

Environmental Planning & Assessment Act, 1979

Notice of Advertised Development - Section 30(4)

Council is in receipt of the following Development Application(s). Any person may view the application at Council's Information and Enquiry Counter, Station Street, Mullumbimby and make submissions anytime up to the closing date. Council will not process the application until after the closing date.

DA No.	Applicant	Land/Location	Development	Closing Date
96/458	Kalish Pty Ltd Lot 7 Lizray Road Federal	Lot 4, DP 634601 Mill Road Goonengerry	Re-advertised - additional information Multiple occupancy five (5) dwelling sites	26/3/97
97/050	Robert O'Connor 118 Lighthouse Road Byron Bay	Lot 1, DP 112553 118 Lighthouse Road Byron Bay	Tree removal	26/3/97
97/051	Kenneth & Patricia Gannon 158 Binna Burra Road Bangalow	Lot 21, DP 865643 Bugam Place Bangalow	Factory	26/3/97
97/052	Byron Shire Council PO Box 219 Mullumbimby	Lot 416, DP 728666 & Lot 443, DP 728684 Tweed Street & Pacific Highway Brunswick Heads	Proposed lighting of walkway between Brunswick Heads Bowls Club and Tennis Courts	26/3/97
97/053	Ian Pickles Town Planning PO Box 442 Mullumbimby	Lot 2 in subdivision of Lot 4, DP 627556 94 Bangalow Road Byron Bay	Subdivision two (2) lots	26/3/97
97/054	Chris Lonergan & Assoc Lot 7 Parkway Drive Ewingsdale	Lot 20, DP 259869 Kingsvale Road Myocum	Subdivision two (2) lots	26/3/97
97/055	Stafford Bettridge 120 Lighthouse Road Byron Bay	Lot 10, DP 758207 63 Kingsley Street Byron Bay	Dual Occupancy (2x2)	26/3/97
97/056	Stafford Bettridge 120 Lighthouse Road Byron Bay	Lot 10, DP 758207 63 Kingsley Street Byron Bay	Subdivision two (2) lots	26/3/97
97/057	Mr C & M Warren 40 New City Road Mullumbimby	Lot 1, DP 819939 40 New City Road Mullumbimby	Dwelling additions	26/3/97
97/058	Stephen Armstrong Coopers Shoot Road Bangalow	Lot 67, DP 262480 Osprey Court Byron Bay	Dual occupancy	26/3/97
97/059	Michael Ewings 2 River Street Birchgrove	Lot 5, DP 260319 Middle Ridge Road Upper Main Arm	Boundary adjustment	26/3/97
97/062	Trevor White Design & Drafting PO Box 78, Uki	Lot 191, DP 31166 6 Elizabeth Avenue South Golden Beach	Dwelling	26/3/97

Environmental Planning & Assessment Act

(Section 104A and Regulation 50A)

Development Applications Determined

Pursuant to Section 104A of the EP&A Act, 1979, notification is hereby given that the following development applications together with any conditions imposed may be inspected free of charge at Council's Information and Enquiry Counter during normal office hours 9.00am to 4.00pm weekdays, excluding public holidays.

96/122	Chris Lonergan Lot 7 Parkway Drive Ewingsdale	Lot 1, DP 123090 Binna Burra Road Binna Burra	Multiple Occupancy five (5) sites	APPROVED
96/150	Byron Shire Council PO Box 219 Mullumbimby	Lot 96, DP 849353 Jacaranda Drive Byron Bay	Recreation area, park, tennis & basketball courts	APPROVED
96/194	Byron Shire Council PO Box 219 Mullumbimby	Lot 40, DP 786291 Parkway Drive Ewingsdale	Tennis court & associated parking & recreational equipment	APPROVED
96/256	Chris Lonergan Lot 7 Parkway Drive Ewingsdale	Lot 102, DP 841831 Yankee Creek Road Mullumbimby	Dwelling	APPROVED
96/351	Chris Lonergan Lot 7 Parkway Drive Ewingsdale	Lot 9 in resubdivision of Lot 1, DP 780230 Bangalow Road Byron Bay	Child care centre (Long day care)	APPROVED
96/370	U Schmid PO Box 811 Mullumbimby	Lot 1, DP 17325 Beech Lane Montecollum	Multiple Occupancy eight (8) dwelling sites	WITHDRAWN
		Lot 8, DP 9281	Extensions to existing	APPROVED

b.e. 11-3-97

B21 10-4-98

NEWS

Approval given to illegal MO

An illegal six-dwelling multiple occupancy development in Mafeking Road, Goonengerry has been approved by the Byron Shire Council accompanied by a warning from Cr Michael Lines-Kelly that it is an invitation for other people to "thumb their noses" at the council. By approving the application, the council was telling everyone to go ahead and build their house then put in an application for approval, said Cr Lines-Kelly.

He said approving the MO was in conflict with a resolution passed by the council last year that no further rural rezoning should take place until the rural residential strategy was sorted out.

The application was for eight dwellings, but was reduced to six on the motion of Cr Bob Higgins. Cr Eric Singh described the lodgement of the application as arrogant when no building consents could be found for the existing six dwellings.

He didn't believe the council should

encourage people to put up buildings without first conferring with the council.

Cr Ross Tucker criticised councillors for being inconsistent in dealing with illegal buildings.

Cr Tucker said the council knew about the illegal buildings, some of which were being built now, but had done nothing about them.

Not even a stop-work order had been issued, he said.

Cr Tucker asked why the council had not taken action to have the buildings demolished and removed "the same as we have done with other people".

"I feel we are being a little bit inconsistent if we allow this to go ahead," he said.

The council's general manager, Max Eastcott, said the council was in the second year of a three-year program to identify all unauthorised dwellings in the shire.

Mr Eastcott said the first his staff would have known about the illegal dwellings in Mafeking Road was when the development application

was lodged.

He said MOs were often in environmentally sensitive areas and the council applied a lot of conditions to ensure there was minimum impact on the surrounding environment.

Quite frankly, the council did not have the staff to enforce the conditions, he said.

Cr Ian Hosken said MOs had been "sitting in the bottom drawer of council's planning department because they fitted into the too hard basket as to how to deal with them". He said he didn't believe MOs were sub-divisions as the land was not divided into smaller lots.

MOs still available

Arising out of *Backlash's* advice that a new SEPP No 15, Multiple Occupancy Policy is on exhibition, I obtained a copy and spoke to the head office of the Department of Urban Affairs and Planning.

The bottom line is that this policy is almost identical to the previous State MO Policy in that it will override Council Policy, permits MOs on all rural land (except Environmental Protection and Water Catchment zones), provided that not more than 25% is prime agricultural land, it has a minimum area of ten hectares, has a management plan in relation to bushfire, weeds and property maintenance, and does not propose subdivision.

This new draft policy applies to all north coast councils except Byron Shire. The reason for this was that Byron Shire had its own MO policy. Upon being told that Byron Shire had resolved to delete MO provisions from its Planning Scheme, the Department of Urban Affairs and Planning advised that when SEPP No 15 is made law in approximately April this year, that Byron Shire will be named as one in which SEPP No 15 will apply.

Multiple Occupancy is a form of land occupation which, if designed properly, can provide housing for its ownership group, whether a large family, group of friends or like minded people, in a very low impact environmental way. It benefits from an opportunity to pool resources, share purchase costs, share machinery, and repair the environment. And despite Council's recent attempts to abandon it (a strange decision seeing that some of our Councillors live on MOs), it looks like this form of land occupation, which has helped foster the environmental movement, is here to stay.

So for all those people wishing to legalise an existing MO or to create a new one, there is no need to panic.

Submissions to the Department of Urban Affairs and Planning in relation to SEPP No 15 can be made up until March 15 to The Manager, Planning and Design Branch, Department of Urban Affairs and Planning, Box 3927 GPO, Sydney 2001.

BE 31.1.97 Chris Lonergan
Ewingsdale



Byron Sh
Station Street, M

Public Submissions

Council's aim of embracing open and participative government has been reflected in its Freedom of Information Policy.

From the 25 June 1996 all submissions to advertised Development and Building Applications and other documents requesting public comment, are deemed 'public documents'.

As such these submissions will be available for public viewing upon request during normal office hours at Council's Mullumbimby offices from the information counter. In some circumstances confidentiality of a submission may be granted. Reasons for confidentiality need to be specified.

Further details are available from Mr Peter Kirkham by telephoning 267 000.

Exhibition of Draft Minor Amendment to Section 94 Contribution Plans

At its Ordinary Meeting of 10th December 1996 Council resolved to place on public exhibition a draft minor amendment to Section 94 Contribution Plans for a period of 28 days until 28th January 1997.

The entire Contribution Plans are available for perusal at Council's Offices in Station Street, Mullumbimby and the summary of amendments are available at the Libraries in Byron Bay, Mullumbimby and Brunswick Heads.

All interested persons are invited to make submissions on the Plans.

Any person requiring further information can contact Paul Montgomery or Jim Bolger, between the hours of 8.30am to 4.30pm, Monday to Friday, by telephoning 267000.

All submissions should be addressed to the Acting General Manager, Byron Shire Council, PO Box 219, Mullumbimby, 2482. Submissions must be received no later than 4.00pm on 28th January 1997.

Environmental Planning & Assessment Act, 1979 Notice of Advertised Development - Section 30(4)

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DA No.	Applicant	Land/Location	Development	Closing Date
96/151	John & Robert Allardice PO Box 36 Bangalow	Pt Lot 2, DP 610487 Main Arm & Blindmouth Roads Main Arm	Subdivision to create 18 residential lots, a commercial lot and an open space	Re-advertised and extended to 21/1/97
96/445	Ray Sargent & Associates PO Box 147 Lismore	Lot 2, DP 630492 Brunswick Street Billinudgel	Proposed extensions to industrial shed	29/1/97
96/447	Ronstar Pty Ltd 223 Broken Hd Rd Suffolk Park	Lot 2, DP 616403 & Lot 8, DP 774795 (Suffolk Park Hotel) Broken Head Road Suffolk Park	Extensions to existing bottle shop (storeroom)	29/1/97
96/458	Kalish (Federal) P/L Lot 7 Lizray Road Federal	Lot 4, DP 634601 Mill Road Goonengerry	Multiple Occupancy (5) dwelling sites	29/1/97
96/459	Comptan Pty Ltd Shop 17 Ross Industrial Complex 26 Mill Street Mullumbimby	Lot 3, DP 540706 17/26 Mill Street Mullumbimby	Change of use from existing art studio to press/publishing/ printing business	29/1/97

ble for the day to day
of the Brunswick Heads Community
Centre, South Beach Road, Brunswick
Heads.

Recent resignations from the
Committee have necessitated Council
to invite members of the community
who may have the time to assist in the
duties of booking clerk (contact per-
son), grounds keeper and general
maintenance.

For further enquiries, please contact
Mrs Joy Taylor on 267 000 during nor-
mal business hours.

Submissions should be addressed to
the Acting General Manager, PO Box
219, Mullumbimby, and be received no
later than 4.00pm on Friday, 29th
November, 1996.

Page 32 November 27, 1996

96/319	Holiday Villages PO Box 1632 Sydney	Lot 10, DP 243218 Bayshore Drive West Byron Bay	Erection of extensions to an existing conference facility & removal of (7) seven trees	APPROVED
96/355	A B Nowlan PO Box 51 Burrigbar	Lot 175 & Lot 344, DP 755687 Pacific Highway Yelgun	Tree removal	APPROVED
96/346	A Richardson & G Teasel PO Box 110 Bangalow	Lot 5, DP 800445 Friday Hut Road Coorabell	Tree Removal	APPROVED
96/278	Byron Shire Council PO Box 219 Mullumbimby	Lot 1, DP 591441 & Lot 4, DP 836668 Manse Road Mullumbimby	Boundary Adjustment	APPROVED
93/433	C Langton, R Deegan, I Hosken & others 'Namarra Tya' Upper Main Arm Rd Mullumbimby	Lot 141, DP 755730 Main Arm Road Mullumbimby	Multiple Occupancy comprising of (6) six sites	APPROVED



96/166	Kohinoor Pty Ltd PO Box 923 Mullumbimby	Lot 1, DP 843458 Upper Main Arm Rd Main Arm	Multiple Occupancy (6) six dwelling sites	29/5/96
96/127	Eurata Productions Benowie Friday Hut Road Coorabell	Lot 1, DP 815904 Friday Hut Road Coorabell	Multiple Occupancy (3) three dwelling sites including conversion of existing shed into a dwelling & construction of a new dwelling at 'Benowie'	29/5/96

READVERTISED ON

brave people who attempted to attend this meeting. This meeting is now
rescheduled to be held on - Monday May 27th at Pioneer Hall, Gordon
Street, Mullumbimby from 7pm to 9pm.

If you have any enquiries please contact the Council's Community Project
Officer, Robyn Masters, on phone 85 6500.

Environmental Planning & Assessment Act

(Section 104A and Regulation 50A)

Development Applications Determined

Pursuant to Section 104A of the EP & A Act, 1979, notification is hereby given that the
following development applications together with any conditions imposed may be
inspected free of charge at Council's Town Planning Enquiry Counter during normal
office hours 9.00am to 4.00pm weekdays, excluding public holidays.

DA No.	Applicant	Land/Location	Development	Determination
95/301	M Farralloy c/- PO Box 36 Bangalow	Lot 1, DP 260707 Newells Road Mullumbimby	Multiple Occupancy consisting of three (3) dwellings	APPROVED
			Change of location	APPROVED

Waiting on DA

Cr Ian Hosken declared an interest in a DA for an MO at MA but before leaving the chambers noted the matter had been on Council's books for 14 years. It will have to wait another two weeks as further conditions in the DA are sorted out, as an updated report lobbed onto the councillors' desks that night.

During public access both Keith Greasley for the MO and Patrick Morrissey for the Goonengerry dust-

busters showed commendable handles on their cases. The unanimous 9-0 vote (Cr Higgins was absent) in favour of the Goonengerry mob proved the value of their lobbying and research.

John Craven had helped them out with the community mapping aspects and the input of various engineers and environmental experts showed the need for a central register where different community groups can call upon such expertise (I would be happy to promote it in *The Echo*). It would also make life easier for councillors in the community consultation process.

Both Crs Ian Kingston and Michael Lines-Kelly were seriously infected with the um-er bug, which involves not throwing caution to the winds but embracing it like a security blanket. They worried over contradicting engineers' advice and questions of liability (how much more liable can you get on the state of public roads?) instead of entering into the spirit of the community input handed to them on a plate.

In his remarks Cr Ross Tucker looked positively revolutionary by comparison.

BE 16.10.96

Exhibition of Draft Local Environmental Plan 11/96

Notice is hereby given pursuant to Section 66 of the Environmental Planning and Assessment Act, 1979, that a Draft Local Environmental Plan to delete Clause 17A of the Byron Local Environmental Plan 1988, will be exhibited for at least a twenty-eight (28) day period from 4 December, 1996 until 14 February, 1997. This draft Plan will have the effect of deleting the Multiple Occupancy provisions of the Byron Local Environmental Plan 1988.

Persons wishing to view this Plan may do so between the hours of 9.00am and 4.00pm Monday to Friday at Council's Offices, Station Street, Mullumbimby.

Those interested in making formal submissions on the draft Plan should do so by 4.00pm Friday 14 February, 1997.

Page 32 December 4, 1996

AE

28 DEC 1996 10:00 AM

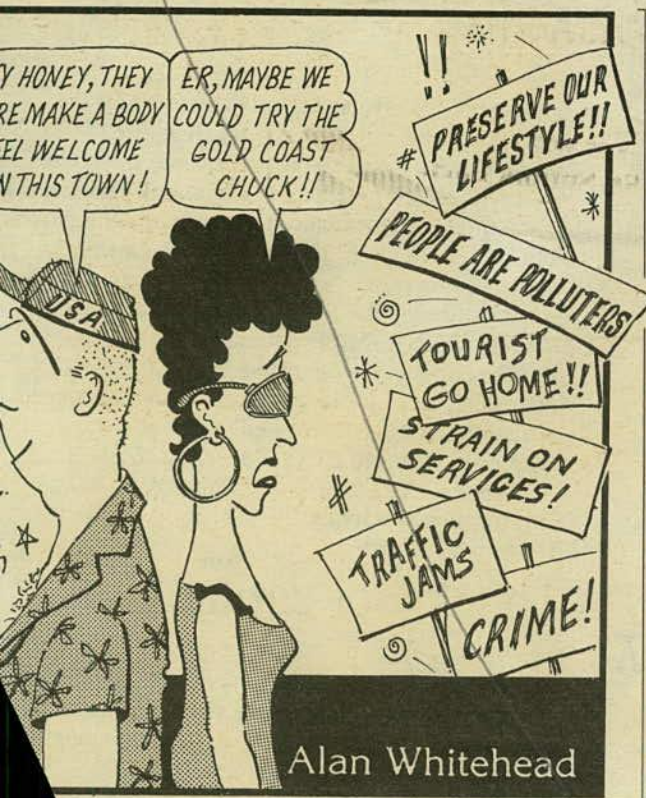
10/12/96

David K.

(A) Means will have the effect, if adopted by Council after display & approved by DUP (A) may have to accord with any new provisions in a reinstated SEPP, of deleting the current provisions. David looks to a simultaneous swap over, ie deletion in LEP & intro of new provision.

The current strategy is is to overlay as many "constraint" layers (some 15 in all) as to "suitability" for settlement for CT, MO, rural res etc ie the Mickey model.

BRS 6/11/96



Alan Whitehead

Property owners should join forces

Sir,

On 25 September, almost two years since we submitted the Development Application (DA), our Multiple Occupancy was finally approved – literally on the steps of the Land & Environment Court, just as our appeal against deemed refusal was about to be heard. This saga, which seems to be quite typical for the shire, has been expensive for us as property owners and for all of us as ratepayers. What's worse, the cost and delay for both parties could easily have been avoided.

What we have been put through over the last two years, during the DA process, suggests to me that all property owners in this shire, who have any intention of doing any development on their property in any manner, at any time, would benefit by joining forces and sharing experiences.

This view, by the way, is not intended as a criticism of our councillors. With our DA, we were fortunate enough in the end to gain seven votes out of ten – with support and opposition coming from both sides of the political spectrum.

It must also be acknowledged that councillor input helped improve the final outcome in terms of arriving at a result that everyone can live with.

However in processing our DA we had to deal with serious flaws in the BSC process. Over the two years at different times, two different

council planners worked on our DA. Their formal comments and recommendations are so different from each other that it almost appears that they were both working on applications for completely different properties.

It has cost us serious money which we can ill afford and at times seemed deliberately intended to create unnecessary delay and thus expense. These are major issues for me.

In recent discussions with other landowners and planning consultants who have been through the DA process, I have discovered that our experience seems generally to be the norm, although many of the problems may be limited to a specific handful of planning staff. As a consequence I would be very interested to hear from anyone in the shire who has or currently is, experiencing similar problems in processing a DA.

If there is sufficient response I would be willing to develop and maintain a historic information base of DAs and their outcomes together with the experiences that landowners are having with the particular council planning officers involved.

Since no such internal process currently seems to exist, council bureaucracy and management has a tendency to close ranks in the face of isolated complaints.

Analysis of such an on-going collection of individual experiences should soon prove very helpful, both to a user group and to council, in helping determine where the problems actually lie.

Aside from helping eliminate such problems associated with the DA process, it also seems to me we need some association whose mission is specifically aimed at protecting our individual property rights which currently risk being rapidly eroded by the various political and bureaucratic forces currently at work in this shire.

First of all there's the 'let's-put-a-stop-to-all-development (or-at-least-near-me) movement. There's also considerable pressure building to increase the power of the 'community' to determine how development should happen, in a way which inevitably will be at the expense of the rights of individual property owners.

Nothing sinister here, simply the democratic political pendulum swinging hard in a new direction. Indeed much of what's being suggested represents highly desirable goals from an environmental point of view.

However if this process is left to gather momentum without any counterbalancing views being gathered and expressed over the next two or three critical years, landowners are likely to wake up one day to find the new LEP and DCP are already in place and their rights to develop their own properties have been severely eroded.

These two issues have prompted me to write this letter and ask if there is enough property owner support at this stage to form an

Call to form property owners association

A Bangalow land owner, unhappy with the time it took Byron Shire Council to deal with his development application for a multiple occupancy (MO), is urging other land owners to "join forces" and form a Byron Association of Property Owners. Christopher Sanderson said residents who intended developing their properties would benefit by joining forces and sharing experiences.

Mr Sanderson said it took two years for the MO application for his Fowlers Lane property to be determined by the council.

Highly critical of the planning process, he said he would be very interested to hear from anyone in the shire who was experiencing similar problems with having applications processed.

"There is a tremendous learning process to go through," he said.

"We are not developers, we are just people who want to share our land."

Mr Sanderson said there was a need for an association whose role would be to protect individual property rights which were at risk of being eroded by the "various political and bureaucratic forces currently at work in this shire", he said.

He said if property owners didn't act, they would "wake up one morning" and find the new Local Environmental Plan (LEP) and Development Control Plans (DCPs) put in place with their rights very much eroded. Suggestions now being put forward for the LEP and DCPs would make it more difficult for property owners to develop their land, he said.

There was growing pressure to increase the power of the community to determine how development should happen in a way which would be at the expense of the rights of the individual property owners.

• See Your Opinion pages for a detailed letter on the issue from Mr Sanderson.

BYRON HILL

Environmental Planning & Assessment Act (Section 104A and Regulation 50A) Development Applications Determined

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DA No.	Applicant	Land/Location	Development	Determination
96/248	Tailoc Tokuda 13 Bay Street Mosman	Lot 5, DP 264149 Upper Coopers Creek Rd, Rosebank	Dwelling	APPROVED
96/267	Martin & Jennifer Jenning 2 Moffatts Road The Pocket via Billinudgel	Lot 5, DP 255993 Moffatts Road Billinudgel	Addition and alteration to dwelling	APPROVED
96/7036	Geolink Pty Ltd PO Box 9 Lennox Head	Lot 1, DP 600192 Coopers Shoot Road Coopers Shoot	Section 102 to DA 94/447 Modification of Conditions	APPROVED
96/207	Robert Bass 2 Jonson Street Byron Bay	Lots 6, DP 621694 Quarry Lane Ewingsdale	Dual Occupancy	APPROVED
96/195	Phil Anstey De- signer Homes P/L Friday Hut Road Coorabell	Lot 2, DP 31166 22 Pacific Esplanade South Golden Beach	Dwelling (Demountable)	APPROVED
96/127	Catherine & Zbigniew Wesolowski 'Benowie' Friday Hut Rd, Coorabell	Lot 1, DP 815904 Friday Hut Road Coorabell	Multiple Occupancy three (3) dwelling SEPP No 1	APPROVED
96/7020	Datadate International P/L PO Box 355 Mullumbimby	Lot 1, DP 580352 Left Bank Road Mullumbimby	To modify conditions of Development Consent No 95/246	APPROVED

Environmental Planning & Assessment Act 1979

25/07/36

Paul Walker

to Council reply to his no mo → et
meeting with Minister.

DOAP - run Area Assistance Scheme

\$45,000 pa for 6 yrs.

BSC - Lead by Robin Masters (Project
Walker)

OPINION/NEWS

BN 21.8.96

MO

From page 8

Roundhouse for more than \$1.2 million and verbally bashed those on council who resisted this pressure

• Market forces have recently defined the Roundhouse's true value to be something less than \$400,000. Bearing in mind these indisputable facts I don't give a damn what PD McClellan or Mary Brophy had to say in their respective reports, or Judge Bannon in his judgement, but I do take issue with Cr Tucker's version of the latter.

Judge Bannon valued the site as if it were zoned in the same way as surrounding land – which is reasonable – and he decided that in accordance with current council policy the owner should be entitled to construct 50 units on it.

From this he somehow calculated that the land was worth over \$900,000. Whether these calculations were reasonable or not I can't say; what I can say is that they were wrong.

The land was recently re-zoned in the way suggested by the judge, and any developer who bought it would have a strong case for permission to construct 50 units on it. Despite this the highest offer received was less than \$400,000, which is therefore its true market value, buyer or no buyer.

If Cr Tucker is so thoroughly convinced that the site is worth the \$1.2 million we paid for it and that there are profits to be made, why isn't he urging Council itself to develop the site and recoup its outlay? Could it be that he was only interested when it was in private hands and that now he regards it as the ratepayers' problem, not his?

Certainly it has always been a tactic to lumber the public with uneconomic projects, while the lucrative ones get sold off to so-called 'private enterprise', which is supposedly more 'efficient'.

Cr Tucker attributes my challenge to him to the fact that my subdivision

DA was refused by him and Higgins. Really? Anudhi Wentworth and Rhonda Ellis voted against it too. How come also that I was attacking council for six years (1983-89) before I ever lodged a DA? What Cr Tucker cannot grasp is that there are people out there who are not motivated purely by self interest. His must be a lonely and cynical world indeed. His suggestion that I lied to convert an MO into a rural subdivision is equally sad for it is well known that the law forbids such. Pathetic Ross! These ugly minded red herrings are clearly designed to distract the ratepayers from his own crucial role in the Roundhouse stuff-up, and the fact that he was the dominant force on the last Council was clearly reflected in the huge personal vote he got at the last election. He was happy enough to bask in the glory at the time but now that a variety of expensive stuff-ups have come to light he prefers to see himself as just one of the boys.

How convenient. At least Bob Higgins has had the dignity to keep his mouth shut – out of embarrassment, presumably. But Cr Tucker's sense of humour has definitely improved. In his previous letter he made a rather desperate joke about the 'Heinz 57 trees' matter in North Ocean Shores and the whole shire groaned. This time his joke was that the aim of the Disputes Resolution Committee was to be 'reasonable, fair, open-minded and clear-headed'.

Mate, I nearly died laughing.

Fast Buck\$

Byron Bay

S30 (4) Adventure BE 28/8/96

DA No.	Applicant	Land/Location	Development	Closing Date
96/194	Byron Shire Council PO Box 219 Mullumbimby	Lot 40, DP 786291 Parkway Drive Ewingsdale	Recreation area and playground equipment	18/9/96
96/271	Plan B Design Bay Vista Lane Ewingsdale	Lot 30, DP 811498 74 Teak Circuit Byron Bay	Dual Occupancy and and strata subdivision	18/9/96
96/288	Paul Shultz Lot 5, Sunnycrest Lane Bangalow	Lot 5, DP 264449 Sunnycrest Lane Bangalow	Rural Workers Dwelling	18/9/96
96/291	Tony Hart Gallen Hart & Assoc PO Box 851 Lismore	Lot 14, DP 849495 Constellation, Comet and Electra Closes, Byron Bay	Subdivision twelve (12) lots as part of original DA 92/433 in 5 stages plus residual allotment	18/9/96
96/292	Arcadia Built Environment Design 186 Molesworth St Lismore	Lot A, DP 377946 4 Lawson Street Byron Bay	Extensions to commercial development (Byron Liquor Supplies)	18/9/96
96/294	Mr A Salmona PO Box 900 Byron Bay	Lot 112, DP 828930 20A Alcorn Street Suffolk Park	Dwelling and removal of 15 trees	18/9/96
96/295	Chris Lonergan 7 Parkway Drive Ewingsdale	Lot 5, DP 703261 Mill Road Goonengerry	Multiple Occupancy twelve (12) dwellings, community building and two (2) cabin rural tourist facility	18/9/96
96/296	Chris Lonergan 7 Parkway Drive Ewingsdale	Lot 2, DP 807103 The Pocket Road The Pocket	Subdivision two (2) lots	18/9/96
96/297	Chris Lonergan 7 Parkway Drive Ewingsdale	Lot 2, DP 785298 Binna Burra Road Federal	Dwelling and two (2) cabin tourist facility	18/9/96
96/298	Plan B Design Bay Vista Lane Ewingsdale	Lot 11, DP 258951 Bay Vista Lane Ewingsdale	Dual Occupancy	18/9/96
96/299	NSW Dept of Housing PO Box 466 Liverpool	Lot 3, DP 249282 39 Marvel Street Byron Bay	Residential Flat Building consisting 20x1 bedroom units (Housing for Aged or Disabled)	18/9/96
96/302	Walter James & Robyn Hayward Burnetts Road Nashua	Lot 8, DP 732056 & Lot 11, DP 855046 Burnetts Road Nashua	Subdivision (Boundary adjustment)	18/9/96
96/7042	Refrmont Pty Ltd c/- J Giles Beechgrove Road Eureka	Lot 3, DP 851485 Subdivision of Lot 3, DP 839725 Oceanside Place Suffolk Park	Section 102 to DA 95/405	18/9/96

STEVE JOHNSTON
ACTING GENERAL MANAGER

Byron Shire Council
Mullumbimby

BN. 21-7-90

MO applications on hold

No further multiple occupancy (MO) applications will be processed by Byron Shire Council until the council completes its rural settlement strategy.

The move is aimed at clamping down on what is seen as de facto rural subdivisions.

It brings MOs into line with a decision by the council last year to put a freeze on rural rezonings until the completion of the rural settlement strategy, which will address rural residential rezoning applications.

David Kanaley, the council's strategic planning manager, said processing MO applications while the study was being done was

considered to be inconsistent because MOs might be viewed as a form of rural residential development. Mr Kanaley said that many MOs were "development initiated", de facto forms of subdivision.

He said the best way to address the inconsistency was through an amendment to the Byron Local Environmental Plan by deleting the MO provisions contained in Clause 17 (A).

Improved MO provisions would be reintroduced after the rural settlement strategy was completed.

Councillors back Mr Kanaley's recommendation and resolved to delete the MO provisions from the LEP.

David K. re MO

Option
Delete.

Stop exhibit.

s 90 - to exhibition -

Delete -

off to reintroduce SEPP.

s. 90(1) referred to plan
→ (a)(ii)

Summary

Delete under s 90(1)(a)(ii).

Then has about one exhib, but
it is Council's discretion how
long this goes to next step.

But note he views Council
cannot/should not say in the
resolution that it will
not proceed, but I say
"to be reviewed in context of
Royal L that Review" (which
leaves it open) + yes now
for a draft for discussion

to acc sub am to KEP.

He says likely to be a
second nest (regardless
the 1st viz for Council
to offer to DUP to make
input SEPP-15 ^{if} inevitable.

NO Council debate - Byron 22/1/96

Tucker-Higgs/Singh split

Higgs & Singh ran the "loophole" line while Tucker voted for the motion, i.e. to keep it in place on the argument that all other avenues had been closed off to spec developers & this was the only remaining option.

Tucker did however raise the issue of rates.

Kensley proposed a possible ^{NO} subcommittee of the Rural Strat Planning Committee.

26-7-96

"Number Nests" at:-

- o Isaac Craft - Byron Bay (cr Monvel St)
- o Wullenbinby Newsagency
- o Wullenbinby - laughing Buddha
- o Tyograh Service Station
- o Wullenbinby - Santos
- o " Caldera Env. Centre.

Byron MO

O Jan K. re Seaview

O Ananga - cannot meet
of the Committee.

pepe OK
relative title.
impact of 3 sun.

Rob - re

David

- not seen any of the options
- only a few DA's
-

Has on side
High accepts philosophy

See side

List Alston

- ✓ Rob ✓
- ✓ Alan ✓
- ✓ Di ✓
- ✓ Simon ✓
- ✓ Eddie ✓
- ✓ Pritam ✓
- ✓ Nick Gazzard
- ✓ Irvine
- ✓ Ian C. Jan

Bse MO Moratorium

Handy Report

Has started

MO
PA-Work copy
Fax copy
9pp

FAX DOCUMENT FROM PETER HAMILTON

1/50 Paterson Street, Byron Bay, 2481 (066) 858 648 (F/T)

✓
TO: Britam A (To be collected)

FAX No:

DATE: 29-7-96

Number of pages (including this sheet): 2

SUBJECT: Byron MO provisions

COMMENTS: Herewith motion as adopted. It appears that it is Councils intention to exhibit the DLEP and utilise this to reject MO DA's pending finalisation of the Rural Planning Review. This is expected to be completed in 1997.

Regards

Peter.

FAX DOCUMENT FROM PETER HAMILTON

1/50 Paterson Street, Byron Bay, 2481 (066) 858 648 (F/T)

TO: Nick & Michael

FAX No: DATE: 29-7-96

Number of pages (including this sheet): 2

SUBJECT:

COMMENTS:

Herewith advance copy of Minutes dealing with the mo decision at the last Council Meeting for your information.

Regards

Peter

FAX DOCUMENT FROM PETER HAMILTON

1/50 Paterson Street, Byron Bay, 2481 (066) 858 648 (F/T)

TO:

Eddie

FAX No:

DATE:

29-7-96

Number of pages (including this sheet):

2

SUBJECT:

Byron MO provisions

COMMENTS:

Herewith motion as adopted.

David says that once the DLEP goes on public exhibition then "consideration" must be given to it under s.90(1)(a)(ii). It seems to me Council could still technically accept an MO DA at this time? It also seems that Council could protract the exhibition process indefinitely and hence place the "repeal" in limbo? Peter

ITEM NO. 7.

STRATEGIC PLANNING MANAGER'S REPORT

SUBJECT: DELETION OF MULTIPLE OCCUPANCY PROVISIONS IN BYRON LOCAL ENVIRONMENTAL PLAN, 1988

File No: PLN550100

Goal: To achieve sustainable development so that it meets the needs of the community today without compromising the ability of future generations to meet their own needs and live a quality life.

Objective: To enhance the community's well being.

Summary: The Council's Rural Strategic Planning Committee is currently in the process of preparing a Rural Settlement Strategy which in particular will address the issue of rural residential development in the Shire. In preparing this Strategy the Council has resolved to defer the consideration of any further rural residential rezoning applications. However, Multiple Occupancy development applications are still being made and processed. This is considered to be an inconsistency in as much as Multiple Occupancy is a form of rural living and more particularly may be viewed as a form of rural residential development. This report seeks to redress this situation.

RECOMMENDATION:

1. That Council resolve to prepare a draft Local Environmental Plan pursuant to Sections 54(1) and 74(1) of the Environmental Planning and Assessment Act, 1979 to delete Clause 17A from Byron Local Environmental Plan, 1988. The effect of this action will be to delete the Multiple Occupancy provisions from the Shire's Local Environmental Plan.
2. That no Local Environmental Study is necessary as the consideration of Multiple Occupancy as a form of rural settlement will by this resolution form part of Council's proposed Rural Settlement Strategy which is currently in the course of preparation.
3. That pursuant to Section 54(4) of the Environmental Planning and Assessment Act, 1979, the Secretary of the Department of Urban Affairs and Planning be notified of the Council's decision.
4. That following receipt of the Department of Urban Affairs and Planning's advice, the Council proceed to exhibit the draft Plan pursuant to Section 66 of the Environmental Planning and Assessment Act, 1979.
5. That following exhibition, the draft Plan be reported back to the Council for consideration of submissions pursuant to Section 67 of the Environmental Planning and Assessment Act, 1979.

Not.

Attachment:-

BYRON SHIRE COUNCIL

ORDINARY MEETING

23RD JULY 1996

(118)

- A. Memo from Cr Michael Lines-Kelly to the Mayor titled "Resolution 5877 of 3rd October, 1996 (sic) - Multiple Occupancies - Rural Residential Strategy". (1 Page)

BACKGROUND

As a result of a memo from Cr Michael Lines-Kelly dated 5th June, 1996 (copy at Attachment "A"), the Mayor, Cr Ian Kingston, requested that I address the inconsistency between the Council's Resolution No. 5877 of 3rd October, 1995 which states:-

"That no new applications for rezoning of rural land for residential purposes be accepted until the Rural Residential Strategy has been reviewed by the Rural Residential Strategy Review Committee (now named Rural Strategic Planning Committee) and recommendations for change adopted by Council."

and Clause 17(A) in the Byron Local Environmental Plan (LEP), 1988, which provides for Multiple Occupancies (MO's).

Basically the argument is that Multiple Occupancies are a form of rural living and in particular a form of rural residential development and should be treated as such for planning purposes. Thus they should be considered in the preparation of Council's new Rural Settlement Strategy particularly as it relates to rural residential development.

The best way to address this inconsistency is through an amendment to the Byron Local Environmental Plan, 1988, to delete the Multiple Occupancy provisions contained in Clause 17(A).

STRATEGIC PLANNING CONSIDERATIONS

The rationale for deleting the MO provisions in Byron Local Environmental Plan 1988 is that this will prevent further development applications being processed within Council or determined by the Courts. Such action will bring the consideration of MO's into line with the consideration of any other form of rural residential development while the Rural Settlement Strategy is being prepared by the Council. The proposed deletion from Byron LEP 1988 should not be interpreted to mean that Clause 17(A) will not be reintroduced following completion of the Strategy either in its current or some amended form.

MO's are of strategic importance because of their potential impact on:-

- The ecology of an area;
- The natural support systems of an area;
- The social fabric of an area;
- The economic base of an area.

Options

Council basically has a number of alternatives in regard to this matter. They are:-

1. To formally resolve to delete the MO provisions from Byron LEP 1988 and to proceed with this LEP as quickly as possible. This will take a minimum of 3 to 4 months and possibly up to 6 months depending on the number of submissions received and the Council's reaction to those submissions.
2. To formally resolve to amend Byron LEP 1988 in regard to Clause 17(A) Multiple Occupancy provisions, but to proceed no further until the results of the Rural Settlement Strategy are known and to feed the results of the Rural Settlement Strategy into this LEP. In this scenario the Byron Rural Settlement Strategy is not likely to be available for exhibition until December,

1996 at the earliest and therefore an amending Multiple Occupancy provision in the LEP is not likely to be included until March 1997.

3. Not to amend the Byron LEP 1988 in regard to Clause 17(A) Multiple Occupancy but to refuse to process any further development applications for Multiple Occupancies on the basis that the Rural Settlement Strategy needs to be completed first but recognising that any applicant may take Council to Court after 40 days and have the matter determined in Court. The danger of this scenario is that a number of Multiple Occupancy development applications are likely to be processed between now and say March, 1997. Possibly one could envisage two or three Multiple Occupancy development applications being received over this period.
4. To prepare a Development Control Plan which addresses how Clause 17 (A) is to be implemented. The intent of Clause 17(A) is not as clear as it could be. A Development Control Plan could, for example, make it clear that it is to achieve:-
 - a clustered form of development on common land, which is environmentally sensitive;
 - a source of housing for low income earners;
 - the environmental repair and/or environmental management of community owned lands.

Such a Development Control Plan if it were in place would undoubtedly reduce the number of development applications being received for Multiple Occupancies which vary substantially from the original intention of Multiple Occupancies. A number of recent Multiple Occupancy development applications have been in the form of unclustered, defacto rural residential development on unsubdivided land.

Consideration of Options

Options 1 and 2 are preferable in that they recognise and provide for a more equitable consideration of rural living options in Byron Shire and do not separate Multiple Occupancy from other forms of rural living opportunities. Multiple Occupancies should be considered along with rural cluster Community Title developments and traditional rural residential developments as a form of rural living. It may well be that like other forms of rural living it is not appropriate to have Multiple Occupancies in all rural areas of the Shire. This aspect can best be assessed in the development of the Rural Settlement Strategy.

Option 4 has some merit. But is less than optimal in that remote areas of the Shire would still be available for Multiple Occupancy development applications even if on assessment in the Rural Settlement Strategy process they prove to be unsuitable. The concept of guidelines detailed in a Development Control Plan for MO's is supported if this form of development is favoured in the Rural Settlement Strategy.

Option 3 is the line of least resistance. It is the least cost option. It is not a bad option if it could be guaranteed that no applications for MO's would be received until after the Rural Settlement Strategy was completed and any subsequent amendments to the Byron LEP 1988 made. It does not, however, have the advantages of either option 1 or 2, and isolates Multiple Occupancy from other forms of rural living opportunities. This is neither equitable nor socially desirable from an ESD planning viewpoint.

PROPOSED AMENDMENT TO BYRON LEP 1988

It is proposed that Byron LEP 1988 be amended in the following manner:-

- Repeal Clause 17(A) which relates to Multiple Occupancy development.

Should Council resolve to prepare the draft Plan as proposed, the draft LEP then becomes a consideration under Section 90. It will then be considered should Council receive any development applications for Multiple Occupancy development while the draft LEP is in the process of preparation and gazettal. Council may or may not consent to such development applications depending on their merits up to the gazettal of the draft LEP. Once the LEP is gazetted the Council will have no power to approve a MO development application.

CONCLUSION

I understand Council's experience with Multiple Occupancies is that Multiple Occupancies generate the equivalent demand for services and infrastructure as conventional subdivision. However, conventional subdivision always requires the rezoning of land except for those areas where specific rural residential 1(c1) or 1(c2) zonings have been provided. Multiple Occupancies are seen as a defacto form of subdivision without being required to conform to the same development standards or contribute in the same manner to Council's rates income as conventional subdivision.

These contentions are refuted. Multiple Occupancies are required to conform to the same development standards in terms of building construction standards, access roads, disposal of waste water and the like. As to the question of Council's rates income, I understand Multiple Occupancies as with all properties are rated on the basis of land value, not on the number of houses or the number of people residing on the land. Therefore, a particular rural property should be rated at a similar level whether it was a Multiple Occupancy or not. Evidence from Lismore City Council seems to suggest (verbal advice only) that Multiple Occupancies are paying an equitable portion of rates. Furthermore, where Multiple Occupancies are truly meeting the spirit of earlier State Multiple Occupancy policy including the provision of housing for low income earners, then perhaps the question of rating needs to be put into this social perspective.

The real issue with Multiple Occupancies is that many are now development initiated, defacto forms of subdivision. Such developments need to be excluded from consideration of Multiple Occupancies as they are better assessed as rural residential subdivision.

As Council is not considering any future 1(c1) or 1(c2) zonings until a new Rural Settlement Strategy has been prepared, I believe it is only fair and equitable that Multiple Occupancies not be provided for in the Shire, until such a Strategy has been prepared.

In this regard Multiple Occupancy should be regarded as a particular form of rural settlement just as conventional rural residential development through the 1(c1) and 1(c2) zoning process is considered as a particular form of rural settlement.

In considering a new Rural Settlement Strategy, it may well be that Community Title development which provides for a cluster style of development may be a more appropriate mechanism for Council to implement and manage rural settlement. Councillors will note that the Department of Urban Affairs and Planning promotes Community Title cluster development in its recently released North Coast Rural Settlement Guidelines.

In preparing the Rural Settlement Strategy, it will be necessary to consider, should this report's recommendations be adopted, whether Multiple Occupancy development should be restricted to its originally intended purpose. This was based on the needs of intentional groups coming together on a philosophical basis of community, sharing of resources, ecologically sensitive land management and environmental repair and low cost housing in a clustered style to minimise adverse environmental impacts.

BUDGET AND RESOURCE IMPLICATIONS

Council has approved the increase in fees and charges for rezoning applications as suggested in the Strategic Planning Manager's proposal to the Finance Works and Enterprise Committee as part of the 1996/97 Budget. Thus sufficient funds should be available for the work resulting from the adoption of this report's recommendations to occur in the first half of 1996/97.

If this work is done by a consultant, then the expected cost would be approximately \$2,000. The \$2,000 would come from the \$25,000 that has been provided in the budget for consultant work to assist in the preparation of development control plans and local environmental plans.

ATTACHMENT "A"
(Memo from Cr. Lines-Kelly)

Memo to: Mayor

From: Michael Lines-Kelly

Date: 05 June 1996

Subject: Resolution #5877 of 03.10.1996 - Multiple Occupancies - Rural residential Strategy

You will be aware that for some time I have had serious concerns about the inconsistency that exists between the intent of Council's Resolution #5877 of 3 October 1995, and the provisions of planning instruments permitting multiple occupancies.

The resolution states:

That no new applications for rezoning of rural land for residential purposes be accepted until the Rural Residential Strategy has been reviewed by the Rural Residential Strategy Review Committee and recommendations for change adopted by Council.

Since October 1995 a number of development applications for multiple occupancies have come before Council and been determined.

By any standard a multiple occupancy must be regarded as a form of rural residential development, and because there are a number of dwellings, a multiple occupancy is effectively a subdivision of a parcel of land, because the land is divided by roads and other physical barriers.

What is more, the establishment of a multiple occupancy transforms the land it occupies to a use other than agriculture, which is the prime purpose to which land zoned 1(a) may be put.

Approval of a development application for a multiple occupancy is therefore not merely approval of a subdivision, but effectively a rezoning, and one which is accomplished by an applicant who is not required to go through normal and appropriate channels.

Resolution #5877 clearly indicates that Council's intention is to place a moratorium on all rezoning for residential development in rural areas until a strategy is in place.

However, while Council continues to accept, consider and determine development applications for multiple occupancies this intention will be lost to view. Inevitably, it will contribute yet another layer of confusion to Council's already difficult and complex planning processes. My view is that to some extent this confusion has already occurred, and that a continuation of the situation can only make matters worse.

It is not difficult to conjecture that in the very near future applicants will start lodging applications that take advantage of this loophole to establishment de facto residential development in rural areas. The procedures are comparatively simple, indeed much simpler than a normal rezoning. All they have to do is prepare a document that satisfies ownership criteria, lodge the necessary documentation, and comply with a range of conditions, at least until completion of ritual inspections. Aside from the general looseness of these requirements, which I would argue poses significant problems, even without the formal reinforcement of SEPP 15, the situation has the potential to degenerate into a planning nightmare.

Clearly, Council is sending a signal to the community that applicants may continue to put forward applications, with an expectation that approval is at least possible.

Equally clearly, this is the direct antithesis of the intent of resolution #5877.

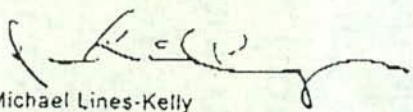
Council has an obligation to put an end to the muddle it has created, and to close the loophole.

Two courses of action appear possible. The first is to rescind resolution #5877, thus returning the planning process to the position it was in before 3 October 1995. While less than perfect, this option would at least be logical. For a variety of reasons I do not favour this option.

Alternatively, Council may wish to amend the Local Environment Plan and Development Control Plan No 1, placing a moratorium on all rural subdivision and multiple occupancies until a rural residential strategy is in place. I would favour this second course of action.

Having regard to the need for some haste in the matter, I believe it would be appropriate for a Mayoral Minute to be handed down at Council's meeting scheduled for 25 June. Alternatively, I am prepared to move for placement of a moratorium as outlined above on that date.

I would appreciate your urgent advice as to whether you can see your way clear to handing down a Mayoral Minute on 25 June. In the event that you are unable to pursue this course of action I would request that an appropriate motion be prepared and placed on the Business Paper for the meeting over my name.



Michael Lines-Kelly
Councillor

URGENT

*Tibian Valley Landcare Group Inc.
C/- 'Habitat'
Mafeking Rd.
Goonengerry
17 June 1996*

RECEIVED

ph & fax (066) 849 288

18 JUN 1996

Byron Shire Council
Johnson St.
Byron Bay
NSW 2481

Dear Mayor and Councillors,

**Call for a moratorium on Multiple Occupancies
until a LAMP process is finalised.**

Tibian Valley Landcare Group's Local Area Management Plan process, has been given in principle and in kind support from Byron Shire Council's planning department. The Group's application for National Landcare Program funds was scored one of the best of 40 applications in the catchment, and given high priority funding by the Richmond Catchment Management Committee recently. This will help us with surveys, water management plans, further mapping and preparing a sub catchment management plan / LAMP.

A community petition in December 1995, (with over 60 signatures, representing about 75% of residents & 100 % of those asked) presented in a public planning meeting to Mayor Kingston, requested no rural residential development in Tibian Valley Catchment. Whilst rural residential approvals have been deferred, Multiple Occupancies are being submitted and approved by Council that are quasi rural residential developments, yet without the appropriate rating requirements, making such MO's of increased financial burden on the broader community than typical rural residential developments.

The Group is concerned that they are not being allowed to develop this LAMP planning process without continual distraction by pressure from such development applications and call for a moratorium on Multiple Occupancies until we can continue to develop and prepare our LAMP.

The continual approval of such developments undermines the communities faith in Council's community consultation process.

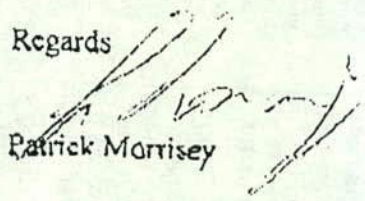
Below is a number of activities in our LAMP process:

- Doreen Eaton, Environmental Health Officer, Byron Shire recently met with members of the community to determine the critical water quality tests to be undertaken, and to provide training on proper sampling measures that Council will analyse. (arranged by Joe Hogan). We will also be measuring flow rates to try and determine maximum sustainable yield from the creek. How much water can a rapidly growing community sustainably draw from a small creek for domestic, agricultural and industrial purposes now and in the future, particularly when the creek is critical habitat and makes up part of a wildlife corridor—(Unfortunately for us, the Dept. Of Land and Water Conservation say they have no formula for determining this, yet they continue issuing irrigation licences whilst we conduct this research). We already have conflict in this community over water management, it can only get worse with peoples high common law rights expectations.
- David Kannally, Strategic Planner, Byron Shire has met with members of three adjoining sub catchments, Tibian Valley, Upper Coopers Creek and Beaties Creek Landcare Groups', and other interest groups in Goonengerry area who are also involved in similar activities, and discussed critical attributes to include in our planning process. Changes to the LEP, creation of specific Section 94 plans and a DCP were identified as critical issues. We also request your support in these matters.

Please, allow our community to continue in good faith, developing a high quality LAMP without continual disruption addressing adhoc MO applications. Do you support this?

I look forward to hearing from you regarding this.

Regards


Patrick Morrissey

19/7/96

Rob. Spoke with Jan K today

Jan is keen to scrub as he estimates the Rose Res
Rev & its LES & LEP could take at least 1 yr
(rather than David, est of early 1997) & there
could be expected 8-10 mo delay in that time.

Rob floated a DCP & Jan questioned whether this would
provide adequate protection. Rob said "no
guarantee."

The idea of Option 2+4 not floated.

The overview is that Jan will support the recommendation
+3 Tuckers & Michael = 5

Nick Garrard. 20/7/96. Sent Summary Report & His Statement.
He will talk with H&S & Nick Shand.

○ Suggests possibility of "deferral."

Nick Shand. 19/7/96

Option 4 has 'educational' value. Option 2 may be attractive
for Councillors either with a DCP officially or
unofficially could be pursued by Strategic Review
Committee.

Byronshire MO Association. Meets infrequently.
Main stakeholders.

Paul Junction, Nick Garrard, Nick Shand

Byron MQ

7/1/76

Hugh F.

He had call from Rob

has been a meeting with them + David K

David now going to Option 2.

I said OK but would be good to talk in

DEP

He knew of our offer to put up a DEP.

He has spoken with Her on this.

Strategic Planning Committee

Jan K.

Glenn
Staples

Haskin

Higgins.

From
Ian Hosken

066872233

Sender: S. TAYLOR 071955 066872233

re Byron Shire M.O. Association.

To... Nick Stand

On 23rd July an Item on Agenda is to
Delete M.O. Provisions from the Shire's LEP.
This is a retrograde move.

It would be far better to address the problems
seen to be associated in M.O's by ^{rewriting}

the clauses in the DEP rather than ^{defending on}
(and ensuring the conditions of consent are put in place by a dept. of
the resources of the strategic planning Dept.
agreement)

by deleting these clauses.

Multiple M.O. should be considered along with other
forms of Rural occupation in the Rural ^{Res.}
Strategy which is ^{being} in the process of
formed now: At the moment it is the only
form of Development consent that comes close to
fitting into the principles of E.S.D. When
the option of community title is made available in the
Rural Strategy, still M.O. should remain an ^{alternative}
The reality of the situation is that M.O's
do not subdivide land, the land title is in the
ownership of all parties concerned.

with the consequence that

- (1) It is not as likely to be used in a speculative sense because titles aren't owned individually and aren't worth as much & can't be borrowed
- (2) The success or failure of the endeavour will ^{depend} on the constitution for the land and how well that's implemented,
- (3) The abandonment of the only form of true community ownership is reinforcing the status quo and dealing a blow to innovation.
- (4) The land is related to as a whole & is conducive to environmental ^{repair}.
- (5) It is still the most accessible way low-income people can live in the rural area.

#

BYRON SHIRE COUNCIL

List of Committees, Delegates and Community Representatives

(Amended: 28th November 1995)

Name of Committee	Councillor Delegates	Community Representatives
Finance, Works & Enterprise	I.B. Kingston (Mayor) Cr. M Malloy Cr. H Ermacora Cr. M Lines-Kelly Cr. R Higgins Cr. R Tucker	Not applicable to this Committee
Policy Review Committee	I.B. Kingston (Mayor) Cr. R Staples Cr. J Coman Cr. M Malloy Cr. R Higgins Cr. H Ermacora	Not applicable to this Committee.
Strategic Planning Committee	I.B. Kingston (Mayor) Cr. J Coman Cr. R Staples Cr. I Hosken Cr. R Higgins	Not applicable to this Committee
Dispute Resolution/Legal Services	I.B. Kingston (Mayor) Cr. M Lines-Kelly Cr. H Ermacora Cr. R Tucker	Not applicable to this Committee.
Senior Managers' Review Committee	I.B. Kingston (Mayor) Cr. H Ermacora Cr. J Coman Cr. M Malloy Cr. R Higgins Cr. E Singh	Not applicable to this Committee.

Di

BSE MO.

Shirley
resale

A/Di by

Wed by 3pm. re Rows

meeting where she will talk
with Hugh & Ian at their
meeting.

Find out who is on the
Rural Strategic Planning Committee
(BSE ~~AA~~ inc no copy of membership)

THU Jan

MO.

Lawrence St

77A

19PP

Reb. 15/7/96. re OPG-MO.

There are bona fide MO's & the question is why these should be penalised because there is a abuse of happening through inadequate RFP provisions.

In addition pressure is put ^{in part} has come about because of ^{being a hold on} their rural res. policy & MO is being used as loop hole!

Solution seen is to get the rural res. policy - place quickly. He sees quickest would be March 1997!

Barofide

MO is a valid system & ought not be penalised for extraneous reasons, especially when it is assisting housing of those on low incomes!

He sees that FSD asks the question "What does the community get out of (ie benefit by) a prop. development?"

Barofide

MO is one form of dev. where it can be shown that there is a clear & positive answer to the above question.

He estimates 24 MO DAs in 341 is av. 8 pa.

He sees a DCP may be the best option to tighten up now & permit MO DAs to continue to happen.

He has one going in this week & another in the pipe line. NB DARP Rural fund supports MO & ET.

He recently has lengthy discussions with Paul Gurney, Bede Bonney & Peter South (Planner) re "exposed houses". Council wants to put together this no sink in satellite old. ie they are making their own interpretation of what constitutes a family. Appears to be no knowledge or acceptance of the Dempsey finding.

NB Paul's response to my question ^{that} if he viewed all the mo's as by now were illegal why did he not take legal action & his reply that they could not do that on humane / political grounds!!

They have put themselves in a double bind - by using strict interpretation of "capable of being used as sep res".

Rob says they in Syd re exposed house & get full support for lenient interpretation of this, until he mentioned that his client was a brother & sister. To which the officer replied an exp house was only pass for a nuclear family & was adamant about this!!!

3
Ref to speak with David & draft something
for the Ben consideration.

FAX DOCUMENT FROM PETER HAMILTON

1/50 Paterson Street, Byron Bay, 2481 (066) 858 648 (F/T)

TO: Di Pan Com MO Review Collective.

FAX No: DATE: 15-7-96

Number of pages (including this sheet): 10

SUBJECT: Byron Council Proposed Moratorium on MO.

COMMENTS: Herewith proposal for Meeting on 23 July re a Moratorium on MO DA's.

As you are no doubt aware I have long held that the Byron LEP-mo provisions fell far short of the "safeguards" in SEPP-15. I consider that because of this many of the MO DA's in Byron are blatant de facto subdivisions.

I would appreciate your comment on David Kanaley's 4 options and his recommendation, and, Pan Com making a submission at an agreed time on the proposed Moratorium and in due course becoming involved in a constructive review to facilitate bona-fide intentional communities while closing the door to de facto subdivision.

I do take exception to some of the assumptions by David (eg that DUAP is promoting C.T. in their "Rural Settlement Guidelines" when it clearly also supports MO as a valid option) and Michael L-K, but such issues can be dealt with in due course.

Your comments etc on the attached would be appreciated.
Regards Peter. P.S. Rob favours Option 4.
viz DCP.

BYRON SHIRE COUNCIL

ORDINARY MEETING

23RD JULY 1996

(117)

ITEM NO. 7.

STRATEGIC PLANNING MANAGER'S REPORT

SUBJECT: DELETION OF MULTIPLE OCCUPANCY PROVISIONS IN BYRON
LOCAL ENVIRONMENTAL PLAN, 1988

File No: PLN550100

Goal: To achieve sustainable development so that it meets the needs of the community today without compromising the ability of future generations to meet their own needs and live a quality life.

Objective: To enhance the community's well being.

Summary: The Council's Rural Strategic Planning Committee is currently in the process of preparing a Rural Settlement Strategy which in particular will address the issue of rural residential development in the Shire. In preparing this Strategy the Council has resolved to defer the consideration of any further rural residential rezoning applications. However, Multiple Occupancy development applications are still being made and processed. This is considered to be an inconsistency in as much as Multiple Occupancy is a form of rural living and more particularly may be viewed as a form of rural residential development. This report seeks to redress this situation.

RECOMMENDATION:

1. That Council resolve to prepare a draft Local Environmental Plan pursuant to Sections 54(1) and 74(1) of the Environmental Planning and Assessment Act, 1979 to delete Clause 17A from Byron Local Environmental Plan, 1988. The effect of this action will be to delete the Multiple Occupancy provisions from the Shire's Local Environmental Plan.
2. That no Local Environmental Study is necessary as the consideration of Multiple Occupancy as a form of rural settlement will by this resolution form part of Council's proposed Rural Settlement Strategy which is currently in the course of preparation.
3. That pursuant to Section 54(4) of the Environmental Planning and Assessment Act, 1979, the Secretary of the Department of Urban Affairs and Planning be notified of the Council's decision.
4. That following receipt of the Department of Urban Affairs and Planning's advice, the Council proceed to exhibit the draft Plan pursuant to Section 66 of the Environmental Planning and Assessment Act, 1979.
5. That following exhibition, the draft Plan be reported back to the Council for consideration of submissions pursuant to Section 67 of the Environmental Planning and Assessment Act, 1979.

Attachment:-

BYRON SHIRE COUNCIL

ORDINARY MEETING

23RD JULY 1996

(118)

- A. Memo from Cr Michael Lines-Kelly to the Mayor titled "Resolution 5877 of 3rd October, 1996 (sic) - Multiple Occupancies - Rural Residential Strategy". (1 Page)

BYRON SHIRE COUNCIL**ORDINARY MEETING****23RD JULY 1996****(119)****BACKGROUND**

As a result of a memo from Cr Michael Lines-Kelly dated 5th June, 1996 (copy at Attachment "A"), the Mayor, Cr Ian Kingston, requested that I address the inconsistency between the Council's Resolution No. 5877 of 3rd October, 1995 which states:-

"That no new applications for rezoning of rural land for residential purposes be accepted until the Rural Residential Strategy has been reviewed by the Rural Residential Strategy Review Committee (now named Rural Strategic Planning Committee) and recommendations for change adopted by Council."

and Clause 17(A) in the Byron Local Environmental Plan (LEP), 1988, which provides for Multiple Occupancies (MO's).

Basically the argument is that Multiple Occupancies are a form of rural living and in particular a form of rural residential development and should be treated as such for planning purposes. Thus they should be considered in the preparation of Council's new Rural Settlement Strategy particularly as it relates to rural residential development.

The best way to address this inconsistency is through an amendment to the Byron Local Environmental Plan, 1988, to delete the Multiple Occupancy provisions contained in Clause 17(A)

STRATEGIC PLANNING CONSIDERATIONS

The rationale for deleting the MO provisions in Byron Local Environmental Plan 1988 is that this will prevent further development applications being processed within Council or determined by the Courts. Such action will bring the consideration of MO's into line with the consideration of any other form of rural residential development while the Rural Settlement Strategy is being prepared by the Council. The proposed deletion from Byron LEP 1988 should not be interpreted to mean that Clause 17(A) will not be reintroduced following completion of the Strategy either in its current or some amended form.

MO's are of strategic importance because of their potential impact on:-

- The ecology of an area;
- The natural support systems of an area;
- The social fabric of an area;
- The economic base of an area.

Options

Council basically has a number of alternatives in regard to this matter. They are:-

1. To formally resolve to delete the MO provisions from Byron LEP 1988 and to proceed with this LEP as quickly as possible. This will take a minimum of 3 to 4 months and possibly up to 6 months depending on the number of submissions received and the Council's reaction to those submissions.
2. To formally resolve to amend Byron LEP 1988 in regard to Clause 17(A) Multiple Occupancy provisions, but to proceed no further until the results of the Rural Settlement Strategy are known and to feed the results of the Rural Settlement Strategy into this LEP. In this scenario the Byron Rural Settlement Strategy is not likely to be available for exhibition until December.

BYRON SHIRE COUNCIL**ORDINARY MEETING****23RD JULY 1996****(120)**

1996 at the earliest and therefore an amending Multiple Occupancy provision in the LEP is not likely to be included until March 1997.

3. Not to amend the Byron LEP 1988 in regard to Clause 17(A) Multiple Occupancy but to refuse to process any further development applications for Multiple Occupancies on the basis that the Rural Settlement Strategy needs to be completed first but recognising that any applicant may take Council to Court after 40 days and have the matter determined in Court. The danger of this scenario is that a number of Multiple Occupancy development applications are likely to be processed between now and say March, 1997. Possibly one could envisage two or three Multiple Occupancy development applications being received over this period.
4. To prepare a Development Control Plan which addresses how Clause 17 (A) is to be implemented. The intent of Clause 17(A) is not as clear as it could be. A Development Control Plan could, for example, make it clear that it is to achieve:-
 - a clustered form of development on common land, which is environmentally sensitive;
 - a source of housing for low income earners;
 - the environmental repair and/or environmental management of community owned lands.

Such a Development Control Plan if it were in place would undoubtedly reduce the number of development applications being received for Multiple Occupancies which vary substantially from the original intention of Multiple Occupancies. A number of recent Multiple Occupancy development applications have been in the form of unclustered, defacto rural residential development on unsubdivided land.

Consideration of Options

Options 1 and 2 are preferable in that they recognise and provide for a more equitable consideration of rural living options in Byron Shire and do not separate Multiple Occupancy from other forms of rural living opportunities. Multiple Occupancies should be considered along with rural cluster Community Title developments and traditional rural residential developments as a form of rural living. It may well be that like other forms of rural living it is not appropriate to have Multiple Occupancies in all rural areas of the Shire. This aspect can best be assessed in the development of the Rural Settlement Strategy.

Option 4 has some merit. But is less than optimal in that remote areas of the Shire would still be available for Multiple Occupancy development applications even if on assessment in the Rural Settlement Strategy process they prove to be unsuitable. The concept of guidelines detailed in a Development Control Plan for MO's is supported if this form of development is favoured in the Rural Settlement Strategy.

Option 3 is the line of least resistance. It is the least cost option. It is not a bad option if it could be guaranteed that no applications for MO's would be received until after the Rural Settlement Strategy was completed and any subsequent amendments to the Byron LEP 1988 made. It does not, however, have the advantages of either option 1 or 2, and isolates Multiple Occupancy from other forms of rural living opportunities. This is neither equitable nor socially desirable from an ESD planning viewpoint.

BYRON SHIRE COUNCIL**ORDINARY MEETING****23RD JULY 1996****(121)****PROPOSED AMENDMENT TO BYRON LEP 1988**

It is proposed that Byron LEP 1988 be amended in the following manner:-

- Repeal Clause 17(A) which relates to Multiple Occupancy development.

Should Council resolve to prepare the draft Plan as proposed, the draft LEP then becomes a consideration under Section 90. It will then be considered should Council receive any development applications for Multiple Occupancy development while the draft LEP is in the process of preparation and gazettal. Council may or may not consent to such development applications depending on their merits up to the gazettal of the draft LEP. Once the LEP is gazetted the Council will have no power to approve a MO development application.

CONCLUSION

I understand Council's experience with Multiple Occupancies is that Multiple Occupancies generate the equivalent demand for services and infrastructure as conventional subdivision. However, conventional subdivision always requires the rezoning of land except for those areas where specific rural residential 1(c1) or 1(c2) zonings have been provided. Multiple Occupancies are seen as a defacto form of subdivision without being required to conform to the same development standards or contribute in the same manner to Council's rates income as conventional subdivision.

These contentions are refuted. Multiple Occupancies are required to conform to the same development standards in terms of building construction standards, access roads, disposal of waste water and the like. As to the question of Council's rates income, I understand Multiple Occupancies as with all properties are rated on the basis of land value, not on the number of houses or the number of people residing on the land. Therefore, a particular rural property should be rated at a similar level whether it was a Multiple Occupancy or not. Evidence from Lismore City Council seems to suggest (verbal advice only) that Multiple Occupancies are paying an equitable portion of rates. Furthermore, where Multiple Occupancies are truly meeting the spirit of earlier State Multiple Occupancy policy including the provision of housing for low income earners, then perhaps the question of rating needs to be put into this social perspective.

The real issue with Multiple Occupancies is that many are now development initiated, defacto forms of subdivision. Such developments need to be excluded from consideration of Multiple Occupancies as they are better assessed as rural residential subdivision.

As Council is not considering any future 1(c1) or 1(c2) zonings until a new Rural Settlement Strategy has been prepared, I believe it is only fair and equitable that Multiple Occupancies not be provided for in the Shire, until such a Strategy has been prepared.

In this regard Multiple Occupancy should be regarded as a particular form of rural settlement just as conventional rural residential development through the 1(c1) and 1(c2) zoning process is considered as a particular form of rural settlement.

In considering a new Rural Settlement Strategy, it may well be that Community Title development which provides for a cluster style of development may be a more appropriate mechanism for Council to implement and manage rural settlement. Councillors will note that the Department of Urban Affairs and Planning promotes Community Title cluster development in its recently released North Coast Rural Settlement Guidelines.

BYRON SHIRE COUNCIL**ORDINARY MEETING****23RD JULY 1996****(122)**

In preparing the Rural Settlement Strategy, it will be necessary to consider, should this report's recommendations be adopted, whether Multiple Occupancy development should be restricted to its originally intended purpose. This was based on the needs of intentional groups coming together on a philosophical basis of community, sharing of resources, ecologically sensitive land management and environmental repair and low cost housing in a clustered style to minimise adverse environmental impacts.

BUDGET AND RESOURCE IMPLICATIONS

Council has approved the increase in fees and charges for rezoning applications as suggested in the Strategic Planning Manager's proposal to the Finance Works and Enterprise Committee as part of the 1996/97 Budget. Thus sufficient funds should be available for the work resulting from the adoption of this report's recommendations to occur in the first half of 1996/97.

If this work is done by a consultant, then the expected cost would be approximately \$2,000. The \$2,000 would come from the \$25,000 that has been provided in the budget for consultant work to assist in the preparation of development control plans and local environmental plans.

BYRON SHIRE COUNCIL

ORDINARY MEETING

23RD JULY 1996

(123)

ATTACHMENT "A"
(Memo from Cr. Lines-Kelly)

Memo to: Mayor

From: Michael Lines-Kelly

Date: 05 June 1996

Subject: Resolution #5877 of 03.10.1996 - Multiple Occupancies - Rural residential Strategy

You will be aware that for some time I have had serious concerns about the inconsistency that exists between the intent of Council's Resolution #5877 of 3 October 1995, and the provisions of planning instruments permitting multiple occupancies.

The resolution states:

That no new applications for rezoning of rural land for residential purposes be accepted until the Rural Residential Strategy has been reviewed by the Rural Residential Strategy Review Committee and recommendations for change adopted by Council.

Since October 1995 a number of development applications for multiple occupancies have come before Council and been determined.

By any standard a multiple occupancy must be regarded as a form of rural residential development, and because there are a number of dwellings, a multiple occupancy is effectively a subdivision of a parcel of land, because the land is divided by roads and other physical barriers.

What is more, the establishment of a multiple occupancy transforms the land it occupies to a use other than agriculture, which is the prime purpose to which land zoned 1(a) may be put.

Approval of a development application for a multiple occupancy is therefore not merely approval of a subdivision, but effectively a rezoning, and one which is accomplished by an applicant who is not required to go through normal and appropriate channels.

Resolution #5877 clearly indicates that Council's intention is to place a moratorium on all rezoning for residential development in rural areas until a strategy is in place.

However, while Council continues to accept, consider and determine development applications for multiple occupancies this intention will be lost to view. Inevitably, it will contribute yet another layer of confusion to Council's already difficult and complex planning processes. My view is that to some extent this confusion has already occurred, and that a continuation of the situation can only make matters worse.

It is not difficult to conjecture that in the very near future applicants will start lodging applications that take advantage of this loophole to establishment de facto residential development in rural areas. The procedures are comparatively simple, indeed much simpler than a normal rezoning. All they have to do is prepare a document that satisfies ownership criteria, lodge the necessary documentation, and comply with a range of conditions, at least until completion of ritual inspections. Aside from the general looseness of these requirements, which I would argue poses significant problems, even without the formal reinforcement of SEPP 15, the situation has the potential to degenerate into a planning nightmare.

Clearly, Council is sending a signal to the community that applicants may continue to put forward applications, with an expectation that approval is at least possible.

Equally clearly, this is the direct antithesis of the intent of resolution #5877.

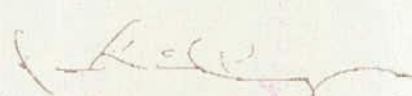
Council has an obligation to put an end to the muddle it has created, and to close the loophole.

Two courses of action appear possible. The first is to rescind resolution #5877, thus returning the planning process to the position it was in before 3 October 1995. While less than perfect, this option would at least be logical. For a variety of reasons I do not favour this option.

Alternatively, Council may wish to amend the Local Environment Plan and Development Control Plan No 1, placing a moratorium on all rural subdivision and multiple occupancies until a rural residential strategy is in place. I would favour this second course of action.

Having regard to the need for some haste in the matter, I believe it would be appropriate for a Mayoral Minute to be handed down at Council's meeting scheduled for 25 June. Alternatively, I am prepared to move for placement of a moratorium as outlined above on that date.

I would appreciate your urgent advice as to whether you can see your way clear to handing down a Mayoral Minute on 25 June. In the event that you are unable to pursue this course of action I would request that an appropriate motion be prepared and placed on the Business Paper for the meeting over my name.



Michael Lines-Kelly
Councillor

MON 17-JUN-96 17:31

PATRICK MORRISEY

61 66 849288

P 81

URGENT

*Tibian Valley Landcare Group Inc.
C/- 'Habitat'
Mafeking Rd
Goonengerry
17 June 1996*

RECEIVED*ph & fax (066) 849 288***18 JUN 1996**

Byron Shire Council
Johnson St.
Byron Bay
NSW 2481

Dear Mayor and Councillors,

**Call for a moratorium on Multiple Occupancies
until a LAMP process is finalised.**

Tibian Valley Landcare Group's Local Area Management Plan process, has been given in principle and in kind support from Byron Shire Council's planning department. The Group's application for National Landcare Program funds was scored one of the best of 40 applications in the catchment, and given high priority funding by the Richmond Catchment Management Committee recently. This will help us with surveys, water management plans, further mapping and preparing a sub catchment management plan/LAMP.

A community petition in December 1995, (with over 60 signatures, representing about 75% of residents & 100 % of those asked) presented in a public planning meeting to Mayor Kingston, requested no rural residential development in Tibetan Valley Catchment. Whilst rural residential approvals have been deferred, Multiple Occupancies are being submitted and approved by Council that are quasi rural residential developments, yet without the appropriate rating requirements, making such MO's of increased financial burden on the broader community than typical rural residential developments.

The Group is concerned that they are not being allowed to develop this LAMP planning process without continual distraction by pressure from such development applications and call for a moratorium on Multiple Occupancies until we can continue to develop and prepare our LAMP.

The continual approval of such developments undermines the community's faith in Council's community consultation process.

MON. 17 JUN 90 14:02

PATRICK MORRISLEY

07-00-043260

17-02

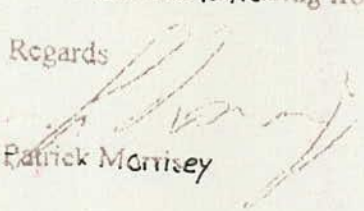
Below is a number of activities in our LAMP process:

- Doreen Eaton, Environmental Health Officer, Byron Shire recently met with members of the community to determine the critical water quality tests to be undertaken, and to provide training on proper sampling measures that Council will analyse. (arranged by Joe Hogan). We will also be measuring flow rates to try and determine maximum sustainable yield from the creek. How much water can a rapidly growing community sustainably draw from a small creek for domestic, agricultural and industrial purposes now and in the future, particularly when the creek is critical habitat and makes up part of a wildlife corridor—(Unfortunately for us, the Dept. Of Land and Water Conservation say they have no formula for determining this, yet they continue issuing irrigation licences whilst we conduct this research). We already have conflict in this community over water management, it can only get worse with peoples high common law rights expectations.
- David Kannally, Strategic Planner, Byron Shire has met with members of three adjoining sub catchments, Tibian Valley, Upper Coopers Creek and Beaties Creek Landcare Groups', and other interest groups in Goonengerry area who are also involved in similar activities, and discussed critical attributes to include in our planning process. Changes to the LEP, creation of specific Section 94 plans and a DCP were identified as critical issues. We also request your support in these matters.

Please, allow our community to continue in good faith, developing a high quality LAMP without continual interruption addressing adhoc MO applications. Do you support this?

I look forward to hearing from you regarding this.

Regards


Patrick Morrisley

Jan 13

dabbling Jack ne mo

Bakta (He will nig
Kerrin)

Anette (word Alledge)

McClary(?)

Will nig Veda ne phone
car trip. ~

23/1/96 McKinley
Anette ~~McClary~~ 3rd Mon.
882148

8th Jan B ne MO.

Broken Hd. mo
Spoke to Kanaley

David Willidge partner.
neighbor to Tibon.