RURAL RESETTLEMENT TASK FORCE
PO Box 62
NIMBIN NSW 2480
(066) 891 430

2nd August, 1984

The Hon. Kevin Stewart M.P.
Minister for Local Government
Parliament House
SYDNEY 2000

Dear Minister,

We would first like to thank you for visiting our region and for making time available in your busy schedule to meet with us today.

Attached you will find submissions dealing with the application of Ordinance 70 and Council rating with respect to Multiple Occupancy. A press statement about the content of our submissions will shortly be released to the media and local councils.

The Task Force will be presenting a submission to your colleague, The Hon. T. Sheahan, LLB., M.P. Minister for Planning and Environment at a North Coast Planning Conference at Valla Park on 9th August, 1984. This submission will deal with the planning problems associated with Multiple Occupancy and the need for a State Environmental Planning Policy to be issued to permit the implementation of Multiple Occupancy in rural areas on a statewide basis. We will forward you a copy of this submission in due course.

The Task Force looks forward to a continuing two way communication between yourself and Department officers on the matters raised in our submissions and from time to time, as the need arises.

Thanking you for your interest and consideration. We look forward to your reply.

Yours faithfully,

Dave Lambert
Secretary

c.c. The Hon. N.K. Wran Q.C., M.P.
The Hon. T.W. Sheahen, LL.B. M.P.

RURAL RESETTLEMENT TASK FORCE

MULTIPLE OCCUPANCY AND THE APPLICATION OF ORDINANCE 70

1.0 Over the years members of Multiple Occupancies via the Task Force and the Home Builders Association (Rainbow Region)(H.B.A.) have actively sought a sensible application of building regulations in relation to owner built homes. (See for example, acknowledgement in the "Introduction" to the "Low Cost Country Home Building" [the Handbook] published by the Department of Environment and Planning, 1981.)

1.1 The H.B.A. have long held that if it was found that the application of Ordinance 70 positively prohibited sensible building practice, then it ought to be changed. The Association considered, however, that Ordinance 70 as it stood, gave Councils a deal of discretion and that if this was sensitively administered there would be no need to change the Ordinance unless there was a clear case (e.g., a Court decision) considered to be contrary to appropriate building practice. (The whole of the Handbook has been designed to be within the framework of the State's building regulations - see Foreword by Mr. Eric Bedford, Minister for Planning and Environment).

1.2 Further in this regard attention is drawn to the statement made by Mr. Paul Landa, the then Minister for Planning and Environment at the Hamlet Seminar in 1979:

> "We're looking to, as a State Government, the local Councils to exercise that discretion in a flexible and humane and considerate way and if that's not forth coming then there may have to be changes to those ordinances to guarantee some greater flexibility" (Seminar Proceedings P.E.C. 1980 p.46)"

2.0 A recent appeal by Bodhi Farm against the non issue of a 317A Certificate and pursuant demolition orders, in the Land and Environment Court has highlighted, what to us, is the insensitive, inappropriate and ill informed application of Ordinance 70. (Copies of newspaper reports covering this issue are attached along with a report made to the Lismore Council by Ald. W.G. Blair as published in the Northern Star 26.7.84. A copy of the Court finding and transcript of the proceedings is available on request).

3.0 In this report we note that the Council is asking you to urgently clarify the responsibilities of Councils when dealing with Multiple Occupancy dwellings. The following points are made in direct response to those reported in the newspaper article of 26.7.84.

3.1 Re Completion by your Department of examination of the pending new edition of the Handbook.

We likewise would appreciate advice of the status of this examination. We are advised by Mr. Colin James of the Technical Assistance Group (TAG) (responsible for editing the material) that after liaising with your Building Regulation Advisory Committee (BRAC) it seems that any remaining issues may be amicably resolved. If this is so then we ask that you have this matter expedited as a matter of urgency. It does appear that if the Handbook carries your imprimatur, along with your colleague Minister that Council staff may be supported in the administration of building regulations, and hence we urge your earliest endorsement.

3.2 Re the Council seeking your confirmation that they acted resonably and in accordance with the requirements of Ordinance 70 and if you so confirm, that you consider Council was not hasty or acted illegally in issuing notices of demolition.

We submit that the Council's action in refusing to issue a 317A Certificate was unnecessary and unreasonable in the circumstances because:-

(a) that the Building Inspector did not avail himself of the discretion provided in s.317A viz that a Certificate may be issued even where "such contravention or departure is not such as need be rectified".

In setting aside the demolition orders on the ground that "no useful public purpose would be achieved by confirming the demolition order", we submit that the Court is in effect saying that the departure from Ordinance 70, if any, is not such as need be rectified.

We submit that had the Building Inspector exercised his "discretion in a flexible and humane and considerate way" and had regard to the "way of life chosen by the occupant" (viz "to live close to nature" and had "planned the house so as to facilitate the entry of wild life rather than the reverse"), and noting the "remoteness of the location", then we suggest he ought to have recommended issue of the Certificate.

(b) that with respect to the mezzaine issue, the Building Inspector mistakenly assumed that the mezzanine in question was a self-contained "habitable" room as defined in the Ordinance. The Court did "not find it necessary to determine" whether the mezzanine was a "habitable" room or not and hence argument put forward at the hearing is not given in the judgment. We refer you to the transcript therefore, where we suggest the case is established that there is nothing in Ordinance 70 restricting the use of mezzanines in Class 1 Type buildings. Further it is noted that where such a mezzanine is constructed, there is no restriction as to a minimum ceiling height above or below the mezzanine. This being the case the construction of a mezzanine is hence permissable and legal under common law.

(c) that with respect to the "no wall" issue, the Building Inspector mistakenly assumed that the Ordinance automatically requires a habitable room to have four walls. This we suggest is an erroneous reading of the Ordinance and that it is only where there is a wall, then that wall must be impervious. (See transcript for detailed cross examination on verandahs as "habitable" areas not having four walls).

3.3 For the above reasons we submit that the Council acted unreasonably and not in accordance with the Ordinance.

3.4 We do not suggest that the Council acted illegally in issuing notices of demolition but we do in the circumstances consider their action, ~~in the circumstances~~ to be bureaucratic, inappropriate, ill advised, inflexible and inconsistent with the spirit of hamlet legislation.

3.5 To remedy this situation we urge that you issue an appropriate directive as sought by the Council on the following:

(a) The manner of applying Ordinance 70.

(b) That Councils automatically bring the provisions of 317M of the Local Government Act to the notice of those making a Building Application which does not comply with Ordinance 70 as recommended by Ms. J. Fitz-Henry in her judgment.

(c) That demolition orders be issued only as a last resort, and that in the first instance Councils attempt to resolve differences by, for example, negotiation, use of the discretion provided in s.317A and using or recommending the use of 317M.

3.6 If you are advised that you do not have the necessary authority to issue a directive along these lines, then we urge that you seek this authority from Cabinet. While the issue of Bulletins (which may not have legal status) may be a reasonable process for conveying Government policy to most Councils, we would draw your attention to the record of the Lismore Council where they even chose to challenge in the Land and Environment Court the legality of the Multiple Occupancy legislation!

3.7 The use of mezzanines for sleeping, where the ceiling height is below the prescribed minimum, is a wide spread practice in this region. This practice is not just confin ed to Multiple Occupancy dwellers. The practice is for such areas to be called a "store room" and then be used as a sleeping area. There seems little way a Council can police the use made of such mezzanines. Mezzanines, we submit are a sensible and low cost building solution. Provided adequate air circulation is available they are not unhealthy and are energy efficient to heat due to the restricted space. Their use for domestic sleeping can hardly be considered to constitute an affront to public decency. In view of this, and the submission made above that they are not illegal anyhow, we urge that a clear directive be made permitting such use. Such a directive will, in addition, we suggest, assist Building Inspectors in that they will be freed from participating in the present charade.

3.8 We understand that TAG, in recommending the use of mezzanines in the Handbook, have compromised their position to accommodate BRAC's wishes and have agreed to a condition which fixes the maximum area that a mezzanine may cover of the floor below, viz not greater than two thirds. This is a completely arbitrary ratio and no evidence on health grounds has been advanced to support this ratio.

We request that you do not accept either BRAC's or TAG's recommendation in this regard and allow the owner builder the freedom of expression and freedom of choice as to whether they sleep, for example, on a double deck bunk or on a mezzanine. The latter we see to be the functional equivalent of a double decker bunk.

3.9 As further evidence of the Council's unwillingness to act in the spirit of the assessor's judgment, we draw your attention to Condition 16 attached to the Multiple Occupany Development Application (84/3059) currently before Council for its consideration. This condition requires that all habitable areas shall have fully enclosed external walls and roofs. It seems clear that the inclusion of this new condition flows directly from the Bodhi Farm case. Actions such as this, we regret to inform, are experienced as being part of a never ending stream of additional restraints and conditions. Many such conditions are dropped following negotiation and many others, we believe, (particularly those under s.94 of the E.P. & A. Act) would be lifted by the Court on appeal. It appears that virtually every Multiple Occupancy applicant is confronted with running this gauntlet. The above is an example where the Multiple Occupancy Code, adopted by the Council Aldermen is arbitarily extended by the staff. This is a frequent practice.

We are left with the impression that far from the Council flexibly and sympathetically intrepreting Ordinance 70, that at the best they act with obscur~~ant~~isms, indifference or bias and at the worst seem to act in a vindictive way to price and condition Multiple Occupancy settlement out of existence. As an example of the latter we draw attention to the Multiple Occupancy Development Application curently before Council, as mentioned above. It is estimated that the total cost of complying with all the proposed conditions to obtain this approval is in the order of half a million dollars!

3.10 For yet another instance of Council's unreasonableness, we draw your attention to the Building Inspector's statement that as far as he was concerned the Court decision in respect to Site 2 at Bodhi Farm, applied to that site only and was not seen as a precedent or guide as to the acceptace of structures on Multiple Occupancies elsewhere. (The same attitude is expressed by the Health Surveyor in the Northern Star 26.7.84). The Building Inspector has advised that any other building, even on Bodhi Farm having a similar mezzanine and used for sleeping would be served with a demolition order!

3.11 We understand that the Bodhi Farm community have considered submitting a Building Application to the Council with duplicate plans of the structure at Site 2 together with advice that the application would be appealed to the Court if rejected. It would seem to be self-evident that they would win such a case. This we submit is a ludicrous situation and hence is one that calls for your review and directive to Councils as to how to proceed in such cases.

3.12 Re proposition that legal officers of your Department comment on the assessor's judgment and its implication.

We support this request and would appreciate a copy of any such comments.

3.13 Re the Council being at a loss as to why the Court, in lifting the demolition orders, upheld its right not to issue a 317A Certificate.

The right of Council at the outset to issue, or not issue a 317A Certificate is, we submit, not here in question. The "loss" expressed by Council is, we suggest probably due to their non appreciation of the assessor's judgment. The Council appears to presume that they now have a mandate not to issue a 317A Certificate for the building at Site 2. We submit that this is an erroneous view.

3.14 The reason given by the Assessor for not making an order with respect to a 317A Certificate is that "there may well be (other) departures (besides the two) that were canvassed at the hearing". We submit that if it proves to be the case that there are not other departures ("if such they be") than the two canvassed at the hearing, then there is no reason why a 317A Certificate could not now be issued!

3.15 In concluding our comments on the Council's submission to you, it remains but to place this Council's problems and attitudes in the wider context of local government administration generally as we move, together, into the twenty first century.

In this regard we are constantly confronted with those from the city seeking low cost land where these people can participate in a healthy lifestyle and through self-help construct their own low cost home. Many of those attempting to achieve this objective fail and in disillusionment, and with despair, frustration and anger return to the city. The crises of personal adjustment to permanent unemployment and the housing shortage is one which the State and Commonwealth Governments are addressing at the political level. We welcome and support the actions being taken at these tiers of government. It but remains for local government to facilitate and assist the implementation of these policies either through their own willingness, for example, by applying building regulations with discretion particularly to help those who are endeavouring to help themselves in constructing their own homes as is the case in Multiple Occupancy communities, by creatively engaging in their own low cost housing projects, or failing this, be directed to do so. ("Low cost" here means that an owner can acquire land on a shared basis and build an initial structure to occupation stage for a total cost of not more than $10,000).

To this end we suggest the following actions for your consideration:

(a) Readily issuing bulletins or directives to Council to assist owner builders, Multiple Occupancy communities and other group housing projects when necessary.

(b) Readily changing building law, ordinances etc when necessary.

(c) Having at least one full time building inspector stationed permanently in this region to assist Councils and applicants alike in the appropriate delivery of your Government's policy on building matters and associated issues.

Comment: It has been our experience that a very different attitude prevails in Council during the time inspectors from your Department are present!

(d) Encouraging Councils to exclude the application of Ordinance 70 either on an area basis or on the basis of specific sites, or both.

Comment: This very simple process would immediately free Council staff to attend to other matters and hence would result in a cost benefit to Council. The application of Ordinance 70 could, for example, be omitted for those properties where a Multiple Occupancy Development Application is approved.

We note in this regard that parts of the rural area of the Copmanhurst Shire is about the same distance from Lismore as outlying areas within the Lismore Council boundary. It is noted that Ordinance 70 does not apply in the rural areas of the Copmanhurst Shire! We see no difference in this situation to the one proposed here.

(e) Encourage the establishment of "Urban Areas" under Part XXVII of the Local Government Act and invite, or direct, Councils to delegate decision making authority for Development Applications and Building Applications to the Urban Committee.

Comment: Such a process would not only relieve Council of spending their time (hence money) on applications in the Urban Area, but it would also have positive social benefits, for example by reducing friction with the Council, by decentralising the decision making process, by providing an opportunity for citizen participation in planning and building matters and by providing an environment for citizens to grow in self-reliance and gather experience in self- management.

(f) Encourage the formation of municipalities were relevant.

Comment: The benefits listed in (e) above apply equally to this proposal.

It is our experience that the provisions and processes of establishing the proposals in (e) and (f) are not common knowledge and hence it is proposed that your Department produce public information brochures on these and like issues, for circulation to Councils, through the Government Information Office, Neighbourhood Centres and the like.

4.0 Movable Dwelling Licence s.288A(7)

In the Handbook attention is drawn to s.288A(7) of the Local Government Act and the situation where an owner, or part owner is not required to obtain a movable dwelling licence. It is our experience that Councils and applicants are confused about the application of this provision. Some part owners simply do not apply for a licence and other part owners do with attendent costs and sometimes onerous conditions. Sometimes Councils make renewal difficult. We know of no instance where the Council has advised such an applicant that a licence is not required!

We ask that a directive be issued to Councils advising that it is not necessary for such owners to apply for this licence.

5.0 Composition of the Building Regulation Advisory Committee (BRAC)

We understand that BRAC advises you on interpretation and proposed changes to the building regulations and beside containing representation from your Department we understand that the Committee consists of members from the Board of Fire Commissioners, Health Commission, Public Works Department, Housing Commission, Master Builders Association, Royal Australian Institute of Architects, Sydney City Council, Local Government and Shires Association, Institute of Engineers, Building Surveyors Institution, Australian Institute of Building. We trust that it is clear from this list that input to you from owner builders engaged in low cost experimental building techniques is hardly well represented! We request that consideration be given to either broadening the composition of your Advisory Committee to include specialists in the owner built low cost mode of construction, or otherwise create an avenue where pertinent issues such as we have raised may be brought to your attention as a matter of course.

As the composition of the present Committee stands we do not consider that we are being represented by our peers.

6.0 Changes to Building Regulations in Victoria

We draw your attention to the reduction of minimum room sizes and other changes recently introduced in the counterpart to Ordinance 70 in Victoria (see copy attached). Would you please advise if Ordinance 70 is to be re-examined with a view to introducing parallel changes in this State?

Dave Lambert, Secretary
Rural Resettlement Task Force
PO Box 62 NIMBIN NSW 2480 (066) 89 1430 2nd August, 1984

RURAL RESETTLEMENT TASK FORCE

COUNCIL RATING PROCEDURE IN RELATION TO MULTIPLE OCCUPANCY

We understand that various Councils are to approach you with a view to changing the rating structure in a way which will materially effect Multiple Occupancy residents. The rate currently charged is either the rural rate or a differential rate lower than the general rate. This association holds that the present options open to Councils for rating Multiple Occupancies should not be changed.

We concur with the Valuer General's reply to the Tweed Shire Council of 11 January, 1984 in response to their request for a separate valuation on each Multiple Occupancy dwelling.

> "As you are aware, the Department's existing policy is not to regard this type of occupancy as a separate parcel of land in terms of the requirements of the Valuation of Land Act, 1916, and accordingly single land valuations of the whole of the property in one ownership are presently made and issued.
>
> However, in view of your Council's request and other recent enquiries of a similar nature, the situation has been re-examined and the conclusions are as follows:-
>
> It is clear that Multiple Occupancy of rural land is designed to provide an alternative life style based, in part, on agriculture.
>
> These farm complexes, whilst somewhat different in character to "conventional" farms, are nevertheless owned by one body and, from the information available, are worked as one unit on a co-operative basis for agricultural or pastoral purposes.
>
> The development intention in all cases examined is clearly one of communal sharing of the whole of the land and not one of cutting the land into parcels devoted to permanent or undefined separate use.
>
> In the circumstances, the Valuer General has determined that the existing policy is to be retained and, accordingly, your Council's request for separate valuations for the two cases nominated cannot be provided."

