

BAROSSA ASSESSMENT PANEL

Notice is hereby given that a meeting of the Barossa Assessment Panel will be held at the Council Offices, 43-51 Tanunda Road, Nuriootpa on

Tuesday, 1 August 2023, commencing at 5.00pm

Aaron Curtis
Assessment Manager



AGENDA

Please note that due to federal copyright law restrictions, attachments associated with the proposed development are available on our website for viewing only and are locked for printing or copying

NOTE: Plans contained in this agenda are subject to Copyright Laws.

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1. WELCOME**2. ATTENDANCE****2.1 Present****2.2 Apologies****2.3 Absent****3. CONFIRMATION OF MINUTES****RECOMMENDATION**

That the minutes of the Barossa Assessment Panel meeting held on Tuesday 4 July 2023 be received and confirmed.

4. BUSINESS ARISING**5. DECLARATION OF INTEREST BY MEMBERS OF THE PANEL**

The Minister's Assessment Panel Members – Code of Conduct requires that a member of an assessment panel who has a direct or indirect personal or pecuniary interest in a matter before the assessment panel (other than an indirect interest that exists in common with a substantial class of persons):

- a. must, as soon as he or she becomes aware of his or her interest, disclose the nature and extent of the interest to the assessment panel; and
- b. must not take part in any hearings conducted by the assessment panel, or in any deliberations or decision of the assessment panel, on the matter and must be absent from the meeting when any deliberations are taking place or decision is being made.

A member of an assessment panel will be taken to have an interest in a matter if an associate of the member (within the meaning of section 3(7) of the PDI Act) has an interest in the matter.

Any member that considers that they have an interest must notify the Presiding Member and have it recorded in the minutes as to the nature and extent of the interest.

6. REPORTS – APPLICATION FOR DECISION (PLANNING, DEVELOPMENT AND INFRASTRUCTURE ACT 2016)

6.1 23014800 - Lot 304 Bevilaqua Terrace Lyndoch and 1312 Barossa Valley Way Lyndoch

APPLICATION DETAILS

PROPOSAL	Land Division comprising boundary re-alignment of three existing allotments into three allotments
APPLICANT	The Barossa Council
OWNER	The Barossa Council (Lot 304 Bevilaqua Terrace Lyndoch) BFW Holding Pty Ltd (Allotments 743 and 744, 1312 Barossa Valley Way Lyndoch)
APPLICATION NO	23014800
CERTIFICATE(S) OF TITLE	CT 5438/511, CT 6101/50 and CT 6101/49
AREA	13.04 hectares
CURRENT USE	Allotment 304 – Recreation (tennis courts) Allotments 743 and 744 – Primary Production (Viticulture), winery, cellar door, ancillary dwelling and outbuildings
PLANNING AND DEVELOPMENT CODE VERSION	Version 2023.6 – 27 April 2023
PLANNING AND DESIGN CODE EXTRACT LINK	Relevant Code Extract – Lot 304 Bevilaqua Terrace Lyndoch Relevant Code Extract – 1312 Barossa Valley Way Lyndoch
ZONE	Rural, Township Neighbourhood and Recreation Zones
OVERLAYS	Character Preservation District Hazards (Bushfire - Urban Interface) Hazards (Flooding - Evidence Required) Native Vegetation Prescribed Water Resources Area Traffic Generating Development Urban Transport Routes Water Protection Area Limited Land Division
APPLICATION TYPE	Code Assessed – Performance Assessed
PUBLIC NOTIFICATION	Nil
REFERRALS	External – Commissioner of Highways
PREVIOUS APPLICATIONS	960/300/2003 – Replacement Building 960/529/2003 – Barrell Store 960/91/2012 – Land Division

	960/546/2019 – Additions and alterations to an existing winery – expansion from a maximum of 500 tonne/annum processing, construction of three additional winery buildings, 2 x 61kl rain water tanks, associated earthworks and retaining walls up to 2.4 metres high 960/28/2020 – Installation of one x single sided advertising display 960/224/2020 – Installation of a free standing pylon sign, advertising cellar door
ASSESSING OFFICER	Paul Vivian (Consultant Planner)
RECOMMENDATION	That Planning Consent be GRANTED subject to conditions

INTRODUCTION

Sawley, Lock O'Callaghan lodged an application on behalf of The Barossa Council for land division comprising the re-alignment of boundaries of three existing allotments into three allotments.

The site is located within the Rural, Township Neighbourhood and Recreation Zones. The proposed development was subject to Performance Assessment, however, was not required to undergo public notification.

This application has been referred to the Barossa Assessment Panel for a decision for the following reason:

- (1) Where in the opinion of the Assessment Manager, it is appropriate to refer the application to the Barossa Assessment Panel.

The Barossa Council is the applicant and as part of pre application due diligence, Council staff sought advice from the State Assessment Team of Planning and Land Use Services regarding who should determine the application. Based on government feedback, it is considered that the Barossa Assessment Panel can determine the application as a Delegate for the Assessment Manager. Working with Norman Waterhouse, the Assessment Manager has prepared and signed' a standalone delegation giving the necessary determination authority to the Panel for this application. This satisfactorily addresses all procedural matters for the assessment of this application.

The proposed development forms an enabling element of the Big Project. This project represents a coordinated management and development of sporting and recreation facilities in the Barossa region. A 2017 study commissioned by Council recommended the following reallocation of facilities:

- Lyndoch Oval to be developed as a centralised, multi-use hub for grassroots sporting activities, other than rugby
- Barossa Rams Rugby Club relocates to a greenfield site at Tanunda
- Curdnatta Park becomes a satellite venue for junior grade AFL and cricket
- Queen Victoria Jubilee Park at Williamstown to be developed for outdoor adventure, trails and leisure activities.

A number of these projects have commenced. This includes the development of a new home for the Barossa Rams Rugby Club that enables redevelopment of Lyndoch Recreation Park as a sporting hub for the Barossa region. The expanded facility at Lyndoch is intended to complement these emerging recreational facilities and help make the Barossa a destination for sports and tourism events meeting future community needs and providing economic benefit.

The concept plans for the park currently comprise:

- New clubroom that seats up to 180 people, with panoramic views of the oval
- Upgrades to the existing kitchen, restrooms and changerooms to create space for umpire rooms, and a gym
- Four gender neutral changerooms for football and cricket
- New netball courts
- Upgrade of cellar door to be used as a small office, canteen/kitchenette and changes rooms (located on land as part of this land division application)
- Second oval used for football and athletics (located on land as part of this land division application)

The spatial scope of the future redevelopment extends outside the boundary of the current facility and has been enabled by the purchase of land from the neighbouring landowner (Burge Family Winemakers) who currently utilise the land for viticultural purposes.

The negotiated purchase of neighbouring land requires a realignment of site boundaries to facilitate the final sale and therefore future built form/recreation development. The subject land is spread over three allotments and the proposal seeks to only realign internal boundaries and not create any additional allotments. This is an important assessment consideration within the Character Preservation District.

Lyndoch Recreational Park is located within a Recreation Zone with the current Burge Family Winemakers land located within both the Recreation Zone and the Rural Zone. The proposed boundary realignment could, subject to future application, result in loss of vineyards (albeit in that part of the Burge property primarily located in the Recreation Zone).

The proposed reconfiguration of allotment sizes and parcel road frontage lengths is entirely contained within the perimeter of the full application site on existing allotments ranging in size from 1.1 ha to 7.8 ha. The Rural Zone seeks a minimum allotment site area of 25 ha which will not be achieved in this application. This has been a primary assessment consideration along with site access, vegetation, site contamination and potential impact on primary production. Based on detailed assessment, this site area shortfall is considered acceptable given the intended ongoing use of the balance of the Burge Family Winemakers property for viticulture, potential to regularise existing zone boundaries that straddle cadastre boundaries and land uses. Continued achievement of desired outcomes in the Rural Zone and minor impact on the ongoing use of land within the site and wider rural activities, sufficient consistency with the size, nature and arrangement of adjoining land parcels and acceptable impact on the character values of the Character Preservation District (with the site located at the interface of Lyndoch and the rural area of the District).

The proposal does not include any built form development and is for land division purposes only. This also means that no changes in land use are directly borne from any approval for this application. A planning application will need to be lodged for a change of use to and construction of the Lyndoch Recreation Park upgrade project.

On balance, considering all relevant provisions of the Planning and Design Code, the proposal reasonably achieves the Desired outcomes of the Planning and Design Code and as such Planning Consent is warranted, subject to Conditions.

SITE AND LOCALITY

The 13.04 ha site comprises three allotments that collectively form a rectangular shape with an extended frontage of just under 600 metres to Barossa Valley Way. The three allotments are best described as follows:

Site	Existing area	Owner	Existing uses	Site access
Allotment 304, Bevilaqua Terrace, Lyndoch	1.167 ha	The Barossa Council	Tennis courts, grassed areas and sparse landscaping	No direct street access (albeit forms part of an integrated site with the Lyndoch Oval and is accessed via two entry/exit points within that parcel of land)
Allotment 743, 1312 Barossa Valley Way, Lyndoch	7.855 ha	BFW Holding Pty Ltd	Vineyard	No direct street access (access internally from Lot 744)
Allotment 744, 1312 Barossa Valley Way, Lyndoch	4.020 ha	BFW Holding Pty Ltd	Vineyard, dwelling, cellar door, wine making and ancillary buildings. Mature vegetation primarily along driveway and curtilage of the dwelling/cellar door	Single access point onto Barossa Valley Way

Directly to the south of Lot 304 (containing the tennis courts) is the balance of the Lyndoch Recreation Park. This facility contains an oval, clubrooms, car parking and ancillary sporting facilities. There is an approximate nine metre wide 'main' entry onto Barossa Valley Way with a secondary access point located to the north. There are several mature trees and scattered landscaping.

The full site is located at the edge of the Lyndoch township and is positioned between Barossa Valley Way to the east and residential development (separated by a bike path) to the west. Across Barossa Valley Way (in the Rural Zone) there are larger landholdings primarily containing vineyards. To the north the adjoining property contains a vineyard and a dwelling.

The site and adjoining land forms a semi-open 'buffer' between the urban scale residential streets west and further south of the site to the larger vineyards and farming properties east of the Barossa Valley Way. There is a notable transition from 'township' to 'rural' east of Barossa Valley Way.

The topography of the land is generally modest with a fall from the western edge towards Barossa Valley Way to the east.

Figure 1 below contains a Zone map and details of the location of the site.

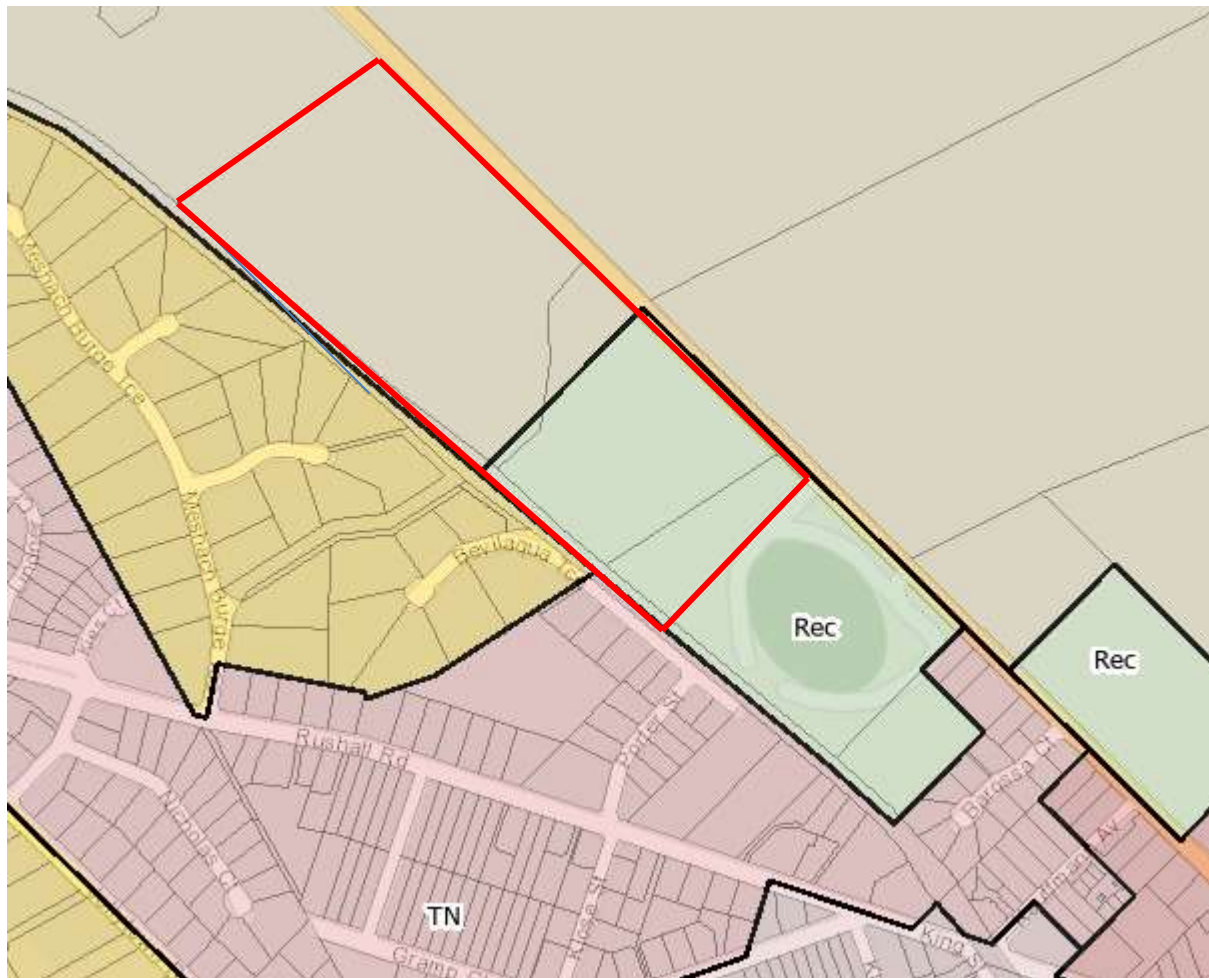


Figure 1: Zone Map and Locality

An aerial view of the site and locality are contained in **Figure 2**.



Figure 2: Aerial – Locality

PROPOSAL

The proposed land division is to realign three existing parcels of land as shown on the diagram below:

Survey image is provided in **Figure 3**.

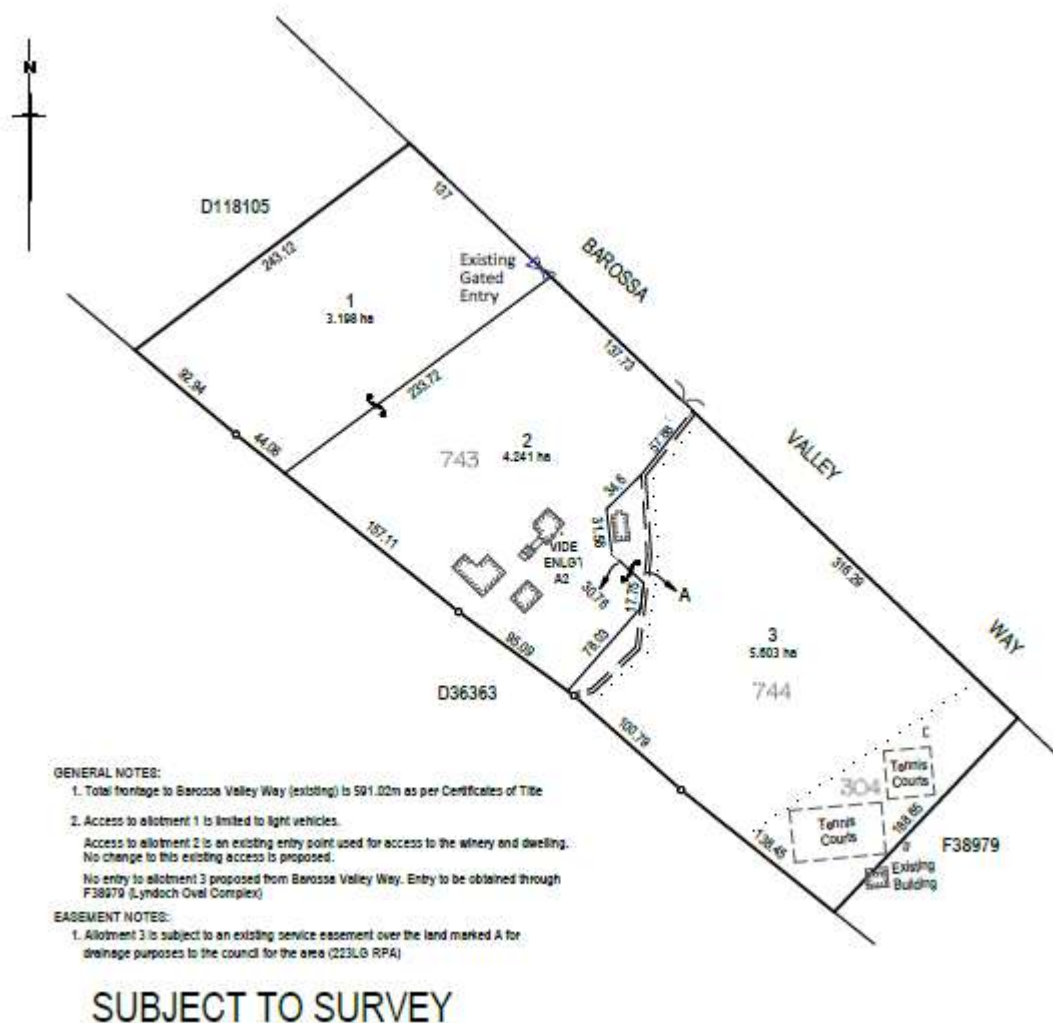


Figure 3: Survey Image

In detail, the key changes are:

- the amalgamation of Lots 304 and part 744 to form Lot 3 that will be owned by Council and intended to be used for expansion of the Lyndoch Recreation Park
- the amalgamation of part Lots 743 and part 744 to create Lot 2 (under ownership of the Burge Family Winemakers)
- the conversion of part of Lot 745 into Lot 1 (under ownership of the Burge Family Winemakers).

In technical detail the proposal configures three allotments as follows:

Lot 1 – 3.198 ha with a road frontage of 137 metres -owned by BFW Holding Pty Ltd
 Lot 2 - 4.241 ha with a road frontage of 137.3 metres - owned by BFW Holding Pty Ltd
 Lot 3 – 5.603 ha with a road frontage of 316.29 metres - owned by The Barossa Council

The comparison of existing and proposed allotments are:

Existing Lot	Existing Lot area	Existing Lot street frontage	Proposed Lot
Lot 743 (BFW)	7.855 ha	287.76 metres	Now Lot 1 and 2
Lot 744 (BFW)	4.020 ha	269.03 metres	Part Lot 2
Lot 304 (Council)	1.167 ha	39.23 metres	Fully within Lot 3

It is noted that the cellar door located on Lot 744 will become part of Lot 3 and transfer to Council ownership. Its current use will remain unchanged and a new application will be submitted for its development. Whilst not part of this application, this building is currently identified to be used as an office, changerooms and canteen for park users.

Attachment 1 contains a copy of the application and associated documentation.

APPLICATION TYPE

The site is located within the Recreation and Rural Zones under the Planning and Design Code. The proposed development is neither assigned as a form of 'Accepted' or 'Deemed to Satisfy' development under Tables 1 and 2 of the Zones, nor as a 'Restricted' form of development under Table 4 for either zone.

It is identified in Table 3 'Class of Development' of the Rural Zone and therefore, the application is subject to the 'Performance Assessed' assessment pathway.

PUBLIC NOTIFICATION

The application was not subject to public notification in accordance with Table 5 – Procedural Matters – Notification of the Rural or Recreation Zones. An application for Land Division does require public notification, however, boundary realignment do not require public notification.

REFERRALS

External

Pursuant to Schedule 9 of the *Planning, Development & Infrastructure (General) Regulations 2017* and Part 9 of the Planning & Development Code, the application was referred to:

Commissioner for Highways

The Commissioner provided an original referral response in May 2023 limiting the size and weight of vehicles that could enter the subject land.

Based on further discussion, an updated referral response received 23 June 2023, provides no restriction on the types of vehicles that may enter from Barossa Valley Way. A more detailed assessment on site access, traffic volumes, road drainage and other related matters are likely to be considered in any future application for the park upgrade and new facilities.

As directed by the Commissioner, the Land Division Consent will include the following:

Condition 1

All access to the subject land shall be via the existing access points only.

Condition 2

All vehicles shall enter and exit the site in forward direction only. All on-site vehicle manoeuvring areas shall remain clear of any impediments.

Condition 3

Longitudinal drainage along Barossa Valley Way shall be maintained (including any required trafficable headwalls) adjacent and across the access point(s) to minimise the impact on the integrity and safety of the adjacent road network.

All costs associated with any upgrade/alterations shall be borne by the applicant.

A copy of the relevant report is contained in **Attachment 2**.

Internal

The application was not subject to any internal consultation with staff.

ASSESSMENT

Please refer to the following link, the Planning and Design Code extract for this proposal, Version 2023.6 – 27 April 2023.

Planning and Design Code Extract Link	Relevant Code <u>Extract</u> – Lot 304 Bevilaqua Terrace Lyndoch Relevant Code <u>Extract</u> – 1312 Barossa Valley Way Lyndoch
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Seriously at Variance

Pursuant to Section 107(2)(c) of the *Planning, Development and Infrastructure Act 2016*, it is recommended that the Panel determine that the proposed development is not seriously at variance with the relevant provisions of the Planning and Design Code.

The land division application will facilitate the future development of the Lyndoch Recreation Park in a manner that supports the Desired Outcomes of the Recreation Zone and does not adversely impact on the ongoing use of the balance of the Burge Family Winemaker landholdings within the Rural Zone, to continue to operate as a vineyard and ancillary operations. Key assessment points to consider are:

- The notable change in cadastre between the eastern and western sides of Barossa Valley Way, with typically larger landholdings to the east and a mix of generally smaller allotments (down to residential sized properties) in the direct vicinity of the subject land.
- The boundary realignment for proposed Lot 1 results in a smaller allotment compared to existing (that is already undersized), however, does not result in any loss of existing vineyard or ability to maintain primary production activity.

- The boundary realignment for proposed Lot 2 does not result in loss of vineyard and retains the dwelling, and outbuildings with appropriate boundary setbacks and ability to continue operations.
- The boundary realignment for proposed Lot 3 (predominantly in the Recreation Zone) will result in land that is currently vineyard, potentially being converted to recreational activity which better accords with the zone intent and facilitation of the Big Project masterplan for Lyndoch Recreation Park.

Having regard to the nature of existing uses in this locality which include recreation, a mix of primary production, farm dwellings, farm buildings and township residential development, the realignment of existing boundaries to facilitate future recreational development is considered appropriate. Given the above, the proposal is not considered to be seriously at variance with the provisions of the Planning and Design Code.

Character Preservation (Barossa Valley) Act 2012

Pursuant to Section 6(2) of the *Character Preservation (Barossa Valley) Act 2012*, having regard to the objects of the Act, it is recommended that the Panel determine that the proposed development does not adversely impact the character values of the district as listed below:

- (a) the rural and natural landscape and visual amenity of the district
- (b) the heritage attributes of the district
- (c) the built form of the townships as they relate to the district
- (d) the viticultural, agricultural and associated industries of the district
- (e) the scenic and tourism attributes of the district

The proposed boundary alignment is considered to meet the five character values. Further discussion is contained under the Assessment section below in relation to the Character Preservation District Overlay.

Council staff also considered the *Character Preservation Act 2012*. Section 8(5) of the Act that states:

If a proposed development to which this section applies –

- (a) Is located in a part of the rural area other than a rural living area; and*
- (b) Will create additional allotments to be used, for residential development,*

The relevant authority must refuse to grant development authorisation in relation to the proposed development (if the application for the development authorisation for the division of the land was made after the commencement of this section).

The proposal will essentially 'shift' the existing site boundary within the Rural Zone and will not create an additional allotment that would be contrary to the above. Council staff have confirmed this position with the State Planning Commission.

Assessment

Detailed assessment of the proposal has taken place against the relevant provisions of the Planning and Design Code as quoted above. Commentary is provided below under headings:

Land Use

Recreation Zone	
Desired Outcomes	
DO1	Provision of a range of accessible recreational facilities.
Relevant Performance Outcomes/Designated Performance Features	
Land use and Intensity	
PO 1.1 Development is associated with or ancillary to the primary purpose of structured, unstructured, active and / or passive recreational facilities.	DTS/DPF 1.1 Development comprises one or more of the following: a) Car parking b) Change rooms c) Golf course d) Indoor recreation facility e) Lighting for night use of facilities f) Market g) Motorsport track and associated activities h) Office ancillary to recreation facility i) Open space j) Outdoor sports courts k) Playground l) Racecourse and associated activities m) Recreation area n) Shop ancillary to recreation facility o) Showground and associated activities p) Special event q) Spectator viewing structure r) Sporting clubrooms s) Sporting ovals and fields t) Stadium u) Swimming pool v) Tourist accommodation ancillary to recreation facility - a)

The Recreation Zone seeks a range of accessible recreational facilities for community use.

The proposed boundary realignment will form an allotment of 5.6 ha (Lot 3) that will encapsulate all land within the Recreation Zone as shown in **Figure 4** below extracted from the applicant's Planning Consultant report.



Figure: Existing parcels zoning (SAPPA)

Figure 4: Existing parcels zoning – Image from Planning Consultants Report

The land within proposed Lot 3 is currently used as a vineyard (part Lot 744) and recreation/tennis courts (Lot 304). The vines are a longstanding activity associated with the ongoing Burge Family Winemaker operation. The vines are an envisaged land use within the abutting Rural Zone (Lots 1 and 2), however, the potential replacement of viticulture with recreation activities better aligns with the Recreation Zone Desired Outcome 1 and envisaged land uses in the zone.

As outlined in the assessment below, the potential loss of viticulture on proposed Lot 3 is considered acceptable balanced against the opportunity to deliver the Big Project and the delivery of new recreational facilities in accordance with its zoning.

Land division	
PO 6.3 Land division supports the provision of recreational facilities.	DTS/DPF 4.1 Land division is for the purposes of: a) the creation of a public road or a public reserve b) or b) a minor adjustment of allotment boundaries to remove an anomaly in existing boundaries with respect to the location of existing buildings or structure

The boundary realignment creates a reconfigured allotment with the current boundary moving northwards to encapsulate all land within the Recreation Zone as part of a new Lot 3. It is understood that the additional land is required to enable the park upgrade. There are no viable expansion opportunities in any other direction of the park. The boundary realignment directly supports the provision of recreational facilities as sought by Performance Outcome 4.1.

Neither DPF 4.1 a) or b) apply for this application. It is noted that Performance Outcomes are clarified by the State Government as “by definition, qualitative, articulating an outcome that could be met by a variety of different techniques. In

some cases, the Code provides a quantifiable solution that generally meets the performance outcome (a designated performance feature (DPF)), but there may be other ways the outcome can be met. This provides greater flexibility to explore different design solutions that can better respond to a location's context and places a greater emphasis on built form through a form-based approach".

On this basis, the site-specific need for realignment of boundaries to address underlying ownership, zoning and land use considerations demonstrates 'another' way that Performance Outcome 4.1 is met.

Rural Zone	
Desired Outcomes	
DO1	A zone supporting the economic prosperity of South Australia primarily through the production, processing, storage and distribution of primary produce, forestry and the generation of energy from renewable sources.
DO2	A zone supporting diversification of existing businesses that promote value-adding such as industry, storage and warehousing activities, the sale and consumption of primary produce, tourist development and accommodation.
Relevant Performance Outcomes/Designated Performance Features	
Land use and Intensity	
PO 1.1 The productive value of rural land for a range of primary production activities and associated value adding, processing, warehousing and distribution is supported, protected and maintained.	DTS/DPF 1.1 Development comprises one or more of the following: (a) Advertisement (b) Agricultural building (c) Brewery (d) Carport (e) Cidery (f) Dairy (g) Dam (h) Distillery (i) Dwelling (j) Dwelling addition (k) Farming (l) Horse keeping (m) Horticulture (n) Industry (o) Intensive animal husbandry (p) Low intensity animal husbandry (q) Outbuilding (r) Renewable energy facility (s) Shop (t) Small-scale ground mounted solar power facility (u) Stock slaughter works (v) Tourist accommodation (w) Transport distribution (x) Verandah (y) Warehouse (z) Winery (aa) Workers' accommodation

The primary intent of the Rural Zone is to support economic prosperity through ongoing production, processing, storage and distribution of primary produce.

The Burge Family Winemakers have negotiated with Council to sell a portion of their existing property.

The boundary realignment has been formed to maximise retention of vineyards and wine making facilities as part of the Burge Family Winemakers viticultural operations. The northern half of the existing land (proposed Lots 1 and 2) remain primarily unaffected (other than transfer of current cellar door building to Council ownership in Lot 3) by the realignment of boundaries and existing vines can remain in situ. This retains around six hectares of viticultural land (excluding buildings).

Around 12% (or 0.7 ha) of the proposed Lot 3 will remain in the Rural Zone albeit under Council ownership. In contextual terms this potential loss is minor and will not affect the ability of the Burge Family to continue operations.

On this basis, it is considered that the proposal will not fatally impact ongoing primary production use on the land parcel, now solely contained within the Rural Zone, or restrict the land owner in continuing to use the site in accordance with desired land uses in DFP 1.1 and Desired Outcome DO 1.

Siting and Design

Siting and Design	
PO 2.1 <i>Development is provided with suitable vehicle access.</i>	DTS/DPF 2.1 <i>Development is serviced by an all-weather trafficable public road.</i>

There is an existing access point onto Barossa Valley Way that will serve future Lot 1. This entry is clearly denoted on the application drawings and was not objected to by the Commissioner for Highways.

Dwellings

Dwellings			
PO 5.1 <i>Dwellings provide a convenient base for landowners to conduct and manage commercial scale primary production and rural related value adding activities without compromising the use of the allotment, adjacent land or long term purpose of the zone for primary production or related tourism values due to a proliferation of dwellings.</i>	DTS/DPF 5.1 DTS/DPF 5.1 Dwellings: (a) are located on an allotment with an area not less than: <table><tr><th>Minimum Dwelling Allotment Size</th></tr><tr><td>Minimum dwelling allotment size is 25 ha</td></tr></table> (b) are located on an allotment used for and is ancillary to primary production and/or primary production related value-adding activities (c) will not result in more than one dwelling on an allotment. In relation to DTS/DPF 5.1, in instances where: (d) more than one value is returned in the same field, refer to the Minimum Dwelling Allotment Size Technical and Numeric Variation layer in the SA planning database to determine the applicable value relevant to the site of the proposed development (e) no value is returned for DTS/DPF 5.1(a) (ie there is a blank field), then there is no minimum dwelling allotment size applicable and DTS/DPF 5.1(a) is met.	Minimum Dwelling Allotment Size	Minimum dwelling allotment size is 25 ha
Minimum Dwelling Allotment Size			
Minimum dwelling allotment size is 25 ha			

There is an existing dwelling on the subject land. This dwelling is ancillary to the primary viticultural use of the land and operates in a manner envisaged in Performance Outcome 5.1.

This existing dwelling is located on an existing allotment measuring 7.855 ha. This current arrangement does not meet the Technical Numerical Variation of 25 ha as set in DPF 5.1 (a).

It is noted that the dwelling site area presenting an existing shortfall to the Technical Numerical Variation, nothing will physically alter in respect of the dwelling with a side setback to the closest boundary of 32 metres. Whilst not a wholly desirable outcome it is considered that the retention of the existing dwelling on the smaller allotment does not alter site management practices, introduce a new dwelling into the zone or the Character Preservation District, and provides residential living space in support of economic activity. The dwelling remains subordinate to the ongoing viticultural uses and retains a comparatively small footprint on the allotment. On balance, the continued departure to the minimum allotment size for a dwelling is supported.

Land Division

Land Division	
PO 11.1 Land division, including boundary realignments, promotes productive, efficient and sustainable primary production	DTS/DPF 11.1 Allotments have an area not less than: Minimum Site Area Minimum site area is 25 ha In relation to DTS/DPF 11.1, in instances where: a) more than one value is returned in the same field, refer to the Minimum Site Area Technical and Numeric Variation layer in the SA planning database to determine the applicable value relevant to the site of the proposed development b) no value is returned (i.e. there is a blank field), then none are applicable and the relevant development cannot be classified as deemed-to-satisfy

The existing allotments in the Rural Zone measure:

- Lot 743 – 7.8 ha
- Lot 744 – approx 0.7 ha in Rural Zone with balance in Recreation Zone (around 3.5 ha)

Within the locality (between Barossa Valley Way and the residential areas of the township bordered by the bike way) there is a mix of allotment sizes with the majority under the 25 ha criterion. The cadastre evolves to larger landholdings only from the eastern side of Barossa Valley Way. The proposed boundary realignment does not result in any new allotments and provides for two contiguous allotments (Lots 1 and 2) that measure 7.4 ha and retained under Burge Family Winemakers ownership. In this context there is sufficient justification to allow retention of undersized allotments without adverse impact on sustainable primary production on the subject land.

General Development Policies	
Site contamination	
Desired Outcomes	
DO 1	Ensure land is suitable for the proposed use in circumstances where it is, or may have been, subject to site contamination
Relevant Performance Outcomes/Designated Performance Features	
All land division	
PO 1.1 Ensure land is suitable for use when land use changes to a more sensitive use.	DPF 1.1 Development satisfies (a), (b), (c) or (d): (a) does not involve a change in the use of land. (b) involves a change in the use of land that does not constitute a change to a more sensitive use. (c) involves a change in the use of land to a more sensitive use on land at which site contamination is unlikely to exist (as demonstrated in a site contamination declaration form). (d) involves a change in the use of land to a more sensitive use on land at which site contamination exists, or may exist (as demonstrated in a site contamination declaration form), and satisfies both of the following: (ii) a site contamination audit report has been prepared under Part 10A of the Environment Protection Act 1993 in relation to the land within the previous five years which states that– A. site contamination does not exist (or no longer exists) at the land; or, B. the land is suitable for the proposed use or range of uses (without the need for any further remediation); or, C. where remediation is, or remains, necessary for the proposed use (or range of uses), remediation work has been carried out or will be carried out (and the applicant has provided a written undertaking that the remediation works will be implemented in association with the development) and, (e) no other class one activity or class two activity has taken place at the land since the preparation of the site contamination audit report (as demonstrated in a site contamination declaration form).

The subject land has been utilised for recreation (Lot 3), viticultural, residential and ancillary purposes (Lots 1-3). A dwelling/residential use is listed as the highest item in

the Land Use Sensitivity Hierarchy (Table 1 of *Practice Direction 14 – Site Contamination Assessment April 2023 version*). Open Space/recreation area is listed as Item 3 with primary production listed as item 6.

The Planning and Design Code Regulation Schedule 8-2A states that a contamination report is required for certain applications such as for a land division where the application proposes a sensitive use.

There is an element of interpretation in this clause as applied to a boundary realignment application where a change in land use is only inferred. This is further nuanced by the existence of the dwelling on the site and limited confinement to how the subject land can be operated in conjunction with ancillary residential activity.

Council staff have considered this matter and determined that at the current stage of the process (plus understanding the typical site contamination issues associated with viticulture) that no site contamination report is required for the assessment of the land division application. There will be an opportunity to investigate site contamination and require any mitigation as part of a planning application for the future Lyndoch Recreation Park development. To reinforce current site usage and therefore not change any part of the site to a more sensitive land use, it is recommended to include a condition of any Planning Consent maintaining existing site uses. This is considered an appropriate outcome and consistent with Performance Outcome 1.1 and our reading of *Practice Direction 14 – Site Contamination Assessment*.

Native Vegetation

Native Vegetation Overlay	
Desired Outcomes	
DO 1	Areas of native vegetation are protected, retained and restored in order to sustain biodiversity, threatened species and vegetation communities, fauna habitat, ecosystem services, carbon storage and amenity values.
Relevant Performance Outcomes/Designated Performance Features	
Environmental Protection	
PO 1.1 Development avoids, or where it cannot be practically avoided, minimises the clearance of native vegetation taking into account the siting of buildings, access points, bushfire protection measures and building maintenance.	DTS/DPF 1.1 An application is accompanied by: (a) a declaration stating that the proposal will not, or would not, involve clearance of native vegetation under the Native Vegetation Act 1991, including any clearance that may occur: (i) in connection with a relevant access point and/or driveway. (ii) within 10 metres of a building (other than a residential building or tourist accommodation). (iii) within 20 metres of a dwelling or addition to an existing dwelling for fire prevention and control. (iv) within 50 metres of residential or tourist accommodation in connection with a requirement under a relevant overlay to

	<i>establish an asset protection zone in a bushfire prone area.</i> Or (a) <i>a report prepared in accordance with Regulation 18(2) of the Native Vegetation Regulations 2017 that establishes that the clearance is categorised as 'Level 1 clearance'.</i>
--	---

An initial review of the subject land identifies clearance has occurred to enable current viticultural and recreation activities to occur. There is no known native vegetation that is directly affected by the proposed boundary realignment.

Character Preservation Overlay

Character Preservation District Overlay (Not in township)	
Desired Outcomes	
DO 1	<i>Recognise, protect and enhance the special character of Character Preservation Districts.</i>
DO 2	<i>The long-term use of land outside of townships for primary production and associated value adding enterprises is assured and promoted.</i>
Relevant Performance Outcomes/Designated Performance Features	
Land Use and Intensity	
PO 1.1 <i>Land division is undertaken in accordance with Section 8 of the Character Preservation (Barossa Valley) Act 2012 and Section 8 of the Character Preservation (McLaren Vale) Act 2012.</i>	DTS/DPF 1.1 <i>None are applicable.</i>

The *Character Preservation (Barossa Valley) Act 2012* introduced a set of character values for the Barossa Valley District and land division restrictions to maintain the long-term future of the area for primary production and ancillary uses. Section 8 of the Act does not allow the creation of additional allotments in the District for residential purposes.

The proposed development seeks to realign three existing allotments resulting in no increase in the number of allotments, nor the creation of an allotment for residential purposes. This meets Performance Outcome 1.1.

Proposed Lots 1 and 2 (Burge Family Winemakers) are located within the rural area (ie. not in Township) in reference to the Character Preservation (Barossa Valley) District. The significant majority of proposed Lot 3 is located within the 'Township' area of the District.

Performance Outcome 2 seeks the long-term use of land outside the township for primary production and associated uses. This outcome is achieved with retention of the remaining vineyards (around 6 ha) with the dwelling and wine making facilities, together under private ownership and able to continue operation. The amount of current vineyard in the new Lot 3 that extends across the township boundary into the rural area is minor (0.6 ha) and will not fragment or adversely affect the balance of primary production land on proposed Lots 1 and 2.

The proposed Lot 3 provides an opportunity for an extension of the Lyndoch Recreation Park which is an appropriate township use and a common form of land use at the interface with rural areas in Barossa townships.

Flood Hazard

Hazards (Flooding – Evidence Required) Overlay	
Desired Outcomes	
DO 1	Development adopts a precautionary approach to mitigate potential impacts on people, property, infrastructure and the environment from potential flood risk through the appropriate siting and design of development.
Relevant Performance Outcomes/Designated Performance Features	
Flood Resilience	
PO 1.1 Development is sited, designed and constructed to minimise the risk of entry of potential floodwaters where the entry of flood waters is likely to result in undue damage to or compromise ongoing activities within buildings.	DTS/DPF 1.1 Habitable buildings, commercial and industrial buildings, and buildings used for animal keeping incorporate a finished floorlevel at least 300 mm above: (a) the highest point of top of kerb of the primary street or (b) the highest point of natural ground level at the primary street boundary where there is no kerb.

The proposed boundary realignment does not directly require any development that could change water flow or alter flooding risk. This would be addressed as part of any future assessment of an application(s) on Lots 1, 2 or 3.

The relevant Performance Outcome 1.1 has been achieved.

Water Resources Overlay

Water Resources Overlay	
Desired Outcomes	
DO 1	c) Protection of the quality of surface waters considering adverse water quality impacts associated with projected reductions in rainfall and warmer air temperatures as a result of climate change.
DO 2	d) Maintain the conveyance function and natural flow paths of watercourses to assist in the management of flood waters and stormwater runoff.
Relevant Performance Outcomes/Designated Performance Features	
Water Catchment	
PO 1.1 Watercourses and their beds, banks, wetlands and floodplains (1% AEP flood extent) are not damaged or modified and are retained in their natural state, except where modification is required for essential access or maintenance purposes.	DTS/DPF 1.1 None are applicable.

No known water courses pass through the land. The proposed boundary realignment does not directly require any development that could impact on surface waters. This would be addressed as part of any future assessment of an application(s) on Lots 1, 2 or 3.

Given the above, Performance Outcome 1.1 has been satisfied.

Transport, Car Parking and Access

Transport, Access and Parking	
Desired Outcomes	
DO 1	A comprehensive, integrated and connected transport system that is safe, sustainable, efficient, convenient and accessible to all users.
Relevant Performance Outcomes/Designated Performance Features	
Movement Systems	
PO 1.4 Development is sited and designed so that loading, unloading and turning of all traffic avoids interrupting the operation of and queuing on public roads and pedestrian paths.	DPF 1.4 All vehicle manoeuvring occurs on site.
Vehicle Access	
PO 3.1 Safe and convenient access minimises impact or interruption on the operation of public roads.	DPF 3.1 The access is: (a) provided via a lawfully existing or authorised driveway or access point or an access point for which consent has been granted as part of an application for the division of land; or, (b) not located within six metres of an intersection of two or more roads or a pedestrian activated crossing.

The site is accessed from the all-weather sealed Barossa Valley Way via two access points. The Commissioner of Highways has not objected to retention and continued use of these access points. They enable independent access to each ownership group. In this, the general policies of the Traffic Generating and Urban Transport Routes Overlays are also satisfactorily addressed.

Clearance from Overhead Powerlines

General Development Policies	
Clearance from Overhead Powerlines	
Desired Outcomes	
DO 1	Protection of human health and safety when undertaking development in the vicinity of overhead transmission powerlines.
Relevant Performance Outcomes/Designated Performance Features	
PO 1.1 Buildings are adequately separated from aboveground powerlines to minimise potential hazard to people and property.	DTS/DPF 1.1 One of the following is satisfied: (a) a declaration is provided by or on behalf of the applicant to the effect that the proposal would not be contrary to the regulations prescribed for the purposes of section 86 of the Electricity Act 1996. (b) there are no aboveground powerlines adjoining the site that are the subject of the proposed

	development.
--	--------------

The applicant has provided a declaration stating the proposal will not be contrary to the regulations prescribed for the purposes of Section 86 of the *Electricity Act 1996*, as per DPF 1.1, given that the proposal achieves the minimum clearance required from the powerlines.

Therefore, the proposal satisfies Desired Outcome 1 and Performance Outcome 1.

Limited Land Division Overlay

Significant Landscape Protection Overlay	
Desired Outcomes	
DO 1	The long term use of land for primary production is maintained by minimising fragmentation through division of land.
Relevant Performance Outcomes/Designated Performance Features	
Water Catchment	
PO 1.1 Land division does not result in the creation of an additional allotment.	DTS/DPF 1.1 No additional allotments are created.
PO 1.2 Land division involving boundary realignments occurs only where the number of resulting allotments with a site area less than that specified in the relevant Zone is not greater than the number that existed prior to the realignment.	DTS/DPF 1.2 None are applicable

The Limited Land Division Overlay applies to land within the Rural Zone only.

The proposed boundary realignment does not increase the number of allotments on the application site or within the Overlay area. This accords with Performance Outcome 1.1.

The existing part of the application site within the Rural Zone contains two allotments (or parts thereof) in the Rural Zone. The proposal does not increase the number of allotments as sought by Performance Outcome 1.2.

The application accords with Desired Outcome 1.

Other Overlays

The following Overlays have been considered in the assessment of the proposed development but are not applicable given that:

Prescribed Water Resources Area

The proposed Development does not seek to alter the flow of water on the site.

Water Protection Area

The proposed Development is not considered to impact the quality of water discharged from the site.

Hazards (Bushfire - Medium Risk) and Hazards (Bushfire - Urban Interface)

The proposed boundary realignment does not alter existing bushfire arrangements or introduce any new land uses within the subject land.

CONCLUSION

The application was subject to 'Performance Assessment'. This report has provided a detailed assessment of the proposal against the relevant provisions of the Planning and Design Code.

The proposal involves the realignment of three allotments to facilitate the future development of the Lyndoch Recreation Park, while enabling the continued primary production operations on the balance of the site as retained by the Burge Family Winemakers. Assessment shows that any future loss of vineyard will primarily occur in the Recreation Zone and land identified as 'Township' in the Character Preservation District. The realigned boundaries have been delineated to maintain the existing dwelling and wine making facilities on two contiguous allotments. The dwelling will be on an allotment of less than the minimum site area of 25 ha. Taken as a construct of process, this technical shortfall does not differ from the current arrangement and in any event this part of the township west of Barossa Valley Way has a diverse mix of allotment sizes with no prevailing cadastre pattern. The departure impact is considered minimal.

There are no adverse interface issues anticipated with the dwelling's relationship to surrounding viticulture as unchanged and it still benefits from a large setback to Lot 3 where future recreation may occur. Township character, heritage attributes and the visual relationship with the rural part of the District are not altered by the application.

The assessment found that the proposal is reasonably consistent with the Desired Outcome and Performance Outcomes of the Rural and Recreation Zones and has demonstrated compliance in most areas with respect to the relevant provisions of the Planning and Design Code.

Planning Consent is considered warranted, subject to Conditions.

RECOMMENDATION 1**Not Seriously at Variance**

The Barossa Assessment Panel, having considered the application, resolves that the development proposal has sufficient merit, and is not seriously at variance with the Planning and Design Code.

RECOMMENDATION 2**Character Preservation**

Pursuant to Section 6(2) of the *Character Preservation (Barossa Valley) Act 2012*, the Barossa Assessment Panel has had regard to the objects of that Act and, in determining this application, has resolved that there are no significant impacts on the character values of the district.

RECOMMENDATION 3

Granting of Planning Consent

The Barossa Assessment Panel, having considered the application for consent to carry out development of land and pursuant to the provisions of the *Planning, Development and Infrastructure Act 2016* resolves to GRANT Planning Consent for Application No. 23014800 by The Barossa Council to undertake land division comprising boundary re-alignment of three existing allotments into three allotments at Allotment 304, Bevilaqua Terrace, Lyndoch, Allotment 743 and Allotment 744, 1312 Barossa Valley Way, Lyndoch (CT 5438/511, CT 6101/50 and CT 6101/49) subject to the following reserved matters, 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. 23014800 except where varied by any condition(s) listed below.
- (2) No change in land use has occurred or should be inferred from this land division approval and any change in land use will be subject to a future development application.

ATTACHMENTS OR OTHER SUPPORTING REFERENCES

- Attachment 1 Application and Associated Documents [↓](#) 
- Attachment 2 Referral Report [↓](#) 

Development Locations

Location 1

Location reference

LOT 304 BEVILAQUA TCE LYNDOK SA 5351

Title Ref

CT 5438/511

Plan Parcel

D23019 AL304

Additional Location Information**Council**

THE BAROSSA COUNCIL

Location 2

Location reference

1312 BAROSSA VALLEY WAY LYNDOK SA 5351

Title Ref

CT 6101/50

Plan Parcel

D89654 AL744

Additional Location Information**Council**

THE BAROSSA COUNCIL

Location 3

Location reference

1312 BAROSSA VALLEY WAY LYNDOK SA 5351

Title Ref

CT 6101/49

Plan Parcel

D89654 AL743

Additional Location Information**Council**

THE BAROSSA COUNCIL

Zone Overlays

Zones

- Recreation
- Township Neighbourhood
- Recreation
- Rural

Sub-zones

(None)

Overlays

- Character Preservation District
- Hazards (Bushfire - Urban Interface)
- Hazards (Flooding - Evidence Required)
- Native Vegetation
- Prescribed Water Resources Area
- Traffic Generating Development
- Urban Transport Routes
- Water Protection Area
- Character Preservation District
- Character Preservation District
- Hazards (Bushfire - Medium Risk)
- Hazards (Bushfire - Urban Interface)
- Hazards (Flooding - Evidence Required)
- Limited Land Division
- Native Vegetation
- Prescribed Water Resources Area
- Traffic Generating Development
- Urban Transport Routes
- Water Protection Area

Variations

- Minimum Frontage (Minimum frontage is 12m)
- Minimum Site Area (Minimum site area is 500 sqm)
- Minimum Side Boundary Setback (Minimum side boundary setback is 1m)
- Minimum Site Area (Minimum site area is 25 ha)
- Minimum Dwelling Allotment Size (Minimum dwelling allotment size is 25 ha)

Application Contacts

Applicant(s)

Stakeholder info

The Barossa Council
C/- Sawley Lock O'Callaghan, 176 PROSPECT ROAD
PROSPECT
SA
5082

Contact

Stakeholder info

Sawley Lock O'Callaghan
176 PROSPECT ROAD
PROSPECT
SA
5082

Invoice Contact

Stakeholder info

The Barossa Council
C/- Sawley Lock O'Callaghan, 176 PROSPECT ROAD
PROSPECT
SA
5082

Invoice sector type**Land owners****Stakeholder info**

The Barossa Council
C/- Sawley Lock O'Callaghan, 176 PROSPECT ROAD
PROSPECT
SA
5082

Stakeholder info

BFW Holding Pty Ltd
C/- Sawley Lock O'Callaghan, 176 prospect road
Prospect
SA
5082

Nature Of Development**Nature of development**

Land Division (Re-alignment of Boundaries)

Development Details**Current Use**

Recreation / Rural

Proposed Use

Recreation / Rural

Development Cost

\$1.00

Proposed Development Details

Land Division (Re-alignment of Boundaries)

Element Details

You have selected the following elements

Boundary realignment - \$1.00

Boundary Realignment**Application Type**

Conventional

Number of existing allotments

3

Number of proposed allotments (excluding road and reserve)

3

Area of land to be divided (m²)

130,400

Septic/Sewer information submitted by applicant**Does this development require a septic system, i.e. septic tank and/or waste water disposal area?**

No

Certificate of Title information submitted by applicant**Does the Certificate of Title (CT) have one or more constraints registered over the property?**

No

Consent Details**Consent list:**

- Planning Consent
- Land Division Consent

Have any of the required consents for this development already been granted using a different system?**Planning Consent****Apply Now?**

Yes

Who should assess your planning consent?

Assessment panel/Assessment manager at The Barossa Council

If public notification is required for your planning consent, who would you like to erect the public notification sign on the land?

Applicant

Land Division Consent**Do you wish to have your land division consent assessed in multiple stages?**

N/A

Apply Now?

Yes

Who should assess your land division consent?

The Barossa Council

Consent Order**Recommended order of consent assessments**

1. Planning Consent
1. Land Division Consent

Do you have a pre-lodgement agreement?

No

Declarations**Electricity Declaration**

This development does not involve the construction of, or alteration to, a building to require a statement in accordance with Clause 6(1) of Schedule 8 of the Planning, Development and Infrastructure (General) Regulations 2017

Native Vegetation Declaration

The proposed development will not or would not, involve the clearance of Native Vegetation under the Native Vegetation Act 1991, including any clearance that may occur in connection with a relevant access point and/or driveway, and/or within 10m of a building (other than a residential building or tourist accommodation), and/or within 20m of a dwelling or addition to an existing dwelling for fire prevention and control, and/or within 50m of residential or tourist accommodation in connection with a requirement under a relevant overlay to establish an asset protection zone in a bushfire prone area.

Submission Declaration

All documents attached to this application have been uploaded with the permission of the relevant rights holders. It has been acknowledged that copies of this application and supporting documentation may be provided to interested persons in accordance with the Act and Regulations.

Documents

Document	Document Type	Date Created
2308601 Rev6 Proposal.pdf	Proposed Plan of Division	22 May 2023 12:25 PM
230518 P1223 Planning letter18May23.pdf	Planning Report	22 May 2023 12:25 PM
CT 5438_511.pdf	Certificate of Title	22 May 2023 12:25 PM
CT 6101_49.pdf	Certificate of Title	22 May 2023 12:25 PM
CT 6101_50.pdf	Certificate of Title	22 May 2023 12:25 PM

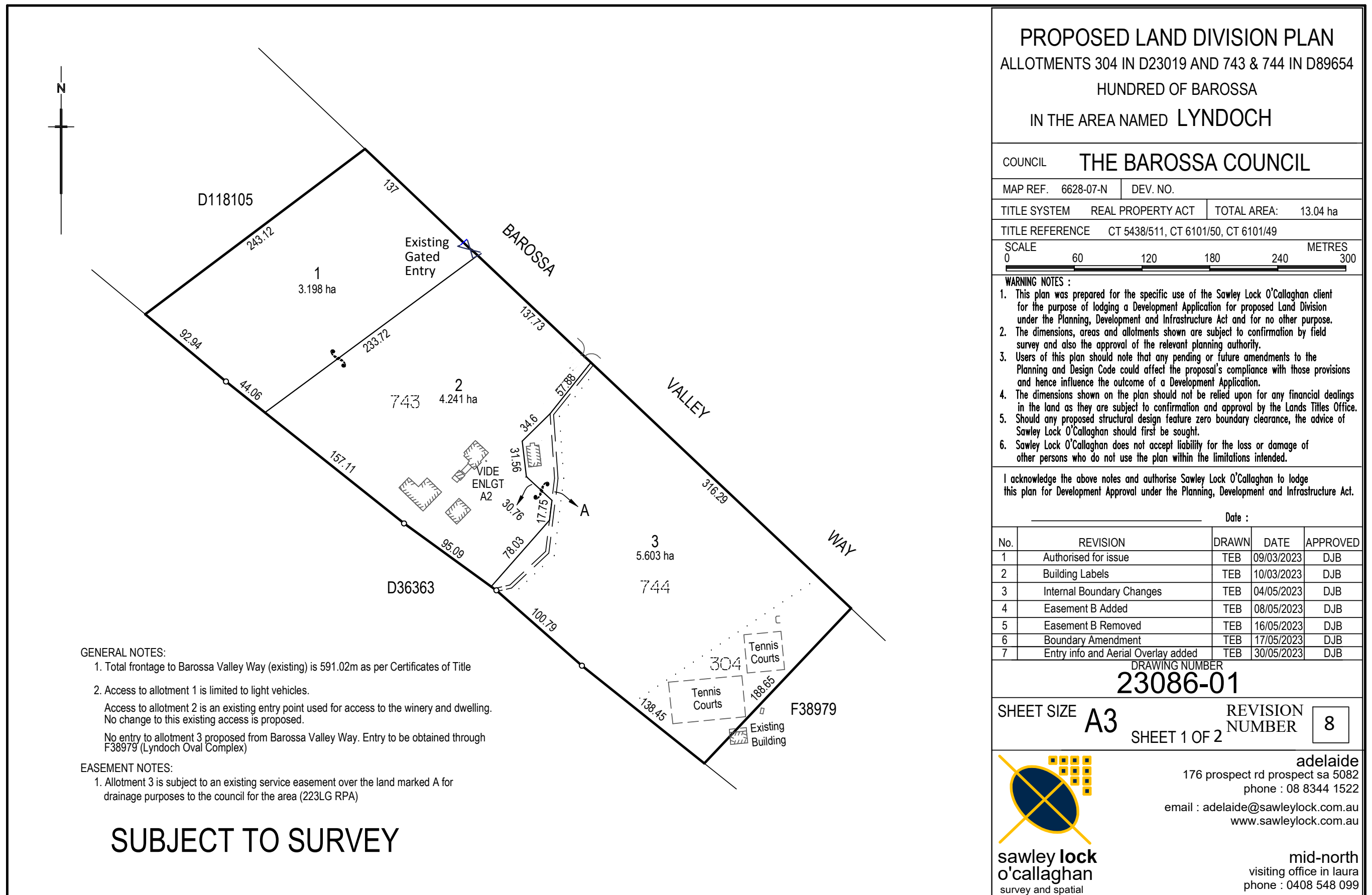
Application Created User and Date/Time

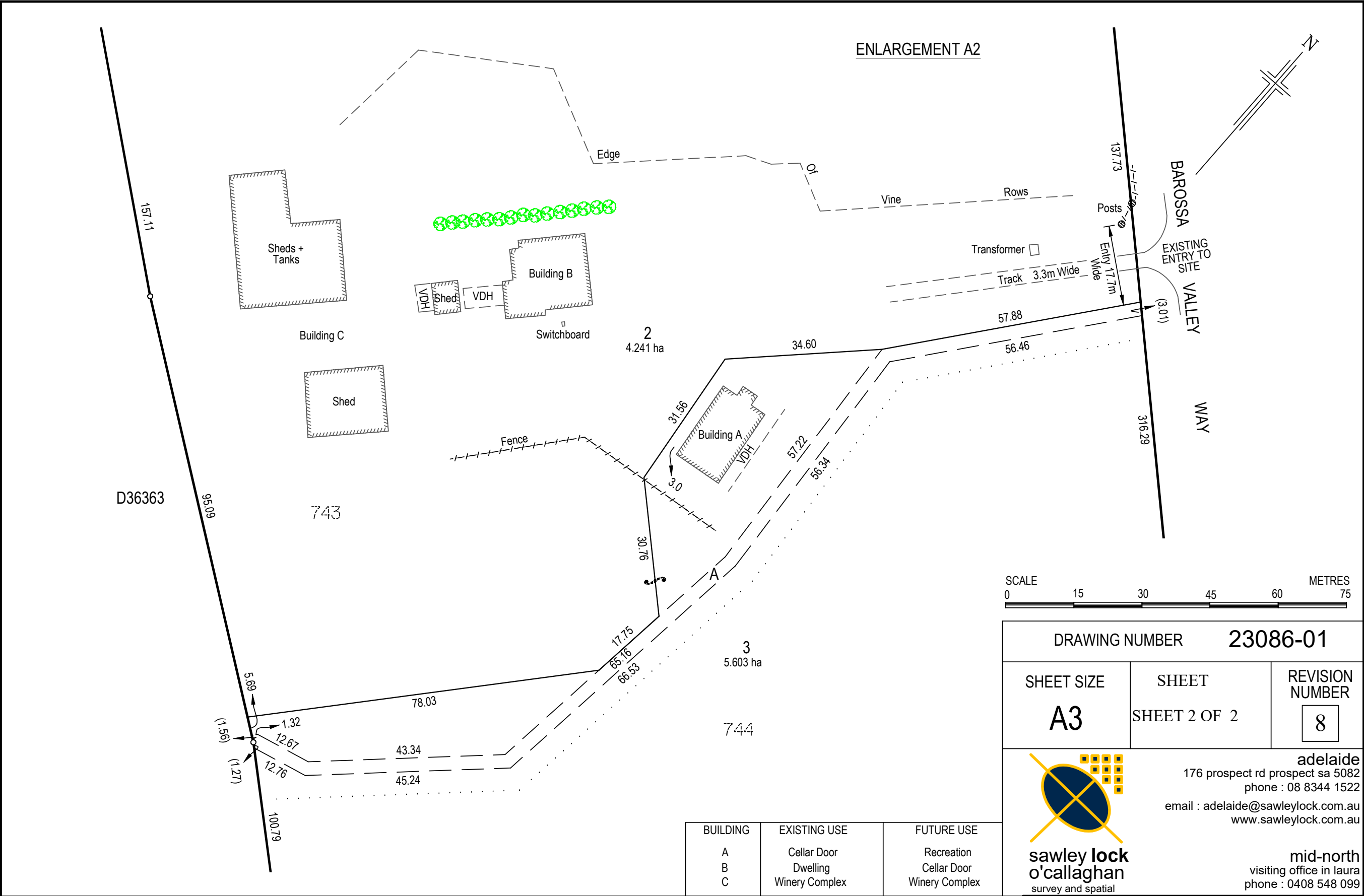
Created User

michael.spry

Created Date/Time

22 May 2023 12:24 PM







Level 1, 21 Roper Street
Adelaide 5000 South Australia
08 8338 5511
ABN 56 607 616 295
www.jensenplus.com.au

230518 P1223 Planning letter

18th May 2023

Aaron Curtis
Assessment Manager
The Barossa Council
43-51 Tanunda Road
Nuriootpa SA 5355

Dear Aaron

Development Application for land division at 1312 Barossa Valley Way and Lot 304 Bevilaqua Terrace, Lyndoch.

Jensen PLUS has been engaged by The Barossa Council to prepare and lodge an application for planning consent for land division, in the form of boundary realignment, of three land parcels located along the Barossa Valley Way, Lyndoch.

Rationale for Development

The proposed boundary realignment forms part of The Barossa Council's "*The Big Project*," which is the region's largest and most ambitious community infrastructure project.

The Big Project will implement projects across the entire region, which includes upgrading the Lyndoch Recreation Park to include:

- New clubroom that seats up to 180 people, with panoramic views of the oval.
- Upgrades to the existing kitchen, restrooms and changerooms to create space for umpire rooms, and a gym.
- Four gender neutral changerooms for football and cricket.
- New netball courts
- Upgrade of cellar door to be used as a small office, canteen/ kitchenette and change rooms
- Second oval used for football and athletics.

The proposed Lyndoch Recreation Park upgrade requires additional land than currently available on the existing land parcel. To overcome this shortfall and accommodate the project, The Barossa Council is purchasing the adjacent land parcel and as part of this is seeking to realign three land parcel boundaries along Barossa Valley Way.

Therefore, this letter will provide a high-level review of the Planning and Design Code that seeks to provide justification in support of the proposed land division/ boundary realignment.

Subject Sites and Locality

The proposed boundary alignment will occur on three land parcels, with one land parcel located at Lot 304 Bevilaqua Tce - CT5438/511 (D23019A304) and two land parcels located at 1312 Barossa Valley Way - CT6101/49 and CT6101/50, Lyndoch.



The southern most land parcel (Lot 304) comprises tennis courts and ancillary carparking that links to the existing Lyndoch Oval. The middle land parcel (CT6101/50) contains only vines and is accessed off the northern most land parcel (CT6101/49), with this land parcel including more vines as well as a dwelling, wine making facilities and a cellar door. The structures are single storey, with the dwelling and cellar door made from stone and metal cladding and other structures are a steel construction (sheds).

A treeline runs along the road verges of each land parcel's Barossa Valley Way frontage, with a less dense treeline found along the northern most land parcels northern boundary and each land parcel's western boundary. Additional trees are located around the centrally placed dwelling and structures.

The land to the north and west of the three land parcels contain mostly vines, accompanied by single storey structures that have a variety of uses, including accommodation, retail (cellar-door) and winemaking.

To the immediate west of the three land parcels is a railway line that divides the land parcels from a residential area of Lyndoch. The dwellings are typically single storey structures with varying allotment sizes from typical residential to large rural, depending on the zoning.

Lyndoch Oval comprises the locality to the south of the site of the development. The large oval is surrounded by a ring road and contains a scattering of single storey structures, the most notable being the clubrooms located on the western boundary. Trees are scattered around the oval, which provide the site with undulation and help conceal the light poles.

The collective subject site forms a rectangular shape that falls toward and beyond Barossa Valley Way. The northwest area of the site is slightly sleeper than the rest of the site.

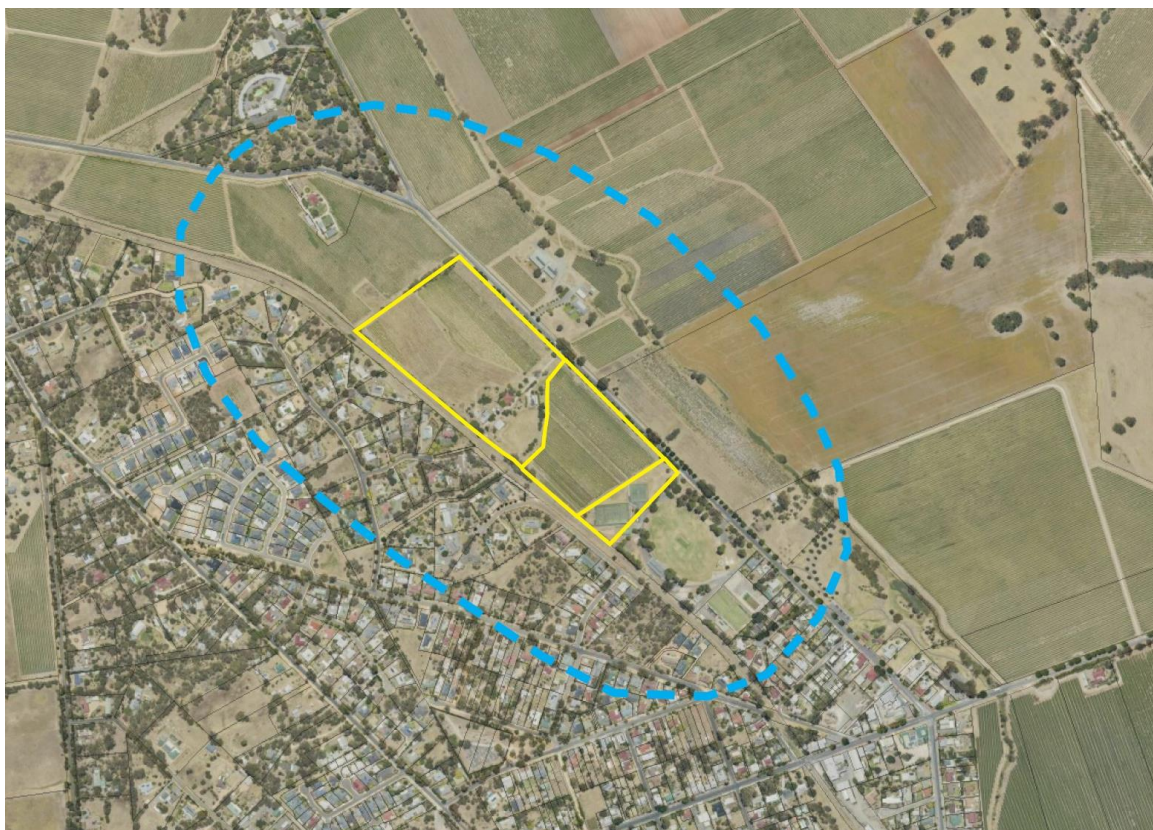
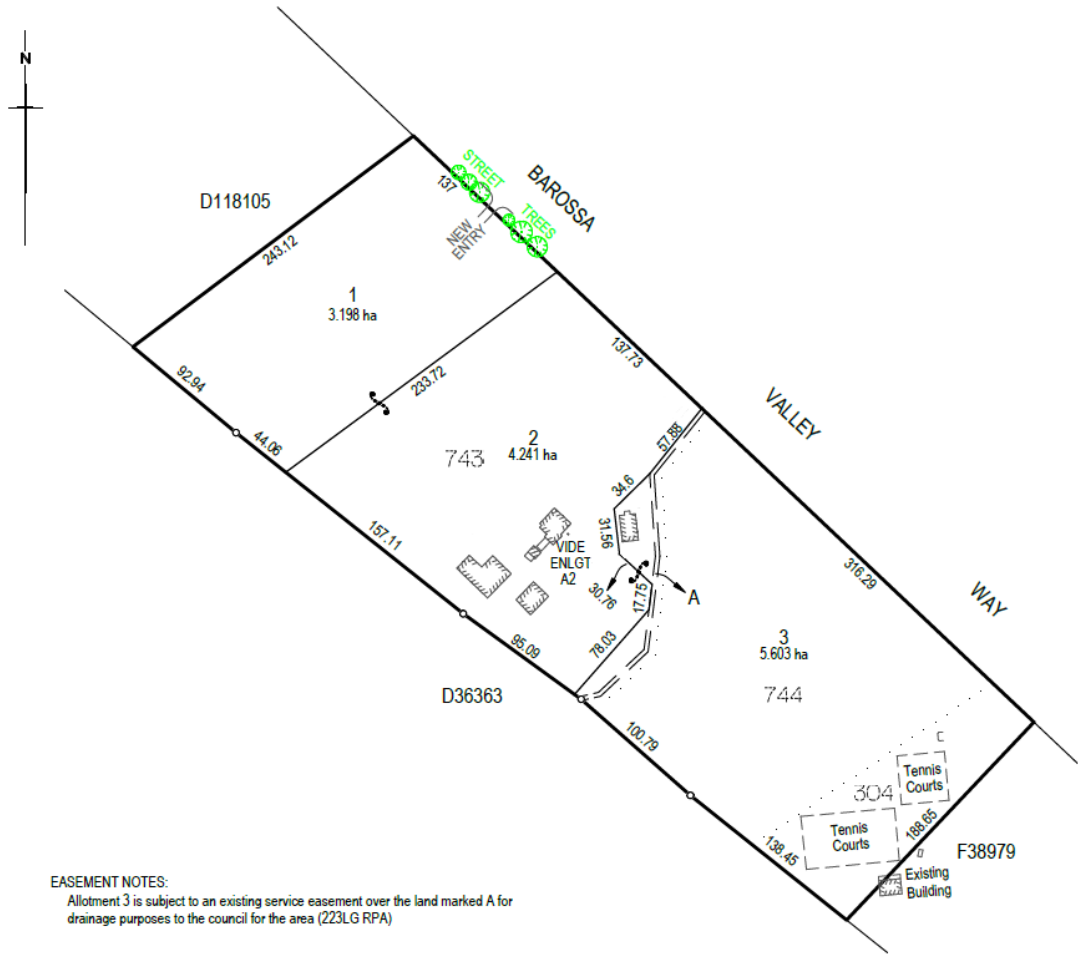


Figure: Site locality (SAPPA)



Proposed Development

The proposed land division development is to realign the three land parcels to what is displayed in the below image, with the dotted line identifying the existing boundaries.



SUBJECT TO SURVEY

Figure: Proposed realign land parcels (Sawley Lock drw no. 23o86-o1Rev16

Table 1: The three land parcels existing and proposed sizes:

Land parcel	Lot 1	Lot 2	Lot 3
Site area	3.198ha	4.241ha	5.603ha
Barossa Valley Way frontage length	137m	252.2m	319.3m
Western frontage length	389.2m	87.6m	247.76m

Table 2: Proposed realigned building approximate setbacks:

Structure - realignment setback	Lot 2	Lot 3
Closest Shed – west setback	19 m	N/A
Dwelling - south setback	32 m	N/A





Cellar Door - north setback	N/A	3 m
Cellar Door - east setback	N/A	6 m
Cellar Door - west setback	N/A	9.5 m

The proposed boundary realignment won't change the three parcels collective area.

Planning Assessment

The three land parcels have different zones and overlays currently applied to them, additionally some of the zones and overlays dissect the land parcels rather than adhering to the existing boundaries. Below is a summary of each land parcel's current zoning and overlays that are relevant to land division/ boundary realignment.

Table 3: Existing Zones, Overlays and TNVs applicable to the three land parcels

Land parcel	CT5438/511	CT6101/50	CT6101/49
Zone	– Recreation	– Recreation – Rural	– Recreation – Rural
Overlays			
Character Preservation District - Not in Township	N	Y	Y
Character Preservation District – Township	Y	Y	Y
Limited Land Division	N	Y	Y
Hazards (Bushfire – Medium Risk)	N	Y	Y
Hazards (Bushfire – Urban Interface)	Y	Y	Y
Traffic Generating Development	Y	Y	Y
Urban Transport Route	Y	Y	Y
TNVs			
Minimum Site Area	N/A	25 ha	25 ha
Minimum Dwelling Allotment Size	N/A	25 ha	25 ha

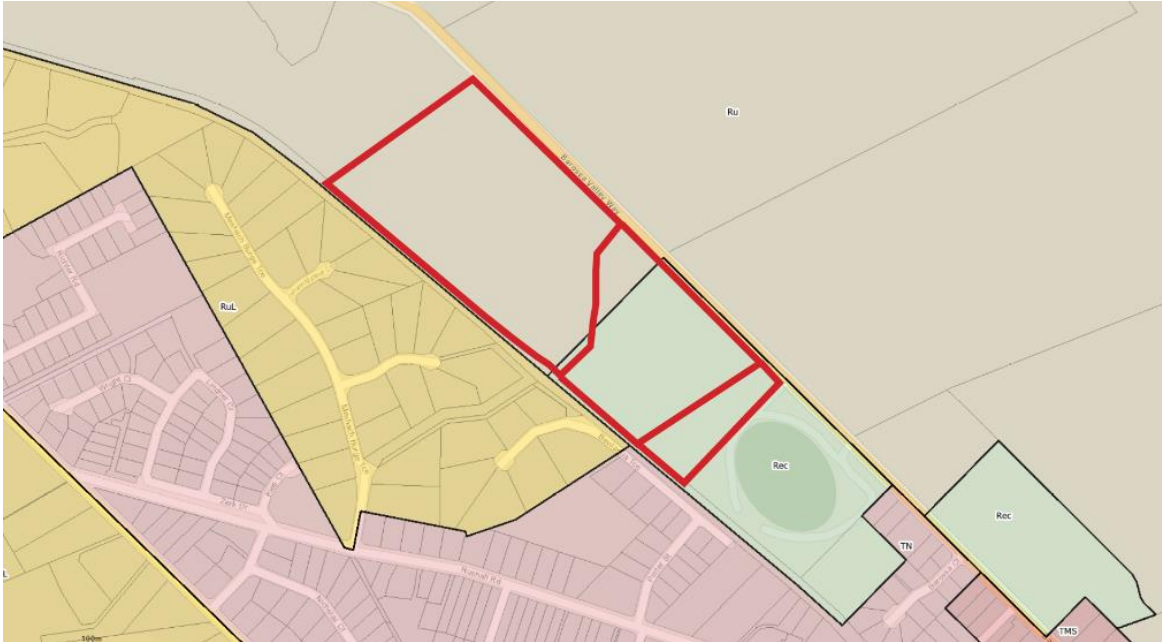


Figure: Existing parcels zoning (SAPPA)





The proposed Land Division is not listed within the Table 1 or table 2 of the *Recreation Zone*, therefore it is not classified as Accepted Development or Deemed-to-Satisfy Development, respectively. Land Division is not specifically mentioned in Table 3's "Class of Development" Column, therefore is classified as "All other Code Assessed Development" and needs to be assessed against all the relevant Code policies. Land Division is not classified as Restricted Development within the Recreation Zone and does not need to be placed on notification (Table 5).

The proposed Land Division is not listed within the Table 1 or table 2 of the *Rural Zone*, therefore it is not classified as Accepted Development or Deemed-to-Satisfy Development, respectively. Land Division is specifically mentioned in Table 3's "Class of Development" Column, therefore will be assessed against the relevant policies. Land Division within the Limited Land Division Overlay is restricted, however, boundary realignment, as is the subject of this application, is not classified as restricted (exempt) and does not need to be placed on notification (Table 5).

Recreation Zone

The intent of the Recreation Zone is to provide the community with a range of accessible recreational facilities.

The proposed boundary realignment will extend Lot 3's northern boundary to encapsulate the entire recreation zone. Extending this boundary will assist the Barossa Council in implementing their Big Project and supply the community with additional recreational opportunities over time.

This boundary realignment will align the current land use to what the zone intends, rather than its current use as a vineyard, thereby satisfying the zone's intent.

Rural Zone

The intent of the zone is to support South Australia's economic prosperity through the production, processing, storage, and distribution of primary produce, along with value-adding industry and tourism facilities associated with primary produce.

The zone has a Technical & Numeric Variation that requires land parcels to have a minimum site area of 25ha (PO 11.1 & DTS/DPF 11.1). The intent of the minimum area is to promote productive, efficient, and sustainable primary production. The Zone also provides direction for land division that supports more intense use of land (including boundary realignments) only occurring where it supports existing uses, is provided with sufficient water to sustain any proposed use or will be compatible with adjacent or nearby uses of land.

The proposed boundary realignment will continue to support the existing use as a vineyard and winery, which includes winery production facilities and vineyards as envisaged by the zone. The existing dwelling, wine making facilities and approximately half of the existing vines are kept on the same land parcel (changed from Lot 1 to Lot 2), with sufficient space and distance to manage interface impacts (noting that land use arrangements are already in place) and maintain sufficient amenity for occupants of the dwelling (in terms of private open space etc). The realigned boundary will result in the dwelling sitting approximately 32m from the southern boundary that is shared with Lot 1 and closest existing shed and tanks located 19m from the western boundary. Whilst the proposed boundary realignment does not result in land parcels of at least 25ha in size, all of the existing allotments are already well below that size and, as such, the proposal is not considered to result in the further fragmentation of primary production land.

Importantly, the subject land is on the periphery of the Lyndoch township, and as such the rearrangement of the boundaries does not impact on the adjacent uses of the land. If anything, the ability of the southern portion of the site to facilitate the expansion of recreational facilities to service the town, is of additional benefit to the amenity and services for Lyndoch.

The proposed realignment does not result in any further fragmentation or reduction in the viability and productivity of farming land and, as such is considered to be consistent with the Desired Outcomes and relevant Performance Outcomes of the Rural Zone.



Character Preservation District Overlay

The overlay is a result of the *Character Preservation (Barossa Valley) Act 2012* that seeks to provide measures to protect and enhance the special character of the Barossa Valley Region and the long-term use of land outside of townships for primary production and associated value adding enterprises is assured and promoted.

The overlay seeks that development, including land division, does not create additional allotments for residential development.

The proposed boundary realignment will not create an additional allotment, nor will it create an additional residential allotment within the Rural Zone (PO 1.1).

Extending Lot 3's boundary will result in majority of the land parcel being in the "Township" Character Preservation area and only a small part located within the "Not in Township" Character Preservation Area. The Township area currently includes the Lyndoch Oval and the southern vineyards. By extending Lot 3's boundary to support the Lyndoch Oval extensions rather than the existing vineyards, will be a better reflection of the Township's existing character.

The proposed boundary realignment will decrease Lot 1's overall size, and will locate the existing dwelling and wine making facilities into Lot 2, with Lot 1's existing vines split approximately equally between the proposed Lot 1 and Lot 2 areas. By keeping the existing dwelling and wine making facilities on the same allotment, with approximately half of the existing vines, the proposed realignment permits each Lot to continue to be used as primary producing areas (DO 2) and reflect the "Not in Township" character.

Therefore, the proposed boundary realignment satisfies the overlay's intent.

Character Preservation (Barossa Valley) Act 2012

The intent of the Act is to provide measures to protect and enhance the special character of the Barossa Valley region.

The proposed land is not considered to conflict with Section 8(1) because the proposed land division would not create 1 or more additional allotments within the rural area. Therefore, the proposal satisfies the requirements of *Section 8 – Limitation on land division in district* of the Act.

Limited Land Division Overlay

The overlay seeks to protect and maintain the long-term use of land for primary production by minimising fragmentation through division of land. The proposed boundary realignments won't result in the creation of any additional allotments and therefore satisfies PO 1.1.

The existing allotment sizes within the Overlay are already significantly lower than the minimum site area TNV of 25ha within the Rural Zone. The proposed boundary realignment will not create any additional allotments below this size and therefore satisfies the intent of PO 1.2.

Therefore, the proposed development will satisfy the overlay's intent.

Hazards (Bushfire – Medium Risk & Urban Interface)

The overlay intends for development to respond to the medium level of bushfire risk, through design and siting considerations that appreciate the impact of ember attacks, radiant heat, and the increased frequency of bushfire due to climate change.

The proposed boundary realignment does not require the construction of any new roads and therefore PO 4.2, 4.3, 4.4 and 5.1 are not applicable to the development.

Access to the existing dwelling and winery buildings will be retained via the existing access off Barossa Valley Way and internal driveways. The dwelling and existing sheds are located 32 and 19 m from the closest respective boundaries, which provides ample room for services vehicles to manoeuvre on site and access the existing dwelling (PO 5.2).





Lot 3 will be located mostly in the Bushfire - Urban Interface Overlay. The intent of Lot 3 is to provide the community with additional recreational areas, with the existing area already containing large open spaces (such as the oval and tennis courts), a ring road around the oval and two access points onto Barossa Valley Way that will provide a safe transition from the Medium Risk area to the neighbouring residential area. The existing Cellar Door building is located within the Medium Risk Overlay of Lot 3, but access will be provided via new access roadway from the existing Oval driveway and car park areas to the south.

Therefore, the proposal will satisfy the intent of both Bushfire Overlays.

Traffic Generating Development and Urban Transport Routes

The overlay's aim to ensure safe and efficient vehicle movement and access along urban transport routes and major urban transport routes.

The proposed boundary realignment won't alter existing access points for the reconfigured land parcels along Barossa Valley Way. Therefore, the proposal satisfies the intent of the overlays. Whilst the new allotment arrangement may provide for an additional access point from Barossa Valley Way (Lot 1), this is not intended at this point in time as the site (Lots 1 and 2) will continue to operate from existing access arrangements, as per approval.

General Policies – Land Division

The intent of the Land Division policies in regard to this proposal are to create allotments with appropriate dimensions and shapes for their intended use and preserve site features, including significant vegetation, through the provision of adequate and suitable land.

The proposed realignment will increase Lot 3's area, which will provide additional land within the Recreation Zone for the Barossa Council to increase the existing recreational footprint of the Lyndoch Recreation Park and thereby, providing additional recreational opportunities for the community (DO 1a). The realignment won't alter/ impact the existing Barossa Valley Way access to and from the recreational area (PO 3.3).

The boundary realignment continues to support the site's wine making activities through providing room for the vineyards and wine making facilities on Lot 2 (DO 1a & 1c), while preserving the region's characteristics and local context (PO 1.2). The central allotment (Lot 2) will be 4.241ha, which will retain the existing dwelling and wine making facilities in a manner that reflects the established character of the surrounding locality, including exceeds the large lot residential area to the west of the rail line which has a minimum site area TNV of 5,000m². The proposed boundary realignment won't impact on the dwelling's existing Barossa Valley Way access (PO 3.1).

The proposed realignment won't impact on the siting and location of the existing dwelling in relation to the vineyards and any current horticultural activities required to maintain them. Therefore, any existing interface management activities that have been established to minimise horticultural impacts on the dwelling can continue (PO 2.2).

From a review of the Planning and Design Code, it is considered that the proposed development is not seriously at variance to the Code. Rather, the proposed land division demonstrates sufficient merit to be worthy of the granting of Planning Consent.

Please contact me on 8338 5511 if you have any queries.

Yours faithfully,



David Barone

(APP20200072)

Associate

Jensen PLUS





Product	Register Search Plus (CT 5438/511)
Date/Time	03/03/2023 11:07AM
Customer Reference	23086
Order ID	20230303002661

REAL PROPERTY ACT, 1886



South Australia

The Registrar-General certifies that this Title Register Search displays the records maintained in the Register Book and other notations at the time of searching.



Certificate of Title - Volume 5438 Folio 511

Parent Title(s)	CT 4322/631		
Creating Dealing(s)	CONVERTED TITLE		
Title Issued	29/07/1997	Edition 1	Edition Issued 29/07/1997

Estate Type

FEE SIMPLE

Registered Proprietor

THE BAROSSA COUNCIL
OF PO BOX 867 NURIOOTPA SA 5355

Description of Land

ALLOTMENT 304 DEPOSITED PLAN 23019
IN THE AREA NAMED LYNDOKH
HUNDRED OF BAROSSA

Easements

NIL

Schedule of Dealings

NIL

Notations

Dealings Affecting Title	NIL
Priority Notices	NIL
Notations on Plan	NIL
Registrar-General's Notes	NIL
Administrative Interests	NIL



Product

Register Search Plus
(CT 5438/511)

Date/Time

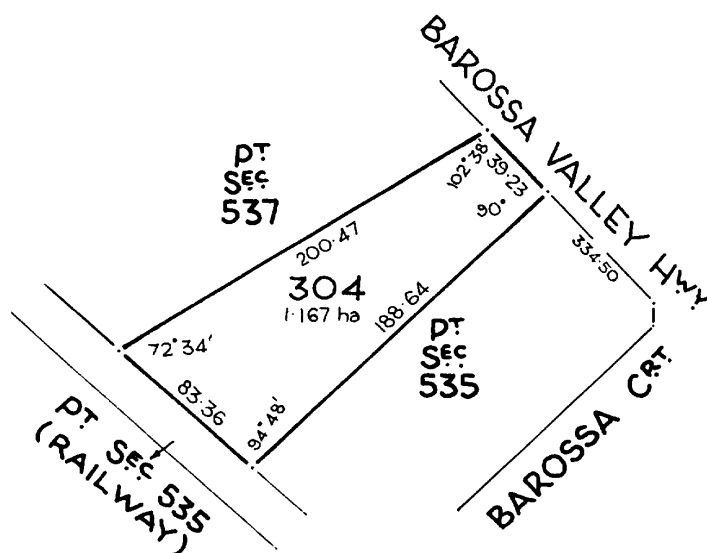
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Customer Reference

23086

Order ID

20230303002661



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Product	Register Search Plus (CT 6101/49)
Date/Time	03/03/2023 11:03AM
Customer Reference	23.086
Order ID	20230303002575

REAL PROPERTY ACT, 1886



South Australia

The Registrar-General certifies that this Title Register Search displays the records maintained in the Register Book and other notations at the time of searching.



Certificate of Title - Volume 6101 Folio 49

Parent Title(s)	CT 5815/51, CT 5815/52, CT 6100/583				
Creating Dealing(s)	RTC 11812207				
Title Issued	08/10/2012	Edition	2	Edition Issued	22/11/2018

Estate Type

FEE SIMPLE

Registered Proprietor

BFW HOLDING PTY. LTD. (ACN: 626 457 109)
OF 1312 BAROSSA VALLEY WAY LYNDOK SA 5351

Description of Land

ALLOTMENT 743 DEPOSITED PLAN 89654
IN THE AREA NAMED LYNDOK
HUNDRED OF BAROSSA

Easements

SUBJECT TO SERVICE EASEMENT(S) OVER THE LAND MARKED A FOR DRAINAGE PURPOSES TO THE COUNCIL FOR THE AREA (223LG RPA)

Schedule of Dealings

Dealing Number	Description
13272162	MORTGAGE TO AUSTRALIA & NEW ZEALAND BANKING GROUP LTD. (ACN: 005 357 522)

Notations

Dealings Affecting Title	NIL
Priority Notices	NIL
Notations on Plan	NIL

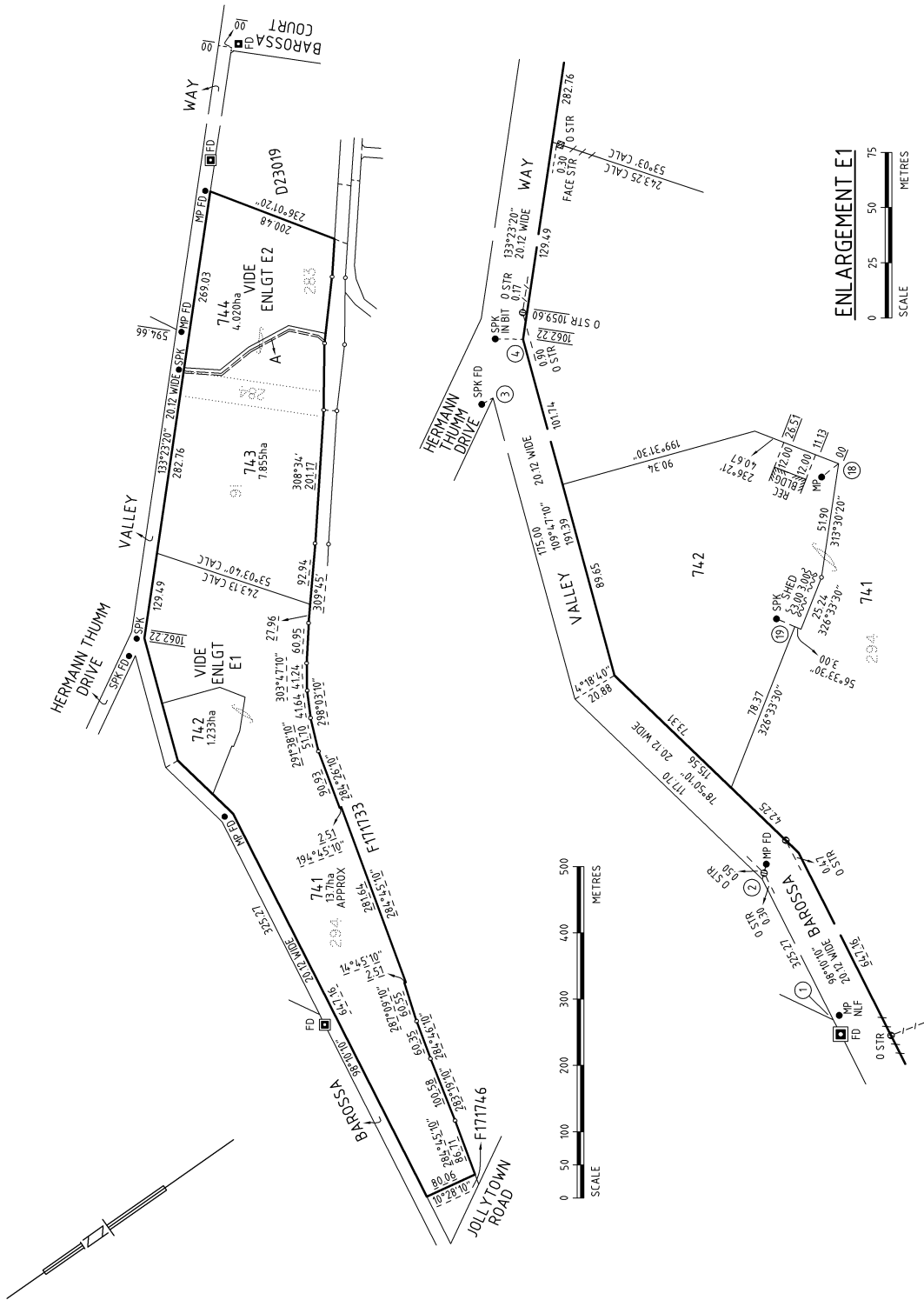
Registrar-General's Notes

AMENDMENT TO DIAGRAM VIDE 11850403

Administrative Interests	NIL
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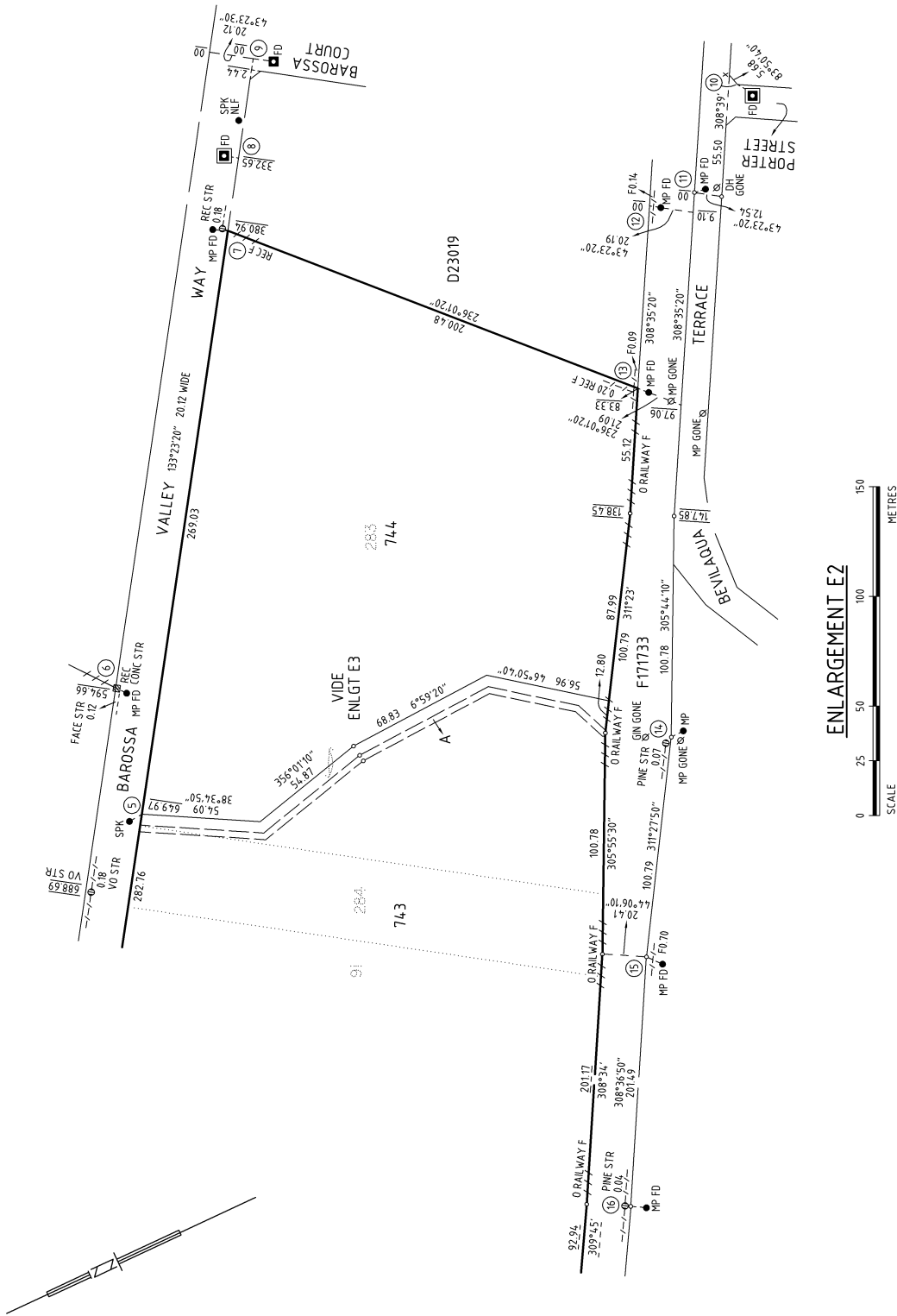
Product	Register Search Plus (CT 6101/49)
Date/Time	03/03/2023 11:03AM
Customer Reference	23.086
Order ID	20230303002575



SURVEY INFORMATION IS DERIVED FROM DEPOSITED PLAN 89654

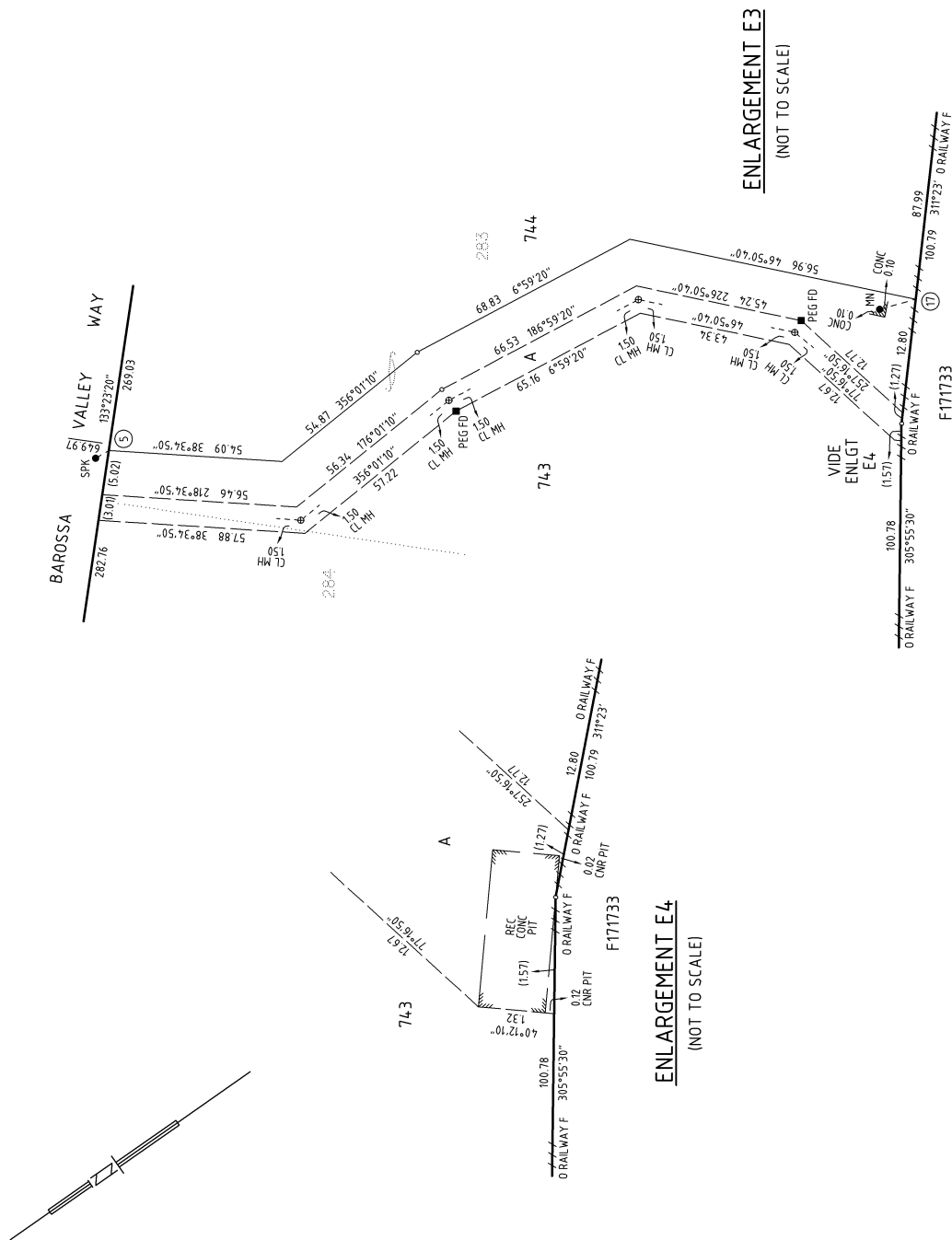


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Date/Time	03/03/2023 11:03AM
Customer Reference	23.086
Order ID	20230303002575





Product	Register Search Plus (CT 6101/49)
Date/Time	03/03/2023 11:03AM
Customer Reference	23.086
Order ID	20230303002575





Product	Register Search (CT 6101/50)
Date/Time	03/03/2023 11:09AM
Customer Reference	23086
Order ID	20230303002698



The Registrar-General certifies that this Title Register Search displays the records maintained in the Register Book and other notations at the time of searching.



