



The Barossa Council

MINUTES OF THE MEETING OF THE BAROSSA COUNCIL DEVELOPMENT ASSESSMENT PANEL

Held on Tuesday, 1 April 2014 commencing at 5:01pm in
the Council Chambers, 43-51 Tanunda Road, Nuriootpa

WELCOME

Bruce Ballantyne welcomed everyone and opened the meeting.

PRESENT

Bruce Ballantyne (Presiding Member), David Hughes, Susie Roehr, Richard Miller, Susan Shannon and Scotty Milne – Panel Members.

Ian Baldwin (Director – Development & Environmental Services) Louis Monteduro (Senior Manager – Planning Services), Paul Mickan (Principal Planner), Brian Irvine (Senior Planner), and Christine Kruger (Minute Secretary) – Council Staff.

APOLOGIES

K Goldstone.

LEAVE OF ABSENCE

Nil.

MINUTES OF PREVIOUS MEETING

MOVED S Shannon that the Minutes of the Development Assessment Panel meeting held on Tuesday, 4 March 2014 as circulated, be confirmed as a true and correct record of the proceedings of that meeting.

Seconded R Miller

CARRIED

BUSINESS ARISING FROM PREVIOUS MINUTES

Nil.

DECLARATION OF INTEREST BY MEMBERS OF PANEL

R Miller declared an interest in relation to DA/DAP/R2, as professional advice in his capacity as a Registered Conveyancer had been sought by the applicant prior to the application being lodged.

APPLICATIONS FOR DECISION**DEBATE AGENDA**

DA/DAP/R1

D864/2013 (106287)

CHARLES MELTON WINES – EXTENSION TO WINERY (WINERY MAKER'S OFFICE) AND EXTENSION TO CELLAR DOOR SALES (NON-COMPLYING)

MOVED D Hughes that the Development Assessment Panel has considered all relevant assessment matters and the officer's report prepared in relation to Development Application 960/864/2013 and resolves:

- (A) Pursuant to Section 6(2) of the Character Preservation (Barossa Valley) Act 2012, the Development Assessment Panel has had regard to the objects of the Act and this decision is made in furtherance of those objects.
- (B) That pursuant to Section 35(2) of the Development Act, the proposal is not seriously at variance with the relevant provisions of The Barossa Council Development Plan.
- (C) That pursuant to Section 33(1)(a) of the Development Act, development application number 960/864/2013 be granted Development Plan Consent subject to the following conditions:
- (1) The development shall be undertaken in accordance with the plans and documentation accompanying the application (as amended), unless varied by the following conditions.
 - (2) All forms of waste shall be stored and/or disposed of in a manner that does not harm the environment, create a threat to public health or a nuisance.
 - (3) The buildings shall be connected to a wastewater system approved under the South Australian Public Health Act 2011.

NOTES ONLY

- Please be advised that where a Private Certifier is appointed to undertake the building assessment, Council does not provide a service of advising the Private Certifier of site conditions or any matters relevant to the building assessment. It is recommended that a Private Certifier undertakes his or her own investigations and inspection of the site to become acquainted with site conditions and any other relevant matter.
- Please note that no work can commence on the land as a result of this consent. This consent relates solely to the planning assessment. An application for Building Rules Consent is required to be assessed and approved before Development Approval can be issued to enable work to commence.
- The applicant is reminded of its general environmental duty, as required by Section 25 of the Environment Protection Act, 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.

- Prior to building work commencing 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.

(c) Seeks the concurrence of the Development Assessment Commission.

Seconded S Roehr

CARRIED

DEVELOPMENT APPLICATION NO:	960/00864/2013 (Prop ID 106287)
APPLICANT:	Charles Melton Wines Pty Ltd
OWNER:	Charlie Melton
SUBJECT LAND:	Charles Melton Wines, 194 Krondorf Road, Krondorf, Lot 3 in FP 160408, CT 5294/256
PROPOSAL:	Extension to Winery (Winery Maker's Office) and Extension to Cellar Door Sales
ZONE/POLICY AREA:	Primary Production (Barossa Valley Region) Zone, Map Baro/24
PROCEDURE:	Non-Complying
REFERRALS:	Nil
PUBLIC NOTICE:	Category 3 – No Representations
KEY ISSUES:	Non-Complying Status
DEVELOPMENT PLAN PROVISIONS:	Refer <u>Attachment 3</u> for extracts from:
CONSOLIDATION DATE: 21 February 2013	<ul style="list-style-type: none"> • Design and Appearance • Interface between Land Uses • Orderly and Sustainable Development • Siting and Visibility • Tourism Development • Transportation and Access • Character Preservation District Overlay • Primary Production (Barossa Valley Region) Zone
RECOMMENDATION:	Grant Development Plan Consent and Seek Concurrence of the Development Assessment Commission
OFFICER:	Brian Irvine

SUBJECT LAND AND LOCALITY

The subject land comprises a disproportionate battle-axe shaped allotment. The land has an area of 4.5 hectares but has frontage and access to Krondorf Road through a narrow strip of land approximating the size of a residential allotment. The front portion of the land, including the entrance is in the Settlement Zone, but the rear portion, which includes the existing and proposed buildings, is in the Primary Production (Barossa Valley Region) Zone.

The land has a moderate slope from east to west, with a minor depression/drainage line near the rear of the allotment, behind the buildings.

The land is used predominantly as a vineyard and winery. The winery is located in two buildings on the eastern side of the land. They are 235 metres from the road and are not prominent in any view. The other building nearer the western boundary is further from the road and is used as the existing cellar door sales area and wine store. It is this building which is proposed to be extended for additional cellar door sales area.

The neighbouring land to the east, west and south is used for vineyards or other rural uses. The neighbouring allotment to the north, located in the Settlement Zone, is a relatively wide residential allotment across the frontage of the subject land which assists in screening the winery buildings from the road.

The locality is defined as the area of surrounding land and roads from which the site can be viewed. The locality has a rural character, typical of a dispersed settlement in concentrated vineyard areas of the Barossa Valley.

DESCRIPTION OF THE PROPOSED DEVELOPMENT

The proposal involves 2 components. The first is a relatively minor and benign lean-to extension on the side of the winery building for an office, small lab and staff facilities. No changes are proposed to the wine making functions of the winery. This building will be externally clad with galvanised iron to match the existing winery buildings.

The second component is an extension to the existing cellar door of 330.4m² including the verandahs and toilet facilities. The enclosed portion of the extensions have an area of 155.6m². The external building materials will be stained timber walls and galvanised roof to match the existing building. The opening hours will be from 11.00am to 5.00pm, 7 days a week, for a maximum of 15 customers. Existing parking areas including those adjacent to the winery building will be used for parking. No changes to signage are proposed.

The existing (enclosed) cellar door sales area has an approved area of 45m². The licensed area also includes other areas and allows up to 50 people on the premises.

The Statement of Effect was provided with the Agenda.

PROVISIONS OF THE DEVELOPMENT PLAN

The proposed buildings are located within the Primary Production (Barossa Valley Region) Zone of the Development Plan, consolidated 21 February 2013.

Cellar door sales with a gross leasable of greater than 250m² are a non-complying form of development in the zone.

The Council Wide, and Zone provisions relative to the proposal were detailed within the Agenda.

CONSULTATION

No statutory consultation with government agencies was required.

PUBLIC NOTIFICATION

The application was subjected to Category 3 form of public notification but no representations were received.

PLANNING ASSESSMENT

The winery extension is minor, and if separated from the application would be processed as a 'Merit' application under delegated powers.

The extension to the cellar door sales area is non-complying because of its size. The size limitation ensures that disproportionately sized cellar door proposals receive added scrutiny in a non-complying process. In this instance, much of the area is composed of verandahs, which together with the spacious layout relative to the proposed number of guests, ensures that the facility is not disproportionately sized for the winery. A decision was therefore made, using delegated powers, to proceed with the assessment.

The building is in an inconspicuous location but, nevertheless, has been designed to fit in with the existing buildings and character of the locality.

The expanded cellar door does not present any interface issues with surrounding land uses. The existing cellar door has not been a source of complaints and the added area will only increase the number of customers at any one time marginally. No traffic, noise or interference issues are expected. It does not jeopardise the continuance of adjoining land uses or conflict with the objectives of the zone. It does assist to promote the Barossa as a wine region and therefore draws support from Orderly and Sustainable Development in Principle 3. A small number of vines will be removed for the building, but the number is trivial and does not seriously offend principle 10 of the same section of the Development Plan.

Existing access to the site is satisfactory, and whilst parking is semi-formal without marked parking spaces, there is adequate space for 20 plus vehicles. In any event the facility is well removed from neighbours to ensure that they are isolated from any potential noise or dust issues associated with an unsealed parking area.

The proposal does not offend the objects of the Character Preservation (Barossa Valley) Act 2012.

CONCLUSION

Although the nature of development falls into the non-complying process, the proposal is compatible with, and complimentary to the purpose and character of the zone. The expansion of the cellar door is compatible with the existing winery and will assist in improving the tourism appeal of the area, without adversely affecting the historic character of the nearby Settlement Zone and its Historic Character Area of Krondorf.

The proposal is not seriously at variance with the provisions of the Development Plan and displays sufficient merit to warrant granting Development Plan Consent subject to conditions.

