

File No:  
2017/24011/01

9 November 2017

Ref No:  
12063881

DPTI Planning Engagement  
Department of Planning, Transport and Infrastructure  
Level 5, 50 Flinders Street  
Adelaide SA 5000

[DPTI.PlanningEngagement@sa.gov.au](mailto:DPTI.PlanningEngagement@sa.gov.au)

## Character Preservation Acts Review

*Review of the Character Preservation (Barossa Valley) Act 2012  
and Character Preservation (McLaren Vale) Act 2012.*

Thank you for consulting with the Office for Design and Architecture SA (ODASA) regarding the above Character Preservation Acts relating to the Barossa and the McLaren Vale.

The following summary is based on ODASA's experience with regional developments as well as tourism related Major Projects, within the Design Review program. This experience has informed our response to the consultation for the review of the legislation.

The Character Preservation Acts (CPA) cover the following:

- (a) Rural and natural landscapes
- (b) Heritage attributes
- (c) Built form of the townscape
- (d) Viticulture and agriculture
- (e) Scenic attributes

ODASA has experience with primarily (c) built form and to a lesser extent, (a) Rural and natural landscapes and (e) Scenic attributes in as far as they relate to the context and setting of built form.

The discussion paper make reference to the positive outcomes of the legislation in reducing new allotment creation and additional dwellings outside townships. The CPA are also focused on providing a contextually informed response, which is an approach strongly supported by ODASA, specifically in areas adjacent existing rural townships.

The discussion paper mentions that the new Planning, Development and Infrastructure Act (PDI Act) will incorporate Environment and Food Production Areas (EFPA), which have a similar effect in controlling the encroachment of development on rural areas of character and food production. However, the PDI Act EFPA do not apply to townships and consequently do not address built form character as thoroughly as the Character Preservation District.

Level 1  
26-28 Leigh Street  
Adelaide SA 5000

GPO Box 1533  
Adelaide SA 5001

DX 171

T- +61(0)8 8402 1884  
E- [odasa@sa.gov.au](mailto:odasa@sa.gov.au)



File No:  
2017/24011/01

Ref No:  
12063881

The User's Guide to the PDI Act indicates that the CPA legislation is to be retained as "special legislative schemes" under the PDI Act. This will require specific State Planning Strategies to be developed.

Targeted State Planning Policies (SPP) relating to both the CPA for the Barossa and McLaren Vale will be required. ODASA is able to provide advice in the development of SPP and related requirements for the character and built form elements of the Planning and Design Code e.g. Townscape and public realm.

The paper also presents recent feedback from local government based on their experience in the administration of the legislation.

Three main areas of concern are presented:

- Increased administrative procedures
- Requirements for concurrence from the State Commission Assessment Panel
- Ongoing policy enhancements

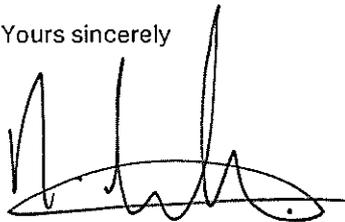
The first two relate to additional resourcing and time required by Local Government to implement the Acts. ODASA has no comments on these issues.

The third relates to the need for policy to assist tourism and 'value adding' development, which is beyond the scope of the Character Preservation Legislation – The discussion paper proposes that the additional policy options be made available to Local Government through the future Planning and Design Code.

Working closely with the DPTI Transition Manager of those areas, ODASA is able to provide advice relating to the contextual setting of tourism development and 'value adding' facilities relating to the viticulture industry.

Overall, ODASA is of the view that the CPA legislation has been generally positive as they offer more stringent controls on contextual response and limit ad-hoc incursions into some of the State's best scenic assets.

Yours sincerely



Nick Tridente  
South Australian Associate Government Architect

Level 1  
26-28 Leigh Street  
Adelaide SA 5000

GPO Box 1533  
Adelaide SA 5001

DX 171

T- +61(0)8 8402 1884  
E- odasa@sa.gov.au



**From:** Colin Beer [REDACTED]  
**Sent:** Wednesday, 15 November 2017 4:21 PM  
**To:** DPTI:Planning Engagement <[DPTI.PlanningEngagement@sa.gov.au](mailto:DPTI.PlanningEngagement@sa.gov.au)>  
**Subject:** Barossa

I think old character and historic dwellings, mainly on farm properties should be able to split from the title and sold separately as an opportunity to preserve them. Quite often the current owners don't have the finance or inclination to do so.

Regards

Colin Beer

**Submission on the Character Preservation Act review 23 November 2017 - Requested to be private submission**

## Monier, Belinda (DPTI)

---

**From:** SA Planning Portal <dpti.noreply@sa.gov.au>  
**Sent:** Monday, 27 November 2017 3:57 PM  
**To:** Monier, Belinda (DPTI)  
**Subject:** New Public Submission Lodged.

### Form Information

Site Name: SA Planning Portal  
Page Name: Lodge a Submission  
URL: [https://dpti.sa.gov.au/sa-planning-portal/lodge\\_submission](https://dpti.sa.gov.au/sa-planning-portal/lodge_submission)  
Submission ID: 388453

### Submission Details

Submission date:	27 Nov 2017
Submission type:	Character Preservation Act

### Submitter Contact Details

Name:	Miles White
Organisation Name:	
Email:	[REDACTED]
Phone:	[REDACTED]

### Submitter Address

Street No.:	[REDACTED]
Street:	[REDACTED]
Suburb:	St Kitts
Post Code:	5356
State:	SA

1. What Council area to do live in?:

Light Regional Council

2. I work/live in the Barossa Character Preservation District: **Yes**

3. I work/live in the McLaren Vale Character Preservation District: **No**

4. What is your particular interest in the review? (e.g. land owner, farmer, live in the area, own a business in the district):

Land owner, farmer, lived at St Kitts since 1973

5. Do you agree to your submission being made public?: **Yes**

6. The Character Preservation Acts aim to protect the character values of the districts (see discussion paper for a list of these). Do you think these values are being adequately protected?:

Yes

7. Do you think the land division controls restricting the creation of additional allotments are adequate to ensure character within the districts is maintained?:

Yes

8. Have changes to the SA Planning Strategy and relevant Council Development Plans in response to these Acts helped to implement them? Please explain:

N/A

9. What do you consider are the family, social, economic and environmental impacts of the Act/s?:

Preservation of natural landscape, protection of heritage, maintenance of viticultural industry

10. Have these Acts resulted in any positive or negative impacts on farming operations or farm business? If so, please explain:

N/A

11. Do you believe any changes are needed in the Act/s? Please explain:

St Kitts is reasonably uniform in terms of rainfall, fertility and landscape. Also the early European settlement followed similar patterns over most of the St Kitts area. However it has been split in two as to "geographical indications". This may be because the Wine Australia Corporation Act drew an arbitrary line above the existing vineyards in delineating the "Barossa" and "Barossa Valley" zones. Award winning vineyards now exist above this arbitrary line.

12. SA's new planning system is currently being developed. Are there any changes you would suggest for implementing character preservation in the new system?:

N/A

### **Other comments / submission details**

I would like to see the whole of the St Kitts area included in the Character Preservation (Barossa Valley) Act.

(I'd also like to see the whole of St Kitts included in the "Barossa Valley" Geographical Indication - but realize this is a separate issue.

### **Files for Submission**

No files were uploaded in this submission

**From:** Ian Mader [REDACTED]  
**Sent:** Tuesday, 28 November 2017 12:47 PM  
**To:** DPTI:Planning Engagement <[DPTI.PlanningEngagement@sa.gov.au](mailto:DPTI.PlanningEngagement@sa.gov.au)>  
**Subject:** Review of the Character Preservation (Barossa Valley) Act 2012 and Character Preservation (McLaren Vale) Act 2012

Dear sir/madam

I would like to make comment relative to the above Character Preservation Act particularly as it relates to the Barossa Valley.

It is recognized that it is intended to undertake reviews of this legislation every five years.

I believe it is important to identify a time line when the existing take up of residential property has been met and additional land is required.

In this regard I would like to see appropriate land identified and earmarked as deferred or future development. This would give the opportunity to identify parcels of land that are best suited to requirements – examples such as:

- : natural expansion of a township boundary
- : town expansion up to a major road or transport route,
- : expansion where infrastructure is well sited for future development and planning infrastructure upgrades to meet these future requirements
- : poor agriculture land that may be earmarked for residential use

I believe that it is important that this planning is not ignored and forms an integral part of the Character Preservation Act.

Thank You  
Ian Mader

Ref: 61353  
Doc ID: 265900



29 November 2017

Department of Planning, Transport & Infrastructure  
GPO Box 1533  
ADELAIDE SA 5001

By Email: [DPTI.PlanningEngagement@sa.gov.au](mailto:DPTI.PlanningEngagement@sa.gov.au)

Dear Sir/Madam

**LRC Submission - Review of the *Character Preservation (Barossa Valley) Act 2012* – Discussion Paper**

Thank you for providing Council with an opportunity to review and provide comments on the recently released review of the *Character Preservation (Barossa Valley) Act 2012* (the 'Act'). I note that Council officers have worked with Department of Planning, Transport & Infrastructure (DPTI) representatives in providing input to the discussion paper.

Whilst generally acknowledging the intent of the Act and its role in protecting agricultural land from inappropriate intrusion, the current review provides an opportunity to both highlight work already completed and underway in this space and to consider a number of elements including supporting policy, the state of the District and more particularly the boundary of the district.

**Act Implementation**

Section 6(2) of the Act requires that '*a person or body involved in the administration of an Act must, in exercising powers and functions in relation to the district, have regard to and seek to further the objects of the Act*'. It is observed that there is a perception that this requirement only applies to Councils as decision makers and Council certainly includes a statement in its development assessment to this effect. In particular, it is noted that this requirement applies equally to the decisions and actions of government departments (and respective Ministers) when considering activities within the District and compliance with Section 6(2) needs to be demonstrated at all levels of government.

**Policy Support/Clarification**

Overarching Policy

It is recognised that the implementation of the Act was supported by both the Ministerial *Barossa Valley and McLaren Vale – Revised – Protection Districts DPA* and the insertion of an addendum within the 30 Year Plan for Greater Adelaide (the 'Planning Strategy'). Together these amendments provide some level of guidance when seeking to undertake development assessment or strategic planning exercises.

It is however noted that the policy contained in Development Plans (via overlay) is a high level reflection of the objects of the Act and identification of the District mapping and provides little in the way of direction for both planners and the community. The Discussion Paper incorrectly identifies that Council Development Plans have been amended so that '*the local rules around planning and development reflect the objectives of the Character Preservation Acts and Planning Strategy*'. It is noted that this has not occurred despite the best efforts of Council to progress its *Barossa Protection Development Plan Amendment*, the Statement of Intent of which was submitted to DPTI in August 2015.

Since the Act's inception there has continued to be confusion within the community on how the district should be protected and what forms of development are appropriate. Whilst understood that the policy contained within the Planning Strategy is separate to that within Council Development Plans, much of

---

**Postal Address:**

**PO Box 72, Kapunda, South Australia 5373**

Telephone: (08) 8525 3200  
Email: [light@light.sa.gov.au](mailto:light@light.sa.gov.au)  
Website: [www.light.sa.gov.au](http://www.light.sa.gov.au)

**Principal Office**  
93 Main Street, Kapunda, SA 5373  
Fax: (08) 8566 3262

Light Regional Council ABN: 35 455 841 625

**Branch Office**  
12 Hanson Street, Freeling, SA 5372  
Fax: (08) 8525 2441

the finer detail is contained in this document and at this point it is yet to be reflected in Development Plans and therefore relevant and applicable policies.

This is further emphasised by anecdotal evidence received by Council officers overtime that there is disadvantage felt amongst Councils broadacre farming community due to the Act being regarded or perceived as being restrictive. In this, farmers have cited concern over elements of the Acts Objects and how these impact on the use of land and development (e.g. the siting and design of farm buildings) and a view that broadacre farmers are disadvantaged by the Act. For example, in many circumstances a farmer will seek to construct a farm building on an elevated section of their land in an area which has reduced productivity and is more difficult to utilise as part of the farming program. The Act however calls for development to not detract from the special character of the district, whilst conversely providing for the economic, social and physical wellbeing of the community. The ambiguity afforded by the Objects of the Act leads to confusion, may impact on efficient farming operations and has the potential to add significant cost to development.

In this context this productive sector reports that it feels the burden of responsibility for providing character landscapes of high amenity that are seemingly valued more than providing economically production flexibility to farmers.

#### Land Division/Boundary Re-alignment

Further to the above, the consideration of land division, and more particularly boundary realignment remains ambiguous and challenging. The Act is clear when it notes the prohibition of land division which creates additional allotments for residential development, however it is not clear when considering boundary realignment. An example of this would be a proposal to adjust the boundary of two primary production properties to create a single large primary industry title and a small 'rural-residential' lifestyle title.

Such proposals generally have not been supported to date, mainly due to the introduction of potential future interface conflict. However, the policy is not clear in these circumstances where the Act stands. It is recommended that additional content be inserted to reference a need for boundary realignment to result in all allotments meeting the current minimum allotment size for the zone. This would remove ambiguity and minimise any unintended increase in rural-residential lots.

The addition of policy to provide guidance in these respects and a clearer connection between the District and the character values is recommended.

#### **Rural Interface**

As the DPTI would be aware, Council participated in a Primary Industries and Regions, South Australia (PIRSA) Buffers Working Group on rural interface issues. This Group included representatives from the DPTI along with The Barossa Council, PIRSA, the Environment Protection Authority, Primary Producers SA and Grain Producers SA.

Whilst initially considering a range of matters, the Group narrowed its focus on the matter of rural interface/buffer conflict which may arise between different primary production land uses and most notably viticulture and broadacre farming. It became apparent throughout the process that the matter of rural interface was complex and there was not a one-size-fits-all solution and further consideration is needed. Whilst understanding the focus of the Act, the outcomes of this working group are brought to the attention of DPTI in relation to this review as outcomes may have an influence on the future character of the District.

#### **District Boundary Review and Anomalies**

##### Review

It is reasonable to observe that the Act's underlying intent to protect land from residential subdivision has been achieved, however there is an opportunity at this point to review the boundaries of the 'District' to allow sensitive and discreet consolidation of land to the immediate west of Nuriootpa.

The property in question is identified as 130-138 Moppa Road South, Nuriootpa (CT:5320/638) and currently accommodates a dwelling, business operation and small-scale vineyard. The land immediately adjoins the township of Nuriootpa and is bound by commercial development to the south, a residential development to the west and industry/residential development to the north. The current arrangements do not facilitate effective use of the property for primary industry purposes with day-to-day activities (such as spraying and harvesting) largely constrained by both the residential and commercial uses sharing a boundary with the property.

Consideration of a District boundary amendment in this location would not see a significant expansion of the township, nor contribute to an unreasonable supply of land for residential purposes. As described above, land to the west of the site is residential in nature accommodating the Neil Avenue estate.

#### Anomaly

In addition to the above request for a review and amendment to the Township boundary, there appears to be an anomaly with the boundary as declared to the west of Nuriootpa. In particular, it is observed that:

- A property used for residential purposes is located within the 'Township' – 94 Moppa Road South, Nuriootpa (CT:5499/54); whilst
- A commercial/business type property is located within the 'District' – 104 Moppa Road South, Nuriootpa (CT:5499/505).

This designation of properties may have arisen as a result of a previous zoning anomaly which identified 94 Moppa Road South as being zoned Industry (Barossa Valley Region) and 104 Moppa Road South as Primary Production. This zoning anomaly has subsequently been rectified through the *Nuriootpa West (Industry BVR Zone) Development Plan Amendment*.

The review provides an opportunity to consider the boundaries to both resolve an anomaly and allow for infill development on a site which has a number of operational constraints by virtue of its location adjacent both residential and commercial activities. A 'marked-up' Development Plan extract attached identifies the boundary amendments and anomalies.

#### **Allied Activities**

Council wishes to highlight activities currently being undertaken by a working group titled 'Barossa Collaboration'. This collaboration comprises representatives of Light Regional Council, The Barossa Council, Tourism Barossa, Barossa Food, Barossa Grape and Wine and the Barossa RDA. This group of industry representatives has secured funding from the State Government of \$100k and a combined \$50k respectively from the participating Council's to commence projects that promote the importance of value-adding opportunities within the Barossa Character Preservation District specifically.

This focus on activities within the District seeks to take a holistic approach to the evolving trends in industry and visitor preference. In a news release issued by State Member for Light, the Hon. Tony Piccolo MP he notes that the "*combined funds, with additional in-kind support from the two councils, will undertake the following projects:*

- *Review the planning and licencing regulations applicable to artisan food production.*
- *Further development of the Barossa "Trust Mark" brand.*
- *The development of a "Barossa Prospectus" to attract investment in small and start-up food ventures, and creative arts ventures.*
- *...*

The collaboration recognises the importance of supporting value-add activities and the potential for necessary related policy amendments which seek to streamline and simplify land use opportunities. In this, policy amendments have already been proposed to Schedule 3 of the *Development Regulations 2008* to support and facilitate small scale value-add proposals.

The above actions and outcomes are noted at this early stage to both bring this to the attention of the DPTI and the Minister for Planning and to highlight the need to support these important initiatives which are tailored for the area identified as the District.

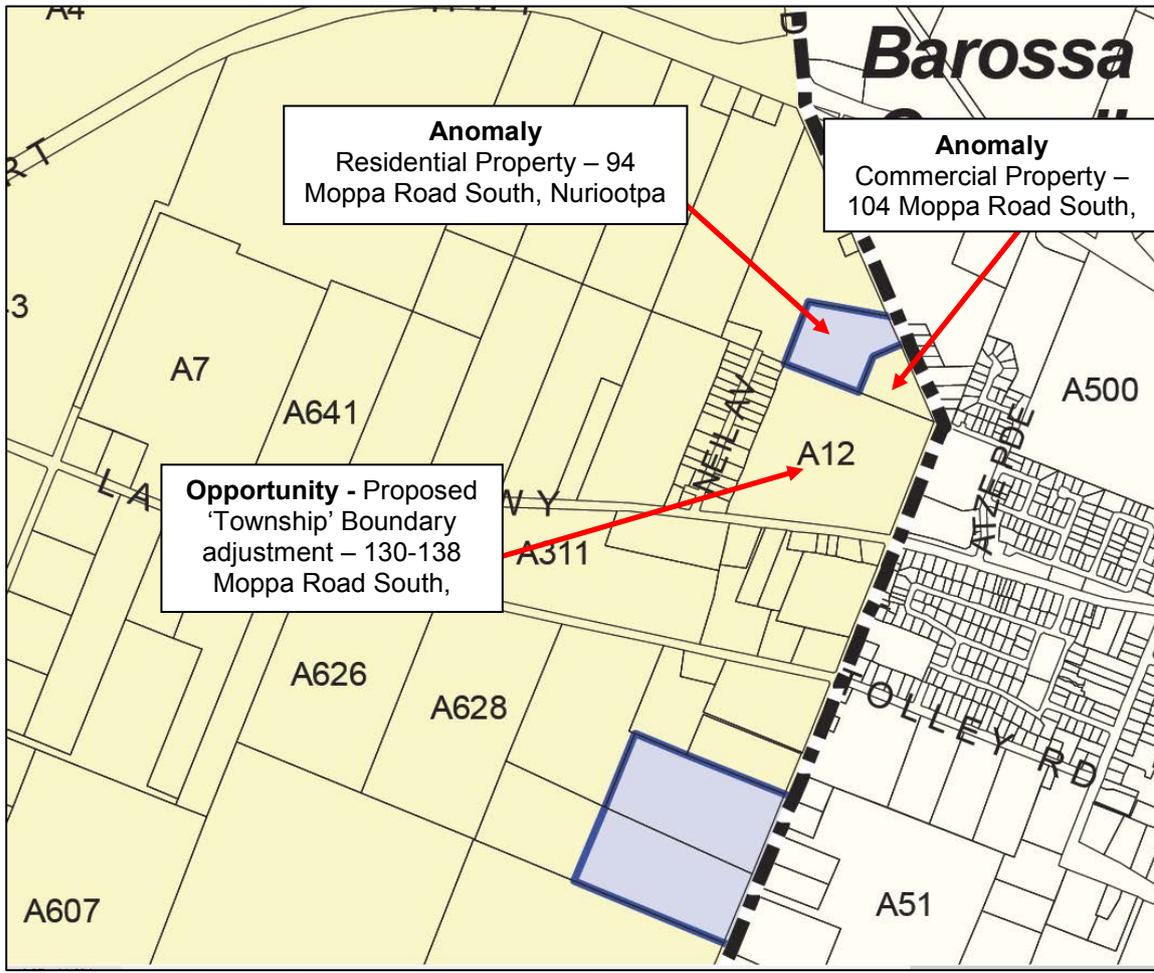
Please do not hesitate to contact me on telephone 8525 3200 should you wish to discuss the content of this letter further.

Yours sincerely



**Andrew Chown**  
**Manager, Strategy**

Enc. Development Plan Extract showing anomalies and opportunities west of Nuriootpa



## Monier, Belinda (DPTI)

---

**From:** SA Planning Portal <dpti.noreply@sa.gov.au>  
**Sent:** Saturday, 2 December 2017 8:19 PM  
**To:** Monier, Belinda (DPTI)  
**Subject:** New Public Submission Lodged.

### Form Information

Site Name: SA Planning Portal  
Page Name: Lodge a Submission  
URL: [https://dpti.sa.gov.au/sa-planning-portal/lodge\\_submission](https://dpti.sa.gov.au/sa-planning-portal/lodge_submission)  
Submission ID: 392492

### Submission Details

Submission date:	2 Dec 2017
Submission type:	Character Preservation Act

### Submitter Contact Details

Name:	Raegan Noon
Organisation Name:	
Email:	[REDACTED]
Phone:	[REDACTED]

### Submitter Address

Street No.:	[REDACTED]
Street:	[REDACTED]
Suburb:	McLaren Vale
Post Code:	5171
State:	SA

1. What Council area to do live in?:

City of Onkaparinga

2. I work/live in the Barossa Character Preservation District: **No**

3. I work/live in the McLaren Vale Character Preservation District: **Yes**

4. What is your particular interest in the review? (e.g. land owner, farmer, live in the area, own a business in the district):

Land owner-vineyard/resident/own a small business in the district

5. Do you agree to your submission being made public?: **Yes**

6. The Character Preservation Acts aim to protect the character values of the districts (see discussion paper for a list of these). Do you think these values are being adequately protected?:

For the most part, yes.

7. Do you think the land division controls restricting the creation of additional allotments are adequate to ensure character within the districts is maintained?:

No. My concern is that tourism accommodation in the rural areas conflicts or has the potential to conflict with the character preserve intent. Specifically, Bed and Breakfast accommodation is being approved and built on rural blocks with the potential for problems arising. Where these are situated close to vineyards, the tourists occupying these will be impacted by tractor noise (especially at night during harvest from mid February to April); spray drift from normal vineyard fungicide applications during spring, extending into summer in wet seasons; unpleasant smells from organic manures applied during autumn and winter; bird scaring activities close to harvest and constant quad bike (or other vehicle) traffic in and around the vineyard to check irrigation systems and so on. This is highly likely to concern and detract from the tourists' experience and lead to complaints from them. Those of us who own and live on the vineyards and farms accept these inconveniences and occasional disruptions to our sleep or lifestyle because we understand the need for those activities and perform them ourselves. We need to keep the farm land free from tourism accommodation so that we can continue farming and caring for our land. Putting overnight accommodation among the vines and rural land will create a problem for farmers, impacting their livelihoods. This sort of development is against the interests of farmers and preserving the character we have. The other type of tourism accommodation which is a concern is large scale motel or resort type developments outside the town boundaries. One such development is being considered by Council at present in our area and is proposed in the middle of existing vineyards. This is bound to cause problems with complaints from the occupants for the same reasons as outlined for the B&B occupants above due to normal vineyard activities - disrupted sleep during harvest, bad smells from organic fertiliser use, spray drift concerns etc, making farming difficult or no longer possible near these developments, leading to removal of vineyard and loss of the character the tourists came to see and the Legislation is aimed at preserving. Land division controls are not adequate in themselves to preserve the character of our district. We need to keep tourism accommodation to the town areas to ensure the tourists are not impacted by our normal vineyard activities and we can continue to farm.

8. Have changes to the SA Planning Strategy and relevant Council Development Plans in response to these Acts helped to implement them? Please explain:

N/A

9. What do you consider are the family, social, economic and environmental impacts of the Act/s?:

N/A

10. Have these Acts resulted in any positive or negative impacts on farming operations or farm business? If so, please explain:

See above

11. Do you believe any changes are needed in the Act/s? Please explain:

N/A

12. SA's new planning system is currently being developed. Are there any changes you would suggest for implementing character preservation in the new system?:

N/A

### **Other comments / submission details**

One of the features of McLaren Vale and Willunga is the Hills Face Zone and too many additional buildings on it (residential or tourist accommodation) will threaten this feature.

### **Files for Submission**

No files were uploaded in this submission

## Monier, Belinda (DPTI)

---

**From:** SA Planning Portal <dpti.noreply@sa.gov.au>  
**Sent:** Sunday, 3 December 2017 2:17 PM  
**To:** Monier, Belinda (DPTI)  
**Subject:** New Public Submission Lodged.

### Form Information

Site Name: SA Planning Portal  
Page Name: Lodge a Submission  
URL: [http://www.sapanningportal.sa.gov.au/lodge\\_submission](http://www.sapanningportal.sa.gov.au/lodge_submission)  
Submission ID: 392655

### Submission Details

Submission date:	3 Dec 2017
Submission type:	Character Preservation Act

### Submitter Contact Details

Name:	Carol Bailey
Organisation Name:	as an individual (partner in 'Tantivy Angus')
Email:	[REDACTED]
Phone:	[REDACTED]

### Submitter Address

Street No.:	[REDACTED]
Street:	[REDACTED]
Suburb:	Mount Barker Springs
Post Code:	5251
State:	SA

1. What Council area to do live in?:

Mount Barker District Council, a regional council

2. I work/live in the Barossa Character Preservation District: **No**

3. I work/live in the McLaren Vale Character Preservation District: **No**

4. What is your particular interest in the review? (e.g. land owner, farmer, live in the area, own a business in the district):

I do not understand why you have selected these two areas and ignored The Adelaide Hills, which provided approx. ONE THIRD of the State's export produce. Why is this very special area of fertile valleys, reliable high rainfall and generations of market gardening and horticultural expertise being absolutely ignored?

5. Do you agree to your submission being made public?: **Yes**

6. The Character Preservation Acts aim to protect the character values of the districts (see discussion paper for a list of these). Do you think these values are being adequately protected?:

Why is there no 'character preservation Act' for The Adelaide Hills. I spent my early childhood between First and Second Creek of The Adelaide Hills (born in Burnside but family worked a fruit block at Norton Summit), grew up at Ashton/Norton Summit - it is very concerning to see these areas in the Adelaide Hills and foothills now being subsumed by housing development. The rates and taxes achieved from housing will never be as valuable as the food which has been and could continue to be produced.

7. Do you think the land division controls restricting the creation of additional allotments are adequate to ensure character within the districts is maintained?:

What controls? The 16 acres on Nichols Road at Norton Summit where we tended apple and cherry orchards and grew onions, potatoes and rhubarb on the flat is now carved up and a third house is being built on this land. When I was last there the apple orchards were being bulldozed for a housesite (south side of road). No doubt our old weekender is now gone. You will not find more productive land than this. Why is it not being protected? Adding new houses and sub-dividing the land reduces its viability for food production. Yet my parents on Marble Hill Road, Ashton were not permitted to cut one 600msq block off his land, was not able to get even a half pension (due to owning 30 acres!!) and were forced to sell the land on which they had lived for half their lives. It killed my Father! His own daughter was not able to live there to help them remain on the land to which they were so connected.

8. Have changes to the SA Planning Strategy and relevant Council Development Plans in response to these Acts helped to implement them? Please explain:

The wagons have been circled around a small productive area in the Barossa and in McLaren Vale to save valuable wine producing land. The mind-numbing question is - why hasn't Mr. Rau done this to protect our remaining high value food producing land? Is Govt. deliberately pushing S.A. into reliance on imported foods? S.A. Planning Strategy has not addressed food security at all.

9. What do you consider are the family, social, economic and environmental impacts of the Act/s?:

I believe the Character Preservation Acts should be of benefit in retaining wine producing lands in the areas targeted for future generations. However what about food and wine in The Adelaide Hills and the Langhorne Creek wine region, the latter now at increased risk of salination due to the number of vigneronns which have moved there from elsewhere despite water table and salt issues. Where is the protection (and need to restrict further irrigation/wine growing) in this area. It is

arguably the best red wine product of its type in the world! Where is the protection or even due diligence re. this amazing area?

10. Have these Acts resulted in any positive or negative impacts on farming operations or farm business? If so, please explain:

No doubt people have complained about loss of 'right to sell up' - this is not valid as what has been restricted is the right to subdivide for housing estates and this can only be a good thing in the long term. Food and wine production and tourism is higher value than housing - which in turn requires infrastructure and public services/amenities at such levels that it is analogous to a dog chasing its tail.

11. Do you believe any changes are needed in the Act/s? Please explain:

I believe the Character Preservation Acts need to go further and actually seek to provide Food and Water Security, not merely the lovely rural character of these areas. The areas need to be increased to include The Adelaide Hills (formerly afforded protection by the Watershed Zone at least to the west, but other watersheds - e.g. The Barker/Bremer Watershed which is vital for the Langhorne Creek Wine Growing Area - have been ignored.

12. SA's new planning system is currently being developed. Are there any changes you would suggest for implementing character preservation in the new system?:

Seek not only to preserve character - because this will happen co-incidentally if food and wine production (and water sources) are valued at a premium - i particular food and water security. Already water is more expensive than milk and soft drink. Does this not send a very clear signal to all levels of government about the need to protect our aquifers, reliable rainfall areas and food growing areas?

### **Other comments / submission details**

I have lived in the Adelaide Hills for all but the first 10 years of my long life, during which we owned and worked a fruit block at Norton's Summit. My ancestry includes my Great Grandfather who arrived on The Buffalo in 1836 and the families who first settled Norton's Summit and Piccadilly Valley. Our entire history is market gardening and orchards. Yet all this land is fast being chopped up and turned into houses. Little thought has been given to the fact that most of these 'new' Hills people work in Adelaide, so are not available to volunteer (for the most part) to fight bushfires and help with Landcare or Catchment Group projects. There are more weeks and less controls or controls which are more drastic (due to convenience and expedience).

The whole rationale for the United Nations State Heritage Listing of the Mount Lofty Ranges is because it is unique and is home to such a diversity of food and wine production, second to none in the world. It therefore follows that water prescription of the eastern watershed of the Mount Lofties (while prescription of the sacrosanct western watershed stalls!) is not an adequate measure in use of planning laws to protect our water resources locally and our food and wine growing areas into the foreseeable future.

Climate Change is already proving a real challenge for food producers - never in our lives have we had to contend with near century heat during hay making - only to have inches of rain fall before we could get it all shedded this year. Costs of production and labour (in particular) are rising, yet there are less skilled workers and less people on viable small farms. We need Government support, - not a big push to

make sure the land is chopped up to provide for retirement. Possibly we too will be forced to do this, since still farming in our 70s there is no pension (we are considered 'wealthy' land barons) because we have spent our lives putting back pieces of adjoining land make our property viable. Why would government encourage the opposite? Yes it does. Please change this, before there is no good land left on which to farm. Holidays are also rare because there are animals to be cared for and watered. Why is government not assisting in this area - rather than allowing developers a free run over any/all rural land?

Yours sincerely,  
Carol D. Bailey

### **Files for Submission**

No files were uploaded in this submission

**Margaret Lehmann**



**Tanunda. SA 5352**



### **Character Preservation Act 5 Year Review: a submission**

Anecdotally, I hear that there are fewer explorations seeking land rezoning in sensitive areas because of the strong protections built into the Act. This is one of the outcomes envisaged and it has been achieved. This is to be applauded

#### **Aims to protect the character....are these values being adequately protected?**

It was a hugely important piece of legislation and now that it has been in operation for around 5 years the Barossa community broadly speaking are fully supportive. Most understand that by protecting the unique character of this region it helps to underpin the vital economic contributors to the region: wine, food, and tourism.

There do however, appear to be some gaps and these need to be rectified.

#### **Land Division controls restricting the creation of existing allotments**

This is of key importance and seems to be working well. Again this restriction has generally been well understood in the Barossa in the Valley Floor region since the proclamation of The Barossa Review in the early 1990's. It needs to be maintained

#### **What do you consider are the family, social, economic and environmental impacts of the Act/s**

In my view the impacts, particularly the economic impacts, have been positive. It has given heightened awareness of the natural beauty of the Barossa and given more certainty to agricultural activities.

The fact that any changes have to be passed by Parliament means that there is a higher level brake on developer funded PAR's and agreed to by Council, which have led to some fairly unfortunate and premature housing developments in the past.

#### **SA's new planning system currently being developed.**

It is enacted that the Minister does not have the power to declare major project status under the Character Preservation Act. This needs to be reinforced by transferring it across

to the Planning, Development and Infrastructure Act 2016. There needs to be consonance in order to maintain the integrity of the Character Preservation Act.

It is a very important piece of legislation and one which offers security to the agricultural and tourist industries in the Barossa. It gives comfort and strength to the Barossa community's goal of being a world renowned producer of great wines and food and being a "must see and experience" visitor destination.

Margaret Lehmann

REVIEW OF THE CHARACTER PRESERVATION (BAROSSA VALLEY) ACT 2012 AND  
CHARACTER PRESERVATION (MCLAREN VALE) ACT 2012

THE BAROSSA COUNCIL ANALYSIS AND COMMENTS ON DISCUSSION PAPER

The Barossa Council appreciates the opportunity to contribute to the review of the character preservation legislation. The analysis and commentary is based on the questions contained at the end of the discussion paper below. These comments were considered and endorsed by elected members at the Ordinary Council Meeting held on 21 November 2017.

*The Character Preservation Acts aim to protect the character values of the districts. Do you think these values are being adequately protected?*

*The Barossa Council comments*

To an extent there is partial protection. Any failure to adequately protect these values however, is not necessarily the fault of the Acts, but potentially related more to ongoing gaps, inconsistencies, and inadequacies in Development Plan policies. These include the lack of appropriate design criteria and the presence of restrictive policies relating to flexible primary production and value-adding.

As discussed later, there is no evidence that the objects of the Acts are actively given regard or taken into account by decision makers other than Councils, contrary to the requirements of section 6(2) of each Act. This apparent failure potentially leads to future decisions being made that don't further the objects of the Acts.

*Do you think the land division controls restricting the creation of additional allotments are adequate to ensure character within the districts is maintained?*

*The Barossa Council comments*

In the majority of instances land division to create additional allotments for any purpose were non-complying prior to the introduction of the legislation and generally not supported. Such proposals continue to be non-complying however the Acts introduced the obligation to refuse applications which create additional lots for "residential development", a phrase which it is noted is yet to be tested in case law. To date Council has only received one non-complying land division application within the character preservation district, and as it did not create an additional allotment for residential development, Council was not obliged to refuse the proposal.

While the legislation prevents creation of additional allotments for "residential development" it is silent in respect to proposals which realign existing allotments and which result in allotments more suited for residential development than previous - e.g. realignment of 2 x 32 ha lots into 1 x 63 ha and 1 x 1 ha lots. It is also silent in respect to the development of existing allotments as 'hobby' farms or to build a 'lifestyle' dwelling with minimal associated primary production. Development policies relating to these situations currently vary across the Council area, however

they do not specially speak against realignment and in a number of zones require a minimum lot size for construction of a dwelling.

Council believes no change is necessary to the legislation in this regard and that proposals to realign existing allotments continue to be assessed against existing local development policies. However, as discussed later, changes to development policies are required to ensure character is maintained as a result of the built form on existing allotments in terms of siting, design and construction materials.

*Have changes to the SA Planning Strategy and relevant Council Development Plans in response to these Acts helped to implement them?*

*The Barossa Council comments*

The discussion paper incorrectly notes on page 6 that the Development Plans of all affected councils have been amended with local rules aligning with the Acts and the Planning Strategy. Although the Planning Strategy Addendum (the Addendum) provided more understanding of the special character of the respective districts there have been no subsequent changes to Development Plan policies solely as a result of the Planning Strategy Addendum (the Addendum). The changes introduced to the various Development Plans via the Ministerial DPA in 2013 were high level only with a simple insertion of the Character Preservation Overlay and high level objectives. No detailed policies were introduced at the time and there remains significant policy gaps between the Addendum and Development Plan policies. Accordingly, existing Development Plan policies don't always support the objects of the Acts.

The Barossa Council was the first council to initiate a review of Development Plan policies following the Addendum (via its *Rural Areas and Character Review*) initiating a subsequent *Rural Areas and Character DPA* which has been placed on hold pending the current planning reforms and collaboration between Council and DPTI on the forthcoming Planning and Design Code. In addition to closing the policy gaps, Council's DPA also proposed to relax restrictions on diversification and value adding.

*What do you consider are the family, social, economic and environmental impacts of the Act/s?*

*The Barossa Council comments*

It is not possible to draw any conclusions in terms of the impact of the Acts and changes in development approvals. Although the discussion paper attempts to demonstrate the 'before and after' through various charts, it is difficult to measure given that no agreed 'success' criteria or baseline measures were put in place when the legislation was introduced. For example, in relation to dwelling approvals and land division a variety of factors would have influenced the change in the number of approvals including demand, availability of allotments, and the availability of land for division in rural living areas.

Demand remains constant for dwellings in rural areas and there has been a perceived increase in tourist accommodation in the form of small bed and breakfast as well as several proposals for larger scale motel and hotel accommodation within

townships and the rural areas. Anecdotally we have seen more small scale wineries and cellar doors, however it is not clear on what conclusions can be drawn from this in terms of correlation with the Acts, or whether it is simply the result of market forces and trends generally.

It is unlikely that the Acts have had any impact on land supply and demand given that land division for residential development was non-complying in the rural areas prior to introduction of the Acts. In other words the Acts have not redirected demand to townships.

A positive outcome from the Barossa Valley legislation was the inclusion of rural living areas adjacent to Tanunda, Lyndoch, Eden Valley and Williamstown within the township boundary. This action has subsequently been incorporated into *The 30-Year Plan for Greater Adelaide 2017 Update*. This provides scope for those areas to accommodate future higher density residential development to meet any demand. Sufficient zoned supply currently exists within the townships however that supply is not evenly distributed, with Williamstown and Tanunda likely to reach capacity sooner than other towns. However, at some point, when the supply of vacant allotments within townships is exhausted the council and the community will need to consider how to best accommodate future growth – e.g. no more broad-hectare residential development; higher density within townships; or expand township boundaries which would require change to the township boundaries as prescribed by the Act (see further below section regarding changes needed).

No evidence exists of any specific family or social impacts of the legislation. The broader community perhaps still questions the purpose and intent of the character preservation but it essentially has had no discernible impact on the nature of individual ratepayer applications for development.

Anecdotal evidence suggests some primary producers and allied business operators perceive the Act to be restrictive and an impediment to routine farming activities. Those perceptions could be manifesting themselves in different ways – e.g.:

- a farmer not investing in new infrastructure on the basis that the Act does not support future primary production
- a farmer revising their succession planning involving sale of multiple allotments on the basis that dwellings are not possible on those allotments
- a business not investing in new equipment or adopting new practices on the basis that the Act foreshadows potential regulations to prohibit or further restrict the undertaking of a specified activity.

These perceptions can result in lack of business confidence and possible decline in community wellbeing (with associated personal family, social and mental health impacts).

*Have these Acts resulted in any positive or negative impacts on farming operations or farm business?*

*The Barossa Council comments*

The Acts themselves have not had any direct impact on farming operations, but as indicated above there appears to be perceptions that the Acts have imposed new restrictions on traditional practices. Instead impediments to farming operations and farm business are generally the result of inflexible and restrictive development policies, State and Federal legislative obligations, market trends, commodity prices, inflation and the like.

*Do you believe any changes are needed in the Act/s?*

The Barossa Council comments

Council assumes that "the Acts" comprise the written legislative provisions together with the associated plans deposited in the General Registry Office at Adelaide (i.e. plans numbered GP 3 of 2012 (McLaren Vale) and GP 4 of 2012 (Barossa Valley)), and that both components should be under review. It is therefore disappointing that the discussion paper does not address boundary aspects. Council is also concerned that the discussion paper does not address the requirement for decision makers to have regard to the Acts. These aspects are discussed below together with other aspects.

Section 6(2) consideration

It is understood the intent was for section 6(2) (requiring consideration of the Act when making decisions) to apply broadly across all government departments and agencies and was to be included in their strategy and policy formulation, decision making, in addition to assessment and development considerations.

Prior to deciding on any application for Development Plan Consent Council's decision maker (i.e. either a delegated officer or the Council Assessment Panel) must resolve pursuant to section 6(2) of the *Character Preservation (Barossa Valley) Act 2012*, that the officer or panel has had regard to the objects of the Act and, in determining the application, seeks to further the objects of the Act. To date, there have been no applications that have been determined that do not further the objects

Unfortunately there appears to be a perception that section 6(2), and the associated powers to require information in section 9, only apply to the affected councils and their decision making relating to development applications. There is no evidence that government departments, including respective Ministers are determining compliance with the objectives of the legislation. This appears to potentially disregard the status of the Act, particularly where referrals of applications are made to government agencies, and the potential interrelationship with other Acts and regulatory frameworks.

Council does not suggest this provision requires change, but suggests an urgent need exists for general awareness training for all government agencies including respective Ministers, together with recommended templates and methodology.

This is consistent with the requirement to consider the Objects and Objectives under the *River Murray Act 2003* and the *Adelaide Dolphin Sanctuary Act 2005* when considering related operational Acts, including the Development Act. However, in this instance the *Character Preservation Acts* do not identify 'related operational

Acts' and is dependent on whether an Act requires an approval, consent, licence, permit or other authorisation granted or required under an Act.

#### Requested map changes

- Review inclusion of parts of the Adelaide Hills Council within the Barossa Valley district (i.e. Cromer, Forreston, Humbug Scrub, Kersbrook and Mount Crawford).
- Exclude industrial land on Stockwell Road, Angaston (within the Industry (Barossa Valley Region) Zone) from the 'rural area' and either introduce a special 'designated area' as was done for certain rural living areas or include this area in a 'township'.
- Include the identified area west of Nuriootpa within the Nuriootpa township. This area is within Light Regional Council and comprises the Neil Avenue residential enclave and the land between that street and Moppa Road to the east. **Neil Avenue properties are connected to The Barossa Council's Community Wastewater Management System** and is an area that has been identified by Light Regional Council for potential future residential development; a concept which The Barossa Council would not oppose.

#### Potential legislative changes

- Remove requirement for State Planning Commission concurrence for land divisions which create additional lots within existing Rural Living Zones. This requirement adds an extra decision point despite those areas being in the Rural Living Zone which specifically envisages additional rural living allotments. This appears to be counter intuitive. To date concurrence has been granted on all requests suggesting that the additional administrative obligation has simply added an additional layer of assessment which elongates due process with no particular benefit. Consequently there is a need to review this requirement.
- The *prescribed allotment provisions* in the Barossa Valley legislation are confusing and require review.
- Preventing controlled intensification of rural living areas is also questioned – i.e. creating smaller lots in some areas potentially results in more opportunities within existing rural living areas and reduced demand for rural dwellings elsewhere.
- There is a need to review inclusion of the entirety of townships in the preservation district – e.g. new residential estates in Nuriootpa. While the interface of the township with the rural area requires careful management, other township areas (internal development areas) are well separated from the interface of the rural areas and are therefore suitably buffered. These areas are also visually separated from the rural areas and therefore 'screened' from view and unlikely to impact on the special character of the districts.
- Section 8(8) indicates that certain development authorisations for land divisions will be taken to be subject to the condition that additional lots created will not be used for residential development. Council is concerned that such an '**implied**' condition, or an actual condition on the authorisation would not be carried forward to the actual new title(s) and therefore future owners would be unaware of the condition and its limitation. This imposes an obligation on the relevant council to set up and maintain some kind of notation or alert on the respective properties in order to include this ongoing condition on property search certificates issued under the *Land and Business (Sale and Conveyancing) Act 1994*. Council considers an alternative approach would

be for the 'condition' to be included on the new title – in brief, the development authorisation would contain a condition relating to the use of the land, but also a condition requiring an associated notation on the associated title(s) which reflects the other condition.

### Other changes

Council also requests a review of how the districts are shown in Development Plans as the terminology used within the Development Plan differs from Act – i.e.;

- “district” within Act comprises the entire area shown on GRO Plan GP 4 of 2012 including areas marked “rural area”, “rural living area” and “township”, whereas Character Preservation District overlay maps in Development Plan show each “township” as “Area Excluded from District”. Presumably this exclusion is only for the purpose of the “Character Preservation District Overlay” as the Development Plan can't override or vary the Act
- “rural area” within Act is shown as “Character Preservation District” on Heritage and Character Preservation District overlay maps
- “rural living area” within Act is shown as “Designated Area” on Heritage and Character Preservation District overlay maps
- “Designated Area” on maps is not referred to in written policies.

The outcome of this approach is that it creates the wrong impression that townships are excluded from the district.

### Potential removal or adjustment of existing provisions

The review should also consider if the following provisions could be removed or adjusted:

- Remove or adjust the requirement to review the planning strategy. The Addendum has been prepared and therefore this provision has been fulfilled and arguably is redundant. Alternatively it could be adjusted to require regular review or updating of the Addendum.
- Remove or adjust the requirement to review Development Plan policies. This is because the six months has been and gone.
- Remove the consequential amendment provisions from the McLaren Vale legislation as the Development Act and other Acts have been amended and therefore the provisions are redundant.
- The Acts only require a single review which is currently being undertaken. Consideration should be given to requiring regular five yearly reviews.

**SA's new planning system is currently being developed. Are there any changes you would suggest for implementing character preservation in the new system?**

### The Barossa Council comments

#### General

The State Planning Policy should be based on/incorporate the policies contained in the Planning Strategy Addendum.

Regional Plans simply need to reflect the SPP (i.e. Addendum) – e.g. not provide for residential development outside designated townships.

In respect to the Planning and Design Code the Overlay approach will be the most appropriate way to identify the districts as it is easily applicable across multiple zones. Some discussion exists about the introduction of a special zone for primary production land within the CPD – e.g. Primary Production (Character Preservation) Zone; however this implies a special zone would be also required for all other zones within a protection district which would result in a complicated suite of zones.

#### Major project status

The *Character Preservation (McLaren Vale) Act 2012* amended section 46 of the Development Act to provide that the Minister could not declare a major project for a development within a character preservation rural area. It is noted that this provision has not been transferred across to the *Planning, Development and Infrastructure Act 2016* which is concerning and arguably is contrary to the intent of the character preservation legislation. This omission needs to be addressed through an amendment to the new legislation.

#### Environment and Food Production Areas

The character preservation districts have a distinctive point of difference to the Environment and Food Production Areas which needs to be maintained. Whereas both tools are de-facto urban growth boundaries, the character protection legislation additionally recognises and seeks to protect and enhance each districts' special character.

The Addendum subsequently expanded on the various character values, and in the case of preserving and enhancing the viticultural, agricultural and associated industries the Addendum seeks to ensure there are positive development policies relating to value adding and flexible farming practices. This point of difference must not be lost through the planning reforms but could potentially be applied to other areas.

#### Further questions

If clarification or additional information is required please contact either Paul Mickan, Principal Planner (8563 8493) or Louis Monteduro, Senior Manager Planning Services (8563 8492).

## Monier, Belinda (DPTI)

---

**From:** SA Planning Portal <dpti.noreply@sa.gov.au>  
**Sent:** Tuesday, 5 December 2017 1:53 PM  
**To:** Monier, Belinda (DPTI)  
**Subject:** New Public Submission Lodged.

### Form Information

Site Name: SA Planning Portal  
Page Name: Lodge a Submission  
URL: [https://dpti.sa.gov.au/sa-planning-portal/lodge\\_submission](https://dpti.sa.gov.au/sa-planning-portal/lodge_submission)  
Submission ID: 393019

### Submission Details

Submission date:	5 Dec 2017
Submission type:	Character Preservation Act

### Submitter Contact Details

Name:	Kirstin Teusner
Organisation Name:	C & K Teusner Nominees P/L
Email:	[REDACTED]
Phone:	[REDACTED]

### Submitter Address

Street No.:	[REDACTED]
Street:	[REDACTED]
Suburb:	Concordia
Post Code:	5118
State:	SA

1. What Council area to do live in?:

Barossa

2. I work/live in the Barossa Character Preservation District: **Yes**

3. I work/live in the McLaren Vale Character Preservation District: **No**

4. What is your particular interest in the review? (e.g. land owner, farmer, live in the area, own a business in the district):

Owner farmer in Concordia area

5. Do you agree to your submission being made public?: **Yes**

6. The Character Preservation Acts aim to protect the character values of the districts (see discussion paper for a list of these). Do you think these values are being adequately protected?:

They are being over protected making broad acer farming nearly impossible.

7. Do you think the land division controls restricting the creation of additional allotments are adequate to ensure character within the districts is maintained?:

In Concordia its is over controlled as nearly all small titles already have houses in them and Concordia is cut in half with the 30 year plan of greater Adelaide and vines coming into the area it is NO longer viable as farming there needs to be a different rezoning of all Concordia.

8. Have changes to the SA Planning Strategy and relevant Council Development Plans in response to these Acts helped to implement them? Please explain:

The council makes it as hard as possible so Broad acre farmers Cannot do many things as other farmers in adjoining councils take for granted eg. not allowed to stubble burn until all grapes in Barossa Valley were picked incase of smoke taint. Only started burning in May when seeding should of been nearly done. No spraying near vines no B double access no planes to spray or spread fertilizer the list goes on so Concordia is not a viable farming area.

9. What do you consider are the family, social, economic and environmental impacts of the Act/s?:

sending farmers broke as we cannot farm in an best practice farming to be viable and placing mental health issues on to farmers is not a very healthy practice. This is not new but everyone does not want to hear about the bad things that are been placed upon us only trying to make everything sound perfect when it is Far From It.....

10. Have these Acts resulted in any positive or negative impacts on farming operations or farm business? If so, please explain:

There have only been negative impacts on farming in the Concordia area. As We were not allowed to burn till May when seeding should of been well on the way incase of smoke taint to the vines. We have a real cost impact but that doesn't matter as farmers are treated as second class in the Barossa Valley. The area has been cut into half with the Greater 30 year plan of Adel and with vines coming in the area the farming strip left is only about 1km wide with many lifestyle blocks already in Concordia we have 51 adjoin neighbours that are not farmers and land sizes from under a hectare to 80 acres blocks. So no access to planes for spraying or spreading fertilizer, no access to B doubles, cannot spray when need to, hard to move machinery around, all of these things have made Concordia unviable for farming and other land uses are need in this area farming cannot continue.

11. Do you believe any changes are needed in the Act/s? Please explain:

YES There needs to be provisions that when an area such as Concordia has been ruined by Poor policies from State and Local govt. that other land uses can be implemented to allow the last existing farmer to escape from this area and purchase another farm else were. As no farmer is going to purchase land when they know of all the hardship we have in trying to farm in such an area.

12. SA's new planning system is currently being developed. Are there any changes you would suggest for implementing character preservation in the new system?:

No there is already to much

### **Other comments / submission details**

These issues that I have raised are no new. The State and Local govt. know about these issues but all say its too hard to fix so they just disregard us as the expendable  
These issues are so great in number and as this has been allowed to go on so long by Barossa Council and State Govt the only real solution for our area is allow it to be farmlets some 8-10 acre lots allow houses on them so people can run a few sheep or try small scale niche products. as the Barossa is trying very hard to push small scale farming. This would allow us to sell our farm and purchase land elsewhere and do what we do Broad Acre farming in areas that are truly meant to be farming.

We have approached Minister for Planning, Minister for Agriculture, had meeting with local members, Mr Deegan, Daniel Casement, PIRSA , Barossa Council, John Darley MLC, we have had meeting with other as well. They all agree that this area is no longer an viable farming area but can come up with no solutions it is now time for a solution to be found as we cannot take this situation for much longer one can only afford to loss money for so long before the bank will enforce us to sell as we are losing money every year with all of the restricting that that been placed on us. We have sent in submission at every opportunity spoken at meeting at every chance but it always falls on deaf ears Not one thing in the last 10 years has been fixed just new restrictions place on top. IT IS NOW TIME TO FIX THE PROBLEMS...

WE will be writing an submission to DPTI as well.

### **Files for Submission**

No files were uploaded in this submission

5 December 2017

Planning Engagement  
Department of Planning, Transport and Infrastructure  
GPO Box 1815  
ADELAIDE SA 5001

Dear Sir/Madam

**Re: Review of the Character Preservation (Barossa Valley) Act 2012**

We act for LVS Admin Pty Ltd. Our client is the registered proprietor of Allotment 12 Moppa Road South, Nuriootpa, on the western outskirts of Nuriootpa township.

Our client has asked us to make this submission in response to the notice which was published in *The Advertiser* 1 November 2017 inviting feedback on the *Character Preservation (Barossa Valley) Act 2012* and the *Character Preservation (McLaren Vale) Act 2012*. Our client's interest concerns the *Character Preservation (Barossa Valley) Act* only.

The Land

Our client's land is described as 130-138 Moppa Road South, Nuriootpa ("the land"). A copy of the relevant Certificate of Title is **enclosed**.

The land has an area of 10.3 hectares. It also has a 260 metres frontage to Moppa Road South and a 352 metre frontage to Sir Condor Laucke Way.

The land is situated in the Primary Production Zone as indicated on Zone Map Lig16/ of the Light Regional Council Development Plan. As a consequence of its location in the Primary Production Zone, the land is also in the Character Preservation District as detailed on Overlay Map Lig/16 and on GRO Plan GP 4 of 2012.

The land is disposed as a vineyard, with a house and workshop buildings located towards and with access to Moppa Road South. The land's features are shown on the Site Plan **enclosed**. It will be noted from the Site Plan that the land is surrounded by urban-type development namely:

- to the west: a mainly residential enclave of 25 detached dwellings all with frontage to Neil Avenue and also in the Primary Production Zone;



- to the north: industrial sheds now used for workshop and storage purposes in the Industry (Barossa Valley Region) Zone;
- to the east: Barossa Village Inc Retirement Homes and conventional housing in the Residential Zone of the Development Plan for the adjacent Barossa Council; and
- to the south: a mix of commercial development with frontage to the southern side of Sir Condor Laucke Way, including a petrol filling station, irrigation supplies showroom and workshop, and other commercial workshop buildings. These commercial uses are also in the Primary Production Zone, and are identified on Concept Plan Map Lig/6 for commercial or light industrial purposes with linked retail uses (see PDC 9 Barossa Valley Region, Policy Area 2).

Moppa Road South forms the local government boundary between Light Regional Council and The Barossa Council.

Moppa Road South has also been identified for upgrading involving new intersections to facilitate the Samuel Road B-Double freight route. A roundabout at the Sir Condor Laucke Way/Moppa Road South intersection was planned as part of this project, and would involve acquisition of portion of our client's land. Our client has previously advised it was not in principle opposed to this upgrade, subject to Council supporting the rezoning of the land for residential purposes.

#### Light Regional Council

We have made numerous submissions to Light Regional Council since 2008, highlighting the anomaly which exists with respect to our client's land.

At the General Council meeting held on Tuesday 28 November 2017, we note that Light Regional Council has resolved to make a submission on the *Character Preservation (Barossa Valley) Act 2012* (Agenda Item 13.3.3). The Agenda Item identified the boundary anomaly which exists with respect to our client's land. The Agenda Item discussion under 'District Boundary Review and Anomalies' had this to say about our client's land:

*"... given the time that has passed and the opportunity presented via this review to consider the state of the district, Council officers nominate a revisit of the district boundaries in respect of this location [Nuriootpa West] with a view to making an amendment to include the property at 130-138 Moppa Road South, Nuriootpa (CT 5350/638) within the township as originally intended.*



*The property in question is under the ownership of LVS Admin and comprises a small vineyard, dwelling and business operation. The land immediately adjoins the township of Nuriootpa and is bound by commercial development to the south, a residential development to the west (Neil Avenue) and industry/residential to the north [and east]. The current arrangements do not facilitate effective use of the property for primary industry purposes with day-to-day activities (such as spraying and harvesting) largely constrained by both the residential and commercial uses each sharing a boundary with the property."*

The photographic image below was included with the Council Agenda.



The Council Agenda also identified two allotments to the immediate north of our client's land as warranting a review given the anomalous zone boundaries affecting these allotments (the industry/commercial site previously mentioned in this submission).

We support Council's initiative in drawing attention to these anomalies.

### The Discussion Paper

The Discussion Paper explains that the Acts (for both districts) seek to ensure that the special character values of the Barossa Valley and McLaren Vale districts are protected from urban encroachment. Our client does not disagree with the need for such protections.

*The Discussion Paper also correctly notes that "interface impacts are seen in primary production areas where there are competing land uses, in particular the use of rural chemicals in close proximity to townships/dwellings. The Acts restrict the creation of additional allotments for residential purposes outside of township boundaries, therefore helping to minimise the occurrence of these land-use conflicts".*



These particular impacts are familiar to our client, which continues to manage the vineyard as best it can despite its proximity to residential and other urban development virtually completely encircling the vineyard.

### Action Sought

Our client respectfully requests that the Character Preservation Districts Map be amended to remove Allotment 12 in DP1931 from the Barossa Character Preservation District. We also suggest that the adjacent Neil Avenue residential enclave and the industrial/commercial site to the north be removed at the same time, because of the anomalous situation applying to those areas.

The removal of these three areas from the Barossa Character Preservation Districts Map will be consistent with the submission made by Light Regional Council, which correctly observes that *"the review provides an opportunity to consider the boundaries that both resolve an anomaly and allow for infill development on a site which has a number of operational constraints by virtue of its location adjacent to both residential and commercial activities"*.

The map attached to Council's submission identifies our client's land and two properties to the north of our client's land for review. We suggest that the Neil Avenue residential enclave to the immediate west of our client's land should be also be included, because it too represents an anomaly which could be rectified by appropriate amendment to the Development Plan.

Our client's land, and the adjacent properties which should be removed from the Character Preservation District Map, are shown of the **enclosed** Barossa Preservation District Anomalies Map.

Yours faithfully

**Graham Burns**  
MasterPlan SA Pty Ltd

enc: Certificate of Title.  
Site Plan.  
Barossa Preservation District Anomalies Map.



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.



Registrar-General

## Certificate of Title - Volume 5320 Folio 638

Parent Title(s) CT 971/95  
Dealing(s) CONVERTED TITLE  
Creating Title  
Title Issued 23/01/1996  
Edition 7  
Edition Issued 22/12/2003



## Estate Type

FEE SIMPLE

## Registered Proprietor

LVS ADMIN PTY. LTD. (ACN: 105 082 040)  
OF 7 CADD COURT ANGASTON SA 5353

## Description of Land

ALLOTMENT 12 DEPOSITED PLAN 1931  
IN THE AREA NAMED NURIOOTPA  
HUNDRED OF NURIOOTPA

## Easements

NIL

## Schedule of Dealings

Dealing Number	Description
9743649	MORTGAGE TO NATIONAL AUSTRALIA BANK LTD. (SINGLE COPY ONLY)

## Notations

### Dealings Affecting Title

NIL

### Priority Notices

NIL



## Notations on Plan

NIL

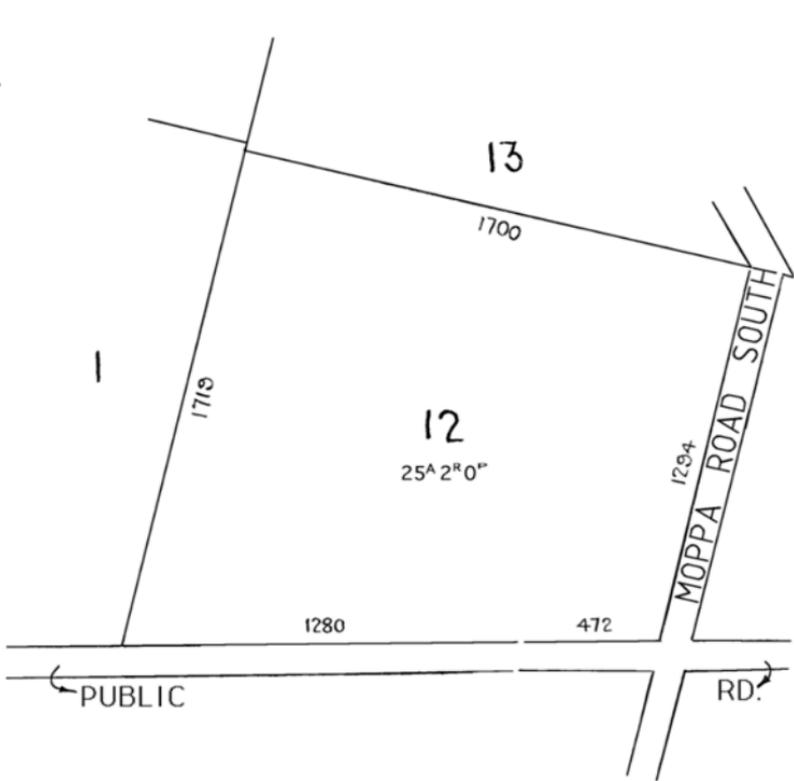
## Registrar-General's Notes

AMENDMENT TO DIAGRAM VIDE 22/2012

## Administrative Interests

NIL

\* Denotes the dealing has been re-lodged.



FOR METRIC CONVERSION	
1 LINK	= 0.201168 metres
1 CHAIN	= 100 LINKS
1 ACRE	= 0.404686 hectares
1 ROOD	= 1011.7 m <sup>2</sup>
1 PERCH	= 25.29 m <sup>2</sup>



**1** LVS Admin Pty Ltd - Allotment 12  
(130 - 138 Moppa Road South, NURIOOTPA)

**SITE PLAN**

NURIOOTPA WEST

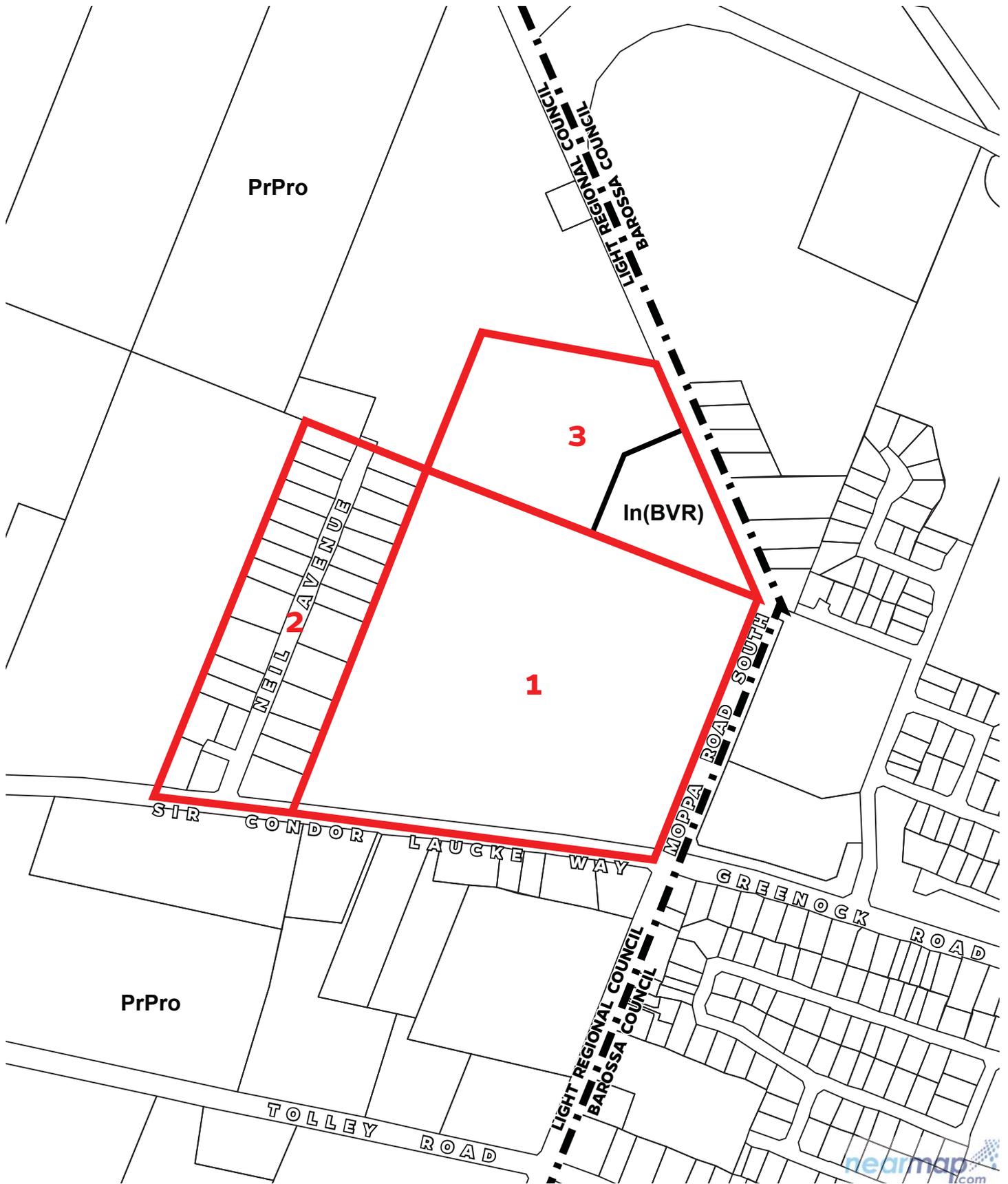
for LVS Admin Pty Ltd



1:5000 @ A4  
0 100m

MASTERPLAN.COM.AU  
SA | NT | QLD  
© DEC 2017 DS:14634\_1.0





- ■ ■ Council Boundary
- Zone Boundary
- Subject Land
- In(BVR) Industry (Barossa Valley Region)
- PrPro Primary Production

- 1** LVS Admin Pty Ltd - Allotment 12  
(130 - 138 Moppa Road South, NURIOOTPA)
- 2** Neil Avenue Residential Allotments
- 3** Industrial / Commercial Property  
(104 Moppa Road South, NURIOOTPA &  
94 Moppa Road South, NURIOOTPA)

**BAROSSA  
CHARACTER PRESERVATION  
ANOMALIES MAP**

NURIOOTPA WEST

for LVS Admin Pty Ltd



1:5000 @ A4  
0 100m

MASTERPLAN.COM.AU  
SA | NT | QLD  
© NOV 2017 DS:14634\_1.0



# Concordia Land.

6 December 2017

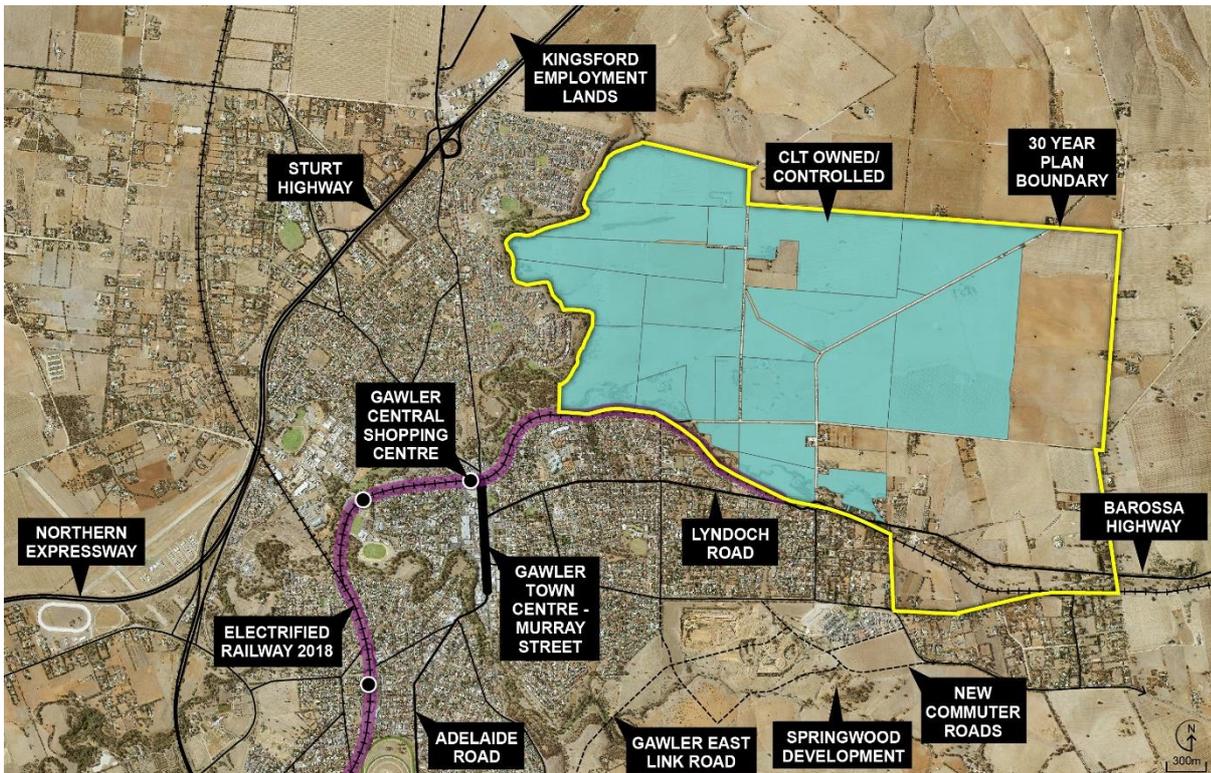
Department of Planning, Transport and Infrastructure  
GPO Box 1815  
ADELAIDE SA 5001

Dear Sir/Madam,

## Review of Character Preservation (Barossa Valley) Act 2012

As a significant landowner within The Barossa Council area we write to you in response to the Discussion Paper issued by the Department of Planning, Transport and Infrastructure in relation to the review of the Character Preservation (Barossa Valley) Act 2012.

Concordia Land now owns or controls 616 hectares (63% of the entire Concordia Growth Area). The Concordia Growth Area is shown in the yellow outline in the map below, with Concordia's Land ownership highlighted in blue.



# Concordia Land.

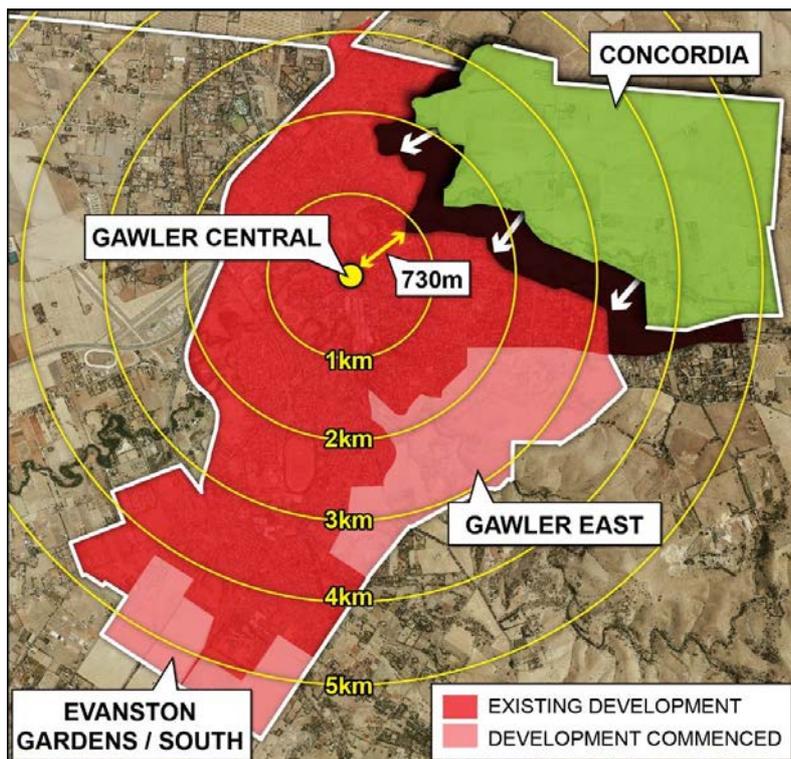
The Concordia Growth area is located at the peri-urban interface with the Barossa Valley Character Preservation District, as well as the Environment and Food Production Area. The land will provide for a logical, natural and sequential expansion of the Gawler Township, making efficient use of existing infrastructure, as well as investing in new and expanded infrastructure for the growing community. In association with The Barossa Council and Town of Gawler, we are currently undertaking preliminary strategic planning and site investigations for the Concordia Growth Area.

With the updating of the 30 Year Plan for Greater Adelaide in April this year, the Minister clearly reaffirmed the boundaries of metropolitan Adelaide and confirmed Concordia as a significant future urban growth area. We are aware that there was a previous proposal dating back 10 years for a 'separate township' development which would require a significant change to the boundary of the Character Preservation District and is totally at odds with the recently updated 30 Year Plan for Greater Adelaide.

There is no doubt that a controlled expansion of the Gawler Township is a much more desirable planning outcome, not only because it can capitalize on existing urban infrastructure, including the existing rail line, but also because it will provide the critical mass to make Gawler a strong regional hub for the Mid and Lower North, and Murraylands, while helping to preserve the Barossa's viticultural land by offering a close, contemporary residential resource.

Arguably, the natural growth and expansion of the Township of Gawler has been historically and artificially constrained by administrative boundaries which have placed land near the Gawler Town Centre under the control and administration of both the Barossa Council (Concordia) and Light Regional Council (Hewett). Whilst the area of Hewett has been developed (under the administration of the Light Regional Council) the area of Concordia remains relatively undeveloped, with limited agricultural activities and rural living. This land is directly contiguous with the Town of Gawler but has been historically managed as agricultural and rural land, rather than a natural urban extension of the Gawler Township.

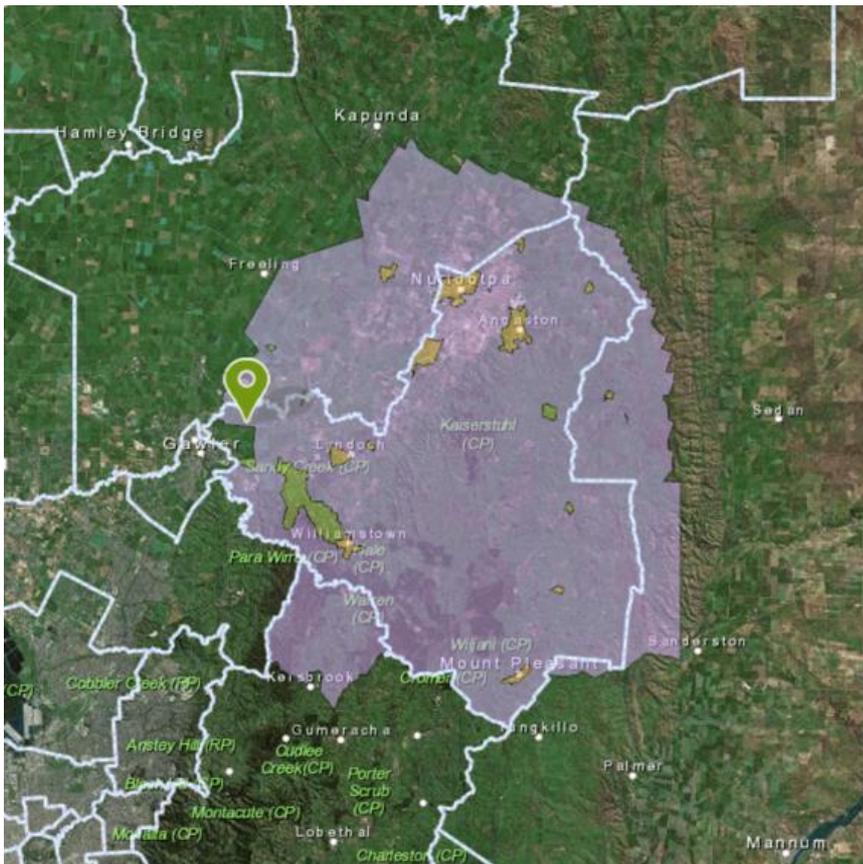
Traditional geographical economic theory identifies that, in an isolated state, a city or town will grow concentrically. In the context of the Town of Gawler, the concentric zone model has, however, been constrained by the administrative boundary of the Barossa Council.



# Concordia Land.

When combined with the existing urban footprint and growth areas of Gawler, the rezoning and ultimate development of the Concordia growth area will result in a 'concentric urban township' around a core formed by the town centre of Murray Street. The growth area will provide 'balance' to the township within a clearly defined (statutory) township boundary formed by the Barossa Valley Character Preservation District and designated Environment and Food Production Areas. This logical concentric growth will capitalise on and contribute to the existing physical and social infrastructure of the Gawler Township, whilst providing a critical population mass to support and underpin the economic strength and viability of local businesses, services and institutions.

The map below shows the relationship of the Concordia Growth Area (indicated by the green flag) to the Gawler Township, local government boundaries (white) and the Barossa Character Protection District (purple).



This plan highlights the inconsistencies which have emerged over time between the historical local government boundaries and the planning policies and development patterns which have emerged over the last 30-40 years. The urban area of Gawler now encompasses portion of the District Council of Light and will in the future encompass part of The Barossa Council (Concordia), while the Barossa Character Protection District extends over all of The Barossa Council as well as parts of Light, Adelaide Hills and Mid Murray Councils. It would seem that there is a case for a review of local government boundaries to better reflect local geography and land use, contemporary development patterns and Government policy directions.

Concordia Land is strongly supportive of the protection of the character and economic base of the Barossa Valley and its potential future World Heritage Listing. Concordia will provide an opportunity to deliver not only housing to support future growth while protecting the Valley but also key infrastructure including regional road and public transport connections, education, health, aged care community and recreation facilities which will benefit the Gawler/Barossa region.

While the restriction on the creation of housing allotments outside of township boundaries is necessary in order to maintain the objectives of the legislation, it is important that economic development opportunities are not stifled unnecessarily. Scope certainly exists for additional tourism facilities in the region and food production activities also provide the opportunity for employment growth.

It is also evident that demand for large scale solar power generation will continue to grow, so policies should provide for the location of solar farms on lower value agricultural land within the Character Preservation District in order to provide existing and future communities and businesses with affordable power. Such an approach is consistent with the South Australian Government's strategy for repositioning the state for a more self-reliant energy future. It also provides the owner of the rural land with an income source from the long term leasing of the land for the solar panels.

Concordia Land supports the adoption of 'edge planning' principles at the interface between urban development and primary production and recognises the critical opportunity to reverse the long standing assumption that it is natural and inevitable to compromise food-lands for the sake of urbanisation. It is recognised that edge planning can be utilised to reduce resident complaints of odour, pesticide spraying, dust, aesthetics and noise from different farm activities, whilst also managing farm issues associated with trespassing, property and equipment vandalism, crop damage and theft, livestock harassment and litter, etc.

'Edge Planning' essentially involves the adoption of tools, policies and techniques to manage the interface 'edge' between urban development and primary production and ultimately achieve urban/agricultural compatibility through shared responsibility. It relies on the recognition that it is reasonable for landowners along both sides of the urban/ agricultural boundary to share the benefits and impacts from edge planning implementation.

Concordia Land supports the principle of identifying an 'Edge Planning Area' at the interface between urban and agricultural land at Concordia (principally at the urban boundary interface of the Concordia Growth Area with the Barossa Valley Character Protection District) and adopting tools to manage urban development and farm operations within the edge planning area. For example, within the edge planning area special management guidelines could possibly be adopted for urban development (where relevant), including:

- Rain water management (utilising WSUD principles in subdivision design);
- Sensitive subdivision design techniques/layout (with stormwater management and open space, incorporated as part of edge buffers where practical, etc.);
- Dwelling design and siting techniques;
- Buffer signage (i.e. information packages and awareness tools);
- Vegetated buffers (if/where necessary);
- Use of buffer areas for low impact infrastructure such as solar panels; and
- Separation distances (i.e. 30 metre buffer separating housing from adjoining rural activities, etc.).

# Concordia Land.

In this 'shared approach' to interface management, farm management techniques should also be adopted within the edge planning area, including:

- Suitable separation distances;
- Hours of operation for certain farm activities;
- Lighting management (i.e. for greenhouses, etc.);
- Siting for certain buildings and activities (i.e. manure storage, etc.); and
- Special management requirements for certain activities, etc.

In conclusion, Concordia Land supports the nature and intent of the Character Preservation (Barossa Valley) Act 2012, and specially the need to protect the social, environmental and economic base of the District, while at the same time providing for appropriate economic development opportunities which arise. Concordia Land will continue to give due consideration to our interface with the District in our strategic and structure planning for the site. Certainly, we see any change to the current Character Protection District boundary in the Concordia area as unnecessary and inconsistent with current policy directions state in the 30 Year Plan for Greater Adelaide. However, a broader review of administrative and policy boundaries in the Gawler and Barossa region would seem appropriate.

We thank you for considering the matters outlined above.

Yours sincerely,



**Anne Hight**  
Project Manager



Ref: 3/CON/SUR/1/AB

6 December 2017

Department of Planning, Transport and Infrastructure  
Ms Belinda Monier  
Senior Planner

Email - [DPTI.PlanningEngagement@sa.gov.au](mailto:DPTI.PlanningEngagement@sa.gov.au)

Dear Belinda,

**Barossa Valley Character Preservation District Legislation Review**

Following receipt of correspondence from the Hon John Rau in October 2017, and subsequent discussions with DPTI staff, Council has reviewed the documentation surrounding the review and provides the following comments –

1. Council has now formally endorsed a position that it continues to support the Character Preservation (Barossa Valley) Area. Council is of the view that the existing legislation does achieve its goal of protecting the character of the relevant Districts.
2. Council seeks that the Barossa Valley Character Preservation District boundary be altered so as to allow some growth of the Keyneton township. This would be subject to a rezoning too, and consist of land for an approximate width of 200m west of Keyneton Road, Keyneton.
3. There should be better integration between the Development Plan/Planning and Design Code and the Character Preservation legislation, to ensure that practitioners and the community are fully aware of how the two statutory documents interact.
4. Whilst current land division controls provided by both the subject legislation and relevant Development Plans is adequate, the issue of boundary realignments should be addressed/considered by the legislation, which would give practitioners and the community alike some guidance about the situations in which a boundary realignment may or may not offend the Character Preservation legislation.
5. A Practice Direction could be issued to ensure practitioners act in a clear and consistent way when assessing Development Applications in the Character Preservation District, as well as assist with clarifying what aspects of the legislation practitioners are required to have regard too.
6. Further community awareness needs to occur in relation to the Character Preservation District. This may include a webpage with greater prominence being developed on the SA Planning Portal, as well as a standardised page for the relevant Council websites.

Council appreciates the opportunity afforded to it to provide comments on this review. Please do not hesitate to contact the undersigned on telephone 8564 6020 or via email [jtaggart@mid-murray.sa.gov.au](mailto:jtaggart@mid-murray.sa.gov.au) should you wish to discuss this matter further.

Yours faithfully,

A handwritten signature in black ink, appearing to be 'J. Taggart', written over a light blue horizontal line.

Joel Taggart  
**Acting Director – Development & Environmental Services**

---

All correspondence to PO Box 28, Mannum SA 5238 ABN 88 313 305 455  
Email [postbox@mid-murray.sa.gov.au](mailto:postbox@mid-murray.sa.gov.au) Web [www.mid-murray.sa.gov.au](http://www.mid-murray.sa.gov.au)

**PRINCIPAL OFFICE**

49 Adelaide Road, Mannum, SA  
Telephone: (08) 8569 0100  
Facsimile: (08) 8569 1931

**Development & Environmental Services**

Main Street, Cambrai, SA  
Telephone: (08) 8564 6020  
Facsimile: (08) 8569 1931

**Morgan & Districts Community Hub**

Cnr Fourth & Eighth Street, Morgan, SA  
Telephone: (08) 8540 0060  
Facsimile: (08) 8569 1931

## Monier, Belinda (DPTI)

---

**From:** SA Planning Portal <dpti.noreply@sa.gov.au>  
**Sent:** Wednesday, 6 December 2017 2:50 PM  
**To:** Monier, Belinda (DPTI)  
**Subject:** New Public Submission Lodged.

### Form Information

Site Name: SA Planning Portal  
Page Name: Lodge a Submission  
URL: [https://dpti.sa.gov.au/sa-planning-portal/lodge\\_submission](https://dpti.sa.gov.au/sa-planning-portal/lodge_submission)  
Submission ID: 393371

### Submission Details

Submission date:	6 Dec 2017
Submission type:	Character Preservation Act

### Submitter Contact Details

Name:	Anne Moroney
Organisation Name:	RDA Barossa
Email:	[REDACTED]
Phone:	[REDACTED]

### Submitter Address

Street No.:	[REDACTED]
Street:	[REDACTED]
Suburb:	Tanunda
Post Code:	5352
State:	SA

1. What Council area to do live in?:

Barossa

2. I work/live in the Barossa Character Preservation District: **Yes**

3. I work/live in the McLaren Vale Character Preservation District: **No**

4. What is your particular interest in the review? (e.g. land owner, farmer, live in the area, own a business in the district):

Regional strategic planning and economic development

5. Do you agree to your submission being made public?: **Yes**

6. The Character Preservation Acts aim to protect the character values of the districts (see discussion paper for a list of these). Do you think these values are being adequately protected?:

To an extent. I think tomorrow's heritage should be part of the narrative as well. Given the impact of A New Planning System and the Planning and Design Code are yet to be felt and understood, we are still in early days of the scheme.

7. Do you think the land division controls restricting the creation of additional allotments are adequate to ensure character within the districts is maintained?:

I think restriction of residential and commercial subdivisions of rural land do need to be maintained. Some flexibility in eg facilitating multigenerational farming should be within scope.

8. Have changes to the SA Planning Strategy and relevant Council Development Plans in response to these Acts helped to implement them? Please explain:

The Strategy generally supports Council plans in this respect but more could be done to embrace local strategic vision, articulated through Councils.

9. What do you consider are the family, social, economic and environmental impacts of the Act/s?:

N/A

10. Have these Acts resulted in any positive or negative impacts on farming operations or farm business? If so, please explain:

N/A

11. Do you believe any changes are needed in the Act/s? Please explain:

The Design Review Panels established through the integrated Design Commission a few years ago provided a workable reference for both investor and authorities on appropriate development and form of development and would be useful qualitative assessment tool in this process, ensuring that tomorrow's heritage is strengthened as well as yesterday's heritage preserved.

12. SA's new planning system is currently being developed. Are there any changes you would suggest for implementing character preservation in the new system?:

To keep the intent to remove unnecessary barriers to value adding eg agritourism or packaging and selling on-farm; recognising that a primary producer often needs to value add to be sustainable. Character values would be enhanced by a more functional approach to re-purposing heritage assets.

Commercial activity is required to ensure these values matter - the how and where are in issue and need to guide investment not stifle it.

### **Other comments / submission details**

Overall, the full impacts of the system may not be yet felt given the timing of the New Planning System and in the meanwhile there is a sense of uncertainty about those impacts. To date, there seems to have been a strengthening of the council's existing policies. Better consistency between different authorities approaches remains a goal. A real question is the vision of the emerging regional leaders, the younger generation and how they best see they can maintain and enhance the character of the region. A longer consultation time would have enabled RDAB to seek these views and we look forward to doing so and reporting back to the Commission and the community accordingly.

### **Files for Submission**

No files were uploaded in this submission

Our ref: JRB/215199

7 December 2017

Ms Belinda Monier  
Project Manager  
Character Preservation Acts Review  
Department of Planning, Transport & Infrastructure  
GPO Box 1815  
ADELAIDE SA 5001

By email: [REDACTED]  
[DPTI.PlanningEngagement@sa.gov.au](mailto:DPTI.PlanningEngagement@sa.gov.au)

Dear Ms Monier,

**Character Preservation Acts Review – Submission re Lot 80 Main Road, McLaren Vale**

We refer to the review of the Character Preservation Acts (**the Review**) currently being undertaken by DPTI and the associated discussion paper released as part of the public consultation process on the Review (**the Discussion Paper**).

Our firm acts for McLaren Vines Pty Ltd in its capacity as the registered proprietor of 19.61 hectares of land bounded by Aldersey Street, Johnston Road and Main Road, McLaren Vale (**the land**).<sup>1</sup> This submission is made on our client's behalf and relates to the impacts of the *Character Preservation (McLaren Vale) Act (the Act)*.<sup>2</sup>

**Executive summary**

In short, our client's position is that the southern boundary of the "township" of McLaren Vale should be extended to the south to include the whole of the land, i.e., CT 6051/968. For the reasons that follow, our client contends that the "state of the district"<sup>3</sup> and the social and economic impacts of the Act<sup>4</sup> are such that the boundaries of the township of McLaren Vale ought to be so extended.

Our client seeks, as an outcome flowing on from the submissions received in response to the Review, that:

1. the Minister for Planning (**the Minister**) in his report on the outcome of the Review, recommend (amongst anything else that may be relevant) the inclusion of the land within the "township" of McLaren Vale,<sup>5</sup>
2. the Minister cause to be introduced into Parliament the necessary Bill to amend the Act accordingly; and
3. the Minister thereafter facilitate any other consequential amendments such as amendments to the Planning Strategy and the Onkaparinga (City) Development Plan.

<sup>1</sup> Being land comprised in CT 6051/968 and otherwise described as Lot 80 Main Road, McLaren Vale

<sup>2</sup> Which review is required pursuant to section 10(1) of the Act

<sup>3</sup> See section 10(3)(a) of the Act

<sup>4</sup> See section 10(3)(b) of the Act

<sup>5</sup> Refer section 10(4) of the Act

---

## Background

We understand that the land is located in the “rural area” of the McLaren Vale “district”, as those terms are defined in section 3 of the Act,<sup>6</sup> by reference to GRO Plan GP 3 of 2012 (**the GRO Plan**). The land immediately abuts (and, indeed, the north-eastern portion of the land is included within) the “township” of McLaren Vale, which lies to the north.

The land is presently developed substantially with vineyards. The north-eastern portion of the land that is within the “township” includes a shed and vehicle manoeuvring area associated with the vineyard.

Our client believes that the land is in a reasonably unique position when compared with other land within the McLaren Vale “district”. Some of the distinguishing features of the land are:

- a) the fact that the north-eastern portion of the land is already located within the boundaries of the “township”;
- b) that the land is located hard up against the Residential Zone boundary, within which a residential subdivision has (reasonably) recently occurred; and
- c) the size of the land and the fact that it is bounded by Main Road, Johnston Road and Aldersey Street, which would act as appropriate “buffers” between residential development (to the north) and agriculture (to the south).

It follows from all of the above, in our client’s view, that the land, and the time, is appropriate for “re-zoning”.

Relevantly, the adjacent residential development referred to above stretches along virtually the entire northern boundary of the land. Regrettably, when this land to the north of the land was approved (by, presumably, the City of Onkaparinga) for subdivision (in or about 2000) it was done so with, what our client considers to be, an inadequate buffer separating the new allotments and the vineyards on the land for viticulture.

Our client instructs that this lack of an appropriate “buffer” has resulted in particular interface issues impacting adversely on the use of the land for viticulture.

Since at least 2010, our client has actively pursued various avenues available to it in seeking a re-zoning of the land, including engaging Urban and Regional Planning Solutions (**URPS**) and subsequently our firm.

Our client has also exercised its rights to participate in DPTI’s public consultation and deliberative processes, including during the drafting of the *Planning, Development and Infrastructure Act* reforms<sup>7</sup> and in relation to the Update to the 30 Year Plan for Greater Adelaide.<sup>8</sup>

The Review provides a more specific mechanism (and a timely opportunity) for our client to once again seek to advance its case for the current legislative and policy constraints to be amended.

---

<sup>6</sup> At least according to LocationSA Map Viewer, insofar as that mapping software accurately reflects the GRO Plan

<sup>7</sup> Letter from our firm to Mr Andrew McKeegan dated 15 December 2015

<sup>8</sup> Letter from our firm to Ms Hart and Mr Glossop dated 18 October 2016

Throughout its history of correspondence with DPTI, our client's position has been consistent about the status of the district and the social and economic impacts of the Act on the land. That is, because of what our client considers to be the poor state and chequered fortunes of the grape growing industry, together with the particular interface issues impacting on the use of the land, the land has been rendered unsuitable for continued viticultural use. It is now better suited to urban type development such as residential development, tourist accommodation and associated land division.

### **Status of the district**

Our client instructs that, although market conditions have plateaued to some degree in the past year, the financial state of the grape growing industry remains generally poor, with chequered returns. Indeed, our client advises that, because of persistently poor prices for white grapes, all white grape vines on the land have been pulled out over the past three years.

Our client is heavily reliant on one grape sale contract for shiraz and grenache, which will expire in 2019. We understand that this contract contains no option to renew. Our client further advises that it has managed to sell its shiraz and graciano grapes, but only on an *ad hoc* basis. Accordingly, our client has no guarantee of demand for its grapes beyond the 2019 vintage.

Our client remains pessimistic about the long-term financial viability of its vineyard and has some sympathy for the view that 25% of all vineyards in Australia should be cleared, if the grape growing industry is to regain profitability.

We are instructed that our client is not realising a commercial return from the vineyard located upon the land. If that persists, we are informed that our client will be faced with the choice of either leaving grapes unharvested (as a near neighbour has apparently done with 120 acres of chardonnay for the past few seasons) or simply removing the vines entirely.

### **Social and economic impacts of the Act**

The imposition of the Act on the McLaren Vale region in 2013 effectively introduced a further "layer" on top of existing planning controls. This includes the prohibition on land division within the "rural area" (i.e., the location of the land), where that division would result in the creation of additional allotments and those additional allotments would be used for the purposes of "residential development".<sup>9</sup>

One of the practical effects of that additional "layer" has been that the risk of unsustainability, in a financial sense, of the viticultural use of the land, has become entrenched. As indicated above, we are instructed that the existing vineyard use is commercially unviable and our client is faced with the very real prospect of ceasing to harvest grapes any more, or even removing the vines altogether. Clearly, as matters stand, that would be a regrettable, but probably unavoidable outcome.

Without being able to realise alternative development options, including a residential subdivision of the land or tourist accommodation, our client has been forced to "hitch its wagon" to the vicissitudes of the viticultural industry. Our client submits that this represents an unduly harsh and unreasonable economic impact.

---

<sup>9</sup> Refer section 8 of the Act

Moreover, our client is frustrated by the apparent arbitrariness of the Plan's boundaries. This is particularly so when one considers the interface issues brought about by the introduction of residential development immediately adjacent to the land's northern boundary.

Because the housing was allowed to develop in such close proximity to our client's existing vineyard, the continued operation of the land as a vineyard by our client has, in a number of critical respects, become compromised. The need and difficulty in trying to manage noise and spray drift from the operations of the vineyard are just two examples of such negative impacts.

The EPA-published Environmental Noise Guidelines relating to Audible Bird Scaring Devices provide as follows:

*"The greater the separation between the gas gun and the nearest residents, the greater the noise level reduction .... As a rule of thumb ... a typical gas gun located more than 500m from a residence, in a residential, country township or rural living zone (or similar) restricted an operation to six shots per hour for 10 hours of the day should achieve the performance-based objective".*

I am advised that the above type of guideline effectively prevents the operation of audible bird scaring devices on the land.

In addition, the EPA has adopted various guidelines limiting pesticide use close to residential development.<sup>10</sup> Those guidelines can also impact adversely on the reasonable operation of the vineyard on the land.

Our client previously received planning advice from Mr Marcus Rolfe of URPS to the effect that the existing interface issues between the vineyard on the land and the housing estate to the north are "... clearly undesirable". Mr Rolfe has advised that this is "... a consequence of poor strategic planning and land use zoning in the past."<sup>11</sup>

Our client submits that this historically poor planning could be readily remedied by the amendments to the Act (and other relevant legislation and policy documents) that it seeks. Our client further submits that the land's location lends itself logically to the proposed "re-zoning", bordered as it is by existing residential development and the "township" of McLaren Vale to the north; a dwelling, various buildings and The Salopian Inn to the east; and several dwellings to the west.

## **Discussion Paper**

We note reference in the Discussion Paper to the environmental and interface impacts of the Act.<sup>12</sup> Our client agrees that the use of viticultural chemicals in close proximity to townships/dwellings is undesirable. However, for the reasons given above, our client submits that in relation to this land, the Act has served to cement a historically poor planning outcome and clear land use conflict.

Meanwhile, for the reasons given above about the financial condition of the grape-growing industry, our client respectfully rejects (insofar as the circumstances pertaining to the land are concerned) the suggestion in the Discussion Paper that the Act provides "more certainty to food and wine producers about their ongoing investment".

---

<sup>10</sup> For example, refer *EPA Guidelines for Responsible Pesticide Use*

<sup>11</sup> Refer letter dated 22 July 2011 from URPS to the Planning Minister (relating to protecting the *Barossa Valley and McLaren Vale Discussion Paper*)

<sup>12</sup> Refer page 11 of the Discussion Paper

On the contrary, in our client's experience, the Act has unduly limited the land's redevelopment options and entrenched an invidious financial position.

### **Summary**

The effect of the Act has been to practically "sterilise" the land's development potential, in circumstances where, for a number of reasons, the ability to continue to use the land for viticultural purposes has been materially compromised.

Accordingly, our client seeks that:

1. the Minister in his report on the outcome of the Review, recommend the inclusion of the land within the "township" of McLaren Vale;<sup>13</sup>
2. the Minister cause to be introduced into Parliament the necessary Bill to amend the Act accordingly; and
3. the Minister thereafter facilitate any other consequential amendments such as amendments to the Planning Strategy and the Onkaparinga (City) Development Plan.

Our client would welcome the opportunity to discuss this matter further in any future meeting or public hearing about the Review.

Our client looks forward to your response to its submission above.

Yours faithfully



**Jamie Botten**

**BOTTEN LEVINSON**

Mob: 0419 816 598

Email: [jrb@bllawyers.com.au](mailto:jrb@bllawyers.com.au)

---

<sup>13</sup> Refer section 10(4) of the Act

**Department of Planning, Transport and Infrastructure**  
**Planning Engagement**  
GPO Box 1815  
Adelaide SA 5001



7<sup>th</sup> December 2017

To Whom It May Concern,

**RE: Review of the Character Preservation (Barossa Valley) Act 2012 and Character Preservation (McLaren Vale) Act 2012**

I write to you on behalf of the McLaren Vale Grape Wine & Tourism Association (MVGWTA) – the peak body representing more than 500 businesses – encompassing all grape-growers, winemakers and tourism providers in one of Australia’s most valuable wine tourism regions – McLaren Vale, South Australia.

Thank you for the opportunity to provide feedback regarding the Review of the Character Preservation (Barossa Valley) Act 2012 and Character Preservation (McLaren Vale) Act 2012.

The tourism, agriculture and food production industries are all major employers of our region which contributes billions of dollars to our State’s economy. The Barossa Valley and McLaren Vale food and wine regions hold particular significance in these industries and are recognised worldwide as iconic South Australian destinations.

The *McLaren Vale* Act provides reassurance to our community – both business and residential – that the unique attributes of McLaren Vale are also acknowledged and highly valued by our State, and that the protection of these attributes is paramount to the long-term vision for building our State’s economy and global reputation for premium food and wine from a clean environment.

In June 2017, MVGWTA joined the Wine Origins Alliance – a group of 23 leading world wine regions dedicated to protecting place names including Napa Valley, Bordeaux and Champagne. The Joint Declaration to Protect Wine Place & Origin is a set of principles aimed at educating wine consumers about the importance of location to winemaking, and the protection of place. The Character Preservation (McLaren Vale) Act further strengthens MVGWTA’s position within the Wine Origins Alliance, and as an international recognised, high-value wine tourism region.

Reviewing the Discussion Paper, MVGWTA provides the following feedback:

**Character Values:** The Acts continue to recognise the importance of the Character Values of each district as identified in the Discussion Paper, which in turn strengthens both sustainable visitation and meaningful investment attraction for Barossa, McLaren Vale and South Australia.

**Land Division Controls:** populations are increasing and cities worldwide are losing valuable food production lands to housing placing upward pressures on fresh food prices. The existing Land Division Controls provide comfort to both producers and residents that the viticultural, agricultural and associated industries of the districts, as well as the scenic and tourism attributes of each region will be protected and therefore enhanced longer-term.

**SA Planning Strategy changes:** MVGWTA supports the introduction of the SA Planning Strategy changes – effective and efficient planning processes which are sympathetic to the unique characteristics of McLaren Vale and Barossa with further compliment the objectives of the Acts.



Wine, Food, Beaches  
Markets, Trails, Art

McLaren Vale Grape Wine & Tourism Association  
P: +61 8 8323 8999 W: [www.mclarenvale.info](http://www.mclarenvale.info) E: [info@mclarenvale.info](mailto:info@mclarenvale.info)



**Impact upon farming operations or business:** these Acts provide further weight to development policy by providing statutory protection from inappropriate urban development (such as residential development within primary production areas or development which is at odds with the desired character of a town) in the Barossa Valley and McLaren Vale character preservation districts.

MVGWTA seeks further clarification from the Department of Planning, Transport and Infrastructure regarding the *McLaren Vale Act's* current ability to safeguard and protect the existing township boundaries of Clarendon, Kangarilla, McLaren Flat, McLaren Vale and Willunga from changes of 'Land Use' definitions as well as 'Non-Compliant' development applications received through our Local Government Area, the City of Onkaparinga.

McLaren Vale, like all regions, has a unique sense of place which cannot be duplicated anywhere else in the world. The value and protection of place through our State's Character Preservation Act is fundamental to the prosperity of future generations and industry in regional communities.

I welcome the opportunity to discuss this further, and thank you for your consideration of MVGWTA's request.

Sincerely,



Jennifer Lynch  
**General Manager, MVGWTA**

**From:** Davidson, Joanne (SATC)  
**Sent:** Friday, 8 December 2017 9:30 AM  
**To:** Monier, Belinda (DPTI)  
**Cc:** Radan, Talia (SATC)  
**Subject:** Review of Character Preservation Act - Barossa and McLaren Vale

Dear Belinda

In reference to the letter from the Honourable John Rau MP to Rodney Harrex of the South Australian Tourism Commission dated 27 October 2017, thank you for the opportunity to respond to your review of the Character Preservation Act for the Barossa and McLaren Vale regions.

The Barossa and McLaren Vale wine regions are highly valuable assets from the perspective of the visitor economy offering unique brand attributes and aligning with significant brand pillars such as "food and wine" and "nature and wildlife".

As outlined in the discussion paper, the tourism results for the relevant tourism regions have seen steady increases over the last ten years. From our perspective, it does not appear that there have been significant impacts of the introduction of the Character Preservation Acts. Therefore, we support the ongoing application of these Acts to preserve the unique character offered by these two cornerstones of our tourism offer.

Best regards  
Jo

**Joanne Davidson**  
Research and Policy Manager  
Strategy and Insight

**South Australian Tourism Commission**  
Level 3 121-125 King William Street  
Adelaide South Australia 5000  
GPO Box 1972 Adelaide SA 5001



## Monier, Belinda (DPTI)

---

**From:** SA Planning Portal <dpti.noreply@sa.gov.au>  
**Sent:** Friday, 8 December 2017 2:08 PM  
**To:** Monier, Belinda (DPTI)  
**Subject:** New Public Submission Lodged.

### Form Information

Site Name: SA Planning Portal  
Page Name: Lodge a Submission  
URL: [http://www.sapanningportal.sa.gov.au/lodge\\_submission](http://www.sapanningportal.sa.gov.au/lodge_submission)  
Submission ID: 394053

### Submission Details

Submission date:	8 Dec 2017
Submission type:	Character Preservation Act

### Submitter Contact Details

Name:	Robert O'Callaghan
Organisation Name:	Rockford Wines
Email:	[REDACTED]
Phone:	[REDACTED]

### Submitter Address

Street No.:	[REDACTED]
Street:	[REDACTED]
Suburb:	Krondorf, Tanunda
Post Code:	5352
State:	SA

1. What Council area to do live in?:

Barossa Council

2. I work/live in the Barossa Character Preservation District: **Yes**

3. I work/live in the McLaren Vale Character Preservation District: **No**

4. What is your particular interest in the review? (e.g. land owner, farmer, live in the area, own a business in the district):

Land owner + Own a business + Grape Grower (vested stakeholder)

5. Do you agree to your submission being made public?: **Yes**

6. The Character Preservation Acts aim to protect the character values of the districts (see discussion paper for a list of these). Do you think these values are being adequately protected?:

Yes, together with the local Barossa Development Plan. The test will come when the land available for housing inside the current boundaries is exhausted. It is critical that the boundaries are not extended into the rural landscape especially in the towns surrounded by vineyards in the centre of the valley. The rural landscape is a critical component of our financial growth and security into the future. It is the poster and image for wine brand Barossa, tourism and all the associated businesses that these support. Barossa wine is now drunk in all parts of the world, as a consequence many of the millions of people who drink this wine will want to come and experience the culture of where it is made. Expanding suburbs will have a dramatic negative impact on their opinion when they take this story back home. A very large number of Barossa citizens made a significant commitment over many years to support and contribute to the Barossa Development Plan and were reassured when the Character Preservation Act came into law. During this process it was clear that the vast majority of citizens supported the protection of the rural landscape and built heritage.

7. Do you think the land division controls restricting the creation of additional allotments are adequate to ensure character within the districts is maintained?:

Yes

8. Have changes to the SA Planning Strategy and relevant Council Development Plans in response to these Acts helped to implement them? Please explain:

• Yes, the content of the Barossa Development Plan supports the Acts. Where improvement is required is the actual implementation by local council to ensure the details in the Development Plan are clearly applied. There have been instances recently where applications have gone to public notification that are in contradiction to the Acts and local Development Plan. • With the implementation of one Planning and Design Code, there is concern that key details relating to local heritage areas will be watered down or lost completely.

9. What do you consider are the family, social, economic and environmental impacts of the Act/s?:

• As indicated in The Discussion Paper, there is limited awareness about the Acts which is leading to misunderstanding as to their intention – in some instances being seen as anti-development. We are firmly of the belief that if the local communities understood the intention of the Acts, and the potential damage to Barossa's landscapes and heritage areas in their absence, there would be more support for the implementation and enforcement of the acts. Furthermore, the value of protecting the Barossa region underpins the essence and value of the Barossa Brand on a world stage. It is this brand that directly correlates with the growth and economic success of local businesses and communities. Again, if locals fully understood the benefit of protecting the Barossa Brand, we are confident there would be more appreciation of the Acts and Council's Development Plan. A

suggestion is to look for ways to engage and educate local communities on the intention and benefits of the relevant Acts / documents.

10. Have these Acts resulted in any positive or negative impacts on farming operations or farm business? If so, please explain:

- Presently No, but potentially positive if the changes to development legislation on commodity processing and value adding products is implemented
- The most positive aspect is that the restriction of residential development means that the price of agricultural land is a proper reflection of its worth and can be traded accordingly.

11. Do you believe any changes are needed in the Act/s? Please explain:

No

12. SA's new planning system is currently being developed. Are there any changes you would suggest for implementing character preservation in the new system?:

- Yes. As noted earlier, essential that the finer details covered in the local Development Plan relevant to heritage areas and landscapes form part of the code, and are not watered down or dissolved.
- More focus to be placed on design and more weight given to the heritage advisor in the assessment of development applications i.e. heritage assessment vs advisory.
- As the rural landscape is the poster for brand Barossa it is important that the design and location of complying buildings are such that they contribute to a positive outcome for our image – a perfect example of how not to do this is on our most popular tourist route (Seppeltsfield Road) where Light Council allowed a huge inappropriate metal building to be constructed opposite the entrance to one of the Barossa's most prestigious accommodation and restaurant venues.

### **Other comments / submission details**

We would like to see opportunities created for discussion / consultation that is face-to-face and aims to engage with the local community.

### **Files for Submission**

No files were uploaded in this submission

Ref: 17ADL-0430

8 December 2017

The Hon John Rau MP  
Deputy Premier  
Minister for Planning  
45 Pirie Street  
ADELAIDE SA 5001



**URPS**

Suite 12  
154 Fullarton Road  
ROSE PARK SA 5067

08 8333 7999  
www.urps.com.au  
ABN 55 640 546 010

Dear Minister

## **Character Preservation Acts Review – Public Submission on Behalf of Yalumba**

### **Introduction**

URPS has been requested by Yalumba to prepare this submission on the Character Preservation Acts Review.

### **Yalumba**

Yalumba is unique and important Barossa Valley icon. It is a significant grape grower, wine producer and employer within the region. Yalumba has a long history being founded by Samuel Smith in 1849 and has been family owned for six generations. Yalumba employs more than 200 staff with the majority of these in the Barossa Valley.

As illustrated in the attached Locality Plan, the Yalumba winery, office and cellar door are located on the fringe of Angaston and are surrounded by vineyards. Yalumba's land is located in both the Primary Production Zone and the Rural Living Zone, adjoining the Light Industry Zone and Angaston's Residential Zone.

Yalumba is supportive of the intent of the Character Preservation legislation and the resultant amendments to the Planning Strategy that assist in delivering on the objects of the legislation.

Yalumba's concerns are twofold:

1. that there is insufficient clarity between the Acts and Development Plans as to whether townships are located within the Character Preservation Districts, and
2. that the Character Preservation Acts fail to provide sufficient protection at the interface between townships and important rural/viticultural activities.

## Townships

The *Character Preservation (Barossa Valley) Act 2012* covers the Barossa Valley as defined by the plan deposited in the General Registry Office numbered GP 4 of 2012 (as it exists on 26 June 2012).

The Character Preservation Districts appear to include the townships, rural living areas and the remaining rural areas.

The Addendum to the Planning Strategy which defines the special character of each Character Preservation District also supports the inclusion of townships within the Character Preservation Districts. For instance, there are many Planning Strategy policies that relate to the character and built form within townships.

Despite the inclusion of townships within GP 4 of 2012, and policies in the Planning Strategy, townships are illustrated and described within the Barossa Valley Development Plan as “areas excluded from the district”.

In this context, I question whether the Development Plan mapping and description is correct.

## Management of the Urban and Rural Interface

The *Development Act 1993* has mechanisms in place to ensure that Development Plans suitably manage the desirable character of townships. This occurs through regular amendments to both the Planning Strategy and Development Plans to ensure their currency and relevancy to contemporary issues.

In particular, Development Plans are equipped to protect character through heritage listings, prescribing quantitative guidelines such as minimum allotment sizes and frontage widths, and providing Desired Character Statements which direct the form and style of new development.

Development Plans can be amended by both the Minister for Planning and Councils.

I question whether the Barossa Council (and other Councils that have Character Preservation Districts) has done enough to ensure that its Development Plan is consistent with the Planning Strategy and the Addendum incorporated in 2013, particularly in the context of the Character Preservation legislation.

The pending Planning and Design Code provides an opportunity for the Minister for Planning to introduce additional planning policy to reflect the Addendum to the Planning Strategy.

Yalumba, as an adjoining landowner, has recently been involved in a development application for a substantial residential land division on the fringe of Angaston where it directly adjoined its vineyards on the outside of the township. Yalumba lodged a representation against the proposed development on a number of grounds, but particularly relating to the interface between the land division and its vineyard. The assessment of this application highlighted inconsistencies between the Character Preservation legislation and the interpretation of Development Plans.

The land division application in Angaston involved the division of one large land parcel into 78 allotments for residential development. Approved by Council in February 2017, the land division created residential allotments of generally between 525m<sup>2</sup> and 750m<sup>2</sup> in a regular pattern. The site itself is located on the southern approach to the township and located within the Residential Zone adjoining the Rural Living Zone and the Primary Production Zone. The site of the land division directly adjoined two working vineyards, one operated by Yalumba and the other by a third party. As a result of the land division, some 22 residential

allotments fronting vineyards with future dwellings constructed approximately 40 metres from the edge of existing vines.

In the assessment of this land division, little weight or consideration was given to an appropriate interface between dwelling sites and two separate working vineyards. This is despite the Objects of the *Character Preservation (Barossa Valley) Act 2012* recognising the character value viticultural activities within the Character Preservation District.

There is a real risk that residential development, improperly designed or managed, in close proximity to vineyards could threaten the use of the land for such purposes. The Objects of Character Preservation legislation would clearly not be met if residential development resulted in the displacement of vineyards that are clearly of character value.

Additionally, I note that in the consideration of the above land division there was, at best, cursory consideration of the *Character Preservation (Barossa Valley) Act 2012*. The assessment indicated that the site was located outside of the Character Preservation District and that:

*Pursuant to Section 6(2) of the Character Preservation (Barossa Valley) Act 2012, the Development Assessment Panel has had regard to the objects of that Act and, in determining this application, seeks to further the objects of that Act.*

I question whether proper consideration was given to the *Character Preservation (Barossa Valley) Act 2012* in the assessment of this development application.

The Objects of the Character Preservation Acts should be amended to expressly address the protection and enhancement of the interface between urban and rural areas. This is an issue that goes to the heart of the special character of the District, and if improperly managed will result in the displacement of key industries – whether this in Angaston or elsewhere in the Barossa Valley.

## Summary and Conclusion

Yalumba welcomes the review of the *Character Preservation (Barossa Valley) Act 2012*.

Yalumba is concerned that there are inconsistencies between the *Character Preservation (Barossa Valley) Act 2012* and Development Plans which risks the achievement of the objects of the Act.

I respectfully recommend that the Character Preservation legislation:

- be amended to remove reference to the preservation of the character of townships and the GP Plan has the townships removed from the area, and
- specifically reference the protection and enhancement of the interface between townships and surrounding rural land.

Thank you again for the opportunity to provide this submission.

Please call me on 8333 7999 if you have any questions.

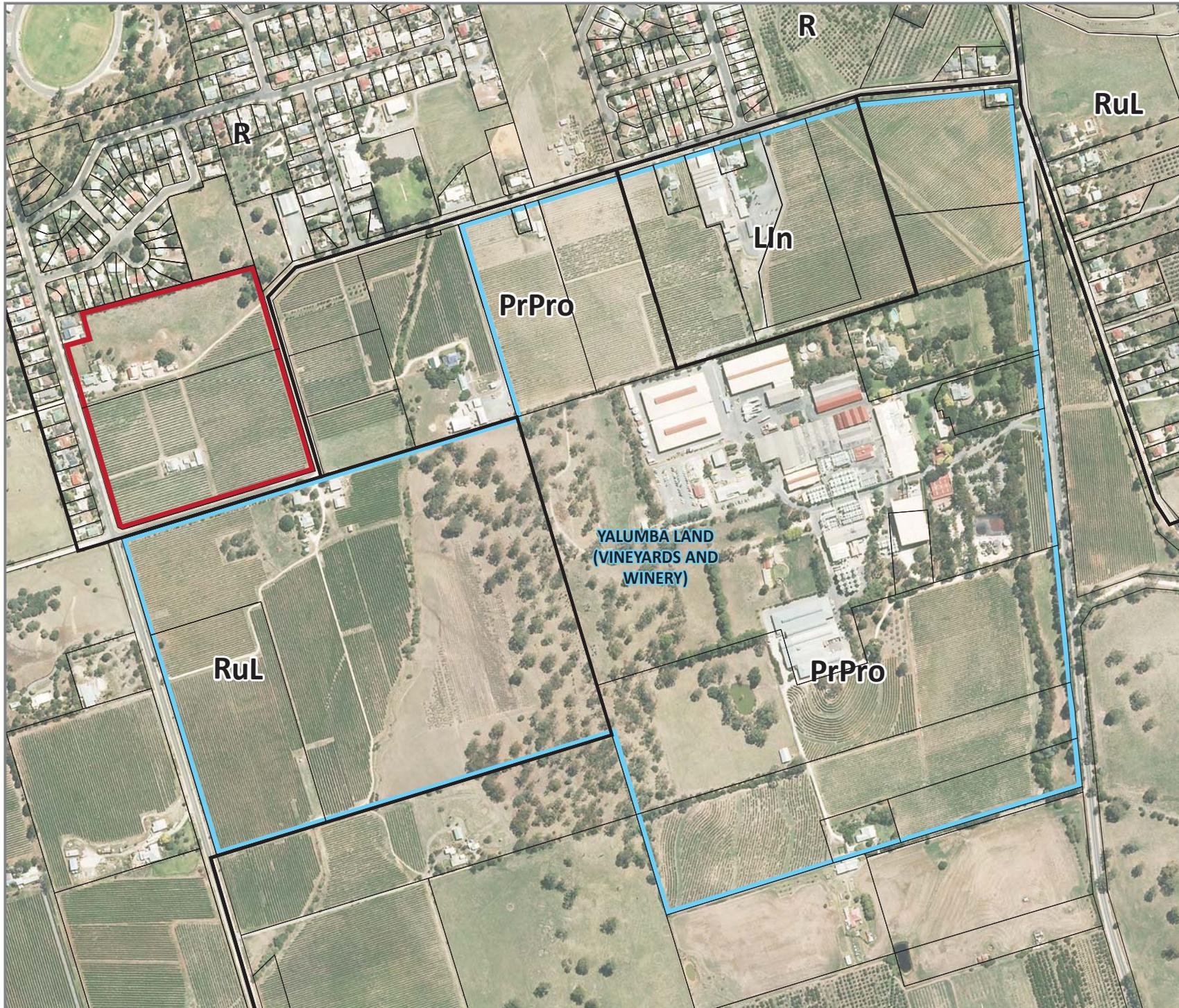
Yours sincerely

A handwritten signature in black ink that reads "Simon Channon". The signature is written in a cursive, flowing style.

Simon Channon  
**Associate**

Cc: Mr Andrew Murphy, Yalumba

Enc: Yalumba Locality Plan



**LEGEND**

-  Cadastre
-  Zone Boundary
-  Yalumba & Hills Smith owned land
-  Approved land division



0 75 150 300m

**LOCALITY PLAN  
YALUMBA  
CHARACTER  
PRESERVATION  
REVIEW**

JOB REF.	17ADL-0430
PREPARED BY.	ML
DATE.	07.12.17
REVISION.	1
DATA SOURCE.	Property Location Browser, Barossa DP





Australia ICOMOS Secretariat  
Faculty of Arts & Education  
Deakin University  
221 Burwood Highway  
Burwood VIC 3125  
ph: +61 3 9251 7131  
e: [austicomos@deakin.edu.au](mailto:austicomos@deakin.edu.au)  
w: [www.icomos.org/australia](http://www.icomos.org/australia)

8 December 2017

DPTI Planning Engagement  
GPO Box 1815  
Adelaide SA 5001

By email: [DPTI.PlanningEngagement@sa.gov.au](mailto:DPTI.PlanningEngagement@sa.gov.au)

Dear Sir/Madam,

**Review of the Character Preservation (Barossa Valley) Act 2012 and  
Character Preservation (McLaren Vale) Act 2012**

Thank you for the opportunity to comment on this proposal. I provide this letter as a submission on behalf of Australia ICOMOS.

ICOMOS – the International Council on Monuments and Sites – is a non-government professional organisation that promotes expertise in the conservation of cultural heritage. ICOMOS is also an Advisory Body to the World Heritage Committee under the World Heritage Convention. Australia ICOMOS, formed in 1976, is one of over 100 national committees throughout the world. Australia ICOMOS has over 600 members in a range of heritage professions. We have expert members on a large number of ICOMOS International Scientific Committees, as well as on expert committees and boards in Australia. We have a particular interest in Australia's world heritage sites.

Australia ICOMOS supports the recognition, protection and enhancement of the highly valuable agricultural landscapes of the Barossa and McLaren Vale through the Character Preservation Acts (Acts), and commends the South Australian government for their leadership in this area of cultural heritage recognition and practice.

**Adequacy of Protection of Character Values**

The containment of residential development through a legislative framework in each Act aims to provide certainty for continued farming and primary production activities, to protect the rural landscape aesthetics and heritage attributes of towns and landscapes, to enhance the natural resources, and to support tourism enterprise.

The Acts reinforce existing rural zoning provisions and desired landscape character policy and provide legislative reinforcement to previously vulnerable urban and country township boundaries.

We note that improved protection of the character values identified in the Acts will require future planning and design policy to: better define (and align with) the preservation of those values; and to address current policy gaps, inconsistencies and inadequacies in planning assessment interpretation.

New planning policy also needs to recognise that to maintain special character, an agricultural landscape needs to remain viable and resilient in the face of threats from economic volatility and climate change, as well as urban expansion. Multiple policy mechanisms (such as the current alignment of the CP Districts with the locally driven pursuit of National and World Heritage listing) will be needed to address those threats. New policy mechanisms should enable diversification, vertical integration and value-adding to primary production, encourage agri-tourism enterprise and support regional-based economic resilience, and allow adaption and innovation in agricultural practice in response to climate change and economic volatility.

Protection would also be enhanced if planning policy identified the specific landscape values of distinctive views and vistas; and the biodiversity values of places – all of which contribute to the overarching character values. There is an opportunity to consider climate control through the protection of significant tree species and habitat areas, and encouragement of diverse plantings. This level of detail assists the development of policies around climate change and species loss. All policies and guidelines will need to

be discussed with relevant industries, residents, community groups, councils and professional organisations as part of an ongoing process.

### **Adequacy of Land Division Controls to Maintain District Character**

The key threats to the character values not covered by the land division controls of the Acts are boundary realignments and the potential implementation or realisation of extensive existing unrealised dwelling rights. These challenges may lead to land being taken out of agricultural production, conflicts between land uses, and negative impacts on landscape character due to an increased density of dwellings across the landscape. These cumulative threats may require further policy refinement.

Land division controls do not necessarily ensure preservation of the landscape character and heritage attributes, nor do they make agriculture and viticulture viable and sustainable. Multiple policy mechanisms and policy fine-tuning beyond land division control will be needed to sustain the identified character values into the future. Future built form on existing allotments should be guided by siting, design and construction materials to complement and maintain existing character.

### **Family, Social, Economic and Environmental impacts of the Acts**

The preservation of cultural heritage and the definition and enhancement of what makes a place special can provide social, economic and environmental benefit. A rural landscape represents multiple values beyond its agricultural production values, as recognised in the Acts, and these multiple values need to be defined, understood and recognised by government and the broader community.

The five years since the Acts were introduced have seen an increase in that understanding and recognition at both the government and community level. They have also seen a decline in dwelling construction in the CP districts and an increase in activities such as cellar doors, restaurants, functions centres and other emerging trends for breweries, distilleries and cideries as well as increases in active recreation (walking and cycling). It is difficult to know whether these are impacts of the Acts or other social and market forces, however the trends appear to reflect the intention of the Acts to support a viable farming and tourism region that is valued by locals and visitors alike.

Some conflict between farming and emerging tourism-oriented land uses is emerging, which may need to be addressed further in Act policy. Policy will also need to continue to recognize that the identified values can conflict with each other (eg food and wine production can conflict with visual amenity and tourism and agricultural production with natural resource protection).

### **Are changes to the Acts needed?**

Character Area affected Development Plans (DPs) have not responded consistently to the special character suggested by the Planning Strategy Addendum, with consequent policy gaps in existing authorised DPs with respect to character areas. While the replacement Planning and Design Code is being formulated, interim adjustments to DPs would enable clearer special character policies to be provided until DPs are replaced by the Code.

Recognition of historic landscape and tenure patterns might be of assistance in determining the location and siting of future building development. There are also a number of historic structures that are not beyond retrieval that could demonstrate how character areas can be both viable and maintain heritage values, subject to compatibility with farming practices. The benefits include local tourism, local heritage as part of character areas and adding to the economic and social opportunities.

### **SA's new Planning System – Changes Suggested**

Consideration of clustering of housing near townships, where development is feasible, with suitable buffers between agribusiness and townships to minimise risk of adverse effects of harvesting, pest control and rural maintenance of soil quality.

A fundamental requirement for managing change is to be informed of land capability. Within this context, managing character should be a process to reassure some primary producers who may doubt the viability of their livelihoods until clearer character policies are formulated.

## **Summary**

The Acts, while commendable in their intent, are limited in influence. They should ideally influence decision-making and policy-making in a broader context, beyond the current local and state government development assessment context.

Both Acts should both protect and promote the identified high-level character values of the regions. They should address the threats from economic and environmental upheaval, as well as from urban expansion, while allowing the districts to adapt and evolve over time as productive, viable and innovative agricultural and tourism regions. As high level planning legislation, the two Acts currently reinforce and underline the need to value character areas through practical planning policies.

Considerations of character in terms of the observations suggested in this submission may reduce conflicts between productive land uses such as farming, viticulture and food production and the State's planning policy framework.

Thank you again for your consideration of the views of Australia ICOMOS on the Review of the Character Preservation (Barossa Valley) Act 2012 and Character Preservation (McLaren Vale) Act 2012. Australia ICOMOS has a National Scientific Committee on Cultural Landscapes and we would be pleased to contribute to any future policy and guideline development around the legislation.

Yours faithfully

**IAN TRAVERS**  
**President, Australia ICOMOS**



8 December 2017

Hon John Rau MP  
Minister for Planning  
Department of Planning Transport and Infrastructure  
GPO Box 1815  
ADELAIDE SA 5001

Dear Minister Rau

**Submission to Character Preservation (Barossa Valley) Act 2012 and  
Character Preservation (McLaren Vale) Act 2012 Discussion Paper**

Thank you for the opportunity for the City of Onkaparinga to provide comment on the *Character Preservation (Barossa Valley) Act 2012* and *Character Preservation (McLaren Vale) Act 2012* (the Acts) discussion paper released for consultation 30 October 2017.

We understand the purpose of the discussion paper is to help inform the impending state government's review of the Acts with feedback from councils, government agencies and the community key to informing the review.

**Purpose of Act**

The City of Onkaparinga continues to support the Act, specifically the McLaren Vale Act as it relates to our area. The Act provides that the special character of the district is recognised, protected and enhanced whilst providing for the economic, physical and social wellbeing of the communities within the district.

*30-Year Plan for Greater Adelaide addendum*

Critically, the Act restricts residential development in our rural areas thereby providing for continued viable farming and primary production activities, protection of our natural landscapes and environmental resources, and support for appropriate tourism opportunities.

**Application of Act**

The Act is a welcomed planning tool for us, notwithstanding the Onkaparinga Development Plan does not support urban development in rural areas. The Act provides statutory weight to refuse inappropriate development such as residential allotments within primary production areas or development which is at odds with the special character of the district.



City of Onkaparinga  
PO Box 1  
Noarlunga Centre  
South Australia 5168  
[www.onkaparingacity.com](http://www.onkaparingacity.com)

Noarlunga office  
Ramsay Place  
Noarlunga Centre  
Telephone (08) 8384 0666  
Facsimile (08) 8382 8744

Aberfoyle Park office  
The Hub  
Aberfoyle Park  
Telephone (08) 8384 0666  
Facsimile (08) 8382 8744

Willunga office  
St Peters Terrace  
Willunga  
Telephone (08) 8384 0666  
Facsimile (08) 8382 8744

Woodcroft office  
175 Bains Road  
Morphett Vale  
Telephone (08) 8384 0666  
Facsimile (08) 8382 8744

## **The state of the Districts**

The discussion paper has covered the key areas as identified in the Act to consider the state of the district and in addition posed a number of questions as follows:

### ***The Character Preservation Acts aim to protect the character values of the districts. Do you think these values are being adequately protected?***

The discussion paper has recognised that the zones within the districts already had protection of a similar nature to the Acts and notes that the Acts have strengthened the protection of the districts' character with the legislative framework.

Whilst there are benefits of the McLaren Vale Character Preservation District (MVCPD) given the area is a working landscape which is also a tourism destination, balancing the potential conflicts between land use and character can be difficult.

On this basis, it is not necessarily the Act that fails to protect the character values but rather through policy gaps and inconsistencies in the Development Plan. To ensure our Development Plan is consistent with the Act, we have commenced a policy review to help inform policy creation and implementation through the Planning and Design Code.

### ***Do you think the land division controls restricting the creation of additional allotments are adequate to ensure character within the districts is maintained?***

Prior to the introduction of the MVCPD, the Onkaparinga Development Plan already contained suitable policy to restrict inappropriate land division in the Primary Production Zone and likewise with most of the other zones contained within the district.

Section 8(2) of the Act requires that a land division not be granted development authorisation if it is within a rural area and it would create an additional allotment for residential purposes. While the Act restricts creation of 'additional' allotments for residential purposes, it is silent on the realignment of boundaries (in which there is no creation of a new or additional allotment) which propose rural living style allotments. In addition, the Act relies solely on the Development Plan to restrict new dwellings on vacant rural allotments that do not have a connection to primary production.

Our main policy issue relates to boundary realignments for the creation of quasi-rural living allotments (generally approximately 1ha). Whilst land division proposing an allotment less than 16 ha continues to be non-complying in our Development Plan, boundary realignment of allotments already under this, are considered on merit. Further to this, following the introduction of the Act along with changes introduced through the Better Development Plans Development Plan Amendment (which occurred around the same time), we have reconsidered our assessment approach to ensure that new dwellings now demonstrate connection with farming or other primary production.

To this end, we consider it unlikely that the Act has had major impact on land supply and demand given that land division for residential development was non-complying in the rural areas prior to introduction of the Act.

***Have changes to the SA Planning Strategy and relevant Council Development Plans in response to these Acts helped to implement them?***

We acknowledge there is a need for further policy refinement in our Development Plan to ensure that character of the district is maintained and development addresses the values in terms of scale, form, siting and materials.

As noted above, zones within the district already had protections of a similar nature to the Acts and we note that the Acts have strengthened the character protection of the districts with the legislative framework.

Given the recent demand for boundary realignments essentially seeking quasi-rural living allotments, following the implementation of the Act, council reconsidered its approach to the assessment of boundary realignments and dwellings not in association with primary production. This has resulted in a reduced number of applications and subsequent approvals for this form of development, ensuring the protection of the district's character.

***What do you consider are the family, social, economic and environmental impacts of the Act/s?***

*Land division and new dwellings*

The paper seeks to demonstrate that the Act has resulted in a reduced number of land divisions and dwelling applications. In reviewing the state government's Residential Land Development Activity Report, we have noticed a general state-wide decrease in both land division and dwelling approvals across the five-year period. Market trends, changes in money lending practice, supply, jobs growth and employment trends influence demand for allotments and housing - these factors are beyond the Act's influence.

We consider there is sufficient zoned land supply currently existing within the townships of Kangarilla, McLaren Flat and Yaroona however land supply is not evenly distributed, with Willunga and McLaren Vale likely to reach capacity sooner. Very little growth opportunity currently exists in Clarendon.

At some point council and the community will need to consider how to best accommodate future growth in the townships which may require a review of the township boundaries prescribed by the Act.

Across the district some 800 plus vacant allotments have been identified that may accommodate a dwelling. However, existing policy seeks that a dwelling will only be constructed where in association with primary production on the same allotment. We consider this policy setting is critical as it ensures the use of the land is for its intended purpose of protecting and enabling continued primary production activities.

We note the Environment, Resources and Development (ERD) Court in 2014 in the matter of De Palma v the Barossa Council considered the Development Plan policies

in relation to allowing a dwelling without a connection to primary production. The ERD Court found a dwelling without connection to primary production would be contrary to the objectives of the Zone, and compromise the desired character of the Zone.

On this basis, we consider the ERD Court decision supports and confirms the policy setting of the Primary Production Zone of the Onkaparinga Development Plan, which further supports the character values of the district.

#### *Family and social*

We note there is currently no guidance on what constitutes 'family' or 'social' impacts in the Act and the discussion paper so it is difficult from a land use planning perspective to know how this should be measured.

It is recommended that the Acts provide a definition and subsequent base line to how family and social impacts can be recorded and measured.

#### *Environment*

Within McLaren Vale District, the primary land use is viticulture. Primary Industries and Resources South Australia (PIRSA) has informed us from their reporting that there have been very few complaints about primary production activities from primary producers.

PIRSA's reporting indicates that the main source of complaints has come from rural lifestyle land owners. Generally it is where new forms of development are proposed such as tourism development or winery related activities including cellar doors, restaurants and functions centres, activities that are envisaged (subject to scale) in the 30-Year Plan Character Values Addendum. This is also reflected in the council development compliance requests and response to representations following public notification of development proposals.

#### *Economic*

Anecdotally, we note demand remains constant for dwellings in rural areas and there has also been increase in tourist accommodation in the form of small bed and breakfasts as well as several larger scale hotel accommodation proposals. We have seen an increase in applications for related activities such as cellar doors, restaurants, functions centres and other emerging trends for breweries, distilleries and cideries.

However it is not clear what conclusions can be drawn from this in terms of correlation with the Act, or whether it is the result of market forces and trends generally.

#### ***Have these Acts resulted in any positive or negative impacts on farming operations or farm business?***

From a council perspective, it would appear to be business as usual for primary producers.

Given the Character Values support the growth of tourism development, there has been some tension between the rural lifestyle seekers and the growth in demand in non-wine/grape related agricultural/food and beverage production proposals. These activities are often undertaken in association with primary production or to support and value-add to primary production.

As noted previously, this interaction between land uses can be addressed through further policy review and refinement to align to the character values.

***Do you believe any changes are needed in the Act/s?***

*Boundary review*

There is currently no mechanism to review the boundaries of the district including amending Yarooma to be defined as a township. While it is acknowledged that one of the purposes of the Acts is to stop urban encroachment there are some boundary adjustments in the McLaren Vale district that would be reasonable to undertake. As such, there is no legislative instrument currently available to implement any desired change.

*Periodic review of Act*

We note the Acts only require a once off review within five years of the Acts' commencement (this review). Consideration for including a requirement of a regular five year review is warranted.

*Family and social impacts*

Within the Act there is no definition of what constitutes 'family and social impacts' and likewise there is no further explanation in the discussion paper. On this basis it is difficult to provide any constructive comment.

Should this review recommend future periodic reviews of the Act, it would be beneficial to include a defined baseline and definition of what family and social impacts mean and how they are to be used for assessing the impact of the Acts.

*Major project status*

Under the *Development Act 1993*, major project status is not currently available for developments in the district. We recommend the *Planning, Development and Infrastructure Act 2016 (PDI)* carries over the exclusion of major project status for developments in the district.

***SA's new planning system is currently being developed. Are there any changes you would suggest for implementing character preservation in the new system?***

We note that within the PDI Act there has been the introduction of Environment and Food Protection Areas (EFPA) which is similar to the Acts.

When the PDI Act is fully implemented with the EFPA, it is expected to have a similar hierarchy to the Character Preservation Acts and inform the State Planning Policy,

Regional Plans and the Planning and Design Code. The key difference is how they relate to character preservation. The EPPA and the Acts cover land division as a method of preservation, however the Acts go further by upholding the *character values* of the district within any development assessment process.

The Character Preservation Districts (CPDs) have a distinctive point of difference to EFPAs which needs to be maintained. The CPD Act specifically recognises, and specifically seeks, to protect and enhance each district's special character, whereas the CPDs and EFPAs are both urban growth boundaries by default.

The 30-Year Plan Addendum subsequently expands on the various character values of the CPD, and in the case of preserving and enhancing the viticultural, agricultural and associated industries the Addendum also seeks to ensure there are positive development policies relating to value adding and adaptable farming practices. This point of difference must not be lost.

We understand that through the transition to the new planning system further refinement to policy relating to the Character Preservation Districts may occur with the implementation of the new Planning and Design Code.

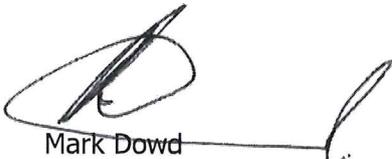
Given the CPD Act has broader coverage, this is seen as a positive when trying to preserve the character of the district. On this basis the character values of the district should also be captured in the PDI Act, albeit separate to the EFPA.

### **In closing**

Council would like to again thank you for the opportunity to provide input into this review as it relates to the McLaren Vale Character Preservation District. We trust that our contribution is of value and we welcome any opportunity to be involved further.

Please contact Craig Jones, Development Policy Planner on 8384 0617 or email [Craig.Jones@onkaparinga.sa.gov.au](mailto:Craig.Jones@onkaparinga.sa.gov.au) if you would like clarification on any matters in this letter or would like to discuss our submission further.

Yours sincerely



Mark Dowd  
**Chief Executive Officer**



Our reference: A3370551

11/12/2017

Mr Michael Deegan  
Chief Executive  
Department of Planning, Transport and Infrastructure  
GPO BOX 1533  
ADELAIDE SA 5001

*Michael*  
Dear Mr Deegan

OFFICE OF THE CHIEF  
EXECUTIVE

Level 17  
25 Grenfell Street  
Adelaide SA 5000

GPO Box 1671  
Adelaide SA 5001

DX 667

Tel (08) 8226 0168

Fax (08) 8226 0320

[www.pir.sa.gov.au](http://www.pir.sa.gov.au)

### Character Preservation Acts Review

Thank you for the opportunity to make a submission to this review, as outlined in a letter from the Minister for Planning.

PIRSA's interests in the matter are twofold, relating principally to the primary industries and agribusiness sector, which is intimately linked to the premise of this legislation; but also to broader economic and regional development in the Barossa Valley and McLaren Vale areas.

To date, this important legislation seeking to preserve the "special character" that is derived in large part from "the viticultural, agricultural and associated industries of the district[s]" has worked well. The review should ensure that this goal is not diluted and the legislation continues to be implemented carefully to ensure that, in meeting its important policy objectives, it avoids unintended consequences for current farm operations and future agribusiness investment.

It is important that implementation of the character preservation approach protects these valuable regions and at the same time facilitates and supports the competitive agri-business environment anticipated by the Government's economic priority of Premium Food and Wine Produced in our Clean Environment and Exported to the World. These two objectives should continue to be well integrated at a strategic as well as an operational level.

Effective translation of the objects of those Acts into planning policy for the two areas is essential. PIRSA is anticipating an opportunity to work with DPTI to address this and other matters affecting primary industries during the course of formulating the new Planning and Design Code. To the extent the legislative review identifies problems with this translation task, consideration should be given to bringing forward work on the primary industries section of the Code.

Should you require further information, please contact Bengy Paolo, Director, Major Programs on 8429 0202.

Yours sincerely

A handwritten signature in black ink, consisting of several overlapping, sweeping strokes that form a stylized, somewhat abstract representation of the name 'Scott Ashby'.

Scott Ashby  
**CHIEF EXECUTIVE**

18 December 2017

[DPTI.PlanningEngagementtr@sa.gov.au](mailto:DPTI.PlanningEngagementtr@sa.gov.au)

## **Adelaide Hills Council submission to the Character Preservation Acts Review**

Council appreciates this opportunity to provide its views on the Barossa Character Preservation District (CPD) which includes a small area in the north of the Council District.

In short, Council would appreciate the CPD being removed from its area, as CPD policies are less effective at their stated aim than existing Development Plan policies for the Watershed Zone.

### **The Key Questions**

Council's submission to this review is based on the seven questions noted on the last page of the Discussion Paper (October 2017). Council considers that these seven questions are the key to the Review, and the future of the Character Preservation Districts and Acts.

Council's submission comprises the following answers to these seven key questions.

***Question 1: The Character Preservation Act aims to protect the character values of the district. Do you think these values are being adequately protected?***

In practical effect the CPD is superfluous within AHC.

The Watershed provisions in the AHC Development Plan are a very effective barrier to "inappropriate urban development" and the remaining provisions in the Watershed (Primary Production) Zone (W(PP)) protect local rural character values.

The Adelaide Hills Council (AHC) originally requested that the part of the CPD located in its District be excluded from the Act, as this area is not part of the Barossa, and current 'character' and 'land division controls for urban/residential development' under the provisions of the W(PP) Zone are more relevant and effective than the CPD.

***Question 2: Do you think the land division controls restricting the creation of additional allotments are adequate to ensure character within the districts is maintained?***

No. CPD land division controls are less effective at ensuring character is maintained than the existing Watershed (Primary Production) Zone planning controls on land division and character in Council's Development Plan, which provide a more locally relevant context.

In its practical effect, existing planning policy within the W(PP) Zone lists 'land division where additional lots are created' as non-complying. CPD policy provides no further benefit to this existing policy.

***Question 3: Have changes to the SA Planning Strategy and relevant Council Development Plans in response to these Acts helped to implement them?***

No Council DPAs have been implemented for this area since the CPD was implemented. Council's planned Primary Production Lands DPA would have reviewed policy in this area.

As an example of the operation of CPD policy, a replacement dwelling after the Sampson Flat bushfire was caught by CPD policies as non-complying, which delayed processing of the application. A subsequent Section 29 amendment changed the non-complying exemption list and deleted the reference to dwellings within the CPD. The replacement dwelling then became a merit form of development in the Zone and the CPD.

***Question 4: What do you consider are the family, social, economic and environmental impacts of the Act/s?***

Due to the limited number of development applications in the CPD, and the existing controls in the WPP Zone, it is considered that there is no discernible family, social, economic or environmental impact as a result of the Acts.

***Question 5: Have these Acts resulted in any positive or negative impacts on farming operations or farm business?***

Given the limited number of development applications in the CPD, and the strength and effectiveness of the W(PP) Zone's watershed and agricultural controls, the provisions of the CPD have had neither positive nor negative impacts on farming within the District.

***Question 6: Do you believe any changes are needed in the Act/s?***

As stated earlier, there is no apparent added value to preserving the existing character from residential development through the mechanism of the CPD Act in this area, as the existing character is already perceptively recognised and well protected through the existing WPP zoning provisions. Council requests that the Character Preservation (Barossa Valley) Act 2012 be amended to remove the area of Adelaide hills Council within the purview of the Act from the future operation of the Act.

**Question 7: SA's new planning system is currently being developed. Are there any changes you would suggest for implementing character preservation in the new system?**

It is excessive to have both the CPD and EFPA controls as additional overlays to the W(PP) Zone. The W(PP) zone has been designed to conserve the zone's rural character, and has strong and effective policies preventing additional residential development and land division, which intent is now duplicated by both CPD and EFPA policies.

It would be of more practical use to extract the Watershed areas from both the CPD and EFPA. Each can be used more effectively alone to address different purposes.

The PDI Act and associated reforms are intended to simplify the planning process to benefit the wider community. The CPD Acts however, impose an additional layer of complexity for the AHC Council area, which is already one of the most restricted development areas within the state, if not the world. The areas of the Watershed, CPD and EFPA would each be more effective operating in discrete areas, rather than being overlaid on each other in a needlessly complex, potentially contradictory and inelegant manner.

Council advocates that additional detail relating to envisaged/desired primary production value-adding and tourism activities in the CPD be addressed in new policy.

It is currently unclear in the CPD objectives what types of desirable tourism activities are encouraged in the CPD as no detail is provided. The only practical guidance is a statement in the objectives that 'activities which positively contribute to tourism' are envisaged.

Further, a contextual discussion section could profitably be added to support policy defining what character is to be preserved within the CPD (e.g. keep development off ridgelines) and importantly why. This will enable practitioners to better understand the intent and purpose of the Act.

If you have any questions or require clarification, please contact Mike Flehr, Senior Strategic & Policy Planner on 8408 0503 or at [mflehr@ahc.sa.gov.au](mailto:mflehr@ahc.sa.gov.au).

Yours sincerely,



**Andrew Aitken**  
Chief Executive Officer





**STEPHAN KNOLL MP**  
MEMBER FOR SCHUBERT

[DPTI.PlanningEngagement@sa.gov.au](mailto:DPTI.PlanningEngagement@sa.gov.au)

20 December 2017

Dear Sir/Madam

The Character Preservation Act has, on balance, had a positive impact upon the Barossa region. The act is quite simple in its intent and application and provides guidance to how the region should be developed.

As the state member of parliament that covers basically the entire Barossa Preservation Area I have received constant feedback about the Act and its application. From time to time some have understood it to restrict development more severely than I believe the Act intends but in the end the planning decisions that have been made since the introduction of the act have largely been correct in their interpretation.

**Township boundaries**

Perhaps the most important aspect of the act is the setting of township boundaries. These boundaries clearly define where residential development can and can't occur. This part gives clear direction to land owners both inside and outside the township boundaries and allows for secure forward planning.

Without looking at the issue in granular detail I believe that, with the exception of Tanunda, there is sufficient land supply within the current boundaries. With the progression of the Sovereign Estate development in Tanunda, available land within the township will become limited. The Department of Planning, Transport and Infrastructure (DPTI) should have regard to what options there are to deal with this lack of supply over the medium term.

More broadly though, the boundaries are appropriate and facilitate current development levels properly.

The only change, other than Tanunda, that needs to be made is to a small portion of land on the Western end of Nuriootpa. I know that this issue has been canvassed with DPTI on a number of occasions and I enclose my 2015 letter on the same issue. It is obvious that this change needs to happen to correct a mistake in the original drawing of the boundaries. It has been stated previously that this review process is the appropriate time to look at boundary change and I look forward to a positive result.

## **Rural Small Scale Production**

The Barossa has seen much development inside the Preservation Zone, especially in relation to new cellar doors and tourism operations. These developments have been in keeping with the objects of the act and have helped to ensure that the Preservation Zone land is used for its highest use.

The principle of allowing winery and tourism operations is sound but should also be extended to other small scale food and production industries. In the Barossa, we have many small-scale farmers growing everything from livestock, dairy, fruit and specialist grains. These producers should be allowed to develop their land to support the value adding of this produce.

Ensuring that the planning rules do not disadvantage small scale production and retail inside the Preservation Zone is important. If it is okay to produce and sell a bottle of wine inside the zone then the same should be allowed for lamb, milk and cheese and dried fruit.

Through the success of the wine industry the Barossa has become quite reliant on the wine industry. Allowing a broader range of industries that complement the existing agricultural uses will help to diversify the Barossa and make sure it is sustainable into the future.

## **Industrial Land**

Even though the Barossa is an agricultural area it is still quite an industrialised region. From larger scale wine production, bottling and packaging, to steel fabrication and cement production, the Barossa is a strong manufacturing area.

The current supply of land for industrial purposes is extremely limited and this may have an impact on the regions ability to support industries complimentary to food and wine production.

DPTI should have regard to the supply of available land for industrial uses. It is not suggested that we need to become a region of factories but as modern farming becomes more automated our ability to provide jobs in complementary and value adding industries is important.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Stephan Knoll', with a stylized flourish at the end.

**Stephan Knoll MP**  
Member for Schubert

## Monier, Belinda (DPTI)

---

**From:** SA Planning Portal <dpti.noreply@sa.gov.au>  
**Sent:** Wednesday, 3 January 2018 11:29 AM  
**To:** Monier, Belinda (DPTI)  
**Subject:** New Public Submission Lodged.

### Form Information

Site Name: SA Planning Portal  
Page Name: Lodge a Submission  
URL: [http://www.sapanningportal.sa.gov.au/lodge\\_submission](http://www.sapanningportal.sa.gov.au/lodge_submission)  
Submission ID: 403330

### Submission Details

Submission date:	3 Jan 2018
Submission type:	Character Preservation Act

### Submitter Contact Details

Name:	Robert Pitt
Organisation Name:	Adelaide Cemeteries Authority
Email:	[REDACTED]
Phone:	[REDACTED]

### Submitter Address

Street No.:	[REDACTED]
Street:	[REDACTED]
Suburb:	Clearview
Post Code:	5085
State:	SA

1. What Council area to do live in?:

Port Adelaide Enfield (Place of Work)

2. I work/live in the Barossa Character Preservation District: **No**

3. I work/live in the McLaren Vale Character Preservation District: **No**

4. What is your particular interest in the review? (e.g. land owner, farmer, live in the area, own a business in the district):

The Adelaide Cemeteries Authority is the largest manager of cemeteries in Adelaide; currently owning and managing Enfield Memorial Park, Cheltenham Cemetery, West Terrace Cemetery and Smithfield Memorial Park. The Authority also administers the St Jude's and North Brighton cemeteries for the City of Holdfast Bay. The Adelaide Cemeteries Authority (the Authority) has identified a growing demand for cemetery services in the southern suburbs that will not be met by existing cemeteries. Market and demographic trends for the southern Adelaide highlight: • Significant continued population growth over the coming decades; • Increases in the population aged over 65 years; and • There is no major cemetery in Adelaide's outer southern suburbs. Any new cemetery could be developed with due consideration of the requirements of the McLaren Vale Character Preservation Act. Cemeteries should not be excluded from being developed in the McLaren Vale area. Furthermore, it is estimated that the annual State death rate will increase by up to 70% over the next 30 years. This will mean that current annual number of deaths in the State, approximately 12,000, is anticipated to increase to over 21,000 deaths per year by the year 2040. Given these, the Authority believes that cemetery planning is required in the McLaren Vale District.

5. Do you agree to your submission being made public?: **Yes**

6. The Character Preservation Acts aim to protect the character values of the districts (see discussion paper for a list of these). Do you think these values are being adequately protected?:

No comment.

7. Do you think the land division controls restricting the creation of additional allotments are adequate to ensure character within the districts is maintained?:

No comment.

8. Have changes to the SA Planning Strategy and relevant Council Development Plans in response to these Acts helped to implement them? Please explain:

It is the Authority's view that there needs to a greater acknowledgement for the need for a new southern cemetery facility to provide for the projected annual deaths over the next 3-4 decades. Any new cemetery could be developed with due consideration of the requirements of the McLaren Vale Character Preservation Act. Cemeteries should not be excluded from being developed in the McLaren Vale area.

9. What do you consider are the family, social, economic and environmental impacts of the Act/s?:

The Adelaide Cemeteries Authority (the Authority) has identified a growing demand for cemetery services in the southern suburbs that will not be met by existing cemeteries. Market and demographic trends for the southern Adelaide highlight: • Significant continued population growth over the coming decades; • Increases in the population aged over 65 years; and • There is no major cemetery in Adelaide's outer southern suburbs. Furthermore, it is estimated that the annual State death rate will increase by up to 70% over the next 30 years. This will mean that current annual number of deaths in the State, approximately 12,000, is anticipated to increase to over 21,000 deaths per year by the year 2040. Given these, the Authority believes that cemetery planning is required in the McLaren Vale District.

10. Have these Acts resulted in any positive or negative impacts on farming operations or farm business? If so, please explain:

No comment.

11. Do you believe any changes are needed in the Act/s? Please explain:

The Adelaide Cemeteries Authority (the Authority) has identified a growing demand for cemetery services in the southern suburbs that will not be met by existing cemeteries. Market and demographic trends for the southern Adelaide highlight: • Significant continued population growth over the coming decades; • Increases in the population aged over 65 years; and • There is no major cemetery in Adelaide's outer southern suburbs. Furthermore, it is estimated that the annual State death rate will increase by up to 70% over the next 30 years. This will mean that current annual number of deaths in the State, approximately 12,000, is anticipated to increase to over 21,000 deaths per year by the year 2040. Given these, the Authority believes that cemetery planning is required in the McLaren Vale District.

12. SA's new planning system is currently being developed. Are there any changes you would suggest for implementing character preservation in the new system?:

Any new cemetery could be developed with due consideration of the requirements of the McLaren Vale Character Preservation Act. Cemeteries should not be excluded from being developed in the McLaren Vale area.

#### **Other comments / submission details**

No further comment.

#### **Files for Submission**

No files were uploaded in this submission

Feedback form

Review of the Character Preservation (Barossa Valley) Act 2012 and the Character Preservation (McLaren Vale) Act 2012 discussion paper

These Acts are undertaking their required five year review and a discussion paper has been released. We are interested in your input and feedback in response to the discussion paper.

This feedback form can be filled out online at: www.saplanningportal.sa.gov.au/en/consultation

Contact information

Name\*: Jim Mitchell

Organisation:

Email\*: [Redacted]

Phone: [Redacted]

Address: [Redacted] Angaston 5353

What Council area do you live in?: Barossa

I work/live in the Barossa Character Preservation District\*: Work and Live

I work/live in the McLaren Vale Character Preservation District\*: N/A

What is your particular interest in the review? (e.g. land owner, farmer, live in the area, own a business in the district): Landowner + Farmer in the area.

Do you agree to your submission being made public (please circle)?: YES NO

Required fields are marked with an asterisk (\*).

Submit this form by email: DPTI.PlanningEngagement@sa.gov.au, or by post: GPO Box 1815, Adelaide SA 5001. Submissions close at 5.00 pm on Friday, 8 December 2017.



The Character Preservation Acts aim to protect the character values of the districts (see discussion paper for a list of these). Do you think these values are being adequately protected?

It is discouraging rural agriculture with rules eg, shearing sheds need to be built with stone + not galvanised iron so restrictive.

the natural landscape is still changing - more vineyards (Chinese Investment) less fruit trees, more olives (weeds).

Do you think the land division controls restricting the creation of additional allotments are adequate to ensure character within the districts is maintained?

houses still being built on small titles, previously not allowed. So. No.

Have changes to the SA Planning Strategy and relevant Council Development Plans in response to these Acts helped to implement them? Please explain

Yes. Previously not allowed on small titles.

What do you consider are the family, social, economic and environmental impacts of the Act/s?

Discouraging young farmers in this area - high land prices, spray problems, vineyard pressure, also costs eg rates for these extra controls.

Big problems in the next 20 years when older generation leave.

Have these Acts resulted in any positive or negative impacts on farming operations or farm business? If so, please explain

As above regarding buildings. Negative impact for stock movements, exclusion zones (both ways)

Do you believe any changes are needed in the Act/s? Please explain

Yes, more consideration of existing farming practices, more sensible rating + structural needs (big + yards)

SA's new planning system is currently being developed. Are there any changes you would suggest for implementing character preservation in the new system?

More sensible discussion, not just excluding certain forms of agriculture ~~or~~ ie broadacre farming.  
Viticulture is only a small portion of the Barossa area

Is there anything else you would like to say?

New vineyards are having an impact on broadacre farming (with use of chemicals).  
New housing areas are stopping existing vineyards from continuing - late night picking, sprays etc.  
Just not enough space between areas.  
Good agricultural land used for housing - a loss for all.





**G R I F F I N S**  
LAWYERS

Our Ref: 81500JNM

24 January 2018

RECEIVED  
ATTORNEY-GENERAL'S  
OFFICE

01 FEB 2018

The Honourable John Rau  
Minister for Planning  
c/- Department of Planning, Transport and Infrastructure  
Level 5  
50 Flinders Street  
ADELAIDE SA 5000

PN0001/18.

REC'D	18.PW.0120
Reg No.	18.PW.0120
File Copy	YES/NO
Act	YES/NO
Action	SZ
C.C.	

**By Hand Delivery**

Dear Minister Rau

**Character Preservation (McLaren Vale) Act 2012 Review**

We act for the Karidis Corporation which is the owner of 2 parcels of land abutting the McLaren Vale township and located within the Character Area.

The Karidis Land is located at:

1. 166 Aldersey Road (4.06 hectares); and
2. 68 Johnston Road (16.2 hectares).

The Karidis Corporation has requested Brian Hayes QC to prepare a formal submission in this matter and we **enclose** Mr Hayes's submission.

If you have any questions please do not hesitate to contact the writer.

Yours faithfully  
GRIFFINS LAWYERS



**JOHN MCELHINNEY**  
Direct email: jmcElhinney@griffins.com.au  
Direct line: (08) 8113 5119  
Mobile: 0418 821 563

Encl: As above



CHARACTER PRESERVATION ACTS REVIEW

SUBMISSION BY THE KARIDIS CORPORATION LIMITED  
TO THE DISCUSSION PAPER

Brian Hayes QC

and

Griffins Lawyers  
Solicitors for Karidis Corporation Limited  
49 Flinders Street  
ADELAIDE SA 5000  
Tel: 08 8410 2020  
Email: [jmcelhinney@griffins.com.au](mailto:jmcelhinney@griffins.com.au)

## Preliminary

- 1.1 Section 10 of the Character Preservation (Mclaren Vale) Act 2012 ("**the Act**") requires the Minister of Planning to undertake a review of the Act within 5 years of its commencement (8<sup>th</sup> December 2013).
- 1.2 The Minister's review must include an assessment of:
  - "(a) the state of the district, especially taking into account the objects of this Act and any relevant provisions of the Planning Strategy; and
  - (b) the family, social, economic and environmental impacts of this Act; and
  - (c) the impact of this Act on local government in the district; and
  - (d) any steps that have been taken or strategies that have been implemented to address any negative impacts of this Act,

and may include such other matters as the Minister thinks fit."
- 1.3 The Department of Planning, Transport and Infrastructure has developed a discussions paper and invited interested persons to make written submissions by 5pm on Friday 8 December 2017.

## 2. The Karidis Corporation Interests

- 2.1 The Karidis Corporation is the owner of two separate parcels of land off Aldersey Street and Johnston Road, McLaren Vale totalling approximately 19 Hectares in area.  
The Karidis Land immediately abuts McLaren Vale Township (see attached plan) and are located in the Character Presentation District ("the District").
- 2.2 The Karidis Land is located at 166 Aldersey Road (4.06 hectares) and 68 Johnston Road (15.21 hectares), McLaren Vale and is contained in Certificates of Title Volume 5782 Folio 721 and Volume 5917 Folio 989.

## 3. Support for the Objectives of the Act

- 3.1 The Karidis Corporation is supportive of the Objectives of the Act as set out in section 6 and is strongly opposed to inappropriate urban development in the District.

## 4. Current controls over land in the District

- 4.1 Section 8 of the Act effectively prohibits land division of the Karidis land.
- 4.2 The land is located in the Character Preservation District and the Primary Production zone pursuant to the provision of the City Onkaparinga Development Plan.

The zone provisions are restrictive as to development particularly most forms of residential development, and this is understandable given the objectives of the Act. The reasons underlying the need to such restriction and inflexibility, may have been valid five years ago when the Act was enacted.

5. Review

- 5.1 The Minister is now required to review these provisions by making an assessment of (b) "the family, social environment and economic impacts of the Act."
- 5.2 It is now generally accepted that there is an increasing need and demand for the provision of aged and retirement living because of the demographic trends.
- 5.3 Aged care falls squarely within the family, social and economic impacts of the Act which now needs to be assessed. It is imperative that this review, seriously reflect upon and consider, the ability to meet these important changes in the demography of the State and, consistent with the overall objectives of the Act, to allow limited expansion beyond the township boundaries.

6. Character values of the District

- 6.1 Section 7 of the Act sets out the character values of the district that are relevant to assessing its special character.

These recognized character values are:

- (a) the rural and natural landscape and visual amenity of the district;
  - (b) the heritage attributes of the district;
  - (c) the built form of the townships as they relate to the district
  - (d) the viticultural, agricultural and associated industries of the district;
  - (e) the scenic and tourism attributes of the district.
- 6.2 The Karidis land being adjacent to the township of McLaren Vale is not an integral part of the rural landscape and visual amenity of the District and also has no heritage value.
- Although it is partly planted with vines they are of poor quality and this use is uneconomic.
- Any potential built form on the Karidis land comfortably fits within the built form of McLaren Vale.
- 6.3 The Karidis land has potential for value adding retirement living and tourism facilities either independently or sharing common facilities which could also be available to the local population. Any such use would be dependent on more flexible provisions in the

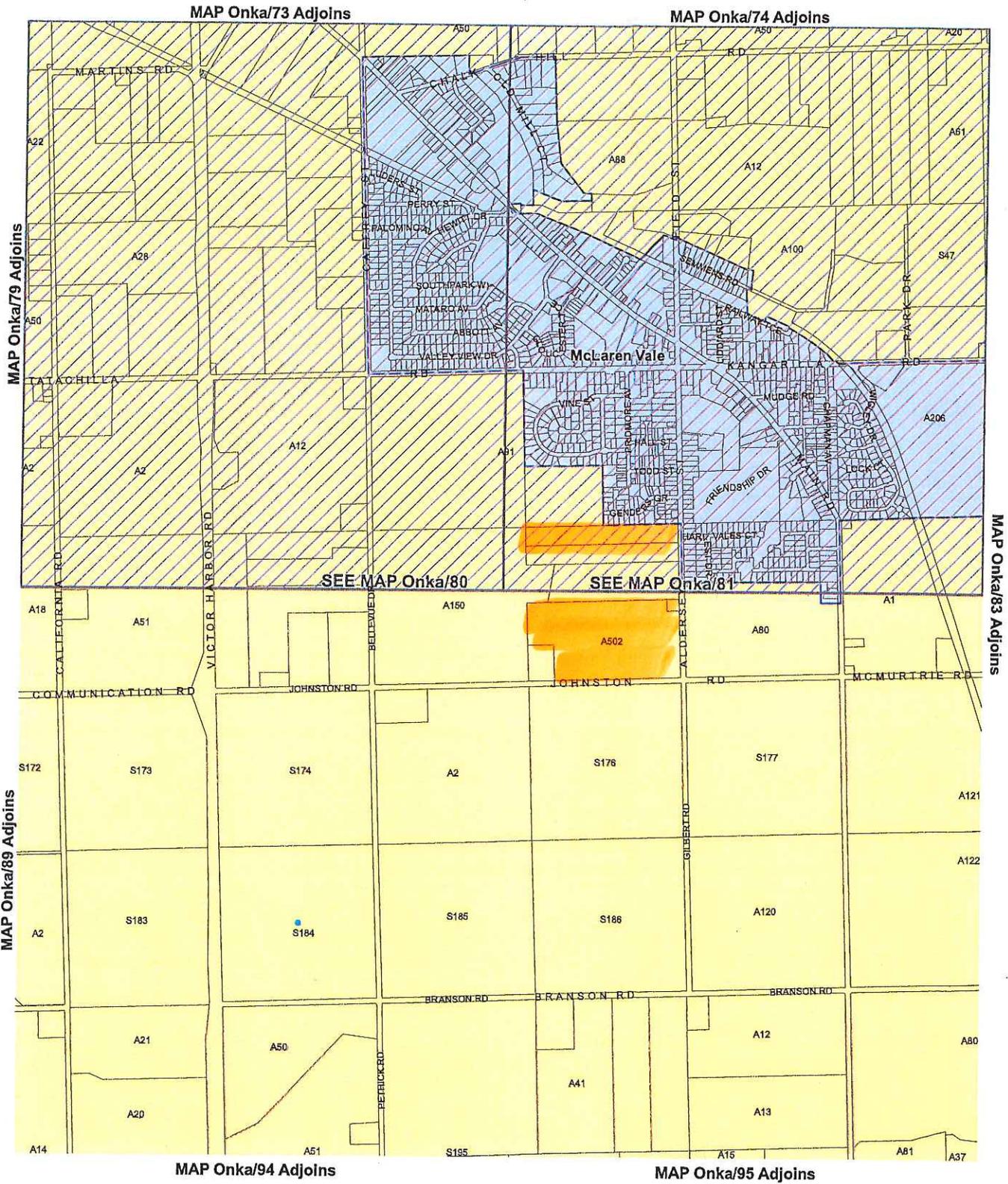
legislation and the future planning and design code.

7. Summary

To enable the provision of value adding and tourism activities the current legislation is far too restrictive and needs to be more flexible in its approach to those uses.

Dated the 15 day of January 2018.

  
\_\_\_\_\_  
Brian Hayes QC



Heritage points are indicative only.  
 For further information on State and Local Heritage Places and Contributory  
 Items please refer to the relevant tables within this document.



# Overlay Map Onka/82

## HERITAGE AND CHARACTER PRESERVATION DISTRICT

- Local heritage place
- Area Excluded from District
- Character Preservation District

ONKAPARINGA COUNCIL  
 Consolidated - 30 May 2017

KARODIS LAND

## Monier, Belinda (DPTI)

---

**From:** SA Planning Portal <dpti.noreply@sa.gov.au>  
**Sent:** Friday, 16 February 2018 12:06 PM  
**To:** Monier, Belinda (DPTI)  
**Subject:** New Public Submission Lodged.

### Form Information

Site Name: SA Planning Portal  
Page Name: Lodge a Submission  
URL: [https://dpti.sa.gov.au/sa-planning-portal/lodge\\_submission](https://dpti.sa.gov.au/sa-planning-portal/lodge_submission)  
Submission ID: 419851

### Submission Details

Submission date:	16 Feb 2018
Submission type:	Character Preservation Act

### Submitter Contact Details

Name:	Pragathi
Organisation Name:	University of Adelaide
Email:	[REDACTED]
Phone:	[REDACTED]

### Submitter Address

Street No.:	[REDACTED]
Street:	[REDACTED]
Suburb:	HALLETT COVE
Post Code:	5158
State:	SA

1. What Council area to do live in?:

Marion

2. I work/live in the Barossa Character Preservation District: **No**

3. I work/live in the McLaren Vale Character Preservation District: **No**

4. What is your particular interest in the review? (e.g. land owner, farmer, live in the area, own a business in the district):

Academic Research

5. Do you agree to your submission being made public?: **Yes**

6. The Character Preservation Acts aim to protect the character values of the districts (see discussion paper for a list of these). Do you think these values are being adequately protected?:

Yes, this is a fantastic Act protecting the local communities' way of life, apart from protecting the very valuable local industries and cultural landscapes

7. Do you think the land division controls restricting the creation of additional allotments are adequate to ensure character within the districts is maintained?:

yes! definitely! Lifestyle allotments are generally owned by people who are new to the region, and in most cases do not really value the local communities, land or local socio-cultural practices. Hence, discouraging such allotments is the best way to ensure we preserve and protect local character.

8. Have changes to the SA Planning Strategy and relevant Council Development Plans in response to these Acts helped to implement them? Please explain:

Not sure. I am yet to look at them in detail.

9. What do you consider are the family, social, economic and environmental impacts of the Act/s?:

There are some aging families in the community who might benefit from altered rules that would help them retain their house and way of life, by allowing for new owners to take over the rest of their land. However, current legislation does not allow for such divisions. There is scope for improvement here. Apart from that, economic and environmental impacts seem to be positive and encouraging.

10. Have these Acts resulted in any positive or negative impacts on farming operations or farm business? If so, please explain:

As stated above, for aging farmers, where their children have probably moved out, there is no provision to protect them. They are left with only two choices, to either sell their entire property and move out themselves, or to reduce / stop their farming activities since they can no longer manage it. Neither of which are good options. Hence, it would be good, from a land amangement perspective, to allow for owners to retain small patches of land and sell the rest of their land to prospective farmers who may have more energy and new ideas. I do understand the danger of this slowly leading to more residential allotments than desired. that risk could be addressed by putting a cap on how many residential allotments are allowed per xyz hectare, how far apart or close to each other they should be, etc etc.

11. Do you believe any changes are needed in the Act/s? Please explain:

yes. Please refer to above.

12. SA's new planning system is currently being developed. Are there any changes you would suggest for implementing character preservation in the new system?:

Yes. Particularly in the South. Although Aldinga is outside this act, it would be beneficial to create a 'transition' zone which directs further development in this region to be sensitive to the community's sentiments to stay connected to the Willunga escarpment.

### **Other comments / submission details**

I would like to be kept posted about what others have to say about this. This is purely from an academic interest and I am happy to sign any ethical / privacy protection documents as needed.

### **Files for Submission**

No files were uploaded in this submission

**Submission on the Character Preservation Act review 19 February 2018 - Requested to be private submission**



22 February 2018

Mr Tim Anderson  
Chairperson - State Planning Commission  
Department of Planning, Transport and Infrastructure  
GPO BOX 1815  
ADELAIDE SA 5001

Via email - [DPTI.PlanningEngagement@sa.gov.au](mailto:DPTI.PlanningEngagement@sa.gov.au)

Dear Mr Anderson

**Review of Character Preservation (Barossa Valley) Act 2012 and Character Preservation (McLaren Vale) Act 2012**

Thank you for the opportunity to provide comment on the current review of the character preservation legislation. The Planning Institute of Australia (SA Division) recognises the importance of the role of the *Character Preservation (Barossa Valley) Act 2012* and *Character Preservation (McLaren Vale) Act 2012* in protecting the integral character of the Barossa and McLaren Vale districts.

Both Acts, which are acknowledged in the *30 Year Plan for Greater Adelaide*, are an important planning tools which provide clarity to the community, developers and stakeholders of the south Australian planning system regarding the economic, environmental and landscape significance of both regions.

This legislative review is a great opportunity to provide comment regarding the effectiveness of the Acts and recommendations for improvement.

In using the Acts in a statutory planning capacity, numerous planning staff within the affected local government areas have commented that the scope of the legislation is largely restricted to limitations around land division and are not as effective as they could be in terms of moderating adverse built form outcomes, particularly when relevant Development Plans may not provide the required policy backbone. Due to this, the legislation is often not even referred to by Council planning staff, and understanding of the legislation within the community is substantially lacking.

It is imperative that the forthcoming *Planning and Design Code* adequately reinforces the objects of the Acts in a manner which provides adequate statutory planning support. This is particularly relevant should local policy provisions be removed or watered down through being integrated into generic zones, due to the limitations on the number of sub-zones that are able to be created as part of the standardisation process.

Currently, the legislation serves a useful purpose in highlighting to development applicants that there is a need to design development in a manner that does not detract from the special character of the district, however this object (Clause 6 (c)) does not provide much clarity in terms of statutory weight. This is needed in particular when the zone provision is largely silent on design matters. Poor built form outcomes, including large bulky buildings or inappropriate signage, can significantly undermine the effectiveness and intent of the overarching legislation in the event of inadequate Development Plan polices. Anecdotally, both the Barossa and McLaren Vale Districts are increasingly attracting greater investment in both tourist accommodation and winery/cellar door developments and it is necessary that the legislation provide an adequate statutory mechanism to encourage site responsive design outcomes, particularly in light of inevitable development pressure.

It is recommended that an additional Object be included in Clause 6 which supports the Character Values highlighted in Clause 7 and which provides an adequate but simple requirement for development to be designed in a manner that is site responsive and visually unobtrusive. This additional policy is then able to directly inform any future *Planning and Design Code* policies and is particularly important as both districts contain undulating and visually prominent landscapes. This would then reinforce the importance of this special legislation, whilst also ensuring greater relevance of this legislation to Council planning staff and the community alike.

In addition, the addendum to the *The-30 Year Plan for Greater Adelaide* dated December 2013, which still stands as part of the current updated strategy, provides further detail as to the policy objectives and character values for each district. As such, it is important that the *Planning and Design Code* incorporate the policies within the addendum in order to emphasise the importance of this statutory planning tool. It is expected that, similar to the current Development Plans, an Overlay will be created that corresponds with the gazetted maps. It is also suggested that this translation include a direct reference to the Character Preservation Act's.

The 'Heritage and Character Preservation District' overlay map contained within the Barossa Development Plan delineates Rural Living areas as 'designated areas'. This term is considered confusing and unclear for policy interpretation purposes, as it is not obvious as to what the intent of this area is. It is recommended, that should this distinction be retained in any Overlay map that a minor change is incorporated into the mapping which highlights this area, as 'Rural Living Area (not excluded from district)'.

Unfortunately, the land division limitations relate to the creation of additional allotments only and there is no requirement for the State Commission Assessment Panel (SCAP) to concur with boundary re-alignments. Given the often historic and complicated land ownership patterns in rural areas, poorly considered realignments can have a significant impact on the character of the locality, which can contribute to the incremental fragmentation of viable agricultural land. Using the legislation to create additional policy checks and balances is important component of achieving the objects of the Act, which will ensure that boundary realignments only occur in certain circumstances, and won't prejudice agricultural development. Further, such addition to the legislation would again make it more relevant to Council and the community alike.

Lastly, the character preservation legislation serves as a useful communication tool predominately to prevent the fragmentation of rural land, however as a statutory mechanism it is considerably underutilised. Overall, the Planning Institute of Australia SA supports the intent of the legislation and its continue operation.

Please feel free to contact the undersigned is any further comment is sought via [sa@planning.org.au](mailto:sa@planning.org.au)

Sincerely,

Yours Sincerely

A handwritten signature in black ink, appearing to read 'KORJA' with a stylized flourish at the end.

Kym Pryde RPIA  
**PIA President SA**

Ref: 2015-0335

27 February 2018

The Hon John Rau  
Deputy Premier  
Minister for Planning  
45 Pirie Street  
**ADELAIDE SA 5001**



**URPS**

Suite 12  
154 Fullarton Road  
ROSE PARK SA 5067

08 8333 7999  
www.urps.com.au  
ABN 55 640 546 010

Dear Minister

## **Character Preservation (*Barossa Valley*) Act 2012 Review – Submission on Behalf of the Barossa Valley Golf Club**

### **Introduction**

URPS makes this submission on the *Character Preservation (Barossa Valley) Act 2012 (Act)* under the Character Preservation Acts Review on behalf of the Barossa Valley Golf Club (**Golf Club**).

The Golf Club considers that further amendments can be made to the Act consistent with the requirements of section 10(3) (a) to address the objects of the Act and secure the long-term viability of the Golf Club.

In this respect, the Golf Club requests greater flexibility to permit dwellings and land division associated with the Golf Club where the special character of the Barossa Valley is not compromised.

### **Barossa Valley Golf Club**

The Golf Club was established in 1960. The course is an 18-hole par 72 championship course set within the scenic Barossa Valley region which has been progressively developed over the last 58 years. The Golf Club is a 5-minute drive from Nuriootpa, and currently has approximately 300 registered playing members. A substantial number of Barossa Valley locals have played at and been members of the Golf Club over its 58 year history.

The site of the course covers an area of approximately 63 hectares. A mix of open rural landscape, bushland and vineyards surround the course.

Although the Golf Club is financially stable, it has limited resources to invest in the course/facilities. The Golf Club has been proactively investigating ways in which it may improve its facilities for a sustainable long term future. There is a considerable portion of the course that is currently underutilised, and could be carefully redeveloped to improve the tourism facilities in the region while also generating employment, revenue and investment into the future.

The Golf Course sits within the Primary Production Zone. The Zone fails to recognise the existing longstanding golf course use and any potential re-development of its facilities or for complementary tourist related development.

The site is also located in a Character Preservation District as defined in the Act.

### Existing Zoning Issues

The existing Zone applying over the land, restricts the development of dwellings, undertaking tourist accommodation and also land division. These forms of development listed above are “non-complying”.

The Act also limits undertaking land division and development of dwellings at the site although these restrictions do not apply to temporary accommodation for tourism purposes.

Both a “golf course” and “golf driving range” are listed as “non-complying” uses in the subject Primary Production Zone. Whilst a degree of pragmatism would likely be applied by the planning authority, current zoning could pose a hurdle for, say, a simple club house re-development, golf course works or construction of a driving range facility associated with the Course.

By comparison the Tanunda Golf course has its own separate Zone being the ‘Tourist Accommodation Zone’. Further, the ‘Recreation Zone’ in the Barossa Council Development Plan (consolidated 11 August 2016) envisages a golf course as a land use.

### Past Policy Investigations

There has been significant policy investigation surrounding the Golf Club and the Course in the past, prior to the current Character Preservation Act review. Past policy works are detailed below.

#### *Section 30 Review of the Light Regional Council Development Plan – 2004 – Barossa Valley Golf Club*

In 2004, the Golf Club made a submission to the Light Regional Council’s Section 30 Development Plan Review to amend the Development Plan zoning to permit land division for rural residential development. The amendment to zoning was also anticipated to aid the development of on-course tourist accommodation at a later time.

This submission suggested that the Council amend the Development Plan to include a “Tourist Accommodation Zone” or similar, and provide a specific policy area that permitted land division and tourist accommodation on the Golf Course site.

#### *Submission for the Draft Tourism PAR – 2006 – Nolan Rumsby Planners*

In 2006, Nolan Rumsby Planners wrote a submission on behalf of the Golf Club to Light Regional Council in relation to the Draft Tourism Planning Amendment Report (PAR) that was being undertaken for the region.

This submission identified that the zoning and respective policy surrounding the Golf Club site was very restrictive in terms of what could be developed, and failed to acknowledge the longstanding use of the allotment. It was stated that the Golf Club intended to eventually undertake a redevelopment of their site to upgrade the existing clubroom facilities, and construct some tourist accommodation style units.

Grouped with the submission letter, Nolan Rumsby Planners provided a series of concept drawings that demonstrated their future ideas, and supported the potential addition of a dedicated “Golf course (BVR) Zone” that would encapsulate the existing allotment and envisage future redevelopment of the site.

Initially, Light Regional Council were not supportive of the submission, stating that the residential component of the Golf Club’s proposal was too contentious and was not suitable within the zoning and

locality. The Golf Club presented a deputation at the Council meeting on 17 July 2007, and following this were invited to undertake feasibility investigations for a potential developer funded PAR.

These investigations were then stalled by various factors, however policy amendments were still present in the minds of the Golf Club representatives.

### **Developer Funded Development Plan Amendment – 2016 – URPS**

In 2016, URPS was engaged by the Golf Club to provide assistance for a developer funded Development Plan Amendment (DPA) to re-zone some of the land associated with the Golf Club to accommodate golf course style housing and/or tourist accommodation. At the time, this process had the support of Light Regional Council staff and Elected Members.

This developer funded DPA was required in order to increase the attractiveness of the Golf Club to external investors and to potential members. Further, the re-zoning was required in order for the Golf Club to undertake upgrade works to its existing facilities, due to the non-complying classification applicable to such works in the Primary Production Zone.

This developer funded DPA did not progress due to the implications of the *Character Preservation (Barossa Valley) Act 2012*. It was determined that even if the DPA was endorsed and re-zoning occurred, there would have still been significant limitations surrounding land division and residential development.

Concept plans for the potential Golf Course housing and club room redevelopment were prepared by Alexander Brown Architects and are attached for reference.

### **Impacts of the Character Preservation (Barossa Valley) Act 2012**

The Golf Club supports the terms of the objects of the Act in section 6 and the character values expressed in section 7 of the Act. However, the Golf Club submits that section 8 ought to be amended, consistently with the objects and character values in sections 6 and 7 to enable development of a residential and land division nature for the improvement of the Course and the development of tourism facilities associated with the Course.

Amendments can be made to acknowledge the continuation and expansion of particular land uses which can enhance the economic, social and physical well-being of the community. Currently, the Act significantly limits the type of redevelopment that can occur on the site, completely restricting land division and residential development of any kind. The Golf Club is of the opinion that the future redevelopment of a portion of the Course would benefit the region significantly. In particular, either,

1. The definition of “rural area” in section 3 of the Act could be altered to exclude golf courses; or
2. Section 8(1) could appropriately be amended to provide an exception for land division of the Course where it is associated with a redevelopment for tourism and tourist accommodation purposes.

The rationale for such amendments includes the following matters -

- As the Golf Course sits within a discrete part of the Barossa and remains secluded from prominent roads in the region, the character values described in section 7 (the scenic attributes, heritage attributes and rural and natural landscape and visual amenity) will not be compromised by some

development complementary to the Course, nor will any existing entrances to towns or settlements be affected.

- The addition of tourist accommodation is consistent with the object in section 6(1)(a) and the character values in section 7(e) as it will enhance the opportunity for overnight accommodation within the region, responding to an existing shortage of tourist accommodation in the area and adding to the economy of the region. While it may be possible to gain an approval for tourist accommodation the Act restricts tourist accommodation being put on Community Title sites – which would allow the Golf Club to attract investment in individual tourist cabin sites as holiday homes which can be offered as part of the tourist accommodation assets adjacent the course.
- The redevelopment of some of the land for either residential or tourist accommodation purposes provides potential for outside investment to both the golf course and the facilities, which will increase the appeal of golf tourism in the region.
- Such ancillary development to the Course will not affect primary production because the Course has been in existence for over half a century.

As such, on behalf of the Golf Club, I respectfully recommend that the current Character Preservation Legislation be amended as described above.

### Summary and Conclusion

The current review of the *Character Preservation (Barossa Valley) Act 2012* is welcomed by the Golf Club.

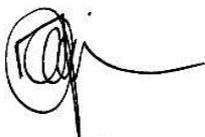
While the objectives of the Character Preservation Legislation are supported, the Golf Club considers that amendments can be made that will assist the future of the Golf Club without comprising the special character of the Barossa Valley.

The Golf Club will continue to work with Light Regional Council to amend its Development Plan to further reinforce the existing site within the Development Plan and permit further complementary development.

Thank you again for the opportunity to provide this submission.

Please call me on 8333 7999 if you have any questions, or wish to discuss this submission further.

Yours sincerely,



Matthew King RPIA  
**Director**

Enc.



BAROSSA VALLEY GOLF CLUB

CONCEPT 3DS

**CLUBROOM / FUNCTION CENTRE**



BAROSSA VALLEY GOLF CLUB

CONCEPT 3DS

**CLUBROOM / FUNCTION CENTRE**



BAROSSA VALLEY GOLF CLUB

CONCEPT 3DS

**GUESTHOUSE CABIN**



BAROSSA VALLEY GOLF CLUB

CONCEPT 3DS

**GUESTHOUSE CABIN**



BAROSSA VALLEY GOLF CLUB

CONCEPT 3DS

**RESIDENTIAL (DESIGN OPTION 1.)**



BAROSSA VALLEY GOLF CLUB  
CONCEPT 3DS  
**RESIDENTIAL (DESIGN OPTION 1.)**

Government of South Australia  
Department of Planning, Transport &  
Infrastructure

Review of the  
Character Preservation  
(Barossa Valley) Act 2012  
&  
Character Preservation  
(McLaren Vale) Act 2012



**SOUTH AUSTRALIAN WINE INDUSTRY**  
ASSOCIATION INCORPORATED

**SUBMISSION OF:** SOUTH AUSTRALIAN WINE INDUSTRY  
ASSOCIATION INCORPORATED

**ABN:** 43 807 200 928

**ADDRESS:** First Floor, Industry Offices  
National Wine Centre  
Botanic Road  
ADELAIDE SA 5000

**CONTACT PERSON:** Brian Smedley

**POSITION:** Chief Executive

**TELEPHONE:** (08) 8222 9277

**FACSIMILE:** (08) 8222 9276

**EMAIL:** [admin@winesa.asn.au](mailto:admin@winesa.asn.au)

**WEB:** [www.winesa.asn.au](http://www.winesa.asn.au)

**DATE:** 27 February 2018

## INTRODUCTION

The South Australian Wine Industry Association (SAWIA) is an industry association representing the interests of wine grape growers and wine producers throughout the state of South Australia. SAWIA (as it is known today) was established in 1840 as the *Society for the Introduction of Vines*.

SAWIA is a not for profit incorporated association, funded by voluntary member subscriptions, grants and fee for service activities, whose mission is to provide leadership and services which underpin the sustainability and competitiveness of members' wine business.

SAWIA membership represents approximately 96% of the grapes crushed in South Australia and about 36% of the land under viticulture. Each major wine region within South Australia is represented on the board governing our activities.

SAWIA has a strong track record as an industry leader and innovator in many areas. SAWIA pro-actively represents members and the greater wine industry with government and related agencies in all aspects of business in the wine sector.

What SAWIA does for members is covered in four key areas:

- Representation and Leadership;
- Advice and Information;
- Products and Services; and
- Promotion and Opportunities.

SAWIA provided the discussion paper and the questions raised for the South Australian industry to respond to and the contents of this submission contains the substance of the information provided to the association through that consultation process.

## **SUBMISSION**

The *Character Preservation (Barossa Valley) Act 2012* and the *Character Preservation (McLaren Vale) Act 2012* commenced operation in January 2013. Both Acts require a formal review (this review) after 5 years of commencement as set out in the legislation.

These Acts provide statutory protection from inappropriate urban development (such as residential development within primary production areas or development) which is inconsistent with the desired character of a town. The Acts restrict the creation of additional allotments for residential development outside of township boundaries thereby seeking to provide for continued viable farming and primary production activities.

Land division to create additional allotments for any purpose is considered non-complying developments.

The core objectives of the legislation is that the special character of the two districts is recognised, protected and enhanced while providing for the economic, physical and social well-being of the communities within the districts.

Both Acts have strong similarities in that they 'protect' areas within a designated boundary as set out in a map of the area.

### **Character Values**

The Acts recognises the importance of the following **character values** and seeks to retain these of each district:

- the rural and natural landscape and visual amenity of the district;
- the heritage attributes of the district;
- the built form of the townships as they relate to the district;
- the viticultural, agricultural and associated industries of the district;
- the scenic and tourism attributes of the district.

Any development application will put to the test these character values. To date, SAWIA believes these values are being upheld.

### **Changes to the Act**

On an examination of the activity over the period both the intent and purpose of the legislation is working. The legislation has been effective in protecting the agricultural land for wine production (and other production) and containing the ever present threat of urban encroachment within the boundaries of the preservation areas.

In our consultation with members, there has been nothing raised and nothing identified that suggests any changes in the legislation are required or needed.

Given the nature of the legislation (both its intent and purpose) we do suggest a further review in 5 years' time would provide a continuing focus on ensuring the legislation remains fit for purpose.

## **END OF SUBMISSION**

e [udiasa@udiasa.com.au](mailto:udiasa@udiasa.com.au)  
t 08 8359 3000  
w [www.udiasa.com.au](http://www.udiasa.com.au)

Urban Development Institute of Australia  
(South Australia) Inc.  
Level 7, 81 Flinders Street  
Adelaide SA 5000



Wednesday 28<sup>th</sup> February 2018

DPTI.PlanningEngagement@sa.gov.au  
Department of Planning, Transport and Infrastructure  
77 Grenfell Street  
ADELAIDE SA 500

To whom it may concern,

**RE: SUBMISSION ON THE CHARACTER PRESERVATION ACTS REVIEW**

**About the UDIA**

The Urban Development Institute of Australia (UDIA) has been active in South Australia since 1971 and has over two hundred-member companies.

We boast an active membership of around fifteen hundred individuals who are involved in policy development on committees, professional development, event attendance as well as other activities, all aimed at improving the outcomes for our sector and State.

It is through these members that UDIA provides an important voice on development matters, particularly in relation to initiatives for homebuyers, urban developers, professionals and others who are involved in the sector.

**UDIA's Position**

The following submission is in response to the review of the *Character Preservation (Barossa Valley) Act 2012* and the *Character Preservation (McLaren Vale) Act 2012* ("The Character Preservation Acts") as required by legislation.

The UDIA (SA) understands the special and unique character of the McLaren Vale and Barossa regions in South Australia and recognises the value and benefit that they bring to the South Australian community and economy.

The Character Preservation Acts are relevant to the Planning System as they provide guidance as to where and how development can sustainably occur in prime food and wine growing areas. However, the UDIA has identified some issues that need serious consideration and addressing in order to avoid confusion and potential conflict:

1. In essence, the Character Preservation Acts have achieved their policy objectives as the "character values" under Section 7 have now been incorporated into the Planning Strategy and into every affected Development Plan (as per Part 2 and 3 of Schedule 1). Currently, Section 6(2) of the Act generates confusion amongst Councils about whether there are additional considerations that they need to have regard to in assessing development

applications. The UDIA believes that the policies have been adopted into the Planning Strategy and Development Plans and thus, Section 6(2) should be deleted or clarified in its operation as it has no operation in the assessment of development applications and simply causes confusion.

2. The Character Preservation Acts impose limitations on land division applications creating additional allotments intended to be used for residential purposes. However, the UDIA (SA) believes the concept of an “additional allotment” is poorly defined. A land division divides existing land into new allotments but in practice, it is impossible to identify an allotment or allotments as the “additional allotment”. The UDIA (SA) would like clarification of the definition of what constitutes an “additional allotment”.
3. Section 8(7) of the Character Preservation Acts further complicates matters. It suggests that where additional allotments are created, it will be taken to be a condition of the development approval that the additional allotment not be used for residential purposes.

Aside from the issue of which is the “additional allotment”, there is an inherent difficulty in seeking to impose through statute a condition of approval that is intended to have lasting effect. Generally once a land division is completed, the development approval cannot give rise to ongoing land use restrictions on subsequent owners in perpetuity.

For example, if this was the case then any prospective purchaser of land would need to check the terms of the land division approval which had originally created the allotment. Further, there would likely be no record of which was the additional allotment and it would also not turn up in any of Section 7 searches undertaken during the standard purchase of a property.

Finally, to the extent that a condition under section 8(7) was valid, there would be real questions about how such a condition could be varied and by whom.

4. Given that the restrictions in the Character Preservation Acts are also applied to the Environment and Food Production Areas under the *Planning, Development and Infrastructure Act 2016* (“PDI Act”), similar issues have the potential to arise under that legislation. The terms of section 7 of the PDI Act are identical to the Character Preservation Acts in respect of the issues identified above.

The UDIA (SA) believes these matters are likely to result in greater confusion and recommends that the Department of Planning and Infrastructure should strongly consider clarifying or removing unclear or unnecessary provisions in both the Character Preservation Acts and the PDI Act.

We thank you for the opportunity to make this submission.

Yours sincerely,



**Pat Gerace**  
Chief Executive Officer

## Submission regarding the BV Character Preservation review Act 2012

As a broad acre farmer in the western Barossa the entire process of the bill discussion and then the ACT implementation has been distracting and very damaging to our farm business.

If the intent of the ACT was to sustain viable agriculture production systems the **BV Character & Heritage ACT HAS TOTALLY FAILED AND SHOULD BE REWORDED** to exclude broad acre farming as an accepted land use and the wording changed to viticulture and fine food production or else the ACT is a farce and A CATCH 22 where farming for aesthetic values is desired but not the foundation stone of profitable manageable best practice farm basics such as spraying for hygiene and essential weed control and being able to be competitive in food production within our region let alone our state or nationally .

So basically it has become an impediment on federal; agriculture competition policy where production systems should not face unfair barriers to trade or production.

I have been on ABC Land line during the time around the ACT initial stages and have spoken on concerns regarding this topic where the minister of Planning was also interviewed but denied knowledge of broad acre farmers trying to have discussions prior to the vote on the bill with himself and the dept. But email records will clearly show requests for meetings were made for the important matters relating to farm issues relating to what is required for farms to have long term ability to remain competitive, productive and worthy of a succession plan.

I refer to the three main submissions to the system of local and state govt. from GPSA RELATING TO THE DAMAGE TO BROAD ACRE GRAIN farmers and also several submissions from Livestock SA with extremely serious matters relating to infringement to the Right to Farm. I will send these documents to verify their concerns

The Valuer General of SA wrote a document relating to devaluation of property if conflicting land use change occurred without buffers so best practice and observation for Federal compliance to chemical application could occur without hindrance.

I have had intensive involvement with buffer discussions with state & local govt. & dept. Heads with no outcome.

The question to Planning SA and local govt. is why have none of the key concerns over the last 5 years from GPSA & LIVESTOCK SA NOT BEEN ADDRESSED either by

the dept. or the minister to put an interim amendment through as there were admissions of oversights and damage which was supposable not for seen. The restrictions on buildings and development on broad acre farms has led to disillusionment and many in the private sector will know if your business is forced to stall for even a short period it causes damage but long term it is death. The real matter which has been put to even the parliamentary economic committee is once rural sections of land are non-sustainable in profit, management and investment in infrastructure how can society or state & local govt. force this land to be farmed at a economic disadvantage or loss scenario when it is govt. policies which have caused this demise. Young adult children of broad acre farm families who would normally take over the farms are also asking why should they be involved in an industry where disrespect is shown through policy and poor or overzealous interpretation for landscape over business's already there trying to make a living. The Act has totally failed broad acre farmers so should be either re written or rescinded.

I am willing to speak to this at length as it is an involved topic and have helped chair a meeting where many heads of dept.'s and local govt representatives were present.

I believe the minister of Agriculture & PIRSA has let *BROAD ACRE FARMERS* down with the buffer issue and the minister of Planning & dept. has also not shown leadership in resolving the festering problems which have not been dealt with for over the last 6 years in particular.

Why were two large stakeholder groups involved in agriculture- excluded from primary discussions to lead up to the bill vote by govt. and the dept.'s and after still not been heard after numerous submissions?

I would urge these matters to be dealt with as large amounts of land has been adversely affected with a lot of negative financial impact on especially individual properties where change of land use without buffers has caused enormous unfixable problems.

Local govt. has at times clearly been shown to manipulate wording from the ACT for outcomes which suit them but clearly damage pre existing broad acre farms. I would like to ask that the submissions from GPSA and Livestock SA OVER THE LAST 5 YEARS ON THIS TOPIC BE ATTACHED TO MY SUBMISSION.

Thanking you Peter Grocke



# Grain Producers SA



27 February, 2015

## Barossa Rural Area and Character Review - additional submission by Grain Producers SA

Grain Producers SA (GPSA) is the peak industry body for the South Australian grain Producers. It is unique in that it is a non-political body that represents all grain producers to government, the community and industry including, grain marketers, exporters, transporters, storage and handlers, researchers and farm input suppliers. It is funded via the SA Grain Industry Fund (Primary Industries Funding Scheme) to which nearly all grain producers in this State contribute. GPSA is a founding member of Primary Producers SA.

The Barossa Valley is an important and diverse primary production area incorporating many forms of agriculture and horticulture. On behalf of the broadacre grain producers within this council area, GPSA made a submission to the Barossa Rural Areas and Character Policy on 1 August 2014, and would like the following additional points to be also taken into consideration:

1. Grain producers, as broad acre farmers, have been neglected and ignored as the primary stakeholders of the rural land within the Barossa Valley Regional area, particularly the western and northern regions. This has occurred at both State and Local Government level, and has been evident from the early stages of the consultation process. There has been insufficient and unsatisfactory recognition given to the reality that an existing industry and land use already occurs on that land, and that that industry is viable, sustainable, and has a long history of contribution to the economy and character of both the State and the Region. Further, it already has its own infrastructure, regulations and protocols and a record of not impinging on, or causing duress to, other citizens. If Local Government had better understood and recognised this prior and existing land use, and had engaged in a more inclusive and considerate consultation, this would have led to totally different attitudes and better outcomes for all stakeholders.
2. Grain producers and their families own most of the land currently being examined in this Review, and as such, are the major stakeholders facing the undesirable repercussions of the overzealous interpretation of the wording and intention of the initial Character Preservation (Barossa Valley) Act 2012, by Local Government planning sections. There is clear favouritism to the expansion and advancement of other land use options, in particular viticulture and tourism, at the direct expense of the existing industry.

- 
3. Land use problems caused by poor and unsympathetic planning are creating conflicts at the agriculture/viticulture interface, where agriculture connects to residential demands, and where agriculture confronts State and Local Government land use expectations and desires. At these interfaces, the problems caused by alternative land use and differing expectations, when proving too hard for equitable resolution, are always "resolved" by placing restrictions, costs, encumbrances, financial penalty, emotional stress and ultimately reduction in income upon the existing farming family.
  4. There is documented evidence that broad acre cropping land is being devalued as farm management activities are restricted, curtailed, or compromised when that land abuts land that has been rezoned for alternative land uses. The Valuer Generals' office put out a directive in November 2013 entitled "Valuing of Farming Land Adjoining Sensitive Land Uses Directive", which clearly outlines the situation of devaluation that occurs when farming land abuts land zoned for alternative and conflicting land uses. Such devaluation of the broad acre land asset means that farming businesses are hindered in their expansion and development and hence their long term sustainability and survival is threatened. Deliberate restrictive requirements placed on the existing and prior land use operators is an injustice that is culpable for the financial loss that occurs through the asset devaluation. A just and civilised society would immediately invoke the principle of adequate compensation for the adversely affected family farming business, when external regulations inflict extra costs, or reduce income avenues, or devalue assets, to an already existing and legitimate industry. The principle of compensation is one that is foundational to western democratic ethics, and would be applied to any parallel urban situation when infrastructure development of change of land use is proposed. Which European democracy would dare to treat its existing agricultural industry in such a manner? Fairness and justice MUST be seen to be a fundamental when alternative land uses encroach, and are encouraged to encroach, upon existing broad acre farming.
  5. Personal communication from existing Broadacre farmers confronting alternative land use demands state that there is a clear lack of knowledge amongst working groups and consultation panels regarding key issues such as buffer zones and the use of agricultural crop protectants including herbicides, insecticides, and fungicides. Ideologies, not practicality, necessity, or fairness and justice, has controlled the debate. Interpretations of land use and planning regulations by some local Councils when it comes to adjoining land use conflicts has resulted in a totally unclear way forward for existing agricultural industries. In many cases, it seems planning workshops have been flawed by not having key stakeholders present when the issue of land use co-existence has been discussed. Debate has been stifled, neglected, or ignored when the real practical matters that grain producers need to contend with, did not suit the agenda of the day.
  6. Property development by existing land owners, including infrastructure such as sheds, fencing, water storage, land amelioration, has never been so uncertain and filled with anxiety. Will any improvement be devalued in the future by a change in land use regulation, or the devaluation of the land asset? The lack of clear and consistent regulations within a Council's sub-regions and districts creates unjustified stress for land owners wanting to enhance their business.

- 
7. If broadacre grain farming is so disrespected and irrelevant, if the existing prior land use is seen as having no useful future within the Barossa Region, then it is incumbent upon those that enact the regulations that so harshly, inconsiderately, and adversely affect the existing grain producing families within the area to enable them to exit their land and industry with justice and adequate compensation. If current social policy so disregards grain production, and is so enamoured by boutique wines and food tourism, then the financial damage and the deleterious effects on mental health and well-being that is currently being inflicted upon those that farm at the industry interface MUST be adequately compensated for what that policy deprives them of. That is the very basis of social justice in a modern civilised society, and is the key point of this submission.

GPSA would appreciate your consideration of these additional points in the examination of the Barossa Rural Areas Character review. If you have any queries or require further information please don't hesitate to contact me on 1300 734 884.

Yours Sincerely



Darren Arney  
Chief Executive  
Grain Producers SA Ltd





## Barossa Rural Area and Character review-Additional Submission by Livestock SA

- Livestock SA is the peak industry body for all South Australian sheep, beef cattle and goat producers.
- All holders of a PIC are entitled to be members of Livestock SA and no membership fee is charged.
- Livestock SA is funded by voluntary levies on sheep transactions and cattle ear tags.

Livestock production is a significant contributor to the South Australian economy. The grazing industries had a farm gate value of almost \$1.0 billion per annum. This is approximately 20% of the total value of South Australia's agricultural production.

Livestock have been a major component of agriculture in the Barossa area ever since settlement. George Fife Angus in his painting "Lyndoch Valley towards Barossa Range" depicts a shepherd and his dogs and sheep. He is reported in *'Travels in time: the Barossa valley in the 1850's, around 1900 and in the 1940's'* by Susan Marsden as describing the country around Lyndoch Valley and the Barossa Range as "of a very superior character with well watered valleys, and gentle hills covered with good grass".

Following our initial submission we ask for these additional points be considered:

1. The Barossa is not just about grapes. In the Barossa Local Government Area there are 584 farming establishments with 61,230 hectares used for agriculture (Of this area 45,698 hectares is grazed by livestock, 13,626 hectares is under grapes and the balance is under other crops (Situational analysis: agricultural production in the Barossa Region=RDA).

The amount of land used for grazing or growing crops other than grapes in the Barossa LGA is significant and contributes greatly to the local economy. Given the somewhat perilous state of the wine industry at present, the grazing and other crop industries are becoming more important in building on future returns from agriculture in the area.

With the adoption of new management practices in both the grazing and grain industries productivity is increasing. Practices such as tighter lambing periods, autumn mating of ewes to maximise ovulation rates, scanning ewes for multiple foetuses, improved wool cuts, tighter calving spreads, better pasture species, and the use of more deep rooted perennial species in pasture mixes in the grazing industries. Whilst in the grain industries the uptake of no till methods, and precision farming are just the tip of iceberg when considering the adoption of new practices.

This adoption of new practices is giving the area momentum in improving both productivity and profitability. This momentum will, if given the opportunity, increase the relative ranking of broadacre farming to other agricultural pursuits. This momentum must not be stymied by

nonsensical planning regulations or removing the right to farm in the area. The broadacre industries need support rather than being emasculated.

2. When the ancient Greeks in the Third Century BC coined the phrase "Beauty is in the eye of the beholder" they showed great perception of the human race. They understood we are all different, whether it is due to genotype, phenotype, personality, perception, objectivity or values. Such differences still occur.

Some people find a vineyard in mid spring something to salivate over when others prefer few leafed vines in winter awaiting machine pruning the thing of choice. An old dairy, hay shed, shearing shed, machinery shed or a set of stock yards appeal to many. And to some a tank farm surrounded by wine tanks appeals but to others it appals.

A paddock of lambing ewes or calving cows is appreciated by others. The sight of gambolling lambs on a sunny spring day or of calves seeking solace from their mothers is hard to reject. Likewise a herd of contented cows sitting chewing their cud can be a sight to behold.

When conditions are placed on broadacre farmers that prevent the construction of essential farm infrastructure because it may taint the visual amenity this is a considerable impediment to their rights.

In order to allow the region to move forward in terms of productivity it is important that broadacre farmers be allowed to construct essential infrastructure; whether it be hay, machinery, dairy or wool sheds, fences to allow rotational grazing, laneways for stock movements or stockyards for handling livestock.

The approval of an application should be based upon it meeting required building regulations not on whether someone declares it to be objectionable. We should allow common sense to prevail and let the application be assessed on its contribution to the local economy rather than whether it offends someone's view of visual amenity.

3. At the centre of the review is the right to farm. As broadacre farming has been part and parcel of many properties in the Barossa since settlement their rights cannot be just brushed aside because someone dislikes the buildings, stockyards or other essential infrastructure.

To put constraints on or reject their replacement or construction is contrary to their right to farm. When the development of land for an alternative land use is considered, this change should be subject to a study of the impacts on existing landowners. They should not be required to curtail their normal farming practises because it may impinge on the new development or activity.

Existing broadacre farmers in the Barossa area should be nurtured and supported in their endeavours not treated like pariahs. They need their "right-to-farm" protected in order that they may continue to increasingly contribute to the local economy.

7 April 2015



## **The McLaren Vale Character Preservation (McLaren Vale) Act 2012 Review**

Friends of Willunga Basin (FOWB) absolutely supports the McLaren Vale Character Preservation (McLaren Vale) Act 2012.

We welcome the opportunity to provide comment on the questions posed in the discussion paper, as follows.

### **Are the values and character of the area being adequately protected?**

Character is a matter of both how the existing built form and natural environment are already presented and how new development alters this over time.

Given the restrictions on land division now in place, residential development patterns across the McLaren Vale Character Area (MVCA) – i.e. in non-township areas – are largely set. While new development will continue to occur, it will tend to follow the existing pattern and, we suspect, be of limited effect at a landscape scale.

We note the statistics at page 8 of the Discussion Paper and suggest that these may reflect latent development potential already in the system at the time the Act came in to force. If this is so, then the real test will be over the next 5 years.

Non-residential development can be more problematic. Appropriate, well thought out and well presented non-residential development is to be encouraged and will help to underpin the economic future of the region. On the other hand, through inappropriate siting, scale or design, such development can also have significant adverse effects on the appearance and amenity of localized portions of the MVCA and FOWB has certainly seen several examples of this in the last several years. As against the Development Plan, and given that the Act deals with land division and regional character, which are matters operating in different spheres, the Act is an important bulwark against inappropriate development. If anything, the primacy of this requirement needs to be reinforced through the planning system.

In the natural environment, we are greatly encouraged by moves on several fronts (DPTI, Council, NRM, SA Power Networks and the (FOWB sponsored) McLaren Vale Biodiversity Project) to rein in the spread of feral olives. We advocate strongly for continuation of this work, to benefit both the biodiversity and the clean green appearance of the district.

By and large therefore, the values of the MVCA are being protected, but this remains largely a function of the nature of the development applications that lodged over any given period – and monitoring these requires continued vigilance on the part of local community groups like FOWB.

### **Are land division controls adequate to ensure that character is maintained?**

It was always expected that a certain amount of land division would continue after the passing of the Act, often through the reconfiguration of existing titles and the like.

However, wholesale land division outside the town boundaries does not appear to be a significant issue, as per the statistics in the Discussion Paper.

To the extent that it is an issue, it is often through the nature of residential development within the (excluded from the MVCA) townships, where character is often under threat from over-zealous land division activity.

#### **Have changes to the Planning Strategy and the Development Plan helped their implementation.**

We have not paid close attention to this matter, but regard such changes as an essential underpinning of the Act when it comes to its on-ground implementation.

#### **What are the family, social, environmental and economic impacts of the Act?**

The question could scarcely be broader.

However, FOWB takes the view that the effects can only be positive. Agriculture and tourism will be two of the mainstays of the SA economy for the next generation and beyond. The preservation of an intact and value adding working agricultural landscape of considerable beauty only a short distance from the Adelaide CBD creates an economic asset *par excellence* and makes the MVCA one of the jewels in South Australia's crown.

In the same vein, the Act is also ensuring the future of a vibrant and cohesive community, and securing ongoing opportunity for all of the members of that community to benefit from the MVCA's enhanced economic 'status'.

#### **Have there been positive or negative effects on farming?**

There have been no negative effects that FOWB can see.

If the positive effects can be measured by the continuation of existing agricultural patterns and the increasingly buoyant of the grape and wine sector, then they are manifest and available for all to see.

#### **Are changes needed in the Act?**

FOWB seeks no change in the Act, although this is not a question that we have considered via a clause by clause review of the legislation.

The present act includes in **section 7 Character values of district** the following:

7 (b) The heritage attributes of the district;

7 (c) The built form of the townships as they relate to the district

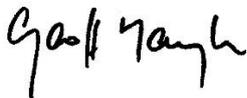
If we have one observation, it is that the character of the towns within the MVCA may be under just as great a threat than the MVCA itself. To this extent, some acknowledgement within the planning system of the greater landscape context within which these towns sit, and the desirability that their rural township character be preserved, would seem to be appropriate. This would mean adopting a non-urban mind-set to their future planning and development.

**Does the new planning system need to allow for character preservation?**

Absolutely it does. FOWB's fear is that the simplification of the development system that will result from introduction of the Planning Code will not leave room for the recognition of regional character. In both the MVCA and the townships that lie within it, the future Planning Code will hopefully support but, at the very least, must not work against character preservation – as will be the case if urban policies bleed over the hill from Seaford.

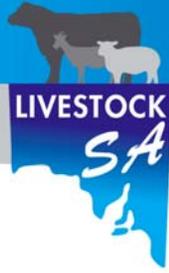
The area beyond the southern urban boundary must be recognized as being of a different nature and character to the urban portions of Onkaparinga specifically and the Adelaide Metropolitan Area more generally.

Yours sincerely,



Chair Friends of Willunga Basin

Feb 27<sup>th</sup> 2018



Your strong and independent voice for livestock producers

## **Review of the Character Preservation (Barossa Valley) Act 2012 and Character Preservation (McLaren Valley) Act 2012**

*Submission from Livestock SA, February 2018*

Livestock SA represents and promotes the interests of beef cattle, sheep and goat producers in South Australia. It currently has over 3,500 members, predominantly sheep and cattle producers, spread throughout the State. This includes livestock producers in the Barossa Valley and McLaren Vale, and it is on their behalf this submission is made, particularly those in the Barossa Valley.

The discussion paper released to lead this review was disappointing. It ignores agriculture even though these Acts are essentially about retaining the farming landscape in these two regions.

The economic assessment in the discussion paper only concentrates on numbers of visitors staying in these regions and their expenditure while they are visiting. There is a need for a detailed assessment of the impact of the Acts on agriculture, and the effect on future viability of agriculture. If agriculture does not remain profitable then it will very difficult to preserve the current character.

It is absolutely vital to ensure both regions have a strong economic future, and this includes farming businesses. This is crucial if agriculture is going to have a chance to continue to be viable in these areas and not compromised. It is known that there are primary producers who have moved from both the Barossa Valley and McLaren Vale to other parts of the State in a bid to buy larger amounts of land for economies of scale, to be able to undertake farming activities with fewer restrictions, with lower costs of production, and so that their family can continue to profitably farm. The economic assessment needs to include whether this trend has continued in the past five years under these Acts, and if so what does this mean for trying to continue to maintain the character of these two regions.

The environmental assessment in the discussion paper also give agriculture scant attention. It only mentions the interface between primary production and townships/dwellings. There is no mention of the increasing difficulties broadacre farmers with livestock are facing as the area under vines increases, even though in the main broadacre agriculture makes up much of the landscape that the Acts are trying to preserve.

The Review of the two Acts should be an opportunity to not only to review but to consider how the Acts need to be altered. As it is at present, about all the legislation does is reduce the breakup of farming properties for lifestyle blocks or retirement villages. The current legislation does not protect the right to farm.

The definition of the character values is not broad enough. The legislation should not only provide protection to character values within the prescribed areas but also provide protection to the farming communities within the prescribed areas.

The protection should be expanded so that it relates to respecting the rights associated with owning land, the right to go about lawful farming practises without disturbance or litigation and to protect the “right to farm” for those producing agricultural produce in these regions. And this protection should include the right to erect necessary infrastructure to improve farm productivity or improve management practises. The types of infrastructure envisaged include stock yards, shearing sheds, milking sheds, hay sheds, and implement sheds as well as on-farm silos.

Broadacre farming in the Barossa Valley should be protected in the legislation. When a near or abutting neighbouring landowner or land purchaser wishes to change farming activities from broadacre farming to planting vines or other horticultural crops they need to be made aware of the risks they are taking. This includes the possibility of spray drift from nearby broadacre farming enterprises and the potential damage that may occur. The broadacre sector needs to be protected from inappropriate change of enterprises and should not be liable for any damages occurring due to normal activities undertaken on a broadacre farming property.

If a change of enterprise is proposed, then that applicant should be responsible for setting aside enough land in the form of a buffer zone to provide any protection deemed necessary between the two enterprises. It is not the responsibility of the existing broadacre farm owner to provide such a buffer zone. This should be included in the legislation.

If the farming communities in the area are helped rather than hindered, opportunities for greater economic growth may increase. This could far exceed anything that will be obtained by increasing the number of available tourist beds or expanding the number of cafes in the area.

Without such changes, local councils in these regions will continue to give scant attention to primary production areas within their council areas when faced with developmental proposals.

In reviewing these Acts, the current boundaries also need to be assessed. Particularly in the Character Preservation (Barossa Valley) Act 2012 there is confusion of where some of the boundaries are. If local government boundaries were used, this would assist in clarifying the boundaries.

**From:** [REDACTED]  
**Sent:** Wednesday, 28 February 2018 5:29 PM  
**To:** DPTI:Planning Engagement <[DPTI.PlanningEngagement@sa.gov.au](mailto:DPTI.PlanningEngagement@sa.gov.au)>  
**Subject:** submission barossa valley review.

I trust this review of the Barossa Valley Protection Act will see, recognise and act upon some of the shortcomings and oversights of the act.

Whilst I have not opposed the general thrust of the Act it has from the outset failed to address the problems some agricultural areas that have been severely

compromised by some 30 years of policy neglect at both state and local levels.

There seems to be a long history of misinformation passed along to state government from PIRSA, Local Govt. and others who have either not understood, recognised or pass on information regarding the need for sustainability, viability and necessity to be efficient on a local, state and international level.

Several years ago a State Minister after listening to many of our local issues stated that they should be balanced out by the fact that we should receive more for our

produce because it come from the Barossa Valley.

The next time we sold grain I inquired as to what premium we would receive due to its location origin. The response was basically, are you trying to be funny

or just plain stupid?

In fact the opposite applies to net farm values, as we are simply a supplier of bulky goods transport efficiency is important. Road train and B double transport which

is needed for most markets is not available. Presently this is costing us \$20 a tonne for hay that we are selling to an interstate market.

Many times we miss a market opportunity because of our location problems.

last year because of a decision made by Barossa Council hierarchy and maybe others, which effectively prevented us from sowing when and where we needed to forced us to drastically change our cropping program at the last moment. We had no consultation granted.

This reduced our yearly income substantially-quite willing to show accounts. Recently 2 State Govt. members visited the farm and I asked who pays for these losses? the simple answer is us.

Why should we be forced to farm where our yearly income can be dictated by those who apparently don't understand broad acre farming, perhaps don't

care and /or are maybe just subservient to other sectors in the Barossa?

I strongly support the State Govt. if it genuinely tries to prevent what has occurred in the western Barossa from happening elsewhere. We tried 30 year ago but

nobody was listening, now in our area it is too late.

Viable farmland must be protected as once it is compromised it is too hard to reclaim and other land uses are often unpalatable by some.

The opportunity presents now with the review to draw a line in the sand, deal with that which is broken and look after what is not.

There comes a time when those effected should be heard, not those who do not pay the price.

Please read previous submissions by Livestock SA and GPSA as these issues have not been addresses and still apply. Sent separately please attach to this submission.

Yours sincerely

Charles and Kirstin Teusner



Primary Producers SA Inc  
C/O Unit 5  
780 South Road  
GLANDORE SA 5037  
Phone: 08 8297 0899

Department of Planning, Transport and Infrastructure  
GPO BOX 1533  
ADELAIDE SA 5001

26 February 2018

### *Character Preservation Acts Review*

Primary Producers SA (PPSA) is a coalition of peak bodies representing primary producers in South Australia. Member groups include Grain Producers SA, the Wine Grape Council of SA, Livestock SA, the Horticulture Coalition of SA and the South Australian Dairyfarmers' Association.

Primary Producers SA strongly supports the voice of local primary producers and communities being heard in reviews such as this one. For example, we understand that submissions have been made by the McLaren Vale Grape Wine and Tourism Association (MVGWTA) and Barossa Grape and Wine Association, as well as Livestock SA; with MVGWTA in particular providing general support for the Acts and the protections from inappropriate urban development and Livestock SA emphasising the need to consider agricultural interests. We also acknowledge previous submissions on this topic, such as Grain Producers SA's submission to the Barossa Rural Area and Character Policy Review from August 2014. This highlighted additional concerns such as spray drift buffer concerns (including buffer requirements for new/changing land uses) and costs of development controls.

- *SA's new planning system is currently being developed. Are there any changes you would suggest for implementing character preservation in the new system?*

As the discussion paper notes, "[t]he Planning and Design Code is a central piece of the new [Planning, Development and Infrastructure] legislation" and "[t]he Planning and Design Code may also consider other issues such as boundary realignments and interface between land uses". Primary producers therefore need to have early and ongoing input into the development of these important planning policies, as well as policies relating to Environment and Food Production Areas, for example.

The *South Australian Horticulture Industry Blueprint* (2017) recommends that industry should be engaged immediately to assist with the development of policy relating to Environment and Food Production Areas, the food production components of the *Greater Adelaide 30 Year Plan* and the appropriate Regional Plans. The Blueprint goes on to identify particular issues of interest to the horticulture sector, as well as the need to collaborate early and closely with industry on the ongoing identification of food production areas. The Blueprint also mentions the need to effectively regulate mining and gas activities in food production areas.

We understand that a submission by Light Regional Council highlights some general concerns – for example, relating to the Objects of the Acts and the application of general principles (such as to ensure that development does not detract from the special character of the district) – and that there has been some uncertainty about how this might be applied to new sheds for primary production purposes, for example.

It is important that the balance between character preservation and “the economic, social and physical wellbeing of the community” takes into account the interests, concerns and practical considerations of the range of primary producers in the area.

For more information or to discuss this matter further, please don't hesitate to contact Rob Kerin on 0439 933 103 or [robkerin@ymail.com](mailto:robkerin@ymail.com).

Yours sincerely

A handwritten signature in black ink that reads "Rob Kerin". The signature is written in a cursive style with a large initial 'R'.

Rob Kerin  
**Independent Chair**  
**Primary Producers SA**

**From:** Geoff Page [REDACTED]  
**Sent:** Friday, 9 March 2018 6:33 AM  
**To:** DPTI:Planning Engagement <[DPTI.PlanningEngagement@sa.gov.au](mailto:DPTI.PlanningEngagement@sa.gov.au)>  
**Subject:** character preservation of barossa and mcclaren vale

Sorry for late presentation.

The agricultural Bureau of south Australia discussed the review at its February meeting and agreed that we support the continuation of the policies which protect agricultural land. We had no members come forward with any changes that they wanted with respect to the policies. From our perspective , we believe the policies are sensible in the continual protection of agricultural land.

Dr Geoff Page  
Deputy chair  
Agricultural Bureau of South Australia  
555 the parade  
Magill 5072