

12/1/98 Rob is doing a comparison of
B85-1/110-LEP with SEPP-15
to give me draft

MEMORANDUM

To: Trevor Prior, North Coast Regional Manager
Attention: Jim Clark
From: Peter Hamilton, Coordinator
PAN COMMUNITY COUNCIL,
1/50 PATERSON Street, Byron Bay, 2481. (02) 66-858-648 (F/T)
Subject: Proposed Byron Council "Draft Rural Settlement Strategy" relating to request for exemption from the requirements of SEPP-15 and, including proposal to permit certain Multiple Occupancies to convert to Community Title (CT).
Date: 23rd December 1998

The following is a preliminary comment of our concerns on the proposals by the Byron Council in respect to the above matters.

As a preamble we wish to it to be noted that our concern is not with the process of reviewing the Council's Rural Settlement Strategy, for in fact we welcome this.

Our concern relates to those aspects that are seen to have adverse impact on the spirit and letter of SEPP-15 which as you will appreciate we have expended so much energy to establish over the years.

Part of our concern is that the present exemption of the Byron Council from SEPP-15 should not be, or be seen to be, an automatic "entitlement" for exemptions that may subvert the spirit and letter of SEPP-15.

We are also concerned that no discretion be extended to the Byron Council which if granted may then be used as a precedent by other councils.

Please see Attachments:-

1. Staff Report to the Council, Item 9, Council Business paper of 8 December 1998
2. Submission to all Councillors over the signature of Christopher Sanderson dated 11 November 1998
3. Form letter circulated at a Public Meeting, addressed to all Councillors, dated 5 November 1998

In respect to the above material please note:-

- That many of the so called "reasons" put forward in support of permitting MO to convert to CT (and apparently accepted by Councillors) are not planning matters eg.
 - # legally can borrow money to build (this is available if the community is prepared to make available the title of the land as a whole.)
 - # ease of transfer
 - # enables each individual shareholder to create a personal asset

- # "cleaner" understanding between the "individual's rights and the "community's rights" as the "management" procedures are clearly set out on the CT Act.
- # socially better for aging individuals, as aged residents want to subdivide, as they do not have the energy to maintain the house and land.

Particular issues of concern include:-

- That there should not be a minimum requirement of six dwelling sites where SEPP-15 provides for a minimum of three dwelling sites.

Comment: There are good examples of successful and stable MO's which contain less than six dwelling houses. A number of these were formed in the 70's! The Byron proposal will result in potentially suitable land for MO's being significantly less affordable which militates against the Aims of SEPP-15.

- The Strategy proposes that there be a minimum land area of 20ha compared with the SEPP-15 requirement of 10ha. This will further impact adversely on the "affordability" issue raised in the preceding dot point.

Comment: Care needs to be exercised to ensure that discrimination does not occur where proposed new requirements are not applicable elsewhere within the rural area, or are "beyond the power" of Council, (see for example *Dempsey Family -v- South Sydney Council*), or denies the "sanctity" of the family and breaches the human right of "freedom of association"

- Any proposal which obscures the fact that land which may be suitable for those wishing to establish an "intentional community" may well NOT be suitable for a CT development due to environmental factors, road access and associated costs and the like.
- Given the circumstance of an increasing number of traditional farmers no longer being able to productively work prime agricultural land it is seen to be equitable and appropriate that such zoned land be potentially available for the establishment of MO's as there are good grounds for holding that dedicated communities may well be "sustainable" in a manner not available to the traditional nuclear family.
- Those features of the proposed Rural Settlement Strategy which have the effect of discriminating against MO 's compared with other forms of rural settlement, for example restrictions relating to the slope of the land, where "prescriptive" rather than "performance" criteria are used.

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