DA/DAP/R2

D1068/2013 (111576)

ALLAN CHAPMAN – COMMUNITY LAND DIVISION (1 LOT INTO 2) (MERIT)

Mr Miller left the meeting at 5.07pm, due to a stated conflict of interest.

MOVED S Milne that the Development Assessment Panel has considered all relevant assessment matters and the officer's report prepared in relation to Development Application 960/01068/2013 (960/C037/13) and resolves as follows:

- (A) Pursuant to Section 6(2) of the Character Preservation (Barossa Valley) Act 2012, the Development Assessment Panel has had regard to the objects of the Act and this decision is made in furtherance of those objects.
- (B) The proposal is not seriously at variance with the relevant provisions of The Barossa Council Development Plan consolidated 21 February 2013.
- (C) Grant Development Plan Consent, Land Division Consent and Development Approval to development application 960/01068/2013 (960/C037/13) subject to the following conditions:

Conditions of Development Plan Consent

- (1) The development shall be in accordance with the plans and details submitted to and approved by Council as part of the application, except as varied by any subsequent conditions imposed.

- (2) Prior to the issue of a Certificate of Approval pursuant to Section 51 of the Development Act 1993 the applicant shall lodge and have approved by Council applications to install wastewater systems for each allotment pursuant to the provisions of the South Australian Public Health Act 2011 and South Australian Public Health (Wastewater) Regulations 2013.

Conditions of Land Division Consent

- (1) The financial requirements of the SA Water Corporation shall be met for the provision of water supply (SA Water H0013018).
- (2) 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 and 2 are the requirements of the Development Assessment Commission.
- (b) SA Water Corporation advises that the developer must inform potential purchasers of the community lots in regards to the servicing arrangements and seek written agreement prior to settlement, as future alterations would be at full cost to the owner/applicant..
- (D) Seek the Concurrence of the Development Assessment Commission pursuant to Section 35(3)(b)(i) of the Development Act 1993.
- (E) Seek the Concurrence of the Development Assessment Commission pursuant to Section 8(2) of the Character Preservation (Barossa Valley) Act 2012.

Seconded S Shannon

CARRIED

DEVELOPMENT APPLICATION NO:	960/01068/2013 (Prop ID 111576) (960/C037/13)
APPLICANT:	Allan Chapman
OWNER:	Allan Chapman and Maureen Chapman
SUBJECT LAND:	181 Angaston Road, Nuriootpa (CT 5418/665)
PROPOSAL:	Community Land Division (1 Lot into 2)
ZONE/POLICY AREA:	Primary Production (Barossa Valley Region) Zone (Zone map Baro/6) Character Preservation District (Overlay Map Baro/6) Medium Bushfire Risk Area (BPA Map Baro/3)
PROCEDURE:	Non-Complying because the proposal creates an additional allotment

REFERRALS:	SA Water, Department of Planning, Transport & Infrastructure
PUBLIC NOTICE:	Category 3 – No representations
KEY ISSUES:	Creation of Additional Allotment in the Primary Production (Barossa Valley Region) Zone
DEVELOPMENT PLAN PROVISIONS:	Refer to report for Development Plan Provisions
CONSOLIDATION DATE: 21 February 2013	
RECOMMENDATION:	Grant Development Plan Consent and Seek Concurrence of the Development Assessment Commission
OFFICER:	Paul Mickan

SUBJECT LAND AND LOCALITY

The land contains a dwelling fronting Angaston Road and a paving and landscaping supply business facing Saleyards Road. The Statement of Effect prepared by Marcus Rolfe provides a detailed description of the site and locality which I concur with.

The existing landscape supply business was established in 1997 after the site lay vacant since approximately 1968, prior to which it was used as saleyards. The dwelling, office and a shed were established in approximately 1999.

DESCRIPTION OF THE PROPOSED DEVELOPMENT

The proposal is to create two separate allotments:

- Lot 10 - Dwelling and shed (1.1997 ha)
- Lot 11 - Business (1.1063 ha)

A small six square metre area of community property will be created to accommodate water meters. The Statement of Effect advises that the community land division approach was chosen to avoid the need to change water servicing arrangements.

The plans and features of the proposal including the 'Statement of Effect' were provided with the Agenda.

DEVELOPMENT PLAN PROVISIONS

The subject land lies within the Primary Production (Barossa Valley Region) Zone. In this zone all forms of development are non-complying with a list of exceptions. Land Division is excepted from being non-complying subject to two criteria. Of relevance to this proposal is the criterion which states:

"Land division that meets one of the following criteria:

(a) no additional allotments are created wholly or partly located within the zone ..."

As the proposal creates an additional allotment it does not satisfy the exception criterion and is therefore non-complying.

A decision was made under delegation that the proposal demonstrated sufficient merit to warrant further assessment.

PUBLIC NOTIFICATION

The application was a Category 3 form of development for public notification purposes because it is non-complying. Adjacent land owners were notified and an advertisement placed in the local newspaper. No representations were received.

REFERRALS

The application was referred to SA Water and the Department of Planning, Transport and Infrastructure Transport Services. SA Water has requested a standard condition and note regarding water supply. Transport Services indicated it supports the proposal provided that all vehicular access to/from proposed Lot 10 (containing the house) is gained via the existing Angaston Road access. It will not support any additional access onto Angaston Road.

CONSIDERATION AGAINST CHARACTER PRESERVATION (BAROSSA VALLEY) ACT 2012Introduction

The Panel is required to consider the proposal in the context of the Character Preservation (Barossa Valley) Act 2012.

Creation of Additional Allotment

Section 8(5) of the Act states:

“If a proposed development to which this section applies-

- (a) is located in a part of the rural area other than a rural living area; and*
- (b) will create additional allotments to be used, for residential development,*

the relevant authority must refuse to grant development authorisation in relation to the proposed development (if the application for the development authorisation for the division of the land was made after the commencement of this section).”

The development is not located in a rural living area but is within the rural area and therefore is subject to Section 8(5) of the Act.

The Act defines ‘residential development’ as:

*“... means development primarily for residential purposes but does not include-
...
a dwelling for residential purposes on land used primarily for primary production purposes;”*

The intent of the proposal is to create a separate allotment for the business component in order to sell the business and it is expected the owners will continue to live in the dwelling which will be on its own allotment. In this regard the ‘additional allotment’ will contain the business and in the context of the Act, the proposal will not create an additional allotment to be used for residential development. As such the Panel is not obliged to refuse to grant development authorisation.

Objects of the Act

The Panel is also required to have regard to Section 6(2) of the Act which requires Council to “have regard to and seek to further the objects” of the Act when dealing with the development application. In respect to a non-complying development application this obligation is interpreted to apply both at the initial decision to proceed with assessment stage and also at the current decision to grant consent stage.

The objects of the Act are:

- “(a) to recognise, protect and enhance the special character of the district whilst at the same time providing for the economic, social and physical well being of the community.*
- (b) to ensure that the activities that are unacceptable in view of their adverse effects on the special character of the district are prevented from proceeding.*
- (c) to ensure that future development does not detract from the special character of the district.*
- (d) otherwise to ensure the preservation of the special character of the district.*

The following are relevant considerations with the proposal:

- It does not change the use of the land
- No building work is proposed
- The non-primary production footprint is not expanded
- There is no further loss of primary production land
- It potentially will provide for the economic well-being of the community by enabling sale of the business site enabling investment by another party

Accordingly the proposed development will not have an adverse effect on the special character of the district and will not detract from the special character of the district.

In the event that the proposal is supported, the concurrence of the Development Assessment Commission will be required under Section 8(2) of the Act as the proposal creates an additional allotment within the Barossa Valley Character Preservation District.

PLANNING ASSESSMENT

Statement of Effect

In addition to the standard matters required to be addressed in the Statement of Effect, the applicant was requested to also demonstrate that wastewater can be safely collected, treated and disposed on each allotment. To this end the Statement was required to specifically address General Section Waste Objectives 1 and 2 and Principles of Development Control 1, 2, 7, and 10 to 15 inclusive of Council's Development Plan. This aspect is discussed under the relevant heading below.

Land Use

The following General Section policies are relevant to the proposal:

Orderly and Sustainable Development

OBJECTIVES

- 1 *Orderly and economic development that creates a safe, convenient and pleasant environment in which to live.*
- 3 *Development that does not jeopardise the continuance of adjoining authorised land uses.*
- 7 *Development of rural land primarily for primary production and other uses compatible with maintaining rural productivity.*

PRINCIPLES OF DEVELOPMENT CONTROL

- 1 *Development should not prejudice the development of a zone for its intended purpose.*
- 2 *Land outside of townships and settlements should primarily be used for primary production and conservation purposes.*
- 10 *Development which would remove productive land from agriculture or diminish its overall productivity for primary production should not be undertaken unless the land is required for essential public purposes*

No change of land use is proposed. Any future change to the land use of either allotment will require development approval. The creation of separate allotments for the existing uses will not impact on adjoining land uses.

Land Division

The following Primary Production (Barossa Valley Region) Zone and General Section land division policies are relevant to the proposal.

