

ALEXANDRINA COUNCIL

NOTICE OF MEETING

Notice is hereby given to the Members that a meeting of the
Development Assessment Panel will be held in the
Community Chambers "Wal Yuntu Warrin"
on 19 December 2007 commencing at 11:00 am

Your attendance is requested.

11:00 a.m. Development Assessment Panel commencement

12:30 p.m. Conclusion of meeting.

JOHN COOMBE
CHIEF EXECUTIVE

ALEXANDRINA COUNCIL

AGENDA FOR THE DEVELOPMENT ASSESSMENT PANEL MEETING
TO BE HELD ON 19 DECEMBER 2007 AT 11:00 AM
IN COMMUNITY CHAMBERS "WAL YUNTU WARRIN"

TABLE OF CONTENTS

<u>ITEM NO.</u>	<u>SUBJECT</u>	<u>PAGE NO.</u>
1.	<u>CONFIRMATION OF MINUTES</u>	1
2.	<u>DEVELOPMENT APPLICATIONS</u>	1
3.	<u>DEVELOPMENT APPLICATIONS - NON COMPLYING</u>	1
4.	<u>DEVELOPMENT APPLICATIONS - CATEGORY 3</u>	1
	4.1 45/955/07 Axel Beers	2
5.	<u>DEVELOPMENT APPLICATIONS LAND DIVISION COMMUNITY TITLE</u>	11
6.	<u>DEVELOPMENT APPLICATIONS - BUILDING</u>	11
7.	<u>MATTERS REFERRED FOR FOLLOW-UP</u>	11
8.	<u>GENERAL ITEMS FOR DISCUSSION</u>	11

Development Assessment Panel
Report and Agenda
on 19 DECEMBER 2007 commencing at 11:00 am
in the Community Chambers "Wal Yuntu Warrin"

PRESENT

APOLOGIES

IN ATTENDANCE

ITEM 1. CONFIRMATION OF MINUTES

Minutes of the Alexandrina Council Development Assessment Panel held on 21st November 2007.

RECOMMENDATION

That the minutes of the Alexandrina Council Development Assessment Panel held 21st November 2007 on 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 45/955/07 AXEL BEERS

SUMMARY TABLE

Date of Application	23.08.2007
Subject Land	Lot 1 Randell Road Hindmarsh Island
Assessment No.	A6616
Relevant Authority	Alexandrina Council
Planning Zone	GENERAL FARMING
Nature of Development	PRIVATE LANDING STRIP / RUNWAY – (RETROSPECTIVE)
Type of Development	CONSENT ON MERIT
Public Notice	CATEGORY 3
Referrals	DWLBC
Representations Received	2 SUPPORTING, 1 OPPOSED, 1 OTHER
Representations to be heard	2
Date last inspected	24 TH OCTOBER 2007
Recommendation	APPROVAL SUBJECT TO CONDITIONS
Originating Officer	TOM GERGORY

ESD IMPACT/BENEFIT

- Environmental The application is for retrospective approval. All associated earthworks have been undertaken, and the majority of the landscaping has been planted. The Department of Water, Lands and Biodiversity Conservation noted that the development is minor (in respect to Environmental flows), and that the development will not impair the natural flow regime of the River Murray system or the environment constituted by the river system.
- Social Minimal social impact expected. The infrequent and private nature of the proposal is not considered to have an adverse impact on the locality.
- Economic Possible benefit to land owner. The proposal is for private use and therefore will not have an economic impact on the broader community or region.

.../cont.

4.1 45/955/07 AXEL BEERS (Continued)

BACKGROUND

Approval is being sought (retrospectively) for the construction of a Landing Strip/Runway for the private use of aeroplanes.

Prior to construction, the Applicant sought verbal preliminary advice from Council as to whether a Development Application would be required for a Private Landing Strip/Runway. At the time the advice was given, Council's Representative was not aware of the extent of the earthworks proposed, and advised the (now) Applicant that the landing and taking off of private aircraft would be ancillary to the existing use of the land, and therefore no approval was required. It was envisaged that the (now) Applicant was intending to create a small graded area as a runway, much like the other existing Private Landing Strip/Runway's in the surrounding area (Hindmarsh Island and Clayton). A graded paddock for the purpose of a runway would not be considered to be 'building work', and nor a 'structure', and therefore would not be considered as 'development', but rather could be considered as an ancillary use to the primary use of the land.

Evidently, the (now) Applicant's intent was far greater than that envisaged by the Council Representative. The (now) Applicant proceeded to construct the Private Landing Strip/Runway based on the advice received.

