



CENTRAL COAST COUNCIL

DEVELOPMENT SUPPORT SPECIAL COMMITTEE

# Minutes

of Meeting

13 October 2008

Minutes subject to confirmation at  
a meeting of the Development Support Special Committee to be held on  
Monday, 27 October 2008

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**Minutes of an ordinary meeting of the Development Support Special Committee held in the Council Chamber of the Administration Centre, 19 King Edward Street, Ulverstone on Monday, 13 October 2008 commencing at 6.00pm**

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**Members attendance**

Cr Mike Downie (Mayor)  
Cr Ken Haines  
Cr Tony van Rooyen

Cr Jan Bonde  
Cr Terry McKenna  
Ms Sandra Ayton

**Employees attendance**

Director Development Services (Mr Michael Stretton)  
Land Use Planning Group Leader (Ms Theresia Williams)  
Town Planner (Mr Thomas Reilly)

**Public Attendance**

Three

**CONFIRMATION OF MINUTES OF THE COMMITTEE**

**41/2008 Confirmation of minutes**

The Land Use Planning Group Leader reported as follows:

“The minutes of the previous meeting of the Development Support Special Committee held on 29 September 2008 have already been circulated. The minutes are required to be confirmed for their accuracy.

The *Local Government (Meeting Procedures) Regulations 2005* provide that in confirming the minutes of a meeting, debate is allowed only in respect of the accuracy of the minutes.”

- Cr McKenna moved and Cr Bonde seconded, “That the minutes of the previous meeting of the Development Support Special Committee held on 29 September 2008 be confirmed.”

Carried unanimously

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## MAYOR'S COMMUNICATIONS

### 42/2008 Mayor's communications

The Mayor reported as follows:

"Under the terms of appointment of the Development Support Special Committee, it acts in agreed circumstances as if it were the Council and, accordingly, as a planning authority under the *Land Use Planning and Approvals Act 1993*.

Members are reminded that the *Local Government (Meeting Procedures) Regulations 2005* provide that the general manager is to ensure that the reasons for a decision by a council acting as a planning authority are recorded in the minutes.

In the event that items listed for consideration are referred, under the terms of the Committee's appointment, to the Council (e.g. any matter the Committee cannot determine unanimously), or if the Committee is unable to make a determination within the relevant statutory time limit, such items will be referred to a meeting of the Council for a decision."

- Cr McKenna moved and Cr Haines seconded, "That the Mayor's report be received."

Carried unanimously

## PECUNIARY INTEREST DECLARATIONS

### 43/2008 Pecuniary interest declarations

The Mayor reported as follows:

"Members are requested to indicate whether they have, or are likely to have, a pecuniary interest in any item on the agenda."

The Land Use Planning Group Leader reported as follows:

"The *Local Government Act 1993* provides that a member must not participate at any meeting of a special committee in any discussion, nor vote on any matter, in respect of which the member has an interest or is aware or ought to be aware that a close associate has an interest.

Members are invited at this time to declare any interest they have on matters to be discussed at this meeting. If a declaration is impractical at this time, it is to be noted that a member must declare any interest in a matter before any discussion on

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that matter commences.

All interests declared will be recorded in the minutes at the commencement of the matter to which they relate.”

No interests were declared at this time.

### **ADJOURNMENT OF MEETING**

#### **44/2008      Adjournment of meeting**

The Mayor reported as follows:

“In order to effectively consider the reports before this meeting of the Committee it is appropriate that I adjourn the meeting to enable the related documents to be workshopped prior to resumption of the meeting and formal resolution of the agenda items.”

The workshop having been concluded, the Mayor resumed the meeting.

### **DEPUTATIONS**

#### **45/2008      Deputations**

The Land Use Planning Group Leader reported as follows:

“No requests for deputations to address the meeting or to make statements or deliver reports have been made.”

### **OPEN REPORTS**

#### **46/2008      Residential house (variation to height and setbacks) at 162 Upper Maud Street, Ulverstone – Application No. DEV2008.37**

The Director Development Services reported as follows:

“The Land Use Planning Group Leader has prepared the following report:

<i>DEVELOPMENT APPLICATION No.:</i>	DEV2008.37
<i>APPLICANT:</i>	S von Stieglitz
<i>LOCATION:</i>	162 Upper Maud Street, Ulverstone

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<i>ZONING:</i>	Residential
<i>PLANNING INSTRUMENT:</i>	Central Coast Planning Scheme 2005 (the Scheme)
<i>ADVERTISED:</i>	20 September 2008
<i>REPRESENTATIONS EXPIRY DATE:</i>	4 OCTOBER 2008
<i>REPRESENTATIONS RECEIVED:</i>	Two
<i>42-DAY EXPIRY DATE:</i>	29 October 2008
<i>DECISION DUE:</i>	13 October 2008

#### *PURPOSE*

The purpose of this report is to consider:

- the merits of the representations; and
- whether the development performs in relation to the Scheme (variations to height and setbacks).

#### *BACKGROUND*

The site is a Residential lot, sloping from the northwest corner to the southeast corner. The lot to the west (160 Upper Maud) has been developed with a single house, as has the land at 154 Upper Maud. The Council has not yet received an application to develop 158 or 156 Upper Maud Street.

A location plan is appended as Annexure 1.

#### *DISCUSSION*

The Scheme provides that the proposal is for the following use:

“Residential”, defined as “use of land for one or more dwellings providing long term accommodation”.

The proposed development is for a house and falls within the definition of Residential. A new house in the Residential zone is Permitted, unless it requires consideration of the exercise of discretion, which this proposal does.

Application documents are provided as Annexure 2.

As per Section 4.9 of the Scheme, in determining an application for a permit, the Council must:

- (a) seek to further the objectives of the *Land Use Planning and Approvals Act 1993*;

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- (b) act in accordance with the requirements of a State Policy;
  - (c) give effect to any direction from the (Resource Planning and Development) Commission under s.28(1)(a) or s.41(a) of the Act in accordance with s.51(3)(b) and (c) of the Act; and
  - (d) give effect to all relevant standards and any other requirements specified in the Scheme;
- and must have regard to:
- (e) the objectives for planning as set out in Part A;
  - (f) the purpose of the relevant zone;
  - (g) the purpose of the relevant schedule;
  - (h) any advice, information or recommendation with respect to the application that it seeks from a person who has the necessary qualifications or experience; and
  - (i) any representations received as a result of notification under s.57 of the Act.

An application for a planning permit requires that the above considerations be addressed. The Discussion is divided into two sections: "Objectives of the Act" and the "Specifics of the Scheme". The individual State Policies are not discussed in this report as these have been incorporated into the Scheme.

The discretion in relation to this proposal relates to the setback to the front boundary (6.3.3 A4), the overall height of the house and the setback of the building to the western side boundary, covered by Cl. 6.3.3 A1 of the Scheme. These issues are discussed in more detail below.

#### Objectives of the Act

This section provides the Objectives of the Resource Management and Planning System of Tasmania and an assessment of the proposal against these objectives:

- (a) *to promote the sustainable development of natural and physical resources and the maintenance of ecological processes and genetic diversity;*

The property is situated within an existing residential area. This is in keeping with the concept of sustainable development to encourage infill development where possible. The land has already been modified to such an extent that there are no ecological processes to

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be maintained, other than the management of stormwater, and no genetic diversity to be protected.

- (b) *to provide for the fair, orderly and sustainable use and development of air, land and water;*

Generally, infill development such as this is seen as fair, orderly and sustainable, subject to the specifics of the Scheme. Section 6.0 of the Scheme provides more specifics on how to assess this Objective for this proposal.

- (c) *to encourage public involvement in resource management and planning;*

The proposal is subject to advertising required under the Act, and has received two representations. Relevant public involvement also occurred at the time of the writing of the Scheme.

- (d) *to facilitate economic development in accordance with the objectives set out in paragraphs (a), (b) and (c);*

Guidance on how to assess this is provided by the detail in the Scheme, assessed later in this report.

- (e) *to promote the sharing of responsibility for resource management and planning between the different spheres of government, the community and industry in the State;*

In this case, the sharing of responsibility has occurred in the writing of the Scheme, the approval of the Scheme by a State Government body and the participation of the community throughout this process as provided for by the Act.

Given the framework of the planning system in Tasmania, much of the assessment in relation to the Objectives has been completed by the certification of the Scheme by the Resource Planning and Development Commission. The detail of the certified Scheme is assessed later in this report.

#### Specifics of the Scheme

REFERENCE	DETAIL AND COMMENT (WHERE REQUIRED)
2.1	To achieve the purpose of this planning scheme the following objectives apply:  (a) <i>Residential, commercial, industrial and community facilities are to be concentrated in the existing urban areas;</i>

	<p>The proposed development is situated within an existing urban area.</p> <p><i>(b) The residential settlement strategy is to reinforce the existing residential pattern and any new residential development is to be the infill or orderly extension of existing urban areas;</i></p> <p>Comments as per (a) above.</p> <p><i>(c) The development of a range of housing types is to be encouraged;</i></p> <p>The proposal is a house in the Residential Zone. The relevant zone provisions provide more specific guidance on what is acceptable in this zone and are addressed later in this report.</p> <p><i>(d) A safe vehicular and pedestrian network throughout the planning area is to be encouraged;</i></p> <p>The proposal accesses an existing Council-maintained road. Assets and Engineering staff have provided comments on the safe vehicular access to and from the site. This is discussed in further detail below.</p> <p><i>(e) Infrastructure services are to be used and extended in an efficient manner;</i></p> <p>The development would be required to upgrade as necessary and take into consideration the services on the site and/or nearby. Assets &amp; Engineering staff have provided comments on the matters and these are discussed in further detail below.</p> <p><i>(f) Sufficient land and facilities for recreational and open space purposes are to be reserved for the community;</i></p> <p>The proposal has no impact on this Objective.</p> <p><i>(g) The physical and biological quality of surface and groundwater is to be maintained and enhanced;</i></p> <p>Clause 6.3.4 provides guidance on the management of surface waters in residential areas through conditions and services. The memo from Assets &amp; Engineering staff provides the wording for conditions in the event of a permit being issued.</p> <p><i>(h) Important flora and fauna habitats are to be protected from inappropriate use and development;</i></p>
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	<p>There is no significant vegetation on the site.</p> <p><i>(i) The environmental qualities of the coastal and river systems are to be protected;</i></p> <p>The proposal has little to no capacity to impact on the coastal and river systems, beyond that addressed by the comments for (g) above.</p> <p><i>(j) Development of land and its use is to be carried out in a way so as to minimise environmental harm;</i></p> <p>The site is zoned for residential use, and standard conditions and other legislative documents provide protection for the environment during development and subsequent use of the house.</p> <p><i>(k) Rural land is to be primarily used for resource development and conservation purposes;</i></p> <p>N/A</p> <p><i>(l) Rural land is to be protected from inappropriate residential, industrial and commercial development;</i></p> <p>N/A</p> <p><i>(m) Residential use or development in the rural areas is to be encouraged in the existing settlements of North Motton, South Riana and Sprent. The compact and limited growth of these settlements is to occur only within those areas that are zoned Mixed Use;</i></p> <p>N/A</p> <p><i>(n) Infill and consolidation of development within the Rural Living zone is to be encouraged;</i></p> <p>The proposal is not within the Rural Living zone.</p> <p><i>(o) The cultural heritage, including Aboriginal relics, protected site and objects and registered places are protected.</i></p> <p>No known Aboriginal relics or values are known on this site.</p>
6.1	Purpose of Residential Zone.
6.1.1	<i>To provide for Residential use or development that accommodates a range of dwelling types and densities where</i>

	<p><i>full infrastructure services are available, including access to educational, recreational, transport and community services.</i></p> <p>The proposed development is within an existing residential area, fully serviced by all infrastructure. The Standards for Development in the Residential zone provide greater specifics on how to measure compliance with this Purpose.</p>
6.1.2	<p><i>To achieve a high standard of Residential amenity across the range of dwelling types.</i></p> <p>The proposal is for a single dwelling and therefore is subject to assessment under the relevant development standards to determine compliance with 6.1.2. Generally, compliance with the relevant Acceptable Solutions is considered to be in keeping with 6.1.2.</p>
6.1.3	<p><i>To provide for limited Tourist accommodation.</i></p> <p>No tourist accommodation is proposed.</p>
6.1.4	<p><i>To ensure that energy conservation principles apply to all development.</i></p> <p>For more detail refer to 6.3.3 A12.</p>
6.2.1	<p><i>Table of Use</i></p> <p>The proposal is for a Permitted use in the zone, however the non-compliance with the Acceptable Solutions requires a discretionary application subject to assessment of the relevant Performance Criteria.</p>
6.3.1	<p><i>N/A Relates to subdivision only.</i></p>
6.3.2	<p><i>N/A Relates to Strata Schemes only.</i></p>
6.3.3	<p><i>Building siting and design</i></p> <p><i>Objective: To ensure that the height, setbacks, siting and design of buildings:</i></p> <ul style="list-style-type: none"> <li><i>(1) complement the streetscape;</i></li> <li><i>(2) provide adequate privacy, separation, open space and sunlight for residents;</i></li> <li><i>(3) minimise the opportunity for crime to occur; and</i></li> <li><i>(4) complement energy efficiency development.</i></li> </ul>

	<p>The relevant development standards, in the form of Acceptable Solutions and Performance Criteria, provide guidance on how to interpret these Objectives.</p>
<p><i>6.3.3 A1</i></p>	<p><i>A building must not exceed:</i></p> <ul style="list-style-type: none"> <li><i>(a) a maximum building height of 8m; and</i></li> <li><i>(b) a maximum wall height for residential building:</i> <ul style="list-style-type: none"> <li><i>(i) not exceeding 4, within 2m of a side boundary; or</i></li> <li><i>(ii) a minimum side boundary setback of ½ the height of the wall where the wall height is greater than 4m.</i></li> </ul> </li> </ul> <p>The building is over 8m, thus the proposal does not comply with this Acceptable Solution and 6.3.3 P1 applies.</p> <p>The western wall is 8m high, scaled from the plans provided. Thus it is required to be 4m from the western boundary to meet this Acceptable Solution. At the closest point it is setback 3.4m from the western boundary and as such the proposal does not comply with this Acceptable Solution either.</p>
<p><i>6.3.3 P1</i></p>	<p><i>Buildings for... (c) Residential... must:</i></p> <ul style="list-style-type: none"> <li><i>(i) not cause unreasonable shading of or unreasonable loss of privacy to, adjoining properties used for residential purposes;</i></li> <li><i>(ii) have a design that is reasonably in keeping with the streetscape character; and</i></li> <li><i>(iii) for a residential building not exceed a maximum building height of 10m.</i></li> </ul> <p>Assessment of compliance with 6.3.3 P1 requires a few definitions included in the Scheme to be articulated and discussed:</p> <p><i>Building height: means the vertical distance from natural ground level to the roof or parapet at any point.</i></p> <p><i>Unreasonable shading: means shading of an adjoining lot between the hours of 10.00am and 3.00pm on the 21<sup>st</sup> of June that would be greater than caused by a building on the lot the subject of the application:</i></p>

	<p>(a) <i>of the same floor plan;</i></p> <p>(b) <i>built to the frontage and side setbacks in accordance with the relevant acceptable solutions; and</i></p> <p>(c) <i>the maximum building height of which at the setback from the boundary with the adjoining lot is at least 2m less than the maximum building height in accordance with the relevant acceptable solution.</i></p> <p>Comments:</p> <p>General: The plans brought to Council for a preliminary assessment were over the 10m maximum height limit and did not include a shadow diagram. Advice to the developer at that stage was that the proposal must be redesigned to comply with the height limits, taking into consideration the definition of building height which relies on clarification of natural ground level, despite whatever excavations may be proposed. The developer was also advised that shadow diagrams would be needed as per the definition of 'unreasonable shading' to allow for assessment as to the application of discretion for the height. The application was lodged, with shadow diagrams showing unreasonable shading. These have been revised after the original application was withdrawn and the current application was lodged with revised shadow diagrams.</p> <p>6.3.3 P1 (c) (i):</p> <p>The shadow diagrams provided demonstrate a comparison in overshadowing between the proposed building and a 6m high building, as per the requirements of the Scheme.</p> <p>The application includes comments about the impact of the design on privacy for neighbours. It is accepted that any house on this site would likely impact on privacy for the neighbouring properties. However, the height of this proposal is likely to exacerbate the extent of this impact.</p> <p>It is noted that privacy was not addressed in any detail in the report for the previous application on this site. This does not mean that it was any less of an issue in the previous application, rather that shading was the limiting factor for non-compliance in that case.</p> <p>The proposal does not demonstrate compliance with 6.3.3 P1 (c) (i).</p>
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	<p>6.3.3 P1 (c) (ii):</p> <p>The assessment of this Officer is that the proposal will present as a 3 storey building. The façade will present as varying from 6.5m to 10m. Not all lots in the area have been developed, so there is no established streetscape with which to compare, other than the development standards that exist in the Scheme. It is therefore logical that these should form the established streetscape. It is noted that the existing houses present as single or double storey to the street.</p> <p>The proposal does not demonstrate compliance with 6.3.3 P1(c)(ii).</p> <p>6.3.3 P1 (c) (iii):</p> <p>The case presented by the developer and draftsman is that the building will not exceed the maximum 10m above natural ground level. This is supported by the plans provided.</p> <p>The plans demonstrate compliance with 6.3.3 P1 (c) (iii).</p>
6.3.3 A2	<p><i>Site coverage for other than Utilities, multiple dwelling or cluster house must not exceed... 45% for sites greater than 650m<sup>2</sup>.</i></p> <p>The site is 685m<sup>2</sup> as marked on the title documents, thus site coverage is allowable to 308m<sup>2</sup>, for which this proposal complies easily.</p>
6.3.3 A3	<p><i>The external area of a dwelling unit adjacent to its front door must be:</i></p> <p>(a) <i>visible from:</i></p> <p>(i) <i>a part of a road within 50m of that door; or</i></p> <p>(ii) <i>the inside of another dwelling unit within 20m of that door;</i></p> <p>(b) <i>provided with artificial lighting operated by a sensor or from within the dwelling unit; and</i></p> <p>(c) <i>visible from within the dwelling unit while the main front door is closed which may be achieved through:</i></p> <p>(i) <i>nearby windows;</i></p>

	<p>(ii) <i>transparent glass in the main front door or adjoining panels;</i></p> <p>(iii) <i>a security keyhole viewing device in the main front door;</i></p> <p>(iv) <i>a security door on the outside of the main front door; or</i></p> <p>(v) <i>any other manner that is as effective as any of the above.</i></p> <p>The proposal complies with (a). Clauses (b) and (c) are included as standard conditions on any permit issued for a new house in the Residential zone.</p>
6.3.3 A4	<p><i>Residential (except Cluster houses) and Tourist accommodation buildings must be setback at least:</i></p> <p>(a) <i>4.5m from the frontage; or</i></p> <p>(b) <i>N/A not a rear lot</i></p> <p>(c) <i>N/A no secondary frontage</i></p> <p>(d) <i>1.5m from a side boundary; and</i></p> <p>(e) <i>4.5m from the rear boundary.</i></p> <p>The proposal complies with all of these other than (a). Note that (d) is overridden for the side boundary due to 6.3.3 A1.</p> <p>For the front boundary, the plans show the house being built to the front boundary in the form of a raised deck, thus 6.3.3 P4 applies.</p>
6.3.3 P4	<p><i>Residential (except cluster houses) and Tourist accommodation buildings may have a lesser setback where the AS cannot be satisfied due to:</i></p> <p>(a) <i>the irregular shape of the lot;</i></p> <p>(b) <i>the lot having less than the minimum area or dimensions required by this planning scheme;</i></p> <p>(c) <i>unsuitable topography;</i></p> <p>(d) <i>the location of Utilities on the lot; or</i></p>

	<p><i>(e) the location of existing buildings on the lot;</i></p> <p><i>if:</i></p> <p><i>(i) for a front setback, it is in keeping with the general building alignment and streetscape character.....</i></p> <p>The lot does not qualify for consideration of a variation under (a), (b), (d) or (e).</p> <p>The lot does have what could be called ‘unsuitable topography’ as allowed by (c), thus the variation can be considered as per the requirements of 6.3.3 P4 (c) (i).</p> <p>6.3.3 P4 (c) (i) requires that the general building alignment and streetscape character be considered. As previously mentioned in this report there is limited development in the area. However, the lot directly to the west has been developed with a 5m setback from the front boundary. This development proposes a 0m setback to the same boundary (dwg 1c of 15), which is a significant difference. Given this, and the fact that the area is not fully developed, the only ‘character’ in the area can be considered to be the setback required by the Scheme, which the proposal does not comply with. This is exacerbated by the combination of the setback and the height of the building.</p>
<i>6.3.3 A5</i>	<i>N/A No cluster house proposed</i>
<i>6.3.3 A6</i>	Complies.
<i>6.3.3 A7</i>	<i>N/A</i>
<i>6.3.3 A8</i>	<i>N/A</i>
<i>6.3.3 A9</i>	<i>N/A</i>
<i>6.3.3 A10</i>	<i>N/A No Utilities proposed.</i>
<i>6.3.3 A11</i>	<p><i>N/A</i></p> <p>No other buildings proposed.</p>
<i>6.3.3 A12</i>	<p><i>Residential development must provide a north facing room as a living area.</i></p> <p>Complies.</p>
<i>6.3.4 A1</i>	<i>The site must:</i>

	<p>(a) <i>have an access constructed to Central Coast Council Municipal Standard Drawing No. SD-1003;</i></p> <p>(b) <i>be connected to a reticulated water supply of 200kPa pressure at 10l per second;</i></p> <p>(c) <i>be connected to a reticulated sewerage system;</i></p> <p>(d) <i>be connected to a reticulated stormwater system; and</i></p> <p>(e) <i>be connected to telecommunications and electricity supply by either underground service or in a manner consistent with the supply to which it is connected.</i></p> <p>The site is within an established residential area and is capable of connection to these services. The Assets and Engineering staff have advised that there are a number of conditions and notes to be applied to any planning permit that may be issued for the proposed development. These have been detailed in Annexure 3, and are either standard conditions or specific to the site where the development will be in close proximity to Council services and has the potential to impact on the services if not correctly treated.</p>
<i>Schedules</i>	Not Applicable and / or complies with applicable Schedules.

*CONSULTATION*

The application was subjected to the required 14-day public scrutiny process required by s.57 of the *Land Use Planning and Approvals Act 1993*. This requires advertising of the development by a notice on site and also by a notice placed once in a daily local newspaper. Correspondence to the adjoining owners inviting them to view the application was also undertaken.

The application as a matter of procedure was referred to the Council's Planning and Assessment Team. Any relevant comments received from the Planning and Assessment Team are included in the assessment of the application above.

*Representations*

Two representations were received within the prescribed time.

The representations are appended as Annexure 4.

The issues raised in the representations are detailed as follows and have been numbered for ease of reference:

ISSUE#	CONCERN (PARAPHRASED)	COMMENT
Representation received 30 September 2008.		
I	Non-compliance with 6.3.3, Objectives 2 and 4.	Noted. Refer to comments above in the body of the report.
II	Overshadowing and privacy.	The 6.3.3 "Building design and sitting" provisions of the Scheme provide the guidance on how setbacks and height are best utilised to achieve acceptable levels of overshadowing and privacy in the Residential zone. These are addressed in more detail in the above assessment.
III	Fair and just reasoning.	The processing of the application has been in compliance with all requirements of the relevant legislation.
Representation received 2 October 2008.		
I	Excessive shading caused by height	Noted. Refer to comments for 6.3.3 A1 and P1 in the above assessment.
II	Impact on privacy due to excessive height	The 6.3.3 "Building design and sitting" provisions of the Scheme provide the guidance on how setbacks and height are best utilised to achieve acceptable levels of privacy in the Residential zone. These are addressed in more detail in the above assessment.
III	Accuracy of plans	The applicant is responsible for providing accurate plans as these are the documents that are used for assessment.
IV	Traffic impact	No traffic impact assessment is required for this proposal. Exact driveway locations are covered in Assets and Engineering memos and conditions.

V	Proposal does not complement existing buildings in the area.	Noted. The Scheme provides some assessment of this in 6.3.3, which is referred to above.
VI	Acceptable Solution, the BCA and planning scheme requirements.	Noted. The Scheme specifies what information is required, regardless of the site characteristics.
VII	Creating a precedent.	Noted. This is discussed in more detail in the assessment under 6.3.3.

In summary, the issues raised by the representations support the assessments earlier in this report. The proposal is for a use which relies on compliance with a number of performance criteria which it is assessed not to have met.

#### *IMPACT ON RESOURCES*

This report has no impact on resources notwithstanding the usual resources in assessment of the application and preparation of a report. Additional resourcing of time in the event of a Planning Appeal is unknown.

#### *CORPORATE COMPLIANCE*

The Central Coast Strategic Plan 2004–2009 includes the following objectives:

- Meet our statutory and regulatory obligations
- Plan for and develop a sustainable community
- Create a municipal area that is productive and socially and aesthetically attractive.

#### *CONCLUSION*

The discretion in regards to this application applies to the height and setbacks (front and side). Assessment reveals that the proposal does not comply with a number of these, nor the more strategic and general aspects of the Scheme.

#### *Recommendation*

It is recommended that the representations have sufficient merit and the combination of discretions required are deemed to be inappropriate to a degree that warrants refusal and that Application No. DEV2008.37 be refused on the basis that it:

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- does not comply with 6.3.3 A1(a) or (b), nor the related 6.3.3 P1(c) as the proposal will cause additional loss of privacy, and is not in keeping with the streetscape character defined by the standards in the Scheme; and
  - does not comply with 6.3.3 A4 (a), nor the related 6.3.3 P4 (c) (i),

And that by non-compliance with these provisions the proposal does not comply with:

- Objective (b) of the Resource Management and Planning System of Tasmania listed in the Land Use Planning and Approvals Act 1993;
- Objective (c) for Planning in the Scheme; nor
- 6.1.1 nor 6.1.2 of the Scheme.’

The report is supported.”

The Director Development Services reported as follows:

“Copies of the annexure referred to in the Land Use Planning Group Leader report have been circulated to all members.”

■ Cr McKenna moved and Cr Van Rooyen seconded, “That the representations nor the variation to height and setbacks are deemed to have sufficient merit to warrant refusal and that Application DEV2008.37 be approved on the basis that:

- The sloped topography of the subject site creates a situation where any house on the site would be likely to impact on the privacy of neighbouring properties. The proposed multi-storey house will have no greater impact on the privacy of adjoining properties than a single storey house on the site (i.e. any house will overlook adjoining properties). Therefore, it is determined that the proposal will not cause unreasonable loss of privacy to adjoining properties and accordingly demonstrates compliance with 6.3.3 P1 (c) (i);
- The house is proposed to be developed to suit the sloped topography of the site with suitable site modifications (i.e. excavations). The house will present as a two-storey building when viewed from the street. While it is acknowledged that the house may present as a three-storey building when viewed through the 3.8 metre wide driveway opening, this is not considered to be the predominant presentation, as it will only be apparent in the area immediately North of the driveway. Given that the existing houses in the vicinity present as single or double storey to the street the proposal is in keeping with the streetscape character and demonstrates compliance with 6.3.3 P1 (c) (ii); and

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- The raised deck, which is proposed to be built to the front boundary, will be at street level and will form an appearance similar to that of a paved forecourt area. Additionally, it is proposed to augment the area with suitable landscaping. The house proper is proposed to be located 4.5 metres from the front boundary. Given this, and the fact that the lot directly to the west has been developed with a 5 metre setback from the front boundary, it is considered that the proposal is in keeping with the general building alignment, and, as previously stated, is in keeping with the streetscape character. Accordingly, the proposal demonstrates compliance with 6.3.3 P4 (c) (i);

And subject to the following conditions:

- 1 The development generally conforming with the documents submitted with this application by Stephen and Rebecca von Stieglitz, labelled as:
  - (a) Planning Application Notes, Milton Smith building design, dated 15/09/2008; and
  - (b) Proposed New House @ 162 Upper Maud Street, Ulverstone, drawings no's 1<sup>C</sup>, 3, 4<sup>A</sup>, 5<sup>A</sup>, 6<sup>B</sup>, 7<sup>B</sup>, 8<sup>B</sup>, 16, 17<sup>B</sup> and 19, Dated 16-09-08, unless otherwise altered by subsequent conditions of this permit;
- 2 Provide a concrete vehicular access in accordance with the Council's Standard Drawing SD-1003 (copy enclosed);
- 3 Remove any driveway made redundant by the proposed development and reinstate the verge to the satisfaction of the Council's Director Assets & Engineering;
- 4 Provide an absolute minimum cover of 300mm over the Council DN300 Stormwater main with 50mm thick pavers in the court yard area shown on Drawing No.1B and Drawing No.19 ;
- 5 The Stormwater Pit (SP1) shown in the courtyard is to be located on the downhill side of the Council Stormwater Main;
- 6 All run-off from the site is to discharge to the approved connection point for the property;
- 7 A minimum clearance must be maintained of 1.2m from the nearest edge of any building or deck footing to the centre of the Council's stormwater mains in accordance with the Council's Standard Drawing No. SD-5004;
- 8 Footings located in the zone of influence of the Council main will need to be designed by a practicing Accredited Structural Engineer and founded to a depth at least 300mm below the line of influence or on sound rock. The designing engineer

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shall also signify, either by note on the drawings or by a separate covering letter, that due consideration has been given to the structural stability of the building in the prevailing ground conditions, with regard to:

- (a) the potential effects of a future failure of the stormwater main; and,
  - (b) a potential requirement to physically access the stormwater pipeline for the purpose of repair or replacement activity which may involve excavation;
- 9 The proposed decking or dwellings are to be at least 1.5m clear of the Council manhole on the property;
- 10 Conduct a camera survey of the Council Stormwater main prior to, at the completion of works. Any damage to the Council main will be rectified by the Council at the developers cost;
- 11 Any damage or disturbance to footpaths, roads, kerbs, nature strips or existing services is to be rectified to the satisfaction of the Council's Director Assets & Engineering at the applicant's expense.

Developer to note:

- A In relation to condition 1(a) & (b) - This condition only relates to the provision, relocation, extension or removal of the existing vehicle access. Also, the Council only permits one 6.0m or two 3.6m vehicle accesses to a lot within the road reserve. Any other arrangement is discretionary and subject to the approval of the Council's Director of Assets & Engineering.
- B In relation to condition 2 - The cover is measured from the top of the pipe to the underside of the pavers.
- C In relation to condition 4 - The approved connection point is located in the south-east corner of the block.
- D In relation to condition 8 - The camera survey will be undertaken by the Council at the applicants cost and a private works authority will need to be signed.
- E Two Council DN300 Stormwater Mains exist on the property and appear to be located in proximity to the proposed development. It is recommended the applicant contacts the Council's Assets & Engineering Department to discuss prior to lodging plans for a building permit.
- F In reference to the *Local Government (Building and Miscellaneous Provisions) Act 1993, Section 248, (1) A person must not -*

- 
- (a) erect or construct a building, wall, bridge, fence, mound, embankment, excavation, tunnel or other work in, upon, over or under a sewer or drain of a council or a sewer or drain connected to a sewer or drain of a council without the council's consent in writing; or
- (b) obstruct, fill in or divert a sewer or drain of a council without its consent in writing;
- G If you wish to undertake any works over the Council main, consent will need to be obtained by the Council and the issuing of the Planning Permit does not provide such consent.
- H Any works (e.g. driveway construction) undertaken within the Road Reservation requires a Road Permit to be issued prior to the commencement of construction. An application form can be obtained from the Assets & Engineering Department. A fee applies.
- I Contact the Council's Assets & Engineering Department if you wish to discuss or arrange any infrastructure work requirements.
- J The permit expires two years from the date of this decision is received unless the development has been substantially commenced. An extension of time to this period can be granted once but only if the request is received prior to the expiry of the specified time."

Voting for the motion

(Five)

Cr Downie

Cr McKenna

Cr van Rooyen

Cr Haines

Cr Bonde

Motion

Voting against the motion

(One)

Ms Ayton

Carried

The meeting noted at this time that, as the matter could not be determined unanimously, it must accordingly be referred to a meeting of the Council for a decision.

**Closure**

There being no further business, the Mayor declared the meeting closed at 6.30pm.

CONFIRMED THIS            DAY OF            , 2008.

**Chairperson**

(ms:kaa)

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## QUALIFIED PERSON'S ADVICE

The *Local Government Act 1993* provides (in part) as follows:

- . A general manager must ensure that any advice, information or recommendation given to the council is given by a person who has the qualifications or experience necessary to give such advice, information or recommendation.
- . A council is not to decide on any matter which requires the advice of a qualified person without considering such advice unless the general manager certifies in writing that such advice was obtained and taken into account in providing general advice to the council.

I therefore certify that with respect to all advice, information or recommendation provided to the Development Support Special Committee within these minutes:

- (i) the advice, information or recommendation was given by a person who has the qualifications or experience necessary to give such advice, information or recommendation; and
- (ii) where any advice was directly given by a person who did not have the required qualifications or experience that person has obtained and taken into account in that person's general advice the advice from an appropriately qualified or experienced person.

Sandra Ayton  
GENERAL MANAGER