

PETER - SOME DRAFT WORDS - COMMENTS ?

I CAN EMAIL IT IF YOU LIKE

PAN COM LETTERHEAD

The Hon. J. Saffin, MLC
PO Box 139
Lismore NSW 2480

Draft Byron Rural Settlement Strategy and implications for
Rural Landsharing Communities & SEPP 15

The purpose of this letter is to bring to your attention aspects of the draft Byron Rural Settlement Strategy which are considered to contradict the purpose and intent of the State Government's policy regarding Rural Landsharing Communities (SEPP 15).

The status of the Strategy is that Byron Shire Council has adopted the draft Strategy (other than a section relating to conversion of existing rural landsharing communities) and that DUAP's Grafton Office is assessing it prior to the DUAP Director General decision to adopt it, or otherwise, as required by the North Coast REP.

We consider the likely implications of the BRSS on intentional communities and SEPP 15 requires discussion with you. We are aware of your support in the re-implementation of SEPP 15 which provides for more affordable housing opportunities and a range of other positive planning outcomes.

The draft BRSS has much merit and creatively provides for better environmental planning outcomes in many respects. However, various aspects, including those relating to Rural Landsharing Communities are of concern. Our approach to you is with the intention of resulting in a better BRSS.

Briefly, our concerns regarding the Byron Rural Settlement Strategy are as follows:

- the Rural Landsharing Community provisions within the draft BRSS results in far greater restrictions to creating intentional communities. If DUAP agrees to this restrictive approach, a precedent will be set, and the government initiatives intended by reintroducing the State Policy will not eventuate.
- the BRSS methodology utilised for Rural Landsharing Communities is to identify specific properties, in contrast to the State Policy. Inaccurate mapping combined with restrictive provisions, see below, results in far less opportunities for the creation of intentional communities.
- provisions which are considered restrictive or not justifiable, and contrary to the State Policy, are the requirement of a minimum of six dwellings, minimum site area of 20 ha., and the need for 'developable' land.
- while we object to these provisions individually, the cumulative result of combining these provisions, as the BRSS requires, results in even fewer choices of land for the creation of intentional communities.

END.

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- the BRSS methodology utilised for Rural Landsharing Communities is to identify specific properties, in contrast to the State Policy. Inaccurate mapping combined with restrictive provisions, see below, results in far less opportunities for the creation of intentional communities.
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- while we object to these provisions individually, the cumulative result of combining these provisions, as the BRSS requires, results in even fewer choices of land for the creation of intentional communities.

END

11/11/58

Re Objection to Byron Rural Resettlement Strategy 1998

Prologue - Raise point that this 1st sentence has the effect of drawing distinctions between different types of social organisation e.g. nuclear cf. expanded families & thus between MO's & other forms of rural land-holding.

~ The "choice" between RLC's & RCT settlement types is often illusory as the lands which are suitable for RLC's are usually unsuitable for RCT due to aspects of cost & environmental factors.

1.0: See above.

2.0: There is no good reason to double the amount of land needed for a LSC in view of BSE Byron land prices & in view of the record of LSC's in providing vegetation cover or sheep & for heavily vegetated lands.

3.0: There is no justification for such restrictions as LSC's have a proven track record of providing these sorts of facilities for themselves & moreover ^{local} surveys of MO's show that MO's don't need or use many such amenities, due to their philosophy of self-sufficiency.

Furthermore this provision is clearly discriminatory against LSC's (& RCTC's) as such restrictions aren't applied to other forms of rural landholding.

Such a policy would have precluded all LSC's in, e.g. Terania Creek.

4.1: This would have the effect of precluding the possibility of agriculturally-based LSC's (or RCTC's) & is discriminatory.

4.2: "Vegetation" must be defined & be accurately mapped.

4.3: Discriminatory against LSC's as the same policy is not

applied to other forms of agricultural land-holding.

4.4: Discriminatory

~~4.5:~~

4.6: " + inapplicability of this prohibition to LSCs as there exist already many successful LSC's on such lands. There would appear to be no reason why LSC's should not be permitted on properties where there is sufficient non-steep land to provide for house sites, roads etc.

4.7: An addendum should be added to allow LSC's on "flood prone" land where there exists a viable alternative access. Also discriminatory.

4.8: Discriminatory

5.1 & 5.2: Discriminatory & unnecessary as 5.1 is already addressed in 4.8 & 5.2 is covered by EPA & A 5.90 & by the exclusion of all minerals to the Crown by land title certificates.

Performance Standards

Can't be addressed w/o access to the Strategy Document

Guidelines

1) See 2.0 above

2) Should be included ~~in~~ as 4.9 & thus our comments on 2.0 apply. Besides these issues are already covered in 5.79C of the Act & the 1 ha of land per house should be judged on merit of the individual property.

