

**ADELAIDE HILLS COUNCIL
MINUTES OF COUNCIL ASSESSMENT PANEL MEETING
WEDNESDAY 8 NOVEMBER 2023
63 MOUNT BARKER ROAD, STIRLING
AND
ZOOM VIRTUAL MEETING ROOM**

[Please Note: These minutes are unconfirmed until 13 December 2023]

In Attendance

Presiding Member

Geoff Parsons

Members

Ross Bateup

Paul Mickan

Leith Mudge – via Zoom

In Attendance

Natalie Armstrong

Deryn Atkinson

Doug Samardzija

Melanie Scott

Marie Molinaro

Sebastien Paraskevopoulos

Mike O'Donnell

Karen Savage

Director Community & Development

Assessment Manager

Acting Team Leader Statutory Planning

Senior Statutory Planner

Acting Senior Statutory Planner

Statutory Planner

ICT Support Officer

Minute Secretary

1. Commencement

The meeting commenced at 6.33pm

2. Opening Statement

“Council acknowledges that we meet on the traditional lands and waters of the Peramangk and Kaurna people. We pay our respects to Elders past, present and emerging as the Custodians of this ancient and beautiful land. Together we will care for this country for the generations to come”.

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3. Apologies/Leave of Absence

3.1 Apologies
Myles Somers

3.2 Leave of Absence
Nil

4. Previous Minutes

4.1 Meeting held 13 September 2023

The minutes were adopted by consensus of all members (20)

That the minutes of the meeting held on 13 September 2023 be confirmed as an accurate record of the proceedings of that meeting.

5. Presiding Member's Report

Nil

6. Declaration of Interest by Members of Panel

Leith Mudge advised that in relation to:

- Item 8.2 he has spent a number of years with the client of the applicant, Ian Bailey, on Council and various Council Committees and they were both Councillors of the same ward until Ian Bailey's retirement in the 2022 Elections. Whilst he does not have a direct personal interest in this matter, he believes there may be a perceived conflict of interest and, as an Elected Member of the Council, he will not take place in the deliberation for this matter and will leave the meeting when this matter is considered;
- Item 8.3 he has a conflict of interest as he is a friend of the applicant, Oliver Sierp. Whilst he has had no discussions regarding this matter and he has no pecuniary interest there may be a perceived conflict of interest and he will therefore leave the meeting when this matter is considered; and

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- Item 8.4 as this is an application from a Council employee there could be a perceived conflict of interest. Whilst he does know the employee, he has not had any discussions on this matter with them, and there is no pecuniary interest. He will therefore remain in the meeting for the deliberations and vote.

7. Matters Lying on the Table/Matters Deferred

7.1 Matters Lying on the Table
Nil

7.2 Matters Deferred
Nil

8. Development Assessment Applications – Planning, Development and Infrastructure Act

8.1 **Development Application 22041947 by Mark Kwiatkowski and Anthony Wagenknecht for change of use to include brewery (light industry) within part of store building (producing 44,000L per annum) and construction of mezzanine within the store building for sale & tasting of beer with associated car parking at 14 Nioka Drive, Ironbank**

8.1.1 Representations

Name of Representor	Address of Representor	Nominated Speaker
Keran McKenzie	PO Box 232, Stirling	Did not Attend
Ros Barrett	8 Allumba Drive, Ironbank	Unable to attend due to work commitments
Robyn Nelson	PO Box 429, Stirling	Did not Attend
David Lapans	PO Box 83, West Beach	David Lapans
Peter Auhl	5 Allumba Drive, Ironbank	Did not Attend
Sarka Auhl	5 Allumba Drive, Ironbank	Did not Attend
Daniel Rowe	11 Allumba Drive, Ironbank	Daniel Rowe
Katrina Barber	9 Allumba Drive, Ironbank	Katrina Barber

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Steven Murray	9 Allumba Drive, Ironbank	Steven Murray
Paula Kulas	8 Nioka Drive, Ironbank	Paula Kulas
Mark Winston	4 Pimpala Road, Ironbank	Did not Attend
David & Vicki Wilczek	18 Nioka Drive, Ironbank	Attended the meeting but opted not to make a representation
Martine Welfare	15 Allumba Drive, Ironbank	Did not Attend
Andrew Blanchard	235 Ironbank Road, Ironbank	Did not Attend

The representors, David Lapans and Paula Kulas, answered questions from the Panel.

The applicants' representatives, John Mason (Adelaide Planning), Mark Roberts (Brewer) and Anthony Wagenknecht (Applicant) addressed the Panel, and answered questions from the Panel.

8.1.2 Decision of Panel

Moved **Ross Bateup**
S/- **Leith Mudge**

Carried
(21)

The Council Assessment Panel resolved that:

- 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 22041947 by Mark Kwiatkowski and Anthony Wagenknecht for change of use to include brewery (light industry) within part of store building (producing 44,000L per annum) and construction of mezzanine within the store building for sale & tasting of beer with associated car parking at 14 Nioka Drive, Ironbank is GRANTED Planning Consent subject to the following reserved matter and conditions:**

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RESERVED MATTER

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

- 1) A detailed landscaping plan shall be prepared by a suitably qualified professional and submitted with further details regarding plant species and plant locations including screening around the new parking area and the pedestrian pathway between the car park and the brewery building.

Plant species detailed in the landscaping plan shall be selected from the Council's Native Habitat Landscaping and Gardening Guide or Native Habitat Gardening Guide for Low Flammability Gardens. The guides can be downloaded from the Council website: [Native Gardens at Home • Adelaide Hills Council \(ahc.sa.gov.au\)](https://www.adelaidehills.sa.gov.au/nativegardens).

Pursuant to Section 127(1) of the *Planning, Development and Infrastructure Act 2016*, the power to impose further conditions of consent in respect of the reserved matter above is delegated to the Assessment Manager.

CONDITIONS

Planning Consent

- 1) The development granted shall be undertaken and completed in accordance with the stamped plans and documentation, except where varied by conditions below.
- 2) The hours of operation, including deliveries, shall be as follows:

Brewery
Monday to Sunday between 8:30am – 5:00pm for a maximum of two (2) days per week.

Associated Sales & Tasting Area
Saturday between 11:00am – 5:00pm with a maximum operation of two Saturdays per calendar month.

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- 3) The maximum capacity of the associated sales & tasting mezzanine level area shall be 20 persons at any one time, with a maximum total of 40 customers per operating Saturday. No outdoor areas shall be used for the sale or tasting of beer.
- 4) An extractor fan shall only be located in the roof of the building above the nominated brewing area.
- 5) Only broadband reversing alarms shall be fitted to trucks, pallet jacks or forklifts.
- 6) Prior to commencement of the approved use brew kettles shall be fitted with a vapour condenser and used when brewing occurs.
- 7) Brewing shall not occur while any of the building doors are open.
- 8) No private depot use heavy vehicle movements shall occur while brewery processing activity is occurring, or the sales & tasting area is in operation.
- 9) The noise levels generated by both herein approved uses shall not exceed 52dB(A) between 7:00am and 10:00pm and 45dB(A) before 7:00am and after 10:00pm within the nearby dwellings.
- 10) A maximum 44,000L of beer shall be produced per annum. Any increase to the brewing capacity will require separate Development Approval.
- 11)
 - a) Prior to commencement of the brewery operations, the brewery portion of the building must be fitted with an impervious flooring material and internally bunded, with drainage connected to the wastewater management system; and
 - b) Brewery activities, including storage and unloading of beer and solid waste must be carried out on an impervious area that drains to the wastewater management system.

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- 12) Prior to commencement of the brewery operations, the brewery building shall be fitted with an extractor fan that is capable of discharging emissions. The exhaust system must be in operation during the boiling part of the brewing processing. Boiling shall only occur for a maximum of one (1) hour per day.
- 13) All solid brewery waste shall be stored within sealed bins located in the brewery building prior to collection for off-site disposal.
- 14) All formally nominated car-parking spaces, driveway and manoeuvring areas shall be completed and delineated prior to the use commencing in accordance with the approved site plan. Driveways, vehicle manoeuvring and parking areas shall be constructed of compacted gravel (or similar) and be maintained in good condition at all times.
- 15) Prior to the commencement of the approved use a sign shall be installed on the exit driveway advising patrons to "Please respect neighbours and leave the premises in a quiet manner".
- 16) Flood lighting shall be restricted to that necessary for security purposes only and shall be directed and shielded in such a manner as to not cause nuisance to adjacent properties.

ADVISORY NOTES

Planning Consent

- 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) 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.
- 3) This Planning Consent is valid for a period of twenty four (24) months commencing from the date of the decision, subject to the below or subject to an extension having been granted by the relevant authority. If applicable, Building Consent must be obtained prior to expiration of the Planning Consent.

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- 4) 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).
- 5) Separate Development Approval is required for any new advertisements associated with the development herein approved.
- 6) The operator should have regard to preparing a bushfire survival plan (BSP). A template BSP document 'Bushfire Safety and Survival for Business and Organisations document' can found on the CFS website. The operator should consider restrictions on days of extreme weather or bushfire events.
- 7) Compliance with Food Act SA 2001 This approval under the Development Act 1993 does not in any way imply compliance with the Food Act SA 2001 and/or Food Safety Standards. It is the responsibility of the owner of other person operating the food business from the building to ensure compliance with the relevant legislation before opening the food business on the site.
- 8) Food Handling Notification Food business notification must be provided prior to commencing any food (or consumable product) handling activities. This may be provided on-line at www.fbn.sa.gov.au or by obtaining a notification form from Adelaide Hills Council.

8:40pm Leith Mudge withdrew from the meeting due to his declared conflict of interest

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- 8.2 **Development Application 22015517 by Wegener Constructions for store associated with existing industry (spring water extraction, bottling & distribution), new opening to existing building, relocation of outbuilding (toilet block) and new parking area at 61 Sprigg Road, Crafers**

8.2.1 **Representations**

Name of Representor	Address of Representor	Nominated Speaker
Phillip Brunning on behalf of: Richard Sprod Ryan Walker Christine & Ray Underdown John & Jan Thornton Joyce Reid & Douglas Alexander	27 Halifax Street, Adelaide	Phillip Brunning Phillip Brunning & Associates
Abbie Southam	26 Sprigg Road, Piccadilly	Did not Attend

Phil Brunning answered questions from the Panel.

The applicant's representatives, Garth Heynen (Heynen Planning Consultants) and Ian Bailey (landowner/business owner), addressed the Panel, and answered questions from the Panel.

8.2.2 **Decision of Panel**

The following was adopted by consensus of all members (22)

The Council Assessment Panel resolved that:

- 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**

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- 2) Development Application Number 22015517 by Wegener Constructions for store associated with existing industry (spring water extraction, bottling & distribution), new opening to existing building, relocation of outbuilding (toilet block) and new parking area at 61 Sprigg Road, Crafers is GRANTED Planning Consent subject to the following reserved matter and conditions:

RESERVED MATTER

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

- 1) A detailed landscaping plan shall be prepared by a suitably qualified professional and submitted with further details regarding plant species and plant locations including screening around the new parking area and between the lower and upper level group of industry buildings.

Plant species detailed in the landscaping plan shall be selected from the Council's Native Habitat Landscaping and Gardening Guide or Native Habitat Gardening Guide for Low Flammability Gardens. The guides can be downloaded from the Council website: [Native Gardens at Home • Adelaide Hills Council \(ahc.sa.gov.au\)](http://NativeGardensatHome.AdelaidesHillsCouncil.southaustralia.gov.au).

Pursuant to Section 127(1) of the *Planning, Development and Infrastructure Act 2016*, the power to impose further conditions of consent in respect of the reserved matter above is delegated to the Assessment Manager.

CONDITIONS

Planning Consent

- 1) The development granted shall be undertaken and completed in accordance with the stamped plans and documentation, except where varied by conditions below.
- 2) The store building shall only be used for storage of bottled/package spring water in association with the existing industry use. Any additional or different use of this building will constitute a change in use and will require separate Development Approval.

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- 3) External finishes of the store building shall be of materials and colours to match or complement those of the existing industry buildings to the reasonable satisfaction of Council.
- 4) All surface water from the new parking area shall be directed to a gross pollutant trap (GPT) capable of removing oils, silts, greases, and gross pollutants to Council satisfaction prior to discharge to the Council stormwater system.
- 5) All roof runoff generated by the store building shall be directed to a rainwater tank with overflow to the street in accordance with the approved stormwater design report by Fyfe dated 17 August 2023 to the satisfaction of Council within one month of the roof cladding being installed. All roof and hard surface runoff shall be managed to prevent trespass onto adjoining properties and into the effluent disposal area.
- 6) Flood lighting around the store building shall be restricted to that necessary for security purposes only and shall be directed and shielded in such a manner as to not cause nuisance to adjacent properties.

ADVISORY NOTES

Planning Consent

- 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) 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.
- 3) This Planning Consent is valid for a period of twenty-four (24) months commencing from the date of the decision, subject to the below or subject to an extension having been granted by the relevant authority. If applicable, Building Consent must be obtained prior to expiration of the Planning Consent.

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- 4) 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).

9:36pm The meeting was adjourned for a short break
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9:41pm The meeting resumed

8.3 Development Application 23014494 by Oliver Sierp for change of use from dwelling to tourist accommodation (12 guests) and internal alterations (retrospective) at 1 Bilney Road, Stirling

8.3.1 Representations

Name of Representor	Address of Representor	Nominated Speaker
Pascoe Ayling	3 Bilney Road, Stirling	Did not Attend

The applicant, Oliver Sierp, was invited to answer questions from the Panel.

8.3.2 Decision of Panel

The following was adopted by consensus of all members (23)

The Council Assessment Panel resolved that:

- 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 23014494 by Oliver Sierp for change of use from dwelling to tourist accommodation (12 guests) and internal alterations (retrospective) at 1 Bilney Road, Stirling is GRANTED Planning Consent subject to the following conditions:**

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CONDITIONS

Planning Consent

- 1) The development granted shall be undertaken and completed in accordance with the stamped plans and documentation, except where varied by conditions below (if any).**
- 2) The tourist accommodation shall accommodate a maximum number of 12 guests at any given time.**
- 3) The person(s) having the benefit of this consent shall refrain from permitting the use of the building (or any part thereof) for provision long term accommodation or as a separate dwelling. The tourist accommodation shall be used and operated on a short term rental arrangement with a maximum of a one month stay per occupancy.**

A logbook shall be kept of all occupancies for each calendar year and made available for inspection by the Council upon request.

- 4) Crossover requirements – Bilney Road:**
 - The excavation works must be conducted under the supervision of a qualified consulting Arborist;**
 - No mechanical excavation is to occur without comprehensive root zone investigation works being undertaken in relation to the Oak tree on the Council road verge;**
 - Hydro excavation of a liner trench to the depth of the proposed cut depth is required to first assess the extent of root material present and identify root pruning opportunities;**
 - The trench is required to be in an east-west orientation, positioned to the southern- most side of the existing crossover footprint;**
 - No severance of tree roots greater than 50mm should occur. If tree roots greater than 50mm are identified they must be wrapped in wet hessian and the Council Open Space team contacted for further assessment prior to work continuing;**
 - The applicant shall supply to Council a summary document of the root zone assessment findings prepared by the engaged consulting Arborist within 7 days of the root zone investigation works being completed; and**
 - The proposed crossover footprint cannot encroach any closer to the tree than the existing cut gravel surface.**

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ADVISORY NOTES

General 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) 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.**
- 3) This Planning Consent is valid for a period of twenty-four (24) months commencing from the date of the decision, subject to the below or subject to an extension having been granted by the relevant authority. If applicable, Building Consent must be obtained prior to expiration of the Planning Consent.**
- 4) 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).**
- 5) A separate development application is required for any signs or advertisements (including flags and bunting) associated with the development herein approved.**

10:04pm Leith Mudge returned to the meeting

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8.4 Development Application 23007983 by Bargain Steel Centre for outbuilding at 6 Onkaparinga Street, Lobethal

The Council Assessment Panel accepted the amended plans e-mailed to them on 8 November 2023.

8.4.1 Representations
N/A

8.4.2 Decision of Panel

The following was adopted by consensus of all members (24)

The Council Assessment Panel resolved that:

- 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 23007983 by Bargain Steel Centre for outbuilding at 6 Onkaparinga Street, Lobethal is GRANTED Planning Consent subject to the following conditions:

CONDITIONS

Planning Consent

- 1) The development granted shall be undertaken and completed in accordance with the stamped plans and documentation, except where varied by conditions below.
- 2) The external finishes to the outbuilding herein approved shall be as follows:
WALLS: Colorbond 'Monument' or similar or similar
ROOF: Colorbond 'Monument' or similar
- 3) The outbuilding shall not be used for human habitation, commercial or industrial purposes. Any such activity may constitute a change in use and will require separate development approval.

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- 4) All roof runoff generated by the development hereby approved shall be directed to a rainwater tank with overflow to the street (via a pump if necessary) or a Council drainage easement to the satisfaction of Council within one month of the roof cladding being installed. All roof and hard surface runoff shall be managed to prevent trespass onto adjoining properties and into the effluent disposal area where an on-site waste control system exists.

ADVISORY NOTES

Planning 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) 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.
- 3) This Planning Consent is valid for a period of twenty-four (24) months commencing from the date of the decision, subject to the below or subject to an extension having been granted by the relevant authority. If applicable, Building Consent must be obtained prior to expiration of the Planning Consent.
- 4) 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).
- 5) This Planning Consent does not formalise or guarantee access across the land of 16 Onkaparinga Street currently allowed by the Lobethal Recreation Sports Ground Club. The most secure way to travel within neighbouring land to your property into the future would be to register a legal right of way over the land. Any other agreement to access the land could be rescinded in the future by the neighbouring landowners, risking your ability to access your property in the intended manner.

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- 6) The applicant is reminded of their general environmental duty, as required by Section 25 of the Environment Protection Act 1993, to take all reasonable and practical 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.
- 7) Management of the property during construction shall be undertaken in such a manner as to prevent denudation, erosion or pollution of the environment.
- 8) The onus of ensuring that any development is located in the approved position on the correct allotment is the responsibility of the landowner/applicant. This may necessitate a boundary survey being undertaken by a licensed land surveyor prior to the work commencing and when building work is complete.

9. **Development Assessment Applications – Development Act**
Nil

10. **Development Assessment Applications – Review of Decisions of Assessment Manager**
Nil

11. **ERD Court Appeals**
The Assessment Manager provided the Panel with a verbal update on current ERD Court Appeals.

12. **Policy Issues for Advice to Council**
Nil

13. **Other Business**

13.1 The Assessment Manager foreshadowed that, following recent Case Law around Panel meetings, another training session will be organised in the New Year with Norman Waterhouse. The date will be advised in due course.

14. **Order for Exclusion of the Public from the Meeting to debate Confidential Matters**
Nil

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- 15. Confidential Item**
Nil
- 16. Next Meeting**
The next ordinary Council Assessment Panel meeting will be held on Wednesday 13 December 2023.
- 17. Close meeting**
The meeting closed at 10.18pm.