Senate Select Committee on Superannuation and Financial Services

Main Inquiry
Reference (a)

Submission No. 189

Submittor: **Mr Donald Hurburgh**
177A Channel Highway
TAROONA TAS 7053

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TAROONA 7053

01/06/2001

The Committee Secretary
Senate Select Committee on
Superannuation and Financial Services
Parliament House
CANBERRA 2600

Dear Sir/Madam

RE : SENATE INQUIRY INTO SOLICITORS' MORTGAGE SCHEMES IN TASMANIA

I acknowledge the receipt on the 18th May, 2001 of your letter dated the 16th May, 2001 enclosing a copy of Submission No. 139 submitted by Mrs Janice Holland of 10 Coolamon Road, Taroona in Tasmania (hereinafter called "the Submission).

As can be seen from the Submission, Mrs Holland has complaints to make against a great many individuals and organisations.

I do not see it as appropriate for me to respond to each and every allegation contained within the submission. However, I am most concerned that I have been named in the submission and I am responding in order to put on the record my position with respect to the statements which have been made concerning me.

The background to the matter which has given rise to Mrs Holland's complaints is as follows:

1. Mr wife and I have resided at 177A Channel Highway, Taroona for approximately 24 years. The said property is registered in my wife's name.

2. In or about 1992 we purchased in my wife's name the adjacent vacant block of land.

3. Both properties enjoyed a right of way through adjacent land owned by Mrs Holland.

4. In or about 1995 my wife and I proposed a development upon the two properties owned by my wife. The proposed development was the construction of four residential units.

5. A Development Application was lodged with Kingborough Council.

6. During the process of seeking approval from Council, it was indicated to me by a Council Officer that a condition of the approval would be the upgrading of the access to the development site which access was the said right of way over Mrs Holland's property. Council also indicated that permission for the carrying out of such upgrading works would be required from Mrs Holland, as owner. Mrs Holland was away in New Zealand at this time. I referred this matter to my legal adviser, who provided me with a letter of advice which I understood to say that it was not necessary to get Mrs Holland's consent to carry out the upgrading works on the right of way. My legal adviser forwarded that letter of advice to Council stating that it would be appreciated if Council now got on with the approval so that work could be commenced. Council offered no further argument in this regard and approval was forthcoming, subject of course to various conditions.

7. I then caused the development works to proceed. In due course, the works were completed to Council's satisfaction and the plan of subdivision was sealed by Council.

8. The works carried out in upgrading the right of way through Mrs Holland's property involved widening and sealing the carriageway, constructing retaining walls for the carriageway onto my wife's property (the land was on a hill-side) and the erection of guide-posts. All of these works were completed and I had not heard from Mrs Holland at all.

9. At the time of Council's final inspection of the development when endeavouring to finalise the location of letter-boxes and garbage receptacles, I met on site with two Council Officers, I was asked whether I had permission to put letter-boxes and garbage receptacles on the right of way passing through Mrs Holland's property. I replied that I did not, and I referred the Council Officers to the aforementioned letter from my legal advisers to Council. I was not asked at that time whether or I had permission for the upgrading works which had been completed on the right of way.

10. In 1997 a stratum plan was signed by Council and the Recorder of Titles issued separate stratum titles for each of the four villa units. A contract was entered into for the sale of one of the units. Just before the settlement of that sale, I was contacted by the Electricity Authority which raised with me an issue concerning the connection of power supply to the unit sold. I was advised that it would be necessary to get Mrs Holland's permission to create a wayleave easement for the relevant power line. This issue necessitated my first meeting with Mrs Holland who until then I had never met.

11. In late 1997, Mrs Holland initiated an appeal to the Resource Management and Planning Appeals Tribunal, appealing against Council's granting of the planning permit for the development on my wife's property. There followed difficult, stressful and expensive litigation which was finalised by an order of the Resource Management and Planning Appeals Tribunal dated the 16th December, 1998 (**copy attached**) which dismissed most of Mrs Holland's claims and required my wife to attend to some minor remedial works in respect of which the Tribunal granted a planning permit. No matter what the merits of Mrs Holland's case, or my wife's case, the matter was heard by the Tribunal and a decision was given.

12. As invited by the said Tribunal, an Application was made by my wife as to the payment of costs of the Appeal heard by the Tribunal. In the event, Mrs Holland was ordered to pay the majority of my wife's legal costs, and the majority of the legal costs of Mr Wallace who purchased one of the units. A copy of the Tribunal's order as to costs dated the 3rd February, 1999 is **attached**. It contains a summary of the claims made by Mrs Holland and the Tribunal's decisions in respect thereof.

13. I am advised by my Solicitors' that it is quite unusual for the said Tribunal to make an order disturbing the usual arrangement that each party bear there own costs of such an appeal.

I realise that all of the above matters are outside the Committee's terms of reference. Nevertheless, the above background is relevant to the points I now wish to make in response to the mention of my name in the Submission. The following comments are offered:

1. In the Submission, Mrs Holland makes mention of:

   "ANDREW HURBURGH ($9.6 million Macquarie Loss) Solicitors' Guarantee Fund rumoured to be insolvent". I am aware that Andrew Hurburgh was a Solicitor who ran a legal practice under the name Macquarie Law, and I understand through reports in the media that the Mortgage Scheme operated by him collapsed. However, I do not understand the basis for the mention of Andrew Hurburgh in the Submission. If the mention of Andrew Hurburgh has been made in an attempt to associate me with him because we share the same surname, then I wish to stress that although Mr Andrew Hurburgh is a relative of mine, I have had no personal or business connection with him.

2. The Submission makes mention of a dispute involving myself and Mr Howlett. The said dispute relates to road works performed in respect of a subdivision of land. An action was commenced by Mr Howlett approximately 14 years ago. The matter is outstanding. Mr Howlett's claim is not conceded, and the

amount of the claim is in any event in the vicinity of $60,000.00 and not $600,000.00. In my view, the mention of this matter in the Submission can only be motivated by mischief.

3. The Submission states that the Resource Management and Planning Appeals Tribunal should not have made an Order against Mrs Holland requiring her to contribute to the legal costs of the late Mr Wallace of and in connection with the Appeal. The Tribunal's reasons for the Order are set forth in the enclosed Order.

4. Mrs Holland's assertions with respect to the Mortgage Loan provided by Murdoch Clarke and the security therefor are incorrect. However, this is not a matter for me to justify. I understand that Murdoch Clarke will be responding to the Committee in relation to this matter.

5. Mrs Holland has asserted in the Submission that Murdoch Clarke made a statement that extra money was being advanced by Murdoch Clarke to meet my living expenses. I deny this. At all times, my living expenses have been financed by separate income – primarily, rental income derived from property at 241 Main Road, Derwent Park owned by myself and my wife.

6. During the Appeal before the Resource Management and Planning Appeals Tribunal and in the time since, Mrs Holland has pursued every avenue available to her to complain against the abovementioned development and, subsequently, the outcome of the Appeal before the Tribunal. Initially, Mrs Holland lodged a caveat on the title to the development site. When challenged by my Solicitors to show cause why that caveat should not be removed and threatened with a claim for damages, Mrs Holland withdrew the caveat. Subsequently Mrs Holland made a complaint to the Ombudsman. I **attach hereto** a copy of that complaint together with photographs of the posting of that copy of the complaint adjacent to my wife's development site. At the time, the units were for sale and it is my belief that the sales thereof were substantially jeopardised by the posting of that notice. The notice includes mention of Council having "accepted verbal authority of a person I had never met that my consent had been given for works on my property." As discussed above, I refute any suggestion that I have ever advised Kingborough Council that I had Mrs Holland's authority for the carrying out of the upgrading of the right of way. As indicated above, I saw no need for her consent and that matter was addressed in my legal adviser's letter to Council.

   Mrs Holland has also complained of this matter to the Criminal Investigation Branch of Tasmania. Again, the complaint included an allegation that I verbally advised Kingborough that I had obtained Mrs Holland's consent for works on her property contrary to approved engineering plans.

7. I understand that Mrs Holland has continued to pursue complaints directly with Council.

8. Mrs Holland has also attempted to discredit my wife and myself on many occasions by erroneously reporting the facts of the matter to adjoining land-owners including the Anglican Church and the Housing Department.

9. Mrs Holland has also lodged a complaint with the Anti-Discrimination Commission in which she had alleged amongst other things that Kingborough Council accepted the verbal statement of a man that she had never met, who stated that he had obtained her permission for works within and encroaching upon a private right of way on her property. She further alleges that my conduct towards her in the matter is an example of discrimination due to her age, gender and marital status. I have submitted a response to the Anti-Discrimination Commission again denying that I have ever advised Kingborough Council that I had Mrs Holland's permission to carry out the upgrading works on the right of way and totally rejecting any assertion that I have behaved towards her in any discriminatory manner.

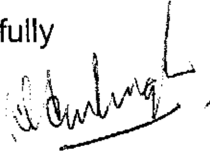
10. It is my view that there is nothing in the Submission relating to me personally in which the Committee could have any interest and my detailed response may seem something of an overreaction. However, I am doing so as the Submission represents just another episode in Mrs Holland's pursuit to this issue which has caused my wife and my self a great deal of anxiety, stress and expense, and I am most concerned that Mr Holland's actions are targeted towards denigration of our reputation at every available opportunity.

Again, I fully realise that most of the content of this letter is outside the committee's terms of reference as is much of the content of Mrs Holland's submission. I wish to provide an indication, however, to the Commission as to Mrs Holland's obsession with the matters relating to my development. I believe that this obsession is perhaps evidenced by the **attached** copy of a letter from Mrs Holland to The Mercury Newspaper published in the addition of Saturday the 13th March, 1999.

Regardless of the merits of any actions which Mrs Holland has taken or attempted to take against me or against my wife, it is to be stressed that she has had an appropriate hearing in all forums to which she has brought the matter. It is only when she has not achieved the desired outcome from due processes that she has now sought recourse to your Committee to consider her grievances. I understand that you are looking into the operation of Solicitors' Mortgage Funds. It is to be stressed that in this matter Mrs Holland is neither an investor in such a mortgage fund nor a borrower from a mortgage fund. With respect to any allegations made by Mrs Holland relating to Murdoch Clarke, Mr Michael Crisp and any other persons, I

will leave it to the relevant parties to respond. The purpose of this submission is simply to refute much of what Mrs Holland has said in her submission with respect to me.

Yours faithfully



Donald Hurburgh

Attachments held by the Secretariat.
Available on request.

ATTACHMENTS to Hurburgh submission

A 52/97

J 259/98

171A Channel Highway, Taroona - Unit Development - Works in Right of Way - Whether Authorised - Access Works - Conditions not Complied With - S.64 LUPAA

RESOURCE MANAGEMENT AND PLANNING APPEAL TRIBUNAL

BETWEEN

JM Holland — Applicant

AND

JH Hurburgh — Respondent

This was the hearing of an application pursuant to Section 64 of the Land Use Planning and Approvals Act 1993, for orders that works constructed by the respondent on the applicant's land be removed, and orders that the applicant comply with conditions of approval of a development permit.

The application was heard at Hobart on the 10th March, 26th and 27th of August, and the 27th of November, 1998.

M Crisp of Counsel appeared on behalf of the applicant.

S Holt of Counsel appeared on behalf of the respondent.

J Otlowski of Counsel appeared on behalf of the parties joined BJ and CI Wallace.

ATTACHMENTS
TO SUBMISSION 189

DECISION

1. The applicant owns land at Taroona. The south east boundary of that land is subject to a right of way 15.24 metres wide, in favour of land owned by the respondent, and others. The land owned by the respondent is immediately to the south east of the right of way, and abuts the south eastern boundary of the applicant's land. The land generally slopes down hill from the applicant's land to the respondent's land. The right of way joins Coolamon Road, to the north east. At all material times there was a sealed roadway a little under 5 metres wide running along the right of way from Coolamon Road, affording access to both the respondent's land and to other properties to the south west. Application had been made by the respondent for development approval for 4 units, on the respondent's land. That land extends generally south easterly from the boundary with the right of way.

2. The application drawings, 6692-L1 and 6692-P1, showed a 3 metre wide proposed entrance to the unit development, extending from within the development site, in a northerly direction across the right of way to the made roadway on the right of way. Those development application plans showed no markings defining any concrete batters, retaining walls, bollards, landscaping, or footpaths, within the applicant's land. Nor was such detail shown within the respondent's land.

3. As a result of a planning appeal to the Planning Appeals Board, by decision dated the 21st of December 1993 the Board granted planning approval, relevantly including the following conditions:

   "3. Submission and approval of working drawings complying with the working drawings (a typographical error for Building Regulations) 1978 and in accordance with the conditions of approval of this permit . . .

   5. Upgrading of the existing vehicular access shall be constructed at an approved location to the proposed development from the edge of the carriageway to the lot boundary to the satisfaction of the Municipal Engineer and as follows : -

   Minimum wide (sic) of 5.0 m;

   . . .

   . Maximum grade of 1 in 5 onto the lot;

   . . .

   7. The applicant is to construct a 1 metre wide footpath along one side of the proposed access between the lot boundary and the culvert crossing the rivulet near Coolamon Road; and a hand railing across the full width of the said culvert, on one side; both to the satisfaction of the Municipal Engineer."

4. Drawing No. H5818-C1 (the "siteworks plan"), produced in October 1995 by the respondent's engineers, showed a 5 metre wide access road within the site respondent's development at its north western end, extending across the common boundary with the applicant's land in a northerly direction, still at a width of 5 metres, and joining the

existing roadway along the right of way to Coolamon Road. That plan showed with respect to the junction of the access road with the existing road, only the legend "match neatly with existing". There was again no detail with respect to batters, retaining walls, posts or fences shown at that access.

5. The plans showed a "typical section" of the existing roadway to Coolamon Road and the footpath to be constructed along the line of the south east boundary of the applicant's land but shown on that land, and showed the relative levels of the existing road surface and the proposed footpath at within 500 mm of each other. That was at a point within 2 or 3 metres north east of the north eastern corner of the junction of the access road ("the driveway") from the development with the existing access road to Coolamon Road ("the road").

6. It also showed a retaining wall on the respondent's land, running along the south eastern boundary of the applicant's land, between the proposed unit 2 and the junction of the driveway and the road. Again, no other retaining walls, batters or bollards or cut and fill were shown on the applicant's land. The driveway was shown crossing the contours of the area, at about 45 degrees.

7. During 1996 and 1997 the respondent carried out the unit development. The accessway was constructed in, approximately, the position shown on the development application plans and on the site works plan. To the north west of the driveway, in the acute angle formed by the driveway with the roadway, a cutting was made along the north west side of the driveway, and a concrete block retaining wall constructed, extending along the north western side of the right of way, to the approximate site boundary. Between that retaining wall and the roadway, the ground was levelled out and landscaping shrubs and flowers planted. The driveway was constructed substantially narrower than shown on the above plans, both on the respondent's land and within the development site. To the south east of the driveway between it and the footpath, a large area of land was battered and covered with concrete, with tall white painted posts marking the north western edge of the batter where it joins the driveway and the roadway. The footpath was constructed along the approximate line of the south east boundary of the applicant's land, but within that land. Along the south eastern edge of the footpath, and still on the applicant's land, a substantial retaining wall over 1.5 metres in height was constructed, to retain the land to the north west. Atop that retaining wall a galvanised pipe and cyclone wire mesh fence, a safety fence for pedestrians, was constructed. In the substantial cut which necessitated the retaining wall, unit No. 2 of the 4 units developed by the respondent, was constructed. On the development application plan that unit was shown a little more than 1 metre from the boundary. On the site works plan it was shown 1 metre from the boundary. As constructed it was 0.76 metres from the boundary.

8. The roadway from Coolamon Road to the south western end of the junction had a finished bitumen pavement, measured at approximately 5 metre intervals, with widths of 4.8 metres, 4.6 metres, 4.4 metres, 4.5 metres, 4.5 metres, 4.3 metres, 4.2 metres (at the north eastern edge of the junction with the driveway), 3.9 metres, 3.5, 3.2, 3.1 metres and 3.0 metres. The previously existing bitumen road surface had been 4.5 metres wide. The width of the driveway from the junction with the roadway to the lot boundary, at intervals of 5 metres starting from the junction, was 3 metres, 3.3 metres, and then within the respondent's land, 4.0, 4.5, 3.9, 3.5, 4.0, and 4.0 metres.

9. The applicant had seen the development application and plans but not the site works plan. She was not aware, until construction, that the batter, retaining walls, white painted posts, and cuttings were to be constructed on her land.

10. None of the above facts were substantially in dispute by the end of the hearing, and were either common ground between the parties or uncontested. The Tribunal finds according to the above facts.

11. In those circumstances the applicant sought advice and as a consequence made application to the Tribunal for orders pursuant to Section 64 of the Land Use Planning and Approvals Act 1993. Those orders were substantially amended upon a number of occasions. As finally pursued at the conclusion of the hearing they relevantly included:

"1(a) Order

That the works carried out in the right of way, and for which no approval has been obtained be demolished and removed. For these purposes the "works" are the matters referred to in Clause 1(b)(i), (ii) and (iii) hereof.

(b) Particulars of work

The subdivision plan and/or development application and/or building application shows the right of way to be wholly unobstructed and it is not in the following respects:

(i) a concrete batter wall has been constructed within the right of way;

(ii) bollards/posts have been constructed within the right of way;

(iii) retaining walls had been constructed within the right of way;

(c) Facts relied upon (then were set out the facts relied upon).

2(a) Order

That the works carried out and which encroached on the boundary of the right of way be demolished and removed. For these purposes "works" are the matters referred to in Clause 2(b)(i), (ii) and (iii) hereof.

(b) Particulars of works

The following works encroach on the applicant's property;

(i) landscaping works;

(ii) pathway

(iii) fencing near to unit 2;

(c) Facts relied upon (facts relied upon were then set out)

3(a) Order

That in respect of those works approved to be carried out and being the work specified in 3(b)(i) and (ii) hereof, and in the area of the right of way, but not in accordance with the terms of the planning permit, be carried out in the terms of that permit.

(b) Particulars of works

(i) the construction of the right of way with a pavement width of 5 metres;

. . .

4(a) Order

That in respect of those works approved to be carried out and wholly or substantially contained in SP 127872, and being the works specified in 4(b)(i), (ii), (iii), (iv) and (v) hereof, but not carried out in accordance with the terms of the planning permit, be carried out in the terms of that permit.

(b) . . .

(iii) construction and placement of fences 1200 mm high, treated pine posts and rail paling fence between units 2 and 3 and units 3 and 4 are shown on approved plan 925251 dated 14th December 1992; and

(iv) close off the internal road system so that it does not exit to the east into the car park space adjacent to the St Luke's Church at Taroona.

(c) Facts relied upon (these facts were then set out)"

12. By the conclusion of the hearing it had been indicated on behalf of the applicant that no orders were sought in respect of the works particularised in 4(b)(iii) and (iv) above.

13. It is convenient to consider the orders sought, in the sequence set out above.

Order 1

14. It was contended for the respondent that neither the batter wall nor the bollards/posts, required planning approval. The area is subject to the Kingborough Planning Scheme 1988. That Scheme requires application for planning approval in respect of any development, except inter alia in certain cases exempted under Clause 3.13. Clause 3.13.1 relevantly provides:

"Notwithstanding the provisions of Clauses 3.2 to 3.6 and Schedule 2 of this Scheme, a planning approval shall not be required for any of the following developments:

(a) The erection of or external alteration to any building or works, where a building approval under the Building Regulations would not be required were such erection or alteration to be undertaken within an outer urban building area, except where (it was common ground that the exceptions then set out were irrelevant).

15. It was common ground that the site of the works lies within an outer urban building scheme. The issue was whether building approval under the Building Regulations would be required. Whether or not the Building Regulations applied, depends upon whether or not the works were "building works" within the meaning of the Local Government (Building and Miscellaneous Provisions) Act 1993. The definition in Section 5 relevantly reads:

"Building work means work relating to -

(a) The erection, re-erection, construction, alteration, repair, unpinning, demolition or removal of a building; and

(b) The addition to a building; and

(c) The excavation or filling incidental to an activity referred to in paragraphs (a) or (b); and

(d) Plumbing work . . . .

(e) Any other prescribed work;"

16. The Building Regulations may by virtue of Section 15 of the latter Act, be made "relating to building and building work". The bollards could not properly be described as either buildings or building work. They cannot therefore properly be the subject of the Building Regulations, which therefore cannot require building approval in respect of those works. The consequence is that Clause 3.13.1(a) exempts the bollards and the batter, from the requirement for planning approval.

17. For the applicant it was contended that the batter was excavation and/or filling incidental to construction of the units by the respondent, and therefore fell within sub-clause (c) of the above definition of "building works". On the evidence of the respondent the Tribunal finds that the purpose of the development of the driveway, including the batter, was to provide access to the units he was erecting. It was therefore "incidental", the Tribunal finds, to the erection of those buildings. It was therefore not exempt under Clause 3.13.1 of the Planning Scheme, and without planning approval would be in breach of the requirement of the Planning Scheme that planning approval be obtained. As no planning approval was obtained, the construction of the batter was in breach of the provisions of the Planning Scheme in the above respect.

18. The retaining wall referred to in the orders sought included both that to the north west of the driveway and that to the south east of the driveway. It was not maintained by the applicant in respect of the wall to the north east of the driveway, that it was exempt from planning approval under paragraph 3.13.1 of the Scheme. It was however contended that by reason of condition 5 of the planning approval granted in respect of the unit development, requiring upgrading of the existing vehicular access "at an approved location to the proposed development from the edge of the carriageway to the lot boundary to the satisfaction of the Municipal Engineer" implicitly included any works necessary for the proper construction of the access. It was contended that the north east retaining wall was a necessary work, and on all of the evidence the Tribunal finds that given the construction of the access in the location, the north east retaining wall was necessary, particularly at the northern end of the access. The Tribunal finds that due to the changes in level between the existing road and the driveway as it slopes down into the unit development, it was essential to have some kind of retaining wall or device to retain

the earth at the open cut on the north west side of the driveway. That retaining wall was accordingly necessarily constructed in order to comply with the requirements of condition 5. Its construction was therefore authorised by the permit, which included condition 5.

19. The over 1.5 metre high retaining wall between the south east portion of the applicant's land and unit 2 was necessitated by the cutting on or next to the boundary, immediately north west of unit 2. The lowering of unit 2 to the extent that it necessitate a cutting was quite different to the side elevation of unit 2 shown in the development application plans which were the subject of the approval, which showed the north western corner of unit 2 to be constructed on a level approximately the same as the road surface, raised to that level by fill above the natural ground level. The Tribunal finds that to reduce the level of unit 2 by something over 2.5 metres relative to that shown on the approved plans, was a substantial departure from the planning approval. The construction of the relevant retaining wall was therefore not part of the relevant approval. It was ultimately not contended for the respondent that the relevant retaining wall was exempt from the requirement for planning approval. The Tribunal finds in those circumstances that the construction of the retaining wall adjacent to unit 2 was in breach of the provisions of the Planning Scheme, as being without a permit. At the same time however no order was ultimately sought by the applicant, that that retaining wall be removed.

20. The above findings of the Tribunal with respect to the works referred to order 1 will be taken into account in considering what orders should be made.

Order 2

21. The "landscaping works" consisted of planting flowers in the earth which was retained by the retaining wall on the north west side of the driveway. There was also a further retaining wall running along the common boundary in a north easterly to south westerly direction, which on the evidence of Mr Coombe, which the Tribunal accepts, was constructed partly on each side of the common boundary. That retaining wall also holds back approximately a 200 to 300 mm depth of earth, which may have been fill or may have been a result of excavation, between that wall and the roadway. The Tribunal does not understand this wall to have been the subject of specific complaint or of orders sought by the applicant. If the Tribunal is incorrect in that understanding, and this wall is both the subject of complaint and of orders sought, the Tribunal finds that even if the wall were in breach of the provisions of the Planning Scheme it would not be appropriate to make any orders with respect to it, as it is performing a normal boundary wall function.

22. The second of the works in respect of which order 2 was sought, was the pathway, identified by the applicant as the footpath. Upon the evidence of the respondent, which was not challenged in this respect, and was not the subject of any contrary evidence, this pathway was constructed as, and to comply with the requirement for, a footpath 1 metre wide along the side of the proposed access, (the road) required by condition 7 inserted by the Planning Appeal Board in its above decision. The Tribunal finds accordingly, and as a consequence this pathway or footpath was not constructed in breach of the provisions of the Planning Scheme. It was also contended for the respondent that the pathway was not "building work" within the meaning of Section 5 of the Local Government (Building and Miscellaneous Provisions) Act 1993, and therefore exempt from the requirement for a planning permit under Clause 3.13.1 of the Planning Scheme. The Tribunal finds accordingly, and for that reason also the footpath was not in breach of the provisions of the Planning Scheme.

23. The third of the works to which order 2 related was the fencing near unit 2. That was the galvanised pipe and cyclone wire mesh safety fence along the top of the cut next to unit 2. It was contended for the applicant that this fence should be removed from the applicant's land and placed on the respondent's land. The Tribunal has already found that the retaining wall upon which the fence was constructed was not included within the planning permit. It follows that a fence to prevent persons falling over the edge of the retaining wall and into the unauthorised cut beside it, is similarly in breach of the permit. In practical terms however the Tribunal cannot see any conceivable useful purpose in requiring the relocation of fence in the manner suggested. The land subject to the right of way is over 15.24 metres wide. On the evidence the fence intrudes a few millimetres over the boundary into the applicant's land. If it was not there then another fence immediately adjacent to its present position would be required in order to adequately safeguard the drop. The requirement to remove the fence would be the observance of a matter of principle without any appreciable advantage, and productive of expense. In those circumstances the Tribunal considers that it is inappropriate to make any order with respect to that fence.

Order 3

24. This order sought the construction of the "right of way" with a pavement width of 5 metres. It was a requirement of condition 5 imposed by the Planning Appeal Board that "the existing vehicular access . . . at an approved location . . . to the proposed development from the edge of the carriageway to the lot boundary . . ." should be upgraded to a minimum width of 5 metres. Given the Tribunal's above findings the widths are not as required.

25. Evidence was given by engineers for the applicant and for the respondent that the combination of the deficient width of the driveway, together with the width of the roadway at its junction with the driveway, and a vertical curve in the driveway and at the junction, produced reduced sight distances and a consequent need for one vehicle to be able to stop in the driveway in the vicinity of the junction so as to allow another vehicle to pass it. This would require widening of the driveway to the width required. The Tribunal accepts that evidence, notwithstanding that an engineer for the respondent considered that the driveway arrangement "works". The failure to construct the driveway to the required width is in breach of condition 5 of the planning approval. The Tribunal's findings above satisfy the Tribunal that widening of the driveway is required to enable satisfactory and safe access to the respondent's land. Evidence was given by Mr Gandy for the respondent that a feasible mode of widening the driveway, should the Tribunal require it, was as set out by him in drawing 4235-CO1, exhibit S22 at the Tribunal's hearing. That plan showed the widening of the driveway in the vicinity of the junction, by relocating the north west retaining wall further to the north west. The plan also showed the widening of the driveway to the south east, into the area occupied by the concreted batter uphill from unit 2, with a mass concrete retaining wall and guard rail, to the south east. All of this work would be constructed on the applicant's land, however the Tribunal is satisfied on the evidence of the engineers, including both Mr Potter and Mr Gandy, that this method of achieving the widening of the driveway necessary to provide satisfactory access and to comply with the conditions, is the most feasible and appropriate method of doing so.

26. The result of these works to achieve the design in S22 will be the removal of most of the existing unsightly concrete batter, and of the white painted bollards or posts around the edge of that batter to the concrete and roadway. It would also necessitate the relocation on the retaining wall on the north western side of the driveway.

27. The evidence of the engineers referred to above also satisfies the Tribunal that it is not satisfactory to terminate those widening works for the driveway, outside the property boundary. The Tribunal is satisfied on their evidence that the widening of the driveway should continue to the south west, so that it tapers gradually from the 5 metres indicated on exhibit S22, down to a width of 4.5 metres which the engineers indicated and the Tribunal finds would be acceptable for two way traffic, at a point within the respondent's property and level with the prolongation of the south eastern wall of unit 2 across the driveway.

28. It was contended for the applicant that the result of the Planning Appeal Board deleting and substituting a new condition 7 in the planning approval, was to leave a requirement that the road to Coolamon Road be 5 metres wide. As proposed in the hearing before the Planning Appeal Board, the road was of that width. The decision relevantly reads "the access proposed from Coolamon Road, has that (5 metres) minimum width.", when referring to the proposal. As constructed the road does not have that width. The road is accordingly in breach of the planning approval that was granted by the Planning Appeal Board to the extent that its width is under 5 metres. That extent is as set out in the evidence of Mr Coombs, who gave the measurements of the road previously set out in this decision. There was a dispute between the engineers as to whether the road surface as made, was adequate, for both safety and convenience, if one included the table drain to the north west of the road, which had also been bitumened. The applicant's engineering witnesses considered that the table drain would not be adequate for vehicles, only because it had been constructed without sufficient foundations. There was no evidence however that either had inspected the table drain to ascertain whether the construction was as they stated. Mr Gandy's evidence was that he had visited the site specifically to inspect the table drain, and upon inspection found that it was constructed of bitumen laid directly upon solid rock. In his opinion the table drain was therefore sufficient to bear such traffic as would be necessary to make the road an adequate width for the proposed traffic. The Tribunal accepts the evidence of Mr Gandy, based as it was upon specific inspection and as the evidence of that inspection was not disputed. The Tribunal accordingly finds that as constructed the road is adequate in terms of safety and convenience for vehicular traffic, and considers as did the Planning Appeal Board that the 1 metre wide footpath provided between the driveway and the culvert next to Coolamon Road, is sufficient for pedestrian safety and convenience.

29. Evidence was given that the cost of widening the road along its 60 metres length to a full 5 metres, would be considerable. Mr Hurburgh estimated it at $10,000.00. There was no precise evidence. It was clear that such widening would require a further cut into the south eastern face of the applicant's land abutting the road. The Tribunal considers that in all of the above circumstances an order that the road be widened, is not appropriate.

Order 4

30. Ultimately this was not pursued by the applicant. It was not disputed between the parties that the planning approval required the construction of internal fencing between the units as set out in the approved development plans, and that that fencing had not been constructed. The Tribunal accordingly finds that there has been a breach of the planning approval in that respect. At the conclusion of the hearing it was however indicated on behalf of the applicant that no order was sought with respect to the internal fences.

31. The other remedy sought by order 4 was that the internal road system of the unit development be closed off so that it did not exit to the east into the car park space adjacent to St Luke's Church at Taroona. The evidence with respect to this internal road

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system included the development application plans, which showed the internal system terminating within the site; the site works plans which similarly showed the road works terminating at least 6 metres within the site; and the relevant title plan. The sealed plan for the stratum title development showed that only unit 4, the south eastern most unit had a right of way to the south east. Notwithstanding the legal rights and entitlements *inter se* of the owners of the different units, and the right of any or all of them to use the right of way extending the south east over the car park space referred to in order 4, at the end of the hearing the evidence with respect to what was approved in the development approval by Council was that the internal roadway would terminate within the site at its south eastern end, and did not continue outside that end of the site. The evidence was further, and was not contested, that as constructed that internal roadway continues out to access the car park outside the church, as suggested by Order 4. The Tribunal finds accordingly. There is therefore a breach of the development approval in this respect. At the end of the hearing however no order was sought by the applicant with respect to this south eastern access.

Unit 3

32. The owners of unit 3 were joined as a party, and played no further part in the hearing so long as it was not sought to make any order which would affect their rights. The orders foreshadowed above, which the Tribunal considers it appropriate to make with respect to the driveway and its junction with the road in the vicinity of the boundary with the applicant's land, do not in the Tribunal's view affect any right enjoyed by unit 3.

33. In order to avoid the necessity of further development applications in order to carry out any of the works required by the Tribunal in the orders which it makes, it would be appropriate to give approval for those works. The Tribunal considers that all of the issues which might reasonably have been raised with respect to those works have been raised in the course of the application, and that there is no purpose in requiring fresh development approval. The works were made known to the applicant during the course of the hearing of the present application. It was suggested for the applicant that to carry out the work set out in exhibit S22 would make the retaining wall higher and further into the right of way. The evidence however satisfies the Tribunal that the effect of the works in exhibit S22 would be to move the retaining wall further along the right of way parallel to its boundary, rather than further into it. There would therefore be no greater intrusion into the applicant's land than presently exists.

Conclusion

34. The Tribunal concludes that the only works which are appropriately ordered are those envisaged in exhibit S22, to widen the driveway. The widening of the driveway in accordance with that plan will result in the removal of the white posts or bollards, and of the north west, highest portion, of the existing concrete batter. In order to provide a reasonable replacement for the unsightly white concrete mass of the remaining batter, it should be replaced by appropriate landscaping.

35. The orders of the Tribunal are

    1. That the driveway at its junction with the road and extending back into the site be widened in the manner set out in exhibit S22, drawing 4235-CO1, a copy of which is annexed to this decision. Such works are to be carried out in a manner which allows the driveway to be widened so that it tapers gradually from the 5 metre width marked on the latter drawing, to a width of 4.5 metres at the

width of 4.5 metres at the prolongation of the south eastern wall of unit 2 across the driveway. The driveway is to be widened to such a taper. All of the above works are to be carried out at the respondent's expense and to the satisfaction of Council's Municipal Engineer.

2. Such guard and safety devices such as rails or fences, as are required for each of the resulting retaining walls, are to be provided to the satisfaction of the Municipal Engineer.

3. The batter is to be replaced by landscaping, outside the area taken for road widening and the new retaining wall.

4. The Tribunal grants a planning permit for all works so ordered by it.

35. The Tribunal will entertain any application for an order for costs in this appeal, if made to the Tribunal in writing with supporting submissions within the next fourteen days. If requested the Tribunal will reconvene to hear any evidence in respect of any matter bearing on an order for costs.

36. In the absence of any such application for an order for costs the order of the Tribunal is that each party bear its own costs.

Dated the 16th day of December 1998

D Gourlay **KAM Pitt QC** **Chairman** **R Nolan**

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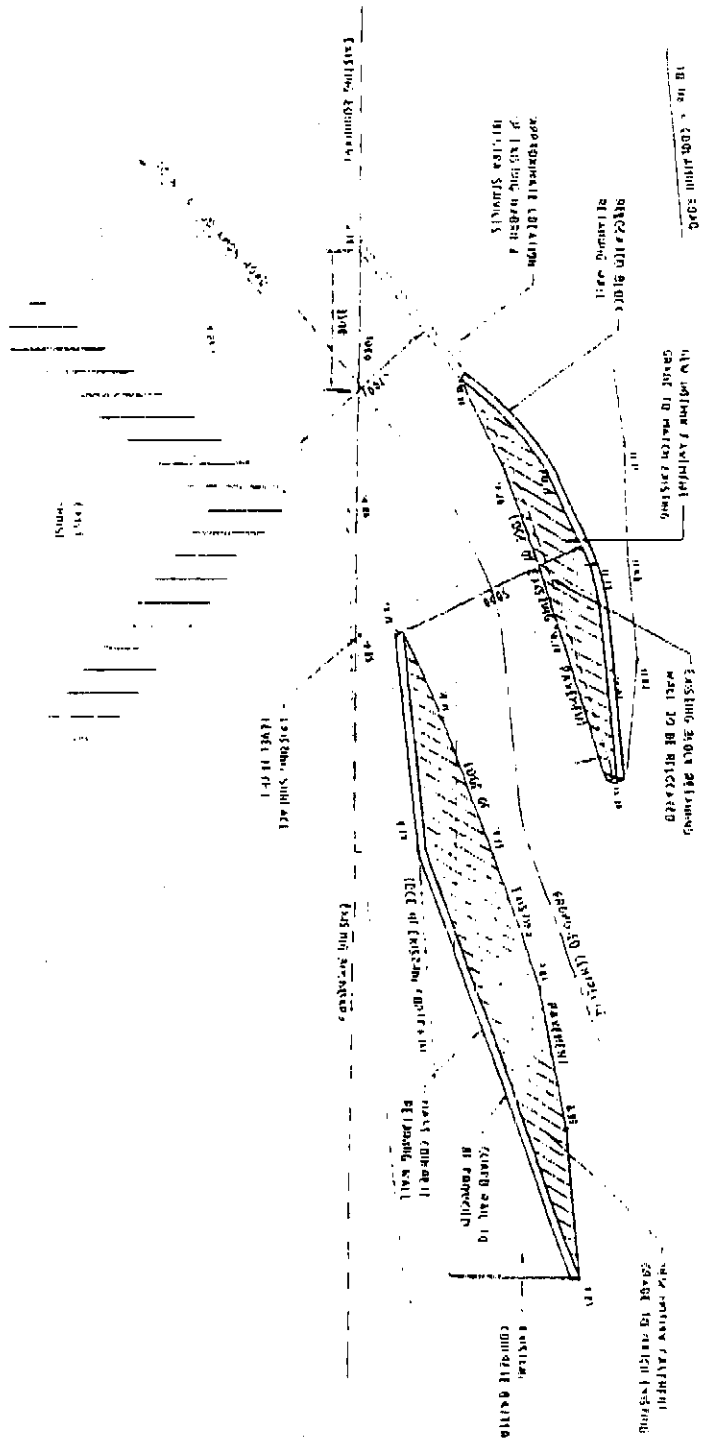
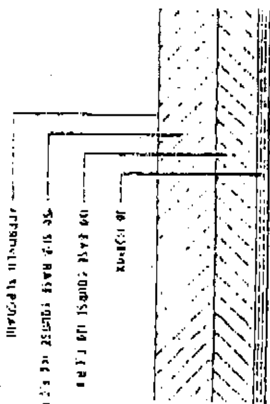


GANDY & ROBERTS
CONSULTING ENGINEERS

REVISED ENTRANCE
FOR D. & J.M. HURBURGH
6 COOLAMON ROAD TAROONA
SITE PLAN & DETAIL

TYPICAL PAVEMENT DETAIL



KAM Pitt QC
Chairman

A 52/97

J 10/99

171A Channel Highway, Taroona - Unit Development - S.64 LUPAA - Costs

RESOURCE MANAGEMENT AND PLANNING APPEAL TRIBUNAL

BETWEEN

JM Holland Applicant

AND

JH Hurburgh Respondent

These were applications by the applicant, for orders that the respondent pay the applicant's costs; by the respondent, for an order that the applicant pay the respondent's costs; and by the parties joined Wallace for an order that the applicant pay the Wallace's costs, of the proceedings.

The applications were made and responded to writing without a hearing.

DECISION

1. The proceedings were in respect of a unit development on the respondent's land, and works carried out on a right of way utilised by the unit development, but on the applicant's land. The applicant sought orders with respect to the demolition of the works on the right of way, and for construction of the works on the right of way and within the unit development in terms of the permit granted for the development. All of those orders were opposed by the respondent.

2. The parties joined Wallace own one of the units in the unit development. They were initially joined in response to a letter from the Tribunal which mistakenly asserted that orders were sought which included demolition of the Wallace's unit. In fact the orders sought at that time included, with respect to construction of the units themselves, only that unit 2 (not the Wallace's) be constructed in terms of the permit, which would have involved that unit 2 be at least in part, demolished and reconstructed at the distance permitted from the parties' common boundary. After it became clear that no order for demolition of the unit was sought by the applicant, the Wallaces remained joined as parties and played some part in the proceedings, opposing orders sought by the applicant with respect to works to be carried out within the unit development, and in particular closure of the eastern access to the unit development. The applicant prior to conclusion of the hearing abandoned the order sought with respect to the eastern access, and thereafter the Wallaces played no part in the proceedings. The Tribunal finds that as to three quarters of the work carried out on behalf of the Wallaces with respect to the proceedings, the applicant's pursuit of the orders affecting the eastern access to the unit, was the principal cause.

3. The orders sought on behalf of the applicant were amended on several occasions. Up until finally amended pursuant to order of the 16th of June 1998 the orders sought were in a form which required amendment in order to show precisely what was sought and the basis upon which it was sought.

4. At the commencement of the final hearing the orders sought were in a definite form. During the hearing various of them were abandoned and/or not pursued by the applicant. The issues of whether there were breaches of the development permit and/or whether works had been constructed without a permit, were however pursued by the applicant, presumably as a matter of principle, to the conclusion of the proceedings. The applicant relied upon her success on the matters of principle, as a relevant factor with respect to costs.

5. The Tribunal is required in determining an order as to costs, to take into account matters giving rise to the following considerations.

6. The result of the proceedings was as follows.

7. Order 1(b)(i) - Concrete batter wall - the applicant was successful in principle and in obtaining an order.

8. Order 1(b)(ii) - Bollards in the right of way - the applicant was unsuccessful.

9. Order 1(b)(ii) -Retaining walls within the right of way - the applicant was successful in principle but unsuccessful in obtaining specific orders.

10. Order 2(b)(i) - Landscaping works - the applicant was unsuccessful.

11. Order 2(b)(ii) - Footpath way - the applicant was unsuccessful.

12. Order 2(b)(iii) - Fencing near unit 2 - the applicant was successful in principle but unsuccessful in obtaining an order.

13. Order 3(b)(i) - Construction of the right of way with a pavement of 5 metres - the applicant was successful as to the access between the unit development and the right of way, and as to part of the internal roadworks in the unit development. The applicant was also successful in principle, although this breach was not contested by the respondent, as to the failure to construct the right of way to the required width of 6 metres. The applicant was however unsuccessful in obtaining an order that the greater part of the right of way be constructed to a full width of 6 metres.

14. Order 3(b)(ii) - Construction of drain and head and end walls at the access - this was abandoned by the applicant.

15. Order 4(b)(i) - Construction of the internal driveways to a minimum pavement width of 5 metres - this was abandoned by the applicant, although an order with respect to a short distance of the access, within the unit development, was made.

16. Order 4(b)(ii) - Construction of bollards around internal parking areas - this was abandoned.

17. Order 4(b)(iii) - Construction of fences internally in the unit development - this order was not pursued.

18. Order 4(b)(iv) - The eastern exit from the internal road system of the unit development - this order was not pursued.

19. It was contended for the applicant that the applicant had been substantially successful, in that she obtained orders from the Tribunal which substantially required construction of the junction of the access and the right of way in accordance with the original permit granted for the unit development; which was what she had sought. That contention was correct. It was however also correct, as contended for the respondent, that the applicant was either unsuccessful as to, or had abandoned, the orders sought up to a late stage of the hearing, with respect to the internal works in the unit development, the eastern access from the unit development, the reconstruction of the unit's internal access from the right of way (save as to a short portion), the landscaping, and the reconstruction of the full length of the right of way to a width of 6 metres.

20. It was also contended for the applicant that the applicant had been successful in principle, in that the Tribunal had determined that many aspects of the unit development and of the access, and the non-construction of the right of way, had been in breach of the planning permit granted or without a permit. As submitted for the respondent however, the jurisdiction granted to the Tribunal by Section 64 of the Land Use Planning and Approvals Act 1993 is not a declaratory jurisdiction, but rather one to make orders affecting the use of land, in the present by requiring works to be carried out. As the Tribunal is not given a declaratory jurisdiction, any finding as to the existence or otherwise of a contravention of the relevant legislation has, by itself, no practical effect upon the rights or liabilities of the parties. The only orders which the Tribunal may make having such an effect, are orders restraining activities or the use of land, or to carry out works.

21. It follows from the above that there is no purpose in pursuing findings with respect to contraventions, before the Tribunal, unless orders are also pursued in respect of those matters. The Tribunal considers that to have pursued findings as to contraventions but to abandon or to not pursue orders in respect of those findings, was, at least in the circumstances of the present applications pursuant to Section 64, unreasonable.

22. There is no material before the Tribunal which would enable it to determine at what stage the applicant formed the intention not to pursue the orders which were ultimately abandoned or not pursued. All that the Tribunal can find is that they were pursued up until final addresses in the hearing, at which stage virtually all costs had been incurred.

23. It was contended for the applicant that the orders with respect to the internal road system of the unit development, and the fencing, and the eastern access, were abandoned out of deference to the position of the parties joined Wallace. The Tribunal does not see that the reason for abandoning the orders sought, is significant with respect to the issue of costs.

24. It was contended for the applicant that the respondent's failure to concede the breaches alleged against it, unnecessarily and unreasonably prolonged the hearing and increased its costs. The respondent could have conceded at an early stage that the right of way had not been constructed to the width required. That failure could be characterised as unreasonable. The respondent could also have conceded that the failure to construct the access road from the right of way into the unit development to the required width, was in breach of the planning approval. That matter was however the subject of considerable argument with respect to what could have been done having regard to the configuration of the land and various services; however on the balance the Tribunal finds that the failure to concede that, was also unreasonable.

25. It was also contended that the respondent had been frivolous and vexatious in the above respects. The Tribunal finds that while the above failures may have been unreasonable, they were not frivolous or vexatious, as they occurred in the context of the conduct of a complicated application under Section 64, and were to some extent affected by the uncertainty attending the final form of the application, at least up until its final amendment.

26. It was also contended for the applicant that the applicant had made numerous attempts to settle matters of concern. The respondent however stated that these attempts to settle had taken the form of offers requiring relief going beyond that which was ultimately recovered by the applicant. The documentation provided by the applicant satisfies the Tribunal that the relief sought by the applicant in negotiations outside the hearing did go beyond what was ultimately obtained by the applicant in the Tribunal's orders. For that reason the Tribunal does not consider that any failure by the respondent to negotiate with the applicant, or to accede to the applicant's suggestions, was a significant factor with respect to costs.

27. With respect to the means of the parties it was contended for the applicant that she had a home. That was stated to have a Government valuation of $172,000.00. Her income to the 30th of June 1998 (taxable) was stated to be $19,006.00. The respondent's financial position was ownership of 3 units having a total Government valuation of $377,000.00 subject to a mortgage of $530,000.00, and a house of unstated value mortgaged for $50,000.00. The respondent's sole income was derived from investments producing a net income of $25,000.00 per year. The cost of maintaining the mortgage was asserted to, and obviously would, greatly exceed that income. The respondent was stated not to have lodged a tax return for the last 2 financial years because of substantial losses.

28. No material was supplied with respect to the financial position of the Wallaces and the Tribunal does not find that they would be unable to meet any order that they pay their own costs.

29. The statements with respect to the financial position of the respective parties were not challenged by the other parties, and the Tribunal finds accordingly.

30. The principal time involved in the hearing was occupied by the expert evidence, cross examination and addresses, with respect to the area of the access from the internal portion of the unit development, to the junction of that access with the right of way on the applicant's land, and the works in that vicinity. With respect to those matters the applicant obtained orders making her more successful than not. On the other hand the remainder of the final hearing, and all of the preliminary hearings on the 10th of March, 26th and 27th of August, were largely occupied with problems caused by the form in which the applicant had brought the application.

31. Having regard to all of the above matters, the Tribunal considers that the costs of the parties joined Wallace should be paid, as to that portion which were caused by the applicant, by the applicant. As to the costs of each of the other parties, the Tribunal considers that each party should bear their own costs of the hearings in November 1998 and that the applicant should pay the respondent's costs of the hearings on the 10th and 26th of March and the 27th of August 1998.

32. The order of the Tribunal is:

    1. The applicant is to pay three quarters of the party/party costs of the parties Wallace.

    2. The applicant is to pay the costs of the respondent on a party/party basis, of the hearings on the 10th and 26th of March 1998 and the 27th of August 1998.

    3. All such costs are to be agreed between the parties or in default of agreement fixed by the Registrar as nearly as may be in accordance with Table A of Appendix M of the Rules of the Supreme Court of Tasmania.

    4. The applicant and the respondent are to bear their own costs of preparation for and of the hearings on, principal relief on the 27th and 28th of November 1998, and all matters not specifically provided for above.

Dated the 3rd day of FEBRUARY 1999

KAM Pitt QC
Chairman

0362342670

THE OMBUDSMAN

-OMBUDSMAN-

COMPLAINT DETAILS

What has the agency done that you wish to complain about?

(Please be as specific as possible and ensure that you provide details of events leading up to the action you are complaining about; provide relevant dates; and give the names of people you contacted).

Council accepted verbal authority of a person I had never met, that my consent had been given for works on my property.

Council signed an approval certificate for a development which had not complied with all approved plans and conditions.

Council, with full knowledge of the problems, failed to halt the Stratum Title process.

Council acted with gross negligence in not enforcing its own regulations and conditions of approval.

Have you contacted the agency yourself to try and resolve the complaint? Yes ✓ No

If yes, what happened?

By unrelenting persistence and great expense I obtained written proof from Council, Please see enclosed letters for verification. I attempted to make an appointment with Council Manager (Mr. Rick McLean). Mr. McLean telephoned me and said that he had all the facts and that he did not feel that there was anything to be achieved by a personal discussion with me.

What do you hope to achieve by making a complaint?

A full investigation into the Kingborough council's behaviour in this matter.

-That my right-of-way be restored to wholly unobstructed state as shown on the approved plans and the cost to be met by either Council or the developer.

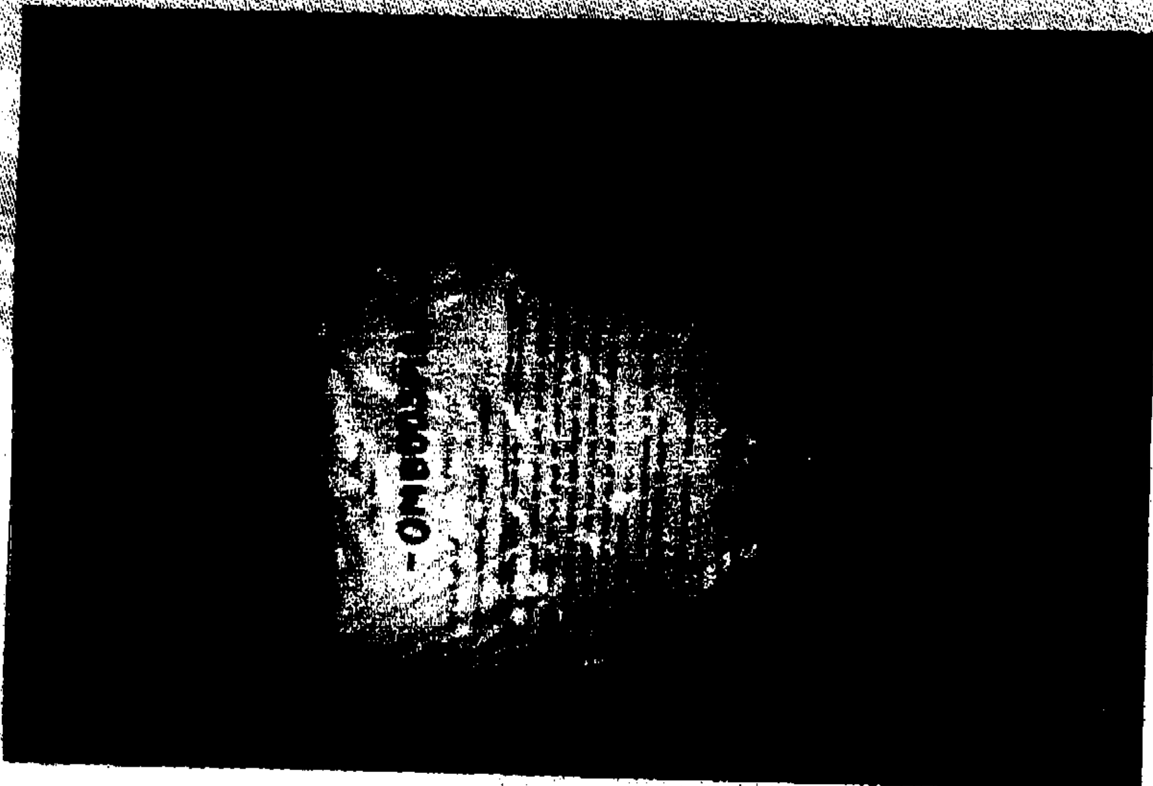
That other areas on non compliance be thoroughly investigated.

Signature of person making complaint [signature] Date 28 / 11 / 98

For Sale
6 COOLAMON ROAD
SUPERB VILLA UNITS
2 and 3 BEDROOMS
Ewan Cameron
0411 350266
Raine & Horne

For Sale
SUPERB VILLA UNITS
Raine & Horne
Hobart
6224 2300

For Sale
Raine & Horne
Hobart
6224 2300



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Sat 13.3.99

...E CRAWFORD

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... Australia's wealth... ...o be accusing his ...of being too preoccu... ...ir hip pocket is a bit

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... expose the very ...e economic rational... ...e represents, which ...ere is no place in ...attention to social ...and that everything ...ged on whether it adds to wealth and can be justified on economic grounds.

Not that we should be surprised by his performance. It was very much a case of John Elliott imitating Max Gillies.

THE Federal Government has sacrificed vital trust with the minor and independent groups in the Senate for what can only be put down to short-term political reasons.

Both Tasmanian Independent Senator Brian Harradine and the Australian Democrats now accuse the Federal Government of not keeping its word over Telstra and junior wage rates.

The Government has a major integrity problem, with Harradine declaring its credibility to be "in tatters" and the Democrats saying Workplace Relations Minister Peter Reith broke his word on the legislation to allow youth wages.

Harradine — who for now can decide any vote in the Senate with his balance of power — has already joined Labor and the Democrats to defeat youth wages legislation, and has indicated he will not support the full sale of Telstra.

With Telstra running out of control — failing to deliver, for example, on the Government's promise to keep Telstra's Derwent Park complex open — Harradine's worst fears about privatisation were realised.

And the Democrats assert the Government, by breaking a commitment to hold off on the youth wage rates legislation until the Industrial Relations Commission reports on the matter, is pandering to ultra-right business lobby and seeking provide a trigger for a double-dissolution.

The problem for the Government is that with its relations in the Senate at rock bottom, its prospect of winning the main game — the GST — look increasingly bleak.

A Letter from J. M. Holland

I most vehemently support the spokesman for the Coles Bay Marina Association in his demand for a wide-ranging state government inquiry into Tasmania's planning appeals tribunal.

My complaint was a simple request that a development "comply with approved plans", the most expensive words I have ever uttered in my life. Since I had already obtained written proof of my case, it seemed to be a perfectly reasonable request, but being totally inexperienced in legal matters I had to retain a lawyer to phrase my simple request in legal terms which might as well have been in Sanskrit for all I understood of all the orders etc.

Thus drawn into the legal maelstrom I was then, being a vulnerable female, psychologically intimidated by being thrown into the male dominated arena of the tribunal where I was cross questioned for six hours, outnumbered 10 to one, and almost paralysed with nervousness — all because I dared to defend my home from encroachments not on approved plans.

My four word request turned into a 20 month equivalent of the Spanish inquisition with 90% of the time spent explaining why the plans were not complied with!

The old custom of "pistols at 50 paces" sounds one fantastic idea to me — either way, it would have brought a swift decision. Sorry, no medal for guessing the costs decision of the tribunal.

J.M. HOLLAND
Taroona

CHAIR, English Smokers Bow, $300 ono. Cotter/chest, elm, $300 ono ..... Ph 6234 9020.

FOR LEASE
STALLS AND SHOWCASES "The Antiques Market" Ground floor 11 Elizabeth St Hobart (next to GPO). 2 stalls available from $100 pw. Cabinets from $25 pw. Be part of Hobart's newest, biggest and best centre of collectables, china, silverware, crystal and glass. 6236 9905, AH 0418 122 020

LGE HUON PINE kitchen dresser c1870's exc cond $1,250 6224 1917/6234 2791.

SWAROVSKI Are you interested in SCS Annual Edition pieces? Retired, signed and secondary market? We have them! Many items available. Full details and prices on our automated hot line (08) 8231 7933 or our net site: www.collectcorner.com

VICTORIAN mahogany 4 ext dining table and 6 chairs "Archer family Douglas Park". Ph (03) 6225 3248.

Baby Goods

CHILDCARE Twin stroller, as new, 5 mths old, Pd $270 - sell $200 ono. Childcare pram, 3 in 1, adj handles, good cond, $120 ono. Capsule, good cond, $30. Ph 6247 2337.

Cotech — Gumleaf
Cots, change tables, wardrobes, chests of drawers and bookcases, factory seconds. Monday-Friday 9 am-3. Ph 6273 2855.

CRADLE with beautiful lace veil and access, plus mattress, sheets etc. exc cond $270. Ph 6249 2327.

Emmaljunga Pram
$150, bassinet with stand $50, stroller $15, hi/low chair $40, cot with matt, $130. 6229 1107

PORTACOT bassinet, $150; monitor $50 brand new. Ph 6228 4826.

★★★PRAM★★★
"Babyworld Scandinavia", blue/creme tartan with toddler seat, exc cond $370 ono. 6275 0035.

PRAM Steelcraft Prommenade $180, bassinet, linen and capsule. all very good condition Ph 6244 5227 after 10 am.

Bicycles

APOLLO mountain bike, 18" Chromoly frame, 21 speed, in good condition, $250. Ph 6249 2656.

BIKES 16 inch $80, 20 inch $50 ono both in excellent order Ph 6244 2261.

CANNONDALE RACING BIKE with Shimano, Profile, Look access, exc cond, $1,500. Campag shamals with continental tyres, $750. Zipp 1100 disc with continental tyre $300. Mavic gel 280 wheels, $150. Ph 6234 1307.

MOUNTAIN BIKE (Gary Fisher), 21 sp, 19.5" as new, $650 ono. 6234 3802 Sat only.

Ray Appleby Cycles
Pro Flex full suspension bike clearance, bikes from $1,200. 125 Elizabeth St. 6234 7644.

Building Materials

ALUMINIUM WINDOW 1320 w X 1035 h with fly screen, reveals and architraves, $120. 6229 5656 or 0417 312 377.

ARCHITRAVE Colonial, 120 mm, $1.50 p/m. New 4 panel doors, $12 each - 6234 4678.