

TRANSCRIPT OF PROCEEDINGS

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PLANNING AND ENVIRONMENT P & E No 28 and 29 of
COURT 1994

Application No 3 of 1994

JUDGE NEWTON

T E MORRIS AND ASSOCIATES PTY LTD Appellant

and

MORETON SHIRE COUNCIL Respondent

SOUTHPORT

..DATE 25/08/94

..DAY 1

ORDER

HIS HONOUR: This matter was listed to commence on 5 September 1994 in this Court. Six days had been allocated for the hearing. Mr Cochrane, counsel for the applicant, has sought an adjournment of the hearing. The submissions he has made come about because of the reception of a large report by the traffic engineer retained by the respondent. The report was provided to the applicant on or about 16 August, as I understand the submissions. And quite simply, Mr Cochrane submits that his own expert witness will need some time to assimilate and to respond to contents of that report.

There is no suggestion that the respondent is in default in complying with dates set down for discovery.

I have little difficulty in concluding that an adjournment should be granted in these circumstances. The

difficulty is in being able to give a new listing that is mutually convenient to the parties. I understand from the contents of an affidavit of Andrew Dane Stable that 10 days are available in Brisbane commencing on 21 November 1994 and a further 10 days available in Brisbane commencing on 5 December 1994.

Unfortunately, the applicant's expert witness, the traffic engineer, is apparently unable to give evidence between 28 November and 12 December 1994, and senior counsel engaged by the respondent apparently has a commitment in the Planning and Environment Court at Brisbane in another trial for four weeks commencing 7 November 1994.

The matter has been further complicated in that my clerk has just now telephoned Miss Heskett in Brisbane and has been informed by her that there are now only five days available as from 5 December 1994, and only eight days available as from 21 November. Given that last piece of information, it seems to me, although it is by no means an ideal solution, we should perhaps take the eight days as from 21 November before Judge McLauchlan, otherwise the matters are not going to come on this year.

...

HIS HONOUR: I think the best I can do is to adjourn this to Brisbane to commence before His Honour Judge McLauchlan on 21 November, and to leave it to the parties to decide whether any further application is to be made to His Honour.

I am sorry I cannot do better than that, but we just lack the flexibility with hearing dates.
