

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, 6 February 2024, commencing at 5.00 pm

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 Wednesday 24 January 2024 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 23014767 - 1 Koblenz Court Tanunda

APPLICATION DETAILS

PROPOSAL	Change of Use from Dwelling to Tourist Accommodation (Maximum of six guests between three bedrooms)
APPLICANT	Emma Woods and Charles Wittaker-Smith
OWNER	Emma Woods and Charles Wittaker-Smith
APPLICATION NO	23014767
CERTIFICATE(S) OF TITLE	CT 5322/267
AREA	1,025 square metres
CURRENT USE	Residential
PLANNING AND DEVELOPMENT CODE VERSION	2023.12 – 17 August 2023
PLANNING AND DESIGN CODE EXTRACT LINK	Relevant Code Extract
ZONE	Neighbourhood Zone
OVERLAYS	Character Preservation District (Township) Hazards (Bushfire - Urban Interface) Hazards (Flooding - Evidence Required) Native Vegetation Prescribed Water Resources Area Water Protection Area
APPLICATION TYPE	Performance Assessed
PUBLIC NOTIFICATION	Notified – Sign
REFERRALS	Nil
PREVIOUS APPLICATIONS	Nil
ASSESSING OFFICER	Tom Marshall
RECOMMENDATION	That Planning Consent be GRANTED subject to Conditions

INTRODUCTION

The applicant is seeking to obtain development approval for a change of use from the existing dwelling to tourist accommodation with the capacity to accommodate up to six guests. No other elements are proposed within the application.

The subject site is located within the Neighbourhood Zone where Tourist Accommodation does not have an applicable Accepted, Deemed to Satisfy or Restricted Pathway. The application was therefore classified as a Performance Assessed – Code assessed application that was publicly notified in accordance with Section 107 of the *Planning, Development and Infrastructure Act 2016*.

Four representations were received during the public notification process, of which two were opposed, one in support with concerns and one in support. None of the representations requested to be heard.

This application is subject to decision of the Barossa Assessment Panel for the following reason:

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

This report provides a detailed assessment of the proposal against the relevant provisions of the *Planning and Design Code*.

The proposed use is seeking to provide short-term accommodation to travellers on a commercial basis in accordance with the definition of 'Tourist Accommodation' within Part 7 of the Planning and Design Code. This land use is not listed as an envisaged form of development within the Neighbourhood Zone.

Although the proposal is not directly identified as an envisaged use within the Zone, non-residential uses are anticipated within the Zone. It is considered that the proposed use does not unreasonably impact on the residential character or amenity of the surrounding area and is a compatible non-residential land use that can complement the surrounding residential properties, as a result of the limited potential interface impacts expected to occur.

The proposal is considered to warrant the granting of Planning Consent, subject to conditions.

SITE AND LOCALITY

The subject site comprises the entire property of lot 105, 1 Koblenz Court, Tanunda.

The property is of an irregular shape consisting of one allotment of 1,025 square metres in area with two public road frontages to both Koblenz Court (15 metres wide) and Third Avenue (seven metres wide) with vehicle access obtained from the Third Avenue frontage. The site contains an existing single storey detached dwelling with associated carport and domestic outbuilding. The existing dwelling is well setback into the property demonstrating consistent boundary setbacks with the adjoining properties of Koblenz Court and Third Avenue. The overall dwelling (1970's construction) presents a generally consistent residential appearance to the surrounding streetscape.

The subject site is located adjoining the zone boundary to the Established Neighbourhood Zone, to the south, approximately 340 metres north-west of the Tanunda Main Street (Murray Street), approximately 515 metres from the Township Main Street Zone and is within an area primarily used for residential premises.

Figure 1 below provides a Zone map and details of the locality of the site.

An aerial view of the site and locality are contained in **Figure 2** and **Figure 3**.

Site photos are provided in **Figure 4** to **Figure 9**.

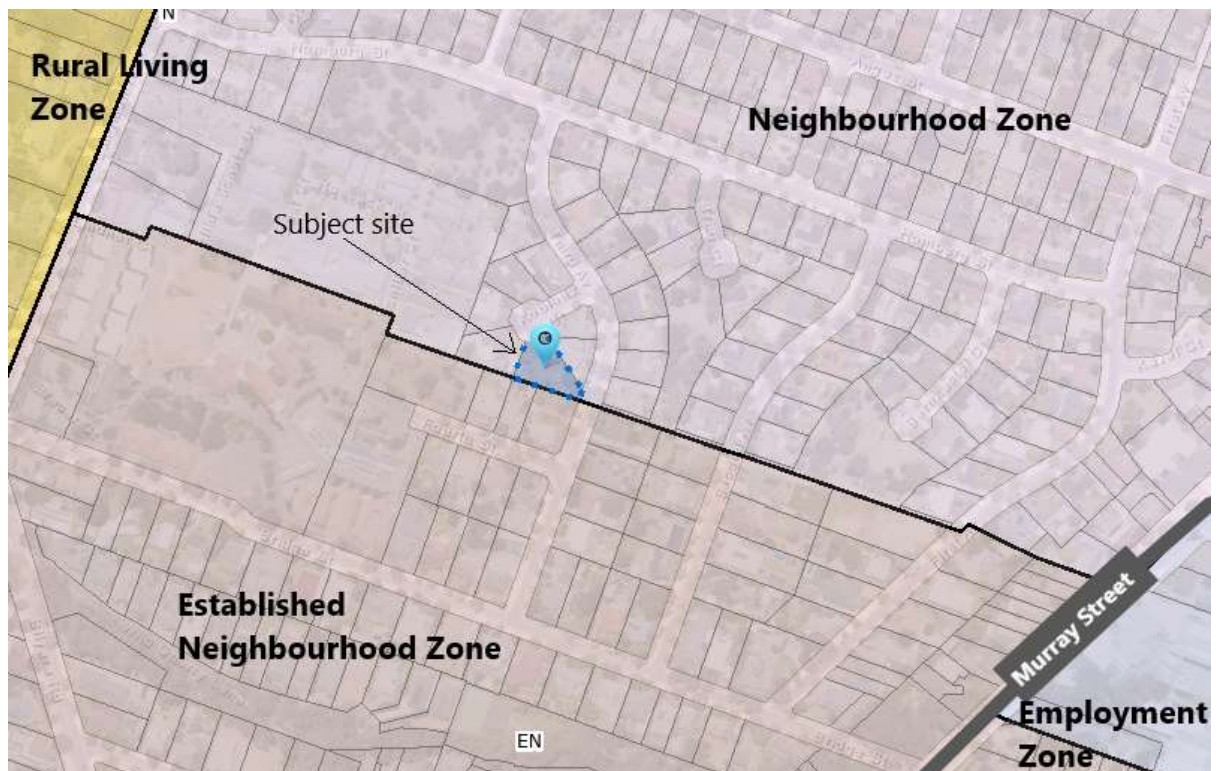


Figure 1: Zone Map – subject site with surrounding zoning.



Figure 2: Aerial – Locality – subject site marked in blue, locality marked in red



Figure 3: Aerial – Site marked in yellow outline



Figure 4: Site Photo – Looking south-west from Third Avenue towards Koblenz Court.



Figure 5: Site Photo – Koblenz Court frontage of property looking south-east.



Figure 6: Site Photo – Koblenz Court looking east toward Third Avenue from frontage.



Figure 7: Site Photo – Third Avenue frontage looking west (driveway location).



Figure 8: Site Photo – Third Avenue frontage looking north.



Figure 9: Site Photo – Third Avenue frontage looking south.

PROPOSAL

The proposal involves the change of use from an existing dwelling to Tourist Accommodation. There is no signage or building work proposed within this application, other than necessary internal works to meet the National Construction Code for Building Consent.

The change of use will result in the entire existing dwelling being converted to short term accommodation with a single width driveway to the Third Avenue frontage of the site for access to vehicle parking spaces. The building includes three bedrooms, an office, lounge/dining room, kitchen, family room, laundry, bathroom and ensuite sought to accommodate a maximum of six guests at any one time.

Access to the property is via a lawful existing access point from Third Avenue to a single width driveway internal to the subject site. The site includes two covered parking spaces within an existing carport and an additional three parking spaces within the driveway.

The property is impacted by a three metre wide easement along the north-eastern boundary between Koblenz Court and Third Avenue to the Council for stormwater drainage purposes. The proposed development will not impact on this easement.

There are no proposed changes to the existing building with the external appearance and internal configuration being maintained.

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

APPLICATION TYPE

The site is located within the Neighbourhood Zone under the Planning and Design Code.

The proposed development does not have an applicable Accepted, Deemed to Satisfy or Restricted Pathway, pursuant to Table 1, 2 and 4 of the Neighbourhood Zone. The application is also not listed within Table 3 of the Neighbourhood Zone, so the proposed development does not have a specified list of 'Applicable Policies'. Instead, the application is determined to be 'All Other Code Assessed Development' in accordance with Part 1 – Rules of Interpretation of the Planning and Design Code (Version 2023.12).

PUBLIC NOTIFICATION

The application was subject to public notification in accordance with Table 5 – Procedural Matters – Notification of the Neighbourhood Zone. Tourist Accommodation use is not excluded from public notification due to not being listed within 'Class of Development (Column A)' within Table 5.

A summary of the public notification process is contained below:

Representations: Four representations were received during the public notification period as follows:

- Stephanie McCormack
- Matthew Hueppauff
- Peter O'Dwyer
- Murray Harris

No late representations were received.

Person wishing to be heard: Of the four representations received, no representors wish to be heard.

Time period for Public Consultation 28 November 2023 – 18 December 2023

An aerial view showing the representors properties is shown in **Figure 10**.

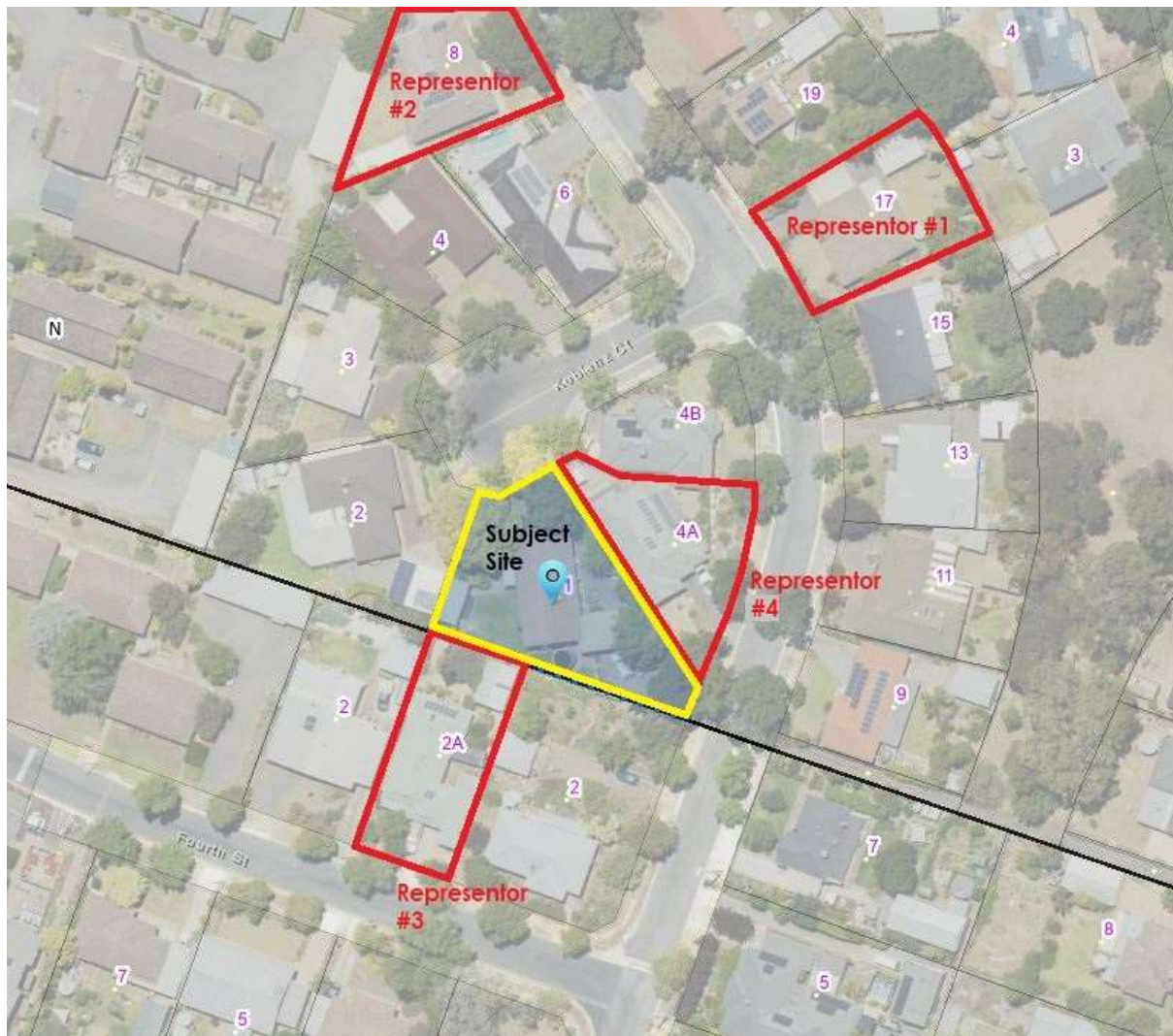


Figure 10: Aerial plan of representor locations

The table below summarises the contents of the representations and the applicant's response:

Summary of Representations
Representor/s

Applicant's Response

- | | |
|--|---|
| <ul style="list-style-type: none"> • Application should be refused so the property is kept as a dwelling and rented out due to the rental crisis so people who work in the Barossa can live here too. | <ul style="list-style-type: none"> • The onus of the 'Rental Crisis' is not on the individual tax payers to solve nor to try and solve such a complex matter. At the time of response, 26 vacant rental properties are available within the Barossa Valley. It is up to the individual to determine how they wish to use their property. |
| <ul style="list-style-type: none"> • Don't want to live next door to tourist accommodation and deal with parties through the night. The existing residents want peace and quiet. | <ul style="list-style-type: none"> • We have a strict no parties policy with the property set up as a family friendly retreat after a fun day of exploring the Barossa. |

- Great for tourist and local businesses within the Barossa Valley.
- Concern over enforcing a six person maximum as four bedrooms are shown on the floor plan.
- Concern the recently renovated shed could be used as an additional sleeping quarters.
- Noise concerns with guests returning from wineries and using it as a party house.
- The driveway is single width so guests are likely to park on the street instead of shuffling cars. Parking on the street will create problems for access to properties and rubbish removal.
- Concern over the capability of the existing septic system to handle six adults.
- The accommodation is a family friendly retreat after a day of exploring the Barossa.
- Whilst the property has the facilities to accommodate eight people, a maximum of six people and three bedrooms is sought with the fourth bedroom to be used as an office only.
- A maximum of six people over three bedrooms is proposed. Security cameras are set up to ensure this is adhered to.
- We have a strict no parties policy with the property set up as a family friendly retreat after a fun day of exploring the Barossa.
- Not directly addressed.
- Not directly addressed.

