

APPEAL NO : P87/2206
APPEAL BY : Woodleigh Heights Resort Development
Pty. Ltd.
ADDRESS OF LAND : Melville Drive, Kyneton
PROPOSED USE : Detached house on each lot
APPEAL AGAINST : Refusal
APPLICATION NO : PP6111

WRITTEN SUBMISSIONS ON BEHALF
OF THE COUNCIL OF THE SHIRE OF
KYNETON AND THE KYNETON WATER
BOARD

These submissions will be dealt with in two parts.

The first part cover the submissions made on behalf of the Shire of Kyneton (the Council) as the Responsible Authority under what was previously the Shire of Kyneton Interim Development Order (the IDO) and, after the coming into operation of the Planning and Environment Act 1987, the Kyneton Planning Scheme (the Planning Scheme), and will address the planning issues in relation to the application and the Council's refusal.

The second part deals with the submissions made on behalf of the Board and set out the current position in regard to the supply of water and sewerage services to the land and what the position of the Board would be if the land were to be developed for normal residential purposes with a detached house on each allotment.

THE SUBJECT LAND AND THE SURROUNDING AREA

The application, as has been stated above, is for the construction of detached houses on 33 existing cluster lots. The cluster subdivision has been developed by

Woodleigh Heights as a timeshare resort in the late 1970's and early 1980's.

The estate is situated in a rural area approximately 3 kilometres from Kyneton township.

The situation of the land is shown on the locality plan tendered herewith and marked Appendix 'B'.

There are a total of 134 allotments on the cluster plan of which, to date, 44 have dwellings constructed on them, together with an existing recreation centre consisting of squash courts, indoor pool and games room.

The timeshare resort is therefore about one-third developed. The surrounding land in the area is rural and mainly used for grazing purposes with some rural residential development on allotments ranging in size from 2.4 hectares and upwards.

THE PLANNING CONTROL

At the time of the application the land was the subject of the IDO which was in effect a blanket type Interim Development Order. The Kyneton Planning Scheme, which was declared on the 16th February 1988 pursuant to the Planning and Environment Act, substantially incorporates the provisions of the IDO. Under the IDO all subdivision and development requires the grant of a planning permit. The only control on allotment size is in that part of the IDO which is within the catchment area of the Coliban water supply system operated by the Rural Water Commission. Otherwise, there is no minimum allotment size under the IDO or Planning Scheme.

CONCLUSION

Having regard to the foregoing, it is submitted that the Tribunal should disallow the appeal and direct that no permit issue.

DATED this

7

day of

March

1988.

Maddock Lonie & Chisholm
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Maddock Lonie & Chisholm,
Solicitors & Agents for the
Shire of Kyneton and the
Kyneton Water Board.

SCHEDULE

Woodleigh Heights History

- 21.6.76
 - 17 lot plan of subdivision (2.43ha. - 3.81ha.)
 - PP 1436 issued 21.7.76.
- 17.1.78
 - Amendment to PP 1436 to 13 lot plan of subdivision (2.428 ha. - 2.833 ha.)
 - Some areas excluded from subdivision.
- 10.11.78
 - 45 lot plan of subdivision (cluster)
 - proposal includes water supply
(1 dwelling per 1.07 ha.)
(3 per 8 acres approx.)
(Average lot size = 2 acres).
 - PP 2191 issued 15.11.78.
- 27.10.80
 - Erect dwelling on Lot 9
 - PP 2773 issued 21.11.80.
- 5.11.80
 - 3 holiday units per existing cluster
 - PP 2784 issued 21.11.80.
- 21.10.81
 - 4 lot subdivision for restaurant, indoor lawn bowling, tennis court and 'future development'.
 - PP 3056 issued 20.11.81.

9.5.84

- Motel, rental accommodation and development as with PP 3056.
- PP 4669 issued 16.5.84.

4.10.84

- 5 residential units
- PP 4792 issued 17.10.84

27.8.87

- Renewal of PP 4669.
- PP 5953 issued 17.6.87.

3.7.87

- Application to erect dwellings
- PP 6111 refused 21.10.87.