

**MINUTES
OF THE COUNCIL ASSESSMENT PANEL MEETING OF THE CITY OF TEA TREE
GULLY HELD ON TUESDAY 21 MARCH 2023 AT 10.07AM IN THE COUNCIL
CHAMBERS, 571 MONTAGUE ROAD, MODBURY**

1. Attendance Record:

1.1 Present

Mr M Adcock	<i>(Independent Member)-(Presiding Member)</i>
Mr J Rutt	<i>(Independent Member)</i>
Ms N Taylor	<i>(Deputy Independent Member)</i>
Mr D Wyld	<i>(Elected Member)</i>

Officers in Attendance

Mrs M Pereira	General Manager, Community Services
Mr N Grainger	Manager, City Development
Mr B O'Neil	Senior Planning Officer
Ms J Perry	Senior Planning Officer
Ms R Singh	Planning Officer
Ms C Gustafson	Development Services Administration Officer

1.2 Apologies

Mr A Mackenzie	<i>(Independent Member)</i>
Ms B Merrigan	<i>(Independent Member)</i>

1.3 Public Gallery

8 attendees

1.4 Media - Nil

2. Minutes of Previous Meeting

Moved Mr Rutt, Seconded Taylor

That the Minutes of the Council Assessment Panel Meeting held on 21 February 2023 be confirmed as a true and accurate record of proceedings.

Motion Carried Unanimously (228)

3. Business Arising from Previous Minutes - Nil

4. Reports and Recommendations

4.1 22015404 - Application to CAP for Review of Assessment Manager decision at 29 Waltham Forrest Trail Golden Grove

David Clayton and Bob Shultz (independent arborist) attended the meeting and addressed Panel Members in support of the application.

Moved Mr Rutt, seconded Mr Adcock

1. The Council Assessment Panel resolves to affirm the decision of the Assessment Manager:

That the application is not seriously at variance with the Planning and Design Code, and that DA 22014549 does not warrant planning consent for the following reasons:

Regulated and Significant Tree Overlay DO 1 which seeks: *Conservation of regulated and significant trees to provide aesthetic and environmental benefits and mitigate tree loss.*

This Objective is informed by the following Performance Outcomes:

Performance Outcome 1.2 which states that: *Significant trees are retained where they:*

- a. Make an important contribution to the character or amenity of the local area
- b. are indigenous to the local area and are listed under the *National Parks and Wildlife Act 1972* as a rare or endangered native species
- c. Represent an important habitat for native fauna
- d. Are part of a wildlife corridor or a remnant area of native vegetation
- e. Are important to the maintenance of biodiversity in the local environment and/or
- f. Form a notable visual element to the landscape of the local areas

Performance Outcome 1.3 which states that: A tree damaging activity not in connection with other development satisfies (a) and (b):

- a. Tree damaging activity is only undertaken to:
 - i. Remove a diseased tree where its life expectancy is short
 - ii. Mitigate an unacceptable risk or public private safety due to limb drop or the like
 - iii. Rectify or prevent extensive damage to a building of value as comprising of any of the following:
 - A. A local heritage place
 - B. A state heritage place
 - C. A substantial building of value

And there is no reasonable alternative to rectify or prevent such damage other than to undertake a tree damaging activity.

- v. Treat disease or otherwise in general interests of the health of the tree and / or
- vi. Maintain the aesthetic appearance and structural integrity of the tree
- b. In relation to a significant tree, tree-damaging activity is avoided unless all reasonable remedial treatments and measures have been determined to be ineffective.

Motion carried on the casting vote of the Presiding Member(229)

10.54 Meeting adjourned

10.58 Meeting recommenced

4.2 22032937 - Variation to Development Application 070/118655/2020 - Change in hours of operation (condition 2) and increase in guest numbers (condition 3) at 488-500 Yatala Vale Road Yatala Vale

Moved Mr Rutt, Seconded Taylor

It is recommended that the Council Assessment Panel resolve that:

- A. 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
- B. Development Application Number 23006887, by Gary Williams is granted Planning Consent subject to the following reasons/conditions/reserved matters:

CONDITIONS

- (1) The development shall be undertaken, completed and maintained in accordance with the plan(s) and information detailed in Application No. 070/118655/2020 except where varied by any condition(s) listed below.
- (2) The hours of operation for the wedding ceremonies herein approved are as follows:
 - Thursdays Ceremonies from 2:30pm – 6:00pm
 - Fridays Ceremonies from 11:00am – 2:00pm
 - Saturdays Ceremonies plus garden cocktail events from 2:30pm – 10:00pm
 - Sundays Ceremonies plus cocktail events from 2:30pm – 8:00pmAny variation to these hours of operation will require a further consent.
Reason: To minimise the impact on adjoining properties.
- (3) The capacity of the wedding ceremonies shall be limited to:
 - 50 guests per ceremony at location A marked on the site plan.
 - 100 guests per ceremony at locations B, C and D.

Any increase in capacity will require a further development approval.

Reason: To ensure adequate carparking is available on the site and reduce amenity impact to adjoining properties.

