



Minutes

of an Ordinary Meeting
held at 6.00pm

17 NOVEMBER 2008

Note:

Minutes subject to confirmation at
a meeting of the Council to be held on
15 December 2008

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Minutes of an ordinary meeting of the Central Coast Council held in the Council Chamber at the Administration Centre, 19 King Edward Street, Ulverstone on Monday, 17 November 2008 commencing at 6.00pm.

Councillors attendance

Cr Brian Robertson (Deputy Mayor)	Cr Jan Bonde
Cr Lionel Bonde	Cr John Deacon
Cr David Dry	Cr Cheryl Fuller
Cr Ken Haines	Cr Gerry Howard
Cr Terry McKenna	Cr Tony van Rooyen

Councillors apologies

Councillors Mike Downie and Warren Barker

Employees attendance

General Manager (Ms Sandra Ayton)
Director Assets & Engineering (Mr Bevin Eberhardt)
Director Corporate & Community Services (Mr Cor Vander Vlist)
Director Development Services (Mr Michael Stretton)
Strategic & Executive Services Manager (Mrs Sancia Noble)
Land Use Planning Group Leading (Mrs Theresia Williams)

Media attendance

The Advocate newspaper.

Public attendance

Seven (7) members of the public attended during the course of the meeting.

Prayer

CONFIRMATION OF MINUTES OF THE COUNCIL

382/2008 Confirmation of minutes

The Strategic & Executive Services Manager reported as follows:

“The minutes of the previous ordinary meeting of the Council held on 20 October 2008 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 (L) Bonde moved and Cr Fuller seconded, “That the minutes of the previous ordinary meeting of the Council held on 20 October 2008 be confirmed, subject to the voting on Minute No. 369/2009 be altered to reflect that Cr (L) Bonde voted against the motion and that the motion was carried, and subject further to Minute No. 369/2009 being amended to 369/2008.”

Carried unanimously

COUNCIL WORKSHOPS

383/2008 Council workshops

The Strategic & Executive Services Manager reported as follows:

“The following council workshops have been held since the last ordinary meeting of the Council.

- . 27.10.2008 – Planning Scheme technical amendments and the Vegetation Management Strategy
- . 10.11.2008 – Concert Under The Stars and the Festival and Events Strategy

This information is provided for the purpose of record only.”

- Cr Haines moved and Cr Howard seconded, “That the Manager’s report be received.”

Carried unanimously

MAYOR'S COMMUNICATIONS

384/2008 Mayor's communications

The Deputy Mayor reported as follows:

"I have no communications at this time."

385/2008 Mayor's diary

The Deputy Mayor reported as follows:

"The Mayor has advised that:

'I have attended the following events and functions on behalf of the Council:

- . Ulverstone High School - musical production 'Smithy'
- . Tasmanian Agricultural Productivity Group Ltd - Annual General Meeting (Devonport)
- . Forth community - BBQ to mark completion of Roads to Recovery and sewerage projects
- . Penguin Primary School - planning after-school programs
- . Penguin Online Access Centre - Annual General Meeting
- . All Ships Reunion - welcome function
- . Ulverstone Show Society - annual dinner and Show Day afternoon tea
- . Gunns Plains Community Centre Association Inc. - Gunns Plains Potato Festival
- . Department of Infrastructure, Energy and Resources - community forum re new coastal bus service between Devonport and Ulverstone
- . Wine Industry Tasmania - 2008-2009 Tasmanian Wine Route brochure launch (Devonport)
- . Penguin Senior Citizens Club - birthday celebration
- . Patrick Street Clinic Penguin - opening of the ramp
- . Remembrance Day service
- . Local Government Association of Tasmania - General Meeting and Mayors' Workshop (Devonport)
- . Rotary Club of Ulverstone West Inc. - ArtEx preview luncheon.
- . Ulverstone Judo Club - annual invitational championship."

The Deputy Mayor further reported as follows:

"On behalf of the Mayor I attended the 'Running Pink' event."

■ Cr Deacon moved and Cr (J) Bonde seconded, “That the reports of the Mayor and Deputy Mayor be received.”

Carried unanimously

386/2008 Pecuniary interest declarations

The Deputy Mayor reported as follows:

“Councillors are requested to indicate whether they have, or are likely to have, a pecuniary interest in any item on the agenda.”

The Strategic & Executive Services Manager reported as follows:

“The *Local Government Act 1993* provides that a councillor must not participate at any meeting of a council in any discussion, nor vote on any matter, in respect of which the councillor has an interest or is aware or ought to be aware that a close associate has an interest.

Councillors 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.”

387/2008 Public question time

The Deputy Mayor reported as follows:

“At 6.40pm or as soon as practicable thereafter, a period of not more than 30 minutes is to be set aside for public question time during which any member of the public may ask questions relating to the activities of the Council.

Public question time will be conducted as provided by the *Local Government (Meeting Procedures) Regulations 2005* and the supporting procedures adopted by the Council on 20 June 2005 (Minute No. 166/2005).”

COUNCILLOR REPORTS

388/2008 Councillor reports

The Strategic & Executive Services Manager reported as follows:

“Councillors who have been appointed by the Council to community and other organisations are invited at this time to report on actions or provide information arising out of meetings of those organisations.

Any matters for decision by the Council which might arise out of these reports should be placed on a subsequent agenda and made the subject of a considered resolution.”

Cr Fuller (on behalf of Cr McKenna) reported on a meeting of the Dulverton Regional Waster Management Authority.

Cr Deacon reported on a meeting of the Youth Council.

Cr Haines reported on the Youth Forum held in Launceston.

APPLICATIONS FOR LEAVE OF ABSENCE

389/2008 Leave of absence

The Strategic & Executive Services Manager reported as follows:

“The *Local Government Act 1993* provides that the office of a councillor becomes vacant if the councillor is absent without leave from three consecutive ordinary meetings of the council.

The Act also provides that applications by councillors for leave of absence may be discussed in a meeting or part of a meeting that is closed to the public.

There are no applications for consideration at this meeting.”

DEPUTATIONS

390/2008 Deputations

The Strategic & Executive Services Manager reported as follows:

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

PETITIONS

391/2008 Petitions

The Strategic & Executive Services Manager reported as follows:

“No petitions under the provisions of the *Local Government Act 1993* have been presented.”

COUNCILLORS' QUESTIONS

392/2008 Councillors' questions without notice

The Strategic & Executive Services Manager reported as follows:

“The *Local Government (Meeting Procedures) Regulations 2005* provide as follows:

- '29 (1) A councillor at a meeting may ask a question without notice of the chairperson or, through the chairperson, of –
- (a) another councillor; or
 - (b) the general manager.
- (2) In putting a question without notice, a councillor must not –
- (a) offer an argument or opinion; or
 - (b) draw any inferences or make any imputations –
- except so far as may be necessary to explain the question.
- (3) The chairperson must not permit any debate of a question without notice or its answer.
- (4) The chairperson, councillor or general manager who is asked a question without notice may decline to answer the question.

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- (5) The chairperson may refuse to accept a question if it does not relate to the activities of the council.
 - (6) Questions without notice, and any answers to those questions, are not required to be recorded in the minutes.
 - (7) The chairperson may require a councillor to put a question without notice in writing.'

If a question gives rise to a proposed matter for discussion and that matter is not listed on the agenda, Councillors are reminded of the following requirements of the Regulations:

- '8 (5) Subject to subregulation (6), a matter may only be discussed at a meeting if it is specifically listed on the agenda of that meeting.
- (6) A council by absolute majority... may decide at an ordinary meeting to deal with a matter that is not on the agenda if the general manager has reported –
 - (a) the reason it was not possible to include the matter on the agenda; and
 - (b) that the matter is urgent; and
 - (c) that (qualified) advice has been provided under section 65 of the Act.'

Councillors who have questions without notice are requested at this time to give an indication of what their questions are about so that the questions can be allocated to their appropriate Departmental Business section of the agenda.

Allocation of topic ensured.”

393/2008 Councillors' questions on notice

The Strategic & Executive Services Manager reported as follows:

“The *Local Government (Meeting Procedures) Regulations* 2005 provide as follows:

- '30 (1) A councillor, 7 days before an ordinary meeting of a council or council committee, may give written notice to the general manager of a question in respect of which the councillor seeks an answer at that meeting.

(2) An answer to a question on notice must be in writing.'

It is to be noted that any question on notice and the written answer to the question will be recorded in the minutes of the meeting as provided by the Regulations.

Questions on notice have been allocated to their appropriate Departmental Business section of the agenda.

A question on notice has been received from Cr Fuller and is listed at Minute No. 394/2008.

A question on notice has been received from Cr Fuller and is listed at Minute No. 409/2008.

A question on notice has been received from Cr Fuller and is listed at Minute No. 410/2008."

DEPARTMENTAL BUSINESS

DEVELOPMENT SERVICES

394/2008 Councilor's questions on notice (393/2008 – 17.11.2008)

The General Manager reported as follows:

“The following question on notice has been received from Cr Fuller:

‘Please advise the action of the Council and the Department of Crown Land in response to residents reporting of the alleged reclaiming of land to the west of Johnson’s Beach Penguin, adjacent to the Penguin Caravan Park.’

The following answer is provided by the Director Development Services:

‘Upon receiving complaints from the public in early October concerning the deposition of fill material to the west of Johnson’s Beach, Penguin, adjacent to the Penguin Caravan Park, Council officers undertook an investigation of the matter.

Following the investigation the Environment & Health Group Leader reported as follows:

“Planning

The Land Use Planning Group Leader has advised that the current Planning Scheme does not require a planning permit for land reclamation.

Environmental Management

The *Environmental Management and Pollution Control Act 1994* (EMPCA) defines an environmental nuisance as;

‘the emission of a pollutant that unreasonably interferes with, or is likely to unreasonably interfere with, a person’s enjoyment of the environment’

In terms of the activity at Johnson’s Beach, environmental nuisance would not apply as the deposition of clean fill would

not be deemed to be the emission of a pollutant as clean fill does not have the potential to cause environmental harm.

Section 5 of EMPCA categorises environmental harm into material or serious environmental harm.

Serious environmental harm would not be applicable in this situation as there is no evidence yet of an actual adverse effect on the health or safety of human beings, the environment or loss or property damage of a high impact or on a wide scale.

Material environmental harm requires the following;

- (i) it consists of an environmental nuisance of a high impact or on a wide scale; or
- (ii) it involves an actual adverse effect on the health or safety of human beings that is not negligible; or
- (iii) it involves an actual adverse effect on the environment that is not negligible; or
- (iv) it results in actual loss or property damage of an amount, or amounts in aggregate, exceeding the threshold amount.

The activity occurring at Johnson's Beach does not satisfy the criteria for material environmental harm.

In terms of the material being deposited (i.e. clean fill), regulation 10(2) of the *Environmental Management and Pollution Control (Waste Management) Regulations 2000* does not prohibit the deposition of soil, rock, concrete, bituminised pavement or similar non-putrescible and non-water-soluble material that it is not contaminated with other materials, i.e. metal, vegetation, plastics or materials sourced from a potentially contaminated site.

It would appear that the primary issue is the deposition of clean fill without the permission or approval of the property owner or person responsible for the property.

This is an issue that the property owner and/or tenant will need to raise with the person (s) responsible for the deposition of the materials.”

Following this advice the Director Corporate and Community Services reported as follows:

‘Following the Council’s initial contact with the Owner the matter has been forwarded to Crown Land Services as the owner indicated that:

- . He had Crown permission to undertake “remedial works”; and
- . The works undertaken are within his freehold title.

Crown Land Services requested that all work cease on the site on Friday 17 October 2008 and this request was followed up with an on-site visit by the Property Officer North, Crown Land Services and the Council’s Corporate Administration Officer on Thursday 23 October 2008 at which time Crown Land Services directed that all existing works cease and that access to the area in question be secured. GPS measurements and photographs were taken to assist with any further action by Crown Land Services.

The Council also wrote to the property owner on 27 October 2008 requesting that they cease any further works on the site and to note that they will be required to re-vegetate the site in accordance with the guidelines for coast care management and that the Council may be pursuing recompense under the *Local Government Act 1993*, The *Land Use Planning & Environment Act* and the *Environmental Health Act*.

The Council has since been advised by Crown Land Services that this matter has been referred to the Department’s Prosecution Team for action.

Due to Crown Land Services’ overarching responsibility for the foreshore area the Council is awaiting the outcome of the Department’s actions in this matter prior to considering any further Council action.”

395/2008 Development Services determinations

The Director Development Services reported as follows:

“A Schedule of Development Services Determinations made during the month of October 2008 is submitted to the Council for information. The information is reported in accordance with approved delegations and responsibilities.”

The Strategic & Executive Services Manager reported as follows:

“A copy of the Schedule has been circulated to all Councillors.”

- Cr McKenna moved and Cr Deacon seconded, “That the Schedule of Development Services Determinations (a copy being appended to and forming part of the minutes) be received.”

Carried unanimously

396/2008 Council acting as a planning authority

The Deputy Mayor reported as follows:

“The *Local Government (Meeting Procedures) Regulations 2005* provide that if a council intends to act at a meeting as a planning authority under the *Land Use Planning and Approvals Act 1993*, the chairperson is to advise the meeting accordingly.

The Director Development Services has submitted the following report:

‘If any such actions arise out of Agenda Item 9.3, they are to be dealt with by the Council acting as a planning authority under the *Land Use Planning and Approvals Act 1993*.’”

The Strategic & Executive Services Manager reported as follows:

“Councillors 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.”

- Cr Deacon moved and Cr (L) Bonde seconded, “That the Deputy Mayor’s report be received.”

Carried unanimously

**397/2008 Animal breeding, boarding and training at 5 Sarah Road, Riana
Application No. DEV2008.7**

The Director Development Services reported as follows:

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

<i>' DEVELOPMENT APPLICATION NO.:</i>	DEV2008.7
<i>APPLICANT:</i>	K Pearce
<i>LOCATION:</i>	5 Sarah Road, Riana
<i>ZONING:</i>	Rural Resource
<i>PLANNING INSTRUMENT:</i>	Central Coast Planning Scheme 2005 (the Scheme)
<i>ADVERTISED:</i>	27 September 2008
<i>REPRESENTATIONS EXPIRY DATE:</i>	11 October 2008
<i>REPRESENTATIONS RECEIVED:</i>	Five
<i>42-DAY EXPIRY DATE:</i>	Extension granted until 17 November 2008
<i>DECISION DUE:</i>	17 November 2008

PURPOSE

The purpose of this report is to consider whether the proposal complies with the Central Coast Planning Scheme 2005 (the Scheme). Part of this consideration will include deliberation on the merits of the representations received on the proposed development.

BACKGROUND

A similar proposal was submitted in 2007 and assessed under the previous planning scheme. This also received representations and after consideration it was approved by the Council acting as Planning Authority, subject to conditions. The Council's decision was appealed by a representor. The final advice from the Resource Management and Planning Appeals Tribunal (RMPAT) was that the information lodged for the application was insufficient to constitute a valid application.

The applicant has since undertaken to obtain the information lacking and has subsequently lodged the application currently before Council.

DISCUSSION

The subject land is 3.8 hectares in area, approximately rectangular, oriented east/west and zoned Rural Resource. A location plan is provided as Annexure 1.

The site currently holds a single residence. The proposal is to modify the existing building to accommodate kennels and to replace an existing building to accommodate a cattery. Both are sited on the plan towards the rear of the existing buildings. Also included are separate exercise areas for the dogs and cats (refer to Annexure 2). The outdoor exercise area for the

cats is to the south side of the buildings, whilst the outdoor dog run and exercise area is marked as to the north of the existing buildings.

The development proposed is detailed in the plans provided in Annexure 2.

The Scheme provides that the proposal is for the following use:

“Animal breeding, boarding and training”, defined as “use of land for breeding, boarding or training animals. Examples are a cattery, dog pound, horse stable and kennel.” As the proposal is only for Animal Boarding, that wording will be used where possible for the remainder of this report to allow some brevity.

Animal Boarding is a Discretionary use within the Rural Resource zone. The use class is Prohibited in every other zone.

As per Section 4.9 of the Scheme, in determining an application for a permit, the Council must:

- (a) seek to further the objectives of the *Land Use Planning and Approvals Act 1993*;
- (b) act in accordance with the requirements of a State Policy;
- (c) give effect to any direction from the (Resource Planning and Development) Commission under s.28(1)(a) or s.41(a) of the Act in accordance with s.51(3)(b) and (c) of the Act; and
- (d) give effect to all relevant standards and any other requirements specified in the Scheme;

and must have regard to:

- (e) the objectives for planning as set out in Part A;
- (f) the purpose of the relevant zone;
- (g) the purpose of the relevant schedule;
- (h) any advice, information or recommendation with respect to the application that it seeks from a person who has the necessary qualifications or experience; and
- (i) any representations received as a result of notification under s.57 of the Act.

An application for a planning permit requires that the above considerations be addressed. The Discussion below is divided into two sections: "Objectives of the Act" and the "Specifics of the Scheme". The individual State Policies are not discussed in this report as these have been incorporated into the Scheme.

The discretion in relation to this proposal relates to the use class itself, discussed in more detail below.

Objectives of the Act

This section provides the Objectives of the Resource Management and Planning System of Tasmania and an assessment of the proposal against these objectives:

- (a) *to promote the sustainable development of natural and physical resources and the maintenance of ecological processes and genetic diversity;*

The proposal is situated on land that has been modified over time through activities associated with the existing house and previous agricultural activities. There are no significant natural physical resources, ecological processes or genetic diversity on the area to be developed.

- (b) *to provide for the fair, orderly and sustainable use and development of air, land and water;*

Section 15.0 of the Scheme provides specifics on how to assess this Objective for this proposal.

- (c) *to encourage public involvement in resource management and planning;*

The proposal is subject to advertising as required under the Act, and has received five representations. Relevant public involvement also occurred at the time of the writing of the Scheme.

- (d) *to facilitate economic development in accordance with the objectives set out in paragraphs (a), (b) and (c);*

Guidance on how to assess this is provided by the detail in the Scheme, namely S15.0, assessed later in this report.

- (e) *to promote the sharing of responsibility for resource management*

and planning between the different spheres of government, the community and industry in the State;

In this case, the sharing of responsibility has occurred in the writing of the Scheme, the approval of the Scheme by a State Government body and the participation of the community throughout this process as provided for by the Act.

Given the framework of the planning system in Tasmania, much of the assessment in relation to the Objectives has been completed by the certification of the Scheme by the Resource Planning and Development Commission. The detail of the certified Scheme is assessed later in this report.

Specifics of the Scheme

REFERENCE	DETAIL AND COMMENT (WHERE REQUIRED)
2.1	<p>To achieve the purpose of this planning scheme the following objectives apply:</p> <p><i>(a) Residential, commercial, industrial and community facilities are to be concentrated in the existing urban areas;</i></p> <p>The proposed development is situated outside any existing urban areas and is not for residential development.</p> <p><i>(b) The residential settlement strategy is to reinforce the existing residential pattern and any new residential development is to be the infill or orderly extension of existing urban areas;</i></p> <p>No new residential development is proposed.</p> <p><i>(c) The development of a range of housing types is to be encouraged;</i></p> <p>No new houses are proposed, however the general area surrounding the proposed development includes a mix of houses and rural uses.</p> <p><i>(d) A safe vehicular and pedestrian network throughout the planning area is to be encouraged;</i></p>

	<p>The proposal accesses an existing Council-maintained road. Assets & Engineering staff have assessed vehicular access to and from the site. This is discussed in further detail below.</p> <p><i>(e) Infrastructure services are to be used and extended in an efficient manner;</i></p> <p>The development would be required to provide its' own infrastructure. Comments in relation to this have been provided in the memo from Environment & Health staff.</p> <p><i>(f) Sufficient land and facilities for recreational and open space purposes are to be reserved for the community;</i></p> <p>The proposal has no impact on this Objective.</p> <p><i>(g) The physical and biological quality of surface and groundwater is to be maintained and enhanced;</i></p> <p>Clause 15.3.1 A1 is generally included as a standard condition on any permit issued for development in the Rural Resource zone. Other than that, the Environment & Health staff have provided standard conditions to be placed on any permit issued for such a development.</p> <p><i>(h) Important flora and fauna habitats are to be protected from inappropriate use and development;</i></p> <p>There is no significant vegetation on the area to be developed.</p> <p><i>(i) The environmental qualities of the coastal and river systems are to be protected;</i></p> <p>The proposal has little to no capacity to impact on the coastal and river systems, beyond that addressed by the comments for (g) above.</p> <p><i>(j) Development of land and its use is to be carried out in a way so as to minimise environmental harm;</i></p>
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	<p>The site is zoned for Rural Resource use. For development of Animal Boarding on rural land, the comments for (g) above are most applicable.</p> <p><i>(k) Rural land is to be primarily used for resource development and conservation purposes;</i></p> <p>The site is zoned Rural Resource and has been classified as having a Land Capability of Class 5. 15.4.3 P1 provides detailed guidance on how to determine whether a site is suitable for the proposed use in relation to the Protection of Agricultural Land. There are no known conservation implications. The main potential impact of this development is that of interaction with adjoining uses. These are provided for in the zone provisions, discussed later in this report.</p> <p><i>(l) Rural land is to be protected from inappropriate residential, industrial and commercial development;</i></p> <p>No residential development is proposed.</p> <p><i>(m) Residential use or development in the rural areas is to be encouraged in the existing settlements of North Motton, South Riana and Sprent. The compact and limited growth of these settlements is to occur only within those areas that are zoned Mixed Use;</i></p> <p>The proposal is not for residential development.</p> <p><i>(n) Infill and consolidation of development within the Rural Living zone is to be encouraged;</i></p> <p>The proposal is not within the Rural Living zone.</p> <p><i>(o) The cultural heritage, including Aboriginal relics, protected site and objects and registered places are protected.</i></p> <p>No known Aboriginal relics or values are known of for this site.</p>
15.1	Purpose of Rural Resource Zone.

15.1.1	<p><i>To provide for the sustainable use or development of resources for agriculture, forestry, mining and other primary industries.</i></p> <p>15.4.3 of the Scheme provides specifics on how to apply Purpose 15.1.1, and is covered below in more detail.</p>
15.1.2	<p><i>To promote economic development compatible with agricultural activities and the landscape.</i></p> <p>The proposal for a family business in the Rural Resource zone. The issue of compatibility with agricultural activities is detailed later in this report.</p>
15.1.3	<p><i>To ensure that:</i></p> <ul style="list-style-type: none"> <i>(a) the agricultural potential of agricultural land is protected;</i> <i>(b) the productive capacity of agricultural land and mining is given priority;</i> <i>(c) houses and other non-agricultural use or development do not alienate agricultural land;</i> <i>(d) the fragmentation of rural holdings is prevented;</i> <i>(e) ecological, cultural and landscape values of rural land are protected; and</i> <i>(f) water catchments and sub-surface waters are protected.</i> <p>In response:</p> <ul style="list-style-type: none"> (a) the subject land been classified as “5” by a qualified agronomist. The proposal has no practical capacity to impact agricultural potential of adjoining land. (b) as per (a). (c) the majority of this proposal already physically exists, and has for some time. The capacity for the proposal to alienate agricultural land is practically nil.

	<p>(d) the proposal does not include subdivision.</p> <p>(e) the ecological values of the site are to be protected by conditions in conjunction with the application information if a permit is issued. The cultural values of the area should not be impacted by the proposal. There are no aboriginal cultural relics identified on the site as previously mentioned. In relation to landscape values, the proposal would have relatively little landscape impact given the existing and proposed dwellings.</p> <p>(f) these are protected by 15.3.1 A1, addressed below.</p>
15.2.1	The proposal is for a Discretionary use in the Rural Resource zone, listed as “Animal breeding, boarding and training” in 15.2.1 Table of Use.
15.3.1	<p><i>Objective; To ensure that use does not adversely affect water quality.</i></p> <p>The Acceptable Solution reads as:</p> <p><i>Liquid pollutants must not be discharged:</i></p> <p>(a) <i>within 100m of a watercourse, wetland or other surface waters;</i></p> <p>(b) <i>within 250m of any bore or well which is the source of drinking water for humans or stock;</i></p> <p>(c) <i>within 40m of any private waters in other ownership; or</i></p> <p>(d) <i>into the ground at any place that may contaminate groundwater resources.</i></p> <p>This wording is used as a standard condition on any permit issued in the Rural Resource zone to ensure compliance. This proposal has demonstrated sufficiently that it is capable of complying with such a condition.</p>
15.4.1	<p><i>Subdivision</i></p> <p>No subdivision is proposed.</p>

15.4.2	<p><i>Strata Schemes</i></p> <p>No strata are proposed or existing.</p>
15.4.3	<p><i>Objective: To ensure that development does not:</i></p> <p><i>(1) result in an unreasonable loss of agricultural land; and</i></p> <p><i>(2) unreasonably fetter agricultural use on another lot.</i></p> <p>15.4.3 A1 provides further detail on how to assess compliance with this Objective, specific to the use proposed.</p>
15.4.3 A1	<p><i>No Acceptable Solution.</i></p> <p>Thus, we refer to 15.4.3 P1, which reads as follows:</p> <p><i>The following uses:</i></p> <p><i>(a) Animal breeding, boarding or training;</i></p> <p>...</p> <p><i>must not:</i></p> <p><i>(i) be on prime agricultural land; or</i></p> <p><i>(ii) unreasonably fetter agricultural use on adjoining properties.</i></p> <p>The land subject to the application is assessed as Class 5 agricultural land, as per the land capability report provided with the application documents (Annexure 2). This satisfies 15.4.3 A1 (i).</p> <p>In relation to fettering agricultural use on adjoining properties, the proposed development will be contained within the property boundaries of the developer's land. The surrounding land is a mix of agricultural and "rural lifestyle" uses. Page 12 of the consultant's report provided with the application documentation provides additional discussion of this matter.</p> <p>In conclusion, the proposal is not directly, nor indirectly (e.g. by fettering), converting any land from agricultural use and complies with the requirements of 15.4.3 P1.</p>

DEVELOPMENT SERVICES

15.4.3 A2	A2 relates solely to the development of a dwelling unit. Not relevant to the proposed development.
15.4.3 A3	As for A2.
15.4.3 A4	As for A2.
15.4.3 A5	N/A No Utilities proposed.
15.4.3 A6	N/A Covered by specific provisions above, thus not applicable.
15.4.4	<i>Building design and siting</i> <i>Objective: To ensure that the height, setbacks and siting of buildings respect visual amenity.</i> The specific provisions of 15.4.4 A2, A3 and A4 provide guidance on how to determine compliance with this objective.
15.4.4 A1	N/A Not applicable to the proposed new use.
15.4.4 A2	<i>Other buildings must not exceed a maximum building height of 10m.</i> "Other" relates to any building other than those for Residential, Research and Development, Restaurants, Tourist accommodation or Tourist Operations. The proposal includes existing buildings, to which this provision does not apply. It also includes a new building, which has a maximum height well below 10m. The proposed development complies with this provision.
15.4.4 A3	<i>Buildings must be setback at least:</i> <i>(a) 10m from the frontage and rear; and</i> <i>(b) 3m from any other boundary.</i>

	<p>The proposal complies with both (a) and (b) as demonstrated in the site plan provided in Annexure 2.</p>
15.4.4 A4	<p><i>External cladding of buildings must be non-reflective or be screened from public view.</i></p> <p>This wording is generally utilised as a standard condition on any development permit in the Rural Resource zone.</p>
15.4.5 A1	<p><i>A1 The site must:</i></p> <p><i>(a) Have an access constructed to Central Coast Council Municipal Standard Drawing No. SD-1012;</i></p> <p><i>(b) Be capable of accommodating an on-site wastewater management system; and</i></p> <p><i>(c) Be capable of on-site stormwater absorption and disposal.</i></p> <p>These factors have been assessed by the Council's Assets & Engineering and Environment & Health staff. The following Conditions have been recommended to be applied to any approval:</p> <p>Environment:</p> <ul style="list-style-type: none"> . The activity on the land must be conducted in accordance with the requirements of the <i>Environmental Management and Pollution Control Act 1994</i> and Regulations there under; . Prior to commencing operations, the applicant is to obtain a Kennel Licence in accordance with the <i>Dog Control Act 2000</i>; . All animal waste is to be disposed of via the worm farm onsite, and castings from the worm farm are not to be used on fruit, vegetable or herb plants which are used for human consumption. <p>Engineering staff have advised that the information provided with the application is sufficient and no conditions are required.</p>

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15.4.6 A1	<p><i>A wetland or watercourse must not be filled, drained or adversely affected.</i></p> <p>This is used as a standard condition on any permit issued in the zone.</p>
15.4.6 A2	<p><i>The natural flow of water into or out of a wetland or watercourse must not be adversely affected.</i></p> <p>As per 15.4.6 A1.</p>
15.4.6 A3	<p><i>A wetland or watercourse must not be adversely affected by increased erosion or sedimentation.</i></p> <p>As per 15.4.6 A1.</p>
15.4.6 A4	<p><i>Native vegetation must not be removed or destroyed within 30m of the bank of a wetland or watercourse other than in accordance with the Forest Practices Code 2000.</i></p> <p>As per 15.4.6 A1.</p>
15.4.7	<p><i>Plantations</i> (establishment of).</p> <p>N/A No plantations proposed.</p>
Schedules	<p><i>Schedule 1.0 Road and Rail Line Schedule</i></p> <p>Schedule 1.0 provides that if a proposal is to generate more than 40 additional vehicle movements per day onto Pine Road, a Traffic Impact Assessment (TIA) would be required. The application documentation included a TIA, stating that “the proposed development is likely to generate 22 vehicle movements per day”, meeting this requirement (S1.5.3 A2).</p> <p>As the proposed development would utilise existing accesses, and accesses Pine Road via Sarah Road, the guidance in S1.0 of the Scheme is limited other than that provided in S1.5.3 A2. The Council’s Services Engineer requested additional information of the applicant’s engineering consultant to ensure that the proposed development would meet all reasonable engineering requirements. This information was provided, and has led to the Council’s Services Engineer advising that no additional Engineering conditions are required.</p>

	<p><i>Schedule 2.0 Attenuation Schedule</i></p> <p><i>Schedule 3.0 Bushfire Prone Areas Schedule</i></p> <p><i>Schedule 4.0 Contaminated Land Schedule</i></p> <p><i>Schedule 5.0 Land Stability Schedule</i></p> <p><i>Schedule 6.0 Coastal and Riparian Schedule</i></p> <p><i>Schedule 7.0 Heritage Schedule</i></p> <p><i>Schedule 8.0 Multiple Dwellings Schedule</i></p> <p><i>Schedule 9.0 Home Occupation Schedule</i></p> <p>Not Applicable</p> <p><i>Schedule 10.0 Carparking Schedule</i></p> <p>Complies.</p> <p><i>Schedule 11.0 Signs Schedule</i></p> <p>One sign is proposed as part of the development, and meets the definition for “ground sign” as provided in S11.0. The Acceptable Solution for a ground sign in the Rural Resource Zone is as follows:</p> <p><i>A ground sign must:</i></p> <p><i>(a) relate only to the site;</i></p> <p><i>(b) be on a structure with an area not greater than 6m²; and</i></p> <p><i>have a height not greater than 2m above ground level.</i></p> <p>As detailed on page 16 of the consultant’s report provided with the application, the sign meets this Acceptable Solution. An image of the proposed sign is also included in the application documentation (Annexure 2).</p> <p><i>Schedule 12.0 Telecommunications Schedule</i></p> <p><i>Schedule 13.0 Ulverstone Wharf Schedule</i></p> <p>Not Applicable.</p>
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CONSULTATION

The application was open to public scrutiny for 14 days as required by s.57 of the *Land Use Planning and Approvals Act 1993*. This requirement includes advertising of the development by a notice on the site and also by a notice placed once in a daily local newspaper. Adjoining landowners were notified by mail that they were invited to view the application.

The application was referred to the Council’s Planning and Assessment Team as part of internal procedure. Comments from Assets & Engineering and Environment and Health staff are provided throughout this report. Building Staff advised that a Building Permit would be required for the proposal if approved.

Representation

Five representations were received within the prescribed timeframe.

Copies of the representations are provided as Annexure 3.

The issues raised in the representations are detailed as follows and have been numbered for ease of reference:

#	CONCERN (PARAPHRASED)	COMMENT
1	Increase in traffic.	Compliance with Scheme addressed in discussion on S1.0 above. It is noted that no new accesses are being created, thus much of S1.0 is not applicable. Rather, the possible increase in the number of vehicle movements and their possible impact is applicable. This has been assessed in detail by the Council’s Assets & Engineering staff.
2	Detrimental impact on land values.	Impact on land values are not covered in the Scheme.
3	Possibility of insufficient water for drinking, washing and sanitary application as the property is not on mains water supply.	The developer would be required to maintain sufficient water supply to run the establishment in accordance with the relevant legislation and permits.

4	Noise.	<p>This has been assessed by the Council's Environment & Health staff and the following comments provided in addition to conditions for any permit issued:</p> <p>"The potential for noise nuisance under the <i>Environmental Management and Pollution Control Act 1994</i> and the <i>Dog Control Act 2000</i> has been identified as a potential issue. Discussions with the applicant indicate that they are aware of the potential for noise nuisance from their activities and appreciate that they will need to manage use of the dog exercise area in particular to prevent an environmental nuisance from occurring."</p> <p>These two pieces of legislation provide more protection for the neighbours than the Scheme. In reference to the Scheme, the Rural Resource zone is the only zone where this use is possible and is considered to be generally in keeping with the intent of the zone so long as agricultural land is protected and the development complies with all environmental health and engineering requirements.</p>
5	Smell.	<p>The Rural Resource zone is generally associated with any number of odours. Anything excessive would likely be creating environmental harm and would be covered by separate legislation.</p>
6	Impact on native fauna.	<p>The cats and dogs will be contained, and it will be the developer's responsibility to ensure that they remain so.</p> <p>In relation to the impact of gunshot noise (to control native animals) on the dogs and cats, this is outside the scope of the Scheme.</p>

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7	Developer's lack of commitment to the project.	This is not relevant to the assessment of the application.
8	Parts of the application documentation have been withheld from the public.	All documentation required to be made available to the public as part of the advertising period has been provided as per the legislated requirements of LUPAA. These are attached as Annexure 2.
9	Requirement for the applicant to advise neighbours of their development prior to advertising the application in the Advocate.	There is no legislated requirement for the developer to advise the neighbours. All public notification has been completed in accordance with LUPAA.
10	Questioning the land capability classification.	The agronomists' report provides that the land is Class 5. The specific requirements of the Scheme are detailed under 15.4.3 P1, discussed above. On an additional note, the Land Capability mapping by DPIWE is not suitable for lot-specific classification. The only qualified assessment (as required by the Scheme) received by the Council is that of the agronomist.
11	Apparent conversion of part of the site to parking and exercise area for dogs.	This is addressed by the Scheme provisions for the Rural Resource zone, assessed in detail above.
12	Increase in weed distribution.	The proposal has limited capacity to increase weed distribution beyond what may occur in the normal management of land in a rural area. Landowners are generally responsible for managing weeds in accordance with relevant legislation. More information is available from www.dpiw.tas.gov.au .

13	Impact of the proposal on existing rural/agricultural activities.	Comments as for 11.
14	Inaccurate/incorrect information provided in TIA.	The TIA has been assessed by the Council's Assets & Engineering staff. Further information was requested and provided to their satisfaction, subject to compliance with the relevant standards.
15	Environmental impact of waste water.	This is covered by conditions and complementary legislation on any permit issued for a similar use.

IMPACT ON RESOURCES

This report has the usual impact on resources in assessment of the application and preparation of a report. Additional resourcing of time in the event of a Planning Appeal will not be known unless it occurs.

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

It is recommended that the representations 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 Scheme that Application DEV2008.7 be approved subject to the following conditions and restrictions:

General:

- 1 That the development occur generally in accordance with the information submitted as part of the application unless altered by a subsequent condition of this permit;

- 2 Landscaping and other site treatments are to be implemented, including all paving, drainage, plantings, mulches and reticulation being installed prior to commencing operation;
- 3 Carparking is to be provided at the rate of one per employee, plus one per ten enclosures;
- 4 Liquid pollutants must not be discharged:
 - (a) within 100m of a watercourse, wetland or other surface waters;
 - (b) within 250m of any bore or well which is the source of drinking water for humans or stock;
 - (c) within 40m of any private waters in other ownership; or
 - (d) into the ground at any place or in a manner that may contaminate groundwater resources;
- 5 External cladding of buildings must be non-reflective or be screened from public view;
- 6 A wetland or watercourse must not be filled, drained or adversely affected;
- 7 The natural flow of water into or out of a wetland or watercourse must not be adversely affected;
- 8 A wetland or watercourse must not be adversely affected by increased erosion or sedimentation;
- 9 Native vegetation must not be removed or destroyed within 30m of the bank of a wetland or watercourse other than in accordance with the *Forest Practices Code 2000*;

Environmental:

- 10 The activity on the land must be conducted in accordance with the requirements of *the Environmental Management and Pollution Control Act 1994* and Regulations there under;
- 11 Prior to commencing operations, the applicant is to obtain a Kennel Licence in accordance with the *Dog Control Act 2000*;

- 12 All animal waste is to be disposed of via the worm farm on-site, and castings from the worm farm are not to be used on fruit, vegetable or herb plants which are used for human consumption;

You are requested to note:

- A A Building Permit is required for the proposed development.
- B This permit expires two years from this date unless the development has been substantially commenced.'

The report is supported.”

The Strategic & Executive Services Manager reported as follows:

“A copy of the Annexure referred to in the Land Use Planning Group Leader’s report has been circulated to all Councillors.”

■ Cr Fuller moved and Cr van Rooyen seconded, “That the representations 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 Scheme that Application DEV2008.7 be approved subject to the following conditions and restrictions:

General:

- 1 That the development occur generally in accordance with the information submitted as part of the application unless altered by a subsequent condition of this permit;
- 2 Landscaping and other site treatments are to be implemented, including all paving, drainage, plantings, mulches and reticulation being installed prior to commencing operation;
- 3 Carparking is to be provided at the rate of one per employee, plus one per ten enclosures;
- 4 Liquid pollutants must not be discharged:
 - (a) within 100m of a watercourse, wetland or other surface waters;
 - (b) within 250m of any bore or well which is the source of drinking water for humans or stock;
 - (c) within 40m of any private waters in other ownership; or

- (d) into the ground at any place or in a manner that may contaminate groundwater resources;
- 5 External cladding of buildings must be non-reflective or be screened from public view;
- 6 A wetland or watercourse must not be filled, drained or adversely affected;
- 7 The natural flow of water into or out of a wetland or watercourse must not be adversely affected;
- 8 A wetland or watercourse must not be adversely affected by increased erosion or sedimentation;
- 9 Native vegetation must not be removed or destroyed within 30m of the bank of a wetland or watercourse other than in accordance with the *Forest Practices Code 2000*;

Environmental:

- 10 The activity on the land must be conducted in accordance with the requirements of the *Environmental Management and Pollution Control Act 1994* and Regulations there under;
- 11 Prior to commencing operations, the applicant is to obtain a Kennel Licence in accordance with the *Dog Control Act 2000*;
- 12 All animal waste is to be disposed of via the worm farm on-site, and castings from the worm farm are not to be used on fruit, vegetable or herb plants which are used for human consumption;

You are requested to note:

- A A Building Permit is required for the proposed development.
- B This permit expires two years from this date unless the development has been substantially commenced."

Voting for the motion
(7)
Cr Robertson
Cr Deacon
Cr Dry
Cr Fuller

Voting against the motion
(3)
Cr (J) Bonde
Cr (L) Bonde
Cr Howard

Cr Haines
 Cr McKenna
 Cr van Rooyen

Motion

Carried

398/2008 Extension of an existing non-conforming use (Manufacturing and Processing) at 111 Eastland Drive, Ulverstone, Application No. DEV2008.1

The Director Development Services reported as follows:

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

<i>‘DEVELOPMENT APPLICATION No.:</i>	DEV2008.1
<i>APPLICANT:</i>	De Jong & Sons Constructions P/L
<i>LOCATION:</i>	111 Eastland Drive, Ulverstone
<i>ZONING:</i>	Commercial
<i>PLANNING INSTRUMENT:</i>	Central Coast Planning Scheme 2005 (the Scheme)
<i>ADVERTISED:</i>	27 September 2008
<i>REPRESENTATIONS EXPIRY DATE:</i>	11 October 2008
<i>REPRESENTATIONS RECEIVED:</i>	Three
<i>42-DAY EXPIRY DATE:</i>	Extension granted until 17 November 2008
<i>DECISION DUE:</i>	17 November 2008

PURPOSE

The purpose of this report is to consider whether the proposal complies with the Central Coast Planning Scheme 2005 (the Scheme). Part of this consideration will include deliberation on the merits of the representations received on the proposed development.

BACKGROUND

The business has been operating on site for a number of years. Council staff were made aware of the addition of a new dust extractor to the rear of the building via complaints from nearby residents concerning the noise it created. The applicant advises that the dust extractor has been constructed to replace the old extraction system which was insufficient to remove the dust created by the activities in the building. The application was lodged with the Council once the applicant was made aware that it was required.

DISCUSSION

The subject land is located in the Commercial zone, on Eastland Drive. A location plan is provided as Annexure 1 and the application plans are provided in Annexure 2.

The current use of the site best fits the definition for Manufacturing and Processing in the Scheme, which is as follows:

"use of land for manufacturing, assembling or processing products. It does not include resource processing. Examples are boat building, brick making, cement works, furniture making, glass manufacturing, metal and wood fabrication and textile manufacturing."

The installation of a new structure associated with this use is therefore development and an extension of the existing use.

Manufacturing and Processing is a Prohibited use in the Commercial zone. However the use itself outdates the current Scheme, and the applicant has advised Council staff that the new dust extractor is necessary for the use to continue, meeting the definition of "Existing non-conforming use:

"a use that:

- (a) is prohibited, except in accordance with clause 4.14; and*
- (b) was lawfully existing when this planning scheme, or the amendment that prohibited the use, came into operation."*

Thus, the proposal has been assessed to determine whether it complies with the provisions of 4.14 of the Scheme, "Extension or Transfer of an Existing Non-conforming Use", which reads as follows:

4.14.1 The extension or transfer of an existing non-conforming use from one part of a site to another, and any development necessary for that, is discretionary if the extension or transfer and that development:

- (a) is necessary to the continued operation of the existing non-conforming use;*
- (b) will bring the use or development into greater conformity with this planning scheme, the objectives of the Act and any State Policy when taken together as a whole;*

- (c) *will have a less detrimental impact on adjacent uses and the amenity of the locality; and*
- (d) *will not substantially intensify the existing non-conforming use.*

The assessment of development under 4.14 is not common, and is frequently somewhat more complex than standard development proposals. This application is complicated further by the fact that the development has already occurred. This report covers assessment of the development under the relevant sections of the Scheme, as occurs in every application, as well as under 4.14.

As per Section 4.9 of the Scheme, in determining an application for a permit, the Council must:

- (a) seek to further the objectives of the *Land Use Planning and Approvals Act 1993*;
- (b) act in accordance with the requirements of a State Policy;
- (c) give effect to any direction from the (Resource Planning and Development) Commission under s.28(1)(a) or s.41(a) of the Act in accordance with s.51(3)(b) and (c) of the Act; and
- (d) give effect to all relevant standards and any other requirements specified in the Scheme;

and must have regard to:

- (e) the objectives for planning as set out in Part A;
- (f) the purpose of the relevant zone;
- (g) the purpose of the relevant schedule;
- (h) any advice, information or recommendation with respect to the application that it seeks from a person who has the necessary qualifications or experience; and
- (i) any representations received as a result of notification under s.57 of the Act.

An application for a planning permit requires that the above considerations be addressed. The Discussion below is divided into two sections: "Objectives

of the Act” and the “Specifics of the Scheme”. The individual State Policies are not discussed in this report as these have been incorporated into the Scheme.

Objectives of the Act

This section provides the Objectives of the Resource Management and Planning System of Tasmania and an assessment of the proposal against these objectives:

- (c) *to promote the sustainable development of natural and physical resources and the maintenance of ecological processes and genetic diversity;*

The site and the surrounding lands are extensively modified, in keeping with their zonings. There are no significant natural physical resources, ecological processes or genetic diversity on the area developed.

- (c) *to provide for the fair, orderly and sustainable use and development of air, land and water;*

Section 13.0 of the Scheme provides specifics on how to assess this Objective for this proposal.

- (c) *to encourage public involvement in resource management and planning;*

The proposal is subject to advertising required under the Act, and has received three representations. Relevant public involvement also occurred at the time of the writing of the Scheme.

- (d) *to facilitate economic development in accordance with the objectives set out in paragraphs (a), (b) and (c);*

Guidance on how to assess this is provided by the detail in the Scheme, namely S13.0, assessed later in this report.

- (e) *to promote the sharing of responsibility for resource management and planning between the different spheres of government, the community and industry in the State;*

In this case, the sharing of responsibility has occurred in the writing of the Scheme, the approval of the Scheme by a State Government

body and the participation of the community throughout this process as provided for by the Act.

The developer in this case has installed the new dust extractor to improve working conditions for the staff within the building. Since being made aware that the noise from the extractor was creating a problem for the residents nearby, the developer has made a number of modifications to the extractor, designed to reduce its noise emission levels. More specifically, given the framework of the planning system in Tasmania, much of the assessment in relation to the Objectives has been completed by the certification of the Scheme by the Resource Planning and Development Commission. The detail of the certified Scheme is assessed later in this report.

Specifics of the Scheme

REFERENCE	DETAIL AND COMMENT (WHERE REQUIRED)
2.1	<p>To achieve the purpose of this planning scheme the following objectives apply:</p> <p><i>(a) Residential, commercial, industrial and community facilities are to be concentrated in the existing urban areas;</i></p> <p>The development is within an existing urban area.</p> <p><i>(b) The residential settlement strategy is to reinforce the existing residential pattern and any new residential development is to be the infill or orderly extension of existing urban areas;</i></p> <p>No new residential development is proposed.</p> <p><i>(l) The development of a range of housing types is to be encouraged;</i></p> <p>No new houses are proposed.</p> <p><i>(m) A safe vehicular and pedestrian network throughout the planning area is to be encouraged;</i></p> <p>The site accesses an existing state-maintained road. The Department of Infrastructure, Energy & Resources have confirmed that the development will have no additional impact on their road.</p>

	<p>(n) <i>Infrastructure services are to be used and extended in an efficient manner;</i></p> <p>The development would utilise existing infrastructure.</p> <p>(o) <i>Sufficient land and facilities for recreational and open space purposes are to be reserved for the community;</i></p> <p>The development has no impact on this Objective.</p> <p>(p) <i>The physical and biological quality of surface and groundwater is to be maintained and enhanced;</i></p> <p>The development of the dust extractor has no impact on this Objective.</p> <p>(q) <i>Important flora and fauna habitats are to be protected from inappropriate use and development;</i></p> <p>The site is significantly modified, with no significant flora/fauna habitat.</p> <p>(r) <i>The environmental qualities of the coastal and river systems are to be protected;</i></p> <p>The development has little to no capacity to impact on the coastal and river systems.</p> <p>(s) <i>Development of land and its use is to be carried out in a way so as to minimise environmental harm;</i></p> <p>The <i>Environmental Management and Pollution Control Act 1994</i> (EMPCA) defines environmental harm as “any adverse effect on the environment (of whatever degree or duration) and includes an environmental nuisance”. An environmental nuisance is defined as “the emission of a pollutant that unreasonably interferes with, or is likely to unreasonably interfere with, a person’s enjoyment of the environment”. In order to assist the Council in determining this, the applicant has engaged an acoustic consultant to provide data on the noise being emitted by the dust extractor, and the means of reducing the noise level. The Resource Planning & Appeals Tribunal (J202/99) has found that noise which is emitted at a level</p>
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	<p>of 5dB(A) or greater above ambient background level may be considered to constitute unreasonable interference, while noise which is emitted at a level of 10dB(A) or greater above ambient background level is considered to constitute unreasonable interference. While this measure is based on a now superseded Australian Standard, it is accepted as an objective measure of unreasonable level of noise by environmental management professionals and acoustic consultants alike.</p> <p>When first installed, the dust extractor was creating noise well above 10dba above background noise levels. Since then, the developer has made modifications to reduce the noise impact to below 10dba above background noise levels. Site visits and noise monitoring has demonstrated that the noise has been significantly reduced. The Environment and Health Group Leader has concluded that “The level of noise emitted by the dust extraction unit is 7.4dB(A) above the ambient background noise level for the area. While this is above the 5dB(A) threshold, it is well within the 10dB(A) above the background level. It is considered that this level of noise does not constitute an environmental nuisance in this setting.” The Environment & Health Group Leader’s report is provided in Annexure 4.</p> <p>This is discussed in more detail, specific to application of the provisions of the Commercial zone, under 13.3.1 A1.</p> <p><i>(t) Rural land is to be primarily used for resource development and conservation purposes;</i></p> <p>N/A</p> <p><i>(p) Rural land is to be protected from inappropriate residential, industrial and commercial development;</i></p> <p>N/A</p> <p><i>(q) Residential use or development in the rural areas is to be encouraged in the existing settlements of North Motton, South Riana and Sprent. The compact and limited</i></p>
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	<p><i>growth of these settlements is to occur only within those areas that are zoned Mixed Use;</i></p> <p>N/A</p> <p><i>(r) Infill and consolidation of development within the Rural Living zone is to be encouraged;</i></p> <p>N/A</p> <p><i>(s) The cultural heritage, including Aboriginal relics, protected site and objects and registered places are protected.</i></p> <p>No known Aboriginal relics or values are known of for this site.</p>
13.1	Purpose of Commercial Zone.
13.1.1	<p><i>To provide for large area retailing and service industries.</i></p> <p>The existing use includes a “large area retailing” branch, which relies on the existing non-conforming use of Manufacturing and Processing.</p>
13.1.2	<p><i>To provide limited commercial sites specialising in large outdoor sales areas.</i></p> <p>Not applicable to the existing uses.</p>
13.1.3	<p><i>To ensure that fringe business areas at Eastland Drive, Dysons Lane and Hobbs Parade & South Road Ulverstone provide for uses that could not be accommodated in the Business zone.</i></p> <p>The existing use could not be accommodated in the Business zone. It is noted that if a new proposal for Manufacturing and Processing was applied for under the current scheme it would be necessary to locate it elsewhere, such as in the Industrial zone adjoining this area of Commercial zoned land. The section of Commercial zoning effectively operates as a gradual buffer between the residential land to the west and the industrial land to the east.</p>
13.1.4	<i>To ensure a high standard of building design and presentation on arterial roads to the major urban centre.</i>

	<p>The development of the dust extractor is wholly to the rear of the existing buildings. It does not change nor diminish the visual presentation of the buildings to Eastland Drive.</p>
13.1.5	<p><i>To minimise off site impacts.</i></p> <p>The main off-site impact of the development is the noise created by the dust extractor. Some of the comments for Objective (j) above are relevant. The Scheme provides more specific detail on how to apply this and what is required of the developer to demonstrate compliance in 13.3.1 A1.</p>
13.2	<p>The use is Prohibited in the Commercial zone and is being assessed under 4.14 as an extension to an existing non-conforming use.</p>
13.3	<p><i>Standards for Use in the Commercial zone.</i></p>
13.3.1	<p><i>Emissions</i></p> <p><i>To ensure that emissions do not detract from the amenity of the locality.</i></p> <p>Emissions include noise. It is clear from the complaints received and site visits that the noise of the dust extractor when first installed detracted from the amenity of the locality. It has now been determined that the modifications made to the extractor are sufficient to demonstrate that the noise no longer detracts from the amenity of the locality. 13.1.1 A1 provides guidance on how this is applied.</p>
13.1.1 A1	<p><i>The applicant demonstrates that the use will not cause the emission of a pollutant that would cause environmental harm.</i></p> <p>This Acceptable Solution, coupled with the discussion regarding environmental harm / nuisance under Objective (j) and the Objective under 13.3.1 illustrates that it is the responsibility of the applicant to demonstrate that the noise created by the dust extractor is not detracting from the amenity of the locality. The Council's Environment & Health Group Leader has advised that the level of noise emitted by the dust extraction unit does not constitute an environmental nuisance, thus demonstrating compliance with this provision. The question then becomes whether the extractor complies with the other sections of the Scheme, including 4.14.</p>

13.3.2	<p><i>Land near a Residential Zone</i></p> <p><i>Objective: To ensure that use does not unreasonably reduce residential amenity in a nearby Residential zone.</i></p> <p>The reduction in noise level from the dust extraction unit has been sufficient to mitigate the potential for environmental harm and therefore demonstrates compliance with this Objective. 13.3.2 A1 provides detail on a specific way to measure compliance with this Objective.</p>
13.3.2 A1	<p><i>On a lot within 100m of a Residential Zone a use must not operate before 7am or after 9pm daily.</i></p> <p>If approved, this would form a standard condition for the entire operation on the site, as it is within 100m of a Residential zone.</p>
13.4	<p><i>Standards for Development in the Commercial zone.</i></p>
13.4.1	<p><i>Subdivision</i></p> <p>No subdivision is proposed.</p>
13.4.2	<p><i>Strata schemes</i></p> <p>No strata titling is proposed.</p>
13.4.3	<p><i>Building Design and Siting</i></p> <p><i>Objective: To ensure that the height, setbacks, siting and design of buildings:</i></p> <p><i>(1) complements the streetscape; and</i></p> <p><i>(2) have minimal impact on the locality.</i></p> <p>The dust extractor is behind the existing building, thus there is no impact on the streetscape. Other than the noise, the development has no practical impact on the locality.</p>
13.4.3 A1	<p><i>A building must not exceed a maximum building height of 10m.</i></p>

	The extractor scales at slightly more than 10m above natural ground level. The implications of this in conjunction with 4.14 are discussed later in this report.
<i>13.4.3 A2</i>	<p><i>A Building must be setback at least:</i></p> <p><i>(a) 10m from the front;</i></p> <p><i>(b) N/A</i></p> <p><i>(c) 4m from all other boundaries.</i></p> <p>Complies.</p>
<i>13.4.3 A3</i>	13.4.3 A3 relates solely to the building façade. As this is not affected by the development, the provision is not applicable to this assessment.
<i>13.4.3 A4</i>	As for 13.4.3 A3.
<i>13.4.3 A5</i>	<p><i>Site coverage for other than Utilities must not exceed 60%.</i></p> <p>Complies.</p>
<i>13.4.3 A6</i>	13.4.3 A6 applies to storage areas, and is not applicable to the development.
<i>13.4.4</i>	<p><i>Building access and services</i></p> <p><i>Objective: to ensure that the access to the road servicing the site and services to the site are appropriate for the proposed use.</i></p>
<i>13.4.4 A1</i>	The dust extractor has no impact on the services existing or required for the site.
<i>13.4.5</i>	13.4.5 relates to landscaping at the front of the lot. This is not applicable to the development.
<i>13.4.6</i>	13.4.6 relates to delivery areas and is not applicable to the development.
<i>13.4.7</i>	13.4.7 relates to refuse storage, on which the development has no impact.

<i>Schedules</i>	<p><i>Schedule 1.0 Road and Rail Line Schedule</i></p> <p>The dust extractor does not modify the use of the site in relation to S1.0. It was referred to DIER as a matter of course.</p> <p><i>Schedule 2.0 Attenuation Schedule</i></p> <p><i>Schedule 3.0 Bushfire Prone Areas Schedule</i></p> <p><i>Schedule 4.0 Contaminated Land Schedule</i></p> <p><i>Schedule 5.0 Land Stability Schedule</i></p> <p><i>Schedule 6.0 Coastal and Riparian Schedule</i></p> <p><i>Schedule 7.0 Heritage Schedule</i></p> <p><i>Schedule 8.0 Multiple Dwellings Schedule</i></p> <p><i>Schedule 9.0 Home Occupation Schedule</i></p> <p>Not Applicable</p> <p><i>Schedule 10.0 Carparking Schedule</i></p> <p>Complies.</p> <p><i>Schedule 11.0 Signs Schedule</i></p> <p><i>Schedule 12.0 Telecommunications Schedule</i></p> <p><i>Schedule 13.0 Ulverstone Wharf Schedule</i></p> <p>Not Applicable.</p>
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Other than the use class being prohibited in the zone and a slight excess of the maximum height, the development complies with all Acceptable Solutions.

Following is an assessment of the proposal specific to 4.14. Extracts from the Scheme are provided in *italics* and assessment comments underneath them:

4.14.1 The extension or transfer of an existing non-conforming use from one part of a site to another, and any development necessary for that,

is discretionary if the extension or transfer and that that development:

- (a) *is necessary to the continued operation of the existing non-conforming use;*

The dust extractor unit is necessary to the continued operation of the existing non-conforming use, to provide sufficient occupational health and safety standards for the staff in the building.

- (b) *will bring the use or development into greater conformity with this planning scheme, the objectives of the Act and any State Policy when taken together as a whole;*

In relation to the Acceptable Solutions for the zone, the dust extractor is compliant, other than the overall height of the structure. However, the structure is in accordance with the objectives of both the Act and the Scheme. As the State Policies are integrated into the Scheme, they are not covered in specific detail.

Normally, a variation to height is not possible in the Commercial zone. However, 4.14.1 (b) provides that all objectives be “taken together as a whole”, effectively providing consideration of the extra height. It is noted that the extra height is minimal (less than half a metre) and is neither significant nor solid (e.g. handrails etc) and that the extra height of the extractor is still in compliance with the objectives provided in conjunction with the height restriction.

- (c) *will have a less detrimental impact on adjacent uses and the amenity of the locality; and*

The dust extractor has no impact on adjacent uses or the amenity of the locality, other than noise. The Council’s Environment and Health Group Leader has advised that the level of noise emitted by the dust extraction unit does not constitute an environmental nuisance, thus demonstrating compliance with this provision.

- (d) *will not substantially intensify the existing non-conforming use.*

The dust extractor does not intensify the existing non-conforming use.

In summary, it is demonstrated that the development complies with 4.14.

CONSULTATION

The application was open to public scrutiny for 14 days as required by s.57 of the Land Use Planning and Approvals Act 1993. This requirement includes advertising of the development by a notice on the site and also by a notice placed once in the daily local newspaper. Adjoining landowners were notified by mail that they were invited to view the application.

The application was referred to the Council’s Planning and Assessment Team as part of internal procedure. Comments from Environmental staff are provided throughout this report. Building and Assets & Engineering Staff advised standard conditions and notes should the development be approved.

Representation

Three representations were received within the prescribed timeframe.

Copies of the representations are provided as Annexure 3.

The issues raised in the representations are detailed as follows and have been numbered for ease of reference:

#	CONCERN (PARAPHRASED)	COMMENT
1	Noise - two noises are created. One is constant; the other is a repetitious “bang”.	For the surrounding residents, the main issue is the noise created by the dust extractor. This has been addressed since the issue was first brought to the Council’s attention. Compliance with the Scheme is addressed in the body of the report. In summary, the noise issue is capable of being addressed by condition.
2	The development may be approved without measuring the gains in noise reduction as a result of modifications made.	The gains in noise reduction have been measured. The data provided has been analysed by the Council’s Environment & Health Group Leader and are discussed in Annexure 4.

3	The reduction in noise may not be maintained	In conjunction with the comments for #2 above, the maintenance of the noise reduction can be addressed by condition and the provisions of EMPCA relating to environmental nuisance.
4	Operating the extractor on weekends and after hours.	As per 13.2.2 A1, the Scheme allows for operation within the Commercial zone between 7am and 9pm daily. This, combined with compliance under EMPCA for environmental nuisance fits within the parameters of the Scheme.
5	Part of the unit may be returned to its' original height at a later date.	Returning the unit to the original height would be in violation of any permit issued as a result of this assessment.

IMPACT ON RESOURCES

This report has the usual impact on resources in assessment of the application and preparation of a report. Additional resourcing of time in the event of a Planning Appeal will not be known unless it occurs.

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

It is recommended that the concerns raised in the representations have been addressed by the developer and the recommended conditions and are therefore 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 Scheme that Application DEV2008.1 be approved subject to the following conditions and restrictions:

General:

- 1 That the development occur generally in accordance with the information submitted as part of the application unless altered by a subsequent condition of this permit;
- 2 That the use must not operate before 7am or after 9pm daily;

Environmental:

- 3 The activity endorsed by this permit must be carried out in accordance with the requirements of the *Environmental Management and Pollution Control Act 1994*, and Regulations made there under.
- 4 The ducting to the dust extraction unit must be wrapped with 25mm fibreglass and heavy duty sisalation as recommended by consulting acoustic engineer Mr. Peru Terts;
- 5 The applicant must not in the course of carrying out the activity, without the prior written approval of the Council, change any process, construct, install, alter or remove any structure or equipment or change the nature or quantity of materials used or produced which might cause or increase the issue of a pollutant, or otherwise result in environmental harm;

Engineering:

- 6 Any damage or disturbance to footpaths, road, kerbs, nature strips or existing services to be rectified to the satisfaction of the Council's Director Assets & Engineering at the applicants' expense.'

The report is supported.”

The Strategic & Executive Services Manager reported as follows:

“A copy of the Annexure referred to in the Land Use Planning Group Leader's report has been circulated to all Councillors.”

■ Cr van Rooyen moved and Cr McKenna seconded, “That the concerns raised in the representations have been addressed by the developer and recommended conditions and are therefore 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 Scheme that Application DEV2008.1 be approved subject to the following conditions and restrictions:

General:

- 1 That the development occur generally in accordance with the information submitted as part of the application unless altered by a subsequent condition of this permit;
- 2 That the use must not operate before 7am or after 9pm daily;

Environmental:

- 3 The activity endorsed by this permit must be carried out in accordance with the requirements of the *Environmental Management and Pollution Control Act 1994*, and Regulations made there under;
- 4 The ducting to the dust extraction unit must be wrapped with 25mm fibreglass and heavy duty sisalation as recommended by consulting acoustic engineer Mr. Peru Terts;
- 5 The applicant must not in the course of carrying out the activity, without the prior written approval of the Council, change any process, construct, install, alter or remove any structure or equipment or change the nature or quantity of materials used or produced which might cause or increase the issue of a pollutant, or otherwise result in environmental harm;

Engineering:

- 6 Any damage or disturbance to footpaths, road, kerbs, nature strips or existing services to be rectified to the satisfaction of the Council's Director Assets & Engineering at the applicants' expense."

Carried unanimously

399/2008 Public question time

The time being 6.40pm, the Deputy Mayor introduced public question time.

Questions and replies concluded at 7.09pm.

GENERAL MANAGEMENT

400/2008 Minutes and notes of committees of the Council and other organisations

The Strategic & Executive Services Manager reported as follows:

“The following minutes and notes of committees of the Council and other organisations on which the Council has representation have been received:

- . Youth Engaged Steering Committee – meeting held on 16 October 2008
- . Forth Community Representative Committee – meeting held on 20 October 2008.

Copies of the minutes and notes have been circulated to all Councillors.”

- Cr (J) Bonde moved and Cr Deacon seconded, “That the Manager’s report be received.”

Carried unanimously

CORPORATE & COMMUNITY SERVICES

401/2008 Allocation of an operating budget to the Youth Council

■ Cr Deacon (having given notice) moved and Cr Dry seconded, “That the Council provides the Youth Council with a one-off operating budget of \$1500 until 30 June 2009 in order to assist with the set-up, membership growth and fund-raising endeavours of the Youth Council.”

Cr Deacon, in support of his motion, submitted as follows:

“The Youth Council was instigated and created by the Council and the Council must therefore assume some responsibility for it during its formative period. The allocation of an initial budget will allow the Youth Council to grow and cement its function and membership, thereby becoming more self-sufficient into the future.”

The Director Corporate & Community Services reported as follows:

PURPOSE

This report considers a motion on notice from Cr Deacon requesting that the Council provide funding in the amount of \$1500 until 30 June 2009 in order to assist with the set-up, membership growth and fund-raising endeavours of the Youth Council.

BACKGROUND

Cr Deacon’s supporting comments provide background to his motion.

DISCUSSION

The need for the Central Coast to have a Youth Council was identified through the development of the Central Coast Youth Strategy.

The Council has long acknowledged that we must be responsive to the needs of young people as valued members of our community; their contributions to daily life are vital, and their ideas and energy the key to the current and future vitality of our community.

While determining the scope and charter for the Youth Council it was noted that the reason for these young people joining was to arrange a variety of activities and programs for young people that reside in the Central Coast area, while at the same time improving their skills and knowledge.

The Council has allocated some \$23,000 in the 2008–2009 budget for the purpose of funding youth related activities. This amount was specifically allocated to the Youth Officer’s wages and identified actions from the Youth Strategy Action Plan.

Cr Deacon’s motion calls for seed funding and it is important that the Youth Council recognises the need for self-sufficiency at the earliest possible opportunity.

A small budget of \$500 was created as seed funding in 2008–2009. Any expenditure above this amount was to be funded through revenue raised by the Youth Council. Income generated by the Youth Council through the sale of T-Shirts, car washes and food sales, has to date raised an amount of \$1221.05.

The Council will also be indirectly contributing to the Youth Council through its assistance with the ongoing registration and insurance of a van to be used as a mobile drop-in centre, one of the key projects of the current Youth Council.

CONSULTATION

No consultation is required for this report.

IMPACT ON RESOURCES

An amount of \$500.00 has already been budgeted in the 2008–2009 budget for the activities of the Youth Council. Any additional funding, if agreed, will need to come from within the Cultural Activities Service Activity area and it is suggested that this be re-allocated from either the Community Events Support or the Festive Decorations budget.

CORPORATE COMPLIANCE

The Central Coast Strategic Plan 2004–2009 includes the following objectives:

- Provide opportunities for the development and growth of young people
- Engage young people in community decision making.”

Voting for the motion

(9)

Cr Robertson

Cr (J) Bonde

Cr Deacon

Cr Dry

Cr Fuller

Cr Haines

Cr Howard

Voting against the motion

(1)

Cr (L) Bonde

Cr McKenna
Cr van Rooyen

Motion

Carried

402/2008 Dog Management Policy – refund of infringement notices

■ Cr Fuller (having given notice) moved and Cr Dry seconded, “That the Council investigates whether citizens who have been issued with infringement notices, during the one year period referred to in correspondence between Council staff and the Petitioner, for failing to adhere to Dog Management Policy guidelines while using the Ulverstone beach between Victoria Street and Buttons Creek, can have fines refunded.”

Cr Fuller, in support of her motion, submitted as follows:

“With many residents expressing concerns about the ‘fairness’ of issuing animal infringement notices without sufficient signage across the six restricted and four prohibited beaches through our municipal area, it is appropriate for Council to reassess our guidelines regarding the issuing of fines for these offences.

Pictorial signage has been erected since recent concerns were expressed in a petition presented to Council in October 2008. Some would consider that with the erection of new signage we have indicated that the previous signage was inadequate. We should therefore consider if residents who have been issued with infringement notices have been treated ‘fairly’. Council correspondence to the petitioner, Mrs Di Yaxley, indicated that verbal warnings being given to citizens, not adhering to Dog Management Policy guidelines, had ceased and on the spot fines had commenced ‘in the last year’.

An overall discussion regarding the issuing of warnings and notices will be held as part of a review of Dog Management Policy in 2010. However in the interim I request that Councillors give due consideration to the motion.”

The Director Corporate & Community Services reported as follows:

“PURPOSE

This report considers a motion on notice from Cr Fuller requesting that the Council investigate the refunding of a number of infringement notices issued for failing to adhere to Dog Management Policy guidelines whilst using Buttons Beach between Victoria Street and Buttons Creek.

BACKGROUND

Cr Fuller's supporting comments provide background to her motion.

DISCUSSION

Within the past twelve months the Council has issued eight infringement notices to seven persons for the offence of taking a dog on to Buttons Beach between Victoria Street and Buttons Beach. The Council undertook to increase patrolling of the area in question following complaints from local residents who regularly walk this beach to exercise in a dog-free area, and, as previous verbal warnings had not had the desired effect, it was felt that the issuing of infringement notices was the appropriate action at that time.

During the summer months the area in question is one of the main family beaches in the Central Coast area, as well as being the site of a number of surf carnivals.

Following the advertising of the prohibited area earlier this year the Council undertook to install several new signs at the main entrances to the beach. These descriptive signs are part of the overall signage strategy that was adopted as part of the Dog Management Policy and match the signage that was successfully introduced to West Ulverstone and Turners Beach. This signage meets the Council's legal obligation under the *Dog Control Act 2000*. The further re-introduction of pictorial signage was undertaken not for legal reasons, but because of the ongoing problem with the number of people taking their dogs into the prohibited area.

As with any other social obligation, dog owners are required to be aware of the status of any public area prior to taking their dog into that area.

CONSULTATION

The area in question has been restricted since the introduction of the Council's Dog Management Policy in 2001, which involved a wide range of community consultation prior to the adoption of the Policy. Similarly when the Policy was reviewed in 2005 there were a range of public meetings undertaken for the purpose of identifying restricted areas. The community was given another opportunity to raise any concerns as recently as February 2008 when the Council undertook to formally declare both Picnic Point Beach and part of Buttons Beach as prohibited dog areas.

IMPACT ON RESOURCES

Should the Council decide to refund the infringement notices an amount of \$600.00 would need to be refunded to cover those infringements paid to date.

CORPORATE COMPLIANCE

The Central Coast Strategic Plan 2004–2009 includes the following objectives:

- . Provide transparent, accountable public policy and decision making;
- . Plan for and develop a sustainable community.

CONCLUSION

This report calls for an investigation into the possibility of refunding certain infringement notices. The Council from time to time receives requests for the waiving of infringement notices from members of the public who have received infringement notices and responds appropriately, taking each individual circumstance into account when responding in such cases.

One of the key criteria when considering such requests has always been the matter of equity. It is important that the Council is seen to be treating everyone equally and that no one group is given favourable treatment.”

Cr Dry left the meeting at 7.30pm.

Voting for the motion

(2)

Cr Fuller

Cr Haines

Voting against the motion

(7)

Cr Robertson

Cr (J) Bonde

Cr (L) Bonde

Cr Deacon

Cr Howard

Cr McKenna

Cr van Rooyen

Motion

Lost

403/2008 Corporate & Community Services determinations made under delegation

The Director Corporate & Community Services reported as follows:

“A Schedule of Corporate & Community Services Determinations Made Under Delegation during the month of October 2008 is submitted to the Council for information. The information is reported in accordance with approved delegations and responsibilities.”

The Strategic & Executive Services Manager reported as follows:

“A copy of the Schedule has been circulated to all Councillors.”

- Cr Haines moved and Cr Fuller seconded, “That the Schedule of Corporate & Community Services Determinations Made Under Delegation (a copy being appended to and forming part of the minutes) be received.”

Carried unanimously

404/2008 Contracts and agreements

The Director Corporate & Community Services reported as follows:

“A Schedule of Contracts and Agreements (other than those approved under the common seal) entered into during the month of October 2008 has been submitted by the General Manager to the Council for information. The information is reported in accordance with approved delegations and responsibilities.”

The Strategic & Executive Services Manager reported as follows:

“A copy of the Schedule has been circulated to all Councillors.”

- Cr van Rooyen moved and Cr McKenna seconded, “That the Schedule of Contracts and Agreements (a copy being appended to and forming part of the minutes) be received.”

Carried unanimously

405/2008 Correspondence addressed to the Mayor and Councillors

The Director Corporate & Community Services reported as follows:

“PURPOSE

This report is to inform the meeting of any correspondence received during the month of October 2008 and which was addressed to the ‘Mayor and Councillors’. Reporting of this correspondence is required in accordance with Council policy.

CORRESPONDENCE RECEIVED

The following correspondence has been received and circulated to all Councillors:

- Received 7.10.2008 – Letter from residents surrounding Tobruk Park concerning the vandalism issues at Tobruk Park and suggested solutions.

- . Received 7.10.2008 – Letter from parishioners of Holy Trinity Anglican Church Ulverstone concerning the removal of trees on the naturestrip along Kings Parade, Ulverstone.
- . Received 14.10.2008 – Letter from concerned residents of Harvey’s Road, North Motton regarding the impact of potential logging and associated activities, on the condition and width of Harvey’s Road.
- . Received 20.10.2008 – Letter from a resident in Leith objecting to the imposition of excess water rates.

Where a matter requires a Council decision based on a professionally developed report the matter will be referred to the Council. Matters other than those requiring a report will be administered on the same basis as other correspondence received by the Council and managed as part of the day-to-day operations.”

- Cr Fuller moved and Cr (J) Bonde seconded, “That the Director’s report be received.”

Carried unanimously

406/2008 Common seal

The Director Corporate & Community Services reported as follows:

“A Schedule of Documents for Affixing of the Common Seal for the period 21 October to 17 November 2008 is submitted for the authority of the Council to be given. Use of the common seal must first be authorised by a resolution of the Council.”

The Strategic & Executive Services Manager reported as follows:

“A copy of the Schedule has been circulated to all Councillors.”

- Cr Mckenna moved and Cr Haines seconded, “That the common seal (a copy of the Schedule of Documents for Affixing of the Common Seal being appended to and forming part of the minutes) be affixed subject to compliance with all conditions of approval in respect of each document.”

Carried unanimously

407/2008 Financial statements

The Director Corporate & Community Services reported as follows:

“The following principal financial statements of the Council for the period ended October 2008 are submitted for consideration:

- . Summary of Rates and Fire Service Levies
- . Operating Statement
- . Cashflow Statement
- . Capital Works Resource Schedule.”

The Strategic & Executive Services Manager reported as follows:

“Copies of the financial statements have been circulated to all Councillors.”

■ Cr Deacon moved and Cr (J) Bonde seconded, “That the financial statements (copies being appended to and forming part of the minutes) be received.”

Carried unanimously

408/2008 Rate remissions

The Director Corporate & Community Services reported as follows:

“The following rate remissions are proposed for the Council’s consideration:

PROPERTY NO. 100020.1560
PROPERTY ADDRESS 126 Alexandra Road, Ulverstone
REMISSION \$166.67
REASON Incorrectly rated – property revalued.

PROPERTY NO. 100990.1540
PROPERTY ADDRESS 68 Leighlands Avenue, Ulverstone
REMISSION \$254.14
REASON Incorrectly rated – property revalued.

PROPERTY NO. 101080.0340
PROPERTY ADDRESS 27 Main Street, Ulverstone
REMISSION \$161.66
REASON Incorrectly rated – property revalued.

PROPERTY NO. 101380.0020
PROPERTY ADDRESS 3 Quadrant, Ulverstone
REMISSION \$140.12
REASON Incorrectly rated – property revalued.

<i>PROPERTY NO.</i>	202050.1300
<i>PROPERTY ADDRESS</i>	94 Esplanade, Turners Beach
<i>REMISSION</i>	\$489.24
<i>REASON</i>	Incorrectly rated – property revalued.
<i>PROPERTY NO.</i>	202147.0340
<i>PROPERTY ADDRESS</i>	4 Poynton Close, Turners Beach
<i>REMISSION</i>	\$49.02
<i>REASON</i>	Incorrectly rated – property revalued.
<i>PROPERTY NO.</i>	202200.0860
<i>PROPERTY ADDRESS</i>	6 Turners Beach Road, Turners Beach
<i>REMISSION</i>	\$3531.51
<i>REASON</i>	Incorrectly rated as is no longer caravan park– property revalued.
<i>PROPERTY NO.</i>	302330.0270
<i>PROPERTY ADDRESS</i>	Braddons Lookout Road, Leith
<i>REMISSION</i>	\$341.69
<i>REASON</i>	Incorrectly rated – property revalued.
<i>PROPERTY NO.</i>	302330.0310
<i>PROPERTY ADDRESS</i>	Braddons Lookout Road, Leith
<i>REMISSION</i>	\$546.68
<i>REASON</i>	Incorrectly rated – property revalued.
<i>PROPERTY NO.</i>	403140.0340
<i>PROPERTY ADDRESS</i>	61 Deviation Road, Penguin
<i>REMISSION</i>	\$612.92
<i>REASON</i>	Incorrectly rated – property revalued.
<i>PROPERTY NO.</i>	403420.1180
<i>PROPERTY ADDRESS</i>	52 Main Road,Penguin
<i>REMISSION</i>	\$303.00
<i>REASON</i>	House demolished – property revalued.
<i>PROPERTY NO.</i>	504270.2605
<i>PROPERTY ADDRESS</i>	Castra Road, Abbotsham
<i>REMISSION</i>	\$8.40
<i>REASON</i>	Property split and new AAVs less than previous AAVs.
<i>PROPERTY NO.</i>	505350.1920
<i>PROPERTY ADDRESS</i>	570 Preston Road, North Motton
<i>REMISSION</i>	\$698.36
<i>REASON</i>	Incorrectly rated – House only.

CORPORATE & COMMUNITY SERVICES

PROPERTY NO. 505860.0840
PROPERTY ADDRESS 196 Whitehills Road, Penguin
REMISSION \$69.00
REASON Property receives untreated water (charged 80% of treated water rate).

PROPERTY NO. 505890.0200
PROPERTY ADDRESS 81 Wilmot Road, Forth
REMISSION \$266.86
REASON Incorrectly rated – property revalued

PROPERTY NO. 505890.0760
PROPERTY ADDRESS 240 Wilmot Road, Forth
REMISSION \$1766.24
REASON Incorrectly rated – property revalued.”

The Strategic & Executive Services Manager reported as follows:

“The *Local Government Act 1993* provides that a council, by absolute majority, may grant a remission of all or part of any rates.”

■ Cr Deacon moved and Cr Haines seconded, “That the following remissions be approved:

- . Property No. 100020.1560 – \$166.67
- . Property No. 100990.1540 – \$254.14
- . Property No. 101080.0340 – \$161.66
- . Property No. 101380.0020 – \$140.12
- . Property No. 202050.1300 – \$489.24
- . Property No. 202147.0340 – \$49.02
- . Property No. 202200.0860 – \$3531.51
- . Property No. 302330.0270 – \$341.69
- . Property No. 302330.0310 – \$546.68
- . Property No. 403140.0340 – \$612.92
- . Property No. 403420.1180 – \$303.00
- . Property No. 504270.2605 – \$8.40
- . Property No. 505350.1920 – \$698.36
- . Property No. 505860.0840 – \$69.00
- . Property No. 505890.0200 – \$266.86
- . Property No. 505890.0760 – \$1766.24.”

Carried unanimously and by absolute majority

ASSETS & ENGINEERING

409/2008 Councillors' questions on notice (393/2008 - 17.11.2008)

The General Manager reported as follows:

"The following question on notice has been received from Cr Fuller:

'Please provide details of how the \$13,000 allocated in the 2008-2009 budget estimates for Festive Decorations is to be spent.'

The following answer is provided by the Engineering Projects Group Leader:

'The purchase and installation of decorations will be undertaken on a budget that has remained unchanged since 2006-2007.

Decorations for 2008 are as follows:

Penguin

No change from last year. Large Christmas banners on the blue light poles and small Christmas banners on the banner poles at the entry to the shopping area will be erected.

Ulverstone

Seven strands of replacement garlands (bunting) has been purchased for the lower section of Reibey Street. The current bunting is in very poor condition. Small Christmas banners (14) have been purchased for the blue light poles.

Other decorations are as per last year - festoon lighting on the bridge (which will be installed after a bridge inspection during the first week of December); small Christmas banners on the banner poles in West Ulverstone; installation of existing garlands (if in reasonable condition) in the mid-block.

New garlands require a catenary wire to support the span."

410/2008 Councillors' questions on notice (393/2008 - 17.11.2008)

The General Manager reported as follows:

“The following question on notice has been received from Cr Fuller:

‘Further to your response to Councillors in the October GM’s Desk regarding priorities for Bus shelters to be installed, and the Directors comments that the \$1000 budget per year will only purchase two bus stops (i.e. \$500 per unit). With other parts of our community awaiting bus shelters, please advise why only \$400, of the \$1000 allocated for bus shelters maintenance in the 2007–2008 budget, was spent.’

The following answer is provided by the Asset Management Group Leader:

‘Expenditure for the bus shelter maintenance and bus shelters capital job numbers is shown as follows:

BUS SHELTER MAINTENANCE 10356	BUDGET \$	EXPENDITURE \$
2007–2008	1,000.00	315.74
2008–2009	1,000.00	953.00 (to 04.11.08)

BUS SHELTERS (CAPITAL) 60305	BUDGET \$	EXPENDITURE \$
2007–2008	10,000.00	10,433.70
2008–2009	10,000.00	3,057.87 (to 04.11.08)

The budget for bus shelter maintenance is \$1,000 per annum. In 2007–2008, \$315 was expended; however, in 2008–2009 \$953 has been expended already.

The capital budget for bus shelters is \$10,000 per annum. This allows for the purchase of two shelters, although in recent times the cost of each bus shelter is approximately \$7,000 without installation and sundry works. Therefore, only one per year is affordable.

The Assets & Engineering Department is in the process of undertaking an audit of where the existing shelters are and what type and condition they are in.

It is also proposed to review the bus stop and shelters policy early in the New Year.”

CLOSURE OF MEETING TO THE PUBLIC

411/2008 Meeting closed to the public

The Strategic & Executive Services Manager reported as follows:

“The *Local Government (Meeting Procedures) Regulations 2005* provide that a meeting of a council is to be open to the public unless the council, by absolute majority, decides to close the meeting or part of the meeting because it wishes to discuss a matter (or matters) in a closed meeting and the Regulations provide accordingly.

Moving into a closed meeting is to be by procedural motion. Once a meeting is closed, meeting procedures are not relaxed unless the council so decides.

It is considered desirable that the following matter be discussed in a closed meeting:

- . Minutes and notes of other organisations and committees of the Council;
- . Ulverstone Wharf Redevelopment;
- . Application for waiver of fees; and
- . Tender for construction of road.

This is a matter relating to:

- . information provided to the Council on the condition it is kept confidential; and
- . proposals for the Council to acquire land or an interest in land or for the disposal of land;
- . the personal affairs of any person; and
- . contracts for the supply and purchase of goods and services.”

■ Cr van Rooyen moved and Cr (L) Bonde seconded, “That the Council close the meeting to the public to consider the following matter, it being a matter relating to:

- . information provided to the Council on the condition it is kept confidential;
- . proposals for the Council to acquire land or an interest in land or for the disposal of land;
- . the personal affairs of any person; and
- . contracts for the supply and purchase of goods and services.

and the Council being of the opinion that it is lawful and proper to close the meeting to the public:

- . Minutes and notes of other organisations and committees of the Council; and

-
- . Ulverstone Wharf Redevelopment;
 - . Application for waiver of fees; and
 - . Tender for construction of road.”

Carried unanimously and by absolute majority

The Strategic & Executive Services Manager further reported as follows:

“1 The *Local Government (Meeting Procedures) Regulations 2005* provide in respect of any matter discussed at a closed meeting that the general manager is to record in the minutes of the open meeting, in a manner that protects confidentiality, only the fact that the matter was discussed and is not to record the details of the outcome unless the council determines otherwise.

2 The *Local Government Act 1993* provides that a councillor must not disclose information seen or heard at a meeting or part of a meeting that is closed to the public that is not authorised by the council to be disclosed.

Similarly, an employee of a council must not disclose information acquired as such an employee on the condition that it be kept confidential.

3 In the event that additional business is required to be conducted by a council after the matter(s) for which the meeting has been closed to the public have been conducted, the Regulations provide that a council may, by simple majority, re-open a closed meeting to the public.”

GENERAL MANAGEMENT

412/2008 Minutes and notes of other organisations and committees of the Council

The Strategic & Executive Services Manager reported (reproduced in part) as follows:

“The following minutes and notes of committees of the Council and other organisations on which the Council has representation have been received:

...

The *Local Government (Meeting Procedures) Regulations 2005* provide in respect of any matter discussed at a closed meeting that ‘the general manager –

- (a) is to record in the minutes of the open meeting, in a manner that protects confidentiality, only the fact that the matter was discussed; and
- (b) is not to record the details of the outcome unless the council or council committee determines otherwise.’

The details of this matter are accordingly to be recorded in the minutes of the closed part of the meeting.”

413/2008 Progressing the Redevelopment of the Ulverstone Wharf – Memorandum of Understanding

The Strategic & Executive Services Manager reported (reproduced in part) as follows:

“This report is to recommend that the Council enter into a Memorandum of Understanding (MOU). The purpose of the MOU is to formalise exclusive discussions over a sixty (60) day period regarding the re-development of the Ulverstone Wharf into a precinct that stimulates social, cultural and economic benefits for the region.

...

The *Local Government (Meeting Procedures) Regulations 2005* provide in respect of any matter discussed at a closed meeting that ‘the general manager –

- (b) is to record in the minutes of the open meeting, in a manner that protects confidentiality, only the fact that the matter was discussed; and
- (b) is not to record the details of the outcome unless the council or council committee determines otherwise.’

The details of this matter are accordingly to be recorded in the minutes of the closed part of the meeting.”

DEVELOPMENT SERVICES

414/2008 Request to Waive Planning, Building and Plumbing fees

The Strategic & Executive Services Manager reported (reproduced in part) as follows:

“This report is to recommend that the Council consider a request to waive planning, building and plumbing fees.

...

The *Local Government (Meeting Procedures) Regulations 2005* provide in respect of any matter discussed at a closed meeting that ‘the general manager –

- (c) is to record in the minutes of the open meeting, in a manner that protects confidentiality, only the fact that the matter was discussed; and
- (b) is not to record the details of the outcome unless the council or council committee determines otherwise.’

The details of this matter are accordingly to be recorded in the minutes of the closed part of the meeting.”

ASSETS & ENGINEERING

415/2008 Tenders for construction of portion of South Riana Road

The Strategic & Executive Services Manager reported (reproduced in part) as follows:

“This report is to recommend that the Council consider tenders received for the construction of South Riana Road, South Riana.

...

The *Local Government (Meeting Procedures) Regulations 2005* provide in respect of any matter discussed at a closed meeting that ‘the general manager –

- (d) is to record in the minutes of the open meeting, in a manner that protects confidentiality, only the fact that the matter was discussed; and
- (b) is not to record the details of the outcome unless the council or council committee determines otherwise.’

The details of this matter are accordingly to be recorded in the minutes of the closed part of the meeting.”

Closure

There being no further business, the Deputy Mayor declared the meeting closed at 8.01pm.

CONFIRMED THIS 15TH DAY OF DECEMBER, 2008.

Chairperson

(sn:dil)

Appendices

- Minute No. 395/2008 – Schedule of Development Services Determinations
- Minute No. 403/2008 – Schedule of Corporate & Community Services
Determinations Made Under Delegation
- Minute No. 404/2008 – Schedule of Contracts & Agreements
- Minute No. 406/2008 – Schedule of Documents for Affixing of the
Common Seal
- Minute No. 407/2008 – Financial statements

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 Council 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.

Sandra Ayton
GENERAL MANAGER