



DEVELOPMENT ASSESSMENT PANEL

Notice of The Barossa Council Development Assessment Panel meeting to be held at the Council Offices, 43-51 Tanunda Road, Nuriootpa on Tuesday, 1 October 2013, commencing at 5:00pm

Martin McCarthy
CHIEF EXECUTIVE OFFICER
THE BAROSSA COUNCIL

A G E N D A

- 1. WELCOME**

- 2. PRESENT**

- 3. APOLOGIES**

- 4. CONFIRMATION OF MINUTES**

5. BUSINESS ARISING FROM MINUTES

6. DECLARATION OF INTEREST BY MEMBERS OF PANEL

7. VISITORS TO THE MEETING

Nil.

8. APPLICATIONS FOR DECISION

DA/DAP/R1	960/0050/2008 (960/D050/07)	White Holdings Group	Variation to Land Division 960/D050/07 (Merit)
DA/DAP/R4	960/0340/2004 (960/D542/03)	Hickinbotham Group	Extension of Approval For Land Division (Merit)
DA/DAP/R3	960/0912/2013	Ali Rezaian	Variation to Application 960/0546/2013 (Non-Complying)
DA/DAP/R4	960/0100/2013 (960/D026/12)	Kalimna Road Unit Trust	Land Division (57 Allotments, Roads and reserve) (Merit)

9. OTHER BUSINESS

9.1	Declaration of Conflict of Interest
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10. CONFIDENTIAL AGENDA

Nil.

11. NEXT MEETING

12 November 2013 commencing at 5.00pm

12. CLOSE OF MEETING

PLEASE NOTE

Report attachments are not included in this Agenda due to copyright laws.

The full Agenda can be viewed at the Principal Office of The Barossa Council, 43–51 Tanunda Road, Nuriootpa, between 9.00am – 5.00pm, Monday – Friday.

For further information, please contact The Barossa Council on 85638 489.

DEVELOPMENT ASSESSMENT PANEL

1 OCTOBER 2013

DEBATE AGENDA

DA/DAP/R1

DEVELOPMENT APPLICATION NO:	960/D050/07 (960/0050/2008) (Prop ID 117365)
APPLICANT:	White Holdings Group
OWNER:	Gemtree Nuriootpa Pty Ltd
SUBJECT LAND:	Lot 742 Chardonnay Drive, Nuriootpa in DP 76327
PROPOSAL:	Variation to Land Division 960/D050/07 (58 Allotments, Roads and Reserves)
ZONE/POLICY AREA:	Residential Zone (Map Baro/3)
PROCEDURE:	Merit
REFERRALS:	Nil
PUBLIC NOTICE:	Category 1
KEY ISSUES:	Variation to Lot Sizes
DEVELOPMENT PLAN PROVISIONS:	Residential Zone Principle of Development Control 9
RECOMMENDATION:	Grant Variation Without Additional Conditions
OFFICER:	Brian Irvine

BACKGROUND

This application for land division was originally presented to the Panel on the 21 December 2009 and approved subject to conditions. Extensions of time to the approval have been previously granted. The applicant now wishes to make some variations to the proposal, and they are presented to the Panel for consideration.

Section 39(7)(b) of the Development Act limits consideration to the variations.

SUBJECT LAND AND LOCALITY

The subject land involves a single allotment of approximately 5.9 hectares on the southern side of the Sturt Highway, Nuriootpa. The site is bounded on the eastern and southern sides by land currently used or approved for residential use. The highway runs along the northern boundary.

The land is currently used as a vineyard and has a drainage channel running north-south through the middle of the allotment. There are no buildings on the site.

Chardonnay Drive runs into the eastern boundary midway along its length. Similarly, Centenary Avenue runs into the southern boundary.

The site is nearly flat, with a slight fall to the drainage channel in the middle of the development.

A map showing the location of the subject land is included in Attachment 1.

DESCRIPTION OF THE PROPOSED DEVELOPMENT

The original application proposed to divide the land into 60 residential allotments ranging from 413 m² to 1020 m² and 4 reserves totalling 12013 m². The original proposal incorporated a buffer strip, approximately 15m wide, along the edge of the highway, and the drainage channel into the reserves.

The original plan of division, the development approval, and the variations are included in Attachment 2.

The differences between the 2 plans are:

- The number of allotments have been reduced from 60 to 58. (Note that there is no lot 15 in the amended plan).
- The road between Centenary Avenue and Chardonnay Drive has been widened from 14m to 15m.
- Lots 5, 6 and 7 have been reworked to improve access and produce regular shaped lots.
- The number of lots on the south eastern side of the road between Centenary Avenue and Chardonnay Drive has been increased by 1 with a corresponding variation in the size of allotments.
- The area of lots 16 to 21 on the new plan have been reworked by reorientating lot 16 and 17, reducing the number of lots by 1 and adjusting the size and frontage of the lots. (Lots 15, 16 and 17 on the old plan, which were less than 420 m², have been eliminated).
- Lots 35-37 and 42-44, in the old plan, have been enlarged by moving the western boundary of the lots towards the creek.
- Lot 45 on the old plan has been reshaped to enlarge the adjoining reserve, and the area of lots 45 to 52 have been reworked by reducing the number of lots by 1.
- The area of lots 53 to 60 on the old plan have been reworked to reduce the number of lots by 1 and to reshape the reserve between lots 56 and 57 on the old plan.
- Overall, the reserve area has been increased by 0.088 hectare.

PROVISIONS OF THE DEVELOPMENT PLAN

The original plan of division was assessed against the provisions of the authorised Development Plan, consolidated 25th March 2007.

The principal difference between the 2007 Development Plan and the current Development Plan is the increase in the minimum lot size for a detached dwelling from 300 m² to 420 m².

PUBLIC NOTIFICATION

The allotments are configured for residential development compatible with the purpose of the zone, and therefore, in the opinion of the assessing officer, is a Category 1 form of development for public notification purposes.

PLANNING ASSESSMENT

The basic layout of the land division has not changed although there has been considerable "fine tuning".

The number of lots less than 500 m² has been reduced from 16 to 9 and all are above the current minimum area of 420 m² by a comfortable margin. The widening of the road and the adjustments to the reserve are considered to be positive improvements.

The existing conditions for the original approval adequately address flooding and the provision of services, and do not require changing as a result of the changes to the layout.

The CWMS augmentation charge will be adjusted automatically for the reduced number of allotments.

CONCLUSION

The variations do not warrant amending the Development Approval or the conditions of consent attached to it and the new layout plan can be substituted for the original one.

RECOMMENDATION:

That the Development Assessment Panel accepts the variations to application 960/0050/08 (960/D050/07) without varying the conditions attached to the Development Approval, and the Development Assessment Commission be advised that the changes are minor and covered by the existing approval.

DEVELOPMENT ASSESSMENT PANEL**1 OCTOBER 2013****DEBATE AGENDA****DA/DAP/R2**

DEVELOPMENT APPLICATION NO:	960/D542/03 (960/0340/2004) (Prop ID 104309)
APPLICANT:	Hickinbotham Group
OWNER:	Hickinbotham Group
SUBJECT LAND:	Lot 2 in FP 931 and Lot 6 in DP 41947 Corner Kalimna Road and Research Road, Nuriootpa
PROPOSAL:	Extension of Approval for Land Division
ZONE/POLICY AREA:	Residential Zone (Map Baro/3)
PROCEDURE:	Merit
REFERRALS:	Nil
PUBLIC NOTICE:	Category 1
KEY ISSUES:	Extension of Time
DEVELOPMENT PLAN PROVISIONS: CONSOLIDATION DATE:	Residential Zone Consolidated 21 February 2013
RECOMMENDATION:	Approve Extension of Time
OFFICER:	Brian Irvine

BACKGROUND

An application to divide the land into 283 allotments was approved on the 2 March 2004. The eastern half of the land division has been completed with 128 allotments completed. Engineering approval has been given for another 22 lots in the north western corner of the allotment. A number of extensions to the approval have been granted in the past under delegated powers with the approval due to lapse on the 5 November 2013, if not extended further. Officer's delegations have been amended and now only the Panel have the delegated power to extend an approval where the Panel granted the original approval.

A request has been received for a 5 year extension.

A copy of the approved layout is included in Attachment 1.

ASSESSMENT

The Development Act does not provide any guidance for the assessment of an application for the extension of the approval.

The original layout was designed to be coordinated with the neighbouring development to the west with the road and drainage systems linked.

More recently, the Hickinbotham Group have cooperated in a scheme to provide stormwater drainage to land on the northern side of Kalimna Road. A drain will be laid as part of their next stage to carry stormwater through to the North Para River.

An increase of the CWMS augmentation charge from the 2004 amount has been independently negotiated.

There have been no substantive changes to the Development Plan justifying refusal of the request and forcing the reassessment of a new application. Similarly there are no proposed changes in the foreseeable future.

CONCLUSION

Whilst the requested extension will result in an approved period almost 15 years, this should be weighed against:

- The large size of the original proposal and the relatively slow rate of sales in the area,
- The need to coordinate the development of this site with those nearby,
- There have been no significant changes to the Development Plan of a nature to warrant a different decision or conditions.

Therefore it is concluded that there is no benefit or valid reason to refuse the request.

RECOMMENDATION:

That the Development Assessment Panel grant an extension of time to the Development Approval for Development No 960/D542/03 (Council Reference 960/340/2004) for a further period of 5 years.

DEVELOPMENT ASSESSMENT PANEL**1 OCTOBER 2013****DEBATE AGENDA****DA/DAP/R3**

DEVELOPMENT APPLICATION NO:	960/00912/2013 (Prop ID 107158)
APPLICANT:	Ali Rezaian
OWNER:	Ali Rezaian
SUBJECT LAND:	1246 Barossa Valley Way, Lyndoch
PROPOSAL:	Variation to Application 960/00546/12 – Amendment to the Building Design
ZONE/POLICY AREA:	Primary Production (Barossa Valley Region) Zone (Map Baro/35)
PROCEDURE:	Non-Complying
REFERRALS:	Nil
PUBLIC NOTICE:	Category 1
KEY ISSUES:	Variation to Building
DEVELOPMENT PLAN PROVISIONS: CONSOLIDATION DATE:	Council Wide Design and Appearance Objective 1. Principle of Development Control 7. Orderly and Sustainable Development Objective 9. Siting and Visibility Objective 2. Principle of Development Control 5. Tourism Development Objective 3. Principle of Development Control 3, 9 & 12. Primary Production (Barossa Valley Region) Zone Principle of Development Control 2. Consolidation Date: 21 February 2013
RECOMMENDATION:	Approval
OFFICER:	Brian Irvine

BACKGROUND

The original application, 960/546/13 was approved as an “Extensions to Existing Motel) by the Panel on the 4 December 2012 after going through the non-complying process. Development Plan Consent was issued on the 14 January 2013 following the receipt of concurrence from the Development Assessment Commission. The proposal involved renovating a derelict stone barn for bed and breakfast style accommodation. The applicant now wishes to amend the design prior to finalising the building documentation for Building Rules Consent.

Section 39(7)(b) of the Development Act limits consideration to the variations.

SUBJECT LAND AND LOCALITY

The subject land is an irregular shaped allotment with an area of 1.233 hectares located on the southern side of Barossa Valley Way, opposite the Lyndoch Hill motel/restaurant.

The owner has recently adjusted boundaries to separate the portion of the property used for the bed and breakfast business from the surrounding vineyard. Three accommodation units are provided in the original converted house and a newer building at the rear of the allotment comprising a total of 6 bedrooms. Other shedding exists on the site, including the old stone barn that was subject to the 2012 application (960/546/12) and this current application. The buildings are visible from the road but the overall appearance is similar to that of a typical farm house and farm buildings surrounded by vineyards.

To the south, east and west, the site is surrounded by vineyards owned by the owner of the units. The railway line and the township of Lyndoch are located further to the south. The land to the north, on the other side of Barossa Valley Way, is used for the Lyndoch Hill motel/restaurant.

The surrounding locality consists predominately of vineyards with a character typical of the Barossa Valley.

A map showing the location of the subject land is included in *Attachment 1*.

DESCRIPTION OF THE PROPOSED DEVELOPMENT

The original proposal involved restoring/renovating an old stone barn to be used as a small 2 bedroom tourist accommodation unit, with one of the bedrooms in the roof space.

The variation involves:

- removing portion of the roof and using part of the upper floor area as a balcony,
- extending the rear of the building by 605mm
- A pitched gabled dormer on the rear portion of the roof
- Using zincalume external wall cladding instead of timber stain shiplap boarding
- Changes to the internal layout.

Neither the use of the building or the overall number of guests are being changed.

The original approved plans, development Plan consent approval, and the variations are included in *Attachment 2*.

PROVISIONS OF THE DEVELOPMENT PLAN

The subject land lies within the Primary Production (Barossa Valley Region) Zone of the Development Plan, consolidated 21 February 2013.

The proposal is deemed to be a non-complying form of development in the zone.

A decision has been made under delegation to proceed with the assessment of the application.

The following provisions of the Council Wide, and Zone parts of the Development Plan apply to the variations.

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.

Principles of Development Control

7. *The external walls and roofs of buildings should not incorporate highly reflective materials which will result in glare.*

Orderly and Sustainable Development

Objectives 9: Integrated re-development of poor quality buildings and under-utilised land.

Siting and Visibility

Objectives 2: The protection and enhancement of the area's visual amenity and landscape quality, including land visible from tourist routes.

Principles of Development Control

5. *The nature of external surface materials of buildings should not detract from the visual character and amenity of the landscape.*

Tourism Development

Objectives 3: Tourism development that sustains or enhances the local character, visual amenity and appeal of the area.

Principles of Development Control

3. *Tourism development should ensure that its scale, form and location will not overwhelm, over commercialise or detract from the intrinsic natural values of the land on which it is sited or the character of its locality.*

9. *Tourist developments should demonstrate excellence in design to minimise potential impacts or intrusion on primary production activities and on areas of high conservation, landscape and cultural value.*
12. *Where appropriate, tourism developments in areas outside townships should:*
 - (a) *adapt and upgrade existing buildings of heritage value*
 - (b) *seek to improve conditions in disturbed or degraded areas on the site.*

Primary Production(Barossa Valley Region) Zone

Desired Character

The zone is characterised by open undulating terrain combined with isolated stands of natural vegetation and scattered dwellings and farm buildings. The open nature of the land results in a landscape highly sensitive to development for non broad-acre farming or viticulture purposes. For this reason, it is expected that development will be carefully designed and located to blend located within the landscape and be inconspicuous in appearance from key tourist and scenic routes throughout the Barossa Valley Region.

Opportunities for non-agricultural development will be limited to preserve the natural appearance and scenic qualities of rural areas, as well as retain land for maximum horticultural and viticultural productivity. Similarly, large scale wineries and industrial development and dwellings will be limited in location and design to maximise productive land and prevent the incremental erosion of the existing landscape character. Forms of large scale winery and industrial development are more appropriate within regional industrial areas established specifically for such purposes.

Principles of Development Control

22 *Development listed as non-complying is generally inappropriate.*

Procedural Matters

All forms of development are non-complying except a short list of exemptions. The proposed development is not on the list of exemptions.

CONSULTATION

No consultation with government agencies is required pursuant to Schedule 8 of the Development Regulations.

PUBLIC NOTIFICATION

The original application received 1 representation in favour of the proposal. That representation does not relate to the variations and therefore, pursuant to Section 39(7)(c) of the Development Act, the variation does not require further public notification.

PLANNING ASSESSMENT

The use of the building has received Development Plan Consent and is not subject to reassessment.

The proposed variations to the structure will change the appearance of the building and therefore warrants reassessment.

The building is approximately 100 metres from Barossa Valley Way at its closest point, and is not visually prominent in its current form. The removal of part of the roof to create a balcony, building a dormer window in the roof, or extending the building in a minor manner, will not in themselves increase the building's visual dominance or detract from the amenity of the landscape or locality.

The proposed use of zincalume external cladding is of concern as it will attract attention to an otherwise inconspicuous building and is spoken against in a number of provisions of the Development Plan. However, this matter can be addressed with a standard condition of consent.

CONCLUSION

The variations are generally acceptable with the exception of the proposed use of Zincalume metal cladding.

RECOMMENDATION:

That the Development Assessment Panel has considered all relevant matters and the officer's report in relation to Development Application 960/00546/2012 and resolves as follows:

- (A) Approve the variation to Development Application No 960/00546/2012 and grant Development Plan Consent, subject to the following additional condition and note:
 - 1 Any metal roof and wall cladding shall be of a 'Colorbond' type of finish (or a similar factory applied colour finish) in a muted medium or dark grey, green, brown, beige or other suitable colour to blend with the natural features of the landscape and nearby buildings.

NOTES ONLY

- (a) The conditions and notes attached to the Development Plan Consent for application 960/00546/2012 continue to apply.
- (B) Seek Concurrence of the Development Assessment Commission to approve the variation and grant Development Plan Consent.

DEVELOPMENT ASSESSMENT PANEL**1 OCTOBER 2013****DEBATE AGENDA****DA/DAP/R4**

DEVELOPMENT APPLICATION NO:	960/D026/12 (960/0100/2013) (Prop ID 102240)
APPLICANT:	Kalimna Road Unit Trust (Strategy Urban Projects & Roger Pitt)
OWNER:	GJ & JF Walker
SUBJECT LAND:	Lot 2, 41-47 Kalimna Road, Nuriootpa in FP 173385
PROPOSAL:	Land Division (57 Allotments, Roads and Reserve)
ZONE/POLICY AREA:	Residential Zone (Map Baro/3) Precinct 8 – Kalimna Road (Map Baro/3) Medium Bushfire Protection Area (BPA Map Baro/2) Concept Plan Map Baro/2
PROCEDURE:	Merit
REFERRALS:	Development Assessment Commission, SA Water, Environment Protection Authority, Department of Planning, Transport & Infrastructure - Transport Services, Urban Renewal Authority (Affordable Housing)
PUBLIC NOTICE:	Category 1
KEY ISSUES:	Stormwater disposal and stormwater detention, Impact on adjoining roads
DEVELOPMENT PLAN PROVISIONS: CONSOLIDATION DATE:	Numerous – Refer to <u>Attachment 3</u> Application Lodgement Date 8/8/2012 Development Plan Consolidation Date 11 November 2011, Modified by the Barossa Valley and McLaren Vale – revised – Protection Districts DPA (interim) 11 April 2012
RECOMMENDATION:	Grant Development Approval
OFFICER:	Brian Irvine

SUBJECT LAND AND LOCALITY

The subject land involves a single rectangular shaped allotment at 41-47 Kalimna Road Nuriootpa with an area of 8.192 hectares. The allotment is approximately 143 metres wide and 573 metres deep, extending from Kalimna Road to the northern boundary of the Residential Zone.

The land to the north is used for grazing purposes and is located in the Primary Production (Barossa Valley Region) Zone. The land on the eastern side is comprised of two relatively large lots with a rural or rural living appearance, and is located in the Residential Zone. The larger of the two eastern lots has had a land division application lodged over it, which is still awaiting further information before it is assessed further. (That application is expected to be completely rearranged and resubmitted.) Most of the land on the western side is also located in the Residential Zone and is comprised of medium sized lots with a rural living character, with the exception of one parcel that has recently been subdivided into residential lots. A small portion of land adjoining the western boundary and fronting Kalimna Road is located in the Home Industry Zone. The land on the southern side of Kalimna Road is in the Residential Zone.

The land is near flat with a very fine fall towards Kalimna Road. There is a single detached dwelling on the current allotment approximately 90 metres from the road. There are numerous isolated medium sized gum trees on the site (with no significant understory) and an established olive grove planted between the gum trees behind the house.

A new residential subdivision has been established between the Old Sturt Highway and the western boundary of the subject land. A new road in that subdivision terminates at the western boundary, with stormwater and CWMS draining through the subject land.

The existing character of the site is a mixture of residential and rural living , and can best be described as "township/rural fringe" in the process of being developed for residential purposes. The locality extends approximately 250m-300m north and south from the northern and southern edges of the proposed development, and to Research Road to the east and the Old Sturt Highway to the West. A map showing the location of the subject land is included in Attachment 1.

DESCRIPTION OF THE PROPOSED DEVELOPMENT

The application proposes to divide the land into 57 residential allotments ranging from 1000 m² to 1521 m². The proposal also includes a reserve of 3000 m² adjacent to Kalimna Road that will serve as a landscaped stormwater detention basin.

It is proposed to extend roads into most of the adjoining allotments to enable the orderly division of those allotments in a coordinated manner.

Stormwater from the land division to the west will drain through the land division and discharge into a proposed detention basin in the proposed reserve. The basin will be sized to serve both land divisions. The outfall from the detention basin will be piped to the drainage pipe proposed to be installed in the "Hickinbotham Subdivision" to convey the water to the North Para River.

The plan of division and related correspondence is included in Attachment 2

PROVISIONS OF THE DEVELOPMENT PLAN

The subject land lies within the Residential Zone of the authorised Development Plan, consolidated 11 November 2011 and modified by the Barossa Valley and McLaren Vale – revised – Protection Districts DPA (Interim) dated 11 April 2012.

The nature of development has been determined to be “Land Division” and the application has been determined to be a merit form of development.

The provisions of the Development Plan relevant to the consideration of the proposal are contained in Attachment 3.

CONSULTATION

Agency reports have been received from the Development Assessment Commission, SA Water, Department Planning, Transport & Infrastructure - Transport Services, Environment Protection Authority, and the Urban Renewal Authority.

The Environment Protection Authority have requested additional information which has not been provided. This is addressed in the assessment.

Copies of the reports are included in Attachment 2.

The Council’s Manager of Engineering Services was also consulted.

PUBLIC NOTIFICATION

The allotments are configured for residential development compatible with the purpose of the zone, and therefore, in accordance with the Development Regulations, Schedule 9, Clause 5, the proposal is a Category 1 form of development for public notification purposes.

PLANNING ASSESSMENT

The land is zoned for residential purposes and the allotment arrangement is typical of a residential subdivision. The layout is compatible with a grid layout referred to the Residential Zone Desired Character statement. There is a reasonable range of allotment sizes for detached dwellings ranging from the minimum of 1000 m² to 1521m².

The width of the road reserves are adequate and tie in with the adjoining roads and adjoining land. There is some minor variation from the Concept Plan Map Baro/2 but the intentions of that plan are achieved.

The Transport Services Division of DPTI have expressed concern as to the impact the proposed development will have on the Kalimna Road/Murray Street intersection. They recommend that no further approval be granted until a Traffic Impact Study is undertaken and improvements to the intersection identified. Although it is not stated, it is implied that the study and any improvements should be undertaken by the applicant. The recommendation is not supported for the following reasons:

- Traffic management issues should have been raised and resolved during the government agency consultation process when the area was recently rezoned.
- It is unfair to require a single developer that will contribute only a small proportion of the traffic loading to undertake such a study and subsequent works for the benefit of other developers.

- There is no mechanism to fairly distribute the costs between different developers over time, and the State Government has declined to entertain developer augmentation charges for such off-site works and services.
- It is the Council's and the Department's role.
- There is insufficient information provided by DTEI to justify refusal.

In the absence of a study, the Council and the Department will negotiate improvements to the intersection at a later date, if and when deteriorating traffic conditions warrants such works.

The disposal of stormwater from the area north of Kalimna Road has proven to be an awkward issue to address because of the very shallow gradients involved, lack of infrastructure and final disposal difficulties. The solution involves, in addition to the internal drainage and detention basin works, the applicant constructing a discharge drain under Kalimna Road and through the land opposite to connect to a proposed drain in the Hickinbotham land division, which will convey the water to the North Para River. There are a number of factors that need to be taken into regard when considering conditions of consent.

- A preliminary design of a stormwater detention basin in the reserve and a discharge drain has been undertaken to ensure that stormwater can be disposed of. A refined design will be required but for legal reasons the approval of that design will need to be a reserved matter. (The internal design of the stormwater system can be addressed with a land division condition, but the design of the external system will need to be addressed as a planning condition. However, as the final design will need to be made after the development approval is granted and a planning condition that requires further approval is invalid, the approval of the design of the external system will need to be made a reserve matter.
- The detention basin will be sized to service the proposed land division and the Steinborner Road land division, but the discharge pipe will need to be sized to service other future land divisions on the north side of Kalimna Road in accordance with an overall stormwater master plan.
- The discharge pipe through the Hickinbotham land division will need to be completed by a third party (ie Hickinbotham) prior to the land division proceeding.
- The cost of the drain through the Hickinbotham land division will need to be recouped with an augmentation charge.

The land in the locality falls generally from the east to the west, with a number of subtle depressions and 'channels'. Surface water therefore flows into the subject land along the eastern boundary. There is a concern that when the allotments in the subject land are filled to ensure adequate drainage of the land division, it will block the natural drainage of the land to the east, and cause water to dam on the neighbouring land. Whilst this may be addressed at a later date when the neighbouring land is developed, provision should be made in this land division for water entering the site and to prevent flooding of neighbouring land. This can be achieved by either installing a drain of adequate size to accept surface drainage water (ie predevelopment flows) from the neighbouring land (which haven't been

taken into consideration in discussions or design work to date) or providing for an overland flow path.

Other standard drainage matters can be addressed with standard conditions of consent.

The Environment Protection Authority is required to respond within 4 weeks of referral, ie 14 September 2012 unless an extension of time is sought. Although the Environment Protection Authority have requested additional information from the applicant, it hasn't sought an extension of time and the applicant has not provided the information. The Council is entitled to proceed with the assessment, but it must be assumed that in the absence of the additional information, the Environment Protection Authority is recommending refusal. There is a concern that the Environment Protection Authority is attempting to assess the application rather than providing advice to Council, and that their assessment is against the provisions of the Environmental Protection Act rather than the Development Plan. (Irrespective of the advice received, Council is obliged to assess an application against the provisions of the Development Plan.) The matters referred to in the request for information that relate to the Development Plan can be addressed with conditions of consent.

Effluent disposal will be achieved by connecting to the recently installed CWMS drain in Kalimna Road. That drain is being financed by charging an additional augmentation fee on new land divisions on the northern side of Kalimna Road. The internal design can be conditioned in the normal manner.

A significant but undetermined number of trees are expected to be removed, either as a result of the land division process or subsequent building of dwellings. However, the relatively large size of allotments will assist with the retention of a reasonable number of trees and represents a reasonable compromise between the objective of developing the area for residential purposes and Natural Resources objectives and principles advocating the retention of native vegetation.

The design generally satisfies the bushfire protection principles and the Minister's Code. Hazards principle 16 specifically refers to olive orchards, but the olives on the site will be substantially removed as a natural consequence of developing the land.

SA Water has advised of their standard requirement for water supply.

Electricity supply should be underground, and can be addressed with a condition of approval.

Council can require 12.5% of the site as an open space reserve, which equates to 10,240m². The proposed reserve is only 3000m². The Director-Works and Engineering has recommended that:

- The detention basin reserve be landscaped to enable it to be utilised as useable open space, and
- a monetary contribution be required in lieu of additional land in accordance with the formula set out in the Development Act. (This is expected to be approximately \$266,000)

If land is required for an overland flow path along the eastern boundary, it is suggested that it be large enough to be useful open space in the future, so that when it is no longer required for drainage purposes it can be used as a reserve. It is suggested that any such reserve be accepted as part of the open space instead of a drainage reserve.

Residential Objective 5 and Principle 4 refers to affordable housing. Renewal SA encourages affordable housing but the Council's policy planner has expressed an opinion that there is sufficient affordable housing opportunities in Nuriootpa without making a specific requirement.

CONCLUSION

The proposal coordinates well with, and links the adjoining developments and land. It is considered that the proposal is not seriously at variance with the provisions of the Development Plan and that it warrants approval subject to conditions to address the matters referred to in the report.

RECOMMENDATION:

That the Development Assessment Panel grants Development Plan Consent, Land Division Consent and Development Approval to application 960/D026/12 (Council Reference 960/00100/2013) subject to the following reserved matter and conditions:

Reserved matter

A detailed design of the stormwater detention basin discharge pipe between the detention basin and the proposed drain through development application 960/D542/03 be submitted to Council and approved before construction work commences.

Conditions of Development Plan Consent

- (1) The land division shall be undertaken in accordance with the plans accompanying the application, unless varied by the following conditions.
- (2) The applicant shall construct all necessary services and infrastructure, including roads, storm water drainage, waste disposal (CWMS), electricity, public lighting and communications to the reasonable satisfaction of Council.

(Note Only: This may include constructing drains and/or other facilities outside of the site, or contributing to upgrades, where existing drains are inadequate to accept additional water or sewerage).

- (3) Each allotment shall have a minimum area of 1000 m².
- (4) The road boundary of lot 54 shall be located a minimum of 6.5 metres from the front of the existing dwelling. The side boundaries of lot 54 shall be a minimum of 1.5 metres from the sides of the dwelling, and the rear boundary of lot 54 shall be a minimum of 5 metres from the rear of the dwelling
- (5) The location of the septic tank and associated plumbing servicing the existing dwelling shall be confirmed as being on the same allotment as the dwelling, or a new septic tank shall be installed on the same allotment as the dwelling, and be connected to the dwelling and Community Wastewater Management

Scheme prior to the issue of the Certificate of Approval.

NOTE ONLY

Any septic tank or on-site effluent disposal area proposed to be abandoned must be decommissioned in a manner acceptable to the Council's Public and Environmental Health Officer.

- (6) Roof water run-off and/or rainwater tank overflow from any buildings retained in proposed land division shall be piped to a road or new stormwater connection point prior to the issue of the Certificate of Approval.
- (7) Buildings (other than the dwelling) located over a proposed boundary shall be removed or modified so that the wall of a building is a minimum of 1 metre from the side and rear boundaries and 6.5 metres from a road boundary prior to the issue of the Certificate of Approval.

NOTE ONLY

Demolition requires a separate development application and approval.

- (8) The pavement of the proposed roads shall be extended to and join the existing pavements of adjoining streets and roads.
- (9) The payment of the CWMS augmentation charge required pursuant to section 188 of the Local Government Act be made to Council prior to the issuing of the Certificate of Approval. The charge payable is the charge current at the time of payment. (see note below)

Reason To ensure that effluent can be satisfactorily disposed of from the proposed allotments and that the allotments are suitable for their intended use.

NOTE ONLY

Pursuant to Section 188 of the Local Government Act, the Council requires an augmentation charge to be paid for each additional allotment connected to the CWMS system. At the time of approval the current charge is \$4500 per allotment. Based upon the current charge a payment of \$261,000 is required (58 additional allotments requiring new connections @ \$4500/allotment). This charge is reviewed periodically, and the augmentation charge to be paid is the charge applicable at the time the payment is made. Please enquire with the Council office prior to making payment for the current charge.

- (10) The payment of the "Kalimna Road Development CWMS Connection" charge required pursuant to Section 188 of the Local Government Act be made to Council prior to the issuing of the Certificate of Approval. (see note below)

Reason To ensure that land division can be connected to the CWMS Trunk Main located in Kalimna Road, thereby ensuring that effluent can be satisfactorily disposed of and that the allotments are suitable for their intended use.

NOTE ONLY

Pursuant to Section 188 of the Local Government Act, the Council requires an additional augmentation charge to be paid at a rate of \$2.69 per square metre of land in the land division, to connect to that part of the CWMS scheme serviced by the Kalimna Road CWMS Trunk Main. Based upon an area of 81,920m² a payment of \$220,364.80 is required.

- (11) The stormwater discharge pipe from the detention basin proposed to be located in the reserve and referred to in the reserved matter above shall be installed prior to the issue of the Certificate of Approval.
- (12) The payment of the "Kalimna Road Development Stormwater Headworks" charge as determined by Council pursuant to Section 188 of the Local Government Act be made to Council prior to the issuing of the Certificate of Approval. (see note below)

Reason To ensure that land division can be connected to the Kalimna Road Development Stormwater Headworks proposed to be installed between Kalimna Road and the North Para River, thereby ensuring that stormwater can be satisfactorily disposed of and that the allotments are suitable for their intended use.

NOTE ONLY

Pursuant to Section 188 of the Local Government Act, the Council requires an augmentation charge to be paid at a rate of \$4.14 per square metre of land in the land division, to connect to the Kalimna Road Development Stormwater Headworks scheme. Based upon an area of 81920m² a payment of \$339,148.80 is required.

- (13) Easements shall be acquired and transferred to Council wherever the stormwater discharge pipe passes through private property prior to the issue of the Certificate of Approval.
- (14) 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 Industry

Temporary 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.

- (15) The reserve shall be landscaped in general accordance with the drawing submitted to Council and labeled "Detention Basin Landscape Concept, Project LG162, DWG 01 and dated 10.10.2012.
- (16) Allotment boundaries abutting reserves shall be provided with a Colorbond 'Good Neighbour' fence with a minimum height of 1800mm.

Conditions of Land Division Consent

- (1) Drainage easements be provided wherever necessary to provide for drainage of the allotments and roads, and for any CWMS infrastructure. Drainage easements shall have a minimum width of 3 metres for a single service and 4 metres where 2 services are provided.

Easements be provided wherever necessary for electrical purposes.

- (2) Road 'A' shall have a minimum width of 15 metres, (Note Only, Wider widths may be required for drainage purposes.) Other Road shall have a minimum width of 14 metres except the turning head of the cul de sac which shall have a minimum width and length of 25 metres.
- (3) A corner cut-off measuring a minimum of 4.5 metres in each direction be provided at the intersection of all roads.
- (4) All roads and civil works shall be constructed in accordance with drawings and specifications designed by a professional engineer, submitted to and approved by Council before construction commences. The design shall generally be in accordance with the appropriate Australian Standards, technical codes of practice and Council's standard land division requirements. In particular:
 - (a) All site construction work shall be carried out under the supervision of a Professional Engineer in accordance with plans and specifications approved by Council. Council shall be notified prior to each stage inspection (24 hours or one full working day in advance) for attendance.
 - (b) All earthworks associated with the development shall be stabilised in accordance with certified engineering design and practices against erosion and failure. Earthworks must not encroach across neighbouring property boundaries. When fill or cut at the property boundary exceeds 200mm, a retaining wall with existing ground and proposed wall levels shall be specified.
 - (c) Defects Liability Period for the development shall be 12 months from the Council's written acceptance of Practical Completion.
 - (d) Minimum road grades shall be 0.5% and maximum road grades shall be 15% unless otherwise approved.

- (e) The road verge on both sides of the carriageway shall be shaped to provide a minimum width of 3.5 metres adjacent the kerb, with a 2.5% grade towards the road top of kerb (ie the finished surface level at the allotment boundary shall be a minimum of 225mm above the adjacent watertable level) and be graded uniformly to be suitable for pedestrian traffic. Batters into allotments are to be no steeper than 1 in 6.
 - (f) The surface of each residential allotment shall be graded towards the road.
 - (g) The road pavement of Road 'A' shall have a minimum width of 8 metres. The road pavements of other roads shall have a minimum width of 7 metres. The pavement of the cul de sac shall have a minimum radius of 9 metres.
 - (h) All roads shall be sealed with an AC10, 30mm thick Bituminous Hotmix wearing course. Pavements are to be designed based on "ARPG21 A Guide for the Design of New Pavements for Light Traffic" using 95 percentile confidence limits for the ultimate traffic loading and a 20 year design life.
 - (i) The pavement of the proposed roads shall be extended to and join the existing pavements of adjoining streets and roads.
 - (j) All necessary signs (including street signs), traffic control devices and pavement markings shall be provided in accordance with AS1742.
 - (k) Adequate measures shall be implemented to suppress dust generated during site works to ensure that dust generation does not become a nuisance off-site. Site development machinery should not generally be operated outside the hours of 7.00am to 7.00pm daily.
 - (l) All roads shall be provided with kerb and gutter to the reasonable satisfaction of the Council. Semi-mountable kerb shall be provided adjacent residential properties. 200mm high upright kerb shall be provided adjacent any non residential properties.
 - (m) Kerb openings for the disposal of stormwater shall be provided for each allotment that drains to the road.
 - (n) "As Constructed" drawings shall be provided to Council in hardcopy and electronically in "dwg" or "dxf" format.
- (5) Concrete block paved footpaths of 1.5m wide shall be provided on one side adjacent to the roadway in accordance with plans and specifications approved by Council. The footpath cross fall shall not exceed 2.0%. Pedestrian pram ramp accesses, including tactile ground surface indicators, are to be provided in accordance with Australian Standards AS1428.

(6) A stormwater drainage system shall be constructed and installed in accordance with a Stormwater Management Plan supplied to and approved by Council prior to the commencement of work to ensure that all allotments and roads are adequately drained. The Stormwater Management Plan shall be prepared in accordance with the 1987 edition of "Australian Rainfall and Runoff", Australian Standard 3500, and to the satisfaction of the Council as follows:

- (a) Detailed stormwater design calculations justifying the Stormwater Management Plan shall be provided.
- (b) The Stormwater Management Plan shall consider ultimate development of all catchment areas contributing to runoff over or through the land division, and ensure that natural run-off from neighbouring land is not interrupted.
- (c) Stormwater detention systems shall be incorporated into the stormwater drainage system to ensure that the peak flow discharging from the whole development site (and wider catchment) post development from a 100 year ARI storm does not exceed that from the pre-development site (and catchment) from a 100 year ARI storm. The outlet restriction system details and hydraulic design computations are required.

Any stormwater detention basin shall have a 'verge' with a minimum width of 2.5 metres between the edge of the basin and any boundary.

The maximum gradient of any embankment associated with a stormwater detention basin shall be 1 in 5.

- (d) Stormwater runoff from the site shall not discharge into any adjacent property other than via a pipe placed in an easement or land under the care and control of Council and in accordance with a design approved by Council.
- (e) All allotments shall grade towards a roadway.
- (f) Pollution control devices shall be incorporated within the development to provide for the removal of stormwater borne pollutants, consistent with current best practice and EPA requirements.
- (g) The Stormwater Management Plan shall include existing contours, features, existing stormwater infrastructure, proposed site works details, levels and grading, proposed stormwater system details, detention system volumes and discharge controls, proposed building floor levels, proposed paving and connection details to and any upgrading if required of the existing external drainage systems.
- (h) The drainage system shall be designed making provision for future development (buildings and paved areas) covering up to 75% of allotment areas.

- (i) The pipe system shall provide for runoff generated by a minimum 10 year Average Recurrence Interval (ARI) storm event with overflow paths provided for a 100 year ARI storm event that will prevent stormwater runoff inundating properties.
 - (j) Minor drainage systems shall be provided to limit gutter flow widths to a maximum of 1.5m for a 10 year ARI storm. Where overflow path discontinuity occurs and property flooding may occur a minimum of 100 year standard is required.
 - (k) Minimum pipe size for road drainage shall be 375mm and pipes shall be rubber ring jointed.
 - (l) "As Constructed" drawings shall be provided to Council in hardcopy and electronically in "dwg" or "dxf" format.
- (7) Underground electrical power be provided to each allotment in accordance with a design approved by SA Power Networks and Council. Where appropriate, services should be provided in a common service trench located in accordance with the publication titled "Services in Streets – A Code for the Placement of Infrastructure Services in New and Existing Streets".
- (8) Street Lighting be provided in accordance with a design and specifications conforming to Australian Standard 1158.1 and approved by SA Power Networks and Council. Lighting columns shall be standard SA Power Networks design approved by Council.
- (9) Each allotment be provided with a connection point to the Community Wastewater Management Scheme at the boundary of the allotment, in accordance with a technical design and specifications approved by Council, prior to the commencement of work.

The design shall be prepared by a professional engineer and show the new drains and connection points locations, flushing points, inspection points, depths, gradients etc.

The specifications should provide for:

- Council inspections prior to backfilling of trenches,
 - The provision of test results to Council.
 - Provision of "As constructed" drawings to Council in hardcopy and electronically in "dwg" or "dxf" format.
- (10) The payment of a monetary open space contribution to Council calculated in accordance with section 50(7) of the Development Act in addition to the reserve shown on proposal plan.

