

150 Katerina St
Byron Bay
2481
8-8-73

Dear David,

As discussed I enclose further copies of correspondence to and from the Dept of Planning re s2(c)(iii) of SEPP-15, and, Councils

solicitors opinion on 110 DH at 156 Davis Rd. I draw attention to the fact that the solicitor does NOT give an opinion on s2(c)(iii) but that "Council should form an opinion as to whether all the objectives... are able to be met."

The Planner is reading this to mean that the solicitor's opinion is that "each and every" aim has to be met.

The above DH was rejected by Council on 33 grounds which did not include Aim 2(c)(iii)!!

I have enclosed a copy of the Interpretation Act to be sent direct to your P.O. Box. I would appreciate your opinion as to whether or not the following section, may support or otherwise, your opinion supplied - s. 5(6)(c), 11, 32, 33, 34(1), 34(1) 6(1) 46.

Also s 25(3) of the En. Planning Act, which refers to "...here is no instrument capable of different interpretation that which best meets the aim, shall be taken."

I very much enjoyed your paper on "natural justice". I see a resemblance between "natural justice" and "standing". Have you, or will you be preparing a paper on "standing"? I am very

2
taken with a hopeful move towards inanimate
objects acquiring "standing". I have a copy
of "Should trees have standing" if they should
be of interest to you at any time.

I enclose a press advertisement
which may be of interest as another example
of a perceived form of what is, or ought to be,
"natural."

Kind Regards to yourself,
Sally and the family

 Peter

Note that S.33 codifies the "Purpose Rule".

P.S. Note also that SEPP-15 cl 70)(k) permits consent
where the "aims" and "objectives" are met. I believe
it is reasonable to read this as being consistent
with the use of the plural in cl 2 and that the
individual components are severable.

PO Box 6179
BUNDALL 4217
16.02.94

Peter Hamilton
Unit 1, 50 Paterson Street
BYRON BAY 2481

IN CONFIDENCE; NOT FOR
DISSEMINATION OR PUBLICATION

Dear Peter:

Re: Multiple Occupancy Review

Thank you for sending me material regarding this review. You certainly shot some holes in the draft survey form!

It is my impression that most mo's are *de facto* subdivisions. They have internal deeds between tenants-in-common, or areas ascribed to company shares. Such MO's are breaching the guidelines and, where the motivation is speculative gain, should be disciplined or forced to adopt Community Title.

Tunable is a genuine, eccentric exception, but I believe that, as a result, it is largely a failure. Unless individuals have legal title to surveyed land, they do not invest and labour on their sites. That is why, after 20 years, most people on Tuntable live in sheds or cabins amongst weeds. Only a few idealistic fools like me have built family homes, and I am the only fool to have developed an extensive orchard & vegetable garden. I have just been dispossessed of the latter due to territorial pressure from a violent and politically-popular neighbour who broke an undertaking not to exert such pressure.

I have totally lost any belief in multiple occupancy. Communism has failed all over the world and should not be tried again. People, with the possible exception of mature religious devotees, are too disparate, dishonest, selfish & changeable to forge a community ethos. Only the existence of a broader society and independent legal system can save MO dwellers from fanaticism and expropriation.

MO is a disincentive to hard work & investment, cripples resale value, prevents provision of mortgage security, leads to Kangaroo Courts and mob rule without regard to principles or justice. It encourages criminality (especially drug-growing & trading on community lands) and poor sanitation/ waste disposal.

I would not advise anyone to enter an MO, and would advise structuring any such venture, despite the extra cost, under Community Title.

I am not happy with the above outcome, and perhaps I am unduly sour, but it is the only one I can seriously hold after 20 years of commitment to the MO ideal.

Fond regards from Sally & myself: we hope your health holds up.

Yours faithfully,



David Spain.