
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, 27 August 2007 commencing at 6.00pm

Members attendance

Cr Mike Downie (Mayor)
Cr Ken Haines

Cr Warren Barker
Mrs Kathy Schaefer

Members apologies

Cr Brian Robertson (Deputy Mayor)
Cr Tony van Rooyen

Employees attendance

Director Development Services (Mr Jeff McNamara)
Town Planner (Ms Theresia Williams)

CONFIRMATION OF MINUTES OF THE COMMITTEE

52/2007 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 13 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.”

■ Mrs Schaefer moved and Cr Downie seconded, “That the minutes of the previous meeting of the Development Support Special Committee held on 13 August 2007 be confirmed.”

Carried unanimously

MAYOR'S COMMUNICATIONS

53/2007 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 Haines moved and Mrs Schaefer seconded, “That the Mayor's report be received.”

Carried unanimously

PECUNIARY INTEREST DECLARATIONS

54/2007 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

55/2007 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

56/2007 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

57/2007 House (Exemption from Development Standards - rear setback at 25 Sice Avenue, Heybridge - Application No. DEV2007.12)

The Land Use Planning Group Leader reported as follows:

“The Town Planner has prepared the following report:

<i>‘DEVELOPMENT APPLICATION No.:</i>	DEV2007.12
<i>LOCATION:</i>	25 Sice Avenue, Heybridge
<i>ZONING:</i>	Residential (RA) - Closed
<i>PLANNING INSTRUMENT:</i>	Central Coast S.46 Planning Scheme No.1 of 1993 (the Scheme)
<i>ADVERTISED:</i>	1 August 2007
<i>REPRESENTATIONS EXPIRY DATE:</i>	15 August 2007
<i>REPRESENTATIONS RECEIVED:</i>	One
<i>42-DAY EXPIRY DATE:</i>	6 September 2007
<i>DECISION DUE:</i>	6 September 2007

PURPOSE

The purpose of this report is to consider the merits of the representation received in objection to a discretionary planning application for a house with setback exemptions at 25 Sice Avenue, Heybridge.

BACKGROUND

On 27 July 2007 an application was received at the Council for a house with setback exemptions at 25 Sice Avenue, Heybridge.

A location plan is attached as Annexure 1/3.

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 Residential (RA) - Closed Zone; and
- 3 the merits of the representation received.

DISCUSSION

The subject site is a corner lot at the Heybridge settlement. The proposal is for a single dwelling, with an exemption from the rear setback requirement. The site shares two boundaries with adjoining properties, developed with single dwellings also.

Plans of the proposed development and associated application documents are attached as Annexure 2/3.

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

The proposal includes a request for exemptions from the rear setback provisions. Other than this, the development complies with all provisions and development standards of the Scheme.

When granting an exemption, the Council must be of the opinion that enforcement of a requirement would be impracticable, unreasonable, inequitable and not of sufficient importance in respect to the objectives of the Scheme to warrant enforcement. The Council cannot consider granting an exemption unless it has received a request from the applicant, a submission detailing the exemption and the reasons for the request and why they cannot be met and a statement as to the likely effect of the exemption on adjoining developments or uses. It is this demonstration that is assessed when exemptions are being considered (Clause 7.1.3).

The application documentation includes a letter which covers this request, detailing the exemptions and the reasons and is attached as part of Annexure 2/3. In short, the Scheme determines that:

- the northern boundary is the rear boundary; and
- a 4.5m setback is required from the rear boundary.

The developer is requesting a relaxation from this setback, from 4.5m to 2m.

2 The specific intent of the Residential (RA) - Closed Zone.

The Residential (RA) - Closed Zone is “intended to accommodate dwelling units primarily on the basis of one dwelling per lot, but providing for other forms of housing allowing innovation and higher densities under controlled conditions”.

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 engineering conditions, no comments were received from the Planning and Assessment Team that required inclusion in the final determination of the application.

Representation

One objection letter was received during the 14-day advertising period from an adjoining resident.

A copy of the representation is attached as Annexure 3/3.

3 The merits of the representation received.

The representation is based on concerns that the proposed development will be 2m from the representor's land, instead of 4.5m. The representor also states concern with the fairness of the system. There are no planning reasons given for why the representor is concerned with the house being built closer to the boundary.

IMPACT ON RESOURCES

This report has generated the normal impact on resources in the assessment and processing of the application.

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

If this were not a corner lot, the subject boundary would be determined to be the lateral side boundary, and therefore the setback required would be 1.5m. Given the submissions by the developer and the representor, the orientation of the lot and the existing access points, it is considered that the impact of the proposed relaxation will be minimal, and enforcement of this setback requirement would be impracticable, unreasonable, inequitable and not of sufficient importance in respect to the objectives of the Scheme to warrant enforcement.

Recommendation

It is recommended that the representation of objection be deemed to have insufficient merit on planning grounds to justify refusal of the application and that the Development Standard of the Central Coast S.46 Planning Scheme No.1 of 1993 in respect of the rear setback requirement is deemed unreasonable in this case to warrant enforcement and that Application No. DEV2007.12 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; and
- 2 The developer to maintain a minimum clearance of 1m to the edge of the Council water main;

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 designing the building footings, the building designer must give due consideration to the fact that a Council water main is located in close proximity to the dwelling. This consideration should include the possible impacts if the main were to rupture in the future;
- 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.;

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- D applications for Building and Plumbing Permits are required for the development; and
 - E this Permit is based upon the particulars provided with DEV2007.12. Any variation may require an amendment to the Permit or a further application for planning approval.'

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 Barker seconded, “That the representation of objection be deemed to have insufficient merit on planning grounds to justify refusal of the application and that the Development Standard of the Central Coast S.46 Planning Scheme No.1 of 1993 in respect of the rear setback requirement is deemed unreasonable in this case to warrant enforcement and that Application No. DEV2007.12 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; and
- 2 The developer to maintain a minimum clearance of 1m to the edge of the Council water main;

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- B in designing the building footings, the building designer must give due consideration to the fact that a Council water main is located in close proximity to the dwelling. This consideration should include the possible impacts if the main were to rupture in the future;
- 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 applications for Building and Plumbing Permits are required for the development; and

E this Permit is based upon the particulars provided with DEV2007.12. Any variation may require an amendment to the Permit or a further application for planning approval.”

Carried unanimously

Closure

There being no further business, the Mayor declared the meeting closed at 6.12pm.

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