanunda Road, Nuriootpa



The Barossa Council

MINUTES

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1. WELCOME

The Presiding Member welcomed everyone, and opened the meeting at 5:04pm.

2. ATTENDANCE

2.1 Present

Panel Members

Bruce Ballantyne	Presiding Member
Rob Veitch	Member
Grant Hewitt	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
Anthony Zollo	Assessment Officer, Planning
Steve Kaesler	Manager, Engineering Services
Chris Kruger	Minute Secretary

2.2 Apologies

Jane Evans
Jake McVicar

2.3 Absent

Nil.

3. CONFIRMATION OF MINUTES

Moved: G Hewitt

Seconded: R Veitch

That the minutes of the Barossa Assessment Panel meeting held on 4 August 2020 be received and confirmed.

CARRIED

4. BUSINESS ARISING

Nil.

5. DECLARATION OF INTEREST BY MEMBERS OF THE PANEL

The following disclosures have been made in relation to:

Item	Panel Member
6.3 960/514/2019 Allotment 26 Moorpark Street Nuriootpa R Miller has a professional relationship with the applicant.	Richard Miller

6. REPORTS - APPLICATIONS FOR DECISION

6.1 960/671/2015/A (1929 Barossa Valley Way Rowland Flat)

Representors

Rebecca Jenke addressed the Panel at 5:07pm, and answered questions from the Panel.

Jill Bowden addressed the Panel at 5:12pm, and answered questions from the Panel.

Applicant

Geraldine Frater-Wyeth addressed the Panel at 5:19pm, and 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. 960/671/2015/A by G Frater-Wyeth to undertake Change of use from Bed and Breakfast (Five guests) to Motel (Eight Guests), Building Extension (guest dining area) - (Non-Complying) - Variation to Condition 9 relating to boundary fencing

at 1929 Barossa Valley Way, Rowland Flat (CT 5179/672) 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. 960/671/2015/A (and 960/671/2015) as listed below:

- Block Plan, prepared by the applicant, amended and received by council dated 22 September 2020
- Fencing Plan, prepared by the applicant, received by council dated 22 September 2020

Except where varied by this development authorisation, and 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) Prior to any landscaping planting within the extent of the North Para River floodplain, a suitably detailed landscaping plan prepared by a suitably qualified professional shall be submitted to, and approved by, council, with any plantings to be undertaken within nine months from the date of authorisation, to the reasonable satisfaction of council.

Reason: To ensure appropriate landscaping is authorised and undertaken within a reasonable timeframe.

- (3) Within 12 months of the substantial commencement of the development, all vegetation within the scope of this authorisation shall be established and managed with appropriately semi-mature varieties that forms a dense vegetation buffer and thereafter maintained throughout the life of the development, to the reasonable satisfaction of council.

Reason: To ensure landscaping is established to fulfil its intended purpose within a reasonable timeframe, and throughout the life of development.

- (4) Within 3 months of the substantial commencement of the development, fencing as detailed within the application shall be completed, to the reasonable satisfaction of council.

Reason: To ensure boundary fencing is constructed and completed within a reasonable timeframe.

Advisory Notes

- (a) Any variation of this approved development and/or the conditions of consent will require a separate request and approval by Council

or other relevant planning authority. Approval of this application does not necessarily imply that future requests for variations would be approved. Any future request will be assessed by having regard to the relevant rules and requirements in force at the time any request is lodged.

- (b) Any works associated with the development, such as tree planting, tree removal, footpath renewal or construction of new vehicle entrances proposed to be undertaken within the road reserve (ie the carriageway, verge or footpath area) requires an independent approval from Council pursuant to the Local Government Act. Further enquiries should be directed to the Works and Engineering team on 8563 8444.
- (c) 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.
- (d) The applicant is reminded of its general environmental duty, as required by Section 25 of the Environment Protection Act 1993, to take all reasonable and practicable measures to ensure that the activities on the whole site including during construction, do not pollute the environment in a way which causes or may cause environmental harm.
- (e) Construction shall not take place on any Sunday or Public Holiday or after 7.00 pm or before 7.00 am on any other day, and all practicable steps must be taken during construction to minimise the impact of noise emissions on neighbouring properties.
- (f) Any proposal to clear, remove limbs, or trim native vegetation will require approval or confirmation of exemption from the Native Vegetation Council. An interactive guide is available to help owners and others determine the requirements that apply under the *Native Vegetation Act 1991*: <https://www.environment.sa.gov.au/topics/native-vegetation/interactive> -guide. Any specific queries regarding the clearance, removal, or trimming of native vegetation should be directed to the South Australian Native Vegetation Council.
- (g) The adjoining owner should be advised of the proposed work on the boundary and issues such as access to perform work, removal of fences, finished levels and retaining walls should be resolved before building work commences. This approval does not create an automatic right to access neighboring land.

Panel Decision

Moved: R Miller

Seconded: R Veitch

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 to REFUSE application 960/671/2015/A in order to minimise safety risks and the disruption to viticultural activities on neighbouring land and to minimise the risk of trespass.

CARRIED

6. REPORTS - APPLICATIONS FOR DECISION

6.2 960/206/2020 (19D Goldfields Road Cockatoo Valley)

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. 960/206/2020 by Pyper Leaker Surveying and JD Lewis to undertake Torrens Title Land Division - Create one additional allotment (Non-Complying) at 19D Goldfields Road, Cockatoo Valley (CT 5923/362) subject to the concurrence of the State Planning Commission pursuant to Section 8(2) of the *Character Preservation (Barossa Valley) Act 2012*, and subject to the following conditions):

Council conditions

- (1) The development shall be undertaken in accordance with the endorsed plans and documentation (as amended) accompanying Application No. 960/206/2020 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) Any and all internal existing wastewater system components that cross the proposed allotment boundaries must be severed or redirected at the applicants cost to ensure that the wastewater system relating to each allotment is contained entirely within its boundaries.

Reason: To ensure all on-site services are maintained entirely on its respective allotment.

- (3) The subject land is located within a Medium Bushfire Risk area. A dedicated and independent water supply shall be available at all times for fire fighting purposes which:
- (a) Is located adjacent to the building or in another convenient location on the allotment accessible to fire fighting vehicles (safe and convenient access shall be provided), and
 - (b) Comprises a minimum of 5000 litres of water (any rainwater tank used for this purpose should be dedicated entirely for fire fighting and shall be of non combustible materials).

The provision of the dedicated water supply for fire fighting purposes shall comply with the Ministers Specification SA 78 'Bushfire fighting equipment and water supply requirements in designated bushfire prone areas'.

Reason: To ensure that minimum bushfire safety requirements are met for the existing dwelling.

- (4) The applicant shall construct all services and infrastructure to service each allotment, including:
- road access
 - storm water drainage
 - electricity and communications

to the reasonable satisfaction of Council.

Reason: To ensure that minimum infrastructure requirements are met for the allotments.

DPTI – Transport Services Division Conditions

- (5) The Williamstown Road access to Allotment 82 must meet the Safe Intersection Sight Distance (SISD) requirements shown in the Austroads 'Guide to Road Design, Part 4A 'Unsignalised and Signalised Intersections'.
- (6) All vehicles must enter and exit Allotment 82 in a forward direction.
- (7) All access to-from Allotment 81 shall be gained via right of way D only.

Dept for Energy and Mining (Gas) Conditions

- (8) A Safety Management Study (SMS) for the development shall be requested from the pipeline licensee to identify actions required to manage risk in accordance with AS2885 and that the proponent, licensee and relevant stakeholders shall participate in a SMS validation workshop. The controls and actions identified in the SMS shall then be implemented.

Panel Decision

Moved: R Miller

Seconded: G Hewitt

That the recommendation be adopted.

CARRIED

6. REPORTS - APPLICATIONS FOR DECISION

6.3 960/514/2019 (Allot 26 Moorpark Street Nuriootpa)

R Miller left the meeting at 5:38pm, due to an earlier stated conflict of interest.

J Lennon confirmed recent discussions held with the applicants and advised that the applicant is now prepared to address crossland flow requirements within a Reserve Matter, and therefore an alternative recommendation was tabled for consideration.

S Kaesler answered questions from the Panel, addressing engineering and stormwater management issues.

CONCLUSION

Not seriously at variance:

The proposed development is not seriously at variance with the Development Plan.

Development Plan Consent should be granted

When assessed against the relevant provisions of the Development Plan it is considered that the proposed development, on balance, warrants Development Plan Consent subject to conditions recommended below.

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. 960/514/2019 by Pyper Leaker Surveying and I D Mader to undertake Torrens Title Land Division - Create 33 additional allotments at Allot 26 Moorpark Street, Nuriootpa SA 5355 (CT 5915/478) subject to the following reserved matter and conditions:

RESERVED MATTERS

In accordance with s33(3) of the Development Act 1993 the relevant authority reserves its decision on the following matters:

- a) Resolution and management of the existing and expected cross land stormwater and nominated flood event flow. Management of the local through stormwater catchment runoff during the high North Para River cut off is required, for a 20 year 4 hour storm. This will require safe internal storage or safe outfall to the existing external water course.

DEVELOPMENT PLAN CONSENT CONDITIONS

- (1) The development shall be undertaken in accordance with the endorsed plans and documentation (as amended) accompanying Application No. 960/514/2019 (960/D033/19) except where varied by any condition(s) listed below.
- (2). The applicant shall construct all necessary services and infrastructure to service each allotment, including:
 - roads
 - water supply
 - storm water drainage
 - waste disposal (CWMS)
 - electricity, public lighting and communicationsto the reasonable satisfaction of Council. (Note Only: This may include constructing drains outside of the site, or contributing to upgrades, where existing drains are inadequate to accept additional water or sewerage.)
- (3) On site detention shall be provided to limit the 5% AEP (\approx 20yr ARI) post-development peak discharge to the 5% AEP (\approx 20yr ARI) pre-development peak discharge from the site.
- (4) During construction of infrastructure temporary debris and sediment control measures shall be installed to prevent debris and sediment from leaving the site during all construction stages. Control measures shall be in accordance with a soil erosion and drainage management plan, which shall provide such pollution prevention measures as required to comply with the "Environmental Protection Authority's Stormwater Pollution Prevention Codes of Practice":
 - For the Community
 - For Local, State, and Federal Government
 - For the Building and Construction IndustryTemporary debris and sediment control measures shall be in place prior to construction commencing and shall be maintained at all times during construction. Prior to construction, a copy of the soil erosion and drainage management plan shall be provided to Council for approval.
- (5) A street planting plan shall be submitted to Council showing all verge landscaping in detail, including the type and location of plantings and any existing trees to be retained.
- (6) Street Lighting shall be provided in accordance with a design and specifications conforming to Australian Standard 1158.1 and approved by

ETSA Utilities and Council. Lighting columns shall be standard ETSA Utilities design approved by Council.

- (7) All allotment boundaries abutting reserves shall be adequately fenced using 1800mm high "Good Neighbour" colorbond fencing using the same colour and material profile. All fencing costs shall be borne by the Developer.

Panel Decision

Moved: R Veitch

Seconded: G Hewitt

That the recommendation be adopted.

CARRIED

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

7.1 960/189/2020 (71 Menge Road, Tanunda)

Recommendation

The Barossa Assessment Panel, having considered the application for consent to carry out a Non Complying development of land and pursuant to the provisions of the *Development Act 1993* resolves that the development proposal has sufficient merit to proceed to make an assessment of the Application No. 960/189/2020 by Inception Design to undertake construction of an indoor horse arena (measuring 63.4m x 25.0m x 5.0m wall height) and the installation of a 290kl water tank at 71 Menge Road, Tanunda (CT 5565/851).

- (a) That the proposed development is not seriously at variance with The Barossa Council Development Plan.
- (b) That the Panel resolves to proceed to assessment of a non-complying development proposal, subject to the provision of the following additional information:
- Statement of Effect
 - Review external colour choice with preference for a more earthy colour
 - Any other information or material that you think is relevant to the assessment of the proposal

Panel Decision

Moved: R Veitch

Seconded: G Hewitt

The Barossa Assessment Panel, having considered the application for consent to carry out a Non Complying development of land and pursuant to the provisions of the *Development Act 1993* resolves to REFUSE Application No. 960/189/2020 by Inception Design to undertake construction of an indoor horse arena (measuring 63.4m x 25.0m x 5.0m wall height) and the installation of a 290kl water

tank at 71 Menge Road, Tanunda (CT 5565/851) as the proposed development appears to be an over development of the site and therefore the character and amenity of the location would be compromised.

CARRIED

7.2 960/620/2019 (Allot 3 Eden Valley Road, Angaston)

Recommendation

The Barossa Assessment Panel, having considered the application for consent to carry out a Non Complying development of land and pursuant to the provisions of the *Development Act 1993* resolves that the development proposal has sufficient merit to proceed to make an assessment of the Application No. 960/620/2019 by Dechellis Homes to undertake Construction of a single-storey detached with double garage, alfresco and front verandah under main roof at Allot 3 Eden Valley Road, Angaston (CT 5846/686; 5846/688 and 5846/683).

- (a) That the proposed development is not seriously at variance with The Barossa Council Development Plan.
- (b) That the Panel resolves to proceed to assessment of a non-complying development proposal, subject to the provision of the following additional information:
 - Statement of Effect
 - Detailed, scaled site plan showing:
 - Stormwater drainage details
 - Contours, excavation, fill, finished bench levels, finished floor levels, retaining walls
 - Location, size and use of existing and proposed buildings and structures
 - Existing and proposed trees and native vegetation areas
 - Driveway/s, manoeuvring and car parking area/s
 - Easements, watercourses and bores
 - Consideration of the amalgamation of the three allotments into one allotment
 - Consideration given to Primary Production Zone PDCs 11, 12, 13 and 14
 - Lodgement of an application for an onsite waste water system
 - Any other information or material that you think is relevant to the assessment of the proposal.