Certificate of Title - Volume 6101 Folio 50

Parent Title(s)	CT 5815/52		
Creating Dealing(s)	RTC 11812207		
Title Issued	08/10/2012	Edition 2	Edition Issued 22/11/2018

Estate Type

FEE SIMPLE

Registered Proprietor

BFW HOLDING PTY. LTD. (ACN: 626 457 109)
OF 1312 BAROSSA VALLEY WAY LYNDONCH SA 5351

Description of Land

ALLOTMENT 744 DEPOSITED PLAN 89654
IN THE AREA NAMED LYNDONCH
HUNDRED OF BAROSSA

Easements

NIL

Schedule of Dealings

Dealing Number	Description
13272162	MORTGAGE TO AUSTRALIA & NEW ZEALAND BANKING GROUP LTD. (ACN: 005 357 522)

Notations

Dealings Affecting Title	NIL
Priority Notices	NIL
Notations on Plan	NIL

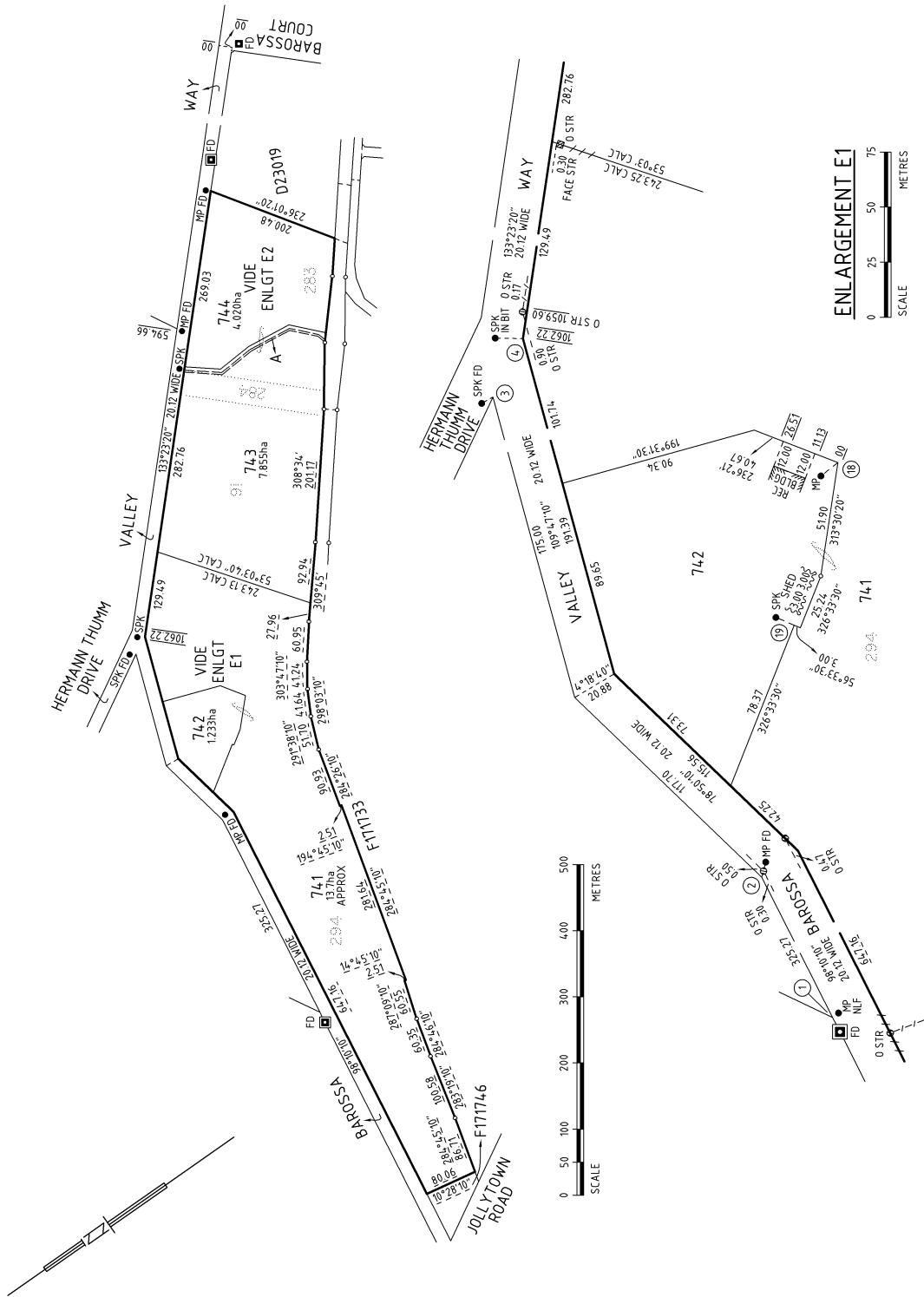
Registrar-General's Notes

AMENDMENT TO DIAGRAM VIDE 11850403

Administrative Interests	NIL
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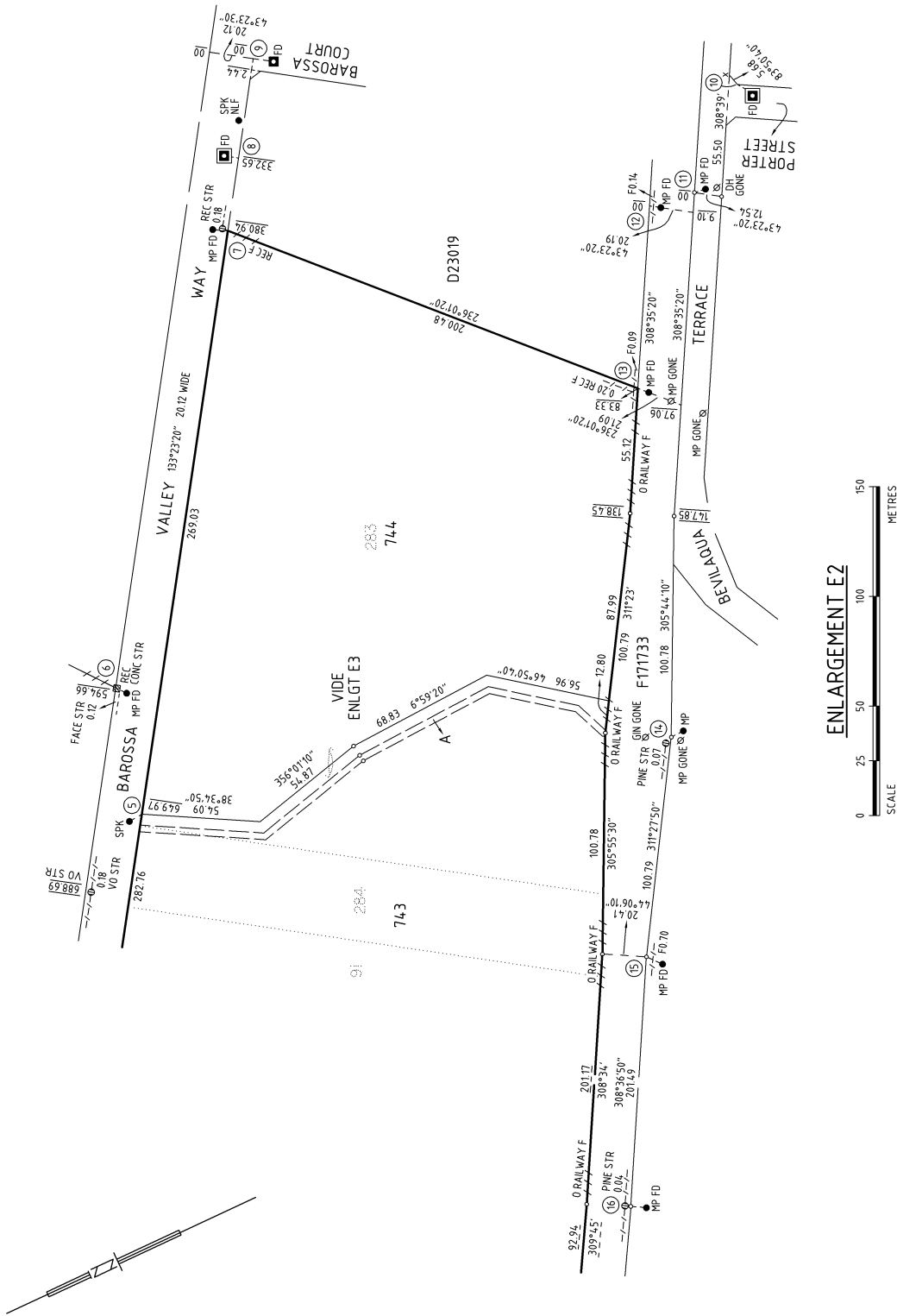
Product	Register Search (CT 6101/50)
Date/Time	03/03/2023 11:09AM
Customer Reference	23086
Order ID	20230303002698



SURVEY INFORMATION IS DERIVED FROM DEPOSITED PLAN 89654

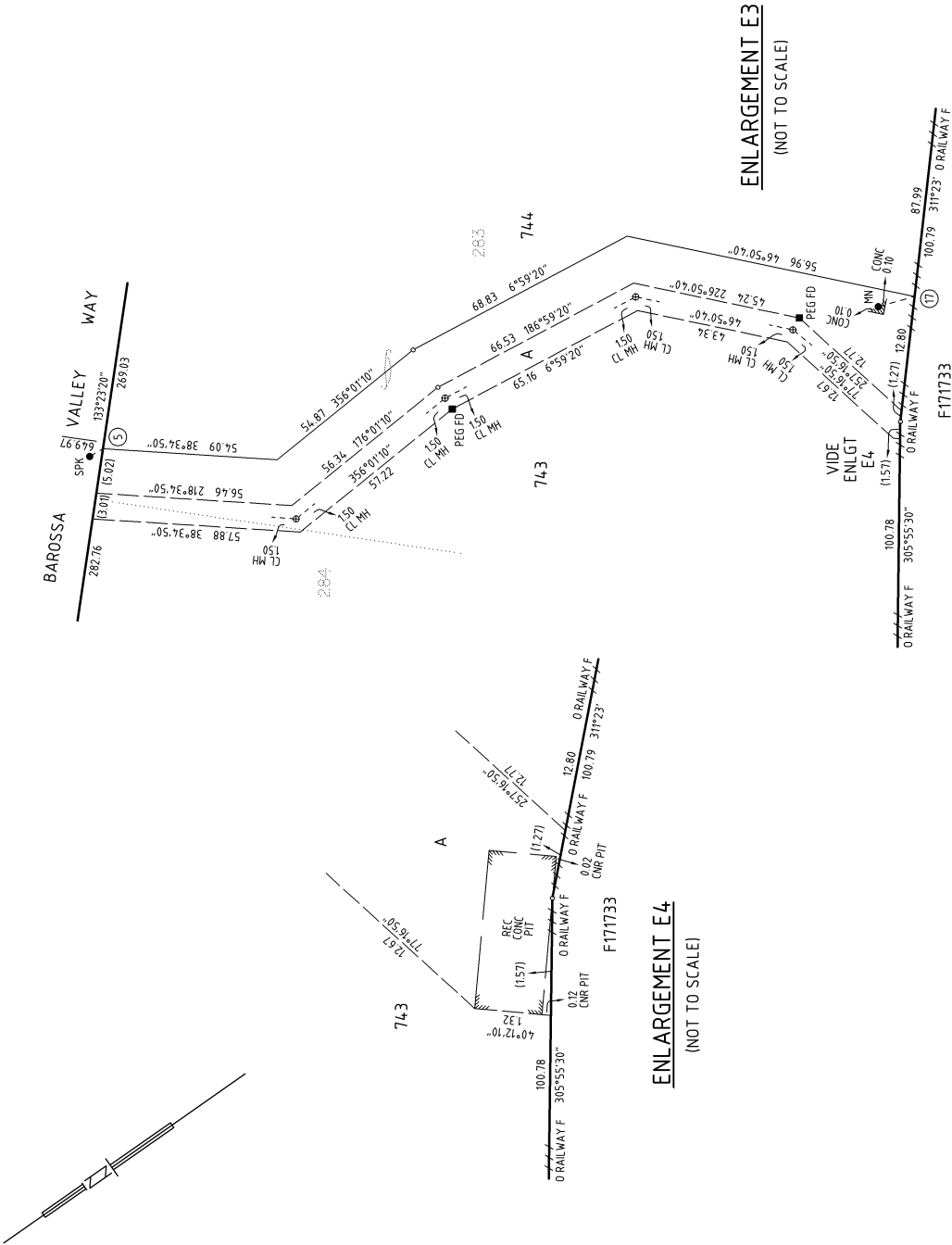


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Product	Register Search (CT 6101/50)
Date/Time	03/03/2023 11:09AM
Customer Reference	23086
Order ID	20230303002698



Referral Snapshot

Development Application number:
23014800

Consent:
Planning and Land Division Consent

Relevant authority:
The Barossa Council

Consent type for distribution:
Land Division

Referral body:
Commissioner of Highways

Response type:
Schedule 9 (3)(7) Development Affecting Transport Routes and Corridors

Referral type:
Direction

Response date:
23 Jun 2023

Advice:
With comments, conditions and/or notes

Condition 1
All access to the subject land shall be via the existing access points only.

Condition 2
All vehicles shall enter and exit the site in forward direction only. All on-site vehicle manoeuvring areas shall remain clear of any impediments.

Condition 3
Longitudinal drainage along Barossa Valley Way shall be maintained (including any required trafficable headwalls) adjacent and across the access point(s) to minimise the impact on the integrity and safety of the adjacent road network.

All costs associated with any upgrade/alterations shall be borne by the applicant.

7. REPORTS – REVIEW OF ASSESSMENT MANAGER DECISIONS (PLANNING, DEVELOPMENT AND INFRASTRUCTURE ACT 2016)

Nil.

8. REPORTS – PANEL UPDATES

Nil.

9. REPORTS – OTHER BUSINESS

Nil.

10. REPORTS – CONFIDENTIAL

Nil.

11. NEXT MEETING

Tuesday 5 September 2023 commencing at 5.00pm

12. CLOSURE OF MEETING

The Presiding Member will declare the meeting closed.