



STATE COMMISSION ASSESSMENT PANEL

A COMMITTEE OF THE STATE PLANNING COMMISSION

Minutes of the 152nd Meeting of the
State Commission Assessment Panel
held on Wednesday 25th January 2023 commencing at 9.30am
Level 9, 83 Pirie Street Adelaide / Microsoft Teams video conferencing

1. OPENING

1.1. ACKNOWLEDGEMENT OF COUNTRY

The Presiding Member acknowledged the traditional custodians of the land on which the State Commission Assessment Panel meets, and paid respect to Elders past, present and emerging.

1.2. PRESENT

| | |
|------------------|---|
| Presiding Member | Rebecca Thomas |
| Members | John Eckert Emma Herriman Paul Leadbeter David Altmann |
| Secretary | Jaclyn Symons, Governance Officer |
| DTI Staff | Troy Fountain (2.2.1, 2.2.2, 2.2.3, 2.2.4) Margaret Smith Nathan Grantham (2.2.1, 2.2.3) Jeremy Wood (2.2.1) Mollie O'Connor (2.2.1, 2.2.3) Gabrielle McMahon (3.2.1) Eric Alessi (3.2.1) Brittany Anderson (2.2.1, 2.2.2) |

APOLOGIES

Rebecca Rutschack (Deputy Presiding Member)
Grant Pember

Note: Meeting procedures of the SCAP have been modified in the light of COVID-19 and State Government protocols. Where possible participation in this meeting has been undertaken remotely to minimise risks.

2. SCAP APPLICATIONS

2.1. DEFERRED APPLICATIONS

2.2. NEW APPLICATIONS

2.2.1 Mr Marc Allgrove C/- Mr Phillip Brunning

22012755

231-235, 237 & 241 Melbourne Street, North Adelaide

Partial demolition, conservation and restoration works to the local heritage places, removal of two significant trees (*Schinus molle* var. *areira*, *Pepper tree*), removal of a regulated tree (*Jacaranda mimosifolia*, *Jacaranda*), and additions and alterations to the existing gallery and museum, comprised of display and storage space, office, shop, library, art studio, auditorium, tourist accommodation, front fence, and landscaping.

David Altmann was an apology for this item.

The Presiding Member welcomed all in attendance to the State Commission Assessment Panel hearing:

Applicant

- David Burton (Williams Burton Leopardi)
- David Handsaker (Williams Burton Leopardi)
- Phil Brunning (Phillip Brunning & Associates)
- Phil Weaver (Phil Weaver and Associates)
- Amanda Balmer (WAX)
- Ivailo Dimitrov (BESTEC)

Representors

- Natalia Brinton
- Derek Hodge

Agency

- Aya Shirai-Doull (ODASA)

Council

- Janaki Benson (City of Adelaide)

The State Commission Assessment Panel discussed the application.

RESOLVED

- 1) 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 NOT seriously at variance with the provisions of the Planning and Design Code; and
- 2) Development Application Number 22012755, by Marc Allgrove and Phil Brunning is granted Planning Consent subject to the following conditions and reserved matters.

RESERVED MATTERS

Planning Consent

Pursuant to Section 102(3) of the *Planning, Development and Infrastructure Act 2016*, the following matters shall be Reserved for further assessment, to the satisfaction of the State Planning Commission (SPC), prior to the granting of Development Approval:

Physical Samples Board

1. The applicant shall submit a final detailed schedule of external materials and finishes and a physical samples board prepared in consultation with the Government Architect, to the satisfaction of the State Planning Commission.

Works to the Local Heritage Places

2. The applicant shall submit final details of the replacement verandah and façade works to the Local Heritage Places, prepared in consultation with Adelaide City Council, to the satisfaction of the State Planning Commission, prior to the issue of Development Approval.

Tree Protection Zone

3. Confirmation of the detail for the Tree Protection Zone (TPZ) for the retained significant tree (*Brachychiton discolor* (lace kurrajong) identified as Tree 2 on Development Application 22012755 – Regulated & Significant Trees by Phillip Brunning and Associates together with any other tree protection measures as recommended by a suitably qualified Arborist, shall be provided to the satisfaction of the State Planning Commission, prior to the issue of Development Approval.

Stormwater Management Plan

4. A final detailed Stormwater Management Plan shall be prepared in consultation with Adelaide City Council and submitted to the satisfaction of the State Planning Commission, prior to the issue of Development Approval.

CONDITIONS

Planning Consent

Condition 1

The development authorisation granted herein shall be undertaken in accordance with the stamped approved plans, drawings, specifications and other documents submitted to the State Planning Commission, except where varied by conditions below (if any).

Condition 2

Replacement trees must be planted within 12 months of completion of the development at the following rates:

- Two trees to replace the regulated tree; and
- Three trees to replace each significant tree.

The eight replacement trees cannot be within a species specified under regulation 3F(4)(b) of the *Planning, Development and Infrastructure (General) Regulations 2017*, and cannot be planted within 10 metres of an existing dwelling or in-ground swimming pool.

Condition 3

A permanently fixed privacy screen shall be erected in accordance with the approved plan, prior to the commencement of the use of the tourist accommodation and shall be maintained as an effective privacy screen to the satisfaction of the Relevant Authority thereafter.

Condition 4

Waste Management shall be undertaken in accordance with the Waste Management Plan prepared by Williams Burton Leopardi and dated 7 January 2023.

Condition 5

The recommendations detailed in the Concept Design Report Acoustic Services report, dated 06/04/2022 prepared by BESTEC shall be fully incorporated into the development. Such measures shall be made

operational prior to the occupation or use of the development and maintained at all times to the satisfaction of the State Planning Commission.

Condition 6

The proposed hours of operation shall be:

- Shop/restaurant – 7.00am to 11.00pm Monday to Sunday; and
- Auditorium – 8.00am to 12.00am Monday to Friday, 9.00am to 12.00am Saturday, and 11.00am to 11.00pm on Sunday.

ADVISORY NOTES

Planning Consent

Advisory Note 1

This Planning consent will lapse at the expiration of 24 months from its operative date (unless this period has been extended by the State Planning Commission).

Advisory Note 2

The applicant has a right of appeal against the conditions which have been imposed on this Planning Consent. Such an appeal must be lodged at the Environment, Resources and Development Court within two months from the day of receiving this notice or such longer time as the Court may allow. The applicant is asked to contact the ERD Court if wishing to appeal. The ERC Court is located in the Sir Samuel Way Building, Victoria Square, Adelaide, (telephone number 8204 0289).

Advisory Note 3

The approved development must be substantially commenced within 24 months of the date of Development Approval, and completed within 3 years from the operative date of the approval, unless this period has been extended by the relevant authority.

Advisory Note 4

Prior to any use or occupation of the building, the Certifying Authority shall be provided with certification from a qualified engineer that the vehicle access and off street parking facilities have been constructed, including line marking and signage, in accordance with the approved design and relevant Australian Standards.

Advisory Note 5

Prior to any occupation or use of the development, all Council maintained infrastructure that is removed or damaged during construction works shall be reinstated to Council requirements and specifications. All costs associated with these works shall be met by the Applicant.

Advisory Note 6

Prior to any occupation or use of the development, the Certifying Authority shall ensure all redundant vehicular crossings and property drainage connections to the site have been removed and replaced by kerb and gutter and footpath paving and grass verge in accordance with Council's City Works Guide Works Impacting City of Adelaide Assets and Urban Elements Catalogue. Redundant vehicular crossing to the proposed pedestrian entry shall be closed with the kerb and gutter reinstated.

2.2.2 Daniel Petros

21035989

194-196 Island Beach Road, Island Beach

Proposed construction of a one-bedroom studio (Stage 1) and a three-storey detached dwelling (Stage 2).

David Altmann was an apology for this item.

A complete set of plans (SK01-SK18) dated 16 November 2022 in the PlanSA Portal was tabled.

The Presiding Member welcomed all in attendance to the State Commission Assessment Panel hearing:

Applicant

- Daniel Petros
- Sven Zehle

Representors

- Sulev Suursaar
- Thomas Brueggemann
- Annie Leo

The State Commission Assessment Panel discussed the application.

RESOLVED

- 1) Pursuant to Section 110 of the *Planning, Development and Infrastructure Act 2016*, and having undertaken an assessment of the application against the Planning and Design Code and the relevant documents referenced in Practice Direction 4, the application is NOT supported.
- 2) Development Application Number 21035989, by Daniel Petros is REFUSED Planning Consent for the following reasons:
 - a) Notwithstanding that it is a restricted form of development, the proposal would not satisfy the Planning and Design Code's expectations expressed in the Rural Shack Settlement Zone in respect of having two detached dwellings on one allotment and having a height above 6m and one storey in the zone.
 - b) The development will result in overlooking of the habitable rooms and private open spaces of adjoining properties.
 - c) Significant clearance of native vegetation on the site to accommodate the building footprint and bushfire risk mitigation requirements for two dwellings and associated structures will adversely impact on the character and amenity of the locality.
 - d) No additional substantiation of the proposal in terms of a need for this type of development in the locality or fulfilling a state planning policy requirement has been demonstrated.

2.2.3 Mr Graham Priest C/- Jeffrey Fudge & Associates
22031047

30 Bethel Road, Yankalilla

Land division – one into eight allotments (two for agricultural purposes and six for residential purposes).

The Presiding Member welcomed all in attendance to the State Commission Assessment Panel hearing:

Applicant

- Graham Priest

The State Commission Assessment Panel discussed the application.

RESOLVED

- 1) Pursuant to section 110(14) of the *Planning, Development and Infrastructure Act 2016*, issue a REFUSAL without proceeding to make an assessment of development application 22031047 by Mr Graham Priest C/- Jeffrey Fudge & Associates at 30 Bethel Road, Yankalilla for land division, one into eight allotments.

2.2.4 Dr Murray Coleman

22006029

353 Belvedere Road, Mannum

Proposed new dwelling and change in use of existing dwelling to farm workers accommodation.

Documentation from the applicant regarding flood mitigation was tabled.

The Presiding Member welcomed all in attendance to the State Commission Assessment Panel hearing:

Applicant

- Murray Coleman
- Geoff Simons
- Heather Simons

The State Commission Assessment Panel discussed the application.

RESOLVED

- 1) Pursuant to Section 110(1) of the *Planning, Development and Infrastructure Act 2016*, Development Application Number 22006029, by Murray Coleman is granted Planning Consent subject to the following conditions and reserved matters:

RESERVED MATTERS

Pursuant to section 102(3) of the *Planning, Development and Infrastructure Act 2016*, the following matter(s) shall be reserved for further assessment prior to the granting of Development Approval:

1. The applicant shall submit a detailed contour plan depicting the existing and proposed levels of the site around the dwelling and associated access road to minimise the visual impact on the natural environment.
2. The applicant shall submit detailed cross sections of the dwelling accurately depicting proposed cut and fill required to minimise the visual impact on the natural environment.

CONDITIONS

Planning Consent

Condition 1

The development granted Planning Consent shall be undertaken in accordance with the stamped approved plans, drawings, specifications and other documents submitted to the State Planning Commission, except where varied by conditions below (if any).

Conditions imposed by Minister for the time being administering the *River Murray Act 2003* under Section 122 of the Act

Condition 2

During works or construction activities associated with the development, the subject land must be managed in a manner as to prevent erosion and pollution of the site and the environment, including keeping the area in a tidy state and ensuring any waste materials are appropriately contained to ensure no pollutants (including excavation or fill material) enter the River Murray system.

Condition 3

Any fill material brought to the site must be clean and not contaminated by construction or demolition debris, industrial or chemical matter, or pest plant or pathogenic material.

Condition 4

Any excavation or fill material surplus to the requirements of the development must be disposed of such that it will not:

- be located within the River Murray 1956 flood extent;
- impede the natural flow of any surface waters;
- allow sediment to enter any water body;
- adversely impact native vegetation;
- facilitate the spread of pest plant and pathogenic material.

Condition 5

Stormwater run-off from roof areas must be managed to prevent erosion or pollution of the site and the environment, and be diverted away from wastewater disposal areas, such as septic tanks and aerobic systems.

ADVISORY NOTES

Planning Consent

Advisory Note 1

The applicant is advised of the need to obtain approval for the proposed on-site wastewater disposal system from SA Health. Details on how to obtain this approval can be found here:
<https://www.sahealth.sa.gov.au>

Advisory Note 2

If there is an intention to clear native vegetation on the land at any time, the applicant should consult the Native Vegetation Council to determine relevant requirements under the *Native Vegetation Act 1991* and its Regulations, which may include the provision of a Significant Environmental Benefit. Note that 'clearance' means any activity that could cause any substantial damage to native plants, including cutting down and removing plants, burning, poisoning, slashing of understorey, removal or trimming of branches, severing roots, drainage and reclamation of wetlands, and in some circumstances grazing by animals. For further information contact the Native Vegetation Council on telephone 8303 9777 or visit:
<http://www.nvc.sa.gov.au>.

Advisory Note 3

The Applicant is advised of the following requirements of the *Aboriginal Heritage Act 1988*:

- If Aboriginal sites, objects or remains are discovered during excavation works, the Aboriginal Heritage Branch of the Aboriginal Affairs and Reconciliation Division of the Department of the Premier and Cabinet (as delegate of the Minister) should be notified under Section 20 of the Aboriginal Heritage Act 1988.

Advisory Note 4

This consent or approval will lapse at the expiration of 24 months from its operative date (unless this period has been extended by the State Planning Commission).

Advisory Note 5

The approved development must be substantially commenced within 24 months of the date of Development Approval and completed within 3 years from the operative date of the approval, unless this period has been extended by the relevant authority.

Advisory Note 6

The applicant has a right of appeal against the conditions which have been imposed on this Planning Consent or Development Approval. Such an appeal must be lodged at the Environment, Resources and Development (ERD) Court within two months from the day of receiving this notice or such longer time as the ERD Court may allow. The applicant is asked to contact the ERD Court if wishing to appeal. The ERD Court is located in the Sir Samuel Way Building, Victoria Square, Adelaide, (telephone number 8204 0289).

Advisory Notes imposed by Minister for the time being administering the *River Murray Act 2003* under Section 122 of the Act

Advisory Note 7

The applicant is reminded of the General Duty of Care under Section 23 of the *River Murray Act 2003*, which requires that a person must take all reasonable measures to prevent or minimise any harm to the River Murray through his or her activities.

Advisory Note 8

The Central Archive, which includes the Register of Aboriginal Sites and Objects, administered by the Attorney-General's Department - Aboriginal Affairs and Reconciliation (AGD-AAR), has entries for Aboriginal sites at this location. As such, authorisation to undertake works at the site may be required pursuant to the *Aboriginal Heritage Act 1988*. The applicant is strongly encouraged to refer to the attached AGD-AAR map and advice regarding obligations under the *Aboriginal Heritage Act 1988* and to consult the following Aboriginal organisations prior to undertaking any ground disturbing activities, to ensure that any cultural heritage can be protected as far as practicable:

First Peoples of the River Murray and Mallee Region #2

Address: SANTs Level 4 345 King William Street Adelaide SA 5000

Contact Officer: Tim Graham

Email: TimG@nativetitlesa.org

Mannum Aboriginal Community Association Incorporated

Chairperson: Anita Hunter

Address: PO Box 58 Nildottie SA 5238

Telephone: 0484898285

Contact Officer: Izzy Campbell

Telephone: 0407006651

Email: issobellee@gmail.com

River Murray and Mallee Aboriginal Corporation

Chairperson: Julie Cook

Email: juliecookjhakyah@gmail.com

Contact Officer: Andrew Jantke

Telephone: 0418803184

Email: andrewj@nativetitlesa.org

Advisory Note 9

The River Murray and many of its tributaries and overflow areas have abundant evidence of Aboriginal occupation and Aboriginal sites, objects or remains may be present on the subject land. Under section 20 of the *Aboriginal Heritage Act 1988* (the Act), an owner or occupier of private land, or an employee or agent of such an owner or occupier, must report the discovery on the land of any Aboriginal sites, objects or remains to the Minister responsible for the administration of the Act, as soon as practicable, giving the particulars of the nature and location of the Aboriginal sites, objects or remains. It is an offence to damage, disturb or interfere with any Aboriginal site or damage any Aboriginal object or remains (registered or not) without the authority of the Minister for Aboriginal Affairs and Reconciliation (the Minister). If the planned activity is likely to damage, disturb or interfere with a site, object or remains, authorisation of the activity must be first obtained from the Minister under Section 23 of the Act. Penalties may apply for failure to comply with the Act. For further information visit: <http://taawika.sa.gov.au>.

Advisory Note 10

Prior to the clearance of native vegetation (including reeds) for any purpose, the applicant should consult the Native Vegetation Council to determine relevant requirements under the *Native Vegetation Act 1991* and its Regulations, which may include the provision of a Significant Environmental Benefit. Note that 'clearance' means any activity that could cause any substantial damage to native plants, including cutting down and removing plants, burning, poisoning, slashing of understorey, removal or trimming of branches, severing roots, drainage and reclamation of wetlands, and in some circumstances grazing by animals. For further information contact the Native Vegetation Council on telephone 8303 9777 or visit: <http://www.nvc.sa.gov.au>.

Advisory Note 11

The applicant is encouraged to incorporate locally indigenous plant species into any landscaping, screen planting or revegetation activities at the site to enhance the natural character of the locality, stabilise soils and provide habitat for native species. For information on appropriate species to be planted, please contact State Flora at Bremer Road, Murray Bridge on telephone 8539 2105, or within Belair National Park on telephone 8278 7777 or visit: <http://www.stateflora.sa.gov.au>.

Advisory Note 12

If the applicant wishes to use water (other than for firefighting purposes) from the River Murray Prescribed Watercourse or wells, then they may be required to apply to the Department for Environment and Water (DEW) for a water licence, pursuant to the *Landscape South Australia Act 2019*. Further, a permit is required for any work to be carried out on a well or for new wells to be drilled. For further information contact the DEW Water Licensing Branch on telephone 8595 2053 or visit: <http://www.environment.sa.gov.au/licences-and-permits/water-licence-and-permit-forms>.

Advisory Note 13

This approval does not obviate any considerations that may apply to the *Environment Protection and Biodiversity Conservation Act 1999* (Cth). For further information visit: <http://www.environment.gov.au/epbc>.

2.3. RESERVED MATTERS

3. CROWN DEVELOPMENTS (ADVISORY ITEMS)

3.1. DEFERRED APPLICATIONS

3.2. NEW APPLICATIONS

3.2.1 Department for Education

252/V165/22

38A Drummond Avenue, Findon

The construction of a two storey vocational education building (Findon Technical College) including 3.6 metre high perimeter fencing, landscaping and associated carparking.

A Stormwater Management Plan (dated 18 January 2023), Technical Note – Exhaust Discharges (dated 20 January 2023) and additional detail from the representor was tabled.

The Presiding Member welcomed all in attendance to the State Commission Assessment Panel hearing:

Applicant

- Simon Channon (URPS)
- Caroline Cummins (Brown Falconer)
- Michael Lambert (Brown Falconer)
- Daniel Rosato (DFE)
- Courtney Grose (DIT)

Representations

- Peter Cockburn

Agency

- Aya Shirai-Doull (ODASA)

The State Commission Assessment Panel discussed the application.

RESOLVED

- 1) That the State Commission Assessment Panel provide its recommendation in confidence (published in the SCAP Confidential Minutes – 25 January 2023) to the Minister for Planning.

Note: A Decision Notification Form will be forwarded to all representors once the Minister has made a decision on the application.

4. MAJOR DEVELOPMENTS – VARIATIONS

5. REPORTING

6. COURT COMPROMISE

7. BRIEFINGS

8. PROCEDURAL MATTERS

9. OTHER BUSINESS

10. NEXT MEETING

- 10.1. Wednesday 8 February 2023 at Level 9, 83 Pirie Street, Adelaide SA 5000/ Via Microsoft Teams video conferencing.

11. REVIEW OF SCAP INSTRUCTIONS TO STAFF AND UPCOMING AGENDA ITEMS

12. CONFIRMATION OF THE MINUTES OF THE MEETING

13. MEETING CLOSE

- 13.1. The Presiding Member thanked all in attendance and closed the meeting at 3.35pm.

Confirmed 25/01/2023



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Rebecca Thomas
PRESIDING MEMBER