Primary Production (Barossa Valley Region) Zone

OBJECTIVES

- 2 *Allotments of a size and configuration that promote the efficient use of land for primary production purposes.*
- 3 *Preservation of rural land and landscape character by limiting additional dwellings and non-agricultural development.*

PRINCIPLES OF DEVELOPMENT CONTROL**Land Division**

- 25 *Land division should only occur in the form of a readjustment of allotment boundaries in order to achieve at least one of the following:*
 - (a) *correct an anomaly in the placement of those boundaries with respect to the location of existing buildings or structures*
 - (b) *improve the land for the purpose of primary production*
 - (c) *conservation natural environmental features.*
- 26 *Land division should not result in an additional number of allotments partly or wholly located within the zone.*

General Section**Land Division****OBJECTIVES**

- 1 *Land division that occurs in an orderly sequence allowing efficient provision of new infrastructure and facilities and making optimum use of existing under utilised infrastructure and facilities.*
- 2 *Land division that creates allotments appropriate for the intended use.*
- 4 *Land division restricted in rural areas to ensure the efficient use of rural land for primary production and avoidance of uneconomic infrastructure provision.*

PRINCIPLES OF DEVELOPMENT CONTROL

- 2 *Land should not be divided if any of the following apply:*
 - (a) *the size, shape, location, slope or nature of the land makes any of the allotments unsuitable for the intended use*

Land Division in Rural Areas

- 18 *Rural land should not be divided if the resulting allotments would be of a size and configuration likely to impede the efficient use of rural land for any of the following:*
 - (a) *primary production*
 - (b) *value adding industries related to primary production*
 - (c) *protection of natural resources.*
- 19 *Rural land should not be divided where new allotments would result in any of the following:*
 - (a) *fragmentation of productive primary production land*
 - (b) *strip development along roads or water mains...*

The above policies speak against the creation of additional allotments within the zone; however it is considered the intent is to restrict fragmentation and loss of primary production land and resulting increased development potential for residential and other non-primary production uses. The proposed land division only creates separate allotments for existing uses, does not fragment primary production land and does not increase development potential, therefore the proposal is considered acceptable.

Waste Control

The following General Section waste policies are relevant to the proposal:

Land Division**PRINCIPLES OF DEVELOPMENT CONTROL**

- 1 *When land is divided:*
- (c) *provision should be made for the disposal of wastewater, sewage and other effluent from each allotment without risk to health...*

Waste**OBJECTIVES**

- 2 *Development that includes the treatment and management of solid and liquid waste to prevent undesired impacts on the environment including, soil, plant and animal biodiversity, human health and the amenity of the locality.*

PRINCIPLES OF DEVELOPMENT CONTROL

- 7 *The disposal of wastewater to land should only occur where methods of wastewater reduction and reuse are unable to remove the need for its disposal, and where its application to the land is environmentally sustainable.*
- 10 *Development that produces any sewage or effluent should be connected to a waste treatment system that complies with (or can comply with) the relevant public and environmental health legislation applying to that type of system.*
- 11 *The methods for, and siting of, effluent and waste storage, treatment and disposal systems should minimise the potential for environmental harm and adverse impacts on:*
- (a) *the quality of surface and groundwater resources*
 (b) *public health*
 (c) *the amenity of a locality*
 (d) *sensitive land uses.*
- 13 *Any on-site wastewater treatment system/ re-use system or effluent drainage field should be located within the allotment of the development that it will service.*
- 14 *A dedicated on-site effluent disposal area should not include any areas to be used for, or could be reasonably foreseen to be used for, private outdoor open space, driveways, car parking or outbuildings.*
- 15 *The spreading or discharging of treated liquid or solid waste onto the ground should only occur where the disposal area consists of soil and vegetation that has the capacity to store and use the waste without contaminating soil or surface or groundwater resources or damaging crops.*

The Statement of Effect specifically addressed waste control in accordance with the decision to proceed with detailed assessment. The Statement advises that the site currently contains two interconnected aerobic systems and a shared irrigation area of approx. 660 m² which is adjacent to the dwelling.

Creation of separate allotments will require the separation of these two systems. This is proposed to be achieved by installing a septic tank with associated irrigation areas on each allotment, with the dwelling on Lot 10 using the existing 660 m² irrigation area and Lot 11 to contain a new 350 m² irrigation area.

A waste control system application is yet to be submitted, however the nature of the site suggests that a waste treatment system which can comply with the relevant public and environmental health

legislation can be installed. While no insurmountable issues are expected a condition requiring each allotment to be connected to an approved waste control system, and for the necessary approvals to be in place prior to the issue of a Section 51 Certificate of Approval is suggested.

Access

The following General Section transport and access policies are relevant to the proposal.

