

Council 'devises' way to refuse MO

Court action may follow a controversial decision by a split Lismore City Council.

After a divisive debate – ended by the casting vote of Mayor John Crowther – which produced the extraordinary admission that staff had 'devised' technical reasons to defend a possibly unlawful decision by Councillors, Lismore City Council rejected an application to build a ten-dwelling Multiple Occupancy (MO) on 33 hectares of rural land close to The Channon village.

The applicant, Mark Anson, has told *The Echo* that he will appeal against the Council's 'prejudiced' decision in the Land & Environment Court after he and his legal advisors have examined the relevant documents more closely.

Mr Anson will be paying close attention to a Council-supplied tape recording of its March 1 meeting, especially a series of exchanges between Cr Ron Hepburn and senior staffers Paul Muldoon and Nick Juradowitch.

He had proposed to develop the MO. at a cost of about \$80,000, on land he has owned, and often inhabited, for six years. Access to one of the dwelling 'clusters' would be via Standing Street and to the other from The Channon Road.

As is often the case with development applications, local people raised concerns with Council. These centred on an increase in traffic movements past the school, and environmental matters. A 63-signature petition of objections was sent to Council.

The Echo understands that a number of residents, including some immediate neighbours, favour the proposed MO.

Despite the objections, the DA came before Council last week with a recommendation of approval from the senior planning staff who had set 41 conditions of compliance.

This endorsement of the DA had not changed from the February 1 meeting when the matter was deferred, pending a

site inspection by as many Councillors as possible.

That Mr Anson is a member of, and planned a community for, the Indian-derived spiritual group Sri Chaitanya Sridhar – a 'plain-clothes' offshoot of the Hari Krishna movement – was not raised in the debate.

He told *The Echo* there are about 100 local adherents, mostly in the Tweed area, with a place of worship at Uki.

Objectors had said that a temple/meeting house would attract considerable numbers of people and produce a 'loss of privacy and devaluation of surrounding properties'.

Mr Anson felt that religious prejudice was a 'factor in the refusal' but was not overt enough to warrant a complaint to anti-discrimination authorities.

As for attracting crowds, he contrasted the pulling power of the 10-home MO with that of the monthly Channon market: 'Who objects to that?'

'Devise' reasons

The first hint of trouble came when Cr Larsen, who is from The Channon, asked planning chief Nick Juradowitch if he could move to reduce the number of dwellings to five.

'He could go to the Land and Environment Court', the Planner said. 'because that would be tantamount to refusal'.

When it became likely that the MO would be rejected, contrary to the staff's recommendation, Cr Hepburn voiced concern that the application was not being considered on its merits.

He asked Mr Juradowitch what grounds might be given for a refusal.

Mr Juradowitch replied that he could 'devise some reasons', adding that this had been the outcome of discussions with

Cont. on back page

21. HAVE YOU SUBMITTED THIS PROJECT TO ANY OTHER GOVERNMENT DEPARTMENTS?

YES/NO

(a) If not why not ? _____

(b) If yes please indicate :

Date of Application

Name of Government body

22. WHAT NON-MONETARY CONTRIBUTION WILL BE MADE TO THE PROJECT?
(e.g. Voluntary labour, office space, equipment)

23. WHAT WAS THE DATE OF THE COMMITTEE MEETING AT WHICH YOUR PROJECT
WAS CONSIDERED AND APPROVED FOR SUBMISSION?

24.. THIS APPLICATION IS TO BE SIGNED BY AN OFFICE BEARER

Name

Position

Date

Signature

Please complete ONE of the attached sheets. FILL IN BOTH SIDES OF THE SHEET.

Sheet A (pink)

is for projects that are of a one-off or capital nature e.g. purchase of equipment, renovate a building, establish a facility. It also includes programs which involve the employment of sessional staff/tutors etc.

Sheet B (yellow)

is for projects that are ongoing or recurrent e.g. to employ a worker and to meet any of the associated costs, such as administration, equipment, programs, rent, training and travel.

Please note that only one budget page should be completed for each application.

Channon MO

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the General Manager, Paul Muldoon, who had asked him to 'look at ways' of justifying a knockback by 'our democratically-elected representatives'.

When asked by a 'concerned' Cr Hepburn to elaborate, Mr Juradowitch explained that he stood by his belief that the MO should be approved and felt there was a good chance that any refusal might end up in Court.

He then mentioned 'nine points', or grounds for refusal, which 'would be a reasonable justification at law ... they might be sustainable in court'.

After a failed motion to hear the nine reasons before continuing the debate, Mr Juradowitch said that in the event of legal action, Council would 'need to engage a planning consultant to argue our case, because clearly I couldn't defend a contrary position'.

Mr Muldoon then explained that he had wanted 'a professional recommendation if there was a political decision against it ... this was purely and simply to have some thinking together'.

This thinking was revealed - but only after the vote was taken.

Against the refusal moved by Crs Larsen and Wilson were Crs Carson, Roberts, Irwin, Hepburn, Gallen and Spash, with the first five recording their dissenting vote.

The refusal motion was carried on Cr Crowther's casting vote.

The nine grounds for refusal included 'insufficient information' on the land's suitability, an 'overdevelopment' with ten

homes, traffic problems, visual impact and not being 'in the public interest as evidenced by the extent of public objection'.

Cr Diana Roberts commented to The Echo: 'It was a poor decision made on spurious planning grounds ... none of the grounds for refusal were raised by Councillors in the debate'.

Mr Anson's response included the insistence that he would keep the majority forested area on the block and plant more trees ('We're very green'). If he sold the land, or subdivided it, 'There would be no legal guarantee for the trees to be kept'.

about the outcome.

Peter Hamilton, the spokesperson for the MO review collective, said the Canberra-based consultants engaged by Planning had been 'unable' to arrange a meeting and had admitted to having no expertise in this particular field.

The review was triggered partly by pressure on local MP's Bill Rixon and Don Page (who is Planning Minister Robert Webster's parliamentary secretary), some of whose petitioners are - to quote Cr Reg Baxter's description of his own view of this style of living - 'against MO's ... Amen'.



Landowner Mark Anson (right) at the site inspection of his proposed MO at The Channon with Crs Jeff Spash (left) and Diana Roberts, who both supported the application, and Council's Development Control Planner, Malcolm Scott.

MO review

The refusal took place in a landscape of controversy for MO's. Soon, Council will consider a more contentious proposal to develop one near Jiggi, while the State Government, through the Grafton office of the Department of Planning, is conducting the first-ever review of the SEPP No 15 legislation which relates to the MO laws dating from 1988.

Lismore - where Council has 60 MO's on its books - Kyogle and Byron Bay are among the six case-study areas in NSW. By next week, survey forms will have been sent to all identified communities as well as adjoining landowners.

The deadline for their return is the end of March, with the results of the review due by May, according to the Department's Northern Region manager, Trevor Prior.

Although the Pan-Community Council, the voluntary association of MO's, has urged members to cooperate with the survey, it has qualified optimism

There is considerable pressure for MP's to support the revoking of a law which enables the less well-off to own land through community title.

Also, certain real estate interests support a system which would enable individual title holding and, perhaps, conventional subdivision.

Indeed, Mr Anson may have had less problems - although at greater establishment cost - if he had pursued the subdivision option for his land. Many observers believe his path through Council would have been less rocky and, perhaps, much cheaper to ratepayers than, if the matter proceeds to court.

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13. WHICH ORGANISATIONS SUPPORT THIS APPLICATION? _____

14. HAVE YOU DISCUSSED THIS APPLICATION WITH THE COUNCIL COMMUNITY PROJECTS OFFICER? _____

15. PLEASE TICK THE A.A.S. OBJECTIVES YOUR PROJECT MEETS? (See Guidelines)

1	2	3	4	5
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16. WHAT NEEDS DISCUSSED AT THE COMMUNITY CONSULTATION DOES YOUR PROJECT MEET? _____

17. PLEASE INDICATE OTHER FUNDING YOUR ORGANISATION HAS RECEIVED IN THE LAST TWELVE MONTHS (excluding AAS).

Department	Amount	Project/Purpose	Period
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

18. PLEASE SUPPLY THE NAMES & ADDRESSES OF THREE OFFICE BEARERS.

Name	Address	Phone	Position
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

19. TYPE OF ORGANISATION (Please tick)

- | | | |
|--|---------------------------------------|--|
| <input type="checkbox"/> Incorporated | <input type="checkbox"/> Co-operative | <input type="checkbox"/> 530A Committee |
| <input type="checkbox"/> 527 Committee | <input type="checkbox"/> Company | <input type="checkbox"/> Constituted Community Group |

Other (specify) _____

a) If you are not incorporated do you anticipate becoming incorporated? YES/NO

b) If Yes give details eg. date _____

20. HAS YOUR ORGANISATION EVER RECEIVED AN A.A.S. GRANT? YES/NO

If Yes, give details _____

Council rejects The Channon multiple occupancy bid

Lismore City Council has refused a development application for a multiple occupancy at The Channon, against the recommendation that it be accepted.

The application was rejected on the casting vote of the Mayor, Cr John Crowther, at the council meeting on Tuesday night.

It is believed the applicant, Mark Anson, will appeal to the Land and Environment Court.

The application is for a multiple occupancy of 10 houses on a 33.23ha site on The Channon Road, east of the village's oval.

During the public access session, The Channon resident Alan Coates outlined residents' objections to the multiple-occupancy proposal and presented a letter from The Channon P and C expressing its concerns about increased traffic on the road near the school.

Mr Coates also presented a petition with 63 signatures of residents opposed to the development.

In debate about the application, Cr Ros Irwin said the council was placing itself on dangerous ground if the development application was refused.

Cr Ron Hepburn questioned the divisional manager of planning services, Nick Juradow-

itch, who said in response to a question that there were nine possible grounds for refusal.

The motion to approve the application was lost 6-5.

Mr Juradowitch then read the nine reasons for refusal. They were:

- Insufficient information to assess the capability of the land for building construction and effluent disposal.
- Over-development.
- Erosion problems.
- Increase in traffic on an existing inadequate road network.
- Adverse visual impact.
- Not in character with the nature of rural settlement in the area and an adverse social impact on village.
- Inadequate setback from adjacent agricultural land, creating the potential for conflict with those agricultural uses.
- Approval not in the public's best interest, as shown by the extent of public objection.
- Soil instability and ground water.

Cr Peter Larsen moved that the application be refused on these grounds. It was seconded by Cr Stan Wilson and passed by the casting vote of the mayor.

The Northern Star was unable to contact Mr Anson but Cr Irwin said yesterday that she had spoken to Mr Anson and that he intended to appeal to the Land and Environment Court.

Voting: For refusal: Fredericks, Larsen, Crowther, Wilson, Baxter, Swientek. For approval: Irwin, Carson, Roberts, Spash, Hepburn and Gallen.



Nick Juradowitch

Some definitions (continued)

CULTURAL CONFLICT

Individuals who move from one culture group to another may find practices in the new group that are considered to be normal, but which were thought to be abnormal in the culture group from which they came. In entering the new society, these individuals will have to resolve a cultural conflict.

Cultural conflict can also be said to occur when two people assign different meaning to the same words or behaviours, or when we assume that members of two culture groups assign the same cultural meaning to words or behaviours.

CULTURAL RELATIVISM

The belief that the cultural practices of any culture group are neither right nor wrong, so that they cannot be judged or evaluated against the practices of any other culture. Also called cultural relativity.

ETHNIC

Pertaining to the group of like-minded persons in whose cultural practices one finds an ethnic identity. The ethnic group may be defined in terms of race, nationality, religion, language, culture, or combinations of these, but not usually in terms of other identity-forming influences like occupation, profession, neighbourhood, association, club, corporation or sub-culture.

ETHNOCENTRISM

The widespread human inclination to be socialised into a particular culture group, and thus to grow up believing that the behaviours, practices, beliefs and institutions of that culture group are normal, natural and right.

INSTITUTIONS

All culture groups establish more or less complex social institutions in order to regularise some need or activity of the group. Marriage, government, education, worship, are examples of institutions.

MONOCULTURAL

A society that consists of members of only one culture group can be called monocultural. A complex, diverse society in which a dominant sub-group expects other sub-groups to conform to its norms and values can be described as monocultural.