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**BUILDING AND DEVELOPMENT TRIBUNAL - DECISION**

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**Local Government:** Eacham Shire Council

**Site Address:** 2 Main Street, Millaa Millaa.

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**Nature of Appeal:** Appeal under Section 4.2.13 of the Integrated Planning Act 1997 and Section 24 of the Building Act 1975 against the decision of the Eacham Shire Council to issue an Enforcement Notice pursuant to section 22(1) of the Building Act 1975, requiring, in respect of premises at 2 Main Street, Millaa Millaa, that the following be done:

1. Immediately prevent access to the northern section of the suspended floor, being the section ten metres in length measured from the northern wall. Access is to be prevented to both above and below the suspended floor.
2. Immediately prevent access to areas that might be affected by the collapse of the floor.
3. Except that persons investigating repair or demolition of the floor, and persons making repair or demolition are allowed access.
4. Submit a structural engineer's certificate, by 5 July 2002, identifying those sections of the suspended floor that will be repaired, and those that will be demolished.
5. Demolish the section of the floor, identified by the structural engineer, by 31 July 2002.
6. Provide a structural engineer's certification that the remainder of the building has been left safe after the demolition of the floor by 8 August 2002.
7. Make the repairs identified by the structural engineer by 27 September 2002.

The enforcement notice is dated 20<sup>th</sup> day of June 2002.

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**Date and Place of Hearing:** 10.00am on Tuesday 16<sup>th</sup> July 2002, at the site, 2 Main Street, Millaa Millaa.

**Tribunal:** Nigel Daniels, Reg Arch, Building and Development Tribunal Referee.

**Present:** Steven Ripper, Eacham Shire Council  
Mark Jenkinson, Eacham Shire Council  
Owner  
Chas Gianarakis, CMG Consulting Engineers Pty Ltd.

**Decision**

In accordance with section 4.2.34. of the Integrated Planning Act 1997, the decision of the tribunal is to change the Eacham Shire Council's decision to issue the enforcement notice, so that the requirements of

the enforcement notice are as follows:

With regard to the premises at 2 Main Street, Millaa Millaa, on land described as Lot 2 on RP 739667 Parish of Dirran, the following are required:

1. The recommendations for remedial work contained in the report from CMG Consulting Engineers Pty Ltd must be implemented. A transcript of the content of the report is attached hereto as Attachment 1.
2. A public access and safety plan must be prepared and agreed between the owner and the Eacham Shire Council. The objective of the public access and safety plan is to allow safe use of the building and safe access by the public while the remedial work is being carried out. The plan may exempt specified areas from access when and where necessary to ensure safety and to allow remedial work to be carried out.
3. The public access and safety plan may include provision for temporary propping of the floor and beams. Such temporary propping may remain in place for a maximum period of 12 months. The temporary propping must be inspected by a consulting engineer at periods not exceeding three months.
4. The whole of the remedial work must be completed by 27 September 2003.
5. The following sections of the original enforcement notice issued by Eacham Shire Council remain in force until such times as the public access and safety plan is implemented: Sections 1, 2 and 3.

## **Background**

In relation to a building at 2 Main Street, Millaa Millaa, on land described as Lot 2 on RP 739667 Parish of Dirran, the Eacham Shire Council, acting on reasonable belief that the suspended reinforced concrete floor under the café and office areas is dangerous because the cover concrete has fallen in many areas, reinforcing bars are exposed and falling out of the slab, and reinforcing bars are rusted, issued an enforcement notice dated 20<sup>th</sup> day of June 2002 requiring actions to be taken as listed herein under the heading “ Nature of Appeal”.

The enforcement notice was addressed to the owner of the building.

The owner appealed against the enforcement notice. The Notice of Appeal was signed on 27 June 2002 and was received by the Registrar on the same date.

## **Material Considered**

1. The enforcement notice, dated 20<sup>th</sup> day of June 2002, on the letterhead of the Council of the Shire of Eacham, and signed by I M Church, Chief Executive Officer.

2. The attachment to the Notice of Appeal.
3. Copy of Report, in letter form, dated 1 July 2002, on the letterhead of C.M.G. Consulting Engineers Pty Ltd, and signed by C M Gianarakis. (Exhibit 1). A transcript of the content of the report is attached to this decision as Attachment 1.
4. Photographs attached to item 3. (Exhibit 2).
5. Information gained from visual inspection of the deterioration of the underside of the floor, beams and columns at commencement of the appeal hearing.

### **Findings of Fact**

1. The building is reported to be a former cheese factory of age 70 to 76 years. The area under which deterioration has occurred is reported to have been the loading dock of the cheese factory.
2. Overland flow of water under the building, had reportedly occurred in the past, causing damp conditions beneath the floor, in the area of the deteriorated concrete. The flow of water has since been diverted around the building.
3. Areas of the reinforced concrete floor, beams and some columns have suffered spalling of concrete, and exposure and rusting of reinforcement. The photographs accurately depict the deterioration in the reinforced concrete.
4. The nature and extent of deterioration is such as to warrant remedial action.
5. The risk is sufficient to warrant restriction of access to the floor above the deteriorated reinforced concrete.
6. The report from G.M.C. Consulting Engineers Pty Ltd contained reasonable proposals for carrying out remedial work

### **Reasons**

At the tribunal hearing, the owner and the representatives of Eacham Shire Council reached agreement on

1. The need for the remedial work;
2. The reasonableness of the recommendations from CMG Consulting Engineers Pty Ltd; and
3. How best to allow continued use of the building while allowing the remedial work to be carried out.

The decision as changed by the tribunal implements the effect of the agreement between the parties.

### **NOTES:**

(1) The grounds of appeal, in the Attachment to Notice of Appeal, contained the text: *the Enforcement Notice, issued pursuant to Section 22(1) of the Building Act 1975, is not directed to the owner of the land and therefore is not valid.*

Representatives of the Eacham Shire Council advised that the notice was served on the owner as listed in the Council's rates record.

The parties agreed that this item in the grounds of appeal does not affect practical resolution of the safety and structural matters the subject of the enforcement notice. The enforcement notice was received by the person appropriate to respond to it.

(2) Section 4.2.13 of the Integrated Planning Act 1997 and section 24(1) of the Building Act 1975 provide that a person may appeal against *the giving of an enforcement notice*; whereas, section 4.2.34 of the Integrated Planning Act 1997 refers to the tribunal's decision on the appeal in terms of *the decision* appealed against.

For the purposes of this appeal and the tribunal's decision, *the giving of an enforcement notice* and *the decision to give the enforcement notice* are taken to mean the same thing.

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**Nigel Daniels, Dip Arch, Reg Arch,  
Building and Development  
Tribunal Referee**

**Date: 23 July 2002.**

# APPENDIX 1.

Our Ref: 11174R1

1 July, 2002

The Owner  
2 Main Street  
MILLAA MILLAA. QLD. 4886

Dear Ms Van Velsen

**RE: PREMISES AT 2 MAIN STREET, MILLAA MILLAA.**

## **Background:**

At your request, CMG Consulting Engineers was commissioned to undertake inspections of a commercial premises (Old Millaa Millaa Cheese Factory) at 2 Main Street, Millaa Millaa. In particular the suspended concrete floor.

This report records the results of this inspection and outlines possible remedial work that can be undertaken to rectify the defects.

## **Description:**

The section of the building from the internal timber partition wall to the northern external wall was padlocked to prevent access. Barricading was also in place to prevent access to the sub floor area. This section is 10 metres long measured from the northern wall.

Access to the areas was obtained from The Owner.

A suspended concrete floor extends across the front of the building and to a depth of approximately 8 to 9 meters. The slab is supported on a grid of closely spaced reinforced concrete stumps. The front verandah floor is timber framed.

## **Defects:**

The inspection of the structure revealed the following pattern of damage.

1. The 10 metre long northern section of the slab, as defined above, has suffered significant deterioration with time. A number of columns to this area have exposed rusted reinforcement and concrete spalling with the extent of deterioration varying. (Refer Photographs)

2. Various areas of the slab and beams have also deteriorated exposing rusted reinforcement and concrete spalling. (Refer Photographs)
3. The area of the suspended slab and columns to the southern section are in sound structural condition with minor deterioration.
4. The walls, roof framing and the general structural integrity of the remaining areas of the building, including the slab on ground area and front verandah are sound.

### **Conclusions & Recommendations:**

It is important to note the building was designed for factory loadings and for many years was subjected to heavy loads. The structural configuration of the columns/slab also suggest this structure was designed for high loadings. For example the column grids are very close.

Whilst deterioration of the northern, 10 metre long, section of the slab is obvious and significant, there is no concern of imminent failure. Load redistribution is occurring within the structure in the worst affected areas.

The following comments and recommendations are made with respect to rectification works and are applicable to the northern section as defined in 'Description' above.

1. The northern section of the building has suffered significant deterioration and is in need of repair. It is our opinion, that the front section of this area of the slab, whilst suffering some deterioration, is structurally sound. However rectification is necessary to arrest continued deterioration.
2. Whilst the damage to the rear section of this slab has compromised the load carrying capacity of the slab, this can be readily rectified by providing appropriate steel or timber propping allowing time for repairs to be undertaken.
3. The columns are short and subjected to compression forces only. The columns that have deteriorated can sustain the loading, however, as with the slab, we recommend rectification works to arrest deterioration.
4. The columns, beams and front section of the slab can be rectified by removing the spalling concrete, cleaning the steel with abrasive tools and applying "Ramset" Epoxy patch, or approved equivalent, in accordance with the manufacturers specifications.
5. The rear section of the slab (Refer Photographs) can be repaired in either of two ways:
  - a) Demolish the damaged section and reconstruct the slab and columns. This work can be undertaken without detriment to the remaining structure.
  - or
  - b) Remove the spalling concrete and rusted reinforcement and provide a permanent structure of galvanised steel columns, bearers and joists to support the slab.

Either of the above options can be achieved without distress to the remaining structure. However, in our opinion, the most economical is to provide a new permanent steel support of the slab utilising it as a wearing surface only.

We recommend repair work be supervised by a structural engineer and the extent verified on site by the supervising engineer.

Access to the area of damaged floor, both above and below the slab, has been prevented by padlocks to doors and barricading. Whilst these remain in place, there is no danger posed to members of the public entering the site, the verandah for its entire length and the southern and rear slab on ground section of the building.

In our opinion, the structural integrity of the slab under the café area could have been maintained by appropriate short term propping allowing for long term rectification to be undertaken and the café to remain operational.

Yours faithfully,

C.M.G CONSULTING  
ENGINEERS PTY. LTD.

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C.M. GIANARAKIS



## **Appeal Rights**

Section 4.1.37. of the Integrated Planning Act 1997 provides that a party to a proceeding decided by a Tribunal may appeal to the Planning and Environment Court against the Tribunal's decision, but only on the ground -

- (a) of error or mistake in law on the part of the Tribunal; or
- (b) that the Tribunal had no jurisdiction to make the decision or exceeded its jurisdiction in making the decision.

The appeal must be started within 20 business days after the day notice of the Tribunal's decision is given to the party.

## **Enquiries**

All correspondence should be addressed to:-

The Registrar of Building and Development Tribunals  
Building Codes Queensland  
Department of Local Government and Planning.  
PO Box 31  
BRISBANE ALBERT STREET QLD 4002  
**Telephone 3237 0403: Facsimile 3237 1248**

