

## **Light Regional Council Development Assessment Panel 2014 Annual Report**

The 2014 calendar year marked the second and final year of the appointed Development Assessment Panel's (DAP) two (2) year term. The Panel comprised of the following members;

- Bruce Ballantyne
- Kelvin Goldstone
- Hulya Gilbert
- Rob Veitch
- Lynette Reichstein
- Deane Rohrlach
- Peter Kennelly

Council's Chief Executive Officer is appointed as Public Officer for the Panel. Section 56A subsection (2) (b) of the Development Act 1993 outlines the role and responsibility of the Development Assessment Panel with respect to providing advice and reports to the Council on trends, issues and other matters relating to planning or development that have become apparent or arisen through its assessment of applications under this Act, as it thinks fit.

The following report provides information to the Council on:

1. The activities of the Panel including information on the number of applications brought to the Panel for determination and other relevant statistical information; and
2. Planning or development issues which the Panel wishes to bring to the attention of Council.

### Statistical Data on Panel Activities and Development Applications

A total of 8 Development Assessment Panel Meetings were held during the 2014 calendar year.

Panel Member Attendance record:-

Bruce Ballantyne	Attended 8 meetings
Kelvin Goldstone	Attended 8 meetings
Hulya Gilbert	Attended 8 meetings
Rob Veitch	Attended 8 meetings
Lynette Reichstein	Attended 7 meetings
Deane Rohrlach	Attended 7 meetings
Peter Kennelly	Attended 8 meetings

At its meeting on 9<sup>th</sup> December 2014 The Council appointed the following Development Assessment Panel members:

1. That Council appoint Cr Reichstein, Cr Kennelly and Cr Shannon to the three (3) positions of Elected Member to the Light Regional Council Development Assessment Panel for a one year term expiring on 12 December 2015, pursuant to Section 56A(3)(c)(ii) of the Development Act 1993.
2. That Council appoint Bruce Ballantyne to the position of Presiding Member to the Light Regional Council Development Assessment Panel for a one year term expiring on 12 December 2015, pursuant to Section 56A(3)(b)(iii) of the Development Act 1993. Council consider Bruce Ballantyne to have a reasonable knowledge of the operation and requirements of this Act, and appropriate qualifications or experience in a field that is relevant to the activities of the Panel.

Mr. Bruce Ballantyne, Mr. Kelvin Goldstone, Mr. Rob Veitch, Mrs. Lynette Reichstein and Mr. Peter Kennelly were re- elected in December 2014 to serve on the Council's Development Assessment Panel for a further 12 months along with new members Mrs. Margaret Wendt and Mr. David Shannon.

The term of the new Panel will expire on 9 December 2015, unless legislative changes occur beforehand that require the composition of the Panel members to be altered.

Mr. Rohrlach did not seek re-appointment. The Panel wishes to extend its thanks to Mr. Rohrlach who provided a valuable contribution and guidance to the operation of the Panel.

The composition of a newly elected Panel (as mentioned above commenced 11 December 2014) resulted in the following meeting attendance:

David Shannon	Nil meetings attended
Margaret Wendt	Attended 1 meeting

During the period there were no complaints lodged with Council's Public Officer against any member of the Panel nor were any Code of Conduct matters filed with the Minister.

#### 1. Number of development applications assessed or considered by the Panel

A total number of 529 development applications were received by the Council in 2014, with 15 matters / applications considered by the Panel. This equates to a total of 2.8% of the total applications lodged with the Council for the 2014 calendar year and represents the extent of delegations provided for by Council to staff. The previous reporting period saw the panel considered 9 applications which equated to 1.7% of the total applications lodged.

A total of two (2) applications were presented to the panel twice. Development Application 313/250/2013 – was for an Industrial Development which was deferred enabling the applicant to provide additional information. The other application (313/363/2014 Commercial Development) related to an application whereby the Development Assessment Commission was the relevant authority, however, additional information was presented to Council at a later date to enable the Council to consider the additional information received by the Commission.

A total of 4 non complying development applications were considered by the Panel. One application was withdrawn for consideration on the evening it was expected to be considered and is yet to be reconsidered. The three (3) other applications were all supported by the Panel and Development Assessment Commission.

One report for information was presented to the Panel regarding the Development Assessment Panel 2013 Annual Report.

Provided below is a breakdown of decisions adopted by the Panel:-

Approved	5
Approved subject to DAC concurrence	3
Refused	2
Sub delegated	nil
Approved subject to reserve matters	nil
Compromise plans accepted via appeal	nil
Recommended to be approved to DAC as the relevant authority	2
Withdrawn and yet to be determined	1

#### 2. Types of Development

- Commercial/Industrial (inclusive of Industry as part of a primary production use of the land): 5 Development Applications

These comprised of:-

313/363/2014 - Supermarket  
313/374/2014 – Supermarket  
313/406/2014 – Car wash and alterations to petrol filling station  
313/459/2013 – Non - commercial feed mill ancillary to piggery  
313/250/2013 – Retail showroom

- Horticultural: 2 Development Applications

These comprised of:-

313/122/2014 Greenhouse development and market gardening (non complying)  
313/304/2014 – Vineyard

- Residential: 2 Development Applications

These comprised of:-

313/489/13 – Demolition of dwelling - Contributory Item  
313/229/14 – Dwelling ancillary to viticulture use of the land (non complying)

- Land Division: 2 Development Applications

313/D16/2012 - Boundary re- alignment in Primary Industry Zone  
313/D13/2013 – Boundary re- alignment in Character Preservation District (Non Complying)

- Other: – 2

313/227/2013 – Tourist accommodation  
313/17/2014 – Telecommunication tower (non complying)

Appeals to the Environment Resources and Development Court (ERD)

One appeal was lodged with the ERD Court during 2013. This appeal was not against a decision of the Panel but rather the non-complying categorisation of the application pursuant to Section 86 (1) (f) (ii). The appeal has been postponed at the applicant's request.

### 3. Planning and Development Issues and Relevant Matters

#### Car-parking

During the year the Panel considered a number of development applications of varied nature and complexity and there were matters which arose in the opinion of the Panel, which should be brought to the attention of the Council. These matters raised will be reported to the Council within this component of the report:-

The Panel considered two (2) applications for a supermarket in Kapunda. The Development Assessment Commission (DAC) was determined to be the relevant authority for both these applications. The Panel discussed in depth a fundamental aspect of both proposals which centered on car parking requirements in the Kapunda Town Centre. The main reason for this was that the literal application of the current Development Plan Policy generated a higher car parking requirement for the proposed supermarkets, which was considered to be excessive by planning staff as well as Panel Members. The current car parking rates within the Council's Development Plan suggests that for a "shop land use" a car parking rate of 1 car park per 20m<sup>2</sup> of total floor area should be provided.

The Panel noted that the requirement of 1 car parking space per 20m<sup>2</sup> of total floor area for a shop was more appropriate to a metropolitan setting than a rural one, and that in a pragmatic approach a rate of 1 car parking space per 25m<sup>2</sup> for the total retail area, excluding the storage and non-retail floor space applied to an assessment would result in a lower number of car parks required, which was determined as being adequate.

The catchment area of the Council is rural and the advice of the Council's Independent Traffic Engineer and expert provided advice on both applications and confirmed that in his opinion a car parking rate of five (5) carparks per 100m<sup>2</sup> of total floor area is more relevant to a metropolitan setting and larger population base and not an appropriate fit in the instance of both supermarket proposals in Kapunda.

The Panel has noted that the Council established a transitional car parking fund for Kapunda in 2007/2008 which enabled a financial contribution to the Council in lieu of car parking within the Town Centre. The transitional car parking fund facilitates the application process where an applicant is unable to provide sufficient car parking as part of a development application. This transitional fund has now been utilised on two (2) occasions, however a designated carpark for such purposes is yet to be recognised within the Council's Development Plan, notwithstanding the Council has made a public car park available.

The Panel suggest that the Council review the Car Parking Table of the Council's Development Plan with respect to shop land uses. The Panel suggest that the Council as part of its Centre's Review Development Plan Amendment (DPA), which is currently being prepared, that consideration should be given to the fact that the car parking rate is applied to the total floor area and does not discount the storage/warehouse, office space or amenities area of the supermarket/shop. If these non-retail floor areas were to be excluded a reasonable floor area would be removed from the overall gross leaseable area floor space. The Panel in forming a final position as part of the assessment on the matter of an appropriate car parking rate suggests that a car parking rate of four (4) car parks per 100 m<sup>2</sup> or one (1) car park for every 25m<sup>2</sup>) is the most practicable having regard to the fact the a supermarket facility and shop in a standalone facility and based on a small population base and rural location. It is also recommended that through the Centre's DPA that the Council's existing transitional parking arrangement be formalised and recognised.

#### Land Divisions in Primary Production Areas and Interface Issues

The application that was withdrawn from consideration (and yet to be determined) related to a boundary re-alignment within a Primary Production Zone with an intent in creating a rural living style allotment which sought to retain an existing dwelling. As reported in the 2013 DAP Annual Report, a re-occurring pattern is emerging whereby applications are being considered by the Panel that involve the division or boundary re-alignment of farming land with the express purpose to create a smaller rural living sized allotment. The applicants seek to create a form of rural living / lifestyle allotments outside of the Rural Living Zones or other designated residential areas. The applicants are seeking to excise the original farm dwelling and have it form part of the smaller allotment with the balance of the farming land no longer being held in association to the farm dwelling. The Panel has in the past reinforced the provisions of the Development Plan and consider that such land divisions are a clear misalignment as allowing small allotments comprising an ancillary dwelling with no viable opportunity for the land to be used for cropping, grazing and other primary production activities in the Primary Industry Zone.

Whilst it has been recognised that the larger of the two allotments will be retained for primary production purposes, the smaller allotments that contain the original farm dwelling would enable permanent residential occupation on an allotment that would no longer be in association with the farming use of the land. The provisions of the Primary Industry zoned land (inclusive of the Primary Industry and Primary Industry (Barossa Valley Region)) within the Development Plan policy supports ancillary accommodation when in association with primary production activities. The excising of the farm house from the farming land may in fact lead to future applications for a farm dwelling to be constructed on the large farming allotment, which would further result in the loss of productive farming land. Smaller rural life style sized allotments within Primary Industry Zones also leads to the creation of interface issues between farming and residential land uses due to spray/chemical drift, dust, noise from farming practices etc. which in turn threatens a farms viability.

It is suggested that the Council consider as part of its Development Plan Policy review to introduce non complying provisions that require minimum allotment sizes within the Primary Industry Zone that prohibit a land division or boundary re alignment that creates an allotment less than the stipulated existing areas so as to restrict the ability to further erode the functionality and viability of farming land and ensure that incompatible land uses are not introduced to an area designated for farming purposes. This would also align with the Ministers Character Preservation District legislation introduced in 2011, which seeks to prohibit land division and residential land uses outside of designated residential and township zones.

The Panel considered a development application which sought to expand an existing vineyard adjacent land that was used for cropping. The land was zoned Primary Industry Barossa Valley Region) and both broad acre farming and viticulture are specifically listed as part of maintaining the areas rural productivity. A representor, who was an experienced broad acre farmer supported the expansion of the viticulture use of the land, however the support was conditional on a suitable vegetation buffer between the two farming land uses. Interface between differing farming pursuits is also worthy of consideration by the Council.

#### Horticulture/Market Gardening in an enclosed artificial environment

The Panel considered an application for the intensive production of horticulture in an enclosed artificial environment within the Primary Industry Zone, Market Gardening Policy Area and within the Gawler River Flood Plain. The application was determined to be non-complying because the market gardening use proposed was to be undertaken within 3 enclosed plastic greenhouses, which is determined to be an enclosed artificial environment. Notwithstanding the application was non-complying, the application was supported by planning staff, the Panel and Development Assessment Commission and granted approval accordingly. Market Gardening is specifically anticipated within this Zone and whether the use is conducted within an open or confined environment is not considered to be fatal given the intent of the zone. It could potentially be argued that crops grown within greenhouses reduce the number of external impacts upon surrounding properties and reduce the ability for crops to be affected by external factors such as spray drift and frost.

It is suggested that the Council consider as part of its Development Plan Policy review to remove the non-complying provisions that make the growing of crops in an artificial environment as non-complying within the Primary Industry Zone – Market Gardening Policy Area.

#### Heritage

The Panel considered the demolition of a Contributory Heritage Item within the Historic Conservation (Freeling Residential) Policy Area 20 of the Residential (Freeling) Zone.

The Development Plan through its Principles of Development Control and Objectives encourages development that enhances the historic character of the Historic Conservation Policy Areas and retains and where possible, enhance the historic character of the policy area. Furthermore, the Development Plan provisions also seek the retention and sympathetic development of State Heritage Places, Local Heritage Places and Contributory Items should be regarded as the highest priority. The Contributory Item that was sought to be demolished was identified as an interwar Californian Bungalow Circa mid 1920's.

Planning staff and the Panel thought that it was unfortunate that the Zone did not contain a "Desired Character" Statement which would provide clarity and confirm the era of buildings that are sought to be protected by the Historic Conservation Policy Area.

It is acknowledged that the Development Plan makes clear statements with regards to recognising the importance of the retention of State Heritage Places, Local Heritage Places and Contributory Items. It is considered that this policy could be better supported if it was in addition to a "Desired Character" Statement that could provide a context to the era of buildings sought to be protected and form part of the important historic fabric of the Policy area. In the absence of specific commentary within the Development Plan that provides guidance as to what era of buildings are sought to be protected within the Council's Historic Conservation Policy Areas (other than listed properties),

The DAP gave specific consideration to this item on the evening in which it was considered. The Panel supports planning staffs commentary within the report that the DAP recommend to the Council as part of its annual reporting requirements that comments be provided by the Council to the current Heritage Review Working Party to include "Desired Character" statements. The amended policy should state specific periods of development that form part of the important fabric of the various townships that in turn may provide further guidance to assessment planners in assessing similar applications.

Conclusion

The Panel has endeavoured at all times to assist applicants, persons making representations, and the general public in understanding the decision making process and how the final outcomes were arrived at.

The Panel expresses its appreciation to Council members, Council management team and planning staff for their support and assistance.

This report is submitted to Council for noting purposes by the Presiding Member on behalf of the Members of the Light Regional Council Development Assessment Panel.

.....  
Bruce Ballantyne, Presiding Member