



The Barossa Council

**MINUTES OF THE MEETING OF THE BAROSSA COUNCIL
DEVELOPMENT ASSESSMENT PANEL**

Held on Tuesday, 6 August 2013 commencing at 5:02pm in
the Council Chambers, 43-51 Tanunda Road, Nuriootpa

WELCOME

Mr Bruce Ballantyne welcomed everyone and opened the meeting.

PRESENT

Mr Bruce Ballantyne (Presiding Member), Mr David Hughes, Mr Scotty Milne, and Mr Craig Grocke – Panel Members.

Mr Ian Baldwin (Director – Development & Environmental Services) Mr Louis Monteduro (Senior Manager, Planning Services), Mr Paul Mickan (Principal Planner) Mr Brian Irvine (Senior Planner), Mrs Karen Mitrovic, Ms Maxine Lovett (Planners) and Mrs Christine Kruger (Minute Secretary) – Council Staff.

APOLOGIES

Mr Kelvin Goldstone and Mrs Susie Roehr.

LEAVE OF ABSENCE

Mr Richard Miller.

MINUTES OF PREVIOUS MEETING

MOVED Mr Milne that the Minutes of the Development Assessment Panel meeting held on Tuesday, 2 July 2013 as circulated, be confirmed as a true and correct record of the proceedings of that meeting.

Seconded Mr Hughes

CARRIED

BUSINESS ARISING FROM PREVIOUS MINUTES

Nil.

DECLARATION OF INTEREST BY MEMBERS OF PANEL

Nil.

APPLICATIONS FOR DECISION**DEBATE AGENDA****DA/DAP/R1****D706/13 (110151)****RH & HD COLLINS – TWO OUTBUILDINGS AND RETAINING WALL (MERIT)**

MOVED Mr Hughes that the Development Assessment Panel having considered all relevant assessment matters and the officer's report in relation to Development Application 960/706/2013, resolves as follows:

- (A) That the proposal is not seriously at variance with the relevant provisions of The Barossa Council Development Plan consolidated 21 February 2013.
- (B) That Development Plan Consent be granted to Development Application 960/706/3013 subject to the following conditions:
 - (1) The development shall be in accordance with the plans and details submitted to and approved by Council as part of the application, except as varied by any subsequent conditions imposed herein.
 - (2) Implement the intended landscaping plan as depicted on the approved site plan within 6 months of this consent to screen the structures from view from Springton Road and to the satisfaction of Council.
 - (3) Adequate provisions are made for the disposal of stormwater to the reasonable satisfaction of Council. Where possible, stormwater should be retained on site by the use of natural drainage methods.
 - (4) Allotments 2 & 3 Springton Road (Certificate of Title 5434/716 and 5762/422) shall be amalgamated and lodged with the Lands Titles Office prior to the issue of full development approval.
 - (5) The outbuildings approved herein shall be for domestic storage purposes only.
 - (6) The outbuildings approved herein shall not be used for human habitation.
 - (7) The structures shall be finished in colorbond, and shall blend with the natural features of the landscape and nearby buildings.

Seconded Mr Milne**CARRIED**

DEVELOPMENT APPLICATION NO:	960/00706/2013 (Prop ID 110151)
APPLICANT:	RD & HD Collins
OWNER:	RD & HD Collins
SUBJECT LAND:	Lot 2 and 3 Springton Road, Mount Pleasant Certificate of Title 5762/422 and 5434/716
PROPOSAL:	Two Outbuildings and Retaining Walls

SIZE:	Outbuilding 1 is 13m x 15.37m ² totaling 200m ² in floor area, with a wall height of 3.5m and 15° roof pitch. Outbuilding 2 is 13m x 15.37m totally 200m ² with a wall height of 5m and 15° roof pitch.
ZONE/POLICY AREA:	Watershed Protection (Mount Lofty Ranges) Zone
REFERRALS:	Nil
PUBLIC NOTICE:	Category 1 - Merit
KEY ISSUES:	Size of buildings, visible along main scenic route
DEVELOPMENT PLAN PROVISIONS: CONSOLIDATION DATE:	Council Wide Siting and Visibility Objectives 1 & 2. Principles of Development Control 1, 2, 3(b)(c), 4, 5(a), 6, 10. Sloping Land Objectives 1. Principle of Development Control 1, 2(a)(b)(c)(d)(e), 8. Watershed Protection (Mount Lofty Ranges) Zone Objectives 1 & 7. Principle of Development Control 1, 2, 11 & 12. Development Plan consolidated 21 February 2013
RECOMMENDATION:	Grant Development Plan Consent
OFFICER:	Maxine Lovett

BACKGROUND

A previous development application (960/204/13) has been made for a single outbuilding and retaining wall to be constructed on the subject land. This was considered by the Development Assessment Panel on 2 April 2013. The proposed outbuilding consisted of dimensions 20 metres x 15 metres, totaling an area of 300m² and a wall height of 5.0 metres, with a roof pitch of 7.5° and included 3 metres of cut at the rear of the outbuilding, in addition to earthworks for leveling of driveways. The proposal was considered to have a high visual impact from a nearby tourist route and the application was subsequently refused based on the following:

The proposal is at variance with the relevant provisions of The Barossa Council Development Plan consolidated on 10 November 2011 for the following reasons:

- *The proposal is at variance with the desired Character for the Watershed Protection (Mount Lofty Ranges);*
- *The proposal is at variance with the Council Wide Siting and Design Objectives 1 and 2 and Principles of Development Control 2, 3, 4 and 5 and Council Wide Sloping Land Objective 1 and Principle of Development Control 1 and 2.*

An appeal to the Environment Resources and Development Court was lodged and a conference has been reconvened for the 19 August 2013. However, now a new application has been lodged.

SUBJECT LAND AND LOCALITY

The subject land is a corner allotment and has a primary frontage of 45.50 metres onto Springton Road with a secondary frontage of 74.26 metres onto Marley Road, totaling an area of 3378 square metres. The site is clear of any significant vegetation and contains a small open ended storage shed. The subject site adjoins Lot 3 Springton Road Mount Pleasant, which contains a detached dwelling occupied by the owners of both allotments. The site has a gradient of 1:9 and slopes east west towards Springton Road, with the rear of the allotment elevated and visible from Springton Road. The site is not associated with a farming use.

The locality consists of large rural allotments primarily for farming purposes. The immediate locality contains a cluster of dwellings and farm buildings with access onto Springton Road. The existing

dwelling on nearby allotments is well screened with mature vegetation, with mature Eucalypt located on Council land fronting the subject site.

