



Department of Urban Affairs and Planning

NORTHERN REGIONAL OFFICE

Mr K Gainger
General Manager
Lismore City Council
PO Box 23A
LISMORE NSW 2480

49 Victoria Street, Grafton 2460
PO Box 5 Grafton 2460

Telephone (066) 42 0822

Fax (066) 42 0640

Contact

Our Reference G93/00130 JC DT

Your Reference ST S/S89

Dear Mr Gainger

26 JUL 1995

DRAFT AMENDMENT NO 26 - LISMORE LEP 1992

I refer to your letter of 18 April, 1995 received by the Department on 20 July, 1995, concerning Council's resolution of 21 March, 1995 to prepare an amendment to provide opportunities for existing multiple occupancies of three dwellings or more to convert to community title.

2. Multiple occupancies and subdivision, whether under the Community Land Development Act or not, are considered to be mutually exclusive. Multiple occupancies are based on a specific philosophy and community lifestyle (as set out in the objectives of the former State Environmental Planning Policy No 15) and subdivision is prohibited. Community title developments involve subdivision to create small allotments for residential purposes, and larger allotments for community purposes. As such in rural areas they are considered to be rural residential in nature.

3. Accordingly, community title proposals in rural zones need to be considered in the same way as rural residential proposals - they must comply with all the criteria set out in clause 15 of Lismore LEP 1992.

4. Under the circumstances the Department will find it difficult to support the plan suggested by Council unless the ability to convert multiple occupancies to community title is restricted in the same terms as clause 15. In addition, any new lots created should be included in the release "quota" of clause 15(10). If no such restrictions are included Council's proposal is inconsistent with the Director's agreed rural residential release strategy for Lismore and therefore inconsistent with clause 20(1) of the North Coast Regional Environmental Plan, 1988.

2 -

In these circumstances the Director's delegations under either section 65 or section 69 of the Environmental Planning and Assessment Act 1979 will not be available to Council. Please contact Jim Clark of this office if further discussion is necessary.

Yours sincerely



Trevor Prior
Manager
(Northern Regions)

LISMORE COUNCIL REPORT

LEP No. 26 - Community Title Subdivision of Existing Multiple Occupancies

The Department of Urban Affairs and Planning has indicated that this amendment is not in accord with any rural residential release strategy, and thus does not comply with the North Coast Regional Environmental Plan. Council thus does not have delegation to place the amendment on exhibition, and should not have placed it on exhibition. Discussions are currently taking place between the Department and Council regarding this issue. It may be necessary to make amendments to the plan and re-exhibit.

Update on Council Strategic Planning Projects July 1995

FAX DOCUMENT FROM PETER HAMILTON

1/50 Paterson Street, Byron Bay, 2481 (066) 858 648 (F/T)

TO: Di

FAX No: DATE: 3.5.96

Number of pages (including this sheet): 5

SUBJECT: Bynan LEP re MO.

COMMENTS:

Herewith for your information: -

1/ Question with Notice by C. Higgins and Council report including correspondence from the Lismore Council (Nick's letter to the Minister not included here).

2/ Resolution 6292

3/ Bynan News report of 1-5-96

David Kowalek advises me that the above resolution will go to the Rural Strategies Review Committee on Mon 6 May. There is no indication at this time as to when they will seek community consultation in this matter in respect to item 3 of the resolution.

Regards

Peter.

QUESTIONS WITH NOTICE**MULTIPLE OCCUPANCIES IN THE SHIRE**

What would be the implications if Council resolved to remove the opportunity for Development Applications to be lodged for Multiple Occupancies in the Shire?

Multiple occupancies result in rural residents, therefore, Council should include in the terms of reference of the Rural Residential Strategy Review Committee that this Committee consider multiple occupancies in the review of the rural residential strategy with a view that Community Title developments in appropriate locations may be a preferred landuse option.

Signed : Cr. R. Higgins

Response from the Strategic Planning Manager

To remove the opportunity for Multiple Occupancies in the Shire would require Council to resolve to amend Clause 17A of the Byron Local Environmental Plan (LEP) and Part F of the Development Control Plan No. 1. In regard to amending Clause 17A, this would require a resolution to notify the Department of Urban Affairs and Planning (DUAP) pursuant to Section 54 of the Environmental Planning and Assessment Act, 1979. The process of amending the LEP would take at least 6 months as it requires advice from DUAP, public exhibition, submission to DUAP and a decision from the Minister of Urban Affairs and Planning.

Early advice from DUAP is that based on the Government's election commitment of Mr Craig Knowles, the Minister of Urban Affairs and Planning announced on a visit to Byron Bay, the State Environmental Planning Policy (SEPP) on Multiple Occupancies will be re-introduced soon. The former SEPP No. 15 permitted multiple occupancies in a similar manner as in the Byron LEP. If SEPP No. 15 is reintroduced then, this would result in any resolution by Council to amend the LEP to delete Multiple Occupancies having no effect as the SEPP will over-ride Council's LEP. Furthermore, due to the Government's commitment to re-introduce the SEPP, DUAP is unlikely to endorse a proposal to delete Clause 17A from the LEP.

Given Lismore City Council's concerns (see attached letter), it may be more appropriate for Council to work with other concerned Councils at the political level. This Council may wish to advise Lismore City Council that it supports the position outlined in its letter of the 20th March, 1996 to the Minister.

Council should require that the Rural Residential Strategic Review Committee review the applicability of Community Title developments for rural residential development as part of its terms of reference. It should be noted that at the meeting on the 1st April, 1996 an overview on Community Titles and Multiple Occupancies was provided and the Committee expressed general support for Community Titles.

FAX DOCUMENT FROM PETER HAMILTON

1/50 Paterson Street, Byron Bay, 2481 (066) 858 648 (F/T)

✓
TO: Nick Shand

FAX No:

DATE: 3-5-96

Number of pages (including this sheet): 5

SUBJECT: M.O. and the Byron LEP

COMMENTS: I draw to your attention p 57, 58, 59 and 60 of the Byron Council Agenda papers of 23 April 1996 and Resolution 6292 attached herewith in regard to M.O. I also attach copy of the Byron News report of 15.96 and reply by the Acting Minister for Urban Affairs and Planning of 10 Jan 1996.

Pan Community Council is in the process of writing to the Minister to rebut the contents of the Disman Council letter to him of 20.3.96.

In the Acting Minister's letter of 10.1.96 I draw to your attention that he does "not consider it appropriate" for us to be consulted in the "re-examination" of SEPP-15 prior to its reinstatement.

David Hanalef advises me that Resolution 6292 will go before the next meeting of the Rural Strategic Review Committee which is meeting on Mon 6 March next.

(Cont on p2)

When this Committee gets around to community consultation (as per item 3 of the a/b/c) I would like to talk with you in regard to a response and possible involvement of the Bygon mo Association.

Regards,

Peter

BYRON SHIRE COUNCIL

ORDINARY MEETING23RD APRIL 1996

(57)

QUESTIONS WITH NOTICEMULTIPLE OCCUPANCIES IN THE SHIRE

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BYRON SHIRE COUNCIL

ORDINARY MEETING23RD APRIL 1996

(60)

ATTACHMENT B

Letter from Lismore City Council, dated 21st March 1996 (1 page)

All communications to
GENERAL MANAGER

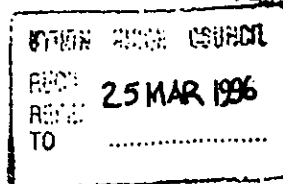
Reference Number

GM:MLK: S589

Contact

Mr Graham Meineke

March 21, 1996



The Chief Planner
Mr David Kanaley
Byron Shire Council
PO Box 159
BYRON BAY 2481

Dear Sir

COMMUNITY TITLE SUBDIVISION OF MULTIPLE OCCUPANCY

For some time now Lismore Council has been discussing the issue of Community Title subdivision of multiple occupancies with the Department of Urban Affairs and Planning. Council has recently received a refusal from the Department of Urban Affairs and Planning to the issue of a Section 65 Certificate to permit the exhibition of an amendment to the LEP to permit community title subdivision of multiple occupancies. Council has also learnt that the reintroduction of SEPP No. 15 is imminent.

On March 5, 1996, Council resolved to seek a meeting with the Minister for Urban Affairs and Planning regarding these issues. Attached is a letter to the Minister requesting such a meeting. The second last paragraph of the letter indicates that a number of other Councils on the North Coast are concerned with multiple occupancies, and suggests that the Minister may like to meet with the relevant Councils on the North Coast, rather than in Sydney. Attached is a copy of our letter to the Minister.

I would be pleased that if you feel strongly about the issues, you approach the Minister and request such a meeting on the North Coast.

Yours faithfully


Graham Meineke
MANAGER-STRATEGIC PLANNING

ORDINARY MEETING

23RD APRIL 1996

RESOLUTION ACTION SHEETS

DATE REFERRED: 26th April 1996

REFERRED FOR ACTION TO: DAVID KANALEY

QUESTIONS WITH NOTICE

MULTIPLE OCCUPANCIES IN THE SHIRE

6292 Resolved:

1. That the Rural Strategic Review Committee consider multiple occupancy as to their appropriateness and to consider replacing them with community titles in appropriate locations.
2. That Council, in conjunction with neighbouring Councils, arrange a meeting with the Minister regarding the re-introduction of State Environmental Planning Policy No. 15.
3. That Council inform the community with regard to the impact of multiple occupancies in rural areas and the comparable advantages and disadvantages between multiple occupancies and community title to all community groups and associations and invite comment as soon as possible.

BYRON SHIRE COUNCIL

ORDINARY MEETING23RD APRIL 1996

(58)

ATTACHMENT A

Letter from Lismore City Council, dated 20th March 1996 (2 pages)



LISMORE
City Council

All communications to
GENERAL MANAGER

Reference Number

NJ:MK: S589

Contact

Mr Juradowitch

March 20, 1996

Minister for Urban Affairs & Planning
Hon Craig Knowles
Department of Urban Affairs & Planning
PO Box 3927
SYDNEY 2001

Dear Sir

**COMMUNITY TITLE SUBDIVISION OF MULTIPLE OCCUPANCY
AND POSSIBLE REINTRODUCTION OF SEPP 15 MO'S**

Lismore City Council is very concerned that you as Minister for Urban Affairs and Planning may be considering the imminent reintroduction of SEPP 15 Multiple Occupancy without consultation with Local Government. This Council is of the view that providing for multiple occupancy development is a local issue for determination by local Councils.

I am sure that you are aware of the problems which were created by the imposition of dual occupancy subdivision on Councils in the Sydney region by the previous State Government. Your Government responded decisively to the wishes of Local Government and the community and removed that unpopular directive. Council requests that you similarly consider the wishes of local communities with respect to multiple occupancy.

Lismore has over seventy (70) developed multiple occupancies which create more than five hundred (500) dwelling sites. Ample spare capacity exists for new residents in multiple occupancies (MO's) with some 25% of sites still vacant. There are relatively few remaining areas available which are both physically suitable for multiple occupancy and compatible with community expectations.

Should you wish to proceed with a Multiple Occupancy SEPP against the wishes of Local Government, it is requested that you incorporate the following matters within the SEPP.

- (i) 12 months moratorium on the SEPP coming into force so as to provide time for local Councils to prepare their own multiple occupancy strategies and planning provisions.
- (ii) Multiple Occupancy development on the North Coast shall be consistent with the Department of Urban Affairs and Planning's Rural Settlement Guidelines for the North Coast and be restricted to land which is physically suitable for such development and accessible to services.
- (iii) A limit is placed on the number of MO dwelling sites which may be approved by Councils over a five year time frame, as currently applies to more traditional rural residential development.

BYRON SHIRE COUNCIL

ORDINARY MEETING23RD APRIL 1996

(59)

. 2 .

- (iv) That Multiple Occupancies be offered the choice of either remaining in one title with common ownership or opting for Community Title with most of the land held in common ownership with individual Community Title lots for house sites.

At the time SEPP 15 was originally introduced, Community Title subdivision was not available. Lismore City Council believes that Community Title subdivision is very appropriate for MO's. An important objective of Community Title is to provide for common ownership and sharing of property and facilities. This objective corresponds closely with the primary objective of multiple occupancy. Community Title will also overcome the current multiple occupancy rating inequities whereby one rate is paid for an MO, which on a per dwelling basis is substantially lower than the rates paid by other rural dwellers on subdivided properties. This rating inequity is one of the more significant reasons for objection by many Councils and their communities to MO's.


Council has been endeavouring to introduce optional Community Title subdivision for existing MO's by way of an amendment (No. 26) to the Lismore LEP 1992. The Department of Urban Affairs and Planning has expressed what this Council believes to be unwarranted opposition to the proposed amendment.

Council at its meeting of March 5, 1996, resolved that "Council seek a meeting with the Minister for Urban Affairs and Planning in connection with a non issue of an exhibition certificate for Draft Amendment No. 26 and to ascertain the Government's intention regarding the review of SEPP 15 and the reasons why Community Title subdivision is not considered to be suitable for multiple occupancies". Accordingly, I request that you meet with a delegation from Council to discuss the above matters at your earliest convenience. It is envisaged that the delegation would comprise the Mayor - Jeff Champion, General Manager - Ken Gainger and Council's Planner - Nick Juradowitch.

Concerns about the reintroduction of multiple occupancies are not limited to Lismore City Council. A number of other Councils on the North Coast are similarly concerned. It may therefore be more appropriate that the Department of Urban Affairs and Planning arrange a meeting with interested North Coast Councils to discuss this important issue.

Should you require further information of clarification of Council's concerns please contact Council's Divisional Manager of Planning Services, Mr Nick Juradowitch, phone (066) 250 428.

Yours faithfully


Col Cooper
ACTING GENERAL MANAGER

cc Trevor Prior, Department of Urban Affairs & Planning Regional Office, Grafton.

Roger Elliot - Manager Planning Systems, Department of Urban Affairs and Planning, Sydney.

Relevant North Coast Local Councils

COUNCIL MEETING

An Ordinary Meeting of Council will be held at the COUNCIL CHAMBERS on TUESDAY, AUGUST 27, 1996 at 6 pm.

Members of the public are invited to attend. Amongst the items listed on the Business Paper are the following:

- Naming of unnamed road located off Sibley Street, Nimbin.
- LEP Amendment No. 26 - Community Title Subdivision of Multiple Occupancy Developments and Proposed Reintroduction of SEPP 15.
- Section 356 Donations to Community Groups
- Trade Waste Policy and Sewerage Usage Charges.

Copies of the Business Paper are available for the public to read prior to the meeting at the Enquiry counter, Administration Office, Oliver Avenue, Goonellabah, the City Library and selected rural stores.

For further information on this or other meetings of Council, please contact Council's Senior Administration Officer, Mr Graeme Wilson, on telephone 250 500.

**RURAL SETTLEMENT
STRATEGY STEERING
COMMITTEE EXPRESSIONS
OF INTEREST**

Nominations are invited from the public to act as community representatives on the Rural Settlement Strategy Steering Committee. The Committee will oversee the preparation of a future rural settlement strategy for rural lands in Lismore, including options for rural residential subdivision.

Council has resolved that three general community representatives be appointed to the Committee, at least one of whom is to be from a rural area.

Applications addressed to the General Manager seeking representation on the Steering Committee should be lodged by Monday, September 16, 1996. Contact Mr Bruce Blackford or Ms Jemina Dunn of Council's Strategic Planning Section on 250 500 with any queries regarding the formation of the Steering Committee.

Sandra
~~Santa~~ Huston

re
McLeans Ridge
NGC - Rural Rest
See Sent U.S. . 24/8/76

291162.

1 Present Committee

FAT 291170

BYRON SHIRE COUNCIL

ORDINARY MEETING

23RD APRIL 1996

(60)

ATTACHMENT B

Letter from Lismore City Council, dated 21st March 1996 (1 page)

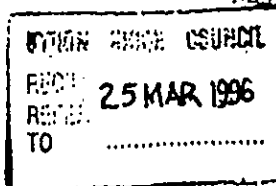


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Reference Number

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March 20, 1996

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Department of Urban Affairs & Planning
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SYDNEY 2001

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- (iii) A limit is placed on the number of MO dwelling sites which may be approved by Councils over a five year time frame, as currently applies to more traditional rural residential development.

COPY ONLY

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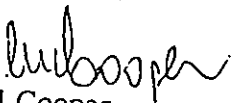
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Council at its meeting of March 5, 1996, resolved that *"Council seek a meeting with the Minister for Urban Affairs and Planning in connection with a non issue of an exhibition certificate for Draft Amendment No. 26 and to ascertain the Government's intention regarding the review of SEPP 15 and the reasons why Community Title subdivision is not considered to be suitable for multiple occupancies"*. Accordingly, I request that you meet with a delegation from Council to discuss the above matters at your earliest convenience. It is envisaged that the delegation would comprise the Mayor - Jeff Champion, General Manager - Ken Gainger and Council's Planner - Nick Juradowitch.

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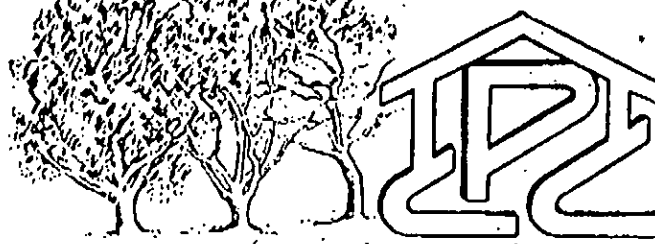
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Yours faithfully



Col Cooper
ACTING GENERAL MANAGER

- cc Trevor Prior, Department of Urban Affairs & Planning Regional Office, Grafton.
Roger Elliot - Manager Planning Systems, Department of Urban Affairs and Planning, Sydney.
Relevant North Coast Local Councils



PAN-COMMUNITY
COUNCIL
P.O. BOX 102,
NIMBIN 2480

Ph/Fax: (066) 85 8648

The Minister for Urban Affairs and Planning
Mr Craig Knowles
Level 33, Governor MacQuarie Towers
1 Farrer Place
SYDNEY NSW 2000

July 18, 1995

Dear Minister Knowles,

**re: Community Title Subdivision of Multiple Occupancy Communities,
Lismore Local Environment Plan Amendment No. 26**

As previously advised, the Pan Community Council is an organisation which represents Multiple Occupancy Communities (MOs) primarily on the North Coast of NSW.

Lismore City Council, at its meeting of July 4, 1995, adopted a recommendation that the Lismore Local Environment Plan (LEP) Amendment No. 26 (copy attached) be forwarded to you for signature and gazettal.

The acceptance of this Policy presents a number of serious considerations for planning in this LGA and for the future of Multiple Occupancies (MOs).

Conversion of MOs to Community Title may lead to undue fragmentation of land. Many people consider that the management of land within any MO will be the same as that which can occur under Community Title. That is not the case. While joint management will occur over common land in a Community Title community, individuals may be less likely to consider the broader needs of the community within their own 'allotment'. Under the existing MO structure, many MOs follow a joint conviction towards appropriate land-use decisions on their community. This is particularly important for communities which are attempting to be reinstate areas of land as conservation areas and for areas which are readily impacted such as through erosion. The

ability for individuals to break the chain through inappropriate decisions on their parcel of land may reverse many (in some cases more than 20) years of responsible decisions.

Many Multiple Occupancies are designed in ways that do not fit well with the notion of defining sections of land in order to confer individual ownership, as would occur under Community Title. Blanket ability for existing MO communities to convert to Community Title, ignores this fact. At present, it appears that the Council, for its own political imperatives is willing to encourage all MO communities to convert with little consideration to whether this is appropriate.

As the Lismore City Council approval of this Amendment shows, there are, unfortunately, some Councillors who are strongly opposed to the Multiple Occupancy form of settlement.

During the time of the Fahey government, we interviewed the local member, Bill Rixon MP, and asked him why he was supporting the repeal of SEPP 15. He advised that one of the reasons was that he had been approached by several local real estate agents claiming that they would have more properties to sell if MOs were allowed to subdivide. If we can assume that you will be reinstating SEPP 15 with its prohibition on subdivision (which we support) then we suggest it would be contradictory to permit the Lismore City Council to enable subdivision of existing MOs.

In summary, we consider that the Amendment to the LEP has been proposed by Lismore City Council for expedient and political reasons, and not for social and professional planning reasons.

It is essential that the State and Local Governments of NSW provide planning certainty for MOs to ensure the continued availability of this type of low impact settlement, with its low cost (mortgage free) self help housing, and, the freedom to adopt an extended family lifestyle of ones own choice.

Request

We ask that you reject the Lismore City Council proposed Amendment No. 26 to the Lismore LEP; and,

We again seek that the Government urgently reinstate a statewide Policy for Multiple Occupancy developments.

Should you wish further information or consultation in respect of any of the above matters, we would be happy to supply same, and if desired can arrange for a representative to meet with you in Sydney.

Thanking you in anticipation of your positive consideration of our requests..

We await your reply

Yours sincerely,

Alan Hill Dip.T., B.Sc.

For and on behalf of the Pan Community Council Coordinators:

Peter Hamilton Architect-Planner

Alan Hill Social & Environmental Planner

Dianna Roberts Councillor, Lismore City Council

Simon Clough

Eddie Bulvids

Rob Doolan

TAFE Teacher

Architect

Planner

END

LISMORE CITY COUNCIL - MEETING HELD MARCH 21, 1995

SUBJECT/FILE NO.: MULTIPLE OCCUPANCY/COMMUNITY TITLE
(MRS/CA: S523/1)

Rob Graham **BY:**

Divisional Manager-Planning Services - Nick Juradowitch

Council's resolution to consider amending its LEP to permit existing Multiple Occupancies to convert to community title where those communities desire to.

OBJECTIVE:

Obtain resolution to prepare and exhibit draft LEP facilitating community title subdivision of existing approved multiple occupancies.

CORPORATE PLAN REF:

Function: Strategic Planning
Strategy: 1
Action: (j)

PROGRAMME BUDGET REF:

Page: D.2

CONTENT

Information:

Council at the Policy and Resources Meeting of February 14, 1995, resolved the following:-

"that Council, in conjunction with the March quarterly review, consider amending its LEP to permit conversion to Community Title of existing Multiple Occupancies where those Multiple Occupancies desire separate title over their house sites."

This report briefly discusses some of the merits and implications of permitting and/or facilitating the conversion of existing multiple occupancies (owned in either a single and/or consolidated allotment) to a system of separate individual house site title utilising community title legislation.

Council will be aware that the former SEPP No. 15 expressly prohibited the subdivision of multiple occupancies within the aims and objectives, and planning considerations of the Policy. Clauses 2(b)(i), 2(c)(ii), 7(i)(a) and 10(i) of the policy restrict subdivision. This SEPP has however, now been repealed.

The majority of development consents issued by Council over the last 16 years, in particular all those issued since the commencement of the SEPP No. 15, include conditions/requirements which reinforces the prohibition of subdivision. This condition is typically worded:-

"That all relevant provisions of State Environmental Planning Policy No. 15 - Multiple Occupancy of Rural Lands, be complied with at all times.

Subdivision of the land is prohibited and that the land remain in one lot."

Benefits of converting to community title

- i) Council would be in a position to levy separate rates on each dwelling as dwellings would be on individual parcels of land.
- ii) Individual dwelling site shareholders should find it much easier to raise finance for dwelling construction and other land based mortgage related projects.
- iii) Council may be able to set or require a higher standard of infrastructure, particularly roads, where the creation of separate titles is likely to increase demands for services, eg higher car ownership/greater car use.
- iv) House sites on individual lots would enable easier resale, probably for a higher return because of the existence of a separate legal title.
- v) Legal obligations for each owner in terms of commitments to community projects on the MO would be easier to enforce through neighbourhood association rules.

Cost of converting to community title

- i) Council may be requested to reduce the rating structure for community titled lots to reflect the community associations' responsibility for road and relevant internal infrastructure maintenance and improvement. Council has recently considered a report on this issue concerning the "Jarlanbah" community title development at Nimbin.
- ii) The improved or required higher infrastructural standards may make community titled multiple occupancy, unaffordable for existing multiple occupancy owners to convert to community title, eg requirement to seal a Council road to the land.
- iii) The erection of individually titled lots may lead to fragmentation and disintegration of existing generally socially cohesive communities where changing ownership may not necessarily reflect the land management aspirations and capability of the overall community.
- iv) The demand for separately titled multiple occupancy house lots may inflate the price of those lots beyond the affordability of low income earners who may wish to buy into multiple occupancies which have been community titled.

Other issues

- i) Effect on the existing rural residential strategy, where the multiple occupancy is within the locality parameters of that strategy ie. -

- a) The agreed (with the Department of Planning) annual release quota should not apply to the creation of lots within a multiple occupancy as they are existing development - no additional rural housing opportunities are created.
 - b) It would appear reasonable and equitable that most of the standards and expectations applied to rural residential development be also applied to multiple occupancies converting to separately title lots. The provision for sealed public road access to the site may present difficulties for many communities.
 - c) The DCP requires the development of locality strategies in order to place proposed developments in a locality context. The potential for conversion of existing isolated multiple occupancies to community title may conflict with this DCP planning pre-requisite, although the "development" is already in place.
- ii) Multiple occupancies with only two dwellings are in essence dual occupancies and should be treated the same as other dual occupancies ie. no subdivision. Re-introduction of the SEPP or introduction of a multiple occupancy clause in Council's LEP with the LEP then containing an "open" clause which permits community title subdivision could lead to significant subdivision outside Council's rural residential policy and appropriate planning objectives. As such, any enabling LEP should only apply to multiple occupancies approved prior to February 1, 1995 and where all conditions of development consent have been satisfactorily addressed.
- iii) SEPP No. 15 prohibited subdivision but with repeal of that SEPP it is possible to amend the LEP to permit community title subdivision of multiple occupancies. Multiple occupancy communities would have to seek an amendment of their development consents as part of any community title subdivision application.

Conclusion

Provided that the amendment only applies to existing approved multiple occupancies, and there is no compulsion to require multiple occupancies to convert to community title, the proposed LEP amendment is considered to be appropriate. It must be recognised that those multiple occupancies which do opt for community title will probably evolve into a more "rural-residential" character and would be less affordable for low income earners. Exhibition of the LEP should be extended to 60 days to allow the community, and multiple occupancy residents and interest groups in particular, ample opportunity to make their views known to Council.

LISMORE CITY COUNCIL - MEETING HELD MARCH 21, 1995

REPORT - MULTIPLE OCCUPANCY/COMMUNITY TITLE

- 4 -

FINANCIAL SECTION N/A

OTHER DEPARTMENT COMMENTS N/A

RECOMMENDATION (PLAN26)

- 1 That pursuant to Section 54 of the EPA Act, Council resolve to prepare a draft LEP to permit community title subdivision of existing multiple occupancies comprising three or more dwellings and approved by Council prior to February 1, 1995.
- 2 That the draft LEP be exhibited for a period of 60 days to ensure that all interested persons have ample time to prepare and lodge submissions.

96-4508

NJ:MJK: S589

Mr Juradowitch

March 20, 1996

Minister for Urban Affairs & Planning
Hon Craig Knowles
Department of Urban Affairs & Planning
PO Box 3927
SYDNEY 2001

Dear Sir

**COMMUNITY TITLE SUBDIVISION OF MULTIPLE OCCUPANCY
AND POSSIBLE REINTRODUCTION OF SEPP 15 MO'S**

Lismore City Council is very concerned that you as Minister for Urban Affairs and Planning may be considering the imminent reintroduction of SEPP 15 Multiple Occupancy without consultation with Local Government. This Council is of the view that providing for multiple occupancy development is a local issue for determination by local Councils.

I am sure that you are aware of the problems which were created by the imposition of dual occupancy subdivision on Councils in the Sydney region by the previous State Government. Your Government responded decisively to the wishes of Local Government and the community and removed that unpopular directive. Council requests that you similarly consider the wishes of local communities with respect to multiple occupancy.

Lismore has over seventy (70) developed multiple occupancies which create more than five hundred (500) dwelling sites. Ample spare capacity exists for new residents in multiple occupancies (MO's) with some 25% of sites still vacant. There are relatively few remaining areas available which are both physically suitable for multiple occupancy and compatible with community expectations.

Should you wish to proceed with a Multiple Occupancy SEPP against the wishes of Local Government, it is requested that you incorporate the following matters within the SEPP.

- (i) 12 months moratorium on the SEPP coming into force so as to provide time for local Councils to prepare their own multiple occupancy strategies and planning provisions.
- (ii) Multiple Occupancy development on the North Coast shall be consistent with the Department of Urban Affairs and Planning's Rural Settlement Guidelines for the North Coast and be restricted to land which is physically suitable for such development and accessible to services.
- (iii) A limit is placed on the number of MO dwelling sites which may be approved by Councils over a five year time frame, as currently applies to more traditional rural residential development.

(iv) That Multiple Occupancies be offered the choice of either remaining in one title with common ownership or opting for Community Title with most of the land held in common ownership with individual Community Title lots for house sites.

At the time SEPP 15 was originally introduced, Community Title subdivision was not available. Lismore City Council believes that Community Title subdivision is very appropriate for MO's. An important objective of Community Title is to provide for common ownership and sharing of property and facilities. This objective corresponds closely with the primary objective of multiple occupancy. Community Title will also overcome the current multiple occupancy rating inequities whereby one rate is paid for an MO, which on a per dwelling basis is substantially lower than the rates paid by other rural dwellers on subdivided properties. This rating inequity is one of the more significant reasons for objection by many Councils and their communities to MO's.

Council has been endeavouring to introduce optional Community Title subdivision for existing MO's by way of an amendment (No. 26) to the Lismore LEP 1992. The Department of Urban Affairs and Planning has expressed what this Council believes to be unwarranted opposition to the proposed amendment.

Council at its meeting of March 5, 1996, resolved that "Council seek a meeting with the Minister for Urban Affairs and Planning in connection with a non issue of an exhibition certificate for Draft Amendment No. 26 and to ascertain the Government's intention regarding the review of SEPP 15 and the reasons why Community Title subdivision is not considered to be suitable for multiple occupancies". Accordingly, I request that you meet with a delegation from Council to discuss the above matters at your earliest convenience. It is envisaged that the delegation would comprise the Mayor - Jeff Champion, General Manager - Ken Galtner and Council's Planner - Nick Juradowitch.

Concerns about the reintroduction of multiple occupancies are not limited to Lismore City Council. A number of other Councils on the North Coast are similarly concerned. It may therefore be more appropriate that the Department of Urban Affairs and Planning arrange a meeting with interested North Coast Councils to discuss this important issue.

Should you require further information of clarification of Council's concerns please contact Council's Divisional Manager of Planning Services, Mr Nick Juradowitch, phone (066) 250 428.

Yours faithfully

Col Cooper
ACTING GENERAL MANAGER

cc Trevor Prior, Department of Urban Affairs & Planning Regional Office, Grafton.

Roger Elliot - Manager Planning Systems, Department of Urban Affairs and Planning, Sydney.

Relevant North Coast Local Councils



**Regional Coordination Pilot Program
North Coast Area**

**Premier's Department
New South Wales**

Summerland Education
Resource Centre
154 Ballina Road
Goonahban NSW 2480
Tel (066) 25 2072
Fax (066) 24 4510

7 July, 1995

Mr Andrew Stoner
Regional Manager
Port Macquarie Region
DEET
PO Box 698
PORT MACQUARIE NSW 2444

Dear Andrew

Thank you very much for attending the meeting of the Regional Coordination Management Group on 23 June in Coffs Harbour. Enclosed are minutes of that meeting and a contact list of all people who attended the meeting. Please contact me if you would like to make any corrections to your comments at the meeting, or if there is additional information you would like to provide.

I would like to continue to develop a good working relationship between the operation of the Regional Coordination Pilot Program and the activities of your organisation. Please contact me if there are any matters which you think the Program could be pursuing to ensure better service from State Government and other agencies in the region.

Yours sincerely,

Jill Lang
Regional Coordinator
North Coast

LISMORE CITY COUNCIL - MEETING HELD MARCH 5, 1996

SUBJECT/FILE NO.: DRAFT LEP AMENDMENT NO. 26 - COMMUNITY TITLE
SUBDIVISION OF MULTIPLE OCCUPANCIES
(GM:MJK: S589)

PREPARED BY: Manager-Strategic Planning - Mr G Meineke

REASON: Refusal by Department of Urban Affairs & Planning to issue an
exhibition certificate.

OBJECTIVE: Seek a meeting with the Minister for Urban Affairs & Planning.

MANAGEMENT PLAN ACTIVITY: Housing & Community

SUB-ACTIVITY: Strategic Planning

PAGE: F52

CONTENT

Information:

Council will recall that in early 1995 it resolved to prepare an amendment to the LEP which would permit Community Title Subdivision of multiple occupancies. This draft amendment was placed on exhibition, and all multiple occupancies were advised of the exhibition. After the exhibition closed, the Department of Urban Affairs and Planning advised that Council did not have delegation to issue its own exhibition certificate, and that the Department would have to issue such a certificate upon request from Council.

