

20/1/01

BYRON SHIRE COUNCIL

CONVERSION OF APPROVED RURAL LANDSHARING MULTIPLE OCCUPANCY DEVELOPMENTS TO COMMUNITY TITLE DEVELOPMENTS

Notice is given in relation to the issue of the conversion of approved rural landsharing multiple occupancy developments to community title developments.

Byron Shire Council resolved at its Ordinary Meeting on 1 November 2001, to provide an opportunity for approved multiple occupancy communities to convert to community title subdivision communities if the landowners choose to do so. Council resolved that subject to certain site specific and general criteria that individual multiple occupancy communities may make an application for a period of 2 years commencing on 1 November 2001, and finishing on 1 November 2003.

Applications must consist of both a Local Environmental Plan amendment and a Development Application and will only be accepted by Council if accompanied by all fees.

Interested parties are urged to check Council's web site www.byron.nsw.gov.au for further information regarding both the general criteria and the site specific criteria on which individual applications will be assessed. A copy of the report on which Council based its decision and a copy of the resolution taken by Council are available on the web site.

Should you require any further information please contact Council's Environmental Planning Services Division on (02) 6626 7126.

*Part only - see web. ex. pdf file
complete file (+ others)
Save as .doc. is
1 of many pages.*

This report is for submission to ORDINARY / COMMITTEE

Signed:
(DIRECTOR)

Signed:
(GENERAL MANAGER)



WITH COMPLIMENTS

The General Manager - Byron Shire Council

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4/7/02

INFORMATION SHEET

Additional Advice on Processing Joint LEP Amendments and Development Applications for MO to CT

All Multiple Occupancy to Community Title (MO to CT) proponents are advised that to enable a comprehensive assessment they will need to submit a detailed Local Environmental Plan (LEP) Amendment and Development Application (DA) in accordance with the Council decision of 1 November 2001.

All MO to CT applicants are advised to supply (at formal lodgement) the following documentation:

- a Building Certificate under Section 149A of the Environmental Planning and Assessment Act 1979, for all buildings (or parts of buildings) that do not have Council approval;
- an approval under Section 68 of the Local Government Act 1993 for onsite sewage management for each dwelling on the property and each building that generates wastewater; and
- a bushfire management plan prepared in accordance with Planning for Bushfire Protection 2001, PlanningNSW and Byron Council DCP 2002.

For further information regarding Environmental Planning matters, please contact Mike Svikis on 6626 7033.



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BE 13-11-03

Pan Com File

Success story

On Thursday, November 1 Byron Shire Council passed a resolution enabling Multiple Occupancies that were approved prior to October 1998 to apply for conversion to Community Title. The process used to get to this point bears some examination.

The Rural Landsharing Community Association (RLCA) recognised the benefits that could be available on conversion and, in 1998, approached Council and got their agreement. Over the following three years the RLCA has been negotiating with Council, Dept of Urban Affairs and Planning, The Minister, Council Staff, Multiple Occupancies, our planner and the Community. This has never been done before and is a highly complex issue so there were many obstacles and difficulties and there was significant opposition from many quarters. It is the overcoming of these objections that is the point of this letter.

Cooperation and negotiation were the tools used to achieve this outcome - community consultation at its best.

The RLCA had detailed consultative processes with all stakeholders: arguments were refined, objections analysed and addressed, presentations made and outcomes assessed. The needs and desires of each stakeholder were considered and, where possible, incorporated. Each issue was addressed and resolved individually, and the outcome communicated to all in a timely manner.

Then, finally, there were no more issues. Everything had been dealt with to everyone's satisfaction and Council

passed its resolution with minimal opposition. MOs are happy, RLCA is happy, Council is happy, staff are happy, DUAP is happy and the community is happy. A great outcome for all!

For me it was a great process and it reinforces my belief that this is the way to work with Council and the community - cooperation, negotiation and communication. Had we taken any other course I believe we would still be waiting for our resolution.

Paul Jameson
Durrumbul

BE 13-11-01

BE 7/8/07

Who's pushing for rural development?

From front page

purchase. It came as a shock when Mr Moss later informed me that he did not wish to sell the land as he had been approached by Mr Kanaley [David Kanaley, Council's environmental planner] and informed of the potential to develop.

'My assessment was that Mr Moss had considered the environmental studies identified the lands as being so highly significant that he would be highly constrained and the offer to purchase [from the government] was attractive. After contact from Mr Kanaley he perceived he had an opportunity to pursue further development potential to maximise his profits from the land.

'I would like to state my disappointment at the loss of this valuable land to the public reserve system.'

Legal advice

In response Mr Kanaley told *The Echo* on Monday he had taken legal advice on comments made by Mr Cohen at the Council meeting and would not be commenting further on the matter at this stage.

In response to residents' claims that the Natural Lane proposal was developer-driven, Steve Connelly contended it was 'driven by Council. The developers had no interest in the land until the strategy.

'They thought it was great, found Natural Lane and stitched together all the ownerships.

'This is not a rezoning [proposal] out of left field. The people have followed the rule book. The developers have been patiently waiting.

'The questioning has been harsh of people and their mo-

tives. The proponents have done nothing to retaliate; they want to work with the people in the area.'

Mr Kanaley later told *The Echo* that the rural strategy identifies Natural Lane as one of several areas for possible CT development. 'It's Council-initiated to that extent,' he said.

'It's clearly my point of view that Mr Connelly, acting on behalf of the landowners, approached Council to implement the strategy. I did not approach Mr Connelly or the landowners.'

Asked by Cr Jan Barham how the developers had sought out community interest in the eco-village proposal, Mr Connelly said real estate agents had been approached to find people who 'fit the profile and have a particular ethical association with the CT scheme. We're building a register of those people, and then we'll build a concept that works for that community.'

Residents say no

Speaking on behalf of the Coopers Shoot Action Group, Les Einhorn called on Council not to proceed with a rezoning of Natural Lane and to 'remove this from Council's agenda. The rural settlement strategy says in several places that proposals may be removed through community consultation.

'I remind you of the results of the survey conducted in the Coopers Shoot and surrounding communities, which are significant in their overwhelming opposition to this proposal.

'This is a most sensitive valley for many, many reasons. It represents the suggestion of multiple dwellings on a huge combination of parcels of land, in a sensitive location

close to the coastal fringe. It is in a region that is already over-stretched in its resources and a Shire that is finding it extremely difficult to meet the growing demands placed on it by the current population and tourism.

'The immediate region is already totally overloaded and cannot cope with the demands of sewerage, traffic, community services, and so forth.'

On the question of excising Natural Lane, Mr Connelly said it was 'really important Council gives the message it can implement its strategy in a businesslike manner. If you remove Natural Lane it's a signal to the outside world Council doesn't have the capacity to implement the strategy.'

Proper processes

Mayor Tom Wilson said, 'I don't believe the elimination of any parcels [of land] midway through the process is respectful either of the intent of Council or of proper processes. It is time to assess the full impact [of a proposal] when we are aware of the full

intent of the applicant.

'There is no application before Council. Only by following the planning process will we get to some level of certainty.'

Now that Natural Lane and other CT proposals have been confirmed in the strategy, the next steps include the applicants lodging rezoning requests and development applications along with the appropriate studies. Mr Kanaley noted in his report to Council that staff have had preliminary discussions with potential applicants or their consultants over 11 parcels of land across the Shire.

Mr Kanaley estimated that over the next 12 months applications could be lodged for a total of 233 rural lots. He also noted these yields 'could be considerably less following detailed site assessments'.

At Broken Head there could be a yield of 116 lots, including 60 in the Natural Lane subdivision. The potential lot yields across the Shire include Main Arm 38; Montecollum 26; Eureka 24; Coorabell 15; and Byron Bay 14.

Former market register

MOs, CTs and rural settlement

■ Community Title and Multiple Occupancy are forms of subdivision. MO is a relatively clumsy legal form, enforcing an appropriate pace of rural subdivision and limiting possibilities of exploitation by developers. CT, as the Coopers Shoot mob are becoming well aware, is open slather for rapacious developers and real estate agents. Solicitors will also profit from the promotion of CT through work created drafting more complex ownership/sharing arrangements and, later, by being involved in disputes caused by these.

Let's be realistic about the fanciful notions of eco-hamlets being associated with CT. The market will ensure that the costs (land price and ongoing the maintenance of the infrastructure) will be similar to any other subdivision. And that's what they will end up like. The enforced community structure will in all likelihood be even more fraught with difficulties than a MO. Conversion of MOs to CT will increase the prices of shares, removing affordable alternatives (albeit limited) for land and housing.

Poor David Kanaley must be having feelings of déjà vu over the present controversies. The rejection by the

community of a plan he presented over a decade ago for inappropriate development behind Broken Head must be ringing in his head. The demise of his Lismore 2020 Vision must also pop to mind.

His problems will be eased when he learns the difference between community consultation and community participation. Certainly his involvement in the Coopers Shoot process raises potential legal issues around bias of a consent authority, the ability of the Council staff to make recommendations to Council and whether objections to any proposed development would be considered fairly.

It is fortunate that we have politicians with integrity such as Cr Jan Barham and Ian Cohen who are willing to stand against this new wave of development that is about to put further pressure on our physical and social environments.

They are reflecting the deeper concerns of many residents, as they have done on many occasions. It was unfortunate that they were so vilified over the Community Centre because, notwithstanding the issue of the form or status of the physical building, they were reflecting

an underlying grief felt by many for the loss of Byron.

John Craven
Goonengerry

■ First, in response to your editorial Give MOs a Chance, I'd have thought that's exactly what Council did at the meeting to which you refer. It's clear that some MOs which want to convert to Community Title can't meet all the conditions laid down in the Rural Settlement Strategy and so we'll have to amend some of the ground rules to give them their chance; we'll also have to comply with the Department of Urban Affairs and Planning's requirement that they be assessed on a 'case by case' basis and I don't think it's unreasonable to ask them to wait for a further report in October.

Personally, while I moved in support, I'm not happy with the higher fees we have to charge because I believe some MOs might have trouble meeting them and so be disadvantaged.

Your comparison between 'existing MOs with residents already on board' and the proposed eco-hamlet at Broken Head ignores the fundamental purpose of the strategy which is to identify suitable areas for future rural

settlement and so make it possible for more people to move into rural areas (without damaging the environment, hopefully improving it).

Which takes me to my second point: much has been written about the Natural Lane proposal and I have no problem with people defending their amenity - in this case essentially their wonderful view (over land which, unfortunately for them, they don't own) but I do have a very real problem with the tactics employed by some of the objectors eg. accusing staff, in particular Mr Kanaley, of not following proper process, of wheeling and dealing with developers - and unfortunately Mr Cohen has given the impression of supporting this view.

I was an active member of the Rural Settlement Committee and I fully support the strategy and its implementation; I believe we owe a great deal to Mr Kanaley's leadership (and anyone in doubt might like to have a quick look at the previous strategy). As Council has voted to proceed with Natural Lane I hope that now the objectors, in their own interests, will co-operate with the process.

Cr Jenny Coman
Bangalow

BE 14/8/01

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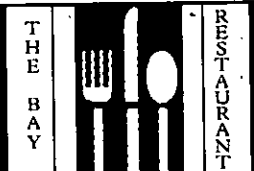
Build a Council well
- site X

12 August 28, 2001 Byron Shire

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A personal and profession

I write in response to the letter by John Craven in *The Echo* of August 14, 2001. My response really is at two levels, personal and professional.

I would like to respond firstly at a personal level. In this case, I do not write in my capacity as a senior officer of Byron Shire Council. In this personal capacity I would like to discuss the responsibility of self-appointed minders of this community's values when they write letters to the editor. Self-appointed minders have a particularly useful role in reflecting broader community concerns about a whole range of matters, in acting as a watchdog and as a community conscience. Their task is not an easy one. If they are to truly function well, their letters to the editor must not be a reflection of their own egos. The power of one's ego, if unchecked, results in negativity.

The community's minders would write with much greater authority and have a much greater positive influence, if in their writings they showed compassion and grace. It is often said that a community without compassion or without the ability to show grace is a poor community. This does not necessarily mean it is poor in the material sense, it rather means that the community is poor in a spiritual sense. The same is true of individuals. I consider it is important for those people who believe they are the minders of community values and wish to be the conscience of the community, such as John Craven, to

develop the important values of compassion and grace.

Because of the expression of my personal views in the first part of this letter, I am not formally writing in my professional capacity, but it would be foolish not to now give my professional views. I wish to comment on John Craven's statement in his letter to *The Echo* (August 14) that MOs enforce an appropriate pace of rural subdivision and limit possibilities of exploitation by developers. John is suggesting that multiple occupancies are a better form of rural settlement than community title. What John did not state however, was that MOs over the last twenty years have not provided housing or types of communities that many, let alone most, people want. In many respects, including for many occupants of MOs, multiple occupancies have failed.

Community title settlement for many people better reflects their needs. It enables these people to seek and obtain a more ecologically, socially and economically balanced lifestyle. Community title is the mainstreaming of the ideology behind MOs.

Whether this is good or bad is not a matter for me to decide. It is Council that has decided through its 1998 Rural Settlement Strategy that it wishes to pursue community title development. In reaching this decision, Council concluded that CT was a better form of rural settlement than conventional rural residential subdivision. Whether a future council or a future community decides



Environmental Planning Services
Director David Kanaley

that community title settlement should remain as the preferred form of rural settlement also is not for me to decide. The matter will rest with a future council.

In respect to John Craven's comments regarding the 1991 Broken Head Study and the 1993 Lismore 2020 Strategic Plan, these are now both matters of history. In respect to the former, Council accepted community concern over development at Broken Head. That was appropriate. It shows the results of the community consultation process. For my part I fulfilled the requirements of the brief issued to me by Council. While no one has ever asked, I have never been anything but happy with the result.

As to the latter, that is the Lismore 2020 Strategic Plan, this was an overwhelmingly successful document. It was grand in its vision trying to involve the entire Lismore community in all its different forms and localities to agree to a particular direction for Lismore City and to identify

positional and its effect on Coopers Shoot residents and the processes involved are ill informed and assist no one. They belittle the role and potential influence of a minder of community values.

For anyone who may be interested in the detail that has to be provided by any applicant for a community title settlement, they could contact Council's Environmental Planning Services on 6626 7126 for a copy of a typical

BE 7/8/07

News and Comment

Give MOs a chance

Michael McDonald

One of the enduring fall-outs of the era of love, peace and brown rice is the multiple occupancy (MO). When the local dairying industry went downhill in the early 70s and land prices likewise plummeted, young refugees from the cities and from 'straight' culture bought up large blocks and formed communes.

They may not have changed the world but these counterculturalists had a significant social impact on Mullumbimby and beyond. Along with surfers stoked with the fabulous coastline, they introduced the larger world to this area's natural beauty – to its detriment in some cases – and gradually changed the face of local society (and graphic design). Many of the long-time locals extended a welcome to these blow-ins but government, both state and local, has always been somewhat confused about what to do with them.

Over three decades, several premiers and at least three Shire general managers, and into a new century the MO proponents have sought to legitimise their endeavours which, to be frank, were often conceived in a lawless fashion. There are still houses in them thar hills which do not legally exist, but not more so than all the additions and garage flats in Byron Bay, for instance.

However, several MO shareholders took their case to Council and waited more than patiently to convince several administrations that yes, they had taken up permanent residence and no, they weren't going to go away. That has generally been agreed upon, but now the MOs wait upon Council's approval in another matter.

Under its rural residential strategy Council decided in 1998 to allow MOs to

apply to convert to Community Title (CT) under new state legislation. Some MOs – about 17 out of 37 – saw value in applying for conversion, mostly on grounds of greater legal surety for the shareholders and greater



ease of attaining bank loans. Others stuck to the original ideology of land shared in common which brought them to the MO experience in the first place.

A hitch came when the Department of Urban Affairs and Planning deferred the opportunity from Council's strategy and then re-introduced it to apply on a case-by-case basis in August 1999. It was looked at again last week in Council's annual strategy review, accompanied by a pessimistic staff report which claimed the conversions would require 'considerable additional resources' and would be unlikely to be covered by current rezoning fees. Council resolved for a further report to be prepared by October on MO conversions.

Another delay with no certainty at the end. MO spokesperson Paul Jameson pointed out to Councillors last week that Council itself had advertised it would call for registrations of MO conversions in 2001.

Mr Jameson also told Council the conversions can be revenue neutral for Council and generate 'tens

of thousands of dollars in additional rates revenue every year. 'Most people agree that this is a move to a superior legal system which offers better protection for the residents and delivers better outcomes for Council,' he said.

'The residents get improved security of tenure and the ability to borrow against their share. Council gets improved outcomes by insisting on a management plan that incorporates high level social and environmental outcomes.

'This is not an issue of gentrification. In this day and age affordable housing is that on which you can get a mortgage; there is no cheap land in Byron Shire.'

So it seems MOs are alive and well and waiting to co-operate with Council. Their presence tends to mitigate against Cr Hugh Ermacora's bald judgement on the day that 'we are all mindful of the sad history of MOs and how so many have failed as a social experiment'. It may be a tad naive of the Councillor to expect that his enthusiasm for so-called eco-villages will result in a greater triumph of common sense over the vagaries of the human condition.

Existing MOs with residents already on board could be orderly and gradually converted to CTs without much fuss. Their proponents could be forgiven for thinking that natural justice has passed them by when Council votes for spot rezoning of a private college in Byron Bay and pushes on with a pet project for an eco-hamlet at Broken Head when the MO shareholders have been waiting in line for years.

Give MOs a chance. Their cultural heritage may be the last we see of gentler days before the tide of the profit motive sweeps relentlessly over us all.

Letters

The CT vs MO debate continues

■ The Byron Shire Council resolved in October 1995 to create a new Rural Settlement Strategy. People were invited to participate in the strategy, and several meetings were held throughout the Shire under LAMP (Local Area Management Plan) where landowners expressed their views of the proposed changes to the previous strategy.

The draft Rural Settlement Strategy Plan, after community consultation, was exhibited for two months from May 7 1998 to July 7 1998, and public submissions to the proposed plans called for. A video was also available for viewing at nine outlets. Did the objectors to the Natural Lane proposal make any submissions at that time? If not – why not?

The time for objection is long gone. Council adopted the strategy in October 1998 after the consideration of submissions.

For this Rural Settlement Strategy, David Kanaley won three awards: 1. from RAPI (Royal Australian Planning Institute) award for Excellence in Planning November 4, 1999; 2. Certificate of Merit for Rural & Regional Planning Achievement 2000; and 3. Local Government & Shires Association for Excellence in Environmental Sustainability 1998/1999. The plan was also endorsed by Dept Urban Affairs (DUAP).

Once an area has been identified for rural settlement, it is incumbent on the strategic planner to consult with affected landholders whether they wish to be included or not – hence Mr

Kanaley's consultation with ABC Moss (I was also personally consulted about my land during the LAMP process). Mr Kanaley is falsely accused of conspiring with landowners and not following proper process.

Re Natural Lane: 1. The view over a Community Title (CT) development from Coopers Shoot can only be enhanced by the fact that each dwelling will be required to plant 900 trees and housing will be clustered. 2. Mr Cohen states (*The Echo*, August 7) that it would be 'irresponsible' for Council to approve Natural Lane in the Broken Head area. Why did he not object to other multiple occupancies (MOs) in Broken Head? Does he suffer from the NIMBY (Not In My Backyard) syndrome?

It seems strange to me that Mr Craven (letter of August 14) supports MOs over CTs when there are many MOs who wish to convert to CTs because CTs will give them legal title to their block and easier access to loans.

Again, re John Craven's letter, where was the 'underlying grief' (tears?) reflected by Ian Cohen and Jan Barham prior to the million dollar federal grant negotiated by Mr Larry Anthony MP for the new community centre? Were they really 'reflecting' the objections of OODB (Over Our Dead Bodies) Inc? How about the grief and delays caused to the hard-working committee and volunteers of the community centre in the time since? Integrity?

Anudhi Wentworth
Byron Bay

■ John Craven has a long history of vigorous opposition to multiple occupancy. I would like to congratulate John Craven and his friend Mr Helmer for their brilliant arguments that convinced Councillors to vote against our very small multiple occupancy, even after we negotiated in good faith with neighbours, to reduce the MO from five to just three houses. We also agreed to neighbours' request to relocate the houses away from the neighbours and to bitumen part of the road.

I attended a meeting of what I believe to be the Goonengerry Planning Committee, at which Mr Craven and Mr Helmer were present. At that meeting it was loudly acknowledged that the true reason for objections to local multiple occupancies was to stop any new people moving into the area. It was also stated by the committee's legal person that the most effective argument to stop new people moving to the area would be environmental arguments.

Mr Craven stated in a letter to *The Echo* that our proposed DA was in a koala habitat. Suitably qualified and experienced consultants stated that the local koala population would increase as a result of our management plan approved by the National Parks.

Following the refusal of Council to process our DA for years, koala numbers have dramatically declined on our property because of local dogs.

Peter Olson
Goonengerry

Support the markets

I have been attending markets for the last thirty years in South America, Europe, North America and all

Nevertheless we must all be aware that Byron Bay is under a lot of pressure. It is increasingly falling into the grip of developers, money-buffers and multinationals established Shire markets and do not get conned by entrepreneurs and dream-catchers. Opportunists and profiteers are everywhere.

Suvir 'Pima Man'