

CENTRAL COAST COUNCIL

DEVELOPMENT SUPPORT SPECIAL COMMITTEE

Notice of Meeting and
Agenda

8 JANUARY 2007



To all members

NOTICE OF MEETING

In accordance with the *Local Government (Meeting Procedures) Regulations 2005*, notice is given of the next ordinary meeting of the Development Support Special Committee which will be held in the Council Chamber of the Administration Centre, 19 King Edward Street, Ulverstone on Monday, 8 January 2007. The meeting will commence at 4.00pm.

An agenda and associated reports and documents are appended hereto.

A notice of meeting was published in The Advocate newspaper, a daily newspaper circulating in the municipal area, on 12 December 2006.

Dated at Ulverstone this 3rd day of January 2007.

This notice of meeting and the agenda is given pursuant to delegation for and on behalf of the General Manager.

Cor Vander Vlist
ADMINISTRATION GROUP LEADER

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 recommendations provided to the Development Support Special Committee in or with the following agenda:

- (i) the advice, information or recommendation is given by a person who has the qualifications or experience necessary to give such advice, information or recommendation; and
- (ii) where any advice is 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

NOTES

AGENDA

MEMBERS PRESENT

MEMBERS APOLOGIES

EMPLOYEES ATTENDANCE

MEDIA ATTENDANCE

PUBLIC ATTENDANCE

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1 CONFIRMATION OF MINUTES OF THE COMMITTEE

1.1 Confirmation of minutes

The Land Use Planning Group Leader reports as follows:

“The minutes of the previous meeting of the Development Support Special Committee held on 18 December 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.

A suggested resolution is submitted for consideration.”

- “That the minutes of the previous meeting of the Development Support Special Committee held on 18 December 2006 be confirmed.”
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2 MAYOR’S COMMUNICATIONS

2.1 Mayor’s communications

The Mayor reports 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.

A suggested resolution is submitted for consideration.”

- “That the Mayor’s report be received.”

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3 PECUNIARY INTEREST DECLARATIONS

3.1 Pecuniary interest declarations

The Mayor reports 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 reports 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 that matter commences.

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

4 ADJOURNMENT OF MEETING

4.1 Adjournment of meeting

The Mayor reports 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.”

5 DEPUTATIONS

5.1 Deputations

The Land Use Planning Group Leader reports as follows:

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

6 OPEN REPORTS

6.1 House (in a rural zone) at CT201561/1 Gunns Plains Road, Gunns Plains Application No. DEV2006.18

The Land Use Planning Group Leader reports as follows:

<i>“DEVELOPMENT APPLICATION NO.:</i>	DEV2006.18
<i>OWNER:</i>	Mr L A Beveridge
<i>LOCATION:</i>	CT201561/1 Gunns Plains Road, Gunns Plains
<i>ZONING:</i>	Rural (R) - General
<i>PLANNING INSTRUMENT:</i>	Central Coast S.46 Planning Scheme No.1 of 1993 (the Scheme)
<i>ADVERTISED:</i>	23 August 2006
<i>REPRESENTATIONS EXPIRY DATE:</i>	6 September 2006
<i>REPRESENTATIONS RECEIVED:</i>	One
<i>42-DAY EXPIRY DATE</i>	23 January 2007
<i>DECISION DUE</i>	8 January 2007

PURPOSE

The purpose of this report is to consider the merits of an application for a house in a rural zone.

This report considers:

- (a) the compliance of the application with the relevant provisions of the Scheme;
- (b) the merit of a representation received in opposition to the application.

BACKGROUND

The property subject to this development application comprises an area of approximately 9.46ha (23.4 acres) located at CT201561/1 Gunns Plains Road, Gunns Plains which is zoned Rural (R) - General under the Scheme. The land was subjected to a Land Capability Assessment and has been determined as being Class 6 land by Roberts Ltd commissioned by the applicant and forming part of this application. The land has also been clear felled by a previous owner and has not been subject to any subsequent replanting by the current owner.

The location of the proposed house is in the south eastern elevated part of the block approximately 25m from the southern boundary and 35m from the eastern boundary. The property is surrounded by state forest and private forested land holdings. These adjoining properties to the east and south respectively share the same Rural (R) - General zoning.

Bushland and associated forestry activities dominate the landscape of the area with crop production and livestock farming taking on a less apparent use.

A site plan is appended as Annexure 1/4

A location plan is appended as Annexure 2/4

DISCUSSION

The property is located within a Rural (R) - General zone of the Scheme and as the application seeks approval for the development of a house on the land, it is subject to the requirements specified under part 7A of the Scheme.

Clause 7A.3 applies to any lot which contains only class 5, 6 or 7 land. The Land Capability Assessment details the subject land being most suitably classified as class 6 due to its slope and high erosion risk.

Clause 7A3.1 stipulates:

A house on any lot which contains only class 5, 6 or 7 land is permitted if no part of the dwelling unit (but excluding any outbuildings) is closer than:

- (a) 80 metres to any road; and*
- (b) 100m to any other boundary of the lot.*

The proposed house site adequately complies with the 80m road setback requirement, but the proposed setback of 25m and 35m from the southern and eastern boundaries respectively is significantly less than the scheme requirement. The failure of the proposed development to satisfy the provisions of clause 7A3.1 prompts the assessment against clause 7A3.2. This clause relates to the ability of the site to minimise the potential for use conflicts with adjoining land holdings.

The compliance of the proposal against the provisions of clause 7A3.2 is examined in the following table.

CLAUSE	TEST	COMMENT
7A.3.2	A house on any lot which contains only class 5, 6 or 7 land (and which does not comply with clause 7A.3.1) is discretionary and may only be approved if any existing or potential development and use of agricultural land in the vicinity is likely to cause no impact, or only minor impact, on its residential amenity taking into consideration:	
	(a) the topography of the land; and	The proposed house site is located within an established bench excavated on the site. Topographically this site and adjoining land in other ownership is relatively steep which limits the scale of any agricultural activities. Although the land further to the south does flatten out it does so at a distance that appears to provide a realistic separation between the proposed residential and existing agricultural land uses.
	(b) the location of water catchments; and	A Class 4 watercourse is located within the State Forest to the east. This creek line would appear to provide a suitable buffer between the existing and proposed land uses. Forestry Tasmania have responded to the application with no objection but drawing attention to the fact that this is production forest available for harvesting at any time. The applicant has also provided information that indicates a similar class stream is located outside his southern boundary and that this stream and the slope of the land would limit any cultivation occurring. An aerial photographic view is appended as Annexure 3/4 that

		identifies these water courses.
(c)	The location of neighbouring dwellings; and	Seven residential dwellings exist within a 1km radius of the subject property. This is perhaps the element of discretion that required additional scrutiny. The Scheme isn't precise in how many homes within an established radius determines a conversion from dominant agriculture to 'rural residential' land uses. This sporadic residential development on these smaller agricultural parcels of land provides enough information to develop an informed view.
(d)	buffers created by natural features;	The natural elevation of the proposed house site and the fact that the property is surrounded by medium density bushland and recognised streams appear to provide a sufficient level of natural buffering to mitigate any adverse affects of agricultural activities on adjoining lands.

In summary the provisions of Clause 7A.3.2 indicate that the proposal appears to demonstrate that the agricultural use of adjoining lands is likely to create minimal impact on the residential amenity of the subject site. Conversely the impact of the residential development upon the agricultural use and development of both the subject land and adjoining properties also appears to be minimal given the natural features of the property and the sufficient level of buffering as discussed in the above table.

Initially the most significant issue predicted with the proposal during the preliminary assessment was the potential conflict with forestry activity on adjoining State Forest.

In respect of this it is recommended that if this application is successful the applicant and all future property owners be made aware of this situation. This

action could be facilitated by the preparation of a Development Agreement between the Council and the applicant.

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. All comments received have been assessed and addressed during determination of this application.

Representation

One representation was received during the 14-day advertising period. This was from the adjoining property owner immediately to the south of the subject property.

A copy of the representation is appended as Annexure 4/4.

The main reasons submitted in opposition to the application pertain to the resulting impacts upon the agricultural activities of the representor's property, and the proximity of residential building precedent that will further impinge upon farming activity in the area.

Comments – The location of the proposed development and the natural features present such as the steep slope and surrounding dense bushland achieve an adequate level of buffering to mitigate adverse impacts upon adjoining agricultural activities.

This view is reinforced by the Land Capability Assessment prepared by Roberts Ltd that states

'...if the application to build upon this block were granted, there would be little interruption to any agricultural production nearby.'

There is also a suggestion that the development of a house would take away the 'right to farm' that exists.

Comments – It is my understanding that the right to farm legislation ensures that the farmer has protection on the basis that he follows all relevant codes of practice etc. It is Council's responsibility to ensure that the agricultural activities cause no impact or only minor impact to the residential amenity. The method of doing this is to assess the application against the four tests previously discussed.

IMPACT ON RESOURCES

This report has generated the normal impact on resources in the assessment and processing of the application.

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

This application has been assessed and the site examined. The investigation looked at how the proposal complied with the relevant provisions of the Scheme after taking into account the individual characteristics of the development site. Similarly the provisions of the PAL Policy have been satisfactorily addressed within the Scheme and there is no need to amplify this Policy in this report.

In summary the representation is not deemed to have substantive merit to warrant a negative recommendation.

Recommendation

That approval be granted subjected to the following conditions and restrictions:

1. The development must be sited generally in accordance with the plans submitted as part of this application dated 21 August 2006.

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2. The developer is to enter into a Part 5 Agreement under Section 71 of the *Land Use Planning and Approvals Act 1993* with the Council that provides for:

The developer acknowledging and accepting that the proposed development is within 100 metres of adjacent agricultural land in other ownership and that activities on these blocks may from time to time impact on the residential amenity at the proposed house site.

3. The developer providing a vehicular access to the lot in accordance with the Council's Standard Drawing No. SD-1012 (copy enclosed).
4. The developer complying with the conclusions of the Terry Eaton 28 November 2006 Report with the exception of the concealed entrance sign.
5. The onsite wastewater management system must be installed in accordance with the Australian/New Zealand Standard AS/NZS 1547:2000.

And further that the applicant be requested to note that:

- A. An application for a Building Permit is required for the proposed development.
- B. The developer is responsible for forwarding an acceptable Agreement prior to a Building Permit being issued.
- C. This Permit expires two years from the date this advice is received unless the development has been substantially commenced.
- D. In regard to Conditions (5) above:
 - (i) the lot appears suitable for the installation of a modified septic tank system subject to a minimum area of suitable land being dedicated to the on-site disposal of sullage and sewage effluent;
 - (ii) approval of a specific system will be subject to a site assessment by the Council's Environmental Officer. The applicant should contact that officer prior to the commencement of site or road works to ensure an adequate area remains for the installation of a wastewater system.

The report is supported."

The Land Use Planning Group Leader reports as follows:

“Copies of the appendices referred to in the report having been circulated to all members, a suggested resolution is submitted for consideration.”

■ “That approval be granted subjected to the following conditions and restrictions:

- 1 The development must be sited generally in accordance with the plans submitted as part of this application dated 21 August 2006.
- 2 The developer is to enter into a Part 5 Agreement under Section 71 of the Land Use Planning and Approvals Act 1993 with the Council that provides for:

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- 3 The developer providing a vehicular access to the lot in accordance with the Council’s Standard Drawing No. SD-1012 (copy enclosed).
- 4 The developer complying with the conclusions of the Terry Eaton 28 November 2006 Report with the exception of the concealed entrance sign.
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- D. In regard to Conditions (5) above:
 - (i) the lot appears suitable for the installation of a modified septic tank system subject to a minimum area of suitable land being dedicated to the on-site disposal of sillage and sewage effluent;
 - (ii) approval of a specific system will be subject to a site assessment by the Council’s Environmental Officer. The applicant should contact that officer prior to the commencement of site or road works to ensure an adequate area remains for the installation of a wastewater system.”