Consequently Council requested a certificate of the Department of Planning in August 1995. After supplying further information to the Department, another request was made in October 1995 for an exhibition certificate.

In early February 1996 Council received a letter from the Department of Urban Affairs and Planning head office indicating that it was unable to issue an exhibition certificate for the draft amendment. The letter indicated that once a multiple occupancy is subdivided by whatever means, it is no longer a multiple occupancy and is considered as rural-residential development. This view is not supported as Billen Cliffs, for example, is strata titled and still functions as a multiple occupancy. The Department also indicated that the Government has made a commitment to review the previous SEPP No. 15 (which permitted multiple occupancies to be developed), and any decision to support Council's draft amendment "may prejudice future decision making in this regard".

I believe that Council and the Department of Urban Affairs and Planning have a philosophically different approach to the subdivision of multiple occupancies, and that it is unlikely that Council can convince the head office of the Department to issue an exhibition certificate. To bring this matter to a head, and to ascertain what the Government is doing regarding the review of SEPP

No. 15, it would be worthwhile requesting a meeting with the Minister for Urban Affairs and Planning. In this way Council can get an exact picture of the Government's intent, as well as a better understanding of the reasoning behind the decision not to allow multiple occupancies to subdivide by way of community title. The very concept of community title was to facilitate development which would involve sharing of facilities and/or land, hence this form of subdivision which was not in existence when SEPP No. 15 was gazetted, appears ideal for multiple occupancies.

FINANCIAL SECTION N/A

OTHER DEPARTMENT COMMENTS Not requested

RECOMMENDATION (PLAN18)

That the Council seek a meeting with the Minister for Urban Affairs and Planning in connection with the non-issue of an exhibition certificate for the Draft Amendment No. 26, and to ascertain the Government's intention regarding the review of SEPP No. 15 and reasons why community title subdivision is not considered to be suitable for multiple occupancies.

Adopted

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

LISMORE LOCAL ENVIRONMENTAL PLAN 1992 (AMENDMENT NO. 26)

I, the Minister for Urban Affairs and Planning, in pursuance of section 70 of the Environmental Planning and Assessment Act 1979, make the local environmental plan set out hereunder.

Sydney, 1995. Minister for Urban Affairs and Planning.

NA Copy of
this not sent
to DSEP as at
15.9.95!!

Citation

- 1 This plan may be cited as Lismore Local Environmental Plan 1992 (Amendment No. 26)

Aims, objectives etc.

- 2 This plan aims to:
 - (a) permit community title subdivision of existing multiple occupancies comprising three or more dwellings approved by Council prior to February 1, 1995.

Land to which this plan applies

- 3 This plan applies to all land to which the Lismore Local Environmental Plan 1992 applies.

Relationship to other environmental planning instruments

- 4 This plan amends Lismore Local Environmental Plan 1992 in the manner set out in clause 5.

Amendment of Lismore Local Environmental Plan 1992

- 5 The Lismore Local Environmental Plan 1992 is amended by:
 - (a) inserting after clause 11 the following:

Community Title Subdivision of Multiple Occupancies

11 (A) (1) This clause applies to rural land on which is located a multiple occupancy development approved prior to or pursuant to State Environmental Planning Policy No. 15 - Multiple Occupancy of Rural Land.

(2) The Council may consent to the community title subdivision of an existing multiple occupancy provided that;

(a) The Multiple Occupancy was approved by the Council or the N.S.W State Government prior to 1 February 1995;

(b) The multiple occupancy contains at least three dwellings;

(c) Council is satisfied that the land is provided with adequate all-weather vehicular access and services; and

(d) Council is satisfied that adequate arrangements have been made for water supply and on-site effluent disposal.

EXTRACT OF THOSE SECTIONS IN SEPP-15

RELATING TO PROHIBITION OF SUBDIVISION

2. Aims and objectives, etc.

(b)(1) ... to enable ...

people to collectively own a single allotment of land and use it as their principal place of residence;

(c)(ii) ... to facilitate development ...

in a manner which does not involve subdivision, strata title or any other form of separate land title, and in a manner which does not involve separate legal rights to parts of the land through other means such as agreements, dealings, company shares, trusts or time-sharing arrangements:

3. Multiple occupancy

... development may be carried out ... where ...

(1) (a) the land comprises a single allotment not subdivided under the Conveyancing Act 1919 or Strata Titles Act 1973;

(b) the land has an area of not less than 10 hectares:

(3) Nothing in subclause (1)(b) shall be construed as authorising the subdivision of land for the purpose of carrying out development pursuant to this Policy.

10. Subdivision prohibition

(1) Where development is carried out on land pursuant to this Policy, the issue of a council clerk's certificate, under the Local Government Act 1919, or of a council's certificate under the Strata Titles Act 1973, required for subdivision of the land is prohibited.

13. Suspension of certain laws

(1) For the purpose of enabling development to be carried out in accordance with this Policy or in accordance with a consent granted under the Act in relation to development carried out in accordance with this Policy-

(a) section 37 of the Strata Titles Act 1973; and

(b) any agreement, covenant or instrument imposing restrictions as to the erection or use of buildings for certain purposes or as to the use of the land for certain purposes,

to the extent necessary to serve that purpose, shall not apply to the development.

End.



New Policy on Rural Settlement

The Minister for Urban Affairs and Planning, the Hon Craig Knowles MP, released new Guidelines on Rural Settlement for the NSW North Coast on 18 December 1995.

The Guidelines have been prepared following the release of the North Coast Urban Planning Strategy in February 1995. They are part of the Government's

initiatives to stop inappropriate rural residential development on the coast.

Consistently high population growth rates has included many people coming to live in the region seeking a rural lifestyle.

Unfortunately, past and present rural residential development patterns have contributed to environmental damage, including adverse effects to other land uses (particularly the recovery of quarry resources, and commercial agriculture), constrained potential urban development

areas and created costly and inefficient servicing patterns.

The challenge is to design and locate rural residential to avoid incompatible land uses and environmental damage and to integrate such development with the landscape and other land uses. Rural residential development needs to result in sustainable communities incorporated within the overall pattern of human settlement.

This is the intention of the catchment approach outlined in the Guidelines and summarised in this Newsletter.

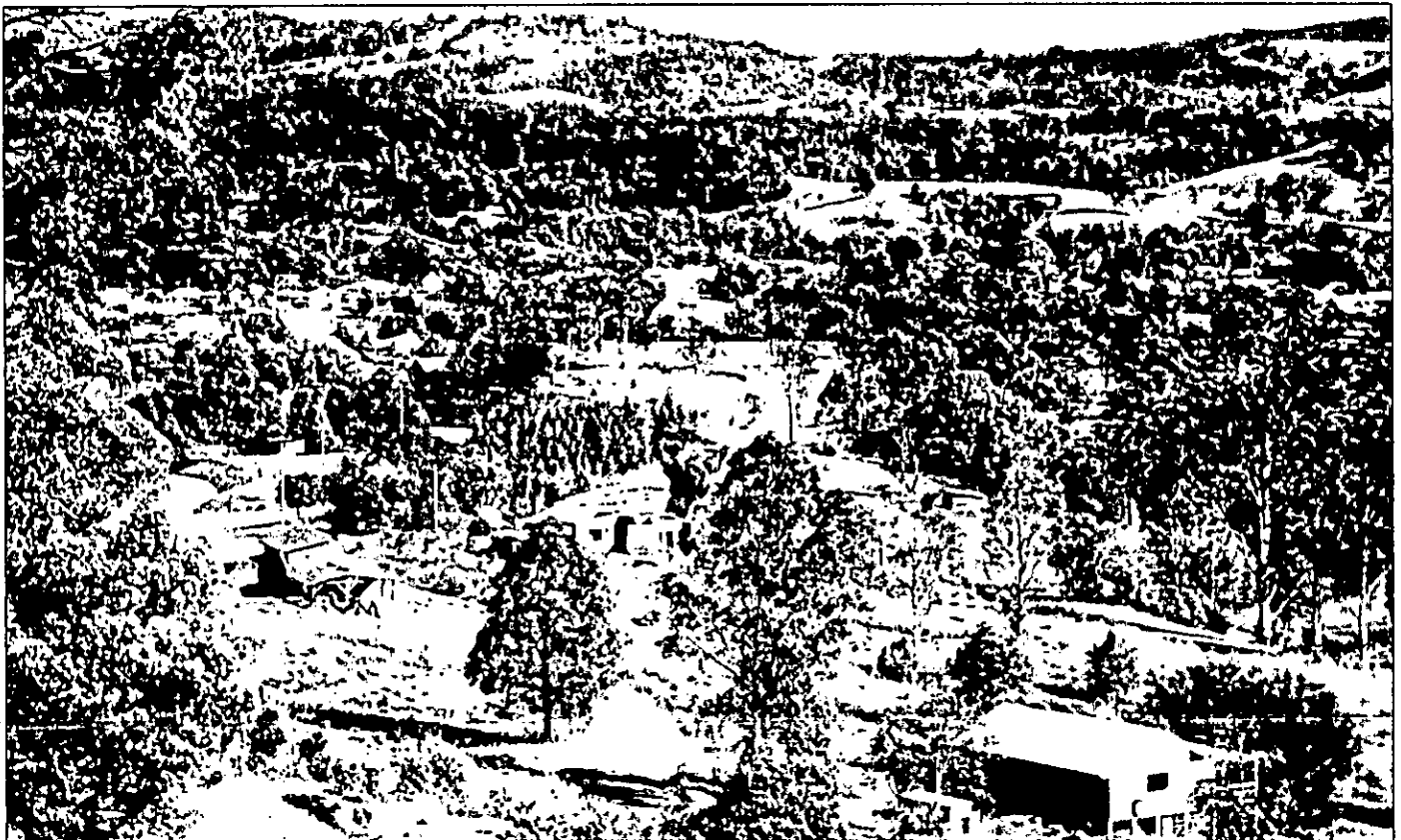


Figure 1: Jarlanbah permaculture hamlet near Nimbin, NSW

How Will Things Change?

All North Coast councils will need to prepare rural settlement strategies (or in due course modify existing ones) in accordance with the Guidelines.

The Minister has indicated that local environmental plans for rural residential

development will need to be in accordance with a strategy and consistent with the Guidelines.

North Coast councils are also expected to consider the Guidelines when assessing rural residential development applications. The use of State Environmental Planning Policy No 1 - Development Standards to enable one-off rural residential developments will no longer be acceptable unless consistent with an agreed strategy. Also, service

providing authorities should ensure user pays principles are applied.

Rural residential is a legitimate option for residential development. However, it must be directed to preferred locations away from good agricultural land, natural resource reserves and potential environmentally sensitive locations.

Copies of "Guidelines on Rural Settlement on the North Coast of NSW" are available from PO Box 6, Grafton 2460, for \$12 plus \$2 p&h.

A Catchment Based Approach

The catchment approach involves the adoption of a vision and the application of a series of planning objectives and planning principles.

Vision

In this context the vision is the over-riding goal or aim of the catchment based approach. It sets the direction for rural settlement in an overall context. It is appropriate that the Department sets a vision for the region but individual councils consider how this vision can be incorporated into their planning for rural settlement.

The intention is to establish a land development pattern and a management process which addresses the issues of existing inappropriate rural residential forms and location, while encouraging better forms of development in appropriate locations.

A suitable regional vision for rural settlement on the North Coast of NSW is:

rural settlement on the North Coast will provide a range of lifestyle options in harmony with the natural and cultural opportunities and unique character of the region. At the same time rural settlement will minimise the economic, social and environmental costs to the whole community.

Planning Objectives

The following planning objectives support the vision for rural settlement and are useful for planners and developers and all levels of Government and private enterprise to achieve 'best practice' rural residential planning.

1. **Thresholds to growth.** Manage supply of rural residential lots in conjunction with urban lot development within identified carrying capacity of catchments (based on physical, servicing and social criteria) and based on an analysis of genuine demand.
2. **Natural environment.** Ensure rural settlements protect and enhance natural features and ecological values of the region.

3. **Diversity of lifestyle.** Provide a range of sustainable options for rural living as a limited alternative to urban living.
4. **Character and identity.** Design rural settlements which retain and enhance the rural character of local areas and do not lead to a blurring of the distinction between urban settlement and the surrounding rural hinterland.
5. **Land use suitability and compatibility.** Identify preferred areas physically suitable for rural settlement which are compatible with surrounding land uses including agriculture, forestry, mining and extractive industries.
6. **Efficient servicing and self reliance.** Encourage rural settlements which are located and designed to minimise the economic, social and environmental costs of providing and maintaining services; for example, internal roads, solid waste and wastewater disposal and maintenance of natural areas within the development envelope.
7. **Quality of life.** Encourage rural settlement design which promotes quality of living throughout the various stages of life.
8. **Integrated settlement.** Integrate rural settlement and urban settlement in a distinct hierarchy within the region or sub-region, by focusing new rural settlement on preferred areas and adopting a cluster approach to subdivision design.
9. **Enhancing existing rural development.** Adapt existing rural settlements where possible to improve their form and liveability.
10. **Awareness and responsible action.** Educate people and foster community involvement in sustainable rural settlement. Promote the use of themes for new rural settlement to create a focus for rural residents and achieve greater co-operation in land management issues.

Planning Principles

Four main principles have been adopted as the basis for a catchment based approach in rural residential planning. They require implementation as a package, with each element assisting the others to achieve appropriate development, land use and management. Proposals that are based on these principles are likely to be consistent with the planning objectives above.

Figure 2, opposite, indicates how the following four planning principles fit into the planning process.

Principle 1 – Catchment Planning Framework

Catchment planning involves identifying and reinforcing rural settlement patterns using physical, social and service catchments. It can be undertaken at the sub-regional, district, local precinct and property level. Not all levels will be relevant in all circumstances.

Principle 2 – Settlement Pattern Development Rural Settlement Hierarchies

In the past the rural landscape had a basic hierarchical organisation of town, village and farmhouse with a linked hierarchy of services and functions. In many circumstances rural residential development has undermined this structure by allowing people to live in dispersed locations with little regard for direct access to higher order centres.

It may be possible to build onto and reinforce an existing hierarchy by allowing limited rural residential development in strategically placed enclaves. Placement of enclaves in preferred locations will assist in maintaining the viability of towns and villages both economically and socially, and also maintain the traditional rural landscape by curtailing rural sprawl.

Combining catchment planning information and the rural settlement hierarchy enables the local authority to identify preferred areas for rural residential development.

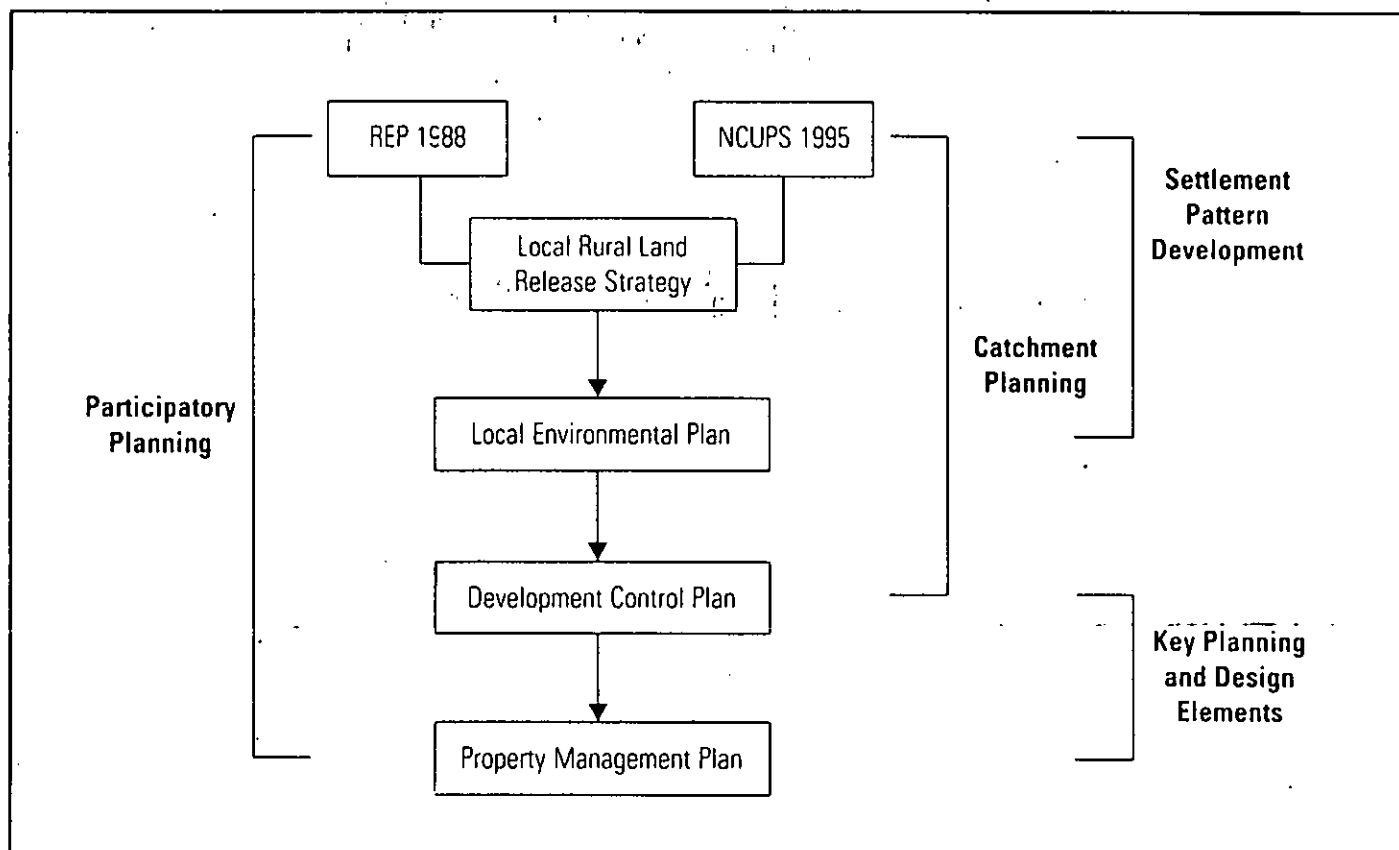


Figure 2: Implementation of the Catchment Based Approach through the Planning Process

Principle 3 – Key Planning and Design Elements

In designing or assessing rural residential development the five key planning and design elements identified in Figure 3 can be used as a checklist of whether the proposal addresses all of the relevant issues. The elements are most useful at the property level.

These elements are interlinked. The strength and benefits of adopting this approach relies on the key elements being achieved by ensuring rural development types, location and forms are consistent.

Principle 4 – Participatory Settlement Planning

The purpose of participatory settlement planning is to provide meaningful direction, comments and feedback on planning and design matters.

The better the information available to people wanting to assist in the planning process and the more opportunity for interest groups to work collectively, then the greater the propensity to develop responsible strategies and resolve

issues. Instead of waiting for community reaction at the end of a detailed planning and design stage, a pro-active process should be established.

Implementation

The need for the above Guidelines resulted from work carried out in preparation of the North Coast Urban Planning Strategy. They are intended to be implemented by the Department

through clause 20 of the North Coast Regional Environmental Plan, 1988. This clause requires councils to prepare a rural land release strategy agreed with the Department prior to preparing a local environmental plan (LEP) for rural residential development. The Department will ensure that any council strategy and LEP is consistent with the Rural Settlement Guidelines.

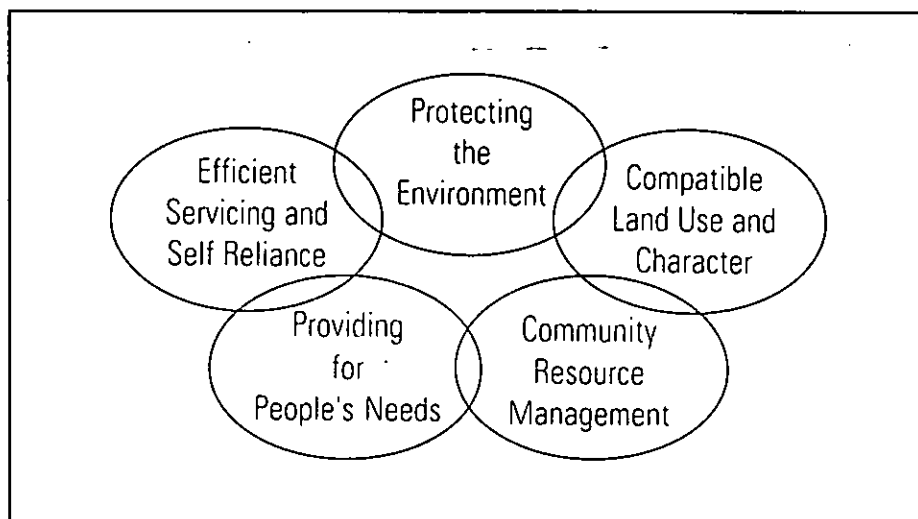


Figure 3: Key Planning and Design Elements

Best Practice

There are a number of issues related to best practice. Two such issues are outlined below.

Cluster Planning

Adopting a cluster approach to rural residential design is one way of achieving the objectives of the catchment based approach.

Clustering of residential lots at the property level aims to protect and enhance local values and character, encourage broader land uses, promote efficient servicing and link land use elements between properties while still providing for the privacy and space requirements of individual lot owners. It is a way of providing for limited rural residential development while avoiding much of the "waste" land typically associated with this form of development. In addition, it allows for potential infill development in the future.

Cluster development of residential lots and a community management structure provides the following benefits:

- optimal siting of residential lots within land use context
- better placement of roads and services in the landscape
- less infrastructure for roads and services and long term maintenance by residents
- enables managed common effluent treatment
- cohesive fire reduction strategies and maintenance
- common water storage and reticulation system for non-potable use and firefighting
- open space and recreational land and facilities reduce pressure on wider community
- enables theme development for compatible land use and lifestyle within development area and with neighbouring areas.

Land and Resource Management

Ownership of land brings responsibility for land management. Rural residential development involves more land and therefore should require a higher level of land management by residents. The responsibility for specific community resources such as roads and fire breaks

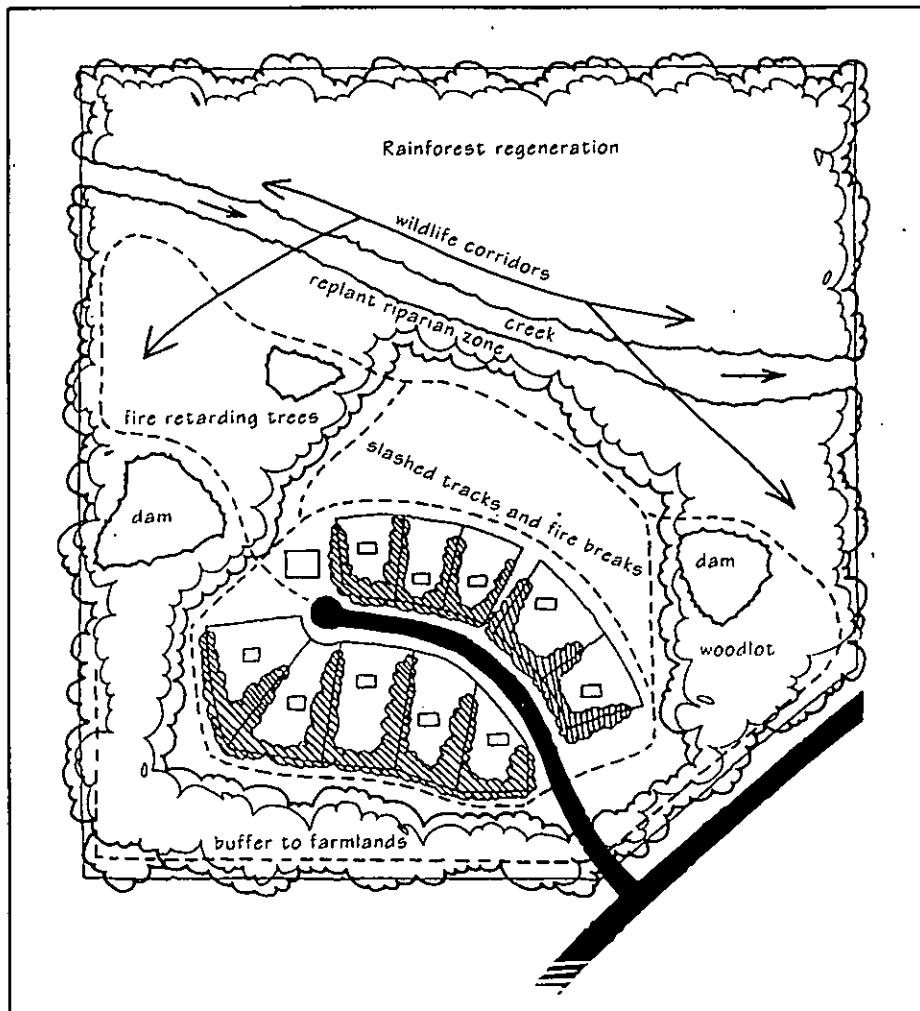


Figure 4: An Example of a Cluster Development

also needs to be taken by those who benefit from them.

The basis on which a property is subdivided and developed usually sets the scene for the level of land and resource management responsibility of the new residents. In rural residential situations, traditional freehold subdivision using Torrens Title land tenure usually results in the fragmentation of management responsibilities, which makes establishing a cohesive catchment-based approach to property management difficult.

When a management issue arises, it tends to trigger demands for higher order involvement (usually local government) rather than local collective action. The

higher order action may not eventuate, or be poorly implemented without local focus. The higher the level required to become involved in the local property situation the greater the propensity for this higher level to not fully understand or adequately resolve the situation.

The land and resource issues relevant to rural residential development can be divided into three main areas:

- environment and land management
- utility and infrastructure services
- community facilities and services.

Aspects from each of these issues may need to be addressed in detail at the property development level and co-ordinated at rural precinct and district levels.

This issue is based on the publication "Guidelines on Rural Settlement on the North Coast of NSW". Newsletter prepared by Mike Svikis.

Editorial and Design: Roy Hayward, Mike Svikis and Liz Williams.

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96/21 ISSN 1320-5072

FAX DOCUMENT FROM PETER HAMILTON

1/50 Paterson Street, Byron Bay, 2481 (066) 858 648 (F/T)

✓
TO: Simon

FAX No:

DATE: 30-4-96

Number of pages (including this sheet): 5

SUBJECT: NO Workshop ^{DOAP "Northern Blues"}

COMMENTS: Herewith "NN" or rural "villages". All very
commendable from point of view of physical
planning but where is the social planning to
bring it to life - viz, give it "heart"?
Maybe a topic for the Workshop

Regards

Peter

15-9-95

Di

I spoke with Jim Clark (DUAP) this afternoon re LSC proposal re MO conversion to CT.

Jim stresses that they have still not received a copy of the proposed LEP. Attached is copy of his letter of 28 August.

He says the "proceeding" as referred to in Item 3 cannot, and should not be construed to imply any agreement to anything.

In effect they are saying how can they comment on amendment 26 when they haven't received a copy of same!

Regards Peter

w South Wales Government



Department of Urban Affairs and Planning

NORTHERN REGIONAL OFFICE

Mr K Gainger
General Manager
Lismore City Council
PO Box 23A
LISMORE NSW 2480

49 Victoria Street, Grafton 2460
PO Box 6 Grafton 2460

Telephone: (066) 42 0622

Fax: (066) 42 0640

Contact:

Our Reference: G93/00130 IC DT

Your Reference: GM/CA S589/1 95 SL

Handwritten:
G93/00130
28/8/95

Dear Mr Gainger

LISMORE LOCAL ENVIRONMENTAL PLAN 1992 - PROPOSED AMENDMENT 26

I refer to your letter of 14 August, 1995 requesting a section 65 certificate for the above amendment, which concerns community title subdivision of existing multiple occupancies

2 The Department has not received a copy of proposed amendment 26. I understand the amendment is being re-drafted to clarify the relationship between proposed community subdivision and the development standards in clause 11 of Lismore LEP 1992

3 Your request for a certificate will be processed as soon as the necessary information is received.

Yours sincerely

Jim Clark *28/8/95*
General Manager
Northern Region

FAX DOCUMENT FROM PETER HAMILTON

1/50 Paterson Street, Byron Bay, 2481 (066) 858 648 (F/T)

TO: Di

FAX No: DATE: 15-9-95

Number of pages (including this sheet): 3

SUBJECT: LSC Proposed subdivision of mo

COMMENTS: Please see attached.

Peter

24/3/95

R/E. Graham

MD re Keith
Graham or E
~~Friday 1st~~

He Red from Paul Kelly
in "Property & Equity" at SCU:
was to do PhD on MD but has with-
drawn apparently due to repeal.

has file of Woodward Commission
reports/papers etc
+ Glen Bin judgement
+ Jack Watts report.
+ Sandoz = Billen

I've suggested Graham ask him
if he'd like to lodge at Numbin Ave →

Grahams

~~From Newcastle #4~~
Jonathan

Solicitors & Business Consultants

Principal:

Keith J Graham LL.B.

Notary Public & Registered Tax Agent

Accredited Specialist, Business Law

Suzanne L Creak B.A. LL.B.

Consultant - Family Law

Graham Centre

46 Molesworth Street

PO Box 1100

LISMORE NSW 2480

DX 7768 LISMORE

Phone (066) 218 144

Fax (066) 221 242

Your Ref:

Our Ref: KJG:RT.940435

18 July 1994

Jonathan

PO Box 11

ROCK VALLEY NSW 2480

Dear Jonathan,

RE: DEVELOPMENT APPLICATION FOR M.O. ON DAVIS ROAD, JIGGI

With respect to your request for legal advice concerning Lismore City Council's refusal of Development Consent for the reasons set out in their letter to you dated 28th of April 1994, and in particular with respect to item 16, which states as follows:-

"16. The development does not comply with Clause 2(c)(ii) of SEPP #15 as relates to the issue of separate title and subdivision."

I note that the provisions of Clause 2(c)(ii) of SEPP #15 states that it is an aim of the State Government Policy "to facilitate development . . . in a manner which does not involve subdivision, strata title or any other form of separate title, . . ."

The word "subdivision" is defined in Section 4 of the Local Government Act (a copy of which is enclosed), the relevant parts of which are as follows:-

"Subdivision . . . refers to dividing land into parts, whether the division is:-

- (a) By sale, conveyance, transfer or partition; or . . .
- (c) By procuring the creation of a folio of the register kept under the Real Property Act in respect of a part of the land."

From my knowledge of your development, I note that you have issued one sixteenth shares in the title to Lot 41, DP 802597 and that the various owners own the property as tenants in common in one sixteenth shares. I note that there is no formal agreement between the owners as to exclusive ownership of any particular part of the property, such as would happen when property owners enter into a Deed of Partition. If there were to be a Deed of Partition between the owners granting exclusive rights over parts of the property otherwise than under a lease for a period not exceeding five years, then this would constitute a subdivision requiring formal Council subdivision approval, and would be contrary to the provisions of SEPP #15.

Page 2

18 July 1994

Jonathan

The mere fact that separate Title Deeds have been requested and issued to individual proprietors of the property does not constitute a subdivision. I enclose a copy of Section 100(2) of the Real Property Act, which requires the Registrar General to "create separate folios of the register and issue separate certificates of title" with respect to persons entitled to be registered as tenants in common of shares in land under the provisions of the Real Property Act.

This also does not constitute a subdivision under paragraph (c) under the definition of subdivision, as the creation of a separate Title Deed under that paragraph must be "in respect of a part of the land". As a Title Deed issued to a tenant in common pursuant to section 100(2) of the Real Property Act relates to the whole of the property, and not simply a part of the property, the issuing of separate titles under Section 100(2) of the Real Property Act can not constitute the granting of a subdivision or of a "separate title" as referred to in Clause 2(c)(ii) of SEPP #15.

Should you have any further queries or questions concerning this, please feel free to contact me.

Yours faithfully

Keith Graham

Keith J. Graham
enc

Graham,
Do you agree with this view?
Is it beyond dispute at law?
Does this hang on the issue of
which is the "superior/primary"
legislation"?

Peter

Most recent legislation usually prevails
An Act prevails over a SEPP.

Amend SEPP-15 to read that the provisions of the Act (including (c) to
create sep folio shall not apply (until fully amended)
Reverses it such wording in LGA/PPA passed by less app.

*Real Property Act 1900 No. 25***Registered co-tenants**

100. (1) Two or more persons who may be registered as joint proprietors of an estate or interest in land under the provisions of this Act, shall be deemed to be entitled to the same as joint tenants.

(2) Subject to subsection (3), where persons are entitled to be registered as proprietors of a life estate and an estate in remainder in, or as tenants in common of shares in, land under the provisions of this Act (other than land comprised in a folio of the Register created pursuant to section 32 (3)), or are entitled to be so registered in respect of land in the course of being brought under the provisions of this Act pursuant to Part 4, Part 4A or Part 4B, the Registrar-General may, in respect of the life estate and estate in remainder or, as the case may be, the shares:

- (a) create separate folios of the Register and issue separate certificates of title;
- (b) create a folio or folios of the Register and issue such certificate or certificates of title as he thinks proper; or
- (c) deliver any existing certificate of title after making thereon and in the Register such recording as may be required by this Act.

(3) The Registrar-General shall not refuse to act in accordance with subsection (2) (a) if he is requested so to act and his expenses for so acting are paid.

Registration of survivor of joint proprietors

101. (1) Where a person becomes entitled to an estate or interest in land:

- (a) upon the death of a person registered with him as joint proprietor of that estate or interest; or
- (b) by the determination or defeasance, by death or the occurrence of some other event, of an estate or interest in land,

the Registrar-General may, upon application in the approved form by the person so entitled and proof to his satisfaction of the death or other event, as the case may require, register that person as proprietor of the estate or interest.

(2) Subsection (1) does not authorise the Registrar-General to bring land under the provisions of this Act.

102, 103.

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Real Property Act 1900 No. 25

(4) All laws, statutes, Acts, ordinances, rules, regulations, and practice whatsoever relating to freehold and other interests in land operative on the first day of January one thousand eight hundred and sixty-three are, so far as inconsistent with the provisions of this Act, hereby repealed so far as regards their application to land under the provisions of this Act, or the bringing of land under the operation of this Act.

(5), (6)

* * * * *

Definitions

3. (1) In the construction and for the purposes of this Act, and in all instruments purporting to be made or executed thereunder (if not inconsistent with the context and subject matter):

(a) the following terms shall bear the respective meanings set against them:

- "Approved form" — Form approved by the Registrar-General for the purposes of the provision of this or any other Act in relation to which the expression is used.
- "Caveator" — The person by whom or on whose behalf a caveat has been lodged under the provisions of this Act, or any enactment hereby repealed.
- "Charge" — Any charge on land created for the purpose of securing the payment of an annuity, rent-charge or sum of money other than a debt.
- "Chargee" — The proprietor of a charge.
- "Charger" — The proprietor of land or of an estate or interest in land that is subject to a charge.
- "Computer folio" — A folio of the Register that is not a manual folio.
- "Computer folio certificate" — A certificate issued under section 96D.
- "Consular officer" — Consul-general, consul, and vice-consul, and any person for the time being discharging the duties of consul-general, consul, or vice-consul.
- "Covenant charge" — Any charge on land created under section 88F of the Conveyancing Act 1919 for securing the payment of money.
- "Covenant chargee" — The proprietor of a covenant charge.
- "Covenant charger" — The proprietor of land or of any estate or interest in land subject to a covenant charge.

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Real Property Act 1900 No. 25

"Dealing" — Any instrument other than a grant or caveat which is registrable or capable of being made registrable under the provisions of this Act, or in respect of which any recording in the Register is by this or any other Act or any Act of the Parliament of the Commonwealth required or permitted to be made.

"Duplicate registered dealing" — The duplicate of a registered dealing directed to be delivered by section 36 (10) and any instrument recorded under section 39A (2) (a).

"Easement in gross" — An easement without a dominant tenement created pursuant to the provisions of section 88A or 88B of the Conveyancing Act 1919 or acquired by the Commonwealth in exercise of authority conferred by any Act of the Parliament of the Commonwealth.

"Grant" — Any Crown grant of land.

"Instrument" — Any grant, certificate of title, conveyance, assurance, deed, map, plan, will, probate, or exemplification of will, or any other document in writing relating to the disposition, devolution or acquisition of land or evidencing title thereto.

"Land" — Land, messuages, tenements, and hereditaments corporeal and incorporeal of every kind and description or any estate therein, together with all paths, passages, ways, watercourses, liberties, privileges, easements, plantations, gardens, mines, minerals, quarries, and all trees and timber thereon or thereunder lying or being unless any such are specially excepted.

"Licensed conveyancer" — The holder of a licence in force under the Conveyancers Licensing Act 1992.

"Limited folio" — A folio of the Register that includes a recording under section 28T (4) that has not been cancelled.

"Manual folio" — A folio of the Register maintained by the Registrar-General wholly in the form of a document in writing.

"Mortgage" — Any charge on land (other than a covenant charge) created merely for securing the payment of a debt.

"Mortgagor" — The proprietor of land or of any estate or interest in land pledged as security for the payment of a debt.

"Mortgagee" — The proprietor of a mortgage.

"Ordinary folio" — A folio of the Register that is neither a limited folio nor a qualified folio.

"Possessory applicant" — Person who makes a possessory application.

"Possessory application" — Application under section 45D.

"Primary applicant" — Person who makes a primary application.

Real Property Act 1900 No. 25

"Primary application" — Application to bring under the provisions of this Act land that is not subject to those provisions.

"Proprietor" — Any person seised or possessed of any freehold or other estate or interest in land at law or in equity in possession in futurity or expectancy.

"Qualified folio" — A folio of the Register in which is recorded a caution under section 28J that has not been cancelled.

"Regulations" — The regulations made under this Act.

"The Register" — The Register required to be maintained by section 31B (1).

"Torrens Assurance Fund" — The Torrens Assurance Fund established under section 133A.

"Transfer" — The passing of any estate or interest in land under this Act whether for valuable consideration or otherwise.

"Transmission" — The acquirement of title to or interest in land consequent on the death, will, intestacy or bankruptcy of a proprietor.

"Writ" — A writ that issues out of a court of competent jurisdiction and authorises the sale of land for the purpose of satisfying a judgment debt, including a renewal of a writ and a second or subsequent writ issued on a judgment.

(b) The describing any person as a proprietor, transferor, transferee, mortgagor, mortgagee, charger, chargee, lessor, or lessee, or as seised of having or taking any estate or interest in any land shall be deemed to include the executors, administrators, and assigns of such person.

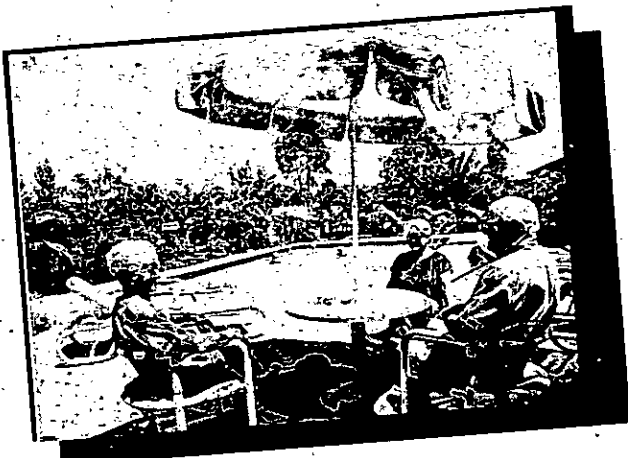
(c) A reference:

- (i) to a certificate of title includes a reference to a grant; and
- (ii) to the issue of a certificate of title includes a reference to the issue of a grant after it has been registered under this Act.

(d) A reference to recording includes a reference to amending, cancelling or deleting.

(e) A reference to a caveator includes a reference to any person who claims through or under the caveator and also includes a reference to any person other than the caveator who, by virtue of section 74M (1), is authorised to withdraw the caveat which was lodged by the caveator.

(f) A reference to an office copy of an order, judgment or injunction made, given or granted by a court is a reference to a copy of that order, judgment or injunction certified as such an office copy by the proper officer of the court.



**Enjoy The
Retirement
You've
Always
Dreamed
Of...**

**We can help you enjoy a
new lease of life!**



**Our unique 'Cash Back Plan'
Makes it Easy**

Resort living in your own home with no maintenance or security worries. This superb fully managed Strata Titled Village offers every facility for the carefree over 55's.

- Prize winning gardens
- Easy going country atmosphere
- Bowling green and pool
- Luxury community centre
- Close to all amenities
- 18 hole golf course opposite
- Short drive to the Gold Coast
- Solid security of owning your own home
- Maintain your independence

Self contained 2 or 3 bedroom
Villa Home Units

2 Bedrooms from \$95,000

3 Bedroom from \$135,000

Serviced Apartments from \$53,500

**YOU CHOOSE YOUR VILLA AND
WE'LL COME TO THE PARTY with
our unique "CASH BACK PLAN"**

We take all the hassles out of selling your existing home. Subject to mutual agreement, we will **TRADE-IN YOUR PROPERTY** for full, true market value and **PAY YOU THE DIFFERENCE IN CASH!** Nothing could be easier and we will help you every step of the way.

MOUNTAIN VIEW

A Complete village with a community lifestyle

North Arm Road, Murwillumbah (opposite Golf Course)

PHONE GEOFF GRINHAM 851011 FOR YOUR BROCHURE

Ray White

BRUNSWICK HEADS

PACIFIC HIGHWAY BRUNSWICK HEADS (066) 851011

FAX DOCUMENT FROM PETER HAMILTON

1/50 Paterson Street, Byron Bay, 2481 (066) 858 648 (F/T)

TO: Graham Irvine

FAX No: 221683 DATE: 12.10.95

Number of pages (including this sheet): 2

SUBJECT: M.O.

COMMENTS: Reply for your information.

Regards Peter

PS. Your home FAX is not responding

CALL TO AGGRIEVED POLLUTION FIGHTERS

1995

At the EDO policy day in April, it was agreed to expand pollution work. Subsequently, the EDO received a grant from the Law Foundation to look into pollution licences. We would be interested to hear from all those who feel they have been unfairly affected by pollution, or not given the right to have input to a pollution licence. Contact Maria Comino, EDO, on 02 261 3599

Pollution will be the focus of the next issue of Environmental Defender. All contributions welcome!

CALL TO AGGRIEVED POLLUTION FIGHTERS

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Pollution will be the focus of the next issue of Environmental Defender. All contributions welcome!

Ex Rob re real estate "response"
 (experience) with selling C.T. I mean
 that not all solicitors know how to
 do C.T. conveyance & even where they do,
 they are not keen, because of the
 extra work involved in preparing the
 "Management Plan" etc

In the case of Jalandah. They found
 12 solicitors who could & would
 do C.T. & gave this list to prospective
 clients...

Rob understands the legal profession
 is a factor in not being enthusiastic
 about C.T.

Dest
MO → CT

FAX.

~~Graham?~~

✓ Rob 09.

✓ Simon 17

✓ Hill: #22

✓ Qi 01

FAX DOCUMENT FROM PETER HAMILTON

1/50 Paterson Street, Byron Bay, 2481 (066) 858 648 (F/T)

✓ TO: *Di, Susan, Alan, Graham, Rob* *See over*

FAX No:

DATE: *24-8-95*

Number of pages (including this sheet): *3*

SUBJECT: *Proposed CT subdivision of MO*

COMMENTS:

For your information

Regards
Peter

FAX DOCUMENT FROM PETER HAMILTON

1/50 Paterson Street, Byron Bay, 2481 (066) 858 648 (F/T)

TO: *Graham Irvine*

FAX No:

DATE: *24-8-95*

Number of pages (including this sheet):*3*.....

SUBJECT: *MO re CT.*

COMMENTS: *For your information*

P

~~Project~~ a) no project
~~Project~~ no low cost aims.
or want cost

= \$55,000 ~~per~~

Freehold \$65,000 ~~offering~~

b) ~~Renatation~~ - reviews

Mc LETHN

FAX DOCUMENT FROM PETER HAMILTON

1/50 Paterson Street, Byron Bay, 2481 (066) 858 648 (F/T)

TO: ✓ Bill Kidd

FAX No:

DATE: 28.7.95

Number of pages (including this sheet): 6

SUBJECT: M.O.

COMMENTS: Herewith for your information.

1. Reply from Knowles re SEPP-15

2. Our letter to Knowles re Community Title.

STOP PRESS: Indications are that the Dept. will reject the CT proposal on a number of accounts. Regards Peter

Would appreciate it if you would report on the above to the forthcoming Bodhi meeting. Thanks P.

FAX DOCUMENT FROM PETER HAMILTON

1/50 Paterson Street, Byron Bay, 2481 (066) 858 648 (F/T)

TO:

✓ Ian Cohen, Jan Burham

FAX No:

02-2302267

DATE:

18-7-95

Also G2

Rob

Number of pages (excluding this sheet):

4 Incl LEP 1/2/96

Dij

SUBJECT:

MO Lismore City Council, Proposed Community

COMMENTS:

Title & subdivision of MO

For your information

Regards

Peter

LISMORE CITY COUNCIL - MEETING HELD JULY 4, 1995

SUBJECT/FILE NO.: LEP AMENDMENT NO. 26 - COMMUNITY TITLE
SUBDIVISION OF MULTIPLE OCCUPANCY DEVELOPMENTS
(ST:LMcD:S589)

PREPARED BY: Town Planning Assistant --Mr S Turner

REASON: The outcome of the exhibition of the Draft Amendment

OBJECTIVE: To gain Council's approval to proceed with the Amendment

CORPORATE PLAN REF: Function: Strategic Planning
Strategy: 1
Action: (j)

PROGRAMME BUDGET REF: Page: D2

CONTENT

Information:

LEP Amendment No. 26 was placed on exhibition for a period of sixty (60) days from April 14, 1995 in accordance with Council's resolution. During the exhibition period a copy of the proposal was forwarded to all MO's.

Council may recall that this amendment seeks to permit Community Title subdivision of existing multiple occupancies comprising three or more dwellings, and approved by Council prior to February 1, 1995.

Two (2) submissions were received during the exhibition period and are summarised below.

1 Dar-Es-Salaam

This submission confirmed that the Multiple Occupancy supported, in principal, the amendment and looked forward to receiving further information and details in regard to the proposal.

2 Lismore/Alstonville Branch of the NSW Farmers Association

The submission commended Council on its plans to allow existing Multiple Occupancies to transfer to Community Title but raised three (3) concerns. These were:

- a) Multiple Occupancies wishing to convert to Community Title must pay Section 94 levies at current rates, less whatever may have been paid when the original MO was established.
- b) Multiple Occupancies wishing to convert to Community Title must pay the relevant Fire Brigade levy and any other levies that may be applicable at current rates, if not already paid.

- c) Conditions for vehicular access must be the same as for other, non Multiple Occupancy, Community Title Applications.

COMMENT

It is generally agreed that by their nature, Community Titled developments produce a greater impact on facilities and services than Multiple Occupancies. On this basis it would be appropriate to re-assess those MO's who wish to redevelop as Community Title developments. The re-assessment of levies would occur using the current figures, and would take into account the current value of levies originally paid by each community. (ie if \$10,000 paid in 1980 then on CPI increases may make it worth approximately \$12,000 in 1995 etc.)

The payment of bushfire levies by existing MO's converting to Community Titles is unacceptable as the bushfire brigades already protect the existing houses. Thus there is no further increase in the number of houses serviced as a result of the redevelopment to Community Title.

The Council is required to be satisfied that the land to be developed is provided with adequate all weather vehicular access and services. This should be assessed in terms of the increase in traffic as a result of the redevelopment, as would any rural subdivision.

The above are all "policy" issues and will not impact on the wording of the LEP.

It is intended that the opportunity for Community Title only apply to pre-existing MO's and that such MO's contain at least three existing dwellings (if only two dwellings exist, Council's prohibition on the subdivision of rural dual occupancies could be circumvented). It is therefore suggested that the word "existing" be added to clause 11(A)(2)(b) to make this intention clearer.

It is therefore to be recommended that the Council adopt the amendment in the form in which it was exhibited and forward the plan to the Minister for signature and gazettal.

FINANCIAL SECTION N/A

OTHER DEPARTMENT COMMENTS Not requested.

RECOMMENDATION (PLAN82)

Pursuant to Section 68 of the Environmental Planning and Assessment Act, Council adopt the Lismore Local Environmental Plan 1992 - Amendment No. 26 in the form in which it was exhibited, subject to clause 11(A)(2) being amended to read "The multiple occupancy contains at least three existing dwellings", and forward the plan to the Minister for his signature and gazettal.

Exhibition, Closes 14/6/95

- Graham
- Rob
- Lian
- Eddie

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT
LISMORE LOCAL ENVIRONMENTAL PLAN 1992 (AMENDMENT No. 26)

I, the Minister for Urban Affairs and Planning
Environmental Planning and Assessment Act 1992
out hereunder.

Sydney, 1995. Minister for Urban Affairs and Planning

Citation

- 1 This plan may be cited as Lismore Local Environmental Plan 1992 (Amendment No. 26)

Aims, objectives etc.

- 2 This plan aims to:
(a) permit community title subdivision of existing multiple occupancies comprising three or more dwellings approved by Council prior to February 1, 1995.

Land to which this plan applies

- 3 This plan applies to all land to which the Lismore Local Environmental Plan 1992 applies.

Relationship to other environmental planning instruments

- 4 This plan amends Lismore Local Environmental Plan 1992 in the manner set out in clause 5.

Amendment of Lismore Local Environmental Plan 1992

- 5 The Lismore Local Environmental Plan 1992 is amended by:

- (a) inserting after clause 11 the following:

Community Title Subdivision of Multiple Occupancies

11 (A) (1) This clause applies to rural land on which is located a multiple occupancy development approved prior to or pursuant to State Environmental Planning Policy No. 15 - Multiple Occupancy of Rural Land.

(2) The Council may consent to the community title subdivision of an existing multiple occupancy provided that;

(a) The Multiple Occupancy was approved by the Council or the N.S.W State Government prior to 1 February 1995;

(b) The multiple occupancy contains at least three dwellings;

(c) Council is satisfied that the land is provided with adequate all-weather vehicular access and services; and

(d) Council is satisfied that adequate arrangements have been made for water supply and on-site effluent disposal.

**LOCAL ENVIRONMENTAL PLAN 1992
(AMENDMENT No. 26)
MULTIPLE OCCUPANCY/COMMUNITY TITLE**
Pursuant to S66 of the Environmental Planning and Assessment Act, and Clause 7 of the Regulation thereto, the above amendment will be on exhibition for public comment for a period of sixty (60) days from the date of this notice until Wednesday, June 14, 1995. The plan proposes to permit community title subdivision of existing multiple occupancies comprising three or more dwellings approved by Council prior to February 1, 1995. The plan will be available for inspection during normal business hours at Council's Administration Building, Oliver Avenue, Goonellabah. Submissions on the Amendment will be received until close of business on Wednesday, June 14, 1995.

Your comments please by 24th if possible, on what action the Com should take, if any, re the above. N.B. Ian Cohen meeting with ALP next week re Greens working relationship with Knowles - Minister for Planning. Reinstatement of SEPP 15 is on the agenda. Di & self working on Pan Com letter to

Draft will be sent to you for your comment. Peter



Lismore City Council

NEWSLETTER

Correspondence to be addressed to: General Manager, Lismore City Council, PO Box 23A, Lismore 2480

43 OLIVER AVENUE, GOONELLABAH, LISMORE. PHONE 25 0500

Tucki-Tucki Creek Goonellabah Local Resident Survey

Lismore City Council, in association with Southern Cross University, is currently working to produce a Plan of Management for the Tucki-Tucki Creek area of Goonellabah.

As an aid in the preparation of the Plan, students will be conducting a survey of Goonellabah residents and businesses neighbouring the creek to ascertain community aspirations and possible usage of the area. The survey will begin on Thursday, April the 13th, and continue over the weekend. It will consist of several short questions that can be answered at your door.

Your participation in the survey will be greatly appreciated so that productive results can be used in planning for the area.

Specific enquiries should be directed to Council's Property Services section on 250523, during normal business hours.

QUOTATIONS PURCHASE OF ABANDONED VEHICLE

Quotations placed in an envelope and clearly marked 'Abandoned Vehicle Quotations - Tender No. T/95-16-1' are invited for the purchase from Council of the following vehicle - White Toyota Sedan, NSW Reg. No. QFE-470, impounded from Tuntable Creek Road, The Channon, on March 24, 1995.

Arrangements for inspection of the above vehicle may be made by first contacting Council's Law Enforcement Officers, phone No. (018) 663816.

The highest or any quotation not necessarily accepted.

Quotations close 12 noon, May 15, 1995 and should be addressed to the General Manager.

LOCAL ENVIRONMENTAL PLAN 1992 (AMENDMENT No. 26)

MULTIPLE OCCUPANCY/COMMUNITY TITLE

Pursuant to S66 of the Environmental Planning and Assessment Act, and Clause 7 of the Regulation thereto, the above amendment will be on exhibition for public comment for a period of sixty (60) days from the date of this notice until Wednesday, June 14, 1995. The plan proposes to permit community title subdivision of existing multiple occupancies comprising three or more dwellings approved by Council prior to February 1, 1995. The plan will be available for inspection during normal business hours at Council's Administration Building, Oliver Avenue, Goonellabah. Submissions on the Amendment will be received until close of business on Wednesday, June 14, 1995.

LISMORE LEP DRAFT AMENDMENT No. 22

This Amendment will be on exhibition for a period of twenty-eight days during normal business hours from Monday, March 27, 1995 until the close of business on Monday, April 24, 1995.

The Amendment aims to rezone certain public lands from Open Space 6(a) to Rural 1(r), reclassify certain public lands from Community to Operational, requires a social impact assessment to be a component of an environmental impact report, includes Amusement Parlours as advertised development in commercial and industrial zones, alters the definition of Restricted Premises and makes same advertised development in the commercial zone, alters the definition of Rural Tourist Facility, rezone certain lands in Goonellabah from General Agriculture to Rural Investigation zone, extends the hospital zone in the vicinity of the Base Hospital, corrects a minor typographical error and amends the 1(a)/1(r) zone boundary to better reflect flood liable lands.

Any person wishing to make a submission to the plan should do so by close of business on Monday, April 24, 1995.

LISMORE LEP DRAFT AMENDMENT No. 23

Pursuant to Section 66 of the Environmental Planning and Assessment Act, notice is given that Council at its meeting of March 21, 1995 resolved to place on public exhibition an amendment to the LEP which amends the recent amendment to permit all flood mitigation works to be carried out under Part 5 of the Environmental Planning & Assessment Act, by requiring that these works also be carried out in pursuance of the provisions of the Local Government Act, 1993.

The LEP Amendment will be on public exhibition for a period of 28 days from Monday, March 27, 1995.

Submissions will be received by Council at its Administration Office, Oliver Avenue, Goonellabah until the close of business on Monday, April 24, 1995.

COMMERCIAL OFFICE SPACE TO LEASE

Council currently has three commercial office suites available for lease in 'Molesworth House' situated at 186 Molesworth Street, Lismore. Should you be considering upgrading, or need additional office space, with off-street parking, then call Mr Graeme Davis, Manager-Property Services, for details.

INTERVIEWS WITH COUNCILLORS

Interview sessions provide an opportunity for individual citizens and/or community groups to discuss matters of concern with their elected representatives.

Interviews are held on 1st and 3rd Monday of each month commencing 7.30 pm and concluding 10 pm.

* Two councillors attend the interview nights on a roster basis.

* Appointment times by phoning Mrs Noeline Smith on 250 500.

On Monday, April 24, 1995 interviews will be conducted by Councillors Roberts and Carson.

TEMPORARY ROAD CLOSURE MOLESWORTH AND MARKET STREETS, LISMORE

Notice is hereby given that Molesworth Street, between Conway Street and south of Market Street, as well as Market Street will be closed to through traffic on TUESDAY, APRIL 25, 1995 between the hours of approximately 5.00 am and 6.00 am and again from 10.00 am to 11.00 am. The closure has been requested by the Returned Services League as part of its Anzac Day March activities.

Rab's ~~MO~~

~~MO~~ MO → CT amendment.

MO → CT

- This community will discuss -
- 24/11/92 - need to know ground rules as to how applied/determined.
- optional provisions all OK if not compulsory
 - there is hidden benefit in providing choice. (no one may choose it.)
 - a JCP may be appropriate
 - core needs to be given to ensure no discrimination no Rural Resder.
 - application of new s.94 not likely as no extra road impact
- 18/6/95 They considered & decided not to comment.

W/ Knowles re follow up
to Pen Com re new statement

W/ DASH for Pen Com (as agreed)
3d draft for Do) re
MO → CT issue to
Knowles.

if there is no objection to moving
prop. on

We formally object to the proposed
amendment on the ground that the
proposal is clearly contrary to the times,
spirit & letter of the former
STPP-15.

In addition
in the event of STPP-15 being reintroduced,
which is the stated policy of the present
Government to do so, it would appear
that this is likely to involve Council in a
deal of administration & coordination work.

MO → CT
Letter to Minister Opposed
DAP
acceptance
of this.

Eddie
✓ Di
✓ Graham
Rab
Senior
Allan Hill

8/7/95

MO → CT. Draft letter to Minister. for the

O Re 'low cost' factor of Policy -
of cost shift - NS. 1/7/95. \$3. \$35,000 + \$79,500 (MO) ^{share}

NO Biller Cliffs in Strat title. Shares \$120,000 (land only)

Jallanbah. land only \$32,000 18 mths ago now \$42,500
lots → \$550,000

Examples Tumble \$3,000 share
Pumpinna 1982 \$11,000 (no made rd to site)
1993 \$15,000 (with ...)
Isa Co.

FAX DOCUMENT FROM PETER HAMILTON

1/50 Paterson Street, Byron Bay, 2481 (066) 858 648 (F/T)

TO:

Graham

FAX No:

DATE:

6.7.95

Number of pages (excluding this sheet):

2

SUBJECT:

MO to CT

COMMENTS:

As discussed. I have undertaken to coordinate a Pan Com letter to the Ministers to refuse this LEP amendment. Your suggestions as to relevant grounds would be appreciated.
Peter

20/4/95.

En Com

Di re Craig Knowles re SEPP-15

She contacted David Mutton (Knowles
"Assistant". He said he was not aware
of the SEPP issue, would c/- get back to
her.

Re LBL no → ct.

No set N special policy fundline outside
what advertised.

If the 210 outside the Rural Resonator, they
would not be req. to upgrade to s. 94.

Re s. 94. Current RRD s. 94 - s. 94 (CPI
adjest to today)
- min 3 existing dwellings / App. or not
approved?)

Each case then has to be very different.

FAX DOCUMENT FROM PETER HAMILTON

1/50 Paterson Street, Byron Bay, 2481 (066) 858 648 (F/T)

TO: Jan Barham & Ian Cohen

FAX No:

DATE: 18-4-96

Number of pages (including this sheet): 4

SUBJECT: Lismore Council CT form

COMMENTS:

Herewith background for your information. If a review of SEPP-15 does eventuate this is likely to be an issue at least for Lismore Council.

Regards Peter

ALL communications to
GENERAL MANAGER

Reference Number

GM:MIJ: S589

Contact

Mr Graham Meineke

March 21, 1996

BELLINGEN SHIRE COUNCIL
RECEIVED
25 MAR 1996
2.7.315 1/100
DEPT: DEEP
MEETING:

LSMORE
Council

The Chief Planner
Mr. C Pratt
Bellingen Shire Council
PO Box 117
BELLINGEN 2454

Dear Sir

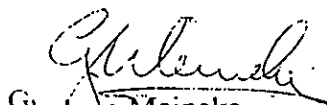
COMMUNITY TITLE SUBDIVISION OF MULTIPLE OCCUPANCY

For some time now Lismore Council has been discussing the issue of Community Title subdivision of multiple occupancies with the Department of Urban Affairs and Planning. Council has recently received a refusal from the Department of Urban Affairs and Planning to the issue of a Section 65 Certificate to permit the exhibition of an amendment to the LEP to permit community title subdivision of multiple occupancies. Council has also learnt that the reintroduction of SEPP No. 15 is imminent.

On March 5, 1996, Council resolved to seek a meeting with the Minister for Urban Affairs and Planning regarding these issues. Attached is a letter to the Minister requesting such a meeting. The second last paragraph of the letter indicates that a number of other Councils on the North Coast are concerned with multiple occupancies, and suggests that the Minister may like to meet with the relevant Councils on the North Coast, rather than in Sydney. Attached is a copy of our letter to the Minister.

I would be pleased that if you feel strongly about the issues, you approach the Minister and request such a meeting on the North Coast.

Yours faithfully



Graham Meineke
MANAGER-STRATEGIC PLANNING

LISMORE CITY COUNCIL - MEETING HELD MARCH 5, 1996

SUBJECT/FILE NO.: DRAFT LEP AMENDMENT NO. 26 - COMMUNITY TITLE
SUBDIVISION OF MULTIPLE OCCUPANCIES
(GM:MIK: S589)

PREPARED BY: Manager-Strategic Planning - Mr G Meineke

REASON: Refusal by Department of Urban Affairs & Planning to issue an
exhibition certificate.

OBJECTIVE: Seek a meeting with the Minister for Urban Affairs & Planning.

MANAGEMENT PLAN ACTIVITY: Housing & Community

SUB-ACTIVITY: Strategic Planning

PAGE: F52

CONTENT

Information:

Council will recall that in early 1995 it resolved to prepare an amendment to the LEP which would permit Community Title Subdivision of multiple occupancies. This draft amendment was placed on exhibition, and all multiple occupancies were advised of the exhibition. After the exhibition closed, the Department of Urban Affairs and Planning advised that Council did not have delegation to issue its own exhibition certificate, and that the Department would have to issue such a certificate upon request from Council.

Consequently Council requested a certificate of the Department of Planning in August 1995. After supplying further information to the Department, another request was made in October 1995 for an exhibition certificate.

In early February 1996 Council received a letter from the Department of Urban Affairs and Planning head office indicating that it was unable to issue an exhibition certificate for the draft amendment. The letter indicated that once a multiple occupancy is subdivided by whatever means, it is no longer a multiple occupancy and is considered as rural-residential development. This view is not supported as Billen Cliffs, for example, is strata titled and still functions as a multiple occupancy. The Department also indicated that the Government has made a commitment to review the previous SEPP No. 15 (which permitted multiple occupancies to be developed), and any decision to support Council's draft amendment "may prejudice future decision making in this regard".

I believe that Council and the Department of Urban Affairs and Planning have a philosophically different approach to the subdivision of multiple occupancies, and that it is unlikely that Council can convince the head office of the Department to issue an exhibition certificate. To bring this matter to a head, and to ascertain what the Government is doing regarding the review of SEPP

LISMORE CITY COUNCIL - MEETING HELD MARCH 5, 1996

REPORT - DRAFT LEP AMENDMENT NO. 26

- 2 -

No. 15, it would be worthwhile requesting a meeting with the Minister for Urban Affairs and Planning. In this way Council can get an exact picture of the Government's intent, as well as a better understanding of the reasoning behind the decision not to allow multiple occupancies to subdivide by way of community title. The very concept of community title was to facilitate development which would involve sharing of facilities and/or land, hence this form of subdivision which was not in existence when SEPP No. 15 was gazetted, appears ideal for multiple occupancies.

FINANCIAL SECTION N/A

OTHER DEPARTMENT COMMENTS Not requested

RECOMMENDATION (PLAN18)

That the Council seek a meeting with the Minister for Urban Affairs and Planning in connection with the non-issue of an exhibition certificate for the Draft Amendment No. 26, and to ascertain the Government's intention regarding the review of SEPP No. 15 and reasons why community title subdivision is not considered to be suitable for multiple occupancies.

Adopted

FAX DOCUMENT FROM PETER HAMILTON

1/50 Paterson Street, Byron Bay, 2481 (066) 858 648 (F/T)

TO: ✓ Di

Di to get Mich
next letter to
knowles +
resolution as
passed.

FAX No:

DATE: 11-4-96

Number of pages (including this sheet): 1

SUBJECT: Draft LEP26 CT-mo Meeting 5 March p 34-35.

COMMENTS: I would appreciate resolution as adopted
arising out of this recommendation. Thanks

Regards

Peter

w/ knowles
inserting that
if he grants
authority to make
this.

46-4508

NJ:MJK: S589

Mr Juradowitch

March 20, 1996

Minister for Urban Affairs & Planning
Hon Craig Knowles
Department of Urban Affairs & Planning
PO Box 3927
SYDNEY 2001

Dear Sir

**COMMUNITY TITLE SUBDIVISION OF MULTIPLE OCCUPANCY
AND POSSIBLE REINTRODUCTION OF SEPP 15 MO'S**

Lismore City Council is very concerned that you as Minister for Urban Affairs and Planning may be considering the imminent reintroduction of SEPP 15 Multiple Occupancy without consultation with Local Government. This Council is of the view that providing for multiple occupancy development is a local issue for determination by local Councils.

I am sure that you are aware of the problems which were created by the imposition of dual occupancy subdivision on Councils in the Sydney region by the previous State Government. Your Government responded decisively to the wishes of Local Government and the community and removed that unpopular directive. Council requests that you similarly consider the wishes of local communities with respect to multiple occupancy.

Lismore has over seventy (70) developed multiple occupancies which create more than five hundred (500) dwelling sites. Ample spare capacity exists for new residents in multiple occupancies (MO's) with some 25% of sites still vacant. There are relatively few remaining areas available which are both physically suitable for multiple occupancy and compatible with community expectations.

Should you wish to proceed with a Multiple Occupancy SEPP against the wishes of Local Government, it is requested that you incorporate the following matters within the SEPP.

- (i) 12 months moratorium on the SEPP coming into force so as to provide time for local Councils to prepare their own multiple occupancy strategies and planning provisions.
- (ii) Multiple Occupancy development on the North Coast shall be consistent with the Department of Urban Affairs and Planning's Rural Settlement Guidelines for the North Coast and be restricted to land which is physically suitable for such development and accessible to services.
- (iii) A limit is placed on the number of MO dwelling sites which may be approved by Councils over a five year time frame, as currently applies to more traditional rural residential development.

- (iv) That Multiple Occupancies be offered the choice of either remaining in one title with common ownership or opting for Community Title with most of the land held in common ownership with individual Community Title lots for house sites.

At the time SEPP 15 was originally introduced, Community Title subdivision was not available. Lismore City Council believes that Community Title subdivision is very appropriate for MO's. An important objective of Community Title is to provide for common ownership and sharing of property and facilities. This objective corresponds closely with the primary objective of multiple occupancy. Community Title will also overcome the current multiple occupancy rating inequities whereby one rate is paid for an MO, which on a per dwelling basis is substantially lower than the rates paid by other rural dwellers on subdivided properties. This rating inequity is one of the more significant reasons for objection by many Councils and their communities to MO's.

Council has been endeavouring to introduce optional Community Title subdivision for existing MO's by way of an amendment (No. 26) to the Lismore LEP 1992. The Department of Urban Affairs and Planning has expressed what this Council believes to be unwarranted opposition to the proposed amendment.

Council at its meeting of March 5, 1996, resolved that *"Council seek a meeting with the Minister for Urban Affairs and Planning in connection with a non issue of an exhibition certificate for Draft Amendment No. 26 and to ascertain the Government's intention regarding the review of SEPP 15 and the reasons why Community Title subdivision is not considered to be suitable for multiple occupancies"*. Accordingly, I request that you meet with a delegation from Council to discuss the above matters at your earliest convenience. It is envisaged that the delegation would comprise the Mayor - Jeff Champion, General Manager - Ken Gainger and Council's Planner - Nick Juradowitch.

Concerns about the reintroduction of multiple occupancies are not limited to Lismore City Council. A number of other Councils on the North Coast are similarly concerned. It may therefore be more appropriate that the Department of Urban Affairs and Planning arrange a meeting with interested North Coast Councils to discuss this important issue.

Should you require further information or clarification of Council's concerns please contact Council's Divisional Manager of Planning Services, Mr Nick Juradowitch, phone (066) 250 428.

Yours faithfully

Col Cooper
ACTING GENERAL MANAGER

cc Trevor Prior, Department of Urban Affairs & Planning Regional Office, Grafton.

Roger Elliot - Manager Planning Systems, Department of Urban Affairs and Planning, Sydney.

Relevant North Coast Local Councils

/ 

Dear Peter,

Following is Nic's letter to Knowles

The resolution re MOs/CT is as per the
recommendation.

Regards,

Diane.

FAX DOCUMENT FROM PETER HAMILTON

1/50 Paterson Street, Byron Bay, 2481 (066) 858 648 (F/T)

TO: Di

FAX No: DATE: 12-4-96

Number of pages (including this sheet): 3

SUBJECT: Wallace Rd. Development.

COMMENTS:

1. Herewith letter to Gainger of 11th as discussed.
2. Please let me know in due course if you are unable to obtain a copy of Nick's letter to Craig Knowles as discussed.
3. Simon spoke with Jill Lang today re reinstatement of SEPP-15. As a result of her inquiries it appears that the situation is that "Reinstatement is 'on course', an announcement will be made in May and then there will be consultation."

I shall advise you of any additional aspects after I have had further discussion with Simon.

Regards
Peter

FAX DOCUMENT FROM PETER HAMILTON

1/50 Paterson Street, Byron Bay, 2481 (066) 858 648 (F/T)

✓
TO: Di.....

FAX No:

DATE: 17-4-96.....

Number of pages (including this sheet): 2.....

SUBJECT: Reinstatement SEPP-15......

COMMENTS: Herewith copy of Council letter sent to Bellingen
Council via Darin Hart (Bellingen Mo Action Group).
this was discussed briefly by the Bellingen Council and
Darin will forward to me any resolution arising
out of this in due course. Regards Peter



**Regional Coordination Pilot Program
North Coast Area**

**Premier's Department
New South Wales**

Summerland Education
Resource Centre
154 Ballina Road
Coomellabah NSW 2480
Tel (066) 25 2072
Fax (066) 24 4510

7 July, 1995

Ms Roxanne Ramsey
General Manager Northern Division
Department of Community Services
PO Box 156
LISMORE NSW 2480

Dear Roxanne,

Enclosed are:

the minutes of the Regional Coordination Management Group meeting on 23rd June at

1:47/96

DAN CONT

Jill's reply to Simon, call this an
re status of SEP 15 is

- ① "Reinstatement of SOPH is 'in course',
an announcement will be made in
May, and, then there will be
consultation."

Prov. advice subject to ^{my} further
discussion with Simon.
Additional comments by Jill
DAP worst dept she has to deal with.
Does have a friend in Director's office
Alice Gibbs? (Confidential)

Scott Turner doing assignment of Vite
on comparison on ET & MO

6/1/95

Review of CT ~~is~~ ^{currently} after sign.
being carried out by SOAP.

P. Hamilton
Please return
10/31



an introduction to the

**COMMUNITY TITLES
LEGISLATION**

October, 1992

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COMMUNITY TITLES LEGISLATION

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COMMUNITY TITLES LEGISLATION

The community titles legislation was designed to fill the vacuum between conventional subdivision and strata subdivision which were previously the only methods of subdividing land in New South Wales. The effect of the legislation is to enable common property to be created within conventional subdivisions.

In addition to extending the concept of the shared use of common facilities to subdivisions which might consist of no more than vacant blocks of land, the legislation also provides for the development of planned communities of any type where the use of some of the land is shared. It enables development of non-stage schemes or of schemes comprising several stages over an unlimited time frame, and will permit projects ranging in size from small groups of houses clustered around common open space to large communities with shared roadways and facilities based on commercial, sporting, recreational or agricultural features.

As is the case with the strata legislation, common areas within a development will be owned and managed by a body corporate (known as an association) comprising all lot owners. The association will own the common areas, referred to in the Act as association property, as agent for its members in shares proportional to the members' unit entitlement, based on site values, which will determine voting rights and contributions to maintenance levies.

However, as a means of overcoming the limiting effect of the strata legislation, which does not facilitate the promotion of theme developments or mixed developments containing separate areas for residential, commercial, recreation and industrial uses, the legislation also provides the machinery for flexibility in the management and administrative arrangements operating within a scheme. This necessary degree of flexibility will be achieved by providing for a multi-tiered management concept and by permitting a management statement to be prepared for each scheme, setting out the rules and procedures relating to the administration of, and participation in, the scheme.

Community style subdivision can be used as a legislative framework for medium density housing and also facilitates the construction of major resort developments in New South Wales.

The legislation contains a number of significant features to permit its application to a wide variety of developments and to provide sufficient flexibility to maximise its use by developers. The features are as follows:

1. Staged Development of Schemes

The Community Land Development Act 1989 permits community schemes to be completed in stages. This has several advantages:

- ◆ initial development costs will be lower because one stage can be used to finance the construction of later stages;
- ◆ higher density may be achieved;
- ◆ with an amalgamated site, greater flexibility of design will permit the more appropriate siting of buildings in sympathy with each other and with the environment. The legislation will thus promote the more effective use of land than existing forms of subdivision;
- ◆ purchase prices should be lower if the initial development costs are reduced.

Because staged projects may be completed over a period of several years, developers have been given flexibility to alter schemes to adapt to changing social and economic circumstances. The legislation does not require a developer to provide full details of a completed scheme at the outset of a community development. There is provision for a developer to make optional disclosures in the form of a development contract lodged with the community plan. The development contract is discussed in paragraph 7 below.

It is possible for a developer to amend a scheme prior to completion and this is referred to in greater detail in paragraph 6 below headed "flexibility of development".

2. Non-stage Development

The legislation permits developers to undertake a non-staged subdivision by registration of a neighbourhood plan. Upon registration of the plan, a body corporate known as a neighbourhood association will be created.

A developer undertaking a neighbourhood scheme will be required to disclose at the outset whether facilities are to be constructed on the association property (known as neighbourhood property). The disclosure will be contained in a development contract which will accompany the neighbourhood plan when lodged for registration and which will be binding on the developer and subsequent purchasers.

3. Management Structures

The multi-tier management concept is regarded as a key feature of the legislation. Experience has shown that the management and related provisions of the strata legislation are inadequate to cope with the management of large scale developments. The concept is designed to overcome these deficiencies by enabling promoters to develop large scale schemes in the knowledge that there is adequate statutory support to ensure that the schemes will be effectively managed in the future.

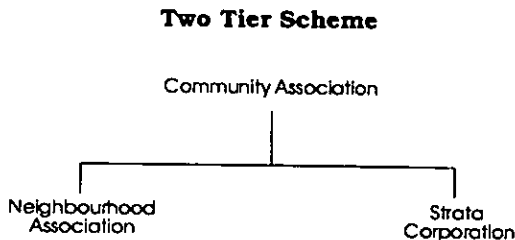
The multi-tier management concept applies only to schemes which are developed in stages. Accordingly, only one level of management will be permitted in a non-stage scheme. It is left to the discretion of the developer to determine whether a scheme should be developed in stages and, if so, the resulting management structure which should apply.

A two tier or the maximum three tier management structure will apply where a stage development is undertaken. The first plan to be lodged for registration in a stage scheme will be a community plan, and upon registration of the plan a community association will come into existence. It will be entrusted with the first tier of management and would exercise "umbrella" control over matters concerning the community as a whole.

For example, the community association may be concerned with maintenance of the overall community theme, architectural guidelines, security, road network and landscaping.

In a proposed two tier managerial structure, the second tier of management is created by registration of a neighbourhood plan subdividing a community development lot in a community plan into lots for separate use or disposition known as neighbourhood lots. The neighbourhood scheme will be administered by a neighbourhood association which will automatically become a member of the community association. Alternatively, development lots may be subdivided by strata plans, in which case the strata body corporate created upon registration of the strata plan (known as a strata corporation) would become a member of the community association and would constitute the second level of management.

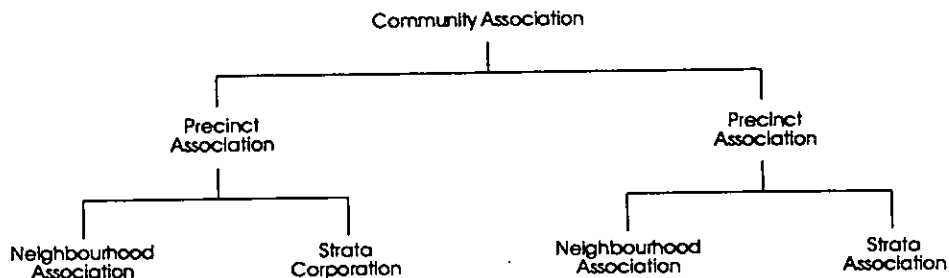
The resulting levels of management would be as follows:



In certain instances a developer may wish to introduce a third tier of management into a scheme. It is not envisaged that a three tier scheme will be necessary often however it is available as an option and might be used in a particularly large scheme or where a variety of uses are mixed within the one development.

Where a developer wishes to create three levels of management, this may be done by interposing a precinct association between the community association and any neighbourhood association or strata corporation as follows:

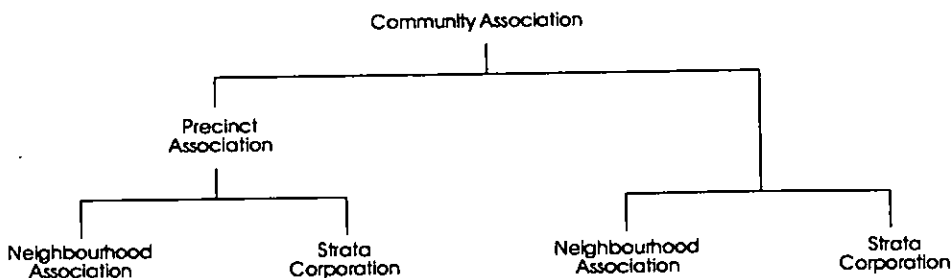
Three Tier Scheme



Thus the three tier management structure is created in the following way: a community plan divides land into development lots and community property, giving rise to a community association. A precinct plan is then prepared, subdividing one of the development lots into precinct lots and precinct property. Upon registration of the precinct plan, a precinct association comes into being. A precinct lot is then subdivided by a neighbourhood plan or a strata plan, giving rise to a neighbourhood association or strata corporation, the third tier of management.

It is not necessary in a three tier scheme that each community development lot be subdivided by a precinct plan. The management structure could, for example, be as follows:

Three Tier Scheme



4. Management Statement

Because the common areas are owned and managed by proprietors of lots in a community scheme, the legislation gives statutory recognition to the need for adoption of management rules and conditions that are especially relevant to the particular development concerned. The legislation recognises that the management provisions essential to the effective administration of, for example, a retirement scheme, would be substantially different from those applying within a rural community or a scheme established for special sporting or recreational activities.

All management and related details applying within a scheme will be set out in a management statement which will be binding on all participants in the scheme. The management statement will accompany the relevant plan lodged for registration at the Land Titles Office and will therefore be on public record for inspection by any prospective purchaser. The statement will include the particular rules associated with participation in the scheme and the by-laws attaching to related common property.

While Schedules 3 and 4 of the Community Land Development Act 1989 list a number of issues which must be accommodated in the rules or by-laws attaching to community schemes, the terms in which those particular issues and other relevant matters are addressed in the management statement will be left to the discretion of the developer. The Schedules also include a number of optional matters that a developer may wish to refer to in the management statement.

The use of a management statement provides sufficient flexibility to adapt management requirements to the type of development undertaken. For example, where the scheme includes a private road network which is not deemed to be public road (see later in paragraph 11), the community association may establish appropriate rules for the use of such roads. Where the scheme includes private waterways, their use may similarly be regulated in the management statement.

The legislation also recognises that circumstances may arise where it is necessary or desirable to vary the terms of a management statement. Protective measures have been included to ensure that in such cases a variation may not be effected without participants taking part in the decision-making process.

5. Managing Agents

The Community Land Management Act 1989 confers duties and powers upon an association with regard to its management. The Act requires an association to do such things as keeping any building or structure erected on association property insured and maintaining a roll listing details of all proprietors within a scheme. An association is given power to enter into an agreement with any proprietor for the provision of services to a particular lot and to levy contributions upon its members to meet payment of its liabilities.

An association is authorised to appoint a managing agent to whom it may delegate certain functions. An amendment has been made to the Auctioneers and Agents Act 1941 to include reference to community managing agents. A person holding a strata managing agent's licence is qualified for appointment as a community management agent. Community managing agents are regulated similarly to strata managing agents.

6. Flexibility of Development

In a staged scheme, it is possible that the development may take several years to complete. During that time, events beyond the control of the developer may affect the viability of the project and may necessitate changes to the scheme. Alternatively, market forces might compel the developer to alter the scheme before completion.

As mentioned earlier flexibility is provided by not requiring the developer at the outset to disclose in a binding form a description of the whole scheme. Thus, later stages of a development project may be amended without the need for approval from residents in the scheme, provided the developer:

- ◆ complies with existing planning laws governing the amendment of any local environmental plan, development control plan or development consent; and
- ◆ obtains the approval of the council.

However, developers who wish to make a full disclosure of all particulars of a project at the commencement of the scheme will be permitted to voluntarily furnish a development contract for the community development binding on the developer and enforceable by all participants in the scheme.

Where at some point during construction of the scheme a developer decides to depart from the development approval granted by council, it may be necessary to apply to the council for a variation of the development consent (or, in some cases, the development control plan or the local environmental plan). The council will publicly advertise applications to amend a development control plan or local environmental plan.

7. Development Contract

To balance the need for flexibility with the need to provide a mechanism for disclosures to be made in respect of a scheme, the legislation introduces the concept of a development contract which may be registered along with community plans, precinct plans or neighbourhood plans.

A development contract is optional during the community and precinct stages but must be lodged with a neighbourhood plan, regardless of whether the neighbourhood plan is a non-stage or part of a staged development. Although a development contract is optional, once given it will be deemed to be a binding agreement between the developer and subsequent lot owners within the stage described in the contract.

The legislation prescribes a number of matters which must be addressed in a development contract. However this does not prevent other matters being included. The contract must include:

- ◆ the description of the land to be developed,
- ◆ the amenities to be provided,
- ◆ the basic architectural design and landscaping,
- ◆ any theme upon which the scheme is based,
- ◆ a simple pictorial description in the form of a concept plan depicting the anticipated appearance of the completed scheme.
- ◆ particulars regarding the building zone, hours of work, means of access and rights of storage of building equipment. By entering into a contract which includes matters essential to construction, the developer will be ensured of sufficient power to complete the stage.

The development contract may be varied but only with the consent of all lot owners within the particular stage and with council approval.

8. Maintenance of Existing Functions of Local Councils

The above discussion highlights the fact that the zoning and planning legislation and its administration by local councils have been largely unaffected by the new laws.

Plans of community schemes will essentially be land subdivisions and will require council approval in the manner already provided in the Local Government Act 1919 and the Environmental Planning and Assessment Act 1979.

Councils in most cases where a staged scheme is being undertaken will continue to prepare a development control plan setting out in some detail the contents of the scheme.

Developments must either fit existing zoning requirements or an application for rezoning will be required. Changes to schemes involving amendment of the local environmental plan, development control plan or development consent will also require the approval of council.

The alternatives available to a developer proposing to develop a scheme in stages are:

- ◆ to obtain council approval for the whole scheme at the outset; or
- ◆ to obtain council approval separately for each stage.

However, should these options prove inadequate, consideration will be given to amending the Environmental Planning and Assessment Act to expand the concept of the staged approval process. This would permit councils to approve the whole project in principle at the outset and to separately approve detailed development applications for each stage of the scheme.

Prospective purchasers will continue to have the opportunity to obtain details of any local environmental plan, development control plan or development consent affecting the scheme from the local council.

9. Conversion of Existing Schemes to Community Title

The legislation recognises that there are developments presently being undertaken which would be more appropriately completed under the community titles legislation. Schedule 12 contains transitional provisions which permit where appropriate, and where participants in the scheme consent:

- ◆ the conversion of land subdivisions to neighbourhood schemes where, for example, one lot is owned jointly by the proprietors of all the remaining lots and is, in effect, the equivalent of "common property"
- ◆ the conversion of existing strata developments to community schemes
- ◆ the conversion to neighbourhood schemes of what are essentially land subdivisions effected by strata plans
- ◆ the formation of a community scheme by adjoining strata schemes which retain their separate identity.

10. Flexibility of Creation of Easements for Services

Another measure considered essential in a community is provision for a system of reciprocal statutory easements for services over all lots and association property within a scheme. In conventional subdivisions, services are normally supplied through the public road grid. However, under the community titles legislation, services may be supplied through the land within the community, none of which may be public land. The extent of the easements will be limited to the physical service lines and access for maintenance or similar purposes will be by way of ancillary rights.

The easements will be created by the statute rather than by instrument. The location of the pipes and cables affected by the easements will be shown on a working plan forming part of the management statement lodged at the Land Titles Office. A statutory easement will not automatically be created over all service lines but will only be applicable where the working plan has been included as part of the management statement.

If a developer wishes to take advantage of the statutory easement provisions but service lines have not been laid at the time of lodgment of the plans, a diagram can be included into the management statement showing the proposed position of the services. The easement will then be created upon the service lines being installed. Provision is made for the working plan to be amended if the position of the service lines does not correspond to the registered diagram.

11. Private Road Networks

The legislation enables private roads to be established within a scheme by allowing part of the association property to be deemed as open access ways and private access ways. Neither of the access ways are defined as public street, public place or road. Certain Acts, however, such as the Motor Accidents Act 1988, the Traffic Act 1909 and the Summary Offences Act 1988 apply to an open access way as if it were a public street. Only the Motor Accidents Act 1988 applies to private access ways. The legislation regulates such matters as the entry of certain authorised people, including members of the Police Force or employees of the Road and Traffic Authority, onto an access way.

The use of the private access way network will be regulated by appropriate by laws set out in the management statement. Such provisions could facilitate the introduction of security measures in appropriate developments.

The standard for construction of open and private access ways will be determined by the local council and will depend on the use to which such access ways are to be put and the locality of the relevant scheme.

12. Adjustment of Boundaries

The legislation also recognises that in a staged development there may be instances where some adjustment is required of the boundaries of development lots with community property shown on the original community plan. It is envisaged that during the course of a development, especially a large scheme planned for development over a period of several years, minor changes of this nature may become necessary due, for example, to engineering factors. It is proposed that these changes should be effected simply by registration of a boundary adjustment plan which would correct the boundaries of the development lots and community property or precinct lots and precinct property without any further assurance.

This simplified procedure is specifically designed to enable changes to be made without the expense associated with usual conveyancing procedures yet with proper protection of the interests of existing associations whose consent would be endorsed on the plan. This procedure would also obviate the need for the issue of replacement certificates of title to reflect the adjusted boundaries, as it is proposed that the boundary adjustment plan would simply supersede the community plan as originally drawn by assuming the same plan number and the same lot numbering sequence as the original plan.

13. Replacement Sheets and Additional Sheets

It is envisaged that during the course of development of a scheme many changes to the plans may be necessary, either by way of boundary adjustment, subdivision, consolidation or the like. To further promote the flexibility which is the key feature of the legislation, the Acts provide for such changes to be made by replacement sheets or additional sheets being added to the plan. Replacement and additional sheets will be required to be signed by either the local council, the association or both to ensure that the interests of lot owners are protected. However, by allowing changes to be made by way of replacement or additional sheet, time and money will be saved.

The replacement sheets will be given the same deposited plan number as is applicable to the scheme and the amendment will be noted by the Land Titles Office on the front sheet of the scheme plan. Superseded sheets will be available for inspection by way of Historical Search.

14. Restricted Common Property

Another key feature of the legislation is the adoption of the "restricted common property" concept. Restricted common property within a scheme may be determined at the outset of the development by means of a suitable inclusion in the management statement, or subsequently by means of a special resolution by the association.

Restricted common property will be managed and maintained by the association in accordance with the management statement which must specify the nature and extent of the restrictions, the parties within the community benefiting and details relating to matters such as access, maintenance or hours of use.

15. Disputes

In any such group-based schemes with shared facilities and resources there are likely to be disputes, both between proprietors individually and with the body corporate. The legislation makes provision for disputes to be dealt with by a Community Schemes Commissioner and Community Schemes Boards in a manner similar to the resolution of disputes in strata schemes by the Strata Titles Commissioner and Strata Titles Boards. An appeal may be taken from the Community Schemes Board to the Supreme Court on a question of law.

If a developer breaches a development contract an association or a member of an association may commence an action in the Land and Environment Court. Similarly, if a developer is unable to obtain an association's approval to an amendment to a development contract the developer may apply to the Land and Environment Court for an order approving the amendment.

16. Plan Information

Plans of community subdivisions will essentially be land subdivisions based on survey information and will therefore require council approval under the Local Government Act 1919 and the Environmental Planning and Assessment Act 1979.

Plans lodged under the legislation will be a special class of deposited plan, clearly distinguishable from other deposited plans by a distinctive notation and numbering.

In relation to survey requirements, as the status of the land comprising the road system within a community will generally be common property, the usual requirement for the placement of permanent marks within roads may not apply. As this could result in there being no internal marking of a substantial and permanent nature, the legislation requires that the internal survey marking system will incorporate permanent marks placed under Regulation 12 of the Survey Practice Regulations 1933 of the type specified in the Survey Co-ordination Act 1949 or otherwise approved by the Surveyor General and will be in positions determined with the concurrence of the Surveyor General.



PAN-COMMUNITY
COUNCIL
P.O. BOX 102,
NIMBIN 2480

MEMORANDUM

To: Trevor Prior, Regional Manager,
Department of Urban Affairs and Planning.

From: Peter Hamilton (066) 858 648

Date: 20.7.95

Subject: Sundry Attachments.

Comment: As discussed I attach herewith the following for your information:-

1. L.C.C. M.O. Review Report of 18.7.95
2. Correspondence to the Minister re L.C.C. proposed LEP amendment to enable existing MO developments to convert to Community (CT).

We oppose this on the following grounds;

- (a) Such a proposal is contrary to the aim, spirit and letter of the former SEPP-15.
- (b) The concept is an anathema to the principle of strategically planning the release of rural land.
- (c) On the assumption that the Minister's undertaking to reinstate SEPP-15 includes a prohibition on subdivision, it would appear to be contradictory to permit the subdivision of existing MO's.

3. Correspondence to the Minister re reinstating SEPP-15.

Please note our request that consideration be given to reinstating the former Policy "as is" with a review to follow. (We do have suggestions for consideration in respect to an in depth review of this Policy. We look forward to detailing these later.)

4. Extract from Hansard, 25 May 1995.
5. Summary of statement by the Minister for the Environment.
6. LCC Social Impact Assessment Policy. We see this as a positive and useful policy deserving of consideration for inclusion in any review of the former SEPP-15 policy.

DOAP - Red OK.

Spene
(No letter Ad.)

MEMORANDUM

To: Trevor Prior, Regional Manager,
Department of Urban Affairs and Planning.

From: Peter Hamilton (066) 858 648

Date: 20.7.95

Subject: Sundry Attachments.

Comment: As discussed I attach herewith the following for your information:-

- 2-13 1. L.C.C. M.O. Review Report of 18.7.95
- 14-17 2. Correspondence to the Minister re L.C.C. proposed LEP amendment to enable existing MO developments to convert to Community (CT).

We oppose this on the following grounds;

- (a) Such a proposal is contrary to the aim, spirit and letter of the former SEPP-15.
- (b) The concept is an anathema to the principle of strategically planning the release of rural land.
- (c) On the assumption that the Minister's undertaking to reinstate SEPP-15 includes a prohibition on subdivision, it would appear to be contradictory to permit the subdivision of existing MO's.

- 18-19 3. Correspondence to the Minister re reinstating SEPP-15.

Please note our request that consideration be given to reinstating the former Policy "as is" with a review to follow. (We do have suggestions for consideration in respect to an in depth review of this Policy. We look forward to detailing these later.)

- 20-21 4. Extract from Hansard, 25 May 1995.

- 22 5. Summary of statement by the Minister for the Environment.

- 23-26 6. LCC Social Impact Assessment Policy. We see this as a positive and useful policy deserving of consideration for inclusion in any review of the former SEPP-15 policy.

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Controlling rural development

THE GREATEST POWER entrusted to our Council is the power to determine how land in the Shire is developed. It is the exercise of that power which caused so much concern among the community during the term of the last Council and which has seen decisions of the Council challenged in the Land and Environment Court on a number of occasions.

While the implementation of the policies enshrined in the Local Environmental Plan (LEP) has been the subject of raging debate over recent years, the election of a new Council provides a unique opportunity to re-think the basis upon which the Shire will be developed, not only over the course of the next four years, but also over the next century and beyond.

Becoming the Gold Coast

For years, there has been a concern about the potential transformation of the Shire into something like the Gold Coast. We have been seeing a proliferation of urban subdivisions over the last three years or so, not to mention the appearance of small acreage allotments throughout the Shire.

It seems that, particularly with regard to the latter type of subdivision, whenever a proposal is put forward there is inevitably a huge local backlash, with all the neighbours complaining about increased local traffic, insufficiency of roads, pollution of local waterways, adverse effect on endangered fauna, loss of visual amenity and so on.

Rural settlement does not impact upon natural resources to the same extent as conventional

Local solicitor Wroth Wall puts the case for Community Title

urban subdivision in that it doesn't plug into the centralised sewerage treatment works or water storage facility, nor does it completely transform the natural environment. It does, however, have a profound effect on the local environment and the amenity of the locality.

Byron Shire is quite unique in that a very large proportion of its population has settled here to escape from the urban wilderness of cities. However, the ever increasing surge of people coming here serves to some extent to negate the very reason why we all came here in the first place.

Flagrant disregard

The problem is not an easy one to deal with - imagine for example if you purchased a 10 acre property in a quiet country lane about 10 years ago and now you are faced with a number of developments that will increase the traffic in that lane by a factor of 20. It is, of course, disturbing. From my professional perspective I have observed that many, though not all, recent disputes over proposed developments in which I have been involved are largely due to the fact that particular developers have acted with flagrant disregard for the legitimate concerns and interests of the local community.

Nevertheless, development has to be looked at in proper perspective. Most of the Shire is located in what, 100 years ago, was a virgin sub-tropical rain-forest. There must have been an unbelievable proliferation of

species of plants and animals. Since it has been settled, the bio-diversity has largely disappeared.

The once pristine waterways are heavily polluted and silted up, and even the fish have largely gone. Hillsides have been washed into the creeks and rivers and abandoned banana farms are devoid of topsoil yet laced with a deadly cocktail of arsenic, DDT and dieldrin, not to mention a liberal sprinkling of dipsites with their poisons leaching into the local waterways.

We hear a call for the retention of productive agricultural land and quite properly the rights and interests of those engaged in agricultural activities must be respected and not trampled upon. However, the grim reality is that these days most of the large farming blocks out in the Byron hinterland have little or no economic viability for farming purposes. In any event there is no reason why the interests of all parties cannot be satisfied.

Restricting repair

Given the history of degradation and exploitation of our Shire, and the encroachment of a raggedy suburban sprawl into bushland and farming land, it is understandable that people should be concerned. However, we are faced with a situation where not only is the majority of rural land in this Shire not viable for agricultural production, the present zoning restricts the capacity for human intervention in the repair of the environment.

Generally speaking a single family cannot adequately maintain ten acres, let alone repair the environment. The situation is magnified as the properties get larger, with the usual solutions being either to let the camphor laurel grow or keep the weeds down with a few cows.

A new plan

If we, as a community, take the initiative now, we can proceed with development on a whole different basis than has been done in the past and is being done elsewhere. Rather than use all of our energy and resources in opposing every inappropriate or offensive development that comes along, what we need to do is implement a new plan.

Such a plan must stop the sprawling urban cancer from incrementally and irrevocably changing the nature of our Shire. It must make provision for such things as endangered species, conservation of soil, and remaining bushland, water, reforestation, the provision of walking trails and cycle ways, appropriate disposal of sewerage and the acquisition of what is

presently private land for public purposes.

Apart from the fact that many of the waterways are heavily polluted, as far as I am aware, there is not one public waterhole in the entire Shire.

For some years now, the Community Titles Legislation has been available in theory but in practice it has only been used as an alternative to conventional urban subdivision by developers, who have used its provisions to their own economic advantage. Multiple occupancies can be approved in almost any rural area in the Shire, yet with a multiple occupancy, which is essentially permission from the Council to build more than one house on a block of land, the individual house holder doesn't get title to his or her house and therefore cannot borrow any money.

Fraught with problems

The value of an interest in a multiple occupancy therefore remains minimal. They are often over-capitalised. Accordingly, their ability to engage in ordered environmental repair is severely limited. There are, no doubt, exceptions to this. However, the fact remains that this form of rural settlement is fraught with legal and economic problems.

The application of the Community Titles Legislation to rural development in this Shire needs to be given very careful consideration. Provided proper environmental safeguards were implemented, and possibly a revised basis for the payment of a s.94 contributions to the Council by developers, this model could give rise to a far more satisfactory pattern of rural development in the shire. This type of development would have the effect of increasing Council's revenue base, through increased rating and at the same time the responsibility for the Council to maintain access roads and other facilities is potentially lessened.

Enforcing levies

The Community Titles system offers the same legal infrastructure that is presently available to strata units. Levies can be set and enforced for the purpose of effecting environmental repair and the great bulk of the land involved in such developments can be dedicated in such a manner so as to provide that it will be effectively locked up for specified purposes in the future. The model also provides a great deal of flexibility to facilitate properly managed commercial and agricultural activities, including forestry and conventional farming.

While different areas have different constraints and requirements, the development of rural land along these lines simultaneously serves many interests and must be looked at as soon as possible by the new Council.

Everyone reads The Echo

