
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 Tuesday, 12 June 2007 commencing at 6.00pm

Members attendance

Cr Mike Downie (Mayor)
Cr Warren Barker
Cr Tony van Rooyen

Cr Brian Robertson (Deputy Mayor)
Cr Ken Haines
Mrs Kathy Schaefer

Employees attendance

Town Planner (Ms Theresia Williams)

CONFIRMATION OF MINUTES OF THE COMMITTEE

40/2007 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 30 April 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 Robertson moved and Cr Haines seconded, “That the minutes of the previous meeting of the Development Support Special Committee held on 30 April 2007 be confirmed.”

Carried unanimously

MAYOR’S COMMUNICATIONS

41/2007 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

42/2007 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 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

43/2007 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

44/2007 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

45/2007 Kennels (cat and dog boarding) at 5 Sarah Road, Riana Application No. DEV2006.104

The Land Use Planning Group Leader reported as follows:

“The Town Planner has prepared the following report:

<i>DEVELOPMENT APPLICATION No.:</i>	DEV2006.104
<i>LOCATION:</i>	5 Sarah Road, Riana
<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>	15 May 2007
<i>REPRESENTATIONS EXPIRY DATE:</i>	29 May 2007
<i>REPRESENTATIONS RECEIVED:</i>	Two
<i>42-DAY EXPIRY DATE:</i>	24 June 2007
<i>DECISION DUE:</i>	24 June 2007

PURPOSE

The purpose of this report is to consider the merits of representations received in opposition to a discretionary planning permit application for kennels (cat and dog boarding) at 5 Sarah Road, Riana.

BACKGROUND

The developer proposes building a shed with a floor area of 444m² (37m x 12m) on the property which is currently being used for grazing and a house. The large shed will be used as a boarding kennel for the accommodation of up to 100 dogs.

Some clarification was obtained on the numbers to be accommodated as the proposed building, as recently advised by the applicants, will only provide accommodation for 20-30 dogs. From the perspective of viability the applicants also indicate that the operation will require a minimum of 70 dogs to be a going concern. The number of 100 dogs was originally suggested by the Council's Animal Control Officers during associated discussions with them on the provisions of the *Dog Control Act 2000*. This number was thought prudent to indicate the number of boarders that may eventuate if further facilities were developed in the future. The applicants indicate that the current proposal is for stage one. Further buildings will be required if the 70 dog minimum is the objective. Numerically this will require two more similar sized sheds on the property. These locations haven't been indicated on the submitted site plan.

A location plan is attached as Annexure 1/3.

DISCUSSION

The development is proposed on the western half of the lot closest to the access from Sarah Road. The proposed building design includes sound-proofing, heating, insulation and rain water-collection. The developer has considered the disposal of waste, and the Council's Environmental Officer has provided conditions to be included if a permit is issued.

The impact of the development on the neighbouring homes has been considered in the assessment; in particular, smell, noise and traffic implications. Typically, background noise in a rural area would include tractors and other machinery but more specifically, noise from the dogs themselves would be subject to the kennel licensing provisions under the *Dog Control Act 2000*. It would also be logical for people who chose to live in rural areas to expect the generation of dust and smells from standard farming practices. It is conceded however, that kennels are not a standard farming activity although the rural zones are only one of the two zones where some discretion is possible. All other zones prohibit this type of development.

It could be reasonably predicted that noise is the compelling factor for this discretion in only two zones. Satisfactory mitigation of the anticipated noise is one to carefully consider.

Plans of the proposed development are attached as Annexure 2/3.

There is also a discrepancy with the application in that the site and accommodation detail for the cats is not included. Previous applications for 'catteries' in other locations have been assessed under the Domestic Business provisions of the Scheme. If the cattery component of the development meets these provisions the use falls into the "P" permitted use category. Exceeding the Domestic Business guidelines will place the use into "miscellaneous" which is discretionary in the Rural (R) - General zone.

Clause 3.9.2 of the Scheme provides a number of matters for the Council to consider appropriate before approving or refusing a planning application.

3.9.2 (a) the objectives of the Scheme, intent of the zone and any relevant development standards:

Comment - The Scheme objectives and land zoning provide some guidance relevant to this type of development, namely the encouragement of appropriate development which will expand local employment and diversify the economic base. In light of the lack of specific development standards for this use class, the Council is to determine the most appropriate standards. In this assessment, the Commercial development standards have been deemed most appropriate. These are covered in Table 1.

3.9.2(e) whether the proposed development is satisfactory in terms of its siting, size and appearance in relation to the existing site, adjoining land, the surrounding streetscape and landscape, natural environment and any items of historic or architectural significance.

Comment - The existing site is occupied by a single dwelling. To the south of the property is a small cluster of dwellings, approximately 250m from the proposed development. Visibility and appearance is not an issue considering the size of the blocks and existing developed buildings on adjacent blocks.

3.9.2(f) whether the proposed development will be supplied with an adequate level of infrastructure and services (roads, water, sewerage and electricity), without detriment to existing users.

Comment - It is in the developer's interest to ensure the water source is adequate. The Council's Environmental Officer has endorsed the methods of waste management and disposal.

3.9.2(g) the impact on the existing and possible future use of adjacent land and vice versa.

Comment - adjacent land includes agricultural and residential uses. Consideration of any adverse impacts on amenity are included in the assessment process. Any adverse effects of the use that affect amenity and property values needs to be considered under the scope of this provision

Schedule 1 defines the use categories. The development is for kennels as defined in the Scheme.

“Kennels: means any land used for the commercial operation of boarding kennels or for the breeding of dogs on a commercial basis”.

Schedule 2 defines the status of the defined use in any particular zone as either “P1” - permitted as of right, “P” - permitted, “d” - discretionary, “x” - prohibited, or “R” - development in rural zones.

Kennels in the Rural (R) - General zone are a “d” discretionary land use.

The following Table 1 provides detailed assessment against the relevant development standards. Figures have been taken from the application documentation:

Table 1

DESCRIPTION	STANDARD	DIMENSIONS OF PROPOSAL	COMMENTS
Kennels			
Front setback	6m	30m (approx.)	Conforms.
Side setback	3m	50m (approx.)	Conforms.
Rear setback	10m	15m (approx.)	Conforms.
Height	15.5m	14.8m	Conforms.
Number of storeys	2	1	Conforms.
Site coverage	10%	1.5%(approx.)	Conforms.
Carparking	1 per employee + 0.15 per 100m ² site area		To be conditioned on any permit issued.

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. Comments received from the Planning and Assessment Team covered building and environmental issues, which the officers are satisfied can be addressed by appropriately worded conditions.

Representations

Within the prescribed 14-day period, two representations were received in objection to the development. One of these was a petition with thirteen signatories. The other is an objection from one of those signatories.

This singular representation included a valuation report stating the effects of the proposed development in regard to the proximity to the representor's property at 3 Sarah Road.

The representations are attached as Annexure 3/3.

Table 2 below was developed to précis the representations received.

Table 2

ISSUE #	ISSUE	CONCERN IN REPRESENTATION	COMMENT
1	Noise.	The noise created from this development will ruin appeal and ambience of surrounding residences.	The Council's Environmental Health officer has advised that the potential for creating noise nuisances will be assessed and monitored as part of the kennel licensing requirements of the <i>Dog Control Act 2000</i> .
2	Soundproofing.	Soundproofing will be provided in the building, but how will that be controlled when the dogs are outside?	As above.
3	Property devaluation. Independent professional advice provided to demonstrate devaluation as a result of the development.	Property will be devalued if development proceeds.	A representor submitted a valuation report that indicated his property would suffer devaluation in the event that the development occurred. The reasons given related to noise, waste disposal and access issues, which are addressed either under separate legislation (noise) or elsewhere in this report (waste).
4	Traffic impacts.	The right of way which is used to access the property would require upgrading (safe traffic flow, dust, maintenance) and impacts on Sarah Road.	Standard conditions on any permit issued by the Council would include the requirement of the developer to provide the necessary infrastructure upgrades required to service that development. The issue of dust and traffic impacts is partially addressed by recent advice from the applicant. An active marketing option is for the pick up and delivery of pets as part of the day to day operation of the business. This should mitigate any potential impacts of traffic

			and dust generation as well as reducing the maintenance costs of the access.
5	Approval a foregone conclusion.	Earthworks began over four weeks ago for the development.	There have been no permits issued by the Council for the proposed development. Any preliminary siteworks undertaken are at the developer's risk.
6	Smell.	Residences are downwind.	Previously addressed in the Discussion section of this report.
7	Waste disposal.	Disposal of water (from cleaning) and excrement, and impact on surrounding groundwater.	Waste disposal is required to comply with a number of legislated standards. Standard conditions on any permit issued would require the developer to ensure compliance with that legislation.
8	Positive flow on effects will be minimal.	Little positive impact on nearby businesses.	This is difficult to demonstrate at the application stage.
9	Compatibility between proposal and local community.	Certain businesses and industries do not compliment some communities as we believe is the "case between Riana and a 5 star kennel and cattery".	This is not a planning consideration.
10	Already approved when sale of land occurred.	Development was approved six weeks ago when the land was sold, and the neighbours have only been notified two weeks ago.	The development is currently going through the planning process, which is independent of the sale process. No preliminary consideration as to the merits of the development was sought by the applicant as a condition of the sale.

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

A number of matters have to be clarified before determining the application. The submitted site plan only indicates the development of a 444m² building. The accompanying documentation does not mention how many dogs are intended to be accommodated but later details provided by the applicant indicate that accommodation will be provided for up to 100 dogs. The applicants further advise that 70 dogs are required to be accommodated to ensure viability of the operation.

On face value the application under consideration is for dog boarding kennels. The kennel configuration will be regulated by the *Pet Industry Association of Australia - National Code of Practice 2005* and customer feedback. The valuation report is based upon the premiss of 100 dogs and 20 cats being accommodated on site. Although the valuation details shouldn't be discounted the application being determined is for a kennel operation that will only provide accommodation for 20-30 dogs depending on the kennel configuration within the proposed 444m² building.

This application for all intents and purposes is purported as stage one. The development of a further building to accommodate additional dog boarders will be subject to another application at that time and will be considered under the planning scheme of the day. Any history of complaints would be further scrutinised at that time unless resolved prior to the application.

Cats are not intended to be accommodated in the same building and no details of their accommodation has been provided. Consequently the 'cattery' component has to be discounted on this application.

RECOMMENDATION

It is recommended that the representations of objection 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 against the provisions of the Central Coast S.46 Planning Scheme No. 1 of 1993, Application No. DEV2006.104 be approved subject to the following conditions and restrictions:

- 1 The development generally conforming with the drawings and other documentation as submitted unless otherwise altered by subsequent conditions of this Permit;
- 2 The number of dogs kept on-site at any one time is not to exceed that provided for in the *Pet Industry Association of Australia - National Code of Practice 2005* or 30 dogs whichever the lesser;
- 3 The facility must be operated to ensure that:
 - (a) animals can only be delivered and collected by their owners between the hours of 9:00am and 5:00pm daily;
 - (b) a person responsible for the management and control of the facility must be present on the site at all times while the facility is in use;
 - (c) all available means, including feeding and exercising at regular times each day, is to be used to prevent the barking of dogs, so as to prevent the use becoming a nuisance, by reasons of noise, to nearby residents; and
 - (d) the use or development must not cause nuisance or injury to, or prejudicially affect the amenity of the locality, by reason of the appearance of any building works or material on the land, the emission of noise, light, smell, dust, waste products, the presence of vermin or otherwise;
- 4 The activity endorsed by this permit must be carried out in accordance with the requirements of both the *Dog Control Act 2000* and the *Environmental Management and Pollution Control Act 1994*, and associated Regulations;

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- 5 Faecal matter and/or other contaminated waste material from the kennel facility must not be disposed of as part of normal domestic waste. Such waste materials are to be either managed on site in accordance with the requirements of the Council's Environmental Officer and/or contained for periodic collection by a licensed waste management transporter;
 - 6 A separate application detailing the design and type of on-site wastewater management system is required at the building application stage. Approval of a specific system will be subject to a site assessment by the Council's Environmental Officer. It is recommended that the applicant contact the Council's Environmental Officer prior to commencement of site or road works to ensure an adequate area remains for installation of a wastewater system;
 - 7 The on-site wastewater management system for the proposed dwelling being installed in accordance with the *Australian/New Zealand Standard AS/NZS 1547:2000 - Onsite Domestic Wastewater Management*;
 - 8 Kennels and dog yards shall be kept clean at all times and shall not cause nuisance by means of odour or otherwise;
 - 9 Satisfactory acoustic and screen treatments are to be incorporated into any outdoor exercise areas;
 - 10 A plan of proposed landscaping to provide an effective visual screen at maturity and details of other site treatments in the vicinity of the dog kennels is to be submitted for consideration before the application for the required Building Permit and is to indicate the following:
 - (a) A schedule of the species to be planted which is to include varieties of local provenance where possible; and
 - (b) A maintenance regime for the final layout including mulching and water reticulation methods to be used to ensure 70% stem retention rate after two years;
 - 11 The landscaping and other site treatments are to be implemented prior to commencement of the operation of the kennels;
 - 12 Satisfactory carparking must be provided to cater for the maximum number of vehicles anticipated at any given time; and

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- 13 On-site advertising signage within 100 metres of the entrance is limited to a sign not exceeding 1.5m² in area.

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

- A any further off-site advertising signage would require a separate application to the Council;
- B an application for a Building Permit is required. A copy of this Planning Permit is to be provided to the applicant nominated private Building Surveyor prior to commencing their assessment; and
- C this Permit expires two years from the date advice of this decision is received unless the development has been substantially commenced. An extension of time to this period can be granted once only but only if the request is received prior to the expiry of the specified time.'

The report is supported.”

The Land Use Planning Group Leader reported as follows:

“The Annexures referred to in the Town Planner’s report have been circulated to all members.”

■ Cr Van Rooyen moved and Cr Robertson seconded, “That the representations of objection 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 against the provisions of the Central Coast S.46 Planning Scheme No. 1 of 1993, Application No. DEV2006.104 be approved subject to the following conditions and restrictions:

- 1 The development generally conforming with the drawings and other documentation as submitted unless otherwise altered by subsequent conditions of this Permit;
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- (b) a person responsible for the management and control of the facility must be present on the site at all times while the facility is in use;
 - (c) all available means, including feeding and exercising at regular times each day, is to be used to prevent the barking of dogs, so as to prevent the use becoming a nuisance, by reasons of noise, to nearby residents; and
 - (d) the use or development must not cause nuisance or injury to, or prejudicially affect the amenity of the locality, by reason of the appearance of any building works or material on the land, the emission of noise, light, smell, dust, waste products, the presence of vermin or otherwise;
- 4 The activity endorsed by this permit must be carried out in accordance with the requirements of both the *Dog Control Act 2000* and the *Environmental Management and Pollution Control Act 1994*, and associated Regulations;
 - 5 Faecal matter and/or other contaminated waste material from the kennel facility must not be disposed of as part of normal domestic waste. Such waste materials are to be either managed on site in accordance with the requirements of the Council's Environmental Officer and/or contained for periodic collection by a licensed waste management transporter;
 - 6 A separate application detailing the design and type of on-site wastewater management system is required at the building application stage. Approval of a specific system will be subject to a site assessment by the Council's Environmental Officer. It is recommended that the applicant contact the Council's Environmental Officer prior to commencement of site or road works to ensure an adequate area remains for installation of a wastewater system;
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consideration before the application for the required Building Permit and is to indicate the following:

- (a) A schedule of the species to be planted which is to include varieties of local provenance where possible; and
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- 12 Satisfactory carparking must be provided to cater for the maximum number of vehicles anticipated at any given time; and
- 13 On-site advertising signage within 100 metres of the entrance is limited to a sign not exceeding 1.5m² in area.

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

- A any further off-site advertising signage would require a separate application to the Council;
- B an application for a Building Permit is required. A copy of this Planning Permit is to be provided to the applicant nominated private Building Surveyor prior to commencing their assessment; and
- C this Permit expires two years from the date advice of this decision is received unless the development has been substantially commenced. An extension of time to this period can be granted once only but only if the request is received prior to the expiry of the specified time.”

Voting for the motion

(4)

Cr Barker

Cr Robertson

Cr Van Rooyen

Mrs Schaefer

Voting against the motion

(2)

Cr Downie

Cr Haines

Motion

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 , 2007.

Chairperson

(ks: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