

LISMORE CITY COUNCIL - MEETING HELD NOVEMBER 8, 1994

Di. As discussed Malcolm.

RESOURCE SECTION

DIVISIONAL MANAGER-PLANNING SERVICES' REPORT

SUBJECT/FILE NO.: POST DEVELOPMENT APPROVAL INSPECTIONS OF
MULTIPLE OCCUPANCY DEVELOPMENTS
(MRS:MR: S/523)

PREPARED BY: Development Control Planner - M Scott

REASON: Request by Council to keep it advised of the review of existing
multiple occupancies.

OBJECTIVE: To advise Council of progress.

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

PROGRAMME BUDGET REF: Page: D2

CONTENTInformation:

1. This report up-dates the information report submitted to Council at the Policy and Resources meeting of October 11, 1994.
2. The following has occurred since the last progress report:
 - i) Council has to date been contacted by some 30 multiple occupancies regarding inspections and/or matters arising out of the amnesty.
 - ii) As previously reported, I have, usually either with the Manager Development Control, Mr John Hampton or Assistant Town Planner, Mr Scott Turner, now, and will have, visited 22 multiple occupancies.

The process is going well albeit a little slowly. However, given that multiple occupancy has existed for some time, and that many issues/matters have lain unresolved for years, it is accepted that time is required to achieve satisfactory resolutions. This situation, however, in light of recent State Government policy changes will be somewhat different for persons and/or communities that have not obtained Development Consent for MO dwelling sites.

Next week I hope to commence the processes of amendment to consents and resolution of issues such as payment of levies, submission of 'as built' plans and will again write to those communities from which Council has not received any contact.

3. As Council will no doubt be aware, the State Government by the recent introduction (October 21, 1994) of another State Environmental Planning Policy (SEPP #42) has instigated a 'sunset' mechanism to effect the repeal of SEPP #15 - Multiple Occupancy of Rural Lands. Attached is a copy of SEPP #42.

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GENERAL MANAGER

MAYOR

LISMORE CITY COUNCIL - MEETING HELD NOVEMBER 8, 1994**DIVISIONAL MANAGER-PLANNING SERV. REPORT - MO INSPECTIONS**

- 2 -

Council has not, to-date, received any formal advice from the Department of Planning regarding the above or a copy of the consultants report which reviewed the effect and operation of SEPP #15. This situation has been partly clarified in discussions with Departmental staff who have indicated that advice will be forwarded to Councils within the next few days. A copy of that advice will be separately supplied to Councillors when it is received (at this Council meeting if possible).

SEPP #42 will cease the effect or enabling provisions of SEPP #15 on December 1, 1994. Councils, I gather, will not be required or directed to make alternative provisions for multiple occupancy in their Local Environmental Plans, but none the less may be encouraged to do so. Development Applications for new MO's, or expansion of existing MO's, under the provisions of SEPP #15 can only be considered until February 1, 1995. Such Development Applications must be lodged prior to December 1, 1994. Any Development Applications for MO's, or additional MO dwellings, lodged after December 1, 1994 are unable to be processed.

Council may wish to consider how it would like to provide and plan for MO's by introducing MO provisions into its own LEP. The Lismore 2020 Plan Broadhectare Study identifies land which is suitable for MO development. It may be appropriate to permit MO's within a prescribed area when the 2020 Plan is completed, as MO's have been considered to be a legitimate rural landuse for a number of years.

FINANCIAL SECTION N/A**OTHER DEPARTMENT COMMENTS**

Other Departments of Council are contacted when an issue is of direct relevance to that Department.

Declaration:

'I hereby declare, in accordance with Section 459 of the Local Government Act, that I do not have a pecuniary interest in the matter/s listed in this report.'

RECOMMENDATION (PLAN184)

- 1 That the report be received and noted.
- 2 That Council give public notice of the gazettal of SEPP #42 and its implications for Multiple Occupancy Development Applications.
- 3 That Council determine whether or not it wishes to proceed to prepare an amendment to the Lismore LEP to permit multiple occupancy on rural lands.


(MR Scott)
DEVELOPMENT CONTROL
PLANNER


(J Hampton)
MANAGER-DEVELOPMENT
CONTROL


(N Juradowitch)
DIVISIONAL MANAGER-
PLANNING SERVICES

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GENERAL MANAGER

MAYOR

D. Hamilton

City of Lismore



Council

Business Paper

SEPTEMBER 7, 1993

'A' SECTION

DIVISIONAL MANAGER-PLANNING SERVICES' REPORT

SUBJECT/FILE NO.: MULTIPLE OCCUPANCY DISCUSSION PAPER
(S/523)

PREPARED BY: Development Control Planner - Mr M Scott

REASON: To advise Council of the submissions to the discussion paper, the outcomes of the workshop, and the identification of a preferred planning strategy and resolution of various other issues as relate to multiple occupancy development.

OBJECTIVE: Council's adoption of a preferred planning strategy and exhibition of that strategy prior to formal resolution to commence strategy plan preparation.

CORPORATE PLAN REF: N/A

PROGRAMME BUDGET REF: N/A

INTRODUCTION:

This report draws together the various activities undertaken by Council to-date in its review of multiple occupancy. The report comprises the following:

1. A review of the submissions made to the "Discussion Paper on Multiple Occupancy of Rural Lands", pages 2 to 23.
2. A summary of the multiple occupancy workshop conducted July 22, 1993, pages 23 to 29.
3. A review of the multiple occupancy tour by Council and senior staff conducted August 22, 1993, pages 29 to 30.
4. An overview of other Councils' planning mechanisms who are exempt from the provisions of State Environmental Planning Policy No. 15 : Multiple Occupancy of Rural Lands, pages 30 to 32.
5. Identification and commentary on the various planning options available to Council to enable (or restrict) and control multiple occupancy development in the LGA, pages 32 to 36.
6. Other Issues and Conclusions, pages 36 to 37.
7. Recommendations.

For the information of Council, copy of the State Environmental Planning Policy (SEPP) #15 - Multiple Occupancy of Rural Land, is attached to this report as Appendix 1 and copy of S90 of the Environmental Planning and Assessment Act as Appendix 2. Additionally a copy of the text of the Discussion Paper and the issues and comments summary produced to provide a focus for the workshop are enclosed/attached to the Business Paper.

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1. REVIEW OF SUBMISSIONS TO DISCUSSION PAPER

The following section is a review of the submissions received by Council at the expiration of the exhibition of the Discussion paper. As previously advised public notification of the Discussion Paper and Council's review was undertaken and some 200 copies of the Discussion paper were printed and either formally distributed and/or provided to State Government Departments, Multiple Occupancies, community organisations or individuals. The submissions have been grouped into the following broad categories:

1. Government
2. Community Organisations
3. Individuals
4. Multiple Occupancies
5. Council

1.1 GOVERNMENT

1.1.1 **Department of Planning, Grafton.** The Department made comments in relation to the following matters:

- 1) **Options for Planning Control:** noting that the Discussion Paper listed the following four options for change to the current system;
 - a) Possible exemption from SEPP #15 and preparation of an amended local environmental plan to Lismore LEP, 1992 in conjunction with the preparation of a detailed Development Control Plan,
 - b) Remaining with SEPP #15 and preparing a Development Control Plan,
 - c) Amending SEPP #15 with the agreement of the Minister, and
 - d) Do nothing.

The Department made the following comments in respect of each of the options;

- Reason?*
- a) Suggesting that the response to the Discussion Paper and Council's own discussions would clarify whether or not the provisions of SEPP #15 are seen as suitable for Lismore's specific conditions. The Department suggests that Council may be well advised to prepare an amending LEP which reflects the conclusions of the review, is consistent with the North Coast Regional Plan and is fine-tuned with a Development Control Plan;
 - b) Suggesting that remaining with SEPP #15 may be appropriate if there is a general community satisfaction with this planning instrument. It was noted that a Development Control Plan may only supplement an LEP;
 - c) Noting that amending SEPP #15 would involve extensive consultation with other Councils in all regions of the State, and a commitment by the Department to program the necessary alterations for the Minister's consideration. This would involve a lengthy process;
 - d) Do nothing leaves the Council in the same position as exists, and that the Discussion Paper indicates a perception that a re-think is desirable.
- 2) **Subdivision:** noting that the philosophy of multiple occupancy is entirely different to that of community titles. Multiple occupancy provides collective ownership and pooling of resource, and precludes private ownership of individual lots. Community titles enable private ownership, while allowing common property within conventional subdivision. The Department noted that it does not regard subdivision under the Community Title Act as a substitute for multiple occupancy development. And that it is a matter for the Council to

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control the potential for defacto rural residential estates using community titles legislation, by means of acceptable densities on rural land and the formulation of appropriate release strategies.

- 3) **Minimum areas and densities:** The Department noted that if the public consultation process reveals a basic unsuitability of the SEPP #15 formula, the option of an amending LEP could be pursued.
- 4) **Other issues:** including agricultural land, non-residential development, siting of dwellings, access, water supply and waste disposal should be examined in the light of SEPP #15. If those provisions are inadequate then an LEP amendment would be the preferred option.
- 5) **The issue of speculation:** the Department commented that the Council in assessing multiple occupancy proposals should be satisfied that the spirit and objectives of SEPP #15 are adequately met. The comment was made that if it was believed that the spirit of the policy is not sufficiently reflected in the objectives of SEPP #15 the Council may consider an LEP, or suggest an alteration to the objectives of SEPP #15.
- 6) **"Policing" of consent conditions, rating and S94 contributions** are matters for Council to resolve, the Department commented. The Department further commented that S94(2c)(b) of the Act allows "in kind" or "material public benefit" contributions.

1.1.2 Water Resources, Grafton, making the following comments;

- 1) **Water supply;** recommending that an on-site water supply be established to meet the anticipated demands of the development, to minimise the demand on rivers during dry periods. Suggest that such supply could consist of; rainwater tanks, off-stream dams, or ground water bores. Suggest that the developers should demonstrate the adequacy of supply (independent of a river source) for the intended households and activities.
- 2) **Water Quality;** additional to provision of buffer zones and setback distances from existing waterways effluent disposal systems need to be located away from groundwater bores. Strongly recommends the following minimum distances:
 - * 50m for individual bores and always upgradient from septic and waste disposal areas,
 - * 100m in an upgradient direction and 400m in a down gradient direction for communal water supply bores from septic and waste disposal areas, with regular water quality and pollution monitoring strongly recommended.

It was noted that these are minimum distances and that distance may vary according to geology, hydrology, lot size usage patterns and yield of bores.
- 3) **Development Application;** suggests that a means of addressing most resource management concerns is to request a "Soil, Water and Vegetation Management Plan". Such a document addresses the following details; site map showing existing contours, vegetation, natural and artificial drainage lines and waterways, location of groundwater bores, wells, springs etc; hazard areas (steep slopes, swamps, floodplains and seasonal wet areas); existing structures; road and parking areas; dwelling locations; vegetation to be retained. The site map should also show the location of the following proposed water management methods: vegetative buffer areas and reserves between areas of development and waterways; temporary erosion and sediment control devices; permanent gross sediment and pollutant traps, trash traps and sediment fences; land clearing and shaping; retardation and detention drainage facilities and structures; and discharge points into natural drainage lines. Suggests that these details should be provided "up front" to enable Council and the State Agencies to better assess the proposal, and that this process assists the proponent to ultimately design a better development.
- 4) **Multiple Occupancy:** The Department comments that it sees multiple occupancy no differently to other forms of rural subdivision, in that if they are badly designed, a detrimental effect will occur on the catchment.
- 5) **Conclusion:** Notes that there are three main things that can be done to assist in caring for the

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water environment:

- a) Careful appraisal of the site;
- b) Preparation of a water management plan to assist in the identification of any impacts up front, and
- c) That the development layout ensure that all drainage lines and water features are buffered and where degraded, rehabilitated with appropriate species. This keeps the catchment intact and helps maintain the health of the waterways.

1.1.3 Department of Conservation and Land Management, Casino.

Comments that the Department (formerly the soil conservation service) has for many years reviewed proposed and existing multiple occupancies at the request of Council. Notes that many of the developments do pose problems to their land and downstream catchments. Comments are made in the following areas:

- 1) **Site location and density:** suggests that the location and density of any multiple occupancy should not be based on a basic formula, but on whether the parcel of land is physically capable of supporting such a development, ie an assessment of the biophysical features of the land and the extent to which these limit the size of the development.
Land capability assessment identifies areas suitable for development as well as hazards and constraints and areas to avoid development. If development is proposed in areas of severe physical limitations which are difficult to overcome, Council should request detailed site inspection which may require detailed geotechnical and engineering design.
The Department notes that slope gradient, mass movement, shallow rocky soils, wet spring areas and erodible soils the most form of physical limitation in the Lismore area.
- 2) **Siting of dwellings:** The Department prefers clustering of dwellings rather than dispersed settlements, noting that the majority of multiple occupancies tend to be dispersed involving complex road systems on areas of high erosion and mass movement hazard, which cause environmental problems to the property and downstream catchments.
The Department comments that clustering would reduce the need for complex road systems, involve less ground disturbance, and encourage housing and roads to occur in areas of minor or moderate physical limitations, which only requires careful design and adoption of simple management techniques to ensure stable land surface during and after development.
The Department notes that cluster housing may accentuate the pollution problem of nearby watercourses as a result of concentrated septic, especially in areas of shallow rocky soils or soils of low permeability. However, the adoption of pit/compost toilet systems is appropriate, if proven to be environmentally safe in the long term.
- 3) **Roads:** The Department notes that the road development on existing multiple occupancies tends to be of a poor standard, the main problems identified are;
 - a) Slumping of cut/fill areas due to construction of roads on extreme slopes or in areas prone to mass movement;
 - b) Severe erosion and resultant sedimentation due to poor road drainage and design;
 - c) Poor trafficability on roads due to lack of road surface.

The Department suggests that Council should insist proponents address these issues prior to development. Where roads are located on extreme slopes or areas with physical limitation, detailed engineering plans should be provided prior to the development proceeding.

It was further noted that the last three years have been relatively dry, not highlighting the problems brought about by storm events. The Department comments that it is often requested to provide advice in normal wet years, and that proper planning and road design at development application stage would reduce these type of requests.

- 4) **Water Supply:** The Department notes that a significant number of communities rely on dams for domestic and irrigation purposes. That there has been numerous occasions of dams

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located on or near old slump features, and that this is very unwise, as this can initiate mass movement in the general area and eventual failure of the dam.

The Department further notes that many multiple occupancies are located in areas containing perched watertables and permanent springs and that some of these areas have developed as a result of clearing of native forests and are also areas of high risk of mass movement. The Department recommends the use of spring tappers to collect water and reduce mass movement problems.

The Department recommends that advice should be sought from itself or NSW Agriculture on general farm water supply including location of dams. Where dams are located on areas known to at risk of mass movement or old slump features, geotechnical advice should be sought to determine long term stability of the dam and adjacent lands.

- 5) **Waste Disposal:** The Department notes that on-site effluent disposal is very complex and a controversial issue in the Richmond Catchment and considers that sewerage disposal systems on multiple occupancies should be treated the same as any other form of residential development.

Proponents should address the physical and chemical features of the soils at development application stage for all dwelling sites to determine capability for effluent disposal. The Department notes that soil characteristics over a whole property can vary in texture, structure depth, stoniness etc which limits soil capability for preferred disposal systems, that site investigation using adopted soil testing techniques will assist in identifying problem areas, and that if a site is identified as unsuited to any system, it should not be approved.

- 6) **Bushfires:** The Department notes that some multiple occupancies may occur in areas of high bushfire risk, and that these areas may fall within category (a) Protected Lands, ie generally slopes in excess of 18 degrees. Comment is made that in order to provide adequate fire protection, tree removal may be necessary, and this may, where tree destruction is carried out without authority of the Department, result in prosecution and severe penalties. Suggestion is made that the proponents should contact the Department during the Development Application stage, to determine what Protected Lands exist and the procedures required if tree destruction is required for bushfire hazard reduction and, road construction.

- 7) **Mass Movement:** The Department notes that it has supplied considerable information to Council in the past in regards to this matter. It noted, as stated in the Discussion Paper that many areas of the local government area are known to be affected or liable to be affected by mass movement, and that this is especially the case for multiple occupancy developments which are generally developed on such lands (lands of low agricultural quality). The Department has indicated that in particular, during the years 1988 and 1989, several houses on multiple occupancies were severely damaged by mass movement.

The Department recommends that on lands known to have existing and potential moderate to severe mass movement hazards there, should be no development for dwellings and infrastructure unless geotechnical / engineering advice can assure that there will be no adverse affects. Similarly, consideration should be made of proposed development above and below areas of moderate and severe mass movement, to consider the affect on the area of unstable land. This information should be submitted with the Development Application and be carried out by suitably qualified persons, eg engineering geologists.

- 8) **Visual Impact:** comments that the Department assess the effects of the development on land and the adjacent catchment; detailed information including the following should be provided in the form of a plan of all existing physical and natural features, location of all proposed infrastructure, including dams and areas to be disturbed.

If the development is approved the Department recommends that a condition should require that an erosion and sediment control plan be prepared for the development. The plan should fully describe structural and vegetative measures proposed to safeguard all areas disturbed.

- 9) **Compliance with conditions of consent:** comments that considerable time is spent by the Department reviewing and commenting upon development proposals for multiple

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occupancies, and that some of the concerns made by the Department are addressed by Council as conditions of consent. Concerned that non-compliance with conditions can lead to environmental problems on the developments and downstream catchments. Indicates that by not policing conditions of consent, Council will not achieve the Total Catchment Management concept for the Richmond Catchment.

- 10) **Reviewing:** The Department suggests in order to assist them to review proposed developments, the exact location of all infrastructure should be identified with appropriate and numbered pegs. The Department comments that in the past, the lack of detailed information has made assessment difficult at times.

1.1.4 NSW National Parks and Wildlife Service, Alstonville.

The Service agreed that applications for MO's should include an assessment of environmental and landscape or scenic qualities of a locality together with a fauna impact assessment and an aboriginal site impact assessment together with a full site survey if considered necessary by the Service.

1.1.5 Department of School Education, Lismore.

Requests that the Department be consulted during assessment of MO applications. Provides the Department with information likely to affect client base and strategic planning with large developments.

1.1.6 Health Department, Lismore

The Department notes the purpose to review present policy and indicated a preference for community title developments to multiple occupancy for the greater control over potential conflict. The Department supplied a guideline document titled "Environmental Health Considerations Prior to Development" compiled to assist Councils and developers address issues which may impact on people's health, enjoyment and use of land.

Identifies the following additional issues:

- 1) Social impact on individuals within and adjoining MO's and as rural communities individually or collectively. There needs to be a supporting community structure to provide for broader needs.
- 2) Effect on total catchment in relation to population, individual and reticulated public or private water supplies; effect and long term viability of community sewerage or on-site disposal systems on waterways (environment).
- 3) Mechanisms for controlling pollution and waste disposal.
- 4) Access roads and emergency access.
- 5) Need for services, eg garbage collection.
- 6) Need for social infrastructure - halls, libraries, aged and pre-school facilities.
- 7) Need for commercial or industrial activities to sustain increased population - effect on transport, supply of raw materials etc.
- 8) Public transport requirements.
- 9) To recognise future needs of MO's, environmental and infrastructure limitations need to be determined to project a finite development - mitigate undue expectations.
- 10) Non-residential activities in locations identified as suitable.

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Notes that at the time of making submission, that composting toilet systems are illegal pursuant to Ord. 44 of the Local Government Act. Notes that if ultimately found appropriate the use of such systems does not necessarily reduce water needs and disposal requirements. Impact on total catchment, the long term effects and capabilities of disposal areas from toilet and other sources must be assessed.

The Department made comment on the following issues:

- * Identification of potential conflict with adjoining activities and within MO's.
- * Protection of a ongoing potable water supply of an acceptable quality.
- * Advised that in relation to liaison between applicants and the Department, that it may not be possible for the Department (limited resources) to deal with all individual applications, and that the Department is interested in proposals which are outside guidelines of the Department and which may have a greater and more widespread effect.
- * On-site private burial, need for discussion and guidelines for policy for State and Local level.
- * Economic sustainability of MO developments, given the community generally provides funding through rates revenue for needs of people living in outlying areas.
- * Previous land use - eg intensive horticultural uses etc.
- * Consider impact of MO's on flora and fauna, approval only where little or no impact can be demonstrated.
- * Need to determine projected population levels to determine demand for future health services. Invites future discussions between Council and Department to look at determining required health services, extent of resources, placement and funding.

1.1.7 Department of Agriculture, Wollongbar

NSW Agriculture, Wollongbar, commenting that MO needs to be dealt with as part of rural settlement generally, rather than an exclusive use. The Department made the following comments on issues raised in the Discussion Paper.

- 1) Suggesting that MO together with rural worker dwellings, dual occupancy and MO are mechanisms for legitimising rural settlement, all of which should be incorporated into a single set of "settlement criteria" applicable to all rural residential development.
- 2) **Minimum area** - that the SEPP minimum area of 10 ha is too small for good design, suggested 30 ha. *reason*
- 3) **Dwelling density** should be examined in terms of land capability/capacity and constraints, and services in the locality.
- 4) **Use of agricultural land**, this needs to be objectively analysed (case studies). The Department further suggested that as a part of the DA process a "land owner survey" should be undertaken to identify potential conflicts and means to mitigate those conflicts/impacts.
- 5) **Siting of dwellings**, this issue needs broadening to discuss rural settlement strategy models, ie rural, village or larger urban centres of population.
- 6) **Public access**, queries whether or not the existing rural road network can cope with more traffic, suggests not.
- 7) **Water supply** - the major issue. Assessment must be taken on a catchment basis. Concern was expressed that various agencies would be making similar comments in relation to source, supply, quality and quantity of water.
- 8) **Waste disposal** in particular septic disposal requires a major expansion in light of health issues and concerns expressed by the Department of Health.
- 9) **Fire protection** needs commitment to on-going maintenance.
- 10) **Flood**, keep people out of flood prone areas. *General of 0.30*
- 11) **Slip/subsidence** access and construction techniques important.

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- 12) **Impact on adjoining uses** - suggested that there is not a lack of evidence regarding impact of MO and rural residential (small holding) development on adjoining agricultural uses (evidences experiences or Tweed Council and FNCCC).
- 13) **Non-compliance** - this issue and illegal development should be considered in more detail, that there should be one rule for all.
- 14) **Rating** - suggests a differential rate process for each rural type of settlement.
- 15) **Applications** - suggested that matters such as stream flow analysis to assess competition of water users, farm development plans, neighbour surveys, soil analysis, mapping of agricultural suitability, waste re-use, noxious weed control management and traffic study should be taken into account with those matters suggested. It was suggested that there is a need for on-site planning focus meetings to consider proposals. As a general comment it was suggested that MO's cannot be divorced from rural settlement generally. Economic and social issues need to be examined in greater detail. Cumulative impacts, monitoring, data base/inventories need to be addressed and established.

1.1.8 NSW Forestry Commission

Advised that they have no comment in respect of the Discussion Paper.

1.2 COMMUNITY ORGANISATIONS

1.2.1 Nimbin Ratepayers and Progress Association, Nimbin - commenting in the format of the Discussion Paper.

- 1) **Subdivision** - community title appropriate for rural residential, inappropriate for MO's because of cost. Need for low cost community style developments with internal management and legal structures - suggest company title.
- 2) **Minimum Area** - 10ha too small - density formula should allow for no more than one person/ha and min. of 30 sites/MO - larger MO's difficult to comply with consent.
- 3) **Agricultural land** - not efficient users of agricultural land. That consideration be made for MO's on prime crop or pasture land in proposals include appropriate management plans to increase agricultural potential and value of land.
- 4) **Non-residential development** - permit rural tourist facilities to generate income, annual contributions to community services and facilities based on income and use.
- 5) **Siting of Dwelling** - cluster allows for commonality of purpose within a community - flexibility needed to provide for individual size, needs and potential of land.
- 6) **Public Access** - unrealistic to require flood free access. Contributions should be at same rate as that for rural subdivision.
- 7) **Water Supply** - should be independent and drought reliable, and develop and implement total catchment management strategies.
- 8) **Waste Disposal** - vital to establish and include in TCM strategies. Encourage MO's to adopt waste minimisation strategies and independently use waste removal services.
- 9) **Environmental Risk/Hazard** - fire protection measures on a merit basis.
- 10) **Visual Impact** - plans detailing landscaping and other management strategies should be submitted with the DA.
- 11) **Impact on Adjoining Uses** - prohibit MO developments where they pose a significant impact on existing land uses - refers to an existing dairy farmer in the Nimbin area.
- 12) **Fauna Impact** - should be provided with DA with ongoing monitoring.
- 13) **Speculation** - introduce bond agreements related to establishment of infrastructure and development of sites to be paid at time of consent, may deter speculation.
- 14) **Compliance with Conditions of Consent** - Council should monitor MO through development stage and provide technical advice that facilitates compliance. Annual inspection with fee

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until compliance. Care should be exercised regarding "complaints", avoid "internal" issues.

- 15) **Illegal Development** - all developers should comply, suggests 6-12 month amnesty to encourage compliance.
- 16) **Rating** - MO rate should be based on land value with an additional site levy.
- 17) **Payment of S94 Levies** - collect S94 for establishment of local waste and recycling facilities. Pay levies prior to release of building approvals, no exception to monetary payments.
- 18) **Applications** - detailed statements and assessments should be provided to assess DA.

1.2.2 **Tullera/Modanville Bushfire Brigade** - commenting that fire protection should be a priority to MO's and any subdivisions. That the following be required:

- 1) All water tanks be fitted with outlet to enable pump connection.
- 2) An operations portable fire pump be on the land at all times.
- 3) Adequate clearing around buildings.
- 4) Provide a buffer to enable tender access to dwelling structures.

1.2.3 **Lismore and District United Ratepayers Association Inc** - made the following comments.

- 1) Conditions of approval should be the same as applies to which any rural development application and that relates to additional dwellings.
- 2) **Rate assessment** for each dwelling, perhaps at lower rate.
- 3) **Waste disposal** - must be fully enforced - no permanent or temporary occupation prior to the installation of an approved effluent disposal system. Assess type of system, soils, location in particular to water courses, monitoring and up-grading systems generally not only MO's. Lack of adequate effluent systems most frequent form of objection.
- 4) **Buffer areas** should be required with MO's. *How much*
- 5) **MO applicants** should recognise the existence rural environment and existing agricultural practices and agree not to create conflict or object to those practices.
- 6) Requests workshop and refers to previous correspondence on issue.

1.2.4 **Norco Co-operative Ltd** - advising Council that some 55 suppliers located in Council area, that the Society has a \$190 million per annum turnover and employs 350 people in Council area. Identifies the following issues in the context of potential conflicts between farming and rural residential developments.

- 1) **Development Control** - considers that MO should be regarded as designated development to enable third party objection to enable appeal in instances where an application may meet requirements of Act but are not compatible to neighbouring practices.
- 2) **Minimum Area** - 10ha minimum maybe reduced using SEPP #1. Minimum area should be 40ha unless the lot was created prior to the policy.
- 3) **Agricultural Land** - applications should be supported by farm management plans prepared by qualified persons if the land is greater than 25% prime agricultural land to ensure objective of sustainable agriculture. This has some taxation incentive.
- 4) **Public Area** - S94 contributions plan levies should be based on 6.7 AADT/dwelling/day and not negotiable - additional traffic creates requirement for higher pavement standards - roads major expenditure item of Council should not be reduced.
- 5) **Water Supply** - provide sufficient for domestic, agriculture and fire use without impact on down stream users with drought reliability. Water management plans for MO's over four sites. Provides information on garden and domestic requirements for tank and dam size calculations
- 6) Council should determine the most desirable outcome in terms of changes to planning system.

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1.3 INDIVIDUALS

1.3.1 LH & DA McNamara, Jiggi - making the following comments:-

- 1) MO's should not be permitted on lots with greater than 25% prime agricultural land and dwellings should not be permitted on prime agricultural - important resource.
- 2) **Minimum area** should be 40ha in line with current subdivision minimum.
- 3) **Applications** for 31 or more dwelling sites should be classified as designated developments and provide EIS.
- 4) **Buffer zones** of 2km between dairies and rural residential and MO development.
- 5) **Additional** developments should not be reliant on existing creek supplies.

1.3.2 A submission from an Individual Requesting Public Anonymity

- 1) Supports review in context of: rapid population growth in area, urbanisation of coastal hinterland and importance not to permit any development to exacerbate current problems.
 - * Change in economic and social structure of area since 1970's and development of first MO's. Previously depressed rural sector, limited educational and employment opportunities area now one of rapid growth, university, expanded health facilities, population changes and unemployment.
 - * Need to make objective re-assessment of MO, just as other social experiments (soldier settler scheme) have been re-assessed. Requires necessary information collection to make informed decisions, not ad hoc decisions on the run. MO's only part of community should not be considered in isolation.
- 2) Concern that Council "must ensure that certain conditions are met" (Department of Planning Circular B.11) in accordance with SEPP #15 and the objectives queries logic of changing planning instrument if problems have arisen because the consenting body is either unable or unwilling to comply with the planning legislation. If developments are resulting in unreasonable or uneconomic demands on Council it constitutes a subsidy by ratepayers and contradicts cl 2(c)(i) of SEPP #15. Concerned of that failure to ensure compliance with consents issued under the Act and Council's review mechanisms in relation to dwellings, effluent disposal and bushfire hazard. Pointless to have standards without enforcement, conveys message that developers may do as they please with impunity and to paraphrase planning laws without future scrutiny. Notes that the creation of a desirable lifestyle should not be at the expense of others.
- 3) MO's intended for areas in rural decline. Suggests that cl 2(c) of SEPP #15 is a mandatory requirement which Council must consider and form opinion as to whether all the aims and objectives are able to be met, particularly those which relate to increase in the rural population in areas which are suffering or likely to suffer from a decline in services due to rural population loss. Proposition that the area is in decline is untenable. Problem in this area is one of rapid growth outstripping existing services and infrastructure, cites problems with provision of satisfactory levels of health and community services (youth, ages, childcare, education, family support, unemployment) and that many residential developments have failed to adequately consider these issues leading to social isolation and problems.
- 4) Concerned that by attracting people from areas of lower unemployment to this area (one of high unemployment) could be considered as creating unreasonable or uneconomic demands on Department of Social Security. This conflicts with cl 2(c)(i) of SEPP #15. Quotes a 1991 draft Discussion Paper by Byron Shire Council commenting "that there was a high correlation between those motivated by a need for city escape and the demand for services in rural living areas."
- 5) **Siting a dwellings** - states preference for cluster, promotes the aim and objectives of SEPP

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- #15 (communal lifestyle, sharing facilities, pooling resources, reduces impact on environment) minimises visual effect with landscaping, permits better bushfire control, allows distance between adjoining land uses to be maximised (reduces conflicts).
- 6) **Adjoining land uses** - antithesis of good planning to allow incompatible forms of land use.
 - 7) **Speculation** - groups of developers establishing a number of MO's either simultaneously or sequentially - best protection is close scrutiny of DA to ensure requirements can be met. DA should include budget and requirement to carry out stated intentions. All owners should be identified to ensure notion of collective ownership and legal and equitable ownership should be vetted in a group who state they intend to use the land as a principal place of residence.
 - 8) **Agricultural land** - agricultural land should not be alienated by non-agricultural developments, depletes agricultural land resources and forces agriculture onto marginal land. Suggestion that greater than 25% prime agricultural land be considered cannot be supported when Council is not enforcing compliance. Suggests that the whole LGA be assessed for its agricultural potential prior to changes of SEPP #15, and that amount of prime land on existing MO's be assessed to determine whether it is still in production or neglected. Consider share farming.
 - 9) **Application referrals** - given residential nature of MO, suggest consultation with Family and Community Services, RTA (given extent of cl 2(c)(i) and consideration of Nimbin Road) and that a consultation process be established with Social Security and CES.
 - 10) **Fauna Impact** should address impact of household pets and feral animals on active wildlife. Concerned that NPWS is not considering this issue sufficiently. *Only mo?*
 - 11) **Recommendations:**
 - * Complete review of MO and how they fit into current planning legislation.
 - * No further MO's should be approved until Council has the means and commitment to ensure compliance with consent.
 - * No change until Resource Assessment Commission enquiry on coastal development and Public Health report on contaminated waterways has been considered.
 - * Rural Residential and Agricultural Land Study be undertaken.
 - * Survey of existing landowners living adjacent to existing MO's about problems, benefits and advice on how to resolve problems.
 - * Survey of existing MO's to determine number of MO's (legal and illegal), no. of dwellings (legal and illegal), operations of MO review according to objectives of SEPP #15 (ownership, occupancy rights, environmental and community management) and that the objects are met.
 - * Constraints map to show areas unsuitable for MO use. Map to show areas not suffering population loss, urban land or land required for urban expansion, allotments less than 10 ha, prime agricultural land, areas likely to contain extractive resources, slopes greater than 18 degrees, high bushfire risk, aboriginal sites or land claims etc.
 - * provide notations on S149 Certificates.

1.3.3 G & J Bird, Larnook - making the following comments:

- 1) **Minimum Area** - satisfactory provided land is suitable for use.
- 2) **Agricultural Land** - Council should require a noxious weed programme.
- 3) **Water Supply** - all development should be self reliant without use of river supplies.
- 4) **Waste Disposal** - 50m buffer between creeks or overland flow area too little - consider more efficient methods of waste disposal. *Basins*
- 5) **Fire Protection** - Council should require fire protection measures. *ignisance*
- 6) Slip areas should not be considered.
- 7) **Visual Impact** - landscaping should be required.
- 8) **Adjoining Land Uses** - must be compatible to existing use. *X*

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- How*
- 9) **Speculation** - Council should form policies to protect the form of development and regulate speculators.
- See GA*
- 10) **Illegal Development** - main problems are temporary dwellings - no temporary permit unless application is accompanied by building plans, permit 6 months and have effluent disposal system installed.
- How*
- 11) **Rating** - special fixed rate for MO's.
- 12) **S94 Levies** - Council must impose levies for up-grading facilities and services.

How

1.3.4 **W Anderson, Blue Knob** - commenting that this type of development must have its own access road and not "right of way" over a neighbours land. Concerned that ROWS may be created without Council's approval.

1.3.5 **N Hood, Bangalow** - commenting that the form of development is important to the growth of area which is a unique form of land use and part of the character of the area. Communal ownership retains one area and permits low cost housing not causing fragmentation.

1.3.6 **E Bunton, Marom Creek** - makes comment in relation to:

- How*
- 1) **Subdivision** - community title advantage to obtain loans for housing - may also lead to higher turnover of site and ownership by people not interested in common ownership culture and philosophy - potentially destabilising - need to enable financing of dwelling.
 - 2) **Minimum Area** - Minimum area satisfactory, to increase area may reduce opportunity to afford choice of this lifestyle.
 - 3) **Agricultural Land** - no enforced noxious weed control program, too costly. Permit larger percentage of prime agricultural land, MO's may introduce reduced labour costs to improve farm viability and permit sharing of cost and profit.
 - 4) **Siting of Dwelling** - should reflect land capability and blend with landscape. Owners choice.
 - 5) **Public Access** - flood free access not necessary, all weather gravel road should be minimum standard.
 - 6) **Visual Impact** - landscape and rehabilitation plans should be clearly defined.
 - 7) **Adjoining Land Use** - unreasonable to expect existing land use to provide buffer. Buffer should be incorporated in MO design if considered appropriate by owners.
 - 8) **Speculation** - No role for Council, up to future occupants.
 - 9) **Compliance** - Council should act only on written complaints and aim to legalise rather than punish. Queries why there are illegal developments, cost of approval, standards too high, simplified administrative procedures.
 - 10) **Rates** - should be comparable to other land holders, shared or individual rates for dwelling sites.
 - 11) **S94** - permit appropriate "in kind" contributions in instances of financial hardship to Council standards, eg roads.

1.3.7 **R Fayle, Rosebank** - comments in context that review of current system is necessary - concern that present regulations and practices are poles apart. Council should determine whether rules are to be enforced, if not little point in conducting review to change present rules to more acceptable, or enforceable or is that present rules are too difficult and unpopular to enforce.

- 1) **Subdivision** - community title not suited to concept of MO, principle of single title should be preserved to prevent urban spread and speculation.
- 2) **Minimum Area and Agricultural Land** - minimum area and agricultural land strongly linked. 10ha is too restrictive, 25% prime crop and pasture land too generous. MO's not good users of agricultural land, not able to keep weeds at bay or even grow food to support their

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communities. Restrict MO's to land of no or little agricultural value, just because MO's are in the country it doesn't necessary follow that residents are seeking the farming life. Although there may be examples where an MO may be established on agricultural land if sufficiently justified. Noxious weed control responsibility of all land owners. Need to retain "red soil" country.

- 3) **Siting of Dwelling** - agrees with preference for clustering.
- 4) **Public Access** - flood free access not required. Rural road improvement, applicants given a choice to either pay or arrange private contractor.
- 5) **Water Supply** - need to have secure water supply, 46,000 litre minimum stored supply. Water budget necessary if water is to be pumped from creek or river and an appropriate licence issued.
- 6) **Waste Disposal** - agrees with 50m buffer between septic installations and water courses. Type of system should be identified at DA stage.
- 7) **Risk/hazards** - no additional requirements on MO's beyond other rural developments.
- 8) **Visual Impact** - don't legislate taste.
- 9) **Adjoining land uses** - approvals of MO's should not now or in the future place restrictions on normal agricultural uses.
- 10) **Fauna Impact Assessment** - unnecessary.
- 11) **Speculation** - two thirds owners being resident satisfactory, should be a condition of consent, enforce the requirement or not have it.
- 12) **Compliance with consent** - should be no differentiation between MO's and other forms of development. Random inspections to check for compliance.
- 13) **Illegal Developments** - treat all developments the same, illegal development should be given the opportunity to regularise with appropriate DA or BA - protects present and future owners.
- 14) **Application** - list of information requirement very comprehensive (excessive) - less comprehensive for smaller MO developments. Administrative over-kill to refer applications to listed State Government Departments.
- 15) **Conclusion-**
 - * Amend SEPP #15 - minimum area and agricultural land, impact on adjoining land uses, fauna impact.
 - * Prepare a local DCP which addresses, access, water supply, waste disposal, risk/hazards, visual impact, speculation.
 - * Toughen up on compliance with consent and a new rate for MO's.

1.4 MULTIPLE OCCUPANCIES

1.4.1 **Pan Community Council, Nimbin**, advising Council that it is an organisation formed to further the interest of MO communities. Pan-Com notes the growth of MO developments in the LGA and that often MO communities have made substantial economic, environmental, cultural, artistic, education and social contributions to the area.

Further, that many of the 60 or so MO's in the Council area are tightly woven into the fabric of the community. Pan-Com notes the range in legal structure, physical layout and levels of co-operation and identifies the following commonly held philosophies:

- 1) Good quality relationships between people is important.
- 2) Land should be cared for and enhanced.
- 3) Membership should be as cheap possible with an emphasis on owner building.
- 4) Strong belief and commitment to self sufficiency in terms of energy, housing and food production.

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Additionally, Pan-Com stresses the difference between MO and rural residential development via co-operative ownership and no separate legal title. Pan-Com have prepared their submission in a similar format to the Discussion Paper:

- 1) Options for change to the current planning system.
 - a. Exemption from SEPP #15 - inappropriate, as an LEP could not minimise the principles of the SEPP - cumbersome, complicated and cost inefficient.
 - b. Remain with SEPP prepare DCP - queries benefits, for the legalisation (if fully utilised) seems to have ample provision to administer MO applications.
 - c. Amending the SEPP - unrealistic, but hypothetical.
 - d. Do nothing - if means retain the status quo - supported this option.
- 2) **MO Users Guide** - Pan-Com suggest that Council produce a "localised" handbook extending and updating the Department of Planning "Low Cost Country Homebuilding Handbook" which has been of considerable assistance to community resettlers. This book could address many of the issues raised in the Discussion Paper. Pan-Com also suggest two other "educational" options to minimise or avoid conflict situations:
 - a. Prepare an MO Code or simply "policy decisions" as to how the legalisation is to be applied, or
 - b. Produce a Draft DCP with the intent of not formalising its adoption - advantages of such a document is that it will spell out guidelines which should be tested over time.
- 3) **MO Council Advisory Panel** - may be an aid to Council in advising on the issues raised in the Discussion Paper and as they arise in MO applications.
- 4) **Subdivision** - cannot be subdivided under SEPP #15, rejects the use of Community Title subdivision, communal ownership of one lot is an underlying principle philosophies of MO. Issues such as financing homes best addressed through other legislation. To use Community Title legislation MO would have to relinquish MO status and re-establish themselves, eg Billen Cliffs.
- 5) **Minimum Area** - supports current 10ha minimum and that density formula is satisfactory. Past applications almost without exception have not reached maximum density thresholds and recent proposals to develop a site to its theoretical maximum density relatively recent occurrence associated with "entrepreneurial" development as opposed to actions of a community of individuals.
 Maximum density settlements leave little, if any, scope for future dwellings (for children, relatives) a "community" developed as a result of shared visions, values and interest is based on SOCIAL needs, not theoretical maximum capacities - applicants seeking maximum density of settlement may be considered by Council as to whether or not is genuinely appropriate for consideration under SEPP #15. Contends that the "social environment" should be given at least as much weight as "physical environment", suggests Council prepare a "Social Impact Statement".
 In context of "over-development" social issues should be addressed and the DA provide information about the underlying aspirations and intent of the community members and extent to which social needs of occupants are to be addressed. If it should be revealed that a proposal does not stem from community members it does not meet the provisions of the SEPP and ought to be rejected. In this regard primary attention should be given to "social constraints" rather than "physical constraints" to determine an optimum density figure.
- 6) **Agricultural Land** - appropriate for MO on Class 1, 2 or 3 Agricultural Land and "prime crop and pasture land" should not be identified as automatically being Class 1, 2 or 3 Agricultural Lands.
 - a. Depend upon actual proposal - control of noxious weeds part of a larger issue - collective noxious impact on the environment. Council not the sole responsible body for control of noxious weeds - do not discriminate.
 - b. 25% prime crop and pasture land SEPP #15 enable NSW Agriculture to determine such

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land and this provision should be used in each situation on merit.

- 7) **Non-residential Development** - Pan-Com agrees that such use be permissible on merit.
- 8) **Siting of Dwellings** - should involve consideration of both social and physical constraints of the land and what is appropriate in the circumstance. SEPP #15 "prefers only" clustered development and should not be read to mean "required to cluster" as the Courts have determined. Applications which make no provision for "community facilities" ought to be rejected - breach spirit and letter of SEPP #15.
- 9) **Public Access** - appropriate road standards dependent upon state of road and expectations and desires of those who use roads - that all residents of locality should be involved in decision making to determine standard of road and that local and non-local users be distinguished, this should be accounted for when determining contributions. MO's have lower road usage patterns due to sharing and are relatively low-impact development (less building materials to be transported). Flood free access is not necessary. Use of ROW should be permissible where there is agreement between parties. Court has determined that use of ROW is normally beyond Council's jurisdiction.
- 10) **Water Supply** - 50m setback of septs and the like from water courses appropriate. MO's do utilise off-river water sources (tanks, tap springs, dams).
- 11) **Effluent Disposal** - merit issue, Council should provide information on a range of "approved in principle" systems - composting, "long drop" etc.
- 12) **Risk/Hazards**
 - a. Bushfire requirements are a source of friction (inappropriate, impractical, costly or environmentally destructive). MO's are bushfire conscious and adequate precautions can be made through a bushfire management plan. Recommends bushfire conditions be determined in consultation with the applicant prior to submission of DA.
 - b. In general dwellings should not be located in floodways - merit consideration, however.
 - c. Slip/subsidence - appropriate for Geotechnical investigation where slip or subsidence is expected - submit such reports in stages where appropriate, eg DA stage for roads and residential areas, at BA for specific house sites.
- 13) **Visual Impact** - best addressed by introduction of a general DCP - Rural Visual Impact - no structures on skylines or easily visible from main road. Encourage tree planting around dwellings, require where an impact is created from scenic vantage points. It would be discriminatory to impose special requirements on MO's.
- 14) **Adjoining Land Uses** - suggests this is a civil matter, as MO's are advertised developments and adjoining owners notified, any objections are taken into account in assessment process.
- 15) **Fauna Impact** - should be assessed, applicants should seek advice from NPWS.
- 16) **Speculation** - there is a role for Council, applications should be made by, or on behalf of the "community members". All shareholders should be involved in the conceptual planning development of MO's. Council should satisfy itself that issues of ownership, decision making structure, new member processes, share transfer arrangements are "community based". No transfer of land permissible, limits speculation.
- 17) **Compliance with Consent** - Council obliged under the EP & A and Local Government Act to ensure conditions of consent are met. Council has discretion and should not discriminate and "police" across the board. Option of mutual changing of conditions of consent.
- 18) **Illegal Developments** - statutory obligation to regulate, matter of Council policy as to extent. Approved temporary or transitional dwellings possible, illegal building can be registered "as approved". Care not to discriminate where there are people living in unapproved caravans and de facto flats in town.
- 19) **Rating** - supports any rating review that contributes to an "equitable" rating system. Account should be made of the concept of "extended" family and MO residents, not up to Council to determine what constitutes a "family".
- 20) **S94 Levies** - depends on circumstance, S94 road levy likely to represent a severe financial hardship on MO's, and that this conflicts with "low income, low cost" objectives of SEPP

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#15. Determination of S94 levies on the basis of distance from Lismore inequitable. Payment should be made at time of BA. Legislation requires Council to consider "in kind" payments, eg road up-grading, construction of public facilities, halls.

- 21) **Applications** - information suggested in the Discussion Paper follows what is required under S90 and SEPP #15.

1.4.2 **Cornucopia (Glen-Bin Pty Ltd) Community, Nimbin**, suggests that ownership is foremost in MO, provides security and fosters shared and individual endeavours. DA's should be assessed on own merits. Suggests Council survey each DA to assist Council understand the requirements of MO before setting conditions, and that Council produce an informational booklet. Provides a transcript of the appeal *Glenbin v LCC 1988* regarding subdivision.

- 1) **Subdivision** the culture and philosophy of MO should not be overly generalised. MO's provide to people a chance to provide own space and place. Considers an approved MO as a rural residential estate, ie provides dwellings and possible workshop. Subdivision requires consent, this controls defacto rural residential development consent.
- 2) **Minimum Area** - satisfactory, but be reviewed on merit with regard to effluent disposal and health standards. Suggest small MO style housing developments as satellite villages.
- 3) **Agricultural land** - Council should require program of noxious weed control, but should be required for other rural developments and for Council. MO's not effective users of land in early years of development (need to build homes etc), expects this will change in the future, and that people of a range of skills and talents live on MO's. The 25% prime land requirement should be flexible to enable the MO if the aim is agricultural use.
- 4) **Non-residential use** - supports that it be permissible.
- 5) **Siting of Dwellings** - consider each DA on its merit, spatial development probably preferred by community members. Fire risk greater with clustering, possible conflagration of all buildings. Spatial distribution has risk, possible to confine dwellings to easily protected areas.
- 6) **Access** - Council has not mandate to change ROW which is legally written into the title, refers to Court case *Glenbin vs LCC*. Expresses concern in respect of Council's current level of road maintenance policies, not many MO's on road which exceed 500 AADT. Council should continue to lobby for road funding. Flood free access not necessary. Current contribution are not appropriate, levies must be relevant, demonstrate nexus and paid at time of BA.
- 7) **Water Supply** - supports concept of sufficient water supply, but that it be provided over a time frame to lessen the cost burden.
- 8) **Waste Disposal** - system should not be identified at time of DA but at time of BA, should be flexible with alternative systems.
- 9) **Risk/hazard** - fire conditions can be a burden, require flexibility to encourage compliance and encourage MO's to join bushfire brigades. Dwellings should not be permitted in floodways. Geotechnical information should be provided of DA with some flexibility.
- 10) **Visual impact** - landscape and rehabilitation plans should not be required, unless required for other developments.
- 11) **Adjoining land uses** - merit situation dependent on the nature of the existing use.
- 12) **Fauna Impact** - assessment should not be provided unless it is required of other developments or required by NPWS. MO's tend to be low impact developments.
- 13) **Speculation** - alleviate the problem through education - speculation may lead to grass roots upheaval and discontent within a community. Assess DA's on merit. How can Council police ownership?
- 14) **Compliance with consent** - should be approached in a co-operative and reasonable manner with Council liaising with communities to assist them to comply. Allow flexibility of time frame in which to comply.

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- 15) **Illegal developments** - Council should regulate/control illegal MO's with compassion and in non-discriminatory manner.
- 16) **Rates** - should be lower, and based on level of services received. Ancillary development might attract a separate levy.
- 17) **S94 Levies** - payment at time of BA, "in-kind" contributions options be made available to reduce cost burden.
- 18) **Applications** - suggests reducing the extent of information required as outlined in the Discussion Paper.

1.4.3 **Bodhi Farm Community, The Channon**, supports the current system for MO with some minor changes. Considers that MO's make a positive form of social organisation in today's society, and that society needs experimentation with alternatives to determine better ways of functioning.

- 1) **Subdivision** - supports existing one lot requirements of SEPP #15, Community Title would destroy the culture and philosophy of MO. Ownership not a concern of Council.
- 2) **Minimum area** - satisfactory, existing formula allows for a sense of community, buffer zones, maintenance of rural integrity and resources infrastructure.
- 3) **Agricultural land** - potential for MO's to produce food for self sufficiency high, selling of it should not be defined as productivity. MO's usually restricted to marginal land because of cost. The prime agricultural land 25% minimum should be raised to 100% to permit MO's to be producers if they so wish. No noxious weed programs.
- 4) **Non-residential development** - should be permitted.
- 5) **Siting of dwelling** - either clustered or dispersed dependent on land and applicants.
- 6) **Access** - flood free access not necessary - current road standards not satisfactory, State Government should accept more responsibility.
- 7) **Water supply** - provide own supply - water needs vary.
- 8) **Waste disposal** - current standards are adequate, should be incentives and support to use environmentally sound systems.
- 9) **Risk/hazard** - new standards should be applied that are more manageable with Council assisting to provide information. Dwellings should not be placed in floodways. Geotechnical information should be obtained in vulnerable area, concerned about prohibitive costs.
- 10) **Visual Impact** - landscape plans not necessary provided some commitment is made to environmental aesthetics. MO's low impact developments.
- 11) **Adjoining land uses** - impact of existing use may be offensive, MO's low impact developments.
- 12) **Fauna Impact Study** - yes.
- 13) **Speculation** - opposes MO legislation used for this purpose, current SEPP discourages.
- 14) **Compliance with consent** - only when written complaints are received.
- 15) **Illegal developments** - are there real grounds for concern?
- 16) **Rates** - should be reviewed and based on level of service provision.
- 17) **S94 levies** - are appropriate, flexibility required in terms of timing and payment.
- 18) **Application** - agree with information suggested - concerned about cost of geotechnical and fauna impact reports.

1.4.4 **Websters Creek Community, Nimbin**, commenting on issues as raised in the Discussion Paper:

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- 1) **Subdivision** - no Community Title, encourages speculation and development for profit, may lead to instability within the community due to transient residents and absentee ownership. Some form of defined shareholder boundaries necessary through internal management agreements, creates a greater degree of permanency. "Home improvement areas" (5000m² in SEPP #15) should be determined by the community with regard to share cost, community objectives, geography, water courses, etc.
- 2) **Minimum area** - a general guide satisfactory, may not, in certain circumstances be appropriate (floods, erosion, slip etc).
- 3) **Agricultural land** - MO should be permitted on land greater than 25% prime agricultural. Noxious weed control should be the same as the general community. MO's offer possibility of more ecologically sound means of control.
- 4) **Non-residential use** - should be permitted.
- 5) **Siting of dwellings** - cluster and dispersed patterns should be permissible dependant upon constraints of the land and objectives of community.
- 6) **Public access** - no necessity for flood free access on North Coast.
- 7) **Water supply** - MO should be bound by requirements of the Water Act, and have same rights. Sufficient storage for fire-fighting purposes should be provided but not necessarily at each site, eg central dam. Optimum use of water should be encouraged and recognise 3 levels of water quality required (drinking water, bathing and washing and disposal of greywater).
- 8) **Waste disposal** - discourage water flush systems (water use/supply, volume of pathogens fed with food scraps and ease with which these can enter groundwater). Suggests greater use of dry composting systems and reuse of greywaters onto gardens.
- 9) **Risk/hazard** - adequate fire protection measures should be provided. Considered to be a self regulatory issues given adequate education. Agrees that dwelling should not be in floodways.
- 10) **Visual impact** - majority of new settlers consider that impact should be minimised.
- 11) **Adjoining land uses** - hazardous or offensive industries should provide buffers.
- 12) **Fauna Impact** - assessment should be undertaken.
- 13) **Speculation** - undesirable, however, unreasonable and unworkable to insist that ²/₃ of adult owners reside on property - restricts individual freedom. Suggest that an internal system which gives owner of MO's the ability to approve new owners will deter speculation. Council has no role in regulation and control of ownership.
- 14) **Compliance with consent** - inspections prior to sale to protect purchasers. Object to some building code requirements. Police only when complaints are received.
- 15) **Illegal development** - all MO's should be subject of approval processes.
- 16) **Rates** - "user-pay" basis for road usage. MO's provide own services.
- 17) **S94** - "in-kind" contributions should be permitted.
- 18) **Applications** - agrees with suggested requirements, geotechnical analysis on suspect sites.

1.4.5 **Meta Company Community, Nimbin**, provides a brief commentary on the history of the MO movement in particular the formation of Co-ordination Co-op. Identifies major impediment to legality as the high cost of site fees and road levies particularly as most MO residents are low income families more interested in shelter than legality - requests more equitable determination of levies and recognition of value of MO's in society (experimental housing, renewable energy etc). Requests "time to pay" levies. Siting of dwelling should be on a merit basis and reflect land and social constraints. In kind contributions such as halls, day-care centres, fire sheds should be accepted, together with private facilities. Fauna impact assessment should be provided with DA especially where land is heavily timbered. Public road access should be of a standard suitable to land owners and give access to fires trucks. MO's should not pay for improved access to landuses involving heavy truck or tourist usage further along the road. Internal roads should be responsibility of MO only. MO's should be encouraged to create small businesses.

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1.4.6 **Pinpuna Community, Stoney Chute**, providing a brief commentary on the development and management of this community and making the following comments to issues in the Discussion Paper.

