



## **DEVELOPMENT ASSESSMENT PANEL**

**Notice of The Barossa Council Development Assessment Panel meeting to be held at the Council Offices, 43-51 Tanunda Road, Nuriootpa on Tuesday, 2 September 2014, commencing at 5:00pm**

Martin McCarthy  
CHIEF EXECUTIVE OFFICER  
THE BAROSSA COUNCIL

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# A G E N D A

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- 1. WELCOME**
  
- 2. PRESENT**
  
- 3. APOLOGIES**
  
- 4. CONFIRMATION OF MINUTES**

Development Assessment Panel meeting held on 5 August 2014.

**5. BUSINESS ARISING FROM MINUTES**

**6. DECLARATION OF INTEREST BY MEMBERS OF PANEL**

**7. VISITORS TO THE MEETING**

Nil.

**8. APPLICATIONS FOR DECISION**

|           |               |                        |  |
|-----------|---------------|------------------------|--|
| DA/DAP/R1 | 960/287/2014  | OTR Pty Ltd            | 10 Metre Free-Standing Pylon Sign (Merit)  |
| DA/DAP/R2 | 960/312/2014  | JBG Architects         | Motel, Swimming Pool, Retaining Walls, Pergolas and Cellars (Non-Complying)  |
| DA/DAP/R3 | 960/1049/2013 | JBG Architects         | Construction of a Detached Dwelling (Non-Complying)  |
| DA/DAP/R4 | 960/574/2013  | Maverick Wines Pty Ltd | Additions to Existing Winery Including construction of a New Barrel Storage, Finished Goods Storage and Cellar Door Sales Building, 2 x Rainwater Tanks and Associated Car Parking (Merit) |

|           |               |   |  |
|-----------|---------------|---|--|
| DA/DAP/R5 | 960/155/2014  | Construction Services Australia Pty Ltd | Demolition of Dwelling and Construction of a New Detached Dwelling (Non-Complying) |
| DA/DAP/R6 | 960/1142/2013 | C Sims & A Egyud                        | Detached Dwelling, Outbuilding and Deck (Non-Complying)                            |

## 9. OTHER BUSINESS

|     |   |
|-----|---|
| 9.1 | Development Assessment Commission Concurrence Applications  |
| 9.2 | Withdrawal of Development Application 960/940/2013 and Update on Development Application 960/574/2013 |

## 10. CONFIDENTIAL AGENDA

Nil.

## 11. NEXT MEETING

7 October 2014 commencing at 5.00pm

## 12. CLOSE OF MEETING

## **PLEASE NOTE**

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

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

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

## DEVELOPMENT ASSESSMENT PANEL

2 SEPTEMBER 2014

### DEBATE AGENDA

DA/DAP/R1

|  |  |
|--|--|
| <b>DEVELOPMENT APPLICATION NO:</b>             | 960/287/2014 (Prop ID 113537)  |
| <b>APPLICANT:</b>                              | On The Run (OTR) 155 Pty Ltd   |
| <b>OWNER:</b>                                  | On The Run (OTR) 155 Pty Ltd   |
| <b>SUBJECT LAND:</b>                           | 11 Tanunda Road, Nuriootpa   |
| <b>PROPOSAL:</b>                               | 8 Metre Free-standing Pylon Sign (Signage)   |
| <b>ZONE/POLICY AREA:</b>                       | Commercial   |
| <b>PROCEDURE:</b>                              | Merit  |
| <b>REFERRALS:</b>                              | Nil  |
| <b>PUBLIC NOTICE:</b>                          | Category 3 – No Representations  |
| <b>KEY ISSUES:</b>                             | Construction of a 8 metre sign which is considered to be out of character for the locality |
| <b>DEVELOPMENT PLAN PROVISIONS:</b>            | Commercial Zone Objectives 2 and 3. Principle of Development Control 5.                    |
| <b>CONSOLIDATION DATE:</b><br>21 February 2013 | Council Wide Advertising Objective 3. Principles of Development Control 1 and 15.          |
| <b>RECOMMENDATION:</b>                         | Refusal  |
| <b>OFFICER:</b>                                | Karen Mitrovic   |

### SUBJECT LAND AND LOCALITY

The subject land has a frontage to Tanunda Road, located within the Commercial Zone in the township of Nuriootpa. The subject land has an area of 1564.92 square metres, with a frontage to Tanunda Road of approximately 26.88 metres.

The subject land is currently used as a fast food restaurant, Hungry Jacks. Development Plan Consent issued on the 7 July 2014, for the erection of a 6 metre high pylon sign displaying the same advertisements as the proposed development. This development is yet to receive full Development Approval.

The adjoining allotment, an existing Service Station, currently contains a 7 metre high pylon sign and has recently received planning consent for a replacement pylon sign at 7.9 metres in height, in order to allow for additional tenant advertising.

A locality plan forms Attachment 1.

Details of the application form Attachment 2.

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

The applicant seeks Development Plan Consent to construct an 8 metre high sign in front of the existing fast food restaurant. The original proposal was for the construction of a 10 metre high sign, however the Applicant has since reduced the overall height of the sign.

Should the proposed 8 metre high sign receive Development Plan Consent and Development Approval, it will be erected instead of the 6 metre high sign which has received Development Plan Consent. Since the operation of the site as a "Hungry Jacks" the 6 metre pylon sign advertising "Red Rooster" has been removed.

#### **REFERRALS**

No referrals are required under Schedule 8 of the Development Regulations, 2008.

#### **PUBLIC NOTIFICATION**

The application has been determined to be a Category 3 form of development pursuant to Schedule 9 of the Development Regulations, and is classified as a merit development under the relevant Development Plan.

Adjacent land owners and directly affected persons were notified in writing, and an advertisement was also placed in the local newspaper. No representations were received in relation to the proposal.

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

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

The relevant Zone and Council Wide Objectives and Principle of Development Controls (PDCs) are listed below.

#### **COMMERCIAL ZONE**

##### **OBJECTIVES**

*Objective 2: Development that minimises any adverse impacts upon the amenity of the locality located within the zone and adjacent Residential Zone.*

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

## **PRINCIPLES OF DEVELOPMENT CONTROL**

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

### **Council Wide – Advertising**

#### **OBJECTIVES**

- Objective 3: Advertisements and/or advertising hoardings designed to enhance the appearance of the building and locality.*

## **PRINCIPLES OF DEVELOPMENT CONTROL**

1. *The location, siting, design, materials, size, and shape of advertisements and/or advertising hoardings should be:*

*consistent with the predominant character of the urban or rural landscape.*

- 15 *Free standing advertisements and/or advertising hoardings should be:*

*Of a scale and size in keeping with the desired character of the locality and compatible with the development on the site.*

#### **PLANNING ASSESSMENT**

The proposed signage is not consistent with Objectives 2 and 3, and Principle of Development Control 5 of the Commercial Zone, as it does not contribute to, and is not consistent with the desired character of the zone. It is considered that the construction of an 8 metre high sign to advertise a single land use would negatively affect the amenity of the locality. The desired character of the zone encourages signage that will be of ‘a high quality of design and appropriately sited to complement the zone’s gateway significance’. The size of the proposed sign will result in a structure which is larger than the existing building on site, being located in an exposed area. Although being located in the Commercial Zone, taller elements are not common place in the locality. It is considered that an 8 metre high pylon size would not complement the zone’s gateway significance as it will be markedly taller than existing structures in the locality.

The proposal is at odds with Principle of Development Control 1 within the Council Wide – Advertisements section of the Development Plan, which states that “the location, siting, design, materials, size, and shape of advertisements and/or advertising hoardings should be consistent with the predominant character of the urban or rural landscape”. Although signage is common within the Commercial Zone, the height of the proposal is greater than all other structures in the locality. A single, 7 metre high, pylon sign is currently located on the adjoining service station site. An application for a replacement 7.9 metre high sign in the same location has recently received Development Plan Consent. This sign was approved in order to allow for the advertisement of multiple tenancies within the existing building on the site, as an alternative to each tenant having their own single sign on the property. In addition this site has very wide frontages, being a corner allotment, which results in the sign being more appropriately sited and scaled to suit the site.

Principle of Development Control 15 within the Council Wide – Advertisements section of the Development Plan states that “free standing advertising should be of a scale and size in keeping with the desired character of the locality and compatible with the development on the site”. The existing building on the site is approximately 5.7 metres in height at its highest point. It is considered that the construction of a sign at 8 metres in height will not be compatible with the existing development on the site or in the locality.

Given the long site distances from the subject land, and lack of taller elements in the locality, it is considered that the 6 metre high sign which has received Development Plan Consent on the site will allow for clear visibility of the advertisement and be more compatible with the development on the site and the locality in general.

#### **CONCLUSION**

The proposed development will result in the construction of a sign which is at variance with the Objectives and Principles of the Development Plan. The construction of an 8 metre high sign on the site will be at variance with the desired character of the Nuriootpa Commercial Zone, which seeks signage that will be of a high quality of design and appropriately scaled and sited to complement the zone's gateway significance.

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.

#### **RECOMMENDATION:**

That the Development Assessment Panel has considered all relevant assessment matters and the officer's report in relation to Development Application 960/287/2014 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 Development Plan Consent be refused for the development comprised in Development Application 960/287/2014 for the following reasons:
  - (1) The proposal is at odds with Objectives 2 and 3 and Principle of Development Control 5 of the Commercial Zone, as it does not contribute to, and is not consistent with the desired character and amenity of the locality within the zone.
  - (2) The proposed development is at variance with Objective 3 and Principle of Development Controls 1 and 15 of the Council Wide – Advertisement section, as the signage will negatively impact upon the locality due to its size and scale.

**DEVELOPMENT ASSESSMENT PANEL****2 SEPTEMBER 2014****DEBATE AGENDA****DA/DAP/R2**

|   |  |
|---|--|
| <b>DEVELOPMENT APPLICATION NO:</b>  | 960/312/2014 (Prop ID 109136)  |
| <b>APPLICANT:</b>   | JBG Architects Pty Ltd   |
| <b>OWNER:</b>   | M Frater   |
| <b>SUBJECT LAND:</b>  | 1929 Barossa Valley Way, Rowland Flat (Lot 22)   |
| <b>PROPOSAL:</b>  | Motel, Swimming Pool, Retaining Walls, Pergolas and Cellars  |
| <b>ZONE/POLICY AREA:</b>  | Primary Production (Barossa Valley Region) Zone and Character Preservation District (Map Baro/23)<br>Medium Bushfire Risk (BPA Map Baro/8)   |
| <b>PROCEDURE:</b>   | Non-Complying  |
| <b>REFERRALS:</b>   | Nil  |
| <b>PUBLIC NOTICE:</b>   | Category 3 – 3 Representations   |
| <b>KEY ISSUES:</b>  | Potential Land Use Conflicts, Bushfire Protection  |
| <b>DEVELOPMENT PLAN PROVISIONS:</b><br><br><b>CONSOLIDATION DATE:</b><br>21 February 2013 | Refer <u>Attachment 3</u> for extracts from: <ul style="list-style-type: none"> <li>• Advertisements</li> <li>• Design &amp; Appearance</li> <li>• Hazards</li> <li>• Heritage Places</li> <li>• Interface between Land Uses</li> <li>• Orderly &amp; sustainable Development</li> <li>• Siting &amp; Visibility</li> <li>• Tourism Development</li> <li>• Transportation &amp; Access</li> <li>• Waste</li> <li>• Character Preservation District Overlay</li> <li>• Primary Production (Barossa Valley Region) Zone</li> <li>• Minister's Code –Undertaking Development in a Bushfire Protection Area</li> </ul> |
| <b>RECOMMENDATION:</b>  | Grant Development Plan Consent and Seek Concurrence of the Development Assessment Commission   |
| <b>OFFICER:</b>   | Brian Irvine   |

### **SUBJECT LAND AND LOCALITY**

The subject land comprises a single allotment contained in Certificate of Title Volume 5179 Folio 672, described as Allotment 22 in Deposited Plan 38082, situated at 1929 Barossa Valley Way Rowland Flat. There are no easements, rights of way or encumbrances over the land, although the land does have a right of way over a strip of neighbouring land on the southern side.

The subject land is situated opposite the Orlando Winery at Rowland Flat and runs between the Barossa Valley Way and the North Para River.

The site is roughly regular in shape, except for the north-eastern corner where 2 residential lots have been cut out in the past, and along the river boundary which is irregular. The land is approximately 325 metres long, 80 metres wide and 2.3 hectares in area. The land has an older house and sheds listed on the local heritage list and a small vineyard, as well as vacant and treed areas. The area adjacent to the river is flood prone and is lined with mature gum trees in a parkland setting. The land has a moderate slope from the road to the river.

The land on the opposite side of the road is used as a large winery and is industrial in nature. However, the winery is effectively screened from public view by residential style buildings and vegetation. The land to the south of the subject land is used as a car park and effluent treatment and stormwater detention in association with the winery. Again it is effectively screened from view, although noise from the car park can sometimes be heard. The land to the north is used as a commercial vineyard. The land on the other side of the river has remnant vegetation and appears to act as a buffer to quarrying operation further away. A number of houses are located along the road.

The abundance of mature trees, houses, and rural land uses collectively create a pleasant character that is typical of a small rural settlement.

A locality plan is included at *Attachment 1*.

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

Approval has previously been granted to convert the existing locally listed heritage dwelling to Bed and Breakfast Accommodation for up to 5 guests. That application involved 3 guest bedrooms and a manager's suite. It also retained a kitchen in the original building.

The current application seeks to re-designate the manager's suite as a guest suite, re-designate the previous kitchen as a "den" (assumed to be a common living room) and build extensions comprising:

- A 3 level extension attached to the northern corner of the existing building comprising of a basement, a reception area, kitchen and dining area on the ground floor level, and 2 additional guest suites on the first floor level.
- Revised driveway with 8 car parking spaces and a disabled car parking space
- A swimming pool and deck
- A pergola over a BBQ and outside eating area
- A terraced area over a small barrel store, salt room and sauna
- General landscaping and stairs.

The site plan (plan number A000) makes reference to a new 6m x 6m colorbond shed, and an events area (area 18). No further details have been provided and verbal advice has been received that they are not intended to be part of the application.

Overall, the proposed development will result in a total of 6 guest suites on the land. As more than 5 guests or travelers are involved, the premises becomes a motel as defined in the Development Regulations.

The new building will have a footprint of approximately 150m<sup>2</sup>. It is located on the right hand side and to the rear of the existing building when viewed from the road. Although it will be visible from the Barossa Valley Way with an appearance of a two storey structure, its large set-back from the road (approximately 130 metres) and its coordinated building style results in the additions being relatively inconspicuous.

The building extension is approximately 40 metres from the property boundary of the neighbouring vineyard to the north. The formal garden, new landscaping and other improvements are located on the southern side of the allotment behind the existing house, and is separated from the neighbouring vineyard by a small vineyard on the subject site.

The swimming pool and other structures are associated with the motel use of the land. Both the main building and the terraced area over the barrel store are well clear of the flood prone land adjacent to the river.

The propose plans and application documentation are included at Attachment 2.

#### **NATURE OF DEVELOPMENT**

The nature of development has been determined to include a 'motel' which is a non-complying form of development.

Schedule 1 of the Development Regulations 2008 defines a motel as *"a building or group of buildings providing temporary accommodation for more than 5 travellers, and includes an associated restaurant facility, but does not include a hotel or residential flat building."*

(In The Strath Hub P/L vs Alexandrina Council (ERD 80/06), the Court held that the proposal was a motel notwithstanding the fact that it did not include a restaurant.)

In the Primary Production (Barossa Valley Region) Zone all forms of development are non-complying except for a list of exemptions. A motel or other forms of tourist accommodation are not listed, (except for a limited extension to a motel existing in 1990, or bed and breakfast in a building existing in 1990 or limited expansion of a bed and breakfast in existence in 1990). The proposal does not conform with any of the exemptions and is therefore non-complying.

#### **AGENCY CONSULTATION**

No agency consultation was required.

#### **PUBLIC NOTIFICATION**

The application has been publicly notified as a Category 3 Development pursuant to Section 38 of the Development Act 1993.

Three representations were received. A copy of the representations and response from the applicant are included in Attachment 2.

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

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

The relevant Zone and Council Wide provisions of the Development Plan are included in Attachment 3.

#### **PLANNING ASSESSMENT**

##### Land Use/Form of Development/Character

Although the proposed development is non-complying and therefore could be considered inappropriate by virtue of zone principle 2, there are a number of references that speak favourably to tourist accommodation in the zone, namely objective 5, and principles 1 and 19. Similarly there is a reference to limited non-agricultural development in the Desired Character Statement. Although these provisions identify restricted circumstances for tourist accommodation, they also indicate that tourist accommodation is envisaged in appropriate circumstances notwithstanding the fact that it is non-complying. A decision was therefore made to proceed with the assessment of the application and present it to the Panel for a decision.

Although the nature of development has been determined to be a motel, it is nevertheless small scale tourist accommodation referred to in zone principle 1. However, it is not located in an existing building or form an integral part of a farm building complex referred to in that principle. Similarly it is within 300 metres of an existing winery referred to in zone principle 19. Whilst these may speak against the proposal, it is appropriate to interpret these principles within the context of objective 1, ie "small-scale tourist facilities only where the character and function of viticulture activities are not adversely affected."

Although the main building extension is comprised of 3 levels, it will have the appearance of a 2 storey building in the distance, when viewed from the road. Because of the large set-back, its position relative to the existing building and the building style, is considered that it will not have an adverse or significant effect on the character and amenity of the locality.

Whether nearby viticultural activities will be adversely affected is a debatable point. Whilst there are no direct effects, the neighbour has expressed a concern over indirect effects and the potential effects of trespass. There is a potential for existing standard viticultural practices of spraying and night time harvesting to be regarded as an environmental nuisance after the units are built. Environmental legislation and enforcement action may therefore force practices to change to the detriment of the viticultural activity. This concern is addressed by various provisions of the Development Plan in the "Interface between Land Uses" and "Orderly and Sustainable Development" sections, and principle 14 in the Tourism Development Section. Principle 10 of the "Interface between Land Uses" section summarises the Development Plan's preference of protecting existing primary production uses from inappropriate encroachment of sensitive uses. This is difficult to address with conditions of consent because environmental nuisances are remedied under other legislation independent of the planning system. The Environment Protection (Noise)

Policy 2007 states that noise levels measured outside of a noise affected premises in a rural area should be less than 57dB(A) during the day and 50dB(A) during the night. Exceeding these levels is not automatically an offence and in determining what action is necessary to with a non-complying noise, the Environment Protection Authority must give regard to the history of development on both properties involved (see clause 19 of the Environment Protection (Noise) Policy 2007).

The issue of trespass is normally considered to be a civil matter. However, it can be considered in the assessment in the context of objective 1 in the “Interface between Land Uses” section of the Development Plan, concerning adverse impacts and conflict between land uses. Two representors have requested that a chain mesh fence be constructed along the common boundary. A standard stock fence incorporating barb wire is generally regarded as sufficient to deter casual trespass. The applicant has responded with the observation that the risks associated with no fence are minimal and no greater than that associated with the unfenced road boundaries. An owner is entitled to fence their property, but if the need for a fence is not supported by the Development Plan, it is a matter to be resolved under the provisions of the Fences Act.

A waste control system application has not been lodged but no impediments to approving an on-site waste control system have been identified. This matter can be addressed with a condition of consent.

#### Heritage

The existing house on the site is listed on the local heritage list. Advice from the Council’s Heritage Advisor is included in the application detail in Attachment 2. The following quotes summarises the Advisor’s response.

“The proposed addition complements the massing, proportion and roof form of the existing residence in a manner that does not replicate. The proportion of window and door openings and the solid to void ratios are acceptable as proposed when viewed against the local heritage place. Similarly, the proposed materials and finishes are complimentary to the existing residence.

I am of the view that the proposal will not detract from the heritage value of the local heritage place and that the proposed additions have been well considered in that regard.”

#### Access

The existing driveway is proposed to be modified by removing the loop around the house and upgrading the driveway across the front of the house with a turning area. The driveway across the front of the dwelling will allow two-way traffic, but the driveway between the road and the house will be single lane, relying upon the verge to enable vehicles to pass. The gateway will be 6 metres wide to allow for two way traffic at the entrance. The turning area scales at 13.5 metres in diameter. The surface of the driveway and parking area is intended to be gravel or hardstand rubble.

The number of car parks is adequate but the disabled car-parking space and manoeuvring space around the unit should be sealed. This can be addressed with a condition of consent.

Bushfire

The site is in the medium Bushfire Risk Area. A referral to the Country Fire Service was not required, but the Minister's Code and the relevant objectives and principles in the "Hazards" section of the Development Plan continue to apply. The site is not excessively steep and there is no vegetation of concern around the new building.

Some improvements to the vehicle turning area and the related car parking area will be required to meet requirements for the manoeuvring of fire-fighting vehicles but this can be addressed with a standard condition. (The radius of the turning area should be increased to 12.5m (and the diameter to 25m)). Similarly a minimum of 5000 litres of water per unit should be reserved for fire-fighting purposes with pumps and hoses. This can be addressed with a standard condition.

Tourism Development

There are a number of objectives and principles for the zone that provide some support to tourist accommodation whereas the "Tourism Development" section sets out a number of matters requiring consideration. Zone objective 5 refers to small-scale tourist facilities only where the character and function of viticulture activities are not adversely affected. Zone principle 1 envisages small scale tourist accommodation, but in existing buildings, as a means of diversification of existing farming activities. Similarly, "Tourism Development" objective 7 refers to increasing opportunities for visitors to stay overnight.

However, a number of "Tourism Development" objectives and principles display a theme of not putting the natural environment or farming activities at risk while others aim to ensure that the scale, form and location of tourism development is appropriate. For example, "Tourism Development" principle 14 states that tourism development in rural areas should occur only where it incorporates a separation distance or buffer to avoid conflict with rural industries or agriculture or otherwise is designed to overcome the potential impacts associated with the adjoining land use.

The winery has expressed concern that the proposed development may occasionally be affected by odours for their water processing and storage facility located to the south of the subject land. The winery has suggested the installation of recycled air conditioning units.

**CONCLUSION**

Heritage, access and bushfire matters are either adequately addressed or can be with appropriate conditions.

The design generally conforms with the design and visibility related principles.

There is a risk that guests will be annoyed with late night operations, and spraying in the neighbouring vineyard, which may lead to complaints of environmental nuisance which may in turn require the neighbour to modify the management practices of his vineyard to his detriment. The level of risk is difficult to determine, but there are numerous examples of Bed and Breakfast establishments located in or near vineyards that appear to be able to operate in harmony with each other. It is appropriate that the boundary between the subject land and the neighbouring vineyard be delineated physically with some form of marker or fence, but given the relative ease with which people can walk around a fence, if they are intent on trespassing, a chain mesh fence is not warranted.

Although there is a concern that the proposed development could lead to existing vineyard practices being regarded as an environmental nuisance, this needs to be weighed against the number of tourism related objectives and principles that support the proposal. The risk of indirect effects on the neighbouring vineyard is small and can be mitigated with a condition of consent.

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

**RECOMMENDATION:**

That the Development Assessment Panel has considered all relevant assessment matters and the officer's report prepared in relation to Development Application No. 960/312/2014 and resolves as follows:

- (A) That pursuant to Section 35(2) of the Development Act, the proposal is not seriously at variance with the relevant provisions of The Barossa Council Development Plan.
- (B) Pursuant to Section 6(2) of the Character Preservation (Barossa Valley) Act 2012, the Development Assessment Panel has had regard to the objects of that Act and, in determining this application, seeks to further the objects of that Act.
- (C) That pursuant to Section 33(1)(a) of the Development Act, Development Application 960/312/2014 be granted Development Plan Consent subject to the following conditions:
  - (1) The development shall be undertaken in accordance with the plans and documentation accompanying the application (as amended), unless varied by the following conditions.
  - (2) An independent storage of a minimum of 5,000 litres of water shall be available at all times for fire-fighting purposes that conforms with the following:
    - The fire-fighting water supply shall be fitted with a fuel driven pump or an equivalent system that operates independent of mains electricity and is capable of pressurising the water for fire-fighting purposes.
    - The fire fighting pump shall be located at or adjacent to the building to ensure occupants safety when operating the pump during a bushfire.  
NB An "operations instruction procedure" shall be located with the pump control panel.
    - All non-metal fire-fighting water supply pipes other than flexible connections to fire-fighting pumps shall be buried at least 300mm below finished ground level.
    - The pump and flexible connections to the water supply shall be protected from the impact of fire by a suitably ventilated, non-flammable cover (metal or masonry material).

- A hose and nozzle capable of withstanding the pressures of the supplied water and of sufficient length to reach all parts of the building should be readily available at all times.
  - Hoses (minimum 19mm [3/4"] internal diameter) and metal, spray jet nozzles capable of withstanding the pressures of the supplied water and of sufficient length to reach all parts of the building should be readily available at all times.
  - The diameter of all fittings and flexible reinforced suction hose connecting the water supply to the fuel driven pump shall be no smaller than the diameter of the pump inlet valve.
- (3) The vehicle turning area be redesigned to have a diameter of 25 metres, and all curves or bends in the driveway shall have a minimum inside radius of 9.5 metres.
- (4) The disabled car park shall be sealed with bitumen, concrete, paving blocks or similar material.
- (5) The development shall be connected to a wastewater system approved under the South Australian Public Health Act 2011 prior to the occupation of the building extension.
- (6) The 2 new guest suites in the extensions shall be adequately sound proofed to prevent noise nuisance to its occupants.
- (7) The new building shall be equipped with an air conditioning unit(s) capable of recycling the internal air, to prevent the intrusion of any polluted external air.
- (8) A farm type fence incorporating at least one strand of barb wire across the top shall be erected on the northern boundary from the rear of the Council owned community centre to the bank of the main channel of the North Para River.

## NOTES

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

- The applicant is reminded of its general environmental duty, as required by Section 25 of the Environment Protection Act, to take all reasonable and practicable measures to ensure that the activities on the whole site, including during construction, do not pollute the environment in a way which causes or may cause environmental harm.
- This consent does not include consent for the “new 6m x 6m colorbond shed” shown on drawing number A000, or for the conduct of events.

(D) Seek the Concurrence of the Development Assessment Commission

**DEVELOPMENT ASSESSMENT PANEL****2 SEPTEMBER 2014****DEBATE AGENDA****DA/DAP/R3**

|  |  |
|--|--|
| <b>DEVELOPMENT APPLICATION NO:</b>             | 960/1049/2013 (Prop ID 101846)   |
| <b>APPLICANT:</b>                              | JBG Architects   |
| <b>OWNER:</b>                                  | Graham & Lynnette Mattner  |
| <b>SUBJECT LAND:</b>                           | 329 Penrice Road, Light Pass (Lot 435)   |
| <b>PROPOSAL:</b>                               | Construction of a Detached Dwelling  |
| <b>ZONE/POLICY AREA:</b>                       | Primary Production (Barossa Valley Region) Zone  |
| <b>PROCEDURE:</b>                              | Non-Complying  |
| <b>REFERRALS:</b>                              | Nil  |
| <b>PUBLIC NOTICE:</b>                          | Category 3 – Nine Representations  |
| <b>KEY ISSUES:</b>                             | Construction of a Detached Dwelling in the Primary Production (Barossa Valley Region) Zone, within the Character Preservation District.  |
| <b>DEVELOPMENT PLAN PROVISIONS:</b>            | <u>Council Wide</u>  |
| <b>CONSOLIDATION DATE:</b><br>21 February 2013 | <ul style="list-style-type: none"> <li>• Design and Appearance</li> <li>• Energy Efficiency</li> <li>• Hazards</li> <li>• Interface Between Land Uses</li> <li>• Residential Development</li> <li>• Siting and Visibility</li> </ul> |
|  | <u>Preservation District Overlay</u><br>Primary Production (Barossa Valley Region) Zone  |
| <b>RECOMMENDATION:</b>                         | Grant Development Plan Consent and Seek the Concurrence of the Development Assessment Commission   |
| <b>OFFICER:</b>                                | Karen Mitrovic   |

**SUBJECT LAND AND LOCALITY**

The subject land is located within the Primary Production (Barossa Valley Region) Zone.

The site is regular in shape with a frontage to Penrice Road of approximately 37.01 metres, a depth of 107.83 metres and an overall size of 3990.79 square metres.

The Applicant currently operates a small vineyard on the subject land which could be removed in the event that the proposed development receives Development Approval.

The subject land is located within a Medium Bushfire Risk Area.

Surrounding properties range in size from approximately 2000 square metres to approximately 15 hectares. Numerous allotments in the vicinity contain detached dwellings and associated residential activities on allotments of less than 4000 square metres, with the remaining allotments in the area largely being used for primary production purposes, in the form of viticulture.

A locality plan forms Attachment 1.

Details of the application form Attachment 2.

**DESCRIPTION OF THE PROPOSED DEVELOPMENT**

The applicant seeks Development Plan Consent for the construction of a new dwelling with two attached verandahs. The proposed dwelling will have a setback of approximately 20 metres from Penrice Road, 7.5 metres from the eastern boundary and 5 metres from the western boundary.

**REFERRALS**

No referrals are required under Schedule 8 of the Development Regulations, 2008.

**PUBLIC NOTIFICATION**

The application has been determined to be a Category 3 form of development pursuant to Schedule 9 of the Development Regulations, and is classified as a non-complying development under the relevant Development Plan.

Adjacent land owners and directly affected persons were notified in writing, and an advertisement was also placed in the local newspaper. Nine submissions were received during public notification, with two of these representations received after the closure of the public notification period. Six of the representations received were in full support of the proposal whilst the remaining representors also supported the proposal but wanted to ensure that the future owner would be aware of the operations associated with vineyards in the locality. The representor's comments are summarised below:

- The allotment was originally purchased in the 1970's as a dwelling site, as one of three one acre allotments on the corner of Penrice and Stockwell Roads.
- Vineyard activities should not be impacted upon by any future dwelling on the site.

The representors do not wish to be heard by the Panel.

A copy of the representations forms Attachment 3.

The applicant's response to the representations is summarised below:

- Almost all representations are fully supportive of the proposal.
- The owner will put in the contract for sale of the site, a clause stating that the prospective purchaser acknowledges the site is within a viticultural area, that operations on vineyards occur during the day and night and they will not make complaints about the activities.

Details of the applicant's response forms Attachment 4.

### **PLANNING ASSESSMENT**

The proposed development is located within the Primary Production (Barossa Valley Region) Zone which states that the construction of a detached dwelling is a non-complying form of development unless certain criteria are met. The proposed development does not meet these criteria and as such has been assessed as a non-complying application.

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

### **Design and Appearance**

Objective 1 states that development should be "*of a high architectural standard that responds to and reinforces positive aspects of the local environment and built form*". In addition, Principle of Development Control 1 suggests that development should be sympathetic to the locality and appropriate within the context of its setting. It is considered that the proposed development is able to meet this criteria as it is sympathetic to the existing residential type development in the locality, due to its single storey contemporary design.

### **Hazards**

The proposed dwelling is located in a Medium Bushfire Risk area as designated within Council's Development Plan. The dwelling has been designed to meet the requirements of the Minister's Code for undertaking development in Bushfire Protection Areas. A condition will be placed on the application, should Development Approval be received, that the proposal complies with the Minister's Specifications for development within a Bushfire Risk Area.

### **Interface Between Land Uses**

Principles of Development Control 2 and 4 encourage development which will be appropriately sited and designed to minimise negative impact on existing and potential future land uses considered appropriate in the locality, and residential development adjacent to non-residential zones and land which are located, designed and/or sited to protect residents from potential adverse impacts from non-residential activities.

The proposed dwelling will be located adjacent to two existing residential style allotments with existing viticultural operations to the north, south and west. The proposed development incorporates additional landscaping being planted on the site to provide a vegetation buffer to reduce any potential adverse impacts from the adjoining land use. In addition, in response to comments made during the public

notification period, the applicant will ensure that any future purchaser is made aware of the ongoing operations associated with a vineyard through a clause in the contract of sale.

#### Siting and Visibility

The proposed development is consistent with Principle of Development Control 3 which states that "*Buildings outside of urban areas and in undulating landscapes should be sited in unobtrusive locations and in particular should be:*

- (d) *set well back from public roads, particularly when the allotment is on the high side of the road*
- (e) *be located in a setting where landscape features such as trees, vegetation and landforms provide an enclosing space, setting or screen".*

The site chosen for the proposed dwelling is in line with adjoining residential development, set back approximately 20 metres from Penrice Road. Existing vegetation of adjoining allotments and the Council verge provide a screen from the proposed development site, however, additional screening along both the western and eastern property boundaries is proposed by the applicant. The planting of this additional landscaping will be enforced through a condition on the application should Development Plan Consent be received.

#### Character Preservation Overlay

The proposed development is also located within the Character Preservation District. Objective 1 of the Character Preservation Overlay indicates that this is a district where:

- (a) *scenic and rural landscapes are highly valued, retained and protected*
- (b) *development near entrances to towns and settlements does not diminish the rural setting, character and heritage values associated with those towns and settlements*
- (c) *the long term use of land for primary production and associated value adding enterprises is assured and promoted*
- (d) *activities positively contribute to tourism*
- (e) *the heritage attributes of the district are preserved*
- (f) *buildings and structures complement the landscape.*

It is considered that the proposed development largely meets the criteria for this objective as the dwelling will not adversely impact on the scenic or rural landscape character of the land or locality in which the land is situated. The dwelling has also been architecturally designed to suit the contours of the land and minimise any impact it may have upon the landscape by being sympathetic to the design of existing development in the locality.

In addition, the proposed development will not restrict the long term use of land in the locality for primary production purposes. The allotment is currently used as a small scale vineyard which is a financially unviable venture for the owners. The owner has supplied a report from a viticultural specialist to support their claim that the allotment is insufficient in size as a primary production allotment. The report, prepared by Brett Grocke of Grocke Viticulture Pty Ltd, advises that the allotment contains approximately 0.4 hectares of Grenache, which are currently suffering from Eutypa Lata, a dieback disease. Over the past 6 years the allotment has generated an

average of \$2808/annum. Average expenditure for the allotment is estimated at approximately \$3000/annum. Mr Grocke concludes that an allotment of this size will never have the economy of scale, fruit value or a production volume high enough to be economically sustainable. A copy of this report can be found in Appendix 3 of the Statement of Effect prepared by Connor Holmes.

Objective 2 of the Character Preservation Overlay notes that residential development should be located inside townships, settlements and rural living areas. It is acknowledged that the proposed dwelling is not located in one of these areas, however, it is also considered that the proposed development will not detrimentally impact upon the continued use of allotments in the area being used for purposes consistent with the criteria of the Character Preservation Overlay.

#### Primary Production (Barossa Valley Region) Zone

Objective 1 of the zone seeks economically productive, efficient and environmentally sustainable primary production. As the report prepared by Grocke Viticulture Pty Ltd indicates, an allotment of 4000 square metres is not appropriately sized to accommodate a viticultural use which can meet Objective 1 of the zone.

Objective 2 of the zone also seeks “*allotments of a size and configuration that promote the efficient use of land for primary production purposes*”, while Objective 4 encourages the “*long term continuation of farming, horticulture, viticulture and associated winery activities*”. Although the key objective for the zone is to encourage primary production, as indicated in Mr Grocke’s report, the subject land is not of an appropriate size to support long term, viable primary production in its own right and has only been temporarily utilised for vine growing as a hobby for the owners.

The desired character for the zone makes reference to non-agricultural development being limited to preserve the natural appearance and scenic qualities of rural areas, and that dwellings be limited in location and design to maximise productive land. The intended use throughout the zone is for the land to be used for primary production purposes. In this instance, it has been established that the subject land is not viable for use as a primary production allotment due to its size, and as such it is not possible for the allotment to be used to meet the key aspects of the desired character.

Principle of Development Control 6 of the Primary Production (Barossa Valley Region) Zone states that:

6. *A dwelling should only be developed if:*
  - (a) *it is ancillary to primary production land uses*
  - (b) *the location of the dwelling will not inhibit the continuation of primary production or other development that is in keeping with the provisions of the zone*
  - (c) *it is located more than 500 metres from an existing intensive animal keeping operation; unless it is used in association with that intensive animal keeping activity*
  - (d) *it is located more than 300 metres from winery waste water treatment equipment, effluent dams, buildings containing wine-making activities or buildings containing bottling activities; unless it is sited on the same allotment as and used in association with a winery*

- (e) *it does not result in more than one dwelling on an allotment*
- (f) *the minimum allotment area and other criteria applicable to dwellings specified in the respective policy area can be met*
- (g) *it is designed and constructed utilising environmentally sustainable design principles.*

The proposed dwelling is consistent with all but one of the criteria within Principle of Development Control 6, specifically that it will not be ancillary to primary production land uses. It has been established however, that the allotment is not sufficient in size to accommodate economically viable primary production activities, although it could be 'hobby-farmed' by future owners. The proposed dwelling:

- will not inhibit the continued primary production activity on neighbouring allotments,
- is greater than 500 metres from intensive animal keeping operations,
- is greater than 300 metres from any winery and associated activities,
- will not result in more than one dwelling on the allotment,
- will not offend the criteria for the construction of a dwelling as no minimum allotment size is applicable as the subject land is not located within a policy area, and
- is environmentally sustainably designed.

The minimum allotment size for the merit construction of a dwelling within the Primary Production (Barossa Valley Region) Zone is 25 hectares as specified in the Non-Complying forms of development list. The subject land is less than 25 hectares in size and totals only 0.4 hectares. Certain "infill" allotments are also listed in Table Baro/3 within the Development Plan for the construction of a dwelling which would be subject to a merit based assessment. Seven of these allotments are located in the Light Pass area and five of these allotments are greater in size than the subject land, ranging between 4700 square metres and 14 hectares in size. Only two allotments are less than 4000 square metres in size. It is unclear why these seven allotments were selected as being appropriate for residential development whilst other 'historical' allotments were not.

Although not being located within a designated settlement area, the proposed dwelling is located within an area which contains multiple dwellings on small allotments unable to be used for large scale primary production. The character of this particular locality is that of relatively small primary production allotments, containing a dwelling and associated small scale primary production activities, or dwellings on small 'rural living style' properties. The proposed dwelling will be consistent with this character as the current primary production use of land in the area will not be impacted upon.

On balance the proposed development will not compromise the existing or envisioned function of the Primary Production (Barossa Valley Region) Zone.

### **CONCLUSION**

While the proposed dwelling is a non-complying form of development, it will not detract from or inhibit existing land uses considered appropriate within the Primary Production (Barossa Valley Region) Zone, or detrimentally affect potential for future primary production uses.

Having regard to the provisions of the Primary Production (Barossa Valley Region) Zone in the relevant Development Plan, it is considered that the proposal is not seriously at variance with the provisions of the Development Plan and displays sufficient merit to warrant Development Plan Consent. The concurrence of the Development Assessment Commission will be required before issuing the consent.

**RECOMMENDATION:**

That the Development Assessment Panel has considered all relevant assessment matters and the officer's report in relation to Development Application 960/1049/2013 and resolves as follows:

- (A) That pursuant to Section 35(2) of the Development Act, the proposal is not seriously at variance with the relevant provisions of The Barossa Council Development Plan.
- (B) Pursuant to Section 6(2) of the Character Preservation (Barossa Valley) Act 2012, the Development Assessment Panel has had regard to the objects of that Act and, in determining this application, seeks to further the objects of that Act.
- (C) That pursuant to Section 33(1)(a) of the Development Act, Development Application 960/1049/2013 be granted Development Plan Consent subject to the following conditions:
  - (1) The development shall be undertaken in accordance with the plans and documentation (as amended) accompanying the application, unless varied by the following conditions.
  - (2) Roof water shall be disposed of to the street watertable or drain in an easement under the control of Council. Where roof water is directed to a rainwater tank the overflow shall be piped to the street watertable or Council drain.
  - (3) The building shall be connected to a wastewater system approved under the South Australian Public Health Act 2011.

**NOTE**

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

- (4) The landscaping as detailed in the application for development shall be established prior to occupation/use of the development and shall be maintained in good health and condition at all times. Any such vegetation shall be replaced, if and when it dies or becomes seriously diseased with others of the same, or similar, respective varieties.
- (5) The subject land is located within a Medium Bushfire Risk area.

A dedicated and independent water supply shall be available at all times for fire-fighting purposes which;

- (a) Is located adjacent to the building or in another convenient location on the allotment accessible to fire fighting vehicles (safe and convenient access shall be provided), and
- (b) Comprises a minimum of 2000 litres of water where the property is connected to mains water, or 5000 litres in any other case. (Any rainwater tank used for this purpose should be dedicated entirely for fire-fighting and shall be of noncombustible materials).

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

- (D) Seeks the Concurrence of the Development Assessment Commission.

**DEVELOPMENT ASSESSMENT PANEL****2 SEPTEMBER 2014****DEBATE AGENDA****DA/DAP/R4**

|   |  |
|---|--|
| <b>DEVELOPMENT APPLICATION NO:</b>                          | 960/574/2013 (Prop ID 1165868)   |
| <b>APPLICANT:</b>   | Maverick Wines Pty Ltd   |
| <b>OWNER:</b>   | Maverick Wines Pty Ltd   |
| <b>SUBJECT LAND:</b>  | 981 Light Pass Road, Vine Vale, Pieces 200 & 201   |
| <b>PROPOSAL:</b>  | Additions to Existing Winery Including Construction of a New Barrel Storage, Finished Goods Storage and Cellar Door Sales Building, 2 x Rainwater Tanks and associated Car Parking   |
| <b>ZONE/POLICY AREA:</b>                                    | Primary Production (Barossa Valley Region) Zone  |
| <b>PROCEDURE:</b>   | Merit  |
| <b>REFERRALS:</b>   | Environment Protection Authority   |
| <b>PUBLIC NOTICE:</b>                                       | Category 2 – 2 Representations   |
| <b>KEY ISSUES:</b>  | Representations received during public notification period   |
| <b>DEVELOPMENT PLAN PROVISIONS:<br/>CONSOLIDATION DATE:</b> | <p>Primary Production (Barossa Valley Region) Zone Objectives: 1, 3, 4, 5 and 6.. Principles of Development Controls 1, 4, 5, 10, 15, 16, 17, 18 &amp; 24.</p> <p>Council Wide: Design and Appearance Objectives 1. Principles of Development Controls 1, 2, 3, 11, 12, 14, 15, 17 &amp; 18. Industrial Development Objectives 1, 2 &amp; 8. Principles of Development Controls 4, 5 &amp; 7. Interface between Land Uses Objectives 1. Principles of Development Controls 1, 2, 6, 7 &amp; 9. Orderly and Sustainable Development Objective 1 and 7. Principle of Development Controls 1 and 9. Siting and Visibility Objectives 1 and 2. Principles of Development Controls 1, 2, 3, 4 &amp; 9.</p> <p>Character Preservation District Overlay Objectives 1 and Principle of Development Control 1</p> |
| <b>RECOMMENDATION:</b>                                      | Grant Development Plan Consent   |
| <b>OFFICER:</b>   | Karen Mitrovic   |

**PREFACE**

At its meeting held on the 1 July 2014, the Development Assessment Panel considered development application 960/574/2013 and resolved to defer the application to allow for the Applicant to provide the Panel with photographic overviews, indicating the size of the proposed development on the site, and alternative sites on the property with the aim to minimise the visual impact.

The Applicant was advised by letter of the Panel's decision, and asked to provide the additional details requested.

The Applicant has since provided an additional planning report, prepared by Greg Tucker of Greg Tucker Planning, in support of the application, along with photographic overviews prepared by Brooksby Design & Drafting. These additional details form Attachment 1.

The photographic overviews indicate that the proposed development will largely be screened by existing structures, vegetation and proposed landscaping. View 2 provided, does show that the development will be visible from one section of Light Pass Road, which does not currently have any screening. However, a reserve matter has been included in this report which specifies that the Applicant must provide a landscaping plan to Council, which includes details of proposed landscaping to screen the development from this view point.

The Panel also requested that the Applicant consider alternative locations on the site for the construction of the proposed building. The Applicant has advised that the location on the site has been specifically selected to best suit the requirements of their development, taking into account the functional requirements of the winery operations and the impact upon the landscape.

It is considered that the additional detail provided by the Applicant supports the viewpoint that the proposed development will be consistent with the Design and Appearance criteria within Council's Development Plan.

My original report in relation to the proposed development follows.

**SUBJECT LAND AND LOCALITY**

The subject land is located within the Primary Production (Barossa Valley Region) Zone.

The site is comprised of two pieces, separated by Light Pass Road. Piece 200 on the eastern side of Light Pass Road has an area of 3.972 hectares and has been developed with approximately 3.64 hectares of vines and a 200 tonne crush capacity winery. Piece 201 on the western side of Light Pass Road contains an established vineyard and several farm buildings.

The predominant land use in the locality is for viticultural purposes, with almost all appropriately sized allotments in the area containing vines. However, there are multiple dwellings in the locality in addition to a winery building directly to the north of the subject land.

A locality plan forms Attachment 2.

Details of the application form *Attachment 3*.

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

A winery was first approved on the subject land in 1986, with a maximum crush capacity of 50 tonnes. In 2006 and 2007 an extension to the winery was approved including an increase in the crush capacity to 200 tonnes, and a barrel storage shed.

In October 2008, the Development Assessment Panel granted development plan consent to a development similar to the current proposal. The applicant's business has since expanded and the approved structure is not sufficient in size to accommodate the expected production on the site.

The applicant now seeks approval for a finished goods storage area, wine barrel store, loading/work canopy, cellar door sales area and associated facilities. In addition, two 260,923 litre rainwater tanks and associated carparking areas are also proposed.

The proposed structure has an overall footprint of 30 metres x 50 metres with the height of the building ranging from 2.4 metres for the verandah to a 5.45 metre wall height for the storage area.

The proposed structure will be of a Colorbond Woodland Grey finish, and will maintain the existing approved operating hours, namely 7.00am to 7.00pm, seven days per week during vintage and 7.00am to 5.00pm five days per week at other times. The cellar door sales portion of the proposal will operate up to four days per week between 10.00am and 6:30pm or by appointment for international visitors/buyers.

Traffic visiting the site will access the proposed development via an existing crossover, south of the existing structures on the site, which will be upgraded to accommodate expected traffic movements, and exit via an existing crossover on the northern side of the subject land.

#### **REFERRALS**

The proposed development was referred to the Environment Protection Authority (EPA) in accordance with Schedule 8 – 10(b) of the Development Regulations 2008.

The Environment Protection Authority have advised that the proposed development is in accordance with EPAQ guidelines and warrants approval subject to conditions. A copy of this advice forms *Attachment 4*.

#### **PROCEDURAL MATTERS**

A winery, including associated activities, which does not involve an increase in processing capacity, is listed as a Category 2 form of development within the Primary Production (Barossa Valley Region) Zone.

#### **PUBLIC NOTIFICATION**

The application is a Category 2, merit form of development and therefore required public notification. Adjacent land owners and directly affected persons were notified in writing. Two representations were received and their comments are summarised below:

- Stormwater disposal

- Screening of large building through the use of landscaping
- No increase in crush capacity or hours of operation
- Building height
- Impact on amenity

The representors do not wish to be heard by the Panel.

A copy of the representations form Attachment 5.

The applicant's response to the representations is summarised below:

- Stormwater management details have been provided by a qualified engineer and been assessed by Council's engineering section.
- No increase to hours of operation.
- Additional screening/landscaping will be put in place.
- Amenity has been impacted upon by adjoining winery buildings so the addition of the proposed structure will not significantly detract from the current amenity of the area.

Details of the applicant's response forms Attachment 6.

#### **PLANNING ASSESSMENT**

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

#### **Character Preservation Overlay**

The proposed development is also located within the Character Preservation District. Objective 1 of the Character Preservation Overlay indicates that this is a district where:

- (a) *scenic and rural landscapes are highly valued, retained and protected*
- (b) *development near entrances to towns and settlements does not diminish the rural setting, character and heritage values associated with those towns and settlements*
- (c) *the long term use of land for primary production and associated value adding enterprises is assured and promoted*
- (d) *activities positively contribute to tourism*
- (e) *the heritage attributes of the district are preserved*
- (f) *buildings and structures complement the landscape.*

It is considered that the proposed development is consistent with the character preservation district overlay. The proposal will not adversely impact upon the scenic or rural landscape character of the land or the locality, nor will it reduce the ability of the land to be used for primary production purposes.

#### **Design and Appearance**

The proposed development is consistent with Principles of Development Control 1 and 3, as the design is sympathetic to the scale of development in the locality. An existing large winery building is located directly to the north of the subject land. In addition, the bulk and scale of the proposal has been minimised through the use of articulation, varying wall heights and the selection of an external colour which will not be in stark contrast to the surrounding environment.

The proposed building has been designed in an attempt to have minimal impact upon the subject land and adjoining properties. The size of the proposed structure is similar to the existing winery building on the adjoining site, however the proposed building will better blend with the environment due to the proposed colour schedule and the articulation incorporated into the design. Where the proposed structure will be visible from adjoining properties, it is proposed that landscaping be put in place to screen the structure.

The setback from public roads, location of existing vegetation, and proposed colour schedule should result in the proposed building not being prominently visible from Primary or Secondary Roadways, or from a tourist route as identified within Council's Development Plan.

#### Industrial Development

The proposed development is intended to provide a facility which will support the viticultural uses within the region. The proposal is consistent with Objective 2 as it will allow for the site's continuing use as a small scale winery type development in a rural area.

The proposal is consistent with Principle of Development Control 7 as it will not adversely impact upon adjoining land uses or occupiers through the emission of effluent, odours, smoke, fumes, dust or other airborne pollutants, noise, vibration, electrical interference, light spill or glare and will not adversely impact upon traffic, nor will the proposed operating hours be excessive. The main use of the proposed structure is for storage purposes, rather than operational aspects of the winery, as such a significant increase in noise from the site is not expected.

The site will be accessed via an existing crossover and, as part of the proposed development, the applicant will provide a compacted rubble all-weather surface to all driveways. The compacted rubble will be topped with a grey metal to help minimise the potential visual impact of the roadways and reduce the potential impact of dust. Sufficient car parking facilities have also been provided on site to ensure that visitors to the site are not required to park on the public roadway.

#### Interface Between Land Uses

As discussed above the proposal will not detrimentally affect the amenity of the locality or cause unreasonable interference through the emission of effluent, odours, smoke, fumes, dust or other airborne pollutants, noise, vibration, electrical interference, light spill, glare or traffic impacts, and as such is consistent with Principle of Development Control 1.

Several dwellings are located in the area, and Council received a representation from the occupiers of the dwelling located directly to the south of the subject land. The representor's main concerns related to appropriate screening of the structure and stormwater management.

The proposed structure is located approximately 90 metres from the nearest dwelling which is situated to the north west of the subject land, and 130 metres from the adjoining dwelling to the south. Given the location of existing screening and structures on the site, the proposal is likely to have the greatest impact upon the neighbour to the south of the subject land. In order to reduce the visual impact on

this dwelling, the applicant has indicated a willingness to incorporate landscaping to the south of the structure, predominantly along the proposed access driveway.

A detailed stormwater management design has been completed by a qualified engineer and deemed to be appropriate by Council's engineering section. The impact of additional stormwater collection on the site should therefore not have a negative impact upon adjoining land owners.

Council also received a representation from the adjoining neighbour to the north of the subject land, who was concerned that a large winery building would detract from the visual amenity of the landscape. The location of a substantial winery building on the adjoining site to the north, and existing established landscaping will largely screen the proposed structure from Light Pass Road and sites to the north. The design and colour schedule of the proposed structure have been selected in an attempt to minimise the impact of the proposal on the landscape and it is therefore considered that the proposal will have a minimal impact on the adjoining winery to the north and the amenity of the landscape overall.

#### Siting and Visibility

The proposed structure has been sited and designed to minimise its visual impact upon the natural character of the area and views from tourist routes and walking trails, thereby meeting the requirements of Principles of Development Control 1 and 4.

The location of the proposed development at the rear of existing structures on the site and established landscaping along Light Pass Road, will result in the winery addition being largely screened from the roadway.

The proposed structure will however be visible from the neighbouring properties to the north and south. In order to minimise the visual impact of the proposed development on these properties the applicant will be required to submit to Council a landscaping plan, incorporating a variety of species, to screen the proposed structure.

The proposed development has been designed with variations in roof heights, to a maximum of 5.4 metres wall height, with an 18° roof pitch, and has incorporated a verandah and canopy to provide articulation. The materials selected and the location of the proposed structure clustered with existing development and amongst existing vegetation will ensure that the above Principle of Development Controls are complied with.

#### Primary Production (Barossa Valley Region) Zone

Objectives 1 and 4 of the zone seek to encourage economically productive, efficient and environmentally sustainable primary production and the long term continuation of farming, horticulture, viticulture and associated winery activities. The proposed development will provide additional facilities for an existing winery to accommodate on site storage of their product and promote the effective use of the vineyard on the site. The proposal is therefore consistent with Objectives 1 and 4.

The proposal is also consistent with Principles of Development Control 1, 4 and 5, which encourage the development of wineries within the zone, particularly where they are associated with at least 4 hectares of vines, grape crushing, fermentation of

grape product and wine maturation. The expansion of the existing winery on the site will improve access to the site and result in the establishment of additional landscaping to improve the amenity of the site.

The proposed development is consistent with Principle of Development Control 3, which indicates that industry and warehousing type developments should be developed where it supports primary production, processing, storage and distribution of local primary produce. The proposed use will support the viticultural use of the subject land, and will largely incorporate the storage and distribution of locally produced wine.

The proposal is also consistent with Principle of Development Control 10, as all proposed activities relating to the production and storage of wine on the site will be undertaken within existing and proposed buildings on the subject land.

#### **CONCLUSION**

The proposed development is a merit form of development within the zone and is considered to be a reasonable addition to the winery use of the land.

The proposed addition to the existing winery will not detract from or inhibit existing land uses considered appropriate to the Primary Production (Barossa Valley Region) Zone nor will it detrimentally affect potential for future primary production uses and other appropriate uses within the zone.

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

#### **RECOMMENDATION:**

That the Development Assessment Panel has considered all relevant assessment matters and the officer's report in relation to Development Application 960/574/2013 and resolves as follows:

- (A) That pursuant to Section 35(2) of the Development Act, the proposal is not seriously at variance with the relevant provisions of The Barossa Council Development Plan.
- (B) Pursuant to Section 6(2) of the Character Preservation (Barossa Valley) Act 2012, the Development Assessment Panel has had regard to the objects of that Act and, in determining this application, seeks to further the objects of that Act.
- (C) That pursuant to Section 33(1)(a) of the Development Act, Development Application 960/574/2014 be granted Development Plan Consent subject to the following conditions:

**RESERVED MATTER**(A) Landscaping

A landscaping plan detailing landscaping to the north and south of the proposed development shall be submitted to Council for approval prior to the issuing of Development Approval.

**Conditions of Development Plan Consent**

- (1) The development shall be undertaken in accordance with the plans and documentation (as amended) accompanying the application.
- (2) The holding tank must be fitted with an audible and visual alarm that activates at 80% capacity (with muting facilities for the audible component) for the purpose of warning that the tank requires emptying within 24 hours by a licensed waste transporter to an SA Water treatment facility.
- (3) The landscaping as detailed in the 'landscaping plan', to be submitted to Council, shall be established prior to occupation/use of the development and shall be maintained in good health and condition at all times. Any such vegetation shall be replaced if and when it dies or becomes seriously diseased with others of the same, or similar, respective varieties.
- (4) All external lighting of the site, including car parking areas and buildings, shall be located, directed and shielded and of such limited intensity that no nuisance or loss of amenity is caused to any person beyond the site to the reasonable satisfaction of the Council or its delegate.
- (5) The maximum crush capacity of the winery shall not exceed 200 tonnes per annum.
- (6) The hours of operation of the premises shall be restricted to following times:
  - (a) 7.00am to 7.00pm, seven days per week during vintage;
  - (b) 7.00am to 5.00pm, five days per week at all other times; and
  - (c) 10.00am to 6:30pm, four days per week or by appointment for Cellar Door Sales operations.
- (7) The development shall be connected to a wastewater system approved under the South Australian Public Health Act 2011.

**NOTES**

- (a) Prior to building work commencing the applicant shall lodge, and have approved by Council, an application to install a wastewater system pursuant to the provisions of the South Australian Public Health Act 2011 and South Australian Public Health (Wastewater) Regulations 2013.
- (b) The applicant is reminded of its general environmental duty, as required by Section 25 of the Environment Protection Act, to take all reasonable and practicable measures to ensure that the activities on the whole site, including during construction, do not pollute the environment in a way which causes or may cause environmental harm.
- (c) Any information sheets, guidelines documents, codes of practice, technical bulletins etc. that are referenced in this response can be accessed on the following web site: <http://www.epa.sa.gov.au>

**DEVELOPMENT ASSESSMENT PANEL****2 SEPTEMBER 2014****DEBATE AGENDA****DA/DAP/R5**

|  |  |
|--|--|
| <b>DEVELOPMENT APPLICATION NO:</b>             | 960/155/2014 (Prop ID 103132)  |
| <b>APPLICANT:</b>                              | Construction Services Australia Pty Ltd  |
| <b>OWNER:</b>                                  | Lionel and Vickie-Jayne Health   |
| <b>SUBJECT LAND:</b>                           | 41 Randalls Road, Flaxman Valley   |
| <b>PROPOSAL:</b>                               | Demolition of Dwelling and Construction of a New Detached Dwelling   |
| <b>LAND SIZE:</b>                              | 4.11 hectares  |
| <b>ZONE/POLICY AREA:</b>                       | Primary Production Zone, Barossa Range Precinct  |
| <b>PROCEDURE:</b>                              | Non-Complying  |
| <b>REFERRALS:</b>                              | Country Fire Service   |
| <b>PUBLIC NOTICE:</b>                          | Category 3 – No Representations  |
| <b>KEY ISSUES:</b>                             | Non-Complying Form of Development in Primary Production, Barossa Range Precinct  |
| <b>DEVELOPMENT PLAN PROVISIONS:</b>            | Council Wide   |
| <b>CONSOLIDATION DATE:</b><br>21 February 2013 | <ul style="list-style-type: none"> <li>• Design and Appearance</li> <li>• Energy Efficiency</li> <li>• Interface Between Land Uses</li> <li>• Residential Development</li> <li>• Siting and Visibility</li> </ul> Preservation District Overlay<br>Primary Production Zone |
| <b>RECOMMENDATION:</b>                         | Grant Development Plan Consent and Seek Concurrence of the Development Assessment Commission   |
| <b>OFFICER:</b>                                | Maxine Lovett  |

**SUBJECT SITE AND LOCALITY**

The subject land has an area of 4.11 hectares and is located within the Primary Production Zone, within the Barossa Range Precinct.

The site is irregular in shape with a 44 metre frontage to Randalls Road. A driveway extends through the site for approximately 335 metres to the existing dwelling and proposed development location.

The Applicant currently resides on the subject land within an existing dwelling which is to be demolished should this application receive Development Approval. The subject land also contains two outbuildings and a dam. The land currently does not have a commercial farming use and is suited to open grazing for small numbers of livestock.

The surrounding locality consists of a mix of small 'hobby farm' sized allotments in addition to larger allotments that host primary production and viticulture uses. The majority of allotments in the immediate locality each contain a detached dwelling.

The subject land is located within a High Bushfire Risk Area in accordance with Council's Development Plan.

A locality plan forms Attachment 1.

**DESCRIPTION OF PROPOSAL**

The applicant seeks Development Plan Consent for the demolition of an existing habitable dwelling and the construction of a new dwelling with a verandah and garage under the main roof. The replacement dwelling is single storey with a wall height of 2.7 metres and an iron roof pitched at 22.5 degrees.

The proposed external walls of the dwelling are rendered in non-reflective earthy tones, Taubmans – 'Coffee Cake'. The roof is Colorbond 'Manor Red', with downpipes and verandah posts in Colorbond 'Monument'.

The replacement dwelling will be located in approximately the same location as the existing building (slightly to the west) and will have a floor area significantly larger than the existing dwelling. The excavation will be in acceptable range with the maximum cut being 900mm and a maximum fill level of 800mm.

Details of the application and the Statement of Effect form Attachment 2.

**REFERRALS**

The subject land is located in a high bushfire area with reference to the relevant Development Plan. The application was referred to the Country Fire Service pursuant to Schedule 8 of the Development Regulations, 2008. A copy of the Country Fire Service report forms Attachment 3.

**PROCEDURAL MATTERS**

A dwelling is listed as a non-complying land use within the Primary Production Zone unless it meets certain criteria. In this instance the proposed dwelling, located in the Barossa Range Precinct, is a non-complying form of development as it is to be constructed on an allotment of less than 100 hectares.

**PUBLIC NOTIFICATION**

The application is a Category 3, Non-Complying form of development and it therefore required public notification. Adjacent land owners and directly affected persons were notified in writing, and an advertisement was also placed in the local newspaper. No representations were received in relation to the proposal.

**PLANNING ASSESSMENT**

The proposed development is located in the Primary Production Zone, Barossa Range Precinct. A dwelling is a non-complying form of development within the Barossa Range precinct, if the subject allotment is less than 100 hectares in size. The proposed dwelling does not meet the criteria for a merit assessment as the allotment is only 4.11 hectares in size.

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

**Design and Appearance**

Objective 1 states that development should be “*of a high architectural standard that responds to and reinforces positive aspects of the local environment and built form*”. In addition, Principle of Development Control 1 suggests that development should be sympathetic to the locality and appropriate within the context of its setting.

The proposed development will replace an existing habitable dwelling. The replacement dwelling has a total floor area, including verandahs and carport, of 387m<sup>2</sup> that is larger than the existing dwelling. However, the design is to an acceptable standard in order to best suit the context of the land and the dwelling it will replace.

**Siting and Visibility**

The proposed development is consistent with Principle of Development Control 3 which states that “*Buildings outside of urban areas and in undulating landscapes should be sited in unobtrusive locations and in particular should be:*

- (a) *sited below the ridgeline*
- (b) *sited within valleys or behind spurs*
- (d) *set well back from public roads, particularly when the allotment is on the high side of the road*
- (e) *be located in a setting where landscape features such as trees, vegetation and landforms provide an enclosing space, setting or screen”.*

The proposed dwelling is to be located in approximately the same location of the existing dwelling and will have a minimal visual impact upon neighbouring property owners. The dwelling will be located below the ridgeline on the property, and will also be screened by existing mature vegetation. The proposed dwelling will not be visible from any public road.

**Sloping Land**

The proposed development is consistent with Objective 1 for sloping land as it has been designed to suit the existing contours of the land and minimise the amount of cut and fill required. The objective seeks to ensure that “*development on sloping land be designed to minimise environmental and visual impacts and protect soil stability and water quality*”. The location of the proposed dwelling is in an area of

relatively flat land and will utilise the existing access driveway. The proposal requires an acceptable level of cut and fill, with the maximum levels being less than 1 metre.

#### Character Preservation Overlay

The proposed development is also located within the Character Preservation District. Objective 1 of the Character Preservation Overlay indicates that this is a district where:

- (a) *scenic and rural landscapes are highly valued, retained and protected*
- (b) *development near entrances to towns and settlements does not diminish the rural setting, character and heritage values associated with those towns and settlements*
- (c) *the long term use of land for primary production and associated value adding enterprises is assured and promoted*
- (d) *activities positively contribute to tourism*
- (e) *the heritage attributes of the district are preserved*
- (f) *buildings and structures complement the landscape.*

It is considered that the proposed development largely meets the criteria for this objective as the dwelling will not adversely impact on the scenic or rural landscape character of the land or locality in which the land is situated.

Objective 2 of the Character Preservation Overlay notes that residential development should be located inside townships, settlements and rural living areas. It is acknowledged that the proposed dwelling is not located in one of these areas, however, it is also considered that the proposed development will not detrimentally impact upon the continued use of allotments in the area being used for purposes consistent with the criteria of the Character Preservation Overlay. In addition, the proposed development will not result in an additional dwelling being located on the site, rather a replacement dwelling in exchange for the existing dwelling on the site which will be demolished.

#### Primary Production Zone

The desired character expects that development will be carefully designed and located to complement the open landscape character.

The proposed replacement dwelling will be located in approximately the same location as the existing dwelling and will not result in an increase in buildings on the site. Whilst considering the larger footprint of the replacement dwelling, the status of the site in terms of visual amenity will much remain the same with the existing building being removed within three months of completion of the new dwelling.

Principle of Development Control 7 of the Primary Production Zone states that:

*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*
- (c) *it is located more than 500 metres from an existing intensive animal keeping operation unless used in association with that activity*

- (d) *it does not result in more than one dwelling per allotment*
- (e) *it is designed and constructed utilising environmentally sustainable design principles.*

The subject land is currently not used for primary production purposes as the allotment is limited in its use as it is only 4.11 hectares in area. The site is currently used for residential purposes and therefore the proposal will not change the viability of the site for primary production use and will not inhibit the continuation of farming within the locality.

The minimum allotment size recommended for the construction of a dwelling within the Barossa Range Precinct is 100 hectares as indicated in Principle of Development Control 23 of the Primary Production Zone. This is also the allotment size required for a dwelling to be a merit form of development.

The proposed dwelling is intended to replace the existing dwelling on the site. Once the proposed dwelling is at practical completion, the existing dwelling will be decommissioned and demolished within 3 months. The proposal will result in only one dwelling on the allotment as is the current status quo.

Whilst it is acknowledged that the Development Plan does not seek to encourage further residential development in rural areas, it is considered that the proposed development is not at odds with the Development Plan, as the introduction of the proposed dwelling will not increase the number of dwellings within the area.

The proposed dwelling is consistent with Principle of Development Control 11 of the zone which states that:

*Buildings should be unobtrusive in appearance, not detract from the open natural character of the zone and, in particular should:*

- (a) *be single storey*
- (b) *be of a low profile with roof lines that complement the natural form of the land*
- (c) *comprise variations in wall and roof lines and floor plans which complement the contours of the land so as to minimise the mass of the building*
- (d) *be sited on an excavated rather than a filled site in order to reduce the vertical profile of the building*
- (e) *incorporate large eaves, verandas and pergolas into designs to create shadowed areas which reduce the bulky appearance of buildings*
- (f) *utilise non-reflective materials and be finished in colours that blend with the natural environment*
- (g) *be screened by existing native vegetation when viewed from roads located within the zone or from townships*

The proposed dwelling is single storey and is to be externally clad in muted, non-reflective materials to ensure that the structure blends with the rural character of the locality. The proposed dwelling site is located on a relatively flat section of the allotment, and will be screened by existing vegetation on the site.

Specific design criteria are recommended within the zone, in relation to new dwellings within the Primary Production Zone. Principle of Development Control 13 specifies the following:

*Detached dwellings should be designed and constructed in the following manner:*

- (a) *have a floor plan design that:*
  - (i) *locates a day living area incorporating at least one window that faces between 20° east and 30° west of true north.*
  - (ii) *is appropriately zoned so that doors are placed between living areas and other rooms and corridors.*
- (b) *have a total window area facing east and west that does not exceed 50 per cent of the total window area of the dwelling.*
- (c) *provide external shading to west facing windows in the form of either eaves or awnings of at least 450 millimetres in width.*
- (d) *provide external shading to north facing windows that allows winter sun to penetrate, but provides shade in summer.*
- (e) *have a roof layout that incorporates an area of at least 10 square metres that faces 30° west and 20° east of true north and has a roof pitch of at least 18°.*
- (f) *collects, stores and re-uses roof stormwater within and about the dwelling, provided water storage requirements for fire protection purposes are not compromised.*

The proposed dwelling meets all of these specific requirements except for (a). The dwelling does not have a day time living area that faces north, however it is considered that the design and siting meets the majority of the criteria and can be supported on this basis.

#### **CONCLUSION**

Whilst the proposed dwelling is a non-complying form of development, it replaces an existing dwelling on the site and will not detract from or inhibit existing land uses considered appropriate within the Primary Production Zone, Barossa Range Precinct, or detrimentally affect potential for future primary production uses. The number of dwellings in the area will not be increased and the visual status of the site will not significantly change. The proposal meets the majority of the siting and design criteria except for one, and when considering the proposal as a whole, this is considered minor. The proposal is considered suitably designed and sited within the context of the locality.

Having regard to the provisions of the Primary Production Zone in the relevant Development Plan, it is considered that the proposal is not seriously at variance with the provisions of the Development Plan and displays sufficient merit to warrant Development Plan Consent. The concurrence of the Development Assessment Commission will be required before issuing the consent.

#### **RECOMMENDATION:**

That the Development Assessment Panel has considered all relevant assessment matters and the officer's report in relation to Development Application 960/155/2014 and resolves as follows:

- (A) That pursuant to Section 35(2) of the Development Act, the proposal is not seriously at variance with the relevant provisions of The Barossa Council Development Plan.
- (B) Pursuant to Section 6(2) of the Character Preservation (Barossa Valley) Act 2012, the Development Assessment Panel has had regard to the objects of that Act and, in determining this application, seeks to further the objects of that Act.
- (C) That pursuant to Section 33(1)(a) of the Development Act, Development Application 960/155/2014 be granted Development Plan Consent subject to the following conditions:
- (1) The development shall be undertaken in accordance with the plans and documentation (as amended) accompanying the application, unless varied by the following conditions.
  - (2) The building shall be connected to a wastewater system approved under the South Australian Public Health Act 2011.

NOTE

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

- (3) The existing dwelling on the subject land shall be demolished within 3 months of practical completion of the construction of the new dwelling herein approved.
- (4) The subject land is located within a High Bushfire Risk area and the following CFS conditions apply.

Access to Dwelling

The Ministers [Bushfire] Code Part 2.3.3.1 describes the mandatory provision for 'Private' roads and driveways to buildings, where the furthest point to the building from the nearest public road is more than 30 metres, shall provide safe and convenient access/egress for large Bushfire fighting vehicles.

- Access to the building site shall be of all-weather construction, with a minimum formed road surface width of 3 metres and must allow forward entry and exit for large fire-fighting vehicles.
- The all-weather road shall allow fire-fighting vehicles to safely enter and exit the allotment in a forward direction by incorporating either:
  - A loop road around the building, OR
  - A turning area with a minimum radius of 12.5 metres, OR
  - A 'T' or 'Y' shaped turning area with a minimum formed length of 11 metres and minimum internal radii of 9.5 metres.

- Vegetation overhanging the access road shall be pruned to achieve a minimum vehicular clearance of not less than 4 metres width and a vertical height clearance of 4 metres.
- The gradient of the access road shall not exceed 16 degrees (29%).
- The all-weather road shall incorporate passing bays with a minimum formed width of 7 metres including the road or driveway width, and a minimum formed length of 17 metres. The passing bays should be constructed at 200 metre intervals along the driveway.

NB: The Country Fire Service notes that the proposed access as detailed on drawing named Siteworks & Drainage Plan Sheet 1 of 1, complies with the above.

(5) Access (to dedicated water supply)

The Ministers [Bushfire] Code Part 2.3.4.1 requires a dedicated and accessible water supply to be made available at all times for fire-fighting.

Ministers Specification SA 78 describes the mandatory provision for access to the dedicated water for fire-fighting vehicles where the path of travel from the entrance to the property to the water storage facility is more than 30 metres in length, by an all-weather roadway:

- Access to the dedicated water supply shall be of all-weather construction, with a minimum formed road surface width of 3 metres.
- The driveway shall be constructed to be capable of supporting fire-fighting vehicles with a gross vehicle mass (GVM) of 21 tonnes, AND
- Provision shall be made adjacent to the water supply for a hardstand area (capable of supporting fire-fighting vehicles with a gross vehicle mass (GVM) of 21 tonnes) that is a distance equal to or less than 6 metres from the water supply outlet.

NB: The Country Fire Service notes that the proposed location for the dedicated water supply detailed on drawing named Siteworks & Drainage Plan Sheet 1 of 1, does not comply with the above.

(6) Water Supply

The Ministers [Bushfire] Code Part 2.3.4.1 prescribes the mandatory provision of a dedicated and accessible water supply to be made available at all times for fire-fighting.

Ministers Specification SA78 provides the technical details of the dedicated water supply for bushfire fighting for the bushfire zone. The dedicated bushfire fighting water supply shall also incorporate the installation of a pumping system, pipe-work and fire-fighting hose(s) in accordance with Minister's Specification SA78:

- A minimum supply of 22,000 litres of water shall be available at all times for bushfire fighting purposes. of at least 50mm diameter terminating with a fire service 64mm male London round thread adaptor which shall be accessible to bushfire fighting vehicles at all times.
- The water storage facility (and any support structure) shall be constructed of non-combustible material.
- The dedicated fire-fighting water supply shall be pressurised by a pump that has:
  - A minimum inlet diameter of 38mm, AND
  - Is powered by a petrol or diesel engine with a power rating of at least 3.7kW (5hp), OR
  - A pumping system that operates independently of mains electricity and is capable of pressurising the water for fire-fighting purposes.
- The dedicated fire-fighting water supply pump shall be located at or adjacent to the dwelling to ensure occupants safety when operating the pump during a bushfire. An 'Operations Instruction Procedure' shall be located with the pump control panel.
- The fire-fighting pump and any flexible connections to the water supply shall be protected by a non-combustible cover that allows adequate air ventilation for efficient pump operation.
- The bushfire fighting water supply shall be clearly identified and fitted with an outlet.
- All bushfire fighting water pipes and connections between the water storage facility and a pump shall be no smaller in diameter than the diameter of the pump inlet.
- All non-metal water supply pipes for bushfire fighting purposes (other than flexible connections and hoses for fire-fighting) shall be buried below ground to a minimum depth of 300mm with no non-metal parts above ground level.
- A fire-fighting hose (or hoses) shall be located so that all parts of the building are within reach of the nozzle end of the hose and if more than one hose is required they should be positioned to provide maximum coverage of the building and surrounds (ie. at opposite ends of the dwelling).
- All fire-fighting hoses shall be capable of withstanding the pressures of the supplied water.
- All fire-fighting hoses shall be of reinforced construction manufactured in accordance with AS 2620 or AS 1221.
- All fire-fighting hoses shall have a minimum nominal internal diameter of 18mm and a maximum length of 36 metres.
- All fire-fighting hoses shall have an adjustable metal nozzle, or an adjustable PVC nozzle manufactured in accordance with AS 1221.

- All fire-fighting hoses shall be readily available at all times.

(7) Vegetation

Landscaping shall include Bushfire protection features that will prevent or inhibit the spread of bushfire and minimise the risk of life and/or damage to buildings and property.

- A vegetation management zone (VMZ) shall be established and maintained within 20 metres of the dwelling (or to the property boundaries – whichever comes first) as follows:
  - The number of understorey plants established within the VMZ shall be maintained such that when considered overall a maximum coverage of 50% is attained, and so that the leaf area of shrubs is not continuous. Careful selection of the vegetation will permit the 'clumping' of shrubs where desirable, for diversity, and privacy and yet achieve the 'overall maximum coverage of 50%'.
  - Grasses within the zone shall be reduced to a maximum height of 10cms during the Fire Danger Season.
  - Additional trees and shrubs shall not be planted closer to the dwelling than the distance equivalent to their mature height.
  - No understorey vegetation shall be established within 1metre of the dwelling. (Understorey is defined as plants and bushes up to 2metres in height).
  - The VMZ shall be maintained to be free of accumulated dead vegetation.

(8) Building Considerations

Bushfire prevention and safety requirements shall be completed prior to occupancy of the building(s).

For construction requirements and performance provisions, refer to the Building Code of Australia Part 3.7 "*FIRE SAFETY*" Australian Standard *TM3959 (AS3959)* "Construction of Buildings in Bushfire Prone Areas".

Compliance with the fire protection requirements is not a guarantee the dwelling will not burn, but its intent is to provide a '*measure of protection*' from the approach, impact and passing of a bushfire.

- (C) Seeks the Concurrence of the Development Assessment Commission.

**DEVELOPMENT ASSESSMENT PANEL****2 SEPTEMBER 2014****DEBATE AGENDA****DA/DAP/R6**

|   |   |
|---|---|
| <b>DEVELOPMENT APPLICATION NO:</b>                          | 960/1142/2013 (Prop ID 1166415)   |
| <b>APPLICANT:</b>   | Cameron Sims & Anthea Egyud   |
| <b>OWNER:</b>   | Anthea Egyud  |
| <b>SUBJECT LAND:</b>  | Lot 714 Allendale Road, Kalbeeba  |
| <b>PROPOSAL:</b>  | Detached Dwelling, Outbuilding and Deck   |
| <b>ZONE/POLICY AREA:</b>                                    | Primary Production Zone, Precinct 5   |
| <b>PROCEDURE:</b>   | Non-Complying   |
| <b>REFERRALS:</b>   | Country Fire Services   |
| <b>PUBLIC NOTICE:</b>                                       | Category 3 – Nil Representations  |
| <b>KEY ISSUES:</b>  | Dwelling does not meet all the criteria listed in the non-complying exceptions list.  |
| <b>DEVELOPMENT PLAN PROVISIONS:<br/>CONSOLIDATION DATE:</b> | Council Wide <ul style="list-style-type: none"> <li>• Design and Appearance</li> <li>• Energy Efficiency</li> <li>• Hazards</li> <li>• Residential Development</li> <li>• Siting and Visibility</li> <li>• Sloping Land</li> <li>• Preservation District Overlay</li> </ul> Primary Production Zone |
| <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 has a frontage to Allendale Road of 750 metres and a depth of 270 metres, with an area totaling 17 hectares. The land consists of a steep terrain with a gully that falls towards the south, away from Allendale Road, resulting in the allotment having limited site area to accommodate a dwelling. The site proposed for the subject dwelling is considered to be the most suitable location, with a gradient of 1:6 of which is the lesser slope within the entire allotment.

The site is currently vacant and contains scattered mature native vegetation and open pasture. Due to the topography of the land, the allotment would be limited in use in terms of primary production. The site is in a high Bushfire Risk area.

The locality consists of large rural allotments with similar topography to the subject land. A detached dwelling exists on a nearby allotment, with the remainder of the locality being undeveloped and consisting of steep grazing land with pockets of remnant vegetation. The locality immediately to the north of the subject land is within a medium Bushfire Risk area.

A locality plan forms *Attachment 1*.

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

The proposal is to construct a single storey detached dwelling, outbuilding and deck.

The proposed dwelling is a contemporary design with a skillion roof pitched at 7.5 degrees and textured coated Hebel cladding. The dwelling will be located 68 metres from Allendale Road and is situated in area on the allotment that is most accessible from the road. The dwelling has been designed to be sympathetic to the land form with cut and fill minimised by having a split floor level. The dwelling will also span in an east west direction, aligned with the contours of the land, to further reduce cut and fill.

The proposed outbuilding is located 5 metres from the eastern boundary, behind the proposed dwelling and has a floor area of 96 square metres, a wall height of 2.9 metres with a roof pitch of 15°. The iron cladding will be finished in Colorbond. Two, 22,000 litre rainwater tanks will be located to the north of the outbuilding for firefighting purposes.

Details of the application form *Attachment 2*.

A Statement of Support forms *Attachment 3*.

### **REFERRALS**

The site is located in a high Bushfire Risk area and has been referred to the Country Fire Service as required under Schedule 8 of the Development Regulations, 2008. A copy of the Country Fire Service report forms *Attachment 4*.

### **PROCEDURE**

The proposed development is for a detached dwelling deemed as non-complying, as some of the siting and design criteria has not been satisfied in accordance with the non-complying exemptions list within the Primary Production Zone.

The application has proceeded to assessment under delegation pursuant to Regulation 17(4) of the Development Regulations 2008 on the basis that the proposal has merit as it generically, complies with zone provisions except lot size.

A Statement of Effect forms Attachment 5.

#### **PUBLIC NOTIFICATION**

The application is a Category 3, Non-Complying form of development and therefore required public notification. Adjacent land owners and directly affected persons were notified in writing, and an advertisement was also placed in the local newspaper. No representations were received in relation to the proposal.

#### **PLANNING ASSESSMENT**

The proposal has been determined to be non-complying as it does not meet all the criteria for a detached dwelling as listed in the non-complying exceptions list. The proposal does not meet (iv), (x) and (xii), (set out below) however, although the proposed development does not technically meet these requirements, it is considered that the proposal does not offend the desired character of the area and meets the intent of the Principles of Development Control for the Primary Production Zone.

#### ***Non-Complying Development***

*Dwelling - Except for a detached dwelling:*

*Where the detached dwelling complies with the following criteria:*

- (i) Is not located in areas subject to inundation by a 1-in-a 100 year average return interval flood event*
- (ii) Is sited at least 25 metres from any watercourse*
- (iii) Is sited at least 300 metres from an existing winery or 500 metres from an existing intensive animal keeping land use*
- (iv) The vertical distance between any point at the top of any external wall and the finished ground level immediately below that point on the wall is less than 3 metres, other than gable ends of the dwelling where the distance is less than 5 metres*
- (v) There is no floor level directly above another floor level, except where the upper floor level is located wholly at or below finished ground level*
- (vi) The depth of excavation and/or filling of land is less than 1.5 metres, except for the purpose of constructing an earth sheltered dwelling*
- (vii) It does not involve the clearance of native vegetation comprising trees and/ or shrubs*
- (viii) Contains a day living area incorporating at least one window that faces between 20° east and 30° west of true north*
- (ix) Contains doors between living areas and between a living and other rooms and corridors*
- (x) Has a total window area facing east and west not exceeding 50 per cent of the total window area of the dwelling*
- (xi) External eaves or awnings of a minimum 450 millimetres in width is provided to west facing windows*
- (xii) Roof incorporates an area of at least 10m<sup>2</sup> that faces between 30° west and 20° east of true north and has a pitch greater than 18°*

- (xiii) *At least 1000litres of stormwater from the roof is collected, stored and re-used located within the dwelling*
- (xiv) *Is to be connected to an approved waste treatment system*
- (iv) *The vertical distance between any point at the top of any external wall and the finished ground level immediately below that point on the wall is less than 3 metres, other than gable ends of the dwelling where the distance is less than 5 metres.*

The subject proposal is for a contemporary design and therefore does not have gable ends. The wall height of the subject dwelling is not technically defined by the distance to the eaves, as is the case with a traditional dwelling design. Therefore consideration should be given to the fact that although the wall height of the subject dwelling could be perceived as being greater than 3 metres, the roof pitch is low, therefore the overall height would be similar to the standard height of a traditional pitched gable or hip roof. The intent of the design provision is to minimise visual dominance through height restriction, and although the subject proposal does not meet the technical criteria, it does not offend the principle.

- (x) *Has a total window area facing east and west not exceeding 50 per cent of the total window area of the dwelling.*

The proposed dwelling has glazing on the west elevation that exceeds 50 percent of the total glazing area, with some glazing to the north into a daytime living area. The glazing to the west is not ideal, but the design has included significant shading with a proposed 1800mm wide verandah along the west elevation. The eave overhang from the skillion roof extends 1200mm and will provide some shading to the glazing above the verandah.

The applicant has provided an energy efficiency report stating the proposed dwelling can meet a 5.1 Star Energy Efficiency requirement and a 6 Star rating if photovoltaic panels are installed. To achieve full development approval, the proposed dwelling will need to meet the Building Code minimum requirement for energy efficiency which is 6 star rating.

The proposed dwelling has been designed to be elongated along the contour of the land so that cut and fill will be minimised. To achieve a north facing orientation, the dwelling would need to be orientated so that the length of the dwelling runs north/south, resulting in significant excavation of the land against the contour. In this instance it is an acceptable compromise to allow the proposed orientation, given the constraints of the allotment and to avoid excessive cut and fill.

- (xii) *Roof incorporates an area of at least 10m<sup>2</sup> that faces between 30° west and 20° east of true north and has a pitch greater than 18°.*

The proposal does not achieve this principle as the skillion roof does not have a pitch of 18° or has an angle facing north. The purpose of this principle is to incorporate an off-grid power system to be located on the roof. The proposal has indicated on the site plan that a future outbuilding is proposed and will accommodate a solar system as an alternative to using the roof area of the dwelling. This principle is considered to be minor as the intent can still be achieved and should not significantly affect the design of the dwelling.

### Design and Appearance

Objective 1 states that development should be “*of a high architectural standard that responds to and reinforces positive aspects of the local environment and built form*”. In addition, Principle of Development Control 1 suggests that development should be sympathetic to the locality and appropriate within the context of its setting.

The proposed dwelling has been specifically designed to blend with the environment through the design of a low profile skillion roof and split level siting to follow the contours of the land. In addition, the dwelling will be set down low when viewed from Allendale Road due to the natural slope of the land. The location and orientation of the proposed dwelling has been selected to minimise excavation with an access driveway that is easily accessible from Allendale Road, requiring minimal excavation.

### Siting and Visibility

The proposed development is consistent with Principle of Development Control 3 which states that “*Buildings outside of urban areas and in undulating landscapes should be sited in unobtrusive locations and in particular should be:*

- (a) *sited below the ridgeline*
- (b) *sited within valleys or behind spurs*
- (d) *set well back from public roads, particularly when the allotment is on the high side of the road*
- (e) *be located in a setting where landscape features such as trees, vegetation and landforms provide an enclosing space, setting or screen”.*

### Sloping Land

*Objective 1: Development on sloping land designed to minimize environmental and visual impacts and protect soil stability and water quality.*

#### *Principle of Development Controls*

- 1 *Development and associated driveways and access tracks should be sited and designed to integrate with the natural topography of the land and minimise the need for earthworks.*
- 2 *Development and associated driveways and access tracks, including related earthworks, should be sited, designed and undertaken in a manner that:*
  - (a) *minimises their visual impact*
  - (b) *reduces the bulk of the buildings and structures*
  - (c) *minimises the extent of cut and/or fill*
  - (d) *minimises the need for, and the height of retaining;*
  - (e) *does not cause or contribute to instability of any embankment or cutting.*
- 7 *The cutting and filling of land outside townships and urban areas should:*
  - (a) *be kept to minimum depth or height no greater than 1.5 metres so as to preserve the natural form of the land and the native vegetation.*

### Primary Production Zone

The desired character for the zone states that proposed development will take into account the capability and suitability of the land for the intended use. The intended use throughout the zone is for the land to be used for primary production purposes. The subject land is not currently used for primary production and the majority of the allotment is very steep with limited potential for farming. The subject proposal is unlikely to affect the current or potential viability of the land for primary production purposes.

Principle of Development Control 7 of the Primary Production Zone states that:

*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*
- (c) it is located more than 500 metres from an existing intensive animal keeping operation unless used in association with that activity*
- (d) it does not result in more than one dwelling per allotment*
- (e) it is designed and constructed utilising environmentally sustainable design principles.*

Principle of Development Control 25 states:

*A dwelling should only occur on an allotment greater than 32 hectares in area.*

The subject allotment does not satisfy Principle 25, as the allotment is only 17 hectares. Principle 25 is desired but not a non-complying trigger. The Desired Character statement for the zone states that there are opportunities for additional dwellings to be established in the zone, but only where it can be demonstrated that they do not conflict with the use of the land for primary production and that they maintain the open landscape character. The rural living sized allotments within the immediate locality were created about six years ago, through a boundary realignment, which created one large 100 ha primary production lot and a cluster of three smaller lots, that included the subject land. At the time of approving these lots, Council accepted they were likely to be sold and developed for rural living purposes.

### Character Preservation Overlay

The proposed development is also located within the Character Preservation District. Objective 1 of the Character Preservation Overlay indicates that this is a district where:

- (a) scenic and rural landscapes are highly valued, retained and protected*
- (b) development near entrances to towns and settlements does not diminish the rural setting, character and heritage values associated with those towns and settlements*
- (c) the long term use of land for primary production and associated value adding enterprises is assured and promoted*
- (d) activities positively contribute to tourism*
- (e) the heritage attributes of the district are preserved*

(f) *buildings and structures complement the landscape*

It is considered that the proposed development largely meets the criteria for this objective as the dwelling will not adversely impact on the scenic or rural landscape character of the land or locality in which the land is situated. The dwelling has also been designed to suit the contours of the land and minimise any impact it may have upon the landscape.

Objective 2 of the Character Preservation Overlay notes that residential development should be located inside townships, settlements and rural living areas. It is acknowledged that the proposed dwelling is not located in one of these areas. However, it is also considered that the proposed development will not have detrimental visual impact given the location of the allotment, as it is not located along a scenic route, and the modest siting of the dwelling as viewed from Allendale Road.

**CONCLUSION**

The proposal has been determined as a non-complying development as it does not meet 3 principles relating to siting and design within the Primary Production Zone.

The proposal overall is sympathetic to the land form and meets the principles of the desired character for the Primary Production Zone. The dwelling is set back from the road, has a low profile and does not offend siting, design, appearance or sloping land principles. As a consequence of the contemporary design, the proposed dwelling is compromised by the design criteria that has determined the proposal to be non-complying, although the proposal does not significantly offend the character principles of the Zone. The proposed dwelling is suitably designed and sited appropriately for the locality.

Having regard to the provisions of the Primary Production Zone in the relevant Development Plan, it is considered that the proposal is not seriously at variance with the provisions of the Development Plan and displays sufficient merit to warrant Development Plan Consent. The concurrence of the Development Assessment Commission will be required before issuing the consent.

**RECOMMENDATION:**

That the Development Assessment Panel has considered all relevant assessment matters and the officer's report prepared in relation to Development Application 960/1142/2013 and resolves as follows:

- (A) That pursuant to Section 35(2) of the Development Act, the proposal is not seriously at variance with the relevant provisions of The Barossa Council Development Plan.
- (B) Pursuant to Section 6(2) of the Character Preservation (Barossa Valley) Act 2012, the Development Assessment Panel has had regard to the objects of that Act and, in determining this application, seeks to further the objects of that Act.
- (C) That pursuant to Section 33(1)(a) of the Development Act, Development Application 960/1142/2013 be granted Development Plan Consent subject to the following conditions:

- (1) The development shall be undertaken in accordance with the plans and documentation accompanying the application, unless varied by the following conditions.
- (2) The building shall be connected to a wastewater system approved under the South Australian Public Health Act 2011.

NOTE

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

- (3) The subject land is located within a High Bushfire Risk area and the following CFS conditions apply.

Access to Dwelling

The Ministers [Bushfire] Code Part 2.3.3.1 describes the mandatory provision for 'Private' roads and driveways to buildings, where the furthest point to the building from the nearest public road is more than 30 metres, shall provide safe and convenient access/egress for large Bushfire fighting vehicles.

- Access to the building site shall be of all-weather construction, with a minimum formed road surface width of 3 metres and must allow forward entry and exit for large fire-fighting vehicles.
- The all-weather road shall allow fire-fighting vehicles to safely enter and exit the allotment in a forward direction by incorporating either –
  - A loop road around the building, OR
  - A turning area with a minimum radius of 12.5 metres, OR
  - A 'T' or 'Y' shaped turning area with a minimum formed length of 11 metres and minimum internal radii of 9.5 metres.
- The gradient of the access road shall not exceed 16 degrees (29%).
- Vegetation overhanging the access road shall be pruned to achieve a minimum vehicular clearance of not less than 4 metres width and a vertical height clearance of 4 metres.

- (4) Access (to dedicated water supply)

The Ministers [Bushfire] Code Part 2.3.4.1 requires a dedicated and accessible water supply to be made available at all times for fire-fighting.

Ministers Specification SA 78 describes the mandatory provision for access to the dedicated water for fire-fighting vehicles where the path of travel from the entrance to the property to the water storage facility is more than 30 metres in length, by an all-weather roadway:

- Access to the dedicated water supply shall be of all-weather construction, with a minimum formed road surface width of 3 metres.
- The driveway shall be constructed to be capable of supporting fire-fighting vehicles with a gross vehicle mass (GVM) of 21 tonnes, AND
- Provision shall be made adjacent to the water supply for a hardstand area (capable of supporting fire-fighting vehicles with a gross vehicle mass (GVM) of 21 tonnes) that is a distance equal to or less than 6 metres from the water supply outlet.

(5) Water Supply

The Ministers [Bushfire] Code Part 2.3.4.1 prescribes the mandatory provision of a dedicated and accessible water supply to be made available at all times for fire-fighting.

Ministers Specification SA78 provides the technical details of the dedicated water supply for bushfire fighting for the bushfire zone. The dedicated bushfire fighting water supply shall also incorporate the installation of a pumping system, pipe-work and fire-fighting hose(s) in accordance with Minister's Specification SA78:

- A minimum supply of 22,000 litres of water shall be available at all times for bushfire fighting purposes.
- The bushfire fighting water supply shall be clearly identified and fitted with an outlet of at least 50mm diameter terminating with a fire service 64mm male London round thread adaptor which shall be accessible to bushfire fighting vehicles at all times.
- The water storage facility (and any support structure) shall be constructed of non-combustible material.
- The dedicated fire-fighting water supply shall be pressurised by a pump that has:
  - A minimum inlet diameter of 38mm, AND
  - Is powered by a petrol or diesel engine with a power rating of at least 3.7kW (5hp), OR
  - A pumping system that operates independently of mains electricity and is capable of pressurising the water for fire-fighting purposes.
- The dedicated fire-fighting water supply pump shall be located at or adjacent to the dwelling to ensure occupants safety when operating the pump during a bushfire. An 'Operations Instruction Procedure' shall be located with the pump control panel.
- The fire-fighting pump and any flexible connections to the water supply shall be protected by a non-combustible cover that allows adequate air ventilation for efficient pump operation.
- All bushfire fighting water pipes and connections between the water storage facility and a pump shall be no smaller in diameter than the diameter of the pump inlet.
- All non-metal water supply pipes for bushfire fighting purposes (other than flexible connections and hoses for fire-fighting) shall be buried below ground to a minimum depth of 300mm with no non-metal parts above ground level.

- A fire-fighting hose (or hoses) shall be located so that all parts of the building are within reach of the nozzle end of the hose and if more than one hose is required they should be positioned to provide maximum coverage of the building and surrounds (i.e. at opposite ends of the dwelling).
- All fire-fighting hoses shall be capable of withstanding the pressures of the supplied water.
- All fire-fighting hoses shall be of reinforced construction manufactured in accordance with AS 2620 or AS 1221.
- All fire-fighting hoses shall have a minimum nominal internal diameter of 18mm and a maximum length of 36 metres.
- All fire-fighting hoses shall have an adjustable metal nozzle, or an adjustable PVC nozzle manufactured in accordance with AS 1221.
- All fire-fighting hoses shall be readily available at all times.

(6) Vegetation

Landscaping shall include Bushfire protection features that will prevent or inhibit the spread of bushfire and minimise the risk of life and/or damage to buildings and property.

- A vegetation management zone (VMZ) shall be established and maintained within 20metres of the dwelling (or to the property boundaries – whichever comes first) as follows:
  - The number of understorey plants established within the VMZ shall be maintained such that when considered overall a maximum coverage of 50% is attained, and so that the leaf area of shrubs is not continuous. Careful selection of the vegetation will permit the 'clumping' of shrubs where desirable, for diversity, and privacy and yet achieve the 'overall maximum coverage of 50%'.
  - Grasses within the zone shall be reduced to a maximum height of 10cms during the Fire Danger Season.
  - Additional trees and shrubs shall not be planted closer to the dwelling than the distance equivalent to their mature height.
  - No understorey vegetation shall be established within 1metre of the dwelling. (Understorey is defined as plants and bushes up to 2metres in height).
  - The VMZ shall be maintained to be free of accumulated dead vegetation.

(7) Building Considerations

Bushfire prevention and safety requirements shall be completed prior to occupancy of the building(s).

For construction requirements and performance provisions, refer to the Building Code of Australia Part 3.7 "*FIRE SAFETY*" Australian Standard TM3959 (AS3959) "Construction of Buildings in Bushfire Prone Areas".

Compliance with the fire protection requirements is not a guarantee the dwelling will not burn, but its intent is to provide a '*measure of protection*' from the approach, impact and passing of a bushfire.

- (D) Seeks the Concurrence of the Development Assessment Commission.

**DEVELOPMENT ASSESSMENT PANEL**

**2 SEPTEMBER 2014**

**DEBATE AGENDA**

**9.1**

**B61**

**DEVELOPMENT ASSESSMENT COMMISSION CONCURRENCE APPLICATIONS**

The Development Assessment Panel requested details of responses received from the Development Assessment Commission, relating to applications referred for concurrence.

To date the following applications (non-complying or requiring concurrence under the Character Preservation Legislation), in which the Panel were the decision authority, have been received from the Commission as follows:

| <b>DA NUMBER</b> | <b>APPLICANT</b> | <b>ADDRESS</b>                    | <b>NATURE OF DEVELOPMENT</b> | <b>DAC DECISION</b>   |
|------------------|------------------|-----------------------------------|------------------------------|---|
| 960/703/2013     | J Wiese          | 99 Gottwald Road,<br>Williamstown | Land Division                | Concurrence<br>Granted<br>05/08/2014<br>(12/11/2013<br>panel meeting) |

**RECOMMENDATION:**

That the report be received.

## **DEVELOPMENT ASSESSMENT PANEL**

**2 SEPTEMBER 2014**

### **DEBATE AGENDA**

**9.2**

**960/940/2013 (Prop ID 112432)  
960/574/2013 (Prop ID 1165868)**

#### **WITHDRAWAL OF DEVELOPMENT APPLICATION 960/940/2013 & UPDATE ON DEVELOPMENT APPLICATION 960/574/2013**

At its meeting held on the 1 July 2014, the Development Assessment Panel considered development application 960/940/2013 and resolved to defer the application requesting the Applicant to provide the Panel with photographic overviews, indicating the size of the proposed development on the site, and alternative sites on the property with the aim to minimise the visual impact.

The Applicant was advised by letter of the Panel's decision, and asked to provide the additional details requested.

The Applicant has since advised that the owners of the subject land wished to withdraw their application due to additional costs and ongoing time delays associated with providing the additional information as requested. The correspondence from the Applicant can be found in Attachment 1.

It can also be noted that at the July meeting of the Development Assessment Panel, another development application 960/574/2013, was considered and the Applicant asked to provide the same detail. The Applicant was able to provide the detail requested and the panel has since re-considered the proposal as part of this agenda. The Applicant noted however, that although able to provide the information, they had difficulty in finding a local professional able to supply suitable documentation to meet the Panel's requirements. The Applicant also expressed concern over the additional costs and time delay associated with the provision of the detail, as they believed their application to be complete, and of an appropriate standard for the Panel to make their decision.