

**DEVELOPMENT ASSESSMENT PANEL
MINUTES OF MEETING HELD ON 19 NOVEMBER 2008
COMMENCING AT 10:00 AM
IN THE COMMUNITY CHAMBERS "WAL YUNTU WARRIN"**

PRESENT

R Danvers (Chair), M Walker, M Galea, Cr Gartrell, Cr Medlyn.

APOLOGIES

IN ATTENDANCE

Vanessa Harvey (Personal Assistant), Rebecca Swain (Environmental Customer Service Officer), Tom Gregory (Planner), Sally Roberts (Manager Planning & Development).

ITEM 1 CONFIRMATION OF MINUTES

Minutes of the Alexandrina Council Development Assessment Panel held on 15th October 2008.

Moved Cr Medlyn seconded M Walker that the minutes of the Alexandrina Council Development Assessment Panel held on 15th October 2008 as circulated to members be received as a true and accurate record.

CARRIED

ITEM 2. DEVELOPMENT APPLICATIONS

3.1 455/D091/08 – Areti Pty Ltd (Continued)

THE PROPOSAL

This application seeks to create eight additional allotments within the Landscape (Port Elliot and Goolwa District) Zone. Land Division where additional allotments are proposed is listed as a non-complying form of development within this Zone.

The applicant currently holds 13.72 hectares of land, and is seeking to create the additional allotments on the eastern portion of their allotment, fronting onto Bay View Road.

Seven of the proposed allotments are to be 1500 square metres in size, having a 24 metre frontage to Bay View Road. The other additional allotment could be described as a 'hammer-head' style allotment of 4000 square metres in size, with a 3 metre wide access 'handle' to Bay View Road, south of the other additional allotments.

SITE & LOCALITY

The subject land is described as an undulating open rural landscape that rises in elevation to the north-west as it abuts the land which forms the 'hilly backdrop' for the townships of Port Elliot and Middleton.

The subject land is not regular in shape and somewhat represents a 'T' like configuration with frontage to both Waterport Road and Bay View Road.

The portion of the subject land that fronts Waterport Road contains the Authenticity Health and Wellness Retreat that has been in operation since 1997 in a substantially sized old homestead. In addition to this main structure are a number of outbuildings of various sizes and condition, some used in conjunction with the retreat and others housing farm type implements and other typical machinery associated with small farming operations.

The land in the general locality is fairly open and used for small scaled cropping purposes, however there is a small number of dwellings in the locality also. A few dwellings are located within the Landscape (Port Elliot and Goolwa District) Zone, however a considerable majority are located within the adjoining Rural Living Zones.

The site of the proposed allotments is approximately 200 metres north-east of the retreat, on the portion of the allotment that has frontage to Bay View Road.

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3.1 455/D091/08 – Areti Pty Ltd (Continued)

This portion of Bay View Road is the boundary for a Rural Living Zone that contains a cluster of 24 de-facto rural living allotments to the east of the subject land. This cluster has frontage to Bay View Road and the main Victor Harbor – Goolwa Road. The average sized allotment in this rural living enclave is approximately 0.5 hectares.

Gallery were requested to leave the meeting at 10:06 a.m.

- 18 Moved M Galea seconded Cr Medlyn that Development Application for land division 455/D091/08 be refused as it is seriously at variance to the Development Plan, with particular reference to the Landscape (Port Elliot & Goolwa) Zone.

REFUSED

3.2 455/D096/08 – Murndal Pty Ltd (Continued)

THE PROPOSAL

This application seeks to create one additional allotment within the Watershed Protection Zone. Land Division where additional allotments are proposed is listed as a non-complying form of development within this Zone.

The applicant currently holds 247.6 hectares of land with substantial frontage to Burma Road. The subject land is used for a number of rural uses, and contains two habitable detached dwellings sited approximately 750 metres from each other. Each dwelling is independent from the other with respect to access, water supplies, and septic systems that are operational within each proposed allotment.

One dwelling (circa 1970) is situated in the centre of the property and is surrounded by a large number of outbuildings and farm buildings that are used in conjunction with the current operations on site. Access to this dwelling is gained via an internal track, which passes the second dwelling. The second dwelling (circa 1985) is located approximately 30 metres from Burma Road, and is currently fenced off in the configuration of this land division proposal. The proposal seeks to create a new title around the circa 1985 dwelling of approximately 2.7 hectares.

The applicant has provided a brief Statement in Support of the Land Division.

SITE & LOCALITY

The majority of the subject land is significantly undulating with a pleasant rural vista, and contains vast areas of open space with some areas of planted vegetation, and a number of dams.

The site of the proposed 2.7 hectare allotment is at a higher elevation to the remainder of the property, and is set upon a plateau that is visually screened from the road. This area is considerably flat compared to the remainder of the property.

The locality is comprised of large parcels of rural land in private ownership. Without a full and proper assessment of this application, it is difficult to ascertain the average sized allotment within close proximity to the subject land, however a general estimate would indicate that the proposed 2.7 hectare allotment would be the smallest allotment within the locality by far.

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3.2 455/D096/08 – Murndal Pty Ltd (Continued)

19 Moved M Walker seconded Cr Medlyn that the Development Assessment Panel resolve to proceed to a full assessment of Land Division Application number 455/D096/08.

CARRIED

ITEM 4. DEVELOPMENT APPLICATIONS - CATEGORY 3

ITEM 5. DEVELOPMENT APPLICATIONS - LAND DIVISION / COMMUNITY TITLE

ITEM 6. DEVELOPMENT APPLICATIONS - BUILDING

ITEM 7. MATTERS REFERRED FOR FOLLOW - UP

ITEM 8. GENERAL ITEMS FOR DISCUSSION

8.1 Complaint Handling Policy

File Ref: 4.14.1(A)
Officer: Sally Roberts
From: Local Government Association of SA

REPORT

At the 26 March 2007 Development Assessment Panel meeting a Code of Conduct, which must be observed by members of the Panel, was adopted. Recently the Local Government Association has prepared a Complaint Handling Policy to add to this Code of Conduct to ensure that there is a process in place to deal with complaints when and if they arise. The policy is attached for your information and consideration.

Provided that the Panel agrees with the policy it should be adopted and added to the Code of Conduct accordingly.

Moved Cr Gartrell seconded Cr Medlyn that the Development Assessment Panel requests the Public Officer provide information on support available to the Panel Members in the event of a complaint.

CARRIED

20 **Moved M Galea seconded Cr Medlyn that the Development Assessment Panel adopt the Complaint Handling Policy prepared by the Local Government Association and add this to their Code of Conduct pending receipt of advice on the previous Motion.**

CARRIED

8.2 Update On Retirement Village At Lot 401 Abbots Lane, Strathalbyn - Development Application 455/742/07

File Ref: 455/742/07
Officer: Sally Roberts

REPORT

The matter was relisted to be heard on 30 October 2008 where submissions were made on the traffic issue. Regardless of the expert advice received from traffic engineers engaged by the applicant and Council the third party still did not concede that the traffic layout would be adequate. The Court therefore heard from the traffic engineers and the third party.

Agreement was reached on the matter of flooding with the preparation of a Deed and a Supplementary Deed that covered the delivery of stormwater via easements on adjoining properties located on Old Bull Creek Road. The Supplementary Deed was approved for signing and sealing at the 3 November 2008 Council meeting and upon the Court receiving these documents it will deliver its decision.

It is expected that the Court will approve the development given the agreed position on the flooding issue and the expert advice agreeing that the traffic movements would be acceptable.

21 Moved Cr Medlyn seconded Cr Gartrell that the report be received.

CARRIED

8.3 455/308/08 - Variation To 455/102/00 - Change Of Condition 9 To Allow The Use Of Three Audible Bird Scaring Devices In Association With The Existing Vineyard

File Ref: 455/308/08
Officer: Andrew Sladden

REPORT

In June 2008, the Development Assessment Panel refused Development Application 455/308/08 - Variation to 455/102/00 – Change of Condition 9 to allow the use of three audible bird scaring devices in association with the existing vineyard.

The applicant subsequently lodged an Appeal with the Environment, Resource and Development (ERD) Court. Prior to the Compulsory Conference, the applicant put forward the following compromise for consideration:

“Our client proposes that Condition 9 of the current approval (DA 455/102/00) be varied to list a series of requirements regulating to operation of bird scaring devices. It is proposed that the condition would read as follows:

9. Audible bird scaring devices may only be used –
- (a) with a maximum sound burst duration from any one device of ten seconds;
 - (b) with a minimum burst frequency (e.g. period of silence) of ten minutes;
 - (c) with the maximum volume of each device limited to 50%;
 - (d) between 7:00 hours and 20:00 hours;
 - (e) when no more than three devices operate at any one time;
 - (f) with no concurrent sound bursts amongst the devices;
 - (g) when sited in the locations depicted on the attached plan; and
 - (h) between the 1st of January and the 31st of March.”

This proposed condition is based on the original acoustics report and each device will be no closer than 650m from any dwelling.

This compromise was presented to the joiners of which a number of issues were raised.

The applicants have put forward the option of a demonstration of the proposed devices in accordance with the proposed amendment to Condition 9. At the time of writing this report the time and date of the demonstration has yet to be finalised.

.../cont.

8.3 **455/308/08 – Variation to 455/102/00 – Change of Condition 9 to allow the use of three audible bird scaring devices in association with the existing vineyard**

In reply to the above, the legal representative of the Applicant provided a response.

On 31 October 2008, the Conference was resumed at which the Applicant has undertaken to arrange a demonstration and Council will be advised so appropriate persons can attend. Given that this is yet to occur, a Directions hearing has been set for 10 December 2008 and a trial date for 12 – 14 January 2009. Should it get to this point, Council will need to engage an Acoustics Engineer to provide evidence.

22 **Moved Cr Medlyn Seconded M Galea that the Development Assessment Panel resolve to accept the variation to 455/102/00 - change of Condition 9 as listed: 'Audible bird scaring devices may only be used -**

- (a) with a maximum sound burst duration from any one device of ten seconds;
- (b) with a minimum burst frequency (e.g period of silence) of ten minutes;
- (c) in the case of the existing Mickim Predator electronic speaker devices, where each device shall be set at 50% of the maximum sound output;
- (d) in the event that another electronic speaker device is used, the maximum sound power level shall be set so that it does not exceed a reading of 95dB(A) when measured on a calibrated sound level meter set to 'Fast' and 'A' weighting, situated 6m from and directly in front of a speaker, 1.5 metres above ground;
- (e) so as to emit electronic screeching bird/distress noises;
- (f) between 7:00 hours and 20:00 hours;
- (g) when no more than three devices operate at any one time;
- (h) with no concurrent sound bursts amongst the devices;
- (i) with only one device situated within the triangular vineyard area (beyond the exclusion zones) to the west of the centre of the land;
- (k) when fitted with an automatic timer to shut off the device by 20:00 hours;
- (l) when fitted with a locked cover to prevent unauthorised manipulation of the controls; and
- (m) between the 1st of January and the 31st March'.

CARRIED

8.4 455/955/07 - Private Air Strip

File Ref: 455/955/07
Officer: T Gregory

REPORT

This application has a Directions Hearing scheduled for 6th November 2008. A verbal report will be given at the meeting.

23 Moved M Walker seconded Cr Gartrell that the report be received.

CARRIED

8.5 Training session on LGA Code

An email was forwarded to all members advising of the Planning Reforms 2008 – Preparing for the Residential Development Code. M Walker has registered online, M Galea is still deciding on appropriate date. Cr Gartrell and R Danvers are unavailable to attend.

8.6 December Panel meeting

It was agreed that a Christmas lunch will follow on from the meeting to be held 17th December.

8.7 Fleurieu Regional Development – Blue Gum bus trip

Cr Medlyn advised that he will be attending the FRD bus trip tomorrow and will give a verbal report to the Development Assessment Panel at the next meeting.

8.8 Listing of follow-up items

M Walker thanked the Planners for their comprehensive reporting, but advised that for follow-up items, perhaps just a heading on the agenda with a verbal report given at the meeting would be sufficient.

MEETING CLOSED AT 11:28 a.m.

MINUTES CONFIRMED

CHAIRMAN

DATED: