

Submission to Attorney-General Following Briefing  
Re SEPP 15, 5<sup>th</sup> November 1998.

§ 200-10

Request 1: See Australian Securities Commission definition of "home unit companies" & their definition of unit holder entitlements as a basis for legal definition of such entitlements & consequent willingness of mortgagors to lend on same.

Request 2: It is posited that unit-holders (householders) or a MO who make improvements to their household area are in a similar position to sharefarmers making such improvements. As there is currently no legally enforceable process by which these improvements can be acknowledged & compensated, it is suggested that a clause be inserted in S15 enabling any such unresolved issues between the householder & the community to be referred to a panel constituted under the Agricultural Tenancies Act. It is hoped that this will obviate situations where the householder is obliged to walk away from improvements valued at many thousands of dollars because these are un-recoupable.

Request 3: It is noted that the Anti-Discrimination Act 1987 (NSW) is currently being reviewed. In this context we urge the Minister to consider adding to the prohibited grounds for discrimination by the inclusion of "land title status" as another such ground. We believe this amendment is necessary due to the track record of Councils in imposing more onerous controls & conditions on MOs compared with neighbouring non-MO rural landholders.

(Peter - this is just a 1<sup>st</sup> draft for discussion - please ring me to confirm receipt & to discuss - Graham)

① Tim Tetley 4/12/98

①

"originator"  
"mortgage brokers" & "mortgage insurers"

what form of title would be needed

② what type of title they would be prepared to take on for mo's

1. Having regard to the house site its  
contage and the constraints of SEPP-15

we are dealing with political  
interested parties with a view to  
acting out a subversion

ins - pr  
conveying of interest Mo's

For people who want to borrow more than  
75% of the property most banks &  
financial institutions require the vendor  
to take out a mortgage insurance.

27th Dec 1998  
What form of title is necessary so that such  
lenders say 'yes'.

Being received in New Year.

Tim Away till 11 Jan

**From:** Tim Tetley <tetley@ozemail.com.au>  
**To:** Peter Hamilton <peterh@nor.com.au>  
**Date:** Monday, 2 November 1998 10:54 pm  
**Subject:** Re: Meeting with the Attorney General

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Dear Peter,  
here's a further Request you may wish to incorporate or modify

**Request#**

that a mortgage originator/mortgage broker/ merchant bank provide advice to the Attorney General on the reforms necessary to enable finance at the usual housing loan interest rate to be provided to persons who wish to purchase a share in a Landsharing Community

*or Build a house on*

*Ref/quote to Disney Report.*

My background is :- I have been a solicitor for 20 years practising mainly in Property Law, Mortgages, Leases, Planning, Business & Company Law. I was for many years treasurer of Fitzroy Legal Service, a community legal centre in Fitzroy Melbourne. I was a director and later chairperson of Fitzroy Carlton Credit Cooperative. This Credit Union worked closely with the Brotherhood of St. Laurence in Fitzroy providing loans to persons on low or statutory income. Fitzroy Carlton became the community bank for its region and was possibly the first financial institution in Australia to conduct a social audit along with a financial audit. I have been interested in ethical investment for many years. Just after I moved to Byron Bay I became a director at North Coast Ethical Credit Union a month before it was placed under administration by the NSW CU Reserve Board.

Regards

TIM TETLEY *L.L.C. Webb Uni.*

*Saved at Pancon 128.doc.*

*Requested you to bring a typed copy to give Shaw*

Central issues in the guidelines will be ensuring that the person preparing the brief has :-

- identified the requirements of the contract;
- has addressed all the issues / inputs required by the Documenter for preparation of the commercial clauses in accordance with the documentation manuals.

If the Documenter is to be held accountable, the brief must be specific regarding the required outcomes.

Further guidance will also be provided on how to use PQPs as part of the verification process. The Regional Contracts Superintendent will be working with our Quality and Best Practice Manager, Trevor Phippen, on this issue.

In future, all requests for approval of tender documents are to go directly to the Regional Contracts Superintendent ie. not via the Documentation Group. Such requests must be accompanied by the following and signed by the relevant Project Manager :-

1. Copy of the documentation brief, where it exists;
2. A description by the Project Manager of the process used to verify that the document is fit for purpose and meets the requirements of the brief including:-
  - Confirmation that the document has been checked for compliance with the brief and by whom. Where possible, request that the documenter (eg. State Projects or consultant) provide copies of verification documents from their quality system which demonstrate that the requirements of the brief have been checked.
  - Confirmation that the documentation has been thoroughly checked for inconsistencies, ambiguities and omissions and by whom;
  - Confirmation that the risks associated with the work have been identified and assessed and how the risks have been allocated and addressed in the contract document eg. an increase in the volume of rock expected; excavated material being found to be unsuitable as fill;
3. A statement by the Project Manager verifying that the contract document satisfies the requirements above and is recommended for approval to call tenders.

Approval will not be given if the above does not accompany the request. If any significant errors or omissions are found in the document submitted, it will be returned for review and re-submission.

SEE OVER PAGE

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Regards

TIM TETLEY

Ps 1 What time & where is the meeting on the 6/11/98

Ps 2 if you need a copy of the Disney Report try ph 02 9391 2222 fax 02 9391 2333 or

<http://www.duap.nsw.gov.au>

(PTO)

2.

## **CURRENT SITUATION**

Difficulties are being experienced in obtaining funds for Landsharing Community members from lending bodies and, potential discrimination on the basis of land title status.

## **REQUESTS**

Your personal support is sought to achieve the following.

### **Request 1.**

"That the Register maintained under s.31B of the *Real Property Act* be reformed so that a member of a Landsharing Community be entitled to apply for a Certificate for their pro-rata interest in a property as is available to a Tenant-in-Common."

### **Request 2.**

"That the *Agricultural Tenancies Act* be examined for its possible applicability for Landsharing Community members and if so found that consideration be given to the desirability of reference to this being made in *SEPP-15* and/or the *Agricultural Tenancies Act*."

### **Request 3.**

"That consideration be given to amending the Anti Discrimination Act (NSW) to enshrine the principle of non-discrimination on the basis of land title status."

### **Request 4.**

"That the Attorney General monitor the recommendations made in the *Affordable Housing in NSW: The Need for Action*", Ministerial Task Force on Affordable Housing, DUAP, 1998, and *More Housing You Can Afford: the NSW Government's Strategy for Affordable Housing*, DUAP, 1998, to ensure that there are no legislative impediments to the implementation of these recommendations.

### **Request 5.**

"That the Attorney General carry out a "fact finding mission" of the various forms of land title ownership (both in NSW and elsewhere) as background information with a view to evaluating their possible use or adaptation to the needs of Landsharing Communities."

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PTO