



The Barossa Council

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

Held on Tuesday, 1 September 2015 commencing at 5:00pm 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, Richard Miller, and Tony Hurn – Panel Members.

Gary Mavrincac (Director – Development and Environmental Services), Louis Monteduro (Senior Manager – Planning Services), Maxine Lovett, Phil Harnett (Planners), Steve Kaesler (Manager, Engineering Services) and Christine Kruger (Minute Secretary) – Council Staff.

APOLOGIES

S Milne (Leave of Absence from Council).

LEAVE OF ABSENCE

Nil.

MINUTES OF PREVIOUS MEETING

MOVED T Hurn that the Minutes of the Development Assessment Panel meeting held on Tuesday, 4 August 2015 as circulated, be confirmed as a true and correct record of the proceedings of that meeting.

Seconded D Hughes

CARRIED

BUSINESS ARISING FROM PREVIOUS MINUTES

Nil.

DECLARATION OF INTEREST BY MEMBERS OF PANEL

Nil.

DEBATE AGENDA

DA/DAP/R1

D414/2015 (103152)

FIONA AND COLIN SHEPPARD - WINERY, CELLAR DOOR AND ASSOCIATED RESTAURANT,(NON-COMPLYING)

Ms Marie Linke (Representor) addressed the Panel at 5.06pm, relative to DA/DAP/R1.

Mr Colin Sheppard (Applicant) addressed the Panel at 5.15pm, and answered questions from the Panel.

MOVED J Miller that the Development Assessment Panel has considered all relevant assessment matters and the officer's report in relation to Development Application 960/414/2014 and resolves as follows:

- (A) Pursuant to Section 6(2) of the *Character Preservation (Barossa Valley) Act 2012*, the Development Assessment Panel has had regard to the objects of that Act and, in determining this application, seeks to further the objects of that Act.
- (B) The proposal is not seriously at variance with the relevant provisions of The Barossa Council Development Plan consolidated 21 February 2013.
- (C) Grant Development Plan Consent to Development Application 960/414/2014 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) Landscaping shall be established along the entire length of the northern and southern boundaries of the subject land to provide adequate screening. The plants shall be semi mature to achieve immediate screening and shall be nurtured, with any diseased or dead plants being replaced.
 - (3) Vineyard tours shall not encroach within 30 metres of the northern boundary.
 - (4) The number of patrons visiting the site shall be limited to 16 persons at any one time.
 - (5) Hours of operation for the cellar door and associated restaurant shall be between 11.00am and 5.30pm seven days per week.
 - (6) The hours of operation (staff attendance) for the winery shall be between 7.30am and 8.00pm during the vintage season (November to April) and 7.30am and 6.30pm for the remainder of the year.
 - (7) Activities carried out shall not detrimentally affect the amenity of the locality by reason of noise, smell, fumes, smoke, or ash.

- (8) Any lighting 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.
- (9) The trade waste from the winery shall be removed from the site weekly for processing.
- (10) Buses shall not access the site.

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

Seconded D Hughes

CARRIED

DEVELOPMENT APPLICATION NO:	960/414/2014 (Prop ID 103152)
APPLICANT:	Fiona and Colin Sheppard
OWNER:	Fiona and Colin Sheppard
SUBJECT LAND:	662 Flaxmans Valley Road, Flaxman Valley
PROPOSAL:	Winery, Cellar Door and Associated Restaurant
ZONE/POLICY AREA:	Primary Production, Precinct 4 Barossa Range
PROCEDURE:	Non-Complying
REFERRALS:	Not Applicable
PUBLIC NOTICE:	Category 3 – One Representation
KEY ISSUES:	Non-Complying – proposal does not satisfy criteria for a winery on an allotment with at least 4 hectares of vineyard
DEVELOPMENT PLAN PROVISIONS:	<u>Council Wide</u> <ul style="list-style-type: none"> • Advertisements • Design and appearance • Interface between land uses • Orderly and sustainable development • Siting and visibility • Transportation and access • waste <u>Primary Production Zone</u> <ul style="list-style-type: none"> • Desired Character Statement • Objectives 1, 3, 4, 5 • Principle of Development Control 1, 2, 4, 5, 8, 9, 10, 15, 19, 20 Character Preservation Overlay
CONSOLIDATION DATE: 21 February 2013	
RECOMMENDATION:	Grant Development Plan Consent and Seek Concurrence of the Development Assessment Commission
OFFICER:	Maxine Lovett

SUBJECT LAND AND LOCALITY

The land is 2.9 hectares in area and has an existing residential use with an associated vineyard established on approximately 2 hectares of the site. The site also contains a detached dwelling, associated outbuildings and three dams and is located in the Primary Production Zone within the Barossa Range Precinct and is located outside the Barossa Exclusion Area.

The existing outbuilding (proposed winery) is located 74 metres from the closest bore.

The land fronts onto and has direct access to Flaxmans Valley Road. An internal driveway connects the dwelling to the existing outbuildings, that are clustered together near the frontage of the site.

The locality consists of rural allotments ranging in size from 1 hectare to 300 hectares. The smaller allotments are clustered to the north of the subject land and each contain a detached dwelling. The predominant land uses in the immediate locality are vineyard and grazing.

DESCRIPTION OF THE PROPOSED DEVELOPMENT

The applicant seeks to establish a small winery, cellar door and associated restaurant on the site. The winery will occupy the existing outbuilding with a floor area of 115.3m². The proposed winery intends to process a maximum of 50 tonnes of grapes per year with a maximum of six tonnes on any one day. It is intended that the waste water is held in the holding tank (maximum capacity of 3200 litres) and will be removed from the site for processing.

The operating hours for the winery will be between 7.30am and 8.00pm during the vintage period. Operating hours will be between 7.30am and 6.30pm for the remainder of the year.

The proposed cellar door will be in association with the proposed winery. The cellar door will occupy the existing studio building that has a floor area of 43sqm, excluding the verandah. A cellar is located under the studio and has a floor area of 43sqm. The studio contains a bathroom/toilet and has an approved septic system. The studio building had been used in the past by private guests and occasional bed and breakfast accommodation (although not approved for this use). The proposal will change the use to a cellar door and therefore the building can no longer be used for accommodation.

The proposed hours of operation for cellar door are seven days a week from 11.00am to 5.30pm. A maximum limit of 16 patrons is proposed. (The applicant had stated in the Statement of Effect that 18 patrons were proposed, the applicant has since advised that the proposal is for 16 patrons).

The cellar door intends to serve wine for tastings and sales. Food that is prepared off site can be purchased at the cellar door. Pizzas will be prepared on site from a wood fired pizza oven. There will be a table and chairs provided for the serving of food and constitutes a restaurant in association with the cellar door. The food will be served in a seated outdoor area under an existing freestanding pergola near the cellar door.

Vineyard tours of the subject land are proposed.

Four car parking spaces have been provided along with an additional disabled car park. The restaurant is in association with the cellar door and the seating provided will only accommodate the patrons visiting the cellar door.

An on-site maneuvering area has been provided so that vehicles can exit the site in a forward motion.

One sign is proposed and will be attached to the front fence of the land. The dimensions of the sign will be 1.2 wide x .05m high.

PROCEDURAL

The proposal is a non-complying form of development as it does not meet the criteria for a winery in the Primary Production Zone, requiring that it be on an allotment with at least 4 hectares of vineyard. The proposal is considered to have some merit and therefore has proceeded to assessment.

PUBLIC NOTIFICATION

The application was subjected to Category 3 public notification. One representation was received within the notification period. Two representations were received after the notification period and have no status. One representor was in support of the proposed development, which was received outside of the timeframe. The concerns raised in the other representation, received outside the timeframe, have been summarised in the valid representation by Marie Linke.

The issues raised by the representor are listed as follows:

- Noise generated from groups of people
- Privacy issues resulting from vineyard tours

A copy of the representation was provided with the Agenda.

The applicant's response was provided with the Agenda.

PROVISIONS OF THE DEVELOPMENT PLAN

Whilst all relevant provisions have been considered, the following provisions relate specifically to the nature of the subject proposal.

Primary Production Zone

Objective: 4: *Winery development only in appropriate locations where the character and function of broadacre farming areas are not adversely affected.*

Principles of Development Control

4. *Cellar door sales outlets and restaurants should only be established on the same allotment as, and be an ancillary use to a winery, and:*
- (a) *primarily sell and offer the tasting of wine that is produced and located 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 (and this includes any retail sale of non-beverage or non-food items);*
 - (d) *not exceed a seating capacity for 75 persons;*
8. *A winery should only be established on an allotment with at least 4 hectares of vineyard and involve at least one of the following activities:*
- (a) *grape crushing*
 - (b) *fermenting of grape product*
 - (c) *wine maturation*

and may include any of the following as accessory and subordinate activities:

- (i) *administration*
- (ii) *bottling*
- (iii) *packaging*
- (iv) *warehousing for the store of wine*
- (v) *waste treatment, storage, reuse and disposal.*

Procedural Matters

Non-complying development exceptions: - A winery on an allotment with at least 4 hectares of vineyard and satisfies criteria (a) to (f) inclusive:

- (a) *it is located outside of the Barossa Exclusion Area*
- (b) *includes at least one of the following activities associated with the making of wine:*
 - (i) *grape crushing*
 - (ii) *fermentation of grape product*
 - (iii) *wine maturation*
- (c) *if the processing of grapes or grape products exceeds the equivalent of a 500 tonne crush per annum, the method of waste water disposal does not involve the storage of waste water in holding tanks*
- (d) *the development is setback at least 50 metres from a bore, well or watercourse*
- (e) *no part of the development is undertaken in areas subject to inundation by 1-in-100 year average return interval flood or sited on land fill which would interfere with the flow of such flood waters*
- (f) *all structures involving wine-making, wine storage, packaging and bottling are housed within enclosed buildings.*

PLANNING ASSESSMENT

The proposed development seeks to use the existing buildings on the site to develop a small winery and cellar door, for the sale of wine produced on site from locally sourced produce. The proposal intends to process a maximum of 50 tonne of grapes per year and therefore an Environment Protection Authority (EPA) referral is not required. A small holding tank will be provided for the trade waste which is to be processed off site.

Primary Production Zone

The proposal has proceeded as a non-complying form of development as it does not satisfy the non-complying exceptions list where a winery must be on an allotment with a minimum of 4 hectares of vineyard. The subject land has an established vineyard covering only 2 hectares.

The proposed winery and cellar door satisfy all the remaining criteria.

The desired character for the Zone states:

'small scale, low impact agricultural and home based industries are encouraged where they expand the economic base of the Mount Lofty Ranges and Barossa Valley'.

The proposal meets the intent for the Zone where:

'Industries will be limited to those based upon the processing of agricultural produce primarily from the Barossa Valley Region. Such agricultural and home based industries will complement the character of the zone and enhance tourist or heritage activities and be compatible with local areas'.

The subject allotment falls short of the minimum 4 hectare of vineyard required to establish a winery. The intent of this provision is to ensure adequate produce is provided to fulfill the viability of a winery, without the need to import produce from other regions. The subject proposal intends to use grapes grown on the allotment, in addition to grapes sourced within the locality, where there are a number of smaller vineyards. The sum of the nearby vineyards would far exceed the 4 hectares, and would result in a local economic benefit whilst sourcing produce locally. This type of small scale enterprise satisfies the intent of the Primary Production Zone with regard to sourcing agricultural produce from the Barossa Valley and enhancing tourist activities.

Interface between Land Uses

The representor mentioned concerns that their privacy and serenity maybe compromised from the vineyard tours. It would be appropriate that the applicant plant additional landscaping as suggested in their response, to provide a buffer between the properties. It is likely that low level noise will be heard by adjoining neighbours but it would be during day time hours and would be similar to that of domestic gatherings. The locality consists of a number of vineyards and it is likely that farm machinery noise is a regular occurrence and therefore the exclusion of noise generated in the Zone is impractical. The noise generated from the winery would be minimal as all processing will be located within the building with the processing occurring during daytime hours. This form of operation would be an acceptable practice in the Primary Production Zone, as the Development Plan does generally envisage wineries in this zone.

The privacy issues can be addressed as the applicant has agreed to impose a 30 metre buffer zone along the northern boundary to restrict vineyard tours. The residents adjoining the southern boundary will have limited impact from the vineyard tours as there is adequate separation distance from the dwelling and vineyard.

It is appreciated that the residents in the area seek peace and tranquility as a lifestyle choice. It is also acknowledged that the locality is within the Primary Production Zone and that some level of noise and disturbance may result from horticultural and associated tourism activities.

Car Parking

The proposed cellar door intends to accommodate up to 16 patrons. The car parking requirement for a cellar door is similar to a shop and requires a minimum of 5.5 spaces per 100sqm of floor area. The total floor area for the cellar door including the cellar is 86sqm, therefore requiring five spaces. Four spaces have been provided on the site in addition to one disabled park. The ratio of parking for a restaurant is one space per three seats provided, therefore for 16 patrons a maximum of five car parks are required. The restaurant is in association with the cellar door and the total number of patrons on the site will be 16.

An onsite maneuvering area has been proposed to allow vehicles exit the site in a forward motion.

The winery is small in scale and will be operated by the owners, not requiring additional parking.

CONCLUSION

The application has been determined as a non-complying form of development as it does not meet the requirement for the minimum area for the associated vineyard in order to establish a winery. The proposal does have merit and does meet the intent and desired character for the Primary Production Zone with regard to character, economic and tourism benefit.

OTHER BUSINESS

DEVELOPMENT ASSESSMENT COMMISSION CONCURRENCE APPLICATIONS

(B61)

MOVED D Hughes that the report be received.

Seconded R Miller

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
960/15/2015	Bonacci Group (SA) Pty Ltd	55 Long Gully Road, Angaston	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	Concurrence Granted 28/07/2015 (07/07/2015 panel meeting)

NEXT MEETING

Tuesday 6 October 2015 commencing at 5.00pm.

CLOSURE OF MEETING

Mr Ballantyne declared the meeting closed at 5.28pm.

Confirmed

Date: Chairman: