
Minutes of an ordinary meeting of the Development Support Special Committee held in the Council Chamber of the Administration Centre, 19 King Edward Street, Ulverstone on Monday, 13 August 2007 commencing at 6.00pm

Members attendance

Cr Mike Downie (Mayor)
Cr Tony van Rooyen

Cr Brian Robertson (Deputy Mayor)
Mrs Kathy Schaefer

Members apologies

Cr Warren Barker
Cr Ken Haines

Employees attendance

Director Development Services (Mr Jeff McNamara)
Town Planner (Ms Theresia Williams)

CONFIRMATION OF MINUTES OF THE COMMITTEE

46/2007 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 12 June 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 Robertson seconded, “That the minutes of the previous meeting of the Development Support Special Committee held on 12 June 2007 be confirmed.”

Carried unanimously

MAYOR’S COMMUNICATIONS

47/2007 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 van Rooyen moved and Cr Robertson seconded, “That the Mayor’s report be received.”

Carried unanimously

PECUNIARY INTEREST DECLARATIONS

48/2007 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 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.”

No interests were declared at this time.

ADJOURNMENT OF MEETING

49/2007 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

50/2007 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

**51/2007 Two Grouped Houses and Exemption from Development Standards -
Boundary Setbacks at 15 Walker Street, Ulverstone
Application No. DEV2007.6**

The Land Use Planning Group Leader reported as follows:

“The Town Planner has prepared the following report:

<i>‘DEVELOPMENT APPLICATION No.:</i>	DEV2007.6
<i>LOCATION:</i>	15 Walker Street, Ulverstone
<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>	17 July 2007
<i>REPRESENTATIONS EXPIRY DATE:</i>	31 July 2007
<i>REPRESENTATIONS RECEIVED:</i>	Thirty-two
<i>42-DAY EXPIRY DATE:</i>	23 August 2007
<i>DECISION DUE:</i>	23 August 2007

PURPOSE

The purpose of this report is to consider the merits of the representations received in objection to a discretionary planning application for two grouped houses at 15 Walker Street, Ulverstone.

BACKGROUND

In June 2004 the developer was granted a discretionary planning permit for the proposed development. No representations were received to the application when it was advertised in 2004. This permit was not acted upon, and subsequently expired. On 13 July 2007 the application was resubmitted to the Council for assessment.

A location plan is attached as Annexure 1/3.

The report will consider:

- 1 the compliance of the application with the relevant objectives, provisions and development standards of the Scheme;

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- 2 the specific intent of the Residential (RA) - Closed zone; and
 - 3 the merits of the representations received.

DISCUSSION

The subject site is a long, rectangular block, with an east-west axis. It fronts onto Walker Street, and backs onto an empty laneway. This laneway provides shared access to the rear of the lots in the area. On either side the property is flanked by residential lots with single residences. The proposal is for two double-storey townhouses, with setback exemptions requested for the side, rear and front setbacks.

Plans of the proposed development and other application documents are attached as Annexure 2/3.

1 The compliance of the application with the relevant objectives, provisions and development standards of the Scheme.

The proposal includes a request for exemptions from the side, rear and front setbacks. Other than these, the development complies with all provisions and development standards of the Scheme.

When granting an exemption, the Council must be of the opinion that enforcement of a requirement would be impracticable, unreasonable, inequitable and not of sufficient importance in respect to the objectives of the Scheme to warrant enforcement. The Council cannot consider granting an exemption unless it has received a request from the applicant, a submission detailing the exemption and the reasons for the request and why they cannot be met and a statement as to the likely effect of the exemption on adjoining developments or uses. It is this demonstration that is assessed when exemptions are being considered (Clause 7.1.3).

The application documentation includes a letter which covers this request, detailing the exemptions and the reasons. This letter also includes a statement of the likely effects on the adjoining uses. The following information details the requests for exemptions:

Front setback:

The request is for an exemption from 6m to 3.9m. The adjoining houses to the north and the south are considerably less (2.8m and 1.9m respectively).

Side setbacks:

The request is for an exemption from 3.25m to a minimum of 1.6m. Again, the adjoining properties have been developed closer to the boundaries than this.

Rear setback:

The request is for an exemption from 4.5m to a minimum of 2.9m.

2 The specific intent of the Residential (RA) - Closed Zone.

The Residential (RA) - Closed Zone is “intended to accommodate dwelling units primarily on the basis of one dwelling unit per lot, but providing for other forms of housing allowing innovation and higher densities under controlled conditions”.

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. No comments were received from the Planning and Assessment Team that required inclusion in the final determination of the application.

Representations

Thirty-two objection letters were received during the 14-day advertising period, from residents of Walker, Hope and Leven Streets. The letters were in the format of a pro-forma, signed by all representors.

Copies of the representations are attached as Annexure 3/3.

3 The merits of the representations received.

The representations are based on concerns over the failure of the proposal to meet the requirements of Clauses 3.9.2(e), (g) & (h) of the Planning Scheme. Each of the issues raised in the representations have been addressed in the table below.

DETAIL	COMMENT
<p>Does not comply with Clause 3.9.2(e) because:</p> <ul style="list-style-type: none"> • it is too large for the land • will have a detrimental effect on the natural environment of the area • will interrupt the existing streetscape. 	<ul style="list-style-type: none"> • Refer to point 1 under <i>Discussion</i>. • The proposal is for residential development in an established residential area. • The development is proposed to be set back 1.1m further than the house on the north, and 2m further than the house to the south.
<p>Does not comply with Clause 3.9.2(g) because:</p> <ul style="list-style-type: none"> • Loss of daylight • Loss of privacy. 	<ul style="list-style-type: none"> • Clause 3.9.2(g) does not specifically refer to sunlight or privacy. • The information provided in the application documentation maintains that there will not be a significant loss of amenity for adjacent sites.
<p>Does not comply with Clause 3.9.2(h) because adequate landscaping would not be possible.</p>	<ul style="list-style-type: none"> • The plans submitted illustrate likely landscaping locations. • Landscaping is generally addressed by condition on any permit issued for grouped houses.

In summary, the concerns raised by the representors were considered in the original assessment conducted by the Council officers in 2004.

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:

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- 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 requirements of the Scheme and the limitations of the site. The concerns raised in the representations are not considered to be significant enough to warrant refusal.

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 the Development Standards of the Central Coast S.46 Planning Scheme No.1 of 1993 (the Scheme) in respect of strata unit requirements and setback requirements are deemed unreasonable in this case to warrant enforcement, and that Application No. DEV2007.6 be approved subject to the following conditions and restrictions:

- 1 The development generally conforming with the documents submitted with this application unless otherwise altered by subsequent conditions of this permit;
- 2 The provision of vehicular access in accordance with the Council's Standard Drawing No. SD-1003;
- 3 The developer providing upgrading and extension (where necessary) of water, sewer or drainage services to service the subdivision to the satisfaction of the Council's Director Assets & Engineering;
- 4 The provision (where necessary) of water supply and drainage easements;
- 5 Prior to the occupancy of each grouped house, the parking and manoeuvring spaces identified on the submitted plans must be:
 - (a) developed in accordance with the Australian Standard *AS2890.1 Off Street Parking Part 1 – Car Parking Facilities*;

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- (b) paved with bitumen seal, concrete or masonry pavers or another acceptable material; and
 - (c) properly kerbed and drained;
- 6 The parking spaces provided for each grouped house cannot be converted to another use without the issue of a separate planning approval by the Council;
- 7 The visitor parking space must be marked as such;
- 8 The landscaping of the site is to:
- (a) achieve privacy for dedicated open space areas as required by the Planning Scheme;
 - (b) utilise mature plantings, seeds and cuttings of species of local provenance where possible, and
 - (c) ensure the species to be planted and the maintenance regime ensures 70% stem retention rate after two years;
- 9 All landscaping must be completed prior to the occupancy of each grouped house;
- 10 Any damage or disturbance to footpaths, roads, kerbs, nature strips or existing services to be rectified to the satisfaction of the Council's Director Assets & Engineering;
- 11 The Strata Plan will not be certified until such time as the grouped house development is complete;

and that the applicant be further requested to note:

- A the 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;
- B the Strata Title Plan can, due to the individually defined sites, be configured differently to that usually required by Clause 7.9.6 of the Planning Scheme;

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- C any works undertaken within the Road Reservation requires a Road Permit to be issued by the Council's Assets & Engineering Department prior to construction;
 - D applications for Building and Plumbing Permits are required for the development; and
 - E this Permit is based upon the particulars provided with DEV2007.6. Any variation may require an amendment to the Permit or a further application for planning approval.'

The report is supported.”

The Land Use Planning Group Leader reported as follows:

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

■ Cr Robertson moved and Cr van Rooyen seconded, “That the representations of objection be deemed to have insufficient merit on planning grounds to justify refusal of the Application and that the Development Standards of the Central Coast S.46 Planning Scheme No.1 of 1993 (the Scheme) in respect of strata unit requirements and setback requirements are deemed unreasonable in this case to warrant enforcement, and that Application No. DEV2007.6 be approved subject to the following conditions and restrictions:

- 1 The development generally conforming with the documents submitted with this application unless otherwise altered by subsequent conditions of this permit;
- 2 The provision of vehicular access in accordance with the Council's Standard Drawing No. SD-1003;
- 3 The developer providing upgrading and extension (where necessary) of water, sewer or drainage services to service the subdivision to the satisfaction of the Council's Director Assets & Engineering;
- 4 The provision (where necessary) of water supply and drainage easements;
- 5 Prior to the occupancy of each grouped house, the parking and manoeuvring spaces identified on the submitted plans must be:
 - (a) developed in accordance with the Australian Standard AS2890.1 Off Street Parking Part 1 – Car Parking Facilities;

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- (b) paved with bitumen seal, concrete or masonry pavers or another acceptable material; and
 - (c) properly kerbed and drained;
- 6 The parking spaces provided for each grouped house cannot be converted to another use without the issue of a separate planning approval by the Council;
- 7 The visitor parking space must be marked as such;
- 8 The landscaping of the site is to:
- (a) achieve privacy for dedicated open space areas as required by the Planning Scheme;
 - (b) utilise mature plantings, seeds and cuttings of species of local provenance where possible, and
 - (c) ensure the species to be planted and the maintenance regime ensures 70% stem retention rate after two years;
- 9 All landscaping must be completed prior to the occupancy of each grouped house;
- 10 Any damage or disturbance to footpaths, roads, kerbs, nature strips or existing services to be rectified to the satisfaction of the Council's Director Assets & Engineering;
- 11 The Strata Plan will not be certified until such time as the grouped house development is complete;

and that the applicant be further requested to note:

- A the 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;
- B the Strata Title Plan can, due to the individually defined sites, be configured differently to that usually required by Clause 7.9.6 of the Planning Scheme;
- C any works undertaken within the Road Reservation requires a Road Permit to be issued by the Council's Assets & Engineering Department prior to construction;

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- D applications for Building and Plumbing Permits are required for the development; and
- E this Permit is based upon the particulars provided with DEV2007.6. Any variation may require an amendment to the Permit or a further application for planning approval.”

Carried unanimously

Closure

There being no further business, the Mayor declared the meeting closed at 6.10pm.

CONFIRMED THIS DAY OF , 2007.

Chairperson

(jm: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