



CENTRAL COAST COUNCIL

DEVELOPMENT SUPPORT SPECIAL COMMITTEE

# Minutes

of Meeting

30 March 2009

Minutes subject to confirmation at  
a meeting of the Development Support Special Committee to be held on  
Wednesday, 15 April 2009

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**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, 30 March 2009 commencing at 6.00pm**

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**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 apology**

Land Use Planning Group Leader (Ms Theresia Williams)

**Public Attendance**

Two

**CONFIRMATION OF MINUTES OF THE COMMITTEE**

**15/2009 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 23 February 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 23 February 2009 be confirmed."

Carried unanimously

## **MAYOR'S COMMUNICATIONS**

### **16/2009 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**

### **17/2009 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 Director Development & Regulatory Services reported as follows:

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“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**

##### **18/2009      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**

##### **19/2009      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.”

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## OPEN REPORTS

### 20/2009      **Tourist accommodation at 101 Medici Drive, Gawler** **Application No. DEV2008.96**

The Director Development & Regulatory Services reported as follows:

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

|                                     |  |
|-------------------------------------|--|
| <i>DEVELOPMENT APPLICATION NO.:</i> | DEV2008.96   |
| <i>APPLICANT:</i>                   | P & P Carswell                                     |
| <i>LOCATION:</i>                    | 101 Medici Drive, Gawler                           |
| <i>ZONING:</i>                      | Rural Living                                       |
| <i>PLANNING INSTRUMENT:</i>         | Central Coast Planning Scheme 2005<br>(the Scheme) |
| <i>ADVERTISED:</i>                  | 28 February 2009                                   |
| <i>REPRESENTATIONS EXPIRY DATE:</i> | 15 March 2009                                      |
| <i>REPRESENTATIONS RECEIVED:</i>    | Three  |
| <i>42-DAY EXPIRY DATE:</i>          | 2 April 2009                                       |
| <i>DECISION DUE:</i>                | 30 March 2009                                      |

#### *PURPOSE*

The purpose of this report is to consider:

- the merits of the representations; and
- whether the proposal to convert the existing house into Tourist Accommodation (bed and breakfast; holiday cabin; holiday flat or holiday unit) complies with the Scheme.

#### *BACKGROUND*

The site is currently developed with a residence. To the east and south-western boundaries are additional residential lots.

A location plan is appended as Annexure 1.

#### *DISCUSSION*

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The Scheme provides that the proposal is for the following use:

“Tourist accommodation”, defined as “...use of land for providing overnight accommodation facilities for tourists or travellers...” The Scheme then provides a number of examples. Those which are able to be considered in the zone are a bed and breakfast establishment, holiday cabin, holiday flat or holiday unit. The proposal fits this limited definition, and is a discretionary use within the Rural Living zone.

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 (the Act)*;
- (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.

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### *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 for a change of use from an existing residential use. 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 the Schedules of the Scheme provide 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 two representations. 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.

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>(a) Residential, commercial, industrial and community facilities are to be concentrated in the existing urban areas;</i></p> <p>The proposed development operates as infill development. The Scheme provides for assessment of the use class under the specific zone provisions, which are addressed later in this report.</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>Comments as per (a) above.</p> <p><i>(c) The development of a range of housing types is to be encouraged;</i></p> <p>Not applicable.</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. Engineering Services 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 proposal 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</i></p> |

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|  | <p><i>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> <p>The site is zoned for Residential use and the proposal would be a continuation of an existing area.</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> |
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|-------|---|
| 9.1   | Purpose of the Rural Living Zone  |
| 9.1.1 | <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 proposal will provide for short-term residential type activity.</p>  |
| 9.1.2 | <p><i>To provide for a limited range of home based activity and Tourist accommodation where the scale and intensity will not detract from residential amenity.</i></p> <p>The proposal fits within this Purpose, and the standards for development provide additional guidance.</p>   |
| 9.2.3 | <p><i>To ensure that energy conservation principles apply to all development.</i></p> <p>The building already exists, in accordance with the Building Code Australia energy requirements of the time it was constructed.</p>  |
| 9.2.1 | The proposal meets the definition of Tourist Accommodation, which is a Discretionary use within the zone.   |
| 9.3.1 | <p><i>Water quality</i></p> <p><i>A1 Liquid pollutants must not be discharged:</i></p> <p><i>(a) within 100m of a watercourse, wetland or other surface waters;</i></p> <p><i>(b) within 250m of any bore or well which is the source of drinking water for humans or stock;</i></p> <p><i>(c) within 40m of any private waters in other ownership; or</i></p> <p><i>(d) into the ground at any place or in a manner that may contaminate resources.</i></p> <p>The proposal has demonstrated that it has the capacity to comply with these provisions. They are generally included as standard conditions to serve as a reminder to the developer.</p> |
| 9.4.1 | Not applicable. Relates to subdivision only.  |
| 9.4.2 | Not applicable. Relates to strata development only.   |
| 9.4.3 | <i>Building design and siting</i>   |

|          |  |
|----------|--|
|          | <p><i>Objective: To ensure that the height, setbacks, design and siting of buildings:</i></p> <p>(1) <i>complement the streetscape; and</i></p> <p>(2) <i>provide adequate privacy, separation, open space and sunlight for residents.</i></p> <p>The building is existing, thus no changes are proposed to the building design and siting.</p>  |
| 9.4.4 A1 | <p><i>The site must:</i></p> <p>(a) <i>have an access constructed to Central Coast Council Municipal Standard Drawing No. SD-1012;</i></p> <p>(b) <i>be capable of accommodating an on-site wastewater management system;</i></p> <p>(c) <i>be capable of on-site 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>Advice from the Council's Engineering Services and Environment &amp; Health staff is that the existing services are sufficient.</p>  |
| 9.4.5    | <p><i>Objective: To ensure that wetlands and watercourses are protected from being adversely affected by use or development.</i></p> <p>A1 <i>Wetlands or watercourses must not be filled, drained or adversely affected.</i></p> <p>A2 <i>The natural flow of water into or out of a wetland or watercourse must not be adversely affected.</i></p> <p>A3 <i>Wetlands or watercourses must not be adversely affected by increased erosion or sedimentation.</i></p> <p>A4 <i>Native vegetation must not be removed or destroyed within 30m of the bank of a wetland or watercourse other than in accordance with the Forest Practices Code 2000.</i></p> <p>The proposal has demonstrated compliance, and these provisions are generally included as standard conditions to serve as a reminder to the developer.</p> |
| 9.4.6    | Not applicable. No dwelling unit proposed.   |

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*CONSULTATION*

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

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

*Representation*

Three representations were received within the prescribed time.

The representations are appended as Annexure 3.

The issues raised in the representations are detailed as follows and have been numbered for ease of reference:

| ISSUE# | CONCERN (PARAPHRASED)   | COMMENT  |
|--------|---|--|
| 1      | Tourist development in the area would destroy the privacy and ambience of the existing semi-rural area. | The use is Discretionary within the zone. The Purpose of the zone includes, "To provide for a limited range of...Tourist accommodation where the scale and intensity will not detract from residential amenity". |
| 2      | Increased traffic (dust and safety).  | The anticipated traffic is within the standard impact of a single house.   |
| 3      | Unnecessary for Tourist accommodation in Medici Drive.  | Not applicable. Commercial viability is not considered under the assessment.   |
| 4      | Set a precedent.  | The Scheme provides that Tourist accommodation, within the limits specified, is Discretionary within the zone. Any further expansion would similarly be subject to assessment.                                   |

|   |   |  |
|---|---|--|
| 5 | Limited Council services, increase in litter.                                     | The services are in keeping with the Rural Living zone provisions.   |
| 6 | "Ticking the box" to sell the property; increase in usage by potential purchaser. | Further expansion of the site cannot occur under the current Scheme without the issue of a planning permit.                                      |
| 7 | Restrictive covenants.  | Not applicable. The Council is not a party to this restrictive covenant. This is a matter between the properties that are party to the covenant. |
| 8 | Fears of a caravan park being developed.  | Under the current Scheme, a caravan park cannot be developed on this site.   |

In summary, the proposal complies with the Scheme.

*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 is 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 discretion in this proposal relates to the use class in terms of the Purpose of the Rural Living zone, and is assessed as compliant. Any additional development of the site would require additional planning permits.

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*Recommendation*

It is recommended that the representations are deemed to have insufficient merit to warrant refusal and that the proposal complies with the Scheme, thus Application No. DEV2008.96 be approved subject to the following conditions and restrictions:

General

- 1 The development generally conforming with the documents submitted with this application, and the definition of Tourist accommodation (bed and breakfast establishment, holiday cabin, holiday flat or holiday unit);
- 2 Liquid pollutants must not be discharged:
  - (a) within 100m of a watercourse, wetland or other surface waters;
  - (b) within 250m of any bore or well which is the source of drinking water for humans or stock;
  - (c) within 40m of any private waters in other ownership; or
  - (d) into the ground at any place or in a manner that may contaminate groundwater resources;
- 3 Wetlands or watercourses must not be filled, drained or adversely affected;
- 4 The natural flow of water into or out of a wetland or watercourse must not be adversely affected;
- 5 Native vegetation must not be removed or destroyed within 30m of the bank of a wetland or watercourse other than in accordance with the *Forest Practices Code 2000*; and

Engineering:

- 6 Any damage or disturbance to footpaths, roads, kerbs, naturestrips or existing services is to be rectified to the satisfaction of the Council's Director Engineering Services at the applicant's expense;

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

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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 A Building Permit is required for the proposed change of use.
- C If the applicant, at any time, chooses to provide food as part of the tourist accommodation service, they are required to register as a Food Business in accordance with section 86 of the *Food Act 2003*.

The report is supported.”

The Director Development & Regulatory Services reported as follows:

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

■ Cr Haines moved and Cr van Rooyen seconded, “That the representations are deemed to have insufficient merit to warrant refusal and that the proposal complies with the Scheme, thus Application No. DEV2008.96 be approved subject to the following conditions and restrictions:

#### General

- 1 The development generally conforming with the documents submitted with this application, and the definition of Tourist accommodation (bed and breakfast establishment, holiday cabin, holiday flat or holiday unit);
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- 
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Engineering:

- 6 Any damage or disturbance to footpaths, roads, kerbs, naturestrips or existing services is to be rectified to the satisfaction of the Council's Director Engineering Services at the applicant's expense.

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 A Building Permit is required for the proposed change of use.
- C If the applicant at any time, chooses to provide food as part of the tourist accommodation service, they are required to register as a Food Business in accordance with section 86 of the *Food Act 2003*."

Carried unanimously

**Closure**

There being no further business, the Mayor declared the meeting closed at 6.08pm.

CONFIRMED THIS            DAY OF            , 2009.

**Chairperson**

(ms:kaa)

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## 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