



CENTRAL COAST COUNCIL

DEVELOPMENT SUPPORT SPECIAL COMMITTEE

Minutes

of Meeting

25 August 2008

Minutes subject to confirmation at
a meeting of the Development Support Special Committee to be held on
8 September 2008

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, 25 August 2008 commencing at 6.00pm

Members attendance

Cr Mike Downie (Mayor)
Cr Terry McKenna
Ms Sandra Ayton

Cr Jan Bonde
Cr Tony van Rooyen

Members apology

Cr Haines

Employees attendance

Director Development Services (Mr Michael Stretton)
Land Use Planning Group Leader (Mrs Theresia Williams)

Public Attendance

One

CONFIRMATION OF MINUTES OF THE COMMITTEE

21/2008 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 11 August 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 Bonde moved and Cr McKenna seconded, “That the minutes of the previous meeting of the Development Support Special Committee held on 11 August 2008 be confirmed.”

Carried unanimously

MAYOR'S COMMUNICATIONS

22/2008 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 Bonde moved and Cr McKenna seconded, "That the Mayor's report be received."

Carried unanimously

PECUNIARY INTEREST DECLARATIONS

23/2008 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

24/2008 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

25/2008 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

26/2008 Residential (House) at 90 River Road, Ulverstone Application No. PLA2008.27

The Director Development Services reported as follows:

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

“DEVELOPMENT APPLICATION NO.: PLA2008.27
APPLICANT: D & W Scott
LOCATION: 90 River Road, Ulverstone
ZONING: Low Density Residential
PLANNING INSTRUMENT: Central Coast Planning Scheme 2005
(The Scheme)
PROPOSAL: Residential
DECISION DUE: 12 September 2008

PURPOSE

The purpose of this report is to consider whether the “Residential Exclusion Zone” (REZ) adopted by the Council in February 2004 is considered to satisfy the requirements of A1(b) in Clause S2.3.1, Attenuation Schedule of the Scheme with respect to assessing an application for a house at 90 River Road, Ulverstone.

BACKGROUND

Site

The site described in CT 146765/1 is situated on the corner of River Road and Maxwell Street and comprises an area of 4039m². The lot to the north already has a house developed on it, approved by the Council in 2007, prior to the new Planning Scheme.

The lot is rectangular and has been cleared of vegetation.

Vehicular access to the site can be obtained from River Road.

The proposed development is situated, within a 500m radius, north-east of the Ulverstone Wastewater Treatment Plant and sewage sludge composting operation (UWWTP). The site is also situated less than 500m from the banks of the Leven River and is within 200m of the Bass Highway.

Lots along Maxwell Street and the lot to the north on River Road have been developed for residential purposes.

A location plan is provided as Annexure 1.

Site History

Prior to the Council issuing a permit for the subdivision of surrounding land, the issue of odour impact on residential uses from the UWWTP was considered as part of the subdivision. During the assessment of this application, the report prepared by GHD in January 2004 (refer to the discussion below) and the subsequent REZ adopted by the Council in February 2004 was considered.

UWWTP

A report entitled, "Ulverstone Waste Water Treatment Plant – Assessment of Appropriate Separation Distance" was prepared by GHD in January of 2004.

This report, commissioned by the Council in 2003, investigated whether the "Standard Recommended Attenuation Distances" (SRAD) recommended by the Department of Primary Industries and Water (Environment Division) apply to the UWWTP.

In light of the report prepared by GHD, the Council adopted (5/2004) a "REZ" with respect to new development in proximity to the UWWTP.

The REZ is attached in Annexure 2.

This information is crucial in determining if a reduced attenuation distance between the proposed sensitive use and the UWWTP is appropriate. This matter is discussed in further detail below.

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".

The proposed development is for a house and falls within the definition of Residential. It is noted that the plans for the proposal show the development of a temporary dwelling and an approximate location of a future dwelling. For the purposes of this development, the "shed" will be used as a house as defined by the Scheme and must be assessed as such. It will be required to be converted back to a shed once the house is developed. Residential is listed as a Permitted use within the Low Density Residential Zone of the Scheme. A Permitted status is retained providing that all Acceptable Solutions of the Low Density Residential Zone are met.

The proposed development falls within a 500m radius of the UWWTP. Accordingly, S2.0 Attenuation Schedule of the Scheme applies to the assessment of this application. The application must meet the Acceptable Solution A1 of this Schedule as there are no performance criteria. This in turn means that if the Council is not satisfied that the REZ satisfies A1, S2.3.1 of Schedule 2, a permit cannot be granted for this application.

The application documentation is provided as Annexure 3.

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

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

and must have regard to:

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

An application for a planning permit requires that the above considerations be addressed. The Discussion 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.

As highlighted above, the main issue of contention with respect to this application is whether the recommended attenuation distance between the proposed sensitive use and the UWWTP in Schedule 2 can be reduced. This is discussed in further detail below.

Objectives of the Act

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

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

The proposal is situated on the outskirts of the urban area of west Ulverstone. The site is zoned for low density residential development and is considered to be infill development. 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 7.0 and Schedule 2 of the Scheme provides specifics on how to assess this Objective for this proposal.

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

The proposal is not subject to advertising required under the Act. Relevant public involvement 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, 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 Low Density Residential Zone on the outskirts of the urban area of Ulverstone. 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>(c) <i>The development of a range of housing types is to be encouraged;</i></p>

	<p>The proposal is a house on a larger urban lot which is anticipated in the Low Density 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 Lot 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>
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	<p>The site is zoned for low density residential development and stormwater drainage and waste can be appropriately managed to minimise potential for environmental harm.</p> <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>
7.7	Purpose of Low Density Residential Zone.
7.1.1	<p><i>To provide for Residential development on larger lots (with or without infrastructure service) where there are constraints to development at higher densities.</i></p> <p>The proposed development is consistent with Clause 7.1.1 as it is for a house on a minimum of 4000m². The lot is</p>

	appropriately serviced by infrastructure.
7.1.2	<p><i>To provide for single dwelling low density Residential development that consists predominately of low rise dwellings:</i></p> <p>(a) <i>in a semi-rural landscape at Leith and Forth; and</i></p> <p>(b) <i>at the fringe of urban areas of Penguin and Ulverstone.</i></p> <p>The proposal is for a single storey house at the fringe of the urban area of Ulverstone.</p>
7.1.3	<p><i>To enhance and promote the residential lifestyle attributes of privacy and quiet enjoyment of life.</i></p> <p>The proposal is consistent with this Clause 7.1.3.</p>
7.1.4	<p><i>To provide for a limited range of home based activity where the scale and intensity will not impact on the high level of residential amenity.</i></p> <p>The proposal has no impact on this Clause.</p>
7.1.5	<p><i>To ensure that energy conservation principles apply to all development.</i></p> <p>Refer to discussion on 7.3.3 Building design and siting.</p>
7.3.1	<i>Not relevant. 7.3.1 relates to Subdivision only.</i>
7.3.2	<i>Not relevant 7.3.2 relates to Strata schemes only.</i>
7.3.3	<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 and open space for residential; and</i></p> <p>(3) <i>complement energy efficient development.</i></p>

	<p>The proposed house is appropriately sited on the lot. This will ensure that the privacy from adjoining residential development is upheld. The bulk and scale of the proposed building is considered to complement the existing streetscape.</p>
7.3.3 A1	<p><i>A1 Buildings must not exceed a maximum building height of:</i></p> <p>(a) <i>5m for outbuildings; or</i></p> <p>(b) <i>8m for other buildings.</i></p> <p>The maximum building height of the house is 4.638m. The proposal complies with A1, Clause 7.3.3.</p>
7.3.3 A2	<p><i>A2 Outbuildings must have an aggregate gross floor area not exceeding the gross floor area of the associated dwelling unit.</i></p> <p>N/A.</p>
7.3.3 A3	<p><i>A3 Buildings must be setback at least:</i></p> <p>(a) <i>6m from the frontage or for a rear lot, 6m from the boundary which abuts the access strip;</i></p> <p>(b) <i>3m from a secondary frontage;</i></p> <p>(c) <i>3m from a side; and</i></p> <p>(d) <i>10 m from the rear.</i></p> <p>The proposed house will be setback 38m from River Road and 25m from Maxwell Street. The side setback will be 3m to the northern boundary and the rear will achieve a 48m setback. The proposal complies with A3, Clause 7.3.3</p>
7.3.3 A4	<p>Not relevant. A4, Clause 7.3.1 relates a Utility only.</p>
7.3.3 A6	<p><i>Residential development must provide a north facing room as a living area.</i></p> <p>The plans highlight that there is a north facing sitting room as a living area. The proposal complies with A6, Clause 7.3.3.</p>

7.3.4	<p><i>Building access and services</i></p> <p><i>Objective: To ensure that the access to the road servicing the site and services to the site are appropriate for the proposed use.</i></p> <p>The Assets & Engineering Group has indicated that a house can be appropriately serviced, with standard conditions. The proposal complies with this Objective.</p>
7.3.4 A1	<p><i>A1 The site must:</i></p> <p>(a) <i>be serviced by an access constructed to Central Coast Council Municipal Standard Drawing No. SD-1003;</i></p> <p>(b) <i>in serviced areas be connected to a:</i></p> <p style="padding-left: 40px;"><i>(i) reticulated water supply of 200kPa pressure at 10l per second;</i></p> <p style="padding-left: 40px;"><i>(ii) reticulated sewerage system; and</i></p> <p style="padding-left: 40px;"><i>(iii) reticulated stormwater system; or</i></p> <p>(c) <i>in unserviced areas:</i></p> <p style="padding-left: 40px;"><i>(i) be capable of accommodating an on-site wastewater management system;</i></p> <p style="padding-left: 40px;"><i>(ii) be capable of on-site stormwater absorption and disposal; and</i></p> <p>(d) <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>The following information was provided by Assets & Engineering staff to inform any decision made on the proposal with respect to this proposal:</p> <ul style="list-style-type: none"> • a sealed vehicular access in accordance with Council's Standard is required; and • any damage or disturbance to footpaths, roads, kerbs, nature strips needs to be rectified.

	In light of these comments, Assets & Engineering staff have recommended a series of conditions to ensure that the proposal complies with A1, Clause 7.3.4.
<i>Schedules</i>	<i>Schedule 1: Complies.</i>
<i>S2.0</i>	<p><i>Schedule 2: Attenuation Schedule</i></p> <p><i>S2.1.1 The purpose of this schedule is to minimise adverse environmental impacts from environmentally relevant activity on sensitive use or development.</i></p> <p><i>S2.2.1 Proposals for new use or development to which this schedule applies must demonstrate compliance with the standards set out in Clause S2.3 below.</i></p> <p><i>S2.2.2 This schedule does not apply to a sensitive use or development within the Industrial Zone.</i></p> <p>The proposed development is within the Low Density Residential Zone. Accordingly the Schedule applies to the proposal.</p>
	<p><i>S2.3.1 A1</i></p> <p><i>The minimum distance between an environmentally relevant activity and a sensitive use or development must be:</i></p> <p><i>(a) in accordance with Attenuation Table S2.3.2; or</i></p> <p><i>(b) a scientifically calculated attenuation distance where:</i></p> <p><i>(i) there is no unreasonable environmental impact on a sensitive use or development taking into consideration, topography, the degree of encroachment; operating hours and the intensity of the impact; and</i></p> <p><i>(ii) the operations of an existing environmentally relevant activity have a significant level of investment and value to the local or regional economy.</i></p>

	<p>The UWWTP is located off Knights Road on the south-western side of the Bass Highway (Ulverstone bypass). UWWTP is divided into two components:</p> <ul style="list-style-type: none"> • Sewerage Treatment Plant; and • composting operation. <p>Table S2.3.2 specifies the minimum attenuation distances that are acceptable from an environmentally relevant activity. The attenuation distances prescribed by this table reflect the SRAD recommended by the Environment Division.</p> <p>It is noted that UWWTP has a mechanical/biological treatment of <5500 kl/day. Accordingly a minimum separation distance of 300m is required between a sensitive use and a treatment plant with such a capacity. As the UWWTP incorporates composting operations, a minimum distance of 500m between this activity and a sensitive use is required.</p> <p>The Scheme defines a sensitive use:</p> <p><i>“means any part of a residential building, aged or child care facility, hospital, school, holiday accommodation, caravan park or similar use which persons occupy for extended periods for living, sleeping, care, educational purposes and the like”.</i></p> <p>The proposed house falls within the definition of a sensitive use.</p> <p>The Environment & Health Group Leader has advised that 90 River Road is partially within the SRAD (incorporated as Table S2.3.2, Schedule 2 of the Scheme) for the UWWTP.</p> <p>The proposed development is unable to meet the required attenuation distances. Accordingly, A1 requires that where Table S2.3.2 cannot be met that a scientifically calculated attenuation distance is provided to demonstrate that there is no unreasonable environmental impact on a sensitive use.</p> <p>A report entitled, “Ulverstone Waste Water Treatment Plant – Assessment of Appropriate Separation Distance” was prepared by GHD in January 2004.</p>
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	<p>This report, commissioned by Council in 2003, investigated whether the SRAD recommended by the Environment Division, Department of Primary Industries and Water apply to the UWWTP.</p> <p>The Environment & Health Group Leader of the Council highlights that <i>“the report prepared by GHD, modelled a footprint of odour impact from the UWWTP. This footprint was subsequently used as a basis to develop a “Residential Exclusion Zone” for future development in the area in proximity of the UWWTP. The Environment Division provided the Council with a written response to the report, which supported the study methodology utilised by GHD, but recommended caution in any decision regarding development within the SRAD’s.</i></p> <p><i>In February 2004 the Council resolved (5/2004) to adopt the “Residential Exclusion Zone” as an acceptable separation distance to minimise detrimental impacts of odour emissions from the UWWTP on future residential development in this locality.</i></p> <p><i>90 River Road is outside the “Residential Exclusion Zone”.</i></p> <p>Based on the above information, it is considered that the “REZ” satisfies the requirements of A1(b), S2.3.1.</p> <p>It is concluded that the reduced attenuation distance between the proposed sensitive use and the UWWTP can be supported and that this will not:</p> <ul style="list-style-type: none"> (a) create an unreasonable environmental impact on the proposed sensitive use; and (b) will not compromise the operations of the UWWTP. <p><i>S2.3.2 A2 not relevant. Relates to subdivision.</i></p>
	<p>Schedule 3: Not applicable</p> <p>Schedule 4: Not applicable</p> <p>Schedule 5: Not applicable</p>

	Schedule 6: Not applicable
	Schedule 7: Not applicable
	Schedule 8: Not applicable
	Schedule 9: Not applicable
	Schedule 10: Complies
	Schedule 11: Not applicable
	Schedule 12: Not applicable
	Schedule 13: Not applicable

CONSULTATION

The application was not subject to consultation under the Act.

IMPACT ON RESOURCES

This report has the usual impact on resources in assessment of the application and preparation of a report.

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 proposed development complies with:

- the objectives of the Scheme; and
- the purpose and Acceptable Solutions of the Low Density Residential Zone.

The report prepared by GHD on the assessment of appropriate separation distances from the UWWTP to residential development and the subsequent REZ adopted by the Council is considered to be relevant to the site and satisfies the requirements of A1(b) in Clause S2.3.1, Attenuation Schedule of the Scheme.

Accordingly the proposed development retains its Permitted use status and conditional approval is recommended.

Recommendation

It is recommended that the application for a house at 90 River Road, Ulverstone (Application No. PLA2008.27) be approved subject to the following conditions:

- 1 The development generally conforming with the documents submitted with this application unless otherwise altered by subsequent conditions of this permit;
- 2 Provide a sealed vehicular access in accordance with the Council's Standard Drawing SD-1009;
- 3 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;

and that the applicant be further requested to note:

- A Building and Plumbing Permits are required for the proposed development. Please contact the Council's Building Services to discuss.
- B In relation to Condition 2, 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, 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 applicant's cost, unless alternative arrangements are approved by the Council.
- D Any works (eg 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.

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- E Contact the Council's Assets & Engineering Department if you wish to discuss or arrange any infrastructure work requirements.
 - F 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.'

The report is supported."

The Director Development Services reported as follows:

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

■ Cr van Rooyen moved and Cr Bonde seconded, "That Application No. PLA2008.27 be approved subject to the following conditions:

- 1 The development generally conforming with the documents submitted with this application unless otherwise altered by subsequent conditions of this permit;
- 2 Provide a sealed vehicular access in accordance with the Council's Standard Drawing SD-1009;
- 3 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;

and that the applicant be further requested to note:

- A Building and Plumbing Permits are required for the proposed development. Please contact the Council's Building Services to discuss.
- B In relation to Condition 2, 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, 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 applicant's cost, unless alternative arrangements are approved by the Council.
- D Any works (eg 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.

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- E Contact the Council's Assets & Engineering Department if you wish to discuss or arrange any infrastructure work requirements.
- F 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."

Carried unanimously

**27/2008 Residential – Consolidation of titles and new house with variation of setback to rail line at 188–190 Main Road, Penguin
Application No. DEV2008.12**

The Director Development Services reported as follows:

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

<i>DEVELOPMENT APPLICATION NO.:</i>	DEV2008.12
<i>APPLICANT:</i>	R & D Rimmelzwaan obo J & S Chipman
<i>LOCATION:</i>	188–190 Main Road, Penguin
<i>ZONING:</i>	Residential
<i>PLANNING INSTRUMENT:</i>	Central Coast Planning Scheme 2005 (the Scheme)
<i>ADVERTISED:</i>	30 July 2008
<i>REPRESENTATIONS EXPIRY DATE:</i>	13 AUGUST 2008
<i>REPRESENTATIONS RECEIVED:</i>	One
<i>42-DAY EXPIRY DATE:</i>	4 September 2008
<i>DECISION DUE:</i>	25 August 2008

PURPOSE

The purpose of this report is to consider:

- the merits of the representation; and
- whether the variation to the setback from the railway line perform in accordance with the criterion of P3 in Clause S1.5.7 of the Scheme. It should be noted that this is the only level of discretion conferred on the Council to consider.

BACKGROUND

This section of Main Road, Penguin is an established residential area on the outskirts of the town. The land is comprised of two titles, and has a single house to the west and two units to the east of the proposed building site. The land has an existing house on site. To the north is the road, rail line and coast and to the south is a large paddock.

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”.

The proposed development is for a house and falls within the definition of Residential. The demolition of the existing house is exempt under Clause 5.8 of the Scheme.

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.

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.

As highlighted above, the only aspect of discretion is that of the setback from the railway line.

Objectives of the Act

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

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

The proposal is situated on the outskirts of the urban area of Penguin. It would replace an existing house. 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 Schedule 1 of the Scheme provides specifics on how to assess this Objective for this proposal.

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

The proposal is subject to advertising required under the Act, and has received 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, 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. Relevant to this proposal in particular is the consultation with rail line operators in relation to Schedule 1.0.

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)
2.7	<p>To achieve the purpose of this planning scheme the following objectives apply:</p> <p><i>(c) 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 Penguin 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><i>(d) 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>(l) 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>(m) 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>(n) Infrastructure services are to be used and extended in an efficient manner;</i></p> <p>The Lot will utilise existing services provided by the Council.</p> <p><i>(o) 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>(p) 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>(q) 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>(r) 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>(s) 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 a replacement of an existing residential use.</p> <p><i>(t) 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>(p) 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>(q) Residential use or development in the rural areas is to be encouraged in the existing settlements of North Motton, South Riana and Sprent. The compact and limited growth of these settlements is to occur only within those areas that are zoned Mixed Use;</i></p>
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	<p>The proposal has no impact on this Objective.</p> <p><i>(r) 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>(s) The cultural heritage, including Aboriginal relics, protected site and objects and registered places are protected.</i></p> <p>No known Aboriginal relics or values are known of for this site.</p>
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 a replacement house 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 single storey house in the existing township of Penguin. The Acceptable Solutions provide the relevant guidance on the standard of residential amenity.</p>
6.1.3	<p><i>To provide for limited Tourist accommodation.</i></p> <p>The proposal has no impact on 6.1.3.</p>
6.1.4	<p><i>To ensure that energy conservation principles apply to all development.</i></p> <p>This is further addressed in 6.3.3 A12.</p>
6.3.1	The proposal will require consolidation of the two titles, as a house cannot be built over a boundary. This will be a recommended standard condition.
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</i></p>

	<p><i>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 the rail line setback. Thus it is considered to achieve the requirements of 6.3.3.</p>
6.3.3 A1	<p><i>A1 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 style="padding-left: 40px;"><i>(i) not exceeding 4m within 2m of a side boundary; or</i></p> <p style="padding-left: 40px;"><i>(ii) a minimum side boundary setback of ½ the height of the wall where the wall height is greater than 4m.</i></p> <p>The maximum building height of the house is 7.5m. The closest point of the house to the boundary is set back approximately 3m, which is sufficient to achieve (b)(ii) above, as the wall is 6m high at that point. The proposal complies with A1 of Clause 6.3.3.</p>
6.3.3 A2	<p><i>Site coverage for other than Utilities, multiple dwelling or cluster house must not exceed:</i></p> <p>(a) <i>45% for site greater than 650m²; or</i></p> <p>(b) <i>50% for sites less than 650m².</i></p> <p>The site will be 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) 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) any other manner that is as effective as any of the above.</p> <p>The proposal complies with A3, Clause 6.3.3 by design and / or by standard condition.</p>
6.3.3 A4	<p><i>Residential (except cluster houses) and Tourist accommodation buildings must be setback at least:</i></p> <p>(a) 4.5m from the frontage; or</p> <p>(b) for a rear lot, 4.5m from the boundary which abuts the access strip; and</p> <p>(c) 3m from a secondary frontage; and</p> <p>(d) 1.5m from a side boundary; and</p> <p>(e) 4.5m from the rear boundary.</p> <p>The proposal complies with these provision, subject to the two lots being consolidated.</p>
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>

	The proposed garage meets the standard residential setback provisions.
6.3.3 A7	<i>N/A proposal includes a garage already.</i>
6.3.3. A8	<i>N/A No outbuildings proposed.</i>
6.3.3 A9	<i>As for A8.</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	<p><i>Residential development must provide a north facing room as a living area.</i></p> <p>The proposal includes an extensive area of living space that is north facing.</p>
6.3.4	<p><i>Building access and services</i></p> <p><i>Objective: To ensure that the access to the road servicing the site and services to the site are appropriate for the proposed use.</i></p> <p>The Assets & Engineering Department has indicated that a house can be appropriately serviced, with standard conditions. The proposal complies with this Objective.</p>
6.3.4 A1	<p><i>A1 The site must:</i></p> <ul style="list-style-type: none"> <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 consistent with the supply to which it is connected.</i> <p>Standard conditions are recommended to achieve this Acceptable Solution.</p>
<i>Schedules</i>	<i>Schedule 1.5.7 A3</i>

	<p><i>A new building for a sensitive use must have a setback of at least 50m from a rail line.</i></p> <p>The proposal does not meet this 50m setback from the rail line. Therefore the Performance Criteria apply as follows:</p> <p><i>P3 For a new building for a sensitive use within 50m of a rail line, the applicant must demonstrate that the design and siting mitigate significant noise and vibration impacts and allows for the safe operation of the rail line.</i></p> <p>The proposal is replacing an existing dwelling, in an established strip of residences. It is only just within the 50m distance from the rail line. The proposal will comply with the Building Code which is considered sufficient demonstration of compliance for a replacement dwelling in an existing area for mitigating significant noise and vibration impacts. The existence of the house and surrounding houses, and the road in between demonstrates that the house will not impact on the safe operation of the rail line.</p>
	<p>Schedule 3: Not applicable</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: Complies</p> <p>Schedule 11: Not applicable</p> <p>Schedule 12: Not applicable</p> <p>Schedule 13: Not applicable.</p>

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. Any relevant comments received from the Planning and Assessment Team are included in the recommendation of the application.

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
A	Loss of view from side and front lounge room windows	The Scheme does not protect views in the Residential zone, other than inadvertently through the standard setback provisions, which the proposal complies with.
B	Obstruct light and sunshine into the representors' home.	<p>It is recognised that the proposed dwelling will have a greater impact on the neighbours' access to light/sunshine than the existing house on the land. However, as the proposal complies with the setback provisions of the Scheme, there is no specific consideration of this impact in the assessment of the development.</p> <p>The representors and the developers may wish to resolve this independently by agreeing that the house be built in a slightly different location on the site, remaining within the setback provisions.</p> <p>The proposal complies with the relevant setbacks.</p>
C	Decision to purchase their home was made on the basis of the views and that there was "no indication that new	The two lots being consolidated into one are capable of denser development in accordance with

	development was going to take place”	the current and previous schemes.
D	The west elevation of the dwelling is to be built on three levels with the pitched section of the roof facing our unit and extending forward again causing further obstruction.	The west elevation will not be visible from the representors unit as their unit is to the east of the proposed development. The eastern elevation will present as double storey.
E	The development will result in depreciation of their home as a result of lost views and sunlight.	The proposal is within the provisions of the Scheme with the exception of the setback from the rail line. There is no capacity within the Scheme to consider the issues raised by the representation.

In summary, the development complies with the all aspects of the planning scheme. The issues raised by the representor are covered by the Scheme’s Acceptable Solutions, which the proposal complies with, or are not relevant to the legislated assessment.

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 only aspect of this proposal where the Council has discretion is the setback from the rail line. The use is permitted subject to this conferment of discretion on one aspect of the development. There are performance criteria available for the Council to consider in exercise of this discretion and these have been submitted and reported on.

Recommendation

It is recommended that neither the representation nor the variation to setback under Schedule 1.0 is deemed to have merit in this particular application to warrant refusal and that Application No. DEV2008.12 be approved subject to the following conditions and restrictions:

General:

- 1 The development generally conforming with the documents submitted with this application by R&D Design & Drafting, labelled as "Proposed New Dwelling for Justin & Sophia Chipman at 188-190 Main Road, Penguin", Ref No 08-06-037 (5 pages), dated 7 - 07 - 08, unless otherwise altered by subsequent conditions of this permit;
- 2 CT22576/7 and CT22576/8 must be consolidated and issued with a new Certificate of Title by the Land Titles Office prior to an application for a building permit being made;
- 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;

Engineering:

- 4 The developer is to provide a sealed vehicular access in accordance with the Council's Standard Drawing SD-1009;
- 5 The developer is to remove any driveway or access made redundant by the proposed development and reinstate the verge and footpath to the satisfaction of the Council's Director Assets & Engineering; and

-
- 6 Any damage or disturbance to roads, nature strips or existing services is to be rectified to the satisfaction of the Council's Director Assets & Engineering.

and that the applicant be further requested to note:

- 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 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 condition 4, the Council will only permit a maximum driveway width of 6.0m within the road reserve.
- C Building and Plumbing permits are required for the proposed development.
- D Any works associated with existing kerb and channel, footpath or roads will be undertaken by the Council at the developers cost unless alternative arrangements are approved.
- E 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.
- F Please contact the Council's Assets & Engineering Department if you wish to discuss or arrange any infrastructure work requirements.'

The report is supported."

The Land Use Planning Group Leader reported as follows:

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

- Cr McKenna moved and Cr van Rooyen seconded, "That neither the representation nor the variation to setback under Schedule 1.0 is deemed to have merit in this particular application to warrant refusal and that Application No. DEV2008.12 be approved subject to the following conditions and restrictions:

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 - F Please contact the Council's Assets & Engineering Department if you wish to discuss or arrange any infrastructure work requirements. ”

Carried unanimously

Closure

There being no further business, the Mayor declared the meeting closed at 6.15pm.

CONFIRMED THIS DAY OF , 2008.

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