

32

COPY

WOODLEIGH HEIGHTS HISTORY
AND COMMENTS ON SUBMISSION OF G. THOMPSON

- PP1436. Permit issued 21st July, 1976.
Owner: K. R. & Y. R. Buchanan.
17 lots. (2.43ha. - 3.81ha.)
Amendment to PP1436 - 17th January, 1978.
Owner: K. R. & Y. R. Buchanan.
Certain areas excluded.
13 lots. (2.43ha. - 2.8ha.)
- PP2191. Permit issued 15th November, 1978.
Owner: K. R. & Y. R. Buchanan.
45 lots - cluster subdivision
including water supply.
Density: 1 lot/1.07ha.
Average lot size: 0.8ha.
- PP2773. Permit issued 21st November, 1980.
Owner: K. R. & Y. R. Buchanan.
Erect dwelling on Lot 9.
- PP2784. Permit issued 21st November, 1980.
Owner: K. R. & Y. R. Buchanan.
CLUSTER RE-DEVELOPMENT.
Subdividing each lot into 3 new lots.
To erect Holiday Units as proposed -
Tourist Development.

COPY

PP3056. Permit issued 20th November, 1981.

Owner: Woodleigh Heights Resort Development Pty. Ltd.

4 lot subdivision.

Use: restaurant, indoor lawn bowls, tennis court.

1st January, 1982: Water and Sewerage agreement made with Trust and Board.

15th March, 1982: Woodleigh Heights Resort Development Pty. Ltd. - advising that all lots in cluster subdivision owned or under option of company and requesting be made responsible for all rates.

PP4669. Permit issued 16th May, 1984.

Owner: Woodleigh Heights Resort Development Pty. Ltd.

Motel/Rental accommodation.

NOTE: PP3056 and PP4669 do not relate to cluster subdivision but to adjoining land in Melville Drive.

PP4792. Permit issued 17th October, 1984.

Owner: Woodleigh Heights Resort Development Pty. Ltd.

Erection of 5 units.

17th November, 1984: Proposed auction of G. Thompson's land by Australian Guarantee.

20th December, 1984: Letter from Shire to Australian Guarantee advising that building permits would be conditional upon lots being serviced by reticulated water and sewerage.

NOTE: Sewerage is somewhat ambiguous as it does not state reticulated sewerage (see condition placed by Appeals Board on permit PP6111) nevertheless there was not planning condition requiring reticulated sewerage at this time.

29th October, 1985: From Woodleigh Heights Resort Development Pty. Ltd: Advising that they do not own all land in cluster subdivision - part owned by Buchanan and Thompson. Explained that unbeknown to their Company land had previously been sold by Buchanan to Thompson.

.../3...

PP4792

cont...

5th November, 1985: Shire to Hooker, Kyneton requiring signs to be removed upon complaint from B. Murphy.

November, 1985: Personally interviewed by Mr. M. McDonald, G. Thompson and observer.

21st November, 1985: M. McDonald, M. L. A. raised matter in Parliament.

21st February, 1986: Shire to Neville and Company, Solicitors for Thompson explaining need to remove signs and suggesting that formal application be made for building permits.

PP5933.

Permit issued 17th June, 1987.

Owner: Woodleigh Heights Resorts Development Pty. Ltd.

Renewal of PP4669.

PP6111.

Permit refused 21st October, 1987.
(Lodged: 3rd July, 1987).
(Proposed auction: 25th July, 1987).

Owner: Woodleigh Heights Resort Development Pty. Ltd.

To erect dwellings (not holiday units) on 33 lots.

After Appeal:

Permit issued: 7th March, 1988 - a condition of which was:

Prior to the occupation of any detached house hereby permitted the same shall be connected to a reticulated sewerage system and a reticulated water supply system.

This history is not exhaustive but I believe contains all relevant details and matters.

COPY

COMMENTS.

When it became known that land within the Cluster Subdivision was in multiple ownership the Council was faced with a problem.

Namely that the redevelopment of the cluster subdivision was only approved on the basis of a Tourist Industry and therefore to have scattered and mixed development between normal permanent residential living and holiday use was considered to be undesirable for many reasons which has been debated at appeal and subsequently lost. However, at the time it was a real and genuine concern and in fact still is.

The other matter was of water supply and the major difficulty here would appear to be the definition of "water reticulation". To my understanding most, if not all of the land claimed by Mr. G. Thompson has not to this date been serviced by a reticulated water supply. That is there are no water mains servicing each lot and I am sure that that can only be accomplished by a cost probably a substantial cost, irrespective of whether this be instigated by the lot owner, The Body Corporate, Woodleigh Heights Resort Development Pty. Ltd., the Water Board or whoever. This cost in at least part would be passed on to the individual lot owner and I would therefore suggest that prospective purchasers should be so advised and any advertising stating "water available" is misleading.

Further matters relating to supply of water by the Board relative to quality/quantity agreements etc. I do not consider should be commented upon by Council.

SPECIFIC CLAIMS BY G. THOMPSON.

Page 1.

The Council had approved of a private reticulated water supply system but it did not exist to serve Mr. Thompson's land. If the Body Corporate or Woodleigh Heights Resort Development Pty. Ltd. (which for practical purposes was probably the one body at the time) wished to substitute town water for private water it does not appear to negate or conflict with the planning condition relative to the cluster subdivision.

The dwelling/house built for the policeman was built on original allotment which ultimately was purchased by Woodleigh Heights Resort Development Pty. Ltd.

The dwelling built on Lot 9 was utilised as the managers residence it is understood.

COPY

2.

up to and including the time of the cluster redevelopment 21st November, 1980 this Council was unaware of multiple ownership - an indisputable fact.

Page 6.

The letter to the Titles Office was correct. If no requirements were made pursuant to 569E of the Local Government Act because the plan was sealed under the Cluster Titles Act.

Page 8.

The signs - no permit had been sought nor granted for the subject sign. A letter of complaint had been received on behalf of Woodleigh Heights Resort Development Pty. Ltd.

Note the Thompson sign was advertising the sale of land, the existing sign was advertising the sale of Time Shares in a resort development. There was a conflict of interests, there was also a more appropriate location available for Mr. Thompson's sign.

The point raised that other signs did not have permits could be considered irrelevant in this context.

Page 12.

I am not aware of any false or incorrect evidence presented through Maddock, Lonie and Chisholm to the Appeals Tribunal by the Shire.

Page 13.

Mr. Thompson states that his land was to be sold under the original Cluster Title lots; be that so this does not negate the permit to permit further subdivision which had already been issued, new owners would have been able to exercise rights in compliance with Permit 2784 which would have created a use of such lots contrary to the planning approval intent.

With regard to rights to water whether it be by means of Water Board town water or private on site water. I would suggest that this matter was between Mr. Thompson and the Body Corporate.

Page 14.

COPY

The matter of alleged breaches of court orders, notices of discovery etc. are a matter to be investigated and action determined between this Council and the Solicitors acting for Council at the time. The allegations are serious and as most of these matters were dealt with directly by the Solicitor the matter will be pursued.

It would appear though that such actions by Councils Solicitors would have been to some advantage to Mr. G. Thompson.

The matter of rates is one that should have been pursued by Mr. G. Thompson though the proper procedures that is an objection to the valuation of the subject land if successful, would reduce the amount of rates to be levied.

Page 17.

The land in question was a rural/residential development up to the Cluster redevelopment PP2784 - 21st November, 1980 at which stage it was a permitted Holiday Home Tourist development, this was the only reason or justification that Council had to reduce the allotment sizes to approximately 1 acre. This permit having been issued could not revert back to rural residential without consolidation with the owners agreement if this were considered desirable.

It is correct that the vendor has the responsibility to notify Council of change of ownership.

CONCLUSION.

I believe that the Council has always acted fairly and impartially in dealing with the development of this land with its major consideration that of good development and the protection and provision of an asset for the general public.

There may have been errors made by Council but at all times the good of the community and consumer has exercised major importance in the decision making process.

G. J. WILSON
CHIEF EXECUTIVE OFFICER

18th January, 1989.