



BOTTOMS ENGLISH LAWYERS

Our Ref: John Bottoms 17352

16 January 2008

Mr Aart Brons
4/393 Draper Street
CAIRNS QLD 4870

By Email: manager@northernbelle.com.au

Dear Mr Brons

RE: TOWN PLANNING DISPUTE

We refer to the above matter and our lengthy attendance on you, together with Ms Sapelli of our office, on Wednesday 16th January 2008

We note your contention that "certain documents (relating) to (your) development were withheld from Councillors and not included in the Planning Report".

Effectively, the result of this was that Councillors were not aware that the Application was code assessable and in the words of the Honourable W J Carter QC in his correspondence of 12th March 2004:

"The prior decision in Grant V Cairns City Council is clearly distinguishable and not relevant for the purposes of this Application."

As best we can understand it your concern is that the correspondence from the Prostitution Licensing Authority dated 12th March 2004, was not provided to the appropriate officers within Council, and/or Councillors – all of which has resulted in a court case and subsequent delay (we presume) in the construction, and subsequent opening of your present business.

You will appreciate that we are completely unable to comment on whether or not you have any remedies against Council arising out of your concerns in this matter.

We confirm our advice that before we can comment further on the matter it will be potentially necessary for us to review both court cases and the decisions arising there from, together with the file held at Morrow Peterson.

We can then prepare a Brief to Counsel to advise in relation to prospects of success.

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Depending on our review of the material it is possible that you may have a cause of action for either:

- Misfeasance in the conduct of a Public Official; and/or
- Breach of a statutory duty and/or Common Law duty by a Public Official;
- Some other remedy;
- No remedy at all.

Until this first step is complete and we have briefed Counsel we are simply unable to comment about your situation and/or the remedies actually available.

You need also to bear in mind that a remedy be theoretically be available – but the evidence necessary to prove it may not.

You should appreciate that this matter would most likely be a Supreme Court action and you should not expect that costs in total would be less than \$200,000 over a period of time.

Accordingly, it is a not a matter you should not enter lightly into.

Our job is to present you with the various options available to you.

We confirm that our estimate of fees to read the material and put the brief together for Counsel would be approximately \$10,000 and we estimate (subject to talking to Counsel) that his opinion would cost approximately \$5,000.

In order to proceed we would require:

1. A formal retainer agreement in accordance with Law Society regulations;
2. An undertaking from you that you would make no further comments to the newspapers or other media about the matter involving ourselves;
3. Payment of the sum of \$10,000 to our Trust Account in anticipation of our costs and outlays.
4. Payment of the balance of \$5,000 to our Trust Account prior to delivering the Brief to Counsel.

In relation to the question of appropriate counsel we note your previous involvement with Mr Stuart Ure and Ms Tracey Fantin.

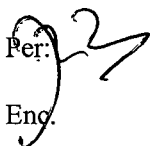
We have **enclosed** a Client Service Agreement, Trust Account Authority and Authority to Morrow Peterson authorising us to obtain your previous file.

Once we have this material and the funds and have had an opportunity to read it, we will arrange for a detailed conference with yourself to go through the matter.

We look forward to hearing from you.

Yours faithfully

BOTTOMS ENGLISH

Per: 
Enc.