Land Division

OBJECTIVES

- 3 *Land division that is integrated with site features, including landscape and environmental features, adjacent land uses, the existing transport network and the availability of infrastructure.*

PRINCIPLES OF DEVELOPMENT CONTROL

- 2 *Land should not be divided if any of the following apply:*
- (b) *any allotment will not have a frontage to one of the following:*
 - (i) *an existing road...*

Design and Layout

- 4 *The design of a land division should incorporate:*
- (b) *safe and convenient access from each allotment to an existing or proposed public road or thoroughfare...*

Transportation and Access

OBJECTIVES

- 1 *A comprehensive, integrated, affordable and efficient ... road ... transport system that will:*
- (b) *ensure a high level of safety*
- 2 *Development that:*
- (a) *provides safe and efficient movement for all motorised and non-motorised transport modes*

PRINCIPLES OF DEVELOPMENT CONTROL

Access

- 22 *Development should have direct access from an all weather public road.*
- 23 *Development should be provided with safe and convenient access which:*
- (a) *avoids unreasonable interference with the flow of traffic on adjoining roads*
 - (b) *accommodates the type and volume of traffic likely to be generated by the development or land use and minimises induced traffic through over-provision*
 - (c) *is sited and designed to minimise any adverse impacts on the occupants of and visitors to neighbouring properties.*
- 25 *The number of vehicle access points onto arterial roads shown on Overlay Maps - Transport should be minimised, and where possible access points should be:*
- (a) *limited to local roads*
 - (b) *shared between developments.*

- 28 *Development with access from arterial roads or roads as shown on Overlay Maps - Transport should be sited to avoid the need for vehicles to reverse on to the road.*

As the proposal involves no change to existing access arrangement it satisfies the above policies.

Character Preservation District Overlay

Overlay Map Baro/6 shows that the site is within the "Character Preservation District", therefore in addition to the Character Preservation (Barossa Valley) Act 2012 referred to above, it is also necessary to assess the proposal against the following Character Preservation District Overlay policies.

Character Preservation District Overlay

INTERPRETATION

Where the Objectives and or Principles of Development Control that apply in relation to the Character Preservation District shown on this Overlay are in conflict with the relevant General Section Objectives and/or Principles of Development Control in the Development Plan, the Overlay will prevail.

OBJECTIVES

- 1 *A district where:

 - (a) *scenic and rural landscapes are highly valued, retained and protected*
 - (b) *development near entrances to towns and settlements does not diminish the rural setting, character and heritage values associated with those towns and settlements*
 - (c) *the long term use of land for primary production and associated value adding enterprises is assured and promoted*
 - (d) *activities positively contribute to tourism*
 - (e) *the heritage attributes of the district are preserved*
 - (f) *buildings and structures complement the landscape.**
- 2 *Residential development is located inside townships, settlements and rural living areas.*
- 3 *No expansion of rural living and settlement zones outside township areas.*

PRINCIPLES OF DEVELOPMENT CONTROL

Form of Development

- 1 *Development should be consistent with the Objectives for the district.*

Because the proposal does not change the use of the land nor proposes any building work, and as the non-primary production footprint is not expanded nor is there is any further loss of primary production land, the proposed development is consistent with the Overlay policies.

CONCURRENCE OF DEVELOPMENT ASSESSMENT COMMISSION

In the event that the proposal is supported, the concurrence of the Development Assessment Commission will be required under Section 35(3)(b)(i) of the Development Act 1993 as it is a non-complying development. This is a separate and additional concurrence to that required under Section 8(2) of the Character Preservation (Barossa Valley) Act 2012.

CONCLUSION

Having regard to the provisions of the Primary Production (Barossa Valley Region) Zone in the relevant Development Plan, the proposal is not seriously at variance with the provisions of the Development Plan and displays sufficient merit to warrant Development Plan Consent.

Mr Miller returned to the Meeting at 5.10pm.

DA/DAP/R3 **D1085/13 (105817)**
JBG ARCHITECTS - THREE ROW DWELLINGS WITH GARAGES, VERANDAH AND BALCONY (MERIT)

Mr Michael Wohlstadt, on behalf of the Applicant, answered questions from the Panel in relation to front and rear setbacks.

MOVED R Miller that the Development Assessment Panel has considered all relevant assessment matters and the officer's report prepared in relation to Development Application 960/01058/2013 and resolves:

- (A) That the proposal is sufficiently at variance with the relevant provisions of The Barossa Council Development Plan consolidated 21 February 2013 to warrant refusal to grant Development Plan Consent for the following reasons:
- (1) The minimum site area per dwelling has not been achieved.
 - (2) The minimum rear setback distance has not been achieved.
 - (3) The building style does not reflect the building styles found in the Tanunda Historic Character Policy Area 2.
 - (4) The overall size and bulk of the building is not sympathetic to the scale of development in the locality.

