

Elaine Kratopoulos

Land Division (1 into 2)

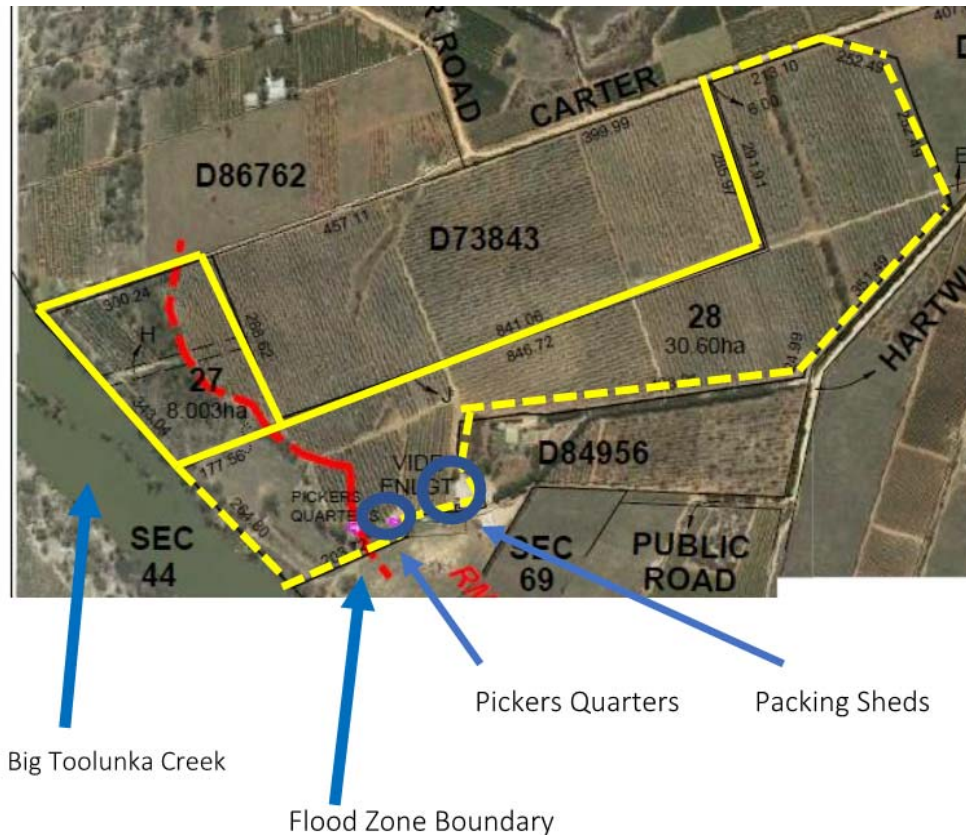
Allotment 21 in D73843 Hundred of Markaranka (CT6045/144)

DA Number: 551/D008/17

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Proposed Division of Land



OVERVIEW

Application No	551/D008/17
Unique ID/KNET ID	ID 57958 (Knet 2017/18411/01)
Applicant	Elaine and Konstantinos Kratopoulos
Proposal	Land Division (1 into 2 allotments)
Subject Land	Allotment 21 within D73843 (Hundred of Markaranka)
Zone/Policy Area	River Murray Flood Zone/River Murray Fringe Zone
Relevant Authority	State Commission Assessment Panel
Lodgement Date	3 May 2017
Council	District Council of Loxton Waikerie
Development Plan	Loxton Waikerie Development Plan (Consolidated 19 April 2017)
Type of Development	Non-Complying
Referral Agencies	DEWNR/SA Water
Report Author	David Storey
RECOMMENDATION	REFUSE to proceed

EXECUTIVE SUMMARY

The subject land is located in both the River Murray Flood Zone and the River Murray Fringe Zone. Both zones prescribe that land division is non-complying subject to a number of exceptions.

Despite meeting an exception (minimum 8 hectare allotment used for horticultural purposes) for land division within the River Murray Fringe Zone, the new allotment to be created is predominantly within the River Murray Flood Zone where no exceptions are applicable for this development the proposal must be assessed as a non-complying form of development.

The key issue is the creation of an additional part allotment (A27) within the River Murray Flood Zone and a further opportunity, within the River Murray Fringe Zone, to construct a dwelling (within close proximity to the River Murray), and reliant on an extended driveway of over 1km in length from Carter Road.

The stated rationale for the development, to separate off the existing stand of native vegetation and to undertake revegetation on land currently used for an olive grove, does not require a land division, as can be implemented as a matter of improved farm management practices (i.e. fencing, landcare etc), whilst the existing olive grove can continue to be operated in its current state.

The proposal does not demonstrate any special merit or circumstance (such as to separate off an existing habitable dwelling or heritage place, which are circumstances specifically anticipated by current planning policy), and is therefore being recommended for refusal without proceeding to an assessment.

ASSESSMENT REPORT

1. BACKGROUND

Mr and Mrs Kratopoulos are seeking to divide land within Allotment 21 in D73843 of CT6045/144 (also referred as Lot 21 Carter Road, Taylorville).

Mr and Mrs Kratopoulos currently use the site for horticultural activities including the farming of an olive grove (approximately 6000 trees). The site also contains a 'Pickers Quarters' and packing sheds.

Ms Sandy Hansen (Planning Consultant) has been engaged by Mr and Mrs Kratopoulos to prepare a Statement of Support which is provided within the ATTACHMENTS.

The Statement of Support has been lodged (along with an additional information report) with SCAP in order to determine whether to proceed with the assessment of the application.

2. DESCRIPTION OF PROPOSAL

The proposal is for the division of land (Allotment 21) to create one additional allotment. The two new allotments will comprise 8.35 hectares (Allotment 27) and 30.24 hectares (Allotment 28) in area respectively.

Allotment 27 will accommodate existing stands of native vegetation and an olive grove of approximately 1000 trees. Allotment 28 will contain an olive grove of approximately 6000 trees, a 'pickers' quarters, sheds and approximately six (6) hectares of native vegetation.

If the application is approved the applicant has indicated that the native vegetation on Allotment 27 will be retained and the horticultural (olive tree) plantings will be removed.

The applicant considers the proposal is warranted and outlined a number of reasons to support the division including the costs of irrigating the land, the cost of maintaining the water supply and enabling the land to be returned to a native vegetation site.

The land is located within River Murray Flood Zone and the River Murray Fringe Zone under the Loxton Waikerie Development Plan, consolidated 19 April 2017. The proposed division is a non-complying form of development as outlined in the provisions of the Flood Zone.

The State Commission Assessment Panel is the authority in accordance with Schedule 10 Clause 9 (2)(a) of the Development Regulations. A mandatory referral to DEWNR - River Murray is required in accordance with Schedule 8 Part 2 Item 19 (h) of the Development Regulations 2008.

Application details are contained in the ATTACHMENTS.

3. SITE AND LOCALITY

3.1 Site Description

Allotment 21 is elongated shaped allotment (U shaped) with the majority of land being under irrigation and comprising approximately 7000 trees. The allotment currently has access to Carter Road (to the north east corner of the allotment) and is bound by Big Toolunka Creek to the east.

The subject land can be described as:

Lot No	Plan No.	Street	Suburb	Hundred	Title
Lot 21	D73843	Carter Road	Taylorville	Markaranka	CT6045/144

3.2 Locality

The locality comprises a range of primary production activities including cropping and horticultural activities on large allotments.

A number of allotments comprise detached dwellings enabling residents to reside on their farming properties.

The subject land is bounded by the Big Toolunka Creek immediately to the east and setback approximately 400 metres from the River Murray also to the east.



Figure 1 – Location Map

4. COUNCIL COMMENTS

Council raised no specific concerns regarding the proposed development and advised that concurrence from Council's Regional Council Assessment Panel will be required if SCAP is to grant development approval.

5. STATUTORY REFERRAL BODY COMMENTS

DEWNR River Murray Unit is a mandatory referral in accordance with Schedule 8 of the Development Regulations 2008. DEWNR were sent a referral for comment.

DEWNR responded and suggested the assessment of relevant planning policies of Council's Development Plan be undertaken if SCAP is to recommend the applicant proceed to the next stage and prepare a Statement of Effect.

SA Water is a standard referral and provided no comment.

6. POLICY OVERVIEW

The subject site is within the River Murray Flood Zone and the River Murray Fringe Zone as described within the Loxton Waikerie Development Plan Consolidated 19 April 2017.

Relevant planning policies are contained in Appendix One and summarised below.

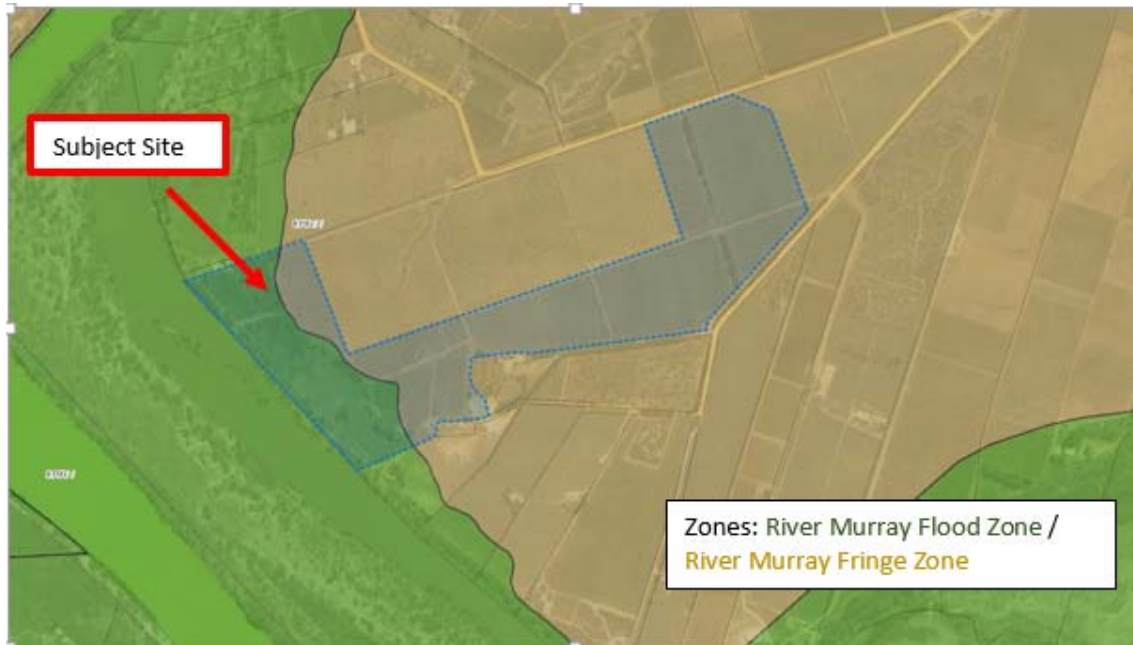


Figure 2 – Zoning Map

6.1 Zone

River Murray Flood Zone

A zone that seeks to promote and conserve the water quality that sustains the natural environment and natural ecological processes associated with the River Murray.

Restricted development is only possible in recognition of the hazards associated with floods, by minimising new structures and changes to existing natural ground levels.

Land division is non-complying unless it seeks to create an allotment to accommodate an existing dwelling, or create a public road or a public reserve, or a minor adjustment of allotment boundaries to remove an anomaly in the current boundaries with respect to the location of existing building or structures.

River Murray Fringe Zone

The purpose of the zone is to retain land mainly for agriculture and horticulture, and that due regard be given to the conservation of the scenic and environmental significance of land within the zone, as an important backdrop to the River Murray.

Some provision for public access related to tourism and recreational activities is desirable at certain locations. Specific areas have been identified for small scale expansion of existing residential areas (settlement/shack areas) along the River Murray.

Land division should not occur unless it is for the alteration of the boundaries of an allotment, and results in allotments of at least 100 hectares in area, unless the minimum allotment area is 8 hectares and is for the purpose of facilitating the use of the land for horticultural activities.

6.2 General Section (Council Wide)

Land division

Land division that creates allotments appropriate for the intended use and that is integrated with site features, including landscape and environmental features, adjacent land uses, the existing transport network and the availability of infrastructure.

Land division restricted in rural areas to ensure the efficient use of rural land for primary production and avoidance of uneconomic infrastructure provision.

7. DISCUSSION

The subject land is located in both the River Murray Flood Zone and the River Murray Fringe Zone. The majority of the affected land (more than 50%) is within the River Murray Flood Zone and despite the less restrictive policies of the River Murray Fringe Zone providing land division opportunities the non-complying nature of the development as described in the River Murray Flood Zone must take precedence as part of any assessment.

The proposed development involves the creation of a new part allotment with an additional frontage to the River Murray, thereby increasing the number of allotments fronting the River Murray, and additional potential to increase environmental stress on the River through associated development opportunities and decreased aesthetic values.

The River Murray Flood Zone incorporates policies that seek to conserve the natural features of the river environment and restrict development in recognition of the hazards of floodwaters. Land division policies in this zone seek to limit the division of land unless it secures the tenure of existing dwellings or to address boundary realignments or minor adjustments.

The River Murray Fringe Zone comprises planning policies that also seek to restrict the division of land unless it creates resulting allotment greater than 8 hectares, where the new allotments are used for horticulture or 100 hectares in all other cases.

The applicant has indicated that the proposal is sought to remove a portion of isolated horticultural land from production and create a parcel where the native vegetation can be appropriately managed.

The proposed division does not represent a suitable form of development within the River Murray Flood Zone as it does not accommodate an existing dwelling or address an anomaly with the current boundaries. The division does not enable any new or additional development opportunities that are already afforded to the land owner within the current land arrangements.

Further it is considered that the division will result in the fragmentation and loss of native vegetation that currently exists on the subject land. Further Proposed allotment 27 will also require a lengthy driveway access, and a requirement for independent servicing and infrastructure if further development is granted.

It is considered that there is insufficient merit for the proposed development to warrant the application proceed to the next stage of assessment (Statement of Effect).

History of Land divisions in the locality

The applicant has identified a number of land division applications located on nearby land to the proposed development that have been determined in recent years that support the land division. They include:

551/D034/08 (considered as a merit application) – division of allotment (1 into 2) immediately to the north of the subject land to accommodate a dwelling on an allotment

of approximately 5 hectares. The division was determined to be a merit application as it was creating an allotment to accommodate an existing dwelling.

551/D002/16 (considered as a merit application) – boundary realignment of two long narrow allotments of approximately 5.1 hectares and 6.6 hectares. The proposed boundary realignment resulted in a reduction in the number of allotments in the area (4 to 3 allotments). In addition the majority of the existing horticultural activity was consolidated onto one allotment and the number of allotments fronting the River Murray Crown Reserve reduced from four to one.

551/D002/17 (considered as a merit application) – division of allotment (1 into 2) – Council was determined to be the relevant authority and incorrectly classified the development as a merit application. Council resolved to approve the division despite the non-complying nature of the development.

It is considered that the above mentioned applications do not support the proposed development as type of development that should be approved. 551/D034/08 and 551/D002/16 were assessed as merit applications and met a number of exceptions to support their approval. Application 551/D002/17 is considered to be incorrectly assigned as a merit application and should have been assessed as non-complying.

8. CONCLUSION

The proposed development is being undertaken to enable the landowners to sell the property as it is not beneficial to the overall management of their farming operations.

Although there is an opportunity for the creation of additional allotments of a minimum of 8 hectares for horticultural purposes (within the River Murray Fringe Zone) the majority of the subject land is within the River Murray Flood Zone where the proposal is a non-complying form of development and the granting of development approval is not warranted.

The reasons that the applicant has provided to support the division including costs of irrigating the land, maintaining the water supply and enabling the land to be returned to a native vegetation site. These reasons are not considered to be valid planning reasons that support the division of land and future use of the land.

As the proposed development seeks to create an additional allotment within the River Murray Flood Zone its non-complying status requires that the development be refused.

The proposed division of land does not represent a form of development that is supported within the River Murray Flood Zone and the River Murray Fringe Zone.

9. RECOMMENDATION

It is recommended that the State Commission Assessment Panel:

- 1) RESOLVE that the proposed development is at variance with the policies in the Development Plan.
- 2) RESOLVE to REFUSE Development Plan Consent to Development Application 551/D008/17 by Elaine Kratopoulos for Land Division at Lot 21 for the reasons listed below:

- The proposed development is a non-complying form of development within the River Murray Flood Zone.
- The proposal does not support the planning provisions of the Council's Development Plan which seeks to restrict the division of land.
- There appears to be no valid planning requirement to divide the land.

The proposal is considered to be at odds with the following provisions within the Loxton Waikerie Development Plan Consolidated 19 April 2017:

General Section (Land Division)

- Principle of Development Control 2 (g)
- Principle of Development Control 3

River Murray Flood Zone

- Principle of Development Control 2
- Principle of Development Control 24

River Murray Fringe Zone

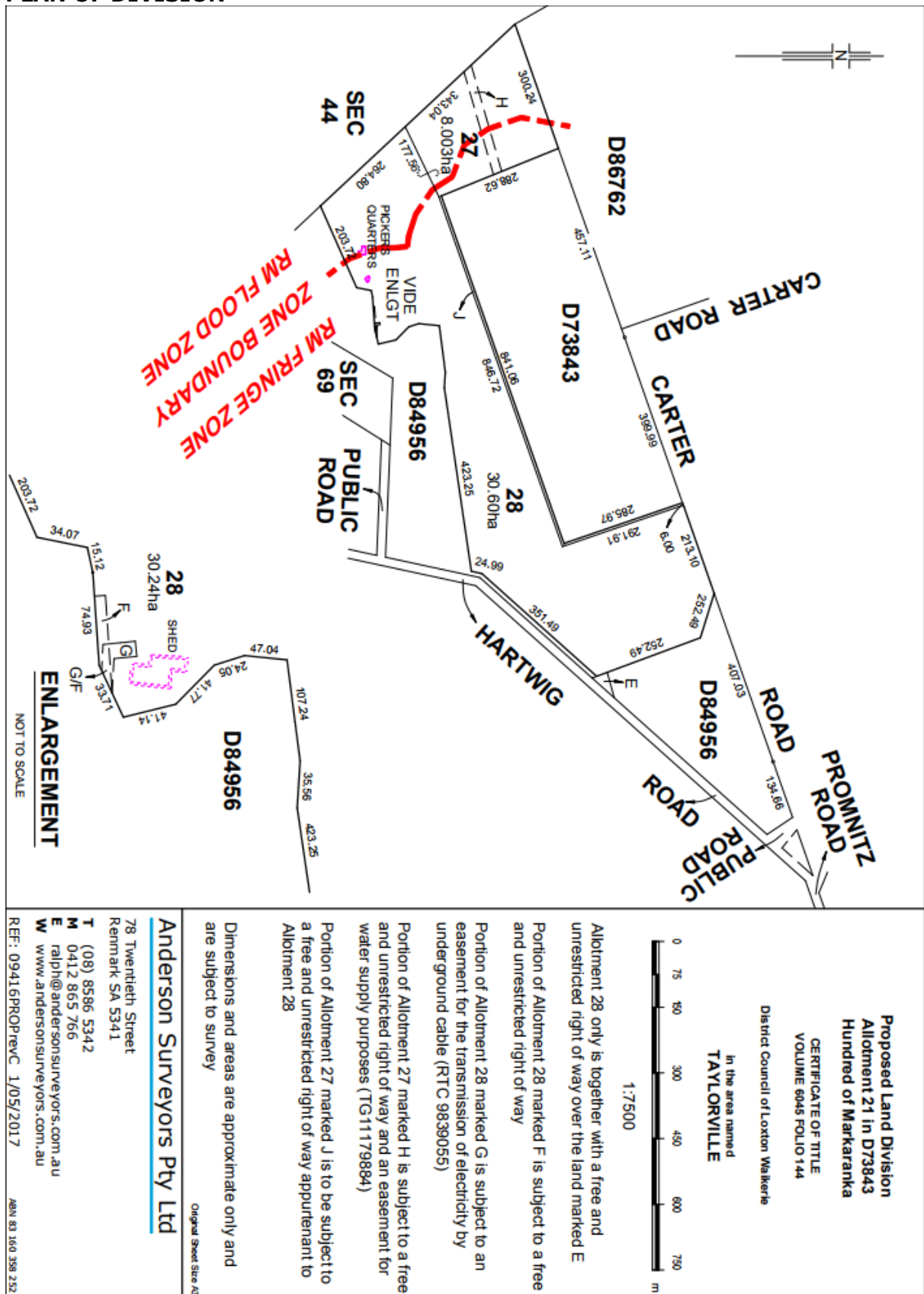
- Principle of Development Control 2



DAVID STOREY
PLANNER
DEVELOPMENT DIVISION
DEPARTMENT OF PLANNING, TRANSPORT and INFRASTRUCTURE

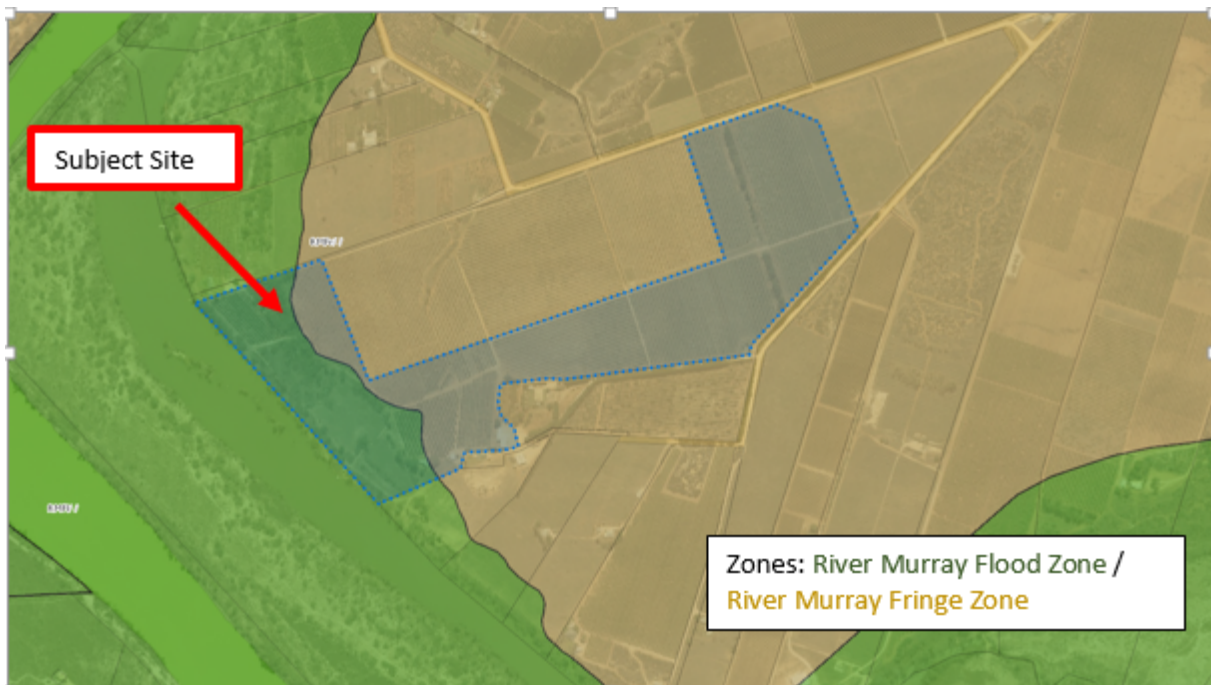
ATTACHMENT 1:

PLAN OF DIVISION



ATTACHMENT 2:

MAPS



**Proposed Land Division
Allotment 21 D73843 CT 6045/144
Hundred of Markaranka
Area Named Taylorville**

STATEMENT OF SUPPORT

**Prepared for
Mr and Mrs Kratopoulos**

**Prepared by
Sandy Hansen
Planning Consultant**

May 2017

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1. Introduction

Sandy Hansen Planning Consultant has been engaged by Mr and Mrs Kratopoulos to provide town planning advice in the form of a Statement of Support to a proposal for a Land Division. The Land Division will result in the creation of one additional allotment. The proposed allotment will contain predominately native vegetation but also an olive grove of approximately 1,000 trees. The balance of the land contains an olive grove of approximately 6,000 trees, a pickers quarters and approximately six hectares of native vegetation.

The subject site is on the boundary of Section 44, which is Big Toolunka Creek. The site is set back approximately 400 metres from the River Murray.

The land is dual Zoned 'River Murray Fringe' and 'River Murray Flood' under the Loxton Waikerie Council Development Plan consolidated 25 February 2013. The proposed Land Division is a non-complying form of development as per Principle of Development Control 16 and the non-complying provisions of the Fringe Zone and as per Principle of Development Control 24 of the Flood Zone.

The development will result in one additional allotment being created, totaling a two allotment Land Division. The proposed Allotments will be 8.35 hectares and 30.24 hectares in area.

The Statement of Support is being lodged with Council together with the Development Application as the Statement of Support is required in order to determine whether to proceed with the application.

The proposed Land Division although non-complying is considered to provide sufficient planning merit to warrant detailed investigations and formal consideration of the Development Application.

2. Background

The property is owned by Mr and Mrs Kratopoulos. The Certificate of Title for Allotment 21 was issued on 20 October 2009. The land is subject to various easements for transmission of electricity, water supply and right of way, refer to the Certificate of Title in Appendix 1. The land is also subject to a leases and mortgage.

The landowner has undertaken numerous land divisions over the past few decades to maximise the land holdings used for primary production and to secure land tenure for existing dwellings. As the land divisions have involved land adjacent to the Big Toolunka Creek, one of the original surveys, D63938, which preceded D73843) alienated land from the site. The waterside boundary of the subject site has therefore been surveyed and is now fixed and there is no need or requirement to surrender further land to the Crown.

Existing Allotment 21 is effectively a U shape and the majority of land is under irrigation. The property contains a total of approximately 7,000 trees. The land division will result in approximately 25 hectares (60 acres) of proposed Allotment 28 being under irrigation growing olives on approximately 6,000 trees. The majority of the land fronting the Big Toolunka Creek is not under irrigation except for a portion on proposed Allotment 27 (equates to 41.5% of proposed Allotment 27 under irrigation) or approximately 9 acres (3.6 hectares) and includes approximately 1,000 trees.

A location plan and an aerial photo of the site and surrounding properties is illustrated in Figure 1 and the enlargement. Figure 3 contains the proposed Land Division plan. Appendix 1 contains the Certificate of Title and Appendix 2 contains photographs of the site.

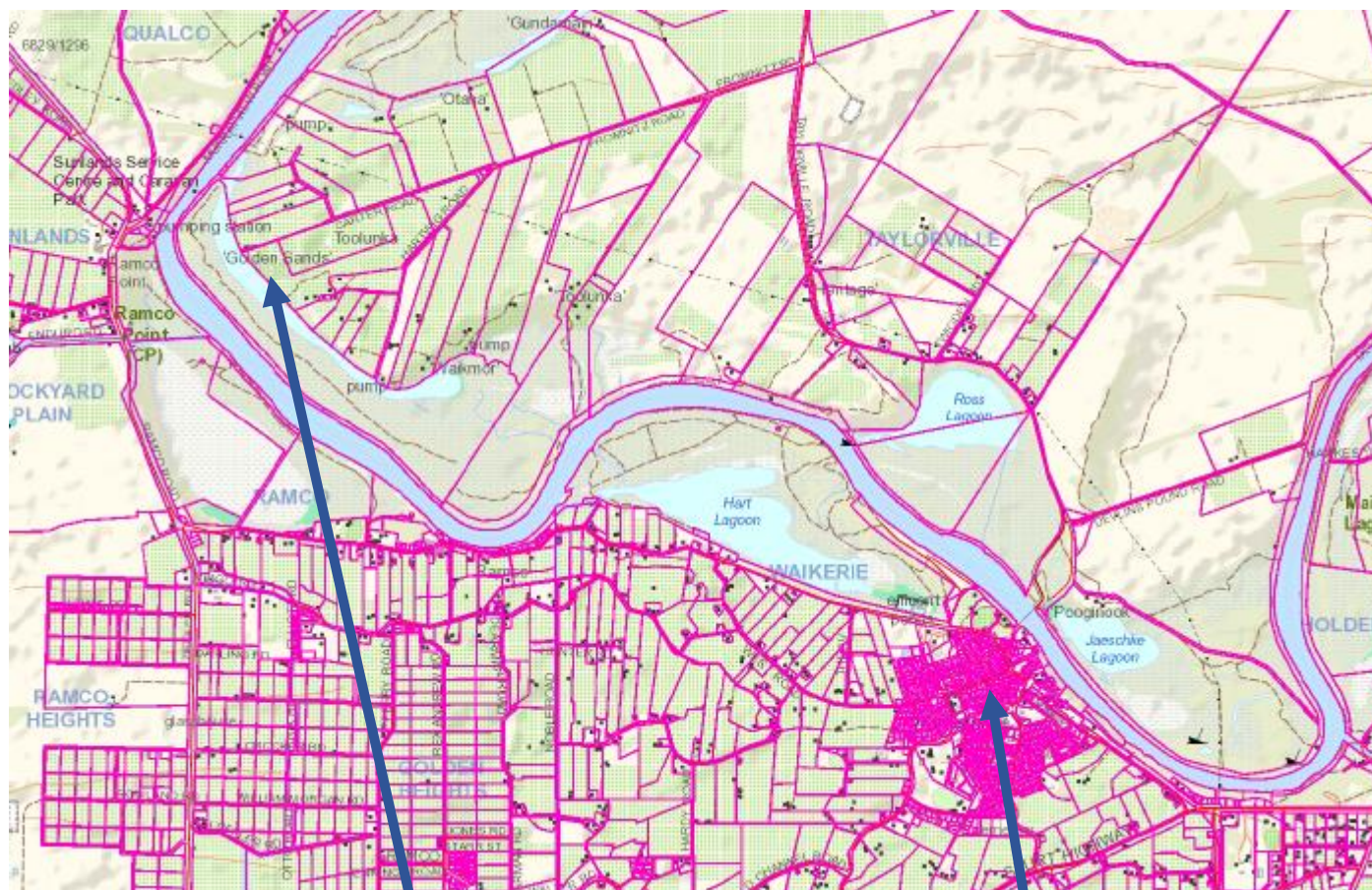


Figure 1: Subject site (refer enlargement)

Waikerie Township



Enlargement Subject site

3. Proposal

The proposal seeks to create one additional Allotment from the existing Allotment. The existing Allotment will be divided to remove the north west portion of the site creating an Allotment that fronts Big Toolunka Creek.

The proposed Allotment will be 8.35ha and will contain predominately native vegetation (approximately 58.5% of the proposed allotment). The proposed boundaries create a significant allotment along the Big Toolunka Creek with a handle to access Carter Road. The driveway to the proposed Allotment will share the access route with Allotment 28 for the majority of its length to ensure access to the pickers quarters and packing sheds. The proposed access leg for proposed Allotment 28 will be 6m wide and 1.138km in length. The access driveway follows the allotment in D73843 to ensure minimal impact on the horticultural activities on proposed Allotment 28. The native vegetation on site will be retained and, should the land division be approved, the existing horticultural plantings will be removed, which covers an area of approximately 3.46ha (1,000 plantings over approximately 9 acres). Refer to Figure 2, which illustrates the area of olive grove to be removed. This proposed Allotment has an easement from Big Toolunka Creek to D73843 to the north east for water access. As this proposed Allotment contains no development any development proposed for the site will require a further Development Application to be lodged and be assessed under the relevant provisions.

Proposed Allotment 28 will be 30.24ha in area and will accommodate the existing horticultural activities, picking quarters and olive grove of approximately 6,000 trees. The proposed setback distances from the existing picking quarters and the proposed boundary are in excess of 150 metres. Proposed Allotment 28 will retain existing easements for right of way and transmissions of electricity, these are illustrated on the proposed Land Division.

It is noted that the subject site:

- does not contain a wetland; and
- Is located along the Big Toolunka Creek and near the River Murray (contains a strip within the River Murray Flood Zone of approximately 52ha) and there are no foreseeable negative impacts to these watercourses as a result of the proposed land division;
- Is not within a National Park; and
- contains no development other than horticulture, which is to be removed should the land division application be approved.

The proposed Land Division is contained in Figure 2.

Reasons for the proposed Development

The Land Division is being proposed to enable the landowners to sell this portion of the horticultural activity as it is considered marginal in regard to the costs of maintaining the water supply. The owners see the benefits in removing this portion of the farm to enable it to be returned to a native vegetation state. If approval is granted to the land division it is their intention to remove the plantings and irrigation system. Managing a larger area of native vegetation is not beneficial to the overall farm management and therefore it is proposed to sell it so it can be managed appropriately.



Figure 2: Proposed Allotment 27, Olive trees to be removed if the land division is approved, approximately 1,000 trees, highlighted in blue. The remaining area of the allotment contains native vegetation.

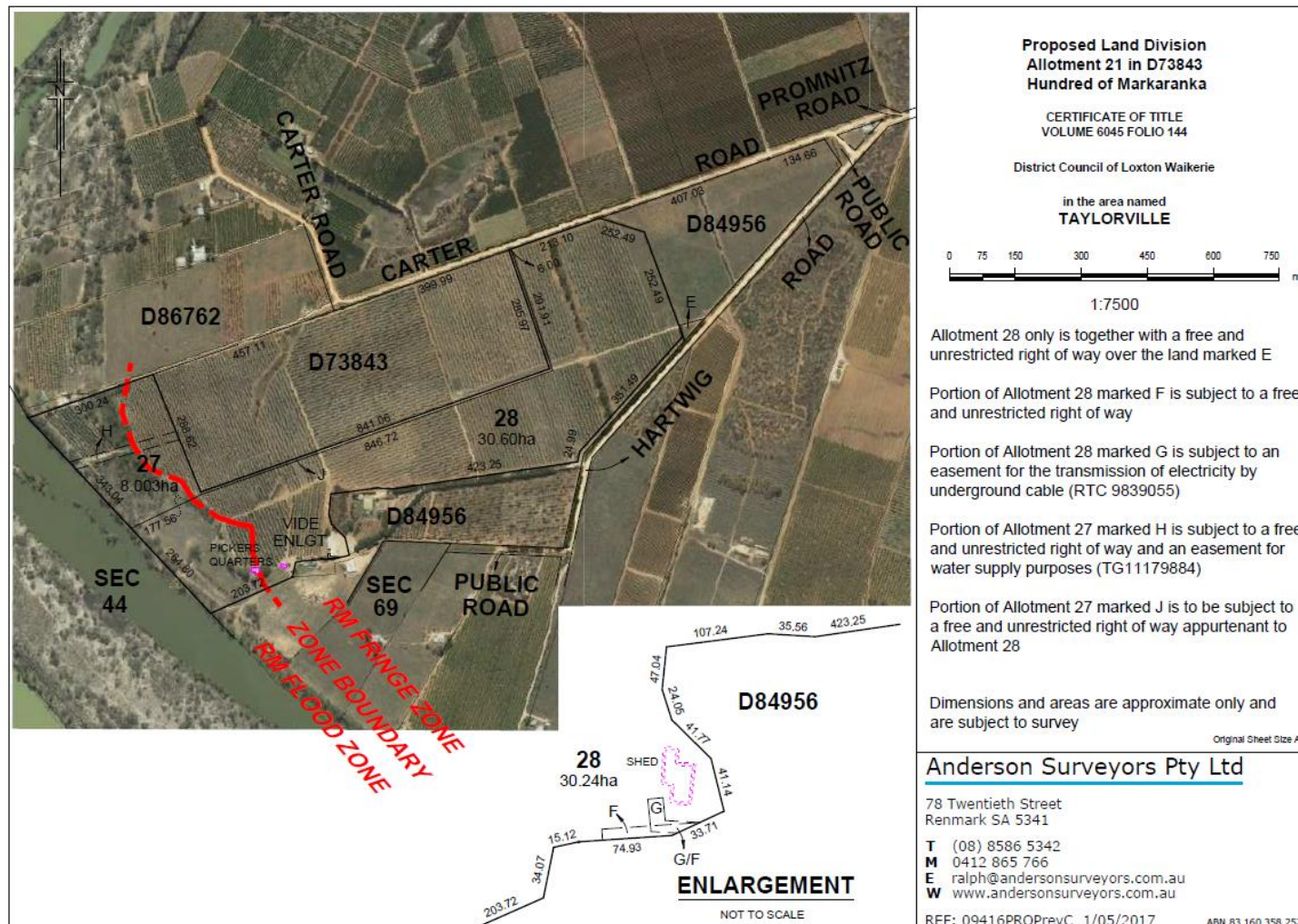
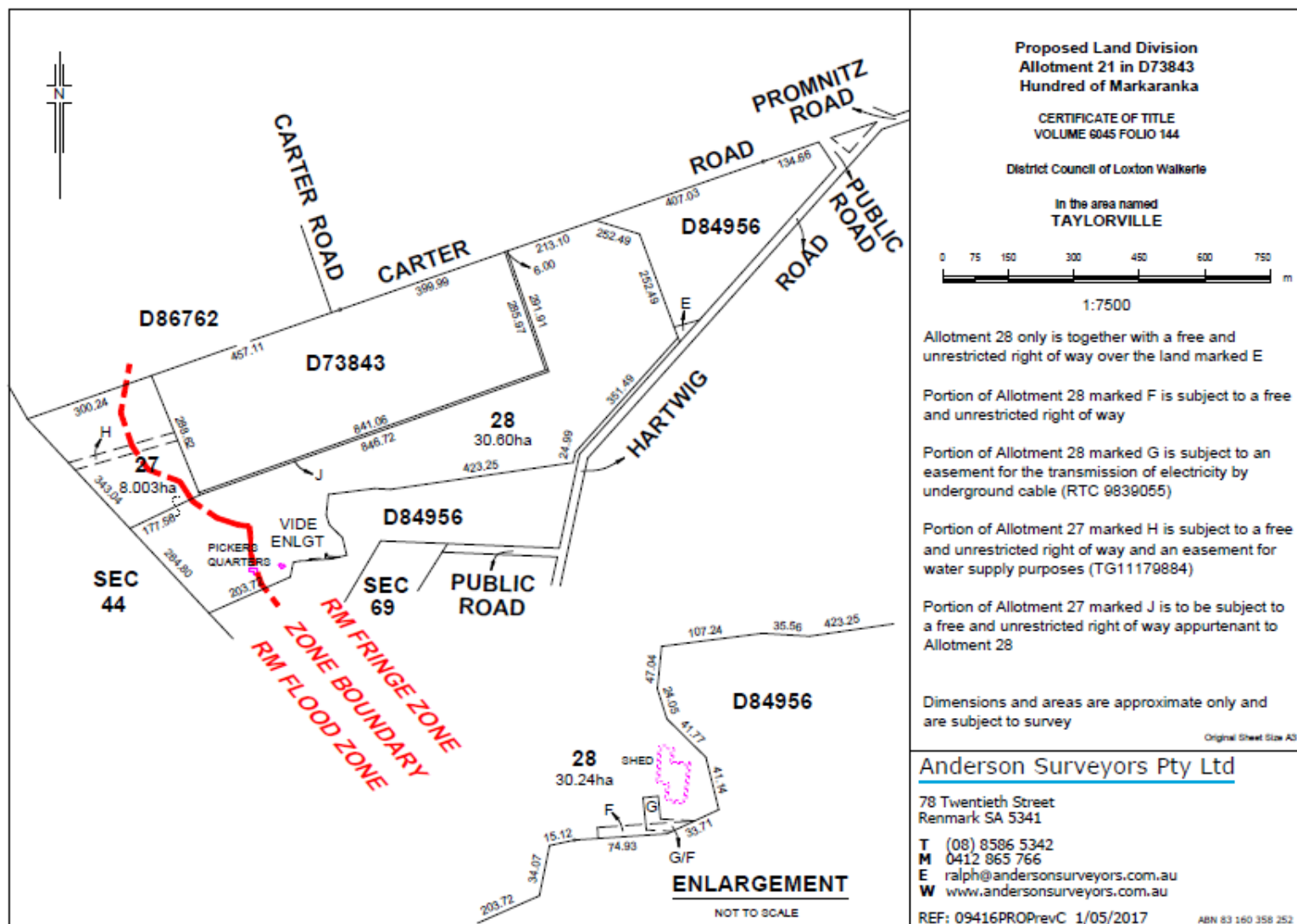


Figure 3: Proposed Land Division



4. Subject Land

Legal Description

The land is described on Certificate of Title, Volume 6045 Folio 144, Allotment 21, in the area named Taylorville, Hundred of Markaranka in DP 73843.

Allotment 21 is subject to two easements, one for drainage purposes and the other for the transmission of electricity via underground cable. The allotment is also subject to two free and unrestricted right of ways. The easements and right of way are outlined in the Certificate of Title contained in Appendix 1.

Physical Description

The subject site has a gentle slope towards the Big Toolunka Creek and has been developed for horticulture. Where the irrigation ends at the western portion of the site there is a slightly sleeper fall into the Creek below (10m over a distance of 300m). It is within this lower area that the majority of the native vegetation is located.

The allotment follows a U shape with Carter Road to the North, Hartwig Road to the East. The remaining boundaries are with other horticultural properties or the Big Toolunka Creek. Access to the site is via Hartwig Road with there being no formal or constructed access to Carter Road. The trucks and other vehicles that frequent the site access the property via Hartwig Road.

The allotment does have direct frontage to the Big Toolunka Creek. At the Creeks edge, there is the infrastructure for pumping water.



Figure 4: topography of the site

Locality

The site is located to the north west of the town of Waikerie, It is located on the eastern side of the River Murray, located among similar horticultural properties, which gain access from the nearby Secondary Arterial road, Taylorville Road. The productive land is predominately above the Creek and River floodplains.

Big Toolunka Creek is located to the west of the site with the River Murray on the western side of the Big Toolunka Creek. A portion of proposed Allotment 27 is within the 1956

Flood and hence in the Flood Zone, this is approximately 5.2ha or 62% of the proposed Allotment.

Land in the vicinity consists predominately of horticultural activities, to the north, east and south. Land to the west consists predominately of the riverine environment and native scrubland.

There are four dwellings in the immediate locality, refer to figure 5. All of the properties that have access from Promnitz Road and Carter Road have very long access ways. Of the 17 driveways in the vicinity 6 are over 1km in length and the average length is 788m. The proposed access leg for proposed Allotment 28 will be approximately 1.138km in length, refer to figure 6.



Figure 5: location of dwellings in the immediate locality.



Figure 6: the length of the driveways in the vicinity (proposed driveway is in red)

Big Toolunka Creek and Flat

Toolunka Flat wetland complex is situated on an inside river bend on the eastern floodplain of the River Murray downstream of Waikerie in South Australia. The complex is made up of Big Toolunka and Little Toolunka, long narrow wetlands which occupy former river channels on the floodplain of the inside river bend which runs around the complex. Big Toolunka has a long, deep permanent lagoon which feeds around 12 pumps. The permanent lagoon on Little Toolunka has no pumps.

The subject site is located adjacent to the Big Toolunka Creek, refer to Figure 6. Big Toolunka consists of a large, 2.75km long, 60-150m wide permanent waterbody with a permanent connection on the downstream side and a long narrow creek that connects up to the river Murray on the upstream side. Between the river and the wetland there is a large floodplain consisting mainly of lignum flats, open Black Box woodland and white sand dunes with shrubs.

Big Toolunka Flat has the status of "Moderate Conservation (should be reassessed)" as identified by River Murray Act 2003 Referral Assessment Policy – Special Provision: Wetlands & Floodplains.

In the Final report on the Bird survey component of the 2006 SA River Murray Wetlands Baseline Survey the abundance and species diversity of birds were around the average at Big Toolunka. The majority of individuals were observed on the open water and on the floodplain. Some intrusive species were found mainly around the northern edge and start of the upstream inlet creek

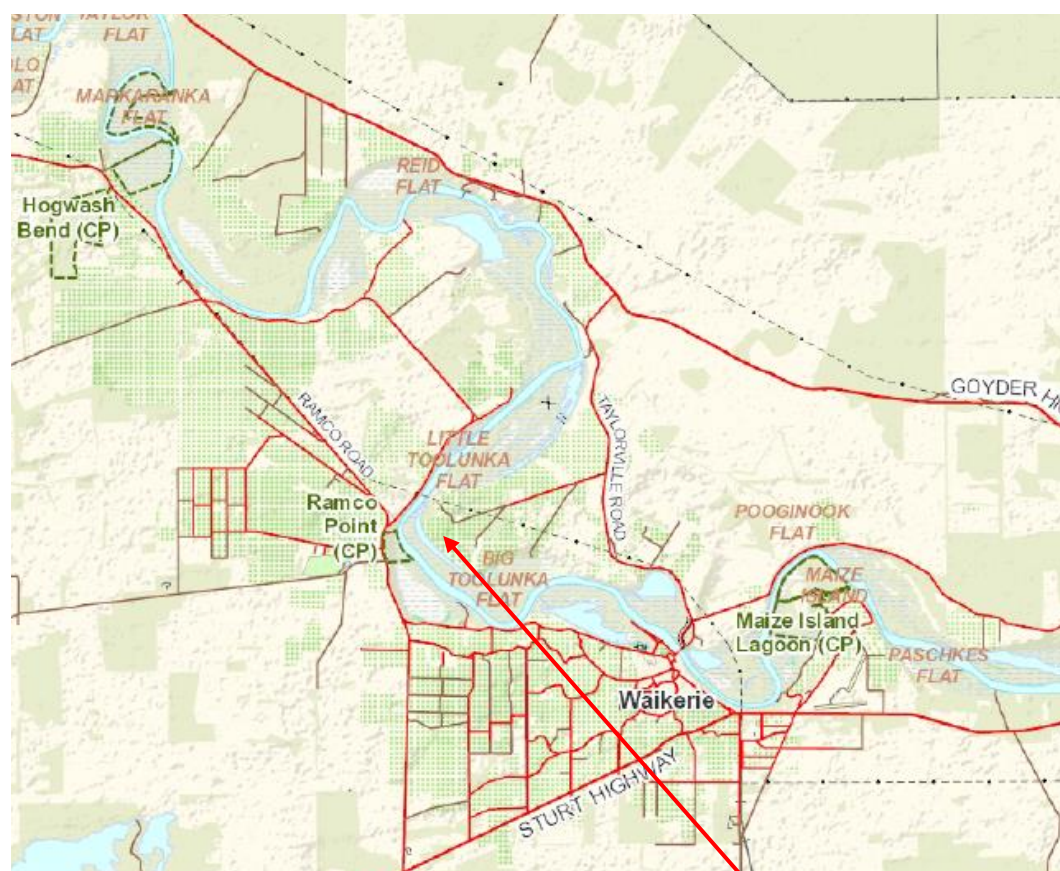
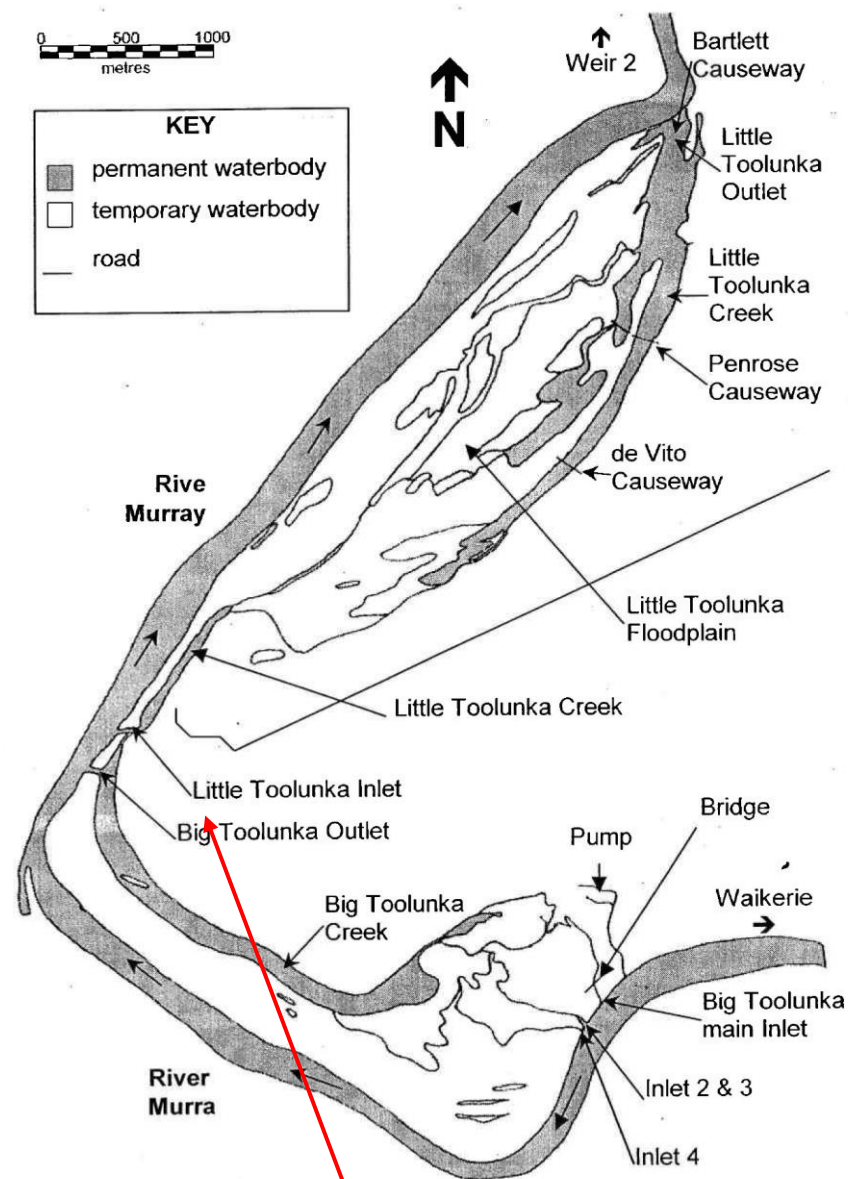


Figure 7: Location of the River Murray and Flats site.

Approximate location of subject site.



Approximate location of subject site.

Figure 8: Location of the River Murray and Flats
Enlargement of Toolunka Flat wetland complex.

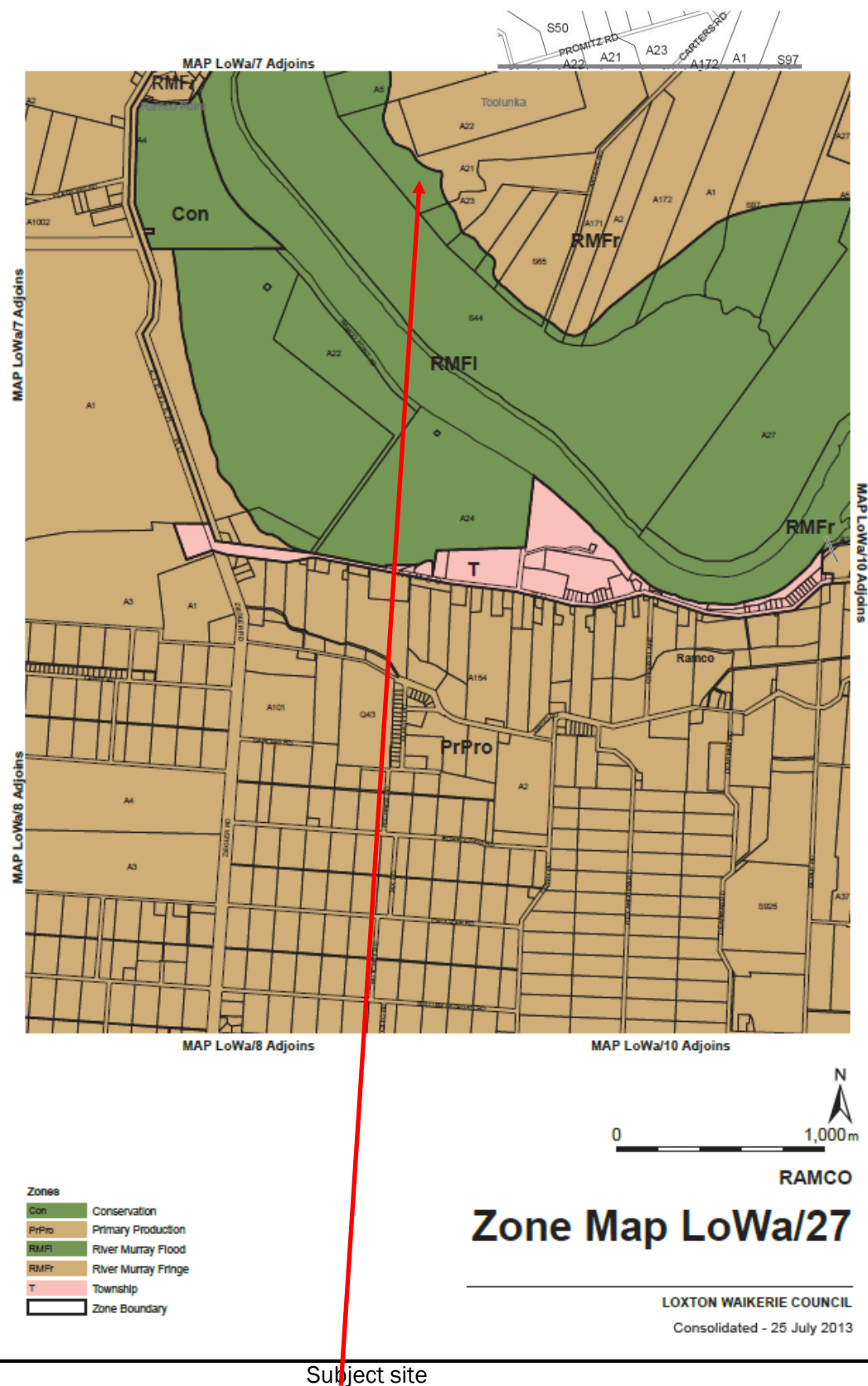


Figure 9: Zone Map

5. Development Plan

The provisions relevant to the proposed Land Division within the Loxton Waikerie Development Plan consolidated 25 July 2013 are as follows:

5.a Relevant Provisions of the Development Plan

General Section:

Hazards

Flooding

- 1 *Maintenance of the natural environment and systems by limiting development in areas susceptible to natural hazard risk*
- 2 *Development located away from areas that are vulnerable to, and cannot be adequately and effectively protected from the risk of natural hazards.*
- 7 *The environmental values and ecological health of receiving waterways and riverine environments protected from the release of acid water resulting from the disturbance of acid sulphate soils.*

Flooding

Principles of Development Control

- 3 *Development should not occur on land where the risk of flooding is likely to be harmful to safety or damage property or the environment*

Infrastructure

Principles of Development Control:

- 1 *Development should not occur without the provision of adequate utilities and services, including (a) electricity supply, (b) water supply*
- 2 *Development should only occur where it provides, or has access to, relevant easements for the supply of infrastructure.*

Land Division

Objectives:

- 2 *Land Division that creates allotments appropriate for the intended use.*
- 4 *Land Division that is integrated with site features, including landscape and environmental feature, adjacent land uses, the existing transport network and the availability of infrastructure.*

Principles of Development Control: 2, 20

1 *When land is divided:*

(b) *a sufficient water supply should be made available for each allotment*

2 *Land should not be divided if any of the following apply:*

(a) *the size, shape, location, slope or nature of the land makes any of the allotments unsuitable for the intended use*

(b) *any allotment will not have a frontage to one of the following:*

(i) *An existing road*

(g) *any allotments will straddle more than one zone or policy area.*

Land Division in Rural Areas

20 *Rural land should not be divided if the resulting allotments would be of a size and configuration likely to impede the efficient use of rural land or any other following:*

(a) *primary production*

(c) *protection of natural resources*

Orderly and Sustainable Development

Objectives: 3

- 3 *Development that does not jeopardise the continuance of adjoining authorized land uses.*

Principles of Development Control: 1

- 1 *Development should not prejudice the development of a zone for its intended purpose.*

Transportation and Access

Objective: 2

- 2 *Development that: (a) provides safe and efficient movement for all motorized and non-motorised transport modes*

River Murray Fringe Zone

Objective: 5

- 3 *Retention of the rural character of the zone.*

Principles of Development Control:

- 2 *Development listed as non-complying is generally inappropriate.*
- 12 *Land Division should not occur unless it is for the alteration of the boundaries of an allotment, and result in allotments of at least 100 hectares in area, unless: (a) the minimum allotment area is 8 hectares and is for the purpose of facilitating the use of the land for horticultural activities:*

Non-Complying Development

The proposed Land Division does not meet the exception criteria under the Non-Complying provisions for Land Division.

River Murray Flood Zone (less than 10,000 square metres – 1 Hectare) is this zone

Principles of Development Control:

- 24 *Land should not be divided unless the division is for the purpose of any of the following:*
(a) creating an allotment to accommodate an existing dwelling.

Non-Complying Development

The proposed Land Division does not meet the exception criteria under the Non-Complying provisions for Land Division.

4.b Additional Considerations

The following documents will be reviewed through the preparation of the Statement of Effect:

- River Murray Act
- Toolunka Flat Wetland Complex Management Plan. Prepared by Wetland Care Australia. Riverland West Local Action Planning Association, 2000.
- Riverland West Local Action Planning Area
- Phase 2 Acid Sulphate Soil Assessment, Big Toolunka Flat (12064) wetland

- 2006 River Murray Wetlands Baseline Survey Vegetation Component 2007

In relation to the relevant provisions of the Development Plan investigations and discussion are considered appropriate as to whether the variance to the provisions are significant in light of the possible social, environmental or economic impacts.

5. Summary

Having regard to the relevant provisions of the Development Plan the proposed Land Division warrants further consideration through the development application process. It would appear the following preliminary conclusions have merit and therefore further investigation is appropriate:

- the proposed Land Division will not result in the alteration or removal of native vegetation;
- the proposed Land Division will have no impact on wetlands, Big Toolunka Creek, the River Murray or any other natural resources;
- the proposed Land Division will result in horticultural activities being removed from the land immediately adjacent to Big Toolunka Flat (approximately 1,000 trees or 9 acres /3.6 hectares);
- the proposed Land Division would not prejudice the River Murray Fringe Zone for its intended (or future) purpose;
- the proposed Land Division will create a safe access point to Carter Road;
- the proposed Land Division will not result in any negative alteration to the character or amenity of the locality;
- the proposed land division does not appear to be significantly at variance to the allotments in the vicinity, although this will be further investigation;
- the proposed Land Division will not restrict the use of the adjoining land for horticulture; and therefore
- in light of the specific circumstances it is considered appropriate that the Development Application be supported to the next stage (preparation of a Statement of Effect) to enable a detailed investigation of the impacts of the proposed Land Division and the detailed assessment against the provisions of the Development Plan.

Appendix 1: Certificate of Title



Title Register Search

LANDS TITLES OFFICE, ADELAIDE

For a Certificate of Title issued pursuant to the Real Property Act 1886

REGISTER SEARCH OF CERTIFICATE OF TITLE * VOLUME 6045 FOLIO 144 *

COST : \$19.20 (GST exempt)	PARENT TITLE : CT 6009/400
REGION : EMAIL	AUTHORITY : TG 11179884
AGENT : CUST BOX NO : 000	DATE OF ISSUE : 20/10/2009
SEARCHED ON : 20/02/2012 AT : 10:10:38	EDITION : 1

REGISTERED PROPRIETOR IN FEE SIMPLE

KONSTANTINOS KRATOPOULOS OF PO BOX 543 WAIKERIE SA 5330

DESCRIPTION OF LAND

ALLOTMENT 21 DEPOSITED PLAN 73843
IN THE AREA NAMED TAYLORVILLE
HUNDRED OF MARKARANKA

EASEMENTS

SUBJECT TO THE EASEMENT OVER THE LAND MARKED G FOR THE TRANSMISSION OF
ELECTRICITY BY UNDERGROUND CABLE (RTC 9839055)

SUBJECT TO THE EASEMENT OVER THE LAND MARKED H FOR WATER SUPPLY PURPOSES
(TG 11179884)

SUBJECT TO A FREE AND UNRESTRICTED RIGHT OF WAY OVER THE LAND MARKED F

SUBJECT TO A FREE AND UNRESTRICTED RIGHT OF WAY OVER THE LAND MARKED H (TG
11179884)

TOGETHER WITH A FREE AND UNRESTRICTED RIGHT OF WAY OVER THE LAND MARKED E

SCHEDULE OF ENDORSEMENTS

4744826 MORTGAGE TO ST.GEORGE BANK LTD.

8134390 LEASE TO DISTRIBUTION LESSOR CORPORATION COMMENCING ON 28.5.1996
AND EXPIRING ON 27.5.2095 OF AN EASEMENT OVER PORTION (SUBJECT
TO LEASE 8890000)

NOTATIONS

DOCUMENTS AFFECTING THIS TITLE

NIL

CONT.



Title Register Search

LANDS TITLES OFFICE, ADELAIDE

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REGISTER SEARCH OF CERTIFICATE OF TITLE * VOLUME 6045 FOLIO 144 *

REGION : EMAIL

AGENT : CUST BOX NO : 000

SEARCHED ON : 20/02/2012 AT : 10:10:38

PARENT TITLE : CT 6009/400

AUTHORITY : TG 11179884

DATE OF ISSUE : 20/10/2009

EDITION : 1

REGISTRAR-GENERAL'S NOTES

NIL

END OF TEXT.

Page 2 of 4

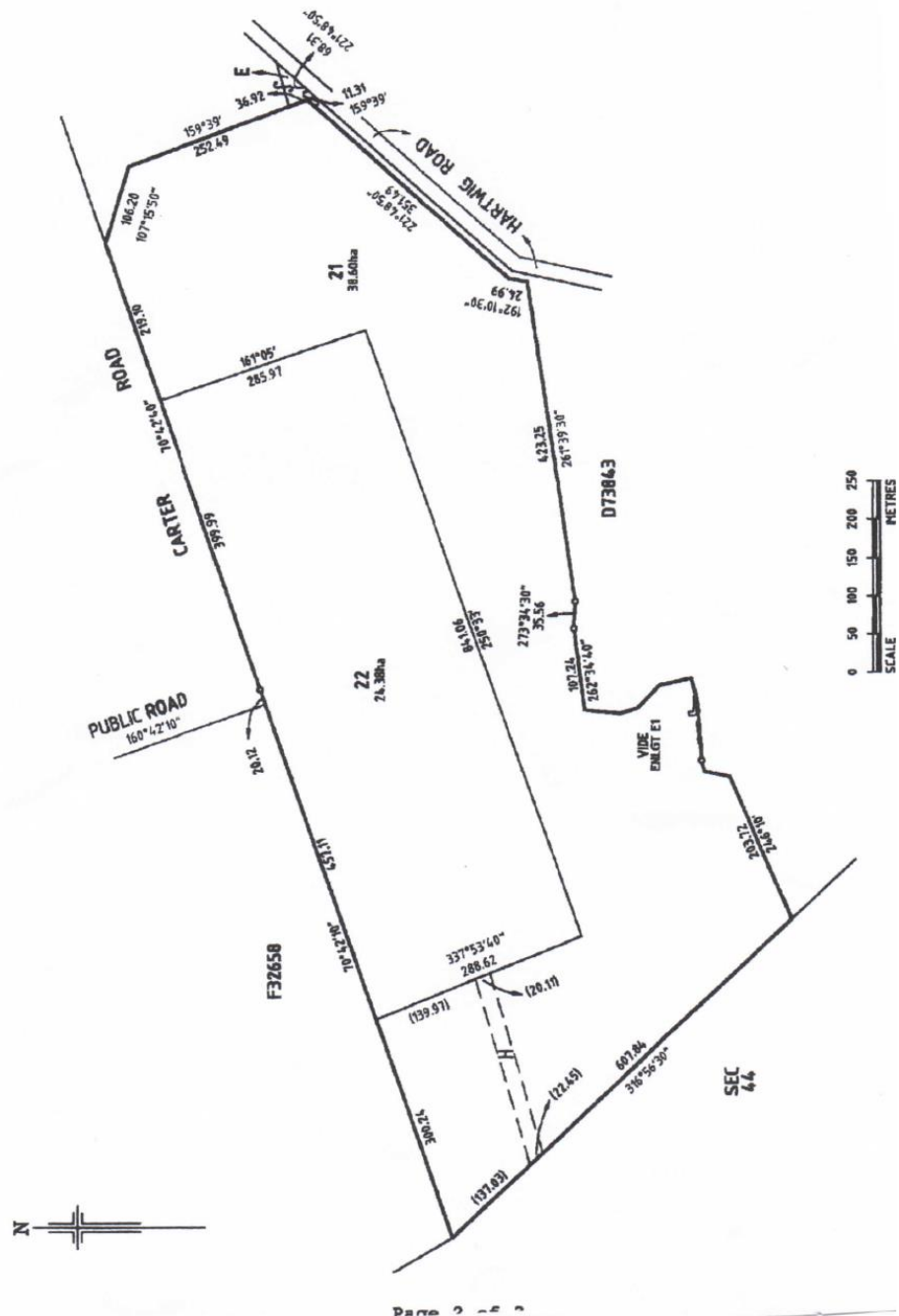
The Registrar-General certifies that this Title Register Search displays the records maintained in the Register Book and other notations at the time of searching.

Registrar-General 

Statement of Support

Mr. and Mrs Kratopoulos
Proposed Land Division

LANDS TITLES OFFICE ADELAIDE SOUTH AUSTRALIA
 DIAGRAM FOR CERTIFICATE OF TITLE VOLUME 6045 FOLIO 143
 SEARCH DATE : 20/02/2012 TIME: 10:11:35



Appendix 2: Photographs of the site



Photograph taken from the north west corner of proposed Allotment 27, looking towards the south (Creek to the right, olive trees to the left)



Photograph taken from the southern boundary of the olive grove looking to the east. The olive trees on the rise in the background of the photo are also earmarked for removal should the land division be approved.



Photograph of the native vegetation located between the two olive groves earmarked for removal should the land division be approved.

Proposed Land Division; Allotment 21 D73843 CT 6045/144 – DA551/D008/17
Hundred of Markaranka; Area Named Taylorville

Summary:

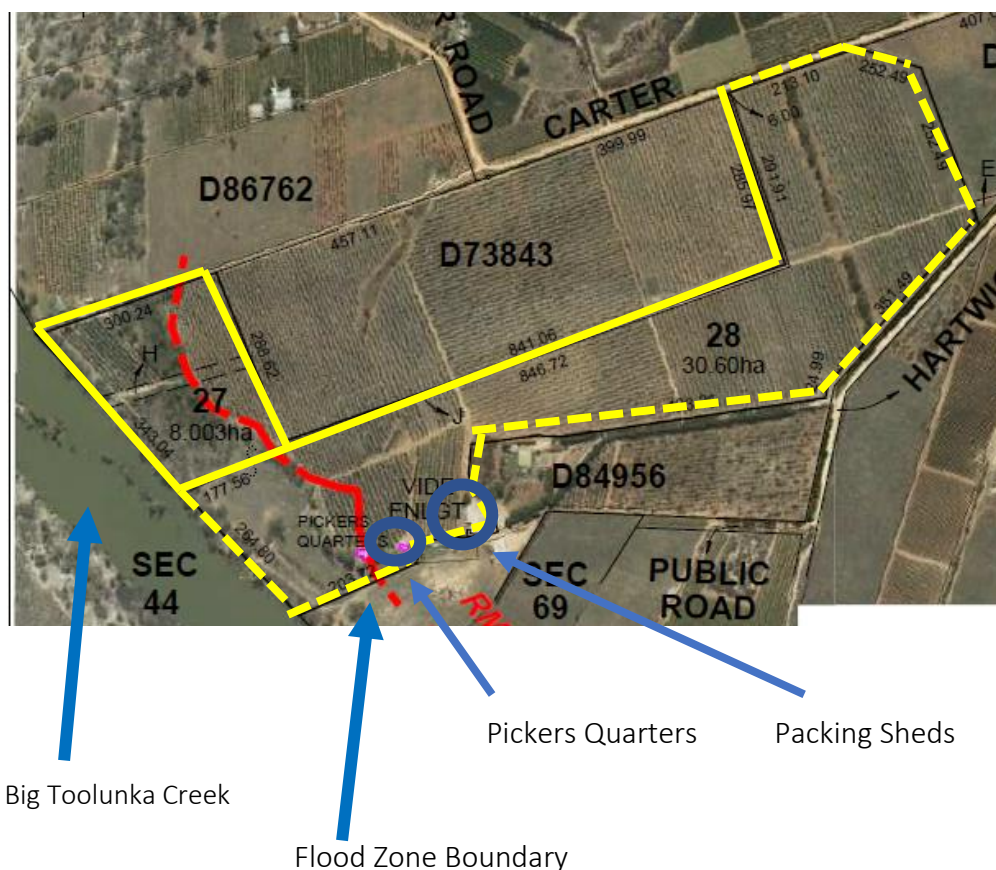
The site is currently dual zoned Flood Zone and Fringe Zone. The land has frontage to Big Toolunka Creek with no direct access to the River Murray, which is to the west of the Creek.

Proposed Allotment 27, which will be 8.003ha, will be dual zoned Flood Zone and Fringe Zone. It will contain

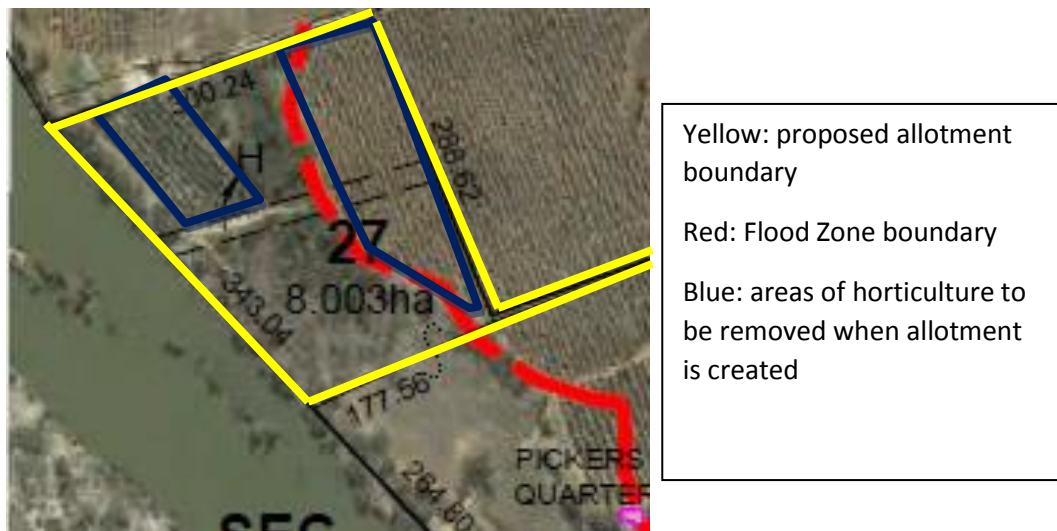
- native vegetation only (as if the land division is approved the horticultural trees will be removed). The land area will consist of:
 - 5.2 hectares that is zoned Flood, which is 62% of the overall allotment area, and
 - 3.15 hectares that are zoned Fringe, which is 38% of the overall allotment area.

Proposed Allotment 28, which will be 30.60ha, will also be dual zoned Flood Zone and Fringe Zone. It will contain

- approximately 6,000 trees on approximately 24 hectares, a pickers quarters, packing sheds and approximately 6 hectares of native vegetation. The native vegetation is contained within the Flood Zone. The land area will consist of:
 - 6 hectares that is zoned Flood, which is 20% of the overall allotment area, and
 - 24 hectares that are zoned Fringe, which is 80% of the overall allotment area.



- Proposed Allotment 27 is being created as:
 - it will create a regular shaped allotment with a long access leg, which is in keeping with the driveway lengths in the vicinity;
 - it will have minimal disruption to the existing horticultural activity on site with approximately 1,000 trees being removed in an isolated pocket of the horticultural use on the site in an area which is currently under irrigation so removing trees will be a benefit for the Flood Zone due to unwanted salinity from horticultural activities.
 - approximately 3 hectares of land will be removed from horticultural use in an area adjacent to native vegetation along the bank of the Big Toolunka Creek. The location of this site, with regards to the native vegetation located to the north and south along the Creek, is more suited to a use that compliments the native vegetation corridor than to the existing horticultural use. Removal of horticultural activities from the Flood Zone is considered a positive outcome.



Summary of the merits of the proposal:

- Uniquely located where benefits to the environment can be obtained through creation of the allotment and removal of the horticultural activities.
- The properties to the north and south along Big Toolunka Creek are dual zoned and the proposal retains the current two zone configuration in line with those in the vicinity.
- The proposal retains the viable horticultural activity, including the pickers quarters and packing shed on one large allotment, of 30.60ha.
- It will remove a portion of isolated horticultural land from production and create a parcel where the native vegetation can be comprehensively managed.
- The unique allotment configuration and placement along Big Toolunka Creek will not set an undesirable precedent and it is in line with recent land division approvals.

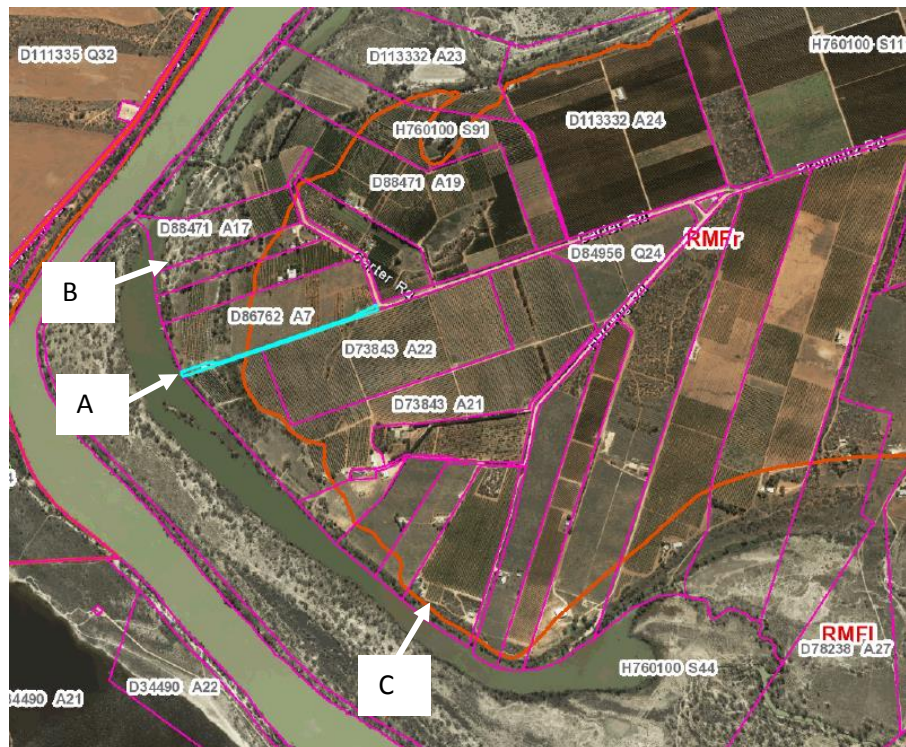
Is it possible to contain the proposed Allotment within the Fringe Zone?

- To accommodate the 8 hectares within the Fringe Zone viable horticultural land contained within the larger 30.6ha holding will be lost. To be close to the pocket of horticultural use in the north west area of the lot the proposed lot could result in an irregular shaped allotment, possibly like the one illustrated in blue shading below, which follows the Flood/Fringe Zone boundary.



- Proposed Allotment 28, which is a viable horticultural pursuit at 30.60ha will lose 5 hectares of the productive 24 hectares and may result in the pickers quarters and packing sheds no longer being within its boundary.
- The proposal may also isolate the land zoned Flood from the remaining section of Allotment 28
- While the Development Plan encourages horticultural activities in the Fringe Zone on 8 hectares (PDC 12 of the River Murray Fringe Zone) the land division is being pursued with the intention of removing the existing horticultural activities from the Flood Zone and focusing on managing the native vegetation on the site.

Land Divisions approved in the vicinity on land dual zoned Flood/Fringe



To recap land division is non complying unless:

- Within the Fringe Zone Land Division should only occur where boundaries are altered and result in allotments of at least 100 hectares, unless the land division is facilitating the use of land for horticultural purposes then the minimum allotment area is 8 hectares.
- Within the Flood Zone Land Division land should not be divided unless the division is creating an allotment to accommodate an existing dwelling.

A = DA551/D034/08 – created an allotment immediately to the north to accommodate a dwelling on an allotment of approximately 5 hectares – considered as a merit¹ application

B = DA551/D002/16 – boundary realignment– included creating two long narrow allotments of approximately 5.1 and 6.6 hectares - – considered as a merit application

C = DA 551/002/17 – create a new allotment to accommodate a dwelling – considered as a merit application

¹ As outlined on EDALA

ATTACHMENT 4:

LOXTON WAIKERIE COUNCIL DEVELOPMENT PLAN (CONSOLIDATED 19 APRIL 2017)

GENERAL SECTION

Land Division

OBJECTIVES

- 1 Land division that occurs in an orderly sequence allowing efficient provision of new infrastructure and facilities and making optimum use of existing under utilised infrastructure and facilities.*
- 2 Land division that creates allotments appropriate for the intended use.*
- 4 Land division that is integrated with site features, including landscape and environmental features, adjacent land uses, the existing transport network and the availability of infrastructure.*
- 5 Land division restricted in rural areas to ensure the efficient use of rural land for primary production and avoidance of uneconomic infrastructure provision.*

PRINCIPLES OF DEVELOPMENT CONTROL

1 When land is divided:

- (a) stormwater should be capable of being drained safely and efficiently from each proposed allotment by capturing and reusing it as close to the source as possible in an environmentally sensitive manner*
- (b) a sufficient water supply should be made available for each allotment*
- (c) provision should be made for the disposal of wastewater, sewage and other effluent from each allotment without risk to health*
- (d) proposed roads should be graded, or be capable of being graded to connect safely and conveniently with an existing road or thoroughfare.*

2 Land should not be divided if any of the following apply:

- (a) the size, shape, location, slope or nature of the land makes any of the allotments unsuitable for the intended use*
- (b) any allotment will not have a frontage to one of the following:*
 - (i) an existing road*
 - (ii) a proposed public road*
 - (iii) access to a public road via an internal roadway in a plan of community division*
- (c) the intended use of the land is likely to require excessive cut and/or fill*
- (d) it is likely to lead to undue erosion of the subject land or land within the locality*
- (e) the wastewater treatment plant to which subsequent development will be connected does not have sufficient capacity to handle the additional wastewater volumes and pollutant loads generated by such development*
- (f) the area is unsewered and cannot accommodate an appropriate onsite wastewater disposal system within the allotment that complies with (or can comply with) the relevant public and environmental health legislation applying to the intended use(s)*
- (g) any allotments will straddle more than one zone or policy area.*

Design and Layout

- 3 Land divisions should be designed to ensure that areas of native vegetation and wetlands:*

- (a) are not fragmented or reduced in size*
- (b) do not need to be cleared as a consequence of subsequent development.*

4 The design of a land division should incorporate:

- (a) roads, thoroughfares and open space that result in safe and convenient linkages with the surrounding environment, including public and community transport facilities, and which, where necessary, facilitate the satisfactory future division of land and the inter-communication with neighbouring localities*
- (b) safe and convenient access from each allotment to an existing or proposed public road or thoroughfare*
- (c) areas to provide appropriate separation distances between potentially conflicting land uses and/or zones*
- (d) suitable land set aside for useable local open space*
- (e) public utility services within road reserves and where necessary within dedicated easements*
- (f) the preservation of significant natural, cultural or landscape features including State heritage places*
- (g) protection for existing vegetation and drainage lines*
- (h) where appropriate, the amalgamation of smaller allotments to ensure co-ordinated and efficient site development.*

Land Division in Rural Areas

20 Rural land should not be divided if the resulting allotments would be of a size and configuration likely to impede the efficient use of rural land for any of the following:

- (a) primary production*
- (b) value adding industries related to primary production*
- (c) protection of natural resources.*

21 Rural land should not be divided where new allotments would result in any of the following:

- (a) fragmentation of productive primary production land*
- (b) strip development along roads or water mains*
- (c) prejudice against the proper and orderly development of townships*
- (d) removal of native vegetation for allotment boundaries, access roads, infrastructure, dwellings and other buildings or firebreaks.*

River Murray Flood Zone

OBJECTIVES

- 1 Buildings and structures excluded from the zone where they are likely to impede or be damaged by floodwaters and/or fluctuating pool levels of the River Murray.*
- 2 The conservation and improvement of water quality that sustains the natural environment and natural ecological processes associated with the River Murray in areas as defined by the River Murray Act 2003.*
- 3 Conservation of the natural features of the river environment.*
- 4 Restricted development in recognition of the hazards associated with floods, by minimising new structures and changes to existing natural ground levels.*
- 5 Land division enabling security of tenure for existing dwellings.*

PRINCIPLES OF DEVELOPMENT CONTROL

Land Use

- 1 The following forms of development are envisaged in the zone:*
 - a structure for the purpose of public recreation (e.g. landing and jetty)*
 - a structure for the purposes of water extraction, wetland management and irrigation management (e.g. channel, pumping stand, flood gate).*

2 Development listed as non-complying is generally inappropriate.

3 Development should not cause, impede, or be subject to damage by floodwaters and/or fluctuating pool levels of the River Murray as defined by the River Murray Act 2003.

Form and Character

9 Development should:

- (a) not adversely affect the stability or the natural features of the waterfront*
- (b) minimise and limit vehicular access to be associated with the site*
- (c) ensure the location of any vehicle access point to the waterfront is sited to avoid adverse environmental impacts*
- (d) provide the maximum possible waterfront reserve between buildings and the water*
- (e) provide and maintain public access routes to waterfront reserves.*

Land Division

24 Land should not be divided unless the division is for the purpose of any of the following:

- (a) creating an allotment to accommodate an existing dwelling, which:

 - (i) ensures that any new roads are located behind the existing dwelling, and not between the existing dwellings and the public waterfront reserve*
 - (ii) results in the provision of a reserve of up to 50 metres in width above pool level along the water frontage, and where this is not practicable, the maximum possible width of reserve above pool level along the water frontage should be provided**
- (b) creating a reserve of up to 50 metres in width above pool level along the water frontage*
- (c) creating a public road or a public reserve and the road is located behind existing dwellings, not being between the existing dwellings and the public waterfront reserve*
- (d) a minor adjustment of allotment boundaries to remove an anomaly in the current boundaries with respect to the location of existing buildings or structures.*

25 Boundary realignments for residential purposes should result in:

- (a) any new roads being located behind existing dwellings, rather than between existing dwellings and the public waterfront reserve*
- (b) the provision of a reserve of 50 metres in width above pool level along the water frontage or, where this is not practicable, the provision of maximum possible width of reserve above pool level along the water frontage.*

River Murray Fringe Zone

OBJECTIVES

- 1 The natural character and visual attractiveness of the River Murray, valley face and surrounds unmarred by development.*
- 2 Preservation and improvement of the water quality of the River Murray.*
- 3 Retention of the rural character of the zone.*
- 5 Development that contributes to the desired character of the zone.*

PRINCIPLES OF DEVELOPMENT CONTROL

Land Use

1 The following forms of development are envisaged in the zone:

- *farming*
- *recreation facility*
- *residential holiday house development in designated areas.*

2 Development listed as non-complying is generally inappropriate.

Form and Character

3 Development should not be undertaken unless it is consistent with the desired character for the zone.

Land Division

16 Land division should not occur unless it is for the alteration of the boundaries of an allotment, and results in allotments of at least 100 hectares in area, unless:

- (a) the minimum allotment area is 8 hectares and is for the purpose of facilitating the use of the land for horticultural activities.*
- (b) the minimum allotment area is 1500 square metres within Precinct 5 Waikerie East Commercial Area.*
- (c) it is for clustered holiday house development within the area identified in the table below:*

Site No Lot/Sec Plan Number Certificate of Title

1 Lot 9 DP 64256 CT 5949/971

2 Lot 4 DP 57664 CT 5859/383

3 Lot 1 DP 56818 CT 5866/343

4 Lots 21 and 22 DP 71222 CT 6015/229

5 Sec 25 HP 760300 CL 1047/44

6 Lot Pieces 87 and 88 DP 70041 CT 5975/5

7 Lot 2 DP 26133 CT 5785/89

8 Lot 72, Lot Pieces 73 and 74 and Lot 75 DP 64445 CT 5924/436