



CENTRAL COAST COUNCIL

DEVELOPMENT SUPPORT SPECIAL COMMITTEE

Minutes

of Meeting

27 July 2009

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

Minutes of an ordinary meeting of the Development Support Special Committee held in the Council Chamber of the Administration Centre, 19 King Edward Street, Ulverstone on Monday, 27 July 2009 commencing at 6.00pm

Members attendance

Cr Mike Downie (Mayor)
Cr Ken Haines
Cr Tony van Rooyen

Cr Jan Bonde
Cr Terry McKenna
Ms Sandra Ayton

Employees attendance

Director Development & Regulatory Services (Mr Michael Stretton)

Employees apologies

Town Planner (Mr Thomas Reilly)
Acting Land Use Planning Group Leader (Mr Mark McIver)

Public Attendance

One

CONFIRMATION OF MINUTES OF THE COMMITTEE

21/2009 Confirmation of minutes

The Land Use Planning Group Leader reported as follows:

“The minutes of the previous meeting of the Development Support Special Committee held on 30 March 2009 have already been circulated. The minutes are required to be confirmed for their accuracy.

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

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- Cr Bonde moved and Cr Haines seconded, “That the minutes of the previous meeting of the Development Support Special Committee held on 30 March 2009 be confirmed.”

Carried unanimously

MAYOR’S COMMUNICATIONS

22/2009 Mayor’s communications

The Mayor reported as follows:

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

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

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

- Cr McKenna moved and Cr Bonde seconded, “That the Mayor’s report be received.”

Carried unanimously

PECUNIARY INTEREST DECLARATIONS

23/2009 Pecuniary interest declarations

The Mayor reported as follows:

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

The Land Use Planning Group Leader reported as follows:

“The *Local Government Act 1993* provides that a member must not participate at any meeting of a special committee in any discussion, nor vote on any matter, in respect

of which the member has an interest or is aware or ought to be aware that a close associate has an interest.

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

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

No interests were declared at this time.

ADJOURNMENT OF MEETING

24/2009 Adjournment of meeting

The Mayor reported as follows:

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

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

DEPUTATIONS

25/2009 Deputations

The Land Use Planning Group Leader reported as follows:

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

OPEN REPORTS

26/2009 Residential outbuilding (variation to side wall height) 5 Berkshire Parade, Penguin – Application No. DEV2008.144

The Director Development & Regulatory Services reported as follows:

“The Town Planner has prepared the following report:

<i>“DEVELOPMENT APPLICATION NO.:</i>	DEV2008.144
<i>APPLICANT:</i>	Shauna Revell
<i>LOCATION:</i>	5 Berkshire Parade, Penguin
<i>ZONING:</i>	Residential
<i>PLANNING INSTRUMENT:</i>	<i>Central Coast Planning Scheme 2005</i> (the Scheme)
<i>ADVERTISED:</i>	1 July 2009
<i>REPRESENTATIONS EXPIRY DATE:</i>	15 July 2009
<i>REPRESENTATIONS RECEIVED:</i>	One
<i>42-DAY EXPIRY DATE:</i>	6 August 2009
<i>DECISION DUE:</i>	27 July 2009

PURPOSE

This report considers an application that proposes a residential outbuilding with a wall that is higher than that permitted in the Residential zone standards of the Scheme. It also considers the representations made in relation to the application.

BACKGROUND

A copy of the application is provided at Annexure 1. A location plan is provided at Annexure 2.

The applicant proposes an outbuilding with a gable height that exceeds the height limit prescribed by the relevant Acceptable Solution of the Scheme. Therefore, the proposal requires assessment against the corresponding Performance Criteria. Any assessment against the Performance Criteria is discretionary according to section 57 of the *Land Use Planning and Approvals Act 1993* (the Act).

DISCUSSION

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

- the objectives for planning as set out in Part A of the Scheme;
- the purpose of the Residential zone;

- the objectives of the relevant Acceptable Solutions and Performance Criteria;
- representations received.

An assessment against the relevant Scheme provisions follows:

REFERENCE	SCHEME PROVISION
	PROVISION ASSESSMENT
6.3.3 A1	<p><i>A building must not exceed:</i></p> <p><i>(a) a maximum building height of 8m; and</i></p> <p><i>(b) 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 a wall where the wall height is greater than 4m.</i></p>
	Complies with all Acceptable Solutions.
6.3.3 A2	<p><i>Site coverage for other than Utilities, multiple dwelling or cluster house must not exceed:</i></p> <p><i>(a) 45% for sites greater than 650m²; or</i></p> <p><i>(b) 50% for sites less than 650m².</i></p>
	Complies with relevant Acceptable Solutions – well within site coverage percentage.
6.3.3 A3	<p><i>The external area of a dwelling unit adjacent to its front door must be:</i></p> <p><i>(a) visible from:</i></p> <p style="padding-left: 40px;"><i>(i) a part of a road within 50m of that door; or</i></p> <p style="padding-left: 40px;"><i>(ii) the inside of another dwelling unit within 20m of that door;</i></p>

	<p>(b) <i>provided with artificial lighting operated by a sensor or from within the dwelling unit; and</i></p> <p>(c) <i>visible from within the dwelling unit while the main front door is closed which may be achieved through:</i></p> <p style="padding-left: 40px;">(i) <i>nearby windows;</i></p> <p style="padding-left: 40px;">(ii) <i>transparent glass in the main front door or adjoining panels;</i></p> <p style="padding-left: 40px;">(iii) <i>a security keyhole viewing device in the main front door;</i></p> <p style="padding-left: 40px;">(iv) <i>a security door on the outside of the main front door; or</i></p> <p style="padding-left: 40px;">(v) <i>any other manner that is as effective as any of the above.</i></p>
	Not applicable to outbuildings.
6.3.3 A4	<p><i>Residential (except cluster houses) and Tourist accommodation buildings must be setback at least:</i></p> <p>(a) <i>4.5m from the frontage; or</i></p> <p>(b) <i>for a rear lot, 4.5m from the boundary which abuts the access strip; and</i></p> <p>(c) <i>3m from a secondary frontage; and</i></p> <p>(d) <i>1.5m from a side boundary; and</i></p> <p>(e) <i>4.5m from the rear boundary.</i></p>
	Not applicable to outbuildings.
6.3.3 A5	<p><i>The minimum setback for a Cluster house must be at least:</i></p> <p>(a) <i>4.5m from the frontage;</i></p> <p>(b) <i>1.5m from any other boundary with land that is not part of the same cluster house subdivision; or</i></p> <p>(c) <i>0m from boundaries, other than frontage, that are part of the same cluster house subdivision.</i></p>

	Not applicable to outbuildings.
6.3.3 A6	<p><i>A garage or carport built under the same roof as the building it serves may be built to any boundary except frontages.</i></p> <p>Not applicable (not under the same roof as the building it serves).</p>
6.3.3 A7	<p><i>A development for Residential or Tourist accommodation uses which does not include a garage or carport must be accompanied by a plan which demonstrates that a garage or carport can be established in accordance with the setback standards.</i></p> <p>Not applicable (development demonstrates compliance).</p>
6.3.3 A8	<p><i>Outbuildings must have:</i></p> <p><i>(a) an aggregate gross floor area not exceeding 85m²;</i></p> <p><i>(b) a wall height not exceeding 2.7m if the wall has less than 2m side setback; and</i></p> <p><i>(c) a maximum building height not exceeding 4.5m.</i></p> <p>The proposed development is non-compliant with 6.3.3A8(b).</p> <p>The Scheme defines wall height in as:</p> <p style="padding-left: 40px;">“...the vertical distance from the lowest point on a wall at natural ground level to the highest point on that wall...”</p> <p>The permitted wall height of an outbuilding on the boundary is 2.7m or less. The proposed wall height is 4m at the top of the gable (see assessment of 6.3.3 P8 below).</p> <p>Complies with other Acceptable Solutions.</p>

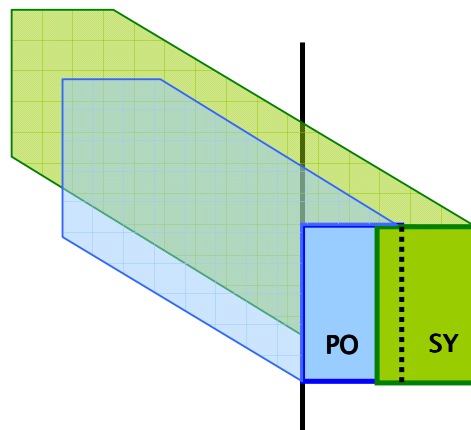
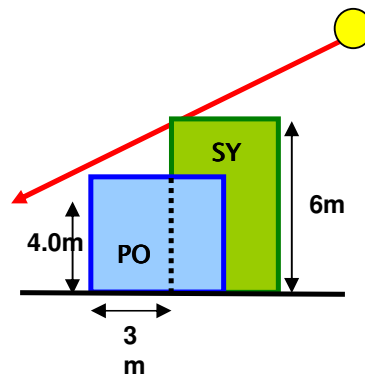
6.3.3 P8	<p><i>Outbuildings may exceed any or all of the requirements of the AS if :</i></p> <p>(a) <i>the aggregate gross floor area does not exceed that of the associated dwelling unit;</i></p> <p>(b) <i>the maximum building height does not exceed 5m;</i></p> <p>(c) <i>their colour and design complement the associated dwelling unit; and</i></p> <p>(d) <i>there is no unreasonable shading of, or unreasonable loss of privacy to, adjoining properties.</i></p>
	<p>Each Performance Criteria is assessed in turn:</p> <p>(a), (b) and (c) – Complies with Acceptable Solutions.</p> <p>(d) <i>there is no unreasonable shading of, or unreasonable loss of privacy to, adjoining properties.</i></p> <p><u>Unreasonable loss of privacy:</u></p> <p>The outbuilding is not a habitable space. No occupants, therefore no overlooking and no unreasonable loss of privacy.</p> <p><u>Unreasonable shading:</u></p> <p>The Scheme defines Unreasonable Shading as:</p> <p><i>“...shading of an adjoining lot between the hours of 10.00am and 3.00pm on the 21st June that would be greater than caused by a building on the lot the subject of the application:</i></p> <p>(a) <i>of the same floor plan;</i></p> <p>(b) <i>built to the frontage and side setbacks in accordance with the relevant acceptable solutions; and</i></p> <p>(c) <i>the maximum building height of which at the setback from the boundary with the adjoining lot is at least 2m less than the maximum building height in accordance with the relevant acceptable solution...”</i></p>

Here, the Scheme is asking whether the proposal would shade more than a building that would be fully compliant. To put it another way, the Scheme determines unreasonable shading by measuring the shading of the proposed outbuilding against a Scheme standard of a comparison building (Scheme yardstick) with the same floor plan, whose height is 2m less than the maximum building height ($8\text{m} - 2\text{m} = 6\text{m}$) and whose setback is 3m from the side boundary. Unreasonable shading is shading greater than that caused by that Scheme yardstick.

An unreasonable shading analysis is depicted below:

PO = Proposed outbuilding
 SY = Scheme yardstick

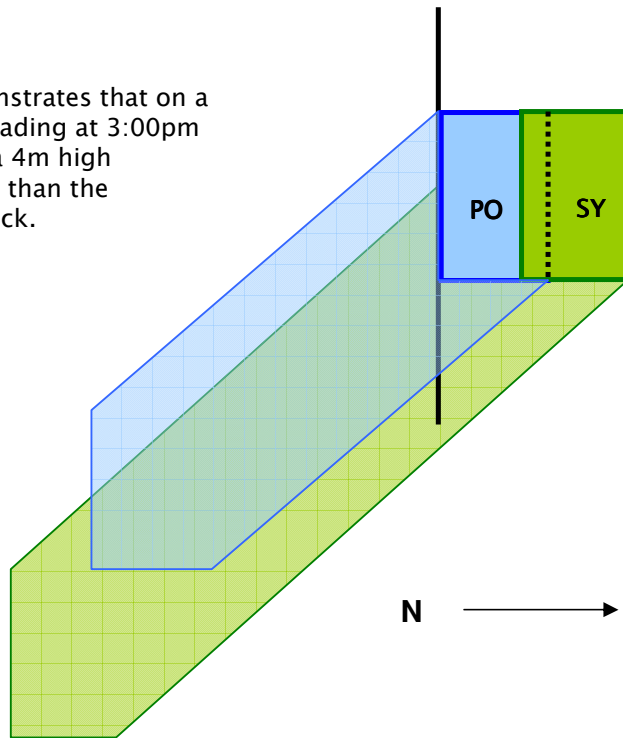
Drawing demonstrates that on a flat site at 12:00pm on 21 June, a building on the boundary 4m in height will not shade any more than the Scheme yardstick



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Drawing demonstrates that on a flat site, the shading at 10:00am on 21 June of a 4m high building is less than the Scheme yardstick.

Drawing demonstrates that on a flat site, the shading at 3:00pm on 21 June of a 4m high building is less than the Scheme yardstick.



Considering that it is only the gable of the outbuilding at 4m and considering the example above, it is not possible for the proposed outbuilding to shade any more than the Scheme yardstick. Therefore, there is no unreasonable shading of adjoining properties.

6.3.3 A9

An outbuilding must be setback at least:

- (a) 4.5m from the frontage; or*
- (b) for a locality where the front setbacks of adjoining buildings are established at a greater or lesser setback than 4.5m, an outbuilding must be no closer than the greater setback of an adjoining building; or*
- (c) for a rear lot, 4.5m from the boundary which abuts the access strip; and*
- (d) 3m from a secondary frontage except that a garage or carport located to the rear of the associated dwelling unit can be built to a secondary frontage.*

Complies with all Acceptable Solutions.

6.3.3 A10	<p><i>No applicable provision</i></p> <p>No utility proposed.</p>
6.3.3 A11	<p><i>Other buildings must be setback at least:</i></p> <p><i>(a) 8m from the frontage;</i></p> <p><i>(b) 4.5m from a secondary frontage;</i></p> <p><i>(c) 4.5m from the rear if the lot has only one frontage;</i> <i>and</i></p> <p><i>(d) 3m from any other boundary.</i></p> <p>Not applicable. No other buildings proposed.</p>
6.3.3 A12	<p><i>Residential development must provide a north facing room as a living area.</i></p> <p>Not applicable to outbuildings.</p>
6.3.4 A1	<p><i>A1 The site must:</i></p> <p><i>(a) have an access constructed to Central Coast Council Municipal Standard Drawing No. SD-1003;</i></p> <p><i>(b) be connected to a reticulated water supply of 200kPa pressure at 10l per second;</i></p> <p><i>(c) be connected to a reticulated sewerage system;</i></p> <p><i>(d) be connected to a reticulated stormwater system;</i> <i>and</i></p> <p><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> <p>Standard conditions can achieve compliance with these Acceptable Solutions.</p>
CAR PARKING SCHEDULE	
S.10.3.2	<p><i>The number of car parking spaces to be provided on-site is 2 spaces per dwelling unit less the number of spaces provided in a garage or carport.</i></p> <p>Complies with Acceptable Solutions.</p>

OBJECTIVES OF THE ACT

The proposed development is consistent with the objectives of the Act which are:

- “(a) to promote the sustainable development of natural and physical resources and the maintenance of ecological processes and genetic diversity; and
- (b) to provide for the fair, orderly and sustainable use and development of air, land and water; and
- (c) to encourage public involvement in resource management and planning; and
- (d) to facilitate economic development in accordance with the objectives set out in paragraphs (a), (b) and (c); and
- (e) to promote the sharing of responsibility for resource management and planning between the different spheres of Government, the community and industry in the State.”

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

CONSULTATION

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

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

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

REPRESENTATION

One representation was received within the prescribed time. A copy of the representation is provided at Annexure 3. The representation addresses height and boundary setbacks in the context of overshadowing. It is clearly expressed and directly relates to the assessment of 6.3.3 A8 and 6.3.3 P8 above.

IMPACT ON RESOURCES

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

CORPORATE COMPLIANCE

The Central Coast Strategic Plan 2009–2014 includes the following strategies and key actions:

The Shape of the Place

- Adopt an integrated approach to land use planning

The Environment and Sustainable Infrastructure

- Contribute to a safe and healthy environment

The proposal is consistent with these strategies and key actions.

CONCLUSION

The representation addresses the only relevant issue for consideration and has some merit, but has insufficient merit to warrant refusal of the application. The proposed development complies with the all the relevant Acceptable Solutions and Performance Criteria of the Scheme.

RECOMMENDATION

It is recommended that the application is approved in accordance with the following permit conditions:

General

- 1 The development must be sited in accordance with DRAWING No's. 209999-2 and 209999-3 drawn by Yaxley Design & Drafting Service P/L and dated May 2009 unless modified by a condition of this permit;

Engineering

- 2 The developer must provide a concrete vehicular access in accordance with the Council's Standard Drawing SD-1003;
- 3 A minimum clearance of 1.2m from the nearest edge of any building footing to the centreline of the Cradle Mountain Water (CMW) sewer

main must be maintained in accordance with the Council's Standard Drawing No. SD-5004;

- 4 Footings within 2.0m of the CMW sewer main must be designed by a practicing accredited structural engineer and must be located and founded to a depth at least 300mm below the invert level of the sewer main or on sound rock. The designing engineer must also signify, either by note on the drawings or by a separate covering letter, that due consideration has been given to the structural stability of the building in the prevailing ground conditions, with regard to:
 - (a) the potential effects of a future failure of the CMW main; and,
 - (b) a potential requirement to physically access the CMW main for the purpose of repair or replacement activity which may involve excavation;
- 5 Written approval from the Council's Director Engineering Services must be obtained prior to building or undertaking any works over the drainage easement;
- 6 The developer must rectify any damage or disturbance to footpaths, roads, kerbs, naturestrips or existing services to the satisfaction of the Council's Director Engineering Services at the owner's/developer's expense;

Please note:

- A This permit expires two years from this date unless the development has been substantially commenced. An extension of time to this period may be granted once only but only if the request is received prior to the expiry of the specified time. Substantial commencement will be considered to be the lodgement of a building permit application.
- B A 3m wide drainage easement exits along the eastern (rear) property boundary.
- C A CMW sewer main is located within the easement about 1.7m off the eastern (rear) property boundary (to be confirmed) and is approximately 1.0m deep at manhole 10310/2.
- D A Council stormwater main is located within the easement about 0.9m off the eastern (rear) property boundary and is approximately 0.7m deep at manhole PH64/2.

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- E Any works (e.g. driveway construction) undertaken within the road reservation require a Road Reserve Permit to be issued prior to the commencement of construction. An application form can be obtained from the Engineering Services Department. A fee applies.
 - F Building and plumbing permits are required for the proposed development. A copy of this planning permit should be given to your building surveyor.’

The report is supported.”

The Director Development & Regulatory Services reported as follows:

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

■ Cr McKenna moved and Cr Bonde seconded, “That the representation is deemed to have insufficient merit to warrant refusal and that the proposal complies with the Scheme, thus Application No. DEV2008.144 be approved subject to the following conditions and restrictions:

General

- 1 The development must be sited in accordance with DRAWING No's. 209999-2 and 209999-3 drawn by Yaxley Design & Drafting Service P/L and dated May 2009 unless modified by a condition of this permit;

Engineering

- 2 The developer must provide a concrete vehicular access in accordance with the Council's Standard Drawing SD-1003;
- 3 A minimum clearance of 1.2m from the nearest edge of any building footing to the centreline of the Cradle Mountain Water (CMW) sewer main must be maintained in accordance with the Council's Standard Drawing No. SD-5004;
- 4 Footings within 2.0m of the CMW sewer main must be designed by a practicing accredited structural engineer and must be located and founded to a depth at least 300mm below the invert level of the sewer main or on sound rock. The designing engineer must also signify, either by note on the drawings or by a separate covering letter, that due consideration has been given to the structural stability of the building in the prevailing ground conditions, with regard to:
 - (a) the potential effects of a future failure of the CMW main; and,

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- (b) a potential requirement to physically access the CMW main for the purpose of repair or replacement activity which may involve excavation;
 - 5 Written approval from the Council's Director Engineering Services must be obtained prior to building or undertaking any works over the drainage easement;
 - 6 The developer must rectify any damage or disturbance to footpaths, roads, kerbs, naturestrips or existing services to the satisfaction of the Council's Director Engineering Services at the owner's/developer's expense;

Please note:

- A This permit expires two years from this date unless the development has been substantially commenced. An extension of time to this period may be granted once only but only if the request is received prior to the expiry of the specified time. Substantial commencement will be considered to be the lodgement of a building permit application.
- B A 3m wide drainage easement exits along the eastern (rear) property boundary.
- C A CMW sewer main is located within the easement about 1.7m off the eastern (rear) property boundary (to be confirmed) and is approximately 1.0m deep at manhole 10310/2.
- D A Council stormwater main is located within the easement about 0.9m off the eastern (rear) property boundary and is approximately 0.7m deep at manhole PH64/2.
- E Any works (e.g. driveway construction) undertaken within the road reservation require a Road Reserve Permit to be issued prior to the commencement of construction. An application form can be obtained from the Engineering Services Department. A fee applies.
- F Building and plumbing permits are required for the proposed development. A copy of this planning permit should be given to your building surveyor."

Carried unanimously

Closure

There being no further business, the Mayor declared the meeting closed at 6.10pm.

CONFIRMED THIS DAY OF , 2009.

Chairperson

(ms:kaa)

QUALIFIED PERSON'S ADVICE

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

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

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

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

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

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

Sandra Ayton
GENERAL MANAGER