

DEVELOPMENT SUPPORT SPECIAL COMMITTEE

Minutes

14 FEBRUARY 2011

Note:

Minutes subject to confirmation at
a meeting of the Development Support Special Committee
to be held on Monday 28 February 2011.

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Minutes of an ordinary meeting of the Development Support Special Committee of the Central Coast Council held in the Council Chamber at the Administration Centre, 19 King Edward Street, Ulverstone on Monday, 14 February 2011 commencing at 6.00pm.

Members attendance

Cr Jan Bonde (Mayor)
Cr Amanda Diprose
Ms Sandra Ayton

Cr Tony van Rooyen (Deputy Mayor)
Cr Philip Viney

Member apologies

Cr John Deacon

Employees attendance

Director Development & Regulatory Services (Mr Michael Stretton)
Land Use Planning Group Leader (Mr Ian Sansom)

Employee apologies

NIL

Public attendance

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

CONFIRMATION OF MINUTES OF THE COMMITTEE

1/2011 Confirmation of minutes

The Land Use Planning Group Leader reported as follows:

“The minutes of the previous meeting of the Development Support Special Committee held on 29 November 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 Diprose moved and Cr Viney seconded, “That the minutes of the previous meeting of the Development Support Special Committee held on 29 November 2010 be confirmed.”

Carried unanimously

MAYOR'S COMMUNICATIONS

2/2011 Mayor's communications

The Mayor reported as follows:

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

Members are reminded that the *Local Government (Meeting Procedures) Regulations 2005* provide that the general manager is to ensure that the reasons for a decision by a council acting as a planning authority are recorded in the minutes.

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

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

Carried unanimously

PECUNIARY INTEREST DECLARATIONS

3/2011 Pecuniary interest declarations

The Mayor reported as follows:

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

The Director Development & Regulatory Services reported as follows:

“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

4/2011 Adjournment of meeting

The Mayor reported as follows:

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

The workshop having been concluded, the Mayor resumed the meeting.

DEPUTATIONS

5/2011 Deputations

The Land Use Planning Group Leader reported as follows:

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

OPEN REPORTS

6/2011 Subdivision – 2 lots at 240 Wilmot Road, Forth. Application No. DA 210 224

The Director Development & Regulatory Services reported as follows:

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

<i>‘DEVELOPMENT APPLICATION No.:</i>	DA210224
<i>APPLICANT:</i>	Lester Franks obo Peter & Carolyn Webster
<i>LOCATION:</i>	240 Wilmot Road, Forth
<i>ZONING:</i>	Rural Resource
<i>PLANNING INSTRUMENT:</i>	Central Coast Planning Scheme 2005 (the Scheme)
<i>ADVERTISED:</i>	22 January 2011
<i>REPRESENTATIONS EXPIRY DATE:</i>	8 February 2011
<i>REPRESENTATIONS RECEIVED:</i>	Two
<i>42-DAY EXPIRY DATE:</i>	1 March 2011
<i>DECISION DUE:</i>	21 February 2011

PURPOSE

The purpose of this report is to make a determination on an application for a two lot subdivision at 240 Wilmot Road, Forth.

BACKGROUND

The site which is the subject of this application is the golf driving range located about 2.5km south of Forth on the Wilmot Road. The property currently contains the golf driving range and associated facilities, and a dwelling.

The site is steeply sloping in some parts and these areas are covered in mature Eucalypts. The lower flat area closest to the Forth River is used for the golf driving range and a level area on the western and elevated side of the land is cleared pasture.

It is proposed to subdivide the current holding into two lots, one to contain the golf driving range and the other the dwelling. The purpose of the subdivision is to accommodate change in personal and business management circumstances for the owners.

The application included a letter of support from Golf North West. The Administration Officer expressed support for the land owner as a golf coach and the need for a practice facility.

A copy of the location plan is appended as Annexure 1 and the application as Annexure 2.

DISCUSSION

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

- . the Objectives for Planning as set out in Part A of the Scheme;
- . the purpose of the Rural Resource Zone; and
- . the relevant Acceptable Solutions and Performance Criteria.

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

Use Status –

	<i>ACTUAL</i>	<i>STATUS</i>
Existing use	Residential; and Sports and recreation (golf driving range).	Discretionary; and Discretionary.
Proposed use	No change in use.	Discretionary.

Subdivision (Rural Resource) –

	<i>PROPOSED</i>	<i>REQUIRED</i>
15.3.1 (A1) Water quality	Compliant. No additional discharge proposed.	No discharge of pollutant: (a) within 100m of a watercourse, wetland or other surface waters;
	Compliant. No additional discharge proposed. Compliant: No additional discharge proposed. Compliant: No additional discharge proposed.	(b) within 250m of a bore or well which is the source or 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 any manner that may contaminate groundwater resources.
15.4.1 (A1) Subdivision	Non-compliant. Proposed lots are 7.5ha and 5.5ha in area. Non-compliant. No consolidation of any lot.	A subdivision must have: (a) a lot with a minimum area of at least 50ha; (b) all balance lots consolidated with adjoining land in the same ownership;

	<p>Non-compliant.</p> <p>15m (approx.) setback to new boundary.</p> <p>Compliant.</p> <p>Closest shed 65m (approx.) to proposed boundary.</p> <p>Compliant.</p> <p>Lot 1 – 30m frontage. Lot 2 – 450m (approx.) frontage.</p>	<p>(c) a setback from a proposed boundary to a dwelling unit of at least 100m;</p> <p>(d) a setback from a proposed boundary to another building of at least 3m; and</p> <p>(e) a frontage and access width of at least 6m.</p>
<p>15.4.1 (A2) Services</p> <p>. Road</p> <p>. Access</p> <p>. Wastewater</p>	<p>Compliant.</p> <p>Wilmot Road is constructed to Municipal Standard Drawing.</p> <p>Compliant through condition:</p> <p>Not indicated.</p>	<p>Each lot must:</p> <p>(a) be serviced by a road and access constructed to the relevant Institute of Public Works Engineering Australia – Tasmania Division Municipal Standard Drawings;</p> <p>(b) have an access constructed to Central Coast Municipal Standard Drawing No. SD-1009;</p> <p>(c) be capable of accommodating an on-site wastewater management system; and</p>

Stormwater		(d) be capable of on-site stormwater absorption and disposal.
(P3) Subdivision for heritage, biological or services purposes	Not applicable.	Subdivision for heritage, biological or services purposes must: <ul style="list-style-type: none"> (a) protect natural and cultural values. (b) protect agricultural potential of balance lot. (c) consolidation of other lots may be required.
(P4) House excision	Not applicable.	A house excision must: <ul style="list-style-type: none"> (a) not unreasonably reduce agricultural capacity; (b) involve a house in residential use on 6 October 2000; (c) have the balance lot joined to adjacent lot in the same ownership; (d) have a 100m setback of house to boundary; (e) not convert prime land in setback area;

		(f) have a 6m frontage and access.
(P5) Boundary adjustment	Not applicable.	Each lot to have: (a) a 6m frontage and access; (b) 3m setback of a building to proposed boundary.
(P6) Combined zoning	Not applicable.	Lots in mixed zoning may be subdivided so that land in the other zone complies with standards for that zone.

Schedules –

	<i>PROPOSED</i>	<i>REQUIRED</i>
S1 Application requirements	Compliant. Sufficient information provided for assessment.	Adequate information in the application to enable an assessment of the application, including: <ul style="list-style-type: none"> . site plan; . position of boundaries and buildings; . copy of land Title; . land classification.
S2 Road and Rail <ul style="list-style-type: none"> . Sight Distance S2.5.1(A3) 	Compliant. Lot 1 – North – 228m South – 204m.	In accordance with Table S1.6.2 = 175m (based on 80km/h speed).

	Lot 2 – North – 175m South – 210m.	
. Access to a Category I,II or III Road (A4)	Not applicable.	In 60km/h zone one x 2 way access or two x 1 way accesses.
. Accesses S2.5.3 (A3)	Compliant. Lot 1 – One x 2 way access. Lot 2 – One x 2 way access.	One x 2 way access or two x 1 way accesses.
. Setback of buildings from Roads and Rail Lines S2.5.7 (A3)	Compliant. Approx. 6km to the Bass Highway.	Access at least 9m from Category I, II or III road.
	Not applicable.	Sensitive use to be setback 50m from rail line.
S3 Attenuation	Not applicable.	
S4 Bushfire prone areas		
S4.4.1 Subdivision design	Non-compliant. Building Protection Zone – 20m (estimated). Fuel Modified Buffer Zone – 10m.	Each lot to have: (a) a Building Protection Zone and Fuel Modified Buffer Zone in accordance with Table S4.4.3 = 40m and 50m.

	Compliant. Lot 1 – house exists. Lot 2 – not a house site.	(b) a building envelope.
S4.4.2 Dwelling unit design	Not applicable.	Applies to land with vegetation of at least 1 ha, or within 100m of land with vegetation of at least 1 ha. Building Protection Zone. Fuel Modified Buffer Zone.
S4.4.4 Roads and fire access	Not applicable (no roads proposed). Not applicable (no roads proposed). Not applicable (no fire access proposed).	(a) New no-through roads not to exceed 200m or service over 8 lots. (b) New roads to connect in two directions. (c) Fire access to be constructed in accordance with Table S4.4.5.
S4.4.6 Water supply (A1)	Not applicable.	Reticulated areas: (a) <120m from fire hydrant; (b) minimum flow of 600 litres per minute.
S4.4.6 Water supply (A2)	Compliant through condition. Not indicated on plan.	Non-reticulated areas: (a) dedicated fire-water storage of:

		<p>(i) 10,000 litres for lots <2,500m²;</p> <p>(ii) 20,000 litres for lots >2,500 m².</p> <p>(b) couplings and delivery points specified in Tasmania Fire Service Guidelines;</p> <p>(c) located adjacent to fire access and hard stand area.</p>
S5 Contaminated Land	Not applicable.	<p>For potentially contaminated land, sport, recreation and sensitive uses:</p> <p>(a) require a satisfactory site investigation report.</p> <p>(b) occur on remediated land.</p>
S6 Land Stability	Not applicable.	Unstable areas require a satisfactory land stability report.
S7 Coastal and Riparian	Not applicable.	
S8 Heritage	Not applicable.	
S9 Multiple Dwellings	Not applicable.	
S10 Home Occupation	Not applicable.	

S11 Car Parking		
S11.3.1 Car parking provision (A1) and (A2)	Compliant. Dwelling – 2 spaces Golf range – 10 spaces.	In accordance with Table S10.3.2: Dwelling – 2 spaces; Golf range – no standard.
S11.3.3 Car park design and construction (A1)	Compliant. Dwelling and golf range both approved as complying at a previous time.	Design to comply with AS 2890.1-1993 Off Street Parking Part 1- Car Parking Facilities.
S11.3.3 Car park design and construction (A2)	Compliant. Dwelling has a sealed driveway. Golf range has gravel carpark.	Paving material to provide all-weather access.
S12 Signs	Not applicable.	
S13 Telecommunications	Not applicable.	
S 14 Ulverstone Wharf	Not applicable.	
S 15 Penguin Urban Design Guidelines	Not applicable.	

The principal issues are those involving exercises of discretion. Of these the issue of greatest significance is the proposed size of lots being 7.5ha and 5.5ha. Both are well below the 50ha min lot size for the Rural Resource Zone.

Clause 15.4.1 included Acceptable Solutions and Performance Criteria for a variety of subdivision circumstances together with performance standards, including for the purposes of:

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- . Aboriginal, natural or cultural heritage;
 - . a heritage listed place;
 - . threatened species or significant vegetation;
 - . emergency services or utilities;
 - . a house excision;
 - . a boundary adjustment; and
 - . mixed zonings.

Lot Size –

The applicants have sought to have their application considered under the cultural heritage provisions of the Scheme (P2 and P3) in relation to the golf driving range.

P3 of the Scheme requires that a place of cultural heritage achieve the following:

- 1 protection of natural and cultural values;
- 2 protection of the agricultural potential of the balance lot; and
- 3 may require consolidation of balance with adjoining lots in same ownership.

In this case whether P2 or P3 provisions apply, depends on whether the proposed subdivision is consistent with what is intended by the term "cultural heritage". The International Council on Monuments and Sites Burra Charter is the authoritative source for determining heritage significance, and the Guidelines to the Burra Charter: cultural significance, deals specifically with the concept of cultural heritage.

The concept of cultural heritage for the purposes of the Scheme needs expression through a statement of cultural significance to establish its level of importance. The Burra Charter Guidelines on cultural significance say that cultural significance means, "aesthetic, historic, scientific or social value for past, present or future generations". The most relevant of these in this case is its social value. The Guidelines state that, "Social value embraces the qualities for which a place has become a focus of spiritual, political, national or other cultural sentiment to a majority or minority group."

The applicant has provided a statement of cultural heritage significance, prepared by a heritage consultant, in accordance with the provisions of the Burra Charter and other guidelines. The report says that the golf driving range is likely to have a level of community/social significance to locals and

golfers in the wider region. It is likely to have meaning and associations to people who have developed their golfing interest, as a focal point to those involved in golf, and as a meeting place.

The consultant's report concludes that the facility has *some* level of local cultural significance based on community values, with the site being a focal point for the recreational pursuits of both locals and visitors.

The consultant's pitch of the facility as having some local cultural significance is at the lower end of a scale of significance. At this level the loss of a place or feature is unlikely to be commonly regarded as problematic.

The Scheme is not clear about what it intends by its term cultural heritage. Almost anything created has some level of significance. But it is difficult to imagine that the Scheme intended to pick up cultural significance at the lower end of importance. Rather it is more likely (and reasonable) to believe that the Scheme would intend to protect culturally important places at the higher end of the scale of significance, i.e. highly significant at the local, regional, state, national or international levels.

Consequently it is contended that reference to cultural heritage in Clause 15.4.1 Subdivision (P2 and P3) should not be regarded as intending to apply to subdivision for the level of significance identified by the consultant, and the Performance Criteria provisions (P2 and P3) should not be used to justify a subdivision of the type proposed in this case.

A potential avenue for subdivision may have been the house excision provisions of Clause 15.4.1 Subdivision (P4). However the proposal fails to satisfy a key Performance Criteria (c) which requires that the balance lot is joined to an adjoining agricultural lot in the same ownership. Consequently the house excision provisions are not an appropriate avenue for the proposed subdivision.

The only category for subdivision available for the applicant to pursue the subdivision is under Clause 15.4.1 Subdivision (P1), which requires that all the matters listed as Acceptable Solutions (i.e. 50ha lot size, consolidation of balance lots, 100m setback of dwelling to a new boundary, setback of other buildings to a new boundary of 3m, and a 6m frontage and access width) **must** be satisfied, except that the requirement for a 100m setback may be reduced where an agricultural use is not fettered.

The proposal cannot satisfy three of those Acceptable Solutions – 50ha lot size, consolidation of balance lots, and 100m setback of dwelling to a new boundary.

Clause 4.12.1 says that a development is prohibited where it does not meet all applicable standards. Consequently, the proposed development must be considered to be prohibited. Clause 4.12.2 says that the Council must refuse a prohibited development.

Bushfire –

The Bushfire Schedule applies to the subdivision proposal, principally in relation to the existing dwelling. The dwelling is surrounded by a mature and substantial stand of Eucalypts on a steep slope. The potential fire risk to the dwelling is likely to be significant.

The dwelling does not meet the Schedule’s requirement for Building Protection Zone or the Fuel Modified Buffer Zone, or dedicated fire-fighting water supply.

Both these matters could be satisfied at some cost to the visual amenity of the property and should be placed on a permit as conditions, in the event that the Council approves the subdivision.

Departmental Advice –

Advice from the various functional areas of Council is provided as follows:

FUNCTIONAL AREA	ADVICE
Corporate Administration	No issues.
Community Development	No issues.
Regulatory Services	No building/plumbing issues.
Environmental Health	No environmental health conditions.
Engineering	Conditions of Approval: The existing vehicular access to each proposed lot must be sealed, generally in accordance with

	Standard Drawing SD-1009 Rural Roads – Typical Standard Access, to the satisfaction of the Council’s Director Engineering Services or his representative.
	<p>Developer to Note:</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 roads, nature strips or other Council services or infrastructure 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, 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.</p>

CONSULTATION

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

There were two submissions received, one from the one of the joint owners, the other from the Ulverstone Golf Club. Both are summarised and commented on as follows:

COMMENT	RESPONSE
<p>Submission 1</p> <p>Is opposed to any subdivision of the property at the present time.</p>	<p>Matters regarding the views of a part owner should be dealt with by the parties. Under s.52 of LUPAA the Council need only be satisfied that owners of the land are notified of the application by the applicant. This was done and relevant statement signed by the applicant (Lester Franks) in the application form.</p>
<p>Submission 2</p> <p>Supports the subdivision because:</p> <ol style="list-style-type: none"> 1 it encourages people to play golf; 2 it is an excellent practice facility; 3 Golf Club members use the facility; 4 It promotes healthy living; 5 Golf Club would not like the facility to close. 	<p>The facility is obviously appreciated by the Golf Club and the links between them are clear. The Club's support is evidence of the social value that it places on the facility. It does not raise the level of cultural value beyond "some".</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

The Environment and Sustainable Infrastructure

- . Develop and manage sustainable built infrastructure

CONCLUSION

The applicant has sought approval for subdivision of the property into two lots to accommodate a change in personal and business management circumstances. Approval is being sought under the cultural heritage provisions of Clause 15.4.1 Subdivision (P2 and P3) with the support of a consultant's report on cultural heritage significance.

For reasons outlined above it is contended that the low level of cultural heritage significance determined by the consultant should not be regarded as consistent with the intent of the Scheme which is to protect values of a higher level of significance than "some".

If this view is accepted then the proposal must be assessed under Clause 15.4.1 Subdivision (A1 and P1). The Acceptable Solutions under this Clause are mandatory and must be satisfied, if they are not then the application becomes prohibited and must be refused.

The proposal is also not consistent with the purpose statements for the Rural Resource Zone, clause 15.1.3, which requires that:

- (a) houses and other non-agricultural use or development do not alienate agricultural land; and
- (b) the fragmentation of rural holdings is prevented.

Creation of an additional lot would create potential for another dwelling site in future which would be in conflict with Clause (c). The increase in the number of lots would make the process of amalgamating rural lots for agricultural purposes less likely, which would be in conflict with Clause (d).

It is recommended that the application for a two lot subdivision at 240 Wilmot Road, Forth, be refused on the following grounds:

- 1 The proposal is not consistent with the purpose of the Rural Resource Zone, in particular Clause 15.1.3 (c) and (d);
- 2 The proposal is not of a sufficiently high level of cultural significance to warrant an approval under Clause 15.4.1 Subdivision (P2 and P3) of the Scheme;
- 3 The proposal fails to satisfy the mandatory requirements of Clause 15.4.1 Subdivision (A1 and P1) of the Scheme; and

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- 4 In failing to satisfy the requirements of Clause 15.4.1 Subdivision (A1 and P1) of the Scheme, the application is prohibited under Clause 3.12.1 of the Scheme.’

The report is supported.”

The Executive Services Officer reported as follows:

“A copy of the Annexures referred to in the Land Use Planning Group Leader’s report have been circulated to all Councillors.”

■ Cr Diprose moved and Cr van Rooeyn seconded, “That the application for a two lot subdivision at 240 Wilmot Road, Forth be refused on the following grounds:

- 1 The proposal is not consistent with the purpose of the Rural Resource Zone, in particular Clause 15.1.3 (c) and (d);
- 2 The proposal is not of a sufficiently high level of cultural significance to warrant an approval under Clause 15.4.1 Subdivision (P2 and P3) of the Scheme;
- 3 The proposal fails to satisfy the mandatory requirements of Clause 15.4.1 Subdivision (A1 and P1) of the Scheme; and
- 4 In failing to satisfy the requirements of Clause 15.4.1 Subdivision (A1 and P1) of the Scheme, the application is prohibited under Clause 3.12.1 of the Scheme.”

Carried unanimously

7/2011 Shed (variation to side setback) and Tourist accommodation at 593 Preston Road, North Motton – Application No. DA210212

The Director Development & Regulatory Services reported as follows:

“The Planning Officer has prepared the following report:

<i>‘DEVELOPMENT APPLICATION No.:</i>	DA210212
<i>APPLICANT:</i>	Peter and Janelle Rowlands
<i>LOCATION:</i>	593 Preston Road, North Motton
<i>ZONING:</i>	Mixed Use Zone
<i>PLANNING INSTRUMENT:</i>	<i>Central Coast Planning Scheme 2005</i> (the Scheme)
<i>ADVERTISED:</i>	12 January 2011
<i>REPRESENTATIONS EXPIRY DATE:</i>	27 January 2011

REPRESENTATIONS RECEIVED: One
42-DAY EXPIRY DATE: 11 February 2011 (extension of time granted until 22 February 2011)
DECISION DUE: 22 February 2011

PURPOSE

The purpose of this report is to consider an application for a shed with a variation to the side setback, conversion of an existing shed to Tourist accommodation with the addition of a porch, and an extension to the existing dwelling at 593 Preston Road, North Motton, and consider one representation made in response to the application. The dwelling extension to a bedroom meets all the requirements of the Scheme and by itself would be able to be approved under delegation by the Land Use Planning Group Leader.

BACKGROUND

A copy of the application is provided at Annexure 1. Annexure 2 is a location plan and Annexure 3 is site photos.

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>Compliant.</p> <p>The proposal is consistent with the Objectives for Planning, particularly 2.1(b) and (m) which are that:</p> <p><i>(b) The residential settlement strategy is to reinforce the existing residential pattern and any new residential development is to be the infill or orderly extension of existing urban areas.</i></p>
	<p><i>(m) Residential use or development in the rural areas is to be encouraged in the existing</i></p>

	<i>settlements of North Motton, South Riana and Sprent. The compact and limited growth of each of these settlements is to occur only within those areas that are zoned Mixed Use.</i>
ZONE STANDARDS (Mixed Use Zone)	
8.1 – Zone Purpose	<p>Compliant.</p> <p>The purpose of the Mixed Use Zone is:</p> <p>“To provide for a range of residential, commercial, industrial and other uses that complement the function of a township, settlement or a locality where a mix of uses has established and it is desirable for a mix to be maintained.”</p> <p>The Zone purpose statement acknowledges the need to maintain a variety of uses within the township.</p>
8.3.1 – Residential Amenity	<p>Non-compliant.</p> <p>The Acceptable Solution states:</p> <p>“A1 A non-Residential use must not operate before 7.00am or after 9.00pm daily.”</p> <p>The Performance Criteria allows for the hours of operation to be extended provided there is no unreasonable reduction in the residential amenity in the locality due to noise, traffic movements, light spillage or odour or other emissions.</p> <p>These are impracticable for this type of use. The accommodation is for a one bedroom unit which is by nature residential and would have little or no impact on the residential amenity of the area.</p>
DEVELOPMENT STANDARDS	
8.4.3 A1 – Maximum height	<p>Compliant.</p> <p>The Tourist accommodation is an existing building and is under the maximum height of 8m. The</p>

	<p>outbuilding is under the maximum height of 5m (proposed height is 4.9m).</p>
8.4.3 A2 – Boundary setbacks	<p>Compliant.</p> <p>The dwelling and the Tourist accommodation outbuilding are existing and involve no changes to setbacks.</p>
8.4.3 A3 – Outbuildings	<p>Compliant.</p> <p>The aggregate floor area must not exceed 85m² (proposed floor area is 50.28m²).</p>
8.4.3 A4 – Outbuilding setbacks	<p>Non-compliant.</p> <p>If a side wall exceeds a height of 2.7m the setback is required to be 2.0m.</p> <p>The proposed side wall height is 2.9m. The outbuilding is setback 1.1m to 3.9m from the side boundary. This requires discretion for approx. 1/3 of the building.</p>
8.4.3 P4 – Outbuilding setbacks	<p>Compliant.</p> <p>An outbuilding may have a lesser setback due to the irregular shape of the lot, the lot having less than the minimum area required by the Scheme, unsuitable topography, the location of utilities or the location of existing buildings on the lot.</p> <p>In this case a lesser setback can be considered due to the location of utilities and the location of existing buildings on the lot.</p> <p>The outbuilding is situated to the south of the adjoining neighbour and there are no windows proposed on that side wall. Therefore, there would not be any unreasonable overshadowing or loss of privacy to the adjoining owners.</p>
8.4.3 A5 – Site coverage	<p>Compliant.</p>

	The maximum site coverage allowed is 30% (proposed is 18%).
8.4.4 A1 – Access and Services	<p>Compliant through condition.</p> <p>Access matters are addressed by permit conditions on recommendation of the Environmental Engineer.</p> <p>Wastewater matters are addressed by permit conditions on recommendation of the Environmental Health Officer.</p> <p>Stormwater, telecommunications and electricity are all available.</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 sent a letter advising of the application and inviting comment.

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.

One representation was received dated 20 January 2011, a copy of which is attached at Annexure 4. Each matter is addressed in the same order it is raised:

MATTER RAISED	RESPONSE
Problems with undue noise caused by people and vehicles from the residence.	See comments on third point.

Bedrooms on adjoining side of home to applicant's property would be affected by on-site noise.	The objective of Clause 6.3.1 is to ensure that non-Residential uses do not unreasonably reduce residential amenity. This is unlikely as the Tourist accommodation use is, by its nature, a residential one.
No guarantee of type of people that will stay or hours they will arrive and leave.	The Scheme does not dictate who can stay in this type of accommodation. However, unruly behaviour is unlikely because the owners also live on-site and would be in a position to control unreasonable behaviour.

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 relevant Acceptable Solutions or Performance Criteria of the Scheme.

RECOMMENDATION

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

-
- 1 The development must be substantially in accordance with the application for the permit unless altered by a condition of the permit.
 - 2 The existing access/driveway between the front property boundary and Preston Road must be sealed and 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, or his representative.
 - 3 The activity endorsed by the permit must be carried out in accordance with the requirements of the *Environmental Management and Pollution Control Act 1994*, and Regulations made thereunder.

Please note:

- 4 The permit expires two (2) years from the date of notice unless substantially commenced. An extension of time to this period may be granted once only, but only if the request is received prior to the expiry of the specified time.
- 5 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.
- 6 Any works associated with roads, nature strips 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.
- 7 Any damage or disturbance to roads, nature strips, stormwater infrastructure or existing services must be rectified, 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.
- 8 Building and plumbing permits are required for the proposed development.'

The report is supported."

The Executive Services Officer reported as follows:

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

■ Cr van Rooyen moved and Cr Viney seconded, “The application for a shed with a variation to the side setback, conversion of an existing shed to Tourist accommodation with the addition of a porch, and an extension to the existing dwelling at 593 Preston Road, North Motton is approved subject to the following conditions:

- 1 The development must be substantially in accordance with the application for the permit unless altered by a condition of the permit.
- 2 The existing access/driveway between the front property boundary and Preston Road must be sealed and 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, or his representative.
- 3 The activity endorsed by the permit must be carried out in accordance with the requirements of the *Environmental Management and Pollution Control Act 1994*, and Regulations made thereunder.

Please note:

- 4 The permit expires two (2) years from the date of notice unless substantially commenced. An extension of time to this period may be granted once only, but only if the request is received prior to the expiry of the specified time.
- 5 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.
- 6 Any works associated with roads, nature strips 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.
- 7 Any damage or disturbance to roads, nature strips, stormwater infrastructure or existing services must be rectified, 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.
- 8 Building and plumbing permits are required for the proposed development.

Carried unanimously

8/2011 Residential extension – Variation to side setback and fence height and site coverage at 728 Forth Road, Forth – Application No. DA210222

The Director Development & Regulatory Services reported as follows:

“The Planning Officer has prepared the following report:

<i>‘DEVELOPMENT APPLICATION No.:</i>	DA210222
<i>APPLICANT:</i>	Mark Stevenson
<i>LOCATION:</i>	728 Forth Road, Forth
<i>ZONING:</i>	Low Density Residential
<i>PLANNING INSTRUMENT:</i>	<i>Central Coast Planning Scheme 2005</i> (the Scheme)
<i>ADVERTISED:</i>	19 January 2011
<i>REPRESENTATIONS EXPIRY DATE:</i>	3 February 2011
<i>REPRESENTATIONS RECEIVED:</i>	One
<i>42-DAY EXPIRY DATE:</i>	23 February 2011
<i>DECISION DUE:</i>	14 February 2011

PURPOSE

The purpose of this report is to consider an application for an extension to the existing dwelling and front fence at 728 Forth Road, Forth and consider one representation made in response to the application.

BACKGROUND

The applicant proposes to demolish part of the rear of the existing dwelling and replace it with an extension and erect a new front fence. The development requires exercises of discretion on the Acceptable Solution for side setback, site coverage and front fence height. Non-compliance with the Acceptable Solution requires an assessment against the Performance Criteria under Clause 4.11.1 of the Scheme.

A copy of the application is provided at Annexure 1. Annexure 2 is a location plan and Annexure 3 is site photos and an aerial photo of the property.

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>Compliant.</p> <p>The proposal is consistent with the Objectives for Planning, particularly 2.1(b) which is that:</p> <p><i>(b) The residential settlement strategy is to reinforce the existing residential pattern and any new residential development is to be the infill or orderly extension of existing urban areas.</i></p>
ZONE STANDARDS (Low Density Residential Zone)	
7.1 – Zone Purpose	<p>Compliant.</p> <p>The purpose of the Low Density Residential Zone is:</p> <p>“To provide for single dwelling low density Residential development that consists predominantly of low rise dwellings...”; and</p> <p>To enhance and promote the residential lifestyle attributes of privacy and quiet enjoyment of life.”</p>
DEVELOPMENT STANDARDS	
7.4.3 A1 – Maximum height	<p>Compliant.</p> <p>The residential extension is approx. 5.8m (6.5m maximum) height. The Acceptable Solution allows up to 8m for a residential dwelling.</p>
7.4.3 A3 – Boundary setbacks	<p>Non-compliant.</p> <p>All setbacks comply except to the side boundary on the southern side of the dwelling which does not comply with the Acceptable Solution of 3.0m. The proposal shows a garage attached to the house with a side setback of between 1.5m and 2.0m.</p>

7.4.3 P3 – Boundary setbacks	<p>Compliant.</p> <p>Buildings may be considered for a lesser setback because of unsuitable topography. As can be seen from the site plan, the garage is positioned as far back as the slope of the land allows. In this case it is considered that the topography of the land is unsuitable and triggers an assessment on the impact of the proposed development on shading and privacy.</p> <p>Annexure 4 demonstrates that a building that complies with the Acceptable Solution would cause more overshadowing on the neighbouring property than the proposed garage. There would be no loss of privacy from the proposed garage as there are no windows shown on the side wall.</p>
7.4.3 A5 – Site coverage	<p>Non-compliant.</p> <p>The permitted site coverage is 20%. With a lot size of 1,012m² this would allow an area of 202.4m² of site coverage. This proposed site coverage is 23%.</p>
7.4.3 P5 – Site coverage	<p>Compliant.</p> <p>Site coverage may exceed the 20% up to 40% if the lot has less than the minimum area of 4,000m² as required under the Scheme.</p> <p>The lot in question has an area of 1,012m² and the total floor area of the building, including the extensions, will be 229.3m². This will be 23% site coverage.</p>
7.4.3 P6 – North facing living area	<p>Compliant.</p> <p>The proposal has a north facing living room.</p>
7.4.3 A7 – Front fences	<p>Non-compliant.</p> <p>The proposed front fence is 1.8m high. Half the length of the fence complies with the Acceptable</p>

	Solution of being 50% transparent for the portion of fence above 1.2m but the remaining half is only 50% transparent above 1.6m.
7.4.3 P7 – Front fences	<p>Compliant.</p> <p>A front fence may exceed the total height of 1.2m provided it is in keeping with the streetscape character, allows adequate surveillance of the street from the dwelling and does not create a traffic hazard.</p> <p>Half the length of the front fence complies with the Acceptable Solution. The other half that does not comply is setback from the front boundary approximately 1.4m with a gateway into the side area of the property. The owner’s advice is that the area behind the wall would be an outdoor area. The fence is to be built to provide some privacy to that area.</p> <p>There are various styles of fencing and housing along Forth Road and also the front fence of the property to the south is also a solid 1.8m high so it could be deemed that this proposal is in keeping with the streetscape character and provides adequate surveillance of the street from the dwelling (see Annexure 5).</p> <p>The fence will not create a traffic hazard.</p>
8.4.4 A1 – Access and Services	<p>Compliant through condition.</p> <p>Access matters are addressed by permit conditions on recommendation of the Environmental Engineer.</p> <p>Stormwater, telecommunications and electricity are all available.</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 sent a letter advising of the application and inviting comment.

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.

One representation was received dated 31 January 2011, a copy of which is attached at Annexure 6. Each matter is addressed in the same order it is raised:

COMMENT	RESPONSE
Objects to the height, length, overall size of the extensions and close proximity to the boundary fence.	<p>One of the purposes of the Low Density Residential Zone is to enhance and promote privacy and quiet enjoyment of life and to provide for development on larger lots.</p> <p>Under the previous Scheme the land was zoned Residential (RF) - Village and the minimum lot size was 1,000m². When the current Scheme was being implemented the Resource Planning and Development Commission approved a change to the Zone to allow a discretion to the site coverage of up to 40% when the lot is less than the minimum required under the Scheme.</p>
Objects to the length of the building with unnecessary height.	The Acceptable Solution allows a maximum height of 8m. The proposed extension is 6.15m which complies with the Acceptable Solution.
Will be very restricted autumn, winter and early spring with light and sunlight.	<p>The applicant has provided a shadow diagram showing the shading on 21 June between 10.00am and 3.00pm. The diagram demonstrates that the overshadowing would not restrict the adjoining property with light and sunlight (see Annexure 7).</p> <p>There are large trees on the adjoining property which would cast as much or more shade than the proposed garage.</p>

Length of the extension will mean loss of privacy due to door opening close to boundary.	<p>The only new door proposed is to the garage and the only new window on this side of the building is in the new kitchen.</p> <p>The garage is the only part of the proposal that requires a variation to the side setback and would have minimal impact on the adjoining property. The rest of the extension meets the side boundary Acceptable Solution.</p>
A split level extension would lessen impact.	This is not known and the choice of building is up to the individual owners of a property unless otherwise specified in the Scheme.
Total loss of outlook and view and value of property.	These are not considered when determining compliance with the Scheme.
Extension would not fit into the Plot Ratio calculations.	<p>This is one of the reasons the application is discretionary. The proposal meets the Performance Criteria and is only 3% over the Acceptable Solution.</p> <p>The Acceptable Solution allows up to 20% site coverage and the Performance Criteria allows a variation up to 40%. This application only proposes a site coverage of 23%.</p> <p>The difference between the application complying with the site coverage would have a minimal impact on the adjoining properties.</p>
Not in keeping with other properties in the area.	This proposal is not substantially different to the current mix of building types, sizes and materials within the Forth village area. There is no reference in the Scheme which requires a particular type of building.

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 or Performance Criteria of the Scheme.

Recommendation –

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

- 1 The development must be substantially in accordance with the application for the permit unless altered by a condition of the permit.
- 2 The proposed access/driveway between the front property boundary and Forth Road must be sealed, and be constructed to the satisfaction of the Council’s Director Engineering Services or his representative.
- 3 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.

Please note:

- 4 The permit expires two (2) years from the date of notice unless substantially commenced. An extension of time to this period may be granted once only, but only if the request is received prior to the expiry of the specified time.
- 5 The Council allows one 6m wide or two completely separate 3.6m wide vehicle accesses to a lot within the road reserve.

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- 6 Road Reserve Permit application forms are available from the Council's Engineering Services Department, and a fee applies.
 - 7 Any works associated with roads, nature strips 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.
 - 8 Any damage or disturbance to roads, nature strips, stormwater infrastructure or existing services must be rectified, 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.
 - 9 Building and plumbing permits are required for the proposed development.'

The report is supported."

The Executive Services Officer reported as follows:

"A copy of the Annexures referred to in the Planning Officer's report have been circulated to all Councillors."

■ Cr Viney moved and Cr Diprose seconded, "The application for an extension to the existing dwelling and front fence at 728 Forth Road, Forth is approved subject to the following conditions:

- 1 The development must be substantially in accordance with the application for the permit unless altered by a condition of the permit.
- 2 The proposed access/driveway between the front property boundary and Forth Road must be sealed, and be constructed to the satisfaction of the Council's Director Engineering Services or his representative.
- 3 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.

Please note:

- 4 The permit expires two (2) years from the date of notice unless substantially commenced. An extension of time to this period may be granted once only, but only if the request is received prior to the expiry of the specified time.

-
- 5 The Council allows one 6m wide or two completely separate 3.6m wide vehicle accesses to a lot within the road reserve.
 - 6 Road Reserve Permit application forms are available from the Council's Engineering Services Department, and a fee applies.
 - 7 Any works associated with roads, nature strips 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.
 - 8 Any damage or disturbance to roads, nature strips, stormwater infrastructure or existing services must be rectified, 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.
 - 9 Building and plumbing permits are required for the proposed development."

Carried unanimously

9/2011 Residential – Two dwellings and shed at 2A Victoria Street, Ulverstone – Application No. DA2010069

The Director Development & Regulatory Services reported as follows:

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

<i>DEVELOPMENT APPLICATION NO.:</i>	DA2010069
<i>APPLICANT:</i>	Dallas & Alison Page
<i>LOCATION:</i>	2A Victoria Street, Ulverstone
<i>ZONING:</i>	Residential
<i>PLANNING INSTRUMENT:</i>	Central Coast Planning Scheme 2005 (the Scheme)
<i>ADVERTISED:</i>	12 January 2011
<i>REPRESENTATIONS EXPIRY DATE:</i>	26 January 2011
<i>REPRESENTATIONS RECEIVED:</i>	Nil
<i>42-DAY EXPIRY DATE:</i>	31 January 2011 (extension to 15 February 2011)
<i>DECISION DUE:</i>	14 February 2011
<i>PURPOSE</i>	

The purpose of this report is to make a determination on an application for two dwellings and a shed on the vacant lot at 2A Victoria Street, Ulverstone.

BACKGROUND

It is proposed to erect two dwellings and large shed on an “L-shaped” lot at 2A Victoria Street. The lot is adjacent to another dwelling on the southern side and Fairway Park on the northern and western sides.

The site is currently vacant. Vehicular access would be from Victoria Street. The orientation of both dwellings would be towards Fairway Park. The shed is intended to be for garaging up to three motor vehicles and a single axle trailer used for carrying Pedal Buggies associated with their business – the Beach Hut.

The dwelling closest to Victoria Street would be single storey, one or possibly two bedrooms, brick walls and Colorbond roof.

The rear dwelling would be double storey (in part), flat sloping roof, three-bedroom, and constructed in brick.

A copy of the location plan is appended as Annexure 1 and the application as Annexure 2.

DISCUSSION

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

- . the Objectives for Planning as set out in Part A of the Scheme;
- . the purpose of the Residential Zone; and
- . the relevant Acceptable Solutions and Performance Criteria.

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

Use Status –

	<i>ACTUAL</i>	<i>STATUS</i>
Existing use	Vacant.	Not applicable.
Proposed use	Residential – multiple dwellings (2x).	Permitted.

Building -

	<i>PROPOSED</i>	<i>REQUIRED</i>
6.4.3 (A1) Building height	Compliant. 7m.	Maximum building height 8m.
6.4.3 (A2) Site coverage	Compliant. 43%.	45%.
6.4.3 (A3) Visible transition space		
(a) front door	Compliant: External area adjacent to the front door would be visible from: <ul style="list-style-type: none"> . front dwelling – from Victoria Street (25m away); . rear dwelling – from the front dwelling kitchen window (15m away). 	Front door visible from a road within 50m or from inside another dwelling within 20m.
(b) lighting	Compliant through condition. Not indicated.	Artificial lighting of external doorway.
(c) inside dwelling	Compliant through condition. Not indicated.	External doorway area visible from inside dwelling.

6.4.3 (A4) Setbacks		
(a) front	Non-compliant. 4m (front dwelling).	4.5m.
(b) secondary	Not applicable.	3m.
(c) side	Compliant. North - 1.5m (both dwellings) South - 3.5m (front dwelling).	1.5m or half wall height.
(d) rear	Non-compliant. 1.5m (rear dwelling).	4.5m.
6.4.3 (A11) Outbuildings		
(a) Gross floor area	Non-compliant. 87.8m ² .	Maximum of 85m ² .
(b) Building height	Compliant. 3.68m.	4.5m.
6.4.3 (A12) Outbuilding setback		
(a) frontage		4.5m.
(b) secondary frontage		3m.
(c) side	Non-compliant. North - 0m (wall <2.7m). South - 0.2m (wall >2.7m).	North - 0m. South - 2m.

(d) rear	Non-compliant. 0.2m.	2m.
6.4.3 (A16) North facing living area	Compliant. Both dwellings provide north facing living rooms.	A living area of a dwelling to be north facing.
6.4.3 (A17) Front fences/walls	Compliant through condition. Not indicated.	Fence/wall greater than 1.2m must not exceed 1.8m.
6.4.3 (A18) Side and rear fences/walls	Compliant through condition. Not indicated.	Maximum height 2.1m.
6.4.4 (A1) Building access/services		
(a) Road	Refer Environment Engineer's conditions.	Access constructed to Municipal Drawing SD-1003.
(b) Water	Compliant. Available in the area.	Connected to water supply - 200kPa at 10 litres per second.
(c) Sewer	Compliant. Available in the area.	Connected to reticulated sewerage.
(d) Stormwater	Compliant. Available in the area.	Connected to reticulated stormwater.
(e) Telecommunications	Compliant. Available in the area,	Connected to telecommunications system - underground or consistent with supply to which connected.

(f) Electricity	Compliant. Available in the area.	Connected to electricity supply - underground or consistent with supply to which connected.
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Schedules -

S1 Application Requirements	Compliant. Sufficient information provided for assessment.	Adequate information in the application to enable an assessment of the application, including: <ul style="list-style-type: none"> . site plan; . floor plan; . elevations; . copy of land Title; . shadow diagrams.
S9 Multiple dwellings		
S9.3.1 Building Design	Compliant. Both buildings have: <ul style="list-style-type: none"> . exterior brickwork of similar tone and shade; . aluminum framed windows; . Colorbond gutter, fascia and barge. 	Compatible style/character.
A1 Style/character		
S9.3.1 (A1) Density	Compliant. 419m ² per dwelling unit.	One unit per 350m ² .
S9.3.3 (A1) Privacy	Compliant. Window sill height 1.8m.	Direct views into dwelling less than 9m apart must have: <ul style="list-style-type: none"> (a) sill height 1.7m; (b) translucent glazing; (c) screen not more than 1.8m high.

<p>A2</p> <p>S9.3.4 (A1) Garage or carport</p>	<p>Non-compliant.</p> <p>Bedroom window <1m from driveway (front dwelling).</p> <p>Compliant.</p> <p>Garages part of appurtenant dwellings and use the same building materials as dwellings.</p>	<p>Bedroom windows to be setback a minimum of 3m from others driveways and parking areas.</p> <p>Required to be:</p> <p>(d) compatible in style and character;</p> <p>(e) within 10m of the unit.</p>
<p>S9.3.5 (A1) Private Open Space</p>	<p>Dwellings provide:</p> <p>(a) 65m² private open space (front dwelling) and 150m² (rear dwelling).</p> <p>Compliant.</p> <p>(b) 16m² accessible from a habitable room (front dwelling) and 138m² accessible from habitable room (rear dwelling).</p> <p>Compliant.</p> <p>(c) A fence between private open space of front and rear dwellings, but no details.</p> <p>Compliant through condition.</p>	<p>Ground level units to provide:</p> <p>(a) 35m² per dwelling;</p> <p>(b) minimum area of 16m² and minimum width of 4m and accessible from a habitable room;</p> <p>(c) be screened where necessary;</p> <p>(d) maximum gradient of 1 in 10.</p>

	(d) Site is level and less than 1 in 10. Compliant.	
A2	Not applicable.	For dwelling units at above ground floor level, the private open space must: (a) have adequate screening to ensure privacy. (b) have a minimum area of 10m ² with a minimum dimension of 2.5m ² ; (c) be directly accessible from a habitable room.
S9.3.6 Site Facilities	Development provides:	Developments to provide:
A1 Mail boxes	(a) Two mail boxes at street access (compliant).	(a) Mail boxes
A2 Garbage bins and clothes drying	(b) Garbage bin and clothes drying adequately screened (compliant).	(b) Garbage bins and clothes drying (screened).
A3 3m ² of garden storage	(c) Garden storage not indicated on plans (compliant through condition).	(c) 3m ² of garden storage; (d) and provide for their efficient and convenient use.
S9.3.7 Site development	Compliant through condition.	Site to be developed in accordance with a site development plan.

	<p>Proposal plan details some of the requirements but does not indicate:</p> <ul style="list-style-type: none"> . species of shrubs and trees; . height and materials of visual screen fence; . and does not incorporate 50% of area between dwelling and frontage to be garden/lawn (non-compliant). 	
<p>S7 Coastal & Riparian</p> <p>S7.4.2 (A1) Building design and siting</p>	<p>Compliant:</p> <p>Site exceeds 90m inland from 2.64m Australian Height Datum (AHD) contour.</p>	<p>Buildings containing habitable rooms must be at least 90m inland from a 2.64m Australian Height Datum contour.</p>
<p>S11 CAR PARKING</p> <p>S11.3.1 Car parking provision (A1) and (A2)</p> <p>S11.3.3 Car park design and construction (A1)</p>	<p>Compliant.</p> <p>Four spaces.</p> <p>Compliant through condition.</p> <p>Vehicle turning circles endorsed by Lester Franks for front dwelling.</p> <p>Rear dwelling not shown.</p>	<p>In accordance with Table S10.3.2 – four spaces.</p> <p>Design to comply with AS 2890.1-1993 Off Street Parking Part 1- Car Parking Facilities.</p>

S11.3.3 Car park design and construction (A2)	Compliant through condition. No details provided.	Paving material to provide all-weather access, graded, drained, kerbed and marked out.
S11.3.3 Car park design and construction (A3)	Compliant. On-site turning provided for each dwelling and shed.	On-site turning area to be provided for >4 spaces.

Departmental Advice -

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

FUNCTIONAL AREA	ADVICE
Corporate Administration	No issues.
Community Development	No issues.
Building & Plumbing	Building and Plumbing permits required.
Environmental Health	No Environmental Health conditions.
Engineering	Conditions of approval: 1 Any new access and driveway must be constructed in accordance with Standard Drawing SD-1003 Urban Roads - Typical Vehicle Crossing [copy to be enclosed with permit], noting that any work associated with the road, kerb crossover or footpath infrastructure will be undertaken by the Council at the property owner's cost, unless alternative arrangements are approved by the Council's Director Engineering Services.

	<p>2 Any access and driveway made redundant by the proposed development must be removed and the road, kerb and channel, footpath and verge reinstated to the satisfaction of the Council's Director Engineering Services, noting that any work associated with the road, kerb crossover or footpath infrastructure will be undertaken by the Council at the property owner's cost, unless alternative arrangements are approved by the Council's Director Engineering Services.</p> <p>Applicant/Owner/Developer to note:</p> <p>A 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.</p> <p>B The Council allows one 6m wide or two completely separate 3.6m wide vehicle accesses to a lot within the road reserve.</p> <p>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.</p> <p>D 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>
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	<p>E Any damage or disturbance to footpaths, kerb and 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.</p>
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DISCUSSION

Issues related to the development are identified as follows:

- 1 front and rear setbacks of dwellings;
- 2 floor area of shed;
- 3 side and rear setbacks of shed;
- 4 setback of bedroom window from driveway;
- 5 garden frontage.

Dwelling setbacks –

The front dwelling unit is proposed to be setback 3m from the front boundary (4.5m required). The Performance Criteria allow consideration of a lesser setback where, inter alia, the lot has an irregular shape. The L-shaped nature of the lot is probably not regular in the Ulverstone context (most lots are rectangular) though it is questionable whether the Scheme intended to include lots of this type under this provision. A lesser front setback may be allowed where the setback is in keeping with the general building line of the street.

In this case the setback is 1.5m less than the requirement and in a streetscape sense the difference would be significant, particularly where the front area is intended to be paved car manoeuvring space, as is proposed in this case. Front setbacks of other dwellings in Victoria Street are mostly generous, varying between 7m and 4m.

An exercise of discretion on the front boundary setback requirement is not considered appropriate.

The rear setback of the rear dwelling is proposed to be 3m short of the Acceptable Solution (AS) requirement (4.5m). The Performance Criteria (PC) allows for a lesser distance where the lot, inter alia, has an irregular shape.

For the reasons discussed above it is accepted that the lot is irregular in shape and therefore the criteria for consideration of a relaxation is triggered.

The requirement for a lesser setback is that the encroachment is minor and there is no unreasonable shading or loss of privacy.

It is arguable whether a 3m difference with the AS is minor. However in the context of the site, in particular the openness of the adjacent land (Fairway Park) and its unlikely development for residential or other development, that it would not be unreasonable to consider the 3m difference a minor encroachment. For the same reasons (i.e. openness of the adjacent land and unlikely future development) the impact on shading and privacy is considered reasonable. A shading diagram indicates that on the 21 June there is shading of the adjacent land up to 2.00pm.

An exercise of discretion on the rear boundary setback is considered to be appropriate in this instance.

Floor area of shed –

The area of the proposed shed is 2.8m² over the AS requirement (85m²). The PC allows for a greater area where the floor area does not exceed that of the dwelling, the height does not exceed 5m, the colour and design complements the dwelling, and there is no unreasonable shading or loss of privacy caused.

The first of the requirements regarding floor area is met – the floor area of the dwellings is 344m² and the shed is 87.5m².

The second requirement for a maximum height of 5m is also met – 3.68m is proposed.

The shed would be cream coloured metal sheet with green roof and doorways. These are common colours, singly and in combination in an urban area and are considered to be complementary in this context.

Side and rear setbacks of shed –

The proposed shed is on or very close to the boundary on three sides. The only wall that does not meet the AS setback is the southern wall; the proposed setback is 0.2m while the AS requires 2m. The PC allows for a lesser distance where the lot, inter alia, has an irregular shape. It is accepted that the lot is irregular in shape and therefore the criteria for consideration of a relaxation is triggered in the case of the shed (outbuilding) setback.

In the case of whether a lesser setback is appropriate, the PC requires that the proposed setback is in keeping with the general building alignment and streetscape character, and causes no unreasonable shading or loss of privacy.

On the building alignment, there are numerous sheds in the vicinity which extend up to the boundary on one or more sides, particularly at the rear of their lots. Indeed the neighbouring lot in this case contains a shed on two boundaries one of which would back on to the shed which is the subject of this application. The shed would not be seen from the street or in the street view. Consequently, it is considered that the proposed siting would be consistent with the general building alignment and the streetscape character.

There would be some overshadowing of the neighbouring property (2C Victoria Street) however the issue is whether that overshadowing would be unreasonable. In this case application of the formula contained in the definition of “unreasonable shading” shows that the level of shading caused by the proposal would be less than the formulaic building (i.e. 6m high and setback 2m from the boundary). Consequently the amount of overshadowing is not considered to be unreasonable.

There would be no loss of privacy caused by the shed to the southern neighbour as there are no windows proposed in any wall.

The proposed shed setback on the southern boundary satisfies each of the tests for a lesser setback. Consequently it is considered that an exercise of discretion on the setback requirement is justified.

Bedroom window setback –

The Multiple Dwellings Schedule requires bedroom windows be setback 3m from a driveway used by others. In this case the window of the room shown as office on the plan is less than 1m from the driveway that serves the dwelling behind. The room was shown as a bedroom in earlier plans and it is possible if not likely that the room would be used as a bedroom at some stage; it is appropriate to assess it on this basis.

The PC allows for a lesser setback of a bedroom window where the window is designed to meet the Objective, which states, “To ensure that the location and design of multiple dwellings provide visual and acoustic privacy for residents.”

In this case the window sill has been raised to 1.8m. Such a height would prevent any loss of privacy caused through direct views into the dwelling

from the driveway. Also in this case there is only one dwelling behind served by the driveway; vehicular or pedestrian traffic using the driveway is unlikely to be excessive. It is felt that the design and circumstances of the development are sufficient to deem the Objective satisfied and therein the PC. An exercise of discretion on this standard is considered to be justified.

Garden frontage –

Clause S9.3.7 requires that multiple dwellings be developed in accordance with a site development plan that shows various matters, including that at least 50% of the area between the front building and the front boundary is dedicated for gardens and lawns. All of the frontage would be dedicated to vehicle access and manoeuvring.

The proposed development does not meet this requirement: it provides no garden area at the frontage.

There are no PC against which to measure any alternative solutions, and one needs to be guided by the Objective to determine whether the intent of the Clause is satisfied. The Objective says, “To ensure that the exterior of multiple dwellings in the Residential Zone enhances the streetscape and meets the needs of residents.”

It seems as though the proposed turning template for access and manoeuvring in to and out from the front dwelling is tight, possibly to the extent that it may not be particularly useful to the residents. It is also likely that residents of the front dwelling would reverse directly on to the street at a time when others may be entering or departing the site and vehicles are passing in Victoria Street. The result could be confusion and a risk to pedestrian and vehicular traffic safety.

Another complication would be caused if or when a visitor parks on the driveway in front of the garage of the front unit. An average sized vehicle would extend over the front boundary and block the footpath. This would not be appropriate.

The proposed presentation of driveway and manoeuvring area to the street is not typical of the character of development in the street and for that reason is not considered to be appropriate.

A more appropriate solution would be to resite the front dwelling and remove the manoeuvring area between the front dwelling and the street boundary

and make it garden. This would require a substantial redesign of the proposal.

CONSULTATION

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

No representations were received.

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 proposal for two dwellings and a shed is a permitted use in the Residential Zone.

There are various matters that do not comply with the AS and for which an assessment under the PC is required. Each of these matters is considered under the above headings. On the majority of issues the proposal satisfies the PC.

The one matter that is of concern is the limited setback of the front dwelling and the excessive proportion of car manoeuvring area in the space between the frontage and the front dwelling. The effect in a streetscape sense is not typical or sympathetic with the character of the area.

It is consequently contended that the proposal does not meet the requirements of Clause 6.4.3 Building design and siting A4 (a) and P4 (i) in that the proposed frontage setback is not in keeping with the general building alignment and streetscape character, or with S9.3.7 Site development A1 (e) of the Multiple Dwelling Schedule in that an insufficient area is provided for gardens and lawn in the area between the frontage and the front setback of the front dwelling.

Because the proposal fails to satisfy these two sections of the Scheme, Clause 4.12.1 of the Scheme is activated. It says that development is prohibited where it does not meet all applicable standards. Clause 4.12.2 requires that the Council must refuse a development that is prohibited.

It is recommended that the application for two dwellings and a shed at 2A Victoria Street, Ulverstone, should be refused on the following grounds:

- 1 The proposal fails to meet Objective (1) of Clause 6.4.3 Building design and siting in the Residential Zone, in that the siting and setback of the front dwelling would not complement the streetscape.
- 2 The proposal is not consistent with Clause 6.4.3 Building design and siting A4 in the Residential Zone, in that the front dwelling is not setback the required 4.5m from the frontage.
- 3 The proposal is not consistent with Clause 6.4.3 Building design and siting P4(i) in the Residential Zone, in that the front setback of the front dwelling would not be in keeping with the general building alignment and streetscape character.
- 4 The proposal is not consistent with Clause S9.3.7 Site development A1 (e) of the Multiple Dwelling Schedule in that there would be insufficient garden and lawn area in the space between the frontage and the front setback of the front dwelling.'

The report is supported.”

The Executive Services Officer reported as follows:

“A copy of the Annexures referred to in the Land Use Planning Group Leader’s report have been circulated to all Councillors.”

■ Cr van Rooyen moved and Cr Viney seconded, “The application for two dwellings and a shed on the vacant lot at 2A Victoria Street, Ulverstone is refused on the following grounds:

- 1 The proposal fails to meet Objective (1) of Clause 6.4.3 Building design and siting in the Residential Zone, in that the siting and setback of the front dwelling would not complement the streetscape.
- 2 The proposal is not consistent with Clause 6.4.3 Building design and siting A4 in the Residential Zone, in that the front dwelling is not setback the required 4.5m from the frontage.
- 3 The proposal is not consistent with Clause 6.4.3 Building design and siting P4(i) in the Residential Zone, in that the front setback of the front dwelling would not be in keeping with the general building alignment and streetscape character.
- 4 The proposal is not consistent with Clause S9.3.7 Site development A1 (e) of the Multiple Dwelling Schedule in that there would be insufficient garden and lawn area in the space between the frontage and the front setback of the front dwelling.”

Carried unanimously

Closure

There being no further business, the Mayor declared the meeting closed at 6.17pm.

CONFIRMED THIS 28TH DAY OF FEBRUARY, 2011.

Chairperson

(ms:dil)

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