DESCRIPTION OF THE PROPOSED DEVELOPMENT

The proposed development consists of two outbuildings to be located with one behind the other, and a retaining wall. Both outbuildings have the same floor area of 13m x 15.37m totaling 200m². They vary in wall height with the smaller outbuilding (3.5 metre wall height) to be located 29 metres from the front boundary and forward of the larger outbuilding (5.0 metre wall height), to be located 55 metres from the front boundary. Both outbuildings have a roof pitch of 15 degrees.

A driveway with an access via Marley Road is proposed, consisting of a compacted rubble surface and will service both outbuildings. There will be some cut and fill required consisting of 100mm of fill at the front and 2 metres of cut at the rear of the smaller outbuilding and 100mm of fill at the front and 2.4 metres at the north west corner of the rear outbuilding. The cut will be retained and landscaped by large rocks. Structural details of the retaining wall will be provided in a future building rules application, if the application proceeds and granted Development Plan Consent.

The proposal includes landscaping consisting of indigenous understorey plants, to be planted in the front of the smaller outbuilding and along the proposed driveway, to screen the proposal from Eden Valley Road.

The proposed outbuildings are to be clad in Colorbond. The walls being a beige colour with a dark grey/charcoal roof to match the colour scheme of the existing dwelling on the adjoining allotment.

The proposed use of the outbuilding is for the storage of domestic vehicles and items such as trailers, cars, boat, catamaran, caravan, garden tractor, tip truck, mulching equipment, work benches, household furniture and various other items.

The proposal currently straddles the boundary of two allotments. The owners of the land intend to amalgamate the allotments if planning consent is granted. If planning consent is issued, a condition of consent will require the allotments to be amalgamated prior to full development approval.

The site and elevation plans were included with the Agenda.

PROVISIONS OF THE DEVELOPMENT PLAN

The subject land is located in the Watershed Protection (Mount Lofty Ranges) Zone of the authorised Development Plan, consolidated 21 February 2013. The proposed development is for two outbuildings and a retaining wall and is a Category 1 Merit form of development in the Watershed Protection Zone.

WATERSHED PROTECTION ZONE

OBJECTIVE

Objective 8: Development that contributes to the desired character of the zone.

Desired Character

The watershed area is of critical importance to South Australia as it provides on average 60 per cent of Adelaide's water supply. The zone contains catchment areas for existing as well as proposed reservoirs serving metropolitan Adelaide and the surrounding areas.

It is anticipated that development will maintain the open rural character derived from open or wooded pasture land, stands of native vegetation, commercial forests and reservoirs. Development involving new buildings will complement the existing scattered farm buildings and will be unobtrusively located and designed to blend in with the surrounding landscape through careful siting and landscaping.

Principles Of Development Control

Form and Character

11 *Development should not be undertaken unless it is consistent with the desired character for the zone.*

COUNCIL WIDE - SITING AND VISIBILITY**OBJECTIVES**

Objective 1: Protection of scenically attractive areas, particularly natural and rural landscapes.

Objective 2: The protection and enhancement of the area's visual amenity and landscape quality, including land visible from tourist routes.

Principles Of Development Control

2. *Development should be sited and designed to minimise its visual impact on:*

- (a) the natural, rural or heritage character of the area;*
- (b) areas of high visual or scenic value, particularly rural areas;*
- (c) views from public reserves, tourist routes and walking trails.*

3. *Buildings should be sited in unobtrusive locations and, in particular, should:*

- (a) be grouped together;*
- (b) where possible be located in such a way as to be screened by existing vegetation when viewed from public roads;*
- (c) on allotments which abut any tourist route, railway or scenic road, be set back at least 100 metres from the tourist route, railway or scenic road.*

4. *Buildings outside of urban areas and in undulating landscapes should be sited in unobtrusive locations and in particular should be:*

- (a) sited below the ridgeline*
- (b) sited within valleys or behind spurs;*
- (c) sited in such a way as to not be visible against the skyline when viewed from public roads, and especially from the Mount Lofty Ranges Scenic Road as shown on Overlay Maps – Transport;*
- (d) set well back from public roads, particularly when the allotment is on the high side of the road;*
- (e) be located in a setting where landscape features such as trees, vegetation and landforms provide an enclosing space, setting or screen.*

5. *Buildings and structures should be designed to minimise their visual impact in the landscape, in particular:*

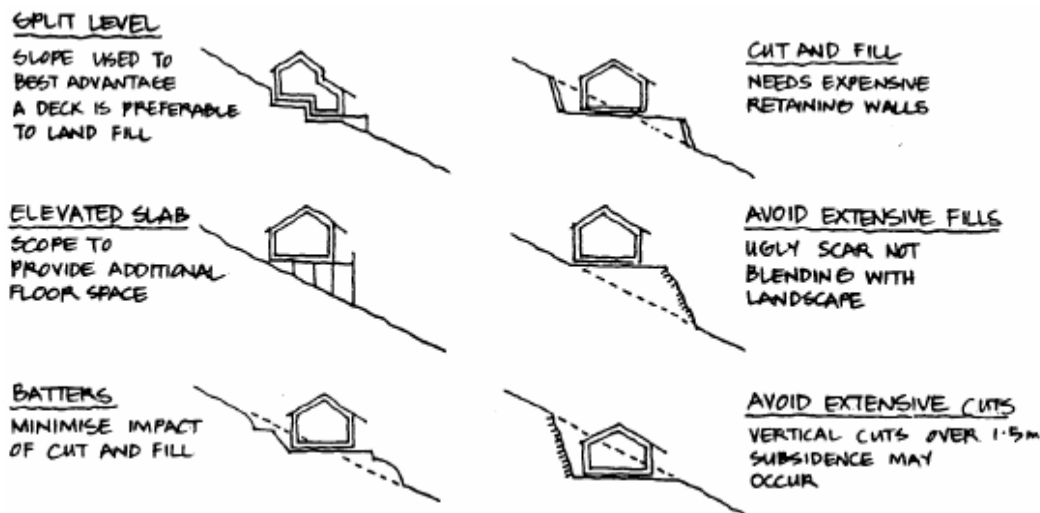
- (a) the profile of buildings should be low and the rooflines should complement the natural form of the land;*
- (b) the mass of buildings should be minimised by variations in wall and roof lines and by floor plans which complement the contours of the land.*

COUNCIL WIDE - SLOPING LAND**OBJECTIVES**

Objective 1: Development on sloping land designed to minimise environmental and visual impacts and protect soil stability and water quality.

Principles of Development Control

1. *Development and associated driveways and access tracks should be sited and designed to integrate with the natural topography of the land and minimise the need for earthworks.*



2. Development and associated driveways and access tracks, including related earthworks, should be sited, designed and undertaken in a manner that:

- (a) minimises their visual impact;
- (b) reduces the bulk of the buildings and structures;
- (c) minimises the extent of cut and/or fill;
- (d) minimises the need for, and the height of, retaining walls;
- (e) does not cause or contribute to instability of any embankment or cutting;

PLANNING ASSESSMENT

The proposed outbuildings straddle the boundary of a vacant allotment but are intended to be ancillary to the dwelling occupied by the applicants. The proposal has been determined as outbuildings, as they will be ancillary to the dwelling once the allotments are amalgamated.

The applicants' intend to address issues of visual impact, by constructing two smaller outbuildings that are to be located behind one another to minimise visual dominance. The proposed outbuilding, closest to Eden Valley Road, has a lower wall height (3.5m) with the larger outbuilding located directly behind, with a wall height of 5.0 metres. This scenario, 'clusters' the two buildings together, with only one elevation being visible from the road. The contrast in roof heights in the skyline, as viewed from Springton Road, provides visual interest and is less dominant than one long solid wall fronting onto Springton Road. The outbuildings will be located closer to the dwelling in keeping with the siting and visibility principle requiring that buildings be grouped together. The outbuildings will also appear to have an association with the dwelling and will not have the appearance of an isolated industrial building, likened to the previous proposal.

The site works include some cut and fill, with minimal fill at the front elevation of the proposed outbuildings. The cut and fill is minimised by having two separate footprints rather than one large outbuilding. The cut is located at the rear of the outbuildings and results in a maximum cut of 2.4 metres at the northwest corner. The cut will be retained by stones and will be landscaped. The outbuildings are located near the existing dwelling and the proposed landscaping around the earthworks will be incorporated into the existing landscaping of the dwelling allotment.

In summary, the current proposal addresses the siting and visibility principles and the desired character of the Watershed Protection Zone referring to *scattered farm buildings unobtrusively located and designed to blend in with the surrounding landscape through careful siting and landscaping*. Although the proposed structures are considered to be large, they are located nearer the dwelling and are in context with the proportions of the dwelling, and softened by the existing landscaping and appeal of the allotment. The buildings are grouped together as opposed to the previous proposal for a large isolated building on a vacant allotment.

CONCLUSION

The proposal consists of two outbuildings to be sited with one behind the other to minimise the visual impact when viewed from Springton Road. The proposed site works consist of minimal fill with a cut and retaining wall to a maximum height of 2.4 metres. The existing and proposed

landscaping on the allotment will alleviate the visual impact and the proportions of the proposed outbuildings will be consistent with the existing dwelling. The proposed development is supported based on Objectives 1 and 2 and Principles of Development Control 1, 2 and 3 of the Council Wide Siting and Visibility Provisions, and the Desired Character for the Watershed Protection (Mount Lofty Ranges) Zone.

DA/DAP/R2

D463/13 103526

MF & RM FROST – DETACHED DWELLING (NON-COMPLYING)

Mr Robert Nitschke (Representor) addressed the Panel at 5.07pm, relative to DA/DAP/R2.

Mr Mark Brown (Representor) addressed the Panel at 5.10pm, relative to DA/DAP/R2.

Mr Simon Frost, addressed the Panel at 5.12pm, on behalf of his parents, Michael and Rosalie Frost (Applicants). Mr Frost clarified details in relation to rain water storage and proximity to neighbouring dwellings.

MOVED Mr Milne that the Development Assessment Panel has considered all relevant assessment matters and the officer's report in relation to Development Application 960/463/2013 and resolves as follows:

- (A) The proposal is not seriously at variance with the relevant provisions of The Barossa Council Development Plan consolidated 21 February 2013.
- (B) Grant Development Plan Consent to Development Application 960/463/2013 subject to the following conditions:
 - (1) The development shall be undertaken in accordance with the plans and documentation (as amended) accompanying the application, unless varied by the following conditions.
 - (2) A waste control system be approved pursuant to the Public and Environmental Health Act prior to the granting of Development Approval.
 - (3) The applicant shall submit to Council a landscaping plan showing all landscaping proposals in detail, including the western side of the proposal, specifying the type and location of plantings and any existing trees to be retained to the reasonable satisfaction of Council within three months from the date of this decision notice.
 - (4) The subject land is located within a Medium Bushfire Risk area.

A dedicated and independent water supply shall be available at all times for fire fighting purposes which:

- (a) Is located adjacent to the building or in another convenient location on the allotment accessible to fire fighting vehicles (safe and convenient access shall be provided), and

- (b) Comprises a minimum of 2000 litres of water where the property is connected to mains water, or 5000 litres in any other case. (Any rainwater tank used for this purpose should be dedicated entirely for fire fighting and shall be of non combustibile materials).

The provision of the dedicated water supply for fire fighting purposes shall comply with the Ministers Specification SA 78 'Bushfire fighting equipment and water supply requirements in designated bushfire prone areas'.

- (C) Seek concurrence of the Development Assessment Commission.

Seconded Mr Hughes

CARRIED

DEVELOPMENT APPLICATION NO:	960/463/2013 (Prop ID 103526)
APPLICANT:	MF & RM Frost
OWNER:	MF & RM Frost
SUBJECT LAND:	Lot 215 Flaxmans Valley Road, Flaxman Valley
PROPOSAL:	Construction of a Detached Dwelling
SIZE:	13.24 ha
ZONE/POLICY AREA:	Primary Production Zone, Barossa Range Precinct
PROCEDURE:	Non-Complying
REFERRALS:	Nil
PUBLIC NOTICE:	Category 3 – 3 Representations
KEY ISSUES:	Non-Complying form of development in Primary Production, Barossa Range Precinct
DEVELOPMENT PLAN PROVISIONS: CONSOLIDATION DATE:	Council Wide: Design and Appearance Energy Efficiency Hazards Interface Between Land Uses Residential Development Siting and Visibility Preservation District Overlay Primary Production Zone
RECOMMENDATION:	Grant Development Plan Consent and seek Concurrence of the Development Assessment Commission
OFFICER:	Karen Mitrovic

SUBJECT SITE AND LOCALITY

The subject land is located within the Primary Production Zone, more specifically within the Barossa Range Precinct.

The site is irregular in shape with a frontage to Flaxmans Valley Road of approximately 402 metres and an overall size of 13.24 hectares.

The applicant currently allows share farming of the property for sheep grazing purposes. The subject land contains a farm building and lean-to which were approved in April 2008. The property also contains four existing dams.

The subject land is located within a Medium Bushfire Risk Area in accordance with Council's Development Plan.

Surrounding properties range in size from approximately 1.5 hectares to approximately 25 hectares. Numerous allotments in the vicinity contain detached dwellings in association with some form of relatively small scale primary production, such as grazing or orchards. Remaining allotments in the area are used for primary production purposes, in the form of grazing, or viticulture.

DESCRIPTION OF PROPOSAL

The applicant seeks Development Plan Consent for the construction of a new dwelling with a carport under the main roof. The dwelling will have a setback of approximately 220 metres from Flaxmans Valley Road and 32 metres from the western property boundary.

REFERRALS

No referrals are required under Schedule 8 of the Development Regulations, 2008.

PROCEDURAL MATTERS

A dwelling is listed as a non-complying land use within the Primary Production Zone unless it meets certain criteria. In this instance the proposed dwelling, located in the Barossa Range Precinct, is a non-complying form of development as it is to be constructed on an allotment of less than 100 hectares.

PUBLIC NOTIFICATION

The application is a Category 3, Non-Complying form of development and it therefore required public notification. Adjacent land owners and directly affected persons were notified in writing, and an advertisement was also placed in the local newspaper. Three representations were received and their concerns are summarised below:

- If this application be approved, dwellings should be allowed on all vacant titles.
- The new dwelling will be visually intrusive upon neighbouring allotments.
- Lack of bushfire protection
- Preservation of the agricultural character of the zone.
- Precedence for future dwellings to be constructed in the area.
- Impact of increased land values.

A copy of the representations were included with the Agenda.

The following representors wish to be heard by the Panel:

Robert Nitschke
Mark & Susanna Brown

The applicant's response to the representations is summarised below:

- Views from representors dwellings can be minimised by the strategic planting of additional trees on the subject land.
- Requirements for bushfire prevention will be met. A total of 52,000 litres of water will be stored in tanks on the site, with 5000 litres being dedicated for bushfire fighting purposes.
- The primary use of the land will remain primary production with the residence being a secondary use.
- Precedence will not be set should the application be approved, all applications must be individually assessed based on their merits.

Details of the applicant's response was included with the Agenda.

PLANNING ASSESSMENT

The proposed development is located in the Primary Production Zone, Barossa Range Precinct. A dwelling is a non-complying form of development within the Barossa Range Precinct unless it can meet certain criteria. The proposed dwelling does not meet the criteria for a merit assessment as the allotment is less than 100 hectares in size.

The relevant Zone and Council Wide Objectives and Principles of Development Control are listed and discussed below.

Design and Appearance

Objective 1 states that development should be *"of a high architectural standard that responds to and reinforces positive aspects of the local environment and built form"*. In addition, principle of development control (PDC) 1 suggests that development should be sympathetic to the locality and appropriate within the context of its setting.

The proposed development has been designed to a high architectural standard in order to best suit the context of the land. The proposed dwelling is to be located on an existing rocky outcrop, with minimised impact upon the existing ground levels on the site. The chosen site will also minimise the visual impact upon neighbouring property owners and ensure that the proposed development cannot be viewed from Flaxman's Valley Road.

Hazards

The proposed dwelling is located in a Medium Bushfire Risk area as designated within Council's Development Plan. The dwelling has been designed to meet the requirements of the Minister's Code for undertaking development in Bushfire Protection Areas. A turning area for emergency vehicles has been indicated on the site plan and a designated water supply of 5000 litres will be provided solely for use in the event of a bushfire.

Siting and Visibility

The proposed development is consistent with Principle of Development Control 3 which states; that *"Buildings outside of urban areas and in undulating landscapes should be sited in unobtrusive locations and in particular should be:*

- (a) *sited below the ridgeline*
- (b) *sited within valleys or behind spurs*
- (d) *set well back from public roads, particularly when the allotment is on the high side of the road*
- (e) *be located in a setting where landscape features such as trees, vegetation and landforms provide an enclosing space, setting or screen"*.

The site chosen for the proposed dwelling is below the ridgeline of the property and will ensure that the building cannot be seen from a public road. The existing established vegetation on the site and recent plantings undertaken by the applicant will also assist in screening the proposed development from view. The applicant has also advised that they are willing to plant additional trees to further screen the dwelling from neighbouring properties.

Sloping Land

The proposed development is consistent with Objective 1 for sloping land, as it has been designed to suit the existing contours of the land and minimise the amount of cut and fill required. The objective seeks to ensure that *"development on sloping land be designed to minimise environmental and visual impacts and protect soil stability and water quality"*. The location of the proposed dwelling has been specifically chosen to minimise the impact upon the land by constructing a large majority of the dwelling over an existing rocky outcrop and following the contours of the land by incorporating multiple finished floor levels.

Character Preservation Overlay

The proposed development is also located within the Character Preservation District. Objective 1 of the Character Preservation Overlay indicates that this is a district where:

- (a) *scenic and rural landscapes are highly valued, retained and protected*
- (b) *development near entrances to towns and settlements does not diminish the rural setting, character and heritage values associated with those towns and settlements*

- (c) *the long term use of land for primary production and associated value adding enterprises is assured and promoted*
- (d) *activities positively contribute to tourism*
- (e) *the heritage attributes of the district are preserved*
- (f) *buildings and structures complement the landscape*

It is considered that the proposed development largely meets the criteria for this objective, as the dwelling will not adversely impact on the scenic or rural landscape character of the land or locality in which the land is situated. The dwelling has also been architecturally designed to suit the contours of the land and minimise any impact it may have upon the landscape.

In addition, the proposed development will not restrict the long term use of the land for primary production purposes. The applicant has provided a brief report prepared by Mr Malcolm Lewis of Lewis Horticulture, Landscape & Horticultural Consultants, to support their claim that the subject land is not suitable for primary production purposes other than the grazing currently undertaken on the site.

This report, which can be found within the Statement of Effect prepared by Mr Greg Tucker on behalf of the applicant, has indicated that the subject land is currently grazed and will continue to be grazed in the future. The report also suggests that the site has potential to be eroded should overstocking or drought conditions occur. Following an inspection of the site by Mr Lewis, he has advised that approximately 15% of the property is considered to be arable, spread over four separate unconnected locations.

Mr Lewis has also indicated that the construction of the proposed dwelling is not likely to impact on this property or other nearby properties as a result of any intensive agricultural activities, as the site is sufficiently isolated from adjoining agricultural/horticultural activities. The outcome of the assessment of the site by Mr Lewis is that the construction of the proposed dwelling would have negligible impact upon existing activities in the area.

Objective 2 of the Character Preservation Overlay notes that residential development should be located inside townships, settlements and rural living areas. It is acknowledged that the proposed dwelling is not located in one of these areas, however, it is also considered that the proposed development will not detrimentally impact upon the continued use of allotments in the area being used for purposes consistent with the criteria of the Character Preservation Overlay.

Primary Production Zone

The desired character for the zone states that proposed development will take into account the capability and suitability of the land for the intended use. The intended use throughout the zone is for the land to be used for primary production purposes. In this instance, it has been established that the subject land is not viable for use as a primary production allotment over what is currently being undertaken on the site.

The desired character also expects that development will be carefully designed and located to complement the open landscape character. The proposed dwelling has been specifically designed to blend with the current environment through the use of muted colour selections and construction materials. The location of the proposed dwelling has been selected to minimise the interference with the primary production use of the land, whilst also minimising the visual impact upon any neighbouring dwellings and public roads.

Principle of Development Control 7 of the Primary Production Zone states that:

A dwelling should only be developed if:

- (a) *there is a demonstrated connection with farming or other primary production*
- (b) *the location of the dwelling will not inhibit the continuation of farming, other primary production or other development that is in keeping with the provisions of the zone*
- (c) *it is located more than 500 metres from an existing intensive animal keeping operation unless used in association with that activity*
- (d) *it does not result in more than one dwelling per allotment*
- (e) *it is designed and constructed utilising environmentally sustainable design principles.*

The proposed dwelling is consistent with Principle of Development Control 7 of the zone as the report prepared by Lewis Horticulture has indicated that the construction of the proposed dwelling will not "inhibit the continuation of farming, other primary production or other development that is in keeping with the provisions of the zone". The subject land will continue to be primarily used as a grazing property, with the site open for grazing in all areas with the exception of the fenced off area for the proposed dwelling and driveway.

The minimum allotment size recommended for the construction of a dwelling within the Barossa Range Precinct is 100 hectares, as indicated in Principle of Development Control 23 of the Primary Production Zone. This is also the allotment size required for a dwelling to be a merit form of development.

The subject land is less than 100 hectares in size and totals 13.24 hectares. The land is located within a cluster of smaller primary production allotments, ranging in size between 1.4 and 32.7 hectares in size. Within this locality, 10 out of 11 allotments are currently less than 100 hectares in size. A map indicating the size of allotments in the locality was provided with the Agenda.

All except one of these allotments currently contain a dwelling, with the only allotments in the locality not currently containing a dwelling, being the subject land and an allotment which is 295 hectares in size.

The zone does allow for the construction of a dwelling on a smaller allotment, of 50 hectares, when the allotment is the result of three or more contiguous allotments being amalgamated. In this instance, this alternative solution is not an option for the applicant as all allotments surrounding the subject land currently contain a dwelling.

The character of this particular locality is that of relatively small primary production allotments, containing a dwelling and associated small scale primary production activities. The proposed dwelling will be consistent with this character as the current primary production use, grazing, will be continued following the construction of the dwelling.

CONCLUSION

While the proposed dwelling is a non-complying form of development, it will not detract from or inhibit existing land uses considered appropriate within the Primary Production Zone, Barossa Range Precinct, or detrimentally affect potential for future primary production uses. The remainder of the subject land will continue to be utilised for the grazing of sheep which is consistent with the requirements of the zone. The proposal is suitably designed and sited appropriately for the locality.

Having regard to the provisions of the Primary Production Zone in the relevant Development Plan, it is considered that the proposal is not seriously at variance with the provisions of the Development Plan and displays sufficient merit to warrant Development Plan Consent. The concurrence of the Development Assessment Commission will be required before issuing the consent.

DA/DAP/R3

D383/13 (107699)

M & R JENKE – MECHANICAL REPAIR WORKSHOP, OFFICE, RAINWATER TANKS, ONSITE PARKING AREA AND FENCE (NON-COMPLYING)

Mr Mark and Mrs Rebecca Jenke (Applicants) answered questions from the Panel in relation to clientele base, location and hours of operation.

MOVED Mr Milne that the Development Assessment Panel having considered all relevant assessment matters and the officer's report prepared in relation to Development Application 960/383/2013, resolves as follows:

- (A) The proposal is sufficiently at variance with the relevant provisions of The Barossa Council Development Plan consolidated 10 November 2011 as amended by the Barossa Valley and McLaren Vale Protection Districts DPA – 11 April 2012, and Statewide Wind Farms DPA – 18 October 2012.

- (B) That Development Plan Consent be refused for the development comprised in Development Application 960/383/2013 for the following reasons:
- (1) The proposed development is at variance with Objective 3 of the Primary Production (Barossa Valley Region) Zone as it is a form of non-agricultural development.
 - (2) The proposed development is at variance with Principle of Development Control 2 of the Primary Production (Barossa Valley Region) Zone as it is a non-complying form of development.
 - (3) The proposed development is at variance with Principle of Development Control 9 of the Primary Production (Barossa Valley Region) Zone as it is not consistent with the desired character of the zone.

Seconded

Motion lapsed for want of a seconder.

MOVED Mr Grocke that the Development Assessment Panel defer consideration of Development Application 960/383/2013, to enable the applicant to provide further details of landscaping, screenings (including type of plantings) and hours of operation.

Seconded Mr Hughes

CARRIED

DEVELOPMENT APPLICATION NO:	960/383/2013 (Prop ID 107699)
APPLICANT:	Mark & Rebecca Jenke
OWNER:	Mark & Rebecca Jenke
SUBJECT LAND:	Lot 8 Golflinks Road, Rowland Flat, CT 5707/869
PROPOSAL:	Mechanical Repair Workshop, Office, Rainwater Tanks, Onsite Parking Area and Fence
SIZE:	12.66ha
ZONE/POLICY AREA:	Primary Production (Barossa Valley Region)
PROCEDURE:	Non-Complying
REFERRALS:	Nil
PUBLIC NOTICE:	Category 3 – Non-Complying – 1 Representation
KEY ISSUES:	Non-Complying Form of Development in the Zone
DEVELOPMENT PLAN PROVISIONS: CONSOLIDATION DATE:	Council Wide Industrial Development Siting and Visibility Primary Production (Barossa Valley Region) Zone

	Consolidation Date: 10 November 2011 As amended by Barossa Valley and McLaren Vale Protection Districts DPA – 11 April 2012 and Statewide Wind Farms DPA – 18 October 2012
RECOMMENDATION:	Refusal
OFFICER:	Karen Mitrovic

SUBJECT SITE AND LOCALITY

The subject land is located within the Primary Production (Barossa Valley Region) Zone.

The site is irregular in shape with a frontage to Golflinks Road of approximately 422 metres and an overall size of 12.75 hectares.

The subject land currently contains an established vineyard, with the applicant residing in a dwelling on the land directly to the south, across Golflinks Road.

The predominant land use in the locality is for viticultural purposes, with almost all appropriately sized allotments in the area containing vines. However, there are multiple dwellings in the locality, with the entire eastern property boundary of the subject land bordering a smaller allotment containing a dwelling not associated with the subject land.

DESCRIPTION OF PROPOSAL

The applicant seeks development plan consent for the construction of a mechanical repair workshop, office, rainwater tanks, onsite parking area and fencing.

The proposed building includes 148 square metres of office and amenities and 600 square metres of workshop area in which machinery will be serviced. This machinery is expected to include, but not be limited to, tractors, grape harvesters, pruners and other similar machines.

No signage is proposed as part of the application, and the operating hours of the workshop are designated as being 8.00am to 5.00pm, Monday to Friday.

REFERRALS

No referrals are required under Schedule 8 of the Development Regulations, 2008.

PROCEDURAL MATTERS

All forms of development are non-complying in the Primary Production (Barossa Valley Region) Zone, with any specific exceptions listed as being excluded from this requirement. The proposed development does not fall within the description of any developments listed as exceptions from the non-complying process.

The lodgement date of the proposal requires that the application be assessed against the 10 November 2011 Development Plan, which was altered by the interim Barossa Valley and McLaren Vale Protection Districts Development Plan Amendment (DPA), which came into effect on the 11 April 2012 and the Statewide Wind Farms DPA, which came into effect on the 18 October 2012.

PUBLIC NOTIFICATION

The application is a Category 3, Non-Complying form of development and therefore required public notification. Adjacent land owners and directly affected persons were notified in writing, and an advertisement was also placed in the local newspaper. One representation was received and the concerns are summarised below:

- Visual impact
- Noise
- Traffic impacts
- Hours of operation
- Industrial scale of the business

A copy of the representations were provided with the Agenda.

The representor wishes to be heard by the Panel.

- C Madeline Onslow & Kay J Marsters

The applicant's response to the representation is summarised below:

- Landscaping will be planted to screen the proposed development from the representors' land
- There are existing businesses in the area which contribute to noise and vibration continuously
- Hours of operation have been specified by the Applicant as 8am to 5pm, Monday to Friday

Details of the applicant's response was included within the Agenda.

PLANNING ASSESSMENT

The location of the proposed development is within the Primary Production (Barossa Valley Region) Zone, of the authorised Development Plan, consolidated 10 November 2011 as amended by Barossa Valley and McLaren Vale Protection Districts DPA – 11 April 2012, and Statewide Wind Farms DPA – 18 October 2012.

Within this zone, all forms of development are listed as non-complying with specific developments excepted from this process. A mechanical workshop is not one of the exceptions listed and as such is a non-complying form of development.

The relevant Zone and Council Wide Objectives and Principles of Development Control are listed and discussed below.

Industrial Development

Principle of Development Control (PDC) 1 indicates that *'there should be no industrial development outside zones and policy areas designated for such uses unless it is associated with the processing, together with any ancillary distribution, of primary produce from the site or adjacent land and its scale and appearance is not large or obtrusive'*.

The proposed development is for the construction of a workshop for industrial use in the form of a large scale machinery mechanic. The development plan does acknowledge the need for some industrial type development in non-industrial zones where that development relates directly to the primary production use of the land. The proposed development is not considered to meet the criteria which allow for the construction of industrial development within non-industrial zones, as it will not be used in association with the processing or distribution of primary produce from the site. The proposed tenant will be performing work on machinery used in the primary production process, however this use does not relate directly back to the subject land and anyone wishing to have their machinery will be able to use the services of the on-site mechanic. It is considered that the proposed development may be better suited to an industrial zone or other already established industrial area.

In addition, it is considered that the scale of the proposed development may be obtrusive in the context of the existing landscape. The area currently has an open character with the predominant land use being vineyards. The proposed structure is to have an overall height of 8.412 metres and be located approximately 25.5 metres from Golflinks Road. The structure will therefore be highly visible from Golflinks Road and neighbouring properties. Existing structures in the vicinity are generally small in scale, with the only higher element being an existing shed to the south of the subject land. As such, a building 8.412 metres in height would be highly visible within the locality and may be visible from Barossa Valley Way, an arterial road used extensively by tourists travelling through the Barossa Valley.

Siting and Visibility

Objective 2 encourages *"the protection and enhancement of the area's visual amenity and landscape quality, including land visible from tourist routes"*. As discussed earlier, the proposed structure will be highly visible from public locations, including Barossa Valley Way.

The applicant has attempted to reduce the impact of the structure on the locality by using appropriate colour selections and indicating that landscaping will be planted around the perimeter of the development. However, the sheer scale of the structure, in comparison with the existing

development in the area, will mean that the amenity of the area will be negatively impacted upon through the introduction of a building of this size.

Primary Production (Barossa Valley Region Zone)

The preservation of rural land and landscape character by limiting additional dwellings and non-agricultural development is encouraged by objective 4 of the zone. The scale of the proposed industrial development on a relatively flat landscape will impact greatly upon the landscape of the area. The introduction of an 8.412 metre high building in an area where the predominant development is viticulture or single storey dwellings, will mean that the proposed development is visually obtrusive in nature, simply because it is so noticeable against the existing landscape.

The proposed development is a non-complying form of development within the Primary Production (Barossa Valley Region) Zone and as such is not supported by Principle of Development Control 2 of the zone, which says that development listed as non-complying is generally inappropriate. In this instance it is not considered that the proposed development displays sufficient merit to warrant support as a non-complying development. Such a large scale industrial development would be better suited to an established industrial area or Industrial Zone.

Principle of Development Control 9 of the Primary Production (Barossa Valley Region) zone states that development should not be undertaken unless it is consistent with the desired character for the zone.

The desired character of the zone suggests that the open nature of land in this zone results in a landscape highly sensitive to development for non broad-acre farming or viticulture purposes. As a result, carefully designed development, located to blend within the landscape and be inconspicuous in appearance from key tourist and scenic routes throughout the Barossa Valley Region is encouraged.

Opportunities for non-agricultural development are to be limited to preserve the natural appearance and scenic qualities of rural areas, as well as retain land for maximum horticultural and viticultural productivity. With forms of large scale winery and industrial development are more appropriate within regional industrial areas established specifically for such purposes.

The proposed development is not consistent with the desired character for the zone as it will result in the construction of a large industrial shed which will be highly visible from public roads, including a tourist route, and will not be inconspicuous given its overall size and location. In order to provide an area sufficient in size to allow for the construction of the proposal, it will be necessary for an area of established vineyards to be removed.

The desired character recommends that industrial type development within the zone be located with other like forms of development. Whilst it is acknowledged that there is some industrial type development in the area, including several large wineries, none are located in close proximity to the subject land. It is considered that the construction of the proposed development on this site would have a negative impact upon the existing land uses in the area and the scenic image of the rural area.

Given that the proposed development is unable to satisfy key objectives and principles of development control of Council's Development Plan, it is considered that the proposal does not warrant the granting of Development Plan Consent.

DA/DAP/R4

D546/08 (104725)

G GRUMMETT – EXTENSION OF APPROVAL FOR LAND DIVISION (MERIT)

Panel Members were referred to a recent Environment Resources and Development Court of South Australia decision– Graham v City of Onkaparinga (2013), which bore similarities to DA/DAP/R4.

MOVED Mr Milne that the Development Assessment Panel exclude the public from the meeting to consider advice of a legal nature pursuant to Section 56A(12)(a)(viii) of the Development Act 1993.

Seconded Mr Hughes

CARRIED

CONFIDENTIAL MATTER – DA/DAP/R4 – 5.51PM

General discussion relating to legal advice obtained ensued. No Minutes were recorded as there were no decisions made.

RESUMPTION OF OPEN DEVELOPMENT ASSESSMENT PANEL MEETING – 6.06PM

MOVED Mr Milne that the Development Assessment Panel grant an extension of 15 months, to 28 February 2014 for Development Application 960/D084/07 (Council Reference 960/00453/08) to enable the Certificate of Approval to be issued.

Seconded Mr Hughes

CARRIED

DEVELOPMENT APPLICATION NO:	960/00453/2008 (960/D084/07) (Prop ID 104725)
APPLICANT:	Geoff Grummett
OWNER:	GI & DK Grummett
SUBJECT LAND:	Lot 4 in FP 108271, 7 Para Road, Tanunda
PROPOSAL:	Extension of Approval for Land Division
ZONE/POLICY AREA:	Home Industry Zone (Map Baro/21) (15/03/07) Home Industry Zone (Map Baro/17) (21/02/13)
PROCEDURE:	Merit
REFERRALS:	Nil
PUBLIC NOTICE:	N/A
KEY ISSUES:	Changes to the Development Plan
DEVELOPMENT PLAN PROVISIONS: CONSOLIDATION DATE:	15 May 2007 21 February 2013
RECOMMENDATION:	Refusal
OFFICER:	Brian Irvine

BACKGROUND

An application to divide 7 Para Road Tanunda was lodged on 13 November 2007. The existing lot is rectangular in shape and relatively large, measuring 47.48m wide and 85.51m deep, with an overall area of 4060m².

It was proposed to divide the land into 3 allotments, comprising 2 rectangular across the front and a battle-axe shaped allotment across the rear, with a 61.5 metre long driveway, 4 metres wide leading out to the road, widening to 6 metres at the road frontage.

Development approval was granted on the 28 May 2008 by staff using delegated powers. Standard requirements were attached to the approval regarding cross-overs, CWMS connections etc. Stormwater disposal required an engineered solution because of the near level nature of the site.

Approvals normally lapse if the work or development is not completed within 3 years of the date of approval, in this instance the 28 May 2011.

The Courts have established a number of principles to be used to extend an approval, including after the 'expiry' date. A request for an extension was initially made on the 14 October 2011 by email, followed by a written request (and fee) on 2 December 2011. An 18 month extension was granted (from the expiry date) creating a new expiry date of 28 November 2012.

The surveyor enquired in June 2013 whether the approval could be extended further to enable the Certificate of Approval to be issued, as the physical work had now been completed. The surveyor was advised that another application for the extension of the approval would be required but that it could be refused because the provisions of the Development Plan, regarding battle-axe shaped lots, had changed and the proposal no longer conforms to the current requirements.

The application to further extend the period of the approval has now been lodged for consideration.

Copies of the application, approval and other relevant documentation were included within the Agenda.

ASSESSMENT

The Development Act does not provide any guidance for the assessment of an application for the extension of the approval. However, the Courts have established a number of guiding principles. These include:

- An application for an extension can be made after the expiry date but within a reasonable time frame.
- Similarly, the time of the extension should also be reasonable and not excessive. The mechanism of extending an approval is not intended to create an open ended approval.
- Refusal should not be motivated by an intent to force a new application and assessment to correct a perceived mistake or error with the original assessment. (A reassessment of the same proposal using the same Development Plan version should result in the same decision, and therefore re-application would only inconvenience the applicant for no effective purpose.)
- Refusal is justified where significant changes have been made to the Development Plan that could reasonably result in a different decision. (Extensions of approvals should not be used to avoid compliance or the application of new provisions of the Development Plan.)

Overall they reflect an underlying principle of fairness in the circumstances.

The open space contribution and the CWMS augmentation charge were paid, and the final plan prepared within the first 3 years. (In fact, the certified survey has 'expired' and needs to be redone.) The CWMS connection points, driveway crossovers and storm water disposal system were installed after the expiry of the extended approval, ie after 28 November 2012.

The quotes for the works were accepted on the 16 November 2012. The advice of the new expiry date of 28 November 2012 was provided to the applicant via the surveyor.

The Development Plan (ie 15 March 2007) used to assess the application did not contain any provisions concerning battle-axe shaped allotments in either the general section or the Zone. The minimum lot size was 1200m².

The following provisions have been included in the current version of the Development Plan (ie 21 February 2013)

General Section - Land Division

Principles of Development Control

7 *Allotments in the form of a battle axe configuration should:*

- (a) *have an allotment area consistent with that desired located within the relevant zone or policy area (excluding the area of the 'handle' of such an allotment)*

- (b) *provide for an access onto a public road, with the driveway 'handle' being not less than 6 metres in width nor more than 50 metres in length*
- (c) *contain sufficient area on the allotment for a vehicle to turn around to enable it to egress the allotment in a forward direction*
- (d) *not be created where it would lead to multiple access points onto a road which would dominate or adversely affect the amenity of the streetscape*
- (e) *be avoided where their creation would be incompatible with the prevailing pattern of development.*

Home Industry Zone

Principles of Development Control

- 1 *The following forms of development are envisaged in the zone:*
- *detached dwelling in association with industry*
 - *light industry*
 - *service industry*
 - *shop ancillary to industry*
 - *store.*
- 3 *A home industry should operate on allotments on which there is an occupied detached dwelling.*
- 7 *A dwelling should have an allotment area of at least 1200 square metres and a frontage to a public road not less than 18 metres.*
- 8 *Land division should create allotments with an area of between 1200 and 2000 square metres.*

The land division does not conform with the current provisions in that:

- The allotment area of lot 401 is less than the minimum of 1200m² after excluding the area of the 'handle of the allotment (ie 1139m²)
- The overall length of the driveway is 61.5 metres whereas the relevant principle states a maximum of 50 metres.
- The greater part of the handle of the driveway for lot 401 is only 4 metres instead of 6 metres.
- In any event, Zone principle 7 states that the minimum frontage should be 18 metres, whereas the frontage of lot 401 is only 6 metres.

Therefore, there is a reasonable possibility that a resubmitted application assessed against the current Development Plan will result in a different decision. If the proposal is adjusted to satisfy the current Development Plan, it is likely that only 2 allotments would be achieved.

The applicant is obviously concerned that after investing in compliance with the conditions of consent, consent may lapse as a result of it not being extended. It is implied that Council was aware of the work being undertaken after the expiry date and therefore gave an implied extension of time. However:

- The applicant was aware of the expiry date before Bartsch Builders commenced the works
- The applicant was aware of the need to seek an extension of the approval (a previous extension had been sought)
- The approaches made to Council were directed to the Works and Engineering Section in the form of technical enquiries seeking technical responses
- It is the applicant's responsibility to project manage the development and Council owes no duty of care to the applicant to do so.

A refusal of the request to extend the approval will require the CWMS augmentation fee and the open space contribution fee to be refunded. The applicant will have the option to either resubmit the current proposal for reassessment or to submit a revised application.

The alternative course of action is to grant a 12 month extension, expiring on the 28 November 2013.

CONCLUSION

The applicant has sought a second extension of the development approval. The request has been made 7 months after the expiry of the approval. Substantial works have been undertaken between the expiry and the request for the extension of approval. Such works were undertaken in the knowledge that the approval had passed its expiry date and that an extension should have been sought. The Development Plan has also been substantially amended to warrant the reassessment of the proposal.

DA/DAP/R5

D450/13 (106256)

TRIX UNIT TRUST (TANUNDA MEDICAL CENTRE) – CHANGE OF USE FROM DWELLING TO OFFICES – AMENDMENT TO CONDITIONS OF APPROVAL – APPLICATION FOR VARIATION (MERIT)

MOVED Mr Hughes that the Development Assessment Panel, having considered all relevant assessment matters and the Officer's report in relation to Development Application 960/450/2013, resolves as follows:

- (A) Grant Consent to amend conditions of the Development Plan Consent for Development Application 960/00450/2013 to include the following:
- (1) The development shall be in accordance with the plans and details submitted to and approved by Council as part of the application, except as varied by any subsequent conditions.
 - (2) The site shall be landscaped in accordance with the approved plans and maintained to the reasonable satisfaction of the Council at all times.
 - (3) Hours of operation for the subject site shall be between 8.00 am to 6.00pm business days.

Seconded Mr Grocke

CARRIED

DEVELOPMENT APPLICATION NO:	960/00450/2013 (Prop ID 106256)
APPLICANT:	Trix Unit Trust (Tanunda Medical Centre)
OWNER:	Trix Unit Trust (Tanunda Medical Centre)
SUBJECT LAND:	26 Fiedler Street, Tanunda CT 5651/661
PROPOSAL:	Change of Use from Dwelling to Offices – Amendment to Conditions of Approval – Application for Variation
ZONE/POLICY AREA:	Residential Zone. The site is not located in a Policy Area
PROCEDURE:	Merit
REFERRALS:	N/A
PUBLIC NOTICE:	N/A
KEY ISSUES:	Removal of Condition 3 relating to a Right of Way

DEVELOPMENT PLAN PROVISIONS: CONSOLIDATION DATE:	Council Wide - Interface between Land Uses Objectives 1 & 2. Principles of Development Control 1 & 2. Landscaping Fences and Walls Objectives 1 & 2. Principles of Development Control 1, 2 & 3. Orderly and Sustainable Development Objectives 1, 2, 3, 4, & 6. Principle of Development Control 1, 4 & 6. Transportation and Access Objectives 1, 2 & 4. Principle of Development Control 1, 5, 8, 10, 11, 22, 23, 24, 30, 31, 32, 33, 34, 36, 37, 38 & 39. Residential Zone Objectives 1, 3 & 4. Principle of Development Control 1, 2, 4, 5 & 6. Development Plan consolidated 24 January 2013.
RECOMMENDATION:	Issue Revised Development Plan Consent
OFFICER:	Maxine Lovett

PROPOSAL

This application for a change of use from a dwelling to administration offices was considered by the Development Assessment Panel on 7 May 2013. The Panel granted Development Plan Consent with conditions imposed. The Development Assessment Commission granted concurrence on 28 May 2013.

The applicant has since requested a review of condition 3, pertaining to registering a right of way access through 13 Mill Street to the car parking areas for the approved development at 26 Fiedler Street, Tanunda.

Condition 3: A right of way providing vehicle access to the rear car park at 26 Fiedler Street via 13 Mill Street shall be registered on the Certificate of Title prior to full development approval.

VEHICLE ACCESS AND CAR PARKING

A sealed car park at the rear of the allotment (26 Fiedler Street) will provide six car parking spaces including one disabled park. The car park will be sealed and vehicle access is via the adjoining site at 13 Mill Road Tanunda (Tanunda Medical Centre).

Council has been notified that the property is now under the same ownership as the adjoining car parking areas at 13 Mill Street. Accordingly, Condition 3 of the Development Plan Consent is now not required to be enforced and should be waived.

In the event that future ownership changes, the condition will be necessarily enforced to ensure that appropriate access is maintained between the office development and adjoining land – if it continues to be used in the same manner. However, this will not be necessary if the subject land is sold off for another use or an alternative car parking layout is achieved - in this case a new development application for a new change of use will be required.

CONCLUSION

The car parking area of the approved office development relies on the adjoining allotment (13 Mill Street) for vehicle access. A condition of Development Approval requires that a right of way be registered on the title of 13 Mill Street to allow for vehicle access. However, now that both allotments are in the same ownership, Condition 3 may be removed as a change of use application will be required in the event that the future ownership of the subject allotments changes.

OTHER BUSINESS

Nil.

NEXT MEETING

Tuesday, 3 September 2013 commencing at 5.00pm.

CLOSURE OF MEETING

Mr Ballantyne declared the meeting closed at 6.14pm.

Confirmed

Date: Chairman: