

Dist.
✓ Rob (R)
✓ Graham (G)

JIGGI NEWSLETTER #5 22.9.94 FROM JONATHAN

A

To All Share Holders,

On 15/8/94 a telephone Call-over from the Land & Environment Court set a Call-over date in Sydney for 24/8/94 to decide if the Appeal is to be heard before a Judge or an Assessor in Sydney, or in the Northern Rivers area, and to clarify whether both DA 93/112 & DA 93/754 could be appealed on one Application to the Court.

I attended that Call-over in Sydney to seek the Court's leave to amend the Appeal to DA 93/112. We can appeal DA 93/754 up to 19th April, 1995 - which we may do if the Appeal on DA 93/112 has a dis-agreeable outcome. We can use DA 93/754 in the Court hearings and introduce new Reports and evidence to support DA 93/112.

The Court directed that the Appeal be heard by a Judge "because of the complexity and legal issues involved". I argued for it to be heard around Lismore - agreed. The hearing is to be from November 28 to December 2 (that is when a Judge is available for this area).

Council has supplied a Statement of Issues to the Court with 32 reasons to support its Refusal (see enclosed). Careful analysis of this Statement indicates that we can properly address all points. However points 6 & 7, dealing with "decreasing population" in the Jiggi area present us with a possible legal challenge; point 14 on "over development", point 3 "compatible with the dairy" and point 1 "scenic and rural amenity" is arguable. The rest may be already covered by current or extra Reports. Council is arguing its case using a Barrister, Greg Newport (Sydney) and 10 local objectors as well as Hugh Johnson, Council's Senior Development Planner.

(G)

This raises the question as to whether we may be well enough prepared to deal with all issues using Kieren Byrne, Chris Lonergan, Trevor Jones, and myself. It is useful to consult Keith Graham, a solicitor, on one or two technical legal matters.

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LAND AND ENVIRONMENT and LOCAL COURT COSTS

Proper preparation for this hearing does involve extra costs, both cash and time which translates to cash at rates ranging from \$44.00/hour for Jonathan, through \$60.00 to \$80.00/hour for Engineers and Planner and up to \$125.00/hour for legal advice.

So far I have spent 400 hours to Appeal the Refusal of DA 93/112, to serve the Council with Notice of Appeal, to obtain Legal Advice, to collect all signatures of Applicants, to liaise with, coordinate and brief Court witnesses, to receive the Court's Telephone Call-over, to appear at the Sydney Call-over, to amend the Appeal, to Subpoena evidence and witnesses. I have paid cash outlays amounting to \$4,285.00 so far (see table below). I am willing to spend an extra 100 hours (estimated), and \$1,265.00 (estimated) for sundry Court expenses, to collect outstanding rates by way of Debt Collection Action in the Local Court and to keep all Share Holders informed of developments.

LAND AND ENVIRONMENT and LOCAL COURT COSTS

The proceeds of sale of the remaining 2/16th Shares the subject of Statutory Declaration 20.1.93 may provide \$22,000.00 to the Development Budget at this time. Since I am now owed \$21,885.00 (with interest to be calculated at Court rates and added to this total), I now inform that Statutory Declaration 20.1.93 is now invalidated, and I retain the ownership of the two "common" shares as full payment of all monies up to this date.

Any extra expenses of time and cash are to be reimbursed regardless of either Court's Determinations. I may be owed an estimated \$5,665.00 by 22.12.94. This can be reimbursed by way of rate rebates/direct payments from the Jiggi Development Account.

Estimates of time and costs involved to properly prepare for the Court Hearings to 22nd December are as follows :

ESTIMATED OUTGOINGS from 19.6.94 (2nd. Refusal) to 22.12.94.					
	Estimated hours	Dollar rate per hour	Estimated dollars	Cash Paid	Total
Jonathan (Appeal Applicant)	500	44	see above		
Chris Lonergan (Planning Consultant)	42	60	2500		
Trevor Jones (Structural Engineer)	25	60	1500		
Kieren Byrne (Geotechnical Engineer)	25	60	1500		
Theana (Administration/Consultant)	50	22	1100		
Keith Graham (Legal Advice/Action)	10	125	1250		7850
Cash outlays paid by Jonathan to-					
Kieren Byrne				905	
Chris Lonergan				950	
Trevor Jones				500	
Keith Graham				270	
Theana				660	
Telephone/photocopies/travel/postal/etc.				1000	4285
Cash payments (estimated) to December 22nd			1265		1265

ESTIMATED OUTGOINGS from 19.6.94 (2nd. Refusal) to 22.12.94.					-13400
ESTIMATED INCOMINGS to December 22nd, 1994 - RATES					+ 9000

DEFICIT					- 4400

This is an estimate until rate payment receipts are supplied by all Share Holders. The total rates owing by any Share Holder over a 1/16th Share equals \$880 to 22.9.94 plus \$220 to 22.12.94 (see ACTIONS #2 below) less what has already been paid (please make copies of receipts available to Jonathan immediately to offset Debt Collection costs).

**ACTIONS TO EXPEDITE COURT DETERMINATIONS, DEVELOPMENTS
AND TO OFFSET EXTRA COURT COSTS FOR DEBT COLLECTION**

1. Outstanding rates to 22.12.94 to be paid into the Jiggi Development Account at the Summerland Credit Union, Branch number for direct deposit from any Bank 802222, Account number 25091.
2. Rates to increase from \$440 per annum to **\$880 per annum** (\$600 per annum was agreed in September, '93) **to be effective from 22.9.94** (see Community News, October 1993, first column). Written comment is invited on the extra \$280 per annum increase. This increase is to offset the \$4,400.00 deficit (see Table page 2).
3. **Penalty interest** to be charged on the unpaid balance of rates, calculated on a daily basis at **20% per annum** to be effective from 1.4.94 (see Community News, October 1993, first column and Statement by Jonathan and Theana Re: Jiggi Finances and Management, 22.3.94).
4. **Immediate legal action** to begin in the Local Court to sell the 1/16th Share of any Common Tenant who has failed to pay out-standing rates to 22.12.94. Any Tenant with outstanding rates may be exempted from this Court action by making an arrangement in writing for payment with Jonathan **immediately** upon receipt of this letter. All correspondence to be received by 11.10.94

PLEASE NOTE

Currently a 1/16th Share may be valued at \$6,250.00 based on a \$100,000.00 sale valuation of the land.

It is possible that Development Approval may be given for eight dwellings. In this event it follows that all dwelling sites are to cater for 2/16th Shares. Thus all Share Holders are "doubled up" on half the planned dwelling sites. In this case a half dwelling site Share may be worth \$11,000.00. **Two parties may dwell on one site** with a Common amenities block within an area of 60 metres diameter (see enclosed "Policy on **Expanded Houses**", Lismore City Council).

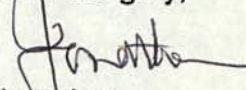
To offset the extra costs of Local Court Action, **\$11,000.00** can be paid to any Share Holder with **outstanding debts** who **wishes to leave** this Development immediately and who **relinquishes** a 1/16th Share. This is based on a possible Determination by the Land and Environment Court for 8 dwelling sites. This payment can be made as soon as 2/16th Shares/one dwelling site is sold. Outstanding rates and penalty interest to be deducted from the proceeds of sale.

Please find enclosed:

- | | |
|---------------------------------|--|
| 1. Chris Lonergan Account | 4. Letter of Amendment to Land & Env. Court |
| 2. Chris Lonergan Report | 5. Policy on Expanded Houses, L.C.Council |
| 3. Council's Statement of Issue | 6. Pan - Community Council Newsletter, Sept. '94 |

ADAMA CENTRE
P.O. Box 11, Rock Valley
N.S.W. 2480
(066) 880 176

With Integrity,


Jonathan

CHRIS LONERGAN

Planning Consultant: Environmental Assessment: Project Design

Lot 7 Parkway Dr. Ewingsdale, NSW. 2481

Ph. (066)847172 Fax. (066)847148

Jonathan
P.O. Box. 11
Rock Valley
2480.

Dear Jonathan,

Re. Account

Appeal, Refusal Notice 93/754, Proposed 16 Dwelling Multiple
Occupancy, Lot 41 D.P. 802597, 136 Davis Road, Jiggi.

Thank you again for the opportunity of preparing this preliminary submission to Council for you and your friends.

Enclosed is a copy of the submission in relation to the Multiple Occupancy appeal.

My account for preparation of the submission to date is:-

Preliminary Meetings	\$160.00.
Site Inspection	\$210.00.
Assessment of Previous Reports	\$230.00.
Preparation of 16 point submission	<u>\$350.00.</u>
TOTAL	<u>\$950.00.</u>

this includes all photocopying.

It would be appreciated if prompt payment could be made in relation to the account.

I look forward to completing further work for you in relation to this appeal.

Yours Sincerely



Chris Lonergan
16th. Aug. 1994.

Yours Ref: LIST BW.VL

Jonathan and Others
Adama Centre
PO Box 11
ROCK VALLEY NSW 2480

Ph: 066 880 176

29 August 1994

The Land and Environment Court
GPO Box 3565
SYDNEY NSW 2001

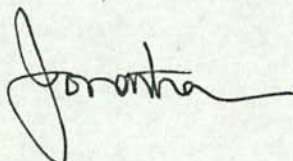
Dear Registrar

Following our conversation in Sydney and your direction on 24/8/94, I ask that you accept this written request that the Applicant, Jonathan and Others of the Jiggi Property, Appeal No. 10353, amend the Appeal lodged 14/6/94 from citing "DA 93/112 and DA 93/754" to read "DA 93/112" only (delete DA 93/754).

I state that the direction to place this matter before a Judge and to delay the hearing until November 28-December 2 is a response to Council's calculated distortion of the true nature of the DA. Any contentious 'legal issues' could be heard before a Judge before the September dates as previously indicated. To bring this to a date three months later is an impost on the Applicants who have already experienced delay since March 1993. To bring it before a Judge is to close the door to a layman's court hearing, and thus increases the expense to the Applicant - a fact possibly calculated by Council to discourage the Applicant from proceeding. It is possible that case law may be argued by Council's Barrister - thus causing another delay or adjournment until we can properly respond within our limited resources. We see this as a possible cynical move on Council's part - and unnecessary for the Court to accept that a 32 point Statement of Issue is reason enough to delay this Determination and place it all before a Judge.

The so-called 'legal issues' have been raised and answered already. A precise persual of the Statement of Issue reveals that only point #6 - repeated in #7, and also #8, may require legal clarification. All other matters are either pretexts for delay or are merit points only. It is unnecessary to wait for three months for these points to be clarified. I ask that you direct that the specific 'legal issues' be heard before a Judge in Sydney, if necessary, and that an extraordinary hearing or Conference be directed without delay.

With integrity



JONATHAN

LISMORE CITY COUNCIL POLICY REGISTER

FILE NO: S/B2

POLICY NO:03.03.15

POLICY HEADING: POLICY ON EXPANDED HOUSES

FUNCTIONS: DEVELOPMENT - BUILDING CONTROL

*if this has been
revised?*

OBJECTIVE: To provide for the needs of persons wanting to have a dwelling consisting of several structures.

- POLICY: Council accepts the concept of "expanded dwelling" as being one dwelling house under the following circumstances:-
1. All habitable structures exist within a circle of 60 metres diameter;
 2. Structures to be connected by all weather paths easily traversed;
 3. Structures not to be used as holiday accommodation for hire, but by their permanent occupants only;
 4. Only one kitchen and laundry facility present;
 5. There being an identifiable common (living) room to be so used;
 6. All structures within the expanded house cluster require a building permit through a building application and compliance with Ordinance 70. At the development application stage only a site layout with dimensioned room sites and uses is required;
 7. The above points 1 to 6 be strictly adhered to by Building and Planning Departments.

DA 93/112

STATEMENT OF ISSUE by Council.

1. Whether the proposed development is in conflict with objectives (b) and (c) of the general Rural 1(a) zone pursuant to Lismore Local Environmental Plan 1992. *OK?*
2. Whether the proposed development complies with the provisions of Clause 17 of the Lismore Local Environmental Plan 1992. *OK.*
3. Whether pursuant to Clause 33 of the Lismore Local Environmental Plan 1992 the proposed development will be compatible with specified land use located in the locality which may cause conflict with proposed development. *OK.*
4. Whether the proposed development complies with Lismore City Council Development Control Plan No. 27 - Buffer Areas. *OK.*
5. Whether the proposed development complies with the Lismore City Council Development Control Plan No. 20 - Multiple Occupancies of Rural Lands. *OK.*
6. Whether the proposed development complies with Clause 2 of SEPP No. 15 - Multiple Occupancy of Rural Land. *MAKE OK.*
7. Whether the Council may consent to the proposed development when all the aims and objectives of SEPP 15 Clause 2 are not met as required pursuant to Clause 7 (1)(h). *MAKE OK.*
8. Whether the proposed development involves a subdivision or other form of separate land title or in the manner which involves separate legal rights to parts of the land through an agreement or arrangement in contravention of Clause 2(c)(ii) of SEPP 15. *OK.*
9. Whether the proposed development impacts adversely on the environment due to an adverse impact on the water quality of existing water sources. *OK.*
10. Whether the land in the proposed development is suitable for on site disposal of effluent in the manner proposed in the Development Application. *OK.*
11. Whether the proposed home occupation sites. *OK.*
12. Whether the proposed development is suitable given the instability of the land and past history of landslip. *OK.*
13. Whether the proposed dwelling site locations are in areas subject to landslip and movement which make development on the specified sites inappropriate. *OK.*
14. Whether the proposed density of settlement constitutes an over development of the land. *MAKE OK?*

SEE ALSO

#1

- 2 -

- CHRIS 15. Whether the proposed development impacts adversely on the landscape and scenic quality of the locality. OK?
- KIRBY 16. Whether the land is subject to slip; OK.
- CHRIS 17. Whether the land is subject to high bush fire risk; OK.
- CHRIS/TREVOR 18. Whether erosion and landslip hazards will adversely affect the internal road system and proposed dam sites as set out in the Development Application. OK.
- " 19. Whether the proposed development is likely to exacerbate the soil erosion problems of the site. OK.
- CHRIS — 20. Whether there is an adequate public transport to and from the proposed development site. OK.
- CHRIS — 21. Whether there are utility services available to the subject property from Northern Rivers Electricity and Telecom. OK.
- CHRIS — 22. Whether the Council has not been provided with sufficient information which would enable it to consider the matters raised pursuant to Section 90(1)(e) the Environmental Planning Assessment Act. EXISTING INFRASTRUCTURE, DESIGN, ETC. OK.
- CHRIS — 23. Whether the Council has been provided with sufficient information which would enable it to assess the relationship of the proposed development to the development on adjoining land and other land in the locality and in particular to the existing dairy to the south of the development site pursuant to Section 90(1)(h). MAY BE OK.
- CHRIS — 24. Whether a number of dwelling sites have inadequate setback to adjoining agricultural uses and whether such inadequate setback create a potential for conflict with those agricultural uses. OK.
- CHRIS — 25. Whether several dwelling sites and associated improvements areas encroach onto or adversely affect agricultural use of land identified as prime agricultural land. OK.
- CHRIS — 26. Whether the substantial public interest generate and receipt by Council of 61 written objections indicate that the proposed development is not in public interest. MAY BE OK.
- CHRIS — 27. Whether the amenity of the neighbourhood now and in the future would be significant and altered to the detriment of the existing residents. MAY BE OK.
- KEITH/LANE 28. Whether the proposed Development Application complies with Section 77(1)(b) of the Environment Planning Assessment Act 1979 in that the registered proprietor of land known as Lot 1 in D.P. 822865 has not consented to the use of his land which has been included in the Development Application. OK.
- ARMED AND DANGEROUS

- 3 -

- DRE 29. Whether the proposed Development Application complies with Section 77(1)(b) of the Environment Planning Assessment Act 1979 in that all of the registered proprietors of land have not consented to the application. OK.
- TREVOR/CHRIS 30. Whether the proposals for supply and storage of water are adequate. OK.
- CHRIS — 31. Whether pursuant to Section 90(1)(c2) of the Act an adequate report has been submitted to identify fauna on a site and any impact as a result of the development. OK.
- CHRIS — 32. Whether any reports have been provided to Council to enable it to consider the matter raised in Clause 8(1)(p) of SEPP 15. ABOUT FENCIBLE SITES OK.

(9)

1.

CHRIS LONERGAN

Planning Consultant: Environmental Assessment: Project Design

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Ph. (066)847172 Fax. (066)847148

General Manager

Lismore City Council

P.O. Box 23A

Lismore

2480

Dear Sir,

Re. Pending Appeal, Refusal Notice 93/754, Proposed 16 Dwelling
Multiple Occupancy, Lot 41 D.P. 802597, 136 Davis Road,
Jiggi.

I refer to the above and advise that I have been instructed by the owners of the above property to assist them with the presentation of their case to Council at a mediation meeting, and if necessary on to the Land & Environment Court.

I must say, having been involved in the successful approval of other Multiple Occupancy applications within the Lismore City Council area, it appears that the subject application either meets or exceeds the statutory, environmental and social criteria set for Multiple Occupancy, and as such should have been approved.

In this regard I strongly urge Council to objectively reassess their opposition to this application, which appears from the evidence, to have been swayed by emotive submissions from local residents, rather than by an appraisal of the supportive information submitted with the application.

In relation to Council's reasons for refusal, these are addressed as follows:-

1) Water Quality and Effluent Disposal

The Geotechnical reports submitted, the Water management report submitted, and the applicants intent to extensively use composting toilets of a type approved by the N.S.W. Dept of health, means that it is most unlikely that there will be any impact on water quality within the area, and indeed a far less impact than that associated with the operation of the large dairy some distance to the south west.

As proposed in the D.A., provided that all grey water is disposed of into the adequately designed transpiration fields, as designed by Trevor A Jones & Assoc., then the soil types as detailed within the soils reports will be well able to deal with all effluent generated.

A fortunate feature of the development site is that it has been previously cleared for farming, and many access roads already exist. This means that site disturbance will be minimal in relation to the development of the site for the proposed M.O.

Despite this, construction and site works e.g. Access Roads, Drainage and Building Construction, will all in some way require initial removal of vegetation and are all possible sources of suspended solids, entering the local drainage system.

Fortunately the development areas within the property are separated from the drainage system by cleared pasture. These grassed areas will cause the velocity of surface water to be reduced to a level where most of the suspended solids will fall to the floor of the pasture area. Water is then dispersed toward the drainage system at a reduced velocity and free of suspended solids and thus free of phosphates.

When future development does occur, and storm water run off is increased due to roof collection and gravel surfaces within the road system. This increased run off will be concentrated to specific discharge points, where run off will be treated to reduce velocity and collect suspended sediment and nutrient.

These drainage control structures, and the proposed management of effluent, will all conform with previously council approved engineering designs, and will further ensure that the proposed M.O. has no adverse impact on the integrity of the adjacent drainage systems. This is achieved by the methods detailed in the D.A. and results in the removal of potential pollutants from run off, i.e. suspended solids, nitrogen and phosphorus, before they can reach the local drainage system.

Further to this, the applicants propose, that during site works berms of straw bails will be placed between site works and the creeks to ensure that suspended solids do not enter the drainage system. These small berms of straw bails or similar, will be positioned and secured by metal stakes e.g. star pegs in rills and gullies during development works. These porous bails will act to reduce water velocity and collect sediment during the upgrading of the internal access and future dwelling construction. This inexpensive method of sediment control will afford additional protection to the local drainage system.

The Clay soils that characterise this area have variable depth, and are often very shallow due to previous land clearing.

This severely limits its agricultural potential.

The geotechnical reports confirm not only a potential for the construction of future dwellings as proposed, but show that the soil conditions are suited to on site effluent disposal.

The level of detail attended to in this application in relation to erosion control, soil conditions, waste disposal and geotechnical assessment is conclusive, and proves beyond doubt that the proposed development satisfies all reasonable design and control criteria, and thus should not be refused on this basis.

2) "Density" CLAUSE 9 S.E.P.P. No. 15.

The property is zoned Rural 1(a) and has an area of 58.09 ha.

Under the provisions of Clause 9, the maximum number of dwellings permissible is 16.023 for a 58.09 ha. property.

The proposed development meets this standard, and as shown throughout the D.A. submitted, can do so with minimal environmental impact, in a socially responsible way, and totally in accordance with the requirements of S.E.P.P. No. 15.

What must be considered is that the development of this site for Multiple Occupancy will result in the planting of thousands of trees and the total screening of all proposed dwelling sites from local roads and adjacent dwellings.

As such, with the site being shown as capable of taking the proposed 16 dwellings with minimal environmental impact, then the visual screening of this currently cleared former grazing property can only add to the visual amenity of the area, and cannot be regarded as an overdevelopment of the site.

The proposed density is one dwelling per. 3.6 ha.

Council has previously approved a 4 dwelling M.O. application for The Turkey Creek Community, on Lot 11 D.P. 592058 Dunoon Road Rosebank, which has an area of only 4 ha., resulting in a density of one dwelling per. 1 ha.

3) Owners Consent.

All owners have consented to the application. *AND SEE GRAHAM'S SUBMISSION RE
NEWTON'S CLOSED ROADS.*

4) D.C.P. No. 27 Buffers.

D.C.P. No. 27 specifies buffers between dwellings and landuses in rural areas.

The proposed development satisfies all of these criteria.

In relation to Intensive Horticulture, which does not exist on adjoining properties, the nearest dwelling to a boundary is site 8. This site is 40 metres from the southern boundary, and as such could easily meet the 30 metre Biological Buffer if ever Intensive Horticulture occurred on adjacent lands to the south.

Site 8 is also the closest within the property to the Dairy, 540 metres to the S.S.W.

D.C.P. No. 27 specifies an exclusion buffer between dwellings and Dairies of 300 metres, with dwellings being permissible within 600 metres where a biological and or physical barrier exists between the two uses. This is the case in this instance where tree stands and a ridge exist between the two landuses.

As such the proposed development satisfies Councils buffer criteria, and thus should not be refused on this basis.

N.B. a proposed dwelling site exists much closer than those proposed in this application, on the small concessional allotment located between the subject M.O. site and the southern dairy.

5) Impact upon residential amenity.

As stated in point 2, what must be considered is that the development of this degraded and previously cleared former grazing land, for Multiple Occupancy, will result in the planting of thousands of trees and the total screening of all proposed dwelling sites from local roads and adjacent dwellings.

This combined with the adequate setbacks proposed to common boundaries, ensures that the impact of this development on the residential amenity of the area will be minimal.

It must be taken into account that the density of rural settlement around Jiggi is already high as a result of Council's previous concessional allotment policy.

These small allotments are generally cleared and have been developed without the high level of environmental planning and proposed tree planting and environmental stewardship which is proposed in this application.

As such it is most likely that this M.O. will add positively to the residential amenity of the area, particularly considering the care which has been taken in minimising environmental impact, and the plans to revegetate the area in accordance with bush fire guidelines and a desire to establish habitat corridors.

6) Impact upon scenic and landscape quality.

See point 5 above.

7) Character, location and density of development.

See points 2 & 5 above.

8) Landslip and Bushfire Hazard.

Landslip - The depth of investigation into the geophysical characteristics of the site contained within the D.A. submitted, and the resultant designs which minimises risk and plan for erosion control, effluent disposal and site preparation, all show clearly that the development proposed fits in with the environmental and physical constraints of the site.

Possible landslip areas are avoided by the development, and the dwelling sites proposed are consistent with other approved dwelling sites in the area and the Lismore City area generally.

Bushfire Hazard - The report which accompanies the application clearly specifies bush fire management plans for the site.

These meet criteria set by council.

The proposed development sites are unlikely to come under severe bush fire risk due to the cleared nature of most of the sites, and the fact that forest stands in the area are generally characterised by elevated Sclerophyll forest, which constitute a low fire risk to the development of the lower slopes on the property.

Further, the site is mostly cleared to the north and west of proposed dwelling sites, thus making bushfire hazard reduction a simple matter of slashing appropriate buffers around proposed dwelling sites. This predominantly pasture or open forest nature of areas to the north and west of dwelling sites means that the existing fuel to area ratio is low.

This low to medium risk situation is further aided by the development characteristics of the M.O. proposed.

Relevant dwelling design feature, which may be specified by future consent is:

That a 40 metre outer and 20 metre inner hazard reduction buffer be maintained around each dwelling.

These measures will all result in a level of hazard existing that is acceptable in relation to rural residential development.

This is particularly so as water for Fire Fighting, will be available on each site.

Bush Fire Management.

The proposed development sites, being adjacent to large areas of pasture or regenerating Sclerophyll forest bushland, are at certain times of the year in a moderate bush fire hazard area.

Generally the proposed designated dwelling sites' fuel to area ratio is low, and comprises open grass areas, with Sclerophyll forest to the north and east on the higher ridges.

Works may need to be undertaken to lessen the fire hazard in accordance with the recommendations of Council's Bushfire Control Officer, by establishing in some cases an outer hazard reduction radius of 40m. reducing all undergrowth.

These fire management requirements will be effected in the following ways.

- 1) Within 20 metres of dwelling site, all lantana, weeds and small shrubs being removed by hand and the area between the proposed dwelling sites and regrowth being sown with grass and then kept slashed.
- 2) All existing trees are to be retained, as they do not pose a fire threat without fuel beneath them.
- 3) A strip of land 4 metres wide, 40 metres to the north west and east of proposed dwelling sites, is to be planted out with appropriately placed fire retardant and rainforest species.

These types of plants act as a shield to radiant heat, and also help reduce the speed of the fire.

BUSHFIRE CONTROL LANDSCAPING PLAN (BUSHFIRE RADIATION SHIELD)

Design Principles

To provide a landscape design that retards the spread of fire and offers a shield between the fire and the dwellings.

Planting Schedule

Scientific Name	Common Name
<i>Acmena smithii</i>	Lilly Pilly
<i>Archontophoenix cunninghamiana</i>	Bangalow Palm
<i>Banksia marginata</i>	
<i>Cyanthea australis</i>	Tree Fern
<i>Ficus microcarpa</i>	Hills' Weeping Fig
<i>Flindersia australis</i>	Teak
<i>Grevillea rosmarinifolia</i>	
<i>Jagera pseudorhus</i>	Foambark
<i>Macadamia tetraphylla</i>	Macadamia Bush Nut
<i>Macaranga tanarius</i>	Macaranga
<i>Pittosporum undulatum</i>	Sweet Pittosporum

9) Impact on Southern Dairy Farm.

As stated, Site 8 is also the closest within the property to the Dairy, 540 metres to the S.S.W.

D.C.P. No. 27 specifies an exclusion buffer between dwellings and Dairies of 300 metres, with dwellings being permissible within 600 metres where a biological and or physical barrier exists between the two uses. This is the case in this instance where tree stands and a ridge exist between the two landuses.

As such the proposed development satisfies Councils buffer criteria, and thus should not be refused on this basis.

N.B. a proposed dwelling site exists much closer than those proposed in this application, on the small concessional allotment located between the subject M.O. site and the southern dairy.

10) Erosion and Landslip Hazards will adversely affect internal roads and dams.

As clearly detailed in the geotechnical information contained within the D.A., the layout of the site which avoids hazard areas, and the fact that most roads exist, it is most unlikely that the development of the site as proposed will adversely impact on the environment as erosion control measures have been detailed and planned for, and all development sites avoid areas that may be subject to landslip.

It therefore cannot be asserted that the development proposed will be adversely affected by Erosion and Landslip Hazards.

11) Internal roads and dams to exacerbate soil erosion.

As stated above, the D.A. goes to exhaustive detail to demonstrate erosion control measures to be instigated in the development of the site, and as such it cannot be asserted that the development proposed will exacerbate soil erosion.

The following BUSHFIRE CONTROL PLANTING SCHEDULE details suitable species which are resistant to flames as recommended by the Australian Plant Study Group. This belt of trees, shrubs and palms, is designed to protect the future buildings from the radiant heat of any approaching bush fire, which is most likely to come from the north west.

This strategically positioned radiation barrier is located on the outer edge of the Bushfire Hazard Reduction buffer zone for maximum effect.

These factors, and compliance with Bushfire Control Plan guidelines, will help protect the future dwellings by reducing the spread and intensity of an approaching fire.

Water Supply:

Either by roof collection, or by augmentation from creeks and dams, all future dwellings to be capable of maintaining a 4,000 litre water tank, clearly marked "For Fire Use Only" adjacent to future dwellings with a 38 mm. "Storz" outlet with a gate valve and male thread. This system is compatible with Bush Fire Brigade pumps and equipment.

Fire Brigade Access:

The existing and proposed access roads will provide easy access to the future dwelling sites and their inner and outer radiation zones.

These roads also act as fire breaks as well as access routes. This not only protects the proposed dwellings and the flora and fauna of the area, it also will help reduce the risk of Wild Fire.

Maintenance:

On going maintenance will include fuel reduction within both inner and outer radiation zones, cleaning out all gutters of leaves and bark, and maintenance of all fire fighting equipment.

Dwelling Design:

These requirements can be incorporated into any consent issued. All eaves to be enclosed, all gutters to be of a non leaf collecting design, and all roofing is to be metal.

Window sizes to the west to be kept small, and all windows be fitted with metal gauze mesh to prevent the entry of sparks or fire brands. This will further lessen the hazard to future development.

The establishment of gardens and trees will supplement the existing trees, add to the rural amenity of the area, and above all can be used as fire retarders and radiant heat shields within the buffer area.

12) Public Interest.

It is evident from the submissions received, that most of the objections are based on misinformation, suspicion of new people coming into the area, and a lack of understanding of the technical detail supplied with the application.

As already stated, what must be considered is that the development of this degraded and previously cleared former grazing land, for Multiple Occupancy, will result in the planting of thousands of trees and the total screening of all proposed dwelling sites from local roads and adjacent dwellings.

This combined with the adequate setbacks proposed to common boundaries, ensures that the impact of this development on the residential amenity of the area will be minimal.

It must be taken into account that the density of rural settlement around Jiggi is already high as a result of Council's previous concessional allotment policy.

It is most likely that this M.O. will add positively to the residential amenity of the area, particularly considering the care which has been taken in minimising environmental impact, and the plans to revegetate the area in accordance with bush fire guidelines and a desire to establish habitat corridors.

13) Inconsistent with objectives (B) & (C) of Gen. Rural 1(a) Zone.

Objective (B)

"To encourage and permit a pattern of settlement which does not adversely affect the quality of life of residents and visitors and maintains the rural character."

The application's compliance with this objective is detailed above.

Objective (C)

"To ensure development occurs only on land which is suitable for and economically capable of that development and so as not to create conflicting uses;"

The technical reports which accompany the D.A. prove that the development is compatible with the physical characteristics of those sections of the site proposed for development.

The development proposes extensive revegetation for screen planting, bushfire mitigation, and habitat corridor creation. These features not only ensure reduction of visual impact, but when added to the spatial buffers which already exist, e.g. 540 metres to the S.W. Dairy, ensure that conflicting uses will not be created.

14) Inadequate setback to adjoining agricultural landuses.

As already stated for points 4 & 9, D.C.P. No. 27 specifies buffers between dwellings and landuses in rural areas.

The proposed development satisfies all of these criteria.

In relation to Intensive Horticulture, which does not exist on adjoining properties, the nearest dwelling to a boundary is site 8. This site is 40 metres from the southern boundary, and as such could easily meet the 30 metre Biological Buffer if ever Intensive Horticulture occurred on adjacent lands to the south.

Site 8 is also the closest within the property to the Dairy, 540 metres to the S.S.W.

D.C.P. No. 27 specifies an exclusion buffer between dwellings and Dairies of 300 metres, with dwellings being permissible within 600 metres where a biological and or physical barrier exists between the two uses. This is the case in this instance where tree stands and a ridge exist between the two landuses.

As such the proposed development satisfies Council's buffer criteria, and thus should not be refused on this basis.

N.B. a proposed dwelling site exists much closer than those proposed in this application, on the small concessional allotment located between the subject M.O. site and the southern dairy.

15) Impact on Prime Agricultural Land.

There are only two small pockets of Class 3 agricultural land within the site.

These areas are to be used by the community for Community Gardens, and to this end, no dwellings are proposed on them.

Their close proximity to dwelling sites assists in garden maintenance, and does not require buffers due to the organic nature of farming intended.

As such, rather than isolating prime agricultural land, the proposed M.O. optimises its use, particularly considering that these small and isolated segments of Class 3 land would otherwise not be fully utilised due to their small size and isolated locations, making them unviable for standard commercial horticulture.

As previously detailed, adequate buffers exist to all adjacent agricultural landuses.

16) Clause 2(c)ii of S.E.P.P. No. 1.

Already covered in separate submission.

Conclusion

The overall conclusion is that the submitted development application is indeed competent, in that it adequately covers all required detail.

Further, the proposed M.O. meets or exceeds all statutory and zoning requirements for this type of development.

The development is in character with the closely settled nature of the Jiggi area, which is characterised by a large number of small allotments created by Council's previous concessional allotment provisions.

The M.O. is in response to a definite need and environmental impact has been shown to be minimal.

It is considered that the approval of this 16 dwelling Multiple Occupancy, due to its sensitive design and location, will not only have a minimal impact on the environment and visual amenity of the area, but it will also satisfy a genuine need.

It is strongly recommended that Council resolve to approve this application and avoid the costs and inconvenience of this application having to go to mediation or appeal, to achieve its assured approval.

.....
CHRIS LONERGAN. B.A.
2nd. Aug. 1994.

QUESTIONS WITHOUT NOTICE

File No:

Name of Alderman: ...ROBERTS.....

Date of Council Meeting:15.2.94.....

Subject: "Adama" D.A. Approval

Question Addressed To: ...Div. Mgr Planning Services.....

Question: ...Could I please have a copy of the
above M.O. approval?

Reply: ...From a recent site inspection, it is apparent that the development has commenced, via the establishment of a number of temporary ~~scrap~~ dwellings (with Council approval - refer attached building memo).

.....
Officer

FILE NUMBER:

DATE:

SUBJECT:

1057 CAWONG/A ROAD

Site inspection was carried out by Council S.E. HO & BS Mr Wade on 17/2/94. which revealed that Site 8, 11, 12 are occupied. The above sites have Temporary Occupation Permits issued by Council.

There has been a building application lodged and approved by Council on Site 14. (B/A 93/29.)

There is an illegally erected building on Site 9 which is not occupied at present.

Kern Wade

Letter 11284

PRPE01 16-Feb-94 PROPERTY ENQUIRY

User: KIERAN

Property no: 11472

Address: 1057 CAWONGLA ROAD
LARNOOK

Name : MO ADAMA

Owner: JONATHAN & THEANA & OTHERS

Option : ...

29-08-1980	ZN	ID0 40	1A2
24-12-1991	EP	91/0394	149 Certificate, Owner: CARTER GL
03-03-1992	TR	92/0194	Transfer: CARTER GL to ROBERTSON J T LJ & OTHERS
27-03-1992	ZN	LEP 1992	1A
16-04-1992	EP	92/0433	149 Certificate, Owner: JONATHAN & THEANA & OTHERS
29-04-1992	HL	TO 67	TEMPORARY OCCUPATION: JONATHAN & THEANA & WO Current
16-10-1992	DA	92/0633	Multiple Occupancy (14 units)
07-12-1992	HL	TO 82	TEMPORARY OCCUPATION: BOLITHO DG & COOPER JM Current
25-01-1993	BA	93/0029	OUTBUILDING, NEW (GARDEN SHED) Withdrawn
01-02-1993	HL	TO 84	TEMPORARY OCCUPATION: ADAMA Current
06-08-1993	HL	DN 548	DEFECT NOTICE: JONATHAN & THEANA & ROBER Cancelled

(10)

FILE COPY

P/N 11472

Mr Johnson-250500

HAJ/LM: DA92/633

Environment & Development Services

2nd February, 1993

Environmental Planning and Assessment Act, 1979.

**NOTICE TO APPLICANT OF DETERMINATION OF A
DEVELOPMENT APPLICATION**

Application No. 62/633

To: Jonathan & Theana
"Adama"
Mulvena Road
WONGA VALE 2480

Reference is made to the development application lodged 14/10/92 in respect of Lot 1, DP 397013, Lots 2 and 3, DP 254363, Parish of Boorabee, 1057 Cawongla Road, Larnook for establishment of a multiple occupancy of rural land.

Pursuant to Section 92 of the Environmental Planning and Assessment Act, notice is hereby given of the determination by the Council of the application by the granting of **CONSENT** for:

establishment of a multiple occupancy of rural land comprising 14 dwelling sites, a community hall, a store and an information centre.

SUBJECT TO THE CONDITIONS SPECIFIED in this notice being:

- 1 All buildings be constructed, works carried out, or use of buildings or land, subject to any amendment or modification called for in the following conditions or any subsequent building permit, be in accordance with the details contained in the plan(s) and/or supporting documents submitted with the application, a copy of which is/are attached to this consent.
- 2 This approval does not include the community workshop. A separate development application and a building application will be required to be submitted for Council approval.
- 3 That all relevant provisions of State Environmental Planning Policy No. 15: Multiple Occupancy of Rural Lands be complied with at all times.
- 4 The consolidation of all separate parcels of land into one allotment being Lot 1, DP 397013 and Lots 2 and 3, DP 254363 under one title and lodged with the Registrar General's Department before building plans are released.
- 5 Subdivision of the land is prohibited and that the land remain in one lot.

*Resident's
+ visitor?*

- 6 That the land be jointly owned by the adult occupiers of the land and used as their principal place of residence.
- 7 That the NSW National Parks and Wildlife Service be immediately advised in the event of discovery of any aboriginal sites or relics as a consequence of the development.
- 8 That the location and design on any dams proposed on the land be subject to consultation with the Department of Conservation and Land Management prior to construction.
- 9 That the applicants prepare a detailed land management study addressing the following issues:-
 - a) water supply collection and management - capacity and location and use for agricultural, domestic and fire protection purposes;
 - b) eradication of noxious weeds on the land and consultation with the Far North Coast County Council;
 - c) future use of the land not required as home improvement areas and community building including detail such as fencing and pasture improvement (if required);
 - d) sewage and waste water management.
- 10 Effluent discharged from all buildings to be erected shall be disposed of in a manner approved by the Chief Environmental Health Officer; proposed effluent disposal systems remaining a minimum 50 metres from any watercourse or adjacent to land that may be subject to mass movement.
- 11 On site disposal of garbage to be to the satisfaction of the Chief Environmental Health Officer.
- 12 Any use of the land or of a building, other than for forestry, agriculture, residence (and water tanks) on an approved site, shall be subject to a specific development consent of Council.
- 13 No building or structure shall be erected or commence to be erected unless building consent has been obtained from the Council. (excluding water tanks and garden sheds less than 10m² in area).
- 14 That levies as a contribution towards the provision of public services or amenity identified in the attached schedule be paid at the rate(s) current at the date building approval is granted. The rates and amounts applying at the date of this notice, totalling \$57,395 are set out in the schedule for your information.
- 15 That the buildings be clad with a non-reflective material and be of an earthy colour.
- 16 The dwelling sites indicated on the development application plans are approved in principle only and each dwelling is to be individually identified on site and is subject to separate building approval.
- 17 A suitable person be appointed as Fire Protection Overseer, to be responsible for fire protection and liaison with the Local Bush Fire Brigade.
- 18 **Fire Breaks Installation** - All Perimeter Fire Breaks to are to be installed upon receipt of development approval.

- 19 **A perimeter fire break**, measuring 10 m wide horizontal, cleared of all flammable forest litter and undergrowth and be placed on a contour avoiding existing forests, having a ground fuel load of not more than eight tonnes per hectare (slashed grass) along the northern fence line from the Larnook Road to just past Lot 11, turning south to follow the bush line crossing the existing fire trail going around the boundary of Lots 5 and 4 coming back to Mulvena Road at the start of the concrete strips then to follow the southern boundary back to Larnook Road. The fire break to be to the satisfaction of the Council and will be maintained at all times and maybe subject to inspections by the Council.
- 20 **A primary protection zone** is to be established for a distance of not less than 20m of proposed Lots 1,2,3A,4,5,6,7,8,9,10, 13 and 25m of proposed Lots 11, 12 and 14 horizontal from any dwelling or any ancillary building and shall be kept clear of all combustible materials, other than grass, at all times and with a ground fuel load not exceeding three tonnes per hectare (maintained lawns). Existing trees and shrubs will be allowed in this area. No trees will be allowed within 10 m of the main building (maintained lawns only)."
- 21 A turn around of 8m be provided at the end of each access road that is not a through road, allowing fire trucks to turn for fire fighting.
- 22 **Internal Fire Breaks** - The internal road system to be used as a secondary fire break and is to be cleared to a width of 10 m horizontally and cleared of all rubbish and having a ground fuel load of not more than eight tonnes per hectare (slashed grass). The fire break to be to the satisfaction of the Council and will be maintained at all times and will be subject to a yearly inspection by the Council.
- 23 No houses are allowed in the area for the perimeter or the radiation fire zones.
- 24 Excavation of slopes for roadworks and building sites are to be designed so that the minimum feasible excavation is achieved.
- 25 Sediment control measures shall be put into place and be properly maintained to prevent soil erosion and the transport of sediment off the development site or into natural or made drainage lines or watercourses during rainfall and runoff. All disturbed areas shall be stabilised and be revegetated by turfing or an approved seeding method within 14 days of completion of earthworks in each part of the development. It is a requirement that the topsoil be preserved for use with the site revegetation. Details showing sediment control measures and revegetation works shall be submitted and be approved prior to any earthworks commencing.
- 26 Benching (i.e. cutting, filling or levelling) of the land to create building platforms does not form part of this approval and will only be considered in conjunction with a development or building application to build on the land.
- 27 The applicant is to undertake steps to ensure the provision of telephone services is taken into consideration, in consultation with Telecom Australia. Written evidence to be produced indicating this action has commenced.
- 28 The development of infrastructure, including road upgrading and drainage to be in accordance with any relevant guidelines of the Department of Conservation and Land Management.
- 29 All dwellings are to be located a minimum of 50 metres from the creek and dam.
- 30 Provide an adequate vegetative buffer zone of 50 metres from the creek. (A list of appropriate riparian species is available from the Department of Water Resources, Grafton.)

- 31 Building line setback be 15 metres from the road alignment to the closest point of the building measured at right angles to the boundary.
- 32 That a certificate from a qualified engineer experienced in soil mechanics be submitted, prior to the issue of the building permit, certifying that proper investigation has been made and sites 4, 5, 6, 11, 12, 13 and 14 are stable and will not be affected by landslip or subsidence above or below the site when the proposed building is erected and that adequate drainage has been provided.
- 33 That all weather vehicular access be constructed and maintained from the Council maintained all weather road access to the dwelling site, at no cost to Council.
- 34 That water storage facilities installed as part of the development, the subject of this consent, be provided with a 38mm. female threaded connection with gate valve or ball valve, in a location accessible to fire fighting vehicles.
- 35 Water storage facilities be installed with adequate capacity and located to assist in the fire protection of the development.
- 36 A minimum of 45,000 litres of water shall be provided to each dwelling site for domestic purposes. Water proposed to be used for drinking purposes shall meet potable water standards. Full water supply details shall be submitted for consideration with the building application to erect a dwelling on a site.
- 37 That this consent is in respect of the location of the proposed buildings as depicted on the attached plans only.
- 38 Geotechnical supervision of the development shall be undertaken for all areas subject to any reshaping, cutting or filling and a detailed plan shall be submitted to Council showing the extent of these areas. Each house site lot shall have a geotechnical assessment or report and copies of such reports shall be furnished to Council with the building application.
- 39 No bulk earthworks associated with the erection of dwelling houses are to commence on-site, prior to the release of the building application.
- 40 That a person qualified in hydraulics prepare a report on each site regarding the adequacy of the soil being capable in disposal of all septic effluent water from each dwelling. A copy of the relevant site report be submitted to Council with each building application prior to approval being given.
- 41 A comprehensive plan of management, prepared in conjunction with the Fire Control Officer and Brigade Captain, outlining fire management controls and fire prevention methods to be submitted to Council by the developer for approval.
- 42 That sites 4, 6 and 8 are to be landscaped with advanced native tree species to screen the dwellings from direct view from the existing dwelling owned by Hawkes and Nichol. These plantings are to be established prior to the building application being released.
- 43 The pump located on the dam is to be suitably sound proofed to the satisfaction of Council's Chief Building Surveyor.
- 44 Removal of established trees on all house sites is not permitted without Council approval. Appropriate screen landscaping is to be provided to house sites in close proximity to Mulvena Road.

45 That all dwelling sites that are visible from Cawongla Road are to be landscaped with advanced species, to screen the buildings from direct view. The landscaping is to be established prior to release of building plans.

46 All dwellings are to have a minimum setback of 15m from the side and rear boundaries.

why?
NOTE 1: The Local Government Act provides that all buildings and alterations, including retaining walls, to be subject to the issue of a building permit from the Council. Issue of this consent in no way implies that the building(s) comply with all of the provisions of the Local Government Act and Ordinance 70. Application forms are available from the Health and Building Department for this purpose. Please note that no building work or site works are to commence until a building permit has been issued.

Show full breakdown
NOTE 2: Your Section 94 Contribution will go to Larnook Bush Fire Brigade, the sum being \$1,950.

Conditions 4,6, 11, 14, 24, 25, 26, 27, 32, 36, 38, 39 and 40 are to be completed prior to the approval of the Building Application.

Conditions 9, 16, 18, 19, 20, 21, 22, 23 and 41 relating to the construction of the building are to be completed prior to occupation or as specified in the condition.

Conditions 1, 3, 5, 7, 8, 10, 12, 13, 15, 17, 28, 29, 30, 31, 33, 34, 35, 37, 43 and 46 are to be complied with at all times.

Conditions 42, 44 and 45 are to be complied with prior to approval of the Building Application and maintained at all times.

The reasons for the conditions are:

To correctly describe what has been approved. (E.P.A. Act Sec. 92(1) Reg. 44)

To preserve the environment and existing or likely future amenity of the neighbourhood. (E.P.A. Act Sec. 90(1)(o))

To provide adequate protection from bush fire risk. (E.P.A. Act Sec. 90(1)(g))

To ensure adequate access to and from the development. (E.P.A. Act Sec. 90(1)(i))

To ensure that appropriate landscaping is provided. (E.P.A. Act Sec. 90(1)(m))

To ensure that the movement of traffic along the public road is not interfered with by activities relating to the development. (E.P.A. Act Sec. 90(1)(i))

To ensure protection from the effects of subsidence and/or slip. (E.P.A. Act Sec. 90(1)(g))

To assist in the protection of the development against bush fire risk. (E.P.A. Act Sec. 90(1)(g))

To preserve the appearance of the area. (E.P.A. Act Sec. 90(1)(o))

In accordance with the conditions of Section 93, this decision is effective from 2/2/93 unless an appeal is lodged in accordance with Section 97.

Your attention is drawn to extracts from the Act printed on the attached sheet.

Yours faithfully,

P T Muldoon
GENERAL MANAGER/TOWN CLERK

per:-

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke extending to the right.

enc

LISMORE CITY COUNCIL

DEVELOPMENT CONSENT NO: 92/633

February 3, 1993

To be read in conjunction with advice of development consent.

The levies imposed by Condition No. 92/633, as contributions towards the cost of meeting increased demand for public services and amenities that will result from the development, are identified in this schedule.

The rates and amounts shown against the various items are those current at the date of this notice. The actual amount due will be calculated in accordance with the rates current at the date the final plan is signed.

SCHEDULE OF LEVIES

PUBLIC SERVICE OR AMENITY	NO. OF UNITS	CURRENT RATE	
		PER UNIT	TOTAL
Rural Road Improvement	13	3800	49,400
Recreation Facilities	13	150	1,950
Bush Fire Equipment Upgrading	13	150	1,950
Community Facility	13	315	4,095
TOTAL LEVIES DUE			\$57,395

Total levies at current rates (actual amount to be calculated when final plan submitted).

A COPY OF THIS ADVICE MUST BE
PRESENTED WHEN MAKING PAYMENT

RECEIPT NO:
DATE:

CASHIER:

Di

unsatisfactory conditions - not
supportable by the Court
I also need for Advisory Panel.

1/9/94

Jonathan
in Florida

28 Nov - 2 Dec

32 ~~the~~ points raised by Council

3 low

1) 1 signature to DA

2) DA fulfills SEPP-S

3) 7.

Back 1 wk.

24/6/94
~~Credit Union~~ Matthew DA Appeal
in Sept.

Chris Laregan }
Keith Graham }

Will repay Credit Union some
£ in case the appeal is won &
he has some equity in the place

DA.

8/8/94

Another
Div

Another share

'Joint of attorney'

~~20~~

15 Aug call over ^{to set date 24} only Sept.

& Council ^{shh} rec. would mediate
if 8 sites (not 16). Page
Council decides? — ?

Longer acting.

Kevin Owen owed \$900 net
part. He is suing Jonathan

Jonathan & Feina separated.

1/9/30

Jonathan case

Council have 32 points of claim
(see determination) incl 3 points

"of law" all

not signatures to DA.

2/ DA de CEPP

3/ ?