- (4) Wedding Ceremonies are to only be undertaken at locations A, B, C and D as marked on the site plan identified as figure 2 in the Sonus report.
Reason: To minimise the impact on adjoining properties.
- (5) The acoustic treatments outlined on page 7 of the report prepared by Sonus, reference S7561C2 are completed prior to the commencement of extended hours of operation.
Reason: To minimise the impact of noise on adjoining properties.

Motion Carried Unanimously (130)

4.3 22025727 - Three storey semi-detached dwellings, retaining wall, fencing, roof terrace, verandah, tree damaging activity, and partial demolition of gabion front fence at 26 Tarton Road Holden Hill

Moved Cr Wyld, Seconded Mr Rutt

It is recommended that the Council Assessment Panel resolve that:

- A. 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
- B. Development Application Number 22025727, by Malgorzata Zebrowska Bogusz is refused Planning Consent subject to the following reasons/conditions/reserved matters:

REFUSAL REASON

1. Proposed dwellings do not meet the following provisions of the Planning and Design Code:
- a. General Neighbourhood Zone DO 1
 - b. General Neighbourhood Zone PO1.1, PO4.1 and 8.1
 - c. Interface between Land Uses DO1
 - d. Interface between Land Uses PO3.2 and PO3.3

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. A decision of the Commission in respect of a development classified as restricted development in respect of which representations have been made under section 110 of the Act does not operate—
 - a. until the time within which any person who made any such representation may appeal against a decision to grant the development authorisation has expired; or
 - b. if an appeal is commenced—
 - i. until the appeal is dismissed, struck out or withdrawn; or
 - ii. until the questions raised by the appeal have been finally determined (other than any question as to costs).

Motion Carried Unanimously (231)

4.4 22036676 - Change of Use from office to indoor recreation facility (Group Fitness Studio) - Deferred from meeting held 21/2/2023

Moved Mr Rutt, Seconded Cr Wyld

It is recommended that the Council Assessment Panel resolve that:

- A. 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
- B. Development Application Number 22036676, by Lee Harris is granted Planning Consent subject to the following reasons/conditions:

CONDITIONS

1. The development must be undertaken, completed and maintained in accordance with the plan(s) and information detailed in the application herein approved, except where varied by any condition(s) listed below.
2. The hours of operation of the indoor recreation centre are limited to the following:
Monday to Friday – 5:00am – 7:30pm
Saturday – 7:00am – 5.00pm

Reason: To minimise impacts on adjoining properties.

- The maximum number of clients is limited to 16 per lesson.

Reason: To ensure adequate car parking is available onsite.

- The development must not at any time emit noise that exceeds 45Db between 10.00pm and 7.00am as required by the *Environmental (Noise) Policy 2007 for noise effected premises.*

Reason: To ensure noise levels are limited to the maximum noise levels, minimise impacts on adjoining residential properties and preserve the amenity of the locality.

- Music from the indoor recreation facility must not exceed the following noise level when measured at the noise source.

Table 1: Indicative noise levels

Item	Land Zoning (refer Appendix A4)	Land Use Category (EPP)	Indicative noise factor, dB	
			Day (7 am – 10 pm)	Night (10 pm – 7 am)
Noise source	Suburban activity centre/General neighbourhood	Commercial/Residential	57	50
Noise-affected premise	General neighbourhood	Residential	52	45
Indicative noise level, dB LAeq,15 min			55	48

Reason: To minimise the impact on the adjoining residential properties.

ADVISORY NOTES

PLANNING CONSENT NOTES

- The cost of rectifying any damage or conflict with any existing services or infrastructure arising out of this development will be borne by the applicant.
- This consent does not obviate the need to obtain any other necessary approvals from any/all parties with an interest in the land.
- The development must not at any time emit noise that exceeds the relevant levels derived from the Environmental (Noise) Policy 2007.

GENERAL NOTES

- 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. A decision of the Commission in respect of a development classified as restricted development in respect of which representations have been made under section 110 of the Act does not operate—
 - a. until the time within which any person who made any such representation may appeal against a decision to grant the development authorisation has expired; or
 - b. if an appeal is commenced—
 - i. until the appeal is dismissed, struck out or withdrawn; or
 - ii. until the questions raised by the appeal have been finally determined (other than any question as to costs).

Motion Carried Unanimously (232)

4.5 Council Assessment Panel - Meeting Operating Procedures

Moved Cr Wyld, Seconded Taylor

That pursuant to the authority delegated to the Council Assessment Panel by Council, the Council Assessment Panel:

Adopt the revised Meeting Procedures provided in Attachment 1.

Motion Carried Unanimously (233)

5. Other Business

5.1 E.R.D. Court Matters Pending - Nil

5.2 Policy Considerations - Nil

5.3 New staff

Mr Grainger introduced Rani to CAP Members.

6. Information Reports Nil

7. Date of Next Meeting

18 April, 2023

The Presiding Member declared the meeting closed at 11.53 am.

Confirmed.....
Presiding Member 18 April 2023