
Northern Belle Pty Ltd

Cairns first Licensed Parlour Est. 2006

11-06-09

Dear Val Schier,

Again thus far no response to my e-mail sent to you on the 24-04-09 (included as per attachment) and the dust continues

I am still eagerly awaiting for "planning manager" Peter Tapulo's report on this matter, as we need a stop to this illegal activity.

I also note that according to the Cairns post newspaper 11-06-09 that Peter Tapulo is to be the new acting C.E.O of Cairns Regional Council. I therefore find it appropriate to put the latest correspondence I had with Peter to you, so as to make sure you are up to date on these important issues.

I have had no satisfaction in getting these democratic questions properly addressed and or answered. NOT FROM PETER NOR FROM C.E.O NOELL BRIGGS

Seeing that David Farmer former C.E.O. also doubling as the assessment manager to the Cava close brothel applications at the time, and C.E.O Neol briggs having taken over that responsibility of overseeing all legal matters as far as environment and planning meetings go and having the above questions put to them, but never answered.

The time has now come to put again the (Questions as per attachment) to the new C.E.O Peter Tapulo who was there from the start since 2001 as the planning and development manager to all Cava Close brothel applications and should have knowledge of all issues.

The invite to meet and discuss is still open. I hope to hear from you soon as this will not go away by staying silent

Kind regards
C.E.O Northern Bell Pty Ltd
Aart Brons

11 Cava Close Bungalow CAIRNS 4870 QLD AUSTRALIA
Ph 07 4033 5955 Fax 07 4054 3976
www.northernbelle.com.au

manager@northernbelle.com.au

From: <manager@northernbelle.com.au>
To: "Schier Val" <V.Schier@caims.qld.gov.au>
Sent: Friday, 24 April 2009 3:57 PM
Subject: Re: Northern Belle dust

Dear Val,

I am dissappointed in that you are asking me to go along with the question whether there is a dust issue or not. (We have been eating dust here for over two years now, and enough is enough)
I do not intend to start from scratch! (see "council dust file" in www.aartbrons.com)

Northern Belle and Cairns Regional Council second hand recycling plant hidden behind a 7 meter high so called bung wall in a light industrial area can not co-exist.

Steven Smith Senior E.P.A, officer left a council to do list (included in your dust file sent previously)

I agreed to that list and untill that list is ticked off in full the matter will stay unresolved.

Steven suggested the wall come down and to stop carting in any more rubble,also to fense the property, and for council to use it soly as a hard storage area for the time being.

I am eagerly awaiting Peter Tapulo's report on this matter and in particular whether this type of activity carried out be council be allowed in a light industrial zone.

Maybe the eaziest way to resolve is to meet, discuss, and to walk and talk this thing through on site with key stake holders as yourself, myself, Peter Tapulo, Steven Smith and the likes.

Rates remain unpaid untill a solution is found and services are fully restored.
Council is threatening to take legal action and sell our property.
We will vigorously defend that action but welcome the challenge.

Hoping to hear from you soon.

Kind regards
Aart Brons.

24/04/2009

— Original Message —

From: Schier Val
To: manager@northernbelle.com.au
Sent: Friday, April 24, 2009 12:13 PM
Subject: Northern Belle dust

Hello Aart

I got onto council officers and they've told me that – in the first instance - they want to setup dust monitoring equipment on your site. It's a legislative requirement and a requirement of the Australian Standard for monitoring to occur on your site, surrounding property and background. I know that you are frustrated with how long this issue has been going but I think it's important that the monitoring is in place on site as well as outside your property - and other neighbouring properties - where it is set up now.

Alternatively you could get your own Environmental Consultant to conduct dust monitoring; just make sure it's done in accordance with Australian Standards so that you have evidence.

If this is done then we can see what action council may be able to take.

Val

Cr Val Schier
 Mayor
 Cairns Regional Council



Cairns Regional
 COUNCIL

Phone: 07 4044 3083
 Fax: 07 4044 3049
 Email: v.schier@cairns.qld.gov.au

From: Aart Brons (Northern Belle) [mailto:manager@northernbelle.com.au]
Sent: Tuesday, 7 April 2009 7:17 PM
To: Schier Val
Subject:

Cairns Regional Council Website Enquiry Form

Received From: Aart Brons (Northern Belle) (manager@northernbelle.com.au)
Address: 11 Cava Close Bungalow
Phone: 4033 5955 (0488116007)
Service Address: SERVICE

Detail:

Dear Val

Its has now been a year since our complaint to you and 2 years since our complaint to council. It has bearily stopped raining and we are being sifted full of dust again and nothing has been done to stop this illegal action by council. It seems that they have stepped up their activity, and the dust is extreme, no one should have to live with it. We now ask for you urgent attention on this matter as we would like to pay our rates but will refuse to do so if this matter is not resolved. You should have Peter Tabulo's report on this matter by now. Council works must stop its illegal activity in a light industrial zone and should not be allowed to work outside councils bylaws in this matter. Please contact me asap so we can talk this thing through.

Kind Regards
 Aart Brons

Please contact me in response to this enquiry.

24/04/2009

manager@northernbelle.com.au

From: "Schier Val" <V.Schier@cairns.qld.gov.au>
To: "Aart Brons (Northern Belle)" <manager@northernbelle.com.au>
Sent: Wednesday, 15 April 2009 6:24 PM
Subject: RE:

Hello Aart

I forwarded your complaint on to relevant officers when it came in and was initially advised that there were no easy answers to your predicament. I will get on to Peter Tabulo again for a response and will get back to you. Val

Cr Val Schier
Mayor
Cairns Regional Council



Phone: 07 4044 3083
 Fax: 07 4044 3049
 Email: v.schier@cairns.qld.gov.au

From: Aart Brons (Northern Belle) [<mailto:manager@northernbelle.com.au>]
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 Kind Regards
 Aart Brons

Please contact me in response to this enquiry.

Cairns Regional Council Disclaimer

This message, and any attachments, may contain privileged and confidential information intended only for the

16/04/2009

From: Steve Smith
To: Evans Kerry
Cc: manager@northernbelle.com.au; Chris Buckingham
Sent: Friday, February 08, 2008 4:35 PM
Subject: RE: McCoombe St Depot

Hello Kerry

I have spoken to the complainant and suggested a plan that allows council to undertake the planned activity while limiting its impacts on the Northern Belle establishment. I strongly suggest council agree to the following:

1. Council fence the perimeter of the McCoombe Street depot to prevent unauthorised access from the northern side of the property;
2. Council commence with the planned concrete crush of the existing 3000t stockpile and that this crush begin as soon as possible and be concluded by the end of the February 2008 (subject to availability of plant);
3. Council should also take all reasonable measures to lessen the impact of the crushing activity by undertaking works at the northern end of the stockpile in the morning and then in the afternoons shifting the crushing plant to the southern end of the pile;
4. That council undertake a noise assessment of the crushing plant and that all reasonable steps be undertaken to mitigate against noise and dust propagation;
5. That Council advise, in writing, all near neighbours of its intention to undertake the crushing activity stating the times and expected duration of the activity as well identifying a nominated contact person for the activity;
6. That Council plan to seal the McCoombe street depot to reduce the likelihood of further dust nuisance.
7. That at the end of the crush activity, Council scales down any screening and stockpiling operations at the site and maintain the site as a sealed hardstand storage area in keeping with the surrounding landuse.
8. That ceases any further stockpiling of concrete material for recycling and seek an alternative site (perhaps the Portsmouth landfill site).
9. That after the existing stockpiles are reduced council shave back the height of the bund wall at the northern end of the depot to a maximum height of 3 meters.

Please advise the EPA if the above recommendations are suitable to council. Please contact Chris Buckingham (4046 6754) in relation to this matter.

In relation to the possible compensation to Northern Belle for cleaning costs incurred by the operation of the crusher, I suggest that this is a matter that is best left negotiated between CCC and Northern Belle.

Regards

Steve Smith
Senior Environmental Officer
Environmental Protection Agency

p.s. Please note that I will be out of the office until 10 March. Please liaise with Chris on this matter

Assessment Manager	
Name	CEO - CCC - MR DAVID FARMER RTI/Os Officer - SENIOR PLANNING OFFICER
Contact phone number	MS JEWELL ELPHINSTONE: 4044.3565

Appeal Details		Circle either 'Yes' or 'No'	
For a code assessable development application, you are appealing against:	The assessment manager's refusal, or the refusal in part, of the application	<input checked="" type="radio"/> Yes	<input type="radio"/> No
	A matter stated in a development approval for the application, including any condition applying to the development	<input type="radio"/> Yes	<input type="radio"/> No
	The length of a currency period	<input type="radio"/> Yes	<input type="radio"/> No
	A decision to give a preliminary approval when a development approval was applied for:	<input type="radio"/> Yes	<input type="radio"/> No
	A deemed refusal	<input type="radio"/> Yes	<input type="radio"/> No

ATTACHMENT C.

State the grounds of appeal (including why you consider the decision is wrong (if applicable, supply additional information by attachment))

In supplying grounds, if applicable, identify any part of the decision which is appealed against. Such part may be identified by reference to parts of the decision notice.

ATTACHMENTS 4, 5, 6, 7.

Decision details	
Date decision given to you	18 APRIL 2005 - ATTACHMENT 6 (Approved DN recd 17 MAY 2005)
Is today more than 20 business days after the decision was given to you?	<p>Please circle one:</p> <p><input checked="" type="radio"/> No <input type="radio"/> Yes → You are NOT eligible to lodge an appeal under Section 64L of the <i>Prostitution Act 1999</i> (section 64K of the <i>Prostitution Act 1999</i> provides that an appeal must be started within 20 business days after the decision notice (or a negotiated decision notice, if applicable) is given to the applicant)</p>



OFFICE OF THE MAYOR

17 July 2008

YOUR REFERENCE

OUR REFERENCE VS.kbj 1753994

Mr Aart Brons
Northern Belle
11 Cava Close
BUNGALOW QLD 4870

EMAILED. 17/7/08
OFFICE OF MAYOR

Dear Mr Brons,

Thank you for your letter dated 10 July 2008 the contents of which are noted.

I apologise that I did not respond to your email of 10 June 2008. I have asked the General Manager, Planning & Environment, **Mr Peter Tabulo** to investigate this matter without delay.

Once I have the relevant information I will respond in more detail.

Yours sincerely,

Val Schier
Mayor
Cairns Regional Council

cc: **Mr Peter Tabulo, GM P & E**

Northern Belle Pty Ltd

Cairns first Licensed Parlour Est. 2006

10-07-08

This letter also forwarded to

- 1 Cairns Regional Council Complaints Department (Kerrie Evans)
- 2 Cairns Regional Council - C.E.O
- 3 Senior E.P.A officer Steven Smith of Cairns and Chris Buckingham.
- 4 Alan Blake division 5
- 5 Kirsten Lesina division 4
- 6 And will be presented to the Cairns Post Newspaper on 21-07-08

Dear Val,
Congratulations on the Mayorship.

This request is in relation to the **in-house** conversation we had about the quarry-type activity behind our business here at Northern Belle (Cava Close Bungalow, zoned light industrial) back in February of this year.

I now call upon your insight at the time where you agreed to look into this matter here at "Belle" as it was in your words **"A DISASTER WAITING TO HAPPEN" and that you would not be paying your rates either.**

The quarry has resumed its **ILLEGAL CONCRETE CRUSHING ACTIVITY hiding behind** a 10 metre high bung wall. The amount of **constant dust** created through the councils illegal activity is **THREATENING TO CLOSE OUR BUSINESS.**

(Read **"cairns city council dust file"** in www.aartbrons.com)

Northern Belle and concrete recycling plant CANNOT co-exist AND SHOULD STOP ITS ACTIVITY IMMEDIATELY
(Council cannot breach its own light industrial zoning restrictions)

This needs **urgent** attention as a request was made, via e-mail, on the **12-06-08** for you to contact me, but has **not been replied to as yet.**

Please respond as **we don't want to lose business,** and have it become **a further legal battle.** Please call 4033 5955 after 12 noon, Mon to Sat

Kind regards Aart Brons

11 Cava Close Bungalow CAIRNS 4870 QLD AUSTRALIA
Ph 07 4033 5955 Fax 07 4033 5971
www.northernbelle.com.au

ENQUIRIES: Mr P Tabulo
PHONE: 40443545
YOUR REF:
OUR REF: #1665593



29 February 2008

Mr Aart Brons
Northern Belle
11 Cava Close
BUNGALOW QLD 4870

119-145 Spence Street,
Cairns Qld. 4870
P.O. Box 359,
Cairns, Qld. 4870
Telephone: (07) 4044 3044
Facsimile: (07) 4044 3022
council@cairns.qld.gov.au
www.cairns.qld.gov.au
ABN 21 543 571 965

Dear Sir

**THIRD PARTY ADVICE FROM PROSTITUTION LICENSING
AUTHORITY, BROTHEL, 11 CAVA CLOSE, BUNGALOW,
DEVELOPMENT APPLICATION 8/8/564**

I refer to your recent letter to Council and hereby re-provide a response given to you to in October last year.

*Council refers to your enquiry received on Friday 28 September 2007 which states as follows :

"Please explain where did Hon Judge W J Carter's QC letter of comment from the PLA land up in connection to the 11 Cava Close Bungalow brothel application. The aardvark still wants to know, and will not rest until he does."

Request was made from Council to the Prostitution Licensing Authority (PLA) for Third Party Advice by letter dated 28 February 2004. In response Council received correspondence from the Prostitution Licensing Authority which included a letter from Hon Judge W J Carter QC dated 12 March 2004.

It is not standard practice for a physical copy of all correspondence received by Council to be actually presented to Council. Instead it is usual that the issue raised is summarised and duly reported where appropriate.

Council at the Ordinary Meeting held on 22 July 2004 considered a report that recommended that the application proceed as Impact Assessable and required public notification.



-2-

The letter from the PLA was considered by officers as part of this report, however as concluded in the "Planning Comment" it was considered that the application should be Impact Assessable, in order for the community to have their views considered by Council."

Again I trust this above advice answers your enquiry to the extent that there is no further discussion on this matter required.

Yours faithfully



PETER TABULO
General Manager City Development

Northern Belle Pty Ltd

Cairns first Licensed Parlour Est. 2006

06-03-08

In response to the letter sent on 29-02 2008

General Manager City Development.- [PETER TABULO](#)
This letter is also being forwarded to your current CEO- [NOEL BRIGGS](#)

I have read The Professional Planner's "excuse" in the Cairns Post newspaper on two occasions and it **does not** reflect the truth.

As a **matter of fact**, the '[withheld letter](#)' **surpassed both you and the "Professional Planner"** ranking, as it was addressed, on the 02/07/04 in a letter to re-assess the coding, to the Chief Executive Officer, your boss at the time, David Farmer sent by Morrow Petersen Solicitors and my Council Mr Stewart M Ure. ([As per attachment](#))

Now can you please give me a true answer to a simple question. If **you cannot**, then put the question to your [current CEO](#) and seek some advice on this. The extracts in that letter were from the '[withheld letter](#)' sent to [David Farmer CEO](#) from the PLA and was signed by [The Honorable W.J Carter QC](#).

As a ratepayer and a victim I now expect a true and honest democratic answer to a very easy democratic question...why was the letter, put to the CEO of Cairns City Council by my legal team Morrow Petersen solicitors and my Council Mr Stewart M Ure, not in the report to the [special Planning and Environment meeting held on the 22/07/04](#).

By the way, [the planner's report](#) to council also states that the amendment of the QLD Prostitution Act **was** taken into consideration by Hon judge White.

THIS WOULD HAVE BEEN ILLEGAL FOR HIM TO DO SO

So therefore again **fraudulent reporting** by the Planning Department to councillors to vote on at their [special planning and environment meeting held on the 22-07-04](#).

I advise you to seek some advice, and give me an **honest democratic answer** to that question **as well.**

THERE ARE SERIUOS CONSEQUENCES FOR TWISTING THE TRUTH TO A JUDGE'S READING.

There might be some easy way for you to get free quality information by reading www.aartbrons.com

I also advise you **not** to use the "**excuse**" of 57 submissions again as **not one** was registered to the court room of Hon JUDGE WHITE. (**NOT ONE PAID THE \$30.00 REGISTRATION FEE**) thus could be seen as **perjury** if **they did** land up in the Court room of **Hon JUDGE WHITE.** (AND THEY DID !!!!)

Remember the Aartvark was also "spokesperson" in the [Grant v Council](#) case.

We will get to that as the clock turns back (this whole mess has been costly hurtful, and time consuming) to me, and Cairns Rate payers. Cairns Council **lost** the court case remember.

I look forward to your reply **to both** urgent questions.

Regards

Aart Brons
Brothel owner & licensee

11 Cava Close Bungalow CAIRNS 4870 QLD AUSTRALIA
Ph 07 4033 5955 Fax 07 4033 5971
www.northernbelle.com.au



MORROW PETERSEN
SOLICITORS

Our Ref: Tracy Fantin:204091
Your Ref: 8/8/564-01(754710)

2 July 2004

The Chief Executive Officer
Cairns City Council
PO Box 359
CAIRNS QLD 4870

ATTENTION: Jenny Elphinstone

Dear Ms Elphinstone

DEVELOPMENT APPLICATION - 8/8/564
MATERIAL CHANGE OF USE - BROTHEL 11 CAVA CLOSE,
BUNGALOW

I act for the Applicant, Mr Brons. I refer to your acknowledgment notice dated 26 February 2004, Planning Far North's letter to you of 10 March 2004, your letter of 12 March 2004 and your information request dated 15 March 2004.

I enclose for your information:-

1. Copy letter from the Prostitution Licensing Authority to the Council dated 12 March 2004; and
2. Copy extract of opinion from Stewart Ure dated 25 June 2004.

I draw to your attention the following passages in the enclosed documents. The Honourable W J Carter QC of the Prostitution Licensing Authority states:-

"It is arguable that there is a sound basis for concluding that the assessment of this application as an Impact Assessable development ... cannot be sustained as a matter of law.

... There is however a sound basis for submitting that the application is Code Assessable and that the prior decision in Grant v Cairns City Council is clearly distinguishable and not relevant for the purposes of this application.

July 2, 2004 10:39 AM 51 201GEN

Morrow Petersen

Solicitors

Ground Floor

Cairns Corporate Tower

15 Lake Street

PO Box 804

Cairns QLD 4870

Tel: 07 4052 1199

Fax: 07 4052 1711

Email:
law@morrow.com.au

Partners

Glen Morrow BA LLB (Hons)

Brian Peters LLB

Consultants

Tracy Fantin BA LLB (Hons)

Peter Colombo LLB LLM (Cov)

Susan Hanson LLB

Associates

Richard Lybrook LLB

Kyle Maslin BA LLB (Hons)

... Therefore the application of section 63A to the land in question should properly lead to the conclusion that the land is in 'an industrial area' and the application is therefore Code Assessable".

Stewart M Ure, Counsel engaged by the Applicant Mr Brons, states in his advice that:-

"27. In my view, having regard to the uses in the area and the existing Strategic Plan and zoning designations, the better view is that the subject land is within, but on the periphery of, an industrial area.

28. It follows, in my view, that the answer to question 1 is that the third Application is Code Assessable.

...

34. As a consequence of the conclusion I have reached with respect to issue 1, it would ordinarily follow that my view would be that Mr Brons had good prospects of success in an application for a declaration that the third Application is Code Assessable."

I hereby request that the Council reconsider the subject Application and determine that it is in fact, Code Assessable, rather than Impact Assessable (as set out in Council's acknowledgement notice).

Should the Council agree with the enclosed opinions and determine the Application is Code Assessable, the Applicant would then take steps to answer the information request to enable the Application to proceed to assessment.

I look forward to Council's response as soon as possible.

Yours faithfully



For Tracy Fantin
for MORROW PETERSEN
Email: tracy@morrow.com.au

Enc.

ORDINARY MEETING

22 JULY 2004

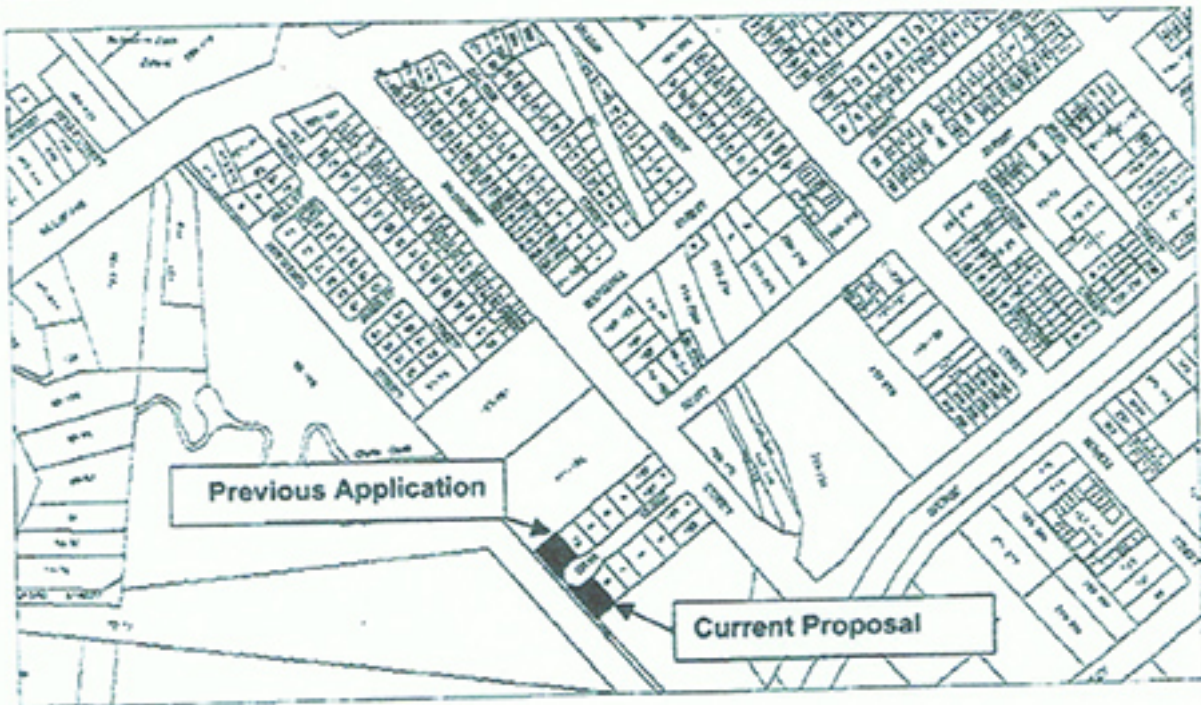
15

**MATERIAL CHANGE OF USE (IMPACT ASSESSMENT) – BROTHEL – 11
CAVA CLOSE, BUNGALOW – DIVISION 5**

Jenny Elphinstone: 8/8/564-01 : 774223

<u>PROPOSAL:</u>	BROTHEL
<u>APPLICANT:</u>	AART BRONS 4/393 DRAPER STREET CAIRNS QLD 4870
<u>LOCATION:</u>	11 CAVA CLOSE, BUNGALOW
<u>PROPERTY:</u>	LOT 7 ON SP101286, PARISH OF CAIRNS
<u>ZONE:</u>	LIGHT INDUSTRY
<u>STRATEGIC PLAN:</u>	INDUSTRY
<u>DCP:</u>	DCP 2 HEIGHT AND IMPACT OF BUILDINGS – PRECINCT 6
<u>REFERRAL AGENCIES:</u>	PROSTITUTION LICENSING AUTHORITY
<u>NUMBER OF SUBMITTERS:</u>	NONE AS YET
<u>STATUTORY ASSESSMENT DEADLINE:</u>	NOT YET COMMENCED
<u>DIVISION:</u>	5
<u>APPENDIX:</u>	1. SITE LAYOUT PLAN

LOCALITY PLAN – CHANGE MAP SHOW LOCATION OF PREVIOUS SITE AND NEW SITE



RECOMMENDATION:

That Council advise the applicant that it determines that the application shall be Impact Assessable and requires Public Notification.

EXECUTIVE SUMMARY:

Previous application for a Brothel at an address opposite to the subject site was refused by Council and this determination was upheld by the Planning and Environment Court. Council and the Court both found the previous application to be Impact Assessable. The current applicant, Mr Brons, contends that such finding is inconsistent with the Prostitution Licensing Act and has gained a legal Counsel opinion supporting this alternative position.

The current application was lodged with minimal detail and appears as a test of Council on this issue. Morrow Petersen Solicitors has lodged an extract of advice from Mr Stewart M Ure, of Counsel, suggesting that the current application is Code Assessable and the application would have good prospects before the Court in determining this matter. Council officers are not satisfied with the extent of advice submitted and seek that Council continue to respect the Court's determination until it is otherwise varied.

TOWN PLANNING CONSIDERATIONS:

Background

Previous application was made to establish a Brothel at 12 Cava Close, Bungalow (Development Application 8/34/5). Fifty-seven submissions were lodged against the proposal. Council found the development inappropriate for a number of reasons including the proximity of the proposed use to a residential area (the Parks Retirement Village) and the accessibility of the area to children. Council refused the application.

The applicant appealed Council's refusal. The Planning and Environment Court heard the matter in Cairns (Planning and Environment Appeal 9 of 2001 AB Grant v Cairns City Council). A preliminary matter was heard by the Court as to whether the application was correctly assessed as an Impact Assessable development.

During the time in which this previous matter was being heard and determined by the Court an appeal was lodged for a Brothel on the Gold Coast and the issue of whether the application was code or Impact Assessable was raised. The case determined by Justice Hanger of the District Court, discussed "area" and "industrial" separately. In the determination Justice Hanger states that neither "area" nor "industrial", at the time of his determination, is clearly defined by the legislation. He also stated that "area" should not be limited to the 200m travel distance as a distance as is used by other sections of the Act. As a consequence of this appeal the State Government amended the Prostitution Licensing Act clarifying the interpretation of "industrial area." The amendments to the legislation further define "industrial" and do not give clarity as to the physical parameters of the word "area."

While Judge White was not bound to have regard to the amending legislation, in the determination of the AB Grant appeal, he considered the matter as if the amendment was in force. Judge White's findings raised the issue of defining the "area." Once this was clarified, he then used both the then and the amending legislation to determine whether this "area" was "industrial." On consideration of the above issues it is likely that Judge White was aware of the previous determination by Justice Hanger. Judge White determined area to include from the intersection of Mulgrave Road, along McCoombe Street and to the subject site. To this extent the Court determination makes a finding as to what is the "area" and that area can be more than just the subject site of the proposed premises. Of this "area" part was clearly industrial and part was residential. On this basis the Court determined that the use was appropriately assessed.

The Court then considered the Council's refusal of the application and disallowed the appeal upholding Council's decision.

Current Application

A new application has been lodged to use land opposite the previous site as a Brothel. The application content was minimal and deficient of details to enable assessment against the IDAS code for Brothel applications found in the Prostitution Licensing Regulation. Upon lodgement of the proposal the applicant was advised that Council considers such application to be Impact Assessable and required that the Impact Assessment fee be paid in order that the application may be considered as properly made. The applicant, Mr Brons, has disputed Council's determination that the application is Impact Assessable and contends that interpretation of the legislation finds the development Code Assessable. Mr Brons has gained a legal opinion that finds the development Code Assessable and that the applicant would have good prospects before the Court in concurring with this opinion.

Planning Comment

The two applications are similar to the extent that the sites are in very close proximity to each other and the surrounding area is the same. There has been no change of circumstance other than the amending legislation is now enacted for all applications. However, as the previous determination of the Court, in the preliminary finding, applied the amending legislation as if it was in force the applications remain virtually identical in their primary purpose – to establish a five room Brothel on the land.

It is considered that Council preference is for the matter to be Impact Assessable in order for the community to have their views considered by Council, and also to be able to participate in any subsequent Appeal if such occurs.

Jenny Elphinstone
Senior Planning Officer
Action Officer

P M Tabulo
General Manager – City Development

ENQUIRIES: Mrs Jenny Elphinstone
PHONE: (07) 4044 3365
FAX: (07) -002
OUR REF: 8/8/564-01 820775



26 July 2004

Morrow Petersen Solicitors
10 Grafton Street
CAIRNS QLD 4870

Copy to: Planning Far North Pty Ltd
P O Box 7801
Cairns QLD 4870

119-145 Spence Street,
Cairns Qld. 4870
PO Box 359,
Cairns, Qld. 4870
Telephone (07) 4044 3044
Facsimile (07) 4044 3022
council@cairns.qld.gov.au
www.cairns.qld.gov.au
ABN 21 543 571 965

Attention Ms Tracy Fantin

Dear Madam

**RE: DECISION NOTICE FOR
DEVELOPMENT APPLICATION – 8/8/564
MATERIAL CHANGE OF USE (IMPACT ASSESSMENT)
BROTHEL – 11 CAVA CLOSE, BUNGALOW**

Council acknowledges receipt of your correspondence dated 2 July 2004 in which request is made for Council to reconsider the above application to be Code Assessable. Council considered your request at its Ordinary Meeting held on 22 July 2004 determined that the application shall be Impact Assessable and requires Public Notification.

Council suggests that should the applicant seek any further determination on this issue then the appropriate forum would be the Planning and Environment Court.

Should you have any queries in relation to this, please contact Mrs Jenny Elphinstone of Council's City Assessment Team on 4044 3365.

Yours faithfully

P M TABULO
General Manager, City Development

Att.



Received: 6.8.04.

Scanned: 9.8.04.

Input: 9.8.04.

MORROW PETERSEN
SOLICITORS

TRIM:.....

Our Ref: Tracy Fantin 204091

6 August, 2004

The Chief Executive
Department of Local Government, Planning, Sport
and Recreation
Level 18
41 George Street
BRISBANE QLD 4000

BY FACSIMILE NO (07) 3247 3679

Dear Sir/Madam

**AART BRONS -V- CAIRNS CITY COUNCIL
PLANNING AND ENVIRONMENT COURT APPLICATION**

We act for Aart Brons. Mr Brons has filed an Application in the Planning and Environment Court at Cairns seeking a declaration that the establishment of a licenced brothel on the land in question is Code Assessable because the land is in "an Industrial Area" (Schedule 1 of the *Integrated Planning Regulation 1998* and Section 63A(3) of the *Prostitution Act 1999*).

We are obliged to serve the State with the Application pursuant to Section 4.1.21(6) of the *Integrated Planning Act*. We enclose an unsealed copy of the Application which was filed on 3 August 2004.

The matter involves interpretation of a relatively new amendment to the *Prostitution Act*, Section 63A (introduced by the *Prostitution Amendment Act 2001*). It is our respectful submission that the Cairns City Council is maintaining an untenable position in its interpretation of that provision, by insisting that the subject application is Impact rather than Code Assessable. The Council's position is also contrary to the view expressed by the Prostitution Licencing Authority, whose Chair has written stating that "the Application of Section 63A to the land in question should properly lead to the conclusion that the land is in "an Industrial Area" and the Application is therefore Code Assessable".

It is our view that the matter involves a State Interest in "ensuring that there is an efficient, effective and accountable planning and development assessment system" and in the IDAS Code for Licenced Brothels.

We have not yet received a sealed copy of the Application from the Planning and Environment Court. The application has been set down for a callover at 2:15pm next Thursday, 12 August 2004 in the Planning and Environment



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Court at Cairns. That callover is for sittings before His Honour Senior Judge Skoien in Cairns from Monday, 30 August 2004 to Friday, 10 September 2004.

At the callover on 12 August 2004 we will be seeking a hearing date for the Application during those sittings before Senior Judge Skoien. We estimate a hearing time of 1 day.

We also enclose for your information an Entry of Appearance which has been filed by Cairns City Council.

Yours faithfully



Tracy Fantin
for MORROW PETERSEN
Email: tracy@morrow.com.au

Enc

In the Planning and Environment
Court
Held at: Cairns

340
No of 2004

Between

AART BRONS

Applicant

And

CAIRNS CITY COUNCIL

Respondent

Filed on 3 August 2004

Filed by: Morrow Petersen (on behalf of the Applicant)
Service Address: Ground Floor, Cairns Corporate Tower, 15 Lake Street,
Cairns 4870
Phone: 07 4052 1199
Fax: 07 4052 1711

ORIGINATING APPLICATION

Aart Brons of C/Planning Far North, Level 12, Cairns Corporate Tower, 15 Lake Street, Cairns applies to the Planning and Environment Court at Cairns, for the following declaration and orders:

1. a declaration that the development the subject of this application, namely the establishment of a licensed brothel on land described as Lot 7 on SP101286, Parish of Cairns, is code assessable development pursuant to Schedule 1 of the *Integrated Planning Regulation 1998* (the Regulation); and
2. such further or other orders as the Court may deem appropriate.

Originating Application
Filed on behalf of the Applicant
Form PEC-3

Morrow Petersen
Ground Floor, Corporate Tower
15 Lake Street, Cairns Queensland 4870
Ph: (07) 4052 1199
Fax: (07) 4052 1711

Ref: TLF:204091

204091-Application-TLF.doc August 3, 2004 2:09 PM Form PEC-3

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The grounds relied on are:

1. By application dated 19 January 2004 the Applicant applied to the Respondent for the issue of a development permit for a material change of use for the purposes of a licensed brothel on Lot 7 on SP101286, Parish of Cairns.
2. By letter dated 26 February 2004 the Respondent issued an acknowledgment notice stating that the subject application was impact assessable and including the Prostitution Licensing Authority (PLA) as a referral agency. On the same date, the Respondent referred the subject application to the PLA.
3. By letter dated 10 March 2004 from its consultants, Planning Far North, to the Respondent, the Applicant submitted that the subject application was code assessable rather than impact assessable.
4. By letter dated 12 March 2004, the Chair of the PLA, the Honourable WJ Carter QC, wrote to the Respondent, in relation to the subject application, stating that:
"the application of Section 63A to the land in question should properly lead to the conclusion that the land is in "an industrial area" and the application is therefore code assessable".
5. By letter dated 15 March 2004, the Respondent issued an information request to the Applicant concerning the subject application.
6. By letter dated 2 July 2004 from its solicitors, Morrow Petersen, to the Respondent, the Applicant again submitted that subject application was code assessable rather than impact assessable.
7. On 22 July 2004 the Respondent at its ordinary meeting resolved that the application was impact assessable and required public notification.
8. The Applicant was notified by letter dated 26 July 2004 received on 29 July 2004 of the Respondent's decision.
9. The site of the proposed licensed brothel is in an "industrial area" as defined in section 63A(3) of the *Prostitution Act 1999*, being:
"land, however described, that is designated in the planning scheme or other planning instrument under the Integrated Planning Act as industrial or that is predominantly industrial in character having regard to:
 - a) *dominant land uses in the area; or*
 - b) *the relevant provisions of a planning scheme or planning instrument applying to the area".*

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10. Schedule 1 of Regulation provides that an application for a material change of use of premises for a licensed brothel in an industrial area requires code assessment.

Morrow Petersen
.....
Solicitors for the Applicant
Morrow Petersen

NB. This application is to be heard by the Court at Cairns on a date during the next sittings of the Court commencing 30 August 2004/the day of 2004 at am/pm.

If you wish to be heard on this application you must within ten business days of receipt of this application, file an entry of appearance in the Registry of the Court. The entry of appearance should be in the form set out in form PEC-6 for the Planning and Environment Court.

ENTRY OF APPEARANCE

In the Planning and Environment Court
Held at: CAIRNS

Application No. 340 of 2004

Between: **AART BRONS**

Applicant

And: **CAIRNS CITY COUNCIL**

Respondent

Filed On: 5 August 2004

Filed By: MacDonnells Solicitors, Picha Djoban

Service Address: Car Shields & Grafton Streets
CAIRNS QLD 4870

Phone: 4030 0573

Fax: 4030 0699

CAIRNS CITY COUNCIL of 119-145 Spence Street, Cairns Qld 4870, the above Respondent enters an appearance to the Originating Application.

MacDonnells Solicitors
MacDonnells Solicitors
Solicitors for the Respondent



ENTRY OF APPEARANCE
Filed on behalf of the Respondent
Form PEC-6

MacDONNELLS Solicitors
Car Shields & Grafton Streets, Cairns Qld 4870
Ph: (07) 4030 0573 Fax: (07) 4030 0699
Our Ref: PD-44660

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