3.) This is inappropriate & arbitrary & unrelated to any particular features of land or landholding in the Shire & unsupported by historical evidence & logical argument. Existing use rights should prevail where e.g. 8 sides were approved but only 5 built, but this is unclear in this provision.

4.) Highly discriminatory & unworkable & goes against S15 case law which mandates that "clustering" is not compulsory under S15. These issues should be addressed on site-specific social & environmental considerations.

MASTERS
Pancom 144.doc
Re MO → CT

Dear Communards,

A note for your information that the Byron Council has adopted a Motion that their LEP provisions be amended to permit existing MO's in certain areas to apply to "convert" to Community Title (CT) subject to conditions that are consistent with requirements for CT development. (This so called "conversion" actually consists of relinquishing the existing MO DA approval and making a fresh DA application for CT! The option to convert is confined to existing MO's and will not be available to new MO's.)

The Motion was carried 4-3. One Councilor was absent. Two Councilors abstained on the basis of "conflict of interest" (Kingston and Hosken). The proposed amendment was strongly supported by some 20 of the 40 or so MO's in the Byron Shire!

(Among the reasons given in support of "conversion" were ability to obtain a mortgage loan to build individual houses; would assist resolution of conflict, etc. Copy of the arguments by those in support of conversion as presented to all Councilors, is available on request from myself.)

D This proposal still requires the concurrent approval of DUAP. My view and concern is the possible impact this may have on SEPP-15 elsewhere. I view that the proposal is clearly contradictory to the provisions of SEPP-15 which prohibit subdivision and as such is inconsistent with the exemption given to the Byron Council to be excluded from SEPP-15!

If DUAP do approve this amendment, (which I do not discount as a possibility!) then I see that this could open the door for other Councils to do likewise! This in my view could be a "back door" way for developers to rort SEPP-15!

I am advised that Council expect a speedy decision from DUAP on this matter and it appears that DUAP are prepared to expedite their consideration. Should you or your community network be concerned about the implications of the Byron Council proposal then I suggest you make a submission direct to the Regional Manager DUAP, PO Box 6, Grafton, 2460.

♥ If you do make a submission I would appreciate a copy by email for our Pan Com file. Thanking you. Seasons Greetings and Best Wishes to you and yours in the coming year.

Peter

From: Peter Hamilton <peterh@nor.com.au>
To: Denise Nagorcka <regcoord@nor.com.au>; Bill Metcalf
<b.metcalf@ens.gu.edu.au>; Richard Jones
<cjones@parliament.nsw.gov.au>; Roslyn Irwin <roslyi@liscity.nsw.gov.au>;
Alan Hill <challenge@northnet.com.au>; Jan Barham
<jan.barham@parliament.nsw.gov.au>; Tim Tetley <tetley@ozemail.com.au>;
David Spain <dspain@themis.com.au>; Anthony PRITAM McCardell
<amccar14@scu.edu.au>; Dudley Leggett <sri@nrg.com.au>; Bill Kidd
<bill.kidd@tafensw.edu.au>; Colin James <fell@arch.usyd.edu.au>; Peter
Cuming <sfpd@bri.net.au>; Russel Andersen <rander12@scu.edu.au>; Diana
Roberts <dianar@nor.com.au>; Simon Clough <simonclo@nor.com.au>
Date: Tuesday, 15 December 1998 9:13 am
Subject: Byron Council proposal to ammend their LEP to permit "conversion" of MO to
CT

Dear Communards,

A note for your information that the Byron Council has adopted a Motion that their LEP provisions be ammended to permit existing MO's in certain areas to apply to "convert" to Community Title (CT) subject to conditions that are consistent with requirements for CT development. (This so called "conversion" actually consists of relinquishing the existing DA approval and making a fresh DA application for CT!)

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If DUAP do approve this ammendment, (which I do not discount as a possibility!) then I see that this could open the door for other Councils to do likewise! This in my view could be a "back door" way for developers to rort SEPP-15!

I am advised that Council expect a speedy decision from DUAP on this matter and it appears that DUAP are prepared to expedite their consideration. Should you or your community network be concerned about the implications of this proposal by the Byron Coucil then I suggest your submission should be addressed direct to the Regional Manager DUAP, PO Box 6, Grafton, 2460. *to write to DUAP*

If you do make a submission I would appreciate a copy by email for our Pan Com file. Thanking you.
Seasons Greetings and Best Wishes to you and yours in the coming year.
Peter

To be collected

FAX DOCUMENT FROM PETER HAMILTON

1/50 Paterson Street, Byron Bay, 2481 (02) 6685 8648 (F/T) email: peterh@nor.com.au

Pan Community Council Homepage:- <http://www.nor.com.au/users/pancom>

TO: Dorin Hant

FAX No: DATE: 15-12-98

Number of pages (including this sheet): 2

SUBJECT: Byron Council mo conversion to CT

COMMENTS:

Please see attached

Cheers

Peter

Irvine 3/12/98

- ① Implied mo to have distinct legal standards which is not true!
- ② Should be swig his legal advisor
- ③ CT is not the only way ^{one} can get legal protection.
Convent letter
- ④ "most" is disputable. Evidence? Spent time
- ⑤ Optional conversion is OK. in principle
- ⑥ His mo may not qualify for CT!!
- ⑦ Denies the aim & philosophy of ~~the~~ for for Foreman
SEPP-15
- ⑧ eg Jalebar is not justifiable or intelligent \$150,000
with internal conflict. This is CT. So v all

FAX ①

FACSIMILE MESSAGE
NUMBER OF PAGES INCLUDING THIS: 5

TO: Richard Staples, Councillor, BSC
PHONE: 6687 1851
FAX NO: 6685 7066

FROM: Christopher Sanderson
COMPANY: Transocean Investments Pty Ltd
ADDRESS: 'Jindibah', 176 Fowlers Lane, Bangalow, NSW 2479
PHONE: 6687 2244
FAX NO: 6687 2245
E-MAIL: sandersonc@om.com.au
DATE: 30 Nov 98

Dear Richard,

M.O. to C.T. Conversion Option

I am writing to ask you to please reconsider your position regarding this option, for good reasons whose principles I believe you support.

I'm sure many people support your views concerning everyone's right to apply to live in an intentional community – certainly I do. However that is a quite separate issue to the one being debated. If you vote against this motion for that reason you will be helping the opposition to deprive M.O. dwellers in this shire from a badly needed **opportunity to migrate from a disastrous legal structure to one which affords the intentional community some protection. See below for details.**

We really need your vote on this motion. Please don't miss this opportunity to seriously help intentional communities in this shire.

Attached is a letter I sent to Council supporting the motion. What I did not explain in detail in that letter because it is too personal, is a description of the disaster that **lack of proper legal safeguards for the community in the M.O. structure**, is causing us.

Our legal advice at the the planning stage of this M.O. did not include a warning that there is no protection from individual members of the community, who are in fact able to hold the entire community to ransom in order to pursue their own ends. Had I known then what I know now, I would never have gone down the M.O. path.

Briefly, one of the couples involved in our M.O. has broken up. They want to sell their share. They are demanding a price which is over twice what six local real estate agents tell us their share is worth. Under the Tenants in Common M.O. structure, if they do not succeed in selling at their nominated price within 12 months, they are able to force the sale of the entire property under Sec 66G of the Tenants in Common legislation.

~~which is a disaster situation~~
So in other words, they are able to blackmail the other members into buying them out an an extortionate price or lose our homes. To my mind this is a disaster situation.

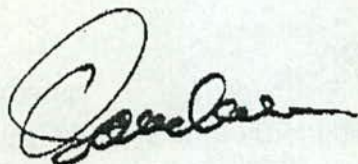
What is needed for intentional communities such as ours, is a legal framework supported by a very tight and properly constituted deed for members, which gives the sort of protection afforded to Strata Title owners. The rural equivalent of this is of course Community Title.

I'm told by a solicitor in Lismore, who has considerable experience in these matters (Tony Pagotta) that even if we spend \$30,000 to restructure our M.O. as a company with shares, in an attempt to create something similar to the CT model, we cannot eliminate the effect of Sec 66G.

Members of Intentional Communities need the normal legal protection that any property owner takes for granted. **The option to convert to Community Title is the only way members of M.O.'s can gain such protection.**

Richard, I would really appreciate an opportunity to meet and discuss this issue with you before the 8th Dec meeting.

Regards,



Christopher Sanderson

FAX DOCUMENT FROM PETER HAMILTON

1/50 Paterson Street, Byron Bay, 2481 (02) 6685 8648 (F/T) email: peterh@nor.com.au

Pan Community Council Homepage:- <http://www.nor.com.au/users/pancom>

TO: Di

FAX No: DATE: 1-12-98

Number of pages (including this sheet): 6

SUBJECT: mo → CT in BSC

COMMENTS: Richard has asked me for comments to counter these arguments. The notes and underlinings are Richards. This is expected to be dealt with by Council on Tuesday 8th Dec. Any particular comments you may have would be appreciated by or on Sunday this week. Currently the Councillors are evenly split on the issue! They are swayed by the number of requests and strong lobbying! Regards Peter.

FAX MASTER
with Mitra
Form Letter

DRAFT

CONFIDENTIAL Not f

NOTES BY PETER HAMILTON ON PUBLIC MEETING HELD IN THE BYRON SHIRE COUNCIL CONFERENCE ROOM on 5.11.98 ON THE RIGHT OF EXISTING MO'S TO APPLY FOR CONVERSION TO COMMUNITY TITLE (CT)

INTRODUCTION AND OVERVIEW

The Council *Rural Settlement Strategy* proposal as at this date is for the LEP to show on a map those areas suitable for MO development in the Byron Shire.

Land for new MO's and new CT's is to be confined to the mapped areas.

Applicants will have to make the choice at the outset of being an MO or a CT development and will not subsequently be able to convert from one to the other.

For an new MO development this will require a DA only.

The land will not require to be re-zoned.

(This is seen to be in keeping with the spirit of SEPP-15. It will not incur the cost of re-zoning (in the order of \$10,000) or the time delay in obtaining same (in the order of 12 months).

For a new CT development this will require a site-specific rezoning application.

For a conversion of an existing MO to CT it must be within the mapped area and will require a site-specific rezoning application.

Some initial questions, answers and statements (in random order).

- So called "conversion" of MO is actually a "handing in" of the existing approved DA on the condition of acceptance of a new DA for CT. (I hence consider the use of the term "conversion" is misleading!)
- New CT's and MO's seeking to convert to CT may only do so provided adequate "flat land" is available.
- "What constitutes the *intentionality* of a "community"? "To be self determining".
- It will be permissible to have a temporary building eg a prefab.
- CT stated as a way to get finance to build.
- In response to the proposition that the whole title to a property can be put up by way of security to obtain a mortgage for the purpose of funds to build a house was dismissed with the statement "Do you know anyone who has done it?"
- Stated as being a feasible concept that a "benevolent" developer may wish to create an MO but have no intention to personally reside in the community.
- Proposed that there be a time limit within which an MO could make an application to convert to CT. This resulted in much discussion about the actual time and that there was a case for no time limit.
- Stated that any "conversion" would be for existing approved and built houses and would not necessarily include additional house sites even if approved in the original DA. Nor would there be any automatic right

for further house sites for which there was entitlement under the former LEP MO legislation but had not been applied for in the original DA.

- In response to the question "Why can't an existing MO increase within its entitlement, to CT?" Stated that the new formula for the number of houses and criteria for site selection will prevail and it is this that will determine the number of houses acceptable.
- A "Plan of Management" (POM) would be required of an existing MO applying to convert to CT. The inference was that such a POM would be obligatory and would be monitored. The POM required in the CT legislation presumably seen as a model.
- In response to the question "What s.94 contribution will apply?" it was stated that this not known as this had not yet been considered!
- Stated that those intending to apply for conversion see the staff to check that is worth spending the money on a consultant etc. (The inference was that it should not be presumed that conversion was automatically possible as conversion requires that ALL the relevant criteria must be met and that the time and cost of this may make it unattractive.)

(A) Advised that there had been two calls from rural landowners who opposed the MO-CT conversion on the grounds that they had been waiting some time expecting that it would eventually become possible to subdivide. They were aware that some landowners had utilised the MO provision and were now being given the opportunity to convert to CT subdivision! This they held to be discriminatory and was a "backdoor" way to subdivide!

If they had known this was going to happen they would have applied for MO development with this conversion in mind!

- With conversion, an individuals rates would increase based on the land value of the individual lot and the individuals pro rata share of the community land. Rates said likely to increase at least fourfold with a minimum of \$450 per lot.

Procedure involved in a "site specific" rezoning

- Staff s.54 report to Council (Stated that such application would be processed twice per year only.)
- Council to adopt the staff recommendation
- Then concurrence of DUAP, NPWS and any other relevant Departments required. Min. of 3 months
- Then goes on Public Exhibition
- Then a report is made to Council who may reject or amend
- Then goes to the Minister for signature (to which there is no appeal). This may take 2-3 months
- Then to be Gazetted

Estimated total time for this process is in the order of 12 months.

Brainstorm on the Pros and Cons of converting from MO to CT if this should be adopted by Council as a Policy and subsequently agreed to by DUAP

THE PROS From the individual's and community point of view

1. Legally can borrow money to build
2. Ease of transfer (ie to sell unless restricted by internal agreement with the community.)
3. Results in a personally valuable asset
4. Cleaner understanding/division between the "individual's rights" and the "community's rights"
5. Residential rights and management procedures clearly set out in the CT Act.

THE CONS

1. Cost of rezoning
2. Time, energy and cost of meeting "qualifying criteria" (see list)
3. Rates. Increase in cost.
4. Extra taxation eg. Capital Gains Tax on disposal
5. Survey costs to subdivide
6. Certificate of completion required for each existing house (if not already obtained)
7. Protracted rezoning process.
Where an "expanded house" exists this may need to be upgraded if not completed or if of inadequate standard. (This issue not yet considered in detail)
9. Upgrade of internal roads "probably" required. (The question of the internal roads being a "public road" was not raised!)
10. "Will there be a requirement to plant 900 trees per dwelling? (as is required for a new MO and CT DA)
"No"
11. Overly legal and bureaucratic controls rather than being under the social control of the MO community.
12. It will be required that the CT has a "theme" (whatever this means!)

Advantage to council in permitting MO to convert to CT

- Extra income to Council eg rates and s.94 contributions
- Better Plan of Management of the land *implies no power plan of Manual.*
- "Socially better for aging individuals as with age residents want to subdivide as they do not have the energy to maintain the house and land."
- Staff strongly see that it is Council's interest as it will give them greater control in implementing the "sustainability" policy and agenda.

Disadvantage to Council to council in permitting MO to convert to CT

- Land once allowed to be subdivided is subdivided "forever" (viz results in permanent fragmentation of rural land).

Sundry

- (While it was not mentioned at this meeting, it has been said on other occasions that it will enable Council to "clean up" the MO situation, meaning as far as I am able to ascertain "regularise" the approved MO defacto subdivision applications.)
- Question "Could part of an existing MO converted to CT?" Answer. "Yes, if there was sufficient land for the minimum land requirement of 20 ha for each of the new Lots and the respective Lots individually met all the criteria set out in the strategy (viz see p.123 of the Draft plus the "Guidelines".)
- **Motion adopted by the Meeting**
"That this meeting supports the proposal that MO be allowed to apply for conversion to CT if they so desire and that this option be available for at least 5 years from the date of adoption." Carried (with abstention).
- Chris Sanderson circulated a form for those interested in forming a BSC MO Association. (Some of those interested met after the formal Meeting.)
- Submissions to Council close on 18th November. Recommended by Ermacora that copies of submissions be sent to "sympathetic" councilors.

<p>12. It will be required that the CT have a "theme" (whatever this means)</p> <p>11. Overly legal and bureaucratic controls rather than being under the social control of the MO community</p> <p>10. Will there be a requirement to plant 900 trees per dwelling? (as is required for a new MO and CT DA)</p> <p>9. Upgrade of internal roads "probably" required. (The question of the internal roads being a "public road" was not raised)</p> <p>8. Upgrade of internal roads "probably" required. (This issue not yet considered in detail)</p> <p>7. Where an "expanded house" exists may need to be upgraded if not completed or if of inadequate standard (this issue not yet considered in detail)</p> <p>6. Certificate of completion required for each existing house (if not already obtained)</p> <p>5. Survey costs to subdivide</p> <p>4. Extra taxation of Capital Gains Tax on disposal</p> <p>3. Rates / increase in cost</p> <p>2. Time, energy and cost of meeting "public" and criteria (see list)</p> <p>1. List of meeting</p> <p>THE COSTS</p>	<p>• Extra income to Council as ratepayers' contributions</p> <p>• Better Plan of Management of the land</p> <p>• Socially better for aging individuals as with age residents want to subdivide as they do not have the energy to maintain the house and land</p> <p>• Staff strongly see that it is Council's interest as it will give them greater control in implementing the "sustainability" policy and agenda</p> <p>Disadvantages to Council in retaining MO to convert to CT</p> <p>• Land once allowed to be subdivided is subdivided "forever" (vs results in permanent fragmentation of rural land)</p> <p>Summary</p> <p>• (While it was not mentioned at this meeting, it has been said on other occasions that it will enable Council to "clean up" the MO situation, meaning as far as I am able to ascertain "regularise" the approved MO details (subdivision applications))</p> <p>• Question: "Could part of an existing MO be converted to CT?" Answer: "Yes, if there was sufficient land for the minimum land requirement of 20 ha for each of the new lots and the respective lots individually met all the criteria set out in the strategy (see p. 122 of the Draft plus the "Guidelines")"</p> <p>• Motion adopted by the Meeting</p> <p>"That this meeting supports the proposal that MO be allowed to apply for conversion to CT if they so desire and that this option be available for at least 2 years from the date of adoption." Carried (with abstention)</p> <p>• (Chris Sanderson circulated a form for those interested in forming a BSC MO Association. (Some of those interested met after the formal meeting))</p> <p>• Submissions to Council close on 18th November. Recommended by Council that copies of submissions be sent to "sympathetic" councillors</p>
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Lee (A)

See "Pros" p2 & add comments. + (B) p3.
"Better Plan for Men" p3
ref to Manual

The 3 & 5 km radius as originally proposed is to be changed to road distance as snakes & goes up & down dale will not be a horizontal measurement.

ulterior expectation even if site specific env. constraints ~~for~~
~~for~~ planning principle as disregards all environmental factors.
To apply this will further construct the availability
of ~~best~~ suitable land with ~~even~~ likely increase in
cost of land. This mitigates the aim of SPP-15
to assist Affordable housing not restrict
same. (cf NPPs Dec 98, Design Report etc.)

- If SPP agrees to ^{his opportunity}
- The pro BRES results in ~~for~~ greater restriction to
create IC & to this extent is contrary to the aims
& provisions of SPP-15.

It is submitted that on this ground alone the proposal
should be rejected.

NE Strategy applies to all. - but this is not the
case as very restrictive site specific
constraints also apply
eg. min of 6 dwelling site
• need for "developable" land

There will be ^{the} a cumulative effect of these
provisions will result in fewer choices offered
for IC.

9H (1)

FACSIMILE MESSAGE
NUMBER OF PAGES INCLUDING THIS: 5

TO: Richard Staples, Councillor, BSC
PHONE: 6687 1851
FAX NO: 6685 7066

Meeting 8th

FROM: Christopher Sanderson
COMPANY: Transocean Investments Pty Ltd
ADDRESS: 'Jindibah', 176 Fowlers Lane, Bangalow, NSW 2479
PHONE: 6687 2244
FAX NO: 6687 2245
E-MAIL: sandersonc@om.com.au
DATE: 30 Nov 98

Grab
Dear Richard,

M.O. to C.T. Conversion Option

I am writing to ask you to please reconsider your position regarding this option, for good reasons whose principles I believe you support.

(-1) I'm sure many people support your views concerning everyone's right to apply to live in an intentional community – certainly I do. However that is a quite separate issue to the one being debated. If you vote against this motion for that reason you will be helping the opposition to deprive M.O. dwellers in this shire from a badly needed **opportunity to migrate from a disastrous legal structure to one which affords the intentional community some protection.** See below for details.

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What is needed for intentional communities such as ours, is a legal framework supported by a very tight and properly constituted deed for members, which gives the sort of protection afforded to Strata Title owners. The rural equivalent of this is of course Community Title.

Not so. If they think this is the case there is nothing to stop them using the model legal structure in an MO, as it is their choice!

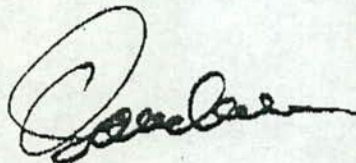
A Co does not of itself provide the security sought. It is naive to think it does.

I'm told by a solicitor in Lismore, who has considerable experience in these matters (Tony Pagotta) that even if we spend \$30,000 to restructure our M.O. as a company with shares, in an attempt to create something similar to the CT model, we cannot eliminate the effect of Sec 66G. *retrospectively*


③ Members of Intentional Communities need the normal legal protection that any property owner takes for granted. **The option to convert to Community Title is the only way members of M.O.'s can gain such protection.** *Non sequita!*

Richard, I would really appreciate an opportunity to meet and discuss this issue with you before the 8th Dec meeting.

Regards,



Christopher Sanderson



PH 2

Jindibah Intentional Community
176 Fowlers Lane, Bangalow, NSW 2479

To: The Councillors and
Byron Shire Council Planning Department
Byron Shire Council
Station Street
Mullumbimby
NSW 2484

11 November 1998

Dear Councillors and Planning Staff:

**RE: Option for approved Multiple Occupancies
to apply to convert to Rural Community Title (RCT)**

1. Summary

I am writing in support of the new Rural Settlement Strategy, and in particular refer to the clause discussed at the Byron Shire Council meeting of Tuesday 20 October 1998, concerning the option for approved Multiple Occupancies to apply for conversion to Rural Community Title (Village Catchment) Settlement.

This did not come about as a planner matter. They had this option by virtue of a new land title legislation!
There is a city precedent for this conversion option - and for similar reasons. This occurred some years ago when apartment blocks structured as old style Company Titles were allowed to convert to the newer Strata Titles when they were adopted as a planning vehicle.

There is opposition to this proposal from some Councillors and elements in the community who perceive that inhabitants of M.O.'s will receive unfair advantage over people who have been waiting to subdivide. *? CT? Correct / unfair & could be argued to be a disadvantage against those land owners who have*

4 **The alternative view** is that most Intentional Communities would have applied for Community Title had that been available in the LEP at the time. This is because M.O. dwellers are currently penalised by lack of mortgage availability. They also need the improved legal structure that RCT allows. *Assumption Non security.*

As well, there is a difference between a group of people who choose to live in an intentional community, vs a developer who wants to build a rural subdivision for profit. The stringent process that M.O.'s must go through to gain approval to convert to RCT will allow Council ample opportunity to determine to which category each application belongs, and decide accordingly. *How? What indicators of "intentionality" does he suggest Council must determine this? BS here*
There is therefore no community disadvantage attached to allowing M.O.'s a 2-5 year option window to convert to RCT. There was **overwhelming support** for this proposal at a recent public meeting where it was discussed. *attended only by those who want CT!*

5 **The option in principle to convert should therefore be allowed on the basis of natural justice.** Each individual case can then be determined on its own merits. *There is no natural justice involved. Contained & restricted by planning legislation a bounds to restrict "freedom of choice". Those who bought into such systems did so of their own volition. Buyer beware.*

2. Detailed Discussion

a) Rural Community Title parallel to city Strata Title

There is a parallel between M.O.'s converting to RCT in the country, to the old Company Title for apartment blocks in the cities converting to the newer Strata Title arrangements. Strata Titles allow individual titles which can be used as security against a housing loan. The legal framework surrounding Strata Title also provides greater protection for a community. In the country, M.O.s need the option to migrate to Community Title for the same reasons. *generally not used for IC. not all*

b) Some myths about M.O.'s

Before discussing the arguments for and against, it is necessary to dispel some myths: *false assumption whose perception - not mine (no dweller 25 yrs)*

There is a perception that an M.O. is for "poor people who can only afford to buy land if they share it with others." In other words, the assumption is that community living is somehow a second best solution. Historically this may have been true, but is no longer the case. *1st best*

There is a worldwide trend towards the establishment of "intentional communities" which is reflected by the recent formation of the world wide Federation of Intentional Communities. This reflects the desire of a growing number of groups of people wanting to:

- Live together in communities for the purpose of pursuing a common ideal or shared vision
- Share the capital cost of achieving some degree of sustainable agricultural self sufficiency and community income
- For recreation, share a high proportion of the remaining land, not actually occupied by dwellings, kitchen gardens or agribusiness

Financially this is achieved by retaining within the community, the capital contributed by members when they join, which can be then used to:

- Develop the infrastructure
- Fund the establishment of agribusiness
- Build shared recreational facilities
- Repair and enhance the catchment area over time

Note that this is in complete contrast to sub-divisions; where a developer takes the entrepreneurial risk of re-zoning, funds the development cost, and then removes a large proportion of revenue from the development as his profit.

Up until ~~now~~ *a few years ago*, an M.O. has been the only vehicle within the current Byron Shire LEP which allows the development of an intentional community without taking the re-zoning risk. In other words, an MO is the only safe way that people can invest their life savings and achieve some degree of the community they seek. *False - they can do it as an expanded family false it does not*

However this is not an ideal solution. The M.O. structure denies members the ability to obtain bank loans to build houses in the same way as other property owners, ie where the only property held as security by the bank, belongs to the borrower. This is simply because the M.O. dweller holds no title to where he lives.

CAN MO BORROW low income earners won't be able to repay anyway
It is also true that the legal framework of an M.O. does not help to facilitate satisfactory conflict resolution. *evidence? What about disputes in CTG? Non securities*

It is this lack of either title or proper legal recourse inherent in the M.O. structure, not the desire to 'develop a subdivision', which prompted unanimous support for this planning option at the public meeting held at BSC on 5 Nov 98. At the meeting there were 35 M.O. dwellers from 16 M.O.'s in the shire.

how many M.O.s total? yes - how many?

c) Objections and counter arguments

There are three main arguments that have been voiced against the proposal. These are:

1. "It's a back-door subdivision", and "It's unfair to others who want to subdivide"

These two are closely allied and it is true that the option could be misused by developers disguising their intent. However the process that has been put in place for MO's to convert to RCT is most exacting for the applicants, allowing conditions to be imposed by council to frustrate such misuse. It is unlikely that reasonable conditions, designed to weed out the would-be developers, would raise objections from serious Intentional Community members.

- 6 Finally, far from "releasing floodgates" it is unlikely that many M.O.'s will in fact qualify under the new guidelines which will be stringently monitored by the strategic planning manager.

- 7 11.7 "There should be no land dealings in communities"

This objection represents a philosophical view that is not shared by the majority of Intentional Community members, who take a more pragmatic view about the need to have access to normal mortgage finance enjoyed by everyone else. It would seem most unfair if any councillor who holds this personal view were to use his council vote to enforce it on the majority, who voted unanimously in favour of the proposal.

d) Advantages to the Community

Here are some of the other advantages to the wider community that accrue from adopting the proposal to convert:

1. It would give Byron Shire Council the opportunity to increase its rate base.
2. It would require a more intelligent, sustainable and sensitive use of land than current ad hoc development. For instance, within Community Titles, we cluster housing, site orchards in the most appropriate locations, and usually have an intent to set aside particular areas to enhance and regenerate native flora and fauna.
3. When individuals can use their freehold titles to raise bank financing, money currently tied up exclusively in our houses and land, could be freed to establish a range of small businesses, thus enhancing the style of life and enriching the shire at large.

e) In Conclusion

I sincerely trust that Councillors will have the wisdom and clarity to separate the two issues - improved structures for Intentional Communities vs the developer windfall issue.

Fairmindedness will recognise the need for Intentional Community dwellers to no longer to be at legal and financial disadvantage, when compared to the wider community.

Creativity will find conditions to weed out the would-be developers, to the satisfaction of the wider community.

Hopefully, a combination of fairmindedness and creativity will allow council to vote in support of the proposal.

Yours sincerely,

Christopher Sanderson

Council + concerned citizens to participate in a series of w/s to regenerate in self education + creative + co-operative solutions to IC living.

FACSIMILE MESSAGE

NUMBER OF PAGES INCLUDING THIS 5

TO: Richard Staples, Councillor, BSC
PHONE: 6687 1861
FAX NO: 6685 7066

FROM: Christopher Sanderson
COMPANY: Transocean Investments Pty Ltd
ADDRESS: 'Jindibah', 176 Fowlers Lane, Bangalow, NSW 2479
PHONE: 6687 2244
FAX NO: 6687 2245
E-MAIL: sandersonc@om.com.au
DATE: 30 Nov 98

Dear Richard,

M.O. to C.T. Conversion Option

I am writing to ask you to please reconsider your position regarding this option, for good reasons whose principles I believe you support.

I'm sure many people support your views concerning everyone's right to apply to live in an intentional community — certainly I do. However that is a quite separate issue to the one being debated. If you vote against this motion for that reason you will be helping the opposition to deprive M.O. dwellers in this shire from a badly needed **opportunity to migrate from a disastrous legal structure to one which affords the intentional community some protection. See below for details.**

We really need your vote on this motion. Please don't miss this opportunity to seriously help intentional communities in this shire.

Attached is a letter I sent to Council supporting the motion. What I did not explain in detail in that letter because it is too personal, is a description of the disaster that **lack of proper legal safeguards for the community in the M.O. structure**, is causing us.

Our legal advice at the the planning stage of this M.O. did not include a warning that there is no protection from individual members of the community, who are in fact able to hold the entire community to ransom in order to pursue their own ends. Had I known then what I know now, I would never have gone down the M.O. path.

Briefly, one of the couples involved in our M.O. has broken up. They want to sell their share. They are demanding a price which is over twice what six local real estate agents tell us their share is worth. Under the Tenants in Common M.O. structure, if they do not succeed in selling at their nominated price within 12 months, they are able to force the sale of the entire property under Sec 66G of the Tenants in Common legislation.

~~which is a disaster~~
So in other words, they are able to blackmail the other members into buying them out an an extortionate price or lose our homes. To my mind this is a disaster situation.

What is needed for intentional communities such as ours, is a legal framework supported by a very tight and properly constituted deed for members, which gives the sort of protection afforded to Strata Title owners. The rural equivalent of this is of course Community Title.

I'm told by a solicitor in Lismore, who has considerable experience in these matters (Tony Pagotta) that even if we spend \$30,000 to restructure our M.O. as a company with shares, in an attempt to create something similar to the CT model, we cannot eliminate the effect of Sec 66G.

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Finally, far from "releasing floodgates", it is unlikely that many M.O.'s will in fact qualify under the new guidelines which will be stringently monitored by the strategic planning manager. *\ Does DRK A*

II. "There should be no land dealings in communities"

This objection represents a philosophical view that is not shared by the majority of Intentional Community members, who take a more pragmatic view about the need to have access to normal mortgage finance enjoyed by everyone else. It would seem most unfair if any councillor who holds this personal view were to use his council vote to enforce it on the majority, who voted unanimously in favour of the proposal.

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*no Strain Borrow for
BUSINESS INVESTMENT?*

e) In Conclusion

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Yours sincerely,

Christopher Sanderson



Dine BBS MO-CT

~~Brian M~~

(Di)

aluminum
Bryan M. Murphy
Glenboro.

Jali

se To have say in who buys

Credit Union

No profit trade

Collateral

Divided Pinpera

CT - VST will provide extra
protection & control

Pauline (then Lea Winkler)

6689-0009

R/for
bank
experience
etc

Muse now at farberbach.

If or CT comply what happens?
fallback need. How can council
force this.

- subdivisor cost
- new legal costs

Richard (John Hunt)
Louse Riddel

(H) 66891-322