- 1) **Subdivision** - Community Title is not MO - does not embrace sharing land or resources or encourage low cost home ownership.
- 2) **Minimum area** - speculators will develop to maximum density, DAs for maximum density need close examination to ensure compliance with the philosophy, aims and spirit of MO.
- 3) **Agricultural land** - MO should be permitted on prime agricultural land provided this land is not taken up by housing and is available for agricultural uses. The 25% requirement is irrelevant. Noxious weeds are a matter for all land owners to control. MO's provide labour source to enable labour intensive, human and environmentally friendly control.
- 4) **Siting of dwelling** - clustered and dispersed should be options.
- 5) **Access** - "mostly flood free" should be acceptable as Lismore does not have flood free access. Levies should recognise there is no individual title (it is difficult to raise finance to pay levies), MO's share/pool transport and have less impact on road system. Access via ROW is satisfactory and is of advantage (shared maintenance of access).
- 6) **Water supply** - MO's should not impact on water quality/quantity, requirements for storage are appropriate but there should be flexibility to allow staged provision.
- 7) **Waste disposal** - systems to be identified at DA staged, composting toilets/pit toilets should remain an option.
- 8) **Fire protection** - current requirements unreasonable and inappropriate. Community belongs to local bushfire brigade, to comply with Council requirements would mean excessive clearing and restrictions on planting around.
- 9) **Slip** - geotechnical report where there is reason to believe slip or subsidence will occur.
- 10) **Adjoining land uses** - civil matter.
- 11) **Speculation** - there is a role for Council to guard against speculation which creates de facto rural residential estates.
- 12) **Compliance of consent** - keep in mind the option of mutual changing of conditions of consent if it is appropriate.
- 13) **Illegal development** - not confined to MO's.
- 14) **Rates** - supports an equitable system.
- 15) **S94** - levied at time of each BA and Council permit paying off and "in-kind" contributions.
- 16) **Concludes** - valuable contribution that many MO residents make to local community (examples the representation of residents of Pinpuna in various organisations). Also that people who may otherwise be requiring public housing have housed themselves and that over the years the existing community networks have solved problems which may have otherwise required intervention from welfare services.

1.4.7 **Phillip and Jeni Falk, Pillambi Community, Georgica**, commenting on the issues raised in the Discussion Paper.

- 1) **Amending LEP to replace SEPP with a DCP** - not recommended as the LEP could not minimise the principles of the SEPP #15 - no apparent gain.
- 2) **Retain SEPP, prepare DCP** - no benefit, requests MO community be involved in preparation of DCP if Council considers a DCP appropriate.
- 3) **Amending SEPP #15** - hypothetical, impossible.
- 4) **Do nothing** - if this means the "status quo", supports this option - suggest formation of MO Advisory Panel.
- 5) **Subdivision** - Community Title would destroy culture and philosophy of most MO's and is contradictory to SEPP # 15. To subdivide would require rezoning to a rural residential use and be subject to same requirements as apply to rural residential developments.

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- 6) **Minimum area** - satisfactory.
- 7) **Density formula** - satisfactory, and that proposal to develop the theoretical maximum densities are a recent occurrence that should be subject to consideration by MO Advisory Panel and compliance with SEPP #15. Overdevelopment should be considered in context of social constraints of proposal.
- 8) **Agricultural land** - using specified guidelines MO's can be effective users of agricultural land. MO's should not be discriminated against by not being allowed to pursue agricultural practices. Noxious weed control covered by separate legislation, no discrimination.
- 9) **Siting of Dwelling** - should be decided upon by applicant community in consultation with an advisory panel.
- 10) **Access** - MO's low impact developments, occupants share transport and have a lower road usage pattern. Flood free access not necessary, use of ROWs should be permitted.
- 11) **Water** - merit situation, need household storage together with additional shared water resource.
- 12) **Waste disposal** - for larger MO proposals effluent disposal should be identified at DA stage, smaller proposals at BA stage. Supports composting toilets.
- 13) **Risk/hazard** - existing bushfire requirements inappropriate as MO's pay to local brigades. Each house should be accessed individually and all rural dwellings have the same fire protection. Dwellings should not generally be in floodways. Geotechnical reports should not have to be submitted with DA, but prepared if required.
- 14) **Visual impact** - Council should prepare a rural DCP for all rural development which will address landscaping and rehabilitation.
- 15) **Adjoining uses** - civil matter.
- 16) **Fauna impact assessment** - yes and with all DA's.
- 17) **Speculation** - there is a role for Council to ensure a speculator does not own a MO. There is a role for a facilitator to do the administrative work necessary to establish an MO. Needs to be controlled to ensure maximum housing development does not occur on unsuitable parcels of land.
- 18) **Compliance to consent** - existing legislation requires that Council ensure conditions are met. Council should exercise discretion any "policing" should not be discriminatory.
- 19) **Illegal development** - Council has a statutory obligation in respect of illegal development and a matter of policy as to how it is "policed".
- 20) **Rates** - supports a review towards an equitable system.
- 21) **S94** - supports payment at time of BA and Council has a statutory obligation to consider "in-kind" contributions.

1.4.8 **Dharmananda Community, The Channon**, advising that they have seen the submission of the Pan Community Council and are in agreement with that submission. The Community have advised that they have pioneered the use of the composting toilet and have included a report on that subject. The report describes the processes of consultation, design, pitfalls, benefits of the water-less loo.

1.4.9 **Tuntable Falls Co-ordination Co-operative, Nimbin**, advising Council of the history of this community and that some 20 years on, the community has a school complex (pre-school and primary), community shop (provides a postal service, outlet for sale of organic produce and provides school lunches), community hall, three fire trucks and 2 water tankers, and youth club. Funds these projects and others (fencing, land management, road maintenance and regeneration) by annual cash levy and a complimentary work levy system. The Community works under the NSW Co-operatives Act. Shareholders given right to occupy a site or dwelling, house sale prices are set at replacement value of materials, excluding improvements. Have developed a comprehensive set of by-laws which encompass philosophies on social and environmental issues (copy of which is provided).

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Makes the following comments.

- 1) Use of Community Title inappropriate, it would destroy the culture and philosophy of MO developments.
- 2) **Density formula** - satisfactory.
- 3) **Agricultural land** - MO's can be effective and efficient utilisers of agricultural land, marginal land is often re-forested, orchards planted, mixed use organic gardens established. No restriction on amount/extent of prime agricultural land as this may restrict an MO or group wishing to undertake larger scale organic farming.
- 4) **Siting dwellings** - clustering preferable for community buildings and fire protection, dispersed less visual impact.
- 5) **Access** - no flood free access, excessive contribution cause hardship.
- 6) **Water** - MO's can have a detrimental effect on water resources depending on number of people and proximity to water sources. This community is converting to composting toilets.
- 7) **Risk/hazards** - present requirements appear satisfactory, any enforcement should be done with the local brigade. Geotechnical assessment only in slip areas.
- 8) **Visual impact** - MO's evolve slowly, not practical to require MO's to prepare landscaping plans, except for major projects.
- 9) **Speculator** - role for Council to discern between the genuine MO and speculative development.
- 10) **Compliance with consent** - avoid over reading, must use discretion as to "who" is complaining and for what purpose.
- 11) **Illegal developments** - queries why illegal development occurs - too much "red tape", high fees and charges. Suggests a more user friendly Council with an advisory service.
- 12) **S94** - in kind contributions should be permitted. Concludes that the growth of the area to a large degree as a result of the alternative lifestyle and its philosophies (low cost housing, experimental housing, organic farming, alternative education, sharing of resources and a more affordable lifestyle). The lifestyle offers low income people the opportunity to collectively own land and build a house where it may never have been possible.

1.5 COUNCIL DEPARTMENTS

1.5.1 **Engineering** - the Department commented that the Discussion Paper satisfactorily examined/raised issues of concern.

1.5.2 **Environmental Health:**

- 1) **Suggested** that investigation be made to amend SEPP to allow community title subdivision for MO to enable better tenure for site holders and potentially better management of this form of development.
- 2) **Water supply** - present requirements are for 45,000 litres of supply for domestic purposes, some of which must be potable. This must be independent of fire fighting reserves, although it may be possible to use non-potable domestic water for fire storage. Strongly suggests considering not permitting access to stream and possibly ground water reserves, whilst using surface water and roof collection (dams, tanks). Should apply to other rural developments.
- 3) **Waste disposal**
 - a) **Effluent** - use should be made of guidelines to be met by developments to satisfy Council of the land capability to accept effluent.
 - b) **Solid waste disposal** - management plan required to encourage waste minimisation strategies to contain most wastes on-site.
- 4) **Illegal development** - Council should be even handed in its approach to regulation to ensure

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minimum environmental health development standards are met. Generally that if the community had an understanding that Council would enforce them, extent of illegal developments would reduce. Suggests another "amnesty" to provide "level playing field".

- 5) **Applications** - requirements suggested in the discussion paper should be more explanations together with a full description (flow chart) of all consents required from initial set-up of MO's to construction and alteration of buildings.

1.6 COMMENT

Rather expectedly, comments and submissions have tended to reflect what might be assumed or anticipated to be the point of view of the author and/or instrumentality. Interestingly no submission appears to be "anti" or strongly opposed to multiple occupancy development. This position for the most part, also appeared to be the case at the workshop. Generally issues such as water supply; effluent disposal; the proper assessment of environmental impacts in the context of flooding, slip, erosion, mass movement, habitat, bushfire; the provision of satisfactory public and internal access; landscape impacts and infra structural services were uniformly considered important.

In relation to SEPP No. 15 many submissions expressed satisfaction with the policy as it exists. However, several submissions expressed concern regarding the adequacy of what may appear to be arbitrary and/or prescriptive minimum standards such as minimum lot size, dwelling densities and location/siting of dwellings (cluster/dispersed). These submissions argued that the minimum lot size should be greater, either to conform with Council's general rural subdivision minimum, or that the current 10 ha is too small for proper design to reflect the environmental capabilities of the land. Similar argument was also proffered regarding dwelling and consequent potential population densities. In relation to clustering or dispersed location of dwellings, it was argued that the capabilities of the land should determine dwelling siting. Clustering of dwellings is preferred to minimise environmental impacts resultant from long road systems, whilst also promoting a sense of community, and enabling better access to and provision of services.

Those making submissions and comments in relation to developer involvement and speculation roundly condemned such practice. Although it was noted there is a role for genuine facilitators or consultants. Several mechanisms, such as a greater emphasis on social impact assessment, the need to demonstrate the underlying aspirations and intent of future community members in the DA process, the formation of an "Advisory Panel" and a greater educative role for Council were suggested as means to control speculation via an applicant seeking to optimise theoretical maximum densities.

Views in respect of the use of agricultural land were divided. Provided prime agricultural land is not sterilised for either current or future use via the location of dwellings etc, strict exclusion policies, ie the maximum 25% agricultural class lands 1, 2 or 3 were not considered by many submissions as appropriate. The need for further "up-to-date" survey and analysis of the economic, social and environmental impacts of multiple occupancy development (case studies) was perceived to be very important prior to making changes to the planning system as exists. Similarly, in relation to impacts on adjoining land uses an "agricultural" survey should be undertaken by proponents of multiple occupancies to gauge neighbour attitudes and to identify and possibly mitigate likely conflicts arising from rural development. Such a survey would document existing land uses and known or possible conflicts based on landholders' experiences in the area.

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In relation to illegal development it was a generally held view that Council has an obligation to address illegal development, however, any action should be handled in a non-discriminating manner. "Yet another" amnesty was suggested to "level the playing field".

Similar views were expressed in relation to non-compliance or the difficulty of complying with conditions of development and payment of S94 levies. It was argued that Council should be reasonable and fair, and be prepared to negotiate to find a mutually satisfactory and agreed position.

The issue of rating review and equity was widely held to be important, however, beyond the scope of this review and planning legislation. Council should address the MO rating issue and related demands on Council services, as part of its planning general review of the rating structure.

The scope of information suggested as being necessary to be provided with DA's for multiple occupancy was generally concurred with. Several organisations made suggestions that a water management plan, erosion and sediment control plan, and in depth consideration of environmental health issues should be part of the DA process.

2. SUMMARY OF WORKSHOP PROCEEDINGS

The following is a brief point form summary of the presentations and outcomes of group/focus sessions of the workshop. The outcomes as described were generally agreed to by those participating in the workshop, although it should be noted there was some dissension on issues such as the application of the aims and objectives of SEPP #15 and the minimum area upon which this form of development may be permitted to occur. What became very apparent is that there is a need to undertake a more detailed analysis of multiple occupancy, by survey of individual communities, the individuals within, and adjoining land owners. Similarly, it appears that participants held the view that 3 hours was not sufficient time to enable full discussion of all the issues.

Approximately forty seven (47) people participated in the workshop comprising;

State Government:	6
Local Organisations:	6
Individuals:	6
Multiple Occupancies:	20
Local Government:	11

2.1 WORKSHOP SPEAKERS

2.1.1 **Department of Planning**, reiterated points of its written submission and that the Department favours Council adopting its own local enabling provisions and minimum standards.

2.1.2 **NSW Agriculture**, spoke of the land use conflicts that have and may occur. The following issues were identified.

- * that land use be utilised as a consideration with out consideration of agriculture class and that there exists a possibility of "agricultural" MO's.
- * that multiple ownership is perhaps a better definition which would reflect shifting

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trends in business and enterprise in agriculture, potentially broadening capital and labour bases.

- * need for further data collection (survey) of the economic, social and environmental impacts of development - case studies.

2.1.3 **Lismore City Council Engineer**, provided an additional perspective on the terminal road system. Road design speed, vertical and horizontal alignment, pavement conditions and S94 contributions were discussed.

2.1.4 **Department of Water Resources**, reiterated points of the written submission and commented that peoples activities create impact. Three areas should be considered.

- * availability - require a minimum 3 months storage - minimum rainwater 45,000ltr (60,000ltr desirable) storage to reduce impact on river systems.
- * quality - need to maintain quality surface and ground waters - set backs/buffers necessary, together with use of environmentally friendly methods of effluent disposal (package treatment, composting systems).
- * total catchment integrity and land use management e.g. vegetation and protection of drainage courses, vegetation protection.

2.1.5 **Conservation and Land Management**, reiterated points of within submission and made the following comments:

- * land must have physical capacity to support proposed development.
- * impacts should be considered both on-site and downstream (catchment).
- * MO's generally occur on Soil Con. Class 6-8 lands which are prone to erosion and mass movement as a consequence of soil type. Problems most evident after periods of intense rain.
- * hazards, mass movement areas require geotechnical assessment of building sites, access systems, septic effluent disposal areas, dams.
- * erosion and sediment strategy with DA.

2.1.6 **Pan Community Council** presented the consumer/user perspective from input at a meeting involving some 35 MO's to review the Discussion Paper. The following comments were made:

- * that the form of development is people based, engendering and fostering a particular spirit and quality of life and relationship. That in terms of environmental impact the use is considered to be a gentle lifestyle, and have minimal impact.
- * clear distinction between MO and rural residential is the concept of land ownership.
- * suggested improvements to system; - strong advisory and assisting role of Council in particular technical aid, upgrading of the publication "Low Cost Country Building Handbook to reflect current community expectation, and the establishment of an Advisory Panel.
- * that the form of development came about by a demand and need for low cost, low demand housing.

2.1.7 **Lismore and District Ratepayer Association**, raised issues of concern as expressed by members of the Association, and that there appeared to be problems which should be resolved for the future.

- * conflict with existing land tenure and subdivision minima, for all rural developments.
- * storage of water

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- * land use conflicts
- * rating equity
- * effluent disposal and adequacy of current systems. Need to consider Dept. Health report.

2.2 SUMMARY OF ORAL AND WRITTEN REPORT BACK SESSIONS

2.2.1 Group 1 - Issues 1, 2, 3, 4 and 8 (SEPP #15, lot size, density, subdivision, dwelling location)

a) SEPP #15

- * C12c(iii) and 7(l)(h) may need to be amended to support spirit in which SEPP #15 was drawn up - avoid legal challenge.
- * no exemption from SEPP #15 necessary, amending SEPP not appropriate.
- * status quo - satisfied; suggest more information on S149 certificates on adjoining land use to reduce/avoid conflicts and production of MO users guide together with a MO code or policy and/or advisory panel. Greater informational role for Council.
- * agreed that the advertising and public exhibition provision should remain.

b) Subdivision

- * Speculation and subdivision not appropriate, community title subdivision not permissible and not appropriate.

c) Density

- * Density of clustering of MO's needs to be examined in relation to rural development generally together with density within MO's.
- * How to address the issue of density when/if neighbouring community feel it is too great??
- * development to maximum density, or near, requires serious investigation in relation to social issues as future generation's needs.

d) Minimum Area - General satisfaction with 10ha minimum.

e) Siting of Dwelling - generally prefer cluster, but each application considered on merit.

f) General/Other Issues

- * need for a strategic plan for rural area and development (such should include rural residential, agriculture MO's etc.) - need to protect rural environment.
- * 25 % prime agricultural land max. too arbitrary, should be raised/flexible to enable MO development for agricultural uses.
- * MO occupiers should not be redirected to particular type of land and to a specific set of rules which may be discriminatory.
- * applications for MO's must include the provision of internal community facilities, otherwise does not demonstrate commitment to philosophy of MO.

2.2.2 Group 2 - Issue 5 (Agriculture)

- a) MO's have place in area, both agricultural and MO's important although it is, difficult to define the place (location).
- b) Source of conflict is the current planning restriction on subdivision which encourages MO use. Size of holding not important as is use of arbitrary standard - each DA must be assessed on merit and document and justify use.
- c) Consultation with adjoining owners by proponent in reduce conflict, this process must also occur with all rural developments.
- d) Preservation of agricultural land important, the land must be suited to the proposed use. Some form of agricultural use, owners should have a land. Consider a requirement/objective to achieve self sufficiency. Restrict curtailage of dwellings to enable

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full use of land, should be remote from hazard areas. All land viable, for right agricultural use on the North Coast.

- e) Permit higher density MO's in areas adjoining urban areas.
- f) Buffer areas should be provided between MO and agriculture, particularly intensive agricultural users. This should be the applicant's responsibility in consultation process with adjoining owners, detailed in DA. Purpose is to help avoid conflict MO in agricultural area must accept rural practices and responsibilities, emphasis on good and regular communication.
- g) Over emphasis on land classification - (Agric. Classes 1,2,3 etc.) - merit assessment to consider land use relative to land characteristics.
- h) General/Other issues. MO philosophy changing
 - * need for researched information, case studies and evidence to support further review which is objective of process.
 - * more time to discuss
 - * arbitrary standards not appropriate, merit consideration of property documented and substantiated proposals.

2.2.3 Group 3 - Issues 6 and 17 (Roads, Access, infra-structure, services)

- a) **Legal Access**
 - * public road to property desirable.
 - * ROW acceptable providing all services required to be located in ROW can be legally contained.
 - * merit situation.
- b) **Impact on existing road system**
 - * Recognise that vehicle use may be less than 6.7 vehicles/day (car pooling) but must still make a shared contribution to road improvement.
- c) **Flood Free Access**
 - * minimum requirement should be pedestrian access. Flood size needs to be qualified. Merit assessment.
- d) **Public Road Min. Standard**
 - * 2 lane, 2 wheel drive all weather, bitumen access if large numbers of dwellings.
- e) **Internal Road Min. Standard**
 - * 2 wheel drive, all weather, width subject to requirements.
- f) **S94 Levies**
 - * work must be completed to a required standard. Payment in cash, in-kind (contract) acceptable, however that the contractor must have necessary skills and qualification to do task.
- g) **Infrastructure**
 - * Garbage not required, recycling ethic.
 - * public transport not required, except to rural village centres. Although the school bus service is needed/used as a form of public transport.
 - * telephone desirable to property.

2.2.4 Group 4 - Issues 7 and 79 (Water and Waste Disposal)

- a) **Water**
 - * need to consider impact on environment, issues are source, quantity, use and quality, cannot continue to take water from water courses and unlicensed bores, need for alternate water supplies and sources (dams and tanks etc) particularly for domestic use.
 - * each DA should include study and assessment of adequacy of supply.
 - * management of water should be shared with adjoining owners (TCM) which might

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- * include a monitoring process for water quality and quantity.
- * Council should provide information on different types of sources.
- * encourage greater use of composting toilets to reduce use of water and keep pollutants out of creek systems. Council to act as approval body not specifying standards.
- * greater emphasis on education, some work done (River wise) but lack of awareness if issues (and importance of), this should be produced by the Dept. of Water Resources (wider perspective) and distributed through local government. Consultation with users and local government.

b) Waste Disposal

- * focused on ideas and solutions - greater use of grey water on gardens and for agriculture.
- * systems should be well separated from waterways and be assessed in context of land capability.
- * consideration of innovative alternatives such as composting, re-use and collective systems (wetlands etc) this should be "fast-tracked".
- * needs to be better management of systems.
- * encourages dialogue with Council.

2.2.5 Group 5 - Issues 10, 11, 12, 13 and 18 (mass movement, slip, erosion, environmental impact)

a) Mass Movement/Slip

- * generally agree with current practice, but this requires formal statement as policy.
- * erosion and sediment control on roads is a major problem - clustering of buildings reduces road length and problem.
- * inconsistency in requirements to addressing issues of mass movement.

b) Land Capability

- * must be assessed and considered capable of supporting maximum number of people.
- * density formula - dissent: general satisfaction v assessment on merit/case by case basis.
- * no septs should be permitted for any rural development, encourage proven alternate systems. Need for greater education and positive guidelines.

c) Fire

- * guidelines should be available through Council's Fire Control Officer.

d) Fauna Impact

- * any destruction must comply with requirements of the Endangered Fauna Interim Protection Act 1992 as amended.
- * guidelines should be prepared.

2.2.6 Group 6 - Issues 14, 15, 16, 20 and 22 (Developer involvement, rating, S94 charges, enforcement, DA's)

a) S94

- * should permit "in kind" work provided it is practical and liability is known.
- * time payment of levies should be allowed.
- * high S94 levies conflict with Council corporate objectives and objectives of SEPP#15 - low cost developments.
- * Council's current policy on payment of S94 levies - currently encourages illegal developments and conflict within MO communities.

b) Speculation

- * role for a facilitator/consultant where a collective of people did not wish to make application.
- * speculative development defined as that where proponent seeks to maximises density

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- yields and moves on.
- * applications should be community driven.
- * limit speculation by internal MO policies regarding "moving in/and out of MO" and rental of properties.
- * demand for dual occupancy is generating demand for multiple occupancy.
- c) **Rates/Economic Benefit**
 - * current rating system considered inequitable both between MO and other rural uses and between individual MO's. Recognises not a planning issue and will take some time to resolve.
 - * MO's make a positive contribution to the economy of area, encouraging sustainable growth without profit - These issues could be subject to further survey to better assess the economic social and environmental effects of MO development.
 - * potentially an effective user of land through labour and skills input.
- d) **Compliance with Consent**
 - * some internal problems within MO's to achieve overall compliance.
 - * problem is a mixed type and standards between consents for different MO's.
 - * annual inspection fee?
 - * another amnesty to regularise - about time again.
 - * encourage greater Council advisory capacity.
- e) **Assessment**
 - * MO should be treated the same as any other form of rural settlement.
- f) **General**
 - * important to consider all options.

2.2.7 Group 7 Issues 19 and 21 (MO's and Society)

- a) MO'S make a valuable contribution to the community at large through positive economic, social, environmental and cultural effects. The new and alternative social philosophies associated with this form of development were considered beneficial to society generally. The form of development should continue to be valued as a good form of development which enriches society. Concerns were expressed that there is a view that MOs are a drain on society.
- b) Generally relationships with neighbours are good, needs to be an "openness" in resolving conflict. Degree of conflicts appears to be over generalised and used as misnomers.
- c) Size of community not necessarily a problem.
- d) Evening's proceedings showed the need for more information sharing.
- e) Council has an obligation to support low cost housing.

2.2.8 General Discussion (At end of evening)

- a) Land use and social survey to "flag" potential conflicts - purpose to identify possible conflict situations, what natural topographical and mitigatory works may be necessary to reduce impact and conflicts. Not a "yes/no" survey.
- b) Ownership requirements - the concept of principle place of residence, although expressed in the aims and objectives of the SEPP is difficult and possibly unrealistic to enforce. Dwellings can and are used as rental housing. Solutions, an internal MO issue, monitor through an Advisory Panel one shareholder one dwelling, is it a problem?
- c) Home improvement area with SEPP #15 - why? numerical standard which is arbitrary and which may not suit, constraints of land, requirements of occupants. Should be a merit

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situation considered in context of overall land use (agric. re-forestation whatever) and amount of communal land.

- d) Report to Council will seek to prioritise options, and reasons for choice. It was requested that MO's be included in the process of selecting the most appropriate option.

2.2.9 Comment

to be circulated before report to Council
The workshops speakers generally reiterated points made in written submissions. In summary the Department of Planning favours Council adopting its own local enabling provisions as an amending Local Environment Plan. NSW Agriculture highlighted the need for more data collection, survey and case studies in order to accurately assess the implications of multiple occupancy development. The continued utilisation and dependence on strict use of Agricultural Land Classes and the 25% prime land maximum was queried in the context of effective land use management. The Departments of Water Resources, and Conservation and Land Management commented that greater consideration should be given to impact on water and land resources. The Pan Community Council and the Lismore and District Ratepayers Association expressed respective views as advised by their members. Pan-Com stressed the need for good communication and guidelines and that there is a clear distinction between rural residential and multiple occupancy development ie, land ownership. The Ratepayers Association raised concerns regarding effluent disposal, rating inequities, land tenure and subdivision minimums, and land use conflicts.

See letter (A) (B)
The workshop group dealing with SEPP #15 recommended remaining within that policy, although noting some concern, at the time, about the application of the aims and objectives. The density of development both in relation to future development within MO's and to the issue of speculation and the maximisation of dwelling numbers as per the formula provisions of the policy, was flagged as a concern. This issue was identified as requiring close scrutiny during the assessment phases when considering DA's. Similarly a strong commitment to the provision of community facilities must be demonstrated in a development proposal.

The use of septic facilities for effluent disposal was roundly "pooh-poohed". And that greater emphasis be placed on environmentally sound alternative systems. Water quality and quantity was considered vital in a rural context, particularly where, as evidenced in recent years, that the area is subject to periods of low rainfall. Similarly in the context of total catchment management care and prevention in areas of slip, subsidence, mass movement and erosion susceptibility was considered important.

By Whom Scott
In conclusion it is felt that many of the issues raised in the workshop can be satisfactorily addressed within a policy style Development Control Plan.

3. MULTIPLE OCCUPANCY TOUR

Councillors and Senior Officers undertook a tour of the three multiple occupancies known as:

- a) Dharmananda: Ross Road, Terania Creek,
- b) Bodhi Farm: Wallace Road, The Channon, and
- c) Co-ordination Co-operative: Upper Tuntable Falls Road, Tuntable Falls.

This tour provided Council and staff the opportunity to observe "hands on", the operation of three unique established communities.

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The Dharmananda Community have established a small co-operative with a self sufficient agricultural focus, including an emphasis on environmental regeneration. The demonstration and explanation of dry-composting effluent systems was of particular interest and value. Council will be aware that scientific research and analysis of these systems is nearing finalisation. Should these systems be found to satisfactorily render human waste suitable for re-use, it appears they should be seriously considered as viable alternatives to traditional septic systems.

Bodhi Farm is essentially a rural lifestyle retreat, with strong emphasis on community ownership and sharing of resources (housing, childcare, land care, transport and equipment). This community, despite the odd hiccup, has achieved a good on-going sense of social cohesiveness with a well developed and utilised community centre and facilities.

The emphasis of the inspection at Co-ordination Co-operative, was the provision of community facilities (hall, shop, school, youth facilities etc). This community is probably the largest of its type (structure and population) in the local government area.

As a general observation the communities visited have appeared to have achieved satisfactory common management and social structures (with the odd conflict - but who hasn't had the occasional scrap with a neighbour!). Environmental awareness, both in terms of minimising impacts on the ecology (water supply, effluent etc) and re-forestation and regeneration appears as a strong ethic within the communities.

The tour was informative and stimulating, and appeared to be enjoyed by both the host and visitors. A suitable follow-up may be to obtain the views of neighbouring land owners about the impacts of the subject MO's.

4. REVIEW OF PLANNING INSTRUMENTS AND MECHANISMS UTILISED BY COUNCILS EXEMPT FROM SEPP #15

Generally, those Councils who have sought exemption from the effect and provisions of SEPP #15 (see schedule 3 of Appendix 1) have enabled multiple occupancy via a process of separately defining this form of development, introducing enabling provisions within the land use table, (zones) and specifying certain minimum standards and/or performance criteria as "special provisions". These minimum standards appear to reflect certain "key" criteria establish in SEPP #15.

4.1 Nambucca Council

Defines multiple occupancy as the "erection of 3 or more dwellings or equivalent living accommodation, so as to permit communal living opportunities on a single allotment of land". The form of development is permitted in general rural, rural small holdings and interestingly in environment protection (water catchment) zones.

The minimum area upon which the MO development is permitted is 40 ha in the general rural and environment protection zones and 20 ha in the rural small holding zone, with dwelling densities not to exceed 1 per 5 ha in the former zones and 1 per 2ha in the latter zone. These standards are much stricter than SEPP #15. Restrictions similar to SEPP #15 relating to one lot of land, prohibition of subdivision (other than land consolidation, road widening, boundary adjustments, encroachment ratification, creation of a public reserve or purpose) are established.

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The capacity of the land to accommodate additional population; the character and suitability of the land; impact on water supply catchments; location and convenience of community services, (shops and the like); and adequacy and financing of public roads and bridges and traffic generation are taken specifically to be taken into account.

4.2 Byron Council

Permits multiple occupancy within general rural and rural small holding zones. The land is to comprise a single lot and a detailed environmental impact report is to be lodged with the development application for the use. Minimum area is 10ha generally and 20ha in "hatched" areas defined as being environmentally sensitive (flooding, landslip, bushfire hazard, erosion etc). Dwelling densities are 1 per 3 ha in "unhatched" areas, 1 per 6 in the "hatched" areas and separately prescribed in certain described lands. Subdivision is prohibited, together with separate occupation of proposed lots illustrated by a proposed strata plan. The Council must be satisfied that developments will not involve separate legal rights to parts of the land via means such as agreements, dealings, company shares etc. Rural tourist facilities are permissible, motels, hotels, caravan parks or other types of holiday or tourist facilities are prohibited.

This Council utilises a development control plan to guide intending applicants in the selection of suitable land; encourages development which genuinely seeks to increase permanent rural housing in an environmentally sound manner, whilst maintaining viable agricultural land and minimising risk; ensure individual equity; and set standards to minimise impacts and maximise amenity (internal access, waste disposal and bushfire protection). Guidelines for issues such as ownership, collective responsibility, land parcel and size, density, bushfire protection, non-residential use, access, water, community facilities etc are described.

4.3 Hastings Council

Defines multiple occupancy as a type of "residential accommodation or occupation, on a cluster or dispersed basis, of rural properties held in common ownership in the form of individual buildings or groups or clusters of buildings which together function as dwelling houses". A statutory obligation is established to refer applications to the Department of Agriculture, and Conservation and Land Management for specific comment on issues such as topographic and soil limitations with respect to dwelling sites and access location and construction, revegetation impacts and effluent disposal.

Land is not to have an area less than 40 ha, must comprise a single lot and not be subdivided. Building heights are limited to 8 metres, dwelling densities is not to exceed 1 per 5 ha to a maximum of 80 dwellings, dwellings are to be grouped or clustered, area for common use shall not be less than 80% of the total of the land, motels etc are prohibited (except ancillary holiday accommodation) and subdivision is prohibited (other than road widening etc). Specific matters for consideration such as public road access, water supply, hazard and risk analysis, waste disposal, community facilities, visual impact, areas for dwellings and common land, urban expansion, benefit to villages of declining population etc are defined as specific issues for Council to consider.

4.4 Bellingen Council

This Council is not exempt from the provisions of SEPP #15 but has prepared and operates a Development Control Plan to establish minimum standards and performance criteria for multiple occupancy.

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This planning instrument set a minimum lot size of 15 ha, despite the 10 ha standard in SEPP #15, and establishes additional matters for Council to consider (ownership, occupancy rights, dwelling and community use locations, access, water supply, utility services etc). Information on "how to apply" is provided including detailed plans and planning reports. Minimum standards and performance criteria relating to area of holding, subdivision, ownership, density, access, buildings, fire protection, water supply, effluent and waste disposal, agricultural land, staging of developments, ancillary uses, S94 contributions and variations procedures are described.

4.5 Comment

Where Councils have sought exemption from SEPP #15 and prepared and/or included "their own" enabling provisions in a Local Environmental Plan for multiple occupancy the predominant alteration or change is the minimum area upon which this form of development may occur and the dwelling densities there on. Underlying principles and philosophies of multiple occupancy such as the single lot, common ownership, occupancy rights, environmental and community management, prohibition of subdivision have largely been retained.

Interestingly, the maximum 25% prime crop and pasture land standards are not specified in LEP's, although this standard may be established in DCP's where prepared. Both LEP's and DCP's contain provisions similar to those established in, SEPP #15, Clause 8, as matters additional and/or complimentary to S90 of the EPA for Councils to consider. Several of the DCP's reviewed by Council contain information and guidelines to intending applicants to help ensure adequate information is provided with development applications and environmental impact/planning reports.

The aims and objectives of SEPP #15, if and where expressed, are contained in the objectives of the land use zoning tables. It is noted that the aims and objective of the State Policy are indirectly expressed by the enabling and special provisions of the respective LEP's.

 Council should be aware that the State Government has initiated, as a result of requests by the Members for Lismore and Ballina, a State wide review of SEPP #15. At this stage, Council has not been consulted regarding this review which is soon to formally commence.

5. PLANNING OPTIONS

As previously mentioned it has been brought to the attention of Council that the Department of Planning has commenced a Statewide review of State Environmental Planning Policy No. 15 - Multiple Occupancy of Rural Land. It appears that the Department is seeking an assessment of the adequacy, extent of use, impact and relevance and application of SEPP #15 since its introduction in 1988. Comment within the review is also being sought on any perceived or apparent conflicts with other rural housing policies.

The Department is seeking recommendations as to whether the existing policy should be amended, retained in its current form, revoked, or revoked in favour of alternative provisions. The objective of the review is to examine the relevance of SEPP #15, whether the objectives have been met and whether they are still valid. The methodology includes the identification of those local government areas operating under SEPP #15 and under local planning provisions, and an assessment of the extent to which MO development has occurred with each area. Consultation with local Councils, relevant local community organisations, relevant State Government agencies and relevant affected land owners are to be sought. The review is proposed to commence late September and conclude by the end December 1993.

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Of additional interest to Council, is another review about to be commenced by the Department, on alternative forms of rural residential development. Perhaps detached rural dual occupancy should be reviewed too! Perhaps all three forms of rural housing should be considered concurrently! Within this context and in light of the submissions to the Discussion Paper and workshop undertaken to-date the following planning options are identified:

5.1 Seek exemption from SEPP #15 and not allow further multiple occupancy development in Lismore Local Government Area

This option is not considered viable or practical. Without doubt it would place Council and the community in general in the invidious position similar to that of some twenty years past. Illegal developments and conflict. In short a complete failure to recognise that the area and population have, for want of a better word, "grown up and matured" to recognise the economic, social, cultural and environmental diversity and value of people who chose to live an alternative lifestyle in the area. Insufficient sustainable arguments have been presented to support an outright prohibition of further multiple occupancies. Such development, if undertaken in a responsible and planned manner, is a legitimate use of rural land

5.2 Seek exemption from SEPP #15, introduce enabling provisions in an amending Local Environment Plan which sets out standards and performance criteria for multiple occupancy together with the preparation of a supporting policy or Development Control Plan which provides guidelines within the standards and criteria of the amending LEP:

The option has certain merits, it would permit Council to "design" planning mechanisms that may be seen as suitable for Lismore's specific conditions. This option has been utilised by the adjoining Byron Council. Strong views have been expressed, particularly by the "multiple occupancy consumers" that in doing so, the underlying philosophies and objectives of multiple occupancy would be reduced or minimised, and that such a process may result in a cumbersome, complicated and cost inefficient planning system. In the context of the State review of SEPP # 15 such a move would appear to be inappropriately timed for the present. It, however, may be an option for the future upon completion of the findings of the State review, unless Council is particularly keen to introduce stricter planning controls as a matter of urgency.

In this context it is important that Council be aware of the situation regarding the construction, effect and legal application and interpretation of the aims, objectives, policies and strategies of SEPP #15.

Aims, objectives etc (of SEPP #15)

The aims, objectives, policies and strategies of this Policy are-

- a) to encourage a community based and environmentally sensitive approach to rural settlement;
- b) to enable-
 - i) people to collectively own a single allotment of land and use it as their principal place of residence;
 - ii) the erection of multiple dwellings on the allotment and the sharing of facilities and resources to collectively manage the allotment; and
 - 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
- c) to facilitate development, preferably in a clustered style -

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- i) in a manner which both protects the environment and does not create a demand for the unreasonable or uneconomic provision of public amenities or public services by the State or Commonwealth governments, a Council or other public authorities;
- ii) in a manner which does not involve subdivision, strata title or any other form of separate land title, and in a manner which does not involve separate legal rights to parts of the land through other means such as agreements, dealings, company shares, trusts or time-sharing arrangements; and
- iii) to create opportunities for an increase in the rural population in areas which are suffering or are likely to suffer from a decline in services due to rural population loss.

Concern has been expressed to Council, particularly in relation to clause 2(c), that the three sub-paragraphs (i);(ii); and (iii) should be read conjunctively (in unity). In other words that they are mandatory requirements, not options which Council, as a consequence of clause 7(1)(h), must be satisfied can be met. This view was supported in correspondence to Council from the Department of Planning (July 15, 1993).

This view, it is argued by legal advice and interpretation to the Pan Community Council is not correct. Similarly, the "architect" of the policy, Mr David Kanaley has indicated that it was not the intention in the construction of the policy that the sub-clauses be read conjunctively. He has suggested that many State Policies are worded and constructed in a similar manner, and that additionally the use of semi-colons as opposed to comas indicates a marked separation between the sub-clauses.

In a subsequent letter to the Pan Community Council (copy of which was forwarded to Council August 27, 1993), the Department of Planning, whilst noting it is unable to provide legal advice on the interpretation of environmental planning instruments, clarified its response and advised:

"While a development proposal needs to satisfy all the aims and objectives, this is only to the extent to which they apply. Objective (c) relates to 'facilitating development ... to create opportunities...'. If, in the City of Lismore, there are not areas '...which are suffering or are likely to suffer from a decline in services due to rural population loss', then this objective need not be applied."

The Department also noted the effect of clause 25(2) of the Environmental Planning and Assessment Act in respect of the aims and objectives of the Policy, and advised that:

the aims and objectives of the Policy cannot be applied to prohibit development, which is clearly made permissible by other provisions of the Policy, such as clause 7(1).

This matter was previously considered to be the key issue in terms of the strict legal application of SEPP #15 to Lismore (where no rural census collector area has suffered population loss) but now appears to be clarified, (albeit for the present). Given the obvious extent of Clauses 7 and 8 of SEPP #15, together with that of S90(1) of the Act (see Appendices) it does not appear necessary or warranted to seek exemption from the provisions of the Policy, at least until the Department of Planning's review is completed.

5.3 Seek exemption from SEPP #15 and introduce enabling provisions in an amending Local Environment Plan which sets out standards and performance criteria for multiple occupancy and assess DA's as and when required.

ie No DEP or built in DEP

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(G) This option in essence is similar to that discussed above (Section 5.2). At this point in time there appears to be little reason to adopt this course of action, particularly as SEPP #15 operate effectively and the State is undertaking its own review. Further guidelines by way of a DCP are seen as being most important.

5.4 Retain and remain with the SEPP #15 and prepare a supporting policy or Development Control Plan providing instructional guidelines within standards and criteria established by the State Policy

#/ ✓ This model, in the context of Council's review, is considered to be the most desirable. Whilst it is noted that the Department of Planning considers that a Development Control Plan may only supplement a Local Environment Plan there appears to be no bar in Council preparing such a document for the purposes of policy and as an educational planning instrument. This is the approach adopted by Bellingen Council. Interestingly the Bellingen DCP increases minimum lot areas and decreases dwelling densities. *not prescriptive not fresh*

In this instance the policy or DCP is seen to be an informative and educative tool which is intended to guide applicants in the selection of suitable land for multiple occupancy and "flag" the information and data considered necessary by Council to properly assess development applications in accordance with SEPP #15, Lismore LEP 1992 and S90(1) of the Environmental Planning and Assessment Act 1979. The document could also "flag" any policies Council may have in respect this form of development. It is envisaged the document may address the following provisions (broad heading list only) and issues:

- 1) Aims and objectives
- 2) Definitions
- 3) Development guidelines relating to:
 - a. ownership, occupancy rights, management
 - b. responsibility and obligations
 - c. area of holdings (minimum)
 - d. land parcel and land assessment/capability
 - e. subdivision
 - f. density and common land
 - g. access (public, ROW, internal) *→ (C)*
 - h. fire protection and management
 - i. Buildings (permanent, transitional, temporary)
 - j. water supply and management
 - k. effluent disposal
 - l. waste disposal
 - m. agricultural land and adjoining land - land use survey
 - n. non-residential and mixed uses
 - o. staging developments
 - p. utility services
 - q. S94 contributions, for what?, calculations, payment
 - r. application processes, information requirements, impact assessment, maps, advertising
 - s. community facilities
 - t. occupant social analysis *→ and other (D)*
 - u. fauna impact
 - v. erosion and sediment control and management
- 4) Variations
- 5) Advisory Panel.

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5.5 Status Quo, ie remain with the present system under the provisions of SEPP #15 and assessment under S90(1) of the Act as and when required

(4)
(DB)

This model is not considered appropriate in the light of submission received, the general outcomes of the workshop and the recent experiences of the Development Control Section of Council in assessing and reporting development applications for larger developments. Although it is noted that this system may be further improved by the publication of "Development Guidelines" and the possible formation of an Advisory Panel to assist in the assessment of DA's for above say 6 dwelling sites.

5.6 Comment

It is considered necessary that further studies and information gathering and consultation processes are required to successfully implement the options (except 5.1) listed above. Council should seek to further its "data base" on a variety of issues relating to multiple occupancy, both its social and physical impacts. For example, average daily vehicle trips would bring a degree of certainty in relation to accurate assessment of S94 rural road contributions; information of the more successful ownership and management models may provide future assistance to applicants. The use of various studies and surveys undertaken during the early and mid 1980's would provide a bench mark or datum upon which Council could compare changes in consumer attitudes within multiple occupancies and adjoining owners together with building and developing a wider knowledge of this form of development.

6. OTHER ISSUES AND CONCLUSIONS

6.1 The process of review has highlighted a number of matters applicable to multiple occupancy developments outside the operation of SEPP #15 yet which are important in the broader planning context in the regulation of multiple occupancy development. These issues are:

6.1.1 **Illegal Development** - Council has a statutory obligation to control illegal developments. Yet it is a matter of policy and in a matter and sense of social, legal and political fairness that this process be undertaken. It is suggested that upon the satisfactory exhibition of this report and subsequent adoption of Council's preferred planning options that an amnesty be declared to encourage those people and communities who have not received the development consent of Council to regularise their existence.

6.1.2 **Compliance with Development Consent** - again Council has a statutory obligation under the Environmental Planning and Assessment Act and Local Government Act to regulate and control development. In order to facilitate a process of negotiation it would appear appropriate that Council give public notice of a twelve month period in which consents can be negotiated "without prejudice" with a view of achieving mutually satisfactory ground rules. This process, could well commence at the finalisation of the preferred planning strategy.

6.1.3 **Council Policy No. 03.01.06 - Multiple Occupancy Policy Guidelines for Road Conditions**

This policy (see Appendix 3) appears to be discriminatory in nature, although it is noted that the overall purposes for which it was framed was to ensure reasonable public access to multiple occupancy developments. Council has been advised that the policy has had the effect of "sending some MO developments underground" because of cost and imposition of unnecessary financial constraints. Particularly in relation to larger developments where each stage is considered to be a minimum of six (6) dwellings and that S94 contributions be required for six (6) dwellings of that stage be paid prior to the

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(AD) issue of the first building approval. The Simpson Enquiry into S94 indicates that appropriate levies be paid at the time of release of linen plan or building approval as appropriate. The cancellation of the current policy appears warranted, with any relevant provisions being included in the DCP (if approved), or a reworked policy document.

✓ Road contribution rates should reflect actual traffic generation created and be payable as and when each building application is approved.

6.1.4 MO Advisory Panel

(I) It has been suggested that the formation of an advisory panel to review DA's for larger multiple occupancies may be of assistance to Council in the assessment process. Particularly in relation to issues such as ownership, dwelling occupancy rights, management, social impacts, and control of speculation where developments seek to maximise dwelling sites numbers to maximum numbers. It is proposed that Council invite the following organisations to constitute an MO Advisory Panel comprising one member of each of the following organisations:

(DC) (J) Pan Community Council; National Farmers' Federation (or equivalent); Ratepayers Association; Council Divisional Manager-Planning Services (or nominee); and a resident of a multiple occupancy in Lismore. *which?*

6.2 Multiple occupancy development provides and increases the variety of housing forms in the local government area, and offers opportunities for communal living and the pooling and sharing of resources. This form of development has added to the social, cultural, economic, environmental "richness" of the region, and is very much an established part of the character of Lismore and environs. There have been some problems and inappropriately designed developments which suggest that well researched planning guidelines are needed.

In the context of the stated review objectives of the Discussion Paper ie;

- (M) 1) to identify the principle land use planning issues relative to multiple occupancy development of rural land;
2) to identify options for changes to the planning system regulating and controlling multiple occupancy development; and
3) to facilitate communication and good relations between existing and future multiple occupancy dwellers, Lismore City Council and the general community;

(AB) it is felt that these objectives have been successfully met, both in the discussion paper, and the processes of community consultation. The recommendations of this report are framed to continue the processes of review, whilst also suggesting a preferred planning option. A strategy towards resolution of conflict issues and facilitation of good communication and relations with multiple occupancy community, the general community and Council is also recommended.

discriminatory when across the board.
Declaration:

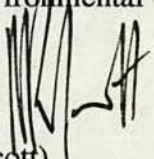
'I hereby declare, in accordance with Section 459 of the Local Government Act, that I do not have a pecuniary interest in the matter/s listed in this report.'

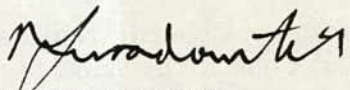
how long? with preferred option of a preference
RECOMMENDATION (PLAN26)

- (K) (AC) 1. That Council exhibit this report requesting public comment on the planning options proposed with a stated intention to prepare a draft Policy Development Control Plan in accordance with Section 5.4 of this report.

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- ✓ *Amnesty*
2. That Council revoke Policy No. 03.01.16.
3. That Council, after the adoption of matters relating to a preferred planning option, give notice of a twelve month period during which time "without prejudice" consultations are invited with a view of negotiating conditions of development consent which are currently not being met.
- after State review*
4. That Council upon future adoption of a preferred planning strategy, give public notice of an amnesty to enable illegal multiple occupancy developments the opportunity to formally make development applications to Council to regularise their existence in accordance with appropriate standards.
- (A) 5. That Council, in the meantime, further develop its information case on multiple occupancies, particularly with respect to their structure and organisation, social and environmental effects and impacts on adjoining lands.


(M R Scott)
DEVELOPMENT CONTROL PLANNER


(N Juradowitch)
DIVISIONAL MANAGER-
PLANNING SERVICES

APPENDIX ONE

State Environmental Planning Policy No 15 — Multiple Occupancy of Rural Land

[SEPP No 15 insrt Gaz 12 of 22 January 1988; erratum Gaz 41 of 26 February 1988; Gaz 48 of 21 April 1989; Gaz 7 of 12 January 1990; Gaz 109 of 31 August 1990; Gaz 152 of 23 November 1990; Gaz 183 of 27 December 1991; Gaz 55 of 1 May 1992]

[121,405] Citation

1 This Policy may be cited as State Environmental Planning Policy No 15 — Multiple Occupancy of Rural Land.

[121,410] Aims, objectives, etc

- 2 The aims, objectives, policies and strategies of this Policy are —
- (a) to encourage a community based and environmentally sensitive approach to rural settlement;
 - (b) to enable —
 - (i) people to collectively own a single allotment of land and use it as their principal place of residence;
 - (ii) the erection of multiple dwellings on the allotment and the sharing of facilities and resources to collectively manage the allotment; and
 - (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
 - (c) to facilitate development, preferably in a clustered style —
 - (i) in a manner which both protects the environment and does not create a demand for the unreasonable or uneconomic provision of public amenities or public services by the State or Commonwealth governments, a council or other public authorities;
 - (ii) in a manner which does not involve subdivision, strata title or any other form of separate land title, and in a manner which does not involve separate legal rights to parts of the land through other means such as agreements, dealings, company shares, trusts or time-sharing arrangements; and
 - (iii) to create opportunities for an increase in the rural population in areas which are suffering or are likely to suffer from a decline in services due to rural population loss.

[121,415] Land to which this Policy applies

3 (1) Except as provided by subclause (2), this Policy applies to land within the cities, municipalities and shires specified in Schedule 1.

(2) This Policy does not apply to land specified in Schedule 2.

[121,420]

4 [cl 4 rep Gaz 41 of 26 February 1988]

[121,425] Amendment of certain environmental planning instruments

4 (1) Each environmental planning instrument specified in Column 1 of Schedule 3 is amended by omitting the clause or matter specified opposite that instrument in Column 2 of that Schedule.

(2) Nothing in this clause is taken to have omitted clause 29 from Hastings Local Environmental Plan 1987, being the clause inserted into that plan by Hastings Local Environmental Plan 1987 (Amendment No 10) on 31 August 1990.

[subcl (2) insrt Gaz 152 of 23 November 1990]

[cl 4 renumbered Gaz 41 of 26 February 1988]

[121,430] Interpretation

5 (1) In this Policy —

“council”, in relation to the carrying out of development, means the council of the area in which the development is to be carried out;

“dwelling” means a room or suite of rooms occupied or used, or so constructed or adapted as to be capable of being occupied or used, as a separate domicile;

“ground level” means the level of a site before development is carried out on the site pursuant to this Policy;

“height”, in relation to a building, means the distance measured vertically from any point on the ceiling of the topmost floor of the building to the ground level immediately below that point;

“home improvement area” means the area of land, not exceeding 5000 square metres, around a dwelling;

“prime crop and pasture land” means land within an area —

- (a) identified, on a map prepared before the commencement of this Policy by or on behalf of the Director-General of Agriculture and deposited in an office of the Department of Agriculture, as Class 1, Class 2 or Class 3 or as land of merit for special agricultural uses;
- (b) identified, on a map prepared after the commencement of this Policy by or on behalf of the Director-General of Agriculture marked “Agricultural Land Classification Map” and deposited in an office of the Department of Agriculture, as Class 1, Class 2 or Class 3 or as land for special agricultural uses; or
- (c) certified by the Director-General of Agriculture, and notified in writing, by or on behalf of the Director-General of Agriculture to the council, to be prime crop and pasture land for the purposes of this Policy;

“the Act” means the Environmental Planning and Assessment Act 1979.

(2) For the purposes of this Policy, the council may, in respect of development proposed to be carried out pursuant to this Policy, 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.

[cl 5 renumbered Gaz 41 of 26 February 1988]

[121,435] Relationship to other planning instruments

6 Subject to section 74(1) of the Act, in the event of an inconsistency between this Policy and another environmental planning instrument, whether made before, on or after the day on which this Policy takes effect, this Policy shall prevail to the extent of the inconsistency.

[cl 6 renumbered Gaz 41 of 26 February 1988]

[121,440] Multiple occupancy

7 (1) Notwithstanding any provision in an environmental planning instrument concerned with the use of land for the purposes only of a dwelling or dwellings (as the case may be) in rural or non-urban zones, development may, with the consent of the council, be carried out for the purposes of 3 or more dwellings on land to which this Policy applies within such a zone where –

- (a) the land comprises a single allotment not subdivided under the Conveyancing Act 1919 or the Strata Titles Act 1973;
- (b) the land has an area of not less than 10 hectares;
- (c) the height of any building on the land does not exceed 8 metres;
- (d) not more than 25 per cent of the land consists of prime crop and pasture land;
- (e) the part of the land on which any dwelling is situated is not prime crop and pasture land;
- (f) the development is not carried out for the purposes of a motel, hotel, caravan park or any other type of holiday, tourist or weekend residential accommodation, except where development for such purposes is permissible under the provisions of another environmental planning instrument in the zone;
- (g) slopes in excess of 18 degrees do not occur on more than 80 per cent of the land; and
- (h) the aims and objectives of this Policy are met.

[subcl (1) am Gaz 152 of 23 November 1990]

(2) The council may consent to an application made in pursuance of this clause for the carrying out of development whether or not it may consent to an application for the carrying out of that development pursuant to any other environmental planning instrument.

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

[cl 7 renumbered Gaz 41 of 26 February 1988]

[121,445] Matters for council to consider

8 (1) A council shall not consent to an application made in pursuance of clause 7 unless it has taken into consideration such of the following matters as are of relevance to the development the subject of that application:

- (a) the means proposed for establishing land ownership, dwelling occupancy rights, environmental and community management will ensure the aims and objectives of this Policy are met;
- (b) the area or areas proposed for erection of buildings, including any proposals for the clustering of buildings;
- (c) the area or areas proposed for community use (other than areas for residential accommodation and home improvement areas);

- (d) the need for any proposed development for community use that is ancillary to the use of the land;
 - (e) the availability and standard of public road access to the land;
 - (f) the availability of a water supply to the land for domestic, agricultural and fire fighting purposes and, where a proposed water supply is from a river, creek, dam or other waterway, the effect upon other users of that water supply;
 - (g) if required by the applicant, the availability of electricity and telephone services;
 - (h) the availability of community facilities and services to meet the needs of the occupants of the land;
 - (i) whether adequate provision has been made for waste disposal from the land;
 - (j) the impact on the vegetation cover of the land and any measures proposed for environmental protection, site rehabilitation or reafforestation;
 - (k) whether the land is subject to bushfires, flooding, soil erosion or slip and, if so, the adequacy of any measures proposed to protect occupants, buildings, internal access roads, service installations and land adjoining the development from any such hazard;
 - (l) the visual impact of the proposed development on the landscape;
 - (m) the effect of the proposed development on the present and potential use, including agricultural use, of the land and of lands in the vicinity;
 - (n) whether resources of coal, sand, gravel, petroleum or other mineral or extractive deposits will be sterilised by the proposed development;
 - (o) the effect of the proposed development on the quality of the water resources in the vicinity;
 - (p) any land claims by local aboriginals and the presence of any aboriginal relics and sites;
 - (q) whether the land has been identified by the council as being required for future urban or rural residential expansion;
 - (r) whether the development would benefit an existing village centre suffering from a declining population base or a decreasing use of the services provided in that centre.
- (2) The council shall not consent to an application made in pursuance of clause 7 for the carrying out of development on land for the purposes of 4 or more dwellings unless the site plan accompanying the application identifies —
- (a) vegetated areas requiring environmental protection or areas where rehabilitation or reafforestation will be carried out;
 - (b) any part of the land which is subject to a risk of flooding, bush fire, landslip or erosion or any other physical constraint to development of the land in accordance with this Policy;
 - (c) any part of the land that is prime crop and pasture land;
 - (d) any areas of the land to be used for development other than for dwellings;
 - (e) the source and capacity of any water supply, electricity, telephone and waste disposal systems for the dwellings; and
 - (f) the proposed access from a public road to the area or areas in which the dwellings are to be situated.

[cl 8 renumbered Gaz 41 of 26 February 1988]

See after p16

[121,450] Density of development

9 (1) Subject to subclause (2), a council shall not consent to an application made in pursuance of clause 7 for the carrying out of development on land unless the number of proposed dwellings on the land, together with any existing dwellings on the land, does not exceed the number calculated in accordance with the formula specified in Column 2 of the Table to this clause opposite the area of the land specified in Column 1 of that Table.

(2) If the number calculated in accordance with the formula as referred to in subclause (1) includes a fraction, the number shall 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.

TABLE

Column 1	Column 2
Area of land	Number of dwellings where A represents the area of the land the subject of the application (measured in hectares)
Not less than 10 hectares but not more than 210 hectares	$4 + \frac{(A - 10)}{4}$
More than 210 hectares but not more than 360 hectares	$54 + \frac{(A - 210)}{6}$
More than 360 hectares	80

(3) Even if the number of proposed dwellings on land the subject of an application made in pursuance of clause 7 together with any existing dwellings on the land does not exceed the maximum number of dwellings permitted by subclause (1), the council shall not consent to the application if those dwellings are so designed that they could, in the opinion of the council, reasonably accommodate in total more people than the number calculated by multiplying that maximum number of dwellings by 4.

[cl 9 renumbered Gaz 41 of 26 February 1988]

[121,455] Subdivision prohibited

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

(2) Subclause (1) does not apply with respect to the subdivision of land for the purpose of —

- (a) widening a public road;
- (b) making an adjustment to a boundary between allotments, being an adjustment that does not involve the creation of any additional allotment;
- (c) rectifying an encroachment upon an allotment;
- (d) creating a public reserve;
- (e) consolidating allotments; or
- (f) excising from an allotment land which is, or is intended to be, used for public purposes, including drainage purposes, bush fire brigade or other rescue service purposes or public conveniences.

[cl 10 renumbered Gaz 41 of 26 February 1988]

[121,460] Advertised development

11 (1) This clause applies to development to be carried out pursuant to a consent referred to in clause 7, being development for the purposes of 4 or more dwellings (whether existing or proposed dwellings).

(2) Pursuant to section 30(4) of the Act, the provisions of sections 84, 85, 86, 87(1) and 90 of the Act apply to and in respect of development to which this clause applies in the same manner as those provisions apply to and in respect of designated development.

[cl 11 renumbered Gaz 41 of 26 February 1988]

[121,465] Monitoring of applications

12 Where a council receives an application made in pursuance of clause 7, the council shall, within 30 days of determining the application, forward a copy of the application to the Secretary together with a copy of the notice of the determination of the application.

[cl 12 renumbered Gaz 41 of 26 February 1988]

[121,470] Suspension of certain laws

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

- (a) section 37 of the Strata Titles Act 1973; and
- (b) any agreement, covenant or instrument imposing restrictions as to the erection or use of buildings for certain purposes or as to the use of land for certain purposes,

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

(2) Pursuant to section 28 of the Act, before the making of this clause —

- (a) the Governor approved of subclause (1); and
- (b) the Minister for the time being administering the provisions of the Strata Titles Act 1973 referred to in subclause (1) concurred in writing in the recommendation for the approval of the Governor of that subclause.

[cl 13 renumbered Gaz 41 of 26 February 1988]

[The next page is B 20,337]

[121,475]

SCHEDULE 1

(cl 3)

Armidale	Kempsey
Ballina	Kyogle
Barraba	Lake Macquarie
Bathurst	Lismore
Bega Valley	Macleay
Bellingen	Manilla
Bingara	Merriwa
Blayney	Mudgee
Bombala	Mulwaree
Casino	Murrurundi
City of Greater Cessnock	Muswellbrook
City of Greater Lithgow	Nundle
City of Maitland	Nymboida
City of Shoalhaven	Oberon
Coffs Harbour	Orange
Cooma-Monaro	Parry
Copmanhurst	Port Stephens
Cowra	Quirindi
Dumaresq	Richmond River
Dungog	Rylstone
Eurobodalla	Scone
Evans	Singleton
Glen Innes	Tallaganda
Gloucester	Tamworth
Goulburn	Tenterfield
Grafton	Tweed
Great Lakes	Ulmarra
Greater Taree	Uralla
Guyra	Walcha
Inverell	Yallaro

[Sch 1 am Gaz 48 of 21 April 1989; Gaz 7 of 12 January 1990; Gaz 109 of 31 August 1990; Gaz 152 of 23 November 1990; Gaz 183 of 27 December 1991; Gaz 55 of 1 May 1992]

[121,480]

SCHEDULE 2

(cl 3)

Land which is a national park, historic site, nature reserve, Aboriginal area, state recreation area, protected archaeological area or game reserve within the meaning of the National Parks and Wildlife Act 1974.

Land which is a reserve within the meaning of Part IIIB of the Crown Lands Consolidation Act 1913 or which is vacant land within the meaning of that Act.

Land which is subject to the Western Lands Act 1901.

Land which is a State forest, flora reserve or timber reserve within the meaning of the Forestry Act 1916.

Land which, under an environmental planning instrument, is within an area or zone (within the meaning of that instrument) identified in that instrument by the description —

(a) Coastal lands acquisition;

- (b) Coastal lands protection;
- (c) Conservation;
- (d) Escarpment;
- (e) Environment protection;
- (f) Environmental protection;
- (g) Open space;
- (h) Rural environmental protection;
- (i) Scenic;
- (j) Scenic protection;
- (k) Water catchment;
- (l) Proposed national park,

or identified in that instrument by a word or words cognate with any word or words used in paragraph (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), or (l) or by a description including a word or words so used and any other word or words.

Land to which Eurobodalla Rural Local Environmental Plan 1987 applies.

[Sch 2 am Gaz 152 of 23 November 1990]

[121,485]

SCHEDULE 3

(cl 4)

Column 1 Environmental Planning Instrument	Column 2 Clause or Matter
Interim Development Order No 40 — Lismore	15, 16(3) and Schedule 6
Interim Development Order No 2 — Shire of Bibbenluke	23
Interim Development Order No 1 — Shire of Evans	28, 29, 30 and Schedule 5
Interim Development Order No 1 — Shire of Terania	13A and 13B(3)
Interim Development Order No 1 — Shire of Ulmarra	13A
Interim Development Order No 1 — Shire of Woodburn	13B
Interim Development Order No 1 — Shire of Byron	11B and Schedule 8
Gloucester Local Environmental Plan No 4	18
Great Lakes Local Environmental Plan No 28	12
Nymboida Local Environmental Plan 1986	12 and 15
Orange Local Environmental Plan No 11	29
Tweed Local Environmental Plan 1987	34

[Sch 3 am Gaz 41 of 26 February 1988; Gaz 48 of 21 April 1989; Gaz 152 of 23 November 1990; Gaz 183 of 27 December 1991]

[The next page is B 20,349]

APPENDIX TWO

s 90

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

[42183]

(2) The provisions of section 101(8), (9) and (10) apply to a determination of the Minister under this section as if it were a determination under section 101(8).
[subs (2) subst Act 228 of 1985 s 5 and Sch 1]

[42183] Matters for consideration

90 (1) In determining a development application, a consent authority shall take into consideration such of the following matters as are of relevance to the development the subject of that development application:—

- (a) the provisions of—
 - (i) any environmental planning instrument;
 - (ii) any draft environmental planning instrument that is or has been placed on exhibition pursuant to section 47(b) or 66(1)(b);
 - (iii) any draft State environmental planning policy which has been submitted to the Minister in accordance with section 37 and details of which have been notified to the consent authority; and
 - (iv) any development control plan in force under section 72, applying to the land to which the development application relates;
- (a1) the provisions of—
 - (i) any conservation agreement entered into under the National Parks and Wildlife Act 1974 and applying to the whole or part of the land to which the development application relates; and
 - (ii) any plan of management adopted under that Act for the conservation area to which the agreement relates;
- (b) the impact of that development on the environment (whether or not the subject of an environmental impact statement) and, where harm to the environment is likely to be caused, any means that may be employed to protect the environment or to mitigate that harm;
- (c) the effect of that development on the landscape or scenic quality of the locality;
- (c1) the effect of that development on any wilderness area (within the meaning of the Wilderness Act 1987) in the locality;
- (c2) whether there is likely to be a significant effect on the environment of endangered fauna;
- (d) the social effect and the economic effect of that development in the locality;
- (e) the character, location, siting, bulk, scale, shape, size, height, density, design or external appearance of that development;
- (f) the size and shape of the land to which that development application relates, the siting of any building or works thereon and the area to be occupied by that development;
- (g) whether the land to which that development application relates is unsuitable for that development by reason of its being, or being likely to be, subject to flooding, tidal inundation, subsidence, slip or bush fire or to any other risk;
- (h) the relationship of that development to development on adjoining land or on other land in the locality;
- (i) whether the proposed means of entrance to and exit from that development and the land to which that development application relates are adequate and whether adequate provision has been made for the loading, unloading, manoeuvring and parking of vehicles within that development or on that land;

- (j) the amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect of that traffic on the movement of traffic on that road system;
 - (k) whether public transport services are necessary and, if so, whether they are available and adequate for that development;
 - (l) whether utility services are available and adequate for that development;
 - (m) whether adequate provision has been made for the landscaping of the land to which that development application relates and whether any trees or other vegetation on the land should be preserved;
 - (m1) whether that development is likely to cause soil erosion;
 - (n) any representations made by a public authority in relation to that development application, or to the development of the area, and the rights and powers of that public authority;
 - (o) the existing and likely future amenity of the neighbourhood;
 - (p) any submission made under section 87;
 - (p1) without limiting the generality of paragraph (a), any matter specified in an environmental planning instrument as a matter to be taken into consideration or to which the consent authority shall otherwise have regard in determining the development application;
 - (q) the circumstances of the case;
 - (r) the public interest; and
 - (s) any other prescribed matter.
- [subs (1) am Act 228 of 1985 s 5 and Sch 8; Act 159 of 1987 s 2 and Sch 1; Act 197 of 1987 s 3 and Sch 2; Act 66 of 1991 s 5 and Sch 2; Act 1 of 1992 s 13]

(2) A reference in this section to development extends to include a reference to the building, work, use or land proposed to be erected, carried out, undertaken or subdivided, respectively, pursuant to the grant of consent to a development application.

[42184] Determination of development application

- 91 (1) A development application shall be determined by —
- (a) the granting of consent to that application, either unconditionally or subject to conditions; or
 - (b) the refusing of consent to that application.
- (2) Notwithstanding subsection (1), the consent authority shall refuse an application where the development referred to therein, being the subdivision of land, would if carried out result in a contravention of an environmental planning instrument or of this Act, whether arising in relation to that or any other development.
- (3) A condition may be imposed for the purposes of subsection (1) if it —
- (a) relates to any matter referred to in section 90(1) of relevance to the development the subject of the consent;
 - (b) requires the modification or surrender of a consent granted under this Act or a right conferred by Division 2 in relation to the land to which the development application relates;

[The next page is 1856.1]

APPENDIX THREE

LISMORE CITY COUNCIL POLICY REGISTER

FILE NO: S/R3

POLICY NO: 03.01.16

POLICY HEADING: MULTIPLE OCCUPANCY POLICY GUIDELINES FOR ROAD CONDITIONS

FUNCTIONS: DEVELOPMENT - DEVELOPMENT ASSESSMENT

OBJECTIVE: To determine applications for rural multiple occupancy so that any further public access improvements which are required by the development in terms of safety and adequacy for future traffic volumes are reasonably provided for by that development.

POLICY: The following policy guidelines apply:-

1. Multiple Occupancy developments will be approved only if located with access from a Council-maintained road.
2. A Section 94 Contribution, calculated for the total development, payable before the issue of the first building permit within the development, be imposed as a condition of Development Consent and be related to the provision of all relevant Council services including the access road and other access roads in the vicinity, open space, sporting and cultural facilities, bushfire equipment, garbage disposal areas, etc... which can be established as being nexus to the site. This contribution may apply to stage development and will be calculated as a portion of the total contribution on a merit basis. This stage contribution shall be payable prior to the release of the first building permit of that stage and each stage shall consist of a minimum of six dwellings.
3. Where a Multiple Occupancy development is to be undertaken in stages each stage shall consist of a minimum of six dwelling houses and the Section 94 contributions required for each dwelling of that stage be paid prior to the issue of the first building permit for that stage.

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OBJECTIVE: To determine applications for rural multiple occupancy so that any further public access improvements which are required by the development in terms of safety and adequacy for future traffic volumes are reasonably provided for by that development.

POLICY: (Cont.)

4. An additional contribution (i.e. additional to the Section 94 Contribution) may be required only where -
 - (a) there is no Council-maintained road giving access to the property in which case either
 - (i) the development shall be refused; or
 - (ii) the developer shall be required to meet the full cost of providing such access road to a standard acceptable to the Executive Manager - Engineering Services; or
 - (iii) the developer shall be given an opportunity (in appropriate circumstances) to purchase an existing road reserve and construct and maintain it as a private road;
 - (b) there is an agreed requirement by the Department of Main Roads in respect of any intersection the development access road has with a classified road or a mandatory requirement in respect of development on a main road;
 - (c) there is a need to upgrade any large waterway structure or structures (e.g. major culverts or bridges).

'A' SECTION

DIVISIONAL MANAGER-PLANNING SERVICES' REPORT

SUBJECT/FILE NO.: MULTIPLE OCCUPANCY DISCUSSION PAPER
(S/523)

PREPARED BY: Development Control Planner - Mr M Scott

REASON: To advise Council of the submissions to the discussion paper, the outcomes of the workshop, and the identification of a preferred planning strategy and resolution of various other issues as relate to multiple occupancy development.

OBJECTIVE: Council's adoption of a preferred planning strategy and exhibition of that strategy prior to formal resolution to commence strategy plan preparation.

CORPORATE PLAN REF: N/A

PROGRAMME BUDGET REF: N/A

INTRODUCTION:

This report draws together the various activities undertaken by Council to-date in its review of multiple occupancy. The report comprises the following:

1. A review of the submissions made to the "Discussion Paper on Multiple Occupancy of Rural Lands", pages 2 to 23.
2. A summary of the multiple occupancy workshop conducted July 22, 1993, pages 23 to 29.
3. A review of the multiple occupancy tour by Council and senior staff conducted August 22, 1993, pages 29 to 30.
4. An overview of other Councils' planning mechanisms who are exempt from the provisions of State Environmental Planning Policy No. 15 : Multiple Occupancy of Rural Lands, pages 30 to 32.
5. Identification and commentary on the various planning options available to Council to enable (or restrict) and control multiple occupancy development in the LGA, pages 32 to 36.
6. Other Issues and Conclusions, pages 36 to 37.
7. Recommendations.

For the information of Council, copy of the State Environmental Planning Policy (SEPP) #15 - Multiple Occupancy of Rural Land, is attached to this report as Appendix 1 and copy of S90 of the Environmental Planning and Assessment Act as Appendix 2. Additionally a copy of the text of the Discussion Paper and the issues and comments summary produced to provide a focus for the workshop are enclosed/attached to the Business Paper.

This is page _____ of the Business Paper comprising portion of minutes of an Ordinary Meeting of the Lismore City Council held on September 7, 1993.

1. REVIEW OF SUBMISSIONS TO DISCUSSION PAPER

The following section is a review of the submissions received by Council at the expiration of the exhibition of the Discussion paper. As previously advised public notification of the Discussion Paper and Council's review was undertaken and some 200 copies of the Discussion paper were printed and either formally distributed and/or provided to State Government Departments, Multiple Occupancies, community organisations or individuals. The submissions have been grouped into the following broad categories:

1. Government
2. Community Organisations
3. Individuals
4. Multiple Occupancies
5. Council

1.1 GOVERNMENT

1.1.1 **Department of Planning, Grafton.** The Department made comments in relation to the following matters:

- 1) **Options for Planning Control:** noting that the Discussion Paper listed the following four options for change to the current system;
 - a) Possible exemption from SEPP #15 and preparation of an amended local environmental plan to Lismore LEP, 1992 in conjunction with the preparation of a detailed Development Control Plan,
 - b) Remaining with SEPP #15 and preparing a Development Control Plan,
 - c) Amending SEPP #15 with the agreement of the Minister, and
 - d) Do nothing.

The Department made the following comments in respect of each of the options;

- a) Suggesting that the response to the Discussion Paper and Council's own discussions would clarify whether or not the provisions of SEPP #15 are seen as suitable for Lismore's specific conditions. The Department suggests that Council may be well advised to prepare an amending LEP which reflects the conclusions of the review, is consistent with the North Coast Regional Plan and is fine-tuned with a Development Control Plan;
 - b) Suggesting that remaining with SEPP #15 may be appropriate if there is a general community satisfaction with this planning instrument. It was noted that a Development Control Plan may only supplement an LEP;
 - c) Noting that amending SEPP #15 would involve extensive consultation with other Councils in all regions of the State, and a commitment by the Department to program the necessary alterations for the Minister's consideration. This would involve a lengthy process;
 - d) Do nothing leaves the Council in the same position as exists, and that the Discussion Paper indicates a perception that a re-think is desirable.
- 2) **Subdivision:** noting that the philosophy of multiple occupancy is entirely different to that of community titles. Multiple occupancy provides collective ownership and pooling of resource, and precludes private ownership of individual lots. Community titles enable private ownership, while allowing common property within conventional subdivision. The Department noted that it does not regard subdivision under the Community Title Act as a substitute for multiple occupancy development. And that it is a matter for the Council to

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control the potential for defacto rural residential estates using community titles legislation, by means of acceptable densities on rural land and the formulation of appropriate release strategies.

- 3) **Minimum areas and densities:** The Department noted that if the public consultation process reveals a basic unsuitability of the SEPP #15 formula, the option of an amending LEP could be pursued.
- 4) **Other issues:** including agricultural land, non-residential development, siting of dwellings, access, water supply and waste disposal should be examined in the light of SEPP #15. If those provisions are inadequate then an LEP amendment would be the preferred option.
- 5) **The issue of speculation:** the Department commented that the Council in assessing multiple occupancy proposals should be satisfied that the spirit and objectives of SEPP #15 are adequately met. The comment was made that if it was believed that the spirit of the policy is not sufficiently reflected in the objectives of SEPP #15 the Council may consider an LEP, or suggest an alteration to the objectives of SEPP #15.
- 6) **"Policing" of consent conditions, rating and S94 contributions** are matters for Council to resolve, the Department commented. The Department further commented that S94(2c)(b) of the Act allows "in kind" or "material public benefit" contributions.

1.1.2 **Water Resources, Grafton,** making the following comments;

- 1) **Water supply;** recommending that an on-site water supply be established to meet the anticipated demands of the development, to minimise the demand on rivers during dry periods. Suggest that such supply could consist of; rainwater tanks, off-stream dams, or ground water bores. Suggest that the developers should demonstrate the adequacy of supply (independent of a river source) for the intended households and activities.
- 2) **Water Quality;** additional to provision of buffer zones and setback distances from existing waterways effluent disposal systems need to be located away from groundwater bores. Strongly recommends the following minimum distances:
 - * 50m for individual bores and always upgradient from septic and waste disposal areas,
 - * 100m in an upgradient direction and 400m in a down gradient direction for communal water supply bores from septic and waste disposal areas, with regular water quality and pollution monitoring strongly recommended.It was noted that these are minimum distances and that distance may vary according to geology, hydrology, lot size usage patterns and yield of bores.
- 3) **Development Application;** suggests that a means of addressing most resource management concerns is to request a "Soil, Water and Vegetation Management Plan". Such a document addresses the following details; site map showing existing contours, vegetation, natural and artificial drainage lines and waterways, location of groundwater bores, wells, springs etc; hazard areas (steep slopes, swamps, floodplains and seasonal wet areas); existing structures; road and parking areas; dwelling locations; vegetation to be retained. The site map should also show the location of the following proposed water management methods: vegetative buffer areas and reserves between areas of development and waterways; temporary erosion and sediment control devices; permanent gross sediment and pollutant traps, trash traps and sediment fences; land clearing and shaping; retardation and detention drainage facilities and structures; and discharge points into natural drainage lines. Suggests that these details should be provided "up front" to enable Council and the State Agencies to better assess the proposal, and that this process assists the proponent to ultimately design a better development.
- 4) **Multiple Occupancy:** The Department comments that it sees multiple occupancy no differently to other forms of rural subdivision, in that if they are badly designed, a detrimental effect will occur on the catchment.
- 5) **Conclusion:** Notes that there are three main things that can be done to assist in caring for the

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water environment:

- a) Careful appraisal of the site;
- b) Preparation of a water management plan to assist in the identification of any impacts up front, and
- c) That the development layout ensure that all drainage lines and water features are buffered and where degraded, rehabilitated with appropriate species. This keeps the catchment intact and helps maintain the health of the waterways.

1.1.3 Department of Conservation and Land Management, Casino.

Comments that the Department (formerly the soil conservation service) has for many years reviewed proposed and existing multiple occupancies at the request of Council. Notes that many of the developments do pose problems to their land and downstream catchments. Comments are made in the following areas:

- 1) **Site location and density:** suggests that the location and density of any multiple occupancy should not be based on a basic formula, but on whether the parcel of land is physically capable of supporting such a development, ie an assessment of the biophysical features of the land and the extent to which these limit the size of the development.
Land capability assessment identifies areas suitable for development as well as hazards and constraints and areas to avoid development. If development is proposed in areas of severe physical limitations which are difficult to overcome, Council should request detailed site inspection which may require detailed geotechnical and engineering design.
The Department notes that slope gradient, mass movement, shallow rocky soils, wet spring areas and erodible soils the most form of physical limitation in the Lismore area.
- 2) **Siting of dwellings:** The Department prefers clustering of dwellings rather than dispersed settlements, noting that the majority of multiple occupancies tend to be dispersed involving complex road systems on areas of high erosion and mass movement hazard, which cause environmental problems to the property and downstream catchments.
The Department comments that clustering would reduce the need for complex road systems, involve less ground disturbance, and encourage housing and roads to occur in areas of minor or moderate physical limitations, which only requires careful design and adoption of simple management techniques to ensure stable land surface during and after development.
The Department notes that cluster housing may accentuate the pollution problem of nearby watercourses as a result of concentrated septs, especially in areas of shallow rocky soils or soils of low permeability. However, the adoption of pit/compost toilet systems is appropriate, if proven to be environmentally safe in the long term.
- 3) **Roads:** The Department notes that the road development on existing multiple occupancies tends to be of a poor standard, the main problems identified are;
 - a) Slumping of cut/fill areas due to construction of roads on extreme slopes or in areas prone to mass movement;
 - b) Severe erosion and resultant sedimentation due to poor road drainage and design;
 - c) Poor trafficability on roads due to lack of road surface.

The Department suggests that Council should insist proponents address these issues prior to development. Where roads are located on extreme slopes or areas with physical limitation, detailed engineering plans should be provided prior to the development proceeding.

It was further noted that the last three years have been relatively dry, not highlighting the problems brought about by storm events. The Department comments that it is often requested to provide advice in normal wet years, and that proper planning and road design at development application stage would reduce these type of requests.

- 4) **Water Supply:** The Department notes that a significant number of communities rely on dams for domestic and irrigation purposes. That there has been numerous occasions of dams

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located on or near old slump features, and that this is very unwise, as this can initiate mass movement in the general area and eventual failure of the dam.

The Department further notes that many multiple occupancies are located in areas containing perched watertables and permanent springs and that some of these areas have developed as a result of clearing of native forests and are also areas of high risk of mass movement. The Department recommends the use of spring tappers to collect water and reduce mass movement problems.

The Department recommends that advice should be sought from itself or NSW Agriculture on general farm water supply including location of dams. Where dams are located on areas known to be at risk of mass movement or old slump features, geotechnical advice should be sought to determine long term stability of the dam and adjacent lands.

- 5) **Waste Disposal:** The Department notes that on-site effluent disposal is very complex and a controversial issue in the Richmond Catchment and considers that sewerage disposal systems on multiple occupancies should be treated the same as any other form of residential development.

Proponents should address the physical and chemical features of the soils at development application stage for all dwelling sites to determine capability for effluent disposal. The Department notes that soil characteristics over a whole property can vary in texture, structure depth, stoniness etc which limits soil capability for preferred disposal systems, that site investigation using adopted soil testing techniques will assist in identifying problem areas, and that if a site is identified as unsuited to any system, it should not be approved.

- 6) **Bushfires:** The Department notes that some multiple occupancies may occur in areas of high bushfire risk, and that these areas may fall within category (a) Protected Lands, ie generally slopes in excess of 18 degrees. Comment is made that in order to provide adequate fire protection, tree removal may be necessary, and this may, where tree destruction is carried out without authority of the Department, result in prosecution and severe penalties. Suggestion is made that the proponents should contact the Department during the Development Application stage, to determine what Protected Lands exist and the procedures required if tree destruction is required for bushfire hazard reduction and, road construction.

- 7) **Mass Movement:** The Department notes that it has supplied considerable information to Council in the past in regards to this matter. It noted, as stated in the Discussion Paper that many areas of the local government area are known to be affected or liable to be affected by mass movement, and that this is especially the case for multiple occupancy developments which are generally developed on such lands (lands of low agricultural quality). The Department has indicated that in particular, during the years 1988 and 1989, several houses on multiple occupancies were severely damaged by mass movement.

The Department recommends that on lands known to have existing and potential moderate to severe mass movement hazards there, should be no development for dwellings and infrastructure unless geotechnical / engineering advice can assure that there will be no adverse affects. Similarly, consideration should be made of proposed development above and below areas of moderate and severe mass movement, to consider the affect on the area of unstable land. This information should be submitted with the Development Application and be carried out by suitably qualified persons, eg engineering geologists.

- 8) **Visual Impact:** comments that the Department assess the effects of the development on land and the adjacent catchment; detailed information including the following should be provided in the form of a plan of all existing physical and natural features, location of all proposed infrastructure, including dams and areas to be disturbed.

If the development is approved the Department recommends that a condition should require that an erosion and sediment control plan be prepared for the development. The plan should fully describe structural and vegetative measures proposed to safeguard all areas disturbed.

- 9) **Compliance with conditions of consent:** comments that considerable time is spent by the Department reviewing and commenting upon development proposals for multiple

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occupancies, and that some of the concerns made by the Department are addressed by Council as conditions of consent. Concerned that non-compliance with conditions can lead to environmental problems on the developments and downstream catchments. Indicates that by not policing conditions of consent, Council will not achieve the Total Catchment Management concept for the Richmond Catchment.

- 10) **Reviewing:** The Department suggests in order to assist them to review proposed developments, the exact location of all infrastructure should be identified with appropriate and numbered pegs. The Department comments that in the past, the lack of detailed information has made assessment difficult at times.

1.1.4 NSW National Parks and Wildlife Service, Alstonville.

The Service agreed that applications for MO's should include an assessment of environmental and landscape or scenic qualities of a locality together with a fauna impact assessment and an aboriginal site impact assessment together with a full site survey if considered necessary by the Service.

1.1.5 Department of School Education, Lismore.

Requests that the Department be consulted during assessment of MO applications. Provides the Department with information likely to affect client base and strategic planning with large developments.

1.1.6 Health Department, Lismore

The Department notes the purpose to review present policy and indicated a preference for community title developments to multiple occupancy for the greater control over potential conflict. The Department supplied a guideline document titled "Environmental Health Considerations Prior to Development" compiled to assist Councils and developers address issues which may impact on people's health, enjoyment and use of land.

Identifies the following additional issues:

- 1) Social impact on individuals within and adjoining MO's and as rural communities individually or collectively. There needs to be a supporting community structure to provide for broader needs.
- 2) Effect on total catchment in relation to population, individual and reticulated public or private water supplies; effect and long term viability of community sewerage or on-site disposal systems on waterways (environment).
- 3) Mechanisms for controlling pollution and waste disposal.
- 4) Access roads and emergency access.
- 5) Need for services, eg garbage collection.
- 6) Need for social infrastructure - halls, libraries, aged and pre-school facilities.
- 7) Need for commercial or industrial activities to sustain increased population - effect on transport, supply of raw materials etc.
- 8) Public transport requirements.
- 9) To recognise future needs of MO's, environmental and infrastructure limitations need to be determined to project a finite development - mitigate undue expectations.
- 10) Non-residential activities in locations identified as suitable.

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Notes that at the time of making submission, that composting toilet systems are illegal pursuant to Ord. 44 of the Local Government Act. Notes that if ultimately found appropriate the use of such systems does not necessarily reduce water needs and disposal requirements. Impact on total catchment, the long term effects and capabilities of disposal areas from toilet and other sources must be assessed.

The Department made comment on the following issues:

- * Identification of potential conflict with adjoining activities and within MO's.
- * Protection of a ongoing potable water supply of an acceptable quality.
- * Advised that in relation to liaison between applicants and the Department, that it may not be possible for the Department (limited resources) to deal with all individual applications, and that the Department is interested in proposals which are outside guidelines of the Department and which may have a greater and more widespread effect.
- * On-site private burial, need for discussion and guidelines for policy for State and Local level.
- * Economic sustainability of MO developments, given the community generally provides funding through rates revenue for needs of people living in outlying areas.
- * Previous land use - eg intensive horticultural uses etc.
- * Consider impact of MO's on flora and fauna, approval only where little or no impact can be demonstrated.
- * Need to determine projected population levels to determine demand for future health services. Invites future discussions between Council and Department to look at determining required health services, extent of resources, placement and funding.

1.1.7 Department of Agriculture, Wollongbar

NSW Agriculture, Wollongbar, commenting that MO needs to be dealt with as part of rural settlement generally, rather than an exclusive use. The Department made the following comments on issues raised in the Discussion Paper.

- 1) Suggesting that MO together with rural worker dwellings, dual occupancy and MO are mechanisms for legitimising rural settlement, all of which should be incorporated into a single set of "settlement criteria" applicable to all rural residential development.
- 2) **Minimum area** - that the SEPP minimum area of 10 ha is too small for good design, suggested 30 ha.
- 3) **Dwelling density** should be examined in terms of land capability/capacity and constraints, and services in the locality.
- 4) **Use of agricultural land**, this needs to be objectively analysed (case studies). The Department further suggested that as a part of the DA process a "land owner survey" should be undertaken to identify potential conflicts and means to mitigate those conflicts/impacts.
- 5) **Siting of dwellings**, this issue needs broadening to discuss rural settlement strategy models, ie rural, village or larger urban centres of population.
- 6) **Public access**, queries whether or not the existing rural road network can cope with more traffic, suggests not.
- 7) **Water supply** - the major issue. Assessment must be taken on a catchment basis. Concern was expressed that various agencies would be making similar comments in relation to source, supply, quality and quantity of water.
- 8) **Waste disposal** in particular septic disposal requires a major expansion in light of health issues and concerns expressed by the Department of Health.
- 9) **Fire protection** needs commitment to on-going maintenance.
- 10) **Flood**, keep people out of flood prone areas.
- 11) **Slip/subsidence** access and construction techniques important.

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- 12) **Impact on adjoining uses** - suggested that there is not a lack of evidence regarding impact of MO and rural residential (small holding) development on adjoining agricultural uses (evidences experiences or Tweed Council and FNCCC).
- 13) **Non-compliance** - this issue and illegal development should be considered in more detail, that there should be one rule for all.
- 14) **Rating** - suggests a differential rate process for each rural type of settlement.
- 15) **Applications** - suggested that matters such as stream flow analysis to assess competition of water users, farm development plans, neighbour surveys, soil analysis, mapping of agricultural suitability, waste re-use, noxious weed control management and traffic study should be taken into account with those matters suggested. It was suggested that there is a need for on-site planning focus meetings to consider proposals. As a general comment it was suggested that MO's cannot be divorced from rural settlement generally. Economic and social issues need to be examined in greater detail. Cumulative impacts, monitoring, data base/inventories need to be addressed and established.

1.1.8 NSW Forestry Commission

Advised that they have no comment in respect of the Discussion Paper.

1.2 COMMUNITY ORGANISATIONS

1.2.1 Nimbin Ratepayers and Progress Association, Nimbin - commenting in the format of the Discussion Paper.

- 1) **Subdivision** - community title appropriate for rural residential, inappropriate for MO's because of cost. Need for low cost community style developments with internal management and legal structures - suggest company title.
- 2) **Minimum Area** - 10ha too small - density formula should allow for no more than one person/ha and min. of 30 sites/MO - larger MO's difficult to comply with consent.
- 3) **Agricultural land** - not efficient users of agricultural land. That consideration be made for MO's on prime crop or pasture land in proposals include appropriate management plans to increase agricultural potential and value of land.
- 4) **Non-residential development** - permit rural tourist facilities to generate income, annual contributions to community services and facilities based on income and use.
- 5) **Siting of Dwelling** - cluster allows for commonality of purpose within a community - flexibility needed to provide for individual size, needs and potential of land.
- 6) **Public Access** - unrealistic to require flood free access. Contributions should be at same rate as that for rural subdivision.
- 7) **Water Supply** - should be independent and drought reliable, and develop and implement total catchment management strategies.
- 8) **Waste Disposal** - vital to establish and include in TCM strategies. Encourage MO's to adopt waste minimisation strategies and independently use waste removal services.
- 9) **Environmental Risk/Hazard** - fire protection measures on a merit basis.
- 10) **Visual Impact** - plans detailing landscaping and other management strategies should be submitted with the DA.
- 11) **Impact on Adjoining Uses** - prohibit MO developments where they pose a significant impact on existing land uses - refers to an existing dairy farmer in the Nimbin area.
- 12) **Fauna Impact** - should be provided with DA with ongoing monitoring.
- 13) **Speculation** - introduce bond agreements related to establishment of infrastructure and development of sites to be paid at time of consent, may deter speculation.
- 14) **Compliance with Conditions of Consent** - Council should monitor MO through development stage and provide technical advice that facilitates compliance. Annual inspection with fee

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until compliance. Care should be exercised regarding "complaints", avoid "internal" issues.

- 15) **Illegal Development** - all developers should comply, suggests 6-12 month amnesty to encourage compliance.
- 16) **Rating** - MO rate should be based on land value with an additional site levy.
- 17) **Payment of S94 Levies** - collect S94 for establishment of local waste and recycling facilities. Pay levies prior to release of building approvals, no exception to monetary payments.
- 18) **Applications** - detailed statements and assessments should be provided to assess DA.

1.2.2 **Tullera/Modanville Bushfire Brigade** - commenting that fire protection should be a priority to MO's and any subdivisions. That the following be required:

- 1) All water tanks be fitted with outlet to enable pump connection.
- 2) An operations portable fire pump be on the land at all times.
- 3) Adequate clearing around buildings.
- 4) Provide a buffer to enable tender access to dwelling structures.

1.2.3 **Lismore and District United Ratepayers Association Inc** - made the following comments.

- 1) Conditions of approval should be the same as applies to which any rural development application and that relates to additional dwellings.
- 2) **Rate assessment** for each dwelling, perhaps at lower rate.
- 3) **Waste disposal** - must be fully enforced - no permanent or temporary occupation prior to the installation of an approved effluent disposal system. Assess type of system, soils, location in particular to water courses, monitoring and up-grading systems generally not only MO's. Lack of adequate effluent systems most frequent form of objection.
- 4) **Buffer areas** should be required with MO's.
- 5) **MO applicants** should recognise the existence rural environment and existing agricultural practices and agree not to create conflict or object to those practices.
- 6) Requests workshop and refers to previous correspondence on issue.

1.2.4 **Norco Co-operative Ltd** - advising Council that some 55 suppliers located in Council area, that the Society has a \$190 million per annum turnover and employs 350 people in Council area. Identifies the following issues in the context of potential conflicts between farming and rural residential developments.

- 1) **Development Control** - considers that MO should be regarded as designated development to enable third party objection to enable appeal in instances where an application may meet requirements of Act but are not compatible to neighbouring practices.
- 2) **Minimum Area** - 10ha minimum maybe reduced using SEPP #1. Minimum area should be 40ha unless the lot was created prior to the policy.
- 3) **Agricultural Land** - applications should be supported by farm management plans prepared by qualified persons if the land is greater than 25% prime agricultural land to ensure objective of sustainable agriculture. This has some taxation incentive.
- 4) **Public Area** - S94 contributions plan levies should be based on 6.7 AADT/dwelling/day and not negotiable - additional traffic creates requirement for higher pavement standards - roads major expenditure item of Council should not be reduced.
- 5) **Water Supply** - provide sufficient for domestic, agriculture and fire use without impact on down stream users with drought reliability. Water management plans for MO's over four sites. Provides information on garden and domestic requirements for tank and dam size calculations
- 6) Council should determine the most desirable outcome in terms of changes to planning system.

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1.3 INDIVIDUALS

1.3.1 LH & DA McNamara, Jiggi - making the following comments:-

- 1) MO's should not be permitted on lots with greater than 25% prime agricultural land and dwellings should not be permitted on prime agricultural - important resource.
- 2) **Minimum area** should be 40ha in line with current subdivision minimum.
- 3) **Applications** for 31 or more dwelling sites should be classified as designated developments and provide EIS.
- 4) **Buffer zones** of 2km between dairies and rural residential and MO development.
- 5) **Additional** developments should not be reliant on existing creek supplies.

1.3.2 A submission from an Individual Requesting Public Anonymity

- 1) Supports review in context of: rapid population growth in area, urbanisation of coastal hinterland and importance not to permit any development to exacerbate current problems.
 - * Change in economic and social structure of area since 1970's and development of first MO's. Previously depressed rural sector, limited educational and employment opportunities area now one of rapid growth, university, expanded health facilities, population changes and unemployment.
 - * Need to make objective re-assessment of MO, just as other social experiments (soldier settler scheme) have been re-assessed. Requires necessary information collection to make informed decisions, not ad hoc decisions on the run. MO's only part of community should not be considered in isolation.
- 2) Concern that Council "must ensure that certain conditions are met" (Department of Planning Circular B.11) in accordance with SEPP #15 and the objectives queries logic of changing planning instrument if problems have arisen because the consenting body is either unable or unwilling to comply with the planning legislation. If developments are resulting in unreasonable or uneconomic demands on Council it constitutes a subsidy by ratepayers and contradicts cl 2(c)(i) of SEPP #15. Concerned of that failure to ensure compliance with consents issued under the Act and Council's review mechanisms in relation to dwellings, effluent disposal and bushfire hazard. Pointless to have standards without enforcement, conveys message that developers may do as they please with impunity and to paraphrase planning laws without future scrutiny. Notes that the creation of a desirable lifestyle should not be at the expense of others.
- 3) MO's intended for areas in rural decline. Suggests that cl 2(c) of SEPP #15 is a mandatory requirement which Council must consider and form opinion as to whether all the aims and objectives are able to be met, particularly those which relate to increase in the rural population in areas which are suffering or likely to suffer from a decline in services due to rural population loss. Proposition that the area is in decline is untenable. Problem in this area is one of rapid growth outstripping existing services and infrastructure, cites problems with provision of satisfactory levels of health and community services (youth, ages, childcare, education, family support, unemployment) and that many residential developments have failed to adequately consider these issues leading to social isolation and problems.
- 4) Concerned that by attracting people from areas of lower unemployment to this area (one of high unemployment) could be considered as creating unreasonable or uneconomic demands on Department of Social Security. This conflicts with cl 2(c)(i) of SEPP #15. Quotes a 1991 draft Discussion Paper by Byron Shire Council commenting "that there was a high correlation between those motivated by a need for city escape and the demand for services in rural living areas."
- 5) **Siting a dwellings** - states preference for cluster, promotes the aim and objectives of SEPP

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- #15 (communal lifestyle, sharing facilities, pooling resources, reduces impact on environment) minimises visual effect with landscaping, permits better bushfire control, allows distance between adjoining land uses to be maximised (reduces conflicts).
- 6) **Adjoining land uses** - antithesis of good planning to allow incompatible forms of land use.
 - 7) **Speculation** - groups of developers establishing a number of MO's either simultaneously or sequentially - best protection is close scrutiny of DA to ensure requirements can be met. DA should include budget and requirement to carry out stated intentions. All owners should be identified to ensure notion of collective ownership and legal and equitable ownership should be vetted in a group who state they intend to use the land as a principal place of residence.
 - 8) **Agricultural land** - agricultural land should not be alienated by non-agricultural developments, depletes agricultural land resources and forces agriculture onto marginal land. Suggestion that greater than 25% prime agricultural land be considered cannot be supported when Council is not enforcing compliance. Suggests that the whole LGA be assessed for its agricultural potential prior to changes of SEPP #15, and that amount of prime land on existing MO's be assessed to determine whether it is still in production or neglected. Consider share farming.
 - 9) **Application referrals** - given residential nature of MO, suggest consultation with Family and Community Services, RTA (given extent of cl 2(c)(i) and consideration of Nimbin Road) and that a consultation process be established with Social Security and CES.
 - 10) **Fauna Impact** should address impact of household pets and feral animals on active wildlife. Concerned that NPWS is not considering this issue sufficiently.
 - 11) **Recommendations:**
 - * Complete review of MO and how they fit into current planning legislation.
 - * No further MO's should be approved until Council has the means and commitment to ensure compliance with consent.
 - * No change until Resource Assessment Commission enquiry on coastal development and Public Health report on contaminated waterways has been considered.
 - * Rural Residential and Agricultural Land Study be undertaken.
 - * Survey of existing landowners living adjacent to existing MO's about problems, benefits and advice on how to resolve problems.
 - * Survey of existing MO's to determine number of MO's (legal and illegal), no. of dwellings (legal and illegal), operations of MO review according to objectives of SEPP #15 (ownership, occupancy rights, environmental and community management) and that the objects are met.
 - * Constraints map to show areas unsuitable for MO use. Map to show areas not suffering population loss, urban land or land required for urban expansion, allotments less than 10 ha, prime agricultural land, areas likely to contain extractive resources, slopes greater than 18 degrees, high bushfire risk, aboriginal sites or land claims etc.
 - * provide notations on S149 Certificates.

1.3.3 G & J Bird, Larnook - making the following comments:

- 1) **Minimum Area** - satisfactory provided land is suitable for use.
- 2) **Agricultural Land** - Council should require a noxious weed programme.
- 3) **Water Supply** - all development should be self reliant without use of river supplies.
- 4) **Waste Disposal** - 50m buffer between creeks or overland flow area too little - consider more efficient methods of waste disposal.
- 5) **Fire Protection** - Council should require fire protection measures.
- 6) Slip areas should not be considered.
- 7) **Visual Impact** - landscaping should be required.
- 8) **Adjoining Land Uses** - must be compatible to existing use.

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- 9) **Speculation** - Council should form policies to protect the form of development and regulate speculators.
- 10) **Illegal Development** - main problems are temporary dwellings - no temporary permit unless application is accompanied by building plans, permit 6 months and have effluent disposal system installed.
- 11) **Rating** - special fixed rate for MO's.
- 12) **S94 Levies** - Council must impose levies for up-grading facilities and services.

1.3.4 **W Anderson, Blue Knob** - commenting that this type of development must have its own access road and not "right of way" over a neighbours land. Concerned that ROWS may be created without Council's approval.

1.3.5 **N Hood, Bangalow** - commenting that the form of development is important to the growth of area which is a unique form of land use and part of the character of the area. Communal ownership retains one area and permits low cost housing not causing fragmentation.

1.3.6 **E Bunton, Marom Creek** - makes comment in relation to:

- 1) **Subdivision** - community title advantage to obtain loans for housing - may also lead to higher turnover of site and ownership by people not interested in common ownership culture and philosophy - potentially destabilising - need to enable financing of dwelling.
- 2) **Minimum Area** - Minimum area satisfactory, to increase area may reduce opportunity to afford choice of this lifestyle.
- 3) **Agricultural Land** - no enforced noxious weed control program, too costly. Permit larger percentage of prime agricultural land, MO's may introduce reduced labour costs to improve farm viability and permit sharing of cost and profit.
- 4) **Siting of Dwelling** - should reflect land capability and blend with landscape. Owners choice.
- 5) **Public Access** - flood free access not necessary, all weather gravel road should be minimum standard.
- 6) **Visual Impact** - landscape and rehabilitation plans should be clearly defined.
- 7) **Adjoining Land Use** - unreasonable to expect existing land use to provide buffer. Buffer should be incorporated in MO design if considered appropriate by owners.
- 8) **Speculation** - No role for Council, up to future occupants.
- 9) **Compliance** - Council should act only on written complaints and aim to legalise rather than punish. Queries why there are illegal developments, cost of approval, standards too high, simplified administrative procedures.
- 10) **Rates** - should be comparable to other land holders, shared or individual rates for dwelling sites.
- 11) **S94** - permit appropriate "in kind" contributions in instances of financial hardship to Council standards, eg roads.

1.3.7 **R Fayle, Rosebank** - comments in context that review of current system is necessary - concern that present regulations and practices are poles apart. Council should determine whether rules are to be enforced, if not little point in conducting review to change present rules to more acceptable, or enforceable or is that present rules are too difficult and unpopular to enforce.

- 1) **Subdivision** - community title not suited to concept of MO, principle of single title should be preserved to prevent urban spread and speculation.
- 2) **Minimum Area and Agricultural Land** - minimum area and agricultural land strongly linked. 10ha is too restrictive, 25% prime crop and pasture land too generous. MO's not good users of agricultural land, not able to keep weeds at bay or even grow food to support their

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communities. Restrict MO's to land of no or little agricultural value, just because MO's are in the country it doesn't necessary follow that residents are seeking the farming life. Although there may be examples where an MO may be established on agricultural land if sufficiently justified. Noxious weed control responsibility of all land owners. Need to retain "red soil" country.

- 3) **Siting of Dwelling** - agrees with preference for clustering.
- 4) **Public Access** - flood free access not required. Rural road improvement, applicants given a choice to either pay or arrange private contractor.
- 5) **Water Supply** - need to have secure water supply, 46,000 litre minimum stored supply. Water budget necessary if water is to be pumped from creek or river and an appropriate licence issued.
- 6) **Waste Disposal** - agrees with 50m buffer between septic installations and water courses. Type of system should be identified at DA stage.
- 7) **Risk/hazards** - no additional requirements on MO's beyond other rural developments.
- 8) **Visual Impact** - don't legislate taste.
- 9) **Adjoining land uses** - approvals of MO's should not now or in the future place restrictions on normal agricultural uses.
- 10) **Fauna Impact Assessment** - unnecessary.
- 11) **Speculation** - two thirds owners being resident satisfactory, should be a condition of consent, enforce the requirement or not have it.
- 12) **Compliance with consent** - should be no differentiation between MO's and other forms of development. Random inspections to check for compliance.
- 13) **Illegal Developments** - treat all developments the same, illegal development should be given the opportunity to regularise with appropriate DA or BA - protects present and future owners.
- 14) **Application** - list of information requirement very comprehensive (excessive) - less comprehensive for smaller MO developments. Administrative over-kill to refer applications to listed State Government Departments.
- 15) **Conclusion-**
 - * Amend SEPP #15 - minimum area and agricultural land, impact on adjoining land uses, fauna impact.
 - * Prepare a local DCP which addresses, access, water supply, waste disposal, risk/hazards, visual impact, speculation.
 - * Toughen up on compliance with consent and a new rate for MO's.

1.4 MULTIPLE OCCUPANCIES

1.4.1 Pan Community Council, Nimbin, advising Council that it is an organisation formed to further the interest of MO communities. Pan-Com notes the growth of MO developments in the LGA and that often MO communities have made substantial economic, environmental, cultural, artistic, education and social contributions to the area.

Further, that many of the 60 or so MO's in the Council area are tightly woven into the fabric of the community. Pan-Com notes the range in legal structure, physical layout and levels of co-operation and identifies the following commonly held philosophies:

- 1) Good quality relationships between people is important.
- 2) Land should be cared for and enhanced.
- 3) Membership should be as cheap possible with an emphasis on owner building.
- 4) Strong belief and committment to self sufficiency in terms of energy, housing and food production.

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Additionally, Pan-Com stresses the difference between MO and rural residential development via co-operative ownership and no separate legal title. Pan-Com have prepared their submission in a similar format to the Discussion Paper:

- 1) Options for change to the current planning system.
 - a. Exemption from SEPP #15 - inappropriate, as an LEP could not minimise the principles of the SEPP - cumbersome, complicated and cost inefficient.
 - b. Remain with SEPP prepare DCP - queries benefits, for the legalisation (if fully utilised) seems to have ample provision to administer MO applications.
 - c. Amending the SEPP - unrealistic, but hypothetical.
 - d. Do nothing - if means retain the status quo - supported this option.
- 2) **MO Users Guide** - Pan-Com suggest that Council produce a "localised" handbook extending and updating the Department of Planning "Low Cost Country Homebuilding Handbook" which has been of considerable assistance to community resettlers. This book could address many of the issues raised in the Discussion Paper. Pan-Com also suggest two other "educational" options to minimise or avoid conflict situations:
 - a. Prepare an MO Code or simply "policy decisions" as to how the legalisation is to be applied, or
 - b. Produce a Draft DCP with the intent of not formalising its adoption - advantages of such a document is that it will spell out guidelines which should be tested over time.
- 3) **MO Council Advisory Panel** - may be an aid to Council in advising on the issues raised in the Discussion Paper and as they arise in MO applications.
- 4) **Subdivision** - cannot be subdivided under SEPP #15, rejects the use of Community Title subdivision, communal ownership of one lot is an underlying principle philosophies of MO. Issues such as financing homes best addressed through other legislation. To use Community Title legislation MO would have to relinquish MO status and re-establish themselves, eg Billen Cliffs.
- 5) **Minimum Area** - supports current 10ha minimum and that density formula is satisfactory. Past applications almost without exception have not reached maximum density thresholds and recent proposals to develop a site to its theoretical maximum density relatively recent occurrence associated with "entrepreneurial" development as opposed to actions of a community of individuals.

Maximum density settlements leave little, if any, scope for future dwellings (for children, relatives) a "community" developed as a result of shared visions, values and interest is based on SOCIAL needs, not theoretical maximum capacities - applicants seeking maximum density of settlement may be considered by Council as to whether or not is genuinely appropriate for consideration under SEPP #15. Contends that the "social environment" should be given at least as much weight as "physical environment", suggests Council prepare a "Social Impact Statement".

In context of "over-development" social issues should be addressed and the DA provide information about the underlying aspirations and intent of the community members and extent to which social needs of occupants are to be addressed. If it should be revealed that a proposal does not stem from community members it does not meet the provisions of the SEPP and ought to be rejected. In this regard primary attention should be given to "social constraints" rather than "physical constraints" to determine an optimum density figure.
- 6) **Agricultural Land** - appropriate for MO on Class 1, 2 or 3 Agricultural Land and "prime crop and pasture land" should not be identified as automatically being Class 1, 2 or 3 Agricultural Lands.
 - a. Depend upon actual proposal - control of noxious weeds part of a larger issue - collective noxious impact on the environment. Council not the sole responsible body for control of noxious weeds - do not discriminate.
 - b. 25% prime crop and pasture land SEPP #15 enable NSW Agriculture to determine such

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land and this provision should be used in each situation on merit.

- 7) **Non-residential Development** - Pan-Com agrees that such use be permissible on merit.
- 8) **Siting of Dwellings** - should involve consideration of both social and physical constraints of the land and what is appropriate in the circumstance. SEPP #15 "prefers only" clustered development and should not be read to mean "required to cluster" as the Courts have determined. Applications which make no provision for "community facilities" ought to be rejected - breach spirit and letter of SEPP #15.
- 9) **Public Access** - appropriate road standards dependent upon state of road and expectations and desires of those who use roads - that all residents of locality should be involved in decision making to determine standard of road and that local and non-local users be distinguished, this should be accounted for when determining contributions. MO's have lower road usage patterns due to sharing and are relatively low-impact development (less building materials to be transported). Flood free access is not necessary. Use of ROW should be permissible where there is agreement between parties. Court has determined that use of ROW is normally beyond Council's jurisdiction.
- 10) **Water Supply** - 50m setback of septic and the like from water courses appropriate. MO's do utilise off-river water sources (tanks, tap springs, dams).
- 11) **Effluent Disposal** - merit issue, Council should provide information on a range of "approved in principle" systems - composting, "long drop" etc.
- 12) **Risk/Hazards**
 - a. Bushfire requirements are a source of friction (inappropriate, impractical, costly or environmentally destructive). MO's are bushfire conscious and adequate precautions can be made through a bushfire management plan. Recommends bushfire conditions be determined in consultation with the applicant prior to submission of DA.
 - b. In general dwellings should not be located in floodways - merit consideration, however.
 - c. Slip/subsidence - appropriate for Geotechnical investigation where slip or subsidence is expected - submit such reports in stages where appropriate, eg DA stage for roads and residential areas, at BA for specific house sites.
- 13) **Visual Impact** - best addressed by introduction of a general DCP - Rural Visual Impact - no structures on skylines or easily visible from main road. Encourage tree planting around dwellings, require where an impact is created from scenic vantage points. It would be discriminatory to impose special requirements on MO's.
- 14) **Adjoining Land Uses** - suggests this is a civil matter, as MO's are advertised developments and adjoining owners notified, any objections are taken into account in assessment process.
- 15) **Fauna Impact** - should be assessed, applicants should seek advice from NPWS.
- 16) **Speculation** - there is a role for Council, applications should be made by, or on behalf of the "community members". All shareholders should be involved in the conceptual planning development of MO's. Council should satisfy itself that issues of ownership, decision making structure, new member processes, share transfer arrangements are "community based". No transfer of land permissible, limits speculation.
- 17) **Compliance with Consent** - Council obliged under the EP & A and Local Government Act to ensure conditions of consent are met. Council has discretion and should not discriminate and "police" across the board. Option of mutual changing of conditions of consent.
- 18) **Illegal Developments** - statutory obligation to regulate, matter of Council policy as to extent. Approved temporary or transitional dwellings possible, illegal building can be registered "as approved". Care not to discriminate where there are people living in unapproved caravans and de facto flats in town.
- 19) **Rating** - supports any rating review that contributes to an "equitable" rating system. Account should be made of the concept of "extended" family and MO residents, not up to Council to determine what constitutes a "family".
- 20) **S94 Levies** - depends on circumstance, S94 road levy likely to represent a severe financial hardship on MO's, and that this conflicts with "low income, low cost" objectives of SEPP

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#15. Determination of S94 levies on the basis of distance from Lismore inequitable. Payment should be made at time of BA. Legislation requires Council to consider "in kind" payments, eg road up-grading, construction of public facilities, halls.

- 21) **Applications** - information suggested in the Discussion Paper follows what is required under S90 and SEPP #15.

1.4.2 **Cornucopia (Glen-Bin Pty Ltd) Community, Nimbin**, suggests that ownership is foremost in MO, provides security and fosters shared and individual endeavours. DA's should be assessed on own merits. Suggests Council survey each DA to assist Council understand the requirements of MO before setting conditions, and that Council produce an informational booklet. Provides a transcript of the appeal *Glenbin v LCC* 1988 regarding subdivision.

- 1) **Subdivision** the culture and philosophy of MO should not be overly generalised. MO's provide to people a chance to provide own space and place. Considers an approved MO as a rural residential estate, ie provides dwellings and possible workshop. Subdivision requires consent, this controls defacto rural residential development consent.
- 2) **Minimum Area** - satisfactory, but be reviewed on merit with regard to effluent disposal and health standards. Suggest small MO style housing developments as satellite villages.
- 3) **Agricultural land** - Council should require program of noxious weed control, but should be required for other rural developments and for Council. MO's not effective users of land in early years of development (need to build homes etc), expects this will change in the future, and that people of a range of skills and talents live on MO's. The 25% prime land requirement should be flexible to enable the MO if the aim is agricultural use.
- 4) **Non-residential use** - supports that it be permissible.
- 5) **Siting of Dwellings** - consider each DA on its merit, spatial development probably preferred by community members. Fire risk greater with clustering, possible conflagration of all buildings. Spatial distribution has risk, possible to confine dwellings to easily protected areas.
- 6) **Access** - Council has not mandate to change ROW which is legally written into the title, refers to Court case *Glenbin vs LCC*. Expresses concern in respect of Council's current level of road maintenance policies, not many MO's on road which exceed 500 AADT. Council should continue to lobby for road funding. Flood free access not necessary. Current contribution are not appropriate, levies must be relevant, demonstrate nexus and paid at time of BA.
- 7) **Water Supply** - supports concept of sufficient water supply, but that it be provided over a time frame to lessen the cost burden.
- 8) **Waste Disposal** - system should not be identified at time of DA but at time of BA, should be flexible with alternative systems.
- 9) **Risk/hazard** - fire conditions can be a burden, require flexibility to encourage compliance and encourage MO's to join bushfire brigades. Dwellings should not be permitted in floodways. Geotechnical information should be provided of DA with some flexibility.
- 10) **Visual impact** - landscape and rehabilitation plans should not be required, unless required for other developments.
- 11) **Adjoining land uses** - merit situation dependent on the nature of the existing use.
- 12) **Fauna Impact** - assessment should not be provided unless it is required of other developments or required by NPWS. MO's tend to be low impact developments.
- 13) **Speculation** - alleviate the problem through education - speculation may lead to grass roots upheaval and discontent within a community. Assess DA's on merit. How can Council police ownership?
- 14) **Compliance with consent** - should be approached in a co-operative and reasonable manner with Council liaising with communities to assist them to comply. Allow flexibility of time frame in which to comply.

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- 15) **Illegal developments** - Council should regulate/control illegal MO's with compassion and in non-discriminatory manner.
- 16) **Rates** - should be lower, and based on level of services received. Ancillary development might attract a separate levy.
- 17) **S94 Levies** - payment at time of BA, "in-kind" contributions options be made available to reduce cost burden.
- 18) **Applications** - suggests reducing the extent of information required as outlined in the Discussion Paper.

1.4.3 Bodhi Farm Community, The Channon, supports the current system for MO with some minor changes. Considers that MO's make a positive form of social organisation in today's society, and that society needs experimentation with alternatives to determine better ways of functioning.

- 1) **Subdivision** - supports existing one lot requirements of SEPP #15, Community Title would destroy the culture and philosophy of MO. Ownership not a concern of Council.
- 2) **Minimum area** - satisfactory, existing formula allows for a sense of community, buffer zones, maintenance of rural integrity and resources infrastructure.
- 3) **Agricultural land** - potential for MO's to produce food for self sufficiency high, selling of it should not be defined as productivity. MO's usually restricted to marginal land because of cost. The prime agricultural land 25% minimum should be raised to 100% to permit MO's to be producers if they so wish. No noxious weed programs.
- 4) **Non-residential development** - should be permitted.
- 5) **Siting of dwelling** - either clustered or dispersed dependent on land and applicants.
- 6) **Access** - flood free access not necessary - current road standards not satisfactory, State Government should accept more responsibility.
- 7) **Water supply** - provide own supply - water needs vary.
- 8) **Waste disposal** - current standards are adequate, should be incentives and support to use environmentally sound systems.
- 9) **Risk/hazard** - new standards should be applied that are more manageable with Council assisting to provide information. Dwellings should not be placed in floodways. Geotechnical information should be obtained in vulnerable area, concerned about prohibitive costs.
- 10) **Visual Impact** - landscape plans not necessary provided some commitment is made to environmental aesthetics. MO's low impact developments.
- 11) **Adjoining land uses** - impact of existing use may be offensive, MO's low impact developments.
- 12) **Fauna Impact Study** - yes.
- 13) **Speculation** - opposes MO legislation used for this purpose, current SEPP discourages.
- 14) **Compliance with consent** - only when written complaints are received.
- 15) **Illegal developments** - are there real grounds for concern?
- 16) **Rates** - should be reviewed and based on level of service provision.
- 17) **S94 levies** - are appropriate, flexibility required in terms of timing and payment.
- 18) **Application** - agree with information suggested - concerned about cost of geotechnical and fauna impact reports.

1.4.4 Websters Creek Community, Nimbin, commenting on issues as raised in the Discussion Paper:

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- 1) **Subdivision** - no Community Title, encourages speculation and development for profit, may lead to instability within the community due to transient residents and absentee ownership. Some form of defined shareholder boundaries necessary through internal management agreements, creates a greater degree of permanency. "Home improvement areas" (5000m² in SEPP #15) should be determined by the community with regard to share cost, community objectives, geography, water courses, etc.
- 2) **Minimum area** - a general guide satisfactory, may not, in certain circumstances be appropriate (floods, erosion, slip etc).
- 3) **Agricultural land** - MO should be permitted on land greater than 25% prime agricultural. Noxious weed control should be the same as the general community. MO's offer possibility of more ecologically sound means of control.
- 4) **Non-residential use** - should be permitted.
- 5) **Siting of dwellings** - cluster and dispersed patterns should be permissible dependant upon constraints of the land and objectives of community.
- 6) **Public access** - no necessity for flood free access on North Coast.
- 7) **Water supply** - MO should be bound by requirements of the Water Act, and have same rights. Sufficient storage for fire-fighting purposes should be provided but not necessarily at each site, eg central dam. Optimum use of water should be encouraged and recognise 3 levels of water quality required (drinking water, bathing and washing and disposal of greywater).
- 8) **Waste disposal** - discourage water flush systems (water use/supply, volume of pathogens fed with food scraps and ease with which these can enter groundwater). Suggests greater use of dry composting systems and reuse of greywaters onto gardens.
- 9) **Risk/hazard** - adequate fire protection measures should be provided. Considered to be a self regulatory issues given adequate education. Agrees that dwelling should not be in floodways.
- 10) **Visual impact** - majority of new settlers consider that impact should be minimised.
- 11) **Adjoining land uses** - hazardous or offensive industries should provide buffers.
- 12) **Fauna Impact** - assessment should be undertaken.
- 13) **Speculation** - undesirable, however, unreasonable and unworkable to insist that ²/₃ of adult owners reside on property - restricts individual freedom. Suggest that an internal system which gives owner of MO's the ability to approve new owners will deter speculation. Council has no role in regulation and control of ownership.
- 14) **Compliance with consent** - inspections prior to sale to protect purchasers. Object to some building code requirements. Police only when complaints are received.
- 15) **Illegal development** - all MO's should be subject of approval processes.
- 16) **Rates** - "user-pay" basis for road usage. MO's provide own services.
- 17) **S94** - "in-kind" contributions should be permitted.
- 18) **Applications** - agrees with suggested requirements, geotechnical analysis on suspect sites.

1.4.5 **Meta Company Community, Nimbin**, provides a brief commentary on the history of the MO movement in particular the formation of Co-ordination Co-op. Identifies major impediment to legality as the high cost of site fees and road levies particularly as most MO residents are low income families more interested in shelter than legality - requests more equitable determination of levies and recognition of value of MO's in society (experimental housing, renewable energy etc). Requests "time to pay" levies. Siting of dwelling should be on a merit basis and reflect land and social constraints. In kind contributions such as halls, day-care centres, fire sheds should be accepted, together with private facilities. Fauna impact assessment should be provided with DA especially where land is heavily timbered. Public road access should be of a standard suitable to land owners and give access to fires trucks. MO's should not pay for improved access to landuses involving heavy truck or tourist usage further along the road. Internal roads should be responsibility of MO only. MO's should be encouraged to create small businesses.

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1.4.6 Pinpuna Community, Stoney Chute, providing a brief commentary on the development and management of this community and making the following comments to issues in the Discussion Paper.

- 1) **Subdivision** - Community Title is not MO - does not embrace sharing land or resources or encourage low cost home ownership.
- 2) **Minimum area** - speculators will develop to maximum density, DAs for maximum density need close examination to ensure compliance with the philosophy, aims and spirit of MO.
- 3) **Agricultural land** - MO should be permitted on prime agricultural land provided this land is not taken up by housing and is available for agricultural uses. The 25% requirement is irrelevant. Noxious weeds are a matter for all land owners to control. MO's provide labour source to enable labour intensive, human and environmentally friendly control.
- 4) **Siting of dwelling** - clustered and dispersed should be options.
- 5) **Access** - "mostly flood free" should be acceptable as Lismore does not have flood free access. Levies should recognise there is no individual title (it is difficult to raise finance to pay levies), MO's share/pool transport and have less impact on road system. Access via ROW is satisfactory and is of advantage (shared maintenance of access).
- 6) **Water supply** - MO's should not impact on water quality/quantity, requirements for storage are appropriate but there should be flexibility to allow staged provision.
- 7) **Waste disposal** - systems to be identified at DA staged, composting toilets/pit toilets should remain an option.
- 8) **Fire protection** - current requirements unreasonable and inappropriate. Community belongs to local bushfire brigade, to comply with Council requirements would mean excessive clearing and restrictions on planting around.
- 9) **Slip** - geotechnical report where there is reason to believe slip or subsidence will occur.
- 10) **Adjoining land uses** - civil matter.
- 11) **Speculation** - there is a role for Council to guard against speculation which creates de facto rural residential estates.
- 12) **Compliance of consent** - keep in mind the option of mutual changing of conditions of consent if it is appropriate.
- 13) **Illegal development** - not confined to MO's.
- 14) **Rates** - supports an equitable system.
- 15) **S94** - levied at time of each BA and Council permit paying off and "in-kind" contributions.
- 16) **Concludes** - valuable contribution that many MO residents make to local community (examples the representation of residents of Pinpuna in various organisations). Also that people who may otherwise be requiring public housing have housed themselves and that over the years the existing community networks have solved problems which may have otherwise required intervention from welfare services.

1.4.7 Phillip and Jeni Falk, Pillambi Community, Georgica, commenting on the issues raised in the Discussion Paper.

- 1) **Amending LEP to replace SEPP with a DCP** - not recommended as the LEP could not minimise the principles of the SEPP #15 - no apparent gain.
- 2) **Retain SEPP, prepare DCP** - no benefit, requests MO community be involved in preparation of DCP if Council considers a DCP appropriate.
- 3) **Amending SEPP #15** - hypothetical, impossible.
- 4) **Do nothing** - if this means the "status quo", supports this option - suggest formation of MO Advisory Panel.
- 5) **Subdivision** - Community Title would destroy culture and philosophy of most MO's and is contradictory to SEPP # 15. To subdivide would require rezoning to a rural residential use and be subject to same requirements as apply to rural residential developments.

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- 6) **Minimum area** - satisfactory.
- 7) **Density formula** - satisfactory, and that proposal to develop the theoretical maximum densities are a recent occurrence that should be subject to consideration by MO Advisory Panel and compliance with SEPP #15. Overdevelopment should be considered in context of social constraints of proposal.
- 8) **Agricultural land** - using specified guidelines MO's can be effective users of agricultural land. MO's should not be discriminated against by not being allowed to pursue agricultural practices. Noxious weed control covered by separate legislation, no discrimination.
- 9) **Siting of Dwelling** - should be decided upon by applicant community in consultation with an advisory panel.
- 10) **Access** - MO's low impact developments, occupants share transport and have a lower road usage pattern. Flood free access not necessary, use of ROWs should be permitted.
- 11) **Water** - merit situation, need household storage together with additional shared water resource.
- 12) **Waste disposal** - for larger MO proposals effluent disposal should be identified at DA stage, smaller proposals at BA stage. Supports composting toilets.
- 13) **Risk/hazard** - existing bushfire requirements inappropriate as MO's pay to local brigades. Each house should be accessed individually and all rural dwellings have the same fire protection. Dwellings should not generally be in floodways. Geotechnical reports should not have to be submitted with DA, but prepared if required.
- 14) **Visual impact** - Council should prepare a rural DCP for all rural development which will address landscaping and rehabilitation.
- 15) **Adjoining uses** - civil matter.
- 16) **Fauna impact assessment** - yes and with all DA's.
- 17) **Speculation** - there is a role for Council to ensure a speculator does not own a MO. There is a role for a facilitator to do the administrative work necessary to establish an MO. Needs to be controlled to ensure maximum housing development does not occur on unsuitable parcels of land.
- 18) **Compliance to consent** - existing legislation requires that Council ensure conditions are met. Council should exercise discretion any "policing" should not be discriminatory.
- 19) **Illegal development** - Council has a statutory obligation in respect of illegal development and a matter of policy as to how it is "policed".
- 20) **Rates** - supports a review towards an equitable system.
- 21) **S94** - supports payment at time of BA and Council has a statutory obligation to consider "in-kind" contributions.

1.4.8 Dharmananda Community, The Channon, advising that they have seen the submission of the Pan Community Council and are in agreement with that submission. The Community have advised that they have pioneered the use of the composting toilet and have included a report on that subject. The report describes the processes of consultation, design, pitfalls, benefits of the water-less loo.

1.4.9 Tuntable Falls Co-ordination Co-operative, Nimbin, advising Council of the history of this community and that some 20 years on, the community has a school complex (pre-school and primary), community shop (provides a postal service, outlet for sale of organic produce and provides school lunches), community hall, three fire trucks and 2 water tankers, and youth club. Funds these projects and others (fencing, land management, road maintenance and regeneration) by annual cash levy and a complimentary work levy system. The Community works under the NSW Co-operatives Act. Shareholders given right to occupy a site or dwelling, house sale prices are set at replacement value of materials, excluding improvements. Have developed a comprehensive set of by-laws which encompass philosophies on social and environmental issues (copy of which is provided).

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Makes the following comments.

- 1) Use of Community Title inappropriate, it would destroy the culture and philosophy of MO developments.
- 2) **Density formula** - satisfactory.
- 3) **Agricultural land** - MO's can be effective and efficient utilisers of agricultural land, marginal land is often re-forested, orchards planted, mixed use organic gardens established. No restriction on amount/extent of prime agricultural land as this may restrict an MO or group wishing to undertake larger scale organic farming.
- 4) **Siting dwellings** - clustering preferable for community buildings and fire protection, dispersed less visual impact.
- 5) **Access** - no flood free access, excessive contribution cause hardship.
- 6) **Water** - MO's can have a detrimental effect on water resources depending on number of people and proximity to water sources. This community is converting to composting toilets.
- 7) **Risk/hazards** - present requirements appear satisfactory, any enforcement should be done with the local brigade. Geotechnical assessment only in slip areas.
- 8) **Visual impact** - MO's evolve slowly, not practical to require MO's to prepare landscaping plans, except for major projects.
- 9) **Speculator** - role for Council to discern between the genuine MO and speculative development.
- 10) **Compliance with consent** - avoid over reading, must use discretion as to "who" is complaining and for what purpose.
- 11) **Illegal developments** - queries why illegal development occurs - too much "red tape", high fees and charges. Suggests a more user friendly Council with an advisory service.
- 12) **S94** - in kind contributions should be permitted. Concludes that the growth of the area to a large degree as a result of the alternative lifestyle and its philosophies (low cost housing, experimental housing, organic farming, alternative education, sharing of resources and a more affordable lifestyle). The lifestyle offers low income people the opportunity to collectively own land and build a house where it may never have been possible.

1.5 COUNCIL DEPARTMENTS

1.5.1 Engineering - the Department commented that the Discussion Paper satisfactorily examined/raised issues of concern.

1.5.2 Environmental Health:

- 1) **Suggested** that investigation be made to amend SEPP to allow community title subdivision for MO to enable better tenure for site holders and potentially better management of this form of development.
- 2) **Water supply** - present requirements are for 45,000 litres of supply for domestic purposes, some of which must be potable. This must be independent of fire fighting reserves, although it may be possible to use non-potable domestic water for fire storage. Strongly suggests considering not permitting access to stream and possibly ground water reserves, whilst using surface water and roof collection (dams, tanks). Should apply to other rural developments.
- 3) **Waste disposal**
 - a) **Effluent** - use should be made of guidelines to be met by developments to satisfy Council of the land capability to accept effluent.
 - b) **Solid waste disposal** - management plan required to encourage waste minimisation strategies to contain most wastes on-site.
- 4) **Illegal development** - Council should be even handed in its approach to regulation to ensure

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minimum environmental health development standards are met. Generally that if the community had an understanding that Council would enforce them, extent of illegal developments would reduce. Suggests another "amnesty" to provide "level playing field".

- 5) **Applications** - requirements suggested in the discussion paper should be more explanations together with a full description (flow chart) of all consents required from initial set-up of MO's to construction and alteration of buildings.

1.6 COMMENT

Rather expectedly, comments and submissions have tended to reflect what might be assumed or anticipated to be the point of view of the author and/or instrumentality. Interestingly no submission appears to be "anti" or strongly opposed to multiple occupancy development. This position for the most part, also appeared to be the case at the workshop. Generally issues such as water supply; effluent disposal; the proper assessment of environmental impacts in the context of flooding, slip, erosion, mass movement, habitat, bushfire; the provision of satisfactory public and internal access; landscape impacts and infra structural services were uniformly considered important.

In relation to SEPP No. 15 many submissions expressed satisfaction with the policy as it exists. However, several submissions expressed concern regarding the adequacy of what may appear to be arbitrary and/or prescriptive minimum standards such as minimum lot size, dwelling densities and location/siting of dwellings (cluster/dispersed). These submissions argued that the minimum lot size should be greater, either to conform with Council's general rural subdivision minimum, or that the current 10 ha is too small for proper design to reflect the environmental capabilities of the land. Similar argument was also proffered regarding dwelling and consequent potential population densities. In relation to clustering or dispersed location of dwellings, it was argued that the capabilities of the land should determine dwelling siting. Clustering of dwellings is preferred to minimise environmental impacts resultant from long road systems, whilst also promoting a sense of community, and enabling better access to and provision of services.

Those making submissions and comments in relation to developer involvement and speculation roundly condemned such practice. Although it was noted there is a role for genuine facilitators or consultants. Several mechanisms, such as a greater emphasis on social impact assessment, the need to demonstrate the underlying aspirations and intent of future community members in the DA process, the formation of an "Advisory Panel" and a greater educative role for Council were suggested as means to control speculation via an applicant seeking to optimise theoretical maximum densities.

Views in respect of the use of agricultural land were divided. Provided prime agricultural land is not sterilised for either current or future use via the location of dwellings etc, strict exclusion policies, ie the maximum 25% agricultural class lands 1, 2 or 3 were not considered by many submissions as appropriate. The need for further "up-to-date" survey and analysis of the economic, social and environmental impacts of multiple occupancy development (case studies) was perceived to be very important prior to making changes to the planning system as exists. Similarly, in relation to impacts on adjoining land uses an "agricultural" survey should be undertaken by proponents of multiple occupancies to gauge neighbour attitudes and to identify and possibly mitigate likely conflicts arising from rural development. Such a survey would document existing land uses and known or possible conflicts based on landholders' experiences in the area.

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In relation to illegal development it was a generally held view that Council has an obligation to address illegal development, however, any action should be handled in a non-discriminating manner. "Yet another" amnesty was suggested to "level the playing field".

Similar views were expressed in relation to non-compliance or the difficulty of complying with conditions of development and payment of S94 levies. It was argued that Council should be reasonable and fair, and be prepared to negotiate to find a mutually satisfactory and agreed position.

The issue of rating review and equity was widely held to be important, however, beyond the scope of this review and planning legislation. Council should address the MO rating issue and related demands on Council services, as part of its planning general review of the rating structure.

The scope of information suggested as being necessary to be provided with DA's for multiple occupancy was generally concurred with. Several organisations made suggestions that a water management plan, erosion and sediment control plan, and in depth consideration of environmental health issues should be part of the DA process.

2. SUMMARY OF WORKSHOP PROCEEDINGS

The following is a brief point form summary of the presentations and outcomes of group/focus sessions of the workshop. The outcomes as described were generally agreed to by those participating in the workshop, although it should be noted there was some dissension on issues such as the application of the aims and objectives of SEPP #15 and the minimum area upon which this form of development may be permitted to occur. What became very apparent is that there is a need to undertake a more detailed analysis of multiple occupancy, by survey of individual communities, the individuals within, and adjoining land owners. Similarly, it appears that participants held the view that 3 hours was not sufficient time to enable full discussion of all the issues.

Approximately forty seven (47) people participated in the workshop comprising;

State Government:	6
Local Organisations:	6
Individuals:	6
Multiple Occupancies:	20
Local Government:	11

2.1 WORKSHOP SPEAKERS

2.1.1 Department of Planning, reiterated points of its written submission and that the Department favours Council adopting its own local enabling provisions and minimum standards.

2.1.2 NSW Agriculture, spoke of the land use conflicts that have and may occur. The following issues were identified.

- * that land use be utilised as a consideration with out consideration of agriculture class and that there exists a possibility of "agricultural" MO's.
- * that multiple ownership is perhaps a better definition which would reflect shifting

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trends in business and enterprise in agriculture, potentially broadening capital and labour bases.

- * need for further data collection (survey) of the economic, social and environmental impacts of development - case studies.

2.1.3 Lismore City Council Engineer, provided an additional perspective on the terminal road system. Road design speed, vertical and horizontal alignment, pavement conditions and S94 contributions were discussed.

2.1.4 Department of Water Resources, reiterated points of the written submission and commented that peoples activities create impact. Three areas should be considered:

- * availability - require a minimum 3 months storage - minimum rainwater 45,000ltr (60,000ltr desirable) storage to reduce impact on river systems.
- * quality - need to maintain quality surface and ground waters - set backs/buffers necessary, together with use of environmentally friendly methods of effluent disposal (package treatment, composting systems).
- * total catchment integrity and land use management e.g. vegetation and protection of drainage courses, vegetation protection.

2.1.5 Conservation and Land Management, reiterated points of within submission and made the following comments:

- * land must have physical capacity to support proposed development.
- * impacts should be considered both on-site and downstream (catchment).
- * MO's generally occur on Soil Con. Class 6-8 lands which are prone to erosion and mass movement as a consequence of soil type. Problems most evident after periods of intense rain.
- * hazards, mass movement areas require geotechnical assessment of building sites, access systems, septic effluent disposal areas, dams.
- * erosion and sediment strategy with DA.

2.1.6 Pan Community Council presented the consumer/user perspective from input at a meeting involving some 35 MO's to review the Discussion Paper. The following comments were made:

- * that the form of development is people based, engendering and fostering a particular spirit and quality of life and relationship. That in terms of environmental impact the use is considered to be a gentle lifestyle, and have minimal impact.
- * clear distinction between MO and rural residential is the concept of land ownership.
- * suggested improvements to system; - strong advisory and assisting role of Council in particular technical aid, upgrading of the publication "Low Cost Country Building Handbook to reflect current community expectation, and the establishment of an Advisory Panel.
- * that the form of development came about by a demand and need for low cost, low demand housing.

2.1.7 Lismore and District Ratepayer Association, raised issues of concern as expressed by members of the Association, and that there appeared to be problems which should be resolved for the future.

- * conflict with existing land tenure and subdivision minima, for all rural developments.
- * storage of water

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- * land use conflicts
- * rating equity
- * effluent disposal and adequacy of current systems. Need to consider Dept. Health report.

2.2 SUMMARY OF ORAL AND WRITTEN REPORT BACK SESSIONS

2.2.1 Group 1 - Issues 1, 2, 3, 4 and 8 (SEPP #15, lot size, density, subdivision, dwelling location)

a) SEPP #15

- * C12c(iii) and 7(l)(h) may need to be amended to support spirit in which SEPP #15 was drawn up - avoid legal challenge.
- * no exemption from SEPP #15 necessary, amending SEPP not appropriate.
- * status quo - satisfied; suggest more information on S149 certificates on adjoining land use to reduce/avoid conflicts and production of MO users guide together with a MO code or policy and/or advisory panel. Greater informational role for Council.
- * agreed that the advertising and public exhibition provision should remain.

b) Subdivision

- * Speculation and subdivision not appropriate, community title subdivision not permissible and not appropriate.

c) Density

- * Density of clustering of MO's needs to be examined in relation to rural development generally together with density within MO's.
- * How to address the issue of density when/if neighbouring community feel it is too great??
- * development to maximum density, or near, requires serious investigation in relation to social issues as future generation's needs.

d) Minimum Area - General satisfaction with 10ha minimum.

e) Siting of Dwelling - generally prefer cluster, but each application considered on merit.

f) General/Other Issues

- * need for a strategic plan for rural area and development (such should include rural residential, agriculture MO's etc.) - need to protect rural environment.
- * 25 % prime agricultural land max. too arbitrary, should be raised/flexible to enable MO development for agricultural uses.
- * MO occupiers should not be redirected to particular type of land and to a specific set of rules which may be discriminatory.
- * applications for MO's must include the provision of internal community facilities, otherwise does not demonstrate commitment to philosophy of MO.

2.2.2 Group 2 - Issue 5 (Agriculture)

- a) MO's have place in area, both agricultural and MO's important although it is, difficult to define the place (location).
- b) Source of conflict is the current planning restriction on subdivision which encourages MO use. Size of holding not important as is use of arbitrary standard - each DA must be assessed on merit and document and justify use.
- c) Consultation with adjoining owners by proponent in reduce conflict, this process must also occur with all rural developments.
- d) Preservation of agricultural land important, the land must be suited to the proposed use. Some form of agricultural use, owners should have a land. Consider a requirement/objective to achieve self sufficiency. Restrict curtailage of dwellings to enable

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full use of land, should be remote from hazard areas. All land viable, for right agricultural use on the North Coast.

- e) Permit higher density MO's in areas adjoining urban areas.
- f) Buffer areas should be provided between MO and agriculture, particularly intensive agricultural users. This should be the applicant's responsibility in consultation process with adjoining owners, detailed in DA. Purpose is to help avoid conflict MO in agricultural area must accept rural practices and responsibilities, emphasis on good and regular communication.
- g) Over emphasis on land classification - (Agric. Classes 1,2,3 etc.) - merit assessment to consider land use relative to land characteristics.
- h) General/Other issues. MO philosophy changing
 - * need for researched information, case studies and evidence to support further review which is objective of process.
 - * more time to discuss
 - * arbitrary standards not appropriate, merit consideration of property documented and substantiated proposals.

2.2.3 Group 3 - Issues 6 and 17 (Roads, Access, infra-structure, services)

- a) **Legal Access**
 - * public road to property desirable.
 - * ROW acceptable providing all services required to be located in ROW can be legally contained.
 - * merit situation.
- b) **Impact on existing road system**
 - * Recognise that vehicle use may be less than 6.7 vehicles/day (car pooling) but must still make a shared contribution to road improvement.
- c) **Flood Free Access**
 - * minimum requirement should be pedestrian access. Flood size needs to be qualified. Merit assessment.
- d) **Public Road Min. Standard**
 - * 2 lane, 2 wheel drive all weather, bitumen access if large numbers of dwellings.
- e) **Internal Road Min. Standard**
 - * 2 wheel drive, all weather, width subject to requirements.
- f) **S94 Levies**
 - * work must be completed to a required standard. Payment in cash, in-kind (contract) acceptable, however that the contractor must have necessary skills and qualification to do task.
- g) **Infrastructure**
 - * Garbage not required, recycling ethic.
 - * public transport not required, except to rural village centres. Although the school bus service is needed/used as a form of public transport.
 - * telephone desirable to property.

2.2.4 Group 4 - Issues 7 and 79 (Water and Waste Disposal)

- a) **Water**
 - * need to consider impact on environment, issues are source, quantity, use and quality, cannot continue to take water from water courses and unlicensed bores, need for alternate water supplies and sources (dams and tanks etc) particularly for domestic use.
 - * each DA should include study and assessment of adequacy of supply.
 - * management of water should be shared with adjoining owners (TCM) which might

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include a monitoring process for water quality and quantity.

- * Council should provide information on different types of sources.
- * encourage greater use of composting toilets to reduce use of water and keep pollutants out of creek systems. Council to act as approval body not specifying standards.
- * greater emphasis on education, some work done (River wise) but lack of awareness if issues (and importance of), this should be produced by the Dept. of Water Resources (wider perspective) and distributed through local government. Consultation with users and local government.

b) Waste Disposal

- * focused on ideas and solutions - greater use of grey water on gardens and for agriculture.
- * systems should be well separated from waterways and be assessed in context of land capability.
- * consideration of innovative alternatives such as composting, re-use and collective systems (wetlands etc) this should be "fast-tracked".
- * needs to be better management of systems.
- * encourages dialogue with Council.

2.2.5 Group 5 - Issues 10, 11, 12, 13 and 18 (mass movement, slip, erosion, environmental impact)

a) Mass Movement/Slip

- * generally agree with current practice, but this requires formal statement as policy.
- * erosion and sediment control on roads is a major problem - clustering of buildings reduces road length and problem.
- * inconsistency in requirements to addressing issues of mass movement.

b) Land Capability

- * must be assessed and considered capable of supporting maximum number of people.
- * density formula - dissent: general satisfaction v assessment on merit/case by case basis.
- * no septs should be permitted for any rural development, encourage proven alternate systems. Need for greater education and positive guidelines.

c) Fire

- * guidelines should be available through Council's Fire Control Officer.

d) Fauna Impact

- * any destruction must comply with requirements of the Endangered Fauna Interim Protection Act 1992 as amended.
- * guidelines should be prepared.

2.2.6 Group 6 - Issues 14, 15, 16, 20 and 22 (Developer involvement, rating, S94 charges, enforcement, DA's)

a) S94

- * should permit "in kind" work provided it is practical and liability is known.
- * time payment of levies should be allowed.
- * high S94 levies conflict with Council corporate objectives and objectives of SEPP#15 - low cost developments.
- * Council's current policy on payment of S94 levies - currently encourages illegal developments and conflict within MO communities.

b) Speculation

- * role for a facilitator/consultant where a collective of people did not wish to make application.
- * speculative development defined as that where proponent seeks to maximises density

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- yields and moves on.
- * applications should be community driven.
- * limit speculation by internal MO policies regarding "moving in/and out of MO" and rental of properties.
- * demand for dual occupancy is generating demand for multiple occupancy.
- c) **Rates/Economic Benefit**
 - * current rating system considered inequitable both between MO and other rural uses and between individual MO's. Recognises not a planning issue and will take some time to resolve.
 - * MO's make a positive contribution to the economy of area, encouraging sustainable growth without profit - These issues could be subject to further survey to better assess the economic social and environmental effects of MO development.
 - * potentially an effective user of land through labour and skills input.
- d) **Compliance with Consent**
 - * some internal problems within MO's to achieve overall compliance.
 - * problem is a mixed type and standards between consents for different MO's.
 - * annual inspection fee?
 - * another amnesty to regularise - about time again.
 - * encourage greater Council advisory capacity.
- e) **Assessment**
 - * MO should be treated the same as any other form of rural settlement.
- f) **General**
 - * important to consider all options.

2.2.7 Group 7 Issues 19 and 21 (MO's and Society)

- a) MO'S make a valuable contribution to the community at large through positive economic, social, environmental and cultural effects. The new and alternative social philosophies associated with this form of development were considered beneficial to society generally. The form of development should continue to be valued as a good form of development which enriches society. Concerns were expressed that there is a view that MOs are a drain on society.
- b) Generally relationships with neighbours are good, needs to be an "openness" in resolving conflict. Degree of conflicts appears to be over generalised and used as misnomers.
- c) Size of community not necessarily a problem.
- d) Evening's proceedings showed the need for more information sharing.
- e) Council has an obligation to support low cost housing.

2.2.8 General Discussion (At end of evening)

- a) Land use and social survey to "flag" potential conflicts - purpose to identify possible conflict situations, what natural topographical and mitigatory works may be necessary to reduce impact and conflicts. Not a "yes/no" survey.
- b) Ownership requirements - the concept of principle place of residence, although expressed in the aims and objectives of the SEPP is difficult and possibly unrealistic to enforce. Dwellings can and are used as rental housing. Solutions, an internal MO issue, monitor through an Advisory Panel one shareholder one dwelling, is it a problem?
- c) Home improvement area with SEPP #15 - why? numerical standard which is arbitrary and which may not suit, constraints of land, requirements of occupants. Should be a merit

situation considered in context of overall land use (agric. re-forestation whatever) and amount of communal land.

- d) Report to Council will seek to prioritise options, and reasons for choice. It was requested that MO's be included in the process of selecting the most appropriate option.

2.2.9 Comment

The workshops speakers generally reiterated points made in written submissions. In summary the Department of Planning favours Council adopting its own local enabling provisions as an amending Local Environment Plan. NSW Agriculture highlighted the need for more data collection, survey and case studies in order to accurately assess the implications of multiple occupancy development. The continued utilisation and dependence on strict use of Agricultural Land Classes and the 25% prime land maximum was queried in the context of effective land use management. The Departments of Water Resources, and Conservation and Land Management commented that greater consideration should be given to impact on water and land resources. The Pan Community Council and the Lismore and District Ratepayers Association expressed respective views as advised by their members. Pan-Com stressed the need for good communication and guidelines and that there is a clear distinction between rural residential and multiple occupancy development ie, land ownership. The Ratepayers Association raised concerns regarding effluent disposal, rating inequities, land tenure and subdivision minimums, and land use conflicts.

The workshop group dealing with SEPP #15 recommended remaining within that policy, although noting some concern, at the time, about the application of the aims and objectives. The density of development both in relation to future development within MO's and to the issue of speculation and the maximisation of dwelling numbers as per the formula provisions of the policy, was flagged as a concern. This issue was identified as requiring close scrutiny during the assessment phases when considering DA's. Similarly a strong commitment to the provision of community facilities must be demonstrated in a development proposal.

The use of septic facilities for effluent disposal was roundly "pooh-poohed". And that greater emphasis be placed on environmentally sound alternative systems. Water quality and quantity was considered vital in a rural context, particularly where, as evidenced in recent years, that the area is subject to periods of low rainfall. Similarly in the context of total catchment management care and prevention in areas of slip, subsidence, mass movement and erosion susceptibility was considered important.

In conclusion it is felt that many of the issues raised in the workshop can be satisfactorily addressed within a policy style Development Control Plan.

3. MULTIPLE OCCUPANCY TOUR

Councillors and Senior Officers undertook a tour of the three multiple occupancies known as:

- a) Dharmananda: Ross Road, Terania Creek,
- b) Bodhi Farm: Wallace Road, The Channon, and
- c) Co-ordination Co-operative: Upper Tuntable Falls Road, Tuntable Falls.

This tour provided Council and staff the opportunity to observe "hands on", the operation of three unique established communities.

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The Dharmananda Community have established a small co-operative with a self sufficient agricultural focus, including an emphasis on environmental regeneration. The demonstration and explanation of dry-composting effluent systems was of particular interest and value. Council will be aware that scientific research and analysis of these systems is nearing finalisation. Should these systems be found to satisfactorily render human waste suitable for re-use, it appears they should be seriously considered as viable alternatives to traditional septic systems.

Bodhi Farm is essentially a rural lifestyle retreat, with strong emphasis on community ownership and sharing of resources (housing, childcare, land care, transport and equipment). This community, despite the odd hiccup, has achieved a good on-going sense of social cohesiveness with a well developed and utilised community centre and facilities.

The emphasis of the inspection at Co-ordination Co-operative, was the provision of community facilities (hall, shop, school, youth facilities etc). This community is probably the largest of its type (structure and population) in the local government area.

As a general observation the communities visited have appeared to have achieved satisfactory common management and social structures (with the odd conflict - but who hasn't had the occasional scrap with a neighbour!). Environmental awareness, both in terms of minimising impacts on the ecology (water supply, effluent etc) and re-forestation and regeneration appears as a strong ethic within the communities.

The tour was informative and stimulating, and appeared to be enjoyed by both the host and visitors. A suitable follow-up may be to obtain the views of neighbouring land owners about the impacts of the subject MO's.

4. REVIEW OF PLANNING INSTRUMENTS AND MECHANISMS UTILISED BY COUNCILS EXEMPT FROM SEPP #15

Generally, those Councils who have sought exemption from the effect and provisions of SEPP #15 (see schedule 3 of Appendix 1) have enabled multiple occupancy via a process of separately defining this form of development, introducing enabling provisions within the land use table, (zones) and specifying certain minimum standards and/or performance criteria as "special provisions". These minimum standards appear to reflect certain "key" criteria establish in SEPP #15.

4.1 Nambucca Council

Defines multiple occupancy as the "erection of 3 or more dwellings or equivalent living accommodation, so as to permit communal living opportunities on a single allotment of land". The form of development is permitted in general rural, rural small holdings and interestingly in environment protection (water catchment) zones.

The minimum area upon which the MO development is permitted is 40 ha in the general rural and environment protection zones and 20 ha in the rural small holding zone, with dwelling densities not to exceed 1 per 5 ha in the former zones and 1 per 2ha in the latter zone. These standards are much stricter than SEPP #15. Restrictions similar to SEPP #15 relating to one lot of land, prohibition of subdivision (other than land consolidation, road widening, boundary adjustments, encroachment ratification, creation of a public reserve or purpose) are established.

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The capacity of the land to accommodate additional population; the character and suitability of the land; impact on water supply catchments; location and convenience of community services, (shops and the like); and adequacy and financing of public roads and bridges and traffic generation are taken specifically to be taken into account.

4.2 Byron Council

Permits multiple occupancy within general rural and rural small holding zones. The land is to comprise a single lot and a detailed environmental impact report is to be lodged with the development application for the use. Minimum area is 10ha generally and 20ha in "hatched" areas defined as being environmentally sensitive (flooding, landslip, bushfire hazard, erosion etc). Dwelling densities are 1 per 3 ha in "unhatched" areas, 1 per 6 in the "hatched" areas and separately prescribed in certain described lands. Subdivision is prohibited, together with separate occupation of proposed lots illustrated by a proposed strata plan. The Council must be satisfied that developments will not involve separate legal rights to parts of the land via means such as agreements, dealings, company shares etc. Rural tourist facilities are permissible, motels, hotels, caravan parks or other types of holiday or tourist facilities are prohibited.

This Council utilises a development control plan to guide intending applicants in the selection of suitable land; encourages development which genuinely seeks to increase permanent rural housing in an environmentally sound manner, whilst maintaining viable agricultural land and minimising risk; ensure individual equity; and set standards to minimise impacts and maximise amenity (internal access, waste disposal and bushfire protection). Guidelines for issues such as ownership, collective responsibility, land parcel and size, density, bushfire protection, non-residential use, access, water, community facilities etc are described.

4.3 Hastings Council

Defines multiple occupancy as a type of "residential accommodation or occupation, on a cluster or dispersed basis, of rural properties held in common ownership in the form of individual buildings or groups or clusters of buildings which together function as dwelling houses". A statutory obligation is established to refer applications to the Department of Agriculture, and Conservation and Land Management for specific comment on issues such as topographic and soil limitations with respect to dwelling sites and access location and construction, revegetation impacts and effluent disposal.

Land is not to have an area less than 40 ha, must comprise a single lot and not be subdivided. Building heights are limited to 8 metres, dwelling densities is not to exceed 1 per 5 ha to a maximum of 80 dwellings, dwellings are to be grouped or clustered, area for common use shall not be less than 80% of the total of the land, motels etc are prohibited (except ancillary holiday accommodation) and subdivision is prohibited (other than road widening etc). Specific matters for consideration such as public road access, water supply, hazard and risk analysis, waste disposal, community facilities, visual impact, areas for dwellings and common land, urban expansion, benefit to villages of declining population etc are defined as specific issues for Council to consider.

4.4 Bellingen Council

This Council is not exempt from the provisions of SEPP #15 but has prepared and operates a Development Control Plan to establish minimum standards and performance criteria for multiple occupancy.

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This planning instrument set a minimum lot size of 15 ha, despite the 10 ha standard in SEPP #15, and establishes additional matters for Council to consider (ownership, occupancy rights, dwelling and community use locations, access, water supply, utility services etc). Information on "how to apply" is provided including detailed plans and planning reports. Minimum standards and performance criteria relating to area of holding, subdivision, ownership, density, access, buildings, fire protection, water supply, effluent and waste disposal, agricultural land, staging of developments, ancillary uses, S94 contributions and variations procedures are described.

4.5 Comment

Where Councils have sought exemption from SEPP #15 and prepared and/or included "their own" enabling provisions in a Local Environmental Plan for multiple occupancy the predominant alteration or change is the minimum area upon which this form of development may occur and the dwelling densities there on. Underlying principles and philosophies of multiple occupancy such as the single lot, common ownership, occupancy rights, environmental and community management, prohibition of subdivision have largely been retained.

Interestingly, the maximum 25% prime crop and pasture land standards are not specified in LEP's, although this standard may be established in DCP's where prepared. Both LEP's and DCP's contain provisions similar to those established in, SEPP #15, Clause 8, as matters additional and/or complimentary to S90 of the EPA for Councils to consider. Several of the DCP's reviewed by Council contain information and guidelines to intending applicants to help ensure adequate information is provided with development applications and environmental impact/planning reports.

The aims and objectives of SEPP #15, if and where expressed, are contained in the objectives of the land use zoning tables. It is noted that the aims and objective of the State Policy are indirectly expressed by the enabling and special provisions of the respective LEP's.

Council should be aware that the State Government has initiated, as a result of requests by the Members for Lismore and Ballina, a State wide review of SEPP #15. At this stage, Council has not been consulted regarding this review which is soon to formally commence.

5. PLANNING OPTIONS

As previously mentioned it has been brought to the attention of Council that the Department of Planning has commenced a Statewide review of State Environmental Planning Policy No. 15 - Multiple Occupancy of Rural Land. It appears that the Department is seeking an assessment of the adequacy, extent of use, impact and relevance and application of SEPP #15 since its introduction in 1988. Comment within the review is also being sought on any perceived or apparent conflicts with other rural housing policies.

The Department is seeking recommendations as to whether the existing policy should be amended, retained in its current form, revoked, or revoked in favour of alternative provisions. The objective of the review is to examine the relevance of SEPP #15, whether the objectives have been met and whether they are still valid. The methodology includes the identification of those local government areas operating under SEPP #15 and under local planning provisions, and an assessment of the extent to which MO development has occurred with each area. Consultation with local Councils, relevant local community organisations, relevant State Government agencies and relevant affected land owners are to be sought. The review is proposed to commence late September and conclude by the end December 1993.

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Of additional interest to Council, is another review about to be commenced by the Department, on alternative forms of rural residential development. Perhaps detached rural dual occupancy should be reviewed too! Perhaps all three forms of rural housing should be considered concurrently! Within this context and in light of the submissions to the Discussion Paper and workshop undertaken to-date the following planning options are identified:

5.1 Seek exemption from SEPP #15 and not allow further multiple occupancy development in Lismore Local Government Area

This option is not considered viable or practical. Without doubt it would place Council and the community in general in the invidious position similar to that of some twenty years past. Illegal developments and conflict. In short a complete failure to recognise that the area and population have, for want of a better word, "grown up and matured" to recognise the economic, social, cultural and environmental diversity and value of people who chose to live an alternative lifestyle in the area. Insufficient sustainable arguments have been presented to support an outright prohibition of further multiple occupancies. Such development, if undertaken in a responsible and planned manner, is a legitimate use of rural land

5.2 Seek exemption from SEPP #15, introduce enabling provisions in an amending Local Environment Plan which sets out standards and performance criteria for multiple occupancy together with the preparation of a supporting policy or Development Control Plan which provides guidelines within the standards and criteria of the amending LEP:

The option has certain merits, it would permit Council to "design" planning mechanisms that may be seen as suitable for Lismore's specific conditions. This option has been utilised by the adjoining Byron Council. Strong views have been expressed, particularly by the "multiple occupancy consumers" that in doing so, the underlying philosophies and objectives of multiple occupancy would be reduced or minimised, and that such a process may result in a cumbersome, complicated and cost inefficient planning system. In the context of the State review of SEPP # 15 such a move would appear to be inappropriately timed for the present. It, however, may be an option for the future upon completion of the findings of the State review, unless Council is particularly keen to introduce stricter planning controls as a matter of urgency.

In this context it is important that Council be aware of the situation regarding the construction, effect and legal application and interpretation of the aims, objectives, policies and strategies of SEPP #15.

Aims, objectives etc (of SEPP #15)

The aims, objectives, policies and strategies of this Policy are-

- a) to encourage a community based and environmentally sensitive approach to rural settlement;
- b) to enable-
 - i) people to collectively own a single allotment of land and use it as their principal place of residence;
 - ii) the erection of multiple dwellings on the allotment and the sharing of facilities and resources to collectively manage the allotment; and
 - 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
- c) to facilitate development, preferably in a clustered style -

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- i) in a manner which both protects the environment and does not create a demand for the unreasonable or uneconomic provision of public amenities or public services by the State or Commonwealth governments, a Council or other public authorities;
- ii) in a manner which does not involve subdivision, strata title or any other form of separate land title, and in a manner which does not involve separate legal rights to parts of the land through other means such as agreements, dealings, company shares, trusts or time-sharing arrangements; and
- iii) to create opportunities for an increase in the rural population in areas which are suffering or are likely to suffer from a decline in services due to rural population loss.

Concern has been expressed to Council, particularly in relation to clause 2(c), that the three sub-paragraphs (i);(ii); and (iii) should be read conjunctively (in unity). In other words that they are mandatory requirements, not options which Council, as a consequence of clause 7(1)(h), must be satisfied can be met. This view was supported in correspondence to Council from the Department of Planning (July 15, 1993).

This view, it is argued by legal advice and interpretation to the Pan Community Council is not correct. Similarly, the "architect" of the policy, Mr David Kanaley has indicated that it was not the intention in the construction of the policy that the sub-clauses be read conjunctively. He has suggested that many State Policies are worded and constructed in a similar manner, and that additionally the use of semi-colons as opposed to comas indicates a marked separation between the sub-clauses.

In a subsequent letter to the Pan Community Council (copy of which was forwarded to Council August 27, 1993), the Department of Planning, whilst noting it is unable to provide legal advice on the interpretation of environmental planning instruments, clarified its response and advised:

"While a development proposal needs to satisfy all the aims and objectives, this is only to the extent to which they apply. Objective (c) relates to 'facilitating development ... to create opportunities...'. If, in the City of Lismore, there are not areas '...which are suffering or are likely to suffer from a decline in services due to rural population loss', then this objective need not be applied."

The Department also noted the effect of clause 25(2) of the Environmental Planning and Assessment Act in respect of the aims and objectives of the Policy, and advised that:

the aims and objectives of the Policy cannot be applied to prohibit development, which is clearly made permissible by other provisions of the Policy, such as clause 7(1).

This matter was previously considered to be the key issue in terms of the strict legal application of SEPP #15 to Lismore (where no rural census collector area has suffered population loss) but now appears to be clarified, (albeit for the present). Given the obvious extent of Clauses 7 and 8 of SEPP #15, together with that of S90(1) of the Act (see Appendices) it does not appear necessary or warranted to seek exemption from the provisions of the Policy, at least until the Department of Planning's review is completed.

- 5.3 Seek exemption from SEPP #15 and introduce enabling provisions in an amending Local Environment Plan which sets out standards and performance criteria for multiple occupancy and assess DA's as and when required.

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This option in essence is similar to that discussed above (Section 5.2). At this point in time there appears to be little reason to adopt this course of action, particularly as SEPP #15 operate effectively and the State is undertaking its own review. Further guidelines by way of a DCP are seen as being most important.

5.4 Retain and remain with the SEPP #15 and prepare a supporting policy or Development Control Plan providing instructional guidelines within standards and criteria established by the State Policy

This model, in the context of Council's review, is considered to be the most desirable. Whilst it is noted that the Department of Planning considers that a Development Control Plan may only supplement a Local Environment Plan there appears to be no bar in Council preparing such a document for the purposes of policy and as an educational planning instrument. This is the approach adopted by Bellingen Council. Interestingly the Bellingen DCP increases minimum lot areas and decreases dwelling densities.

In this instance the policy or DCP is seen to be an informative and educative tool which is intended to guide applicants in the selection of suitable land for multiple occupancy and "flag" the information and data considered necessary by Council to properly assess development applications in accordance with SEPP #15, Lismore LEP 1992 and S90(1) of the Environmental Planning and Assessment Act 1979. The document could also "flag" any policies Council may have in respect this form of development. It is envisaged the document may address the following provisions (broad heading list only) and issues:

- 1) Aims and objectives
- 2) Definitions
- 3) Development guidelines relating to:
 - a. ownership, occupancy rights, management
 - b. responsibility and obligations
 - c. area of holdings (minimum)
 - d. land parcel and land assessment/capability
 - e. subdivision
 - f. density and common land
 - g. access (public, ROW, internal)
 - h. fire protection and management
 - i. Buildings (permanent, transitional, temporary)
 - j. water supply and management
 - k. effluent disposal
 - l. waste disposal
 - m. agricultural land and adjoining land - land use survey
 - n. non-residential and mixed uses
 - o. staging developments
 - p. utility services
 - q. S94 contributions, for what?, calculations, payment
 - r. application processes, information requirements, impact assessment, maps, advertising
 - s. community facilities
 - t. occupant social analysis
 - u. fauna impact
 - v. erosion and sediment control and management
- 4) Variations
- 5) Advisory Panel.

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5.5 Status Quo, ie remain with the present system under the provisions of SEPP #15 and assessment under S90(1) of the Act as and when required

This model is not considered appropriate in the light of submission received, the general outcomes of the workshop and the recent experiences of the Development Control Section of Council in assessing and reporting development applications for larger developments. Although it is noted that this system may be further improved by the publication of "Development Guidelines" and the possible formation of an Advisory Panel to assist in the assessment of DA's for above say 6 dwelling sites.

5.6 Comment

It is considered necessary that further studies and information gathering and consultation processes are required to successfully implement the options (except 5.1) listed above. Council should seek to further its "data base" on a variety of issues relating to multiple occupancy, both its social and physical impacts. For example, average daily vehicle trips would bring a degree of certainty in relation to accurate assessment of S94 rural road contributions; information of the more successful ownership and management models may provide future assistance to applicants. The use of various studies and surveys undertaken during the early and mid 1980's would provide a bench mark or datum upon which Council could compare changes in consumer attitudes within multiple occupancies and adjoining owners together with building and developing a wider knowledge of this form of development.

6. OTHER ISSUES AND CONCLUSIONS

6.1 The process of review has highlighted a number of matters applicable to multiple occupancy developments outside the operation of SEPP #15 yet which are important in the broader planning context in the regulation of multiple occupancy development. These issues are:

6.1.1 **Illegal Development** - Council has a statutory obligation to control illegal developments. Yet it is a matter of policy and in a matter and sense of social, legal and political fairness that this process be undertaken. It is suggested that upon the satisfactory exhibition of this report and subsequent adoption of Council's preferred planning options that an amnesty be declared to encourage those people and communities who have not received the development consent of Council to regularise their existence.

6.1.2 **Compliance with Development Consent** - again Council has a statutory obligation under the Environmental Planning and Assessment Act and Local Government Act to regulate and control development. In order to facilitate a process of negotiation it would appear appropriate that Council give public notice of a twelve month period in which consents can be negotiated "without prejudice" with a view of achieving mutually satisfactory ground rules. This process, could well commence at the finalisation of the preferred planning strategy.

6.1.3 **Council Policy No. 03.01.06 - Multiple Occupancy Policy Guidelines for Road Conditions**

This policy (see Appendix 3) appears to be discriminatory in nature, although it is noted that the overall purposes for which it was framed was to ensure reasonable public access to multiple occupancy developments. Council has been advised that the policy has had the effect of "sending some MO developments underground" because of cost and imposition of unnecessary financial constraints. Particularly in relation to larger developments where each stage is considered to be a minimum of six (6) dwellings and that S94 contributions be required for six (6) dwellings of that stage be paid prior to the

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issue of the first building approval. The Simpson Enquiry into S94 indicates that appropriate levies be paid at the time of release of linen plan or building approval as appropriate. The cancellation of the current policy appears warranted, with any relevant provisions being included in the DCP (if approved), or a reworked policy document.

Road contribution rates should reflect actual traffic generation created and be payable as and when each building application is approved.

6.1.4 MO Advisory Panel

It has been suggested that the formation of an advisory panel to review DA's for larger multiple occupancies may be of assistance to Council in the assessment process. Particularly in relation to issues such as ownership, dwelling occupancy rights, management, social impacts, and control of speculation where developments seek to maximise dwelling sites numbers to maximum numbers. It is proposed that Council invite the following organisations to constitute an MO Advisory Panel comprising one member of each of the following organisations:

Pan Community Council; National Farmers' Federation (or equivalent); Ratepayers Association; Council Divisional Manager-Planning Services (or nominee); and a resident of a multiple occupancy in Lismore.

6.2 Multiple occupancy development provides and increases the variety of housing forms in the local government area, and offers opportunities for communal living and the pooling and sharing of resources. This form of development has added to the social, cultural, economic, environmental "richness" of the region, and is very much an established part of the character of Lismore and environs. There have been some problems and inappropriately designed developments which suggest that well researched planning guidelines are needed.

In the context of the stated review objectives of the Discussion Paper ie;

- 1) to identify the principle land use planning issues relative to multiple occupancy development of rural land;
- 2) to identify options for changes to the planning system regulating and controlling multiple occupancy development; and
- 3) to facilitate communication and good relations between existing and future multiple occupancy dwellers, Lismore City Council and the general community;

it is felt that these objectives have been successfully met, both in the discussion paper, and the processes of community consultation. The recommendations of this report are framed to continue the processes of review, whilst also suggesting a preferred planning option. A strategy towards resolution of conflict issues and facilitation of good communication and relations with multiple occupancy community, the general community and Council is also recommended.

Declaration:

'I hereby declare, in accordance with Section 459 of the Local Government Act, that I do not have a pecuniary interest in the matter/s listed in this report.'

RECOMMENDATION (PLAN26)

1. That Council exhibit this report requesting public comment on the planning options proposed with a stated intention to prepare a draft Policy Development Control Plan in accordance with Section 5.4 of this report.

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2. That Council revoke Policy No. 03.01.16.
3. That Council, after the adoption of matters relating to a preferred planning option, give notice of a twelve month period during which time "without prejudice" consultations are invited with a view of negotiating conditions of development consent which are currently not being met.
4. That Council upon future adoption of a preferred planning strategy, give public notice of an amnesty to enable illegal multiple occupancy developments the opportunity to formally make development applications to Council to regularise their existence in accordance with appropriate standards.
5. That Council, in the meantime, further develop its information case on multiple occupancies, particularly with respect to their structure and organisation, social and environmental effects and impacts on adjoining lands.

Adopted.

(M R Scott)
DEVELOPMENT CONTROL PLANNER

(N Juradowitch)
DIVISIONAL MANAGER-
PLANNING SERVICES