

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, 24 September 2007 commencing at 6.00pm

Members attendance

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

Cr Brian Robertson (Deputy Mayor)
Cr Ken Haines

Member apology

Mrs Kathy Schaefer

Employees attendance

Director Development Services (Mr Jeff McNamara)
Land Use Planning Group Leader (Mr Shane Warren)

CONFIRMATION OF MINUTES OF THE COMMITTEE

58/2007 Confirmation of minutes

The Land Use Planning Group Leader reported as follows:

“The minutes of the previous meeting of the Development Support Special Committee held on 27 August 2007 have already been circulated. The minutes are required to be confirmed for their accuracy.

The *Local Government (Meeting Procedures) Regulations 2005* provide that in confirming the minutes of a meeting, debate is allowed only in respect of the accuracy of the minutes.”

■ Cr Van Rooyen moved and Cr Haines seconded, “That the minutes of the previous meeting of the Development Support Special Committee held on 27 August 2007 be confirmed.”

Carried unanimously

MAYOR'S COMMUNICATIONS

59/2007 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 Barker moved and Cr Robertson seconded, "That the Mayor's report be received."

Carried unanimously

PECUNIARY INTEREST DECLARATIONS

60/2007 Pecuniary interest declarations

The Mayor reported as follows:

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

The Land Use Planning Group Leader reported as follows:

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

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

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

No interests were declared at this time.

ADJOURNMENT OF MEETING

61/2007 Adjournment of meeting

The Mayor reported as follows:

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

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

DEPUTATIONS

62/2007 Deputations

The Land Use Planning Group Leader reported as follows:

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

OPEN REPORTS

63/2007 Two-lot subdivision at 1244 Castra Road, Sprent – Application No. SUB2007.17

The Land Use Planning Group Leader reported as follows:

<i>“DEVELOPMENT APPLICATION NO.:</i>	SUB2007.17
<i>APPLICANT</i>	Lester Franks Survey & Geographic Pty Ltd obo B & G Strobel
<i>LOCATION:</i>	1244 Castra Road, Sprent

<i>ZONING:</i>	Part Residential (RF) – Village, part Rural (R) – General
<i>PLANNING INSTRUMENT:</i>	Central Coast S.46 Planning Scheme No.1 of 1993 (the Scheme)
<i>ADVERTISED:</i>	15 August 2007
<i>REPRESENTATIONS EXPIRY DATE:</i>	31 August 2007
<i>REPRESENTATIONS RECEIVED:</i>	Two
<i>42-DAY EXPIRY DATE:</i>	24 September 2007
<i>DECISION DUE:</i>	24 September 2007

PURPOSE

The purpose of this report is to consider the merits of two representations received and the compliance of the proposal with the subdivision provisions of the Scheme.

The proposal is to subdivide a lot of 1349m², shown as Lot 2 on the proposal plan, that contains an existing house that leaves a vacant balance lot of 23.8ha, shown as Lot 1 on the proposal plan, for agricultural purposes.

A copy of the application form is appended as Annexure 1.

The proposal plan is appended as Annexure 2.

BACKGROUND

Prior to this formal application for subdivision, preliminary enquiries were made on the development options available to separate the house from the 23.9ha parent title. Discussions also occurred on the residential development potential of the rural land and the process required in doing so. The development of the balance rural-zoned lot is not the purpose of this application and the outcome, if positive, doesn't imply any approval in that regard. A further option explored was to subdivide the other portion of the strip of land zoned village residential fronting on to Castra Road. This potentially would create a further four village residential lots. This was discounted due to unknown on-site wastewater management factors and also the future zoning that could make residential development of the lots prohibitive.

Historically, the existing house on Lot 2 was constructed in 1920 and from some available mapping information it appears to have once been the site of the local Forestry Commission office. Although the specific site details are not required with this application the 1:100,000 land capability maps show the land to contain a large percentage of prime land.

DISCUSSION

The existing title is almost 24 hectares in area and has been converted to pasture with the exception of the existing house that fronts Castra Road. The land is located on the western side of Castra Road on the northern part of the existing village of Sprent. The lot containing the existing house is zoned Residential (RF) – Village and complies with the subdivision standards of the Scheme. The balance lot shown as Lot 1 on the proposal plan is zoned Rural (R) – General and the resultant subdivision, if approved, will align the residential use with the residential zone.

A location plan is appended as Annexure 3.

CONSULTATION

The application was subjected to the required 14-day public scrutiny process required by s.57 of the *Land Use Planning and Approvals Act 1993*. This requires advertising of the development by a notice on site and also by a notice placed once in a daily local newspaper. Correspondence to the adjoining owners inviting them to view the application was also undertaken.

The application as a matter of procedure was referred to the Council's Planning and Assessment Team. No comments were received from the Planning and Assessment Team that required inclusion in the final determination of the application.

A copy of the advertisement is appended as Annexure 4.

Representations

Within the prescribed period open for public scrutiny two representations were received, both objecting to the application for similar reasons.

Copies of the representations are appended as Annexure 5.

The issue common to both representations is the concern that another residence may be constructed on Lot 1 and that this would degrade the rural commercial value of the property.

Response – If this application is approved it does not imply any approval for developing a house on Lot 1. Although this possibility cannot be dismissed the process to do so has to consider the Scheme provisions that control non-

rural development on lots containing prime land. The Protection of Agricultural Land provisions of the Scheme are applicable if any application is made.

IMPACT ON RESOURCES

This report has no extraordinary impact on resources than could be expected at this stage of the process. It is noted that if there is an appeal to the Council's decision, there will be additional impacts on the Council's resources.

CORPORATE COMPLIANCE

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

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

CONCLUSION

The existing house is proposed on a lot that conforms to the minimum provisions for subdivision in the Residential (RF) – Village zone. It aligns the residential use on a residential-zoned lot and maintains the balance lot in a rural zone.

Recommendation

It is recommended that the representations be deemed to have insufficient merit on planning grounds to warrant refusal of the application and that Application No. SUB2007.17 be approved subject to the following conditions and restrictions:

General

- 1 The Final Plan must be substantially the same as the submitted plan – reference P00100–P01 dated 24/07/2007 unless otherwise altered by the conditions of this permit;
- 2 The Final Plan is to confirm that the provisions of Clause 9.8.1 of the Central Coast S.46 Planning Scheme No.1 of 1993 has been complied with;

3 The subdivider:

- (a) providing a sealed vehicular access to each lot in accordance with the Council's Standard Drawing SD-1012. The accesses are to be located where possible to maximise available sight distance; and
- (b) rectifying any damage or disturbance to roads, drainage and existing services to the satisfaction of the Council's Director Assets & Engineering;

Environmental

4 The Final Plan shall be endorsed in the following format:

'On-site sewage and sullage disposal:

Lots 1 and 2 are suitable for the installation of conventional septic tank systems subject to a minimum 500m² of suitable land (approximately square in shape) being dedicated to the on-site disposal of sullage and sewage effluent';

and that the applicant be further requested to note:

- A this permit expires two years from the date advice of this decision is received unless the Final Plan has been submitted for sealing;
- B in relation to Condition 4 this apparent suitability is based upon the generally accepted understanding that many factors affect the successful operation of an on-site sewage and sullage disposal system. Following initial installation, it may be necessary that additional work will be required to be done on the system to maintain it in an operational condition and free of nuisance. This is the responsibility of the owner;
- C any works undertaken within the Road Reservation requires a Road Permit to be issued by the Council's Assets & Engineering Department prior to construction;
- D any queries relating to the environmental requirements specified in this permit should be directed to the Council's Environmental Officer; and

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- E consent for an on-site wastewater system for Lot 1 does not indicate tacit approval for any residential development.”

The report is supported.”

The Land Use Planning Group Leader reported as follows:

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

■ Cr Barker moved and Cr Van Rooyen seconded, “That the representations be deemed to have insufficient merit on planning grounds to warrant refusal of the application and that Application No. SUB2007.17 be approved subject to the following conditions and restrictions:

General

- 1 The Final Plan must be substantially the same as the submitted plan – reference P00100–P01 dated 24/07/2007 unless otherwise altered by the conditions of this permit;
- 2 The Final Plan is to confirm that the provisions of Clause 9.8.1 of the Central Coast Planning S.46 Scheme No.1 of 1993 has been complied with;
- 3 The subdivider:
 - (a) providing a sealed vehicular access to each lot in accordance with the Council’s Standard Drawing SD–1012. The accesses are to be located where possible to maximise available sight distance; and
 - (b) rectifying any damage or disturbance to roads, drainage and existing services to the satisfaction of the Council’s Director Assets & Engineering;

Environmental

- 4 The Final Plan shall be endorsed in the following format:

‘On-site sewage and sullage disposal:

Lots 1 and 2 are suitable for the installation of conventional septic tank systems subject to a minimum 500m² of suitable land (approximately square in shape) being dedicated to the on-site disposal of sullage and sewage effluent’;

and that the applicant be further requested to note:

- A this permit expires two years from the date advice of this decision is received unless the Final Plan has been submitted for sealing;

-
- B in relation to Condition 4 this apparent suitability is based upon the generally accepted understanding that many factors affect the successful operation of an on-site sewage and sillage disposal system. Following initial installation, it may be necessary that additional work will be required to be done on the system to maintain it in an operational condition and free of nuisance. This is the responsibility of the owner;
 - C any works undertaken within the Road Reservation requires a Road Permit to be issued by the Council's Assets & Engineering Department prior to construction;
 - D any queries relating to the environmental requirements specified in this permit should be directed to the Council's Environmental Officer; and
 - E consent for an on-site wastewater system for Lot 1 does not indicate tacit approval for any residential development."

64/2007 House (on rural land) at CT63494/3 Castra Road, Upper Castra – Application No. DEV2007.22

The Land Use Planning Group Leader reported as follows:

"The Town Planner has prepared the following report:

<i>'DEVELOPMENT APPLICATION NO.:</i>	DEV2007.22
<i>APPLICANT</i>	R & L Brown
<i>LOCATION:</i>	CT63494/3 Castra Road, Upper Castra
<i>ZONING:</i>	Rural (R) – General
<i>PLANNING INSTRUMENT:</i>	Central Coast S.46 Planning Scheme No.1 of 1993 (the Scheme)
<i>ADVERTISED:</i>	23 August 2007
<i>REPRESENTATIONS EXPIRY DATE:</i>	6 September 2007
<i>REPRESENTATIONS RECEIVED:</i>	Two
<i>42-DAY EXPIRY DATE:</i>	1 October 2007
<i>DECISION DUE:</i>	24 September 2007

PURPOSE

The purpose of this report is to consider the merits of the representations received in objection to a discretionary planning application for a house in the Rural (R) – General Zone at CT63494/3 Castra Road, Upper Castra (the old recreation ground).

A copy of the application form is appended as Annexure 1.

BACKGROUND

On 21 August 2007 an application was received at the Council for a house in the Rural (R) – General zone at the old Upper Castra recreation ground.

A location plan is attached as Annexure 2.

This report will consider:

- 1 the compliance of the application with the relevant objectives, provisions and development standards of the Scheme;
- 2 the specific intent of the Rural (R) – General Zone; and
- 3 the merits of the representations received.

DISCUSSION

The subject site is at the outer edge of the Upper Castra settlement, just within the 60km/h speed limit area. The proposal is for a single dwelling, and associated outbuilding. The subject site fronts onto Castra Road and shares boundaries with two other properties, one of which has a dwelling and numerous outbuildings on it, the other is subject to a development application for a single dwelling.

Plans of the proposed development and associated application documents are attached as Annexure 3.

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

The relevant objectives, provisions and development standards of the Scheme are addressed in the following table:

CLAUSE	DETAIL	COMPLIANCE
General provisions		
3.9.2	Relevant sections for discussion which are not covered elsewhere in report: (d) landslip, slope, flooding,	The only concern regarding this clause is that of the relationship between the proposed development and the adjoining residence.

	<p>bush fire.</p> <p>(e) siting size and appearance in relation to adjoining land.</p> <p>(f) adequate infrastructure.</p> <p>(g) use of, and impact on, adjoining land.</p>	<p>In short, it is preferable to encourage development within existing settlements, but within a rural area such as this, there are certain amenity issues to be considered and protected.</p>
Objectives (relevant sections only)		
5.1.1(a)	Orderly settlement and management of population, commerce, rural production and industry.	The proposed development is within the boundaries of an existing settlement.
5.1.1(c)	Enhancement of environmental "quality of life" of residents and visitors by attention to aesthetics and landscape impact...	The proposed development will maintain the existing settlement, in keeping with the intent to minimise impacts on aesthetics and landscape impact.
5.1.1(i)	Prevention of the loss of agricultural potential of non-urban lands and the fragmentation of rural holdings.	The proposed development is within the boundaries of an existing settlement. The subject land has already been converted from agricultural potential.
5.1.1(j)	Protection of rural land from inappropriate residential...development.	As above.
Rural provisions/development standards		
<p><i>Note: The land capability survey conducted for the site (included in Annexure 2) provides that the site is made up of Class 7 and "unclassifiable" land, due to the extensive modification of the soil on-site from the previous use. In effect, the site has already been converted from agricultural uses. Given this state of events and that the intent of this section of the Scheme is to protect agricultural land from conversion to other uses, it has been determined that the relevant</i></p>		

<i>Clauses are 7A.3.1 & subsequently 7A.3.2.</i>		
7A.3.1	<p>A house on any lot which contains only class 5, 6 or 7 land is permitted if no part of the dwelling unit (but excluding any outbuildings) is closer than:</p> <p>(a) 80m to any road; and</p> <p>(b) 100m to any other boundary of the lot</p>	<p>(a) does not comply. Proposed house location is just over 66m from the road.</p> <p>(b) does not comply. Proposed house location is approximately 54m to the north-eastern boundary and 38m and 78m to the south-eastern and south-western boundaries respectively.</p> <p>As such, Clause 7A.3.2 applies.</p>
7A.3.2	<p>A house on any lot which contains only Class 5, 6 or 7 land (and which does not comply with clause 7A.3.1) is discretionary and may only be approved if any existing or potential development of agricultural land in the vicinity is likely to cause no impact, or only minor impact, on its residential amenity taking into consideration:</p> <p>(a) the topography of the land;</p> <p>(b) the location of water catchments;</p> <p>(c) the location of neighbouring dwellings; and</p> <p>(d) buffers created by natural features.</p>	<p>(a) The site slopes off from the proposed house location;</p> <p>(b) The existing water catchments will not be impacted upon by/have impact upon the proposed residence. The normal legislation applies regarding the management of water on properties.</p> <p>(c) The proposed development is within the existing Upper Castra settlement.</p> <p>(d) The slope of the land provides for a natural buffer between the existing agricultural uses and the proposed dwelling.</p>

2 *The specific intent of the Rural (R) - General Zone.*

The Rural (R) - General zone is “primarily intended to accommodate Agricultural Uses and Extractive Industry”.

Obviously, this development is for neither agricultural use nor extractive industry. However, Clause 6.1.1 clarifies how the intent of a zone is to be interpreted, as follows:

“activities which are not within the prime intent but which may receive approval in accordance with the provisions of this Scheme are subject to evaluation on the basis that the prime intent is not significantly affected or jeopardised”

In this context, the proposed development is on a site which has, to all intents and purposes, been converted from possible agricultural use already. This is confirmed by the land capability assessment that was undertaken, which states that the soil has been so “highly modified”, excavated and filled during construction of the sport oval that it is unclassifiable according to the standard used to classify land capability. Therefore, the *prime intent* of the site is not being *significantly affected* by the proposed development as the change has already occurred. The adjoining land owners will maintain their right to use their land for agricultural purposes, within the existing relevant legislation.

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. Other than standard conditions regarding building and wastewater permits and access upgrades, no comments were received from the Planning and Assessment Team that required inclusion in the final determination of the application.

A copy of the advertisement is appended as Annexure 4.

Representations

Copies of the representations received are attached as Annexure 5.

3 The merits of the representations received.

The representations are based on the following concerns:

#	DETAIL	COMPLIANCE
1	Location of wastewater treatment system.	The site has been assessed as being suitable for wastewater treatment, which is all that is required for the issue of a planning permit. The actual location will be subject to separate assessment procedures (see recommended conditions).
2	Invasion of privacy.	Cl.3.9.2(e) & 3.9.2(g) provide some consideration for this issue. It is noted that on the submitted plans the proposed garage will be approximately 25m from the appellant's house.
3	Destroy selling point.	Not covered by the Scheme.
4	Opposed to the location of proposed buildings, recommends relocation.	See response to point 2.
5	Location of access.	Would be located according to engineering standards.

IMPACT ON RESOURCES

This report has no impact on resources.

CORPORATE COMPLIANCE

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

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

CONCLUSION

The land is within an existing settlement, in keeping with the strategic objectives of the Scheme, including the PAL policy. The concern of the representors regarding the need to protect privacy and amenity with rural dwellings is recognised within the Scheme, and it is recommended that the proposed dwelling be relocated slightly to allow for satisfactory outcomes under Clause. 3.9.2 and the relevant Objectives of the Scheme.

Recommendation

It is recommended that the representations of objection be deemed to have insufficient merit on planning grounds to justify refusal of the application but that the concerns raised regarding privacy reflect valid planning matters and therefore that Application No. DEV2007.22 be approved subject to the following conditions and restrictions:

- 1 The development generally conforming with the documents submitted with this application unless otherwise altered by subsequent conditions of this permit;
- 2 The proposed buildings be relocated 10m to the south-west, reducing the setback to the south-western boundary to 68m;
- 3 The developer must provide a sealed vehicular access in accordance with the Council's Standard Drawing SD 1012;
- 4 Access must be located (where possible) to maximise available sight distance;
- 5 A separate application detailing the design and type of on-site wastewater management system is required at the building application stage. Approval of a specific system will be subject to a site assessment by the Council's Environmental Officer. It is recommended that the applicant contact the Council's Environmental Officer prior to commencement of site or road works to ensure an adequate area remains for installation of a wastewater system; and
- 6 The on-site wastewater system for the proposed dwelling being installed in accordance with the Australian/New Zealand Standard AS/NZS 1547:2000 – On site Domestic Wastewater Management;

and that the applicant be further requested to note:

- A the Permit expires two years from the date advice of this decision is received unless the development has been substantially commenced. An extension of time to this period can be granted once only but only if the request is received prior to the expiry of the specified time;
- B in regard to Conditions (5) and (6), the lot appears suitable for the installation of a modified septic tank system, subject to a minimum area of suitable land being dedicated to the on-site disposal of sullage and sewage effluent;
- C an application for a Building Permit is required for the proposed development; and
- D any works undertaken within the Road Reservation requires a Road Permit to be issued by the Council's Assets & Engineering Department prior to construction.'

The report is supported."

The Land Use Planning Group Leader reported as follows:

"Copies of the annexures referred to in the Town Planner's report have been circulated to all members."

■ Cr Haines moved and Cr Van Rooyen seconded, "That the representations of objection be deemed to have insufficient merit on planning grounds to justify refusal of the application and that Application No. DEV2007.22 be approved subject to the following conditions and restrictions:

- 1 The development generally conforming with the documents submitted with this application unless otherwise altered by subsequent conditions of this permit;
- 2 The developer must provide a sealed vehicular access in accordance with the Council's Standard Drawing SD 1012;
- 3 Access must be located (where possible) to maximise available sight distance;
- 4 A separate application detailing the design and type of on-site wastewater management system is required at the building application stage. Approval of a specific system will be subject to a site assessment by the Council's Environmental Officer. It is recommended that the applicant contact the Council's Environmental Officer prior to commencement of site or road works to ensure an adequate area remains for installation of a wastewater system; and

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- 5 The on-site wastewater system for the proposed dwelling being installed in accordance with the Australian/New Zealand Standard AS/NZS 1547:2000 – On-site Domestic Wastewater Management;

and that the applicant be further requested to note:

- A the Permit expires two years from the date advice of this decision is received unless the development has been substantially commenced. An extension of time to this period can be granted once only but only if the request is received prior to the expiry of the specified time;
- B in regard to Conditions (5) and (6), the lot appears suitable for the installation of a modified septic tank system, subject to a minimum area of suitable land being dedicated to the on-site disposal of sullage and sewage effluent;
- C an application for a Building Permit is required for the proposed development; and
- D any works undertaken within the Road Reservation requires a Road Permit to be issued by the Council's Assets & Engineering Department prior to construction."

Carried unanimously

Closure

There being no further business, the Mayor declared the meeting closed at 6.30pm.

CONFIRMED THIS DAY OF , 2007.

Chairperson

(jm:kaa)

QUALIFIED PERSON'S ADVICE

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

. A general manager must ensure that any advice, information or recommendation given to the council is given by a person who has the qualifications or experience necessary to give such advice, information or recommendation.

. A council is not to decide on any matter which requires the advice of a qualified person without considering such advice unless the general manager certifies in writing that such advice was obtained and taken into account in providing general advice to the council.

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

(i) the advice, information or recommendation was given by a person who has the qualifications or experience necessary to give such advice, information or recommendation; and

(ii) where any advice was directly given by a person who did not have the required qualifications or experience that person has obtained and taken into account in that person's general advice the advice from an appropriately qualified or experienced person.

Katherine Schaefer
GENERAL MANAGER