



CENTRAL COAST COUNCIL

DEVELOPMENT SUPPORT SPECIAL COMMITTEE

Minutes

of Meeting

23 February 2009

Minutes subject to confirmation at
a meeting of the Development Support Special Committee to be held on
Tuesday, 10 March 2009

Minutes of an ordinary meeting of the Development Support Special Committee held in the Council Chamber of the Administration Centre, 19 King Edward Street, Ulverstone on Monday, 23 February 2009 commencing at 6.00pm

Members attendance

Cr Mike Downie (Mayor)	Cr Jan Bonde
Cr Ken Haines	Cr Terry McKenna
Cr Tony van Rooyen	Ms Sandra Ayton

Employees attendance

Director Development Services (Mr Michael Stretton)
Land Use Planning Group Leader (Ms Theresia Williams)
Town Planner (Mr Thomas Reilly)

Public Attendance

One

CONFIRMATION OF MINUTES OF THE COMMITTEE

8/2009 Confirmation of minutes

The Land Use Planning Group Leader reported as follows:

“The minutes of the previous meeting of the Development Support Special Committee held on 9 February 2009 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 Bonde moved and Cr McKenna seconded, “That the minutes of the previous meeting of the Development Support Special Committee held on 9 February 2009 be confirmed.”

Carried unanimously

MAYOR'S COMMUNICATIONS

9/2009 Mayor's communications

The Mayor reported as follows:

"Under the terms of appointment of the Development Support Special Committee, it acts in agreed circumstances as if it were the Council and, accordingly, as a planning authority under the *Land Use Planning and Approvals Act 1993*.

Members are reminded that the *Local Government (Meeting Procedures) Regulations 2005* provide that the general manager is to ensure that the reasons for a decision by a council acting as a planning authority are recorded in the minutes.

In the event that items listed for consideration are referred, under the terms of the Committee's appointment, to the Council (e.g. any matter the Committee cannot determine unanimously), or if the Committee is unable to make a determination within the relevant statutory time limit, such items will be referred to a meeting of the Council for a decision."

- Cr Haines moved and Cr van Rooyen seconded, "That the Mayor's report be received."

Carried unanimously

PECUNIARY INTEREST DECLARATIONS

10/2009 Pecuniary interest declarations

The Mayor reported as follows:

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

The Land Use Planning Group Leader reported as follows:

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

Members are invited at this time to declare any interest they have on matters to be discussed at this meeting. If a declaration is impractical at this time, it is to be noted that a member must declare any interest in a matter before any discussion on

that matter commences.

All interests declared will be recorded in the minutes at the commencement of the matter to which they relate.”

No interests were declared at this time.

ADJOURNMENT OF MEETING

11/2009 Adjournment of meeting

The Mayor reported as follows:

“In order to effectively consider the reports before this meeting of the Committee it is appropriate that I adjourn the meeting to enable the related documents to be workshopped prior to resumption of the meeting and formal resolution of the agenda items.”

The workshop having been concluded, the Mayor resumed the meeting.

DEPUTATIONS

12/2009 Deputations

The Land Use Planning Group Leader reported as follows:

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

OPEN REPORTS

13/2009 Residential dwelling (replacement) with variations to side and coastal setbacks at 3 Mason Street, Ulverstone – Application No. DEV2008.82

The Director Development Services reported as follows:

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

<i>DEVELOPMENT APPLICATION No.:</i>	DEV2008.82
<i>APPLICANT:</i>	H Gardner
<i>LOCATION:</i>	3 Mason Street, Ulverstone

<i>ZONING:</i>	Residential
<i>PLANNING INSTRUMENT:</i>	Central Coast Planning Scheme 2005 (the Scheme)
<i>ADVERTISED:</i>	24 January 2009
<i>REPRESENTATIONS EXPIRY DATE:</i>	7 February 2009
<i>REPRESENTATIONS RECEIVED:</i>	One
<i>42-DAY EXPIRY DATE:</i>	2 March 2009
<i>DECISION DUE:</i>	23 February 2009

PURPOSE

The purpose of this report is to consider:

- the merits of the representation; and
- whether the variation to the side and coastal setbacks perform in accordance with the criterion of 6.3.3 P4 and S6.4.2 of the Scheme.

BACKGROUND

This section of Mason Street, Ulverstone is an established residential area. Mason Street is to the western boundary, and a road reservation to the north. The eastern and southern boundaries are shared with other residential uses.

A location plan is appended as Annexure 1.

DISCUSSION

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

“Residential”, defined as “use of land for one or more dwellings providing long term accommodation. Examples are a.....house...”.

The proposed development includes a request for a side setback variation of 0.5m to the southern boundary. This, together with the proximity to the coastline, brings in into classification as discretionary.

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;

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- (c) give effect to any direction from the (Resource Planning and Development) Commission under s.28(1)(a) or s.41(a) of the Act in accordance with s.51(3)(b) and (c) of the Act; and
 - (d) give effect to all relevant standards and any other requirements specified in the Scheme;

and must have regard to:

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

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

Objectives of the Act

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

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

The proposal is for development within an existing residential area. Stormwater drainage and waste can be appropriately managed. The proposed development will not result in the removal of any significant vegetation. The proposal complies with this objective.

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

Section 6.0 and the Schedules of the Scheme provide specifics on how to assess this Objective for this proposal.

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

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

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

Guidance on how to assess this is provided by the detail in the Scheme and is assessed later in this report.

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

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

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

Specifics of the Scheme

REFERENCE	DETAIL AND COMMENT (WHERE REQUIRED)
2.1	<p>To achieve the purpose of this planning scheme the following objectives apply:</p> <p>(a) <i>Residential, commercial, industrial and community facilities are to be concentrated in the existing urban areas;</i></p> <p>The proposed development is situated within the township of Ulverstone and operates as infill development. The Scheme provides for assessment of residential development under the specific zone provisions, which are addressed later in this report.</p> <p>(b) <i>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 a house in the Residential Zone. 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. Assets & Engineering staff have provided comments on the safe vehicular access to and from the site. This is discussed in further detail below.</p> <p><i>(e) Infrastructure services are to be used and extended in an efficient manner;</i></p> <p>The residence will utilise existing services provided by the Council.</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>Stormwater and wastewater will be appropriately disposed of via existing Council infrastructure.</p> <p><i>(h) Important flora and fauna habitats are to be protected from inappropriate use and development;</i></p> <p>There is no significant vegetation on the site.</p> <p><i>(i) The environmental qualities of the coastal and river systems are to be protected;</i></p> <p>Refer to comments in (g) above.</p> <p><i>(j) Development of land and its use is to be carried out in a way so as to minimise environmental harm;</i></p> <p>The site is zoned for Residential use and the proposal would be fitting with the surrounding residential use.</p>
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	<p><i>(k) Rural land is to be primarily used for resource development and conservation purposes;</i></p> <p>The proposal has no impact on this Objective.</p> <p><i>(l) Rural land is to be protected from inappropriate residential, industrial and commercial development;</i></p> <p>The proposal has no impact on this Objective.</p> <p><i>(m) Residential use or development in the rural areas is to be encouraged in the existing settlements of North Motton, South Riana and Sprent. The compact and limited growth of these settlements is to occur only within those areas that are zoned Mixed Use;</i></p> <p>The proposal has no impact on this Objective.</p> <p><i>(n) Infill and consolidation of development within the Rural Living zone is to be encouraged;</i></p> <p>The proposal has no impact on this Objective.</p> <p><i>(o) The cultural heritage, including Aboriginal relics, protected site and objects and registered places are protected.</i></p> <p>No known Aboriginal relics or values are known of for this site.</p>
6.1	Purpose of Residential Zone.
6.1.1	<p><i>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.</i></p> <p>The proposed development is consistent with Clause 6.1.1 as it is for infill development in an existing residential area. The lot is appropriately serviced by infrastructure.</p>
6.1.2	<p><i>To achieve a high standard of residential amenity across the range of dwelling types.</i></p> <p>The proposal is for a residence in the residential area. The Acceptable Solutions provide the relevant guidance on the standard of residential amenity.</p>
6.1.3	<i>To provide for limited Tourist accommodation.</i>

	The proposal has no impact on 6.1.3.
6.1.4	<p><i>To ensure that energy conservation principles apply to all development.</i></p> <p>This is further addressed in the Scheme in 6.3.3 A12.</p>
6.3.1	<i>N/A 6.3.1 relates to subdivision only.</i>
6.3.2	<i>Not relevant 6.3.2 relates to Strata schemes only.</i>
6.3.3	<p><i>Building design and siting</i></p> <p><i>Objective: To ensure that the height, setbacks, siting and design of buildings:</i></p> <p>(1) <i>complement the streetscape;</i></p> <p>(2) <i>provide adequate privacy, separation, open space and sunlight for residents;</i></p> <p>(3) <i>minimise the opportunity for crime to occur; and</i></p> <p>(4) <i>complement energy efficient development.</i></p> <p>The proposal complies with all development standards other than 6.3.3 A4(d).</p>
6.3.3 A1	<p><i>A building must not exceed:</i></p> <p>(a) <i>a maximum building height of 8m; and</i></p> <p>(b) <i>a maximum wall height for residential building;</i></p> <p>(i) <i>not exceeding 4m within 2m of a side boundary; or</i></p> <p>(ii) <i>a minimum side boundary setback of ½ the height of a wall where the wall height is greater than 4m.</i></p> <p>the maximum height of the building is 6.5m.</p> <p>6.3.3 A1 (b) is overridden by the specific provisions of 6.3.3 A4.</p>
6.3.3 A2	<i>Site coverage for other than Utilities, multiple dwelling or cluster house must not exceed:</i>

	<p>(a) 45% for site greater than 650m²; or</p> <p>(b) 50% for sites less than 650m².</p> <p>The site is over 650m² and thus site coverage must not exceed 45%, which it will not. The proposal complies with 6.3.3 A2.</p>
6.3.3 A3	<p><i>The external area of a dwelling unit adjacent to its front door must be:</i></p> <p>(a) <i>visible from:</i></p> <p>(i) <i>a part of a road within 50m of that door; or</i></p> <p>(ii) <i>the inside of another dwelling unit within 20m of that door;</i></p> <p>Complies.</p> <p>(b) <i>provided with artificial lighting operated by a sensor or from within the dwelling unit; and</i></p> <p>(c) <i>visible from within the dwelling unit while the main front door is closed which may be achieved through:</i></p> <p>(i) <i>nearby windows;</i></p> <p>(ii) <i>transparent glass in the main front door or adjoining panels;</i></p> <p>(iii) <i>a security keyhole viewing device in the main front door;</i></p> <p>(iv) <i>a security door on the outside of the main front door; or</i></p> <p>(v) <i>any other manner that is as effective as any of the above.</i></p> <p>Standard conditions are utilised to ensure compliance with (b) and (c).</p>
6.3.3 A4	<p><i>Residential (except cluster houses) and Tourist accommodation buildings must be setback at least:</i></p> <p>(a) <i>4.5m from the frontage;</i></p> <p>(b) <i>N/A – not a rear lot;</i></p>

	<p>(c) N/A - the reserve to the north is not a Council maintained road and thus is not a secondary setback.</p> <p>(d) <i>1.5m from a side boundary; and</i></p> <p>Does not comply. The proposal includes a request for a side setback variation to the southern boundary from the required 1.5m to 1.0m, resulting in the eaves of the house being within the 1.5m setback. Performance criteria apply (ref. 6.3.3 P4).</p> <p>(e) <i>4.5m from the rear boundary.</i></p> <p>Complies.</p>
6.3.3 P4	<p><i>Residential....may have a lesser setback where the AS cannot be satisfied due to:</i></p> <p>(a) <i>the irregular shape of the lot;</i></p> <p>(b) <i>the lot having less than the minimum area or dimensions required by this planning scheme;</i></p> <p>(c) <i>unsuitable topography;</i></p> <p>(d) <i>the location of Utilities on the lot; or</i></p> <p>(e) <i>the location of existing buildings on the lot;</i></p> <p><i>if:</i></p> <p>(i) <i>for a front setback, it is in keeping with the general building alignment and streetscape character; or</i></p> <p>(ii) <i>for other setbacks, if:</i></p> <p>(1) <i>the encroachment is minor or is no closer than any other part of the existing dwelling on the lot; and</i></p> <p>(2) <i>there is no unreasonable shading of, or unreasonable loss of privacy to, adjoining properties.</i></p> <p>The proposed development is for a 0.5m setback variation. the lot is regular in shape, which meets the minimum requirements for a residential lot in the zone, and is not unusually limited by Utilities, existing buildings, or topography.</p>

	Thus, the variation cannot comply with the Performance Criteria.
6.3.3 A5	N/A
6.3.3 A6	<i>A garage or carport built under the same roof as the building it serves may be built to any boundary except frontages.</i> Complies.
6.3.3 A7	<i>N/A proposal includes a garage already.</i>
6.3.3. A8	<i>N/A No new outbuildings proposed.</i>
6.3.3 A9	<i>N/A No new outbuildings proposed.</i>
6.3.3 A10	<i>N/A No Utilities proposed.</i>
6.3.3 A11	<i>N/A no other buildings proposed.</i>
6.3.3 A12	<i>Residential development must provide a north facing living room as a living area.</i> Complies.
6.3.4	<i>Building access and services</i> <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> The Assets & Engineering Department has indicated that the proposal can be appropriately serviced, with standard conditions. The proposal complies with this Objective.
6.3.4 A1	<i>A1 The site must:</i> <i>(a) be serviced by an access constructed to Central Coast Council Municipal Standard Drawing No. SD-1003;</i> <i>(b) be connected to a reticulated water supply of 200kPa pressure at 10l per second;</i> <i>(c) be connected to a reticulated sewerage system; and</i> <i>(d) be connected to a reticulated stormwater system; and</i> <i>(e) be connected to telecommunications and electricity supply by either underground service or in a manner</i>

	<p><i>consistent with the supply to which it is connected.</i></p> <p>Standard conditions are recommended to achieve this Acceptable Solution.</p>
<i>Schedules</i>	<p>Schedule 1: Not applicable</p> <p>Schedule 2: No applicable</p> <p>Schedule 3: Not applicable</p> <p>Schedule 4: Not applicable</p> <p>Schedule 5: Not applicable</p> <p>Schedule 6:</p> <p>The relevant section of this Schedule is that of S6.4.2:</p> <p><i>A1 A building containing habitable rooms must be at least 90m inland from a 2.64m Australian Height Datum contour.</i></p> <p>The data that Council has access to through the statewide LiDar program demonstrates that the house (containing habitable rooms) is well within the 90m requirement. Thus, the applicant was advised to seek site-specific information through a surveyor and/or a coastal geomorphologist (or similarly qualified professional).</p> <p>The application included a report from a suitably qualified person, in compliance with S6.1.2 P1, demonstrating that:</p> <p><i>“the design and siting of habitable buildings minimises the risk to life and property from hazards such as sea level rise, storm surge, shoreline recession and flooding”.</i></p> <p>The proposed development is considered to comply with Schedule 6.0.</p> <p>Schedule 7: Not applicable</p> <p>Schedule 8: Not applicable</p> <p>Schedule 9: Not applicable</p> <p>Schedule 10: Complies with proposed carparking.</p> <p>Schedule 11: Not applicable</p> <p>Schedule 12: Not applicable</p>

	Schedule 13: Not applicable.
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CONSULTATION

The application was subjected to the required 14-day public scrutiny process required by s.57 of the *Land Use Planning and Approvals Act 1993*. This requires advertising of the development by a notice on site and also by a notice placed once in a daily local newspaper. Correspondence to the adjoining owners inviting them to view the application was also undertaken. The application as a matter of procedure was referred to the Council's Planning and Assessment Team. Their comments were as follows:

That the following conditions be applied to any approval:

- 1 The developer shall:
 - (a) provide a concrete vehicular access in accordance with the Council's Standard Drawing SD-1003 (copy enclosed);
 - (b) remove any driveway made redundant by the proposed development and reinstate the footpath and verge to the satisfaction of the Council's Director Assets & Engineering;
- 2 The activity endorsed by this permit must be carried out in accordance with the requirements of the Environmental and Pollution Control Act 1994 and Regulations made thereunder;
- 3 Should asbestos be discovered during the demolition process, no handling or removal works shall be undertaken until the necessary approvals and permits are granted by Workplace Standards Tasmania. Council's Environment & Health Group Leader is to be provided with a copy of any permits issued in relation to asbestos removal;
- 4 All waste materials from the site shall be appropriately disposed of to a licensed landfill site; and
- 5 Burning of any waste products or material on the site is prohibited in accordance with the Environmental Management and Pollution Control (Distributed Atmospheric Emissions) Regulations 2007.

In addition that the following information be included for the developer to note in any approval given:

- A In relation to condition 1(a) & (b) - This condition relates to the provision, relocation, modification or removal of a vehicle access. Also, the Council only permits one 6.0m or two 3.6m vehicle accesses to a lot within the road reserve. Any other arrangement is

discretionary and subject to the approval of the Council's Director of Assets and Engineering.

- B Any works associated with existing kerb & channel, footpath or roads will be undertaken by the Council at the developers cost, unless alternative arrangements are approved by the Council.
- C Contact the Council's Assets & Engineering Division if you wish to discuss or arrange any infrastructure work requirements.

Representation

One representation was received within the prescribed time.

The representation is appended as Annexure 3.

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

ISSUE#	CONCERN (PARAPHRASED)	COMMENT
1	Setback to the southern side of the lot.	The proposal relies on performance criteria for this setback. Refer to the discussion of these matters in the assessment above (6.3.3 A4 & P4).
2	Setback to the front of the lot.	The proposal complies with the front setback required by the Scheme. It is recognised that the established streetscape can be different from that required in the Scheme.
3	Overshadowing.	No shadow diagrams were provided with the application.
4	Privacy	Generally, privacy is addressed through the setback requirements. These are addressed in more detail in 6.3.3 A4 & P4.
5	Views	The Scheme does not specifically protect views, other than by setback and height requirements.
6	Given the size of the lot to be developed, a house could be	Noted. Similarly, a house that meets the Scheme requirements

	built that meets the representor's concerns.	could be developed on the lot.
7	Land value impacts	Impacts on land values are not addressed directly through the planning system in Tasmania, other than the setting of Objectives and standards in each Scheme contributing towards supporting amenity.

In summary, the representor raises a valid point in the issue of the side setback (southern boundary). The requirements of the Scheme were discussed in depth with the developer in the discussions in 2008 prior to the lodgement of their application. The proposed development complies with all other provisions of the Scheme. It is noted that the developer could lodge an application for an identical house, and set it back a further 0.5m from the southern setback, and the only matter for discretion then would be Schedule 6.0.

IMPACT ON RESOURCES

This report has no impact on resources notwithstanding the usual resources in assessment of the application and preparation of a report. Additional resourcing of time in the event of a Planning Appeal are unknown.

CORPORATE COMPLIANCE

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

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

CONCLUSION

The aspects of discretion in this application are that of the southern and coastal setback variations. The proposal demonstrates compliance with the coastal setback variation, however, it has not adequately complied with the southern setback requirements to allow a variation.

Recommendation

It is recommended that the proposed development at 3 Mason Street, Ulverstone, Application No. DEV2008.82 be refused on the grounds that it does not comply with the Central Coast Planning Scheme 2005 provisions for Building Design and Siting 6.3.3 A4 or P4.'

The report is supported."

The Director Development Services reported as follows:

"Copies of the annexes referred to in the Land Use Planning Group Leader's report have been circulated to all members."

■ Cr Haines moved and Cr Bonde seconded, "That the representation in this particular instance has insufficient merit to warrant refusal of the application and that Application No. DEV2008.82 be approved subject to the following conditions and restrictions:

General

- 1 The development generally conforming with the documents submitted with this application, labelled as:
 - (i) Drawing No: 01
 - (ii) Drawing No: 02
 - (iii) Drawing No: 03
 - (iv) Drawing No: 04
 - (v) Drawing No: 05

Unless otherwise altered by subsequent conditions of this permit;

Engineering

- 2 The developer shall:
 - (a) provide a concrete vehicular access in accordance with the Council's Standard Drawing SD-1003 (copy enclosed);
 - (b) remove any driveway made redundant by the proposed development and reinstate the footpath and verge to the satisfaction of the Council's Director Assets & Engineering;

Environment & Health

- 3 The activity endorsed by this permit must be carried out in accordance with the requirements of the Environmental and Pollution Control Act 1994 and Regulations made thereunder;

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- 4 Should asbestos be discovered during the demolition process, no handling or removal works shall be undertaken until the necessary approvals and permits are granted by Workplace Standards Tasmania. The Council's Environment & Health Group Leader is to be provided with a copy of any permits issued in relation to asbestos removal;
 - 5 All waste materials from the site shall be appropriately disposed of to a licensed landfill site; and
 - 6 Burning of any waste products or material on the site is prohibited in accordance with the Environmental Management and Pollution Control (Distributed Atmospheric Emissions) Regulations 2007.

In addition, that the following information be included for the developer to note in any approval given:

- A The Permit expires two years from the date of advice of this decision is received unless the development has been substantially commenced. An extension of time to this permit can be granted once only but only if the request is received prior to the expiry of the specified time.
- B In relation to condition 2(a) & (b) – This condition relates to the provision, relocation, modification or removal of a vehicle access. Also, the Council only permits one 6.0m or two 3.6m vehicle accesses to a lot within the road reserve. Any other arrangement is discretionary and subject to the approval of the Council's Director of Assets & Engineering.
- C Any works associated with existing kerb & channel, footpath or roads will be undertaken by the Council at the developers cost, unless alternative arrangements are approved by the Council.
- D Building and Plumbing permits are required for the proposed development.”

Carried unanimously

14/2009 Residential outbuilding (variation to outbuilding height) at 14 Dorothy Place, Ulverstone – Application No. DEV2008.75

The Director Development Services reported as follows:

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

<i>DEVELOPMENT APPLICATION No.:</i>	DEV2008.75
<i>APPLICANT:</i>	G & G Newman
<i>LOCATION:</i>	14 Dorothy Place, Ulverstone.
<i>ZONING:</i>	Residential
<i>PLANNING INSTRUMENT:</i>	<i>Central Coast Planning Scheme 2005</i> (the Scheme)

ADVERTISED: 14 January 2009
REPRESENTATIONS EXPIRY DATE: 29 January 2009
REPRESENTATIONS RECEIVED: Two
42-DAY EXPIRY DATE: 19 February 2009 (extension granted until 23 February 2009)
DECISION DUE: 23 February 2009

PURPOSE

This report considers an application requiring relaxation of the Residential zone standards of the *Central Coast Planning Scheme 2005* (the Scheme). It also considers the representations made in relation to the application.

BACKGROUND

Application is made for a new outbuilding, a copy of which is provided at Annexure 1. A location plan is provided at Annexure 2. The application may not proceed as proposed by the applicant unless the Council relaxes a requirement of the Scheme. Therefore, the decision is discretionary according to section 57 of the *Land Use Planning and Approvals Act 1993* (the Act).

The relaxation to be considered is the height of the north-western wall of the outbuilding.

DISCUSSION

Relevant standards and requirements of the Scheme:

In determining compliance with the standards and requirements, regard is given to:

- the objectives for planning as set out in Part A of the Scheme;
- the purpose of the Residential zone;
- the objectives of the relevant Acceptable Solutions and Performance Criteria; and
- representations received.

REFERENCE	DETAIL AND COMMENT
6.3.3 A1	<i>A building must not exceed:</i>

	<p>(a) a maximum building height of 8m; and</p> <p>(b) a maximum wall height for residential building;</p> <p>(i) not exceeding 4m within 2m of a side boundary; or</p> <p>(ii) a minimum side boundary setback of ½ the height of a wall where the wall height is greater than 4m.</p> <p>Complies with all Acceptable Solutions.</p>
6.3.3 A2	<p>Site coverage for other than Utilities, multiple dwelling or cluster house must not exceed:</p> <p>(a) 45% for sites greater than 650m² ;or</p> <p>(b) 50% for sites less than 650m².</p> <p>Complies with Acceptable Solution – well within site coverage percentage.</p>
6.3.3 A3	<p>The external area of a dwelling unit adjacent to its front door must be:</p> <p>(a) visible from:</p> <p>(i) a part of a road within 50m of that door; or</p> <p>(ii) the inside of another dwelling unit within 20m of that door;</p> <p>(b) provided with artificial lighting operated by a sensor or from within the dwelling unit; and</p> <p>(c) visible from within the dwelling unit while the main front door is closed which may be achieved through:</p> <p>(i) nearby windows;</p> <p>(ii) transparent glass in the main front door or adjoining panels;</p> <p>(iii) a security keyhole viewing device in the main front door;</p> <p>(iv) a security door on the outside of the main front door; or</p>

	<p>(v) <i>any other manner that is as effective as any of the above.</i></p> <p>Not applicable to outbuildings.</p>
6.3.3 A4	<p><i>Residential (except cluster houses) and Tourist accommodation buildings must be setback at least:</i></p> <p>(a) <i>4.5m from the frontage; or</i></p> <p>(b) <i>for a rear lot, 4.5m from the boundary which abuts the access strip; and</i></p> <p>(c) <i>3m from a secondary frontage; and</i></p> <p>(d) <i>1.5m from a side boundary; and</i></p> <p>(e) <i>4.5m from the rear boundary.</i></p> <p>Not applicable to outbuildings.</p>
6.3.3 A5	<p><i>The minimum setback for a Cluster house must be at least:</i></p> <p>(a) <i>4.5m from the frontage;</i></p> <p>(b) <i>1.5m from any other boundary with land that is not part of the same cluster house subdivision; or</i></p> <p>(c) <i>0m from boundaries, other than frontage, that are part of the same cluster house subdivision.</i></p> <p>Not applicable.</p>
6.3.3 A6	<p><i>A garage or carport built under the same roof as the building it serves may be built to any boundary except frontages.</i></p> <p>Not applicable.</p>
6.3.3 A7	<p><i>A development for Residential or Tourist accommodation uses which does not include a garage or carport must be accompanied by a plan which demonstrates that a garage or carport can be established in accordance with the setback standards.</i></p> <p>Not applicable.</p>
6.3.3 A8	<p><i>Outbuildings must have:</i></p>

	<p>(a) <i>an aggregate gross floor area not exceeding 85m²;</i></p> <p>(b) <i>a wall height not exceeding 2.7m if the wall has less than 2m side setback; and</i></p> <p>(c) <i>a maximum building height not exceeding 4.5m.</i></p> <p>The proposed development is non-compliant with 6.3.3A8(b).</p> <p>Wall height means</p> <p style="padding-left: 40px;">“the vertical distance from the lowest point on a wall at natural ground level to the highest point on that wall” (see definition section of Scheme).</p> <p>Required wall height of an outbuilding on the boundary is 2.7m or less. The proposed wall height is 3m (see assessment of 6.3.3 P8 below).</p> <p>Complies with other Acceptable Solutions.</p>
6.3.3 P8	<p><i>Outbuildings may exceed any or all of the requirements of the AS if :</i></p> <p>(a) <i>the aggregate gross floor area does not exceed that of the associated dwelling unit;</i></p> <p>(b) <i>the maximum building height does not exceed 5m;</i></p> <p>(c) <i>their colour and design complement the associated dwelling unit; and</i></p> <p>(d) <i>there is no unreasonable shading of, or unreasonable loss of privacy to, adjoining properties.</i></p> <p>Each sub-clause is assessed in turn:</p> <p>(a) & (b) – Complies.</p> <p>(c) <i>their colour and design complement the associated dwelling unit</i></p> <p>This provision requires something more than standard carport design and colour in order to satisfy the Performance Criteria.</p>

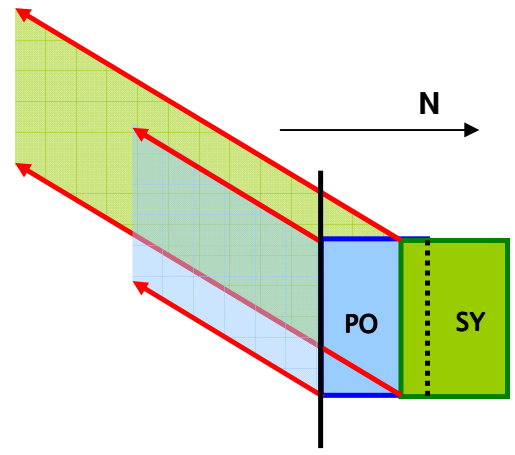
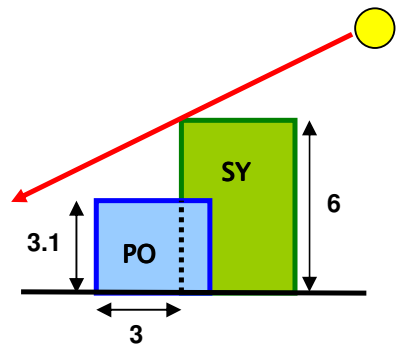
	<p>The colour of the roof, barge, gutter and down pipe is unknown. The abbreviation WL is proposed for the colour but its meaning is unknown. The colour of the framework is unspecified. Accordingly, a condition requiring compliance with the Performance Criteria is included in the recommended permit conditions.</p> <p>The proposed carport design does little to complement the design of the associated dwelling unit. A minimum requirement would be for the roof pitches to match each other. Further consideration could be given to using timber posts finished in the same way as the timber post adjacent the front door of dwelling unit and taking steps to match the gable ends of the dwelling unit with the proposed carport. A corresponding condition is included in the recommended permit conditions and notes.</p> <p><i>(d) there is no unreasonable shading of, or unreasonable loss of privacy to, adjoining properties.</i></p> <p><u>Unreasonable loss of privacy:</u></p> <p>The carport is not a habitable space. There are no occupants and therefore no overlooking and no unreasonable loss of privacy.</p> <p><u>Unreasonable shading:</u></p> <p>The Scheme definition of unreasonable shading is:</p> <p><i>“shading of an adjoining lot between the hours of 10.00am and 3.00pm on the 21st June that would be greater than caused by a building on the lot the subject of the application:</i></p> <ul style="list-style-type: none"> <i>(a) of the same floor plan;</i> <i>(b) built to the frontage and side setbacks in accordance with the relevant acceptable solutions; and</i> <i>(c) the maximum building height of which at the setback from the boundary with the adjoining lot is at least 2m less than the maximum building height in accordance with the relevant acceptable solution“</i>
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Therefore, the Scheme determines Unreasonable Shading by measuring the shading of the proposed outbuilding against a Scheme standard of comparison building (Scheme yardstick) with the same floor plan, whose height is 2m less than the maximum building height (8m-2m=6m) and whose setback is 3m. Unreasonable Shading is shading greater than that caused by that Scheme yardstick.

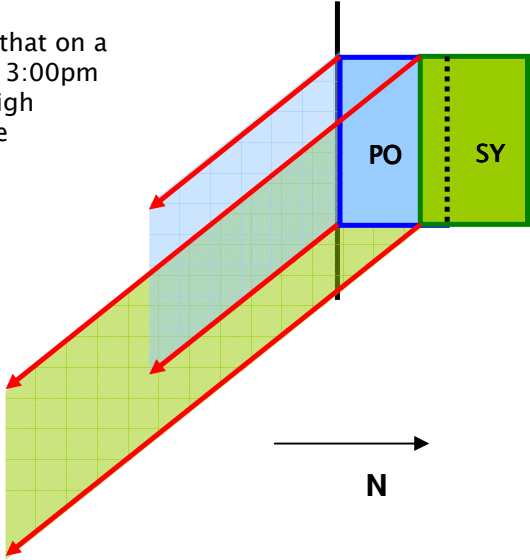
An Unreasonable Shading analysis is depicted below:

PO = Proposed outbuilding
 SY = Scheme yardstick

Drawing demonstrates that on a flat site at 12:00pm on 21 June, a building on the boundary 3.1m in height will not shade any more than the Scheme



Drawing demonstrates that on a flat site, the shading at 10:00am on 21 June of a 3.1m high building is less than the Scheme yardstick.

<p>Drawing demonstrates that on a flat site, the shading at 3:00pm on 21 June of a 3.1m high building is less than the Scheme yardstick.</p>	 <p>On the basis of the example above it is not possible for the proposed carport to shade any more than the Scheme yardstick. Therefore, there is no Unreasonable Shading of adjoining properties.</p>
<p>6.3.3 A9</p>	<p><i>An outbuilding must be setback at least:</i></p> <ul style="list-style-type: none"> <i>(a) 4.5m from the frontage; or</i> <i>(b) for a locality where the front setbacks of adjoining buildings are established at a greater or lesser setback than 4.5m, an outbuilding must be no closer than the greater setback of an adjoining building; or</i> <i>(c) for a rear lot, 4.5m from the boundary which abuts the access strip; and</i> <i>(d) 3m from a secondary frontage except that a garage or carport located to the rear of the associated dwelling unit can be built to a secondary frontage.</i> <p>Complies with all Acceptable Solutions.</p>
<p>6.3.3 A10</p>	<p>Not applicable. No utility proposed.</p>

6.3.3 A11	<p><i>Other buildings must be setback at least:</i></p> <p>(a) <i>8m from the frontage;</i></p> <p>(b) <i>4.5m from a secondary frontage;</i></p> <p>(c) <i>4.5m from the rear if the lot has only one frontage; and</i></p> <p>(d) <i>3m from any other boundary.</i></p> <p>Not applicable. No other buildings proposed.</p>
6.3.3 A12	<p><i>Residential development must provide a north facing room as a living area.</i></p> <p>Not applicable to outbuildings.</p>
6.3.4 A1	<p><i>A1 The site must:</i></p> <p>(a) <i>have an access constructed to Central Coast Council Municipal Standard Drawing No. SD-1003;</i></p> <p>(b) <i>be connected to a reticulated water supply of 200kPa pressure at 10l per second;</i></p> <p>(c) <i>be connected to a reticulated sewerage system;</i></p> <p>(d) <i>be connected to a reticulated stormwater system; and</i></p> <p>(e) <i>be connected to telecommunications and electricity supply by either underground service or in a manner consistent with the supply to which it is connected.</i></p> <p>Standard conditions can achieve this Acceptable Solution.</p>
CAR PARKING SCHEDULE	
S.10.3.2	<p><i>The number of car parking spaces to be provided on-site is 2 spaces per dwelling unit less the number of spaces provided in a garage or carport.</i></p> <p>Complies with the Acceptable Solution.</p>

The objectives of the *Land Use Planning and Approvals Act 1993*:

The proposed development is consistent with the following objectives of the Act:

- to promote the sustainable development of natural and physical resources and the maintenance of ecological processes and genetic diversity; and
- to provide for the fair, orderly and sustainable use and development of air, land and water; and
- to encourage public involvement in resource management and planning; and
- to facilitate economic development in accordance with the objectives set out in paragraphs (a), (b) and (c); and
- 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 requirements of State Policies:

The proposed development accords with the requirements of relevant State Policies.

CONSULTATION

In accordance with S.57(3) and of the Act:

- A site notice was posted.
- Letters to adjoining owners were sent.
- An advertisement was placed in the Public Notices section of the Advocate.

The application was referred to the Council's Planning and Assessment Team. Any relevant comments received from the Planning and Assessment Team are included in the recommendation of the application.

Representation

Two representations were received within the prescribed time. Copies of the representations are provided at Annexure 3.

The issues raised in the representations are as follows:

REPRESENTATION 1 (DATED 27 JANUARY 2009)	
ISSUE (PARAPHRASED)	COMMENT
Location of carport.	Representation has merit. Issue considered and addressed by assessment of 6.3.3 A8 & 6.3.3 P8 above.
Complimenting the associated dwelling.	Representation has merit. Issue considered and addressed by assessment of 6.3.3 P8(c) above.
Complimenting the streetscape.	No discretion exercisable in relation to complimenting the streetscape.
REPRESENTATION 2 (DATED 29 JANUARY 2009)	
This representation was withdrawn in writing but not wholly withdrawn. A copy of the withdrawal is provided at Annexure 4. As it is not wholly withdrawn, it must be considered.	
ISSUE (PARAPHRASED)	COMMENT
Design of carport	Representation has merit. Issue considered and addressed by assessment of 6.3.3 P8 above.
Complimenting the associated dwelling.	Representation has merit. Issue considered and addressed by assessment of 6.3.3 P8(c) above.
Complimenting the streetscape.	No discretion exercisable in relation to complimenting the streetscape.

The representations relating to the location and design of the carport have merit. They directly address the proposed development's compliance with the standards and requirements of the Scheme.

IMPACT ON RESOURCES

This report has no impact on resources other than the usual resources in the assessment of the application and preparation of a report. Additional resources required in the event of an appeal are unknown.

CORPORATE COMPLIANCE

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

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

CONCLUSION

The representations have merit.

The proposed development complies with all relevant Acceptable Solutions that cannot be conditioned for compliance with the Scheme. Where there is insufficient information in the application or non-compliance with the Scheme standards, standard conditions can achieve compliance and have been recommended accordingly.

Recommendation

It is recommended that the representations have sufficient merit to justify imposition of certain conditions but insufficient merit to warrant refusal of the application and that the application be approved subject to the following conditions and restrictions:

General

- 1 The development must be sited in accordance with site plan prepared by Y & B HOMES, SHEET 7, Amdt. 1, dated 29/5/98 and in accordance with DRAWING NUMBER 220439-GA, PAGE 1/1 unless otherwise modified by a condition of this permit;
- 2 The colour of the proposed carport's roof must match the colour of the roof of the associated dwelling.
- 3 The colour of the proposed carport's barge, gutter and framework must match, or must complement to the same degree as they match, the colours of the associated dwelling unit;

-
- 4 The roof pitch of the carport must match, or must complement to the same degree as it matches, the roof pitch of the associated dwelling unit;

Engineering

- 5 Provide a concrete sealed vehicular access in accordance with the Council's Standard Drawing No. SD-1003;
- 6 The provision, upgrading or extension of kerb & channel, footpath or road infrastructure as a result of the development, shall be to the satisfaction of the Council's Director Assets & Engineering;
- 7 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 & Engineering at the applicant's expense.

You are requested to note:

- A This permit expires two years from this date unless the development has substantially commenced.
- B In relation to condition 2, 3 and 4 - The *Central Coast Planning Scheme 2005* requires that the proposed carport's "colour and design complement the associated dwelling unit".
- C Further consideration should be given to using timber posts finished in the same way as the timber post adjacent the front door of dwelling unit and taking steps to match the gable ends of the proposed carport with the dwelling unit.
- D In relation to condition 5 - The Council only permits one 6.0m or two 3.6m vehicle accesses to a lot within the road reserve. Any other arrangement is discretionary and subject to the approval of the Council's Director of Assets & Engineering. The driveway is to be constructed from the back of the kerb to the property boundary.
- E Any works associated with existing kerb & channel, footpath or roads will be undertaken by the Council at the developers cost, unless alternative arrangements are approved by the Council.
- F Any works (e.g. driveway construction) undertaken within the Road Reservation requires 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.

-
- G Building and plumbing permits are required for the proposed development. A copy of this planning permit should be given to your building surveyor.'

The report is supported."

The Land Use Planning Group Leader reported as follows:

"Copies of the annexes referred to in the report have been circulated to all members."

- Cr van Rooyen moved and Cr McKenna seconded, "That the representations have sufficient merit to justify imposition of certain conditions but insufficient merit to warrant refusal of the application and that the application be approved subject to the following conditions and restrictions:

General

- 1 The development must be sited in accordance with site plan prepared by Y & B HOMES, SHEET 7, Amdt. 1, dated 29/5/98 and in accordance with DRAWING NUMBER 220439-GA, PAGE 1/1 unless otherwise modified by a condition of this permit;
- 2 The colour of the proposed carport's roof must match the colour of the roof of the associated dwelling.
- 3 The colour of the proposed carport's barge, gutter and framework must match, or must complement to the same degree as they match, the colours of the associated dwelling unit;
- 4 The roof pitch of the carport must match, or must complement to the same degree as it matches, the roof pitch of the associated dwelling unit;

Engineering

- 5 Provide a concrete sealed vehicular access in accordance with the Council's Standard Drawing No. SD-1003;
- 6 The provision, upgrading or extension of kerb & channel, footpath or road infrastructure as a result of the development, shall be to the satisfaction of the Council's Director Assets & Engineering;
- 7 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 & Engineering at the applicant's expense.

You are requested to note:

- A This permit expires two years from this date unless the development has substantially commenced.
- B In relation to condition 2, 3 and 4 – The *Central Coast Planning Scheme 2005* requires that the proposed carport’s “colour and design complement the associated dwelling unit”.
- C Further consideration should be given to using timber posts finished in the same way as the timber post adjacent the front door of dwelling unit and taking steps to match the gable ends of the proposed carport with the dwelling unit.
- D In relation to condition 5 – The Council only permits one 6.0m or two 3.6m vehicle accesses to a lot within the road reserve. Any other arrangement is discretionary and subject to the approval of the Council’s Director of Assets & Engineering. The driveway is to be constructed from the back of the kerb to the property boundary.
- E Any works associated with existing kerb & channel, footpath or roads will be undertaken by the Council at the developers cost, unless alternative arrangements are approved by the Council.
- F Any works (e.g. driveway construction) undertaken within the Road Reservation requires 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.
- G Building and plumbing permits are required for the proposed development. A copy of this planning permit should be given to your building surveyor.”

Carried unanimously

Closure

There being no further business, the Mayor declared the meeting closed at 6.18pm.

CONFIRMED THIS DAY OF , 2009.

Chairperson

(ms:kaa)

QUALIFIED PERSON'S ADVICE

The *Local Government Act 1993* provides (in part) as follows:

- . A general manager must ensure that any advice, information or recommendation given to the council is given by a person who has the qualifications or experience necessary to give such advice, information or recommendation.
- . A council is not to decide on any matter which requires the advice of a qualified person without considering such advice unless the general manager certifies in writing that such advice was obtained and taken into account in providing general advice to the council.

I therefore certify that with respect to all advice, information or recommendation provided to the Development Support Special Committee within these minutes:

- (i) the advice, information or recommendation was given by a person who has the qualifications or experience necessary to give such advice, information or recommendation; and
- (ii) where any advice was directly given by a person who did not have the required qualifications or experience that person has obtained and taken into account in that person's general advice the advice from an appropriately qualified or experienced person.

Sandra Ayton
GENERAL MANAGER