Panel Decision

Moved: R Miller

Seconded: G Hewitt

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: G Hewitt

Seconded: R Veitch

That the recommendation be adopted.

CARRIED

10. REPORTS - OTHER BUSINESS

10.1 Planning Reform Updates

Nil.

11. REPORTS – CONFIDENTIAL

Nil.

11.1 ERD Court Appeal – 960/345/2019 – 44 Washington Street Angaston – Land Division

REASON FOR CONFIDENTIALITY

It is recommended that the public be excluded from the meeting, as is necessary, in accordance with Section 13 of the *Planning, Development and Infrastructure (General) Regulations 2017* to receive, discuss or consider in confidence the following information or matters in relation to this item:

- (vii) to ensure that the assessment panel, or any other entity, does not breach any law, or any order or direction of a court or tribunal constituted by law, any duty of confidence, or other legal obligation or duty.

As this matter is before the Environment, Resources and Development Court and it is a requirement of the Court that matters are kept confidential until such time as a compromise is reached or the matter proceeds to a hearing.

RECOMMENDATION

That:

- (1) Pursuant to Regulation 13(2) of the *Planning, Development and Infrastructure (General) Regulations 2017* the Barossa Assessment Panel orders that the public be excluded from the meeting with the exception of the Director, Development and Environmental Services, Assessment Manager, Assessment Officers, and the Minute Secretary, on the basis that this matter is before the Environment Resources and Development Court and therefore any disclosure could place the Panel in breach of the *Environment, Resources and Development Court Act 1993*.
- (2) Accordingly, on this basis, the Barossa Assessment Panel is satisfied that the principle meetings of the assessment panel should be conducted in a place open to the public has been outweighed by the need to keep the information and discussion confidential.

Panel Decision

Moved: R Veitch

Seconded: R Miller

That the recommendation be adopted.

CARRIED

At 6:10pm the meeting moved into confidence.

At 6:13pm the confidential session ceased and the meeting reopened to the public.

Moved: R Veitch

Seconded: G Hewitt

That the Barossa Assessment Panel has considered *Confidential Item 11.1 ERD Court Appeal - 960/345/2019 – 44 Washington Street* and resolves as follows:

- (a) Confidential Resolution.
- (b) Pursuant to Regulation 14(4) of the *Planning, Development and Infrastructure (General) Regulations 2017*, the Barossa Assessment Panel resolves to exclude from the minutes and from the version of the agenda report made available to the public the information dealt with on a confidential basis by the Barossa Assessment Panel, until a decision of the Environment, Resources and Development Court is made on the basis that disclosure may result in a breach of the *Environment, Resources and Development Court Act 1993*.

CARRIED

11.2 Assessment Manager Report – Barossa Assessment Panel Issues

REASON FOR CONFIDENTIALITY

It is recommended that the public be excluded from the meeting, as is necessary, in accordance with Section 13 of the *Planning, Development and Infrastructure (General) Regulations 2017* to receive, discuss or consider in confidence the following information or matters in relation to this item:

- (i) legal advice;

RECOMMENDATION

That:

- (1) Pursuant to Regulation 13(2) of the *Planning, Development and Infrastructure (General) Regulations 2017* the Barossa Assessment Panel orders that the public be excluded from the meeting with the exception of the Director, Development and Environmental Services, Assessment Manager, Assessment Officers, and the Minute Secretary, on the basis that this matter it will consider legal advice.
- (2) Accordingly, on this basis, the Barossa Assessment Panel is satisfied that the principle meetings of the assessment panel should be conducted in a place open to the public has been outweighed by the need to keep the information and discussion confidential.

Panel Decision

Moved: G Hewitt

Seconded: R Miller

That the recommendation be adopted.

CARRIED

At 6:13pm the meeting moved into confidence.

At 7:08pm the confidential session ceased and the meeting reopened to the public.

Moved: R Miller

Seconded: G Hewitt

That the Barossa Assessment Panel has considered *Confidential Item 11.2 Assessment Manager Report – Barossa Assessment Panel* and resolves as follows:

- (a) Confidential Resolution
- (b) Pursuant to Regulation 14(4) of the *Planning, Development and Infrastructure (General) Regulations 2017*, the Barossa Assessment Panel resolves to exclude from the minutes and from the version of the agenda report made available to the public the information dealt with on a confidential basis by the Barossa Assessment Panel.

CARRIED

12. NEXT MEETING

Tuesday 3 November 2020 commencing at 5.00pm.

13. CLOSURE OF MEETING

The Presiding Member declared the meeting closed at 7:08pm.

Confirmed

Date: Chairman: