

**DEVELOPMENT ASSESSMENT PANEL
MINUTES OF MEETING HELD ON 14 APRIL 2004
COMMENCING AT 10:00 AM
IN THE PORT ELLIOT R.S.L. HALL, THE STRAND, PORT ELLIOT**

PRESENT

Councillors G Connor, R Potter, P Reedman, A Oliver (Proxy for Cr M Beckett), B Featherston (Proxy for Cr A Woolford), D Banks (Director Technical Services).

APOLOGIES

Cr A Woolford, Cr M Beckett, D Commerford (Director Environmental Services).

IN ATTENDANCE

G West, J Nightingale (Planners), V Harvey (Personal Assistant).

At 10:10 a.m. David Banks called the meeting to the order and also called for nominations to the Presiding Members' position.

Cr Potter nominated Cr Featherston.

There being no other nominations –

Councillor Featherston accepted the nomination and was duly elected.

ITEM 1 CONFIRMATION OF MINUTES

Minutes of the Alexandrina Council Development Assessment Panel held on 17th February 2004.

RECOMMENDATION

Moved Cr Connor seconded Cr Potter that the minutes of the Alexandrina Council Development Assessment Panel held on 17th February 2004 as circulated to members be received as a true and accurate record.

CARRIED

ITEM 2. DEVELOPMENT APPLICATIONS

ITEM 3. DEVELOPMENT APPLICATIONS - NON-COMPLYING**3.1 455/649/03 - Angus & Dowie Architecture**

Councillor Featherston, the Presiding Member, welcomed Mr Alistair Angus to the meeting at 10:15 a.m. who gave a brief overview of the application for the Panel.

SUMMARY TABLE

Date of Application	23 rd May 2003
Subject Land	45 Batson Parade, Hindmarsh Island
Assessment No.	A5926
Relevant Authority	Alexandrina Council
Planning Zone	Residential Hindmarsh Island
Nature of Development	Addition of living room
Type of Development	Non-complying
Public Notice	Category 3
Referrals	Nil
Representations Received	Nil
Representations to be heard	Nil
Date last inspected	10 th March 2004
Recommendation	Approval
Originating Officer	Joanne Nightingale

ESD IMPACT/BENEFIT

- Environmental The dwelling extension will have minimal impact other than a slight increase in stormwater.
- Social Slight increase in visual presence from water and possible impact/threat on neighbouring views.
- Economic Increase in value therefore increased rate revenue.

THE PROPOSAL*Nature of Development*

The application is for a dwelling addition including raised decking or balcony.

.../cont.

3.1 455/649/03 – Angus & Dowie Architecture (Continued)*Detailed Description*

The application is for a dwelling addition on Hindmarsh Island, at 45 Batson Parade, which is in the Residential (Hindmarsh Island) Zone, facing the waterfront. The current dwelling is a rectangular, two storey structure with the building bulk behind both adjoining dwellings. It has an associated raised decking or balcony that projects toward the water 8 metres beyond the dwelling, maintaining the 25 metre setback described by the zone to the foreshore.

The proposal involves recladding the upper storey in new hardi plank, the colour to match the existing dwelling (the lower storey of which is rendered). The upper storey of the dwelling is to be extended to enlarge bedroom one and to allow for an increase in living area of 40m². The extension further includes a raised decking or balcony which begins as ramp on the western side of the dwelling and extends out toward the water on the Northern side of the dwelling. This decking encompasses an area of some 95.2 square metres including the ramp. The existing decking covers an area of 64 square metres. There are no earthworks proposed and it is proposed to retain the existing gum trees.

The setback to the foreshore is encroached upon down to 17 metres at its closest point and 24 metres at its furthest. The foreshore has been determined as being that part of a shore between high water mark and low water mark, the high water mark being utilised for the purpose of this assessment has been the edge of the bank at which point water is clearly regularly present.

133 It was agreed by consensus that the Development Assessment Panel approve Development Application 455/649/03 at 45 Batson Parade, Hindmarsh Island for a dwelling extension including raised decking subject to the following conditions:

- 1. That further landscaping is carried out to reduce the visual impact of the development from the river.**

AGREED BY CONSENSUS

Councillor Featherston, Presiding Officer, thanked Mr Alistair Angus for his overview at 10:15 a.m.

ITEM 4. DEVELOPMENT APPLICATIONS - CATEGORY 3**4.1 455/29/04 - Adelaide Blue Gums Pty Ltd**

Councillor Featherston, Presiding Officer, welcomed Mr Martin England, to the Panel meeting at 10:16 a.m.

SUMMARY TABLE

Date of Application	14 th January 2004
Subject Land	Section 2413 Crows Nest Road, Mount Jagged
Assessment No.	A 3858
Relevant Authority	Alexandrina Council
Planning Zone	Watershed Protection 2
Nature of Development	Commercial Forestry
Type of Development	Consent on Merit
Public Notice	Category 3
Referrals	N/A
Representations Received	2
Representations to be heard	1
Date last inspected	Thursday 25 th March 2004
Recommendation	Approval
Originating Officer	Georgia West

ESD IMPACT/BENEFIT

- Environmental Fertiliser and weed control, primarily during establishment year.
- Social Potential for neighbour dispute.
- Economic Benefit to land owner from forestry returns.

THE PROPOSAL*Nature of Development*

Commercial forestry is included on the list of activities in Principle of Development Control 7 of the Watershed Protection 2 Zone that are exempt from *non-complying* status. Commercial forestry is not listed in the Development Plan or the Development Regulations as a *complying* use, therefore it is a *consent on merit* use, and must be considered by Council against the relevant provisions of the Development Plan.

.../cont.

4.1 455/29/04 – Adelaide Blue Gums Pty Ltd (Continued)

Commercial forestry is not listed within Schedule 9 of the Development Regulations as requiring either Category 1 or 2 Public Notice procedures. The application therefore required Category 3 Public Notice procedures to be undertaken.

Description of Development

The applicant proposes to convert 20.4ha of a 91 ha property currently used for grazing and cropping to commercial forestry of Tasmanian blue gum. The proposal will not require irrigation and includes minimal fertilisers. It is not proposed to store chemicals at the site. The project includes environmental buffers around watercourses and remnant native vegetation, fire breaks and access tracks, and a resource landing where seedlings and small amounts of chemicals will be deposited prior to planting and weed control or other spraying activities.

The tree farm will operate on at 10-12 year rotation. Harvesting will be undertaken over a 3 week period, planned to commence between 2014 to 2016. Semi trailers and/or log trucks would be used to transport the forestry product to Outer Harbour via Crows Nest Road and Main South Road.

Water for fire fighting is available from a large dam on the property in combination with the planned buffers and access tracks. If approved the development will be added to the applicant's established Fire Management Plan.

134 **It was agreed by consensus that Development Application 455/29/04 should be issued with Development Approval, and the following notes be attached to that approval:**

NOTE:

1. **The applicant establish a new entry point to the property off Crowsnest Road (for the purpose of harvesting) in consultation with Council staff.**
2. **During harvest times 'Warning - Trucks Entering' signs should also be placed 250m either side of the entrance point.**

AGREED BY CONSENSUS

Councillor Featherston, Presiding Officer, thanked Mr Martin England for his overview at 10:40 a.m.

4.2 455/11/04 - Ramoth Gilead Ministries

Councillor Featherston, Presiding Officer, welcomed:

- Mr Barry Briggs on behalf of the Foot family, who gave a representation from 10:42 a.m. to 10:47 a.m.
- Mr Russell Hewes who gave a representation from 10:47 a.m. to 10:50 a.m.
- Mrs Pam Keen who gave a representation, on behalf of the Middleton Town & Foreshore Association, from 10:50 a.m. to 10:55 a.m.
- Mr Alan Bell who gave a representation from 10:55 a.m. to 11:00 a.m.
- Mr James Levinson, from Jamie Botton & Associates, on behalf of the applicant, from 11:00 a.m. to 11:40 a.m.

SUMMARY TABLE

Date of Application	6 th January 2004
Subject Land	Section 2245 Goolwa Road Middleton Section 2245 Goolwa Road, Middleton5632527
Assessment No.	A 2411
Relevant Authority	Alexandrina Council
Planning Zone	Rural Fringe
Nature of Development	Christian Community Centre
Type of Development	Consent on Merit
Public Notice	Category 3
Referrals	N/A
Representations Received	164
Representations to be heard	6
Date last inspected	29 th March 2004
Recommendation	Refusal
Originating Officer	Georgia West

THE PROPOSAL

The proposal is defined as a *Christian community centre* and taking in to account the Environment, Resources and Development Court case described above, is a consent on merit type of development.

.../cont.

- 4.2 455/11/04 – Ramoth Gilead Ministries (Continued)
- 135 Moved Cr Oliver seconded Cr Potter that the Development Assessment Panel refuse Development Application 455/11/04.

Reasons for Refusal:

The type and scale of development proposed is not considered to be within the 'restricted range of rural uses' envisaged for the Rural Fringe Zone, and will have an unacceptable impact on the rural character of the entrance to the Middleton Township.

The proposal is considered to be of an inappropriate scale for the Middleton Township, which is considered a local centre and not an appropriate location for the provision of district - wide services. The location of this scale of development and services in Middleton is not considered orderly development, and may jeopardise the planning and operation of community services in more appropriate district centres.

The development is considered premature, and will prejudice proper strategic planning processes and the future orderly development of the south coast townships, including the Rural Fringe and surrounding zones.

CARRIED

Councillor Featherston, Presiding Officer, thanked all attendees for their time and presentations.

ITEM 5. DEVELOPMENT APPLICATIONS - LAND DIVISION COMMUNITY TITLE

ITEM 6. DEVELOPMENT ASSESSMENT - BUILDING

7.1 455/1096/03 – GJ & CD Hambling (Continued)

The Court accepted that an aerial and antenna were interchangeable as a concept of an antenna. There is clearly a concern given the size of the 64m² receiving device on the top of the proposed structure. There is little assistance from the decisions on this point. Indeed under Boeck's case it would appear that if the antenna was less than 10 metres it may be deemed to be not development and come within Schedule 3. If the structure is amended to be 10m in height it would notionally come within the Schedule exemption, however, the impact of that structure may still be significant on the local amenity, to say nothing of alleged electronic interference with telecommunication facilities of adjacent landowners. **Boeck's case may be open to challenge even if the antenna is 10 metres or less in height, given the more obvious impact and height of the proposal.**

It may be that it is not technically feasible for the applicant to lower the antenna to ten metres, but this is speculation on my part."

136 It was agreed by consensus that the report be received.

AGREED BY CONSENSUS

ITEM 8. GENERAL ITEMS FOR DISCUSSION

8.1 Local Government Panel Member Training

File Ref: 4.14.1(A)
Officer:
From: Local Government Assoc

The Local Government Association is running a number of courses during 2004. Two courses in particular may be of interest to the Development Assessment Panel members:

- Development Assessment Panel Member Awareness Training; and
- Council and Committee Meeting Procedures for Council Members and CEO's.

137 Moved Cr Rod Potter seconded Cr Rod Potter that the report be received and that all Councillors be given the opportunity to attend these courses.

CARRIED

8.2 **455/900/03; 455/901/03; 455/902/03; 455/903/03 And 455/904/03 - McCracken Homes Pty Ltd**

File Ref: 455/900/03 455/901/03 455/902/03
Officer: Joanne Nightingale

These applications were refused by the Development Assessment Panel at its meeting on the 7th of October 2003. The applicant appealed Councils decision through the Environment, Resources and Development Court. The Environment, Resources and Development Court held the first Court Conference on Monday 17th November 2003, this conference led to amended plans being submitted which went to conference on the 17th December 2003. No compromise could be reached on the amended plans due to there being no substantive change.

This matter then proceeded to a Court hearing, with a single Commissioner, Commissioner Hodgson, on Friday the 13th of February 2004. As Council planning staff had recommended approval for this application, Frank McIntyre was retained as an expert witness representing Council.

Commissioner Hodgson found that in land use terms,

“The character of the locality is now defined by a mix of dwelling types and allotment sizes, and in that context, the use of the subject land for group dwellings does not, in my view, conflict with the very broad land use provisions applying to the Residential Zone.”

However Commissioner Hodgson wasn't able to resolve all of the issues raised wishing to consider further information regarding:

- the setback, deeming 8m to be more appropriate rather than 6m,
- absence of detail regarding colours and finishes, and
- fencing, relating to Mrs Pearces' privacy.

The Appellant was invited to amend the proposal in light of the above concerns raised by the Commissioner and the parties to discuss proposed conditions. This matter has been listed to resume on Monday 15th March 2004.

138 **Moved Cr Conner seconded Cr Potter that the Development Assessment Panel recommend no further action regarding Development Applications 455/900/03, 455/901/03, 455/902/03. 455/903/03 and 455/904/03.**

CARRIED

8.3 455/D560/-3 - L Veska On Behalf Of W & A Whyntie

File Ref: 455/9560/03
Officer: Georgia West

This application was refused by the Development Assessment Panel at its meeting on the 25th August 2003. The applicant appealed Council's decision through the Environment, Resources and Development Court. The Environment, Resources and Development Court Conference was deferred at the applicant's request until a similar matter had progressed through the court (DA 455/D603/03 for Stewart at Lot 15 Dance Street).

The matter then proceeded to an Environment, Resources and Development Court Conference on the 20th of January 2004 and was not resolved.

The matter has now been laid down for an Environment, Resources and Development Court Hearing with a single Commissioner on the 23rd and 24th of March 2004. Council will have legal representation, and I will be acting as an expert witness in the case. The applicant also has legal representation and is likely to call a planner as expert witness.

139 It was agreed by consensus that the report be received.

AGREED BY CONSENSUS

8.4 455/D584/03 - Weber, Frankiw & Associates On Behalf Of A & G Bennetts Nominees Pty Ltd

File Ref: 455/9584/03
Officer: Georgia West

This application was refused by the Development Assessment Panel at its meeting on the 7th of October 2003. The applicant appealed Council's decision through the Environment, Resources and Development Court, and presented amended plans through the Environment, Resources and Development Court's Conference process.

At its meeting on the 9th of February 2004, the Development Assessment Panel decided not to support the amended plans. The matter then proceeded to an Environment, Resources and Development Court Conference on the 17th of February 2004 and was not resolved. The matter has now been laid down for an Environment, Resources and Development Court Hearing with a single Commissioner on the 31st of February, and 1st and 2nd of March. Council and the applicant will both have legal representation and are likely to call expert witnesses in the fields of Planning, Engineering and Natural Resources/Native Vegetation.

140 It was agreed by consensus that the report be received.

AGREED BY CONSENSUS

8.5 455/1623/03 - MMG Building Solutions

File Ref: 455/1623/03
Officer: Joanne Nightingale
From: MMG Building Solutions

Correspondence was received dated 6th February 2004 requesting the withdrawal of Development Application 455/1623/03.

141 It was agreed by consensus that the tabled letter be received.

AGREED BY CONSENSUS

8.6 Development (Sustainable Development) Amendment Bill 2004

File Ref: 1.160.029
Officer: D Commerford
From: Minister for Urban Development and Planning

During early March members of Council received a copy of the Bill, and supportive information, from Hon. Jay Weatherill, former Minister for Urban Development and Planning. Included in the supportive information was a paper titled "A Better Direction" prepared by the Local Government Association, as a response to the Bill.

Comments on the Draft Bill are required, from Council, by the 11th May 2004. It is intended that the Panel response to the Bill will form the basis of the Council reply to the Minister.

142 It was agreed by consensus that the Development Assessment Panel recommend the following comments to Council on the Draft Bill, of which responses are due back by the 11th May 2004 to the Minister:

Alexandrina Council respond to the LGA and the State Government regarding the Development (Sustainable Development) Amendment Bill 2004 expressing the following concerns:

- 1. Each Council should design the composition of their own Development Assessment Panel, having the option of appointing up to 3 outside members if they so desire.**
- 2. Council objects to increased Ministerial intervention in Development Plan policies and the proposed appointing of an Investigator into Council activities.**
- 3. The Minister should only be able to constitute a Regional Panel with the concurrence of all affected Councils.**

.../cont.

8.6 Development (Sustainable Development) Amendment Bill 2004 (Continued)

- 4. Council believes the collaborative mediation system proposed is a cost shifting exercise from State to Local Government. The current situation of informal conferences through the Environmental Resources & Development Court before an appeal is undertaken, has been effective and should continue.
- 5. Council does not agree with the Building Rules Assessment Audits as proposed in the Act.
- 6. The State Government must address the need for additional resources needed by local government to maintain the intent of the Bill.

In addition Council consider allocating funds in the next budget to allow further development of planning policies, as a matter of urgency.

AGREED BY CONSENSUS

ITEM 9. NEXT MEETING

Monday 3rd May 2004 at the Centenary Hall Supper Room, Dawson Street, Goolwa.

MEETING CLOSED AT 12:30 P.M.

MINUTES CONFIRMED
PRESIDING OFFICER

DATED