In response to a Council suggestion for special rating for Multiple Occupancy properties on a "user pay" principle your Department made the following reply on 6 April 1983:

> "The Council appears to assume a direct connection between rates and demand on local government services. This connection, in a direct sense, does not exist and has never existed, except perhaps in the case of local rates. It also seems to infer some sort of concept of head tax, which has never existed in local government.

> Local Government rating is primarily a tax, based on the value of land, to provide support for local government. Although this concept is modified both in relation to local rates and differential rating, there has never been any suggestion, in practice, that an individual ratepayer should receive, or indeed should be able to demand, local government services in proportion to his rates.
>
> Secondly, it is open to doubt that the additional demands placed on local government services would be as high as seems to be envisaged by some councils. It is suggested that the very nature of hamlet developments indicates that they will look inwards rather than to the community at large for many of their services.
>
> It appears that in the context of rating, the difference between hamlet development and other development is one of degree only. The Office can see no reason why people living in a hamlet development should be treated differently from people living in a block of flats or units, people living in a granny flat, even perhaps a substantial number of people, whether related or not, living in a single dwelling. The judgment in the Dempsey family case (South Sydney Municipal Council v James and Anor 35 LGRA 342), although in another context would seem to have some relevance here."

Our association supports the above statement. (With respect to Multiple Occupancy residents looking "inward" for services, it is our experience that not only is this happening but that such residents positively cherish the opportunity to become more self-reliant in this way and see such action as an important component in achieving a healthy lifestyle. A list of examples can be supplied if required).

REQUEST 1

We would appreciate confirmation that your Departmental policy is still in accord with that quoted above.

We oppose at this time any proposal to amend the existing legislation with a view to introducing either a head tax, dwelling tax or separate tax on improved valuations with respect to Multiple Occupancy. Not only do we oppose such in principle but we also view that the introduction of any such legislation would be fraught with problems of administration. If a dwelling tax was introduced, for example, would the Council issue separate rate notices? Would an "expanded" house with separate bedroom units or a communal house of several adults be rated as one unit or several? Would pension concessions apply? Would a dwelling or the occupation of it, attract the separate valuation? Would all sections of the community be rated on a user pay principle?

As mentioned, Councils may, as an option apply a differential rating for Multiple Occupancies. In the case of the Lismore Council, the Multiple Occupancy rate is nominally the same as the general rate. It is noted that when introducing this differential rate, no criteria were recorded by the Council as the basis for making this decision. By inference the sole criterion appears to have been that the "user pay".

As an issue of principle, we see no reason why, if a group of people choose to share an asset (as in the case of a property for Multiple Occupancy), that they should be taxed at a higher rate. By analogy, if a number of people share an income they are not required to pay a higher rate of income tax, due to the act of sharing that income.

REQUEST 2

We are not clear as to what is considered by your Department to be bona fide or acceptable criteria for fixing a differential rate and would appreciate your comment to clarify this issue.

By way of comment, we understand from the Departmental letter quoted above, that the general rate is not related to a "user pay" principle, and, if this is the case, presume that the same principle ought to apply to any variation of that rate, in this situation a differential rate for Multiple Occupancy.

(In citing above the Lismore Council action to set a differential rate for Multiple Occupancy at nominally the same as the general rate, we do so only in the context of illustrating that the system of differential rating is one of the options open to Council. We wish to place on record that we do not necessarily endorse that Multiple Occupancy rates ought to be nominally the same as the general rate. Our view is that each situation ought to be negotiated on the merits of the case.)

In response to Council claims that Multiple Occupancy communities result in increased road use, we suggest that the only equitable and realistic method to make the user pay for road use is through petrol taxes. Short of this we approve of the present situation where the Grants Commission is making funds available to those Councils which have a population increase due in part to Multiple Occupancy settlement. (It is our experience that deterioration of unsealed rural roads is disproportionately higher in this region than other regions, due to the higher rainfall, rather than to greater road usage).

With respect to other services provided by Councils we note that no Council has made public an itemised financial statement by way of evidence that those living on Multiple Occupancies are disproportionately calling on such services. In the absence of such evidence, and from our experience, we are of the view that Multiple Occupancy residents are not disproportionately calling on such services. With respect to the Lismore Council in this regard, attention is drawn to the provisions in their Multiple Occupancy Code that:

> "Approval of a Multiple Occupancy development proposal cannot be inferred as placing any obligation on Council to provide or support applications for community facilities such as:

* improvements to the public road network;
* water or sewerage services;
* electricity supply;
* telephone facilities:
* post office or mail services;
* community hall;
* sporting or recreational facilities;
* shops;
* bus services;
* schools;
* baby health or medical clinics;
* library."

To date Councils seem unwilling to appreciate the income benefits flowing to Councils and the community at large from rural resettlement and that Multiple Occupancy communities form but a small portion of this resettlement. In the Lismore area not only is a differential rate applied to Multiple Occupancies, but also the land values have risen disproportionately. The multiplier efect of these two factors alone means that the Council is receiving a "double" revenue from Multiple Occupancies. In addition to this, Council stands to gain further funds by virtue of the per capita grant system. This extra grant is not, we suggest, accompanied by a proportional infra-structure cost to the Council.

In this regard we see that Councils may yet come to vie with one another for Multiple Occupancy development because of the direct and indirect cost benefits to the Council, rather than the present situation where the trend is to inhibit or prevent resettlement by oppressive levies, taxes, rates and costly conditions attached to development applications.

We note that attempts to place onerous costs for development approval under s. 94 of the Environmental Planning and Assessment Act (E.P. & A. Act) on applicants where they are "economically disadvantaged" is neither supported by case law nor in accordance with the provisions of Circular No. 23 issued by the Department of Environment and Planning.

Apart from the financial aspects detailed above, we submit that it is not in the public interest to levy disproportionate rates on Multiple Occupancy residents or that the excessive charges be attached to development approvals since such charges will restrict Multiple Occupancy housing to the relatively affluent and hence increase the burden on the State to provide low income housing.

The nexus between rating and a planning policy to permit Multiple Occupancy on a State wide basis.

No doubt you see as we do, that at one level the question of rating is independent of and separate from planning issues. With the support of the Premier we are currently canvassing support for a State wide policy to facilitate the implementation of the Government's policy on Multiple Occupancy as an acceptable form of rural resettlement.

In our discussions to date with officers of the Department of Planning and Environment, one of the so called "difficulties" given for delaying the introduction of such a policy has been the "rating" issue. To this end the confirmation sought above (Request 1) will, we trust, be helpful in allying any fears that your colleague, the Minister for Planning and Environment may have in this regard.

Dave Lambert, Secretary
Rural Resettlement Task Force
PO Box 62, NIMBIN NSW 2480 (066) 891 430 2nd August, 1984

(tel. 066-891-430)

6 July 1984.

The Hon. K. Stewart M.P.,
Minister for Local Government,
Parliament House,
Sydney 2000.

Dear Minister;

It is our understanding that you will be visiting North Coast Councils next month to discuss, among other things, the issue of Multiple Occupancy. As representatives of local Multiple Occupancy we would request an appointment with you to discuss a number of relevant matters. We would suggest that this meeting take place in Lismore or Nimbin. A copy of our Associations constitution is enclosed for your background information.

Thank you for your consideration.

Yours faithfully,

Dave Lambert
(Secretary)

NEW SOUTH WALES

MINISTER FOR LOCAL GOVERNMENT

17 JUL 1984

SYDNEY

Dear Mr. Lambert,

In reply to your letter of July 6, 1984. I am writing to inform you that I shall be visiting the Far North Coast over the period August 1-3, 1984.

With regard to your request for a meeting, I would have to say that I shall be the guest of the Lismore City Council on the evening of the 1st and the morning of the 2nd. The Council is co-ordinating my programme.

I would suggest, therefore, that you contact the Town Clerk, Mr. Stevens with a view to your group being able to put its views to me as part of my itinerary.

With very best wishes.

Yours sincerely,

Kevin Stewart

Minister for Local Government

Mr. D. Lambert,
Secretary,
Rural Resettlement Task Force,
P.O. Box 62,
NIMBIN. 2480

Dave
Is this copy for me or Wran?

RURAL RESETTLEMENT TASK FORCE,
P.O. Box 62,
NIMBIN, N.S.W. 2480

12.3.85

Attention Mr. K.Simmons.

The Hon. Kevin Stewart M.P.
Minister for Local Government,
8-18 Bent St.,
SYDNEY 2000

Dear Minister,

Following discussion with your Mr. K. Simmons and Mr. P.O'Neil yesterday, please find enclosed herewith copy of our correspondence of 2.8.84.as requested.

We did send you a copy of our submission to your colleague The Hon. T.W. Sheahan, LL.B., M.P., then Minister for Planning and Environment, as referred to in oor above letter, and in case this has also gone astray we enclose a further copy for your information.

We see there to be a nexus between our submission and that made by the Lismore City Council, as reported in the Northern Star 26.7.84 of which a copy is enclosed in the above material. We also note that Council have not had a reply to their request as above and further, that on 18.12.84 they resolved to write to you requesting endorsement or otherwise of the "Low Cost Country Homebuilding Handbook".

As the issues raided by the Council are central to our own submission, we submit that it may be prudent for your officers to deal with these two matters side by side.

In view of the urgency for clarification, your advise and if appropiate your directives relating to the matters raised, and having in mind the very long lapse of time since making our submission, we respectfully request that this matter be now dealt with as utmost urgent.

Your early acknowledgement of receipt of the enclosed material would be appreciated.

Yours faithfully,

D.L. per PH

Dave Lambert
Secretary

c.c. The Hon. N.K. Wran Q.C., M.P.

RURAL RESETTLEMENT TASK FORCE
P.O. Box 62,
NIMBIN, 2480

11.4.85

Secretary,
Department of Local Government,
CAGA House,
8-18 Bent St.,
SYDNEY, 2000

Attention. John Christopher,
Land and Building Branch.

Dear Sir,

Following phone conversation with your John Christopher today please find enclosed:-

a. Copy of our letter to the Minister of 3.4.85 as requested.

b. Copy of the Objectives of the R.R.T.F. for your information.

c. Copy of resolution of the Lismore City Council in the Minutes of 24.7.84. (This is the resolution reported in the Northern Star and referred to in our letter of 2.8.84.)

Yours faithfully,

Peter Hamilton.

For your file. (Not req'd back)

RURAL RESETTLEMENT TASK FORCE
P.O.Box 62,
NIMBIN 2480

(066) 891430

3.4.85

The Hon. Kevin Stewart M.P.
Minister for Local Government,
8-18 Bent St.,
SYDNEY 2000

Dear Minister,

Re. R.R.T.F. Submission of 2.8.84 and correspondence of 12.3.85

In clause 3.5(c) "Multiple Occupancy and the Application of Ordinance 70" in the above submission we seek that comment be made ~~seek that emphasis be made~~ on the "discretionary" powers available to a council under the Act, for example as provided in s.317A.

It has been our experience over the past ten years that the Lismore Council, for example, when confronted with the application of s.317B(1A) have regularly resorted to issuing demolition orders as though they had no discretion to do otherwise.

In discussion last year with Mr. Wiffen of your Legal Branch, he drew attention to a statement on this questionm made by the Department in respect to unapproved structures in the Bega Valley Shire Council area several years ago, viz. that s. 317B(1A) should be read as giving councils a discretion, as under this section a Council "may" order a demolition, or, it "may" order the doing of such work as necessary to make the building comply with the Act and Ordinance, or, it "may" decide to do nothing.

Your reaffirmation at this time,,on the discretion available to a Council under s.317b(1A) would, we believe, help in reducing friction and in creating a non-adversary environment where hopefully, mutually acceptable solutions may be found.

We ask that in your reply to the Lismore Council that consideration be given to emphasing the discretion provided in s.317B(1A).

We look forward to your reply.
Yours faithfully,

Dave Lambert
Secretary

RURAL RESETTLEMENT TASK FORCE,
P.O. Box 62,
NIMBIN, N.S.W. 2480

12.3.85

Attention Mr. K.Simmons.

The Hon. Kevin Stewart M.P.
Minister for Local Government,
8-18 Bent St.,
SYDNEY 2000

Dear Minister,

Following discussion with your Mr. K. Simmons and Mr. P.O'Neil yesterday, please find enclosed herewith copy of our correspondence of 2.8.84.as requested.

We did send you a copy of our submission to your colleague The Hon. T.W. Sheahan, LL.B., M.P., then Minister for Planning and Environment, as referred to in our above letter, and in case this has also gone astray we enclose a further copy for your information.

We see there to be a nexus between our submission and that made by the Lismore City Council, as reported in the Northern Star 26.7.84 of which a copy is enclosed in the above material. We also note that Council have not had a reply to their request as above and further, that on 18.12.84 they resolved to write to you requesting endorsement or otherwise of the "Low Cost Country Homebuilding Handbook".

As the issues raised by the Council are central to our own submission, we submit that it may be prudent for your officers to deal with these two matters side by side.

In view of the urgency for clarification, your advise and if appropiate your directives relating to the matters raised, and having in mind the very long lapse of time since making our submission, we respectfully request that this matter be now dealt with as utmost urgent.

Your early acknowledgement of receipt of the enclosed material would be appreciated.

Yours Faithfully,

D.L. pp PH
Dave Lambert
Secretary

c.c. The Hon. N.K. Wran Q.C., M.P.

Dave. Your file. PH (I'll talk with you about this)

HON. K. STEWART, M.P., MINISTER FOR LOCAL GOVERNMENT, forwarding copy of press release relating to the admission of press and public to Council committee meetings.

TOWN CLERK GLS
DEPUTY TOWN CLERK 1/11/84

LETTER 61502 REFERS

NAR

Letter written by NN – July 84

FILE No. L4-6 C4-1 & C4-2

RECEIVED - 1 NOV 1984 61536

NEWS RELEASE

Issued from the Office of the Hon. Kevin Stewart, M.P., Minister for Local Government

OPEN COUNCIL COMMITTEE MEETINGS.

All future meetings of committees of City, Municipal, Shire and County Councils in New South Wales will be open to the Press and the public unless the committee resolves otherwise and gives its reasons for doing so.

Announcing this today, the Minister for Local Government, Mr. Kevin Stewart, said that the new requirement was authorised by a proclamation published in the Government Gazette of today.

"The new requirement will mean that a committee may only exclude the press and the public from a meeting if publicity of the proceedings would be prejudicial to the public interest or if there were some other special reason,

Mr. Stewart said the Government considered that it was desirable for councils to transact their business either in open council or in open committees, to the greatest extent possible.

"Consequently it is expected that committee meetings will be closed only when matters such as staff, acceptance of tenders, discussion of possible litigation and similar confidential matters are listed for consideration,

"The law has also been changed so the press and the public will receive agendas of open committee meetings in the same way already applying to council meetings.

"Similarly, the press and the public will have a general right of access to tabled documents at these meetings.

"In the past, all committee meetings have been closed to the Press and public unless, by resolution, the committee decided to open them," said Mr. Stewart.

Friday Oct 26 84

File Copy (9)

COPY

RURAL RESETTLEMENT TASK FORCE
P.O. Box 62,
NIMBIN 2480
(066) 891430

3.4.85

The Hon. Kevin Stewart M.P.
Minister for Local Government,
8-18 Bent St.,
SYDNEY 2000

Dear Minister,

Re. R.R.T.F. Submission of 2.8.84 and correspondence of 12.3.85

In clause 3.5(c) "Multiple Occupancy and the Application of Ordinance 70" in the above submission we seek that comment be made on the "discretionary" powers available to a council under the Act, for example as provided in s.317A.

It has been our experience over the past ten years that the Lismore Council, for example, when confronted with the application of s.317B(1A) have regularly resorted to issuing demolition orders as though they had no discretion to do otherwise.

In discussion last year with Mr. Wiffen of your Legal Branch, he drew attention to a statement on this question made by the Department in respect to unapproved structures in the Bega Valley Shire Council area several years ago, viz. that s.317B(1A) should be read as giving councils a discretion, as under this section a Council "may" order a demolition, or, it "may" order the doing of such work as necessary to make the building comply with the Act and Ordinance, or, it "may" decide to do nothing.

Your reaffirmation at this time, on the discretion available to a Council under s317B(1A) would, we believe, help in reducing friction and in creating a non-adversary environment where hopefully, mutually acceptable solutions may be found.

We ask that in your reply to the Lismore Council that consideration be given to emphasing the discretion provided in s.317B(1A).

We look forward to your reply.
Yours faithfully,

Dave Lambert
Secretary

Dave
John Witcham (at the Chamber) 886 348
has the tapes from Doris Hart of the
meeting with Lyall. I have
arranged with him to drop them
at the Environmental Center mail box
and to ring you when he has done
so. If he hasn't get ring please
ring him for them.

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NEW SOUTH WALES

MINISTER FOR LOCAL GOVERNMENT

F.83/2768

SYDNEY

25 SEP 1985

Dear Mr. Lambert,

Reference is made to the Rural Resettlement Task Force's letters of 2/8/84 and 12/3/85 as well as the submissions entitled "Multiple Occupancy and the Application of Ordinance No. 70" and "Council Rating Procedure in Relation to Multiple Occupancy" etc., which accompanied that correspondence.

My comments on the various issues raised are as follows:-

"Multiple Occupancy and the Application of Ordinance 70".

1.0 and 1.1 and 1.2 In areas of the State where Part XI ("Building Regulation") of the Local Government Act, 1919, applies, which includes the whole of all cities and municipalities and the whole or parts of shires, to which applied by proclamation, councils are established by the Act as the authorities responsible for the control and regulation of the erection of all buildings.

Part XI of the Act and Ordinance NO. 70 thereunder contain various minimum standards, primarily directed towards health and safety considerations, which must be observed in the erection of any building.

While councils have wide discretionary powers to require standards in excess of the prescribed minimum to be observed, subject to a right of appeal to the Land and Environment Court by the applicant for building approval, their powers to accept standards less than the general prescribed minimum are confined to relatively few specified matters.

This power is vested in the Land and Environment Court by virtue of the objection procedures of section 317M of the Act.

The operation of the system presently in force, as briefly described above, provides an adequate means whereby the sensible application of building regulations in relation to all types of buildings, including owner built homes, can be achieved.

With regard to the Low Cost Country Home Building booklet, it is essential to bear in mind that it has not, at any stage, been released in a final form. The draft versions produced and released to date have only been for the purpose of obtaining public comment. However, it is apparent that this fact has been widely overlooked or misunderstood and the booklet is being used as a final document.

It is also essential to bear in mind that while production of the booklet is an attempt to provide flexible guidelines as to how the particular buildings which it is directed towards may be designed within the scope of existing building regulations, as represented by the minimum standards prescribed in Ordinance No. 70, there is certainly no suggestion that councils' discretion in the field of building control and the appeals machinery to settle any disputes which might arise from the use of such discretion should not apply.

I might interpose here that the process of my Department's involvement in reviewing the booklet has reached a very advanced stage. The Building Regulation Advisory Committee has examined the document and arranged for certain supplementary information to be obtained. That detail is currently under discussion between the Chairman of the Committee Mr. L. Dix and representatives of the Department of Environment and Planning and the technical group formulating the booklet. The outcome of those discussions will enable determination of whether any further consideration by the Committee is required before the booklet can proceed to the final stages.

It is not entirely clear exactly what the former Minister for Planning and Environment, the late D.P. Landa, had in mind in the statement you have quoted. However, I am not aware of any circumstances which have arisen which would indicate that councils are not exercising their discretion in a reasonable manner or that having regard to the objection procedures of section 317M of the Act.

2.0 I do not share the Task Force's view that the decision of the Land and Environment Court in the proceedings involving A.M. Nicolson and the Lismore City Council can be interpreted as leading to the types of conclusions which the Task Force has formed.

While the Court's decision was that in the circumstances involved the Council's orders issued under section 317B(1A) of the Act be set aside, it did not suggest that the Council's action had been insensitive, inappropriate or ill informed, nor did it express any view in relation to the Council's interpretation of the relevant clauses of Ordinance No. 70 or direct the Council to issue a certificate under section 317A of the Act.

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Merely because the Court formed a different opinion to that held by the Council in connection with the orders under section 317B(1A) does not provide any basis to contend that the Council acted improperly in any way.

3.0 The Lismore City Council wrote to me just prior to my visit to the North Coast last year and the contents of that letter were discussed with the Council at that time. The Council subsequently sought a written response and this is being provided.

3.1 Various draft versions of the Low Cost Country Home Building booklet have been examined by the Building Regulation Advisory Committee and a number of suggestions have been made for amendments to be incorporated before a final version is released. As mentioned previously the latest version has recently been considered by the Committee and action flowing from its consideration is proceeding.

The question of my endorsement of the booklet will depend upon the contents of the final draft and the consideration of advice I receive from my Building Regulation Advisory Committee.

3.2 I do not agree with the Task Force's assessment of the situation as outlined under this item.

The provisions of section 311 of the Local Government Act, which require that a building shall not be erected or altered unless the approval of the council is obtained therefor beforehand, are basic to the whole system of building regulation and whenever a person proceeds otherwise than in accordance with the provisions of that section, he places in jeopardy the various areas of protection which the law would otherwise provide.

In the context of the operation of section 317A of the Act, an application for a certificate under that section in respect of a building erected without prior approval, automatically precludes the council concerned from certifying that the building "in all respects complies with the Act, the ordinances, and the plans and specifications, if any, approved by the council...." because section 311 of the Act, for one, has not been observed.

The Council is then restricted under the section, if it is to issue a certificate, to making a decision to the effect that any departures or contraventions, which it must - to the best ability possible - list on the certificate, are not such as need be rectified. This decision of course is in relation to a building which its servants have not had the opportunity to inspect and assess during its construction and this might pose difficulties.

There is a vast difference between the decision of the Court to set aside the orders under section 317B(1A) and a decision as to whether a certificate under section 317A should be issued. I note that the Court was not prepared to order the issue of a certificate as a result of the proceedings before it on the basis of lack of knowledge of departures which might have existed, despite the inference which might be drawn from the wording of the Council's notices that the carrying out of the work specified would have resulted in the structures complying with the Act and ordinances. See my comments in 3.7, 3.8 and 3.9 in respect of the mezzanine and "no wall" issue.

3.3 If the Council's prior approval had been sought, its interpretation of the relevant provisions of Ordinance No. 70 could have been contested by way of appeals action under section 317L of the Act or objection under section 317M, as appropriate.

3.4 The "hamlet legislation" to which reference has been made is apparently that relating to town planning considerations. There is no special legislation relating to hamlet development from a building regulation point of view.

3.5 and 3.6 The issue of demolition orders normally only arises if the prior approval requirements, as contained in section 311 of the Act, are not observed.

I agree that demolition orders should only be issued and enforced as a last resort. Also, that rectification of buildings should be sought by councils on as co-operative a basis with owners as is practicable. However, it is essential that unauthorised buildings are not permitted to create unhealthy or unsafe conditions and so negate the whole purpose of building regulation and control.

The provisions of section 317M of the Act do not, of course, operate in the case of buildings erected without prior approval.

It is the Government's policy that all buildings in those parts of the State where building controls apply should conform at least to the minimum standards as embodied in the law or standards acceptable to the council or the Court as a result of the exercise of the discretion available to them under the law.

I can see no justification therefore for the issue of a directive along the lines that you have suggested.

3.7 3.8 and 3.9 In the absence of any precise decision of the Courts in relation to the need to provide external walls to dwellings and the mezzanine question, it becomes a matter for individual councils, as the authorities responsible for the control and regulation of the erection of buildings, to interpret

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The delay in replying to the Task Force's various submissions is regretted. However, I trust that the above information will be of assistance.

Yours sincerely,

Minister for Local Government.

Mr. D. Lambert,
Secretary,
Rural Resettlement Task Force,
P.O. BOX 62,
NIMBIN NSW 2480 94

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and apply the provisions of the law, subject to the appeal and objection provisions contained in sections 317L and 317M, respectively, of the Act.

I agree that the wording of the relevant clauses of Ordinance No. 70 is not entirely clear.

However, it is the view of my Department that Ordinance No. 70 does not specifically require walls to be provided but where they are, they must comply with the provisions of clause 47.1(2) and be rain and waterproof.

With regard to mezzanines, my Department considers that mezzanines are not specifically regulated in dwellings and no minimum height either above or below the level of the intermediate floor is prescribed, nor does the Ordinance specify a percentage of a room's floor area which may be covered by a mezzanine floor.

While it might be argued that clause 49.5 of the Ordinance applies to mezzanines, my Department's view is that clause 49.5 is principally intended as a control in respect of the height of rooms with recognition, in subclause (2), for a reduced height in the case non-perpendicular walls and sloping ceilings.

My Department's view is that a decision by a council in respect of a proposed mezzanine in a dwelling should be made on the merits of each case. Such a decision would be made pursuant to the council's general discretionary control powers with regard to the safety, health and amenity of occupants of the building concerned, bearing in mind the nature of and proposed use of the intended mezzanine. This reflects the current change in building regulations from one of presciptive standards to one which is performance orientated outlining deemed to comply provisions. This provides for greater freedom in the design and construction of buildings with a corresponding increase in council's discretion.

As indicated above, the Low Cost Country Home Building booklet has not been released as a final version at this stage.

With regard to the Development Application referred to, I can only suggest that any decision which the applicant might wish to contest might be the subject of appropriate appeals action.

3.10 and 3.11 It seems that the Task Force is interpreting the decision of the Court as providing full support for its interpretation of the relevant provisions of Ordinance No. 70, as opposed to those held by the Council, whereas the Court specifically indicated in its judgment that it did not find it necessary to determined those issues.

In my view, the Court did no more than to decide that having regard to the particular circumstances involved in that case, it was not in the public interest to confirm the orders issued by the Council under section 317B(1A) of the Act.

I do not consider that the Court's decision should be regarded as providing a precedent as the Task Force suggests. I would suggest that the Task Force and the Council consider each case upon its merits.

3.12 3.13 and 3.14 In view of the comments expressed above, no specific comment is required on these items.

3.15 The Government's policy is that all buildings erected in areas where building controls exist should comply with appropriate standards as provided for in the law.

I can see no reason why the aspirations of people wishing to erect low cost homes cannot be satisfied within the framework of the existing provision of the law. For example, the relevant building regulations and other provisions are not regarded as being unduly restrictive in terms of materials and methods that may be used, procedures to be observed and the like.

(a) Preparation of the Low Cost Country Home Building booklet is intended to meet this objective.

(b) Procedures as previously spelt out are available in this connection.

(c) Having regard to the Government's policy, as set out above, and the role of councils as the authorities responsible for the control and regulation of the erection of buildings in their respective areas, I do not consider that sufficient purpose would be served by adopting this proposal, even if there were staff available for that purpose.

On the question of assistance to owners, builders, councils etc., in relation to interpretation and compliance with the building regulations and the law on buildings in general, my Department already provides a telephone advisory service which is freely available by telephoning (02) 240-4526 or 4426. This provides in the majority of cases

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immediate and practicable advice on problems encountered with the building laws. Calls received are monitored and used as a basis for planning of liaison visits by building advisory staff to various parts of the State and for the basis if the need is perceived for changes to existing legislation.

(d) This proposal is contrary to the provisions of the Local Government Act and the Government's policy.

(e) Urban Areas may only be established in shires and not in cities or municipalities.

(f) It is not clear what is intended under this proposal.

4.0 I can see no reason for confusion to exist in connection with the provisions mentioned.

Section 288A does not apply in the circumstances described in subsection (7) and there is no need for an owner to apply for a licence.

I can only assume that if a person applies for a licence, the council concerned automatically takes the view that he is not exempted by the provision of subsection (7).

5.0 The Building Regulations Advisory Committee is charged with considering matters related to all types of buildings and has members who provide broad expertise. Views such as those expressed by your group can be considered by the Committee on technical requirements.

The provisions of Ordinance 70 pertaining to dwellings (Class I Buildings) occupies only a minor portion of the Ordinance, the majority of its provisions deal with fire safety matters in commercial, industrial and residential (Class II and III) buildings. I believe the current composition of B.R.A.C. is therefore appropriate. It is open to any person or group to submit proposals through my Department for consideration at any time.

6.0 The question of deregulating room sizes is presently being examined by the Australian Uniform Building Regulations Co-ordinating Council.

The provisions of Ordinance No. 70 will be reviewed in the light of any recommendations which might result from that examination.

"Council Rating Procedures in Relation to Multiple Occupancy".

Request 1

My Department's policy remains the same as that quoted from its earlier letter.

Request 2

It is not a matter for my Department to determine "bona fide or acceptable criteria for fixing a differential rate".

The differential general rating provisions of the Act were introduced to confer on councils a wide degree of flexibility in their approach to the general rate structure and to enable each council to adopt the rating structure it considered to be most suited to the needs of its area.

This is in accord with the principle that councils are charged with the administration of their areas and are responsible to their electors for the policies they adopt. Therefore, the decision to apply differential rating to its area is one which rests with each council.

"Draft Outline of a S.E.P.P. for Multiple Occupancy".

The question of the issue of a State Environmental Planning Policy dealing with Multiple Occupancy is one coming within the administration of my colleague the Hon. R.J. Carr, M.P., Minister for Planning and Environment, and the inclusion of any building regulatory type provisions in any such Policy will need to be the subject of consultation between my colleague and myself in the light of any proposals he might have in this regard.

If the Task Force desires any changes to Ordinance 70 it is at liberty to put forward a well documented case supporting such a proposition and suggestions that may be appropriate. In arguing a case for a change to the law due regard should be made to health, safety, amenity and cost aspects together with evidence/argument supporting any proposed changes.

In view of the complex nature of this issue and the feeling expressed by members in your community together with correspondence received from the Lismore City Council and information supplied to me by Departmental officers, the Secretary of the Department and I have agreed to making available Mr. Lyall Dix, Chairman of my Building Regulation Advisory Committee and Mr. Trevor Howse, the Chief Technical Officer in the Land and Building Development Branch to visit your region. A meeting at a mutually convenient time and place will be arranged in the near future.

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RURAL RESETTLEMENT TASK FORCE
PO Box 62
NIMBIN NSW 2480
(066) 89 1430

File Under: RRTF Submissions

9th August, 1984

Conference Delegate
Planning and Development on the North Coast
VALLA PARK NSW 2450

Dear Delegate,

The Rural Resettlement Task Force is a non-profit community based association operating from the Nimbin Neighbourhood Centre. Its primary object is to assist and promote rural resettlement in the form of Multiple Occupancy. Among other things, the Task Force has been instrumental in obtaining the support of the Minister for Housing for the N.S.W. Land Commission to undertake a Multiple Occupancy Pilot Project in the North Coast region for people on low incomes.

The attached are position papers on Ordinance 70 and Council rating with respect to Multiple Occupancy (as presented to the Minister for Local Government, the Hon. Kevin Stewart on 2 August, 1984), and draft outline of a State Environmental Planning Policy for Multiple Occupancy to which is added comments in support of the proposed clauses (as presented to the Hon. T. W. Sheahan, Minister for Planning and Environment on the above date.).

The Task Force, in releasing these position papers, does so in the hope that there will engender a wider and more sympathetic appreciation of the difficulties currently being experience by existing and intending Multiple Occupancy communites. We hope that through dialogue, such as this conference a concensus will be found whereby Multiple Occupancy may be implemented throughout the State, in a fair and consistent manner having regard to reasonable environmental evaluation and constraints.

As no doubt is appreciated, the financial outlay to us in preparing and printing these papers is a considerable amount. If these papers are worth retaining for your files we ask that a donation be made to assist us in the process of achieving the Task Force's objectives, failing this we would appreciate return of the papers before the conclusion of the Conference.

Thanking you, in anticipation for your consideration and good will.

Yours faithfully,

Dave Lambert. for M.M.

Dave Lambert, Secretary

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RURAL RESETTLEMENT TASK FORCE
PO Box 62
NIMBIN NSW 2480
Ph. (066) 891 430

2nd August, 1984

The Hon. Kevin Stewart M.P.
Minister for Local Government
Parliament House
SYDNEY 2000

Dear Minister,

We would first like to thank you for visiting our region and for making time available in your busy schedule to meet with us today.

Attached you will find submissions dealing with the application of Ordinance 70 and Council rating with respect to Multiple Occupancy. A press statement about the content of our submissions will shortly be released to the media and local councils.

The Task Force will be presenting a submission to your colleague, The Hon.T.W.Sheahan, LLB., M.P. Minister for Planning and Environment at a North Coast Planning Conference at Valla Park on 9th August, 1984. This submission will deal with the planning problems associated with Multiple Occupancy and the need for a State Environmental Planning Policy to be issued to permit the implementation of Multiple Occupancy in rural areas on a statewide basis. We will forward you a copy of this submission in due course.

The Task Force looks forward to a continuing two way communication between yourself and Department officers on the matters raised in our submissions and from time to time, as the need arises.

Thanking you for your interest and consideration. We look forward to your reply.

Yours faithfully,

Dave Lambert
Secretary

c.c. The Hon. N.K. Wran Q.C., M.P.
The Hon. T.W. Sheahan, LL.B. M.P.

Building rules now 'up in air': Council

The Lismore City Council will ask the State Government to provide local councils with clearly-defined guidelines for applying Ordinance 70 building standards to multiple-occupancy developments.

The approach will be made immediately through the Minister for Local Government, Mr Stewart, who will be asked to urgently clarify the responsibilities of councils when dealing with commune-style projects.

Mr Stewart will be supplied with a list of questions relating to multiple-occupancy building standards, in the hope that he can provide the council with answers when he visits Lismore next Thursday.

The questions were drawn up by Ald W G Blair, in response to the NSW Land and Environment Court decision not to uphold demolition orders issued by the council on two multiple-occupancy residences at Bodhi Farm, The Channon.

Ald Blair incorporated the questions in a lengthy motion adopted by the council on Tuesday night concerning the findings handed down by a court assessor, Mrs Judith Fitz-Henry.

Mr Stewart is expected to visit three multiple-occupancy communities in the Lismore district next Thursday as part of a three-day familiarisation tour of the Northern Rivers.

Pilot project

He also has asked the Lismore council to arrange a meeting with the Nimbin-based Rural Resettlement Task Force, which wants the NSW Lands Commission to establish a pilot multiple-occupancy project on the North Coast.

The task force claims that Government policy on low-cost housing is lagging behind the demand for multiple-occupancy development.

Ald Blair moved that a copy of Mrs Fitz-Henry's judgment be forwarded to Mr Stewart, and that he be asked to furnish the council with replies to several questions, including:

- Has his department completed its examination of the handbook, Low-Cost Country Housing, released by the Department of Environment and Planning more than a year ago.

(The booklet outlines a minimum set of building standards for the construction of low-cost homes and ancillary facilities from a variety of materials, including mud bricks and recycled timber and galvanised iron sheeting.

(The relaxed building regulations were drawn up by the Department of Environment and Planning after an inquiry in 1980 by a committee comprising representatives of the School of Architecture at Sydney University and local government.

(Two members of the committee were Ald Blair, the then Mayor of Lismore, and a senior officer of the council's health and building department, Mr W Sherring.)

- If so, does the Minister endorse the booklet as an acceptable interpretation of Ordinance 70, to be used as a guide by local government and builders for multiple-occupancy development.
- In regard to the Bodhi Farm court appeals, does the Minister agree that the Lismore council's requests for improvements to the two buildings were reasonable and in accordance with the requirements of Ordinance 70.
- If so, does he consider that the council was hasty, unreasonable or acted illegally in issuing notices of demolition.
- If not, will he advise the council on how it should interpret Ordinance 70 in regard to exterior walls and mezzanine floors.
- As Ordinance 70 is an expression of Government policy on building standards supervised and enforced by local government, would the Minister issue a bulletin advising councils how to act in interpreting Ordinance 70 in respect of multiple-occupancy developments.
- Would the Minister permit legal officers of his department to comment on the assessor's judgment, and its implications for building standards in multiple-occupancy developments.

The council is at a loss as to why the court, in lifting the demolition orders, upheld its right not to issue Section 317A certificates for the two residences.

A certificate is issued only if, in the opinion of the council, a building complies with all ordinances and any plans and specifications approved by the council.

Certificate refused

The council refused to issue certificates for the two Bodhi Farm residences because their owners failed to complete work required by the council.

A major fault shared by the two buildings, in the opinion of the council, was that they were provided with only temporary exterior walls.

The council also was concerned that the mezzanine floor of one residence was being used as a sleeping area, even though the ceiling height was insufficient.

Ald Blair said it was vital that the council get some indication from the Minister, in light of the judgment, of its responsibilities in supervising and enforcing Ordinance 70.

"If bulletins are released advising local government to make certain liberal interpretations of Ordinance 70 in special cases, that is okay," he said.

"But that information should come from the authority which drew up the appropriate regulations.

"Ordinance 70 is an expression of Government policy on building standards, and it is our responsibility to enforce that Government policy.

"If there is to be a general liberalisation of that policy in any respect, then the Minister should issue local government with advisory bulletins outlining those particular matters."

Urgent need

Ald Blair said that the Minister needed to provide the council with urgent answers to its questions if it was expected to enforce Ordinance 70 standards.

"One of the great difficulties has been that most of the work (on low-cost housing guidelines) has been done by the Department of Environment and Planning," he said.

"They have been the ones who have been giving the decisions and advice in this matter.

"But in reality, Ordinance 70 has nothing to do with the Department of Environment and Planning.

"It is the responsibility of the Department of Local Government, and councils are directly responsible to that department in the administration of Ordinance 70."

Ald B J Spash asked if the court judgment would alter the council's interpretation of Ordinance 70 in respect of multiple-occupancy.

The city health surveyor, Mr J S Douglass, said that there would be no change, so far as he was concerned.

"We will have to interpret multiple-occupancy applications in exactly the same way as we have in the past, even though we have been defeated on it," he said.

"It still is the only reasonable and sensible way to interpret Ordinance 70 in respect of this form of development."

Mr Douglass was concerned about a statement by Mrs Fitz-Henry that multiple-occupancy housing was unlikely to become a State-wide fashion.

"That is exactly what builders have been complaining about in the past — that there is one set of building standards for people out there (multiple-occupancy communities) and another set of standards for the rest of the community," he said.

Ald J F Crowther: "What you are saying Mr Douglass is that in the case of a house with a lot of trees round it, it could have a lower building standard?"

Mr Douglass: "You could build a house without walls if you wanted to."

Ald R N Hepburn: "Yeah, in the middle of Goonellabah."

Mr Douglass: "Well, why not."

Ald A M Nicolson, a trustee of Bodhi Farm who launched the court appeals, said he supported Ald Blair's motion because the matter certainly needed further clarification.

Each-way decision

"The court decision was a bit each-way, and has definitely left a situation in which no one is really clear on how to move from here on," he said.

"I can certainly appreciate the dilemma of the building department in determining how to interpret the judgment in the future.

"We (Bodhi Farm residents), as a result of this court case, would like to have seen the adoption of the Low-Cost Country Housing booklet, produced for this form of development.

"I also disagree strongly with this notion that keeps popping up that there is one law for one group pf people and another law for another lot of people. That really is a lot of bunkum."

Ald Nicolson said there already were several different types of land zonings, including commercial, residential and rural zonings, where different rules applied.

In raising a point of clarification, Ald Hepburn said there appeared to be a misunderstanding on the difference between zonings and Ordinance 70.

Ald Hepburn: "Ordinance 70 covers how a building should be built. It does not say what type of building should be built, which is what a zoning does."

Ald Nicolson: "Nevertheless, so far as I am concerned, the court judgment was made within the law.

"Some people may not agree with it, but it is still the one law and it applies to everyone equally.

"Personally, I have had enough of this 'one law for one lot of people and another law for another lot of people' business. You hear this all the time, and it is just not true."

The council also resolved on Tuesday night to send copies of the Land and Environment Court judgment to the Local Government Association of New South Wales, its legal advisers and other North Coast councils involved in multiple-occupancy developments.

THE NORTHERN STAR, THURSDAY, JULY 26, 1984.

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MULTIPLE OCCUPANCY AND THE APPLICATION OF ORDINANCE 70

1.0 Over the years members of Multiple Occupancies via the Task Force and the Home Builders Association (Rainbow Region)(H.B.A.) have actively sought a sensible application of building regulations in relation to owner built homes. (See for example, acknowledgement in the "Introduction" to the "Low Cost Country Home Building" (the Handbook) published by the Department of Environment and Planning, 1981.)

1.1 The H.B.A. have long held that if it was found that the application of Ordinance 70 positively prohibited sensible building practice, then it ought to be changed. The Association considered, however, that Ordinance 70 as it stood, gave Councils a deal of discretion and that if this was sensitively administered there would be no need to change the Ordinance unless there was a clear case (e.g., a Court decision) considered to be contrary to appropriate building practice. (The whole of the Handbook has been designed to be within the framework of the State's building regulations - see Foreword by Mr. Eric Bedford, Minister for Planning and Environment).

1.2 Further in this regard attention is drawn to the statement made by Mr. Paul Landa, the then Minister for Planning and Environment at the Hamlet Seminar in 1979:

> "We're looking to, as a State Government, the local Councils to exercise that discretion in a flexible and humane and considerate way and if that's not forth coming then there may have to be changes to those ordinances to guarantee some greater flexibility" (Seminar Proceedings P.E.C. 1980 p.46)"

2.0 A recent appeal by Bodhi Farm against the non issue of a 317A Certificate and pursuant demolition orders, in the Land and Environment Court has highlighted, what to us, is the insensitive, inappropriate and ill informed application of Ordinance 70. (Copy of report made to the Lismore Council by Ald. W.G. Blair as published in the Northern Star 26.7.84 is attached. A copy of the Court finding and transcript of the proceedings is available on request).

3.0 In this report we note that the Council is asking you to urgently clarify the responsibilities of Councils when dealing with Multiple Occupancy dwellings. The following points are made in direct response to those reported in the newspaper article of 26.7.84.

3.1 <u>Re Completion by your Department of examination of the pending new edition of the Handbook</u>.

We likewise would appreciate advice of the status of this examination. We are advised by Mr. Colin James of the Technical Assistance Group (TAG) (responsible for editing the material) that after liaising with your Building Regulation Advisory Committee (BRAC) it seems that any remaining issues may be amicably resolved. If this is so then we ask that you have this matter expedited as a matter of urgency. It does appear that if the Handbook carries your imprimatur, along with your colleague Minister that Council staff may be supported in the administration of building regulations, and hence we urge your earliest endorsement.

3.2 <u>Re the Council seeking your confirmation that they acted resonably and in accordance with the requirements of Ordinance 70 and if you so confirm, that you consider Council was not hasty or acted illegally in issuing notices of demolition.</u>

We submit that the Council's action in refusing to issue a 317A Certificate was unnecessary and unreasonable in the circumstances because:-

(a) that the Building Inspector did not avail himself of the discretion provided in s.317A viz that a Certificate may be issued even where "such contravention or departure is not such as need be rectified".

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In setting aside the demolition orders on the ground that "no useful public purpose would be achieved by confirming the demolition order", we submit that the Court is in effect saying that the departure from Ordinance 70, if any, is not such as need be rectified.

We submit that had the Building Inspector exercised his "discretion in a flexible and humane and considerate way" and had regard to the "way of life chosen by the occupant" (viz who wished "to live close to nature" and had "planned the house so as to facilitate the entry of wild life rather than the reverse"), and noting the "remoteness of the location", then we suggest he ought to have recommended issue of the Certificate.

(b) that with respect to the mezzaine issue, the Building Inspector mistakenly assumed that the mezzanine in question was a self-contained "habitable" room as defined in the Ordinance. The Court did "not find it necessary to determine" whether the mezzanine was a "habitable" room or not and hence argument put forward at the hearing is not given in the judgment. We refer you to the transcript therefore, where we suggest the case is established that there is nothing in Ordinance 70 restricting the use of mezzanines in Class 1 Type buildings. Further it is noted that where such a mezzanine is constructed, there is no restriction as to a minimum ceiling height above or below the mezzanine. This being the case the construction of a mezzanine is hence permissable and legal under common law.

(c) that with respect to the "no wall" issue, the Building Inspector mistakenly assumed that the Ordinance automatically requires a habitable room to have four walls. This we suggest is an erroneous reading of the Ordinance and that it is only where there is a wall, then that wall must be impervious. (See transcript for detailed cross examination on verandahs as "habitable" areas not having four walls).

3.3 For the above reasons we submit that the Council acted unreasonably and not in accordance with the Ordinance.

3.4 We do not suggest that the Council acted illegally in issuing notices of demolition but we do in the circumstances consider their action to be, bureaucratic, inappropriate, ill advised, inflexible and inconsistent with the spirit of hamlet legislation.

3.5 To remedy this situation we urge that you issue an appropriate directive as sought by the Council on the following:

(a) The manner of applying Ordinance 70.

(b) That Councils automatically bring the provisions of 317M of the Local Government Act to the notice of those making a Building Application which does not comply with Ordinance 70 as recommended by Ms. J. Fitz-Henry in her judgment.

(c) That demolition orders be issued only as a last resort, and that in the first instance Councils attempt to resolve differences by, for example, negotiation, use of the discretion provided in s.317A and using or recommending the use of 317M.

3.6 If you are advised that you do not have the necessary authority to issue a directive along these lines, then we urge that you seek this authority from Cabinet. While the issue of Bulletins (which may not have legal status) may be a reasonable process for conveying Government policy to most Councils, we would draw your attention to the record of the Lismore Council where they even chose to challenge in the Land and Environment Court the legality of the Multiple Occupancy legislation!

3.7 The use of mezzanines for sleeping, where the ceiling height is below the prescribed minimum, is a wide spread practice in this region. This practice is not just confined to Multiple Occupancy dwellers. The practice is for such areas to be called a "store room" and then be used as a sleeping area. There seems little way a Council can police the use made of such mezzanines. Mezzanines, we submit are a sensible and low cost building solution. Provided adequate air circulation is available they are not unhealthy and are energy efficient to heat due to the restricted space. Their use for domestic sleeping can hardly be considered to constitute an affront to public decency. In view of this, and the submission made above that they are not illegal anyhow, we

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urge that a clear directive be made permitting such use. Such a directive will, in addition, we suggest, assist Building Inspectors in that they will be freed from participating in the present charade.

3.8 We understand that TAG, in recommending the use of mezzanines in the Handbook, have compromised their position to accommodate BRAC's wishes and have agreed to a condition which fixes the maximum area that a mezzanine may cover of the floor below, viz not greater than two thirds. This is a completely arbitrary ratio and no evidence on health grounds has been advanced to support this ratio.

We request that you do not accept either BRAC's or TAG's recommendation in this regard and allow the owner builder the freedom of expression and freedom of choice as to whether they sleep, for example, on a double deck bunk or on a mezzanine. The latter we see to be the functional equivalent of a double decker bunk.

3.9 As further evidence of the Council's unwillingness to act in the spirit of the assessor's judgment, we draw your attention to Condition 16 attached to the Multiple Occupany Development Application (84/3059) currently before Council for its consideration. This condition requires that all habitable areas shall have fully enclosed external walls and roofs. It seems clear that the inclusion of this new condition flows directly from the Bodhi Farm case. Actions such as this, we regret to inform, are experienced as being part of a never ending stream of additional restraints and conditions. Many such conditions are dropped following negotiation and many others, we believe, (particularly those under s.94 of the E.P. & A. Act) would be lifted by the Court on appeal. It appears that virtually every Multiple Occupancy applicant is confronted with running this gauntlet. The above is an example where the Multiple Occupancy Code, adopted by the Council Aldermen is arbitarily extended by the staff. This is a frequent practice.

We are left with the impression that far from the Council flexibly and sympathetically intrepreting Ordinance 70, that at the best they act with obscurism, indifference or bias and at the worst seem to act in a vindictive way to price and condition Multiple Occupancy settlement out of existence. As an example of the latter we draw attention to the Multiple Occupancy Development Application curently before Council, as mentioned above. It is estimated that the total cost of complying with all the proposed conditions to obtain this approval is in the order of half a million dollars!

3.10 For yet another instance of Council's unreasonableness, we draw your attention to the Building Inspector's statement that as far as he was concerned the Court decision in respect to Site 2 at Bodhi Farm, applied to that site only and was not seen as a precedent or guide as to the acceptace of structures on Multiple Occupancies elsewhere. (The same attitude is expressed by the Health Surveyor in the Northern Star 26.7.84). The Building Inspector has advised that any other building, even on Bodhi Farm having a similar mezzanine and used for sleeping would be served with a demolition order!

3.11 We understand that the Bodhi Farm community have considered submitting a Building Application to the Council with duplicate plans of the structure at Site 2 together with advice that the application would be appealed to the Court if rejected. It would seem to be self-evident that they would win such a case. This we submit is a ludicrous situation and hence is one that calls for your review and directive to Councils as to how to proceed in such cases.

3.12 <u>Re proposition that legal officers of your Department comment on the assessor's judgment and its implication</u>.

We support this request and would appreciate a copy of any such comments.

3.13 <u>Re the Council being at a loss as to why the Court, in lifting the demolition orders, upheld its right not to issue a 317A Certificate.</u>

The right of Council at the outset to issue, or not issue a 317A Certificate is, we submit, not here in question. The "loss" expressed by Council is, we suggest probably due to their non appreciation of the assessor's judgment. The Council appears to presume that they now have a mandate not to issue a 317A Certificate for the building at Site 2. We submit that this is an erroneous view.

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3.14 The reason given by the Assessor for not making an order with respect to a 317A Certificate is that "there may well be (other) departures (besides the two) that were canvassed at the hearing". We submit that if it proves to be the case that there are not other departures ("if such they be") than the two canvassed at the hearing, then there is no reason why a 317A Certificate could not now be issued!

3.15 In concluding our comments on the Council's submission to you, it remains but to place this Council's problems and attitudes in the wider context of local government administration generally as we move, together, into the twenty first century.

In this regard we are constantly confronted with those from the city seeking low cost land where these people can participate in a healthy lifestyle and through self-help construct their own low cost home. Many of those attempting to achieve this objective fail and in disillusionment, and with despair, frustration and anger return to the city. The crises of personal adjustment to permanent unemployment and the housing shortage is one which the State and Commonwealth Governments are addressing at the political level. We welcome and support the actions being taken at these tiers of government. It but remains for local government to facilitate and assist the implementation of these policies either through their own willingness, for example, by applying building regulations with discretion particularly to help those who are endeavouring to help themselves in constructing their own homes as is the case in Multiple Occupancy communities, by creatively engaging in their own low cost housing projects, or failing this, be directed to do so. ("Low cost" here means that an owner can acquire land on a shared basis and build an initial structure to occupation stage for a total cost of not more than $10,000).

To this end we suggest the following actions for your consideration:

(a) Readily issuing bulletins or directives to Council to assist owner builders, Multiple Occupancy communities and other group housing projects when necessary.

(b) Readily changing building law, ordinances etc when necessary.

(c) Having at least one full time building inspector stationed permanently in this region to assist Councils and applicants alike in the appropriate delivery of your Government's policy on building matters and associated issues.

Comment: It has been our experience that a very different attitude prevails in Council during the time inspectors from your Department are present!

(d) Encouraging Councils to exclude the application of Ordinance 70 either on an area basis or on the basis of specific sites, or both.

Comment: This very simple process would immediately free Council staff to attend to other matters and hence would result in a cost benefit to Council. The application of Ordinance 70 could, for example, be omitted for those properties where a Multiple Occupancy Development Application is approved.

We note in this regard that parts of the rural area of the Copmanhurst Shire is about the same distance from Lismore as outlying areas within the Lismore Council boundary. It is noted that Ordinance 70 does not apply in the rural areas of the Copmanhurst Shire! We see no difference in this situation to the one proposed here.

(e) Encourage the establishment of "Urban Areas" under Part XXVII of the Local Government Act and invite, or direct, Councils to delegate decision making authority for Development Applications and Building Applications to the Urban Committee.

Comment: Such a process would not only relieve Council of spending their time (hence money) on applications in the Urban Area, but it would also

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have positive social benefits, for example by reducing friction with the Council, by decentralising the decision making process, by providing an opportunity for citizen participation in planning and building matters and by providing an environment for citizens to grow in self-reliance and gather experience in self- management.

(f) Encourage the formation of municipalities were relevant.

Comment: The benefits listed in (e) above apply equally to this proposal.

It is our experience that the provisions and processes of establishing the proposals in (e) and (f) are not common knowledge and hence it is proposed that your Department produce public information brochures on these and like issues, for circulation to Councils, through the Government Information Office, Neighbourhood Centres and the like.

4.0 Movable Dwelling Licence s.288A(7)

In the Handbook attention is drawn to s.288A(7) of the Local Government Act and the situation where an owner, or part owner is not required to obtain a movable dwelling licence. It is our experience that Councils and applicants are confused about the application of this provision. Some part owners simply do not apply for a licence and other part owners do with attendent costs and sometimes onerous conditions. Sometimes Councils make renewal difficult. We know of no instance where the Council has advised such an applicant that a licence is not required!

We ask that a directive be issued to Councils advising that it is not necessary for such owners to apply for this licence.

5.0 Composition of the Building Regulation Advisory Committee (BRAC)

We understand that BRAC advises you on interpretation and proposed changes to the building regulations and beside containing representation from your Department we understand that the Committee consists of members from the Board of Fire Commissioners, Health Commission, Public Works Department, Housing Commission, Master Builders Association, Royal Australian Institute of Architects, Sydney City Council, Local Government and Shires Association, Institute of Engineers, Building Surveyors Institution, Australian Institute of Building. We trust that it is clear from this list that input to you from owner builders engaged in low cost experimental building techniques is hardly well represented! We request that consideration be given to either broadening the composition of your Advisory Committee to include specialists in the owner built low cost mode of construction, or otherwise create an avenue where pertinent issues such as we have raised may be brought to your attention as a matter of course.

As the composition of the present Committee stands we do not consider that we are being represented by our peers.

6.0 Changes to Building Regulations in Victoria

We draw your attention to the reduction of minimum room sizes and other changes recently introduced in the counterpart to Ordinance 70 in Victoria (see copy attached). Would you please advise if Ordinance 70 is to be re-examined with a view to introducing parallel changes in this State?

Dave Lambert, Secretary RURAL RESETTLEMENT TASK FORCE
PO Box 62 NIMBIN NSW 2480 (066) 89 1430 2nd August, 1984

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COUNCIL RATING PROCEDURE IN RELATION TO MULTIPLE OCCUPANCY

We understand that various Councils are to approach you with a view to changing the rating structure in a way which will materially effect Multiple Occupancy residents. The rate currently charged is either the rural rate or a differential rate lower than the general rate. This association holds that the present options open to Councils for rating Multiple Occupancies should not be changed.

We concur with the Valuer General's reply to the Tweed Shire Council of 11 January, 1984 in response to their request for a separate valuation on each Multiple Occupancy dwelling.

> "As you are aware, the Department's existing policy is not to regard this type of occupancy as a separate parcel of land in terms of the requirements of the Valuation of Land Act, 1916, and accordingly single land valuations of the whole of the property in one ownership are presently made and issued.
>
> However, in view of your Council's request and other recent enquiries of a similar nature, the situation has been re-examined and the conclusions are as follows:-
>
> It is clear that Multiple Occupancy of rural land is designed to provide an alternative life style based, in part, on agriculture.
>
> These farm complexes, whilst somewhat different in character to "conventional" farms, are nevertheless owned by one body and, from the information available, are worked as one unit on a co-operative basis for agricultural or pastoral purposes.
>
> The development intention in all cases examined is clearly one of communal sharing of the whole of the land and not one of cutting the land into parcels devoted to permanent or undefined separate use.
>
> In the circumstances, the Valuer General has determined that the existing policy is to be retained and, accordingly, your Council's request for separate valuations for the two cases nominated cannot be provided."

In response to a Council suggestion for special rating for Multiple Occupancy properties on a "user pay" principle your Department made the following reply on 6 April 1983:

> "The Council appears to assume a direct connection between rates and demand on local government services. This connection, in a direct sense, does not exist and has never existed, except perhaps in the case of local rates. It also seems to infer some sort of concept of head tax, which has never existed in local government.
>
> Local Government rating is primarily a tax, based on the value of land, to provide support for local government. Although this concept is modified both in relation to local rates and differential rating, there has never been any suggestion, in practice, that an individual ratepayer should receive, or indeed should be able to demand, local government services in proportion to his rates.
>
> Secondly, it is open to doubt that the additional demands placed on local government services would be as high as seems to be envisaged by some councils. It is suggested that the very nature of hamlet developments indicates that they will look inwards rather than to the community at large for many of their services.
>
> It appears that in the context of rating, the difference between

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hamlet development and other development is one of degree only. The Office can see no reason why people living in a hamlet development should be treated differently from people living in a block of flats or units, people living in a granny flat, even perhaps a substantial number of people, whether related or not, living in a single dwelling. The judgment in the Dempsey family case (South Sydney Municipal Council v James and Anor 35 LGRA 342), although in another context would seem to have some relevance here."

Our association supports the above statement. (With respect to Multiple Occupancy residents looking "inward" for services, it is our experience that not only is this happening but that such residents positively cherish the opportunity to become more self-reliant in this way and see such action as an important component in achieving a healthy lifestyle. A list of examples can be supplied if required).

REQUEST 1

We would appreciate confirmation that your Departmental policy is still in accord with that quoted above.

We oppose at this time any proposal to amend the existing legislation with a view to introducing either a head tax, dwelling tax or separate tax on improved valuations with respect to Multiple Occupancy. Not only do we oppose such in principle but we also view that the introduction of any such legislation would be fraught with problems of administration. If a dwelling tax was introduced, for example, would the Council issue separate rate notices? Would an "expanded" house with separate bedroom units or a communal house of several adults be rated as one unit or several? Would pension concessions apply? Would a dwelling or the occupation of it, attract the separate valuation? Would all sections of the community be rated on a user pay principle?

As mentioned, Councils may, as an option apply a differential rating for Multiple Occupancies. In the case of the Lismore Council, the Multiple Occupancy rate is nominally the same as the general rate. It is noted that when introducing this differential rate, no criteria were recorded by the Council as the basis for making this decision. By inference the sole criterion appears to have been that the "user pay".

As an issue of principle, we see no reason why, if a group of people choose to share an asset (as in the case of a property for Multiple Occupancy), that they should be taxed at a higher rate. By analogy, if a number of people share an income they are not required to pay a higher rate of income tax, due to the act of sharing that income.

REQUEST 2

We are not clear as to what is considered by your Department to be bona fide or acceptable criteria for fixing a differential rate and would appreciate your comment to clarify this issue.

By way of comment, we understand from the Departmental letter quoted above, that the general rate is not related to a "user pay" principle, and, if this is the case, presume that the same principle ought to apply to any variation of that rate, in this situation a differential rate for Multiple Occupancy.

(In citing above the Lismore Council action to set a differential rate for Multiple Occupancy at nominally the same as the general rate, we do so only in the context of illustrating that the system of differential rating is one of the options open to Council. We wish to place on record that we do not necessarily endorse that Multiple Occupancy rates ought to be nominally the same as the general rate. Our view is that each situation ought to be negotiated on the merits of the case.)

In response to Council claims that Multiple Occupancy communities result in increased road use, we suggest that the only equitable and realistic method to make the user pay for road use is through petrol taxes. Short of this we approve of the present situation where the Grants Commission is making funds available to those Councils which have a population increase due in part to Multiple Occupancy settlement. (It is our experience that deterioration of unsealed rural roads is disproportionately higher in this region than other regions, due to the higher rainfall, rather than to greater road usage).

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With respect to other services provided by Councils we note that no Council has made public an itemised financial statement by way of evidence that those living on Multiple Occupancies are disproportionately calling on such services. In the absence of such evidence, and from our experience, we are of the view that Multiple Occupancy residents are not disproportionately calling on such services. With respect to the Lismore Council in this regard, attention is drawn to the provisions in their Multiple Occupancy Code that:

> "Approval of a Multiple Occupancy development proposal cannot be inferred as placing any obligation on Council to provide or support applications for community facilities such as:
> * improvements to the public road network;
> * water or sewerage services;
> * electricity supply;
> * telephone facilities:
> * post office or mail services;
> * community hall;
> * sporting or recreational facilities;
> * shops;
> * bus services;
> * schools;
> * baby health or medical clinics;
> * library."

To date Councils seem unwilling to appreciate the income benefits flowing to Councils and the community at large from rural resettlement and that Multiple Occupancy communities form but a small portion of this resettlement. In the Lismore area not only is a differential rate applied to Multiple Occupancies, but also the land values have risen disproportionately. The multiplier efect of these two factors alone means that the Council is receiving a "double" revenue from Multiple Occupancies. In addition to this, Council stands to gain further funds by virtue of the per capita grant system. This extra grant is not, we suggest, accompanied by a proportional infra-structure cost to the Council.

In this regard we see that Councils may yet come to vie with one another <u>for</u> Multiple Occupancy development because of the direct and indirect cost benefits to the Council, rather than the present situation where the trend is to inhibit or prevent resettlement by oppressive levies, taxes, rates and costly conditions attached to development applications.

We note that attempts to place onerous costs for development approval under s. 94 of the Environmental Planning and Assessment Act (E.P. & A. Act) on applicants where they are "economically disadvantaged" is neither supported by case law nor in accordance with the provisions of Circular No. 23 issued by the Department of Environment and Planning.

Apart from the financial aspects detailed above, we submit that it is not in the public interest to levy disproportionate rates on Multiple Occupancy residents or that the excessive charges be attached to development approvals since such charges will restrict Multiple Occupancy housing to the relatively affluent and hence increase the burden on the State to provide low income housing.

<u>The nexus between rating and a planning policy to permit Multiple Occupancy on a State wide basis.</u>

No doubt you see as we do, that at one level the question of rating is independent of and separate from planning issues. With the support of the Premier we are currently canvassing support for a State wide policy to facilitate the implementation of the Governments policy on Multiple Occupancy as an acceptable form of rural resettlement.

In our discussions to date with officers of the Department of Planning and Environment, one of the so called "difficulties" given for delaying the introduction of such a policy has been the "rating" issue. To this end the confirmation sought above (Request 1) will, we trust, be helpful in allying any fears that your colleague, the Minister for Planning and Environment may have in this regard.

Dave Lambert, Secretary RURAL RESETTLEMENT TASK FORCE
PO Box 62, NIMBIN NSW 2480 (066) 86 6231 2nd August, 1984

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RURAL RESETTLEMENT TASK FORCE
PO Box 62
NIMBIN NSW 2480
(066) 89 1430

9th August, 1984

The Hon. T.W. Sheahan LL.B. M.P.
Minister for Planning and Environment
Parliament House
SYDNEY NSW 2000

Dear Minister,

We draw to your attention that the Government's Statewide policy on Multiple Occupancy as an appropriate form of rural resettlment (Circular 44) was introduced by your predecessor in 1980. Despite this lapse of time only a handful of Councils currently permit Multiple Occupancy.

A great many people located, in particular along the whole of the State's coastal area, have been waiting years for their local Council to permit Multiple Occupancy settlement.

Many of those who are living illegally, we understand, are disfranchised from voting in local affairs due to their being unable to declare their whereabouts, and for the same reason, are disqualified from financial support under the Federal Government's "First Home Owner Scheme".

Through individual effort, and with the advent of community creation projects such as proposed by the Land Commission, we see that a significant number of people can now be housed if the restraints that are inhibiting the implementation of Multiple Occupancy are removed.

To this end we ask that you introduce a State Environmental Planning Policy for Multiple Occupancy as a matter of urgency.

Attached you will find our draft for such policy and to which has been added comments in support of the proposed clauses. (For further comment on the need for such a Policy, see in particular clauses 3(c) and 3(d).)

If you agree to this proposal we would further ask that we have the opportunity to comment on the policy before it is implemented.

We believe that the introduction of such a policy will bring credit to yourself and the Government as making an important contribution to the housing crises, especially for those in the lowest income bracket.

We look forward to discussing the contents of our submissions with delegates attending the Valla Park Conference. A press statement of our submission will be made to the media and local councils.

We enclose for your information a copy of our submission to your colleague, The Hon. K. Stewart M.P., Minister for Local Government, on rating and building issues relating to Multiple Occupancy.

We greatly appreciate the opportunity, in your full schedule, to be able to speak with you personally on this matter. We hope on another occasion you will be able to visit some of the Multiple Occupancy communities in the North Coast Region.

Thanking you for your interest and consideration. We look forward to your reply.

Yours faithfully,

Dave Lambert
Secretary

c.c. The Hon. N.K. Wran Q.C., M.P.
The Hon. K. Stewart M.P.

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Minister takes in communal life

The State Government had no intention of adopting a 'heavy-handed' approach to the question of multiple-occupancy development in the Lismore district, the Minister for Local Government, Mr Stewart, said at Nimbin yesterday.

Speaking after an inspection of the Bodhi Farm and Billen Cliffs communities, Mr Stewart said he would not interfere in any way with people following an alternative lifestyle.

"I am not a Minister who interferes with peoples' personal decisions," he said.

"I am confident that I could stay a while at Bodhi Farm, or any other multiple-occupancy community in the Nimbin Valley, because it is very pleasant living.

"But whether I could do it for the rest of my life is something else.

"That is no reflection upon those enjoying this lifestyle, only a reflection of my own personality.

"So I am not going to interfere in any way with the freedom of people to make up their own minds about alternative living.

"And once they make up their minds to follow this lifestyle, I see it as one of my responsibilities to make their life as comfortable as I possibly can.

Mr Stewart said that as Minister for Local Government, he was not unduly worried about any particular aspect of multiple-occupancy development.

"There is plenty of middle ground for mutual co-operation in overcoming problems that might exist between the Lismore City Council and people living an alternative lifestyle in various parts of the Lismore district," he said.

But he conceded that there were certain matters which he wanted to 'discuss with various Cabinet colleagues, especially the Minister for Environment and Planning, Mr Sheahan'.

Issues to be raised with Cabinet include the recent Land and Environment Court decision dismissing demolition orders on two multiple-occupancy residences at Bodhi Farm, at The Channon.

Cabinet also will be asked to consider its position in respect to guidelines laid down for multiple-occupancy building standards in the low-cost housing booklet published by the Department of Environment and Planning.

The Lismore City Council has complained to the Minister that it was not issued with firm guidelines on building standards when multiple-occupancy was approved by a former Minister for Environment and Planning, Mr Landa.

Mr Stewart said that these were matters which would have to be resolved to 'reach some finality' regarding problems confronting the Lismore council.

"I will discuss the matter with Mr Sheahan from the point of view that it is now many years since multiple-occupancy was approved, and that it might be time to review what has happened to determine if there are any problems which were not envisaged, and which can now be rectified," the Minister said.

"What I will do now is use the last few years as a monitor for a review of Mr Landa's decision, not to alter that decision, but to identify any problem areas which should be tackled."

Mr Stewart said that his department had not conducted a review of the low-cost housing booklet.

"The booklet is being used as a bible here today by people who want to live by the housing standards it sets, or on the other hand, by those who decry it, saying it was never accepted by the Government as a policy document.

"I will be getting my department to have a detailed look at that booklet."

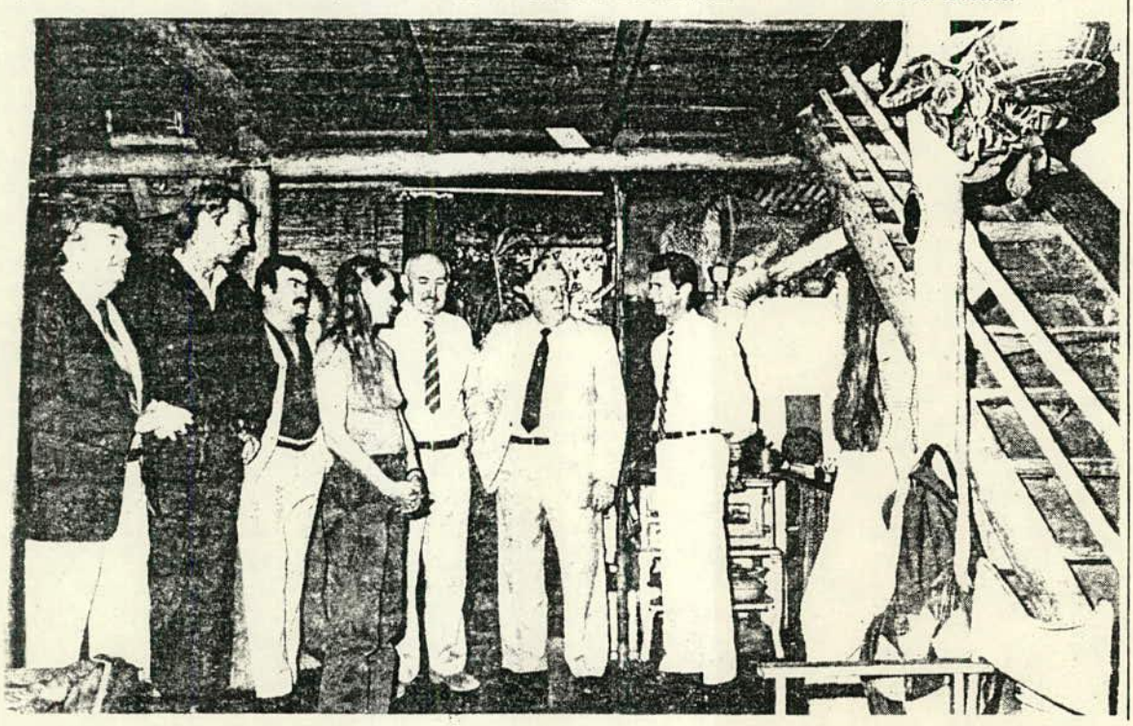
Mr Stewart also said the Government must adopt a general policy on multiple-occupancy development in New South Wales.

"There also must be a high proportion of acceptance and compliance with that general policy," he said.

"If there is mutual co-operation by all parties, then local government will be able to exercise more discretion where discrepancies arise."

The Minister and his party left for Murwillumbah in the afternoon for a series of meetings and inspections with the Tweed Shire Council.

BELOW: VIP visitors at Bodhi Farm, The Channon, yesterday when the NSW Minister for Local Government, Mr Stewart, inspected multiple-occupancy developments in the Nimbin district. Chatting with Bodhi farm residents are, from left, Ald R Scullin, Ald M Nicolson, Ald K Gallen, the Mayor of Lismore, Ald J Crowther, Mr Stewart and Ald D Greene.



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DRAFT OUTLINE OF A STATE ENVIRONMENT PLANNING POLICY (S.E.P.P.) FOR MULTIPLE OCCUPANCY

The following is submitted as an outline for an S.E.P.P. for Multiple Occupancy. Comments are added to convey reasons for support of the proposed clauses.

CITATION

1. This State environment policy may be cited as "State Environmental Planning Policy - Multiple Occupancy" (hereinafter referred to as "the Policy").

INTERPRETATION

2. In this Policy, except in so far as the control or subject matter otherwise indicates or requires -

"the Act" means the Environmental Planning and Assessment Act, 1979.

"Multiple Occupancy", means a group or groups of Class 1 and Class X Buildings on one allotment of land, and does not include any Class II or Class III buildings.

"home industry" and "home occupation" shall have the meanings given to these terms in the Interim Development Model Provisions, 1980.

"economically disadvantaged person" means a person who is in receipt of a Health Care Card or otherwise, by choice or circumstance, does not have an equivalently greater income.

AIMS, OBJECTIVES ETC.

3. The aim of this Policy is to:

(a) enable development for the purpose of Multiple Occupancy throughout the State so as to increase availability of this type of accommodation and to provide a wider choice of residential accommodation in rural areas;

(b) facilitate the establishment of Multiple Occupancy for socially and economically disadvantaged persons in particular;

(c) facilitate the growth of sustainable communities and the development of self-generating forms of livelihood;

(d) establish development standards which, if met, cannot be grounds for refusal of development consent.

Comment on Clause 3

(a) The Government's existing policy supports Multiple Occupancy on rural properties in common ownership as an appropriate form of settlement in rural areas, subject to a number of environmental and locational guidelines. (See Department of Environment and Planning (D.E.P.) Circular 44 introduced 3rd July, 1980, and brochure, "Multiple Occupancy on Farms: How it works").

(b) We support the existing situation where anyone is able to take advantage of Multiple Occupany policy in that it accommodates a wide range of possible lifestyles and has the pctential of meeting the aspirations of different income, age, and cultural groups.

(c) The need for this S.E.P.P. arises from the fact, that despite the Government's policy to permit Multiple Occupancy four years ago, only a handful of Councils do in fact permit Multiple Occupancy. Some Councils have recommended spot rezoning

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to permit Multiple Occupancy, but where this has happened, the process has usually been protracted and difficult from the point of view of the applicant. In the case of the Lismore Council, the legislation was implemented at the direction of the Minister. Some, but not all Councils it appears, in the preparation of their Local Environmental Plan (L.E.P.) are considering permitting Multiple Occupancy. (In most cases it seems that this has only happened by virtue of an s.117 directive from the Minister, that they do so). Where Multiple Occupancy is included in an L.E.P. and the relevant Council is favourably disposed to the introuction of same, it will on present indications take at least another year before such legislation becomes effective, and at the worst, is likely to take many many years!

(d) Meanwhile, there is a housing crises and many people have already been waiting years for Multiple Occupancy to be approved in their area. Many have been forced to construct homes illegally. It is not known how many people this amounts to, but it is conservatively estimated that there are some 60,000 people presently living, what is known as "an alternative lifestyle". (Metcalf 1984). It is our understanding that the bulk of these are resident in N.S.W. and that a substantial proportion of these are living in rural areas in illegal communities.

Such illegality in many cases is understood to disfranchise people from voting in local affairs as they are unable to declare their whereabouts, and, for the same reason they are disqualified from receiving the housing subsidy under the "First Home Onwer Scheme". We seek with your support, to redress this situation.

(e) **For these reasons we ask that an S.E.P.P for Multiple Occupancy be introduced as a matter of urgency.**

(f) In essence it is seen that this S.E.P.P. simply makes Multiple Occupancy a permissable appplication in rural areas and it remains but for Councils to approve, disapprove or approve with conditions, the apaplication in accordance with the other guidelines already laid down in Circular 44. This S.E.P.P. will, we submit provide a Statewide uniform application of the existing policy.

APPLICATION OF POLICY

4. This Policy shall apply to rural land generally, except where, with the approval of the Minister, the Policy will not apply to a delineated area contained therein.

Comment on Clause 4

(a) The general principle here proposed is that an application for Multiple Occupancy be permitted anywhere in a rural area, and that each case be considered on its merits. The policy adopted in the Byron Shire L.E.P. in this regard is proposed as a model.

(b) This procedure gives Councils, with the Minister's consent, the opportunity to set aside areas, where for good reason, Multiple Occupancy is not desirable, for example "broad acres" of special agricultural land. This process will place the onus on a Council to argue a case as to why Multiple Occupancy is not appropriate development in a particular area.

RELATIONSHIP WITH OTHER PLANNING INSTRUMENTS

5. This Policy prevails over any inconsistency between it and any other environmental instrument, whenever made.

CONSENT AUTHORITY

6. The Council of the Local Government area in which development for the purpose of Multiple Occupancy is to be carried out, shall be the consent authority having the function to determine an application relating to the development.

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Comment on Clause 6

(a) Alternatively the D.E.P. could be made the "Consent Authority" with right to delegate their authority to a Council either with or without a requirement for their obtaining the D.E.P.'s concurrent consent. Such a procedure would enable the D.E.P. to monitor the application of this Policy and deal with "grey" applications, that is those cases where there was some doubt that the application was for "bona fide Multiple Occupancy" as provided in Circular 44.

(b) If the alternative here proposed, is not adopted, and the original proposal stands, it is assumed that it is unnecessary to spell out that the Minister could override any decision, but, if there is any doubt about this, then a statement to this effect ought to be included.

WHERE DEVELOPMENT TO WHICH THIS POLICY APPLIES MAY BE CARRIED OUT

7. Development for the purpose of Multiple Occupancy may be carried out by any person or persons, with the consent of the Consent Authority on land referred to in Clause 4.

CIRCUMSTANCES IN WHICH CONSENT MAY NOT BE REFUSED

8. Development consent shall not be refused for carrying out development for the purpose of Multiple Occupancy provided that such development is in accordance with the provisions of D.E.P. Circular 44.

Comment on Clause 8

(a) As referred to above, this S.E.P.P. is not seen to change the application of any of the general policies in Circular 44 relating to conditions that may be attached to approval of an application. It would probably be advisable to restate in the S.E.P.P. the conditions etc itemised in Circular 44.

(b) We are concerned to see that this Policy does not create a loophole whereby defacto subdivisions become possible by developers whose sole motivation is personal profit. We seek to strengthen the present policy, as put forward in Circular 44, "that only bona fide Multiple Occupancy applications are approved." In this regard we see that there already exist adequate options open to Councils to ensure and police that Multiple Occupancy development is and remains bona fide land use. We submit that where a Council searchingly examines the credentials, motivation, history, prospectus or equivalent, profit distribution, process and staging of transmission of the decision making authority and nature of the core group of shareholders, that it will become apparent what is, or is not, a bona fide application within the spirit and letter of Circular 44. It may be prudent, however, for a monitoring period, that the D.E.P. be required to give their concurring approval.

(c) A further safeguard in this respect, can be provided by requiring, as a condition of approval, that the approval will lapse, if at the expiration of a stated period of time, other conditions, or development as applied for has not occurred. Such a practice would be analagous to a Building Application when corrective action can be insisted upon if construction is not in accordance with the approved application.

(d) We are not opposed to developers (here meaning land agents whose prime motivation is personal profit) as such, engaging in "group" or "cluster" housing or the like. In fact, we consider that such agents may have much to ofer by way of expertise and experience. Communities developed by such agents may come to be the "equivalent" of the communities that have self-generated over the past decade.

(e) As a safeguard against the misapplicatiion of this Policy by developers, we recommend that there be a (planning procedural) separation between "speculative (agent generated) community development" and, "owner-builder (self-generated) community development", the latter being Multiple Occupancy in the traditional sense.

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(f) When developm ent application is sought by a developer (as defined above) we recommend that the land in question must obtain a site specific "rural residential" zoning status. Such development could be required to meet similar situational and locational constraints as apply for Multiple Occupancy. Once the "rural residential" status was approved, strata titling would be automatically permissible under present legislation. As the concurrent approval of the D.E.P. would be required to obtain such a rezoning, it appears that this ought to provide adequate safeguard to prevent rampant speculation or development inconsistent with this Policy.

Mebbin Springs Development in the Tweed Shire is an example of a development opting to use the strata title system of land ownership.

(g) As stated in Clause 3, one of the aims of this policy is to facilitate the growth of sustainable communities and to this end to facilitate the development of self-generating forms of livelihood. The note to Policy 9 in Circular 44 states that "this clause is designed to prevent exploitation of the policy for ccmmercial purposes not associated with the alternative lifestyle of new settlers". While strongly supporting this policy we ask that the S.E.P.P. be worded in a way such that bona fide income generating schemes are not barred. In this regard land zoned Rural 1A appears would normally permit for example "home industries" but this may not be permissible use in land zoned Rural 1B. Making "home industry" and "home occupation" permissible use generally for Multiple Occupancy under this Policy would seem to be a minimum provision to give effect to Clause 3(c). To cover situations, unforseeable at this time, it is recommended that that Minister be given authority to make any appropriate decision in this regard.

(h) In regard to Councils seeking contributions under s.94 of the Act, we ask that this S.E.P.P. specifically recognises that (unpaid) labour and the like associated with the construction of community amenities, either on Multiple Occupancy land or any other land (e.g., a Pre-School in a local village) are valid contributions in respect to the application of s.94 contributions). We hold that s.94 contributions ought not be confined to a monetary payment. It is our experience that bona fide contributions in this regard are frequently made, but that their cumulative impact may not become visibly apparent for many years. While this may not lead to a black and white auditable contribution to the Council in the short term, any benefit of doubt we suggest, ought to reside with the application. In respect to Multiple Occupancy applications, in particular we ask that s.94 contributions be strictly in accordance with the spirit of Circular 23 (October 1981) as some doubt has been raised that Councils have always followed even the letter, of the provisions in this Circular.

(i) A departure from Circular 44 would be to provide recognition for "Experinment Building Areas". The provision of Ordinance 70 could be lifted from such areas. Such a provision could cater for those who wish to engage in innovative dwelling design, constructing, for example minimal shelter and allowing the "house" to grow organically depending on needs, availability of building materials and labour, and other circumstances. Plans could be submitted to Council, subsequently to provide a formal record. (Such plans would, in effect be a measured drawing of the constructed building). An inspection could be made at this time, and if the structure was found to be unhealthy or unsafe, then a notice could be issued of the work to be done to bring the structure up to a nominated standard.

(j) Provision for innovative design is not new. See for example procedure recommended in the "Low Cost Country Home Building" Handbook for load testing after construction. See also s.317m of the Local Government Act, which provides scope for Ordinance 70 to be set aside. (For comments by the Court on the appropriateness of the use of s.317m see Nicolson (Bodhi Farm) v Lismore City Council. Recognition of the need for "Experimental Building Areas" was first made by Mr. Paul Landa, then Minister for Planning and Environment, at the Hamlet Seminar in 1979. In consequence, five areas were established and the structures therein became the subject of intensive study by the Technical Assistance Groups who were engaged by the D.E.P. to produce the above mentioned Handbook.

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(k) It is further submitted that, even more important than recognition of innovative structural design, is, that there be recognition of, and opportunity for, innovative social experimentation in communal living. The issue of privacy for example, involving how close or how far one needs to be from one's neighbour usually needs to be tested by a trial and error process. Mobile homes, caravans and the like are extreme examples of structural solutions that facilitate such social experimentation. Such structures could, for example, "grow" into the components of an "expanded house". (See the Handbook for definition and an illustration of an "expanded house").

(l) Attention is drawn to the provision for "transitional group homes" in S.E.P.P. No .9 "Group Homes". This provision recognises the need for special dwellings for "socially disadvantaged people". "Extreme poverty" is given as one form of being "socially disadvantaged". While not suggesting that Multiple Occupancy develoment is addressing the same aim as that in S.E.P.P. No. 9, there is we suggest, some overlap in the principles and policy involved. In preparing a S.E.P.P. for Multiple Occupancy we suggest that this question merits further consideration.

DEVELOPMENT BY THE CROWN OR A PUBLIC AUTHORITY

9. The Consent Authority, in respect of an application made to it, to carry out development for the purpose of Multiple Occupancy settlement by the Crown, a public authority, or another person jointly with the Crown or a public authority:-

(a) shall not refuse to grant its consent to the application; and

(b) shall not attach any conditions to its consent to the application except with the approval of the Minister.

Comment on Clause 9

Development as recently proposed by the Land Commission, for example would be a case in point.

GENERAL NOTE

(a) The clauses in this draft have been drawn where appropriate from similar clauses in S.E.P.P. No. 5 - " Housing for Aged or Disabled Persons" and S.E.P.P. No. 9. - "Group Homes". The definition of "Multiple Occupancy" in Clause 2 is taken from the Handbook.

(b) Specific reference to rating in the above is deliberately omitted as it is held, in this context, to be outside the planning issue. This view is consistent with Policy 14 of Circular 44.

REFERENCE

Metcalf, W.J. & F.W., Varclay, Government Funding of Alternative Lifestyles: An Opinion Survey. Report to the Commonwealth Department of Education and Youth Affairs. Griffith University, Brisbane 1984.

Dave Lambert,
Secretary, RURAL RESETTLEMENT TASK FORCE
PO BOx 62, NIMBIN 2480 (066) 89 1430 - 9th August, 1984

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RURAL ADJUSTMENT TASK FORCE

Nimbin 'droogs' may be kibbutz founders

In Nimbin, in what has become known as the rainbow region, the lush strip between the coast and mountains of northern NSW, a new import of unemployed people are known as "droogs".

Eleven years after the Aquarius Festival prompted hundreds of people to start communes in the area, some of the older and often middle-class "hippies" are displaying similar prejudices to the farmers and townspeople, who first objected to their presence.

But it is these unemployed people, unable to buy shares in the established communes, who could be candidates for the kibbutz-style farms that the Prime Minister, Mr Hawke, touted at the International Labour Organisation convention in Geneva last year.

And in an unusual turnaround, governments and even some councils are listening to the advice of the original commune-dwellers.

Rather than putting Mr Hawke's idea on the shelf, the Federal, NSW and other State governments are actively looking at the proposal to create such "hamlets", as they are known in Nimbin-speak, or "sustainable rural communities" in government-speak, as one way of tackling unemployment.

Much of the success of these new-style communes hinges on local government attitudes to multiple occupancy – community-style development on farm or bush land by people who have pooled their resources.

Many of the people who support the concept of communes are lobbying the NSW Government to issue a State Environment Planning Policy to allow multiple-occupancy development throughout the State, which would mean greater flexibility in the number of houses that could be built on a piece of land.

It is this principle that shire councils, particularly on the coast, are attempting to come to grips with.

The councils want to ensure they can still receive the rates owing to them and have a clear idea of what their obligations are in regards to roads and services.

In the meantime, the Federal Government is looking at legal aspects to ensure more flexibility by local and State government in this area.

One body that is actively involving itself in the concept of settling unemployed people and pensioners on the land is the NSW Land Commission.

A group of Nimbin people, who call themselves the Rural Resettlement Taskforce, approached Landcom last year about setting up a multiple-occupancy pilot project.

The department last year considered a 165-hectare project on the Richmond River, which was good agricultural land and cheaper than the mountainous but popular Nimbin area.

The property purchase fell through when the Kyogle Shire decided to allow multiple occupancy only in the east of the shire, towards the Terania Creek region.

Landcom is presently looking for other land that might be suitable and its study on the policy issues involved, to be issued soon, investigates what role it could have in this form of development.

A member of the taskforce, Mr Dave Lambert, lives in a house he built at Lantana Island part of one of the first communes in the Nimbin area.

He grows fruit and vegetables on his land but said many people relied on pensions and unemployment benefits. Some people on other Nimbin communes worked in Lismore, about 45 minutes away by car.

But it is almost impossible for new people to buy shares in these communes – even if they had the money. And it as equally difficult to get out of them.

In most cases shareholders are not allowed to sell their houses if they decide country life is no longer for them, even though they may now be worth about $40,000.

One woman who put up 10 candidates to replace her on her commune has still not had one accepted by the community.

Mr Lambert said about 200 people, including skilled tradesmen, teachers and nurses, showed interest in the Landcom scheme in the first week it was mooted.

The idea was that after Landcom found the land, approved applicants could buy shares of about $5,000 each. Landcom saw the availability of the first home buyer grant, worth about $7,000, as crucial for the success of the project.

The houses would have been in hamlets, built by individuals and they would have been able to sell them. They also would have had a testing period before buying a share.

Mr Lambert thought that these communes would become better accepted when locals came to see the financial benefits of getting 200 extra people into the area, as the locals of the once-dying Nimbin had discovered.

Mr Terry McGee found Tuntable Falls around the time of the Aquarius Festival.

Now living and working at the Nimbin Bush Factory, a butter factory converted into a media/arts centre, he acts as a consultant helping establish 1984-style communes or hamlets. He finds the properties and the people to buy shares and form a community as well as negotiating with the council about roads, water and services.

According to Mr McGee the safest approach from the Government if it is to become involved in establishing communes is to help groups of people, who have gained council approval for a particular property.

Since Mr Hawke's initial statements several Federal Government departments have been looking at the whole question of "local employment initiatives" – aimed at long-term employment and ways to change legislation that could impede these sort of projects.

The assistant secretary of the youth programs branch of the Department of Employment and Industrial Relations, Mr Nick Schouten, said: "All the legislation is geared to the traditional way of doing things."

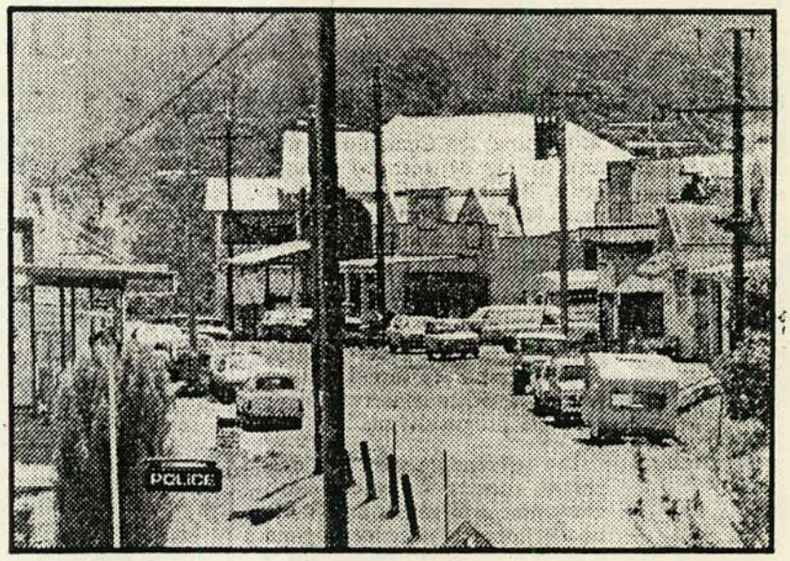
For example, the Department of Social Security was investigating whether the money earned by a commune-dweller may impinge on his social security benefits, or whether an unemployment recipient on a commune was breaking the rules because he was not actively looking for work.

Community attitudes also needed to be tackled – one of the reasons why the first Landcom experiment did not work.

Although the Government has been inundated with information it hasn't yet decided whether it will assist or not and there is no program of support in the next Budget.

A lecturer at the Northern Rivers College of Advanced Education, Mr Maurie Ryan, sees the most likely candidates of the government-backed communes as rural children rather than the hard-core unemployed city children.

He said that many retired farmers had said they would love to become involved.



Nimbin, in the "rainbow region" ... newcomers find it difficult to buy shares in established communes.

The Sydney Morning Herald, Monday, July 16, 19

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'Viable' commune scheme released

Despite extraordinary legal, financial and planning constraints, communal lifestyles have increased in popularity in the Far North Coast in the past 10 years.

This, in turn, has become a nagging headache for local government councils such as Tweed, Byron, Lismore, Ballina and Kyogle.

These councils are operating without established formal planning controls permitting multiple-occupancy developments.

In an attempt to overcome problems created because of government policy lagging behind the demand for multiple occupancy, the Nimbin-based Rural Resettlement Task Force lobbied the State Government to request that the NSW Land Commission establish a pilot multiple-occupancy project on the North Coast.

The Minister for Housing, Youth and Community Services and Aboriginal Affairs, Mr. Walker, supported in principle the establishment of a pilot project by the Land Commission and he requested the preparation of a feasibility study into all aspects of implementing such a project.

A multi-disciplinary team of 'Sustainable Settlement Planners' was hired to investigate the feasibility of 'sustainable rural communities that offer a viable alternative lifestyle'.

The team consisted of a project co-ordinator and planning adviser, Mr. Rob Doolan, of the Byron Shire; an engineer, Mr. Denis Fulford, of Bangalow; a market analyst, Mr. Bob Hirst, of Sydney; an education program planner, Ald. Mac Nicolson of the Lismore City Council; solicitor Mr. Tony Pagotto, of Lismore; and a financial analyst, Mr. Shann Turnbull, of Sydney.

Social aspects

Their report, covering the social aspects of community formation, planning considerations, legal issues, financial structures and Government policy initiatives for multiple-occupancy developments, has been released.

According to the report, multiple-occupancy generally refers to the co-operative purchase and shared use of rural land. It involves a number of purchasers combining their financial resources and, by whatever legal means they choose, becoming joint owners of a single land parcel.

An understanding is adopted by multiple-occupancy dwellers that property management and maintenance responsibilities, including establishment and running costs, are shared by the owners in a co-operative manner rather than as individuals.

The advantages of this type of lifestyle relate to cost as well as social cohesion. The report states that the purchase price of shares in multiple-occupancies relates directly to the land cost and number of shareholders.

Share prices

Surveys of existing communities show that the shares range from $4000 to $10,000, depending on location — generally based on their distance from the coast.

While comprehensive statistics on multiple-occupancy in North-Eastern New South Wales are not available, the planners estimate that there are about 96 multiple-occupancies in the Richmond/Tweed sub-region, covering an area from Tweed Heads to Ballina and Kyogle.

In the absence of any provision within the local councils' planning guidelines to permit multiple-occupancy as a legal form of land tenure, 34 of the 96 communities are legal, and the remaining 62 are illegal. It was estimated that in total, 1500 people were living on these properties.

These developments have led to a major Federal Government involvement in investigating the potential role of rural self-sufficient communities in response to a continuing trend of long-term unemployment.

In their feasibility study, the planners recommend that the Land Commission should purchase the land, obtain the appropriate zoning and development approvals, develop the land to a basic standard, then sell the land to a formally-constituted corporate organisation.

Cheap land

They say that the project should make land available at the lowest practicable price to people seeking ownership in a rural multiple-occupancy lifestyle.

The report recommends training, management and selection programs and skills workshops to assist the success of the communities.

The skills workshops would include training in consensus decision-making, communications, legal management, house design, survival skills, permaculture, soft technology, fire prevention, child-care, mechanics, tool-making, animal husbandry and small business management.

In considering the selection process for the communities, the planners investigated a number of existing communal farms.

They found that a common mistake among a group of friends who had formed a community was to assume that there was no need to set out a clear management and legal structure with an agreed-upon decision-making process from the outset.

The planners recommended that an initial small number of people establish a core group which then selects the remainder of the community, according to common ideals and aspirations, skills and age.

Hamlet groups

From the community, hamlet groups of about 20 people would be established, with each hamlet having autonomy over a particular section of residential land, while common land, agricultural land and wilderness would be managed by the community.

New members would be chosen from a waiting list according to certain criteria, and would be required to spend six to 12 months on the property before being accepted as a shareholder, in a two-way process to assess compatibility.

While the communities are aimed at catering for young, unemployed people, it is recommended that a cross-section of people of all ages, skills and experience be participants.

It is unlikely that any significant income would be derived from the communities in the formative years, and the planners see unemployment benefits and other Governments benefits being the staple source of income initially.

They see the community development as having permanent positive effects on the economy of the locality by way of increased use of service facilities.

The planners recommend that no single State or Federal agency co-ordinate multiple-occupancy. Planning issues, finance and legal issues would be dealt with by individual agencies.

As an initial policy change, they recommend the enactment of a 'Community Titles' Act, and amendments to the Companies Code.

They envisage a 'Community Titles' Act would enable the issuing of separate titles to participants in the project for land occupied exclusively by them.

Secure tenure

This would enable individual participants to freely mortgage their 'title' or 'interest' and would provide greater security of tenure.

Briefly, land tenure arrangements for the community would include freehold title to all the land occupied by the community, mortgages and selling of land only on a consensus basis, and leases for all land privately used or occupied.

For the individual, arrangements include decision-making voting rights for permanent members over the age of 18; home-owners may obtain a pro-rata share in the community's land and a lease over their home site; home-site leases would qualify for First Home-owners Scheme grants; home-site leases would provide adequate security for conventional housing loans.

Home-site leases could be sold at any time at any price, but shares associated with the lease must be purchased from the community.

This would allow the community to control entry and to capture back the capital gains created in the community to pay off any community mortgage and create buy-back reserves. It also allows the home-owner to capture back the cash and 'sweat' equity invested in the home-site.

The planners detail arrangements that can be made to provide publicly available private-sector finance on normal terms without any special Government intervention.

The report details a workable legal structure for multiple-occupancy projects, considering an individual's security of tenure and equality between members of the community to be of principal importance.

The planning adviser for the Sustainable Settlement Planners, Mr. Rob Doolan, said that the multiple-occupancy study was 'potentially one of the most constructive initiatives that any government could undertake with current changing trends in employment and household formation patterns'.

Embryonic stage

"We acknowledge that considerations for multiple-occupancy still are at an embryonic stage, but the only way to assess the success of this form of lifestyle is to give it a realistic chance," he said.

Mr. Doolan said that, traditionally, governments had addressed major issues of unemployment and housing independently.

"Our study addresses many issues at the same time at little cost to the Government," he said.

"The study was modelled on existing successful communities that have been operating for 10 to 15 years, and which grew, despite enormous constraints and opposition.

"This is a positive step in alleviating problems associated with unemployment, housing and alienation. There are few choices left."

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QUOTATIONS

"We in the established conventional community should not perceive a recognised and assisted minority alternative community as any threat. On the contrary, it would be infinitely more likely to contribute to a harmonious society than the burgeoning of a disaffected body of unemployed to whom society feels it has discharged its obligation by the signing of a dole cheque".
(The Hon. R. Hawke, A.B.C. Boyer Lecture, 1979)

"I hope that by the inclusion of these provisions in the (F.H.O.S.) legislation, we will be helping Muptiple Occupancy homebuilders significantly. It is the Government's intention that though the First Home Owners Scheme as many eligible people as possible will be assisted into home ownership".
(The Hon. Chris Hurford, Minister for Housing & Construction, 17 October, 1983).

"Multiple Occupancy is recognised by the State Government as an appropriate form of home ownership and the former Planning and Environment Commission issued Circular 44 to encourage it as a permissible use in rural areas".
(The Hon. F.J. Walker Q.C., M.P. Minister for Housing, 27 January, 1984)

"...the Land Commission has had to discontinue its interest in the Mt. Lindsay property as a pilot Multiple Occupancy project. This was due to the fact that Kyogle Council, after public meetings decided to only permit Multiple Occupancy in that part of the shire known as Old Terania. This area does not include Mt. Lindsay".
(Land Commission, 21 May 1984)

"You may be assured that the Government appreciates the need for various forms of housing including the provision of low cost housing".
(The Hon. T. Sheahan LL.B., M.P. Minister for Planning and Environment 2 July, 1984)

"I will discuss the matter with Mr. Sheahan from the point of view that it is now many years since Multiple Occupancy was approved, and that it might be time to review what has happened to determine if there are any problems which were not envisaged, and which can now be rectified."
(The Hon. K. Stewart M.P. Minister for Local Government, 3 August, 1984)

"Latest estimates by university researchers are that there are in excess of 60,000 people presently living what has been known as an alternative lifestyle. A substantial proportion of these people are living illegally and the reason for this lies squarely at the doorstep of the three tiers of government . . . Only some 8 shires on the entire east coast of Australia presently permit this form of land tenure (called Multiple Occupancy)".
(Scott Williams, "Sustainable Rural Resettlement: The Report". Aust. Rural Adjustment Unit, University of New England. Armidale, 1984)

f/our copy.

RURAL RESETTLEMENT TASK FORCE,
P.O. Box 62,
Nimbin,
2480.

19.9.86

Mr.Lyall Dix,
Chief, Land and Building Branch,
Department of Local Government,
8-18 Bent St.,
SYDNEY.

Dear Lyall Dix,

I enclose a copy of a staff report to the Kyogle Council on "Unauthorised Buildings - Legal Options", April 7, 1986, (this report contains advice from the consultant solicitors), and a further report of June 16th., recommending the issueing of demolition orders under s.317B(1A).

First we would note that the Solicitors in our opinion, have not drawn attention to the various options contained in s.317B viz that Council "may" order demolition, or it "may" order the doing of 'such work as is necessary to make the building comply with the Act', or the Council "may" choose to take no action. Further that under s.317A Council may invite an application for a "Certificate of Compliance" and use their discretion where there may be variations from the requirements of O.70.

We believe the above to be consistent with your statements to the Lismore Council and presume also, at the meeting of Building Surveyors in this region in March this year, ie prior to the Kyogle report of the 7th April!

Second in the report to Council "four types of legal action" have been identified. Item 2(b) in our view contains two contary options, which have here been lumped together!! In addition no mention is made of s.317A as a possible further option!! In view of the inadequacy of this report a councillor in our opinion, may be excused for believing that no other options are available and support the recommendation (of June 16) that demolition orders be issued.

Further no mention is made for the edification of councillors, of the statement by the Minister for Local Government viz.

> "I agree that demolition orders should only be used as a last resort. Also that rectification of buildings should be sought by councils on as cooperative a basis with owners as is practical." (Reply of 25.9.85 to the R.R.T.F. on the question of the use of s.317B(1A).

(Details of this statement were made by us in our submission to the Woodward Inquiry into M.O. in the Tweed in December 1985, and a copy of same given to the Kyogle Council.)

Further in the Council report of April 7 the statement is made "...that retrospective approval is not strictly legal, despite this however it may be the fairest procedure, as long as the people involved are prepared to go along with it." This we see to be a wholly improper recommendation by the staff (which was

accepted by Counci), in that it appears to be ultra vires as there is an ulterior motive and may be read as "inviting collusion".

The above, to us improper use of demolition orders, is not confined to the Kyogle Council. Tweed Council for example, in their submission to the Woodward Inquiry stated that "...under current legislation it is necessary to demolish all illegal work".

We wish to emphasise that we are not opposed to the application of demolition orders as a last resort. Our concern is that all possible options are understood and explored before resorting to the demolition option. We hence see the need for an advisory note (as a State wide uniform reference) for the education of:

* councillors and aldermen,
* council staff,
and * the public generally and applicants in particular.

To this end we recommend that a B.R.A.N. be issued on the options available re illegal structures and that demolition orders be issued as a last resort only.

Thanking you in anticipation.

Yours faithfully,

.....
Dave Lambert, Secretary.

Anderson-
to lane;
130; Cam-
12 acres
street; Day-
and Railway
to Whitton-road;
lot 5, and lots 6
Millwood-avenue;
south side, Lane
road, Thomas-
lot 1, section 2.
and Stan streets,
132 feet south of Stan-
side, at intersection of
2 acres 1 rood 29½
side, lots 34 to 42 Royal
inclusive, Aussies'
to 75 Royal Park Estate;
avenue to Middle
Windsor-street to Middle
Lucknow Estate; French's-
street, Laurel street; Lyle-
lots 16 and 17, Firgrove
lot 13, 17, section 4, and
Park Estate; McClel-
road, Oakville-street; Pens-
road, Short-street; Smith-
Victoria-avenue; Warrane-
Boundary-street; Willoughby-

Miller-road, part lot 390, Gov-
southern half); Atchison-street,
Estate; Broughton-road,
road to Rimmington-street
line from west side of Rimming-
road thence along Milner-road to
Clandos-street; Christie-street;
Frederick-street; Hampden-road;
parade; Lane Cove road;
section 25, and lot 35, section
Mowbray-road, south side, Wil-
Northcote-street; Northcote-street,
Largan's Grant; Reserve-road;
Sharne-street; Herbert-street to
street, lot 31, section 10, Gore
Willoughby-road.

SCHEDULE "B."

Prohibited Buildings, Trades, &c.

for the purpose of the following trades, manufactures, shops, or places of public trades, businesses, or manufactures noxious trades within the meaning Trades Act, 1902, and also the from foundries and works, dairies, saw brickworks, potteries, lime and cement coal depots, tanneries, boiling down, steam laundries, public garages, livery stables, hotels, picture theatres, fac-

[3082]

Premier's Department,
Sydney, 25th November, 1921.

Excellency the Governor directs it to be notified that he is in receipt of advice from the the Netherlands to the effect that he will go on an official mission to the Netherlands on the 30th instant, and that during four months' absence Mr. H. J. Secretary to the Consulate, will be in

JAMES DOOLEY.

APPOINTMENTS.

OF THE ATTORNEY-GENERAL AND OF JUSTICE.

Excellency the Governor, with the advice of the Council, has been pleased to appoint

James Budd, to be Deputy Licensing Magistrate of the Licensing Court for the Licensing District of Murwillumbah, to act only during the absence of the Licensing Magistrate, for a period not exceeding twelve months,—from the 30th November, 1921.

The undermentioned gentlemen to be Deputy Licensing Magistrates of the Licensing Courts for the Licensing Districts preceding their names, to act only during the absence of the Licensing Magistrates, for a period not exceeding twelve months,—from the dates specified, viz.:—

Bega—Mr. Daniel Capel, J.P.,—from the 14th December, 1921.

Bellingen—Mr. William Maitland, J.P.,—from the 30th November, 1921.

Bulli—Mr. Henry Robert Buttsworth, J.P.,—from the 22nd November, 1921.

Bulli—Mr. Edwin Dodge, J.P.,—from the 2nd December, 1921.

Dungog—Mr. George Blomfield Waller, J.P.,—from the 9th December, 1921.

Hillston—Mr. Owen Moore Thomas,—from the 3rd December, 1921.

Macleay River—Mr. Edward Patrick Noonan, J.P.,—from the 24th November, 1921.

Nambucca—Mr. William Patrick Murray, J.P.,—from the 1st December, 1921.

White Cliffs—Mr. John Holbrook Turner,—from the 1st December, 1921.

Wollongong—Mr. John Australia Mayo, J.P.,—from the 24th November, 1921.

The undermentioned members of the Police Force to exercise within the Licensing Districts preceding their names the authority conferred by section 63, subsection 1 of the Liquor Act, 1912,—from the dates specified, viz.:—

Molong—Constable Ignatius Harold Brogan, stationed at Cargo,—from the 3rd November, 1921.

Scone—Constable Patrick Francis Mullins, stationed at Scone,—from the 8th November, 1921.

Murwillumbah—Constable John Dominic Kerr, stationed at Mullumbimby,—from the 4th November, 1921.

Mudgee—Constable Ernest Brodie, stationed at Mudgee,—from the 4th November, 1921.

Newcastle—Constable George Edward Carter and Constable Sidney Frederick Rochester, stationed at Wallsend, from the 1st November, 1921.

Manning River—Constable William Lindsay Creswell Alford, stationed at Taree,—from the 2nd November, 1921.

Deniliquin—Constable Oliver George Keen, stationed at Wanganella, from the 5th November, 1921.

Moama—Constable George Haddock Brown, stationed at Mathoura,—from the 7th November, 1921.

W. J. McKELL.

DEPARTMENT OF LOCAL GOVERNMENT.

APPOINTMENT OF BUILDING REGULATION ADVISORY COMMITTEE.

His Excellency the Governor, with the advice of the Executive Council, has approved—

(1) of the following gentlemen being appointed as a Building Regulation Advisory Committee:—

James Peddle, Esq., F.I.A., Institute of Architects;
Robert White Pickering, Esq., F.I.A., Institute of Architects;
Edward Harman Buchanan, Esq., President, Master Builders' Association;
Finlay Elgin Munro, Esq., Vice-president, Master Builders' Association;
William T. Sturgess, Esq., member of the Carpenters and Joiners' Amalgamated Federal Council;
Lionel Thomas Courtenay, Esq., President, Local Government Association;
Albert Robert Bluett, Esq., Secretary and Solicitor to the Local Government Association;
Thomas Glassop, Esq., Secretary, Shires Association;
John Sulman, Esq., F.R.I.B.A., President, Town Planning Association;
Walter Pearson Young, Esq., President of the Health Inspectors' Society;
William George Armstrong, Esq., M.B., Acting Director-General of Public Health;
Professor Leslie Wilkinson, Professor of Architecture, University of Sydney;
John Garlick, Esq., Under Secretary for Local Government (Chairman).

(2) that the functions of the Committee shall be—

(a) to consider proposed amendments of the Ordinances under the Local Government Act relating to building, and to recommend whether or not they shall be made;
(b) to consider new methods of building construction submitted to it, and advise whether or not such new methods should be permitted as an experiment or for permanent use, and if necessary to recommend amendments of the Ordinances so as to provide for such new methods;
(c) to advise Councils in the matter of architectural design if plans are submitted to it;
(d) to advise, and if the Committee think fit, to express an opinion upon any matter arising under the Building Ordinances submitted by or with the concurrence of the Council.

C. CANN.
Minister.

Department of Local Government,
[illegible] [3110]

New South Wales Government

Department of Local Government

8-18 Bent Street, Sydney
G.P.O. Box 5339, Sydney, N.S.W. 2001
Sydney Document
Exchange No. DX22
Telegrams: DELOGO
Telex: STAWORK AA21708
Telephone: (02) 231 0922 Ext.: 4710.

Our reference: F83/2748B

Your reference:

29 JUN 1987

The Secretary,
Rural Resettlement Task Force,
P.O. Box 62,
NIMBIN. N.S.W. 2480 94.

Dear Sir,

RE: Building Regulation Advisory Note No.102 and effect of Building Code of Australia (B.C.A.).

I refer to your letter of 2/4/87 and advise that the B.C.A. has not excluded "mezzanine" from being counted as a storey. Hence the general application of storeys throughout the Code includes "mezzanines". This includes "room sizes and heights".

The "performance" requirements for weatherproofing of roofs and walls does not require that a building actually have walls.

It should be noted that the B.C.A. is in draft form and the problems noted are proposed to be considered by the Australian Uniform Building Regulations Co-ordinating Council (A.U.B.R.C.C.).

Any further advice and enquiries may be personally addressed at the proposed meeting with yourself on 7/7/1987.

Yours faithfully,

L. DIX
for Secretary.

Dave

RRTF

2.4.87

Mr.L.Dix,
Manager, Building Branch,
Dept. of Local Government
8-18 Bent ST.,
SYDNEY

Dear Lyall,

I enclose for your information copy of report by Sherring on BRAN 102, Councils resolution on this matter and a report in the N.S. (The latter report is a very fanciful coverage of what Council resolved viz. there was in fact no resolution to protest to the Dept. of Local Govt., or to test in the Land and Environment Court, or inform the Minister of its feelings, or take the matter up with the L.G.S.A.!!!)

Personallly I consider Sherring in his position as Senior Healt Surveyor, has ill advised Council in this matter. We do not seek however, to take action to redress the situation at this time, but propose to raise it at the next meeting with your Branch.

I do have concern however, in respect to the Aust. Draft Building Code. My reading of this is that it does not clearly recognise or provided acceptance of the views expressed in BRAN 102.

Perhaps I am not reading the Draft correctly. If so I would be obliged if you would indicate where and how the Draft Code will specifically permit the application of the issues dealt with in the BRAN?

Depending on your reply, I look to writing to AUBRCC in support of the view that "performance criteria" should prevail in this matter.

I would be grateful if you would advise me, if at any time AUBRCC proposes to change the Draft Code in such a way as would adversely limit the views expressed in the BRAN.

I also enclose for your information, a copy of our letter to Mr.N. Wran in his capacity as Chairman of the C.S.I.R.O. (This has been presented to him personally by one of our members).

I shall advise you of the outcome of this communication. In the meantime any suggestions you may have of other ways of finding a solution to these problems, would be appreciated.

We have received from Stewart West M.P., literature on the Government's involvement in the International Year of Shelter for the Homeless. As you may be aware, this includes a number of research projects directed to producing shelter affordable to all. (No funds however, have been allocated to address the above problems!).

If there is anything you can do yo lend weight to having funds being made available to a suitable body (eg CSIRO, a university dept., Concrete Association, AUBRCC etc.) for research in these matters, this would be much appreciated. (It seems to me such work would be particularly appropriate in the I.Y.S.H.!).

Thanking you in anticipation of your reply.

Kind Regards,

GH.

Dave. Your file

27.11.87

The Hon. Janet Crosio MP.,
Minister for Local Government,
8-18 Bent St.,
SYDNEY, 2000

Dear Minister,

To prevent the penetration of termites into homes it is a wide spread practice for councils to require that a toxic substance be applied on the ground that is to support a concrete floor slab. Some councils even require that such substances be mixed into the concrete! Such substances include Aldrin, Dieldrin, Chlordane, Heptachlor and 245T.

It is our view on the evidence, that this practice is a health hazard and ought to cease forthwith.

We wrote to your former colleague, the Hon. Neville Wran QC, in his present capacity as Chairman of CSIRO to see if this Organisation had a non-toxic alternative treatment.

I enclose a copy of his reply in which it is stated that they do not have a safe chemical treatment and offer as a design solution, that all timber in a house be treated with an approved preservative. We do not consider this to be a satisfactory solution to the problem.

The report goes on to say that "alternative treatments need to be developed in order to phase out the widespread application of chlorinated hydrocarbon insecticides". We whole heartedly support this statement.

In respect to your jurisdiction under the health and building provisions of the Local Government Act, we ask if you are agreeable as matter of policy, to phase out the use of chlorinated hydrocarbon insecticides for the treatment of termites under buildings, at the earliest possible time?

Thanking you for your consideration in this matter.

We look forward to you reply at you earliest convenience.

Yours faithfully,

.....
Dave Lambert, Secretary.

Dave

27.11.87

Mr. L. Dix,
Land and Building Development Branch,
Dept. of Local Government,
8 Bent St.,
SYDNEY. 2000

Dear Lyall Dix,

1. As discussed I enclose copy of reply from The Hon. Neville Wran QC, Chairman of CSIRO, in responce to our inquiry about the non-toxic treatment to control termites under slabs on the ground and the control of lyctus borer in bamboo.

With respect to the treatment of termites, you will see that the CSIRO has no solution at this time, other than advice "to treat all construction timbers with an approved preservative". We do not see this to be an adequate solution to the problem.

It seems to us that the use of clorinated hydrocarbon insecticides in this situation should cease forthwith and that the Dept. of Local Government should, on health and building grounds take whatever steps are necrssary to bring about a termination of this practice. In addition we ask is it possible for the Department to encourage or otherwise support (perhaps financially) a research project specifically directed to solving this problem within a given time span?

I enclose for your information, a copy of a letter to Dr. H. Greaves of the Division of Chemical and Wood Technology, CSIRO, seeking more detailed information on this matter.

Anything you may be able to do to assist would be greatly appreciated and any suggestions you may have which we could follow up, would likewise be appreciated.

2. I enclosed copy of letter from the Kyogle Council and press cutting on the question of costs associated with illegal dwellings, and the status of illegal buildings on M.O.'s in the Tweed Council area, for your information.

Yours sincerely,

DL per DN

.....
Dave Lambert. Sec.

NEW SOUTH WALES
MINISTER FOR LOCAL GOVERNMENT
MINISTER FOR WATER RESOURCES

37th Floor
Legal and General House
8-18 Bent Street
Sydney, N.S.W. 2000
Telephone: 221 3244

10 DEC 1987

0592F
RML 1773

Mr. D. Lambert,
Secretary,
Rural Resettlement Task Force,
P.O. Box 62,
NIMBIN. N.S.W. 2480 94

Dear Mr. Lambert,

I am writing to acknowledge receipt of your recent letter concerning the practice of spraying toxic substances on ground that is to support a concrete floor slab.

I shall be in touch with you again regarding this matter as soon as possible.

Yours sincerely,

(JANICE CROSIO)
Minister for Local Government,
Minister for Water Resources and
Assistant Minister for Transport

RECEIVED
1 OCT 1985

Item (c), (d) and (e).

I note the situation mentioned on pages 3 and 4 of the Judgment of the Court which indicates that the Council purported to "approve" a building application in respect of buildings already erected. As the Judgment points out such action is contrary to the provisions of section 311 of the Act.

The Council's attention is also invited to the terms of the orders issued by it, as referred to in the Judgment, under section 317B(1A) of the Act and to the Court's views in Ex parte Australian Consolidated Press Ltd.; Re Harris (1960) 7 L.G.R.A. 247, that section 317B(1) contemplates a clear, positive, unambiguous and self-contained order which can be obeyed by the owner, or, if not so obeyed, executed by the council without any election or further decision being made under or pursuant to the order either by the owner, if obeying the order, or by the council, if executing it on disobedience by the owner.

It appears that the orders issued by the Council provided the owner with two options, either demolish or carry out certain specified work, and, as indicated above, options in such orders are clearly undesirable.

From the above points of view, I do not agree that the Council's requests were reasonable in that they were not authorised by law, when imposed at the building application stage, and included as an alternative at the section 317B(1A) stage.

With regard to the actual terms of the conditions of building "approval" and the orders for work to be carried out, it is the view of my Department that Ordinance No. 70 does not specifically require walls to be provided but where they are, they must comply with the provisions of clause 47.1(2) and be rain and waterproof.

With regard to mezzanines, my Department considers that mezzanines are not specifically regulated in dwellings and no minimum height either above or below the level of the intermediate floor is prescribed, nor does the Ordinance specify a percentage of a room's floor area which may be covered by a mezzanine floor.

My Department's view is that clause 49.5 is principally intended as a control in respect of the height of rooms with recognition, in subclause (2), for a reduced height in the case non-perpendicular walls and sloping ceilings.

29 August 1989

The Minister for Health
Health Dept. of NSW
McKell Building
Rawson Place
Sydney 2000

Dear Minister,

Burial on Private Land

It has been suggested to us that certain persons are preparing to argue that the possibility of burying the bodies of deceased persons on private land should be restricted or removed altogether.

Our organisation regards the right to carry out burials in accordance with the current Regulations as quite important. Thus we request that if your Department is considering such a case, that we be invited to make a submission to you on the matter.

Yours faithfully,

Dave Lambert

cc: Minister for Local Government
Council for Civil Liberties
Keith King, Lismore City Council