NOTE ONLY.

The contribution is estimated to be \$266,122. The sum will be calculated correctly when the final plan is provided.

- (11) The financial, augmentation and easement requirements of the SA Water Corporation shall be met for the provision of water supply. (SA Water 90078/12).
- (12) A final plan complying with the requirements for plans as set out in the Manual of Survey Practice Volume 1 (Plan Presentation and Guidelines) issued by the Registrar General to be lodged with the Development Assessment Commission for Land Division Certificate purposes.

NOTES

- (a) Land Division Conditions 1 to 10 inclusive are the requirements of Council and Conditions 11 and 12 are the requirements of the Development Assessment Commission.
- (b) 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.
- (c) Suggested street names should be submitted to Council for consideration prior to submitting the final plan. Street names are considered at a Council meeting and names suggested by the applicant may not always be adopted. It is recommended that any suggested names be submitted at least 8 weeks prior to lodging the final plan to avoid delays.
- (d) The applicant is advised to contact the Council when all Council conditions have been complied with and request Council's release for the issue of the Certificate of Approval. Any bonding arrangements should be in place prior to seeking the issue of the Certificate of Approval.
- (e) For further information regarding this approval and the conditions of approval please contact the relevant officer:

Brian Irvine	Planning Officer	Ph	8563 8486
Bob Williams	Civil Engineer	Ph	8563 8496
Michael Clark	CWMS Co-ordinator	Ph	8563 8479

DEVELOPMENT ASSESSMENT PANEL**1 OCTOBER 2013****DEBATE AGENDA****9.1****B61****DECLARATION OF CONFLICT OF INTEREST**

At the 3 September 2013 Council Development Assessment Panel (CDAP) meeting, discussion ensued regarding the legal requirements for members declaring interest in relation to a matter coming before the Panel as there appeared to be conflicting requirements under the Minister's Code of Conduct (refer Attachment 1) and the relevant provisions contained within the Development Act 1993 (refer Attachment 2).

Opinion was obtained from Victoria Shute, Kelledy Jones Lawyers and is provided as follows:

On the bare face of the Code, if an interest is declared to the presiding member in accordance with Clause 2.4, and the presiding member records the nature of the interest in the minutes as required by Clause 2.7, then the DAP member who made the declaration does not need to make another declaration at the meeting.

Unfortunately compliance with the Code does not necessarily result in compliance with Sections 56A(7). In order to comply with Section 56A(7) of the Act, the disclosure needs to be made to the panel and not just to the presiding member.

This can however be easily achieved in a number of ways including:

- 1. The most common approach, which is that the relevant member makes the disclosure under Clause 2.4 of the Code, and then in the meeting when the relevant agenda item is reached, makes a verbal disclosure to the panel and remove themselves from the meeting in accordance with Section 56(A)7(b); or*
- 2. Where a member has made a Clause 2.4 disclosure, the presiding member can, when the relevant agenda item is reached, verbally confirm to the panel that the member has an interest and what the nature of that interest is (so that it can be minuted in accordance with Section 56A(14)) and the member leaves the meeting at that point in accordance with Section 56A(7)(b); or*
- 3. A novel approach which is that the disclosure is made in accordance with Clause 2.4 to the presiding member, and the disclosure is then also made to each and every other panel member before the meeting (eg by email) and when the agenda item is called, the presiding member notes that an interest has been disclosed, and that the nature of the interest will be minuted. The relevant member then leaves the meeting in accordance with Section 56A(7)(B).*

It will be important that the CDAP determine an agreed process for the Declaration of Interest under the Minister's Code of Conduct and the provisions of the Development Act as suggested above. The process outlined in Item 1 above would appear to be the most transparent for CDAP members and any applicants, representatives or members of the public who may be in the gallery.

Members also sought opinion in relation to any impact for CDAP members under the Independent Commissioner Against Corruption Act (ICAC) addressed within the following response from Victoria Shute:

Interestingly, the Independent Commissioner Against Corruption Act 2012 does not apply to independent CDAP members as they are not "public officers" as defined in Schedule 1 of the Act. This is because Schedule 1 only captures members of the Council or Council subsidiaries, employees of the Council, contractors (CDAP members are appointed, not contracted) and persons to whom functions or powers are delegated to (it is the CDAP as a whole which is the delegate of the Council, not individual members).

This means that if any complaints of corruption are made to the Office for Public Integrity, these complaints will be referred to the SAPOL as the ICAC will not have jurisdiction to investigate them himself. If any complaints of misconduct or maladministration are made against independent CDAP members, they cannot be made to the OPI, but can be made to the Council under the Minister's Code of Conduct. Further, whilst independent CDAP members are entitled to make a complaint about corruption, misconduct or maladministration to the OPI, they are not subject to the mandatory reporting requirements under Section 20 of the ICAC Act.

*Having said this, **all** CDAP members need to be aware that if they breach the Minister's Code that this may result in a complaint being made against them – it is just the forum for the complaint which will be different depending on whether the member is an independent member or a Council member.*

*Likewise, if **any** CDAP member breaches Section 56A(7) of the Act, they are **each** liable for a criminal offence under the Act, and if they engage in corruption or other behaviour, criminal consequences may arise. Again, it is just the forum for a complaint to be made in this regard, and the body who may investigate that complaint which will be different.*

RECOMMENDATION:

That the Council Development Assessment Panel:

- (1) Agrees to require a Council Development Assessment Panel Member Declaring an Interest in a matter before the Panel to make a disclosure in accordance with Clause 2.4 of the Minister's Code of Conduct, and then in the meeting when the relevant agenda item is reached, makes a verbal disclosure to the panel and removes themselves from the meeting in accordance with Section 56A(7)(b) of the Development Act 1993.

- (2) Receives the advice provided in relation to the Independent Commissioner Against Corruption Act 2012, Minister's Code of Conduct and the Development Act 1993.

Ian Baldwin
Public Officer