17/7/02

O Boat houses
O cf SEPP-15
O R1 Di exclusion f SEPP-15
of NCRS + Plan First Introduction

Persecution complex/ [illegible]
Maped areas to be [illegible]

Rural area
There are sufficient site restrictions
in the detailed DA req
[NB 80% of present MO would be
disallowed]

eg [illegible], [illegible] Cr Falls Rd,
[illegible] Rd + ?

O Develop waterways as economic/
tourist canoe ventures
Vast untapped econ potential
linked with rain walking track
with "Forestatops" [illegible] overnight acc-
O Blatant discrimination - chocolate coated
cyanide pill - of Byron Shire

Comments on Grahams Draft on DCP44. LCC June 2002

veiled persecution, "chocolate coated cyanide pill".
NB. No LC, now poss. in BSC. priced out.

Charlie Reval Housing Strategy - made by Fire Services.

Pancom submission on Wertz.
Get correspondence for Graham.
Email - Pancom letterhead.

SUBMISSION RE DRAFT DEVELOPMENT CONTROL PLAN 44

Introduction In this submission it is taken for granted that many of the draft DCP provisions are both advisable and sensible. For this reason it is only those provisions which do not seem to fulfill these criteria which are raised hereunder.

1.7 Definitions – "prime agricultural land" – see also pars.2 1.3, 4.1, 4.7. Class 2 & 3 lands are not classified as "prime agricultural/pasture" and their application to preclude RLSC's from such land is unnecessarily restrictive and in contradiction with the aims of some RLSC's to achieve self-sufficiency or economic sustainability through horticulture and crop farming.

2.1.2 It is submitted that Council would be acting *ultra vires* its legislative powers and beyond its capacities and abilities in determining economic and social sustainability. The DCP contains no objective criteria for such determinations and it is difficult to see how anything other than a Council officer's subjective opinion could be made concerning such complex matters. It is also salutary for LCC to heed the note appended at the end of 4.1 2 regarding the evolution of communities over time. It is also submitted that such a provision is discriminatory insofar as it is not required of other forms of rural development.

2.1.4 This is a gross discriminatory and unjustified imposition on intending RLSC's. The only reason for this imposition appears to be , 'that [the prescribed facilities] might act as a center for community focus'. This prescription effectively restricts the areas available for viable RLSc's because the likely price of land situated 4 km from a shop or hall would be prohibitive in comparison to land more distant from such facilities. The requirement also completely ignores the fact that some intending RLSC's may not want such facilities by choice. Why should they be thus discriminated against? Besides the provision is discriminatory as it is not so required of other forms of rural development.

2.1.5 – see also 4.2.1. The same objections apply as in 2.1.4 above – why should these services be made obligatory when they may not be required or wanted?

2.1.6 The requirement of a 'primary' 'sealed' road is discriminatory as it is not so required of other forms of rural development. It is also contradicted by the next paragraph which states that "arterial, sub-arterial or collector roads are an acceptable level of 'primary' access', when many such roads are not 'sealed'. Thus it is submitted that the requirement for a 'sealed' road be dispensed with. The last paragraph imposes an impossible burden on would-be applicants as it is submitted that it is beyond the resources of such applicants to show what is or is not 'economically feasible' in the unspecified 'future' in relation to costs of upgrading roads.

2.1.7 This is an unnecessary imposition as DCP 27 already satisfactorily covers the issue and has been working well for some years. Again there are no criteria specified for guiding LCC's decision as to whether such uses will or will not adversely affect residential amenity in particular cases. It is submitted that this provision would be a rod for Council's back in that it would likely lead to Land and Environment Court litigation by disgruntled applicants.
The further requirement that dwellings be at least 100 metres from watercourses and 250 metres from potable ground water is unnecesssarily prescriptive and this issue should be judged on a case by case basis, following LCC inspection of applicants' land. The requirement is also discriminatory as it is not so required of other forms of rural development.

2.1.9 This also has potential for litigation because it arrogates to Council the unregulated power to determine what 'complements', 'enhances' or 'maintains' and what is 'acceptable' to the local

community. Once more, no criteria are specified for such determinations, leaving the decision-making process non-transparent and open to abuse. The requirement *is also discriminatory as it is* not so required of other forms of rural development.

The second paragraph is also discriminatory for the same reasons – it is not required of other rural developments and in any case it is impossible for LCC to validly determine that there is , in a given case, 'reasonable certainty that the development will have an adequate cash flow to ensure that costs are met.' Such judgments would take Council officers many hours of work for no return to LCC. Similarly the statement that 'Locations that require uneconomic extension of services should be avoided' would necessitate much work to accurately arrive at what may or may not be 'economic' and again if the 'services' referred to are those listed at 2.1.5, there may well be applicants who do not need such services and to deny their applications because their chosen land would require 'uneconomic extension' of those services would be discrimination pure and simple.

2 1.10 No rural residential subdivision in the LCC area is required to fulfil this condition, so why should RLSC applicants? While it is no doubt desirable that any new developments will have such outcomes, to mandate these for a particular form of development and not for others is a denial of natural justice and litigable on that basis. It is suggested that RLSC's already make such contributions to community development by virtue of their provision of affordable housing, as recognized in the last paragraph. Thus there should be no further requirement that RLSC's should make other contributions to community development.

2.2 The "Map 1" referred to is not appended to the Draft DCP. It is noted that, whereas 2.1.4 states that RLSC's 'should' be within 4 km of the specified facilities, 2.2 provides that they 'must' be within that distance. As mentioned in 2.1.4 above, this is unacceptable and unnecessary.

3. If LCC wants to retain a discretion to determine this matter of density then it is incumbent upon it to publicly set out the criteria upon which such judgments will be made.

4.1 NPWS recognize no necessary incompatibility between RLSC"s and Wildlife Refuges or Wildlife Management Areas and in fact several communities within LCC's area are so designated. Thus it is submitted that any determinations of compatibility be made by NPWS and this paragraph so re-drafted.

The applicants' provision of ten copies of the Development Application is clearly excessive and a gross waste of paper.

4.1.1 Much of the information here specified is of a very localized and temporally-mediated nature and thus not able to be provided by applicants who would normally not be familiar with the land over an extended period of time so as to ascertain, e.g., the 'microclimate' of the land , 'significant noise sources' or 'seasonal waterlogging.'

4.1.2 Council is or should be aware of previous submissions to it on the subject of 'communal plans for social organisation' and 'internal conflict resolution' and 'community bonding'. By their very nature these matters are outside the competence and jurisdiction of councils to decide and should be deleted forthwith. These are matters not within the purview of councils' powers under the *Local Government Act 1993* or any other NSW legislation and are otherwise provided for in other state and federal legislation.

It is submitted that the final paragraph be specified and applied to all information required of applicants for RLSC's as this point applies to much of the information sought and applicants cannot be held to the information supplied over an extended period of time.

4.2.2 It is unnecessarily arbitrary to so restrict the distance of the 'secondary road to the 'primary' road and to do so would eliminate many otherwise suitable properties from becoming RLSC's.

4.3.3 Given the time necessary to compile all the information required under this DCP, and the time taken by LCC to grant development consent, it is ludicrous to *restrict temporary* accommodation licences to one year and it is submitted that this be changed to two years.

4.4.2 Since LCC itself cannot guarantee 'a secure and adequate source of water for household purposes' – *vide* the frequent summer water bans and restrictions – it is unconscionable of LCC to make this requirement of RLSC applicants

4.9 This is yet another discriminatory requirement that LCC does not impose on developers of rural residential subdivisions. It is also onerous and difficult to fulfill as it relies heavily on adjoining landowners having the time and incentive to co-operate, neither of which can be taken for granted. If the neighbour refuses to supply information, what is the applicant to do?

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