



The Barossa Council

MINUTES OF THE MEETING OF THE BAROSSA COUNCIL DEVELOPMENT ASSESSMENT PANEL

Held on Tuesday, 4 August 2015 commencing at 5:00pm in
the Council Chambers, 43-51 Tanunda Road, Nuriootpa

WELCOME

David Hughes welcomed everyone, and opened the meeting. Mr Hughes acknowledged the sad passing of Alison Ballantyne, wife of Bruce (Presiding Member). Condolences have been forwarded on behalf of the Panel.

PRESENT

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

Gary Mavrinac (Director – Development and Environmental Services), Louis Monteduro (Senior Manager – Planning Services), Phil Harnett (Planner), Steve Kaesler (Manager – Engineering Services), George Jacks (Planning Student) and Christine Kruger (Minute Secretary) – Council Staff.

APOLOGIES

B Ballantyne.

LEAVE OF ABSENCE

R Miller.

MINUTES OF PREVIOUS MEETING

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

Seconded D Reiman

CARRIED

MINUTES OF CONFIDENTIAL DEVELOPMENT ASSESSMENT PANEL MEETING

MOVED S Milne that the Minutes of the Confidential Development Assessment Panel meeting held on Tuesday, 7 July 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

DA/DAP/R1

D86/2015 (1165785)

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

MOVED S Milne that the Development Assessment Panel has considered all relevant assessment matters and the officer's report in relation to Development Application 960/86/2015 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 960/86/2015 subject to the following conditions:
 - (1) The development shall be undertaken in accordance with the plans and documentation (as amended) accompanying the application.
 - * (2) The landscaping as detailed in the application for development shall be established prior to occupation/use of the development and shall be maintained in good health and condition at all times. The landscaping shall comprise semi mature trees and shrubs, with the trees having a minimum height of 1000mm and shrubs a minimum height of 300mm at the time of planting. Any such vegetation shall be replaced if and when it dies or becomes seriously diseased with others of the same, or similar, respective varieties.
 - (3) All external lighting of the site, including car parking areas and buildings, shall be located, directed and shielded and of such limited intensity that no nuisance or loss of amenity is caused to any person beyond the site to the reasonable satisfaction of the Council or its delegate.
 - (4) No more than 16 travellers shall be accommodated within the approved development at any one time.

- (5) The subject land is located within a Medium Bushfire Risk area.

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

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

- (6) The development shall be connected to a wastewater system approved under the *South Australian Public Health Act 2011*.

- * (7) No sound shall be emitted from any machinery, equipment or device, or from any other source whatsoever on the subject land, in such a manner as to contravene the Environment Protection Act and Regulations.

- * (8) At all times, the management of the motel herein approved shall be undertaken by residents of the subject land residing in the "Manager's Residence" herein approved.

- * (9) The use of the "Lounge/Function/Training" Room herein approved shall be restricted to guests staying within the motel herein approved.

NOTES

- (1) 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.
- (2) 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.

The motion lapsed for want of a seconder.

MOVED T Hurn that the Development Assessment Panel has considered all relevant assessment matters and the officer's report in relation to Development Application 960/086/2015 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) That the proposal is not seriously at variance with The Barossa Council Development Plan consolidated 21 February 2013 pursuant to section 35(2) of the Development Act 1993.
- (C) That Development Plan Consent be refused for the development comprised in Development Application 960/0086/2015 for the following reasons:
- (1) The proposal is not sufficiently in keeping with the primary objectives and principles for the zone including –
- Objective 1 A zone consisting of large allotments, detached dwellings and rural activities that do not adversely impact the amenity of the locality.
 - Objective 2 Development that contributes to the desired character of the zone.
 - Principle 1 The following forms of development are envisaged in the zone: detached dwelling, domestic outbuilding, domestic structure, dwelling addition, farming, farming building, stable.
 - Principle 3 There should be no more than one dwelling per allotment.
 - Principle 6 Development should not be undertaken unless it is consistent with the desired character for the zone.

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
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:	Rural Living Zone Objectives 1 & 2. Principles of Development Control 1, 3 & 6.
CONSOLIDATION DATE: 21 February 2013	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

BACKGROUND

At its meeting held on the 7 July 2015, the Development Assessment Panel (DAP) considered development application 960/86/2015 and resolved to defer the application to allow for further clarification of relevant provisions of the Development Plan to be provided.

A further review of Council's Development Plan has been completed and relevant objectives and provisions have been compiled into table format. This additional detail was included within the Agenda.

The representors for this application were heard at the 7 July 2015 meeting of the Development Assessment Panel, as such no further hearing of representations will take place in relation to this development application.

The original report in relation to the proposed development follows, together with amended conditions of approval relating to operational aspects of the proposal. Additional conditions have been highlighted thus *.

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. Twenty Six 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 were provided with the Agenda. The following representors were heard by the Panel at the 7 July 2015 meeting:

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 indicated 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 travellers, 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 and 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 and 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

D47/2015 (111104)

PART DEMOLITION, RESTAURANT INCLUDING ASSOCIATED FUNCTION AREAS, SHOP (RETAIL AREAS AND KIOSK), SHADE SAILS AND ANCILLARY CAR PARKING AREA – NON COMPLYING

MOVED T Hurn that the Development Assessment Panel has considered all relevant assessment matters and the officer's report prepared in relation to Development Application Number 960/47/2015 and resolves:

- (A) That pursuant to Section 35(2) of the *Development Act 1993*, 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 1993*, development application number 960/47/2015 be granted Development Plan Consent subject to the following conditions and notes.
 - (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) All components of the development shall not be used outside the hours of 9.00am till 10.00pm seven days per week.

- (3) The total capacity, including any associated outdoor areas, shall not exceed 120 patrons at any one time.
- (4) All vehicle parking and maneuvering areas shall be covered with bitumen or 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 development shall be connected to a wastewater system approved under the *South Australian Public Health Act 2011*.
- (6) 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.
- (7) 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.
- (8) Noise emanating from plant equipment shall comply with the limitations of the Environment Protection (Noise) Policy 2007.

Note: 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.

Note: Where practicable, native vegetation shall be retained. Where the trimming or removal of native vegetation is required, enquires should be made to the Native Vegetation Council.

- (9) A site induction for all contractors undertaking works should include information in relation to the significance of the place, including the site's archaeological potential. A generic site induction is attached for reference.

Reason: To ensure that all site workers are aware of responsibilities under the Heritage Places Act in relation to archaeological discoveries at the site, what the likely discoveries may be, and what actions to take if a discovery is made during site works.

NOTES

- (a) Whilst the cottage, proposed for adaptive reuse as the café and kiosk, is not part of the state heritage place, the internal alterations do not allow an understanding of the original room configuration. It is recommended that bulkheads for demolished internal walls to the main cottage are retained to help interpret the cottage's former use.

Consideration for other site interpretation as part of the site's new use is also encouraged.

- (b) The Site Induction for all contractors should include advice in relation to potential archaeological discoveries as part of these works. There is likelihood for discovery of structural remains of buildings, drains, wells or other structures on the site, post-holes, or associated cultural deposits, such as various fills or archaeological artefacts, that were associated with the 400+ dam construction workers living at the site and the extant c. 1899 former dam engineer's residence (cottage).
- (c) Council is requested to inform the applicant of the following requirements of the *Heritage Places Act 1993*.
- (a) If an archaeological artefact believed to be of heritage significance is encountered during excavation works, disturbance in the vicinity shall cease and the SA Heritage Council shall be notified.
- (b) Where it is known in advance (or there is reasonable cause to suspect) that significant archaeological artefacts may be encountered, a permit is required prior to commencing excavation works.

For further information, contact the Department of Environment, Water and Natural Resources.

- (d) Council is requested to inform the applicant of the following requirements of the *Aboriginal Heritage Act 1988*.
- (a) If Aboriginal sites, objects or remains are discovered during excavation works, the Aboriginal Heritage Branch of the Aboriginal Affairs and Reconciliation Division of the Department of the Premier and Cabinet (as delegate of the Minister) should be notified under Section 20 of the *Aboriginal Heritage Act 1988*.

Any enquiries in relation to this application should be directed to Deborah Lindsay on telephone (08) 8124 4922 or e-mail DEWNR.StateHeritageDA@sa.gov.au.

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

Seconded S Milne

CARRIED

DEVELOPMENT APPLICATION NO:	960/47/2015 (Prop ID 111104)
APPLICANT:	Living Focus Pty Ltd
OWNER:	SA Water Corporation
SUBJECT LAND:	65 Whispering Wall Road, Williamstown
PROPOSAL:	Part Demolition, Restaurant including Associated Function Areas, Shop (Retail Areas and Kiosk), Shade Sails and Ancillary Car Parking Area

ZONE/POLICY AREA:	Watershed Protection (Mount Lofty Ranges) Zone
PROCEDURE:	Non-Complying
REFERRALS:	Department of Environment, Water and Natural Resources – State Heritage Unit
PUBLIC NOTICE:	Category 3 – 2 Representations
KEY ISSUES:	Maintenance and enhancement of water quality, prevention of pollution, heritage, amenity (noise, lighting) traffic and waste
DEVELOPMENT PLAN PROVISIONS: CONSOLIDATION DATE: 21 February 2013	Watershed Protection (Mount Lofty Ranges) Zone Objectives 1, 2, 3, 6 and 7. Principles of Development Control: 1, 2, 7, 9, 10, 11, 12, 24 and 27. Design and Appearance Objectives 1, 2. Principles of Development Control 1, 2, 3, 5, 7, 9, 10, 11, 12, 13, 14 and 15. Hazards Objectives 1, 2, 4 and 5. Principles of Development Control 1, 3, 4, 5, 6, 7, 8, 9 and 12. Heritage Places Objectives 1, 3 and 4. Principles of Development Control 2, 3 and 6. Interface between land uses Objectives 1 and 2. Principles of Development Control 1, 2, 5, 6 and 7. Natural Resources Objectives 1, 2, 3, 4, 5, 6, 7, 8 and 13. Principles of Development Control 1, 2, 3, 4, 7, 8, 9, 12, 15, 17, 22, 25, 26, 27, 28, 29, 31 and 32. Siting and Visibility Objectives 1 and 2. Principles of Development Control 1, 2, 4 and 5. Tourism Development Objectives 1, 2, 3, 4, 5, 6 and 8. Principles of Development Control 1, 2, 3, 5, 9, 10, 11, 12, 15, 16 and 17. Transportation and Access Objectives 2 and 5. Principles of Development Control 5, 8, 13, 22, 23, 24, 31, 32, 33, 37 and 39. Waste Objectives 2. Principles of Development Control 1, 2, 3, 4, 5, 6, 10, 11, 13 and 14.
RECOMMENDATION:	Grant Development Plan Consent and Seek the Concurrence of the Development Assessment Commission
OFFICER:	Philip Harnett

SUBJECT LAND AND LOCALITY

Vehicular access to the subject land is from Whispering Wall Road. The land partly contains the Barossa Reservoir which provides much of the water supply for Metropolitan Adelaide. The land also contains a notable tourist destination, being the Whispering Wall Dam, ancillary car parking and amenities.

The immediate locality is characterised by undulating land, established mature vegetation, watercourses, the Barossa Reservoir and associated infrastructure. A Rural Living Zone adjoins the reservoir to the north, east and west.

A map showing the location of the subject land and planning zones was provided with the Agenda.

DESCRIPTION OF THE PROPOSED DEVELOPMENT

The applicant has obtained initial support from SA Water (Land Owner) for the proposed development and has negotiated a 15 year lease over portion of the land.

The applicant therefore seeks Development Plan Consent for the following:

- Partial demolition of the caretaker's cottage
- Conversion and extension of the existing caretaker's cottage to a restaurant with associated function areas
- Regular use of the 'private function dining room' within the existing caretaker's cottage as a gallery and retail area selling branded products and souvenirs
- Use of 'shared areas' for functions

- Detached 'kiosk' associated with the primary use (restaurant and functions) providing pre-prepared food, take away meals, drinks etc
- Associated car parking area
- Shade Sails

Procedural matters within the Watershed Protection (Mount Lofty Ranges) Zone determine all forms of development to be non-complying apart from a list of exceptions. The proposal includes a restaurant and shop which does not comply with the exceptions by way of the Barossa exclusion area and scale.

Please note the mobile food cart does not form part of the application.

REFERRALS

In accordance with Schedule 8 of the *Development Regulations 2008*, the application was referred to the State Heritage Unit of DEWNR (Department of Environment, Water and Natural Resources).

The referral response was included within the Agenda.

PUBLIC NOTIFICATION

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

Two representations were received as well as a late response to the representations from the applicant. Copies of the representations and the response were provided with the Agenda.

PROVISIONS OF THE DEVELOPMENT PLAN

The subject land lies within the Watershed Protection (Mount Lofty Ranges) Zone, the Mount Lofty Watershed, the Barossa Exclusion Area, the Character Preservation District and a High Bushfire Risk Area. The subject land also contains a State Heritage Place (Whispering Wall, Barossa Reservoir).

PLANNING ASSESSMENT

Zone

The maintenance and enhancement of water quality and the prevention of pollution are of high priority within the zone. Small scale commercial development must complement the rural landscape, have no environmental impact, and be appropriate to the existing infrastructure and services available.

In accordance with Zone Principle of Development Control 24 restaurants and shops are anticipated within the zone, however should be established on the same allotment as a winery or shop where the tasting and retail sale of wine are the predominant activities. In addition, restaurants and shops should:

- not result in more than 75 seats for customer dining purposes
- not result in a gross leasable area of greater than 25 square metres for the display and sale of any non-beverage or non-food items.

The proposal would not be established on the same allotment as a winery or cellar door and would provide more than 75 seats. Notwithstanding this, the proposal would extend the economic base of the Mount Lofty Ranges Region to comply with Zone Objective 1.

In accordance with Zone Principle of Development Control 27 the proposal would not be sited on land with a slope more than 20% (1 in 5), would be setback a minimum of 25 metres from any bore, well, watercourse, reservoir or lake and would be setback a minimum of 50 metres from a road. The proposal would sit on an elevated portion of the site that is approximately 20 metres higher than the top of the existing Dam.

Tourism

The Development Plan encourages sustainable tourism development that assists the public appreciation of natural and cultural features including state heritage places. The proposal would be approximately 100 metres from the Whispering Wall and would potentially increase visitation and encourage longer stays within the site. The proposal is considered to benefit tourism.

Design and Heritage

Development should exhibit a high architectural standard that conserves the setting of the Whispering Wall as a state heritage place. The proposal would upgrade the caretaker's cottage which is currently in a dilapidated state. The proposed extensions, detached 'kiosk' and shade sails are of a low scale and bulk that are proportionate and ancillary to the caretaker's cottage. External materials are complementary and appropriate.

Subject to conditions the State Heritage Unit of the Department of Environment, Water and Natural Resources considers the proposal and resulting heritage impact to be acceptable. The proposal would not obscure views of the dam and the overall use will positively contribute to an appreciation of the reservoir and potentially encourage further opportunities to understand the significance of the dam wall, retained dam infrastructure and the caretaker's cottage.

Car Parking and Traffic

Vehicular access to the site is currently from Whispering Wall Road which is sealed. Vehicular access arrangements would not change as a result of the proposal. Internal driveways are established and consist of bitumen and compacted rubble. Existing car parking areas also consist largely of compacted rubble and are not line marked. Existing car parking areas will continue to be available for visitors of the Whispering Wall, although it is possible that many of these spaces would also be used by customers of the proposed development due to convenience.

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

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

Within the existing caretaker's cottage the proposed extensions and lawned area, to the north of the existing cottage, would accommodate a maximum of 120 people at any one time. As such, 40 car parking spaces that are ancillary to the restaurant component should be provided.

The detached 'kiosk' would provide pre-prepared take-away food and drinks allowing visitors to picnic on available grassed areas. The 'kiosk' would have a total floor area of 15.3 square metres and therefore requires 1 car parking space.

Visitors to the site may utilise shared areas without being a customer of the proposed development. The car parking provisions for a shop refer to floor area. It is not considered appropriate to include shared leased areas for the purpose of calculating required car parking provisions.

Potentially, a total of 41 car parking spaces should be provided in connection to the proposed development. A bitumised car parking area accommodating 20 car parking spaces is proposed however it is acknowledged that existing car and bus parking spaces are capable of accommodating any overflow. A stricter interpretation of car parking spaces required by the Development Plan is not considered necessary in this circumstance and the proposed car parking arrangements are considered acceptable. Deliveries to the site will be made by light commercial vans, once daily. A standard rubbish truck is expected to service the proposed development once a week. Adequate provisions for deliveries and rubbish refuse have been provided and are shown on the Site Plan (Drawing Number A-001).

Amenity

The proposal would be located approximately 150 metres from the nearest dwelling. The site is presently open to the public 7 days per week from 8:30am to 5:00pm or 8:30am to 6:00pm during daylight savings hours. The site is closed on Mount Lofty Fire Ban Days and Christmas Day. Each component of the proposal would be open during the following times:

- Restaurant = Thursday to Sunday inclusive, 11:30am to 3:00pm
- Kiosk = 7 days per week from 9:30am to 4:00pm
- Functions and Special Events = by appointment and to conclude no later than 10:00pm

All components of the proposal would be closed on Mount Lofty Fire Ban Days and Christmas Day.

Music may be played during a function and amplification equipment may also be used. The applicant has confirmed that musical entertainment would conclude by 10:00pm at the latest. Council Wide – Interface Between Land Uses Principle of Development Control 7 states that development should be consistent with the relevant provision of the current Environment Protection (Noise) Policy. If planning consent is granted it is appropriate to impose a condition that reinforces compliance with the Environment Protection (Noise) Policy.

Outdoor lighting will be used. Outside operating hours of any lighting will be on a 'security sensor' system. The applicant has confirmed that lighting will not spill onto neighboring properties.

Given separation distances, the extent of mature vegetation throughout the locality and appropriate design for all aspects of the proposal are not considered to have an unreasonable visual impact upon nearby properties.

Subject to conditions, the proposed development is not considered to have an unreasonable impact upon the amenity of the locality.

Effluent

An indicative 'Enviro-cycle plant' and 'septic soakage trench area' has been shown on the site plan (Drawing Number A-001). The applicant has indicated that an application to install a waste system will be lodged with Council upon Development Plan Consent being granted. General Section – Waste, Principle of Development Control 10 states that any sewage or effluent should be connected to a waste treatment system that complies with (or can comply with) the relevant public and environmental health legislation applying to that type of system. If planning consent is granted a condition reinforcing compliance with Principle of Development Control 10 is appropriate.

Stormwater

Stormwater run-off from the proposed car parking area would pass through a 'stone and reed filtration' swale before entering a nearby overland run-off area (not defined as a watercourse). The proposed filtration system would be designed to capture sediment or debris so as to protect water quality.

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, activities positively contribute to tourism, the heritage attributes of the district are preserved, building and structures complement the landscape.

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

Representations

Two representations have been received as a result of the Category 3 public notification process. Both representations support the proposed development, however indicate that the locality has a lack of water pressure which may be exacerbated.

Water pressure is a matter administered by SA Water (South Australian Water Corporation). It cannot be suitably determined that the proposal would detrimentally impact upon water pressure within the locality. The representors would need to discuss this matter directly with SA Water.

CONCLUSION

Where ancillary to a winery and outside the Barossa Exclusion area, restaurants and shops of a particular scale are anticipated within the Watershed Protection (Mount Lofty Ranges) Zone. Subject to conditions, noise, light spill, dust, and traffic impacts arising from the proposal can be reasonably managed. Any impact from a function would largely replicate that of the proposed restaurant at full capacity. The proposal would therefore not have an unacceptable impact upon nearby state heritage places or nearby water resources and is seen to contribute positively to tourism within the locality.

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.

OTHER BUSINESS

S Milne requested an update of the status of the 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.

Mr Monteduro confirmed that The Barossa Council Development Assessment Panel advised the Applicant and ERD Court that it maintains its position in not supporting an extension of approval for Development Application 960/932/2008. Following a review with the Applicant’s lawyers, the Applicant has withdrawn the Appeal.

NEXT MEETING

Tuesday 1 September 2015 commencing at 5.00pm.

CLOSURE OF MEETING

Mr Hughes declared the meeting closed at 5.23pm.

Confirmed

Date: Chairman: