

The Deputy Chair  
Sandra Hogue  
Tasmanian Planning Commission  
144 Macquarie Street  
Hobart  
TASMANIA  
January 6th 2021

*Berriedale*

44 Wellington St.  
Longford  
Tasmania 7301

Dear Sandra Hogue,

**Re: Draft amendment 01-2020 and Permit PLN -20-0001**  
Northern Midlands Council Interim Planning Scheme 2013

**Further Evidence 1.**

***“Forever and a Day”, Covenant.***

I have been concerned from the outset that the proponents of this Application did not submit a copy of the Title Plan for the property and therefore that information was not advertised or available for perusal or scrutiny by the public or Council and its officers.

**I am informed that it is usual ‘best practice’ to include copies of relevant title documents, NOT copies of ‘searches of the title documents’, in all planning applications such as submitted to the NMC for the Tabernacle rezoning and subdivision. This was not done.**

I have only now had the time to undertake some research concerning the Title.

I draw your attention to the covenant/trust provision of the transfer of the Longford Tabernacle land title, from James Keane to Mary and William Gibson, and other trustees, listed on the land title, transacted on the 16th of April 1880. (attached).

The covenant/trust clause on the title is under the heading “Nature and Object...”.

The clause clearly states that the transfer of title from James Keane to the Gibsons and others (and the Perth blacksmith) is pursuant to a trust requiring the land to be “forever” occupied and used as a church”. The key word is “forever”.

**As citizens opposing the proposed rezoning and subdivision of 41/43 Wellington Street, we have been left the task of ‘discovery’, a task that should have been undertaken by the surveying company, o.b.o the Tabernacle owners.**

**This failure to declare the existence of a covenant on the 1880 tile, is just one of many issues we have placed before the Commission revealing failure to declare, or, of not following the provisions of the NMC Interim Planning Scheme 2013.**

**Therefore, with due respect, I submit that the TPC review of the NMC decision to NOT ALLOW the proposed subdivision and rezoning, be upheld by the Commission.**

Advice I have received from research to date, suggests there may be various legal issues concerning the current title. These issues regard the original covenant/trust and what standing the “Nature and Object” clause has under Tasmanian law.

It is, I believe, safe to say that the Gibsons and others would never have agreed to the transfer of the Tabernacle land title to the Baptist Church without the “Nature and Object” provision, “forever”, remaining.

Descendants of Mary and William Gibson, (the original trustees), are still alive and living at Scone and Native Point, Perth, Tasmania. **They advise me that they opposed to the developers proposals to subdivide and re-zone the land.**

### **The “Nature and Object” provision.**

This information does not seem to appear on a current Title search, however I have not been able to undertake all necessary research to produce a ‘root of title’ list at present.

This is needed to discover when and by what method the “Nature and Object” provision was removed. The 1880 document cements the intentions of the Gibson family.

The Baptist Church/Union has a minefield of Acts covering its status in Tasmania. These include:

*The Baptist Union Incorporation Act Victoria Regina 1888.*

*The Baptist Union Act Edward V11 1902.*

*The Baptist Union Incorporation Act Elizabeth Regina 2006.*  
*(the above Acts are littered with repeals and amendments)*

The 1902 Act clearly states that transfer of land titles held by trustees ( like the Gibsons) can only proceed after consultation with those trustees, i.e. the Gibsons and others.

William Gibson (the primary trustee) died in 1892 . Mary Gibson, the matriarch of the Gibson Church interests, died in 1903, at age 92, so the prominence of the “Nature and Object” provisions may not have been realised after their deaths.

It is possible that William Gibson transferred his trusteeship to Mary Gibson but this can only be ascertained by reading the provisions of his will and estate documents. The nature of the Tabernacle Trust can only be ascertained by examining the Gibson family records.

A possibility is that the Baptist Church acquired the Tabernacle under the Baptist Union Incorporation Amendment Act 2006. But the Acts of 1888, 1902 and 2006 are so riddled with repeals and amendments as to require a thorough professional, legal examination, to actually get to the bottom of the issue.

Another possibility is that the Longford Tabernacle land was transferred to the Baptist Church by an “unregistered covenant /agreement”. It is unlikely that the “Nature and Object” provision would **NOT** have been part of that agreement, if it involved the Gibson family...and it must have.

## **The legal standing of the Title when sold by the Baptist Church in 1999.**

The issue of the “Nature and Object” clause is, “what is the present standing of the Gibsons and others”. Under the heading, “Names of the Parties” the Gibsons and others are listed as “trustees”.

Presumably covenants/ trusts don't just disappear from land title documents.

I am still attempting to access the Land and Titles records which has been difficult owing to the Corona19 virus restrictions and holiday close down. Also the Lands and Titles archive has recently been split and moved to various locations around Hobart.

The issue of the Tabernacle title warrants close legal examination.

If there is a legal issue with the Title the problem may possibly require a Supreme Court hearing or even an Act of Parliament to address any issues that may exist regarding present ownership and covenants or restrictions relating to the Title.

**Again I would point out that none of this information was discovered, or if it was, it was not disclosed by the proponents in their original application to the NMC.**

In light of my concerns as set out above, and the question of the legal standing of the Title held by the present owners of the Longford Tabernacle, I believe, with respect, that the Tasmanian Planning Commission should find for with the *Northern Midlands Council* and agree with their decision to not approve the application by Rebecca Green and Assoc. and McCulloch Surveying.

**The onus of proof of the Tabernacle title and the standing of the “Nature and Object” covenant/trust surely lays with the proponents, regarding discovery and legal and research costs.**

The above issues, together with all of the short comings we have identified in previous submissions to the TPC, particularly by Danielle Gray and Associates and other professionals, have rendered the developers proposal unsafe.

If the developers wish to pursue their plans to have the Longford Tabernacle rezoned and subdivided, then, I respectfully submit that they should prepare a new application that is more professionally researched and prepared, and conforms with the requirements of the *Northern Midlands Council Interim Planning Scheme 2013*.

Sincerely,

John Izzard.

Enc.

A signed hard copy can be sent if required.

(3)