

Michael Murray

Dear Council, we are in desperate straights with an increasing affordable housing crisis. One of the few remaining options open to us as a community is allow secondary dwellings on MOs and CTs. This planning consent has been hugely successful with properties in rural zonings. The take up has been strong with many landowners taking up the option. Not proceeding with this control amendment will also have the advantage of allowing many illegal dwellings to also be approved. This should be a win/win for council and the community. Wishing to restrict excessive development is fine but not when we have necessary workers and long term residents sleeping in their cars and couch surfing. This is one simple and immediate way to lessen this crisis and council should eliminate this piece of house keeping so we can keep more houses for those without any. s

Adrian Zangger

I am against this amendment

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*Dear Council, in the Shire of Byron we are in a desperate situation with an increasing affordable housing crisis. One of the few remaining options open to us as a wider community is to allow secondary dwellings on MOs and CTs. This planning consent instrument has been hugely successful with properties in rural zonings. The take up has been strong with many landowners electing to build a secondary dwelling without the need for rezoning or expensive infrastructure.*

*This should be a win/win for the council and the community. Wishing to restrict excessive development is fine but not when we have necessary workers and long term residents sleeping in their cars and couch surfing. This is one simple and immediate way to lessen this crisis and the council should eliminate this piece of housekeeping so we can have more affordable houses for those without any.*

*Thank you for your consideration.*

Uri Haishkarem

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**19 March 2021**

**BYRON SHIRE COUNCIL**

**Submission on Planning Proposal 26.2020.6.1, Amendment of Byron Local Environmental Plan 2014, Part 2  
Item 1**

**Controlling secondary dwellings and dual occupancies on multiple occupancy and  
rural community title developments**

Dear Council,

With regards to the above planning proposal, I would like to lodge my opposition based on the following points in the order that they appear:

1. **Erroneous information:** It is stated in the proposed amendment that “As part of their approval the entire site is considered and an appropriate number of dwellings or neighborhood lots are approved based on the sites constraints and other attributes.” This is misleading as many MOs were approved based on the number of lots sought by the owners with no assessment of the maximum number permissible, and in many conversions to CT that number carried over with no further assessment.
2. **Contradiction:** It is contended that, “Dual occupancy and secondary dwellings are currently permissible in the rural zones.  
Permitting this type of development on rural community titles can significantly increase the housing density of these sites beyond what was envisaged as part of their original approval (see above). This needs to be carefully considered on an entire site/catchment basis, rather than in an ad hoc manner when a development application is submitted for an individual lot within one of these developments.”  
I agree that assessments need to be appraised on an entire site basis, it appears what is proposed is an ad hoc prohibition!
3. **Lack of information:** It is further stated that, “Staff are working with the DOP to determine how best to achieve this outcome within the LEP, which will be formalized in consultation with Parliamentary Counsel when a final plan is made.” It is entirely unacceptable to submit to public scrutiny a proposal with such profound consequences with no detail of the actual amendment.

Furthermore, I would like to raise the following issues:

4. **Equity:** Most rural lots in the shire have the ability to apply for approval for a secondary dwelling or detached dual occupancy.

I consider it totally inequitable to determine at the outset, that such an option is denied only to community title lots, while allowing it on most other rural lots, especially considering that many CT lots are larger than some individual rural lots and have been subject to rigorous environmental enhancement measures.

Such a determination should be based on merit consideration, such as the suitability of the site and whether or not it conforms to bushfire and wastewater criteria etc.

5. **Lack of Community Consultation on a Proposal with Wide-Ranging Implications:**

A proposal to make changes to an LEP with such wide-ranging implications for significant sectors of the community should be subject to a thorough policy review and community consultation process and not bundled in as a “house-keeping” measure.

All sectors of the community should be given the opportunity to comment and make submissions over a suitably long period to allow all arguments on a complex issue to be thoroughly aired.

6. **Addressing the Housing Crisis.**

The Shire is currently experiencing a devastating crisis due to the lack of affordable housing, brought about by rising property prices and holiday letting pressures.

This crisis is leading to a loss of social diversity, separation of families and an exodus of skills and talent.

It is in Council's interests to find innovative ways to expand the stock of affordable housing.

**Intentional Communities could be part of the housing crisis solution.**

In the past few decades, community title and rural land sharing communities have played a significant and positive contribution towards the provision of affordable housing in the shire.

Many Community Title dwellings tend to be owner built, modest in nature and therefore cheaper than comparable urban or rural dwellings allowing for lower rents and catering to people of limited resources.

This form of settlement can provide social support mechanisms, in addition to delivering on Council's goals in terms of ecological repair, environmentally appropriate use, sharing of resources and local food growing.

For council to prohibit this form of housing on one type of property (i.e., CTs) but allowing it on most other properties appears ill conceived and contrary to good planning practices.

7. **Infill development option – rural & urban**

Byron Council has chosen 'infill' development as a preferred means of accommodating future residents. It involves allowing additional houses where others already exist. Infill is allowed in all towns and villages and nearly all rural lots.

This proposal by Council is inexplicably prohibiting infill only on CT lots while continuing to allow it on all other lots.

An approach where infill occurs based on the merits of each proposal would be more equitable.

8. **Contribution to infrastructure.**

Allowing CT lots the choice to apply for a secondary dwelling or detached dual occupancy where justifiable will allow for more much needed contributions towards public infrastructure, especially rural roads.

In light of all the above, I would like to see this proposal removed from the house-keeping package and be submitted to a proper and thorough community consultation process as a separate issue.

Sincerely

Uri Haishkarem

Orit Ben Harush

Hello, I would like to express my objection to Council's proposition to prohibit secondary dwellings on Community Titles (CT) and Multiply Occupancies lots (MO). Given the local housing crisis and the rising house rent, this act is against all common sense.

Danielle Lehrer

Objection to 26.2020.6.1 - Housekeeping LEP Amendment, Item 1 - this is NOT HOUSEKEEPING and should be put on hold until community consultation is sought

Amir Paiss

6\1217412\Dear Byron Shire Councillors,.pdf [SCANNED, FILE SAFE]

Dear Byron Shire Councillors,

I strongly object to the inclusion of item 1 – limiting the number of dwelling houses or dual occupancies on Community Title developments and secondary dwellings on Multiple Occupancies in Council's Proposal of Amendments to BLEP 2014.

This item is far from being 'a minor housekeeping item' and presenting it as such is misleading.

This is a substantial change that is going to effect many lives and impact on the future of the Shire.

It needs to be removed from the Proposal and go to a thorough public consultation process along with all aspects of the current housing crisis.

Since 2014 Secondary Dwellings and Dual Occupancies are not prohibited on Community Title developments, depending on the suitability of a specific site and subject to rigorous DA criteria.

Introducing a prohibition that denies at the outset the possibility of rapid, sustainable and affordable housing that some CTs and MOs can offer is inequitable, flies in the face of reality and in fact is an insult to the struggling community in the grip of a devastating housing crisis that ruins the fabric of our society.

Calling on Councillors to recognise that Land Sharing Communities, similar to rural lots, should be able to submit DAs for a Secondary Dwelling or Dual Occupancy and be part of a desperately needed solution for the accommodation crisis.

With respect,

Amir Paiss

Emma-lee Luther

These amendments do little to address the rising housing crisis here in the shire. It seems like there is an unfair target on community title and the ability to keep family close by building granny flats. Anyone who has lived in the shire for sometime with elderly family members being squeezed out by the astronomical rents need to find solutions that are effective and family friendly.



Lawson McGuinness

Hi, I strongly disagree with this rule, I think community consultation is essential, that is who you are supposed to be serving by working for the council. You need to consider the community and how people choose to live in this area. If you want to live differently - great: you go and do that, and leave the community to decide how they live their lives. So yes I strongly object to ruling out MO & communities.

William Cheesman

This does not make any sense considering the current housing crisis!

Felicity Grace

hardly just housekeeping to change remove secondary dwellings from Community Title. Terrible decision that will see more vulnerable people homeless. If it meets current development leave it alone... or you are just shifting shelter to profits of big developers. Should be much more significant consultation w community on changes to secondary dwellings when we are in a housing crisis. Stop saying no to alternative titles, start saying yes to something that assists w homelessness.

Abe McGrath

I think it's a bad move creating further restrictions on secondary dwellings! More than ever long term locals need these granny flat rentals to continue to live in there hone town.

Jack Waterman

I am strongly against these "housekeeping" amendments. Housing availability is so low that long term residents are being squeezed out. Many of the workers serving byron live on M.O.s and C.T.s due to the spiralling housing costs. These changes will further tighten housing availability and further restrict landowners use of their own properties. I see this move as an attack on freedom and a move against community well being. Shame on the decision makers!

Renelle

It is important this does not undermine the already debilitating housing crises for locals the shire has already on its hands...air bnb needs regulation to rehouse the population being displaced by increased house sales and rising rental and housing prices,

Avital Sheffer

Objection to 26.2020.6.1 - Housekeeping LEP Amendment, Item 1

14\1217412\Avital Sheffer submission.pdf [SCANNED, FILE SAFE]

## **Objection to 26.2020.6.1 - Housekeeping LEP Amendment, Item 1**

My name: Avital Sheffer  
email address:

Dear Byron Shire Councillors

Calling on Byron Shire Council to remove item 1 from the Proposal of Amendments to BLEP 2014

Prohibiting Community Titles and Land Sharing Communities having a secondary dwelling or dual occupancy seems to be ill conceived and not in the interest of the community at large.

The matter is definitely not a minor amendment, should be removed from the package and be taken to a thorough community consultation process that should look at the entire housing crisis with all of its aspects.

In terms of equity: Most rural lots in the shire have the ability to apply for approval for a secondary dwelling or detached dual occupancy. Normal merit consideration, such as the suitability of the site and conformance to criteria such as bushfire and wastewater, determines whether such a dwelling application is approved.

It is totally inequitable to determine at the outset, that such an option is denied only to all community title lots and rural land sharing communities.

### Housing crisis

This is especially the case in the context of the devastating housing crisis occurring across the shire. Many of us have raised families in the shire and are now watching in despair as our children struggle to find accommodation, there is simply nowhere for them to live in the shire. Many of them are forced to leave the area.

### The role of intentional communities

In the past few decades, community titles and rural land sharing communities have played a significant and positive role in the provision of affordable housing in the shire. This form of settlement can provide social support mechanisms, in addition to delivering on Council's goals in terms of ecological repair, environmentally appropriate use and sharing of resources. Many of them already have the necessary social and environmental infrastructure for the purpose.

### No cost to the public

Secondary Dwellings and Dual Occupancies carry their own weight, they pay road and other Council contributions and all expenses of the DA process. There is no cost to council, only benefits to the community in the grip of a devastating humanitarian crisis.

### Communities- a small but important part of the solution

Some natural filters will limit the number of DA applications from communities, the floodgates will not open.

Not all communities will opt for secondary dwellings, not all will be able to afford the costs involved and not all will stand the test of DA criteria however the option should be granted to communities. If the end result will be a small number of safe, sustainable and available housing it means less families will have to leave the area.



### Infill development

Byron Council has chosen 'infill' development as a preferred means of accommodating future residents. It involves allowing additional houses where others already exist. Infill is allowed in all towns and villages and nearly all rural lots.

This proposal by Council is inexplicably prohibiting infill on only CT lots while continuing to allow it on all other lots.

We are simply requesting an equitable approach where infill occurs based on the merits of each proposal.

### There was never a merit based assessment of the capacity of CT properties for extra housing.

Ill-informed comment suggests that during the original MO to CT process, properties were already assessed for their capacity for extra dwellings, and that this process exhausted the potential for extra dwellings. This is both misleading and incorrect.

In the MO to CT process, the maximum number of dwellings for which properties could apply, was limited to the number of approved MO sites. At that time, the 'merit-based assessment' was to ascertain if this number (of existing sites) was suitable to transfer to CT sites.

Calling on Council to return the matter to the drawing board, to work with the community and in the interest of the community in order to find realistic and just solutions to a complex problem that threatens the very core of the Byron Shire community.

Zhourelle Haishkarem

Objection to the inclusion of item 1 26.2020.6.1 - Housekeeping LEP Amendment

15\1217412\Zhourelle submission.pdf [SCANNED, FILE SAFE]

I strongly oppose to item 1 of the proposed amendments to LEP 2014

I grew up in Byron Shire and lived here most of my years as a young person. This is where my family and my friends live.

I now find it impossible to find secure accommodation here and I'm not alone, most of my age group is forced to leave the shire, our families and jobs for lack of housing. We are not seeking emergency accommodation, we are looking to find modest long term homes.

We are looking with disbelief at Item 1 of the amendments proposal, is Council losing touch with reality and the people of this shire?

Council's first priority should be embracing every possible option for sustainable extra housing rather than eliminating real opportunity for more real sustainable accommodation in the shire.

We care about the environment and the future and therefore we seek responsibility in every development.

Secondary dwellings on MOs and CT communities under DA criteria which should address social and environmental impact, is a viable, rapid and comes at no cost to the public. Eliminating this resource is bad planning and goes against the wellbeing of the community.

I urge Councillors to remove item 1 from the proposal and instead encourage Secondary Dwellings on communities through a proper DA process.

Council should work with the community to develop a sustainable way of using this housing potential responsibly.

Nora Faehndrich

Objection to 26.2020.6.1 - Housekeeping LEP Amendment Item 1

16\1217412\Nora Faehndrich - Objection to 26.2020.6.1.docx [SCANNED, FILE SAFE]

Submission: **Objection to 26.2020.6.1 - Housekeeping LEP Amendment Item 1**

Name: Nora Faehndrich

Email address:

Dear Byron Shire Councillors

I wish to express my strong objection to the amendment which will prohibit secondary dwellings on Community Titles.

This prohibition, if passed, will have a negative effect on the community and is far from being a minor 'housekeeping' amendment.

The matter should be brought to a comprehensive public consultation process that will need to examine all aspects of the housing problem in Byron Shire.

In the face of the deep and devastating housing crisis and the resulting human tragedy that we watch unfolding, it is Council's responsibility to encourage and not to prohibit urban and rural responsible housing solutions.

Community Titles are well positioned to contribute, upon merit assessment, low rent, sustainable and rapid housing solutions to residents at zero cost to the public.

Removing existing permission in BLEP for a Secondary Dwelling and Dual Occupancy on Community Titles has no social, economic or planning sense.

It will contribute to the disintegration of this community.

Instead, Council should encourage opportunities for quick, sustainable rural housing solutions.

I believe that where environmentally and socially appropriate, and always upon DA merit, land sharing communities can offer good immediate housing solutions.

- A solution that may save many families and local businesses whose workers can't find anywhere to live in the shire.

Regards

Nora Faehndrich

James

Hi there, Please do not amend the secondary dwelling rules for MO's and Community title properties. Many of my friends will be displaced / homeless. There is no need to make this ammendment - there is already a massive housing shortage in the shire. I understand you are trying to prevent 'shanti towns' and dangerous dwellings. But this new law will prevent people from having secondary dwellings who are trying to do the right thing. This wont affect those who are already breaking the rules. Please do not make these amendments. Kind Regards, James

Bruce Blackford

Submission attached

18\1217412\submission.jpeg [SCANNED, FILE SAFE]

Broken Head  
NSW 2481  
22/3/2021

The General Manager  
Byron Shire Council  
PO Box 219  
Mullumbimby 2482

Dear Sir

Re: Planning Proposal 26.2020.6.1 - Policy and Mapping Housekeeping

Thank you for the opportunity to comment on the proposed Amendment to the Byron Local Environmental Plan 2014. I live on an existing Community Title subdivision at Broken Head that has an approval for 12 community development lots with a maximum of one dwelling per lot permitted. I support Council's draft Amendment.

Permitting secondary dwellings within an existing Community Title subdivision would undermine the very intent of the concept of Community Title. It could have the potential to prevent the future approval of a dwelling on a Council approved neighbourhood lot as outlined in the planning report to Council of January 2021. It could also create a second tier of residents who utilise the community's infrastructure but who make no contribution to the upgrading or maintenance of that infrastructure.

A number of Community Title subdivisions in Byron Shire are located in areas that have a high level of environmental sensitivity. The maximum number of lots and dwellings which were permitted by Council in our Community Title at Broken Head was determined through a detailed process of identifying the physical and environmental constraints that apply to the site. This had the effect of restricting the number of lots and dwellings to 12.

Permitting secondary dwellings on established Community Title subdivisions in the RU2 would be inconsistent with the original concept of the Community Title scheme and could lead to an inequitable situation between individual community lot owners.

Yours faithfully

Bruce Blackford



Hope de Pigna

It's important that secondary dwelling keep being allowed! In general as it should be the freedom and decision of the landowner, but especially in a time of housing crises to assure enough housing for locals and community! Thanks

Shiva Haishkarem

I oppose to the inclusion of item 1 of this proposal and request Council to allow secondary dwellings on communities where appropriate

21\1217412\Shiva haishkarem Submission.pdf [SCANNED, FILE SAFE]

22/3/21

Byron Council

Dear Councillors,

I live and work in Byron Shire and note with dismay the proposal to prohibit secondary dwellings on community title properties.

A constant preoccupation of myself and many of my friends and acquaintances is security and affordability of accommodation, even though I work it is a constant struggle to pay the constantly rising rents and to find secure long-term accommodation.

I fail to understand how reducing options for providing more affordable housing stock on properties with adequate infrastructure can be considered responsible policy.

Where do you expect we who cut your hair and serve your coffees to live, many friends have already given up and moved elsewhere, or become homeless. It is always a dilemma when it is necessary to move house again.

Please remove or reconsider this proposal and look for positive ways to increase affordable housing.

Shane Sylvenspring

In relation to Item 1 to possibly allow secondary dwellings (with current size limit of 60m<sup>2</sup>) for MO/CT dwellings to have an associated granny flat/affordable housing. These size houses are ancillary rather than primary dwellings. Agree with changes to prohibit Dual Occupancy which would cause confusion of Dwelling numbers.

Chris Rodgers

Objection to 26.2020.6.1 - Housekeeping LEP Amendment Item 1

23\1217412\Chris Rodgers Objection to 26.2020.6.1 - Housekeeping LEP Amendment Item 1.docx  
[SCANNED, FILE SAFE]

## **Objection to 26.2020.6.1 - Housekeeping LEP Amendment Item 1**

Name: Chris Rodgers  
email:

I oppose to item 1 of the proposed amendments to LEP 2014

We desperately need housing in the shire. Council is failing to address the housing crisis in the short term and at the same time is engaged in reducing the sustainable option for more housing on communities. This is a grave mistake.

Item 1 of the proposal is not a minor 'housekeeping issue, if passed it will have a dire effect on communities, individuals and the community at large.

The main premise of the amendment is wrong. Converted Community Titles from MOs were never merit assessed for their environmental capacity to sustain secondary dwellings. The number of lots was simply translated from the number of MO shares.

Without such assessment of each community there is no way to determine the possibility for having secondary dwellings or dual occupancies. MOs and CTs are a small but important part of the privately held land in the shire, and they provide more affordable housing for many in the community.

However, it is an unexploited reserve for extra accommodation in the shire. Even if permitted, we would not be flooded with DA applications for Secondary Dwellings on communities. There will be natural filters: Not every community wants to have secondary dwellings or dual occupancy, not everyone will be able to afford the cost and not everyone will be able to comply with DA criteria.

But if we will end up with a couple of dozens new homes, owner built, cheap, rapid and with no cost to the public, it means less local families, workers, kids having to leave the area.

I urge Councillors to eliminate item 1 from the proposal and encourage secondary dwellings on communities through a DA process.

Regards

Chris Rodgers

Nehara Shai

Opposition to item 1 of this proposal. Council should allow secondary dwellings on CTs on merit assessment.

24\1217412\Nehara shai submission to BSC.pdf [SCANNED, FILE SAFE]

22/03/21

Byron Council

I write to express my opposition to your proposal to disallow secondary dwellings on CTs and MOs.

I am a business owner, employer and resident in the shire, despite my business being reasonably successful I find myself in precarious housing situation due to shortage, inflating prices and ferocious demand.

The lack of affordable accommodation is a source of frustration that makes finding staff for my business a constant headache, as more and more workers are forced out of the area. I am constantly losing staff as they lose their accommodation in the area. Contracting new professional staff is literally impossible for the same reason.

My partner and I have a young family and also extended family in the area, we grew up here and have no desire to live elsewhere, but the constant stresses and difficulties caused by the crazy property market and the acute but constant shortage make it likely that at some stage we will be forced out of the shire.

Shouldn't council be considering all possible avenues to increase the availability of affordable housing in the shire, even at small scale?

I would have thought that a thorough revision of all options that could provide some immediate or medium term relief would be a priority.

Secondary dwellings on community titles and some MOs are one of the untapped resources for housing in the shire. A lot of them can pass a rigorous merit test to sustain that option. This is a reserve of potential housing stock that hasn't been used and should be explored and encouraged.

Please remove this ill-thought proposal and initiate a community consultation process to find urgent solutions to this crisis that is destroying the social diversity and the economy of our shire.

Regards,

Nehara Shai



Chandra Levy

This concerns controls for secondary dwellings for MOs and CTs, this proposal doesn't support the very real need for housing within the Shire. MOs and CTs provide a wonderful option for secondary dwellings as there is generally more space and more need for help and support on the land. There is no reason that it should be allowed in suburban and freehold circumstances and not for MOs and CTs.

Melissa Lellouche

I object to item 1 of the proposal.

26\1217412\Submission to Council Melissa lellouche.pdf [SCANNED, FILE SAFE]

Submission: **Objection to 26.2020.6.1 - Housekeeping LEP Amendment Item 1**

My name:

email address:

Dear Byron Shire Councillors

I strongly object to the amendment which will prohibit secondary dwellings on Community Titles.

This prohibition, if passed, will have a negative effect on the community and is far from being a minor 'housekeeping' amendment.

The matter should be brought to a comprehensive public consultation process that will need to examine all aspects of the housing problem in Byron Shire.

In the face of the deep and devastating housing crisis and the resulting human tragedy that we watch unfolding, it is Council's responsibility to encourage and not to prohibit urban and rural responsible housing solutions.

Community Titles are well positioned to contribute, upon merit assessment, low rent, sustainable and rapid housing solutions to residents at zero cost to the public.

Removing existing permission in BLEP for a Secondary Dwelling and Dual Occupancy on Community Titles has no social, economic or planning sense.

It will contribute to the disintegration of this community.

Instead, Council should encourage opportunities for quick, sustainable rural housing solutions.

Where environmentally and socially appropriate, and always with DA merit assessment, land sharing communities can offer good immediate housing solutions. A solution that may save many families and local businesses whose workers can't find anywhere to live in the shire.

Jacinta McEwen

With the severe housing shortage in this area this seems very wrong.please do not limit dual occupancy on already approved Community Title properties.

Sher

Hello, My Mum and I have been trying to purchase a home here for the past two years. Our intuition was to buy a home for my children and myself and build a granny flat for my elderly Mum. Will this still be an option with this current amendment? We have been living in the shire for 7 years now. Will building a dwelling for your elderly parents be approved by council moving forward? Regards,  
Sher Manu

Karen Smith

Dear Madam/Sir, I wish to submit my strenuous objection to proposed changes to the Byron Local Environment Plan to prohibit secondary dwellings on all Community Titles and MOs. Item 1 of the proposed amendments is a strict prohibition on all Community Titles and some MOs from having a secondary dwelling. If passed, these changes will become law and be almost impossible to change for many years to come. In the face of the devastating housing crisis that sees our communities losing hundreds of long term residents who simply have nowhere to live, I believe this is an ill-conceived move and goes against the interests and well being of the community. CTs and MOs are a small part of the private landholding in the shire but a lot of them are well positioned to provide environmentally and socially responsible housing to locals in the form of secondary dwellings. Upon merit assessment Communities can apportion immediate and rapid solution at zero cost to the public. In the current housing shortage and the human tragedy that entails, to outright prohibit this unexploited resource is contrary to good planning and flies in the face of our ailing community. The unique spirit of the Byron Shire is based on a long history of close community ties and environmental responsibility. Therefore, it is essential that we retain this treasured aspect of our shire, by allowing merit-assessed Community Titles and Multiple Occupancies where appropriate and suitable. Yours sincerely Karen Smith

Helena Norberg-Hodge

see attachment

30\1217412\Submission for Helena Norberg-Hodge.docx [SCANNED, FILE SAFE]

Submission for Helena Norberg-Hodge

Submission: **Objection to 26.2020.6.1 - Housekeeping LEP Amendment Item 1**

My name: Helena Norberg-Hodge  
email address:

Dear Byron Shire Councillors

I strongly oppose Council's attempt to remove from BLEP 2014 the existing permission to apply for a DA for secondary dwellings or dual occupancies on intentional communities i.e. Community Titles and some Multiple Occupancies.

Approving this prohibition by Council will be a grave mistake that will deprive the community of the use of a viable and immediate resource of housing in times of a devastating shortage and without a solution in sight.

Some Community Titles and MOs are well equipped with social and physical infrastructure to accommodate secondary dwellings in the short term and without cost to the community.

Communities have been investing enormous resources in an ongoing ecological repair and they are one of the more responsible forms of settlement in this area in terms of appropriate land use, resource sharing and local food growing.

Many Community Title dwellings tend to be owner built, modest in nature and therefore cheaper than comparable urban or rural dwellings allowing for lower rents and catering to people of limited resources

It is truly one of very few options council has to allow more dwellings in a controlled way without time delay or extra costs of rezoning.

Denying the community this important local resource is inconceivable. It goes against the wellbeing of the community and contrary to good planning practices.

I'm calling on Council to reconsider the matter and remove item 1 from the amendments Proposal.

With best wishes,  
Helena Norberg-Hodge  
Director, Local Futures  
[www.localfutures.org](http://www.localfutures.org)



Sandra roche

I am 70yr old grandmother looking for shared independent housing, PLEASE do not do this???

Bruno Kortenhorst

Dear Councillors, We are in a desperate situation with an increasing affordable housing crisis. One of the few remaining options open to us as a community is to allow secondary dwellings on MOs and CTs. This planning consent has been hugely successful with properties in rural zonings. The take up has been strong with many landowners electing to build a secondary dwelling without the need for rezoning or expensive infrastructure. Not proceeding with this control amendment will also have the advantage of allowing many existing illegal dwellings to be approved. This should be a win/win for the council and the community. Wishing to restrict excessive development is fine but not when we have necessary workers and long term residents sleeping in their cars and couch surfing. This is one simple and immediate way to lessen this crisis and the council should eliminate this piece of housekeeping so we can have more houses for those without any.

Margaurite Buivids

objection to item 1 of the proposal

33\1217412\Marg Buivids submission.docx [SCANNED, FILE SAFE]

Opposing item 1 of the proposal

To our Councillors

We have an unexplored resource of extra housing in the shire. It is local, right here and ready to go. State Government is currently allowing it so is not needed in the process.

Would anyone think of eliminating at the outset this available potential in the current housing crisis?

Council should include in all of its short to medium term plans allowing, even encouraging secondary dwellings and dual occupancies on community titles and MOs. It is the last untapped resource we have.

Merit assessment (never conducted before on most of Byron Shire communities) will prove that a lot of communities have the right social and environmental infrastructure to support responsible extra housing for locals. That, without cost to the environment nor the public coffers.

A blanket prohibition as planned by Council is wrong, bad planning and flies in the face of the desperate needs of this community.

Joshua Leishman

I object to item 1 of the proposal that suggests prohibition on secondary dwellings and dual occupancy in CTs and MOs

34\1217412\leishman.pdf [SCANNED, FILE SAFE]

20/03/21

Byron Council

**Submission on Planning Proposal 26.2020.6.1 Part1**

Dear Councillors,

With regards to the above proposal, I would like to object.

There is currently a heart-breaking housing crisis occurring in this region and I don't see how council arbitrarily reducing the options of approving secondary dwellings on community titles can in any way be seen as good policy.

Wouldn't it be better to develop an approval strategy that prioritises affordable accommodation where the existing infrastructure allows?

I have lived in the Shire for many years and benefitted from affordable accommodation on communities, I would not like to see that aspect of the Byron lifestyle lost to younger generations and newcomers.

If council is worried about excessive development, surely the few communities that could meet the environmental conditions and afford the construction process would hardly constitute a tsunami but could still produce a relatively quick and effective means of increasing the affordable housing stock.

Peter Monkhouse

35\1217412\Peter M .pdf [SCANNED, FILE SAFE]

Mary Nardone

I oppose item 1 of the proposal To Byron Shire Councillors. I have lived here for several years and experience the chronic and worsening housing crisis. Shutting down opportunities of housing in the middle of this crisis is incomprehensible. Communities have the potential to help in alleviating the accommodation shortage by constructing secondary dwellings on their lots. Council should encourage that and work with the communities to find responsible ways to carry out this project. Prohibiting this option from the outset makes no sense and will contribute to the suffering of many like me. Council should look for ways to work closely with the community on important decision like this one. Please take this issue back to the drawing board.



Steven Duchen, Director BHCF Pty Limited

As an affected landholder, we wish to object to certain amendments being included in the planning proposal as outlined in the attached letter

37\1217412\bhcf council objection 23 March 2021.doc [SCANNED, FILE SAFE]

# BHCF PTY LIMITED

(ACN 094 606 630)

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24 March 2021

The General Manager  
Byron Shire Council  
PO Box 219  
Mullumbimby  
NSW 2482

Attention: Sam Tarrant, Planner

Dear Sir

## **Objection to Proposed Housekeeping Planning Proposal**

We are writing to strenuously object to the inclusion of the property known as Linnaeus Estate at 951 Broken Head Rd, Broken Head, NSW, 2481 in the proposed housekeeping planning proposal.

As drafted, both paragraph 4.1A(2)(d) and paragraph 4.1AA(2)(d), in the housekeeping amendments directly affect this property and we request the complete removal of those paragraphs for the following reasons:

- 1 Our property is the only site in Byron Shire which is zoned SP1 Special Activities. The relevant proposed housekeeping amendments are therefore pointedly site specific.

This has been verified in correspondence with Mr Steve Daniels, from Council's planning department, on 8 December 2020.

Accordingly, the removal of these paragraphs will have no impact on any other properties in the Shire.

- 2 BHCF has been engaged with Byron Council for over 6 years in relation to the applicability of community title for our site.

In particular, BHCF had continuous involvement with Council for the inclusion of our site in the Byron Rural Land Use Strategy ("BRLUS") which was finally adopted by Council in July 2018.

Prior to the adoption of the BRLUS, BHCF had in August 2014 lodged a planning proposal to rezone the whole property to E2 and also for conversion to

community title. This proposal was rejected by Byron Council as it had not yet adopted any E Zones. We were also advised to wait to relodge our proposal, pending the adoption of the BRLUS, which took a further 4 years to come into effect.

Clause 3.3.5 page 31 of the adopted BRLUS specifically recommends BHCF's site (Linnaeus Estate) for conversion to 33 community title neighbourhood lots. Additionally, Table 10 in that strategy lists the property as one of four priority sites for community title in Byron Shire.

Accordingly, we consider it an abuse of process, and inequitable that Council now attempts to undo all the work including costs, expenses and time incurred by us leading to the adoption of the BRLUS.

- 2 Subsequent to the BRLUS being adopted and acting on the advice from Council staff, in September of 2018, BHCF lodged a new planning proposal for conversion to 33 community title neighbourhood lots which received approval at all but the final stage of the designated planning approval process including:

- initial approval by Council on 29 February 2019; and then
- Gateway Approval on 29 May 2019.

At the final Council meeting to approve the planning proposal on 16 April 2020, the planning proposal was suddenly, and without any warning or notice to us, recommended to be rejected by Council staff as being redundant (as per the excerpt below which has been directly quoted from the Council staff report on page 26 of the relevant meeting):

*"The existing Byron LEP 2014 community title subdivision controls negate the need for a planning proposal to permit community title subdivision on that part of the land zoned SP1 Special Activities – Mixed use development under Byron LEP 2014. That is, community title subdivision is already permitted in the SP1 Zone on the subject land and the number of lots is not restricted. For this reason, Byron LEP 2014 Schedule 1 – Additional Permitted Uses cannot be used to restrict future community title subdivision of the land to 33 neighbourhood lots with 1 lot for association property (as intended by the current planning proposal)."*

If Council happens to continue with the current proposed housekeeping amendments which affect our site, then the planning proposal which Council had previously considered redundant will now no longer be redundant, and therefore will be valid.

In such case, BHCF will immediately seek to continue with that planning proposal in its current form and, if necessary, appeal it through the appropriate channels.

- 3 The inclusion of the relevant housekeeping amendments affecting our site is in complete contradiction to the good faith discussions which have been taking place between Council planners and BHCF for the past 6 years for the attainment of community title for our site.

To suddenly include these paragraphs, without warning and consultation, with the effect they have in inhibiting community title on our site, destroys all goodwill accumulated over the years between Council and BHCF.

Should the Council proceed with the relevant aspects of the Planning Proposal after consideration of this objection, BHCF reserves its legal rights to bring proceedings in the Land and Environment Court to strike down this LEP amendment, and in other Jurisdictions with respect to a claim for compensation against Council for previously expended costs, expenses, time and effort and other related damages.

We look forward to your response.

Yours sincerely

Director

Objection to 26.2020.6.1 - Housekeeping LEP Amendment, Item 1 Here are some samples of arguments against the proposal: Lack of Community Consultation on a Proposal with Wide-Ranging Implications. A proposal to make changes to an LEP with such wide-ranging implications for significant sectors of the community should be subject to a thorough policy review and community consultation process and not pushed through as a “house-keeping” measure. All sectors of the community should be given the opportunity to comment and make submissions over a suitably long period to allow all arguments on a complex issue to be thoroughly aired. Addressing the Housing Crisis. The Shire is currently experiencing a devastating crisis due to the lack of affordable housing, brought about by a housing shortage, rising property prices and holiday letting pressures. This crisis is leading to a loss of social diversity, separation of families and an exodus of skills and talent. It is in Council's interests to find the best ways to expand the stock of affordable housing. Intentional Communities as part of the housing crisis solution In the past few decades, community title and rural land sharing communities have played a significant and positive contribution towards the provision of affordable housing in the shire. Many Community Title dwellings tend to be owner built, modest in nature and therefore cheaper than comparable urban or rural dwellings allowing for lower rents and catering to people of limited resources. This form of settlement can provide social support mechanisms, in addition to delivering on Council's goals in terms of ecological repair, environmentally appropriate use, sharing of resources and local food growing. For council to prohibit this form of housing on one type of property (i.e. CTs) but allowing it on most other properties is ill conceived and contrary to good planning practises. There was never a merit based assessment of the capacity of converted 'MO to CT' properties for extra housing. Ill-informed comment suggests that during the original MO to CT process, properties were already assessed for their capacity for extra dwellings, and that this process exhausted the potential for extra dwellings. This is both misleading and incorrect. In the MO to CT process, the maximum number of dwellings for which properties could apply, was limited to the number of approved MO sites. At that time, the 'merit-based assessment' was to ascertain if this number (of existing sites) was suitable to transfer to CT sites. Equity. Most rural lots in the shire have the ability to apply for approval for a secondary dwelling or detached dual occupancy. Currently, Byron Council is seeking to remove that right from lots on rural Multiple Occupancy and Community Title properties, which account for a small proportion of rural properties. It is totally inequitable to determine at the outset, that such an option is denied only to all community title lots, while allowing it on most other rural lots. Such a determination should be based on merit consideration, such as the suitability of the site and whether it conforms to criteria such as bushfire and wastewater. Infill development option – rural & urban. Byron Council has chosen 'infill' development as a preferred means of accommodating future residents. It involves allowing additional houses where others already exist. Infill is allowed in all towns and villages and nearly all rural lots. This proposal by Council is inexplicably prohibiting infill on only CT lots while continuing to allow it on all other lots. We are simply requesting an equitable approach where infill occurs based on the merits of each proposal. Contribution to infrastructure. Allowing CT lots the choice to apply for a secondary dwelling or detached dual occupancy will allow for more much needed contributions towards public infrastructure, especially rural roads.

Emilio Mercuriali

Dear Council, I think considering the shortage of rentals in our shire this proposals is not supporting the crisis regarding rentals in the Byron shire. Best regards

noah yamore

Dear Council, We are in a desperate situation with an increasing affordable housing crisis. One of the few remaining options open to us as a community is to allow secondary dwellings on MOs and CTs. This planning consent has been hugely successful with properties in rural zonings. The take up has been strong with many landowners electing to build a secondary dwelling without the need for rezoning or expensive infrastructure. Not proceeding with this control amendment will also have the advantage of allowing many existing illegal dwellings to be approved. This should be a win/win for the council and the community. Wishing to restrict excessive development is fine but not when we have necessary workers and long term residents sleeping in their cars and couch surfing. This is one simple and immediate way to lessen this crisis and the council should eliminate this piece of housekeeping so we can have more houses for those without any

robert osullivan

SHAME SHAME SHAME FOR TRYING TO PASS THIS. DUNCAN DEY WILL HAVE YOUR HEAD ON A PIKE  
AND RIGHTLY SO.



Yoav Gottlieb Mashiach

I strongly oppose the prohibition of secondary dwellings and dual occupancy on CTs and MOs presented in item 1 of the proposal

42\1217412\Yoav M my Sumission .pdf [SCANNED, FILE SAFE]

## Opposition to item 1 of the amendments proposal

Dear Councillors

Provided a rural property's Development Application satisfies a **merit assessment**, most rural properties have the ability to apply for a secondary dwelling, or dual occupancy.

This option, encouraged by State Government as a part solution to the devastating shortage of housing should be extended without unnecessary obstacles to all Community Titles and MOs that wish to have this option and can comply with DA social and environmental criteria.

An entrenched myth propagated by Council suggests that during the original MO to CT process, properties were already assessed for their capacity for extra dwellings, and that this process exhausted the potential for extra dwellings. This is both misleading and incorrect.

In the MO to CT process, the maximum number of dwellings for which properties could apply, was limited to the number of approved MO sites. The MO number of sites

Communities are very diverse in terms of their size, geography, ecology, and social conditions. They should be freshly assessed on a case by case basis for their capacity to sustain secondary dwellings and dual occupancies.

It is important to bring equity, fairness and pragmatism to planning law making processes of local government. We can do this while protecting the environment.

Soflana Haishkarem

I reject item 1 of the proposal to prohibit secondary dwellings on Intentional Communities

43\1217412\Soflana Submission to Council.pdf [SCANNED, FILE SAFE]

Submission: **Objection to 26.2020.6.1 - Housekeeping LEP Amendment, Item 1**

Dear Byron Shire Councillors

I am a long term resident of Byron Shire. I am a mother, a professional and I am aware of the housing insecurity all around me.

There is nowhere long term for some of my family members to live in the shire. I am not alone, this is the reality of hundreds of Byron Shire residents.

We are looking in disbelief at item number 1 on Council's Planning Proposal Amendment of Byron Local Environmental Plan 2014.

The matter must be put to a Community Consultation process and Council has to work with the affected communities in order to achieve a good result for all.

To slash without community consultation the possibility of Community Titles and Land Sharing Communities of having a secondary dwelling has no sense and will damage the community by reducing further the potential of housing stock.

I have lived on MOs and CTs in the past. Some of them are perfectly suitable for having a second dwelling, they have the adequate social infrastructure and comply with high environmental and building standards.

We are calling on Council to remove item number 1 from the Amendments Proposal and initiate a policy that makes it possible and easy for CTs and MOs to apply for secondary dwelling or dual occupancy where suitable and with a DA consent.

This section of the community may be a hope for short term affordable housing.

Nicole Roptig

i oppose to item 1 of the proposal

44\1217412\Nicole Roptig Submission.pdf [SCANNED, FILE SAFE]

Submission: **Objection to 26.2020.6.1 - Housekeeping LEP Amendment**  
**Item 1**

Dear Byron Shire Councillors

I strongly object to the amendment to prohibit secondary dwellings on all CTs and MOs without suitability merit assessment of each site and without public consultation process.

This prohibition, if approved, will deprive Shire residents of an important ingredient in the solution to the devastating housing crisis.

I live in the shire for many years. My children were raised and educated here.

For the generation of my children there is nowhere to live in the shire, there are simply no rental properties available or affordable properties to purchase. It looks like many of the younger generation will have to uproot and move elsewhere and the aging generation will lose their family support network.

Removing existing permission in BLEP for a Secondary Dwelling and Dual Occupancy on Community Titles has no social, human and planning sense. It will contribute to the disintegration of this community.

Instead, Council should encourage opportunities for immediate and sustainable rural housing solutions.

Allowing secondary dwellings and dual occupancies on Intentional Communities will allow Council to regulate this kind of development, collect Council contributions and assure that it's up to standard. Where environmentally and socially appropriate, with DA merit assessment, land sharing communities can offer decent housing solutions for locals without impacting on the environment. A solution that may save many families in light of the fact that population increase in the area is inevitable.

Gemma Martin

I object to submission

45\1217412\Byron council letter.docx [SCANNED, FILE SAFE]

Hello,

I am writing to express my objection to the proposal to amend the Byron Bay Local Environment plan and Mapping to exclude multiple occupancies and community title sites from eligibility for second dwellings.

Not only has the council not consulted with the community, but this proposal is unfair and not in line with the current housing crisis - which my all accounts is severe, particularly in the Byron Shire. The council should really be looking at ways to safely house more people, not less, and consider rural MOs and CTs as sensible options unlikely to cause further congestion in the town centres (as further building in the Byron town might).

Please consider my email as an opposition to the proposal.

Regards,

Gemma Martin



Ranjana Whall

I am very concerned about Councils intention to control secondary dwelling on Mo's and CT's. I am 65 years old, working part time and have lived in the shire for 35 years. There is such a lack of affordable accommodation, I believe it would be better to support people to have low cost secondary dwellings on their properties. I found it very hard to get any type of affordable accommodation and cannot move due to the lack of housing. My work as a Financial Counsellor brings me into contact regularly with people desperate for housing and wishing to stay within their communities where they have ongoing support. Thank you for your consideration.

Maria Isabel Molina

Strongly oppose to part 1 of the amendment proposal.

47\1217412\Maria Isabel Molina Submission.pdf [SCANNED, FILE SAFE]

Submission: **Objection to 26.2020.6.1 - Housekeeping LEP Amendment, Item 1**

I strongly object to the attempt to prohibit secondary dwellings and dual occupancies on MOs and CTs in Byron Shire.

We are a young couple expecting a baby, we are both professionals in full time jobs. As long term residents of the shire, our social and familial networks are here. However, we are on the verge of being pushed out of the shire or become homeless due to the housing crisis.

We have family and friends who own lots on MOs and CTs. All of them are prepared and ready to construct secondary dwellings with DA and pay contributions if Council removes obstacles to do so. These would be ideal housing solutions for us and many of our friends who find themselves in the same situation.

It is beyond comprehension why Council is engaged in closing housing options while desperately looking for them.

Instead of trying to match old and obsolete control measures that are relics from 40-15 years ago in the form of approval conditions and insert them in the current LEP, Council should remove the restriction in the consent conditions to allow communities to apply for secondary dwellings if the community so wishes.

Then a DA process will ensure that each case is examined according to its own merit.

Who is to lose?

Luke Philip Haralampou

objection to item 1 of this proposal. It needs to be removed in its entirety from the packadge

48\1217412\Luke Haralampou submission.pdf [SCANNED, FILE SAFE]

I oppose to item 1 of the proposal to prohibit secondary dwellings and dual occupancies on land sharing communities.

Reading the proposal several times I fail to understand it and not for lack of experience.

The proposal is incomprehensible to professionals. It seems like it not only discriminates between freehold land and community lots that may share the same ecological and geographical conditions, size etc., it also seeks to discriminates between communities.

It is clear though that if approved it will practically eliminate all option for secondary dwellings on all MOs and CTs. The proposal endeavors to match the LEP with the prohibition of one dwelling per lot which exists in all approval conditions of all communities.

Just to remind Council that this prohibition existed on all rural lots up to about 10 years ago and then arbitrarily changed without a 'whole catchment based assessment' as the reality of the times demanded.

Communities lot owners should have the same choice as landholders to apply for secondary dwellings and be merit assessed on a case by case basis.

Council should include and encourage this option in all of its plans to alleviate the extreme housing shortage, allowing a fresh merit assessment of individual communities as they are very different to each other in terms of their conditions.

Many communities have the right social and environmental infrastructure to support more housing for locals. Communities are likely to initiate and accept a prohibition in consent conditions to use the secondary dwelling for short term tourism.

This is a local solution, no need for State or federal Gov.  
We have this resource available and it is ready to go.

A blanket prohibition as planned by Council will aggravate the crisis, is inequitable and have no planning sense.

Arnaud Dinesh Mackie

Strongly opposed to item 1 of the proposal: controlling secondary dwellings and dual occupancies on rural CTs.

49\1217412\submission Arnaud Mackie.pdf [SCANNED, FILE SAFE]

## **Submission to Planning Proposal 26.2020.6.1**

### **Objection to Item 1 - Controlling secondary dwellings and dual occupancies on multiple occupancy and rural community title developments**

To our Councillors

Despite the confused and unclear phrasing of the proposal and its obvious internal contradictions, it transpires that the practical result of this proposal is a rigid blanket prohibition on secondary dwellings and dual occupancies on intentional communities.

We have an unexplored resource of extra housing in the shire. It is local, right here and ready to go. State Government is currently allowing it so is not needed in the process.

Would anyone think of eliminating at the outset this available potential in the current housing crisis?

Council should include in all of its short to medium term plans allowing, rather encouraging secondary dwellings and dual occupancies on community titles and MOs.

It is one of the last untapped resources we still have in the rural community. Merit assessment (never conducted before on Byron Shire communities) will prove that a lot of communities have the right social and environmental infrastructure to support responsible extra housing for locals. That, without cost to the environment nor the public coffers.

A blanket prohibition as planned by Council is wrong, bad planning and flies in the face of the desperate needs of this community.

Sandra Buck

Planning Proposal 26.2020.6.1 Amendment of Byron Local Environmental Plan 2014 Policy and Mapping Housekeeping Item 1

50\1217412\CT second dwellings.pages [SCANNED, FILE SAFE]



To whom it may concern,

I am writing to you about the proposed amendment of secondary dwellings on Community Titles.

I am living with my husband in the Byron Shire for over 30 years and moved to the beautiful Ridgewaves community which is a CT. It took many years to convert from MO to CT with lots of demands to fulfil the requirements, time and money. All our buildings, sewage systems and environmental issues were applied to the newest Council standards.

We pay Council contributions, taxes, while maintaining our internal roads, electricity lines and invest for ongoing intensive bush regeneration/weed management. This was and still is a expensive process and we love to contribute to nature preservation.

Our children are now young adults living in the city and we wish for them to be able to live with us in a secondary dwelling on our lot for each others support. The housing crisis in the Byron Shire is making it impossible for young families to afford their own place.

We believe a secondary dwelling being build with low impact and high standards for the environment can be beneficial for the individual family and take the pressure of Byron Shire's Housing crisis.

I urge you to please consider my arguments.

Kind regards

Sandra Buck

Klaus Becker

Planning Proposal 26.2020.6.1 Amendment of Byron Local Environmental Plan 2014 Policy and Mapping Housekeeping Item 1

51\1217412\CT second dwellings submission Klaus.pages [SCANNED, FILE SAFE]

To whom it may concern

I am writing to you regarding a second dwelling on CT land. My wife and I just bought on Ridgewaves and love the place. We have been living in the shire for over 30 years.

Our children study in the city and in the future we would like them to be able to live with us for support. They can look after us in older age and we can help with grandchildren. Therefore it is important and beneficial to have second dwellings in CT accepted - dwellings which would be built with low impact on the environment.

We are conscious and passionate in preserving nature around us, planting native trees and are contributing with higher levy fees to preserve and regenerate the bushland.

CT communities look after their own roads, electricity and are paying their rates and levies. Allowing second dwelling could ease the housing crises in the shire.

Houses in town have small blocks and are allowed to build a secondary building.

Please consider my request for a second dwelling on Community Title land.

Kind regards  
Klaus Becker

Lesley Bayliss

Strongly oppose item 1 to prohibit secondary dwellings and dual occupancies on MOs and CTs

52\1217412\ Lesley B Submission.pdf [SCANNED, FILE SAFE]

Submission: **Objection to 26.2020.6.1 - Housekeeping LEP Amendment, Item 1**

Dear Byron Shire Councillors

I am a long term resident of Byron Shire. I am a mother, a professional and I am aware of the housing insecurity all around me.

There is nowhere long term for some of my family members to live in the shire. I am not alone, this is the reality of hundreds of Byron Shire residents.

We are looking in disbelief at item number 1 on Council's Planning Proposal Amendment of Byron Local Environmental Plan 2014. It is very confused and seems to contradict itself in each of its parts.

The matter must be put to a Community Consultation process and Council has to work with the affected communities in order to achieve a good result for all.

To slash without community consultation the possibility of Community Titles and Land Sharing Communities of having a secondary dwelling has no sense and will damage the community by reducing further the potential of housing stock.

I have lived on MOs and CTs in the past. Some of them are perfectly suitable for having a second dwelling, they have the adequate social infrastructure and comply with high environmental and building standards.

We are calling on Council to remove item number 1 from the Amendments Proposal and initiate a policy that makes it possible and easy for CTs and MOs to apply for secondary dwelling or dual occupancy where suitable and with a DA consent.

This section of the community may be a hope for short and medium term affordable housing.

Richard Clarke

I reject item 1 of the proposal, if approved it will cause a great damage.

53\1217412\Richard Clarke sub.pdf [SCANNED, FILE SAFE]

Dear Councillors

I strongly oppose to item 1 of the proposed amendments to LEP 2014

In the middle of a terrible housing crisis, with no solution in sight we can not afford to prohibit an available, unexplored source of extra housing, that is Secondary Dwellings and Dual Occupancies on land sharing communities.

Contrary to the main premise of item 1 of the proposal, Community Titles were never undergone merit assessment for their maximum capacity to sustain certain number of dwellings.

Secondary dwellings on communities and always under DA criteria which should address social and environmental impact, is a viable, rapid and comes at no cost to the public. Eliminating this resource is bad planning and goes against the wellbeing of the community.

I urge Councillors to remove item 1 from the proposal and instead encourage Secondary Dwellings on communities through a proper DA process. Council should work with the community to develop a sustainable way of using this housing potential responsibly.

Jade Bayliss

objection to item 1 of the amendments proposal. It needs to be removed in its entirety

54\1217412\Jade Bayliss submission.pdf [SCANNED, FILE SAFE]



Dear Byron Shire Councillors,

I object to the inclusion of item 1 of the LEP Amendments Proposal

The shire finds itself in an unprecedented, grave housing crisis with no solution on the horizon. We are losing workers, long time residents, talent and businesses. Council and State Government have failed to come up with any short and medium term solution.

It is Council's obligation to urgently explore housing options available now.

Secondary dwellings on those CT and MO communities that can show merit through a DA is one viable, immediate part of a solution.

Secondary dwellings on communities that have the adequate social and environmental infrastructure tend to be owner built , low cost and cater to long term locals and family members. Council Contributions will be paid make it a win to all.

We must allow communities the same secondary dwelling entitlement as all private landholdings have.

Blocking this option is unfair, irresponsible, will damage the fabric of the community and will contribute to the housing tragedy we see all around us.

Calling on councillors to remove item 1 from this Proposal and work with the community to find ways to incorporate the option of secondary dwellings on communities as part of a responsible, equitable strategic planning solution.

Luke Woolcott

Opposing item 1 to restrict secondary dwellings and dual occupancies on community titles and land sharing communities

55\1217412\Luke W submission.pdf [SCANNED, FILE SAFE]

To Byron Shire Councillors

I oppose to the inclusion of item 1 of the proposed amendments to LEP 2014. This item should be removed from the package of amendments.

Contrary to some of its wording, the proposal seeks to blanket prohibit secondary dwellings on communities while allowing it on other privately owned similar properties that may be sharing the same environment.

This is inequitable and discriminatory.

We live a painful reality where hundreds are homeless, long term residents and families are forced to leave the area *en masse*, businesses collapse for lack of workers who can't find where to live.

Shutting the option of secondary dwellings on communities without a fresh assessment to ascertain their maximum capacity for housing in the current reality is wrong, damaging and goes against the urgent needs of the community.

Danny Salfield

Opposition: Remove item 1 from the proposal. It is wrong, unfair and damaging to the community.

56\1217412\my sub Danny Salfield.pdf [SCANNED, FILE SAFE]

Opposition to item 1 of the amendments proposal.

Item 1 of this proposal is absurd and I have no idea how such a document; vague and confused has made its way to a public exhibition. The base premise of the proposal is erroneous and demonstrates ignorance of the authors of the planning history and the present needs of the community it purports to represent.

The majority of privately owned land in the shire can apply for secondary dwellings and dual occupancies and be assessed ad hoc. Why not communities then?

MO and CT communities can contribute responsibly to the solution of the housing crisis. Their modest contribution can not be discarded at the outset.

Council should invite communities to table in order to work out how to best utilise this contribution for the benefit of all.

Alexis Williams

I strongly oppose to the inclusion of item 1 in the amendments. Please remove it and sit down to consult with the community

58\1217412\Alexix W feedback to Council.pdf [SCANNED, FILE SAFE]

## Submission: Objection to 26.2020.6.1 - Housekeeping LEP Amendment, Item 1

Calling on Council to remove this item from the proposal immediately.

Blocking a potential for extra housing in times of a housing disaster is not a small matter and must come to a thorough public consultation.

Council is failing it's obligations and its own policy documents , the Strategic Planning for one.

The proposal is perplexing if not misleading. We all know for fact that all MOs and CTs have an approval condition of one house per lot. This control is obsolete and needs to be changed in order to match it with the LEP and not the other way around.

Let communities provide the good housing options they historically do in the form of secondary dwellings upon merit. Exactly as is allowed to every other rural property in the shire.

Council staff and Councillors, please wake up to reality and do the right thing.

Samuel Clarke

opposing item 1 of the proposal

59\1217412\Sam Clarke Feedback.pdf [SCANNED, FILE SAFE]



Feedback: Objection to 26.2020.6.1 - Housekeeping LEP Amendment, Item 1

Dear Byron Shire Councillors

I am bewildered reading this item of the proposal, it is so confused and self contradictory, it's beyond me how such document makes itself to public exhibition.

Embarrassing to author and authority and that may be the very reason it's hidden as 'minor amendment'. Whose idea can it be to slash housing options when the community is desperately looking for them?

This proposal is based on a raft of false premises and inaccuracies.

MO and CT communities were not assessed to determine their maximum capacity for housing.

Almost all rural properties were given the entitlement for secondary dwellings and dual occupancies without prior assessment but *ad hoc* from one day to the next and no disaster happened, on the contrary: great success.

Communities were excluded and it's time to amend that. Instead of attempting to force change of LEP back to a reality that is now obsolete, it's time to remove the also obsolete approval condition of one dwelling per lot and assess communities on a case by case basis, exactly the way it's done on all private properties in the shire.

Calling on Councillors to remove item 1 from the proposal and sit down with the community to discuss real, fair and viable solutions.

Bruce Robert Edge

I object to item 1 of this proposal

61\1217412\ Bruce Robert Edge Submission.pdf [SCANNED, FILE SAFE]

27/03/21

Byron Shire Council

Planning Proposal 26.2020.6.1  
Amendment of Byron Local Environmental Plan 2014  
Policy and Mapping Housekeeping

With regards to the above proposal, I strongly object to **item 1 Controlling secondary dwellings and dual occupancies on multiple occupancy and rural community title developments.**

Having during the past 45 years lived, worked and raised a family in the shire I note with profound concern the societal and cultural changes affecting many long-term residents. We, along with many peers watch helplessly as our children struggle to find secure accommodation, whilst social media forums are full of heart-breaking stories of long-term residents being thrown into homelessness due to surging property prices and holiday letting pressures.

The exodus of people of limited resources but with vital social and occupational skills can only ultimately impoverish us all culturally.

I don't understand how council can be considering further reducing options for providing affordable accommodation in the current climate. Proposing a prohibition based on arbitrary measures made 20 to 40 years ago whilst ignoring the actual realities of housing stress doesn't come across as responsible or innovative planning.

Surely a reappraisal of all options is urgently needed, reassessing communities as they are now and considering how council can direct future development to long-term affordable, sustainable accommodation (consent conditions) and developer contributions to much needed rural infrastructure improvements.

The original premise of rural land sharing, although under pressure from unscrupulous developers, is still valid as a means of housing people sustainably whilst utilising underproductive lands and improving the environment.

It would be a shame if our area were to lose its cultural diversity, and the drive for innovation and sustainability that inspired and attracted so many of us were to be lost to a mainstream risk-averse mindset.

Lealah Shostak

I strongly oppose item 1 of the proposal that is seeking to change the LEP to prohibit secondary dwellings and dual occupancies on MOs and CTs

62\1217412\submission from Lealah Sostak.pdf [SCANNED, FILE SAFE]

Submission: **Objection to 26.2020.6.1 - Housekeeping LEP Amendment, Item 1**

To Whom It May Concern,

I strongly oppose part 1 of the amendments proposal.

Upon reading this item several times I find it unclear, confusing and riddled with contradictions. It is clear though that the end result can only be a blanket prohibition on secondary dwellings in all MOs and CTs.

Approving this prohibition of secondary dwellings on Community Titles and MOs by Council will be a grave mistake that will deprive the community of the use of a viable and immediate resource of housing in times of a devastating shortage which affects us all.

Some Community Titles and MOs are well equipped with social and physical infrastructure to accommodate secondary dwellings in the short term and without any cost to the community as the DA process is financed by the applicant and upon approval, Council contributions are paid.

Contrary to Council's claim, there was never a merit based assessment of the capacity of converted MO to CT properties for extra housing.

Communities have been investing enormous resources in an ongoing ecological repair and they are one of the more responsible forms of settlement in this area in terms of appropriate land use, resource sharing and local food growing.

Many Community Title dwellings tend to be owner built, modest in nature and therefore cheaper than comparable urban or rural dwellings allowing for lower rents and catering to people of limited resources.

Communities are looking favourably to develop with council a mechanism for rent capping on secondary dwellings and also a commitment to long term renting to locals.

**It is truly one of very few options council has to allow more dwellings in a controlled way without time delay or extra costs of rezoning.**

Denying the community this important local resource is inconceivable. It goes against the wellbeing of the community and contrary to good planning practices.

Regards,  
Lealah Shostak

Sam Susnowski

I strenuously regent item 1, it is wrong, unfair and damaging to our community

63\1217412\Sam S feedback to Council.pdf [SCANNED, FILE SAFE]

## **Objection to 26.2020.6.1 - Housekeeping LEP Amendment Item 1**

I strenuously object to this part of the proposal.

That Council is seeking to close down options for housing is beyond comprehension.

The proposal as presented is so confused, it is impossible to decipher. nevertheless its intention is very clear to anyone who knows anything about the history and the present of planning in the shire.

We need to explore all available housing possibilities in the community. A solution for the housing crisis will have to include many contributors, big and small.

Allowing secondary dwellings on rural land holdings has been a successful initiative since about 10 years ago. Instead of prohibiting Council should seek to extend this option to all MOs and CTs that can prove merit.

This will be a small but significant contribution to housing as some communities are perfectly ready, for this housing addition in terms of their socially environmentally and infrastructural conditions.

I call on Council to make it easy and fast for these communities to change their antiquated and obsolete approval conditions so they can be part of the solution in the short and medium term.

Lucinda Deacon

I am against this amendment because there is a housing crisis and more dwellings means more homes. I also find this information to be unclear and not transparent. Please amend.



Jacqui Sosnowski

I oppose the inclusion of item 1 in the bundle of amendments. Calling on Councillors to totally reject item 1

65\1217412\Jacqui Sos.pdf [SCANNED, FILE SAFE]

## **Objection to 26.2020.6.1 - Housekeeping LEP Amendment Item 1**

To Byron Shire Councillors

I am a long term resident of the shire and currently live in Mullumbimby. I'm watching the unstoppable ugly and insensitive proliferation of secondary dwellings all around me and understand that this is necessary to accommodate population growth. There is a compromise there that is hard to accept but we live with it as we experience personally the loss of long term residents and young persons who have to uproot and move elsewhere.

Reading Council proposal to disallow secondary dwellings on Community Titles and Multiple Occupancies I am left bewildered and wonder if our Council can be trusted to do the right thing.

Despite being confused and riddled with paradoxes, the text means one thing: A total prohibition.

Why would Council want to prohibit secondary dwellings and dual occupancies on rural communities where it is most appropriate? We know some communities intimately and we are aware of the planning history of both MOs and CTs including the conversion from MO to CT that many communities had undergone.

These communities can contribute in part to alleviate the lack of housing that destroys our community. Many of them have the necessary infrastructure, much more than other private lots or town blocks where secondary dwellings are allowed.

Councillors, wake up. instead of prohibiting, ask the planning department to urgently look for ways to facilitate secondary dwellings and dual occupancies on communities, assessed on DA, based for their merit.

Please do not approve this mean, badly planned article or you will be responsible for more misery in the community.

Jacqui Sosnowski

Graham Porter

I strongly oppose to item 1 of this amendments proposal

66\1217412\Feedback from Graham Porter.pdf [SCANNED, FILE SAFE]

## **Objection to 26.2020.6.1 - Housekeeping LEP Amendment Item 1**

Estimated Councillors

Item 1 of this proposal is vague and confused and I have no idea how such a document becomes an article in what is supposed to become law.

This proposal to effectively block all option for secondary dwellings on community title and multiple occupancy lots is trying to set the clock going backwards.

Currently the LEP permits secondary dwellings with consent. It overrides the approval consent condition put on communities, limiting to one dwelling per lot.

Instead of changing the LEP to match the consent conditions of all communities, Council should do the opposite: Start a process to remove this rigid and obsolete consent condition to match the existing LEP.

This will allow communities to modestly contribute to alleviate the acute shortage that devastates our community and that is will only get worse if not addressed flexibly and creatively.

Council fails all of its policies and goal plans:

Denying public consultation on a cardinal issue that affects both stakeholders and the entire community.

Contradicting its Community Strategic Plan

Aggravating economic stress

Denying the role and potential of land sharing communities to contribute to the housing crisis solution package.

Promoting inequity between land owners.

Initiating an aggravating response to a serious crisis.

Who does this Council serve?

Dr Ian B Kingston

Submission on behalf of Northern Rivers Intentional Communities

67\1217412\NRIC to council.pdf [SCANNED, FILE SAFE]

26 March 2021

Attn: General Manager  
**Byron Shire Council**  
70 Station St Mullumbimby



PO Box 1125 Mullumbimby NSW 2482  
[northernrivers.ic@gmail.com](mailto:northernrivers.ic@gmail.com)  
[nric.com.au](http://nric.com.au)

## **A Submission on Planning Proposal 26.2020.6.1 Item 1**

Dear Sir,

We are an organisation that advocates for and represents the interests of intentional community members in the Northern Rivers.

Item 1 of council's recent proposed policy & mapping housekeeping package, seeking to prohibit secondary dwellings on CTs and Mos, has created a lot of concern and some confusion amongst our community stakeholders, therefore we would like to raise the following issues, seeking clarification and expressing our concerns

• **Vague and Contradictory Proposal.** NRIC members find the wording and intent of the proposal to be difficult to decipher:

*To strategically address this issue, it is intended to amend the LEP to permit secondary dwellings or dual occupancies only where permitted in accordance with the relevant rural community title approval.*

As practically all consent conditions specify one dwelling per lot, this will be effectively a blanket prohibition.

*It is not intended to outright prohibit dual occupancy or secondary dwellings within all rural community title developments, but rather to ensure such uses are in accordance with the relevant rural community title approval.*

Misleading and confusing for the same reason as above,

Most concerning of all is the following:

*Staff are working with the Department of Planning to determine how best to achieve this outcome within the LEP, which will be formalised in consultation with Parliamentary Counsel when a final plan is made.*

It is frankly hard to believe council, which has a community engagement policy in place could put on exhibition a planning proposal with no details of how it will be implemented.

• **Not a Housekeeping Measure.** We feel strongly that a proposal that seeks to amend the LEP and that will affect a significant number of residents should not be bundled as a housekeeping measure and should be subjected to a consultation process, as per council's own **Community Engagement Policy**:  
*Community engagement is a top priority for our community and for Council.*

*Our Community Engagement Policy outlines the ways in which Council will inform, seek input from and involve the community in Council planning and decision-making.*

It would appear council has failed its own policy. We would welcome the opportunity to engage and discuss all the following facets of this complex issue.

● **Equity.** It is apparent from a close reading of the somewhat ambiguous and disjointed text that it is the intention of item 1 to prohibit secondary dwellings and dual occupancies on nearly all rural land sharing properties.

How this can be justified, given that many lots on rural subdivisions, often smaller than lots on Mos & CTs, and without having such rigorous environmental repair and enhancement conditions applied, have had their original 1 dwelling per lot restriction overturned and are now actively encouraged to seek secondary dwelling approval? Which flies in the face of the text of the proposal:

*Permitting this type of development on rural community titles can significantly increase the housing density of these sites beyond what was envisaged as part of their original approval.*

We acknowledge that many communities had a one dwelling per lot development consent imposed, however in view of unforeseeable social changes over time and policy changes already enacted for comparable landholdings, we seek a thorough merit-based review in place of an arbitrary *ad hoc* prohibition.

● **Affordable Housing Crisis.** In the time since many communities were founded 20-30 years ago, the shire has undergone profound socio-economic and cultural changes - changes unimaginable when our communities were initially approved.

Nobody imagined that they would see their children become adults only to encounter a brutal accommodation crisis that offers them the bleak choices of:

- not being able to start an independent life out of the parental home.
- spending most of their earnings on cramped, sub-standard lodgings.
- itinerant homelessness.

Nor could anyone envision much loved and valued elders of the community being forced out of long-term rental accommodation and into homelessness because of exorbitant rents and holiday-letting pressures.

Hence, many intentional community members who historically never envisioned the necessity of a secondary dwelling now find themselves reconsidering as they face a new reality and new preoccupations. It is becoming almost imperative to be able to either offer adult children a start in life, to have them nearby as we age, or to be able to offer refuge to elderly residents who are increasingly finding themselves locked out of the accommodation market.

We strongly urge council to reconsider its approach to the shire's intentional communities and look for pragmatic solutions – including community involvement - to relieve this crisis which is having such a devastating impact on our social fabric.

**Item 4 of Byron Shire Strategic Planning** states that Council is committed to '*manage growth and change responsibly*'.

Specifically:

*4.1 Support the visions and aspirations of local communities through place-based planning and management.*

*4.2 Support housing diversity in appropriate locations across the shire*

The proposed amendment appears contrary to this goal as it seeks to rigidly prohibit secondary dwellings and dual occupancies across all CT and MO communities arbitrarily and without *place-based* merit assessment.

Intentional communities have historically played an important role in housing people in an environmentally responsible and socially inclusive manner. We see no reason why they cannot continue to do so whilst evolving to adapt to new realities.

• **Intentional Communities as part of a pragmatic strategy.** We invite council to consider the following:

1. Density limits applied to rural land sharing communities have varied over the decades as state and local government planning strategies have evolved. It is obvious that they have neither been assessed on a site-specific basis - as a one size fits all template seems to have applied - nor was it universally mandated, as many approvals were accepted on the basis of the number of lots sought by supplicants with no assessment of total capacity being made. Council should be using its powers to introduce new clear provisions taking into account the contemporary circumstances of a housing emergency.
2. Environmentally, MO and CT dwellers have been responsible for considerable riparian and vegetative restoration, much of this has been either a labour of love or has created work opportunities for local regeneration businesses to comply with development consent conditions. Many communities have environmentally supportive values, this love of land and nature has been - and continues to be - a valuable restorative initiative for repairing past damage.
3. As landowners age and environment and infrastructure need maintenance, having the support of family or tenants housed close by ensures the continuance of projects.
4. Having secondary dwellings for family and friends helps avoid the necessity for retirement - home end of life scenarios.
5. The current economic situation is making it very difficult for children to leave home and rent or purchase a house, therefore parental support has become even more necessary to avoid situations of homelessness and the accompanying problems and costs incurred to community.
6. Intergenerational housing options can generate many benefits for a society, the opportunities afforded to volunteer on a continual basis, be able to engage in training or embark on creative careers with long gestation periods are all invaluable for creating diverse and vibrant communities.

• **A plea for pragmatism and innovative planning.** Given the gravity of the current accommodation crisis and the impoverishment of our social diversity occasioned by it, we urge council to withdraw item 1 from the Planning Proposal and instead conduct a complete review with community input of all options that may responsibly increase affordable housing stock, including allowing secondary dwellings and dual occupancies on rural land sharing communities and CTs based on individual merit assessment and equity with other forms of rural title.

Sincerely,

Ian Kingston

For  
Northern Rivers Intentional Communities



Anne Leon

I strongly reject item 1 of the amendments proposal. It needs to be removed from the list.

68\1217412\Anne Leon feedback.pdf [SCANNED, FILE SAFE]

## **Objection to 26.2020.6.1 - Housekeeping LEP Amendment Item 1**

Dear Councillors,

Expressing my rejection to the amendment proposal to prohibit secondary dwellings and dual occupancies on intentional communities: MOs and CTs.

As a long term residents of this shire my children were raised and educated here they now work in jobs or own a small business.

My children are now amongst the many that suffer the severe housing stress, living in precarious accommodation. There are no rentals for them neither in town nor outside town. It is likely that they will be pushed out of the shire and I will lose an important part of my support network now that I am aging.

Unfortunately my story is not unique, many in my age group are experiencing the same upheaval and insecurity.

We look with disbelief at Council's proposal. Limiting secondary dwellings on MOs and CTs for some kind of obscure house keeping exercise? Has Council lost its compass?

We urgently need secondary dwellings on communities as these have the potential to provide modest, affordable rental accommodation to our children as communities have always done. These will not be mansions or attract unscrupulous developers, these are our own communities that are self-sustainable, devoted to ecological repair and rich with supportive social networks. Council is not going to lose its tools of control and can still limit undue development on communities through the normal DA process, like the one applied to all other rural properties.

Councillors, please remove this embarrassing item from the proposal. Do not change the LEP to control and prohibit. Rather open the door to secondary dwellings and dual occupancies on communities, work with them to achieve the best outcome for all.

A small but important number of houses on communities added to the housing pool may help to save our community.

Sincerely

Anne Leon

Neal Bowhay

I am resident of a Multiple Occupancy at 42 Bllin Road, Myocum 2481. Please find attached my submission with regard to Submission to Planning Proposal 26.2020.6.1, Item 1

69\1217412\CouncilSubmission.docx [SCANNED, FILE SAFE]

Neal Bowhay

30 March 2021

General Manager, Byron Shire Council,

Dear Sir/madam

Submission to Planning Proposal 26.2020.6.1

Objection to Item 1 – Controlling secondary dwellings and dual occupancies on multiple occupancy and rural community title developments

Our submission objects to item 1 of the 'Housekeeping' Planning Proposal which seeks to unilaterally prohibit secondary dwellings and dual occupancies on Rural Land Sharing Communities (MOs) and rural Communities Titles.

We request Council discontinue this part of the planning proposal for the following reasons:

- the proposed unilateral prohibition is ill-conceived and ill-considered as demonstrated below
- the explanation and reasoning put forward in the planning proposal is often wrong, misleading and reflects a misunderstanding of the history of the subject and the contemporary challenges facing the shire
- we find it perverse that Council has declared a housing emergency and is actively seeking housing solutions, and the same time unilaterally trying to close down a housing option that has a track record of supplying more affordable housing in a sustainable manner over the decades
- in the instance of this matter, Council has ignored its protocols and policies in relation to consulting with stakeholders by not consulting with intentional communities
- the planning proposal report states in Section C (Page 36) of the Planning Proposal that Council considers:

‘There are negligible social and economic impacts as a result of the minor amendments and corrections outlined in this planning proposal.’

This contention of negligible social impacts demonstrates our view that the proposal is ill-considered and has a limited understanding of the issues at hand. It is suggested that in a time of the Council's declared housing

emergency, the proposal to thwart the potential for housing has significant social impacts. It also has a range of social and local economic impacts which the planning proposal does not bother to address.

– the planning proposal is misguided in much of its ‘explanation’ of the issue. It states that permitting additional dwellings in the form of secondary dwellings and dual occupancies is a risky concept that could result in many dwellings and such unplanned growth is not permitted and undesirable. This contention is absurd. The number of multiple occupancy and community title sites in the shire is a small proportion of overall rural sites. Presently the vast majority of other sites in the shire are able to apply for secondary dwellings and dual occupancies. This growth is ad hoc and not planned for in any strategy and has not resulted in the grave outcomes predicted. It is clear that permitting intentional community sites the ability to apply for a secondary dwelling and dual occupancy on merit, will not result in the anticipated calamity espoused in the planning proposal.

– much of the ‘reasoning’ within the planning proposal for prohibiting secondary dwellings and dual occupancies on intentional communities attempts to create a case for the proposal by referring to past consents. Again this is an argument without substance and is incorrect. Council clearly has the ability, especially via a planning proposal to introduce clear contemporary provisions that allow for secondary dwellings and dual occupancies on merit. As with normal planning processes, the history is superseded by new provisions that reflect the new policies and goals of Council and the community.

Given the proven track record that multiple occupancy and rural community title developments have demonstrated over past decades in contributing to the housing demands of the shire, it is requested Council meet with community stakeholders to explore the further contribution these communities can make towards addressing the housing emergency.

Yours Sincerely

Neal Bowhay

Louise Pouget

Objection: Controls for secondary dwellings and dual occupancies

70\1217412\Secondary Dwellings on Multiple Occupancies.odt [SCANNED, FILE SAFE]

General Manager, Byron Shire Council,

Dear Sir/madam

Submission to Planning Proposal 26.2020.6.1

Objection to Item 1 – Controlling secondary dwellings and dual occupancies on multiple occupancy and rural community title developments

Our submission objects to item 1 of the ‘Housekeeping’ Planning Proposal which seeks to unilaterally prohibit secondary dwellings and dual occupancies on Rural Land Sharing Communities (MOs) and rural Communities Titles.

We request Council discontinue this part of the planning proposal for the following reasons:

- the proposed unilateral prohibition is ill-conceived and ill-considered as demonstrated below
- the explanation and reasoning put forward in the planning proposal is often wrong, misleading and reflects a misunderstanding of the history of the subject and the contemporary challenges facing the shire
- we find it perverse that Council has declared a housing emergency and is actively seeking housing solutions, and the same time unilaterally trying to close down a housing option that has a track record of supplying more affordable housing in a sustainable manner over the decades
- in the instance of this matter, Council has ignored its protocols and policies in relation to consulting with stakeholders by not consulting with intentional communities
- the planning proposal report states in Section C (Page 36) of the Planning Proposal that Council considers:

- o ‘There are negligible social and economic impacts as a result of the minor amendments and corrections outlined in this planning proposal.’

This contention of negligible social impacts demonstrates our view that the proposal is ill-considered and has a limited understanding of the issues at hand. It is suggested that in a time of the Council’s declared housing emergency, the proposal to thwart the potential for housing has significant social impacts. It also has a range of social and local economic impacts which the planning proposal does not bother to address.

- the planning proposal is misguided in much of its ‘explanation’ of the issue. It states that permitting additional dwellings in the form of secondary dwellings and dual occupancies is a risky concept that could result in many dwellings and such unplanned growth is not permitted and undesirable.

This contention is absurd. The number of multiple occupancy and community title sites in the shire is a small proportion of overall rural sites. Presently the vast majority of other sites in the shire are able to apply for secondary dwellings and dual occupancies. This growth is ad hoc and not planned for in any strategy and has not resulted in the grave outcomes predicted.

It is clear that permitting intentional community sites the ability to apply for a secondary dwelling and dual occupancy on merit, will not result in the anticipated calamity espoused in the planning proposal.

- much of the ‘reasoning’ within the planning proposal for prohibiting secondary dwellings and dual occupancies on intentional communities attempts to create a case for the proposal by referring to past consents. Again this is an argument without substance and is incorrect.

Council clearly has the ability, especially via a planning proposal to introduce clear contemporary provisions that allow for secondary dwellings and dual occupancies on merit. As with normal planning processes, the history is superseded by new provisions that reflect the new policies and goals of Council and the community.

Given the proven track record that multiple occupancy and rural community title developments have demonstrated over past decades in contributing to the housing demands of the shire, it is requested Council meet with community stakeholders to explore the further contribution these communities can make towards addressing the housing emergency.

Elton Brown

General Manager, Byron Shire Council, Dear Sir/madam Submission to Planning Proposal 26.2020.6.1 Objection to Item 1 – Controlling secondary dwellings and dual occupancies on multiple occupancy and rural community title developments Our submission objects to item 1 of the ‘Housekeeping’ Planning Proposal which seeks to unilaterally prohibit secondary dwellings and dual occupancies on Rural Land Sharing Communities (MOs) and rural Communities Titles. We request Council discontinue this part of the planning proposal for the following reasons: – the proposed unilateral prohibition is ill-conceived and ill-considered as demonstrated below – the explanation and reasoning put forward in the planning proposal is often wrong, misleading and reflects a misunderstanding of the history of the subject and the contemporary challenges facing the shire – we find it perverse that Council has declared a housing emergency and is actively seeking housing solutions, and the same time unilaterally trying to close down a housing option that has a track record of supplying more affordable housing in a sustainable manner over the decades – in the instance of this matter, Council has ignored its protocols and policies in relation to consulting with stakeholders by not consulting with intentional communities – the planning proposal report states in Section C (Page 36) of the Planning Proposal that Council considers: o ‘There are negligible social and economic impacts as a result of the minor amendments and corrections outlined in this planning proposal.’ This contention of negligible social impacts demonstrates our view that the proposal is ill-considered and has a limited understanding of the issues at hand. It is suggested that in a time of the Council’s declared housing emergency, the proposal to thwart the potential for housing has significant social impacts. It also has a range of social and local economic impacts which the planning proposal does not bother to address. – the planning proposal is misguided in much of its ‘explanation’ of the issue. It states that permitting additional dwellings in the form of secondary dwellings and dual occupancies is a risky concept that could result in many dwellings and such unplanned growth is not permitted and undesirable. This contention is absurd. The number of multiple occupancy and community title sites in the shire is a small proportion of overall rural sites. Presently the vast majority of other sites in the shire are able to apply for secondary dwellings and dual occupancies. This growth is ad hoc and not planned for in any strategy and has not resulted in the grave outcomes predicted. It is clear that permitting intentional community sites the ability to apply for a secondary dwelling and dual occupancy on merit, will not result in the anticipated calamity espoused in the planning proposal. – much of the ‘reasoning’ within the planning proposal for prohibiting secondary dwellings and dual occupancies on intentional communities attempts to create a case for the proposal by referring to past consents. Again this is an argument without substance and is incorrect. Council clearly has the ability, especially via a planning proposal to introduce clear contemporary provisions that allow for secondary dwellings and dual occupancies on merit. As with normal planning processes, the history is superseded by new provisions that reflect the new policies and goals of Council and the community. Given the proven track record that multiple occupancy and rural community title developments have demonstrated over past decades in contributing to the housing demands of the shire, it is requested Council meet with community stakeholders to explore the further contribution these communities can make towards addressing the housing emergency.



Luke Conroy

Strong objection to item 1 seeking to prohibit extra dwellings on MOs and CTs read attached.

72\1217412\Luke Conroy submission .pdf [SCANNED, FILE SAFE]

I strongly oppose Item no 1 of the amendment proposal.

Dear Councillors,

The aim of this item is to prohibit at the outset secondary dwellings and dual occupancies on all Multiple Occupancies and Community Titles.

Despite the confused wording, the contradictions contained in the text and the total lack of detail, this will be the only outcome if approved.

Approving this prohibition of secondary dwellings on CTs and MOs by Council will be a grave mistake that will deprive the community of the use of a viable and immediate resource of housing in times of a devastating shortage.

Some Community Titles and MOs have the social and physical infrastructure to accommodate secondary dwellings in the short term and without any cost to the community as the DA process is financed by the applicant and upon approval, Council contributions are paid.

Contrary to Council's claim, there was never a merit based assessment of the capacity of converted MO to CT properties for extra housing, we have all the documentation to support this.

Communities have been investing enormous resources in an ongoing ecological repair and they are one of the more sustainable forms of settlement in this area in terms of appropriate land management and resource sharing

Many Community Title dwellings tend to be owner built, modest in nature and therefore cheaper than comparable urban or rural dwellings allowing for lower rents and catering to people of limited resources.

Communities are looking favourably to develop with council a mechanism for rent capping on secondary dwellings and also a commitment to long term renting.

It is truly one of very few options council has to allow more dwellings in a controlled way without time delay or extra rezoning costs.

Denying the community this important local resource is unthinkable. It goes against the wellbeing of the community and contrary to Council's own Community Strategic Plan and other goal setting documents.

Marina Navarro Nacarino

I oppose item 1 , remove from amendments

73\1217412\Marina N N submission.pdf [SCANNED, FILE SAFE]

## **Objection to Housekeeping LEP Amendment Item no 1**

Dear Councillors of Byron Shire,

My partner and myself are part of your statistics.

We are part of the following demographic: Young professionals in full employment, long term residents of Byron Shire in precarious accommodation. There are many of us. It has been months that we are looking for a home, to no avail. There is no solution in sight.

We are the demographic that needs a Council that is flexible, innovative and pragmatic.

Unfortunately it seems that our Council is failing us and our demographic. Proposing to shut down housing options while searching for them is destructive and unforgivable. It seems that Council acts against its own policies and goals and against the common good.

We need extra housing on MO and CT communities that have the conditions to contribute just that, without sacrificing the environment.

Instead of changing the LEP to match rigid, antiquated and irrelevant approval conditions, Council should remove those approval conditions to match the current LEP which seems to reflect better contemporary needs.

Then, work with communities on a case by case basis to facilitate secondary dwellings where appropriate. This will be a win for all.

Respectfully

Marina Navarro Nacarino

Wayan Arenzani Duran

opposition to item 1

75\1217412\Submission W A Duran.pdf [SCANNED, FILE SAFE]

## **I object to Housekeeping LEP Amendment Item 1**

We are a young couple, long term resident in the shire in full employment. Our housing situation is precarious, we've been looking for somewhere to rent for many months without success. We are part of a large group of residents looking at the sad prospect of having to leave the shire with all that this means to our lives, the businesses we work for and our families.

Why would Council push to prohibit secondary dwellings on intentional communities, when this is probably one of the last unused resource for extra housing in the shire? We are perplexed.

We know well some communities. They are prepared and ready to absorb some of the soon to be homeless like us.

Many of them have similar size and environmental conditions as their next door neighbours on private lots that already have secondary dwellings with Council's blessing.

We fail to see the difference but we do see the prejudice against communities and the inequity and unfairness that this bias breeds.

More important still is that this prohibition of secondary dwellings on MOs and CTs will direct or indirectly impact on our lives - negatively.

Councillors, please remove this article from the bundle and instead work with communities to make it easy and possible to increase housing stock in a sustainable way.

respectfully

Wayan A Duran

Susan Kaden

To Byron Bay City Council, I urge you to overturn this amendment and consider those valuable citizens who live and contribute to your vibrant culture. These are people who are not relocating from the big cities with millions of dollars. They are also the people who will live in communities and form communities. Communities are essential for healthy schools, diversity and resourceful living. These are the people who are the backbone of the present culture within the Byron Shire. I am concerned that if you exclude this part of the population you will only encourage those who will build weekenders and return to the cities. Please look at your grassroots and not cast out so many who are not millionaires. Sincerely, Susan Kaden

James McCready

I strongly oppose propose changes to the LEP 2014. Reasons being the Shire is in the midst of a severe housing shortage. MO's and CT's provide important accommodation for long term local people and often Care Workers. The Social Fabric of communities around this accommodation is vitally important to the health and vibrancy of the region. Restricting housing options seems a nonsensical approach to a serious problem. Kind Regards



karni shai

31/03/21 Attn General Manager Byron Shire Council 70 Station St Mullumbimby Objection to Item 1 of Planning Proposal 26.2020.6.1 Dear Sir, As a long-time resident, community title lot holder, small business owner and employer in Byron Shire, I would like to voice my vehement objections to the item above for the following reasons: • Equity and incompatibility with Council's own stated objectives Being a community title lot holder, I consider it to be totally unjust that council is seeking to arbitrarily and unilaterally deny the option of seeking merit-based secondary-dwelling approval on MOs and CTs whilst encouraging the same on all other rural lots under its infill development strategy. Community title lots are often of similar size to, or larger than individual lots on rural subdivisions and have been subjected to much stricter environmental repair and enhancement controls, so why are they to be discriminated against? I note that in the North Coast Regional Plan 2036, Goal 4 states Future housing will be directed to locations that can accommodate more housing and that have existing or planned infrastructure and services.?? Pursuing suitable housing densities in the right locations will create a more compact urban footprint and protect significant environmental areas. ?? This approach to housing delivery will be more sustainable as it will protect the environment and create stronger, better-connected communities. ?? Housing that meets the needs of residents on a range of incomes will also be important in addressing affordable and social housing to help reduce social disadvantage and provide shelter. All of which seems 100% compatible with allowing secondary dwellings on rural communities. • Housing Crisis and its consequences My restaurant in Byron Bay would ideally employ 40 workers on a full time and casual basis. The current extreme accommodation crisis makes it almost impossible to be fully staffed and completely impossible to maintain an adequately trained workforce. Being an employer in Byron Shire is a constant soul-destroying merry-go-round of contracting, training and losing staff. We are constantly advertising for new staff, a large proportion of applicants from out of the shire - upon doing an accommodation search - withdraw before interview. Most of those that we do contract are in a constant accommodation crisis, moving from short-term-to-short-term situations, living in overpriced, overcrowded share houses or living in vehicles, all of which leads to high absenteeism, fatigue and many workers giving up and moving-on. Council's own Community Strategic Plan identifies these concerns: Providing strategies to ensure living in Byron Shire is affordable for locals and future generations, and to ensure young people don't have to move from the area due to lack of employment or housing options Whilst many community members and stakeholders were in favour of limits on development, some suggested more 'managed and strategic' growth would be suitable to ensure housing affordability. In a similar way, ensuring young people could live comfortably and in a supported way in communities with access to training opportunities to enhance job prospects was also important Having the option of a secondary dwelling on my lot would at least give me the ability to house one or two critical staff-members securely. Council changing its approach to secondary dwellings on communities could well provide a small but important increase to affordable accommodation for critical workers in the region.

Coral Jones

General Manager, Byron Shire Council, Dear Sir/madam Submission to Planning Proposal

26.2020.6.1 Objection to Item 1 – Controlling secondary dwellings and dual occupancies on multiple occupancy and rural community title developments Our submission objects to item 1 of the ‘Housekeeping’ Planning Proposal which seeks to unilaterally prohibit secondary dwellings and dual occupancies on Rural Land Sharing Communities (MOs) and rural Communities Titles. We request Council discontinue this part of the planning proposal for the following reasons: – the proposed unilateral prohibition is ill-conceived and ill-considered as demonstrated below – the explanation and reasoning put forward in the planning proposal is often wrong, misleading and reflects a misunderstanding of the history of the subject and the contemporary challenges facing the shire – we find it perverse that Council has declared a housing emergency and is actively seeking housing solutions, and the same time unilaterally trying to close down a housing option that has a track record of supplying more affordable housing in a sustainable manner over the decades – in the instance of this matter, Council has ignored its protocols and policies in relation to consulting with stakeholders by not consulting with intentional communities – the planning proposal report states in Section C (Page 36) of the Planning Proposal that Council considers: o ‘There are negligible social and economic impacts as a result of the minor amendments and corrections outlined in this planning proposal.’ This contention of negligible social impacts demonstrates our view that the proposal is ill-considered and has a limited understanding of the issues at hand. It is suggested that in a time of the Council’s declared housing emergency, the proposal to thwart the potential for housing has significant social impacts. It also has a range of social and local economic impacts which the planning proposal does not bother to address. – the planning proposal is misguided in much of its ‘explanation’ of the issue. It states that permitting additional dwellings in the form of secondary dwellings and dual occupancies is a risky concept that could result in many dwellings and such unplanned growth is not permitted and undesirable. This contention is absurd. The number of multiple occupancy and community title sites in the shire is a small proportion of overall rural sites. Presently the vast majority of other sites in the shire are able to apply for secondary dwellings and dual occupancies. This growth is ad hoc and not planned for in any strategy and has not resulted in the grave outcomes predicted. It is clear that permitting intentional community sites the ability to apply for a secondary dwelling and dual occupancy on merit, will not result in the anticipated calamity espoused in the planning proposal. – much of the ‘reasoning’ within the planning proposal for prohibiting secondary dwellings and dual occupancies on intentional communities attempts to create a case for the proposal by referring to past consents. Again this is an argument without substance and is incorrect. Council clearly has the ability, especially via a planning proposal to introduce clear contemporary provisions that allow for secondary dwellings and dual occupancies on merit. As with normal planning processes, the history is superseded by new provisions that reflect the new policies and goals of Council and the community. Given the proven track record that multiple occupancy and rural community title developments have demonstrated over past decades in contributing to the housing demands of the shire, it is requested Council meet with community stakeholders to explore the further contribution these communities can make towards addressing the housing emergency.

kieran riordan

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robert osullivan

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noah yamore

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Sandra Tapia

Objection to item 1 seeking to limit extra housing on CTs and MOs

83\1217412\Submission Sandra Tapia.pdf [SCANNED, FILE SAFE]

## **Objection to 26.2020.6.1 - Housekeeping LEP Amendment Item 1**

Dear Councillors,

I am writing to express my opposition to item 1 of the proposal to restrict Community titles and multiple occupancies to one dwelling per lot.

The proposal is ill conceived and in the case that it would be adopted, damaging and goes against the well-being of the community and Council's own policies.

I find it inconceivable that in times of a grave housing crisis recognised by Council, when there is a clear obligation to urgently search for housing stock, Council is engaged in closing down viable options.

Community titles and multiple occupancies play an important role and have provided modest housing for long term residents for many years. Many of them have the right infrastructure to do it with full environmental responsibility in the form of secondary dwellings and dual occupancies.

It is a small but valuable sector of our community and should be encouraged rather than obstructed in its role to face the current housing challenges.

Item 1 should be removed from the bundle of amendments. It shouldn't have been there in the first place: This is not a minor issue and as such deserves public consultation as it impacts us all.

Sincerely

Sandra Tapia

Olaia Rodriguez

I oppose item 1 of the amendments proposal

84\1217412\O R feedback to Council.pdf [SCANNED, FILE SAFE]



30/4/21

Byron Council

Dear Councillors,

I live and work in Byron Shire and note with dismay the proposal to prohibit secondary dwellings on community title properties.

I am a single mother in full employment as a professional in the service industry.

A constant preoccupation of myself and many of my friends and acquaintances is security and affordability of accommodation, even though I work, it is a constant struggle to pay the outrageously rising rents and to find secure long-term accommodation.

I fail to understand how reducing options for providing more affordable housing stock on community properties with adequate infrastructure can be considered responsible policy.

Where do you expect we who cut your hair and serve your coffees to live, many friends have already given up and moved elsewhere, or become homeless. It is always an impossible dilemma when it is necessary to move house again.

Please remove or reconsider this proposal and look for positive ways to increase affordable housing.

Yours

Olaia Rodriguez

Magnolia Dell

I oppose to item 1 of this proposal. Please remove from the package of amendments.

85\1217412\M Dell feedback to Council.pdf [SCANNED, FILE SAFE]

1/4/ 2021

Byron Shire Council

To whom it may concern,

I strongly object to the item of the proposal that will prohibit secondary dwellings on community titles and multiple occupancies.

I am a mother of three, in a full time professional job. I currently rent on a community. If I didn't have the possibility to rent on a community I'd be living in the car with my kids and obviously lose my job.

I grew up on a community property in the shire and know this reality well. Secondary dwellings and dual occupancies on communities can be part of a solution desperately needed for the lack of housing in the shire. We need them badly.

The constant struggle to find secure affordable housing makes it very probable that sooner rather than later I will be forced to move out of the shire against my wishes. My parents are ageing, and I would prefer to be able to offer support, ideally living nearby.

Please reconsider this ill-advised measure and take on board the reality of the housing crisis that many are facing.

Sincerely,

M. Dell

Talei Olsen

Opposition to item 1 of the amendments proposal

86\1217412\Talei Olsen feedback.pdf [SCANNED, FILE SAFE]

## Expression of opposition to item 1 of the above proposal

### Byron Council

I live and work in Byron shire . I have a service industry job that I really enjoy and would love to keep, however the housing stress that I am constantly facing makes it extremely hard to have any certainty about the future . I live in a shared cramped house , paying exorbitant rent that is constantly rising, and the availability of affordable rental properties is almost non-existent .

I have recently seen that council intends to prohibit secondary dwellings on community title and multiple occupancy properties, I do not think this is good policy in the current accommodation crisis . Beyond emergency solutions we need short and medium term housing, some can be established on communities.

All possibilities to increase affordable housing should be on the table for discussion .

Council should explore options outside the box . Communities should be assessed on a case by case basis to determine which is capable to have extra dwellings without damaging the environment.

It is Council's responsibility to help alleviate this crisis, not to aggravate it.

Chris Power Environmental Planning

See attached submission

87\1217412\CPEP Letter 010421.pdf [SCANNED, FILE SAFE]

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Website [www.cpep.com.au](http://www.cpep.com.au)

1 April 2021

**GENERAL MANAGER  
BYRON SHIRE COUNCIL  
STATION STREET  
MULLUMBIMBY 2482**  
**LODGED VIA COUNCIL WEBSITE <https://www.byron.nsw.gov.au/Services/Building-development/Planning-in-progress/LEP-amendments-planning-proposals-in-progress/Housekeeping-amendments>**

**ATTENTION MR SAM TARRANT**

Dear Sir,

**RE: Submission to Item 1, Byron Council Planning Proposal  
26.2020.6.1, Amendment of Byron Local Environmental Plan 2014,  
Policy and Mapping Housekeeping**

This submission is an objection to Item 1 of Council's currently advertised Planning Proposal 26.2020.6.1, 'Amendment of Byron Local Environmental Plan 2014, Policy and Mapping Housekeeping'. Item 1 of the Planning Proposal deals with 'controlling secondary dwellings and dual occupancies on multiple occupancy and rural community title developments'.

This submission is lodged on behalf of the Durrumbul Gardens Community, Durrumbul and Northern Rivers Intentional Communities. It requests that Council permanently remove Item 1 from the advertised Planning Proposal, for the reasons outlined below.

## **DWELLING NUMBERS IN INTENTIONAL COMMUNITIES**

### **Assessment of Dwelling House Numbers**

Retaining the current potential to lodge a DA for Dual Occupancies and Secondary Dwellings will not create a flood of inappropriate or unsustainable housing, and will not exceed the environmental capacity of existing communities. Rather, as discussed below, retaining those provisions will result in potential for positive, sustainable contributions to providing affordable housing in the Shire.

Claims have been made in relation to this advertised Planning Proposal that the number of dwellings on approved Multiple Occupancies (MOs), and the number of Lots in Multiple Occupancies converted to Community Title (MO to CT) properties were originally determined by an analysis of environmental capacity, presumably having regard to the natural, social and economic environment. That claim is simply not true.

Formal planning recognition for rural MOs in NSW arose originally from pressure for formation of Intentional Communities, largely in the NSW Northern Rivers area. After extensive investigation (and some hand wringing) the NSW Government in 1988 published State Environmental Planning Policy No. 15 (Multiple Occupancy of Rural Land) (SEPP 15). That Policy determined maximum dwelling

and population densities in MO communities by an arbitrary method that used a series of equations based on various land areas, together with a cap on the resultant maximum yield of 4 persons per dwelling.

When Byron LEP 1988 introduced its own Multiple Occupancy provisions via Clause 17A and Schedule 10, it once again applied arbitrary limits on dwelling house numbers to 'amendment No. 67 land', and again an arbitrary maximum number of dwelling houses for 'Schedule 10' land, determined largely by the number of houses existing on the site.

More recently the number of Dwelling house Lots in MO to CT properties was again based primarily on the number of existing houses on the site.

Over the decades since SEPP 15 first came into effect environmental assessment processes have advanced, social norms have changed, population pressures have grown, diversification of our communities has occurred, and now a serious Housing Crisis has been declared in our Shire and far wider. There is a strong need for planning authorities to understand and work positively with contemporary changes in community structure and needs.

Council is demonstrating its understanding of the need to respond to the urgent demand for new housing opportunities through its research and policy initiatives in the area of affordable housing.

It seems ironic, therefore that at the same time the Council is attempting to open up new paths for diverse and affordable housing, it is attempting via this Planning Proposal to shut down a viable, environmentally acceptable, agriculturally compatible, socially desirable and economically feasible means of providing a measured amount of much needed housing in the Shire's rural areas.

This objection submits that Council should remove Item 1 from the advertised Planning Proposal. It is also submitted that Council should acknowledge the positive role played by the Shire's existing Intentional Communities, and leave available the existing opportunities for the limited potential for Attached or Detached Dual Occupancies and Secondary Dwellings where Development Applications can demonstrate merit based on contemporary standards.

### **Achieving Sustainable Communities**

The number of 'MO', 'CT' and 'MO to CT' communities in Byron Shire's rural zones is limited. Leaving the Dual Occupancy and Secondary Dwelling provisions as they are will not lead to a large 'flood' of undesirable residential development in sensitive rural or agricultural areas.

In general the MO and MO to CT communities have been located in areas that do not adversely impact on ecological, aquatic or agricultural values. However they add significantly to local and Shire wide social and economic values through their contribution to schools, shops, transport, community halls and the like. They have made, and are continuing to make a substantial contribution to environmental rehabilitation and repair on degraded land, undertaken both voluntarily and through consent conditions. They create a valuable 'presence' to nearby vulnerable areas in times of crisis, such as the recent bushfires and floods.

The addition of a limited number of dual occupancy and secondary dwellings where no significant adverse impacts are demonstrated can only strengthen and increase the social and community value of those communities.

### **Support for the Housing Affordability Crisis**

The ability for communities to demonstrate the environmental feasibility of Dual Occupancy and Secondary Dwelling development via the DA process provides an important contribution to the provision of diverse and affordable housing in the Shire's rural areas.

With the housing affordability crisis and the ageing of many 'original' MO and CT residents, there is growing demand for housing provision for growing families within their communities. The ability to



seek consent for sustainable Dual Occupancies and Secondary Dwellings is becoming a more important source of affordable housing for those communities.

Again it seems ironic that the Council is attempting on one hand to create new opportunities for addressing the housing crisis, while on the other hand attempting to cut off a valuable source of environmentally and socially acceptable affordable housing.

## CONSISTENCY WITH STRATEGIC OBJECTIVES

Strategic objectives of both Council and NSW Government aim to retain and expand current options for viable, sustainable and varied housing to cope with the current housing emergency and future populations. Two examples are:

### North Coast Regional Plan 2036

The North Coast Regional Plan 2036 recognises the need for retention and expansion of housing choices on the North Coast to meet the growing population demand through to the year 2036. The Plan's Goal 4 is '*Great Housing Choice and Lifestyle Options*'.

Once again it appears incompatible with that Goal to shut down the option for environmentally and sustainably viable housing options throughout the Shire's Intentional Communities.

### Byron Community Strategic Plan 2028

The strategic Plan (Section 4 '*Your Thoughts*') recognizes the community's desire to provide viable options for current and future generations, eg at page 16:

*Providing strategies to ensure living in Byron Shire is affordable for locals and future generations, and to ensure young people don't have to move from the area due to lack of employment or housing options.*

*Whilst many community members and stakeholders were in favour of limits on development, some suggested more 'managed and strategic' growth would be suitable to ensure housing affordability. In a similar way, ensuring young people could live comfortably and in a supported way in communities with access to training opportunities to enhance job prospects was also important.*

The proposal to remove the option for provision of environmentally and socially sustainable housing options on Intentional Communities flies in the face of these sentiments in the Council's Community Strategic Plan.

## THE PLANNING PROPOSAL

The advertised Planning Proposal deals with 12 different LEP amendments, either by wording changes or mapping amendments. Unfortunately Item 1 is the only item for which proposed LEP wording changes or mapping amendments are not provided. Rather the Item 1 discussion proposes:

*Staff are working with the Department of Planning to determine how best to achieve this outcome within the LEP, which will be formalised in consultation with Parliamentary Counsel when a final plan is made.*

This lack of information, together with apparent conflicts in the explanation of Item 1 make it impossible to determine the implications of whatever LEP amendment is finally made. Some of the statements of concern in the explanation of provisions for Item 1 include (extracts in italics):

*There are a number of multiple occupancy and community title developments within the rural areas of the shire. As part of their approval the entire site is considered and an appropriate*

*number of dwellings or neighbourhood lots are approved based on the site's constraints and other attributes.*

Comment: As discussed earlier, the total number of potential dwelling sites has to date been based on arbitrary figures, or on the number of existing dwellings on the site.

*Dual occupancy and secondary dwellings are currently permissible in the rural zones. Permitting this type of development on rural community titles can significantly increase the housing density of these sites beyond what was envisaged as part of their original approval. This needs to be carefully considered on an entire site/catchment basis, rather than in an ad hoc manner when a development application is submitted for an individual lot within one of these developments.*

Comment: Again, as discussed above the number of dwellings determined for each site has generally been based on arbitrary considerations, rather than by environmental and social analysis. In many cases times have moved on, and environmental assessment techniques have changed since the original approvals. There is a finite number of Intentional Communities within the Shire, generally located in areas that do not adversely impact on ecological, aquatic or agricultural values. They are generally established, viable communities contributing to social and environmental values in their area and can only be strengthened by the limited expansion enabled by Dual Occupancy and Secondary Dwelling development that is assessed on merit based contemporary standards.

*Further issues arise when the maximum number of dwellings is permitted based on the interpretation of only one dwelling per neighbourhood lot. Without clear LEP provisions an application could be received for a dual occupancy on any one of these lots which (if approved) would leave one of the other neighbourhood lots unable to construct a dwelling.*

Comment: In the unlikely event that such a situation arose, any DA seeking a consent that would remove a dwelling entitlement from another Lot would obviously be refused. The current provisions in the LEP allowing lodgement of DAs or Section 4.55 modification applications ensure that any consent issued for a Dual Occupancy or Secondary Dwelling will be acceptable based on contemporary environmental, social and economic standards.

*Although recent approvals for rural community titles have applied consent conditions specifying the maximum number of dwellings permitted on site and also whether or not secondary dwellings or dual occupancy are permitted, this has not always been the case with historical approvals.*

Comment: It is submitted that all Community Title Lots that have a dwelling entitlement should have the opportunity to demonstrate through a competent, contemporary DA (or Section 4.55 application) that the addition of a Dual Occupancy or Secondary Dwelling will not create significant adverse impacts. This is the same situation for other Lots in Rural zones that have a dwelling entitlement.

*To strategically address this issue it is intended to amend the LEP to permit secondary dwellings or dual occupancies only where permitted in accordance with the relevant rural community title approval.*

Comment: Again it is submitted that all Community Lots that have a dwelling entitlement should have the opportunity to demonstrate through a competent DA that the addition of a Dual Occupancy or Secondary Dwelling will not create significant adverse impacts. This is the same situation for other Lots in Rural zones that have a dwelling entitlement.

*Any historical approvals that do not specify whether dual occupancies or secondary dwellings are permitted can be assessed by Council on a case-by-case basis having regard to the entire site.*

Comment: This is the current situation, there is no need for an LEP amendment to achieve it. The above comment seems to infer that the LEP amendment may not prohibit dual occupancies or secondary dwellings, but the earlier explanations seem to infer that such developments will be prohibited. Without the proposed wording of the LEP amendment is not clear exactly what the Planning Proposal is intended to achieve.

*It is not intended to outright prohibit dual occupancy or secondary dwellings within all rural community title developments, but rather to ensure such uses are in accordance with the relevant rural community title approval.*

*Staff are working with the Department of Planning to determine how best to achieve this outcome within the LEP, which will be formalised in consultation with Parliamentary Counsel when a final plan is made.*

Comment: Again, without the proposed wording of the LEP amendment is not clear exactly what the Planning Proposal is intended to achieve.

## **CONCLUSION**

Without the proposed wording of the LEP amendment, and given apparently conflicting statements in the Planning Proposal's explanation of Item 1, it is not clear exactly what the Planning Proposal is intending to achieve. It is submitted however, that the LEP should retain the opportunity to lodge a DA for a Secondary Dwelling or Attached or Detached Dual occupancy on Community Title Lots that have a dwelling entitlement. The DA process, based on contemporary merit assessment standards, will ensure that proposals that may create adverse environmental, social or economic impacts will not be approved.

It is also submitted that the Council should recognise the positive contribution made by Intentional Communities to the Shire's well being, and to their potential to contribute to sustainable solutions to the housing crisis.

On the basis of the above it is requested that Council remove Item 1 from the Planning Proposal.

Yours faithfully,

Chris Power, MPlan (UTS), MPIA  
PRINCIPAL

Jonathan Shai

I strongly oppose to item 1 of this proposal

88\1217412\Submission J Shai.pdf [SCANNED, FILE SAFE]

1/4/21

Dear Sir/Madam,

I write to oppose **Planning Proposal 26.2021.6.1 Item 1** for the following reasons:

**1. Need to recognize and accommodate a changing demographic whilst maintaining social diversity and a skills-based economy**

The item does not comply with the North Coast Plan 2036, which states in part:

- *The Plan recognises the need for housing diversity and housing affordability to accommodate the regions ageing population and large proportion of couple only and single person households. Significantly, couple only and single person households represent the largest cohort and over 65s represents one third of the region's future housing needs.*
- *The Plan states under Direction 23: Increase housing diversity and choice "Local growth management strategies should be used to consider local housing needs based on household and demographic changes. These strategies should plan for a range of housing choices, including retirement villages, nursing homes and opportunities to modify existing dwellings to enable occupants to age in place".*

The Plan recognises the importance of modifying existing housing stock to facilitate ageing in place.

Allowing secondary dwelling capability on MOs and CTs could contribute to this objective, particularly as it recognises the need to direct housing to serviced locations which do not impact on environmentally sensitive areas and create a strong sense of community.

Allowing aging land holders to construct granny-flats or similar would free up urgently needed accommodation for a new generation - who currently face an accommodation crisis that is threatening our social fabric and impoverishing our labour and skills base - with minimal environmental impact.

**2. Social Justice Issues**

Council's **Community Strategic Plan** contains social justice principals which the proposal contravenes.

- **Equity:** The proposal seeks to restrict dwelling rights on the specific housing segment of existing MO and CTs but does not apply these restrictions to other rural land holdings.
- **Access:** Housing is a basic human right. The proposal will limit access to affordable housing in the midst of a housing crisis which will adversely impact quality of life.
- **Participation:** This proposal has been included within a housekeeping amendment without adequate consultation with the people who will be affected by the amendment, both existing residents of MOs and CTs and potential future residents within the broader community.

Please reconsider this proposal and instead of limiting present and future housing options, look for pragmatic measures that can utilize and expand existing resources to alleviate the consequences of unprecedented social change.

Sincerely,

Jonathan Shai

Elysia Pinell

I oppose to item 1 of the proposal for amendments, please remove

89\1217412\Elysia P feedback to Council.pdf [SCANNED, FILE SAFE]

1/4/21

Dear Councillors

I strenuously oppose to item 1 of the proposed amendments to LEP 2014  
Should it be approved, it will strongly impact the community, exacerbating an already grave housing crisis and negatively impact the social fabric of our community.

The effects of an unprecedented and devastating housing crisis are present. Council is failing its obligation to address the crisis in its magnitude other than in its emergency response and at the same time is engaged in an attempt to eliminate the option for extra sustainable housing on communities. This is unthinkable and unacceptable.

Item 1 of the proposal is not a minor 'housekeeping issue, It is of great significance to the entire community and if passed will have a profound damaging effect on the communities in question, families and the whole community.

Many Community Titles and Multiple Occupancies have the right social and environmental infrastructure to adequately support extra housing in the short and medium term. A normal DA process will assure that no social or environmental damage will occur as a result.

Community Titles and MOs were never merit assessed for their environmental capacity to sustain extra dwellings. Communities are very different in their social on ground conditions and without such assessment of each community there is no way to determine its capacity for having secondary dwellings or dual occupancies.

These communities are a small but important part of the privately held land in the shire. However it is an unexploited reserve for extra dwellings in the shire.  
Even if permitted, we will not be flooded with DA applications for Secondary Dwellings on communities. There will be natural filters: Not every community wants to have SD or DO, not everyone will be able to afford the cost and not everyone will be able to comply with DA criteria.  
even if we will end up with a few new homes, owner built, cheap, rapid and with no cost to the public, it means less local families, workers, kids having to uproot and leave the area.

I urge Councillors to remove item 1 from the proposal and instead encourage Secondary Dwellings on communities through a proper DA process.  
Council should work with the community to develop a sustainable way of using this potential responsibly.

Sincerely

E. Pinell

Danielle N. Shai

opposition to item 1

90\1217412\Submission Danielle S.pdf [SCANNED, FILE SAFE]



1/04/21

Byron Shire Council

**Submission on Planning Proposal 26.2020.6.1**

Dear Council,

I would like to draw attention with this submission to the injustice and contradiction I find in your planning proposal.

Whilst item 1 seeks to virtually prohibit secondary dwellings and dual occupancies on community title and multiple occupancy developments, item 3 will insert a minimum lot size of 4000 M<sup>2</sup> for such dwellings on all other rural titles!

How can this be justified? It plainly contravenes so many of council's stated aspirations of social justice, community engagement and great housing choice and lifestyle options.

With women and their children forced to live in cars, while every rental application receives 6-700 solicitants, why is council seeking to prohibit a potential source of affordable accommodation.

Please remove Item 1 from the planning proposal and instead bring multiple occupancy and community title developments in line with other rural titles, i.e., allow secondary dwellings on lot sizes of 4000M<sup>2</sup>

Sincerely,

Danielle Shai

Michiko Stanhope

Strong opposition to item 1 of the above proposal. I am an essential worker in full employment, I am a mother and I can't find a place to live in the shire. I had to move to the Gold Coast and drive for 3 hours daily to and from work. My situation is not sustainable. It's likely I'll to leave my job for which I trained and worked hard to keep. The business I work for will also suffer a setback. Closing down any housing option in the shire is irresponsible and malicious. MOs and CTs can be a source of good housing for locals, don't close down this opportunity. We can't afford to discard ant option for extra housing in the shire.

Luka Fedda

Opposing strongly item 1 of the amendment proposal. I have a full time job in a senior professional position in hospitality. I earn well and I love my job. I'm about to lose this job as I can't find a home in the shire. The stress is impacting on my health and my ability to perform my job. I lived on MO and CT communities in the past and it is beyond me why would Council disallow secondary dwellings on those. If extra housing is appropriate it should be in these communities. These dwellings will serve people like me and may save me my job and the viability of the business I work for. Council, please wake up and rethink this nasty proposal and delete from the agenda.

Jaxson Stratton

Please cancel item 1 of the amendments, it is unjust. I have lived and worked in Byron Shire for several years. My biggest worry is finding secure affordable accommodation. I don't understand why would anyone want to prohibit more housing on community title and multiple occupancy properties. They seem to me one of the better options for sustainable housing. Surely Council can find a way to work with these communities in order to use their potential to help in this crisis.

Anna Rauber

I object to item 1 of this proposal; it seeks to limit a viable source of affordable accommodation in the midst of a housing crisis. Any addition of housing in the shire is essential, please rethink.

Jessica Berendt

Expression of strong opposition to item 1 of the proposal

95\1217412\Jessica Berendt feedback.pdf [SCANNED, FILE SAFE]

I strongly oppose to item 1 of the amendment proposal.

Dear Councillors,

I find this proposal insulting.

How can Council contemplate shutting down any housing opportunity while people of the shire have their lives ruined by lack of housing that leads to homelessness?

I am a single mother of 4, a professional in full time employment.

After being pushed out of my rented home by tourism pressures, then many months of couch surfing verging on homelessness while desperately looking for a home for my family I had to uproot my children and leave the shire. I am part of your statistic: The homelessness of the fully employed, or: Essential workers who are forced to leave the shire for lack of housing.

My life/ work situation is unmanageable. Being single with 4 children and living far from my work isn't sustainable. It is almost inevitable that I will have to lose the job that sustains my family while the business I work for will lose my skills in which they invested a lot of training.

Any option of extra housing in the shire is a must to permit.

Extra housing on community titles and multiple occupancies should be facilitated, made easy for owners to establish and embraced with blessings.

A Council that prohibits that option acts against its people and will be responsible for the destruction of more lives. Please reconsider.

Jessica Berendt

Suvir Ibanez

Opposition to item 1, it should be taken out of the amendment proposal

96\1217412\Submission Suvir Ibanez.pdf [SCANNED, FILE SAFE]



## **I object to 26.2020.6.1 - Housekeeping LEP Amendment Item 1**

Opening or closing options for extra housing is not a minor matter.

That Council chooses to close down options for housing in times of severe crisis and that it hides it as 'minor housekeeping' matter is a cause for serious concern.

It puts in question the ability of Council to serve the community.

Dealing with an emergency response to homelessness is important. But as important is to urgently search for housing options wherever they can be found.

One unexploited source comes in the form of secondary dwellings on MOs and CTs where DA merit is demonstrated.

Communities can perform a modest but significant role in contributing for a short to medium term solution of the housing crisis.

Communities should be given the same opportunity and the same approval pathways for secondary dwellings and dual occupancies as the rest of private holdings in the shire.

Instead of turning the clock back adjusting the LEP to rigid measures that may have been true to now obsolete reality, Council should adopt a pragmatic and responsible approach.

In the case of secondary dwellings on communities who is to lose?

Yours,

Suvir Ibanez

Tom Cohen

I am an employee in what was a thriving local business that is now struggling to keep its trained workforce as workers can't find accommodation. This is a serious situation. It came to my attention that Council is proposing to shut down the option of secondary dwellings on MOs and CTs. This is a wrong move. We desperately need extra housing on communities to help with the solution so workers like me can find stable, secure long term accommodation. Council, reconsider your approach.

Shohei Yoshikawa

I wish to express my strong objection to item 1 of Council's proposal. I am a highly trained professional in a restaurant that is struggling to retain its staff. We keep losing our trained staff for the fact that they keep losing their homes. Council should work hard to open housing options and not closing them. Extra housing on communities should be encouraged now.

Yanni Chara

I object item 1 of this proposal. I am an employee in a local business and I struggle to find and keep accommodation. Almost all my colleagues and friends are in similar situation, it's unsustainable to us and the businesses we work for. Do not close down extra housing possibilities. MOs and CTs can provide extra homes. Council should make it easier for these communities to do so.

Parijat Wismer

These amendments are likely to lead to further homelessness and make it hard for people without much money to live in the shire. Time to rethink and allow people to have more dwellings on a property. Maybe a clause that it can't be commercial & expensive housing developments?

Danelle wuehr

Maybe with our current housing crisis this the opposite to what we should be doing. It seems like this would just help the big developers and hurt the small land holders.

Mechonan Haishkarem

see uploaded file.

102\1217412\Byron Local Environmental Plan (LEP) 2014.rtf [SCANNED, FILE SAFE]

102\1217412\Byron Local Environmental Plan (LEP) 2014.docx [SCANNED, FILE SAFE]

To whom it may concern,

I am writing to express my concerns about the proposed amendments to the Byron Local Environmental Plan (LEP) 2014.

As I understand it, the proposal will in effect prevent secondary dwellings on many multiple occupancy and Tenants in common lots.

In light of the current housing crisis I believe more needs to be done to assist in providing suitable housing to residents and families in the area.

Please consider this letter as an objection to the proposed amendments.

Sincerely,

Mechonan Haishkarem.



Hinneneni Karem

I strongly object to item 1 of the proposal for the reasons outlined in the attached.

103\1217412\Hinneneni's feedback.pdf [SCANNED, FILE SAFE]

## **Objection to 26.2020.6.1 - Housekeeping LEP Amendment Item 1**

Dear Councillors

Item 1 of this proposal is incomprehensible in both senses of the word: Literally and morally.

That Council finds it fit to present an amendment to LEP proposal (that will become law if approved) that is lacking detail, confused, self-contradictory and based on false premise, raises serious doubts about its ability to understand reality and serve the public.

The community finds itself in the grip of an unprecedented housing crisis without a solution on the horizon, at least not one that will get close to match the number of the homeless, the ones under housing stress and the ones that are being expelled from the shire.

Meanwhile Council is looking to adhere to hard-line, antiquated and irrelevant rules to discriminate between landholders and prohibit secondary dwellings only on MOs and CTs.

Extra housing on communities is what we need: On available land, with existing infrastructure, short term and at no cost to the public coffers.

Why would Council look to eliminate perfectly viable and available short and medium term housing options? Why would it look to exacerbate the crisis?

Council's biased approach towards intentional communities should change, we can't afford the damage it breeds.

Council should invite MO and CT stakeholders to the table and work out in a participatory process the best environmentally safe way these communities can contribute to the increase of housing stock in the form of secondary dwellings and dual occupancies.

Calling Council to remove item 1 from the proposal immediately.

Faithfully

Hinneneni Karem

Peter Kelly

I strenuously oppose item 1 of the proposal, please remove from the proposal

104\1217412\ Peter Kelly submission.pdf [SCANNED, FILE SAFE]

## **Objection to 26.2020.6.1 - Housekeeping LEP Amendment Item 1**

To Byron Shire Council

I am opposed to item 1 of the proposed amendments to LEP 2014

We desperately need more housing in the shire. So far Council has failed to address the housing crisis in the short term and at the same time is engaged in reducing the sustainable option for more housing on communities. This is a bad mistake.

Presenting item 1 of the proposal as a minor 'housekeeping issue is misleading. If passed it will have a dire effect on communities, individuals and the community at large.

The premise on which this proposal is based is wrong. I am long-time resident in this shire and from close knowledge of the history of communities I know that Community Titles and Multiple Occupancies have not been assessed for their environmental capacity to sustain secondary dwellings.

As communities are diverse in their conditions, without such assessment of each community there is no way to determine the suitability for having secondary dwellings or dual occupancies.

MOs and CTs are a small but essential part of the privately held land in the shire.

However it is an unused reserve for extra accommodation in the shire.

Even if permitted, we will not be flooded with DA applications for Secondary Dwellings on communities. But if we will end up with a couple of dozens new homes, owner built, cheap, rapid and with no cost to the public, it means less local families, workers, kids having to leave the area.

I urge Councillors to delete item 1 from the proposal and encourage secondary dwellings on communities through a DA process.

Sincerely

Pete Kelly

angela keenan

Many residents are already giving notice to local employers because they cannot find accommodation in the area and children are being taken out of schools where they have been pupils for years. Their friendships, learning and stability disrupted for the same reason. I cannot see how emptying the shire of its less expensive options will help this problem. Also, where is the equity in applying an ad-hoc prohibition on secondary dwellings on intentional communities when most lots on rural estate subdivisions, often smaller than lots on Mos & CTs, and without having such rigorous environmental repair and enhancement conditions applied, have had their original 1 dwelling per lot restriction overturned and are now actively encouraged to seek secondary dwelling approval. It is totally inequitable to determine at the outset, that such an option is denied only to community title lots while allowing it on most other lots. CTs and MOs account for only a small proportion of rural lots in Byron Shire. This is especially the case in the context of the devastating housing crisis occurring across the shire. Council should be exploring all options for countering this crisis. Closing down this option unilaterally on intentional communities appears ill-conceived and neither in the community's interest, nor the common good.

Background: benefits our communities provide In the past few decades, community title and rural land sharing communities have played a significant and positive contribution towards the provision of affordable housing in the shire. This form of settlement can provide social support mechanisms, in addition to delivering on Council's goals in terms of ecological repair, environmentally appropriate use, sharing of resources and local food growing. MOs converting to Community Title (CTs) were required to update all infrastructure to contemporary Council standards. Buildings, roadways and onsite waste-water systems needed to comply with the latest Australian standards. An enormous investment in environmental repair was required and is ongoing. Secondary dwellings on communities are subject to Council Contributions and come at no cost to the public. There was never a merit-based assessment of the capacity of CT properties for extra housing. Ill-informed comment suggests that during the original MO to CT process, properties were already assessed for their capacity for extra dwellings, and that this process exhausted the potential for extra dwellings. This is both misleading and incorrect. In the MO to CT process, the maximum number of dwellings for which properties could apply, was limited to the number of approved MO sites. At that time, the 'merit-based assessment' was to ascertain if this number (of existing sites) was suitable to transfer to CT sites.

Infill development option – rural & urban Byron Council has chosen 'infill' development as a preferred means of accommodating future residents. It involves allowing additional houses where others already exist. Infill is allowed in all towns and villages and nearly all rural lots. This proposal by Council is inexplicably prohibiting infill on only CT lots while continuing to allow it on all other lots. We are simply requesting an equitable approach where infill occurs based on the merits of each proposal.

Future family planning Community members and lot holders who currently have no interest in secondary dwellings may consider whether they wish to permanently lose the option to be able to provide affordable accommodation for their children, ageing parents or friends in need, or to provide themselves with retirement accommodation with family support living nearby. Many of us have raised families in the shire and are now watching helplessly as our children struggle to find accommodation and enjoy the opportunities this area afforded us.

Damage to social fabric/diversity in the community Dwellings on MOs and CTs can provide one of the few stocks of affordable housing in the shire. Permitting secondary dwellings - where normal consent conditions can be met - would help alleviate the

current crisis. Affordable housing is vital for a diverse and healthy community. Artists, artisans, musicians, carers, cleaners, café workers, elders and young people embarking on life's journey, are all part of the mix that makes a community vibrant and appealing to live in. It would be a shame to lose the special sauce that has made this area unique for so many decades.

Kristi Beard

Expression of opposition to item 1 of the proposal.

106\1217412\Feedback from Kristi Beard.docx [SCANNED, FILE SAFE]

3/4/21

To our Councillors and General Manager,

I am opposed to **Item 1 of the Planning Proposal 26.2021.6.1**

I was born and grew up in the hinterland of Byron Shire and have lived here all my life. I am a mother of two young children and a professional in a full time job.

The local business that employs me is agonising, constantly losing highly trained workers and not being able to recruit, all due to the total lack of available housing.

I know MOs and CTs very well. If there is a rural sector where families are being embraced and can still rent long term it is the sector of intentional communities. Many of them have what it takes: Good social and environmental infrastructure, ecological responsibility and a lot of land.

Reading Council's proposal time and again, I'm left dumbstruck. How can anyone justify an action to disallow extra homes on communities when we so desperately need them?  
Has Council lost its compass?

Councillors and Council staff, please wake up to reality. Allow and help make easy the construction of dual occupancies and secondary dwellings on communities. So aging parents who live on these communities can help their adult children and the businesses they work for to survive.  
So they can have a granny flat in the true sense of the word.

Sincerely

Kristi Beard



Paul Perov

107\1217412\Byron Shire LEP Submission.docx [SCANNED, FILE SAFE]

Dear Byron Shire Councillors

I strongly object to the inclusion of item 1. It seems to limit the number of dwellings to one per lot on Community Titles and Multiple Occupancies. Currently a lot in a community can be granted approval to have a secondary dwelling according to BLEP 2014 depending on the suitability of the specific site and being subject to the DA criteria.

According to the wording in Item 1 the option for CT's and MO's to apply for a DA amendment despite their consent conditions having specified that the community can only have one dwelling per community lot is denied. Isn't it the case that most, if not all, CT's and MO's have a consent condition in their DA that only allows one dwelling for each lot?

If this Housekeeping LEP Amendment is introduced rural communities will be constrained by their DA condition which only allows one dwelling per lot.

So rather than "not intending to outright prohibit dual occupancy or secondary dwellings within all rural community title developments" as item 1 says, the Housekeeping LEP Amendment will "ensure such uses are in accordance with the relevant rural community title approval" which in effect is blanket prohibition on secondary dwellings for CT's and MO's and is contradicting itself in the very same sentence.

This is the exact sentence from where I have quoted:

*It is not intended to outright prohibit dual occupancy or secondary dwellings within all rural community title developments, but rather to ensure such uses are in accordance with the relevant rural community title approval.*

If item 1 is introduced community members who initially had no interest in secondary dwellings may lose the option to be able to provide affordable accommodation for their children, ageing parents or friends in need, or to have retirement accommodation with family support living nearby in the future.

Moreover, will this not exacerbate the current housing crisis in the shire, a crisis which could in part be met by the sustainable and affordable housing that some CTs and MOs offer.

I therefore ask for the removal of item 1 from the list of proposed changes to BLEP 2014.

Ghata Iris Engels

Opposition to item 1 of the amendments proposal. Remove item 1 from the proposal/

108\1217412\Ghata Iris EngelsSubmission .pdf [SCANNED, FILE SAFE]

5/4/21

To our Councillors,

I am opposed to **Item 1 of the Planning Proposal 26.2021.6.1** for the following reasons:

I am perplexed about the fact that such an important issue is hidden away under 'housekeeping amendments'.

A public consultation process is part of Council's commitment to participatory decision making in its Strategic Planning. This issue is of great importance to the community at large for its implications.

The proposal, if adopted, will reduce housing potential in the middle of an unprecedented housing crisis that has no solution in sight. Neither Council nor the community can afford that.

Moreover, I believe that council has to think outside the box in order not to discard any possible housing opportunity. Dual occupancy and secondary dwellings on CTs and MOs that pass a merit test is one such good option.

I live on a small acreage lot where secondary dwellings are permitted.

I can't see any difference between my lot and nearby community lots that share the same size and environmental conditions. It is incomprehensible that Council would deprive both those communities or the community at large of this viable housing opportunity.

The role and performance of intentional communities in providing modest housing to families, essential workers, creative persons in a sustainable way is undeniable. Communities are engaged in ongoing ecological repair and environmental enhancement.

They have good record of land management and of common assets like roads, water and effluent. Many of them have the infrastructure necessary to absorb extra housing.

I suggest, that instead of looking to close down this option, Council should sit down to the table with stakeholders of communities and work out a way to make this important resource available.

Michelle Braunstein

109\1217412\Submission to Byron Shire Council 5.4.2021 Proposed changes to LEP.pdf [SCANNED,  
FILE SAFE]

05/04/2021

Attn: Planning Dept.  
Byron Shire Council

### **Submission on Item 1 Planning Proposal 26.2020.6.1**

To whom it may concern,  
I object to **item 1** of the proposal for the following reasons.

The Byron Shire is currently experiencing a devastating crisis due to the lack of affordable housing, brought about by a housing shortage, rising property prices and holiday letting pressures. This crisis is leading to a loss of social diversity, separation of families and an exodus of skills, talent and the very diverse cultures that are drawing an enriched monoculture to the area. Left without intervention, like a pine plantation, this new influx of privileged people will devastate the very diversity that drew them here. This does not bode well for the long term social sustainability of the Shire, and deepens its growing reputation as a “monument to greed, dressed in a spiritual cloak” (Longtom, BeachGrit 2021).

Council has a role to play in staving this off. Considering it has declared a housing emergency, and professes to be actively seeking housing solutions, Council should be doing all it can to expand the stock of affordable accommodation. Instead, the Shire faced with Council perversely and unilaterally trying to close down an option with a decades long, proven track record of supplying affordable, sustainable accommodation.

Undeniably, intentional communities are part of the housing crisis solution. In the past few decades, community title and rural land sharing communities have made a significant and positive contribution towards the provision of affordable housing in the Shire, keeping an economically and culturally diverse population housed. Many Community Title (CT) dwellings tend to be owner built, modest in nature and therefore cheaper than comparable urban or rural dwellings, allowing for lower rents and catering to people with limited resources. This form of settlement can provide social support mechanisms, in addition to delivering on Council’s goals in terms of ecological repair, environmentally appropriate use, sharing of resources and local food growing. For Council to prohibit this form of housing on one type of property (i.e. CTs) but allowing it on most other properties is ill conceived, ill considered, and contrary to good planning practices. It is time for Council to acknowledge contemporary exigencies, revisit its approach to intentional communities and introduce clear provisions that allow for secondary dwellings and dual occupancies on merit.

Furthermore, this decision seems to be arbitrarily targeting CTs, thereby hitting another nail into the coffin of any illusion of housing equity in this Shire. Most rural lots in the shire—including rural estate developments—have the ability to apply for approval for a secondary dwelling or detached dual occupancy. Normal merit consideration, such as the suitability of the site and conformance to criteria such as bushfire and wastewater, determines whether such a dwelling application is

approved. Currently, Byron Council is seeking to remove that right from lots on rural Multiple Occupancy and Community Title properties, which are only one sector of all rural properties. It beggars belief that this can be justified against the backdrop of the devastating housing crisis occurring across the Shire. Council should be exploring all options for countering this crisis. Closing down this option unilaterally appears ill-conceived and ill-considered, not being either in the interest of the community, or Council's own stated objectives for affordable housing. Such a move appears to be rooted in ideology, rather than the stated aims of Council to addressing a crisis. Byron Shire Council must not approve this proposal, if it really truly interested in public value.

Sincerely,

Dr Michelle Braunstein

Mr Veda Turner

The contribution that MO's and CT's make to housing those in housing stress must be considered.

110\1217412\Plan. Amend Sec Dwelling MO CT 4.21.docx [SCANNED, FILE SAFE]



6/4/2021

Sam Tarrant  
Planner  
BSC

Re LEP Amendment/Housekeeping.  
Secondary Dwellings on MO's and CT properties.

Dear Sir,

Thank you for the possibility of commenting on Councils Proposal.

I appreciate that Development Approvals for MO's and CT's will specify the number of dwelling site, and it is relevant to consider this approval when looking at secondary dwelling entitlements.

At the same time, the current housing situation in Byron Shire is creating exceedingly difficult circumstances for those on low wages or fixed benefits. These are most likely the people and families seeking low-cost options provided by MO/CT secondary dwellings.

I can see from reading the Proposal Explanation document that there is no proposal for a blanket ban on secondary dwellings. However, I think there is a perception that this may be the case in the community. Any reassurance that Council could give the public as to what the Policy Review is seeking would be useful I believe.

Best Regards,

Veda Turner

Fiona Kaminski

Re: Objection to Planning Proposal 26.2020.6.1 - Item 1. Pls see attached letter

111\1217412\Objection to Planning Proposal re MO CTs 6 April 2021.pdf [SCANNED, FILE SAFE]

6/4/2021

The Councillors  
Byron Shire Council  
Via Council Website submission

**Re: Objection to Planning Proposal 26.2020.6.1 - Item 1.**

Dear Council

It seems that Item 1 of the proposed amendments seeks to introduce a prohibition of secondary dwellings in the LEP on all Community Title and MO lots that have the restriction of one dwelling per lot in their approval conditions. Since all communities have that historical restriction in their approvals dating back many years, effectively it would mean a blanket prohibition on all existing communities.

The proposal also implies that communities were merit assessed to determine their maximum capacity for houses at the time they were created, however my understanding is that this never occurred, either on communities or on other private lots in the shire. A merit assessment takes place only ad hoc when a DA is presented.

In the face of the devastating housing crisis that sees our communities losing hundreds of long term residents who simply have nowhere to live, I believe this is an ill-conceived initiative that goes against the interests and well-being of the community.

CTs and MOs are a small part of private landholdings in Byron Shire, but many of them are well positioned to provide environmentally and socially responsible housing to locals in the form of secondary dwellings. Upon merit assessment Communities could apportion a small but immediate solution at zero cost to the public.

In the current declared housing emergency - and the human tragedy that it entails - to outright prohibit this unexploited resource is contrary to good planning and flies in the face of Council's own declared search for solutions.

This proposal is definitely not a minor amendment and should be objected to strenuously. I am now lobbying council to remove it from the proposed package of amendments and put it up for an open public consultation which should take on board all aspects of a contentious and complex situation.

I look forward to your response.

Yours sincerely

Fiona Kaminskii

Mitra Ardron

112\1217412\submissionSecondaryDwellings.pdf [SCANNED, FILE SAFE]

## **Objection to 26.2020.6.1 - Housekeeping LEP Amendment Item 1**

I am writing in objection to the change to prohibit secondary dwellings and dual occupancies on MO's and rural CT's.

Firstly this is anything but a "housekeeping" amendment, this is an action with significant impact on the current, and future, availability of rural affordable housing in the shire.

While I am an owner and resident of a CT lot, I have no personal intention to add a secondary dwelling. However I have neighbors both here and elsewhere in the shire who may wish to do this in the future, and I believe whether they should be able to do so or not should depend on the specifics of the lot, not be blanket denied because they are part of a MO or CT, while the lot next door on a regular division retains that right to apply to add another dwelling.

I do not understand why MO's and CT's have been singled out for this restriction, especially since they have historically, and still are, one of the few sources of affordable housing the shire.

It has been widely known that there are significant numbers of unauthorised dwellings, especially in the hills of Main Arm, but given the shortage of affordable housing shouldn't we be looking for ways to regularize those dwellings, rather than removing one of their few avenues. In fact, given the shortage of affordable housing shouldn't we be encouraging suitable MO and CT lots to add infill, especially in places where the infrastructure is well able to support more people.

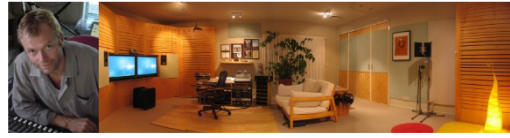
It is painful to see so many people I know who can no longer afford to live in the shire, and it is surprising to see council, which supposedly supports affordable housing, taking steps to make it even hard to find affordable accommodation.

- Mitra Ardron

Kamal Engels

I strenuously oppose to the inclusion of item 1 in the amendments package. Please remove from the proposal.

113\1217412\Kamal Engels Submission.pdf [SCANNED, FILE SAFE]



4/04/2021

Attn Sam Tarrant  
Byron Shire Council

Dear Sir,

I am a long-time resident of Byron Shire, hence **Planning Proposal 26.2020.6.1** is of interest to me, here is my submission.

I oppose **item 1** of the proposed amendments seeking to restrict secondary dwellings and dual occupancies on CTs and MOs for various reasons.

- There are a number of unsubstantiated, contradictory or erroneous assertions in the proposal.

It is contended that as part of the approval of MOs and CTs, they are assessed for total capacity on a site-specific basis. Whilst this is possibly true for some late approvals, most were granted their lot entitlements based either on arbitrary formulas composed by state or local planners, or on the number of lots sought by applicants

It is further asserted that: "Permitting this type of development on rural community titles can significantly increase the housing density of these sites beyond what was envisaged as part of their original approval. (See above)

This needs to be carefully considered on an entire site/catchment basis, rather than in an ad hoc manner when a development application is submitted for an individual lot within one of these developments."

This is contradictory and confusing. How will applicants be able to have an assessment made if the proposed amendment to the LEP forces compliance with consent conditions imposed without such an assessment having been made in the first instance?

- The proposal is discriminatory.

Whereas Item 1 of the proposal seeks to tightly restrict or prohibit secondary dwellings and dual occupancies on CTs and MOs, no matter how large their individual lot sizes, Item 3 implies free reign will be given to such developments on all other rural lots as small as 1 acre. How this can be justified is simply incomprehensible.

- The proposal doubles down on antiquated policies that have done, and can do, nothing to alleviate the current housing crisis in an environmentally responsible manner.

With the population pressure on our region increasing exponentially, it is crucial that Council rethinks all planning measures relating to housing and seeks innovative pragmatic initiatives to provide affordable, sustainable accommodation for critical workers, artisans, artists and service personnel.

Expanding housing on rural communities who have environmental repair and enhancement obligations in their consent conditions should be considered a more ecologically and socially responsible measure than increasing densities on other rural titles who have no such obligations.

Allowing such expansion where a DA assessment shows merit could provide a limited but rapid augmentation of affordable accommodation at no cost to Council or the community.

In light of the above, please remove item 1 from the proposal and instead replace it with a measure that will equitably allow secondary dwellings and dual occupancies on MOs and CTs where a modern unbiased merit assessment deems it appropriate.

Sincerely,  
Kamal M.Engels



Stephen Herbert

I must object to the Item1,planning proposal 26.2020.6.1 due to councils lack of community consultation, the ignoring of the affordable housing crisis in the Byron shire, the fact the proposal is misleading,vague and contradictory.Also this proposal is inequitable that our rights are being denied only to community title and MO dwellers.

mary mcbride

re proposed policy amendments Item 1 controlling secondary dwellings

115\1217412\Proposed policy amendments.docx [SCANNED, FILE SAFE]

Re Proposed policy amendments Item 1 controlling secondary dwelling

I support the possibility of secondary dwellings on CT properties. Our CT was approved over a decade ago and circumstances for the whole community in terms of affordable housing has changed and this is a huge issue which secondary dwellings may assist. Owners of Lots on CT should have the same rights as other land owners to meet their changing needs as they age with the possibility of “Granny flats”.

Zoharel Paiss

Objection to Planning Proposal 26.2020.6.1 - Item 1. I object and do not agree with the above proposal

I strongly oppose to item 1 of the proposed amendments to LEP 2014

I grew up in Byron Shire and lived here most of my years as a young person. This is where my family and my friends live.

I now find it impossible to find secure accommodation here and I'm not alone, most of my age group is forced to leave the shire, our families and jobs for lack of housing. We are not seeking emergency accommodation, we are looking to find modest long term homes.

We are looking with disbelief at Item 1 of the amendments proposal, is Council losing touch with reality and the people of this shire?

Council's first priority should be embracing every possible option for sustainable extra housing rather than eliminating real opportunity for more real sustainable accommodation in the shire.

We care about the environment and the future and therefore we seek responsibility in every development.

Secondary dwellings on MOs and CT communities under DA criteria which should address social and environmental impact, is a viable, rapid and comes at no cost to the public. Eliminating this resource is bad planning and goes against the wellbeing of the community.

I urge Councillors to remove item 1 from the proposal and instead encourage Secondary Dwellings on communities through a proper DA process.

Council should work with the community to develop a sustainable way of using this housing potential responsibly.

Rhonda Blennerhassett

Rhonda Objection to Planning Proposal 26.2020.6.1 - Item 1 'The controlling of secondary and Mulply occupancy on MO and CT': The current Local Environment Plan (LEP) allows secondary dwellings and dual occupancies on CTs and MOs located in RU1 & RU2 zones depending on conditions. This amendment suggests that the approval of secondary dwelling will be an adventurous pathway that will result in unwanted growth to the area. I find this argument very problematic. First, this conclusion has to be established by relevant stakeholders, which wasn't the case. This amendment was almost hidden from the public and is contradicting previously and currently declared councils plans and vision. Furthermore, since the shire is declared to be in an accommodation crisis such minor development is definitely appropriate and should be encouraged !. All CT and MO in this area are responsible for their own roads, water and electricity supply. In there, nature MO and CT are of people with limited resources, therefore, are more likely to provide modest dwelling appropriate to the vulnerable population which is in need in this crisis.

Truus Raman

Objection to Planning Proposal 26.2020.6.1 - Item 1. As a resident of this shire for the last 15 years, I sadly watch how low and mid-income families like our family are inclined to leave the area as no suitable accommodation is to be found. I find the idea of prohibiting secondary dwelling or dual occupancy in the shire as an unnecessary restriction that demonstrates rigidity and is contradicting to the LEP. While a private owner of a property is entitled to legally be granted approval to build a unit for a relative to stay close by, a member of an intentional community will not be allowed to this privilege? I object to this unexplained discrimination and believe the council will use the normal DA process to regulated development on MO and CT.

Lisa McMullen

I would like Council to continue to permit application for secondary dwellings on existing Community Title properties. My CT has 12 lots of approximately 2 acres each. I have 2 grown up children, it will benefit all of us if I am permitted to build a secondary dwelling on my lot. They will be able to stay in the Byron Shire, continue working in the Byron Shire and not be in competition for low cost housing.



Terri Hoffman

This is not small housekeeping. This needs to be reviewed properly. Do not limit expansion categorically. Please, we need more housing.

Jacqueline Marks

I would normally not consider this except for the huge on going inconvenience that the surrounding neighbors air bnb tenants have caused us and due to the inaction of the council, not only our stress levels went up in our Rural Zoned area but the rural and Nature got completely abused, trashed and the roads got completely over used due to so much extra traffic. TRESSPASSING, bullying etc continues here.

Djambul Community

125\1217412\2021-04-05 - Byron Shire LEP - Planning Proposal 26.2020.6.1 - Djambul Community Submission.pdf [SCANNED, FILE SAFE]

Paul Perov, Secretary  
Djambul Community Pty Ltd  
PO Box 777  
Mullumbimby NSW 2482

6 April 2021

Byron Shire Councillors  
C/- Sam Tarrant, Planner  
Byron Shire Council  
PO Box 219  
Mullumbimby NSW 2482

[starrant@byron.nsw.gov.au](mailto:starrant@byron.nsw.gov.au)

Dear Byron Shire Councillors and Sam Tarrant,

**PLANNING PROPOSAL 26.2020.6.1 – BYRON LOCAL ENVIRONMENTAL PLAN (BLEP)  
2014 “HOUSEKEEPING AMENDMENTS” –**

**DJAMBUL COMMUNITY PTY LTD (DJAMBUL COMMUNITY) SUBMISSION**

**ITEM 1 - CONTROLLING SECONDARY DWELLINGS AND DUAL OCCUPANCIES ON  
MULTIPLE OCCUPANCY AND RURAL COMMUNITY TITLE DEVELOPMENTS**

I am the Secretary of Djambul Community. Djambul Community is the owner of a Multiple Occupancy with Development Consent (DA 10.2014.376.3), located at Lot 3 Settlement Road, Main Arm and make this submission on behalf of Djambul Community and each of its members.

**Djambul Community objects to Item 1 of Planning Proposal 26.2020.6.1** on three (3) grounds:

**Objection 1 – Proposed amendment to BLEP not identified**

Planning Proposal does not 26.2020.6.1 does not identify the amendments proposed to be made to the BLEP (or any other planning documents) to meet the policy objectives of Item 1. Indeed, the amendments that would be required to achieve Council’s stated policy objective appear to have not yet been prepared by Council: the explanation for Item 1 records as follows:

*Staff are working with the Department of Planning to determine how best to achieve this outcome within the LEP, which will be formalised in consultation with Parliamentary Counsel when a final plan is made.*

Restricting residents’ feedback on Item 1 to the period before Council has identified its proposed amendment to the BLEP (and any other planning documents) would, we submit, deny Djambul

Community and all other Byron Shire residents and rate payers procedural fairness, as there is currently no way for us to know what actual amendments are proposed.

In our submission, the only way that Council could ensure procedural fairness would be to consult with residents *after* it has concluded its consultation with Parliamentary Counsel and its final plan has been made public.

### **Objection 2 – Policy rational for proposed amendment not supported**

Noting that we are not currently aware of the actual BLEP amendments proposed to address Item 1, we understand that they will seek to limit the number of dwellings on Community Titles and Multiple Occupancies to one per neighbourhood lot, whereas the BLEP 2014 arguably permits approval for secondary dwellings depending on the suitability of the specific site and other relevant DA criteria: the explanation for Item reads as follows:

*Dual occupancy and secondary dwellings are currently permissible in the rural zones.*

The policy rational behind seeking what in effect could amount to a blanket ban on each neighbourhood lot in a on Community Title or Multiple Occupancy applying for a secondary dwelling approach should be rejected, including because of the ongoing need for additional, affordable housing in the Shire area. Council has obligations to deliver affordable housing and Item 1 would be counter to this policy objective.

If item 1 is introduced, Community Title or Multiple Occupancy community members will effectively lose the option to be able to provide affordable accommodation for their children, ageing parents or friends in need, or to have retirement accommodation with family support living nearby in the future.

Moreover, this has the potential to further exacerbate the current affordable housing crisis in the Shire, a crisis which could in part be addressed by increasing the stock of sustainable and affordable housing that some Community Titles and Multiple Occupancies offer.

We note that the Northern Rivers Intentional Communities' submission to Council provides considerably more detail on the reasons why Item 1 is should not be supported on policy grounds. Djambul Community agrees with and endorses Northern Rivers Intentional Communities' submission to Council identifying each of the policy grounds upon which Item 1 is not supported.

### **Objection 3 – Retrospective impact of amendment**

Noting that we are not currently aware of the actual BLEP amendments proposed to address Item 1, we understand that they will seek to retrospectively deny the rights of members of existing Community Titles and Multiple Occupancies from applying for secondary dwellings in relation to their own neighbourhood lot by imposing a new condition that was not in the BLEP at the time of the relevant development application: the explanation for Item 1 reads as follows:

*It is not intended to outright prohibit dual occupancy or secondary dwellings within all rural community title developments, but rather to ensure such uses are in accordance with the relevant rural community title approval.*

This explanation does not take into account that at the time existing Community Title's and Multiple Occupancies' development consents were granted, dual occupancy and secondary dwellings were permissible under the BLEP, and approvals were granted in accordance with the BLEP as it applied at that time.

Seeking to retrospectively remove a right that existed at the time of the development application is arguably impermissible and may expose Council to needless and costly litigation in the event that members of existing Community Titles and Multiple Occupancies seek to enforce the right they currently have to seek approval for a dual occupancy or secondary dwelling.

### **Conclusion**

For each of the reasons identified under the three (3) Objections set out in this submission, Djambul Community opposes and seeks removal of Item 1 from Planning Proposal 26.2020.6.1.

We request Council provide us with a written response to each of the three (3) Objections set out in this submission.

Finally, we also note that as a one of the Multiple Occupancies comprising the Northern Rivers Intentional Communities, Djambul Community agrees with and endorses Northern Rivers Intentional Communities' submissions to Council in relation to Issue 1.

If you require any further information in relation to this submission or wish to discuss any aspect of it further, please do not hesitate to contact me on 0444 575 562 or at [djambulcommunity@gmail.com](mailto:djambulcommunity@gmail.com).

On behalf of all members of Djambul Community, I thank you for your consideration of our submission.

**Paul Perov**

Secretary, Djambul Community Pty Ltd

Graeme Batterbury

Objection to Planning Proposal 26.2020.6.1 - Item 1. Ammendments to LEP 2014 are much more than "housekeeping" items. With Byron Shire Council considering alternative measures to make housing in the shire affordable, secondary dwellings on rural intentional communities is a very sustainable and eco-friendly option that cannot be reasonably dismissed. By all means stop rampant development in rural areas, but allow intentional communities to flourish and bring a balance to rural living, allow for alternate housing models and provide the opportunity for young families to purchase their own homes free from the vicious free market economics.

Rebecca salt

How is this going to help the housing crisis? It's not. This is a terrible idea. Not sure what you mean about road side stalls, but I like them an I think they are incredibly important to have in the community.



Aner Yeffet

Objection to Planning Proposal 26.2020.6.1 - Item 1 What is the public interest in Prohibiting/Controlling secondary dwellings on MO and CT? What is the justification for overriding the right from lots on rural Multiple Occupancy and Community Title properties to apply for a secondary dwelling according to current LEP? Why is this suggestion not communicated in an open transparent manner to the public? but rather hidden between other suggestions? I believe applications for new and existing unapproved dwelling on these communities should be grossly approved if proven to stand up to standards of construction, bushfire and environmental legislations. This shire is growing as other parts of Australia and requires modest rural accommodations which are homogenous in nature to the already existing development in the shire (bottom to top developments) .

Kristen Monty

The Development Control plan currently does not support dual occupancies or secondary dwellings on Multiple Occupancy and Community Title development in the rural zones. Permitting this type of development on rural community titles can significantly increase the housing density of these sites beyond what was envisaged as part of their original approval. Please consider the impact on the environment and put that ahead of pressure from members of the community to increase housing density in these areas in order to provide affordable housing. I have witnessed the recent impact of allowing secondary dwellings in our shire with fees waived and believe the long term impact of proposals that attempt to allow more affordable housing never seems to actually achieve what it sets out to do. Our shire is such a desirable place to live that there will always be high demand and therefore increasing prices and rents. It seems apparent that affordable housing will (and is now) only achieved in a limited way by kindness from property owners who charge fair rents, not market rents, or sellers who sell at a fair price to community members, not at market prices. We need to cap housing and maintain restrictions on any further development, particularly on Multiple Occupancy and Community Title development in the rural zones, where it is so important we maintain the integrity of the zone.

Tamara Flanagan

Expression of opposition to item 1 of this proposal

130\1217412\Tamara Flanagan feedback submission.pdf [SCANNED, FILE SAFE]

7/4/2021

## **Objection to 26.2020.6.1 - Housekeeping LEP Amendment Item 1**

To the general manager and Councillors

I'd like to express my strong opposition to the inclusion of item 1 in the above proposal.

I have been a professional in the real estate industry for decades and never before saw a severe crisis like the one we are experiencing at the moment. We are woefully short of supplying the astronomical demand for rentals. It is heartbreaking as we need to reject families, long term renters with a perfect rental record just for lack of supply.

Regardless of the reasons for this situation, be it house prices, short term tourism or unexpected immigration from cities, the reality is that long term locals are being pushed out of the shire, uprooting children, losing jobs, family support and social networks.

There is no solution to this tragedy in sight unless Council become flexible to identify and open housing options where they can be found.

Council's attempt to block existing secondary dwelling and dual occupancy options on Mo and CT communities is counter productive if not damaging.

How can Council declare housing emergency and at the same time deny housing where it is most appropriate?

I know many communities that can accommodate extra housing without causing any damage to the environment, many that invested substantial amounts to have up to standard infrastructure and ongoing rehabilitation of degraded lands.

We have DA merit assessment process that ensures that only where merit is demonstrated a development will be approved so why unilaterally blanket block this option?

Council should remove item 1 from the proposal and instead start working with communities to harness their potential of contributing to a solution by facilitating the development of secondary dwellings and dual occupancies. This is what the community as a whole desperately needs.

Sincerely

Tamara Flanagan

Galina Raissa

Strong opposition to item 1 of the proposal

131\1217412\Galina Raissa submission.pdf [SCANNED, FILE SAFE]

4/04/21

Byron Shire Council

**Submission on Planning Proposal 26.2020.6.1**

Dear Councillors and general Manager,

I write to express my opposition to **item 1** of the proposed amendments.

The intention to restrict further expansion of rural communities through the application for secondary dwellings and dual occupancies by changing the LEP makes little sense and can also be viewed as prejudicial.

Most of the arguments put forth in the proposal are confusing or unclear, but claiming that a change to the LEP is the only way to control unwanted development is misleading and disingenuous, the DA process provides Council with ample powers of rejection as well being a just manner of assessing an applications merit.

Given the current accommodation crisis being lived by large numbers of vital workers in the Shire, I suggest it would be a better idea to look at all applications for secondary dwellings and dual occupancies on merit – as seems to be the case with other rural titles - and not seek outright prohibitory measures.

Packaging item 1 as a housekeeping measure is also disingenuous, a measure that will affect a significant portion of the Shires ratepayers should be subject to a community consultation process.

Sincerely,

Galina Raissa

Sivan Arbel

Objection to Planning Proposal 26.2020.6.1 - Item 1 The proposal to prohibit secondary dwelling on CT and MO in times of accommodation crisis is unclear. Private property with already existing roads and complying with bush regeneration requirements is one of many solutions required urgently to add to the non-existing stock of affordable accommodation. CTs and MOs are a small part of private landholdings, but many of them are well positioned to provide environmentally and socially responsible housing to locals in the form of secondary dwellings. Upon merit assessment Communities could apportion a small but immediate solution at zero cost to the public. I would like to be consulted in a fair manner and at least explained the logic of such contra intuitive move. With Thanks Sivan Arbel

Aurora Kerr ( leighan kerr)

MO submission Byron council General Manager, Byron Shire Council, Dear Sir/madam Submission to Planning Proposal 26.2020.6.1 Objection to Item 1 – Controlling secondary dwellings and dual occupancies on multiple occupancy and rural community title developments Dear Council, We are in a desperate situation with a housing emergency in our shire and as women we are particularly concerned about the homeless situation disproportionately affecting women of our age (50+) who have contributed so much to byrons shire's rich culture. One of the few remaining options open to us as a community to help others is to allow secondary dwellings on MOs and CTs. This planning consent has been hugely successful with properties in rural zonings. The take up has been strong with many landowners electing to build a secondary dwelling without the need for rezoning or expensive infrastructure. Not proceeding with this control amendment will also have the advantage of allowing many existing illegal dwellings to be approved. This should be a win/win for the council and the community. Wishing to restrict excessive development is fine but not when we have necessary workers and long term residents sleeping in their cars and couch surfing. This is one simple and immediate way to lessen this crisis and the council should eliminate this piece of housekeeping so we can have more houses for those without any. Our submission specifically objects to item 1 of the 'Housekeeping' Planning Proposal which seeks to unilaterally prohibit secondary dwellings and dual occupancies on Rural Land Sharing Communities (MOs) and rural Communities Titles. We request Council discontinue this part of the planning proposal for the following reasons: – the proposed unilateral prohibition is ill-conceived and ill-considered as demonstrated below – the explanation and reasoning put forward in the planning proposal is often wrong, misleading and reflects a misunderstanding of the history of the subject and the contemporary challenges facing the shire – we find it perverse that Council has declared a housing emergency and is actively seeking housing solutions, and the same time unilaterally trying to close down a housing option that has a track record of supplying more affordable housing in a sustainable manner over the decades – in the instance of this matter, Council has ignored its protocols and policies in relation to consulting with stakeholders by not consulting with intentional communities – the planning proposal report states in Section C (Page 36) of the Planning Proposal that Council considers: o 'There are negligible social and economic impacts as a result of the minor amendments and corrections outlined in this planning proposal.' This contention of negligible social impacts demonstrates our view that the proposal is ill-considered and has a limited understanding of the issues at hand. It is suggested that in a time of the Council's declared housing emergency, the proposal to thwart the potential for housing has significant social impacts. It also has a range of social and local economic impacts which the planning proposal does not bother to address. – the planning proposal is misguided in much of its 'explanation' of the issue. It states that permitting additional dwellings in the form of secondary dwellings and dual occupancies is a risky concept that could result in many dwellings and such unplanned growth is not permitted and undesirable. This contention is absurd. The number of multiple occupancy and community title sites in the shire is a small proportion of overall rural sites. Presently the vast majority of other sites in the shire are able to apply for secondary dwellings and dual occupancies. This growth is ad hoc and not planned for in any strategy and has not resulted in the grave outcomes predicted. It is clear that permitting intentional community sites the ability to apply for a secondary dwelling and dual occupancy on merit, will not result in the anticipated calamity espoused in the planning proposal. –



much of the 'reasoning' within the planning proposal for prohibiting secondary dwellings and dual occupancies on intentional communities attempts to create a case for the proposal by referring to past consents. Again this is an argument without substance and is incorrect. Council clearly has the ability, especially via a planning proposal to introduce clear contemporary provisions that allow for secondary dwellings and dual occupancies on merit. As with normal planning processes, the history is superseded by new provisions that reflect the new policies and goals of Council and the community. Given the proven track record that multiple occupancy and rural community title developments have demonstrated over past decades in contributing to the housing demands of the shire, it is requested Council meet with community stakeholders to explore the further contribution these communities can make towards addressing the housing emergency. Yours sincerely Aurora Kerr and Lush Evers 3a, 42 Bilin Road Myocum NSW 2481

Steve Wardrop

I oppose item 1 of this amendment proposal, please remove from the bundle

134\1217412\Steve submission.pdf [SCANNED, FILE SAFE]

Objection to item 1

Dear Councillors,

Re Planning Proposal 26.2020.6.1 Item1

I am opposed to item 1 of the proposal. I consider it unfair and damaging to the availability of housing stock in the area which in turn is affecting many long term residents, families and as a consequence businesses and the economy of the region.

A major preoccupation of myself and many friends and acquaintances is affordability and availability of long term accommodation. We watch with dismay this proposal to prohibit secondary dwellings on intentional communities lots.

Rural intentional communities: MOs and CTs are one of the few reliable sources available and I can see no valid reason for council to want to restrict the ability to expand this option now that we need to find solution to a growing crisis. These communities already have the necessary infrastructure and also have the means to prevent ecologically insensitive development.

I further would like to see Council directing its resources to controlling holiday rentals instead of limiting future sustainable housing.

Respectfully,

Steve Wardrop

David Allen Kennedy

I strongly oppose item 1 As a long term resident of the shire, reading this item in the proposal leaves me speechless. I find it hard to believe. Does Council want to shut down permanently housing options while it purports to look for them? Has Council lost the plot? We need to find more housing possibilities, we have to make it possible for all land owners to construct secondary dwellings. Dual occupancies and secondary dwellings on MOs and CTs is what we need to open, not to close!

Dan Zenou

I reject item 1 of the proposal. As someone who lives and works in the shire and faces a near constant battle to find stable affordable accommodation, I object to Item one, which if passed will limit even more my options of finding a long-term home. Rural communities seem to offer one of the very few sources of affordably priced rentals around, please don't limit their ability to provide more in the future.

William Mackay

I wish to make a submission, opposing the amendments. There is an immediate crisis in our community that needs to be tackled: affordable housing. Throughout the Shire, holiday letting is taking over. We cannot afford to discard any viable possibility for affordable housing. Land share dwellings tend to be modest in nature, therefore allowing for lower rents. Dwellings can be a socially responsible use of the land.

Arlia Callanan-O'Doherty

I oppose item 1 of this amendments proposal In my opinion the part of this proposal that seeks to control secondary dwellings and dual occupancies on Community Titles and Multiple Occupancies makes little sense and is confusing, contradictory and unjust. I think Council should withdraw it and instead come up with a policy that allows CTs and MOs the same rights as other rural properties, i.e., the ability to seek a secondary dwelling or dual occupancies through the DA process.

Sarina Birker

Strong opposition to item 1 of the proposal to restrict dwellings on MOs and CTs. I am opposed to item 1 of this planning proposal as I can see no valid reason to refuse secondary dwellings and dual occupancies on multiple occupancies and community titles, especially when they are being allowed on other rural lots. With a housing emergency declared, Council should be looking at all options to provide rapid environmentally responsible solutions.



Keita Kujiura

I am opposed to item 1, please remove It from the proposal, it is unjust and serves no useful purpose. Surely council has all the necessary powers at is disposal to prevent unsuitable development applications. A blanket prohibition of secondary dwellings on one sector of rural landholdings cannot be justified and deprives desperate accommodation seekers of one potential source of refuge.

Kevin Gibs

I oppose Item 1 of this proposal which appears to be discriminatory, why are MOs and CTs singled out and not all rural lots? I have lived here for long enough to see how rural estate subdivisions have spread and are currently undergoing the same densification as town centres. If this is seen as a reasonable manner to accommodate more people, why are MOs and CTs to be excluded? MOs and CTs are integrated into their environments in a more sustainable manner than other developments and should be allowed to expand in the same manner as other properties.

Aya Iwata

Strong opposition to item 1 of the proposal. I am a professional in a full time position in a Byron Bay business. The business is losing workers on a weekly basis as these workers lose their homes. It is impossible to recruit from out of town for the same reason. Candidates with families are the worse hit. No one rents them houses. Council is failing to deal with the situation. Proposing to close down the option for housing on CTs and MOs makes no sense, in fact it seems malicious. Council should make it easy for these communities to build second dwellings so there is fresh stock of homes for rent in the market. Councillors, do not approve this damaging proposal.

Diane James

As a long term resident of 40yrs in this shire these changes should not be made without adequate community consultation. Expect major backlash to these underhanded ammendments.

Cindee Pascoe

144\1217412\Letter to council.docx [SCANNED, FILE SAFE]

General Manager, Byron Shire Council,

Dear Sir/madam

Submission to Planning Proposal 26.2020.6.1

Objection to Item 1 – Controlling secondary dwellings and dual occupancies on multiple occupancy and rural community title developments

Our submission objects to item 1 of the 'Housekeeping' Planning Proposal which seeks to unilaterally prohibit secondary dwellings and dual occupancies on Rural Land Sharing Communities (MOs) and rural Communities Titles.

We request Council discontinue this part of the planning proposal for the following reasons:

- the proposed unilateral prohibition is ill-conceived and ill-considered as demonstrated below
- the explanation and reasoning put forward in the planning proposal is often wrong, misleading and reflects a misunderstanding of the history of the subject and the contemporary challenges facing the shire
- we find it perverse that Council has declared a housing emergency and is actively seeking housing solutions, and the same time unilaterally trying to close down a housing option that has a track record of supplying more affordable housing in a sustainable manner over the decades
- in the instance of this matter, Council has ignored its protocols and policies in relation to consulting with stakeholders by not consulting with intentional communities
- the planning proposal report states in Section C (Page 36) of the Planning Proposal that Council considers:
  - o 'There are negligible social and economic impacts as a result of the minor amendments and corrections outlined in this planning proposal.'

This contention of negligible social impacts demonstrates our view that the proposal is ill-considered and has a limited understanding of the issues at hand. It is suggested that in a time of the Council's declared housing emergency, the proposal to thwart the potential for housing has significant social impacts. It also has a range of social and local economic impacts which the planning proposal does not bother to address.

- the planning proposal is misguided in much of its 'explanation' of the issue. It states that permitting additional dwellings in the form of secondary dwellings and dual occupancies is a risky concept that could result in many dwellings and such unplanned growth is not permitted and undesirable.

This contention is absurd. The number of multiple occupancy and community title sites in the shire is a small proportion of overall rural sites. Presently the vast majority of other sites in the shire are able to apply for secondary dwellings and dual occupancies. This growth is ad hoc and not planned for in any strategy and has not resulted in the grave outcomes predicted.

It is clear that permitting intentional community sites the ability to apply for a secondary dwelling and dual occupancy on merit, will not result in the anticipated calamity espoused in the planning proposal.

– much of the ‘reasoning’ within the planning proposal for prohibiting secondary dwellings and dual occupancies on intentional communities attempts to create a case for the proposal by referring to past consents. Again this is an argument without substance and is incorrect.

Council clearly has the ability, especially via a planning proposal to introduce clear contemporary provisions that allow for secondary dwellings and dual occupancies on merit. As with normal planning processes, the history is superseded by new provisions that reflect the new policies and goals of Council and the community.

Given the proven track record that multiple occupancy and rural community title developments have demonstrated over past decades in contributing to the housing demands of the shire, it is requested Council meet with community stakeholders to explore the further contribution these communities can make towards addressing the housing emergency.

Thank you,  
Cindee Pascoe

Jane Pentrearnh

I am in position to item 1 of the proposal.

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## **Objection to 26.2020.6.1 - Housekeeping LEP Amendment Item 1**

Dear Byron Shire Councillors,  
General Manager

I write to voice my strenuous opposition to item 1.

In the grip of an unprecedented housing emergency and an ongoing crisis with no solution on the horizon It seems like Council is spending energy and time in seeking to limit housing options rather than facilitating them.

There is no planning, social or environmental sense in blanket prohibiting secondary dwellings or dual occupancies on MO and CT communities. Despite the vague, confused and devoid of details presentation of this proposal, the only outcome if approved will be a blanket prohibition, depriving the community of a viable housing option.

Communities are unique in that they have very different geography, size, density. the number of dwellings approved on these communities was always decided arbitrarily in different periods.

The only way to determine the suitability of a site for extra dwellings is a DA assessment. Council should invite communities to be assessed on a case by case basis for that purpose.

I would also suggest to device a planning instrument that will prohibit the use of secondary dwellings on communities and other rural lots for short term tourism. I'm sure most communities will embrace that.

Council, wake up and do the right thing by the community.

Jane Pentreath

Malcolm Peters

I oppose to item 1 of this proposal. Please remove from the amendments proposal.

146\1217412\submission Malcolm Peters.pdf [SCANNED, FILE SAFE]

7 April 2021

Byron Shire Council

**Objection to Planning Proposal 26.2020.6.1 – Item 1**

Dear Council,

I oppose the specific amendment above and would like to see it withdrawn from the proposal.

As a 30 plus year rural and urban resident of the Shire who has watched the increasing urbanization of our rural lands with some concern, I would like to point out the following

- Singling out one sector of rural properties and applying a prohibition on the ability to apply for secondary dwellings or dual occupancies is discriminatory and contrary to Councils purported social justice principals, community engagement policy and affordable housing initiatives.
  - Rural communities already having large portions of their terrain dedicated to environmental repair and enhancement are better placed to provide additional housing in an environmentally sustainable manner than properties without such constraints. A DA based merit assessment would rule out any inappropriate developments.
  - With the need for affordable long-term accommodation at critical levels, allowing rural communities the right to apply for secondary dwellings or dual occupancies whilst tying consent to a prohibition on short term holiday letting could be one small measure towards addressing the issue.
  - That increasing population pressures are a reality that will irrevocably transform our area must be acknowledged and innovative planning policies that can mitigate the consequences on the moderate-income sector of our community whilst seeking to preserve the unique character of the Shire, need to be developed.
- In my opinion allowing secondary dwellings and dual occupancies on rural communities on a merit-based assessment would serve these goals.

Sincerely,

Malcolm Peters

Chelsea Donaldson

I reject item 1 of the proposal. We need extra dwellings on communities

147\1217412\ Chelsea Donaldson.pdf [SCANNED, FILE SAFE]

## **Objection to 26.2020.6.1 - Housekeeping LEP Amendment Item 1**

Dear Councillors,

I am expressing my strong opposition to item 1, it is wrong, untimely and damaging.

Councillors, it is in your hands to determine the present and the future of our shire. It is in your hands to ignore or support the needs of the community. It is in your hands to prevent or cause misery.

We are in the grip of a crisis unseen before. Our shire sports the highest figures of homelessness in the state. We are losing long term locals, kids are being pulled out of schools as families are being pushed away from the shire. Businesses are ailing, losing essential trained workers. A grim picture, a tragedy in the making.

That Council is entertaining a prohibition of one of the last sources of decent housing in the shire that is secondary dwellings and dual occupancies on communities is perplexing if not scandalous.

We can not discard any option for housing in the shire. Council can employ rigorous current planning tools to assess where suitable extra housing can be erected.

CT and MO lots are not different to their next door neighbours on small acreage where secondary dwellings and dual occupancies are generously permitted. Communities in many cases have good internal infrastructure to support more housing and all at the expense of owners.

Who is to lose if permission was given to communities on a case by case basis?

Sincerely,

Chelsea Donaldson

Sebastian Pentreath

I oppose item 1 of the proposal, please remove this amendment.

148\1217412\Sebastian Pentreath.pdf [SCANNED, FILE SAFE]

7/04/21

BYRON COUNCIL

Re: Planning Proposal 26.2020.6.1

Dear Sir/Madam,

I voice my opposition to item 1 of the proposal for reasons of:

**Equity-** That the item seeks to impose a restriction on applying for secondary dwelling or dual occupancy permission on CTs and MOs and not on other properties is unjust and the proposal provides no clear justification for such inequity.

Many developments have their original consents altered, it's normal process, it makes no sense that this option is to be denied only to one specific sector.

**Urgent Need of Affordable Housing-** With so many low-and moderate-income residents being squeezed out the accommodation market, any option - small or large - that can responsibly provide additional modestly priced rentals in the short term should be left on the table.

**Communities more likely to auto-impose or enforce restrictions on holiday letting-** Intentional communities generally have well-functioning self-governing mechanisms in place, thus limiting the potential for abuse of consent conditions regulating short term holiday letting and ensuring that whatever potential housing stock could be provided would go to the sector most in need.

**Maintaining Heritage-** Allowing communities to expand in line with other sectors – rather than encouraging more mainstream developments - would help to maintain the unique character and social diversity of our area.

Respectfully,

Sebastian Pentreath

Justine Minh Hien Le

149\1217412\Justine Minh Hien Le feedback.pdf [SCANNED, FILE SAFE]



8/4/21

**Objection to 26.2020.6.1 - Housekeeping LEP Amendment, Item 1**

To Byron Shire Council

I object the item seeking a prohibition of secondary dwellings on intentional communities for the following reasons:

The unprecedented housing crisis we suffer shows no signs of being alleviated. Council's emergency response is important but not less important is finding permanent solutions.

A solution will have to include different components, large or small and we need all of them.

Secondary dwellings on MOs and CTs are likely to contribute to the housing stock in a positive way, that is being rented out to families, low to middle income residents and essential workers.

A consent condition preventing that these homes be used for short term tourism letting can be added and imposed by the communities who have good internal governing bodies.

We can not afford to discard any option for more homes in the shire. A case by case DA assessment is the tool to make sure that these developments are socially and environmentally safe.

Councillors, please remove item 1 from this proposal, it has no moral or pragmatic justification.

Justine Minh Hien Le

Maiko Omura

I am against the proposal to prohibit extra dwellings on intentional communities. My co-workers and myself, my friends and many hundreds of people in the shire are experiencing high stress as a result of not finding where to live. It affects our work performance, our mental health and also the functioning of the businesses we work for. Extra homes on MOs and CTs will add to the stressed housing stock and help us and the businesses that employ us. Council should not prohibit them but rather encourage this option.

Livia Vihena Yoshimine

Please remove item 1 proposing to disallow secondary dwellings on communities. Limiting extra homes on communities is wrong and damaging and will contribute further to the housing crisis. Council should look for ways to promote the possibility of extra housing on these communities on a case by case basis.

Rafael Tananyan

I'd like to express my strong objection to item 1 of this proposal. How can Council suggest to eliminate a good source of housing in the middle of a devastating shortage that causes the highest rates of homelessness in the whole state? Any option for more housing, especially in the rural areas where it is less likely to go to short term tourism letting should be encouraged. Many MOs and CTs are suitable to contribute in a small but significant way to a solution.

Jane Marron

I disagree with your plan to not allow secondary dwellings for rural community title lands. We need affordable housing & places for extended families ( nuclear or otherwise) to live. As long as the buildings meet council criteria, the should be allowed.

Peter Flaus

As long as all building and approvals are met I believe you should be allowed a second dwelling on an MO oo CT.

Fiona Miao Yanru

I strongly oppose part 1 of this proposal that is seeking to prohibit secondary dwellings on MOs and CTs. As an employee of a business that is struggling to keep staff as employees can't find long term accommodation and are suffering housing stress, I see this proposal as an insult to the working class and the community. How can Council suggest to close the door on a good housing option? this is a bad and damaging idea that doesn't take into account the human factor. Surely Council can work with these communities to allow extra dwellings in a safe and responsible way.

Balanced Advice

see attached objection to item 1

156\1217412\Obj to 26.2020.6.1 Item 1.pdf [SCANNED, FILE SAFE]



General Manager  
Byron Shire Council

8 April 2021

Dear Sir/Madam

**Submission to Planning Proposal 26.2020.6.1  
Objection to Item 1 - Controlling secondary dwellings and dual occupancies on multiple occupancy and rural community title developments**

Our submission objects to item 1 of the 'Housekeeping' Planning Proposal which seeks to unilaterally prohibit secondary dwellings and dual occupancies on Rural Land Sharing Communities (MOs) and rural Communities Titles.

We request Council discontinue this part of the planning proposal for the following reasons:

- the proposed unilateral prohibition is ill conceived and ill-considered as demonstrated below
- the explanation and reasoning put forward in the planning proposal is often wrong, misleading and reflects a misunderstanding of the history of the subject and the contemporary challenges facing the shire
- we find it perverse that Council has **declared a housing emergency** and is actively seeking housing solutions, and the same time unilaterally trying to close down a housing option which has a track record of supplying affordable housing in a sustainable manner over the decades
- in the instance of this matter, Council has ignored its protocols and policies in relation to consulting with stakeholders by not consulting with intentional communities
- the planning proposal report states in Section C (Page 36) of the Planning Proposal that Council considers:
  - o 'There are negligible social and economic impacts as a result of the minor amendments and corrections outlined in this planning proposal.'

This contention of negligible social impacts demonstrates our view that the proposal is ill considered and has limited understanding of the issues at hand. It is suggested that in a time of Council's declared housing emergency, the proposal to thwart the potential for housing has significant social impacts. It also has a range of social and local economic impacts which the planning proposal does not bother to address.

- the planning proposal is misguided in much of its 'explanation' of the issue. It states that permitting additional dwellings in the form of secondary dwellings and dual occupancies is a risky concept that could result in many dwellings and such unplanned growth is not permitted and undesirable.

This contention is absurd. The number of multiple occupancy and community title sites in the shire is a small proportion of overall rural sites. Presently the vast majority of other sites in the shire are able to apply for secondary dwellings and dual occupancies. This growth is ad hoc and not planned for in any strategy and has not resulted in the grave outcomes predicted.

It is clear that permitting intentional community sites the ability to apply for a secondary dwelling and dual occupancy on merit, will not result in the anticipated calamity espoused in the planning proposal.

- much of the 'reasoning' within the planning proposal for prohibiting secondary dwellings and dual occupancies on intentional communities attempts to create a case for the proposal by referring to past consents. Again, this is an argument without substance and is incorrect.

Council clearly has the ability, especially via a planning proposal to introduce clear contemporary provisions that allow for secondary dwellings and dual occupancies on merit. As with normal planning processes, the history is superseded by new provisions that reflect the new policies and goals of Council and the community.

Given the proven track record that multiple occupancy and rural community title developments have demonstrated over past decades in contributing to the housing demands of the shire, it is requested Council meet with community stakeholders to explore the further contribution these communities can make towards addressing the housing emergency.

Do not hesitate to contact us to discuss this matter if required.

Yours sincerely

Rob Doolan for  
Balanced Advice

Mathew Neil Graham Clark

157\1217412\Mathew Neil Graham Clark feedback.pdf [SCANNED, FILE SAFE]

8/04/2021

Byron Shire Council

Submission in opposition of Item 1 of Planning Proposal 26.2020.6.1

Dear Councillors,

I find item 1 which seeks to control secondary dwellings and dual occupancies on multiple occupancy and rural community title developments problematic.

The wording and premise of the proposal are confusing and/or contradictory and much of the information presented is misleading.

It is stated that: *“Permitting this type of development on rural community titles can significantly increase the housing density of these sites beyond what was envisaged as part of their original approval.”* Surely this true of any zoning, but that hasn’t stopped council animating secondary dwellings on other rural developments. Why single out rural communities?

It is further contended: *“This needs to be carefully considered on an entire site/catchment basis, rather than in an ad hoc manner when a development application is submitted for an individual lot within one of these developments.”* It would appear that what council is proposing is an ad hoc prohibition, how will said site/catchment analysis be carried out when such development is deemed non-permissible at the outset?

With regards to: *“Further issues arise when the maximum number of dwellings is permitted based on the interpretation of only one dwelling per neighbourhood lot. Without clear LEP provisions an application could be received for a dual occupancy on any one of these lots which (if approved) would leave one of the other neighbourhood lots unable to construct a dwelling.”* This is an ill-reasoned and misleading contention, firstly such an application is highly unlikely due to internal governance of MOs and CTs and secondly the DA process would prevent such a scenario.

The statement that: *“It is not intended to outright prohibit dual occupancy or secondary dwellings within all rural community title developments, but rather to ensure such uses are in accordance with the relevant rural community title approval.”* is both confusing and misleading; nearly all rural communities have a one dwelling per lot consent condition, so this will in fact be a virtual prohibition.

The final declaration: *“Staff are working with the Department of Planning to determine how best to achieve this outcome within the LEP, which will be formalised in consultation with Parliamentary Counsel when a final plan is made.”* Is frankly unbelievable, who releases a proposal for submission with zero details of how such a proposal is to be implemented?

Furthermore, I see no just reason for a blanket prohibition of secondary dwellings and dual occupancies on rural communities, they should be treated equally to other rural lots.

Sincerely,

Mathew Neil Graham Clark

Mali Yarwood

158\1217412\feedback from Mali Yarwood.docx [SCANNED, FILE SAFE]

8 April 2021

Byron Shire Council

Item 1 Planning Proposal 26.2020.6.1

Dear Council,

I don't understand why you are trying to limit rural communities' ability to construct secondary dwellings at the same time as you have declared a housing emergency, it seems like a case of the left hand not knowing what the right is doing.

With so many people facing uncertainty about their accommodation security, wouldn't it be better to re-examine all council policies that affect housing supply and affordability and find more ways to encourage sensible development rather than permanently closing down options.

I think rural communities are well-placed to provide more housing in an ecologically sensitive way. They have demonstrated their capacity to accommodate people sustainably and affordably for decades and should be given the same rights as other rural properties to apply to build secondary dwellings.

Respectfully,

Mali Yarwood

Emma Lee M Evans

159\1217412\Feedback from Emma Lee M Evans.pdf [SCANNED, FILE SAFE]

8/4/21

**Objection to Planning Proposal 26.2020.6.1 – Item 1**

Dear Byron Shire Council

I am against the amendment seeking to limit MOs and CTs to only one dwelling per lot.

I see this proposal as rigid, unjust and damaging.

Not only will it exacerbate the severe housing crisis that devastates the community and destroys lives in the shire, it also introduces an element of discrimination within the community.

Depriving the community of a viable and immediate option of extra housing is wrong.

Intentional communities should be brought to the table to seek, together with Council a sustainable way to harness their potential of contribution to a solution.

There is no reason to discriminate lot owners in intentional communities prohibiting secondary dwellings and dual occupancies only on their lots. Many of them are well set up to have extra dwellings in a perfectly sustainable way. Communities have demonstrated their ability to carry out development in a responsible way both socially and ecologically.

In the same manner that it is allowed on all other private holdings to have secondary dwellings, it should be allowed on communities. A DA assessment will determine the suitability and the adequate conditions necessary to impose.

In my opinion, communities should have a consent condition prohibiting holiday lettings. These communities have good self-governing mechanisms to enforce that prohibition internally.

Calling Council to facilitate rather than block housing options.

Sincerely,

Emma Evans



I oppose the specific amendment above and would like to see it withdrawn from the proposal.

As a 30 plus year rural and urban resident of the Shire who has watched the increasing urbanization of our rural lands with some concern, I would like to point out the following

- Singling out one sector of rural properties and applying a prohibition on the ability to apply for secondary dwellings or dual occupancies is discriminatory and contrary to Councils purported social justice principals, community engagement policy and affordable housing initiatives.
  - Rural communities already having large portions of their terrain dedicated to environmental repair and enhancement are better placed to provide additional housing in an environmentally sustainable manner than properties without such constraints. A DA based merit assessment would rule out any inappropriate developments.
  - With the need for affordable long-term accommodation at critical levels, allowing rural communities the right to apply for secondary dwellings or dual occupancies whilst tying consent to a prohibition on short term holiday letting could be one small measure towards addressing the issue.
  - That increasing population pressures are a reality that will irrevocably transform our area must be acknowledged and innovative planning policies that can mitigate the consequences on the moderate-income sector of our community whilst seeking to preserve the unique character of the Shire, need to be developed.
- In my opinion allowing secondary dwellings and dual occupancies on rural communities on a merit-based assessment would serve these goals.

Sincerely,

Malcolm Peters

Re: Planning Proposal 26.2020.6.1

Dear Sir/Madam,

I voice my opposition to item 1 of the proposal for reasons of:

**Equity-** That the item seeks to impose a restriction on applying for secondary dwelling or dual occupancy permission on CTs and MOs and not on other properties is unjust and the proposal provides no clear justification for such inequity.

Many developments have their original consents altered, it's normal process, it makes no sense that this option is to be denied only to one specific sector.

**Urgent Need of Affordable Housing-** With so many low-and moderate-income residents being squeezed out the accommodation market, any option - small or large - that can responsibly provide additional modestly priced rentals in the short term should be left on the table.

**Communities more likely to auto-impose or enforce restrictions on holiday letting-**

Intentional communities generally have well-functioning self-governing mechanisms in place, thus limiting the potential for abuse of consent conditions regulating short term holiday letting and ensuring that whatever potential housing stock could be provided would go to the sector most in need.

**Maintaining Heritage-** Allowing communities to expand in line with other sectors – rather than encouraging more mainstream developments - would help to maintain the unique character and social diversity of our area.

Respectfully, Sebastian Pentreath

Dionisios Goumas

160\1217412\Dionisios Goumas Submission.pdf [SCANNED, FILE SAFE]

8/04/2021

Please remove item 1 from the proposal. It makes no sense in the current housing crisis to be reducing options that might provide more modestly priced housing to the accommodation market.

Submitting rural communities to a restriction on secondary dwellings and dual occupancies in the current climate comes across as prejudicial and ill-thought-out. With so much housing stress in the shire and the mad scramble to construct secondary dwellings in towns and on rural freehold properties, why close down this option on communities?

I would like to see a dedicated effort made to increase affordable housing in an environmentally sensitive manner that respects the history and heritage of our region.

Rural communities with their environmental repair and enhancement obligations and their history of providing socially inclusive, affordable accommodation, seem well-placed to be part of a comprehensive solution. Singling them out from other rural properties for a restriction on the ability to construct secondary dwellings is unproductive and there appears to be little compelling argument to do so.

Dionisios Goumas

Patrick Sterlin

We are currently experiencing an unprecedented housing crisis, with record levels of homelessness and long term locals having to leave their region, friends, support network, etc. We need all the housing we can get. Second dwellings on properties are actually a great way to increase the available offer..

Tanya Beverley

Objection to 26.2020.6.1 - Housekeeping LEP Amendment Item 1 I would like to voice my strong objection to councils proposal to restrict dwelling numbers to one per lot on Community Title properties. It is listed as minor change not requiring community consultation, this 'minor change' will have major impacts on properties that are affected by this inequitable proposal. Community title properties have been through a stringent process, with significant upgrading of infrastructure and substantial ongoing bush regeneration programs requiring considerable time, cost and effort to achieve. Lots on CT are often of generous size and considered freehold, paying freehold rates, they should be afforded the same considerations as non CT properties, not singled out and discriminated against especially when infill development is allowed in most rural allotments and towns on places with less space, less infrastructure and less environmental consideration. With the affordable housing crisis deepening in the shire, this proposal goes against the best interest of the wider community. People are struggling to find affordable accommodation in the shire, as a result businesses are beginning to experience staffing crisis' because many people can't afford to live here any more. It will potentially affect quality of life as these restrictions will not allow owners on these properties to have the option to build legal housing/granny flats for ageing parents or adult children in need of affordable housing, even though they may have plenty of space, adequate infrastructure and would get approval if they were assessed with the same criteria as a non CT RU1 and RU2 properties. We would like Community Title share holders in the area to be supported to thrive and be afforded the same equitable process of evaluation as other properties in the shire. We would like a process of formal community consultation and negotiation to discuss this matter further before any action is taken to pass this amendment.

Phillip John Charles Davis

Opposition to item 1, see attached.

163\1217412\Phillip John Davis feedback.pdf [SCANNED, FILE SAFE]

To Byron Shire Councillors,

I object to item 1 of the amendment proposal.

A rigid restriction on secondary dwellings and dual occupancies in MOs and CTs in the current climate comes across as biased and ill perceived. With such housing stress in the shire and the race to construct secondary dwellings in towns and on rural freehold properties, why close down this valid option on communities?

Rural communities with their excellent record of environmental enhancement and regeneration projects and their history of providing socially inclusive, affordable accommodation, are well-situated to be part of a multifaceted solution.

Council is encouraged to impose a 'no holiday letting' as an approval condition on secondary dwellings in communities. Of all private holdings, intentional communities are best able to respect this control as they have self-governing mechanisms to implement this restriction.

Denying the option of more housing on communities will be a loss to the community, will exacerbate the housing crisis and will go against all Council's policies, strategies and declarations.

Councillors, remove this item from the proposal.

Faithfully yours,

Phillip John Charles Davis



Lucinda Beverley

Strong Objection to 26.2020.6.1 - Housekeeping LEP Amendment Item 1. It makes no sense that CT properties are denied the same equitable assessment process as other properties of the same zoning in the shire. If 7, 2 acre properties can all have a dual occupancies but a 120 acre CT property with 7 shares is not afforded the same process of evaluation, even though the CT properties in the shire have had to adhere to strict consent conditions requiring substantial upgrades to infrastructure and environment at great cost and effort, it is singling out and discriminating against owners of CT properties. It is only fair that CT properties be subject to the same merit based assessment process as other properties in the shire. I also believe that this amendment is in contradiction to the escalating housing crisis in the shire.

Jack Beverley

I am opposed to the 26.2020.6.1 - Housekeeping LEP Amendment Item 1. This amendment goes against the needs of the greater community, we are in an unprecedented housing crisis, dual occupancies on Community Title lots should be encouraged and be afforded the same assessment as other properties in the same zoning. I grew up on a CT property in the Byron Shire, a large parcel of land with big lots, excellent infrastructure, solid care and commitment to ongoing land and environmental improvement with a strong emphasis on community values. Denying CT properties this right is inequitable and discriminative, intensifies the already dire housing crisis and takes our wider community one step further away from the very culture that the Byron Shire is founded on.

Bridie Guy

Submission to Planning Proposal 26.2020.6.1 - Housekeeping Amendment - objection to Item 1

166\1217412\Bridie Guy\_Submission to Planning Proposal 26.2020.6.1 - Housekeeping Amendment  
- objection to Item 1.pdf [SCANNED, FILE SAFE]

9th April 2021

General Manager  
Byron Shire Council  
70-90 Station Street  
Mullumbimby NSW 2482

Dear Sir/Madam

**Submission to Planning Proposal 26.2020.6.1**

**Objection to Item 1 - Controlling secondary dwellings and dual occupancies on multiple occupancy and rural community title developments**

Byron Shire is currently in the midst of a housing crisis, which was formally recognised by Council, through the recent declaration of a housing emergency, unanimously supported by Councillors.

Council has committed to investigate a range of options to address this crisis, including;

- using local caravan parks, motels, and hostels to provide crisis accommodation for women and;
- initiate discussions with the state government for the lease and use of disused and surplus rail land for affordable housing.

This recent declaration and associated actions recognise the urgency of the crisis and build on the work previously undertaken by Council referenced in the 'Key workers affordability paper' in the Council report of March 11, which included an affordable housing scheme and proposed pilot project.

This amendment is oddly timed in the context of Byron Shire's housing crisis, suggesting a siloed approach is currently being utilised rather than a holistic cross-Council approach, which is desperately need to address this complex issue.

As the planning proposal authority, Council is responsible for planning to meet the community's current and future needs, however regrettably, developing policy is a lengthy process and the scale and intensity of the crisis requires more immediate action. In this instance, a Business-as-Usual approach to policy development is not appropriate and a multipronged approach is needed to respond to the crisis. It is critical that every innovative idea is explored and partnerships leveraged to increase the supply of safe, accessible affordable housing which provides security of tenure.

Given the complexity of housing delivery, noting that development through Public Private Partnerships is not Council's core business, and there is a range of governance and probity matters that Council must adhere to, it seems ill-considered that Council would remove a

potential land use planning lever which is central to Council's responsibilities, as an opportunity to deliver affordable housing supply.

Rural Land Sharing Communities (MOs) and rural Communities Titles (CTs) are an important affordable housing typology which could form part of the solution to this crisis, and reducing dwelling capability on MOs and CTs as proposed is at odds with Council's actions to address the housing crisis.

It is against this backdrop, that this submission objects to item 1 of the 'Housekeeping' Planning Proposal which seeks to prohibit secondary dwellings and dual occupancies on Rural Land Sharing Communities (MOs) and rural Communities Titles (CTs). In addition to the above, an objection is made for the following reasons:

**1. Item 1 of the amendment lacks strategic justification**

Council does not have an adopted strategic document which identifies concerns with MOs and CTs or proposes changes to their dwelling capability. Importantly, MOs and CTs are an identified rural housing typology in the *Byron Shire Rural Use Land Strategy 2017*, however the Strategy does not justify the change proposed by Item 1.

It should be further noted that whilst the *Byron Shire Residential Strategy 2020* relates to residential rather than rural land, that Intentional Communities are highlighted as a housing typology sought by the local community to facilitate affordable housing delivery and operate within a community framework to allow people to collectively own and manage a community. This Strategy also provides objectives and criteria to guide the development of new Intentional Communities in residential areas in line with liveable neighbourhood principles, highlighting Council's support for this housing typology.

**2. Item 1 of the amendment is inconsistent with the North Coast Plan 2036, particularly in relation to Goal 4 "Great Housing choice and lifestyle options"**

Even before the housing crisis, Byron's Shire's housing targets in the Plan were insufficient, with a target of 3,150 dwellings to contribute to the region's target of 46,000 dwellings by 2036.

Housing diversity and housing affordability are identified as critically important to accommodate housing demand for a high proportion of couples and singles, as well as housing for an ageing population.

The Plan supports ageing in place for new dwellings (under Direction 23). MOs and CTs can similarly support ageing in place within communities, supporting health and wellbeing and social capital of communities and reducing risks to health and of social isolation in retirement villages.

The Plan seeks to ensure housing supply does not impact on environmentally sensitive areas and creates a strong sense of community. MOs and CTs have successfully allowed for

community living in a manner which is sensitive to the environment, and positively enhancing the environment through biodiversity restoration and food production. They have also created community cohesion in a way which cannot be achieved through conventional development, supporting positive health and wellbeing.

**3. Item 1 of the amendment is inconsistent with the Byron Shire – Community Strategic Plan, in particular:**

Maintaining housing affordability is identified as a key issue in the Plan to ensure that locals and future generations can remain in the area and do not have to relocate due lack of employment or housing options. Limiting dwelling capabilities on MOs and CTs will impact on housing affordability for locals and future generations. The Plan supports housing diversity in appropriate locations, which are assessed through the DA process.

Item 1 is inconsistent with three key principles of the Community Strategic Plan. Item 1 is **inequitable**, as has limited application to a specific housing typology, limits **access** to much needed affordable housing supply and is proposed through a 'housekeeping amendment' without adequate community **participation**.

**4. Item 1 of the amendment misrepresents the social, economic and legal impacts of the proposal**

The planning proposal report states in Section C (Page 36) of the Planning Proposal that Council considers: *'There are negligible social and economic impacts as a result of the minor amendments and corrections outlined in this planning proposal.'* Such a significant change should be subject to a social impact assessment, significant consultation and be supported by Council's adopted strategies. However, even without undertaking this work, Byron Shire is in the midst of a housing crisis which Council is actively seeking to address, evidenced by the recent declaration of a housing emergency, unanimously supported by all Councillors as well as the March 11 Council report - Key workers affordability paper, which highlight Council's actions regarding the affordable housing scheme and proposed pilot project.

The explanatory information accompanying the amendment states *"Development Control Plan (DCP) 2014 currently does not support dual occupancies or secondary dwellings on Multiple Occupancy and Community Title development in the rural zones. This amendment to the LEP will add consistency across Council's planning instruments"*. Upon review of the DCP 2014, it appears that provisions only apply to MOs and not CTs, however this remains a discretionary provision rather than a prohibition (Section D.6. 9b) Dwelling Houses *"Dual occupancies and secondary dwellings are not permitted unless otherwise specified in the multiple occupancy approval or in Schedule 1 of the Byron LEP 2014"*.

Whilst the Council has sought to achieve greater clarity and consistency between the DCP and LEP, it is notable that DCP and LEP have different statutory weighting. The DCP is not embedded in legislation and is discretionary in nature, whilst the LEP is a legislative instrument.

Therefore, to apply matters within a DCP to an LEP based on a rationale of applying consistency cannot be considered policy neutral as it elevates the level of statutory weight which would be given. Such a substantive issue is not suitable for inclusion in a housekeeping amendment for procedural matters. Robust consultation with affected parties has not occurred and this Item is not underpinned by a study which strategically justifies it; all of which is critical in affording natural justice, procedural fairness and sound and well considered strategic planning.

Rural landsharing settlements (both MOs and CTs) make an important contribution to the Shire's affordable housing supply and this opportunity should be further evaluated to understand how this housing segment can contribute to addressing the housing crisis.

It is requested that Council remove Item 1 from the Housekeeping amendment for the reasons outlined above, and instead, Council undertake an analysis to inform how MOs and CTs can contribute to delivery of affordable housing within the Shire in a manner which is sensitive to the rural environment.

Yours Faithfully,

Bridie Guy

Resilient Byron - Housing Security working group

Please see the document attached

167\1217412\01042021 FINAL Submission to Planning Proposal 26.2020.6.1 - Housekeeping  
Amendment - objection to Item 1 - JSR.pdf [SCANNED, FILE SAFE]



# Resilient Byron

9th April 2021

General Manager  
Byron Shire Council  
70-90 Station Street  
Mullumbimby NSW 2482

Dear Sir/Madam

## Submission to Planning Proposal 26.2020.6.1

In the midst of a critical housing crisis where conventional planning mechanisms have failed to deliver any significant provision of affordable housing, this new amendment will impact negatively on one of the small and diminishing supplies of secure and relatively affordable housing in Byron Shire. It is a contradiction to a range of council and state strategies and it shuts off permanently a pathway of intergenerational family resilience and a good source of housing diversity. We believe it is ill considered and poorly timed, particularly without any other successful alternative affordable housing provision. Rather than a "housekeeping" provision we believe a considered and consultative process would be better. Our submission outlines both the contradictions and possible solutions.

## About Resilient Byron

Resilient Byron is a registered charity committed to Resilience and Regeneration in times of crisis. Resilient Byron is a winner of the 2020 Byron Shire Council Sustainability Award.

In these times of climate change, COVID-19 and economic crises, we aim to

- **Support our communities by building their resilience in the short term**, such as addressing emergency and other immediate needs as well as weaving a fabric of community resilience.
- **Transforming our society by being regenerative in the long term**, that is, planning for sustainable food, energy, water, and social security as the climate crisis worsens.

For this, we aim to **bring together local citizens via a web of geographic groups** (e.g. streets, neighbourhoods, valleys, shorelines, etc.) organised as interconnected areas of local resilience, **themselves supported by residents organised in thematic groups** (food security, water security, housing security, energy security, health & well-being, safety and emergency, etc.) aiming to create resilience and regenerative projects that benefit the wider community.

**We collaborate and partner with existing organisations**, including councils, emergency agencies, businesses, community groups, etc.

This submission has been prepared by Resilient Byron's Housing Security working group, to advocate for action which addresses the crisis and works toward building resilience in the Shire's housing security

# Resilient Byron

## **Objection to Item 1 - Controlling secondary dwellings and dual occupancies on multiple occupancy and rural community title developments.**

We understand Council's responsibility for proper and orderly planning in favour of net community benefit, and that this remit includes the prevention of unregulated housing growth on rural properties. Since the Council has recognised that we are in the midst of a "housing emergency", policy making in this matter cannot proceed 'as per usual'. Innovative ideas must be canvassed and we need to think strategically and holistically to solve this issue. There is no silver bullet and a range of innovative approaches and partnerships will be required to address the crisis.

We acknowledge the work that Council have undertaken to investigate affordable housing opportunities within the Shire (including the options raised in the recent Council report of March 11 - Key workers affordability paper, affordable housing scheme and proposed pilot project), however have grave concerns around the pace of progress and note that Council has not allocated dedicated resourcing (either staff resources or budget) to progress this challenge of a generation. We are also concerned that no deadlines have been allocated to progress this issue.

We are of the view that EVERY possibility to increase the quantity of affordable housing stock must be embraced, and provided in a manner, which guarantees the safety of the people and environment. The less 'urgent' and paramount housing guidelines such as aesthetics, housing density, and minimal setback requirements must be re-examined in this light.

On this basis, this submission objects to item 1 of the 'Housekeeping' Planning Proposal which seeks to prohibit secondary dwellings and dual occupancies on Rural Land Sharing Communities (MOs) and rural Communities Titles (CTs) on the following grounds:

### **1. The amendment is not strategically justified as it relates to Item 1**

- The *Byron Shire Rural Use Land Strategy 2017* recognises MOs and CTs as an important rural housing form. The Strategy has not investigated or identified concerns regarding the operation of existing MOs or CTs or recommend changes to existing dwelling capability.

### **2. The amendment is contrary to the North Coast Plan 2036, particularly in relation to Goal 4 "Great Housing choice and lifestyle options".**

- Goal 4 recognises that over the next 20 years, an additional 46,000 new dwellings will need to be created in the region.
- The Plan notes that the region's annual population growth was 1.2% between 2001 and 2016, and based on historic growth projections, that Byron Shire will need an additional 3,150 dwellings by 2036. As the Plan was finalised in 2017, these projections are outdated. These dwelling projections are out-dated and do not factor in the recent migration from cities within the last year and are not representative of current housing need.
- The Plan recognises the need for housing diversity and housing affordability to accommodate the regions ageing population and large proportion of couple only and single person households. Significantly, couple only and single person households represent the largest cohort and over 65s represents one third of the region's future housing needs.
- The Plan states under *Direction 23: Increase housing diversity and choice* "Local growth management strategies should be used to consider local housing needs based on household and demographic changes. These strategies should plan for a range of housing choices, including retirement villages, nursing homes and opportunities to modify existing dwellings to enable occupants to age in place". The Plan recognises the importance of modifying existing housing stock to facilitate ageing in place, and the future dwelling capability on MOs and CTs could similarly contribute to this objective.

# Resilient Byron

- The plan recognises the need to direct housing to serviced locations which do not impact on environmentally sensitive areas and create a strong sense of community.

MOs and CTs have played an important role in;

- Providing affordable housing for people on very low, low and moderate incomes
- Creating a strong sense of community connectedness
- Improving health and wellbeing and quality of life, with housing designed to encourage communal living and maximise the use of remaining land for agriculture, reforestation or recreation
- Protecting and enhancing the environment, with MOs and CTs only permitted on land with marginal agricultural productivity and conditions of approval requiring biodiversity restoration and regeneration

The future dwelling capability which would be subject to consideration through the DA process offers the opportunity to age in place within communities rather than necessitating the relocation of older residents to retirement villages which has the capacity to lead to social isolation and a decline in wellbeing.

In summary, MOs and CTs make an important contribution to Byron Shire's housing diversity and affordability and limiting housing supply in these locations:

- Is contrary to the North Coast Plan 2036 and will have an adverse impact on Goal 4 "To provide great housing choice and lifestyle options"
- Will further exacerbate the housing crisis which has intensified following the influx of city migrants who have arrived following the COVID-19 pandemic. This Plan, developed in 2017, does not take into account the recent migration from cities which have exhausted housing supply and therefore these projections are now out-dated and woefully inadequate.
- Would limit opportunities for older residents to age in place within these communities, a key state policy direction and important consideration in light of Byron Shire's ageing population
- Is contrary to council's efforts to address this issue (refer to council report of 11 March - Key workers affordability paper, affordable housing scheme and proposed pilot project)

### **3. The amendment is contrary to the Byron Shire - Community Strategic Plan, in particular:**

- *"Providing strategies to ensure living in Byron Shire is affordable for locals and future generations, and to ensure young people don't have to move from the area due to lack of employment or housing options. Whilst many community members and stakeholders were in favour of limits on development, some suggested more 'managed and strategic' growth would be suitable to ensure housing affordability. In a similar way, ensuring young people could live comfortably and in a supported way in communities with access to training opportunities to enhance job prospects was also important".* Limiting dwelling opportunities on MOs and CTs will impact on housing affordability for locals and future generations.
- *"Support housing diversity in appropriate locations across the Shire".* MOs and CTs offer affordable and diverse housing opportunities. Additional dwellings on existing MOs and CTs would be subject to a merit-based assessment through the DA process, which would determine appropriate locations. There is no benefit in limiting MO and CT dwelling potential through this "housekeeping" amendment when a performance-based assessment can be made through the DA process.
- The proposal does not apply the social justice principles of the Community Strategic Plan. In particular;

# Resilient Byron

- **Equity:** The proposal seeks to restrict dwelling opportunities on the specific housing segment of existing MO and CTs, but does not apply these restrictions to other rural land.
- **Access:** Housing is a basic human right. The proposal will limit access to affordable housing in the midst of a housing crisis, which will adversely impact quality of life.
- **Participation:** This proposal has been included within a housekeeping amendment without adequate consultation with people who will be affected by the amendment. This includes existing residents of MOs and CTs and potential future residents within the broader community.

## 4. The amendment misrepresents the social and economic impacts of the proposal

- The planning proposal report states in Section C (Page 36) of the Planning Proposal that Council considers: *'There are negligible social and economic impacts as a result of the minor amendments and corrections outlined in this planning proposal.'* Such a significant change should be subject to a social impact assessment, significant consultation and be supported by Council's adopted strategies. However, even without undertaking this work, Byron Shire is in the midst of a housing crisis which Council is actively seeking to address, evidenced by the March 11 Council report - Key workers affordability paper, affordable housing scheme and proposed pilot project).
- The likely adverse social impacts of the proposal are considerable and deserve to be fully explored and identified. The proposal is in conflict **with the North Coast Plan 2036 with its ageing in place goals.**
- A range of other adverse social impacts are also likely to occur.
- The local economic impacts of the proposal deserve to be identified.

## Our position

We believe that rural land sharing settlements (both MOs and CTs) play an important role in contributing to more affordable lower cost housing. Further, that their very origins, legally enabled by SEPP 15, only came about historically because people occupied land to create low-cost housing in rural areas. We are calling on Council to work with the community to find innovative solutions to address this generation's affordable housing crisis.

We understand the importance of well-considered and sound strategic planning policy and the importance of avoiding unintended consequences in policy formation. Increased housing demand following the COVID-19 pandemic and holiday rentals, coupled with the lack of regulation for Airbnb's has created an acute housing crisis, which has seen many people in the community, both vulnerable community members as well as those who are gainfully employed, displaced.

It is critical to ensure that new affordable and climate change-resilient dwellings are constructed to meet housing demand, rather than as high-cost dwellings to be used for Airbnb. It is important to acknowledge the role that MOs and CTs can play in delivering affordable housing supply.

## Our proposed approach

*Investigate the role of MOs and CTs in delivering affordable housing supply*

We believe that in forming well-considered long-term policy in a holistic manner that rises to the challenge of this crisis, Council should investigate the role that additional housing on MOs and CTs can play. Further, that to prevent unintended consequences and ensure it achieves its intended objective, that the investigation include the following considerations:

# Resilient Byron

1) Consider referring to the original SEPP 15 objectives that enabled MO's. Particularly

“(iii) the pooling of resources, particularly where low incomes are involved, to economically develop a wide range of communal rural living opportunities, including the construction of low-cost buildings, and”

2) One option, which could be explored in a proper policy review, would be to limit additional dwellings to secondary dwellings (granny flats) only with strict conditions be applied that such additional housing is only available to local residents rather than for use as holiday rentals.

4) Rural dual occupancy and secondary dwellings as a policy was largely related to allowing extended families, particularly adult children and elderly parents, housing opportunities, where they might otherwise have to leave the area. The principle here is the same, particularly with the ageing MO and CT populations. This raises a question of equity, noting that Item 1 applies only to MOs and CTs (a small minority of rural properties) rather than all rural properties (being the majority). This also highlights that the argument of precedent does not hold, as Item 1 applies to a small segment of rural properties, rather than the majority. Permitting ageing in place on MOs and CTs is consistent with the policy and its objectives, and should be supported.

5) Consider how this policy can enable the construction of Tiny Houses in a rural planning context as an opportunity to offer a more compact residential form and contribution to the Shire's affordable housing supply. A Tiny House or a cluster of two or three Tiny houses could be a proper response as a definition of a temporary dual occupancy as low-cost accommodation. We recognise that a Tiny House village was successfully developed in urban Gosford to deliver affordable housing, and we believe that following further investigation and through advocacy efforts, that this could similarly offer an avenue to increase affordable housing supply. See Gosford Tiny House Project: <https://www.tinyhomesfoundation.org.au/projects>

## ***Dedicate adequate resources to address affordable housing crisis***

It is critical that the Council dedicates adequate resources to address this crisis including staff resourcing and budget, as well as the formation of a Steering Committee to ensure accountability to progress and deadlines. We believe that it is critical for community stakeholders to sit on the Steering Committee and would request that Resilient Byron occupy a position on such a committee.

We welcome the opportunity to discuss our submission with Council further.

Yours Sincerely,

Resilient Byron

Housing Security Working Group

Manjari Sunder

when will you stop selling us for the dollars ? Addressing the Housing Crisis The Shire is currently experiencing a devastating crisis due to the lack of affordable housing, brought about by a housing shortage, rising property prices and holiday letting pressures. This crisis is leading to a loss of social diversity, separation of families and an exodus of skills and talent. Council – which has declared a housing emergency – and professes to be actively seeking housing solutions, should be doing all in its power to expand the stock of affordable accommodation and not perversely and unilaterally trying to close down an option with a decades long, proven track record of supplying affordable, sustainable accommodation.

Rod Murray

Objection to item 1

169\1217412\Rod Murray feedback to Council.docx [SCANNED, FILE SAFE]

10/4/21

Objection to item 1 of 'Housekeeping amendments

Dear Councillors and Council staff,

As a long term resident of this shire I read the proposal to limit all rural Community title and Multiple occupancy properties to one dwelling per lot with incredulity. I find it blind to the reality of the housing crisis, to the needs of the people of the shire , it seems mean and damaging or simply bad planning.

Why would Council think it acceptable to present a proposal to change an existing law to make it impossible to construct extra dwellings where most appropriate? And that when Council is desperately looking to find new housing opportunities?

I recall a few weeks ago the Planning Minister calling on all Councils in NSW demanding to urgently encourage land owners in rural NSW to construct dual occupancies and secondary dwellings.

CTs and MOs are just another form of private land owning. These communities were never assessed to determine their capacity for extra housing. The number of dwellings per community and per lot was always arbitrary. However many of them are as suitable for secondary dwellings as their neighbours on private lots. Why deny them and the ailing community this option for housing??

Council, we cannot afford to be hard line or rigid. We cannot afford to be uninformed. Please rethink.

Instead of looking for ways to prohibit look for ways to harness this sector and on a case by case basis assess their capacity to contribute to a solution.

Yours faithfully,

Rod Murray



Andrew Hewitt

I understand that some might abuse a situation with secondary dwellings allowed. However, in a moment like this, with so many longtime community members being forced out due to high rents from incoming city dwellers and second-homers, it's simply not the time to enforce such restrictions. Yes, let's begin the process of finding a way to identify genuine problem areas. Rule by complaint is one way to go about this, where laws are in place but only enforced by a series of complaints. How to implement this is beyond my local law expertise but similar models have been other communities around the world facing a similar issue.

Carly Simpson

objection

171\1217412\Carly Simpson submission.pdf [SCANNED, FILE SAFE]

11/4/21

Dear Byron Shire Council

I would like to express my strong opposition to item 1 of this proposal seeking to prohibit secondary dwellings on Community title and Multiple occupancy settlements.

How can Council , in the midst of the worst housing crisis in living memory, entertains an idea to slash a potential for more housing in the shire while purporting to look for those very opportunities?

It strikes me as irresponsible on the part of Byron Shire Council to deny an important sector in the community the ability to contribute to the solution for the crisis, that no doubt will have to include diverse contributors.

This sector of intentional communities is one of the most responsible in the shire in matters of environmental sensitivity, usage of resources and having a strong social support network.

These communities need to be assessed on a case by case basis to ascertain which is adequate for secondary dwelling and which is not.

An approval should be conditioned on not using these dwellings for holiday lettings. As Council poorly monitors compliance, there is a better chance that communities can self monitor as they have good internal governing bodies.

Council, wake up to reality, you have an obligation to your constituency.

Faithfully

Carly Simpson

Renae Jane

172\1217412\Renae Jane feedback.pdf [SCANNED, FILE SAFE]

11/4/21

My objection to Item 1 26.2020.6.1 - Housekeeping LEP Amendment,

Dear Byron Shire Councillors

Introducing a prohibition of applying for a Secondary dwelling or Dual Occupancy on Community Title lots is not in the interest of the community.

This is especially the case in the context of the devastating housing crisis occurring across the shire. Council should be exploring all options for countering this housing crisis. Closing down this option unilaterally will add to the devastating lack of affordable, sustainable accommodation in the shire. Not taking into account the hundreds if not more of Byron Shire residents, families who find themselves homeless or forced to leave the area is cruel and ill conceived.

Allowing DA assessments for a secondary dwelling or detached dual occupancy on community title lots and secondary dwellings on rural land sharing communities where the merit has been demonstrated by the normal DA process is another form of infill development that is desperately needed.

Merit assessment was never carried out to determine whether CT lots can sustain extra housing. The number of lots on converted CTs was simply translated from the number of MO shares. Without such assessment the prohibition Council seeks to impose is arbitrary and against parameters of sensible planning.

We request Council to make a clear policy statement that this form of housing is permitted where **merit** considerations warrant it.

Renae Jane

Pele Safra

See Attached

173\1217412\Pele's submission.docx [SCANNED, FILE SAFE]

Dear Sir/Madam

10/04/2021

**Submission to Planning Proposal 26.2020.6.1**

**Objection to Item 1 - Controlling secondary dwellings and dual occupancies on multiple occupancy and rural community title developments.**

I strongly object this planning proposal and ask that item 1 will be removed for the following reasons-

- Prohibiting secondary dwellings and dual occupancies on Rural Land Sharing Communities (MOs) and rural Communities Titles (CT's) is not a 'minor housekeeping' amendment but rather a complex and perhaps harsh decision which require proper policy review and community consultation.
- As most rural lots in the shire can apply for approval for a secondary dwelling or detached dual occupancy it is totally inequitable that such an option will be denied only to community title/MO lots.
- Considering the devastating housing crisis occurring across the shire. Council should be exploring all possibilities for countering this crisis. Closing down this option unilaterally appears ill-conceived and not in the community's interest, nor the common good.

Sincerely,

Pele Safra

Nelson Mahecha

objection to item 1

174\1217412\Nelson Mahecha feedb to Council.pdf [SCANNED, FILE SAFE]



10/4/21

## **Objection to 26.2020.6.1 - Housekeeping LEP Amendment Item 1**

Dear Byron Shire Councillors, General Manager

I am opposed to the amendment which will unilaterally prohibit secondary dwellings on Community Title and Multiple occupancy lots.

This prohibition will have a profound negative effect on the community and is far from being a minor 'housekeeping' amendment.

The matter should be brought to a comprehensive public consultation process that will need to examine all aspects of the housing problem in Byron Shire.

In the face of the deep and devastating housing crisis and the resulting human tragedy that we watch unfolding, it is Council's responsibility to encourage and not to prohibit urban and rural sustainable housing solutions.

Communities are well positioned to contribute, subject to DA merit assessment, low rent, sustainable and rapid housing solutions to residents at zero cost to the public.

Removing existing permission in BLEP for a Secondary Dwelling and Dual Occupancy on Communities has no social, economic and planning sense.  
It will contribute to the disintegration of this community.

Yours,

Nelson Mahecha

Chris Booth

175\1217412\Chris Booth feedback.pdf [SCANNED, FILE SAFE]

11/4/21

## Objection to Item 1

### 26.2020.6.1 - Housekeeping LEP Amendment

Dear Byron Shire Councillors

I strongly object to the amendment which will prohibit secondary dwellings on Community Titles.

This prohibition, if passed, will have a profound negative effect on the community and is far from being a minor 'housekeeping' amendment.

The matter should be brought to a comprehensive public consultation process that will need to examine all aspects of the housing problem in Byron Shire.

In the face of the deep and devastating housing crisis and the resulting human tragedy that we watch unfolding, it is Council's responsibility to encourage and not to prohibit urban and rural responsible housing solutions.

Community Titles are well positioned to contribute, upon merit assessment, low rent, sustainable and rapid housing solutions to residents at zero cost to the public.

Removing existing permission in BLEP for a Secondary Dwelling and Dual Occupancy on Community Titles has no social, economic and planning sense.  
It will contribute to the disintegration of this community.

Instead, Council should encourage opportunities for quick, sustainable rural housing solutions.

Ill-informed comment suggests that during the original MO to CT process, properties were already assessed for their capacity for extra dwellings, and that this process exhausted the potential for extra dwellings. This is both misleading and incorrect.

In the MO to CT process, the maximum number of dwellings for which properties could apply, was limited to the number of approved MO sites. At that time, the 'merit-based assessment' was to ascertain if this number (of existing sites) was suitable to transfer to CT sites.

Where environmentally and socially appropriate, and always upon DA merit, land sharing communities can offer good housing solutions. A solution that may save many families and businesses who can't find workers because their workers can't find a place to live in this shire.

Sincerely

Chris Booth

Alison Simpson

176\1217412\feedback Alison Simpson.pdf [SCANNED, FILE SAFE]

11/4/21

I object to item 1 of the amendment proposal

Estimated Councillors, General manager,

I would like to express my deep disappointment in Council. As a resident of the shire I find item 1 of this proposal to be insensitive, mean spirited, discriminatory as it goes against the desperate needs of the community.

Effectively blanket prohibiting dual occupancies and secondary dwellings on communities without merit assessing them first is wrong if not negligent. In this climate of chronic housing shortage, that is by all predictions only going to get worse, to block this housing opportunity makes no planning or human sense.

MOs and CTs are a sector that is yet to be exploited as a resource for housing. It is shovel ready, owners financed and mostly in communities that have invested a fortune in ecological restoration, internal infrastructure and high standard of services.

These communities expect Council to put a prohibition on holiday lettings as a consent condition and are best positioned to implement that restriction.

Council, please remove this embarrassing item from the proposal

Sincerely

Alison Simpson

## Sapoty Brook

Multiple Occupancy communities are provide for alternative lifestyles based on simple living and reduced consumption and sharing of land. With catastrophic weather events contributing to threats to future survival intentional communities provide shelter and food growing alternatives for stressed populations. Homelessness and high rental rates are also putting communities under stress. Blanket restrictions on housing apply added stress. Decisions should remain on a case by case basis to take into account the relevant circumstances.

Venn Sharman

Strongly opposed to all changes to the LEP 2014. These changes are not minor and strongly detrimental to the community and land owners. In an environment of population increase and affordability and availability of housing the council should be serving the community and not plotting to discreetly exasperate these issues to serve god knows purpose but it certainly isn't that of the people and community.

Gabrielle

With the current housing crisis, making it harder to people to have second dwellings seems unreasonable. What needs to be done is start capping rental prices.



Greg Simpson

180\1217412\councilobjection.pdf [SCANNED, FILE SAFE]

# **Objection to 26.2020.6.1 Housekeeping LEP Amendment Item 1**

Dear Council,

I would like to voice my opposition to the proposed amendment of prohibiting the application for a Secondary dwelling or Dual Occupancy on Community Title and Multiple Occupancy properties.

I believe the Council recognises the serious housing crisis in the Shire and surrounds and by a blanket prohibition of these types of properties from never being able to apply, the Council is contributing to the problem. It is inequitable and really unfair that they should be terminated from being able to apply and considered on merit or suitability, when other Rural and Urban properties have and always will have this right.

It seems that Council would like a Shire full of millionaires....Who will service the millionaires when the workers can't afford rent or buy a property?

We need low cost housing and low rent so that we retain the mix of diversity in this region. CT's and MO's can contribute to providing affordable housing, a greater sense of community and better use of fringe agricultural land for family food production. We purchased our Community Title property nearly 4 years ago with an expectation that Council would see the advantage of secondary dwellings on CT's and the housing issue has only become worse. With five children who are adults, we expect that at least one of them will be in a situation that they need accommodation in the next few years. Bringing in this amendment will give us no chance of a secondary dwelling for many years to come. It seems to me that the belief that allowing secondary dwellings in these type of properties will lead to development running rampant is a fantasy. Not everyone has the ability to build a Council approved secondary dwelling, but the few that do will make a great contribution to the housing shortage.

This Amendment should not be allowed to go through and instead Secondary Dwellings should be allowed on all properties in the Shire subject to a normal DA process where the merit has been demonstrated.

Greg Simpson

maria natola

181\1217412\Proposed changes to the Byron LEP - feedback.pdf [SCANNED, FILE SAFE]

To whom it may concern

***Re: Proposed changes to the Byron LEP – Which will strongly impact CTs and some MOs, exacerbate an already grave housing crisis, and stress the social fabric of our community***

I am writing in response to the council proposed changes to the **Byron Local Environment Plan**, which if unchallenged will have profound consequences for Community Titles, some Multiple Occupancies and housing affordability in the shire.

Why on earth Byron Council is proposing to restrict secondary dwelling development in large Community and MO titles while allowing for large developments on tiny residential lots, which on top of everything is affecting stormwater and flooding many areas in the Byron Shire?

I believe Council should undertake a **proper policy review** on this issue, including an **open public consultation**.

In the context of the devastating housing crisis occurring across the shire, Council should be exploring all options for countering this crisis, including encouraging development of More Multiple Occupancies and Community Titles.

In the past few decades, community title and rural land sharing communities have played a significant and positive contribution towards the provision of affordable housing in the shire. This form of settlement can provide social support mechanisms, in addition to delivering on Council's goals in terms of ecological repair, environmentally appropriate use, sharing of resources and local food growing.

Converting MOs to Community Title (CTs) require updating all infrastructure to contemporary Council standards. Buildings, roadways and onsite waste-water systems are needed to comply with the latest Australian standards. Secondary dwellings on communities are subject to Council Contributions and come at no cost to the public. Dwellings on MOs and CTs can provide one of the few stocks of affordable housing in the shire. Permitting secondary dwellings - where normal consent conditions are met - help alleviate the current housing crisis.

Affordable housing is vital for a diverse and healthy community like ours in the Northern Rivers. It would be a shame to lose the special sauce that has made this area unique for so many decades while big developers come here to do what they want to do with the only aim to make big bucks.

For someone who is considering selling my house in Ocean Shores to join a Multiple Occupancy community this proposal comes as something ill-conceived, extremely unfair and against what the Byron Shire 'Green' Council stands for.

Best regards,

Maria Natola  
Ocean Shores

Claire McLisky

The impact that this planning proposal will have on housing availability in the shire worries me. We already have an acute shortage of affordable housing available to local families, and this amendment will only make that worse, while missing the opportunity to work with MOs and CTs to enable the creation of code-compliant new dwellings that are truly affordable and reject the trend towards short-term holiday letting. Please consider this along with the high volume of other submissions sent by long-term shire residents and find another way of regulating secondary dwellings on MOs and CTs.

peter Brush

i object to this proposal on the grounds that it will reduce affordable housing in our shire. shame on you for trying to do so by stealth. we need more housing in all areas city town and country and in all types of occupation. thankyou.

Robyn O'Brien

Objection to 26.2020.6.1 - Housekeeping LEP Amendment Item 1

184\1217412\objection to amendment.pdf [SCANNED, FILE SAFE]

Re: Council Proposal for amendments to Byron LEP to prohibit secondary dwellings on CTs and MOs

Objection to Planning Proposal 26.2020.6.1 Amendment of Byron Local Environmental Plan 2014 Policy and Mapping Housekeeping Item 1

Dear Councillors

I strongly object to the proposal above.

As a resident of the Shire for more than 25 years, and to date 21 years on an MO (now converted to CT), I am well aware of the population increase, change in demographic, and current lack of affordable housing. I am also aware of council's claimed intention to address affordable housing for the Shire.

As it stands the current BLEP allows secondary dwellings & dual occupancies on RU1 & RU2 zonings with consent i.e., that environmental and social considerations are taken into account. Currently nearly all Multiple Occupancies and Community Titles in our Shire, along with rural lots, fall under RU1 or RU2 zoning.

I live on Kijiri Community in Goonengerry. After more than 10 years of inspections, upgrading our land to CT standards and compliances with fire, grey water, building codes, drainage, flora and fauna considerations, ecological restoration, etc.etc etc. our properties have undergone more scrutiny than most other individual freehold titles.

In our conversion to CT there was never a merit assessment conducted to determine the suitability of more than one dwelling on each lot, only whether the lots were eligible for conversion to CT.

It seems strangely prejudice to exclude CT's and MO's from the merit process of determination of eligibility for a secondary dwelling.

Most rural lots in the shire have the ability to apply for approval for a secondary dwelling or detached dual occupancy. Normal merit consideration, such as the suitability of the site and conformance to criteria such as bushfire and wastewater, determines whether such a dwelling application is approved.

This is especially the case in the context of the devastating housing crisis occurring across the shire. Council should be exploring all options for countering this crisis. As you know many people, and especially our youth, are priced out of the Shire and certainly young families would struggle to purchase anything here, even though they have been raised and worked in the Shire all their life.

Secondary dwellings on communities are subject to Council Contributions and would come at no cost to the public.

Byron Council has chosen 'infill' development as a preferred means of accommodating future residents. It involves allowing additional houses where others already exist. Infill is allowed in all towns and villages and nearly all rural lots.

This proposal by Council is inexplicably prohibiting infill on only CT lots while continuing to allow it on all other lots.

We are simply requesting an equitable approach where infill occurs based on the merits of each proposal.

Respectfully  
Robyn O'Brien



Cathy Meyer

To Byron council. I am writing to you in regards to the new amendments I have read and heard about. Housekeeping ? What's it got to do with housekeeping? I think it is ridiculous that you would consider this especially with the house availability or lack of here in the shire. I know of many cases where a 2nd dwelling or cabin has provided accommodations for friends and family who are struggling to find accommodation or in between something coming up for them. Even children who have moved out or extended family needing somewhere to live. I know of people who wouldn't be able to live where they live if it wasn't for a second dwelling housing a career or someone who does their garden or maintenance. I am shocked and very disappointed with this council to even consider such a thing when housing in the area is almost impossible for people especially families to be able to live here . It cannot just be for the rich and famous or Airbnb housing. Please reconsider this so called housekeeping amendment for the sake of the people and families who can benefit from their families or friends 2nd dwelling no matter how small. I do not agree with this, it is too ridiculous for words and I can't believe you could even consider it. Please don't let this go ahead. Yours sincerely  
Cathy Meyer.

Avigail Shai

186\1217412\Submission to Council, 9 April 2021.pdf [SCANNED, FILE SAFE]

9 April 2021

General Manager  
Byron Shire Council  
70-90 Station Street  
Mullumbimby NSW 2482

**Submission to Planning Proposal 26.2020.6.1 - Housekeeping LEP Amendment Item 1**

**Objection to Item 1 - Controlling secondary dwellings and dual occupancies on multiple occupancy and rural community title developments**

Dear Sir/Madam

Making good policy is hard. There are almost always winners and losers, someone who misses out. But this proposed amendment has no winners, only losers, and it's impossible to see what public policy aim it is meant to achieve.

In unilaterally prohibiting secondary dwellings, this proposal will prevent rural MOs and CT groups from developing sustainable and affordable housing; limit potential stock at a time when the Shire is facing an unprecedented housing crisis; and deny owners of these lots the right to submit proposals for secondary dwellings on their merits, as other rural landowners across the Shire can do.

MOs and CTs are a small but mighty proportion of rural lots in the Shire. They are run by people with a deep connection to the area, who invest significant amounts of their own time and energy in protecting the land, creating a sense of community and providing sustainable housing. They are not rapacious large-scale developers; nor are they cash-rich arrivals looking to live out a fantasy lifestyle. They are ordinary people – teachers, artists, small-business owners, nurses, retirees – who simply want to live in this beautiful corner of the world and provide the opportunity for their children to do the same.

Imagine a scenario where an owner of a CT lot has built a modest home in line with what they can afford, meeting every single DA requirement, investing in solar energy, waste-water systems, and bushfire safety. Should they wish to later build a home that is more suited to a growing family, this new policy would leave them with no option but to *decommission an existing home* to build a new one. This would be patently absurd and counter-productive to Council's aims, reducing housing stock and wastefully undermining sustainable housing for no sensible reason. That is what the impact of this 'housekeeping amendment' means in practice.

If development on MOs and CTs have gotten out of hand – and there is no evidence to prove it or to justify this proposed amendment – there is one simple solution that already exists, and which doesn't unfairly disadvantage these committed landowners relative to other title-holders: the usual merit-based DA approval process.

For all these reasons, I urge Council to remove Item 1 from the Housekeeping amendment.

Yours sincerely,

Avigail Shai

Montserrat Molina Lopez

187\1217412\Montserrat Molina Lopez submission.pdf [SCANNED, FILE SAFE]

13/04/21

Attn: Sam Tarrant  
Byron Shire Council

**Submission: objection to item 1 Planning Proposal 26.2020.6.1**

Dear Byron Shire Councillors,

I ask that you remove item 1 from the proposal and instead look for means to increase affordable accommodation.

As a single working mother my number one preoccupation is housing security, which should be a basic human right.

Not finding a decent affordable home to rent in the shire is a constant stress. At the moment my teenage daughter and myself are not only sharing a house with others but we are sharing a room between the two of us.

A share house is less than ideal with an adolescent daughter, but currently our only affordable option

Whenever we have to move is a period of enormous stress, the number of applicants for vacancies is astronomical and rents become more and more exorbitant.

Any means of increasing low cost accommodation would be very welcome from my perspective, and rural MO and CT communities seem ideally placed to provide an almost immediate boost, if allowed to do so.

Regards,

Montserrat Molina Lopez

Nick Capolingua

Objection

189\1217412\Nick Capolingua feedback.pdf [SCANNED, FILE SAFE]

13/4/21

**Submission opposing Item 1, Byron Council Planning Proposal 26.2020.6.1**

Dear Councilors,

I'd like to express my strong opposition to item 1 proposing to prohibit secondary dwellings and dual occupancies on intentional communities: MOs and CTs.

Despite the fact that the proposal doesn't offer any detail and the little it offers is replete with inherent contradictions, its intent is a unilateral prohibition.

MOs and CTs have demonstrated over decades their ability to provide sustainable and affordable housing in the shire. Denying communities this role now at the height of a devastating housing crisis is absurd.

It is beyond comprehension that Council is attempting to create new opportunities for housing and at the same time attempting to cut off valuable existing opportunities.

Times have changed and we need to address contemporary needs with contemporary assessments tools. Any contribution to housing stock needs to be encouraged. Communities have a track record of doing it very well. A normal DA process is all that is needed to determine the suitability of a site, exactly as is done with the rest of rural lots

Calling Council to remove item 1 from its amendments package and start a conversation with communities in order to find pragmatic ways to urgently embrace their potential for extra housing in the shire.

Yours,

Nick Capolingua

Alan Gillard

objection to item 1

190\1217412\Alan Gillard feedback to Council.pdf [SCANNED, FILE SAFE]



**Submission in opposition of Item 1, Byron Council Planning Proposal 26.2020.6.1**

13/4/2021

To Byron Shire Councilors

I am dismayed reading the above proposal. We are desperate for housing in the shire and council finds it timely and just to present a proposal that, if approved, will slash unilaterally viable housing opportunities.

Not only the proposal presents false and misleading claims that are ignorant of the history of planning of CTs and MOs, it also fails Council's own Strategic and Regional Plans.

The proposal ignores the fact that such an important issue that has a potential to impact many lives, the economy and future of the shire deserves public participation.

It ignores Council's obligation to answer contemporary population housing needs pragmatically.

It ignores its obligation to prevent the expulsion from the shire of residents, especially young people, families and the old as a result of non-existing housing options.

It ignores its obligation to look for housing options where these already exist.

Communities are capable of being part of a solution in the form of sustainable dual occupancies and secondary dwellings. It is an unexploited resource we must explore and the only responsible way to protect both human beings and the environment is through a transparent tool of a DA process.

Councilors, Item 1 should be removed. Council should sit down with community stakeholders and the public and start the consultation long overdue.

Sincerely,

Alan Gillard

Dhyana Gillard

191\1217412\Dhyana Gillard feedback to Council.pdf [SCANNED, FILE SAFE]

13/4/21

Submission: **Objection to 26.2020.6.1 - Housekeeping LEP Amendment Item 1**

Dear Byron Shire Councillors

I strenuously object to item 1 - seeking to amend BLEP 2014 to limit the number of dwelling houses on Community Title and Multiple occupancies to one dwelling per lot.

This item is not 'a minor housekeeping item' and presenting it as such is misleading. This is a substantial change that is going to affect many and impact on the future and the economy of the Shire as a whole.

Since 2014 Secondary Dwellings and Dual Occupancies are not prohibited on Community Title developments, depending on the suitability of a specific site and subject to rigorous DA criteria.

CTs and MOs were never merit assessed to ascertain the maximum number of houses suitable on each community. Presenting a past assessment that never occurred as the main premise of the proposal is wrong and misleading. The number of lots and shares on communities were based on successive historical arbitrary decisions that might have served in the past but are obsolete now in the face of contemporary reality.

Introducing a prohibition that denies at the outset the possibility of rapid, sustainable and affordable housing that some CTs and MOs can offer denies reality and in fact is an insult to the struggling community in the grip of a devastating housing crisis that ruins the fabric of our society.

Calling on Councillors to recognise that Land Sharing Communities, similar to rural lots, should be able to submit DAs for a Secondary Dwelling or Dual Occupancy and be part of a desperately needed solution for the accommodation crisis.

Item 1 should be removed from the proposal and go to a thorough public consultation process taking on board all aspects of the current housing crisis.

Faithfully

Dhyana Gillard

oren shemesh

192\1217412\Oren's submission .docx [SCANNED, FILE SAFE]

Dear Sir/Madam

09/04/2021

**Submission to Planning Proposal 26.2020.6.1**

**Objection to Item 1 - Controlling secondary dwellings and dual occupancies on multiple occupancy and rural community title developments.**

I think that this proposed prohibition is ill conceived and ill-considered.

It does not make sense that Council has declared a housing emergency and is seeking housing solutions, while at the same time trying to close down a housing option which potentially can contribute to more affordable housing in a sustainable manner.

Intentional communities form a small percentage of rural lots in the shire. It is obvious that permitting intentional communities the ability to apply for a secondary dwelling and dual occupancy on merit, will not result in an uncontrolled, over-development. Allowing secondary dwellings on these communities can alleviate some of the pressure experienced by locals who seek affordable housing solutions in the shire and therefor should be encouraged by council.

Sincerely,

Oren Shemesh

Kelly Lee Smith

objection with correct email address

193\1217412\Kelly Lee Smith submission.pdf [SCANNED, FILE SAFE]

13/4/21

## **Objection to 26.2020.6.1 - Housekeeping LEP Amendment Item 1**

To Byron Shire Councillors,  
General Manager

I would like to voice my strong opposition to item 1 of the amendments proposal.

In times of an unprecedented severe housing crisis and the human tragedy it entails, this amendment leaves me perplexed. Is the proposal to blanket block secondary dwellings on communities in touch with reality? Who is going to benefit from it? It is clear though who is going to lose: All those who could find homes on these communities.

Instead of blocking available and viable housing opportunities on MOs and CTs, Council should encourage opportunities for quick, sustainable rural housing solutions that these communities can offer.

The main premise of this proposal is erroneous. It suggests that MO & CT properties were already assessed for their capacity for extra dwellings, and that this process exhausted the potential for extra dwellings. This is both misleading and incorrect.

No such assessment was ever carried out and the number of houses allowed was based on arbitrary decisions that served certain purposes in different eras. The only way to ascertain the capacity of a site to sustain housing is on a case by case DA basis, as done for all other rural lots in the shire.

Where environmentally and socially appropriate, and under DA merit assessment, land sharing communities can offer modest, good housing solutions. A solution that may save some families, help prevent the exodus of long term locals and contribute to the recovery of the community.

Faithfully,

Kelly Lee Smith

Mira Stannard

We desperately need more housing in the shire I know many people who need & are continuously looking for accomodation but there is none! Please allow secondary dwellings. Rental prices are unaffordable & so many are short term let's. Please consult the community.



Ben Miller

I object to item no 1 of this proposal. Item 1 is neither fair nor rational. Why are secondary dwellings permitted on all other rural titles but are to be prohibited on MOs and CTs? If Council is genuinely concerned about the housing emergency it should be looking at all viable options for increasing housing stock, not diminishing it.

Scott Burmester

Expressing my strong objection to item 1 which seeks to restrict housing options on CTs and MOs. Item 1 of this proposal appears to be discriminatory, why are MOs and CTs singled out and not all rural lots? I have lived here all my life and seen how rural estate subdivisions have spread and are currently undergoing the same densification as town centres. If this is seen as a reasonable manner to accommodate more people, why are MOs and CTs to be excluded? MOs and CTs are integrated into their environments in a more sustainable manner than other developments and should be allowed to expand in the same manner as other properties.

Dean Pannell

this region is ripe for tourism investment and development that adds significant value to your council. No changes should occur to these laws. I know of many people seeking to develop in your region and as a developer myself i was hoping to develop buildings in your location also. This location and your council will benefit from this. Do not change the laws if you want tourists investments. .

Steve back

198\1217412\Steve's Submission.docx [SCANNED, FILE SAFE]

Dear Sir/Madam

13/04/2021

**Submission to Planning Proposal 26.2020.6.1**

**Objection to Item 1 - Controlling secondary dwellings and dual occupancies on multiple occupancy and rural community title developments.**

The Byron Shire is currently experiencing a devastating crisis due to the lack of affordable housing, brought about by a housing shortage, rising property prices and holiday letting pressures.

This crisis is leading to a loss of social diversity, separation of families and an exodus of skills and talent.

Council – which has declared a housing emergency – and professes to be actively seeking housing solutions, should be doing all in its power to expand the stock of affordable accommodation and not perversely and unilaterally trying to close down an option with decades long, proven track record of supplying affordable, sustainable accommodation.

It is time for Council to acknowledge contemporary exigencies, revisit its approach to intentional communities and introduce clear provisions that allow for secondary dwellings and dual occupancies on merit.

Sincerely,

Steve Back

Lior Lahat

Hi there, I read about this proposal, and i think it's very not in line with the reality of housing in our shire. So many of those called unapproved dwellings are being occupied by people who otherwise - where will they live??? We're talking a good few hundreds families here, that's a lot of people, including many kids and probably elderly, single mums, basically the vulnurable part of our delicate society. i mean, it's not that there's excess of empty houses in our exploding shire... maybe they can rent out a Porche from one of the new comers, and live in their parking lot... every early morning, on my way to work, i stop at the servo in Mullum, and i see an older man in his 70s, sitting alone on the bench next to th public toilets behind the civic centre. He seems educated, totally normal, not ice addict, but still - he's homeless. shame on a local council in the 1st world which can't provide decent housing solutions for their population.

Vanessa Lahat

Dear Council Members. Firstly I wish to acknowledge you for the difficult job you have. Its impossible to do it without upsetting some of the community. I do wish to comment on something that has upset not only myself as a longtime community resident, but also many of my fellow Byron Shire residents. The proposed amendments to the LEP 2014 that relate to dual occupancies and secondary residences. I and my family currently rent a secondary dwelling. We have done so for the past 11 years now. Our home is safe, comfortable, compliant with regulations. If the proposed amendments go ahead, we will be effectively homeless. There will be hundreds of families in the same situation in the shire. We are respectable citizens, we work, pay taxes, participate in community activities. We are solid members of this community. We dont deserve to have our homes taken from us . Please remember that families such as ours are an important part of what makes this community wonderful. By forcing families such as ours out of the shire, you facilitate a shift in the demographics here which im sure will be seen to be regrettable in years to come. Byron Shire only needs so many 4WD Porsches, then it starts to get a little tedious for everyone, including the porche owners. IF you are trying to recreate Rose Bay here, then I applaud you for your efforts. IF not, please reconsider the amendments proposed, and give the ordinary folk a chance to remain a part of Byron Shire. Thankyou so much, Vanessa

Sean Stickley

I strongly object to item 1 of the proposal, please remove it. I grew up and was educated here. I watch with horror as my generation is being expelled out of the shire for lack of housing. Almost all the staff in the small business where I'm employed and most of my friends are in the same situation. We're looking at colossal devastation all around us as a result of lack of housing and do not understand how Council justify a proposition to block housing options be it large or in this case small? This is irresponsible as by its proposal Council's actions will keep certain number of individuals and families homeless. Open the door to secondary dwellings on communities, make it easy for owners to rapidly develop them and we may forgive you for your mean intention.



Apang Ramdani

I reject item 1 seeking to prohibit secondary dwellings on MO and CT communities. We've been reading this proposal time and again, trying to find sense and reason in Council's intention, without success. Blocking secondary dwellings on MOs and CTs where they are most suitable will be an unforgivable mistake. Councillors and Council staff, please reconsider this issue, look around you, there is no room for such rigid actions in the current situation where people have nowhere to live. Allow secondary dwellings on communities, make it easy for them to help the situation.

Dianne Mancell

Objection

203\1217412\Submission from Dianne Mancell.pdf [SCANNED, FILE SAFE]

## **Objection to 26.2020.6.1 - Housekeeping LEP Amendment Item 1**

My name: Dianne Mancell  
email address:

Dear Byron Shire Councillors

I strongly object to the amendment which will prohibit secondary dwellings on Community Titles.

This prohibition, if passed, will have a profound negative effect on the community and is far from being a minor 'housekeeping' amendment.

The matter should be brought to a comprehensive public consultation process that will need to examine all aspects of the housing problem in Byron Shire.

In the face of the deep and devastating housing crisis and the resulting human tragedy that we watch unfolding, it is Council's responsibility to encourage and not to prohibit urban and rural responsible housing solutions.

Community Titles are well positioned to contribute, upon merit assessment, low rent, sustainable and rapid housing solutions to residents at zero cost to the public.

Removing existing permission in BLEP for a Secondary Dwelling and Dual Occupancy on Community Titles has no social, economic and planning sense.  
It will contribute to the disintegration of this community.

Instead, Council should encourage opportunities for quick, sustainable rural housing solutions.

Ill-informed comment suggests that during the original MO to CT process, properties were already assessed for their capacity for extra dwellings, and that this process exhausted the potential for extra dwellings. This is both misleading and incorrect.

In the MO to CT process, the maximum number of dwellings for which properties could apply, was limited to the number of approved MO sites. At that time, the 'merit-based assessment' was to ascertain if this number (of existing sites) was suitable to transfer to CT sites.

Where environmentally and socially appropriate, and always upon DA merit, land sharing communities can offer good housing solutions. A solution that may save many families and businesses who can't find workers because their workers can't find a place to live in this shire.

Paul Erickson

Expression of objection to item 1

204\1217412\Paul Erickson feedback to Council.pdf [SCANNED, FILE SAFE]

## **Objection to 26.2020.6.1 - Housekeeping LEP Amendment, Item 1**

Dear Byron Shire Councillors

Calling on Byron Shire Council to remove item 1 from the Proposal of Amendments to BLEP 2014

Prohibiting Community Titles and Land Sharing Communities having a secondary dwelling or dual occupancy seems to be ill conceived and not in the interest of the community at large.

The matter is definitely not a minor amendment, should be removed from the package and take it to a thorough community consultation process that will look at the entire housing crisis with all its aspects.

Equity: Most rural lots in the shire have the ability to apply for approval for a secondary dwelling or detached dual occupancy. Normal merit consideration, such as the suitability of the site and conformance to criteria such as bushfire and wastewater, determines whether such a dwelling application is approved.

It is totally inequitable to determine at the outset, that such an option is denied only to all community title lots and rural land sharing communities.

### Housing crisis

This is especially the case in the context of the devastating housing crisis occurring across the shire. Many of us have raised families in the shire and are now watching in despair as our children struggle to find accommodation, there is simply nowhere for them to live in the shire. Many of them are forced to leave the area.

### The role of intentional communities

In the past few decades, community titles and rural land sharing communities have played a significant and positive role in the provision of affordable housing in the shire. This form of settlement can provide social support mechanisms, in addition to delivering on Council's goals in terms of ecological repair, environmentally appropriate use and sharing of resources. Many of them already have the necessary social and environmental infrastructure for the purpose.

### No cost to the public

Secondary Dwellings and Dual Occupancies carry their own weight, they pay road and other Council contributions and all expenses of the DA process. There is no cost to council, only benefits to the community in the grip of a devastating humanitarian crisis.

### Infill development

Byron Council has chosen 'infill' development as a preferred means of accommodating future residents. It involves allowing additional houses where others already exist. Infill is allowed in all towns and villages and nearly all rural lots.

This proposal by Council is inexplicably prohibiting infill on only CT lots while continuing to allow it on all other lots.

We are simply requesting an equitable approach where infill occurs based on the merits of each proposal.

### There was no merit based assessment of the capacity of CT properties for extra housing.

A mistaken comment suggests that during the original MO to CT process, properties were already assessed for their capacity for extra dwellings, and that this process exhausted the potential for extra dwellings. This is both misleading and incorrect.

In the MO to CT process, the maximum number of dwellings for which properties could apply, was limited to the number of approved MO sites. At that time, the 'merit-based assessment' was to ascertain if this number (of existing sites) was suitable to transfer to CT sites.

Calling on Council to return the matter to the drawing board, to work with the community and in the interest of the community in order to find realistic and just solutions to a complex problem that threatens the very core of the Byron Shire community.

Victoria Jeffery

205\1217412\Letter to Council Item 1 Planning.pdf [SCANNED, FILE SAFE]

14<sup>th</sup> April, 2021

Attention: Planning Department  
Byron Shire Council

**Submission on Item 1 Planning Proposal 26.2020.6.1**

Dear Sir,

I object to **item 1 of the proposal for the following reasons:**

- Council itself has declared a housing emergency, and purports to be doing all that it can to find solutions to the housing problem. However this hardnosed proposal to prevent secondary dwellings on all Multiple Occupancies and Community Titles will most certainly exacerbate the housing crisis.  
Many CT dwellings tend to be owner built, and are modest in nature and therefore fall into the category of low cost or affordable housing. This is what is needed now and in the future, sustainable and eco sensitive homes.
- We all deserve a home. And it beholds to the Byron Council and the community to collaborate to make this possible.

Yours Sincerely,

Victoria Jeffery

Dr Ian B Kingston

See file

206\1217412\Submission to BSC re proposed LEP amendment.docx [SCANNED, FILE SAFE]



I write to object to Item 1 of the proposed changes.

My submission relates to the consents issued for 6 Durrumbul Road Mullumbimby: -

- 5.1989.47.1 MO
- 10.2006,738,1 MO to CT

The following is extracted from the advertised planning document – “Purpose of the amendments.”

### ***Controls for secondary dwellings and dual occupancies***

***The purpose of this change is to ensure that secondary dwellings and dual occupancy developments are considered in the context of the original development approval for the entire multiple occupancy or community title site. This in turn will ensure such sites are suitable for any additional dwellings.***

I have recently spent several hours perusing all of the digital records of these DA's held by BSC. This has confirmed my recollection that there has never been any assessment of the entire site to determine the possible maximum numbers, or additional numbers, of dwellings to be permitted. At the first DA stage, there were 4 dwellings on the site and we therefore applied for 4 MO shares. There was no assessment of the whole site as to maximum number of dwellings the property could responsibly be allowed. The same occurred when the DA for MO to CT was considered by Council – only the sites for the proposed 4 dwellings were assessed for the usual constraints, with no assessment of the remaining area zoned 1(a) (subsequently RU2).

It is my understanding that the same limited assessment was carried out on all the original MO's.

***That being the case, it is my submission that all approved MO and CT developments should retain the existing right to apply for secondary dwelling or DO as allowed under the current LEP. On receipt of such a proposal, Council should then assess the whole property to determine maximum number of dwellings permitted in light of all normal constraint considerations. To persist with this proposal is prejudicial and also unfair, especially considering all other properties with similar zoning are permitted to apply for a secondary dwelling or dual occupancy.***

Jamie Ashforth

objection

207\1217412\feedback from Jamie Ashforth.docx [SCANNED, FILE SAFE]

15/4/21

Byron Council

Dear Sir/Madam,

**Submission on Planning Proposal 26.2020.6.1**

I object to **item 1**- Controlling secondary dwellings and dual occupancies on multiple occupancy and rural community title developments.

I believe council should remove this item from the proposal as it serves no useful purpose that cannot be addressed by powers already in council's hands and will only serve to exacerbate an already catastrophic housing and skills crisis.

The item appears ill-thought at best – ideologically biased at worst.  
Rural communities are an integral part of the social fabric of our area and have long represented and demonstrated alternative/ecologically centered values.  
For council to be singling them out for outright prohibition of secondary dwellings whilst not doing so on other forms of rural title is not only unjust but smells of prejudice.

Times Change, policies that served decades ago need to be reconsidered in light of contemporary pressures.

I urge council to not only remove this item from the proposal, but to seek new initiatives that will allow and encourage secondary dwellings on rural communities where a merit-based assessment deems them suitable as part of an affordable housing initiative.

Sincerely,

Jamie Ashforth

Gerry Stanhope

Objection to item 1

208\1217412\Gerry Stanhope submission.pdf [SCANNED, FILE SAFE]

15 April 2021

**Objection to Item 1 of Planning Proposal 26.2020.6.1**

Dear Councillors

I'd like to voice my strong objection to item 1 of this proposal - amending the LEP to control secondary dwellings and dual occupancies on multiple occupancy and rural community title developments and limiting it to one dwelling per lot and to match it to the historical and now mostly irrelevant approval conditions.

There were many historical moments in the past in which different development control measures were imposed both on rural lots and on MO and CT communities. All were arbitrary in their time and never a result of shire wide assessment of maximum capacity potential.

While these measures may have been adequate in its time, they are and should be subject to change.

Social norms have changed, population pressures have grown, diversification of our communities has occurred, and now a serious Housing Crisis has been declared in our Shire and far wider.

Planning authorities need to understand and work positively with contemporary changes in community structure and needs.

Calling on Council to recognise the historical contribution of MOs and CTs to affordable housing and embrace their potential to keep doing so at present.

Secondary dwellings and dual occupancies on communities, where suitable, subject to a case by case merit assessment should be encouraged by Council, as is done on all other rural sites.

It is a local, rapid and cost free resource of housing in the community that can add small but quality part of a sustainable solution to the housing crisis.

Gerry Stanhope

The Hon Richard Jones

Submission to Planning Proposal 26.2020.6.1 Objection to Item 1 - Controlling secondary dwellings and dual occupancies on multiple occupancy and rural community title developments It is extraordinarily inappropriate to attempt to pass this amendment In the midst of the worst housing crisis Byron Shire has ever experienced. It is described flippantly as “housekeeping”, when it is the opposite. It’s actually house removing. No doubt the person or persons who suggested this unacceptable amendment are living in secure accommodation and gave absolutely no thought to those who are in precarious circumstances, often living from hand to mouth. We need to do everything we can in these highly unusual times to keep people in secure housing, not fill them with fear that they and their children may end up on the street with the other homeless people. Item 1 is to be condemned in the strongest possible terms and must be deleted.

Dudley Leggett

I agree with Council staff's Housekeeping Amendment regarding controls for secondary dwellings and dual occupancies on multiple occupancy and rural community title. Also, that the label "housekeeping" is appropriate as it simply makes it clear that the entitlement to exceed the previous housing density of rural land by either MO or CT naturally exhausts the potential of those properties for increased housing density unless additional reassessment is made. Other properties in RU1 and RU2 zones that have not chosen to go to MO or CT would still be able to seek increased housing density via allowing secondary dwellings and dual occupancies. This is not discriminating against MO and CT developments, simply recognising that they have already benefited from variation of planning controls to enable greater density of housing in RU1 & RU2 zonings. Other properties in those zones have available to them other means, specifically to apply for secondary dwellings and dual occupancies. While affordable housing is of course a concern, excessively populating the rural lands is also a matter of importance. It is most important to recognise that fragmentation of rural lands into separate private ownership allotments can lead to increased environmental impacts and loss of efficient use of natural resources. In particular, this can apply to lowering agricultural productivity and undermining conservation and best utilisation of available water. It was because of these concerns that, as one of the four people primarily responsible for the introduction of MO, that I was opposed to the introduction of CT because it is counter-productive to the formation and maintenance of Intentional Communities and ultimately best care of our rural lands. This is because it legally fragments not only the land but also the community due to enabling separate loans for each lot from the banks (the main driving incentive for groups and individual developers for wanting CT over MO) meaning that upon default the banks will have the power to sell off individual parcels to whom they please, potentially destroying community and coherent management of rural resources. When negotiating with the NSW Department of Planning at the time of enabling higher density settlement, both the Dept. and ourselves were in strong agreement that we needed to ensure our efforts would not lead to some form of rural subdivision, which CT clearly is. Ensuring that our rural lands are not further fragmented and our rural natural resources are nurtured and managed collectively as much as possible, is of the highest priority. Spreading the environmental and maintenance cost (e.g roads and bridges, etc.) impacts of human settlement, primarily in the interests of private ownership is not in the best interests of present and particularly future populations. Housing affordability should not be sought at the expense of the natural world and the wellbeing of those living here in the future. There are better ways of addressing this serious problem.

Brian Grant & Nicole Swain

Objection to 26.2020.6.1 - Housekeeping LEP Amendment, Item 1

211\1217412\Letter to council 15042021.docx [SCANNED, FILE SAFE]



Brian Grant & Nicole Swain

NW 2481

15 April 2021

Byron Shire Council

70 Station St

Mullumbimby

NSW 2482

To Byron Shire Council,

**RE: Objection to 26.2020.6.1 - Housekeeping LEP Amendment,  
Item 1**

We would like to express our disappointment at the council's "housekeeping" decision to remove the possibility of secondary dwellings on CT properties in the Byron Shire.

Recent issues ie Covid have highlighted and exacerbated problems associated with lack of available housing in this area. We see that secondary dwellings on CT properties provide an opportunity for people to stay on in the area, families to stay together, children or parents to live close when they could not afford to do otherwise, the elderly to stay close to families in their own dwelling, carers to live close to the cared - on acreage & where food growing gardens and space is abundant.

It seems counter-intuitive to remove this opportunity for more housing especially when these properties do not place further pressure on the surrounding infrastructures. Generally, on large acreage, power is off grid, effluent independent of town, parking in abundant supply, regeneration /reforestation work is undertaken, community food growing gardens are available etc.

Compared to creating dual occupancy in small residential land where there is a shortage of parking/lawns/overcrowding etc it seems to be an amazing decision to take this opportunity away.

Please reconsider this decision.

Yours sincerely, Brian Grant & Nicole Swain.

Dianne Mackey

I support the provisions of the Planning Proposal that seek to restrict (prohibit) secondary dwellings on CTs and MOs. I live on a CT in Byron Shire (converted from MO). I am concerned about the implications of enhanced dispersed rural settlement on the environment and the likelihood that it would increase demand and extension of Council services which would cost all ratepayers. Residential growth is best catered for close to existing services where it is also a more economic proposition.

Holly North

I am a shareholder in the Araucaria Community, DP270553, 64 Blackbutt Lane Broken Head. I am one of the owners of Lot 6 in this community. I support the Policy-related amendments to the LEP and the controls for secondary dwellings and dual occupancies. I want to leave space for nature and to keep the number of people on our property and on other rural properties within Byron Shire within the ecological carrying capacity of the terrestrial and aquatic ecosystems we are so fortunate to have in the NSW North Coast region. I do not support secondary dwellings on Multiple Occupancy and Community Title properties.

Timothee Diers

214\1217412\Submission.pdf [SCANNED, FILE SAFE]

15/04/2021

Attn: Planning Dept.  
Byron Shire Council  
Submission on Item 1 Planning Proposal 26.2020.6.1

Dear Byron Shire Council,

I object to item 1 of the proposal for the following reasons.

1. The Proposal is not Addressing the Housing Crisis: Council should be expanding, not limiting, affordable sustainable accommodation
2. Intentional Communities are part of the solution and less of an impost on the wider community than other forms of development.
3. This proposal is not “negligible” in terms of social and economic impacts: it is also alarmingly vague, misleading and contradictory
4. There needs to be community consultation on a proposal with such wide-ranging implications
5. There never was merit-based assessment of the capacity of converted ‘MO to CT’ properties for extra housing
6. Determination should be based on case by case merit consideration
7. Permitting Secondary dwellings will not “open the floodgates”
8. Contemporary challenges call for contemporary solutions

Sincerely,

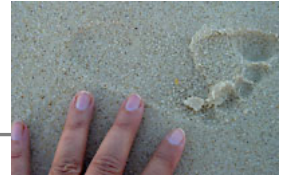
Timothee Diers

Kerry Gray

215\1217412\Gray- submission April 2021.pdf [SCANNED, FILE SAFE]

**kerry gray**

Mullumbimby NSW 2482 •



Attn: Planning Department  
BYRON SHIRE COUNCIL  
PO Box 219  
Mullumbimby 2482

15th April 2021

Dear Sir/Madam,

**Objection to Item 1, Planning Proposal 26.2020.6.1**

Registering my objection to proposed changes/amendments to Byron Local Environment Plan — on the following points:

As a long-term resident/rate payer I strongly object to Byron Shire Council to determine changes to the LEP as **minor housekeeping not requiring community consultation**. These are NOT “minor” changes to the LEP.

I find it **very odd and disconcerting** that Byron Council is not realising the valuable role of CTs envisioned in the *Byron Rural Settlement Strategy 1998: Best Practice Guidelines and Performance Standards*. CTs were recognized as one of the preferred options for future rural residential expansion. While it's likely this strategy has been updated – I've not found it available (yet). It was always my understanding that CT allotment owners could seek to increase dwelling-house entitlements at a later stage, to be determined case-by-case in compliance with the guidelines. The rationale for this was to allow the CT community to grow-develop their infrastructure in a sustainable. This is surely preferable in the face of Byron Shire's residential housing shortage.

In the meantime, I see (and as an SES volunteer 20 years, increasingly dealing with problems faced by CBD residents) the increase in *illegal* dwellings in towns — garages turned into bedsits for BNB operator's, now due to Covid-19, let to desperate permanent residents at *holiday accommodation* rates.

The State Government's planning department, like most of the State Government departments, do NOT, in my experienced opinion give a FUCK about what is in the best interests of local community. Pretty much the same could be said of those Public Service employees working for Byron Shire Council who do not reside, nor have any interest in residing in the Shire. Local Government jobs should be for local residents only.

Sincerely,

Kerry Gray

Nina

Hello I have just read a article that Byron Shire Council is going to change what can be done on Community title property's with out any consultation with the public. These types of changes always need to be put up for community input. These decisions should not just be made by the council alone. I will protest theses changes.



Benny Owen

Objection to item !

217\1217412\Benny Owen submission.pdf [SCANNED, FILE SAFE]

I object to item 1 of the proposed amendments to LEP 2014

Councillors of Byron Shire,

Tragedies resulting from the large scale devastating housing crisis are all around us, we are personally impacted . Council is failing to address the crisis and at the same time is engaged in an attempt to eliminate the option for extra sustainable housing on communities. This is unthinkable.

Item 1 of the proposal is not a minor 'housekeeping issue, It is a significant to the entire community and if passed it will have a profound damaging effect on communities, families and the community at large.

Some Community Titles and Multiple Occupancies have the adequate social and environmental infrastructure to responsibly support extra housing in the very short term. A DA process will assure that no social or environmental damage will occur as a result.

Converted Community Titles from MOs were never merit assessed for their environmental capacity to sustain secondary dwellings. The number of lots was simply translated from the number of MO shares or what was asked for.

Without such assessment of each community there is no way to determine the possibility for having secondary dwellings or dual occupancies.

MOs and CTs are a small but important part of the privately held land in the shire.

However it is an unexploited reserve for extra accommodation in the shire.

Even if permitted, we will not be flooded with DA applications for Secondary Dwellings on communities. There will be natural filters: Not every community wants to have SD or DO, not everyone will be able to afford the cost and not everyone will be able to comply with DA criteria.

even if we will end up with a few new homes, owner built, cheap, rapid and with no cost to the public, it means less local families, workers, kids having to uproot and leave the area.

I urge Councillors to remove item 1 from the proposal and encourage Secondary Dwellings on communities through a proper DA process.

Benny Owen

Sally-anne Jahns

14/04/2021 Attn: Planning Dept. Byron Shire Council Submission on Item 1 Planning Proposal

26.2020.6.1 I am writing to request item 1 of the Planning Proposal be withdrawn for the following reasons. It is not clear what this planning proposal is intended to achieve. While there is currently a housing emergency in the Shire, the provision to tightly restrict one dwelling per lot as per consent conditions, is effectively prohibiting Secondary Dwellings and Dual Occupancies on CTs and most MO's. If it is a response to the effect of Airbnb on the NSW North Coast then yes, it does make sense to curb the overinflation of rentals, but there are surely other regulatory measures that are more relevant to Air bnb hosts than prohibiting secondary dwellings for MO's and CT's. The proposal also suggests that during the original MO to CT process, properties were already assessed for their capacity for extra dwellings, and that this process exhausted the potential for extra dwellings, which I understand is not in fact the case. It is perhaps time to clarify the merit-assessments parameters for CT and MO lots that have the restriction of one dwelling per lot in their approval conditions. CTs and MOs are a small part of private landholdings but many of them are well positioned to provide environmentally and socially responsible housing to locals in the form of secondary dwellings. Upon merit assessment, Communities could apportion a small but immediate solution at zero cost to the public. Until this is clarified, I propose that Council remove Item 1 from the Planning Proposal 26.2020.6.1 and further propose that secondary dwellings on MO and CT lots be permitted on a case by case merit based assessment. I am currently renting a house in Ballina because of the limited affordable housing options available near where I work in Billinudgel or where my son goes to school. I would so appreciate the opportunity to save the travel time every day and share resources with others, where I can live more sustainably in community, rather than participating remotely from the only housing option I could secure 50 km away, after 5 months of searching and 30 rental applications. Yours sincerely Sally-anne Jahns 35 Burns Point Ferry Rd, Ballina

218\1217412\Submission SA JAHNS Item 1 Planning Proposal 26.2020.61.1.docx [SCANNED, FILE SAFE]

14/04/2021

Attn: Planning Dept.  
Byron Shire Council

**Submission on Item 1 Planning Proposal 26.2020.6.1**

I am writing to request **item 1** of the Planning Proposal be withdrawn for the following reasons.

It is not clear what this planning proposal is intended to achieve. While there is currently a housing emergency in the Shire, the provision to tightly restrict one dwelling per lot as per consent conditions, is effectively prohibiting Secondary Dwellings and Dual Occupancies on CTs and most MO's.

If it is a response to the effect of Airbnb on the NSW North Coast then yes, it does make sense to curb the overinflation of rentals, but there are surely other regulatory measures that are more relevant to Air bnb hosts than prohibiting secondary dwellings for MO's and CT's.

The proposal also suggests that during the original MO to CT process, properties were already assessed for their capacity for extra dwellings, and that this process exhausted the potential for extra dwellings, which I understand is not in fact the case.

It is perhaps time to clarify the merit-assessments parameters for CT and MO lots that have the restriction of one dwelling per lot in their approval conditions. CTs and MOs are a small part of private landholdings but many of them are well positioned to provide environmentally and socially responsible housing to locals in the form of secondary dwellings. Upon merit assessment, Communities could apportion a small but immediate solution at zero cost to the public.

Until this is clarified, I propose that Council remove Item 1 from the Planning Proposal 26.2020.6.1 and further propose that secondary dwellings on MO and CT lots be permitted on a case by case merit based assessment.

I am currently renting a house in Ballina because of the limited affordable housing options available near where I work in Billinudgel or where my son goes to school. I would so appreciate the opportunity to save the travel time every day and share resources with others, where I can live more sustainably in community, rather than participating remotely from the only housing option I could secure 50 km away, after 5 months of searching and 30 rental applications.

Yours sincerely

Sally-anne Jahns  
Ballina

Kelly Hutchinson

219\1217412\Submission Kelly Hutchinson on Item 1 Planning Proposal 26.2020.6.1.docx [SCANNED,  
FILE SAFE]

Regarding the proposed amendments (Item 1 of the Planning Proposal) and the provision to tightly restrict Community Titles to one dwelling per lot as per their consent conditions and effectively prohibiting Secondary Dwellings and Dual Occupancies on both MOs and CTs.

10/04/2021

Attn: Planning Dept.  
Byron Shire Council

**Submission on Item 1 Planning Proposal 26.2020.6.1**

Dear Sir,

I am writing to request **item 1** of the Planning Proposal be withdrawn for the following reasons.

Considering the Shire's current housing emergency, this proposal is not "negligible" in terms of social and economic impacts, and neither is it equitable to prohibit secondary dwellings on Multiple Occupancy and Community Title properties.

The vast majority of rural lots in the shire have the ability to apply for approval for a secondary dwelling or detached dual occupancy. Rural MO and CT properties account for a small proportion of rural properties. I feel it is therefore inequitable to determine that such an option is denied only to all community title lots, while allowing it on most other rural lots.

Such a determination should be based on case by case merit consideration, such as the suitability of the site and whether it conforms to criteria such as bushfire and wastewater.

I personally find it unfair to make a blanket prohibition on secondary dwellings for community properties, and request that Council remove Item 1 from the Planning Proposal 26.2020.6.1

I further propose that secondary dwellings on MO and CT lots be permitted on a merit based assessment, and that any valid reason to limit secondary dwellings be brought into a community consultation process, as this affects us all.

Sincerely,

Kelly Hutchinson

Yoav Lev

220\1217412\Submission Yoav Lev Item 1 Planning Proposal 26.2020.6.1.docx [SCANNED, FILE SAFE]

14/04/2021

Attn: Planning Dept.  
Byron Shire Council

**Submission on Item 1 Planning Proposal 26.2020.6.1**

Dear Sir,

I propose **Item 1** of the Planning Proposal be replaced with an amendment that makes provisions for contemporary solutions for the contemporary challenges we are facing here in the Shire.

In the past few decades, community title and rural land sharing communities have played a significant and positive contribution towards affordable housing in the shire.

This Planning Proposal is significant in terms of social and economic impacts, and there needs to be a community consultation process on changes with such wide-ranging implications.

Considering Council's commitment to finding housing opportunities, it would seem that working together with intentional communities to explore how to harness their potential for extra housing where infrastructure and social support are already established, is a potential win win for all involved.

I propose that Council remove Item 1 from the Planning Proposal 26.2020.6.1 and instead consider secondary dwellings on MO and CT lots on a case by case merit based assessment.

Sincerely,

Yoav Lev



Alan Long

I would have thought in these extraordinary times of runaway land and house pricing with the inescapable shortage in affordable housing and rental availability and in conjunction with the Federal Governments long term vision of nearly doubling the Nations population within the next 50 years that it would be imperative that Local , State and Federal agencies work together to explore and create the means whereby rural and urban housing density's be able to be increased and would have thought that secondary dwellings and dual occupancy's on existing rural land holdings would have been one very good way of helping to meet the undeniable and continual demand for rental accommodation and future local housing.

Tal Silver

15/4/21 Objection to Item 1 26.2020.6.1 - Housekeeping LEP Amendment Dear Byron Shire Councillors As members of the Byron Shire community, we are looking with dismay at this item of the proposal. We find it blind to the devastating reality of lack of housing and to the disintegration of this community and the local economy as a result. Item 1 of the Planning Proposal is not a 'housekeeping' matter. It has wide implications across the Shire, and consequently it should be withdrawn from the current 'housekeeping' Amendments Planning Proposal package and deferred for further policy consideration and consultation with the community. Secondary dwellings and dual occupancies should be allowed and extended as an option to all rural Community Title acreage properties on RU1 and RU2 zones upon merit assessment as is currently stated in BLEP 2014, especially considering it is one of the few ways of providing low cost housing desperately needed in the shire. Secondary dwellings should be permitted on MOs where merit can be demonstrated. For decades MOs and CTs have made a strong contribution to housing in the shire. Many of them already have the necessary social and environmental infrastructure to support Secondary dwellings. Their approval on MOs and CTs should be based on the capability of each site and merit checks of a DA process. In terms of equity, most rural lots in the shire have the ability to apply for approval for a secondary dwelling or detached dual occupancy. Normal merit consideration, such as the suitability of the site and conformance to criteria such as bushfire and wastewater, determines whether such a dwelling application is approved. It is totally inequitable to determine at the outset, that such an option is denied only to all community title lots and rural land sharing communities. Secondary dwellings and dual occupancies pay their way and are not a burden on the public. They finance the DA process and pay Council contributions towards roads and infrastructure. Council should be exploring all options for countering the housing crisis. Closing down this option unilaterally appears ill conceived and not in the community's interest. It also goes against some high-level planning policies and strategies that any planning proposal needs to be consistent with, i.e. North Coast Regional Plan 2036. Yours, Tal Silver

Natasha Folkwell

223\1217412\Natasha's Submission.docx [SCANNED, FILE SAFE]

15/4/21

**My opposition to Item 1 of the proposal to amend BLEP to restrict number of dwellings on MOs and CTs to one dwelling per lot.**

Dear Byron Shire Councillors

Council has just declared a Housing Emergency in the shire. Item 1 of the proposal if approved will exacerbate the housing crisis and have profound adverse effect on the community.

Item 4 of Byron Shire Strategic Planning says that Council is committed to '**manage growth and change responsibly**'.

Specifically:

**4.1 Support the visions and aspirations of local communities through place-based planning and management.**

**4.2 Support housing diversity in appropriate locations across the shire**

The proposed amendment bluntly goes against this goal. It seeks to rigidly prohibit secondary dwellings and dual occupancies across all CT and MO communities arbitrarily and without **place-based** merit assessment.

Item 5 of the CSP says: **We have Community led decision making which is open and inclusive.**

Specifically:

**5.1 Engage and involve community in decision making**

**5.2 Create a culture of trust with the community in decision making**

**5.6 Manage Council's resources sustainably**

The proposed amendment is an important issue impacting on the community as a whole and not as presented "Housekeeping minor changes". It deserves a thorough community consultation within the global issue of housing in the shire.

Rejecting the available resource of extra housing in the form of secondary dwellings and dual occupancies on CTs and MOs has no economic sense. This kind of development is fully financed by the applicants and costs nothing to the public. When approved, Council contributions are paid.

Finally, the prohibition the proposal suggests goes against Managing Council's resources sustainably. As such, this proposal should be abolished.

Regards  
Natasha Folkwell

Brian Dean

I oppose the proposed change to controls for secondary dwellings and dual occupancies on multiple occupancy and rural community title. If any changes are to be made, I propose and ask that it be made EASIER and a more streamlined process to allow secondary dwellings and dual occupancies on multiple occupancy and rural community title. People that chose to steward (own?) property on multiple occupancy and rural community title ARE NOT "A-LIST" PEOPLE...we are happily very regular people who tend to the land and to our community - both our micro and macro communities. We live low on impact, and high on quality of life. We don't need the most "flash" new counter top, nor bathroom design that can be so environmentally impactful. The Byron Shire needs more people with simpler, lower impact lifestyles....not less as this proposed change will lead to. To prejudice against multiple occupancy and rural community title holders is absolutely out of place for the Byron Shire to consider - especially at this time. In this time and age of the most EXTREME HOUSING CRISIS that the Byron Shire has ever experienced, it is absolutely WRONG for the Byron Shire Council to be looking at ways to limit legal housing. I outright oppose this proposed change. At minimum, I suggest that the Council postpone deliberating this proposed change with the possibility of revisiting it in 2 to 3 years time when the effects of the current housing crisis will be better known. Right now though, here in 2021, we need to be looking at ways of INCREASING AFFORDABLE HOUSING, not limiting affordable housing. Sincerely, Brian Dean

224\1217412\I Oppose proposed changes.pdf [SCANNED, FILE SAFE]

I oppose the proposed change to controls for secondary dwellings and dual occupancies on multiple occupancy and rural community title. If any changes are to be made, I propose and ask that it be made EASIER and a more streamlined process to allow secondary dwellings and dual occupancies on multiple occupancy and rural community title.

People that chose to steward (own?) property on multiple occupancy and rural community title ARE NOT “A-LIST” PEOPLE...we are happily very regular people who tend to the land and to our community - both our micro and macro communities. We live low on impact, and high on quality of life. We don’t need the most “flash” new counter top, nor bathroom design that can be so environmentally impactful. The Byron Shire needs more people with simpler, lower impact lifestyles...not less as this proposed change will lead to. To prejudice against multiple occupancy and rural community title holders is absolutely out of place for the Byron Shire to consider - especially at this time.

In this time and age of the most EXTREME HOUSING CRISIS that the Byron Shire has ever experienced, it is absolutely WRONG for the Byron Shire Council to be looking at ways to limit legal housing.

I outright oppose this proposed change.

At minimum, I suggest that the Council postpone deliberating this proposed change with the possibility of revisiting it in 2 to 3 years time when the effects of the current housing crisis will be better known. Right now though, here in 2021, we need to be looking at ways of INCREASING AFFORDABLE HOUSING, not limiting affordable housing.

Sincerely,  
Brian Dean

Catherine Dix

Objection to item 1 see attached

225\1217412\Submission from Catherine Dix.pdf [SCANNED, FILE SAFE]

16/4/21

## **Objection to 26.2020.6.1 - Housekeeping LEP Amendment Item 1**

Dear Byron Shire Councillors

I strongly object to the amendment to prohibit secondary dwellings on all CTs and MOs without suitability merit assessment of each site and without public consultation process.

This prohibition, if approved, will deprive Shire residents of an important ingredient in the solution to the devastating housing crisis.

Removing existing permission in BLEP for a Secondary Dwelling and Dual Occupancy on Community Titles has no social, human and planning sense.  
It will contribute to the disintegration of this community.

Instead, Council should encourage opportunities for immediate and sustainable rural housing solutions.

Allowing secondary dwellings and dual occupancies on Intentional Communities will allow Council to regulate this kind of development, collect Council contributions and assure that it's up to standard. Where environmentally and socially appropriate, with DA merit assessment, land sharing communities can offer decent housing solutions for locals without impacting on the environment. A solution that may save many families in light of the fact that population increase in the area is inevitable.

Sincerely,

Catherine Dix



Paul Sprokkreeff.

I object to item 1 of this proposal, see attached

226\1217412\Submission from Paul Sprokkreeff.pdf [SCANNED, FILE SAFE]

16/4/21

Objection to item 1

Dear Councillors and Council staff,

Re Planning Proposal 26.2020.6.1 Item1

I am opposed to the proposal as I consider it unfair and damaging to the affordability of accommodation in the area.

A major preoccupation of myself and many friends and acquaintances is affordability and availability of long term accommodation.

Rural communities seem to be one of the few reliable sources available and I can see no valid reason for council to want to restrict the ability to expand this option in the future, as they surely already have the necessary powers to prevent ecologically insensitive development.

I further would like to see Council directing its resources to controlling holiday rentals instead of limiting future sustainable housing.

Respectfully,

Paul Sprokkreeff

Heike Hamann

I oppose any changes to LEP 2014 that make it more difficult for dual occupancy on Community Titles. I believe everything should be done to support having secondary dwellings and dual occupancies. I feel that higher density living is better for the environment on many levels, and given the extreme shortage of housing in the Byron Shire it is particularly needed here. I own and live on 1 acre of flat land in Tyagarah that is on a Community Title. There is plenty of room on the land to support a secondary dwelling, and to have dual occupancy. If this was supported by the council I would be able to provide housing in the Bryon Shire at no extra cost to the council. Yours sincerely,  
Heike

227\1217412\20210416 LEP2014 Feedback.docx [SCANNED, FILE SAFE]

To Whom it May Concern,

I would like to make a submission regarding the amendments to LEP 2014.

I oppose any changes to LEP 2014 that make it more difficult for dual occupancy on Community Titles. I believe everything should be done to support having secondary dwellings and dual occupancies. I feel that higher density living is better for the environment on many levels, and given the extreme shortage of housing in the Byron Shire it is particularly needed here.

I own and live on 1 acre of flat land in Tyagarah that is on a Community Title. There is plenty of room on the land to support a secondary dwelling, and to have dual occupancy. If this was supported by the council I would be able to provide housing in the Bryon Shire at no extra cost to the council.

Yours sincerely,  
Heike

Sarah-Jane McGrath

1. I simply ask that any current applications in process with Byron Shire Council be honoured for MO, Subdivision and/or CT and are only required to adhere to the policies set out at the time of application for any DA, BC, CC, S68, S96 and other such relevant documents and for subsequent S94 contributions. 2. That all people who own property in the shire of Byron Bay, NSW, Australia be supported to apply for, create and have approved within a reasonable period of time, new dwellings in conjunction with Australian Building Standards. 3. All non standard structures be given the opportunity to gain reasonable approval, in order to retain wanted tenancies given the lack of affordable housing currently on offer in the region, due to 2020-2021 migration, sales and holiday lettings, so that local people may not become homeless due to the Byron Shire Councils need for change to future policy.

Wroth Wall

see enclosed letter with submissions concerning Housekeeping LEP

229\1217412\DOC160421-16042021151303.pdf [SCANNED, FILE SAFE]



WALL & COMPANY

LAWYERS

Our Ref: WGW:210001

Your Ref:

16 April 2021

The General Manager  
Byron Shire Council  
70 Station Street  
Mullumbimby NSW 2482

Dear Sir,

**RE: PROPOSED RESTRICTION ON SECONDARY DWELLINGS ON MULTIPLE  
OCCUPANCIES AND COMMUNITY TITLE ALLOTMENTS**

As a solicitor who has practiced in the Byron Shire since 1990, I have had some association with most of the multiple occupancy and community title developments within Byron Shire and am dismayed that Byron Shire Council is attempting to proscribe secondary dwellings across the board in relation to all such approved developments, thereby depriving the affected owners of the same rights enjoyed by the rest of the landowners within Byron Shire. The proposed policy of precluding the possibility of secondary dwellings on multiple occupancies and community title subdivisions at a time when there is a housing crisis is ill conceived and alarming.

The creation and operation of multiple occupancies has been part of our local planning scheme since 1988. Elsewhere in the State they were enabled by the proclamation of State Environmental Policy Number 15 in 1988. From 1973 until 1988 the creation of multiple occupancies was enabled by administrative action brought about by NSW Planning Minister Paul Landa in response to Lismore City Council issuing eviction orders against the new settlers who had seen fit to object to the destruction of our rainforests by commercial and government interests. Originally, multiple occupancies provided a means for people to pool their financial resources so that they could buy land in order that they could live together and build affordable housing. In those days most of these pioneers took an active interest in bush regeneration and were part of a larger movement that was committed to the restoration of the natural environment at least by planting endemic local species. In the 1980s when I started taking an interest in rainforest species, I observed that people planting eucalypts in what had previously been riverine rainforest. The early communities were relatively poor and facing compliance issues with the Councils, members could not obtain institutional finance and interests were sold for amounts that were less than acquisition and building costs. The legal arrangements were often shoddy and very often communities were fragmented without proper redress to legal remedies. Until recently many residential communities could not even afford to pay lawyers.

When I arrived in Byron Shire, I was already aware of the advent of the community title legislation which had been enacted in 1989 and noticed that in Byron Shire it was being treated as just another form of subdivision. I conceived of the notion of converting multiple occupancies to community title whereby the value of the shares would increase, money could be borrowed, proper governance could be effected within a legislative framework

and the compliance problems could be dealt with. Not only that, but the Council would also have increased its rate base with every residential lot that was created. I lobbied the Council for many years and in 1998 the Council introduced a pathway for this process to be enabled.

Presently in Byron Shire, the primary pathway to community title development on rural land is by way of a conversion from an existing approved multiple occupancy. For that reason, much of the "identified as suitable" available land has either been developed by the owners or on-sold to developers and in all cases the community title allotments are now commanding monumental prices.

In order to restore habitat, quite a lot of work or money is required. In my experience, solvent and committed landowners have proved to be the most effective means for such restoration, it being noted that since June 1998 every approval for a dwelling house on a Multiple Occupancy or a CT development has been required to plant some 900 trees.

Within the present spectrum of multiple occupancy/community title we traverse the entire economic spectrum. Many members of old multiple occupancies are struggling financially while many are cashed up.

On an old style multiple occupancy, the additional accommodation can bolster income for existing owners and provide for additional work being carried out on the property. At the other end of the spectrum, the provision for secondary dwellings can provide much needed accommodation as well as a labour resource for the necessary work of environmental regeneration. Additionally, the possibility of a secondary dwelling does allow for aging in place. The secondary dwelling can be occupied by a carer or the older resident. Secondary dwellings provide the most effective and fastest means of providing affordable housing for people who will otherwise have little alternative but to leave Byron Shire.

While the back lanes and back yards of our towns are becoming clogged with secondary dwellings, those on large acreages in the community are expected to fend for themselves. It is not just human population density that degrades an environment. The means by which we use the land has to be figured in. Human intervention can accelerate environmental regeneration. When I first lived in Byron Bay in the 1970s Ewingsdale was just a paddock with an odd fig tree. Looking over what is now a residential estate today, it is hard to discern the human elements from the vegetation.

Each application for a secondary dwelling needs to be looked at on its own merits. For this to work properly a policy should be introduced, publicised, and at openly debated. The current route of an absolute embargo being imposed without proper consideration of all relevant issues is wrong.

Yours faithfully,

**WALL & COMPANY LAWYERS**



Annette McKinley

I support Council's draft amendment

230\1217412\Supporting Councils amendment McKinley.pdf [SCANNED, FILE SAFE]

The General Manager  
Byron Shire Council  
PO Box 219  
Mullumbimby 2482

Dear Sir

Re: Planning Proposal 26.2020.6.1 - Policy and Mapping Housekeeping

Thank you for the opportunity to comment on the proposed Amendment to the Byron Local Environmental Plan 2014.

I own a lot on an existing Community Title subdivision at Broken Head. This CT has an approval for 12 community development lots with a maximum of one dwelling per lot permitted. **I support Council's draft Amendment.**

Our Community Title is located in an area of high ecological significance. The maximum number of lots and dwellings on our CT which were permitted by Council in our Community Title at Broken Head was determined by identifying the physical and ecological constraints that apply to the site. This had the effect of restricting the number of lots and dwellings to 12.

Permitting secondary dwellings on established Community Title subdivisions in the RU2 would be inconsistent with the original concept of the Community Title scheme. Increasing the number of dwellings on our CT would result in an unsustainable increase in ecological impacts on this highly significant area. This is likely to be the case for other CTs in the Byron Shire.

Therefore **I support** Council's draft amendment.

Yours faithfully

Annette McKinley

Zohar Safra

Delhove Blennerhassett

See file attached

232\1217412\Objection .pdf [SCANNED, FILE SAFE]

15/4/21

## Objection to 26.2020.6.1 - Housekeeping LEP Amendment, Item 1

Dear Byron Shire Councillors,

I'm convinced that prohibiting a secondary dwelling or dual occupancy on Community Title and land sharing lots is not in the interest of the community. As I'm sure you are aware further population growth in the shire is inevitable, and therefore the need is great for further housing stock in order to avoid locals being pushed out of the area.

I believe Council should be exploring all options for countering this present housing crisis. Closing down unilaterally the viable option of extra housing on existing communities will add to the devastating lack of affordable, sustainable accommodation in the shire.

Allowing DA applications for secondary dwellings or detached dual occupancies on community title lots and rural land sharing communities, where the merit of such a proposal is tested by the provisions of existing LEPs and DCPs, is one form of 'shovel ready' development that is desperately needed. Done properly, it comes at no cost to either the public purse or the environment.

We request Council to make a clear policy statement that this form of housing is permitted where **merit** considerations warrant it, and develop a transparent and participatory consultation process with communities to implement it for the benefit of all.

Sincerely,

Delhove Blennerhassett

Ann Reed

In proposed “housekeeping amendments” to the Byron LEP, Council wants to cut out dual occupancy and secondary dwellings on all community title developments and some MOs -multiple occupancies- in the rural areas of the Shire, although they’re currently permissible. In the devastating housing crisis that we’ve been handed, surely it would be wiser and more socially responsible to go on allowing them, continuing with merit assessment as you do now

Susanna Evington

Please decide about secondary dwellings on CT or MO properties on a cases by case basis, judging the actual merit etc of each application. Your plan to veto 2ndary dwellings on MOs does not make sense given the current housing crisi and also considering that there has not been an accurate census of MOs re optimal housing capacity.

David Milledge

please see attachment

235\1217412\BSC amendment re Community Title subdivisions in the RU2 zone 16-Apr-21.docx  
[SCANNED, FILE SAFE]



The General Manager  
Byron Shire Council  
PO Box 219  
Mullumbimby 2482

Dear Sir

I am writing in response to Council's proposed Amendment to the Byron Local Environmental Plan 2014, exhibited as Planning Proposal 26.2020.6.1 - Policy and Mapping Housekeeping

**I wish to strongly support this proposed Amendment.**

I was involved with the establishment of a Community Title subdivision on rural land at Broken Head in the late 1990s and early 2000s, where our primary objective was to achieve ecological repair and rehabilitation of approximately 70% of the land in an environmentally highly sensitive area. A performance indicator of the success of this aim through the founding and establishment of an intentional community has been the increase in the number of terrestrial vertebrates recorded on the land from 65 species at the time of our initial development application for a Multiple Occupancy, through 179 species at the time of our application for Community Title, to the current total of 249 species.

Environmental repair was a key goal of the establishment of Community Title subdivisions on rural land under Council's Byron Rural Residential Strategy at that time and the number of dwellings was limited to one per lot. The siting of individual dwellings was highly constrained to limit adverse impacts on the physical and biological environment. Similar developments on rural land in the Shire were similarly restricted.

The permitting of secondary dwellings on individual lots in these Community Title subdivisions would be counter-productive to the original policy adopted by Council for this type of rural residential development and would result in an increase in adverse ecological impacts and biodiversity loss from gains previously made.

For these reasons I support Council's proposal not to allow secondary dwellings in currently approved Community Title subdivisions within the Shire's RU2 rural zone.

Y urs sincerely



David Milledge

Tara Jahns

236\1217412\Submission Tara Item 1 Planning Proposal 26.2020.6.1.docx [SCANNED, FILE SAFE]

14/04/2021

Attn: Planning Dept.  
Byron Shire Council

**Submission on Item 1 Planning Proposal 26.2020.6.1**

Dear Sir,

I am writing to request **item 1** of the Planning Proposal be withdrawn for the following reasons.

This Proposal is not addressing the housing crisis we are currently facing. In my view, Council should be expanding, not limiting, affordable sustainable accommodation options. The proposed prohibition on secondary dwellings on MO's and CT's will reduce access to affordable housing even further.

There is no reason to treat these applications more harshly than those on regular lots, especially since the MO's and CT's typically have a lot of other environmental improvements (due to the shared land) that are missing on subdivisions. CTs and MOs are a small part of private landholdings but many of them are well positioned to provide environmentally and socially responsible housing to locals in the form of secondary dwellings.

In fact, many Community Title dwellings tend to be owner built, modest in nature and therefore cheaper than comparable urban or rural dwellings, allowing for lower rents and catering to people of limited resources.

Item 1 of this proposal will have profound consequences for our community, reducing potential affordable accommodation options. An amendment with such wide-ranging implications for significant sectors of the community should be subject to a community consultation process as per Council's own Community Engagement Policy and not bundled as a "house-keeping" measure. All stakeholders in the community should be given the opportunity to comment and make submissions to allow all views on such a complex issue to be heard.

I propose that Council remove Item 1 from the Planning Proposal 26.2020.6.1 and further propose that secondary dwellings on MO and CT lots be permitted on a case by case merit based assessment.

Sincerely,

Tara

Woody P Sampson

I am opposed to item 1. I think item 1 is not very well thought out in the current housing crisis, why limit options for more modest housing on communities and not on other properties? Please rethink this, we are desperate to find secure housing, it is a constant stress that impacts ours and our children's lives. Any increase in affordable housing will be welcome. Instead of stopping secondary dwellings why not make short-term letting restrictions mandatory on new developments and enforce them?

Eltara Shrita Mahatma

With regards to item 1 of this proposal, I strongly oppose it. It is not fair that communities will be singled out for a restriction on secondary dwellings and dual occupancies when almost everybody else with a rural property is free to apply to construct one. Things have changed dramatically in the past 20 plus years since MOs and CTs were established, in view of the present housing shortage, it is time to revisit rural planning strategy and make fresh evaluations of housing capacity based on modern merit assessment guidelines. I notice that item 3 will allow secondary dwellings and dual occupancies on rural lots as small as 1 acre, many rural communities have lot sizes substantially larger than that, where is the rationale or social justice in the restriction to be imposed in item 1?

Ryan E Donaldson

I am opposed to item 1. As a long-term resident, I find the proposal ill-conceived and prejudiced. Why are secondary dwellings and dual occupancies allowed and encouraged on all rural titles except CTs and MOs. If housing stock needs to be expanded to accommodate a swelling population, it should be done so equitably.

Jade Jackson

I am a parent in full time employment. In the years I have lived here I have not found secure, affordable long-term accommodation. Please remove item1 from this proposal, I for one would love to rent a secondary dwelling on a CT or MO

Sam Jackson

Objection to item 1

241\1217412\Sam Jackson feedback.docx [SCANNED, FILE SAFE]



16 April 2021

Attn Sam Tarrant  
Byron Shire Council  
70 Station St.  
Mullumbimby NSW

Dear Sir,

I write to express my opposition to **Item 1 of Planning Proposal 26.2020.6.1**

I am a working person and lifelong resident of Byron Shire.

I grew up on a rural community and am aware of the many benefits they bestow; social inclusion, environmental awareness, self-sufficiency etc.

I am currently in the rental market and find myself constantly stressed and preoccupied about our situation, rents keep rising, more and more long-term rentals are disappearing.

The demands being made by landlords (6 months to a year's rental in advance, no pets no children) mean that every time I have to move, I slide further down the list of desirable candidates.

It is personally heartbreaking for me to see Council proposing to maintain and enforce a one dwelling per lot restriction on rural communities whilst allowing and encouraging secondary dwellings and dual occupancies in towns and on all other rural lots, how does this make sense?

If Council which acknowledges a housing emergency cannot provide solutions to the urgent accommodation needs of workers and parents such as myself, please at least don't place barriers in the way of those that could make a contribution, however small it may be.

Yours truly,

Sam Jackson

Nicolas degryse

Objection to Item 1

Mercedes Mambort

I do not support this amendment. The grounds on which this motion is based on are outdated and do nothing to address the current context.

**From:**  
**To:** [council](#)  
**Subject:** Fwd: LEP Amendment Item 1 - Housekeeping 26.2020.6.1  
**Date:** Friday, 2 April 2021 6:22:05 PM

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Sent from my iPhone

----- Forwarded Message -----

**Subject:**LEP Amendment Item 1 - Housekeeping 26.2020.6.1

**Date:**2.4.2021

**From:**Anna van der Hoeven

**To:**council at Byron

Dear General Manager, Dear Councillors

I only heard about the issue from friends and share the surprise and puzzlement about your plan to make it impossible for CT and MO to have secondary dwellings.

This shire has a long history in sharing the land with tenants as a lot of land owners don't have enough cash on one side and on the other a lot of people are looking for this type of accommodation.

The attractiveness for tenants is that a granny flat is mostly a simple self-contained situation especially suitable for young people, singles and older people for whom it impossible to own their own home.

It appears to me that most people working in council or the councilors themselves have the fortune to own their own home and are not able to comprehend the difficulties this part of society has.

Please imagine someone single wanting to rent a place. He/She is faced with either to share a house or to find a small flat that he/she can afford. I know so many people regularly experiencing a nightmare.

First, it is very difficult to share a house with other people, even if they are friends. This houses are extremely expensive and possibly are sold very shortly after you moved in. The rents for flats are only affordable if you have a good stable income.

There is such a pressure. We have so many friends asking if there is accommodation available. Illegal accommodations are a risk for all participants. It would be so much more appropriate to allow CT and MO's to have legal granny flats that have the appropriate building standards.

Why should there be a different treatment between a normal block of land and CT/MO block of land.

With best wishes

Anna van der Hoeven

**From:**  
**To:** [council](#)  
**Subject:** Objection to 26.2020.6.1-Housekeeping LEP Amendment item 1  
**Date:** Friday, 9 April 2021 4:50:56 PM

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**Byron Shire Council**

**PO Box 219**

**Mullumbimby 2482**

**Objection to 26.2020.6.1-Housekeeping LEP Amendment item 1**

I'm writing as a current member of a rural Community Title (CT) community and would like to reserve the right to apply for a secondary dwelling if required in the future.

CT's and Multiple occupancies (MO) contribute much needed affordable housing in Byron Shire and this could be enhanced by allowing secondary dwellings on Lots as is currently allowed in urban areas.

CT's and MO's occupy large properties and dedicate large areas of land to native habitat and bush regeneration thus contributing greatly to Byron Shire's Biodiversity and Conservation Strategy.

On conversion from MO to CT, merit assessment was never carried out to determine the suitability of CT lots to sustain a number of houses.

Therefor the number of dwellings per Lot on CT's should not be restricted to 1 without merit assessment taking place with transparency on the part of Byron Shire Council. This amendment is significant and affects the ability of people to afford to live in Byron Shire and should not fall under the category of 'Housekeeping'.

Yours sincerely

Anne Allen

**From:**  
**To:** [council](#)  
**Subject:** Objection to 26.2020.6.1 - Housekeeping LEP Amendment, Item 1  
**Date:** Wednesday, 24 March 2021 2:59:49 PM

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Good afternoon,

I would like to lodge our objection to 26.2020.6.1 - Housekeeping LEP Amendment, Item 1 on the following grounds:

1. This is not a minor amendment and it should be removed from the housekeeping topics and needs to be discussed with proper open public consultation. A proposal to make changes to an LEP with such wide-ranging implications for significant sectors of the community should be subject to a thorough policy review and community consultation process and not pushed through as a “house-keeping” measure.
2. Byron shire has a current and dire housing crisis and more housing needs to be provided. Any plans to remove the rights of MO and CT lots to have a granny flat or secondary housing is adding to the housing problem. Council is allowing the secondary dwellings on normal rural properties, so CT and MO rural properties should be treated the same.
3. This proposal by Council is inexplicably prohibiting infill on only CT and MO lots while continuing to allow it on all other lots. We are simply requesting an equitable approach where infill occurs based on the merits of each proposal.
4. Allowing CT lots the choice to apply for a secondary dwelling or detached dual occupancy will allow for more much needed contributions towards public infrastructure, especially rural roads.

Please confirm receipt of my objection.

Thank you.

Kind Regards,  
Barbara Chalk

15/04/2021

Attention: Planning Dept.  
Byron Shire Council  
Station Street  
Mullumbimby NSW 2482

**Submission on Item 1 Planning Proposal 26.2020.6.1**

Dear Sir,

I object to **item 1** of the proposal for the following reasons.

1. We live on a 12-house CT on Fowlers Lane Bangalow. We would like to have the opportunity to be able to apply for a secondary dwelling on our lots, in just the same way that others living in rural areas of the Shire, can do.
2. Our community is 46ha. According to the regulations at the time we first applied for the M.O. (1994), we could apply for one house site per 3 ha. As we had 46 ha, we could have applied for 15 house sites. We ended up applying for 12.  
So by the original regulations, we had the capacity to accommodate three more house sites on our 46ha.  
If the overall capacity of the community would allow three additional houses, then surely that means that additional Secondary Dwellings on our existing lots could be accommodated on the property.
3. We feel that determining any DA for a dual occupancy on a CT lot should be subject to environmental analysis based on merit – such as the suitability of the site, and whether or not it meets contemporary standards of bushfire and wastewater, just as our house did.  
If a DA can demonstrate that consent for a Secondary Dwelling or Dual Occupancy can be granted after considering all statutory and policy considerations, there are substantial social and community benefits in enabling approval to be issued.
4. It seems to us to be unjust for Council to prohibit this form of housing on CTs, but allow it on other rural properties.  
Please consider revisiting your approach to intentional communities, and introduce clear provisions that allow for secondary dwellings and dual occupancies on merit.
5. We feel that a proposal to make changes to an LEP such as Council has proposed should be subject to a community consultation process, per Council's Community Engagement Policy, rather than being bundled into a "house-keeping" measure. Anyone affected, such as stake-holders, should have the opportunity to comment and make submissions over a reasonable period of time, to allow all points of view on this issue to be thoroughly examined.

Sincerely,

Christobel Munson  
Jindibah Community



OBJECTION

BYRON SHIRE COUNCIL  
DOC NO: .....  
REC'D: - 6 APR 2021  
FILE NO: F2622  
ASSIGNEE: M. Chapman  
cc: Councillor Support

EWEN TRIGELLIS-SMITH

2482

Dear Byron Shire Councillors,

I have been a prompt ratepayer in the Shire for thirty-one years, a time before the Shire was becoming an enclave of the wealthy.

I know several people personally who have had to leave their rented homes of many years because they could not afford the large increases in rent.

There is clearly a devastating housing crisis here and elsewhere, and one of the compelling reasons I object to the plan to prohibit urban and rural responsible housing solutions.

I could go on and on, but will spare you the tedium of trawling through a long hand written letter.

It is sufficient to register my objection to passing the HOUSEKEEPING LEP Amendment Item 1

Sincerely

**From:**  
**To:** [council](#)  
**Subject:** LEP Amendment Item 1 - Housekeeping 26.2020.6.1  
**Date:** Tuesday, 23 March 2021 11:46:31 AM

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Dear General Manager, Dear Councillors

I only heard about the issue from friends and share the surprise and puzzlement about your plan to make it impossible for CT and MO to have secondary dwellings.

This shire has a long history in sharing the land with tenants as a lot of land owners don't have enough cash on one side and on the other a lot of people are looking for this type of accommodation.

The attractiveness for tenants is that a granny flat is mostly a simple self-contained situation especially suitable for young people, singles and older people for whom it impossible to own their own home.

It appears to me that most people working in council or the councilors themselves have the fortune to own their own home and are not able to comprehend the difficulties this part of society has.

Please imagine someone single wanting to rent a place. He/She is faced with either to share a house or to find a small flat that he/she can afford. I know so many people regularly experiencing a nightmare.

First, it is very difficult to share a house with other people, even if they are friends. These houses are extremely expensive and possibly are sold very shortly after you moved in. The rents for flats are only affordable if you have a good stable income.

There is such a pressure. We have so many friends asking if there is accommodation available. Illegal accommodations are a risk for all participants. It would be so much more appropriate to allow CT and MO's to have legal granny flats that have the appropriate building standards.

Why should there be a different treatment between a normal block of land and CT/MO block of land.

With best wishes

Gerd Kuhlmann

BYRON SHIRE COUNCIL  
DOC NO: .....  
REC'D: 23 MAR 2021  
FILE NO: F2622  
ASSIGNEE: M. Chapman

NSW 2481  
22/3/2021

The General Manager  
Byron Shire Council  
PO Box 219  
Mullumbimby 2482

Dear Sir

I am writing in support of the Council's exhibited Planning Proposal 26.2020.6.1.

I am a resident of a Community Title development and am concerned that the provisions of the current LEP could allow secondary dwellings in existing Community Title subdivisions in the RU2 zone.

Our Community Title received Council approval in 2006 and one of the conditions of consent was that no more than one dwelling house could be erected on each lot. This restriction was subsequently incorporated into our Community Management Statement that was registered in 2008 in accordance with the requirements of Community Land Management Act. The Community Land Management Act says that a Community Management Statement is legally binding on each person who is a proprietor of a community development lot.

Therefore any person owning or purchasing a lot in our community title development would have a reasonable expectation that the other lots in the subdivision will have no more than one dwelling house erected upon it. Clearly there needs to be consistency between the various planning and legislative requirements that apply to Community Title in Byron Shire.

I trust the draft amendment to the LEP currently on exhibition will achieve that.

Yours faithfully

Judy Blackford

Objection to Item 1, Planning Proposal 26.2020.6.1

To Who It May Concern,

Please consider taking a humanitarian perspective when considering dwellings on Community Title and Multiple Occupancies. Having cultural considerations is surely as important as any other. This is a major issue and deserves more compassionate consideration than to be allocated to 'housekeeping.' Please be aware of the current council declared 'housing crisis' and discontinue this policy or defer for a policy review and community consultation. If you are being pressured by faceless 'staff' please take a stand for the community that elected you.

Sincerely, P. Kaye Groves, Mullumbimby Creek. Mob.

6. April '21

BYRON SHIRE COUNCIL	
DOC NO:	.....
REC'D:	- 6 APR 2021
FILE NO:	f2522
ASSIGNEE:	M. Chapman

**From:**  
**To:** [Tarrant, Sam](#)  
**Subject:** "HouseKeeping Review"  
**Date:** Thursday, 25 March 2021 9:33:41 PM

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Dear Sam,

I am writing to you with great concern at what seems like an ongoing negative agenda of council toward secondary dwellings - both unapproved and on Communities and Community Titles.

I don't live on an intentional community but I have watched with alarm and sadness the reports of council staff targeting members of our community who are living on rural properties in humble dwellings that don't necessarily have approvals.

I know of two such properties where council staff have given residents two days notice to vacate - making them homeless. An appalling thing for a council that is meant to support and represent the community.

More and more I am seeing a different type of agenda in this beautiful shire that makes one feel that somewhere in council we the community are viewed as counter to the councils aims and objectives.

Please don't put the layer of authoritarian controls on prohibiting secondary dwellings on communities.

Please remember that you and all council staff are there to serve and support the community. I know there is an eye watering amount of laws and bylaws in our systems of government but you are there to support and look after us. Not support and look after the endless and often ridiculous regulations.

I presume that many of the actions of the council in this regard are due to the pressure of legal liability? Is there pressure from insurers?

If not then it is your role to listen to and enact the wishes of the community not the 'system'.

We're not Chatswood but lately I often feel like council staff are being given direction by people in management who would like us to be.

I don't know you and intend absolutely no disrespect in writing this.

I hope you will read this in the spirit that it is written = and that is with a simple love of simple living.

Kind Regards,

Tim Browning

Mullumbimby

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**From:** Matt O'Reilly  
**Sent:** Friday, 16 April 2021 1:59 PM  
**To:** council  
**Subject:** Submission on,,Planning Proposal 26.2020.6.1 Amendment of Byron Local Environmental Plan 2014 Policy and Mapping Housekeeping  
**Attachments:** Registration of Leases.docx; objection to housekeeping amendment.docx; Different LEP clauses re rural subdiviosn in NSW boundary adjustments.docx; Extract from RLUS.docx; MO and CT map.pdf; changes to MO and CT clause in Byron LEP.docx

Submission on

Planning Proposal 26.2020.6.1 Amendment of Byron Local Environmental Plan 2014 Policy and Mapping Housekeeping.

Prepared by the Community Alliance for Byron Shire

## ITEM 1

CABS supports clarifying the position in the LEP so that the overall number of dwellings on a Community Title or Multiple Occupancy development complies with the relevant development consent. MOs and CT have been historically approved for a set number of dwellings based on the environmental and infrastructure constraints of the land. These numbers should not be arbitrarily increased without a full DA revisiting the entire MO or CT approval. CABS does not oppose amending the total number of dwellings permitted on an MO or CT but any application to increase dwelling numbers over historical approvals MUST trigger a full assessment of the entire MO or CT and its environmental and infrastructure impacts.

Clause **4.1B Minimum subdivision lot size for multiple occupancy or rural community title developments** in the Byron LEP 2014 already makes it very clear that no more than one dwelling may be erected on a neighbourhood lot at sub-clause 3 (c) when it states *"there is no more than one dwelling erected on each neighbourhood lot"*

Schedule 5 of the Rural Development SEPP 2019 permits **Rural land sharing communities** in 14 local government areas that do not have rural land sharing community provisions included in their LEPs. This includes North Coast Councils such as Tweed, Richmond Valley, Kyogle, Clarence Valley, Coffs Harbour, Bellingen and Tenterfield. Currently on the North Coast only Byron and Lismore Councils have Rural Land Sharing community provisions included in their LEPs.

Sub-Clauses 7, 8 and 9 of the 2019 Rural Development SEPP are important comparisons with the Byron LEP Clauses

In the Byron LEP 2014 a number of Clause are applied to MOs and CTs. These include:

Clause 4.1AA Minimum subdivision lot size for community title schemes,

Clause 4.1B Minimum subdivision lot size for multiple occupancy or rural community title developments,

Clause 4.2A Erection of dwelling houses and dual occupancies on land in certain rural zones,

Clause 4.2B Maximum number of dwelling houses or dual occupancies on multiple occupancy or rural, landsharing community developments

There are also many Clauses that apply from the the Byron DCP 2014 and the Byron Rural Settlement Strategy 1998

The method of calculating the maximum number of dwellings permitted on an MO or CT differs between the Byron LEP 2014, the Lismore LEP and the Rural Development SEPP.

In Byron the calculation is based on, "(b) if there is no number shown for that lot on that Map—there will not be less than 3 dwellings, and not more than 1 dwelling for every 3 hectares, up to a maximum of 15 dwellings, on the lot"

In Lismore the calculation is based on

Table—Maximum number of dwellings

Column 1	Column 2
At least 10 hectares, but not more than 210 hectares	$\left(4 + \frac{(A-10)}{4}\right)$
More than 210 hectares, but not more than 360 hectares	$\left(54 + \frac{(A-210)}{6}\right)$
More than 360 hectares	80

where—

A is the area of the lot measured in hectares.

If the maximum number of dwellings calculated in accordance with subclause (4) includes a fraction, the number is to be rounded up to the nearest whole number in the case of a fraction of one half or more, or rounded down to the nearest whole number in the case of a fraction of less than one half

In the Rural Development SEPP the calculation is based on:

- (a) if the land has an area of 10 hectares or more but not more than 210 hectares—4 dwellings plus 1 additional dwelling for every 4 hectares of land greater than 10 hectares,
- (b) if the land has an area of 210 hectares or more—54 dwellings plus 1 additional dwelling for every 6 hectares of land greater than 210 hectares up to a maximum of 80 dwellings.

If these different calculations are applied to a 10 hectare lot the following number of dwellings would result:

3 dwellings in Byron Shire

4 dwellings in Lismore Shire

4 dwellings in Tweed Shire

If these different calculations are applied to a 43.5 hectare lot the following number of dwellings would result:

15 dwellings in Byron Shire

12 dwellings in Lismore Shire



12 dwellings in Tweed Shire

If these different calculations are applied to a 80 hectare lot the following number of dwellings would result:

15 dwellings in Byron Shire

22 dwellings in Lismore Shire

22 dwellings in Tweed Shire

The Rural Development SEPP 2019 at Schedule 5 sub-clause 9 also permits the following:

**More than 1 dwelling may be treated as a single dwelling**

The consent authority may, for the purposes of this Schedule, treat 2 or more dwellings as a single dwelling if it is satisfied that, having regard to the sharing of any cooking or other facilities and any other relevant matter, the dwellings comprise a single household.

CABS recommends that while we support the current housekeeping proposal Byron Council should conduct a review into the provisions relating to maximum number of dwelling of MOs and CTs so that a new formula is applied such as:

Table—Maximum number of dwellings (where A is the number of hectares)

Column 1

Column 2

At least 10 hectares, but not more than 210 hectares  $[4 + (A-10)/3]$

which will result in the following:

- a 10 hectare Lot would be eligible for 4 dwellings as occurs in other Shires rather than 3 in Byron Shire.
- that the maximum number of dwellings permitted on an MO or CT not be capped but be based on the existing formula plus one additional dwelling.

We also recommend that Byron Council amend the LEP so that 2 or more dwellings on an MO be treated as one dwelling if they share cooking or other facilities as per the Rural Development SEPP.

We repeat our earlier recommendation that if an existing MO or CT wishes to apply for additional dwelling entitlements they would need to have the entire existing MO or CT reassessed as if it is a new application and any existing developments on the MO or CT would need to be included in the application and assessment including any unauthorised dwellings, studios or other buildings.

A possible amended Clause 4.2B in the Byron LEP could read:

**4.2B Maximum number of dwelling houses or dual occupancies on multiple occupancy or rural landsharing community developments**

(1) The objectives of the clause are as follows:

(a) to permit—

- (i) people to collectively own a single lot of land and use it as their principal place of residence, and
- (ii) the erection of multiple dwellings on the lot and the sharing of facilities and resources, and
- (iii) the collective environmental repair and management of the lot, and



- (iv) the pooling of resources to economically develop a wide range of communal rural living opportunities,
- (b) to facilitate closer rural settlement in a clustered style in a manner that—
  - (i) protects and enhances the collective environment attributes of the lot, and
  - (ii) does not create any unreasonable demand for the provision of infrastructure or services or any unreasonable demand for the uneconomic provision of infrastructure or services.

(2) This clause applies to:

- (a) a lot if any part of the lot is in an area that is identified on the Multiple Occupancy and Community Title Map.
- (b) a lot if any part of the lot has an existing approval for Multiple Occupancy or Community Title development.
- (c) a lot if:
  - (i) it has an area of at least 10 hectares, and
  - (ii) the part of the lot on which the development is to be situated does not have a slope in excess of 18 degrees, and
  - (iii) it is within 5 kilometres (by road) of services, including a high school, shops and community facilities, and
  - (iv) adequate vehicular access is provided to the lot from an arterial, sub-arterial or collector road, and
  - (v) the part of the lot on which the development is to be situated is not environmentally sensitive
  - (vi) no more than 25% of the lot is prime crop and pasture land and no building containing a dwelling will be on any such land,
  - (vii) no building will be on land that is a wildlife refuge, wildlife corridor or wildlife management area and the development will not adversely affect any such land,
  - (viii) the development will not include a camping ground, caravan park, eco-tourist facility or tourist and visitor accommodation, except where otherwise permissible on the land,

(3) Development may be carried out with consent for the erection of more than one dwelling house or dual occupancy (attached) on such a lot provided that:

- (a) if there is a number shown for that lot on the Multiple Occupancy and Community Title Map—the total number of dwellings on the lot will not exceed the greater of,
  - the number marked for that lot on that Map, or
  - the number of dwellings permitted by subclause (4) (rounded up or down in accordance with subclause (5)), or
- (b) if there is no number shown for that lot on that Map or the lot does not appear on the map—there will not be less than 3 dwellings, and the number of dwellings will not exceed the number of dwellings permitted by subclause (4) (rounded up or down in accordance with subclause (5)), and
- (c) the consent authority is satisfied that the proposed dwellings are designed to reasonably accommodate a maximum of the number of people calculated by multiplying the number of dwellings permitted by subclause (4) (rounded up or down in accordance with subclause (5)) by 6.

(4) Despite subclause (3), development consent must not be granted to development on a lot to which this clause applies that has an area within the range specified in Column 1 of the Table to this

subclause unless the number of proposed dwellings on the lot, together with any existing dwellings on the lot, will not exceed the number calculated in accordance with the formula specified opposite that area in Column 2 of that Table.

Table—Maximum number of dwellings

Column 1	Column 2
At least 10 hectares	$(4+(A-10)/3)$

where:

A is the area of the lot measured in hectares.

(5) If the maximum number of dwellings calculated in accordance with subclause (4) includes a fraction, the number is to be rounded up to the nearest whole number in the case of a fraction of one half or more, or rounded down to the nearest whole number in the case of a fraction of less than one half.

(6) Development consent must not be granted under subclause (3) unless the consent authority is satisfied that—

- (a) there will be appropriate management measures in place that will ensure the protection of the landscape, biodiversity and rural setting of the land, and
- (b) the development is complementary to the rural and environmental attributes of the land and its surrounds, and
- (c) there are adequate arrangements for operating and managing the community, and
- (b) the design of the proposed development is suitable, and
- (c) the physical and heritage characteristics of the proposed site and surrounding land are preserved, and
- (d) the availability of roads, utilities and other services is adequate, and
- (e) the impact of the development on the environment and any present or future use of the land is negligible, and
- (f) any other matter that the consent authority considers to be relevant has been addressed.

(7) Development consent must not be granted under subclause (3) unless the consent authority is satisfied that adequate provision will be made for the following—

- (a) water and waste management,
- (b) prevention, control and management of soil erosion,
- (c) bush fire management,
- (d) flora and fauna management, including the control of noxious weeds and noxious animals,
- (e) stormwater and flood management
- (f) provision and maintenance of internal roads, boundary fences, water reticulation, service corridors for telephone and electricity cables and similar matters.

(8) For the purposes of this Clause, 2 or more dwellings may be treated as a single dwelling if it has been satisfied that, having regard to the sharing of any cooking or other facilities and any other relevant matter, the dwellings comprise a single household.

The above proposed amendment is an amalgamation of the existing Byron LEP 2014 Clause, the Limore LEP Clause and Schedule 5 of the Rural Development SEPP.

It broadens the areas of land suitable for Multiple Occupancy Development and it has the possibility of increasing the number of dwellings permitted on existing MOs in the Shire.

## ITEM 2

Item 2 states:

Remove clause 4.1F from the Byron LEP 2014. Clause 4.1F was placed into the LEP when it was first created to enable special purpose subdivisions similar to what was permitted under the 1988 LEP.

This clause was flagged for review as an applicant had interpreted this clause to enable subdivision of tourist cabins from the parent lot containing the dwelling house. This is not the intention of this clause.

Further research has found this clause has not been applied and is not providing for any need in the shire. Clause 4.1C exists to enable rural boundary adjustments. It is presented that this clause is not needed in the Byron 2014 LEP and to avoid confusion or applications attempting to utilise this clause for unintended purposes, it is proposed that this clause is removed from the LEP.

The Council report above is INCORRECT. The Clause was not part of the Byron LEP 2014 when it was first created and was only included in the LEP on the 22nd of September 2017. This means that Clause 4.1F has only been in the Byron LEP for three years but Council is now proposing it be removed. It also seems that Council has forgotten the reason for the Clause being included in the 2015 Housekeeping amendment in the first place.

The Council report on the 17th September 2015 states:

- J. Insert a new clause in Part 4 Principal Development Standards to enable certain subdivision (sometimes referred to as a special purpose subdivision) to be approved on land zoned RU1 and RU2 where the lot will be less than the minimum lot size shown on the minimum lot size map.**

A consultant suggested that Council include a "special purpose subdivision" provision in Byron LEP 2014. This is because under LEP 1988, Council had the ability to grant consent to a rural subdivision of any size as long as it was not for the purposes of "agriculture, forestry or a dwelling house". The provision was abandoned with the gazettal of the Byron LEP 2014 as a result of the standardisation of LEP provisions. Other north coast LEPs (eg. Clarence Valley Council and Richmond Valley Council) have included a "special purpose subdivision" provision that would enable an approved use to be lawfully subdivided from a parent lot. The Planning Proposal Attachment 1 includes a clause based on the Clarence Valley Council provision.

Because Byron Council simply adapted the Clause from the Clarence Valley LEP it failed to properly scrutinize its applicability. The way Clause 4.1F is currently drafted it has been impossible to be implemented to meet its desired outcome. We have legal advice that Clause 4.1F is UNABLE to be utilised if there is an existing dwelling on the existing Lot. The Clause in the Byron LEP 1988 explicitly allowed a special rural subdivision to occur where an existing dwelling occurred on the lot and some land separate from the dwelling was sub-divided off for another approved development use. It is the current drafting of the Clause which is at fault not the intent of the Clause. The Clause should be redrafted and not removed from the LEP. A better drafting can be found in the Shoalhaven LEP and additional words should be

included to exclude rural tourism accommodation from being permitted in a sub-division without a dwelling also existing in the same lot.

Removing Clause 4.1F from the LEP is the wrong solution.

A better solution can be found by simply expanding the words in the Clause from "**dwelling houses, dual occupancies or secondary dwellings.**" to "**residential accommodation, ecotourist facilities and tourist and visitor accommodation**".

This change would capture all types of residential accommodation such as rural workers dwellings, hostels and groups homes which are currently not captured. It also captures ecotourist facilities and visitor and tourist accommodation which are currently not captured.

Making the above change does not however make Clause 4.1F fit for purpose. The problem remains that the Clause can still not be used for its original intention. Under the Byron LEP 1988 and the old Rural SEPP special purpose subdivisions were approved in Byron Shire for the purpose of separating Agricultural Uses from existing dwellings on properties. For example Macadamia Plantations were subdivided away from rural dwellings, Macadamia processing sheds were subdivided, rural industrial sheds were subdivided.

The new rural development SEPP 2019 at Schedule 4 Part 2 still allows rural sub-divisions for this purpose on deferred matter land in Byron Shire.

The problem is that Clause 4.1F as currently drafted does not allow a rural sub-division if there is an existing dwelling on the lot. This problem was also encountered by Shoalhaven Shire Council but they drafted their Clause with an additional point 6 which reads: (6) A lot created under subclause (3) that has a dwelling house or dual occupancy on it may also be less than the minimum size shown on the Lot Size Map in relation to that land.

Shoalhaven Shire also included a point which states: " The lot may include land from more than one zone.". This is important now that Byron Shire has included E2 and E3 zones.

Byron Shire needs to amend Clause 4.1F to include additional points 5 and 6 as in the Shoalhaven LEP.

The relevant Clause from the Shoalhaven LEP together with additional words prohibiting rural tourism accommodation and other uses is shown below. The proposed changes are shown in red.

#### 4.1F Exceptions to minimum lot sizes for certain rural and environment subdivisions

(1) The objective of this clause is to enable the subdivision of land in rural areas to create lots of an appropriate size to meet the needs of current permissible uses other than for the purpose of **residential accommodation, ecotourist facilities and tourist and visitor accommodation**

(2) This clause applies to land in the following zones—

(a) Zone RU1 Primary Production,

(b) Zone RU2 Rural Landscape,

**(c) Zone E2 Environmental Conservation,**

**(d) Zone E3 Environmental Management.**

(3) Despite clause 4.1, development consent may be granted to the subdivision of land to which this clause applies to create a lot with a size less than the minimum subdivision lot size shown on the Lot Size Map in relation to those lots, if the consent authority is satisfied that—

**(a) the land will not be used for the purposes of residential accommodation, ecotourist facilities and tourist and visitor accommodation , and**

**(b) the land will continue to be used for the same purpose for which it was lawfully used immediately before the subdivision.**

(4) Development consent must not be granted for the subdivision of land to which this clause applies unless the consent authority is satisfied that—

(a) the subdivision will not adversely affect the use of the surrounding land for agriculture, and

(b) the subdivision is necessary for the ongoing operation of the permissible use, and

(c) the subdivision will not cause or increase rural land uses conflict in the locality, and

(d) the subdivision is appropriate having regard to the natural and physical constraints affecting the land.

**(5) The lot may include land from more than one zone.**

**(6) A lot created under subclause (3) that has existing residential accommodation, ecotourist facilities or tourist and visitor accommodation on it may also be less than the minimum size shown on the Lot Size Map in relation to that land.**

Byron Shire faces a massive problem with farmland in Byron Shire now the most expensive in all of Australia. Farmland values in Byron Shire are not connected to the productivity of the farmland but are connected to the dwelling entitlement on the land.

In order for Byron Shire to meet the objectives of the Byron Rural Land Use Strategy 2019 an updated Clause 4.1F is CRUCIAL.

In order for young farmers and agricultural entrepreneurs to invest in farming in the Shire they need land security. The investment required to develop 2 hectares of land with water infrastructure, roads, sheds, fencing, greenhouses, nursery's, netting, rock removal, weed management and soil amendments is high. That does not include the machinery, labor, fertiliser, pest control, and seedling costs.

An investment of over \$100,000 per hectare of capital improvements is not unheard of to get the land productive in Byron Shire.

Under the NSW Real Property Act leases of over five years must be registered on the property title and require sub-division approval from the local council.

Young farmers who want to invest in farming land in Byron Shire CANNOT do so if they do not have security of tenure for longer than five years. The ONLY way for young farmers to get a long term

agricultural lease is by using an amended Clause 4.1F. The same is true of other rural industries such as nurserys, agricultural produce industries, vet clinics, garden centres, landscape supplies, horticulture, rural supplies, Animal boarding or training establishments; Aquaculture, Forestry and Warehouse and distribution centres.

For young people to invest in these rural industries they need to be able to secure long term leases or rural sub-divisions. An amended Clause 4.1F is a necessity for Byron's rural zones to be used for more than just dwellings and tourism.

As an example, a working farm would like to expand its operations onto a nearby property. The nearby property has an existing dwelling but all of its land other than the dwelling is overgrown with weeds. A boundary adjustment is not possible as the properties are not adjacent. They are only separated by 100m but they are not next to each other. A capital investment of around \$200,000 is required to get the land productive and producing crops. Legally the land owner can only provide a 5 year lease and no more. A five year lease is not long enough for the farmer to recoup their capital investment. There is no way for the land to be farmed without a special rural sub-division that separates the dwelling from the agricultural land.

CABS recommends that Council DO NOT remove Clause 4.1F and instead amend the clause as shown above in red to make it fit for purpose.

We attach the relevant sections from the Byron Rural Land Use Strategy that support our submission. we also attach the Register General's Guidelines for Leases longer than 5 years.

## ITEM 3

CABS supports the proposed changes but makes the additional comment:

Byron Council has failed to identify what seems to be a problem with the permissible uses in the RU5 zone.

**Residential Accommodation** is listed as a permissible use in the RU5 Zone.

Only **Dual occupancies (detached); Multi dwelling housing; Residential flat buildings; Rural workers' dwellings** are listed as prohibited in the RU5 Zone.

This means that attached dwellings, boarding houses, semi-detached dwellings and seniors housing are all permitted in the RU5 zone.

Byron Council should consider which of the above four types of residential accommodation they wish to see in the RU5 zone and what minimum lot sizes should be applied.

The minimum lot size in Billinudgel, Main Arm and Federal is 2000m<sup>2</sup>. So at present boarding houses, seniors housing, attached dwellings and semi-detached dwelling could all be constructed on any lot in the three RU5 villages.

It is probably irrelevant for attached dwellings and semi-detached dwellings as these dwellings each require their own separate lots but perhaps it should be considered.

**residential accommodation** means a building or place used predominantly as a place of residence, and includes any  
of the following—  
(a) attached dwellings,  
(b) boarding houses,

(c) dual occupancies,  
(d) dwelling houses,  
(e) group homes,  
(f) hostels,  
(g) multi dwelling housing,  
(h) residential flat buildings,  
(i) rural workers' dwellings,  
(j) secondary dwellings,  
(k) semi-detached dwellings,  
(l) seniors housing,  
(m) shop top housing,  
but does not include tourist and visitor accommodation or caravan parks.

**attached dwelling** means a building containing 3 or more dwellings, where—

- (a) each dwelling is attached to another dwelling by a common wall, and
- (b) each of the dwellings is on its own lot of land, and
- (c) none of the dwellings is located above any part of another dwelling.

**semi-detached dwelling** means a dwelling that is on its own lot of land and is attached to only one other dwelling

CABS recommends that Byron Council consider prohibiting attached dwellings, boarding houses, semi-detached dwellings and seniors housing in the RU5 zone. In particular it seems likely that Boarding Houses and Seniors Housing would be inappropriate at Federal, Main Arm or Billinudgel.

## ITEM 5

CABS proposed that certain road side stalls be included as exempt development during the exhibition of the Byron Rural Land Use Strategy.

The proposed Clause is:

### **Roadside stalls**

- (1) This clause applies to the use of land for a roadside stall for the sale of only agricultural produce.
- (2) The roadside stall—
  - (a) must be located on land within Zone RU1 Primary Production or Zone RU2 Rural Landscape, and
  - (b) must be located wholly on private property, and
  - (c) must not be located on land that is adjacent to a classified road, and
  - (d) must not have a footprint greater than 4m<sup>2</sup>.
- (3) No more than 1 roadside stall may be used on any landholding.
- (4) Any relevant approval issued under the Roads Act 1993 must be obtained.

CABS supports the proposal with the following additional conditions included: Additions are in bold red.

### **Roadside stalls**

- (1) This clause applies to the use of land for a roadside stall for the sale of only agricultural produce.
- (2) The roadside stall—
  - (a) must be located on land within Zone RU1 Primary Production or Zone RU2 Rural Landscape, and
  - (b) must be located wholly on private property, and

- (c) must not be located on land that is adjacent to a classified road **or on land that is adjacent to a public road less than 90m from the junction with a classified road, and**
  - (c) **must be set back at least 15m from a public road, and**
  - (d) must not have a footprint greater than 4m<sup>2</sup>, and
  - (e) a car parking area must be provided in close proximity to the road side stall or that part of the land used for the stall, and**
  - (f) must not involve the clearing of vegetation, and**
  - (g) must be associated with primary production activities occurring on the subject land, and**
  - (h) must not require cut or fill more than 600mm below or above ground level (existing). and**
  - (i) must not have a roof height greater than 2.4m, and**
  - (j) must not be located on bush fire prone land**
- (3) No more than 1 roadside stall may be used on any landholding.
- (4) Any relevant approval issued under the Roads Act 1993 must be obtained.
- (5) Byron Council must be notified in writing of the Roadside stalls construction**
- (6) Maximum of three signs advertising the Roadside stall on any landholding -**
- (a) must be located one at either side of boundary and one at entrance to the property**
  - (b) each sign must not exceed 0.3m<sup>2</sup>**
  - (c) each sign must not be higher than 1m above existing ground level**
  - (d) each sign must be located wholly within the private property boundaries**
  - (e) signage must not obscure the line of sight of vehicles entering and exiting the property.**

## ITEM 6

If Artisan food and drink industry is included as a permissible use in the RU2 and RU1 zones then Clause **6.8 Rural and nature-based tourism development** also needs to be amended to include Artisan food and drink industry as a use which is also a type of tourist development.

At present Clause 6.8 includes the following uses as types of tourist development

- (a) bed and breakfast accommodation,
- (b) camping grounds,
- (c) farm stay accommodation,
- (d) eco-tourist facilities,
- (e) home industries that provide services, or the sale of goods, on site to visitors,
- (f) information and education facilities,
- (g) restaurants or cafes,
- (h) rural industries that provide services, or the sale of goods, on site to visitors.

Artisan food and drink industry needs to be included on this list as a point (i)

The list also needs to be expanded to include **function centres** as permitted under Clause 6.11 as a point (j)

The list also needs to be expanded to include all **tourist and visitor accommodation** not just bed and breakfast accommodation and farm stay accommodation as currently listed.



The list also needs to be expanded to include **recreation facilities**

The list also needs to be expanded to include **environmental facilities**



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Rural sub-division Development Application where the original Lot is below the minimum Lot size under the Byron LEP 1988

#### **Approved Development Application**

1. Development Application (10.2003.114.1) Two (2) lot Rural Subdivision creating lots at approx 23ha & 13ha. Goremans Rd, Eureka 2480 NSW (LOT: 21 DP: 612192)
2. Development Application (10.2003.350.1) Rural subdivision to create 3 lots of approx 20.6ha, 1.4ha and 0.2ha Rural subdivision to create 3 lots of approx 20.6ha, 1.4ha and 0.2ha. 1418 Main Arm Rd, Mullumbimby 2482 NSW (LOT: 2 DP: 253175), 1425 Main Arm Rd, Mullumbimby 2482 NSW (LOT: 10 DP: 606785), 1436 Main Arm Rd, Mullumbimby 2482 NSW (LOT: 1 DP: 45967)
3. Development Application (10.2003.366.1) Rural subdivision to create 2 lots of approximately 1ha and 0.6ha. 50 Plantation Drv, Ewingsdale 2481 NSW (LOT: 2 DP: 747394)
4. Development Application (10.2003.618.1) Rural subdivision to create two (2) lots of approx 56ha & 4ha. 256 Midgen Flat Rd, Newrybar 2479 NSW (PT: 336 DP: 755695)
5. Development Application (10.2010.502.1) Rural subdivision (2 lots). 186 Eureka Rd, Eureka 2480 NSW (LOT: 10 DP: 135006)
6. Development Application (10.2006.737.1) Rural subdivision to create three (3) lots. 229 Eureka Rd, Eureka 2480 NSW (LOT: 1 DP: 117947)
7. Development Application (10.2006.296.1) Rural subdivision to create 2 lots of approximately 2.526ha and 1.952h. 33 Mafeking Rd, Goonengerry 2482 NSW (LOT: 1 DP: 578938)
8. Development Application (10.2005.146.1) Rural subdivision to create two lots of approximately 35ha & 36.1ha and conversion of a rural worker's dwelling to a standard dwelling-house. 454 Coopers Shoot Rd, Coopers Shoot 2479 NSW (LOT: 9 DP: 605811)
9. Development Application (10.2004.384.1) Rural Subdivision to create 2 lots of approximately 27.12ha & 109.91ha. 760 Booyong Rd, Booyong 2480 NSW (LOT: 1 DP: 123428) 813 Booyong Rd, Booyong 2480 NSW (LOT: 1 DP: 122689)
10. Development Application (10.2004.145.1) Rural subdivision to create 2 lots of approx. 23ha and 32ha. 33 Eureka Rd, Clunes 2480 NSW (LOT: 21 DP: 851343)
11. Development Application (10.2013.124.1) Rural subdivision to create 2 lots and unification of previous approvals that create 3 lots (resulting in 5 lots in total). 409 Bangalow Rd, Hayters Hill 2481 NSW (PT: 7 DP: 1125308) 436 Bangalow Rd, Hayters Hill 2481 NSW (LOT: 7 DP: 1125308) 483 Bangalow Rd, Talofa 2481 NSW (LOT: 60 SEC: DP: 1139399)
12. Development Application (10.2012.324.1) Rural subdivision to create two lots (Inc SEPP 1). 345 St Helena Rd, Mcleods Shoot 2479 NSW (LOT: 2 DP: 1135516)

#### **Development Applications Approved by the land and Environment Court**

1. **Stoneman v Byron Shire Council [2011] NSWLEC 1089**
2. **White v Byron Shire Council [2010] NSWLEC 1343**

## Fomer Byron LEP 1988 provision

Subdivision in rural areas for certain other purposes

12.

(3) The council may consent to the subdivision of land within Zone .....

where the area of each allotment to be created by the subdivision is not less than 13 hectares.

(4) In deciding whether to grant consent referred to in subclause (3), the matters which the council must take into consideration are-

(a) the area and quality of the land and its potential agricultural productivity;

(b) the likely effects, both economic and otherwise, that the proposed subdivision will have on agricultural industries in the area and the resources employed by or in connection with those industries;

(c) the likely effects, both economic and otherwise, that the proposed subdivision will have on the use and development of other land and resources in the area;

(d) whether there are any reasonable alternatives to the proposed subdivision in the circumstances;

(e) the effect of the existence of, or potential to erect, a dwelling;

(f) the cumulative effect of similar proposals if concurrence is granted;

(g) the likelihood of the proposed allotments remaining available for agricultural use; and

(h) the adequacy of the water supply to the proposed allotments.

## NSW Land Registry Services

### Register General's Guidelines

## Lease of Land

A lease may be registered affecting whole or part of a current parcel.

If it is intended to lease a piece of land that comprises part of a current parcel, the site must be defined in either a

deposited plan or a compiled sketch plan annexed to the lease. Any compiled plan must comply with the Registrar General's

compiled plan policy.

The requirements for the plan and the associated lease document will depend on the length of the total term of the lease.

The total term is the combination of the original term plus any option of renewal period. There are two periods to consider:

- total term of 5 years or less, or
- total term of more than 5 years.

### Total term of 5 years or less

When the lease affects the whole of a lot in a current plan - the body of the lease will simply identify the area to be leased

by reference to the lot and deposited plan number. A new plan is not required.

When the lease affects part of a lot or lots in a current plan - it will be necessary to provide a plan to define the land in the

lease. The description in the body of the lease should adequately define the land by reference to:

- the unique way in which the land is designated in the plan, and
- the plan used to define the boundary of the land being leased.

#### Examples

- '... being part of the land in common property in Strata Scheme No. , situated at 345 Schemes Road, Strataville, hatched and designated A in the plan annexed to .... ', or
- '... being the part shown in Lot...DP....'

A plan used to define the part of the lot or lots in the current plan should comply with one of the following:

- a plan of compilation **(not survey)** [annexed to the lease](#).
- a plan of survey lodged as a deposited plan, where:
  - the plan must comply with normal plan preparation and lodgment requirements
  - the heading should state 'Plan of Part of Lot.....for lease purposes'
  - the plan purposes will be 'LEASE'
  - no residue lot will be shown
  - normal survey plan requirements must be adopted, or
- a plan which has already been lodged in NSW LRS and complies with one of the above standards.

### Subdivision consent not required

A lease with a total term of 5 years or less does not constitute a subdivision in terms of Section 4B of the Environmental

Planning & Assessment Act 1979. [see s.7A(3) Conveyancing Act 1919]. Consequently subdivision consent is not required.

However, any deposited plan for a lease with a total term of 5 years or less should bear a statement on the Administration

Sheet e.g:

**THIS PLAN IS ONLY AVAILABLE TO DEFINE LAND FOR LEASE PURPOSES WHERE THE TERM PLUS ANY**

**OPTION FOR RENEWAL IS 5 YEARS OR LESS.**

**IT IS NOT AVAILABLE FOR SUBDIVISION OR TITLE ISSUE PURPOSES.**

## Easements created by inclusion in a lease

Section 47(2)&(3) Real Property Act 1900 provides for the grant or reservation of an easement by a lease. The lessor must

be the registered proprietor of the servient tenement (land burdened) in the case of a grant of easement, or of the

dominant tenement (land benefited) in the case of a reservation of easement. The reservation of an easement in favour of

a third party is not authorised by s.47(3) Real Property Act 1900.

The approved Form of Lease [Form 07L](#) (PDF 234 KB) should be used, accompanied by an annexure stating all references

to title affected by the easement and a plan (for which the prescribed fee is payable) setting out the terms and the site.

The easement to be created must be included in the property leased panel of the lease form.

All relevant certificates of title should be lodged with the lease.

The easement will cease once the lease is terminated.

## Total term for more than five years

A lease of land creates a subdivision under s.7A Conveyancing Act 1919 (formerly s.327AA Local Government Act 1919 now

repealed) when the total of the original term of the lease, together with any option of renewal, is more than five years.

When the lease affects the whole of a lot in a current plan - the body of the lease will simply identify the area to be leased

by reference to the lot and deposited plan number. A new plan is not required.

When the lease affects part of a lot or lots in a current plan - it will be necessary to provide a plan to define the land in the lease and the residue of any lot in a current plan affected by the leased area.

The plan must:

- be a deposited plan of subdivision
- bear a completed [subdivision certificate](#) and
- be a survey, complying with the normal requirements for plan preparation and lodgment.

Alternatively, the lease may refer to a plan which has already been lodged in NSW LRS and complies with the above standards.

**Note** A sub-lease with a term greater than five years will constitute a subdivision, even if the head lease affects the entirety of the parcel.

## Byron LEP

### 4.1C Minimum subdivision lot size for boundary adjustments in certain rural and residential zones

(1) The objectives of this clause are as follows—

(a) to permit boundary adjustment subdivision between existing lots in rural areas where one or more of the resulting lots would be less than the minimum subdivision lot size,

(b) to ensure that the subdivision does not create additional lots or additional opportunities for dwelling houses,

(c) to ensure that the boundary adjustment subdivision will result in—

(i) a minimisation of further fragmentation and alienation of resource lands or lands with natural or ecological values,

(ii) the minimisation of land use conflict,

(iii) the maintenance of the rural character, environmental heritage and/or scenic quality of the land.

(2) This clause applies to land in the following zones—

(a) Zone RU1 Primary Production,

(b) Zone RU2 Rural Landscape,

(c) Zone R5 Large Lot Residential.

(3) Despite clause 4.1, development consent may be granted for a subdivision that consists of an adjustment of boundaries between existing lots where the size of one or more of the resulting lots will be less than the minimum subdivision lot size shown on the Lot Size Map in relation to those lots, if—

(a) the subdivision will not result in the creation of any additional lots or the opportunity for additional dwellings (or both),  
and

(b) the subdivision will minimise the further fragmentation and alienation of resource lands or lands with natural and ecological values, and

(c) the subdivision is likely to minimise actual or potential land use conflict, and

(d) the subdivision is not likely to affect the rural character, environmental heritage and scenic quality of the land.

## Clarence Valley LEP

### 4.1B Boundary adjustments between lots in certain rural, residential and environment protection zones

(1) The objective of this clause is to permit boundary adjustments between 2 or more lots where one or more of those lots is less than the minimum lot size shown on the Lot Size Map in relation to that land.

(2) This clause applies to land in the following zones—

- (a) Zone RU1 Primary Production,
- (b) Zone RU2 Rural Landscape,
- (c) Zone R5 Large Lot Residential,
- (d) Zone E2 Environmental Conservation,
- (e) Zone E3 Environmental Management.

(3) Despite clause 4.1, development consent may be granted for the subdivision of land to which this clause applies by way of an adjustment of boundaries between adjoining lots where the size of at least one of the adjoining lots is less than the minimum lot size shown on the Lot Size Map in relation to the land if the consent authority is satisfied that the subdivision will not result in—

(a) an increase in the number of lots, or

(b) an increase in the number of lots that have an area that is less than the minimum size shown on the Lot Size Map in relation to that land, or

(c) an increase in the number of dwellings or opportunities for dwellings on each lot.

(4) In determining whether to grant development consent for the subdivision of land under this clause, the consent authority must consider the following—

(a) if the land is in a rural zone—whether or not the subdivision is likely to have an adverse impact on the agricultural viability of the land,

(b) whether or not the subdivision is likely to increase the potential for land use conflict,

(c) whether or not the subdivision is appropriate having regard to the natural and physical constraints affecting the land,

(d) whether or not the subdivision is likely to have an adverse impact on the environmental values of the land.

## Richmond Valley

### 4.2C Exceptions to minimum subdivision lot size for lot boundary adjustments

(1) The objective of this clause is to permit lot boundary adjustments of land in Zone RU1 Primary Production or Zone E3 Environmental Management, which will provide improved agricultural or environmental outcomes without creating additional opportunities for the erection of dwellings.

(2) This clause applies to land in the following zones—

- (a) Zone RU1 Primary Production,
- (b) Zone E3 Environmental Management.

(3) Development consent may be granted for the subdivision of land to which this clause applies to create a lot of a size that is less than the minimum size shown on the Lot Size Map in relation to that land if the consent authority is satisfied that—

- (a) the subdivision will not result in the creation of, or the opportunity to create, additional lots, and
- (b) the subdivision will not result in the creation of, or the opportunity to create, additional dwelling entitlements on any of the lots, and
- (c) the subdivision will not adversely impact on the long-term agricultural production potential or environmental characteristics of the lots and the surrounding locality.

## **Armidale Dumaresq LEP**

### **4.1E Exceptions to minimum subdivision lot size for boundary adjustments**

- (1) The objective of this clause is to permit the boundary between 2 or more lots to be altered in certain circumstances, to give landowners a greater opportunity to achieve the objectives of a zone.
- (2) This clause applies to land in the following zones—
  - (a) Zone RU1 Primary Production,
  - (b) Zone RU4 Primary Production Small Lots,
  - (c) Zone R5 Large Lot Residential,
  - (d) Zone E3 Environmental Management,
  - (e) Zone E4 Environmental Living.
- (3) Despite clause 4.1 (3), development consent may be granted to the subdivision of 2 or more adjoining lots, being land to which this clause applies, if the consent authority is satisfied that the subdivision—
  - (a) will not result in an increase in the number of lots, and
  - (b) will not result in an increase in the number of dwellings on, or dwellings that may be erected on, any of the lots, and
  - (c) will not adversely impact on the long-term agricultural production potential or environmental values of the lots and the surrounding locality.
- (4) In determining whether to grant development consent for the subdivision of land under this clause, the consent authority must consider the following—
  - (a) the existing uses and approved uses of other land in the vicinity of the subdivision,
  - (b) whether or not the subdivision is likely to have a significant impact on land uses that are likely to be preferred and the predominant land uses in the vicinity of the development,
  - (c) whether or not the subdivision is likely to be incompatible with a use referred to in paragraph (a) or (b),
  - (d) whether or not the subdivision is likely to be incompatible with a use of land in any adjoining zone,
  - (e) any measures proposed by the applicant to avoid or minimise any incompatibility referred to in paragraph (c) or (d),
  - (f) whether or not the subdivision is appropriate having regard to the natural and physical constraints affecting the land,
  - (g) whether or not the subdivision is likely to have an adverse impact on the environmental values or agricultural viability of the land.



(5) This clause does not apply in relation to a subdivision under the Community Land Development Act 1989, the Strata Schemes (Freehold Development) Act 1973 or the Strata Schemes (Leasehold Development) Act 1986.

## **Bega LEP**

### **4.2E Exceptions to minimum subdivision lot size for boundary adjustments**

(1) The objective of this clause is to permit the boundary between 2 or more lots to be **altered** in certain circumstances, to give landowners a greater opportunity to achieve the objectives of a zone.

(2) Despite clause 4.1, development consent may be granted to the subdivision of 2 or more adjoining lots where one or more lots do not meet the minimum lot size shown on the Lot Size Map if the consent authority is satisfied that the subdivision will not result in any of the following—

- (a) an increase in the number of lots,
- (b) an increase in the number of dwellings that may be erected on any of the lots,
- (c) increased potential for land use conflicts.

(3) In determining whether to grant development consent for the subdivision of land under this clause, the consent authority must consider the following—

- (a) whether or not the development is likely to maintain or improve the environmental values and agricultural viability of the land,
- (b) the potential impact on the natural and physical constraints affecting the land, taking into account the long-term maintenance, management and protection of the land,
- (c) the compatibility with existing or potential land uses and measures that are deemed necessary to avoid or minimise any potential for land use conflicts.

(4) This clause does not apply in relation to a subdivision under the Community Land Development Act 1989, the Strata Schemes (Freehold Development) Act 1973 or the Strata Schemes (Leasehold Development) Act 1986.

## **Guyra LEP**

### **4.2C Boundary adjustments in Zone RU1**

(1) The objective of this clause is to permit the boundary between 2 or more lots to be adjusted in certain circumstances to give landowners a greater opportunity to achieve the objectives of a zone.

(2) Despite clause 4.1(3), development consent may be granted to the subdivision of 2 or more adjoining lots being land in Zone RU1 Primary Production if the subdivision will not result in—

- (a) an increase in the number of lots, or
- (b) an increase in the number of dwellings on, or dwellings that may be erected on, any of the lots.

(3) In determining whether to grant development consent for the subdivision of land under this clause, the consent authority must consider the following—

- (a) the existing uses and approved uses of other land in the vicinity of the subdivision,
- (b) whether or not the subdivision is likely to have a significant impact on land uses that are likely to be preferred and the predominant land uses in the vicinity of the subdivision,
- (c) whether or not the subdivision is likely to be incompatible with a use referred to in paragraph (a) or (b),

- (d) whether or not the subdivision is likely to be incompatible with a use on land in any adjoining zone,
  - (e) any measures proposed by the applicant to avoid or minimise any incompatibility referred to in paragraph (c) or (d),
  - (f) whether or not the subdivision is appropriate having regard to the natural and physical constraints affecting the land,
  - (g) whether or not the subdivision is likely to have an adverse impact on the environmental values, heritage vistas or landscapes or agricultural viability of the land.
- (4) This clause does not apply in relation to the subdivision of individual lots in a strata plan or a community title scheme.

## **Inverell LEP**

### **4.1E Boundary changes between lots in Zone RU1**

- (1) The objective of this clause is to permit the boundary between 2 or more lots to **be altered** in certain circumstances, to give landowners a greater opportunity to achieve the objectives of a zone.
- (2) This clause applies to land in Zone RU1 Primary Production.
- (3) Despite clause 4.1 (3), the size of any lot resulting from a subdivision of 2 or more adjoining lots, on land to which this clause applies, may be less than the minimum lot size shown on the Lot Size Map in relation to that land if the subdivision will not result in any of the following—
- (a) an increase in the number of lots,
  - (b) an increase in the number of dwellings that may be erected on any of the lots.
- (4) In determining whether or not to grant development consent for the subdivision of land under this clause, the consent authority must consider the following—
- (a) the existing uses and approved uses of other land in the vicinity of the subdivision,
  - (b) whether or not the subdivision is likely to have a significant impact on land uses that are likely to be preferred and the predominant land uses in the vicinity of the development,
  - (c) whether or not the subdivision is likely to be incompatible with a use referred to in paragraph (a) or (b),
  - (d) whether or not the subdivision is likely to be incompatible with a use on land in any adjoining zone,
  - (e) any measures proposed by the applicant to avoid or minimise any incompatibility referred to in paragraph (c) or (d),
  - (f) whether or not the subdivision is appropriate having regard to the natural and physical constraints affecting the land,
  - (g) whether or not the subdivision is likely to have an adverse impact on the environmental values or agricultural viability of the land.
- (5) This clause does not apply in relation to a subdivision under the Community Land Development Act 1989, the Strata Schemes (Freehold Development) Act 1973 or the Strata Schemes (Leasehold Development) Act 1986.

## **Murray LEP**

### **4.2D Boundary adjustments in Zones RU1 and E3**

(1) The objective of this clause is to facilitate boundary adjustments between lots where one or more of the lots created do not meet the minimum lot size shown on the Lot Size Map in relation to the land but the objectives of the relevant zone can be achieved.

(2) This clause applies to land in the following zones—

- (a) Zone RU1 Primary Production,
- (b) Zone E3 Environmental Management.

(3) Despite clause 4.1, development consent may be granted to subdivide land to which this clause applies by way of a boundary adjustment between adjoining lots where one or more of the lots created by the subdivision do not meet the minimum lot size shown on the Lot Size Map in relation to that land, if the consent authority is satisfied that—

- (a) the subdivision will not create additional lots, and
- (b) the number of dwelling houses or opportunities for dwelling houses on each lot after the subdivision will remain the same as before the subdivision, and
- (c) the potential for land use conflict will not be increased as a result of the subdivision, and
- (d) if the land is in Zone RU1 Primary Production—the subdivision will not have a significant adverse effect on the agricultural viability of the land, and
- (e) if the land is in Zone E3 Environmental Management—the subdivision will result in the continued protection and long-term maintenance of the land, and
- (f) the subdivision will not result in any increased bush fire risk to existing buildings.

(4) In determining a development application for the subdivision of land under this clause, the consent authority must consider the following—

- (a) the existing uses and approved uses of other land in the vicinity of the subdivision,
- (b) whether the subdivision is likely to have a significant impact on land uses that are likely to be preferred and the predominant land uses in the vicinity of the development,
- (c) whether the subdivision is likely to be incompatible with a land use on any adjoining land,
- (d) whether the subdivision is appropriate having regard to the natural and physical constraints affecting the land,
- (e) whether the subdivision is likely to have a significant adverse impact on the environmental values of the land.

(5) This clause does not apply—

- (a) in relation to the subdivision of lots in a strata plan or community title scheme, or
- (b) if the subdivision would create a lot that could itself be subdivided in accordance with clause 4.1.

## **Nambucca LEP**

### **4.1C Boundary changes between lots in certain rural, residential and environment protection zones**

(1) The objective of this clause is to permit the boundary between 2 or more lots to be **altered** in certain circumstances, to give landowners a greater opportunity to achieve the objectives of the zone.

(2) This clause applies to land in any of the following zones—

- (a) Zone RU1 Primary Production,
- (b) Zone RU2 Rural Landscape,
- (c) Zone RU3 Forestry,
- (d) Zone R5 Large Lot Residential,
- (e) Zone E1 National Parks and Nature Reserves,
- (f) Zone E2 Environmental Conservation,
- (g) Zone E3 Environmental Management.

(3) Despite clause 4.1 (3), development consent may be granted to the subdivision of 2 or more adjoining lots, being land to which this clause applies, if the subdivision will not result in any of the following—

- (a) an increase in the number of lots,
- (b) an increase in the number of dwellings on, or dwellings that may be erected on, any of the lots.

(4) In deciding whether to grant development consent for the subdivision of land under this clause, the consent authority must consider the following—

- (a) the existing uses and approved uses of other land in the vicinity of the subdivision,
- (b) whether or not the subdivision is likely to have a significant impact on land uses that are likely to be preferred and the predominant land uses in the vicinity of the development,
- (c) whether or not the subdivision is likely to be incompatible with a use referred to in paragraph (a) or (b),
- (d) whether or not the subdivision is likely to be incompatible with a use on land in an adjoining zone,
- (e) any measure proposed by the applicant to avoid or minimise any incompatibility referred to in paragraph (c) or (d),
- (f) whether or not the subdivision is appropriate having regard to the natural and physical constraints affecting the land,
- (g) whether or not the subdivision is likely to have an adverse impact on the environmental values or agricultural viability of the land.

(5) This clause does not apply—

- (a) in relation to the subdivision of individual lots in a strata plan or a community title scheme, or
- (b) if the subdivision would create a lot that could itself be subdivided in accordance with clause 4.1.

## **Narrabri LEP**

### **4.1C Boundary adjustments of land in certain zones**

(1) The objective of this clause is to facilitate boundary adjustments between lots if the adjustment will result in the lot size of one or more of the lots being less than the minimum lot size shown on the Lot Size Map in relation to that land and the objectives of the relevant zone can be achieved.

(2) This clause applies to land in the following zones—

- (a) Zone RU1 Primary Production,

- (b) Zone RU3 Forestry,
- (c) Zone RU4 Primary Production Small Lots,
- (d) Zone R5 Large Lot Residential,
- (e) Zone E3 Environmental Management.

(3) Despite clause 4.1, development consent may be granted to subdivide land by adjusting the boundary between adjoining lots if one or more resultant lots do not meet the minimum lot size shown on the Lot Size Map in relation to that land, and the consent authority is satisfied that—

- (a) the subdivision will not create additional lots or the opportunity for additional dwellings, and
- (b) the number of dwellings or opportunities for dwellings on each lot after the subdivision will be the same as before the subdivision, and
- (c) the potential for land use conflict will not be increased as a result of the subdivision.

## **Tenterfield LEP**

### **4.2F Exceptions to minimum subdivision lot size for lot boundary adjustments**

(1) The objective of this clause is to permit lot boundary adjustments of land in Zone RU1 Primary Production, which will provide improved agricultural or environmental outcomes without creating additional opportunities for the erection of dwellings.

(2) Development consent may be granted for the subdivision of land in Zone RU1 Primary Production to create a lot of a size that is less than the minimum size shown on the Lot Size Map in relation to that land if the consent authority is satisfied that—

- (a) the subdivision will not result in the creation of an additional lot or the opportunity for additional dwelling entitlements on any of the lots, and
- (b) the subdivision will not adversely impact on the long-term agricultural production potential or environmental characteristics of the lots and the surrounding locality.

## **Tumut LEP**

### **4.2C Boundary adjustments of land in certain zones**

(1) The objective of this clause is to facilitate boundary adjustments between lots if the adjustment will result in the lot size of one or more of the lots being less than the minimum lot size shown on the Lot Size Map in relation to that land and the objectives of the relevant zone can be achieved.

(2) This clause applies to land in the following zones—

- (a) Zone RU1 Primary Production,
- (b) Zone RU3 Forestry,
- (c) Zone RU4 Primary Production Small Lots,
- (d) Zone R5 Large Lot Residential.

(3) Despite clause 4.1, development consent may be granted to subdivide land by adjusting the boundary between adjoining lots if one or more resultant lots do not meet the minimum lot size shown on the Lot Size Map in relation to that land, and the consent authority is satisfied that—

- (a) the subdivision will not create additional lots or the opportunity for additional dwellings, and

(b) the number of dwellings or opportunities for dwellings on each lot after the subdivision will be the same as before the subdivision, and

(c) the potential for land use conflict will not be increased as a result of the subdivision.

## **Walcha LEP**

### **4.2D Boundary adjustments in certain rural zones**

(1) The objective of this clause is to permit the boundary between 2 or more lots to be **altered** in certain circumstances to give landowners a greater opportunity to achieve the objectives for development in a zone.

(2) This clause applies to land in the following zones—

(a) Zone RU1 Primary Production,

(b) Zone RU4 Primary Production Small Lots.

(3) Despite clause 4.1 (3), development consent may be granted to the subdivision of 2 or more adjoining lots, being land to which this clause applies, if the subdivision will not result in any of the following—

(a) an increase in the number of lots,

(b) an increase in the number of dwellings on, or dwellings that may be erected on, any of the lots.

(4) Before determining a development application for the subdivision of land under this clause, the consent authority must consider the following—

(a) the existing uses and approved uses of other land in the vicinity of the subdivision,

(b) whether or not the subdivision is likely to have a significant impact on land uses that are likely to be preferred and the predominant land uses in the vicinity of the development,

(c) whether or not the subdivision is likely to be incompatible with a use referred to in paragraph (a) or (b),

(d) whether or not the subdivision is likely to be incompatible with a use of land in any adjoining zone,

(e) any measures proposed by the applicant to avoid or minimise any incompatibility referred to in paragraph (c) or (d),

(f) whether or not the subdivision is appropriate having regard to the natural and physical constraints affecting the land,

(g) whether or not the subdivision is likely to have an adverse impact on the environmental values or agricultural viability of the land.

(5) This clause does not apply—

(a) in relation to the subdivision of individual lots in a strata plan or a community title scheme, or

(b) if the subdivision would create a lot that could itself be subdivided in accordance with clause 4.1.

## **Shoalhaven LEP**

### **4.1G Minimum subdivision lot size for boundary adjustments**

(1) The objectives of this clause are as follows—

(a) to permit boundary adjustment subdivision between existing lots where one or more of the resulting lots would be less than the minimum subdivision lot size,

(b) to ensure that the subdivision does not create additional lots or additional opportunities for dwelling houses,

(c) to ensure that the boundary adjustment subdivision will result in—

(i) a minimisation of further fragmentation and alienation of resource lands or lands with natural or ecological values,

(ii) the minimisation of land use conflict,

(iii) the maintenance of the rural character, environmental heritage and scenic quality of the land.

(2) This clause applies to the following land at Worrigea—

(a) 15 Aldous Place, being Lot 2, DP 1213693,

(b) 23A Aldous Place, being Lot 586, DP 1048099,

(c) 369 Worrigea Road, being Lot 587, DP 1048099.

(2A) This clause also applies to the following land—

(a) 16A Appleberry Close, Bomaderry, being Lot 21, DP 1113675,

(b) 16B Appleberry Close, Bomaderry, being Lot 22, DP 1113675,

(c) 1095 Meroo Road, Meroo Meadow, being Lot 202, DP 1180659.

(3) Despite clause 4.1, development consent may be granted for a subdivision that consists of an adjustment of boundaries between existing lots where the size of one or more of the resulting lots will be less than the minimum subdivision lot size shown on the Lot Size Map in relation to those lots, if—

(a) the subdivision will not result in the creation of any additional lots or the opportunity for additional dwellings (or both),  
and

(b) the subdivision will minimise the further fragmentation and alienation of resource lands or lands with natural and ecological values, and

(c) the subdivision is likely to minimise actual or potential land use conflict, and

(d) the subdivision is not likely to adversely affect the rural character, environmental heritage or scenic quality of the land,  
and

(e) in the case of land referred to in subclause (2A)—at least 1 of the resulting lots has an area greater than 37.1 hectares and does not include any land in Zone R1 General Residential.

#### 4.2G Boundary adjustments of land in certain rural and environment protection zones

(1) The objective of this clause is to facilitate boundary adjustments between lots where one or more resultant lots do not meet the minimum lot size shown on the Lot Size Map in relation to that land but the objectives of the relevant zone can be achieved.

(2) This clause applies to land in any of the following zones—

(a) Zone RU1 Primary Production,

(b) Zone RU2 Rural Landscape,

(c) Zone E2 Environmental Conservation,

(d) Zone E3 Environmental Management.

(3) Despite clause 4.1, development consent may be granted to subdivide land by way of a boundary adjustment between adjoining lots where one or more resultant lots do not meet the minimum lot size shown on the Lot Size Map in relation to that land if the consent authority is satisfied that—

(a) the subdivision will not create additional lots or the opportunity for additional dwellings, and

(b) the number of dwellings or opportunities for dwellings on each lot after the subdivision will be the same as before the subdivision, and

(c) the potential for land use conflict will not be increased as a result of the subdivision, and

(d) the subdivision will not result in any increased bush fire risk to existing buildings, and

(e) if the land is in Zone RU1 Primary Production or Zone RU2 Rural Landscape, the agricultural viability of the land will not be adversely affected as a result of the subdivision.

(4) The consent authority must not grant development consent under this clause unless a dwelling was permissible under this Plan on each lot immediately before the subdivision.

(5) Before granting development consent to development to which this clause applies, the consent authority must—

(a) be satisfied that the subdivision will not compromise the continued protection and long-term maintenance of any land in Zone E2 Environmental Conservation or Zone E3 Environmental Management, and

(b) consider the effect of the boundary adjustment on vegetation corridors and riparian corridors.



## BYRON RURAL LAND USE STRATEGY 2019

### 3.2 Our Rural Economy

Our rural economy is underpinned by a range of agricultural and tourism-related activities. Through the Community Feedback 2015, we heard that the community embraces sustainable practices that complement the locational advantages of our agricultural and tourism industries. The feedback also recognised the need to ensure tourist and visitor opportunities are compatible with our farms, rural communities and natural environment. Council acknowledges that, for our farmers and other rural entrepreneurs to succeed, the development framework should support our existing strengths and emerging opportunities. The policy framework within which Council works has a number of adopted strategies that inform decisions about our rural economy. Please refer to Figure 2 for a list of these strategies.

#### Policy Directions for Our Rural Economy

In response to the above, Council has adopted the following planning policy directions to enable a more secure, diverse and viable agricultural industry as well as encouraging compatible and ecologically sustainable rural tourism.

1. Future rural development will avoid identified state or regionally significant farmland
2. Future rural development will be located to ensure the protection of existing agricultural land uses and to protect viability of high quality agricultural land.
3. The planning framework will encourage a viable and diverse agricultural industry through appropriate zoning provisions, allotment size and buffers.
4. The planning framework will provide flexibility for our farmers to diversify their income sources where ancillary to farming operations.
5. Future rural tourist development will build on and complement our agricultural industry, reinforcing the predominant use of the rural area for agricultural production while maintaining the rural character and take into consideration increased road traffic impacts.
6. Future rural tourist development will be located and designed to avoid adverse visual or noise impacts.
7. The planning framework will encourage rural based tourism that is committed to the use of ecologically sustainable management practices.

To deliver these policy directions, the following actions have been identified for our rural economy. Readers are encouraged to refer to Byron Shire Rural Land Use Strategy

#### Table 2: Rural economy actions

##### Research

Improve Council's data base on:

- commercial and sub-commercial farmland activities, farm linkages and key transport routes
- farms that incorporate value adding and/or diversification activities
- farms that are part of formal lease or share agreements
- rural tourism activities
- spatial accuracy of property and zone boundaries.

Involve the community in providing data through the commercial 'farmland' rating application process

##### Planning Improvements

Identify opportunities in our local planning framework to support and strengthen:

- existing agricultural activities
- diversified farm production
- farm linkages
- greater access to land for farming
- small and home-based business activities that bring community benefit, complement rural productivity and align with the rural amenity
- public spaces in our villages to be used for cultural activities
- low scale rural tourism opportunities, particularly those directly associated with primary production and / or improved conservation outcomes.

Review guidelines for agricultural and non agricultural uses to better manage potential impacts relating

to:

- natural resources including biodiversity, fertile land and water
- farm production and economic viability
- use of key haulage and stock droving routes, equipment between farms and traffic flow increases

• farm linkages

- divergent land owner expectations
- needs of emergency management and disaster preparedness
- the siting, design and function of buffers
- rural amenity and visual impacts

Resolve mapping inconsistencies between property and zone boundaries.

Investigate the potential for allowing 'wedding venues' (and other types of function centres) in rural zones and where appropriate, planning provisions to ensure their location, scale and operation are compatible with the rural setting.

### **On-ground Improvements**

Continue to improve capacity for rural roads to be used in connection with farming operations such as stock droving.

Consider Site Suitability Criteria and Mapping Methodology when determining the suitability of a site for

rural tourism development.

### **Partnership Building**

Provide information and advice on how to:

- manage weeds, disease and pests
- capture and use water sustainably
- sustainably farm.

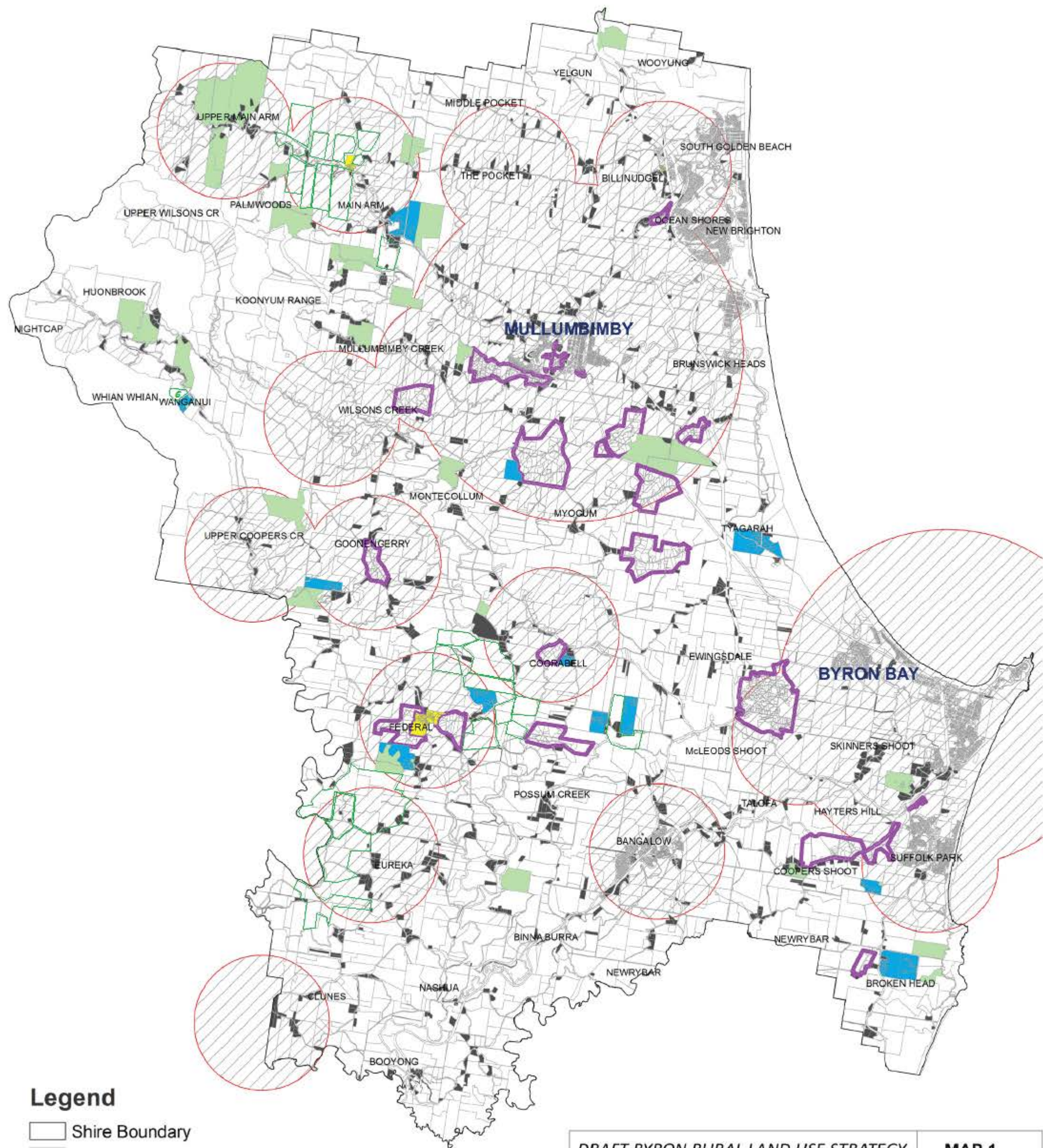
Work with land owners of vacant or underused farm land that want to connect with potential producers.

Investigate opportunities for Council to partner with the community to ensure a long term future of agriculture in the Shire.





Map 1 – Existing Rural Settlement Pattern





Recommended NEW Clause 4.2B in the Byron LEP 2014 to amend the existing Clause.

Recommendation by Community Alliance for Byron Shire

**4.2B Maximum number of dwelling houses or dual occupancies (attached) on multiple occupancy or rural landsharing community developments**

(1) The objectives of the clause are as follows:

(a) to permit—

- (i) people to collectively own a single lot of land and use it as their principal place of residence, and
  - (ii) the erection of multiple dwellings on the lot and the sharing of facilities and resources, and
  - (iii) the collective environmental repair and management of the lot, and
  - (iv) the pooling of resources to economically develop a wide range of communal rural living opportunities,
- (b) to facilitate closer rural settlement in a clustered style in a manner that—
- (i) protects and enhances the collective environment attributes of the lot, and
  - (ii) does not create any unreasonable demand for the provision of infrastructure or services or any unreasonable demand for the uneconomic provision of infrastructure or services.

(2) This clause applies to:

(a) a lot if any part of the lot is in an area that is identified on the Multiple Occupancy and Community Title Map.

(b) a lot if any part of the lot has an existing approval for Multiple Occupancy or Community Title development.

(c) a lot if:

- (i) it has an area of at least 10 hectares, and
- (ii) the part of the lot on which the development is to be situated does not have a slope in excess of 18 degrees, and
- (iii) it is within 5 kilometres (by road) of services, including a high school, shops and community facilities, and
- (iv) adequate vehicular access is provided to the lot from an arterial, sub-arterial or collector road, and
- (v) the part of the lot on which the development is to be situated is not environmentally sensitive, and
- (vi) no more than 25% of the lot is prime crop and pasture land and no building containing a dwelling will be on any such land, and
- (vii) no building will be on land that is a wildlife refuge, wildlife corridor or wildlife management area and the development will not adversely affect any such land, and
- (viii) the development will not include a camping ground, caravan park, eco-tourist facility or tourist and visitor accommodation, except where otherwise permissible on the land,

(3) Development may be carried out with consent for the erection of more than one dwelling house or dual occupancy (attached) on such a lot provided that:

(a) if there is a number shown for that lot on the Multiple Occupancy and Community Title Map—the total number of dwellings on the lot will not exceed the greater of,

- the number marked for that lot on that Map, or
- the number of dwellings permitted by subclause (4) (rounded up or down in accordance with subclause (5)), or

(b) if there is no number shown for that lot on that Map or the lot does not appear on the map—there will not be less than 3 dwellings, and the number of dwellings will not exceed

the number of dwellings permitted by subclause (4) (rounded up or down in accordance with subclause (5)), and

(c) the consent authority is satisfied that the proposed dwellings are designed to reasonably accommodate a maximum of the number of people calculated by multiplying the number of dwellings permitted by subclause (4) (rounded up or down in accordance with subclause (5)) by 6.

(4) Despite subclause (3), development consent must not be granted to development on a lot to which this clause applies that has an area within the range specified in Column 1 of the Table to this subclause unless the number of proposed dwellings on the lot, together with any existing dwellings on the lot, will not exceed the number calculated in accordance with the formula specified opposite that area in Column 2 of that Table.

Table—Maximum number of dwellings

Column 1	Column 2
At least 10 hectares	$(4+(A-10)/3)$

where:

A is the area of the lot measured in hectares.

(5) If the maximum number of dwellings calculated in accordance with subclause (4) includes a fraction, the number is to be rounded up to the nearest whole number in the case of a fraction of one half or more, or rounded down to the nearest whole number in the case of a fraction of less than one half.

(6) Development consent must not be granted under subclause (3) unless the consent authority is satisfied that—

(a) there will be appropriate management measures in place that will ensure the protection of the landscape, biodiversity and rural setting of the land, and

(b) the development is complementary to the rural and environmental attributes of the land and its surrounds, and

(c) there are adequate arrangements for operating and managing the community, and

(b) the design of the proposed development is suitable, and

(c) the physical and heritage characteristics of the proposed site and surrounding land are preserved, and

(d) the availability of roads, utilities and other services is adequate, and

(e) the impact of the development on the environment and any present or future use of the land is negligible, and

(f) any other matter that the consent authority considers to be relevant has been addressed.

(7) Development consent must not be granted under subclause (3) unless the consent authority is satisfied that adequate provision will be made for the following—

(a) water and waste management,

(b) prevention, control and management of soil erosion,

(c) bush fire management,

(d) flora and fauna management, including the control of noxious weeds and noxious animals,

(e) stormwater and flood management

(f) provision and maintenance of internal roads, boundary fences, water reticulation, service corridors for telephone and electricity cables and similar matters.

(8) For the purposes of this Clause, 2 or more dwellings may be treated as a single dwelling if it has been satisfied that, having regard to the sharing of any cooking or other facilities and any other relevant matter, the dwellings comprise a single household.

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**From:** Matt O'Reilly  
**Sent:** Friday, 16 April 2021 2:06 PM  
**To:** council  
**Subject:** Re: Submission on „Planning Proposal 26.2020.6.1 Amendment of Byron Local Environmental Plan 2014 Policy and Mapping Housekeeping

Additionally:

#### ITEM 4.

The proposed amended LEP Clause still references the now repealed clause 9 of State Environmental Planning Policy (Rural Lands) 2008. That SEPP has now been replaced by the Rural Development SEPP 2019. The Clause 4.2A should be amended to reference the new SEPP and not the old one.

On 16/04/2021 1:59 pm, Matt O'Reilly wrote:

Submission on

Planning Proposal 26.2020.6.1 Amendment of Byron Local Environmental Plan 2014 Policy and Mapping Housekeeping.

Prepared by the Community Alliance for Byron Shire

## ITEM 1

CABS supports clarifying the position in the LEP so that the overall number of dwellings on a Community Title or Multiple Occupancy development complies with the relevant development consent. MOs and CT have been historically approved for a set number of dwellings based on the environmental and infrastructure constraints of the land. These numbers should not be arbitrarily increased without a full DA revisiting the entire MO or CT approval. CABS does not oppose amending the total number of dwellings permitted on an MO or CT but any application to increase dwelling numbers over historical approvals **MUST** trigger a full assessment of the entire MO or CT and its environmental and infrastructure impacts.

Clause **4.1B Minimum subdivision lot size for multiple occupancy or rural community title developments** in the Byron LEP 2014 already makes it very clear that no more than one dwelling may be erected on a neighbourhood lot at sub-clause 3 (c) when it states "*there is no more than one dwelling erected on each neighbourhood lot*"

Schedule 5 of the Rural Development SEPP 2019 permits **Rural land sharing communities** in 14 local government areas that do not have rural land sharing community provisions included in their LEPs. This includes North Coast Councils such as Tweed, Richmond Valley, Kyogle, Clarence Valley, Coffs Harbour, Bellingen and Tenterfield. Currently on the North Coast only Byron and Lismore Councils have Rural Land Sharing community provisions included in their LEPs.



Sub-Clauses 7, 8 and 9 of the 2019 Rural Development SEPP are important comparisons with the Byron LEP Clauses

In the Byron LEP 2014 a number of Clause are applied to MOs and CTs. These include:

Clause 4.1AA Minimum subdivision lot size for community title schemes,

Clause 4.1B Minimum subdivision lot size for multiple occupancy or rural community title developments,

Clause 4.2A Erection of dwelling houses and dual occupancies on land in certain rural zones,

Clause 4.2B Maximum number of dwelling houses or dual occupancies on multiple occupancy or rural, landsharing community developments

There are also many Clauses that apply from the the Byron DCP 2014 and the Byron Rural Settlement Strategy 1998

The method of calculating the maximum number of dwellings permitted on an MO or CT differs between the Byron LEP 2014, the Lismore LEP and the Rural Development SEPP.

In Byron the calculation is based on, "*(b) if there is no number shown for that lot on that Map—there will not be less than 3 dwellings, and not more than 1 dwelling for every 3 hectares, up to a maximum of 15 dwellings, on the lot*"

In Lismore the calculation is based on

Table—Maximum number of dwellings

Column 1	Column 2
At least 10 hectares, but not more than 210 hectares	$\left(4 + \frac{(A-10)}{4}\right)$
More than 210 hectares, but not more than 360 hectares	$\left(54 + \frac{(A-210)}{6}\right)$
More than 360 hectares	80

where—

A is the area of the lot measured in hectares.

If the maximum number of dwellings calculated in accordance with subclause (4) includes a fraction, the number is to be rounded up to the nearest whole number in the case of a fraction of one half or more, or rounded down to the nearest whole number in the case of a fraction of less than one half

In the Rural Development SEPP the calculation is based on:

(a) if the land has an area of 10 hectares or more but not more than 210 hectares—  
4 dwellings

plus 1 additional dwelling for every 4 hectares of land greater than 10 hectares,

(b) if the land has an area of 210 hectares or more—54 dwellings plus 1 additional dwelling for

every 6 hectares of land greater than 210 hectares up to a maximum of 80 dwellings.

If these different calculations are applied to a 10 hectare lot the following number of dwellings would result:

3 dwellings in Byron Shire

4 dwellings in Lismore Shire

4 dwellings in Tweed Shire

If these different calculations are applied to a 43.5 hectare lot the following number of dwellings would result:

15 dwellings in Byron Shire

12 dwellings in Lismore Shire

12 dwellings in Tweed Shire

If these different calculations are applied to a 80 hectare lot the following number of dwellings would result:

15 dwellings in Byron Shire

22 dwellings in Lismore Shire

22 dwellings in Tweed Shire

The Rural Development SEPP 2019 at Schedule 5 sub-clause 9 also permits the following:

**More than 1 dwelling may be treated as a single dwelling**

The consent authority may, for the purposes of this Schedule, treat 2 or more dwellings as a single dwelling if it is satisfied that, having regard to the sharing of any cooking or other facilities and any other relevant matter, the dwellings comprise a single household.

CABS recommends that while we support the current housekeeping proposal Byron Council should conduct a review into the provisions relating to maximum number of dwelling of MOs and CTs so that a new formula is applied such as:

Table—Maximum number of dwellings (where A is the number of hectares)

Column 1

Column 2

At least 10 hectares, but not more than 210 hectares  $[4 + (A-10)/3]$

which will result in the following:

- a 10 hectare Lot would be eligible for 4 dwellings as occurs in other Shires rather than 3 in Byron Shire.

- that the maximum number of dwellings permitted on an MO or CT not be capped but be based on the existing formula plus one additional dwelling.

We also recommend that Byron Council amend the LEP so that 2 or more dwellings on an MO be treated as one dwelling if they share cooking or other facilities as per the Rural Development SEPP.

We repeat our earlier recommendation that if an existing MO or CT wishes to apply for additional dwelling entitlements they would need to have the entire existing MO or CT reassessed as if it is a new application and any existing developments on the MO or CT would need to be included in the application and assessment including any unauthorised dwellings, studios or other buildings.

A possible amended Clause 4.2B in the Byron LEP could read:

**4.2B Maximum number of dwelling houses or dual occupancies on multiple occupancy or rural landsharing community developments**

(1) The objectives of the clause are as follows:

- (a) to permit—
  - (i) people to collectively own a single lot of land and use it as their principal place of residence, and
  - (ii) the erection of multiple dwellings on the lot and the sharing of facilities and resources, and
  - (iii) the collective environmental repair and management of the lot, and
  - (iv) the pooling of resources to economically develop a wide range of communal rural living opportunities,
- (b) to facilitate closer rural settlement in a clustered style in a manner that—
  - (i) protects and enhances the collective environment attributes of the lot, and
  - (ii) does not create any unreasonable demand for the provision of infrastructure or services or any unreasonable demand for the uneconomic provision of infrastructure or services.

(2) This clause applies to:

- (a) a lot if any part of the lot is in an area that is identified on the Multiple Occupancy and Community Title Map.
- (b) a lot if any part of the lot has an existing approval for Multiple Occupancy or Community Title development.
- (c) a lot if:
  - (i) it has an area of at least 10 hectares, and
  - (ii) the part of the lot on which the development is to be situated does not have a slope in excess of 18 degrees, and
  - (iii) it is within 5 kilometres (by road) of services, including a high school, shops and community facilities, and
  - (iv) adequate vehicular access is provided to the lot from an arterial, sub-arterial or collector road, and
  - (v) the part of the lot on which the development is to be situated is not environmentally sensitive

(vi) no more than 25% of the lot is prime crop and pasture land and no building containing a dwelling will be on any such land,  
(vii) no building will be on land that is a wildlife refuge, wildlife corridor or wildlife management area and the development will not adversely affect any such land,  
(viii) the development will not include a camping ground, caravan park, eco-tourist facility or tourist and visitor accommodation, except where otherwise permissible on the land,

(3) Development may be carried out with consent for the erection of more than one dwelling house or dual occupancy (attached) on such a lot provided that:

(a) if there is a number shown for that lot on the Multiple Occupancy and Community Title Map—the total number of dwellings on the lot will not exceed the greater of,

- the number marked for that lot on that Map, or
- the number of dwellings permitted by subclause (4) (rounded up or down in accordance with subclause (5)), or

(b) if there is no number shown for that lot on that Map or the lot does not appear on the map—there will not be less than 3 dwellings, and the number of dwellings will not exceed the number of dwellings permitted by subclause (4) (rounded up or down in accordance with subclause (5)), and

(c) the consent authority is satisfied that the proposed dwellings are designed to reasonably accommodate a maximum of the number of people calculated by multiplying the number of dwellings permitted by subclause (4) (rounded up or down in accordance with subclause (5)) by 6.

(4) Despite subclause (3), development consent must not be granted to development on a lot to which this clause applies that has an area within the range specified in Column 1 of the Table to this subclause unless the number of proposed dwellings on the lot, together with any existing dwellings on the lot, will not exceed the number calculated in accordance with the formula specified opposite that area in Column 2 of that Table.

Table—Maximum number of dwellings

Column 1	Column 2
At least 10 hectares	$(4+(A-10)/3)$

where:

A is the area of the lot measured in hectares.

(5) If the maximum number of dwellings calculated in accordance with subclause (4) includes a fraction, the number is to be rounded up to the nearest whole number in the case of a fraction of one half or more, or rounded down to the nearest whole number in the case of a fraction of less than one half.

(6) Development consent must not be granted under subclause (3) unless the consent authority is satisfied that—

(a) there will be appropriate management measures in place that will ensure the protection of the landscape, biodiversity and rural setting of the land, and

(b) the development is complementary to the rural and environmental attributes of the land and its surrounds, and

(c) there are adequate arrangements for operating and managing the community, and

(b) the design of the proposed development is suitable, and

(c) the physical and heritage characteristics of the proposed site and surrounding land are preserved, and

(d) the availability of roads, utilities and other services is adequate, and

(e) the impact of the development on the environment and any present or future use of the land is negligible, and

(f) any other matter that the consent authority considers to be relevant has been addressed.

(7) Development consent must not be granted under subclause (3) unless the consent authority is satisfied that adequate provision will be made for the following—

(a) water and waste management,

(b) prevention, control and management of soil erosion,

(c) bush fire management,

(d) flora and fauna management, including the control of noxious weeds and noxious animals,

(e) stormwater and flood management

(f) provision and maintenance of internal roads, boundary fences, water reticulation, service corridors for telephone and electricity cables and similar matters.

(8) For the purposes of this Clause, 2 or more dwellings may be treated as a single dwelling if it has been satisfied that, having regard to the sharing of any cooking or other facilities and any other relevant matter, the dwellings comprise a single household.

The above proposed amendment is an amalgamation of the existing Byron LEP 2014 Clause, the Limore LEP Clause and Schedule 5 of the Rural Development SEPP.

It broadens the areas of land suitable for Multiple Occupancy Development and it has the possibility of increasing the number of dwellings permitted on existing MOs in the Shire.

## **ITEM 2**

Item 2 states:

Remove clause 4.1F from the Byron LEP 2014. Clause 4.1F was placed into the LEP when it was first created to enable special purpose subdivisions similar to what was permitted under the 1988 LEP.

This clause was flagged for review as an applicant had interpreted this clause to enable subdivision of tourist cabins from the parent lot containing the dwelling house. This is not the intention of this clause.

Further research has found this clause has not been applied and is not providing for any need in the shire. Clause 4.1C exists to enable rural boundary adjustments. It is presented that this clause is not needed in the Byron 2014 LEP and to avoid confusion or applications attempting to utilise this clause for unintended purposes, it is proposed that this clause is removed from the LEP.

The Council report above is INCORRECT. The Clause was not part of the Byron LEP 2014 when it was first created and was only included in the LEP on the 22nd of September 2017. This means that Clause 4.1F has only been in the Byron LEP for three years but Council is now proposing it be removed. It also seems that Council has forgotten the reason for the Clause being included in the 2015 Housekeeping amendment in the first place.

The Council report on the 17th September 2015 states:

- J. Insert a new clause in Part 4 Principal Development Standards to enable certain subdivision (sometimes referred to as a special purpose subdivision) to be applied to land zoned RU1 and RU2 where the lot will be less than the minimum lot size shown on the minimum lot size map.**

**A consultant suggested that Council include a "special purpose subdivision" provision in the Byron LEP 2014. This is because under LEP 1988, Council had the ability to grant consent to a lot of any size as long as it was not for the purposes of "agriculture, forestry or a dwelling". The provision was abandoned with the gazettal of the Byron LEP 2014 as a result of standardisation of LEP provisions. Other north coast LEPs (eg. Clarence Valley Council, Richmond Valley Council) have included a "special purpose subdivision" provision that enable an approved use to be lawfully subdivided from a parent lot. The Planning Provisions Attachment 1 includes a clause based on the Clarence Valley Council provision.**

Because Byron Council simply adapted the Clause from the Clarence Valley LEP it failed to properly scrutinize its applicability. The way Clause 4.1F is currently drafted it has been impossible to be implemented to meet its desired outcome. We have legal advice that Clause 4.1F is UNABLE to be utilised if there is an existing dwelling on the existing Lot. The Clause in the Byron LEP 1988 explicitly allowed a special rural subdivision to occur where an existing dwelling occurred on the lot and some land separate from the dwelling was subdivided off for another approved development use. It is the current drafting of the Clause which is at fault not the intent of the Clause. The Clause should be redrafted and not removed from the LEP. A better drafting can be found in the Shoalhaven LEP and additional words should be included to exclude rural tourism accommodation from being permitted in a sub-division without a dwelling also existing in the same lot.

Removing Clause 4.1F from the LEP is the wrong solution.

**A better solution can be found by simply expanding the words in the Clause from "dwelling houses, dual occupancies or secondary dwellings." to "residential accommodation, ecotourist facilities and tourist and visitor accommodation".**

This change would capture all types of residential accommodation such as rural workers dwellings, hostels and group homes which are currently not captured. It also captures ecotourist facilities and visitor and tourist accommodation which are currently not captured.

Making the above change does not however make Clause 4.1F fit for purpose. The problem remains that the Clause can still not be used for its original intention. Under the Byron LEP 1988 and the old Rural SEPP special purpose subdivisions were approved in Byron Shire for the purpose of separating Agricultural Uses from existing dwellings on properties. For example Macadamia Plantations were subdivided away from rural dwellings, Macadamia processing sheds were subdivided, rural industrial sheds were subdivided.

The new rural development SEPP 2019 at Schedule 4 Part 2 still allows rural sub-divisions for this purpose on deferred matter land in Byron Shire.

The problem is that Clause 4.1F as currently drafted does not allow a rural sub-division if there is an existing dwelling on the lot. This problem was also encountered by Shoalhaven Shire Council but they drafted their Clause with an additional point 6 which reads: (6) A lot created under subclause (3) that has a dwelling house or dual occupancy on it may also be less than the minimum size shown on the Lot Size Map in relation to that land.

Shoalhaven Shire also included a point which states: " The lot may include land from more than one zone.". This is important now that Byron Shire has included E2 and E3 zones.

Byron Shire needs to amend Clause 4.1F to include additional points 5 and 6 as in the Shoalhaven LEP.

The relevant Clause from the Shoalhaven LEP together with additional words prohibiting rural tourism accommodation and other uses is shown below. The proposed changes are shown in red.

#### 4.1F Exceptions to minimum lot sizes for certain rural and environment subdivisions

(1) The objective of this clause is to enable the subdivision of land in rural areas to create lots of an appropriate size to meet the needs of current permissible uses other than for the purpose of **residential accommodation, ecotourist facilities and tourist and visitor accommodation**

(2) This clause applies to land in the following zones—

(a) Zone RU1 Primary Production,

(b) Zone RU2 Rural Landscape,

**(c) Zone E2 Environmental Conservation,**

**(d) Zone E3 Environmental Management.**

(3) Despite clause 4.1, development consent may be granted to the subdivision of land to which this clause applies to create a lot with a size less than the minimum subdivision lot size shown on the Lot Size Map in relation to those lots, if the consent authority is satisfied that—

**(a) the land will not be used for the purposes of residential accommodation,**

**ecotourist facilities and tourist and visitor accommodation , and**

**(b) the land will continue to be used for the same purpose for which it was lawfully used immediately before the subdivision.**

(4) Development consent must not be granted for the subdivision of land to which this clause applies unless the consent authority is satisfied that—

(a) the subdivision will not adversely affect the use of the surrounding land for agriculture, and

(b) the subdivision is necessary for the ongoing operation of the permissible use, and

(c) the subdivision will not cause or increase rural land uses conflict in the locality, and

(d) the subdivision is appropriate having regard to the natural and physical constraints affecting the land.

**(5) The lot may include land from more than one zone.**

**(6) A lot created under subclause (3) that has existing residential accommodation, ecotourist facilities or tourist and visitor accommodation on it may also be less than the minimum size shown on the Lot Size Map in relation to that land.**

Byron Shire faces a massive problem with farmland in Byron Shire now the most expensive in all of Australia. Farmland values in Byron Shire are not connected to the productivity of the farmland but are connected to the dwelling entitlement on the land.

In order for Byron Shire to meet the objectives of the Byron Rural Land Use Strategy 2019 an updated Clause 4.1F is CRUCIAL.

In order for young farmers and agricultural entrepreneurs to invest in farming in the Shire they need land security. The investment required to develop 2 hectares of land with water infrastructure, roads, sheds, fencing, greenhouses, nursery's, netting, rock removal, weed management and soil amendments is high. That does not include the machinery, labor, fertiliser, pest control, and seedling costs.

An investment of over \$100,000 per hectare of capital improvements is not unheard of to get the land productive in Byron Shire.

Under the NSW Real Property Act leases of over five years must be registered on the property title and require sub-division approval from the local council.

Young farmers who want to invest in farming land in Byron Shire CANNOT do so if they do not have security of tenure for longer than five years. The ONLY way for young farmers to get a long term agricultural lease is by using an amended Clause 4.1F. The same is true of other rural industries such as nurseries, agricultural produce industries, vet clinics, garden centres, landscape supplies, horticulture, rural supplies, Animal boarding or training establishments; Aquaculture, Forestry and Warehouse and distribution centres.



For young people to invest in these rural industries they need to be able to secure long term leases or rural sub-divisions. An amended Clause 4.1F is a necessity for Byron's rural zones to be used for more than just dwellings and tourism.

As an example, a working farm would like to expand its operations onto a nearby property. The nearby property has an existing dwelling but all of its land other than the dwelling is overgrown with weeds. A boundary adjustment is not possible as the properties are not adjacent. They are only separated by 100m but they are not next to each other. A capital investment of around \$200,000 is required to get the land productive and producing crops. Legally the land owner can only provide a 5 year lease and no more. A five year lease is not long enough for the farmer to recoup their capital investment. There is no way for the land to be farmed without a special rural sub-division that separates the dwelling from the agricultural land.

CABS recommends that Council DO NOT remove Clause 4.1F and instead amend the clause as shown above in red to make it fit for purpose.

We attach the relevant sections from the Byron Rural Land Use Strategy that support our submission. we also attach the Register General's Guidelines for Leases longer than 5 years.

## ITEM 3

CABS supports the proposed changes but makes the additional comment:

Byron Council has failed to identify what seems to be a problem with the permissible uses in the RU5 zone.

**Residential Accommodation** is listed as a permissible use in the RU5 Zone.

Only **Dual occupancies (detached); Multi dwelling housing; Residential flat buildings; Rural workers' dwellings** are listed as prohibited in the RU5 Zone.

This means that attached dwellings, boarding houses, semi-detached dwellings and seniors housing are all permitted in the RU5 zone.

Byron Council should consider which of the above four types of residential accommodation they wish to see in the RU5 zone and what minimum lot sizes should be applied.

The minimum lot size in Billinudgel, Main Arm and Federal is 2000m<sup>2</sup>. So at present boarding houses, seniors housing, attached dwellings and semi-detached dwelling could all be constructed on any lot in the three RU5 villages.

It is probably irrelevant for attached dwellings and semi-detached dwellings as these dwellings each require their own separate lots but perhaps it should be considered.

**residential accommodation** means a building or place used predominantly as a place of residence, and includes any of the following—

- (a) attached dwellings,
- (b) boarding houses,
- (c) dual occupancies,
- (d) dwelling houses,

- (e) group homes,
  - (f) hostels,
  - (g) multi dwelling housing,
  - (h) residential flat buildings,
  - (i) rural workers' dwellings,
  - (j) secondary dwellings,
  - (k) semi-detached dwellings,
  - (l) seniors housing,
  - (m) shop top housing,
- but does not include tourist and visitor accommodation or caravan parks.

**attached dwelling** means a building containing 3 or more dwellings, where—

- (a) each dwelling is attached to another dwelling by a common wall, and
- (b) each of the dwellings is on its own lot of land, and
- (c) none of the dwellings is located above any part of another dwelling.

**semi-detached dwelling** means a dwelling that is on its own lot of land and is attached to only one other dwelling

CABS recommends that Byron Council consider prohibiting attached dwellings, boarding houses, semi-detached dwellings and seniors housing in the RU5 zone. In particular it seems likely that Boarding Houses and Seniors Housing would be inappropriate at Federal, Main Arm or Billinudgel.

## ITEM 5

CABS proposed that certain road side stalls be included as exempt development during the exhibition of the Byron Rural Land Use Strategy.

The proposed Clause is:

### **Roadside stalls**

- (1) This clause applies to the use of land for a roadside stall for the sale of only agricultural produce.
- (2) The roadside stall—
  - (a) must be located on land within Zone RU1 Primary Production or Zone RU2 Rural Landscape, and
  - (b) must be located wholly on private property, and
  - (c) must not be located on land that is adjacent to a classified road, and
  - (d) must not have a footprint greater than 4m<sup>2</sup>.
- (3) No more than 1 roadside stall may be used on any landholding.
- (4) Any relevant approval issued under the Roads Act 1993 must be obtained.

CABS supports the proposal with the following additional conditions included: Additions are in bold red.

### **Roadside stalls**

- (1) This clause applies to the use of land for a roadside stall for the sale of only agricultural produce.
- (2) The roadside stall—
  - (a) must be located on land within Zone RU1 Primary Production or Zone RU2 Rural Landscape, and
  - (b) must be located wholly on private property, and

- (c) must not be located on land that is adjacent to a classified road **or on land that is adjacent to a public road less than 90m from the junction with a classified road, and**
- (c) **must be set back at least 15m from a public road, and**
- (d) must not have a footprint greater than 4m<sup>2</sup>, and
- (e) a car parking area must be provided in close proximity to the road side stall or that part of the land used for the stall, and**
- (f) must not involve the clearing of vegetation, and**
- (g) must be associated with primary production activities occurring on the subject land, and**
- (h) must not require cut or fill more than 600mm below or above ground level (existing). and**
- (i) must not have a roof height greater than 2.4m, and**
- (j) must not be located on bush fire prone land**
- (3) No more than 1 roadside stall may be used on any landholding.
- (4) Any relevant approval issued under the Roads Act 1993 must be obtained.
- (5) Byron Council must be notified in writing of the Roadside stalls construction**
- (6) Maximum of three signs advertising the Roadside stall on any landholding -**
  - (a) must be located one at either side of boundary and one at entrance to the property**
  - (b) each sign must not exceed 0.3m<sup>2</sup>**
  - (c) each sign must not be higher than 1m above existing ground level**
  - (d) each sign must be located wholly within the private property boundaries**
  - (e) signage must not obscure the line of sight of vehicles entering and exiting the property.**

## ITEM 6

If Artisan food and drink industry is included as a permissible use in the RU2 and RU1 a zones then Clause **6.8 Rural and nature-based tourism development** also needs to be amended to include Artisan food and drink industry as a use which is also a type of tourist development.

At present Clause 6.8 includes the following uses as types of tourist development

- (a) bed and breakfast accommodation,
- (b) camping grounds,
- (c) farm stay accommodation,
- (d) eco-tourist facilities,
- (e) home industries that provide services, or the sale of goods, on site to visitors,
- (f) information and education facilities,
- (g) restaurants or cafes,
- (h) rural industries that provide services, or the sale of goods, on site to visitors.

Artisan food and drink industry needs to be included on this list.as a point (i)

The list also needs to be expanded to include **function centres** as permitted under Clause 6.11 as a point (j)

The list also needs to be expanded to include all **tourist and visitor accommodation** not just bed and breakfast accommodation and farm stay accommodation as currently listed.

The list also needs to be expanded to include **recreation facilities**

The list also needs to be expanded to include **environmental facilities**



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**From:** Matt O'Reilly  
**Sent:** Monday, 19 April 2021 9:39 PM  
**To:** council  
**Subject:** Re: Submission on „Planning Proposal 26.2020.6.1 Amendment of Byron Local Environmental Plan 2014 Policy and Mapping Housekeeping

Second supplementary submission

After reviewing other local clause in LEPs from around NSW CABS has updated its proposed amendment to Clause 4.1F in the Byron LEP 2014.

CABS still opposes Clause 4.1F being removed from the LEP and instead would like it to be amended as follows:

**4.1F Exceptions to minimum lot sizes for certain rural and environment subdivisions**

(1) The objective of this clause is to enable the subdivision of land in rural areas to create lots of an appropriate size to meet the needs of current permissible uses other than for the purpose of **residential accommodation, ecotourist facilities and tourist and visitor accommodation**

(2) This clause applies to **each lot (an original lot)** in the following zones —

- (a) Zone RU1 Primary Production,
- (b) Zone RU2 Rural Landscape,
- (c) Zone E2 Environmental Conservation,**
- (d) Zone E3 Environmental Management.**

(3) Despite clause 4.1, development consent may be granted to subdivide **an original lot** to which this clause applies to create **other lots (the resulting lots)** with a size less than the minimum subdivision lot size shown on the Lot Size Map in relation to those lots, if the consent authority is satisfied that—

- (a) the resulting lots will not be used for the purposes of residential accommodation, ecotourist facilities and tourist and visitor accommodation , and**
- (b) the resulting lots will continue to be used for the same purpose for which they were lawfully used immediately before the subdivision.**

(4) Development consent must not be granted for the subdivision **of an original lot** to which this clause applies unless the consent authority is satisfied that—

- (a) the subdivision will not adversely affect the use of the surrounding land for agriculture, and
- (b) the subdivision is necessary for the ongoing operation of the permissible use, and
- (c) the subdivision will not cause or increase rural land uses conflict in the locality, and
- (d) the subdivision is appropriate having regard to the natural and physical constraints affecting the land.

**(5) The original lot and resulting lots may include land from more than one zone.**

**(6) A resulting lot created under subclause (3) that has existing residential accommodation, ecotourist facilities or tourist and visitor accommodation on it may also be less than the minimum size shown on the Lot Size Map in relation to that land and may continue to be used for residential accommodation, ecotourist facilities or tourist and visitor accommodation, but only if:**

- (a) No more than one *resulting lot* will contain residential accommodation, ecotourist facilities or tourist and visitor accommodation, and
- (b) The *resulting lot* that contains any residential accommodation, ecotourist facilities or tourist and visitor accommodation is able to continue to comply with previous conditions of consent for residential accommodation, ecotourist facilities or tourist and visitor accommodation that were applied to the *original lot*.

On 16/04/2021 1:59 pm, Matt O'Reilly wrote:

Submission on

Planning Proposal 26.2020.6.1 Amendment of Byron Local Environmental Plan 2014 Policy and Mapping Housekeeping.

Prepared by the Community Alliance for Byron Shire

## ITEM 1

CABS supports clarifying the position in the LEP so that the overall number of dwellings on a Community Title or Multiple Occupancy development complies with the relevant development consent. MOs and CT have been historically approved for a set number of dwellings based on the environmental and infrastructure constraints of the land. These numbers should not be arbitrarily increased without a full DA revisiting the entire MO or CT approval. CABS does not oppose amending the total number of dwellings permitted on an MO or CT but any application to increase dwelling numbers over historical approvals **MUST** trigger a full assessment of the entire MO or CT and its environmental and infrastructure impacts.

Clause **4.1B Minimum subdivision lot size for multiple occupancy or rural community title developments** in the Byron LEP 2014 already makes it very clear that no more than one dwelling may be erected on a neighbourhood lot at sub-clause 3 (c) when it states "*there is no more than one dwelling erected on each neighbourhood lot*"

Schedule 5 of the Rural Development SEPP 2019 permits **Rural land sharing communities** in 14 local government areas that do not have rural land sharing community provisions included in their LEPs. This includes North Coast Councils such as Tweed, Richmond Valley, Kyogle, Clarence Valley, Coffs Harbour, Bellingen and Tenterfield. Currently on the North Coast only Byron and Lismore Councils have Rural Land Sharing community provisions included in their LEPs.

Sub-Clauses 7, 8 and 9 of the 2019 Rural Development SEPP are important comparisons with the Byron LEP Clauses

In the Byron LEP 2014 a number of Clause are applied to MOs and CTs. These include:

Clause 4.1AA Minimum subdivision lot size for community title schemes,

Clause 4.1B Minimum subdivision lot size for multiple occupancy or rural community title developments,

Clause 4.2A Erection of dwelling houses and dual occupancies on land in certain rural zones,

Clause 4.2B Maximum number of dwelling houses or dual occupancies on multiple occupancy or rural, landsharing community developments

There are also many Clauses that apply from the the Byron DCP 2014 and the Byron Rural Settlement Strategy 1998

The method of calculating the maximum number of dwellings permitted on an MO or CT differs between the Byron LEP 2014, the Lismore LEP and the Rural Development SEPP.

In Byron the calculation is based on, "*(b) if there is no number shown for that lot on that Map—there will not be less than 3 dwellings, and not more than 1 dwelling for every 3 hectares, up to a maximum of 15 dwellings, on the lot*"

In Lismore the calculation is based on

Table—Maximum number of dwellings

Column 1	Column 2
At least 10 hectares, but not more than 210 hectares	$\left(4 + \frac{(A-10)}{4}\right)$
More than 210 hectares, but not more than 360 hectares	$\left(54 + \frac{(A-210)}{6}\right)$
More than 360 hectares	80

where—

A is the area of the lot measured in hectares.

If the maximum number of dwellings calculated in accordance with subclause (4) includes a fraction, the number is to be rounded up to the nearest whole number in the case of a fraction of one half or more, or rounded down to the nearest whole number in the case of a fraction of less than one half

In the Rural Development SEPP the calculation is based on:

(a) if the land has an area of 10 hectares or more but not more than 210 hectares—  
4 dwellings  
plus 1 additional dwelling for every 4 hectares of land greater than 10 hectares,  
(b) if the land has an area of 210 hectares or more—54 dwellings plus 1 additional  
dwelling for  
every 6 hectares of land greater than 210 hectares up to a maximum of 80  
dwellings.

If these different calculations are applied to a 10 hectare lot the following number of dwellings would result:

3 dwellings in Byron Shire

4 dwellings in Lismore Shire

4 dwellings in Tweed Shire

If these different calculations are applied to a 43.5 hectare lot the following number of dwellings would result:

15 dwellings in Byron Shire

12 dwellings in Lismore Shire

12 dwellings in Tweed Shire

If these different calculations are applied to a 80 hectare lot the following number of dwellings would result:

15 dwellings in Byron Shire

22 dwellings in Lismore Shire

22 dwellings in Tweed Shire

The Rural Development SEPP 2019 at Schedule 5 sub-clause 9 also permits the following:

**More than 1 dwelling may be treated as a single dwelling**

The consent authority may, for the purposes of this Schedule, treat 2 or more dwellings as a single dwelling if it is satisfied that, having regard to the sharing of any cooking or other facilities and any other relevant matter, the dwellings comprise a single household.

CABS recommends that while we support the current housekeeping proposal Byron Council should conduct a review into the provisions relating to maximum number of dwelling of MOs and CTs so that a new formula is applied such as:

Table—Maximum number of dwellings (where A is the number of hectares)

Column 1

Column 2

At least 10 hectares, but not more than 210 hectares  $[4 + (A-10)/3]$

which will result in the following:

- a 10 hectare Lot would be eligible for 4 dwellings as occurs in other Shires rather than 3 in Byron Shire.
- that the maximum number of dwellings permitted on an MO or CT not be capped but be based on the existing formula plus one additional dwelling.

We also recommend that Byron Council amend the LEP so that 2 or more dwellings on an MO be treated as one dwelling if they share cooking or other facilities as per the Rural Development SEPP.

We repeat our earlier recommendation that if an existing MO or CT wishes to apply for additional dwelling entitlements they would need to have the entire existing MO or CT reassessed as if it is a new application and any existing developments on the MO or CT would need to be included in the application and assessment including any unauthorised dwellings, studios or other buildings.



A possible amended Clause 4.2B in the Byron LEP could read:

**4.2B Maximum number of dwelling houses or dual occupancies on multiple occupancy or rural landsharing community developments**

(1) The objectives of the clause are as follows:

(a) to permit—

(i) people to collectively own a single lot of land and use it as their principal place of residence, and

(ii) the erection of multiple dwellings on the lot and the sharing of facilities and resources, and

(iii) the collective environmental repair and management of the lot, and

(iv) the pooling of resources to economically develop a wide range of communal rural living opportunities,

(b) to facilitate closer rural settlement in a clustered style in a manner that—

(i) protects and enhances the collective environment attributes of the lot, and

(ii) does not create any unreasonable demand for the provision of infrastructure or services or any unreasonable demand for the uneconomic provision of infrastructure or services.

(2) This clause applies to:

(a) a lot if any part of the lot is in an area that is identified on the Multiple Occupancy and Community Title Map.

(b) a lot if any part of the lot has an existing approval for Multiple Occupancy or Community Title development.

(c) a lot if:

(i) it has an area of at least 10 hectares, and

(ii) the part of the lot on which the development is to be situated does not have a slope in excess of 18 degrees, and

(iii) it is within 5 kilometres (by road) of services, including a high school, shops and community facilities, and

(iv) adequate vehicular access is provided to the lot from an arterial, sub-arterial or collector road, and

(v) the part of the lot on which the development is to be situated is not environmentally sensitive

(vi) no more than 25% of the lot is prime crop and pasture land and no building containing a dwelling will be on any such land,

(vii) no building will be on land that is a wildlife refuge, wildlife corridor or wildlife management area and the development will not adversely affect any such land,

(viii) the development will not include a camping ground, caravan park, eco-tourist facility or tourist and visitor accommodation, except where otherwise permissible on the land,

(3) Development may be carried out with consent for the erection of more than one dwelling house or dual occupancy (attached) on such a lot provided that:

(a) if there is a number shown for that lot on the Multiple Occupancy and

Community Title Map—the total number of dwellings on the lot will not exceed the greater of,

- the number marked for that lot on that Map, or
- the number of dwellings permitted by subclause (4) (rounded up or down in accordance with subclause (5)), or

(b) if there is no number shown for that lot on that Map or the lot does not appear on the map—there will not be less than 3 dwellings, and the number of dwellings will not exceed the number of dwellings permitted by subclause (4) (rounded up or down in accordance with subclause (5)), and

(c) the consent authority is satisfied that the proposed dwellings are designed to reasonably accommodate a maximum of the number of people calculated by multiplying the number of dwellings permitted by subclause (4) (rounded up or down in accordance with subclause (5)) by 6.

(4) Despite subclause (3), development consent must not be granted to development on a lot to which this clause applies that has an area within the range specified in Column 1 of the Table to this subclause unless the number of proposed dwellings on the lot, together with any existing dwellings on the lot, will not exceed the number calculated in accordance with the formula specified opposite that area in Column 2 of that Table.

Table—Maximum number of dwellings

Column 1	Column 2
At least 10 hectares	$(4+(A-10)/3)$

where:

A is the area of the lot measured in hectares.

(5) If the maximum number of dwellings calculated in accordance with subclause (4) includes a fraction, the number is to be rounded up to the nearest whole number in the case of a fraction of one half or more, or rounded down to the nearest whole number in the case of a fraction of less than one half.

(6) Development consent must not be granted under subclause (3) unless the consent authority is satisfied that—

(a) there will be appropriate management measures in place that will ensure the protection of the landscape, biodiversity and rural setting of the land, and  
(b) the development is complementary to the rural and environmental attributes of the land and its surrounds, and

(c) there are adequate arrangements for operating and managing the community, and

(b) the design of the proposed development is suitable, and

(c) the physical and heritage characteristics of the proposed site and surrounding land are preserved, and

(d) the availability of roads, utilities and other services is adequate, and

(e) the impact of the development on the environment and any present or future use of the land is negligible, and

(f) any other matter that the consent authority considers to be relevant has been addressed.

(7) Development consent must not be granted under subclause (3) unless the consent authority is satisfied that adequate provision will be made for the following—

- (a) water and waste management,
- (b) prevention, control and management of soil erosion,
- (c) bush fire management,
- (d) flora and fauna management, including the control of noxious weeds and noxious animals,

(e) stormwater and flood management

(f) provision and maintenance of internal roads, boundary fences, water reticulation, service corridors for telephone and electricity cables and similar matters.

(8) For the purposes of this Clause, 2 or more dwellings may be treated as a single dwelling if it has been satisfied that, having regard to the sharing of any cooking or other facilities and any other relevant matter, the dwellings comprise a single household.

The above proposed amendment is an amalgamation of the existing Byron LEP 2014 Clause, the Limore LEP Clause and Schedule 5 of the Rural Development SEPP.

It broadens the areas of land suitable for Multiple Occupancy Development and it has the possibility of increasing the number of dwellings permitted on existing MOs in the Shire.

## ITEM 2

Item 2 states:

Remove clause 4.1F from the Byron LEP 2014. Clause 4.1F was placed into the LEP when it was first created to enable special purpose subdivisions similar to what was permitted under the 1988 LEP.

This clause was flagged for review as an applicant had interpreted this clause to enable subdivision of tourist cabins from the parent lot containing the dwelling house. This is not the intention of this clause.

Further research has found this clause has not been applied and is not providing for any need in the shire. Clause 4.1C exists to enable rural boundary adjustments. It is presented that this clause is not needed in the Byron 2014 LEP and to avoid confusion or applications attempting to utilise this clause for unintended purposes, it is proposed that this clause is removed from the LEP.

The Council report above is INCORRECT. The Clause was not part of the Byron LEP 2014 when it was first created and was only included in the LEP on the 22nd of September 2017. This means that Clause 4.1F has only been in the Byron LEP for three years but Council is now proposing it be removed. It also seems that Council has forgotten the reason for the Clause being included in the 2015 Housekeeping amendment in the first place.

The Council report on the 17th September 2015 states:

- J. Insert a new clause in Part 4 Principal Development Standards to enable certain subdivisions (sometimes referred to as a special purpose subdivision) to be approved on land zoned RU1 and RU2 where the lot will be less than the minimum lot size shown on the minimum lot size map.**

A consultant suggested that Council include a "special purpose subdivision" provision in the Byron LEP 2014. This is because under LEP 1988, Council had the ability to grant consent to a lot of any size as long as it was not for the purposes of "agriculture, forestry or a dwelling". The provision was abandoned with the gazettal of the Byron LEP 2014 as a result of standardisation of LEP provisions. Other north coast LEPs (eg. Clarence Valley Council, Richmond Valley Council) have included a "special purpose subdivision" provision that enables an approved use to be lawfully subdivided from a parent lot. The Planning Provisions Attachment 1 includes a clause based on the Clarence Valley Council provision.

Because Byron Council simply adapted the Clause from the Clarence Valley LEP it failed to properly scrutinize its applicability. The way Clause 4.1F is currently drafted it has been impossible to be implemented to meet its desired outcome. We have legal advice that Clause 4.1F is UNABLE to be utilised if there is an existing dwelling on the existing Lot. The Clause in the Byron LEP 1988 explicitly allowed a special rural subdivision to occur where an existing dwelling occurred on the lot and some land separate from the dwelling was subdivided off for another approved development use. It is the current drafting of the Clause which is at fault not the intent of the Clause. The Clause should be redrafted and not removed from the LEP. A better drafting can be found in the Shoalhaven LEP and additional words should be included to exclude rural tourism accommodation from being permitted in a sub-division without a dwelling also existing in the same lot.

Removing Clause 4.1F from the LEP is the wrong solution.

A better solution can be found by simply expanding the words in the Clause from "**dwelling houses, dual occupancies or secondary dwellings.**" to "**residential accommodation, ecotourist facilities and tourist and visitor accommodation**".

This change would capture all types of residential accommodation such as rural workers dwellings, hostels and groups homes which are currently not captured. It also captures ecotourist facilities and visitor and tourist accommodation which are currently not captured.

Making the above change does not however make Clause 4.1F fit for purpose. The problem remains that the Clause can still not be used for its original intention. Under the Byron LEP 1988 and the old Rural SEPP special purpose subdivisions were approved in Byron Shire for the purpose of separating Agricultural Uses from existing dwellings on properties. For example Macadamia Plantations were subdivided away from rural dwellings, Macadamia processing sheds were subdivided, rural industrial sheds were subdivided.

The new rural development SEPP 2019 at Schedule 4 Part 2 still allows rural sub-divisions for this purpose on deferred matter land in Byron Shire.

The problem is that Clause 4.1F as currently drafted does not allow a rural sub-division if there is an existing dwelling on the lot. This problem was also encountered by Shoalhaven Shire Council but they drafted their Clause with an additional point 6 which reads: (6) A lot

created under subclause (3) that has a dwelling house or dual occupancy on it may also be less than the minimum size shown on the Lot Size Map in relation to that land.

Shoalhaven Shire also included a point which states: " The lot may include land from more than one zone.". This is important now that Byron Shire has included E2 and E3 zones.

Byron Shire needs to amend Clause 4.1F to include additional points 5 and 6 as in the Shoalhaven LEP.

The relevant Clause from the Shoalhaven LEP together with additional words prohibiting rural tourism accommodation and other uses is shown below. The proposed changes are shown in red.

#### 4.1F Exceptions to minimum lot sizes for certain rural and environment subdivisions

(1) The objective of this clause is to enable the subdivision of land in rural areas to create lots of an appropriate size to meet the needs of current permissible uses other than for the purpose of **residential accommodation, ecotourist facilities and tourist and visitor accommodation**

(2) This clause applies to land in the following zones—

(a) Zone RU1 Primary Production,

(b) Zone RU2 Rural Landscape,

**(c) Zone E2 Environmental Conservation,**

**(d) Zone E3 Environmental Management.**

(3) Despite clause 4.1, development consent may be granted to the subdivision of land to which this clause applies to create a lot with a size less than the minimum subdivision lot size shown on the Lot Size Map in relation to those lots, if the consent authority is satisfied that—

**(a) the land will not be used for the purposes of residential accommodation, ecotourist facilities and tourist and visitor accommodation , and**

**(b) the land will continue to be used for the same purpose for which it was lawfully used immediately before the subdivision.**

(4) Development consent must not be granted for the subdivision of land to which this clause applies unless the consent authority is satisfied that—

(a) the subdivision will not adversely affect the use of the surrounding land for agriculture, and

(b) the subdivision is necessary for the ongoing operation of the permissible use, and

(c) the subdivision will not cause or increase rural land uses conflict in the locality, and

(d) the subdivision is appropriate having regard to the natural and physical constraints affecting the land.

**(5) The lot may include land from more than one zone.**

**(6) A lot created under subclause (3) that has existing residential accommodation, ecotourist facilities or tourist and visitor accommodation on it may also be less than the minimum size shown on the Lot Size Map in relation to that land.**

Byron Shire faces a massive problem with farmland in Byron Shire now the most expensive in all of Australia. Farmland values in Byron Shire are not connected to the productivity of the farmland but are connected to the dwelling entitlement on the land.

In order for Byron Shire to meet the objectives of the Byron Rural Land Use Strategy 2019 an updated Clause 4.1F is CRUCIAL.

In order for young farmers and agricultural entrepreneurs to invest in farming in the Shire they need land security. The investment required to develop 2 hectares of land with water infrastructure, roads, sheds, fencing, greenhouses, nursery's, netting, rock removal, weed management and soil amendments is high. That does not include the machinery, labor, fertiliser, pest control, and seedling costs.

An investment of over \$100,000 per hectare of capital improvements is not unheard of to get the land productive in Byron Shire.

Under the NSW Real Property Act leases of over five years must be registered on the property title and require sub-division approval from the local council.

Young farmers who want to invest in farming land in Byron Shire CANNOT do so if they do not have security of tenure for longer than five years. The ONLY way for young farmers to get a long term agricultural lease is by using an amended Clause 4.1F. The same is true of other rural industries such as nurserys, agricultural produce industries, vet clinics, garden centres, landscape supplies, horticulture, rural supplies, Animal boarding or training establishments; Aquaculture, Forestry and Warehouse and distribution centres.

For young people to invest in these rural industries they need to be able to secure long term leases or rural sub-divisions. An amended Clause 4.1F is a necessity for Byron's rural zones to be used for more than just dwellings and tourism.

As an example, a working farm would like to expand its operations onto a nearby property. The nearby property has an existing dwelling but all of its land other than the dwelling is overgrown with weeds. A boundary adjustment is not possible as the properties are not adjacent. They are only separated by 100m but they are not next to each other. A capital investment of around \$200,000 is required to get the land productive and producing crops. Legally the land owner can only provide a 5 year lease and no more. A five year lease is not long enough for the farmer to recoup their capital investment. There is no way for the land to be farmed without a special rural sub-division that separates the dwelling from the agricultural land.

CABS recommends that Council DO NOT remove Clause 4.1F and instead amend the clause as shown above in red to make it fit for purpose.

We attach the relevant sections from the Byron Rural Land Use Strategy that support our submission. we also attach the Register General's Guidelines for Leases longer than 5 years.

## ITEM 3

CABS supports the proposed changes but makes the additional comment:

Byron Council has failed to identify what seems to be a problem with the permissible uses in the RU5 zone.

**Residential Accommodation** is listed as a permissible use in the RU5 Zone.

Only **Dual occupancies (detached); Multi dwelling housing; Residential flat buildings; Rural workers' dwellings** are listed as prohibited in the RU5 Zone.

This means that attached dwellings, boarding houses, semi-detached dwellings and seniors housing are all permitted in the RU5 zone.

Byron Council should consider which of the above four types of residential accommodation they wish to see in the RU5 zone and what minimum lot sizes should be applied.

The minimum lot size in Billinudgel, Main Arm and Federal is 2000m<sup>2</sup>. So at present boarding houses, seniors housing, attached dwellings and semi-detached dwelling could all be constructed on any lot in the three RU5 villages.

It is probably irrelevant for attached dwellings and semi-detached dwellings as theses dwelling each require there own separate lots but perhaps it should be considered.

**residential accommodation** means a building or place used predominantly as a place of residence, and includes any of the following—

- (a) attached dwellings,
- (b) boarding houses,
- (c) dual occupancies,
- (d) dwelling houses,
- (e) group homes,
- (f) hostels,
- (g) multi dwelling housing,
- (h) residential flat buildings,
- (i) rural workers' dwellings,
- (j) secondary dwellings,
- (k) semi-detached dwellings,
- (l) seniors housing,
- (m) shop top housing,

but does not include tourist and visitor accommodation or caravan parks.

**attached dwelling** means a building containing 3 or more dwellings, where—

- (a) each dwelling is attached to another dwelling by a common wall, and

- (b) each of the dwellings is on its own lot of land, and
- (c) none of the dwellings is located above any part of another dwelling.

**semi-detached dwelling** means a dwelling that is on its own lot of land and is attached to only one other dwelling

CABS recommends that Byron Council consider prohibiting attached dwellings, boarding houses, semi-detached dwellings and seniors housing in the RU5 zone. In particular it seems likely that Boarding Houses and Seniors Housing would be inappropriate at Federal, Main Arm or Billinudgel.

## ITEM 5

CABS proposed that certain road side stalls be included as exempt development during the exhibition of the Byron Rural Land Use Strategy.

The proposed Clause is:

### **Roadside stalls**

- (1) This clause applies to the use of land for a roadside stall for the sale of only agricultural produce.
- (2) The roadside stall—
  - (a) must be located on land within Zone RU1 Primary Production or Zone RU2 Rural Landscape, and
  - (b) must be located wholly on private property, and
  - (c) must not be located on land that is adjacent to a classified road, and
  - (d) must not have a footprint greater than 4m<sup>2</sup>.
- (3) No more than 1 roadside stall may be used on any landholding.
- (4) Any relevant approval issued under the Roads Act 1993 must be obtained.

CABS supports the proposal with the following additional conditions included: Additions are in bold red.

### **Roadside stalls**

- (1) This clause applies to the use of land for a roadside stall for the sale of only agricultural produce.
- (2) The roadside stall—
  - (a) must be located on land within Zone RU1 Primary Production or Zone RU2 Rural Landscape, and
  - (b) must be located wholly on private property, and
  - (c) must not be located on land that is adjacent to a classified road **or on land that is adjacent to a public road less than 90m from the junction with a classified road, and**
  - (c) **must be set back at least 15m from a public road,** and
  - (d) must not have a footprint greater than 4m<sup>2</sup>, and
  - (e) a car parking area must be provided in close proximity to the road side stall or that part of the land used for the stall, and**
  - (f) must not involve the clearing of vegetation, and**
  - (g) must be associated with primary production activities occurring on the subject land, and**
  - (h) must not require cut or fill more than 600mm below or above ground level (existing). and**



- (i) must not have a roof height greater than 2.4m, and
- (j) must not be located on bush fire prone land
- (3) No more than 1 roadside stall may be used on any landholding.
- (4) Any relevant approval issued under the Roads Act 1993 must be obtained.
- (5) Byron Council must be notified in writing of the Roadside stalls construction**
- (6) Maximum of three signs advertising the Roadside stall on any landholding -**
  - (a) must be located one at either side of boundary and one at entrance to the property**
  - (b) each sign must not exceed 0.3m<sup>2</sup>**
  - (c) each sign must not be higher than 1m above existing ground level**
  - (d) each sign must be located wholly within the private property boundaries**
  - (e) signage must not obscure the line of sight of vehicles entering and exiting the property.**

## ITEM 6

If Artisan food and drink industry is included as a permissible use in the RU2 and RU1 zones then Clause **6.8 Rural and nature-based tourism development** also needs to be amended to include Artisan food and drink industry as a use which is also a type of tourist development.

At present Clause 6.8 includes the following uses as types of tourist development

- (a) bed and breakfast accommodation,
- (b) camping grounds,
- (c) farm stay accommodation,
- (d) eco-tourist facilities,
- (e) home industries that provide services, or the sale of goods, on site to visitors,
- (f) information and education facilities,
- (g) restaurants or cafes,
- (h) rural industries that provide services, or the sale of goods, on site to visitors.

Artisan food and drink industry needs to be included on this list as a point (i)

The list also needs to be expanded to include **function centres** as permitted under Clause 6.11 as a point (j)

The list also needs to be expanded to include all **tourist and visitor accommodation** not just bed and breakfast accommodation and farm stay accommodation as currently listed.

The list also needs to be expanded to include **recreation facilities**

The list also needs to be expanded to include **environmental facilities**



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15 April 2021

Attention: Sam Tarrant

## **CT, MO Secondary Dwellings Allowance**

Thank you for our recent meeting to discuss the allowance for secondary dwellings on Mos and CTs.

Having reviewed Council's exhibited MO/CT amendment proposal and understanding that secondary dwellings are apparently not allowed on Mos and CTs in the LEP my interest is to see the allowance for secondary dwellings on Mos and CTs based on merit.

The reason for my assertion is that secondary dwellings are allowed in urban areas as well as on rural land but not on Mos and CTs. Part of the reason for allowing Mos and CTs in the first place was an interest in creating affordable housing in rural areas as well as providing a mechanism for environmental repair and enhancement in rural areas.

With these considerations in mind and striving for a Green Shire that allows for people and nature to coexist in a positive way my view is that Council needs to put a case to State Government to profess the fundamental good of Mos and CTs in their value to society and nature.

Local Government is at the pointy end of change, State Government is slower in allowing change and Federal Government is really slow. Should State Government not see the purity of intent of the elected Council then maybe the planning staff at Council can facilitate a process to allow common sense to happen.

A merit based assessment of a case by case situation is consistent with Council Planning Policy and might be in relation to three major elements to allow secondary dwellings on Mos and CTs:

1. Access - bushfires
2. Social Cohesion – noise, nudity etc
3. Environment - Waste Water Management and environmental reparation and enhancement

Thank you for the opportunity of making this submission.

Sincerely  
Boyd Warren  
Principal BWD

**From:**  
**To:** [Tarrant, Sam](#)  
**Cc:** [editor@echo.net.au](mailto:editor@echo.net.au)  
**Subject:** Open for feedback – Housekeeping review LEP 2014'.  
**Date:** Friday, 26 March 2021 2:28:31 PM

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Hi Sam,

According to a report in this week's Echo, the planning staff's proposed amendments to *LEP 2014* include a blanket prohibition on secondary dwellings on all MOs and CTs. This is NOT a minor "housekeeping" amendment. Presenting it as part of a bundled "housekeeping review" is misleading and unprofessional.

In the context of the severe housing crisis for local workers and some of the highest rates of housing stress and homelessness in NSW that characterize Byron Shire this proposal should have been highlighted to ensure it was based on reasonable grounds and that the claimed grounds were subject to extensive examination and discussion by both the community and the elected Councillors.

In my view, there is no sensible basis for any blanket prohibition and the imposition of one would further exacerbate the existing critical shortage of affordable housing - an inhumane disaster.

Each property in this area (and especially each MO or CT property ) is unique. The suitability of any site for the inclusion of a secondary dwelling ought to be open for rational consideration. In the context of the housing crisis we face, and the environmental pressures that suggest a move to smaller footprint dwellings is broadly desirable, I would instead support an amendment to *LEP 2014* to impose a presumption that secondary dwellings ought to be permitted on all properties unless there is a particular sensitivity surrounding a given site.

I am a strong supporter of a requirement that all applications secondary dwelling construction be subject to a condition that the secondary dwelling NOT be holiday let (or a substantial contribution to a "public housing fund" to avoid that undertaking). Those undertakings should be enforceable and serious fines payable for breach - so that any "enhanced profit" a landholder makes from illegal holiday letting of secondary dwellings can also be dedicated to a public housing fund.

Heather Martin  
Mullumbimby

**From:**  
**To:** [Tarrant, Sam](#)  
**Subject:** 26.2020.6.1 Housekeeping planning proposal  
**Date:** Tuesday, 20 April 2021 9:12:36 PM

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### **Objection to 26.2020.6.1 - Housekeeping LEP Amendment Item 1**

I am writing in objection to the change to prohibit secondary dwellings and dual occupancies on MO's and rural CT's.

Firstly this is anything but a "housekeeping" amendment, this is an action with significant impact on the current, and future, availability of rural affordable housing in the shire.

While I am an owner and resident of a CT lot, I have no personal intention to add a secondary dwelling. However I have neighbors both here and elsewhere in the shire who may wish to do this in the future, and I believe whether they should be able to do so or not should depend on the specifics of the lot, not be blanket denied because they are part of a MO or CT, while the lot next door on a regular division retains that right to apply to add another dwelling.

I do not understand why MO's and CT's have been singled out for this restriction, especially since they have historically, and still are, one of the few sources of affordable housing in the shire.

It has been widely known that there are significant numbers of unauthorised dwellings, especially in the hills of Main Arm, but given the shortage of affordable housing shouldn't we be looking for ways to regularize those dwellings, rather than removing one of their few avenues. In fact, given the shortage of affordable housing shouldn't we be encouraging suitable MO and CT lots to add infill, especially in places where the infrastructure is well able to support more people.

It is painful to see so many people I know who can no longer afford to live in the shire, and it is surprising to see council, which supposedly supports affordable housing, taking steps to make it even hard to find affordable accommodation.

Thanks,  
Juliana Balkema

**From:**

[Sam](#)

**Subject:** Fwd: amendments to LEP 2014

**Date:** Thursday, 15 April 2021 7:13:49 PM

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>

> Dear Mr . Sam Tarrant

> We do live on a legal Mo in Huonbrook since 1981 and always considered that at least one of our kids could live in a secondary dwelling on our share in the future . Most properties in town are able to put up a secondary dwelling or granny flat .At a time of a total shortage of affordable housing council wants to take away future options for our kids in a blanket decision when such development could be easily integrated in a difused way compared to town and high density developments.

> Let each secondary dwelling be jugded by its own merits ,access ,building standard ,

> bushfire zoning ,section 96 contributions etc....

> why is it that in byron bay developers can exceed building hights , densities for rentals and tourists etc when out here you want to take away the only option to have our kids settle nearby with minimal impact on environment and neighbours .They won't be able to buy a property in the shire.

> Like i wrote earlier.....let each secondary dwelling be judged by its own merits ,please don't say no on principal ,that's not a fair go.

> In a democracy the council should represent the will of the people ,and rule from the bottom up and not from the top down ,all i ask is just that .

> with kind regards

> Rainer Hartlieb

>