Seconded S Milne

CARRIED

DEVELOPMENT APPLICATION NO:	960/01085/2013 (Prop ID 105817)
APPLICANT:	JBG Architects
OWNER:	Scott Tolhurst
SUBJECT LAND:	1 MacDonnell Street, Tanunda Lot 100 in FP 33856
PROPOSAL:	Three Row Dwellings with Garages, Verandah and Balcony
ZONE/POLICY AREA:	Residential Zone Map Baro/18 (Adjacent to Tanunda Historic Character Policy Area 2)
PROCEDURE:	Merit
REFERRALS:	Nil
PUBLIC NOTICE:	Category 1
KEY ISSUES:	Size of sites, set back distances, private open space, bulk and scale of building
DEVELOPMENT PLAN PROVISIONS:	Refer <i>Attachment 3</i> for extracts from:
CONSOLIDATION DATE:	<ul style="list-style-type: none"> • Design and Appearance

21 February 2013	<ul style="list-style-type: none"> Residential Development Residential Zone
RECOMMENDATION:	Refusal
OFFICER:	Brian Irvine

SUBJECT LAND AND LOCALITY

The subject land comprises a single rectangular shaped allotment on the corner of Fiedler Street and MacDonnell Street, Tanunda.

The allotment has width of 25.22m and a depth of 40.24m, with an overall area of 1010m². A small corner cut-off results in a frontage of 22.2m to Fiedler Street and 37.22m to MacDonnell Street. The land has a fall of approximately 3 metres towards Fiedler Street.

The land is vacant and cleared of vegetation except for 3 large gum trees towards the Fiedler Street end of the property. A concrete plinth/retaining wall and the remains of a chain mesh fence are located on the road boundaries. A stormwater drain and CWMS drain are located adjacent to the 40.24m side boundary (at the rear of the proposed row dwellings).

The surrounding locality is residential in nature, with a variety of building styles, although there is concentration of older dwellings with reduced setbacks in the area. With the exception of a State Heritage listed building further up MacDonnell Street all dwellings are single storey. Most are detached dwellings of varying ages and styles but several semi-detached dwellings, group dwellings and a residential flat building are located nearby. These non-detached dwellings are single storey, with mature gardens and are generally inconspicuous and fit in well with the character of the locality.

The land on the opposite side of MacDonnell Street is in the Tanunda Historic Character Policy Area 2.

The locality is defined as the area of surrounding land and roads from which the site can be viewed. The locality has an established residential character derived from the large number of older dwellings in the area with spaces between buildings, mature trees and gardens, reduced set-backs and narrow road pavements.

DESCRIPTION OF THE PROPOSED DEVELOPMENT

The proposal involves the removal of the 3 gum trees and building 3 row dwellings. Dwelling A will address Fiedler Street and dwellings B and C will address MacDonnell Street. The 3 dwellings will comprise one building with the dwellings separated by party walls.

Dwelling A will have a site area of 336m², and be set back 4.755m from Fiedler Street (excluding the 1.5m deep porch and balcony) and 4.965 metres from MacDonnell Street. The associated double garage has a stepped frontage resulting in driveway lengths of 5.29m and 5.825m. The internal garage lengths are 6.11m and 5.575m respectively. The proposed private open space is located between the dwelling and MacDonnell Street, and across part of the Fiedler Street frontage. This space is proposed to be screened from the road with a fence.

Dwellings B and C both have a site area of 337m² and a mirror imaged ground floor plan. The upper storey for dwelling C is smaller so as to present a single storey wall on the northern boundary with the adjoining neighbor. They have a setback of 4.965 metres from MacDonnell Street (excluding the 1.5m deep porch). They also have a stepped garage frontage resulting in slightly longer driveway lengths of 5.5m and 6.035m, but reduced internal garage lengths of 5.475m and 6.01m. Private open space is located at the rear of the dwellings.

The dwellings are stepped to account for the slope of the site. They are also well articulated to break up the visual bulk of the building and create 'interest' in the overall shape of the building.

PROVISIONS OF THE DEVELOPMENT PLAN

The subject land lies within the Residential Zone of the Development Plan, consolidated 21 February 2013.

The Council Wide, and Zone provisions relative to the proposal were included within the Agenda.

CONSULTATION

No statutory consultation with government agencies was required. Informal discussions occurred with the Council's heritage advisor because the site is opposite the Tanunda Historic Character Policy Area 2.

PUBLIC NOTIFICATION

The application is a Category 1 form of development for public notification purposes as determined by Schedule 9 of the Development Regulations.

PLANNING ASSESSMENT

The building is generally aesthetically attractive and conforms with many of the Design and Appearance objectives and principles. It is of high architectural standard (Design and Appearance Objective 1) and the design is of a contemporary nature and exhibits an innovative style (Design and Appearance Principle 1). Although a large building, it does not present an extensive area of uninterrupted wall to public view (Design and Appearance Principle 2) and makes good use of articulation and detailing to reduce the visual bulk of the building and provide visual interest (Design and Appearance Principle 3).

