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2 April 2002

SECTION 2D INQUIRY
PRODUCTIVITY COMMISSION
PO BOX 80
BELCONNEN ACT 2616

Fax: (02) 6240 3311

Dear Sir,

Re: Review of Section 2D of the Trade Practices Act of 1974 (Revised Submission)

I am responding to the proposal to review Section 2D of the Trade Practices Act of 1974, as a representative of Noosa Council. This is a revised submission and replaces my submission dated the 26th March 2002, following discussions with Mr Bill Hendeson.

Noosa Council would object to the repeal of Section 2D of the Trade Practices Act as this section provides substantial protection for Noosa Council in its decisions relating to the issue of licenses and permits under its Local Laws and the enforcement of State Government Acts and Regulations. There are many and varied circumstances where Council makes decisions to refuse to grant a licence or permit for the good government of the Shire, or where the granting of a permit would seriously impact on the operating efficiency, Shire amenity and activities of other businesses within the Shire. The best method of drawing this information to your attention is to quote some examples.

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Liquid Waste Disposal:

Noosa Council currently operates a Liquid Waste Recycling Centre in the Shire for the collection of grease trap waste and oily water residue collected within the Shire. This facility is used for the holding of waste and Council has issued a contract, following a tender process, to one contractor to transport liquid waste from the facility to recycling plants in Brisbane. The contract is based on a price for the transport of the waste and the treatment of same.

At the present time only two contractors collect and dispose of liquid waste at this facility and Council has arranged for separate holding tanks for those two contractors so that liquid waste can be segregated and accurately costed against the respective companies who dispose into that facility. Council has been approached by other companies to use this facility and issue a licence for the collection of liquid waste from private premises throughout the Shire. There is potential for the number of contractors who use this facility to substantially increase and the only practical solution to segregating waste and accurately apportioning the volumes collected by other contractors would be to provide separate storage facilities for them. However, the volume of waste collected from a large number of contractors would make the provision of separate storage tanks totally unfinancial or it would create a massive increase in the cost of servicing facilities throughout the Shire, because Council would have to include a high overhead for the cost and maintenance of the currently unmanned facility. Consequently the Council deems it unreasonable to issue additional permits to operators outside the Shire to come into Noosa Shire and perform liquid waste collections and disposal into Council's facilities. It is estimated that the cost associated with expanding the number of contractors could double the disposal costs to the consumer.

If the provisions of Section 2D were removed then Council could be subject to action under the Trade Practices Act for refusal to issue a licence to additional contractors to operate in the Shire. There is only one locally based contractor who collects and disposes of waste and he is authorised to use the Council facility. Consequently, local contractors are not inconvenienced through this arrangement.

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Jetties and Moorings:

Noosa Council approves private and commercial jetties along the Noosa River and Lakes. Applicants must submit plans and specifications for construction and they must obtain an annual licence from the Council for their activities. Council does not prohibit the construction of private jetties attached to private premises, provided reasonable standards can be maintained and set backs from neighbouring properties do not allow jetties or vessels to encroach on neighbouring river frontage. However, Council does not permit any further commercial jetties, or private jetties, to be constructed along the foreshore of the Noosa River or lakes, where the land is owned by the Crown with Council as controller of the foreshore.

Council is under substantial pressure from various commercial operators seeking to build a commercial jetty along the foreshore, upon land which is not owned by them but is either Crown or Council controlled. Additionally, existing commercial operators constantly seek to expand their fleet and their area of operation which has the potential to impact seriously upon the amenity of the Noosa River and foreshore.

Issues such as requirements for additional car parking, public toilet facilities, provision of water and refuse services, have serious implications on the amenity of the Noosa River, which has been identified as the most important tourist facility within the Shire. The Noosa River has also been identified by the Department of Transport as being the busiest waterway in Queensland during peak holiday periods and further escalation in the number of commercial vessels would be totally unproductive to the aims and objectives of the Council and the Community.

If Section 2D is removed then Council could be subjected to a challenge under the Trade Practices Act for refusal to grant a licence to construct a jetty or to expand the current use of a jetty for commercial purposes in an area where an owner has no legal rights to operate. Whilst limiting the number of commercial vessels associated with commercial activities may be restrictive it is certainly an item which has the full support of the whole community and there are serious questions being asked by the community about the proliferation of houseboats and other commercial vessels on the river to the detriment of the shire.

Yours faithfully



Wayne Schafer

MANAGER - ENVIRONMENTAL HEALTH