

ALEXANDRINA COUNCIL

NOTICE OF MEETING

Notice is hereby given to the Members that a meeting of the Development Assessment Panel 2006 will be held in the Large Meeting Room (old Goolwa Council Chambers) on 20 February 2006 commencing at 2:30 pm

Your attendance is requested.

2:30 p.m. Development Assessment Panel commencement

3:15 p.m. Conclusion of meeting.

JOHN COOMBE
CHIEF EXECUTIVE

ALEXANDRINA COUNCIL

AGENDA FOR THE DEVELOPMENT ASSESSMENT PANEL MEETING
TO BE HELD ON 20 FEBRUARY 2006 AT 2:30 PM
IN LARGE MEETING ROOM (OLD GOOLWA COUNCIL CHAMBERS)

TABLE OF CONTENTS

ITEM NO.	SUBJECT	PAGE NO.
1	<u>CONFIRMATION OF MINUTES</u>	1
2.	<u>DEVELOPMENT APPLICATIONS</u>	1
3.	<u>DEVELOPMENT APPLICATIONS - NON COMPLYING</u>	2
	3.1 455/D575/03 - Weber Frankiw & Assoc.....	2
	3.2 455/1083/05 - Fleurieu Olive Grove	15
4.	<u>DEVELOPMENT APPLICATIONS - CATEGORY 3</u>	29
5.	<u>DEVELOPMENT APPLICATIONS - LAND DIVISION COMMUNITY TITLE</u>	29
6.	<u>DEVELOPMENT ASSESSMENT - BUILDING</u>	29
7.	<u>MATTERS REFERRED FOR FOLLOW UP</u>	29
8.	<u>GENERAL ITEMS FOR DISCUSSION</u>	30
	8.1 455/261/05 - Hardy Milazzo Architects (Strathalbyn Motel).....	30
9.	<u>NEXT MEETING</u>	30

**Development Assessment Panel
Report and Agenda
on 20 FEBRUARY 2006 commencing at 2:30 pm
in the Large Meeting Room (old Goolwa Council Chambers)**

PRESENT

APOLOGIES

IN ATTENDANCE

ITEM 1 CONFIRMATION OF MINUTES

Minutes of the Alexandrina Council Development Assessment Panel held on Monday 16th January 2006.

RECOMMENDATION

That the minutes of the Alexandrina Council Development Assessment Panel held on Monday 16th January 2006 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/D575/03 - Weber Frankiw & Assoc

SUMMARY TABLE

Date of Application	29 th May 2003
Subject Land	98 Mundoo Channel Drive, Hindmarsh Island
Applicant	Weber Frankiw & Assoc
Owner	Kym Denver
Assessment No.	A 18664
Relevant Authority	Alexandrina Council
Planning Zone	Holiday House, Hindmarsh Island
Nature of Development	Land division creating 28 additional allotments
Type of Development	Non-complying
Public Notice	Category three
Referrals	SA Water Dept Environment & Heritage Dept Water, Land & Biodiversity Conservation Coastal Protection Board SA Dept for Aboriginal Affairs & Reconciliation
Representations Received	2
Representations to be heard	Nil
Date last inspected	
Recommendation	Approve with conditions, subject to concurrence of the Development Assessment Commission
Originating Officer	Cherry Getsom

ESD IMPACT/BENEFIT

- Environmental Concerns have been raised by the Coastal Protection Board about the possible impacts of this development upon the coastal environment. As this development already exists in 'lease' form a Land Management Agreement is to be entered into in an effort to mitigate some of these concerns.

.../cont.

3.1 455/D575/03 – Weber Frankiw & Assoc (Continued)

- Social Positives for current leaseholder as it will lead to greater sense of security/ownership regarding their investments.
- Economic Positives for the applicant and existing leaseholders through conversion of existing leases into freehold titles.

BACKGROUND

This application has been with Council for some considerable time. A number of factors have impacted upon this time frame, including the large number of government departments involved in the processes, staff changes within these departments and staff changes within Council. A considerable amount of time has been spent either in discussions with the Coastal Protection Board or in providing additional information in order to address their concerns.

THE PROPOSAL

Nature of Development

This application seeks to freehold 29 allotments that currently exist as ninety-nine year lease arrangements. This application is a non-complying application as the land is located within the Holiday House (Hindmarsh Island) zone of the Alexandrina Development Plan. This zone lists "Land Division except for the purpose of transferring land into public ownership as a non-complying form of development.

Detailed Description

The twenty-nine allotments are located adjacent the Mundoo Channel, on the south-eastern shoreline of Hindmarsh Island. All leased allotments are rectangular in shape having water frontage, with access provided along Mundoo Channel Drive, a fully formed and sealed road. The total area of the property is 2.71 hectares with the leased allotments ranging in size from 728m² to 1296m². Twenty-six of the twenty nine leased allotments contain dwellings, a number of which have been in place approximately 40 years with some being recently renovated. It is understood that the developed allotments are connected to individual waste control systems. Individual jetties are also located on a number of the allotments.

REFER ATTACHMENT 3.1(a) (page 1)

SITE & LOCALITY

The subject land is located adjacent the south-eastern shoreline of Hindmarsh Island. The land generally comprises level, low-lying terrain, which is devoid of any significant vegetation. Twenty-six shack style dwellings currently exist along the subject land with more shacks located within the immediate locality.

.../cont.

3.1 455/D575/03 – Weber Frankiw & Assoc (Continued)

Dwellings located on land to the south of the subject land are located on Government land, with the adjoining Lot 11 Mundoo Channel Drive being owned by the Minister for the Environment. Dwellings are also located on Sugars Avenue to the South of the subject land and Goolwa Channel Drive to the southwest. With the exception of the above the land within the general locality is open farmland, giving the area a mixed rural-urban character.

PUBLIC NOTIFICATION

Pursuant to Section 38 (5) of the Development Act (1993), the application was placed on public notice from 3rd June 2004 until 17th June 2004. During this time two representations were received both of which were supportive of the proposal.

REFER ATTACHMENT 3.1(b) (page 20)

REFERRALS

The Development Assessment Commission undertook referrals to SA Water, Dept. of Human Services – Environmental Health, Transport SA and the Dept. Administration and Infrastructure Services in May 2003. Additional to this Council also undertook their own referral to Coastal Protection Board in June 2004, the South Australian Department for Aboriginal Affairs and Reconciliation, the Department of Environment and Heritage (District Ranger) and the Department of Water Land and Biodiversity Conservation (under the River Murray Act 2003) as a non-mandatory referral.

- SA Water- had no requirements pursuant to the Development Act (1993)
- Dept. of Human Services – Environmental Health – initially raised concerns regarding the proposal and the involvement of holding tanks- this shall be discussed in detail later in this report.
- Transport SA – had no comment
- Dept. Administration and Infrastructure Services – had no comment
- Coastal Protection Board – Did not support the proposal - this shall be discussed in detail later in this report.
- South Australian Department for Aboriginal Affairs and Reconciliation – noted there are no entries in the Register of Aboriginal Sites and Objects and the Central Archive for Aboriginal Heritage Sites.
- Department of Environment and Heritage (District Ranger) – no response was received.
- Department of Water Land and Biodiversity Conservation (under the River Murray Act 2003) – Did not object to the proposal.

.../cont.

3.1 455/D575/03 – Weber Frankiw & Assoc (Continued)

CONSULTATION

Consultation has been undertaken with Council's Environmental Health Department (Senior EHO Kim Vivian) with regard to the effluent disposal system. Mr Vivian consulted with Dept. of Human Services – Environmental Health in forming his response.

The Dept. of Human Services (DHS) initially did not support the proposal as it involved holding tanks and cart away systems as a means of wastewater management. The department felt that a collective wastewater system with satisfactory disposal of treated effluent to an approved site was required. Discussions were held between Council, DHS and the applicant in relation to finding a suitable means of dealing with effluent disposal. DHS suggested and the applicant investigated the possibility of establishing a treatment plant requiring that water be pumped onto the adjoining property of "Wyndgate" owned by Crown Lands. Crown Lands responded in September 2005 that it would not allow development to occur on this land. On receiving advice that this alternative was not feasible, Council's Senior EHO agreed that on this occasion individual holding tanks would be acceptable, particularly as the site is approximately 5 kilometres from any land above the 1956 Flood level and well out of any conservation areas. He therefore supports the proposal.

Consultation has also been undertaken with Council's Engineering and Infrastructure Department (Dennis Zanker). The advice received is that the 'right of way' marked 'A' on the plan of division has been constructed as a bitumen sealed road by Council to as far as proposed Lot 78. This should become public road and Council will take responsibility for the road. If it remains a right of way Council will not maintain it and it will be the responsibility of the owners. The road also gives access to the boat ramp by Lot 50.

ALEXANDRINA COUNCIL DEVELOPMENT PLAN

The following Principles of Development Control are seen as especially relevant to this application, Objectives and Principles have been grouped into relevant categories.

FORM OF DEVELOPMENT:

Council Wide Objective 1 & Port Elliot & Goolwa Objective 2:
Orderly and economic development.

COMMENTS

The proposed allotments exhibit long established land uses, which are connected to infrastructure and services.

.../cont.

3.1 455/D575/03 – Weber Frankiw & Assoc (Continued)

Domestic water is provided, principally through the use of rainwater tanks and effluent and wastewater disposal/storage is undertaken and managed on an individual basis. All allotments are easily accessible via an existing road network.

LAND DIVISION

Council Wide PDC 6

Land should not be divided:

- (a) in a manner which would prevent the satisfactory future division of the land, or any part thereof;
- (b) if the proposed use, or the establishment of the proposed use, is likely to lead to undue erosion of the land or land in the vicinity thereof;
- (c) unless wastes produced by the proposed use of the land, or any use permitted by the principles of development control, can be managed so as to prevent pollution of a public water supply or any surface or underground water resources;
- (d) if the size, shape and location of, and the slope and nature of the land contained in, each allotment resulting from the division is unsuitable for the purpose for which the allotment is to be used;
- (e) if any part of the land is likely to be inundated by tidal or flood waters and the proposed allotments are to be used for a purpose which would be detrimentally affected when the land is inundated;
- (f) where community facilities or public utilities are lacking or inadequate;
- (f) where the proposed use of the land is the same as the use of other existing allotments in the vicinity, and a substantial number of the existing allotments have not been used for that purpose, or purposes meeting the objectives of the Plan; or
- (g) if it would cause an infringement of any provisions of the Building Act or any by-law or regulation made thereunder.

Council Wide PDC 7

When land is divided:

- (a) any reserves or easements necessary for the provision of public utility services should be provided;
- (b) stormwater should be capable of being drained safely and efficiently from each proposed allotment and disposed of from the land in a satisfactory manner;
- (c) a water supply sufficient for the purpose for which the allotment should be made available to each allotment;
- (d) provision should be made for the disposal of wastewaters, sewage and other effluents from each allotment without risk to health including connection to a common effluent drainage system where available in the general area;
- (e) roads or thoroughfares should be provided where necessary for safe and convenient communication with adjoining land and neighbouring localities;

.../cont.

3.1 455/D575/03 – Weber Frankiw & Assoc (Continued)

- (f) each allotment resulting from the division should have safe and convenient access to the carriageway of an existing or proposed public road or thoroughfare; proposed roads should be graded, or capable of being graded to connect safely and conveniently with an existing road or thoroughfare;
- (g) for urban purposes, provision should be made for suitable land to be set aside for useable local open space; and
- (h) and which borders a river, lake or creek, the land immediately adjoining the river, lake or creek should become public open space, wherever suitable.

Port Elliot and Goolwa - PDC 3

Where land which has a frontage on the sea coast is divided, a reserve at least 30 metres in width should be provided along such frontage

COMMENTS

Issues such as water supply, safe access and egress, allotment size and shape, effluent and stormwater disposal have all been managed during the forty-year history of the sites development. Arguments could be made regarding the possibility of future development associated with the proposed land division to impacts upon erosion or be impacted by tidal waters however it could conversely be argued that the subdivision has effectively been in place for the last forty years and these conditions have been managed. Additionally, further development that may have impacts upon erosion or be impacted by tidal waters, such as dwelling or jetty proposals can be addressed via separate application.

COASTAL AREAS

Council Wide Principles

- Objective 21:** The conservation, preservation, or enhancement, of scenically attractive areas including land adjoining water and scenic routes.
- Objective 30:** Sustain or enhance the natural coastal environment in South Australia.
- Objective 31:** Preserve and manage the environmentally important features of coastal areas, including mangroves, wetlands, dune areas, stands of native vegetation, wildlife habitats and estuarine areas.
- Objective 32:** Preserve sites of heritage, cultural, scientific, environmental, educational or landscape importance.
- Objective 33:** Maintain and improve public access to the coast in keeping with other objectives.

.../cont.

3.1 455/D575/03 – Weber Frankiw & Assoc (Continued)

- Objective 34:** Development which recognises and allows for hazards to coastal development such as inundation by storm tides or combined storm tides and stormwater, coastal erosion and sand drift; including an allowance for changes in sea level due to natural subsidence and predicted climate change during the first 100 years of the development.
- Objective 35:** Developers bearing the costs of protecting private development from the effects of coastal processes or the environment from the effects of development rather than the community
- Objective 36:** Protect the physical and economic resources of the coast from inappropriate development.
- Objective 37:** Locate all housing, including holiday houses, tourist accommodation, marinas and rural living located on land zoned for that purpose and for it to be environmentally acceptable and consistent with orderly and economic development.
- Objective 38:** To re-develop and redesign unsatisfactory coastal living areas which do not satisfy environmental, health or public access standards for coastal areas.

Principles of Development Control

PDC 59 Development which requires protection measures against coastal erosion, sea or stormwater flooding, sand drift or the management of other coastal processes at the time of development, or which may require protection or management measures in the future, should only be undertaken if:

- (a) the measures themselves will not have an adverse effect on coastal ecology, processes, conservation, public access and amenity;
- (b) the measures do not now, or in the future require community resources, including land;
- (c) the risk of failure of measures such as sand management, levee banks, flood gates, valves or stormwater pumping, is appropriate to the degree of the potential impact of a failure; and
- (d) adequate financial guarantees are in place to cover future construction, operation, maintenance and management of the protection measures.

PDC 60 Development should be set-back a sufficient distance from the coast to provide an erosion buffer which will allow for at least 100 years of coastal retreat for single buildings or small-scale developments, or 200 years of retreat for large scale developments such as new towns, unless:

- (a) the development incorporates private coastal works to protect the development and public reserve from the anticipated erosion, and the private coastal works comply with principle of development control numbered 58; or
.../cont.

3.1 455/D575/03 – Weber Frankiw & Assoc (Continued)

(b) the council is committed to protecting the public reserve and development from the anticipated coastal erosion.

PDC 64 Development should not occur where essential services cannot be economically provided and maintained having regard to flood risk and sea level rise or where emergency vehicle access would be prevented by a 100 year average return interval extreme sea level event, adjusted for 100 years of sea level rise

Port Elliot & Goolwa

Objective 5: Protect the coast from development that will adversely affect the marine and onshore coastal environment whether by pollution, erosion, damage or depletion of physical or biological resources, interference with natural coastal processes or any other means.

Objective 6: Development which does not interfere with environmentally important features of coastal areas, including mangroves, wetlands, dune areas, stands of native vegetation, wildlife habitats and estuarine areas.

Objective 7: Development which does not detract from or reduce the value of sites of ecological, economic, heritage, cultural, scientific,

Objective 10: Development only undertaken on land which is not subject to, or can be appropriately protected from, coastal hazards such as:

(a) inundation by storm tides or combined storm tides and stormwater;

(b) coastal erosion; or

(c) sand drift.

Objective 11: Development located and designed to allow for changes in sea level due to natural subsidence and probable climate change during the first 100 years of the development. This change to be based on the historic and currently observed rate of sea level rise for South Australia with an allowance for the nationally agreed most likely predicted additional rise due to global climate change.

Objective 12: Development which will not require, now or in the future, public expenditure on protection of the development or the environment.

Objective 13: Development of coastal urban settlements, coastal rural living areas, tourist complexes and marinas only in environmentally acceptable areas.

Objective 14: Urban development including housing, holiday houses, tourist accommodation, and rural living, as well as land division for all such purposes, only in the zones specifically created for such developments.

.../cont.

3.1 455/D575/03 – Weber Frankiw & Assoc (Continued)

Objective 15: Development of coastal urban settlements, coastal rural living, tourist accommodation and marinas in an orderly and economic manner which provides for a range of sites while ensuring the number of locations and the size of the zones do not exceed that which is indicated as being required by a realistic assessment of future demand.

Objective 16: To redesign and redevelop coastal living areas which do not satisfy environmental, health or public access standards for coastal areas.

Principles of Development Control

PDC 17 Development should have the minimum effect on natural features, land adjoining water, scenic routes or scenically attractive areas.

Holiday House (Hindmarsh Island)

Objective 1: The location of single storey small-scale holiday homes on existing leased allotments with extensive landscaping so as to minimize the visual impact of such development when viewed from the Murray Mouth area and the Conservation

Objective 2: The maintenance of the water quality of the waterways.

Objective 3: The provision for public access along the foreshore.

Objective 4: The protection and enhancement of the amenity of the foreshore and frontal sand dune system.

Objective 5: The protection of dwellings from inundation and the maintenance of access during times of extreme tide and anticipated sea level rise.

COMMENTS

As can be seen from the large number of Objectives and Principles above, Coastal Areas have an important role within the Alexandrina Development Plan. Objectives and Principles such as Council Wide 30,31 and 36, Port Elliot and Goolwa Objectives 5,6 and 13 aim at protecting and preserving. Whilst others (Council Wide Objectives 33, 34,35,37,38 and Port Elliot and Goolwa Objectives 11,12,14,15,16) allow for development to occur with the provision that it meet strict requirements and in a manner sensitive to the coastal environment and possible future impacts.

Objective 14 of the Port Elliot and Goolwa section reads:

Urban development including housing, holiday houses, tourist accommodation, and rural living, as well as land division for all such purposes, only in the zones specifically created for such developments.

.../cont.

3.1 455/D575/03 – Weber Frankiw & Assoc (Continued)

This objective highlights the contradiction that is the Holiday House (Hindmarsh Island) Zone, for whilst the first objective of the zone is to provide for small scale detached dwellings upon existing leased allotments, Principle of Development Control 18 later lists detached dwellings, with a few exceptions, as a non-complying form of development. The Holiday House (Hindmarsh Island) zone is specifically created for holiday house development yet maintains strict controls over the type of holiday house development that is appropriate within the zone.

As the subject land is a brownfield site with existing development, development principles relating to maintenance and preservation must allow for this. It is unrealistic to read these provisions in a manner that does not allow for what already exists on the ground. This land division proposal is simply seeking to formalize that which already exists.

However as a measure of preventing any unnecessary future impacts the applicants have drafted a Land Management Agreement to work in conjunction with the strict principles already within the zone guidelines and limit negative development potential.

REFER ATTACHMENT 3.1(c) (page 22)

As part of the assessment process for this proposal Council was required to refer the application to the Coastal Protection Board. Council is required to have 'regard' to the Coastal Protection Boards response. The Coastal Protection Board has recommended that the application be refused. It is my opinion that this recommendation does not properly recognize the existing ninety-nine year lease arrangement and the benefits that can be obtained through the introduction of a Land Management Agreement.

Due to the importance of Coastal Development within the Alexandrina Development Plan, the issues of concern raised by the Coastal Protection Board shall be addressed individually:

Coastal Hazards

Flooding

The Coastal Protection Board raises concerns regarding flooding risk, indicating that 22 of the proposed allotments are at risk of a one in one hundred year flood event.

.../cont.

3.1 455/D575/03 – Weber Frankiw & Assoc (Continued)

This issue is addressed through Council Development Plan Principles which require a minimum floor level for any proposed dwelling of 2.10 AHD, additionally should this zoning guideline be subject to change the land will be further protected by the Land Management Agreement requiring finished site levels for any new development of 2.1 m AHD and finished floor levels of any dwellings of 2.3m AHD. The practicality of meeting these requirements will be met during the assessment of any such applications and is not part of the assessment of this proposal.

Erosion

Concerns raised by the Coastal Protection Board relate to the risk from long-term erosion of the subject land. They note that much of the existing development is not considered adequately setback from the shoreline to meet the Board's erosion hazard policies.

The applicant is seeking to address this issue through the LMA, indicating that shoreline protection works will be undertaken when the erosion of land encroaches within five metres of any dwelling or when reasonably required by Council. The Coastal Protection Board feel that the design and construction methods of such protection works should be included with this proposal, however as they themselves point out, these protection works would require their own Development Application where the Coastal Protection Board has the power of direction. As this application is assessing a land division proposal it is considered unnecessary to pre-empt any possible future applications by requiring information relating to an application of an unknown time, an unknown allotment and unknown detail. The Coastal Protection Board considers it far more reasonable to address coastal erosion simultaneously and for protection works to be implemented across the whole of the subject land, whilst this may be the preferred option it is not the subject of this application.

Orderly Development

The Coastal Protection Board objects to land division that increases the number of allotments that abut the coast, unless the division is considered orderly development and concentrated in appropriately chosen nodes. The Board does not view this proposal as orderly or as being located in an appropriately chosen node. Whilst this proposal does increase the number of allotments that abut the coast, these allotments already exist in lease form, with a large number already having been developed.

.../cont.

3.1 455/D575/03 – Weber Frankiw & Assoc (Continued)

Public Access

Public Reserve

It is the opinion of the Coastal Protection Board that the proposal not be supported without the provision of a public reserve, possibly including an erosion buffer. It appears the main reasoning for a waterfront reserve to allow for coastal flooding, coastal erosion protection works and public access. Had this application been for a Greenfield site then the provision of a public waterfront reserve for the above reasons would be fully endorsed, however the imposition of such a reserve on a brownfield site is considered impractical. Particularly in terms of future management of the reserve and impact upon existing title holders.

Section 50 of the Development Act requires that a land division creating 20 allotments or more provides up to 12.5 per cent of the relevant area be held as open space or alternatively a prescribed contribution be made. I am of the opinion that given the fact that leases already exist on the subject land and most of these allotments have already been developed, the provision of a public waterfront reserve is impractical. It is my recommendation that should the proposal be approved that a financial contribution be accepted in lieu of a public reserve.

Allotment Boundaries

Coastal Protection Board believes that the shoreline boundary should be defined at a specified distance from the road property boundary. This has also been requested as a condition of approval by Councils Engineering and Infrastructure Department.

Conservation

Disposal of effluent

Coastal Protection Board are concerned regarding effluent disposal and potential for environmental harm. The issue of effluent disposal has been discussed above and is also covered in the draft Land Management Agreement. Upgrades of individual systems will be dealt with separately as separate applications and are not the subject of this application.

Existing jetties, boat ramps, filled areas and encroachment issues.

The Coastal Protection Board raises issues of unauthorised development, jetties and private boat ramps and suggests the Land Management Agreement address these and the possibility of future rationalisation of this type of development by Crown Lands. All of these issues are subject to individual applications and are not the subject of the application before you today.

.../cont.

3.1 455/D575/03 – Weber Frankiw & Assoc (Continued)

SUMMARY

The subject land is located in an environmentally sensitive, coastal area and many of the concerns raised by the Coastal Protection Board are relevant and would be fully supported should this be a new development site. The proposed land division however exists as ninety-nine year lease allotments and much of it is already developed. The applicant is seeking to address the concerns of the Coastal Protection Board through a Land Management Agreement to deal with the issues as far as is practicable. The Coastal Protection Board does raise a number of issues relating to development that is subject to separate development application, much of which will be referred to themselves and/or the Department of Water, Land and Biodiversity Conservation under the River Murray Act (1993) and is not the subject of this current application. These issues will be assessed if and when an application is received.

On this basis it is felt that although a non-complying use there is sufficient merit to approve the application subject to conditions and obtaining the concurrence of the Development Assessment Commission.

RECOMMENDATION

The Development Assessment Panel approve Development Application 455/D575/03 for 28 additional allotments at Mundoo Channel Drive, Hindmarsh Island, subject to the following conditions and subject to concurrence from the Development Assessment Commission;

1. The draft Land Management Agreement which forms part of this application be formalised and registered on all new titles, as a means of protecting dwellings from coastal processes and to protect the coastal area.
2. An amount of \$28, 942.00 (29 allotments @\$998.00/allotment) is payable to Council as an open space contribution.
3. The land marked 'A' on the plan shall continue to be a free and unrestricted right of way to all allotments within the plan of division. The right of way shall be registered on any new titles created.
4. The final certified plans shall replace the high water marks as the boundaries with a surveyed dimension from the front boundary of the allotments.
5. Two copies of a certified survey plan being lodged with the Commission for Certificate purpose.

3.2 455/1083/05 - FLEURIEU OLIVE GROVE

SUMMARY TABLE

Date of Application	23 rd September 2005
Subject Land	Lot1 Finniss-Clayton Road Finniss
Applicant	Fleurieu Olive Grove
Owner	Espere Pty Ltd
Assessment No.	A12511
Relevant Authority	Alexandrina Council
Planning Zone	Waterfront
Nature of Development	Shed – Commercial – Olive Processing
Type of Development	Non-complying
Public Notice	Category 2
Referrals	Dept Water Land & Biodiversity Conservation Environment Protection Authority
Representations Received	1
Representations to be heard	Nil
Date last inspected	9 th December 2005
Recommendation	Approval subject to conditions and Development Assessment Commission concurrence
Originating Officer	Tom Gregory

ESD IMPACT/BENEFIT

- Environmental Minor environmental impact if managed as per requirements of the Environment Protection Authority and the Department Water Land & Biodiversity Conservation.
- Social Increased services for existing and future olive groves within the Alexandrina Council district.
- Economic Benefit to owner, as it allows for the processing of their own olives and not outsource production. Benefit to Council, increased site value and is the sole facility of this nature in the locality.

.../cont.

3.2 455/1083/05 – Fleurieu Olive Grove (Continued)

BACKGROUND

The subject land is located at Lot 1 Finnis-Clayton Road, Finnis. The total land encompasses approximately 36 hectares with frontage to the Finnis-Clayton Road, and runs westward to the edge of the Finnis River.

The subject land is dissected by the Waterfront zone and the General Farming (Strathalbyn District) zone of the Alexandrina Council Development Plan. The subject site is located within the Waterfront zone, and the proposal has been assessed against the intent of this zone.

The existing approved use on the property is that of an Olive Grove, substantial in size (approximately 10,000 trees over 32.5 hectares). The current proposal seeks to establish a facility on the land to enable the crushing of olives for the production of olive oil and for the processing and packing of table olives. The property also contains an implement shed towards the rear of the property, just in front (to the east) of the proposed site of the olive processing facility.

REFER ATTACHEMENT 3.2(a) & (b) (pages 30 & 31)

THE PROPOSAL

The proposed development is to establish a commercial olive processing facility comprising of the following:

A large fully insulated shed measuring 54 X 20 metres, a wall height of 5 metres and a total height of 7 metres. The shed roof and walls are to be clad with Colorbond Deep Ocean (a deep blue colour). The insulation is provided to avoid the requirement for an mechanical air conditioning. The shed is to be located in an area cleared of trees, grasses and relatively level. There is no native vegetation on the land.

The facility will crush a maximum of 2500 tonnes of olives per annum for the production of olive oil, some of which will be stored and packed in the facility and some of which will be immediately returned to the growers of olives to be further possessed. In addition to the crushing of olives for oil, table olives will be pickled in a series of brine tanks. This is proposed to be undertaken at the western end of the building in an area measuring 24 X 20 metres.

.../cont.

3.2 455/1083/05 – Fleurieu Olive Grove (Continued)

The 'brown water' produced during the olive crushing process is first delivered to a pair of 27,999 litre tanks where it is aerated and solid particles broken down. It is then pumped to a second tank of the same size. From this tank it is mixed at a rate of approximately 3% tank water to 97% river water and used to irrigate the olive trees around the grove, the whole of which is equipped with a low level sprinkler system.

The table olives are held in tanks of water for up to 5 months and then in the final stage of processing the olives are placed in salt and water. The brine that is created in this process is pumped off into a spare tank and filtered, to be placed back with the olives in their containers in the final packing process.

There is usually no excess brine left over and on occasion more brine has to be made to ensure there is enough for packing purposes. In the rare circumstances of excess brine being produced, the brine would be removed from the property by a contractor to a waste disposal facility.

As per a requirement of the Environment Protection Authority (EPA) the applicant proposes to dispose of the solid waste to a composting facility where it would be used to make fertilizer.

Approximately 1,000,000 litres of wastewater will be produced annually.

All tanks used in the production and holding of olive oil, brine pickling solution and wastewater will be bunded to prevent the escape of such liquids in an uncontrolled manner into the environs of facility (as per requirements of the EPA).

The proposed development will employ 2 persons on an almost full-time basis and during the peak of production period will provide temporary employment for a further 2 to 3 persons.

Hours of operation will be 7:30am to 7:30pm Monday to Saturday inclusive.

SITE & LOCALITY

The locality is flat to gently undulating, with open pastures. The properties adjoining north-west and south-east are primarily zoned as Waterfront, with the general area towards the north and east are within the General Farming (Strathalbyn District) zone.

The major features within proximity to the subject land are the bituminised Finnis-Clayton Road along the frontage, providing a sealed road link to the Goolwa Road, and the Finnis River and its flood plain that flows past the property south-eastward into the River Murray system.

.../cont.

3.2 455/1083/05 – Fleurieu Olive Grove (Continued)

Land on both the northern and southern sides are used for general farming purposes. The nearest residences are two properties to the south of the proposed site.

The proposed site is naturally elevated above the Finniss River and located approximately 150 metres from the low lying land along the river and approximately 250 metres from the waters edge. No part of the property is located within the 1956 flood level (1 in 100 year flood level).

At its closest point, the proposed shed is 90 metres from a common property boundary. The nearest dwelling to the subject site is almost 700 metres (two properties) to the south.

REFER ATTACHMENT 3.2(a) (page 30)

PUBLIC NOTIFICATION

The application was put on Category 2 Public Notification pursuant to Section 38 of the Development Act 1993 between 3rd January 2006 and 18th January 2006. Adjoining land owners were notified of the proposal pursuant to Section 38(4)(a). Council would generally categorise a Schedule 22 development (one defined to have 'major' environmental significance) as a Category 3 for public notification purposes, but as this use is considered to be 'minor' in relation to the existing approved use, Regulation 32 renders this development as Category 2.

During the public notice period, one representation was received. This representation was not made by a notified party, but the owner/occupier of the property, two properties south of the subject land. This representation has been included in the report, despite its informality.

REFER ATTACHMENT 3.2(b) (page 31)

It is not apparent that the applicant has responded to this representation, as no indication of this was received within the prescribed timeframe. Due date for the response was 30th January 2006.

The issues raised by the 'informal' representation related to noise, airborne smells, hours of operation, floodlighting, and use of wastewater, the majority of which are detailed in the application.

.../cont.

3.2 455/1083/05 – Fleurieu Olive Grove (Continued)

REFERRALS

The proposal was referred to the department of Water, Land, Biodiversity and Conservation as they are currently responsible for the administration of the *River Murray Act 2003*, and was referred in accordance with Section 37 of the Development Act 1993. The allotment is within the area defined as the River Murray Protection Area of the *River Murray Act 2003*, and was assessed in accordance with Section 6 and 7 of this Act.

In accordance with Section 37(4)(b) of the Development Act 1993, and Schedule 8, Item 19(g) of the Development Regulations, the Department of Water, Land, Biodiversity and Conservation indicated that this development may be approved subject to 5 conditions.

The proposal was forwarded to the Environment Protection Authority (EPA) in accordance with Section 37 of the Development Act 1993.

In accordance with Section 37(4)(b)(ii) of the Development Act 1993 and Schedule 8 Item 11 of the Development Regulations 1993, the EPA provided a response in support, subject to a number of conditions.

In their response, the EPA indicated that they will address any ongoing problems with regard to wastewater management.

CONSULTATION

Consultation has been undertaken with Council's Environmental Health Department (Manager of Environment and Regulatory Services – Kim Vivian) with regard to the effluent disposal system. A Waste Control System was submitted and subsequently approved for the proposal.

ALEXANDRINA COUNCIL DEVELOPMENT PLAN

For reasons to be discussed later in this section, this development is a non-complying form of development. A Statement of Effect was received, and although it was assessed under the incorrect Development Plan (25 November 2005), the main themes were consistent with the intent of the principles and objectives of the Development Plan current at time of lodgement (1 September 2005).

The relevant Objectives, and Principles of Development Control from the Alexandrina Council Development Plan (consolidated 1st September 2005) are listed below.

.../cont.

3.2 455/1083/05 – Fleurieu Olive Grove (Continued)

Waterfront Zone

Objective 1 A zone containing land developed for low intensity primary production purposes or managed for conservation.

Objective 4 Prevention of development on land inundated by the 1956 flood where that development could be damaged by flooding or which may impede the natural drainage of surface flow of waters.

The proposal will increase the level of activity on the subject land. However, the activity will not be such that is incompatible with the goal of low intensity primary production. The site of the development is not located within the floodplain.

PDC 1 Buildings should not be erected other than those:
(d) associated with management of primary production.

PDC 2 Buildings, other than those required for public works or recreation facilities, should not be undertaken within 100 metres of the waterfront outside of townships.

.../cont.

3.2 455/1083/05 – Fleurieu Olive Grove (Continued)

PDC 3 Buildings other than agricultural buildings should not exceed 6.0 metres in height above natural ground surface level.

The proposed building is directly associated with the management and business of primary production by way of processing growth produced on the land, and from within the Mount Lofty Ranges Region. The building is located approximately 250 metres from the waters edge. The overall height of the proposal reaches 7metres, which is stated in the application to be required for commercial vehicle access.

PDC 12 Non-Complying Development

All kinds of development are **non-complying** in the Waterfront Zone, except the following:

Agricultural industry where:

- (a) at least one of the following activities associated with the processing of primary produce takes place:
 - (i) washing;
 - (ii) grading;
 - (iii) processing (including bottling);
 - (iv) packing or storage; and may include an ancillary area for sale of produce(including display areas); and

.../cont.

3.2 455/1083/05 – Fleurieu Olive Grove (Continued)

- (b) the total combined area for any one or any combination of these activities (including ancillary activities) does not exceed 250 square metres per allotment with a maximum building area of no greater than 150 square metres, including a maximum area of 50 square metres for sale and display of goods manufactured in the industry; and
- (c) the industry, including any ancillary uses, is located within the boundary of a single allotment; and
- (d) there is no more than one industry located on an allotment; and
- (e) the industry is not located in areas subject to inundation by a 100 year return period flood event or sited on land fill which would interfere with the flow of such flood waters; and
- (f) the industry is connected to an approved sewerage effluent disposal scheme or has an on site waste water treatment and disposal method which complies with the requirements of the South Australian Environment Protection Authority; and
- (g) the industry effluent system and any effluent drainage field are located within the allotment of the development; and
- (h) the industry is not located:
 - (i) on land with a slope greater than 20 percent (1 in 5);
 - (ii) on land that is classified as being poorly drained or very poorly drained;
 - (iii) within 50 metres of any bore, well or watercourse, where a water course is identified as a blue line on a current series 1:50 000 Government standard topographic map, or where there is observed a clearly defined bed and banks and where water flows at any time;
 - (iv) within 200 metres of a major stream (3rd order or higher); and
 - (v) the industry does not have a septic tank or any other waste water treatment facility located on land subject to inundation by a 10 year return period flood event.

The proposal is non-complying in the Waterfront Zone as it is an agricultural industry with a floor area greater than 250 square metres. This area limitation is placed on such developments to ensure that such development of this scale and level of activity is appropriate to the zone.

Form of Development

Council Wide

Objective 1 Orderly and economic development.

.../cont.

3.2 455/1083/05 – Fleurieu Olive Grove (Continued)

The proposal is for the processing of primary produce grown on the land or in the Mount Lofty Ranges Region. The facility is directly related to the processing, and value adding of produce grown on the land and within the region. The nature and level of activity created by the development is seen to be of low impact and compatible with the locality.

PDC 77 Development should take place in a manner which will not interfere with the effective and proper use of other land in the vicinity and which will not prevent the attainment of the objectives for that other land.

PDC 80 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.

The application indicates that any impact from the proposal will be contained within the boundaries of the subject land. It indicates that processing of olives produces low levels of odour and that these odours will not be detectable on adjoining properties.

PDC 78 Development should not take place if it may result in over exploitation of surface or underground water resources.

The development will be undertaken in accordance with the existing Water License issued to the applicant for use on the subject land.

Movement of People and Goods
Council Wide

Objective 11 The safe and efficient movement of people and goods.

Objective 12 The free flow of traffic on roads by minimising interference from adjoining development.

PDC 24 Development and associated points of access and egress should not create conditions that cause interference with the free flow of traffic on adjoining roads.

The facility will not create high volumes of traffic. The peak will occur during the period of mid April to July. It is anticipated that traffic movements generated will be as follows:

.../cont.

3.2 455/1083/05 – Fleurieu Olive Grove (Continued)

- Fresh Olive deliveries: 150 – 185 per annum (8 to 10 tonne truck deliveries at an average of 1.8 deliveries per day for 1500tonnes of fruit)
- Table olive deliveries from the site: average 1 – 2 deliveries per fortnight
- Olive oil either in small tankers or trucks in 1000 litre containers – infrequent and for much of the season will only be one load every 3 – 6 weeks.

The existing point of access on the Finniss-Clayton Road is to be used. There is no road-side vegetation near the access point and line of sight for driver accesses to the subject land is satisfactory.

Conservation
Council Wide

Objective 21 The conservation, preservation, or enhancement, of scenically attractive areas including land adjoining water and scenic routes.

Waterfront Zone

Objective 2 Protection of the natural open character and features of the zone.

Objective 3 Maintenance of the water quality of Lake Alexandrina and associated watercourses.

PDC 7 Development liable to degrade the natural features and character of the zone should not be undertaken.

PDC 9 Development liable to cause pollution or contamination of Lake Alexandrina or the lower River Murray, prejudice the conservation of water resources or cause environmental damage should not be undertaken.

Strathalbyn District

PDC 45 Development should not take place unless served by an adequate water supply and wastewater disposal system.

PDC 49 Development should not take place if it may result in over exploitation of surface or underground water resources.

.../cont.

3.2 455/1083/05 – Fleurieu Olive Grove (Continued)

PDC 50 Development involving the alteration of natural drainage systems should not be undertaken unless there will be no adverse effects to existing vegetation within adjoining land or roads, and no increase in the risk of flooding of existing development or erosion downstream.

The proposal will have little impact on the natural features and character of the zone. Although the proposal is for a large steel framed and clad shed, its height and overall scale is typical of those found in rural enterprises. With a ridge height of 7metres, it is similar in scale to large implement sheds found in rural areas.

The site of the building is level ground, and set far away from the Finniss – Clayton Road, at a distance that will not be unsightly from surrounding premises or roadways. The use of dark construction materials and the added screening from the extensive olive grove will assist the proposal in blending with the landscape.

The development has been designed in consultation with the EPA and Natural Resource Management Services unit of the Department of Water, Land, Biodiversity and Conservation. The result is a development proposal that will take all reasonable precautions against the pollution of the land itself and the adjoining river systems.

Building Setbacks **Strathalbyn District**

PDC 70 Buildings should not be erected, or added to, on land so that any portion of a building is sited nearer to the existing boundary of a road than the distances prescribed for each road or portion there of in [Table Alex/2...](#)

The proposal is in excess of the 30metre required setback, situated approximately 180metres from the Finniss-Clayton Road.

Appearance of Land and Buildings **Council Wide**

PDC 140 Buildings or structures should be sited unobtrusively and be of a character and design which will blend naturally with the landscape.

Strathalbyn District

Objective 32 The amenity of localities not impaired by the appearance of land, buildings, and objects.

.../cont.

3.2 455/1083/05 – Fleurieu Olive Grove (Continued)

Waterfront Zone

PDC 10 Development involving the use of materials or structures which are unsightly or in a poorly maintained or dilapidated condition should not be undertaken.

PDC 11 Buildings and structures erected in this zone should be designed and constructed in an unobtrusive location so as to harmonise with the character of the locality.

As stated previously, the site is relatively level and not significantly elevated. The building is to be clad with a dark coloured Colorbond and screened from view by the olive grove.

COMMENTS

Despite the non-complying nature of the proposed development, and given the existing approved use of the subject land, the proposal represents an orderly use of the land that is compatible with the use of adjoining properties and the objectives of the relevant zones. The development will enhance the use of the land for primary production.

In my opinion, the application and the above discussion satisfactory demonstrates that the proposal poses significant merit. With regard to the non-complying nature based on the overall size of the proposal, I don't believe that if approved, this olive processing plant will place considerable pressure on the existing landscape or other land in the locality. The distances from boundaries and roads, together with the screening from the existing olive grove, decreases the likelihood of any adverse visual impacts.

As the application was developed in conjunction with the EPA, and formally referred to this body during the Planning assessment process, as well as the Department of Water, Land and Biodiversity, Conservation, it has been identified that this proposal should not adversely impact or jeopardise the health of the environment, should all conditions of Provisional Development Plan Consent be adhered to.

In my opinion, the proposal displays sufficient merit to warrant approval, subject to concurrence from the Development Assessment Commission.

.../cont.

3.2 455/1083/05 – Fleurieu Olive Grove (Continued)

RECOMMENDATION

That the Development Assessment Panel approve application 455/1083/05 for an Olive Processing Shed at Lot 1 Finniss-Clayton Road, Finniss subject to the follow EPA and DWLBC conditions and notes, and subject to concurrence from the Development Assessment Commission.

Conditions - DWLBC

1. To ensure that the applicant's water licence accurately reflects the purposes for which the water will be used (irrigation and industrial), the applicant is required to apply to the Department of Water, Land and Biodiversity Conservation to have the licence as per the Natural Resources Management Act 2004. Inquiries should be directed to the Water Licensing Unit on 8595 2203.
2. Stormwater run-off from the dwelling being directed to a storage tank or tanks. The capacity of tank storage on site is to be equal to or be greater than 20 litres per square metre of total roof area of all buildings on the site.
Any overflow from the tank or tanks shall be managed to prevent erosion or pollution of the site and the River Murray and diverted away from wastewater disposal areas, such as septic tanks and aerobic systems.
3. The building being located on the portion of the subject that is not within the flood zone.
4. The building being unobtrusive and harmonizing with the surroundings through the use of paint or finishes being of natural colours.
5. The potential for materials from the pump shed to contaminate the surrounding environment is high. All reasonable and practical measures should be taken to ensure that the risk of environmental harm is minimized. This must include:
 - (a) An emergency cut off valve on the pump to prevent water flooding the shed should the pump be damaged in any way (i.e. burst hose etc).
 - (b) The pump shed must have a sump that is able to collect run off water from within the shed.
 - (c) Storage of materials hazardous to the environment must not occur unless the pump shed is bunded.

.../cont.

3.2 455/1083/05 – Fleurieu Olive Grove (Continued)

Conditions - EPA

1. All olive processing must be conducted on a bunded area surfaced with impervious concrete that drains to the wastewater management system.
2. Wastewater must not be irrigated on, or allowed to enter:
 - Waterlogged areas;
 - Into a watercourse
 - Land within 500 metres of any watercourse
 - Land subject to flooding, steeply sloping ground, land with rocky outcrops, or land with highly permeable soil overlaying an unconfined aquifer;
 - Land within 50 metres of any residence on neighboring land; or
 - Land within 25 metres of any property boundary...
3. Audible and visual high-level alarms must be provided for the wastewater holding tank and collection sumps to alert staff of high-level condition in the wastewater system.
4. A back up pump must be kept on site at all times in case of failure of the wastewater system pump.
5. The wastewater management system (collection sumps, oil water separator and wastewater tanks must be situated on an impervious concrete bunded area designed to contain a minimum of 30,000 litres (i.e. of the largest tank).
6. The olive oil storage facility must be bunded to contain at least 120% of the largest oil storage tank. This area must be either:
 - a. A blind sump, which is then pumped out to the wastewater management system; or
 - b. Connected to the wastewater management system with a shut off system in place, which will effectively isolate the storage area from the remainder of the facility, and the wastewater management system.
7. Solid waste must not be disposed of at the site. All solid waste must be disposed of to a facility licenced to handle that type of waste (i.e. composting works, transfer station or landfill).

.../cont.

3.2 455/1083/05 – Fleurieu Olive Grove (Continued)

Notes - DWLBC

1. The applicant is advised of their general duty of care to take all reasonable measures to; prevent any harm to the River Murray through his or her actions or activities.
2. The applicant is encouraged to consider establishing a buffer zone of native vegetation between the River Finniss and the cultivated land on the site.
3. The use of reclaimed water can have a detrimental impact on the receiving environment. To minimize any adverse impact the applicant should follow the South Australian Reclaimed Water Guidelines, available at <http://www.deh.sa.gov.au/epa/pdfs/reclaimed.pdf>
4. All areas within 200 metres of any watercourse are considered to be of high sensitivity for Aboriginal sites. The River Murray and many of its tributaries and overflow areas have abundant evidence of Aboriginal occupation.

Under Section 20 of the Aboriginal Heritage Act 1998 (The Act), an owner or occupier of private land, or an employee or agent of such an owner or occupier, must report the discovery on the land of any Aboriginal sites, objects and remains to the Minister for Aboriginal Affairs and Reconciliation, as soon as practicable, giving the particulars of the nature and location of the Aboriginal sites, objects or remains. Penalties may apply for failure to comply with the Act.

5. The applicant is advised that any proposal to clear, remove limbs or trim native vegetation on the land, unless the proposed clearance is subject to an exemption under the Regulations of the Native Vegetation Act 1991, requires the approval of the Native Vegetation Council.

Any queries regarding the clearance of native vegetation should be directed to the Native vegetation Council Secretariat on 8124 4744.

Notes - EPA

- The applicant is reminded of its general environmental duty, as required by Section 25 of the Environment Protection Act, to take all reasonable 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.

.../cont.

3.2 455/1083/05 – Fleurieu Olive Grove (Continued)

- An environmental authorization in the form of a licence is required for the operation of this development. The applicant is required to contact the Environment Protection Authority before acting on this approval to ascertain licensing requirements.
- A licence may be refused where the applicant has failed to comply with any conditions of development approval imposed at the direction of the Environment Protection Authority.
- Any information sheets, guidelines documents, codes of practice, technical bulletins etc that are referenced in this response can be accessed on the following website:
<http://www.epa.sa.gov.au/pub.html>

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

8.1 455/261/05 - Hardy Milazzo Architects (Strathalbyn Motel)

File Ref: 455/261/05
Officer: Judith Urquhart

REPORT

This proposal was refused by the DAP on 24th October 2005 and this decision was subsequently appealed. At its meeting on 16th January 2006 the DAP resolved that amendments proposed by the applicant formed the basis for a compromise, and this was communicated to the applicants. It appeared therefore that a full hearing had been avoided and that the court would issue an approval once conditions had been agreed.

In the meantime, the ERD Court realized that it had made an error. When an appeal is lodged the Court is required to notify all those who submitted representations in relation to the application, and invite them to apply to be joined to the appeal. In this instance this was not done and the conference proceeded without those residents having the opportunity to be involved in the conference discussions. Upon realizing its error the Court invited the residents to apply to be joined.

Council neither opposed nor supported the joinder application and Ms Jackie Clarke who owns the property abutting the subject site on the southern side has subsequently been joined to the appeal.

The hearing has been set down for 21st – 23rd March 2006. As Council has reached a compromise agreement with the applicants and has no further active role to play in the appeal, it will seek to be excused from the hearing. The Court is unlikely to agree to this as a council officer, or legal representative may be required by the Court to advise or assist with certain aspects. Phil Broderick will represent the Council as both planners involved in the application are no longer with the Council.

RECOMMENDATION

That the report be received.

ITEM 9. NEXT MEETING

Meeting closed at: