

• S. 94 warehouse, judgement wrong JONATHAN

• Council to appoint a S. 94 officer (funded by extra 94 levy)
• Decided to w/DOP for their reasons in Manual and seek legal opinion.

• Councillors going to appeal on basis that Newport reported verbally that there is one ground on which it could be appealed.
^{constitution}
^{prob - new SA}

• Di will send me copy Gray opinion when she gets it.

• Council moved (on Di's motion) for an opinion. Adopted but with concern by Councillors & staff as reflection on them!

• Di hopes Lindsay Taylor Warwickshire Council solicitor may be contacted with recommendation of a good barrister for 2nd opinion

Seen by Dr. Mat Nick would be Ho-penman writing to Dep.
+ 2/ will arrange 2nd legal opinion (beside Greg)
I suggested there needs to be a plan of how to proceed.
I suggest a Court Order not just a legal opinion.

Decision by full council, in light of the above, as to
whether or not they will proceed to appeal.

Bill Kidd
 1/5/95
 Keshers in his sector
 1/ Andy Simpson
 7/ Jan Newton (brother of Ken no mo)
 3/ Robt Harrison (Gigi's neighbor)
 Fitch SP
 1:20

SMN
 of main costs + 25% of compensation back to count.
 594(5) -
 class 3 EPA for
 costs \$450
 Supreme.
 S. 69 EPA
 S. 179 LGA
 1993
 Mich
 Comp
 for Env. Count.
 Council staff & delegates
 Code of Conduct
 Min Reg. &
 sch 7.952
 LGA 1993

Jonathan. ^{Jedlowat}
^{Jaggi} 2/4/95
Approved. 16 sites.
Items relocated as requested
Upgrade - causeway/bridge/2k road
deleted
Favourable time payment of \$94

His costs = 18,000 + 1000 free Ls.
He proposes to pursue claim for cost,
comp &/or damages against Council!
He draws attention to Tel 1 cut off for
no connection to CT as designed to
exclude him!! (ref 5A(1)(a))
mo/ct Rate diff for Jaggi.
CT Rates = \$450/lot.
Currently paying \$440 being \$73 pro rate
+ balance for internal costs.

WITHOUT PREJUDICE
DRAFT
CONDITIONS OF DEVELOPMENT CONSENT

EXTRACT re S.94

2. Payment of levies under Section 94 of the Environmental Planning and Assessment Act and Section 64 of the Local Government Act 1993 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 \$91,965, are set out in the schedule for your information. Where the total contribution payable exceeds \$20,000 payment to Council must be by bank cheque or cash. Personal cheques are not acceptable. All contributions, bonds etc must be paid prior to release of building approval for the development.
3. The applicant or the developer provide the following roadworks with associated stormwater drainage structures, designed and constructed in accordance with the Council's adopted road and drainage standards, at no cost to the Council, and also be responsible for the full cost of any maintenance of this work, considered necessary by the Council's Engineering Division, for a period of twelve months from the date of approval of the work: a 7.0 m wide formation with a gravel width of 5.0 m comprising a minimum of 150 mm of compacted gravel, from the development site to Jiggi Road. After satisfactory completion of all roads and drainage, a works-as-executed set of plans be submitted to the Council by a suitably qualified Engineer or Surveyor.
4. The applicant or developer reconstruct, at no cost to the Council, a 6.0 m wide reinforced concrete causeway located on Davis Road to the satisfaction of the Divisional Manager-Engineering Services.
5. The applicant or developer, at no cost to Council carry out the following works on Davis Bridge; a 125mm, reinforced concrete deck overlay. These works are to cater for additional traffic generated by the development.

Full engineering details of the proposed works are to be submitted to Council's Engineering Services Department for approval prior to the commencement of works. These works are to be completed prior to the release of any Building Applications.
6. Full design plans of proposed engineering works to satisfy conditions 3, 4 and 5 be submitted, as separate plans from the Building Application Plans, for approval by the Divisional Manager-Engineering Services prior to commencement of construction of any drainage or roadworks.
7. Provision be made for vehicular access from the road pavement to the development by the construction of a pipe crossing, at no cost to the Council, in accordance with the Council's standards, details of which are obtainable from the Council's Engineering Division.

ATTENTION GIRLS

In Years 5, 6, 7 or 8 in 1995 Nth Coast

Are you good at mathematics?

Do you enjoy science?

Do you enjoy problem solving?

Would you like to improve your computer skills?

Would you like to spend some time with other girls who have similar interests?

You may be eligible to attend a science and mathematics camp.

When: Monday 29th May 1995 - Friday 2nd June 1995

Where: Lake Ainsworth Sport and Recreation Centre, Lennox Head.

Why: The National Equity Programs in Schools (NEPS), Gender Equity Incentives Project is aiming to increase the level of interest and participation in higher level mathematics and science in schools.

A grant has been made available to conduct a workshop camp for girls in years 5,6,7, and 8 in 1995 from North Coast Schools.

The camp is designed to increase your: awareness of career and subject choices; personal confidence; subject and personal skills, in an enjoyable and positive atmosphere.

Who: 50 students from North Coast Schools

Costs: Accommodation, food and resources will be met by the NEPS Grant. Free train travel from railheads south of Lismore will be provided but girls from north of Lismore will be required to make their own travel arrangements

How to apply: Return application forms to your school.

All applications must reach Narelle Scott at Summerland ERC by
Monday 27 March 1995

Further enquiries may be directed to:
Narelle Scott, Regional Co-ordinator Phone 066 283429

9/5/95

21

1/ Phil Harrison now working for
Buckley & Hamilton

2/ She was contacted by Alan Daven
of Jiggs mo & advised him of
Council meeting.

3/ S/ letter by Vic & another - vs. 8 & 9 day
re Jiggs 140

4/ Di does not know what the ref is regarding
\$10 to "bring in minutes" memo.

5/ Advised Vic to get ramp Rd. Cases. as
req'd. before 19 day, having in mind, new
Council re expiry date = 1995. (These
req. BA submitted by then.)

6/ Advised Jonathan he notified of special
Council meeting & if introduced to request in
writing to be heard at this meeting to
cover subsequent application for "procedural
fairness" etc.

Malcolm says: (To me) he hopes to
finish the m. report before he leaves,
& will continue at home if necessary
most of s. 102 done or well be, but
a few of the difficult ones will
remain.

09/09/93

EDT082

DEPARTMENT

TRANSACTION

TRANSACTION

SOURCE	TRANS-ACTION	ERROR	BATCH COUNT
NC	SAV	AMOUNT FIELD NOT NUMERIC OR = 0 NO MATCHING MASTER RECORD	190
	SRA	INVALID PAY CODE NO MATCHING MASTER RECORD	59
	SSP	ACTIVITY INDICATOR INVALID IS S NAME INVALID FOR THIS SERIAL NO. PRIOR TO CURRENT PAY PERIOD	11
	SSR	FUTURE EFFECTIVE DATE INCREMENT DATE TOO FAR AHEAD NEW SALARY STATUS INVALID	4
	SUP	ALL UPDATE DATA MISSING REASON 22 : CONTRIBUTION MISSING	4
	TAR	NAME INVALID FOR THIS SERIAL NO. NO MATCHING MASTER RECORD RECOMMENDATION CODE INVALID	57
	TAX	NO MATCHING MASTER RECORD	5
	TEA		0

3.6.93

MA

FAX 3/6/93

I. G. BONDFIELD, RILEY & FIFORD
SOLICITORS & NOTARY

JACK RILEY
N. J. FIFORD
DAVID M. RILEY
MATTHEW J. RILEY

P.O. BOX 165, LISMORE, 2480
FACSIMILE (066) 21 9059
DX 7712 LISMORE

15 MOLESWORTH STREET, LISMORE, N.S.W. 2480
TELEPHONE (066) 21 9000

OUR REF. MR:MU

YOUR REF. Attention: Mr. Scott

3 June, 1993

The General Manager/Town Clerk,
Lismore City Council,
DX 7761 LISMORE

LISMORE CITY COUNCIL
RECEIVED
3 JUNE 1993
D 93/112
3-4764 EDS

Dear Sir,

RE: MULTIPLE OCCUPANCY DEVELOPMENT - LOT 41 D.P. 802597
- 136 DAVIS ROAD, TIGGI

We refer to your letter of 18th instant and the writer's subsequent telephone discussions with your Mr. Scott.

We advise we have perused the material you have supplied to us including material received from the applicant after lodging the development application.

The writer has also discussed the matter with Mr. Newport of Counsel.

We advise that Council after proper consideration of the material supplied to it should form an opinion as to whether all the objectives comprised in SEPP 15 Clause 2 are able to be met. If Council is of the opinion that the aims and objectives comprised in Clause 2 of SEPP 15 can be met then Council may approve the development application so far as it satisfies the aims and objectives. Council's decision with respect to this aspect can only be set aside on appeal.

We do not believe that the application and material subsequently supplied to Council is sufficient for Council to form the view that the development would constitute a subdivision within the meaning of the Environmental Planning and Assessment Act nor the Local Government Act.

The proposed home improvement area of 10,000m2 in the application is clearly outside the definition of "home improvement area" under SEPP 15 Clause 5(1). The application of SEPP 1 regarding flexibility in the application of planning controls cannot be used to circumvent the definition of "home improvement area" in

PROCEDURES FOR CONVENERS OF SELECTION PANEL

Formation of Selection Panel

Step 1: Determine composition of panel according to guidelines (6.1).

☐

Step 2: Contact potential Selection Panel members (from a list of trained panel members) to determine their interest and willingness to serve on the panel.

☐

Step 3: Contact by phone or send letter of invitation (6.3.1) to panel members to confirm initial contact and set date for first meeting. Attach a copy of *Responsibilities of Selection Panel Members* (6.3.2).

☐

Choosing the Selection Process

Step 1: Panel decides method of selection - Lateral Appointment and/or Local Selection on Merit following advertisement (7.1).

☐

Page 2

3 June, 1993

Lismore City Council,

RE: MULTIPLE OCCUPANCY DEVELOPMENT - LOT 41 D.P. 802597
- 136 DAVIS ROAD, JIGGI

Clause 5(1) of SEPP 15. We refer to Woollahra Municipal Council -v- Carr 62 LGRA at 263. This case is authority for the proposition that SEPP No. 1 cannot be used to vary a definition in a planning policy. Therefore, clearly the proposal for a "home improvement area" to exceed 5,000m² is not permissible under SEPP 15 and Council has no power to approve the development in this regard.

We enclose copies of the relevant Certificates of Title which indicates that both parcels of land are currently owned by the same proprietors as tenants-in-common. From perusing these Certificates of Title alone we do not suggest that any inference can be drawn to indicate that the applicant is unable to comply with the provisions of Clause 2(b)(i) of SEPP 15.

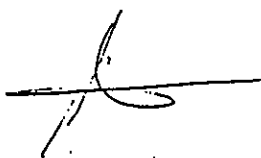
Council should note that it is not strictly necessary to place every reason for refusal of the development application in its Notice of Ground of Refusal to the applicant. If the applicant appeals, the hearing is a de novo hearing in which Council can raise further issues. Council should however be aware that if it believes that it does not have sufficient information in proper form before it to enable it to properly consider the application pursuant to the provisions of Environmental Planning and Assessment Act it should expressly indicate this fact as one of the reasons for refusal of the application. If Council does not expressly indicate this ground as a ground for refusal then on appeal Council may be precluded from arguing that it did not have sufficient information before it at the time it considered the application.

Council is also probably aware that it cannot grant a development consent subject to certain aspects being clarified at a later time. We refer Council to the case of Jungar Holdings Pty. Limited -v- Eurobodalla Shire Council and Ors. 70 LGRA at 79.

We believe this answers the questions raised by Council. Please telephone the writer if you have any further queries or questions regarding the matter.

Yours faithfully,
I.G. BONDFIELD, RILEY & FIFORD

Per:
Encl.



2335/1-2/mu

**DEPARTMENT OF SCHOOL EDUCATION
TRAINING AND DEVELOPMENT PROGRAM**

PROPOSAL TO CONDUCT AN ACTIVITY

THE FOLLOWING PROPOSAL IS SUBMITTED FOR CONSIDERATION

SCHOOL/GROUP: _____

ACTIVITY TITLE: _____

PROGRAM AREA: _____

BUDGET AREAS:

Core Education	<input type="checkbox"/>	Equity	<input type="checkbox"/>	Strategic Plan	<input type="checkbox"/>
School Support	<input type="checkbox"/>	Non-Government	<input type="checkbox"/>		

PRIORITY AREAS:

Support for Schools	<input type="checkbox"/>	Quality Teaching	<input type="checkbox"/>	Student Outcomes	<input type="checkbox"/>
Assessment & Reporting	<input type="checkbox"/>	Community Participation	<input type="checkbox"/>	Assessment & Reporting	<input type="checkbox"/>
Promotion of Public Education	<input type="checkbox"/>				

DESCRIPTION OF ACTIVITY:

Course	<input type="checkbox"/>	Meeting	<input type="checkbox"/>	Lecture	<input type="checkbox"/>	Workshop	<input type="checkbox"/>
Resource Purchase	<input type="checkbox"/>	Transfer of Duty	<input type="checkbox"/>	Collegial Group Meeting	<input type="checkbox"/>	School Development Day	<input type="checkbox"/>
Consultancy Visit	<input type="checkbox"/>	W.I.B.S.	<input type="checkbox"/>	CPD Module	<input type="checkbox"/>	Teacher Exchange	<input type="checkbox"/>
Advisory Teacher Visit	<input type="checkbox"/>	Seminar	<input type="checkbox"/>	Resource Development	<input type="checkbox"/>	Other:	<input type="checkbox"/>

OUTCOMES OF ACTIVITY: _____

PARTICIPANTS EXPECTATIONS: _____

DATES/TIMES: _____ **VENUE:** _____

NO OF PARTICIPANTS: _____

ANTICIPATED COST (Details over): \$ _____

FURTHER INFORMATION (How grant will be used. Special Equipment required. Personnel involved)

ACTIVITY CONVENOR: _____ **DESIGNATION:** _____

WORK ADDRESS: _____ **PHONE (Work):** _____

Jonathan & Lee. 1110 Jiggi. 7-3-95. (4 days)

Shaw (Geotech of Coffey Partners) said he does not know what depth basalt occurs - a few m. Foundations could go the rock - basalt.

Calaveria = broken / weathered rock moving down hill by gravity

A dam in Calaveria (which is porous) may be dug out & a liner put in - this is a sandwich of fabric (?) + $\frac{1}{2}$ layer of clay? Claimed effective

Jonathan produced by (= a table of drill results) 2 types of drill cores = 1) drill which simply chews up the stuff & = second drill which clean cuts a sample

Greg Newport (for Lee) objected & overruled.

Greg sought to to be construction. It was noted & refused. Shaw said he would need "more than a little time" (alluded to by the J as a short overbar over night)

Kieran Byrne (Geotech) for Jonathan
(Structural Engin)

When Jonathan said he did not plan to call Byrne (as down coast) & that? would be speaking for Byrne, I said not altogether satisfactory as this was like Nelson Wendell speaking for the Queen of E.

After the short adjournment overnight Greg said he

sought full adjustment a new rate of houses & dams req'd then getting a new perfect report. That Comal prejudiced by having to make adjustments "on the run". Comal in effect had to go away & start again. He wants construction & at least 14 days ^{enlargement} to normal, does before commencing off leaving.

J claimed the charges were not sig, & much that professional staff & reports could/should be able to take in their stride. That if Comal could not interpret this it was a reflection on them.

This was a ^{very} minor matter if compared with a large city office block or the Opera House.

The eventual Q is is the prop. safe for 16 sites.

It is not beyond technical ability of Comal to incorporate them. 1/2 hr given - the overnight

J = should not get caught up in technical details. Need to deal with substantive issues.

There are no mind slides in the one J does if there ever had such things. From land slip.

J. plots line in flood prone land.

Show said we can't extrapolate detach bone ribs

(this latter commented) if they are indicative of the greater area - with care.

Shaw said not necessary in pale coast - to go to bed rock (if fold east - high rise on plain in sand.)

Hugh Johnson.

18 sites = overdevelopment, 12 better.
2 sep clusters should be treated as 2 sep. developments

Card 2-6 = S. 94.

Total S. 94 = \$9,000

Est. dwelling occupation = 3 persons / house.

15 dwelling charges (1st house free)

+ Bridge upgrade, ^{care} crossing, & 3.5K of road widening from entrance to Egg Rd.
(this is "double dipping".)

Ken Hutton - Former student. Occupation. Survey/land study. - Growing horticulture - tomatoes, zucchini, etc.

Claimed site unsuitable for any SA.

Houses on his land. (no boundary shown)

This was in land by Engineer.

- o difficult access in wet.
- o rainfall unreliable.
- o evidence of land slip
- o increased bush fire risk.
- o Dev not visually extensive + pale construction

makes this worse.

J. instructed Mr. making statements on the Law
(rel to subdivision etc)

o Denied to be a Wild Life corridor, but said the
... had wild dogs in the area

Roy laycock §§§ 274

Bob Hambly - Eng for Lee

S. 94.1 Up grade by widening Kurr Rd to Juggi Rd.

7 Reinforce causeway did not know cost of
1/4 2/

3/ (Cond 5) day deck overlay to bridge \$15-20,000
Total cost of bridge \$50-60,000

Existing standards not adequate for extra work in
the subject area.

Unclear about the locality of the COMP area/details
for Juggi area. (Should/could have been
checked & could be cross claimed in an
appeal.

J. said any reference to what might or is any mediation
session barred from being introduced into the
hearing.

J. made analogy of speaking for another like a witness,
Brodman as a good cricket, but only Brodman
could speak of his experience

Final day Newport Address

Summary... DA & overview of the case.

"materiality" (NB "phrases")
(fact & degree") ()

Questioned amendment & detail (NB. Detail case & his argument there that it must be essentially the same DA.)

He attached the amended plan (I call this as laying ground for appeal)

Judge said "not estopped" by amending.
as these were essentially made to address Councils objections

Greg: "What is the proposal before the Court?"

Judge: "We do not think as do laymen"
(Referring to presentation of evidence, intro of Exhibits etc)

X "5" "materially attraction"

If X "5" is flawed (as I am sure it is) then everything derived from it must also be flawed -

Judge asked "What was the fundamental difference between the 2 plans?"

This amounted to relocation of some house site, section of access road, & drains, drains, transpiration trench.

NB The Judge pressed for details of this difference, (this was possibly because he saw like I

that it was prudent to cover his tracks re an appeal!)

Dr Shaw's evidence showed that the site was "very unstable", hence sites unstable.

One can't extrapolate between bore holes.

(It would seem inevitable that any 2 geo tech experts will disagree!)

Treuer Jones = Jonathan - Structural Engineer
 Kevin Burns = " - Geo Tech
 Applicant has extrapolated, if there flaws in the whole area flawed

Attached Burns academic qualifications
 (incl low exam result & did not graduate!)

Judge cited case of eminent & respected High Court judge who did not have a Law degree.

As J has relied on Byrne: no adequate material before the Court

Their selection was to rely on subsequent design of foundations to be stable.

INB Both Geo Tech experts knew nothing about the caldera, its age and relevance to this locality.

s. 90(1)(g) if land is unsuitable (1)(R) the Council "shall not consent" cl 2 (a) BEPP.

He cited *Paramatta v. Hale*. The judge said this case needed to be put in context & not automatically relevant. He had "misgivings" about the assumption of this case.

Newport - that material details were not before the Court & it was a "perus hope" that details could be resolved at the "full construction design" stage.

Judge said the *Hale* case (as he sees it) was an attempt to reconcile difference between a Council's interests & legislative requirement and a Corporation's interests & entitlements. (intriguing attack!!)

Greg argued the case not applicable as the fundamental evidence was flawed.

The failure of the factual evidence was sufficient to refine the SA. (I see this as windows opening for the appeal.)

On shows lack of reliable evidence can not be addressed by a condition of consent.

Effluent disposal re located. Any overflow or precipitation of the transpiration which will drain into the water course.

had to be result in SA being substantially the same as submitted. He asked: "Would he be prepared to revert to the original plan, if he found it necessary to do so?" Yes - with explanation that it had to be an attempt to meet Council's concerns.

The relocation of the transcription had was "less disputable" than in previous. Action

26 have logs made by applicant, not Council!

He commented on need not to get caught up in geo tech details.

— (end)

Judge commented on Greg's chap in helping Jonathan

Jonathan thanked judge for his support & help

Papers on "multiple failures" to tell him to Riley or Greg by residents. Rejected on ground that "the judge is against us". & hence they were not going to pursue it as it may rock the boat/detract from their perceived weak position.