

Developer fined \$15,000 for illegal building work

Comelli's love affair with heritage over

By MICHELE TYDD

DEVELOPER John Comelli has vowed never to touch another heritage building after he was fined \$15,000 yesterday for illegal work on a former city restaurant.

"I've worked on 40 heritage buildings in Wollongong but that's it for me now," he said moments after the sentencing in Wollongong Local Court.

The high-profile businessman was also asking why Wollongong City Council prosecuted only him when "all I did was make a few phone calls for the owner".

"I was expecting a fine but to be stung like this for a \$2000 job is just unfair," Mr Comelli said outside the court.

Magistrate Ian Guy rejected the argument Mr Comelli was naive and had made a mistake.

Mr Comelli pleaded guilty to breaching the Environmental Planning and Assessment Act by carrying out redevelopment work on the heritage-listed Market St property opposite Wollongong Courthouse without the necessary approvals.

The alterations involved raising the verandah roof on the northern side of the building after pillars securing the roof were found to be crumbling.

During submissions his solicitor Nathan McEwan earlier told the court his client owned the building in the mid 1990s and turned it into a restaurant.

It was sold to Highbury Admin Pty Ltd in 1996 and last year a company co-director, solicitor Murray Dribbus, called in Mr Comelli's construction company to convert the interior.

It was during this work Mr Comelli said he noticed cracks in four pillars on the verandah and pointed it out to the owner.

He organised for a bricklayer and carpenter to carry out the work and said he assumed Mr Dribbus would have obtained the necessary approvals and permits.

Mr McEwan said Mr Comelli's failure to get council consent was an error rather than recklessness.

While it was agreed the work resulted in minimal environmental harm, the council claimed the action showed recklessness.

Mr Guy agreed with the council.

He said while he accepted the work on the pillars was done for



Fined: John Comelli near the four brick pillars that got him into trouble. Right: The heritage-listed building. Main picture: HANK van STUIVENBERG

safety reasons and had caused minimal impact, he rejected claims that failure to get the required consent was a mistake.

"I'm satisfied there was significant recklessness and this increases culpability," he said.

"That culpability is not trivial, and he (Mr Comelli) is supposed to be a person with experiences in this area."

Mr Guy also criticised Mr Comelli's lack of remorse and his unwillingness to give evidence from the witness box.

He said the penalty should act as a deterrent to others.

Mr Guy took into account the early plea of guilty and Mr Comelli's clean record when he set the fine at \$15,000 and ordered he pay the council's costs of \$2850.

Mr Comelli said he moved to fix the pillars quickly because he was concerned for the safety of the children at the adjacent Wollongong Public School.

"If nothing had been done that roof would have lifted off in the recent high winds," he said.

Mr Comelli said he felt he had been made a scapegoat.

"Why didn't they charge the owner and the workmen - why weren't we all in court?" he said.

"Fifteen thousand dollars ... that is appalling ... I'd rather give it to the blind society."



MS HAY

ICAC clarifies its position over Noreen Hay claims

By MARIO CHRISTODOULOU

THE Independent Commission Against Corruption says it has not "cleared" Wollongong MP Noreen Hay, but yesterday reiterated that she was not an "affected person" in its Wollongong investigation.

ICAC Commissioner Jerrold Cripps, QC, said Ms Hay had not been "cleared", but was not classified as a person of interest in the inquiry

into Wollongong council.

"The ICAC has never made a statement to the effect that it has 'cleared' Ms Hay. The commission does not generally make statements about whether people are cleared," Commissioner Cripps said.

"The view of the ICAC in regard to Ms Hay, as I advised the Premier last week and previously in March 2008, remains that she is not an 'affected' person ... in

relation to the commission's then public inquiry concerning the conduct of officers of Wollongong City Council and others."

Last week the *Mercury* revealed claims that former councillor Frank Gigliotti had been invited to a meeting with Ms Hay and developer Frank Vellar in February 2007 where he was asked to overturn a council decision.

In a sworn statement, Mr

Gigliotti said he felt Ms Hay was acting on Mr Vellar's behalf and that he felt pressured to lodge a rescission motion because of "Noreen's influence in the ALP". He refused the request.

Ms Hay has not denied the meeting took place, but said: "It's my understanding ICAC have looked at this, deemed I was not a person of interest and that's it."

Yesterday, Ms Hay said

Commissioner Cripps' statement concerned "an issue of legalist terminology".

"Mr Cripps is simply correcting language used by the media in relation to using the term 'cleared' rather than 'affected' or 'not affected'," she said.

Premier Morris Iemma yesterday repeated his support for Ms Hay saying: "Noreen Hay has my confidence and she continues to retain my confidence."