
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, 8 October 2007 commencing at 6.00pm

Members attendance

Cr Mike Downie (Mayor)
Cr Ken Haines
Mrs Kathy Schaefer

Cr Brian Robertson (Deputy Mayor)
Cr Tony van Rooyen

Members apology

Cr Warren Barker

Employees attendance

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

CONFIRMATION OF MINUTES OF THE COMMITTEE

65/2007 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 24 September 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.”

■ Cr Haines moved and Cr Robertson seconded, “That the minutes of the previous meeting of the Development Support Special Committee held on 24 September 2007 be confirmed.”

Carried unanimously

MAYOR'S COMMUNICATIONS

66/2007 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 Van Rooyen moved and Cr Haines seconded, "That the Mayor's report be received."

Carried unanimously

PECUNIARY INTEREST DECLARATIONS

67/2007 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

68/2007 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

69/2007 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

70/2007 **Five-lot subdivision at 139 Gawler Road- Application No. SUB2007.20**

The Land Use Planning Group Leader reported as follows:

<i>“DEVELOPMENT APPLICATION NO.:</i>	SUB2007.20
<i>APPLICANT:</i>	Mr G Deegan
<i>LOCATION:</i>	139 Gawler Road, Gawler
<i>ZONING:</i>	Part Residential (RA) – Closed, part Rural (R) – General
<i>PLANNING INSTRUMENT:</i>	Central Coast S.46 Planning Scheme No.1 of 1993 (the Scheme)
<i>ADVERTISED:</i>	30 August 2007
<i>REPRESENTATIONS EXPIRY DATE:</i>	13 September 2007
<i>REPRESENTATIONS RECEIVED:</i>	One
<i>42-DAY EXPIRY DATE:</i>	15 OCTOBER 2007 (extension granted)
<i>DECISION DUE:</i>	15 October 2007

PURPOSE

The purpose of this report is to consider the merits of a representation received to the application and the compliance of the application with the relevant provisions of the Scheme.

A copy of the application form is appended as Annexure 1.

BACKGROUND

The subject land is located on the eastern side of Gawler Road opposite the junction of West Gawler Road. The property is 2.196ha in area and contains an existing house and numerous outbuildings. These buildings are situated on the western end of the land toward Gawler Road.

A location plan is appended as Annexure 2.

The north-eastern corner of the land is bisected by an existing water course and the land generally falls from south-west to north-east toward this creek. The Cradle Coast Water trunk main also traverses the land in a north-south direction. Both these constraints are identified on the proposal plan.

The proposal plan of the subdivision is appended as Annexure 3.

DISCUSSION

The header to this report indicates that the land has a split zone. This has been hand drawn on the annexed proposal plan. This split technically might affect development potential of Lots 1, 2 and 4 if the future houses are located entirely to the rear of the property. But in considering the rear setback requirements it is impractical for a future home to be located entirely within the rural zone. A result of this assessment indicates that the zoning split has no effect on future building placement.

The potential of the balance 1.938ha rural zoned lot (Lot 5) for agricultural purposes is unknown and will not be affected by the development of houses on the proposed lots any more than may be encountered by the proximity of the existing houses fronting Gawler Road in the vicinity.

It is more than likely that the rural zone block may, subject to land capability, also eventually include future development of a house. The assessment of this current subdivision proposal by the Council's Planning and Assessment Team has covered this eventuality by requiring all lots to be connected to the Council's sewer reticulation. The location of the sewer main and its depth will limit the development of a house on Lot 5 (the rural lot) toward the western end of the lot near to the sewer reticulation. This outcome ensures that limited agricultural uses remain possible on the lot.

Pursuant to clause 4.1.1 (a) of the Scheme the Council may refuse an application if, in the opinion of the Council, the subdivision, if proceeded with would contravene the provisions of the Scheme and mitigate against the achievement of the objectives of the Scheme.

The most relevant objectives are:

- (a) orderly settlement and management of population, commerce, rural production and industry;
- (b) proper use and development of land, buildings and resources;
- (g) controlled economic use and/or expansion of municipal services;
- (i) prevention of the loss of agricultural potential of non urban lands and the fragmentation of rural holdings; and
- (k) prevention of spasmodic and premature subdivision of land which (particularly in urban and urban fringe areas) jeopardise or tend to delay the ultimate logical and economic development of land.

The assessment of the land against the objectives concludes that none will be compromised as a result of the subdivision.

Schedule 8 of the Scheme prescribes the subdivision standards. Table 8 of this schedule requires lots in the Residential (RA) – Closed zone to have a minimum area of 550m². The residential lots comply with the area and other parameters of the schedule. The purpose of the subdivision is not dissimilar to that determined recently by the Committee in keeping the rural land on one title.

The split zone issue has been touched on previously in regard to Lots 1, 2, 3 and 4. An alternative layout to ensure that the lot boundaries follow the zone has also been considered but from scaled calculations undertaken this would most likely only result in one lot being able to comply but only if Lots 1 and 2 as submitted were reconfigured to form one lot. This actual reduction in the number of lots has the added benefit of providing a larger building envelope on the balance rural lot to take advantage of the sewer reticulation. The reduction in depth to Lots 3 and 4 as submitted was also considered but this would result in a sub-minimum area to both lots if the rural zoned area was excluded. The result of the alternative option is that the split zone is of no consequence in the proposed relationship between lot boundary and zone boundary. A net reduction in the number of lots may not be favoured by the developer.

An alternative lot arrangement as discussed above is attached as Annexure 4.

Schedule 8 does not prescribe any minimum lot size for rural land and quite conclusively does not allow additional lots to be created. In this regard there are no additional rural lots being created and the size of the balance rural zoned lot size has to be considered on its merit.

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. Comments received from the Planning and Assessment Team are included in the final recommendation.

A copy of the advertisement is appended as Annexure 5.

Representation

One representation of objection was received within the prescribed 14-day public scrutiny period.

The representation is attached as Annexure 6.

A précis of the concerns and relevant comments from a planning perspective follows:

Point 1 – the subdivision will be a strip development.

Comments – The subdivision is simple infill between 133 and 143 Gawler Road. The residential zone has provided for this eventuality.

Point 2 – An undersold subdivision exists within 1 km.

Comments – This subdivision hasn't been identified in the representation, however, the Scheme is silent on the aspect of economics of subdivision development.

Point 3 – The land could be sold as one property.

Comments – Nil.

Point 4 – Council should not be supporting strip development.

Comments – refer to comment 1.

Point 5 – Increased traffic.

Comments – Unless justified the Scheme only provides for additional information on traffic matters if the proposed development is located outside town boundaries. These lots are within the Gawler town boundary.

Point 6 – Lot development density.

Comments – The Council has no jurisdiction to impose any covenants or restrictions on the type of development if that particular development is discretionary under a planning scheme.

Point 7 – Subdivision of rural land.

Comments – Answered previously.

Point 8 – Animal control measures.

Comments – This is outside the scope of this application.

IMPACT ON RESOURCES

This report has no extraordinary impact on resources than could be expected at this stage of the process. It is noted that if there is an appeal to the Council's decision, there will be additional impacts on the Council's resources.

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 subdivision is within the existing town of Gawler and the zoning of the land provides potential for subdivision. The lots fronting Gawler Road conform to the minimum provisions for subdivision in the Residential (RA) – Closed zone and no additional rural lots are being created. Full infrastructure services are available to the residential lots and partially to the rural lot. Also, ensuring that future residential development on the rural lot is connected to the sewer maintains a grouping of homes in the township.

Recommendation

It is recommended that the representation be deemed to have insufficient merit on planning grounds to warrant refusal of the application and that Application No. SUB2007.20 be approved subject to the following conditions and restrictions

- 1 The Final Plan must be substantially the same as the submitted plan dated 27/08/07 of Glenn A Deegan unless otherwise altered by the conditions of this permit;

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- 2 When the Final Plan is submitted for sealing, payment of cash in lieu of the provision of land for Public Open Space is to be made, equal to 5% of the unimproved value of Lots 1, 2 & 4 as determined by a registered land valuer;
 - 3 The subdivider:
 - (a) providing a sealed vehicular access to each lot in accordance with the Council's Standard Drawing SD-1003.
 - (b) relocating where necessary house connection drains and services to within respective lot boundaries;
 - (c) providing a water reticulation and supply connection and meter to each new lot including the balance lot;
 - (d) providing sewerage reticulation and connection point to each new lot, including the balance lot;
 - (e) providing underground stormwater reticulation and connection point to each new lot including the balance lot;
 - (f) providing where necessary water supply and drainage easements;
 - (g) arranging with Aurora for separate underground power supply to each new lot;
 - (h) providing, upgrading or extending where required water, sewer or drainage services to service the subdivision to the satisfaction of the Council's director Assets and Engineering;
 - (i) rectifying any damage or disturbance to footpaths, roads, kerbs, nature strips or existing services to the satisfaction of Council's Director Assets & Engineering;
 - 4 The Final Plan being endorsed to show any area that cannot be serviced by existing or new reticulated sewer or stormwater;
 - 5 The outbuildings sited over the Right of Way (Private) to Lot 5 being demolished or relocated;

and that the applicant be further requested to note:

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- A this permit expires two years from the date of this notice unless the Final Plan has been submitted for sealing;
 - B in regard to condition 4 an application for demolition or removal of the outbuildings is required; and
 - C any works undertaken within the Road Reservation requires a Road Permit to be issued prior to construction. Any queries on this or other engineering requirements are to be directed to Council's Services Engineer."

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 Van Rooyen moved and Cr Haines seconded, "That the representation be deemed to have insufficient merit on planning grounds to warrant refusal of the application and that Application No. SUB2007.20 be approved subject to the following conditions and restrictions

- 1 The Final Plan must be substantially the same as the submitted plan dated 27/08/07 of Glenn A Deegan unless otherwise altered by the conditions of this permit;
- 2 When the Final Plan is submitted for sealing, payment of cash in lieu of the provision of land for Public Open Space is to be made, equal to 5% of the unimproved value of Lots 1, 2 & 4 as determined by a registered land valuer;
- 3 The subdivider:
 - (a) providing a sealed vehicular access to each lot in accordance with the Council's Standard Drawing SD-1003.
 - (b) relocating where necessary house connection drains and services to within respective lot boundaries;
 - (c) providing a water reticulation and supply connection and meter to each new lot including the balance lot;
 - (d) providing sewerage reticulation and connection point to each new lot, including the balance lot;

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- (e) providing underground stormwater reticulation and connection point to each new lot including the balance lot;
 - (f) providing where necessary water supply and drainage easements;
 - (g) arranging with Aurora for separate underground power supply to each new lot;
 - (h) providing, upgrading or extending where required water, sewer or drainage services to service the subdivision to the satisfaction of the Council's director Assets and Engineering;
 - (i) rectifying any damage or disturbance to footpaths, roads, kerbs, nature strips or existing services to the satisfaction of Council's Director Assets & Engineering;
- 4 The Final Plan being endorsed to show any area that cannot be serviced by existing or new reticulated sewer or stormwater;
- 5 The outbuildings sited over the Right of Way (Private) to Lot 5 being demolished or relocated;

and that the applicant be further requested to note:

- A this permit expires two years from the date of this notice unless the Final Plan has been submitted for sealing;
- B in regard to condition 4 an application for demolition or removal of the outbuildings is required; and
- C any works undertaken within the Road Reservation requires a Road Permit to be issued prior to construction. Any queries on this or other engineering requirements are to be directed to Council's Services Engineer."

Carried unanimously

**71/2007 Two-lot subdivision at 88 Espalnade, Turners Beach –
Application No. SUB2007.21**

The Land Use Planning Group Leader reported as follows:

"DEVELOPMENT APPLICATION No.: SUB2007.21
APPLICANT: K & C Percy

<i>LOCATION:</i>	88 Esplanade, Turners Beach
<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>	4th September 2007
<i>REPRESENTATIONS EXPIRY DATE:</i>	18 September 2007
<i>REPRESENTATIONS RECEIVED:</i>	Three
<i>42-DAY EXPIRY DATE:</i>	18 October 2007
<i>DECISION DUE:</i>	15 October 2007

PURPOSE

This report considers the compliance of the application against the provisions of the Scheme and discusses the merits of the three representations of objection received to ascertain whether the issues of concern raised are within the ambit of the Scheme.

A copy of the application form is appended as Annexure 1.

A location plan is appended as Annexure 2.

BACKGROUND

The applicants are also the owners of the land which they purchased in March 1993. The land is 1124m² in area, triangular in shape and has road frontage to both the Esplanade and Fenton Street. It appears that the original land was part of a 'Police Reserve' but it is unclear as to its need in the community. Regardless of its original purpose the Crown disposed of the land in 1990 for private use.

The proposal plan is appended as Annexure 3.

DISCUSSION

The Scheme provides the matters that the Council considers appropriate in their discretion to either grant a permit with or without conditions or to refuse a planning application.

Clause 3.9.2 provides these matters that include – the objectives of the Scheme, the intent of the zoning, the relevant development standards or other requirements.

The objectives that require some consideration are:

- (c) orderly settlement and management of population, commerce, rural production and industry;
- (d) proper use and development of land, buildings and resources;
- (e) enhancement of the environmental 'quality of life' of residents and visitors by attention to aesthetics and landscape impact and general pollution effects; and
- (h) controlled economic use and/or expansion of municipal services;

The assessment of the land against the objectives concludes that none will be compromised as a result of the subdivision.

The intent of the zone is quite clear. This subdivision proposal for residential purposes in a residential zone conforms to the Scheme's objectives.

Although the objectives provide the desirable outcomes the intent of the zone and the specific development standards provide the measurable elements in the assessment process.

The relevant development standards for subdivision in the Residential (RA) - Closed zone are indicated in Schedule 8 of the Scheme. Although irregular in shape both lots comply with those standards. The required dimensions are clearly demonstrated on the proposal plan.

Other aspects of Clause 3.9.2 are reasonably subjective in nature but it would be remiss if the issue of climate change and coastal vulnerability was ignored, particularly in this location as the Sharples Report identifies some of Turners Beach as a vulnerable section of coast line.

The overall governance on this matter from a State perspective is undergoing a rigorous consultative process to ensure that all Councils are consistent in their interpretation of the issues arising from sea level rise and storm surge.

With due deference to the issue this is not the first application dealt with that due to its location required additional investigation. The recently approved development at the Turners Beach Caravan Park was subjected to this level of assessment and as a result a site specific minimum floor level for habitable buildings was established in the final permit of 3.6m Australian Height Datum (AHD).

The Coastal and Riparian Schedule of the Draft Scheme also provides some guidance in mitigating against the effects of sea level rise. This indicates that 2.64 metres AHD is the benchmark for development.

Both these figures have been correlated against existing engineering detail sheets at Turners Beach that identifies spot levels and contours.

A copy of the overlay for this subdivision is appended as Appendix 4.

This indicates that the land in question is reasonably flat and approximately 4.5 metres above the datum. A calculation of a likely scenario due to predicted sea level rise has established that future development on these lots can occur without the imposition of an impractical floor level for habitable portions of a dwelling.

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 members that could not be included in the final determination of the application.

A copy of the advertisement is appended as Annexure 5.

Representations

Three representations were received within the prescribed 14-day period open for public scrutiny of the proposal.

Copies of the representations are appended as Annexure 6.

The points raised in the representations have been examined, summarised and commented on in the following table.

SUMMARY OF ISSUES IN REPRESENTATIONS	COMMENTS
The lots are substandard in size.	The lots comply with the Schedule 8 provisions of the Scheme.
The lots don't comply with the Draft Scheme.	Correct, however the provisions of the Draft Scheme are not in effect.
The lots haven't an effective building envelope.	The 18m diameter ensures that a suitable area exists within the minimum size as extraordinary shaped lots could occur if this control mechanism was not in place. The location of future buildings on either lot is unknown. Any future development requiring a setback exemption will be assessed on its merits.
The land used to be a Police Reserve that controlled the number of potential lots.	The assignation seems to have been removed in 1990 when the property became freehold. The applicants have owned the land since 1993.
Vehicular access is dangerous.	The Scheme is silent on access safety measures within a town boundary or 60km/hr or less zone.
The lot is not serviced by stormwater reticulation.	Advice from the Council's Assets and Engineering Department indicates that stormwater reticulation is available.
Cluster Housing is not appropriate in this location.	The size of the proposed lots excludes cluster house development. Any development for a multi residential use is only possible as a 'Grouped House' which is discretionary under the Scheme.
Fenton Street has no passing or parking space available.	The Council's Assets and Engineering Staff have not raised this as an issue for concern.
Removal of flora will affect the environmental amenity.	Removal of some vegetation on-site will occur as a result of subsequent development. The Council's Assets and

	Engineering Department have indicated that the applicant is to be made aware that only minimal vegetation removal will be permitted within the road reserves and only then for the installation of services and lot access.
The visual significance of the vegetation in regard to the amenity of the area.	Minimal disturbance off site will be considered in any conditions of approval.
Issue - Vegetation corridors should remain intact.	The Scheme is silent on specifically addressing this concern. Objective (c) provides a subjective value: <i>'enhancement of the environmental "quality of life" of residents and visitors by attention to aesthetics and landscape impact and general pollution effects'</i>
Issue - Sea rise inundation.	Previously discussed.
Issue - Historic and heritage landscape.	No supporting advice has been received.

IMPACT ON RESOURCES

This report has no extraordinary impact on resources than could be expected at this stage of the process. It is noted that if there is an appeal to the Council's decision, there will be additional impacts on the Council's resources.

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 land is zoned Residential (RA) - Closed which allows for further subdivision conditional upon the proposal conforming to the planning scheme requirements.

Notwithstanding the established issues to consider under clause 3.9.2 of the Scheme, the evolving issue of sea level rise has not been disregarded. On the basis of the precautionary principle the lots due to their location and elevation, based on known scientific information, are above previously established height datum. The issues raised in the representations have been examined and appropriate comments have been made in response to them.

Nothing has been identified that can justify a recommendation refusing the subdivision.

Recommendation

It is recommended that the representations be deemed to have insufficient merit on planning grounds to warrant refusal of the application and that Application No. SUB2007.21 be approved subject to the following conditions and restrictions:

- 1 The Final Plan must be substantially the same as the submitted plan unless otherwise altered by the conditions of this permit;
- 2 When the Final Plan is submitted for sealing, payment of cash in lieu of the provision of land for Public Open Space is to be made, equal to 5% of the unimproved value of Lots 1 and 2 as determined by a registered land valuer;
- 3 The subdivider:
 - (a) providing a water supply connection and meter to each lot;
 - (b) providing a sewer connection point to each lot;
 - (c) contributing to the proposed stormwater main extension from Boyes Street and along Fenton Street;
 - (d) providing an underground stormwater connection point to each lot;

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- (e) providing a sealed vehicular access to each lot to the satisfaction of the Council's Director of Assets and Engineering;
 - (f) providing where necessary water supply and drainage easements;
 - (g) arranging with Aurora for separate underground power supply to each new lot;
 - (h) minimising the disturbance of any vegetation in Fenton Street and Esplanade that may result from the installation of services and assets;
 - (i) providing, upgrading or extending where required water, sewer or drainage services to service the subdivision to the satisfaction of the Council's Director Assets and Engineering;
 - (j) rectifying any damage or disturbance to footpaths, roads, kerbs, nature strips or existing services to the satisfaction of Council's Director Assets & Engineering;
- 4 The Final Plan being endorsed to show any area that cannot be serviced by existing or new reticulated sewer or stormwater;

and that the applicant be further requested to note:

- A This permit expires two years from the date of this notice unless the Final Plan has been submitted for sealing;
- B Any works associated with the connection to existing (live) Council water, sewer and stormwater services is to be undertaken by the Council at the developer's expense;
- C Any works associated with existing kerb and channel, footpath or roads is to be undertaken by the Council at the developer's expense; and
- D Any queries on this or other engineering requirements are to be directed to Council's Services Engineer."

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 Robertson moved and Cr Van Rooyen seconded, “That the representations be deemed to have insufficient merit on planning grounds to warrant refusal of the application and that Application No. SUB2007.21 be approved subject to the following conditions and restrictions:

- 1 The Final Plan must be substantially the same as the submitted plan unless otherwise altered by the conditions of this permit;
- 2 When the Final Plan is submitted for sealing, payment of cash in lieu of the provision of land for Public Open Space is to be made, equal to 5% of the unimproved value of Lots 1 and 2 as determined by a registered land valuer;
- 3 The subdivider:
 - (a) providing a water supply connection and meter to each lot;
 - (b) providing a sewer connection point to each lot;
 - (c) contributing to the proposed stormwater main extension from Boyes Street and along Fenton Street;
 - (d) providing an underground stormwater connection point to each lot;
 - (e) providing a sealed vehicular access to each lot to the satisfaction of the Council’s Director of Assets and Engineering;
 - (f) providing where necessary water supply and drainage easements;
 - (g) arranging with Aurora for separate underground power supply to each new lot;
 - (h) minimising the disturbance of any vegetation in Fenton Street and Esplanade that may result from the installation of services and assets;
 - (i) providing, upgrading or extending where required water, sewer or drainage services to service the subdivision to the satisfaction of the Council’s Director Assets and Engineering;

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- (j) rectifying any damage or disturbance to footpaths, roads, kerbs, nature strips or existing services to the satisfaction of Council's Director Assets & Engineering;
- 4 The Final Plan being endorsed to show any area that cannot be serviced by existing or new reticulated sewer or stormwater;

and that the applicant be further requested to note:

- A This permit expires two years from the date of this notice unless the Final Plan has been submitted for sealing;
- B Any works associated with the connection to existing (live) Council water, sewer and stormwater services is to be undertaken by the Council at the developer's expense;
- C Any works associated with existing kerb and channel, footpath or roads is to be undertaken by the Council at the developer's expense; and
- D Any queries on this or other engineering requirements are to be directed to Council's Services Engineer."

Carried unanimously

72/2007 Part demolition of existing shop and miscellaneous (commercial car wash) at 6 James Street, Ulverstone – Application No. DEV2006.97

The Land Use Planning Group Leader reported as follows:

"The Town Planner has prepared the following report:

<i>DEVELOPMENT APPLICATION NO.:</i>	DEV2006.97
<i>APPLICANT:</i>	David Turner
<i>LOCATION:</i>	6 James Street, Ulverstone
<i>ZONING:</i>	Residential (RB) – Semi
<i>PLANNING INSTRUMENT:</i>	Central Coast S.46 Planning Scheme No.1 of 1993 (the Scheme)
<i>ADVERTISED:</i>	15 September 2007
<i>REPRESENTATIONS EXPIRY DATE:</i>	29 September 2007
REPRESENTATIONS RECEIVED:	Five
42-DAY EXPIRY DATE:	15 October 2007 (extension granted)
<i>DECISION DUE:</i>	15 October 2007

PURPOSE

The purpose of this report is to consider the merits of the representations received in objection to a discretionary planning application for part demolition of existing shop and miscellaneous development (commercial car wash) at 6 James St, Ulverstone.

A copy of the application form is appended as Annexure 1.

BACKGROUND

On 20 April 2007 an application was received at the Council for partial demolition of the existing shop and for construction of a commercial car wash (miscellaneous use under the Scheme).

A location plan is attached as Annexure 2.

This report will consider:

- 1 the compliance of the application with the relevant objective, provisions and development standards of the Scheme;
- 2 the specific intent of the Residential (RB) – Semi Zone; and
- 3 the merits of the representations received.

DISCUSSION

The subject site is within the Ulverstone township. The proposal is for the partial demolition of the existing shop and the development of a commercial car wash on the site. The property shares boundaries with residential units and a single dwelling to the north, retirement units to the west and a railway line to the south. Across the road are other residential properties.

The application has been altered since the original application was received. This assessment is of the revised proposal, and the changes proposed in that revision.

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

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

There are no specific development standards prescribed by the Scheme for this use. Schedule 7 of the Scheme provides that “The absence of any use category or the lack of any correlation between the use category and zones in the table shall not be taken to imply that there are no control dimensions / figures applicable. In such cases, the minimum or maximum dimensions / figures shall be determined by the Council”.

The relevant objectives, provisions and development standards of the Scheme are addressed in the following table:

Clause	Detail	Proposal
General provisions		
3.9.2	<p>Relevant sections for discussion which are not covered elsewhere in report:</p> <ul style="list-style-type: none"> (e) siting size and appearance in relation to existing site features, adjoining land and the streetscape (f) adequate infrastructure (g) use of, and impact on, adjoining land (h) landscaping, amenity, illumination (i) desirability or need to impose periods within which activities may be carried out 	<p>The proposal includes changes to the existing site features and acoustic fencing intended to limit the impact on the adjoining land. The streetscape is made up of a mix of residential and other uses (e.g. the existing commercial operations on sites, the nearby school and supermarket), with a variety of setbacks and styles.</p> <p>A standard condition on any planning permit issued is that the developer pay for any necessary infrastructure upgrades.</p> <p>The developer proposes baffling on lighting to limit impact on neighbours.</p> <p>The proposal includes a request for opening hours to be between 7am and 10 pm, 7 days a week.</p>
Objectives (relevant sections only)		

5.1.1(a)	Orderly settlement and management of population, commerce, rural production and industry	The proposed development is within the boundaries of the Ulverstone township.
5.1.1(c)	Enhancement of environmental 'quality of life' of residents and visitors by attention to aesthetics and landscape impact...	The developer is proposing acoustic and visual site treatments.

2 the specific intent of the Residential (RB) - Semi Zone.

The Residential (RB) - Semi Zone is "intended to accommodate existing (in the main) residential uses, but providing for some non-residential uses, which are compatible with, and/or incidental to, expanding residential or commercial uses in adjacent areas".

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. All of these actions were undertaken for the original proposal and the revised proposal. In addition, persons who made representations to the original proposal were notified in writing that there was a revised proposal subject to another public scrutiny period.

The application as a matter of procedure was referred to the Council's Planning and Assessment Team. The Planning and Assessment Team provided responses which have guided the final recommendation.

A copy of the advertisement is appended as Annexure 4.

REPRESENTATION

Five representations were received during the 14 day advertising period.

Copies of the representations are attached as Annexure 5.

3 the merits of the representations received.

The following table provides a summary of the issues raised in these representations.

#	Detail	Proposal
1	Cl. 3.9.2(a): the site is surrounded by residential development; that the "intent of the zoning is, or should be residential".	Cl.3.9.2(a) refers to the Objectives of the Scheme, intent of the zone and any relevant development standards. These have been addressed in the earlier sections of the report.
2	Cl 3.9.2(e): streetscape impacts.	The street currently has a mixed streetscape.
3	Increase in traffic noise, impacts and dangers.	It is recognised that there is likely to be increased traffic as a result of the proposed development.
4	Operating impact: lights (on site and off site from traffic), operation of equipment, noise pollution, security, air pollution.	The application documentation details the lighting and proposed noise mitigation measures.
5	3.9.2(f): impact of water use on water pressure (nearby residents and fire hydrants).	If infrastructure upgrades are required to service a development, it is a standard condition of approval that the developer provide such upgrades.
6	3.9.2(g): adverse impact on future plans for development for adjoining users.	The surrounding uses are predominantly residential. This Clause relates to whether the proposed development restricts the ability of adjoining owners to develop their land.
7	S10.4.1: no waiting lane.	S10.4 of the Scheme provides for a car wash to be developed on a service station site without interfering with fuel service driveways. This is not a service

		station, and there are no fuel services on this site.
8	Land use would be Industry - General, and that the definition of industry incorporates the repairing, laundering or servicing of any article.	There is no land use in the Scheme "Industry - General". Use Categories under Schedule 1 are different to the definitions of terms provided in Cl.1.3.5. The proposed development has been categorised as defined previously in this report, with the car wash component being "Miscellaneous".
9	Application for temporary permit for a prohibited use is not appropriate.	The application is for a Discretionary use class. The temporary permit provisions of the Scheme do not apply.
10	Draft Planning Scheme.	N/A
11	Incomplete application (elevations and revised site plan do not correlate).	The applicant has provided amended site plans but not amended elevations.
12	Shading on units from fence, impacts on appearance and property value.	The units in question are to the north of the proposed development.
13	Technicalities in the acoustic and traffic reports and credibility of traffic report.	The reports and representations are annexed. See Discussion below for further detail.
14	Potential for operating hours to increase in the future (outside of the proposed 7am to 10pm).	Whatever decision is made on this development, should the developer wish to extend the operating hours, a separate planning application would be required, with all subsequent rights of appeal where applicable.

15	Operating hours proposed extend beyond those of the existing commercial uses on site.	The application documentation requests operating hours of 7am until 10pm, 7 days a week.
16	Could be more appropriately sited elsewhere.	The application can only be assessed on its own merits.

IMPACT ON RESOURCES

This report has the normal impact on resources. It is noted that if there is an appeal to the Council's decision, there will be additional impacts on the Council's resources.

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

In summary, the application is for partial demolition of an existing shop and the development of a Miscellaneous Use (commercial car wash). The Scheme does not provide specific development standards for this type of development in this zone.

The applicant has provided a number of consultant's reports in relation to noise and traffic. All of the documentation submitted to the Council by the applicant and appellants has been considered as part of this assessment. Many of the issues raised in the representations have valid planning grounds. A number of these were raised with the applicant, who submitted a revised proposal, with revised hours of operation and site layouts. This revised proposal was re-advertised, and this assessment is based on said revised proposal.

The applicant has reduced the requested operating hours to 7am until 10pm, 7 days a week. Given the site, existing uses and the predicted impact

documented by the applicant's consultants, these hours have been reviewed during the assessment process and the recommendation to restrict operating hours to 7.00 a.m. to 7.00 p.m. weekdays, 7.00 a.m. to 4.00 p.m. Saturdays with no Sunday operating hours reflects a considered set of opening hours intended to allow for the site to be developed in accordance with the Scheme. A copy of the Council's Environmental Officer's assessment report with respect to noise is provided as Annexure 6.

Recommendation

It is recommended that the representations of objection be deemed to have insufficient merit on planning grounds to justify refusal of the application and that upon deliberation of the merits of the proposal against the provisions of the Central Coast S.46 Planning Scheme No.1 of 1993, Application No. DEV2009.97 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;
- 2 The operating hours be restricted to:
 - (a) 7:00am to 7:00pm weekdays; and
 - (b) 7:00am to 4:00pm Saturdays;
- 3 The site being adequately secured outside these operating hours;
- 4 A 3m high acoustic barrier to be provided along the northern boundary of the site and a 2.1m acoustic barrier is to be provided along the eastern boundary of the site as recommended in the Architectural Acoustic Noise Control Report prepared by P Terts and dated 18 July 2007;
- 5 Refrigeration and other plant are to be enclosed, positioned and oriented so as to reduce noise egress to the nearest neighbours as recommended in the Architectural Acoustic Noise Control Report prepared by P Terts and dated 18 July 2007;
- 6 The bleeper associated with any coin machine is to be replaced with a flashing light of a broad band noise source warning system as recommended in the Architectural Acoustic Noise Control Report prepared by P Terts and dated 18 July 2007;

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- 7 The activity endorsed by this permit must be carried out in accordance with the requirements of the *Environmental Management and Pollution Control Act 1994*, and regulations made thereunder;
 - 8 The applicant must not in the course of carrying out the activity, without the prior written approval of the Council, change any process, construct, install, alter or remove any structure or equipment or change the nature or quantity of materials used or produced which might cause or increase the issue of a pollutant, or otherwise result in environmental harm;
 - 9 No liquids other than unpolluted rain water are to be allowed to discharge or drain to the Council's stormwater system or receiving water bodies or watercourses;
 - 10 The area proposed for storage of potentially contaminating liquids must be fully sealed and bunded;
 - 11 If an incident causing or threatening serious or material environmental harm from pollution occurs in the course of the activity (or activities) to which this document relates, then the person responsible for the activity (or activities) must:
 - (a) immediately take all practicable action to minimise any adverse environmental effects from the incident, and
 - (b) as soon as reasonably practicable, but not later than 24 hours, after becoming aware of the incident, notify the Council's Development Services Department of the incident by a telephone call to 03 6429 8900 (business hours) or 03 6429 8999 (after hours); and
 - (c) Not later than 24 hours after becoming aware of the incident, provide a report to the Council's Development Services Department by facsimile to 03 6425 1224, or by hand delivery, outlining the nature of the incident, the circumstances in which it occurred and the action taken to deal with the incident. This report must be provided irrespective of whether the person responsible for the activity (or activities) has reasonable grounds for believing that the incident has already come to the notice of the Council's Development Services Department or any officer engaged in the administration or enforcement of EMPCA;

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- 12 The developer providing (where necessary):
- (a) an appropriately sized water supply connection and meter to the property;
 - (b) an appropriately sized sewer connection point to the property;
 - (c) an appropriately sized stormwater connection point to the property; and
 - (d) parking facilities in accordance with AS 2890.1;
- 13 The developer is to undertake a downstream analysis of the current sewer system to determine if there are any capacity limitations and contribute to the upgrade of the sewer system where necessary;
- 14 The redundant driveways being closed by replacing the driveway crossover with appropriate barrier kerb in accordance with the Council's Standard Drawing SD-1005 (copy enclosed);
- 15 The provision of a 6m wide sealed vehicular access to the lot in accordance with the Council's Standard Drawing SD-1003 as shown on the amended plan dated the 03/08/2007;
- 16 Not to discharge any waste liquids of any type or quality to the stormwater system (i.e. only rainwater is to leave the site in the stormwater system);
- 17 All wastes discharged to the sewer from the car wash bays etc will require a written trade waste agreement with the Council's Assets & Engineering Department, detailing the quality, frequency and contaminants in the wastewater;
- 18 The provision, upgrading or extension of water, sewer and drainage services (where necessary) to service the development shall be to the satisfaction of the Council's Director of Assets and Engineering;
- 19 The provision, upgrading or extension of kerb and channel, footpath or road infrastructure required as a result of the development, shall be to the satisfaction of the Council's Director of Assets & Engineering;

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- 20 Any damage or disturbance to footpaths, roads, kerbs, nature strips or existing services to be rectified to the satisfaction of the Council's Director of Assets & Engineering; and
- 21 Appropriate signage and/or road markings be installed to indicate traffic flow on site to users;

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 this is not a permit for advertising signage. If advertising signage is proposed for the site, a separate planning application must be made at that time;
- C building and Plumbing Permits are required for the proposed development;
- D any works associated with connection to existing (live) Council water, sewer and stormwater services will be undertaken by the Council at the developer's cost;
- E any works associated with the existing kerb and channel, footpath or roads will be undertaken by the Council at the developer's cost;
- F any works undertaken within the Road Reservation requires a Road Permit to be issued prior to construction;
- G contact the Council's Assets & Engineering Department to discuss any infrastructure work requirements, organise permits and arrange works;
- H assessment of the CK Group water and wastewater report indicates the concentration of the Soapy Oil / Fat of the effluent discharged to the sewer exceeds the limit adopted by the Council. The applicant should contact the Council's Assets & Engineering Department to discuss;
- I in regards to Condition 21, a possible conflict exists between vehicles accessing the Motor Vehicle Service Centre and vehicles exiting the wash bays. Vehicles exiting the wash bays may assume the roadway

is one-way (exit) and may not be anticipating vehicles approaching from the right to enter the service centre. Due to a low speed environment and constraints of the site, this may be acceptable, but it is recommended appropriate signage and/or road markings be installed to indicate the circulating roadway at the rear of the wash bays is two-way. Similarly, road marking and/or signage could be used to delineate the circulating roadway to access the warehouse and service centre from the northern vacuum bay.'

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 Robertson moved and Mrs Schaefer seconded, "That the representations of objection be deemed to have insufficient merit on planning grounds to justify refusal of the application and that upon deliberation of the merits of the proposal against the provisions of the Central Coast S.46 Planning Scheme No.1 of 1993, Application No. DEV2009.97 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;
- 2 The operating hours be restricted to:
 - (a) 8:00am to 7:00pm weekdays; and
 - (b) 9:00am to 4:00pm Saturdays;
- 3 The site being adequately secured outside these operating hours;
- 4 A 3m high acoustic barrier to be provided along the northern boundary of the site and a 2.1m acoustic barrier is to be provided along the eastern boundary of the site as recommended in the Architectural Acoustic Noise Control Report prepared by P Terts and dated 18 July 2007;
- 5 Refrigeration and other plant are to be enclosed, positioned and oriented so as to reduce noise egress to the nearest neighbours as recommended in the Architectural Acoustic Noise Control Report prepared by P Terts and dated 18 July 2007;

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- 6 The bleeper associated with any coin machine is to be replaced with a flashing light of a broad band noise source warning system as recommended in the Architectural Acoustic Noise Control Report prepared by P Terts and dated 18 July 2007;
 - 7 The activity endorsed by this permit must be carried out in accordance with the requirements of the *Environmental Management and Pollution Control Act 1994*, and regulations made thereunder;
 - 8 The applicant must not in the course of carrying out the activity, without the prior written approval of the Council, change any process, construct, install, alter or remove any structure or equipment or change the nature or quantity of materials used or produced which might cause or increase the issue of a pollutant, or otherwise result in environmental harm;
 - 9 No liquids other than unpolluted rain water are to be allowed to discharge or drain to the Council's stormwater system or receiving water bodies or watercourses;
 - 10 The area proposed for storage of potentially contaminating liquids must be fully sealed and banded;
 - 11 If an incident causing or threatening serious or material environmental harm from pollution occurs in the course of the activity (or activities) to which this document relates, then the person responsible for the activity (or activities) must:
 - (a) immediately take all practicable action to minimise any adverse environmental effects from the incident, and
 - (b) as soon as reasonably practicable, but not later than 24 hours, after becoming aware of the incident, notify the Council's Development Services Department of the incident by a telephone call to 03 6429 8900 (business hours) or 03 6429 8999 (after hours); and
 - (c) Not later than 24 hours after becoming aware of the incident, provide a report to the Council's Development Services Department by facsimile to 03 6425 1224, or by hand delivery, outlining the nature of the incident, the circumstances in which it occurred and the action taken to deal with the incident. This report must be provided irrespective of whether the person responsible for the activity (or activities) has reasonable grounds for believing that the incident has already come to the notice of the Council's Development Services Department or any officer engaged in the administration or enforcement of EMPCA;

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- 12 The developer providing (where necessary):
- (a) an appropriately sized water supply connection and meter to the property;
 - (b) an appropriately sized sewer connection point to the property;
 - (c) an appropriately sized stormwater connection point to the property; and
 - (d) parking facilities in accordance with AS 2890.1;
- 13 The developer is to undertake a downstream analysis of the current sewer system to determine if there are any capacity limitations and contribute to the upgrade of the sewer system where necessary;
- 14 The redundant driveways being closed by replacing the driveway crossover with appropriate barrier kerb in accordance with the Council's Standard Drawing SD-1005 (copy enclosed);
- 15 The provision of a 6m wide sealed vehicular access to the lot in accordance with the Council's Standard Drawing SD-1003 as shown on the amended plan dated the 03/08/2007;
- 16 All wastes discharged to the sewer from the car wash bays etc will require a written trade waste agreement with the Council's Assets & Engineering Department, detailing the quality, frequency and contaminants in the wastewater;
- 17 The provision, upgrading or extension of water, sewer and drainage services (where necessary) to service the development shall be to the satisfaction of the Council's Director of Assets and Engineering;
- 18 The provision, upgrading or extension of kerb and channel, footpath or road infrastructure required as a result of the development, shall be to the satisfaction of the Council's Director of Assets & Engineering;
- 19 Any damage or disturbance to footpaths, roads, kerbs, nature strips or existing services to be rectified to the satisfaction of the Council's Director of Assets & Engineering; and
- 20 Appropriate signage and/or road markings be installed to indicate traffic flow on site to users;

and that the applicant be further requested to note:

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- 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 this is not a permit for advertising signage. If advertising signage is proposed for the site, a separate planning application must be made at that time;
- C building and Plumbing Permits are required for the proposed development;
- D any works associated with connection to existing (live) Council water, sewer and stormwater services will be undertaken by the Council at the developer's cost;
- E any works associated with the existing kerb and channel, footpath or roads will be undertaken by the Council at the developer's cost;
- F any works undertaken within the Road Reservation requires a Road Permit to be issued prior to construction;
- G contact the Council's Assets & Engineering Department to discuss any infrastructure work requirements, organise permits and arrange works;
- H assessment of the CK Group water and wastewater report indicates the concentration of the Soapy Oil / Fat of the effluent discharged to the sewer exceeds the limit adopted by the Council. The applicant should contact the Council's Assets & Engineering Department to discuss;
- I in regards to Condition 20, a possible conflict exists between vehicles accessing the Motor Vehicle Service Centre and vehicles exiting the wash bays. Vehicles exiting the wash bays may assume the roadway is one-way (exit) and may not be anticipating vehicles approaching from the right to enter the service centre. Due to a low speed environment and constraints of the site, this may be acceptable, but it is recommended appropriate signage and/or road markings be installed to indicate the circulating roadway at the rear of the wash bays is two-way. Similarly, road marking and/or signage could be used to delineate the circulating roadway to access the warehouse and service centre from the northern vacuum bay.'

Voting for the motion

(3)

Kathy Schaefer
Cr Robertson
Cr Downie

Voting against the motion

(2)

Cr Haines
Cr Van Rooyen

Motion

Carried

The meeting noted at this time that, as the matter could not be determined unanimously, it must accordingly be referred to a meeting of the Council for a decision.

Closure

There being no further business, the Mayor declared the meeting closed at 6.40pm.

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