
Minutes of an ordinary meeting of the Development Support Special Committee held in the Council Chamber of the Administration Centre, 19 King Edward Street, Ulverstone on Monday, 12 September 2016 commencing at 6.00pm

Members attendance

Cr Jan Bonde (Mayor)
Cr Kathleen Downie
Cr Philip Viney

Cr Shane Broad
Cr Tony van Rooyen
Ms Sandra Ayton

Members apologies

Cr Garry Carpenter

Employees attendance

Director Community Services (Mr Cor Vander Vlist)
Director Organisational Services (Mr Vernon Lawrence)
Director Infrastructure Services (Mr John Kersnovski)
Land Use Planning Group Leader (Mr Ian Sansom)

Employee apologies

Nil

Public attendance

Five member/s of the public attended during the course of the meeting.

CONFIRMATION OF MINUTES OF THE COMMITTEE

25/2016 Confirmation of minutes

The Director Community Services reported as follows:

“The minutes of the previous meeting of the Development Support Special Committee held on 27 June 2016 have already been circulated. The minutes are required to be confirmed for their accuracy.

The *Local Government (Meeting Procedures) Regulations 2015* provide that in confirming the minutes of a meeting, debate is allowed only in respect of the accuracy of the minutes.”

- Cr Viney moved and Cr van Rooyen seconded, “That the minutes of the previous meeting of the Development Support Special Committee held on 27 June 2016 be confirmed.”

Carried unanimously

MAYOR’S COMMUNICATIONS

26/2016 Mayor’s communications

The Mayor reported as follows:

“Under the terms of appointment of the Development Support Special Committee, it acts in agreed circumstances as if it were the Council and, accordingly, as a planning authority under the *Land Use Planning and Approvals Act 1993*.

Members are reminded that the *Local Government (Meeting Procedures) Regulations 2015* provide that the general manager is to ensure that the reasons for a decision by a council acting as a planning authority are recorded in the minutes.

In the event that items listed for consideration are referred, under the terms of the Committee’s appointment, to the Council (e.g. any matter the Committee cannot determine unanimously), or if the Committee is unable to make a determination within the relevant statutory time limit, such items will be referred to a meeting of the Council for a decision.”

- Cr Downie moved and Cr Broad seconded, “That the Mayor’s report be received.”

Carried unanimously

PECUNIARY INTEREST DECLARATIONS

27/2016 Pecuniary interest declarations

The Mayor reported as follows:

“Members are requested to indicate whether they have, or are likely to have, a pecuniary (or conflict of) interest in any item on the agenda.”

The Director Community Services reported as follows:

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

Members are invited at this time to declare any interest they have on matters to be discussed at this meeting. If a declaration is impractical at this time, it is to be noted that a member must declare any interest in a matter before any discussion on that matter commences.

All interests declared will be recorded in the minutes at the commencement of the matter to which they relate.”

No interests were declared at this time.

ADJOURNMENT OF MEETING

28/2016 Adjournment of meeting

The Mayor reported as follows:

“In order to effectively consider the reports before this meeting of the Committee it is appropriate that I adjourn the meeting to enable the related documents to be workshopped prior to resumption of the meeting and formal resolution of the agenda items.”

The workshop commenced at 6.01pm. The workshop having been concluded, the Mayor resumed the meeting at 6.23pm.

DEPUTATIONS

29/2016 Deputations

The Director Community Services reported as follows:

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

OPEN REPORTS

30/2016 **Visitor Accommodation (two accommodation buildings and two ancillary sheds for boat storage) at CT91766/5 Pine Road, Penguin – Application No. DA215218**

The Director Community Services reported as follows:

“The Town Planner has prepared the following report:

<i>DEVELOPMENT APPLICATION NO.:</i>	DA215218
<i>PROPOSAL:</i>	Visitor Accommodation (two accommodation buildings and two ancillary sheds for boat storage)
<i>APPLICANT:</i>	Mr P and Mrs J Stewart
<i>LOCATION:</i>	CT91766/5 Pine Road, Penguin
<i>ZONE:</i>	Rural Resource
<i>PLANNING INSTRUMENT:</i>	<i>Central Coast Interim Planning Scheme 2013</i> (the Scheme)
<i>ADVERTISED:</i>	6 August 2016
<i>REPRESENTATIONS EXPIRY DATE:</i>	20 August 2016
<i>REPRESENTATIONS RECEIVED:</i>	One
<i>42-DAY EXPIRY DATE:</i>	13 September 2016 (extension of time until 19 September 2016)
<i>DECISION DUE:</i>	12 September 2016
<i>PURPOSE</i>	

The purpose of this report is to consider an application for the development of two Visitor Accommodation buildings and ancillary boat storage sheds at CT91766/5 Pine Road, Penguin.

Accompanying this report are the following documents:

- . Annexure 1 – location plan;
- . Annexure 2 – application documentation;
- . Annexure 3 – representation;
- . Annexure 4 – photographs and aerial view;
- . Annexure 5 – Statement of Compliance from the Road Authority and Stormwater Authority.

BACKGROUND

Development description -

Application is made for Visitor Accommodation development on Rural Resource land at CT91766/5 Pine Road, Penguin. The applicant currently owns and manages a tourist operation identified as “*Tassie Highland Fishing Accommodation*”. The proposal would expand the business model to the North West region.

Application is made for a staged development across the site comprising the following:

Stage One – Construction of a 125.6m² two bedroom Visitor Accommodation cottage.

Stage Two – Construction of a 274.5m² three bedroom Visitor Accommodation cottage.

Stage Three – Construction of one 96m² five bay boat shed that would be ancillary and subservient to the Visitor Accommodation use of the land.

Stage Four – Construction of a second 96m² five bay boat shed.

Stage Five – Construction of an open storage boat area with security fencing for housing of large boats.

Access would be off Pine Road.

The Visitor Accommodation buildings would be clad in rock and timber and roofed in non-reflective “Colorbond” material.

The application is accompanied by supporting documentation including Plans and Elevations by Wood Drafting & Design Service, a “Financial Plan” and written description of the proposal by the Applicants, a “Planning Report” by Planner Jayne Newman, a “Site Classification and On-Site Wastewater System Design” report by Strata Geoscience and Environmental, a “Land Capability Assessment” by Strata Geoscience and Environmental and a “Road Site Distance Assessment” by engineers, Pitt & Sherry.

Site description and surrounding area -

The 3.7ha rural property is cleared of native vegetation and does not support any significant rural infrastructure such as sheds, dams or fencing (other

than boundary fencing). A small portion the land is used for the raising of chickens, pigs and sheep.

The land is identified on the Council's land capability overlay as Class 3 prime agricultural land. A "Land Capability Assessment" by Strata Geoscience and Environmental classes the land as Class 4 agricultural land, with topsoil depth greater than 2m. The land is located within the proclaimed Dial/Blythe Irrigation District. The southern, rear portion of the land is slightly elevated, with slopes no greater than 20%.

Surrounding land is also cleared of vegetation and has similar, visible profiles and characteristics. The adjoining rural properties to the east and west are also cleared of vegetation and are used for resource production activities with "required residential" dwellings evident on adjoining rural allotments. A single "residential" dwelling is located directly opposite, the result of a dwelling excision in 1991.

History -

There is no particular history of relevance to the current application.

DISCUSSION

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

26.0 Rural Resource Zone

CLAUSE	COMMENT
26.1.2 Local Area Objectives	
<p>(a) The priority purpose for rural land is primary industry dependent upon access to a naturally occurring resource;</p> <p>(b) Air, land and water resources are of importance for current and potential primary industry and other permitted use;</p> <p>(c) Air, land and water resources are protected against –</p> <p style="padding-left: 40px;">(i) permanent loss to a use or development that has no need or reason to locate on land containing such a resource; and</p> <p style="padding-left: 40px;">(ii) use or development that has potential to exclude or unduly conflict, constraint, or interfere with the practice of primary industry or any other use dependent on access to a naturally occurring resource;</p> <p>(d) Primary industry is diverse, dynamic, and innovative; and may occur on a range of lot sizes and at different levels of intensity;</p>	<p>(a) Proposal does not satisfy the Objective. The proposed use is not a primary industry use of the site, would not be dependent upon access to a primary industry that is dependent upon a naturally occurring resource and would not augment ongoing farm operations. The proposal is considered to be associated with the tourism industry; relying on the presence of natural fish stocks across a range of coastal and inland sites. The proposal is considered to be recreational fishing and as such is not classified as a primary industry activity.</p> <p>(b) Proposal does not satisfy the Objective. The proposed development is not a permitted use and is not reliant on air, land or water resources for primary industry production.</p> <p>(c)(i) Proposal does not satisfy the Objective. The proposal would result in the permanent loss of land to a tourism industry use of land that has no specific reason to locate on the subject site.</p>

<p>(e) All agricultural land is a valuable resource to be protected for sustainable agricultural production;</p> <p>(f) Rural land may be used and developed for economic, community, and utility activity that cannot reasonably be accommodated on land within a settlement or nature conservation area;</p> <p>(g) Rural land may be used and developed for tourism and recreation use dependent upon a rural location or undertaken in association with primary industry;</p> <p>(h) Residential use and development on rural land is appropriate only if –</p> <p>(i) required by a primary industry or a resource based activity; or</p> <p>(ii) without permanent loss of land significant for primary industry use and without constraint or interference to existing and potential use of land for primary industry purposes.</p>	<p>(c)(ii) Proposal does not satisfy the Objective. The proposed Visitor Accommodation use has a high potential to unduly conflict, constrain or otherwise interfere with the practice of primary industry or any other use dependent on access to a naturally occurring resource. This is due primarily to the proposed proximity of a ‘sensitive use’ to adjoining primary industry uses.</p> <p>(d) Proposal does not satisfy the Objective. The proposed use is not a primary industry use, rather the proposed use and development would support the tourism industry, in this case, off-site recreational fishing.</p> <p>(e) Proposal does not satisfy the Objective. The subject land is within the Proclaimed Dial/Blythe Irrigation District and is Class 3–4 agricultural land. The proposed use is not related to sustainable agricultural production.</p> <p>(f) Proposal does not satisfy the Objective. Proposed development could be located in other zones, such as General Residential, Rural Living, Low Density Residential, Environmental Living and Recreation; or on other Rural Resource land where potential primary industry use was lost or constrained due to land characteristics. NB: Primary industry also</p>
--	---

	<p>includes activities such as extractive industry and forestry.</p> <p>(g) Proposal does not satisfy the Objective. The proposal satisfies the Objective in that it is associated with the tourism industry. However, accommodation buildings and associated boat sheds are not dependent upon a rural location and would not be undertaken in association with primary industry or a resource based activity on the subject site or on adjoining land. The accompanying Planning Report states the proposed location is favored by the applicants as it allows for easy access to the Bass Highway and coastal fishing sites and offers views to Bass Strait.</p> <p>(h)(i) Not applicable. Not Residential use.</p> <p>(h)(ii) Not applicable. Not Residential use.</p>
<p>26.1.3 Desired Future Character Statements</p>	
<p>Use or development on rural land -</p>	<p>(a)(i) Proposal is not consistent with Desired Future Character. Proposed development is not associated with a working landscape featuring agriculture or forestry.</p> <p>(a)(ii) Proposal is not consistent with Desired Future Character. Proposed development is not associated with mining and extraction.</p>

<p>(a) may create a dynamic, extensively cultivated, highly modified, and relatively sparsely settled working landscape featuring –</p> <ul style="list-style-type: none"> (i) expansive areas for agriculture and forestry; (ii) mining and extraction sites; (iii) utility and transport sites and extended corridors; and (iv) service and support buildings and work areas of substantial size, utilitarian character, and visual prominence that are sited and managed with priority for operational efficiency <p>(b) may be interspersed with –</p> <ul style="list-style-type: none"> (i) small-scale residential settlement nodes; (ii) places of ecological, scientific, cultural, or aesthetic value; and (iii) pockets of remnant native vegetation 	<p>(a)(iii) Proposal is not consistent with Desired Future Character. Proposed development is not associated with utility and transportation sites or corridors.</p> <p>(a)(iv) Proposal is not consistent with Desired Future Character. Proposed buildings would not be utility service buildings.</p> <p>(b)(i) Not applicable. Proposal will not affect existing residential settlement nodes.</p> <p>(b)(ii) Proposal is consistent with Desired Future Character. Proposed development will not result in a negative effect on places of ecological, scientific, cultural or aesthetic value.</p> <p>(b)(iii) Not applicable. The site is cleared of native vegetation.</p> <p>(c)(i) Proposal is consistent with Desired Future Character. The proposal would require development of a road, vehicle parking and manoeuvring areas, on-site wastewater and stormwater disposal areas and the construction of five buildings over the site. The underlying physical terrain of the site would remain as existing, although the site would be substantially altered by the proposed constructions and use of the land.</p>
--	---

<p>(c) will seek to minimise disturbance to –</p> <ul style="list-style-type: none"> (i) physical terrain; (ii) natural biodiversity and ecological systems; (iii) scenic attributes; and (iv) rural residential and visitor amenity; <p>(d) may involve sites of varying size –</p> <ul style="list-style-type: none"> (i) in accordance with the type, scale and intensity of primary industry; and (ii) to reduce loss and constraint on use of land important for sustainable commercial production based on naturally occurring resources; <p>(e) is significantly influenced in temporal nature, character, scale, frequency, and intensity by external factors, including changes in technology, production techniques, and in economic, management, and marketing systems.</p>	<p>(c)(ii) Proposal is consistent with Desired Future Character. The site exhibits highly compromised natural biodiversity and ecological systems. The proposal would not disturb biodiversity or ecological systems on the site.</p> <p>(c)(iii) Proposal is consistent with Desired Future Character. Proposed development would not disturb existing scenic attributes of the site.</p> <p>(c)(iv) Proposal is consistent with Desired Future Character. Development does not adjoin a Rural Living zone. Development would result in minimal impact on rural residential amenity and would provide additional visitor amenity in this area.</p> <p>(d)(i) Proposal is not consistent with Desired Future Character. Development would not be associated with primary industry.</p> <p>(d)(ii) Proposal is not consistent with Desired Future Character. Development would not be associated with sustainable commercial production based on a naturally occurring resource.</p> <p>(e) Not applicable. Proposal is not significantly influenced by changes in technology, production techniques or economic management and marketing systems.</p>
--	---

26.3.1 Requirement for discretionary non-residential use to locate on rural resource land	
<p>26.3.1-(P1) Other than for residential use, discretionary permit use must:</p> <p>(a) be consistent with local area objectives;</p> <p>(b) be consistent with any applicable desired future character statement; and</p> <p>(c) be required to locate on rural resource land for operational efficiency:</p> <p>(i) to access a specific naturally occurring resource on the site or on adjacent land in the zone;</p> <p>(ii) to access infrastructure only available on the site or on adjacent land in the zone;</p> <p>(iii) to access a product of primary industry from a use on the site or on adjacent land in the zone;</p> <p>(iv) to service or support a primary industry or other permitted use on the site or on adjacent land in the zone;</p> <p>(v) if required</p> <p>a. to acquire access to a mandatory site area not otherwise available in a zone intended for that purpose;</p>	<p>(a) Non-compliant. Proposal does not meet eight out of 10 of the Local Area Objectives of the Rural Resource zone. Two of the 10 Objectives are not applicable to this application.</p> <p>(b) Non-compliant. Proposal does not meet six of the Future Desired Character Statements of the Rural Resource zone. Five of the Statements are satisfied and three are not applicable to this application.</p> <p>(c)(i) Non-compliant. A naturally occurring resource in the Rural Resource zone refers to air, water and land resources. Development is for Visitor Accommodation. It is not a requirement of the proposed use and development to locate on rural resource land to access a naturally occurring resource on the site. The application states that the proposal would locate on-site to access views of Bass Strait and for proximity to the Bass Highway.</p> <p>(c)(ii) Non-compliant. It is not a requirement of the proposed use and development to access infrastructure that is only available on the site or adjacent land.</p> <p>(c)(iii) Non-compliant. It is not a requirement of the proposed use and development to access a primary product from a use on the site or adjacent land.</p>

<p>b. for security;</p> <p>c. for public health or safety if all measures to minimise impact could create an unacceptable level of risk to human health, life or property if located on land in a zone intended for that purpose;</p> <p>(vi) to provide opportunity for diversification, innovation, and value-adding to secure existing or potential primary industry use of the site or of adjacent land;</p> <p>(vii) to provide an essential utility or community service infrastructure for the municipal or regional community or that is of significance for Tasmania; or</p> <p>(viii) if a cost-benefit analysis in economic, environmental, and social terms indicates significant benefits to the region; and</p> <p>(d) minimise likelihood for:</p> <p>(i) permanent loss of land for existing and potential primary industry use;</p> <p>(ii) constraint or interference to existing and potential primary industry use on the site and on adjacent land; and</p> <p>(iii) loss of land within a proclaimed irrigation district under Part 9 <i>Water Management Act 1999</i> or land that may benefit from the application of broad-scale irrigation development.</p>	<p>(c)(iv) Non-compliant. It is not a requirement of the proposed use and development to service primary industry.</p> <p>(c)(v)(a) Non-compliant. Land is otherwise available throughout the municipal area for the proposed use and development.</p> <p>(c)(v)(b) Non-compliant. Proposal is not required to locate on Rural Resource land for security reasons.</p> <p>(c)(v)(c) Non-compliant. Proposal is not required for public health or safety.</p> <p>(c)(vi) Non-compliant. Proposal would not diversify or value-add to existing or potential primary industry use of the site or adjacent land.</p> <p>(c)(vii) Non-compliant. Proposal would not provide essential utility or community service.</p> <p>(c)(viii) Non-compliant. No economic, social or environmental cost-benefit analysis to demonstrate significant regional benefit. The application is accompanied by a 2 year Financial Plan that demonstrates the long term viability of the proposal to the developer. It would be fair to state the Financial Plan does not demonstrate significant regional benefit and does not take into account the loss of productive rural land to the region, or wider</p>
---	--

	<p>environmental or social economic impacts or benefits.</p> <p>(d)(i) Non-compliant. Proposal would result in the permanent loss of agricultural land that is located within the Proclaimed Dial/Blythe Irrigation District, for potential primary industry use. The Planning Report accompanying the application states that the site is not within a proclaimed irrigation district. However, this is not the case. The site, including all surrounding land and land on the opposite side of Pine Road, is within the Proclaimed Dial/Blythe Irrigation District; proclaimed under Part 9 of the <i>Water Management Act 1999</i> in February 2014.</p> <p>(d)(ii) Non-compliant. There is a high degree of likelihood the proposal would constrain, fetter or otherwise interfere with existing and potential primary industry use on the site and on adjacent land. Surrounding land would have the opportunity to become part of the Dial/Blythe Irrigation Scheme as irrigation infrastructure is developed. The activities of resource production may result in conflict with an adjoining tourist operation.</p> <p>(d)(iii) Non-compliant. The site is located within the Proclaimed Dial/Blythe Irrigation District. It is considered the proposed use and development would result in the permanent loss of land within a district that was proclaimed under Part 9 of the</p>
--	---

	<p style="text-align: center;"><i>Water Management Act 1999</i> in February 2014.</p> <p>Refer to “Issues” section of this report.</p>
<p>26.3.2 Required Residential Use</p>	
<p>26.3.2–(A1) Residential use required as part of a use must:</p> <ul style="list-style-type: none"> (a) be an alteration or addition to an existing lawful and structurally sound residential building; (b) be an ancillary dwelling to an existing lawful and structurally sound single dwelling; (c) not intensify an existing lawful residential use; (d) not replace an existing residential use; (e) not create a new residential use through conversion of an existing building; (f) be an outbuilding with a floor area of not more than 100m² appurtenant to an existing lawful and structurally sound residential building; or (g) be home based business in association with occupation of an existing lawful and structurally sound residential building; and (h) there is no change in the title description of the site on which the residential use is located. 	<p>Not applicable.</p> <p>Not a required residential use.</p>

26.3.3 Residential use	
<p>26.3.3-(A1) Residential use that is not required as part of any other use must:</p> <ul style="list-style-type: none"> (a) be an alteration or addition to an existing lawful and structurally sound residential building; (b) be an ancillary dwelling to an existing lawful and structurally sound single dwelling; (c) not intensify an existing lawful residential use; (d) not replace an existing residential use; (e) not create a new residential use through conversion of an existing building; (f) be an outbuilding with a floor area of not more than 100m² appurtenant to an existing lawful and structurally sound residential building; or (g) be home based business in association with occupation of an existing lawful and structurally sound residential building; and (h) there is no change in the title description of the site on which the residential use is located. 	<p>Not applicable.</p> <p>Not a residential use.</p>

26.4 Development Standards	
26.4.1 Suitability of a site or lot on a plan of subdivision for use or development	
<p>26.4.1–(A1) A site or each lot on a plan of subdivision must:</p> <p>(a) unless for agricultural use, have an area of not less than 1.0 hectare not including any access strip; and</p> <p>(b) if intended for a building, contain a building area</p> <p>(i) of not more than 2,000m² or 20% of the area of the site, whichever is the greater unless a crop protection structure for an agricultural use;</p> <p>(ii) clear of any applicable setback from a frontage, side or rear boundary;</p> <p>(iii) clear of any applicable setback from a zone boundary;</p> <p>(iv) clear of any registered easement;</p> <p>(v) clear of any registered right of way benefiting other land;</p> <p>(vi) clear of any restriction imposed by a utility;</p> <p>(vii) not including an access strip;</p> <p>(viii) accessible from a frontage or access strip.</p>	<p>(a) Compliant. The area of the subject land is 3.7ha.</p> <p>(b)(i) Compliant. Total proposed building area would be 592.1m² comprising a 274.5m² three bedroom, Visitor Accommodation building, a 125.6m² two bedroom, Visitor Accommodation building and two five bay sheds, each 96m².</p> <p>(b)(ii) Compliant. Buildings meet front, rear and side boundary setback standards.</p> <p>(b)(iii) Not applicable. No zone boundary setbacks.</p> <p>(b)(iv) Not applicable. No registered easements.</p> <p>(b)(v) Not applicable. No right-of-way benefiting other land.</p> <p>(b)(vi) Not applicable. No restrictions imposed by a utility.</p> <p>(b)(vii) Not applicable. No access strip.</p> <p>(b)(viii) Compliant. Land is accessible from a frontage to Pine Road.</p>

<p>26.4.1–(A2) A site or each lot on a subdivision plan must have a separate access from a road:</p> <ul style="list-style-type: none"> (a) across a frontage over which no other land has a right of access; and (b) if an internal lot, by an access strip connecting to a frontage over land not required as the means of access to any other land; or (c) by a right of way connecting to a road <ul style="list-style-type: none"> (i) over land not required as the means of access to any other land; and (ii) not required to give the lot of which it is a part the minimum properties of a lot in accordance with the acceptable solution in any applicable standard; and (d) with a width of frontage and any access strip or right of way of not less than 6.0m; and (e) the relevant road authority in accordance with the <i>Local Government (Highways) Act 1982</i> or the <i>Roads and Jetties Act 1935</i> must have advised it is satisfied adequate arrangements can be made to provide vehicular access between the carriageway of a road and the frontage, access strip or right of way to the site or each lot on a proposed subdivision plan. 	<ul style="list-style-type: none"> (a) Compliant. Development would utilise frontage to Pine Road. (b)–(d) Not applicable. Compliant with (a). (e) Compliant. Existing approved access to Pine Road in accordance with the <i>Local Government (Highways) Act 1982</i>.
---	--

<p>26.4.1–(A3) Unless for agricultural use other than controlled environment agriculture which permanently precludes the land for an agricultural use dependent on the soil as a growth medium, a site or each lot on a plan of subdivision must be capable of connecting to a water supply:</p> <p>(a) provided in accordance with the <i>Water and Sewerage Industry Act 2008</i>; or</p> <p>(b) from a rechargeable drinking water system ^{R31} with a storage capacity of not less than 10,000 litres if:</p> <p>(i) there is not a reticulated water supply; and</p> <p>(ii) development is for:</p> <p>a. a single dwelling; or</p> <p>b. a use with an equivalent population of not more than 10 people per day.</p>	<p>(a) Not applicable. Compliant with (b).</p> <p>(b)(i) Compliant. The site is not connected to a reticulated system. Each of the proposed Visitor Accommodation buildings would require a (minimum) 10,000 litre water tank supply.</p> <p>(b)(ii)(a) Not applicable.</p> <p>(b)(ii)(b) Compliant. Use would be able to accommodate a maximum of 10 persons per day.</p>
<p>26.4.1–(A4) Unless for agricultural use other than controlled environment agriculture which permanently precludes the land for an agricultural use dependent on the soil as a growth medium, a site or each lot on a plan of subdivision must be capable of draining and disposing of sewage and liquid trade waste:</p> <p>(a) to a sewerage system provided in accordance with the <i>Water and Sewerage Industry Act 2008</i>; or</p>	<p>(a) Not applicable. Site is not connected to a reticulated sewer system.</p> <p>(b)(i) Not applicable. Compliant with (b)(iii).</p> <p>(b)(ii) Not applicable. Compliant with (b)(iii).</p> <p>(b)(iii) Compliant. The proposal is supported by a “Site Classification and On-Site Wastewater System</p>

<p>(b) by on-site disposal if:</p> <p>(i) sewage or liquid trade waste cannot be drained to a reticulated sewer system; and</p> <p>(ii) the development:</p> <p>a. is for a single dwelling; or</p> <p>b. provides for an equivalent population of not more than 10 people per day; or</p> <p>(iii) the site has capacity for on-site disposal of domestic waste water in accordance with AS/NZS 1547:2000 On-site domestic-wastewater management clear of any defined building area or access strip.</p>	<p>Design” report by Strata Geoscience and Environmental. The site has the capacity for on-site disposal of domestic wastewater.</p>
<p>26.4.1–(A5) Unless for agricultural use other than controlled environment agriculture which permanently precludes the land for an agricultural use dependent on the soil as a growth medium, a site or each lot on a plan of subdivision must be capable of draining and disposing of stormwater:</p> <p>(a) to a stormwater system provided in accordance with the <i>Urban Drainage Act 2013</i>; or</p> <p>(b) if stormwater cannot be drained to a stormwater system:</p> <p>(i) for discharge to a natural drainage line, water body or</p>	<p>(a) Not applicable. Site is not connected to a reticulated stormwater system.</p> <p>(b)(i) Not applicable. Compliant with (b)(ii).</p> <p>(b)(ii)(a) Compliant. Site has an area of 3.7ha.</p> <p>(b)(ii)(b) Compliant. Stormwater disposal area would be clear of any defined building area.</p> <p>(b)(ii)(c) Compliant. Stormwater disposal area would be clear</p>

<p>watercourse; or</p> <p>(ii) for disposal within the site if:</p> <p>a. the site has an area of not less than 5,000m²;</p> <p>b. the disposal area is not within any defined building area;</p> <p>c. the disposal area is not within any area required for the disposal of sewage;</p> <p>d. the disposal area is not within any access strip; and</p> <p>e. not more than 50% of the site is impervious surface.</p>	<p>of wastewater disposal area.</p> <p>(b)(ii)(d) Not applicable. No access strip.</p> <p>(b)(ii)(e) Compliant. More than 50% of the site is permeable land.</p>
<p>26.4.2 Location and configuration of development</p>	
<p>26.4.2-(A1) A building or a utility structure, other than a crop protection structure for an agriculture use, must be set back:</p> <p>(a) not less than 20.0m from the frontage; or</p> <p>(b) not less than 50.0m if the development is for sensitive use on land that adjoins the Bass Highway;</p> <p>(c) not less than 10.0m from each side boundary; and</p> <p>(d) not less than 10.0m from the rear boundary; or;</p>	<p>(a) Compliant. Boat sheds would be setback 25m from Pine Road frontage. Visitor Accommodation buildings would be setback 250m from the frontage.</p> <p>(b) Not applicable. Compliant with (a) and land does not adjoin the Bass Highway.</p> <p>(c) Compliant. Boat sheds would be setback 25.4m from nearest side boundary to the east. Visitor Accommodation buildings would be setback 25m</p>

<p>(e) in accordance with any applicable building area shown on a sealed plan.</p>	<p>from nearest side boundary to the east.</p> <p>(d) Compliant. Boat sheds would be setback 260m from rear boundary. Visitor Accommodation buildings would be setback 35m from rear boundary.</p> <p>(e) Not applicable. No building area is shown on a sealed plan of subdivision.</p>
<p>26.4.2–(A2) Building height must be not more than 8.5m.</p>	<p>Compliant. Proposed building heights would be a maximum of 4m.</p>
<p>26.4.2–(A3) A building or utility structure, other than a crop protection structure for an agricultural use, must:</p> <p>(a) not project above an elevation 15.0m below the closest ridgeline;</p> <p>(b) be not less than 30.0m from any shoreline to a marine, or aquatic water body, watercourse, or wetland;</p> <p>(c) be below the canopy level of any adjacent forest or woodland vegetation; and</p> <p>(d) be clad and roofed in non-reflective materials.</p>	<p>(a) Non-compliant. Proposed development would be sited on the elevated portion of the property, to take advantage of distant views to Bass Strait.</p> <p>(b) Compliant. Development would be approximately 528m from a waterway.</p> <p>(c) Compliant. Visitor Accommodation buildings would sit below the canopy of any adjacent forest or woodland vegetation.</p> <p>(d) Compliant. Proposed buildings would be clad in rock and timber and roofed in “Colorbond” material.</p>

26.4.3 Location of development for sensitive uses	
<p>26.4.3-(A1) New development for sensitive uses must:</p> <p>(a) be located not less than:</p> <p>(i) 200m from any agricultural land;</p> <p>(ii) 200m from aquaculture, or controlled environment agriculture;</p> <p>(iii) 500m from extractive industry or intensive animal husbandry;</p> <p>(iv) 100m from land under a reserve management plan;</p> <p>(v) 100m from land designated for production forestry;</p> <p>(vi) 50.0m from a boundary of the land to the Bass Highway, or to a railway line; and</p> <p>(vii) clear of any restriction imposed by a utility; and</p> <p>(b) not be on land within a proclaimed irrigation district under Part 9 <i>Water Management Act 1999</i>, or land that may benefit from the application of broad-scale irrigation development.</p>	<p>(a)(i) Non-compliant. Sensitive use would be located 25m from agricultural land.</p> <p>See “Issues” section.</p> <p>(a)(ii) Not applicable. No aquaculture or controlled environment in this area.</p> <p>(a)(iii) Compliant. No extractive industry within 500m of the proposed development.</p> <p>(a)(iv) Compliant. No reserve management plan within 100m of the proposed development.</p> <p>(a)(v) Compliant. No production forestry within 100m of proposed development.</p> <p>(a)(vi) Compliant. Proposed development not within 50m of the Bass Highway or a rail line.</p> <p>(a)(vii) Not applicable. No restriction imposed by a utility.</p> <p>(b) Non-compliant. Land is located within the Proclaimed Dial/Blythe Irrigation District, proclaimed under part 9 of the <i>Water Management Act 1999</i> in February 2014.</p> <p>See “Issues” section.</p>

26.4.4 Subdivision	
26.4.4-(P1)	Not applicable.
<p>(a) A plan of subdivision to reconfigure land must:</p> <ul style="list-style-type: none"> (i) be required to restructure, resize, or reconfigure land for primary industry use; and (ii) not create an additional lot; <p>(b) a plan of subdivision to create a lot required for public use by the State Government, a Council, a statutory authority, or a corporation all the shares of which are held by or on behalf of the State, a Council, or by a statutory authority must retain the balance area for primary industry use;</p> <p>(c) a plan of subdivision to create a new lot must:</p> <ul style="list-style-type: none"> (i) be required for a purpose permissible in the zone; (ii) be of a size and configuration that is not more than is required to accommodate the nominated use in accordance with the applicable standards of this planning scheme for such use; (iii) retain the balance area for primary industry use; (iv) minimise unnecessary and permanent loss of rural resource land for existing and potential primary industry use; 	No subdivision proposed.

<ul style="list-style-type: none"> (v) minimise constraint or interference to existing and potential primary industry use on the site and of adjacent land in the zone; and (vi) minimise unnecessary and permanent loss of land within a proclaimed irrigation district under Part 9 <i>Water Management Act 1999</i>, or land that may benefit from the application of broad-scale irrigation development; or (d) a plan of subdivision to reduce the area of an existing lot on a sealed plan containing a lawful use must: <ul style="list-style-type: none"> (i) not be land containing a residential use approved by a permit granted under the <i>Land Use Planning and Approvals Act 1993</i> as a required part of a permitted use; (ii) incorporate the excised area into an existing primary industry lot by amalgamation in a manner acceptable to the Recorder of Titles ^{R32}; (iii) minimise likelihood for the existing use on the reduced area lot to further constrain or interfere with use of the balance area or adjacent land for an existing or potential primary industry use; and (iv) retain a lot with a size and shape that: <ul style="list-style-type: none"> a. can accommodate the lawful existing use or development in accordance with the applicable standards for that use; or 	
---	--

<p>b. does not further increase any non-compliance for use or development on the existing lot.</p>	
<p>26.4.5 Buildings for Controlled Environment Agriculture</p>	
<p>26.4.5-(A1) A building for controlled environment agriculture use must be a crop protection structure and the agricultural use inside the building must satisfy one of the following:</p> <p>(a) rely on the soil as a growth medium into which plants are directly sown;</p> <p>(b) not alter, disturb or damage the existing soil profile if conducted in a manner which does not rely on the soil as a growth medium.</p>	<p>Not applicable. No controlled environment agriculture proposed.</p>
<p style="text-align: center;">CODES</p>	
<p>E1 Bushfire-Prone Areas Code</p>	<p>Not applicable.</p>
<p>E2 Airport Impact Management Code</p>	<p>Not applicable.</p>
<p>E3 Clearing and Conversion of Vegetation Code</p>	<p>Not applicable.</p>
<p>E4 Change in Ground Level Code</p>	<p>Not applicable.</p>
<p>E5 Local Heritage Code</p>	<p>Not applicable.</p>

E6 Hazard Management Code	Not applicable.
E7 Sign Code	Not applicable.
E8 Telecommunication Code	Not applicable.
E9 Traffic Generating Use and Parking Code	
E9.2 Application of this Code	Applicable. Applies to all use and development.
E9.4 Use or development exempt from this Code	Not exempt. No Local Area Parking Scheme.
E9.5 Use Standards	
E9.5.1 Provision for parking	
<p>E9.5.1-(A1) Provision for parking must be:</p> <p>(a) the minimum number of on-site vehicle parking spaces must be in accordance with the applicable standard for the use class as shown in the Table to this Code;</p> <p>(b) motor bike parking at a rate of one space for every 20 vehicle parking spaces;</p> <p>(c) parking spaces for people with disabilities at the rate of one space for every 20 parking spaces or part thereof; and</p> <p>(d) bicycle parking at the rate of one space for every 20 vehicle parking spaces or part thereof.</p>	<p>(a) Compliant. Code E9 requires one space per “holiday cabin” plus one additional space for every three cabins. This equates to a total of three car parking spaces required on the site. There is ample area on the site to accommodate this requirement.</p> <p>(b) Not applicable. Requirement not triggered until 20 vehicle parking spaces are proposed or required.</p> <p>(c) Not applicable. Requirement not triggered until 20 vehicle parking spaces are proposed or required.</p>

	(d) Not applicable. Requirement not triggered until 20 vehicle parking spaces are proposed or required.
E9.5.2 Provision for loading and unloading of vehicles	
E9.5.2-(A1) There must be provision within a site for:	(a) Compliant. Code E9 requires the site make provision for one small, rigid truck for loading and unloading. There is ample area on the site to accommodate this requirement.
(a) on-site loading area in accordance with the requirement in the Table to this Code; and	
(b) passenger vehicle pick-up and set-down facilities for business, commercial, educational and retail use at the rate of one space for every 50 parking spaces.	(b) Not applicable. Passenger pick-up and set-down facilities not required for business, commercial, educational or retail use.
E9.6 Development Standards	
E9.6.1 Road access	
E9.6.1-(A1) There must be an access to the site from a carriageway of a road ^{R36} :	(a) Compliant. Access to and from Pine Road would be permitted in accordance with the <i>Local Government (Highways) Act 1982</i> .
(a) permitted in accordance with the <i>Local Government (Highways) Act 1982</i> ;	(b) Not applicable. Satisfied by E9.6.1-(A1)(a).
(b) permitted in accordance with the <i>Roads and Jetties Act 1935</i> ; or	(c) Not applicable. Satisfied by E9.6.1-(A1)(a).
(c) permitted by a license granted for access to a limited access road under the <i>Roads and Jetties Act 1935</i> .	

E9.6.2 Design of vehicle parking and loading areas	
E9.6.2 A1.1 All development must provide for the collection, drainage and disposal of stormwater; and	Compliant. Development would be required to drain, collect and dispose of stormwater on-site, clear of building sites, wastewater site and access road.
<p>E9.6.2 A1.2 Other than for development for a single dwelling in the General Residential, Low Density Residential, Urban Mixed Use and Village zones, the layout of vehicle parking area, loading area, circulation aisle and manoeuvring area must –</p> <p>(a) Be in accordance with AS/NZS 2890.1 (2004) – Parking Facilities – Off-Street Car Parking;</p> <p>(b) Be in accordance with AS/NZS 2890.2 (2002) Parking Facilities – Off-Street Commercial Vehicles;</p> <p>(c) Be in accordance with AS/NZS 2890.3 (1993) Parking Facilities – Bicycle Parking Facilities;</p> <p>(d) Be in accordance with AS/NZS 2890.6 Parking Facilities – Off-Street Parking for People with Disabilities;</p> <p>(e) Each parking space must be separately accessed from the internal circulation aisle within the site;</p> <p>(f) Provide for the forward movement and passing of all vehicles within the site other than if entering or leaving a loading or parking space;</p>	<p>(a) Compliant. Circulation and parking areas and vehicle manoeuvring areas would be in accordance with AS/NZS 2890.1 (2004).</p> <p>(b) Not applicable. Applies where 20 spaces are proposed or required.</p> <p>(c) Not applicable. Applies where 20 spaces are proposed or required.</p> <p>(d) Not applicable. Applies where 20 spaces are proposed or required.</p> <p>(e) Compliant. The site has ample area to accommodate this requirement.</p> <p>(f) Compliant. The site has ample area to accommodate this requirement.</p> <p>(g) Compliant. A condition would need to be applied to a Permit requiring internal roads and car parking areas to be constructed with a compacted sub-base and an all-weather surface.</p>

(g) Be formed and constructed with compacted sub-base and an all-weather surface.	
E9.6.2-(A2) Design and construction of an access strip and vehicle circulation, movement and standing areas for use or development on land within the Rural Living, Environmental Living, Open Space, Rural Resource, or Environmental Management zones must be in accordance with the principles and requirements for in the current edition of Unsealed Roads Manual – Guideline for Good Practice ARRB.	Compliant. Design and construction of access vehicle circulation, movement and standing area, must be in accordance with the principles and requirements of the <i>Unsealed Roads Manual – Guideline for Good Practice ARRB</i> .
E10 Water and Waterways Code	Not applicable.
Specific Area Plans	Not applicable. No Specific Area Plans apply to this area.

Issues –

1 Development does not meet Scheme Local Area Objectives for the Rural Resources zone –

The purpose of the Rural Resource zone is to provide for the sustainable use or development of resources for agriculture, aquaculture, forestry, mining and other primary industries, including opportunity for resource production. The zone seeks to provide for other use and development that does not constrain or conflict with resource development uses.

The proposed development does not meet any of the Scheme's Local Area Objectives for development and use in the Rural Resource zone.

The Local Area Objectives for the Rural Resource zone reference the requirement of the proposed use and development to be reliant upon, be associated with, or have an intention to use a naturally occurring resource that is located on the subject site or adjoining land.

The Objectives seek to protect all agricultural land for sustainable agricultural production and collectively demonstrate that the primary intent of use and development in the Rural Resource zone is to minimise the loss of land for primary industry. Most particularly, minimize the loss of prime agricultural land, protect land that is located within a proclaimed irrigation district and to provide for uses that do not constrain, fetter or conflict with current or future resource development uses.

It is considered the subject proposal is not a use that is associated with primary industry. The proposal is for Visitor Accommodation, whereby visitors would be accommodated for a period of time (overnight or longer term) in cabins and be taken on fishing trips in the North West region. As such, the use of the land is associated with the tourism industry. It is considered the site is not appropriate for the proposed use, which could result in the constraint, fettering or interference with current or future resource development uses in the area.

2 Development within the Dial/Blythe Irrigation District –

The Central Coast municipal area accommodates two irrigation districts, proclaimed under Part 9 of the *Water Management Act 1999*. The Kindred/North Motton Irrigation District, proclaimed in

August 2012, and the Dial/Blythe Irrigation District, proclaimed in February 2014.

The proposed development would be on land that is located within the Dial/Blythe Irrigation District. All surrounding land is also within the Dial/Blythe Irrigation District.

The Dial/Blythe Irrigation District comprises 12,568ha and is expected to have the capacity to supply 2,855ML of water over the summer irrigation period, giving water security to affected lands. The Scheme is intended to service pasture and cropping land around the settlements of South Riana, Riana, Penguin, West Pine, Cuprona and Howth. Currently, the production of potatoes, other vegetables, poppies, pyrethrum, blueberries, beef and dairy produce are the primary activities in these areas.

It is considered the proposed development would exclude the property from future broad scale irrigation and associated resource production. Development would place a sensitive, tourism use within a recently established irrigation district, where surrounding property may also be able to benefit and augment production from the “roll out” of the Irrigation Scheme.

3 *Discretionary Non-Residential Use on Rural Resource land –*

The proposed development does not meet any of the Scheme's Standards of Clause 26.3.1-(P1) for “Discretionary” Non-Residential Use to Locate on Rural Resource land. It is mandatory that the proposal meets at least one of the Scheme's requirements.

Performance Criteria 26.3.1-(P1) states that, other than for residential development, discretionary uses must be reliant or dependent on primary industry to locate on Rural Resource land. The subject proposal is not able to meet these Performance Criteria. The proposal does not require to be located on Rural Resource land to access a naturally occurring resource on the subject site, or to access infrastructure only available on the subject site or adjacent land.

It is not a requirement of the proposed use and development to access a primary product from a use on the subject site or adjacent land or to service primary industry or reasons of public health or safety.

The proposed development would not diversify or value-add to an existing or potential primary industry use of the site or adjacent land.

The proposal would not provide an essential utility or community service and is not required to locate on Rural Resource land for security reasons.

The application is not accompanied by an economic, social and environmental cost-benefit analysis to demonstrate significant regional benefit. It is considered there is no obvious or demonstrated benefit to the region, except for tourism, and the proposal fails on the need to be reliant upon a primary industry resource.

4 *The development of a Sensitive Use on Rural Resource Land –*

Visitor Accommodation is defined as a “sensitive use” under the the Scheme.

The Scheme’s Acceptable Solution 26.4.1 requires that a sensitive use be setback a minimum of 200m from agricultural land. This is to minimise the proximity of a sensitive use to agricultural operational activities. Close proximity, less than 200m, may result in the conflict, interference or fettering of primary industry activity on adjoining agricultural land. Conflict may arise where visitor accommodation use is in close proximity to primary industry due to differing expectations, the spraying of agricultural chemicals, pivot irrigation noise and spray, dust, and the activities of planting, ongoing maintenance and the harvesting of crops that may give rise to a nuisance to occupants of an adjoining sensitive use.

The Scheme’s Performance Criteria 26.4.3–(P1) requires that the new sensitive use must minimise all of the following:

- (a) *permanent loss of land for existing and potential primary industry use;*
- (b) *likely constraint or interference to existing and potential primary industry use on the site and on adjacent land;*
- (c) *permanent loss of land within a proclaimed irrigation district under Part 9 of the Water Management Act 1999 or land that may benefit from the application of broad-scale irrigation development ; and*
- (d) *adverse effect on the operations and safety of a major road, a railway or a utility.*

It is considered the proposed Visitor Accommodation and associated development works over the land would result in the permanent loss of land for existing and potential primary industry use. The proposed 25m side setback and 35m rear setback of Visitor Accommodation buildings from agricultural land would result in a likely constraint, interference or/and fettering of primary industry activity on subject land or on adjacent land.

Note: Other Visitor Accommodation developments approved by the Council have been associated with a primary industry activity on-site; such as a productive truffle farm at Wyllies Road and visitor cabins on a 41ha horse & cattle rearing property at South Nietta, where the use would augment and be associated with on-site activities. Both properties demonstrated viable, on-site primary industry activity, were not located within a proclaimed irrigation district and 'sensitive use' standards were able to be met.

Referral advice -

Referral advice from the various Departments of the Council and other service providers is as follows:

SERVICE	COMMENTS/CONDITIONS
Environmental Health	No comment.
Infrastructure Services	Refer to Statement of Compliance from Road Authority.
TasWater	Not applicable.
Department of State Growth	No applicable.
Environment Protection Authority	No applicable.
TasRail	Not applicable.
Heritage Tasmania	Not applicable.
Crown Land Services	Not applicable.
Other	Not applicable.

CONSULTATION

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

- . a site notice was posted;
- . letters to adjoining owners were sent; and
- . an advertisement was placed in the Public Notices section of The Advocate.

Representations -

One representation was received within the prescribed time, a copy of which is provided at Annexure 3.

The representation is summarised and responded to as follows:

MATTER RAISED	RESPONSE
1 Adjoining owners manage land that is to the South and East of the subject property. Adjoining land comprises two Titles (CT91766/4 and CT221745/1). The owners use their property for resource production (agriculture). They object to the proposal and are concerned the use of adjoining land for Visitor Accommodation will affect their use (and management and value) of their land for agriculture. Particularly, they are concerned that the proximity of the proposed accommodation dwellings will interfere with their ability to spray chemicals for farming.	<p>The issue raised is a matter the Local Area Objectives and Standards of the Scheme attempt to address through use and development controls. That is, the constraint, fettering and interference of uses that are not reliant upon, or associated with, primary industry use in the Rural Resource zone.</p> <p>The Scheme requires a “sensitive use”, such as Visitor Accommodation, be setback a minimum of 200m from all boundaries to agricultural land. The setback requirement is to mitigate conflict that may arise due to the spraying of chemicals, pivot irrigation noise and spray, dust, and the planting, maintenance and harvesting of crops on adjoining land.</p> <p>The subject proposal would be setback 25m to the eastern boundary and 35m to the rear</p>

	boundary of the property. The matter raised by the representor is considered to be legitimate.
2 The representation raises concern that the trees proposed along the eastern and southern boundaries of the subject property will result in root intrusion onto their land and drain soil of nutrients.	<p>This may be a valid matter however it is not a matter the Scheme can adequately address. It is noted that there is an established practice of planting wind breaks across rural land, which does result in the loss of some productive land. The loss of agricultural land is traded “on farm”, with the benefit of the protection of stock and crops from strong winds.</p> <p>If the proposed Visitor Accommodation use was established, then a vegetation screen may limit conflict between adjoining land uses and nuisance complaint.</p>
3 The representation cites Clause 26.3.1 (c)(iii) of the <i>Central Coast Interim Planning Scheme 2013</i> , stating that the proposal does not meet the Performance Criteria as the proposal is not for the purpose of accessing a product for primary industry purpose from a use on the site or on adjacent land.	This matter has been addressed in the “Issues” section of this report. It is accepted that the proposed use (Visitor Accommodation) is not for the purpose of accessing a product for primary industry purpose from a use on the subject site or on adjoining land.
4 The representation cites Clause 26.4.3 of the <i>Central Coast Interim Planning Scheme 2013</i> , stating that the proposal does not meet the Scheme’s Acceptable Solution or the Performance Criteria and that the proposal will constrain or interfere with existing primary industry use of their property.	<p>Clause 26.4.3 relates to the “Location of development for sensitive uses”.</p> <p>This matter has been addressed in the “Issues” section of this report. It is accepted the proposed use (Visitor Accommodation) may result in the permanent loss of land for primary industry, constrain or</p>

	interfere with surrounding agricultural use of land and result in the loss of land within the proclaimed Dial/Blythe Irrigation District.
5 The representation states they would consider withdrawing their objection to the proposal if development was located at least 35m away from boundary lines.	The representor offers a solution to the setback from agricultural land. However, the proposal of a 35m setback does not meet the requirements of the Scheme and does not alter the overriding concerns that have been raised in this report.

RESOURCE, FINANCIAL AND RISK IMPACTS

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.

CORPORATE COMPLIANCE

The Central Coast Strategic Plan 2014–2024 includes the following strategies and key actions:

The Environment and Sustainable Infrastructure

- Develop and manage sustainable built infrastructure.

CONCLUSION

The representation received is deemed to have merit. The proposed use and development of the land for Visitor Accommodation would place a “sensitive use” that would be a tourist orientated operation, within the surrounds of an area that relies on primary industry as the principal means of income and activity. It is considered the potential for land use conflict between agriculture and overnight tourists is likely.

The proposed development is not able to meet key Objectives and Performance Criteria that seek to protect land for primary industry purpose. The proposed use is not a primary industry use of the site, would not be dependent upon access to a primary industry that is dependent upon a naturally occurring resource and the development would not augment ongoing farm operations.

It is considered the proposal would result in the permanent loss of viable agricultural land with the Proclaimed Dial/Blythe Irrigation District.

Recommendation –

It is recommended that the application for Visitor Accommodation (two accommodation buildings and two ancillary sheds for boat storage) at CT91766/5 Pine Road, Penguin be refused on the following grounds:

- 1 The proposal is not able to satisfy the Local Area Objectives for development and use in the Rural Resource zone in that the proposed use and development would not protect agricultural land for sustainable, agricultural production and would not be reliant upon, be associated with, or have an intention to use a naturally occurring resource that is located on the subject site or adjoining land.
- 2 The proposal is not able to satisfy mandatory Performance Criteria for “Discretionary Non-Residential Use to Locate on Rural Resource Land” as stipulated under Clause 26.3.1-(P1) in that the proposed use and development would not be reliant or dependent on primary industry to locate on Rural Resource land and would result in the loss of agricultural land that is located within the Proclaimed Dial/Blythe Irrigation District.
- 3 The development is not able to satisfy the Performance Criteria relative to the “Location of Development for Sensitive Uses” as stipulated under Clause 26.4.3-(P1), in that development less than 200m from agricultural land may result in the constraint, fettering or conflict with current or future resource development uses on adjoining land.’

The report is supported.”

The Director Community Services reported as follows:

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

■ Cr van Rooyen moved and Cr Viney seconded, “That the application for Visitor Accommodation (two accommodation buildings and two ancillary sheds for boat storage) at CT91766/5 Pine Road, Penguin be approved as it meets all requirements of the Central Coast Interim Planning Scheme 2013, subject to the following conditions and notes:

- 1 Visitor Accommodation buildings must be setback a minimum of 35m from any boundary.

-
- 2 The development must be substantially in accordance with the application for this Permit, unless modified by a condition of this Permit.
 - 3 Three car parking spaces are to be provided for the Visitor Accommodation use. The layout of vehicle parking areas, loading area, circulation aisle and manoeuvring areas must be in accordance with AS/NZS 2890.1 (2004) – Parking Facilities – Off-Street Car Parking.
 - 4 Internal driveways and vehicle parking and manoeuvring areas must be constructed with a compacted sub-base and all-weather surface.
 - 5 The development must collect, store and dispose of stormwater clear of any building area, wastewater disposal area and access strip.
 - 6 The development must be in accordance with the recommendations contained in the “Site Classification to AS2870–2011/4055–2006 and Onsite Wastewater System Design” report by Strata Geoscience and Environmental dated May 2015.
 - 7 The development must be in accordance with the conditions of the ‘Statement of Compliance for Vehicular Access and Drainage Access’ dated August 2016, issued by the Council acting in its capacity as the Road Authority.

Please note:

- 1 A Planning Permit remains valid for two years. If the use or development has not substantially commenced within this period an extension of time may be granted if a request is made before this period expires. If the Permit lapses, a new application must be made.
- 2 ‘Substantial commencement’ is the submission and approval of a Building Permit or engineering drawings and the physical commencement of infrastructure works on the site or bank guarantee to undertake such works.
- 3 Building Permits are required for the proposed development. A copy of this Planning Permit should be given to your building surveyor.”

Voting for the motion

(4)

Cr van Rooyen

Cr Viney

Cr Downie

Cr Bonde

Voting against the motion

(1)

Cr Broad

Motion Carried

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

Closure

There being no further business, the Mayor declared the meeting closed at 6.28pm.

CONFIRMED THIS DAY OF , 2016.

Chairperson

(cvv:km)

Appendices

QUALIFIED PERSON'S ADVICE

The *Local Government Act 1993* provides (in part) as follows:

. A general manager must ensure that any advice, information or recommendation given to the council is given by a person who has the qualifications or experience necessary to give such advice, information or recommendation.

. A council is not to decide on any matter which requires the advice of a qualified person without considering such advice unless the general manager certifies in writing that such advice was obtained and taken into account in providing general advice to the council.

I therefore certify that with respect to all advice, information or recommendation provided to the Development Support Special Committee within these minutes:

(i) the advice, information or recommendation was given by a person who has the qualifications or experience necessary to give such advice, information or recommendation; and

(ii) where any advice was directly given by a person who did not have the required qualifications or experience that person has obtained and taken into account in that person's general advice the advice from an appropriately qualified or experienced person.



Sandra Ayton
GENERAL MANAGER