



*The Barossa Council*

## **MINUTES OF THE MEETING OF THE BAROSSA COUNCIL DEVELOPMENT ASSESSMENT PANEL**

Held on Tuesday, 12 November 2013 commencing at 5:04pm in  
the Council Chambers, 43-51 Tanunda Road, Nuriootpa

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### **WELCOME**

Mr Bruce Ballantyne welcomed everyone and opened the meeting.

### **PRESENT**

Mr Bruce Ballantyne (Presiding Member), Mr David Hughes, Mr Kelvin Goldstone, Mrs Susie Roehr, Mr Richard Miller and Mr Craig Grocke – Panel Members.

Mr Ian Baldwin (Director – Development & Environmental Services) Mr Louis Monteduro (Senior Manager, Planning Services), Mr Paul Mickan (Principal Planner), Mr Brian Irvine (Senior Planner), Ms Maxine Lovett, Mrs Karen Mitrovic, (Planners) Mr Steve Kaesler (Manager, Engineering Services) and Mrs Christine Kruger (Minute Secretary) – Council Staff.

### **APOLOGIES**

Mr Scotty Milne.

### **LEAVE OF ABSENCE**

Nil.

### **MINUTES OF PREVIOUS MEETING**

**MOVED** Mr Goldstone that the Minutes of the Development Assessment Panel meeting held on Tuesday, 1 October 2013 as circulated, be confirmed as a true and correct record of the proceedings of that meeting.

**Seconded** Mr Hughes

**CARRIED**

### **BUSINESS ARISING FROM PREVIOUS MINUTES**

Nil.

### **DECLARATION OF INTEREST BY MEMBERS OF PANEL**

Mr Hughes declared an interest in relation to DA/DAP/R6 – (Joerg Wiese – Land Division). Mr Hughes is employed by the Department of Environment, Water and Natural Resources and assigned to the Adelaide and Mount Lofty Ranges Natural Resources Board, and has working associations with Mr Wiese (Applicant).

**APPLICATIONS FOR DECISION****DEBATE AGENDA****DA/DAP/R1****D854/2013(1008815)****W & M FORSTER – LAND DIVISION (MERIT)**

**MOVED** Mr Miller that the Development Assessment Panel has considered all relevant assessment matters and the officer's report in relation to Development Application 960/854/2013 and resolves as follows:

- (A) The proposal is not seriously at variance with the relevant provisions of The Barossa Council Development Plan consolidated 21 February 2013.
- (B) A Heritage Agreement to be registered on Certificate of Title Volume 5095 Folio 181.
- (C) Grant Development Plan Consent to Development Application 960/854/2013 subject to the following conditions:
- (1) The development shall be undertaken in accordance with the plans and documentation accompanying the application, unless varied by the following conditions.
  - (2) The SA Water main shall be extended to provide a reticulated water supply to Allotments 1, 2 and 3.
  - (3) The financial requirements of SA Water shall be met for the provision of water supply.
  - (4) On approval of the application, all internal water piping that crosses the allotment boundaries must be severed or redirected at the developers/owners cost to ensure that the pipework relating to each allotment is contained within its boundaries.
  - (5) 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, be lodged with the Development Assessment Commission for Land Division Certificate purposes.
- (D) Seeks the concurrence of the Development Assessment Commission pursuant to Section 8(2) of the Character Preservation (Barossa Valley) Act 2012.

**Seconded** Mrs Roehr**CARRIED**

<b>DEVELOPMENT APPLICATION NO:</b>	960/00854/2013 (960/D031/13) (Prop ID 108815)
<b>APPLICANT:</b>	W & M Forster
<b>OWNER:</b>	W & M Forster

<b>SUBJECT LAND:</b>	524 Yettie Road, Williamstown
<b>PROPOSAL:</b>	Land Division
<b>SIZE:</b>	8.7 hectares
<b>ZONE/POLICY AREA:</b>	Rural Living
<b>PROCEDURE:</b>	Category 1 The application is subject to the provisions of the Character Preservation (Barossa Valley) Act 2012.
<b>REFERRALS:</b>	Native Vegetation Management Unit (Native Vegetation Council)
<b>PUBLIC NOTICE:</b>	Not Applicable
<b>KEY ISSUES:</b>	Existing Native Vegetation
<b>DEVELOPMENT PLAN PROVISIONS:</b>	Council Wide <i>Hazards</i> Objectives 1 & 5. Principle of Development Controls 3, 7, 8, 9, 10(b) & 14. <i>Land Division</i> : Objectives: 2 & 3. Principle of Development Controls 1(b), 3, 4, 5, 8, 18(c), 19(d). <i>Natural Resource</i> Objectives 1, 8 & 9. Principle of Development Control 1, 3, 27, 28, 30(c) & (e), 32(a)(c)(d) & (e) & 33.
<b>CONSOLIDATION DATE:</b> 21 February 2013	Rural Living Zone Objectives 1 & 2. Principle of Development Control 1, 8 & 27 – Precinct 27 Lorke Road.
<b>RECOMMENDATION:</b>	Grant Development Plan Consent and Seek Concurrence of the Development Assessment Commission
<b>OFFICER:</b>	Maxine Lovett

### **SUBJECT LAND AND LOCALITY**

The subject land is located in the Rural Living Zone, is within Precinct 27 (Lorke Road) and immediately adjoins Precinct 37 (Yettie Road).

The site is triangular in shape with the southern boundary extending 548 metres along Yettie Road, the eastern boundary extending 294 metres along Lorke Road and the northern boundary extending 674 metres along an unsealed public road reserve. The area of the site totals 8.9 hectares.

An existing dwelling is located adjacent the northern boundary and is grouped with various outbuildings. The existing driveway traverses the allotment with access via Yettie Road from the southern boundary. The area around the dwelling and outbuildings is cleared of dense vegetation and contains scattered mature eucalypts. A small dam is located east of the dwelling. The remainder of the land is densely vegetated with mature native vegetation consisting of overstorey trees with some understorey species such as Acacias. Native grasses form a dense ground cover throughout the site.

The site is located in the medium bushfire risk area with reference to The Barossa Council Development Plan.

The surrounding locality consists of allotments within the Rural Living Zone. The allotments adjacent the northern and eastern boundaries of the subject land are located in the Lorke Road precinct. The majority of these allotments range in area from 1.5 ha to 3.5ha. The allotments south west of the subject land are located in the Yettie Road precinct and are in the range of 4 ha in area.

The allotments located north of the subject site are within the high bushfire risk area, contain dwellings and outbuildings and are cleared of any substantial native vegetation. These allotments are typical of rural living/lifestyle allotments. The allotments to the south and east are located in the medium risk bushfire area.

The allotments south of the subject land (off of Harveys Quarry Road) are very densely vegetated. These allotments are in the range of 4 hectares in area and each contain a detached dwelling and outbuildings. These allotments are within the medium bushfire risk area.

The SA Water main is located at the north eastern corner of the land, but does not extend further along the boundaries of the subject land. The existing dwelling relies on a temporary indirect line (poly pipe above ground) extending along the northern boundary to the dwelling.

### **BACKGROUND**

Development Application 960/00591/2012, (960/D009/12) proposing to create 4 additional allotments, was considered by the Development Assessment Panel on 13 November 2012. The recommendation to refuse the application based on the advice from the Native Vegetation Management Unit; and Council Wide Natural Resources Objectives 1 & 8 and Principles of Development Control 27, 30 & 32; and Council Wide Land Division Principle of Development Control 3, was carried.

The creation of the 4 allotments would result in substantial removal of the existing remnant woodland to accommodate future dwellings and outbuildings.

The applicant has lodged the amended subject proposal to create 2 additional allotments.

### **DESCRIPTION OF THE PROPOSED DEVELOPMENT**

The proposal intends to divide one existing allotment to create 2 additional allotments, resulting in 3 allotments ranging from 1.5ha to 4.08 ha. An existing dwelling is located on proposed allotment 1 with associated outbuildings and existing access is via Yettie Road. The proposed access to allotment 2 is via a free and unrestricted Right of Way over the existing access to allotment 1. Allotment 3 is accessed via Lorke Road.

The Native Vegetation Management Unit has recommended that a Heritage Agreement be registered over the current allotment, covering 2 hectares of remnant Woodland. The applicant has lodged an application with the Native Vegetation Management Unit where assessment and administrative processes have commenced. The area under the agreement will include 1 hectare from each of proposed lots 2 and 3.

The Heritage Agreement will be required to be issued and registered on the current Certificate of Title prior to issuing Land Division Consent. Therefore, if the Panel resolves to grant consent for the subject land division, the Applicant will not be issued with the consent notice until the Heritage Agreement has been registered on the Title and subsequent concurrence of the Development Assessment Commission.

The application is subject to the provisions of the Character Preservation (Barossa Valley) Act 2012, and therefore, if approved, concurrence of the Development Assessment Commission is required.

### **REFERRALS**

The application was referred to the Native Vegetation Management Unit for Comment. The Native Vegetation Council supports the proposal subject to a Heritage Agreement being placed on proposed allotments 2 and 3.

The following comments were provided by the Native Vegetation Management Unit:

*The Native Vegetation Management Unit supports the proposal subject to the landholders entering into a Heritage Agreement over an agreed upon offset area. The proponents have designed the subdivision so that only an additional two allotments will result. The existing allotment has a residence and hence will not require additional vegetation clearance. The additional allotments contain areas of partially cleared land. The amended proposal has reduced the number of trees required for clearance of dwellings and associated infrastructure to eight trees, which it is believed will not substantially reduce the integrity of the woodland remnant.*

*The nominated offset area will be subject to a Heritage Agreement which through active management to increase the conservation value will lead to a net biodiversity gain.*

The Native Vegetation Management Units response and assessment of proposed heritage area was included with the Agenda.

### **PROVISIONS OF THE DEVELOPMENT PLAN**

The subject land is located in the Rural Living Zone, Precinct 27 – Lorke Road of the authorised Development Plan, consolidated 10 November 2011.

The relevant zoning Objectives and Principles of Development Control are listed below.

#### **RURAL LIVING ZONE**

*Objectives 1: A zone consisting of large allotments, detached dwellings and rural activities that do not adversely impact on the locality.*

#### **Principle of Development Control (Precinct Specific Provisions)**

27 *Precinct 27: Land division should result in allotments of between 1.5 and 3 hectares other than where reticulated water is not available, in which case no less than 5 hectares.*

#### **COUNCIL WIDE - LAND DIVISION**

##### **Principle of Development Control**

3. *Land divisions should be designed to ensure that areas of native vegetation and wetlands:*

- (a) are not fragmented or reduced in size;*
- (b) do not need to be cleared as a consequence of subsequent development.*

### **PLANNING ASSESSMENT**

The subject site contains substantial remnant vegetation. Proposed allotment 2 has an area clear of vegetation that could accommodate a dwelling. The proposed access is via the existing access to allotment 1 and therefore would require minimal disturbance if a dwelling was to be constructed on proposed allotment 2.

Proposed allotment 3 can be accessed via Lorke Road. The allotment could accommodate a dwelling that is situated near Lorke Road in an area that is currently partially cleared.

The proposed land division meets the minimum allotment size and satisfies Principle of Development Control 27, given that the applicant provide mains water by extending the mains to each proposed allotment. The SA Water main is connected to the subject land at the eastern corner and will currently supply proposed allotment 3. The applicant is required to extend the water main to supply allotments 1 and 2 at the applicant's expense if consent for the proposed land division is granted, thus will satisfy Principle of Development Control 27 of the Rural Living Zone.

The site contains a significant amount of native vegetation. The Native Vegetation Management Unit have assessed the site and determined the site to contain a high diversity of native species that is considered to provide high habitat value for several bird species of conservation significance. If land division consent is issued, the most sensitive area of the site will be protected by a Heritage Agreement that will assist the ongoing preservation and maintenance of the remnant Woodland.

Proposed allotment 2 and 3 contain areas of partially cleared land that could accommodate a dwelling and outbuilding, and with regard to the 20 metre firebreak setback, would only require the removal of some sparse vegetation, without fragmenting the dense Woodland. Any future dwelling applications will be assessed with regard to the retention of native vegetation and the sensitivity of the site.

It is considered that the proposal satisfies Council Wide Land Division, Principle of Development Control 3.

### **CONCLUSION**

The proposed allotments meet the minimum size and will be provided with a reticulated mains water supply. The allotments are large enough to accommodate a dwelling within the areas that are partially cleared, reducing the impact on the remnant Woodland that will be the subject of a Heritage

Agreement. The Native Vegetation Management Unit is in support of the proposal with regard to the number and size of the proposed allotments, with the inclusion of a Heritage Agreement to be placed on the areas of the site containing significant vegetation.

It is considered that the proposal meets the provisions of the Development Plan in regard to allotment size and the retention of native vegetation.

**DA/DAP/R2**

**D1001/13(110151)**

**RD & HD COLLINS– VARIATION TO PLANNING CONSENT DEVELOPMENT APPLICATION 960/706/2013 TO REMOVE CONDITION 4 (MERIT)**

The Panel sought and received verbal clarification from Mrs Collins (Applicant) in relation to potential future plans for the property.

Discussion ensued regarding the note proposed for inclusion with the Development Approval as it related to the application.

**MOVED** Mr Hughes that the Development Assessment Panel has considered all relevant assessment matters and the officer's report in relation to Development Application 960/1001/2013 and resolves as follows:

- (A) The proposal is not seriously at variance with the relevant provisions of The Barossa Council Development Plan consolidated 21 February 2013.
- (B) Grant Development Plan Consent to Development Application 960/1001/2013 to vary the consent of 960/706/2013 by removing condition 4 and placing the following NOTE on the approval.

NOTE: In the event of the sale of Allotment 2, Certificate of Title Volume 5762 Folio 422 and Allotment 3, Volume 5434 Folio 716, the owners and prospective purchaser are advised that the 2 existing outbuildings (Development Application 960/706/2013) are located over the allotment boundary and therefore a boundary re-alignment will be required to ensure the structures are wholly within one allotment prior to change of ownership.

**Seconded** Mr Goldstone

**CARRIED**

<b>DEVELOPMENT APPLICATION NO:</b>	960/1001/13 (Prop ID 110151)
<b>APPLICANT:</b>	RD & HD Collins
<b>OWNER:</b>	RD & HD Collins
<b>SUBJECT LAND:</b>	Lot 2 and 3 Springton Road, Mount Pleasant Certificate of Title 5762/422 and 5434/716
<b>PROPOSAL:</b>	Variation to Planning Consent Development Application 960/706/2013 to Remove Condition 4
<b>ZONE/POLICY AREA:</b>	Watershed Protection Zone (Mount Lofty Ranges)
<b>PROCEDURE:</b>	Category 1
<b>REFERRALS:</b>	Not Applicable

<b>PUBLIC NOTICE:</b>	Not Applicable
<b>KEY ISSUES:</b>	Orderly Development
<b>DEVELOPMENT PLAN PROVISIONS:</b>	Council Wide Orderly and Sustainable, Development Objectives 1 & 3
<b>CONSOLIDATION DATE:</b> 21 February 2013	
<b>RECOMMENDATION:</b>	Grant Development Plan Consent
<b>OFFICER:</b>	Maxine Lovett

### **BACKGROUND**

Development Application 960/706/2013 to construct two sheds on the subject land was considered by the Development Assessment Panel on 6 August 2013. The Panel carried the recommendation for development plan consent subject to conditions, including condition 4 stating:

- (4) *Allotments 2 & 3 Springton Road (Certificate of Title 5434/716 and 5762/422) shall be amalgamated and lodged with the Lands Titles Office prior to the issue of full development approval.*

The Applicants have since lodged the subject application to vary the consent to remove condition 4.

The condition was placed on the consent because the approved outbuildings straddled the boundaries of Lots 2 & 3. The applicants chose this location as they did not want the outbuildings located too close to the dwelling as this allotment had been meticulously landscaped with an underground irrigation system. Alternatively, if the sheds were constructed wholly within allotment 2 the development would be defined as a store resulting in a non-complying form of development. On assessment it was agreed to allow the sheds to be located over the boundary with the applicants agreeing to amalgamate the allotments prior to full development approval.

The applicants have applied to remove the condition as the surveying costs required to survey the allotments for an amalgamation or a boundary re-alignment have proved to be very high.

### **SUBJECT LAND AND LOCALITY**

The subject land is a corner allotment and has a primary frontage of 45.50 metres onto Springton Road with a secondary frontage of 74.26 metres onto Marley Road, totalling an area of 3378 square metres. The site is clear of any significant vegetation and contains a small open ended storage shed. The subject site adjoins Lot 3 Springton Road Mount Pleasant, which contains a detached dwelling occupied by the owners of both allotments. The site has a gradient of 1:9 and slopes east west towards Springton Road, with the rear of the allotment elevated and visible from Springton Road. The site is not associated with a farming use.

The locality consists of large rural allotments primarily for farming purposes. The immediate locality contains a cluster of dwellings and farm buildings with access onto Springton Road.

### **DESCRIPTION OF THE PROPOSED DEVELOPMENT**

The applicant seeks to vary development plan consent for application 960/706/2013 to remove condition 4, requiring amalgamation of allotments 2 & 3 prior to issuing full development approval. Planning consent has been issued to construct two outbuildings that straddle the boundaries of allotments 2 and 3. The allotments are in the same ownership. A boundary re-alignment or amalgamation of allotments is not intended by the applicants at this stage.

### **PLANNING ASSESSMENT**

Removing condition 4 will result in two structures being built over a boundary and therefore is not considered to be orderly and sustainable development. Although the allotments are in the same ownership, there is opportunity for either allotment to be sold and transferred into separate ownership at any time in the near or distant future. If and when this does occur, the sheds will need

to be either re-located or the boundary will need to be re-aligned. To amalgamate the allotments would result in the loss of capital value for the owners.

Having regard to the Development Plan, a proposed building spanning across a boundary is not consistent with orderly and sustainable development and generally would not be supported. However, the two allotments currently continue to function as one allotment whilst they remain in the same ownership. In the event that the allotments were sold into separate ownership, the issue of the boundary encroachment will need to be dealt with at that stage and the obligation will fall with the owners to re-align the boundary or remove the sheds. It is considered that this would be a matter that could be dealt with at the time of sale and the encroachment issue would be captured through the Council Section 12 property search, prior to purchase. The matter will need to be negotiated by the owners and prospective purchaser.

With reference to the Building Code, the approved outbuildings are a Class 10a structure for domestic storage purposes only. The Building Code does not have a requirement for boundary setback distances for this type of building, unlike a commercial building. The structures do not pose a fire risk to structures on adjoining land.

### **CONCLUSION**

Building over a boundary is not considered to be orderly and sustainable development, however, both allotments are in the same ownership and currently function as one allotment. In the event that the allotments were sold into separate ownerships, the issue would be overcome by a boundary re-alignment.

**DA/DAP/R3**

**D615/13(101237)**

### **L LINKE – LAND DIVISION – BOUNDARY RE-ALIGNMENT (NON-COMPLYING)**

**MOVED** Mr Hughes that the Development Assessment Panel has considered all relevant assessment matters and the officer's report in relation to Development Application 960/615/2013 and resolves as follows:

- (A) That the proposal is sufficiently at variance with the relevant provisions of The Barossa Council Development Plan consolidated 21 February 2013.
- (B) That Pursuant to Regulation 17(3)(a) of the Development Regulations 2008, The Barossa Council does not proceed with an assessment of Development Application 960/615/2013 for the following reasons:
  - (1) The proposal is at odds with Objective 1 of the Primary Production Zone as the boundary realignment will not allow for economically productive, efficient and environmentally sustainable primary production within proposed allotment 1.
  - (2) The proposed development is at variance with Principle of Development Control 2 of the Primary Production Zone as it is a non-complying form of development.
  - (3) The proposed development is at variance with Principle of Development Control 22 of the Primary Production Zone as it will result in a greater number of allotments of less than 32 hectares than the number that existed prior to the boundary realignment.

**Seconded** Mrs Roehr

**CARRIED**



<b>DEVELOPMENT APPLICATION NO:</b>	960/615/2013 (Prop ID 101237)
<b>APPLICANT:</b>	Lauren Linke
<b>OWNER:</b>	Lauren Linke
<b>SUBJECT LAND:</b>	681 Moculta Road, Moculta and Allotment 76 Lindsay Park Road, Moculta
<b>PROPOSAL:</b>	Land Division – Boundary Realignment
<b>ZONE/POLICY AREA:</b>	Primary Production, Precinct 6 - Moculta
<b>PROCEDURE:</b>	Non-Complying
<b>REFERRALS:</b>	SA Water
<b>PUBLIC NOTICE:</b>	Category 3
<b>KEY ISSUES:</b>	Creation of an allotment not suitable for the intended use within the zone
<b>DEVELOPMENT PLAN PROVISIONS:</b>	Primary Production Zone Objectives 1 & 5. Principles of Development Control 7, 22 & 27.
<b>CONSOLIDATION DATE:</b> 21 February 2013	Council Wide <i>Land Division</i> Objective 2. Principles of Development Control 18 & 19.
<b>RECOMMENDATION:</b>	Refusal
<b>OFFICER:</b>	Karen Mitrovic

### **SUBJECT LAND AND LOCALITY**

The subject land is located within the Primary Production Zone and is within Precinct 6 – Moculta.

The subject land comprises two allotments under separate ownership. Section 280 is approximately 33.22 hectares in size, while allotment 76 is approximately 59.11 hectares in size.

Section 280 currently contains a dwelling, dam and multiple associated farm buildings. The remainder of the property is used for broad acre farming purposes. Allotment 76 contains several small dams and is used for broad acre farming purposes. The allotment was created in 1987 following a boundary realignment. The land division involved the realignment of a property boundary to create a 7 hectare parcel of land around an existing dwelling, and gave the remaining primary production land to a separate existing allotment without a dwelling.

The township of Moculta is located approximately one kilometre to the east of the subject land. The locality consists of broad acre farming allotments ranging from 33 hectares to 105 hectares in size, with some allotments also containing dwellings and associated farm buildings.

### **DESCRIPTION OF THE PROPOSED DEVELOPMENT**

The applicant seeks Development Plan Consent and Land Division Consent to realign the property boundary between two parcels of land under separate ownership, in the names of LM Linke and KJ Graetz and JA Graetz.

The proposed land division seeks to reduce one of these two allotments from 33.22 hectares to 2.83 hectares surrounding an existing dwelling and increase the second allotment size from 55.12 hectares to 88.47 hectares.

The Applicant has specified that the purpose of the boundary realignment is to allow for the sale of the viable farming land associated with existing Section 280 to the owner of existing allotment 76, in order to create one large farming entity. The applicant has stated that the boundary realignment is not for the purpose of allowing for the construction of a dwelling on proposed allotment 2 as a

merit form of development, although as later in this report, that would be an outcome of this proposal.

### **REFERRALS**

The Development Regulations 2008 requires that the Development Assessment Commission undertake the appropriate consultation with various State Government Agencies. As a result, the proposal was referred to SA Water who have provided comment on the proposed development. SA Water have no objection to the proposed development and did not have any requirements should the proposed development be approved.

### **PUBLIC NOTIFICATION**

The proposed development is a non-complying form of development and is subject to Category 3 public notification. The public notification has not been undertaken at this time, as the recommendation for the application is that the development be refused, and not proceed to a full assessment. In the event that the Development Assessment Panel does not agree with the recommendation, the public notification process will be undertaken prior to the Development Assessment Panel considering the matter further.

### **PROVISIONS OF THE DEVELOPMENT PLAN**

The proposed development is located within the Primary Production Zone, Precinct 6 – Moculta of the authorised Development Plan, consolidated 21 February 2013.

The relevant Zone and Council Wide Objectives and Principles of Development Control are listed below.

#### ***PRIMARY PRODUCTION ZONE***

*Objective 1: Economically productive, efficient and environmentally sustainable primary production.*

*Objective 5: Development that contributes to the desired character of the zone.*

#### ***Principles of Development Control***

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

7 *A dwelling should only be developed if:*

- (a) there is a demonstrated connection with farming or other primary production.*
- (b) the location of the dwelling will not inhibit the continuation of farming, other primary production or other development that is in keeping with the provisions of the zone.*

22 *Land division involving boundary realignments should only occur where the number of resulting allotments of less than 32 hectares is not greater than the number that existed prior to the realignment.*

#### ***PRIMARY PRODUCTION ZONE – PRECINCT 6 MOCULTA***

27 *A dwelling should only occur on an allotment which satisfies one of the following:*

- (a) is at least 60 hectares in area and a habitable dwelling does not already exist.*

#### ***COUNCIL WIDE – LAND DIVISION***

*Objective 2 Land division that creates allotments appropriate for the intended use.*

#### ***Principles of Development Control***

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*

19 *Rural land should not be divided where new allotments would result in any of the following:*

- (a) *fragmentation of productive primary production land*

### **PLANNING ASSESSMENT**

The proposed land division does not satisfy the requirements of Principle of Development Control 22 of the Primary Production Zone within Council's Development Plan (Consolidated 21 February 2013) for land division in the Primary Production Zone.

The Principle of Development Control states that boundary realignments should only occur where the number of resulting allotments of less than 32 hectares is not greater than the number that existed prior to the realignment. As the proposed land division does not meet this criteria, the application is a non-complying form of development. It is considered that this Principle of Development Control is in place in order to reduce the continual reduction in size of productive primary production land to create smaller rural living style allotments.

Whilst it is acknowledged that the addition of land to proposed allotment 2 will increase the viability of this allotment, the increase will be done at the expense of the viability of proposed allotment 1, effectively removing any primary production value the property has and creating a rural living style allotment within a primary production zone.

Objective 1 of the Primary Production Zone states that the intended use of the zone is for economically productive, efficient and environmentally sustainable primary production. A potential purchaser of proposed allotment 1 would not be able to meet the principle objective of the Primary Production Zone by utilising the allotment for primary production purposes. As a result, it may be appropriate to assume that the allotment would be purchased as a "lifestyle" or "rural living" property.

Objective 27 of the Primary Production Zone, Precinct 6 – Moculta states that a dwelling should not occur on an allotment which is less than 60 hectares in size. Although the proposed development does not include the construction of a new dwelling, it will result in a dwelling being located on an allotment far less than the specified 60 hectares, and would allow for the construction of a dwelling on proposed Allotment 2 to go through a merit based assessment. Given the minimum allotment size specified for a dwelling, it is considered that the intent of the zone is to restrict the instances where existing farming allotments are reduced in size to contain a dwelling and small area of land.

With regard to the possible construction of a dwelling on proposed allotment 2, the Applicant has advised that they have no intent of constructing a new dwelling. They have also advised that they would be willing to enter into a Land Management Agreement to restrict the ability to construct a dwelling on the property. Council's legal counsel have advised that a Land Management Agreement of this nature would be invalid as it will be prohibiting a form of development which, but for the Land Management Agreement, the Council would be bound to consider on its merits. Given the advice which Council has received, it would seem that the Land Management Agreement is not a viable option for restricting the development potential of proposed allotment 2 for a dwelling.

The primary intent of the zone is for the development of grazing and broad acre farming land uses, with the use of land for residential purposes only to occur where there is a demonstrated connection with farming or other primary production. The realignment of the existing boundary to contain a dwelling within an allotment of 2.83 hectares, whilst not specifically at odds with the Development Plan, is not in keeping with the desired outcome for the Primary Production Zone.

### **CONCLUSION**

The proposed land division will result in the creation of an allotment which is at variance with the objectives and principles of the Development Plan. While the proposal is not increasing allotment numbers, it is still creating an allotment which cannot meet the primary objective for the Primary Production Zone, in that it cannot be used for primary production purposes.

Given that the proposed development is unable to satisfy key objectives and principles of development control of Council's Development Plan, it is considered that the proposal does not warrant the granting of Development Plan Consent.

DA/DAP/R4

D730/13(117363)

**C HAUSLER – LAND DIVISION – 1 ALLOTMENT INTO 2 (MERIT)**

**MOVED** Mr Miller that the Development Assessment Panel has considered all relevant assessment matters and the officer's report in relation to Development Application 960/730/2013 and resolves as follows:

- (A) The proposal is not seriously at variance with the relevant provisions of The Barossa Council Development Plan consolidated 21 February 2013.
- (B) Grant Development Plan Consent and Land Division Consent to Development Application 960/730/2013 subject to the following conditions:

Development Plan Consent Conditions

- (1) The land division shall be undertaken in accordance with the plans and documentation (as amended) accompanying the application, unless varied by the following conditions.
- (2) The waste control system for the existing dwelling shall be decommissioned and removed prior to Section 51 Clearance being granted. A new waste control system application is required to be lodged with Council to accommodate the requirements of the existing dwelling.
- (3) All structures located over the proposed boundary shall be removed prior to Section 51 Clearance being issued.

Land Division Consent Conditions

- (1) The financial requirements of the SA Water Corporation shall be met for the provision of water supply (SA Water H0007984).  
On approval of the application, all internal water piping that crosses the allotment boundaries must be severed or redirected at the developers/owners cost to ensure that the pipework relating to each allotment is contained within its boundaries.
- (2) Payment of \$6488.00 into the Planning and Development Fund (1 allotment/s @ \$6488.00/allotment).

Payment may be made by credit card via the internet at [www.edala.sa.gov.au](http://www.edala.sa.gov.au) or by phone (8303 0724), by cheque payable to the Development Assessment Commission marked "Not Negotiable" and sent to GPO Box 1815, Adelaide 5001 or in person, at Level 5, 136 North Terrace, Adelaide

- (3) 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.

Seconded Mr Grocke

CARRIED

<b>DEVELOPMENT APPLICATION NO:</b>	960/730/2013 (Prop ID 117363)
<b>APPLICANT:</b>	Christopher Hausler
<b>OWNER:</b>	Christopher Hausler
<b>SUBJECT LAND:</b>	402 Light Pass Road, Light Pass
<b>PROPOSAL:</b>	Land Division – 1 Allotment into 2
<b>ZONE/POLICY AREA:</b>	Settlement
<b>PROCEDURE:</b>	Merit
<b>REFERRALS:</b>	SA Water
<b>PUBLIC NOTICE:</b>	Category 1
<b>KEY ISSUES:</b>	Creation of an allotment which is less than the minimum as specified within the Development Plan
<b>DEVELOPMENT PLAN PROVISIONS:</b>	Settlement Zone Objectives 2 & 3. Principle of Development Controls 4, 11 & 13.
<b>CONSOLIDATION DATE:</b> 21 February 2013	Council Wide Land Division Objectives 1 & 2. Principle of Development Controls 1, 2 & 8.
<b>RECOMMENDATION:</b>	Approval
<b>OFFICER:</b>	Karen Mitrovic

#### **SUBJECT LAND AND LOCALITY**

The subject land is located within the Settlement Zone of The Barossa Council Development Plan consolidated 21 February 2013.

The subject land comprises a single allotment measuring 61.78 metres wide and 74.23 metres deep. The property currently contains a detached dwelling and associated waste control system and several outbuildings. The Primary Production (Barossa Valley Region) Zone is located directly to the north and west of the subject land, with the property boundary of the subject land also being the zone boundary.

The locality contains allotments varying in size from 588 square metres to 8000 square metres. Most allotments in the area contain a single storey detached dwelling and associated outbuildings, however, the local Primary School is also located across from the subject land.

#### **DESCRIPTION OF THE PROPOSED DEVELOPMENT**

The applicant seeks Development Plan Consent and Land Division Consent to create a new allotment within the Settlement Zone at Light Pass.

The proposed land division seeks to divide an allotment measuring 4586 square metres in size into two allotments. Proposed allotment 50 will be 2070 square metres in size while proposed allotment 51 will be 2516 square metres.

Both proposed allotments have safe and convenient access to Light Pass Road. Proposed allotment 50 has a width of 27.89 metres and contains a shed and the waste control system for the existing dwelling on the land. Proposed allotment 51 contains the existing dwelling on the property. There are several existing structures on the subject land which straddle the proposed boundary. The Applicant has advised that they are willing to remove these structures.

### **REFERRALS**

The Development Regulations 2008 requires that the Development Assessment Commission undertake the appropriate consultation with various State Government Agencies. As a result, the proposal was referred to SA Water who have provided comment on the proposed development. SA Water have no objection to the proposed development and their recommended conditions of approval have been included in the recommendation.

### **PROVISIONS OF THE DEVELOPMENT PLAN**

The proposed development is located within the Settlement Zone of the authorised Development Plan, consolidated 21 February 2013.

The relevant Zone and Council Wide Objectives and Principles of Development Control are listed below.

### **SETTLEMENT ZONE**

*Objective 2: Low density residential development contained located within the boundaries of the settlement.*

*Objective 3: Development that contributes to the desired character of the zone.*

### **Principles of Development Control**

*4 Development should not be undertaken unless it is consistent with the desired character for the zone.*

*11 Land division located within the Light Pass settlement should not result in allotments of less than 2500 square metres in area.*

*13 The creation of new allotments should only occur where the allotments size and layout facilitates appropriate infill development that is complementary to and compatible with the historic character and significance of adjacent development.*

### **COUNCIL WIDE – LAND DIVISION**

*Objective 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.*

*Objective 2: Land division that creates allotments appropriate for the intended use.*

### **Principles of Development Control**

*1 When land is divided:*

*(a) stormwater should be capable of being drained safely and efficiently from each proposed allotment and disposed of from the land in an environmentally sensitive manner.*

*(b) a sufficient water supply should be made available for each allotment.*

*(c) provision should be made for the disposal of wastewater, sewage and other effluent from each allotment without risk to health.*

*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.*

- (b) *any allotment will not have a frontage to one of the following:*
- (i) *an existing road*
  - (ii) *a proposed public road*
  - (iii) *access to a public road via an internal roadway in a plan of community division*
- (c) *the intended use of the land is likely to require excessive cut and/or fill.*
- (d) *it is likely to lead to undue erosion of the subject land or land located within the locality.*
- (f) *the area is unsewered and cannot accommodate an appropriate onsite wastewater disposal system located within the allotment that complies with (or can comply with) the relevant public and environmental health legislation applying to the intended use(s).*
- (g) *any allotments will straddle more than one zone or policy area.*
- 8 *Allotments should have an orientation, size and configuration to encourage development that:*
- (a) *minimises the need for earthworks and retaining walls*
  - (b) *maintains natural drainage systems*
  - (c) *faces abutting streets and open spaces*
  - (d) *does not require the removal of native vegetation to facilitate that development*
  - (e) *will not overshadow, dominate, encroach on or otherwise detrimentally affect the setting of the surrounding locality.*

### **PLANNING ASSESSMENT**

The proposed land division has been brought to the Development Assessment Panel for decision as it will result in the creation of an allotment which is less than the minimum size as specified in Principle of Development Control 11 of the Settlement Zone of Council's Development Plan.

Whilst the proposed allotment does not meet the specified minimum allotment size, it is considered that both proposed allotments are consistent with the desired character for the zone and the Council Wide objectives and principles for land division.

The minimum allotment size in the Settlement Zone within the township of Light Pass is 2500 square metres. While proposed allotment 51 meets the minimum size requirement, proposed allotment 50 is 2070 square metres in size and does not meet the quantitative requirement.

Objective 3 and Principle of Development Control 4 of the Settlement Zone suggest that development should not be undertaken unless it is consistent with the desired character of the zone. The desired character for the township of Light Pass is specific with regard to any new allotments being created. The desired character suggests that '*new allotment sizes and building development will retain the open landscape appearance of the area particularly with respect to wide building setbacks (front and side)*'.

It is considered that the creation of an allotment which is 430 square metres, below the minimum allotment size, will not have a detrimental impact upon the character of Light Pass. Proposed allotment 50 has a width which can support the construction of a new dwelling which will be located away from allotment boundaries in order to meet the desired character of the zone.

The character of the area has a wide range of allotment sizes ranging from 588 square metres to 8078 square metres, with the average residential allotment size within the settlement of Light Pass being 2433 square metres. The subject land is currently the largest of the allotments along the western side of Light Pass Road. Despite the minimum allotment size within the settlement being 2500 square metres, it would appear that the existing character lends itself to an array of allotment sizes, with many properties being less than the specified 2500 square metres. The creation of an allotment less than the minimum will not detrimentally impact upon the amenity of the area and will allow for appropriate infill within an existing settlement.

Principle of Development Control 13 of the Settlement Zone states that new allotments should only be created where the allotment's size and layout facilitates appropriate infill development that is

complementary to and compatible with the historic character and significance of adjacent development. The subject land and adjacent property do not currently contain a building of heritage significance, as such it is considered that proposed allotment 50 will be able to comfortably accommodate a new dwelling which will be an appropriate form of infill development and will blend with the existing character of the area.

The proposed division is able to meet the general requirements for land division specified in the Development Plan. The proposed allotments are sufficient in size to ensure that Principle of Development Control 1 of the Council Wide – Land Division requirement is met, as wastewater disposal can be resolved on site and stormwater can be safely and efficiently disposed of from the land. In addition, the size, shape and slope of the land are appropriate to ensure that the requirements of Principle of Development Control 2 and 8 are met.

#### **CONCLUSION**

The proposed division will create an allotment of suitable frontage and depth to accommodate a new dwelling which suitably conforms with the existing character of the area.

Although the proposed land division will result in the creation of an allotment which is less than the minimum allotment size specified within the Development Plan, it is considered that the proposal meets the criteria of the Development Plan on balance and warrants Land Division Consent and Development Plan Consent being granted.

#### **DA/DAP/R5 D100/13(102240) KALIMNA ROAD UNIT TRUST (STRATEGY URBAN PROJECTS & ROGER PITT) - MERIT**

**MOVED** Mr Goldstone that the Development Assessment Panel defer consideration of Development Application 960/00100/2013 to enable Council staff to continue to negotiate with the Applicants for additional open space.

**Seconded** Mr Grocke

**CARRIED**

<b>DEVELOPMENT APPLICATION NO:</b>	960/D026/12 (960/0100/2013) (Prop ID 102240)
<b>APPLICANT:</b>	Kalimna Road Unit Trust (Strategy Urban Projects & Roger Pitt)
<b>OWNER:</b>	GJ & JF Walker
<b>SUBJECT LAND:</b>	Lot 2, 41-47 Kalimna Road, Nuriootpa in FP 173385
<b>PROPOSAL:</b>	Land Division (57 Allotments, Roads and Reserve)
<b>ZONE/POLICY AREA:</b>	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
<b>PROCEDURE:</b>	Merit
<b>REFERRALS:</b>	Development Assessment Commission, SA Water, Environment Protection Authority, Department of Planning, Transport & Infrastructure - Transport Services, Urban Renewal Authority (Affordable Housing)
<b>PUBLIC NOTICE:</b>	Category 1
<b>KEY ISSUES:</b>	Stormwater disposal and stormwater detention, Impact on adjoining roads
<b>DEVELOPMENT PLAN PROVISIONS:</b>	Numerous –



<b>CONSOLIDATION DATE:</b>	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
<b>RECOMMENDATION:</b>	Grant Development Approval
<b>OFFICER:</b>	Brian Irvine

### **BACKGROUND AND ADDITIONAL INFORMATION**

This application was presented to the October meeting of the Panel where it was resolved to “defer consideration of Development Application 960/100/2013, to enable Council staff to negotiate with the Applicant to achieve the desired 12.5% of the site as an open space reserve.”

A meeting has been held with the applicants to discuss the matter but at the time of writing no written submission has been received.

The application requires assessment against the provisions of the Development Plan for planning consent and a separate assessment against the requirements of the Development Act and Regulations for land division consent.

The following extracts are drawn from the Development Plan to assist with the planning assessment:

#### **Land Division**

##### **Principles of Development Control**

- 4 *The design of a land division should incorporate:*
- (a) *roads, thoroughfares and open space that result in safe and convenient linkages with the surrounding environment, including public and community transport facilities, and which, where necessary, facilitate the satisfactory future division of land and the inter-communication with neighbouring localities*
  - (d) *suitable land set aside for useable local open space*
- 12 *The arrangement of roads, allotments, reserves and open space should enable the provision of a stormwater management drainage system that:*
- (a) *contains and retains all watercourses, drainage lines and native vegetation*
  - (b) *enhances amenity*
  - (c) *integrates with the open space system and surrounding area.*

##### **Open Space and Recreation**

- Objective 1: The creation of a network of linked parks, reserves and recreation areas at regional and local levels.*
- Objective 2: Pleasant, functional and accessible open spaces providing a range of physical environments.*
- Objective 3: A wide range of settings for active and passive recreational opportunities.*
- Objective 4: The provision of open space in the following hierarchy:*
- *State*
  - *Regional*
  - *District*
  - *Neighbourhood*
  - *Local*

**Principles of Development Control**

- 1 *Urban development should include public open space and recreation areas.*
- 2 *Public open space and recreation areas should be of a size, dimension and location that:*
  - (a) *facilitate a range of formal and informal recreation activities*
  - (b) *provide for the movement of pedestrians and cyclists*
  - (c) *incorporate existing vegetation and natural features, watercourses, wildlife habitat and other sites of natural or cultural value*
  - (d) *link habitats, wildlife corridors, public open spaces and existing recreation facilities*
  - (e) *enable effective stormwater management*
  - (f) *provides for the planting and retention of large trees and vegetation.*
- 3 *Open space should be designed to incorporate:*
  - (a) *pedestrian, cycle linkages to other open spaces, centres, schools and public transport nodes*
  - (b) *park furniture, shaded areas and resting places to enhance pedestrian comfort*
  - (c) *safe crossing points where pedestrian routes intersect the road network*
  - (d) *easily identified access points*
  - (e) *frontage to abutting public roads to optimise pedestrian access and visibility*
  - (f) *re-use of stormwater for irrigation purposes.*
- 6 *Neighbourhood parks should be at least 0.5 hectares and generally closer to 1 hectare in size, and provided within 500 metres of households that they serve.*
- 7 *Local parks should be:*
  - (a) *a minimum of 0.2 hectares in size*
  - (b) *centrally located within a residential area, close to schools, shops and generally within 300 metres of households that they serve.*
- 8 *No more than 20 per cent of land allocated as public open space should:*
  - (a) *have a slope in excess of 1-in-4*
  - (b) *comprise creeks or other drainage areas.*
- 13 *Landscaping associated with open space and recreation areas should:*
  - (a) *not compromise the drainage function of any drainage channel*
  - (b) *provide shade and windbreaks along cyclist and pedestrian routes, around picnic and barbecue areas and seating, and in car parking areas*
  - (c) *maximise opportunities for informal surveillance throughout the park*
  - (d) *enhance the visual amenity of the area and complement existing buildings*
  - (e) *be designed and selected to minimise maintenance costs*
  - (f) *provide habitat for local fauna.*

The Residential Zone provisions also refers to a concept plan that does not make any reference to open space in the Kalimna Road area, although it is listed in the plan's legend.

With respect to the land division consent, the Development Act states:

**33 Matters against which development must be assessed**

- (1) *A development is an approved development if, and only if, a relevant authority has assessed the development against, and granted a consent in respect of, each of the following matters (insofar as they are relevant to the particular development):*
  - (a) *the provisions of the appropriate Development Plan (**development plan consent**);*

- (c) *in relation to a proposed division of land (otherwise than under the Community Titles Act 1996 or the Strata Titles Act 1988)—the requirement that the following conditions be satisfied (or will be satisfied by the imposition of conditions under this Act):*
  - (ii) *open space will be provided, or a payment will be made in accordance with the requirements imposed under this Act;*

**50 —Open space contribution scheme**

- (1) *Where an application under this Part provides for the division of land into more than 20 allotments, and one or more allotments is less than one hectare in area—*
  - (a) *the council in whose area the land is situated; or*
  - (b) *if the land is not situated within the area of a council—the Development Assessment Commission,*  
*may require—*
    - (c) *that up to 12.5 per cent in area of the relevant area be vested in the council or the Crown (as the case requires) to be held as open space; or*
    - (d) *that the applicant make the contribution prescribed by the regulations in accordance with the requirements of this section; or*
    - (e) *that land be vested in the council or the Crown under paragraph (c) and that the applicant make a contribution determined in accordance with subsection (7),*  
*according to the determination and specification of the council or the Development Assessment Commission and, in so acting, the council or the Development Assessment Commission must have regard to any relevant provision of the Development Plan that designates any land as open space and, in the case of a council, must not take any action that is at variance with that Development Plan without the concurrence of the Development Assessment Commission.*

Other subsections of the Act and the Regulations address monetary contributions in lieu of land.

Whilst the 2 consents are separate, Section 50 does require that consideration be given to relevant provisions of the Development Plan when considering open space for land division consent purposes.

The Works and Engineering Department advises that there is no recorded policy guiding the advice they give regarding proposed open space in land divisions. However it has been their standard practice to advise against the acquisition of small parcels of open space that will, in their opinion, become maintenance liabilities. The responsibility to decide upon open space requirements has been delegated to the Panel.

The pre-application process was lengthy in this instance (for a number of reasons), and a number of layouts and drafts were provided for discussion and advice from staff. Suggestions were made, in respect to one of the pre-application drafts that open space be provided in the general vicinity of 9, 10 and 11 but the then Director, Works and Engineering expressed a strong preference for a monetary contribution in lieu of a land contribution.

The applicants have proceeded to finalise and submit their design, and purchase the land, with an expectation that a monetary contribution will be required in lieu of land. A request for the full 12.5% will require further 7000m<sup>2</sup> (i.e. 6 or 7 allotments) to be allocated to be reserves. This will have a significant impact on the viability on the project that they have not factored in.

The concept plan does not identify a specific location for open space in the Kalimna Road area, but other provisions of the Development Plan support open space.

The remainder of the report and recommendation is a repetition of the report presented to the 1 October Development Assessment Panel meeting and is included for reference purposes. The recommendation assumes an open space contribution as proposed by the applicants with a monetary payment in lieu of the short fall in land. This will need to be amended if the Panel decides to require a greater proportion of land contribution.

### **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.

### **DESCRIPTION OF THE PROPOSED DEVELOPMENT**

The application proposes to divide the land into 57 residential allotments ranging from 1000 m<sup>2</sup> to 1521 m<sup>2</sup>. The proposal also includes a reserve of 3000 m<sup>2</sup> 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.

### **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 were supplied with the Agenda.

**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 were provided with the Agenda.  
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 m<sup>2</sup> to 1521m<sup>2</sup>.

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 (i.e. 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 (i.e. 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, i.e. 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 10,240m<sup>2</sup>. The proposed reserve is only 3000m<sup>2</sup>. 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.

**DA/DAP/R6**

**D019/13(118383)**

### **J WIESE – LAND DIVISION (1 ALLOTMENT INTO 4)- MERIT**

Mr Hughes left the meeting at 5.48pm.

**MOVED** Mr Miller that the Development Assessment Panel:

- (A) The proposal is not seriously at variance with the relevant provisions of The Barossa Council Development Plan consolidated 21 February 2013.:
- (B) Grants Development Plan Consent, Land Division Consent and Development Approval to application 960/D019/13 (Council Reference 960/703/2013) subject to the following conditions:

#### **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) Each allotment shall have a minimum area of 2 hectares.
- (3) 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 and disposal area shall be installed on the same allotment as the dwelling, 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. Any new septic tank or onsite effluent disposal area requires an independent application and approval pursuant to the Public Health Act.

- (4) The boundaries of the allotments shall be located in positions to enable them to be fenced without the removal of any native tree.

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 H0007763).
- (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 to 2 are the requirements of the Development Assessment Commission.
- (b) SA Water Corporation further advise on approval of the application, all internal water piping that crosses the allotment boundaries must be severed or redirected at the developers/owners cost to ensure that the pipework relating to each allotment is contained within its boundaries
- (C) Seeks the concurrence of the Development Assessment Commission pursuant to Section 8(2) of the Character Preservation (Barossa Valley) Act 2012.

**Seconded Mrs Roehr**

**CARRIED**

<b>DEVELOPMENT APPLICATION NO:</b>	960/703/2013 (960/D019/13) (Prop ID 118383)
<b>APPLICANT:</b>	Joerg Wiese
<b>OWNER:</b>	Joerg Wiese
<b>SUBJECT LAND:</b>	Lot 7 in DP 85144, 99 Gottwald Road, Williamstown
<b>PROPOSAL:</b>	Land Division (1 allotment into 4)
<b>ZONE/POLICY AREA:</b>	Rural Living Zone (Map Baro/27) Policy Area 30 Needles Road (Map Baro/27) Medium Bushfire Protection Area (BPA Map Baro/16)
<b>PROCEDURE:</b>	Merit
<b>REFERRALS:</b>	Development Assessment Commission, SA Water, Environment Protection Authority, Native Vegetation Council
<b>PUBLIC NOTICE:</b>	Category 1
<b>KEY ISSUES:</b>	Vegetation Protection, Proximity of Effluent Lagoons, Character Preservation (Barossa Valley) Act
<b>DEVELOPMENT PLAN PROVISIONS:</b>	Refer <i>Attachment 3</i> for extracts on the subjects of:



<b>CONSOLIDATION DATE:</b> 21 February 2013	<ul style="list-style-type: none"> <li>• Hazards (bushfire protection)</li> <li>• Interface Between Land uses</li> <li>• Land Division</li> <li>• Natural Resources</li> <li>• Orderly and Sustainable Development</li> <li>• Transportation and Access</li> </ul> Rural Living Zone
<b>RECOMMENDATION:</b>	Grant Development Approval and Seek Concurrence of the Development Assessment Commission
<b>OFFICER:</b>	Brian Irvine

### **SUBJECT LAND AND LOCALITY**

The subject land involves an irregular shaped allotment at 99 Gottwald Road Williamstown with an area of 10.41 hectares. The allotment is approximately 570 metres deep and has an irregular width.

The land is used for rural living purposes with a range of activities including a residence with outbuildings, a small orchard, grazing land and remnant semi-grazed native vegetation.

The land is surrounded by similar rural living allotments with varying degrees of remnant or degraded native vegetation. The effluent ponds associated with the Williamstown Community Wastewater Management Scheme are located adjacent to the north-eastern boundary of the proposed lot 101. The adjoining road is unsealed and has remnant vegetation on its verges.

The land has a difference in elevation of approximately 30 metres with the high point in approximately the middle of lot 101. The land has a moderate slope down to a stock dam in the north-eastern corner of lot 104 adjacent to the road.

The locality is characterised by the rural living uses, dispersed housing and remnant native vegetation. The locality extends approximately 200 to 300 metres in each direction from the boundary of the site.

### **DESCRIPTION OF THE PROPOSED DEVELOPMENT**

The application proposes to divide the land into 4 rural living allotments with 3 being at or near 2000m<sup>2</sup> in area and the fourth being 4197m<sup>2</sup>. All have wide frontages except the battle-axed shaped lot 101 with a 12 metre frontage.

### **PROVISIONS OF THE DEVELOPMENT PLAN**

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

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 were provided with the Agenda.

### **CONSULTATION**

Agency reports have been received from the Development Assessment Commission, SA Water, Environment Protection Authority and Native Vegetation Council.

Copies of the reports were provided with the Agenda.

### **PUBLIC NOTIFICATION**

A land division proposal that creates 4 or less additional allotments is determined by Schedule 9, Clause 2(f) of the Development Regulations to be a category 1 form of development for public notification purposes.

### **PLANNING ASSESSMENT**

The land is zoned for rural living purposes and the proposed allotments are capable of supporting that land use. However there are a number of issues requiring consideration.

The allotments meet the minimum lot size requirements but lot 101 is battle-axe shaped with a lengthy driveway contrary to zone principle 11 and the Desired Character statement. However the access strip is 12 metres wide (twice as wide as the minimum of 6 metres stated in land division principle 7) and is suitable for a 2 way driveway or the installation of passing bays. The applicant has stated in conversation that the shape of the allotment does not have a significant effect on the amenity of the locality. It is noted that some of the nearby regular shaped allotments have long driveways and therefore have the same effect on the amenity of the locality as the proposed lot 101. There is also a number of battle-axe or flag pole shaped allotments nearby and therefore lot 101 will not look out of place.

The allotments are located in a medium bushfire risk area. There is sufficient space on each allotment to be able to build a dwelling that meets the bushfire protection requirements.

A new driveway entrance can be expected in the future for each of the vacant allotments. Some clearance of roadside vegetation will be necessary. Lots 103 and 104 have sufficient frontage to be able to choose a location that minimises vegetation removal, but lot 101 will require several large trees to be removed. While this is undesirable, it will not significantly change the character of the locality.

The Native Vegetation Council has expressed concern over potential clearance that will occur for future housing development, particularly lot 101. There are large areas of pasture or degraded orchard on lots 103 and 104 to enable a dwelling to be built on those allotments without native vegetation clearance. There is site on the southern third of wider part lot 101 that is cleared of trees (but appears to have native grasses and ground cover) that is both suitable for a dwelling and provides the best views. It is also the furthest point away from the adjoining effluent lagoons. Given that the land has been zoned with an expectation of being divided and built on, a reasonable compromise between the expectations of the zone and the vegetation protection provisions of the Development Plan is to favorably consider a proposal that minimises native vegetation removal, which this proposal appears to do. Care should be taken in the final survey to ensure that the boundaries are placed in a position that does not require tree removal to erect fences. This can be addressed with a condition of approval.

The Environment Protection Authority have recommended refusal because the land division will result in additional dwellings being built near the existing effluent lagoons. The Environment Protection Authority guidelines state that dwellings should be a minimum of 350m from effluent lagoons of this size. The following separation distances are reasonably achievable:

Lot 101 140m  
Lot 102 195m (existing)  
Lot 103 300 – 350m  
Lot 104 160 – 200m

Discounting the dwelling on lot 102, the 4 closest existing dwellings are located approximately 90m, 95m, 150m and 180m from the lagoons.

The Environment Protection Authority guidelines distance is not contained in the Development Plan, which has been reviewed several times since the effluent lagoons were constructed and the area zoned for rural living.

However the Development Plan does contain the following provisions for guidance:

#### ***Interface between Land uses***

- Objective 1: Development located and designed to prevent adverse impact and conflict between land uses.*
- Principle 2: Development should be sited and designed to minimise negative impact on existing and potential future land uses considered appropriate in the locality.*
- Principle 4: Residential development adjacent to non-residential zones and land uses should be located, designed and/or sited to protect residents from potential adverse impacts from non-residential activities.*

**Orderly and Sustainable Development**

Objective 3: *Development that does not jeopardise the continuance of adjoining authorised land uses.*

**Waste****Principle of Development Control**

- 9 *Artificial wetland system for the storage of treated wastewater, such as wastewater lagoons, should be:*
- (a) *sufficiently separated from adjoining sensitive uses to minimise potential adverse odour impacts.*
  - (b) *sited and designed to minimise potential public health risks arising from the breeding of mosquitoes.*

The Council's Community Wastewater Management Scheme Co-ordinator advises that minor odours can occur from time to time and recommends that the distance between the lagoons and dwellings be maximised. He has also indicated that there is also potential for noise nuisance if Council installs aerators in the lagoons in the future.

Given that the land adjacent to the lagoons has been zoned for rural living on 2 hectare allotments and future dwellings are capable of being located further from the lagoons than some existing dwellings, it may be difficult to justify a refusal on the Environment Protection Authority's advice.

The site is within the rural area defined for the purposes of the Character Preservation (Barossa Valley) Act 2012. This Act requires the concurrence of the Development Assessment Commission prior to granting a development authorisation to a proposal that creates 1 or more allotments. There is no right of appeal if concurrence is denied.

**CONCLUSION**

Several government agencies have recommended refusal and the proposal is inconsistent with several provisions of the Development Plan. However, on balance and having regard to all of the relevant provisions of the Development Plan, it is considered that the proposal is not seriously at variance with the provisions of the Development Plan and has sufficient merit to warrant approval subject to conditions.

Mr Hughes returned to the meeting at 5.59pm.

**DA/DAP/R7**

**D361/11(109901)**

**MOUNT PLEASANT JOINT VENTURE PTY LTD – LAND DIVISION (1 ADDITIONAL ALLOTMENT) - MERIT**

**MOVED** Mr Goldstone that the Development Assessment Panel:

- (A) The proposal is not seriously at variance with the relevant provisions of The Barossa Council Development Plan consolidated 14 October 2010.
- (B) Grants Development Plan Consent, Land Division Consent and Development Approval to application 960/D065/10 (Council Reference 960/361/2011) subject to the following conditions:

**Conditions of Development Plan Consent**

- (1) The land division shall be undertaken in accordance with the plans accompanying the application

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 8816/10).
- (2) A copy of a certified survey plan shall be lodged for Certificate purposes.

**NOTES**

- (a) Land Division Conditions 1 and 2 are the requirements of the Development Assessment Commission.

**Seconded Mr Grocke****CARRIED**

<b>DEVELOPMENT APPLICATION NO:</b>	960/361/2011 (960/D065/10) (Prop ID 109901)
<b>APPLICANT:</b>	Mount Pleasant Joint Venture Pty Ltd
<b>OWNER:</b>	Dunbar Pty Ltd
<b>SUBJECT LAND:</b>	Lot 685 in FP 169624, 3211 Eden Valley Road, Mount Pleasant
<b>PROPOSAL:</b>	Land Division (1 additional allotment)
<b>ZONE/POLICY AREA:</b>	Township Zone (Map Baro/43), Residential Policy Area 41 (Map Baro/68)
<b>PROCEDURE:</b>	Merit
<b>REFERRALS:</b>	Development Assessment Commission, SA Water, Transport Services – Department of Transport Energy & Infrastructure
<b>PUBLIC NOTICE:</b>	Category 1
<b>KEY ISSUES:</b>	Access, Community Wastewater Management Scheme Connection
<b>DEVELOPMENT PLAN PROVISIONS:</b>	Refer <u>Attachment 3</u> for extracts on the subjects of:
<b>CONSOLIDATION DATE:</b> 14 October 2010	<ul style="list-style-type: none"> <li>• Form of Development</li> <li>• Utilities and infrastructure</li> <li>• Traffic and Transportation</li> <li>• Waste and Pollution Management</li> <li>• Interface Between Land Uses</li> <li>• Township Zone</li> </ul>
<b>RECOMMENDATION:</b>	Approval
<b>OFFICER:</b>	Brian Irvine

**SUBJECT LAND AND LOCALITY**

The subject land involves a single allotment totaling 24.1 hectares on the northern edge of Mount Pleasant township with frontages to both the Eden Valley Road and Angas Valley Road. It adjoins the cemetery land on the corner of the two roads. A house block has also been cut out of the land on the Angas Valley Road frontage sometime before the 1970's.

The neighbouring land to the north and east is used for farming purposes. The land to the west on the opposite side of the Eden Valley Road is used predominantly for rural living purposes but includes a transport depot and church. The land to the south, on the opposite side of Angas Valley Road, is currently used predominantly for rural purposes but includes a rural living allotment on the corner of Chibnalls Road and residential ribbon development fronting Melrose Street. (All of the land on the south side of Angas Valley Road is zoned as either Township or Deferred Urban.)

The land is used predominantly for grazing purposes but includes the "Landmark" agricultural supplies business in the northwestern corner of the land. Other than the Landmark business there are no buildings on the land. The Landmark business is fenced as a separate occupancy from the rural land. The business includes outside storage areas behind the building. A dam is situated on the grazing land. The land generally falls towards both the Eden Valley Road and the adjoining rural land on the northern boundary, although small portion also falls towards the Angas Valley Road. The rural portion of the land fronting Eden Valley Road is well treed with large gum trees with little understory. This treed area adds significantly to the character of the locality.

Although the site is zoned "Township" to allow future urban development, its existing character is rural, dominated by tree studded grazing land. The locality extends approximately 500 metres to the north along the Eden Valley Road, approximately 250 – 300 metres to the east, approximately 400 metres to the south and approximately 200 metres to the west from the edges of the proposed development.

#### **DESCRIPTION OF THE PROPOSED DEVELOPMENT**

The application proposes to divide the land into 2 allotments, to separate the Landmark business from the remainder of the rural land. The proposed boundary follows the existing fence line around the Landmark site. Lot 1 with the Landmark business will be 1.799ha in area, with lot 2 comprising the remainder of the rural land and trees being 22.28ha. Lot 2 is subject to a separate land division application to divide the land into 50 allotments. (Refer report DA/DAP/R8 in this agenda)

No changes to the existing access or servicing arrangements have been proposed.

#### **PROVISIONS OF THE DEVELOPMENT PLAN**

The subject land lies within the Township Zone (Map Baro/43) and Residential Policy Area 41 (Map Baro/68) of the authorised Development Plan, consolidated 14th October 2010.

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 were provided with the Agenda.

#### **CONSULTATION**

Agency reports have been received from the Development Assessment Commission, SA Water, and Transport Services.

Copies of the reports are contained in the application information provided with the Agenda.

Council's Manager of Engineering Services was also consulted.

#### **PUBLIC NOTIFICATION**

Because only 1 additional allotment is proposed, Clause 2(f) of Schedule 9 of the Development Regulations defines the proposal as a category 1 form of development for public notification purposes.

#### **PLANNING ASSESSMENT**

The purpose of the land division is to separate the Landmark business from the remainder of the land.

Although the Landmark business on lot 1 falls into the definition of a service trade premises, which is on the non-complying list, it does have existing rights to continue. It is reasonable to assume that the existing use of lot 1 is the intended future use of that allotment. The desired character for the policy area states that development will be primarily for residential purposes at low densities.

Although the proposal does not conform with the desired character statement, the division is necessary to enable the remainder of the land (ie lot 2) to be developed for residential purposes. The Desired Character Statement for the policy area also states that non-residential development will only occur where its operation, scale, design and appearance will not be detrimental to the amenity of surrounding residential land uses. While the use of lot 1 has already been established, it will nevertheless be prudent to ensure that the amenity of the future residential area on lot 2 is not detrimentally affected. There is potential for the Landmark business to be a nuisance to future nearby residences by way of dust from the landscape supplies loading areas and odour from the storage of creosote posts. This is best addressed in the later application to divide lot 2 by ensuring adequate separation between the business activities and the residential uses (Interface Between Land Uses principle 320)

Transport Services group has recommended deferring a decision until access arrangements for the future division of lot 2 have been resolved. Although this has occurred, there is no justification to defer a decision on this application for this reason alone. Access arrangements to the various parts of the land are not changing as a result of this land division.

It is a standard Council requirement to require additional allotments in towns serviced with the Community Wastewater Management Scheme to be connected. The Landmark business has been approved previously with an on-site effluent disposal system. There have been no reported problems with the system and the site is large enough to enable soakage areas or irrigation to be expanded if future problems occur. While it is desirable to have the Landmark site connected to the Community Wastewater Management Scheme, there are obvious economies of scale issues to design and install an extension just to service lots 1 and 2, and the advantages are doubtful.

When lot 2 is divided further, a Community Wastewater Management Scheme service will need to be installed to service that land division. That will take place after this land division and therefore the service will not be available until after this land division is finalised. It is not practical to require a Community Wastewater Management Scheme connection for lot 1 as part of the second land division, but the design of the Community Wastewater Management Scheme for the second division can be undertaken to make provision for such a connection.

### **CONCLUSION**

Although the creation of lot 1 is not for residential purposes and the allotment will not be connected to the Community Wastewater Management Scheme, it is concluded that those issues are relatively minor, and that the proposal is not seriously at variance with the provisions of the Development Plan, and warrants approval.

**DA/DAP/R8**

**D362/11(109901)**

### **MOUNT PLEASANT JOINT VENTURE PTY LTD – LAND DIVISION (50 ALLOTMENTS) - MERIT**

**MOVED** Mr Grocke that the Development Assessment Panel having considered all relevant assessment matters and the officer's report in relation to Development Application 960/362/2011 (960/D066/10), resolves as follows:

- (A) That the proposal is not seriously at variance with the relevant provisions of The Barossa Council Development Plan consolidated 14 October 2010 and;
- (B) Subject to no new issues being raised by government agencies that are not compatible with the following resolution;
- (C) That Development Plan Consent, Land Division Consent and Development Approval be granted to application 960/362/11 (960/D066/10) subject to the following conditions:

**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 to service each allotment, including:
  - roads,
  - water supply,
  - storm water drainage,
  - waste disposal (CWMS),
  - electricity, public lighting and communications

to the reasonable satisfaction of Council. (Note: This may include constructing drains outside of the site where existing drains are inadequate.)

Provision shall be made for a connection point to the Community Wastewater Management Scheme (CWMS) for lot 1 in 960/D065/10 and the existing house on lot 686 in FP 169625, Angas Valley Road.

- (3) The pavement of the proposed road (between lots 1 and 33) shall be extended to and join the existing pavement in Angas Valley Road.
- (4) During construction of infrastructure temporary debris and sediment control measures shall be installed to prevent debris and sediment from leaving the site during all construction stages. Control measures shall be in accordance with a soil erosion and drainage management plan, which shall provide such pollution prevention measures as required to comply with the "Environmental Protection Authority's Storm water 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.

- (5) Payment of Community Wastewater Management Scheme (CWMS) augmentation charges 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 reason 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:

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 \$225,000 is required (50 allotments @ \$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.

- (6) A reserve a minimum of 0.1 metre wide shall be created along the Fishers Road and Angas Valley Road.
- (7) Street name signs shall be supplied and installed as part of the development.

Note: This approval or consent does not include approval of street names. Suggested street names of a historical/Barossa nature should be supplied to Council for consideration to enable street names to be approved pursuant to the Local Government Act prior to the preparation of the final plan and issue of the Certificate of Approval.

- (8) A site contamination study be undertaken by an environmental auditor and/or environmental consultant endorsed by the Environment Protection Authority, and any contaminates be remediated in accordance with the consultant's/auditor's report prior to the issue of the Certificate of Approval.
- (9) The storm water detention basin shall be moved to the general area depicted in the Development Plan concept plan, and shall be located in a position sufficiently removed from existing trees to ensure that they do not require removal or are subject to root damage. Supplementary detention basins or devices shall be provided to control water exiting the site.
- (10) The treed portions of lots 28 to 31 inclusive shall be included in the buffer reserve.
- (11) The Walker Flat – Mount Pleasant Road/New Road junction shall be provided with a basic right-turn treatment (Type-BAR) and a basic left-turn treatment (Type-BAL) in accordance with the Austroads 'Guide to Road Design, Part 4A – Unsignalised and Signalised Intersections'.
- (12) The new road junction shall be designed and constructed to the satisfaction of Department of Planning Transport & Infrastructure. All costs associated with these works (including design, construction,



project management and roadside drainage) shall be borne by the developer. The applicant must contact DPTI's Senior Access Management Engineer, Metropolitan Region, Ms Catherine Magraith, Ph. (08) 8226 8325 for concept design approval, prior to undertaking any works.

