
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 Wednesday, 11 April 2007 commencing at 6.00pm

Members attendance

Cr Brian Robertson (Deputy Mayor) Cr Tony van Rooyen
Cr Warren Barker Mrs Kathy Schaefer

Members apologies

Mayor Mike Downie
Cr Ken Haines

Employees attendance

Land Use Planning Group Leader (Mr Shane Warren)

26/2007 Chairperson

It was resolved that the Deputy Mayor take the Chair in the Mayor's absence.

CONFIRMATION OF MINUTES OF THE COMMITTEE

27/2007 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 26 March 2007 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 Van Rooyen moved and Cr Barker seconded, “That the minutes of the previous meeting of the Development Support Special Committee held on 26 March 2007 be confirmed.”

Carried unanimously

MAYOR'S COMMUNICATIONS

28/2007 Mayor's communications

The Deputy 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 Barker moved and Cr Van Rooyen seconded, “That the Deputy Mayor’s report be received.”

Carried unanimously

PECUNIARY INTEREST DECLARATIONS

29/2007 Pecuniary interest declarations

The Deputy 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 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.”

No interests were declared at this time.

ADJOURNMENT OF MEETING

30/2007 Adjournment of meeting

The Deputy 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 Deputy Mayor resumed the meeting.

DEPUTATIONS

31/2007 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

**32/2007 Three-lot subdivision at 228A Preservation Drive, Sulphur Creek
Application No. SUB2006.17**

The Director Development Services reports as follows:

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

<i>'DEVELOPMENT APPLICATION NO.:</i>	SUB2006.17
<i>OWNER:</i>	Michell Hodgetts and Associates on behalf of J & J.M. Purton
<i>LOCATION:</i>	228A Preservation Drive, Sulphur Creek
<i>ZONING:</i>	Residential (RA) - Closed
<i>PLANNING INSTRUMENT:</i>	Central Coast S.46 Planning Scheme No.1 of 1993 (the Scheme)
<i>ADVERTISED:</i>	3 November 2006
<i>REPRESENTATIONS EXPIRY DATE:</i>	17 November 2006
<i>REPRESENTATIONS RECEIVED:</i>	One
<i>42-DAY EXPIRY DATE:</i>	22 April 2007
<i>DECISION DUE:</i>	11 April 2007

PURPOSE

The purpose of this report is to consider the merits of a representation received to the above application and to determine whether the application should be refused or conditionally approved.

BACKGROUND

The parent title is a lot 8461m² in area. It is located immediately west to land recently developed by Leary Crammond Enterprises (Midway Beach Estate) and is to use the newly formed road into this subdivision as the access for the three proposed lots. One of the proposed lots contains the existing house (2180m²) and the two vacant lots are 3400m² and 2540m² each.

A location plan is attached as Annexure 1.

An issue important to later development of the vacant lots is the element of doubtful land stability on the steeper portions of the lots. A geotechnical investigation was undertaken by the applicant prior to the application being made. This identified two building envelopes on the undeveloped land. Lots 2 and 3 were consequently configured to ensure one envelope existed on each lot.

These envelopes are identified on Annexure 2.

DISCUSSION

The proposed lots comply with the Schedule 8 provisions of the Scheme. An initial issue, but since resolved, was the unknown potential for the lots to have satisfactory connections to the Council's stormwater reticulation. Similarly there are existing constraints on the land that might affect the building envelopes previously described as the scope of the geotechnical investigation didn't consider the implications of the existing burdening right of way and the existing overhead power line over Lot 2. The implications of these issues were forwarded to the applicant for a response and have since been satisfactorily addressed.

The proposal plan is attached as Annexure 3.

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. Relevant comments received from the Planning and Assessment Team form an integral part of the final determination of the application.

REPRESENTATION

One representation was received within the prescribed time. This was from the directors of the adjoining land to the east that was recently developed into six lots.

The representation is attached as Annexure 4.

Issue 1 - There is an agreement between the parties on marketing and timing. The agreement also restricts the development of a house within certain areas of lot 3.

Comments - The Scheme is silent on the merits of these individual agreements. Any claim of a broken agreement is a civil matter between the affected parties. The location of the covenanted area is coincidentally the building area identified in the geotechnical report.

Issue 2 - This claims that the objectives to provide:

“(b) proper use and development of land, buildings and resources; and
(c) ... attention to aesthetics and landscape impact ...
fail with this application.”

Comments - The objectives provide some degree of desired outcomes. The formulation of control mechanisms are indicated elsewhere in the Scheme and, in regard to subdivisions, compliance with the intent of the zone and the Schedule 8 numerical provisions have to be demonstrated.

Issue 3 - Clause 3.9.2 (d) also requires the Council to consider whether any part of the land is subject to:

- (i) landslip, soil instability or erosion
- (ii) excessive slope

Comments - Suitable house sites developed under controlled conditions have been identified by the geotechnical consultant engaged by the applicant.

Issue 4 - Clause 3.9.2 (e) requires the Council to consider whether the proposed development is satisfactory in terms of its siting, size and appearance in relation to:

- (i) existing site features;
- (ii) adjoining land;
- (iii) the streetscape or landscape;
- (iv) the natural environment;
- (v) any items of historic, architectural or scientific interest; and
- (vi) isolation and separation from other lands

Comments - The points raised are too subjective to respond to. The representors have recently discussed these matters with Council officers and the matter is one where they will have to provide some compelling argument if they contend values will be affected due to the layout of the subdivision.

Issue 5 - Clause 3.9.2 (f) requires the Council to consider whether the development will be supplied with an adequate level of infrastructure - in this instance the impact of additional traffic at the Preservation Drive intersection.

Comments - A traffic report submitted by Pitt and Sherry as part of the Midway Beach subdivision indicated that a right-hand turn lane would not be warranted for that subdivision, however any future development that uses the new road could result in the need for a turning lane to be met. The Council has to consider whether a cul de sac/no through road servicing a total of nine lots requires a right-hand turn lane. This may be difficult to substantiate since the Bass Highway by-pass significantly reduced vehicle movements on this section of road but shouldn't be discounted until otherwise advised by the Department of Infrastructure Energy and Resources (DIER) as Preservation Drive is still under the Department's jurisdiction.

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

The application has been assessed against the provisions of the Scheme and the content of the representation has been objectively considered. The topography of the parent lot and the associated geotechnical issues restrict the number of lots to that presented to the Council for approval. These lots

comply with the Schedule 8 numerical standards and the required services can be provided from existing Council infrastructure.

Recommendation

It is recommended that the representation be deemed to have insufficient merit on planning grounds to justify refusal of the application and, on the basis that the proposal satisfies the subdivision provisions of the Scheme, the application be approved subject to the following conditions:

- 1 The development is to be in accordance with endorsed plan - reference Drawing 206007 version 3 dated 31/01/0 - unless otherwise altered by conditions of this Permit;
- 2 When the Final Plan is submitted for sealing, payment must be made for a contribution of cash in lieu of the provision of land for Public Open Space equal to 5% of the value of Lots 2 and 3 as determined by a registered valuer;
- 3 The Final Plan is to covenant the designated building areas identified in the October 2006 Pitt and Sherry Report;
- 4 The setback between the western boundary of Lot 1 is to be a minimum of 1.5 metres to the nearest part of the building;
- 5 Prior to release of the Final Plans and at no cost to the Council, the subdivider is to provide the following:
 - (a) a water supply reticulation and connection and meter to each lot;
 - (b) sewerage reticulation and connection point to each lot;
 - (c) underground stormwater reticulation and connection point to each lot;
 - (d) a paved vehicular access together with kerb and channelling crossover to each lot;
 - (e) separate underground power mains and services to each lot together with associated street lighting standards; and

-
- (f) installation of a right turn lane into Preservation Drive as determined by the Department of Infrastructure, Energy and Resources;
 - 6 Existing services, disturbed during the subdivision, including any damage to road, kerb and channel, nature strip and footpath, being reinstated to the satisfaction of the Council's Director Assets & Engineering;
 - 7 The provision (where necessary) of water supply and drainage easements;
 - 8 The Final Plan is to be endorsed to show any area that cannot be serviced by existing or new reticulated sewer/stormwater;
 - 9 Relocation by the subdivider of the water, sewer and stormwater house connections from the existing house to new connection points servicing that lot;
 - 10 The design and construction by the subdivider of the road (including landscaping of the road reserve). This is to be in accordance with the *Local Government (Highways) Act 1982* and the Council's standard specifications and drawings;
 - 11 A Part 5 Agreement is to be prepared at the subdivider's expense by a suitably qualified legal practitioner to provide for the geotechnical conditions of the October 2006 Pitt and Sherry Report and to include the following:
 - (a) That groundwater management methods are designed by an engineer so that groundwater effects on the landslide debris are reduced. For example, a two-metre deep cut-off drain could be installed along the rear boundary;
 - (b) Deep rooted trees must be planted on the land and on the neighbouring upslope. This will assist with controlling the soil moisture content and strengthening the slope;
 - (c) Cut and fill earth works must be minimised. All earthworks should be designed by an engineer and its effects on slope stability considered. Excavation of material from the toe of the landslide debris should not be allowed;

-
- (d) Any proposed building is to be of lightweight construction. This does not include concrete slab or concrete strip footing type construction;
 - (e) Ponds, swimming pools and other water retaining structures are not permitted above or below ground;
 - (f) All waste water including stormwater is to be discharged into the Council's piped systems;
 - (g) No stormwater is to discharge onto or into the ground;
 - (h) The area where sewer and stormwater pipes are located should be inspected regularly to ensure there are no leaks. Any leaks should be repaired immediately;
 - (i) Trenches should be designed and constructed to encourage removal of water from the ground rather than introducing water into the ground;
 - (j) The further removal of trees and vegetation should be avoided;
 - (k) Exposed soils should be revegetated or protected by erosion control matting as soon as possible after construction; and
 - (l) Prior to signing a contract of sale the current and future land owners for Lots 1 to 3 inclusive are to advise, in writing, prospective purchasers of this Part 5 Agreement;

and the subdivider be requested to note that:

- A in relation to condition of approval 5(a) this will require a 63mm OD poly pipe extension with a fireplug at the end;
- B in relation to condition of approval 5(c) this will require an analysis of the downstream system in relation to capacity. Any upgrade is at the developer's expense;
- C in relation to condition of approval 10 this requires the installation of kerb and channel and footpath in accordance with municipal standards; and

-
- D any works within the road reservation requires a Road Reservation Permit to be submitted and approved prior to construction.'

The report is supported."

The Executive Services Manager reported as follows:

"The Annexures referred to in the Land Use Planning Group Leader's report have been circulated to all Councillors."

■ Cr Barker moved and Mrs Schaefer seconded, "That the representation be deemed to have insufficient merit on planning grounds to justify refusal of the Application and that upon deliberation of the merits of the proposal and the Central Coast S.46 Planning Scheme No. 1 of 1993, Application No. SUB2006.17 be approved subject to the following conditions and restrictions:

- 1 The development is to be in accordance with endorsed plan - reference Drawing 206007 version 3 dated 31/01/07 - unless otherwise altered by conditions of this Permit;
- 2 When the Final Plan is submitted for sealing, payment must be made for a contribution of cash in lieu of the provision of land for Public Open Space equal to 5% of the value of Lots 2 and 3 as determined by a registered valuer;
- 3 The Final Plan is to covenant the designated building areas identified in the October 2006 Pitt and Sherry Report;
- 4 The setback between the western boundary of Lot 1 is to be a minimum of 1.5 metres to the nearest part of the building;
- 5 Prior to release of the Final Plans and at no cost to the Council, the subdivider is to provide the following:
 - (a) a water supply reticulation and connection and meter to each lot;
 - (b) sewerage reticulation and connection point to each lot;
 - (c) underground stormwater reticulation and connection point to each lot;
 - (d) a paved vehicular access together with kerb and channelling crossover to each lot;
 - (e) separate underground power mains and services to each lot together with associated street lighting standards; and

-
- (f) installation of a right turn lane into Preservation Drive as determined by the Department of Infrastructure, Energy and Resources;
 - 6 Existing services, disturbed during the subdivision, including any damage to road, kerb and channel, nature strip and footpath, being reinstated to the satisfaction of the Council's Director Assets & Engineering;
 - 7 The provision (where necessary) of water supply and drainage easements;
 - 8 The Final Plan is to be endorsed to show any area that cannot be serviced by existing or new reticulated sewer/stormwater;
 - 9 Relocation by the subdivider of the water, sewer and stormwater house connections from the existing house to new connection points servicing that lot;
 - 10 The design and construction by the subdivider of the road (including landscaping of the road reserve). This is to be in accordance with the *Local Government (Highways) Act 1982* and the Council's standard specifications and drawings;
 - 11 A Part 5 Agreement is to be prepared at the subdivider's expense by a suitably qualified legal practitioner to provide for the geotechnical conditions of the October 2006 Pitt and Sherry Report and to include the following:
 - (a) That groundwater management methods are designed by an engineer so that groundwater effects on the landslide debris are reduced. For example, a two-metre deep cut-off drain could be installed along the rear boundary;
 - (b) Deep rooted trees must be planted on the land and on the neighbouring upslope. This will assist with controlling the soil moisture content and strengthening the slope;
 - (c) Cut and fill earth works must be minimised. All earthworks should be designed by an engineer and its effects on slope stability considered. Excavation of material from the toe of the landslide debris should not be allowed;
 - (d) Any proposed building is to be of lightweight construction. This does not include concrete slab or concrete strip footing type construction;
 - (e) Ponds, swimming pools and other water retaining structures are not permitted above or below ground;
 - (f) All waste water including stormwater is to be discharged into the Council's piped systems;

-
- (g) No stormwater is to discharge onto or into the ground;
 - (h) The area where sewer and stormwater pipes are located should be inspected regularly to ensure there are no leaks. Any leaks should be repaired immediately;
 - (i) Trenches should be designed and constructed to encourage removal of water from the ground rather than introducing water into the ground;
 - (j) The further removal of trees and vegetation should be avoided;
 - (k) Exposed soils should be revegetated or protected by erosion control matting as soon as possible after construction; and
 - (l) Prior to signing a contract of sale the current and future land owners for Lots 1 to 3 inclusive are to advise, in writing, prospective purchasers of this Part 5 Agreement;

and the subdivider be requested to note that:

- A in relation to condition of approval 5(a) this will require a 63mm OD poly pipe extension with a fireplug at the end;
- B in relation to condition of approval 5(c) this will require an analysis of the downstream system in relation to capacity. Any upgrade is at the developer's expense;
- C in relation to condition of approval 10 this requires the installation of kerb and channel and footpath in accordance with municipal standards; and
- D any works within the road reservation requires a Road Reservation Permit to be submitted and approved prior to construction.”

Carried unanimously

Closure

There being no further business, the Deputy Mayor declared the meeting closed at 6.25pm.

CONFIRMED THIS DAY OF , 2007.

Chairperson

(asw:kaa)

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