A copy of the representations are contained in **Attachment 2** and the applicant's response is contained in **Attachment 3**.

REFERRALS

External

This application was not subject to any referrals pursuant to Schedule 9 of the *Planning, Development and Infrastructure (General) Regulations 2017*.

Internal

The following internal advice has been received from staff:

Health Services	No concern. The proposed change of use will not impact on the existing wastewater system and the 'Bed and Breakfast Questionnaire' has been received.
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ASSESSMENT

Please refer to the following link, the Planning and Design Code extract for this proposal, dated 17 August 2023, Version 2023.12:

Planning and Design Code Extract Link	Relevant Code Extract
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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 proposed change of use is of a size, scale and intensity that is reasonable in the context of the subject site. Similarly, while tourist accommodation is not a use that is listed within DTS/DPF 1.1 of the Neighbourhood Zone, the small-scale nature of the proposed tourist accommodation and characteristics of the locality (being primarily residential) will not be significantly impacted as a result of maintaining the existing building form and maintaining a consistent use that is generally appropriate and compatible with residential uses of the existing locality.

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.

The proposal will not diminish the visual amenity of the township landscape and will maintain the heritage attributes of the district by ensuring the ongoing preservation of the existing building with no physical building alterations sought.

Further discussion is contained under the Assessment section below in relation to the Character Preservation District Overlay.

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

<u>Established Neighbourhood Zone</u>	
<u>Desired Outcomes</u>	
DO1	<i>Housing supports a range of needs and complements the existing local context. Services and community facilities contribute to making a convenient place to live without compromising the residential amenity and character of the neighbourhood.</i>
<u>Relevant Performance Outcomes/Designated Performance Features</u>	
<u>Land use and Intensity</u>	
PO 1.1 <i>Predominantly residential development with complementary non-residential uses that support an active, convenient, and walkable neighbourhood.</i>	DTS/DPF 1.1 <i>Development comprises one or more of the following:</i> (a) Ancillary accommodation (b) Child care facility (c) Community facility (d) Consulting room (e) Dwelling (f) Educational facility (g) Office (h) Outbuilding (i) Recreation area

	(j) Retirement facility (k) Shop (l) Supported accommodation.
PO 1.2 Commercial activities improve community access to services are of a scale and type to maintain residential amenity.	DTS/DPF 1.2 A shop, consulting room or office (or any combination thereof) satisfies any one of the following: (a) it is located on the same allotment and in conjunction with a dwelling where all the following are satisfied: (i) does not exceed 50 sqm gross leasable floor area. (ii) does not involve the display of goods in a window or about the dwelling or its curtilage. (b) it reinstates a former shop, consulting room or office in an existing building (or portion of a building) and satisfies one of the following: (i) the building is a State or Local Heritage Place. (ii) is in conjunction with a dwelling and there is no increase in the gross leasable floor area previously used for non-residential purposes.
PO 1.3 Non-residential development is located and designed to improve community accessibility to services, primarily in the form of: (a) small-scale commercial uses such as offices, shops and consulting rooms. (b) community services such as educational facilities, community centres, places of worship, child care facilities and other health and welfare services. (c) services and facilities ancillary to the function or operation of supported accommodation or retirement facilities (d) open space and recreation facilities.	DTS/DPF 1.3 None are applicable.
PO 1.4 Non-residential development sited and designed to complement the residential character and amenity of the neighbourhood.	DTS/DPF 1.4 None are applicable.

The proposed Tourist Accommodation use is not directly identified within DTS/DPF 1.1 as an envisaged form of development within the Neighbourhood Zone.

To determine the suitability of the proposed use, consideration to the intent of Performance Outcome (PO) 1.1 and DTS/DPF 1.1 is required. PO 1.1 seeks

predominantly residential development with complementary non-residential activities that support an active, convenient and walkable neighbourhood.

Arguably, PO 1.1 is achieved by encouraging a complementary commercial use that continues to provide a form of accommodation by changing from long-term residential accommodation to short-term commercial accommodation. This change maintains the intent of PO 1.1 for the guests staying at the proposed accommodation.

The non-residential uses envisaged within DTS/DPF 1.1 i.e consulting room, office, shop etc, are uses that may have greater level of impact upon the existing residential use than the proposed Tourist Accommodation, which seeks to utilise the existing dwelling without compromising the character and amenity of the neighbourhood, aligning with Desired Outcome (DO) 1.

It is difficult to draw connection to Performance Outcome 1.2 in that the proposed commercial use does not directly improve community access to services, although the provision does highlight amenity impacts. The proposal is of a scale and type that is likely to maintain residential amenity due to being an accommodation use and with all parking spaces accommodated on the property (instead of on-street).

The application does not directly achieve PO 1.3 as the proposed use is not directly related to community services. However, as discussed above, the intended use is considered reasonably consistent to the intended form of development within the zone when considering the residential amenity and character of the neighbourhood.

The intent of PO 1.4 seeks to protect the residential character and amenity of the neighbourhood from non-residential land uses. The proposal does not seek visual alterations of the existing dwelling thereby maintaining the existing contribution to the residential character through the retained appearance of the dwelling frontage. The amenity of the neighbourhood can be maintained through the use of on-site parking and through general law enforcement routes by SAPOL (should the guests create amenity impacts such as noise etc.).

Character Preservation District Overlay

<i>Character Preservation District Overlay (Township)</i>	
Desired Outcomes	
DO1	<i>Recognise, protect and enhance the special character of Character Preservation Districts.</i>
DO2	<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	
Built Form and Character	
PO 2.1 <i>Development occurring at the edge of townships is sympathetic to the rural landscape and reinforces a clear transition between townships and rural landscape through measures including:</i> <i>(a) being of a low scale.</i> <i>(b) orientating residential development towards the rural area.</i> <i>(c) ensuring visual separation from the rural area through landscaping and road.</i>	DTS/DPF 2.1 <i>None are applicable.</i>

reserves.	
PO 2.2 Development contributes to and maintains the historic identity and character of townships through appropriate: (a) form (b) scale (c) siting (d) design (e) landscaping.	DTS/DPF 2.2 None are applicable.
PO 2.3 Adaptive re-use of rural structures and historic and/or character buildings supports their preservation and ongoing contribution to the landscape.	DTS/DPF 2.3 None are applicable.

The subject site is located within the Tanunda township boundary having a separation distance of 385+ metres from the nearest rural area identified within the *Character Preservation (Barossa Valley) Act 2012*. This property is not considered to be located at or on the edge of the township, therefore PO 2.1 is not impacted.

The proposal is not seeking to alter any of the existing built form or undertake any alterations to the site. The existing building, driveways, outbuildings, fences and landscaping areas are all not proposed to be altered within this application. The intent of PO 2.2 is therefore not offended.

The building subject to this application is not considered to be of significant historic or character value when considered on its own, however this building is considered to make some positive contribution to the streetscape character. This application will maintain the existing building through the Tourist Accommodation use proposed, meaning the proposal will not impact the existing contribution to the landscape or change to the external appearance.

In summary, the proposal is considered to satisfy key provisions within the Character Preservation District Overlay.

Native Vegetation

Native Vegetation Overlay	
Desired Outcomes	
DO1	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	
PO1.1 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. Or (b) a report prepared in accordance with Regulation 18(2)(a) of the Native Vegetation Regulations 2017 that establishes that the clearance is categorised as 'Level 1 clearance'.
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No native vegetation clearance is required as part of this application – PO 1.1 is achieved.

Clearance from Overhead Powerlines

General Development Policies	
Clearance from Overhead Powerlines	
Desired Outcomes	
DO1	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 an electricity declaration – PO 1.1 is therefore achieved.

Design

Design	
Desired Outcomes	
DO1	Development is: (a) contextual - by considering, recognising and carefully responding to its natural surroundings or built environment and positively contributes to the character of the immediate area. (b) durable - fit for purpose, adaptable and long lasting. (c) inclusive - by integrating landscape design to optimise pedestrian and cyclist usability, privacy and equitable access, and promoting the provision of quality spaces integrated with the public realm that can be used for access and recreation and help optimise security and safety both internally and within the public realm, for occupants and visitors.

	(d) sustainable - by integrating sustainable techniques into the design and siting of development and landscaping to improve community health, urban heat, water management, environmental performance, biodiversity and local amenity and to minimise energy consumption.
Relevant Performance Outcomes/Designated Performance Features	
All Development	
Safety	
PO 2.3 Buildings are designed with safe, perceptible and direct access from public street frontages and vehicle parking areas.	DTS/DPF 2.3 None are applicable.

The existing vehicle access point from Third Avenue to the property will be maintained, noting the existing internal driveway and hardstand will be utilised for vehicles of the guests staying at the site. There are no concerns with regard to direct access or the safety of this access point, thereby supporting the intent of PO 2.3.

Infrastructure and Renewable Energy Facilities

Infrastructure and Renewable Energy Facilities	
Desired Outcomes	
DO1	Efficient provision of infrastructure networks and services, renewable energy facilities and ancillary development in a manner that minimises hazard, is environmentally and culturally sensitive and manages adverse visual impacts on natural and rural landscapes and residential amenity.
Relevant Performance Outcomes/Designated Performance Features	
General	
PO1.1 Development is located and designed to minimise hazard or nuisance to adjacent development and land uses.	DTS/DPF 1.1 None are applicable.
Water Supply	
PO 11.1 Development is connected to an appropriate water supply to meet the ongoing requirements of the intended use.	DTS/DPF 11.1 Development is connected, or will be connected, to a reticulated water scheme or mains water supply with the capacity to meet the on-going requirements of the development.
Wastewater Services	
PO 12.1 Development is connected to an approved common wastewater disposal service with the capacity to meet the requirements of the intended use. Where this is not available an appropriate on-site service is provided to meet the ongoing requirements of the intended use in accordance with the following: (a) it is wholly located and contained within the allotment of the development it will service. (b) in areas where there is a high risk of contamination of surface, ground, or marine water resources from on-site disposal of liquid wastes, disposal systems are included to minimise the risk of pollution to those water resources.	DTS/DPF 12.1 Development is connected, or will be connected, to an approved common wastewater disposal service with the capacity to meet the requirements of the development. Where this is not available it is instead capable of being serviced by an on-site waste water treatment system in accordance with the following: (a) the system is wholly located and contained within the allotment of development it will service; and (b) the system will comply with the requirements of the South Australian Public Health Act 2011.

(c) septic tank effluent drainage fields and other wastewater disposal areas are located away from watercourses and flood prone, sloping, saline or poorly drained land to minimise environmental harm.	
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The proposed development will involve reuse of an existing dwelling that achieves typical dwelling boundary setbacks. The proposed use is short-term accommodation to guests on a commercial basis. It is not expected that existing facilities servicing the building such as air conditioning will create hazard or nuisance for neighbouring properties, noting that accommodation will continue, albeit for short term accommodation rather than residential accommodation.

The existing water supply and waste control system will be maintained and are considered to be suitable to service the land use for the number of occupants expected.

Interface between Land Uses

Interface between Land Uses	
Desired Outcomes	
DO1	Development is located and designed to mitigate adverse effects on or from neighbouring and proximate land uses.
Relevant Performance Outcomes/Designated Performance Features	
General Land Use Compatibility	
PO 1.2 Development adjacent to a site containing a sensitive receiver (or lawfully approved sensitive receiver) or zone primarily intended to accommodate sensitive receivers is designed to minimise adverse impacts.	DTS/DPF 2.1 None are applicable.

The proposed land use will not adversely impact on the adjoining sensitive receivers (dwellings) due to the property being used for short-term accommodation.

The use itself is not expected to give rise to nuisance impacts. Any issues associated to behaviour of the guests is not considered within the applicable policy and, should the situation arise, will be a matter for SAPOL. The potential nuisance impacts are not expected to be any different to the use of an existing dwelling within a Neighbourhood Zone, thereby achieving the intent of DO 1.

This matter is also discussed under heading "Land Use".

Transport, Access and Parking

Transport, Access and Parking	
Desired Outcomes	
DO1	A comprehensive, integrated and connected transport system that is safe, sustainable, efficient, convenient and accessible to all users.
Relevant Performance Outcomes/Designated Performance Features	
Vehicle Access	
PO 3.1 Safe and convenient access minimises impact or interruption on the operation of public roads.	DTS/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 6m of an intersection of two or more roads or a pedestrian activated crossing.
PO 3.5 Access points are located so as not to interfere with street trees, existing street furniture (including directional signs, lighting, seating and weather shelters) or infrastructure services to maintain the appearance of the streetscape, preserve local amenity and minimise disruption to utility infrastructure assets.	DTS/DPF 3.5 Vehicle access to designated car parking spaces satisfy (a) or (b): (a) is provided via a lawfully existing or authorised access point or an access point for which consent has been granted as part of an application for the division of land. (b) where newly proposed, is set back: 0.5 metres or more from any street furniture, street pole, infrastructure services pit, or other stormwater or utility infrastructure unless consent is provided from the asset owner. - Two metres or more from the base of the trunk of a street tree unless consent is provided from the tree owner for a lesser distance. - Six metres or more from the tangent point of an intersection of two or more roads. - outside of the marked lines or infrastructure dedicating a pedestrian crossing.
Access for People with Disabilities	
PO 4.1 Development is sited and designed to provide safe, dignified and convenient access for people with a disability.	DTS/DPF 4.1 None are applicable.
Vehicle Parking Rates	
PO 5.1 Sufficient on-site vehicle parking and specifically marked accessible car parking places are provided to meet the needs of the development or land use having regard to factors that may support a reduced on-site rate such as: (a) availability of on-street car parking. (b) shared use of other parking areas. (c) in relation to a mixed-use development, where the hours of operation of commercial activities complement the residential use of the site, the provision of vehicle parking may be shared. (d) the adaptive reuse of a State or Local Heritage Place.	DTS/DPF 5.1 Development provides a number of car parking spaces on-site at a rate no less than the amount calculated using one of the following, whichever is relevant: (a) Transport, Access and Parking Table 2 - Off-Street Vehicle Parking Requirements in Designated Areas if the development is a class of development listed in Table 2 and the site is in a Designated Area. (b) Transport, Access and Parking Table 1 - General Off-Street Car Parking Requirements where (a) does not apply. (c) if located in an area where a lawfully established carparking fund operates, the number of spaces calculated under (a) or

	(b) less the number of spaces offset by contribution to the fund.
Vehicle Parking Areas	
PO 6.2 Vehicle parking areas are appropriately located, designed and constructed to minimise impacts on adjacent sensitive receivers through measures such as ensuring they are attractively developed and landscaped, screen fenced, and the like.	DTS/DPF 6.2 None are applicable.

Table 1 - General Off-Street Car Parking Requirements	
Vehicle Parking Rates	
Tourist accommodation other than a caravan and tourist park	One car parking space per accommodation unit/guest room.

The proposed development will be accessed via an existing lawful access point to Third Avenue satisfying both PO 3.1 and 3.5.

The property consists of flat areas of hardstand thereby providing the potential for disabled access to be provided. Confirmation of any requirement to this regard are considered within the assessment of the Building Consent, which shall follow if Planning Consent is granted.

The proposal seeks to utilise the three existing bedrooms for accommodation, meaning the site should be served by three vehicle spaces. The parking rates do not require these spaces to be covered so the uncovered. The subject site will suitably achieve this requirement due to the large internal driveway area and existing double carport.

These parking spaces are suitably located with an existing boundary fence separating this property from the adjoining southern property. There are no concerns in relation to impacts on adjoining sensitive receivers due to the minimal impacts expected from use of the existing driveway and parking areas.

Other Overlays

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

Hazards (Bushfire - Urban Interface) (Urban Interface)

Proposal does not seek land division or the creation of a road.

Hazards (Flooding - Evidence Required)

The proposal does not propose any alterations to the existing floor level or drainage system.

Prescribed Water Resources Area

The proposed use is serviced by mains water and will not be impacting on surface water, watercourses or wells.

Water Protection Area

Proposal does not involve activities with the potential to harm or impact on water supply.

CONCLUSION

The proposal involves the "Change of Use from Dwelling to Tourist Accommodation (maximum of 6 guests between three bedrooms)" at 1 Koblenz Court, Tanunda.

The application was subject to Performance Assessment and public notification. The application was notified in accordance with Section 107 of the *Planning, Development and Infrastructure Act 2016* and was subject to receipt of four representations containing two in objection, one in support with concerns and one in support of the proposal, with none electing to be heard.

This report has provided a detailed assessment of the proposal against the relevant provisions of the Planning and Design Code.

The proposal is considered to be reasonably consistent with the Desired Outcome and Performance Outcomes of the Neighbourhood Zone whilst also achieving the further requirements identified within the *Planning and Design Code* as they apply to the subject site.

Whilst the proposed land use is not directly identified as an envisaged use, it is considered that the proposed use does not unreasonably impact on the residential character or amenity of the surrounding area, through utilising the existing dwelling on the site for the use. The land use is also considered to be a compatible non-residential land use that is complementary to the surrounding residential properties.

With the consideration to the assessment within this report, this application warrants Planning Consent being granted, 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. 23014767 by Emma Woods and Charles Whittaker-Smith to undertake "Change of Use from Dwelling to Tourist Accommodation (maximum of 6 guests between three bedrooms)" at 1 Koblenz Court, Tanunda (CT5322/267) subject to the following conditions and advisory notes:

Council Conditions

- (1) The development shall be undertaken in accordance with the endorsed plans and documentation (as amended) accompanying Application No. 23014767 except where varied by any condition(s) listed below.
- (2) Prior to occupation, the building authorised herein shall be connected and remain connected to an approved wastewater system.
- (3) No more than six (6) guests shall be accommodated within the Tourist Accommodation facility at any one time.
- (4) All guest vehicle parking must be contained within the site boundary.

Advisory Notes

- (1) No work can commence on this development unless a Development Approval has been obtained. If one or more consents have been granted on this Decision Notification Form, you must not start any site works or building work or change of use of the land until you have received notification that Development Approval has been granted.
- (2) This consent or approval will lapse at the expiration of two years from its operative date, subject to the below or subject to an extension having been granted by the relevant authority.
- (3) Where an approved development has been substantially commenced within two years from the operative date of approval, the approval will then lapse three years from the operative date of the approval (unless the development has been substantially or fully completed within those three years, in which case the approval will not lapse).
- (4) Any variation of this approved development and/or the conditions of consent will require a separate request and approval by the relevant authority. Approval of this application does not necessarily imply that future requests for variations would be approved. Any future request will be assessed by having regard to the relevant rules and requirements in force at the time any request is lodged.
- (5) Any portion of Council's infrastructure damaged as a result of work undertaken within the development site or associated with the development shall be repaired/reinstated to Council's satisfaction at the developer's expense.
- (6) Appeal rights - General rights of review and appeal exist in relation to any assessment, request, direction or act of a relevant authority in relation to the determination of this application, including conditions.
- (7) The applicant is reminded of its general environmental duty, as required by Section 25 of the *Environment Protection Act 1993*, 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.

- (8) The applicant is advised that this consent does not permit anyone to clear, remove limbs or trim native vegetation. Any proposal to clear, remove limbs, or trim native vegetation will require approval or confirmation of exemption from the Native Vegetation Council. An interactive guide is available to help owners and others determine the requirements that apply under the *Native Vegetation Act 1991*, <https://www.environment.sa.gov.au/topics/native-vegetation/interactive-guide>. Any specific queries regarding the clearance, removal, or trimming of native vegetation should be directed to the South Australian Native Vegetation Council.

The applicant is advised that any proposal to clear, remove limbs or trim native vegetation should be undertaken after first notifying the Native Vegetation Council of intended works.

- (9) Any noise generating activity undertaken at the site must be undertaken in accordance with the provisions of the Environment Protection (Noise) Policy 2007, and such that any resulting noise is not considered a nuisance, to the satisfaction of Council, including any existing infrastructure.
- (10) You are advised that construction or alteration of any footpath, kerb, gutter or crossover on Council land will require a permit, under the *Local Government Act 1999* from Council's Works and Engineering Services. It is illegal to undertake work on Council land without permission.

If the existing entranceway (driveway cross-over) is to be removed it must be re-instated with kerb and gutter, including appropriate restoration of the footpath and verge, to Council's standard specification. Please contact Council's Works and Engineering Services to confirm the required standards.

Driveway cross-overs which affect a pedestrian footpath should maintain the level of the footpath or be consistent with the proposed footpath levels in instances where the footpath has not been constructed. When final Development Approval is applied for this should be shown on the plans. Please note that construction is to be in accordance with the Disability Discrimination Act and relevant Australian Standards.

Further enquiries should be directed to the Works and Engineering team on 8563 8444.

ATTACHMENTS OR OTHER SUPPORTING REFERENCES

- Attachment 1 Application and Associated Documents [↓](#) 
- Attachment 2 Representations Received [↓](#) 
- Attachment 3 Applicants Response to Representations [↓](#) 

Development Locations

Location 1

Location reference

1 KOBLENZ CT TANUNDA SA 5352

Title Ref

CT 5322/267

Plan Parcel

D9997 AL105

Additional Location Information**Council**

THE BAROSSA COUNCIL

Zone Overlays

Zones

- Neighbourhood

Sub-zones

(None)

Overlays

- Character Preservation District
- Hazards (Bushfire - Urban Interface)
- Hazards (Flooding - Evidence Required)
- Native Vegetation
- Prescribed Water Resources Area
- Water Protection Area

Variations

- Minimum Frontage (Minimum frontage for a detached dwelling is 15m; semi-detached dwelling is 12m; row dwelling is 10m; group dwelling is 25m; residential flat building is 25m)
- Minimum Site Area (Minimum site area for a detached dwelling is 500 sqm; semi-detached dwelling is 400 sqm; row dwelling is 350 sqm; group dwelling is 400 sqm; residential flat building is 400 sqm)
- Maximum Building Height (Levels) (Maximum building height is 1 level)

Application Contacts

Applicant(s)

Stakeholder info

Miss Emma Woods

[REDACTED]

Stakeholder info

Mr Charles Whittaker-Smith

[REDACTED]

[REDACTED]

Contact

Stakeholder info

Miss Emma Woods

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Invoice Contact

Stakeholder info

Miss Emma Woods

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Invoice sector type

Land owners

Stakeholder info

Miss Emma Woods

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Stakeholder info

Mr Charles Whittaker-Smith

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Nature Of Development

Nature of development

We would like to use the property as a short term accommodation for guests visiting the Barossa Valley. The comprises of 3 bedrooms, 1 study & 2 bathrooms + a laundry and will sleep a max of 6 people between the 3 bedrooms.

Development Details

Current Use

Residential

Proposed Use

Short term accommodation

Development Cost

\$1,000.00

Proposed Development Details

We would like to use the property as a short term accommodation for guests visiting the Barossa Valley. The comprises of 3 bedrooms, 1 study & 2 bathrooms + a laundry and will sleep a max of 6 people between the 3 bedrooms.

Element Details

You have selected the following elements

Change of use - \$0.00

Swimming pool, spa pool or associated safety features - \$1,000.00

Swimming Pool

What is the distance from the pump to the boundary of the property (to the nearest full metre please)?

3

Is the pump housed with a sound proof barrier?

Yes

Septic/Sewer information submitted by applicant

Does this development require a septic system, i.e. septic tank and/or waste water disposal area?

Unsure

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
- Building Consent

Have any of the required consents for this development already been granted using a different system?

No

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

Building Consent

Do you wish to have your building consent assessed in multiple stages?

No

Apply Now?

Yes

Who should assess your building consent?

The Barossa Council

Has a builder been engaged for the proposed development?

No

Consent Order

Recommended order of consent assessments

1. Planning Consent
2. Building Consent

Do you have a pre-lodgement agreement?

No

Declarations

Electricity Declaration

In accordance with the requirements under Clause 6(1) of Schedule 8 of the Planning, Development and Infrastructure (General) Regulations 2017, the proposed development will involve the construction of a building which would, if constructed in accordance with the plans submitted, not be contrary to the regulations prescribed for the purposes of section 86 of the Electricity Act 1996.

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
Screen Shot 2023- 05- 22 at 10.29.27 am.png	Other Documents	22 May 2023 10:33 AM

Application Created User and Date/Time

Created User

emma.woods

Created Date/Time

22 May 2023 10:31 AM



Product Register Search (CT 5322/267)
Date/Time 28/07/2023 12:09PM
Customer Reference
Order ID 20230728003535

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 5322 Folio 267

Parent Title(s) CT 4070/559
Creating Dealing(s) CONVERTED TITLE
Title Issued 05/02/1996 Edition 10 Edition Issued 24/05/2023

Estate Type

FEE SIMPLE

Registered Proprietor

CHARLES ALAN WHITTAKER-SMITH
EMMA ALYCE WOODS
OF [REDACTED]
AS JOINT TENANTS

Description of Land

ALLOTMENT 105 DEPOSITED PLAN 9997
IN THE AREA NAMED TANUNDA
HUNDRED OF MOOROOROO

Easements

SUBJECT TO EASEMENT(S) OVER THE LAND MARKED A TO THE COUNCIL FOR THE AREA (T 3906496)

Schedule of Dealings

Dealing Number	Description
14039104	MORTGAGE TO SECURE FUNDING PTY. LTD. (ACN: 081 982 872)

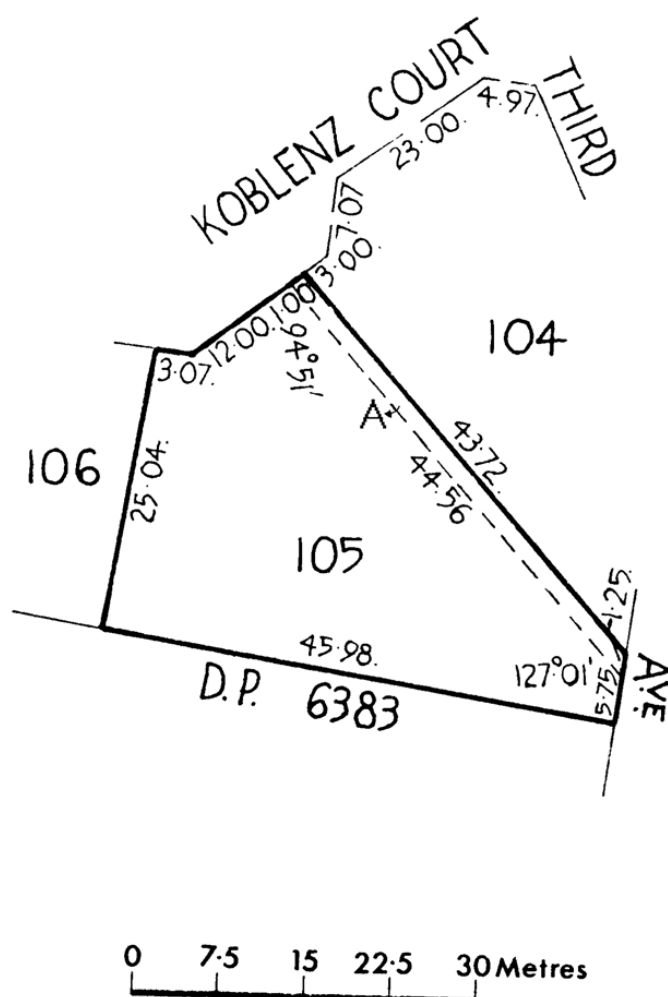
Notations

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



Product
Date/Time
Customer Reference
Order ID

Register Search (CT 5322/267)
28/07/2023 12:09PM
20230728003535



Hi Tom Marshall,

Please find our answers to the requested information below in relation to 1 Koblenz Court, Tanunda. Our application ID is: 23014767.

Required Information:

1. Provide confirmation of any signage proposed on the property advertising the proposed Tourist Accommodation (BnB).

No signage will be used to advertise the property.

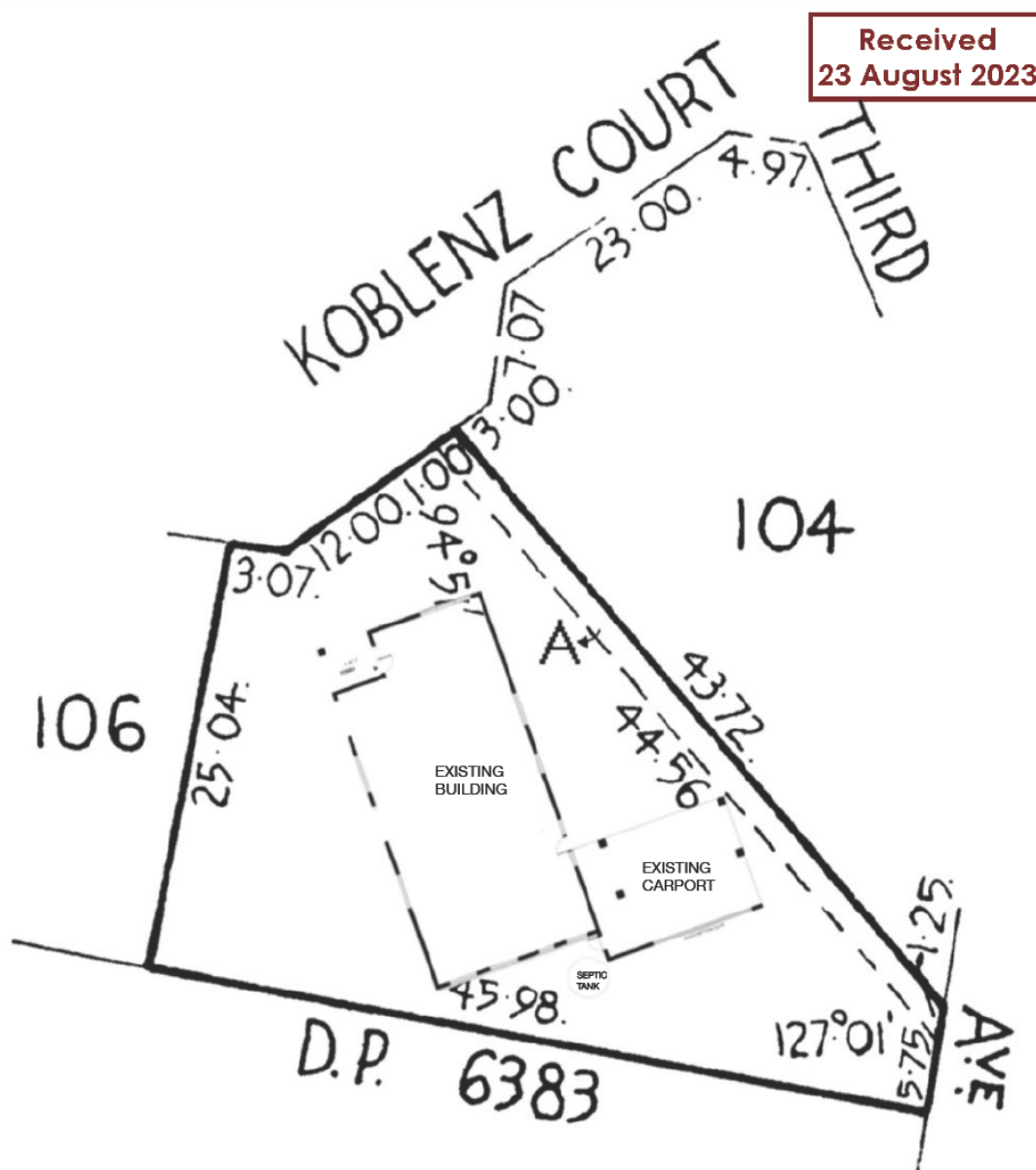
2. Confirmation of where vehicles will park when accessing the proposed accommodation (i.e., completely on the property or street parking).

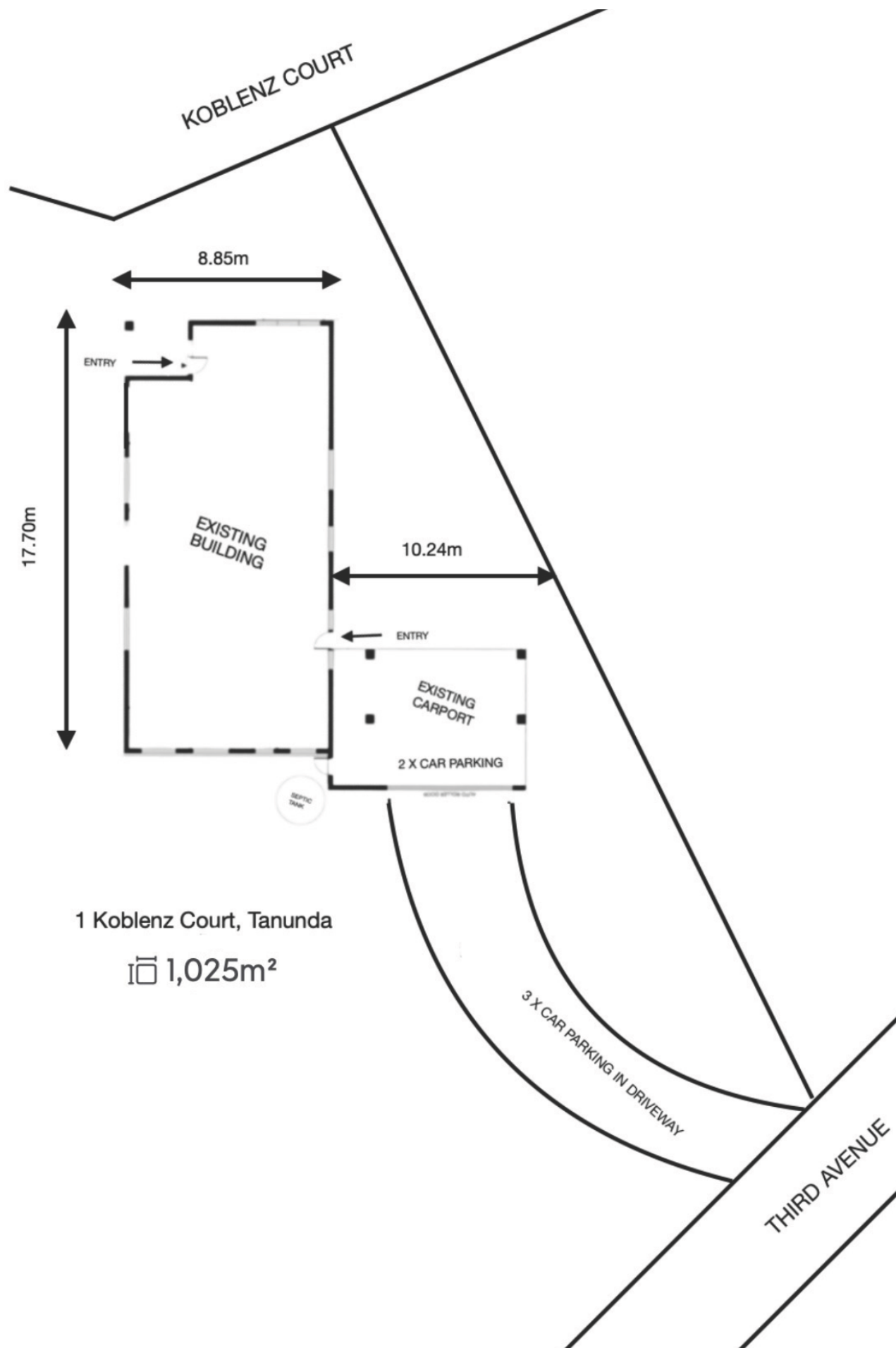
We have available parking for up to 5 cars (within the garage and long driveway) all guests will be required to park completely on the property with no exceptions.

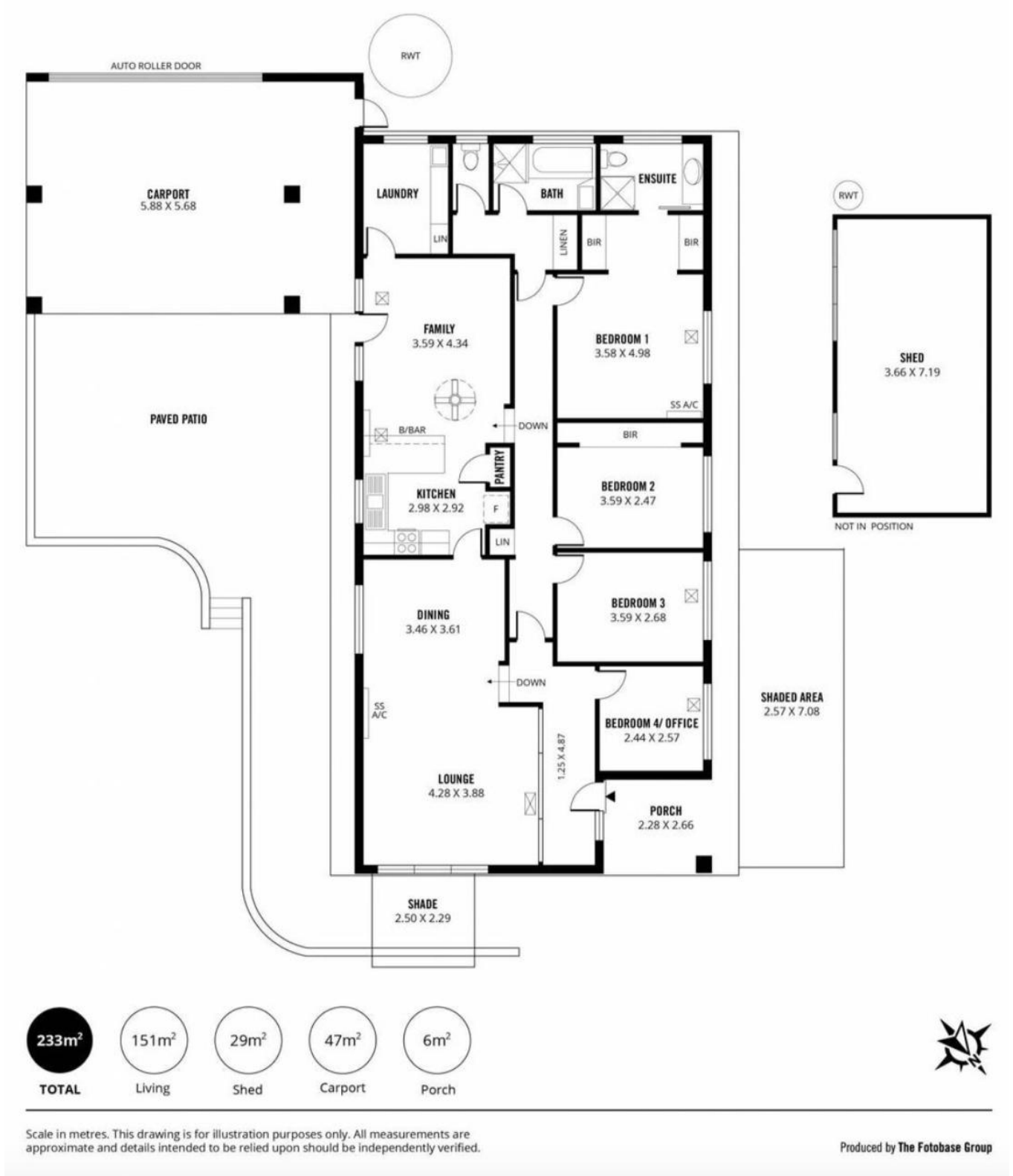
3. Confirm whether only 3 bedrooms are to be used (due to a maximum of 6 guests sought) as the dwelling currently contains 4 potential bedrooms.

Only 3 bedrooms will be used, we only have 3 beds in the property (the 4th bedroom has been converted into a reading room/study space) we have provisions for a maximum of 6 guests to stay at the property within the 3 bedrooms.

Kind Regards,
Emma Woods







Details of Representations

Application Summary

Application ID	23014767
Proposal	Change of use from dwelling to short term tourist accommodation, will sleep a max of 6 guests between three bedrooms
Location	1 KOBLENZ CT TANUNDA SA 5352

Representations

Representor 1 - Stephanie McCormack

Name	Stephanie McCormack
Address	
Submission Date	28/11/2023 04:23 PM
Submission Source	Online
Late Submission	No
Would you like to talk to your representation at the decision-making hearing for this development?	No
My position is	I oppose the development
Reasons I believe this should be refused and should be kept as a dwelling, rent it out! The rental crises in the Barossa is high yet available "Air bnbs" that are left empty are astronomical! It would be nice if people who work in the barossa could live here too, I'm finding more and more people are driving from the city to work here because they can't find a place down here to rent. I also don't like the idea of living next to tourist accommodation having people partying untill all hours of the night, people who live on this street are either retired or have small families and are just looking for some peace and quiet.	

Attached Documents

Representations**Representor 2 - Matthew Hueppauff**

Name	Matthew Hueppauff
Address	
Submission Date	28/11/2023 09:20 PM
Submission Source	Online
Late Submission	No
Would you like to talk to your representation at the decision-making hearing for this development?	No
My position is	I support the development
Reasons	
Great for tourism in the Barossa Valley along with local businesses.	

Attached Documents

Representations

Representor 3 - Peter O'Dwyer

Name	Peter O'Dwyer
Address	[REDACTED]
Submission Date	01/12/2023 02:14 PM
Submission Source	Online
Late Submission	No
Would you like to talk to your representation at the decision-making hearing for this development?	No
My position is	I support the development with some concerns
Reasons While I do not object to the change of use I do note that it will be extremely difficult for Council to enforce a maximum of 6 guests at the premises. Clearly from the floor plan provided it is apparent that the main dwelling contains an equivalent 4th bedroom notwithstanding that it may be currently used as a home office. Also what's not evident from the site plan is that the detached "shed" is in fact a recently renovated space that would also offer an opportunity for conversion to additional sleeping quarters. [It is also noted that the property is currently on the market being sold as a four bedroom dwelling with the "shed" being otherwise described as "an outdoor room".]	

Attached Documents

Representations

Duplicate of Representation 3

~~Representor 4~~ - Peter O'Dwyer

Name	Peter O'Dwyer
Address	
Submission Date	01/12/2023 02:16 PM
Submission Source	Online
Late Submission	No
Would you like to talk to your representation at the decision-making hearing for this development?	No
My position is	I support the development with some concerns

Reasons

While I do not object to the change of use I do note that it will be extremely difficult for Council to enforce a maximum of 6 guests at the premises. Clearly from the floor plan provided it is apparent that the main dwelling contains an equivalent 4th bedroom notwithstanding that it may be currently used as a home office. Also what's not evident from the site plan is that the detached "shed" is in fact a recently renovated space that would also offer an opportunity for conversion to additional sleeping quarters. [It is also noted that the property is currently on the market being sold as a four bedroom dwelling with the "shed" being otherwise described as "an outdoor room".]

Attached Documents

Representations

Duplicate of Representation 3

~~Representor 5~~ - Peter O'Dwyer

Name	Peter O'Dwyer
Address	[REDACTED]
Submission Date	01/12/2023 02:17 PM
Submission Source	Online
Late Submission	No
Would you like to talk to your representation at the decision-making hearing for this development?	No
My position is	I support the development with some concerns

Reasons

While I do not object to the change of use I do note that it will be extremely difficult for Council to enforce a maximum of 6 guests at the premises. Clearly from the floor plan provided it is apparent that the main dwelling contains an equivalent 4th bedroom notwithstanding that it may be currently used as a home office. Also what's not evident from the site plan is that the detached "shed" is in fact a recently renovated space that would also offer an opportunity for conversion to additional sleeping quarters. [It is also noted that the property is currently on the market being sold as a four bedroom dwelling with the "shed" being otherwise described as "an outdoor room".]

Attached Documents

Representations

Duplicate of Representation 3

~~Representor 6~~ - Peter O'Dwyer

Name	Peter O'Dwyer
Address	
Submission Date	01/12/2023 02:22 PM
Submission Source	Online
Late Submission	No
Would you like to talk to your representation at the decision-making hearing for this development?	No
My position is	I support the development with some concerns

Reasons

While I do not object to the change of use I do note that it will be extremely difficult for Council to enforce a maximum of 6 guests at the premises. Clearly from the floor plan provided it is apparent that the main dwelling contains an equivalent 4th bedroom notwithstanding that it may be currently used as a home office. Also what's not evident from the site plan is that the detached "shed" is in fact a recently renovated space that would also offer an opportunity for conversion to additional sleeping quarters. [It is also noted that the property is currently on the market being sold as a four bedroom dwelling with the "shed" being otherwise described as "an outdoor room".]

Attached Documents

Representations

Duplicate of Representation 3

~~Representor 7~~ - Peter O'Dwyer

Name	Peter O'Dwyer
Address	
Submission Date	01/12/2023 02:26 PM
Submission Source	Online
Late Submission	No
Would you like to talk to your representation at the decision-making hearing for this development?	No
My position is	I support the development with some concerns

Reasons

While I do not object to the change of use I do note that it will be extremely difficult for Council to enforce a maximum of 6 guests at the premises. Clearly from the floor plan provided it is apparent that the main dwelling contains an equivalent 4th bedroom notwithstanding that it may be currently used as a home office. Also what's not evident from the site plan is that the detached "shed" is in fact a recently renovated space that would also offer an opportunity for conversion to additional sleeping quarters. [It is also noted that the property is currently on the market being sold as a four bedroom dwelling with the "shed" being otherwise described as "an outdoor room".]

Attached Documents

Representations

Duplicate of Representation 3

~~Representor 8~~ - Peter O'Dwyer

Name	Peter O'Dwyer
Address	
Submission Date	01/12/2023 02:32 PM
Submission Source	Online
Late Submission	No
Would you like to talk to your representation at the decision-making hearing for this development?	No
My position is	I support the development with some concerns

Reasons

While I do not object to the change of use I do note that it will be extremely difficult for Council to enforce a maximum of 6 guests at the premises. Clearly from the floor plan provided it is apparent that the main dwelling contains an equivalent 4th bedroom notwithstanding that it may be currently used as a home office. Also what's not evident from the site plan is that the detached "shed" is in fact a recently renovated space that would also offer an opportunity for conversion to additional sleeping quarters. [It is also noted that the property is currently on the market being sold as a four-bedroom dwelling with the "shed" being otherwise described as "an outdoor room".]

Attached Documents

Representations**Representor 4**~~Representor 9~~ - Murray Harris

Name

Murray Harris

Address



Submission Date

08/12/2023 12:18 PM

Submission Source

Online

Late Submission

No

Would you like to talk to your representation at the decision-making hearing for this development?

No

My position is

I oppose the development

Reasons

1. Noise. the surrounding area is made up by a nursing home and independent living units along with retirees and young families. We do not need a party house when the guests return from wineries etc . 2. Parking. the application says there is enough off street parking but it is a single driveway and people will not like being boxed in and shuffling cars around all day and end up parking on the street which creates a problem for access to properties and rubbish removal 3. Septic Tank Capacity. being a older style property can the tank handle 6 adults showering and flushing toilets

Attached Documents

Dear Barossa Council,

Charles and I are a young couple who have saved extremely hard to purchase our first property together.

Not only do we want to preserve our property and keep it in the best possible state, we also want to ensure our neighbours are not impacted at all by our guests. Please know we have a strict no parties policy at our airbnb. We are immensely proud and protective over our property and what we have created here and we will not allow bad behaviour from guests to jeopardise this. Our property is not set up as party house nor will it ever be, it is set up as a family friendly retreat, a place to relax after a fun day of exploring The Barossa.

Our property at 1 Koblenz Court traditionally has the facilities for up to 8 people over 4 bedrooms, however, Charles and I chose to turn the 4th bedroom into an office which now means the property allows only a maximum of 6 people over 3 bedrooms. By doing so we acknowledge we forfeit extra money we could be making from the extra bedroom and guests staying but this proves how committed we are to looking after our property and our surrounding neighbours by minimising the amount of people staying at one time.

In addition, each guest will be vetted, meaning they will only be allowed to book our property if they have a 5 star rating on airbnb (5 stars is the highest rating and means other hosts recommend them as respectful guests who will follow your house rules and treat the property very well). Airbnb as a company also prohibits guests from booking any property on airbnb if they have had a history of bad behaviour on airbnb (this includes throwing a party).

As an extra measure to show how committed we are to keeping Koblenz Court and Third Ave a quiet family friendly street we have a security camera set up to ensure only a maximum of 6 people are arriving at the property and to monitor should unwanted guests arrive. Should this extremely rare incident happen the guest will be contacted and their stay will be terminated and a significant fee will be charged to them.

Our focus is bringing tourists a thoughtful relaxing space, the property has a very large book collection and quiet seating spaces, it is also equipped with a sauna and gym equipment to promote mindfulness, health and wellbeing. We think this is important to give our guests the option to have a balance between having a great time touring wineries and tasting all the delicious food the Barossa has on offer, whilst being able to reset and refresh back at our property should they wish. It has been designed, by us, to be a calming, relaxing space.

Considering the complaint came from 17 Third Avenue which is quite a far distance from our property on both street frontages, it seems unreasonable for such a complaint considering our 5 bordering neighbours (who, for arguments sake, would be impacted more than 17 Third Ave) do not have an issue with our property being an airbnb. The concerned party does not need to worry about "living next to tourist accommodation" as they are not our neighbours. As we have mentioned we make it very clear our property is not a party house nor will it ever be, 6 people at any given time will not make enough noise to impact our neighbours. Please keep in mind 6 guests do not always mean 6 adults, children are welcome at our airbnb.

The onus of the mentioned 'Rental Crisis' is not on us as individual tax payers to solve nor try to solve such a complex matter, therefore we deem that reason unnecessary especially considering at the time of writing this letter there are 26 vacant rentals in The Barossa Valley available to rent. Ultimately, it is up to us as individuals to choose how we wish to use a property we have purchased and plead that The Barossa Council grant us the permission to choose how we would like to use our property which is to bring tourists a lovely, relaxing 'home away from home' whilst visiting our beautiful town by renting it out on airbnb.

Thank you for your time.

Kind Regards,
Emma Woods and Charles Whittaker-Smith

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

7.1 22027507 - 41 Whispering Wall Road Williamstown

APPLICATION DETAILS

PROPOSAL	Construction of an outbuilding – domestic storage (measuring 24.0m x 24.0m x 4.0m wall height)
APPLICANT	Alex Gill
OWNER	Alex Gill
APPLICATION NO	22027507
CERTIFICATE(S) OF TITLE	CT 5081/127
AREA	4.66 ha
CURRENT USE	Residential Dwelling
PLANNING AND DEVELOPMENT CODE VERSION	2022.18 – 29 September 2022
PLANNING AND DESIGN CODE EXTRACT LINK	Relevant Code Extract
ZONE	Rural Living Zone
OVERLAYS	Character Preservation District (Not in Township) Hazards (Bushfire – Medium Risk) Heritage Adjacency Hazards (Flooding - Evidence Required) Native Vegetation Prescribed Water Resources Area Water Resources
APPLICATION TYPE	Performance Assessed
PUBLIC NOTIFICATION	Not Required
REFERRALS	Nil
PREVIOUS APPLICATIONS	Nil
ASSESSING OFFICER	Calvin Bacher
APPLICATION DECISION	Planning Consent REFUSED
DECISION DATE	15 December 2023
APPLICATION FOR REVIEW DATE	9 January 2024
REPRESENTATIVE TO BE HEARD	Charlie Dubois of Masterplan on behalf of the Applicant Alex Gill

INTRODUCTION

Pursuant to Section 202(1)(b)(i)(A) of the *Planning, Development and Infrastructure Act 2016*, applicants have the right to apply to a Council Assessment Panel for a review of an Assessment Manager's decision relating to a Prescribed Matter.

Council has received an Application to Assessment Panel Decision Review Request in relation to Development Application 22027507 for the Construction of an outbuilding

- domestic storage (measuring 24.0m x 24.0m x 4.0m wall height) for the subject property at 41 Whispering Wall Road Williamstown. Attachment 1 contains copy of the decision review request.

In accordance with the Barossa Assessment Panel Operating and Meeting Procedures, the Assessment Manager is required to present the following information to the Panel for its consideration:

- Application documents, reports, submissions, plans, specifications or other documents submitted by the applicant;
- Internal/external referral responses; and
- Any report written by or under delegation of the Assessment Manager.

Attachment 2 contains the applicant's submitted documentation, being the refused Planning Consent Stamped Plans. Attachment 3 contains the Assessing Officers assessment report. Attachment 4 contains the Decision Notification Form.

REVIEW HEARING

The representative of the applicant Mr Charlie Dubois of Masterplan, has indicated a desire to be heard by the Panel.

Pursuant to Section 203(2)(a) of the *Planning, Development and Infrastructure Act 2016*, the Barossa Assessment Panel has adopted procedures in respect to an Assessment Manager review application. As per Clause 16, the Operating and Meeting Procedures has the following procedures on review matters:

- 16.6. *The applicant will be provided with five (5) minutes to address the Panel on their review and why they believe the Panel should reach a different decision to that made by the Assessment Manager or their delegate.*
- 16.7. *On review, the Panel will consider the reviewed decision afresh on the information provided to it and on the submissions of the applicant.*
 - 16.7.1. *Information, materials, plans, details, specifications and other documents which were not before the Assessment Manager at the time of the decision on the Prescribed Matter will not be considered by the Panel.*
 - 16.7.2. *In addition to clause 16.6 above, the Presiding Member may permit Panel members to ask questions or seek clarification from the applicant and/or the Assessment Manager, in his or her discretion.*
- 16.8. *The Assessment Manager must be present at the Panel meeting to respond to any questions or requests for clarification from the Panel.*
- 16.9. *Where the decision was made by a delegate of the Assessment Manager, the delegate may appear in place of the Assessment Manager.*
- 16.10. *The Presiding Member will invite all Panel Members to speak on any matter relevant to the review.*

APPLICATION FOR REVIEW

An application for a machinery shed (30.0 m x 24.0 m x 5.2 m wall height) at 41 Whispering Wall Road, Williamstown was received by the Assessment Manager for the assessment and determination of planning consent.

During assessment, the applicant provided amended plans for the outbuilding – domestic storage (measuring 24.0 m x 24.0 m x 4.0 m wall height) to amend the shed dimensions and height. Staff assessed the shed as a domestic outbuilding, however, the scale of the outbuilding is arguably that of an industrial size shed.

Following a detailed assessment of the application against the *Planning and Design Code* Version 2022.18, the delegate of the Assessment Manager determined to refuse the granting of Planning Consent for the following reasons:

Pursuant to Section 107(2)(c) of the Planning, Development and Infrastructure Act 2016, and having undertaken an assessment of the application against the Planning and Design Code, the application is contrary to and conflicts with the following Planning and Design Code provisions:

- *Performance Outcome 2.5, Rural Living Zone; and*
- *Performance Outcome 3.3, Character Preservation District Overlay; and*
- *Performance Outcome 3.4, Character Preservation District Overlay.*

In that the proposal:

- *Is not sited, designed and of a scale that reinforces the semi-rural and semi-natural character and amenity of the locality; and*
- *Does not harmonise with the natural features of the landscape and reinforce the rural character; and*
- *Is not sited and oriented to minimise visual bulk.*

The applicant has subsequently made an application to the Council Assessment Panel for a review of the decision of the Assessment Manager pursuant to Section 203 of the *Planning, Development and Infrastructure Act 2016*. The application for review was received within one (1) month of the applicant receiving notification of the decision, such that the application made is valid.

It is confirmed that the grounds for review is a Prescribed Matter in accordance with Section 201 of the *Planning, Development and Infrastructure Act 2016*.

In summary, the applicant has cited the following reason for the review:

- Assessment Manager has determined to refuse Planning Consent for a 576 square metre outbuilding, with a four metre high wall height in the Rural Living Zone. Acknowledge that the outbuilding exceeds the DPF criteria, but the locality has existing patterns of large outbuildings and agricultural buildings, and the site is well screened from public streets, once the proposed vegetation matures from adjacent properties.

REVIEW OF DECISION

Clause 16 of the Barossa Assessment Panel Operating and Meeting Procedures state as follows:

16.12. *The Panel may, on a review:*

- 16.12.1. *affirm the Assessment Manager's decision on the Prescribed Matter;*
- 16.12.2. *vary the Assessment Manager's decision on the Prescribed Matter; or*
- 16.12.3. *set aside the Assessment Manager's decision on the Prescribed Matter and substitute its own decision.*

The Panel is now required to consider the Prescribed Matter and only consider information, materials and submissions made available at the time of the Assessment Manager's (or delegate's) decision.

The application for review of the Assessment Manager's decision is presented to the Panel for its consideration in accordance with the Barossa Assessment Panel Operating and Meeting Procedures, adopted 6 June 2023.

The draft resolution presented below reflects the options available to the Panel during its consideration of this matter.

RECOMMENDATION

That the Barossa Assessment Panel resolves to affirm the decision of the Assessment Manager that:

- (1) The application is contrary to and conflicts with the following Planning and Design Code provisions:
 - Performance Outcome 2.5, Rural Living Zone; and
 - Performance Outcome 3.3, Character Preservation District Overlay; and
 - Performance Outcome 3.4, Character Preservation District Overlay.
- (2) The proposal:
 - Is not sited, designed and of a scale that reinforces the semi-rural and semi-natural character and amenity of the locality; and
 - Does not harmonise with the natural features of the landscape and reinforce the rural character; and
 - Is not sited and oriented to minimise visual bulk.

ATTACHMENTS OR OTHER SUPPORTING REFERENCES

- | | |
|--------------|--|
| Attachment 1 | Application to Assessment Panel - Decision Review Request   |
| Attachment 2 | Application Documents per Refused Planning Consent Stamped Plans   |
| Attachment 3 | Assessment Officers Assessment Report   |
| Attachment 4 | Decision Notification Notice - Refusal   |

APPLICATION TO ASSESSMENT PANEL¹

Decision Review Request

Prescribed form pursuant to section 203(1) for review of a decision of an Assessment Manager under section 202(1)(b)(i)(A) of the *Planning, Development and Infrastructure Act 2016* (Act)

Applicant details:	Name: Alex Gill Phone: 0411277606 Email: alex@gjcivil.com.au Postal address: 41 Whispering Wall Road, Williamstown 5351 SA
Development Application Number:	22027507
Subject Land:	41 Whispering Wall Road, Williamstown 5351 Allotment 2 Deposited Plan 22078, Certificate of Title Volume 5081 Folio 127 <i>[street number, street name, suburb, postcode]</i> <i>[lot number, plan number, certificate of title number, volume and folio]</i>
Date of decision of the Assessment Manager:	15 December 2023
Decision (prescribed matter²) for review by Assessment Panel:	Decision to refuse Planning Consent for subject Development Application
Reason for review:	Assessment Manager has determined to refuse Planning Consent for a 576 square metre outbuilding, with 4.0 metre high wall height in Rural Living Zone. Acknowledged that the outbuilding exceeds the DPF criteria, but the locality has existing pattern of large outbuildings and agricultural buildings, and site is well screened from public streets and, once proposed vegetation matures, from adjacent properties
Do you wish to be heard by the Assessment Panel?	☒ Yes ☐ No
Date:	15 December 2023
Signature:	☒ <i>If being lodged electronically please tick to indicate agreement to this declaration.</i>

¹ This application must be made through the relevant facility on the SA planning portal. To the extent that the SA planning portal does not have the necessary facilities to lodge this form, the application may be lodged—

(i) by email, using the main email address of the relevant assessment panel; or
(ii) by delivering the application to the principal office or address of the relevant assessment panel.

² **Prescribed matter**, in relation to an application for a development authorisation, means—

- (a) any assessment, request, decision, direction or act of the Assessment Manager under the Act that is relevant to any aspect of the determination of the application; or
- (b) a decision to refuse to grant the authorisation; or
- (c) the imposition of conditions in relation to the authorisation; or
- (d) subject to any exclusion prescribed by the regulations, any other assessment, request, decision, direction or act of the assessment manager under the Act in relation to the authorisation.

This form constitutes the form of an application to an assessment panel under section 202(1)(b)(i)(A) of the *Planning, Development and Infrastructure Act 2016*, determined by the Minister for Planning and Local Government, pursuant to regulation 116 of the *Planning, Development and Infrastructure (General) Regulations 2017*. Last amended: 31 July 2020



Government of South Australia
Attorney-General's Department



16 November 2023

The Barossa Council
43-51 Tanunda Road
NURIOOTPA SA 5365

Attention: Calvin Bacher

**Planning Consent Refused
The Barossa Council
Application Number: 22027507**

Dear Calvin

**Re: Development Application 22027507
at 41 Whispering Wall Road, Williamstown**

MasterPlan Pty Ltd has been engaged by Mr Alex Gill ('our client' or 'the applicant') to respond to an email dated 26 October 2023 relating to a Development Application 22027507 for two (2) outbuildings at 41 Whispering Wall Road, Williamstown ('the subject site').

The correspondence stated that Council, after consideration of an amended proposal with a reduced floor area and wall height, and landscaping screening to both the north and south elevations, still held concerns and could not support the development.

Further, it was stated that the outbuilding is 'of a commercial scale' and not typical of domestic storage.

A response to Council's concerns is provided below.

Scale and Use of Proposed Outbuilding

Council's requests have repeatedly highlighted concerns that the scale of the outbuilding is of a 'commercial nature' and is too large for 'domestic storage'. Specifically, PO 2.5 of the Rural Living Zone has been referenced by Council.

It is noted that PO 2.5 does not reference 'domestic storage' as an envisaged or relevant criteria for the assessment of an outbuilding. Furthermore, the definition of outbuilding, provided in Part 7 of the Planning and Design Code states that outbuilding:

'Means a non-habitable detached building on the same site as a main building which is ancillary and subordinate to the main building and has a use and function which relates to the main building, but does not include a private bushfire shelter.'



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53618LET02

**Planning Consent Refused
The Barossa Council
Application Number: 22027507**



The proposed outbuilding is to be used by the landowners to store their articles, such as private vehicles and a boat, as well as other effects. The storage of items is directly associated with the dwelling on-site, and would not be occurring without the existing residential use. Therefore, it is clearly ancillary and subordinate to the existing residential use of the land.

It is further noted that Council has expressed concerns the size of the shed lends itself to be used for commercial purposes. While the intention is not to use the outbuilding for anything other than storage of domestic effects, our client is willing to accept a condition of consent that states that the outbuilding shall not be used for commercial purposes. This would be tied to the development in the event that the land is sold, and therefore control the use on an ongoing basis.

PO 1.1, PO 1.4 and PO 1.5 of the Rural living Zone each seek to maintain the residential primacy of development within the Zone. It is contended that the development does not impact upon this, as no conflicting land use is proposed. The shed is simply to be used for the storage of large, domestic items in association with the existing dwelling.

Therefore, it is considered that Council has the ability to ensure that the development is used only for domestic purposes.

Impacts on Amenity and Locality

PO 2.5 seeks that outbuildings are '*sited, designed and of a scale that reinforces the semi-rural or semi-natural character of the locality*'. Whilst it is noted that the proposed development is a departure from the quantitative standards outlined within DPF 2.5, Part 1 – Rules of Interpretation specifies that a DPF provides:

'a guide to a relevant authority as to what is generally considered to satisfy the corresponding performance outcome but does not need to necessarily be satisfied to meet the performance outcome, and does not derogate from the discretion to determine that the outcome is met in another way, or from the need to assess development on its merits against all relevant policies.'

Therefore, the proposed outbuilding is able to meet PO 2.5, despite its non-conformance with DPF 2.5.

Upon conducting a site inspection, we note that the topography of the site generally trends downwards from south to north. The adjacent land to the south incorporates an outbuilding with an approximate floor area of 300 square metres, which is neighboured by another outbuilding further east with an approximate area of 370 square metres. Each of these outbuildings are located on prominent hillside locations, which greatly increase their visual prominence. Furthermore, adjacent land to the east and west both also incorporate large chicken sheds with approximate areas of 1,400 square metres and 700 square metres respectively. Evidently, the presence of large outbuildings exceeding 200 square metres are not uncommon in this context.

**Planning Consent Refused
The Barossa Council
Application Number: 22027507**



Furthermore, the exact site of the development has historically featured large sheds, which were demolished due to their derelict condition. **Image 1** below, taken from approximately 2008, shows these sheds centrally.



Image 1 – Aerial Image of the Site and Locality.

Given the current and historical context of the site, it is clear that large sheds form part of the character of the locality. Whilst it is acknowledged that the large sheds are used for commercial or farming purposes and the proposed development does not, this has no bearing on the visual impacts of the proposal which the provision seeks to manage.

The visual impacts of the outbuilding are managed through its siting on a flat portion of the land and moderate height. Existing vegetation on the northern boundary of the allotment, in conjunction with the proposed plantings will greatly minimise the visible portions of built form from public roads. Similarly, the plantings proposed on the southern side of the outbuilding will serve to further screen the built form from this direction. The combination of the features result in a development that will be difficult to see from public roads, and to a large extent screened from view from the south and east, resulting in the preservation of the semi-natural character envisaged by PO 2.5.

**Planning Consent Refused
The Barossa Council
Application Number: 22027507**

**Closing**

We trust the above response sufficiently addresses the issues raised within Council's previous correspondence. Please be advised that in the event of a refusal, our client reserves their right to appeal the decision to the Barossa Assessment Panel at the earliest opportunity.

Please do not hesitate to contact the undersigned to discuss further as required on 0408 834 223 or via charlied@masterplan.com.au.

Yours sincerely

Charlie Dubois
MasterPlan SA Pty Ltd



12 October 2023

The Barossa Council

Via: PlanSA Portal

Attention: Calvin Bacher

**Planning Consent Refused
The Barossa Council
Application Number: 22027507**

Dear Calvin

**Re: Response to Request for Further Information – Development Application 22027507
at 41 Whispering Wall Road, Williamstown**

MasterPlan Pty Ltd has been engaged by Mr Alex Gill ('our client' or 'the applicant') to respond to a request for further information received on 3 March 2023 for Development Application 22027507 for two (2) outbuildings at 41 Whispering Wall Road, Williamstown ('the subject site').

Specifically, this correspondence responds to the matters raised by the Barossa Council in relation to the scale and activities associated with the use of the outbuilding.

We provide a response to the matters raised in the advice, which can be summarised as follows:

- Bulk and scale of the outbuilding.
- Activities associated with the use of the outbuilding.

In response, amendments have been made to the design of the dwelling, including:

- A reduction from two (2) outbuildings to one (1) with unchanged total floor area (576 square metres).
- A reduction in building height from 5.2 metres to 4.0 metres.
- Updated materiality to Monument Colourbond.
- Inclusion of landscaping to the immediate north and south of building for screening.

The amendments detailed above are enclosed with **Attachment A**, prepared by MasterPlan.

We respond to the issues raised in the advice under the headings below.



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53618LET01

**Planning Consent Refused
The Barossa Council
Application Number: 22027507**



Bulk and Scale of Proposed Outbuilding

Council's request highlighted concerns with the perceived impact on the character and amenity of the locality that would result from the construction of the proposed outbuilding. Specifically, this PO 2.5 of the Rural Living Zone was referenced by Council.

The amended design as per **Attachment A** proposes the construction of a single outbuilding (measuring 24.0 metres by 24.0 metres), with a reduced wall height of 4.0 metres, and a floor area of 576 square metres.

PO 2.5 seeks that outbuildings are '*sited, designed and of a scale that reinforces the semi-rural or semi-natural character of the locality*'. Whilst it is noted that the proposed development is a departure from the quantitative standards outlined within DPF 2.5, Part 1 – Rules of Interpretation specifies that a DPF provides:

'a guide to a relevant authority as to what is generally considered to satisfy the corresponding performance outcome but does not need to necessarily be satisfied to meet the performance outcome, and does not derogate from the discretion to determine that the outcome is met in another way, or from the need to assess development on its merits against all relevant policies.'

Therefore, the proposed outbuilding is able to meet PO 2.5, despite its non-conformance with DPF 2.5.

Upon conducting a site inspection, we note that the topography of the site generally trends downwards from south to north. The adjacent land to the south incorporates an outbuilding with an approximate floor area short of 300 square metres, which is neighboured by another outbuilding further east with an approximate area of 370 square metres. Each of these outbuildings are located on prominent hillside locations, which greatly increase their visual prominence. Furthermore, adjacent land to the east and west both also incorporate large chicken sheds with approximate areas of 1,400 square metres and 700 square metres respectively. Evidently, the presence of large outbuildings exceeding 200 square metres are not uncommon in this context.

The proposed outbuilding is sited on a flat portion of the land and is of a moderate height. Existing vegetation on the northern boundary of the allotment, in conjunction with the proposed plantings are considered to greatly minimise the visible portions of built form from public roads. Similar, the plantings proposed on the southern side of the outbuilding will serve to further screen the built form from this direction, and contribute to the semi-natural character envisaged by PO 2.5.

Although the criteria of DPF 2.5 in relation to total floor area is not directly met, we support that this should be considered as a minor shortfall of the policy as the proposal does meet the remaining DPF 2.5 criteria through the consideration of sensible siting and design. Given the contextual setting of the proposal and the precedence of large-scale chicken sheds in the immediate surroundings, it is our view that the scale of the building is appropriate in this context and does not significantly visually detract from the character and amenity that PO 2.5 seeks to protect. Therefore, on balance it is considered that within the context of the site and locality, PO 2.5 of the Rural Living Zone is satisfied.

**Planning Consent Refused
The Barossa Council
Application Number: 22027507**



Proposed Land Use

We note that the intended use of the proposed outbuilding was raised as a concern. The applicant has advised that the outbuilding is to be used for domestic purposes, include the storage of vehicles and articles. It is noted that Rural Living allotments often feature areas for the storage of these effects and are purchased partly on this basis. Therefore, the development does not constitute a land use in its own right, but is rather ancillary to the residential use of the land.

It is also noted that our clients periodically have machinery associated with their civil construction business stored on the land. However, they have advised that activities related to the operation of the business do not occur on site, and the use of the proposed outbuilding will not be associated with the operation of the business. It is considered that a condition is able to be added to any forthcoming consent which can adequately control the use of the outbuilding.

Closing

We trust the above response sufficiently addresses the issues raised within your request for further information dated 3 March 2023.

Please do not hesitate to contact the undersigned to discuss further as required on 0408 834 223 or via charlied@masterplan.com.au.

Yours sincerely

Charlie Dubois
MasterPlan SA Pty Ltd

enc: **Attachment A** – Amended Plan Set.

ATTACHMENT A

Amended Plan Set

Planning Consent Refused
The Barossa Council
Application Number: 22027507



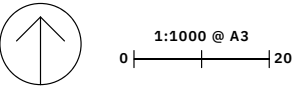
 Subject Site

**Planning Consent Refused
The Barossa Council
Application Number: 22027507**

**LOCATION
PROPOSED MACHINERY PLAN**

41 WHISPERING WALL ROAD
WILLIAMSTOWN SA 5351

G and J Civil Pty Ltd



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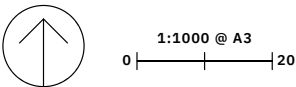
 Subject Site

Planning Consent Refused
The Barossa Council
Application Number: 22027507

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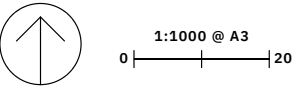


Planning Consent Refused
The Barossa Council
Application Number: 22027507

SITE PLAN
PROPOSED MACHINERY PLAN

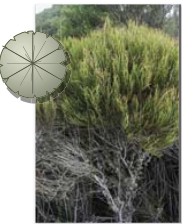
41 WHISPERING WALL ROAD
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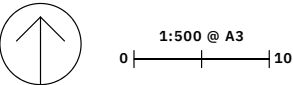
Medium Tree
- *Leptospermum coriaceum*
- Green Tea Tree
<http://plantselector.botanicgardens.sa.gov.au/Plants/Details/2839>
Tree species and placement indicative only.

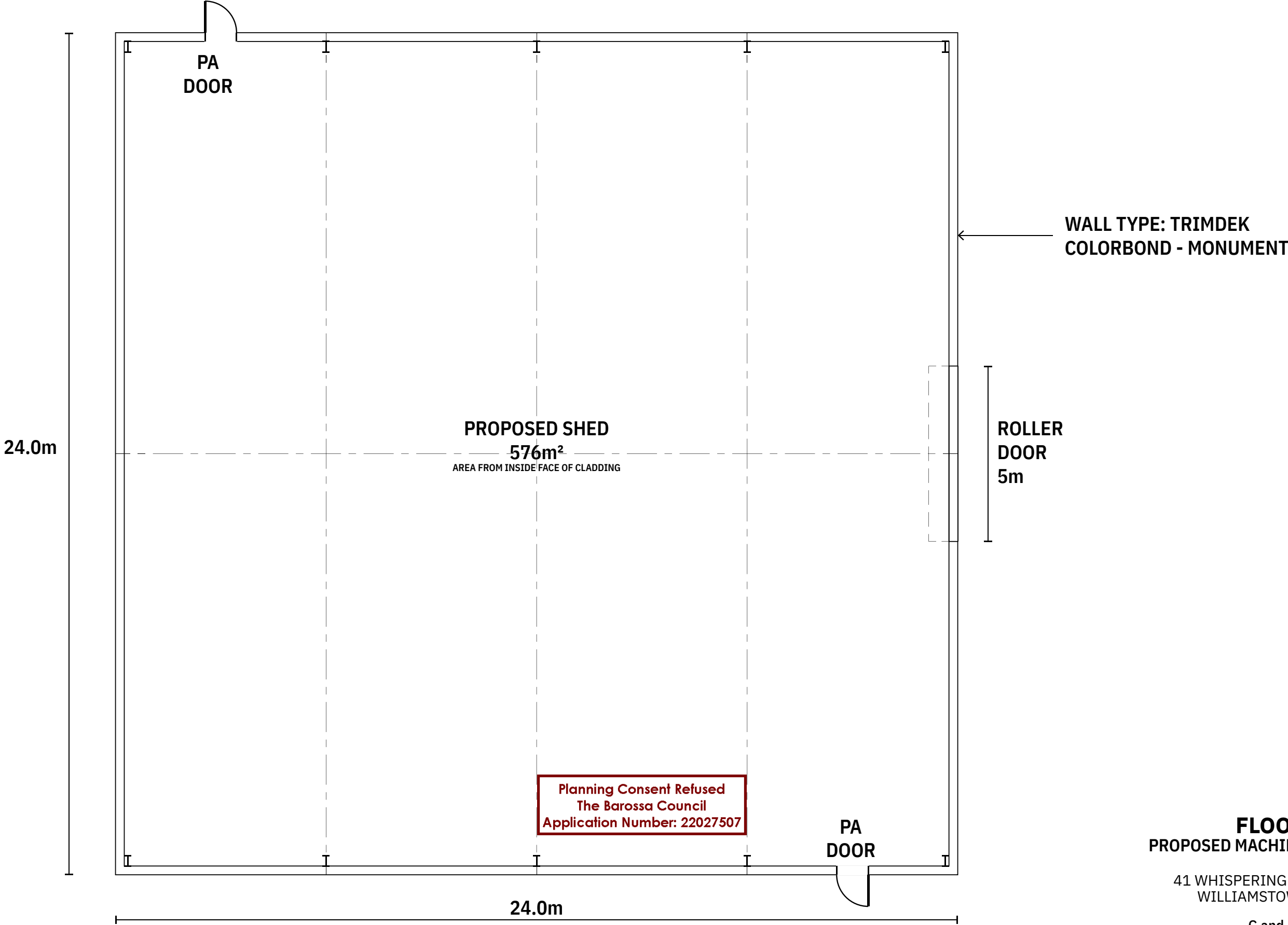


Roof & Walls
Trimdeck Colorbond:
Monument
**Planning Consent Refused
The Barossa Council
Application Number: 22027507**

**SITE PLAN
PROPOSED MACHINERY PLAN**

41 WHISPERING WALL ROAD
WILLIAMSTOWN SA 5351
G and J Civil Pty Ltd

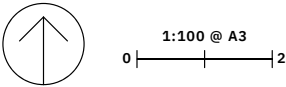




FLOOR PLAN
PROPOSED MACHINERY PLAN

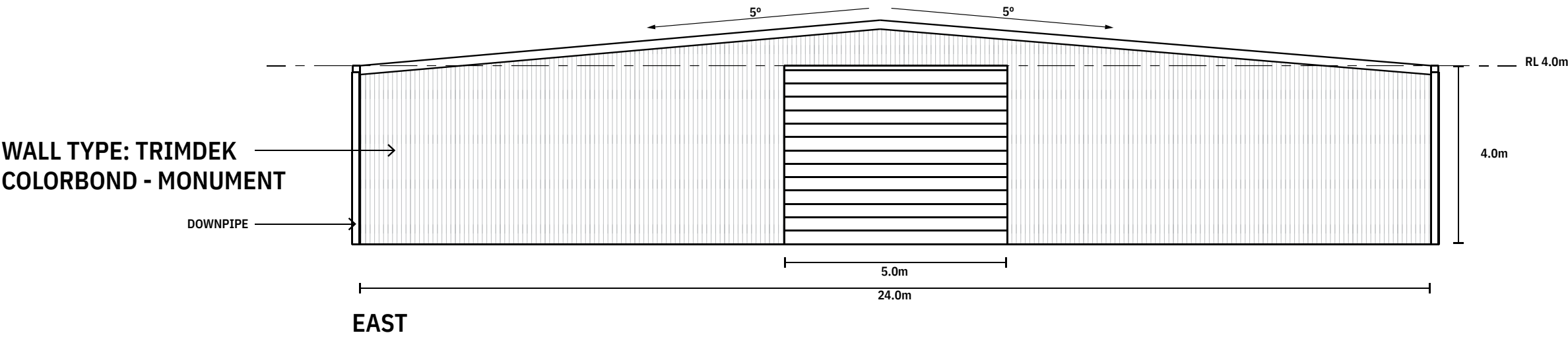
41 WHISPERING WALL ROAD
WILLIAMSTOWN SA 5351

G and J Civil Pty Ltd

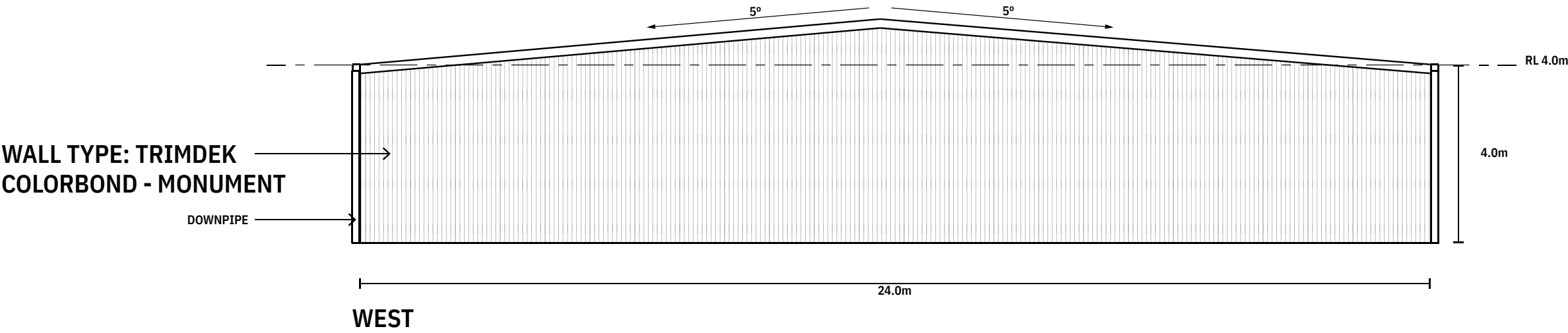


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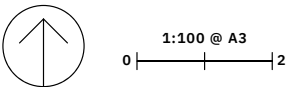
Planning Consent Refused
The Barossa Council
Application Number: 22027507



ELEVATIONS
PROPOSED MACHINERY PLAN

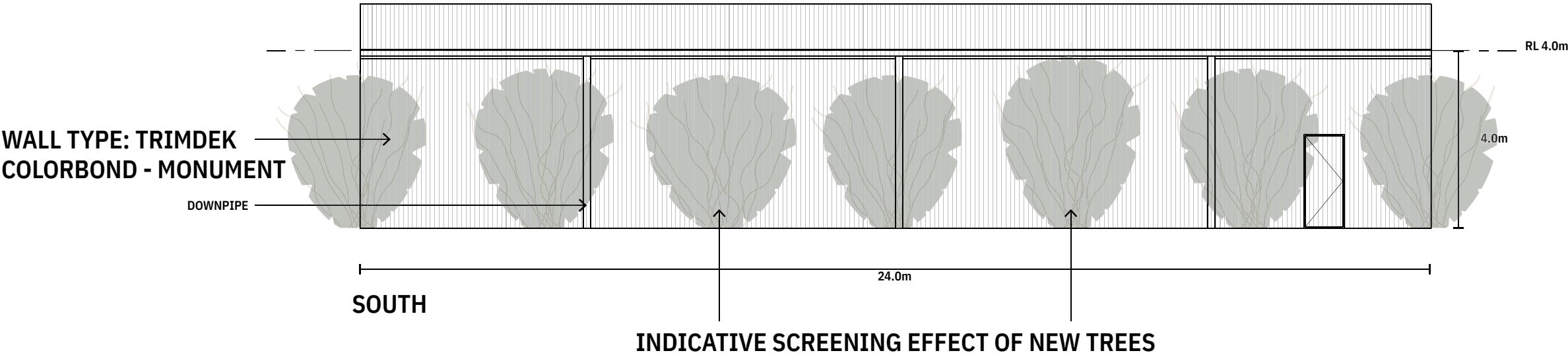
41 WHISPERING WALL ROAD
WILLIAMSTOWN SA 5351

G and J Civil Pty Ltd





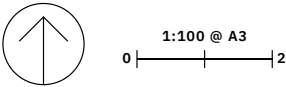
Planning Consent Refused
The Barossa Council
Application Number: 22027507



ELEVATIONS
PROPOSED MACHINERY PLAN

41 WHISPERING WALL ROAD
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ASSESSMENT REPORT

DEVELOPMENT NO.:	22027507
APPLICANT:	Alex Gill
NATURE OF DEVELOPMENT:	Construction of an outbuilding - domestic storage (measuring 24.0m x 24.0m x 4.0m wall height)
ZONING INFORMATION:	Zones: • Rural Living Overlays: • Character Preservation District • Hazards (Bushfire - Medium Risk) • Heritage Adjacency • Hazards (Flooding - Evidence Required) • Native Vegetation • Prescribed Water Resources Area • Water Resources Technical Numeric Variations (TNVs): • Minimum Site Area (Minimum site area is 4 ha)
LODGEMENT DATE:	30 Sept 2022
RELEVANT AUTHORITY:	Assessment panel/Assessment manager at The Barossa Council
PLANNING & DESIGN CODE VERSION:	Printed on 30/09/2022

DETAILED DESCRIPTION OF PROPOSAL:

Demolition of an existing shed; Construction of an outbuilding - domestic storage (measuring 24.0m x 24.0m x 4.0m wall height)

LOCATION OF DEVELOPMENT:

Location reference:

41 WHISPERING WALL RD WILLIAMSTOWN SA 5351

Title ref.: CT 5081/127 **Plan Parcel:** D22078 AL2 **Council:** THE BAROSSA COUNCIL

CONSENT TYPE REQUIRED:

Planning Consent

CATEGORY OF DEVELOPMENT:

2

- **PER ELEMENT:**
Agricultural building: Code Assessed - Performance Assessed
- **OVERALL APPLICATION CATEGORY:**
Code Assessed - Performance Assessed
- **REASON**
P&D Code; In accordance with the P & D Code

PUBLIC NOTIFICATION

No

- **REASON**
Listed within Column A 3(h) and not excluded by Column B.

PLANNING ASSESSMENT**Locality**

Outbuildings within locality:

- 32 Harveys Quarry Road – 12x20x4.2 (240sqm) - 960/297/2016
- 36B Harveys Quarry Road – 12x21x3.6 (252sqm) - 960/126/2016
- Allot 2 Yettie Road – 21.2x9.1x3.6 (192.92sqm) - 960/650/2019 and a second outbuilding (pre-2007) of approximately 370sqm.
- Outbuildings at 485 Yettie Rd, 467 Yettie Rd, and 7 Whispering Wall Rd do not exceed 160sqm.
- The adjoining property to the east and west each contain historic “chicken battery” structures of approximately 700sqm and two approximately 1,400sqm in floor areas.

History:

The site contains a detached dwelling and associated outbuildings and water tank.

The site had contained historic chicken battery structures which were demolished between 2008-2011. No development applications have been received since.

Rural Living Zone

An outbuilding is an envisaged form of development.

The total floor area of the proposed outbuilding is 24.0m x 24.0m = 576sqm. This is 376sqm greater than the envisaged 200sqm. The maximum floor area of 200sqm is envisaged for any property that has a site area of 1 hectare or more. The subject site is approx. 4.7 hectares in area and provides suitable spacing for a large outbuilding to be constructed. However, the 376sqm additional floor area is considered to not be an acceptable variance from the maximum envisaged floor area.

It is recognised that there is a character of larger sized outbuildings within the locality however those used for domestic storage within the locality are of floor areas closer to 150-250sqm.

The wall height of the proposed outbuilding is 4.0m, consistent with the wall height envisaged within the area.

The applicant has identified an area along the northern and southern side of the proposed outbuilding to contain new vegetation (green tea trees) to assist with providing a visual obstruction when viewed from adjoining sites and the public road.

The outbuilding is proposed to be clad in Trimdeck Monument which is suitable for the landscape.

This proposal would result in more than two outbuildings on the one allotment however there is an existing character of multiple outbuildings on allotments within the locality.

The scale of the proposal does not sufficiently reinforce the semi-rural character and amenity of the locality.

Overlays

Character Preservation District Overlay

No impact on view of skyline and is not located atop a ridgeline.

The colour schedule of Monument is appropriate within the natural landscape.

The large building is sited more than 100m of the existing dwelling. Whilst not clustered nearby the dwelling, it is considered sited appropriately by considering the characteristics of the site.

Landscaping nearby the structure will assist with blending into the natural landscape.

Location of outbuilding will contain a driveway area up to the proposed building where the proposed site is considered suitable in reducing the extent of earthworks required for the building and its access.

Hazards (Bushfire - Medium Risk) Overlay

The proposed outbuilding is not located within proximity to an unreasonable risk of bushfire, sited away from existing vegetation.

Native Vegetation Overlay

Native vegetation declaration has been provided. No further concerns.

Heritage Adjacency Overlay

Development will have nil to negligible impact upon nearby State Heritage Place (Whispering Wall) when considering the siting of the outbuilding.

Water Resources Overlay

Not spatially applicable.

Clearance from Overhead Powerlines

Electricity declaration has been provided.

Design

The site benefits from an existing driveway to the dwelling which extends alongside the site of proposed development. There are no concerns for the ability of safe and convenient access to the structure.

Infrastructure and Renewable Energy Facilities

Proposal will not encroach the existing waste control system as confirmed by site inspection.

The development is not considered to be Seriously at Variance with the relevant provisions of the Planning and Design Code.

**DECISION NOTIFICATION FORM***Section 126(1) of the Planning, Development and Infrastructure Act 2016***TO THE APPLICANT(S):**

Name: Alex Gill
Postal address: 41 WHISPERING WALL ROAD WILLIAMSTOWN SA 5351
Email: alex@gjcivil.com.au

IN REGARD TO:

Development application no.: 22027507	Lodged on: 30 Sept 2022
Nature of proposed development: Construction of an outbuilding - domestic storage (measuring 24.0m x 24.0m x 4.0m wall height)	

LOCATION OF PROPOSED DEVELOPMENT:

Location reference: 41 WHISPERING WALL RD WILLIAMSTOWN SA 5351		
Title ref.: CT 5081/127	Plan Parcel: D22078 AL2	Council: THE BAROSSA COUNCIL

DECISION:

Decision type	Decision (granted/refused)	Decision date	No. of conditions	No. of reserved matters	Entity responsible for decision (relevant authority)
Planning Consent	Refused	15 Dec 2023			Assessment Manager at The Barossa Council
Building Consent					Tomas Januskevicius - BCA Concepts Pty Ltd - Building Level 1
Development Approval - Planning Consent; Building Consent					The Barossa Council

FROM THE RELEVANT AUTHORITY: Assessment Manager - Section 96 - Performance Assessed at The Barossa Council
Date: 15 Dec 2023

REFUSAL REASONS**Planning Consent**

The proposal is contrary to and conflicts with the following Planning and Design Code provisions:

- Performance Outcome 2.5, Rural Living Zone; and
- Performance Outcome 3.3, Character Preservation District Overlay; and
- Performance Outcome 3.4, Character Preservation District Overlay.

This form constitutes the form of a decision notification under section 126(1) of the Planning, Development and Infrastructure Act 2016, as determined by the Minister for Planning for the Purposes of regulation 57(1) of the Planning, Development and Infrastructure (General) Regulations 2017. Published: 7 July 2022.



Government of South Australia
Department for Trade and Investment

In that the proposal:

- Is not sited, designed and of a scale that reinforces the semi-rural and semi-natural character and amenity of the locality; and
- Does not harmonise with the natural features of the landscape and reinforce the rural character; and
- Is not sited and oriented to minimise visual bulk.

ADVISORY NOTES

Planning Consent

Advisory Note 1

No work can commence on this development unless a Development Approval has been obtained. If one or more consents have been granted on this Decision Notification Form, you must not start any site works or building work or change of use of the land until you have received notification that Development Approval has been granted.

Advisory Note 2

This consent or approval will lapse at the expiration of 2 years from its operative date, subject to the below or subject to an extension having been granted by the relevant authority.

Advisory Note 3

Where an approved development has been substantially commenced within 2 years from the operative date of approval, the approval will then lapse 3 years from the operative date of the approval (unless the development has been substantially or fully completed within those 3 years, in which case the approval will not lapse).

Advisory Note 4

Any variation of this approved development and/or the conditions of consent will require a separate request and approval by the relevant authority. Approval of this application does not necessarily imply that future requests for variations would be approved. Any future request will be assessed by having regard to the relevant rules and requirements in force at the time any request is lodged.

Advisory Note 5

The adjoining owner should be advised of the proposed work on the boundary and issues such as access to perform work, removal of fences, finished levels and retaining walls should be resolved before building work commences. This approval does not create an automatic right to access neighboring land.

Advisory Note 6

Excavations on or near the boundary may require the giving of notification to the neighbour pursuant to sec 139 of the Planning, Development & Infrastructure Act 2016.

It is recommended that where mechanical equipment is proposed to be used to construct retaining walls, and where the dwelling may impede access for that equipment, the retaining walls be constructed prior to preparing the footings.

Advisory Note 7

Any portion of Council's infrastructure damaged as a result of work undertaken within the development site or associated with the development shall be repaired/reinstated to Council's satisfaction at the developer's expense.

Advisory Note 8

Appeal rights - General rights of review and appeal exist in relation to any assessment, request, direction or act of a relevant authority in relation to the determination of this application, including conditions.

Advisory Note 9

Any works associated with the development, such as tree planting, tree removal, footpath renewal or construction of new vehicle entrances proposed to be undertaken within the road reserve (i.e. the carriageway, verge or footpath area) requires an independent approval from Council pursuant to the Local Government Act. Further enquiries should be directed to the Works and Engineering team on 8563 8444.

Advisory Note 10

The applicant is reminded of its general environmental duty, as required by Section 25 of the Environment Protection Act 1993, 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.

Advisory Note 11

Construction shall not take place on any Sunday or Public Holiday or after 7.00pm or before 7.00am on any other day, and all practicable steps must be taken during construction to minimise the impact of noise emissions on neighbouring properties.

Advisory Note 12

The applicant is advised that this consent does not permit anyone to clear, remove limbs or trim native vegetation. Any proposal to clear, remove limbs, or trim native vegetation will require approval or confirmation of exemption from the Native Vegetation Council. An interactive guide is available to help owners and others determine the requirements that apply under the Native Vegetation Act 1991, <https://www.environment.sa.gov.au/topics/native-vegetation/interactive-guide>. Any specific queries regarding the clearance, removal, or trimming of native vegetation should be directed to the South Australian Native Vegetation Council.

The applicant is advised that any proposal to clear, remove limbs or trim native vegetation should be undertaken after first notifying the Native Vegetation Council of intended works.

Advisory Note 13

Any noise generating activity undertaken at the site must be undertaken in accordance with the provisions of the Environment Protection (Noise) Policy 2007, and such that any resulting noise is not considered a nuisance, to the satisfaction of Council, including any existing infrastructure.

Advisory Note 14

The applicant is advised that any retaining works to exceed greater than one vertical metre constitutes development, and requires development approval in its own right.

CONTACT DETAILS OF CONSENT AUTHORITIES

Name: The Barossa Council	Type of consent: Planning
Telephone: 08 8563 8444	Email: development@barossa.sa.gov.au
Postal address: PO Box 867, Nuriootpa SA 5355	

Name: BCA Concepts Pty Ltd	Type of consent: Building
Telephone: (08) 8425 7060	Email: tom@bcaconcepts.com.au
Postal address: Level 1, 50 Hindmarsh Square, Adelaide SA 5000	

8. REPORTS – PANEL UPDATES

Nil.

9. REPORTS – OTHER BUSINESS

Nil.

10. REPORTS – CONFIDENTIAL

Nil.

11. NEXT MEETING

Tuesday 5 March 2024 commencing at 5.00 pm

12. CLOSURE OF MEETING

The Presiding Member will declare the meeting closed.