

612 9233 1553

**MAKINSON & d'APICE**  
SOLICITORS AND NOTARIES

5 May 2003

Partner: Alex Kohn

The Manager  
The Wilderness Society  
GPO Box 716  
HOBART TAS 7001

BY FACSIMILE: (03) 6231 6533

Dear Sir

**Duncan Hardie**  
**Defamatory article on your web site**

We act for Duncan Hardie.

Our client has brought to our attention an article on your web site dated 1 April 2003.

Under the heading of "Newcastle Campaign Update - 1 April 2003" the following passage appears:

*"He (Hardie) also has a hand in the proposed eco-tourism facility at Paxton which has already been responsible for bulldozing wetlands and fencing creeks, stopping the movement of fish and turtles."*

The above comments are not only inaccurate but also defamatory of our client, constitute misleading and deceptive conduct under the Trade Practices Act/Fair Trading Act and constitute the tort of injurious falsehood.

We are instructed by our client that during the course of the development of the facility at Paxton, wetlands have been created not bulldozed, contrary to the assertion on your web site. Further, although there has been some fencing of creeks, that fencing has not stopped the movement of fish and turtles contrary to the assertion on your web site.

These comments are defamatory of our client in that they impute he is a developer with reckless disregard for environmental issues.

RICHARD J W d'APICE, A.M. • WILLIAM R d'APICE • ALEXANDER KOHN • STEWART J ROBERTS  
NANCY A BRAMLEY-MOORE • JOHN E BAXTER • GRAHAM MARTIN • YSRA M VISEVIC  
CONSULTANT • ANTHONY • McDONALD ASSOCIATES • ROSEMARY CARREAS

LWILDERNBS390-AKD

LEVEL 12 • 155 KING STREET • SYDNEY 2000  
GPO BOX 485 SYDNEY 2001 • DX 256 SYDNEY  
TELEPHONE (02) 9233 7788

FACSIMILE (02) 9233 1550 • EMAIL [mail@makdap.com.au](mailto:mail@makdap.com.au)  
ABN 53 986 044 478

**LAWSON**  
Member of Lawson  
Independent Network of  
Independent Law Firms

**Lawson**  
Lawson is ranked  
by the Solicitors Journal  
under the Professional  
Standards Act 1994

612 9233 1553

The Manager  
The Wilderness Society

Page 2

The above comments are misleading and deceptive in breach of the Trade Practices Act/Fair Trading Act in that they are likely to mislead and/or deceive an ordinary reader of your web site into believing that our client has a reckless disregard for environmental issues.

The comments made aforesaid on your web site also constitute the tort of injurious falsehood in that they are false and harmful imputations concerning Mr Hardie which will have the effect of damaging his business reputation.

We hereby call upon you to publish a retraction and apology in your next update on your web site in or substantially similar to the following terms:

*"In our Newcastle Campaign Update dated 1 April 2003 we made certain comments concerning Duncan Hardie, a property developer involved in the proposed Tomalpin Industrial Estate and the Paxton Eco-Tourism Facility.*

*We said in that update that the proposed eco-tourism facility at Paxton had already been the subject of bulldozing of wetlands and fencing of creeks, resulting in the stopping of movement of fish and turtles.*

*We retract any harmful or offensive imputation arising out of these comments and acknowledge that while some bulldozing of wetlands and fencing of creeks has occurred, there has also been the creation of wetlands and there has been no stopping of movement of fish and turtles at this facility.*

*We apologise to Duncan Hardie for any hurt or damage our comments may have caused."*

Would you please confirm by 5.00 pm on Monday 12 May 2003 that a retraction of this nature will be published at the next available opportunity, failing which we will recommend to Mr Hardie that proceedings be commenced immediately thereafter in the Supreme Court for damages and other appropriate relief.

Please give this matter your urgent attention. We look forward to hearing from you.

Yours faithfully

*Makinson & d'Apice*  
Makinson & d'Apice