

PLANNING AND ENVIRONMENT COURT

JUDGE ROBIN QC

P & E Appeal No 3389 of 2010

ROBERT THOMAS DUNCAN

Appellant

and

WESTERN DOWNS REGIONAL COUNCIL

Respondent

and

CHINCHILLA TANK CENTRE

Co-Respondent

and

CNH TRANSPORTABLE HOMES PTY LTD

Co-Respondent

BRISBANE

..DATE 02/06/2011

ORDER

CATCHWORDS

Integrated Planning Act 1997 s 4.1.5A

Circumstances in which deficiency of one day in public notification was excused

HIS HONOUR: The court makes an order in terms of the initialled draft fixing directions for the further progress of this developer appeal towards a hearing hoped for in September. The special feature of the order is its recording the court's satisfaction that there's been substantial compliance with the requirements of the Integrated Planning Act 1997 relating to giving of public notice of the development application. Section 4.1.5A provides ample warrant for the indulgence thus made available.

The deficiency in this case was the indication in notices placed on the land and in the Chinchilla News Newspaper and also presumably the notices posted to adjoining landowners that the 10th of March 2010 was the closing date for submissions. That involved a miscalculation by one day. It ought to have been the 11th of March 2010. The signs placed on the land were removed a day earlier as well because of the same misunderstanding.

What enables the court to be satisfied that there's no injustice or inconvenience to any person likely to flow from what happened is the nature of the development, which is an extension of nine new rooms to an existing motel on the Warrego Highway in Chinchilla. This is likely to have been a proposal causing considerable interest in the town to the extent that no-one likely to be interested would fail to become informed.

There was also an earlier attempt at public notification which for various reasons was insufficient, necessitating the

repetition of the exercise with the unfortunate deficiency noted above. Additional publicity in the town provides an additional reason for the court being comfortable that no opportunities to submit were really threatened or foreclosed.

Were there any submissions?

MR SKOIEN: There were, your Honour. The adjoining landowners made submissions they joined the appeal and they have since left the appeal.

HIS HONOUR: They were against it?

MR SKOIEN: They were.

HIS HONOUR: 'd like that exchange typed out too.

MR SKOIEN: Thank you, your Honour.

HIS HONOUR: Were those the only submissions?

MR SKOIEN: No, there were other submissions as well, including during the first public notification that was deficient, sorry.

HIS HONOUR: No doubt the Council considered the original bunch of submissions too.

MR SKOIEN: As submissions in the proposal, yes.

HIS HONOUR: Thank you for that.

Order as per initialled draft.

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