

ALEXANDRINA COUNCIL

AGENDA FOR THE DEVELOPMENT ASSESSMENT PANEL MEETING
TO BE HELD ON 25 JANUARY 2005 AT 11:00 AM
IN LARGE MEETING ROOM (OLD GOOLWA COUNCIL CHAMBERS)

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**Development Assessment Panel
Report and Agenda
on 25 JANUARY 2005 commencing at 11:00 am
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 20th December 2004.

RECOMMENDATION

That the minutes of the Alexandrina Council Development Assessment Panel held on 20th December 2004 as circulated to members be received as a true and accurate record.

ITEM 2. DEVELOPMENT APPLICATIONS

ITEM 3. DEVELOPMENT APPLICATIONS - NON-COMPLYING

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

4.1 455/1040/04 - Graham Crisp

SUMMARY TABLE

Date of Application	31 st August 2004
Subject Land	26 Ocean Parade Middleton
Assessment No.	A 2175
Relevant Authority	Alexandrina Council
Planning Zone	Residential Residential
Nature of Development	Garage & Wine Cellar
Type of Development	Consent on Merit
Public Notice	Category 3
Referrals	N/A
Representations Received	Four
Representations to be heard	Three
Date last inspected	17 th January 2004
Recommendation	Approve
Originating Officer	Cherry Getsom

ESD IMPACT/BENEFIT

- Environmental Possible impact relating to previous applications that involved the introduction of fill.
- Social Impact upon adjoining property owners and nearby residents.
- Economic Increase in the value of the property.

BACKGROUND

This site has a long and complex history, with a number of dwelling applications, and variations to those applications received. After a Supreme Court ruling in December 2002, a complying two storey dwelling was approved. An application for an additional balcony to this dwelling was approved at the Environment Resource and Development Court in September 2004.

.../cont.

4.1 455/1040/04 – Graham Chrisp (Continued)

The Court action taken against Council in 2002 was by neighbours concerned regarding the impact of the development based on setbacks and the fill on site. The Supreme Court held that Council handled the application incorrectly and set aside the Provisional Planning Consent dated 23 January 2001. This Provisional Planning consent incorporated approval for a garage under the main dwelling.

THE PROPOSAL

Nature of Development

The application is for a garage and wine cellar to be located in an existing partially constructed dwelling.

Detailed Description

The proposal involves the excavation of an area of the partially constructed dwelling that is currently utilised as footings for the dwelling. The applicants original approval of January 2001, as amended by the application approved in August 2002 involved a garage under the main dwelling. This approval was overturned by the Supreme Court and a separate application was received and approved for a double storey dwelling. The applicant states that he commenced work on the dwelling prior to the Courts decision to overturn the approval; that is to say he commenced building work under the approval of Development Application 455/743/01. As this approval was overturned, the work started was then re-engineered and fill was introduced in order to form the footings of the current approval. This current application seeks to re-instate the garage area and utilise part of this space as a wine cellar.

Legal advice was sought as to whether or not Council can approve a garage which is in effect part of an approval that was overturned by the Supreme Court. The advice received was that the previous application was overturned on a technical ground, in that Council did not assess the application correctly, not on grounds relating to the dwelling and garage.

REFER ATTACHMENT 4.1(a) (page 2)

SITE & LOCALITY

The site has a history of fill being placed and removed from the site and determining original site conditions is difficult. An approved double storey dwelling is under construction upon the subject land

The locality is that of a residential area with high amenity value due to its closeness to coast and to popular surfing beaches. The locality has the character of an older well established area of holiday homes designed to take best advantage of the available views.

.../cont.

4.1 455/1040/04 – Graham Chrisp (Continued)

A number of older single storey residential dwellings are located to the east of the subject land, although new more contemporary dwellings are located at 4 and 4a Ocean Parade.

Properties 24, 26 and 28 Ocean Parade partially form their own locality as they are distinctively different in proportion, scale, bulk and setback than much of the street and are located at the intersection of Ocean Parade and Mindacowie Avenue. This is a one way access area with traffic directed in a loop from Mindacowie Avenue, along Dover Road, down and along Ocean Parade and then back to Mindacowie Avenue.

PUBLIC NOTIFICATION

Council sought legal advice regarding the assessment of this application. Advice received from Mr Nicholas Swan QC indicated that the proposal should be treated as a Category Three application for the purposes of Public Notification. The applicant sought his own legal opinion regarding this application, this is also attached for information.

REFER ATTACHMENT 4.1(b) (page 14)

The application was placed on Public Notification on the 9th December with representations to be received by 23rd December 2004. Four representations were received in response to the Public Notice.

The issues relevant to the current application included:

- The fact that the structure currently exists
- The height of the structure

A number of other issues raised related to the history of the site as a whole, these included:

- Councils classification of the infill of the previous partially constructed garage as 'footings'
- The introduction of fill on the site.
- The relationship between this application and previous applications.
- Council not enforcing conditions of previous approvals.

A number of the issues raised in representations highlighted the contentious nature and history of the site as a whole but were not specific to this current application.

Two of the representors requested additional time in order to prepare a response, as the Development Regulations, Part 6, Section 35, only allow for a period of 10 business days for representations to be received this request was denied.

.../cont.

4.1 455/1040/04 – Graham Chrisp (Continued)

REFER ATTACHMENT 4.1(c) (page 26)

The applicant has also submitted a response to the representation.

REFER ATTACHMENT 4.1(d) (page 35)

ALEXANDRINA COUNCIL DEVELOPMENT PLAN

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

Council Wide Principles of Development Control

- PDC 58** The appearance of land, buildings and objects should not impair the amenity or character of the locality in which they are situated.
- PDC 84** The excavation and/or filling of land should:
- (a) be limited to no greater than 1.5 metres so as to preserve the natural form of the land and the native vegetation;
 - (b) only be undertaken in order to reduce the visual impact of buildings, including structures, or in order to construct water storage facilities for use on the allotment;
 - (c) only be undertaken if the resultant slope can be stabilised to prevent erosion; and
 - (d) result in stable screen slopes which are covered with top soil and landscaped so as to preserve and enhance the natural character or assist in the re-establishment of the natural character of the Mount Lofty Ranges Region.

Port Elliot And Goolwa Principles Of Development Control

- PDC 2** Development involving the erection of any building of more than one storey in height, should only be undertaken where:
- (a) the building will be in visual harmony with existing buildings in the locality;
 - (b) the building is designed and sited to minimise any resultant loss in privacy or natural light with respect to existing development; and
 - (c) the development will not detract from the amenity of the locality.

Residential Zone – Principles of Development Control

- PDC 2** Buildings should not exceed 8.0 metres in height and should not cover more than 50 percent of the area of the allotment.

.../cont.

4.1 455/1040/04 – Graham Chrisp (Continued)

PDC 8 Development should be compatible with the character and amenity of the locality.

PDC 9 Buildings and structures should be of a high standard of design with regard to external appearance, building materials, colours, siting, bulk, loss of privacy, overshadowing, landscaping and provision for future maintenance.

COMMENTS

It is obvious from a site inspection that the approved dwelling is substantially commenced and provisions are under way to allow for a garage should it be approved. The amenity value and impact of the approved dwelling upon the immediate locality has been a point of much dispute amongst the applicant and adjoining property owners. The dwelling however is approved and it is doubtful that converting what is currently approved as footings or the base of a dwelling into a garage and wine cellar will have a major impact upon the existing character of that dwelling.

Converting this currently void space into a useable space does however raise a number of other issues in particular relating to the zoning guidelines for this locality. Residential Zone Principle of Development Control 2 states:

“Buildings should not exceed 8.0 metres in height and should not cover more than 50 percent of the area of the allotment.”

Whilst the currently approved dwelling is no higher than 8 metres above natural ground level, and will remain no higher than 8 metres above natural ground level should the garage be approved, the addition of the garage to the overall height of building will lead to the approved dwelling being some 8.8 metres in height (as measured from the plans provided) contrary to PDC 2.

Council Wide – Port Elliot and Goolwa PDC 2 makes reference to dwellings of more than one storey in height and notes that they should not be undertaken when they have a negative impact upon the locality. As previously noted the impact of the existing dwelling upon the locality has been the subject of much discussion and whilst it is preferable that a third storey not be added to the existing two storey dwelling, it is questionable as to the impact this addition will have on the overall amenity value.

Residential Zone Principles 8 and 9 and Council Wide Principle 58 all refer to the character and amenity of dwellings and impact of the area, again it is doubtful as to the impact the approval of the garage will have upon the character and amenity of the approved dwelling.

.../cont.

4.1 455/1040/04 – Graham Chrisp (Continued)

It is apparent from the representations received that the proposal still causes concern amongst neighbours and whilst their concerns should not be ignored, a number of the issues raised in the representations relate to the site as a whole and its history, rather than the specific garage and wine cellar. The question was raised by one representor as the nature of the application, in that it possibly involves a garage and two rooms. The applicant has confirmed in writing that the sole intended use for this space is a garage and a wine cellar and small void space to allow access to the under floor area, details of this area have been provided and form part of the application. It has also been suggested that the structure is not being built in accordance with approved plans. There is a note on file that suggests a Council Building Officer inspected in site in early 2004 and found that it was being built according to approval.

RECOMMENDATION

The Development Assessment Panel approve Development Application 455/1040/04 for a garage and wine cellar as per details provided with and forming part of the application.

4.2 455/1293/04 - Mark Hall

SUMMARY TABLE

Date of Application	19 th October 2004
Subject Land	9 Scott Road Langhorne Creek
Assessment No.	A 10057
Relevant Authority	Alexandrina Council
Planning Zone	Country Township
Nature of Development	Change of use – Agricultural Supplies
Type of Development	Consent on Merit
Public Notice	Category 3
Referrals	Environment Protection Authority
Representations Received	Three
Representations to be heard	One
Date last inspected	12 th January 2005
Recommendation	Approve with conditions
Originating Officer	Joanne Nightingale

ESD IMPACT/BENEFIT

- Environmental Slight risk of contamination, better access to chemicals may lead to improved use.
- Social Industrial / commercial type use alongside residential use. Better access to chemicals essential to viticulture.
- Economic Additional business in town, competitive chemical pricing.

BACKGROUND

Until recently this site has been used for an engineering workshop performing light industrial work on site as well as commercial functions with customers visiting the site.

THE PROPOSAL

Nature of Development

The application is a consent on merit application. The definition of the proposal is for a shop which is not defined as complying or non-complying in the Country Township Zone.

.../cont.

4.2 455/1293/04 – Mark Hall (Continued)

The application's category of notice is Category Three in accordance with the Development Act 1993 Regulations Schedule 9.

Detailed Description

The proposed use for the site is an agricultural supplies shop. The outlet would service all agricultural users and focus on pest and disease monitoring, only a limited amount of chemical stock will be kept on the premises as it will be freighted daily on a order delivery system. A list of proposed stock to be stored at the premises includes; insecticides, herbicides, fungicides, fertilizers, secateurs and hardware supplies. There will be no mixing or decanting of chemicals on site and all products will be stored in individual containers no larger than 110 litres. Containers in the quantity of 110 litres will be by order as required and not stored on site.

The existing shed is intended to operate as a drive through service so that all loading and unloading can be performed within the bunded (solid lip to retain any liquid) area. The shop will consist of two buildings the shop front and warehouse to the rear. Both of the sheds will be bunded independently, with a total surface area bunded in the warehouse of 168 square metres and the shop front 48 square metres.

The site is proposed to be landscaped with a dirt mound surrounding the site to contain site water and provide height to the landscaping to reduce the impact of the use.

The proposed hours of operation are 8.30am to 2.00pm which if the venture is successful would extend to 5.00pm Monday to Friday. Strathalbyn Freight is the proposed carrier for delivery of stock and have a truck that is able to enter the shed for loading and unloading, only a semi-trailer would be unable to do so.

The fence to the rear is proposed to increase in height in consultation with the owner to the rear to ensure privacy.

An amendment was made to the application removing the proposed use of 7 Scott Road for car parking following the discovery that it was not able to be leased as the applicant had intended. Other car parking locations were identified on site.

REFER ATTACHMENT 4.2(a) (page 39)

SITE & LOCALITY

The site is the sixth allotment on the left hand side on Scott Road, Langhorne Creek. Scott Road is a no through road of residential character with the only exceptions to dwellings being the proposed agricultural supplies shop replacing an engineering workshop and the ETSA substation on the right hand side.

.../cont.

4.2 455/1293/04 – Mark Hall (Continued)

REFER ATTACHMENT 4.2(b) (page 40)

The locality is largely residential with the exception of the subject site and ETSA substation. The site backs onto residential development that faces the main road through the township which is the site of commercial activity for the town currently and is the location the development plan seeks to locate any commercial activity.

PUBLIC NOTIFICATION

The application was placed on category three public notice on the 8th November 2004 until the 25th November 2004 with three representations received.

REFER ATTACHMENT 4.2(c) (page 41)

The applicant has also submitted a response to the representations.

REFER ATTACHMENT 4.2(d) (page 48)

The issues raised and responded to included; parking and delivery to the site, storage of the chemicals and possible impacts (ie toxic fumes, spillage requiring evacuation etc) and increased noise/loss of amenity.

REFERRALS

The application was referred to the Environmental Protection Authority (EPA) as required by Section 37 and Schedule 8 of the Development Act 1993, under Schedule 21(1)(a) involving activities of environmental significance on the 8th November 2004.

The response received on the 14th December 2004 contained seven conditions with the additional requirement that council ensure that the development is not at risk from flooding and that appropriate systems for wastewater collection and disposal are in place.

REFER ATTACHMENT 4.2(e) (page 58)

A flood risk statement was prepared in response to the above consideration by Tonkin Engineering and outlined that the allotment was outside the 100 year ARI floodplain.

REFER ATTACHMENT 4.2(f)(page 63)

.../cont.

4.2 455/1293/04 – Mark Hall (Continued)

CONSULTATION

Consultation has been undertaken with Council's Environmental Health Department (EHO Kim Vivian) with regard to the wastewater collection and disposal. The advice of the EHO is that appropriate measures are described in the application detail.

Consultation has been undertaken with Council's Technical Services Department (TSO Dennis Zanker) on the issues of car parking and vehicle manoeuvring. The advice of the TSO is that the plans are workable but greater area for manoeuvring and parking would have been desirable.

ALEXANDRINA COUNCIL DEVELOPMENT PLAN

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

COUNCIL WIDE PRINCIPLES

Form of Development

- 1 Development should be in accordance with the structure plans for the whole of the council area and the townships of Port Elliot, Middleton, Goolwa, Strathalbyn, Langhorne Creek, Milang and Clayton shown on Maps Alex/1(Overlay 1) Enlargements B to J.

Centres and Shops

- 10 Shopping development should be located as follows:
 - b. a shop or group of shops with a gross leasable area of 450 square metres or less should not be located on a primary arterial road unless located in a business, centre, or shopping zone, or area;

STRATHALBYN DISTRICT

- Objective 1:** The Langhorne Creek Structure Plan ([Map Alex/1 \(Overlay 1\) Enlargement D](#)) shows in general terms the form of future development based upon:
- (a) containment of township development to areas which are unaffected by flooding or alternatively to areas which can be protected by levee without impeding major flood flowpaths through the township;

.../cont.

4.2 455/1293/04 – Mark Hall (Continued)

Objective 4: Industrial, commercial, office and retail development satisfying the requirements of the population of the district.

Objective 6: Separation of incompatible land use.

COUNTRY TOWNSHIP ZONE

Objective 2: The protection and enhancement of the small-town character of Langhorne Creek flanking the tree lined Bremer River, and comprising mixed, small-scale business and commercial uses, including the hotel and primary school as core elements, and with its limited housing interspersed by orchards and vineyards.

PDC8 Development for business, retail or commercial purposes should not be undertaken in Langhorne Creek unless located adjacent to the Strathalbyn Road in proximity to existing business development.

Movement of People and Goods

11 Development should include sufficient provision for vehicular access, and for the manoeuvring, loading and unloading of service vehicles, to ensure the safety of the public and the free flow of traffic in the locality.

COMMENTS

The Alexandrina Development Plan Country Township zone for Langhorne Creek does seek under principle 8 of development control to maintain retail and commercial development on the main Bridge Road in the township. However, the subject site has been used until recently in a retail sense as an engineering workshop with customer traffic and noise associated with this business. The proposed development as described will not have a greater impact in terms of noise, but may have a greater impact in terms of customer traffic.

The growth that the region has experienced in the last five years in viticulture would suggest the proposed business would be a benefit to the greater community increasing convenient access to chemicals required by primary producers.

The impact upon the residential nature of the area has been expressed clearly by the representors who have responded during the public notice period. There are concerns regarding the nature of the chemicals to be kept on site and noise that the use may generate. The applicant has addressed these concerns in the response to the representations outlining that loading and unloading is required to be done within the warehouse reducing the impact of this process.

.../cont.

4.2 455/1293/04 – Mark Hall (Continued)

The amount of chemicals to be stored is to be kept to a minimum with stock provided on an order basis. Access to the rear of the property is possible both via the warehouse and the western boundary.

The application has supplied all the information required to indicate that the development will be carried out in a safe and professional manner.

RECOMMENDATION

That the Development Assessment Panel approve Development Application 455/1293/04 with the following conditions attached:

1. Vehicle engines shall not be left running while loading and unloading within the bunded area.
2. Storage of bulk (un-packaged) materials, blending or mixing of dry substances, and decanting, mixing or dilution of liquids must NOT be carried out on the site.
3. All chemicals (including empty containers) must be stored undercover within a bunded area.
4. All loading/unloading and handling of chemical products must be carried out on a bunded impervious apron within the storage area (where spills can be contained). The apron surface (usually concrete or an impervious membrane) must be maintained at all times in an impervious state. The bunding must be designed and installed in accordance with the Australian Standard (AS1940/93).
5. No vehicle washing or maintenance is to be carried out on site.
6. Stormwater from the roof must be collected for on-site use with overflow also utilised as far as practicable on the site (eg directed to areas of vegetation) or via underground pipes directly to the Council stormwater system or in the absence of such a system to the nearest drainage line for disposal in a manner that does not result in erosion.
7. Any material spilt outside must be cleaned up promptly by sweeping and if water is used to wash down then the area must drain to a collection area, device or sump from which it must be collected for removal and disposal off site to an approved waste disposal depot, or alternatively directed to a sewer (with prior approval of the Manager SA Water Trade Waste) or to a Council STED scheme (with prior approval, where applicable). At no time it must be allowed to come into contact with the stormwater system or any underground water resource.
8. A chemical spill containment kit must be kept on site at all times and maintained in operational conditions at all times.

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

- Update on Ramoth Gilead appeal.
- Strategy Pty Ltd (Fenchurch Street units)

ITEM 9. NEXT MEETING