



CENTRAL COAST COUNCIL

DEVELOPMENT SUPPORT SPECIAL COMMITTEE

Minutes

of Meeting

29 November 2010

Minutes subject to confirmation at
a meeting of the Development Support Special Committee to be held on
Monday 13 December 2010

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, 29 November 2010 commencing at 6.05pm

Members attendance

Cr Jan Bonde (Mayor)
Cr Philip Viney
Cr Tony van Rooyen

Cr John Deacon
Cr Amanda Diprose
Ms Sandra Ayton

Members apology/s

Nil

Employees attendance

Director Development & Regulatory Services (Mr Michael Stretton)

Employees apology/s

Nil

Public Attendance

No member/s of the public attended during the course of the meeting

CONFIRMATION OF MINUTES OF THE COMMITTEE

41/2010 Confirmation of minutes

The Director Development & Regulatory Services reported as follows:

“The minutes of the previous meeting of the Development Support Special Committee held on 25 October 2010 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 Deacon moved and Cr Viney seconded, “That the minutes of the previous meeting of the Development Support Special Committee held on 25 October 2010 be confirmed.”

Carried unanimously

MAYOR'S COMMUNICATIONS

42/2010 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 Diprose moved and Cr van Rooyen seconded, “That the Mayor's report be received.”

Carried unanimously

PECUNIARY INTEREST DECLARATIONS

43/2010 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 Director Development & Regulatory Services 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

44/2010 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

45/2010 Deputations

The Director Development & Regulatory Services reported as follows:

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

OPEN REPORTS

46/2010 Dwelling and outbuilding at 39 Allens Road, Ulverstone Application No. DA210126

The Director Development & Regulatory Services reported as follows:

“The Town Planner has prepared the following report:

<i>DEVELOPMENT APPLICATION No.:</i>	DA210126
<i>APPLICANT:</i>	Damon Revell
<i>LOCATION:</i>	39 Allens Road, Ulverstone
<i>ZONING:</i>	Rural Living Zone
<i>PLANNING INSTRUMENT:</i>	<i>Central Coast Planning Scheme 2005</i> (the Scheme)
<i>ADVERTISED:</i>	27 October 2010
<i>REPRESENTATIONS EXPIRY DATE:</i>	10 November 2010
<i>REPRESENTATIONS RECEIVED:</i>	One
<i>42-DAY EXPIRY DATE:</i>	2 December 2010
<i>DECISION DUE:</i>	29 November 2010

PURPOSE

The purpose of this report is to consider an application for a dwelling and outbuilding at 39 Allens Road, Ulverstone and consider one representation made in response to the application.

BACKGROUND

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

DISCUSSION

The following table is an assessment of the relevant Scheme provisions:

CLAUSE	ASSESSMENT AND COMMENT
OBJECTIVES FOR PLANNING	
2.0 – Objectives for Planning	<p>Complies.</p> <p>The proposal is consistent with the Objectives for Planning, particularly 2.1(b), (l) and (n) which are that:</p> <p><i>(b) 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><i>(l) Rural land is to be protected from inappropriate residential, industrial and commercial development.</i></p> <p><i>(n) Infill and consolidation of development within the Rural Living Zone is to be encouraged.</i></p>
ZONE STANDARDS (Rural Living Zone)	
9.1 – Zone Purpose	<p>Complies.</p> <p>The purpose of the Rural Living Zone is:</p> <p><i>To provide for residential development on large lots in a non-urban setting where infrastructure services may be limited and residential amenity will be influenced by the rural character of the area.</i></p> <p>The zone purpose statement acknowledges that residential amenity may have to give way to agricultural uses at times. With the dwelling proposed to be 28m from the boundary of an operational farm to the east.</p>

DEVELOPMENT STANDARDS	
9.4.3 A1 – Maximum height	<p>Complies.</p> <p>The dwelling is under the maximum height of 8m (proposed height is 5m) and the outbuilding is under the maximum height of 5m (proposed height is 5m).</p>
9.4.3 A2 – Boundary setbacks	<p>Complies.</p> <p>Both buildings easily comply with the front setback, side setback and rear setback.</p>
9.4.3 A3 – North facing living area	<p>Complies.</p> <p>Lounge and dining are north facing.</p>
9.4.4 A1 – Access and Services	<p>A condition is recommended to achieve compliance.</p> <p>Access matters are addressed by permit conditions on recommendation of the Council's Environmental Engineer.</p> <p>Wastewater matters are addressed by permit conditions on recommendation of the Council's Environmental Health Officer.</p> <p>Stormwater matters will be addressed at the building application stage.</p> <p>Telecommunications and electricity to be addressed by service provider at the building stage.</p>
9.4.6 A1	<p>Does not comply.</p> <p>The Acceptable Solution requires that a dwelling must not be closer than 100m to agricultural land on a lot in the Rural Resource Zone. The dwelling is proposed to be 28m from agricultural land and therefore must rely on Performance Criteria 9.4.6 P1 to comply.</p>

9.4.6 P1 – Protection of Agricultural Land	<p>Complies.</p> <p>The Performance Criteria allow a dwelling to be sited where it is unlikely to fetter agricultural use on another lot in the Rural Resource Zone taking into consideration factors such as the topography of the land, buffers created by natural or other features, the location of dwelling units on adjoining properties and the design and the siting of the dwelling to maximise the separation distance to the agricultural use.</p> <p>The proposal has been assessed and it is considered unlikely to fetter agricultural use on the property to the east, due to the following factors:</p> <ul style="list-style-type: none">(i) A hill crest where the two properties meet limits the possible interactions between the residential and agricultural uses;(ii) There are no waterways from which pumps will run for a distance of 450m. Therefore night time irrigating activities are less likely to cause land use conflict;(iii) All of the houses along Allens Road are setback from the rural land a similar distance. Indeed, many are closer. Therefore, if fettering was to occur it would have substantially occurred already (see Annexure 3); and(iv) Winds are predominantly from the west and north, so dust and air pollution are less likely to travel from the farm to the dwelling.
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CONSULTATION

In accordance with s.57(3) of the *Land Use Planning and Approvals Act 1993*:

- a site notice was posted;
- an advertisement was placed in the Public Notices section of The Advocate newspaper;
- adjoining owners were sent a letter advising of the application and inviting comment.

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.

One representation was received dated 8 November 2010, a copy of which is attached at Annexure 4. Each matter is addressed in the same order it is raised in the representation:

MATTER RAISED	RESPONSE
(Lack of) consultation with applicant.	Communications between the applicant and the representor are not relevant to the merit of the application itself.
Change in applicant's circumstances.	Regardless of who lives at 39 Allens Road and what their circumstances are, residents of the Rural Living Zone must acknowledge that their residential amenity may be affected by nearby agricultural uses from time to time. Additionally, the existing agricultural use has a level of protection afforded to it by the 'right to farm' provisions of the <i>Environmental Management and Pollution Control Act 1994</i> . These provisions place limits on the grounds available for determining that an environmental nuisance is occurring as a result of agricultural activities.
Why have a rule if it isn't going to be adhered to?	The 100m setback may be and should be varied where the Planning Scheme allows.

Views are not a good enough reason to relax the 100m setback.	Whether there is a view has not been considered and does not add to the merit of the application.
Previous complaints from neighbours about conflicting uses.	No evidence has been provided to support the allegation that complaints from previous neighbours have curtailed agricultural use of the land. The Council does not have any record of complaints received concerning the existing agricultural activity.

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 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, with the conditions and notes listed below:

General

- 1 The development must be substantially in accordance with the application for the permit unless altered by a condition of the permit.

Engineering

- 2 Any damage or disturbance to footpaths, roads, kerbs, naturestrips or existing services must be rectified to the satisfaction of the Council's Director Engineering Services at the owner's/developer's expense.

Environment

- 3 A separate application detailing the design and type of onsite wastewater management system is required at the building application stage. Approval of a specific system will be subject to a site assessment by the Council's Environmental Health Officer. It is recommended that the applicant contact the Council's Environmental Health Officer prior to commencement of site or road works to ensure an adequate area remains for installation of a wastewater system.
- 4 The on-site wastewater management system for the proposed dwelling being installed in accordance with the Australian/New Zealand Standard AS/NZS 1547:2000 – Onsite Domestic Wastewater Management.

Notes:

- A This permit expires two (2) years from the date the permit is signed unless 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.
- B In regard to condition (3) – The property appears suitable for the installation of a septic tank system subject to a minimum area of suitable land being dedicated to the on-site disposal of sillage and sewage effluent.
- C Any works associated with existing kerb and channel, footpaths, roads or existing Council services will be undertaken by the Council at the owner's/developer's/applicant's cost, unless alternative arrangements are approved by the Council.

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- D Any works 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.
 - E Contact the Council's Assets & Engineering Department if you wish to discuss or arrange any infrastructure work requirements.
 - F Building, special plumbing and plumbing permits are required for the proposed development.'

The report is supported. Copies of the Annexures referred to in the Town Planner's report have been circulated to all Councillors."

■ Cr Deacon moved and Cr Viney seconded, "That Application No. DA210126 for a dwelling and outbuilding at 39 Allens Road, Ulverstone be approved, subject to the following conditions and notes:

General

- 1 The development must be substantially in accordance with the application for the permit unless altered by a condition of the permit;

Engineering

- 2 Any damage or disturbance to footpaths, roads, kerbs, naturestrips or existing services must be rectified to the satisfaction of the Council's Director Engineering Services at the owner's/developer's expense;

Environment

- 3 A separate application detailing the design and type of onsite wastewater management system is required at the building application stage. Approval of a specific system will be subject to a site assessment by the Council's Environmental Health Officer. It is recommended that the applicant contact the Council's Environmental Health Officer prior to commencement of site or road works to ensure an adequate area remains for installation of a wastewater system;
- 4 The on-site wastewater management system for the proposed dwelling being installed in accordance with the Australian/New Zealand Standard AS/NZS 1547:2000 – Onsite Domestic Wastewater Management;

Notes:

- A This permit expires two (2) years from the date the permit is signed unless 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;
- B In regard to condition (3) – The property appears suitable for the installation of a septic tank system subject to a minimum area of suitable land being dedicated to the on-site disposal of sullage and sewage effluent;
- C Any works associated with existing kerb and channel, footpaths, roads or existing Council services will be undertaken by the Council at the owner's/developer's/applicant's cost, unless alternative arrangements are approved by the Council;
- D Any works 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;
- E Contact the Council's Assets & Engineering Department if you wish to discuss or arrange any infrastructure work requirements;
- F Building, special plumbing and plumbing permits are required for the proposed development."

Carried unanimously

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