

**EXTRAORDINARY GAZETTE**



**THE SOUTH AUSTRALIAN  
GOVERNMENT GAZETTE**

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**PUBLISHED BY AUTHORITY**

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**ALL PUBLIC ACTS appearing in this GAZETTE are to be considered official, and obeyed as such**

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**ADELAIDE, THURSDAY, 13 JANUARY 2000**

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[REPUBLISHED]

**DEVELOPMENT ACT 1993  
SECTION 27(5)**

**BAROSSA VALLEY REGION - INDUSTRY**

**PLAN AMENDMENT**

**Preamble**

Pursuant to Section 27(3)(b) of the Development Act 1993, the Environment, Resources and Development Committee of Parliament has suggested amendment to the Angaston (DC), Barossa (DC), Kapunda (DC), Light (Outer Metropolitan) (DC) and Tanunda (DC) Development Plans, as amended by the Barossa Valley Region - Industry - Plan Amendment, authorised on 30 September 1999.

Following this, pursuant to Section 27(5)(a), it is necessary to amend the above Development Plans (dates as shown below).

**Notice**

PURSUANT to Section 27(5) of the Development Act 1993, I, the Governor, with the advice and consent of the Executive Council, declare the amendment, as attached, to be an authorised amendment to the:

- Angaston (DC) Development Plan dated 16 December 1999
- Barossa (DC) Development Plan dated 16 December 1999
- Kapunda (DC) Development Plan 16 December 1999
- Light (Outer Metropolitan) (DC) Development Plan dated 16 December 1999
- Tanunda (DC) Development Plan dated 16 December 1999

and fix 13 January 2000, as the day on which it will come into operation.

Dated 13 January 2000.

E. J. NEAL, Governor

## THE AMENDMENT

### SOUTH AUSTRALIAN DEVELOPMENT ACT 1993 BAROSSA VALLEY REGION - INDUSTRY PLAN AMENDMENT

#### AMENDMENT TO THE ANGASTON (DC), BAROSSA (DC), KAPUNDA (DC), LIGHT (OUTER METROPOLITAN) (DC) AND TANUNDA (DC) DEVELOPMENT PLANS

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This amendment affects the following Development Plans:

- Angaston (DC) Development Plan dated 16 December 1999
- Barossa (DC) Development Plan dated 16 December 1999
- Kapunda (DC) Development Plan 16 December 1999
- Light (Outer Metropolitan) (DC) Development Plan dated 16 December 1999
- Tanunda (DC) Development Plan dated 16 December 1999

(a) In each of the above Development Plans, within the following zones, where relevant:

- Rural (BVR) Valley Floor Zone;
- Rural (BVR) Moculta Zone;
- Rural (BVR) Barossa Ranges Zone;
- Rural (BVR) Sandy Creek Zone;
- Rural (BVR) Gomersal Zone;
- Rural (BVR) Nuriootpa Plains Zone;

delete the text shown with a ~~strike through~~ and insert the text shown underlined, as illustrated in Attachment 1.

(b) In each of the above Development Plans (where relevant), within the Rural (BVR) Hills Face Zone, delete the text shown with a ~~strike through~~ and insert the text shown underlined, as illustrated in Attachment 2.

(c) In each of the above Development Plans (where relevant), within the Industry (BVR) Zone, delete the text shown with a ~~strike through~~ and insert the text shown underlined, as illustrated in Attachment 3.

## **Attachment 1**

### **Public Notification Categories**

- 12** The following kinds of development are assigned **Category 1 development** (unless non-complying) in the Rural (BVR) ..... Zone: ~~or 2~~ for the purpose of public notification:

#### **Category 1**

Other than:

~~a) an activity listed in Schedule 22 of the Regulations under the Development Act, 1993, unless it is of a minor nature; or~~

~~b) an activity which is non-complying:~~

~~A kind of development which, in the opinion of the relevant authority, is of a minor nature only and is unlikely to be the subject of reasonable objection from the owners or occupiers of land in the locality of the site of the development.~~

Advertisements

Farming

Farm Buildings (including those for horticultural uses)

Land Division

Winery processing not more than 500 tonnes of grapes per year, except where the winery is located within 300 metres of the following zones or policy areas: residential, tourist accommodation, rural living or country township ~~other than within 300 metres of a residential or tourist accommodation zone~~

#### **Category 2**

Other than non-complying development:

- 13** The following kinds of development are assigned as **Category 2 development** (unless non-complying or Category 1) in the Rural (BVR) ..... Zone:

Commercial Forestry

Recreation Area

~~Winery within 300 metres of a residential or tourist accommodation zone~~

Winery processing not more than 500 tonnes of grapes per year, where the winery is located within 300 metres of the following zones or policy areas: residential, tourist accommodation, rural living or country township.

Winery processing more than 500 tonnes of grapes per year, except where the winery is located within 300 metres of the following zones or policy areas: residential, tourist accommodation, rural living or country township.

Winery, including associated activities, which does not involve an increase in processing capacity.

## **Attachment 2**

### **Public Notification Categories**

- 12** The following kinds of development are assigned **Category 1 development** (unless non-complying) in the Rural (BVR) Hills Face Zone: ~~or 2 for the purpose of public notification:~~

#### **Category 1**

~~Other than:~~

- ~~a) an activity listed in Schedule 22 of the Regulations under the Development Act, 1993, unless it is of a minor nature; or  
b) an activity which is non-complying:~~

~~A kind of development which, in the opinion of the relevant authority, is of a minor nature only and is unlikely to be the subject of reasonable objection from the owners or occupiers of land in the locality of the site of the development.~~

Farming

Farm Buildings (including those for horticultural uses)

Land Division

Winery processing not more than 500 tonnes of grapes per year, except where the winery is located within 300 metres of the following zones or policy areas: residential, tourist accommodation, rural living or country township ~~other than within 300 metres of a residential or tourist accommodation zone~~

#### **Category 2**

~~Other than non-complying development:~~

- 13** The following kinds of development are assigned as **Category 2 development** (unless non-complying or Category 1) in the Rural (BVR) Hills Face Zone:

Recreation Area

~~Winery within 300 metres of a residential or tourist accommodation zone~~

Winery processing not more than 500 tonnes of grapes per year, where the winery is located within 300 metres of the following zones or policy areas: residential, tourist accommodation, rural living or country township.

Winery processing more than 500 tonnes of grapes per year, except where the winery is located within 300 metres of the following zones or policy areas: residential, tourist accommodation, rural living or country township.

Winery, including associated activities, which does not involve an increase in processing capacity.

### **Attachment 3**

#### **Public Notification Categories**

**12** The following kinds of development are assigned as **Category 1 development** (unless non-complying) in the Industry (BVR) Zone: or 2 for the purpose of public notification:

##### **Category 1**

Other than:

- a) an activity listed in Schedule 22 of the Regulations under the Development Act, 1993, unless it is of a minor nature; or  
 b) an activity which is non-complying:

A kind of development which, in the opinion of the relevant authority, is of a minor nature only and is unlikely to be the subject of reasonable objection from the owners or occupiers of land in the locality of the site of the development.

The construction of or a change in use to, a warehouse, builders yard, store, timber yard, light industry, service trade premises or service industry provided that:

- 1) the activity is not located within the separation areas defined on Fig In/1, 2 or 3; and
- 2) the activity is not located within 100 metres of a dwelling or tourist accommodation that is situated on a separate allotment.

Advertisements

Builders Yard\*

Land Division

Light Industry\*

Service Industry\*

Service Trade Premises\*

Store\*

Timber Yard\*

Warehouse\*

Winery processing not more than 500 tonnes of grapes per year\* other than within 300 metres of a residential or tourist accommodation zone

- *Angaston Development Plan only* -

\* except where located within the "50m Separation Area" defined on Fig In/1

- *Light Outer Metropolitan Development Plan only* -

\* except where located within the "50m Separation Area" defined on Fig In/3

##### **Category 2**

Other than:

- a) an activity listed in Schedule 22 of the Regulations under the Development Act, 1993, unless it is of a minor nature; or  
 b) an activity which is non-complying:

**13** The following kinds of development are assigned as **Category 2 development** (unless non-complying or Category 1) in the Industry (BVR) Zone:

Farming (excludes horticulture and viticulture)

Bus Depot

Builders yard (except where Category 1)

Dwelling ancillary to an industrial or commercial use

Fuel Depot

General Industry (except where located within 100 metres of a dwelling or tourist accommodation not located on the same allotment)

Horse Keeping

~~Junk Yard (except where located within 100 metres of a dwelling or tourist accommodation not located on the same allotment)~~

~~Light Industry (except where Category 1)~~

Motor Repair Station

Minor Public Service Depot

~~Road Transport Terminal (except where located within 100 metres of a dwelling or tourist accommodation not located on the same allotment)~~

~~Service Industry (except where Category 1)~~

~~Service Trade Premises (except where Category 1)~~

~~Store (except where Category 1)~~

~~Timber Yard (except where Category 1)~~

~~Warehouse (except where Category 1)~~

~~Winery within 300 metres of a residential or tourist accommodation zone~~

**WORKERS REHABILITATION AND COMPENSATION ACT, 1986****WORKERS COMPENSATION TRIBUNAL RULES, 1996**

I, **WILLIAM DAVID JENNINGS**, the President of the Workers Compensation Tribunal of South Australia, by virtue of the provisions of section 88E of the Workers Rehabilitation and Compensation Act, 1986 and all other enabling powers, do hereby make the following amendments to the Workers Compensation Tribunal Rules, 1996, to:-

1. assist in the regulation of the business of the Tribunal and the duties of the various officers in the Tribunal.
2. encourage parties to adequately prepare matters prior to hearing; promptly deliver a brief to counsel; adequately reflect upon initiatives to reduce the time required in court to deal with their dispute; and conduct their litigation in a way which reflects the nature and quantum of the dispute and which is focussed towards the central issues in dispute.
3. regulate costs at judicial determination.
4. put in place a procedure enabling the delegation of assessing costs to the Registrar or the Deputy Registrar as the case may be.

Given under my hand and the seal of the Workers Compensation Tribunal of South Australia.

Dated this 20<sup>th</sup> day of December 1999.



**Judge W.D. Jennings**  
**PRESIDENT WORKER COMPENSATION TRIBUNAL**

**WORKERS COMPENSATION TRIBUNAL RULES 1996****RULE FIFTEEN****COSTS OF PROCEEDINGS**

Rule 15 is deleted and in lieu thereof:

- (1) Subject to the provisions of the Act, regulations promulgated thereunder or these rules, the costs of and incidental to any proceedings before the Tribunal shall be in the discretion of the Tribunal, both as to liability and quantum.
- (2) Where a Presidential Member of the Tribunal is required to determine the quantum of a party's costs, that Member ('the presiding Member'), may in his or her absolute discretion assign the task of taxing such costs to the Registrar who may in turn assign part or all of that task to a Deputy Registrar.
- (3) The Registrar or the Deputy Registrar may of his or her own motion submit any question arising out of the course of a taxation to the presiding Member for such directions as the presiding Member may see fit to give and the parties may be heard before the presiding Member thereon. Such submission shall be in the form of an informal memorandum, a copy of which will be supplied to each party to the taxation setting forth the questions in issue and any relevant circumstances relating thereto. The presiding Member shall endorse the directions that he or she sees fit to make and remit the matter to the Registrar or the Deputy Registrar who shall act in accordance with such directions.
- (4) In conducting a taxation of costs, the Tribunal shall act according to the practice and procedure for the time being of the Supreme Court with such modifications as may be necessary in the circumstances.
- (5) Where such taxation is undertaken by the Registrar or a Deputy Registrar upon the completion of the taxation the Registrar or the Deputy Registrar shall prepare and sign a certificate of recommendation as to the result thereof and submit the certificate to the presiding Member who may adopt the recommendation with such modifications that he or she thinks appropriate.
- (6) If a party is dissatisfied with the recommendation of the Registrar or a Deputy Registrar that party may, within 7 days from the date of receiving the recommendation, make application to the presiding Member to be heard upon whether the presiding Member should adopt the certificate of recommendation. In any case where the presiding Member proposes to vary or modify the certificate of recommendation the presiding Member shall grant the parties an opportunity to be heard before making such variation or modification.

(7) In determining the quantum of a party's costs the presiding Member or Registrar or Deputy Registrar as the case may be shall adopt the following principles:

(a) Where a matter proceeds to trial at judicial determination, the parties shall be expected to have, so far as it is reasonable, taken all steps that are necessary to bring all issues in dispute between them before the presiding Member so as to avoid multiplicity of proceedings and failure to do so may impact upon the amount of costs to be awarded.

(b) In no case shall the award of costs exceed 85% of the amount that would be allowed under the relevant Supreme Court scale if the proceedings were in the Supreme Court (section 95(5) Workers Rehabilitation and Compensation Act, 1986).

(c) The party shall be entitled to all proper costs of and incidental to work carried out after the referral of the matter for judicial determination as a prudent but not over cautious litigant properly advised, having regard to the potential quantum of the worker's entitlements and the complexity of the issues between the parties, would reasonably have incurred, in the initial investigation of the relevant circumstances giving rise to the proceedings and in the preparation and the prosecution of the proceedings. Such costs may include: the ascertaining of relevant factual circumstances; the obtaining and tendering of an advice on evidence and regard thereto; the obtaining and preparation of witness statements; the obtaining and consideration of medical and other expert reports; the obtaining of counsel's opinion regarding an appropriate range of compromise; and the conduct and the conclusion of all necessary negotiations leading to the settlement of the claim.

(d) A party entitled to an award of costs in respect of a trial at judicial determination may be awarded up to 85% of the Supreme Court scale for all reasonably necessary preparatory work. Consistent with the expectation that the parties shall have: obtained an advice on evidence; properly proofed all witnesses so as to be able to make an informed decision as to which witnesses are required to give oral testimony (if the witness is not otherwise required for cross-examination); carefully reflected upon the witness statements and expert reports of the other parties so as to be able to make an informed decision as to which witnesses are required for cross-examination; identified all potential issues and factual matters capable of agreement and have taken steps to secure agreement in respect thereof; shall be in a position to make submissions as to costs upon receipt of judgment; and generally have taken all reasonable measures to ensure that the trial proceeds expeditiously and only occupies sitting time in court to the extent that it is absolutely necessary\*; the following scale of counsel fees (other than in respect of a referral pursuant to section 94A(2)) shall apply.

- Fee on brief - including conferences, reading time, preparation and up to the first 5 hours in court an amount not exceeding \$1750.00.
- Refresher fees - if the trial extends beyond 5 sitting hours counsel fees will be based upon time spent in court and unless provision is specifically

made, no further allowances shall be made for conferences; reading time or preparation. Such refresher fees shall be awarded as follows:

- For time spent beyond 5 hours and up to 10 hours - at the rate of up to \$150.00 per hour.
- For time spent beyond 10 hours and up to 20 hours - at the rate of up to \$100.00 per hour.
- For time spent beyond 20 hours - at the rate of up to \$60.00 per hour.
- Where written submissions are provided costs shall be awarded on an hourly rate commensurate with 1.5 times that which would apply had the submissions been made orally.
- Where judgment is delivered in Court an amount of \$100.00 to receive judgment.

\* For example: converting video evidence into a short passage of edited highlights for showing in court (subject of course to all video tapes being made available to the other parties to the dispute after cross-examination of the relevant witness has been completed); obtaining and providing to the other parties copies of notes that a witness may seek to rely upon in giving evidence; scheduling witnesses so as to ensure that sufficient time is allowed for the receipt of their evidence; agreeing where possible to interpose witnesses and if interposition is not possible to indicate that to the other parties at the earliest possible time; arranging witnesses so as to ensure that the available time is best utilised.

(e) Notwithstanding the limitations on counsel fees previously expressed if the presiding Member is of the opinion that the party against whom a costs order is to be made has unnecessarily prolonged the hearing the presiding Member may award an amount of up to \$150.00 per hour for counsel fees for any period of time spent in court after the first 5 hours.

(f) Transitional Provision

Rule Fifteen (7)(d) and (e) shall apply to all trials commencing on or after 1 June 2000 and may, in the absolute discretion of the presiding Member, apply to trials commencing before that date. Parties who already have disputes set down for hearing may wish to consider whether further steps can be undertaken to truncate the hearing of their matter and to reconsider the time previously specified as being required to conduct the hearing.