- (13) The applicant shall seek approval from The Barossa Council to remove any necessary roadside vegetation to cater for the new road junction.
- (14) The final plan shall include a minimum 0.1m 'buffer' reserve along the New Road frontages of Lots 1 and 33, to prevent access in close proximity to the new junction.
- (15) No storm water from the division shall be permitted to discharge on-surface to Walker Flat – Mount Pleasant Road. Additionally, any existing drainage of Walker Flat – Mount Pleasant Road must be accommodated in the development and any alterations to road drainage infrastructure as a result of this development shall be at the expense of the applicant.

### **Conditions of Land Division Consent**

- (1) Drainage easements be provided across the rear of lots 19 to 27, along the Angas Valley Road frontage of lots 32, 1, and 4 to 12 inclusive, and elsewhere wherever necessary to provide for drainage of the allotments and roads.

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) The road reserve between lots 1 and 33 shall have a minimum width of 20 metres, and other road reserves shall have a minimum width of 15 metres.
- (3) 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, approved guidelines, Council land division guidelines and Australian Road Rules. 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 (48 hours in advance) for attendance.
  - b. The Specification shall require the contractor to implement an inspection and testing program to ensure conformity of the works with the Specification. All test results shall be provided

- to Council and approved prior to a Certificate of Practical Completion being issued.
- c. All allotments shall be filled or otherwise graded to ensure that surface water can be directed to the street water table or a storm water drain in an easement to Council.
  - d. The dam as indicated on the application plans shall be removed to facilitate the intended road layout.
  - e. 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.
  - f. Defects Liability Period for the development will be 12 months from the Council's written acceptance of Practical Completion.
  - g. Geotechnical testing shall be undertaken and appropriate road pavement design shall be prepared. All pavement design calculations shall be provided with the drawings for approval.
  - h. Minimum road grades shall be 0.5% and maximum road grades shall be 15% unless otherwise approved.
  - i. Road pavements shall have a minimum width of 7 metres.
  - j. 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.
  - k. The road pavement (and kerb) shall be extended to connect with the pavement of Angas Valley Road.
  - l. No vehicle access/egress to allotment is to be provided within (10) metres of the intersecting roads. (This is pursuant to Australian Road Rules 1999, Rule 170(3)(a)).
  - m. The road verge shall be topped up with 100mm of clean topsoil with a minimum grade of 75mm from the boundary to the top of kerb.
  - n. The road verge on both sides of the carriageway shall be shaped to provide a minimum width of 3.0 metres adjacent the kerb, with a 2.5% grade towards the road top of kerb and be graded uniformly to be suitable for pedestrian traffic. Batters into allotments are to be no steeper than 1 in 6.
  - o. All necessary signs, road name signs, traffic control devices and pavement markings shall be provided in accordance with AS1742. All required statutory approvals shall be obtained from Transport SA for traffic control devices.
  - p. Adequate measures shall be implemented to suppress dust generated during site works to ensure that dust generation does not become a nuisance off-site. Machinery should not generally be operated outside the hours of 7am to 6pm daily.
  - q. 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 reserves and non-residential properties.

- r. Kerb openings for the disposal of storm water shall be provided for each allotment that drains to the road.
  - s. "As Constructed" drawings shall be provided to Council in hardcopy and electronically in "dwg" or "dxf" format.
- (4) Concrete block paved footpaths of 1.8m 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 2.5%. Pedestrian pram ramp accesses, including tactile ground surface indicators, are to be provided in accordance with Australian Standards AS1428.
- (5) A storm water drainage system shall be constructed and installed in accordance with a Storm Water 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 Storm Water 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 storm water design calculations justifying the Storm Water Management Plan shall be provided.
  - b The Storm Water Management Plan shall consider ultimate development of all catchment areas contributing to runoff over or through the land division.
  - c Storm water detention and /or retention systems shall be incorporated to manage discharge from the site to achieve the following objectives:
    - Storm peak rates of runoff from up to 100 years Average Recurrence Interval (ARI) post development shall be managed by detention systems:
      - to be consistent with the downstream road culvert and drainage infrastructure capacities and
      - to not increase the flood risk to properties
    - Frequent storm flows, up to 2 year ARI, from the post development site shall be managed by retention systems to protect the existing downstream water course environment from the impact of the increase in flow frequency created by the introduction of impervious areas.
  - d Any storm water detention basin shall be incorporated into a drainage reserve, and shall maintenance access to and around the basin.
  - e Storm water 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.
  - f Where a lot grades away from a roadway, back of allotment drainage shall be provided.
  - g Pollution control devices shall be incorporated within the development to provide for the removal of storm water borne

- pollutants, consistent with current best practice and EPA requirements.
- h The Storm water Management Plan shall include existing contours, features, existing storm water infrastructure, proposed site works details, levels and grading, proposed storm water 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.
  - i The drainage system shall be designed making provision for future development (buildings and paved areas) covering up to 60% of allotment areas. 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 storm water 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 Any direct connection of the storm water drainage system to a watercourse shall incorporate scour protection measures and shall not obstruct flows in the watercourse.
  - m "As Constructed" drawings shall be provided to Council in hardcopy and electronically in "dwg" or "dxf" format.
- (6) Underground electrical power be provided to each allotment in accordance with a design approved by SA Power Networks and Council.
- (7) The existing overhead power lines located within the site shall be relocated and placed underground in accordance with a design approved by SA Power Networks. A suitable alternative power supply shall be made available to the existing dwelling on lot 686 in FP 169625, Angas Valley Road.
- (8) 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"
- (9) 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.
- (10) 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.

- (11) An area comprising a minimum of 12.5% of the site area shall be vested in the council as open space. The open space shall be in the general vicinity of lot 51 and shall include the treed area and exclude areas for other purposes such as storm water detention basins; CWMS pump stations and electricity transformers.
- (12) The financial requirements of the SA Water Corporation shall be met for the provision of water supply. (SA Water 9156/10)

The necessary easements shall be granted to the SA Water Corporation free of cost.

- (13) 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

- The Walker Flat-Mt Pleasant Road has been renamed Angas Valley Road and Mount Pleasant Road-Keyneton Road has been renamed Eden Valley Road.
- Development Plan Consent Conditions 11 to 15 inclusive have been attached to the consent at the direction of the Commissioner of Highways.
- Land Division Conditions 1 to 11 inclusive are the requirements of Council and conditions 12 and 13 are the requirements of the Development Assessment Commission.
- All internal water and sewerage piping, and other services that cross the proposed new allotment boundaries should be severed and/or redirected at the developer's cost to ensure that services related to each allotment are contained within its boundaries.
- 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.

- 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.
- For further information regarding this approval and the conditions of approval please contact the relevant officer below:

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

**Seconded Mrs Roehr**

**CARRIED**

<b>DEVELOPMENT APPLICATION NO:</b>	960/362/11 (960/D066/10) (Prop ID 109901)
<b>APPLICANT:</b>	Mount Pleasant Joint Venture Pty Ltd
<b>OWNER:</b>	Dunbar Pty Ltd
<b>SUBJECT LAND:</b>	Lot 685 in FP 169624, 3211 Eden Valley Road, Mount Pleasant (Lot 2 in 960/D065/10)
<b>PROPOSAL:</b>	Land Division (50 Allotments)
<b>ZONE/POLICY AREA:</b>	Township Zone (Map Baro/43), Residential Policy Area 41 (Map Baro/68)
<b>PROCEDURE:</b>	Merit
<b>REFERRALS:</b>	Development Assessment Commission, SA Water, Department of Planning, Transport and Infrastructure: Transport Services, Renewal SA, SA Power Networks, Environment Protection Authority, SA Health
<b>PUBLIC NOTICE:</b>	Category 1
<b>KEY ISSUES:</b>	Buffers, trees, reserve, soil contamination study, drainage swales
<b>DEVELOPMENT PLAN PROVISIONS:</b>	Refer <u>Attachment 3</u> for extracts on the subjects of: <ul style="list-style-type: none"> <li>• Form of Development</li> <li>• Open Space and Recreation</li> <li>• Utilities and Infrastructure</li> <li>• Traffic and Transportation</li> <li>• Residential Development</li> <li>• Vegetation and Soils</li> <li>• Waste and Pollution Management</li> <li>• Interface Between Land Uses</li> <li>• Land Division</li> <li>• Township Zone</li> </ul>
<b>CONSOLIDATION DATE:</b> 14 October 2010	
<b>RESOLUTION:</b>	Approval subject to conditions

OFFICER:	Louis Monteduro
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**SUBJECT LAND AND LOCALITY**

The subject land comprises a single allotment (lot 2 in 960/D065/10) 22.28 hectares in an area on the northern edge of the Mount Pleasant township. It has frontages to Eden Valley Road and Angas Valley Road and adjoins an existing cemetery and 'Landmark' agricultural supply business.

Surrounding land to the north and east is used for farming purposes and land to the west on the opposite side of the Eden Valley Road is used for rural living purposes but includes a transport depot and church. The land to the south, on the opposite side of Angas Valley Road is generally rural but includes a rural living allotment on the corner of Chibnalls Road and residential ribbon development fronting Melrose Street. (All land on the south side of Angas Valley Road is zoned as either Township or Deferred Urban.)

Currently the subject land is used for grazing purposes. There are no buildings on the land and it generally slopes towards both the Eden Valley Road and the adjoining rural land on the northern boundary. Shallow drainage lines exist originating within the land flowing towards the northern boundary and through a significantly treed area. Land fronting Eden Valley Road is well treed with large gum trees with little understory. This treed area adds significantly to the character of the locality.

**DESCRIPTION OF THE PROPOSED DEVELOPMENT**

It is proposed to divide the land into 50 allotments ranging in area from 1056m<sup>2</sup> to 5017m<sup>2</sup>. The majority of lots are 4000m<sup>2</sup> or larger, with some being smaller between 3000m<sup>2</sup> and 3999m<sup>2</sup>, and some below 3000m<sup>2</sup>.

The proposal under consideration is an amendment to the original application which proposed smaller sized allotments. The layout has remained essentially similar incorporating a simple road circuit with a single entry point off Angas Valley Road. The entry link road will be 20m wide and the internal circuit is intended to be 15m wide.

Most of the treed area has been incorporated into a reserve, but a portion of this is located across the rear of proposed lots 28 to 31. It is intended to locate a storm water detention basin in the reserve.

**PROVISIONS OF THE DEVELOPMENT PLAN**

Provisions of the Development Plan relevant to the proposal were provided with the Agenda.

The subject land lies within the Township Zone (Map Baro/43) and Residential Policy Area 41 (Map Baro/68) of the authorised Development Plan, consolidated 14th October 2010.

The nature of development "Land Division" is a merit form of development that is consistent with the objective for the zone and therefore public notification is not required.

**CONSULTATION**

Required agency reports have been received from the:

- Development Assessment Commission
- SA Water
- Department of Planning, Transport and Infrastructure: Transport Services
- Renewal SA (Affordable Housing)
- SA Power Networks
- Environment Protection Authority
- SA Health

Amendments to lot sizes (making them larger) were recently lodged and the Development Assessment Commission has distributed the amendment to selected agencies only as it anticipates limited impacts would arise from the most recent variation.

Copies of current agency reports are contained in the application information in Attachment 2 and any further response it anticipated to be minor. While the Development Assessment Commission and Department of Planning Transport & Infrastructure, Transport Services are yet to provide their report on the most recent amendments the applicant has had discussions with these agencies and the amended application does not appear to substantially affect the originally referred concept plan in terms of its form and is not expected to raise any new concerns. Therefore it has been suggested that resolution for approval should be made subject to no additional issues being raised.

Council's Manager Engineering Services was also consulted and conditions for approval have been developed as a result of this consultation.

### **PUBLIC NOTIFICATION**

The proposal was categorised as a category 1 form of development for public notification purposes. This exempts the application from public consultation as the zone strategically anticipates land division of residential forms of development and contains policies that promote it.

### **PLANNING ASSESSMENT**

The subject land and nearby localities were zoned 'Township' as a result of a recent Development Plan Amendment process (arising from designation in the 30 Year Plan for Greater Adelaide).

The proposal is generally consistent with the objectives of the Township Zone and more specifically Policy Area 41 which relates to the subject land as set out below.

#### ***Township Zone***

*Objective 2: Residential development consistent with maintaining a small country township character.*

*Objective 5: Development that contributes to the desired character of the zone.*

#### ***Policy Area 41***

*Objective 1: A policy area primarily for low-density residential development.*

*Objective 3: Development that contributes to the desired character of the policy area.*

The proposal is also consistent with the Character Statements for the zone which prescribe the following:

*"Dwellings within the township are of a relatively low density typical of country settlements. It is expected that development will maintain the overall low scale, low density character with dwellings principally limited to single storey form, although two storey dwellings incorporating a floor level within the roof space may be appropriate. Development will reflect the prevailing generous front, side and rear boundary setbacks.*

*The township of Mount Pleasant is currently linear in form. While infill development within the existing township boundary is encouraged, the desire to maintain the low density character of Mount Pleasant requires additional land to meet the demands of future populations.*

*It is expected that development will be primarily for residential purposes at low densities consistent with the maintenance of a small country township character.*

*The predominant form of housing will be single storey detached dwellings at low densities..."*

#### **Traffic and Access**

For adjoining major arterial roads a consultant traffic impact statement has been examined by the Transport Services Group of Department of Planning Transport & Infrastructure and the Commissioner of Highways has imposed conditions of consent. The conditions are referred to in the agency report are based on a different plan and lot numbers however, this has been converted to the numbering sequence in the latest amended plan and conditioned accordingly.

With respect to local road development, there are no particular issues with the proposed layout. Grass swales in lieu of conventional kerb and guttering are proposed which potentially contribute to



character and environmental sustainability. However, council's Works and Engineering Department advise that grass swales with their attendant culvert entrance ways are difficult and expensive to maintain in a township environment. Further division of the proposed allotments in the future may intensify this and create an expectation that Council retrofit kerb and gutters at some future time. The currently proposed 15 metre wide road reserve may not adequately accommodate a road pavement, a graded hardstand either side, and a grassed swale and standard verge on each side of the road. Consequently roll-over kerbing has been conditioned and alternative design features could be used to achieve storm water quality objectives in more conventional ways. Notwithstanding, alternative environmental swale drainage options could also be explored subject to appropriate engineering outcomes and conditions during subsequent technical design phases of development.

#### Community Wastewater Management Scheme

SA Health advised allotments should be connected to the Community Wastewater Management Scheme. This is also implied in the Environment Protection Authority response, recommending refusal because Mount Pleasant did not have capacity (at the time of referral) to receive additional effluent from this or other land divisions.

However, an upgrade to the community wastewater management scheme treatment facilities has now been designed and approved. Funds have been allocated in the council's budget, and tenders for the works prepared, committing council to the upgrade. Therefore the recommendation to refuse the proposal has been superseded and standard conditions regarding wastewater management connections and augmentation charges can be applied.

#### Power Supply

SA Power Networks have advised of an 11Kv line through the land will require the line to be relocated and placed underground. A condition has been attached requiring that the power supply distribution system in the land division be underground.

#### Affordable Housing

Consistent with council's Development Plan requirements, the plan of division indicates allotments (comprising 15%) will be allocated for affordable housing purposes. There is a subsequent requirement for the developer to enter into arrangements with the Minister for Housing and Urban Development in respect to provision of any affordable housing.

#### Removal of Dam

This is required as the road will extend through the dam. It has been addressed with a condition of consent to enable it to be checked as part of the subsequent examination and approval of the detailed engineering drawings prior to Section 51 clearance under the Development Act.

#### Vegetation Buffer

Attachment 3 contains a concept plan from council's Development Plan which depicts a vegetation buffer around the perimeter of the site, comprising perimeter buffers and a deeper buffer incorporating the existing treed area adjacent Eden Valley Road. The need for the perimeter buffers has been reviewed, considered to be of limited purpose, and have not required (as reserves there is a practical maintenance liability) for either private or public ownership presenting administrative and enforcement difficulties.

Zone policy area provisions states that the purpose of the buffer is to provide an "appropriate buffer to existing non-residential development" and implies residential land should not abut the Landmark site) and the rural land to the north. However, existing roads create a buffer / separation and the Landmark site is also zoned residential. There are consequently limited or short term benefits from implementing this section of the concept plan buffer.

However, it appears more necessary to retain the buffer adjacent Eden Valley Road as the existing treed area is referred to in the zone character statement and serves as a useful visual barrier and recreation area. It is desirable that this area becomes a reserve, to retain existing trees and to enable the area to be used as public open space, portion of which is currently within proposed lots 28- 31. This will be conditioned accordingly, as it is desirable to also incorporate substantial trees in a reserve to ensure that they are not removed by future owners. Land division principle 330 states that native vegetation should not be fragmented and a number of council-wide natural resources principles are also supportive of the retaining native vegetation.

Open Space Requirement

Council may require, as part of the land division consent, pursuant to Section 33(1) (c) (ii) and 50(1) of the Development Act, either up to 12.5% of the land for public open space or payment in lieu. As inferred in the buffer discussion above conditions of consent can also require additional land (justified by related provisions of the Development Plan.)

A condition has been recommended to ensure a practical minimum of least 12.5% be vested as reserve, excluding areas used for detention basin, wastewater services, power transformers, access facilities, and other reserve spaces not suitable for public open space.

Soil Contamination

The Development Plan Amendment that rezoned the land made reference to a Site Contamination Study and concluded that the issue had been satisfactorily addressed and the Environment Protection Authority in its submission quoted from the study to highlight:

- The potential for gross or significant soil contamination as a result of grazing/farming is considered to be low
- There are some areas of earthworks, hardware supplies, stockyards and building footprints that may need some minor assessment works to be conducted during the development application stage
- There is also reference to a former blacksmith premises

The Environment Protection Authority then indicated they are satisfied that development control principle 310 would be sufficient to address contamination concerns. Therefore, it has been recommended a condition be attached to the consent requiring a study to identify any other site contamination that may require remediation.

**OTHER BUSINESS****APPOINTMENTS TO DEVELOPMENT ASSESSMENT PANEL FOR 2014**

Mr Baldwin provided an update to the Panel regarding appointments to Council's Development Assessment Panel commencing December 2013 through to November 2014.

Current appointments to the Panel were made in November 2012 for a period of twelve months in the knowledge of discussions being held with Light Regional Council regarding a possible formation of a Regional Development Assessment Panel. Light Regional Council have recently advised that they will not be pursuing the proposal but may reconsider following the periodic Local Government elections, to be held in November 2014.

Mr Baldwin advised that he had sought and received confirmation from all current Panel Members regarding availability for re-appointment for a further twelve months. With the exception of Mr Grocke, all Panel Members had indicated their agreement for re-appointment, should Council wish to do so.

A Report will be presented to the 19 November 2013 Council Meeting recommending re-appointment for a period of twelve months (in line with periodic Local Government elections), and also includes an Expression of Interest received from Dr Susan Shannon, for the position vacated by Mr Grocke.

**CHARACTER PRESERVATION (BAROSSA VALLEY) ACT 2012**

Mr Ballantyne has requested that copies of the Character Preservation (Barossa Valley) Act 2012 be made available, and a briefing be provided to Panel Members in relation to the possible impact of the legislation.

Mr Baldwin advised that the request will be facilitated at the December 2013 Panel Meeting.

**CONFIDENTIAL AGENDA****CO/DAP/10.1****PLANNING APPEAL – SALVATORE DE PALMA v BAROSSA COUNCIL –  
BOUNDARY RE-ALIGNMENT, SANDY CREEK (960/466/2013) 6.21PM**

**MOVED** Mr Miller that:

- (1) Pursuant to subsections 56A(12)(a)(viii) and 56A(12)(a)(ix) of the Development Act 1993 the Development Assessment Panel orders that the public be excluded from the meeting with the exception of the Director-Development & Environmental Services, Senior Manager-Planning Services, Principal Planner, Planners and the Minute Secretary, on the basis that it will consider legal advice and information which relates to actual litigation, being ERD Court appeal 201 of 2013.
- (2) Accordingly, on this basis, the Development Assessment Panel is satisfied that the principle that meetings of the Development Assessment Panel should be conducted in a place open to the public has been outweighed by the need to keep the information and discussion confidential.

**Seconded** Mr Hughes

**CARRIED**

**RESUMPTION OF OPEN DEVELOPMENT ASSESSMENT PANEL MEETING –  
6.29 PM**

In the matter CO/DAP/10.1:

**PLANNING APPEAL – SALVATORE DE PALMA v BAROSSA COUNCIL –  
BOUNDARY RE-ALIGNMENT, SANDY CREEK (960/466/2013)**

**MOVED** Mr Goldstone that the Development Assessment Panel has considered all relevant assessment matters, legal advice and the Appellant's submission in relation to Development Application 960/466/2013 and resolves as follows:

- (1) That the Development Assessment Panel proceed to appeal on the basis of the original reasons for refusal.
- 2) The Barossa Council Development Assessment Panel having considered this matter in confidence under subsections 56A (12)(a)(viii) and 56A(12)(a)(ix) of the Development Act 1993 makes an order pursuant to Section 56A(16) of the Act that the report and associated documents and minutes of the Confidential DAP Meeting held on 12 November 2013 in relation to Confidential Item CO/DAP/10.1 titled Planning Appeal – Salvatore De Palma v Barossa Council – Boundary Re-alignment, Sandy Creek

(960/446/2013), other than the minutes recording the decision of the Development Assessment Panel on this item and recording this confidentiality order, be kept confidential and not available for public inspection until the appeal has been finalised.

- 3) The Development Assessment Panel would support the appointment of an agronomist to assist with the presentation of Council's case with the appeal.

**Seconded** Mr Grocke

**CARRIED**

**NEXT MEETING**

Tuesday, 3 December 2013 commencing at 5.00pm.

**CLOSURE OF MEETING**

Mr Ballantyne declared the meeting closed at 6.31pm.

Confirmed

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