



DEVELOPMENT ASSESSMENT PANEL

MINUTES OF THE MEETING OF THE BAROSSA COUNCIL DEVELOPMENT ASSESSMENT PANEL

Held on Tuesday, 5 April 2016 commencing at 5:04pm in
the Council Chambers, 43-51 Tanunda Road, Nuriootpa

Index

1.	Welcome	Page 3
2.	Attendance	Page 3
3.	Confirmation of Minutes	Page 3
4.	Business Arising	Page 4
5.	Declaration of Interest by Members of the Panel	Page 4
6.	Reports - Applications for Decision	Page 4
6.1	960/359/2015 (Lot 150 Light Pass Road Bethany)	Page 4
6.2	960/706/2015 (Lot 100, 35 Church Road Rowland Flat)	Page 11
6.3	960/11/2016 (159 Hermann Thumm Drive Lyndoch)	Page 12
7.	Reports - Panel Updates	
7.1	DAC Concurrence Matters	Page 15
8.	Reports - Other Business	Page 16
8.1	Development Assessment Panel Annual Report 2015	Page 16
9.	Reports - Confidential	
9.1	ERD Court Appeal – Development Application 960/396/2013 (616 Balmoral Road Cockatoo Valley) – Legal Advice	Page 16
10.	Next Meeting	Page 17
11.	Closure of Meeting	Page 17

1. WELCOME

The Presiding Member welcomed everyone, and opened the meeting at 5:04pm.

2. ATTENDANCE

2.1 Present

Panel Members

Bruce Ballantyne (Presiding Member)

David Hughes

James Miller

Deidre Reiman

Scotty Milne

Tony Hurn

Council Staff

Gary Mavrinac (Director – Development and Environmental Services)

Louis Monteduro (Senior Manager – Planning Services)

Maxine Lovett (Planner)

Phil Harnett (Planner)

Steve Kaesler (Manager, Engineering Services)

Christine Kruger (Minute Secretary)

2.2 Apologies

R Miller.

2.3 Absent

Nil.

3. CONFIRMATION OF MINUTES

Moved: T Hurn

Seconded: D Hughes

That the minutes of the Council Development Assessment Panel meeting held on 1 March 2016 be received and confirmed.

CARRIED

Moved: S Milne

Seconded: J Miller

That the minutes of the Confidential Council Development Assessment Panel meeting held on 1 March 2016 be received and confirmed.

CARRIED

4. BUSINESS ARISING

Nil.

5. DECLARATION OF INTEREST BY MEMBERS OF THE PANEL

Nil.

6. REPORTS - APPLICATIONS FOR DECISION

6.1 960/359/2015 (Lot 150 Light Pass Road Bethany)

Representors

Michael Wohlstadt (Planning Advisory Services) on behalf of Hali and Travis Koch addressed the Panel at 5:07pm, and answered questions from the Panel.

Applicant

Jamie Gladigau of JBG Architects on behalf of Mark and Susanna Pearce addressed the Panel at 5:18pm, and answered questions from the Panel.

Recommendation

The Panel, having considered the application for consent to carry out development of land and pursuant to the provisions of the *Development Act 1993* resolves:

- (a) Pursuant to Section 6(2) of the *Character Preservation (Barossa Valley) Act 2012*, the Development Assessment Panel has had regard to the objects of that Act and, in determining this application, seeks to further the objects of that Act.
- (b) That the development proposal is not seriously at variance to The Barossa Council Development Plan.
- (c) To GRANT Development Plan Consent for Application No. 960/359/2015 by Mark and Susanna Pearce to undertake a 49 tonne Winery Building with Cellar Door Sales, Amenities Building, Roadway, Car Parking Area, Addition to Vineyard and Demolition of some Buildings at Lot 150 Light Pass Road Bethany (CT 5453/413) subject to the concurrence of the Development Assessment Commission, and subject to the following conditions and advisory notes:

Council Conditions

- (1) The development shall be undertaken in accordance with the endorsed plans and documentation (as amended) accompanying Application No. 960/359/2015 except where varied by any condition(s) listed below.

Reason: To ensure that the proposal is constructed in accordance with the plans stamped as approved by the Planning Authority.

- (2) The vehicle crossover shall be bituminised from the property boundary to the existing bitumen seal of Light Pass Road.

Reason: To allow for vehicles to safely exit the site.

- (3) The access driveway shall be a minimum of 6 metres wide.

Reason: To allow for simultaneous two-way vehicle movements.

- (4) The existing culvert crossover shall be extended to suit the new driveway access.

Reason: To provide unobstructed flows in the existing swale along Light Pass Road.

- (5) Car parking spaces must be delineated.

Reason: To ensure efficient car parking spacing.

- (6) The winery shall not process greater than 49 tonnes of grapes in any one year.

Reason: To be consistent with Planning Consent.

- (7) Amplified music or entertainment shall not be permitted at any time.

Reason: To prevent any noise disturbance within the locality.

- (8) The barrel washing area, other wash areas, and wine storage areas (internal and external) be bunded or otherwise managed to ensure that washing water, potential spillages and other pollutants are directed to an approved waste water management system.

Reason: To contain all spillages and chemicals and prevent any leaching into the watercourse.

- (9) All wastewater and marc shall be disposed of off-site regularly.

Reason: To prevent accumulation of waste resulting in odour and pollutants.

- (10) The hours of operation for the winery shall be between 7.00am to 7.00pm six days per week during March and April. The remainder of the year the winery shall operate between 8.00am to 4.00pm. The cellar door shall operate between 10.00am and 5.00pm daily.

Reason: To not cause any adverse effects to the nearby residential uses.

- (11) Landscaping as detailed in the development application 960/359/2015 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 varieties.

Reason: To ensure adequate screening and visual appeal.

- (12) A detailed stormwater collection and disposal system shall be provided and shall include detention to limit the 20yr ARI post-development peak discharge to the 20yr ARI pre-development peak discharge from the site, to the satisfaction of Council. The detailed plan shall be provided prior to issuing development approval.

Reason: To ensure effective stormwater management to prevent adverse environmental effects.

- (13) The use and any associated processes or activities carried out shall not detrimentally affect the amenity of the locality by reason of noise, smell, vibration, fumes, smoke, soot, ash, dust or grit.

Reason: To prevent any negative effect on the amenity.

- (14) The external cladding shall be finished in Colorbond 'Windspray' as depicted on the plans referenced Drawing number A201 Issue H.

Reason: To avoid reflective materials.

- (15) 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*.

Reason: To ensure an approved wastewater system can be accommodated on the site.

- (16) No solid or liquid waste shall be discharged into the stormwater system or into any watercourse.

Reason: To avoid polluting the watercourse.

- (17) No spraying of agricultural chemicals shall occur when weather conditions will carry spray drift onto adjoining properties.

Reason: To prevent spray drift affecting other land uses.

- (18) 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 5000 litres (Any rainwater tank used for this purpose should be dedicated entirely for fire fighting and shall be of non combustible 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'.

Reason; To comply with the Ministers Code – Undertaking development in Bushfire Protection Areas February 2009 (Amended October 2012).

Advisory Notes

- (i) 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.
- (ii) 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.
- (iii) 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.

Panel Decision

Moved: T Hurn

Seconded: S Milne

That the amended recommendation (as below) be adopted:

The Panel, having considered the application for consent to carry out development of land and pursuant to the provisions of the *Development Act 1993* resolves:

- (a) Pursuant to Section 6(2) of the *Character Preservation (Barossa Valley) Act 2012*, the Development Assessment Panel has had regard to the objects of that Act and, in determining this application, seeks to further the objects of that Act.
- (b) That the development proposal is not seriously at variance to The Barossa Council Development Plan.
- (c) To GRANT Development Plan Consent for Application No. 960/359/2015 by Mark and Susanna Pearce to undertake a 49 tonne Winery Building with Cellar Door Sales, Amenities Building, Roadway, Car Parking Area, Addition to Vineyard and Demolition of some Buildings at Lot 150 Light Pass Road Bethany (CT 5453/413) subject to the concurrence of the Development Assessment Commission, and subject to the following conditions and advisory notes:

Council Conditions

- (1) The development shall be undertaken in accordance with the endorsed plans and documentation (as amended) accompanying Application No. 960/359/2015 except where varied by any condition(s) listed below.

Reason: To ensure that the proposal is constructed in accordance with the plans stamped as approved by the Planning Authority.

- (2) The vehicle crossover shall be bituminised from the property boundary to the existing bitumen seal of Light Pass Road.

Reason: To allow for vehicles to safely exit the site.

- (3) The access driveway shall be a minimum of 6 metres wide.

Reason: To allow for simultaneous two-way vehicle movements.

- (4) The existing culvert crossover shall be extended to suit the new driveway access.

Reason: To provide unobstructed flows in the existing swale along Light Pass Road.

- (5) Car parking spaces must be delineated.

Reason: To ensure efficient car parking spacing.

- (6) The winery shall not process greater than 49 tonnes of grapes in any one year.

Reason: To be consistent with Planning Consent.

- (7) Amplified music or entertainment shall not be permitted at any

time.

Reason: To prevent any noise disturbance within the locality.

- (8) The barrel washing area, other wash areas, and wine storage areas (internal and external) be bunded or otherwise managed to ensure that washing water, potential spillages and other pollutants are directed to an approved waste water management system.

Reason: To contain all spillages and chemicals and prevent any leaching into the watercourse.

- (9) All wastewater and marc shall be disposed of off-site regularly.

Reason: To prevent accumulation of waste resulting in odour and pollutants.

- (10) The hours of operation for the winery shall be between 7.00am to 7.00pm six days per week during February, March and April. The remainder of the year the winery shall operate between 8.00am to 4.00pm. The cellar door shall operate between 10.00am and 5.00pm daily.

Reason: To not cause any adverse effects to the nearby residential uses.

- (11) Landscaping as detailed in the development application 960/359/2015 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 varieties.

Reason: To ensure adequate screening and visual appeal.

- (12) A detailed stormwater collection and disposal system shall be provided and shall include detention to limit the 20yr ARI post-development peak discharge to the 20yr ARI pre-development peak discharge from the site, to the satisfaction of Council. The detailed plan shall be provided prior to issuing development approval.

Reason: To ensure effective stormwater management to prevent adverse environmental effects.

- (13) The use and any associated processes or activities carried out shall not detrimentally affect the amenity of the locality by reason of noise, smell, vibration, fumes, smoke, soot, ash, dust or grit.

Reason: To prevent any negative effect on the amenity.

- (14) The external cladding shall be finished in Colorbond 'Windspray' as depicted on the plans referenced Drawing number A201 Issue

H.

Reason: To avoid reflective materials.

- (15) 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*.

Reason: To ensure an approved wastewater system can be accommodated on the site.

- (16) No solid or liquid waste shall be discharged into the stormwater system or into any watercourse.

Reason: To avoid polluting the watercourse.

- (17) No spraying of agricultural chemicals shall occur when weather conditions will carry spray drift onto adjoining properties.

Reason: To prevent spray drift affecting other land uses.

- (18) 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 5000 litres (Any rainwater tank used for this purpose should be dedicated entirely for fire fighting and shall be of non combustible 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'.

Reason; To comply with the Ministers Code - Undertaking development in Bushfire Protection Areas February 2009 (Amended October 2012).

Advisory Notes

- (i) 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.

- (ii) 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.
- (iii) 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.

CARRIED

6.2 960/706/2015 (Allotment 100 – 35 Church Road Rowland Flat)

Recommendation

The Panel, having considered the application for consent to carry out development of land and pursuant to the provisions of the *Development Act 1993* resolves:

- (a) Pursuant to Section 6(2) of the *Character Preservation (Barossa Valley) Act 2012*, the Development Assessment Panel has had regard to the objects of that Act and, in determining this application, seeks to further the objects of that Act.
- (b) That the development proposal is not seriously at variance to The Barossa Council Development Plan.
- (c) To GRANT Development Plan Consent for Application No. 960/706/2015 by Marc Davies, CEO, 1847 Wines to undertake development at Allotment 100, 35 Church Road, Rowland Flat (CT 5881/565) subject to the concurrence of the Development Assessment Commission, and subject to the following conditions and advisory notes:

Council Conditions

- (1) The development shall be undertaken in accordance with the endorsed plans and documentation (as amended) accompanying Application No. 960/706/2015 except where varied by any condition(s) listed below.

Reason: To ensure that the proposal is constructed in accordance with the plans stamped as approved by the Planning Authority.

- (2) The approved Bed and Breakfast shall not be occupied by more than five travellers at any one time.

Reason: To ensure the scale and occupancy does not unreasonably affect the amenity of the locality or exceed that approved by the planning authority.

- (3) A minimum supply of 5,000 litres of water shall be available at all times for fire-fighting purposes.
- (a) This 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 bushfire fighting purposes.
 - (b) The pump and flexible connection to the water supply shall be protected from the impact of fire by a suitably ventilated, non-flammable cover (metal or masonry material).
 - (c) The diameter of all fitting and flexible reinforced suction hose connecting the bushfire water supply to the fuel driven pump shall be no smaller than the diameter of the pump inlet valve.

Reason: The subject land is located within a medium bushfire risk area. Therefore a suitable water source must be available for firefighting purposes.

- (4) Any 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 building and property.
- (a) Trees and shrubs shall not be planted closer to the building or power lines than the distance equivalent to their mature height.
 - (b) Grasses within 20 metres of the building or to the property boundaries, whichever comes first, should be reduced to a height of 10cms during the Fire Danger Season.

Reason: The subject land is located within a medium bushfire risk area. To prevent an increased bushfire risk, landscaping must be carefully selected and planted.

- (5) An access track shall provide safe and convenient access/egress to the building for bushfire fighting vehicles.
- (a) Access to the building shall be of all-weather construction, with a minimum formed road surface width of three metres and must allow forward entry and exit for large fire fighting vehicles at all times.
 - (b) All dead-end roads or tracks shall be constructed to allow large fire fighting vehicles to turn around with safety by use of either:

- i. A turnaround area with a minimum formed road surface diameter of 25 metres; or
- ii. A 'T' or 'Y' shaped turnaround area with minimum formed road surface leg lengths of 11 metres and minimum inside road radii of 8.5 metres.

Reason: The subject land is located within a medium bushfire risk area. Therefore firefighting must have safe and convenient access/egress to the property at all times.

- (6) All guest or employee vehicles associated with the approved Bed and Breakfast shall be parked within the allotment boundaries.

Reason: To maintain the amenity of the locality as well as safe and convenient vehicle movements.

Advisory Notes

- (1) Alterations to an existing waste system require the submission and approval of an application to install/alter a waste system.
- (2) This approval does not include advertisements, buntings, flags or portable trailer mounted signage. A separate development application may be required.

Panel Decision

Moved: J Miller

Seconded: D Reiman

That the recommendation be adopted.

CARRIED

6.3 960/11/2016 (159 Hermann Thumm Drive, Lyndoch)

Recommendation

The Panel, having considered the application for consent to carry out development of land and pursuant to the provisions of the *Development Act 1993* resolves:

- (a) Pursuant to Section 6(2) of the *Character Preservation (Barossa Valley) Act 2012*, the Development Assessment Panel has had regard to the objects of that Act and, in determining this application, seeks to further the objects of that Act.
- (b) That the development proposal is not seriously at variance to The Barossa Council Development Plan.

- (c) To GRANT Development Plan Consent for Application No. 960/11/2016 by Marc Davies of 1847 Wines to undertake development at Allotment 2, 159 Hermann Thumm Drive, Lyndoch (CT 5868/681) subject to the concurrence of the Development Assessment Commission, and subject to the following conditions and advisory notes:

Council conditions

- (1) The development shall be undertaken in accordance with the endorsed plans and documentation (as amended) accompanying Application No. 960/11/2016 except where varied by any condition(s) listed below.

Reason: To ensure that the proposal is constructed in accordance with the plans stamped as approved by the Planning Authority.

- (2) The approved motel shall not be occupied by more than 10 travellers at any one time.

Reason: To ensure the scale and occupancy does not unreasonably affect the amenity of the locality or exceed that approved by the planning authority.

- (3) A minimum supply of 5,000 litres of water shall be available at all times for fire-fighting purposes.

(a) This 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 bushfire fighting purposes.

(b) The pump and flexible connection to the water supply shall be protected from the impact of fire by a suitably ventilated, non-flammable cover (metal or masonry material).

(c) The diameter of all fitting and flexible reinforced suction hose connecting the bushfire water supply to the fuel driven pump shall be no smaller than the diameter of the pump inlet valve.

Reason: The subject land is located within a medium bushfire risk area. Therefore a suitable water source must be available for firefighting purposes.

- (4) Any new or additional landscaping to be planted shall include bushfire protection features that will prevent or inhibit the spread of bushfire and minimise the risk of life and/or damage to building and property.

(a) Trees and shrubs shall not be planted closer to the building or power lines than the distance equivalent to their mature height.

- (b) Grasses within 20 metres of the building or to the property boundaries, whichever comes first, should be reduced to a height of 10cms during the Fire Danger Season.

Reason: The subject land is located within a medium bushfire risk area. To prevent an increased bushfire risk, landscaping must be carefully selected and planted.

- (5) All guest or employee vehicles associated with the approved motel shall be parked on-site.

Reason: To maintain the amenity of the locality as well as safe and convenient vehicle movements.

Advisory Notes

- (1) Alterations to an existing waste system require the submission and approval of an application to install/alter a waste system.
- (2) This approval does not include advertisements, buntings, flags or portable trailer mounted signage. A separate development application may be required.
- (3) The removal of native vegetation may require a permit from the Native Vegetation Council - (08) 8303 9777.

Panel Decision

Moved: S Milne

Seconded: D Hughes

That the recommendation be adopted.

CARRIED

7. REPORTS - PANEL UPDATES

7.1 DAC Concurrence Matter

Development Assessment Commission Concurrence Applications

Recommendation

That the report be received.

Panel Decision

Moved: D Hughes

Seconded: D Reiman

That the recommendation be adopted.

CARRIED

7.2 ERD Court Appeals and Enforcement Matters

Nil.

8. REPORTS - OTHER BUSINESS

8.1 Development Assessment Panel Annual Report 2015

A Draft copy of the Development Assessment Panel Annual Report 2015 was distributed to Panel members prior to the meeting. Discussion ensued, and an amended Report (incorporating the resulting comments) will be presented to the May meeting of the Development Assessment Panel for adoption.

9. REPORTS – CONFIDENTIAL

9.1 ERC Court Appeal – Development Application 960/396/2013 – Legal Advice

Reason for Confidentiality

It is recommended that the public be excluded from the meeting, as is necessary, in accordance with Section 56A(12)(a) of the *Development Act 1993* to receive, discuss or consider in confidence the following information or matters in relation to this item:

(viii) Legal advice

Recommendation

That:

- (1) Pursuant to Subsection 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 and Environmental Services, Senior Manager-Planning Services, Principal Planner, Senior Planner, Planners and the Minute Secretary, on the basis that it will consider legal advice.
- (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.

Panel Decision

Moved: D Hughes

Seconded: D Reiman

That the recommendation be adopted.

CARRIED

At 6:03pm the meeting moved into confidence.

At 6:21pm the confidential session ceased and the meeting reopened to the public.

Moved: J Miller

Seconded: S Milne

That the Development Assessment Panel has considered *Confidential Item 9.1 ERD Court Appeal – Legal Advice* in relation to Development Application 960/396/2013 and ERD Court appeal 249 of 2015 and resolves as follows:

- (1) Confidential Resolution.
- (2) The Barossa Council Development Assessment Panel having considered this matter in confidence under Subsection 56A(12)(a)(viii) 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 5 April 2016 in relation to Confidential Item 9.1 ERD Court Appeal – Development Application 960/396/2013 – Legal Advice, 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.
- (3) Confidential Resolution.

CARRIED

10. NEXT MEETING

Tuesday 3 May 2016 commencing at 5.00pm.

11. CLOSURE OF MEETING

The Presiding Member declared the meeting closed at 6:24pm.

Confirmed

Date: Chairman: