

ALEXANDRINA COUNCIL

NOTICE OF MEETING

Notice is hereby given to Councillors and Members that the next meeting of Development Assessment Panel 2009 will be held in the Community Chambers "wal Yuntu Warrin",
on 18 June 2009
commencing at 11:30 am



Your attendance is requested.

11.30 am Commencement of Meeting

12.30 pm Conclusion of Meeting

Don Donaldson
CHAIR

11 June 2009

**REPORT AND AGENDA
FOR DEVELOPMENT ASSESSMENT PANEL MEETING TO BE
HELD ON 18 JUNE 2009
IN THE
COMMUNITY CHAMBERS "WAL YUNTU WARRIN",
COMMENCING AT 11:30 AM**

PRESENT

APOLOGIES

IN ATTENDANCE

ITEM 1. CONFIRMATION OF MINUTES

Minutes of the Alexandrina Council Development Assessment Panel held on 20 May 2009.

RECOMMENDATION

That the minutes of the Alexandrina Council Development Assessment Panel held on the 20 May 2009 as circulated to members be received as a true and accurate record.

ITEM 2. DEVELOPMENT APPLICATIONS

NIL

ITEM 3. DEVELOPMENT APPLICATIONS - NON COMPLYING

ITEM 3.1 455/107/08 - BEN STOKES

SUMMARY TABLE

Date of Application	31.01.2008
Subject Land	Lot 592 Yundi Road, Yundi
Assessment No.	A20267
Relevant Authority	Alexandrina Council
Planning Zone	Willunga District
Nature of Development	Other – Training Facility for Earthmoving Licensing & Operations (Non-Complying)
Type of Development	Non-Complying
Public Notice	Category 3
Referrals	EPA, DWLBC (Informal)
Representations Received	Four (4)
Representations to be heard	Two
Date last inspected	May 2009
Recommendation	Refusal
Originating Officer	Andrew Sladden

BACKGROUND

The owner of the property has been utilising some excavation machinery on the subject site for a couple of years on a purely personal basis. As a result of a couple of complaints, Council's Compliance Officer has investigated and it has been determined that as the earthmoving being undertaken is not in association with "Development" there is little that Council can do to stop the owner from using this heavy machinery on site.

SAPOT (South Australian Plant Operator Training) are proposing to utilise the site for an earthworks training facility.

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ITEM 3.1 455/107/08 - BEN STOKES (Continued)

THE PROPOSAL

Nature of Development

The applicant is proposing to change the use of the land to provide a training facility for heavy machinery, where students can train and obtain their heavy machinery licences. As this use does not fall within one of the standard land use definitions pursuant to Schedule 1 of the Development Act 1993, it has been defined as "Change of use – Training Facility for Earthmoving Licensing and Operations".

Principle of Development Control 18 for the Willunga District comprises a list of Development which is exempt from being a non-complying form of development. As this type of land use is not on this list, it is considered to be a non-complying form of Development.

Detailed Description

The existing allotment is rectangular with frontage to Yundi Road and has a total area of approximately 50ha. There is an existing dwelling and implement shed located in the centre of the allotment approximately 150m from the Yundi Road boundary. The allotment is currently used for farming. The dwelling is currently being rented and the implement shed is being utilised for the storage of vehicles and machinery.

The proposed development involves changing the use of a portion of the land to allow a "facility for the conduct of educational activities" involving the training and certification of operators of various types of earthmoving machinery. This will include the licensing of operators in accordance with the requirements of the "National Guidelines for Occupational Health and Safety Competency Standards for Operators of Load-shifting and other types of Specified Equipment", and relevant Australian Qualifications Framework (AQF) Units of Competency.

On the ground it is proposed that accredited SAPOT training officers and students will arrive on site via Yundi Road and park in the car park adjoining the existing dwelling that will be converted into the SAPOT Training Facility administration office and training centre for all theory based training.

The proposed car park will be designed in accordance with the Australian Standards to a capacity in accordance with the Development Plan. It will be constructed of an all-weather compacted gravel standard and be clearly marked and drained to Council standards. It is envisaged that there will be a minimum of 1 qualified training officer and one student onsite at anytime with a maximum of 5 training officers and 20 students (1 trainer per 4 students) once the course reaches full demand.

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ITEM 3.1 455/107/08 - BEN STOKES (Continued)

The hours of operation proposed for the training facility are 7.30am to 5.30pm seven days a week (Monday to Sunday). The existing farm shed (located near the training centre office) will be utilised as the Machinery Shed/Workshop for the storage of all the machinery overnight and it will be provided with appropriate amenities to Council/DHS standards. The larger vehicles/equipment to be used for training purposes and stored on site permanently in the machinery shed are - Excavator x 2, Front End loader x 1, Skid Steer Loaders x 2, Haul Truck x 1, Telescopic Handler x 1, Motor Grader x 1, Vibrating roller x 1, Support Ute's x 2.

An access road from the training centre office/machinery shed to the rear 'Training Area' is proposed to be 3 metres wide and constructed/engineered to a safe and trafficable standard in all weather (compacted sand and rubble). The access road will be lined with a swale stormwater drain and silt fence that will run, at grade, directly into a set of silt detention dams (one at the front of the property – already constructed and one at the rear) in accordance with EPA guidelines.

The banks/mounds formed on either side of the access roads will be appropriately battered and landscaped to screen the operation of the facility and hold the soil in place. Existing tracks on the property have also been marked on the site plan. The rear rectangular 'Training Area' as marked in yellow on the proposed site plan will be 1.8555 hectares in area and be the area that all Civil constructed based 'simulated' training is undertaken. The 'Training Area' boundary is proposed to be defined by a landscaped battered mound to ensure that all activities are restricted to a screened area that will not be visible to adjoining landowners or from Yundi Road and all dust/silt can be retained and managed without causing impact on the environment.

Within the rear Training Area is an 'Exercise Pits Area' that will be 400m² in area and is where all the Excavator/Backhoe training will be undertaken for simulated trench/foundation training. An 'Exercise Yard Area' that will be 400m² in area and is where Front/Skid Steer loader training will be undertaken. There is also a 400m² area dedicated for specialised Civil Training within the 'Training Area'.

Therefore, all training and activities associated with the business will be undertaken within the rear 'Training Area' (which includes the specialised Exercise Areas) along the access road that leads from the Machinery Shed and Training Centre Office (undertaken within the existing buildings) and an ancillary car park. There is also a set of silt dams, silt fencing and landscape mounds to be developed to protect the water quality in the watercourses.

Sand will be retained onsite at this point in time with no commercial arrangements to sell/move the sand off site to which PIRSA has advised no mining lease is required. PIRSA has also advised that any movement of soil around the site (as proposed) for training purposes may require development approval under the Development Act 1993 (this application) and should be undertaken in accordance with EPA guidelines (as proposed).

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ITEM 3.1 455/107/08 - BEN STOKES (Continued)

Effectively the earthmoving training will move sand around the site within the designated 'Training Area' so that students can be accredited by SAPOT and move on to work in the mines etc. The carting of sand off-site is not envisaged at this time. It is proposed that there will be a maximum excavation depth of 500mm at the southern end to level up with the northern end. The top soil will be used to create the earth mounds around the 'Training Area' and the access road and the volume of soil moved around each day will be approximately 5 tonnes. There will also be 'live' training in how to suppress dust each day using the water sprayer.

It is also proposed that the land will be remediated back to its current state for cropping/farming purposes at such time the facility is no-longer required.

REFER ATTACHMENT (page)

SITE & LOCALITY

The subject site is a rectangular large rural allotment located on Yundi Road. There is an existing dwelling and implement shed and the allotment appears to have been used for grazing purposes. There appears to be some significant strands of native vegetation scattered throughout the allotment.

The locality is rural characterised by allotments of varying size, predominantly being used for a variety of farming uses (horticulture and grazing) with scattered stands of native vegetation. The topography of the locality is characterised by rolling hills and valleys.

PUBLIC NOTIFICATION

The Development Application was the subject of Category 3 Public Notification and was advertised between 24 February 2009 and 11 March 2009. Four (4) representations were received within this timeframe.

Three of the representors were opposed to the proposed development with objection and concerns highlighted as being:

- Noise and dust.
- Control of weeds.
- Fire Risk.
- Visual impact.
- Increased traffic within the locality.

REFER ATTACHMENT (page)

The applicant has also submitted a response to the representations. The applicant is of the opinion that they have covered all issues adequately in the Development Application documentation.

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ITEM 3.1 455/107/08 - BEN STOKES (Continued)

REFER ATTACHMENT (page)

REFERRALS

The Application was formally referred to the EPA pursuant to Section 37 of the Development Act 1993. The EPA have advised that the development proposal and documentation includes appropriate management of the water quality impacts and have recommended that the Application be approved subject to 4 conditions and a number of their standard notes.

Given the potential impact of the proposed development on the environment, the application was also informally referred to the South Australian Murray Darling Basin Natural Resources Management Board (SAMDBNRM). The SAMDBNRM Board have recommended that the application be refused as the applicant has not provided adequate details regarding the protection of the Fleurieu Peninsula Swamp Habitat which is a critically endangered ecological community located on the subject site and the protection of the Mount Lofty Ranges Southern Emu-wren, which is an endangered species.

REFER ATTACHMENT (page)

ALEXANDRINA COUNCIL DEVELOPMENT PLAN

As the Application was lodged in January 2008, it has been assessed against the Development Plan relevant at the time of lodgement, being that Consolidated on 17 January 2008.

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

PART A – COUNCIL-WIDE

OBJECTIVES

Form of Development

Objective 1: Orderly and economic development.

Objective 2: A proper distribution and segregation of living, working and recreational activities by the allocation of suitable areas of land for those purposes.

PDC 160 Development should take place on land which is suitable for the intended use of that land having regard to the location and condition of that land and the objectives for the zone in which it is located.

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ITEM 3.1 455/107/08 - BEN STOKES (Continued)

PDC 161 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 162 Development should not take place if it may result in over exploitation of surface or underground water resources.

PDC 164 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.*

PDC 168 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 scree 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.*

PDC 169 Development should not be undertaken if the construction, operation and/or management of such development is likely to result in:

- (a) the pollution of surface or groundwater;*
- (b) degradation of watercourses or wetlands;*
- (c) unnecessary loss or damage to native vegetation;*
- (d) the denudation of pastures;*
- (e) erosion;*
- (f) dust;*
- (g) noise nuisance;*
- (h) the introduction of or an increase in the number of pest plants or vermin;*
- (i) increased risk of flooding or impairment of stream water quality through the disposal of stormwater; or*
- (j) sealing of large areas of ground likely to result in increased stormwater run-off.*

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ITEM 3.1 455/107/08 - BEN STOKES (Continued)

Comment

The abovementioned Objectives and PDC's all relate to the suitability of the subject site for the proposed land use and minimising its impacts upon adjoining land uses and the natural environment. The proposed development, if not properly managed could potentially have a huge impact upon the environment and locality. Supporting information submitted with the Development Application provided a lot of detail about how the development will be properly managed which will help minimise these impacts. This is evidenced by the support of the EPA, who have concluded that the proposed development includes appropriate management of water quality impacts. This is attributed in part, to the training facility, being located away from the existing dam and swamp on the site and to proposed management techniques (stormwater trenching, silt fencing, rock filter dam's etc...).

The SAMDBNRM Board, however, have concerns with the proposals impacts upon the swamp areas on site and Mount Lofty Ranges Southern Emu wren which is evidenced in their recommendation for refusal. As this referral is informal, and not required pursuant to Section 37 of the Development Act 1993, they cannot direct Council to refuse the application, however their concerns remain valid.

The siting of the training facility in the centre of the allotment within an existing depression will help to minimise any impact upon the surrounding locality. Being located a significant distance from neighbouring development, the impacts (noise, dust etc...) will be minimised.

Movement of People and Goods

Objective 17: The safe and efficient movement of people and goods.

Objective 18: The free flow of traffic on roads by minimising interference from adjoining development.

PDC 108 Development and associated points of access and egress should not create conditions that cause interference with the free flow of traffic on adjoining roads.

Comment

These provisions seek to ensure that development will provide for safe and efficient movement of people and goods. As the proposed development will retain the existing access point and internal roadway and all activities are proposed to be undertaken within the confines of the property will minimise any impacts on the existing road network.

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ITEM 3.1 455/107/08 - BEN STOKES (Continued)

There will however, be an increase in the number of vehicles entering and exiting the site and using Yundi Road, with at least 5 officers and 20 students and their vehicles per day.

Mining

Objective 22: The siting and management of quarrying and similar extractive and associated manufacturing industries so that minimum damage is caused to the landscape.

Objective 23: The continued availability of metallic, industrial, and construction, minerals by preventing development likely to inhibit their exploitation.

Comment

Although not mining in the strict sense of the word (as the excavated material is not being removed from the subject site), the abovementioned Objectives are still relevant to the proposed development. It is noted, however that although not part of this Application, the applicants are investigating obtaining a mining lease over the subject property which will be the subject of separate legislation, assessment process and licensing authority.

Given the nature of the activities being undertaken, it cannot be argued that the proposed development will cause minimum damage to the landscape and inhibit the exploration of minerals.

Conservation

Objective 27: The conservation, preservation, or enhancement, of scenically attractive areas including land adjoining water and scenic routes.

Objective 30: The retention of environmentally significant areas of native vegetation.

Objective 31: The retention of native vegetation where clearance is likely to lead to problems of soil erosion, soil slip and soil salinisation, flooding or a deterioration in the quality of surface waters.

Comment

The abovementioned provisions are aimed at conserving and protecting the natural environment and maintaining scenically attractive areas. Although the location of the proposed earthworks training area is not visible (apart from the existing access track) from Yundi Road, the development is unlikely to conserve, preserve or enhance the amenity of the locality given the earthworks being undertaken as part of the development.

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ITEM 3.1 455/107/08 - BEN STOKES (Continued)

Appearance of Land and Buildings

Objective 38: The amenity of localities not impaired by the appearance of land, buildings, and objects.

PDC 142 The appearance of land, buildings and objects should not impair the amenity or character of the locality in which they are situated.

PDC 215 Trees, other vegetation and earth mounding should be retained or provided as part of the development where the environment will be visually improved by such a provision.

PDC 218 Development should take place in a manner which will minimise alteration to the existing land form.

PDC 219 Excavation and earthworks should take place in a manner that is not extensively visible from surrounding localities.

PDC 221 The rural character, comprising natural features and man made activities, should be preserved by careful siting, design and landscaping of new building development and or intensive land uses.

PDC 223 Driveways and access tracks to properties should be designed and constructed to blend sympathetically with the landscape and to minimise interference with natural vegetation and landforms.

PDC 225 No development should impair:
(a) the natural character of the Mount Lofty Ranges Region; or
(b) the skyline of the Mount Lofty Ranges Region.

Comment

These provisions are aimed at preserving the visual attractiveness and amenity of the rural locality. Although the proposed development has been designed and sited with these provisions in mind (as evidenced by being located in an existing depression not visible from public view and utilising all existing buildings on the site), it is likely that the development will impair the amenity of the locality, particularly that enjoyed by neighbouring land owners who will be impacted upon both visually and by noise.

In reference to PDC 218 above, the development is considered to be at variance as the activities being proposed will constantly alter the existing land form.

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ITEM 3.1 455/107/08 - BEN STOKES (Continued)

Mount Lofty Ranges Region

General

Objective 53: The maintenance and enhancement of the national resources of the Mount Lofty Ranges Region.

Objective 54: The enhancement of the Mount Lofty Ranges Region catchments as sources of high quality water.

Objective 55: The long term sustainability of rural production in the Mount Lofty Ranges Region ensured.

Objective 56: The preservation and restoration of remnant native vegetation in the Mount Lofty Ranges Region.

Objective 57: The enhancement of the amenity and landscape of the Mount Lofty Ranges Region for the enjoyment of all residents and visitors.

Comment

These provisions are aimed at protecting the amenity and natural environment of the Mount Lofty Ranges Region and its natural resources. The proposed development, if not properly managed is likely to impair the amenity of this environment as earthworks and the constant use of heavy machinery will negatively impact upon the subject site.

Watershed Protection

Objective 61: The protection of the Mount Lofty Ranges Watershed against pollution and contamination.

Objective 62 The prevention of development which could lead to a deterioration in the quality of surface or underground waters within the Mount Lofty Ranges Watershed.

PDC 157 Development within the Mount Lofty Ranges Region should be compatible with its use as a water catchment and storage area, and with its values as an area of agricultural production and scenic quality.

PDC 158 Development should primarily be limited to that which is essential for the maintenance of sustainable grazing, commercial forestry and mixed agricultural activities.

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ITEM 3.1 455/107/08 - BEN STOKES (Continued)

PDC 159 Activities which produce strong organic, chemical, or other intractable wastes, should not be established in the Mount Lofty Ranges Watershed (other than wineries, where the risk to water supply is negligible with appropriate management, design and siting).

Comment

Given the nature of the activities being undertaken as part of the development proposal, it is considered to be at variance with the above objectives and PDC's as it will pose a threat to the watershed and water resources. There is an existing swamp, natural drainage channels and creeks located on the subject, site quite close to the proposed development. Although all measures have been proposed to minimise the impact of the proposed activities upon these water resources (as evidenced by the support of the EPA), the proposed development still poses a threat to the watershed and locality, particularly given its close proximity to these water resources.

PRINCIPLES OF DEVELOPMENT CONTROL

General

PDC 267 Development within the South Mount Lofty Ranges should be compatible with its use as a water catchment and storage area for a major urban water supply system.

PDC 268 Development should primarily be limited to that which is essential for the maintenance of sustainable grazing, commercial forestry and mixed agricultural activities.

PDC 269 Activities which produce strong organic, chemical, or other intractable wastes, should not be established in the Mount Lofty Ranges Watershed (other than wineries, where the risk to water supply is negligible with appropriate management, design and siting).

Comment

Once again, these PDC's are aimed at protecting the natural environment and water resources. The proposed development, by its nature poses a threat to these natural resources, particularly on this site which is partly covered by swamp and other natural drainage channels. It is also noted the importance placed on environmental protection and protection of water resources within the Mount Lofty Ranges Watershed as evidenced by the number of provisions within the Alexandrina Development Plan.

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ITEM 3.1 455/107/08 - BEN STOKES (Continued)

PART D – WILLUNGA DISTRICT

Movement of People and Goods

PDC 1 Development should include appropriate provision on the site to enable the parking, loading, unloading, turning and fuelling of vehicles.

Comment

As previously demonstrated, the proposal provides significant provision for the on-site parking and maintenance of vehicles.

Mining

PDC 3 Quarrying and similar extractive and associated manufacturing industries should be sited and managed so that their impact on the landscape is minimal.

PDC 4 The removal of undesirable structures and the beautification of quarry faces by landscaping or restoration of the natural cover of the land, should be undertaken immediately after workings are finished.

PDC 5 Mining operations in areas of remnant bushland or scenic areas should only proceed following full evaluation of the benefits to the community in retaining bushland or scenery, as opposed to the development of the deposits and relative abundance of alternative deposits.

Comment

These provisions provide scope for mining activities in appropriate localities within the Willunga District. Although not mining in the strictest sense of the definition, the activities being undertaken are essentially the same. These provisions allow for mining and associated activities as long as appropriate environmental protection measures have been provided for and in localities which minimise risk to the natural environment.

The location of the proposed facility will minimise impact on native vegetation, however the fact that there are natural drainage channels, creeks and swamps indicate that the proposed use may be unsuitable within this locality.

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ITEM 3.1 455/107/08 - BEN STOKES (Continued)

Conservation

PDC 7 Development should have the minimum effect on natural features, land adjoining water, scenic routes or scenically attractive areas.

PDC 8 Trees of historical or local significance and single trees or groups of trees of particular visual significance should be preserved and protected against disfigurement. It is necessary to fell these trees, replanting should proceed.

PDC 9 Remnants of bushland should be preserved.

PDC 10 Development should not impair the character or nature of buildings or sites of architectural, historical, or scientific or sites of natural beauty.

Comment

Once again, these provisions are aimed at preserving and protecting the natural environment and the proposal by its very nature does not comply as it involves the use of heavy machinery and extensive earthworks within the designated areas.

Rural Development

PDC 12 Rural areas should be retained primarily for agricultural, pastoral and forestry services.

Comment

Compliance with this cannot be achieved as the proposed development does not involve farming or forestry.

Conclusion

Given the number of relevant Objectives and Principles of Development Control aimed at preserving and protecting existing water resources and the natural environment, the locality is one which is environmentally sensitive. The fact that there are a number of drainage channels and swamp areas located on the subject site highlights the environmental importance of the locality. The development, although clearly designed to minimise its impact on this natural environment (as evidenced in its support by the EPA) is by its nature and activities considered to be at variance with the locality and relevant provisions of the Alexandrina Development Plan.

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ITEM 3.1 455/107/08 - BEN STOKES (Continued)

RECOMMENDATION

That the Development Assessment Panel REFUSE Development Application 455/107/08, for a Training Facility for Earthmoving Licensing and Operations (Non-complying) at Lot 592, Yundi Road, Yundi, (CT reference: Volume 5821, Folio 462) on the grounds that it is at variance with the environmentally sensitive nature of the locality. In particular, the proposed development is considered to be at variance with the following Objectives and Principles of Development Control from the Development Plan.

Council Wide

Objective 38: The amenity of localities not impaired by the appearance of land, buildings, and objects.

PDC 142 The appearance of land, buildings and objects should not impair the amenity or character of the locality in which they are situated.

PDC 160 Development should take place on land which is suitable for the intended use of that land having regard to the location and condition of that land and the objectives for the zone in which it is located.

PDC 169 Development should not be undertaken if the construction, operation and/or management of such development is likely to result in:

- (a) the pollution of surface or groundwater;
- (b) degradation of watercourses or wetlands;
- (c) unnecessary loss or damage to native vegetation;
- (d) the denudation of pastures;
- (e) erosion;
- (f) dust;
- (g) noise nuisance;
- (h) the introduction of or an increase in the number of pest plants or vermin;
- (i) increased risk of flooding or impairment of stream water quality through the disposal of stormwater; or
- (j) sealing of large areas of ground likely to result in increased stormwater run-off.

PDC 218 Development should take place in a manner which will minimise alteration to the existing land form.

Mount Lofty Ranges Region

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ITEM 3.1 455/107/08 - BEN STOKES (Continued)

Objective 53: The maintenance and enhancement of the national resources of the Mount Lofty Ranges Region.

Objective 54: The enhancement of the Mount Lofty Ranges Region catchments as sources of high quality water.

Objective 55: The long term sustainability of rural production in the Mount Lofty Ranges Region ensured.

Watershed Protection

Objective 61: The protection of the Mount Lofty Ranges Watershed against pollution and contamination.

Objective 62 The prevention of development which could lead to a deterioration in the quality of surface or underground waters within the Mount Lofty Ranges Watershed.

PDC 157 Development within the Mount Lofty Ranges Region should be compatible with its use as a water catchment and storage area, and with its values as an area of agricultural production and scenic quality.

PDC 158 Development should primarily be limited to that which is essential for the maintenance of sustainable grazing, commercial forestry and mixed agricultural activities.

Willunga District

PDC 12 Rural areas should be retained primarily for agricultural, pastoral and forestry services.

ITEM 3.2 455/1120/08 - CONSTRUCTION SERVICES AUSTRALIA PTY LTD

SUMMARY TABLE

Date of Application	23 September 2008
Subject Land	Lot 4 Gemmell Road, Gemmells
Assessment No.	A13444
Relevant Authority	Alexandrina Council
Planning Zone	Grazing
Nature of Development	Detached Dwelling – Single Storey and the Change of Use of Existing Dwelling to Dependant Accommodation
Type of Development	Non – Complying
Public Notice	Category 3
Referrals	Country Fire Service
Representations Received	Nil
Date last inspected	5 June 2009
Recommendation	Approval Subject to DAC Concurrence and the Endorsement of a Land Management Agreement by Council
Originating Officer	Tom Gregory

NATURE OF DEVELOPMENT

This proposal is for the construction of a detached dwelling and the conversion of the existing dwelling into an ancillary habitable building for the purpose of dependant accommodation for the applicant's disabled child.

SITE & LOCALITY

The subject land is described as Lot 4 Gemmell Road, Gemmells, Certificate of Title Volume 5213, Folio 88. The subject land is located approximately 7.5 kilometres north-east of the township of Strathalbyn, and has frontage to both Gemmell Road, and the Wistow Strathalbyn Road. Vehicular access is gained to the irregular shaped allotment via the 97 metre frontage to Gemmell Road. The approximate depth of the allotment is 430 metres, which creates a total area of approximately 3.1ha

REFER ATTACHMENT (page)

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ITEM 3.2 455/1120/08 - CONSTRUCTION SERVICES AUSTRALIA PTY LTD (Continued)

The majority of the subject land is quite undulating, with a distinct gradient increasing towards the west boundary fronting Gemmell Road. The subject land contains an older style detached transportable dwelling, an in ground swimming pool, a garage and a number of outbuildings used ancillary and in association with the detached dwelling. The location of the proposed dwelling is sited in close proximity to existing structures, and in a location that has a minimal variation in topography, which therefore minimises the requirement for excessive cut and fill.

Despite the Grazing Zoning of land within the locality, the primary use of the surrounding allotments (of various sizes) is for rural-residential purposes. The immediate locality is comprised of a number of modest sized dwellings on large rural holdings. To the north of the subject land is a large rural holding containing a dwelling and associated outbuildings, to the east is land predominantly utilised for general grazing, however this land also has a residential component. The adjoining property to the south is located within the same Zone and already contains two detached dwellings on the one single allotment. How this came to be is unclear, as Council's records do not date back as far back to when these were constructed.

REFER ATTACHMENT (page)

The proposal does not satisfactorily meet the non-complying list exemption criteria within the relevant Zone, as the construction of a dwelling on allotment that already contains a detached dwelling is not prescribed. Therefore the proposal has been deemed to be of a non-complying nature. The proposal only forms a non-complying form of development due to the desire to retain the existing dwelling for dependant accommodation purposes. If, for example the proposal was in two stages seeking to demolish the existing dwelling and erect a new dwelling, the proposal would form an 'on merit' form of development which is likely to be supported within the existing Zoning limitations.

As this proposal has been considered as a non-complying form of Development, the Applicant has provided a Statement of Effect in accordance with Regulation 17 of the Development Regulations 2008. A copy of this statement has been included as an attachment to this report.

REFER ATTACHMENT (page)

The proposed timber framed, brick veneer single storey dwelling has a total living area of 192.98m², and a total area of 236.65m² including the garage and verandah. The dwelling appears to be a standard 'spec' home and is comprised of 4 bedrooms, 2 bathrooms, 2-3 living areas, formal dining room and a double garage under the main roof. The proposed building site is located approximately 55 metres east of the existing dwelling, and has been sited in such a way to limit the amount of cut and fill earthworks required. The proposed dwelling is setback 96.6metres from Gemmell Road, and is located 10 metres from the common property boundary to the north. The external aesthetical appearance is assisted by rendered brick quoins, and a 22.5° concrete tiled roof pitch.

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ITEM 3.2 455/1120/08 - CONSTRUCTION SERVICES AUSTRALIA PTY LTD (Continued)

REFER ATTACHMENT (page)

It is the Applicant's intension to continue living in the existing dwelling during the construction of the proposed dwelling, and subsequently retain the existing 'fibro' house for their intellectually disabled daughter.

Despite the non-complying nature of this development, the proposal is being considered to be exceptional circumstances as it will allow for a family's continued occupation of the land, and will enable their intellectually disabled child to gain some independence by allowing her to have her own private space with care and support at close hand. The existing dwelling will be decommissioned in such a way that it becomes dependant on the new dwelling. These parameters and others will form part of a Land Management Agreement (LMA) between Council and Applicant, which is proposed to be drafted once the DAP has determined an outcome for the application. These parameters will include clauses indicating that should the situation change with their disabled child, or the property was on-sold, then the existing dwelling will be demolished and/or removed from site. The LMA will also preclude further sub-division of the subject land.

A LMA is yet to be drafted, as it would be unfair to the Applicant if Council requested the costly preparation of such an agreement prior to the DAP indicating support of the proposal. The LMA will be reviewed by Council's Lawyers prior to Council Officer's seeking endorsement from Council, the Chief Executive Officer, and the Mayor.

Should this proposal be successful, the LMA will be drafted and endorsed prior to seeking the concurrence of the State Government.

PUBLIC NOTIFICATION

Section 38 of the Development Act 1993 and Schedule 9 of the Development Regulations 1993 prescribe Public Notice categories for different forms of development. As this proposal is a non-complying form of development, the application was deemed to be Category 3 for the purpose of Public Notification.

Category 3 Public Notification was conducted between 20 April 2009 and 6 May 2009. A Public Notice was placed in The Southern Argus Newspaper, and letters were sent to all adjoining land owners advising them of the application, and inviting a written representation either for or against the proposal.

No representations were received.

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ITEM 3.2 455/1120/08 - CONSTRUCTION SERVICES AUSTRALIA PTY LTD (Continued)

REFERRALS

Pursuant to Section 37 of the Development Act 1993, and Schedule 8 of the Development Regulations 2008, this application was referred to the Country Fire Service Development Assessment Unit (Bushfire Protection) in order to ascertain the possible threat level of a bushfire attack. The CFS conducted an inspection of the proposed site of development, the allotment and the adjoining area, and have categorised the proposal as having a 'low' bushfire threat. In accordance with the Regulations, the CFS indicated that they have no objection to the proposed development providing a number of bushfire protection and prevention requirements are complied with. These requirements are regarding access, vegetation clearance, water supply and building construction requirements. A copy of the referral has been attached to this report, and these requirements have been listed as conditions of approval, should the DAP resolve to approve the application.

REFER ATTACHMENT (page)

CONSULTATION

Consultation has been undertaken with Council's Environmental Health Department (EHO Cassie Tuck) with regard to the effluent disposal system. An application for the installation of an additional Waste Control System was submitted on 23 October 2008 and was subsequently approved the following day, subject to a list of standard conditions.

Consultation was not undertaken with Council's Engineers, as no issues were raised that would be of concern to them. Points of access and egress will not be altered as a result of this proposal.

ALEXANDRINA COUNCIL DEVELOPMENT PLAN

The subject land is located within the Grazing Zone of the Alexandrina Council Development Plan. As the Development Application was lodged on the 23 September 2008, the Development Plan consolidated on the 20 March 2008 is the relevant edition. The following Objectives and Principles of Development Control are seen as especially relevant to this Application.

REFER ATTACHMENT (page) transcript of the listed Objectives and Principles.

Council Wide

Objectives: 1, 7, 8, 9, 27, 38, 64, 65, 67,

Principles of Development Control: 2, 3, 5, 42, 44, 45, 46, 47, 48, 49, 50, 51, 55, 66, 67, 68, 69, 70, 71, 72, 77, 90, 93, 136, 137, 139, 140, 141, 142, 186, 187, 188, 264, 295, 296, 297, 298

.../cont

ITEM 3.2 455/1120/08 - CONSTRUCTION SERVICES AUSTRALIA PTY LTD (Continued)

Strathalbyn District

Objectives: 7, 9

Principles of Development Control: 45, 47, 48, 52, 53, 56, 70, 73, 74

Grazing Zone

Objectives: 1, 2

Principles of Development Control: 1, 7, 8, 9

COMMENTS

The main objective of the Grazing Zone is for the retention of land for primary production purposes, and the preservation of the open rural character and natural beauty of land within the zone.

Residential forms of development are not discouraged although the Development Plan seeks to actively promote development that is directly associated with primary production, or the needs of the rural community.

The Zoning provisions are fashioned to limit visual intrusion of development in the zone, particularly when viewed from major roads. As such, the proposed dwelling is sited in a clustered fashion to ensure the majority of the site remains free from buildings and structures. The proposed dwelling will, in the main, be constructed of external materials which will have surfaces of a low light-reflective nature and are of colours that blend with the natural environment.

The proposed development will for all intents and purposes, be subordinate to, and utilised in association with the primary dwelling. It is envisaged that the establishment of a dependant accommodation onsite will aid in the learning process for of the applicants disabled daughter with the long term objective of improving her independence.

The Development Plan seeks to avoid the establishment of more than one dwelling on a single allotment in order to limit potential impacts upon the environment, maintain the primary function of the land for primary production, and also to limit potential for land sub-division. It is anticipated that the proposed dwelling will not severely add to the potential for pollutant loads within a water catchment area, and subsequently has received approval for an additional Waste Control System. The establishment of a dwelling on site (and the conversion of the existing dwelling into dependant accommodation) will enable the occupants to remain on the land whilst accommodating the longer term needs of their daughter.

Given all of the above, and fact that the Applicant is prepared to enter into a Land Management Agreement ensure that the existing dwelling remains in use only for dependant living purposes associated with the primary dwelling, this proposal is not contrary to the overall intent of the Development Plan. In addition, the proposal will not result in a loss of primary production land, and will ensure the natural character of the areas is maintained.

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ITEM 3.2 455/1120/08 - CONSTRUCTION SERVICES AUSTRALIA PTY LTD (Continued)

On balance and despite the non-complying classification of the proposal, this application displays enough merit in order to warrant Development Plan Consent.

RECOMMENDATION

That the Development Assessment Panel approve Development Application 455/1120/08 for the construction of a 'Detached Dwelling - Single Storey and the Change Of Use of Existing Dwelling to Dependant Accommodation' at lot 4 Gemmell Road, Gemmells subject to the following notes and conditions, subject to concurrence from the Development Assessment Commission, and subject to the adoption and endorsement of a Land Management Agreement between the land owner and Council signifying that if personal circumstances change regarding their disabled child or the property is on sold that the structure being utilised as dependant accommodation is to be removed.

COUNCIL CONDITIONS

1. A Land Management Agreement to the satisfaction of Council shall be entered into and registered to the Certifacte of Title prior to issuing Development Approval.
2. All stormwater drainage shall discharge so that it does not flow or discharge onto land of adjoining owners or, in the opinion of Council, detrimentally affect structures on this site or any adjoining land.
3. Where cut or fill in excess of 300mm is required as a result of the proposed development, retaining walls or other suitable soil retention devices shall be employed.

CFS CONDITIONS

- ACCESS

Access to the building site shall be of all weather construction, with a minimum formed road surface width of 3 metres and must allow forward entry and exit for large bushfire fighting vehicles.

All dead end roads shall be constructed to allow large bushfire fighting vehicles to turn around with safety by use of either:

- a turn around area with a minimum formed road surface diameter of 25 metres OR
- A 'T' or 'Y' shaped turn around area with minimum formed road surface leg lengths of 11 metres and minimum inside toad radii of 9.5 metres

All road curves shall have minimum inside road radii of 9.5 metres.

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ITEM 3.2 455/1120/08 - CONSTRUCTION SERVICES AUSTRALIA PTY LTD (Continued)

- VEGETATION

Landscaping shall include Bushfire protection features that will prevent or inhibit the spread of bushfire and minimise the risk of life and damage to buildings and property.

Trees and shrubs shall not be planted closer to the building(s) or powerlines than the distance equivalent to their mature height.

Grasses within 20 metres of the dwelling or to the property boundaries, whichever comes first, shall be reduced to a height of 10cms during the Fire Danger Season.

- WATER SUPPLY

A supply of water independent of reticulated mains supply shall be available at all times for fire-fighting purposes.

A minimum supply of 5,000 (five thousand) litres of water shall be available at all times for bushfire fighting purposes.

This supply shall be fitted with a fuel driven pump or an equivalent system that operates independent of mains electricity and is capable of pressurising the water for bushfire fighting purposes.

The pump and flexible connections to the water supply shall be protected from the impact of fire by a suitably ventilated, non-flammable cover (metal or masonry material).

The diameter of all fittings and flexible reinforced suction hose connecting the bushfire water supply to the fuel driven pump shall be no smaller than the diameter of the pump inlet valve.

The bushfire fighting water supply shall be clearly identified and shall be accessible to fire fighting vehicles at all times.

All water tanks used as a dedicated water supply for bushfire fighting shall be made of non-combustible material.

All non metal fire fighting water supply pipes other than flexible connections to fire fighting pumps shall be buried at least 300mm below finished ground level.

Hoses (minimum 19mm [3/4"] internal diameter) and metal, spray jet nozzles capable of withstanding the pressures of the supplied water and of sufficient length to reach all parts of the building shall be readily accessible at all times.

.../cont

ITEM 3.2 455/1120/08 - CONSTRUCTION SERVICES AUSTRALIA PTY LTD (Continued)

The hoses and water connection points (taps) shall be located at or adjacent to the dwelling to ensure occupants safety when using the hoses during as bushfire.

- **BUILDING CONSIDERATIONS**

The Buildings shall incorporate the construction requirements for buildings in Bushfire Prone areas in accordance with the Building Code of Australian Standard TM3959 - 1999 (AS3959) 'Construction of Buildings in Bushfire Prone Areas'.

The Building Code of Australian Standards TM3959 - 1999 'Construction of Buildings in Bushfire Prone Areas' has been considered.

Compliance with the fire protection requirements is not a guarantee the dwelling will not burn, but its intent is to provide a 'refuge' from the approach, impact and passing of a bushfire.

Should there be any need for further information, please contact the Development Assessment Unit on (08) 8391 6077.

- **COUNCIL NOTES**

Allotment boundaries will not be certified by Council staff. The onus of ensuring that the building is sited in the correct location is the responsibility of the owner. A licensed land surveyor may be required to undertake a survey of the land.

Encumbrances, although not administered by Council, may apply to your property. You are therefore advised to check for encumbrances on your Certificate of Title prior to commencing work.

A wall retaining a difference in ground levels of more than 1 metre requires Development Approval.

ITEM 4. DEVELOPMENT APPLICATIONS - CATEGORY 3

- NIL ITEMS

ITEM 5. DEVELOPMENT APPLICATIONS - LAND DIVISION / COMMUNITY TITLE

- NIL ITEMS

ITEM 6. MATTERS REFERED FOR FOLLOW-UP

- NIL ITEMS

ITEM 7. GENERAL ITEMS FOR DISCUSSIONS

- NIL ITEMS

ITEM 8. NEXT MEETING

- Scheduled for Wednesday 15th July 2009, time to be advised.