

# ALEXANDRINA COUNCIL

## NOTICE OF MEETING

Notice is hereby given to the Members that a meeting of the Development Assessment Panel 2008 will be held in the Community Chambers "wal Yuntu Warrin" on 18 June 2008 commencing at 11:30 am

Your attendance is requested.

11:30 a.m.            Development Assessment Panel commencement

12:30 p.m.           Conclusion of meeting.

JOHN COOMBE  
CHIEF EXECUTIVE

ALEXANDRINA COUNCIL

AGENDA FOR THE DEVELOPMENT ASSESSMENT PANEL MEETING  
TO BE HELD ON 18 JUNE 2008 AT 11:30 AM  
IN COMMUNITY CHAMBERS "WAL YUNTU WARRIN"

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**Development Assessment Panel  
Report and Agenda  
on 18 JUNE 2008 commencing at 11:30 am  
in the Community Chambers "Wal Yuntu Warrin"**

**PRESENT**

**APOLOGIES**

**IN ATTENDANCE**

**ITEM 1      CONFIRMATION OF MINUTES**

Minutes of the Alexandrina Council Development Assessment Panel held on Wednesday 21<sup>st</sup> May 2008.

**RECOMMENDATION**

That the minutes of the Alexandrina Council Development Assessment Panel held on 21<sup>st</sup> May 2008 as circulated to members be received as a true and accurate record.

**ITEM 2.      DEVELOPMENT APPLICATIONS**

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

3.1 455/121/08 - Warren Foster

**SUMMARY TABLE**

Date of Application	5 <sup>th</sup> February 2008
Subject Land	Lot 6 Candys Road, Finnis
Assessment No.	A 4473
Relevant Authority	Alexandrina Council
Planning Zone	General Farming (Pt Elliot & Goolwa)
Nature of Development	Change of Use – Tourist Accommodation (Bed & Breakfast)
Type of Development	Non-Complying
Public Notice	Category 3
Referrals	CFS
Representations Received	N/A
Representations to be heard	N/A
Date last inspected	December 2007
Recommendation	Approval subject to DAC concurrence
Originating Officer	Andrew Sladden

**ESD IMPACT/BENEFIT**

- Environmental N/A
- Social Benefit to community through provision of additional tourist accommodation facility.
- Economic Benefit to owners and local economy through provision of small business on site and additional accommodation for tourists.

**BACKGROUND**

Development application 455/1123/07 for a single storey detached dwelling on the subject site was granted Development Plan Consent on 8 November 2007. This application does not have Development Approval yet.

.../cont.

3.1 455/121/08 – Warren Foster (Continued)

**THE PROPOSAL**

**Nature of Development**

The proposed development involves changing the use of a portion (bedroom, lounge room and ensuite) of a recently approved dwelling to a bed and breakfast (tourist accommodation).

As the dwelling (455/1123/07) was only granted Development Plan Consent (DPC) on 8 November 2007, the proposed development is considered to be a Non-Complying form of Development pursuant to Principle of Development Control (PDC) 5 for the General Farming (Pt Elliot & Goolwa) Zone, which states:

- 5 All kinds of development are **non-complying** in the General Farming (Port Elliot and Goolwa District) Zone, except the following:

Tourist Accommodation and ancillary uses (not including caravan or camping grounds)

- (a) within part of or as an extension to a dwelling or lawful tourist accommodation **existing as at 21 September 2000** and where up to eight guests are accommodated in hosted accommodation; or
- (b) wholly within a dwelling or lawful tourist accommodation existing as at 21 September 2000, and where up to ten guests are accommodated in non-hosted accommodation; or
- (c) wholly within or within part of or as an extension to a State or Locally listed heritage building (which may be in association with a new or existing dwelling), and where no more than 30 guests are accommodated on a single allotment; or
- (d) in any combination of State or Locally listed heritage buildings or other existing buildings or new buildings, and where from 31 to 55 guests are accommodated; and which in all cases complies with the following criteria:
  - (i) is not located in areas subject to inundation by a 100 year return period flood event or situated on land fill which would interfere with the flow of such flood waters;
  - (ii) is connected to an approved sewerage or common effluent disposal scheme or has an on-site waste water treatment and disposal method which complies with the Standard for the Installation and Operation of Septic Tank Systems in South Australia (including Supplements A & B) as prepared by the South Australian Health Commission;

.../cont.

3.1 455/121/08 – Warren Foster (Continued)

- (iii) not have any part of a septic tank effluent drainage field or any other wastewater disposal area (eg irrigation area) located within 50 metres of a watercourse identified on a current series 1:50 000 Government standard topographic map and when accommodating eleven guests or more any effluent generated is not disposed onto land within 200 metres of a major watercourse (3rd or higher order);
- (iv) not have a waste water disposal area located on any land with a slope greater than 20 percent (1 in 5), or depth to bedrock or seasonal or permanent watertable less than 1.2 metres;
- (v) not have a septic tank or any other waste water treatment facility located on land likely to be inundated by a 10 year return period flood event;
- (vi) is sited at least 25 metres from any watercourse identified on a current series 1:50 000 Government standard topographic map;
- (vii) has a secure, potable water supply that can provide at least 125 litres per person per day (including staff) that meets the South Australian Health Commission standards;

As the proposed dwelling has not yet been granted Development Approval, the proposed change of use is considered to be a non-complying form of development pursuant to the above.

**Detailed Description**

It is proposed to change the use of a bedroom, lounge room and ensuite, approved as part of the dwelling (455/1123/07), to a tourist accommodation land use. The bed and breakfast will be hosted as the owners of the property will reside within the dwelling. As the property is rural there is plenty of area on the allotment for car parking.

REFER ATTACHMENT 3.1(a) (page 2)

**SITE & LOCALITY**

The subject site is an existing rural allotment used predominantly for grazing. Two machinery sheds were approved on the site in 2005 (DA: 455/735/05) although it is not clear whether they have been constructed. There is very little vegetation on the subject site.

The locality is rural in character with the majority of surrounding properties being utilised for grazing purposes. There also appears to be some cropping within the vicinity of the subject site.

.../cont.

3.1 455/121/08 – Warren Foster (Continued)

**PUBLIC NOTIFICATION**

The application was put on Category 3 Public Notification pursuant to Section 38(5) of the Development Act 1993 between 7 May 2008 and 21 May 2008.

No representations were received.

**REFERRALS**

The subject site is located within a High Bushfire Risk area pursuant to Figure Alex (BPA)/8 from the Alexandrina Development Plan. The Development Application was referred to the CFS pursuant to Schedule 8, 18 of the Development Act 1993. The referral response advised that the CFS have no objections to the proposed development subject to a couple of conditions and have assessed the bushfire hazard for the area as being medium.

REFER ATTACHMENT 3.1(b) (page 9)

**ALEXANDRINA COUNCIL DEVELOPMENT PLAN**

As the Development Application was lodged on 4 February 2008, it has been assessed using the Development Plan current at the time of lodgement, being that Consolidated 17 January 2008.

The following Principles of Development Control are seen as especially relevant to this application:

**PART A – COUNCIL-WIDE**

**OBJECTIVES**

**Form of Development**

**Objective 1:** Orderly and economic development.

**Comment**

Given the minor nature of the proposed development and the fact that it is ancillary to an approved dwelling, the proposal is considered to comply with the above as it is considered orderly.

.../cont.

3.1 455/121/08 – Warren Foster (Continued)

**Appearance of Land and Buildings**

**Objective 38:** The amenity of localities not impaired by the appearance of land, buildings, and objects.

**PDC 142** The appearance of land, buildings and objects should not impair the amenity or character of the locality in which they are situated.

**Comment**

As the dwelling has already been approved under delegation, the proposal is considered to comply.

**Rural Development**

**Objective 48:** The retention of rural areas primarily for agricultural, pastoral and forestry purposes, and the maintenance of the natural character and beauty of such areas.

**Comment**

The proposed development will not prejudice the ability of the property to be retained and used for rural activities.

**Bushfire Protection**

**Objective 63:** Development should minimise the threat and impact of bushfires on life and property while protecting the natural and rural character.

**Objective 64:** Buildings and the intensification of non-rural land uses directed away from areas of high bushfire risk.

**PDC 288** Buildings and structures should be located away from areas that pose an unacceptable bushfire risk as a result of one or more of the following:

- (a) vegetation cover comprising trees and/or shrubs;
- (b) poor access;
- (c) rugged terrain;
- (d) inability to provide an adequate building protection zone; or
- (e) inability to provide an adequate supply of water for fire-fighting purposes.

.../cont.



3.1 455/121/08 – Warren Foster (Continued)

**PDC 289** Residential, tourist accommodation and other habitable buildings should:

- (a) be sited on the flatter portion of allotments and avoid steep slopes, especially upper slopes, narrow ridge crests and the tops of narrow gullies, and slopes with a northerly or westerly aspect;
- (b) be sited in areas with low bushfire hazard vegetation and set back at least 20 metres from existing hazardous vegetation; and
- (c) have a dedicated water supply available at all times for fire fighting which:
  - (i) is located adjacent to the building or in another convenient location on the allotment accessible to fire fighting vehicles,
  - (ii) comprises a minimum of 5000 litres in areas shown as General or Medium Bushfire Risk on Bushfire Protection Area figures; or
  - (iii) comprises a minimum of 22 000 litres in areas shown as High Bushfire Risk on Bushfire Protection Area figures.

**PDC 294** Vehicle access and driveways to properties and public roads created by land division should be designed and constructed to:

- (a) facilitate safe and effective operational use for fire-fighting and other emergency vehicles and residents; and
- (b) provide for two-way vehicular access between areas of fire risk and the nearest public road.

**Comment**

The proposed development is considered comply with the above as evidenced through the support of the CFS through their referral response.

**PRINCIPLES OF DEVELOPMENT CONTROL**

**Tourism Development**

**PDC 227** Tourism developments should:

- (a) enhance the character of the locality in which they are to be located;
- (b) be compatible with the cultural and heritage values of the locality and the Region;
- (c) be small in scale and designed and sited to be compatible with the local environment;
- (d) enhance the visual amenity of the locality;
- (e) utilise, where possible, existing buildings, and particularly heritage buildings.

**PDC 229** Tourism developments in rural areas should ensure that agricultural activities are maintained as the predominant land use in the Region, and are situated on land with lower agricultural potential.

.../cont.

3.1 455/121/08 – Warren Foster (Continued)

**PDC 230** Tourism developments, where proposed to be located in proximity to rural industry and seasonal activities should be designed and sited to reduce the potential for disturbance or disruption to the tourist activity and should be located in a manner which is compatible with surrounding uses.

**PDC 232** Tourism developments in rural areas should provide visitor experiences and be developed in association with:

- (a) agriculture, viticulture and winery development;
- (b) heritage buildings and areas;
- (c) linear parks;
- (d) walking and cycling trails;
- (e) interpretive infrastructure; or
- (f) recreation and sporting venues.

**PDC 233** Tourism developments should:

- (a) not exceed the capacity of the infrastructure or facilities required to service them;
- (b) use external materials of construction that are in keeping with traditional building styles, incorporating by way of example; stone, masonry or weatherboard walls, timber framed windows, pitched corrugated steel roofs in either naturally weathered galvanised iron or similar, verandahs where appropriate and outbuildings, fences and other structures to complement the major buildings;
- (c) provide vehicle parking and access ways which are surfaced with materials appropriate to maintaining the character of the locality;
- (d) be designed and sited to prevent overshadowing and overlooking;
- (e) provide safe and convenient vehicle access that is compatible with the surrounding uses.

**PDC 234** Tourism developments in rural areas should:

- (a) ensure the retention of native vegetation is maximised by only locating in areas which consist of a modified landscape;
- (b) not require changes to natural features;
- (c) be designed and sited to ensure the bed and banks of watercourses are protected from inappropriate development and management practices.

**PDC 235** Tourism developments should protect the water resources of the Region by:

- (a) being located away from water sensitive areas;
- (b) having safe and efficient effluent disposal systems;

.../cont.

3.1 455/121/08 – Warren Foster (Continued)

- (c) incorporating an adequate area for waste disposal on the allotment of the proposed development;
- (d) disposing of waste water and effluent onto land and at a rate within the capacity of the allotment to retain and treat effluent;
- (e) not disposing of waste water and effluent into watercourses;
- (f) avoiding the use of holding tanks for waste water and effluent.

**PDC 236** Stormwater should be contained on the allotment of the tourism development and run off directed from hard-paved areas, car parks and access roads to landscaped areas or dedicated grassed swales.

**PDC 237** Tourism developments should only occur if a water source of acceptable quality, quantity and reliability is secured.

**PDC 238** Tourist accommodation, when proposed to be located in a Local or State Heritage listed building or group of buildings should only involve alterations which are in keeping with the form and scale of the original building(s) and which conserve and enhance the heritage value of the building(s).

**PDC 239** Tourist accommodation, when proposed to be located in existing building(s) should ensure that development is in keeping with the existing form and scale of the building(s).

**Comment**

As the proposed development accommodates 2 people and is to be contained entirely within an existing approved dwelling, it is considered to be of a very minor nature and will have negligible impact of effect upon the surrounding rural area.

**Rural Development**

**PDC 251** Rural areas should be retained primarily for horticultural, agricultural, pastoral and forestry purposes and other uses compatible with maintaining rural productivity.

**PDC 252** Development should ensure that genuine agricultural activities are not prejudiced.

**PDC 253** Development should ensure the sustainable use of land for primary production by the use of sound land management practices.

.../cont.

3.1 455/121/08 – Warren Foster (Continued)

**PDC 254** Land which is particularly suitable for agriculture, including viticulture and horticulture, should be used or remain available for such agricultural purposes.

**PDC 255** Development which would remove productive land from agriculture or diminish its overall productivity for primary production, should not be undertaken unless the land is required for essential public purposes.

**PDC 256** Primary production should be carried out having regard to water conservation, the preservation of bushland remnants and landscape beauty.

**Comment**

As previously stated the proposed development will have minimal impact upon the surrounding area as it will be entirely contained within the confines of an existing approved detached dwelling.

**PART C - PORT ELLIOT AND GOOLWA**

**OBJECTIVES**

**Tourist Facilities**

**Objective 18:** The development of facilities for tourists and holiday makers in appropriate locations.

**Comment**

As evidenced by the general compliance of the proposed development with the relevant provisions of the Development Plan, it is considered to be located in an appropriate location.

**PRINCIPLES OF DEVELOPMENT CONTROL**

**Rural Development**

**PDC 15** Rural areas should be retained primarily for agricultural, pastoral and forestry services.

.../cont.

3.1 455/121/08 – Warren Foster (Continued)

**GENERAL FARMING (PORT ELLIOT AND GOOLWA DISTRICT) ZONE**

**OBJECTIVE:**

**Objective 1:** The retention of land within the zone for a wide range of farming uses.

**PRINCIPLES OF DEVELOPMENT CONTROL**

**Conservation**

**PDC 3** Development should not prejudice the conservation of water resources, natural bushland and the rural landscape, and should not create noxious weed or bushfire hazards, or other environmental problems.

**Comment**

The proposed development is considered to comply as the rural area will not be prejudiced as the proposed development will be contained within the confines of an existing approved detached dwelling.

**CONCLUSION**

Given the minor nature of the proposed change of use and the fact that it will have no impact upon the surrounding rural area, the proposal is considered to warrant consent. Also, given the fact that an assessment against the Alexandrina Development Plan has revealed that it generally complies with the relevant provisions, it is my recommendation that Development Plan Consent be granted.

**RECOMMENDATION**

That the Development Assessment Panel grant Provisional Development Plan Consent to Development Application 455/121/08 for a Change of Use - Tourist Accommodation (Bed & Breakfast), subject to concurrence of the Development Assessment Commission and the following conditions and notes:

**Conditions**

1. The development herein approved to be carried out in accordance with plans and details accompanying this application (amended plans received by Council on 4 February 2008)

.../cont.

3.1 455/121/08 – Warren Foster (Continued)

2. No signs or advertising are to be erected or displayed on or about the buildings or the site without the prior consent of Council.
3. Driveways, vehicles manoeuvring and parking areas shall be constructed of compacted rubble prior to occupation or use of the development herein approved. Such surfaces shall be maintained in a good and substantial condition at all times to the reasonable satisfaction of Council.

Notes

1. The applicant remains bound to comply with conditions of previous consents with respect to the subject land, unless such conditions have been expressly superseded by this consent.

CFS Conditions

1. Landscaping shall include bushfire protection features which will prevent or inhibit the spread of bushfire and minimise the risk of damage to buildings and property, as follows:
  - Trees and shrubs shall not be planted closer to the building(s) or power lines than the distance equivalent to their mature height.
  - Grasses within 20 metres of the dwelling or the property boundaries, whichever comes first, should be reduced to a height of 10cms during the Fire Danger Season.
2. Private roads and access tracks shall provide safe and convenient access for fire fighting vehicles, as follows:
  - The existing access is satisfactory.
3. A supply of water independent of reticulated mains supply shall be available at all times for fire-fighting purposes:
  - A supply of 5000 (five thousand) litres of water shall be available for firefighting purposes at all times.
  - This supply shall be fitted with a fuel driven pump or an equivalent system that operates independent of mains electricity and is capable of pressurising the water for firefighting purposes
  - All non metal firefighting water supply pipes other than flexible connections to firefighting pumps shall be buried at least 300mm below finished ground level.
  - The diameter of all fittings and flexible reinforced suction hose connecting the water supply to the fuel driven pump shall be no smaller than the diameter of the pump inlet valve.

.../cont.

3.1 455/121/08 – Warren Foster (Continued)

- All above ground bushfire fighting water supply pipes shall be metal.
- Hose / hoses and nozzle / nozzles capable of withstanding the pressures of the supplied water and of sufficient length to reach all parts of the building shall be readily available at all times.

CFS Notes

1. A site bushfire attack assessment was conducted in accordance with the Building Code of Australian Standard 3959 (AS3959) 'Construction of Buildings in Bushfire-Prone Areas' The Category of Bushfire Attack is MEDIUM.
2. Compliance with the fire protection requirements is not a guarantee the dwelling will not burn, but provides a refuge from the approach, impact and passing of a bushfire.

3.2 455/1078/07 - Adrian Cavanagh

**SUMMARY TABLE**

Date of Application	19 September 2007
Subject Land	Lot 101 Admiral Terrace, Goolwa
Assessment No.	A 20140
Relevant Authority	Alexandrina Council
Planning Zone	Historic Waterfront Zone
Nature of Development	Detached Dwelling – Single Storey (Non-Complying)
Type of Development	Non-complying
Public Notice	Category 3
Referrals	Dept Environment & Heritage
Representations Received	Nil
Representations to be heard	Nil
Date last inspected	3 June 2008
Recommendation	Approval subject to Development Assessment Commission concurrence.
Originating Officer	Tom Gregory

**ESD IMPACT/BENEFIT**

- Environmental                      As the subject land is currently vacant, it is anticipated that the introduction of a dwelling and additional impermeable surfaces will increase stormwater runoff.
- Social                                      The construction of a new dwelling on a currently vacant allotment within the Goolwa State Heritage Area will make a positive contribution to the town. New residents will add to the social mix and diversity of Goolwa.
- Economic                                An economic benefit to the owner of the land for the improvements on site – increased site value.

.../cont.



## 3.2 455/1078/07 – Adrian Cavanagh (Continued)

### **BACKGROUND**

This locality was surveyed in the 1840s and 1850s to provide for the working riverside town. The main roads within this precinct - Hutchinson Street and Admiral Terrace are interspersed with tiny narrow but deep allotments, which have allowed for typical two-room cottages with almost no setback from the street. Other housing styles are evident along Admiral Terrace in particular, with examples from the 1890s and others more recent including the 1950s. This proposal is set adjacent to this type of development, and abuts a new dwelling approved in 2006 under the same planning policy regime that applies today.

### **THE PROPOSAL**

#### **Nature of Development**

The development involves the construction of a single storey detached dwelling at 1A (lot101) Goyder Street, Goolwa, however the subject has its primary frontage towards Admiral Terrace.

The allotment is located within the Historic Waterfront Zone, as identified by the Alexandrina Council Development Plan, consolidated 23 November 2006. The Historic Waterfront Zone is small in size, and encompasses the area surrounding Goolwa Wharf, Signal Point, the Alexandrina Council Centre for Positive Ageing, and a small number of shops, office's and dwellings along the southern side of Hay Street – the Street that connects Goolwa's main roads (Cadell Street with Hutchinson Street). The main focus of the zone is directed at the public spaces surrounding the Wharf.

Principle of Development Control 25 of the Historic Waterfront Zone specifies the types of development that are non-complying. The construction of a 'Detached Dwelling' is listed as a form of non-complying development within this zone.

#### **Detailed Description**

The subject land is located within the Goolwa State Heritage Area, which is of enormous significance to the township of Goolwa. This Heritage Area is unlike other Heritage Areas or policy areas for that matter, as it is of 'State' significance. Furthermore, the area is listed as a State Heritage Place on the national register.

This proposal incorporates the construction of a single storey detached dwelling on the subject land. The dwelling has been designed by Adrian Cavanagh Architects to blend and complement the historic significance of the surrounding area, and with the existing forms and patterns of development.

.../cont.

3.2 455/1078/07 – Adrian Cavanagh (Continued)

The front portion of the dwelling is sited on both side boundaries, which is consistent with other development within the locality. The remainder of the dwelling is set back well from both side boundaries. The northern side of the dwelling has a 23 square metre courtyard which will assist in light and warmth in the front portion of the dwelling.

The dwelling is setback 1.7 metres from the front property boundary and 4.2metres from the rear boundary, which is consistent with the locality.

The overall height of the dwelling is 5.2metres, which incorporates a roof pitch of 30 degrees for the front portion, stepping down to 24 degrees for the remainder of the dwelling.

The dwelling is best described as traditional in appearance, providing a typical corrugated iron pitched roof with a dutch gable. The dwelling presents well to the street with a façade of cement rendered Hebel PowerPanel in a sandstone like colour, timber framed double hung windows, and a single car garage that is set well behind the main face of the dwelling (some 4 metres so as to not dominate the street presence).

The applicant has varied the wall and gutter heights on the front façade, in order to draw more attention to the dwelling component rather than the garage, which has assisted in producing an attractive and sympathetic design.

**REFER ATTACHMENT 3.2(a) (page 12)**

**SITE & LOCALITY**

The subject site is located on the north-west side of Admiral Terrace, and has access via a large Council road reserve to the front. The total site area is 303.4 square metres, and the land is currently vacant. This allotment has the added value of direct views to the River Murray and Hindmarsh Island, partly obscured by trees on the opposite side of Admiral Terrace.

The subject land is relatively flat and is fairly conventional by dimension, as it somewhat reflects a typical rectangular shaped allotment, despite its north (rear) corner being 'cut-off' at an angle similar to 45 degrees. The width of the subject land is 12.2 metres at the front, and its longest boundary (south-west) has a total length of 26.83 metres. The north-east boundary has a length of 20metres, and is adjacent to a two storey dwelling, which was approved by the Development Assessment Panel at its 19 June 2006 meeting, which subsequently obtained the concurrence of the Development Assessment Commission.

**REFER ATTACHMENT 3.2(b) (page 22)**

.../cont.

3.2 455/1078/07 – Adrian Cavanagh (Continued)

The locality is comprised of a mix of single and two storey residential dwellings, and abuts the Tourist Accommodation (Goolwa) Zone, which incorporates the majority of the Little Scotland area.

A small café/restaurant is located nearby on Hays Street, a street that is used as a main thoroughfare from Cadell Street to Hutchinson Street, and holds a number of small shops, offices and other like businesses.

The locality comprises a range of building forms and styles including residential architecture of various forms and periods. The predominant built form is generally comprised of single storey buildings, however a small number of two storey dwellings are in close proximity to the subject land. The dwelling directly to the north-east which abuts the subject land is double storey, and another example is south of the subject land.

Hays Street is located north of the subject land (at a distance of approximately 50metres), which is the continuation of the main street and thoroughfare through Goolwa. 'Workers Cottages' are located to the west of the subject site, located in the area known as Little Scotland. Directly adjacent are a number of row cottages that front Hutchinson Street, and have access from a rear lane off Admiral Terrace, which is directly in front of the subject land.

The bulk of the zone is comprised of public open space and the Goolwa Wharf area. This area includes a number of important visible public buildings, such as the Old Courthouse Gallery, Forestors Lodge and Signal Point.

**PUBLIC NOTIFICATION**

As this is a non-complying form of development, and cannot be prescribed as minor under the relevant provisions of the Development Act and Regulations 1993, this application required Category 3 Public Notification, pursuant to Section 35(5) of the Development Act 1993.

The Category 3 Public Notification period commenced on 9 October 2007 and concluded 24 October 2007. During this period the application was notified in The Times newspaper, and notice of the application was provided to 8 properties either adjoining the subject land or in the immediate locality.

No representations were received.

.../cont.

3.2 455/1078/07 – Adrian Cavanagh (Continued)

**REFERRALS**

The subject land is located within the Goolwa State Heritage Area as specified in the Alexandrina Council Development Plan figure HA/1 and is also listed on the State Heritage register. The application was formally referred to the Heritage Branch of the Department of Environment and Heritage pursuant Schedule 8, 5 (1) of the Development Act 1993.

The response from the Heritage Branch can be viewed in full as an attachment to this report.

**REFER ATTACHMENT 3.2(c) (page 23)**

In brief, the Heritage Branch assessed the proposed development against the heritage significance of the State Heritage Place (the area), and consider it to be acceptable as it is compatible with the historic development pattern in respect of siting, frontage width, scale and articulation, building form, roof form, bulk and height.

The Heritage Branch recommend a number of conditions be imposed, should to Panel grant consent to the application.

A Heritage Report was also supplied by the applicant, and is an attachment to this report.

**REFER ATTACHMENT 3.2(d) (page 25)**

**CONSULTATION**

Consultation has been undertaken with Council's Environmental Health Officer, Karen Rokicinski with regard to the effluent disposal system. The subject land has access to Council's Septic Tank Effluent Disposal Scheme, and will require the approval from Council's Environmental Health department in the form of a Waste Control Application.

The approval of the Waste Control System will be made a condition of consent, in the form of a 'reserve matter' pursuant to Section 33 (3) of the Development Act 1993, and must be complied with prior to full Development Approval being granted.

**ALEXANDRINA COUNCIL DEVELOPMENT PLAN**

Please note that the applicant has provided a Statement of Effect in accordance with Regulation 17 (5) of the Development Regulations 1993, which is attached as a supporting document to this report.

.../cont.

3.2 455/1078/07 – Adrian Cavanagh (Continued)

**REFER ATTACHMENT 3.2(e)** (page 34)

The following Principles of Development Control are seen as especially relevant to this application.

**REFER ATTACHMENT 3.2(f)** (page 57)

(for a detailed list of the Objectives and Principles of Development Control)

Council-wide

Objectives 1, 35, 37, 38

Principles of Development Control 3, 35, 38, 40, 42, 43, 48, 54, 55, 65, 82, 154, 155, 173, 205, 211

Historic Waterfront Zone

Objectives 1, 4

Principles of Development Control 1, 6, 13, 15, 16, 18, 19

Comment:

The proposal is considered to be an orderly form of development. The subject land is surrounded by built form. Development of the subject land will achieve economy in the provision of public utilities, and will create a safe, convenient and pleasant environment in which to live.

The Historic Waterfront Zone envisages a character built upon the conservation of buildings and places of heritage significance. The proposed dwelling has been designed to blend with, and be sympathetic to, the surrounding and broader locality of the Goolwa State Heritage Area. This has been confirmed with the Department of Environment and Heritage, as they have no serious concerns regarding the proposal and how it relates to the locality.

Despite the range of building forms and styles evident in the locality, this proposal incorporates the key elements, such as building height, articulation, roof form, roof pitch and construction materials of surrounding buildings.

The siting of the dwelling was amended throughout the assessment process, and some of the dimensions indicated in the applicants Statement of Effect have since been amended. The dwelling is setback 1.7 metres from the road, which in some streetscapes would be considered to be inappropriate. In this instance, the setback is consistent with the surrounding locality. The dwelling will not be directly adjacent to the road, as a Council owned road reserve (of approximately 20metres wide) will assist in the appearance of the dwelling being set back off the road.

.../cont.

### 3.2 455/1078/07 – Adrian Cavanagh (Continued)

Attention at the design stage has assisted in setting the garage behind the main façade of the dwelling, so as to not dominate the street. Principle of Development Controls 40 and 43 require this setback in order to 'not diminish the attractiveness of the streetscape', whilst providing adequate on site car parking, and ensuring safe and convenient access.

Given the physical constraints of the allotment (303 square metres) the dwelling has been designed to maximise private open space by locating the dwelling at the front of the site to allow sufficient area towards the rear. An internal courtyard has also been incorporated on the northern side to maximise solar orientation and provide additional private open space. Private open space requirements have been satisfied, however the recommended maximum site coverage has been slightly exceeded. Again, given the locality of the proposed development, this is not considered to be out of character, nor will it have an adverse impact on surrounding development.

The development appropriately addresses the Development Plan requirements in respect to car parking, energy conservation and the appropriate use of daylight and sunlight.

Landscaping is proposed in the front and rear yards, and on both sides of the proposed driveway, which will assist in 'softening' the impact of built form on an otherwise vacant allotment.

#### **Summary**

Whilst the proposal is a non-complying form of development within the Historic Waterfront zone, I do not believe that the proposed development is at odds with the intent of this area and zone.

The subject land is located at the interface of the Tourist Accommodation (Goolwa) Zone and incorporates many of the characteristics of that zone. The allotment is of a residential scale and a detached dwelling is considered to be the most appropriate use of the land. Other non-residential land uses are likely to have an adverse affect on adjacent dwellings.

Further, it is clear that the intent of the Historic Waterfront Zone is to maintain the historic character of the Wharf area (particular the historic buildings and open space areas). The proposed dwelling will have minimal impact on these areas.

Accordingly, Development Plan Consent is recommended, subject the concurrence of the Development Assessment Commission.

.../cont.

3.2 455/1078/07 – Adrian Cavanagh (Continued)

**RECOMMENDATION**

That the Development Assessment Panel grant Development Plan Consent to application 455/1078/07, for a Single Storey Detached Dwelling at 1A (lot 1010) Goyder Street, Goolwa, subject to the concurrence of the Development Assessment Commission, and the following conditions:

Council conditions:

- Waste Control approval must be obtained from the Council prior to the issuing of full Development Approval, pursuant to Section 33 (3) of the Development Act 1993.
- All stormwater drainage shall be discharge so that it does not flow or discharge onto land of adjoining owners or, in the opinion of Council, detrimentally affect structures on this site or any other adjoining land.

Council notes:

- Allotment boundaries will not be certified by Council staff. The onus of ensuring that the building is sited in the approved position of the current allotment is the responsibility of the owner. This may necessitate a survey being carried out by a licensed land surveyor.
- Please note that you should advise your neighbour/s of your intentions to build on your common boundary, prior to commencing constructions.

Heritage Branch conditions:

- Roof shall be pre-coated corrugated steel or unpainted galvanised corrugated steel. Zinalume shall not be used. If pre-coated colour is used the colour should be submitted to the satisfaction of Council.
- The finial and curved gable decoration should be deleted.
- The garage door opening should be centered in its wall.
- The proposed open post and wire fence to the street frontage should be not less than 1000mm high.

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

4.1 455/308/08 - Pinehill Ridge Pty Ltd

**SUMMARY TABLE**

Date of Application	18 March 2008
Subject Land	Lot 100 Victor Harbor Road, Mount Jagged
Assessment No.	A 15612
Relevant Authority	Alexandrina Council
Planning Zone	Watershed Protection 2
Nature of Development	Variation to 455/102/00 – change of condition 9 to allow the use of three audible bird scaring devices in association with the existing vineyard.
Type of Development	Consent / Merit
Public Notice	Category 3
Referrals	N/A
Representations Received	5
Representations to be heard	5
Date last inspected	March 2008
Recommendation	Approval
Originating Officer	Andrew Sladden

**ESD IMPACT/BENEFIT**

- Environmental Potential noise impact upon the amenity of the locality.
- Social Potential aggravation between neighbours through noise impacts of said development.
- Economic N/A

**BACKGROUND**

The proposed development involves the variation of a condition of approval for development application 455/102/00 (Vineyard) to allow the use of three audible bird scaring devices in the approved vineyard. Development Application 455/102/00 was approved by the Development Assessment Panel in October 2000 subject to 11 conditions of which condition number 9 states:

.../cont.



4.1 455/308/08 – Pinehill Ridge Pty Ltd (Continued)

9. The use of gas guns and other bird scaring devices are prohibited.  
REASON: Noise Control

The reason for the subject condition prohibiting bird scaring devices was as a result of the supporting statement provided by the Applicant, which states:

*"We will give an undertaking that gas guns will not be utilised on the property and are happy to make that a condition of approval."*

As a result, condition 9 was added to the Development Approval. The property has since changed ownership and the new owners have subsequently been using audible bird scaring devices at various times, until being reminded of their obligations to comply with condition 9 of the Development Approval, resulting from a number of complaints to Council's Compliance Officer. Subsequently, they have lodged this application in order to vary the condition.

REFER ATTACHMENT 4.1(a) (page 60)

**THE PROPOSAL**

**Nature of Development**

The proposal involves the proposed deletion of condition 9 from Development Approval 455/102/00, to allow the use of audible bird scaring devices to be used in the subject vineyard. As a result, it is considered to be ancillary to this approved land use (viticulture), which falls under the definition of "horticulture" as defined in Schedule 1 of the Development Regulations 1993 as follows:

*"Horticulture" means the use of land for market gardening, viticulture, floriculture, orchards, wholesale plant nurseries or commercial turf growing;"*

Principle of Development Control 8 for the Watershed Protection 2 Zone states:

- PDC 8** All kinds of development are **non-complying** in the Watershed Protection 2 Zone, except the following:

Horticulture

Therefore, pursuant to Principle 8 above, as the application is ancillary to the horticultural land use approval the development application is considered to be a Consent / Merit form of development.

.../cont.

4.1 455/308/08 – Pinehill Ridge Pty Ltd (Continued)

**Detailed Description**

The application involves a variation of development approval 455/102/00 to delete condition 9 which will enable the new owners of the subject vineyard to use audible bird scaring devices on the subject site.

From the information provided with the application, three audible bird scaring devices (Mickim Predators) are proposed to be used between the hours of 7am to 7pm from January to March. Three approximate locations of these devices are shown in the supporting documentation, which are located approximately 650m from the nearest adjoining dwelling.

REFER ATTACHMENT 4.1(b) (page 62)

**SITE & LOCALITY**

The subject site is a large rural land holding with frontage to Victor Harbor Road. There are a number of rural sheds but no dwelling. The existing dwelling was removed from the subject allotment via Land Division (Boundary Realignment) Application 455/9515/02. The subject allotment has an area of approximately 115ha of which approximately 90% has been approved for use as a vineyard. The topography of the site consists of rolling hills with very little level land.

The locality is rural in nature predominantly consisting of medium to large rural landholdings being used for a mixture of uses, including viticulture, cropping, grazing and horse keeping. There are a couple of smaller "rural living" style allotments within the locality, along the Victor Harbor Road, with the closest adjoining the subject site being 3.8ha and created as a result of the previous mentioned land division (455/9515/02). This allotment contains the dwelling which was originally located on the subject site.

**PUBLIC NOTIFICATION**

The Development Application was subject to Category 3 Public Notification and was advertised between 16 April 2008 and 30 April 2008. Five (5) representations were received within this timeframe.

All of the representors are opposed to the proposed development, with the main objection related to noise impacts.

REFER ATTACHMENT 4.1(c) (page 75)

The applicant has also submitted a response to the representation.

.../cont.

4.1 455/308/08 – Pinehill Ridge Pty Ltd (Continued)

REFER ATTACHMENT 4.1(d) (page 85)

The issues raised and responded to include noise and associated issues.

**REFERRALS**

The application was not required to be formally referred to any State Government Departments or Organisations as required by Schedule 8 of the Development Act Regulations 1993. It is noted however, that the Environment Protection Agency (EPA) has prepared an Environmental Noise Guideline for Audible Bird Scaring Devices, which the Applicants have referred to in the Acoustic Report submitted with the Development Application.

REFER ATTACHMENT 4.1(e) (page 89)

**NOISE IMPACT ASSESSMENT REPORT**

The Applicant has provided a Noise Impact Assessment Report which references the EPA document mentioned above. Page 5 of the acoustic report submitted by the Applicant incorrectly prescribes criteria for assessment of noise impacts as being 47dB(A) for daytime and 40dB(A) at night, in accordance with Council Wide Principle of Development Control 264, as follows:

**PDC 264** Agricultural industries, home based industries, mineral water extraction and processing plants, and wineries should not:

- (e) generate noise of greater than 40 decibels during the hours of 10 pm to 7am and 47 decibels between 7 am to 10 pm respectively as measured at the nearest neighbouring dwelling or boundary of a vacant allotment; and

Little weight should be given to this as Council Wide Principle of Development Control 264 specifically relates to Agricultural Industries, Wineries, Mineral Water Extraction and Processing Plants and Home Based Industries, not horticulture. At best, it is useful as an approximate guide for appropriate noise levels within rural areas.

The Performance Based Objectives outlined on page 7 of the EPA guideline is a more appropriate benchmark for comparison of the report in order to determine the appropriateness of the proposal.

Some points of relevance to the assessment of this application from this document include:

.../cont.

4.1 455/308/08 – Pinehill Ridge Pty Ltd (Continued)

*Hours of operation*

*As a rule of thumb, where it is likely that the devices will be audible at a residence, their operation in accordance with these guidelines should be restricted to between 7 am and 8 pm.*

It is noted that the proposal complies as the proposed hours of operation are between 7am and 7pm.

*Maximum noise level for electronic/speaker devices*

- *Electronic/speaker noise, generated as part of an integrated bird scaring strategy, at an LAeq of 57 dB(A) when measured and adjusted in accordance with the Noise Policy, is deemed to represent the maximum level of reasonable interference in a zone specifically intended for primary production.*
- *Electronic/speaker noise, generated as part of an integrated bird scaring strategy, at an LAeq of 52 dB(A) when measured and adjusted in accordance with the Noise Policy, is deemed to represent the maximum level of reasonable interference at the interface between a zone specifically intended for primary production and one for rural living or residential amenity (or similar).*

The test results as shown in the report generally comply with these standards, provided they comply with the following criteria (as outlined in the conclusion of the report):

- The burst duration being set to no greater than 10 seconds;
- The interval between bursts is set to no less than 10 minutes; and
- The volume for the existing units are set at no greater than 50% full scale, or equivalent emitted sound power.

However, these guidelines are expected to be exceeded after 8pm as evidenced on the report prepared by the Applicant which is why they are not proposing to use the devices after 7pm.

**ALEXANDRINA COUNCIL DEVELOPMENT PLAN**

As the Application was lodged on 17 March 2008, it has been assessed against the Development Plan current at the time of lodgement being that consolidated on 17 January 2008. The following Objectives and Principles of Development Control are seen as especially relevant to this application:

.../cont.

4.1 455/308/08 – Pinehill Ridge Pty Ltd (Continued)

***COUNCIL WIDE – PRINCIPLES OF DEVELOPMENT CONTROL***

***PDC 164*** *Development should not detrimentally affect the amenity of its locality or cause nuisance to the community:*

- (a) by the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, grit, oil, wastewater, waste products, electrical interference or light; or*
- (b) by stormwater, or the drainage of run-off from the land; or*
- (c) by the loss of privacy.*

**Comment**

While it is acknowledged that the proposed development will have some effect upon the amenity of the locality and cause some nuisance to the surrounding residents through noise, it is debatable whether this effect will be detrimental, especially if the proposed development generally complies with the EPA guidelines for Audible Bird Scaring Devices.

***PDC 169*** *Development should not be undertaken if the construction, operation and/or management of such development is likely to result in:*

- (a) the pollution of surface or groundwater;*
- (b) degradation of watercourses or wetlands;*
- (c) unnecessary loss or damage to native vegetation;*
- (d) the denudation of pastures;*
- (e) erosion;*
- (f) dust;*
- (g) noise nuisance;*
- (h) the introduction of or an increase in the number of pest plants or vermin;*
- (i) increased risk of flooding or impairment of stream water quality through the disposal of stormwater; or*
- (j) sealing of large areas of ground likely to result in increased stormwater run-off.*

**Comment**

In accordance with (g) above, the proposal will create a level of noise nuisance for the surrounding residents. However, the impact of this nuisance will be minimised especially if the proposal complies with the EPA's Audible Bird Scaring Guidelines.

.../cont.

4.1 455/308/08 – Pinehill Ridge Pty Ltd (Continued)

*Rural Development*

*PDC 251 Rural areas should be retained primarily for horticultural, agricultural, pastoral and forestry purposes and other uses compatible with maintaining rural productivity.*

*PDC 252 Development should ensure that genuine agricultural activities are not prejudiced.*

*PDC 253 Development should ensure the sustainable use of land for primary production by the use of sound land management practices.*

*PDC 254 Land which is particularly suitable for agriculture, including viticulture and horticulture, should be used or remain available for such agricultural purposes.*

**Comment**

The proposal is considered to comply with the above mentioned Principles relating to rural development as it will enable the owner and managers of the site to maintain and enhance productivity and increase sustainability through better management practices.

**WATERSHED PROTECTION 2 ZONE**

There are no Objectives or Principles of Development Control relevant to this particular Development.

**CONCLUSION**

While it is acknowledged that the proposed development will have some impact upon the amenity of the locality, this impact will be minimised through compliance with the EPA Guidelines for Audible Bird Scaring Devices as demonstrated in their noise assessment report.

Also, given the lack of relevant Objectives and Principles of Development Control relevant to this proposed development, it is considered that the Application displays enough merit to warrant the granting of Development Approval subject to appropriate restrictive conditions.

.../cont.

4.1 455/308/08 – Pinehill Ridge Pty Ltd (Continued)

RECOMMENDATION

That the Development Assessment Panel grant Development Approval to Development Application 455/308/08 for a variation to 455/102/00 - change of condition 9 to allow the use of three audible bird scaring devices in association with the existing vineyard at lot 500, Victor Harbor Road, Mount Jagged, subject to the following conditions:

1. The development herein approved shall be carried out in accordance with the plans and details accompanying this application (including the Pinehill Ridge Vineyard Noise Impact Assessment Report Ref: 0305\_RA\_0142 prepared by NASI), except where amended by the following conditions.

Reason: To ensure the proposal is established in accordance with the submitted plans

2. In respect to the Mickim Predator bird scaring devices:
  - (a) no more than three shall be operated on the land at any one time.
  - (b) the use of these devices shall be restricted to between the hours of 7am and 7pm.
  - (c) no speaker shall be operated outside of the approximate speaker placement area, per Figure 1 in the NASI Environmental Noise Assessment Report ref: 0305\_RA\_0142, submitted with the application.
  - (d) the Bird scarers shall be configured such that:
    - The burst duration being set to no greater than 10 seconds;
    - The interval between bursts is set to no less than 10 minutes; and
    - The volume for the existing units are set at no greater than 50% full scale, or equivalent emitted sound power.

Reason: To ensure the proposal is established in accordance with the recommendation of the acoustic consultant, NASI so as to minimise the noise impact of the bird scaring devices upon adjoining residents and the amenity of the area.

3. Electronic bird scaring devices shall only be used on the land between (and including) January and March in each year.

Reason: To ensure the use of bird scaring devices is limited to peak grape growing times of the year only so as to minimise the noise impact of the devices upon adjoining residents and the amenity of the area.

.../cont.

4.1 455/308/08 – Pinehill Ridge Pty Ltd (Continued)

4. That at all times during the months of January, February and March in each year, Alexandrina Council shall be provided with the current mobile or other telephone contact number for the vineyard manager, or other person responsible from time to time for the operation of noise generating bird scaring devices on the land.

Reason: To ensure that prompt investigative action can be taken should any compliance related concern be raised with Council in relation to the use of bird scaring devices at the property.

ITEM 5. DEVELOPMENT APPLICATIONS - LAND DIVISION / COMMUNITY TITLE

ITEM 6. DEVELOPMENT APPLICATIONS - BUILDING

ITEM 7. MATTERS REFERRED FOR FOLLOW - UP

ITEM 8. GENERAL ITEMS FOR DISCUSSION

Next meeting scheduled for Wednesday 16<sup>th</sup> July 2008, time to be advised.

Meeting closed at: