

# Free Beach Action NSW

Meeting at the Randwick Town Hall  
29 February 2008

In attendance: Benny Menczer and Mario D. Conti (FBA NSW),  
Cr Robert Belleli and Mark Shaw (Randwick City Council)  
Apologies: Gerald Ganglbauer (FBA NSW)

## Benny's Notes

Meeting with Robert Belleli and Mark Shaw this morning. We discussed many options that are before us.

Robert Belleli has suggested we did not use the due process of "massive lobby of councillors" and if we wanted to keep the beach a nude beach we should have acted earlier. One option put forward by Belleli is that we had our chance to lobby council. And that the council unanimously voted against the proposal.

As we don't really know the proposal, we put it to the two that the proposal was not so much as a request for permission as it is quite likely we have legal entitlement under the law to continue using the beach as this entitlement was created by continuous use for over 30 years.

And the motion was more a request that the local council sanction that legal entitlement.

Many times during our conversation they both suggested that the beach was in fact outside of the jurisdiction of the council, although they suggested that they had entitlement to create "laws" it seems they are not able to distinguish the difference between laws, acts and statutes in fact they had no jurisdiction on the beach to act in any way. This includes posting signs or any council rangers.

Robert Belleli said that council's makes laws and only the police have jurisdiction to act against someone who is participating in unlawful activity.

The national parks have not jurisdiction to enforce action against unlawful activity.

Such as the activity that Robert Belleli describes as "unlawful". It should be not discovered whether an activity is unlawful just because the council put up a sign.

It has been said that signs would be placed up in the national park suggesting that it is illegal to be naked in the area.

They suggest this is a formality to let people know that being naked is illegal. It should also be considered that they are placing the signs up to make it illegal. Where up until now it has not been PROVEN to be illegal to be naked, they suggest it is illegal to disobey a sign and by default you are not being illegal being naked.

The signs will have the police logo and the council logo on them. This is merely to let people know they approve of the sign and it seems this method may be an attempt to create jurisdiction where it would not exist.

Mark suggested there was no legal bullet that would resolve this.

The next step I would suggest it we write to the national park and invite them to inform us so we can discover what signs they plan to place up and under what jurisdiction and under what laws these signs will be placed.

Mark suggested we have several options:

1. Keep doing as we have been for over 30 years and see what happens
2. Cover up
3. Lobby council to give approval
4. Take action against council in the courts.

### **Mario's Notes**

Mark Shaw who appeared to be a reasonable person is only a public servant (technical services) who doesn't really want to take anyone's side or become involved in whatsoever dispute. This is probably just another one of the thousand matters that occur to him every year.

He said that they had meetings with the Police and that Councillor Belleli had legal advice upon the matter. Although – he said – the Council has no direct jurisdiction upon this matter, Cr Belleli feels to be in charge against nude bathing in representation of the community will.

However they don't want to carry out any direct legal challenge to enforce the law against Free Beach Action or the naturists. Probably they don't have any ground to do it because:

1. They cannot identify any real entity to act against it – let alone Free Beach Action,

2. Or they cannot take in court an unidentified multitude of people (the naturists)

If they don't have any appointed entity, they cannot act upon anyone.

That's why, at some point of our discussion, Mark Show naively tried to suggest that Free Beach Action

- Should be challenging the Council in the courts
- Or trying to lobby the Council to approve nude bathing at Little Congwong Beach.

They want to be able to

- Legally identify us as "the unlawful counterpart"
- They want to set another case of Council-denied-approval
- And, most importantly, they want to set a criminal case.

All this sounds a bit childish and we are not going to buy it. But still it's a bit dangerous for us or the people at the beach.

However, the Council has already started the process to enforce the law through the police and the park rangers. The Council will be asking the National Park Rangers to display a sign. Once the sign is in place, they feel to be able to fine or even arrest people.

Therefore,

1. I agree with Benny that Free Beach Action should be asking the national park authority on which legal ground they are going to display such a sign – not just because the Randwick-Council-said-so.

If we are lucky they will provide only weak/debatable reasons or provide no answer. We are going to use that answer in the future.

We also should set a deadline for their answer – 1 or 2 weeks – assuming that they agree to something in case they don't answer within the deadline.

2. We also should be involving the media more actively and shift the stress to
  - a. The long dated self-destination of the beach to naturism
  - b. The ongoing discrimination against naturists and the gay community
  - c. The absence of criminal or offensive behaviour between the users of the beach.
  - d. The groundless of the Council action.