



I hereby give notice that a Limestone Coast Southern Regional Assessment Panel will be held on:

Date: Tuesday, 16 May 2023
Time: 5.00 p.m.
Location: Level 1 Committee Room
Civic Centre
10 Watson Terrace
Mount Gambier

AGENDA

Limestone Coast Southern Regional Assessment Panel 16 May 2023

A handwritten signature in black ink, appearing to read "Tracy Tzioutziouklaris".

**Tracy Tzioutziouklaris
Assessment Manager
10 May 2023**

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1 ACKNOWLEDGEMENT OF COUNTRY

WE ACKNOWLEDGE THE BOANDIK PEOPLES AS THE TRADITIONAL CUSTODIANS OF THE LAND WHERE WE MEET TODAY. WE RESPECT THEIR SPIRITUAL RELATIONSHIP WITH THE LAND AND RECOGNISE THE DEEP FEELINGS OF ATTACHMENT OUR FIRST NATIONS PEOPLES HAVE WITH THE LAND.

2 APOLOGY(IES)

Nil

3 CONFIRMATION OF MINUTES

Limestone Coast Southern Regional Assessment Panel - 18 April 2023

RECOMMENDATION

That the minutes of the Limestone Coast Southern Regional Assessment Panel meeting held on 18 April 2023 be confirmed as an accurate record of the proceedings of the meeting.

4 QUESTIONS WITHOUT NOTICE**5 INVITEES**

- As from 1 October 2017, every Council is required to establish an Assessment Panel under provisions within the Planning, Development and Infrastructure Act 2016 to determine and make decisions on development applications as delegated to the Panel.
- When the Panel is considering an application, it must assess the proposal against the Planning and Design Code.
- The meeting itself is informal, however, all decisions made by the Assessment Panel are formal.
- Representors will be allocated 5 minutes to make their presentation, after which, Panel Members may ask questions to clarify any issues. It is solely a question and answer session. There will be no debate entered into.
- Council Officers will advise you of the decision as soon as practical after the meeting.

Invitees for Item 6.1 – 15A Wallace Street, Mount Gambier

The Applicant – Matthew Baker

6 REPORTS**6.1 DA23007343: 15A WALLACE STREET MOUNT GAMBIER SA 5290 - TOURIST ACCOMMODATION – REPORT NO. AR23/29511**

Development No:	DA23007343
Applicant:	Matthew and Tammy Baker
Property Address:	15A Wallace Street, Mount Gambier
Property Owner:	Matthew and Tammy Baker
Report No:	AR23/29511
CM9 Reference:	AF22/276
Author:	Roslyn Snaauw, Senior Planner
Authoriser:	Jane Fetherstonhaugh, General Manager Corporate and Regulatory Services
Nature of Development:	Change of use of a dwelling to be used for ‘tourist accommodation’
Description:	Change of use of a dwelling to be used for ‘tourist accommodation’
Zoning:	Established Neighbourhood Zone
Policy Area:	N/A
Heritage:	Historic Area Overlay

REPORT RECOMMENDATION

1. That Limestone Coast Southern Regional Assessment Panel Report No. AR23/29511 titled ‘DA23007343: 15A Wallace Street Mount Gambier SA 5290 - Tourist Accommodation’ as presented on 16 May 2023 be noted.
2. Having had regard to the provisions of the Planning and Design Code, the Application and all supporting documentation, the change of use of the dwelling for the purpose of ‘Tourist Accommodation’
3. Pursuant to Section 107(2)(c) of the Planning, Development and Infrastructure Act 2016, and having regard to the provisions of the Planning and Design Code, all documentation and representations received, it is considered that the application is NOT at variance with the provisions of the Planning and Design Code and consent is recommended subject to the following conditions:
 1. The development shall be carried out in accordance with the Plan/s as approved by Council and with the Conditions of Approval.
 2. Dense planting (such as THUJA Smaragd) must be established along the northern boundary of the subject site so as to provide a screen/buffer between the subject land and the adjacent property at 13 Wallace Street, to the south.
 3. Landscaping shall be undertaken and maintained at all times. Should any tree, shrub, ground cover or other plant die, become diseased or otherwise fail to thrive at any time, it shall be forthwith replaced.

General Notes

- 1) No work can commence on this development unless a Development Approval has been obtained. If one or more consents have been granted on this Decision

Notification Form, you must not start any site works or building work or change of use of the land until you have received notification that Development Approval has been granted.

