



# Minutes

of an Ordinary Meeting  
held at 6.00pm

20 September 2010

Note:

Minutes subject to confirmation at  
a meeting of the Council to be held on  
18 October 2010

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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 September 2010 commencing at 6.00pm.**

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**Councillors attendance**

Cr Jan Bonde (Deputy Mayor)	Cr Lionel Bonde
Cr Amanda Diprose	Cr Cheryl Fuller
Cr Ken Haines	Cr Gerry Howard
Cr Brian Robertson	Cr Tony van Rooyen
Cr Philip Viney	

Cr David Dry attended at 6.05pm

**Councillors apologies**

Cr Mike Downie (Mayor) (Leave of absence)  
Cr John Deacon

**Employees attendance**

General Manager (Ms Sandra Ayton)  
Acting Director Corporate & Community Services (Mr Stuart Arnot)  
Director Development & Regulatory Services (Mr Michael Stretton)  
Director Engineering Services (Mr Bevin Eberhardt)  
Executive Services Officer (Mr Graeme Marshall)  
Land Use Planning Group Leader (Mr Ian Sansom)  
Town Planner (Mr Thomas Reilly)

**Guest of the Council**

Miss Amy Cure

**Media attendance**

The Advocate newspaper.

**Public attendance**

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

**Prayer**

The Meeting opened in Prayer

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## CONFIRMATION OF MINUTES OF THE COUNCIL

### 276/2010 Confirmation of minutes

The Executive Services Officer reported as follows:

“The minutes of the special meeting of the Council held on 28 June 2010 and of the previous ordinary meeting of the Council held on 18 August 2010 have already been circulated. The minutes are required to be confirmed for their accuracy.

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

- Cr Robertson moved and Cr Howard seconded, “That the minutes of the special meeting of the Council held on 28 June 2010 and of the previous ordinary meeting of the Council held on 18 August 2010 be confirmed.”

Carried unanimously

## COUNCIL WORKSHOPS

### 277/2010 Council workshops

The Executive Services Officer reported as follows:

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

- . 23.08.2010 – Forth Urban Design Guidelines
- . 30.08.2010 – Dog Management Policy / Ulverstone History Museum precinct
- . 06.09.2010 – Rural living re-zonings/regional planning initiative
- . 13.09.2010 – Cradle Mountain Water

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

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

Carried unanimously

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## MAYOR'S COMMUNICATIONS

### 278/2010 Mayor's communications

The Acting Mayor reported as follows:

“Amy Cure accepted an invitation to join Councillors at their meal prior to this meeting and to subsequently attend the meeting where the opportunity will now be taken to present her with a Certificate of Achievement in recognition of her success at the recent World Junior Cycling Championships.”

Cr Dry attended the meeting at this stage.

Following the presentation, Amy spoke about her cycling experiences and responded to questions from Councillors. She also presented the Council with a signed photograph and thanked the Council for its support.

### 279/2010 Mayor's diary

The Acting Mayor reported as follows:

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

- ABC Radio – interview re strategic priorities
- Penguin Meals on Wheels – annual general meeting
- Eliza Purton Home – Aged Care Grand Plan afternoon tea
- Ulverstone Meals on Wheels – annual general meeting
- Ulverstone Municipal Band – annual dinner
- Penguin High School – musical production, ‘Grease’
- Central Coast Community Safety Partnership Committee – meeting
- Cradle Coast Authority – Representatives meeting (Wynyard)
- Ulverstone Primary School – 2010 PICSE UTAS Science Investigation Awards judging
- Don Campus – official opening of art exhibition at the Ulverstone Visitor Information Centre
- Ulverstone Visitor Information Centre – farewell morning tea for volunteer Marie Bonde
- Devonport City Council – media launch for major sporting events
- UTAS Cradle Coast Campus – 2010 PICSE UTAS Science Investigation Awards ceremony
- Opt-in – Charity Ride official launch and sponsors luncheon, Appin Hall (Erriba)

- 
- Department of Immigration and Citizenship – Australian Citizenship Day Ceremony (Burnie)
  - North Western Football Association – grand final breakfast.

Cr John Deacon has represented me at the following event:

- Ulverstone RSL Sub-branch – Vietnam Veterans Day ceremony

Cr Ken Haines has represented me at the following event:

- North Western Football Association – annual dinner

Cr Gerry Howard has represented me at the following event:

- Forth Football Club – annual dinner.”

- Cr Haines moved and Cr van Rooyen seconded, “That the Acting Mayor’s report be received.”

Carried unanimously

## **280/2010 Pecuniary interest declarations**

The Acting 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.

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**281/2010 Public question time**

The Acting 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**

**282/2010 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.”

Cr Howard reported on the Riana Community Centre Committee’s annual general meeting.

Cr (L) Bonde reported on a meeting of the Bush Watch Western District Committee.

Cr Fuller reported on Penguin Leo Club activities.

**APPLICATIONS FOR LEAVE OF ABSENCE**

**283/2010 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.

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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**

#### **284/2010 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**

#### **285/2010 Petitions**

The Executive Services Officer reported as follows:

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

### **COUNCILLORS' QUESTIONS**

#### **286/2010 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.

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**287/2010 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, at least 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

**288/2010 Development & Regulatory Services determinations**

The Director Development & Regulatory Services reported as follows:

“A Schedule of Development & Regulatory Services Determinations made during the month of August 2010 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 Haines seconded, “That the Schedule of Development & Regulatory Services Determinations (a copy being appended to and forming part of the minutes) be received.”

Carried unanimously

**289/2010 Request for waiver of Land Use Planning, Building and Plumbing fees**

The Director Development & Regulatory Services reported as follows:

*PURPOSE*

This report provides the basis for considering a request from the Ulverstone Repertory Theatre Society to waive the Land Use Planning, Building and Plumbing fees associated with a proposed purpose-built building to be situated in the West Ulverstone showground precinct.

*BACKGROUND*

A major review of the Council’s Land Use Planning, Building and Plumbing fees was undertaken in setting fees for the 2009–10 financial year. This review established that the Council’s fees are generally equal to or below the fees of other North West Coast councils. Additionally, in determining its fees the Council applies a ‘community obligation’ reduction.

The Ulverstone Repertory Theatre Society is proposing to construct a purpose-built building at the West Ulverstone showground precinct to house the Society's costume and properties store, small board room and an area suitable for rehearsals and workshops. The Society has requested that the Council consider waiving all fees relating to planning and building approvals associated with the building (Annexure 1).

The approximate fees which would be attracted by the proposed building are as follows:

APPLICABLE FEE	FEE (\$)
<i>Land Use Planning</i>	
Discretionary Application	300.00
Notification fee	235.00
<i>Building and Plumbing</i>	
Building Permit fee	120.00
Building Permit Levy (State Government fee)	180.00
Industry Training Levy (State Government fee)	360.00
Plumbing Permit fee	500.00
<b>TOTAL</b>	<b>1,695.00</b>

Of the above-mentioned fees, the Council has the ability to waive only those fees which are charged by the Council. It is beyond the Council's head of power to waive the levies imposed by the State Government and collected by councils. Therefore the Council has the ability to waive fees in the amount of \$1,155.00.

*DISCUSSION*

Whilst it may seem like a small gesture for the Council to grant a waiver of fees for the Ulverstone Repertory Theatre Society proposed building, it is considered that any decision to grant a waiver of the fees would be inequitable and inconsistent with previous applicants who have been required to pay the fees associated with similar developments. Additionally, any decision to waive or reduce fees may set a precedent which would undoubtedly be sought from similar organisations in the future.

The Council currently provides a Community Small Grants Scheme to support local organisations in undertaking works similar to those proposed by the Ulverstone

Repertory Theatre Society. The funding for these grants is considered in the Council's annual budgeting processes. It may be more appropriate for the Ulverstone Repertory Theatre Society to apply for a Small Grant in the Council's 2010-11 Scheme to assist in the costs of the proposed building, rather than seeking to have the fees waived.

*CONSULTATION*

Consultation is not required over this matter.

*IMPACT ON RESOURCES*

Any precedent of waiving fees has the potential to adversely impact the Council's budgeted revenues.

*CORPORATE COMPLIANCE*

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

Council Sustainability and Governance  
· Improve corporate governance

*CONCLUSION*

It is recommended that the Council refuse the request from the Ulverstone Repertory Theatre Society to waive the Land Use Planning, Building and Plumbing fees associated with a proposed building to be situated in the West Ulverstone showground precinct."

The Executive Services Officer reported as follows:

"A copy of Annexure 1 referred to in the Director's report has been circulated to all Councillors."

■ Cr Fuller moved and Cr Howard seconded, "That the Council refuse the request from the Ulverstone Repertory Theatre Society to waive the Land Use Planning, Building and Plumbing fees associated with a proposed building to be situated in the West Ulverstone showground precinct."

Carried unanimously

**290/2010 Council acting as a planning authority**

The Acting 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 Minute Nos 291, 293, 294 and 295/2010 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 van Rooyen moved and Cr Diprose seconded, “That the Acting Mayor’s report be received.”

Carried unanimously

**291/2010 Residential dwelling and outbuilding – Variation to side wall height at 2 Gisellevista Court, Ulverstone – Application for a minor amendment to Planning Permit No. DEV 2009.112 (103/2010 – 12.04.2010)**

The Director Development & Regulatory Services reported as follows:

<i>“PLANNING PERMIT NO.:</i>	DEV 2009.112
<i>APPLICANT:</i>	JT & SA Cummings
<i>LOCATION:</i>	2 Gisellevista Court, Ulverstone
<i>ZONING:</i>	Residential
<i>PLANNING INSTRUMENT:</i>	Central Coast Planning Scheme 2005 (the Scheme)
<i>ADVERTISED:</i>	N/A
<i>REPRESENTATIONS EXPIRY DATE:</i>	N/A
<i>REPRESENTATIONS RECEIVED:</i>	N/A
<i>42-day expiry date:</i>	N/A
<i>DECISION DUE:</i>	N/A

*PURPOSE*

The purpose of this report is to consider an application for a minor amendment to Planning Permit No. DEV2009.112 at 2 Gisellevista Court, Ulverstone by increasing the wall height of the outbuilding from 3.8m to 4.0m.

*BACKGROUND*

At its meeting on 12 April 2010 (Minute No. 103/2010) the Council approved a discretionary development application for a residential dwelling and outbuilding at 2 Gisellevista Court, Ulverstone. There was one representation received for the application and it required discretion on the wall height of the outbuilding which was proposed to be constructed to the eastern boundary. The permitted height of an outbuilding on the boundary is 2.7m or less, while the outbuilding was proposed to have a wall height of 3.8m. The application and planning permit are attached as Annexure 1.

Subsequent to issuing the planning permit, the Council has received a complaint alleging that the outbuilding on the subject site has been constructed with a wall height greater than the approved 3.8m. Council officers investigated the complaint and determined that the outbuilding had been constructed with a wall height of 4.0m.

An amendment to the discretionary planning permit is required on the basis that the outbuilding has not been constructed substantially in accordance with the approved planning permit.

*DISCUSSION*

Under Section 56 of the *Land Use Planning and Approvals Act 1993* (LUPAA) a permit amendment process is available where an amendment –

- a Does not change the effect of any condition required by the Resource Management and Planning Appeal Tribunal;
- b Will not cause an increase in detriment to any person; and
- c Does not change the use or development for which the permit was issued other than a minor change to the description of the use or development.

Under the amendment process, all adjoining owners and any person who made a representation in relation to the application must be notified of a

decision to amend a planning permit and they have an ability to appeal the decision to the Resource Management and Planning Appeal Tribunal.

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

PROVISION	ASSESSMENT AND COMMENT
Does not change the effect of any condition required by the Appeal Tribunal.	<p>N/A</p> <p>The planning permit was not appealed to the Resource Management and Planning Appeal Tribunal.</p>
Will not cause an increase in detriment to any person.	<p>Complies.</p> <p>The only issue which needs to be considered in determining compliance with this provision is whether the amendment will cause unreasonable shading on the adjoining property to the south (1 Gisellevista Court).</p> <p>In approving the planning permit it was noted by the Council that <i>'overshadowing would occur to adjoining properties regardless of whether the outbuilding is located on the boundary or within the prescribed setbacks. It is therefore considered that the proposed location of the outbuilding would not result in an unreasonable level of shading to adjoining properties'</i>.</p> <p>In assessing the application for the minor amendment of the planning permit, the outbuilding was assessed against the Scheme's unreasonable shading provision for a wall height of 3.8m and also for a wall height of 4.0m. It has been established that the outbuilding complies with the unreasonable shading provisions at both wall heights (see Annexure 2). The additional 0.2m in height will result in a maximum increase in overshadowing on 1 Gisellevista Court of 1.1m.</p> <p>Accordingly, given the minor nature of the shading increase and the fact that the proposed</p>



	amendment complies with the Scheme's unreasonable shading provisions, it is considered that the minor amendment will not cause an increase in detriment to any person.
Does not change the use or development for which the permit was issued other than a minor change to the description of the use or development.	Complies.  The amendment will not change the development for which the permit was issued other than by a minor change in the wall height of the outbuilding.

*CONSULTATION*

The Council has held discussions over this matter with both the property owner and the complainant.

*IMPACT ON RESOURCES*

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

*CORPORATE COMPLIANCE*

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

The Shape of the Place

- . Adopt an integrated approach to land use planning

The Environment and Sustainable Infrastructure

- . Contribute to a safe and healthy environment

The proposal is consistent with these strategies and key actions.

*CONCLUSION*

The proposed minor amendment to planning permit DEV 2009.112 by increasing the wall height of the outbuilding from 3.8m to 4.0m complies with Section 56 of LUPAA in that it:

- . Does not change the effect of any condition required by the Appeal Tribunal;
- . Will not cause an increase in detriment to any person; and
- . Does not change the use or development for which the permit was issued other than a minor change to the development.

*RECOMMENDATION*

It is recommended that the application for a minor amendment to Planning Permit No. DEV 2009.112 at 2 Gisellevista Court, Ulverstone by increasing the wall height of the outbuilding from 3.8m to 4.0m be approved, and that all adjoining owners be notified of this decision.”

The Executive Services Officer reported as follows:

“Copies of the Annexures 1 and 2 referred to in the Director’s report have been circulated to all Councillors.”

■ Cr van Rooyen moved and Cr Dry seconded, “That the application for a minor amendment to Planning Permit No. DEV2009.112 at 2 Gisellevista Court, Ulverstone by increasing the wall height of the outbuilding from 3.8m to 4.0 m be approved, and that all adjoining owners be notified of this decision.”

Continued after Minute No. 292/2010.

**292/2010 Public question time**

The time being 6.40pm, the Acting Mayor introduced public question time.

Questions and replies concluded at 6.41 pm.

**Minute No. 291/2010 continued...**

Voting for the motion

(6)

Cr (J) Bonde

Cr Diprose

Cr Dry

Cr Fuller

Cr Haines

Cr van Rooyen

Voting against the motion

(4)

Cr (L) Bonde

Cr Howard

Cr Robertson

Cr Viney

Motion

Carried

**292A/2010 Public question time**

The time (6.44pm) for public question time having not yet expired, the Acting Mayor invited further questions.

Questions and replies concluded at 6.46pm.

**293/2010 Tourist Accommodation - CT148233/7 Braddons Lookout Road, Leith - Application No. DA210046 (DEV)**

The Director Development & Regulatory Services reported as follows:

“Because of the protracted nature of the dealings over this development application and the questions which have been posed concerning the Land Use Planning Group’s interpretation of the State Policy on the Protection of Agricultural Land 2009 and the Central Coast Planning Scheme 2005 the assessment of this application was outsourced to an independent Land Use Planning Consultant (Lester Franks). The Land Use Planning Consultant has prepared the following report:

<i>‘DEVELOPMENT APPLICATION NO.:</i>	DA210046
<i>APPLICANT:</i>	Ms Angela Flemming
<i>LOCATION:</i>	CT 148233/7, Braddons Lookout Road, Leith
<i>ZONING:</i>	Rural Resource
<i>PLANNING INSTRUMENT:</i>	Central Coast Planning Scheme 2005
<i>ADVERTISED:</i>	21 August 2010
<i>REPRESENTATIONS EXPIRY DATE:</i>	4 September 2010
<i>REPRESENTATIONS RECEIVED:</i>	6
<i>42-day expiry date:</i>	21 September 2010
<i>DECISION DUE:</i>	20 September 2010

*PURPOSE*

The purpose of this report is to make a determination on an application for development of a tourist accommodation facility on CT 148233/7 at Braddons Lookout Road, Leith.

*BACKGROUND*

The proposal seeks to develop a tourist accommodation on an unused lot approximately 3.4 hectares in size. There are no buildings located on the subject property, which consists of open pasture. The land on the subject

property slopes gently to the northwest from the southeast and becomes progressively steeper towards the western section of the property.

The proposed building would cover a total area of 1020.67m<sup>2</sup> and be sited on the southeast section of the subject property. The building would consist of four single bedroom units, two double bedroom units, large breakfast and tearooms and a series of smaller amenity and living rooms. A manager's residence would be constructed within the same building and would encompass part of its southern wing. Two outbuildings would also be constructed as part of the proposed development.

The bed and breakfast would be a maximum of eight metres in height and be set back 31.7 metres from the front boundary. The building would be set back from the southern side boundary by a distance of 10.6 metres, the northern side boundary by a distance of 37.5 metres and the rear boundary by a distance of approximately 66 metres.

The outbuildings would be setback approximately 3 metres from the front and northern side boundaries and a distance of approximately 166 metres and 120 metres from the rear and northern side boundaries respectively.

The building materials and colour scheme to be used in the construction of both the bed and breakfast and outbuildings was not indicated in the application.

A 46 car parking lot would be constructed to the east of the proposed building along with an access strip and turning circle. The width of the new access was not indicated in the application.

The subject land is located in a rural area of Leith and the potential building site is located within the Rural Resource Zone. The unconstructed Alexander Street and land within the Low Density Residential Zone adjoin the property to the west, while the unconstructed Jocelyn Street and land within the Rural Resource Zone borders the subject property to the south. Land within the Rural Resource Zone also adjoins the property to the north. Braddons Lookout Road and Rural Zoned land within the Devonport municipality lies to the property's east.

The Planning Scheme defines this development as "Tourist Accommodation", which is a discretionary use in the Rural Resource Zone. The proposal is subject to the provisions of Section 57 of the *Land Use Planning and Approvals Act 1993* and required public notification. Approval would be

granted under the provisions of the Planning Scheme, part 15.0 for the development of “Tourist Accommodation” in the Rural Resource Zone.

A copy of the location plan and the application is attached (Annexure 1).

*DISCUSSION*

In determining compliance with the relevant provisions of the Planning Scheme, regard is given to:

- . The objectives for planning as set out in Part A of the Planning Scheme;
- . The purpose of the Rural Resource zone; and
- . The relevant Acceptable Solutions and Performance Criteria.

The proposal’s performance against the Planning Scheme provisions is outlined as follows:

	PROPOSED	REQUIRED
15.1 Purpose of Rural Resource Zone	<p>Non-Compliant:</p> <p>The proposed building site would be located on prime agricultural land and near to existing agricultural uses. (See Protection of Agricultural Land assessment later in this report).</p>	<ul style="list-style-type: none"> <li>. Provide for sustainable use of resources.</li> <li>. Promote economic development compatible with agriculture and the landscape.</li> <li>. Ensure that:                             <ul style="list-style-type: none"> <li>- agricultural potential is protected</li> <li>- productive capacity of agricultural land is given priority</li> <li>- non-agricultural uses do not alienate agricultural land</li> </ul> </li> </ul>

	PROPOSED	REQUIRED
		<ul style="list-style-type: none"> <li>- rural holdings are not fragmented</li> <li>- natural and cultural values are protected</li> <li>- water catchments and ground waters are protected.</li> </ul>
15.2 Table of Use	Tourist Accommodation – bed and breakfast establishment	Discretionary
15.4.3 Protection of Agricultural Land (P1)	<p>Non-Compliant:</p> <ul style="list-style-type: none"> <li>. The building site would be located on prime agricultural land.</li> <li>. The tourist operation would have the potential of fettering adjoining agricultural use.</li> </ul> <p>(See Protection of Agricultural Land assessment later in this report).</p>	<p>Tourist Accommodation must not:</p> <ul style="list-style-type: none"> <li>. be on prime agricultural land; or</li> <li>. fetter agricultural use on adjoining properties</li> </ul>
15.4.4 Building Design & Siting		
Height (A2)	Compliant: Building height – 8m	8m – residential 10 m – all other buildings

	PROPOSED	REQUIRED
Setbacks (A3)		
<ul style="list-style-type: none"> <li>. Front</li> </ul>	Non-Compliant: Building - 31.7m Outbuilding - 2.2m	10 m
<ul style="list-style-type: none"> <li>. Side</li> </ul>	Non-Compliant: Building - 37.5m Outbuilding - 2.6m	3 m
<ul style="list-style-type: none"> <li>. Rear</li> </ul>	Compliant: Building - 66m Outbuilding - 166m (approximate)	10 m
<ul style="list-style-type: none"> <li>. Setbacks (P3)</li> </ul>	Non Compliant: <ul style="list-style-type: none"> <li>. The location of the outbuilding, in the northeast section of the parcel, close to both the north and eastern boundaries, would provide for the efficient use of the Lot.</li> <li>. The outbuilding would be located only 2.2 metres from Braddons Lookout Road which would fail to provide sufficient separation.</li> <li>. The front setback of 2.2 metres for</li> </ul>	Buildings may have a lesser setback if the siting: <ul style="list-style-type: none"> <li>. provides for the efficient use of the lot</li> <li>. provides sufficient separation from adjoining Residential development and roads;</li> <li>. is in keeping with the open space character of the locality; and</li> <li>. is no closer to the frontage than existing buildings on the lot or on adjoining properties</li> </ul>

	PROPOSED	REQUIRED
	<p>the outbuilding would not be in keeping with the open space character of the locality; and</p> <ul style="list-style-type: none"> <li>The property located directly south of the site has an outbuilding located approximately 6 metres from its front boundary. This represents the minimum front setback among the buildings located on adjoining properties.</li> </ul>	
External cladding (A4)	A Hawthorn hedge along the front boundary would provide adequate screening from Braddons Lookout Road but the external cladding to be used was not indicated in the application. This could be made a condition of approval, should Council resolve to approve the development.	Must be non-reflective or screened from public view



<p>15.4.5 Access and Services</p>	<p>Construction of an access to Central Coast Municipal Standard Drawing No. SD-1012 could be made a condition of approval.</p>	<p>Access to Municipal standard</p>
	<p>A wastewater report was provided as part of the application, which indicates that on-site management of wastewater is feasible.</p> <p>Stormwater disposal was not specifically addressed as part of the application, but the consultant's on-site wastewater management report is indicative that the site is capable of managing storm-water from the development. Provision of stormwater disposal measures could be included as a condition of approval.</p>	<p>On-site wastewater management system</p> <p>On-site stormwater disposal</p>
<p>15.4.6 Wetlands and Watercourses</p>	<p>Compliant: The proposal would not involve direct modification of wetland or watercourses.</p> <p>Compliant: The natural flow of the Forth River would not</p>	<p>Not filled, drained or adversely affected</p> <p>Natural flow not adversely affected</p>

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	be affected. The proposed building would be located over 400m away from the river.	
	<p>Compliant:</p> <p>The proposed development would have no direct impact on the Forth River through erosion or sedimentation. The proposed building would be located over 400 metres from the river.</p> <p>Compliant:</p> <p>The proposed building would be located over 400 metres from the nearest watercourse.</p>	<p>No increase in erosion or sedimentation</p> <p>Native vegetation not to be removed within 30m of a wetland/watercourse</p>

SCHEDULES

	PROPOSED	REQUIRED
S1 Application Requirements	<p>The Council has accepted that the application is valid, however, the following information is not considered to have been clearly provided:</p> <ul style="list-style-type: none"> <li>. Means of supplying water.</li> <li>. Elevations of outbuilding.</li> </ul>	<ul style="list-style-type: none"> <li>. Applicants contact details.</li> <li>. Certificate of Title</li> <li>. Existing and proposed uses at site.</li> <li>. Estimated value of proposed works.</li> <li>. Payment of fees.</li> <li>. Site assessment.</li> <li>. Site plan.</li> <li>. Means of supplying water and drainage.</li> </ul>

	PROPOSED	REQUIRED
	<ul style="list-style-type: none"> <li>External finishes of main building and outbuildings.</li> </ul> <p>These matters can be adequately addressed by conditions.</p>	<ul style="list-style-type: none"> <li>Elevations.</li> <li>Internal layout of all buildings.</li> <li>External finishes.</li> </ul>
S2 Road and Rail		
S2.5.1 Sight Distance (A2)	<p>Compliant:</p> <p>North – 200m South – 350m</p> <p>Proposed new access point as indicated on the plan appears to comply with the line of sight provisions. However, the exact location of the access point would need to be confirmed by a qualified engineer as a condition.</p>	<p>Access to comply with Safe Intersection Sight Distance Table S2.6.2.</p> <p>140m based on 70km/h</p>
S2.5.3 Access to Cat IV, V and VI Roads (A1)	<p>Compliant:</p> <p>North – 200m South – 85m</p>	<p>Speed limit area &gt;60kph – access to be 100m from a Cat I road, 50m from a Cat II or III road and 50m from an access on other side of road</p>
S2.5.3 Accesses (A2)	<p>Non-Compliant:</p> <p>Maximum guest capacity of 16 would suggest that vehicle movements may approach or exceed 40 movements per day.</p>	<p>Speed limit area &gt;60 kph – use not to generate &gt;40 vehicle movements per day (or a TIA required).</p>

	PROPOSED	REQUIRED
	<p>The proponents have not satisfactorily addressed this matter in the application, however, the NSW Road and Traffic Authority's Guide to Traffic Generating Developments (2002) provides guidance on the order of traffic generation which might be expected from the development:</p> <p>6 units x 3 trips/unit/day = 18 trips per day.</p> <p>Dining Room x 60 trips/day/100m<sup>2</sup> of dining room gross floor area =</p> <p>Floor area = 135.15m<sup>2</sup></p> <p>Trips/day = 81, reduced to 68 to allow for 85% seat occupancy.</p> <p>The 68 car trips are then reduced by a further 70% to account for the percentage of dining room guests who would be staying at the accommodation = 20 trips.</p>	

	PROPOSED	REQUIRED
	<p>Managers unit x 5 trips/day = 5 trips/day</p> <p><i>Total daily trips</i></p> <p>Units - 18 trips Dining - 20 trips Residence - 5 trips TOTAL - 43 trips</p> <p>Therefore, the most reliable evidence available indicates that the proposed development does not comply with the Acceptable Solution and a traffic impact assessment has not been completed to demonstrate compliance with the performance Criteria.</p>	
S6 Land Stability	<p>Compliant:</p> <p>Soil Scan carried out a land stability assessment for the proposed development in September, 2009. In their assessment, they concluded that the proposed site can be built on subject to a number of recommendations relating to siting, drainage, earth works, vegetation and waste water management. Soil Scan determined</p>	<p>Land stability report required that shows:</p> <ul style="list-style-type: none"> <li>· stability of any land not adversely affected;</li> <li>· risk to life and property is acceptable.</li> </ul>

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	PROPOSED	REQUIRED
	that "The land stability risks associated with this development if the above points are adhered to will be negligible."	
S11 Car Parking		
S11.3.1 Car Parking Provision and (A2)	Compliant: 46 spaces provided.	In accordance with Table S11.3.2:  Tourist Accommodation – 8 spaces 1 per employee plus 1 per each accommodation unit.  Food Services – 11 spaces 1 per employee plus 7 per 100m <sup>2</sup> of net floor area.  Total Spaces Required – 19.
S11.3.3 Car Park Design and Construction (A1)	Appropriate construction could be made a condition of approval, to ensure compliance with AS 2890.1-1993.	Design to comply with AS 2890.1-1993 Off Street Parking Part 1- Car Parking Facilities.
Paving Material (A2)	The provision of paving material could be made a condition of approval.	Paving material to provide all-weather access

PROTECTION OF AGRICULTURAL LAND

The main consideration in determining whether the proposed development complies with the provisions of the Scheme relates to Clause 15.4.3 which

addresses the Protection of Agricultural Land, and can be summarised as follows:

- . Would the proposed tourist accommodation be located on prime agricultural land? and
- . Would the proposed development unreasonably fetter agricultural uses on adjoining properties?

The applicants contend that the proposed development would neither be located on prime agricultural land nor unreasonably fetter nearby agricultural uses. They have provided an agricultural assessment of the development proposal, written by agricultural consultant John Maynard, and a letter of advice from Solicitor, Don Armstrong to support this argument.

The agricultural assessment from John Maynard can be summarised as follows:

- . The subject land does not fit the current PAL definition of agricultural land and therefore, its land capability classification is irrelevant. This is due to a number of factors including its small size, lack of water supply for irrigation, unsuitable access, susceptibility to wind, proximity to residential development and lack of connectivity to adjoining tracts of agricultural land.
- . If the subject land were agricultural land, much of it would have a classification of 5 making it non-prime agricultural land.
- . The proposed development is unlikely to fetter agricultural use on the agricultural land over Braddons Lookout Road. The 50 metre span between the subject property and the agricultural activity to the east, which includes two Hawthorn hedges, creates a sufficient buffer to prevent the risk of fettering. Land located to the north and south of the subject property is not considered agricultural land for similar reasons that apply to the subject lot.

The advice from Don Armstrong can be summarised as follows:

- . The Scheme makes reference to the State Policy on the Protection of Agricultural Land 2000. This policy is now superseded by the State Policy on the Protection of Agricultural Land 2009.

- . The amended definition of agricultural land that should be applied in interpreting the Planning Scheme requires that the following attributes be satisfied before land is considered agricultural land.
  - 1 The land must be either in agricultural use or have the potential for agricultural use; and
  - 2 The land must not have been zoned or used for another use; and
  - 3 The land must not be unduly restricted for agricultural use by reason of its size, shape and proximity to adjoining non-agricultural uses
- . If it were established on the basis of evidence that the land is not currently in agricultural use nor has the potential for agricultural use, the land would not satisfy the first attribute of agricultural land.
- . Although the land has not been zoned for another use, it has been used for another use, assuming the land has been used for agisting domestic animals or pets, as claimed by the applicant.
- . The third test is unlikely to be satisfied given the land is relatively small, has no available water supply and is in close proximity to residential uses.
- . Because the land in question is most likely not agricultural land, it can therefore not be classed as prime agricultural land. Consequently, no provisions of the Planning Scheme relating to any such land may be taken into account.

On the basis of the information contained within the agricultural assessment and legal advice submitted by the applicants, it may be reasonable to assume that the proposed development satisfies clause 15.4.3 of the Scheme. The agricultural assessment of the property by John Maynard concludes that the land on which the proposed development would take place is neither prime agricultural or even agricultural land. It also addresses the issue of fettering of agricultural use on neighbouring properties, although it does not appear to take into account visual evidence of agricultural activity taking place on the adjoining parcel to the south of the subject property (see figure 2 below).

The legal advice from Don Armstrong, provided by the applicants, is reinforced by the arguments made by John Maynard with respect to the definition of agricultural land. The summation of the advice from both Don



Armstrong and John Maynard is that the land does not pass the “three tests” set out by the Protection of Agricultural Land 2009 (The Policy) for defining agricultural land. Consequently, on the basis of the advice, Clause 15.4.3 should not be considered as part an assessment for the proposed development.

However, the applicants have provided two reports to Council regarding the land classification, both from qualified agronomists.

The first advice was submitted some months ago prior to the application being submitted. That report indicated that the land contained class 3 land (i.e. prime agricultural land).

The second report, from Davey & Maynard, classified the land as class 5 land (i.e. not prime agricultural land). This report was submitted as part of the application.

Inspection of the land indicated the surrounding land was in agricultural use and that there were no obvious physical impediments to use of the land for farming purposes.

Given the conflicting professional advice plus our observations of the site and surrounding land use, it was decided to test the applicant’s second report (i.e. the Davey & Maynard report) through a peer review by referral to a third-party agronomist. This advice confirmed the first report that much of the land is classified class 2 and 3 (Annexure 2).

On the question of the classification of the subject land the consultant provided the following advice:

- . Approximately 56% of the subject property, including the site of the proposed bed and breakfast is class 2 and 3 land.
- . The property is capable of sustaining a market garden with a potential operating surplus of over \$50,000.00. The property’s proximity to three local farmers markets and its northern aspect reinforce this point.
- . Due to its 2/3 classification and its potential for agricultural activity, the subject property should be considered agricultural land.
- . The 2 hectare section of prime agricultural land located on the subject property should be considered as potentially part of a larger lot by the amalgamation of the subject lot with the two adjoining lots (north and

south of the subject lot). These adjoining lots also appear to be made up of primarily prime agricultural land.

- . Although the lack of an independent water supply limits the potential of the subject property, the use of a bore hole would provide adequate water supply for both small scale livestock grazing and an intensive horticultural enterprise on the lot.
- . The issue of wind could be addressed through the establishment of a shelterbelt along the western boundary.
- . The residential development to the west of the subject property would be separated from any agricultural activity on the eastern section of the property by the unstable land located on the western section of the parcel.

On the possibility of fettering posed by the potential development, the consultant offered the following advice:

- . The proposed development is located 50 metres from the agricultural activity to the east. This distance does not create a sufficient buffer and there is a real possibility that the guests of the proposed bed and breakfast would be offended by the noise and chemical sprays generated by the nearby agricultural activity.
- . The lots to the north and south of the subject property should be considered agricultural land and therefore, there is the potential for agricultural activity to occur on both.

On the basis of this advice, it may be concluded that the property in question is capable of sustaining an agricultural pursuit either on its own or as part of an amalgamation of adjoining properties. Issues such as wind, water and size could be addressed through a series of measures such as a shelterbelt, bore hole and establishment of an intensive market garden. The land classification of 2/3 for land on which the proposed bed and breakfast would be built appears to be more consistent with the agricultural activity occurring on many of the nearby properties.

The close proximity of the subject property to agricultural activities to the east and the potential of agricultural activities to the north and south suggest a high risk of conflicting uses should the tourist operation be established. As indicated by the consultant's review, the potential for spray drift and use of machinery outside of normal working hours are both likely occurrences and would require a larger buffer area than proposed. Figures 1 and 2 below,

illustrate agricultural activity currently taking place east, across Braddons Lookout Road, and directly south of the subject property respectively.



Figure 1 – East of property, across Braddons Lookout Road



Figure 2 – Southern boundary of subject property

With respect to the advice provided to the applicants by Don Armstrong, it is important to establish whether the land in question should be defined as agricultural land within the guidelines of the Policy. As previously stated, the advice indicates that to classify land as being agricultural, it must satisfy three attributes. Each of these are examined below in light of the information received in the peer review:

- 1 The land must be either in agricultural use or have the potential for agricultural use; and

According to the advice received in the peer review, the eastern section of the subject property has definite potential for agricultural use either on its own as a market garden or as part of an amalgamation of neighbouring properties.

- 2 The land must not have been zoned or used for another use; and

The State Policy on the Protection of Agricultural Land 2009 (The Policy) defines agricultural land as meaning land “...that has not been zoned or developed for another use...” The important term to consider here is “developed”. While it may be reasonable to assume that the land in question has been “used” for another use such as the agistment of pet horses, it would be difficult to argue that the land has been “developed” for another use. The

subject property is essentially an empty paddock with no evidence of any development having taken place. It is therefore reasonable to consider that the land has not been zoned or developed for another use.

- 3 The land must not be unduly restricted for agricultural use by reason of its size, shape and proximity to adjoining non-agricultural uses.

According to the peer review, the small size of the parcel does not prevent its potential for use as a market garden. The unstable land located on the western section of the property makes that land unsuitable for agricultural use and ensures a buffer between any residential development to the subject property's west and agricultural activity on its eastern section.

Taking the above into account, it is considered that the land in question satisfies the attributes of agricultural land as defined by the Policy. Consequently, according to the information contained in the peer review, the land can be classified as prime agricultural land and clause 15.4.3 should be considered in relation to the proposed development.

DEPARTMENTAL ADVICE

Advice from the various Departments of Council is provided as follows:

DEPARTMENT	ADVICE
Corporate Administration	No issues.
Community Development	No issues.
Building & Plumbing	Building and Plumbing permits required
Environmental Health	<p>The following conditions are to be applied to any approval:</p> <p>1 A separate application detailing the design and type of onsite wastewater management system is required at the building application stage.</p> <p>Approval of a specific system will be subject to a site assessment by the Council's Environmental Health Officer. It is recommended that the</p>

DEPARTMENT	ADVICE
	<p>applicant contact the Council's Environmental Health Officer prior to commencement of site or road works to ensure an adequate area remains for installation of a wastewater system.</p> <p>The on-site wastewater management system for the proposed dwelling being installed in accordance with the <i>Australian/New Zealand Standard AS/NZS 1547:2000 - Onsite Domestic Wastewater Management</i>.</p> <p>In addition the applicant is requested to note:</p> <p>A In regard to condition (1) - The property appears suitable for the installation of a septic tank or aerated wastewater system subject to a minimum area of suitable land being dedicated to the on-site disposal of sullage and sewage effluent.</p>
<p>Environmental Engineer</p>	<p><i>Information</i></p> <p>Some time ago I was asked to look at an access to Braddons Lookout Road from this property. In the informal advice I provided to an associate of the applicant, it was indicated that a complying access appeared possible if it was located in the vicinity of an Aurora pole, located part way along the eastern boundary of the property. The Aurora pole is located about 80m north of Jarmans Lane.</p> <p>The exact location of the access should be determined by an appropriately qualified person, taking into account the Safe Intersection Sight Distance Table S1.6.2 of the Central Coast Planning Scheme 2005, the position of the Aurora pole and the existing vegetation along the eastern fenceline.</p>
	<p><i>Conditions of approval</i></p> <p>1 An appropriate vehicular access must be provided to the lot.</p>

DEPARTMENT	ADVICE
	<p>2 Any new access must be located in accordance with the Safe Intersection Sight Distance Table S1.6.2 of the Central Coast Planning Scheme 2005.</p> <p>3 Any new access and driveway must be constructed generally in accordance with Standard Drawing SD-1009 Rural Roads - Typical Standard Access (copy enclosed) to the satisfaction of the Council's Director Engineering Services, noting that any work associated with the road infrastructure will be undertaken by the Council at the property owner's cost.</p> <p><i>Applicant/Owner/Developer to note</i></p> <p>A Road Reserve Permit must be issued by the Council's Public Safety Officer, or his representative, prior to any works or activity being undertaken within the road reservation. Application forms are available from the Council's Engineering Services Department, and a fee applies;</p> <p>Any works associated with existing road infrastructure or other Council services will be undertaken by the Council, unless alternative arrangements are approved by the Council's Director Engineering Services, or his representative.</p> <p>Any damage or disturbance to roads or existing services must be rectified, noting that this work will be undertaken by the Council at the owner's/developer's/applicant's expense, unless alternative arrangements are approved by the Council's Director Engineering Services, or his representative;</p>

*CONSULTATION*

The application was notified for a 14 day statutory period as required under s.57 of the *Land Use Planning & Approvals Act 1993*. Notification involved a notice placed on the site, an advertisement in “The Advocate” newspaper, and letters to adjoining property owners.

Six representations were received. Five of those representations were in opposition to the development going ahead while one representation was in support of the development. The objections are contained in Annexure 3 and are summarized and responded to as follows:

COMMENT	RESPONSE
1 “The high class soil on agricultural land ... would be lost”.	According to the Council’s Agricultural consultant, approximately 56% of the subject property, including the site of the proposed bed and breakfast is class 2 and 3 land.  Therefore this comment has merit.
2 “Agricultural practices on adjoining and surrounding farm land ... will be disrupted”.	According to the Council’s Agricultural consultant, the proposed development is located 50 metres from the agricultural activity to the east. This distance does not create a sufficient buffer and there is a real possibility that the guests of the proposed bed and breakfast would be offended by the noise and chemical sprays generated by the nearby agricultural activity. The consultant also highlights the risk of fettering of possible agricultural activity on the adjoining lots to the north and south of the subject property.  Therefore this comment has merit.
3 Incompatibility of proposed use with agricultural uses (ie. Movement of livestock on road).	See comment 2

COMMENT	RESPONSE
<p>4 Traffic ... “the entrance proposed is on a hill and visibility is not very good ... There have been numerous accidents on the Braddons Lookout Road over the years”.</p>	<p>The Council’s Environmental Engineer has assessed the proposal and concluded that a compliant access for the subject site is achievable.</p>
<p>5 “...Risk of contamination of underground water supply by the size of the septic required for this development”.</p>	<p>The proposed on-site wastewater management system has been assessed against AS/NZS 1547 by a qualified environmental consultant. It is accepted that this assessment is a suitable demonstration that the system will not impact upon groundwater quality.</p>
<p>6 Discrepancy in the cost of the development on the application against that reported in an Advocate article.</p>	<p>This is not a relevant land use planning consideration under the planning scheme.</p>
<p>7 “The size of the proposed development is huge in comparison to a B&amp;B ... This type of development is totally inappropriate for this agricultural area”.</p>	<p>The proposed development is classified as a Tourist Accommodation which is a Discretionary use in the Rural Resource Zone. Accordingly, it is not accepted that a Tourist Accommodation is necessarily inappropriate for a Rural Resource area.</p>
<p>8 “I do not believe that this block is non-productive, with the right management”.</p>	<p>According to the Council’s Agricultural consultant, the property is capable of sustaining a market garden with a potential operating surplus of over \$50,000.00. The property’s proximity to three local farmers markets and its northern aspect reinforce this point.</p> <p>Therefore this comment has merit.</p>



COMMENT	RESPONSE
<p>9 "Traffic - Braddons lookout road is a narrow road with no line marking ... traffic volume will increase with the development ... I do not believe this development is suitable to this agricultural area".</p>	<p>See response to comment 4</p>
<p>10 Disagrees with the statement in the application that the activity will not unreasonably fetter agricultural use on nearby viable farming land because it is no adjoined (sic) by any active land.</p>	<p>See response to comment 2</p>
<p>11 "The development would vastly increase the number of individuals visiting the area and therefore impact on the surrounding farms and their way of life".</p>	<p>See response to comment 2</p>
<p>12 "The soil on which the building is proposed to be built is within the soil class of level 2 and 3. This soil class is designated as prime agricultural land ..."</p>	<p>See response to comment 1</p>
<p>13 "The proposal for this "1<sup>st</sup> class tourism" venture will be in conflict with the cultural values of the surrounding rural land. It would unreasonably fetter agricultural use on our property".</p>	<p>See response to comment 2</p>

<p>14 "The size of this proposal means there is the potential for the amount of wastewater" being rather large. There would also be the possibility of this water leaching into the water catchment and the sub-waters of our property".</p>	<p>See comment 5</p>
<p>15 Other activities that are performed on the adjoining agricultural land is removal of vermin that is often achieved by shooting ... we are not sure how a first class tourist venture of this calibre will accommodate this practice and therefore we feel that it will prevent our normal farming practice".</p>	<p>See response to comment 2</p>
<p>16 "The proposal will impact upon our ability to run stock on the road ... apart from safety aspects of stock movement, the road has a 70mk limit for a reason ... with the increase in traffic that this proposal will create, safety concerns must be discussed".</p>	<p>See response to comments 2 and 4</p>
<p>17 "...it would be extremely difficult to see both to the north and south of the carriage way to allow safe entry".</p>	<p>See response to comment 4</p>
<p>18 "If this development goes ahead I believe this will interrupt my daily farming activities and our livelihood".</p>	<p>See response to comment 2</p>

*IMPACT ON RESOURCES*

The proposal has no likely impact on Council resources outside those usually required for assessment and reporting, and possibly costs associated with an appeal against the Council's determination should one be instituted by the applicant.

*CORPORATE COMPLIANCE*

The recommendation is consistent with the Central Coast Strategic Plan 2009–2014 in relation to the following strategies and key actions:

The Shape of the Place

- Adopt an integrated approach to land use planning

A Connected Central Coast

- Connect the people with services

Community Capacity and Creativity

- Facilitate entrepreneurship in the business community

The Environment and Sustainable Infrastructure

- Develop and manage sustainable built infrastructure

*CONCLUSION*

The development proposal is for the construction of a tourist accommodation establishment at Braddons Lookout, Leith.

It is claimed that the proposed bed and breakfast would make a positive contribution to the Central Coast tourism industry and provide additional accommodation in the Devonport/Ulverstone area. The building would take advantage of the outlook the property has to offer and its proximity to Forth, Devonport and Ulverstone.

The proposed development generally complies with the Scheme, and with the exception of Clause 15.4.3, may be a sound development. It is considered, however, that the location of the property, its proximity to ongoing agricultural activity and the capability of the soil on which the proposed bed and breakfast would be built, make Clause 15.4.3 the determining factor in whether the proposed development can be supported.

The questions of whether the proposed development would be built on prime agricultural land or unreasonably fetter agricultural use on adjoining

properties set out in Performance Criteria 1, sections (i) and (ii) of Clause 15.4.3, become the tipping point on which the assessment of the proposed development rests.

The applicants argue that the proposed development complies on both counts and have provided an agricultural assessment and legal advice to support this claim. In the light of conflicting advice regarding land classification and our own observations of the site and surrounding land regarding whether it is prime agricultural land or not, Council sought the advice of its own agronomist through a peer review of the applicant's agronomist's claims.

That assessment concluded that the proposed development would be situated on prime agricultural land and could fetter agricultural use in the surrounding area.

Consequently, and on this basis, it is considered that the proposed development does not comply with Clause 15.4.3 of the Scheme.

It is recommended that the application for a tourist accommodation at CT 148233/7, Braddons Lookout Road, Forth, be refused on the following grounds:

- 1 The proposal does not comply with criteria P3 of Clause 15.4.4 of the *Central Coast Planning Scheme 2005* relating to the provision for building setbacks in that the front setback of the proposed outbuilding does not provide sufficient separation from Braddons Lookout Road, would not be in keeping with the open space character of the locality and is closer to the frontage than existing buildings on adjoining properties;
- 2 The proposal is not consistent with Clause S2.5.3 (A2) of the Scheme in that it is likely to generate over 40 vehicle movements per day and a Traffic Impact Assessment has not been undertaken;
- 3 It does not satisfy criteria P1 (i) of Clause 15.4.3 of the Scheme relating to the protection of agricultural land in that the land on which the development would be taking place is prime agricultural land;
- 4 It does not satisfy criteria P1 (ii) of Clause 15.4.3 of the Scheme relating to the protection of agricultural land in that the development would unreasonably fetter agricultural use on adjoining properties;

- 5 It is inconsistent with Principle 2 of the State Policy on the Protection of Agricultural Land 2009, in that it would result in unnecessary conversion to non-agricultural use; and
- 6 It is not consistent with Clause 15.1 Purpose of the Rural Resource Zone of the Scheme in that it would not protect agricultural potential and that the productive capacity of the land is not given priority.”

The Executive Services Officer reported as follows:

“Copies of the Annexures referred to in the Land Use Planning Consultant’s report have been circulated to all Councillors.”

■ Cr Haines moved and Cr Howard seconded, “That neither the objecting representations, nor the peer review, nor the clause relating to the Protection of Agricultural Land provisions of the Central Coast Planning Scheme 2005 and associated Acceptable Solution are deemed to have sufficient merit in this application to warrant refusal, and that Application No. DA210046 be approved for a Tourist Accommodation at Braddons Lookout Road, Leith, as described in CT 148233/7, subject to the following conditions and notes:

#### General

- 1 The development must be in accordance with the plans and information submitted as part of the application for this permit, unless modified by a condition of this permit;
- 2 The buildings are restricted to an area that is at a minimum of 10 metres east of Alexander Street (unmade) to achieve a buffer zone of at least 20 metres to the soil creep area beyond Alexander Street to the west;
- 3 An amended site plan shall be submitted for endorsement as part of this approval showing all outbuildings setback a distance of a minimum of six metres from the front boundary, 10 metres from the rear boundary and three metres from any side boundary;
- 4 Appropriate treatment to the buildings and landscaping must be effected to achieve a minimisation of the scale and prominence of the buildings, through the use of muted colours, variation in building roof line and fenestration, and landscape screening of all buildings, large expanse of walls and any designated boundaries. Final details are to be submitted for the approval of the General Manager;
- 5 The cladding, including roof, shall be of a non-reflective material or is to be painted to reduce the materials’ reflective qualities, to the approval of the General Manager;

- 6 Appropriate treatment to the glazing utilised in the building must be positioned and treated so as to reduce the material's reflective qualities, to the approval of the General Manager;
- 7 Trees and shrubs are to be planted around the structures as a distance to minimize any subsurface water in the area;
- 8 Provide a suitable vegetative screening or in combination with other suitable screening materials along of the north and south boundaries for those lengths that that would be effective to reducing the potential for fettering of existing or potential agricultural activities, to the satisfaction of the General Manager;
- 9 Prior to the release of the Building Permit, a detailed landscaping plan and planting guide to be provided which shows the following details:
  - (a) area to be landscaped;
  - (b) form of landscaping design of that area;
  - (c) species, number and location of plants to be used;
  - (d) details of the vegetative screening or in combination with suitable screening materials to be effected along the affected lengths of the northern and southern boundaries;
  - (e) maintenance program to be followed; and
  - (f) screen materials (if any) to be used;
- 10 Liquid pollutants must not be discharged;
  - (a) within 40m of any private waters in other ownership; or
  - (b) into the ground at any place or in a manner that may contaminate groundwater resources;

#### Engineering

- 11 An appropriate vehicular access must be provided to the lot;
- 12 Any new access must be located in accordance with the Safe Intersection Sight Distance Table S1.6.2 of the Central Coast Planning Scheme 2005, to the satisfaction of the Council's Director Engineering Services;

- 13 Any new access and driveway must be constructed generally in accordance with Standard Drawing SD-1009 Rural Roads - Typical Standard Access (copy to be enclosed) to the satisfaction of the Council's Director Engineering Services, noting that any work associated with the road infrastructure will be undertaken by the Council at the property owner's cost;
- 14 That there shall be maintained on site a minimum of 46 car parking spaces, the design, construction and layout of which shall be to *Australian Standard 2890:1-1993*;
- 15 The use of paving material provided on site is to be of an all-weather access standard;
- 16 That all stormwater and roofwater runoff from the structure, car parking areas, access driveways and paved areas is to be collected and drained to an approved stormwater disposal system and no runoff is to occur onto adjoining land;

#### Environment & Health

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

and that the applicants are requested to note:

- A A Road Reserve Permit must be issued by the Council's Public Safety Officer, or his representative, prior to any works or activity being undertaken within the road reservation. Application forms are available from the Council's Engineering Services Department, and a fee applies;

- B Any works associated with existing road infrastructure or other Council services will be undertaken by the Council, unless alternative arrangements are approved by the Council's Director Engineering Services, or his representative;
- C Any damage or disturbance to roads or existing services must be rectified, noting that this work will be undertaken by the Council at the owner's/developer's/applicant's expense, unless alternative arrangements are approved by the Council's Director Engineering Services, or his representative;
- D The property appears suitable for the installation of a septic tank or aerated wastewater system subject to a minimum area of suitable land being dedicated to the on-site disposal of sullage and sewage effluent;
- E Any septic system to be installed must provide for location of a tank and the drains which are located at a minimum 10 metres to the sides, north or south of the sites. These are not to be placed above or below the structures. They may be placed over the ridge to Braddons Lookout Road;
- F An adequately designed drainage system is required to be installed which minimises the water inflow to the foundations from the land upslope;
- G If a cut is used for foundation and any earth works then as a precaution all 'fill' should be moved from the vicinity of the dwelling but not to above or below the structure(s); and
- H Proposed signage associated with the 'Tourist Accommodation' land use will require a separate development application submitted to the Planning Authority."

■ Cr Fuller moved, "That the motion to approve Application No. DA210046 be amended by adding the following condition of approval:

- . A traffic impact assessment is to be undertaken and any recommendations therefrom are to be effected to the satisfaction of the General Manager."

Amendment motion lapsed through lack of a seconder.

Voting for the motion  
(9)  
Cr (J) Bonde  
Cr Diprose  
Cr Dry  
Cr Fuller  
Cr Haines  
Cr Howard

Voting against the motion  
(1)  
Cr (L) Bonde



Cr Robertson  
Cr van Rooyen  
Cr Viney

Motion

Carried

**294/2010 Tourist accommodation at River Avenue, Heybridge – Application No. DA210030**

The Director Development & Regulatory Services reported as follows:

“The Town Planner has prepared the following report:

<i>DEVELOPMENT APPLICATION NO.:</i>	DA210030
<i>APPLICANT:</i>	Gary Andrew Cole
<i>LOCATION:</i>	CT149948/1, River Avenue, Heybridge
<i>ZONING:</i>	Environmental Management Zone
<i>PLANNING INSTRUMENT:</i>	<i>Central Coast Planning Scheme 2005</i> (the Scheme)
<i>ADVERTISED:</i>	14 August 2010
<i>REPRESENTATIONS EXPIRY DATE:</i>	28 August 2010
<i>REPRESENTATIONS RECEIVED:</i>	Two
<i>42-day expiry date:</i>	14 September 2010 (extension granted to 21 September 2010)
<i>DECISION DUE:</i>	20 September 2010

*PURPOSE*

The purpose of this report is to consider an application for 3 “Eco cabins” at River Avenue, Heybridge and to consider two representations made in response to the application.

*BACKGROUND*

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

*DISCUSSION*

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

CLAUSE	ASSESSMENT AND COMMENT
OBJECTIVES FOR PLANNING	
2.0 – Objectives for Planning	<p>Complies.</p> <p>The proposal is consistent with the Objectives for Planning, particularly 2.1(h), (i) and (j) (please refer to comments on compliance with the Zone Purpose statement below).</p>
ZONE STANDARDS (ENVIRONMENTAL MANAGEMENT ZONE (EMZ))	
14.1 – Zone Purpose	<p>Complies.</p> <p>The purpose of the EMZ is “[t]o provide for the protection and management of areas of environmental value such as cultural landscapes, remnant vegetation, fragile landforms, water catchments and areas of recreational value, allowing for complementary use or development where consistent with any strategies for protection and management.”</p> <p>It is also “[t]o protect the visual attractiveness and ecological values of sensitive and significant coastal, wetland, hinterland or remote locations.”</p> <p>The vegetation on site has been degraded to some degree but it retains some “visual attractiveness” value and some supportive value to plant and animal ecologies. Following a site inspection, I concluded that three eucalypts with a height of around 15–20m are likely to go to make way for cabin 3.</p> <p>The proposal includes the rehabilitation of the site with coastal heath and native trees. The loss of the three eucalypts is adequately offset by the establishment of native vegetation in accordance with the proposal.</p> <p>“Eco–cabins” are a use that directly benefits from the protections intended by the EMZ purpose statement.</p>

	<p>Accordingly, it is in the developer's own interest to ensure that the visual attractiveness and ecological values of the site are maintained.</p> <p>Accordingly, the proposal has the potential to be complementary use or development that is consistent with a strategy for protection and management. A condition should be applied to a permit that requires the establishment of on-going management strategies to maintain the eco-credentials of the development.</p>
14.2.1 – Use table	<p>Complies.</p> <p>The proposal is a discretionary use that is consistent with the Zone Purpose statement in the EMZ.</p>
USE STANDARDS	
14.3.1 – Water quality	<p>Condition.</p> <p>The site is serviced by reticulated sewer so sewerage will not be discharged in proximity to the Blythe River. Notwithstanding this, a standard condition should be applied to a permit that prevent liquid pollutants affecting water quality.</p>
DEVELOPMENT STANDARDS	
14.4.3 A1 – Maximum height	<p>Complies.</p> <p>The buildings are under the maximum height of 8m (proposed height is 7.2m)</p>
14.4.3 A2 – Boundary setbacks	<p>Non-compliant.</p> <p>Cabin 1 is non-compliant with requirement that buildings be setback 10m from the frontage (proposed is 8.8m). Note that the frontage is the boundary with both River Avenue and Blythe Street.</p> <p>Cabin 2 comfortably complies with the 10m frontage and 3m other setback (proposed is 30m and 12m frontage setback, 6m other setback).</p>

	<p>Cabin 3 complies with the frontage and other setback.</p>
<p>14.4.3 P2 – Corresponding performance criteria</p>	<p>Complies.</p> <p>The reduced frontage setback provides for efficient use of the site by allowing greater distance between each cabin.</p> <p>There is no unreasonable shading or unreasonable loss of privacy to adjoining properties due to reduced setback, especially considering the orientation of the lot and the distance to adjoining dwellings.</p> <p>With the exception of one building, the frontage setbacks in the locality are all 10m or below, Therefore, the reduced setback is in keeping with the open space character of the locality.</p>
<p>14.4.3 A3 – Site coverage</p>	<p>Complies.</p> <p>Well within site coverage maximum of 20% (proposed 13%).</p>
<p>14.4.3 A4 – Cut and fill</p>	<p>Complies.</p> <p>There is not likely to be any significant amount of cut and fill in public view. Notwithstanding this, standard conditions should be applied to a permit that prevent exposed cut and fill being seen from public areas after the development is established.</p>
<p>14.4.3 A5 – Reflectivity</p>	<p>Condition.</p> <p>A significant amount of the development is clad with colorbond, concrete block and plywood. A standard condition requiring the finishes of these claddings to be non-reflective will achieve compliance with this provision.</p>

<p>14.4.3 A6 – External lighting</p>	<p>Condition.</p> <p>A standard condition requiring lighting not to spill onto adjoining properties will achieve compliance with this provision.</p>
<p>14.4.4 A1 – Access and services.</p>	<p>Condition.</p> <p>Access and storm water matters addressed by permit conditions on recommendation of Environmental Engineer.</p> <p>Sewerage and town water matters addressed by permit conditions at direction of Cradle Mountain Water. Note: Cradle Mountain Water conditions are found at Annexure 3</p> <p>Telecommunications and electricity to be addressed by service provider.</p>
<p>14.4.6 A1 – Vegetation protection</p>	<p>Condition.</p> <p>A standard condition should be applied to a permit that prevents vegetation being removed other than in accordance with the Forest Practices Code 2000.</p>
<p>RELEVANT SCHEDULES</p>	
<p>Road and Rail</p>	<p>Complies.</p> <p>The development requires accesses with a minimum safe intersection sight distance of 80m (proposed is 115 to the north-east and 120m to the south-west).</p> <p>Accesses must be greater than 9m from a category I, II, or III road (proposed is over 200m).</p>
<p>Car Parking</p>	<p>Complies.</p> <p>The development requires a total of 3 on-site parking spaces. The proposal is for 6.</p>

*CONSULTATION*

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

- . a site notice was posted;
- . an advertisement was placed in the Public Notices section of The Advocate newspaper.

Adjoining owners were not sent a letter because the owners of the lot in question are the same people as the two adjoining properties. The application was referred to the Council’s Planning and Assessment Team. Any relevant comments received from the Planning and Assessment Team are included in the recommendation of the application.

Two representations were received dated 26 August 2010, copies of which are attached at Annexure 4. Each matter is addressed in the same order it is raised:

LETTER 1	
MATTER RAISED	RESPONSE
Loss of natural light to nearby properties.	The cabins are at least 35m from any property in a 180 degree arc south of the east-west axis. By the time the sun is low enough to cast a 35m shadow it will have passed the time of day in which access to natural light should be a relevant consideration. The cabins are below the height of much of the tree canopy on site.
Parking and traffic safety.	Parking sufficient. Traffic congestion is not a likely result from an extra three cabins. The development complies with the minimum safe intersection sight distance table, which indicates that traffic safety is not likely to be impacted upon. Extra traffic on the road is not a traffic safety issue per se.
Noise and unruly behaviour.	The separation between the cabins and the nearest residential properties is sufficient to mitigate against noise. Unruly behaviour is a matter for the police and not a foreseeable consequence of this development.

Loss of property value.	Not a relevant consideration and no evidence to substantiate claim.
Ambience of the area.	The area has an ambience that can be appreciated in the sights, sounds, and smells of the relatively natural surrounds. The proposal is consistent with the ambience of the area and has the potential to enhance it (please refer to comments on compliance with the Zone Purpose statement).
LETTER 2	
Two storeys blocks views to Bass Strait and Blythe River, causing devaluation of land.	<p>Land value is not a relevant consideration and no evidence to substantiate claim of devaluation.</p> <p>An additional storey allows a smaller footprint, which allows a view in between buildings that may not have been available had the footprint been larger. It also has less impact on the vegetation on the site.</p> <p>The two storeys are well within maximum height requirement of 8m (proposed 7.2).</p>
Parking and traffic safety.	<p>Parking sufficient. The development complies with the minimum safe intersection sight distance table, which indicates that traffic safety is not likely to be impacted upon. Extra traffic on the road is not a traffic safety issue per se.</p> <p>Not likely that amount of traffic entering and leaving site will affect the ease of reversing out any driveway on the opposite side of road.</p>
Loss of trees	At page 7 of the Planning Report prepared by the applicant it states that there will be no significant trees or bush land cleared. However, the aerial photograph at Annexure 5 (taken January 2010) shows that some vegetation will be lost to make way for cabin 3. Following a site inspection, I concluded that three eucalypts with a height of around 15–20m are likely to go.

	The proposal includes the rehabilitation of the already degraded site with coastal heath and native trees. The loss of the three eucalypts is adequately offset by the establishment of native vegetation in accordance with the proposal.
“Recreational + could not be built on for 8 years).”	The land was previously zoned as Public Open Space. There is no apparent reason for such statements to have been made and no known reason for those statements to have any bearing on this planning application.
Alternate location of cabins.	There may be alternate locations for the cabins but the assessment ought to be undertaken for the proposal as is, where is.

*IMPACT ON RESOURCES*

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

*CORPORATE COMPLIANCE*

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

The Shape of the Place

- . Adopt an integrated approach to land use planning

The Environment and Sustainable Infrastructure

- . Contribute to a safe and healthy environment

The proposal is consistent with these strategies and key actions.

*CONCLUSION*

The proposed development complies with the all the relevant Acceptable Solutions and Performance Criteria of the Scheme.



*Recommendation*

It is recommended that the application is approved, with the conditions and notes listed below:

General

- 1 The development must be substantially in accordance with the application for this permit unless modified by a condition of this permit;
- 2 The external cladding of the development must be of a non-reflective colour and finish;
- 3 External lighting must not spill onto adjoining properties;
- 4 Other than for the purpose of construction of cabin 3, native trees must not be removed unless in accordance with the Forest Practices Code 2000;
- 5 Native vegetation must be established in accordance with the proposal as soon as practicable;
- 6 Exposed cut or fill must be landscaped as soon as practicable;
- 7 Management regimes must be established to ensure that remnant vegetation is protected;
- 8 Liquid pollutants must not be discharged:
  - (a) within 100m of a watercourse, wetland or other surface waters;
  - (b) within 250m of any bore or well which is the source of drinking water for humans or stock;
  - (c) within 40m of any private waters in other ownership; or
  - (d) into the ground at any place or in a manner that may contaminate groundwater resources;

Engineering

- 9 New accesses must be constructed to the satisfaction of the Council's Director Engineering Services, or his representative;

- 10 A suitable storm water connection must be provided to the property, noting that this work will be undertaken by the Council at the property owner's expense, unless alternative arrangements are approved by the Council's Director Engineering Services, or his representative;

Cradle Mountain Water

- 11 An individual suitably sized water supply connection for domestic and fire fighting supply (if required) designed by the developer or the developer's agent in accordance with WSAA Standards, the requirements of Tas Fire Service, to the satisfaction of Cradle Mountain Water (CMW) is to be provided from the CWM water main;
- 12 Each unit and the common area are to be provided with their own individual metered water connection immediately downstream from the supply mentioned in "condition 11" above and the individual connections are to be constructed internally as part of the internal plumbing;
- 13 The development is to have an independent sewerage service connected at the lowest point of the property to CMW's sewerage main and all costs associated with the connection are to be at the applicant's expense to the satisfaction of CMW;
- 14 All connections to and associated work on CMW assets must be carried out by CMW staff via a Private Works Request at the cost of the developer. A Private Works Request is to be made to the CMW by the developer 21 days prior to the connection being required; and
- 15 Water and Sewerage Headworks Contribution

Before the Council seals a final plan of subdivision for the proposal or any stage of the proposal, or the use commencing there must be paid to the Tasmanian Water & Sewerage Corporation (North West region) Pty Ltd (CMW) a headworks contribution for water and sewerage as follows:

For Accommodation Units: 1 Unit = .63 ET (Equivalent Tenements)

- (i) for water \$1,112 for each additional unit; and
- (ii) for sewerage \$849 for each additional unit.

(2 Units).

Each payment is calculated as at 1 January 2010. Each payment must be indexed in accordance with any increases in the Consumer Price Index with effect from 1 July in each financial year calculated to the date of payment. In the case of a subdivision proceeding in stages, the amount is to be calculated in accordance with the number of lots proposed in each stage;

Please note:

- A This permit expires two years from the date advice of this decision is received unless the development has been substantially commenced. An extension of time to this period can be granted once only but only if the request is received prior to the expiry of the specified time. Substantial commencement is the lodgement of a building permit application.
- B The location of the water, sewer and stormwater connection points, and the suitability of these to service the proposed development, should be confirmed prior to the submission of the building application.
- C The Council only allows one 6.0m-wide or two completely separate 3.6m-wide vehicle accesses to a lot within the road reserve.
- D A Road Reserve Permit must be issued by the Council's Public Safety Officer, or his representative, prior to any works or activity being undertaken within the road reservation. Application forms are available from the Council's Engineering Services Department, and a fee applies.
- E Any works associated with existing footpaths, kerb & channel, roads, nature strips, stormwater infrastructure or other Council services will be undertaken by the Council, unless alternative arrangements are approved by the Council's Director Engineering Services, or his representative.
- F Any damage or disturbance to footpaths, kerb & channel, roads, nature strips, stormwater infrastructure or existing services must be rectified, noting that this work will be undertaken by the Council at the owner's/developer's/applicant's expense, unless alternative arrangements are approved by the Council's Director Engineering Services, or his representative.'

The report is supported."

The Executive Services Officer reported as follows:

“Copies of the Annexures referred to in the Town Planner’s report have been circulated to all Councillors.”

■ Cr Robertson moved and Cr Howard seconded, “That application No. DA210030 for a tourist accommodation facility at River Avenue, Heybridge be approved subject to the following conditions and notes:

General

- 1 The development must be substantially in accordance with the application for this permit unless modified by a condition of this permit;
- 2 The external cladding of the development must be of a non-reflective colour and finish;
- 3 External lighting must not to spill onto adjoining properties;
- 4 Other than for the purpose of construction of cabin 3, native trees must not be removed unless in accordance with the Forest Practices Code 2000;
- 5 Native vegetation must be established in accordance with the proposal as soon as practicable;
- 6 Exposed cut or fill must be landscaped as soon as practicable;
- 7 Management regimes must be established to ensure that remnant vegetation is protected;
- 8 Liquid pollutants must not be discharged:
  - (a) within 100m of a watercourse, wetland or other surface waters;
  - (b) within 250m of any bore or well which is the source of drinking water for humans or stock;
  - (c) within 40m of any private waters in other ownership; or
  - (d) into the ground at any place or in a manner that may contaminate groundwater resources;

Engineering

- 9 New accesses must be constructed to the satisfaction of the Council's Director Engineering Services, or his representative;
- 10 A suitable storm water connection must be provided to the property, noting that this work will be undertaken by the Council at the property owner's expense, unless alternative arrangements are approved by the Council's Director Engineering Services, or his representative;

Cradle Mountain Water

- 11 An individual suitably sized water supply connection for domestic and fire fighting supply (if required) designed by the developer or the developer's agent in accordance with WSAA Standards, the requirements of Tas Fire Service, to the satisfaction of Cradle Mountain Water (CMW) is to be provided from the CWM water main;
- 12 Each unit and the common area are to be provided with their own individual metered water connection immediately downstream from the supply mentioned in 'condition 11' above and the individual connections are to be constructed internally as part of the internal plumbing;
- 13 The development is to have an independent sewerage service connected at the lowest point of the property to CMW's sewerage main and all costs associated with the connection are to be at the applicant's expense to the satisfaction of CMW;
- 14 All connections to and associated work on CMW assets must be carried out by CMW staff via a Private Works Request at the cost of the developer. A Private Works Request is to be made to the CMW by the developer 21 days prior to the connection being required; and
- 15 Water and Sewerage Headworks Contribution

Before the Council seals a final plan of subdivision for the proposal or any stage of the proposal, or the use commencing there must be paid to the Tasmanian Water & Sewerage Corporation (North West region) Pty Ltd (CMW) a headworks contribution for water and sewerage as follows:

For Accommodation Units: 1 Unit = .63 ET (Equivalent Tenements)

- (i) for water \$1,112 for each additional unit; and
- (ii) for sewerage \$849 for each additional unit.

(2 Units).

Each payment is calculated as at 1 January 2010. Each payment must be indexed in accordance with any increases in the Consumer Price Index with effect from 1 July in each financial year calculated to the date of payment. In the case of a subdivision proceeding in stages, the amount is to be calculated in accordance with the number of lots proposed in each stage;

and that the applicant be requested to note:

- A This permit expires two years from the date advice of this decision is received unless the development has been substantially commenced. An extension of time to this period can be granted once only but only if the request is received prior to the expiry of the specified time. Substantial commencement is the lodgement of a building permit application.
- B The location of the water, sewer and stormwater connection points, and the suitability of these to service the proposed development, should be confirmed prior to the submission of the building application.
- C The Council only allows one 6.0m-wide or two completely separate 3.6m-wide vehicle accesses to a lot within the road reserve.
- D A Road Reserve Permit must be issued by the Council's Public Safety Officer, or his representative, prior to any works or activity being undertaken within the road reservation. Application forms are available from the Council's Engineering Services Department, and a fee applies.
- E Any works associated with existing footpaths, kerb & channel, roads, nature strips, stormwater infrastructure or other Council services will be undertaken by the Council, unless alternative arrangements are approved by the Council's Director Engineering Services, or his representative.
- F Any damage or disturbance to footpaths, kerb & channel, roads, nature strips, stormwater infrastructure or existing services must be rectified, noting that this work will be undertaken by the Council at the owner's/developer's/applicant's expense, unless alternative arrangements are approved by the Council's Director Engineering Services, or his representative."

Carried unanimously

**295/2010 82-lot Residential Subdivision - 110 Ironcliffe Road and CT102762/2 Ironcliffe Road, Penguin - Application No. DA210050 (DEV)**

The Director Development & Regulatory Services reported as follows:

“The Town Planner has prepared the following report:

<i>‘DEVELOPMENT APPLICATION NO.:</i>	DA 210050
<i>APPLICANT:</i>	Mr Steven and Ms Judy Jarman
<i>LOCATION:</i>	110 Ironcliffe Road, and CT 102762/2 Ironcliffe Road Penguin
<i>ZONING:</i>	Residential
<i>PLANNING INSTRUMENT:</i>	Central Coast Planning Scheme 2005
<i>ADVERTISED:</i>	21 August 2010
<i>REPRESENTATIONS EXPIRY DATE:</i>	4 September 2010
<i>REPRESENTATIONS RECEIVED:</i>	Five
<i>42-DAY EXPIRY DATE:</i>	27 September 2010
<i>DECISION DUE:</i>	20 September 2010

*PURPOSE*

The purpose of this report is to make a determination on an application for a subdivision at 110 Ironcliffe Road and CT 102762/2 Ironcliffe Road, Penguin.

*BACKGROUND*

It is proposed to develop an 82-lot staged subdivision for residential purposes. Principal vehicle access would be through two local roads converging to join Ironcliffe Road through a new intersection. A secondary access would be provided via Lester Road which adjoins the site.

The site is situated on the southern side of the Bass Highway opposite the Penguin Primary School. The site slopes significantly from east to west.

Lot sizes vary between 2,298m<sup>2</sup> and 653m<sup>2</sup>: the average size is 926m<sup>2</sup>.

The land is in two titles and currently contains only a single dwelling: the majority of the land is cleared and is apparently used for stock grazing purposes. Under the proposed subdivision the house would be situated on Lot 52 (2,298m<sup>2</sup>).

A row of pine trees behind the existing house would be removed as part of the development.

A geotechnical report was sought and provided in accordance with the Land Stability Schedule S6 of the Central Coast Planning Scheme 2005.

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

*DISCUSSION*

In determining compliance with the relevant provisions of the Planning Scheme, regard is given to:

- . The objectives for planning as set out in Part A of the Planning Scheme;
- . The purpose of the Residential zone; and
- . The relevant Acceptable Solutions and Performance Criteria.

The proposal's performance against the Planning Scheme provisions is outlined as follows:

6.4.1 SUBDIVISION (Residential)

	PROPOSED	REQUIRED
6.4.1 Lot size (A1) (a)	Compliant: Smallest lot size 653m <sup>2</sup>	650m <sup>2</sup> (min)
6.4.1 Frontage width (A1) (b)	Compliant: Lot frontage widths >6m	6m (min)
6.4.1 Diameter circle (A1) (C)	Compliant: Each lot able to contain an 18m diameter 18m from the frontage.	18m (not more than 18m from frontage).
6.4.1 Boundaries aligned from buildings that satisfy setback standards (A1) (d)	Possibly compliant: The actual setback distances between the existing and the northern and western	Boundary setbacks a) Frontage and rear - 4.5m. b) Side - 1.5 or half



	boundaries is not clear. Setbacks from the Ironcliffe Road and southern boundaries are 20m.	the wall height (whichever is greater). c) Secondary frontage - 3m.
6.4.1 Services (A2)		
. road	Compliant: Access will be to a Municipal Standard road.	Access to Municipal Standard road.
. water	Compliant: Can be connected to a reticulated water supply.	Connection to a 200kPa pressure supply (10 l per sec).
. sewer	Compliant: Can be connected to a reticulated sewerage system.	Connection to reticulated sewerage system.
. stormwater	Compliant: Can be connected to a reticulated storm-water system.	Connection to reticulated storm-water system.
. telecommunica- tions	Compliant: Can be connected to a telecommunications system.	Connection to tele-communications system.
. electricity	Compliant: Can be connected to an electricity supply system.	Connection to an electricity supply.

DEVELOPMENT & REGULATORY SERVICES

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6.4.1 Access strips A3 (e)	Compliant:  No rear lots/access strips.	Max of three adjacent access strips.
6.4.1 (A7) Road & services connection to adjoining land	Partially compliant:  Proposal includes a road connection to land on the western boundary (zoned Rural Resource).  There is no provision for internal pedestrian movement, particularly between lots on the northern and southern boundaries of the land.	Road and services extension to adjoining land where:  a) adjoining land has estate development potential, and  b) road connection required for public intercommunication and efficient provision of services.

SCHEDULES

	PROPOSED	REQUIRED
S1 Application Requirements	Compliant:  Adequate information provided.	Adequate information required.
S2 Road and Rail  S2.6.2 Intersection Sight Distance	Compliant:  Proposed intersection with Ironcliffe Road – North = 138m South = 200m (no obstruction).	Required intersection sight distance: 80m (urban).

<p>S2.5.3 Junctions on Category I, II or III roads</p>	<p>Compliant:</p> <p>a) Lots capable of providing 1 x 2-way access or 2 x 1-way access.</p> <p>b) Junction with Ironcliffe Road is 2.5 km away.</p>	<p>In a 60 kph zone:</p> <p>a) 1 x 2-way access or 2 x 1-way accesses.</p> <p>b) access &gt; 9m from Cat I, II or III road.</p>
<p>S4 Bushfire Prone Areas</p>	<p>Schedule does not apply to the Residential zone but adequate separation from adjacent forest is appropriate.</p>	
<p>S4.4.1 Subdivision design (A1)</p>	<p>Proposes larger lots on the western edge of the subdivision in order to accommodate adequate setback from forest vegetation.</p>	<p>Sufficient area and dimension for:</p> <ul style="list-style-type: none"> <li>. Building Protection Zone = 20m</li> <li>. Fuel Modified Buffer Zone = 15m</li> <li>. Total = 35m</li> </ul>
<p>S6 Land Stability</p>	<p>Compliant:</p> <p>Geotechnical report indicated risk of landslide was LOW. Steeper sections of land should follow "Guidelines for Hillside Construction" plus provisions outlined in report.</p>	<p>Land stability report to show:</p> <p>a) each lot is capable of providing a stable building envelope and risk is acceptable.</p> <p>b) roads and services will not adversely affect land stability.</p>

## DEVELOPMENT & REGULATORY SERVICES

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### DEPARTMENTAL ADVICE

Advice from the various Departments of Council is provided as follows:

DEPARTMENT	ADVICE
Corporate & Community Services . Administration . Community Development	No issues.  No issues.
Development & Regulatory Services . Building & Plumbing . Environmental Health	No building/plumbing permit required.  The development proposal has been assessed. The only significant environmental management concern relates to the subdivision construction activities of the developers. To facilitate compliance with the <i>Environmental Management and Pollution Control Act 1994</i> (EMPCA) the following conditions are to be applied to any approval: <ol style="list-style-type: none"> <li>1 No sound is to be emitted from any device or from any source or activity on the land so as to become a proven environmental nuisance to the occupiers of properties nearby.</li> <li>2 Where sand or loam is removed during the construction of the subdivision sufficient topsoil is to be retained to cover the area disturbed to a depth of at least 100mm. All disturbed areas are to be sown down with an appropriate grass mix as soon as is practicable after works in that area are completed.</li> </ol>

	<ol style="list-style-type: none"> <li>3 Every effort must be made to stabilise stockpiles of topsoil and overburden. This stabilisation may include vegetative seeding, mulches, plastic mesh or netting or another appropriate method.</li> <li>4 Appropriate dust control measures are to be implemented to ensure that dust is not permitted to cross any point of the property boundary so as to become a proven environmental nuisance to the occupiers of properties nearby.</li> <li>5 The disposal of solid and liquid waste on the site is prohibited.</li> <li>6 The developer is to utilise stormwater control devices during construction of any necessary services and/or proposed site works to prevent the deposition of sediment from the site into stormwater drains and/or watercourses.</li> <li>7 The developer must inspect the stormwater control devices after each significant rainfall event and take appropriate action to ensure the integrity of the system.</li> </ol>
<p>Engineering Services</p> <p>Environmental Engineer</p>	<p><i>Conditions of approval</i></p> <ol style="list-style-type: none"> <li>1 A water connection must be provided to each lot;</li> <li>2 A sewer connection must be provided to each lot;</li> <li>3 An underground stormwater connection point must be provided to each lot;</li> <li>4 The underground stormwater reticulation system must be provided, extended, or</li> </ol>

	<p>upgraded, as necessary, in order to support the proposed development to the satisfaction of the Council's Director Engineering Services, or his representative;</p> <p>5 Appropriate road infrastructure, including pedestrian access infrastructure, must be provided to service each lot to the satisfaction of the Council's Director Engineering Services, or his representative;</p> <p>6 A concrete vehicular access must be provided to each lot in accordance with Standard Drawing SD-1003 Urban Roads - Typical Vehicle Crossing;</p> <p>7 Appropriate landscaping treatment must be provided within the road reservation to the satisfaction of the Council's Director Engineering Services, or his representative;</p> <p>8 Separate underground power mains and services must be provided to each lot, together with associated street lighting standards;</p> <p>9 Telstra must be advised in relation to the provision of telecommunication services to the subdivision;</p> <p>10 Water supply and drainage easements must be provided;</p> <p>11 Existing Council services must be relocated to along lot boundaries;</p> <p>12 Existing house connection drains and services to must be relocated to within respective lot boundaries;</p>
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	<p>13 The design and construction of the roads must be in accordance with the <i>Local Government (Highways) Act 1982</i>, the Council's standard specifications and drawings, and any other relevant design standards;</p> <p>14 The provision, upgrading, re-routing or extension of Council infrastructure and services required as a result of the subdivision, shall be to the satisfaction of the Council's Director Engineering Services, or his representative;</p> <p>15 Engineering design drawings (including supporting documentation, calculations, etc.) must be submitted to the Council's Director Engineering Services for approval for all infrastructure to be constructed as part of the subdivision that is to become an asset of the Council;</p> <p>16 Construction must not commence until the relevant design drawings are approved by the Council's Director Engineering Services, or his representative;</p> <p>17 The Final Plan must be endorsed to show any area that cannot be serviced by the existing or new reticulated sewer, stormwater or water;</p> <p>18 The developer shall arrange for the necessary transfer of the road reservations and public open spaces to the Central Coast Council at the time of lodgement of the Plan of Survey for sealing by the Council, with all costs involved in this process to be met by the developer; and</p> <p>19 Any damage or disturbance to footpaths, roads, kerbs, nature strips or existing</p>
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	<p>services must be rectified at the developer's expense, to the satisfaction of Council's Director Engineering Services, or his representative.</p>
	<p><i>Developer to note</i></p> <p>The use of suitable Water Sensitive Urban Design principles or detention type systems should be considered to assist in minimising the run-off generated from the full development of the subdivision.</p> <p>Any works associated with the connection to existing (live) Council stormwater services will be undertaken by the Council at the developer's cost, unless alternative arrangements are approved by the Council's Director Engineering Services, or his representative.</p> <p>A Road Reserve Permit must be issued by the Council's Public Safety Officer, or his representative, prior to any works or activity being undertaken within the road reservation. Application forms are available from the Council's Engineering Services Department, and a fee applies.</p> <p>Any works associated with existing footpaths, kerb and channel, roads, nature strips, stormwater infrastructure or other Council services will be undertaken by the Council, unless alternative arrangements are approved by the Council's Director Engineering Services, or his representative.</p> <p>Any damage or disturbance to footpaths, kerb &amp; channel, roads, nature strips, stormwater infra-structure or existing services must be rectified, noting that this work will be undertaken by the Council at the owner's/developer's/applicant's expense, unless alternative arrangements are approved by the Council's Director Engineering Services, or his representative.</p>



*CONSULTATION*

The application was notified for a 14-day statutory period as required under s.57 of the *Land Use Planning & Approvals Act 1993*. Notification involved a notice placed on the site, an advertisement in “The Advocate” newspaper, and letters to adjoining property owners.

Five representations were received – one from the applicants, one from the Penguin Primary School Association, two neighbours and one from a Penguin resident. The objections are contained in Annexure 3 and summarised and responded to as follows:

COMMENT	RESPONSE
SUBMISSION 1 – APPLICANTS	
1 Development is strategically located with access to schools, sports facilities and the like.	True, and is undoubtedly a reason for the Residential zoning of the land.
2 Subdivision effectively constitutes infill development and efficient use of services.	True, and is undoubtedly a reason for the Residential zoning of the land.
3 Traffic, infrastructure and land suitability issues have been resolved.	True to the extent that other matters are raised in this report.
SUBMISSION 2 – PRIMARY SCHOOL ASSOCIATION	
4 School traffic would cause safety problems for vehicles exiting Ironcliffe Road fronting lots.	This is a concern and it is considered that the new Ironcliffe Road-fronting lots should not be allowed direct vehicle access to Ironcliffe Road.
5 Concerned that increased traffic on Ironcliffe Road could decrease safety levels for children using the pedestrian crossing.	The TIA estimates that an additional 70 vehicle trips per week day peak-hour period would be generated. Ironcliffe Road is considered capable of handling this increase.  It is considered that the impact on the crossing is likely to be limited as many vehicles from the intersection will turn north (away from the crossing).

SUBMISSION 3 – NEIGHBOUR	
6 Vehicles exiting Ironcliffe Road fronting lots would cause safety problems for users of pedestrian crossing.	See response to point 4.
7 Proposed intersection with Ironcliffe Road is on a hill crest – requires further planning.	<p>Sight lines are likely to be reduced when cars park along Ironcliffe Road during school hours. The TIA suggests that the kerb line of the intersection be moved out to match the line of the school crossing.</p> <p>The sight line to the south would be improved if this was combined with a no-parking restriction between the crossing and the proposed intersection.</p>
8 Proposed use of Lester Road will increase hazard at the intersection with Ironcliffe Road.	Agreed. The Lester Road/Ironcliffe Road intersection is less than ideal. Use of Lester Road is likely to be minimal as all lots but one with a frontage to Lester Road will have their principal frontage to the internal road layout.
9 No provision for public open space in the subdivision.	Agreed. A contribution of land for the purpose of a local park or playground is appropriate.
10 Property would be adversely affected through traffic using cul-de-sac. Lights would shine into dwelling at night.	Disturbance caused by traffic using a cul-de-sac is unlikely – cars would be generally slow moving (i.e. low-revving motors) and screened by development on the lots in between.
11 An 8-metre dwelling in front of “our” dwelling will block view, devalue property and adversely affect lifestyle.	It is possible that existing views may be affected. But any loss should be considered in the context of the residential zoning of the land. In this context the impact is unlikely to

	<p>be unreasonable due to the subdivision. The lots in question are predominantly greater than 1,000m<sup>2</sup> which would allow for development of a lower height and the opportunity for views around and between future dwellings.</p>
<p>12 Properties to the south of the subdivision are not serviced with sewer or stormwater infrastructure – how will this be dealt with ?</p>	<p>Properties to the south are zoned Rural Living within which the minimum lot size is 1.2 ha. Such lots are generally capable of on-site sewage and stormwater management. It is not intended to service that adjoining land through the proposed subdivision.</p>
<p>SUBMISSION 4 – NEIGHBOUR</p>	
<p>13 Council refused request to rezone “our” land to Residential in 2009 because of a surplus of available lots. The proposed subdivision is inconsistent with that advice.</p>	<p>This is not a relevant consideration at the development stage. The current zoning existed in 2009: any advice given would have incorporated the development potential of the land now the subject of the subdivision proposal.</p>
<p>SUBMISSION 5 – OTHER RESIDENT</p>	
<p>14 Vehicles exiting on to Ironcliffe Road would increase safety problems resulting from pedestrian crossing and waiting cars.</p>	<p>See response to point 4.</p>
<p>15 The proposed intersection with Ironcliffe Road is too close to Lester Road intersection. Should only use Lester Road.</p>	<p>The TIA was silent on the degree of separation between the intersections.</p> <p>The distance between the two intersections is not considered to be a problem from a traffic safety perspective.</p>

<p>16 A safer exit from the land to Ironcliffe Road would be via Sylvan Rise Road/Leatherwood Drive.</p>	<p>It may be, but the proposed junction is considered adequate, plus the subject land has no direct access to these roads.</p>
<p>17 If both schools provided on-site parking and drop-off areas the problems on Ironcliffe Road would be overcome.</p>	<p>Probably true, but these matters cannot be requirements of the current application. They would need to be considered separately by each school.</p>

*IMPACT ON RESOURCES*

The proposal has no likely impact on Council resources outside those usually required for assessment and reporting, and possibly costs associated with an appeal against the Council's determination should one be instituted by the applicant.

*CORPORATE COMPLIANCE*

The recommendation is consistent with the Central Coast Strategic Plan 2009–2014 in relation to the following strategies and key actions:

The Shape of the Place

- . Adopt an integrated approach to land use planning

A Connected Central Coast

- . Connect the people with services

The Environment and Sustainable Infrastructure

- . Develop and manage sustainable built infrastructure

*CONCLUSION*

The principal issues regarding the subdivision proposal are geotechnical requirements, traffic and parking, internal pedestrian linkage, public open space, siting of the existing house and bushfire protection.

*Geotechnical requirements*

A geotechnical report was submitted as part of the application. It concluded that the likelihood of a small to medium-scale failure is unlikely and that a larger-scale failure was unlikely. Also, that the consequences of a small to

medium-scale landslide on the site would be medium and major for a large-scale event. The corresponding qualitative risks associated with both events is LOW.

The report recommends that development on the moderately-sloping land should adhere to the principles of good hillside practice and a list of requirements identified in the report. The recommendations seem sound and should guide development of the site. Consequently it should be a condition of approval that the subdivision and subsequent development be undertaken in accordance with the recommendations of the report. Through conformity with the report recommendations, it is considered that the proposal would satisfy S6.4.1 Subdivision design, and S6.4.2 Works and infrastructure, of the Land Stability Schedule.

*Traffic and parking*

Concerns regarding traffic and parking are as follows:

- 1 Access to Ironcliffe Road from lots with frontage to Ironcliffe Road
- 2 On-street parking management to maintain adequate sight lines
- 3 Access to Lester Road
- 4 Connection to adjoining land

*Access to Ironcliffe Road from lots with frontage to Ironcliffe Road*

Vehicular access from Ironcliffe Road fronting lots near the school crossing are likely to interfere with the safe and efficient functioning of the crossing. As such, access from Lots 54, 56, 58, 59, 62 and 63 should not be to Ironcliffe Road, but to the internal road network. This could be achieved through the incorporation of access strips or a changed road layout.

It should be a condition of approval that vehicular access from these lots is only to be available from the internal road network, and that the titles of these lots are to be subject to a covenant with the same restriction.

There are no specific provisions of the Planning Scheme that relate to this situation. However the suggested access to the internal roadway system is consistent with sound traffic management principles and with the purpose of the Road & Rail Schedule of the Planning Scheme, that use or development of any land outside a road is not to unreasonably impede the safety and efficiency of the road system.

*On-street parking management to maintain adequate sight lines*

The proposed intersection with Ironcliffe Road conforms with the sight distance requirements of the planning scheme. However when the road has cars parked at the kerb, sight distances would be reduced significantly. The TIA suggests that the kerb be moved into Ironcliffe Road to align with the pedestrian crossing outstands.

An area of “no parking” between the crossing and the intersection would provide improved sight distances from the intersection.

The outlined traffic management measures should be made conditions of the planning permit.

*Access to Lester Road*

The TIA identifies the inadequate sight lines available at the Lester Road intersection while the Environmental Engineer identifies the steep grade at the intersection as a problem. The proposed connection to Lester Road from the subdivision could increase traffic volume to a small degree. Traffic volume to and from Ironcliffe Road should be encouraged to use the better designed internal road system of the proposed subdivision. For this reason it is considered that the proposed road connection to Lester Road be removed and replaced with a cul-de-sac. This will require a redesign of some of the lots in the north-west corner of the plan.

The proposed subdivision provides an opportunity to correct the deficiency with the Lester Road intersection. The road could be redirected through the proposed subdivision to avoid the existing intersection. This is a matter that requires further investigation and negotiation before it can be finalised. It may be that a financial contribution from the Council is appropriate. Consequently it should be a note on the permit saying that the Council would like to explore the possibility of removing the Lester Road/Ironcliffe Road intersection and redirecting Lester Road through the subdivision.

*Connection to adjoining land*

The subdivision plan indicates road connections to the western end of Lester Road and land to the west of the subdivision, zoned Rural Resource. There has also been a suggestion that a road access to neighbouring land on the southern boundary would be useful for future development of that land and as a pedestrian access.

The Planning Scheme requires such connections in situations where:

- a) adjoining land has estate development potential, and
- b) road connection is required for public intercommunication and efficient provision of services.

Both circumstances must apply in order for connections to be required.

The land to the west is zoned Rural Resource within which the minimum lot size is 50ha. The adjoining land is currently 4ha and 6ha. There is no potential for a building estate under the current zoning on this land and consequently there is no power to require it through the Planning Scheme. It is conceivable that in time (long term) the adjoining land will be required for residential purposes. Under this scenario the connection through the proposed subdivision would provide a more direct access than the existing access via Lester Road and Sylvan Rise/Leatherwood Drive.

The fact that the applicant has offered land for the connection to the adjoining land means that the Council need not be concerned about whether a building estate is possible on the land.

Land to the south is currently zoned Rural Living within which the minimum lot size is 1.2ha. The adjoining lots are 2.3ha and 2.0ha in area. Consequently no further subdivision is possible under the current zoning. The applicant has not offered a connection to this land and there is no power to require a connection under the Planning Scheme. Any change of zoning and re-subdivision could use the existing access or Sylvan Rise/Leatherwood Drive.

#### *Internal pedestrian linkage*

East-west pedestrian movement to and from Ironcliffe Road would be facilitated by the two main "collector" roads and this would be satisfactory. However north-south movement at the western end of the subdivision would only be possible by walking to the junction of the two roads at the eastern end of the subdivision. This is not satisfactory as it would discourage social interaction between residents and encourage the use of motor cars.

Consequently, it is considered that a publicly accessible north-south pedestrian pathway be provided in a suitable location at the western end of the subdivision, between the two "collector" roads. A suitable location could be in the vicinity of Lots 9 and 31. It would also be appropriate to combine

the pathway link with an area of public open space, possibly developed as a local park or playground.

*Public open space*

No public open space is proposed in the proposal. A development of this size would effectively constitute a neighbourhood. At this level a small local level park or children's playground is appropriate. There are no such facilities in the vicinity.

Consequently, it is considered that an area of public open space should be provided within the subdivision. *The Local Government (Building and Miscellaneous Provisions) Act 1993* allows for a contribution of 5% of land for public open space in a subdivision. In this case that would equate to about 473m<sup>2</sup>.

It should be a condition of the permit that an area of public open space, equivalent to 5% of the total land area, be provided in an appropriate location, to the satisfaction of the Director, Development & Regulatory Services.

*Siting of the existing house*

Setbacks of the existing dwelling to the northern and western boundaries are not possible to calculate on the plans provided. Clause 6.4.1 (A1) of the Planning Scheme requires that boundary setbacks meet the standards contained within the Scheme. There are no apparent reasons why the setback standards cannot or should not be met in this case.

Consequently, it is considered that a condition of the permit should be that the setback standards of Section 6.4.3 Building Design and Siting (A4) of the Planning Scheme are to be complied with.

*Bushfire protection*

The Bushfire Prone Areas Schedule does not apply to the Residential zone and cannot therefore be used as a basis of assessment under the Planning Scheme. However the lots at the western end of the subdivision are close to an area of mature vegetation in the Rural Resource zone – that area is defined as a Bushfire Prone Area under the Schedule.

The Schedule would require a setback of 35m from the adjacent vegetation for houses on the new lots. The application states that lots at the western end of the subdivision have been made larger in order to allow an adequate



setback in accordance with the Schedule. Some lots in this area are certainly larger in area; however there are three or so lots that would struggle to provide a dwelling site that would also satisfy the Schedule.

It seems that there is no head power for the Council to insist on the proposed lots complying with the Bushfire Prone Areas Schedule. In this context the permit should contain a note to the applicant indicating that the lots at the western end of the subdivision would appear to be at risk from bushfire and that the advice of the Tasmania Fire Service should be obtained on the appropriate way of ensuring an adequate level of safety for future residents, including a reassessment of lot areas and boundaries in this area.

*Recommendation*

That the application for an 82-lot residential subdivision at 110 Ironcliffe Road and CT102762/2 Ironcliffe Road, Penguin, be approved subject to the following conditions:

Planning

- 1 The subdivision must be in accordance with the application for this permit, unless modified by a condition of this permit;
- 2 The subdivision and subsequent development be undertaken in accordance with the recommendations of the geotechnical report by GeoTon P/L, Landslide Risk Assessment, GL10102Ab 10 August 2010;
- 3 Vehicular access from Lots 54, 56, 58, 59, 62 and 63 is only to be available from the internal road network, and that the titles of these lots are to be subject to a covenant with the same restriction;
- 4 A publicly accessible north-south pedestrian pathway be provided in a suitable location at the western end of the subdivision, between the two principal roads, to the satisfaction of the Director, Development & Regulatory Services;
- 5 An area of public open space, equivalent to 5% of the total land area, be provided in an appropriate location, to the satisfaction of the Director, Development & Regulatory Services;
- 6 Setbacks of the existing dwelling to new boundaries on Lot 52 must satisfy the standards of Section 6.4.3 Building Design and Siting (A4) of the Central Coast Planning Scheme 2005;

- 7 The kerb at the new intersection with Ironcliffe Road is to be moved into Ironcliffe Road to align with the pedestrian crossing outstands, to the satisfaction of the Director, Engineering Services;
- 8 An area of “no parking” is to be dedicated on the western side of Ironcliffe Road between the existing pedestrian crossing and the new intersection, to the satisfaction of the Director, Engineering Services;

Engineering

- 9 A water connection must be provided to each lot;
- 10 A sewer connection must be provided to each lot;
- 11 An underground stormwater connection point must be provided to each lot;
- 12 The underground stormwater reticulation system must be provided, extended, or upgraded, as necessary, in order to support the proposed development to the satisfaction of the Council’s Director Engineering Services, or his representative;
- 13 Appropriate road infrastructure, including pedestrian access infrastructure, must be provided to service each lot to the satisfaction of the Council’s Director Engineering Services, or his representative;
- 14 A concrete vehicular access must be provided to each lot in accordance with Standard Drawing SD-1003 Urban Roads – Typical Vehicle Crossing;
- 15 Appropriate landscaping treatment must be provided within the road reservation to the satisfaction of the Council’s Director Engineering Services, or his representative;
- 16 Separate underground power mains and services must be provided to each lot, together with associated street lighting standards;
- 17 Telstra must be advised in relation to the provision of telecommunication services to the subdivision;
- 18 Water supply and drainage easements must be provided;
- 19 Existing Council services must be relocated to along lot boundaries;

- 20 Existing house connection drains and services to must be relocated to within respective lot boundaries;
- 21 The design and construction of the roads must be in accordance with the *Local Government (Highways) Act 1982*, the Council's standard specifications and drawings, and any other relevant design standards;
- 22 The provision, upgrading, re-routing or extension of Council infrastructure and services required as a result of the subdivision, shall be to the satisfaction of the Council's Director Engineering Services, or his representative;
- 23 Engineering design drawings (including supporting documentation, calculations, etc.) must be submitted to the Council's Director Engineering Services for approval for all infrastructure to be constructed as part of the subdivision that is to become an asset of the Council;
- 24 Construction must not commence until the relevant design drawings are approved by the Council's Director Engineering Services, or his representative;
- 25 The Final Plan must be endorsed to show any area that cannot be serviced by the existing or new reticulated sewer, stormwater or water;
- 26 The developer shall arrange for the necessary transfer of the road reservations and public open spaces to the Central Coast Council at the time of lodgement of the Plan of Survey for sealing by the Council, with all costs involved in this process to be met by the developer;
- 27 Any damage or disturbance to footpaths, roads, kerbs, nature strips or existing services must be rectified at the developer's expense, to the satisfaction of Council's Director Engineering Services, or his representative.

#### Environmental Health

- 28 No sound is to be emitted from any device or from any source or activity on the land so as to become a proven environmental nuisance to the occupiers of properties nearby;
- 29 Where sand or loam is removed during the construction of the subdivision sufficient topsoil is to be retained to cover the area

disturbed to a depth of at least 100mm. All disturbed areas are to be sown down with an appropriate grass mix as soon as is practicable after works in that area are completed;

- 30 Every effort must be made to stabilise stockpiles of topsoil and overburden. This stabilisation may include vegetative seeding, mulches, plastic mesh or netting or another appropriate method;
- 31 Appropriate dust control measures are to be implemented to ensure that dust is not permitted to cross any point of the property boundary so as to become a proven environmental nuisance to the occupiers of properties nearby;
- 32 The disposal of solid and liquid waste on the site is prohibited;
- 33 Stormwater control devices are to be used during construction of any necessary services and/or proposed site works to prevent the deposition of sediment from the site into stormwater drains and/or watercourses;
- 34 Stormwater control devices must be inspected after each significant rainfall event and appropriate action taken to ensure the integrity of the system;

#### Cradle Mountain Water (CMW)

##### *General conditions*

- 35 All water and sewerage infrastructure extensions or upgrades (including all associated costs) required to service the development shall be at the expense of the developer;
- 36 Any damages caused to the existing CMW infrastructure during the construction period is to be repaired and reinstated at the expense of the developer and shall be to the satisfaction of the Coordinator Development and Assessment;
- 37 All geotechnical recommendations made by Geoton Pty Ltd in their report (GL10102Ab 10 August 2010) as submitted as part of this application shall be implemented by the developer in relation to the design, alignment, installation and construction of all water and sewerage services;

- 38 The realignment of CMW's water main as identified in the submitted plans drawn by Lester Franks (D13883-PO2; REV 3; Sheet 1 of 1) shall be to a suitable alignment in accordance with recommendations from Geoton Pty Ltd (as identified above) and shall be to the satisfaction of CMW;

*Water supply conditions*

- 39 The developer is to extend the 150mm diameter water supply main located on Lester Road and connect to the development site adjacent to lot 82 as identified on the plans;
- 40 The developer is to realign the 150mm diameter water supply main located on the subject site and to reconnect to the 150mm line as identified in Condition 39 Water Supply Conditions;
- 41 The developer is to negotiate with the owner of 20 Sylvan Rise to obtain written consent to establish alternate access and easement rights over the land (if necessary) to aid the realignment of the existing 150mm diameter water supply main;
- 42 A reticulated water supply with connections to each lot shall be designed and constructed in compliance with WSAA Water Supply Code of Australia and CMW requirements;
- 43 Fire plugs shall be designed and constructed in compliance with WSAA Water Supply Code of Australia, CMW's requirements and the Tasmania Fire Service requirements;
- 44 Prior to commencement of works, detailed construction plans of all proposed works, prepared by a suitably qualified engineer, demonstrating compliance with WSAA Water Supply Code of Australia and CMW requirements, must be submitted and approved by CMW. In the case of discrepancies or items not covered in the WSAA standards, details must be to the satisfaction of CMW. Design calculations to confirm design are to be provided if requested by CMW;
- 45 The approved engineering drawings must not be altered without the prior written consent of the CMW;
- 46 All works are to be constructed under the supervision of a qualified engineer in accordance with WSAA Water Supply Code of Australia. The qualified engineer is to certify to CMW that the works have been

- constructed in accordance with the approved plans and WSAA standards;
- 47 All connections to (including associated work on CMW assets) must be carried out by CMW staff via a Private Works Request at the expense of the developer. A Private Works Request is to be made to the CMW by the developer at least 21 days prior to the connection being required;
- 48 As Constructed Drawings shall be prepared by a qualified surveyor and forwarded to CMW prior to CMW's acceptance of the completed works;
- 49 Any water services (other than within a services easement) crossing title boundaries shall be disconnected and capped to the satisfaction of CMW;
- 50 Any redundant water services shall be disconnected and capped to the satisfaction of CMW;
- 51 Prior to the sealing of the Final Plan of Survey, the developer must be obtain a Certificate of Consent from CMW and the Certificate shall be submitted to the Council with sealing documents as evidence of completed works;
- 52 A four-metre (4) wide easement(s) over the CMW water mains passing through any lot identified on the Plan must be accurately shown in the Final Plan of Survey lodged with Council for sealing;

*Sewerage supply conditions*

- 53 The developer is to connect to CMW's sewer main from the manhole located at 14 Lester Road;
- 54 The developer is to negotiate with the owner of 14 Lester Road to obtain written consent to establish alternate access and easement rights over the land or provide CMW with an alternate solution that is to the satisfaction of CMW;
- 55 A reticulated sewerage system with connections to each lot shall be designed and constructed in compliance with WSAA Sewerage Code of Australia and CMW requirements;
- 56 Prior to commencement of works, detailed construction plans of all proposed works, prepared by a suitably qualified engineer,

- demonstrating compliance with WSAA Sewerage Code of Australia and the CMW requirements, shall be submitted and approved by CMW. In the case of discrepancies or items not covered in the WSAA standards, details must be to the satisfaction of CMW. Design calculations to confirm the design are to be provided if requested by the CMW;
- 57 The approved engineering drawings shall not be altered without the prior written consent of the CMW;
- 58 All connections to (including associated work on CMW assets) must be carried out by CMW staff via a Private Works Request at the cost of the developer. A Private Works Request is to be made to CMW by the developer at least 21 days prior to the connection being required;
- 59 All works are to be constructed under the supervision of a qualified engineer in accordance with WSAA Sewerage Code of Australia. The qualified engineer is to certify to CMW that the works have been constructed in accordance with the approved plans and WSSA standards;
- 60 As Constructed Drawings shall be prepared by a qualified surveyor and forwarded to CMW prior to CMW's acceptance of the completion of the works;
- 61 Any sewerage services (other than within a services easement) crossing title boundaries are to be disconnected and capped to the satisfaction of CMW;
- 62 Any redundant sewerage services are to be disconnected and capped to the satisfaction of CMW;
- 63 A three-metre (3) wide easement(s) over the CMW sewerage mains passing through any lot on the Plan must be accurately shown in the Final Plan of Survey lodged with Council for sealing;
- 64 All titles must be endorsed to the effect that no building is to be located within 2m of CMW's sewerage services easement;

*Water and Sewerage Headworks Contribution*

- 65 Prior to the sealing of the Final Plan of Survey, payment must be made to the Tasmanian Water & Sewerage Corporation (North West region) Pty Ltd (CMW) for a headworks contribution for water and sewerage services as follows:

- (i) water \$1,765.00 per additional lot; and
- (ii) sewerage \$1,349.00 per additional lot.

Total lots payable 81 (total lots proposed minus the balance lot).

Each payment is calculated as at 1 January 2010. Each payment must be indexed in accordance with any increases in the Consumer Price Index with effect from 1 July in each financial year calculated to the date of payment. In the case of a subdivision proceeding in stages, the amount is to be calculated in accordance with the number of lots proposed in each stage;

Developer to note:

- A The use of suitable Water Sensitive Urban Design principles or detention type systems should be considered to assist in minimising the run-off generated from the full development of the subdivision;
- B Any works associated with the connection to existing (live) Council stormwater services will be undertaken by the Council at the developer's cost, unless alternative arrangements are approved by the Council's Director Engineering Services, or his representative;
- C A Road Reserve Permit must be issued by the Council's Public Safety Officer, or his representative, prior to any works or activity being undertaken within the road reservation. Application forms are available from the Council's Engineering Services Department, and a fee applies;
- D Any works associated with existing footpaths, kerb & channel, roads, nature strips, stormwater infrastructure or other Council services will be undertaken by the Council, unless alternative arrangements are approved by the Council's Director Engineering Services, or his representative;
- E Any damage or disturbance to footpaths, kerb & channel, roads, nature strips, stormwater infrastructure or existing services must be rectified, noting that this work will be undertaken by the Council at the owner's/developer's/applicant's expense, unless alternative arrangements are approved by the Council's Director Engineering Services, or his representative;
- F The Council would like to explore the possibility of removing the Lester Road/Ironcliffe Road intersection and redirecting Lester Road through the subdivision;



- G Lots at the western end of the subdivision would appear to be at risk from bushfire. The advice of the Tasmania Fire Service should be obtained on the appropriate way of ensuring an adequate level of safety for future residents, including a reassessment of lot areas and boundaries in this area; and
- H A suitable location for the required public pathway could be in the vicinity of Lots 9 and 31. It may also be appropriate to combine the pathway link with an area of public open space, potentially developed as a local park or playground.'

The report is supported.”

The Executive Services Officer reported as follows:

“Copies of the Annexures referred to in the Town Planner’s report have been circulated to all Councillors.”

■ Cr Howard moved and Cr (L) Bonde seconded, “That the application No. DA210050 for an 82-lot residential subdivision at 110 Ironcliffe Road and CT102762/2 Ironcliffe Road, Penguin, be approved subject to the following conditions and notes:

#### Planning

- 1 The subdivision must be in accordance with the application for this permit, unless modified by a condition of this permit;
- 2 The subdivision and subsequent development be undertaken in accordance with the recommendations of the geotechnical report by GeoTon P/L, Landslide Risk Assessment, GL10102Ab 10 August 2010;
- 3 Vehicular access from Lots 54, 56, 58, 59, 62 and 63 is only to be available from the internal road network, and that the titles of these lots are to be subject to a covenant with the same restriction;
- 4 A publicly accessible north-south pedestrian pathway be provided in a suitable location at the western end of the subdivision, between the two principal roads, to the satisfaction of the Director, Development & Regulatory Services;
- 5 An area of public open space, equivalent to 5% of the total land area, be provided in an appropriate location, to the satisfaction of the Director, Development & Regulatory Services;

- 6 Setbacks of the existing dwelling to new boundaries on Lot 52 must satisfy the standards of Section 6.4.3 Building Design and Siting (A4) of the Central Coast Planning Scheme 2005;
- 7 The kerb at the new intersection with Ironcliffe Road is to be moved into Ironcliffe Road to align with the pedestrian crossing outstands, to the satisfaction of the Director, Engineering Services;
- 8 An area of 'no parking' is to be dedicated on the western side of Ironcliffe Road between the existing pedestrian crossing and the new intersection, to the satisfaction of the Director, Engineering Services;

#### Engineering

- 9 A water connection must be provided to each lot;
- 10 A sewer connection must be provided to each lot;
- 11 An underground stormwater connection point must be provided to each lot;
- 12 The underground stormwater reticulation system must be provided, extended, or upgraded, as necessary, in order to support the proposed development to the satisfaction of the Council's Director Engineering Services, or his representative;
- 13 Appropriate road infrastructure, including pedestrian access infrastructure, must be provided to service each lot to the satisfaction of the Council's Director Engineering Services, or his representative;
- 14 A concrete vehicular access must be provided to each lot in accordance with Standard Drawing SD-1003 Urban Roads – Typical Vehicle Crossing;
- 15 Appropriate landscaping treatment must be provided within the road reservation to the satisfaction of the Council's Director Engineering Services, or his representative;
- 16 Separate underground power mains and services must be provided to each lot, together with associated street lighting standards;
- 17 Telstra must be advised in relation to the provision of telecommunication services to the subdivision;
- 18 Water supply and drainage easements must be provided;
- 19 Existing Council services must be relocated to along lot boundaries;

- 20 Existing house connection drains and services to must be relocated to within respective lot boundaries;
- 21 The design and construction of the roads must be in accordance with the *Local Government (Highways) Act 1982*, the Council's standard specifications and drawings, and any other relevant design standards;
- 22 The provision, upgrading, re-routing or extension of Council infrastructure and services required as a result of the subdivision, shall be to the satisfaction of the Council's Director Engineering Services, or his representative;
- 23 Engineering design drawings (including supporting documentation, calculations, etc.) must be submitted to the Council's Director Engineering Services for approval for all infrastructure to be constructed as part of the subdivision that is to become an asset of the Council;
- 24 Construction must not commence until the relevant design drawings are approved by the Council's Director Engineering Services, or his representative;
- 25 The Final Plan must be endorsed to show any area that cannot be serviced by the existing or new reticulated sewer, stormwater or water;
- 26 The developer shall arrange for the necessary transfer of the road reservations and public open spaces to the Central Coast Council at the time of lodgement of the Plan of Survey for sealing by the Council, with all costs involved in this process to be met by the developer;
- 27 Any damage or disturbance to footpaths, roads, kerbs, nature strips or existing services must be rectified at the developer's expense, to the satisfaction of Council's Director Engineering Services, or his representative.

#### Environmental Health

- 28 No sound is to be emitted from any device or from any source or activity on the land so as to become a proven environmental nuisance to the occupiers of properties nearby;
- 29 Where sand or loam is removed during the construction of the subdivision sufficient topsoil is to be retained to cover the area disturbed to a depth of at least 100mm. All disturbed areas are to be sown down with an appropriate grass mix as soon as is practicable after works in that area are completed;

- 30 Every effort must be made to stabilise stockpiles of topsoil and overburden. This stabilisation may include vegetative seeding, mulches, plastic mesh or netting or another appropriate method;
- 31 Appropriate dust control measures are to be implemented to ensure that dust is not permitted to cross any point of the property boundary so as to become a proven environmental nuisance to the occupiers of properties nearby;
- 32 The disposal of solid and liquid waste on the site is prohibited;
- 33 Stormwater control devices are to be used during construction of any necessary services and/or proposed site works to prevent the deposition of sediment from the site into stormwater drains and/or watercourses;
- 34 Stormwater control devices must be inspected after each significant rainfall event and appropriate action taken to ensure the integrity of the system;

Cradle Mountain Water (CMW)

*General conditions*

- 35 All water and sewerage infrastructure extensions or upgrades (including all associated costs) required to service the development shall be at the expense of the developer;
- 36 Any damages caused to the existing CMW infrastructure during the construction period is to be repaired and reinstated at the expense of the developer and shall be to the satisfaction of the Coordinator Development and Assessment;
- 37 All geotechnical recommendations made by Geoton Pty Ltd in their report (GL10102Ab 10 August 2010) as submitted as part of this application shall be implemented by the developer in relation to the design, alignment, installation and construction of all water and sewerage services;
- 38 The realignment of CMW's water main as identified in the submitted plans drawn by Lester Franks (D13883-PO2; REV 3; Sheet 1 of 1) shall be to a suitable alignment in accordance with recommendations from Geoton Pty Ltd (as identified above) and shall be to the satisfaction of CMW;

*Water supply conditions*

- 39 The developer is to extend the 150mm diameter water supply main located on Lester Road and connect to the development site adjacent to lot 82 as identified on the plans;

- 40 The developer is to realign the 150mm diameter water supply main located on the subject site and to reconnect to the 150mm line as identified in Condition 39 Water Supply Conditions;
- 41 The developer is to negotiate with the owner of 20 Sylvan Rise to obtain written consent to establish alternate access and easement rights over the land (if necessary) to aid the realignment of the existing 150mm diameter water supply main;
- 42 A reticulated water supply with connections to each lot shall be designed and constructed in compliance with WSAA Water Supply Code of Australia and CMW requirements;
- 43 Fire plugs shall be designed and constructed in compliance with WSAA Water Supply Code of Australia, CMW's requirements and the Tasmania Fire Service requirements;
- 44 Prior to commencement of works, detailed construction plans of all proposed works, prepared by a suitably qualified engineer, demonstrating compliance with WSAA Water Supply Code of Australia and CMW requirements, must be submitted and approved by CMW. In the case of discrepancies or items not covered in the WSAA standards, details must be to the satisfaction of CMW. Design calculations to confirm design are to be provided if requested by CMW;
- 45 The approved engineering drawings must not be altered without the prior written consent of the CMW;
- 46 All works are to be constructed under the supervision of a qualified engineer in accordance with WSAA Water Supply Code of Australia. The qualified engineer is to certify to CMW that the works have been constructed in accordance with the approved plans and WSAA standards;
- 47 All connections to (including associated work on CMW assets) must be carried out by CMW staff via a Private Works Request at the expense of the developer. A Private Works Request is to be made to the CMW by the developer at least 21 days prior to the connection being required;
- 48 As Constructed Drawings shall be prepared by a qualified surveyor and forwarded to CMW prior to CMW's acceptance of the completed works;
- 49 Any water services (other than within a services easement) crossing title boundaries shall be disconnected and capped to the satisfaction of CMW;
- 50 Any redundant water services shall be disconnected and capped to the satisfaction of CMW;

- 51 Prior to the sealing of the Final Plan of Survey, the developer must be obtain a Certificate of Consent from CMW and the Certificate shall be submitted to the Council with sealing documents as evidence of completed works;
- 52 A four-metre (4) wide easement(s) over the CMW water mains passing through any lot identified on the Plan must be accurately shown in the Final Plan of Survey lodged with Council for sealing;

*Sewerage supply conditions*

- 53 The developer is to connect to CMW's sewer main from the manhole located at 14 Lester Road;
- 54 The developer is to negotiate with the owner of 14 Lester Road to obtain written consent to establish alternate access and easement rights over the land or provide CMW with an alternate solution that is to the satisfaction of CMW;
- 55 A reticulated sewerage system with connections to each lot shall be designed and constructed in compliance with WSAA Sewerage Code of Australia and CMW requirements;
- 56 Prior to commencement of works, detailed construction plans of all proposed works, prepared by a suitably qualified engineer, demonstrating compliance with WSAA Sewerage Code of Australia and the CMW requirements, shall be submitted and approved by CMW. In the case of discrepancies or items not covered in the WSAA standards, details must be to the satisfaction of CMW. Design calculations to confirm the design are to be provided if requested by the CMW;
- 57 The approved engineering drawings shall not be altered without the prior written consent of the CMW;
- 58 All connections to (including associated work on CMW assets) must be carried out by CMW staff via a Private Works Request at the cost of the developer. A Private Works Request is to be made to CMW by the developer at least 21 days prior to the connection being required;
- 59 All works are to be constructed under the supervision of a qualified engineer in accordance with WSAA Sewerage Code of Australia. The qualified engineer is to certify to CMW that the works have been constructed in accordance with the approved plans and WSSA standards;
- 60 As Constructed Drawings shall be prepared by a qualified surveyor and forwarded to CMW prior to CMW's acceptance of the completion of the works;

- 61 Any sewerage services (other than within a services easement) crossing title boundaries are to be disconnected and capped to the satisfaction of CMW;
- 62 Any redundant sewerage services are to be disconnected and capped to the satisfaction of CMW;
- 63 A three-metre (3) wide easement(s) over the CMW sewerage mains passing through any lot on the Plan must be accurately shown in the Final Plan of Survey lodged with Council for sealing;
- 64 All titles must be endorsed to the effect that no building is to be located within 2m of CMW's sewerage services easement;

*Water and Sewerage Headworks Contribution*

- 65 Prior to the sealing of the Final Plan of Survey, payment must be made to the Tasmanian Water & Sewerage Corporation (North West region) Pty Ltd (CMW) for a headworks contribution for water and sewerage services as follows:
  - (i) water \$1,765.00 per additional lot; and
  - (ii) sewerage \$1,349.00 per additional lot.

Total lots payable 81 (total lots proposed minus the balance lot).

Each payment is calculated as at 1 January 2010. Each payment must be indexed in accordance with any increases in the Consumer Price Index with effect from 1 July in each financial year calculated to the date of payment. In the case of a subdivision proceeding in stages, the amount is to be calculated in accordance with the number of lots proposed in each stage;

and that the developer be requested to note:

- A The use of suitable Water Sensitive Urban Design principles or detention type systems should be considered to assist in minimising the run-off generated from the full development of the subdivision;
- B Any works associated with the connection to existing (live) Council stormwater services will be undertaken by the Council at the developer's cost, unless alternative arrangements are approved by the Council's Director Engineering Services, or his representative;
- C A Road Reserve Permit must be issued by the Council's Public Safety Officer, or his representative, prior to any works or activity being undertaken within the road

reservation. Application forms are available from the Council's Engineering Services Department, and a fee applies;

- D Any works associated with existing footpaths, kerb & channel, roads, nature strips, stormwater infrastructure or other Council services will be undertaken by the Council, unless alternative arrangements are approved by the Council's Director Engineering Services, or his representative;
- E Any damage or disturbance to footpaths, kerb & channel, roads, nature strips, stormwater infrastructure or existing services must be rectified, noting that this work will be undertaken by the Council at the owner's/developer's/applicant's expense, unless alternative arrangements are approved by the Council's Director Engineering Services, or his representative;
- F The Council would like to explore the possibility of removing the Lester Road/Ironcliffe Road intersection and redirecting Lester Road through the subdivision;
- G Lots at the western end of the subdivision would appear to be at risk from bushfire. The advice of the Tasmania Fire Service should be obtained on the appropriate way of ensuring an adequate level of safety for future residents, including a reassessment of lot areas and boundaries in this area; and
- H A suitable location for the required public pathway could be in the vicinity of Lots 9 and 31. It may also be appropriate to combine the pathway link with an area of public open space, potentially developed as a local park or playground."

Carried unanimously



GENERAL MANAGEMENT

**296/2010 Minutes and notes of committees of the Council and other organisations**

The Executive Services Officer reported as follows:

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

- Riana Community Centre Committee – annual general meeting held on 2 September 2009 and ordinary meeting held on 5 May 2010
- Youth Engaged Steering Committee – meeting held on 19 August 2010
- Penguin Miniature Railway Management Committee – meeting held on 24 August 2010
- Central Coast Community Safety Partnership Committee – meeting held on 25 August 2010
- Cradle Coast Authority – meeting of Representatives held on 26 August 2010.

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

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

Carried unanimously

**297/2010 Review of the Code of Conduct for Councillors (434/2008 – 15.12.2008)**

The General Manager reported as follows:

*“PURPOSE*

The purpose of this report is to propose no change to the Code of Conduct of Councillors following its bi-annual review.

*BACKGROUND*

Section 28E of the *Local Government Act 1993* provides as follows:

- ‘(1) A Council must adopt a code relating to the conduct of councillors  
... .
- (2) A code of conduct must –
  - (a) be consistent with this Act; and

- (b) address any prescribed matters; and
  - (c) be reviewed within 12 months after an ordinary election.
- (3) ...'

The Council last reviewed its Code of Conduct for Councillors in 2008 when a revised Code was adopted (Minute No. 434/2008 – 15.12.2008). The revision allowed the Council to meet all legislative requirements in relation to the drafting and contents of a code of conduct whilst updating the format for easier readability.

The last ordinary election of councillors was concluded on 29 October 2009. Accordingly, the Code of Conduct must be reviewed by 29 October 2010.

*DISCUSSION*

Regulation 22A of the *Local Government (General) Regulations 2005* sets out matters that a code of conduct must address. It is silent on the extent to which they must be addressed, and it is therefore up to each individual council to determine how it will articulate its commitment to each prescribed matter.

It is considered that the Code in its current form continues to reflect the outcome this Council wishes to achieve.

*CONSULTATION*

This is an internal governance matter for determination by Councillors.

*IMPACT ON RESOURCES*

Implementation of the Code in this form has negligible administrative costs.

*CORPORATE COMPLIANCE*

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

- Council Sustainability and Governance
- Improve corporate governance
  - Effective communication and engagement

*CONCLUSION*

It is recommended that no change be made to the Code of Conduct, November 2008 as it continues to meet all legislative requirements as well as being reflective of the outcome the Council wishes to achieve.”

The Executive Services Officer reported as follows:

“A copy of the Code of Conduct for Councillors, November 2008 has been circulated to all Councillors.”

■ Cr Robertson moved and Cr (L) Bonde seconded, “That, having been reviewed as required under the *Local Government Act 1993*, the Code of Conduct for Councillors, November 2008 (a copy of the Code being appended to and forming part of the minutes) be retained without change.”

Voting for the motion

(9)

Cr (J) Bonde

Cr (L) Bonde

Cr Diprose

Cr Dry

Cr Fuller

Cr Haines

Cr Howard

Cr Robertson

Cr Viney

Voting against the motion

(1)

Cr van Rooyen

Motion

Carried

CORPORATE & COMMUNITY SERVICES

**298/2010 Corporate & Community Services determinations made under delegation**

The Director Corporate & Community Services reported as follows:

“A Schedule of Corporate & Community Services Determinations made during the month of August 2010 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 Fuller moved and Cr Robertson seconded, “That the Schedule of Corporate & Community Services Determinations (a copy being appended to and forming part of the minutes) be received.”

Carried unanimously

**299/2010 Contracts and agreements**

The Director Corporate & Community Services reported as follows:

“A Schedule of Contracts and Agreements (other than those approved under the common seal) entered into during the month of August 2010 has been submitted by the General Manager 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 Haines seconded, “That the Schedule of Contracts and Agreements (a copy being appended to and forming part of the minutes) be received.”

Carried unanimously

**300/2010 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 August 2010 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 concerning the erection of a carport on adjoining boundary.
- . Email from Riverlinks Tasmania updating progress on the Development Application relating to the proposed tourism development for 83 Henslowes Road.
- . Letter concerning the state of the Penguin Recreation Ground visitors' changerooms
- . Letter from the Ulverstone Repertory Theatre Society requesting that the Council consider the waiving of fess and charges relating to their proposed building works.

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 Howard moved and Cr Diprose seconded, "That the Director's report be received."

Carried unanimously

**301/2010 Common seal**

The Director Corporate & Community Services reported as follows:

"A Schedule of Documents for Affixing of the Common Seal for the period 17 August to 20 September 2010 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 Schedule also includes for information advice of final plans of subdivision sealed in accordance with approved delegation and responsibilities."

The Executive Services Officer reported as follows:

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

■ Cr Viney moved and Cr Robertson 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, and that the advice of final plans of subdivision sealed in accordance with approved delegation and responsibilities be received."

Carried unanimously

### **302/2010 Financial statements**

The Director Corporate & Community Services reported as follows:

"The following principal financial statements of the Council for the period ended August 2010 are submitted for consideration:

- . Summary of Rates and Fire Service Levies
- . Operating and Capital Statement
- . Cashflow Statement
- . Capital Works Resource Schedule."

The Executive Services Officer reported as follows:

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

■ Cr Robertson moved and Cr Fuller seconded, "That the financial statements (copies being appended to and forming part of the minutes) be received."

Carried unanimously

### **303/2010 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>	101140.0040
<i>PROPERTY ADDRESS</i>	3 Mason Street, Ulverstone
<i>REMISSION</i>	\$516.77
<i>REASON</i>	House has been demolished and new AAV provided by the Valuer-General

*PROPERTY NO.* 101560.1200  
*PROPERTY ADDRESS* 461 South Road, West Ulverstone  
*REMISSION* \$160.00  
*REASON* Property incorrectly charged Waste Management Service Charge.

*PROPERTY NO.* 202110.0370  
*PROPERTY ADDRESS* Lethborg Avenue, Turners Beach  
*REMISSION* \$805.00  
*REASON* Property is now owned by the Council.

*PROPERTY NO.* 403010.0040  
*PROPERTY ADDRESS* 4 Anne Street, Heybridge  
*REMISSION* \$119.58  
*REASON* 2 and 4 Anne Street now consolidated and valued as one property.”

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 Haines moved and Cr Dry seconded, “That the following remissions be approved:

- . Property No. 101140.0040 – \$516.77
- . Property No. 101560.1200 – \$160.00
- . Property No. 202110.0370 – \$805.00
- . Property No. 403010.0040 – \$119.58.”

Carried unanimously and by absolute majority

**304/2010 Roads and streets nomenclature – Naming of new road off Preservation Drive, Preservation Bay**

The Director Corporate & Community Services reported as follows:

“The Administrative Officer has prepared the following report:

*PURPOSE*

This report considers the naming of a new road off Preservation Drive, Preservation Bay.

*BACKGROUND*

The owners of property at 90 Preservation Drive, Preservation Bay, have written submitting options for street names for their four-lot subdivision.

The options are as follows:

- . Sea Serene Close
- . Serenity Close
- . Tranquillity Close

The suggested names were forwarded to the Nomenclature Board for consideration. No advice/comments were received.

*DISCUSSION*

The Council's policy for the naming of local roads and streets (Minute No. 472/95 – 18.9.95) is as follows:

“That ... the Council promote road and street names that:

- (i) are in keeping with the character of the area in which they are located;
- (ii) assist in developing the identity of the area in which they are located;
- (iii) reflect the history of the area in which they are located ;
- (iv) do not duplicate other road/street names;
- (v) are not offensive/insulting/irreverent;
- (vi) are not misleading.”

The policy is generally in accordance with rules defined by the Nomenclature Board.

There is no duplication with other road/street names; however there are a number of streets starting with “Sea”.

*CONSULTATION*

The report outlines the consultation undertaken.

*IMPACT ON RESOURCES*

As signage will be provided by the developers, there will be no impact on Council resources.



*CORPORATE COMPLIANCE*

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

The Environment and Sustainable Infrastructure

- . Develop and manage sustainable built infrastructure

*CONCLUSION*

It is recommended that the new road off Preservation Drive, Preservation Bay be named Serenity Close, Preservation Bay.'

The report is supported."

The Executive Services Officer reported as follows:

"A plan highlighting the new subdivision street has been circulated to all Councillors."

- Cr (L) Bonde moved and Cr Viney seconded, "That the Council advise the Nomenclature Board of Tasmania that the new road, off Preservation Drive, Preservation Bay, be named Serenity Close."

Carried unanimously

**305/2010 Fraud Control Policy**

The Director Corporate & Community Services reported as follows:

*"PURPOSE*

To consider a draft Fraud Control Policy for the prevention, detection and risk management of fraud within the activities of the Central Coast Council.

*BACKGROUND*

In June 2009 the Council drafted a Fraud Control Policy as part of its commitment to the prevention, deterrence and investigation of fraud within any activity undertaken by the Council.

This report considers the formal adoption of that Policy, the related Fraud Prevention Strategy and the Fraud Detection Strategy.

*DISCUSSION*

This policy covers guidelines and responsibilities regarding appropriate actions that must be followed to increase the awareness of, and for the investigation of, fraud.

The management of the risk of the Council's exposure to fraud is an important area to monitor and the Council needs to be assured that appropriate and transparent procedures are in place to:

- . Protect the Council's assets and reputation;
- . Ensure a sound ethical culture within the Council;
- . Ensure senior management commitment to identifying risk exposures to fraud and for establishing procedures for prevention and detection of fraud; and
- . Ensuring that Councillors and staff are aware of their responsibilities in relation to ethical conduct.

*CONSULTATION*

A workshop has been held with the Councillors with regard to the Policy and its implementation.

*IMPACT ON RESOURCES*

The implementation of this policy will have a minor impact on the resources of the Council through the cost of implementing audit programs however this cost is more than offset through the subsequent prevention of losses that might have been occasioned through fraud.

*CORPORATE COMPLIANCE*

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

Council Sustainability and Governance

- . Improve corporate governance
- . Improve the Council's financial capacity to sustainably meet community expectations

*CONCLUSION*

It is recommended that the Council adopt the draft Fraud Control Policy."

The Executive Services Officer reported as follows:

“A copy of the draft Fraud Control Policy – September 2010 has been circulated to all Councillors.”

■ Cr van Rooyen moved and Cr (L) Bonde seconded, “That the Council adopt the draft Fraud Control Policy – September 2010.”

Carried unanimously

### 306/2010 Dog Management Policy – 2010 Review

The Director Corporate & Community Services reported as follows:

“The Administration Group Leader has prepared the following report:

#### *PURPOSE*

To report on the review and recommended changes to the Council's Dog Management Policy (the Policy).

#### *BACKGROUND*

The current Policy was adopted in 2005 in accordance with the *Dog Control Act 2000* requiring each council to develop and implement a policy relating to dog management within its municipal area.

Councils are required to review their dog management policy at least once every five years in accordance with the *Dog Control Act 2000*.

Additionally, new dog control provisions to improve the public safety provisions of the *Dog Control Act 2000* commenced on 1 July 2010.

#### *DISCUSSION*

The implementation of the current Dog Management Policy (2005) has:

- . Addressed the legislative requirements of the *Dog Control Act 2000*;
- . Achieved its objective of ‘*ensuring a caring and safe environment, where any conflict caused by dogs within the community is minimised, and the rights of dog owners and non-dog owners are respected*’;
- . Informed the community of their responsibilities within the municipal area; and
- . Provided direction to Council employees for the administration of the *Dog Control Act 2000*.

However, following changes to the legislative requirements and the requirement to review the current Policy, a review of the Dog Management Policy was initiated in June 2010.

This review firstly performed a gap analysis of the current Policy (2005) to address the legislative requirements commencing on 1 July 2010. The issues identified during this review were:

- . *Dog Under Effective Control* – this is more definitive and reinforces the requirement for a dog to be on a lead when in a city or town;
- . *Micro-chipping* – As of 1 July 2011, all dogs are required to be micro-chipped;
- . *Dogs attacking Person or Animal* – the severity of these is more clearly ranked;
- . *Restricted Breed Dog* – classified and additional responsibilities placed on the owners of these dogs; and
- . *Abatement Notices* – providing provisions for Council to request a dog owner to take action to prevent their dog from being a nuisance without having to prosecute.

It is recommended these changes to the legislation be incorporated into the Dog Management Policy (2010) based on the Council obligation to do so in accordance with the Act.

Additionally, the public was invited to attend information and consultation sessions undertaken within the communities at Ulverstone, Penguin and Turners Beach to be presented with information on the recent amendments to the *Dog Control Act 2000* and be consulted on the Council's development of the proposed Dog Management Policy (2010).

The issues identified during these consultation sessions were:

- . *West Ulverstone Beach* – A recommendation was received from a member of the public that the current restrictions requiring that dogs be on lead from November until the end of March and only exercised between 7.00am and 8.00pm. It was further recommended that a restriction be introduced that *“During the months of November to the end of March dogs can only be exercised between one half hour before sunrise and one half hour after sunset and further that dogs are required to be on lead until they reach the wet sand line”*.

While such a provision has merit in that it continues to address concerns over the relationship between penguins and responsible dog

owners, such a change would be difficult to police due to its very changeability. With the relevant parameters (sunrise, sunset and tides) changing daily it is believed that this could lead to confusion over when and where dogs can be released on the beach. Restricting dogs that are off lead to the wet area would be difficult and allowing dogs to be in the water after sunset could possibly impact on any penguins waiting off shore for night to fall before they make their way ashore to feed their chicks. The current restriction is defined by clear and unequivocal time limits that were agreed on following a range of consultation with the community and with those knowledgeable in the field of penguins.

Over the past few years there have been a number of attacks by dogs on penguins in the West Ulverstone area; however, there has been no evidence that such attacks have been caused by dog owners walking their dogs off lead on the beach, but rather by irresponsible dog owners allowing their dogs to roam at night. To further limit on-lead access by dogs to the beach during daylight hours would only penalise responsible dog owners and do nothing to reduce the current risk to penguins by irresponsible dog owners who do not ensure that their dogs are restrained after dark. The Council will continue to try to educate dog owners in the West Ulverstone area as to their obligations as responsible dog owners.

It is therefore recommended the current restrictions be retained on West Ulverstone Beach.

*Buttons Beach, Ulverstone, between Buttons Creek and Victoria Street*  
- A recommendation was received that the area of Buttons Beach between Buttons Creek and Victoria Street be removed from the list of prohibited areas and that it be made an on-lead area during the winter months.

The issue of dog access to this part of Buttons Beach has been raised previously in 2008 when a petition on this matter was received by the Council. The petition was received following the issuing of a number of infringements for persons walking dogs in the prohibited area, as well as a number of complaints from local residents over the walking of dogs in the prohibited area.

Since that time there has been an increase in the number of signs, a decrease in the number of complaints concerning dogs in the

prohibited area, and no infringements have been issued since September 2008 for dogs being walked in the prohibited area.

While access to the beach during winter months is a reasonable request, such a change might result in further confusion, increased signage and a significant reduction in the beach available to those who wish to exercise freely without the fear of interference from dogs. At the moment the area of beach where dogs are prohibited within the Central Coast area is significantly less than the area available for the exercise of dogs. While there are some 7.5km of beaches where dogs are permitted either with some restriction or no restriction at all, there are only 2km of beaches where dogs are prohibited at all times. It is believed that this is a reasonable compromise.

It is therefore recommended the current restrictions be retained on Buttons Beach, between Buttons Creek and Victoria Street.

- . *Turners Beach to Ulverstone Shared Pathway* – A recommendation was received that the Turners Beach to Ulverstone Shared Pathway be made an on-lead area. The shared pathway is proving to be a popular exercise location for pedestrians, cyclists and dog owners and it is believed that this recommendation has merit. Following changes to the *Dog Control Act 2000* that came into force on 1 July 2010 that require a dog to be on lead when on a road or road-related area in a built-up area, or any other public place, it is felt that making the shared pathway an on-lead area was simply a logical extension to the on-lead requirements that would apply in both Turners Beach and Ulverstone. Signage has been installed at each end of the shared pathway to assist with educating users. This will be replaced with smaller, more appropriate signage once local dog owners have become familiar with the on-lead status of the pathway.

It is therefore recommended the restriction be applied to the Shared Pathway between Turners Beach and Ulverstone requiring dogs to be on lead at all times.

- . *Turners Beach* – A concern was raised over the impact of dogs being walked on local footpaths where the owners do not clean up after their animals.

Whilst this concern originated from Turners Beach, there are no geographical circumstances limiting this concern to this particular area. Following changes to the *Dog Control Act 2000* that came into

force on 1 July 2010 that require a dog to be on lead when on a road or road-related area in a built-up area, or any other public place, a proposal to address this issue has not been identified short of prohibiting dog owners from utilising footpaths when exercising their animals.

The issue with owners not cleaning up after their animals is clearly addressed in the *Dog Control Act 2000* and the current Dog Management Policy (2005). Therefore, the issue should be considered an enforcement issue and addressed through education and prosecution to correct inappropriate behaviour.

To address this issue the Council currently provides three doggy bag dispenser units in Turners Beach that are routinely inspected and filled. The Council also currently provides one full-time Animal Control Officer and is supported by a Council Inspector to routinely patrol the municipal area and respond to complaints received from the public. This complaint-handling process is clearly defined in the current Dog Management Policy where Council commits to adhering to its Customer Service Policy and openly communicating the complaint to the dog owner/s whilst protecting the identity of the complainant.

It is therefore recommended concerns over the impact of dogs being walked on local footpaths where the owners do not clean up after their animals in Turners Beach be addressed under the current provisions of the Dog Management Policy.

Having considered the feedback from the community the proposed Dog Management Policy 2010 was finalised and made available to the community for public comment:

The written representation received by the Council responding to the proposed Dog Management Policy 2010 was also minimal and further supports the view the current Dog Management Policy (2005) largely addresses the concerns of residents within the community. The responses received by the Council were:

- . *Buttons Beach, Ulverstone, between Buttons Creek and Victoria Street* – A letter supporting the restriction prohibiting dogs from the area of Buttons Beach between Buttons Creek and Victoria Street.

As previously stated, any change to the current restriction might result in further confusion, increased signage and a significant reduction in the beach available to those who wish to exercise freely without the fear of interference from dogs.

It is therefore recommended the current restrictions be retained on Buttons Beach, between Buttons Creek and Victoria Street based on the above arguments.

- . *Beaches supporting wildlife habitat; specifically Penguins* – The Parks and Wildlife Service contacted Council to confirm the restriction prohibiting dogs would be retained at the following locations:

- Penguin Road, Ulverstone; West of Westland Drive and
- Preservation Drive, Sulphur Creek; West of Creamery Road.

Further, concerns were raised about the impact of dogs on the Penguin population throughout the North–West Coast citing the recent destruction west of Westland Drive adjacent Penguin Road, Ulverstone.

Advice received by the Council suggests that the destruction of Penguins in their native habitat is more likely to be a relationship between irresponsible dog owners who allow their dogs to stray at night and less likely to result from dogs being exercised adjacent such habitat.

- . *Turners Beach* – Several concerns were raised by a Turners Beach resident specifically in relation to Turners Beach. These included:

- irresponsible dog owners not cleaning up after their dogs and leaving waste on footpaths;
- dogs entering the beach via BBQ and playground facilities;
- Doggy Bag Dispensers hidden from view; and
- lack of enforcement of the Dog Management Policy.

Additionally, concerns were also expressed towards native fauna; specifically the Striped Bandicoot and birds.

These issues are considered to relate to the behaviour of dog owners, enforcement against irresponsible behaviour, and planning, rather than a deficiency in the Policy itself.



It is therefore recommended these comments be considered in the implementation of the Policy.

- . *Penguin* – Several concerns were raised by a Penguin resident specifically in relation to the Penguin beaches and Hiscutt Park. These included:
  - irresponsible dog owners not suitably controlling dogs when being exercised on Penguin beaches – dogs left to nuisance other people using beach;
  - irresponsible dog owners ignoring signage prohibiting dogs in Hiscutt Park.

Again, these issues are considered to relate to the behaviour of dog owners and enforcement against irresponsible behaviour rather than a deficiency in the Policy itself.

It is therefore recommended these comments be considered in the implementation of the Policy.

#### *CONSULTATION*

As part of the review of the Policy, the Council hosted three informal Information and Consultation Sessions inviting members of the public to express their thoughts on the content of the Policy. These sessions were held at:

- . *Civic Centre, Ulverstone* – 7:30pm on Thursday 8 July 2010;
- . *Penguin Primary School, Penguin* – 7:30pm on Tuesday 13 July 2010;  
and
- . *Turners Beach Hall, Turners Beach* – 7:30pm on Thursday 15 July 2010.

Additionally, the proposed Dog Management Policy 2010 was released to the public for comment on 14 August, 2010 with comments received until 30 August 2010.

#### *IMPACT ON RESOURCES*

The implementation of the proposed Dog Management Policy will introduce some additional administrative requirements on Council Inspectors and Officers; however, this is simply an extension of the current processes.

The impact on resources is anticipated to be minimal and can be accommodated within the current Control of Animals staffing and budget set for the 2010–2011 financial year.

*CORPORATE COMPLIANCE*

The *Dog Control Act 2000* includes the following Council responsibilities:

- . A Council must develop and implement a policy relating to dog management in its municipal area;
- . A Council is to review its dog management policy at least once every five years; and
- . In reviewing its dog management policy, a Council is to invite public submissions, consult with any appropriate body or organisation, and consider any submission and results of any consultation before finalising the policy.

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

The Shape of the Place

- . Improve the value and use of open space
- . Conserve the physical environment in a way that ensure we have a healthy and attractive community

A Connected Central Coast

- . Improve community wellbeing

The Environment and Sustainable Infrastructure

- . Contribute to a safe and healthy environment
- . Contribute to the preservation of the natural environment

Council Sustainability and Governance

- . Effective communication and engagement

*CONCLUSION*

It is recommended that the Council adopt the Dog Management Policy 2010 and that:

- . Provision of appropriate signage in all areas be considered a priority;

- . The Council declare that the following are areas at which dogs can be exercised off-lead without the dogs being deemed to be at large:
  - 1 Midway Beach, Sulphur Creek, East of Creamery Road – Note, in December / January / February dogs *can only be exercised on the Beach before 9.00am and after 7.00pm;*
  - 2 Watcombe Beach, Penguin – Note, no restrictions on time of use;
  - 3 Penguin Beach, Penguin – Note, in December / January / February dogs *can only be exercised on the Beach before 9.00am and after 7.00pm;*
  - 4 West Ulverstone Beach, Ulverstone, between Josephine Street and Westland Drive – Note, in November / December / January dogs are *required to be on a lead and can only be exercised on the Beach between 7.00am and 8.00pm;*
  - 5 Buttons Beach, Ulverstone, between the Leven River and Victoria Street – Note, no restrictions on time of use;
  - 6 Buttons Beach, East Ulverstone, between Buttons Creek and the Fish Pond – Note, in December / January / February dogs *can only be exercised on the Beach before 9.00am and after 7.00pm;*
  - 7 Turners Beach, Turners Beach, from Forth River to Clayton Rivulet – Note, in November / December / January / February / March dogs are *required to be on a lead and can only be exercised on the Beach before 9.00am and after 8.00pm.'*

The report is supported.”

The Executive Services Officer reported as follows:

“A copy of the proposed Dog Management Policy 2010 has been circulated to all Councillors.”

■ Cr (L) Bonde moved and Cr Fuller seconded, “That the Council adopt the Dog Management Policy 2010 (a copy of the Policy being appended to and forming part of the minutes) and that:

- . Provision of appropriate signage in all areas be considered a priority;

. The Council declare that the following are areas at which dogs can be exercised off-lead without the dogs being deemed to be at large:

- 1 Midway Beach, Sulphur Creek, East of Creamery Road – Note, in December / January / February dogs *can only be exercised on the Beach before 9.00am and after 7.00pm;*
- 2 Watcombe Beach, Penguin – Note, no restrictions on time of use;
- 3 Penguin Beach, Penguin – Note, in December / January / February dogs *can only be exercised on the Beach before 9.00am and after 7.00pm;*
- 4 West Ulverstone Beach, Ulverstone, between Josephine Street and Westland Drive – Note, in November / December / January dogs are *required to be on a lead* and *can only be exercised on the Beach between 7.00am and 8.00pm;*
- 5 Buttons Beach, Ulverstone, between the Leven River and Victoria Street – Note, no restrictions on time of use;
- 6 Buttons Beach, East Ulverstone, between Buttons Creek and the Fish Pond – Note, in December / January / February dogs *can only be exercised on the Beach before 9.00am and after 7.00pm;*
- 7 Turners Beach, Turners Beach, from Forth River to Clayton Rivulet – Note, in November / December / January / February / March dogs are *required to be on a lead* and *can only be exercised on the Beach before 9.00am and after 8.00pm.”*

Carried unanimously

## ENGINEERING SERVICES

**307/2010 Tenders for subdivisional civil works – Russell Avenue, Ulverstone  
(158/2010 – 17.05.2010)**

*Cr Haines, having declared an interest, retired from the meeting and left the Chamber for that part of the meeting relating to the consideration, discussion and voting on the matter of tenders for subdivisional works at Russell Avenue, Ulverstone.*

The Director Engineering Services reported as follows:

*“PURPOSE*

The purpose of this report is to make recommendation on tenders received for the construction of civil works for a 10-lot subdivision at Russell Avenue, Ulverstone.

*BACKGROUND*

The Engineering Group Leader reported as follows.

‘At the Council meeting held on Monday, 15 March 2010 the Council unanimously agreed (Minute No. 93/2010 – 15.03.2010) to:

“...initiate the process required to sell, lease, donate, exchange or otherwise dispose of the following parcel of public land that is considered surplus to requirements:

- . Title Ref. 208671/1 located at Russell Avenue, Ulverstone.”

Further to this at the Council meeting held on Monday, 17 May 2010 the Council unanimously agreed (Minute No.158/2010 – 17.05.2010) to:

“...not take any action with regard to the objection received to the sale, lease, donation, exchange or otherwise disposal of the following parcel of land that is considered surplus to requirements:

- . Title Ref. 208671/1 located at Russell Avenue, Ulverstone.

and that the Council advise the objector of their right to appeal against that decision under s.178A of the *Local Government Act 1993*;

and further, that in the event that no appeal is made, undertake the subdividing of the property in accordance with the concept plan for the purpose of selling that land.”

Due to Council staff commitments consultants were engaged to prepare design drawings and to manage the tender and contract process for this project. The successful consultant was Peacock Darcey and Anderson P/L (PDA).

A Planning Permit for the subdivision was approved on 2 June 2010.

Design and construct tenders were called for the civil works on 31 July 2010, closing at 2.00pm on 25 August 2010.

*DISCUSSION*

Tenders were received as follows (including GST and \$20,000 contingency):

TENDERER	RATING	PRICE \$
Hardings Hotmix Pty Ltd	1	190,416.00
King & Harding Pty Ltd	2	208,059.00
Treloar Transport	3	213,349.00
CBB Contracting Pty Ltd	4	262,641.00
Wantmoor Excavations Pty Ltd	5	192,929.00
ESTIMATE		210,000.00

Assessment is based on a standard set of criteria including value for money, compliance, experience, personnel, references, methodology, OHWS systems and record. Tenders were assessed by a tender evaluation panel consisting of two representatives from PDA and one from the Central Coast Council.

Harding Hotmix was the highest rating tender. They were also the lowest price and are known to the Council and PDA staff to be a competent contractor. The recommendation from the tender evaluation panel is Hardings Hotmix.

A discrepancy in the thickness of asphalt seal and footpath reinstatement item was discovered after tenders were received. Additional information was sought to clarify if there was any effect on tender price. The price from Hardings Hotmix, Treloar Transport and CBB remained unchanged; King and Harding added \$10,175.00 including GST. Wantmoor Excavations did not respond to the request for clarification. The discrepancy had no effect on the recommendation.

*CONSULTATION*

This item has followed a public tendering process and sale of the land has been the subject of previous Council approval process. Cradle Mountain Water (CMW) has approved the water and sewerage component of the design. Aurora and Telstra have provided designs for the subdivision to be incorporated with the works.

*IMPACT ON RESOURCES*

The preferred tender is within the budget allocation of \$300,000.

*CORPORATE COMPLIANCE*

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

The Shape of the Place

- . Improve the value and use of open space
- . Encourage a creative approach to new development

The Environment and Sustainable Infrastructure

- . Develop and manage sustainable built infrastructure

Council Sustainability and Governance

- . Improve the Council's financial capacity to sustainably meet community expectations.

*CONCLUSION*

It is recommended that the tender from Hardings Hotmix Pty Ltd for the construction of civil works for the 10-lot subdivision at Russell Avenue, Ulverstone in the sum of \$190,416.00 (including GST) be accepted and approved by the Council.'

The Engineering Group Leader's report is supported."

- Cr Robertson moved and Cr Viney seconded, "That the tender from Hardings Hotmix Pty Ltd for the construction of civil works for the 10-lot subdivision at Russell Avenue, Ulverstone in the sum of \$190,416.00 (including GST) be accepted."

Carried unanimously

### **308/2010 Kings Parade railway level crossing – Potential closure**

The Director Engineering Services reported as follows:

*“PURPOSE*

This report considers the request for closure of the Kings Parade railway level crossing made by Tasrail (TR) on 18 August 2010, refer to location plan.

*BACKGROUND*

An impact between a train and motor vehicle occurred at the Kings Parade railway level crossing on Monday, 23 August 2010. The train was heading in a southerly direction and the motor vehicle containing two occupants was entering the Policemans Point (Nicholsons Point) reserve area near the Ulverstone Rowing Club from Kings Parade.

As a result Tasrail’s Rollingstock/Track Maintenance Manager Freight Services contacted the Council, requesting that the crossing be reviewed. The correspondence dated 18 August 2010 reads :

‘The level crossing accident at King Parade highlighted a passive crossing with restrictive visual approaches on a road that could quite easily be closed, TR recommend to the council that this crossing be closed to prevent a similar incident. TR will be taking positive steps in the near future which may include preventing vehicle access on that crossing. Please review the crossing and provide your feedback as soon as possible.’

Council officers are not aware of any other previous crashes at this location.

*DISCUSSION*

Following receipt of this initial correspondence the Engineering Group Leader responded on 24 August 2010 to advise that there were several issues to consider from the Council’s perspective and that a formal response would be provided when the issues had been discussed.

Further to this on 24 August 2010 Tasrail’s General Manager Infrastructure made contact to find out what the Council’s issues were and how quickly this would be resolved.

The Engineering Group Leader responded with a list of issues, detailed below, advised he had arranged a meeting for 31 August 2010 and would reply following this meeting. He also requested information about the crash including causes,



circumstances, directions of travel, considered options etc to assist in our discussions.

The reply to this, copy below, from the General Manager Infrastructure was that they believed it should be closed immediately, they asked when it would be closed by Council, and if not, they would arrange for the closure anyway. The email read as follows:

'It is my understanding that no formal road reserve covers this crossing and also the crossing is not licenses.

It is our view that it should be closed off immediately until a position moving forward is agreed.

Can the council please advise when it will be closed, even if only temporary, otherwise, I see no reason why Tasrail cannot do it anyway.

Please advise today/tomorrow.

Thanks'

In the interests of public safety and maintaining a working relationship with Tasrail prior to discussion on the way to move forward, it was decided to temporarily close the access to vehicular traffic on Friday, 27 August 2010 until the issues had been resolved and Tasrail were advised of this.

The Engineering Group Leader reported as follows:

*'History*

The crossing has been open to the public for many years, being part of the highway and bridge approach prior to the 1930's. Whilst it may not have an official licence this history may suffice to reinforce its use as a public road and access.

*Alternative access*

An alternative for access to the area exists from Riverside Avenue. At the time of filling the creek valley, a wall was built which has an overgrown gravel track at the top. This track could be reconstructed for public access but would require improvements for all-weather access. Approximate cost of this option is \$10,000 for a gravel access or \$15,000 for a sealed access.

*Sewer pump station*

A Cradle Mountain Water sewer pump station is currently accessed by this crossing. They have an ongoing need to access the pump for maintenance purposes. It is believed the level crossing or the alternative access from Riverside Avenue would suffice for their purposes.

*Boat ramp*

A ramp is currently located at the north-western side of the park and is open for use of the public. It is in a very poor state and has been the subject of discussion for removal or repair. The ramp is not owned or maintained by MAST and therefore falls to the Council for ongoing maintenance, upgrade, or replacement and liability issues. A decision is required on retention of the ramp regardless of whether a public vehicle access is retained to the park area. Approx cost of replacement is \$60,000.

*Anzac Park Master Plan*

It is the vision of the Master Plan to be able to provide a continual walkway from Anzac Park to Policemans Point and along Riverside Avenue with a potential future extension to Henslowes Park area. For this reason it would be crucial to retain as a minimum a pedestrian crossing point of the railway in the vicinity of the Rowing Club. The cost to construct a complying pedestrian access crossing would be in the order of \$20,000.

*Motorhomes*

The area is currently listed in Council's Coast to Canyon RV brochure as an overnight stay area for motorhomes. It is also listed in the regional North West Coast Drive Brochure. This area is a suitable area for this purpose and is the only free overnight RV location in Ulverstone.

*Overflow carpark*

The area currently acts as an overflow carpark area when large events are held at the Rowing Club. If the area becomes unavailable there may be an impact on Kings Parade and even into Lovett Street. The footpath from Lovett Street currently has a gravel surface and finishes at the access to the Rowing Club and may need to be extended and upgraded if the overflow area is no longer available. The estimated cost to upgrade, seal and extend the footpath is \$60,000. To extend the existing carpark into Anzac Park by 18m to provide an additional 25 spaces would cost approximately \$70,000. There is also lost amenity for the Park should this be required.

*Sight distance/crossing improvement*

The sight distance at the existing crossing could be improved with the removal of trees to the north and south of the crossing. The access between Kings Parade and the rail could also be improved by providing a kerb crossover to clearly indicate the crossing point, sealing the access to minimise tyre spin when traversing the rail and improving warning signage and delineation. The estimated cost to remove the trees, replant with suitable specimens and improve the access is \$25,000.

The decision to request closure would appear to be a spontaneous reaction to the crash by Tasrail as there is no other known history of crashes or incidences.

Whilst the crossing may not have a current licence, the history, signposting and continued use for many years would suggest the acceptance of the crossing by the rail operators and the public. It is therefore recommended that the crossing remains open and that Council officers work with Tasrail and the Department of Infrastructure Energy and Resources (DIER) to determine the most appropriate and safe way of achieving this.

*CONSULTATION*

The request for closure of the level crossing has been instigated by Tasrail. There have been ongoing discussions with them. No public consultation has been undertaken.

*IMPACT ON RESOURCES*

This item will impact capital works or maintenance budgets depending on the outcomes of this report and negotiations with DIER and Tasrail.

*CORPORATE COMPLIANCE*

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

## The Shape of the Place

- . Improve the value and use of open space

## A Connected Central Coast

- . Provide for a diverse range of movement patterns
- . Improve community wellbeing

The Environment and Sustainable Infrastructure

- . Invest in and leverage opportunities from our natural environment
- . Contribute to a safe and healthy environment
- . Develop and manage sustainable built infrastructure
- . Contribute to the preservation of the natural environment

*CONCLUSION*

It is recommended that the Kings Parade level crossing is not permanently closed to vehicular traffic and that Council Officers pursue a crossing licence and safety improvements.'

The Engineering Group Leader's report is supported."

The Executive Services Officer reported as follows:

"A location plan has been circulated to all Councillors."

■ Cr van Rooyen moved and Cr Haines seconded, "That the Council not support permanent closure of the Kings Parade level crossing to vehicular traffic and that Council Officers pursue a crossing licence and safety improvements."

Carried unanimously

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## CLOSURE OF MEETING TO THE PUBLIC

### 309/2010 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 matters be discussed in a closed meeting:

- . Minutes and notes of other organisations and committees of the Council; and
- . Lease of T J McKenna House.

These are matters relating to:

- . information provided to the Council on the condition it is kept confidential; and
- . trade secrets of private bodies.”

■ Cr Fuller moved and Cr van Rooyen 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
- . trade secrets of private bodies;

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
- . Lease of T J McKenna House.”

Carried unanimously and by absolute majority

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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 in the minutes of the open meeting 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

**310/2010 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 in the minutes of the open meeting 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

**311/2010 Lease of T J McKenna House (68A/2009 – 16.02.2009)**

The Director Corporate & Community Services reported (reproduced in part) as follows:

“To consider a request by Central Coast Clinical Services Pty Ltd.

...

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

- (b) 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 in the minutes of the open meeting 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.”



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## **Closure**

There being no further business, the Acting Mayor declared the meeting closed at 8.11pm.

CONFIRMED THIS 18TH DAY OF OCTOBER, 2010.

## **Chairperson**

(gjm:dil)

## **Appendices**

- Minute No. 288/2010 – Schedule of Development & Regulatory Services Determinations
- Minute No. 297/2010 – Code of Conduct for Councillors
- Minute No. 298/2010 – Schedule of Corporate & Community Services Determinations
- Minute No. 299/2010 – Schedule of Contracts & Agreements
- Minute No. 301/2010 – Schedule of Documents for Affixing of the Common Seal
- Minute No. 302/2010 – Financial statements
- Minute No. 306/2010 – Dog Management Policy

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