



Minutes

of an Ordinary Meeting
held at 6.00pm

20 APRIL 2009

Note:

Minutes subject to confirmation at
a meeting of the Council to be held on
18 May 2009

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Minutes of an ordinary meeting of the Central Coast Council held in the Council Chamber at the Administration Centre, 19 King Edward Street, Ulverstone on Monday, 20 April 2009 commencing at 6.00pm.

Councillors attendance

Cr Mike Downie (Mayor)	Cr Warren Barker
Cr Jan Bonde	Cr Lionel Bonde
Cr John Deacon	Cr David Dry
Cr Ken Haines	Cr Gerry Howard
Cr Terry McKenna	Cr Tony van Rooyen

Cr Brian Robertson (Deputy Mayor) attended the meeting at 6.25pm.

Councillors apologies

Cr Robertson (for the early part of the meeting), Cr Fuller.

Employees attendance

General Manager (Ms Sandra Ayton)
Director Engineering Services (Mr Bevin Eberhardt)
Director Corporate & Community Services (Mr Cor Vander Vlist)
Director Development & Regulatory Services (Mr Michael Stretton)
Executive Services Officer (Miss Lisa Mackrill)
Engineering Services Manager (Mr Paul Breaden)
Planning Consultant (Mr Allen Carmen-Brown)

Media attendance

The Advocate newspaper.

Public attendance

Ten members of the public attended during the course of the meeting.

Prayer

The meeting opened in prayer.

CONFIRMATION OF MINUTES OF THE COUNCIL

103/2009 Confirmation of minutes

The Executive Services Officer reported as follows:

“The minutes of the previous ordinary meeting of the Council held on 16 March 2009 have already been circulated. The minutes are required to be confirmed for their accuracy.

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

- Cr (J) Bonde moved and Cr Haines seconded, “That the minutes of the previous ordinary meeting of the Council held on 16 March 2009 be confirmed.”

Carried unanimously

COUNCIL WORKSHOPS

104/2009 Council workshops

The Executive Services Officer reported as follows:

“The following council workshops have been held since the last ordinary meeting of the Council.

- . 23.03.09 – Cradle Coast Authority – shared services
- . 30.03.09 – General Manager’s quarterly performance review; general discussion
- . 06.04.09 – Planning Scheme amendments; Planning legislation reform

This information is provided for the purpose of record only.”

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

Carried unanimously

MAYOR'S COMMUNICATIONS

105/2009 Mayor's communications

The Deputy Mayor reported as follows:

"I attended a function at which the Penguin Surf Life Saving Club announced that the 2010 National IRB Championships will be held at Preservation Bay on 17 to 18 April 2010. It is expected that approximately 500 competitors will attend the championships.

The Council recently hosted a jobs forum at the Civic Centre, as requested by the Prime Minister, which was attended by local business proprietors and government representatives.

I attended a Parliamentary Enquiry regarding the global economic crisis. A workshop to discuss some of the issues will be organised to enable the Council to make a submission."

106/2009 Mayor's diary

The Mayor reported as follows:

"I have attended the following events and functions on behalf of the Council:

- . Victorian Bushfire Appeal – dinner/auction
- . Motton Preston Scouts – annual general meeting
- . Federal Leader of the Opposition Malcolm Turnbull – meeting (Devonport)
- . UTAS Council – dinner (Burnie)
- . Ulverstone Football Club – launch of Neil Rawson stand
- . Central Coast Youth Engaged Steering Committee – business breakfast with Paul Dillon
- . Darwin Football Association – season launch
- . Penguin Bowls Club – annual dinner
- . Dulverton Waste Management – Board meeting
- . Turners Beach Bowls Club – annual dinner."

- Cr Haines moved and Cr (J) Bonde seconded, "That the Mayor's report be received."

Carried unanimously

107/2009 Pecuniary interest declarations

The Mayor reported as follows:

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

The Executive Services Officer reported as follows:

“The *Local Government Act 1993* provides that a councillor must not participate at any meeting of a council in any discussion, nor vote on any matter, in respect of which the councillor has an interest or is aware or ought to be aware that a close associate has an interest.

Councillors 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 councillor 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.

108/2009 Public question time

The Mayor reported as follows:

“At 6.40pm or as soon as practicable thereafter, a period of not more than 30 minutes is to be set aside for public question time during which any member of the public may ask questions relating to the activities of the Council.

Public question time will be conducted as provided by the *Local Government (Meeting Procedures) Regulations 2005* and the supporting procedures adopted by the Council on 20 June 2005 (Minute No. 166/2005).”

COUNCILLOR REPORTS

109/2009 Councillor reports

The Executive Services Officer reported as follows:

“Councillors who have been appointed by the Council to community and other organisations are invited at this time to report on actions or provide information arising out of meetings of those organisations.

Any matters for decision by the Council which might arise out of these reports should be placed on a subsequent agenda and made the subject of a considered resolution.”

The Mayor commented on a recent Mayor’s meeting at which the matter of public question time being held at the commencement of council meetings was discussed.

Cr Howard reported on meetings of the Ulverstone Local History Museum.

Cr Deacon Reported on the recent Easter egg hunt held at the Soundshell.

APPLICATIONS FOR LEAVE OF ABSENCE

110/2009 Leave of absence

The Executive Services Officer reported as follows:

“The *Local Government Act 1993* provides that the office of a councillor becomes vacant if the councillor is absent without leave from three consecutive ordinary meetings of the council.

The Act also provides that applications by councillors for leave of absence may be discussed in a meeting or part of a meeting that is closed to the public.

There are no applications for consideration at this meeting.”

DEPUTATIONS

111/2009 Deputations

The Executive Services Officer reported as follows:

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

PETITIONS

112/2009 Petitions

The Executive Services Officer reported as follows:

“No petitions under the provisions of the *Local Government Act 1993* have been presented.”

COUNCILLORS' QUESTIONS

113/2009 Councillors' questions without notice

The Executive Services Officer reported as follows:

“The *Local Government (Meeting Procedures) Regulations 2005* provide as follows:

- ‘29 (1) A councillor at a meeting may ask a question without notice of the chairperson or, through the chairperson, of –
- (a) another councillor; or
 - (b) the general manager.
- (2) In putting a question without notice, a councillor must not –
- (a) offer an argument or opinion; or
 - (b) draw any inferences or make any imputations –
- except so far as may be necessary to explain the question.
- (3) The chairperson must not permit any debate of a question without notice or its answer.
- (4) The chairperson, councillor or general manager who is asked a question without notice may decline to answer the question.
- (5) The chairperson may refuse to accept a question if it does not relate to the activities of the council.
- (6) Questions without notice, and any answers to those questions, are not required to be recorded in the minutes.

-
- (7) The chairperson may require a councillor to put a question without notice in writing.'

If a question gives rise to a proposed matter for discussion and that matter is not listed on the agenda, Councillors are reminded of the following requirements of the Regulations:

- '8 (5) Subject to subregulation (6), a matter may only be discussed at a meeting if it is specifically listed on the agenda of that meeting.
- (6) A council by absolute majority... may decide at an ordinary meeting to deal with a matter that is not on the agenda if the general manager has reported –
- (a) the reason it was not possible to include the matter on the agenda; and
 - (b) that the matter is urgent; and
 - (c) that (qualified) advice has been provided under section 65 of the Act.'

Councillors who have questions without notice are requested at this time to give an indication of what their questions are about so that the questions can be allocated to their appropriate Departmental Business section of the agenda.”

The allocation of topics ensued.

114/2009 Councillors' questions on notice

The Executive Services Officer reported as follows:

“The *Local Government (Meeting Procedures) Regulations 2005* provide as follows:

'30 (1) A councillor, 7 days before an ordinary meeting of a council or council committee, may give written notice to the general manager of a question in respect of which the councillor seeks an answer at that meeting.

- (2) An answer to a question on notice must be in writing.'

It is to be noted that any question on notice and the written answer to the question will be recorded in the minutes of the meeting as provided by the Regulations.

Any questions on notice are to be allocated to their appropriate Departmental Business section of the agenda.

No questions on notice have been received.”

DEPARTMENTAL BUSINESS

DEVELOPMENT & REGULATORY SERVICES

115/2009 Development & Regulatory Services Determinations

The Director Development & Regulatory Services reported as follows:

“A Schedule of Development & Regulatory Services Determinations made during the month of March 2009 is submitted to the Council for information. The information is reported in accordance with approved delegations and responsibilities.”

The Executive Services Officer reported as follows:

“A copy of the Schedule has been circulated to all Councillors.”

■ Cr McKenna moved and Cr (J) Bonde seconded, “That the Schedule of Development & Regulatory Services Determinations (a copy being appended to and forming part of the minutes) be received.”

Carried unanimously

116/2009 Council acting as a planning authority

The Mayor reported as follows:

“The *Local Government (Meeting Procedures) Regulations 2005* provide that if a council intends to act at a meeting as a planning authority under the *Land Use Planning and Approvals Act 1993*, the chairperson is to advise the meeting accordingly.

The Director Development & Regulatory Services has submitted the following report:

‘If any such actions arise out of Minutes Nos 117/2009 and 119/2009 they are to be dealt with by the Council acting as a planning authority under the *Land Use Planning and Approvals Act 1993*.’”

The Executive Services Officer reported as follows:

“Councillors 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.”

- Cr Dry moved and Cr Howard seconded, "That the Mayor's report be received."

Carried unanimously

**117/2009 Part demolition of the existing General retail building and establishment of a Service industry (car wash) at 6 James Street, Ulverstone
Application No. DEV2008.32 (376/2007 - 15.10.2007)**

The Director Development & Regulatory Services reported as follows:

"4-Planning Pty Ltd has prepared the following report:

<i>'DEVELOPMENT APPLICATION No.:</i>	DEV2008.32
<i>APPLICANT:</i>	David Turner obo P & M Smith
<i>LOCATION:</i>	6 James Street, Ulverstone
<i>ZONING:</i>	Commercial
<i>PLANNING INSTRUMENT:</i>	<i>Central Coast Planning Scheme 2005</i> (the Scheme)
<i>ADVERTISED:</i>	18 March 2009
<i>REPRESENTATIONS EXPIRY DATE:</i>	1 April 2009
<i>REPRESENTATIONS RECEIVED:</i>	4
<i>42-DAY EXPIRY DATE:</i>	7 April 2009
<i>ASSESSMENT TIME EXTENSION GRANTED:</i>	21 April 2009
<i>DECISION DUE:</i>	20 April 2009

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 the existing General retail building and establishment of a Service industry (car wash) at 6 James Street, Ulverstone.

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

BACKGROUND

On 3 September 2008 an application was received for establishment of a commercial car wash and demolition of part of the existing General retail floor area.

A location plan is attached as Annexure 2.

The subject site of 1,780m² is within the Ulverstone township. The site is currently developed and used for General retail (229m² floor area) and

Service industry (vehicle service centre) (448m² floor area). The current on-site parking provision is 12 parking spaces and one delivery bay. The existing development is set back 29m from the street boundary having the southern office wall of the Service industry building to the southern side boundary that is the common boundary with the railway reserve.

The surrounding properties are zoned Residential although only the land to the east of James Street and the abutting northern properties fronting James Street are residentially developed. The land to the south of the railway line is developed and used for various community uses, while the two abutting western properties that front Grove Street are residentially developed.

The proposal is for partial demolition (59m²) of the current frontage to the General retail building area so as to leave 170m² floor area with shop frontage on the street elevation. Between the existing modified development and the street boundary a new Service industry is to be established in the form of a car wash/cleaning facility consisting of:

- . a 22m long, 192m² roofed structure containing three self-serve wash bays, a storage/plant room and autowash bay;
- . two free standing vacuums;
- . queuing area for three vehicles;
- . three on-site customer parking spaces for the existing General retail and Service industry uses between the car wash and existing development, adjacent to the General retail premises;
- . seven on-site staff parking spaces at the rear of the existing development;
- . loading bay at the rear of the General retail premises;
- . erection of a 2.1m high acoustic fence, 15m long across the James Street boundary, leaving 10m for vehicle access at the northern end;
- . erection of a 3.5m high acoustic barrier fence along the northern side boundary for a distance of 34.8m from the James Street boundary;
- . proposed operating hours of 7.00am to 9.00pm, seven days a week;

- . site illumination by four lights placed to ensure illumination does not extend beyond the property boundaries and with timer to turn off at 9.00pm;
- . landscaping across the frontage in the form of 2 x 600mm deep recess bays 4m long in the acoustic barrier fence.

The application was accompanied with a Traffic Impact Assessment (attached as Annexure 3) and Architectural Acoustics Noise Control Report (attached as Annexure 4) but did not include signage.

A prior application in 2006 (DEV2006.97) for a similar development and use was approved by the Council on 15 October 2007 (Minute No. 376/2007). The zoning of the land at the time was "Semi Residential" and the proposal was considered as a "Miscellaneous" use to enable consideration under the former *Central Coast S.46 Planning Scheme No. 1 of 1993*.

The applicant has sought and been granted by the Resource Planning and Appeal Tribunal on 29 July 2008, leave pursuant to s62(2) of the *Land Use Planning and Approvals Act 1993* (the Act) to lodge this application within two years of the planning appeal determination. The proposal's circumstances having changed considerably by the zoning of the land under the *Central Coast Planning Scheme 2005*.

DISCUSSION

The application is for a secondary use and development in the Commercial zone. Therefore, the decision is discretionary according to s57 of the Act.

As per s4.9.1 of the Scheme, in determining an application for a permit, the Council must:

- “(a) seek to further the objectives of the Act;
- (b) act in accordance with the requirements of a State Policy;
- (c) give effect to any direction from the 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 any 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.”

The discussion below is divided into two sections: “Objectives of the Act” and the “Specifics of the Scheme”.

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 development within the existing township of Ulverstone. The proposal does not indicate the location and installation details of key components in respect to wastewater disposal.

- (b) *to provide for the fair, orderly and sustainable use and development of air, land and water;*

The application documentation does not adequately address the orderly or sustainable use of the land as it fails to detail all emissions that may be the cause of environmental nuisance and environmental harm.

- (c) *to encourage public involvement in resource management and planning;*

The proposal was subject to advertising as required under the Act.

Four representations were received. Relevant public involvement also occurred at the time of the writing of the Scheme and the community consultation for State Policies.

(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 these Objectives has been completed by the certification of the Scheme by the Resource Planning and Development Commission (the Commission).

Specifics of the Scheme

1 *the objectives for planning as set out in Part A of the Scheme;*

The relevant Scheme objectives are:

REFERENCE	DETAIL AND COMMENT
2.1(a)	<i>Residential, commercial, industrial and community facilities are to be concentrated in the existing urban areas.</i> The proposal is for development within the existing township of Ulverstone.
2.1(d)	<i>A safe vehicular and pedestrian network throughout the planning area is to be encouraged.</i>
	The Traffic Impact Assessment lodged with the application concludes the proposal, as detailed on the site plan with one minor modification, will meet expected standards of traffic management, efficiency and safety.

2.1(e)	<p><i>Infrastructure services are to be used and extended in an efficient manner.</i></p> <p>The proposal is for development within the existing township of Ulverstone and the site is appropriately serviced.</p>
2.1(g)	<p><i>The physical and biological quality of surface and groundwater is to be maintained and enhanced.</i></p> <p>All surface water drainage is to be discharged into the Council's stormwater system via appropriate interceptor traps, and wastewater is to be discharged into the Council's sewerage system.</p>
2.1(i)	<p><i>The environmental qualities of the coastal and river systems are to be protected.</i></p> <p>As per comments for 2.1(g).</p>
2.1(j)	<p><i>Development of land and its use is to be carried out in a way so as to minimise environmental harm.</i></p> <p>The development proposal may result in unacceptable noise levels being emitted and there is insufficient information to assess the on-site wastewater management and disposal system to conclude that environmental harm will be minimised to acceptable levels.</p>

2 *the purpose of the Commercial zone;*

REFERENCE	DETAIL AND COMMENT (Provisions that are not relevant are omitted)
13.1	<p>The proposal accords with zone purposes 13.1.1 to provide for large area retailing and service industries; and 13.1.5 to minimise off site impacts. Zone purposes 13.1.2 and 13.1.3 not being applicable.</p>

3 *the objectives of the relevant Acceptable Solutions and Performance Criteria;*

REFERENCE	DETAIL AND COMMENT (Provisions that are not relevant are omitted)
13.3	Standards for Use in the Commercial Zone
13.3.1 A1	<p><i>Emissions</i></p> <p><i>Objective: To ensure that emissions do not detract from the amenity of the locality.</i></p> <p><i>P1 No performance criteria</i></p> <p><i>A1 The applicant demonstrates that the use will not cause the emission of a pollutant that would cause environmental harm.</i></p> <p>The application documentation included an Architectural Acoustics Noise Control Report by Pearu Terts (refer Annexure 4), which found that the level of noise that would be emitted from the site is, subject to the below-mentioned actions being implemented, acceptable during the day and evening times but unacceptable at night (10.00pm to 7.00am).</p> <p>The report recommending the following actions to reduce noise emissions:</p> <ul style="list-style-type: none"> . erection of a 3.5m high noise barrier along the northern boundary; . reducing the entrance and exit height of the automatic car wash; . enclosing compressor and other plant; . replacement of warning beepers with lights or not having warning beepers turned on; and . signage erected asking people to turn off their radios.
	<p>With the above actions in place the report states that the car wash facility will emit beyond the property boundary noise levels of 57.4dB(A) L_{A10} as measured adjacent to the northern dwelling. The ambient background noise level measured adjacent to the northern dwelling by Pearu Terts was 54.3 dB(A) L_{A10} during the day and 45.8 dB(A) L_{A10} in the evening.</p>

	<p>The Report only assesses and manages the noise from the automated car wash facility with no meaningful analysis or discussion of the likely impact from noise sources such as car vacuuming and high pressure hosing of cars. The vacuum and car wash bays where high pressure hosing will occur being located closer to the northern residences than the automated facility. Additionally, vehicle engines starting, vehicle doors being shut, people talking/laughing, loud radios are all activities which are likely to cause noise disturbance to residents.</p> <p>The report has not assessed the noise levels emitted to the east and their impact on the residential properties on the eastern side of James Street. Given the proposed orientation of the site, it is likely that these residences will be particularly exposed to noise from the vacuum facility and the high pressure hosing of cars as well as the additional noise events listed in the preceding paragraph.</p> <p>The Report provides a list of noise events (page 4) that occasionally occur at a service centre. The report does not assess the impact of these noise events during the evening hours.</p> <p>Even with the proposed 4.8m high or an equivalent inverted 3.5m high 'L' shaped noise barrier, the calculated noise levels likely at the northern units is 11.6 dB(A) L_{A10} above the night-time background noise level of 45.8 dB(A) L_{A10}. The Acoustic Report indicated that the noise levels would be in excess of the evening ambient noise level as measured at the northern boundary to the adjoining residential property.</p>
	<p>The Acoustic Report fails to sufficiently quantify the noise emissions that surrounding properties would be subjected to during the evening to determine if the use will cause the emission noise that would cause environmental nuisance. Given that there is doubt over noise emission levels after 7.00pm giving rise to the potential for undesirable noise disturbance, and in light of the fact that there is general expectation that this time on Saturdays, Sundays and Public Holidays when disturbance is less tolerable, a restriction on operating times should be placed as a condition on any permit.</p> <p>Another source of pollutant capable of being emitted from the</p>

	<p>site is the wash detergents and polish chemicals. The proposal is for the car wash wastewater to be collected and drained to a 5,000 litre holding tank prior to being discharged through a vertical gravity separator to the Council's sewerage system.</p> <p>The proposal, plans and documentation do not indicate where the tank is to be located.</p> <p>The proposal plans and documentation do not provide sufficient information or detail to provide certainty over the effectiveness of actions to ensure the use will not cause the emission of a pollutant that would cause environmental harm and therefore fails to demonstrate compliance with the Acceptable Solution for 13.3.1.</p>
13.3.2 A1	<p><i>On a lot within 100m of a Residential Zone a use must not operate before 7am or after 9pm daily.</i></p> <p>With the proposed operating hours being 7.00am to 9.00pm, seven days a week, the proposed use complies with this Acceptable Solution.</p>
13.4.3 A1	<p><i>Building design and siting</i></p> <p><i>A1 A building must not exceed a maximum building height of 10m.</i></p> <p>With the building height of 5.7m at the apex of the roof, the proposal complies with the Acceptable Solution.</p>
13.4.3	<p><i>P2 The setback to one side may be reduced if:</i></p> <p><i>(a) there is adequate access to the rear of the lot for emergency services vehicles; and</i></p> <p><i>(b) it does not cause unreasonable shading where that term is applied to the ground floor windows of offices on adjoining properties and not to any external area.</i></p>
	<p><i>A2 A building must be setback at least:</i></p> <p><i>(a) 10m from the front;</i></p> <p><i>(b) or for a rear lot, 3m from the boundary which abuts the access strip; and</i></p> <p><i>(c) 4m from all other boundaries</i></p>

	<p>The building is to be setback 9m from the front boundary and to the southern side boundary.</p> <p>The proposal provides driveway access to the rear of the property and will not shade windows or cause loss of amenity to the adjoining southern property through shading.</p> <p>On the basis of this conclusion, the Performance Criteria is satisfied.</p>
13.4.3 A3	<p><i>A building facade must:</i></p> <p>(a) <i>be masonry, concrete, timber or colourbonded pressed steel; and</i></p> <p>(b) <i>have at least 30% glass or feature panel.</i></p> <p>The building façade is to be open and transparent. The solid side walls are to be clad in colorbond. The proposal complies with the Acceptable Solution.</p>
13.4.3 A4	<p><i>The entry point to the building must face the frontage and be provided with an awning with a minimum depth of 2m.</i></p> <p>The entry point to the building faces the street. The proposed development complies with this Acceptable Solution.</p>
13.4.3 A5	<p><i>A5 Site coverage for other than Utilities must not exceed 60%.</i></p> <p>The proposal will result in a site coverage of 46%. The Acceptable Solution is complied with.</p>
13.4.3 A6	<p><i>Storage areas must be located no closer than 10m from the frontage and effectively screened from public view.</i></p> <p>The proposed development complies with this Acceptable Solution as no external storage area is proposed within the building setback area.</p>
13.4.4 A1	<p><i>The site must:</i></p> <p>(a) <i>be serviced by an access constructed to Central Coast Council Municipal Standard Drawing No. SD-1003;</i></p> <p>(b) <i>be connected to a reticulated water supply of 200kPa pressure at 10l per second;</i></p>

	<p>(c) <i>be connected to a reticulated sewerage system;</i></p> <p>(d) <i>be connected to a reticulated stormwater system; and</i></p> <p>(e) <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>The application documentation states that sewerage and stormwater drainage from the site will be to approved discharge points via connections to Council services.</p> <p>The documentation indicates a 5,000 litre wastewater holding tank with vertical gravity separator is to be located on site. The proposed site plans do not indicate where this facility is to be located.</p> <p>While the application does not contain sufficient details to assess full compliance with the Acceptable Solution, conditions of approval can achieve suitable service standards.</p> <p>The Council's Services Engineer has recommended conditions of approval to be applied to ensure servicing of the site is to the Council's standards.</p>
13.4.5 P1	<p><i>Landscaping</i></p> <p><i>The area required to be landscaped may be less than the AS if:</i></p> <p>(a) <i>the required area exceeds 10% of the area of the lot;</i></p> <p>(b) <i>the design is in keeping with the streetscape character; and</i></p> <p>(c) <i>the design will enhance the appearance of the streetscape.</i></p> <p><i>Landscaping</i></p> <p><i>The area required to be landscaped may be less than the AS if:</i></p> <p>(a) <i>the required area exceeds 10% of the area of the lot;</i></p>

	<p>(b) <i>the design is in keeping with the streetscape character; and</i></p> <p>(c) <i>the design will enhance the appearance of the streetscape.</i></p> <p>The proposed site plan has, for landscaping on-site, two 600mm deep recess bays 4m long in the acoustic barrier fence across the street (front) boundary. The application documentation indicates seven flax plants are to be established in each recess.</p> <p>The proposed landscape area and planting is inappropriate and inadequate as a means of enhancing the streetscape. Although the streetscape is currently a little wanting, the installation of a 2.1m high fence along the frontage with 600mm landscape recesses is not appropriate enhancement considering the overall residential character of the street.</p> <p>The proposal fails to comply with the Performance Criteria, however a condition of approval can ensure compliance.</p>
13.4.5 P2	<p><i>P2 Fences must have a colour, design and siting to enhance the streetscape.</i></p> <p><i>A2 Fences higher than 1m must not be erected within 10m of the frontage.</i></p> <p>The acoustic barrier fence is to be erected along to the street (front) boundary. Other than indicating the fence is to be 2.1m high and therefore does not comply with the Acceptable Solution, the plans submitted on 16 February 2009 with the application indicate the acoustic barrier is to be of blockwork but provides minimal details on the final surface treatment or colour. While the proposal fails to comply with the Performance Criteria, a condition of approval can ensure compliance through requiring fence colour details to be approved and endorsed by the Council prior to any work on site.</p>
13.4.6 A1	<p><i>Delivery areas</i></p> <p><i>An area for the loading and unloading of goods must:</i></p> <p>(a) <i>be provided on-site;</i></p>

	<p>(b) <i>be paved with concrete, masonry blocks or bituminous seal if within 10m of the frontage; and</i></p> <p>(c) <i>not encroach on landscape areas.</i></p> <p>There is a delivery bay for the General retail floor area and adequate on site area for loading and unloading of goods associated with the existing and proposed Service industry land uses. The Acceptable Solution is complied with.</p>
13.4.7 A1	<p><i>Refuse storage</i></p> <p><i>P1 No performance criteria</i></p> <p><i>A1 Provision must be made for on-site storage of refuse which must not be:</i></p> <p>(a) <i>located within 10m of the frontage; and</i></p> <p>(b) <i>visible from public areas.</i></p> <p>The proposed site plan does not indicate any provision for refuse collection and storage on site. Given the ability to locate a waste hopper on site at the rear of the existing buildings, a condition of approval can be applied to achieve compliance.</p>

Schedules applicable

REFERENCE	DETAIL AND COMMENT
<p>SCHEDULE 1 – ROAD AND RAIL (Provisions that are not relevant are omitted)</p> <p>James Street is a Category VI road and a Council owned road.</p>	
S1.4.3	<p>The Department of Infrastructure, Energy and Resources Rail Management Branch has indicated in writing that the proposal is able to proceed provided it does not affect the current lines set back 9m from the property frontage, the front boundary fence only being 2.1m high and the site level over 800mm below the railway line, safe road rail sight distances should not be affected.</p>
	<p>The TIA concludes the proposal, as detailed on the site plan with one minor modification, will meet expected standards of traffic management, efficiency and safety.</p>

<p>S1.5.1 A4</p>	<p><i>Access Sight Distance on Category VI Roads</i></p> <p><i>A4 A new access, intensification of an access or a new junction with a category VI road in an area subject to a 60km/h or lower speed limit must comply with the Access Sight Distance requirements in the relevant institute of Public Works Engineering Australia – Tasmanian Division Municipal Standard Drawings.</i></p> <p>The TIA recommends a wider splaying of the southern side of the driveway access crossover to enable an easier left turn for vehicles proceeding to the automatic car wash. The proposed vehicle access is considered to be compliant with the Acceptable Solution.</p>
<p>S1.5.3</p>	<p><i>Use of Accesses and Junctions onto Category VI Roads</i></p> <p><i>A3 In an area subject to a 60km/h or lower speed limit:</i></p> <p><i>(a) there must be only:</i></p> <p><i>(i) one access providing both entry and exit; or</i></p> <p><i>(ii) two accesses providing separate entry and exit; and</i></p> <p><i>(b) accesses must be at least 9m from the junction with a category I, II or III road.</i></p> <p>The proposed new access point is compliant with the Acceptable Solution.</p>
<p>S1.5.7</p>	<p><i>Setback of Buildings from Roads and Rail Lines</i></p> <p><i>Objective: To ensure that the setback of buildings from roads and rail lines is sufficient to:</i></p> <p><i>(1) ensure occupants of sensitive uses will be adequately protected from road and rail line traffic noise, vibrations, fumes or dust;</i></p>
	<p><i>(2) ensure the safe and efficient operation of roads and rail lines;</i></p> <p><i>(3) allow for future road or future rail line widening, realignment and upgrading;</i></p>

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	<p>(4) <i>allow for the installation of communications and other Utility infrastructure; and</i></p> <p>(5) <i>avoid undesirable interaction between roads and rail lines and use or development.</i></p> <p>The car wash buildings are set back sufficiently not to hinder the safe and efficient operation of the road or rail line. The proposal accords with the objective. The Acceptable Solutions are not relevant to the proposal.</p>
REFERENCE	DETAIL AND COMMENT
<p>SCHEDULE 10 – CAR PARKING</p> <p>(Provisions that are not applicable are omitted)</p>	

<p>S10.3.1 A1</p>	<p><i>A1 The number of car parking spaces to be provided on-site must be in accordance with the Car Parking Table S10.3.2 and:</i></p> <p><i>(a) where a development involves multiple uses, the car parking requirements must be the sum of the requirements for each of those uses;</i></p> <p>Use minimum number of car parking spaces:</p> <ul style="list-style-type: none"> . General retail and hire – 1 per employee plus 7 per 100m² of net floor area; . Service industry – 1 per employee plus 2 per 100m² of net floor area. <p>The existing on site parking provision is 12 spaces. Under the current Scheme, the on site parking requirement for the existing land use based on reduced retail floor area is 20 parking spaces. However, as these land uses existed prior to the current Scheme, it is taken that the on site parking requirement for the existing land uses is 12 spaces, as while there is a reduced overall floor area, the actual retail floor area is increased by change in definitions with the current Scheme.</p> <p>The proposal is for 10 on site parking spaces for the existing land uses.</p> <p>In respect to the proposed car wash facility, it is considered that the total floor area is actual customer parking except for the store floor area which, when coupled with the employees associated with the car wash, generates a need for one additional on site parking space.</p>
	<p>A site inspection revealed the existing Service industry generates less external (outside the workshop) parking than the eight included in the calculation for 20 parking spaces for the existing uses.</p> <p>It is considered that the internal parking of customer vehicles provides for three parking spaces. As such, the Acceptable Solution is complied with through the provision of 10 on site external parking spaces as proposed and three customer parking spaces internal to the mechanical workshop building. A condition of approval can detail the on site vehicle parking to be provided and maintained on site.</p>

S10.3.3 A1	<p><i>Car park design and construction</i></p> <p><i>The access dimensions and design of car parking spaces must comply with Australian Standard AS 2890.1-1993 Off Street Parking Part 1- Car Parking Facilities.</i></p> <p>The TIA highlights difficulties with the site layout in complying with AS 2890.1-1993 in respect to the driveway width to the rear parking spaces. The proposal is for only 5m between the proposed building and the northern boundary. The real issue however, is the 3.2m wide driveway to the rear parking spaces. AS 2890.1-1993 requires a 5.5m wide access to more than two parking spaces. The TIA relies on the application of AS 2890.1-1993 Clause 3.2.2, which provides for single lane access for up to 30 vehicle movements per hour. The proposal will comply with this having an estimated 28 vehicle movements per hour at peak periods.</p>
S10.3.3 A2	<p><i>(a) In the commercial zone parking spaces, accesses and turning bays must be paved with concrete, masonry blocks or bituminous seal and be graded, drained, kerbed and marked out:</i></p> <p>The proposal is for hard surfacing of all vehicle maneuvering and parking areas on site.</p>
S10.3.3 A3	<p><i>An on-site turning area must be provided where more than 2 car parking spaces are required or commercial vehicles enter the site.</i></p> <p>The proposal has adequate site area for on site turning around the car wash facility and at the rear of the premises. Vehicles will be able to enter and leave in a forward direction.</p>
	<p>The Acceptable Solutions are complied with.</p>
S11.0 Signs Schedule	<p>The application does not include any signage. It is obvious that with the proposed 2.1m high street boundary fence signage will need to be erected on or above the fence for all three business premises on site. Such signage will need to be the subject of a separate application and approval in accordance with the Scheme.</p>

Requirements of State Policies

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

CONSULTATION

Representations received

The application was open to public scrutiny for 14 days as required by s57 of the Act. This requirement includes advertising of the development by a notice on the site and also by a notice placed once in the daily local newspaper. Adjoining landowners were notified by mail that they were invited to view the application.

Four representations were received within the prescribed timeframe.

RELEVANT ISSUES RAISED (Paraphrased)	COMMENT
REPRESENTATION 1 (letter dated 25 March 2009) – see Annexure 5	
Activity will cause increase in vandalism and rubbish in the street	Legitimate concern but not relevant to the assessment.
	Security is a legitimate concern and a condition of approval could ensure the site is secured when not operating.
24 hour operation is a concern particularly between 2.00am or 4.00am and 7.00am when Police availability is least	The proposal is for operating hours being 7.00am to 9.00pm, seven days a week. This is compliant with clause 13.3.2 A1 of the Scheme.
“Hoons” and intoxicated persons will gravitate toward the development	The Scheme has no specific provision addressing social nuisances created by a proposed development. The operating hours will ensure “hoons” and others do not gravitate toward the development.
Will cause radical change to current lifestyle from current peaceful existence	Issue addressed by assessments of 13.3.1 A1 and 13.4.5 P1 which concur there is a legitimate concern although not to the extent of radical change.

<p>Substantial rise in traffic flow in the area would require a change in the Grove Street intersection plan so as to avoid long periods of waiting to exit driveway</p>	<p>The TIA indicates that traffic volumes will increase by approximately 20%, meaning that the greater number of vehicle movements in James Street will be traffic travelling between Grove Street and Leven Street with no business in this section of James Street. The commercial zoning of the property largely established the increased traffic that would be generated by the site.</p> <p>Issues with the Grove Street/James Street intersection are a matter that will be resolved by motorists taking the alternative route via Leven Street.</p>
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RELEVANT ISSUES RAISED (Paraphrased)	COMMENT
<p>REPRESENTATION 2 (letter dated 30 March 2009) – see Annexure 6</p>	
<p>Should be rejected due to proximity of the railway crossing and increased vehicular traffic through James Street</p>	<p>The TIA indicates that traffic volumes will increase by approximately 20%, meaning that the greater number of vehicle movements in James Street will be traffic travelling between Grove Street and Leven Street with no business in this section of James Street. The increased traffic volumes will not alter the efficiency or safety of the railway operation.</p>
<p>The fact that children in the area would be placed at increased risk from traffic generated by the development</p>	<p>Issue obscurely addressed by S1.4.3 and P2. The TIA findings are that traffic will cause minimal disruption to the James Street traffic experience and will be compliant with expected standards of traffic management, efficiency and safety.</p>
<p>Significant reduction in residential amenity to the homeowners in the area</p>	<p>Issue addressed by assessments of 13.3.1 A1 and 13.4.5 P1 which concur there is a legitimate concern.</p>

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Will increase likelihood of people loitering in the area causing discomfort to elderly residents	The Scheme has no specific provision addressing social nuisances created by a proposed development. The operating hours will minimise loitering around the development.
Incompatible with surrounding zoning and surrounding residential land use	Issue addressed by assessments of 13.3.1 A1 and 13.4.5 P1 which concur there is a legitimate concern.
Why is a single lot zoned Commercial surrounded by residential development and Residential zone?	The land was rezoned through the approval of the <i>Central Coast Planning Scheme 2005</i> . Approval of the Scheme by the Commission involved the participation of the community throughout the statutory process as provided for by the Act.

RELEVANT ISSUES RAISED (Paraphrased)	COMMENT
REPRESENTATION 3 (letter dated 30 March 2009) - see Annexure 7	
Should be rejected on public safety grounds due to proximity to railway crossing	vehicle movements in James Street will be traffic travelling between Grove Street and Leven Street with no business in this section of James Street. The increased traffic volumes will not alter the efficiency or safety of the railway operation.
The fact that children in the area would be placed at increased risk from traffic generated by the development	Issue obscurely addressed by S1.4.3 and P2. The TIA findings are that traffic will cause minimal disruption to the James Street traffic experience and will be compliant with expected standards of traffic management, efficiency and safety.
Significant reduction in residential amenity to the homeowners in the area	Issue addressed by assessments of 13.3.1 A1 and 13.4.5 P1 which concur there is a legitimate concern.

Will increase likelihood of people loitering in the area causing discomfort to elderly residents	The Scheme has no specific provision addressing social nuisances created by a proposed development. The operating hours will minimise loitering around the development.
Mysterious zoning change from Residential to Commercial	The land was rezoned through the approval of the <i>Central Coast Planning Scheme 2005</i> . Approval of the Scheme by the Commission involved the participation of the community throughout the statutory process as provided for by the Act.

RELEVANT ISSUES RAISED (Paraphrased)	COMMENT
<p>REPRESENTATION 4 (letter dated 30 March 2009) –see Annexure 8</p> <p>As the representation raised the same issues as Representation 3, see Representation 3 above.</p>	

The application was referred to the Council's Planning and Assessment Team as part of internal procedure. Comments from Engineering Services staff are provided throughout this report. Building staff advised that a Building Permit would be required for the proposal if approved. Engineering Services staff have recommended conditions of approval. The Environment & Health staff have raised some issues over the noise levels that will be emitted by the development between 7.00pm and 9.00pm.

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 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 regards to this application applies to the secondary use and development. Assessment reveals that the proposal does not comply with a number of the standards, or the more general aspects of the Scheme.

The proposed development does not comply with the following Acceptable Solutions of the Planning Scheme where there is no Performance Criteria:

- . 13.3.1 A1 (emissions);
- . 13.4.7 A1 (refuse storage).

The proposed development does not comply with the following Performance Criteria of the Scheme:

- . 13.4.5 P1 (landscaping);
- . 13.4.5 P2 (fencing).

Conditions can be applied to the permit to sufficiently address the non-compliance in respect to all the areas of non-compliance to achieve appropriate outcomes.'

The report is supported.”

The Executive Services Officer reported as follows:

“A copy of the Annexures referred to in the report have been circulated to all Councillors.”

■ Cr McKenna moved and Cr (J) Bonde seconded, “That the representations be deemed to have insufficient merit to justify refusal of the application and that Application No. DEV2008.32 be approved subject to the following conditions and restrictions:

General

- 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 9.00pm weekdays; and

- (b) 9.00am to 7.00pm Saturdays, Sundays and Public Holidays;
- 3 The site being adequately secured outside these operating hours;
- 4 The proposed landscaping and site treatments indicated are to:
 - (a) enable planting of species of local provenance where possible;
 - (b) ensure the final layout, species to be planted, and land maintenance regimes, including mulching and water reticulation methods to be used, ensure 70% stem retention rate after two years;
- 5 The landscaping and other site treatments are to be implemented, including all paving, drainage, plantings, mulches and reticulation being installed, prior to commencement of the activity;
- 6 There is to be maintained on-site a minimum of 13 carparking spaces, 10 as indicated on the proposal plan and three within the mechanical workshop building;
- 7 The parking and manoeuvring spaces identified on the submitted plans must be:
 - (a) designed in accordance with the Australian Standard *AS2890.1 Off Street Parking Part 1 – Car Parking Facilities*;
 - (b) constructed and drained to the satisfaction of the Council; and
 - (c) paved with an acceptable impervious material;
- 8 No signs are to be constructed or displayed without application to and the consent of the Council in accordance with the Planning Scheme provisions;

Environmental

- 9 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;
- 10 Provision must be made for on-site storage of refuse which must not be:
 - (a) located within 10m of the frontage; and
 - (b) visible from public areas;
- 11 A 3.5m high acoustic barrier is 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 Pearu Terts dated 18 July 2007 and 2 September 2008;

- 12 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 Pearu Terts dated 18 July 2007;
- 13 The beepers associated with any coin machines are to be replaced with a flashing light of a broadband noise source warning system as recommended in the Architectural Acoustic Noise Control Report prepared by Pearu Terts dated 18 July 2007;
- 14 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;
- 15 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;
- 16 No liquids other than unpolluted rain water are to be allowed to discharge or drain to the Council's stormwater system or receiving waterbodies or watercourses;
- 17 The area proposed for storage of potentially contaminating liquids must be fully sealed and bunded;
- 18 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 permit 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 & Regulatory 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 & Regulatory 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 & Regulatory Services Department or any officer engaged in the administration or enforcement of the *Environmental Management and Pollution Control Act 1994*).

Engineering

19 The developer must:

- (a) upgrade or provide where necessary, an appropriately sized water supply connection and meter to the property;
- (b) upgrade or provide where necessary, an appropriately sized sewer connection point to the property;
- (c) upgrade or provide where necessary, an appropriately sized stormwater connection point to the property;
- (d) undertake a downstream analysis of the Council's stormwater drainage system to determine if there are any capacity limitations;
- (e) upgrade the Council's stormwater drainage system where necessary to support the proposed development;
- (f) not discharge any waste liquids of any type or quantity to the stormwater system, i.e. only rain water is to leave the site in the stormwater system;
- (g) provide parking facilities in accordance with AS 2890.1;
- (h) replace manholes subject to vehicle loadings with heavy duty covers and surrounds and/or adjust to suit the revised finished surface level as required;
- (i) design and construct the internal road network geometry to enable refuse collection vehicles and other foreseeable vehicles appropriate with the use of development to access and attend to the site as required in accordance with AS 2890.1 and AS 2890.2;
- (j) ensure that all solid/inert waste material generated from demolition work that requires disposal to a Council facility is deposited at the Central Coast Resource Recovery Centre. Access fees apply;

- (k) ensure that all putrescible waste, hazardous waste or non solid/inert waste material, including asbestos cement sheet, generated from demolition work is appropriately packaged, transported and disposed of at a secure landfill. The Dulverton Regional Landfill is an example of such a site;
 - (l) provide a sealed vehicular access to each lot in accordance with the Council's Standard Drawing No. SD-1003;
 - (m) remove any driveway and crossover made redundant by the proposed development and reinstate the kerb, verge and footpath to the satisfaction of the Council's Director Engineering Services;
 - (n) submit for Council approval, engineering design drawings (including supporting documentation, calculations, etc.) for all infrastructure to be constructed as part of the development that is to become an asset of the Council;
 - (o) not commence construction until the design drawings are approved by the Council's Director Engineering Services;
- 20 The provision, upgrading, re-routing or extension of water, sewer and drainage services as a result of the development, shall be to the satisfaction of the Council's Director Engineering Services at the developer's cost;
- 21 The provision, upgrading or extension of kerb and channel, footpath or road infrastructure as a result of the development, shall be to the satisfaction of the Council's Director Engineering Services at the developer's cost;
- 22 Any damage or disturbance to footpaths, roads, kerbs, naturestrips or existing services is to be rectified to the satisfaction of Council's Director Engineering Services at the applicant's expense;

Developer to note

- A In relation to condition 19(b) - The Council Standard specifies a minimum sewer connection size of DN150 is required. Details about the existing connection point can be obtained by contacting the Council's Building and Plumbing Section. The Council only allows one sewer connection per lot unless otherwise approved.
- B In relation to condition 19(e) - The Council will also consider the use of suitable water sensitive urban design principles or detention type systems to assist in minimising the run-off generated from the development.

- C In relation to condition 19(h) – This condition only applies if Council manholes are incorporated into the driveway works. If the manhole needs to be raised or lowered to suit the finished surface level of the driveway, this work will be undertaken by the Council at the applicant’s cost.
- D In relation to conditions 19(l) and 19(m) – These conditions relate to the provision, relocation, modification or removal of a vehicle access. The Council only permits one 6.0m or two 3.6m vehicle accesses to a lot within the road reserve. Any other arrangement is discretionary and subject to the approval of the Council’s Director Engineering Services.
- E Any works associated with the connection to existing (live) Council water, sewer and stormwater services will be undertaken by the Council at the developer’s cost, unless alternative arrangements are approved by the Council.
- F Any works associated with existing kerb and channel, footpath or roads will be undertaken by the Council at the developer’s cost, unless alternative arrangements are approved by the Council.
- G Any works (e.g. driveway 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.
- H Contact the Council’s Engineering Services Department if you wish to discuss or arrange any infrastructure work requirements.
- I The operation and use of warm water heating systems and high pressure spray devices in car wash facilities has recently been linked to outbreaks of Legionella in Australia. Currently, warm water heating systems in car washes are not required to be registered in accordance with the *Public Health Act 1997*, however, the applicant is requested to note that any warm water heating system should be operated, monitored and maintained in accordance with the manufacturer’s specifications to minimise the potential public health risk associated with the operation.”

Cr Robertson joined the meeting at this stage.

Continued after Minute No. 118/2009.

118/2009 Public question time

The time being 6.45pm, the Mayor introduced public question time.

Questions and replies concluded at 6.49pm.

Continued after Minute No. 117/2009.

Minute No. 117/2009 continued ...

Voting for the motion
(7)
Cr Downie
Cr Barker
Cr (J) Bonde
Cr (L) Bonde
Cr Deacon
Cr Howard
Cr McKenna

Voting against the motion
(4)
Cr Robertson
Cr Dry
Cr Haines
Cr van Rooyen

Motion

Carried

Minute No. 118/2009 continued ...

At 7.12pm, prior to the conclusion of the allocated 30 minute timeframe, a further question was asked.

Questions and replies concluded at 7.15pm.

119/2009 Planning Scheme Amendment – Review of the Ordinance – Application No. AMD2008.2

The Director Development & Regulatory Services reported as follows:

“The Planning Consultant has prepared the following report:

<i>DEVELOPMENT APPLICATION NO.:</i>	AMD2008.2
<i>APPLICANT:</i>	Central Coast Council
<i>LOCATION:</i>	Central Coast Council area
<i>ZONING:</i>	Various
<i>PLANNING INSTRUMENT:</i>	Central Coast Planning Scheme 2005 (the Scheme)
<i>PROPOSAL:</i>	To amend the Ordinance of the Scheme and amend the zone maps to: · address anomalies and errors in the Ordinance;

	<ul style="list-style-type: none">strengthen and clarify a number of the provisions for use or development in various zones;insert an additional Schedule to address the application requirements; andto correct two zoning anomalies.
<i>LEGISLATION</i>	<i>Land Use Planning and Approvals Act 1993</i> (the Act)
<i>ADVERTISED:</i>	25 February 2009
<i>REPRESENTATIONS EXPIRY DATE:</i>	21 March 2009
<i>REPRESENTATIONS RECEIVED:</i>	None

PURPOSE

The purpose of this report is to:

- inform the Council that there were no representations on the draft amendment;
- consider recommending minor modifications to the Resource Planning and Development Commission (the Commission) on the draft amendment; and
- allow the Council to advise the Commission pursuant to s39(2) of the Act.

BACKGROUND

Section 39 of the Act provides that where representations are received to a draft amendment during the public exhibition period, the Council must consider each representation, and following that:

“39(2) ...forward to the Commission a report comprising–

- (a) a copy of each representation received by the authority in relation to the draft amendment...; and
- (b) a statement of its opinion as to the merit of each such representation, including, in particular, its views as to–
 - (i) the need for modification of the draft amendment in the light of that representation; and

- (ii) the impact of that representation on the draft amendment as a whole; and
- (c) such recommendations in relation to the draft amendment as the authority considers necessary.”

However, if no representations are made on a draft amendment during the public exhibition period, a s39(2) report to the Commission is still required. In this case, the report to the Commission shall contain a statement that there were no representations in accordance with s39(2)(a) of the Act.

Additionally the Council, pursuant to s39(2)(c) can, after considering this report, also make recommendations to the Commission in relation to the draft amendment as it sees necessary.

Accordingly, this report to the Council will serve to satisfy s39(2) of the Act.

After considering the Council's s39(2) report, the Commission must consider the draft amendment, any representations, statements and recommendations contained in the report. As there were no representations on this draft amendment, the Commission is not required to hold a hearing. However, pursuant to s40(4) of the Act, the Commission can hold a hearing on a draft amendment where there are no representations on matters that, in the Commission's opinion, require consideration. In the event that changes or further clarification on the draft amendment is required by the Commission, the Council will have an opportunity to address any concerns through the hearing process prior to a decision being finalised. A hearing is not likely if the Commission accepts the draft amendment in its current form.

DISCUSSION

The amendment as advertised is detailed in Annexure 1, “Central Coast Planning Scheme 2005, and Draft Amendment 1/2009”. The supporting information for the amendment is not included in the Annexure to this report. It has been provided to the Commission as part of the amendment process and has previously been provided to the Council.

The amendment was initiated and certified by the Council on 16 February 2009, and was placed on public exhibition in The Advocate as provided by the Act on Wednesday, 25 February 2009 and Saturday, 28 February 2009.

There were no representations during the public exhibition period. However, while the draft amendment was on public exhibition, further testing of the proposed changes to the Ordinance of the Scheme was undertaken by

planning staff of the Council. There were some errors detected during this testing period. These are outlined in Table 1 appended to the report as Annexure 2.

It is recommended that these modifications are provided to the Commission for its consideration in its deliberation on the draft amendment. All changes recommended are considered to comprise wording and consistency changes. There is no recommendation made on the draft amendment which will alter the intent of any policy previously considered by the Council. A modified draft amendment has been prepared and is attached in Annexure 3.

CONSULTATION

The statutory consultation period was fulfilled and is detailed in the 'Discussion' above. The draft amendment was advertised for a period of four weeks.

IMPACT ON RESOURCES

The application will impact on staff time and administrative costs associated with the statutory processes involved in the process. No other impact on resources is anticipated.

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

There were no representations received by the Council on the draft amendment during the public exhibition period.

It is recommended that modifications of the draft amendment in accordance with Table 1 be forwarded to the Commission for its consideration.'

The Planning Consultant's report is supported."

The Executive Services Officer reported as follows:

“A copy of the Annexures referred to in the report by 4 Planning Pty Ltd has been circulated to all Councillors.”

■ Cr Barker moved and Cr Robertson seconded, “That the Resource Planning and Development Commission be advised the following:

- 1 that there were no representations on the draft amendment (identified as AMD2008.2, Review of the Ordinance) during the public exhibition period; and
- 2 the Council recommends that the Draft Amendment 1/2009 be modified in accordance with Annexure 3 of this report (identified as Amendment 1/2009, a copy being appended to and forming part of the minutes).”

Carried unanimously

GENERAL MANAGEMENT

120/2009 Minutes and notes of committees of the Council and other organisations

The Executive Services Officer reported as follows:

“The following minutes and notes of committees of the Council and other organisations on which the Council has representation have been received:

- Forth Community Representatives Committee – meeting of Council officers with Committee representatives on 12 February 2009
- Youth Engaged Steering Committee – meetings held on 19 February 2009 and 19 March 2009
- Central Coast Community Safety Partnership Committee – meeting held on 25 February 2009
- Cradle Coast Water – Representatives meeting held on 26 February 2009
- Ulverstone Local History Museum Committee – meetings held on 3 March and 17 March 2009
- Local Government Association of Tasmania – General Meeting held on 11 March 2009

Copies of the minutes and notes have been circulated to all Councillors.”

- Cr Haines moved and Cr Deacon seconded, “That the Officer’s report be received.”

Carried unanimously

121/2009 Dulverton Waste Management Authority

The Director Development & Regulatory Services reported as follows:

“PURPOSE

The purpose of this report is to receive a quarterly report from Dulverton Waste Management as required under section 36B of the *Local Government Act 1993*.

BACKGROUND

The Dulverton Regional Waste Management Authority, trading as Dulverton Waste Management (DWM), operates as a Joint Authority under s30–39 of the *Local Government Act 1993* consisting of the Central Coast, Devonport, Kentish and Latrobe Councils for the management and disposal of waste and is governed by the

Rules adopted on 15 August 2005. The core business of the Authority is defined by the Rules as:

- . '...Management of waste generated within the Mersey–Leven Region;
- . Management of waste solid inert material, putrescible waste, fill material and low level contaminated soil as defined or explained in the *Landfill Sustainability Guide*;
- . Activities identified in the Strategic Plan as approved by the Representatives.'

Section 36B of the *Local Government Act 1993* requires that DWM present a quarterly report demonstrating general performance and financial position to participating Councils.

DISCUSSION

In accordance with section 36B of the *Local Government Act 1993*, DWM has provided a quarterly report for the period July 2008 – December 2008. The report has been prepared with the intention that it be presented in an open Council meeting to brief Councillors of DWM's performance.

A copy is appended.

CONSULTATION

This is an administrative matter and consultation is not required.

IMPACT ON RESOURCES

There are no resource implications to consider in this matter.

CORPORATE COMPLIANCE

The Central Coast Strategic Plan 2004–2009 includes the following objective:

- . Meet our statutory and regulatory obligations.

CONCLUSION

It is recommended that the report be received."

The Executive Services Officer reported as follows:

"A copy of the Dulverton Waste Management Statutory Quarterly Report, July 2008 – December 2008 has been circulated to all Councillors."

- Cr McKenna moved and Cr (L) Bonde seconded, "That the Director Development & Regulatory Services report be received."

Carried unanimously

122/2009 Schedule of Appointments to Statutory Bodies, Groups and Organisations, Council and Special Committees, Community Advisory Groups and Working Groups (442/2007 – 19.11.2007)

The Executive Services Officer reported as follows:

"PURPOSE

The purpose of this report is to consider an amendment to the Committees and Representatives Register and, in particular, to membership of the Penguin Miniature Railway Management Committee.

BACKGROUND

The Council at its meeting held on 19 November 2007 (Minute No. 442/2007), in respect of the Penguin Miniature Railway Management Committee recorded its membership as follows:

'UNDER REVIEW'

Since that time there have been a number of actions taken in an endeavour to re-energise the Committee, culminating in a meeting held at the Penguin Railway Station on Tuesday, 31 March 2009, at which a motion was passed that the following persons be put forward to the Council for membership on the reformed Penguin Miniature Railway Management Committee:

Mr Maurice Jones
Mr Geoff Patrick
Cr Terry McKenna
Mr Brandon Richardson (as a junior member)
Mr Paul Seggie
Mr Cor Vander Vlist
Mr Phillip Tregurtha
Cr Gerry Howard

A copy of correspondence from that meeting was received by the Council on 1 April 2009, including an extract of the minutes of that meeting requesting that the

Council consider confirming those persons as members of the Penguin Miniature Railway Management Committee.

Subsequent to the receipt of this communication, Mr Alexander Cruickshank has also expressed his desire to be a part of the Committee.

DISCUSSION

In November 2007, Mr Phillip Tregurtha advised the Council that the previous Management Committee was no longer meeting and/or operating in the manner in which it was set up. Since that time Mr Tregurtha and Cr Cheryl Fuller, together with a number of interested persons, have been working towards the re-energising of the Committee. A number of local meetings, including public meetings, have been held, together with a driver training day, culminating in a meeting held on Tuesday, 31 March 2009 at which it was agreed that there was sufficient interest in both the re-forming of the Committee and the Driver's Roster to justify an approach to the Council for the purpose of re-forming the Committee.

The first stage in this process would be for the Council to appoint appropriate persons to the Committee and request that the Committee, at its first meeting, appoint a Chairperson, Secretary and Treasurer, and adopt the set of rules of the Committee as attached.

CONSULTATION

Consultation is not required in respect of this report.

IMPACT ON RESOURCES

There will be some impact on resources in dealing with maintenance issues that have developed whilst the Committee was in abeyance. It is believed that these can be met within current operational expenditure.

CORPORATE COMPLIANCE

The Central Coast Strategic Plan 2004-2009 includes the following objective:

- . Facilitate learning opportunities for all members of the community.

CONCLUSION

It is recommended that the Committees and Representatives Register be amended by the addition of the following new appointments:

20 Penguin Miniature Railway Management Committee

Mr Maurice Jones
Mr Geoff Patrick
Cr Terry McKenna
Mr Brandon Richardson (as a junior member)
Mr Paul Seggie
Mr Cor Vander Vlist
Mr Phillip Tregurtha
Cr Gerry Howard
Mr Alexander Cruickshank

and that the Council confirm the appointment of Cr Cheryl Fuller as Council Liaison to that Committee;

and further, that the Committee adopt the Rules at its first formal meeting.”

The Executive Services Officer further reported as follows:

“A copy of the correspondence received, the Rules and the draft Operating procedures has been circulated to all Councillors.”

■ Cr van Rooyen moved and Cr Dry seconded, “That the Council’s Committees and Representatives Register be amended by the addition of the following new appointments:

20 Penguin Miniature Railway Management Committee

Mr Maurice Jones
Mr Geoff Patrick
Cr Terry McKenna
Mr Brandon Richardson (as a junior member)
Mr Paul Seggie
Mr Cor Vander Vlist
Mr Phillip Tregurtha
Cr Gerry Howard
Mr Alexander Cruickshank

and that the Council confirm the appointment of Cr Cheryl Fuller as Council Liaison to that Committee;

and further, that the Committee adopt the Rules (a copy being appended to and forming part of the minutes) at its first formal meeting.”

Carried unanimously

123/2009 Amendment to the Rules of Cradle Coast Water

The General Manager reported as follows:

"PURPOSE

The purpose of this report is to consider a rule change to Cradle Coast Water Rules to enable the winding up of Cradle Coast Water (CCW), as the Council's water and sewerage operations will be delivered by a new entity as from 1 July 2009.

BACKGROUND

CCW has received legal advice regarding the process for winding up the Authority.

Rule 55 needs to be amended to allow the Authority to have the power and ability to wind up CCW.

Currently Rule 55(1) only allows that the Authority may be wound up in accordance with:

- . Section 12 of the *North West Regional Water (Arrangements) Act 1997*; and
- . Section 226A of the *Local Government Act 1993* (LGA).

Also, CCW Rule 55(2) currently requires a special resolution by the Representatives to appoint the person to wind up the Authority, but only in accordance with Section 12 of the *North West Regional Water (Arrangements) Act 1997*.

DISCUSSION

The legal advice received by CCW is as follows:

'...The Consequential and Transitional Arrangements proposes the repeal of the North West Regional Water (Arrangements) Act. This proposed repeal will remove the requirement to obtain the ministerial consent required for the winding up of CCW under that Act, but will also remove the essential link and power in CCW's Rules affecting the Authority's power and ability to wind up CCW...

...As Section 226A of the LGA is not applicable in this instance, a Rule change is required to allow the participating Councils to legally wind up CCW, using Section 37(2)(b) of the LGA instead. This section states that a

- "(2) A Joint Authority may be wound up –
- (a) by the Minister as a result of an enquiry under Part 13; or

- (b) on the decision of the participating Councils, or
- (c) if there are only 2 participating Councils, by both Councils...” ‘

For Rule 55 of CCW to be amended it requires the consent by the majority of participating Councils.

CONSULTATION

The proposed amendments have been considered by, and have the support of the Representatives.

IMPACT ON RESOURCES

There is no impact on resources.

CORPORATE COMPLIANCE

The Central Coast Strategic Plan 2004–2009 includes the following objective:

- Provide transparent, accountable public policy and decision making

CONCLUSION

It is recommended that the Council approve the following amendments to Cradle Coast Water Rule 55 (changes shown in bold italics and ‘the Act’ refers to the *Local Government Act 1993*):

55(1) The Authority may only be wound up under Section 12 of the *North West Regional Water (Arrangements) Act 1997*, ***section 37 of the Act*** or section 226A of the Act.

55(2) If the Authority is to be wound up under Section 12 of the *North West Regional Water (Arrangements) Act 1997*, ***or section 37 of the Act*** the Representatives are by special resolution to appoint a person to wind up the Authority.”

■ Cr van Rooyen moved and Cr (J) Bonde seconded, “That the following amendments to Cradle Coast Water Rule 55 (changes shown in bold italics and ‘the Act’ refers to the *Local Government Act 1993*) be approved:

55(1) The Authority may only be wound up under Section 12 of the *North West Regional Water (Arrangements) Act 1997*, ***section 37 of the Act*** or section 226A of the Act.

55(2) If the Authority is to be wound up under Section 12 of the *North West Regional Water (Arrangements) Act 1997, or section 37 of the Act* the Representatives are by special resolution to appoint a person to wind up the Authority.”

Voting for the motion

(10)

Cr Downie

Cr Robertson

Cr Barker

Cr (J) Bonde

Cr Deacon

Cr Dry

Cr Haines

Cr Howard

Cr McKenna

Cr van Rooyen

Voting against the motion

(1)

Cr (L) Bonde

Motion

Carried

124/2009 Winding up of Cradle Coast Water – Resolution of Members

The General Manager reported as follows:

“PURPOSE

The purpose of this report is to invite the Council to approve a special resolution to wind up the Cradle Coast Water Authority.

BACKGROUND

The previous agenda item asked the Council to consider a Rule change to allow the orderly winding up of Cradle Coast Water (CCW).

If the previous suggested resolution in regard to the change to Rule 55 is passed, the Council is required to formally approve a special resolution to wind up CCW.

DISCUSSION

CCW has provided a copy of the special resolution which it would like all member councils to consider.

The resolution will allow CCW to authorise the Board of Management to do all things necessary to facilitate the effective dissolution of the Authority on or before

27 November 2009; convene a final Annual General Meeting on or before 26 November 2009; and distribute any remaining assets (if any) among the members of the Authority.

The formal wording of the resolution is attached.

CONSULTATION

The proposed special resolution has the support of the Representatives.

IMPACT ON RESOURCES

There is no impact on resources.

CORPORATE COMPLIANCE

The Central Coast Strategic Plan 2004–2009 includes the following objective:

- . Provide transparent, accountable public policy and decision making

CONCLUSION

It is recommended that the resolution as contained in the discussion be approved.”

The Executive Services Officer reported as follows:

“A copy of the proposed special resolution has been circulated to all Councillors.”

■ Cr McKenna moved and Cr Robertson seconded, “That subject to the transfer of Cradle Coast Water’s assets, liabilities and employees under the *Water and Sewerage Corporations Act 2008*, Cradle Coast Water (‘the Authority’) pursuant to the *Local Government Act 1993* and the Rules of the Authority resolve that:

- (a) the Authority authorises the Board of Management to do all things necessary to facilitate the effective dissolution of the Authority on or before 27 November 2009; and
- (b) the Authority convenes a final Annual General Meeting on or before 26 November 2009 at which it will receive the final accounts for the 2008–09 year and the accompanying statutory audit opinion as required under the Authority’s Rules; and
- (c) if upon the winding up of the Authority, after satisfaction of all its debts and liabilities and any obligation to transfer the assets under the *Water and Sewerage Corporations Act 2008* or any other applicable legislation, there remains any assets

whatsoever, those assets shall be paid to or distributed among the members of the Authority in accordance with the Authority's Rules; and

- (d) at the close of the final Annual General Meeting, the Authority is formally wound up and dissolved."

Carried unanimously

Cr Dry left the meeting at this stage.

CORPORATE & COMMUNITY SERVICES

125/2009 Corporate & Community Services determinations made under delegation

The Director Corporate & Community Services reported as follows:

“A Schedule of Corporate & Community Services Determinations Made Under Delegation during the month of March 2009 is submitted to the Council for information. The information is reported in accordance with approved delegations and responsibilities.”

The Executive Services Officer reported as follows:

“A copy of the Schedule has been circulated to all Councillors.”

■ Cr Haines moved and Cr (J) Bonde seconded, “That the Schedule of Corporate & Community Services Determinations Made Under Delegation (a copy being appended to and forming part of the minutes) be received.”

Carried unanimously

126/2009 Correspondence addressed to the Mayor and Councillors

The Director Corporate & Community Services reported as follows:

“PURPOSE

This report is to inform the meeting of any correspondence received during the month of March 2009 and which was addressed to the ‘Mayor and Councillors’. Reporting of this correspondence is required in accordance with Council policy.

CORRESPONDENCE RECEIVED

The following correspondence has been received and circulated to all Councillors:

- Letter received 5 March 2009 from a resident regarding the costs to install and operate a synoptic weather station.
- Letter received 5 March 2009 from Cradle Coast Health Centre regarding the number of car spaces to be provided at the proposed medical centre in Alexandra Road, Ulverstone and requesting Council support for the proposal.

- . Letter received 5 March 2009 from a resident regarding the access issues to Haywoods Reserve.
- . Letter received 6 March 2009 from seven business owners at the eastern end of Reibey Street, Ulverstone regarding the installation of a rubbish bin, the upgrading of the seat and parking issues.
- . Letter received 13 March 2009 from The Western Rivers Preservation Trust inviting Councillors to a public forum regarding water contamination issues.

Where a matter requires a Council decision based on a professionally developed report the matter will be referred to the Council. Matters other than those requiring a report will be administered on the same basis as other correspondence received by the Council and managed as part of the day-to-day operations.”

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

Carried unanimously

Cr Dry returned to the meeting at this stage.

127/2009 Common seal

The Director Corporate & Community Services reported as follows:

“A Schedule of Documents for Affixing of the Common Seal for the period 17 March 2009 to 20 April, 2009 is submitted for the authority of the Council to be given. Use of the common seal must first be authorised by a resolution of the Council.”

The Executive Services Officer reported as follows:

“A copy of the Schedule has been circulated to all Councillors.”

- Cr Robertson moved and Cr Dry seconded, “That the common seal (a copy of the Schedule of Documents for Affixing of the Common Seal being appended to and forming part of the minutes) be affixed subject to compliance with all conditions of approval in respect of each document.”

Carried unanimously

128/2009 Financial statements

The Director Corporate & Community Services reported as follows:

“The following principal financial statements of the Council for the period ended 31 March 2009 are submitted for consideration:

- . Summary of Rates and Fire Service Levies
- . Operating Statement
- . Cash flow Statement
- . Capital Works Resource Schedule.”

The Executive Services Officer reported as follows:

“Copies of the financial statements have been circulated to all Councillors.”

■ Cr Deacon moved and Cr van Rooyen seconded, “That the financial statements (copies being appended to and forming part of the minutes) be received.”

Carried unanimously

129/2009 Rate remissions

The Director Corporate & Community Services reported as follows:

“The following rate remissions are proposed for the Council’s consideration:

<i>PROPERTY NO.</i>	100030.0557
<i>PROPERTY ADDRESS</i>	51 Alice Street, Ulverstone
<i>REMISSION</i>	\$131.00
<i>REASON</i>	Waste Management charge incorrectly raised, no occupation certificate issued as yet

<i>PROPERTY NO.</i>	101610.0020
<i>PROPERTY ADDRESS</i>	1 Tasma Parade, Ulverstone
<i>REMISSION</i>	\$4,564.06
<i>REASON</i>	Buildings demolished, property revalued as vacant land

<i>PROPERTY NO.</i>	302330.0275
<i>PROPERTY ADDRESS</i>	Braddons Lookout Road, Leith
<i>REMISSION</i>	\$345.00
<i>REASON</i>	Incorrectly charged for water

PROPERTY NO. 504880.0100
PROPERTY ADDRESS 153 Isandula Road, Gawler
REMISSION \$69.00
REASON Property receives untreated water (charged 80% of treated water rate)

PROPERTY NO. 504880.0120
PROPERTY ADDRESS 179 Isandula Road, Gawler
REMISSION \$69.00
REASON Property receives untreated water (charged 80% of treated water rate)

PROPERTY NO. 504880.0180
PROPERTY ADDRESS 397 Isandula Road, Gawler
REMISSION \$69.00
REASON Property receives untreated water (charged 80% of treated water rate)

PROPERTY NO. 504880.0200
PROPERTY ADDRESS 399 Isandula Road, Gawler
REMISSION \$69.00
REASON Property receives untreated water (charged 80% of treated water rate)

PROPERTY NO. 504880.0760
PROPERTY ADDRESS 118 Isandula Road, Gawler
REMISSION \$69.00
REASON Property receives untreated water (charged 80% of treated water rate)

PROPERTY NO. 504880.0780
PROPERTY ADDRESS 154 Isandula Road, Gawler
REMISSION \$69.00
REASON Property receives untreated water (charged 80% of treated water rate)

PROPERTY NO. 505820.0340
PROPERTY ADDRESS 28 West Gawler Road, Gawler
REMISSION \$69.00
REASON Property receives untreated water (charged 80% of treated water rate)

PROPERTY NO. 505860.0780

CORPORATE & COMMUNITY SERVICES

PROPERTY ADDRESS 128 Whitehills Road, Penguin
REMISSION \$69.00
REASON Property receives untreated water (charged 80% of treated water rate)."

The Executive Services Officer reported as follows:

"The *Local Government Act 1993* provides that a council, by absolute majority, may grant a remission of all or part of any rates."

■ Cr Deacon moved and Cr van Rooeyn seconded, "That the following remissions be approved:

- . Property No. 100030.0557 - \$131.00
- . Property No. 101610.0020 - \$4,564.06
- . Property No. 302330.0275 - \$345.00
- . Property No. 504880.0100 - \$69.00
- . Property No. 504880.0120 - \$69.00
- . Property No. 504880.0180 - \$69.00
- . Property No. 504880.0200 - \$69.00
- . Property No. 504880.0760 - \$69.00
- . Property No. 504880.0780 - \$69.00
- . Property No. 505820.0340 - \$69.00
- . Property No. 505860.0780 - \$69.00."

Carried unanimously

130/2009 Debtor remissions

The Director Corporate & Community Services reported as follows:

"The following debtor remissions are proposed for the Council's consideration:

DEBTOR NO. 3523
PROPERTY ADDRESS 38 Jerling Street, Ulverstone
REMISSION \$87.89
REASON Leaking water pipe running underground - as per Council policy (Minute No. 383/2003 - 13.10.2003)."

■ Cr McKenna moved and Cr Robertson seconded, "That the following remission be approved:

- . Debtor No. 3523 - \$87.89."

Carried unanimously

131/2009 Community Respect Order Program

The Director Corporate & Community Services reported as follows:

“The Community Development Officer has prepared the following report:

PURPOSE

The purpose of this report is to present the Community Respect Order Program to the Council for consideration. A copy of the Draft Memorandum of Understanding between the Department of Police and Emergency Services and Central Coast Council is attached.

BACKGROUND

In 2006, the Tasmanian Government, in its “Keeping You Safe, Labor’s Community Safety Policy,” made an undertaking to introduce the “Community Respect Order” (CRO) Program. This initiative builds upon the Tasmanian Government’s commitment to target antisocial behaviour.

The following boundaries were identified for the development of CROs:

- . The Orders will divert youth and young adults caught vandalising or defacing property into clean-up programs in their local area.
- . Clean-up programs and tasks will be identified in partnership with local government.
- . Youth and young adults need to understand the cost and consequences of their actions and contribute to repairing the damage caused.

The Project outcomes include:

- . decreased antisocial behaviour by youth and young adults in the community;
- . increased avenues for diversion of youth and young adults demonstrating antisocial behaviours in the community;
- . improved public perception of decreased levels of antisocial behaviour in the community;

- . strategic alignment with Tasmania Together Goal 2: Confident, friendly, and safe communities.

DISCUSSION

The need for the Central Coast Council to be involved in the CRO Program is highlighted by an increase in graffiti and defacement of property in the Tasmanian community. The Central Coast community too has experienced the defacement of property; this has been documented in the Community Safety Partnership meetings and the Forth Community Representatives Committee meetings.

Implementation of the CRO Program will be an effective way of addressing this form of antisocial behaviour and destruction to public and private property. Offenders will have an opportunity to turn their lives around through their participation in the Program.

CONSULTATION

Initial consultation was undertaken between the Council and the Senior Policy Officer, Secretariat and Research Services Executive Support from the Department of Police and Emergency Management and a member of the Early Intervention and Youth Action Unit based in Burnie.

Subsequent consultations were undertaken with the Council's Engineering Services Manager, Works Group Leader and Recreation Facilities Coordinator; all of whom gave their support to the Program's implementation.

IMPACT ON RESOURCES

At this point in time, there is no immediate impact on resources; however, there may need to be some direction provided to participants.

CORPORATE COMPLIANCE

The Central Coast Strategic Plan 2004–2009 includes the following objectives:

- . Improve community safety
- . Provide effective management of recreation facilities and open space
- . Develop and manage sustainable infrastructure
- . Create a municipal area that is productive and socially and aesthetically attractive.

CONCLUSION

It is recommended that the Community Respect Order Program Memorandum be adopted.'

The report is supported."

The Executive Services Officer reported as follows:

"A copy of the Memorandum of Understanding has been circulated to all Councillors."

■ Cr Haines moved and Cr (J) Bonde seconded, "That the Council enter into the Memorandum of Understanding between the Department of Police and Emergency Management and the Central Coast Council for the purpose of the Community Respect Order Program."

Carried unanimously

132/2009 Sub-Lease of Penguin Surf Club Building

The Director Corporate & Community Services reported as follows:

"PURPOSE

To consider a request by the Penguin Surf Life Saving Club to sub-let the top floor of the Penguin Surf Life Saving Club for the purposes of a restaurant.

BACKGROUND

The Council has received the following letter dated 16 March 2009 from the President of the Penguin Surf Life Saving Club:

'The Penguin Surf Life Saving Club would like to make an application to the Central Coast Council for permission to sublet part of the top floor of the Penguin Surf Life Saving Club.

Like a number of Service Clubs and Not-for-profit Organisations the Club has struggled to maintain a core of committed volunteers. The Club relies on these volunteers for both fund raising and life-saving training and support, and with the restricted volunteer base it has become increasingly difficult to suitably manage both aspects of the Club's activities.

The Club is also keen to reduce its reliance on community funding and to make better use of what is essentially a community asset.

The Club Committee currently have a proposal from a Mr Brad Dick to sub lease our upstairs function room to run a restaurant named the Casablanca. The restaurant would be operating 8 hours per day 6 days a week

It is intended by the Club that all rent monies gained from this proposal will go back into supporting essential Life Saving activities and the continued upgrading of our/your facilities. As you would be aware Surf Life Saving has many elements that can at times stretch volunteers to the limit, including Life Saving Services (core business), Surf Sports, and general day to day running of the surf club, and this proposal has been developed over the last 6-8 weeks due to the Penguin Surf Life Saving being not being able to sustain a consistent service to the paying public for the use of the upstairs function room.

Some of the reason for the change:

- Increased caterings and functions, 2007/08 weddings and major parties total 20 – 2008/09 so far totals 44,
- Membership unable to provide enough voluntary support for current functions,
- Existing committee (all of whom are volunteers) unable to provide continuing level of support needed, with the anticipation that failure to change will result in a number of these people resigning,
- Failure to meet existing and potential customer's expectations will result in downturn of trade therefore putting our clubs current stable financial position at risk,
- Having to pay bar staff to meet current needs, a situation the club has never been in before and a situation that would significantly impact on the Club's income for 2008/09,
- The need to significantly reduce the amount of time committee provides to ongoing management – currently approximately 30 hours per week plus bar staff hours,
- The opportunity to achieve a guaranteed monthly income with minimal input of volunteer time and resources, and
- To allow the Club to devote its resources to its prime role of being a surf life saving club and not a function centre.

The above proposal not only gives us a consistent income all year round it also relieves some key people to help develop a more sustainable Surf Life Saving Club. It will also provide a more reliable life saving service to the local community and the Club would accordingly request that the Central Coast Council give its permission to sub-let part of the upstairs portion of the Penguin Surf Life Saving Club for the purpose of a restaurant.'

DISCUSSION

In May 2008 the Penguin Surf Club (the Club) made a presentation on past and future directions for the Club to the Council to provide information as to how the Club sees itself going into the future. This application would appear to be a further stage in that future vision put forward by the Club at that time.

Council staff were made aware, verbally, of the fact that the Club was exploring what opportunities there might be in leasing out part of the Surf Club Building, and at that time advised the Surf Club, verbally, that they should be aware of the fact that they would need permission from the Council in writing prior to any such sub-lease going ahead. The Club was also advised subsequently, that under the terms of the Crown Lease held by the Council over the property, permission would also need to be obtained from the Crown as the Crown lease specifies that the property is to be used for surf life-saving club purposes only.

While it would appear that the Club has entered into some form of interim arrangement with a commercial operator, signage advertising the restaurant 'Casablanca' having been erected and the business operating from the top floor of the premises for some weeks, the Council has been advised by the Club that no lease has as yet been signed with the commercial operator. The Operator of the restaurant has obtained a full Liquor Licence under the name of 'Casablanca Wine and Dine' subsequent to the Penguin Surf Club surrendering their existing restricted liquor licence.

The property while previously zoned as public open space, where a restaurant would have been discretionary use, is now zoned as environmental management where such a use is prohibited. The Club has been advised, by email, that they needed to resolve related planning matters with the Council's Land Use Planning Group. Following discussions with the Club, and subsequent legal advice obtained by the Council, the Club has been advised that the restaurant is permitted within their existing non-conforming use rights of the site pursuant to the *Central Coast Planning Scheme 2005*. Further building and environment and health issues, related to the use of the building for restaurant purposes, are being dealt with by the Club and it is anticipated that these matters will be resolved shortly such that there would be no planning, building or environment and health matters that would prevent the

Council from permitting the top floor of the Surf Club being leased out for restaurant purposes.

The Club's request to sub-let part of a community building does raise issues of fairness and equity. No commercial operator should gain an unfair advantage over its competitors by being able to lease community space at anything less than a commercial rental, and such businesses should attract the same rates and charges as any other business operator. The Council would also need to ensure that any rental received by the Club is returned to the Community through the Club's life saving activities.

The Club, like a number of other service and sporting clubs, is finding it increasingly difficult to manage both the revenue raising and the life-saving activities of the Club and believes, if they are able to sub-let part of the building, that this would enable them to focus on their core activity as well as reduce the need for community funding for such activities.

CONSULTATION

The report outlines the consultation undertaken.

IMPACT ON RESOURCES

There are minimal administration costs involved in the creation and monitoring of the lease.

CORPORATE COMPLIANCE

The Central Coast Strategic Plan 2004 – 2009 includes the following objectives:

- . Develop and manage sustainable infrastructure
- . Create a municipal area that is productive and socially and aesthetically attractive.

CONCLUSION

It is recommended that the Council agree to the Penguin Surf Life Saving Club's request to sub-let the top floor of the Penguin Surf Club for use as a restaurant on the basis that:

- . The development is permitted under the Council's Planning Scheme;
- . A commercial rental is to be set at the market valuation (plus an annual CPI increase) as recommended by a registered valuer;

- . That part of the property being used for the purposes of the restaurant being charged full rates as per a commercial property; and
- . All monies collected by the Club are used for building maintenance and life saving purposes only.”

As he wished to move a motion, the Mayor vacated the chair in accordance with the provisions of the *Local Government (Meeting Procedures) Regulations 2005*.

The Deputy Mayor assumed the chair vacated by the Mayor.

■ Cr Downie moved and Cr McKenna seconded, “That the Council defer debate and otherwise adjourn Minute No. 132/2009 until such time as the Council has developed and tabled a strategic policy on ‘for profit’ and other commercial activities on land in which the Council has a legal interest or is the owner.

And further that:

- 1 In the interim, that the Council permit the Penguin Surf Life Saving Club to continue in its current subletting arrangements:
 - (a) at all times subject to any subsequent lease or other later decisions of the Council; and
 - (b) in accordance with any subsisting terms of occupation of the Surf Club premises by the Penguin Surf Life Saving Club which are strictly by it being a tenant at will, which means the occupation can be terminated at any time.
- 2 The Council specifically asks the Penguin Surf Life Saving Club to note that the Council does not grant the Club any new or extended lease for the premises by this motion and this motion does not operate as an extension of any old lease nor as an assurance or offer of a future lease. Neither does this motion give any indication of any terms that a future lease may contain as any new lease will be negotiated at the relevant time.”

Carried unanimously

The Mayor resumed the chair.

ENGINEERING SERVICES

133/2009 Engineering Services

The Director Engineering Services reported as follows:

“A Schedule of Engineering Services Determinations made during the month of March 2009 is submitted to the Council for information. The information is reported in accordance with approved delegations and responsibilities.”

The Executive Services Officer reported as follows:

“A copy of the Schedule has been circulated to all Councillors.”

■ Cr Robertson moved and Cr McKenna seconded, “That the Schedule of Engineering Services Determinations (a copy being appended to and forming part of the minutes) be received.”

Carried unanimously

134/2009 Natural gas supply

■ Cr McKenna (having given notice, and now with amended wording) moved and Cr Dry seconded, “That the Council investigate a proposal to provide natural gas to the residential and industrial areas of the Central Coast municipal area with the Council becoming the sole distributor of natural gas within the municipal area.”

Cr McKenna, in support of his motion, submitted as follows:

“1 Currently, a natural gas pipeline traverses in close proximity to residential areas of the Central Coast municipal area, primarily providing gas to industry to the west of the municipal area. The proximity of the pipeline to residential areas appears to suggest feasibility in the supply of natural gas to current and potential residential areas.

2 With the transfer of water and sewerage services to the new regional authority, it is logical, and indeed essential, that local government gives consideration to the provision of alternative services and community undertakings to assist in maintaining sustainability. The mover of the motion considers the purchase and distribution of natural gas to residential areas, local industry and commercial undertakings is a service that is not currently available and could ultimately be a profitable undertaking by the Central Coast Council.

- 3 With increasing electricity costs, possible power rationing in the future and the predicted effect climate change will have on conventional electricity supply sources, power consumers would soon be aware of an unrestricted supply and cost savings through gas usage as opposed to the present alternative.
- 4 It is contended that on availability, future residential, industrial and commercial undertakings would use gas as a preference for powered and domestic housing operations primarily due to the cost savings.
- 5 On the implementation of a residential gas system, the Central Coast municipal area would be making a substantial contribution to the national economy, thus fulfilling the desires of the Federal Government that needs to provide funding for the proposal to eventuate, the Council at the same time providing a major employment undertaking.

The following initiatives on the Council's part appear essential to enable it to attain the objectives proposed by the motion:

- (a) Approach Tas Gas in regard to the provision of gas as a municipal distributor.
- (b) On approval of the motion, make an initial approach to the State and Federal Governments for funding to engage a consultant to design a gas reticulation system for residential, industrial and commercial developments in the town of Ulverstone and/or Penguin.
- (c) With urgent attention to items (a) and (b) with costs exposed, approach the Federal Government for funding, being aware of the promise by Prime Minister Rudd that projects of the nature signified could qualify for \$ funding."

The Director Engineering Services reported as follows:

"PURPOSE

This report considers a motion on notice from Cr McKenna.

BACKGROUND

Tas Gas is a natural gas distributor, delivering natural gas to homes and businesses in Tasmania. Its network makes gas available to approximately 38,500 of the State's commercial and residential customers.

Tas Gas began work on the project in May 2003 with the commencement of the design process. The construction of the network was divided into two major stages. The first stage of the project, which was completed in July 2005, involved the laying of 100km of gas pipe in the urban areas of Hobart, Launceston, Longford, Westbury, Bell Bay, Wynyard and Devonport. The second stage, which was completed in April 2007, involved laying a further 612km of gas pipe across Hobart, Launceston, Burnie and Devonport.

Tas Gas's primary focus is on owning and operating the gas network, with other parties becoming involved in the retailing of gas. To encourage competition in the market and the uptake of gas as an energy source, Tas Gas launched Tasmania's first gas retailer Option One.

Local factors are as follows:

- . The trunk gas main is located to the south of Ulverstone and Penguin.
- . A major customer is required in the town to make residential distribution of gas reticulation feasible.

DISCUSSION

The following issues need to be considered prior to making a decision on gas distribution:

- . Disruption and damage to infrastructure such as roads, footpaths and other service pipelines with the installation of gas pipes.
- . Another service risk in respect to operations and 'dial before you dig' issues, noting gas and electricity have higher risk factors than other services.
- . The limited take-up of connections to gas in other cities in Tasmania.
- . The subsidisation of gas distribution by the State Government noting that Aurora is also involved.
- . Long-term sustainability of gas.
- . The high investment and operational risk of gas distribution.

CONSULTATION

Extensive public consultation/survey would be required to gauge the interest for potential customers in Central Coast.

IMPACT ON RESOURCES

While the impact on resources with water and sewerage is significant and will affect the long-term sustainability of councils, efforts should be focussed on remaining services and the current renewal gap of assets before another service is considered.

The preparation of a business case to gas distribution is estimated to cost in the order of \$100,000. Financial resources of this order and staff resources in the immediate future are unavailable for such a project.

Capital projects such as the Turners Beach to Ulverstone Shared Pathway, showgrounds, wharf and industrial estate developments, recent Blackspot funding and the continuation of the Roads to Recovery Program already require significant resources over the next five years to complete.

CORPORATE COMPLIANCE

The Central Coast Strategic Plan 2004–2009 includes the following objectives:

- . Promote a sustainable investment environment
- . Develop innovative strategies to foster business opportunities
- . Foster strategic partnerships across industry sectors and establish industry clusters
- . Provide effective leadership
- . Foster partnerships and strategic alliances
- . Foster community leadership
- . Meet our statutory and regulatory obligations
- . Plan for and develop a sustainable community
- . Develop and manage sustainable infrastructure
- . Create a municipal area that is productive and socially and aesthetically attractive.

CONCLUSION

The motion of Cr McKenna is submitted for consideration.”

Motion

Carried unanimously

135/2009 Tenders for relining of No. 2 pasveer ditch – Penguin Pump Station, Preservation Drive, Penguin

The Director Engineering Services reported as follows:

"PURPOSE

The purpose of this report is to make a recommendation on the tenders received for the relining of the No. 2 pasveer ditch at the Penguin Pump Station off Preservation Drive (Dial Point), Penguin.

BACKGROUND

The Services Engineer reported as follows.

'The Penguin Sewerage Treatment Plant at Dial Point was replaced in 2004 with a pump station to pump sewage from the Heybridge, Sulphur Creek and Penguin areas to the Ulverstone Wastewater Treatment Plant for treatment. The two pasveer ditches which were used as part of the treatment process were retained as overflow storages during wet weather events or when the pump station is off-line.

During the construction of the pump station, pasveer ditch No. 1 was relined with concrete. The aim of the project is to complete the works by replacing the heavily degraded ditch liner of the No. 2 pasveer ditch with a concrete liner and installing a perimeter block wall.

The tender documentation was prepared by Sinclair Knight Merz (SKM) and advertised on 14 March 2009, with tenders closing on 31 March 2009.

During the tendering period, the Council received interest from the following:

- . Mead Con;
- . Matthews Constructions;
- . Shaw Contracting;
- . TasSpan;
- . VOS Construction & Joinery;
- . Environmental Coatings Pty Ltd; and
- . VEC Civil Engineering Pty Ltd.

Tenders were received from the following tenderers as detailed below:

TENDERER	LUMP SUM (GST EXCLUSIVE) \$
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Mead Con	122,200.00
VOS Construction & Joinery	148,510.00
VEC Civil Engineering Pty Ltd	163,154.60
<i>ESTIMATE</i>	<i>140,000.00</i>

DISCUSSION

In relation to the construction program, VEC has the shortest timeframe with 35 days, compared to Mead Con with 55 days, and VOS with 60 days. The construction timeframe is not considered critical, but a tool to manage and monitor the progress of the contract in terms of completion dates.

In terms of experience, Mead Con has completed similar types of work, including currently undertaking the construction of the Horse Head Sewer Basins and the new skate park (including skate bowl) for the Devonport City Council. The schedule of experience was not completed by VEC, while VOS did not provide specific details about the work undertaken for the Burnie, Latrobe and Pardoe Treatment Plants.

Therefore, based on the above, it is recommended the tender be awarded to Mead Con for the lump sum tender price of \$122,200.00 (excluding GST) based on price, experience and construction timeframe.

CONSULTATION

A public tendering process was implemented for the tender.

A site meeting was held onsite on 24 March 2009. The meeting was attended by representatives from VEC Civil Engineering Pty Ltd, Matthews Constructions, Mead Con and the Central Coast Council.

Mead Con was contacted to discuss aspects of their submitted tender.

IMPACT ON RESOURCES

The 2008–2009 budget allocation for the Penguin Pump Station project is \$200,000. This allocation includes an allowance of \$40,000 for a new pump and \$20,000 for other miscellaneous work associated with the pump station, leaving approximately \$140,000 for the relining work.

The relining works can be accomplished within the 2008–2009 budget.

CORPORATE COMPLIANCE

The Central Coast Strategic Plan 2004–2009 includes the following objectives:

- . Meet our statutory and regulatory obligations
- . Develop and manage sustainable infrastructure.

CONCLUSION

It is recommended that Mead Con be awarded the tender for relining the No. 2 pasveer ditch for the lump sum tender price of \$134,420.00 (including GST).’

The Services Engineer’s report is supported.”

- Cr Deacon moved and Cr Howard seconded, “That the tender from Mead Con for the relining of the No. 2 pasveer ditch at the Penguin Pump Station in the amount of \$134,420.00 (including GST) be accepted.”

Cr McKenna left the meeting at this stage.

Motion

Carried unanimously

Cr McKenna returned to the meeting at this stage.

CLOSURE OF MEETING TO THE PUBLIC

136/2009 Meeting closed to the public

The Executive Services Officer reported as follows:

“The *Local Government (Meeting Procedures) Regulations 2005* provide that a meeting of a council is to be open to the public unless the council, by absolute majority, decides to close the meeting or part of the meeting because it wishes to discuss a matter (or matters) in a closed meeting and the Regulations provide accordingly.

Moving into a closed meeting is to be by procedural motion. Once a meeting is closed, meeting procedures are not relaxed unless the council so decides.

It is considered desirable that the following matter be discussed in a closed meeting:

- . Minutes and notes of other organisations and committees of the Council; and
- . Sale of Council land at Alexandra Road.

This is a matter relating to:

- . information provided to the Council on the condition it is kept confidential; and
- . a proposal for the disposal of land.”

■ Cr Robertson moved and Cr Dry seconded, “That the Council close the meeting to the public to consider the following matters, they being matters relating to:

- . information provided to the Council on the condition it is kept confidential; and
- . a proposal for the disposal of land;

and the Council being of the opinion that it is lawful and proper to close the meeting to the public:

- . Minutes and notes of other organisations and committees of the Council; and
- . Sale of Council land at Alexandra Road.”

Carried unanimously and by absolute majority

The Executive Services Officer further reported as follows:

“1 The *Local Government (Meeting Procedures) Regulations 2005* provide in respect of any matter discussed at a closed meeting that the general manager is to record in the minutes of the open meeting, in a manner that protects confidentiality, only the fact that the matter was discussed and is not to record the details of the outcome unless the council determines otherwise.

2 The *Local Government Act 1993* provides that a councillor must not disclose information seen or heard at a meeting or part of a meeting that is closed to the public that is not authorised by the council to be disclosed.

Similarly, an employee of a council must not disclose information acquired as such an employee on the condition that it be kept confidential.

3 In the event that additional business is required to be conducted by a council after the matter(s) for which the meeting has been closed to the public have been conducted, the Regulations provide that a council may, by simple majority, re-open a closed meeting to the public.”

GENERAL MANAGEMENT

137/2009 Minutes and notes of other organisations and committees of the Council

The Executive Services Officer reported (reproduced in part) as follows:

“The following minutes and notes of committees of the Council and other organisations on which the Council has representation have been received:

...

The *Local Government (Meeting Procedures) Regulations 2005* provide in respect of any matter discussed at a closed meeting that ‘the general manager –

- (a) is to record in the minutes of the open meeting, in a manner that protects confidentiality, only the fact that the matter was discussed; and
- (b) is not to record the details of the outcome unless the council or council committee determines otherwise.’

The details of this matter are accordingly to be recorded in the minutes of the closed part of the meeting.”

CORPORATE & COMMUNITY SERVICES

138/2009 Sale of Council land at 17 Alexandra Road, Ulverstone (344A/2005 - 17.10.2005)

The Executive Services Officer reported (reproduced in part) as follows:

“The purpose of this report is to determine whether the Council is interested in selling 17 Alexandra Road, Ulverstone (or part thereof).

...

The *Local Government (Meeting Procedures) Regulations 2005* provide in respect of any matter discussed at a closed meeting that ‘the general manager –

- (a) is to record in the minutes of the open meeting, in a manner that protects confidentiality, only the fact that the matter was discussed; and
- (b) is not to record the details of the outcome unless the council or council committee determines otherwise.’

The details of this matter are accordingly to be recorded in the minutes of the closed part of the meeting.”

Closure

There being no further business, the Mayor declared the meeting closed at 9.20pm.

CONFIRMED THIS 18TH DAY OF MAY, 2009.

Chairperson

(Imm:dl)

Appendices

- Minute No. 115/2009 – Schedule of Development & Regulatory Services Determinations
- Minute No. 119/2009 – Amendment 1/2009
- Minute No. 122/2009 – Penguin Miniature Railway Management Committee Rules
- Minute No. 125/2009 – Schedule of Corporate & Community Services Determinations Made Under Delegation
- Minute No. 127/2009 – Schedule of Documents for Affixing of the Common Seal
- Minute No. 128/2009 – Financial statements
- Minute No. 133/2009 – Schedule of Engineering Service Determinations

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 Council 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