

ALEXANDRINA COUNCIL

NOTICE OF MEETING

Notice is hereby given to the Members that a meeting of the
Development Assessment Panel will be held in the
Alexandrina Community Chambers "Wal Yuntu Warrin"
11 Cadell Street, Goolwa on 18 April 2005 commencing at 10:00 am

Your attendance is requested.

10:00 a.m. Development Assessment Panel commencement

12:00 p.m. Conclusion of meeting.

JOHN COOMBE
CHIEF EXECUTIVE

ALEXANDRINA COUNCIL

AGENDA FOR THE DEVELOPMENT ASSESSMENT PANEL MEETING
TO BE HELD ON 18 APRIL 2005 AT 10:00 AM
IN ALEXANDRINA COMMUNITY CHAMBERS "WAL YUNTU WARRIN"

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**Development Assessment Panel
Report and Agenda
on 18 APRIL 2005 commencing at 10:00 am
in the Alexandrina Community Chambers "Wal Yuntu Warrin"
11 Cadell Street, Goolwa**

PRESENT

APOLOGIES

IN ATTENDANCE

ITEM 1 CONFIRMATION OF MINUTES

Minutes of the Alexandrina Council Development Assessment Panel held on 4th April 2005.

RECOMMENDATION

That the minutes of the Alexandrina Council Development Assessment Panel held on 4th April 2005 as circulated to members be received as a true and accurate record.

ITEM 2. DEVELOPMENT APPLICATIONS

2.1 455/1408/04 - Telstra Corporation Limited

SUMMARY TABLE

Date of Application	9 th November 2004
Subject Land	Sec 2249 Petersen Road Middleton
Assessment No.	A 1325
Relevant Authority	Alexandrina Council
Planning Zone	General Farming
Nature of Development	Telstra Telecommunications Facility
Type of Development	Consent on Merit
Public Notice	Category 2
Referrals	N/A
Representations Received	87 (of which 11 didn't provide address details)
Representations to be heard	11 (16 to be represented by one person)
Date last inspected	6 April 2005
Recommendation	Approve subject to conditions
Originating Officer	Ben Green

ESD IMPACT/BENEFIT

- Environmental Impacts within established standards.
- Social Enhanced communication for users, possible visible intrusion on the amenity of the area and perceived health risks.
- Economic Benefit to landowner in an annual lease, to the applicant in increased customer satisfaction and to the business community using this service.

BACKGROUND

The practicability of an alternative site for the proposed facility has been discussed between Council Staff and Telstra. The options discussed were a shared facility between Pt Elliot and Middleton, or extending the height of the existing tower at Browns Hill. Telstra through their planning consultant have provided coverage models and discussion as to why a facility like this is required and why they believe this is the most appropriate option for the township of Middleton.

.../cont.

2.1 455/1408/04 – Telstra Corporation Limited (Continued)

THE PROPOSAL

Nature of Development

This application is a 'consent on merit' application because the telecommunications facility proposed is not over 30m in height as classified in the non-complying list of the General Farming Zone in the Alexandrina Development Plan.

The application was treated as Category 2 for public notification purposes under Schedule 9, Part 2, Clause 23 (1) of the Development Regulations 1993 as it is proposed to be located in a General Farming Zone.

Accordingly, under Section 34(4) of the Development Act a Category 2 application requires notification of the application be sent to:

*an owner or occupier of each piece of adjacent land; &
any other person of a prescribed class.*

Adjacent land is defined under Section 4 of the Development Act 1993 as land:

(a) that abuts on the other land; or

(b) that is no more than 60 metres from the other land and is directly separated from the other land only by –

(i) a road, street, footpath, railway or thoroughfare; or

(ii) a watercourse; or

(iii) a reserve or other similar open space.

Council has the absolute discretion in a Category 2 application under Section 38 (10) (a) of the Development Act to allow a person who made a representation to appear personally or by a representative to be heard in support of the representation.

It should be noted that representors in a Category 2 development have no 'right of appeal' to the Environment, Resources and Development (ERD) Court. In contrast the applicant has the 'right of appeal' to the ERD Court as the application is an on-merit development.

Detailed Description

The telecommunications facility application essentially consists of:

- A new 29.9m high monopole;
- Six panel antennas installed on a headframe arrangement at the top of the pole;
- A new equipment shelter 7.47m² in area and 3m high to be installed at the base of the pole.

.../cont.

2.1 455/1408/04 – Telstra Corporation Limited (Continued)

- New security fencing around the proposed facility, which in total covers approximately 77m² of the subject site.
- The facility is proposed to be located 9m from the eastern property boundary and nearly 22m from the southern boundary behind 6m high mature trees located on these boundaries.

Telstra's planning consultants report is attached for a detailed description of the proposal.

REFER ATTACHMENT 2.1(a) (page 1)

SITE & LOCALITY

The subject land is known as Section 2249 of Peterson Road, Middleton has an area of approximately 12.14ha and is located within a General Farming zone. The site is located on the eastern side of Peterson Road, is relatively flat and currently used for low intensive farming and horse grazing. The dwelling and associated outbuildings are located toward the north of the property. The western boundary that adjoins Peterson Road is lined with mature/bulky trees that have grown to be approximately 6-8m high. These trees extend approximately 25m east along the southern boundary of the site.

REFER ATTACHMENT 2.1(b) (page 8)

The locality would be considered rural in nature with properties being predominantly cleared for grazing and crops. The topography is relatively flat and gradually falls from the bottom of the ranges to the coast. There are three dwellings within close vicinity of the subject site depicted on the locality/aerial plan attached. They are sited at a distance of approximately 185m, 211m and 256m respectively from the subject land.

The railway line adjoins the southern boundary of the subject land. Further toward the coast are farming properties with one dwelling recently established on the property adjoining the other side of the railway line. Further to the south some 394m away is the main Victor Harbor to Goolwa Road. Adjoining the Peterson Road/Victor to Goolwa Road intersection is the Blues Café and associated Beach Huts Tourism Business. The Residential area of Middleton is located on the southern side of the main road in both established and developing land division areas.

To the east of the subject land are rural landholdings used for various farming enterprises. To the north is similar with some dwellings and outbuildings scattered through the landholdings.

.../cont.

2.1 455/1408/04 – Telstra Corporation Limited (Continued)

To the immediate west is Peterson Road that adjoins the subject land and contains 8 to 10m powerlines running down the road reserve. Further to the west is occupied by small scale rural farming enterprises with a couple of dwellings that also gain access from Peterson Road. One of the dwellings is located on the northern side of the railway line and is surrounded by mature vegetation. The dwelling to the south of the railway line is quite open. Beyond the dwellings is the Rural Living and the township centre of Middleton.

REFER ATTACHEMENT 2.1(c) (page 10)

PUBLIC NOTIFICATION

The application was advertised as a Category 2 Development as required by the Development Act 1993, so all the adjoining land owners were written to and as the Council has the discretion residents in the immediate vicinity on the southern side of the main Victor to Goolwa Road were also written to on the 30^h of November 2004.

There were some 87 representations received within the prescribed time on the 16th of December 2004 and 11 submissions identified they desired to be heard and 16 indicated they would be represented by another party.

The main issues raised in the representations were:

- the visual impact of the proposal;
- possible alternative sites;
- nature of public notification;
- impact on property values;
- possible health impacts of the infrastructure;
- clarification of height of facility; &
- negative impacts on local tourism.

REFER ATTACHMENT 2.1(d) (page 11)

The applicant has submitted a detailed response to the representations that relates the issues raised to the requirements of the Development Act and Development Plan, history of such applications and specific planning opinions on the local concerns raised.

REFER ATTACHMENT 2.1(e) (page 63)

ALEXANDRINA COUNCIL DEVELOPMENT PLAN

The following Objectives & Principles of Development Control in the Alexandrina Development Plan are seen as especially relevant to this application:

.../cont.

2.1 455/1408/04 – Telstra Corporation Limited (Continued)

Council Wide

Objectives 61, 72

Principles of Development Control 203, 204, 205, 207, 222

61 *Telecommunication facilities provided to meet the needs of the community.*

203 *Telecommunications facilities should:*

(a) *be located and designed to meet the communication needs of the community.*

(d) *primarily be located in industrial, commercial, business, office, centre and rural zones.*

COMMENTS

Firstly, I thought I would highlight some important points before going into a specific discussion of the proposed development. The Ministers Telecommunications Facilities PAR came into interim authorisation in August 2000, amending all Development Plans in the State to set a statewide policy framework and offer relevant provisions for Councils to assess such applications in each Development Plan.

The PAR sought to encourage the location of telecommunication facilities into preferred areas, such as industrial, centre, commercial and rural zones.

This PAR was brought about by the increase in demand for this particular kind of infrastructure through the uptake of mobile phones in the community. Like any infrastructure there is associated impacts so best practice guidelines were established.

There have also been many cases played out in the ERD Court relating to mobile phone infrastructure. Some cases of interest are:

(Telstra Corporation Limited v District Council of Mallala)

Where the Court held that the effect of radio frequency radiation on health and safety is not a relevant consideration when assessing such a proposal against the provisions of the Development Plan.

(AAPT CDMA Pty Ltd v City of Burnside)

Where the Court released a memorandum, which reinforced the necessity of this infrastructure, in our modern society.

.../cont.

2.1 455/1408/04 – Telstra Corporation Limited (Continued)

(Network Design and Construction v City of Salisbury)

Where the Commissioner stated that the community has to accept that such infrastructure must be established in certain locations and the Ministerial PAR recognises that reality by seeking to locate such infrastructure in areas which have the least impact on residential areas and visual amenity.

The site for the proposed structure has been carefully chosen within a rural General Farming Zone and not Residential. Nor is it proposed in a central township location. There are no industrial zones in the Middleton township so the Development Plans desired location alternative is within a Rural/General Farming Zone so long as the tower is under 30m in height. The proposal meets all of these objectives.

The actual site chosen also provides some existing mature tree screening to the lower portion and ground level sections of the development in an area which is predominantly cleared of vegetation and flat in topography.

In my assessment of the proposal I have taken into consideration the strong negative response with over 80 objections to the proposal. The infrastructure however is for the greater good of the wider community and in my evaluation of the visual intrusion of such a facility I have attached photos of the Goolwa Towers to identify projected heights, and a basic indicative plan from the Blues Café of a projected tower. I must stress this is indicative only but in my opinion these photos show that the Tower will not be a significant intrusion to the rural backdrop of Middleton in this specific location. There are really very few other locations of this proximity to the township that offer the screening protection like the proposed site. It would be ideal for the proposal to be not visible from the tourism operation on the main road, or residential dwellings but this is practically impossible with a development of this nature.

REFER ATTACHEMENT 2.1(f) (page 76)

The applicant has justified why a facility of this nature is required within the townships of the south coast and whilst there will be some visual intrusion from the proposed development there are no other facilities (that I could find) for this proposal to co-locate onto that are suitable to meet the applicants needs.

The application states that there is the capacity for other providers to co-locate on the structure if desired, as required by Council Wide Principle of Development Control 204 and has been chosen to provide the best coverage for the township of Middleton. The site has been chosen over numerous sites around the Middleton township, based on coverage, planning and community impact, and property management considerations.

.../cont.

2.1 455/1408/04 – Telstra Corporation Limited (Continued)

It is my opinion the application meets the relevant provisions of the Development Plan, and should be granted Development Plan Consent.

RECOMMENDATION

That the Development Assessment Panel approve Development Application DA 455/1408/04 for a Telecommunications Facility at Section 2249 Peterson Road, Middleton subject to the following conditions:

1. The site of the proposed building, in particular the equipment shelter and fencing shall be screened with native vegetation that will be of a species appropriate to the area and mature to such a height to reduce the visual impact of the building. The vegetation shall not be planted closer to the building(s) or power lines than the distance equivalent to their mature height.
2. That the proposed and existing landscaping shall be maintained in a healthy condition for the life of the Telecommunications tower and be replaced where necessary at all times.
3. That the proposed power be painted in a dull green colour to complement the existing and proposed vegetation to a height of 10m from ground level and in a sky blue to the top of the tower.
4. If the use of the Telecommunications Tower becomes obsolete, all structures associated with the facility shall be removed and the site rehabilitated in accordance with best practice land management.

ITEM 3. **DEVELOPMENT APPLICATIONS - NON COMPLYING**

ITEM 4. **DEVELOPMENT APPLICATIONS - CATEGORY 3**

ITEM 5. **DEVELOPMENT APPLICATIONS - LAND DIVISION COMMUNITY TITLE**

ITEM 6. **DEVELOPMENT ASSESSMENT - BUILDING**

ITEM 7. MATTERS REFERRED FOR FOLLOW UP

ITEM 8. GENERAL ITEMS FOR DISCUSSION

8.1 455/1361/04 - Network Design & Construction

File Ref: 455/1361/04
Officer: Ben Green
From: Network Design and Construction

REPORT

This application was previously heard on Monday 4th April 2005 Item 2.1. At this meeting the Development Assessment Panel asked for the Planner to bring back to the Panel reasons for refusal.

RECOMMENDATION

That the Development Assessment Panel refuse Development Application 455/1361/04 for a Telecommunications Facility at Lot 26 Elliot Road, Port Elliot for the following reasons:

- (1) The proposed telecommunications facility will have an adverse impact on the amenity of the area through the visual intrusion of a 29.9m tower on the township of Port Elliot and particularly from the main tourist route being the Victor Harbor to Goolwa Road; &
- (2) The proposed location of the telecommunications facility on a prominent site adjoining mixed land uses of Residential and Recreational activity will detract from the character of the locality.

ITEM 9. NEXT MEETING

Monday 23rd May 2005

ITEM 10. CLOSURE