

# Minutes

of an Ordinary Meeting  
held at 6.00pm

21 JULY 2008

Note:  
Minutes subject to confirmation at  
a meeting of the Council to be held on  
18 August 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, 21 July 2008 commencing at 6.00pm.**

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**Councillors attendance**

Cr Mike Downie (Mayor)	Cr Brian Robertson (Deputy Mayor)
Cr Warren Barker	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**

Cr Jan Bonde

**Employees attendance**

General Manager (Ms Sandra Ayton)  
Director Assets & Engineering (Mr Bevin Eberhardt)  
Director Development Services (Mr Michael Stretton)  
Executive Services Manager (Mr Graeme Marshall)  
Special Projects/Corporate Planning Manager (Mr Peter Murden)  
Land Use Planning Group Leader (Mrs Theresia Williams)  
Environmental Health Officer (Miss Katie Proctor)  
Recreation Facilities Coordinator (Mr Robert Bourke)

**Media attendance**

The Advocate newspaper.

**Public attendance**

Ten members of the public attended during the course of the meeting.

**Prayer**

The meeting opened in prayer.

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## CONFIRMATION OF MINUTES OF THE COUNCIL

### 231/2008 Confirmation of minutes

The Executive Services Manager reported as follows:

“The minutes of the previous ordinary meeting of the Council held on 16 June 2008 and the minutes of special meetings of the Council held on 5, 17 and 30 June 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 Robertson moved and Cr McKenna seconded, “That the minutes of the previous ordinary meeting of the Council held on 16 June 2008 and the minutes of special meetings of the Council held on 5, 17 and 30 June 2008 be confirmed.”

Carried unanimously

## COUNCIL WORKSHOPS

### 232/2008 Council workshops

The Executive Services Manager reported as follows:

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

- . 23.06.2008 – Professional development
- . 07.07.2008 – Constitutional recognition of local government
- . 14.07.2008 – Settlement and Investment Strategy.

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

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

Carried unanimously

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## MAYOR'S COMMUNICATIONS

### 233/2008 Local Government Award to former Cr Beryl Marshall

The Mayor reported as follows:

“Former Cr Beryl Marshall has been invited to attend the meeting to receive a Local Government Award in recognition of her service as a Councillor for the Central Coast community for a total of 12.4 years from 1993–1998 and 2000–2007.

The President of the Local Government Association of Tasmania (Cr Michael Gaffney) will make the presentation.

I will briefly adjourn the meeting for this purpose.”

Following the presentation and acceptance by Mrs Marshall, the Mayor resumed the meeting.

The Mayor further reported as follows:

“The Director of the Department of Environment, Parks, Heritage and the Arts has advised that the Council’s application for the Roving Curator to assist the Ulverstone History Museum’s development of an interpretation plan has been approved by the Minister.”

### 234/2008 Mayor’s diary

The Mayor reported as follows:

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

- Local Government Association of Tasmania - Annual General Meeting and Annual Conference (Launceston)
- Lions Club of Ulverstone - changeover dinner
- Penguin Bowls Club - Annual General Meeting
- Ulverstone Municipal Band - Annual General Meeting
- Ulverstone High School - art exhibition
- Rotary Club of Ulverstone - changeover dinner
- The Don College - official opening of Home Economics/Hospitality Redevelopment project (Devonport)
- ‘King of Christmas - The Reason for Season’ production launch
- Eagles Nest Retreat II - official opening of tourism accommodation (Sheffield)

- 
- . North Western Fisheries Association - Annual General Meeting
  - . Apex Club of Ulverstone - changeover dinner
  - . Ulverstone Ladies Probus Club - 20th birthday celebrations
  - . Devonport Radio Centre - luncheon to celebrate expansion of Northern Tasmanian Radio Network (Devonport)
  - . Cradle Coast Water - luncheon to celebrate the Board's 100th meeting."

Cr Robertson reported as follows:

"On behalf of the Mayor I attended the 80<sup>th</sup> anniversary dinner of the North West Fisheries Association and the 99<sup>th</sup> annual dinner of the Ulverstone Fire Brigade."

■ Cr Deacon moved and Cr Haines seconded, "That the reports of the Mayor and Cr Robertson be received."

Carried unanimously

### **235/2008 Pecuniary interest declarations**

The 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 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."

Cr Robertson reported as follows:

"I will be declaring an interest in respect of Application No. COM2008.1 at Minute No. 249/2008."

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**236/2008 Public question time**

The 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**

**237/2008 Councillor reports**

The 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 McKenna reported on meetings of the Dulverton Regional Waste Management Authority.

Cr Howard reported on a meeting of the Ulverstone Local History Museum Committee.

Cr Deacon reported on a meeting of the Ulverstone Chamber of Commerce & Industry Inc.

**APPLICATIONS FOR LEAVE OF ABSENCE**

**238/2008 Leave of absence**

The Executive Services Manager reported as follows:

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“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**

#### **239/2008 Deputations**

The 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**

#### **240/2008 Petitions**

The Executive Services Manager reported as follows:

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

### **COUNCILLORS' QUESTIONS**

#### **241/2008 Councillors' questions without notice**

The 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.
  - (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.'

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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 topics ensued.

### **242/2008 Councillors’ questions on notice**

The 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.

Any questions on notice are to be allocated to their appropriate Departmental Business section of the agenda.

No questions on notice have been received.”

**DEPARTMENTAL BUSINESS**

DEVELOPMENT SERVICES

**243/2008 Development Services determinations**

The Director Development Services reported as follows:

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

The Executive Services Manager reported as follows:

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

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

Carried unanimously

**244/2008 Penguin Urban Design Guidelines (15/2008 – 29.01.2008)**

The Director Development Services reported as follows:

*PURPOSE*

The purpose of this report is for the Council to receive the Penguin Urban Design Guidelines (‘the Guidelines’) and consider the recommendations contained therein in future decision making concerning Penguin.

*BACKGROUND*

The Council resolved at the Council meeting held on 19 March 2007 to undertake the Guidelines which were identified in Penguin’s Community Plan in the 2007–2008 financial year (Minute No. 99/2007). A budget allocation of \$70,000 was provided in the 2007–2008 Estimates.

A Councillor workshop was held on 10 December 2007 to consider the scope of a consultants tender brief for the Guidelines. The Council approved the consultants tender brief at the Council meeting held on 29 January 2008 (Minute No. 15/2008).

In February 2008 the Council undertook a tender process to appoint consultants to develop the Guidelines. Fourteen tenders were received, with the successful tenderer being Parsons Brinckerhoff Australia Pty Ltd ('the consultants').

In partnership with the Council, the consultants undertook a six-stage process to develop the Guidelines:

- |                             |  |
|-----------------------------|--|
| Stage 1 – Project inception | (meetings with project reference and control groups) |
| Stage 2 – Site Assessment   | (desktop analysis and site visit)                    |
| Stage 3 – Enquiry by Design | (workshops with stakeholders)                        |
| Stage 4 – Development       | (planning, urban design, transport planning)         |
| Stage 5 – Public Exhibition | (public exhibition of draft Guidelines)              |
| Stage 6 – Final Report      | (Councillor workshop, final report)                  |

Following the development process a Councillor workshop was held on 10 June 2008 with the consultants to consider the final Guidelines.

### *DISCUSSION*

There are currently significant development pressures within Penguin, which appear likely to continue and potentially increase over time. The development of Penguin Urban Design Guidelines is considered to be necessary to progress the future directions and strategic objectives of the Penguin Community Plan. The Guidelines have been developed to provide a suitable set of agreed development guidelines which will be incorporated into the Central Coast Planning Scheme 2005. The Guidelines comprise two principal documents which have been previously circulated to Councillors:

- 1 The Penguin Urban Design Guidelines; and
- 2 The Penguin Urban Design Guidelines Schedule.

The Guidelines aim to manage change in a sustainable way and to achieve the desired objectives for the town's future growth. Recommendations for future urban design in Penguin are included, the implementation of which will be considered by the Council in the future decision making.

The Penguin Urban Design Guidelines Schedule is proposed to be incorporated into the Central Coast Planning Scheme 2005. The Schedule has been developed to provide greater direction and control over development issues such as building design, movement of pedestrians, conservation of heritage values and the improvement of the quality and function of the streetscape. To incorporate the Schedule into the Planning Scheme it will be necessary to undertake a planning

scheme amendment process under the *Land Use Planning and Approvals Act 1993*. The Planning Scheme amendment process is proposed for initiation in the report listed as Minute No. 248/2008 at this meeting and should take approximately six months to complete.

*CONSULTATION*

The consultants undertook significant consultation in the development of the Guidelines. Stakeholders included in the process were: Councillors, Council staff, land owners, businesses and business associations, developers, environmental groups, tourism operators, school students, holiday visitor market, recreational/sporting users and regional, State and Federal Government agencies.

*IMPACT ON RESOURCES*

Aside from the staff costs associated with the development of the Guidelines, the main financial impact to date has been the cost of the consultancy (\$70,000).

Any further impact on resources will be dependent upon future Council decisions concerning the implementation of the recommendations contained in the Guidelines.

*CORPORATE COMPLIANCE*

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

- . Provide effective leadership
- . Enable community participation in strategic directions
- . Plan for and develop a sustainable community
- . Meet our statutory and regulatory obligations.

*CONCLUSION*

It is recommended that the Council receive the Penguin Urban Design Guidelines and consider the recommendations contained therein in future decision making concerning Penguin.”

- Cr Fuller moved and Cr McKenna seconded, “That the Council receive the Penguin Urban Design Guidelines and consider the recommendations contained therein in future decision making concerning Penguin.”

Minute No 244/2008 continued after Minute No. 245/2008...

**245/2008 Public question time (236/2008 –21.07.2008)**

The time being 6.42pm, the Mayor introduced public question time.

There were no questions at this time but one was asked prior to conclusion of the allocated thirty-minute time frame (during Minute No. 249/2008).

**Minute No. 244/2008 continued...**

Motion

Carried unanimously

**246/2008 Council acting as a planning authority**

The 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 Minute Nos 247, 248 and 249/2008, they are to be dealt with by the Council acting as a planning authority under the *Land Use Planning and Approvals Act 1993*.’

The 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 Robertson moved and Cr Deacon seconded, That the Mayor’s report be received.”

Carried unanimously

**247/2008 Development of Animal Breeding and Residential (house) at 308 Mannings Jetty Road, North Motton – Application No. DEV2007.133**

The Director Development Services reported as follows:

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

<i>' DEVELOPMENT APPLICATION NO.:</i>	DEV2007.133
<i>APPLICANT:</i>	K Dixon
<i>LOCATION:</i>	308 Mannings Jetty Road, North Motton
<i>ZONING:</i>	Rural Resource
<i>PLANNING INSTRUMENT:</i>	Central Coast Planning Scheme 2005
<i>ADVERTISED:</i>	7 June 2008
<i>REPRESENTATIONS EXPIRY DATE:</i>	22 June 2008
<i>REPRESENTATIONS RECEIVED:</i>	One
<i>42-DAY EXPIRY DATE:</i>	15 July 2008
<i>DECISION DUE:</i>	21 July 2008 (extension of time granted)

#### *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 representation received on the proposed development.

#### *BACKGROUND*

The subject land is located on the eastern side of Mannings Jetty Road, North Motton. It is just over 3ha in size and roughly rectangular.

A location plan is provided as Annexure 1.

The following extract from the planning consultant's report provided with the application describes the property as "characterised by a gentle slope of 7% on the smaller southern section of the property and then markedly increases with a downward slope of 25% on the remainder of the larger northern section of the property....primarily been cleared of tree cover and sown in grasses for livestock grazing purposes. Mature trees....line the road frontage on the southern half and also along the southern boundary adjacent to the internal drive for the neighbouring property to the east." The report continues with a description of additional trees which create a shelter belt providing protection to the "upper southern portion of the land. A small fruit orchard exists within this area. Adjacent to the orchard and on the other side of the internal line of trees is a hay shed. The grazing area has recently been upgraded with the replacing of fencing and gates for the separate paddocks. Watering lines and horse troughs have been provided by tapping into a bore on the western side of the property near the road frontage."

The report continues to describe the surrounding area as consisting "of a number of similar sized properties, straddling either side of Mannings Jetty

Road, many containing houses. Further distant are larger farming properties and heavily vegetated properties.”

The descriptions from this report are accepted after site inspection.

*DISCUSSION*

The Scheme provides that the proposal is for two uses:

- . “Animal breeding, boarding or training”, defined as “use of land for breeding, boarding or training animals. Examples are a cattery, dog pound, horse stable and kennel”. This is a Discretionary use within the Rural Resource zone; and
- . “Residential”, defined as “use of land for one or more dwellings providing long term accommodation”. The Scheme provides examples, including “house”, as per this proposal, which is a Discretionary use within the Rural Resource zone.

The application documentation is provided as Annexure 2.

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.



The detail of this proposed development requires that a large number of these considerations must be addressed in greater detail than is normally necessary. In order to make this assessment as clear as possible, it is provided in sections throughout this Discussion. These have been listed as the Objectives of the Act; the specifics of the Scheme, including the Protection of Agricultural Land (PAL) Policy; and, the Representation received.

#### *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;*

“Sustainable development” in this case means “managing the use, development and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic and cultural well-being and for their health and safety while:

- sustaining the potential of natural and physical resources to meet the reasonably foreseeable needs of future generations;
- safeguarding the life-supporting capacity of air, water, soil and ecosystems;
- avoiding, remedying or mitigating any adverse effects of activities on the environment.”

For this proposal, the possible impacts on sustainable development range from, but are not limited to:

- waste disposal from the proposed house and water quality impacts. These are generally assessed and handled through various standard conditions on any permit granted, such as the requirement for an application for an onsite wastewater management system in accordance with the relevant Australian/New Zealand Standard. Similarly, water quality is addressed in clause 15.3.1 of the Scheme as well as other legislation.

- strategic impacts on agricultural land. Strategic impacts on agricultural land are specifically addressed under the PAL Policy, which has been incorporated into the 2005 Scheme and thus approved by the Resource Planning and Development Commission (the Commission) earlier this year. The PAL Policy is discussed at greater length later in this report.

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

Section 15 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 has been subject to the normal advertising period required under the Act. This is discussed in the “Consultation” section of this report.

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

The proposal would be for a small-scale business operation. Guidance on how to assess this is provided by the detail in the Scheme, 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 planning scheme by the Council, the approval of the planning scheme by a State Government body and the participation of the community and industry 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 planning scheme by the Commission. The detail of the certified Scheme is assessed later in this report.

*Specifics of the Scheme*

Extracts from the Scheme are provided in italics. Comments are in plain text.

REFERENCE	DETAIL AND COMMENT (WHERE REQUIRED)
2.1	<p><i>To achieve the purpose of this planning scheme the following objectives apply:</i></p> <p><i>(a) Residential, commercial, industrial and community facilities are to be concentrated in the existing urban areas;</i></p> <p>The proposal includes residential development and is not in an existing urban area. The Scheme provides for assessment of residential development in the proposed Rural Resource zone under the specific zone provisions, which are addressed later in this report.</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>Comments as per (a) above.</p> <p><i>(c) The development of a range of housing types is to be encouraged;</i></p> <p>The proposal is for a small, single house. The relevant zone provisions provide more specific guidance on what is acceptable in this zone and are addressed later in this report.</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. The feedback from engineering staff on how to ensure safe use of this access if a permit is granted is provided later in this report.</p> <p><i>(e) Infrastructure services are to be used and extended in an efficient manner;</i></p> <p>Council infrastructure in this case is limited to the road.</p>

	<p>Standard advice from environment &amp; health and engineering staff is provided in response to 15.4.5 A1.</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>Refer to comments for 15.3.1 below.</p> <p><i>(h) Important flora and fauna habitats are to be protected from inappropriate use and development;</i></p> <p>The proposal has no impact on this Objective.</p> <p><i>(i) The environmental qualities of the coastal and river systems are to be protected;</i></p> <p>Refer to comments for 15.4.6 below.</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> <p>Relevant in this case are the requirements specific to wetlands and watercourses and the PAL Policy. These are addressed in further detail later in the report.</p> <p><i>(k) Rural land is to be primarily used for resource development and conservation purposes;</i></p> <p>The Scheme separates the proposed use (Animal breeding, boarding and training) out from Resource Development. Thus the proposal does not comply with this Objective.</p> <p><i>(l) Rural land is to be protected from inappropriate residential, industrial and commercial development;</i></p> <p>15.4.3 of the Scheme provides guidance on what constitutes “inappropriate residential...development”. The proposal does not comply with all of these provisions, and therefore does not comply with this Objective.</p>
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	<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 approximately 2.5km north of the Mixed Use zone that makes up North Motton. The proposal therefore does not comply with residential development as a single entity. However, the Scheme provides for Residential development as part of an agricultural use, which is assessed later in this report under 15.4.3.</p> <p><i>(n) Infill and consolidation of development within the Rural Living zone is to be encouraged;</i></p> <p>The house provisions of the Rural Resource, not the Rural Living, zone apply for this proposal.</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. It has been used in the past for agricultural land, and thus is modified to a degree that would likely leave no relics. The proposal complies with this Objective.</p>
<p>15.1</p>	<p><i>Purpose of the Rural Resource Zone</i></p> <p>The Scheme has been certified as being in accordance with the PAL Policy and in this case the Performance Criteria provide the method by which to test for sustainable use or development. Where specific comment is required directly, it has been provided below, otherwise the Performance Criteria are assessed later in this report.</p> <p>The application documentation includes a land capability report by a qualified agronomist and a supporting argument in the professional consultant planner's report. Copies of these reports are provided as part of Annexure 2 and should be read in the context of this assessment report to the Council.</p>

<p>15.1.1</p>	<p><i>To provide for the sustainable use or development of resources for agriculture, aquaculture, forestry, mining and other primary industries.</i></p> <p>Page 7 of the Land Capability Report provided with the application reports that the proposal is “an agricultural activity”. The PAL Policy also provides a definition that is useful, which is discussed in more detail below.</p>
<p>15.1.2</p>	<p><i>To promote economic development compatible with agricultural activities and the landscape.</i></p> <p>The planning scheme provisions specific to the Rural Resource zone provide additional guidance on what economic development is compatible with agricultural activities and the landscape. These are discussed below.</p>
<p>15.1.3</p>	<p><i>To ensure that:</i></p> <ul style="list-style-type: none"> <li><i>a the agricultural potential of agricultural land is protected;</i></li> <li><i>b the productive capacity of agricultural land and mining is given priority;</i></li> <li><i>c houses and other non-agricultural use or development do not alienate agricultural land;</i></li> <li><i>d the fragmentation of rural holdings is prevented;</i></li> <li><i>e ecological, cultural and landscape values of rural land are protected; and</i></li> <li><i>f water catchments and sub-surface waters are protected.</i></li> </ul> <p>Relevant comments are that the proposal is for development of prime agricultural land and includes no subdivision. Sections 15.4.3 and 15.4.4 of the Scheme, assessed below, provide more detail on compliance with the purposes defined in 15.1.3.</p>
<p>15.2</p>	<p>The proposal is for two discretionary uses as defined in the Scheme as Animal Breeding, boarding or training, and Residential (house).</p> <p>It is noted that Animal breeding, boarding or training was proposed to be a Permitted use in the Rural Resource zone in a previous draft of the Scheme, but was altered to</p>

	Discretionary in response to a representation to the Draft Scheme.
15.3.1	<p><i>Objective: To ensure that use does not adversely affect water quality.</i></p> <p><i>A1 Liquid pollutants must not be discharged:</i></p> <ul style="list-style-type: none"> <li><i>a within 100m of a watercourse, wetland or other surface waters;</i></li> <li><i>b within 250m of any bore or well which is the source of drinking water for humans or stock;</i></li> <li><i>c within 40m of any private waters in other ownership;</i></li> <li><i>d into the ground at any place or in a manner that may contaminate groundwater resources.</i></li> </ul> <p>This is addressed on pages 6 and 7 of the planning consultant's supporting report. In addition, it is standard to include this clause as a condition on any permit issued for development in this zone.</p>
15.4.1	Not relevant. 15.4.1 relates to subdivision only.
15.4.2	Not relevant. 15.4.2 relates to strata titling only.
15.4.3	<p><i>Objective: To ensure that development does not:</i></p> <ul style="list-style-type: none"> <li><i>1 result in an unreasonable loss of agricultural land; and</i></li> <li><i>2 unreasonably fetter agricultural use on another lot.</i></li> </ul> <p>As Animal breeding, boarding or training is a Discretionary use, there is no Acceptable Solution. It is therefore necessary to assess the proposal under the relevant Performance Criteria.</p>
15.4.3 P1	<p><i>Animal breeding, boarding or training must not:</i></p> <ul style="list-style-type: none"> <li><i>(i) be on prime agricultural land; or</i></li> <li><i>(ii) unreasonably fetter agricultural use on adjoining properties.</i></li> </ul> <p>15.4.3 P1 effectively determines that the proposed use</p>

	<p>(Animal breeding) is not an agricultural use requiring prime agricultural land.</p> <p>In relation to 15.4.3 P1 (i), the proposal includes a land capability report stating that this is prime agricultural land, therefore the proposal does not comply with the Performance Criteria of the planning scheme. Page 8 of the planning consultant's report is worthy of further discussion which is provided below.</p> <p>Pages 8 and 9 of the planning report provided with the application include comments on the impact of the development on adjoining properties in response to 15.4.3 P1 (ii).</p>
<p><i>15.4.3 A2</i></p>	<p><i>A dwelling unit on a lot less than 50ha must:</i></p> <ul style="list-style-type: none"> <li><i>a only be developed on a lot which was in separate ownership from all adjoining lots at 6 October 2000;</i></li> <li><i>b not be sited on prime agricultural land; and</i></li> <li><i>c not be closer than 100m to agricultural land on another lot.</i></li> </ul> <p>As the proposed house is to be sited in prime agricultural land, the proposal fails to meet 15.4.3 A2 and must be assessed under the Performance Criteria 15.4.3 P2.</p>
<p><i>15.4.3 P2</i></p>	<p><i>A dwelling unit must:</i></p> <ul style="list-style-type: none"> <li><i>a be on a lot of a size and configuration impractical for agricultural use;</i></li> </ul> <p>The Scheme states that an agricultural use is "as defined in the State Policy on the Protection of Agricultural Land 2000". The PAL Policy itself defines an "agricultural use" as "animal and crop production".</p> <p>There is debate over whether horse breeding constitutes an agricultural use or not. The Scheme confuses the issue by the detail of 15.4.3 P1 and P3 and the definitions of Animal Breeding, boarding and training, and Resource Development.</p> <p>It is concluded that horse breeding complies with the PAL Policy definition of "animal production" and therefore an</p>



	<p>“agricultural use”. Thus the lot can be used for an agricultural use and the proposal does not comply with this clause.</p> <p>b <i>be on a lot that is practically incapable of inclusion with any other agricultural land whether in the same ownership or not; and</i></p> <p>The consultant’s report raises past discussions with adjoining owners in relation to possible purchase of the land. The representation states that the land is capable of inclusion with other agricultural land.</p> <p>Site inspection reveals that the lot is capable of inclusion with other agricultural land and therefore does not comply with this provision.</p> <p>c <i>be unlikely to fetter agricultural use on another lot (whether in the same ownership or not) taking into consideration;</i></p> <p><i>(i) the topography of the land;</i>  <i>(ii) the location of water catchments;</i>  <i>(iii) buffers created by natural or other features; and</i>  <i>(iv) the location of dwelling units on adjoining properties.</i></p> <p>The consultant’s report supporting the application, and the representation address these in more detail, and provide conflicting points of view.</p> <p>Many of the points raised by both sides are valid. The most qualified comments are provided by the agronomist on page 7 of his report. The conclusion in that report is that the distance between the proposed house and the agricultural uses on the other lot is sufficient and does not unreasonably fetter those uses.</p> <p>Thus, it is concluded that the proposed development is unlikely to fetter agricultural use on another lot and therefore complies with this provision.</p>
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	<p>In summary for 15.4.3P2, the proposal fails P2 (a) &amp; (b), but complies with (c).</p> <p>It is worth noting that P2 requires in essence that a house be on land that is not being used for, nor capable of being used for, agricultural purposes. The proposal meets the definition of agricultural uses under the PAL Policy. Thus there is a conflict between 15.4.3 P1, P2 and P3 (refer to discussion of P3 below for detail) of the Scheme.</p>
<p>15.4.3 A3</p>	<p><i>Dwelling units must be on a lot with a minimum area of at least 50ha on which there is no other dwelling unit.</i></p> <p>The lot is smaller than 50ha and therefore the Performance Criteria apply.</p>
<p>15.4.3 P3</p>	<p><i>A dwelling unit must:</i></p> <p style="padding-left: 40px;"><i>a be integral and subservient to:</i></p> <p style="padding-left: 80px;"><i>(i) Animal breeding, boarding or training;</i></p> <p style="padding-left: 80px;"><i>(ii) intensive horticulture;</i></p> <p style="padding-left: 80px;"><i>(iii) intensive livestock production; or</i></p> <p style="padding-left: 80px;"><i>(iv) tourist operation;</i></p> <p>The proposed house would be integral and subservient to Animal breeding as defined by the Scheme and complies with this provision.</p> <p style="padding-left: 40px;"><i>b not be on prime agricultural land unless the dwelling unit is within the curtilage of existing Resource development buildings;</i></p> <p>The proposal is for the house to be constructed on prime agricultural land, within the curtilage of an existing hay shed. The hay shed would be under the use class of Resource development, therefore the proposal complies with this provision.</p> <p style="padding-left: 40px;"><i>c be unlikely to fetter agricultural use on that or any other lot taking into consideration:</i></p> <p style="padding-left: 80px;"><i>(i) the topography of the land;</i></p> <p style="padding-left: 80px;"><i>(ii) the location of water catchments;</i></p>

	<p>(iii) <i>buffers created by natural or other features; and</i></p> <p>(iv) <i>the location of dwelling units on adjoining properties; and</i></p> <p>Refer to comments for 15.4.3 P2 (c).</p> <p><i>(d) developed after all buildings and infrastructure associated with use to which it is integral and subservient, have been approved and established.</i></p> <p>Much of the buildings and infrastructure required for the proposal already exist. If a permit were granted for a use under this clause, it would be standard practice to include a condition using the wording from 15.4.3 P3 (d).</p> <p>There appears to be a conflict between 15.4.3 P1 and P3 of the Scheme. P1 states that the proposed use of Animal breeding must not be on prime agricultural land. P3 on the other hand provides that a house is allowable under certain conditions, one of which is that a house is integral and subservient to Animal breeding, which the proposal complies with. Read in context with the remainder of P3, it can be determined that Animal Breeding is possible on prime agricultural land.</p> <p>Standard practice in cases where planning requirements conflict is that the specific is to override the general. In this case it could be argued that neither P1 or P3 is more specific than the other, however it is certain that the use of the wording “must not be on prime agricultural land” in P1 is more explicit than the wording of P3 allowing animal breeding on prime agricultural land, subject to certain requirements.</p> <p>Therefore, the proposal cannot comply with all of the relevant provisions of the Scheme, namely 15.4.3 P1; 15.4.3 P2 (a) and (b).</p>
<p>15.4.3 P4, P5 &amp; P6</p>	<p>Not relevant to proposal.</p>
<p>15.4.4 A1, A2, A3 &amp; A4</p>	<p><i>Objective: To ensure that the height, setbacks and siting of buildings respect visual amenity.</i></p>

	The proposal complies with all of these Acceptable Solutions as per the site plan and pages 16 and 17 of the planning consultant's report.
15.4.5	<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>
15.4.5 A1	<p>The site has been assessed for access and onsite wastewater disposal as required by the Scheme. The following information was provided by engineering and environment &amp; health staff to inform any decision made on the proposal:</p> <ul style="list-style-type: none"> <li>- The developer must provide an unsealed vehicular access in accordance with the Council's Standard Drawing SD-1012;</li> <li>- Any damage or disturbance to footpaths, roads, kerbs, nature strips or existing services is to be rectified to the satisfaction of Council's Director Assets &amp; Engineering at the applicant's expense;</li> <li>- The developer must minimise the disturbance of vegetation within the Council Road Reserve;</li> <li>- Works within the existing road are undertaken by the Council at the developer's cost unless alternative arrangements are approved by the Council. Also, any works undertaken within the Road Reservation require a Road Permit to be issued prior to the commencement of construction. An application form can be obtained from the Assets &amp; Engineering Department, to which a fee applies;</li> <li>- A separate application detailing the design and type of onsite wastewater management system is required at the building application stage. Approval of a specific system will be subject to a site assessment by the Council's Environmental Health Officer. It is recommended that the applicant contact the Council's Environmental Officer prior to commencement of site or road works to ensure an adequate area remains for installation of a wastewater system;</li> </ul>

	<p>- Any onsite wastewater system for the proposed dwelling must be installed in accordance with the <i>Australian/New Zealand Standard AS/NZS 147:2000 - Onsite Domestic Wastewater Management.</i></p>
15.4.6	<p><i>Objective: To ensure that wetlands and watercourses are protected from being adversely affected by use or development.</i></p> <p>Acceptable Solutions A1, A2, A3 and A4 are addressed on page 18 of the planning consultant's report.</p>
15.4.7	<p>Not relevant to proposal.</p>
<i>Schedules</i>	<p>Schedule 1: Complies</p> <p>Schedule 2: Not applicable</p> <p>Schedule 3: Complies</p> <p>Schedule 4: Not applicable</p> <p>Schedule 5: Not applicable</p> <p>Schedule 6: Not applicable</p> <p>Schedule 7: Not applicable</p> <p>Schedule 8: Not applicable</p> <p>Schedule 9: Not applicable</p> <p>Schedule 10: Two carparking spaces would be required for the house and one per employee plus one per ten enclosures for Animal breeding.</p> <p>Schedule 11: No signage is mentioned in the application. Any signage in the Rural Resource zone would require a planning permit.</p> <p>Schedule 12: Not applicable</p> <p>Schedule 13: Not applicable</p>

*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.

*Representation*

One representation was received within the prescribed time, signed by adjoining landowners.

A copy of the representation is provided as Annexure 3.

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

#	CONCERN (PARAPHRASED)	COMMENT
1	Any house on this lot is required by the Scheme to be 100m from agricultural land on another lot. The house site is less than 100m from our commercial agricultural land.	The concern referenced relates to 15.4.3 A2 of the Scheme. This is commented on earlier in this report and includes assessment of the Performance Criteria as the proposal does not comply with 15.4.3 A2.
2	The land has previously been used for agricultural purposes and is capable of being used for them again.	Refer to comments for 15.4.3 P2 in the assessment.
3	The Scheme requires natural buffers to be considered. The current owner has cleared a pre-existing natural buffer.	Noted and refer to comments for 15.4.3 P2 (c).
4	Possible changes to ground spraying rules may impact on the representors' ability to spray their land.	Noted. There are proposed changes to the spraying legislation. The proposed changes are open to public comment to the State Government until 28 July 2008.

		<p>This aspect is addressed in detail by the agronomist on page 7 of his report.</p> <p>Whilst this section of the representation relates to State legislation, it is relevant to this assessment in the context of 15.4.3 P2 (c), addressed above.</p>
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The application was referred to the Council’s Planning and Assessment Team as part of internal procedure. Comments from engineering and environmental staff have been provided above. The building staff advised that a Building Permit would be required for the proposed house if approved. All of the comments provided can be considered standard for such a proposal.

*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.

In addition, it is likely that the apparent incompatibility within the Scheme will be reviewed and assessed in further detail.

*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*

Detailed assessment reveals that the proposal fails to comply with 15.4.3 Protection of Agricultural Land, and therefore also fails to comply with Objectives 2.1(k) and (l) of the Scheme. It is noted that there is conflict both between the provisions of the Scheme, and between the Scheme and the PAL Policy.

Namely, 15.4.3 P1 provides that Animal Breeding, boarding and training must not be on prime agricultural land, but 15.4.3 P3 appears to provide that Animal breeding, boarding and training may be on prime agricultural land, if certain other criteria are met.

Similarly, the Scheme provides for the Rural Resource zone to be used for “agricultural uses”, which is a logical conclusion. The proposal meets the PAL Policy definition of agricultural uses. However, the Scheme provides that the proposed use is Discretionary and must not occur on prime agricultural land.

The Commission, in its *Report on the Draft Central Coast Planning Scheme 2005* has determined that the Scheme is in accordance with the PAL Policy. This is despite the contradictions of the performance criteria explored in the above discussion. This apparent missing link between the PAL Policy and the Scheme will be looked at as part of the review of the Scheme scheduled for this financial year. However, that does not assist in this proposal.

*Recommendation*

It is recommended that the proposed development be refused on the grounds that it does not comply with the Central Coast Planning Scheme 2005 provisions for the Protection of Agricultural Land 15.4.3 P1(i), P2(a) & (b), and therefore 2.1 Objectives (k) and (l) of the Scheme.’

The report is supported.”

The Executive Services Manager reported as follows:

“Copies of the Annexures referred to in the Land Use Planning Group Leader’s report have been circulated to all Councillors.”

■ Cr McKenna moved and Cr van Rooyen seconded, “That:

- . the representation is not deemed to have merit in this particular application to warrant refusal; and
- . the application complies with the State Policy on the Protection of Agricultural Land 2000 as an agricultural use; and
- . the Central Coast Planning Scheme 2005 conflicts with the State Policy on the Protection of Agricultural Land 2000; and



- . Application No. DEV2007.133 be approved subject to the following conditions and restrictions:
- 1 The development generally conforming with the documents submitted with this application unless otherwise altered by a condition of this permit;
  - 2 The developer must provide an unsealed vehicular access in accordance with the Council's Standard Drawing SD-1012. A culvert is not required;
  - 3 Any damage or disturbance to footpaths, roads, kerbs, nature strips or existing services is to be rectified to the satisfaction of the Council's Director Assets & Engineering at the applicant's expense;
  - 4 The developer must minimise the disturbance of vegetation within the Council Road Reserve;
  - 5 Works within the existing road are undertaken by the Council at the developer's cost unless alternative arrangements are approved by the Council. Also, any works undertaken within the Road Reservation require a Road Permit to be issued prior to the commencement of construction. An application form can be obtained from the Assets & Engineering Department, to which a fee applies;
  - 6 A separate application detailing the design and type of on-site wastewater management system is required at the building application stage. Approval of a specific system will be subject to a site assessment by the Council's Environmental Officer. It is recommended that the developer contact the Council's Environmental Officer prior to commencement of site or road works to ensure an adequate area remains for installation of a wastewater system;
  - 7 Any on-site wastewater system for the proposed dwelling must be installed in accordance with the Australian/New Zealand Standard AS/NZS 147:2000 - Onsite Domestic Wastewater Management;
  - 8 Carparking must be provided at the rate of two carparking spaces for the house and one per employee, plus one per ten enclosures for animal breeding;
  - 9 External cladding of buildings must be non-reflective or be screened from public view;
  - 10 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;
- 11 A wetland or watercourse must not be filled, drained or adversely affected;
- 12 The natural flow of water into or out of a wetland or watercourse must not be adversely affected;
- 13 A wetland or watercourse must not be adversely affected by increased erosion or sedimentation;
- 14 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; and
- 15 Any damage or disturbance to footpaths, roads, kerbs, nature strips or existing services is to be rectified to the satisfaction of the Council's Director Assets & Engineering;

and the developer be requested to note as follows:

- A The application does not include any information on signage. Any signage proposed for the development will require separate planning approval;
- B Building, Plumbing and Special Plumbing Permits are required for the proposed development;
- C This Permit expires two years from the date advice of this decision is received unless the development has been substantially commenced; and
- D Contact the Council's Assets & Engineering Department if you wish to arrange any infrastructure work requirements."

Carried unanimously

**248/2008 Planning Scheme Amendment – Penguin Urban Design Guidelines  
Application No. AMD2008.1 (244/2008 – 20.07.2008)**

The Director Development Services reported as follows:

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

<i>AMENDMENT NO.:</i>	AMD2008.1
<i>APPLICANT:</i>	Central Coast Council
<i>LOCATION:</i>	Penguin – Various (refer to Amendment Plan)
<i>CURRENT ZONING:</i>	Various
<i>PROPOSAL:</i>	To initiate and certify a draft amendment to insert a special area overlay and provisions for the area identified in the draft amendment.
<i>PLANNING INSTRUMENT:</i>	Central Coast Planning Scheme 2005
<i>LEGISLATION:</i>	<i>Land Use Planning and Approvals Act 1993</i> (the Act)

#### *PURPOSE*

The purpose of this report is to consider the merits of a Planning Scheme amendment for the Penguin urban area.

#### *BACKGROUND*

The community has identified Penguin as having unique and valuable qualities that should be articulated, maintained and enhanced. Further details and background can be found in Annexure 1, labelled as “Penguin Urban Design Guidelines – Planning Scheme Amendment supporting information”, and the document “Penguin Urban Design Guidelines Report, May 2008” previously distributed to Councillors (available for viewing at the Land Use Planning counter in the Administration Centre and on the Council’s website).

Extensive community consultation has been conducted as background research for this amendment, during the Penguin Urban Design Guidelines Project.

#### *DISCUSSION*

The amendment is detailed in Annexure 1, “Penguin Urban Design Guidelines – Planning Scheme Amendment supporting information”. This supporting information includes the statutory supporting report and the proposed Scheme amendment, labelled as Schedule 14. The Penguin Urban Design Guidelines have previously been distributed, or available for viewing as detailed in the Background section of this report. Additional information on traffic in the township of Penguin will be provided to the Resource Planning

and Development Commission (RPDC) as supplementary information, but does not form part of the amendment documentation.

### *CONSULTATION*

Extensive community consultation was conducted as part of the Penguin Urban Design Guidelines Project and is detailed in Annexure 1 and the Penguin Urban Design Guidelines. In summary, community workshops with Councillors, targeted stakeholders, and the general community were conducted prior to the development of the draft Penguin Urban Design Guidelines. There was then a period for written submissions on the draft Guidelines. The draft Guidelines document was reviewed and amended where necessary in response to those written submissions.

If the proposed amendment is initiated and certified by the Council, it must be advertised as provided by the Act and any representations received must be considered by the Council and referred to the RPDC, with statements as to the merits of the representations.

### *IMPACT ON RESOURCES*

The application will impact on staff time and administrative costs associated with the statutory processes involved in the rezoning process. No other impacts on resources are anticipated.

### *CORPORATE COMPLIANCE*

The Strategic Plan 2004–2009 includes the following objectives:

- . Meet our statutory and regulatory obligations
- . Plan for and develop a sustainable community
- . Create a municipal area that is productive and socially and aesthetically attractive.

### *CONCLUSION*

The proposed amendment:

- . furthers the objectives of the *Land Use Planning and Approvals Act 1993*;
- . is in keeping with and supported by the Scheme objectives and the Council's Strategic plan; and
- . is in accordance with the State Policies.

*Recommendation*

It is recommended that the Council, in accordance with the requirements of the *Land Use Planning and Approvals Act 1993*, initiate and certify the draft amendment, known as Schedule 14 and Amendment 1/2008, to insert a special area overlay and provisions for the specified area.'

The report is supported."

The Executive Services Manager reported as follows:

"Copies of the Annexure referred to in the Land Use Planning Group Leader's report and Amendment 1/2008 have been circulated to all Councillors."

■ Cr Fuller moved and Cr McKenna seconded, "That:

- 1 a draft amendment (identified as Schedule 14 and Amendment 1/2008, a copy being appended to and forming part of the minutes) be initiated to the Central Coast Planning Scheme 2005; and
- 2 the Council certify that the amendment meets the requirements of section 32 of the *Land Use Planning and Approvals Act 1993*."

Carried unanimously

The Executive Services Manager further reported as follows:

"Approval for the draft amendment having been granted, authorisation for affixing the common seal to the amendment is given at Minute No. 256/2008."

**249/2008 Planning Scheme Amendment and Planning Permit – Rezoning from Residential to Business and conversion of an existing residential building to business and professional services at CT94808/12, 11 King Edward Street, Ulverstone – Application No. COM2008.1**

*Cr Robertson, having declared an interest, retired from the meeting and left the Chamber for that part of the meeting relating to the consideration, discussion and voting on the matter of Application No. COM2008.1.*

The Director Development Services reported as follows:

"The Planning Consultant has prepared the following report:

<i>'AMENDMENT NO.:</i>	AMD2008.2
<i>OWNER:</i>	Esk George St. Pty Ltd
<i>APPLICANT:</i>	Esk George St. Pty Ltd
<i>LOCATION:</i>	11 King Edward Street, Ulverstone T94808/12
<i>CURRENT ZONING:</i>	Residential
<i>PROPOSED ZONING:</i>	Business
<i>PLANNING INSTRUMENT:</i>	Central Coast Planning Scheme 2005 (the Scheme)
<i>LEGISLATION:</i>	<i>Land Use Planning and Approvals Act 1993</i> (the Act)

### *PURPOSE*

The purpose of this report is to consider the merits of:

- . a Planning Scheme amendment to rezone land from Residential to Business for 11 King Edward Street, Ulverstone; and
- . the proposed conversion of an existing residential building to business and professional services.

This report prepared by Council's Planning Consultant makes an assessment with respect to this application pursuant to s.43A of the Act. The first component of the report specifically considers the proposed amendment to the Scheme. The second component of the report makes an assessment of the compliance of the proposed development with the Scheme requirements.

### *BACKGROUND*

A rezoning of 11 King Edward Street, Ulverstone was considered as part of the Draft Central Coast Planning Scheme 2005 (Draft Scheme).

The Draft Scheme, initiated by the Council on 19 September 2005, proposed that 11 King Edward Street, Ulverstone be zoned from Residential (RA) - Closed, Central Coast S.46 Planning Scheme No.1 of 1993, to Business under the Draft Scheme.

The Draft Scheme was placed on public exhibition from 1 April to 30 June 2006. Over 200 representations were received on the Draft Scheme. One representation (reference R222) lodged with the Council specifically related to 11 King Edward Street, Ulverstone. The representation, made by the former owner of the land, opposed the rezoning of the site. The representor

requested that the residential zone be retained to ensure that this was consistent with the current and future use of the site.

The Council did not support the representation as it considered the site to be a logical extension of a business zone and inappropriate to retain its residential status.

The Resource Planning and Development Commission (the Commission), however, viewed this matter differently and made the following assessment with respect to the zoning of 11 King Edward Street under the Draft Scheme:

“The use of the property is residential with 2 co joined houses. The property is a corner site and surrounding zoning is business. The site is also separated from the residential zoning to the north by a lane way. In some respects the residential use is incongruous to the business uses. However the 2 houses face King Edward Street and contribute to the continuous residential frontage between Partick Street and Main Street. In this context the residential street edge is viewed as important and should be retained. The need for additional business zoning in the location has not been demonstrated. The property should be zoned residential”.

Esk George St. Pty Ltd purchased the property from the previous owner of the land, prior to the Draft Scheme coming into operation, with the understanding that R222 had been withdrawn and that the proposed business zoning of the site would not be challenged. No personal representation from the previous owner or their agent was made to the Commission during the hearings of the Draft Scheme with respect to this matter. In absence of personal representation on the matter, the Commission determined that a residential zone for the site is more appropriate than a business zoning. Accordingly the request by the representor was upheld.

The Draft Scheme came into operation on 20 June 2008. The residential zoning over 11 King Edward Street prohibits the redevelopment of the site from residential to business and professional services. Accordingly a rezoning from Residential to Business is required in order for the proposed development to be facilitated.

#### *DISCUSSION*

In consideration of an application to amend the Scheme, the Council must:

- . determine whether the application has sufficient merit to initiate the amendment process;
- . examine the technical integrity of the application to ensure it is correct;
- . certify that the requested amendments comply with the aims, objectives, intent and strategies of the Resource Management and Planning System, the Council's Strategic Plan and the Scheme; and
- . assess the impacts of the proposal upon the use or developments on adjoining properties.

### *Site description*

The proposal relates to one parcel of land (CT94808/12) which is a rectangular regular shaped lot with an area of approximately 655m<sup>2</sup> (refer to Annexure 1 - Location Plan).

The site contains two co-joined weatherboard dwellings (circa 1951) with a floor area of approximately 147m<sup>2</sup>. The main facade of the dwelling is orientated towards King Edward Street. A separate double garage, with its northern and eastern walls being built to the lot boundaries, is situated on the north-eastern corner of the site (refer to Annexure 2 - Supporting Documentation provided by the Applicant).

Vehicular access is provided from King Edward Street at the north-western corner of the site.

The site is flat and has a primary road frontage of approximately 40m to King Edward Street and a secondary road frontage of 16m to Patrick Street.

The site is situated less than 200m to the east of the Leven River. No threatened fauna or flora species are listed for the site which is understandable considering it is situated within the urban area of Ulverstone.

The site contains no listed heritage buildings or sites.

Sewage from the existing buildings is connected to the Council's reticulated system. The site is also supplied with reticulated water. Stormwater drainage is facilitated by discharge into stormwater drains via the Council's infrastructure. The site is serviced with telecommunications.



*Locality and zoning*

The immediate locality surrounding the site comprises a mix of community uses, businesses and established residential development (refer to Figure 1).

More specifically, the site situated on the north-eastern corner of King Edward Street and Patrick Street is bounded by:

- . the Civic Centre Car Park to the east (northern side of Patrick Street);
- . the Civic Centre to the south on the southern side of Patrick Street;
- . the Senior Citizens Club Inc. to the west on the opposite side of King Edward Street; and
- . Residential development, separated by a laneway, to the north.

Land uses situated along King Edward Street, south of Patrick Street and north of Reibey Street comprise a range of activities including business and professional services, food services, community services and general retail and hire. This area forms part of the heart of Ulverstone's Central Business District (CBD) and is zoned Business.

Other than the Senior Citizens Club, land along King Edward Street, between Patrick Street and Main Street, is dominated by residential development. While the area north of lots fronting the northern side of Patrick Street is also dominated by residential development, lots on this side, between King Edward Street and Victoria Street, comprise community services and general retail. These lots are also zoned Business.

The large lot situated on the north-western corner of King Edward Street and Patrick Street (the Senior Citizens Club Inc.) is also incorporated in the Business Zone. The Business Zone along this portion of Patrick Street is broken by the residential zoning of 11 King Edward Street.



Figure 1: Aerial photograph depicting the locality

#### Existing zoning

The site is zoned Residential. The purpose of the Residential Zone is:

- *to provide for residential use or development that accommodates a range of dwelling types and densities where full infrastructure services are available, including access to educational, recreational, transport and community services;*
  - *to achieve a high standard of residential amenity across the range of dwelling types;*
  - *to provide for limited Tourist accommodation; and*
- to ensure that energy conservation principles apply to all development.*

The site was zoned Residential by the Commission to ensure that the residential street edge of King Edward Street between Patrick Street and Main Street was retained. Additionally, the Commission commented that additional demand for business zoning in this location was not demonstrated.

Business and professional services are prohibited in this Zone.

It is contended that a Business Zone is considered to be more appropriate in this instance given that:

- . the site is disconnected from residential development by a laneway that runs parallel to the northern lot boundaries of properties fronting the northern side of Patrick Street;
- . the lot forms a continuous extension of the Business Zone;
- . the lot orientation and shape of 11 King Edward Street differentiates the site from the six residential properties situated along King Edward Street (between Patrick Street and Main Street); and
- . the redevelopment of the existing building will not alter the appearance or street edge of residential development along King Edward Street north of the site.

*Proposed Zone*

The proposed Zone is Business. The purpose of this Zone is to:

- . *to provide for retailing, offices and community services in a concentrated area;*
- . *to provide for the safety, comfort and enjoyment of workers, residents and visitors through the provision of good quality spaces and effective urban design;*
- . *to focus on business activity within the established business areas centered at:*
  - a) *Reibey Street, Ulverstone; and*
  - b) *Main Road, Penguin; and*
- . *to provide opportunities for residential activity to locate within business centres where this can be accommodated without fragmenting the commercial centre or creating conflicts between residential and commercial uses.*

Business and professional services are permitted. This change of zoning would enable for an approval for the proposed development to be considered.

*Demand for land zoned Business*

In support of this proposed rezoning the following findings by the applicant are offered.

The applicant wished to purchase property within the Ulverstone's CBD to allow the relocation of an existing business. The applicant found that there were almost no properties available (at any price) within the Ulverstone CBD to be utilized for business and professional services.

The applicant also comments, that there appeared to be little or no growth potential for such a zone under the then Central Coast S.46 Planning Scheme No.1 of 1993. The applicant thought that this specific issue would be addressed as part of the Draft Scheme.

To facilitate growth and development of Ulverstone's CBD, the proposed amendment to the Scheme can be supported.

*Central Coast Planning Scheme 2005*

Land use or development on the subject area is controlled by the Scheme which came into operation on 20 June 2008.

Part A of the Scheme outlines a series of objectives which are to assist in achieving the purpose of this Scheme. The objectives of the Scheme, most relevant to this amendment, are as follows:

- (a) *Residential, commercial, industrial and community facilities are to be concentrated in the existing urban areas;*
- (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;*
- (d) *A safe vehicular and pedestrian network throughout the planning area is to be encouraged;*
- (e) *Infrastructure services are to be used and extended in an efficient manner.*

The proposed development will convert an existing residential building to business and professional services (professional offices). The lot is situated where the urban area begins to transition between the business, professional and community uses and residential development. The proposed Business

Zone for 11 King Edward Street is considered to be compatible with adjoining land to the east and west of the site. The residential building currently existing on the site, while part of the urban area, is viewed to be quite separate from residential development to the north of the site, making the rezoning of land to Business appropriate.

The pedestrian network will not be altered by the proposed development and will utilize existing infrastructure services.

The proposed amendment is considered to be consistent with the objectives of the Scheme.

*Land Use Planning and Approvals Act 1993*

The Act sets out the requirements for an amendment to a planning scheme. These include;

- . to seek to further the objectives of the *Land Use Planning and Approvals Act 1993*;
- . to be prepared in accordance with State Policies; and
- . that it may make provision which relates to the use, development, protection or conservation of any land.

The Act establishes the following objectives, which must be furthered by scheme amendments.

*Part 1 – Objectives of the Resource Management and Planning System of Tasmania*

- a) *To promote the sustainable development and natural and physical resources and the maintenance of ecological processes and genetic diversity.*

The draft amendment will not compromise this objective. The site is within the urbanised area of Ulverstone which has been used for residential purposes since the 1950's.

- b) *To provide for the fair, orderly and sustainable use and development of air, land and water.*

While the site lends itself to be suitable for business and professional services, the draft amendment will allow the site to be developed for a range of uses outlined by the Business Zone. The proposed rezoning of land

rectifies an existing anomaly and allows for the development of more compatible uses with land to the east and west of the site.

If the proposed rezoning of land is implemented, the impact on residential development situated to the north of the site and along King Edward Street is considered negligible given that residential development is separated by a laneway from the site. Additionally, the orientation of the lot and building of 11 King Edward Street does not contribute strongly to the existing residential dwellings situated north along King Edward Street.

The proposed use of the site is considered to be more compatible with the existing adjacent uses than residential development and the laneway provides a practical separation between community uses/business and professional services and residential development.

The proposed amendment, given that it is in an urbanized environment, is not considered to have an adverse impact on the natural resources of the locality.

For these reasons, the proposed amendment is considered to be consistent with this objective.

*c) To encourage public involvement in resource management and planning.*

The community and government agencies will be able to formally comment on the draft amendment and development application.

*d) To facilitate economic development in accordance with the objectives set out above.*

The draft amendment will facilitate the new development and the construction phase will inject income into the local economy. There will be ongoing economic benefits such as on-site employment and the purchase of various supplies and services.

*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.*

The amendment gives effect to the legislation.

*Part2 – Objectives of the Planning Process Established by this Act*

Relevant objectives are;

- (a) *to require sound strategic planning and co ordinated action by State and local government;*

The proposed rezoning is consistent with the Council's proposals for the future development of Ulverstone's CBD and forms a continuous extension of the Business Zone in this location.

Prior to the Central Coast Planning Scheme 2005 coming into operation, the Council had identified this land to be zoned Business.

- (b) *to establish a system of planning instruments to be the principal way of setting objectives, policies and controls for use, development and protection of land;*

The proposed rezoning identifies this land as suitable for business and professional services in accordance with the objectives of the Scheme. The subject area will be developed in accordance with the provisions of the Scheme.

- (c) *to ensure that effects on the environment are considered and provide explicit consideration of social and economic effects when decisions are made about the use and development of land;*

The proposed rezoning will have no adverse impacts on the environment as it is within the urban area of Ulverstone and can be fully serviced. The draft amendment will not impact on fauna, flora or ecological processes. It will not compromise the character or amenity of the residential area and is considered to be more compatible with existing adjoining uses rather than residential development. It will provide an opportunity for further economic development. There will be no adverse economic impacts on the Council's infrastructure.

- (d) *to require land use and development planning and policy to be easily integrated with environmental, social, economic, conservation and resource management policies at State, regional and municipal levels;*

The proposed amendment furthers the objectives of the Act, and is in accordance with State policies and the Scheme Objectives.

- (e) *to provide for the consolidation of approvals for land use or development and related matters, and to co ordinate planning approvals with related approvals;*

The combined rezoning and development application is in accordance with the *Land Use Planning and Approvals Act 1993*.

- (f) *to secure a pleasant, efficient and safe working, living and recreational environment for all Tasmanians and visitors to Tasmania;*

The draft amendment will provide the logical continuation of the Business Zone.

- (g) *to conserve those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value;*

The land has no known scientific, historical or special cultural value.

- (h) *to protect public infrastructure and other assets and enable the orderly provision and co-ordination of public utilities and other facilities for the benefit of the community;*

Existing infrastructure can adequately service the proposed development.

- (i) *to provide a planning framework which fully considers land capability;*

The subject area is suitable for business and professional services as the existing dwelling can be easily converted for this use.

#### *State Policies*

#### *State Coastal Policy 1996 (the Policy)*

As the subject area is within a kilometre of the coast the Policy applies.

The Coastal Policy contains three principles:

- . *Natural and cultural values of the coast shall be protected.*
- . *The coast shall be used and developed in a sustainable manner.*
- . *Integrated management and protection of the coastal zone is a shared responsibility.*



The Policy lists a series of expected outcomes. The relevant ones are as follows:

- . *Urban and residential development in the coastal zone will be based on existing towns and townships. Compact and contained planned urban growth and residential development will be encouraged in order to avoid ribbon development and unrelated cluster developments along the coast.* (Clause 2.4.2); and
- . *Any urban and residential development in the coastal zone, future or existing, will be identified through designation of areas in planning schemes consistent with the principles and outcomes of this Policy.* (Clause 2.4.3).

The rezoning of the site will not compromise this Policy. The site is already part of a large urban area which has been zoned for business and residential purposes. The surrounding development is urban and the site is located at the periphery of the CBD and is not directly situated along the coast. Accordingly, the coast will not be adversely impacted by the proposed rezoning in terms of natural, cultural or heritage values. Stormwater and sewage will be disposed of via the Council's reticulated systems.

#### *Protection of Agricultural Land 2000*

The site being situated at the periphery of Ulverstone's CBD, the Policy does not apply in this instance.

#### *State Policy on Water Quality Management 1997*

The purpose of this Policy is to protect surface and ground water resources from pollution.

The Policy states that:

*Planning schemes must require that land use and development is consistent with the physical capability of the land so that the potential for erosion and subsequent water quality degradation is minimised* (Clause 31.5).

The Policy is relevant to the planning and design of stormwater and sewage.

There are no records which indicate problems exist with the management of stormwater in this location.

### *National Environmental Protection Measures*

In accordance with s.12A of the *State Policies and Projects Act 1993*, a national environmental protection measure is taken to be a State Policy. There is no discretion to differentiate a State Policy made under s.12A compared to s.11.

Thus the following need to be considered:

- . Ambient Air Quality June 2002
- . Diesel Vehicle Emission 2001
- . Assessment of Site Contamination 1999
- . Used Packaging Materials 1999
- . Movement of Controlled Waste Between States and Territories 1998
- . National Pollutant Inventory June 2000.

No formal assessment of the site has been made to ascertain any site contamination issues, but given its past uses it is highly unlikely it is contaminated. If any asbestos is found in the buildings it will be required to be disposed of in an approved manner.

The proposed rezoning is not in conflict with State Policies.

The above discussion demonstrates that the proposed amendment to rezone land at 11 King Edward Street, Ulverstone from Residential to Business is warranted. The discussion highlights that the current zoning is considered be an anomaly and is able to meet the objectives of the Act. The discussion that follows is an assessment of the proposed development against the Scheme.

### *Application for Planning Permit*

The Scheme provides that the proposal is for a business and professional service.

Business and professional services means use of land for administration, clerical, technical, professional or other similar activities. Examples are a bank, call centre, child health clinic, consulting room, funeral parlour, office, real estate agency, veterinary surgery and travel agency.

This is a permitted use in the Business Zone which is proposed for the site. However, as the application is unable to meet all of the Acceptable Solutions and S10.3.1 A1 of Schedule 10 of the Scheme, the application is considered to be discretionary.

*Proposal*

The proposal is to convert an existing residential building to a business and professional service (professional office). The redevelopment of the site will increase the floor area of the building by approximately 53m<sup>2</sup>.

The building, comprising a total floor area of approximately 200m<sup>2</sup>, will comprise a reception area, board room, lunch room, print room, six offices, two workstations and a work area. Separate male and female toilet facilities will be provided. The business currently employs around 10 persons.

The height and general appearance of the building will remain largely unaltered.

The double garage, situated on the north-eastern corner of the site will remain in its current form. This will allow the accommodation of two vehicles. Provision for an additional four spaces are provided adjacent and in front of the double garage. A total of six on-site car parking spaces are provided as part of the proposal.

The application documentation is provided as Annexure 2

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 Act;
- b) act in accordance with the requirements of a State Policy;
- c) give effect to any direction from the 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 requirements specified in this planning 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 any 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.

*State Policies*

The discussion above has highlighted that the proposed development furthers the intent of the relevant State Policies and the objectives of the Act.

*Specifics of the Scheme*

Extracts from the Scheme are provided in italics

REFERENCE	DETAIL AND COMMENT (WHERE REQUIRED)
2.1	<p><i>Scheme Objectives</i></p> <p>The discussion above highlights that the objectives of the Scheme will be upheld by the proposed development.</p>
12.0	<p><i>Purpose of the Business Zone</i></p> <p><i>The proposed zone is Business. The purpose which is intended:</i></p> <ul style="list-style-type: none"> <li>. <i>To provide for retailing, offices and community services in a concentrated area;</i></li> <li>. <i>To provide for the safety, comfort and enjoyment of workers, residents and visitors through the provision of good quality spaces and effective urban design;</i></li> <li>. <i>To focus on business activity within the established business areas centered at:</i> <ul style="list-style-type: none"> <li>a) <i>Reibey Street, Ulverstone; and</i></li> <li>b) <i>Main Road, Penguin; and</i></li> </ul> </li> <li>. <i>To provide opportunities for residential activity to locate within business centres where this can</i></li> </ul>

	<p><i>be accommodated without fragmenting the commercial centre or creating conflicts between residential and commercial uses.</i></p> <p>The proposed development is consistent with the purpose in that it enables the redevelopment of an existing building for business and professional services.</p>
12.2	<p><i>Table of Use</i></p> <p>The proposal is for a permitted use as defined in the Scheme as Business and professional services.</p> <p>As the proposal is unable to meet the S10.3.1 A1 of Schedule 10, the application is considered to be discretionary.</p>
12.3.1	<p><i>Objective: To ensure that use does not unreasonably reduce residential amenity in a nearby Residential zone.</i></p> <p>The site is adjacent to existing residential development. The residential dwelling to be converted to a professional office is not considered to unreasonably reduce the residential amenity in the adjacent residential zone. The proposed office will generally operate within the standard business hours and should not generate any unreasonable levels of noise.</p>
12.3.1 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>The hours of operation have not been stated by the applicant. A permit can be appropriately conditioned to ensure that the hours of operation are consistent with these outlined by 12.3.1 A1.</p>
12.4.1	Not relevant. 12.4.1 relates to subdivision only.
12.4.2	Not relevant. 12.4.2 relates to strata titling only.
12.4.3	<p><i>Objective: To ensure that the height and design of buildings:</i></p>

	<p>(1) <i>complement the streetscape;</i>                  (2) <i>provide comfort for the public; and</i>                  (3) <i>have minimal adverse impact on the locality.</i></p> <p>The proposed redevelopment of the existing building will not alter the height or style of the building. Other than the proposed northern extension to the building, the appearance and façade of the building and its relationship with the streetscape will largely be unaltered. The proposal is considered to have minimal impact on the locality.</p>
12.4.3 A1	<p>(a) <i>A building in the town of Penguin must not exceed a maximum building height of 8m.</i></p> <p>(b) <i>Other buildings must not exceed a maximum height of 10m.</i></p> <p>Part (a) is not relevant. The proposed development complies with A1 (b).</p>
12.4.3 A1	<p><i>A building façade must have:</i></p> <p>(a) <i>a wall area of at least 25%;</i>                  (b) <i>a glazed area of at least 40%; and</i>                  (c) <i>an entry point recessed a minimum of 1.5m.</i></p> <p>As the proposed redevelopment will not have an entry point recessed a minimum of 1.5m, the proposal fails to meet 12.4.3 A1 and must be assessed under the Performance Criteria 12.4.3 P2.</p>
12.4.3 P2	<p><i>Architectural features must identify the entry point and provide relief and colour which complement the characteristics of buildings in the locality.</i></p> <p>The character of the façade and the appearance of the building will be largely unaltered by the proposed development. The entry points to the building are slightly recessed. The proposed development complies with this clause.</p>

<p>12.4.3 A3</p>	<p><i>A building built to the frontage must have an awning cantilevered or suspended at least 3m width adjoining footway within a road or carpark for the full frontage of the building.</i></p> <p>The proposed building does not propose an awning along the length of the building. The proposal fails to meet 12.4.3 A3 and must be assessed under the Performance Criteria 12.4.3 P3.</p>
<p>12.4.3 P3</p>	<p><i>A building must provide adequate weather protection for the comfort of the public.</i></p> <p>The location of the building does not make it practical to provide for adequate protection for the comfort of the public. The building provides for adequate shelter for persons accessing the building.</p>
<p>12.4.4</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> <p>The proposed development can be adequately serviced with existing infrastructure.</p>
<p>12.4.4 A1</p>	<p><i>The site must:</i></p> <ul style="list-style-type: none"> <li><i>(a) be serviced by an access constructed to Central Coast Council Municipal Standard Drawing No. SD-1003;</i></li> <li><i>(b) be connected to a reticulated water supply of 200kPa pressure at 10l per second;</i></li> <li><i>(c) be connected to a reticulated sewerage system;</i> <i>and</i></li> <li><i>(d) be connected to telecommunications and electricity supply to either underground service or in a manner consistent with the supply to which it is connected.</i></li> </ul> <p>The Council's Assets &amp; Engineering Department has indicated that the proposed use can be adequately serviced. Conditions are recommended if a permit is to be granted.</p>

12.4.5	<p><i>Objective: To ensure that the design and siting of residential or commercial buildings minimize opportunities for crime to occur.</i></p> <p>The redevelopment of the building ensures that the potential for crime is minimized.</p>
12.4.5 A1	<p><i>The external area of a building adjacent to its front door must be:</i></p> <ul style="list-style-type: none"> <li><i>(a) visible from a part of a road within 50m of that door;</i></li> <li><i>(b) provided with artificial lighting operated by a sensor or from within buildings; and</i></li> <li><i>(c) visible from within the building while the main front door is closed which may be achieved:</i> <ul style="list-style-type: none"> <li><i>(i) through nearby windows;</i></li> <li><i>(ii) transparent glass in the main front door or adjoining panels;</i></li> <li><i>(iii) a security keyhole viewing device in the main front door;</i></li> <li><i>(iv) a security door on the outside of the main front door; or</i></li> <li><i>(v) any other manner as effective as the above.</i></li> </ul> </li> </ul> <p>Appropriate conditions will be added if a permit for the development should be granted.</p>
12.4.5 A2 & P2	<p>Not relevant. This specifically deals where a development is proposed in an Arcade.</p>
12.4.6	<p><i>Objective: To ensure that adequate provision is made for the safe loading and unloading of goods.</i></p> <p>The proposed use is for a business and professional service. Given the nature of the use the loading and unloading of goods is not considered relevant in this instance as the premises is for a professional service.</p>



<p><i>Schedules</i></p>	<p>Schedule 1: Complies  Schedule 2: Not Applicable  Schedule 3: Not Applicable  Schedule 4: Not Applicable  Schedule 5: Not Applicable  Schedule 6: Not Applicable  Schedule 7: Not Applicable  Schedule 8: Not Applicable  Schedule 9: Not Applicable  Schedule 10:</p> <p>Six car parking spaces are provided on site. S10.3.2, Schedule 10 requires that for a business and professional service that one car parking space is provided for each employee and three per 100m<sup>2</sup> of net floor area.</p> <p>The building has an area of approximately 200m<sup>2</sup>; accordingly six spaces are required. The applicant has also indicated there will be around 10 employees on site. This equates to an additional 10 spaces. Accordingly a total of 16 spaces are required.</p> <p>As the proposal is unable to meet S10.3.1 A1, the proposal must be assessed under Performance Criteria S10.3.1 P1.</p> <p>Given the nature of the use and the surrounding public car parks available in close proximity to the site, it is considered that it is appropriate to waive the number of car parking spaces required and cash-in-lieu for the following reasons:</p> <ul style="list-style-type: none"> <li>. Any adverse impact on the streetscape is unlikely as there is sufficient public parking in close proximity of the site available;</li> <li>. It is unlikely that the number or size of vehicles visiting the premises will result in on-street parking congestion;</li> <li>. No impact on the amenity is anticipated.</li> </ul>
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	<p>Schedule 11: No signage is mentioned in the application. A permit is not likely to be required for any signage erected in the Business Zone providing it can meet the requirements of the Schedule.</p> <p>Schedule 12: Not Applicable</p> <p>Schedule 13: Not Applicable</p>
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The application was referred to the Council's Planning and Assessment Team as part of internal procedure. Comments from engineering staff have been provided. The building staff advised that a Building Permit would be required for the proposed extension and redevelopment of the building if approved. All of the comments provided can be considered standard for such a proposal.

The proposed development, if implemented, will not significantly alter the appearance of the main façade of the building nor impose a building setback from King Edward Street and Patrick Street that varies to the current situation. The proposed development will essentially retain a single-storey residential-type building on the land. Accordingly, the proposed development is not considered to be detrimental to the residential edge along King Edward Street between Patrick Street and Main Street. The proposed use is not considered to compromise the amenity of the immediate locality.

*CONSULTATION*

The application will be formally advertised as required by the Act.

*IMPACT ON RESOURCES*

The application will impact on the Planning Consultant's and staff time and administrative costs associated with the statutory processes involved in the rezoning processes. No other impacts on resources are anticipated.

*CORPORATE COMPLIANCE*

The Strategic Plan 2004–2009 includes the following objectives:

- . Meet our statutory and regulatory obligations
- . Plan for and develop a sustainable community

- . Create a municipal area that is productive and socially and aesthetically attractive.

*CONCLUSION*

The proposed amendment:

- . furthers the objectives of the *Land Use Planning and Approvals Act 1993*;
- . is in keeping with and supported by the Scheme Objectives and the Council's Strategic Plan; and
- . is in accordance with the State Policies.

Accordingly the proposed amendment to the Scheme is supported.

The proposed development complies with the objectives of the Planning Scheme and the purpose of the Zone. Relaxation of the car parking standards is appropriate. The proposed development is recommended for conditional approval.

*Recommendation*

It is recommended that:

- 1 a draft amendment, identified as Amendment No. 2/2008 (copy attached) be initiated to the Central Coast Planning Scheme to rezone CT94808/12, 11 King Edward Street, from Residential to Business; and
- 2 the Council certify that the draft amendment meets the requirements of s.32 of the *Land use Planning and Approvals Act 1993*.

It is further recommended that the Council approve the proposed development subject to the following conditions:

- 1 The development being undertaken generally in accordance with the plans drawn by Yaxley Design and Drafting Service Pty Ltd, Drawing Nos. 208731-1 to 12, March 08 unless otherwise altered by the conditions of this permit;
- 2 The proposed use must not operate before 7am or after 9pm daily;
- 3 The external area of the dwelling unit adjacent to its front door must be:

- (a) provided with artificial lighting operated by a sensor or from within the dwelling unit; and
  - (b) visible from within the dwelling unit while the main front door is closed, which may be achieved through:
    - (i) nearby windows;
    - (ii) transparent glass in the main front door or adjoining panels;
    - (iii) a security keyhole viewing device in the main front door;
    - (iv) a security door on the outside of the main front door; or
    - (v) any other manner that is as effective as any of the above;
- 4 Upgrade and relocate where necessary the existing stormwater connection point to the property;
- 5 Connect where necessary the buildings to the existing stormwater system;
- 6 Ensure that all solid/inert waste material generated from the demolition work that requires disposal to a Council facility is deposited at the Central Coast Resource Recovery Centre;
- 7 Ensure that all putrescible waste, hazardous waste or non-solid/inert waste material, including asbestos or asbestos cement sheet, generated from the demolition work is appropriately packaged, transported and disposed of at a secure landfill;
- 8 Provide an asphalt sealed vehicular access in accordance with the Council's Standard Drawing No. SD-1003;
- 9 Remove any driveway and crossover made redundant by the proposed development and reinstate the barrier kerb, footpath and verge to the satisfaction of the Council's Director Assets & Engineering;
- 10 The provision, upgrading, re-routing or extension of water, sewer and drainage services are to be to the satisfaction of the Council's Director Assets & Engineering;

- 11 Any damage or disturbance to footpaths, roads, kerbs, nature strips or existing services is to be rectified to the satisfaction of the Council's Director Assets & Engineering at the applicant's expense; and
- 12 Maintain a minimum clearance of 1.0m from the nearest edge of any building footing to the edge of the Council's stormwater main in accordance with the Council's Standard Drawing No. SD-5004;

and that the applicant be requested to note as follows:

- A In relation to Condition 6, access fees apply;
- B In relation to Condition 7, the Dulverton Regional Landfill is such a site;
- C In relation to Conditions 8 and 9, the section of the existing driveway within the Road Reserve is in poor condition and is to be repaired. Also, these conditions relate to the relocation or extension of the existing vehicle access. The Council will only permit a maximum driveway width of 6.0m within the Road Reserve. A copy of Drawing No. SD-1003 will be provided;
- D In relation to Condition 12, a Council stormwater main exists approximately 1.0m outside the eastern boundary of the property. A copy of Drawing No. SD-5004 will be provided;
- E Any works associated with the connection to existing (live) Council water, sewer and stormwater services will be undertaken by the Council at the developer's cost, unless alternative arrangements are approved by the Council;
- F Any works associated with existing kerb and channel, footpath or roads will be undertaken by the Council at the developer's cost, unless alternative arrangements are approved by the Council;
- G Any works (e.g. driveway works) undertaken within the Road Reservation require a Road Permit to be issued prior to the commencement of construction. An application form can be obtained from the Assets & Engineering Department. A fee applies;
- H Contact the Council's Assets & Engineering Department if you wish to discuss or arrange any infrastructure work requirements; and

I A Building Permit is required.’

The report is supported.”

The Executive Services Manager reported as follows:

“The Annexures referred to in the Consultant’s report and Amendment 2/2008 have been circulated to all Councillors.”

■ Cr Barker moved and Cr van Rooyen seconded, “That:

- 1 a draft amendment (identified as Amendment 2/2008, a copy being appended to and forming part of the minutes) be initiated to the Central Coast Planning Scheme 2005;
- 2 the Council certify that the amendment meets the requirements of section 32 of the *Land Use Planning and Approvals Act 1993*; and
- 3 the application for development (Application No. COM2008.1) be approved subject to the following conditions:
  - (a) The development being undertaken generally in accordance with the plans drawn by Yaxley Design and Drafting Service Pty Ltd, Drawing Nos. 208731-1 to 12, March 08 unless otherwise altered by the conditions of this permit;
  - (b) The proposed use must not operate before 7am or after 9pm daily;
  - (c) The external area of the dwelling unit adjacent to its front door must be:
    - (i) provided with artificial lighting operated by a sensor or from within the dwelling unit; and
    - (ii) visible from within the dwelling unit while the main front door is closed which may be achieved through:
      - i. nearby windows;
      - ii. transparent glass in the main front door or adjoining panels;
      - iii. a security keyhole viewing device in the main front door;
      - iv. a security door on the outside of the main front door; or
      - v. any other manner that is as effective as any of the above;

- (d) Upgrade and relocate where necessary the existing stormwater connection point to the property;
- (e) Connect where necessary the buildings to the existing stormwater system;
- (f) Ensure that all solid/inert waste material generated from the demolition work that requires disposal to a Council facility is deposited at the Central Coast Resource Recovery Centre;
- (g) Ensure that all putrescible waste, hazardous waste or non-solid/inert waste material, including asbestos or asbestos cement sheet, generated from the demolition work is appropriately packaged, transported and disposed of at a secure landfill;
- (h) Provide an asphalt sealed vehicular access in accordance with the Council's Standard Drawing No. SD-1003;
- (i) Remove any driveway and crossover made redundant by the proposed development and reinstate the barrier kerb, footpath and verge to the satisfaction of the Council's Director Assets & Engineering;
- (j) The provision, upgrading, re-routing or extension of water, sewer and drainage services are to be to the satisfaction of the Council's Director Assets & Engineering;
- (k) Any damage or disturbance to footpaths, roads, kerbs, nature strips or existing services is to be rectified to the satisfaction of the Council's Director Assets & Engineering at the applicant's expense; and
- (l) Maintain a minimum clearance of 1.0m from the nearest edge of any building footing to the edge of the Council's stormwater main in accordance with Council's Standard Drawing No. SD-5004;

and that the applicant be requested to note as follows:

- A In relation to Condition 6, access fees apply;
- B In relation to Condition 7, the Dulverton Regional Landfill is such a site;
- C In relation to Conditions 8 and 9, the section of the existing driveway within the Road Reserve is in poor condition and is to be repaired. Also, these conditions relate to the relocation or extension of the existing vehicle access. The Council will only permit a maximum driveway width of 6.0m within the Road Reserve. A copy of Drawing No. SD-1003 will be provided;

- D In relation to Condition 12, a Council stormwater main exists approximately 1.0m outside the eastern boundary of the property. A copy of Drawing No. SD-5004 will be provided;
- E Any works associated with the connection to existing (live) Council water, sewer and stormwater services will be undertaken by the Council at the developer's cost, unless alternative arrangements are approved by the Council;
- F Any works associated with existing kerb and channel, footpath or roads will be undertaken by the Council at the developer's cost, unless alternative arrangements are approved by the Council;
- G Any works (e.g. driveway works) undertaken within the Road Reservation require a Road Permit to be issued prior to the commencement of construction. An application form can be obtained from the Assets & Engineering Department. A fee applies;
- H Contact the Council's Assets & Engineering Department if you wish to discuss or arrange any infrastructure work requirements; and
- I A Building Permit is required."

Minute No. 249/2008 continued after Minute No. 245A/2008...

**245A/2008 Public question time (245/208 – 21.07.2008)**

The Mayor responded at this time to a public question (ref. Minute No. 245/2008).

**Minute No. 249/2008 continued...**

Motion Carried unanimously

Cr Robertson returned to the meeting at this stage.

The Executive Services Manager further reported as follows:

"Approval for the draft amendment having been granted, authorisation for affixing the common seal to the amendment is given at Minute No. 256/2008."



GENERAL MANAGEMENT

**250/2008 Minutes and notes of committees of the Council and other organisations**

The 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:

- . Dulverton Waste Management – Special Representatives Meeting held on 9 May 2008
- . Cradle Coast Authority – meeting of Representatives held on 29 May 2008
- . Forth Community Representatives Committee – meeting of Council officers with Committee representatives held on 12 June 2008
- . Central Coast Community Safety Partnership Committee – meeting held on 25 June 2008
- . Youth Engaged Steering Committee – meeting held on 26 June 2008.

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

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

Carried unanimously

**251/2008 Delegation by the Council of its functions and powers – Delegations issued to the General Manager (169/2000 – 26.04.2000)**

The General Manager reported as follows:

*“PURPOSE*

This report invites the Council to review and reaffirm its delegations to the General Manager.

*BACKGROUND*

The *Local Government Act 1993* provides, subject to certain restrictions, that ‘a council, in writing, may delegate with or without conditions to the general manager ... any of its functions or powers under this or any other Act ...’. This is explained in detail in the attached extracts from the *Local Government Act 1993* and the *Acts Interpretation Act 1931*.

Since its formation, the Council has widely delegated its authority and powers.

At its meeting on 26 April 2000 the Council resolved (Minute No. 169/2000) as follows:

‘That the Council review its delegations as issued to the General Manager, on a two year cycle in conjunction with the General Manager’s performance review, commencing in 2001.’

This decision was subsequently (and inadvertently) overlooked. A recent overhaul of the Statutory Appointments and Delegations Registers has highlighted that a review and re-issue of delegations to the General Manager is timely.

### *DISCUSSION*

In a report on 11 January 1999 (Minute No. 19/1999) the General Manager outlined several reasons supportive of the good value of delegation by the Council. These reasons remain relevant and are reproduced as follows:

- ‘. Delegations do not take away the powers of the Council – they allow the General Manager and (her) staff to get on with managing the business of the Council while it enables the Council to focus on strategic and policy development and higher-level decision making.
- . As a result of a substantial investment in education, learning and training, the Council has a well-qualified, professional and very experienced staff.
- . Delegations assist in the development of an efficient and effective operation which is much leaner in resources than would be the case should the Council not have granted delegations.
- . Delegating is consistent with the employment arrangements so far as the General Manager’s appointment is concerned.
- . Matters subject to delegation are generally based on technical issues rather than on political and/or governance issues.
- . Delegations enable a greater opportunity for consistent decision making.
- . Delegations ensure a more efficient management of business with the community ... ; they make it easier in dealing with issues which are subject to legislative time frames and they assist in the reduction of ‘local’ red tape.
- . The heart of effective governance is a good relationship between the Council and the General Manager and staff where trust, reliability and fairness is essential.
- . ...’

The Council, in order to ensure that its requirements are met and its goals achieved, employs a General Manager who, in addition to legislated obligations, is granted delegated authority to carry out the operational tasks required to make the organisation work. Central Coast has a good record in this regard and the delegations issued have been beneficial to its efficiency and effectiveness.

A schedule of all current delegations by the Council to the General Manager is attached. Some of the delegations have not been formally reviewed since 1999. Many others bear dates within the past two to three years, some of which are as a result of inconsequential amendments (such as change of officers' position titles following the previous General Manager's organisational restructure) and these should accordingly be reviewed for substance as well.

The remaining delegations were reviewed by the Council in 2007 and as recently as 2008. While these ought not be changed at this time, they are nevertheless included in the package for the sake of completeness and standardisation of time to accord with the Council's decision at Minute No. 169/2000.

All delegations have been reviewed by the Senior Management Team. The Team is of the opinion that each delegation remains valid and relevant, and that their issue should be reaffirmed.

*CONSULTATION*

This is a governance matter for which consultation is not required.

*IMPACT ON RESOURCES*

Delegation is one of the tools that assist in keeping a check on administration costs.

*CORPORATE COMPLIANCE*

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

- . Provide effective leadership
- . Meet our statutory and regulatory obligations.

*CONCLUSION*

It is recommended that all delegations contained within the attached schedule be reaffirmed."

The Executive Services Manager reported as follows:

“A copy of the Schedule of Delegations by the Council to the General Manager has been circulated to all Councillors.”

■ Cr Haines moved and Cr Robertson seconded, “That all delegations made in accordance with section 22 of the *Local Government Act 1993* and listed in the Schedule of Delegations by the Council to the General Manager (a copy of the Schedule being appended to and forming part of the minutes) be reaffirmed.”

Carried unanimously

**252/2008 Proposed reform of Tasmania’s water and sewerage sector (121/2008 – 21.04.2008)**

The General Manager reported as follows:

“The following report has been prepared by the Director Assets & Engineering/ Project Manager WST(NWR).

*PURPOSE*

This report is provided to seek the Council’s endorsement of changes to the membership of the Water and Sewerage Transition Project control Group (WSTPCG) as part of the *Cradle Coast Region Water & Sewerage Reform Transition Project Business Plan*.

*BACKGROUND*

The Council has previously resolved as follows (Minute No. 121/2008 – 21.04.08):

“That, upon the successful passage of the *Water and Sewerage Corporations Bill 2008* through the Tasmanian Parliament, and confirmation of \$1 million for the north-western region for transitional funding, the Council:

- 1 endorse the *Cradle Coast Region Water & Sewerage Reform Transition Project Business Plan...*;
- 2 in line with the Business Plan, approve the formation of a Water and Sewerage Transition Project Control Group (WSTPCG) comprising:
  - . General Manager – Burnie City Council;
  - . General Manager – Devonport City Council;

- . General Manager – Waratah–Wynyard Council;
  - . Chief Executive Officer – Cradle Coast Water; and
  - . Director Assets & Engineering – Central Coast Council
- 3 authorise the General Manager (Central Coast) to commit resources to the water and sewerage transition process and designate a Council Project Leader and/or Council Officer/s for liaison with, and full disclosure to, the WSTPCG;
- 4 acknowledge that Cradle Coast Water will receive monies in trust for the WSTPCG; and
- 5 note that the WSTPCG will develop a reporting mechanism to ensure regular feedback is provided to Councils, including the conduct of regular Mayor’s and General Manager’s meetings.”

At a meeting of Mayors and General Managers from the north–western region on 12 June 2008, it was recommended that the membership of the WSTPCG be extended to include all General Managers, Mayor Kevin Hyland (Waratah–Wynyard Council) and the Chief Executive Officer of Cradle Coast Water (CCW).

*DISCUSSION*

The *Water and Sewerage Corporations Bill 2008* has now been completed and the process of transition commenced.

Recommendations were made at the Mayors and General Managers meeting on 12 June 2008 and progressed as follows:

- . Support the Milestone Based Component \$1 million funds to be paid direct to CCW for distribution by the WSTPCG and that allocation of any surplus funds at the end of the transition process be disseminated to councils on a per capita basis. A letter signed by the north–western region General Managers has been sent to the Treasurer confirming this arrangement.
- . Two elected Mayors and one General Manager (General Manager not from the same Council as Mayor representatives) be nominated for the Owner’s Representatives for the North–Western Region Water and Sewerage Corporation. Invitations for nominations/expressions of interest were distributed to all councils in the region and an election process was conducted on 4 July 2008.

- . It was also agreed that the Non-Milestone Based Component of \$65,000 for each council be paid direct to the councils.

The expansion of the Project Control Group will provide the WSTPCG with an effective reporting mechanism to ensure regular feedback is provided to councils, including the conduct of regular Mayors and General Managers meetings as per the Project Business Plan.

It is noted that the Central Coast Council is providing the consultancy in respect to the Project Manager of the transition process for the north-western region. Other councils and CCW will be commissioned in respect to the provision of Project Leaders for the respective Assets/Employees (HR)/Financial Reference Groups of the Project Business Plan.

### *CONSULTATION*

Meetings with Mayors and General Managers of the region have been undertaken.

### *IMPACT ON RESOURCES*

It is estimated that the direct costs associated with preparing for the creation of the North-Western Region Water and Sewerage Corporation will approximate \$1 million.

Response from councils and CCW to assist in the transition process by making available employees as Project Leaders and Council/CCW Officers in the Reference Groups has been pleasing. This should result in limited requirements for consultants and achieve benefits to the region by employees working together for the water and sewerage transition process.

### *CORPORATE COMPLIANCE*

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

- . Develop innovative strategies to foster business opportunities
- . Foster strategic partnerships across industry sectors and establish industry clusters
- . Promote best practice environmental management of the hinterland and coast
- . Encourage sustainable land management
- . Participate in water and catchment management

- . Develop river precinct studies to determine sustainable land-use opportunities
- . Foster partnerships and strategic alliances
- . Meet our statutory and regulatory obligations
- . Develop and manage sustainable infrastructure
- . Foster an integrated transport and planning system.

*CONCLUSION*

This report has been provided to seek the Council's endorsement of changes to the membership of the WSTPCG as part of the *Cradle Coast Region Water & Sewerage Reform Transition Project Business Plan*.

It is recommended that the north-western region councils endorse the membership of the WSTPCG to be extended to include all General Managers, Mayor Kevin Hyland (Waratah-Wynyard Council) and the Chief Executive Officer of Cradle Coast Water.'

The report and recommendations are supported."

- Cr Robertson moved and Cr McKenna seconded, "That the Council endorse the membership of the Water and Sewerage Transition Project Control Group to be extended to include all General Managers, Mayor Kevin Hyland (Waratah-Wynyard Council) and the Chief Executive Officer of Cradle Coast Water."

Carried unanimously

**253/2008 Proposed reform of Tasmania's water and sewerage sector – Owners' Representatives (121/2008 – 21.04.2008)**

The General Manager reported as follows:

"The following report has been prepared by the Director Assets & Engineering/ Project Manager WST(NWR).

*'PURPOSE*

This report considers the process for nominations and election of Owners' Representatives for the Tasmanian Water and Sewerage Corporation (North-Western Region) Pty Ltd.

### *BACKGROUND*

The *Water and Sewerage Corporations Act 2008* (the Act) provides that members of a Regional Corporation must, by special majority, appoint three (3) persons as Owners' Representatives for the Regional Corporation. Where persons have been appointed, one or more members of the Regional Corporation are to notify the Treasurer in writing of the appointments. Each Owners' Representative is to hold office for a term of three (3) years (refer section 19 of the Act for further details).

The Owners' Representatives for all Regional Corporations are to establish a Selection Committee (refer section 20 of the Act for further details).

Attachment 1 shows the Local Government Owned Regional Model for reference.

### *Owners' representatives*

Owners' Representatives should have governance and accountability attributes and a broad knowledge of the water and sewerage sector. Their role is to oversight the broad performance, appoint Directors and to liaise with owner Councils.

Functions include the following:

- . Provide businesses with statement of shareholder expectations
- . Review Corporate Plan and performance targets
- . Ensure business objectives are consistent with overall policy frameworks and objectives
- . Participate in AGM and Government Business Enterprise Scrutiny Committee hearings
- . Appoint members of the Board.

At a meeting of north-western region Mayors held on 12 June 2008 it was recommended that:

“...two (2) elected Mayors and one (1) General Manager (General Manager not from the same Council as Mayor representatives), be nominated for the Owners' Representatives for the North-Western Regional Water and Sewerage Corporation.”

### *Nominations/Expressions of interest*

Due to the limited time available, nominations/expressions of interest (EOI) were invited with a view to formalising the process with individual councils in



July. It is noted that at least six out of nine councils need to agree on Owners' Representatives.

The schedule for the nomination/EOI process was as follows:

Open nominations/EOI:	16 June 2008
Close nominations/EOI:	30 June 2008
Consider nominations/EOI and undertake voting by Mayors:	4 July 2008
Endorse Owners' Representatives by councils:	July 2008

A total of nine nominations/EOI were received as follows:

- . Mayor Darryl Gerrity – West Coast Council
- . Mayor Daryl Quilliam – Circular Head Council
- . Mayor Kevin Hyland – Waratah–Wynyard Council
- . General Manager Paul Arnold – Burnie City Council
- . Mayor Michael Downie – Central Coast Council
- . Mayor Lynn Laycock – Devonport City Council
- . General Manager Ian McCallum – Devonport City Council
- . General Manager Gerald Monson – Latrobe Council
- . Mayor Don Thwaites – Kentish Council

At a meeting of all Mayors and General Managers at Wynyard on 4 July 2008 the following were elected as Owners' Representatives:

- . Mayor Kevin Hyland – Waratah–Wynyard Council
- . Mayor Lynn Laycock – Devonport City Council
- . General Manager Paul Arnold – Burnie City Council

The following proxies for Owners' Representatives were also appointed:

- . Mayor Darryl Gerrity – West Coast Council
- . Mayor Michael Downie – Central Coast Council
- . General Manager Gerald Monson – Latrobe Council

#### *DISCUSSION*

The appointment of Owners' Representatives by 30 June 2008 has been required to meet the schedule of the Water and Sewerage Implementation Joint Steering Committee.

The elections were conducted by agreement with the Mayors on the basis of the Mayors voting for the General Manager representative, followed by separate votes for the two Mayor representatives.

While it was not a requirement of voting, the result provides a good regional distribution of Owners' Representatives as follows:

- . A representative from the Forth River supply councils and eastern area. (Central Coast/Devonport/Latrobe/Kentish).  
This is the largest and most integrated water supply in the region.
- . A representative from the western area councils. (West Coast/Circular Head/Waratah-Wynyard/King Island).  
Water supply to these areas is by separate schemes at present.
- . A representative from the larger central councils. (Burnie/Central Coast/Devonport).  
These areas have the larger populations.

The result also provides representation from Cradle Coast Water member councils and non member councils. This experience may be of value in the Owners' Representatives role and functions.

### *CONSULTATION*

Meetings with Mayors and General Managers of the region have been undertaken.

### *IMPACT ON RESOURCES*

The financial impact of Owners' Representatives is limited to each council as no allowances are provided for the positions.

### *CORPORATE COMPLIANCE*

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

- . Develop innovative strategies to foster business opportunities
- . Foster strategic partnerships across industry sectors and establish industry clusters
- . Promote best practice environmental management of the hinterland and coast
- . Encourage sustainable land management
- . Participate in water and catchment management

- . Develop river precinct studies to determine sustainable land-use opportunities
- . Foster partnerships and strategic alliances
- . Meet our statutory and regulatory obligations
- . Develop and manage sustainable infrastructure
- . Foster an integrated transport and planning system.

*CONCLUSION*

It is recommended that the following Owners' Representatives for the Tasmanian Water and Sewerage Corporation (North-Western Region) Pty Ltd be endorsed by councils:

- . Mayor Kevin Hyland – Waratah-Wynyard Council;
- . Mayor Lynn Laycock – Devonport City Council;
- . General Manager Paul Arnold – Burnie City Council;

together with the following proxy Owners' Representatives:

- . Mayor Darryl Gerrity – West Coast Council
- . Mayor Michael Downie – Central Coast Council
- . General Manager Gerald Monson – Latrobe Council.'

The report and recommendations are supported.”

The Executive Services Manager reported as follows:

“A copy of the Attachment referred to in the Director/Project Manager's report, together with copies of s.19–20 of the *Water and Sewerage Corporations Act 2008* have been circulated to all Councillors.”

■ Cr Robertson moved and Cr Dry seconded, “That the Council endorse the Owners' Representatives for the Tasmanian Water and Sewerage Corporation (North-Western Region) Pty Ltd as follows:

- . Mayor Kevin Hyland – Waratah-Wynyard Council;
- . Mayor Lynn Laycock – Devonport City Council;
- . General Manager Paul Arnold – Burnie City Council;

together with the following proxy Owners' Representatives:

- . Mayor Darryl Gerrity – West Coast Council
- . Mayor Michael Downie – Central Coast Council
- . General Manager Gerald Monson – Latrobe Council.”

Carried unanimously

CORPORATE & COMMUNITY SERVICES

**254/2008 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 June 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 Executive Services Manager reported as follows:

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

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

Carried unanimously

**255/2008 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 June 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 13.06.2008 – Letter concerning the Leven Bridge redevelopment.
- . Received 24.06.2008 – Letter concerning the rezoning of Stubbs Road, Turners Beach.
- . Received 26.06.2008 – Letter of thanks from Sue Smith MLC.
- . Received 30.06.2008 – Letter concerning amendments to zoning at Leith.
- . Received 30.06.2008 – Letter concerning amendments to zoning on Braddons Lookout Road.

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 Deacon seconded, “That the Director’s report be received.”

Carried unanimously

### **256/2008 Common seal**

The Director Corporate & Community Services reported as follows:

“A Schedule of Documents for Affixing of the Common Seal for the period 17 June to 21 July 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 Executive Services Manager reported as follows:

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

- Cr Deacon 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

### **257/2008 Accounts paid**

The Director Corporate & Community Services reported as follows:

“A Schedule of Accounts Paid during the month of June 2008 is submitted to the Council for information. The information is reported in accordance with approved delegations and responsibilities. Councillors are invited to direct any questions on the Schedule to me at a convenient time prior to the meeting.”

The Executive Services Manager reported as follows:

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

- Cr Deacon moved and Cr Fuller seconded, “That the Schedule of Accounts Paid (a copy being appended to and forming part of the minutes) be received.”

Carried unanimously

**258/2008 Rate remissions**

The Director Corporate & Community Services reported as follows:

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

<i>PROPERTY NO.</i>	101400.0300
<i>PROPERTY ADDRESS</i>	10 Quiggins Grove, Ulverstone
<i>REMISSION</i>	\$431.98
<i>REASON</i>	Property revalued – values amended due to error of fact
<i>PROPERTY NO.</i>	403420.1440
<i>PROPERTY ADDRESS</i>	82 Main Road, Penguin
<i>REMISSION</i>	\$130.20
<i>REASON</i>	Property revalued – now only house/cottage and one shop (previously included two shops)
<i>PROPERTY NO.</i>	403570.0200
<i>PROPERTY ADDRESS</i>	62 South Road, Penguin
<i>REMISSION</i>	\$653.37
<i>REASON</i>	Property revalued – should have been valued as two units not three units.
<i>PROPERTY NO.</i>	504600.0080
<i>PROPERTY ADDRESS</i>	49 Fabers Road, Riana
<i>REMISSION</i>	\$163.52
<i>REASON</i>	Property revalued – five properties amalgamated and valued as one property
<i>PROPERTY NO.</i>	505120.0090
<i>PROPERTY ADDRESS</i>	Masters Road, Riana
<i>REMISSION</i>	\$287.66
<i>REASON</i>	Property revalued due to part sale of land.”

The 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 McKenna seconded, “That the following remissions be approved:

- . Property No. 101400.0300 – \$431.98
- . Property No. 403420.1440 – \$130.20

- . Property No. 403570.2000 – \$653.37
- . Property No. 504600.0080 – \$163.52
- . Property No. 505120.0090 – \$287.66.”

Carried unanimously and by absolute majority

**259/2008 Debtor remissions**

The Director Corporate & Community Services reported as follows:

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

*DEBTOR NO.* 3336  
*PROPERTY ADDRESS* 12 Hopkins Street, Leith  
*REMISSION* \$204.60  
*REASON* Leaking water pipe running underground – as per Council policy (Minute No. 383/2003 – 13.10.2003)

*DEBTOR NO.* 3545  
*PROPERTY ADDRESS* 13 George Street, Forth  
*REMISSION* \$238.48  
*REASON* Leaking water pipe running underground – as per Council policy (Minute No. 383/2003 – 13.10.2003)

*DEBTOR NO.* 5598  
*PROPERTY ADDRESS* 160 Westella Drive, Ulverstone  
*REMISSION* \$80.08  
*REASON* Leaking water pipe running underground – as per Council policy (Minute No. 383/2003 – 13.10.2003)

*DEBTOR NO.* 5728  
*PROPERTY ADDRESS* 25 Wilmot Road, Forth  
*REMISSION* \$301.84  
*REASON* Leaking water pipe running underground – as per Council policy (Minute No. 383/2003 – 13.10.2003)

*DEBTOR NO.* 8705  
*PROPERTY ADDRESS* 23 Lethborg Avenue, Turners Beach  
*REMISSION* \$340.56  
*REASON* Leaking water pipe running underground – as per Council policy (Minute No. 383/2003 – 13.10.2003)

<i>DEBTOR NO.</i>	8990
<i>PROPERTY ADDRESS</i>	34 Stephen Street, Forth
<i>REMISSION</i>	\$38.28
<i>REASON</i>	Leaking water pipe running underground – as per Council policy (Minute No. 383/2003 – 13.10.2003).”

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

- . Debtor No. 3336 – \$204.60
- . Debtor No. 3545 – \$238.48
- . Debtor No. 5598 – \$80.08
- . Debtor No. 5728 – \$301.84
- . Debtor No. 8705 – \$340.56
- . Debtor No. 8990 – \$38.28.”

Carried unanimously

**260/2008 Roads and streets nomenclature – Naming of new road off Southern Cross Drive, Ulverstone**

The Director Corporate & Community Services reported as follows:

“The Administrative Officer has prepared the following report:

*‘PURPOSE*

This report considers the naming of a new road off Southern Cross Drive, Ulverstone.

*BACKGROUND*

Peacock, Darcey and Anderson Pty Ltd, on behalf of the developers of the “Braid” subdivision, have submitted the name “Daydawn Court” for a new cul-de-sac, off Southern Cross Drive, Ulverstone.

Mr. Greg Braid, one of the developers, has advised that the name “Daydawn” was given to one of the late Harry Braid’s properties, which he owned previous to purchasing the Henslowes Road property.



*DISCUSSION*

The Council's policy for the naming of local roads and streets (Minute No. 472/95 – 18.9.95) is as follows:

“That ... the Council promote road and street names that:

- (i) are in keeping with the character of the area in which they are located;
- (ii) assist in developing the identity of the area in which they are located;
- (iii) reflect the history of the area in which they are located ;
- (iv) do not duplicate other road/street names;
- (v) are not offensive/insulting/irreverent;
- (vi) are not misleading.”

The policy is generally in accordance with rules defined by the Nomenclature Board.

Comments or suggestions were sought from the Secretary of the Nomenclature Board. He had no problems with the name, and because the road is within the town boundary, only requires notification that the Council has approved the name.

There is no duplication with other road/street names.

*CONSULTATION*

The report outlines the consultation undertaken.

*IMPACT ON RESOURCES*

As signage will be provided by the developers, there will be no impact on Council resources.

*CORPORATE COMPLIANCE*

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

- . Develop and manage sustainable infrastructure
- . Foster an integrated transport and planning system.

*CONCLUSION*

It is recommended that the new road, off Southern Cross Drive, Ulverstone, be named Daydawn Court.'

The report is supported."

The Executive Services Manager reported as follows:

"A plan highlighting the new subdivision street has been circulated to all Councillors."

■ Cr Dry moved and Cr Fuller seconded, "That the Council advise the Nomenclature Board of Tasmania that the new road, off Southern Cross Drive, Ulverstone, will be named Daydawn Court."

Carried unanimously

**261/2008 Central Coast Youth Council – Councillor representative**

The Director Corporate & Community Services reported as follows:

"The Youth Officer has prepared the following report:

*PURPOSE*

The purpose of this report is to appoint a Councillor as a representative on the Central Coast Youth Council.

*BACKGROUND*

The Council has recently formed a Youth Council. The formation of the Youth Council is a key action within the Central Coast Youth Strategy (Minute No. 163/2008 – 19.05.2008).

As stated in the Strategy the Council's objective is to support equality for young people by providing opportunities for their development and growth as well as engaging them in community decision making which was outlined in the Central Coast Council Strategic Plan 2004–2009.

The Central Coast Youth Council meets fortnightly, commencing Tuesday 1 July 2008, at 5.30pm in the Council Chamber.

*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 Youth Council is seeking a Councillor to join and act as a liaison between the Youth Council and the Council. As a member of the Youth Council the nominated Councillor will be required to fulfil the mechanism of providing regular progress reports to the Council. Conversely, the Councillor will keep the Youth Council informed regularly on matters of relevance.

*CONSULTATION*

No consultation is required for this report.

*IMPACT ON RESOURCES*

There is no impact on resources outside the time for the nominated Councillor attending meetings.

*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.

*CONCLUSION*

It is recommended that a Councillor representative be appointed to the Central Coast Youth Council.'

The report is supported."

- Cr Deacon moved and Cr Robertson seconded, “That Cr Deacon be appointed as a Council representative on the Central Coast Youth Council.”

Carried unanimously

**262/2008    Playing of cricket at the Penguin Recreation Ground (48/2003 – 03.02.2003)**

The Director Corporate and Community Services reported as follows:

“The Recreation Facilities Coordinator has prepared the following report:

*‘PURPOSE*

This report explores the possibility of waiving the “six and out” rule to allow the Penguin Cricket Club to host a cricket grand final at the Penguin Recreation Ground.

*BACKGROUND*

The Council at its meeting on 2 September 2002 (Minute No. 312/2002) determined to allow the playing of cricket at the Penguin Recreation Ground subject to certain conditions, among other things as follows:

- . Institute and apply a policy of “six and out” in respect of cricket balls being hit on the fly clear of the property boundary fences;
- . Not practice batting on the oval wicket, i.e. all batting practice must be restricted to the practice nets, with the exception of Thursday evenings and in that regard the Penguin Cricket Club is to establish a written policy for the management of safe practice on that evening;
- . Not permit the playing of cricket on Sunday;
- . Not permit the playing of finals games at the Recreation Ground;
- . Reserve the right to ban the playing of cricket at the Recreation Ground should any condition not be complied with; and
- . Require both the Penguin Cricket Club and/or the Burnie Cricket League or other similar hirer to produce a public liability insurance policy of not less than a sum assured of \$10 million.

The Penguin Cricket Club has previously approached the Council seeking the possibility of waiving the “six and out” rule and to allow the Burnie Cricket League to use the Penguin Recreation Ground to host a grand final. To date the Council has not agreed to amend the existing playing conditions and whilst the 2007–2008 cricket grand final was played at the Penguin Recreation Ground, it was in contravention to a directive from the Central Coast Council.

As part of the Council’s decision to allow cricket to continue at the Ground, a monitoring process was put in place. This involved the Club providing documentation of the application of the “six and out” rule, instances of balls leaving the ground generally and instances where the Braddon Street net has saved balls. While this monitoring process was initially undertaken by the Club for a period of approximately three years, the Penguin Cricket Club has not lodged any monitoring sheets for the past two seasons.

The Council received a request this year from the Penguin Cricket Club to allow the Club to host a final of the Burnie Cricket League competition. This request was denied on the basis that it would require a decision of the Council to permit such a request and time did not permit for this to happen. The Penguin Cricket Club was advised to this effect verbally, by email and also the General Manager spoke directly to the Club representative confirming that, due to the required agenda process, approval for the finals to be held could not be granted.

Subsequently the Council received information that the Club had ignored the advice given and had hosted the final. The Club Executive was then requested to attend a meeting with the General Manager, the Director Corporate & Community Services and the Recreation Facilities Co-ordinator. At this meeting the Club acknowledged, that in hindsight, it had made an inappropriate decision to allow the final to be played. It was also conceded that during the 2007–2008 cricket season the Club had also not enforced the “retired hurt” rule and that monitoring information had not been maintained. At that meeting the Club also asked for the Council to review its current position in regard to the “six and out” rule and not allowing the playing of finals at the Ground.

*DISCUSSION*

In light of the concerns that have been raised the Council has undertaken a further risk assessment (the Penguin Sports Ground Review of Risk Assessment) a copy of which is attached.

In order to properly consider the waiving of the “six and out” rule (“retired hurt and out” rule) and to allow for the playing of a cricket grand final at the Penguin Recreation Ground, the Council needs to consider the full range of options available and their respective risk exposure.

The following options have been identified for the Council to consider:

- 1 In order to avoid all risks, cricket would need to cease to be played at the Penguin Recreation Ground;
- 2 Cricket could continue to be played at the Penguin Recreation Ground under the current modified conditions, subject to the Council receiving written assurance from the Penguin Cricket Club that it would strictly adhere to the nominated playing conditions;
- 3 Waiver of the “six and out” rule for the grand final of the Burnie Cricket League, and properties neighbouring the Penguin Recreation Ground to be notified in writing that the grand final will be played under normal rules (i.e. no – “retired hurt” rule for balls leaving the facility) and that Braddon Street will be closed to traffic for the duration of the grand final; or
- 4 In order to minimise risk and for the Penguin Cricket Club to host a grand final, this game to be transferred to the Heybridge Recreation Ground.

In context to option 1, risk avoidance; the Council should consider the full extent of the information and recommendations presented in the previous report to the Council of 23 July 2001 (Minute No. 276/2001). A copy is attached.

This report clearly outlined the findings of the Pitt and Sherry report and its application and options available to the Council. In short, should the Council wish to avoid all risks presented by the playing of cricket at the Penguin Recreation Ground, cricket would cease regardless of the risk control measures and outcomes of this last cricket season.

In context to option 2, risk minimisation; the Council may consider the following:

In order to maintain the current risk exposure, cricket could continue under modified conditions. Ideally this would be a combination of the existing netting fence and player self-restraint, brought about by a rule that forces

the batsman to retire should a stroke be deliberately played to clear the boundary.

In context to option 3, waiver of the “six and out” rule; the Council may consider the following:

It is considered by cricket enthusiasts that the Penguin Recreation Ground offers an ideal atmosphere to host finals. The closure of a public street for six hours to host a cricket match is held by some members of the community to be somewhat over the top. The risk exposure is present during any match played at the Penguin Recreation Ground. To make residents of this area aware of the competition roster and its rules only minimises the risk; the risk is still present.

To abolish the “six and out” rule in order for the Penguin Cricket Club to host the final is contrary to the policy decision of the Council when a great deal of consideration was given to this matter.

In context to option 4, transferring of the grand final to the Heybridge Recreation Ground;

The Heybridge Recreation Ground is currently used by the third-grade team and the pitch is of adequate standard and does not present any similar risk exposure as at the Penguin Recreation Ground. The Council may assist with the negotiation of the clubroom facilities at the Heybridge Recreation Ground and reimbursement of any relocation costs if applicable.

The Council is continuing to pursue the relocation of cricket and football from the Penguin Recreation Ground as a key objective. An amount of \$35,000 was approved in the 2008–2009 budget for the development of a Facility Master Plan for the Dial Regional Sports Complex. The need for this Master Plan has been further reinforced by the outcomes stated in the Penguin Urban Design Guidelines.

Concerns have also been raised about the installation of the new practice nets and the use of the old practice nets. A range of concerns were raised in the past by the Penguin Cricket Club in regard to the old practice nets and as a result it was agreed that new practice nets would be erected at a more appropriate location. The Council accessed guidelines provided by the Department of Sport and Recreation when considering the design of the new nets and was advised by the Council’s Land-Use Planning Group that planning approval was not required for the relocation of the cricket practice nets at the Penguin Recreation Ground as the Ground is currently utilised for active recreational purposes and thus existing use rights apply. Since that

erection and utilisation of the new practice nets the old nets have been decommissioned and are being used for storage and accordingly are no longer available for playing use.

*CONSULTATION*

The report outlines the consultation undertaken.

*IMPACT ON RESOURCES*

The Council will remain exposed financially while ever cricket continues to be played at the Penguin Recreation Ground. Waiving the “six and out” rule will only increase the Council’s risk.

*CORPORATE COMPLIANCE*

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

- . Plan for and develop a sustainable community.

The Council’s risk management policy provides as follows:

The Central Coast Council is committed to the management of the risks under its control and responsibility in order to maintain and enhance the quality of life of its employees, residents and visitors.

The Council implements this policy through:

- . gaining organisational support for risk management undertakings;
- . raising awareness of risk management;
- . educating staff on good risk management practices;
- . systematically identifying risks and developing and maintaining a prioritised risk register;
- . determining the magnitude of these risks; and
- . developing ongoing strategies to address these risks.

*CONCLUSION*

It is recommended that the Council only continue to allow the playing of cricket at the Penguin Recreation Ground subject to the strict enforcement of the following:

- 1 That the Penguin Cricket Club enforce the “six and out” rule (“retired hurt and out” rule) at the Penguin Recreation Ground and that failure



- to do so will result in the automatic cancellation of the Hire Agreement between the Club and the Council;
- 2 No batting practice on the oval wicket with the exception of Thursday;
  - 3 No playing of cricket on Sunday;
  - 4 No playing of finals games at the Penguin Recreation Ground; and
  - 5 That the Penguin Cricket Club be encouraged to consider, that when applicable, the playing of the grand final be hosted at the Heybridge Recreation Ground.'

The report is supported."

The Executive Services Manager reported as follows:

"Copies of the Penguin Sports Ground Review of Risk Assessment and Minute No. 276/2001 – 23.07.2001 have been circulated to all Councillors."

The General Manager reported as follows:

"Councillors are alerted to an amendment made to the circulated Penguin Sports Ground Review of Risk Assessment."

■ Cr Barker moved and Cr van Rooyen seconded, "That the Council only continue to allow the playing of cricket at the Penguin Recreation Ground subject to the strict enforcement of the following:

- 1 That the Penguin Cricket Club enforce the 'six and out' rule ('retired hurt and out' rule) at the Penguin Recreation Ground and that failure to do so will result in the automatic cancellation of the Hire Agreement between the Club and the Council;
- 2 That no batting practice be permitted on the oval wicket with the exception of Thursday;
- 3 That no playing of cricket be permitted on Sunday;
- 4 That no playing of finals games be permitted at the Penguin Recreation Ground;
- 5 That the Penguin Cricket Club be encouraged to consider, when applicable, that the playing of the grand final be hosted at the Heybridge Recreation Ground; and

6 That the Council lease the Penguin Recreation Ground to the Penguin Cricket Club for a further cricket season only, and that the Council work with the Penguin Cricket Club to help find an alternative venue.”

■ Cr van Rooyen moved and Cr McKenna seconded an amendment, “That the Council only continue to allow the playing of cricket at the Penguin Recreation Ground subject to the strict enforcement of the following:

1 That the Penguin Cricket Club enforce the ‘six and out’ rule (‘retired hurt and out’ rule) at the Penguin Recreation Ground and that failure to do so will result in the automatic cancellation of the Hire Agreement between the Club and the Council;

2 That no batting practice be permitted on the oval wicket with the exception of Thursday;

3 That no playing of cricket be permitted on Sunday;

4 That no playing of finals games be permitted at the Penguin Recreation Ground;

5 That the Penguin Cricket Club be encouraged to consider, when applicable, that the playing of the grand final be hosted at the Heybridge Recreation Ground; and

6 That the Council lease the Penguin Recreation Ground to the Penguin Cricket Club for a further cricket season, thereafter to be reviewed, and that the Council work with the Penguin Cricket Club to help find an alternative venue.”

Voting for the amendment

(9)

Cr Downie

Cr Robertson

Cr Deacon

Cr Dry

Cr Fuller

Cr Haines

Cr Howard

Cr McKenna

Cr van Rooyen

Voting against the amendment

(2)

Cr Barker

Cr (L) Bonde

Amendment

Carried

Voting for the amended motion

(6)

Cr Downie

Cr Robertson

Cr Deacon

Cr Dry

Cr McKenna

Cr van Rooyen

Voting against the amended motion

(5)

Cr Barker

Cr (L) Bonde

Cr Fuller

Cr Haines

Cr Howard

Amended motion

Carried

ASSETS & ENGINEERING

**263/2008 Assets & Engineering determinations**

The Director Assets & Engineering reported as follows:

“A Schedule of Assets & Engineering Determinations made during the months of April to June 2008 is submitted to the Council for information. The information is reported in accordance with approved delegations and responsibilities.”

The Executive Services Manager reported as follows:

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

■ Cr Robertson moved and Cr Fuller seconded, “That the Schedule of Assets & Engineering Determinations (a copy being appended to and forming part of the minutes) be received.”

Carried unanimously

**264/2008 Ferrous scrap metal recovery – Purchase agreement**

The Director Assets & Engineering reported as follows:

*“PURPOSE*

The purpose of this report is to detail recent developments in respect to the recovery of ferrous scrap metal and to recommend entering into an agreement for the removal of this material from the Council's waste management sites.

*BACKGROUND*

The Environmental Engineering Group Leader reported as follows:

‘Ferrous scrap metal, including car bodies, has been segregated at the Council's main landfill sites for many years. In the early years this was removed from the Penguin Refuse Disposal Site and the Ulverstone Transfer Station by scrap metal merchants on a no cost/no return basis.

This situation changed in October 2001 when a contract was awarded to MetalCorp Recyclers following a tender process. At that time the Council received nearly \$13 per tonne for light gauge scrap and \$72 per tonne for heavy gauge scrap collected from the Ulverstone Transfer Station, Penguin Refuse Disposal Site and the three country transfer stations. This contract

terminated in October 2005, but Smorgon Steel, a division of Metalcorp Recyclers, continued to supply this service to the Council on an as-needed basis.

Since 2001 the return for scrap steel has steadily increased to the 2007 level of \$50 per tonne for light gauge scrap and \$120 per tonne for heavy gauge scrap. The collection points for ferrous scrap metal have also changed in the past couple of years and are now the Resource Recovery Centre, as the main site, along with the three country transfer stations.

#### *DISCUSSION*

In recent months the Council has been approached by representatives from Smorgon Steel Recycling and Sims Metal for the purchase of the Council's ferrous scrap metal, with the return directly linked to world-wide scrap metal sales. The demand for ferrous scrap metal has increased markedly over the past couple of years.

Both companies have presented an unsolicited offer to the Council for the purchase and removal of ferrous scrap metal from the four nominated sites. Both consider the Central Coast Council to be an important client, which means that they are prepared to offer a rate of return in the highest percentage bracket. Each offer has been treated as confidential and a summary of the offer from each company is detailed below.

	SMORGON STEEL RECYCLING	SIMS METAL
<i>Agreement period</i>	3 yrs + 1 yr extension option	3 yrs + 2 yr extension option
<i>Payment Rate</i>	52% of average Tex Box Report Price* for the week previous to collection	52% of average Tex Box Report Price* for the month previous to collection
<i>Conversion Rate</i>	Average US\$ to A\$ exchange rate for the week previous to the week of collection	Average US\$ to A\$ exchange rate for the month previous to the month of collection

\* Tex Box Report Price is based on the recording (by TEX) of each worldwide sale of ferrous scrap metal in US\$ per tonne.

Smorgon Steel Recycling revised the payment rate offered to 54% of average Tex Box Report Price in late May, whilst Sims Metal revised the payment rate offer to 54.25% in early July.

The offers from Smorgon Steel Recycling and Sims Metal are virtually identical and as such are equally advantageous, with the Smorgon Steel Recycling offer having a slight advantage in a rising price market and the Sims Metal offer having a slight advantage in a falling price market.

The currency market is complicated, but provided that there are no major variations in the exchange rate over any short timeframe, the impact on the rate for each offer should be relatively equal.

The Council's risk exposure, and specifically the process used by contractors to identify hazards and manage risk while on Council workplaces and while transporting goods purchased (or to be purchased) from the Council and loaded on a Council workplace, is relevant to the assessment of submissions.

This includes the identification and assessment of:

- . health and safety risk to employees and sub-contractors, Council employees and members of the public;
- . environmental risk; and
- . transport risk and chain of responsibility (load restraint, mass compliance, operator qualification, competence and fatigue management).

In support of this each company was requested to provide:

- . documented hazard identification and risk assessment addressing the above;
- . work method statements or standard operating procedures; and
- . identified operator competencies.

The Risk & Safety Co-ordinator reported as follows:

"Further to our meeting with OneSteel (Smorgon Steel Recycling) last week (23 May) and a review of the documents provided to me by Onesteel and Sims Metal, I note the following:

Both tenderers:

- 1 place a strong emphasis on health and safety performance;
- 2 appear to have well-developed management systems to support their commitment; and

- 3 provided acceptable documentary evidence of their risk assessment processes.

OneSteel provided evidence of their Work Permit process and backed this up with a verbal commitment that site-specific risk controls would be documented for each site – this approach has the benefit of being adaptable to different sites and changing conditions. The downside is that the customer is provided only with a process and not a worked example.

Sims Metal provided detailed documentation of existing procedures for all relevant routine tasks. This has the benefit of clearly demonstrating that they have identified the critical hazards and that they already have working controls in place. This means that from a customer's point of view you can see more clearly what you are getting.

For that reason, I would tend towards the Sims Metal submission.

However, both approaches are valid and on the evidence provided I believe that there is nothing to choose between the two tenderers on health and safety grounds."

Sims Metal also provided evidence that the company holds the following certificates of registration:

- 1 AS/NZS 4801:2001 Occupational Health and Safety Management Systems;
- 2 AS/NZS ISO 9001:2000 Quality Management Systems; and
- 3 Suitability for a Public Weighbridge & Public Weighbridge Licence.

OneSteel (Smorgon Steel Recycling) is accredited and certified to AS/NZS 4801:2001 and NOSA (National Occupational Safety Association) three-star standard. Their weighbridge is checked through the Tasmanian Scale Company and certified accordingly.

OneSteel conducted an assessment for a "Permit to Work" at the Lobster Creek Resource Recovery Centre site on 5 June 2008 in the presence of Council staff. The Risk & Safety Co-ordinator reports as follows.

"I am happy that OneSteel has demonstrated an appropriate response to hazard identification, risk assessment and risk control for this contract."

Feedback from the Council's operational staff indicates that the service currently being provided by the Smorgon Steel Recycling contractor is more than satisfactory and a good working relationship is in place.

### *CONSULTATION*

Consultation has been undertaken with representatives from Smorgon Steel Recycling and Sims Metal.

### *IMPACT ON RESOURCES*

This item has a positive impact on resources, providing a significant increase in the revenue received by the Council for the sale of ferrous scrap metal.

Scrap taken away in May would generate a return to the Council of between \$350 per tonne (average monthly value for April) and \$390 per tonne (average weekly value for week ending 25 May). With previous ferrous scrap metal recovery in the order of 600 tonnes per year the return to the Council could increase from around \$30,000 per annum to some \$200,000 per annum.'

The Environmental Engineering Group Leader's report is supported.

### *CORPORATE COMPLIANCE*

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

- . Promote best practice environmental management of the hinterland and coast
- . Develop and manage sustainable infrastructure.

### *CONCLUSION*

It is recommended that the offer from Smorgon Steel Recycling be accepted, on the basis of the equality of the two offers, the fact that Smorgon Steel Recycling are currently performing the service, and on past performance there is no reason for them not to be retained."

- Cr Haines moved and Cr McKenna seconded, "That the offer from Smorgon Steel Recycling be accepted and the Council enter into a Purchase Agreement Contract in respect of ferrous scrap metal recovery."

Carried unanimously



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## CLOSURE OF MEETING TO THE PUBLIC

### 265/2008 Meeting closed to the public

The 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 matters be discussed in a closed meeting:

- . Minutes and notes of other organisations and committees of the Council;
- . Adoption of minutes of committees of the Council;
- . Future of the Devonport Airport;
- . Ulverstone Showground Redevelopment and
- . Correspondence addressed to the Mayor and Councillors.

These are matters relating to:

- . information provided to the Council on the condition it is kept confidential; and
- . actual or possible litigation involving the Council or an employee of the Council.”

■ Cr Robertson moved and Cr McKenna seconded, “That the Council close the meeting to the public to consider the following matters, they being matters relating to:

- . information provided to the Council on the condition it is kept confidential; and
- . actual or possible litigation involving the Council or an employee of the Council;

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;
- . Adoption of minutes of committees of the Council;
- . Future of the Devonport Airport;
- . Ulverstone Showground Redevelopment; and

- 
- Correspondence addressed to the Mayor and Councillors.”

Carried unanimously and by absolute majority

The 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

**266/2008 Minutes and notes of other organisations and committees of the Council**

The 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.”

**267/2008 Adoption of minutes of committees of the Council**

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

“The following confidential minutes of a committee of the Council, in respect of which delegated authority has not been provided for activating decisions, are listed for adoption:

...

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.”

**268/2008 Future of the Devonport Airport (99-99A/2008 – 17.03.2008)**

The General Manager reported (confidentially)...

The Executive Services Manager reported as follows:

“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.”

**269/2008 Ulverstone Showground Redevelopment – Detailed design (84/2008 – 17.03.2008)**

The General Manager reported (reproduced in part) as follows:

“The special Projects/Corporate Planning Manager has prepared the following confidential report:

*‘PURPOSE*

The purpose of this report is to present the final detailed design for the redevelopment of the Sports Precinct stage of the Ulverstone Showground Redevelopment...’.”

The Executive Services Manager reported as follows:

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.”

**270/2008 Correspondence addressed to the Mayor and Councillors**

The General Manager reported (confidentially and reproduced in part) as follows:

“Correspondence dated 10 July 2008 has been received...”

The Executive Services Manager reported as follows:

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.”

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## **Closure**

There being no further business, the Mayor declared the meeting closed at 10.42pm.

CONFIRMED THIS 18TH DAY OF AUGUST 2008.

## **Chairperson**

(gjm:dil)

## **Appendices**

- Minute No. 243/2008 – Schedule of Development Services Determinations
- Minute No. 248/2008 – Amendment 1/2008
- Minute No. 249/2008 – Amendment 2/2008
- Minute No. 251/2008 – Schedule of Delegations
- Minute No. 254/2008 – Schedule of Contracts and Agreements
- Minute No. 256/2008 – Schedule of Documents for Affixing of the  
Common Seal
- Minute No. 257/2008 – Schedule of Accounts Paid
- Minute No. 263/2008 – Schedule of Assets & Engineering Determinations

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## 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