In addition, and since the initial advice was given, a recent Supreme Court determination (*Carter v Mid Murray Council [2007] SASC 145*) further clarified the definition of what can be considered 'building work' (and therefore 'development'), pursuant to the Development Act 1993. Some of the specific details relating to this current application (455/955/06) differ from those in the Carter v Mid Murray case. Regardless, having a recent court determination on this definition, and following the Council becoming aware of the scale of activities involved on site, Council determined that approval was required. Further to this, Council then took immediate action to request a Development Application. The (now) Applicant complied with this request to lodge a Development Application, which is the subject of this report.

THE PROPOSAL

Nature of Development

The development involves considerable earthworks in order for the construction of a Private Landing Strip/Runway, at Lot 1 Randell Road, Hindmarsh Island. The application was lodged retrospectively, as discussed above.

.../cont.

4.1 45/955/07 AXEL BEERS (Continued)

Detailed Description

The subject land; Lot 1 Randell Road, Hindmarsh Island (Certificate of Title: Volume 5466 Folio 628), incorporates land within two zones. The majority of the allotment is located within the General Farming (Hindmarsh Island) Zone of the Alexandrina Council Development Plan consolidated 23 November 2006; however a portion of the allotment is situated within the Rural Waterfront (Hindmarsh Island) Zone. The Private Landing Strip/Runway is contained wholly within the General Farming (Hindmarsh Island) Zone boundaries, and therefore this assessment has been undertaken against the objectives and principles of development control of that Zone.

Principle of Development Control (PDC) 11 of the General Farming (Hindmarsh Island) Zone lists a number of forms of Development as non-complying. The proposal of a Private Landing Strip/Runway is an undefined use (for the purpose of the Development Regulations 1993), and therefore must be assessed 'on merit'.

SITE & LOCALITY

The subject land is a large rectangular shaped allotment located on the northern side of Randell Road, bound by the River Murray along its northern boundary, and adjacent to similar land to the east and west.

The land is primarily undulating, and is presently occupied by a Dwelling and Boat House, both located at the northern end of the allotment, and contained within the Rural Waterfront (Hindmarsh Island) Zone.

The area encompassing the Private Landing Strip/Runway makes use of 9% (3ha) of the total 33ha allotment, and is situated adjacent the eastern property boundary. Most of the remainder of the subject land has been sown for small crop propagation.

The Private Landing Strip/Runway is 500metres long with an overall width of 60metres, including earthwork battering and landscaping (the actual Private Landing Strip/Runway itself is 12metres in width; the remainder is battering and landscaping). Distances to property boundaries (taken from the centre of the strip) are as follows:

- West boundary: 210.5metres;
- East boundary: 37.5metres;
- North boundary: 520metres;
- South boundary: 480metres.

.../cont.

4.1 45/955/07 AXEL BEERS (Continued)

The Private Landing Strip/Runway runs parallel to the eastern boundary, oriented to achieve a required north/south aspect.

From adjoining land to the west, the Private Landing Strip/Runway is elevated, so much that the finished surface itself is not visible. Potential noise and visibility is significantly reduced due to the elevation above adjoining land. The Private Landing Strip/Runway is at a lower level than the highest point of the adjoining land to the east. It is not visible from the road, or the River Murray.

The finished surface is to be crushed limestone in order to minimise dust concerns. Substantial landscaping including the planting of grasses is proposed and evident on the escarpments, battering and at either side of the 12metre wide (crushed limestone) strip.

The locality contains primarily allotments of larger sizes than the subject land, and of similar use, however north-west of if the subject land is Narnu Bay Drive, a cluster of residentially zoned detached dwellings on individual allotments of varying size (up to approximately 2100m²), some of which are permanent residences.

REFER ATTACHMENT 4.1 (a) page 1

PUBLIC NOTIFICATION

Section 38 of the Development Act 1993 and Schedule 9 of the Development Regulations 1993 prescribe public notice categories for different types of development. The proposed Private Landing Strip/Runway is not identified in either Part 1 or Part 2 of Schedule 9, and as the Development is not considered to be minor, must be notified as a Category 3 Development.

Category 3 Public Notification was conducted between 9 October and 24 October 2007. Four representations were received within this time frame, two in support, one opposed, and a further Representor put forward that they were unable to make an informed decision on the proposal, due to a lack of information. A copy of the representations received have been included as part of the attachments for this report.

REFER ATTACHMENT 4.1 (b) page 6

Pursuant to Section 38(8) of the Development Act 1993, the Applicant submitted a response to the representations.

REFER ATTACHMENT 4.1 (c) page 11

.../cont.

4.1 45/955/07 AXEL BEERS (Continued)

In addition, as the Application is for retrospective approval, and in order to appease some of the concerns raised by the Representors, Council responded to the both Representors who did not acknowledge support of the proposal.

REFER ATTACHMENT 4.1 (d) page 13

Some of the issues raised and responded to included:

- why the construction has already taken place;
- frequency of use;
- proposed finished surface;
- requirements and approval's required from other bodies;
- confirmation of the Landing Strip/Runway's private usage.

REFERRALS

The subject land is within the River Murray Protection Area, as prescribed by the River Murray Act 2003. In accordance with Section 37 and Schedule 8 of the Development Act and Regulations 1993, this Application was referred to the Department of Water, Land and Biodiversity Conservation (DWLBC) for direction.

DWLBC's assessment was conducted to ensure accordance with the objectives of the River Murray Act 2003, and provided an assessment against:

- River Health;
- Environmental Flows
- Water Quality;
- Human dimension (Cultural Heritage Values and the Visual Amenity and Landscape Values).

DWLBC has no objection to the Application, and should the Council (Development Assessment Panel) resolve to approve the Application, it has been requested that a number of notes be attached.

A copy of the DWLBC referral has been included in the attachments of this report.

REFER ATTACHMENT 4.1 (e) page 16

CONSULTATION

No consultation with Council's Environmental Health Department or Engineering & Infrastructure Services Department was required, as the Private Landing Strip/Runway does not affect any external built form or an area required for waste control.

.../cont.

4.1 45/955/07 AXEL BEERS (Continued)

Advice was sought from Council's Lawyer (Phil Broderick - Lempriere Abbott McLeod), in regards to the proposal, and how Council should handle the matter. A letter was received from Mr Broderick on 26 September 2007. A copy of which is included as an attachment to this report.

REFER ATTACHMENT 4.1 (f) page 19

The advice supports the categorisation of the proposed development as being an ancillary use, which is integrated with the existing farming land.

Alexandrina Council Development Plan

The following Objectives and Principles of Development Control are seen as especially relevant to this Application.

Please REFER ATTACHMENT 4.1 (g) page 21 for details of the listed Objectives and Principles.

Council Wide

Objectives 1, 68

Principles of Development Control 87, 154, 158, 163, 192, 211, 215, 218, 246

Comment:

The proposal is considered to be orderly and economic, and furthermore it does not compromise the retention of rural land for the purposes of primary production and recreation.

No clearing or removing of vegetation of significance took place during the construction. As mentioned above, the Private Landing Strip/Runway has a minimal visual impact from adjoining land, Randell Road, or the River Murray.

Earthworks resulting in filling of land more than 1.5metres were required during construction, however in association with the landscaping vegetation being planted, the Private Landing Strip/Runway is sited appropriately, and is not obtrusive.

Within the General Farming (Hindmarsh Island) Zone, the objective is for the retention of large allotments for a 'wide range of farming uses, with buildings and structures located in such a way that they will not detract from the views obtainable from designated tourist roads or scenic lookout points'. Council Wide PDC 154 indicates that development should only take place on land which is suitable for the intended use and having regard to the location and condition of that land and the objectives of the specific zone. .../cont.

4.1 45/955/07 AXEL BEERS (Continued)

This development does not have an adverse impact on the land, and further more it is not uncommon for aircraft or Private Landing Strip/Runway's to be located on Hindmarsh Island or the surrounding area.

There are a further two existing examples of similar landing strips/runway's on Hindmarsh Island, however these existing examples did not involve the extent of earthworks as the one which is the subject of this application. Moreover, the existing examples are similar to a graded paddock. One example is located in the Rural Waterfront (Hindmarsh Island) Zone, and the other is located within the same zone as the subject land.

However, this landing strip is located on the southern side of Hindmarsh Island, adjacent the Conservation zone. Scattered dwellings are also nearby these two examples.

A further Private Landing Strip/Runway is located approximately 7 kilometres from the subject land, north of the township of Clayton, located approximately 900m from the Clayton Country Township Zone, which contains a number of primary residences, and holiday 'shack' accommodation.

However this does not suggest a precedent, it is evident from the above that it is not uncommon for landing strips or runways to be located near or adjacent residential land uses. The Applicant has been explicit in advising Council of the infrequent private use of the proposal, and from this, the proposal is considered not to detrimentally affect the amenity of the locality or cause nuisance to the community.

The development does not detract from the natural and rural landscape character of the region, nor does it interfere with the achievement of the objective for the area. As mentioned, the proposal is sited unobtrusively and is of a design that will blend with the landscape.

Port Elliot and Goolwa District

Principle of Development Control 56

Comment:

Although Council cannot have regard to a potential neighbouring developments (one that is not approved), it should not be oblivious to an active Development Application, especially one of 'major significance'. Adjoining the subject land is the site currently proposed for Narnu Waterways (declared as a Major Development on 1 December 2005) - a proposal which includes in excess of 1,000 predominantly waterfront residential allotments, and other associated uses. The current status of which is that an Environmental Impact Assessment is being undertaken by the proponents. .../cont.

4.1 45/955/07 AXEL BEERS (Continued)

The infrequent and private nature of the Private Landing Strip/Runway is not considered to have a significant conflict with the adjoining proposed development.

General Farming (Hindmarsh Island) Zone

Objective 1

Principle of Development Control 1, 5.

Comment:

This proposal is in accordance with the Objectives and Principles of Development Control of the General Farming (Hindmarsh Island) Zone. The majority of the land is not built upon, which encourages a wide range of farming uses. The proposal is located in such a way that it will not detract from the character of the zone or locality, and maximises the retention of the open rural character of the zone.

Final Comment:

It is interesting to note that Development Approval nor CASA (Civil Aviation Safety Authority) approval is required to land a plane, or take off from a piece of land. It only becomes Development when the creation of a 'structure' or 'building work' is proposed to take place, or when there is a permanent/semi-permanent 'change in use' of the land. The Applicant in this case, is not changing the primary use of the land, as the proposal is considered to be an ancillary use to the existing farming operations, and is associated with the existing dwelling. This position was also supported by Council's legal representative. Moreover, this application refers to the construction of a Private Landing Strip/Runway and not for the permission of aircraft movements on and off the land. Council cannot (in this case) restrict the movements of aircraft, as there is no 'change of use' of the land, but rather the construction of 'building work' for a purpose which is ancillary to the existing use.

Further to the above, it is my opinion that this proposal successfully meets the intent, Objectives and Principles of the Alexandrina Council Development Plan, and therefore warrants Development Plan consent.

RECOMMENDATION

That the Development Assessment Panel approve Development Application no. 455/955/07 for a Private Landing Strip/Runway at Lot 1 Randell Road, Hindmarsh Island CT Vol.5466 Fol.628, subject to the following conditions and notes:

Conditions:

.../cont.

4.1 45/955/07 AXEL BEERS (Continued)

Council conditions

1. That the Private Landing Strip/Runway be only used for private purposes, and a no time shall be used as a commercial business or any other enterprise without the prior consent of Council.
2. Noise emanating from the subject land shall be restricted to levels meeting the reasonable requirements of the Environment Protection Authority.
3. Floodlighting shall not be installed without prior approval from Council. Any lighting shall only be installed if necessary for security purposes and shall be directed and shielded in such manner as to not cause light overspill nuisance to adjacent land.
4. Surface sealing and landscaping shall be conducted and maintained to the reasonable satisfaction of Council. The crushed limestone surface shall be maintained in good condition at all times, and treated when necessary to reduce any potential dust.

Council notes

1. All (if any) CASA (Civil Aviation Safety Authority) requirements must be addressed and achieved at all times.
2. Storage of fuels or other chemicals may require addition consents from Council and other bodies.

DWLBC notes

1. The applicant is advised of their general duty of care to take all reasonable measures to prevent any harm to the River Murray through his or her actions or activities.
2. A buffer strip of vegetation being planted and maintained to effectively filter sediment and other pollutants from runoff prior to it entering the depression located to the west of the runway.
3. The runway should be maintained to prevent erosion. Grassed runways are recommended to consolidate the soil and prevent erosion from wind and runoff..

.../cont.

4.1 45/955/07 AXEL BEERS (Continued)

4. All areas within 200 metres of any watercourse are considered to be of high sensitivity for Aboriginal sites. The River Murray and many of its tributaries and overflow areas, particularly have abundant evidence of Aboriginal occupation. Under Section 20 of the Aboriginal Heritage Act 1988 (The Act), an owner or occupier of private land, or an employee or agent of such an owner or occupier, must report the discovery on the land of any Aboriginal sites, objects and remains to the Minister for Aboriginal Affairs and Reconciliation, as soon as practicable, giving the particulars of the nature and location of the Aboriginal sites, objects or remains. Penalties may apply for failure to comply with the Act.

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