

IN THE LOCAL GOVERNMENT COURT

HELD AT BRISBANE

L.G. APPEAL NO. 172 of 1985

QUEENSLAND

BETWEEN:

STARLIGHT COMMUNITY PTY LTD

Appellant

MAROOCHY SHIRE COUNCIL

Respondent

BEFORE HIS HONOUR JUDGE QUIRK
THE 13TH DAY OF MARCH 1987

O R D E R

This matter having on the 13th day of March 1987 come on for hearing by way of appeal against the decision of the respondent Council whereby the respondent Council approved subject to certain conditions the application of the Appellant to exclude certain land described as Portions 514, 189V and Subdivision 2 of Portion 515, Parish of Maroochy (situate at Browns Creek Forest Road, Yandina) from the Rural "A" zone to "Special Facilities" [Existing Bush Land Multiple occupancy - 23 Houses plus Community Hall] Zone, which decision was communicated to the appellant by letter date the 27th June, 1985

AND UPON HEARING the solicitors for the appellant and the solicitors for the respondent Council

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Tel: 229 5388

BY CONSENT IT IS ORDERED that the appeal be upheld and that the Appellant's application for rezoning of the said land from the Rural "A" Zone to "Special Facilities" [Existing Bush Land Multiple Occupancy 23 Houses plus Community Hall] Zone, be approved subject to the following conditions:-

(1)

(1) The Applicants to lodge a bank Curarantee in the sum of \$30,000.00 security for roadworks construction, such bond to be lodged prior to the Application for Rezoning being forwarded to the Minister. All roadworks are to be completed within twelve (12) months of the date of gazettal of the rezoning.

(2)

The development to be limited to a maximum number of 23 detached houses and the community hall. To this end, a plan of the site prepared by a licensed Surveyor shall be submitted detailing the location of existing site features including roads, driveways, watercourses, and the cleared and planted areas, such plan clearly identifying by individual house plans such houses existing or proposed and their relationship to the overall site plan. This plan will be progressively updated along with the construction of planned additional dwellings up to the limit of 23, the plans for which will be included before construction of such dwelling is commenced.

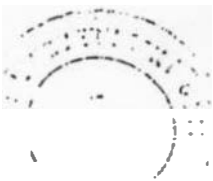
(3)

The Zone maps to be worded "existing bush land multiple occupancy - 23 houses plus community hall."

- (4) The maximum number of dwellings on each share holding shall be one.
- (5) The Applicant shall undertake roadworks on Brown's Creek Road between the York Creek Crossing and the Bus turnaround point adjacent to the Community Hall, to the following standard:-

The gravel pavement shall be 6.5 metres wide with 1.5 metres shoulders both sides for a total formation width of 9.5 metres; all drainage structures are to be provided where necessary. Such work to be constructed to the satisfaction of the Shire Engineer.

- (6) The Council to support an application for permanent road closure of the existing declared road and the opening of road over the alignment of the presently constructed road through the Applicant's land. The Council shall bear the cost of survey and registration of such road closure and no compensation to be payable in respect of exchange of land areas.
- (7) The construction and maintenance of all road works within the company land shall remain the sole responsibility of the company which shall make no claim on the Council for any cost or responsibility to ensure that either storm water or sewerage waste or effluent discharges without nuisance onto any or all of the company land.
- (8) The company shall provide for each shareholder a potable water supply and appropriate effluent disposal system and



make no demand on the Council for the provision of either town water reticulation or sewerage connection to the property.

- (9) The company shall be responsible for the provision and maintenance of a local bushfire brigade complete with the necessary equipment and be responsible for fire safety with the company land. The company shall further agree to be responsible to see that no destruction is caused by fire to adjoining properties that originates from with the company land and to this end shall provide adequate fire breaks to achieve this purpose, to the approval of the Local Fire Warden.
- (10) The company shall be solely responsible for the matter of telephone connections, together with all attendant costs, plus the provision of electricity or other sources of power for lighting, cooking, heating or the like within the company lands to the shareholders of the company as may be required by them from time to time.
- (11) No dwelling or animal stall or pen shall be erected within 50 metres of a perennial waterforce.
- (12) The property shall not be used for hotel, motel, flat, accomodation unit, cabin, caravan park or any other type of holiday, tourist or weekend residential accomodation.
- (13) The company's community hall shall be used solely by the company shareholders who shall not seek patronage from persons external to the community.

(14) The company shall endeavour to minimize the impact of the development upon the natural bushland environment and seek to preserve and maintain such environment in a healthy and natural state.

(15) PRESERVATION OF VEGETATION

The subject land/s shall be cleared of declared noxious weeds (groundsel) before this application forwarded to the department of Local Government.

(16) STANDARD COUNCIL CONDITION

The company will comply with the requirements of all relevant Council By-Laws. All fees, rates interest and other charges levied on the property will be paid prior to the application being submitted to the Department of Local Government.

(17) SPECIAL CONDITIONS

The company has lodged with the Council building applications for each existing building (Residences plus one Community Hall), and building applications for proposed buildings as yet unbuild, and acknowledges that each building must be made to comply with the minimum standards as set out in the Council's By-Laws or the Building Act Appendix Four to the standard Building By-Laws, or to the satisfaction of the Council's Building Surveyor.

IT IS FURTHER ORDERED

(18) ~~In further order~~ that upon fulfillment of aforesaid conditions, the Respondent make application to the Minister for such amendment of the Town Planning Scheme as would give effect to the application.

BY THE COURT

REGISTRAR