

**Light Regional Council
Development Assessment Panel
2013 Annual Report**

The 2013 calendar year marked the first year of the appointed Development Assessment Panel's (DAP) two (2) year term. The Council at its meeting held on 27 November 2012 adopted the following resolution with regard to the DAP membership composition:

*"Moved Cr Graham
Seconded Cr Close*

That in addition to the three incumbent elected members who currently sit on the Light Regional Council Development Assessment Panel, that Councillor Watson also be considered by Council for appointment to the position of Council Representative to the Light Regional Council Development Assessment Panel. All elected members were in agreeance to this consideration whereby a ballot occurred.

CARRIED"

*"Moved Cr Close
Seconded Cr Watson*

- 1. That Council appoint Mr Bruce Ballantyne to the position of Presiding Member to the Light Regional Council Development Assessment Panel for a two year term expiring on 12 December 2014, pursuant to Section 56A(3)(b)(iii) of the Development Act 1993. Council consider Mr 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.*
- 2. That Council appoint Mr Kelvin Goldstone , Ms Hulya Gilbert and Mr Rob Veitch to the three (3) positions of Independent Member to the Light Regional Council Development Assessment Panel for a two year term expiring on 12 December 2014, pursuant to Section 56A(3)(c)(ii) of the Development Act 1993. Council consider Mr Kelvin Goldstone, Ms Hulya Gilbert and Mr Rob Veitch 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.*
- 3. In the event that any of the nominated four (4) positions indicated above cannot be filled, then Council offer a position within the Light Regional Council Development Assessment Panel to Mr Mark Kwiatkowski.*
- 4. That Council appoint Cr Lynette Reichstein, Cr Peter Kennelly and Cr Deane Rohrlach to the three (3) positions of Council Representatives to the Light Regional Council Development Assessment Panel for a two year term concluding at the conduct of the next general council election in November 2014, pursuant to Section 56A(3)(c)(ii) of the Development Act 1993.*
- 5. That Council authorise the Chief Executive Officer (who in turn may delegate authority to the General Manager – Development and Regulatory Services) to advise the Minister for Planning of the Light Regional Council's appointments to independent membership of the Development Assessment Panel.*

CARRIED"

These appointments were made for a period of two (2) years and will expire on 12 December 2013.

Council's Chief Executive Officer is appointed as the Public Officer for the Panel. Part of the role and responsibility of the Council Development Assessment Panel as required in Section 56A subsection (2) (b) of the Development Act 1993 states that the Panel may "as it thinks fit, provide 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".

The following report provides information to the Council on:-

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

Statistical Data on Panel Activities and Development Applications

The statistical data collected is for 2013

A total of 5 Development Assessment Panel meetings were held during the 2013 calendar year.

Panel Members attendance record:-

Bruce Ballantyne	5
Kelvin Goldstone	5
Hulya Gilbert	4
Rob Veitch	5
Lynette Reichstein	4
Deane Rohrlach	5
Peter Kennelly	5

Mr Bruce Ballantyne, Kelvin Goldstone, Lynette Reichstein, Deane Rohrlach and Peter Kennelly were re-elected in December 2012 to serve on the Council's Development Assessment Panel for a further two (2) years along with new members Hulya Gilbert and Robert Veitch.

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.

Number of development application reports received by the Panel:

A total of 514 development applications were received by the Council in 2013, with 9 applications considered by DAP. This equates to a total of 1.7% of the total applications lodged with the Council for the 2013 calendar year and represents the extent of delegations provided for by Council to staff. The previous reporting period saw the panel consider 16 applications which equated to 3% of the total applications lodged.

Of the 9 applications, one (1) application was presented to the Panel twice as it was initially refused by the Panel. The Applicant aggrieved by the decision appealed to the Environment Resources and Development Court and an amended plan was offered as a compromise which was in turn reconsidered by the Panel.

A total of three (3) non complying development applications were considered by the Panel with two (2) of the three (3) applications supported by the Panel and Development Assessment Commission.

One report for information was presented to the Panel regarding the Development Assessment Panel 2012 Annual Report. The Panel also considered the Panel's operating and meeting procedures.

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

Approved	1
Approved subject to DAC Concurrence	2
Refused	5
Sub-Delegated	0
Approved subject to Reserve Matters	0
Compromise plan accepted via appeal	1

Types of Development

Commercial: 3 development applications

These comprise of:-

- 313/275/2013 – Signage and verandah extension to commercial premises
- 313/109/2013 – Freestanding third party signage (non complying)
- 313/370/2013 – Extension to existing piggery – comprising a grain storage shed measuring 90m x 20m x 6m, finisher sheds, eco shelters and stormwater basin

Industrial: 1 development application

The application comprised:-

- 313/345/2012 – Construction of a warehouse measuring 4,210 m² and associated internal 2 storey office ancillary to the existing stock feed mill and relocation of stormwater basin and car parking. (non complying)

Residential: 2 development applications

These comprise of:-

- 313/380/2012 – Construction of a free standing carport ancillary to existing dwelling (Appealed and re considered by the Panel)
- 313/321/2012 – Construction of a single storey dwelling with detached garage and carport ancillary to the farming use of the land. (non complying)

Land Division: 2 development applications

- 313/D019/2012 - Land Division – Torrens titled land division creating a total of two (2) allotments
- 313/D005/2013 – Land division – Boundary realignment

1. Appeals to the Environment Resources and Development Court

One appeal was lodged with the ERD Court during 2013 against a determination made by the DAP. The appeal related to a freestanding carport ancillary to a dwelling within an historic conservation Policy Area. It was determined that the carport would have detrimentally affected the amenity of the locality. The applicant submitted a compromise plan at the compulsory conference which was deemed acceptable by the DAP.

2. Planning and Development Issues and Relevant Matters

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

Land Divisions

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 land divisions 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 farming operations occurring on the land. The Panel has 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. Furthermore it has been recognised that whilst 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.

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.

Character Preservation District

The Minister introduced the interim Barossa and McLaren Vale Protection District in 2011 which affected a number of councils which sought to protect the special character of the Barossa Valley and McLaren Vale districts and prevent urban sprawl. Light Regional Council was affected by the policy amendment made by the Minister which largely placed a "development freeze" over all the land to the east of the Sturt Highway extending through and including the Barossa Valley. The freeze restricted new wineries or extensions to existing wineries, land divisions outside of townships, dwellings in association with farming land, just to cite a few examples. The Minister's intention was not to create a total development freeze but rather restrict development outside of townships. Such restrictions sought to prevent dwellings land divisions and residential enclaves outside of existing townships.

Concern was raised with the policy by a number of Councils throughout the consultation period and the Protection District was terminated on 12 April 2012 and replaced by the Barossa Valley and McLaren Vale (Revised) Protection Districts Development Plan Review. It was as a result of the "development freeze" that was introduced by the Minister which resulted in some applications that would have ordinarily been assessed as merit applications rather than non-complying forms of development. This included the construction of a dwelling in association with the farming use of the land at Rosedale.

The final version of the Character Preservation Legislation and Development Plan provisions were introduced on 24 January 2013, and with the exception of land divisions, the zones affected by the Character Preservation District are as they were previously written prior to the introduction of the Ministerial DPA.

The Council as part of a collaborative approach with Barossa, Mid Murray and Adelaide Hills Council had the opportunity to work together as affected Councils to provide input into the Planning Strategy. This process has now been completed. Further policy amendments are required with respect to policy that will identify the "special character" of the Council area for inclusion into the relevant Development Plans. The DAP endorses this as it will enable the Council to determine the "special character" that in turn will assist assessment staff and indeed the DAP when assessing applications that are within the Character Preservation District.

Laucke Mill at Daveyston

During the term of the reporting period a warehouse at Laucke Mill site at Daveyston was also considered by the Panel. The zoning of the land is that of "Primary Industry" and fails to acknowledge that Laucke Mill has been in operation since 1987 with a number of other approvals since. Notwithstanding this fact the zone fails to recognise the Mill's existence and does not list expansion of the Mill or development associated with the Mill as merit forms of development. The majority of the extensions over the years have been for general industrial uses which are specifically listed as non-complying. The lack of recognition for this long standing facility has resulted in most development applications on this site having to undergo category 3 public notification or non-complying assessment process notwithstanding the long standing entrenched land use on the site.

It is recommended to council that Laucke Mill should be identified within a specific Industrial Zone or within a Policy area of the Primary Industry area that recognises the facility and allows for further reasonable development of this facility to go through as a category 1 form of development and avoid category 3 notifications and the non-complying process.

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.

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.

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Bruce Ballantyne, Presiding Member