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, 18 December 2006 commencing at 5.30pm

Members attendance

Cr Mike Downie (Mayor)  Cr Brian Robertson (Deputy Mayor)
Cr Warren Barker  Cr Ken Haines
Mrs Kathy Schaefer

Cr Tony van Rooyen attended at 5.55pm

Employees attendance

Director Planning & Environment (Mr Jeff McNamarra)
Land Use Planning Group Leader (Mr Shane Warren)
CONFIRMATION OF MINUTES OF THE COMMITTEE

54/2006 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 7 November 2006 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 Robertson moved and Cr Haines seconded, “That the minutes of the previous meeting of the Development Support Special Committee held on 7 November 2006 be confirmed.”

Carried unanimously

MAYOR’S COMMUNICATIONS

55/2006 Mayor’s communications

The Mayor reported as follows:

“Under the terms of appointments 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 Haines moved and Cr Robertson seconded, “That the Mayor’s report be received.”

Carried unanimously

PECUNIARY INTEREST DECLARATIONS

56/2006 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 members 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 councillor must declare any interest in a matter before any discussion on 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

57/2006 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

58/2006 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

59/2006 Development Support Special Committee meeting dates for 2007

The Director Planning & Environment reported as follows:

“\textit{Purpose}

To determine meeting dates for the Development Support Special Committee (DSSC) for the calendar year 2007.

\textit{Background}

DSSC meetings are usually held on the first and third Mondays of each month.

\textit{Discussion}

There are three Mondays in 2007 where it will be difficult to hold the scheduled DSSC meetings - 2 January (Public Holiday), 16 April (Monday after Easter) and 5 November (Public Holiday).

The usual practice in such cases is to defer the meeting to the next available day, or the next Monday.
**CONSULTATION**

Consultation is not required for this matter.

**IMPACT ON RESOURCES**

There is no impact on resources other than staff labour.

**CORPORATE COMPLIANCE**

The Central Coast Strategic Plan 2004-2009 includes the following objective:

- Meet our statutory and regulatory obligations.

**CONCLUSION**

The Council offices are usually closed between Christmas and New Year, making it extremely difficult to arrange an agenda for the first week in January 2007.

The Easter break in April 2007 also makes an agenda for 16 April very difficult.

It is recommended that the following dates be set for 2007 DSSC meetings (all Mondays unless otherwise noted):

<table>
<thead>
<tr>
<th>Date</th>
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<tbody>
<tr>
<td>8 January</td>
<td>22 January</td>
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<tr>
<td>5 February</td>
<td>19 February</td>
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<td>5 March</td>
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<td>1 October</td>
<td>15 October</td>
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<tr>
<td>6 November (Tues)</td>
<td>19 November</td>
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<tr>
<td>3 December</td>
<td>17 December</td>
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</tbody>
</table>

Cr Haines moved and Cr Barker seconded, ‘That the following dates be set for 2007 Development Support Special Committee meetings (all Mondays unless otherwise noted):

<table>
<thead>
<tr>
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</tr>
</tbody>
</table>
Development Support Special Committee Minutes - 18 December 2006

5 March  19 March
2 April  23 April
7 May  21 May
4 June  18 June
2 July  16 July
6 August  20 August
3 September  17 September
1 October  15 October
6 November (Tues)  19 November
3 December  17 December”

Carried unanimously

60/2006 Three-lot subdivision at 25 Maskells Road, Ulverstone
Application No. SUB2006.7

The Land Use Planning Group Leader reported as follows:

“The Town Planner has prepared the following report:

DEVELOPMENT APPLICATION NO.: SUB2006.7
OWNER: Mr John Maskell
LOCATION: 25 Maskells Road, Ulverstone (CT 204368/1)
ZONING: Conservation (PVO) - Private Open Space
PLANNING INSTRUMENT: Central Coast S.46 Planning Scheme No.1 of 1993 (the Scheme)
ADVERTISED: 8 August 2006
REPRESENTATIONS RECEIVED: 3
42-DAY EXPIRY DATE: 27 December 2006
DECISION DUE: 27 December 2006

PURPOSE

The purpose of this report is to consider the merits of an application to subdivide a coastal lot into three lots, the merits of the representations lodged to the application and compliance of the proposal with the Scheme.

The applicant’s submission along with supporting information is contained in Annexure 1.
PROPOSAL

The subject site, comprising coastal land is situated between the Ulverstone and Turners Beach townships (refer to Location Map - Annexure 2). The proposal is to subdivide a block of coastal land into three titles (refer to Annexure 1 with the proposed layout depicted on proposal plan D12533-P01 Rev 3).

The subject land, comprising 5.6 ha, would be subdivided into irregular shaped lots and would comprise the following areas:

- proposed Lot 1 - 1.7 ha;
- proposed Lot 2 - 1.8 ha; and
- proposed Lot 3 - 2.1 ha.

Further details on location and description of the site are contained on page 3 in Annexure 1.

BACKGROUND

Planning Permit (discretionary)

Planning Permit (discretionary) SUB2004.17 for a three-lot subdivision at 25 Maskells Road, Ulverstone was issued by the Council on 22 June 2005 (refer to Annexure 3). The three-lot subdivision was granted approval, against the recommendation of the Town Planner, subject to 18 conditions.

Given the nature of the representations received on the SUB2004.17 application, the final conditions were drafted to protect residential amenity where land use conflicts were likely to arise.

An applicant being issued with a planning permit (discretionary) has appeal rights against any conditions attached to a permit. If any of the conditions attached to the permit were considered unreasonable by the applicant, appeal rights to the Resource Management and Planning Appeal Tribunal (the Tribunal) could have been exercised within 14 days from the day on which this notice was delivered. No appeal was lodged with the Tribunal.
Request to amend Planning Permit (discretionary) SUB2004.17

Mr Maskell, in his letter received by the Council on 31 March 2006 (refer to Annexure 4), sought, under s56, Land Use Planning and Approvals Act 1993 (LUPAA) an amendment to the conditions for SUB2004.17.

The main issue of contention was the requirements of conditions attached to Permit SUB2004.17 particularly in respect to the cost associated with compliance with these conditions. Supporting information suggested that implementation is expensive and more than those imposed on other planning permits issued by the Council for other properties in similar situations.

Legal advice obtained with respect to this request, determined that the Council could not consider an amendment to the conditions as minor pursuant to s56 of LUPAA. Accordingly, for the Council to consider this request, a new application was required.

DISCUSSION

Pursuant to clause 4.1.3 of the Scheme, clause 3.9.2 of the Scheme shall be applied to subdivision as nearly as if the proposal were development. The following discussion considers the most relevant matters of clause 3.9.2 of the Scheme.

Objectives, Part 5 of the Scheme

Pursuant to clause 4.1.1 (a), the Council “may refuse an application if in the opinion of the Council the subdivision, if proceeded with, would contravene the provisions of this Scheme and mitigate against the achievement of the objectives of this Scheme”. Accordingly, the following discussion considers the most relevant objectives of the Scheme to the proposal.

The most relevant Scheme objectives, outlined by clause 5.1.1, Part 5 of the Scheme, are as follows:

“(a) orderly settlement and management of population, commerce, rural production and industry;

(b) proper use and development of land, buildings and resources;

(c) enhancement of the environmental ‘quality of life’ of residents and visitors by attention to aesthetics and landscape impact and general pollution effects;

…”
(g) controlled economic use and/or expansion of municipal services and facilities;

(h) reservation and preservation of areas or sites of special significance;

... 

(k) prevention of spasmodic and premature subdivision of land which (particularly in urban and urban fringe areas) jeopardise or tend to delay the ultimate logical and economic development of land;

(l) provision for diversity and innovation in residential lifestyle opportunities and recreational and cultural community services.”

There is a mix of uses that are situated adjacent to or in close proximity to the subject site. These include:

- a residential dwelling unit south-east of the subject site, situated closely to the Bass Highway, associated with Camp Clayton;

- Veteran Car Club to the east of the subject site;

- Ulverstone Boarding Kennels & Cattery situated to the east of the subject site. This includes a residential dwelling;

- a transport depot situated on the south-eastern side of Maskells Road a short distance from the subject site;

- a tourist operation (miniature railway) directly to the south of the subject site on the other side National Pacific Railway line; and

- the National Pacific Railway line south of the subject site.

The creation of additional residential lots in this location is not considered to be a logical extension of any built-up area given that the residential settlement of Ulverstone stops more than 800 metres to the west of the proposed subdivision. It should also be noted that the subject site is not within an existing township or designated residential area under the Scheme. Although a gazetted township boundary exists for Ulverstone and the subject site is located within this boundary, this is no longer valid as the Scheme determines the extent of the urban area.

Creating further subdivision and potential for dwelling units, particularly in an area that is not intended for subdivision and subsequent building congestion, will mark the transition in the immediate locality from a couple of
dwelling units in the area to a cluster of residential properties outside of the urban area of Ulverstone.

If an approval is granted, there is a real concern that this will also lead to further subdivision pressure of coastal titles for residential purposes between Ulverstone and Turners Beach, resulting in more spasmodic and premature subdivision of land.

Additionally, the location of the subject site and its relationship to adjoining uses may create inherent conflict which could otherwise be avoided if further residential development was prevented in this location (see discussion below).

For these reasons the proposal is considered to contravene objectives (a), (b) and (k) of the Scheme.

As an aside issue, consideration should be given to an increase in the number of vehicle movements crossing the Bass Highway from Maskells Road to travel to Ulverstone. This in turn may raise safety concerns in the future.

Objective (c) of the Scheme places particular emphasis on aesthetics and landscape impact. While the existing residential development is low density and low visual impact, the proposal for additional residential lots certainly begins to change the density and appearance of development in this location. Maintaining the open character between townships is considered to be of prime strategic importance, ensuring that separate identities between townships is maintained and that open character of the coast is not detrimentally marred by further development given the visibility of the subject site from the Bass Highway. Certainly by allowing further residential development in this location a change of character of the area is anticipated which will start to compromise the important aesthetics and landscape values of this location. The proposal is not considered to be consistent with objective (c) of the Scheme.

The proposed lots have access to mains water and the reticulated sewerage system. The proposal will not require further expansion of municipal services and facilities with respect to water and sewerage. The proposal is consistent with objective (g) of the Scheme.

There are no special geological values associated with the subject land that require preservation. No items of Aboriginal heritage are associated with the subject site. The proposal is consistent with objective (h) of the Scheme.
While the proposal may offer a residential lifestyle opportunity directly by the coast, there are a number of other locations which offer similar opportunities within the Council area that are appropriately zoned for this purpose. The proposal, however, is not considered to be in conflict with objective (1) of the Scheme.

*Conservation (PVO) - Private Open Space*

The land is zoned Conservation (PVO) - Private Open Space under the Scheme. The intent of the zone reads as follows:

“6.2.15 Conservation (PVO) - Private Open Space
This zone is primarily intended to accommodate and conserve privately owned tracts of land in sensitive landscape, land stability, or foreshore areas.

6.2.15(a) The allocation of land in and to this zone and its location is intended to enable private individuals to continue to hold and occupy titles whilst preventing subdivision and building congestion.”

In examining the intent of the zone it is noted that the allocation of zoning to this land was to essentially maintain the status quo of what existed at the time the Scheme was drafted, with the intent of preventing further subdivision. Clearly subdivision was not anticipated and accordingly the proposal has an inherent conflict with the intent of the zone.

The proposal, if approved, allows for the creation of two new residential lots and will provide for the construction of additional dwellings and associated structures. Additionally, a caravan park is listed as discretionary in Table S2, Schedule 2 of the Scheme for this zone. While the proposed lots are intended for residential purposes, an applicant could apply for a caravan park in this location.

The character of the area, as stated earlier, is likely to change from one property with a few buildings to three lots, each with a dwelling and associated buildings or perhaps even a caravan park. The proposal will change in character resulting in building congestion and therefore conflicts with the intent of the zone.
Table S8, Schedule 8

S8.1.2, Schedule 8 requires that all subdivision conform to the minimum area and dimensions as outlined by Table S8 of the Schedule. Table S8 of this Schedule requires for lots in this zone to have a minimum area of 2 ha. A note to the table, however, allows the Council to consider a proposal for subdivision in this zone for a lesser area where, in the opinion of the Council, the circumstances of the particular case warrant an amendment. The latter is generally the exception to the rule.

Two of three lots proposed by the subdivision require a reduction of the minimum lot size. The applicant’s original submission dated July 2006 states that the intent of the zone will not be compromised by the reduction of minimum lot size for two of the proposed lots. The applicant contends that a reduction in size will not prevent any future dwelling units on the individual lots meeting the standards for development. While this may be the case, the proposal remains in conflict with the intent of the zone which does not support a reduction of the minimum lot size and on this basis it cannot be supported.

State Policies

Clause 3.9.2 (c) of the Scheme directs the Council to consider any relevant requirements of any State Policy. The three State Policies are as follows:

- State Coastal Policy;
- State Policy on Water Quality Management; and
- State Policy on the Protection of Agricultural Land.

State Coastal Policy

With respect to the State Coastal Policy, clause A.1, Part A of the Scheme provides:

“Where the planning authority determines that the a proposed use or development would be inconsistent with the State Coastal Policy, that use or development is, unless prohibited by this Scheme, a use or development which the planning authority has discretion to refuse or permit”.

The subject land is situated within the coastal zone as outlined by the State Coastal Policy and therefore would require careful consideration. However, a
recent ruling by the Resource Planning and Appeal Tribunal in the case of WJ Manning and The Friends of Four Mile Creek Bushcare Group Inc AND Break O'Day Council and Morris Nunn & Associates obo R Bejah [2006] TASRMPAT 26 (14 February 2006) concluded that the State Coastal Policy should not be used as a test for individual development. This view is consistent with the legal advice that has been obtained with respect to this matter.

However, while proposals should not be assessed against the individual requirements of the State Coastal Policy, this does not prevent highlighting inconsistencies between the Scheme and any State Policy as outlined by s.13 Effect of State Policies under the State Policies and Projects Act 1993:

“(13) Where there is an inconsistency between a provision of a State Policy and a provision of a planning scheme or an interim order in force at the time when the State Policy comes into operation, the provisions of the planning scheme or interim order is void to the extent of the inconsistency.”

Legally, the State Coastal Policy overrides the Planning Scheme to the extent of any inconsistency. The intent of the zone is generally considered to be consistent with outcomes 2.4.1, 2.4.2 and 2.4.3 of the Policy in that it prevents further subdivision and development of land and building congestion.

The relevant outcomes of the State Coastal Policy referred to above are provided as follows:

“2.4 URBAN & RESIDENTIAL DEVELOPMENT

2.4.1 Care will be taken to minimise, or where possible totally avoid, any impact on environmentally sensitive areas from the expansion of urban and residential areas.

2.4.2 Urban and residential development in the coastal zone will be based on existing towns and townships. Compact and contained planned urban and residential development will be encouraged in order to avoid ribbon development and unrelated cluster developments along the coast.

2.4.3 Any urban and residential development in the coastal zone, future and existing, will be identified through designation of
areas in planning schemes consistent with the objectives, principles and outcomes of this Policy.”

The outcomes of the State Coastal Policy outlined above are potentially inconsistent with Schedule 8 in that it contradicts the intent of the Conservation (PVO) - Private Open Space Zone by designating a minimum lot size for this zone. The Scheme is potentially inconsistent with the State Coastal Policy allowing subdivision to occur outside of a contained planned urban and residential area. This, however, would be a matter for the Resource Management and Planning Appeal Tribunal to determine rather than the Council.

*State Policy on Water Quality Management*

Although the State Policy on Water Quality Management has not been incorporated into the Scheme, the Council’s Environmental Officer and Asset Management Group Leader have included conditions that would achieve compliance with the Policy in the event that approval be granted.

*State Policy on the Protection of Agricultural Land*

This Policy has been incorporated into the Scheme and on this basis does not require further consideration.

*Coastal vulnerability*

Assessment of Coastal Geomorphic Land Management Issues at Maskells Road, Ulverstone was undertaken by Chris Sharples in April 2005 to assess the likely hazards to life or property, and limitations on development, arising from the existing nature of the site and the potential future impacts of climate change and sea level rise on the property (refer to Annexure 1).

Chris Sharples concludes essentially that “each of the three proposed subdivision blocks is free of the hazards and constraints assessed as to be safe and suitable for the proposed development”. The report prepared by Sharples is considered adequate in addressing any concerns associated with coastal vulnerability.

*Impacts on adjoining land*

The Council is required to consider if the proposed development would adversely affect the existing and possible future use of adjacent land and vice versa. As outlined previously and below, there are a number of mixed uses that are adjacent to the site that could potentially create further land use
conflicts. The existence of the railway line, the boarding kennels and transport depot is of primary concern with respect to this matter (refer to the discussion under the heading of Representations).

Concerns from railway noise can be addressed through building siting, orientation and location of sensitive rooms within a dwelling to minimise an external noise source (refer to Annexure 5 - VIPAC Engineers & Scientists). Similarly, noise generated from the boarding kennels could also be addressed through appropriate attenuation measures. While noise mitigation measures could be implemented, the potential for these issues could be completely avoided by not allowing further residential development to occur in this location.

CONSULTATION

The application as a matter of procedure was referred to the Council’s Planning and Assessment Team. While a number of conditions were provided by the Environmental Health Officer and Asset Management Group Leader for inclusion in any planning permit if the Council would like to grant an approval, no further comments were received from the Planning and Assessment Team that required inclusion in the final determination of the application.

The application was also referred to the Coastal and Marine Branch of the Department of Tourism, Arts and the Environment as development within the coastal zone. Their response is contained in Annexure 5. To summarise, DTAE advised that the proposal:

- conflicted with the intent of the zone to prevent future subdivision and building congestion;
- was outside of the existing settlement boundary of Ulverstone (currently located at the eastern edge of the industrial estate) and the zoning boundaries of the existing Scheme;
- was inconsistent with outcome 2.4.2 of the State Coastal Policy; and
- that approval of the application would set a precedent for other areas within the municipal area and undermine the small town atmosphere that the North West Coast is renowned for.

The Coastal Marine Branch recommended against this subdivision proposal.
Representations

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.

Three formal representations were received to the proposal during the statutory advertising period. The following table provides a summary of their concerns and a response.

<table>
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<tr>
<th>Representation</th>
<th>Response</th>
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<tbody>
<tr>
<td>J &amp; R Van Schie</td>
<td>Seek assurances regarding the storm water drainage from the railway line and from Maskells Road as the pipe under the road and along the railway line terminates at our boundary. This pipe has been blocked off for sometime this year due to flooding.</td>
</tr>
<tr>
<td>Concerned that the development will cause more stormwater run-off. Request that proper drainage be required as part of the site works of the proposed land subdivision.</td>
<td>It is not appropriate to require the existing problem to be rectified by the developer as part of this application process. However, it is suggested that the representor contact the Assets &amp; Engineering Department to discuss the concern raised in the representation</td>
</tr>
<tr>
<td>Request a 20-metre minimum setback to minimise noise complaints from barking animals in their existing dog kennels</td>
<td>A 20-metre set-back distance from the eastern proposed lot boundaries is unlikely to address the noise concerns raised by the representation without any</td>
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</tbody>
</table>
mitigation measures being enforced. Experience has shown that noise complaints against an operator arise regardless of how well they are managed. Noise complaints are often not limited to nearby properties given that noise can easily travel great distances (although this is dependent on environmental conditions). While the dog kennels have existing use rights, the proposed plan of subdivision is likely to have a detrimental impact on this use.

Little Transport P/L

Concerned that their rights to continue operating a storage and light maintenance depot at Maskells Road, Ulverstone will be compromised.

Pursuant to clause 2.1.1, the Scheme ensures that existing use rights are not compromised by any new development.

Pacific National Tasmania

Noise sensitive developments that are permitted adjacent to railway corridors have the potential to impact on both Pacific National Tasmania and sensitive land uses.

Pacific National has developed a Noise Management Plan with respect to this matter. Pacific National would like to see limitations over the future development of sensitive land uses adjacent to railway corridors.

Potential for noise conflict from noise sensitive uses against the existing rail network are a real concern and should not be discounted. The creation of new residential lots in a non-residential zone, where conflict is likely, needs to be considered in light of the intent of the zone.
Three main sources of noise from the railway have been identified. These are: Train pass-by noise; train horns; and crossing warning bells.

The concerns of the representors can generally be supported as likely to generate ongoing conflicts, which indicate that they are valid grounds of representations that should be supported.

**IMPACT ON RESOURCES**

This report has no impact on resources.

**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**

Examination of the proposal has identified that the subdivision contravenes a number of the objectives of the Scheme. The report also demonstrates that the proposal is not considered to be consistent with the intent of the zone which is to prevent subdivision and building congestion. Accordingly, the reduction of the minimum lot size for two of the proposed lots is also not supported.
The report also highlights that the Scheme is in conflict with the State Coastal Policy.

Additionally, the report also highlights that the proposal has the potential to impact adversely on adjoining properties. While noise attenuation measures can be adopted to reduce any potential for conflict it could be completely avoided if the proposal did not proceed.

While technical matters were adequately addressed through either the additional information submitted by the applicant or suggested conditions of approval from the various Council officers, on balance of the issues outlined above, it does not warrant an approval of the application.

Recommendation

It is recommended that upon consideration of the proposal against the provisions of the Central Coast S.46 Planning Scheme No. 1 of 1993, and the merits of the representations against the proposal, the application be refused on the following grounds:

1. the requested exemption to the minimum lot size for the Conservation (PVO) - Private Open Space zone does not warrant approval;
2. the proposal contravenes the achievement of objectives (a), (b), (c) and (k) of the Scheme;
3. the proposal is contrary to the intent of the zone; and
4. the proposal is likely to unreasonably cause ongoing conflicts with adjoining properties.'

The report is supported.”

The Land Use Planning Group Leader reports as follows:

“Copies of the appendices referred to in the Town Planner’s report have been circulated to all members.”

Cr van Rooyen attended the meeting at this stage.

Cr Haines moved and Cr Robertson seconded, “That upon consideration of the proposal against the provisions of the Central Coast S.46 Planning Scheme No. 1 of 1993 and the merits of the representations against the proposal, Development Application No. SUB2006.7 be approved on the following grounds:
the requested exemption to the minimum lot size for the Conservation (PVO) - Private Open Space zone warrants support:

the proposal is not contrary to the intent of the zone as it is within the declared town boundary of Ulverstone and is provided with reticulated water and sewerage infrastructure;

relevant technical conditions have been imposed to minimise potential conflict with adjoining properties;

and subject to the following conditions:

1. The Final Plan must be substantially the same as the submitted plan by Lester Franks Survey & Geographic dated 5/05/05, Drawing No D12533-PO1 Revision 4;

2. Except with the prior written consent of the Council, covenants or similar restrictive controls must not be included on, or otherwise imposed on, the titles to the lots created by the subdivision if those covenants seek to prohibit any use provided for in the Central Coast S.46 Planning Scheme No. 1 of 1993 or otherwise place limits on development that may occur on any lot within the subdivision;

3. The provision where necessary of water supply and drainage easements;

4. The Final Plan must be endorsed to show any area that cannot be serviced by existing reticulated sewer;

5. The relocation, where necessary, by the subdivider of house connection drains and services to within respective lot boundaries;

6. The Final Plan and Schedule of Easements for Lots 1 and 2 must describe a building envelope to reflect the possible building locations safe from 100 year Return Period floods in 2100 with maximum sea level rise (identified by notations E and F) on Figure 7, page 27 of the Assessment of Geomorphic Land Management issues at Maskells Road, Ulverstone by Chris Sharples, April 2005, outside of which no habitable buildings can be constructed;

7. Prior to the sealing of the Final Plan, the developer enter into a Part 5 Agreement under section 71 of the Land Use Planning and Approvals Act 1993 with the Council and other property owners in the subdivision that provides for:

(a) the property owners (current and future) are aware that there are existing activities adjacent and in the near vicinity of the site that generate noise and will result in a reduced residential amenity on the site, and that they accept those activities as pre-existing uses that will reduce the residential amenity of the site;
(b) a buffer zone of 25 metres in width be applied, to be measured from the centre of the railway track for sensitive use across the extent of the southern boundary adjacent to the railway reserve;

(c) at the time of building development on Lot 2, the owner will design and implement appropriate building construction or other noise attenuation measures to achieve the recommended maximum indoor sound pressure levels to each noise-sensitive area;

(d) the owners, prior to submitting any plans for the development of a house on Lots 1 and 2, to submit to the Council’s Planning Services Manager a landscape plan to reduce the visual impact of any house or any other habitable buildings at such time as building plans are submitted;

(e) the owners to maintain the noise and landscaping measures required under this permit for the duration of the use; and

(f) enforcement provisions on the Agreement that use a mediation process.

The landowner is responsible for the preparation of the Agreement and is responsible for all Land Titles Office and stamp duty fees and charges;

8 The existing house on the proposed Lot 3 must be connected to the reticulated sewer system. Following connection to the sewer, the septic tank for the existing dwelling must be pumped out by an appropriately licensed waste-management contractor. Following the pump-out the septic tanks must either be removed from the property or appropriately decommissioned;

9 The subdivider must provide:

(a) a water supply connection and meter to Lots 1 and 2;
(b) a sewerage reticulation and connection point to each lot;
(c) advice to Aurora and Telstra; and
(d) a vehicular access to each lot in accordance with the Council’s Standard Drawing No. SD-1012;

10 Any existing services or infrastructure that are disturbed during the subdivision, must be reinstated to the satisfaction of the Council’s Director Assets & Engineering;

11 Any existing house connection drains or services must be relocated to within the respective lot boundaries prior to the sealing of the Final Plan; and

12 The titles must be endorsed to the effect that:
the reticulated sewer system cannot service the entire building envelope as identified on the plan. A packaged pump system may be required for houses located outside the area identified to achieve connection to the reticulated network;

and further, that the applicant be requested to note that:

A in relation to condition of approval 9(a) the water connections must be carried out by the Council at the developer’s expense. The existing water connection can be used to service Lot 2 with a new connection for Lot 3;

B in relation to condition of approval 9(b) design plans will need to be submitted for approval prior to construction. The connection to the Pump Station must be carried out by the Council at the developer’s cost;

C in relation to condition of approval 9(c) any requirements of Aurora and Telstra are at the developer’s expense; and

D the existing Aurora connection to the existing house on proposed Lot 3 will require relocation to within Lot 1 or an easement placed over it depending on the requirements of Aurora.”

Carried unanimously
Closure

There being no further business, the Mayor declared the meeting closed at 6.20pm.


Chairperson

(sw:mk)
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.

Katherine Schaefer
GENERAL MANAGER