- 2) Appeal rights – General rights of review and appeal exist in relation to any assessment, request, direction or act of a relevant authority in relation to the determination of this application, including conditions.
- 3) This consent or approval will lapse at the expiration of 2 years from its operative date, subject to the below or subject to an extension having been granted by the relevant authority.
- 4) Where an approved development has been substantially commenced within 2 years from the operative date of approval, the approval will then lapse 3 years from the operative date of the approval (unless the development has been substantially or fully completed within those 3 years, in which case the approval will not lapse).
- 5) A decision of the Commission in respect of a development classified as restricted development in respect of which representations have been made under section 110 of the Act does not operate—
 - a. until the time within which any person who made any such representation may appeal against a decision to grant the development authorisation has expired; or
 - b. if an appeal is commenced—
 - i. until the appeal is dismissed, struck out or withdrawn; or
 - ii. until the questions raised by the appeal have been finally determined (other than any question as to costs).



BACKGROUND

The subject land formed part of Council consent DA381/367/13 for a two (2) lot land division with the subject land located to the rear and having a battle-axe design.

Following the land division, Council consented pursuant to DA381/217/15 for the development of the rear land for the purpose of a three (3) bedroom dwelling with the provision of two (2) car spaces on site.

PROPOSED DEVELOPMENT

This application is proposing to use the existing dwelling for the proposed use for 'tourist accommodation'.

DEVELOPMENT PLAN PROVISIONS

As per the Planning and Design Code extracts.

PLANNING ASSESSMENT

This application is for the use of an existing dwelling for the purpose of 'tourist accommodation'

The subject land is located within the

Zones:

- Established Neighbourhood

Overlays:

- Affordable Housing
- Historic Area
- Hazards (Bushfire - Urban Interface)
- Hazards (Flooding - Evidence Required)
- Native Vegetation
- Prescribed Wells Area
- Water Protection Area

The proposed change of use to 'tourist accommodation' has no assessment pathway identified within the Planning and Design Code (Code) for this proposed use and as such will be 'performance assessed' on its merits against the Code.

A desired outcome of the Established Neighbourhood Zone is to '*includes a range of housing types, with new buildings sympathetic to the predominant built form character and development patterns*'.

The dwelling is existing and located within a residential area and will be used for residential purposes, in this instance, 'tourist accommodation'. Pursuant to Table 5 of the Code, the use of the site for the purpose of 'tourist accommodation' is not identified and as such is not exempt from notification.

The application was placed on public notice pursuant to the zone, in which five (5) representations were received and can be summarised as follows:

1. Representor 1

Supports the proposal however raises concerns with regards to privacy and fencing.

2. Representor 2

Opposes the proposal with a response relating to more housing required to address housing crisis. Rejects notion of 'tourist housing'.

3. Representor 3



Opposes the proposal. Spoke of 'housing crisis' and concern that current tenants will leave area.

4. Representor 4

Supports the proposal however raised concerns with regards to current tenants having to move.

5. Representor 5

Opposes the proposal with a response relating to 'rental crisis' and need to find new rental property.

Council have considered all representations and provide the following response:

Representation 1 and consider the matter with regards to a new fence more relating to a civil matter between both parties under the Fences Act however have considered privacy concerns by providing conditions in the consent if issued, that relates to planting screen planting along the northern boundary between these properties.

Representations 2 – 5 relate to a rental crisis which is not a planning matter. This application was not required to be referred to Council's Heritage Advisor as no proposed works were being undertaken.

CONCLUSION

The proposed use of the existing dwelling for the purpose of 'tourist accommodation' is considered an appropriate residential use and is supported.

INVITES

The Applicant – Matthew Baker

ATTACHMENTS

1. 15A Wallace Street - Plans
2. 15A Wallace Street - Planning and Design Code Extract
3. 15A Wallace Street - Representations
4. 15A Wallace Street - Applicant's Response to Representations
5. 15A Wallace Street - Applicant's Summary



6.2 DA 894/280/2011 - EXTENSION OF TIME REQUEST (THIRD REQUEST) - 76 WIND TURBINES AN ASSOCIATED INFRASTRUCTURE – REPORT NO. AR23/30127

Development No: 894/280/2011
Applicant: Woakwine Wind Farm Pty Ltd (WWF)
Author: John Mason
Nature of Development: Extension of time request (third request)
76 Wind Turbines and Associated Infrastructure
Lodgement Date of Request: 28 March 2023
Relevant Authority: Regional Assessment Panel

REPORT RECOMMENDATION

1. That Limestone Coast Southern Regional Assessment Panel Report No. AR23/30127 titled 'DA 894/280/2011 - Extension of Time Request (Third Request) - 76 Wind Turbines an Associated Infrastructure' as presented on 16 May 2023 be noted.
2. That given the applicant has demonstrated they are pursuing the application and have had unforeseen interruptions to finalising it, it is considered reasonable to support the extension request for works to commence by 12 May 2026 and to be completed by 12 May 2028.



BACKGROUND

Development application 894/280/2011 for the construction of 76 wind turbines and associated infrastructure was granted Development Plan Consent by the Council Assessment Panel on 7 June 2012. Since this time, two extensions of time have been granted, one via the Council Assessment Panel on 29 June 2018 for a 24-month period. A further extension was granted by Council 25 February 2020 for an additional 36 months until 12 May 2023.

Given the history with the application, the Council Assessment Panel's involvement and its political sensitivity, referring the matter to the Regional Assessment Panel to determine the most recent request is considered the correct pathway.

PROPOSAL

The applicant has requested the application be further extended for works to be commenced by 12 May 2026 and completed by 12 May 2028. Essentially, a further three year extension to start construction.

The request is justified as follows:

- The Covid-19 pandemic impacted the ability to complete site works, hold landowner meetings, undertake community consultation and finalise project design for a 3 year period.
- Network constraints in the Southeast part of SA. Electranet has installed four synchronous condensers at Devenport, Port Augusta, Robberston in May 2022. The synchronous condensers replace the synchronous generation that has been shut down, such as the Northern Power Station. Although this relaxes SA wind constraint, it only compensates for plant that has been shut down. The interconnectors being constrained limits the export from SA the projects ability to generate revenue. This leads to a significant amount of uncertainty with the project and needs to be resolved before significant investment is provided.
- Infigen Energy Limited being taken over by the Iberdola Group and delays resulting from the takeover process.
- Since September 2022, WWF have been negotiating with land owners to vary and secure the project's required 25 leases. The intent is to have the documents signed and executed by June 2023.
- To date, WWF has invested more than \$10 million in the project, including development costs (\$5.5 million), grid connection studies (\$1 million), land payments (\$2 million), employee salaries, wind measurement campaign and other costs.

PLANNING ASSESSMENT

With regard to previous ERD Court determinations, time extension requests should consider the following.

Was the request made within a reasonable time

In my view, yes, the extension request was made prior to the consent lapsing.

Has the policy changed since the time the application was determined

Yes, the original application was assessed against the Wattle Range Council's Development Plan. Since March 2021, all development applications are to be assessed against the Planning and Design Code (the Code).

With regard to a hypothetical application against the Code. The subject land (all of the parcels) are captured within the Rural Zone and renewable energy facilities are envisaged forms of Development as per DPF 1.1. Subject to addressing the amenity and functional issues with such a proposal, the development would be appropriate for the Zone.

Renewable energy facilities are not captured in Table 5 of the Zone and public notification for an application of this nature would be required.



The conditions that were originally imposed are also considered to still be relevant and enforceable. The following is noted with respect to the conditions:

- The *Wind Farms: Environmental Noise Guidelines 2009* have not been superseded by another legislation. They were however updated in November 2021.
- The EPA conditions imposed would likely be the same and or very similar.
- The conditions ensure that ongoing monitoring of the turbines would need to occur and noise created from them would need to be kept within the prescribed maximum levels.
- Condition 7 imposed will resolve any threat of bushfire associated with the development.
- Erosion control, stormwater management and decommissioning of the turbines will be resolved with Condition 8.

If the proposal was reapplied for, it is likely it would be supported.

Would others be unfairly prejudiced if the extension was granted

In my view, no, given a number of reasons, as follows:

- The applicant has demonstrated they have diligently pursued the development, with significant investment of more than \$10 million and following through with securing lease agreements with landowners.
- The project has been interrupted by unforeseen challenges that have delayed it, including the Covid-19 pandemic and network constraints.
- For a project of this size, it should be anticipated that it will take numerous years to complete.
- If the project was reapplied for, it is highly likely it would be supported however, there would potentially be a time delay of 3 – 6 months before that decision could be reached.

CONCLUSION

Given the applicant has demonstrated they are pursuing the application and have had unforeseen interruptions to finalising it, it is considered reasonable to support the extension request for works to commence by 12 May 2026 and to be completed by 12 May 2028.

INVITES

Nil

ATTACHMENTS

1. DA 894/280/2011 - Woakwine Layout - Site Plan
2. DA 894/280/2011 - Original DNF
3. DA 894/280/2011 - Original Development Assessment Report
4. DA 894/280/2011 - Elevations of Turbines



7 URGENT MOTIONS WITHOUT NOTICE

8 MEETING CLOSE