However, it can also be argued that although the design displays a high architectural standard it does not reinforce the positive aspects of the local environment and built form referred to in Design and Appearance Objective 1 of the zone. The built form on the locality is predominantly single storey detached dwellings of average size, whereas the proposed building is significantly larger, two storey and without the regular spaces between dwellings noticeable in the locality. Whilst the use of articulation and detailing referred to in Design and Appearance Principle 3 is to be commended, the overall size and bulk of the building is not sympathetic to the scale of the development in the locality.

The setback distances from the street frontages are similar or compatible with the setback distances of buildings in the locality (Design and Appearance Principle 17(a) and 19). However those other buildings are single storey, and a 2 storey building with a similar set back will appear larger and more imposing, and would arguably offend clauses (b) and (c) of Design and Appearance Principle 17.

The desired character for the zone also states that development adjacent to the Tanunda Historic Character Policy Area 2 "will reflect the building styles of those areas." Large 2 storey buildings of the nature proposed are not a style found in that policy area.

There are a number of principles advocating an increased mix in the range and number dwelling types available (Residential objective 2) and higher densities (objective 3). These general principles need to be read in conjunction with those in the Residential Zone that set minimum parameters. The general principles are not intended to provide justifying reasons to go below the minimum requirements but rather are intended to require variety above those minimum requirements. For example a principle encouraging a variety of allotment or site sizes should be interpreted as encouraging the variety to be created above any stated minimum size rather than being interpreted to justify sizes less than the minimum.

In this instance the minimum site area required is 350m² (Residential Zone principle 9) whereas site areas of 336m² and 337m² are proposed. Although the variation may be regarded as minimal, the required minimum is already quite small and was deliberately increased in 2011 from a smaller size that was considered to be inappropriately small.

The minimum rear setback is set at 5 metres for a single storey element of a building (Residential Zone principle 7), whereas only 3 metres is proposed for dwellings B and C. It is unclear what constitutes the rear setback for dwelling A, but given its relationship of the building to the neighbouring dwelling in Fiedler Street, it is appropriate to regard the 3m easement as its rear setback.

Dwellings B and C meet the minimum requirement for private open space. The situation is unclear for dwelling A. If the ground floor terrace (covered by bedroom 2 on the second storey) is excluded

from being private open space, it does not meet the requirement of having 10% of the site area with a minimum dimension of 5 metres. The requirement is met if the terrace is included.

There are no required measurements for garages and driveway. However a garage length of 6.0 metres (internal) appears to be a common default measurement adopted by builders and designers. This provides a reasonable margin of 'parking error' by drivers and circulation space around a vehicle parked within an enclosed space. A driveway length of 6.5 metres is common because that is the standard setback distance, and is more than adequate as a parking space. A driveway length of 5.4 metres can be accepted as this is the length of a parking space quoted in the Australian Standard. The footpaths in this part of the town are relatively narrow and the driveways should be long enough to ensure that vehicles parked in the driveway do not overhang the boundary and obstruct the footpath. The proposal contains driveways less than 5.4 metres and garages with lengths of less than 6 metres.

The location of the dwellings on the site will require the associated excavations to extend into the easement in several places which could compromise the pipes located in the easement. This issue could be addressed with a condition requiring any pipes to be relayed to ensure that an appropriate cover is maintained.

Upper level windows overlook into neighbouring land, but again this could be remedied with a condition of consent.

CONCLUSION

When viewed in isolation the building exhibits the use of good design principles, but when viewed in the context of its surroundings it is a large imposing building, which will be prominent and obviously different in the overall street scape because of the absence of any separation between dwellings.

The overbearing scale of the building and the inability to meet the minimum requirements for site area and rear setbacks, together with questionable compliance with private open space requirements and driveway parking spaces leads to a conclusion that the proposal constitutes overdevelopment of the site.

OTHER BUSINESS

COUNCIL'S DEVELOPMENT ASSESSMENT PANEL ANNUAL REPORT - 2013

Prior to the Panel Meeting, B Ballantyne circulated a copy of the draft Annual Report for consideration. Discussion ensued and additional comments provided by Panel Members were noted for incorporation into the final version of the document to be prepared by B Ballantyne (Presiding Member) with the assistance of L Monteduro (Senior Manager, Planning Services) for adoption at the May 2014 Panel Meeting. The Annual Report will subsequently be forwarded to Council for information.

LEAVE OF ABSENCE

R Miller advised that he will be seeking a Leave of Absence from the Panel Meeting to be held on 6 May 2014.

NEXT MEETING

Tuesday, 6 May 2014 commencing at 5.00pm.

CLOSURE OF MEETING

Mr Ballantyne declared the meeting closed at 5.52pm.

Confirmed

Date: Chairman: