

Husen v. H.C. 16.12.94 Judgement.

20" Read from hand written judgement.
(Did not look up once)
(Work made hi. very ^{too} recording)

O Contention. Insufficient evidence on which to determine
He stated the vote was on the "casting vote"
of Crook Br.

O Respondent
Comit brought geste report. dealing with land
stability, erosion & effluent disposal
and proposed conditions of consent

i) Applicant Description (33 ha.)

- ▲ extensive frassage to Rocky Cr.
- ▲ cleared areas previously used by cattle.

Contention.

▲ Met LEP, SEPP-15 (acted Policy repealed
by SEPP-42)

O Defences.

Respondent Comit brought expert witnesses
Gloster Brook (Planner) & geste Eng
5 objectives

Applicant brought Danson & Morris.

Show (Eng) determination was that none of the
proposed development sites were inconsistent
from point of view of stability & erosion.
(See ch 11 etc as sufficient to cover this.)

Day similarly. There were no unacceptable
problems.

2

This was booked up by Davis. Acknowledged that alternative effluent disposal systems were available! (Inadequately covered by c/o 13)

Summary The site has the capacity to deal with stability, erosion & effluent.

Bray brought O Doonan "unrivalled experience" to bear. His evidence supported the Council staff Report and was impressive.

Finding

I find that the proposal is an acceptable form of development and sensible for the site. It meets the aims of the Policy.

It satisfies the requirements of CEPPI 5, REP (c12) & DCP (cl8 + 17) + DCP-2 (of 16 July 90)

Objectors

Described how the objectors would impact on them.

The weight of their argument was not sufficient to refuse the DA.

"I come to the same position as reached by Scott, in weighing up the case by the objectors".

Rural Res Development acknowledged as likely to have more impact than this proposal.

The provisions for water supply and bush fire precautions as proposed by Scott were supported & considered acceptable.

Held that the DA is granted subject to conditions.

Conditions are generally to be those proposed by Council. The wording to be finalised later.

Exceptions are

37 - no underground elec req'd

44 Water requirement acceptable as meet DCP-20 requirement. (but my note is "adopted")

3 Requirements for Standing St. etc to be "double dipping" in view of provision in s. 94 to cover the same work!

45 To be redrafted to permit staggering of the development.

Costs.

It was claimed that Council's procedure & process was "improper, unreasonable and unreasoned".

"I well understand this claim" but view that the Council's action did not render the process improper, but

I record that it almost had my support

Expect judgement sent next week!

- ①
- The rejection of the consent is so unreasonable,
 - that no reasonable body pre, only understanding its duties,
 - could have reached such a decision.

Persamattah v Halc (44/2-3)

- ②
- Causal indifference to what should have been a serious task & had not given attention to the matters enumerated - s 90 as read by s 9.
- Koongh v Bankhead Hills. (diss.)

- Not the decision - but the decision-making process. (44/4/1)

- ③ Violation of "Planning duties" under EPA

St. G. Bld Soc v Wanly & Henbury v Bramall.
Conditions must be for a planning purpose.
must fairly & reasonably relate to the dev.

Bob Macquarie.

- ④ The Council misdirected itself at law in its collections power & view that in being refusal of the application on those grounds, it had discharged its obligations under EPA.