

BAROSSA ASSESSMENT PANEL

MINUTES OF THE MEETING OF THE BAROSSA ASSESSMENT PANEL
held on

Tuesday, 2 July 2024, commencing at 5.00 pm

in the Council Offices, 43-51 Tanunda Road, Nuriootpa



The Barossa Council

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1. WELCOME

The Presiding Member welcomed everyone, and opened the meeting at 5:00pm.

2. ATTENDANCE

2.1 Present

Panel Members

Michael Wohlstadt	Presiding Member
Susan Giles	Member
Jane Evans	Member
Grant Hewitt	Member
Aaron Curtis	Assessment Manager

Council Staff

Steve Kaesler	Manager, Engineering Services
Calvin Bacher	Assessment Officer, Planning
Isabelle Zmuda	Development Compliance Officer
Chris Kruger	Minute Secretary

2.2 Apologies

Graham Burns

2.3 Absent

Nil.

3. CONFIRMATION OF MINUTES

PANEL DECISION

Moved: G Hewitt

Seconded: S Giles

That the minutes of the Barossa Assessment Panel meeting held on Tuesday 7 May 2024 be received and confirmed.

CARRIED

4. BUSINESS ARISING

Nil.

5. DECLARATION OF INTEREST BY MEMBERS OF THE PANEL

Nil.

The following disclosures have been made in relation to:

Item	Panel Member
6.1 Application 24005169 – 14 Kaesler Drive Nuriootpa	Michael Wohlstadt

Michael Wohlstadt declared an interest in respect of Item 6.1 as he operates a Bed and Breakfast Accommodation business.

6.2 Application 24006283 – 41 Queen Street Williamstown	Michael Wohlstadt
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Michael Wohlstadt declared an interest in respect of Item 6.2 as he operates a Bed and Breakfast Accommodation business.

6.3 Application 23035013 – Addendum – Lot 4 Duck Ponds Road Stockwell	Jane Evans
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Jane Evans declared an interest in respect of Item 6.3 as she is a Rural Producer and landholder, in addition to being a community member of the Water Allocation Planning Advisory Group. However Jane did not perceive this to be a conflict of interest so therefore will remain and participate in the meeting.

6.3 Application 23035013 – Addendum – Lot 4 Duck Ponds Road Stockwell	Michael Wohlstadt
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Michael Wohlstadt declared an interest in respect of Item 6.3 as he is a Primary Producer, however did not perceive it to

be a conflict of interest so therefore will remain and participate in the meeting.

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

6.1 24005169 - 14 Kaesler Drive Nuriootpa

Michael Wohlstadt left the meeting at 5:03pm due to an earlier stated conflict of interest.

Susan Giles nominated herself for the position of Deputy Presiding Member.

PANEL DECISION

Moved: G Hewitt

Seconded: J Evans

That Susan Giles be appointed to the position of Deputy Presiding Member of the Barossa Assessment Panel, for the consideration of Agenda Items 6.1 and 6.2.

CARRIED

Susan Giles assumed the Chair at 5:04pm.

Representors

Everfar Pty Ltd and Southace Pty Ltd provided a submission but did not attend to address the Panel.

Ian Mader on behalf of Ian and Sue Mader, Shane Hough and Diane Holland, addressed the Panel at 5:06pm, and answered questions from the Panel.

Applicant

Sharon and Simon Baldwin addressed the Panel at 5:23pm, and answered questions from the Panel.

PANEL DECISION

Moved: G Hewitt

Seconded: J Evans

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.

CARRIED

PANEL DECISION

Moved: J Evans

Seconded: G Hewitt

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.

CARRIED

PANEL DECISION

Moved: G Hewitt

Seconded: J Evans

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. 24005169 by Sharon and Simon Baldwin to undertake "Change of use from dwelling to shared use comprising tourist accommodation and dwelling" at 14 Kaesler Drive, Nuriootpa (CT6269/470) 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. 24005169 except where varied by any condition(s) listed below.
- (2) No more than eight (8) guests shall be accommodated within the Tourist Accommodation facility at any one time.
- (3) All guest vehicle parking must be contained within the site boundary at all times.

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 2 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 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).
- (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.

CARRIED

6.2 24006283 - 41 Queen Street Williamstown

Edward Evans (Applicant) attended via Teams Link.

PANEL DECISION

Moved: G Hewitt

Seconded: J Evans

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.

CARRIED

PANEL DECISION

Moved: G Hewitt

Seconded: J Evans

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.

CARRIED

PANEL DECISION

Moved: G Hewitt

Seconded: J Evans

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. 24006283 by Edward Evans to undertake "Change of use from tourist accommodation to shared use comprising dwelling and tourist accommodation" at 41 Queen Street, Williamstown (CT6111/476) subject to the following reserved matters, conditions and advisory notes:

Council Conditions

- (1) The development shall be undertaken in accordance with the endorsed plans and documentation (as amended) accompanying Application No. 24006283 except where varied by any condition(s) listed below.
- (2) No more than six (6) guests shall be accommodated within the building when used for Tourist Accommodation at any one time.
- (3) All 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 2 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 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).
- (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.

CARRIED

Mr Wohlstadt returned to the meeting at 5:57pm and assumed the Chair.

6.3 23035013 - Addendum - Lot 4 Duck Ponds Road Stockwell

Steve Kaesler (Manager, Engineering Services) answered questions from the Panel at 5:58pm.

PANEL DECISION

Moved: G Hewitt

Seconded: S Giles

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.

CARRIED

PANEL DECISION

Moved: J Evans

Seconded: M Wohlstadt

Character Preservation

Pursuant to Section 6(1)(a) 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 the development proposal does not recognise, protect and enhance the special character of the district and does not provide for the economic, social and physical wellbeing of the community.

As the vote was tied, Michael Wohlstadt used his casting vote to support the above recommendation.

CARRIED

PANEL DECISION

Moved: J Evans

Seconded: M Wohlstadt

Refusal 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 **REFUSE** Planning Consent for Application No. 23035013 by Access Planning (SA) Pty Ltd to undertake the Construction of a 160 ML irrigation dam, with maximum fill of 11 metres and max cut of 6.5 metres at Lot 4 Duck Ponds Road, Stockwell (CT 5229/947) for the following reasons:

The proposed development is contrary to:

- Performance Outcome 1.1, Hazards – Evidence Flooding Required Overlay;
- Performance Outcome 1.2, Interface Between Land Uses, General Section;
- Performance Outcome 1.1, Infrastructure & Renewable Energy, General Section.

In that:

- There is uncertainty regarding flood risk and property damage of the proposed dam as the risk is not adequately quantified; and
- The proposal does not minimise risk and/or adopt a precautionary approach to impacts which is not demonstrated; and
- The potential limitations and land development costs on the orderly development of land that is zoned for residential development in Stockwell;
- The overdevelopment of the land, comprising more than 50% of water storage than is needed to develop the subject land.

As the vote was tied, Michael Wohlstadt used his casting vote to support the above recommendation.

CARRIED

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

Nil.

8. REPORTS – PANEL UPDATES

Nil.

9. REPORTS – OTHER BUSINESS

Nil.

10. REPORTS – CONFIDENTIAL

Nil.

11. NEXT MEETING

Tuesday 6 August 2024 commencing at 5.00 pm

12. CLOSURE OF MEETING

The Presiding Member declared the meeting closed at 6:54pm.

Confirmed

Date:..... Chairman: