

## ENVIRONMENT, RESOURCES AND DEVELOPMENT COURT

**JUDGMENT NAME:** MCSHANE & ORS v DC LOWER EYRE PENINSULA & CROSSMAN

**CITATION:** [2003] SAERDC 45

**PARTIES:**  
**Appellant(s)**  
CAROLINE MCSHANE, MARTIN MORRIS, BERNADETTE NEWELL, COLIN PARKER, BRIAN SAUNDERS, RICHARD SAUNDERS & JOANNA TERRELL

**Relevant Authority**  
DISTRICT COUNCIL OF LOWER EYRE PENINSULA

**Respondent(s)**  
LYN CROSSMAN

**FILE NUMBER(S):** 1241 & 1309 of 2001

**HEARD BY:** HER HONOUR JUDGE COLE, COMMISSIONER BOTTING & COMMISSIONER HUTCHINGS

**SUMMARY:** Third party appeal against two development applications – one for land division and one for a health clinic on the largest allotment – Council granted provisional development plan consent to both applications subject to conditions – land situated within Deferred Urban Zone – impact on native vegetation, bushfire safety, stormwater disposal and water supply – potential to prejudice the orderly and economic development of the Deferred Urban Zone – applications premature – appeals allowed.

**LEGISLATION CITED:** *Development Act 1993; Development Regulations 1993; Native Vegetation Act 1991; Native Vegetation Regulations 1991; Water Resources Act 1997*

**CASES CITED:**

**HEARING DATE(S):** 18 to 27 February 2003

**JUDGMENT DATE:** 22 April 2003

<b>REPRESENTATIVES:</b>	<b>Appellant(s)</b> MR M PARNELL	<b>Solicitors</b> ENVIRONMENTAL DEFENDERS OFFICE
	<b>Relevant Authority</b> MR P BRODERICK	<b>Solicitors</b> LEMPRIERE ABBOTT & MCLEOD
	<b>Respondent(s)</b> MR S HENRY	<b>Solicitors</b> HUNT & HUNT

**CAROLINE MCSHANE, MARTIN MORRIS, BERNADETTE NEWELL,  
COLIN PARKER, BRIAN SAUNDERS, RICHARD SAUNDERS &  
JOANNA TERRELL**

**v**

**DISTRICT COUNCIL OF LOWER EYRE PENINSULA**

**&**

**LYN CROSSMAN**

**(ERDC Nos. 1241 & 1309 of 2001)**

**[2003] SAERDC 45**

**THE COURT DELIVERED THE FOLLOWING JUDGMENT:**

1 By Development Application dated 28 June 2001, and lodged with the District Council of Lower Eyre Peninsula (“the Council”) on 3 July 2001, Ms Lyn Crossman (“the proponent”) applied for development approval to undertake land division at Lot 213, Jubilee Drive, Coffin Bay (“the land”). The application (“the land division application”) was to divide one allotment into 37 allotments plus a reserve. The certificate of title for the land, Volume 5796 Folio 75 shows that the land is approximately 24 acres (9.69 hectares) in area.

2 Another development application by the proponent to the Council, on the same day, sought approval to develop on the largest allotment to be created by the division of the land a “*Health Clinic*” (“the health clinic application”).

3 The plans accompanying the applications show 36 residential-sized allotments, one large area of open space, two new public roads within the land, and a health clinic sited on a large allotment on the south west side of the land. The health clinic comprises a large central building, together with 24 accommodation units in 6 blocks of 4 units each. Although it would be possible to consider the applications separately, the applicant sought to have them dealt with together, effectively as one proposal.

4 The Council processed both of the applications as Category 3 kinds of development, and gave notice of them accordingly. Numerous representations were received, some in opposition to the proposed development, and some in support of it.

5 On 19 October 2001, the Council resolved to grant provisional development plan consent to both applications. The provisional development consent in relation to the health clinic application was subject to 10 conditions. On the same day, development approval was granted in relation to the land division application, subject to 14 conditions.

6 By notice of appeal dated 5 November 2001, Caroline McShane, Martin Morris, Bernadette Newell, Colin Parker, Brian Saunders, Richard Saunders and Joanna Terrell (“the appellants”) appealed against both approvals.

**Zoning**

7 The land is within the Deferred Urban Zone in the Lower Eyre Peninsula (DC) Development Plan. There are 2 objectives for the Zone:-

*“Objective 1: Land kept free of urban development until required for such purposes.*

*Objective 2: Land used so as not to prejudice its future orderly and economic development for urban purposes.”*

8 The first 4 principles of the 8 principles of development control for the zone were the subject of the most discussion during the hearing of this matter, so we set them out here. We have had regard to all of the provisions of the zone.

***“PRINCIPLES OF DEVELOPMENT CONTROL***

1. *Land should not be divided until:*

*(a) water and power services and a common effluent drainage scheme have been provided; and*

*(b) the Residential Zone in Coffin Bay township has been substantially divided and used for residential purposes.*

2. *Development likely to hinder or prevent the future orderly and economic development of the zone for urban purposes should not be undertaken.*

3. *Development should be compatible with existing uses of land in adjacent zones.*

4. *Native vegetation should wherever possible be retained and buildings sited so as to minimize vegetation clearance.”*

9 Neither the land division proposed nor the health clinic are complying or non-complying kinds of development in the Deferred Urban Zone.

10 The town of Coffin Bay is bounded by the sea, Coffin Bay National Park and Kellidie Bay National Park. The northernmost portion of the town, which is to the north of Jubilee Drive, is zoned Residential, except for the land seaward of the esplanade, which is zoned Coastal (Coffin Bay). The Deferred Urban Zone is a large, irregularly shaped area to the south of both Jubilee Drive and the Residential Zone. These zones are shown on Maps LEP/35 and 36. The land is a portion of the Deferred Urban Zone.

11 The land also appears on the Coffin Bay (Town Structure) Plan Map LEP/1 (Overlay 1) Enlargement A, where it is shown to be within an area for “living”. Not all of the Deferred Urban Zone is designated “living” on that map.

12 It was argued, on behalf of the first and second respondents, that the zone provisions left open the possibility that the urban development contemplated for some future time by the Zone objectives could occur while the current provisions for the

Zone remained in force, should the right circumstances come to pass. Those circumstances were said to be, in summary, an apparent shortage of vacant residential allotments on the market.

13 The term “urban development” encompasses many possible kinds of development – essentially any kind of development one would expect to see in a city, or, in the context of Coffin Bay, the town. Residential development, shopping, offices, civic development, industrial development and some forms of tourist facilities are all capable of being “urban development”. Those Zones in the Lower Eyre Peninsula (DC) Development Plan which are for a specific purpose, such as the Residential Zone and the Industrial Zone, are considerably more detailed and prescriptive than the Deferred Urban Zone.

14 The purpose of the Deferred Urban Zone can be divined from its objectives. The first objective says that land is to be kept free of urban development until required for such purpose. It was argued on behalf of the proponent, on a variety of bases, that the land is now required. Various ways of assessing this were put forward. We do not consider that it was intended that the relevant authority, for development assessment purposes, would make these assessments. We are fortified in this conclusion by Objective 2, which contemplates a future time at which the orderly and economic development of the land for urban purposes will take place – ie, a future time beyond the life of Objective 2. Objective 2 is supported by Principle 2, which we take to mean that development which would pre-empt policy decisions, which are yet to be made, about what the orderly and economic development of the Zone for urban purposes might be, should not be undertaken. Some development might take place in the Deferred Urban Zone, as is evident from Principles 1, 3, 4 and 5, but it should be of a scale such that it does not dictate the future of its locality.

15 The size of the land division and the health clinic proposed by the proponent is contrary to the purpose of the Deferred Urban Zone. It would pre-empt the strategic planning process which needs to take place in order to ascertain whether the time has come when a change in zoning should occur to direct the form and type of urban development which is desired in different areas of what is now the Deferred Urban Zone. This process requires decisions, not only in relation to the appropriate zoning, but also concerning the many provisions needed to guide the size, form and scale of the land uses contemplated for the new zones (if there are to be new zones). When formulating planning policy, considerations of strategy and development control are intertwined.

16 A number of specific issues were raised by the appellants in objection to the land division and health clinic applications. We heard a great deal of evidence and argument about native vegetation, bushfire risk, stormwater management and the availability of water. We will set out our reasoning in relation to those issues, as it may be useful to the parties in other fora.

### **Clearance of Native Vegetation**

17 The land is almost entirely covered with native vegetation. The *Native Vegetation Act 1991* provides, in Part 5, that native vegetation must not be cleared unless the consent of the Native Vegetation Council has been obtained, or unless the vegetation is of a prescribed class, or there are prescribed circumstances. No appeal lies against a refusal of consent (Section 29(12)). The Native Vegetation Council must comply with the rules of natural justice, and a failure by it to observe those rules can result in an order of the District Court quashing the Council's decision. The Native Vegetation Regulations 1991 provide, among other things, in Regulation 3(1):-

“3 (1) Pursuant to section 27 of the Act, native vegetation may, subject to any other Act or law to the contrary, be cleared –

...

(c) if –

(i) the clearance is incidental to a proposed development to which section 48 of the *Development Act 1993* applies;

...

(f) where the vegetation is situated within 20 metres of a dwelling;

...

(j) where the clearance is for the purpose of –

(i) providing a strip of cleared land of not more than five metres in width on each side of an existing fence (or of a fence in the course of construction), to give access for the purpose of maintaining or establishing the fence; or

(ii) a track for the passage of vehicles having four or more wheels and that is not more than five metres in width;

...”

18 In these circumstances (among others), the clearance of native vegetation can lawfully occur without the consent of the Native Vegetation Council.

19 The appellants were concerned that if the development applications were approved and the development proceeded, a significant amount of the native vegetation presently on the land would have to be removed, simply to allow the health clinic to be built, and the potential would be created for more clearance to occur to accommodate fences between allotments, and for the houses which, it could be reasonably expected, would eventually be the subject of development applications in respect of each allotment.

20 Dr Brian Saunders, an appellant, gave evidence in the appellants' case. He had undertaken a detailed survey of the native vegetation and wildlife on the subject land. He provided a list of reptiles, birds and plants, which he had found on the land. In his written statement, he concluded:-

*“The subject land is occupied by a diverse plant community within which introduced plant species are insignificant. The vegetation of the site consists of mixed drooping sheoak and dryland teatree low woodland with a large number*

*of trees of varying ages and sizes. It is thus unusual for the region as it has withstood detrimental influences to the present time. A great diversity of vertebrate and invertebrate animals are dependent upon the site (sic). ... The proposed development is expected to have a profound detrimental impact on the vegetation found at the site and the animals dependent upon it."*

21 Dr Saunders is a medical doctor, with a BSc (Zoology). He gave evidence that he had read widely in marine biology, zoology, ecology and southern Australian botany. We were satisfied that he had sufficient expertise to identify the reptiles, birds and plants on his lists.

22 The appellants also called Mr Graham Carpenter, an assessment officer of the Department of Water, Land and Biodiversity Conservation. Mr Carpenter provided a list of plant species and birds he had observed on the land during a single visit to the land. Mr Carpenter concluded, in his statement:-

*"The subject land supports a relatively undisturbed block Drooping sheoak low woodland (sic). It is considered to support a high diversity of native plant species and provide an important habitat for wildlife. Clearance of the area would be considered to seriously contravene planning principles relating to native vegetation. If a clearance application under the Native Vegetation Act 1991 was submitted over the area, it would be recommended that the Native Vegetation Council not support the application."*

23 It was argued on behalf of the appellants that the native vegetation on the land was too valuable, both in itself and as a habitat, to permit removal. This, despite the presence of two national parks abutting Coffin Bay, one of which, the Coffin Bay National Park, is within one kilometre of the land. Mr Carpenter said, after identifying the vegetation on the land as *allocasuarina verticillata* low woodland of coastal plains:-

*"Allocasuarina verticillata low woodland of coastal plains has an extensive distribution within the nearby Coffin Bay National Park, where it has been subject to extensive fires in recent years. According to Neagle (1995), the Park supports about 9% of Allocasuarina verticillata low woodland of coastal plains, which equates to about 2700 ha. Note however previous land use, grazing animals and recent fires have significantly degraded most of this area. In particular, extensive fires over the last ten years or so have had major impacts on the sheoak woodland in the park. As a consequence, much of the area mapped as sheoak low woodland either lacks trees or only has scattered senescing individuals. In contrast the Allocasuarina verticillata low woodland on the subject land is relatively undisturbed."*

24 Mr William Matheson, a land management and conservation expert who gave evidence in the proponent's case, agreed that the native vegetation on the land is diverse in terms of species and is in "very good condition with little obvious impact from human activities". He believed, however, that with a land management agreement in place to protect those parts of the native vegetation which he considered

to be significant, the proposed development could proceed, and, indeed, *“offers a unique opportunity to integrate a state of the art health clinic with a high quality stand of native vegetation.”* Mr Matheson frankly agreed that he had been presented with the proposal plans, and asked to advise on them. He had not been involved in their formulation.

25 During the hearing, the proponent amended the proposal plan to show areas of native vegetation which would be retained, protected, if necessary, by a land management agreement.

26 We have had regard to all of the evidence of the experts on native vegetation and wildlife. We have also had regard to Principles 64 to 69 of the Development Plan for Lower Eyre Peninsula (DC), particularly Principles 65 and 68 which state:-

*“65. Native Vegetation should not be cleared if it:*

- (a) provides important habitat for wildlife;*
- (b) has high plant species diversity or has rare or endangered plant species and plant associations;*
- (c) has high amenity value;*
- (d) contributes to the landscape quality of an area;*
- (e) has high value as a remnant of vegetation associations characteristic of the district or region prior to extensive clearance for agriculture; or*
- (f) is growing in or is characteristically associated with a wetland environment.”*

*“68. Development should have regard to the conservation of flora and fauna and, wherever possible, provide for the retention and reinstatement of vegetation.”*

27 The Development Plan provides, in the introduction to the Deferred Urban Zone:-

*“To the extent of any inconsistency between the zone provisions and the provisions applying to the council area, the zone provisions will prevail.”*

28 Principle of Development Control 4 for the Zone provides:-

*“4 Native vegetation should wherever possible be retained and buildings sited so as to minimize vegetation clearance.”*

29 Questions relating to the clearance of native vegetation arise in numerous contexts under the *Development Act 1993*. Principle 4 does not provide a great deal of assistance in assessing whether the health clinic and land division should be approved.

It says that buildings should be sited to minimize clearance, but, in saying that, it contemplates that new buildings will be approved. We infer that what was in contemplation was development on a much smaller scale than what is proposed.

30 A strategic planning process, directed at arriving at a policy decision as to whether the Development Plan should be amended to change the zoning of some or all of the land in the Deferred Urban Zone to designate it for a specific kind of urban development, would encompass the assessment of the native vegetation and provide, in the Plan Amendment Report (were one to emerge from the process) direction as to what is intended with respect to balancing the intended use of the land with the provisions of the Development Plan relating to the native vegetation on the land.

### **Bushfire Risk**

31 In evidence, Coffin Bay was referred to as a high or extreme risk locality in relation to bushfires. Mr Neil Ellis, the Regional Commander of the CFS for the West Coast of the Eyre Peninsula, gave evidence in the proponent's case. Mr Brian Menadue, the CFS Development Assessment Officer, Bushfire Protection, gave evidence in the appellant's case. In his letter to the Council dated 13 December 2001, Mr Menadue said:-

*“An officer of the SA Country Fire Service (CFS) Development Assessment Unit (Bushfire Protection) has inspected the proposed development site and surrounding areas.*

*The Bushfire hazard for the area has been assessed as **EXTREME.**”*

32 Coffin Bay is located on the coast, with large national parks on two of its remaining three sides. Clearly, in some conditions, the entire town, including the land, would be vulnerable to bushfires.

33 Both Mr Ellis and Mr Menadue, in their evidence, discussed the lessons learned from the Tulka fire in February of 2000. The lesson from that fire most relevant to the proposal was the importance of buildings being built in a spark and cinder resistant manner. If the buildings are built in compliance with Australian Standard 3959, Mr Menadue said that his concerns in relation to the buildings being vulnerable to destruction or damage because of “spark and ember attack” – a process by which a house catches fire, not because of direct contact with the flames of a bushfire, but as a consequence of sparks or embers coming into contact with flammable material in or on a house – would be allayed.

34 There was extensive evidence given about the adequacy of the vehicular access and egress points into the proposed subdivision. Mr Menadue suggested that access roads B and D to the subdivision have a turnaround circle added to the end of them to facilitate the movement of vehicles used in fire fighting. Mr Menadue and Mr Ellis agreed that any house built on the land should have a rainwater tank with a capacity of 22,500 litres for fire fighting purposes. Mr Menadue also thought that those tanks should have a pump.

35 If the land were divided as proposed, and houses came to be built upon the resultant allotments, then danger to those houses from fire would be diminished if the native vegetation were cleared around the houses. To put it simply, the wider the clearance between a house and an area of native vegetation, the safer the house would be in the event of a fire.

36 We are satisfied that the development could be made as safe from bushfire as most of the rest of Coffin Bay with the imposition of AS 3995, some minor changes to access roads B and D, and the provision of sufficient rainwater tanks.

### **Stormwater**

37 Mr Stephen Holmes, a planner who acted as the agent of the proponent in relation to both applications, gave evidence in the proponent's case concerning a number of issues, including stormwater disposal. Mr Holmes frankly conceded that, whilst he had received some preliminary advice from a firm of engineers regarding options for stormwater disposal, a final scheme had yet to be designed. Mr Holmes said that it was his expectation that a stormwater retention pond or ponds could be accommodated within the area labelled for that purpose in the plan attached to his statement. However, as his speculation progressed as to what the stormwater collection and disposal scheme might be, it became increasingly apparent that it is unlikely that the whole of the scheme which might be required to deal with stormwater from the whole of the land could be wholly accommodated in that area.

38 Had we taken a different view of the meaning of the zone provisions, the inadequacy of the development scheme with respect to stormwater disposal infrastructure and management would have prevented us from approving the development in the form in which it was presented.

### **Water**

39 The current factual situation with respect to the water supply to Coffin Bay was not in dispute. The evidence is that SA Water holds a licence from the Minister, pursuant to the *Water Resources Act 1997*, which permits the taking, per annum, of 98.89 Ml of water from the Coffin Bay A Lens for public water supply purposes. For the financial years 2001/2002 and 2002/2003, the Minister has provided an additional allocation of 102.8 Ml in total, or 51.4 Ml per year. Thus, for the financial year 2002/2003, the total extraction by SA Water permitted by licence is 150.29 Ml. It is not yet known whether a further additional allocation will be given to SA Water for 2003/2004.

40 In 1999/2000, 202 Ml was extracted from the Coffin Bay A Lens for public water supply. In 2000/2001, the figure was 130 Ml. The predicted extraction for 2002/2003 is 112 Ml. The progressive reduction is partially accounted for by the repair of leaky components in the distribution system, described in evidence by Mr Christopher Marles and Mr John Minney. Water restrictions of the kind imposed by notice in the Government Gazette of 5 December 2002 (Exhibit A9) may also have played a part in the reduced extraction. The predicted extraction for 2002/2003 of 112 Ml exceeds the base licence allowance of 98.89Ml for that period by 13.11 Ml.

41 Mr Holmes calculated that the health clinic, together with the subdivision, assuming that a house was built on each residential sized block, would require from the public water supply, 3.64 ML per annum. His assumptions and calculations are set out in Exhibit E. Under cross examination, Mr Holmes agreed that the requirement from SA Water may be somewhat higher than his estimate, but by less than one mega litre. Mr Holmes' calculations were based upon the idea that the proposal would incorporate:-

- water saving devices in all of the households;
- a domestic rainwater tank of 22,500 litre capacity for each dwelling in the subdivision and each accommodation unit in the health clinic;
- a limit of 200 square metres of landscaping which requires irrigation, per allotment, and a mandatory endemic species planting schedule outside of the irrigated areas; and
- the use of a 500 Kl stormwater retention basin and pump system for the irrigation of the clinic grounds, possibly in conjunction with an aquifer recharge scheme.

42 It was Mr Holmes' evidence that the proponent was proposing to impose a land management agreement or encumbrance to "guarantee performance" of these measures.

43 The appellants applauded the recognition by the proponent of the importance of water saving measures. It was argued, however, that such measures would be very difficult to enforce. The impact on the site planning of a water tank for each residential allotment and 10 water tanks for the health clinic site was raised. It was the opinion of Mr Menadue and Mr Ellis that a 22,500 litre capacity tank should be present on each residential allotment so that all of the water in that tank would be available for fire fighting purposes. It could not, therefore, be used for domestic water supply. It would seem, therefore, that each allotment would need to have installed two large water tanks when it is developed.

44 Mr Minney, an engineer and former Manager, Headworks, for SA Water, gave evidence in the appellants' case. He believed that the health clinic and the dwellings in the subdivision would require a greater amount of water than the amount estimated by Mr Holmes. Referring to the Draft Eyre Peninsula Water Supply Master Plan ("the draft Master Plan"), Mr Minney calculated that the anticipated demand for water in Coffin Bay over the next 10 to 15 years was likely to exceed the current licence allocation, even if an additional allocation in the order of 51.4 ML per annum continues to be given. Mr Minney estimated that the requirement would be between 177 to 182 ML.

45 Mr Minney confirmed that an investigation of the capacity of the Coffin Bay A Lens has begun, but the outcome of it will not be known for about 2 years. He discussed the three "augmentation options" which are identified in the draft Master Plan. Mr Minney agreed that one or more of those options could be implemented. He also said that there were further possibilities for increasing the amount of water available to Coffin Bay. However, he thought that it would be inappropriate to rely on

any of those augmentation options because he did not think that there was certainty that one or more of them would be implemented. He did not think that the proponent could rely upon the agreement contained in the letter of 6 August 2002 of SA Water to Mr Holmes, and Mr Holmes response of 4 September 2002. The SA Water letter said, in part:-

*“Under the circumstances SA Water undertakes to supply potable water to the proposed International Health Clinic and the 36 additional allotments provided that a contribution of \$196,870 is received towards a solution to be determined by SA Water. The developers will also be responsible for the provision of infrastructure to the new allotments.”*

46 Mr Holmes accepted that offer on behalf of the proponent, subject to the receipt of approval for the development applications and the commencement of the development. It was argued on behalf of the appellants that this agreement was too vague as to the timing of the choosing and construction of the works which would need to be performed to be of any comfort to the proponent.

47 The proponent’s response was that they had an agreement with SA Water, upon which they were entitled to rely, and it was not appropriate in this forum to go behind that agreement.

48 In most cases, an applicant would be entitled to rely upon an arrangement reached with SA Water for the supply of water to the land the subject of a development application. However, the arrangement with SA Water adduced in evidence in this matter did not address the timing of the supply of potable water to the land. It also sought a contribution to a “solution”. It is implicit in the arrangement, and in the evidence of Mr Marles, that the amount of water, which SA Water is entitled to take under its licence from the Minister, should be increased before the land division and health clinic require water.

49 Mr Henry argued on behalf of the proponent that the requirements of the land division and health farm could be met within the existing allocation. On the basis of what is before us, we do not think that that is SA Water’s intention.

50 Principle 1(a) of the Deferred Urban Zone says that land should not be divided until, among other things, water has been provided. This does not mean that water must already have been piped to the land prior to approval being able to be granted. However, reliable arrangements for water to be available to the site within the life of the approval to be granted must be in place. We are not satisfied that those arrangements are in place.

51 Mr Marles, of SA Water, who gave evidence in the proponent’s case, agreed with Mr Minney that the assessment of the Coffin Bay A Lens was likely to take a further 2 years to complete. Mr Marles said that no choice had yet been made as to which of the options identified in the draft Master Plan would be pursued. In his statement, Mr Marles said:-

*“The final choice is likely to be influenced by factors including power supply and environmental approvals. However, SA Water is committed to the provision of a sustainable water supply for Coffin Bay township.”*

52 We cannot confidently say, on the evidence before us, that if the land division and health clinic were to be approved now, water will be available within 3 years (see Regulation 48 of the Development Regulations). The issues relating to the augmenting of the water supply to Coffin Bay, and to Eyre Peninsula generally, are complex. We would expect that a great deal more information than that which is before us would be generated in relation to those issues. Again, these issues would be more appropriately examined in the context of a strategic planning exercise than a development assessment.

### **Conclusion**

53 Our interpretation of the provisions of the Deferred Urban Zone, in the context of the Development Plan for Lower Eyre Peninsula, is that development within that Zone should be small in scale, because it is intended at some future time to undertake a strategic planning exercise in which the particular urban uses for which various areas of the zone are suitable will be identified, and a Plan Amendment Report prepared to rezone the land.

54 The land division and health clinic have the potential to prejudice the orderly and economic development of the Deferred Urban Zone by pre-empting the strategic planning process. We expect that issues such as the availability of water, the timing of future land division, bushfire safety and the balancing of the value of native vegetation against considerations militating in favour of the development of land for a range of urban purposes, will be dealt with in the strategic planning process.

55 The applications are premature.

56 Even had the applications not been premature, however, further work would have been needed before we would have considered approving them. Among the issues which would require further consideration are stormwater disposal, the management of retained native vegetation, the siting of the clinic in relation to the boundaries of the land and the siting of tanks for bushfire purposes and for rainwater for domestic use. Arrangements for the recycling of grey water need to be clearly explained.

57 The appeals are allowed. The decision of the Council in relation to Development Application No. 932/121/2001 and Development Application No. 932/D011/2001 are reversed.