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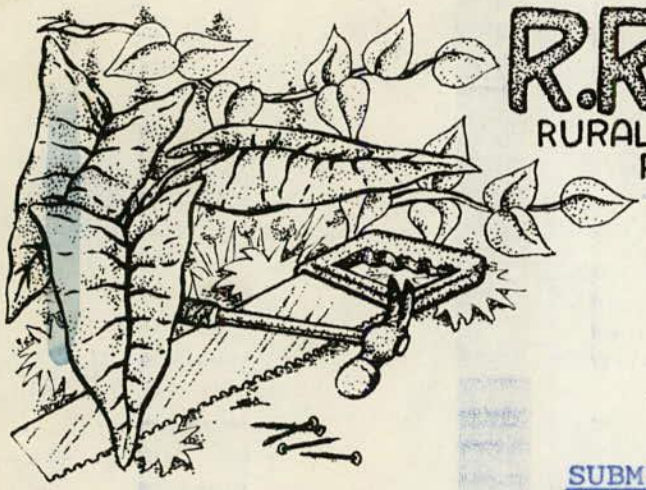


R.R.T.F.

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

SUBMISSION BY THE

RURAL RESETTLEMENT TASK FORCE

ON THE

Draft STATE ENVIRONMENTAL PLANNING POLICY -
Dwelling Houses in Rural Areas (Multiple Occupancy)

(27 Sept. 1985)

1.0 The Association welcomes the long awaited release of the Draft Policy and hopes that the final gazettal and implimentation of the Policy will occur as soon as possible.

1.1 In general terms we support the broad Policy Objectives of the Draft in that it should enable Multiple Occupancy (M.O.) to occur in many areas of the State subject to strict environmental assessment. A number of comments specific to certain clauses of the Draft Policy follow. Our submission on Lismore Council's Rural Strategies Study is appended as a response to some Council suggestions that M.O. should be restricted to a miniscule portion of their Shire.

2.0 Clause 2. Aims, objectives, etc.
In Clause 2(a) delete "to be occupied as their principal place of residence".

Comment
What is gained or achieved by insisting on it being the "prinicipal" place of residence? How would council monitor this? A member may wish to study overseas for say two years; should this act disqualify the member from still being a member of an M.O.? Parents for example, may wish to take up a share, but not wish to reside until retirement or death of a partner. Any notion that this might mitigate against an agent developing solely for profit is hardly likely to be water- tight.

2.1 Clause 2(b) to read: "to enable people, and in particular the socially and economically disadvantaged, to...."

Commentv
The aims and objectives should be strengthened by giving recognition to the "social" and "communal" aspects, along with the economic aspect, motivating this Policy!

2.2 Clause 2(d) to read: "to facilitate development of self generating forms of livelihood, and, to create opportunities for an increase in rural population in areas which are suffering or are likely to suffer from a decline in services due to population loss , and, to create oppurtunities for cultural diversity.

Comment
The aspect of "self help" needs to be acknowledged and facilitated. M.O. we submit, is sought because it is a practical, rewarding and challenging alternative to urban life. The aims of this Policy would be better directed to "quality of life" than attempting to fill underutilised services!

3.0 Clause 3(b). Excluded Land
For clarity we here break up the excluded land schedule into two parts viz. Part A, being the first four items ie. land under the N.P.W.S. Act, Crown Lands Act and Forestry Act, and Part B, being the balance ie. various protection zones.

3.1 We support the exclusion of the lands in Schedule 1 Part A from the Policy on the understanding that the inclusion of this list is here required as a legal techinicality.

3.2 We submit that Schedule 1 Part B, be deleted.
Comment
Where settlement is permissable within these zones we see that councils have adequate discretion to control any such development on its merits. This being the case it would be discriminatory to single out M.O. citizens. We can envisage a situation where M.O. settlement may be a more appropiate way of conserving the integrity of a sensitive zone than allowing private development!

3.3 If this recommendation is not acceptable then we urge that close attention be given to the list of zones and reasons given for their inclusion . These we submit, must all be scrupuliously defined. What for example, does "Conservation" and "Open space" in the present list mean? Failure to be specific in this regard would enable a "hostile" council to effectively exclude large portions of rural land from the benefit of this Policy. In the Lismore City Council area for example it appears that two existing (gazetted) M.O. fall within a proposed environmental protection zone. What would their future situation be in terms of planning legislation?

4.0 Clause 4. Interpretation
Add "'home industry' and 'home occupation' shall have the meanings given to these terms in the Environmental Planning and Assessment Model Provisions, 1980."
For comment see under Item 6.4 below.

6.2 6(1)(e). Prime crop land

The notion that "the council has determined" seems to imply that the council may accept, or reject, the advice of the Dept. of Agriculture. If this is what is intended, we submit that a "lash back" condition could arrise where the Dept. of Agriculture did not consider a particular proposal to be on prime crop land, but the council had other ideas about this! Rewording may remove any possible ambiguity on this account.

6.3 Clause 6(1)(f). Visitors Accommodation

We suggest that the statement in the glossy leaflet "schools, community facilities, workshops & visitors' accommodation are to be permitted" be included in the Policy.

6.4 Add a new clause 6(4), "'Home occupation' and 'home industry' shall be permissable land use."

Comment

This provision gives effect to Objective 2(d) in accordance with our proposed amendment. We understand that 'home industry' is not permissable use in Rural 1B zones. This provision would assist development of self-generating forms of livelihood not otherwise permissable. 'Home occupation' has been included here for the sake of clarity for the lay person not withstanding its availibility under s.35(c) of the Model Provisions.

6.5 Add a new clause 6(5) to the effect that nothing in this policy shall be construed as to restrict the State or Commonwealth Minister for Aboriginal affairs from implimenting any policy relating to aboriginal housing or resettlement.

Comment

This principle is proposed to acknowledge that special conditions may need to apply for example, in respect to traditional patterns of settlement in remote areas of the state.

7.0 Clause 7 Heads of Considerationt

Re Clause 7(1)(j). What inference is to be drawn from a finding that the land is in a rural residential expansion area? Is it to be assumed that M.O. development is to be considered incompatable with rural residential development? If so, we would take exception to this concept.

7.1 Add a new clause 7(o), "The bona fides of the application in terms of, in particular, the Aims and Objectives of the Policy."

Comment

This clause relates to the bona fides of the application to ensure that it genuinely meets the spirit and letter of this Policy. It is suggested that where an application is made by an agent or a person who will not, or appears may not reside on the property in the long term then the council shall call for, examine, and take into account the following documentation and or statements as appear applicable in the particular circumstances:

7.7 It is suggested that a request for comment by relevant aborigines be included in the advertisment placed pursuant to clause 10 of this Policy and consideration of this would surfice where the development is for four or more dwellings, and otherwise, comment sought from the local Aboriginal Land Council.

7.8 It is suggested that in the Manual that the list in clause 7(1) be consolidated with the other items in s.90 of the E.P.A. Act, so that applicants will hopefully be in a position to address, all the relevant heads of consideration in any D.A.

7.9 Re Clause 7(2). The inference appears to be from the wording that for three or less dwellings, a map is not required to accompany a D.A.. Is this not at variance with s.77(3) of the L.G. Act where eg. the Lismore City Council requires that a map must accompany all applications? (See this council's D.A. form - not being a subdivision).

8.0 Clause 8. Density of Development

Re clause 8(1). Density should in our view, ideally be determined on the basis of the capacity of the land to carry the proposed development ie. taking into account eg. climate, topography, soil type, ground cover along with all the items listed in clause 7.

8.1 If the present basis of an arbitrary formula is to be retained then we are of the view that the first formula should be used for all properties, regardless of size. (This formula is considered to be satisfactory even where there is no minimum of 40 ha as we have proposed be the case, in 6(1)(b) above).

8.2 We do not see that there is a sound basis for reducing the density on larger holdings. Indeed some could exhibit an ability for a greater carrying capacity than a smaller holding! It seems reasonable to us to expect that development on large properties could sustain a retail shop etc. and as such rezoning as a "rural residential" area would appear to be appropiate. This process would then enable the density to be determined on the merits of the application. We further believe however, that the larger properties could get around the present formula by subdividing first and submitting seperate applications for each parcel!

8.3 In rounding off the number of dwelling it needs to be made clear that 0.5 is to be taken to the next whole number.

8.4 The present wording of Sub-clause (2) would require Council to consider the design of the individual dwellings before consenting to the Development Application (and Building Applications!). The intent of this clause however, could be preserved by allowing Councils to place a condition on a Development Approval to the effect that the dwellings subsequently approved shall not reasonably accommodate in total more people than the number calculated by multiplying that maximum number of dwellings by 4. We suggest that this clause be reworded accordingly to give effect to this concept.

9.0 Clause 9. Subdivision

We support Clause 6(1)(d) with its stipulation that at least 80% of the land be held in common ownership and Clause 9 with its provision to prohibit subdivision. Noel Hemmings, Q.C. however,in a Memorandum of Advice has expressed the view that principal legal structures in a Deed of Trust, or Articles of a Company, which specifically grant a member an exclusive right of occupancy to a portion of the land, do in fact constitute a subdivision within the meaning of the Local Government Act. The instructing solicitor, Mr. A. B. Pagotto has expressed the opinion that the Advice of Counsel would also cover "any community which granted a member exclusive right to occupy a dwelling (whether in writing, verbally or by way of a minute in the community records)".

9.1 If this interpertation is to pervail, then it follows that virtually all Multiple Occupancy communities may contain de facto subdivisions. If this is the case then it appears that either the Local Government Act should be amended or Clause 9(2) of the Draft Policy include a further Clause to the effect that sub-clause (1) of Clause 9 will not apply to a member of a community who is granted an exclusive right of occupation over his/her home site, provided the legal arrangments do not breach any provision of this policy including proposed new sub-clause 7(1)(o).

10.0 Clause 12. Contributions Under s.94

The wording of this clause we believe may be misconstrued to read that M.O. development will, under all circumstance, lead to an increased demand for services etc. We submit that it ought not be assumed that such development will result in an increased "cost" to council but that the situation be determined on its merits. The demand for example, may be minimal and not require the up-grading of the services, or, the service at the time, may be under-utilised. We recommend that the clause be reworded to be absolutely clear or, at least that the word "likely" is replaced with some other word such as "possible".

10.1 We consider that a contribution under s.94 should be limited in extent.

Comment

In Circular 23 to Councils on the application of s.94 (issued in 1981!) it is noted;

a. "the Court has been critical of the lack of research undertaken by Councils to justify their requirements." (Item 2).

b. "...that contributions be identified and justified ... particularly in terms of the nexus between the development and the services and amenities demanded by it." (Our emphasis) (Item 5).

c. "Any increase in development costs as a result of contributions under s.94 must be weighed against the wider community concern about access to housing. The Department's view is that there needs to be a compromise in the use of s.94 between the provisions and establishment of services on the one hand and the cost to the ultimate consumer on the other." (Our emphasis) (Item 7).

d. "...the Department will be very concerned about the impact of the overall costs involved." (Our emphasis) (Item 8).

10.11 It appears in this regard that Councils have not heeded the contents in Circulars 23 and 42! We support the applicability of the following statements in the Discussion Paper and submit that they significantly bear on this issue.

a. "The results (of M.O. settletment) has been that the existing rural services and social infrastructure are again being utilised . Given the alternative that the new services would need to have been provided in the major urban areas, if the rural areas had not been resettled, then overall the community has benefited significantly ." (Our empahasis) (Discussion Paper p.2.)

b. "Applicants do not have the same ability to pay as more convential developers. This is largely because where there is subdivision of rural land, the market effect of the subdivision is that capital is generated, and this capital enables the developer to contribute to council's costs. M.O. does not of itself generate capital, and typical applicants have few resources that can be used to pay levies".(Discussion Paper p.32.)

10.12 We support in principle Clause 12 of the Draft Policy. In view of the history of councils tardy implimentation of Circulars 23 and 42 we urge that the necessary safeguards be taken to ensure that councis will in future, administer the application of s.94 in accordance with the spirit of the Policy.

10.13 We welcome the notion that "incentives should encourage the conservation of wildlife habitats within M.O. development and that this would for example, include omitting s.94 levies for open space." (Discussion Paper p.24).

10.14 We hence recommend that contributions under s.94 be limited in extent in accordance with the Guidelines set out in the Discussion Paper and as elaborated on pp.33-34 (-eg. a maximum of $1500. per dwelling for roads & bridges).

10.2 Councils should not impose road upgrading conditions under s.90 of the Act in addition to imposing a s.94 road contribution.

Comment

Our experience support that;

> "...contributions are too high. They reflect the actual cost to councils of upgrading existing facilities, rather than the additional wear and tear on those facilities caused by the proposed development itself." (Our emphasis) (Discussion Paper p.32.)

10.21 Direction is required to remove confusion (some say "mystification of the law"!) in respect to s.94 and the appropiate manner and extent of the requirement to upgrading roads. In a recent M.O. application for example, before the Coffs Harbour Shire Council road upgrading conditions were applied under s.90 but no s.94 contribution sought, while in the Kyogle Shire Council a s.94 contribution was sought (but no upgrading condition made under s.90), and in the Lismore City Council area it is the practice to make the normal s.94 charge and require a road upgrading condition under s.90. In each case the road upgrading condition under s.90 was to the value of hundreds of thousands of dollars! (Appeals to the court in some cases are pending).

10.22 (We also draw attention to the possible compensation claims that might be sought against a council if the Court should find that a council has acted improperly by overcharging for road upgrading under s.90!).

10.23 We support the D.E.P. Guideline for s.94 contributions in respect to roads and bridges;

> "Road improvement contribution (under s.94)...to apply instead of (and not in addition to) any specific requirement for local road upgrading which might be required under s.91(3)(a) and s.90(1)(j)".

and recommend that where a s.94 contribution is sought that no upgrading condition be sought under s.90 or s.91.

12.3 A further option in this regard would be created by the speedy gazettal of amendment to s.317A to provide for the certification of structures built prior to D.A. approval. This amendment we understand is currently before the Minister for Local Government. We hence urge that the Minister for Planning and Environment seek of his colleague that the implimentation of this amendment be expidated as a matter of urgency.

12.4 With respect to tranisitional dwellings and the use of s.306(2) of the L.G. Act, it has been our experience that these where granted (and not all councils appear to be familiar with this provision) have usually been for a six month period with some option to extend to one year. This period is, in our view unrealistically brief and we consider has probably detered some owner-builders from bothering to apply at all.

12.51 We hence support the notion that "councils issue licenses for time periods sufficient to enable dwelling construction to take place for example two years, with option to renew up to a maximum of five years" (Discussion Paper p.11) as a more realistic proposal.

12.52 In respect to movable dwelling licenses under s.288A of the L.G. Act, as referred to in the Discussion Paper (p.11), it our view that an owner, or part owner of a property, when residing on the property, is not required to obtain a Movable Dwelling license by virture of s.288A(7)ii read in conjunction with s.288A(9)(a).

13. We support the view that "councils should give development approval within a nominated dwelling area, without individual sites being specified in advance" (Discussion Paper p.12), but consider that this should apply to developments of any size.

14.0 Common ownership of the land .
"Common ownership of the land" seems to us to be the corner stone of M.O. development and consider that clear acknowledgement of this principle ought to be expressed in the S.E.P.P.

14.1 The notions of "permanent group occupancy and management" (Discussion Paper p.6) and "principal place of residence" (Draft. Clause 2(a)), are not inappropiate of themselves, but we consider are not an adequate alternative to recognition of common ownership of the land in toto.

14.2 We note the arguements about ownership (Discussion Paper p.27) and the difficulty of "enforcing or monitoring" the existing policy. The practice of councils accepting a statutory declaration to the effect that at least 2/3 of the residents shall be shareholders seems to us not to have been onerous for new settlers or difficult for councils to administer.

14.3 It seems to us that stating this principle in the aims and objectives is important and worthwhile for its own sake and in addition will act at least as a psychological deterrent against inappropiate use of the policy by speculators. We hence recommend that such a provision be included in the S.E.P.P.

15. Due to the non strict applicability of existing land titles for M.O. we strongly support the view that a Cluster Titles Act be introduced. (Discussion Paper p.13). We ask that a draft be prepared by the D.E.P. and made available for public comment.

16. The Manual
We note and support the production of a Manual to accompany this policy. We ask however, that the Manual be given a status that is more than being just an advisory document. We are concerned for example, that the Guidelines for making a M.O. development application, prepared by the Grafton Office D.E.P. when presented as evidence in one court case were virtually dismissed by the court as having any credible force.

17. We would appreciate the opportunity of being able to comment on the revision of the draft policy and a draft of the Manual before these are published.

Reference

D.E.P. Multiple Occupancy In Rural New South Wales: A Duscussion Paper, D.E.P., Sydney, 1985.

NEW SOUTH WALES

Minister for Natural Resources

Mr. P. Hamilton,
Bodhi Farm,
THE CHANNON. N.S.W. 2480

-8 MAY 1984

Dear Mr. Hamilton,

I refer to your recent letter concerning the Water Resources Commission's Environmental Review Committee.

The Commission has provided the following statistics relevant to the Committee's work since December 1981.

Total applications considered and approved	- 1797
Number which were deferred for clarification before approval	- 387
Number where additional detailed information or investigation was required before approval	- 76

During this period no individual applicant has been required to submit an Environmental Impact Statement. However, it may be of interest to you that the Commission has deferred dealing with some 60 outstanding license applications on the lower Darling River until an Environmental Impact Statement confirms or rejects the acceptability of further irrigation in this sensitive region.

In considering each application, the Committee has available specific information on each application, as well as a large body of data relating to water quality, vegetation, soil and geomorphic characteristics, etc. on a broader regional basis. As mentioned in my predecessor's letter of 27th June 1983, the Committee has access to advice from other Commission officers and relevant government authorities.

The Committee consists of three highly qualified, experienced officers. The Chairman is an environmental scientist and the other two members are qualified in the fields of engineering/water management and law. All members have had many years of experience in their respective fields.

The Committee does not apply a set of uniform criteria to judge an application. Each is considered on its merits in relation to the particular environment in the area. For example, the environment in your area, of high summer rainfall and small streams of good flow characteristics, is quite different from the environment of the southern tablelands or along the regulated major rivers on the western plains. However, in general, the factors detailed in Regulation 56 of the Environmental Planning and Assessment Act are assessed in respect of each application.

Through the Committee's consideration of these factors, each proposal is assessed comprehensively to ensure that it does not significantly affect the environment. The fact that Environmental Impact Statements have not so far been required of individual applicants indicates that in those cases considered doubtful, further investigation, leading either to the modification of the proposal in general or to the adoption of specific restrictive conditions that control diversions from the stream, has resolved the matter satisfactorily.

Both the Commission and I agree with my colleague, the Hon. E.L. Bedford, M.P., former Minister for Environment and Planning, that environmental evidence should be provided at Local Land Board hearings if the particular proposal so warrants. However, relatively few of the license applications referred to Land Boards relate to environmental objections and, in the past, fewer still have concerned environmental matters of a significance which warranted the attendance of one of the Commission's environmental officers.

I understand that the Commission intended to present environmental evidence at a Land Board hearing at Lismore on ~~19th March~~ 1984 in respect of a license application on Tuntable Creek to which the Bodhi Farm Community was an objector. However, due to a recent change in property ownership the hearing date for this application has been deferred.

I do not see any conflict of interest, as you suggest exists, in all members of the Committee being employees of the Commission. The license applications considered are not Commission projects but proposals by individuals or companies processed strictly in accordance with the provisions of the Water Act. It is the responsibility of the Commission to assess the position of the applicants and any objectors objectively and to make a decision that also reflects its obligations under Part V of the Environmental Planning and Assessment Act.

I am confident that the environmental expertise available to the Commission, both from within the organisation and from other authorities, is more than adequate to ensure that the protection of the environment is properly considered during the licensing procedures followed by the Commission. Therefore, I do not see any need to restructure the Commission's Environmental Review Committee.

Yours sincerely,

(Janice Crosio)
Minister for Natural Resources.

Despite other "truth efforts" I see this as a great struggle making the most of this campaign and Hobart

RRTF File under: RRTF Submissions

Bodhi Farm
Wallace Road
The Channon. 2480

16th. March, 1984

Chairman,
N.S.W. Water Management Audit,
G.P.O. Box 5110,
SYDNEY. N.S.W. 2001

Dear Sir,

We submit herewith our "Recommendations for Improved Water Management in N.S.W." Included in the appended material is a copy of transcript of our hearing before the Land Board. We have cited extracts from this in our submission, but do not consider that this adequately conveys the essence of our objective, or the manner of conduct at the Land Board Hearing and hence wish to draw your attention to pages 8 - 17 in particular, as giving an overview to our experience.

We would appreciate a copy or advice of the availability of any material when published by the Audit.

Yours faithfully,

Peter Hamilton

Peter Hamilton
(For the Bodhi Farm Community)

BODHI FARM SUBMISSION TO THE N.S.W. WATER MANAGEMENT AUDIT - MARCH 1984

RECOMMENDATIONS FOR IMPROVED WATER MANAGEMENT IN N.S.W.

1.1 Recreation use of water under the Water Act.

The Creek forming one of our boundaries contains a swimming hole. The existence of this swimming hole was a not unimportant factor in our deciding to purchase this particular parcel of land.

The Water Act, it seems, S. 7(1) does not recognise, let alone protect, our right to use the water for recreational purposes as a valid use when considering an application to extract water for agricultural use.

"Now the interests that you tell us that are going to be affected are not terribly great, are they because you don't draw water from the Creek?" (Chairman: Land Board hearing - transcript p9, copy attached).

We object in the strongest terms that recreational use of water is not recognised at law as a valid use of water.

In this regard we hold that the right to claim recreational use ought not just reside to riparian users, but to any members of the public who customarily use stream water in this way.

1.2 RECOMMENDATION. That the Act be changed to provide that recreational use of water is a valid use in considering applications for water extraction for agriculture & that this usage be not confined just to stream side landowners.

2.0 "Wilderness" or "natural" rights of a stream.

The mentality that a stream may be infinitely exploited for human gain, is we submit an anthropocentric view. We seek to redress this imbalance. We submit that a stream has a "natural" or "Wilderness" right to exist in its own terms. In legal terms that a stream should have "standing" at law. (The stream's interest could be represented by others as, for example, is the case for minors, prisoners, the mentally handicapped and corporate institutions. For further information, see Should Trees Have Standing: Towards Legal Rights for Natural Objects, Professor Christopher Stone, William Kaufmann Inc., Cal. U.S.A. 1974).

The recognition of "environmental amenity" in the Environmental Planning and Assessment Act, goes some way to addressing this issue, but it is

still anthropocentric in that this "amenity" is amenity from the point of view of human beings.

This issue is for us, not just a philosophical notion but is a heart felt concern of a spiritual nature.

We oject in the strongest terms to the anthropocentric tenor of the present legislation and seek to have this imbalance corrected.

2.1 RECOMMENDATION That the Water Act be changed to recognize that a stream has a right to exist in its own terms and that such a claim shall be considered as valid in considering conflicting interests and use of water.

3.0 Field Officer ... Investigating Procedure

The W.R.C.'s Field Officer investigating our objection to an application, simply sought our objections. No information was tendered in support of the Commission's likely conditions for approval of the application. Nor was there any indication of the extent and nature of complaints by other objectors.

No indication was made of the subsequently disclosed proposed minimum flow rate, nor were any estimates produced at this time of the prevailing flow rates of the Creek or likely affect that the minimum flow rate may have on the ecology of the Creek.

Our general objection rested on the fact that we could not make a detailed objection until the above information was supplied. We asserted that the onus lay on the Commission to provide this information as it was the "determining authority".

3.1 RECOMMENDATION. That W.R.C. Field Officers when investigating objections to the granting of a license, inform such objectors of the basis on which they have come to the conclusion that the proposal is, or is not, likely to significantly affect the environment. If it is held that the proposal is not likely to significantly affect the environment, that a detailed report be tendered providing evidence that at least all of the relevant items as required in the E.P. & A. Act and Regulations, have been considered.

4.0 W.R.C. Environmental Review Committee

At the Land Board hearing, in which we were involved (transcript attached), the Commission tendered a one sentence statement over the stamp of the Environmental Committee "that the proposal will not significantly

affect the environment" (transcript p10). No evidence was produced to support this conclusion and no member of the Committee was present for cross examination. We subsequently discovered that no member of the Committee had visited the Creek in question.

On the question of "providing evidence" we draw attention to correspondence from the Minister for Planning and Environment of 17.8.83 (copy attached) in which he states:-

> "Where such an inquiry is held and the W.R.C. appears to give reasons for its support of the licence application, I would expect that the Commission should, inter alia, provide evidence (our emphasis) of its examination of likely environmental effects as required by Part V of the E.P. & A. Act, as such examination is a necessary element of its consideration."

We later learned that the same one sentence statement was made in the Severn Shire Council v. W.R.C. case. The environmental affect in the Severn Shire Council case seems to us to be "massive" by comparison with the likely affect in our case.

We note thatJustice Cripps in the above case stated that had it, in the circumstances been relevant, he would have been prepared to declare that the activity was likely to significantly affect the environment. In the light of the above we suggest that there is something drastically amiss in the deliberations of the Environmental Committee.

We have been informed that the Committee consists of three employees of the Commission. We fail to see how justice can appear to be done when the Committee sits in judgement of its own proposal as at present. (R. v. Sussex Justices 1924 IK.B. 256). We suggest that if the Committee was broadly based and containing representative (s) from the Community, that this may go some way to creating the situation that justice was not only being done, but that it would also hopefully, appear to be done.

4.1 RECOMMENDATION. That the W.R.C. Environmental Committee be disbanded in its present form and replaced with a broad based Committee modeled on the Environmental Committee in Schedule 4 of the E.P. & A. Act.

4.2 RECOMMENDATION. That the Commission automatically tender evidence at Land Board hearings to support any Environmental Committee report that the proposal is not likely to significantly affect the environment. That a member of the Committee be present for cross examination.

5.0 Criteria used by the W.R.C. Environmental Review Committee in determining "significance of affect".

We asked the Minister for Water Resources for the criteria used by his Environmental Committee in determining likely significance of affect. The Minister's reply of 27.6.83 (copy attached) does not give this criteria so we have no alternative, but to presume that it does not exist. (See Note 1)

5.1 RECOMMENDATION. That the Commission make public, standard criteria used by the Environmental Committee (or its substitute if replaced) in determining the significance of the affect that granting an application may have on the environment.

5.2 RECOMMENDATION. That the Commission make public the terms of reference of its Environmental Review Committee.

6.0 Onus of Proof

(This section overlaps with section 4.0 above, but the issue at stake is quite different to that in Section 4).

The obligation of the Commission on receipt of an application under S.11(1) of the Water Act is simply to advertise the details of the application.

Under S.11(2) an objector is required to specify the grounds of objection. Following this, the Commission decides, as required by S. 11(3) (a), whether the application should be granted or refused. If the application is approved the applicant is advised accordingly along with any conditions of approval under S.11(3) (b). In the case where the application is rejected the applicant under S.11(4) is simply notified accordingly.

In neither the case for acceptance, under S.11(3) (b), nor rejection under S.11(4), is the Commission required to specify the grounds for approval or rejection.

We object to this procedure in the strongest terms on the grounds that it is unreasonable, discriminatory and unjust.

Any argument that grounds for approval or rejection is adequately covered by Part V of the E.P. & A. Act does not, we claim, satisfy the condition under the Water Act, that justice is seen to be done (op. cit.)

In our case, re Tuntable Creek, before the Land Board, the onus lay with us to prove that the environment may be adversely affected. We did our best in the circumstances, but failed. The same situation existed in preparing

our case for the Land and Environment Court hearing. On Counsel's advice we would have had to prepare what in effect would have been a full E.I.S. This was beyond our means and hence, we were forced to withdraw the Appeal.

It is our contention that the onus of proof lies with the Commission. In our circumstances it will be seen how the onus of proof was transferred from the "determining authority" to us as the objection.

6.1 RECOMMENDATION. That the Water Act be amended so that the onus of proof clearly lies with the Commission in determining the likely significance of affect on the environment, that an application may have. This onus to hold good even in those situations where the Commission holds that the application "is not likely to significantly affect the environment".

7.0 Two Stage Process in Approving Application

If Recommendation 4.2 is accepted it would be desirable in our view, that all objectors and the applicant be notified of the criteria and the proposed decision, conditions and reasons, before a final decision is made.

Put in other words, we recommend that a two stage process operate viz. in Stage 1 the Commission advertises and seeks objections before making a decision, as presently carried out, and, in Stage 2 the Commission prepares an interim decision and notifies all the objectors and the applicant of the interim decision, conditions and reasons for arriving at the interim decision and after an appropriate lapse of time to allow comment by objectors and the applicant, a final decision be made.

How can an objector object if the Commission does not disclose its proposal?

7.1 RECOMMENDATION. That the Water Act be amended to require the Commission to supply all objectors and the applicant with a proposed decision, conditio and reasons before a final decision is made.

(This Recommendation is not to be seen in any way as taking the place of the appeal process to the Land Board or its equivalent).

8.0 The Land Board as the Instrument of Appeal.

In our experience the structure and expertise of those sitting on the Board leaves a great deal to be desired. That the Magistrate be joined by two local farmers is, we submit, discriminatory. We receiv d no impression that we were being judged by our peers. If this structure is to prevail then there ought at least be representation by those other than agricultural

ists. Perhaps consideration could be given to their being a panel of people with the applicant and the objector(s) having some say in the selection for each particular hearing as is the case in a Tribunal.

The Chairman in our case appeared to have little knowledge of the E.P. & A. Act and even less sympathy for the process of evaluating possible environmental affect, for example :-

Chairman: "But whether anything has adverse environmental effects is just one man's opinion. You could say it has and I could say it hadn't."

Seed for Bodhi Farm: "But there is a science of environmental studies which .....

Chairman: (interrupting) "A very inexact science if I may say so?" (transcript p 17)

8.1 RECOMMENDATION. That appeals to the Land Board against decisions of the Commission be discontinued and in lieu heard before an Assessor of the Land and Environment Court with of course, right of appeal to a full hearing.

8.2 RECOMMENDATION. In the event that Recommendation 8.1 is not acceptable then it is recommended a) that the composition of the members of the Board be reviewed and for example, a conservationist, be included in lieu of a person who is just representing commercial agricultural interests , and b) that the Chairman be well versed in environmental law, as for example, an Assessor of the Land and Environment Court.

9.0 Noise Pollution

The Minister for Water Resources, in his letter of 27.6.83 (copy attached) has acknowledged that noise pollution is taken into account in reaching a decision on an application but as there exists separate legislation on noise control not administered by the Commission, the Commission cannot purport to exercise any legislative control over noise pollution.

We find this situation to be unacceptable on grounds that in a rural area the threshold of noise pollution will normally be below that established as a standard for urban areas.

This is particularly evident in hilly country where even the slight hum of an electric motor can, depending on the location, be heard as an irritating whine from a distance of several kilometers. No absolute sound level is a useful gauge of pollution in such a circumstance.

(In practice it may be necessary to require the applicant to generate the proposed noise so that neighbours could then determine the nature of their objection, if any.)

We also find this situation to be objectionable on the grounds that having more than one authority administering noise control must lead to a mystification of the law.

If the Land Board is to be the instrument of appeal, then we suggest, it must be given a clear mandate to include all relevant issues. Noise pollution we see to be such an issue.

9.1 RECOMMENDATION. That the Commission a) be responsible (in association with other authorities, if necessary) for ensuring that noise (in quality and quantity) does not reach objectional levels, with each application being considered on its merits and b) that the instrument of appeal (eg. the Land Board) has the jurisdiction to deal with this matter in the context of the Water Act.

10.0 Prescribed Stream Land

The Water Act under S.26D (2) provides for the protection of trees etc. within 20m of the banks of prescribed streams. As this provision was enacted in 1946 we would expect by now to see, at least, mature regrowth along all previously cleared prescribed streams in our area, viz the catchment area of the Richmond River. Much of this area encompasses what was once the "big scrub" rainforest. (During the time of first settlement most of this rainforest was clear felled to the stream edge.)

Both the W.R.C. and the Soil Conservation Service (who undertake a service for the Commission in relation to S. 26D) advise that they do not have a figure for the total length of prescribed streams and hence are unable to supply us with the area of prescribed land in this catchment area!

Our calculations reveal that there are some 1,800 km. of prescribed streams along the Richmond River and its tributories and that only 33% (594 km) of this now contains native or mature regrowth forest. The total area in question is hence 7,200 ha (72 km^2) (viz 1,800 x .04 km.) and of this 67% (1,206 km. of total length) or an area of 4,824 ha (48 km^2) is, we submit, in a degraded state. We further submit that this is not a trivial amount and that the absence of an active programme to up grade this area reflects poorly on the management of this section of the Water Act.

The Soil Conservation Service advise that their overiding consideration is soil conservation and to this end the preservation of trees in the 20m strip is sought. While they acknowledge that these strips are probably important corridors for birds and other wild life, they advise that this is more properly the concern of the National Parks and Wildlife Service. (NPWS). (We note in this regard that N.P.W.S. is also a member of the Catchment Areas Protection Board!) N.P.W.S. advise that these areas are often degraded, but that their funds and energies are better spent on land which is not in small units and dispersed. Not withstanding this they canvas prescribed stream land as being important wildlife corridors and recommend to Councils when preparing Local Environmental Plans that consideration be given to providing appropriate environmental protection! (Protection as an Environmental Protection Zone 7(1) (Flora and Fauna Habitat) is one option open to Councils in this regard.)

A recent meeting of the Lismore City Council directed the Town Planner to consider having the prescribed strips gazetted as "designated" areas under S. 29 of the E.P. & A. Act. In our view, the need to "doubly protect" the environment in this way is indicative of desperate concern that the Commission is not fulfilling its obligation under S. 26D of the Water Act.

10.1 RECOMMENDATION. That jurisdiction for the administration of the 20m strip to prescribed streams be removed from the Water Act and placed under the control of the Minister responsible for the N.P.W.S.

10.2 RECOMMENDATION. That the Commission (or responsible authority) make an annual public report on the States total area of land prescribed under S. 26D of the Water Act and the measures taken to upgrade this area.

11.0 Prescribed Stream Land to be a "Prescribed Activity" under the E.P. & A. Act.

Because of the neglect and inactivity to regenerate prescribed stream land under S. 26D of the Water Act and the need to treat the ecology as a whole in the prescribed stream land area and to ensure that environmental impact statements are prepared for any development or activity in such land, it is suggested that this land be scheduled under clause 70 of the Regulations to the E.P. & A. Act.

Scheduling under clause 70 as "designated development" would have the effect of making any development or use of such land a "prescribed activity"

under S. 112 of the E.P. & A. Act and hence automatically require an E.I.S. to be carried out.

Scheduling in this way would provide a uniform and state-wide policy covering such land.

11.1 RECOMMENDATION. That development within prescribed stream land under S. 26D of the Water Act be listed in Schedule 3 of the Regulations to the E.P. & A. Act.

12.0 Fencing of prescribed stream land

Where an agricultural pursuit involves live stock it would seem necessary that the 20m strip be fenced. We see no difference in requiring an owner to comply with this in the same way that an owner is required to keep stock from straying onto neighbouring land or onto a public road.

12.1 RECOMMENDATION. That where livestock are kept adjacent to a prescribed stream that the 20m protection strip be fenced.

13.0 Rate Rebate Incentive.

It is submitted that a "crash" programme is required to regenerate prescribed stream land. Re-forestation programmes calling on, for example, Community Employment Programme (C.E.P.) funds and a rate rebate system for land owners, could be considered to this end.

(It is noted, for example, that the Department of Agriculture, N.P.W.S. and Councils have received C.E.P. Grants for projects no less relevant than this proposal.)

13.1 RECOMMENDATION. a) That a "crash" programme be implimented to rehabilitate prescribed stream land and b) As a basis for incentive that land owners receive a rate rebate on a pro rata basis for prescribed stream land where there is supported evidence of regeneration (e.g. contracted re-forestation) or protection (e.g. fencing) of such land.

While Recommendations 12.1 and 13.1 may appear to be somewhat removed from water management, we submit strongly that this is not so. These particular recommendations are offered to indicate that there are practical ways of implimenting the aim of this section of the Water Act (which it seems on performance the Commission and its predecessor, have been unable to resolve in the past 38 years!)

14.0 Water Quality

Aerial spraying of 245T is still practiced in this area. The "Namoi Environmental Study" SPCC 1980 indicates the ways in which water is an important pathway in the transmission of pesticides. It is locally claimed that 245T, transmitted by air and water, bears a correlation to the high incidence of birth defects and fatalities. (Copy of report attached.)

14.1 RECOMMENDATION. That the water quality monitoring programmes of the W.R.C. be reviewed to provide better assessment in accordance with its statutory responsibility. In particular that "base lines" be produced, a) for pristine sources and b) typical for particular conditions and regions as a base for determining likely environmental impact generally and water quality in particular.

The above recommendation is based on the conclusion drawn in "Effects of Water Quality Caused by Logging on Steep Slopes in Mountain Forests" SPCC. 1982 p 31. We endorse these conclusions.

We also endorse the recommendation made in Section 7.2 and 7.3 in the "Namoi Environmental Study." We have tried to ascertain if these recommendations have been carried out, but on present information it appears that this has not been done!

15.0 Availability of the Water Act.

Throughout the whole of the time we were engaged in our appeal to the Land Board and the Land and Environment Court, we were unable to procure a copy of the Water Act, due to it being out of print. The best we were able to obtain were photocopies of certain pages. These were kindly supplied by the Commission. The inability of our being able to obtain a copy of this Act has caused no small inconvenience.

We consider it to be totally inexcusable that the Water Act ever get to the status of being out of print.

15.1 RECOMMENDATION. That the necessary steps be taken to ensure that the Water Act is never out of print and that if necessary the Minister be given discretionary power to print facsimile copies of the Act to achieve this objective.

16.0 Demystification of the Law.

The Minister for Planning and Environment in his letter of 17.8.83 (copy attached) states that the Water Resources Commission is a "determining authority" under Part V of the E.P. and A. Act.

The Minister for Water Resources advises in his letter of 27.5.83 (copy attached) likewise acknowledges that the Commission operates under the provisions of Part V of the E.P. & A. Act.

Justice Cripps, in his judgement in the Severn Shire Council v. W.R.C. and Others, case however states that the applicant sought in part, an order restraining the W.R.C. from making any decision that a licence ... be granted, pursuant to the Water Act until an environmental impact statement had been prepared and dealt with in accordance with Part V of the E.P. & A. Act. (Judgement p 2).

He goes on to note:-

"It is contended on behalf of ... the Commission that, whether or not any final decision has been taken... to approve the undertaking of an activity likely to significantly affect the environment (which is disputed ...) the "activity" is one which requires council consent under Part IV of the E.P. & A. Act. Accordingly it is submitted that it is not an activity under Part V. If this submission is correct, no environmental impact statement is required before a final decision is made". (Judgement p 6) and concludes by saying :-

"The Water Act makes it quite clear that the final decision (where objections have been lodged) ... is the decision of the local land board, - magistrate on the Land and Environment Court. The local land board, ... magistrate on the Land and Environment Court are not" determining authorities" within the meaning of Part V of the E.P. & A. Act.

Accordingly, I decline to make the declarations or orders as originally asked. "(Judgement p 17).

In our case the local "consent" authority is the Lismore City Council so that in the normal course of events the provisions of Part IV of the E.P. & A. Act would apply. As extraction of water, in our situation, was for "agriculture" this form of development may be carried out without the consent of Council (IDO 40 - Lismore, Column 11). This proviso appears to nullify the normal

requirements under S. 90 of the E.P. & A. Act and hence it seems no authority takes responsibility for determining environmental impact!

We have drawn Justice Cripps judgement, the effect of which in our case, being that we have no right of appeal to the Land and Environment Court under Part V of the E.P. & A. Act, to both the above Ministers. In their respective replies as cited above, attention is drawn to the fact neither of the Ministers has chosen to comment on the implication of the Courts finding to their own policy!

> Justice Cripps also states that "I am not concerned with whether a decision of the Commission, in the absence of objections (our emphasis) could be regarded as a "final decision" to undertake or approve the undertaking of an activity within the meaning of S. 112".

By inference it hence, appears that the Commission may be bound under Part V of the E.P. and A. Act provided no one objects! This would leave us in the anomalous situation of refraining from appealing (and canvassing others to do likewise) to the Land Board on the merits of the case and then appealing to the Land and Environment Court under Part V of the Act! (That there would be an avenue for appeal in this case is of itself questionable!)

16.1 RECOMMENDATION. That the anomalies in the above situation be rectified and that a clear, demystified legislation exist which is comprehendable by a layperson.

17.0 State Water Authority.

All the above recommendations are seen, but as band-aids to patch up loop holes and administration indecision between various Departments and Acts. We strongly support any move that would bring together all the States water resources, development and management under one Authority. In this regard, we urge that regional districts be based on water catchment areas. We endorse the present policy of those authorities and services who discharge their responsibilities on the bases of water catchment areas. We strongly support any move that attempts to relate to the ecology as a whole, and see this as the basis for the development of bio-regions in which humankind become more "custodians" for the maintenance and preservation of the environment. We see water

management through a State Water Authority to be a basic building block in this process.

17.1 RECOMMENDATION. That a State Water Authority be established to take over water management from the present assorted Departments and authorities.

Note 1.

Criteria used by the Environmental Committee need to be made public to assist the Commission and the public in determining what constitutes a prima facia case. In our case, re Tuntable Creek, we submitted that the minimum flow rate proposed by the Commission viz 0.9 ML/day (see attached tables and charts of Estimated Flow) could result in the Creek being reduced regularly, to a condition which has occurred only once in the past eighteen years. (The flow rates which revealed this situation were based on data kindly supplied by the Commission). We submitted to the Land Board that this issue alone constituted a prima facia case that the environment may be significantly affected by granting the proposed minimum flow rate, and that given this there was clear onus on the Commission to carry out an E.I.S. or at least more thoroughly investigate the likely impact of its proposal. Neither the Commission nor the Land Board agreed to our submission.

If this claim, as an example, does not constitute a prima facia case that the environment may be adversely affected, then what conditions would have to exist for the Commission and the Land Board to hold that there was a prima facia case?

It is for this reason we submit, that it is imperative that Recommendation 5.1 be adopted for the benefit of all concerned.

Appended

1. Bodhi Farm correspondence to Attorney General 20.4.83
2. Correspondence from Attorney General 6.6.83
3. Correspondence from Minister for Water Resources 27.6.83
4. Correspondence from Minister for Planning and Environment 17.8.83
5. Correspondence to Minister for Water Resources 12.2.84
6. Transcript of Land Board Hearing 27.7.82
7. Tuntable Creek, Tables and Charts of Estimated Flow
8. News report Northern Star 28.1.84

Coffs Hbr. Advocate page 3 7/9/85

Resign call to environment depts Grafton bosses

By MICHAEL SECOMB

FORMER Grafton Mayor Ald Mike Emerson was right in his criticism of the Grafton office of the Department of Environment and Planning, says Johnson Farm Management.

The managing director of the Coffs Harbour-based agricultural company, Mr Tony Johnson, praised Ald Emerson for his courage in taking a public stand.

Ald Emerson had claimed the department had rejected rezoning proposals without giving reasons.

This claim was denied by the acting regional manager of the Grafton office of the department, Mr David Hume, earlier this week.

But Mr Johnson has offered to make public 'a mountain of files' which he said showed the department's Grafton office had delayed issuing what are called Section 65 certificates for changes in land use.

Mr Johnson also claimed the department's office had engaged (in) 'go-slow tactics' for projects which individual officers opposed.

He called for the resignation of the Regional Director and Assistant Director of the department's Grafton office.

And he said hundreds of environmentally-sound projects on the North Coast worth at least one billion dollars and with the potential to generate many thousands of job opportunities were suffering because of the Grafton office.

His own company's efforts to get approval for a $9 million stonefruit and blueberry project at Corindi had been delayed by the Grafton office for two years and it took site inspections by three NSW Ministers before the office issued a certificate, after the company was forced to spend more than $300,000 on lawyers and consultants.

'This company would be out of business today and that magnificent Corindi project would now be an abandoned mess if Ministers of Mr Wran's Government had not had the gumption to get that Grafton office's public servants moving,' Mr Johnson said.

The Corindi project had not attracted a single public objection during its exhibition period and now employed 70 with hundreds more jobs likely as its production increased to $6 million in annual export income, he said.

Mr Johnson said another horticultural project of his company's at Urunga worth $2million had been on the shelf for two years after it was approved by the Bellingen Shire Council, but the department's Grafton office insisted a shire-wide rural study be done, which was still underway.

Local councils and people with the courage to borrow to the hilt and put their dollars on the line for sound development had been apprehensive about speaking out because they feared recriminations, he said.

Mr Johnson said his company was affected by 39 local, State and Federal Government departments.

Australia's standard of living had fallen from first to 23rd in the world and the North Coast of NSW had arguably the highest regional unemployment among those 23 countries, in the area covered by the Grafton office of the department, he said.

Coffs Harbour alone had more than 5000 unemployed people and companies such as his could create many jobs if they were allowed to.

Thirty per cent of the North Coast's land was owned and protected by Government in perpetuity.

Japan, Europe, the Middle East, South East Asia and the USA with their massive populations will take all the reverse-hemisphere seasonal fruit that we can produce which meets their regulations - and here we are not talking petty cash, this is business worth hundreds of millions in annual exports from the North Coast,' Mr Johnson said.

He said New Zealand's horticultural exports to the Northern Hemisphere had jumped from $NZ79 million to $390 million in five years, while the North Coast had 'gone nowhere'.

The North Coast had an unassailable climatic advantage over New Zealand by being able to produce fruit earlier, he said.

Mr Johnson said the NSW Minister for Agriculture, Mr Hallam, was backing horticulture and his company had far more orders for fruit than it could satisfy.

'Yet the department's Grafton office was favouring multiple occupancy projects and a draft Statewide plan had been released which would turn NSW in to 'one giant dole-based commune', he said.

'Thousands of jobs can be created,' Mr Johnson said.

Can fly flag but . . .

Bertoli withdraws '

Cr John Bertoli has withdrawn the words 'Mafia' and 'contract' which he used during a debate on August 29 about the future of Park Beach Reserve.

During the debate Cr Bertoli said: 'The real issue here is who is running this town — the Mafia or the tourist committee? It's a power struggle. I know people out there I could pay to get a contract put out on people if you want power'.

When the council met again on Thursday Cr Bernie

TABLE NO. 5

Traffic Volumes

Increased AADT No. ÷ Lots created 1975-83 = AADT per new lot	ROAD	STATION	DIST.	CENTRE	AADT 1978	AADT 1982	TRAFFIC %	INCREASE NO.	LOTS CREATED 1975-83
	Trunk Rd 83	04596	18 km	Kyogle	100	190	90	90	11
		04199	13 km	Kyogle	950	1180	24	230	56
2.73 AADT / new lot		04344	1 km	Kyogle	1070	1480	38	410	150
↳ Summerland Way 1.5 Klm. west of Kyogle		04647	0.5 km	Kyogle	2050	2550	24	500	150
		04342	Kyogle	town centre			37	1850	473
	Main Rd 141A	04368	14 km	Kyogle	70	120	71	50	8
1.38 AADT per new lot	Main Rd 141	04365	13 km	Kyogle	140	250	64	110	88
	DR 1085	04505	9 km	Kyogle	90	130	44	40	21
↳ Cawongla – M.O. area	Main Rd 141	04362	0.5 km	Kyogle	3020	3330	10	310	169
	Trunk Rd 83	04340	10 km	Kyogle	1110	1740	36	630	Nil
		04195	6.5 km	Kyogle	700	840	20	140	45
3.75 AADT per new lot		04341	6 km	Kyogle	1820	2270	25	450	120
↳ Cedar Point - South of Kyogle		04197	2 km	Kyogle	2140	2560	20	420	154
	St.H/way 16	04110	9 km	Tabulam	950	1290	39	340	14
	Main Rd 361	04447	9 km	Tabulam	290	340	17	50	31
	Main Rd 150	04415	8 km	Tabulam	60	60	Nil	Nil	51
	St.H/way 16	04113	7 km	Tabulam	690	1030	49	340	96
	Trunk Rd 83	04298	18 km	Woodenbong	390	520	33	130	Nil
		04132	11 km	Woodenbong	550	650	18	100	9
	Main Rd 622	04297	1 km	Woodenbong	550	690	26	140	11
	Main Rd 361	04452	12 km	Woodenbong	260	370	35	110	22
		04454	1 km	Woodenbong	650	710	9	60	41

CONCLUSION

The M.O. area + new lots here had the lowest AADT per new lot created than any other area in the Shire!!!

There has been a marked increase in traffic volumes almost universally across the shire, however, it is difficult to establish a firm relationship between the new lots created and the increase in traffic volumes. Many of the lots created in the period do not yet support a dwelling and to complicate the

NO		MAP REF	DIST KM	1967 AADT	1970 AADT	1974 AADT	1978 AADT	1982 AADT
TRUNK ROAD NO.83								
	CITY OF GRAFTON							
04323	SOUTH GRAFTON-N OF SH 12,RYAN ST	TOWN	.1	9080	9590	10150	11400	13540
P04004	GRAFTON-AT CLARENCE RIVER BR.	TOWN	1.1	10560	13050	14950	16360	18450
04324	GRAFTON-E OF PRINCE ST	TOWN	2.1	6980	8660	10350	9010	12000
04325	GRAFTON-N OF FITZROY ST	TOWN	2.3	8910	8810	12390	9680	10800
04327	GRAFTON-S OF DOBIE ST	TOWN	3.2	3560	4580	5310	6530	6710
04328	GRAFTON-W OF PRINCE ST	TOWN	3.4	2330	3100	3280	3990	7110
04330	GRAFTON-N OF DOBIE ST	TOWN	4.3	2570	3360	3560	4130	7180
04331	AT COPMANHURST SHIRE BDY	3	5.6	1330	2110	2730	2430	4400
	SHIRE OF COPMANHURST							
P04170	KOOLKHAN-0.5 KM S OF MR 150	3	11.3	750	970	1100	1520	1810
04332	KOOLKHAN-N OF MR 150,COPMANHURST RD	3	12.1	440	730	730	620	1280
04333	W OF MR 151,LAWRENCE RD	3	39.3	480	560	590	680	1130
	SHIRE OF RICHMOND RIVER							
P04672	WHIPORIE-AT COPMANHURST SHIRE BDY	2	54.0	-	-	-	-	1350
04125	N OF RAPPVILLE RD	2	81.3	530	880	930	1310	1390
	MUNICIPALITY OF CASINO							
04165	CASINO-AT RICHMOND RIVER SHIRE BDY	TOWN	101.8	1210	1520	1630	3050	2660
04335	CASINO-S OF SH 16,HARE ST	TOWN	102.6	2620	3360	3040	5260	5150
04338	CASINO-W OF SH 16,CENTRE ST	TOWN	104.0	1450	1870	1580	2630	6720
04169	CASINO-N OF JOHNSTON ST	TOWN	104.2	2960	4380	4050	4800	7610
04173	CASINO-W OF WEST ST	TOWN	105.3	2120	2600	2800	5160	5060
04164	AT RICHMOND RIVER SHIRE BDY	2	106.9	1090	1640	950	1300	2340
	SHIRE OF RICHMOND RIVER							
04340	AT KYOGLE SHIRE BDY	1	122.0	700	720	930	1110	1650
	SHIRE OF KYOGLE							
04341	CEDAR POINT-N OF MR 544,LISMORE RD	1	127.7	960	1180	1360	1820	2150
P04127	KYOGLE-0.8 KM S OF BOORABEE ST	TOWN	133.6	1440	1430	1850	2140	2560
04342	KYOGLE-S OF MR 141,KYOGLE RD	TOWN	135.2	4950	4660	4800	5000	6480
04647	KYOGLE-0.5 KM N OF MR 141,KYOGLE RD	TOWN	135.7	-	1740	1780	2050	2410
04344	KYOGLE-1.5 KM N OF MR 141,KYOGLE RD	1	137.0	910	900	900	1070	1400
04129	WIANGAREE-0.5 KM S OF PO.	1	147.6	680	890	880	950	1120
04132	AT GLEN TICK GATE,3.5 KM S OF MR 622	1	187.2	450	390	440	550	620
04298	AT QUEENSLAND BORDER	1	200.0	260	360	380	390	510
MAIN ROAD NO.141								
	SHIRE OF KYOGLE							
04362	KYOGLE-E OF TR 83,BRIDGE ST	TOWN	.1	2260	2410	2330	3020	3150
04198	KYOGLE-1.5 KM E OF TR 83,WIBONG RD	1	1.3	610	450	490	670	830
*04365	CAWONGLA-S OF MR 141,NIMBIN RD	1	17.2	120	70	110	140	220
	SHIRE OF TWEED							
*04367	KUNGHUR-W OF MR 142,LISMORE RD	1	32.7	120	150	100	130	160

* = M.O. areas

MAIN ROAD NO.150

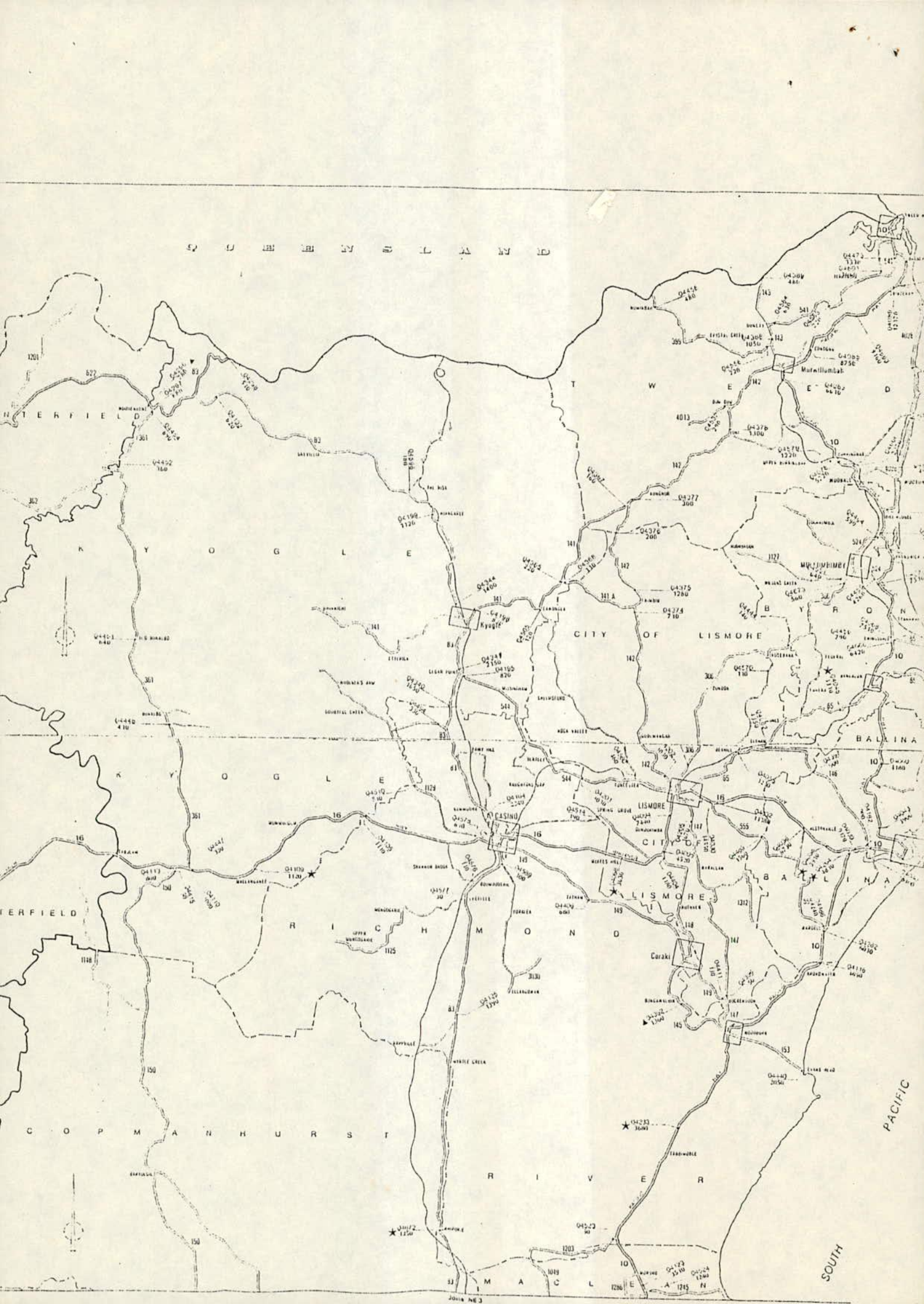
	SHIRE OF COPMANHURST							
04171	KOOLKHAN-W OF TR 83,CASINO RD	3	.1	220	210	400	270	520
S04413	COPMANHURST-E OF PO.	3	17.8	210	210	220	200	290
04414	FINE FLOWER CK-AT GORDON BROOK BR.	3	50.7	40	160	50	150	60
	SHIRE OF KYOGLE							
04415	TABULAM-S OF SH 16,BRUXNER HWY	2	117.2	30	90	50	60	50

MAIN ROAD NO.361

	SHIRE OF KYOGLE							
04447	MALLANGANEE-N OF SH 16,BRUXNER HWY	2	.1	230	230	330	290	330
04448	BONALBO-S OF GEORGE CK RD	1	18.2	280	350	430	420	410
04451	OLD BONALBO-S OF PO.	1	32.7	290	270	330	490	640
04452	AT TENTERFIELD SHIRE BDY(S BDY)	1	59.1	200	170	300	260	360
04454	WOODENBONG-S OF SH 24,MT LINDESAY HWY	1	71.3	400	360	500	650	690

MAIN ROAD NO.544

SHIRE OF KYOGLE


QUEENSLAND
TERFIELD
KYOGLE
TWEED
MURWILLUMBAH
BYRON
CITY OF LISMORE
LISMORE
CASINO
BALLINA
RICHMOND
Coraki
COMPMANNHURST
RIVER
PACIFIC
SOUTH

Rukenvale
The Risk
211
63
111
32
37
Green Pigeon
59
168
Wiangaree
1120
54
56
Hermits Peak
Kilgra
78
245
108
117
Horseshoe Creek
Upper Horseshoe Creek
Wyneden
Homeleigh
71
Toonumbar
Afterlee
40
Eden Ck
242
AFTERLEE RD
TRUNK ROAD No 83
109
1400
483
77
820
9
Cawongla
130
Toonumbar Dam
Chinnighi
322
130
KYOGLE
194
Yongurra
207
27
80
191
Ettrick
38
62
2150
107
217
Cedar Point
820
Edenville
167
Missingham
38
24
33
136
Sextonville
12
Capeen
RICHMOND
RANGE
Woolners Arm
25
Dyraaba Central
61
23
Baraimal
1150
BONALBO
410
94
Peacock
Dyraaba Creek
30
209
Doubtful Creek
29
Backmede
Fairy Hill Stn
Fairy Hill
Theresa Creek
Bingeebeebra
Bottle Creek
110
PEACOCK
Tunglebung
71
97
94
Dyraaba Arm
61
1110
Dobies Bight
Stratheden
RICHMOND
Namoona
North Casino
Naughtons Gap
Bentley
Bungabbee
Fernside
to Lismore
Springrove
Lower
Chelmsford
Rock Valley
Georgica
Jiggi
Stony Shute
Nimbin Road
to Nimbin
to Lismore
MACKELLAR RANGE
TERANIA SHIRE
Wadeville
110
220
65
Barkers Vale
Lillian Rock
127
M.R. 141
Blue Nob
160
SOUTH ARM OF TWEED R.
Mebbin or Hanging Rock
to Murwillumbah
Green Pigeon
RANGE
Forest

REPORT TO LOCAL ENVIRONMENTAL PLAN STEERING COMMITTEE 22/8/85

STRATEGIC PLANNER'S REPORT TO CHIEF PLANNE

SUBJECT: DELINEATION OF UNIQUE HORTICULTURAL LANDS
(FILE: MPR:JBG/P2-1-16/67008)

Following the Council's adoption of the Rural Strategies, the C.S.I.R.O. was contacted to determine if that organisation would be prepared to carry out a further study to classify the agricultural lands of Lismore. Kevin Rattigan of the Division of Water and Land Resources, has responded by writing (Letter 67008):

> "I do not see that another study, e.g. by C.S.I.R.O., would yield materially different results. We would use similar criteria for land classification and exactly the same maps and air photos."

He goes on to say that, as an extension of work being carried out in this region, they could provide a more detailed study of the horticultural areas to determine which crops are most suited to individual localities. They have already completed this type of study for parts of Byron, Ballina and Lismore.

He also supports the methodology of the Department in adjusting boundaries to the dominant land class in an area and then adjusting again to property boundaries, as the only practical solution of the maps that are to be used for zoning purposes.

It would seem, therefore, that there is little point in pursuing the idea of having another body carry out another classification survey of the rural lands. The C.S.I.R.O. would seem to be the only body of sufficient reputation to persuade the Department of Agriculture and they clearly believe that there would be little difference in their results. The cost of having private enterprise do the work would be prohibitive.

M Ryan

(M. P. Ryan)
STRATEGIC PLANNER.

29th July, 1985

Chief Planner's Recommendation

It is recommended that the existing agricultural land survey maps provided by the Department of Agriculture be used to determine the zone boundaries for the Local Environmental Plan and that no additional survey work be commissioned.

P B Reynders

(P. B. Reynders)
CHIEF PLANNER.

1st August, 1985

N.N.C.

P R O C E E D I N G S

O F

T H E R U R A L R E S E T T L E M E N T T A S K F O R C E

S E M I N A R

18 June 1983

Ninbin 2480

PRESENT: Over 50 persons attended the morning workshop session and some 75 to 100 attended the afternoon plenary session. Representatives of various youth and community organizations, aboriginals and local Shire Councils were present from the Queensland border south to Bellingen and Repton. Jane Miknius from the N.S.W. Lands Commission (L.C.) and Robin Reed from the N.S.W. Land Co-ordination Unit attended on behalf of the L.C. and the Minister for Housing, The Hon. F.J. Walker QC, MP.

APOLOGIES: Jennie Dell, Cr Sonia Atkinson, Dr. Harry Freeman + Scott Williams.

CHAIRPERSONS OPENING STATEMENT: The Chair thanked the L.C. and the Minister for their interest and support to date. A proposed agenda was accepted by the meeting.

ORGANIZATIONAL FLOW CHART: A proposed Chart was presented to the Meeting which was duly accepted.

General Recommendations

1. Aim of the Rural Resettlement Task Force:
"The aim of the Rural Resettlement Task Force (RRTF) shall be to provide land at the lowest possible cost for sustainable lifestyles on the North Coast."

2. Role of the Lands Commission:
a)"The role of the L.C. shall be to evaluate the RRTF Recommendations with a view to their implimentation as soon as possible."

b)"That the Minister for Housing agree in principle to establish a pilot Multiple Occupancy (M.O.) project in the North Coast Region and to investigate the RRTF's proposals to achieve this goal."

c) "That in investigating the proposal, the L.C. appoint an appropriate consultancy to advise on the feasibility and procedures for the establishment of the pilot project."

d) "That the L.C. be asked to consult with relevant government agencies and the RRTF with a view to causing a regional analysis to be carried out to identify lands suitable for rural resettlement."

e) "That in the event that the L.C. does not have readily available funds to impliment the RRTF Recommendations, it then join with the RRTF in making representations to secure the necessary funds."

3. Consultative Organization:
a) "That the RRTF establish a consultative group to tender for the necessary studies."

b) "That the consultative group be known as the Rural Resettlement Organization."

c) "That this meeting establish the Rural Resettlemnt Organization that is representative of existing and potential M.O. communities in the North Coast Region."

d) "That the function of this organization will be to facilitate the development of rural resettlement."

e) "That a Steering Committee be formed to prepare a draft constitution for presentation to a public meeting in one months time."

.....Consultative Organization con't

f) "The the members of the Steering Committee be: Peter Hamilton, Dave Lambert, Lorraine Mafi Williams, Frank Wilson, Ian Peter and Ben Roteeveel." Brian Solomon.

g) "The the draft constitution include the principle that any existing or potential employed (paid) consultant on M.O. shall not be entitled to be a member of the Board of Directors."

4. General Recommendation on Multiple Occupancy:

a) Legal Structures: "That the Attorney Generals Department and/or other appropriate organizations give consideration to the allocation of funds to document and evaluate the "legal" issues identified by the RRTF's Legal Committee as relevant to a sustainable lifestyle community. (An acceptable legal structure for the pilot project shall be within the Brief of the consultative group)."

b) Land Tax: "That the L.C. be asked to adopt the RRTF's Recommendation that all M.O. communities should be exempt from the payment of land tax because M.O. clearly falls within the spirit of the exemptions contained within s.10(1) of the Land Tax Management Act 1956."

c) Council Rates: "That Council rating is at law a tax on land (value) and not on population and that this remain the basis of rating."

d) Moveable Dwelling Licenses:"That in determining appropriate fees for Moveable Dwelling Licenses, recognition should be given to the important role of temporary dwellings in environmental assessment prior to final development, and

That such fees should not exceed such reasonable costs incurred by Councils in facilitating such assessment, and

That the granting of such licenses should not be unreasonably with held, and

That such licenses should be treated as an intergrated part of the community's Development Application."

e) Entitlement to Government Assistance: "That the RRTF endorse in principle that M.O. is a legitimate form of housing development and that all existing housing programmes, both State and Federal, should be available to residents engaged in M.O. including:

1) N.S.W. First Mortgage Scheme
ii) N.S.W. Second Mortgage Scheme
iii) Home Savings Grant Scheme
iv)Home Ownership Assistance Scheme
v) Social Security Rental Allowance "

f) Planning Workshops Pty Ltd: "That the Minister for Planning and Environment be advised that there are indications that the proposals of Planning Workshops Pty. Ltd. to impliment M.O. in Bellingen Shire are unacceptable and urge that the forthcoming proposal from the Bellingen Multiple Occupancy Assistance Group be given serious consideration as a preferable alternative."

5. Recommendations for the Pilot Project:

a) "That the RRTF form a legal structure (ie. co-op, trust or company) to hold the Certificate of Title for the pilot project, if and when this becomes necessary."

b) "That each community form a separate legal structure to hold title and manage it's affairs in an open democratic manner."

c) "That the following suggestions of the Community and Social Relations Committee be accepted as a guideline only, open for further discussion and research:

i) the size of the community shall not exceed 50 adults. A larger community could be 'sub-divided' into units of 50 or less members."

ii) an intergrated and broadly based community be drawn from youth, unemployed folk and pensioners on a statewide basis.

iii) a committee elected by residents of the community should be formed as soon as practicle.

iv) this committee should draft suitable Articles/Rules and By-laws.

vi) that some central community facilities be included in the initial development cost."

NEXT MEETING OF THE RRTF: This will take place at the Nimbin Information and Neighbourhood Center at 1:00 pm on Saturday, 25 June 1983.

CHAIRPERSONS CONCLUDING REMARKS: The Chair thanked all those who attended and assisted in any manner, particularly those who travelled long distances to attend. The Rainbow Collective was thanked for the use of the building and the good food which they provided.

Peter Hamilton
Chairperson
c/o Bodhi Farm
via The Channon 2480

Dave Lambert
Secretary
P.O. Box 26
Nimbin 2480

12 August 1985

The Registrar,
Land and Environment Court,
Box 3565,
Sydney,
NSW 2001

Dear Sir,

ACCESS ROADS TO BUNDAGEN CO-OPERATIVE LTD

We wish to submit some information in support of an appeal by Bundagen Co-operative Ltd to the Land and Environment Court in regard to Development Consent conditions concerning access roads. One of the aims of our Society is to assist community groups with technical advice; hence our involvement in this matter.

The position as we see it is as follows:

Coffs Harbour Local Environment Plan No 21, dated 25 June 1984, specifies conditions for a new type of development known as Multiple Occupancy to be carried out on land owned by Bundagen. In regard to access, development consent, if granted by the Council, is to be conditional on

> 'the availability of an all-weather access road to the land' [para 5 (3) (a) (iv)].

Coffs Harbour Council, however, in Development Consent 400/84, dated 25 October 1984, specifies a much higher standard of access road. Condition 10 of the Consent requires that the roads should be

> 'constructed to the standards and requirements for bitumen-sealed rural roads as set out in Council's Subdivision Engineering Guidelines current at the time of development approval'.

Council also stipulates that a short portion of the roads should be dedicated as a public road (Condition 8), and that legal right-of-way access should be obtained over the remainder of the roads in question (Condition 9).

PRESENT SITUATION IN REGARD TO ACCESS

The access roads to Bundagen form part of a network of regularly used Forestry Commission gravel roads which service the Pine Creek State Forest. Bundagen members living on the property have been using these roads for over three years. The Commission officially gave authority to Bundagen for this purpose on 15 April 1982 and legal access to a short Crown Reserve portion has recently been granted also.

The roads used by Bundagen follow the crest of a ridge which extends in an easterly direction from Overhead Bridge on the Old Pacific Highway to the coast where Bundagen's properties are located. According to Bundagen, the ridge is elevated above the surrounding land to such an extent that it is not subject to flooding even in the most severe weather conditions. We understand also that, during the three years of Bundagen's occupation, members have found that the standard of maintenance carried out by the Commission has been such that the roads have been trafficable at all times to two-wheel-drive vehicles.

The present situation thus appears to be that Bundagen is already provided with all-weather access roads in accordance with the LEP requirement. Furthermore, these roads are provided at no expense to Coffs Harbour Council or the ratepayers.

JUSTIFICATION FOR SEALING TO COUNCIL'S REQUIREMENTS

A number of road authorities have recommended the use of cost-benefit analysis to assist in determining when sealing of rural roads may be justified. The principle adopted is that the benefits which accrue to the community being served should exceed the cost of sealing if this work is to be carried out.

The benefits may be classified as:

1. objective economic factors such as savings in the cost of vehicle operation and travel time, and

2. subjective factors which cannot easily be quantified such as reduction in noise and dust and aesthetic considerations.

The costs include the cost of the capital invested in carrying out the work plus road maintenance costs.

One major authority in New South Wales has established that for typical rural roads, it is uneconomic to undertake sealing unless the annual average daily traffic (AADT) exceeds 350 vehicles per day. In the case of Bundagen's access roads, the total volume of traffic has been found to be an average of 87 vehicles per day at the present time (refer enclosed traffic survey). The contribution to the total traffic by Bundagen residents and their visitors amounts to 58 vehicles per day, 66% of the total traffic.

At present, the number of residents at Bundagen is approximately 100 persons. The maximum allowable density is one person per hectare, ie the maximum population allowable is 238 (Condition 15). Thus, the maximum contribution to the AADT which Bundagen might be expected to make is 238/100 x 58 = 138 vehicles per day (VPD).

As far as the writer is aware, only three families having properties to the north of Bundagen use part of Bundagen's access, so it is unlikely that any increase in the traffic contributed by them would be significant in the future. We understand that the extraction of sand in the area is likely to decrease rather than increase. The contribution to traffic by sand trucks may therefore decrease rather than increase. The contribution by Forestry Commission vehicles is relatively stable. Some increase may be expected in traffic generated by fishermen and tourists but this is unlikely to be significant in the next few years.

If it is assumed that Bundagen's traffic reaches the level of 138 VPD and that traffic from all other sources doubles in the next ten years from the present level of 29 VPD to 58 VPD, then the total figure becomes 138 + 58 = 196 VPD. This volume is well below the threshold of 350 VPD yielded by cost-benefit studies. It thus appears that sealing cannot be justified on economic grounds.

Subjective Factors

In regard to factors which can only be estimated subjectively, dust is not a problem because of the damp forest environment and the absence of residents along the roads. Noise caused by vehicles travelling on the somewhat rough surfaces is an advantage in that pedestrians and cyclists are given warning of their approach. From the aesthetic viewpoint, a gravel road is often considered as being more appropriate than a sealed road in a natural forest environment such as that traversed by the access roads.

Cost of Maintenance

The cost of maintaining a sealed road, when calculated over a fifteen-year period, is approximately twice that for a gravel road, assuming that traffic, location and width are the same. For this reason, and because of limited funds, a number of rural Shires and Municipalities in New South Wales are considering reversion from sealed surfaces to gravel surfaces for some roads in their areas. Murrurundi Council, for example, has already adopted this policy. It would be most unsatisfactory if Bundagen were to be required to meet the very high cost of sealing its access roads only to find that they were later converted back to gravel because the responsible authorities were not able to afford the cost of maintaining them adequately.

CONCLUSION

It appears to the writer that, on technical grounds, the present condition of the access roads to Bundagen is satisfactory. The roads appear to be flood-free and trafficable to two-wheel-drive vehicles at all times.

On economic grounds, the present situation in regard to the access roads appears to be optimum from the point of view of costs to all parties concerned. Bundagen is provided with adequate access at reasonable cost. No costs at all accrue to Coffs Harbour Shire or the ratepayers.

It is difficult to see that upgrading to the extent and in the form required by Council can be justified on economic or subjective grounds. We therefore recommend that the present arrangements which Bundagen has with the Forestry Commission for access to its property should be allowed to continue and that Council should waive its requirements for sealing and public road dedication.

Yours sincerely,

Bob Miller
President.

APPENDIX 8.

SOCIETY FOR SOCIAL RESPONSIBILITY IN ENGINEERING

12 August 1985

The Registrar,
Land and Environment Court,
Box 3565,
Sydney,
NSW 2001

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