

Unit 1,
50 Paterson Street,
Byron Bay 2481

23.11.93

Purdon and Associates,
Unit 3, McKay Street,
Turner, ACT 2601

Dear Rob,

Re: MULTIPLE OCCUPANCY REVIEW

Following our recent discussion on the phone I enclose herewith the following:

- (1) Pan-Com Submission to the LCC MO Discussion Paper of 27 April 1993.

While the questions and comments in our submission may be read on a stand-alone basis I recommend that you see the Council's paper, if you have not already done so. This provides an overview of MO settlement notwithstanding that it does contain some errors of fact.

- (2) Letter from the LCC of 16 June 1993 to the DOP seeking advice on Aim 2c(iii) of the Policy.
- (3) Letter from the DOP of 15 July 1993 in response to (2) above.
- (4) Letter from Pan-Com of 25 August 1993 to the DOP seeking clarification of Aim 2c(iii).
- (5) Legal opinion from Professor Spain in respect to Aim 2c(iii) (Attached to (4) above).
- (6) Letter from the DOP of 27 August 1993 in reply to (4) above.

We are advised that SEPP-15 follows the same format as many other planning instruments, for example other SEPP's, REP's, and if the Court should find SEPP-15 defective in not giving effect to the spirit and intent of the legislation, that this would imply a likely defect in a number of other planning instruments!

If you view that your brief still implies that you should read Aim 2c(iii) as being cojoined, then we suggest that you seek written clarification or instruction from the Department on this matter.

If the Department is not prepared to do this then we suggest that you recommend that the Department seek a "declaratory order" from the Court on the appropriate reading of this Aim. (We would of course backup and support such a recommendation).

As it would take the Department some time to process this through the Court, we would suggest that the Department should then defer pursuit of

your brief until the Court judgement is available.

We are of the view that this would be a better course to follow than amending SEPP-15, especially if this were to be the only amendment to be made.

If Aim 2c(iii) was to be changed on the grounds of non ambiguity, would this not then leave a question mark hanging over other planning instruments? It is hence our recommendation that the Department obtain a Court ruling to cover all relevant legislation.

In regard to the reference to Aim 2c(iii) in your brief, I draw your attention to our letter to the Department of 25 August 1993, with the request to have this item removed from the brief or clarified. The Department's undertaking to take this up with you is made in their letter of 27 August 1993 (item 5).

I feel you do understand and appreciate our concern re this matter and our apprehension re possible inappropriate consequences if this matter is left "hanging".

It is our desire that your report be based exclusively on the premise that Aim 2c(iii) is to be read as disjoined.

Apart from this being in accordance with our advice that this is the situation at law, it would also it seems, relieve you from the necessity of reporting on the alternatives that may be followed if the contrary view is taken.

As expressed before, it our wish that if the Minister sees fit to amend or revoke the policy, that such changes or revocation are NOT based on Aim 2c(iii).

In view of the need for precision in this matter we urge that all discussions or "instructions" between yourself and the Department be confirmed in writing. (We would appreciate it if you would notify us of any such correspondence).

We have no problem in your seeking advice from councils on how they "perceive" Aim 2c(iii) should be read.

If this should reveal confusion then we suggest that the Department could address this either eg. in a Departmental Circular, or, in an MO Manual.

In this regard we formally recommend that there be an MO Manual to assist MO applicants and council staff alike, in the preparation and processing of DA's.

Other matters will be dealt with at a latter time.

Kind Regards,

.....
Peter Hamilton

For and on behalf of the Pan-Com MO Review Collective.

STOP PRESS: LCC have just received QC advice on Aim 2c(iii).
The nature of the advice is not yet known to me.

Letter to Pundin 23-11-83

List.

Photocopy = 7

① Di
① Eddie
Simon

Incl. copy of
San Juan Newsletter

Inorg.

Rob

Spain

Darin

Spore 2
7

20/12/93

Brenton Dickens

1. He is unformed re how § 12 & 14 in LGA Survey should be read - re captured or not.
He makes any further advice that this has now legal opinion to support our position.
He will contact Whittaker & Grafton for a copy - or me if any problem about this.

He is compiling survey results - so this is now critical as premise for outcome.

2. Advised of our check list of questions.
Their draft mo surveys goes to Grafton this week, but there is option to upgrade this in Jan. (They are running ahead of their schedule on this). I undertook to post this to him by Jan 4.
(Closing Thurs 23 - open Jan 4).

3. He is sending me by post this week, LGA survey form, & draft mo survey form.

10/12/93

PURDON file

Chris Worray

In chance of being able to reach Rob. (Brenton Dickens TRM) he is working on finishing Dicks of MO Survey.)
Draft going to DAP this week.

They look to finalizing this by 16 Jan to prepare it to go out.

He said he had commented on Rob's draft & spoken with him this ^{past} evening & made ref. to my getting a copy (on FAX) today.

I indicated if we did not get it early, there is no way we can make meaningful input by Jan 16.

Now a "ready draft" it is "quite comprehensive".
6-8 page long.

6 returns from 32 queries to Govt Agencies.

Comment: Informative but why was I not informed before. Previous indication was that we would have opp to input before it went to DAP, & that there would be time for us to do this, emphasizing that we need some lead time (but app. same should not be cause for delay on their part.)

He had been involved in 19A Survey - which was prepared early in the contract & finalized.

Our letter of 23.11.93 just read by Chris or Rob. but sounds like neither have read it, or app. relevance of the Tim 2 CB issue.

I apologise for the quality of the reproduction, for the front page picture was published by the Northern Star in magnificent colour.

Regards.

Ken Cheslow
Manager

Phone 066-211 711

Fax 066 217 254

23 December 1993

Peter Hamilton
Pan-community Council
PO Box 102
Nimbin NSW 2480

Dear Peter

SEPP 15 Review

Please find attached a copy of the draft survey and covering letter for consultations with MO residents as part of the above review. It would be appreciated if you could have a look at the survey and make any comments to me as soon as possible in the new year.

A copy of the draft survey has also been forwarded to the Department's Grafton office for comment. Subject to a meeting with the Department and availability of addresses it is hoped to send the final survey out in early February.

Also attached is a copy of the Local Government survey form, for your information.

We have also received from both Lismore City Council and the Department, copies of the most recent legal advice.

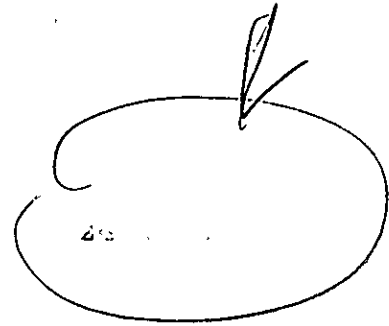
Should you have any questions, please contact me.

Yours faithfully



Brenton Dickins

Set copy



Purdon Associates Pty Ltd,
Unit 3,
9 McKay St.,
Turner, ACT 2601

Dear Rob Purdon,

Re: Multiple Occupancy Survey

I enclose herewith copy of letter to the Department of Planning of 19.194 for your information.

The material contains our comments and suggestions in connection with the proposed MO Survey Form.

If you should have any queries or clarification or comments on the enclosed material, we would appreciate hearing from you.

As discussed we hope that it may yet be possible, for you or a member of your staff, to visit us in connection with the draft Survey Form.

We appreciate that this will depend upon the Department seeing fit to extend your contract and provide the necessary funds.

Yours sincerely,

.....
Peter Hamilton
For Pen-Com M.O. Review Collective