



*The Barossa Council*

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

Held on Tuesday, 5 August 2014 commencing at 5:00pm in  
the Council Chambers, 43-51 Tanunda Road, Nuriootpa

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**WELCOME**

Bruce Ballantyne welcomed everyone and opened the meeting.

**PRESENT**

Bruce Ballantyne (Presiding Member), David Hughes, Scotty Milne, Bob Sloane, Kelvin Goldstone and Susan Shannon – Panel Members.

Louis Monteduro (Senior Manager – Planning Services), Paul Mickan (Principal Planner), Brian Irvine (Senior Planner), Maxine Lovett (Planner), and Christine Kruger (Minute Secretary) – Council Staff.

**APOLOGIES**

R Miller.

**LEAVE OF ABSENCE**

Nil.

**MINUTES OF PREVIOUS MEETING**

**MOVED** S Shannon that the Minutes of the Development Assessment Panel meeting held on Tuesday, 1 July 2014 as circulated, be confirmed as a true and correct record of the proceedings of that meeting.

**Seconded** D Hughes

**CARRIED**

**BUSINESS ARISING FROM PREVIOUS MINUTES**

Nil.

**DECLARATION OF INTEREST BY MEMBERS OF PANEL**

Nil.

**APPLICATIONS FOR DECISION****DEBATE AGENDA**

DA/DAP/R1

D93/2014 (117343)

**T & I CAMPANIELLO – LIGHT INDUSTRY (ALTERATIONS AND ADDITIONS TO EXISTING PANEL BEATING AND SPRAY PAINTING BUSINESS) NON-COMPLYING**

**MOVED** S Milne that the Development Assessment Panel has considered all relevant assessment matters and the officer's report prepared in relation to Development Application No. 960/93/2014 and resolves as follows:

- (A) That pursuant to Section 35(2) of the Development Act, the proposal is not seriously at variance with the relevant provisions of The Barossa Council Development Plan.
- (B) Pursuant to Section 6(2) of the Character Preservation (Barossa Valley) Act 2012, the Development Assessment Panel has had regard to the objects of that Act and, in determining this application, seeks to further the objects of that Act.
- (C) That pursuant to Section 33(1)(a) of the Development Act, Development Application 960093/2014 be granted Development Plan Consent subject to the following conditions:
  - (1) The development shall be undertaken in accordance with the plans and documentation accompanying the application (as amended), unless varied by the following conditions.
  - (2) Roof water shall be disposed of to a stormwater pipe in an easement under the control of the Council. A relief valve shall be incorporated into the internal stormwater design to ensure that excess stormwater shall be released in a safe and controlled manner, without creating a nuisance to neighbouring properties.
  - (3) All plant and equipment (including compressors) shall be located either inside the building or a sound proof housing to prevent a noise nuisance to residential neighbours.
  - (4) All forms of waste shall be stored and/or disposed of in a manner that does not harm the environment, create a threat to public health or a nuisance.
  - (5) The development shall be connected to a wastewater system approved under the South Australian Public Health Act 2011.
  - (6) Any external lighting shall be designed, located, and if necessary shielded to prevent light spill into neighbouring properties.

- (7) The site shall be landscaped along the northern and eastern boundaries to achieve a high level of amenity commensurate with the locality, using NRM recommendations for local indigenous species.
- (8) The site is to be maintained in a clean and orderly manner.

### **NOTES ONLY**

- (a) Please be advised that where a Private Certifier is appointed to undertake the building assessment, Council does not provide a service of advising the Private Certifier of site conditions or any matters relevant to the building assessment. It is recommended that a Private Certifier undertakes his or her own investigations and inspection of the site to become acquainted with site conditions and any other relevant matter.
- (b) Please note that no work can commence on the land as a result of this consent. This consent relates solely to the planning assessment. An application for Building Rules Consent is required to be assessed and approved before Development Approval can be issued to enable work to commence.
- (c) The applicant is reminded of its general environmental duty, as required by Section 25 of the Environment Protection Act, to take all reasonable and practicable measures to ensure that the activities on the whole site, including during construction, do not pollute the environment in a way which causes or may cause environmental harm.
- (d) This consent does not exempt the operator of the business from compliance with the requirements of the Environment Protection Act, any relevant Policies made under that Act or any other relevant legislation.
- (D) Seeks the concurrence of the Development Assessment Commission.

**Seconded** K Goldstone

**CARRIED**

<b>DEVELOPMENT APPLICATION NO:</b>	960/93/2014 (Prop ID 117343)
<b>APPLICANT:</b>	T & L Campaniello
<b>OWNER:</b>	T & L Campaniello
<b>SUBJECT LAND:</b>	Lot 3, 9A Railway Terrace, Mount Pleasant in DP75471, CT 6000/889
<b>PROPOSAL:</b>	Light Industry (Alterations and Additions to Existing Panel Beating and Spray Painting Business) Non-Complying
<b>ZONE/POLICY AREA:</b>	Township Zone, Map Baro/40, Residential Policy Area 7
<b>PROCEDURE:</b>	Non-Complying

<b>REFERRALS:</b>	Not Applicable
<b>PUBLIC NOTICE:</b>	Category 3 – No Representations
<b>KEY ISSUES:</b>	Non-Complying status, design and appearance, compatibility with neighbouring residential use
<b>DEVELOPMENT PLAN PROVISIONS:</b>  <b>CONSOLIDATION DATE:</b> 21 February 2013	Refer <i>Attachment 3</i> for extracts from: <ul style="list-style-type: none"> <li>• Design and Appearance</li> <li>• Industrial Development</li> <li>• Interface between Land Uses</li> <li>• Natural Resources</li> <li>• Orderly and Sustainable Development</li> <li>• Transportation and Access</li> <li>• Waste</li> <li>• Township Zone</li> </ul>
<b>RECOMMENDATION:</b>	Grant Development Plan Consent and Seek Concurrence of the Development Assessment Commission
<b>OFFICER:</b>	Brian Irvine

### **SUBJECT LAND AND LOCALITY**

The subject land comprises an irregular shaped allotment of just over 6000m<sup>2</sup> in area. Although known as 9A Railway Terrace, the land has legal frontage to Staples Street, which appears on the ground as a driveway leading into the premises. The owner's house is situated at 9 Railway Terrace (lot 2) and because there is no dividing fence or other marked boundary between the house and business, the two appear to be combined and operated as one landholding. Although the 2 allotments share the same entrances, the application refers only to 9A Railway Terrace (lot 3).

The crash repair business is estimated to have been established approximately 30 years ago, and has grown over the years to its current size in a number of sheds. The business was separated from the house in a land division lodged in 2003 and finalised in 2008. The existing buildings are not prominent in any views from Railway Terrace because of the distance from the road, other buildings and landscaping, and the fact that the building site has been cut into the slope, thereby lowering the buildings below natural ground level.

The land slopes down towards the river. The zone boundary is 60 metres from the centre of the River Torrens which is located just over the northwestern boundary. The lower portions of the allotment are subject to flooding but the existing and proposed sheds are both clear of the flood affected area and are within the Township Zone.

The first portion of Staples Street has been constructed to a driveway standard to give access to the house and business. The lower portion of the road is rented to the land owner and is used for access into the sheds and rear storage area and is usually secured with gates.

The land on the opposite side of the road is used for residential purposes on medium sized allotments. The adjoining land to the south west has been subdivided for residential purposes by Mr & Mrs Campaniello in 2008. Two vacant lots have been retained in their ownership. The land to the northeast, on the other side of Staples Street, is also owned by Mr & Mrs Campaniello and used as part of the business and for grazing purposes. A land division application was also lodged for that land but did not proceed. The land to the north west, comprising the river, is owned by the Council and beyond that the land is part of a larger grazing property.

The locality is defined as the area of surrounding land and roads within approximately 150 metres of the proposed buildings that could potentially be affected by the view of the building or noise or fumes from the business. The character of the locality is best described as typically 'country township'.

### **DESCRIPTION OF THE PROPOSED DEVELOPMENT**

The proposal involves a new larger building to replace a number of existing sheds. It is proposed to build the new building over the existing buildings to minimise disruption to the business activity, and to extend the floor area. The finished floor level of the new building will be the same as the existing sheds. The new shed will have side walls 6 metres high, which is marginally above the height of the ridge of the existing shed (ie approximately 5.5 metres). The new shed will have an overall height of approximately 8.27 metres, measured to the ridge.

The front portion facing the customer car park and Railway Terrace will have a mezzanine floor for use as an office and staff facilities. The front of the building is cut into the slope of the land so that the mezzanine floor is marginally above natural ground level and has the appearance of a single storey building. The building will have a colour bond finish similar to the existing colour scheme.

No change of land use is proposed and although new equipment is proposed, the basic crash repair processes will remain the same.

No changes to vehicular access or parking arrangements are proposed. Vehicular access to the new building will remain on the same side, with the building being set back 3 metres from the boundary of Staple Street. (The existing building is located on the road boundary) The additional setback will assist in manoeuvring longer vehicles into the building.

Existing waste storage and removal arrangements will continue. A waste system application has been submitted but processing has been deferred pending the outcome of the planning application. The site is within a CWMS area and no impediments to approval of that application are expected.

Operating hours for the workshop are intended to remain the same.

The application detail including plans and the Statement of Effect were provided with the Agenda.

#### **PROVISIONS OF THE DEVELOPMENT PLAN**

The subject land lies within the Township Zone and Residential Policy Area 7 of the Development Plan, consolidated 21 February 2013.

The Council Wide, and Zone provisions relative to the proposal were included within the Agenda.

#### **CONSULTATION**

No statutory consultation with government agencies was required.

#### **PUBLIC NOTIFICATION**

The application was subjected to a Category 3 form of public notification but no representations were received.

#### **PLANNING ASSESSMENT**

##### Nature of Development

Although the existing activity has existing use rights, the non-complying table for the Township Zone states:

*“Development (including building work, a change in the use of land, or division of an allotment) for the following is non-complying”.*

The non-complying list includes light industry in the Residential Policy Area 7. A crash repair workshop is regarded as a form of light industry and because the proposal includes building work for a light industry, the proposal is non-complying.

##### Building Style

The building is functional in its shape and size with no articulation or other features to break up its bulk or to provide visual interest. If viewed in isolation from its surroundings it would be reasonable to conclude that it does not conform with a number of principles in the Design and Appearance section of the Development Plan, Principle 3 in particular. However, the building will be located in a relatively isolated location, set down in a cut, and substantially screened from public view by other buildings and landscaping. Portions of the building will be visible from Railway Terrace, but the building will not be prominent in any views and it will not be possible to view the building in its entirety from any public place.

The building does not use highly reflective materials on its walls or roof (Design and Appearance Principle 7) and outside storage areas will remain screened from public view (Design and Appearance Principle 14).

While the building does not display a high standard of architectural design, the design is suitable for its location and purpose, and on balance, is in general conformity with the Design and Appearance provisions of the Development Plan.

#### Industrial Activity

Because there is no change of land use, the Industrial Development and Interface Between Land Use provisions of the Development Plan only apply in so far as they relate to the building or any changed practices resulting from the new building.

Nevertheless the activity does serve the needs of the local community (Industrial Development Objective 9) and there does not appear to be any significant harmful effects beyond the boundary of the site such as those listed in Industrial Development Principle 7 or Interface Between Land Use Principle 1. The business has operated for approximately 30 years without complaint and no representations were received as a result of the public notification process.

Offices will be located at the front of the building (Industrial Development Principle 2) and vehicles will enter and leave the building in a forward direction (Industrial Development Principle 4). Industrial Development Principle 6 repeats design criteria, and although there is not strict conformity to those criteria, this is not fatal to the proposal because of the isolated location of the building and the existing screening. The industrial development is outside of an industrial zone or policy area and does not process a primary product from the site, and therefore does not conform to Industrial Development Principle 1. However, that principle appears to be orientated in part to rural areas, and as stated above, there are existing use rights for the land use.

The compressor will need to be relocated and there is potential for a nuisance to be created if not adequately shielded. This can be addressed with a condition of consent.

The current practice of storing and removing waste by contractors will continue in accordance with EPA guidelines. Waste water will be treated and discharged to the CWMS.

The number of employees is not expected to change and hence existing parking arrangements are proposed to be continued.

#### Stormwater Disposal

The capacity of the stormwater pipe, that the roof water is proposed to be directed to, has not been checked. The pipe in the Council easement is only 100mm in diameter and in all likelihood it will not be able to accept a 1 in 100 year flow from the roof of a building of this size. Alternative options include independent disposal to the river, or introducing a 'relief valve' into the system to release excess water into an overland flow path in a high rainfall event. This can be addressed in a condition of consent.

#### **CONCLUSION**

Although the nature of development falls into the non-complying process, the proposal enables the business to update its premises and continue to provide a useful service to the local community, without creating any significant adverse effects.

The proposal is not seriously at variance with the provisions of the Development Plan and displays sufficient merit to warrant granting Development Plan Consent subject to conditions.

#### **OTHER BUSINESS**

**DEVELOPMENT ASSESSMENT COMMISSION CONCURRENCE APPLICATIONS**

**MOVED** S Shannon that the report be received.

The Development Assessment Panel requested details of responses received from the Development Assessment Commission, relating to applications referred for concurrence.

To date the following applications (non-complying or requiring concurrence under the Character Preservation Legislation), in which the Panel were the decision authority, have been received from the Commission as follows:

DA NUMBER	APPLICANT	ADDRESS	NATURE OF DEVELOPMENT	DAC DECISION
960/1153/2013	Tundarri Sales and Services Pty Ltd	338 Barossa Valley Way, Kalbeeba	Alterations & Additions to Existing Service Trade Premises (Tractors and Farm Machinery) and Workshop	Concurrence Granted 14/07/2014 (3/6/2014 panel meeting)

**Seconded B Sloane**

**CARRIED**

### **SCHEDULE 27 – REGISTER OF INTEREST – ORDINARY RETURNS**

B Ballantyne reminded Independent Panel Members that the previously distributed Schedule 27 – Register of Interest – Ordinary Return, was due for return no later than Friday 29 August 2014.

### **CO/DAP/10.1**

### **SUPREME COURT APPEAL – SALVATORE DE PALMA v BAROSSA COUNCIL (SASC 938 Of 2014) – BOUNDARY RE-ALIGNMENT, SANDY CREEK (960/466/2013) 5.17PM**

**MOVED S Milne that:**

- (1) Pursuant to subsections 56A(12)(a)(viii) of the Development Act 1993 the Development Assessment Panel orders that the public be excluded from the meeting with the exception of Senior Manager-Planning Services, Principal Planner, Planners and the Minute Secretary, on the basis that it will consider legal advice and information which relates to the Supreme Court of South Australia appeal 938 of 2014.
- (2) Accordingly, on this basis, the Development Assessment Panel is satisfied that the principle that meetings of the Development Assessment Panel should be conducted in a place open to the public has been outweighed by the need to keep the information and discussion confidential.

**Seconded D Hughes**

**CARRIED**

### **RESUMPTION OF OPEN DEVELOPMENT ASSESSMENT PANEL MEETING – 5.32 PM**

In the matter CO/DAP/10.1:

**SUPREME COURT APPEAL – SALVATORE DE PALMA v BAROSSA COUNCIL  
(SASC 938 Of 2014) – BOUNDARY RE-ALIGNMENT, SANDY CREEK  
(960/466/2013)**

**MOVED** D Hughes that the Development Assessment Panel:

- (1) Receive the report.
- (2) Having considered this matter in confidence under subsections 56A (12)(a)(viii) of the Development Act 1993 makes an order pursuant to Section 56A(16) of the Act that the report and associated documents and minutes of the Confidential DAP Meeting held on 5 August 2014 in relation to Confidential Item CO/DAP/10.1 titled Supreme Court Appeal – Salvatore De Palma v Barossa Council (SASC 938 of 2014) – Boundary Re-alignment, Sandy Creek (960/446/2013), other than the minutes recording the decision of the Development Assessment Panel on this item and recording this confidentiality order, be kept confidential and not available for public inspection until the Supreme Court Appeal has been finalised.

**Seconded** S Milne

**CARRIED**

**NEXT MEETING**

Tuesday 2 September 2014 commencing at 5.00pm.

**CLOSURE OF MEETING**

Mr Ballantyne declared the meeting closed at 5.34pm.

Confirmed

Date: ..... Chairman: .....