

ALEXANDRINA COUNCIL

NOTICE OF MEETING

Notice is hereby given to Councillors and Members that the next meeting of Development Assessment Panel will be held in the Community Chambers "wal Yuntu Warrin", on 15 July 2009 commencing at 11:00 am



Your attendance is requested.

11.00 am

Mr Don Donaldson
CHAIRPERSON

7th July 2009

**REPORT AND AGENDA
FOR DEVELOPMENT ASSESSMENT PANEL MEETING TO BE
HELD ON 15 JULY 2009
IN THE
COMMUNITY CHAMBERS "WAL YUNTU WARRIN",
COMMENCING AT 11:00 AM**

PRESENT

APOLOGIES

R Sage.

IN ATTENDANCE

ITEM 1. CONFIRMATION OF MINUTES

Minutes of the Alexandrina Council Development Assessment Panel held on 18th June 2009.

RECOMMENDATION

That the minutes of the Alexandrina Council Development Assessment Panel held on 18th June 2009 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/D002/09 - Crown Castle International

SUMMARY TABLE

Date of Application	6 February 2009
Subject Land	Lot 21 Lines Road, Port Elliot
Assessment No.	A 21916
Relevant Authority	Alexandrina Council
Planning Zone	Landscape (Port Elliot and Goolwa)
Nature of Development	Land Division creating one (1) additional allotment
Type of Development	Non-Complying
Public Notice	Category 3
Referrals	Planning SA, SA Water
Representations Received	1 (in support)
Representations to be heard	Nil
Date last inspected	29 June 2009
Recommendation	Approval subject to Development Assessment Commission concurrence and the endorsement of a Land Management Agreement by Council.
Originating Officer	Tom Gregory

BACKGROUND

Development Application 455/D002/09 was received with its accompanying Statement of Support in late February 2009. In March 2009, Council's Planning Department viewed the application internally, and formed the opinion that the proposal warranted enough merit to proceed to a full and proper assessment pursuant to Regulation 17(3)(b) of the Development Regulations 2008. This assessment has been undertaken, and the Application is now before the Development Assessment Panel in order to determine an outcome for the proposal.

.../cont.

3.1 455/D002/09 - Crown Castle International (Continued)

THE PROPOSAL

This proposal seeks to create a 400 square metre allotment in the Landscape (Port Elliot and Goolwa) Zone at Lot 21 Crows Nest Road, Port Elliot. The purpose of this allotment is to contain and secure existing telecommunications infrastructure including a tower and service box. The proposed division seeks to gain security by tenure by way of subdividing the existing farming allotment and creating the proposed allotment 51 with easements to protect its power supply and an unrestricted Right of Way for access. A plan of division has been attached for convenience.

REFER ATTACHEMENT 3.1(a) (page 1)

The proposal involves no physical alteration to the existing land, land use, infrastructure or the telecommunications tower. This infrastructure has been in place since 1990.

The proposed allotment 50 will remain as a 62.6 hectare allotment occupying the farmer's dwelling and associated farm outbuildings.

Principle of Development Control 7 of the Landscape (Port Elliot and Goolwa) Zone, lists Land Division's that create additional allotments as a form of Development that is classified as Non Complying.

In accordance with the Development Regulations 2008, the applicant has provided a Statement of Effect, outlining the perceived merits of this application. A copy has been attached for convenience.

REFER ATTACHMENT 3.1(b) (page 5)

SITE & LOCALITY

The subject land is identified as allotment 21 in DP 72405 – Hundred of Goolwa, and is held in Certificate of Title Volume 6012, Folio 256. The subject land endorses two leases registered to Crown Castle International, and contains a detached dwelling and associated outbuildings in the south east corner of the allotment, with access gained via Lines Road.

The character of the locality is comprised of large individual allotments, some containing detached dwellings and outbuildings, most of which are utilised for a various array of rural uses such as grazing and primary production. Some remnant stands of vegetation are evident throughout the rolling hills of the locality, with some evident on the subject land, but not in the location of the proposed allotment.

.../cont.

3.1 455/D002/09 - Crown Castle International (Continued)

A portion of the subject land forms part of the scenic backdrop to the township of Port Elliot, and is protected from 'over development' due to its Landscape Zoning within Council's Development Plan.

PUBLIC NOTIFICATION

Section 38 of the Development Act 1993 and Schedule 9 of the Development Regulations 1993 prescribe public notice categories for different types of development. As this proposal is a non-complying form of development (and results in the division of land and the creation of an additional allotment) this application was deemed to be Category 3 for the purpose of Public Notification.

Category 3 Public Notification was conducted between 2 June and 18 June 2009. A Public Notice was placed in The Times Newspaper, and notification was sent to all adjoining land owners advising them of the application, and inviting a written representation either for or against the proposal.

One representation was received. This representation was from an adjoining landowner, who had no comment to make other than indicating their support for the proposal.

REFERRALS

Pursuant to Regulation 29(3) of the Development Regulations, the Development Assessment Commission consulted appropriate Government Agencies on the proposal. The SA Water Corporation had no comment to make, however the Department of Local Government and Planning advised:

The subject site is located in the Landscape (Port Elliot and Goolwa District) Zone in which the proposed land division is listed as non-complying development.

The Commission does not generally support non-complying land division applications without adequate and detailed justification. From the Statement of Support provided as part of lodgement, the division seeks to isolate an existing telecommunications facility on an allotment of 400m². Whilst non-complying this arrangement will create an allotment with an unrestricted right of way for maintenance of the telecommunications facility.

Council should ensure that a Land Management Agreement is entered into to ensure proposed allotments 50 and 51 are consolidated in the event the telecommunications facility ceases to operate.

.../cont.

3.1 455/D002/09 - Crown Castle International (Continued)

Both Government Agency referrals have been attached to this report.

REFER ATTACHMENT 3.1(c) (page 18)

CONSULTATION

Consultation internally was undertaken with Council's Infrastructure Planning and Design Department, in particular Council's Land Development Officer – Stewart Ratcliff with regard to vehicular access. Mr Ratcliff has advised that the vehicular access to this site is currently adequate and satisfactory, and this will not alter as a result of the proposed Land Division.

ALEXANDRINA COUNCIL DEVELOPMENT PLAN

The subject land is located within the Landscape (Port Elliot and Goolwa) Zone of the Alexandrina Council Development Plan. As the land division application was lodged on the 2 February 2009, the Development Plan consolidated on the 15 January 2009 is the relevant edition. The following Objectives and Principles of Development Control are seen as especially relevant to this Application.

Council Wide

Objectives: 1, 2, 3, 4, 27, 30, 38, 48, 50, 67, 68, 69, 70

Principles of Development Control: 2, 6, 7, 9, 140, 169, 171, 172, 175, 176, 181, 199, 209, 254, 255, 256, 257, 258, 259, 262, 263, 264, 265, 266, 267, 268, 306, 307, 309, 310

Port Elliot and Goolwa District

Objectives: 1, 7, 8

Principles of Development Control: 7, 11, 15, 31, 32, 56

Landscape (Port Elliot and Goolwa) Zone

Objectives: 1, 2, 3, 5, 6

Principles of Development Control: 2, 3, 5, 6, 7

COMMENTS

The introduction of smaller (residential sized) allotments into rural zones (in some cases) can restrict the potential for adjoining rural land to undertake some farming activities. When considering the creation of smaller allotments (lot 51) within a rural zone, the amenity of the smaller allotments generally needs to be taken into consideration. Buffer distances and the like are required at times for 'incompatible' land uses in close proximity, however in this instance they are not seen to be required as the existing operations of lot 51 are not susceptible to farming activities and vice versa.

.../cont.

3.1 455/D002/09 - Crown Castle International (Continued)

The proposal involves no physical alteration to the existing land, infrastructure or telecommunications tower. The remainder of the subject land will remain as one large rural allotment, with no alteration to access for the existing dwelling.

The proposed development will not significantly impact on the locality as the proposed subdivision does not involve anything more than the creation of a new Certificate of Title. The existing tower is well screened by vegetation, and is located well above the road level of Crows Nest Road preventing any visual impact. The density of the land and the impact of the development will remain the same whether a new title is created or not. The proposed division also seeks to secure the power supply and vehicular access to the proposed new allotment by creating easements and a free and unrestricted Right of Way to the allotment.

Further to Section 57 of the Development Act 1993, the applicants propose a Land Management Agreement (LMA) over allotment 51, to ensure that the proposed allotment and the remainder of the land, Lot 50, is consolidated under one title once or if the proposed telecommunications facility ceased to operate or were decommissioned. A copy of the draft LMA has been attached to this report, and the Development Assessment Panel is reminded that this agreement must be endorsed by Council. Should the DAP require a change to the current wording or intent of the LMA, this may be done (with the agreement of the Applicant), as this document is yet to be endorsed by Council and issued with the Alexandrina Council common seal.

REFER ATTACHMENT 3.1(d) (page 21)

The LMA is a suitable form of development control over the site as the Development Assessment system is designed to make assessments of the suitability of land uses at a point in time, rather than being able to measure the cumulative impacts of developments or consider what may change with the land in the future. In reading the attached LMA, the main points that it covers are:

- That without express permission from the Council, this allotment will not be used for any other purpose other than for a telecommunications facility;
- That should the use cease, the telecommunications infrastructure will be removed after a certain period of time;
- That this allotment will not be used for / or provide justification for a future realignment of boundaries.

In order to ensure security in the future, and in order to fall in line with the State Government's recommendation, it is suggested to the Development Assessment Panel that a clause be added to the proposed LMA indicating that in the event that the telecommunications facility cease operation, that allotment 50 and 51 be amalgamated into one allotment.

.../cont.

3.1 455/D002/09 - Crown Castle International (Continued)

CONCLUSION

Given the above, and having regard to all relevant provisions of the Development Plan, it is considered that the proposed land division (despite its Non-Complying nature), is not significantly at variance with the intent of the zone or the Development Plan as a whole. It is therefore my opinion that this proposal poses enough merit to warrant Development Plan Consent, and have made the following recommendation accordingly.

RECOMMENDATION

That the Development Assessment Panel support the proposal in principle and delegate the decision making power to Planning Staff to issue approval for Development Application 455/D002/09 for the creation of one additional allotment at lot 21 Crows Nest Road once a Land Management Agreement is signed and sealed by Council (prior to Council seeking concurrence from the Development Assessment Commission), with an additional clause added to the LMA indicating that should the current telecommunication operations cease on allotment 51, that allotment 50 and 51 are amalgamated. This approval is subject to the following notes and conditions, subject to concurrence from the Development Assessment Commission and subject to successful adoption of the Land Management Agreement.

Council Conditions

1. That the endorsed Land Management Agreement be register on the new Certificate of Title for the proposed allotment 51 in the plan of division.

DAC Conditions

1. That payment of \$2489.00 shall be made into the Planning and Development Fund (1 allotment @ \$2489.00/allotment). Cheques shall be made payable and marked 'Not Negotiable' to the Development Assessment Commission and payment made on Level 5, Roma Mitchell House, 136 North Terrace, Adelaide, (opposite the Railway Station) or sent to GPO Box 1815, Adelaide, SA 5001.
2. That plans shall be in accordance with the requirements for plans under the Real Property Act (Land Division) Regulations 1982.

3.2 455/370/09 - Jonathon Henry Stokes

SUMMARY TABLE

Date of Application	1 May 2009
Subject Land	Lot 116 Sugars Avenue, Hindmarsh Island
Assessment No.	A 7097
Relevant Authority	Alexandrina Council
Planning Zone	Conservation (Hindmarsh Island) Zone
Nature of Development	Detached Dwelling – Single Storey
Type of Development	Non-Complying
Public Notice	N/A
Referrals	N/A
Representations Received	N/A
Representations to be heard	N/A
Date last inspected	27 th May 2009
Recommendation	Refuse
Originating Officer	Andrew Houlihan

BACKGROUND

There is an existing small detached dwelling and attached shed located on the subject allotment.

THE PROPOSAL

Nature of Development

The Development Application involves replacing an existing dwelling with a new dwelling, whilst demolishing part of the existing dwelling and converting the remaining portion into a single garage. The dwelling is proposed to be located a minimum of 25m from the waters edge.

The proposed development is considered to be a non-complying form of development pursuant to PDC 21 for the Conservation (Hindmarsh Island) Zone. which states;

*21 The following kinds of development are **non-complying** in the Conservation (Hindmarsh Island) Zone:*

.../cont.

3.2 455/370/09 - Jonathon Henry Stokes (Continued)

- *Dwelling with the exception of those meeting the needs of primary producers*

As there is no farming activity being undertaken on site, the proposed development is considered to be non-complying.

Detailed Description

The proposal involves the construction of a single storey detached dwelling on the subject site. From the plans provided, the dwelling is setback 25m from the high tide water mark, 1m from the eastern side boundary, 2.5m from the western side boundary and 13.44m from the northern boundary or road (Sugars Avenue), as shown on the Site Plan.

The proposed dwelling is a rectangular shape with a footprint measuring 11 x 15m (164.m²) and is proposed to be finished in colorbond cladding ("surf mist") with a 17.5 degree "Ultra Colorbond" roof.

REFER ATTACHMENT 3.2 (page 34)

SITE & LOCALITY

The subject site is an existing allotment on Sugars Avenue. It is part of a strip of existing leasehold allotments, most of which have been developed with single storey detached dwellings facing Goolwa Channel and associated garaging facing the road (Sugars Avenue). The locality displays a varied mixture of dwelling styles, colours and materials of construction.

The subject site is level and devoid of any significant vegetation. There is an existing dwelling located on the northern (road) boundary measuring 38.5sqm.

PUBLIC NOTIFICATION

Should the Development Assessment Panel resolve to proceed with the assessment of the Application, then Category 3 Public Notification will be required to be undertaken.

REFERRALS

Should the Development Assessment Panel Resolve to proceed with the assessment, these Applications will be formally referred to the River Murray Minister pursuant to Schedule 8, (g) (h) and (j) of the Development Act 1993.

.../cont.

3.2 455/370/09 - Jonathon Henry Stokes (Continued)

COMMENTS

The dwelling, in its current format, appears to be at variance with Principle of Development Control 4 for the Conservation (Hindmarsh Island) Zone which states:

PDC 4 No new dwellings should be erected other than those which are to be a primary place of residence for primary producers who work properties within the Zone.

Also PDC 6 states;

PDC 6 No further development such as a new dwelling, dwelling extension, or the addition of a garage should occur on leased portions of freehold land located adjacent the Mundoo or Goolwa Channels with the exception of replacing an existing dwelling with a readily transportable building of the same size.

After discussing the non-complying nature with the applicant they have made no representations that the dwelling will be used for primary producers who work properties within the area.

The proposal is considered to be at variance as the dwelling is not considered to be a "transportable". As well as needing to be a readily transportable building the dwelling should also be the similar size as the existing dwelling. The size of the proposed new dwelling is extensively large in comparison to the existing dwelling.

The intent of these principles is to minimise the impact on the natural landscape and to allow the removal of structures easily as the need arises. The proposed dwelling is not considered a transportable and will impact on the site.

Given that these above, are the two fundamental PDC's relating to dwellings, and the proposal is at variance, it is clearly demonstrating that the proposed development is seriously enough at variance with the Alexandrina Development Plan to warrant refusal.

RECOMMENDATION

That the Development Assessment Panel refuse Development Application 455/370/09 for a Single Storey Detached Dwelling as it is considered to be at variance with PDC's 4-and 6 for the Conservation (Hindmarsh Island) Zone.

ITEM 4. DEVELOPMENT APPLICATIONS - CATEGORY 3

ITEM 5. DEVELOPMENT APPLICATIONS - LAND DIVISION / COMMUNITY TITLE

ITEM 6. MATTERS REFERED FOR FOLLOW-UP

ITEM 7. GENERAL ITEMS FOR DISCUSSIONS

ITEM 8. NEXT MEETING

Scheduled for Tuesday 18th August 2009, time to be advised.