



The Barossa Council

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

Held on Tuesday, 7 July 2015 commencing at 5:02pm in
the Council Chambers, 43-51 Tanunda Road, Nuriootpa

WELCOME

Bruce Ballantyne welcomed everyone, and opened the meeting.

PRESENT

Bruce Ballantyne (Presiding Member), David Hughes, James Miller, Deidre Reiman, Scotty Milne, and Tony Hurn – Panel Members.

Ian Baldwin (Director – Development and Environmental Services), Louis Monteduro (Senior Manager – Planning Services), Paul Mickan (Principal Planner), Brian Irvine (Senior Planner), Maxine Lovett and Phil Harnett (Planners), Steve Kaesler (Manager – Engineering Services), Richard Cocker (Engineer) and Christine Kruger (Minute Secretary) – Council Staff.

APOLOGIES

Nil

LEAVE OF ABSENCE

R Miller.

MINUTES OF PREVIOUS MEETING

MOVED D Hughes that the Minutes of the Development Assessment Panel meeting held on Tuesday, 7 April 2015 as circulated, be confirmed as a true and correct record of the proceedings of that meeting.

Seconded D Reiman

CARRIED

BUSINESS ARISING FROM PREVIOUS MINUTES

Nil.

DECLARATION OF INTEREST BY MEMBERS OF PANEL

Nil.

DEBATE AGENDA

D86/2015 (1165785)

DA/DAP/R1

PETER AND JULIE BRUNO – CHANGE OF USE – FARM BUILDING TO DWELLING AND CHANGE OF USE – DWELLING TO MOTEL WITH EXTENSIONS AND ANCILLARY FUNCTION ROOM - MERIT

The following Representatives addressed the Panel, reinforcing concerns raised in submissions (as included within the Agenda):

Mary-Ann Spicer addressed the Panel at 5.05pm on behalf of “Residents of Cockatoo Valley”.

Barbara Hoffman addressed the Panel at 5.18pm.

Judy Zorich addressed the Panel at 5.23pm on behalf of Adrian Zorich.

Tina Jenner addressed the Panel at 5.30pm on behalf of Hans and Dianne Kellens.

Jacalyn Seddon addressed the Panel at 5.33pm.

Kim Maurits addressed the Panel at 5.36pm.

Mr Horne addressed the Panel at 5.41pm.

Roger Green addressed the Panel at 5.47pm.

Greg Tucker (Greg Tucker Planning) addressed the Panel at 5.51pm on behalf of Applicants and answered questions from the Panel in relation to heritage assessment.

Peter Bruno (Applicant) answered questions from the Panel in relation to the proposed use of the area marked as “function room”.

MOVED T Hurn that the application be refused as it is in conflict with the character of the area and at variance with the zone.

Seconded J Miller

Discussion ensued, and with the agreement of J Miller, T Hurn withdrew the motion.

MOVED S Milne that the Development Assessment Panel defer consideration of Development Application 960/86/2015 pending further information in relation to noise control, screening buffer zones, waste water management, and additional assessment of the application against Council’s Development Plan.

Seconded J Miller

CARRIED

DEVELOPMENT APPLICATION NO:	960/86/2015 (Prop ID 1165785)
APPLICANT:	Peter and Julie Bruno
OWNER:	Peter and Julie Bruno
SUBJECT LAND:	530 Balmoral Road, Cockatoo Valley
PROPOSAL:	Change of Use – Farm Building to Dwelling and Change of Use – Dwelling to Motel with Extensions and Ancillary Function Room
ZONE/POLICY AREA:	Rural Living/Precinct 22 – Cockatoo Valley South
PROCEDURE:	Merit
REFERRALS:	Nil
PUBLIC NOTICE:	Category 3 – 26 Representations
KEY ISSUES:	Representations received during public notification period
DEVELOPMENT PLAN PROVISIONS: CONSOLIDATION DATE: 21 February 2013	Rural Living Zone Objectives 1 & 2. Principles of Development Control 1, 3 & 6. Council Wide Heritage Places Objective 4. Interface Between Land Uses Objectives 1 & 2. Principles of Development Control 1, 6 & 7. Landscaping, Fences & Walls Objective 1. Principles of Development Control 1 & 2. Tourism Development Objectives 1, 2, 3, 5, 6, 7 & 8. Principles of Development Control 1, 2, 3, 4, 7, 8, 9, 10, 11, 12 & 14. Transportation and Access Objective: 2. Principles of Development Control 8, 13, 22, 23, 30, 31, 32 & 33. Waste Objectives 1 & 2. Principles of Development Control 10, 11, 13 & 14. Character Preservation District Overlay Objective 1. Principles of Development Control 1.
RECOMMENDATION:	Grant Development Plan Consent
OFFICER:	Karen Mitrovic

SUBJECT LAND AND LOCALITY

The subject land is located within the Rural Living Zone and is within Precinct 22 – Cockatoo Valley South.

The subject land comprises a single allotment with a frontage to Balmoral Road of 236.85m and an area of approximately 3.97 hectares. The site currently contains an established dwelling, shearing shed, several farm buildings and a garage and carport associated with the existing dwelling.

The locality contains allotments varying in size from approximately 1 to 4 hectares with most allotments in the area containing a detached dwelling and associated outbuildings.

DESCRIPTION OF THE PROPOSED DEVELOPMENT

The applicant seeks to convert the existing 9 bedroom dwelling on the land to a bed and breakfast facility and convert the existing shearing shed to a dwelling to be used as a manager's residence.

Development Regulations define a motel as a building which provides temporary accommodation for more than five travelers. Given that the proposed bed and breakfast style accommodation will provide accommodation for up to 18 travelers, the proposal falls under the definition of a motel and has been assessed as such.

Proposed alterations and additions to the existing building include the addition of a "lounge/function/training" room and decking to the eastern side of the existing building and the

addition of two ensuite bathrooms. Two verandahs are also proposed along the northern face of the building. Multiple internal changes are also proposed as part of the development proposal.

The proposal also includes the conversion of an existing shearing shed on the land to a dwelling, which will be used as a manager's residence. Should the proposed development receive approval, the result will be that only one dwelling will be located on the site, in association with the 'motel' bed and breakfast facility.

REFERRALS

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

PROCEDURAL MATTERS

The proposed form of development is not listed as a non-complying form of development nor is it listed within Council's Development Plan or the Development Regulations as either a Category 1 or 2 form of development. As such, the proposal required Category 3 public notification.

PUBLIC NOTIFICATION

As a Category 3 application, adjacent land owners and directly affected persons were notified in writing, and an advertisement was also placed in the local newspaper. 26 representations were received and their comments are summarised below:

- Use of the proposed function room for separate events
- Liquor Licensing
- Potential wine production on site
- Landscaping, buffers and fauna
- Noise and inappropriate behavior from guests
- Lighting
- Traffic management
- Car parking
- Bushfire risks
- Effluent disposal
- Economic impact on other tourist facilities
- Reduction in property values

A copy of the representations was provided with the Agenda. The following representors wish to be heard by the Panel:

1. Mary-Ann Spicer, Tina Jenner and Hans Kellens on behalf of:
 "Residents of Cockatoo Valley"
 JD Miller
 John Underhill
 Mary-Ann Spicer
 Robert Spicer
 Jake Spicer
 Karen Palmer and Ashleigh Bell
 Robert Sylvester
 Ric and Lea Timpano
 Marlene Timpano
2. Barbara Hoffman
3. Judy Zorich on behalf of Thomas Zorich
4. Hans and Dianne Kellens
5. Mark and Jacalyn Seddon
6. Robert and Kim Maurits
7. Mr and Mrs Horne
8. Roger Green

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

- The proposed "function room" will be for use by people who are staying in the accommodation on site only, not for events etc.
- No Liquor License application is included in the proposal.

- No wine production will occur on site. The proposed vines are part of the overall landscaping plan, not for the production of wine.
- The Applicant has included a detailed landscaping plan in their application and all fencing on site will be fauna friendly.
- The proposed development is not a large scale commercial enterprise and management will be on site to control noise and behavior of guests.
- Any lighting on site will be directed to not impact on adjoining property owners or passing motorists.
- No additional access points are proposed to the site. The movement of traffic to and from the site is unlikely to be significantly higher than the existing use.
- Sufficient car parking facilities are to be established on site.
- The on-site managers and owners will ensure that appropriate bushfire prevention measures are undertaken and instruct guests on appropriate action in the event of a bushfire.
- All wastewater on the site will be disposed of via an approved waste water system.
- The economic impact upon other facilities is not a relevant planning issue which can be considered as part of a development application.
- A reduction or increase in property values in the area is not a relevant planning issue which can be considered as part of a development application.

Details of the applicant's response was included within the Agenda.

A number of representors indicate concern with a motel being located so close to their property. The proposed development has been described as a motel due to the definition listed in Schedule 1 of the Development Regulations 2008:

"motel means a building or group of buildings providing temporary accommodation for more than 5 travelers, and includes an associated restaurant facility, but does not include a hotel or residential flat building;"

However, the scale and design of the development is such that the proposal is more akin to a bed and breakfast form of accommodation, rather than a large commercial venture which would normally be associated with the term "motel".

PLANNING ASSESSMENT

The relevant Zone and Council Wide Objectives and Principles of Development Control (PDCs) from The Barossa Council Development Plan are discussed below.

General Section – Heritage Places

Objective 4 encourages the *"recognition, protection and promotion of the distinct cultural heritage of the Barossa region including the origin of its early settlers, patterns of development, architecture, unique buildings and structures and strong association with pastoral viticulture and mining activities."* The existing dwelling on the land is not a heritage listed item, however it was constructed in 1925 as the farm house on a large rural land holding. Although the building itself is not a heritage item identified within Council's Development Plan, it has historical significance in the area. The proposed development seeks to improve the condition of the existing dwelling and promote the historic character of the building to tourists of the region. It is considered that the proposed development will encourage the conservation of the existing building that has heritage appeal and promote the cultural heritage of the area.

General Section – Interface Between Land Uses

Many of the representations received make reference to concerns relating to the use of the proposed "ancillary function room", which is referred to as "lounge/function/training" on the submitted plans, and the interface issues which may result, in particular an increase in noise generated by guests staying in the accommodation. The Applicant has further clarified that the proposed room is for use by people who are staying in the accommodation on site and will not be a separate commercial use.

The Applicant's intend to reside in the proposed dwelling on the site as a manager's residence, which would allow supervision of activity within the proposed accommodation. Given this, it is not considered that the proposed development will have a detrimental impact upon the amenity of the

area through an increase in noise on the site and the proposed bed and breakfast facility is considered to be sufficiently distant from nearby dwellings to minimise any potential for nuisance.

General Section – Landscaping, Fences & Walls

The proposed development will incorporate the planting of additional landscaping on the subject land, as shown on the site plan and landscaping details included with the application. The intention is for locally indigenous species to be used with the proposed landscaping plan being completed in consultation with the Adelaide and Mount Lofty Natural Resources Management Board to ensure suitability.

General Section – Tourism Development

The proposed development will assist in the conservation of an existing building which is of historic significance to the region and promote tourism to the area. The visual amenity of the subject land will be improved through the conservation of the existing dwelling and the revegetation of the site.

The proposal will contribute positively to the local community by attracting tourism and providing a type of accommodation appropriate for the character of the region.

General Section – Transportation & Access

The existing dwelling on the site currently contains seven bedrooms and has two additional bedrooms. The proposed accommodation will provide eight bedrooms, resulting in up to eight vehicles associated with the use (if fully occupied). It is considered that the traffic associated with the proposed accommodation facility will likely be domestic vehicle movements.

Access to the site will be gained via an existing crossover on site and all vehicles will enter and exit the site in a forward motion.

Sufficient on-site car parking has been provided to accommodate the needs of both the proposed motel at the required rate of one per room; and for the dwelling at the rate of one per bedroom.

General Section – Waste

The Applicant has submitted a separate waste control application and accompanying documentation for the proposed waste control system on the site, pending the outcome of the planning assessment for the proposal. A condition has been placed on the development should it receive approval, that the proposed development be connected to a wastewater system approved under the South Australian Public Health Act 2011.

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 land to be used for primary production purposes. The use of an existing historic building on site for accommodation purposes will actively contribute in a positive manner towards tourism in the area. In addition, the heritage attributes of the district will be preserved and the building and structures on site complement the landscape.

Rural Living Zone

The proposed development is not a non-complying form of development within the zone and as has been considered for consent on its merits in accordance with The Barossa Council Development Plan.

The proposed development will not negatively impact upon existing lawful land uses in the area. The use of the proposed "ancillary function room" will be by accommodation guests only, and will not be provided as a venue for functions such as weddings. This is supported by the lack of a liquor license application for the site. Noise generated by guests of the proposed accommodation is not expected to have a significant impact.

No additional access points to Balmoral Road area proposed and the movement of traffic to and from the site is unlikely to be significant or detrimental as a result of the proposed development.

The landscaping proposed as part of the development will screen the proposed dwelling and motel from view of many surrounding properties, and the proposed building materials will blend with the existing character of the area.

The subject land is located in an area identified by Council's Development Plan as a medium bushfire risk area. The proposed development has been designed to meet the requirements for a medium bushfire risk area and, should the proposal receive development plan consent, a condition has been applied to ensure that the proposal is consistent with the Minister's Code for undertaking development in bushfire protection areas.

CONCLUSION

The proposed development is a merit form of development within the zone, which will not detract from or inhibit existing land uses considered appropriate within the Rural Living Zone, or detrimentally affect potential for future appropriate land uses.

Having regard to the provisions of the Rural Living Zone and the Council Wide Section in the relevant Development Plan, the proposal does not conflict with the provisions of the Development Plan and displays sufficient merit to warrant Development Plan Consent.

DA/DAP/R2 **D15/2015 (1166975)**
**BONACCI GROUP (SA) PTY LTD – CELLAR DOOR EXPANSION TO INCLUDE
USE OF EXISTING BALCONIES (GREATER THAN 250 SQUARE METRES),
RESTAURANT/FUNCTION CENTRE (MORE THAN 75 SEATS (300 TOTAL))
AND PROVISION OF INFORMAL CAR PARKING AREAS – NON-COMPLYING**

Mr P Harnett addressed the Panel and confirmed that the Representation received from Mr Peter Miles, had since been withdrawn.

MOVED S Milne that the Development Assessment Panel has considered all relevant assessment matters and the officer's report prepared in relation to Development Application Number 960/15/2015 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 number 960/15/2015 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) The cellar door sales outlet, restaurant and function center shall not be used outside the hours of 8.00am till 11.00pm seven days per week.
- (3) The total capacity, including any associated outdoor areas, shall not exceed 300 patrons at any one time.
- (4) All car/bus parking, driveway, and vehicle maneuvering areas shall be covered with sufficient compacted rubble and aggregate to provide a smooth and durable surface free from mud and dust, and shall be maintained in good condition to the reasonable satisfaction of Council.
- (5) The landscaping as shown on 'Site Plan – Car Parking Layout – C015 P2' shall consist of native vegetation and be planted prior to occupation/use of the development. The landscaping 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.
- (6) The development shall be connected to a wastewater system approved under the South Australian Public Health Act 2011.
- (7) Any lights used for the illumination of the subject land shall be sited and designed so as not to cause unreasonable nuisance to any person living in the vicinity of the subject land or to nearby vehicular traffic.
- (8) At all times the resultant noise levels at any residential premises in the area not associated with the development shall comply with the relevant provisions of the Environment Protection (Noise) Policy 2007.
- (9) Noise emanating from 'HVAC wall mounted' units or future plant equipment shall comply with the limitations of the Environment Protection (Noise) Policy 2007.
- (10) Music, whether live or recorded, shall only be played inside the building.
- (11) All activities on the site shall not exceed air pollution limitations recommended by the Environment Protection (Air Quality) Policy 1994.

NOTES

- 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 do not pollute the environment in a way which causes or may cause environmental harm.

- Where practicable, native vegetation, shall be retained.

(D) Seek the concurrence of the Development Assessment Commission.

Seconded T Hurn

CARRIED

DEVELOPMENT APPLICATION NO:	960/15/2015 (Prop ID 1166975)
APPLICANT:	Bonacci Group (SA) Pty Ltd
OWNER:	JL & PL Lambert
SUBJECT LAND:	55 Long Gully Road, Angaston
PROPOSAL:	Cellar Door Expansion to Include Use of Existing Balconies (greater than 250 square metres), Restaurant/Function Centre (more than 75 seats (300 total)) and provision of Informal Car Parking Areas
ZONE/POLICY AREA:	Primary Production Zone, Precinct 4 Barossa Range and Character Preservation District (Map Baro/14)
PROCEDURE:	Non-Complying
REFERRALS:	Not Applicable
PUBLIC NOTICE:	Category 3 – 15 Representations (14 in Support & 1 Objection)
KEY ISSUES:	Amenity, Noise, Traffic and Carparking
DEVELOPMENT PLAN PROVISIONS:	Primary Production Zone Objectives: 1, 3 and 5. Principles of Development Control 2, 4, 10 and 20.
CONSOLIDATION DATE: 21 February 2013	General Interface between Land Uses Objectives 1 and 2. Principles of Development Control 1, 2, 6, 7, 8 and 9. General Natural Resources Objectives 1, 2, 3, 4, 6, 7, 8, 10 and 13. Principles of Development Control 1, 2, 3, 4, 5, 10, 13, 17, 25, 26, 27, 29, 30, 31, 38, 39 and 40. General Tourism Development Objective: 1, 3, 4, 5, 6 and 8. Principles of Development Control 1, 2, 3, 6, 7, 9, 10, 11, 14, 17. General Transportation and Access Objectives 1, 2 and 5. Principles of Development Control 1, 2, 5, 6, 8, 11, 12, 13, 22, 23, 29, 30, 31, 32, 33, 37 and 39. General Waste Objectives 1 and 2. Principles of Development Control 1, 2, 3, 4, 5, 6, 7, 10, 11, 12, 13, 15 and 17.
RECOMMENDATION:	Grant Development Plan Consent and Seek Concurrence of the Development Assessment Commission
OFFICER:	Philip Harnett

SUBJECT LAND AND LOCALITY

The subject land fronts Long Gully Road and has an area in excess of 25 hectares. The land is predominantly planted with vineyard and contains a detached dwelling. A 500 tonne winery, including ancillary cellar door, sales offices, fruit receival area, gallery, waste water plant and car park has received Development Approval (960746/2012) and is substantially completed.

The wider locality is characterised by undulating land, primary production activities and dispersed dwellings. The Rural Living Zone neighbors the subject land to the east and the south.

A map showing the location of the subject land and Planning Zones were included within the Agenda.

DESCRIPTION OF THE PROPOSED DEVELOPMENT

The applicant seeks Development Plan Consent for the following:

- (1) Extension of the previously approved cellar door space to include balconies 1 and 2.
- (2) Conversion of the gallery space, within the previously approved winery, to a restaurant and function centre. The restaurant and function centre would accommodate up to 300 people at any one time and would host functions that may include weddings, celebrations and corporate events.
- (3) Provision of informal car parking space.

Other than additional informal car parking the proposal does not include additional building work.

Procedural matters within the Primary Production Zone determine a cellar door sales outlet with a gross leasable area greater than 250 square metres to be a non-complying form of development. In addition, a restaurant with more than 75 seats for customer dining purposes is a non-complying form of development.

PUBLIC NOTIFICATION

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

15 representations were received. A copy of the representations and response from the applicant were included within the Agenda.

PROVISIONS OF THE DEVELOPMENT PLAN

The subject land lies within the Primary Production Zone, Precinct 4 Barossa Range and the Character Preservation District of the authorised Development Plan, consolidated 21 February 2013.

PLANNING ASSESSMENT**Use**

In accordance with Zone Principle of Development Control 4, cellar door sales outlets and restaurants should only be established on the same allotment as, and be ancillary to a winery. In addition they should:

- (a) *Primarily sell and offer the tasting of wine that is produced within the Barossa Valley Region.*
- (b) *Not result in a gross leasable area greater than 25 square metres for the display and sale of any non-beverage or non-food items on the allotment.*
- (c) *Not result in a gross leasable area greater than 250 square metres for wine tasting and retail sales.*
- (d) *Not exceed a seating capacity of 75 persons.*

Cellar door sales outlets and restaurants of a particular scale, when ancillary to a winery are anticipated within the zone where the character and function of primary production is not adversely affected. It must therefore be determined if the excess capacity and gross leasable area would have an undesirable impact upon the amenity of the locality and the character and function of primary production in the zone.

Amenity

The proposal does not include additional buildings however, does include additional car parking. Any additional visual impact would therefore be limited to proposed car parking areas and additional cars parked within the site. Proposed informal car parking areas have been located approximately 280 metres from Long Gully Road and approximately 120 metres from the nearest dwelling. As such, the proposal would not have a detrimental visual impact upon the locality. In addition, dust from vehicles would not unreasonably impact upon neighboring properties.

Proposed hours of operation are from 8:00am to 11:00pm, seven days per week. The applicant has confirmed that music will only be played inside the insulated building with doors kept closed.

Balconies 1 and 2 will not be used for musical entertainment nor will amplification systems be installed on the balconies. The proposal would potentially result in more frequent traffic noise however, would not increase the acoustic volume of noise. Noise from the site should be consistent with the relevant provision of the current Environment Protection (Noise) Policy. With the provision of conditions and the separation distances from existing dwellings, the proposal is not considered to have an unreasonable impact upon the locality by way of noise.

The applicant has indicated that low level lighting will be required to car parking areas, driveways and walking paths. Lighting of these areas will consist of solar powered bollards placed at regular intervals. No lighting will be required along the main entrance driveway. Should planning consent be granted a condition regarding light spill nuisance is considered appropriate.

The proposal will not encroach into any part of land currently used for viticulture purposes and the use would be ancillary to the primary viticulture/winery use of the land.

Car Parking and Traffic

An existing single access point from the sealed portion of Long Gully Road enables safe access and egress to the site. Internal driveways are established and consist of compacted rubble. As per the previous winery approval an additional internal driveway, 55 customer car parking spaces, 5 staff car parking spaces and bus parking areas have been approved. An additional 45 informal car parking spaces would be provided as part of this current application.

Relevant to the proposal, the Development Plan requires the following number of off-street vehicle parking spaces:

- Shop = 5.5 spaces per 100 square metres of total floor area
- Restaurant = 1 space per 3 seats

The restaurant would cater for a maximum of 300 people at any one time. Balconies 1 and 2 could also be used for dining space however, this does not increase the proposed maximum capacity and inherent number of car parking spaces required for a restaurant.

The existing cellar door sales area is 250 square metres. When not used for dining purposes balconies 1 and 2 would be available for customers of the cellar door. Together these balconies have an area of 382 square metres. The cellar door is expected to cater for the equivalent of 12 people at any one time however, it is acknowledged that on occasions, bigger groups could visit. It is also acknowledged that customers of the cellar door may also make use of the restaurant whilst visiting and vice versa.

Technically, including the area of the balconies, approximately 34 car parking spaces would be required given the floor area of the cellar door (shop). Given the capacity of the restaurant, 100 car parking spaces would be required.

However, the provision of bus parking and the likely capacity of the cellar door suggest that a strict interpretation of car parking spaces required by the Development Plan is not appropriate in this circumstance. It is also noted that additional areas within the allotment are available for informal overflow of car parking spaces should demand require it. As such, the proposed car parking numbers are considered appropriate in this circumstance.

The proposed additional 45 car parking spaces would be informal yet surfaced with compacted rubble ensuring a durable, all-weather surface. It is also noted that the previously approved 55 car parking spaces and bus parking areas comprise compacted rubble.

Character Preservation District

Objective one of the Character Preservation District Overlay states a district where scenic and rural landscapes are highly valued, retained and protected, the long term use of land for primary production and associated value adding enterprises is assured and promoted, activities positively contribute to tourism, building and structures complement the landscape.

The proposal complies with Objective 1 of the Character Preservation District Overlay.

Representations

15 representations have been received as a result of the category 3 public notification process. 14 representations support the proposal whilst 1 objects. The matters raised as per the objection include;

- scale of the proposal
- heritage of the area will be compromised
- significant environmental impact (waste, watercourse, fauna)
- noise, air pollution, rubbish and smell
- traffic onto the Barossa Valley Freight Route

The subject land and immediate locality does not comprise heritage buildings or historic conservation zones/areas. Activities associated with the proposed use will largely be held within the existing building. Matters of noise, rubbish, light spill and dust can all be reasonably managed and where appropriate, reinforced by conditions.

Development should not detrimentally affect the amenity of the locality or cause unreasonable interference through odour. The principal legislation addressing pollution in South Australia is the Environment Protection Act 1993 and Section 25 imposes a general environmental duty to take all reasonable and practicable measures to prevent or minimise environmental harm. Air pollution is primarily governed through the Environment Protection (Air Quality) Policy 1994. Should planning consent be granted a condition and note is recommended to ensure compliance with relevant legislation.

Areas for the storage and disposal of solid waste have been provided within the site. This area would be sited approximately 70 metres from the nearest dwelling with provision made for vegetation buffers. Should planning consent be granted it is appropriate to impose a condition ensuring waste control systems accommodate expected visitor numbers in accordance with the requirements of the Public and Environmental Health Act prior to the commencement of development.

The proposal will utilise an existing access/egress point on Long Gully Road situated within the 80km/h speed restricted area, approximately 520 metres from the intersection of Long Gully Road and Crennis Mines Road. It is acknowledged that the proposal will increase the amount of traffic utilising the access/egress point. Long Gully Road is not an arterial road, is bitumised and the access/egress point allows suitable vehicle sight lines. The existing access/egress point is considered to be safe and convenient. Additional traffic is not considered to have an unreasonable impact upon freight movements.

Two watercourses traverse the subject land. One of the proposed car parking areas would be setback approximately 130 metres from the nearest point of any watercourse. Given separation distances the proposal would not result in excess water runoff, erosion or pollution of a watercourse.

CONCLUSION

Where ancillary to a winery, cellar door sales outlets and restaurants of a particular scale are anticipated within the Primary Production Zone. Any impact from a function would largely replicate that of the proposed restaurant at full capacity. Subject to appropriate conditions, noise, dust, odour and traffic impacts arising from the proposed development can be reasonably managed. The proposal would not have an undesirable impact upon the function of existing primary production uses within the zone.

On balance it is considered that the proposal is not seriously at variance with the provisions of the Development Plan and has sufficient merit to warrant approval subject to conditions.

DA/DAP/R3

D226/2015 (113154)

**TUNDARRI SALES AND SERVICES PTY LTD – VARIATION TO 960/1153/2013
– ALTERATIONS AND ADDITIONS TO EXISTING SERVICE TRADE PREMISES
(TRACTORS AND FARM MACHINERY) AND WORKSHOP - MERIT**

MOVED J Miller that the Development Assessment Panel has considered all relevant assessment matters and the officer's report in relation to Development Application 960/226/2015 and resolves as follows:

- (A) The proposal is not seriously at variance with the relevant provisions of The Barossa Council Development Plan consolidated 21 February 2013.
- (B) Grant Development Plan Consent to Development Application 960/226/2015 subject to the following Reserved Matter and conditions:

Reserved Matter

- (1) Prior to the granting of Building Rules Consent and the issuing of Development Approval, the applicant must provide Council with a Stormwater Management Plan for further assessment and approval.

Conditions of Development Plan Consent

- (1) The development shall be in accordance with the plans and details submitted to and approved by Council as part of the application, except as varied by any subsequent conditions imposed herein.
- (2) A landscaping plan for the subject land to be submitted and approved by Council.
- (3) Landscaping shall be established prior to occupation 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) A stormwater management plan shall be submitted to Council for approval and shall include the restoration of the minor watercourse located along the eastern boundary of the subject land.
- (5) Prior to building work commencing the applicant shall lodge, and have approved by Council, an application to amend a wastewater system pursuant to the provisions of the South Australian Public Health Act 2011 and South Australian Public Health (Wastewater) Regulations 2013.
- (6) No oil, grease or contaminants shall be discharged to the stormwater system, but shall be directed to an approved waste water management system.
- (7) Hours of operation shall be between Monday to Friday 8.00am to 5.00pm and Saturday 8.00am to 11.30am.
- (8) There shall be no encroachment from display equipment or other means near the watercourse located along the front boundary of the subject land.

- (9) The riparian zone of the water course shall be re-vegetated with local native species (ie bottlebrush, tea -trees, sedges and reeds) to stabilise the banks and prevent erosion.
- (10) Signage shall display only the name of the business conducted on the subject land and shall not include third party advertising.

Seconded D Reiman

CARRIED

DEVELOPMENT APPLICATION NO:	960/226/2015 (Prop ID 113154)
APPLICANT:	Tundarri Sales and Services Pty Ltd
OWNER:	Super Graetz Custodian Pty Ltd
SUBJECT LAND:	338 Barossa Valley Way, Kalbeeba
PROPOSAL:	Variation to 960/1153/2013 – Alterations and Additions to Existing Service Trade Premises (Tractors and Farm Machinery) and Workshop
ZONE/POLICY AREA:	Primary Production Zone, Precinct 5 Concordia
PROCEDURE:	Merit
REFERRALS:	Not Applicable
PUBLIC NOTICE:	Category 3 – 2 Representations
KEY ISSUES:	Scale of Expansion in the Primary Production Zone
DEVELOPMENT PLAN PROVISIONS:	<u>General Section</u>
CONSOLIDATION DATE: 21 February 2013	<ul style="list-style-type: none"> • Advertisements • Design and Appearance Objectives • Hazards Objective • Siting and Visibility; • Interface between Land Uses; • Natural Resources Objectives • Orderly and Sustainable Development • Siting and Visibility Objectives • Waste Objectives <p>Primary Production Zone Objectives 1, 3 & 5. Desired Character Statement, Principles of Development Control 1, 2, 10 and 11.</p>
RECOMMENDATION:	Grant Development Plan Consent
OFFICER:	Maxine Lovett

SUBJECT LAND AND LOCALITY

The subject land is known as Tundarri Sales and Services Pty Ltd and is located at 338 Barossa Valley Way Kalbeeba. The site is located in the Primary Production Zone, Precinct 5 Concordia and has a frontage of 105.72 metres to Barossa Valley Way and an average depth of 96.5 metres with an area totaling 1.013 hectare. The site access is located on a road with a speed limit of 80 km/hour.

A prescribed watercourse traverses the allotment, running parallel to the front boundary. A culvert is in place to allow vehicle access to the site. A minor watercourse is located along the eastern boundary and has been filled in some places.

The site currently has existing use rights as a service trade premise and has been trading since 1974. The business provides parts and servicing to farm equipment and also sells new farm machinery. The tractors are currently displayed on the site at the front of the existing buildings.

Development Approval for the existing workshop at the rear of the site was issued in December 1994. An existing building and lean-to, forward of the workshop, accommodates the office, parts and service area and was constructed prior to 1989. Two existing freestanding signs displaying the name of the business are located at the entrance of the site.

The current hours of operation are Monday to Friday, 8.00am to 5.00pm and Saturday 8.00am to 11.30am. There are occasional times when machinery is serviced outside of these hours.

The locality consists of allotments in the range of 1 ha, with some larger allotments up to 20 hectares in area. The allotments immediately adjoining the subject land each contain a detached dwelling and associated outbuildings. The majority of the allotments do not have a farming use.

A railway line abuts the rear boundary of the subject land.

The site is outside The Barossa Valley Character Preservation District.

DESCRIPTION OF THE PROPOSED DEVELOPMENT

The proposal intends to vary the Development Plan Consent of development application 960/1153/2013 by proposing:

- To remove condition (10) of the Development Plan Consent to allow the existing external display area to be located at the front of the allotment and;
- An additional covered display area for vehicles with a floor area of 288m², located seven metres from the western boundary;
- A wash bay and trade waste arrestor to be located in the south west corner of the allotment.

The proposal will not result in any additional car parking requirements, vehicle movements or change to existing access.

The previous application (960/1153/2013 –Alterations and Additions to Existing Service Trade Premises – Non-Complying) was considered by the Development Assessment Panel on 3 June 2014. Development Plan Consent was granted. Development Approval was issued to Stage 1 (Workshop) in April 2015.

REFERRALS

Pursuant to Schedule 8 of the Development Regulations, referrals to external agencies are not required. The proposal does not include a change to the existing access or proposes an additional access.

PROCEDURAL

The subject application 960/226/2015 - to vary the existing approval, has proceeded as a merit assessment.

PUBLIC NOTIFICATION

The application was subjected to Category 3 public notification. Two representations were received. One of the representations (M McKell) was received after the notification period.

A copy of the representations was provided with the Agenda..

Details of the applicant's response was included within the Agenda.

REPRESENTATIONS

Two representations were received. The Department of Planning, Transport and infrastructure (DPTI) (as an adjoining land owner) provided a formal representation. The Department of Planning,

Transport and Infrastructure has no objection to the proposed development but has some concern about:

- The stormwater and other substances from the site entering the adjacent railway corridor
- The width of the existing access to the property may inhibit simultaneous two-way movements of large vehicles

Mr Mick McKell provided a representation, received by Council outside of the public notification period. However, the concerns of this representor have been considered. An email from Mr McKell, in support of the proposed development, was received following his representation.

Mr McKell is concerned about:

- The proposed display area potentially being used as a workshop
- Drainage
- Fencing
- Light and ventilation

Mr McKell's subsequent email confirmed that these issues had been resolved via discussions with the applicant and that Mr McKell now only requested that the proposed verandah not have the potential to be used as a workshop.

PLANNING ASSESSMENT

Tundarri Sales and Service Pty Ltd is an existing service trade premises. The business provides onsite and remote servicing of farm machinery in addition to selling new machinery, which is displayed on the site. There is also an area that stores parts for purchasing on site. The hours of operation are currently in keeping with normal business hours, with no proposed changes. Staff numbers will remain much the same.

Development Application 960/1153/2013 - for the alterations and additions to the existing service trade premises, involved a significant expansion to the existing business. An additional workshop and show room with porch, consisting of an enclosed building with glass door access and windows, will extend forward of the existing parts and service area. An undercover display area (212.35m²) and open verandah is to be located each side of the showroom. The existing building, currently used for the parts and service area will remain and the internal alterations will accommodate a spare parts area, meeting room, offices, toilets and storage. The hours of operation will remain unchanged from the existing.

The current proposal intends to vary the development plan consent by further increasing the display area for the purpose of accommodating additional vehicle stock on site. The proposed undercover display area is an open structure (with walling to the south and west elevations only) with a floor area of 288m² and is to be located seven metres from the western boundary. In addition to the covered display area, the proposal intends to utilise the area at the front of the site as an external display area, thus seeking consent to remove condition (10) relating to application 960/1153/2013:

- (10) *Display equipment shall be restricted to the undercover display area only and shall not be located on other parts of the site.*

The proposed wash bay and grease arrestor will satisfy condition:

- (6) *no oil, grease or contaminants shall be discharged to the storm water system, but shall be directed to an approved waste water management system.*

Stormwater Management

The site slopes toward the frontage with a minor water course located along the eastern boundary that flows into the main water course located parallel to Barossa Valley Way. The levels shown on the site plan demonstrate that overland stormwater is likely to flow toward the major watercourse. The minor water course has been filled over time and the restoration of this water course will assist with overland flows and is a condition of consent of development application 960/1153/2013. DPTI had concerns regarding stormwater entering the railway corridor but have also acknowledged that the subject land drains away from the railway corridor toward Barossa Valley Way. The Stormwater Management Plan will address the site drainage. As requested by the Department of Planning,

Transport and Infrastructure, a condition of consent regarding storm water being directed away from the railway corridor can be imposed.

The application was referred internally to Councils' Works and Engineering section. A detailed stormwater management plan for the site is required detailing how stormwater entering the site from the upstream catchment (and under railway) is to be managed.

The stormwater plan shall be comprehensive and include the restoration of the minor water course located on the eastern boundary as required as a condition of consent of application 960/1153/2013. The applicant has requested that this be dealt with as a reserve matter.

Siting and Visibility

The proposed covered display area will be located seven metres from the western boundary and will be additional to the approved covered display areas either side of the showroom. The structure is open with walling (cladded in iron with a Colorbond 'Woodland Grey' finish) to the south and west elevations. The proposed structure will increase the built area on the site but the structure is in keeping with the height and proportions of approved buildings on the site and in context with the existing commercial appearance of the site. Hay balers are currently located in the area where the structure is proposed.

Siting and Visibility

Principle of Development Control 2

Buildings should be sited in unobtrusive locations and, in particular, should:

- (a) *be grouped together*

Primary Production Zone – Form and Character

Principle of Development Control 12

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) *be sited on an excavated rather than a filled site in order to reduce the vertical profile of the building*
- (d) *utilise non-reflective materials and be finished in colours that blend with the natural environment*

External Display Area

Development application 960/1153/2013, condition (10) of consent, required that the vehicles displayed at the front of the site, adjacent the watercourse, be relocated within the approved covered display area. The current application seeks to vary the consent to remove this condition.

The current application proposes a display area for vehicle stock to be located adjacent the water course, near the front boundary. The external display area currently exists on the site and the proposal includes a compacted rubble platform to stabilise the area behind the watercourse. An informal referral was forwarded to the Natural Resource Management Board (NRMB). The Natural Resources Management Board concluded that the compacted rubble would stabilise the watercourse. A condition of consent (8) as part of application 960/1153/2013 is imposed to prevent further encroachment toward the water course. The Natural Resource Management Board have had previous discussions with the applicant regarding the watercourse and noted the watercourse is grassed with a couch variety. The grassed ground cover does provide some stability to the banks of the watercourse, however, the site would benefit from landscaping including particular attention to the banks of the watercourse.

The external display area has existed on the site for many years. There was concern regarding the external display area causing degradation of the watercourse. The proposed compacted rubble and re-vegetation will mitigate this, in addition to a comprehensive stormwater plan for the site. The

proposed external display area will not offend the Form and Character Principles of the Primary Production Zone.

CONCLUSION

The applicant seeks to vary the existing approval to include additional display areas for vehicle stock and to include a wash bay and oil and grease arrestor. The proposal does not require additional car parking and there are no changes to vehicle movements, hours of operation or staff numbers.

There will be minimal change visually as the vehicles are currently displayed on the site in locations where the display areas are proposed.

The drainage of the site will be improved by the proposal with the restoration of the minor water course, stabilisation of the area around the major watercourse and a comprehensive stormwater management plan approved by Council.

The proposed development will result in additional display areas to an existing service trade premise, however, given the location and the existing use of the land, it is not considered to have a detrimental effect on the amenity of the area.

DEVELOPMENT ASSESSMENT COMMISSION CONCURRENCE APPLICATIONS (B61)

MOVED S Milne that the report be received.

Seconded T Hurn

CARRIED

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:

DA NUMBER	APPLICANT	ADDRESS	NATURE OF DEVELOPMENT	DAC DECISION
960/596/2014	Craig Lloyd-Jones	178 Murray Street, Tanunda	Change of Use – Shop (Fruit and Vegetable Stall)	Concurrence Granted 2/4/2015 (03/03/2015 panel meeting)

CO/DAP/10.1

PLANNING APPEAL – RIAN NOMINEES PTY LTD v THE BAROSSA COUNCIL – EXTENSION OF APPROVAL FOR A DWELLING, LOT 892 MENGLER HILL ROAD BETHANY – DEVELOPMENT APPLICATION 960/932/2008 (7.05PM)

MOVED S Milne that:

- (1) Pursuant to subsections 56A(12)(a)(viii) of the Development Act 1993 the Development Assessment Panel orders that the public be excluded from the meeting with the exception of the Director-Development & Environmental Services, Senior Manager-Planning Services, Principal Planner, Planners and the Minute Secretary, on the basis that it will consider legal advice and

information which relates to the Supreme Court of South Australia appeal 938 of 2014.

- (2) Accordingly, on this basis, the Development Assessment Panel is satisfied that the principle that meetings of the Development Assessment Panel should be conducted in a place open to the public has been outweighed by the need to keep the information and discussion confidential.

Seconded D Reiman

CARRIED

MOVED D Reiman that the Panel moved out of confidence.

Seconded S Milne

CARRIED

RESUMPTION OF OPEN DEVELOPMENT ASSESSMENT PANEL MEETING – 7.17PM

In the matter of CO/DAP/10.1:

PLANNING APPEAL – RIAN NOMINEES PTY LTD v THE BAROSSA COUNCIL – EXTENSION OF APPROVAL FOR A DWELLING, LOT 892 MENGLER HILL ROAD BETHANY – DEVELOPMENT APPLICATION 960/932/2008

MOVED S Milne that the Development Assessment Panel has considered the Appellant's submission in relation to Development Application 960/932/2008 and ERD Court appeal 78 of 2015 and resolves as follows:

- (1) Confidential Resolution.
- (2) Confidential Resolution.
- (3) The Barossa Council Development Assessment Panel having considered this matter in confidence under Subsection 56A(12)(a)(ix) of the Development Act 1993 makes an order pursuant to Section 56A(16) of the Act that the report and associated documents and minutes of the Confidential Development Assessment Panel Meeting held on 7 July 2015 in relation to Confidential Item CO/DAP/10.1 titled "Planning Appeal – Rian Nominees Pty Ltd v The Barossa Council – Extension of Approval for a Dwelling – Lot 982, Mengler Hill Road Bethany, other than the minutes recording the decision of the Development Assessment Panel on this item and recording this confidentiality order, be kept confidential and not available for public inspection until the appeal has been finalised.

Seconded J Miller

CARRIED

OTHER BUSINESS

ATTENDANCE AT AUGUST AND SEPTEMBER PANEL MEETINGS

Bruce Ballantyne advised that he is unable to attend the Development Assessment Panel Meeting to be held on 4 August 2015. David Hughes (Deputy Presiding Member) will chair the Meeting in Bruce Ballantyne's absence.

Scotty Milne confirmed that he will be seeking a Leave of Absence from Council, which will include the Development Assessment Panel Meeting to be held on 1 September 2015.

IMMINENT RETIREMENT OF IAN BALDWIN – PUBLIC OFFICER

After a long career spanning 33 years in Local Government, Ian Baldwin (Director – Development and Environmental Services and Public Officer for Council’s Development Assessment Panel) will retire on Wednesday 15 July 2015.

S Milne moved a formal vote of thanks to I Baldwin for his dedicated service to the Panel in his role as Public Officer.

Seconded D Hughes

CARRIED

B Ballantyne reiterated S Milne’s comments, and acknowledged and thanked I Baldwin for his extremely professional and dedicated service over many years, and wished him well for his retirement.

NEXT MEETING

Tuesday 4 August 2015 commencing at 5.00pm.

CLOSURE OF MEETING

Mr Ballantyne declared the meeting closed at 7.23pm.

Confirmed

Date: Chairman: