

Pondan Report

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**SEPP 15 REVIEW:
MULTIPLE OCCUPANCY
OF RURAL LANDS
VOLUME 1**

**Report to
NSW DEPARTMENT OF PLANNING**

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The views expressed in this report are those of the authors and do not necessarily reflect those of NSW Department of Planning.

Purdon Associates

June 1994

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EXECUTIVE SUMMARY

The NSW Department of Planning commissioned Purdon Associates and Christopher Murray & Associates to undertake a comprehensive and objective review of State Environmental Planning Policy 15 (Multiple Occupancy). This policy was introduced in January 1988 in response to demand for opportunities for community living in rural areas that had emerged in the 1970s and early 1980s.

The key objectives of the Multiple Occupancy (MO) review are as follows:

- to assess the application of the Policy since its inception in 1988;
- to assess the adequacy of the provisions in the Policy, including whether the explicit aims and objectives have been met;
- to assess the extent of use of the Policy - its impact and relevance throughout the State;
- to assess the impact of the Policy, its merits and issues in MO developments;
- to assess the relevance of the Policy for ongoing use; and
- examine the Policy and its provisions in relation to perceived or apparent conflicts with other rural housing policies or initiatives.

The current review has been based on the following approach: review of existing Policy and related reports; a survey of 67 local Councils throughout NSW to which the policy applies (85% response); a survey of about 280 individual MOs in six local government areas selected because of the high number of MO contained therein (23% response); written consultations with relevant State government agencies; meetings with individual MO residents; analysis of survey results; review of issues raised in the consultations and surveys; and evaluation of policy options.

An extensive data base was collected for MOs as part of this review, but there are some discrepancies in this data from different sources which could not be fully reconciled within the context of this Brief.

In 1994, up to 220 MOs existed throughout NSW, with the majority concentrated in 8 local government areas along the north eastern coast of NSW. MOs have an average block size of between 10-80 ha, with an estimated 15 dwellings per site. Total resident MO population is estimated at a maximum of 7000 across NSW. A large number of MOs were established pre-SEPP 15, although about 140 have been approved since early 1988 under SEPP 15 or related LEPs. Evidence suggests that the demand for new MOs has declined over recent years.

Social characteristics of MOs include: a high proportion of lower income households (75% under \$20,000 pa); an age structure dominated by people of working age (59% between 18-55 years); a predominance of working age residents engaged in daily activities on the MO; a medium to high turnover of residents in MOs with the majority (73%) of resident staying for less than 10 years; and a relatively low dwelling occupancy rate of 1.93 persons per dwelling.

The main **development themes** of MOs include dispersed residential and environmentally sensitive lifestyles: forest living/preservation; permaculture; communal rural lifestyle; horticulture; and religion. Cluster housing only occurred on a small percentage of MOs surveyed. A wide range of **community facilities** have been built on MOs, principally for private residents use. Common forms of land use on MOs were residential, agriculture (including horticulture) and environment preservation. **Ownership characteristics** of the majority of MOs include: communal structures based on Tenants in common (42% of MOs), Proprietary Companies (32%), Co-operatives (14%) or Trusts (10%).

Key issues raised in the consultations as well as the Department's Brief included: regulation and assessment of MOs; management issues; subdivision and tenure; and MO philosophy and equity.

Four policy options regarding the future of SEPP 15 were evaluated as part of the review.

Option 1: Retention of the existing policy was not supported because of the wide range of matters raised by all interest groups. The review confirmed that there is a clear need for change.

Option 2: Amending SEPP 15 to incorporate a range of improvements, but excluding provision for MO subdivision. This option has support from all interest groups and is supported by this review. This approach has the advantage of ensuring that the Policy could be made to work more effectively but does not resolve some of the key issues identified in the review, and would mean the DOP still had responsibility for the Policy at a state level.

Option 3: Revoking SEPP 15 without any transfer of MO provisions to local planning instruments would be possible, but would mean no opportunity for establishment of new MO's. This was not supported as an appropriate solution.

Option 4: This is the **RECOMMENDED** approach which involves amending the policy to include certain changes and transfer responsibility for MO developments to local Councils after two years. This has the advantages of returning the control of MOs to local authorities; gives support to local Councils by way of improved planning guidelines; and maintains the option for MO type developments as part of a range of rural life-style opportunities. Under this approach, MOs would be incorporated into Local Environmental Plan provisions and be treated equally with other forms of development. Subdivision, preferably under Community Title, would be enabled by provisions within Local Environmental Plans and would provide security of tenure and ease the access to commercial finance.

PURDON & MURRAY
June 1994

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Some Councils affected by SEPP 15 have received applications for Multiple Occupancy development for speculative purposes, and for subdivision of existing of approved Multiple Occupancies. These practices could potentially subvert the aims, objectives, and statutes of the Policy, and to undermine attempts by the Department of Planning and local Councils to regulate residential development of rural land.

In response to both the difficulties experienced by some Councils in the administration of the Policy, and also to the concerns expressed by residents and local Members of Parliament regarding the appropriateness of the policy and its objectives, in mid 1993 the Minister of Planning initiated this review of SEPP 15.

This review was commissioned in response to the above concerns and the perceived need to review the operation of the Policy since its inception.

The key objectives of this study are:

- to assess the application of the Policy since its inception in 1988;
- to assess the adequacy of the provisions in the Policy, including whether the explicit aims and objectives have been met;
- to assess the extent of use of the Policy - its impact and relevance throughout the State;
- to assess the impact of the Policy, its merits and issues in MO developments;
- to assess the relevance of the Policy for ongoing use; and
- examine the Policy and its provisions in relation to perceived or apparent conflicts with other rural housing policies or initiatives.

This review will recommend a preferred policy position, based on the following options:

- a) retaining the policy in its current form; or
- b) amending the Policy; or
- c) revoke the Policy; or
- d) revoke in favour of alternative provisions.

1.2 Review Methodology and Report Structure

This section outlines the methodology used to review SEPP 15 under terms of the Brief from DOP. Attachments to the main report give details of surveys undertaken and relevant outcomes of other consultations. Detailed tabulation of the MO surveys is contained in Volume 2.

The outcomes of each stage of the methodology have been incorporated into discussion of the existing situation (Chapter 2), issues in Chapter 3 and recommended options in Chapter 4.

1 INTRODUCTION

This review of State Environmental Planning Policy No. 15 (SEPP 15 or the Policy) was undertaken by *Purdon Associates Pty Ltd* and *Christopher M. Murray and Associates Pty. Ltd.*

The review was commissioned by the New South Wales Department of Planning (DOP). The report will be the property of the Department which will have full discretion as the manner in which the report is used and circulated. All survey responses will be retained by Department of Planning who will be responsible for protecting the confidentiality of these responses.

SEPP 15 was gazetted on 22 January 1988. The explicit aim of the Policy was to facilitate and provide guidelines for new forms of rural land tenure in New South Wales, subject to development approval. The Policy encourages multiple occupancy tenure which is both environmentally and agriculturally sensitive, and is also economically sound for the community of tenants. The Policy stipulates that ownership and use of the land are to be shared by the community.

This introductory chapter will detail the purpose of the study, the history of the policy, its main provisions, and alternative **Local Environment Plan (LEP)** provisions. The extent of **Multiple Occupancy (MO)** developments to date will be outlined, and the methodology utilised in this study will be presented.

1.1 Purpose of Study

This review arises from a range of concerns stemming from the operation of SEPP 15. Some of the matters causing concern include:

- whether the Policy is achieving its objectives;
- whether MOs are receiving equitable treatment in relation to other forms of rural development;
- whether MOs are meeting their financial obligations to the community;
- whether MOs developments induce particular planning problems;
- whether the proliferation of MOs is the cause of increased conflict particularly in relation to traditional land uses;
- whether the land management practices of MOs may be a cause of any specific concerns;
- inconsistencies with other rural planning controls in particular dual occupancies; and
- pressure for subdivision of MOs.

or clarify any matters arising from the survey. This opportunity was seen as particularly valuable as allowing MO residents an opportunity to make their view known. Additionally, the publicity drew interest from a broad range of interested parties including neighbours, elected representatives and Council staff.

A summary of the outcomes of the field consultation process is reproduced in Attachment E.

In addition to the above the consultant team and the Department of Planning received a number of written submissions. These have been summarised in Attachment F.

1.3 Report Structure

The remainder of this chapter reviews existing Literature and the existing policy to provide an overall background to the review process. Chapter 2 discusses the existing situation and draws on those non contentious portions of the consultation process.

Chapter 3 combines the issues raised in surveys and consultations, together with the consultant teams assessment. It identifies a number of possible policy approaches which are discussed in more detail in Chapter 4.

1.4 History of SEPP 15

The history of the Policy is inextricably tied to the history of MO developments in NSW. The early policy statements issued by the Planning and Environment Commission proved to be insufficient in the regularising existing MO developments. Lack of progress by local Councils in incorporating the necessary enabling provisions in their local instruments necessitated the preparation of SEPP 15.

1.4.1 History of Multiple Occupancies

Multiple occupancy is commonly understood to be a type of rural development whereby a group of people, who are not necessarily related, combine their resources to procure and collectively operate a single rural property. Many of the early communities on the north coast were established without formal approval of the local Councils.

The merits of multiple occupancy are considered to be that:

- people can live as a community in a rural setting and build a number of dwellings on unsubdivided land where farming is not necessarily the primary source of income;
- people can manage land for communal purposes in an environmentally sensitive manner; and
- the pooling of resources, especially for people whose income is low, facilitates their communal rural living opportunities.

1.2.1 Literature Review

A review was undertaken of all currently available information relating to the operation of the Policy. Material reviewed included: DCPs prepared by Council's; enabling clauses in Council LEPs; files held by the Department of Planning; various discussion papers, reports and brochures. The information obtained in the review was used in formulating the surveys and to provide a background to the issues which are addressed in the rest of this document (refer Section 1.4 to 1.8).

A copy of SEPP 15 is reproduced as **Attachment A**.

1.2.2 Local Government Survey

A survey of all Councils in NSW was undertaken as Stage One of the review. The results of the survey have been analysed and are reproduced in **Attachment B**.

The primary aim of the survey was to ascertain the extent of usage of the Policy and the key concerns of Councils arising from experience with MO developments. It was also used to reflect localities for a separate survey of MO residents.

1.2.3 Consultation with Public Authorities

All public authorities having a potential interest in MO development were consulted and asked to provide details of their experiences and concerns. The responses have been used in addressing specific concerns arising from the operation of the Policy. Summaries of the responses are reproduced in **Attachment C**.

1.2.4 MO Residents' Survey

Arising from the local government survey, six Council areas were selected, based on the number of MO's approved and the nature of the particular Council's experience. Five of the Councils were on the North Coast of NSW and one was on the South Coast. Selected Councils were also expected to provide an overview of the operation of the Policy in their area.

All known MOs in the selected LGAs were sent a copy of the reply paid questionnaire. Addresses were obtained from Council records and requests from media advertisements. The results of the survey are analysed in **Attachment D**. Detailed tabulation of results are contained in **Volume 2**.

1.2.5 General Consultations

A program of informal general consultations was undertaken whilst the MO resident survey was in the field. The consultations consisted of a member of the consultant team attending the offices of each of the six Councils at a prearranged time. Press releases were issued advising of the attendances and inviting interested parties to make an appointment to discuss any matters of concern. The covering letter sent with the MO survey also invited MO residents to discuss their particular experiences

- the development would not impose undue fire risks to occupants or to adjoining properties;
- a general minimum area of 40 ha;
- the development proposal had to be advertised; and
- at least one of the buildings provide residence for an owner.

(PEC. Circular 35. 7 November 1979)

Social and environmental objectives were an important component of the policy. MOs were seen as having the potential to provide social and environmental advantages. The social advantages arising from providing an alternative land settlement form and the environmental objectives being met by development being more in harmony with the natural environment.

The interim policy was to be implemented by way of an enabling clause being inserted in local planning instruments at the request of individual Councils. This option was selected "because of the dispersed nature of multiple occupancy cases, both in a Statewide and local government context, and its general ease of administration" (Circular 35 clause 9).

The interim policy was later refined by the issue of a formal policy statement in July 1980 (Circular 44)). This circular contained fourteen policy statements supported by explanatory statements and/or a suggested subclause for insertion on the local instrument. The circular states that:

"Councils will be able to take into account specific local conditions, particularly environmental and locational matters, and request that these conditions be considered by the N.S.W. Planning and Environment Commission in the preparation of a locally appropriate enabling clause".
(PEC Circular No. 44, para 8).

1.4.3 The Advent of SEPP 15

The *Environmental Planning and Assessment Act, 1979 (EPA Act)* commenced operation in 1980. The Act provides that Councils have jurisdiction over local planning matters. Prior to the Act *Interim Development Orders (IDO's)* were used to control MO developments. However, the EPA Act makes provision for Councils to prepare *Local Environment Plans (LEP's)* and it is these which have been used from 1980 to provide local control over the development of MOs. Circulars 35 and 44 were included in the Minister of Planning's Section 117 directions in 1980. This meant that Councils had to take the Department's MO policies into account in the preparation of LEP's.

The continued establishment of illegal MOs, and an ongoing reluctance by Councils to incorporate enabling provisions for MOs, was seen as undermining the Government's policy and planning system. As a consequence, the Department of Planning issued a draft State Environmental Planning Policy in August 1985. The draft Policy was titled: "Dwelling Houses in Rural Areas (Multiple Occupancy)"

Furthermore, communal living is purported to facilitate the sharing of various cultural, religious, social, philosophical, environmental and economic ideals, and lifestyles.

Multiple occupancy is part of a continuum of rural housing, but should be distinguished from more traditional rural developments such as rural workers dwellings and dual occupancies. In the former, agricultural workers assist with the functioning of a rural based venture. In the latter, there are a maximum of two dwellings per allotment and the two buildings are connected.

Multiple occupancy developments, both approved and illegal, have existed at least since the early 1970's. The Aquarius Arts Festival held at Nimbin in May, 1973, appears to have been pivotal in fostering multiple occupancy ventures. The earliest developments on the Far North Coast of NSW were Tumble Falls and Bodhi Farm. The emphasis of these early MOs was an alternative lifestyle in a rural setting. A common philosophical understanding was often an important factor in the establishment of MOs.

The extent of early MO development was particularly significant in the shire of Tweed, and in the local government area of Lismore. These Councils incorporated provisions for approving MO development in their local planning instruments. Bellingen Shire also experienced significant MO activity.

Indeed the magnitude of MO development in the Shire of Tweed was such as to warrant an inquiry "pursuant to Section 119 of the Environmental Planning and Assessment Act, 1979, into *Multiple Occupancy Development in the Shire of Tweed*" between August 1985 and January 1986. The findings of the inquiry were released in March 1986.

Concurrent to the Tweed inquiry, the Department of Environment and Planning released a discussion paper on multiple occupancy in NSW, and also a draft of SEPP 15. The legislation preceding the draft SEPP 15 will be discussed in the following section.

1.4.2 Early Regulation of Multiple Occupancies

Whilst MOs have been in existence at least since the early 1970's, the first state planning statement on Multiple Occupancy - the '*Interim Policy on Multiple Occupancy on Farms*' was not introduced until November 7, 1979.

The main provisions of this 'Interim Policy' were:

- that the land be collectively owned;
- the subject land had to be suitable for the development of a MO;
- the development would maintain or enhance the environmental quality of the land;
- that future subdivisions is prohibited;
- availability of access and services;

Multiple occupancy development is not permitted in areas listed in Schedule 2 of the Policy:

- * The areas of Sydney, Newcastle and Wollongong and the subregions of the ACT and Kosciusko;
- * Land not zoned rural;
- * Land which is a national park, State forest, State recreation area, Crown reserve, water catchment area, environmental protection area and other similar zones or uses; and
- * Land protected or to be acquired under the Coastal Lands Protection Scheme.

Multiple occupancy development is not permitted on land where more than 25 percent of the land use is prime crop and pasture. There must be minimal impact on existing agriculture. Areas where more than 80 percent of the land has slopes greater than 18 degrees are not approved for multiple occupancy development.

1.5.3 Subdivision - Clauses 2, 7 and 10

The land, which must be a single lot, may not be subdivided except to widen a public road, to create a public reserve, or to consolidate an allotment. The prohibition of subdivision includes strata subdivision and Community Title under the Conveyancing Act 1919, and the Strata Titles Act 1973. Part ownerships in a MO entitling the owners to the use of a section of land in a community may be sold.

1.5.4 Forms of Development - Clauses 2 and 7

Dwellings, none of which may be greater than eight (8) metres in height, can be "dispersed" or "clustered". In both forms of settlement at least 80 percent of the total land area must be available for common use. The preference is for clustered developments as this form of settlement requires relatively fewer access roads and service lines, and has less visual and physical impact on the land. Dispersed settlements have an increased risk in event of a bushfire. However, dispersed settlements are purported to offer a greater degree of privacy.

Holiday, tourist or weekend residential accommodation is not permitted unless another planning instrument authorises such development according to the zone of land.

1.5.5 Area of Land and Density of Accommodation - Clauses 7(1)(b) and 9

The minimum size of land required for multiple occupancy development is 10 ha.

To prevent over-development, the maximum density of accommodation on the land varies according to a formula. The formula for density is presented in Clause 9(2) of the Policy. The maximum density for areas of land over 360 ha is 80 provided that the MO dwellings could not reasonably accommodate in total more people than the actual number of dwellings multiplied by four (4).

The draft Policy was formalised with the gazettal of SEPP 15 in 1988. Its purpose is to facilitate and provide guidelines for Multiple Occupancy development in certain rural areas in NSW, subject to development approval (Clause 2). SEPP 15 overrides certain environmental planning instruments implemented prior to the Policy (Clause 4 and Schedule 3).

1.5 Main SEPP 15 Provisions

This section outlines the main provisions of the Policy, making reference to the corresponding clause in the legislation.

1.5.1 Aims and Objectives of the Policy - Clause 2

Clause 2 of SEPP 15 states that:

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

- (a) to encourage a community bases 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 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."

1.5.2 Land to which the Policy Applies - Clauses 3 and 7

The Policy applies to numerous local government areas in the coastal and tablelands parts of New South Wales. The relevant areas are listed in Schedule 1 of the Policy.

1.7 Section 94 Contributions

Developers of MOs may be required to make Section 94 (S94) towards to cost of providing community facilities and services. These levies are used to meet the cost of such public works as road improvements, community and recreational facilities, and bushfire protection. Such levies are expected to be paid prior to the release of building approvals for dwellings on the land.

Initially the S94 levy for MOs under SEPP 15 was limited by the then Minister for Planning and Environment to \$1950 per dwelling. On 14 June, 1988, the Minister for Planning revoked this directive. Councils could then set their own limits on S94 contributions, with the intent that the levies be appropriate to the local circumstances. Recent changes to Section 94 have formalised the calculation of contributions and in a number of cases resulted in significant increases in the calculated contributions for works such as rural road upgrading. Section 94 contributions can significantly add to the cost of completing a MO development.

1.8 Lismore Council's MO Review.

Lismore City Council has a large number of approved (and also unapproved) MO developments in its local government area. During 1993, Lismore City Council undertook its own review of MO developments and the provisions of SEPP 15 as they related to the local government area.

According to a 1993 *"Discussion Paper on Multiple Occupancy of Rural Land in Lismore City Council Local Government Area"*, published by Lismore Council, the number of approved MOs in the north of the state and the control mechanisms used in each are listed in Table 1.1:

Table 1.1: Northern NSW MOs

Local Govt. Area	No. of MOs	Planning Control
Lismore	60	SEPP 15, S90
Tweed	20-25	SEPP 15, S90
Kyogle	17	SEPP 15, S90, DCP
Ballina	0	SEPP 15, S90
Richmond River	3	SEPP 15, S90
Byron	15	LEP, DCP

Source: *Discussion Paper on Multiple Occupancy of Rural Land in Lismore City Council Local Government Area*

1.5.6 Non-Residential Development - Clause 8

On a small scale, non-residential facilities such as schools, training centres, churches, community facilities and workshops can exist as part of the multiple occupancy development as long as they are used primarily by the community of tenants.

Councils assessing applications for MO developments must also consider whether the applicants have sufficiently considered a range of factors ranging from access, services health and hazard issues to the impact of the development on the environment, and extractive and mineral resources.

A site plan must accompany the MO development application where four or more dwellings are proposed. This plan must identify areas of land which correlate with the considerations listed in Clause 8(1).

1.5.7 "Advertised" Development - Clause 11

Proposed MO developments of four or more dwellings must be "advertised" for public comment prior to development approval. In this way the environmental impact of larger MOs can be considered by interested and relevant parties. Council can then appraise the concerns in its decision to approve or reject the development application.

1.6 Alternative LEP Provisions

Should a particular Council doubt the effectiveness and/or relevance of SEPP 15 in its local area it is able to incorporate alternative provision in its LEP and/or prepare a Development Control Plan aimed at addressing specific local matters.

In northern NSW, the Councils of Byron, Nambucca, and Hastings are exempt from the provisions of the Policy. Bellingen Council is not exempt from the provisions of the Policy but has formulated and implemented a DCP which establishes minimum standards and performance criteria for multiple occupancies.

The alternative LEP provisions made by those Councils exempt from the Policy relate to the minimum area of land on which to establish a Multiple Occupancy (an amendment of Clause 7(1)(b)), and the density of development (corresponding to Clause 9 of the Policy). Furthermore, where coinciding standards from SEPP 15 are not included in the LEP, the DCP tends to include this provision. Hence, the underlying *raison d'être* for MOs, protected by the Policy, has largely been retained.

2 EXISTING SITUATION

This Chapter considers the characteristics development of MOs, both under SEPP 15 and equivalent LEP provisions. The following material represents a comprehensive compilation of data on MOs, extending the information base collected by a number of individual Councils including Lismore.

Information is drawn from the results of surveys and consultations undertaken with Councils and MO residents (refer Attachment B & D). Some discrepancies are identified between these two sources which in part result from the following factors:

- difference in response rates to surveys (i.e 82% for Councils as opposed to 23% for MO residents);
- MO Resident Surveys were only sent to MOs in six local government areas (LGA) which had the greatest experience with MO development based on the number of development applications approved. Councils included Bellingen, Byron, Kempsey, Kyogle, Lismore and Shoalhaven;
- MO Resident Surveys were sent to all MO developments based on addresses supplied by Councils regardless of their date of approval and establishment (i.e. pre or post SEPP 15 introduction), and may include some illegal MOs; and
- some MO resident Surveys may have been forwarded to properties on which an MO has been approved but not constructed. The degree with which this has occurred can not be identified without surveys being returned either unopened or completed.

As a result, it has been assumed that the responding Councils contain the majority of MO developments across the state and that the MO results reflect approximately one quarter of all MO development.

There is only limited statistical information available relating to MOs and there is no specific data available from the Australian Bureau of Statistics.

2.1 Extent of MO Developments

SEPP 15 is applicable to 63 Councils throughout New South Wales. These Councils are largely confined to the coastal and tableland regions of the State with the exception of the metropolitan areas (refer Section 1.4.2). In addition, four Councils have incorporated independent multiple occupancy provisions within their relevant Local Environmental Plans.

Since the introduction of SEPP 15 in 1988, there have been approximately 107 MO developments approved under the Policy across 14 LGA. An additional 31 MOs

The extent of MO developments in the Lismore local government area is reflected in the representations made during Council's review. For example, *Pan Community Council (Pan-Com)*, *Nimbin*, purports to be an organisation which formed in order to further the interests of MO communities. The original MO communities of *Bodhi Farm*, *The Channon*, and *Tuntable Falls Co-ordination Co-operative*, *Nimbin*, sent submissions in response to Lismore City Council's Discussion Paper (S/523) as did *Cornucopia (Glen-Bin Pty Ltd) Community*, *Websters Creek Community*, *Meta Company Community*, *Pinpuna Community*, *Pillambi Community*, and *Dharmananda Community*.

In Lismore's review, other submissions were also received from State Government Departments, Council Departments, Community Organisations, and individuals. The Council also conducted workshops to address the issues outlined in the Discussion Paper.

Whilst the conclusion to the review saw a recommendation that Lismore City Council retain 'umbrella' provisions of SEPP 15 and formulate a Development Control Plan which would fine tune the controls according to local issues. A number of issues pertinent to this study were raised in the review; these include:

- that Clause 2(c)(iii) of the Policy and Clause 7(1)(h) may need to be amended to clarify the aims and objectives of the Policy. It was felt that these clauses are ambiguous in their wording and punctuation; it is not clear whether Clause 2(c)(iii) is conjunctive or separate to the other subclauses;
- whether the necessity of population decline as grounds for approval of a Multiple Occupancy development is appropriate; particularly on the north coast where there is significant MO activity and an growing population;
- that further consideration needs to be given to the extent and amount of S94 contributions and other local government levies;
- that the Council needs to monitor both illegal developments, and formally approved MOs where there has been a failure to comply with the development consent;
- that SEPP 15 limits tenants' security of tenure; Community Title may be preferable for security of tenure, but it undermines the aims, objectives, and philosophies of multiple occupancy development, and SEPP 15.

As a result of the review, Lismore Council has prepared a Development Control Plan to assist with the assessment of development applications.

2.2.3 Council Resources Used

Councils generally (39%) used average to above average resources to assess MO development applications. The latter was considered to be the case particularly in Council areas where only a few applications have been received.

2.3 Development Characteristics

2.3.1 Establishment of Communities

Of the MOs surveyed only a minority (13% or 7) have been established in the years since SEPP 15's introduction. The majority (45%) were established between 1981 and 1987 inclusively and a further 44% were established prior to 1980.

2.3.2 Size

Based on Council information, the majority (72%) of MOs are in the 11-80 ha range with only a few sites in excess of 80 ha.

Over one third (35%) of MO residents indicated their properties were under 50 ha and another third 32% had properties between 50-100 ha, only 14% had properties exceeding 200 ha. In line with the Policy provision, no MOs have areas less than 10 ha.

Figure 2.1 shows the distribution of this information.

There are no official census data specifically no MO residents, and sources used for this review show considerable discrepancy.

2.3.3 Population Size

An estimate of total MO population was prepared based on the number of dwellings approved by Council and the average occupancy rate for each LGA. This indicated a total population of approximately 1350 (refer Attachment B).

This compares with the information derived from the MO survey (refer Attachment D) which indicates a total population of about 1750 people over the 59 MOs. Based on survey projections this would suggest a total MO population of about 7000.

The population range of individual MOs is from less than 6 people to in excess of 100, but with an overall average of approximately 30. The majority of MOs range between six and 15 permanent residents (46%) and 21 to 50 residents (23%).

have been approved through LEP provisions in six other LGAs. This compares with 115 MOs identified in the Lismore Council Study (1993).

The majority of these developments (90%) are located within 8 Council areas with the emphasis being on the North Coast of the state. Lismore, Byron and Bellingen cater for 51% of development applications. Followed by Kyogle and Kempsey (10% each), Shoalhaven (8%), Ulmarra (6%) and Tweed (4%). Of these only Byron manages MOs by means of provisions in its LEP.

The MO resident survey identified a total of 56 MO developments across five of the six Council areas with the highest number and response rate being in Lismore. No survey response were received from Kempsey. Based on sample size this suggests a total of about 220 MOs.

The greater majority of existing MOs are located on the North Coast. They are generally situated on rural lands of a lesser agricultural value and thus less expensive to purchase initially. Many MOs are located in isolated bushland locations sometimes having difficult access.

2.2 Development Applications

2.2.1 Application Trends

With the exception of 1991, there has been a general decline in the annual level of MO development applications and associated dwellings under SEPP 15 creation over the period since the Policy was introduced. Approvals under SEPP 15 started with twenty-eight approvals a year and slowed, to eleven approvals in 1993.

In comparison, the number of approvals under LEPS has remained fairly constant, with an average of five approvals per annum throughout NSW.

Of the MOs responding to the survey a relatively high number 14 or 32% gained approval in 1988 this reflects either a skewing in the sampling by response rates or a high degree of regularisation of MOs under the new Policy. The latter appears to be the case when the year of establishment is taken into consideration (refer Section 2.3.1). These figures compare with similar approval rates both before (14 or 32%) and after (16 or 36%) introduction of the Policy.

2.2.2 Refusals

A total of thirteen development applications have been refused under both SEPP 15 and LEP provisions, being nine and four respectively. The majority of SEPP 15 refusals have been in Lismore. Reasons for refusal have incorporated environmental constraints, the need to preserve prime agricultural land, insufficient information, non-compliance with SEPP 15 objectives, inadequate servicing, impacts on adjoining development and inappropriate site planning.

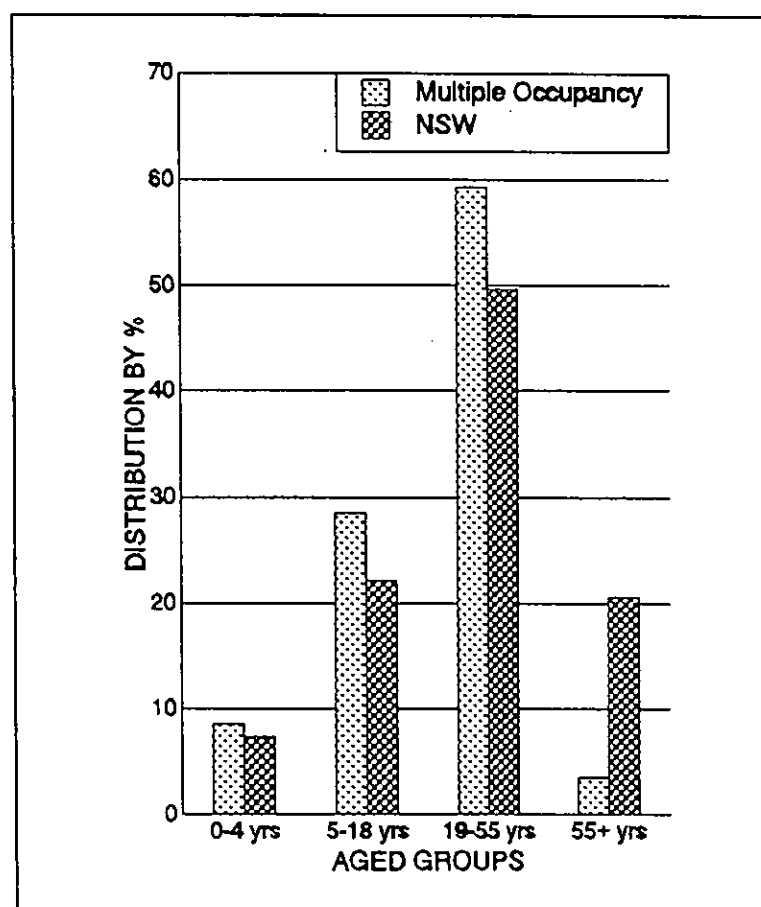
2.3.5 Social Characteristics

The social characteristics of MO residents can be summarised by:

- an age structure dominated by people of working age (59% between 18-55 years) at the expense of those in the retired sectors of the community and is higher than the state average (50%).

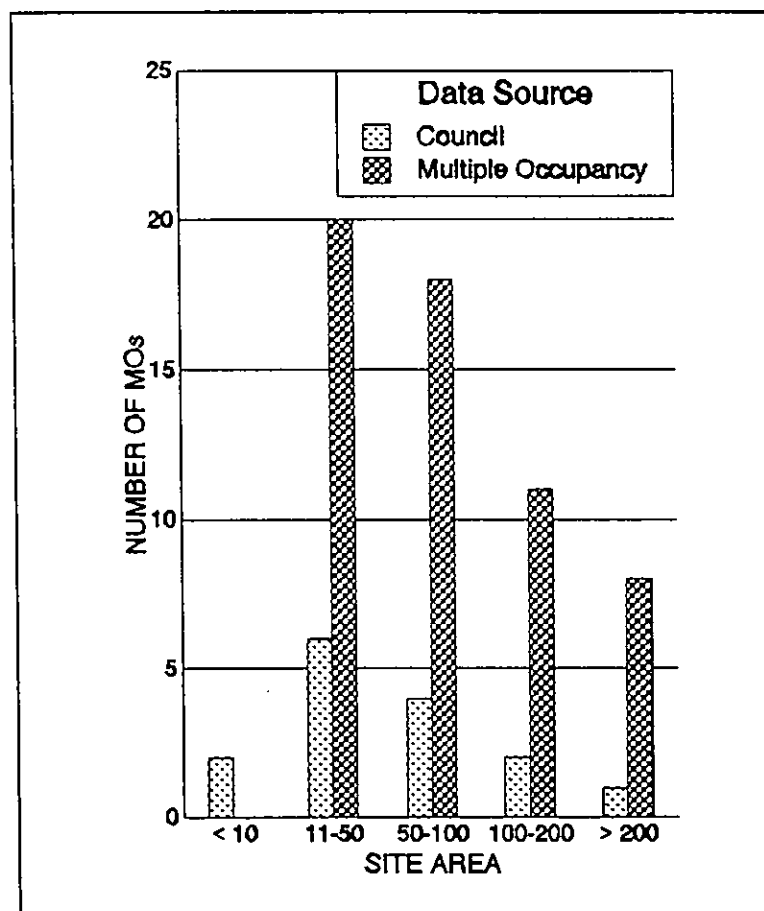
Figure 2.2 shows the overall age structure in comparison with the NSW averages.

Figure 2.2: Age Structure



- a relatively low annual household income. At least 75% of MO households have annual incomes of \$20,000 or less compared with the NSW average of \$33,900;
- a predominance of residents between 18-60 years of age being engaged in daily activities on the MO;

Figure 2.1: MO Site Area



2.3.4 Dwelling Numbers and Types

The survey of Councils identified a total of 486 dwellings approved on 138 MOs giving an average of 3.5 dwellings per development. Equivalent figures for the MO resident survey show 908 dwellings, with an average of approximately 15 dwellings per MO. This discrepancy is due to differences in definition of dwellings and the inclusion of pre-SEPP 15 MOs.

The majority (81%) of MOs surveyed had adopted a dispersed form of development with dwellings scattered across the site as opposed to clustered (14%) in one or two portions. This general pattern is conflict with the objective of the policy and is discussed in detail in Section 3.7.1.

As a result of the dispersed form of development, the majority (57%) of dwellings took the form of single household buildings and in general were located on MOs with a maximum of 10 such dwellings plus a combination of other accommodation forms. These other accommodation forms include sheds, covered caravans and expanded dwellings.

Communal houses, tents and uncovered caravans where other minor forms of accommodation used.

Only 3% of MOs did not provide any community facilities.

Of these facilities, the majority are not available for use by people who are not residents of the MO. However, the most common outside users of MO facilities were friends and visitors of residents followed by neighbours who used farm equipment and buildings, fire fighting equipment and shared roads and water. In addition, some MOs used their community facilities house for running workshops and seminars. Other shared uses included a general store, youth club, artist workshop gallery, pottery kiln, volleyball court, archery field and swimming holes.

2.3.9 Ownership and Management

The emphasis of MOs is that the property is owned communally, which is enforced by the prohibition on subdivision. Individuals may then own dwellings constructed on the MO and or shares in the management organisation. In practise existing MO reflect this overall structure. The ownership characteristics of the majority of MOs can be summarised as following:

- land is owned through communal structures based on Tenants in common (42% of MOs), Proprietary Companies (32%), Co-operatives (14%) or Trusts (10%). Other land ownership used in the minority of cases included joint tenancies and partnerships;
- most dwellings (86% of MOs) are privately owned however the community owns dwellings in 12% of cases;
- there (61% of MOs) are fifteen or fewer shareholders. A further 36% of MOs have 15 to 50 or less shareholders and 3% have in excess of 100 shareholders;
- most shareholders currently live on the MOs. However only 15% of MOs have all shareholder currently lived on the site, while the majority (53%) indicated that up to five shareholders did not;
- some residents are non-shareholders. However 73% of MOs indicated that these totalled less than six per site. Only 12% indicated that there were no resident non-shareholders;
- shares are conditionally available (59% of MOs) subject to the availability of a house or an approved site and/or the approval of existing resident members. A further 31% indicate that there are currently no shares available;
- these shares (64% of MOs) are available for between \$10,000 and \$30,000 with an average of \$17,000. This compares with the original share prices of less that \$10,000 (73% of MOs); and
- less than 50% of the original shareholders (70% of MOs) still reside on the MO.

- a medium to high turnover of residents in MOs with the majority (73%) of resident staying for less than 10 years. Only 28% stay for more than 10 years; and
- a relatively low dwelling occupancy rate of 1.93, which would be consistent with MOs which were established with young families in the 1970s.

2.3.6 Themes

MO residents summarised their main theme (47%) as dispersed residential and environmentally sensitive lifestyles. Three fifths (61%) of Councils summarised the main theme as rural-residential living.

About half of MOs replying (43%) had a forest living/preservation theme. One quarter (28%) had a permaculture theme, 27% had a communal rural lifestyle theme and 23% had a horticulture theme. A small amount (15%) had a religious theme.

2.3.7 Land Uses

In considering the amount of land devoted to particular uses which make up the above themes, the most common present in MOs were Residential, Agriculture (including horticulture) and Environment Preservation. The majority of MO respondents indicated that these uses occupied 5-10%, 5-10% and 51-100% respectively of the total site area. Other land uses present included Active Open Space (5-10% of sites), Community Facility (1-2%) and Passive Community Land (5-10%).

2.3.8 Community Facilities

There are two types of facilities found on MOs. The first is required for management and operation of the property and are the most commonly occurring facilities on MOs. These facilities include utilities services, bushfire/flood facilities and workshop/farm buildings and occurred on 95%, 71% and 61% of respondent MOs respectively.

The second type of community facility depended largely on the type of community, its philosophies and interests. These facilities included:

▪	Recreation facilities	48%
▪	Community Centre	32%
▪	Community laundry	31%
▪	Community house	27%
▪	Artists Workshops/gallery	20%
▪	Community Kitchen/eatery	19%
▪	Community hall	17%
▪	Religious facilities	14%
▪	Child Care facilities	10%
▪	Education facilities	10%
▪	Health/Medical	5%
▪	Tractors/farm machinery	5%

This Chapter discusses the key issue identified in the brief and those arising from the consultation process. Issues have been grouped into related subject areas, and possible approaches to the resolution listed at the end of each section, along with the suggested responsible authority. These policy approaches are discussed further in Chapter 4. Table 3.1 summarises the range of general issues discussed and the areas of the consultation process where particular issues were raised. The degree of concern expressed or noted is subjective and difficult to quantify however, to provide some indication of the emphasis given to each issue, a four point ranking has been given. The total of the ranking provides a guide to the overall weight of each issue.

Table 3.1: Key Issues - Origin in the Review Process

Issue/concern	Local Gov't Survey	MO Resident's Survey	Public Auth'ties	General Consult.	Written Subs.	TOTAL
Policy context/role	2	1	0	1	3	7
Policy objectives	2	1	0	1	2	6
Regulation/assess	2	2	3	3	3	13
Philosophy/Equity	1	3	2	3	2	11
Environmental impacts	1	1	3	2	1	8
Management issues	2	2	3	3	2	12
Development Standards	1	1	1	1	1	5
Subdivision/tenure	2	3	1	3	3	12
Neighbour relations	1	1	1	3	2	8
Rates/levies	3	2	0	2	1	8

Key: A 0 to 3 ranking has been given to indicate the weigh given to the issue: 0= not significant. 1 = moderate significance. 2 = significant. 3 = very significant. While not purported to be statistically rigorous, the total of the ranking given provides an indication of the significance of the each issue.

2.4 Typical MO Profile

A typical MO is difficult to characterise, however the following outlines some of the typical or average characteristics that may be associated with such a development, based on the survey outcomes.

Table 2.1: A Typical MO

Area:	approximately 90 ha		
Established:	Between 1981 & 1987		
Probable Location:	North Coast NSW, in the vicinity of Lismore, Tweed or Byron		
Land Ownership:	Tenants in Common, Proprietary Company, Co-operative or Trust		
Shares:	Number of holders		15
	Original value		\$10,000
	Current value		\$17,000
Annual Household Income:			\$20,000
Population Structure:	0-4 years		3
	5-18 years		8
	19-55 years		18
	55 + years		1
	Total		30
Development form:	Dispersed	Dwellings scattered across site to take advantage of topography for privacy.	
Number of Dwellings: (Privately owned by occupier)	Single		9
	Shed		3
	Covered Caravan		1
	Expanded Dwelling		1
	Other	(including Communal house, Tent, Uncovered Caravan and dwelling under construction	1
	Total		15
Predominant Themes:	Residential and Environmentally sensitive lifestyles		
Land uses:	Land use	estimated percentage	area in ha
	Residential	7.5	7
	Agriculture	7.5	7
	Environment Preservation	66	59
	Active Open Space	7.5	7
	Community Facility	1.5	1
	Passive Community Land	7.5	7
	Other	2.5	2
	Total		90
Operational facilities:	Utilities services, bushfire/flood facilities and workshop/farm buildings		
Community Facility:	Yes - Variable Type		
Transport:	private vehicle or maybe a community bus		

"Increasing demands for multiple occupancy, and the lack of any planning framework to meet these demands, reduces public confidence in the Government's policy and planning system as a whole. Federal Government support for the multiple occupancy concept is evident, but potential initiatives at both State and Federal level are hampered by the existing situation."

(DOP Circular No. 83, 12 August, 1985).

The reasons cited for not introducing MO provisions into local instruments include:

- lack of resources;
- more urgent local priorities; and
- and hesitancy over tackling the issue.

Clearly, the State considered MO development to be a State issue at that time. It is understood that this was partly due to consistent lobbying by the MO community seeking a means of legalising existing communities.

The key issue to be considered is whether it is still appropriate to manage the development of MOs by a State Policy which operates on a "blanket approach" and provides local authorities little control over this form of development.

The MO interest groups have expressed concern that the Policy might be repealed. This is because there is a belief that Councils will not incorporate replacement provisions in their plans or, may not deal with MO developments fairly.

3.2.2 Conflict with Local Planning

Since the introduction of the Policy, the majority of local authorities in NSW have prepared their own Local Environmental Plans many of which contain a sophisticated level of rural planning control. Councils, wishing to control MO "locally", have the option of inserting their own provisions in their instrument and being excluded from the Policy. Additionally, Councils wishing to further enhance the control of MOs may prepare a Development Control Plan. A Development Control Plan may not be inconsistent with the provisions of the Policy but, may provide additional information and guidance particular to local conditions.

Local authorities have expressed concern that the Policy does not enable effective planning for MO development which takes account of the local conditions. Many Councils undertake detailed strategic planning exercises aimed at directing development in appropriate directions in a orderly and planned fashion. In the North Coast Region, it is a requirement of the Regional Environmental Plan that Councils prepare a rural land release strategy and that any LEP is to be consistent with the strategy.

MO development as currently facilitated by SEPP 15 can occur in an essentially unplanned fashion independent of any local strategic planning initiatives of the local Council. The uncontrolled development of MOs raises concerns about monitoring

3.1 Overview

These issues raised in the consultations generally cover those outlined in the brief, with the four key sets of issues being:

- regulation and assessment of MOs;
- management issues;
- subdivision and tenure; and
- MO philosophy and equity.

3.2 Policy Context

ISSUE: Is a State Environmental Planning Policy an appropriate instrument for enabling MO development?

3.2.1 Historical Origins

The Policy takes effect as a State policy made pursuant to the provisions of the Environmental Planning and Assessment Act, 1979. In this regard the Policy takes precedence over local planning controls (Local Environmental Plans or LEPs) in the areas to which it applies.

Early MO policy initiatives recognised the need to take a broader approach to rural development. Planning and Environment Commission Circular No. 35 states:

"The Commission's basic policy on rural subdivision and development was arrived at with more traditional farming development in mind; its main purpose was to preserve the agricultural viability of the countryside and to contain urban development within boundaries. The Commission has adopted a policy to cover these (Multiple Occupancies) situations because of the potential they provide for social and environmental advantages; social in terms of providing an alternative land settlement form, and environmental in terms of the possibilities for obtaining development more in harmony with the natural environment."
(PEC Circular No. 35, 7 November, 1979).

Earlier approaches to the control of MOs by the Planning and Environment Commission (predecessor of the Department of Planning) were based on a policy framework that supported the inclusion of specific controls in local instruments. In particular, "Circular 44" dated 3 July, 1980, contains detailed policy guidelines and sample clauses for insertion into instruments.

These early policy statements did not have a great impact as many Councils were reluctant to include MO provisions in their instruments. This left communities which were established without any scope for becoming legalised. Concern was expressed by the DOP that:

- the Policy has had sufficient time to enable the regularisation of illegal MOs;
- MO development is no longer a “state issue”;
- it is not being widely used, on a Statewide basis, and is not facilitating development in any significant way; and
- the use of the Policy has implications for local planning, particularly consistency with rural residential planning.

Possible Approaches:

1. *Retain Policy in current form, but support Councils wishing to introduce their own.*
2. *Retain Policy for say two years and advise Councils that they have this time to incorporate MO provisions into their own instruments. (Could also include provisions similar to the Policy in the Model Provisions to facilitate easy adoption).*

3.3 Existing SEPP 15 Objectives

ISSUE: Have the aims and objectives of SEPP 15 remained relevant and applicable to MO development?

The existing objectives of SEPP 15 are outlined in **Section 1.4.1**. Their application and relevance was assessed by means of the Local Government and MO Resident surveys (refer **Attachment B and C**). The findings of these surveys are outlined below.

3.3.1 Relevance

In assessing applications, Councils gave each objective relatively even ratings and MO residents recognised the relevance of the majority of objectives. Both Councils and MO residents placed greatest emphasis on ‘encouraging environmentally sensitive rural settlement’ (clause 2(a)) and generally agreed on the importance of ‘avoiding subdivision of rural land’ (clause 2(c)(ii)).

The next set of objectives reflect the differing roles and attitudes of the two groups. Councils’ emphasis was on ‘avoiding demand for Council/Government services’ (clause 2(c)(i)), while MO residents placed relevance on:

- Enabling the sharing of facilities and resources (clause 2(b)(ii));
- Encouraging community based rural settlement (clause 2(a)); and
- Enabling the pooling of resources (clause 2(iii)).

the cumulative impact of such development. In areas where a significant amount of MO development is occurring, there is a need to address the implications of MO development in an overall way and the possible consequences for traditional rural and rural-residential development. Clearly, in areas where MO development is taking place at a significant scale, local Councils should be taking it into account as a part of their strategic rural planning activities. This could also be considered as part of Councils' State of Environment Reports.

The local government survey indicated that a significant number of Councils felt that there was conflict between SEPP 15 and LEPs (refer **Attachment B2.8**).

Particular concern was expressed by many parties during the consultation process, in that the treatment of MOs in relation to rural- residential development is not equitable. Rural residential development planning is largely the responsibility of local government. Considerable time and resources are directed into this type of development whilst there is little local control over MO development. In particular 48% of Councils responding to the survey indicated that some applications for MO development are essentially for rural-residential style development (refer **Attachment B2.18**). This is further discussed in Section 3.4.

3.2.3 Effectiveness of the Policy

The survey of local government authorities has indicated that the Policy is not really doing much work and its use since inception is declining (refer to **Section 2.2** and **Attachment B2.1**). In particular, the relevance of the Policy in some more remote or sparsely settled areas of the State must be questioned.

The level of utilisation of the Policy, as indicated by the responses to the local government survey, is:

- approximately 25% of responding Councils have used the Policy.
- 107 applications have been approved resulting in 486 dwellings.
- a resultant population of approximately 1,350 persons.
- an average of 5 dwellings per MO development.
- concentration of use on the north coast.
- declining use over time.
- low average number of dwellings per application resulting in fewer dwellings.

3.2.4 Conclusion

In conclusion, the use of a SEPP to facilitate MO development on a state basis needs to be reconsidered for the following reasons:

- the policy applies to a maximum of about 2,000 people on an estimated 500 properties across NSW;

Opponents of MO development have suggested that, as a result of the wording, all parts of Clause 2 relating to the policy's aims and objectives should be read and therefore implemented in a co-joined fashion. As a result, MO developments should only be approved if all aspects of the objectives are adequately complied with. Particular issue has been taken with subclause 2(c)(iii) which states:

" to facilitate development, preferably in a cluster style -

- (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."

All Councils were questioned as part of the survey process to indicate the rural population trend in their area. Of those that responded, 90% (18) indicated that rural populations had increased over the time since the SEPP 15's introduction. The remaining Councils believed that their population had remained constant. In addition, MO development have a demonstrated preference for dispersed as opposed to clustered residential development.

Under the above argument no further MO developments could be approved.

The alternative view, based on legal advice provided to the Lismore City Council and Pan-Community Council, is that the aims and objectives are included to demonstrate the intent of the overall policy and therefore indicate a 'preferred' position. The wording requires that all points within the clause to be read conjunctively and given consideration to in the determination of an application. Therefore, provided an application complies with the overall aims, it is not required to meet all individual subclauses. Non-compliance with one aspect of the aims is insufficient reasons to refused an application.

Further advice supports this view. The plural use of words at the commencement of Clause 2 (i.e 'The aims, objectives, policies and strategies of this Policy are....') suggest that the following points can be used as independent factors of consideration and applied were appropriate.

Under these arguments, provided an application complies with the overall intent of the policy and consideration has been given to all aspects of the aims, regardless of whether this consideration determines a particular subclause to be non-applicable, then it can be approved.

Additional legal advice has not been obtained by the consultant team.

3.3.4 Additional Objectives for SEPP 15

Consideration was given as part of the MO Residents Survey to aspects of MO development not currently covered by the objectives. Suggested additional areas for consideration included:

The exception to the even ratings given by Councils has been the use of clause 2(c)(iii), relating to 'opportunities for an increase in rural population'. Due to the lack of declining rural populations in the majority of relevant LGAs, this objective was considered to be unimportant and Councils expressed the view that should this objective should be deleted.

Only two objectives were regarded by MO residents as having little or no importance, namely the 'Facilitation of clustered style rural development' (clause 2(c)) and 'Enabling collective living' (clause 2(b)(i)).

3.3.2 Performance

Despite the large degree of acceptance by both Council and MO residents of the objectives, Councils indicated that they were largely not being achieved by MO developments in their area.

Of the nine issues dealt with, Councils felt that only two were being achieved with any success. These were the pooling of resources (clause 2b(ii) and (iii)) and avoidance of subdivision of rural land (clause 2(c)(ii)).

A further four objectives were largely unsuccessful in their achievement, namely:

- Enabling collective living objective (clause 2b(ii) and (iii));
- Enabling sharing of facilities and resources (clause 2(b)(ii));
- Facilitation of clustered style rural development (clause 2(c)); and
- Avoidance of demand on Council/Government services (clause 2(c)(i)).

Most Councils considered that implementation of the policy was not resulting in 'environmentally sensitive rural development'. It should be noted that the first of the above objectives (collective living) was also rated by 41% of respondent MO residents as having little or no relevance to their development.

The reason for not achieving this objective, as seen by Councils was attributed to the policy being used to access low cost rural housing rather than a real desire to live and operate as part of a rural community. As a result MOs are perceived as defacto rural residential estates. In some cases SEPP 15 has been used to provided additional dwellings on farming properties for additional family members.

3.3.3 Legal Implementation

The differential implementation of objectives outlined in Section 3.2.1 has created a legal issue regarding the policy's implementation and uncertainty in the MO approval process.

3.4.1 DA Assessment

Documentation requirements.

The proper assessment of a MO development proposal requires comprehensive documentation of the proposal and its compliance with the provisions of the Policy. Adequate documentation enables Councils and other authorities to effectively assess the proposal. There is a wide variation in the standard of documentation submitted to Councils (refer to **Attachment B2.11**). Some Councils are more experienced in dealing with MOs and are hence able to advise potential applicants more readily of the required standard of documentation. Councils which have Development Control Plans have clear guidelines to assist applicants.

Clause 8(2) of the Policy requires the submission of a detailed site plan for MO developments having 4 or more dwellings. It is considered that this distinction is not appropriate as this information should be provided for all developments to enable comprehensive assessment.

A suggestion was made that a guide to preparing and lodging a development application would provide assistance where there were no specific local requirements or information. The level of assistance available to potential applicants varies according to Council workload and experience. A simple plain english guide, including a checklist, to preparing a development application would assist with resolving this issue. This could be available to all Councils in NSW.

Consultations.

Effective consultation during the DA assessment process has been identified as an essential ingredient in achieving good development. The MO resident survey revealed that the majority (90%) of respondents felt that public notification was appropriate (refer **Attachment C2.17**). There are three aspects of an effective consultation process:

- Firstly, applications should be advertised and made available to all interested parties.
- Secondly, there is a clear need to circulate the proposal to all relevant government authorities.
- Thirdly, all adjoining landowners should be given individual notice of the application.

The Policy contains provisions making MO applications for 4 or more dwelling "Advertised Development" pursuant to the Environmental Planning and Assessment Act, 1979. (Clause 11). This effectively means that MOs having three proposed dwellings may not be advertised. It would appear that a significant proportion of MO applications are avoiding advertising on this basis (refer **Attachment C2.17.1**). This is considered to be an internal inconsistency of the Policy as there is no arguable distinction between an MO of 3 or 4 dwellings. This aspect of the Policy should be changed.

- Need for individual security of tenure (refer Section 3.8);
- Retention and protection of its ability to meet the need for low cost rural living (refer Section 3.4)
- Protection of MO development from land speculators (refer Section 3.8);
- Recognition of the social and environmental benefits of this lifestyle;
- Encouragement of community based Eco-tourism projects (refer Section 3.7);
- Contribution to the diversity of lifestyles in rural communities; and
- Protection of wildlife habitats (refer Section 3.5).

Discussion of these aspects of MO development occurs elsewhere in the report. A number of these are already dealt with in the current policy document.

Possible Approaches:

1. *Objectives be reviewed to better reflect the contemporary role of MO development in rural settlement.*
2. *Delete clause 2(c)(iii) relating to 'opportunities for an increase in rural population', due to its irrelevance to in the majority of Council areas.*
3. *Legal advice be obtained to clarify the wording of the objectives to ensure that the intent of the policy is not is jeopardised by the inappropriate wording of the objectives and the policy be amended as appropriate.*

3.4 Regulation

ISSUE: Should the regulation of MO development be improved, and if so, how?

During the conduct of this review, considerable concern emerged in relation to the regulation of MO development and that it is not being undertaken effectively. Three areas of the regulation process have been identified:

- the development application assessment process;
- the building approval/illegal dwelling control processes; and
- the enforcement of conditions of consent.

3.4.2 BA Assessment/Illegal Dwellings

Following the issue of development consent, the next formal point of assessment of a MO is when a Building Application (BA) is lodged. This is the point at which many Councils rely on collecting Section 94 contributions imposed by the development consent. It would appear that this is a weak point in the regulation process as in many instances, building approval is not sought by the applicant. Hence, contributions are not collected. In fact it would appear that the last action in many cases on a development application file is the issue of consent. Some Councils (e.g. Kempsey) do not require planning or BA in rural areas.

In many Council areas there is a problem with illegal dwellings in rural areas. This is not confined to MO development. However, MOs are a significant part of the source of this problem. SEPP 15 was intended to help redress this problem however, it would appear that the Policy is having little effect in legalising illegal dwellings (refer to Attachment B2.10). The problem for most Councils is lack of staff resources and the extensive area of rural LGAs.

Councils have varying approaches to identifying illegal building activity and regularising the structure. The main problem would appear to be one of resources and simply having the time to keep an eye on what is happening in the field and to take appropriate action when required. One Council, Kyogle, has a long standing program of identifying and regularising illegal buildings. In the initial stages, the task was quite resource intensive but, over time, as the community became aware of the Council's policy, the problem has significantly abated. The Policy was used by the Council to regularise a number of situations.

Illegal dwellings are also a problem because they occur without any assessment and can lead to significant environmental problems arising from inappropriate location of the dwelling on unstable land, poor effluent disposal and earthworks leading to erosion and water contamination.

Clearly, if people think they will get away with not obtaining approval, there is a reduced incentive to go through the BA process particularly if it means paying a contribution or completing development work. It is considered that there is a need to rigorously ensure that building approval is obtained and conditions of consent are followed-up.

Possible Approaches:

1. *Councils institute a process of monitoring building activity to ensure that building approval is obtained and the necessary supervision carried out.*
2. *In conjunction with the processing of a building application involving a MO, the conditions of consent should be checked to ensure that any relevant requirements are met.*

From the responses received from public authorities, it would appear that they are not always consulted in relation to proposals. Consultation with authorities places demands on their limited resources and, with the pressure of other competing tasks, it is not always possible to obtain a comment. The preparation of a development assessment guide/checklist incorporating the main concerns of the various authorities may assist Councils in completing their assessment. Such a guide could identify the parameters under which an application is referred to particular authorities.

For larger proposals or proposals potentially having a significant environmental impact, it would be appropriate to conduct a "planning focus meeting" where the representatives of public authorities inspect the site and are briefed on the proposal at the one time. These meetings are particularly useful in focussing the responses and removing any overlap in replies.

Effective consultation is essentially dependent on the initiative of Councils.

Assessment.

The standard of assessment of MO applications varies considerably according to the experience of the Council and its officers and the number of applications received. For Councils receiving only a few applications each application appears to be treated individually. Councils which are more familiar with MO development, provide more detailed pre-DA advice and adopt a more rigorous approach to assessment.

Possible Approaches:

1. *Facilitate the preparation of a guide to preparing and lodging a development application.*
2. *Encourage a "best practice" approach to MO development management including:*
 - *preparation of a checklist of the various standard requirements of public authorities.*
 - *preparation of a development guide to incorporate the main concerns of the relevant public authorities and identify matters which require detailed investigation and/or referral.*
 - *adoption of effective consultation and conflict/issue resolution methods.*
3. *Require all development applications to be accompanied by a detailed site plan.*
4. *Require all MO applications to be advertised developments.*

Consultation with local government, State Government agencies, MO residents and other interested parties (refer attachments) provides a wide range of views as to whether this philosophy is still inherent in MO communities. The extremes of these views are that MOs are:

- an environmentally sensitive form of rural development based on a common interest and the guardianship of the land; and
- being used purely as a cheap form of rural residential housing with the only common interest held by the communities being the ownership of the one piece of land.

Examples of these extremes are evident in existing MO developments. It is also current state and federal government policy to provide a wide range of housing choice. MOs are one aspect of this housing choice and as a result it is necessary to provide a development framework which can cater for and recognise the needs of the purist MO through to the alternative forms of rural residential facilities.

3.5.2 Low Income Housing Equity

A key aspect of the SEPP 15 is seen to be the provision of low cost housing for people on low incomes. Part of the objectives in clause 2(c) states:

" to enable -

- (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..."

The provision of low cost housing can be achieved by the purchase of marginal agricultural land, the use of owner builders in house construction, the minimisation of development assessment requirements, the prohibition of subdivision and the subsidisation of services by the broader community. These issues and the above objective incorporates a number of social equity issues and are included in the broader social philosophy of the provision of housing choice for low income members of our society. A full discussion of which is beyond the terms of this brief. However recommendations of this report have the potential to impact on this provision and choice and needs to be considered in that light.

Social equity issues, of particular relevance to MO development and SEPP 15, include:

- Access to low cost rural housing;
- Access to social services and facilities;
- Access to physical infrastructure; and
- Impact of changes to SEPP 15.

3. *Council could adopt a pro-active approach by engaging a part time officer to focus attention on the issue. This is likely to have a deterrent effect. Follow up all DA's to establish whether illegal buildings undertaken.*

3.4.3 Monitoring of Impact and Conditions of Consent

The building approval stage has been identified as a key point in the regulatory process for checking the development is being undertaken in accordance with the consent. It is also considered that there is an additional need to check the progress of development from time to time. The focus of this checking should be on the management of the development and whether it is meeting its environmental performance criteria.

The need for ongoing monitoring is particularly relevant in sensitive locations or in areas with particular site conditions. The Soil Conservation Service has raised a number of matters particularly related to the impact of road and clearing on catchments. Similarly, bushfire management and weed control are matters of ongoing concern to the community and should be monitored as part of the regulation process.

Possible Approaches:

1. *In assessing a development application, consideration should be given to the need for the ongoing monitoring of environmental performance and/or management of the MO. These matters should be clearly identified in the consent and a process of periodic checking instituted.*

3.5 MO Philosophy/Equity

ISSUE: Does SEPP 15 reflect the philosophy of MOs and represent an equitable provision of low cost rural housing?

3.5.1 Philosophy

The current underlying philosophy of MO development engendered by SEPP 15 can be summarised in the following statement.

The creation of environmentally sensitive, common interest rural communities by the provision of low cost rural housing.

The means of implementing this philosophy incorporated the concepts of communal ownership and management of land, pooling and sharing of resources and the use of alternative technologies and methods of land management.

The development of MOs in isolated rural locations significantly increases the demand for certain services, particularly roads. Under the Section 94, MO developments are increasingly being required to make substantial contributions to the up-grading of those roads. Although initial residents may be willing to forego certain services to minimise establishment costs, Councils recognise that overtime and with changes in residents, pressure for increased and upgraded services occurs.

Whilst studies have been done, it would be reasonable to assume that MOs generate levels of traffic flow, commensurate with population numbers. Application of the user pays principle will significantly increase the overall cost of individual occupancies on MOs and potentially create financial difficulties for the lower income residents.

Survey results show that 48% of Councils were not satisfied that MO developments adequately contribute towards the cost of funding services and infrastructure, whilst 35% were dissatisfied with current rating arrangements. Non-MO based community groups also have the same perception. Detailed discussion of this dissatisfaction is contained in Section 3.10.

Concern was also expressed during the consultation process, that current Council charging practices regimes were affecting the affordability of MO developments. It was also suggested that the increasing costs were in fact pricing this option out of the realm of the policy's one specified target group.

Impact of Changes to SEPP 15

A number of aspects of this review discussed elsewhere are likely to have negative as well as positive implications on the costing and affordability of housing on MO sites. Concern was expressed, during the consultation process that changes to the policy and currently Council charging regimes were affecting the affordability of MO developments.

As a general principle the greater the demands on a development project prior to or at the time of approval, the greater the establishment costs experienced by either the developer. Increased **development requirements**, including statements of environmental effect, bushfire management plans and farm management plans, will potentially add to the cost of MO development and, hence, the cost of a share or entitlement.

The other aspect which has implications on the affordability of MO housing is the current prohibition of **subdivision**. This aspect in conjunction with the associated difficulties in obtaining commercial finance (refer Section 3.8) has resulted in resale values of shares within MOs being substantially lower than would otherwise be expected. Both the inability to obtain finance and the low resale values were identified in the MO resident's survey as significant disadvantages of MO development attract in 83% and 54% of responses respectively.

A brief discussion of these issues are out lined below.

Access to low cost rural housing

People in general, regardless of income status, are entitled to expect a range of housing choice and there is no reason to suggest that this choice should specifically exclude rural housing. Providing this does not place an undue burden on the rest of the community, MOs are an opportunity for people particularly on low incomes to participate in a rural lifestyle.

For the purpose of this research, low income was defined as households earning less than \$20,000 per annum. Of the respondents 61% estimated that in excess of 75% of their households met this definition and half of this response (31%) include 100% of households.

The review work has also indicated that the low cost of rural housing was viewed by 80% of responding residents and 33% of responding Councils as one of the main advantages of MO development. MOs under SEPP 15 are, therefore, meeting a small part of the need for low income rural housing.

Access to Social Services and Facilities

An important underlying principle of Government policy is the equal access to public social services and facilities. In rural areas, the most efficient and equitable location for such services is in the region/district services centres, and therefore greatest access is obtained by locating low income housing in such centres. However, this restricts the potential choice of housing and the alternative is the provision of transport to and from such services and facilities.

In the case of low income housing on MOs, physical access to public facilities and services does not appear to be severely restricted by their rural location. This is reflected by the high private vehicle ownership levels on the MOs. Of the responding MOs, 98% indicated that the most common mode of transport used by MOs is the individual private forms (e.g. car/truck). This was followed by shared private transport (43% of responses) and Public transport (24%). Other forms of transport represented a minority and included hitchhiking (7%), Community transport (3%), School bus (3%) and walking (2%).

Access to such social service and facilities does not appear to be an issue or a deterrent to more isolated MO locations. However, it needs to be acknowledged that there are both private and public costs arising from the travel associated with less accessible locations.

Cross Subsidy of Public Infrastructure

Current government policy is increasingly applying the user-pays principle to government service provision as exhibited by Section 94 contributions. The view expressed by Councils, State Government agencies and other interested parties is that MOs have similar environmental issues and impacts as other forms of development and therefore should be treated no differently.

The main problem would appear to be that in the case of many MOs there is not enough money available to properly construct the roads to an adequate standard. The usual intention is to do the work over time. Unfortunately, this means that proper roads are often not constructed and there are resulting environmental impacts. Secondly, when maintenance is required there are often problems collecting sufficient money to do the work. This aspect is discussed further in the section of finance.

Possible Approaches:

1. *Minimise the impact of road construction and ongoing maintenance by clustering dwellings, ensuring optimal location with minimal earthworks and seeking to ensure that work is carried out to a good standard that will require minimal maintenance.*

3.6.2 Erosion and Water Quality

The problem of erosion is allied with the discussion above. Soil loss and impacts on the quality of water resources are the key aspects for consideration. In addition, consideration may need to be given to the potential of inducing mass movement in areas where this is a latent hazard.

The areas of concern are clearing and levelling of dwelling sites and clearing of vegetated areas. Protected lands having a slope of greater than 18 degrees or as otherwise identified should receive special attention at the development application stage.

The best tool for evaluating the likely impact of a proposal is a detailed site plan showing contours and watercourses. Cleared and vegetated areas should also be identified. Road construction, dwelling sites and other activities should be considered in terms of the impacts that will occur on site and off site. Specialist advice may be necessary to assist Councils in making decisions.

Effluent disposal is a major concern in terms of the potential impact on water resources. The siting of absorption areas should be carefully considered in terms of the proximity to watercourses. Consideration should also be given to the cumulative impact of effluent disposal if there is a likelihood of there being further MO development in the catchment.

The goal should be for MO developments to clearly demonstrate that they will enhance the environment of the catchment. The potential impact on all water resources including ground water should be taken into account. In this regard the onus should be on the developer to provide adequate information.

Removal of the subdivisional constraint would result in the creation of a more conventionally saleable product resulting in increased market demand and associated increase in over all price. This would therefore restrict the ability of low income household to buy into both existing and new MO developments.

Possible Approaches:

1. *Ensure that provision is retained within planning policy for the development of environmentally sensitive, common interest rural communities (MOs).*
2. *Provision of low cost rural housing should continue to remain as one of the objectives of guidelines governing the development of Multiple occupancies.*
3. *Provision be retained for the construction of multiple dwellings on the one allotment.*

3.6 Environmental Impacts

ISSUE: How can the environmental impact of MO developments, particularly in sensitive locations, be minimised?

3.6.1 Internal Road Construction

The construction of internal roads has been identified by the Soil Conservation Service as a particular source of significant environmental impacts. The problem is one of ensuring that access roads are located so as to minimise cut and fill and that the standard of construction, in particular drainage is adequate. Problems arising from poor roads are severe erosion and sediment loss on access tracks associated with dwellings constructed on steep slopes or hazard soils. The problems arise from poor design, poor drainage and poor surfaces. Another problem is failure of tracks due to mass movement.

The Soil Conservation Service has advised that, in its experience, poor access road location and construction is by far the greatest problem resulting in sediment movement and reduction in water quality. The problem is further exacerbated by the dispersed layout of many MOs. The MO resident survey indicated that the predominant form of development is a dispersed layout (81% of responses. Refer **Attachment C2.6**). Clustering of dwellings will minimise roads and enable limited monies to be spent more efficiently.

The location of internal roads is a matter that can be considered at the development assessment stage. Where soil conditions or topography warrant it the plan should be referred to the Soil Conservation Service for advice.

Weed control is a thorny issue reflecting the divergent values between MO residents and traditional landowners and public authorities. The pivotal point is that of the use of herbicides. It has also been found to be an internal problem of communities where residents have different approaches. In some localities the Council is subject to pressure to not spray roadside verges. Left uncontrolled, verges are a major source of ongoing weed infestation.

Possible Approaches:

1. *Councils require a weed report/certificate from the local control authority.*
2. *Consideration be given to the need for initial eradication of weeds and the ongoing management of the problem as a part of the development assessment process. The extent of the problem should be considered in the context of any local control strategies already in place and the likely impact on nearby activities.*
3. *Weed control authorities encourage local solicitors to request a noxious weed certificate for a MO when dealing with a transfer.*

3.7.2 Bushfire

Bushfire management is an ongoing matter of concern to local authorities (refer Attachment B2.13). The Department of Bushfire Services states that:

*"Multiple occupancies are a major problem for bushfire authorities, particularly where they are illegally constructed. They tend to be in remote location and can have a very 'natural' design."
(Correspondence dated 9 February, 1994)*

The Department does not object to MO development as a form of rural development but, encourages Councils to take action to have basic bushfire protection built into them. Measures recommended include:

- clearing vegetation in close proximity to houses;
- a reasonable standard of house construction;
- appropriated access/egress to allow for entry of fire fighting appliances and evacuation, if necessary; and
- appropriate water supplies.

Because of the potential wider consequences of poor bushfire management, a balance between the rights and responsibilities needs to be achieved.

The Policy needs to reflect the need to have effective bushfire management on MOs. Assessment at the development application stage needs to go beyond checking the fire risk of the land and should incorporate a detailed bushfire management plan. Site planning, including dwelling location, should reflect a

Possible Approaches:

1. *Ensure that adequate site information is supplied with the development application to enable the identification of potential hazards and constraints an adequate assessment of the impact of development.*
2. *Adopt a TCM (Total Catchment Management) approach to development assessment taking into account the potential for further development and the likely cumulative impacts.*
3. *Councils consider their own local conditions and formulate policies regarding specialist input into the preparation of applications (eg: geotechnical evaluation, engineering design, water quality).*

3.7 Community Management Issues

ISSUE: *How to ensure the satisfactory development and management of the MO on an ongoing basis.*

Much of the focus of the consent process is on achieving a satisfactory form of development. There is however a public interest in the ongoing performance of the MO in terms of their impact on the environment. This is not readily accommodated in the approval process. The use of management plans is one way of providing for the ongoing management of MOs and allows specific issues to be addressed in a way that is particular to the individual development.

3.7.1 Weeds

In some areas of the State noxious weeds are a significant problem having an impact on traditional agricultural production. The problem identified with MO development is that of controlling weed infestation so that it does not impinge on the activities of others. Weed control requires a co-operative effort on the part of the local community.

Problems cited particular to MOs are:

- lack of awareness of noxious weeds or the associated responsibilities;
- reluctance to use herbicides; and
- acquisition of land without checking searches and thus inheriting a major weed problem.

The existing weed situation of a property should be considered at the development application stage. If necessary, rectification could be a condition of consent and/or built into a management plan. Secondly, by increasing public knowledge, solicitors could be advised to seek a weed certificate when transferring a share in a MO. This would alert a prospective purchaser to a potential problem to be dealt with by the MO.

3.7.4 Finances

The collection of money within MOs would appear to be a problem for some communities. This came out clearly in discussions with MO residents. Most MOs have a regular levy on owners/residents. The problem which arises is, what to do when some members cannot or will not pay levies. Existing ownership structures do not provide adequately for collecting unpaid levies. Legislation dealing with Strata and Community Title developments have specific provisions for collecting levies and informing intending purchasers of monies owing. (Refer Attachment C2.11).

Possible Approaches:

1. *Councils consider the use of management plans to provide for the ongoing management of MO developments. This would be consistent with similar requirements under Community Title and agricultural activity. They would be used to address matters such as internal financial disputes and road works and bushfires.*

3.8 Existing Development Standards

ISSUE: Have the development standards contained within SEPP 15 remained relevant to MO developments?

SEPP 15 currently contains a number of development standards which reflect the aims and objectives of the policy. Consideration has been given to the continued relevance of these standards in light their implementation. Such development standards also need to be viewed in the light of the need to retain the rural character and amenity of the areas in which MOs are situated.

3.8.1 Development Form

SEPP 15 seeks to emphasise clustered development to minimise environmental disturbance and maximise the efficiency of service provision and land management function.

The majority of Councils (61% of responses) recognises the advantages of clustered settlement patterns to include:

- Minimises vegetation clearance;
- Limits road construction and construction impacts;
- Eases servicing;
- Increases fire protection; and
- Avoids land slip.

One Council also recognised that the advantages of cluster housing also represented one of its main disadvantages, namely the concentration of any detrimental impacts.

concern for minimising bushfire risks. Most Councils refer applications to their bushfire control officers for comment. The task is to ensure that the provisions contained in the development plan or conditions of consent are implemented and maintained.

The discussion on regulation is particularly relevant to bushfire management as it is an issue in which there is a clear ongoing public interest.

During the consultation process, concern was expressed that on some MOs members were not willing to participate in the local fire brigade. Fostering a responsible approach to community responsibilities in rural areas is beyond the scope of any planning policy. A stronger internal management structure supported by a management plan may assist with facilitating better bushfire awareness and management on MOs.

Possible Approaches:

1. *Strengthen the provisions of the Policy relating to bushfire management and control by requiring the incorporation of development and management matters into a management plan.*
2. *Ensure consultation with local bushfire authorities at the development assessment stage and incorporate recommendations into the consent.*
3. *Examine ways of fostering a "bushfire awareness" culture with MOs, including involvement with local bush fire brigades.*

3.7.3 Internal Services/Roads

During the consultation process, it became apparent that on some communities internal disputes were occurring over matters such as road maintenance, water reticulation, service corridors for telephone and electricity.

The disputes appear to often have their origin in differing philosophical approaches to the standard and availability of services - "being on the grid". In one case such disputes have lead to violence and sabotage of property. It also seemed that most of the problems were occurring on early MOs which had not had the benefit of being formally set up.

The existing ownership structures (co-operatives and tenants in common) were also identified as not facilitating the resolution of internal disputes. This is further discussed in the section on Subdivision and Tenure.

Properly conceived developments having a management plan covering such matters a maintenance responsibilities, and management structure are less likely of to experience internal disputes about land use and management.

3.8.3 Minimum Lot Size

The minimum lot size established by SEPP 15 is 10 ha. Although accepted by the majority of people consulted, concerns were raised:

- small block MOs conflict with Councils planning provisions which restrict the construction of dwellings to either 40 or 100 ha. SEPP 15 therefore represents a loophole in a number of Council's planning schemes; and
- capability for the site of agricultural production. The restriction on the proportion of the MO site which may be prime agricultural land results in the majority of MOs being located on marginal land. As a result, larger lot areas are required both to achieve agricultural production and prevent degradation of the environment.

In addition, the Department of Agriculture recognises 10 ha to be too small for balanced design of developments and, therefore, suggests 30-40 ha as a minimum size.

Possible Approaches:

1. *Increase the minimum lot size to coincide with minimum size permissible within the relevant planning instrument for the approval of a rural dwelling.*

3.8.4 MO Density Standards

The current provision bases the dwelling density on a graded formula which results in a maximum dwelling density ranging from 1 dwelling for every 2.5 ha on small lots (10 ha) up to 1 dwelling for every 4.5 ha on large lots (360 ha). The majority of those consulted felt that the density standards were appropriate.

In some areas, it was felt that the resulting density was too high and was generally inappropriate for the type of land on which MOs were being developed. Included with those expressing this concern were three of the Councils selected due to their experience with MO developments, namely Bellingen, Lismore and Shoalhaven. These Councils suggested that density provisions should reflect the carrying capacity of the land with a minimum standard of approximately 1 dwelling per 5 ha being suggested. It was recognised that higher density may be possible, using a land capability approach, subject to the development incorporating a clustered layout.

State Government agencies recognised that the area of land should not be the sole determinant of density but rather a flexible approach should be adopted recognising other site characteristics.

In practice, dispersed settlement patterns are the most frequent form of development (81%) with clustered settlement occurring on only 14% of MOs surveyed.

The reasons for choosing dispersed settlement were predominantly based on the site's topography and vegetation patterns and the desire by residents for privacy and space. A dispersed layout also accommodates individual differences and preferences within the community and suits the permacultural style of agriculture.

The form of development is and should largely be dependant on the environment characteristics of the site.

Possible Approaches:

1. *Amend SEPP 15 objectives to place greater emphasis on the environmental characteristics of the site over the form of development.*
2. *Preparation of a guide for MO development incorporating the advantages and disadvantages of clustered and dispersed development forms.*

3.8.2 Building Height

The current provisions SEPP 15 restrict the height of buildings to 8 metres above natural ground level. Most respondents (73%), felt that this standard is appropriate.

Of the remaining 27%, concern was expressed that such standards restricted design opportunities and that dwellings should be approved on merit. Pole houses on steep sites were used as potential cases which would be restricted by the current standard with the over-riding factor being the dwellings harmony with its environment.

An 8 metre height limit enables the construction of a two storey building. On sloping ground, use of split level development can be made to ensure this guideline is met. It should be noted that where the particular circumstances warrant a taller building, it is possible to seek a validation.

Possible Approaches:

1. *Retain existing height restriction on buildings.*
2. *Incorporate details of circumstance where the height limit can be varied into a development guide.*

Possible Approaches:

1. *Reduce the potential development density of MOs on rural land. The suggested maximum density is 1 dwelling for every 5 hectares;*
2. *Develop provisions in the policy which set the development density on the basis of the sustainable capability of the land.*

3.8.5 Prime Crop and Pasture Lands

The current policy restricts the amount of prime cropping and pasture land to 25% of the total MO site. This has implications in terms of:

- the protection of agricultural land from unwarranted fragmentation;
- the ability of MO developments to pursue agricultural production; and
- the potential for degradation of non-prime agricultural land.

The limited agricultural potential of sites was also recognised by Councils and State Government agencies. This however was due to the minimum 10 ha lot size rather than the land types. (refer Section 3.7.3)

In addition the Soil Conservation Service recognises that MOs generally occur on rural land capability classes outside that considered to be prime crop and pasture land. This poses severe environmental constraints to rural living (refer Section 3.5).

The majority of MO respondents (62%) considered this restriction to be inappropriate. The respondents felt that it was discriminatory when the MO concept is often linked with agricultural production (e.g. permaculture) and self-sufficiency. The potential exists for the residents of MOs to provide relatively large, cheap labour force for intensive agriculture. It was therefore felt that such activities could be better achieve on prime land.

Alternative limits of 50%, 75% and 100% of the site being prime crop and pasture land were suggested particularly where the predominant theme of the relevant MO is agricultural production. In reality, there is no reason to prevent a bona fide to establishing on 100% prime agricultural land.

Possible Approaches:

1. *Permit MOs on prime crop and pasture land subject to demonstrated intent (i.e. submission of farm management plan) for agricultural uses;*
2. *Require the provision, at development application stage of a farm management plan for the site to demonstrate intent; and*

3. *Avoid subdivision of properties, intended for agricultural use until the main features of the submitted farm plan are implemented. Such feature to be nominated at time of approval.*

3.8.6 Slope

The majority (66%) of MO residents felt that the current slope standard which requires that at least 20% of the land has slopes of less than 18 degrees is appropriate. The comments opposing this view recognised that steep land can be developed and used effectively provided there is no adverse environmental impacts. Again merit based judgement is important. A practical determinant of slope restrictions identified by the Soil Conservation Service for Dwelling for slab construction was that excavation should not exceed 1.5 metres.

Possible Approaches:

1. *Retain existing slope standard within policy.*
2. *Prepare a guide for MO development incorporating practical guidelines identified by Soil Conservation Service.*

3.8.7 Commercial Tourist Accommodation

SEPP 15 allows for the development of tourist accommodation facilities on MOs where permitted by the relevant Council environmental planning instrument.

This was supported by the majority (84%) of MO respondents who felt that small scale eco-tourism and farm-stay facilities could help generated much needed income for MOs, educate people about alternate lifestyles and environmental management as well as providing general holiday accommodation close to national parks and world heritage areas. The policy does not prohibit such uses where they are consistent with the local controls. The current provisions are considered to be appropriate as they ensure consistency with local planning controls. It would be inequitable to introduce special provisions for MOs which would not otherwise be permissible in the zone.

No additional survey of demand and supply for tourist accommodation activities was undertaken as part of this review.

Possible Approaches:

1. *Retain provision for tourist accommodation facilities on MOs.*

3.9 Subdivision and Tenure

ISSUE: Should Subdivision of MO developments be allowed?

The issue of subdivision and MO developments is strongly linked with the philosophical development of MOs and reflects the growth and evolution of MOs and the life-cycles of residents. Potential for subdivision also has important implications to population distribution in rural areas, and demand for community services.

The current policy prohibits the subdivision on the premise that SEPP 15 encourages a community based and environmentally sensitive approach to rural settlement. The prime concerns about subdivision are that it will fragment the land and its management placing greater emphasis on the individual over the communal whole and allow the individual to determine the future direction of his or her portion. Subdivision had also open MOs to increased speculation.

3.9.1 Current Ownership Patterns

As a result of the prohibition on subdivision, MOs have been required to be established based on the communal ownership of land. Tenure on the majority of MOs is Tenants in Common (42%) and Proprietary Companies (32%). The remainder include are by Co-operatives (14%), trusts (10%) or in the minority of cases joint tenancies and partnerships.

In contrast to this, the dwellings on the majority of MOs (86%) are owned by private individuals. Only in 12% of responses were the dwellings owned by the community as a whole.

A number of residents expressed concern that the ownership arrangements were too restrictive and did not adequately protect individual property rights. Concern was also expressed that they did not facilitate the resolution of disputes within MOs. Strata Title was cited as a good model as it embodied a process for settling disputes that was related to hand ownership.

3.9.2 Implications

The primary effect of the current policy stance is to restrict the resale potential and value of dwellings. This reinforces MOs as low cost rural housing.

A number of Councils see low cost housing as the significant driving force in the establishment of MOs and have indicated that people buy into MOs for this reason, not the community living aspects. As a result, many Councils view MOs as defacto rural residential developments.

The difficulty of this prohibition on subdivision and the resulting land/dwelling ownership pattern is the inability of commercial lending institutions to cope with this combined communal and private property ownership.

In MOs, the individual does not have legal access to the title of the land on which the house being purchased is situated or is to be built. Therefore the owner has no security or collateral which is acceptable to lending institutions. As a result, loan applications are invariably refused. Shares within MOs are not generally recognised as security due to their relatively low resale value and potential.

This situation is exhibited in the MO survey results by:

- 78% of respondents indicated that MO dwellings are financed by Private Capital as opposed to only 7% by commercial bank loans;
- 80% of respondents indicated that residents had experienced difficulties in obtaining finance from lending institutions;
- 83% of respondents indicated that the inability to obtain finance was a disadvantage of MOs; and
- 54% of respondents indicated that low resale value was also a disadvantage of MOs.

The lack of finance limits MO residents to private capital and this leads to the accusation that many of the dwellings constructed are substandard and conflicts with Council building regulations.

Not only does this have implications for buying into MOs and purchasing and extending housing but it also disadvantages MO residents in short term personal emergency situations (e.g. family illness, natural disaster). This is, in part associated with the social discrimination identified by 14% of responses as being a further disadvantage of MO developments. Due to the low income nature of many residents, the severity and hardships of such emergency situations are increased and results in some MO residents being caught in a 'poverty trap' whereby having bought into an MO they are unable to get out on reasonable terms.

A further implication of restrictions on subdivision is the treatment of existing MO development. MOs are currently allowed in rural and non-urban zones subject to compliance with the provisions of the policy. As a result few Councils appear to have addressed the strategic location of MO developments in a similar manner to that which has occurred for rural residential land uses. Some larger existing MOs (legal and illegal) already compromise rural planning strategies - some of which have been formulated after the MOs were established.

Future subdivision of existing MOs could potentially result in the circumvention of Councils' rural land protection policies and the ad hoc fragmentation of rural lands both in terms of ownership and environmental management.

One method of utilising Community Title subdivision in a way which could meet the "community" objective of MO development would be to restrict the area of individual title so as to contain only the main dwelling. The advantages of this approach are seen as:

- gives individual title over the dwelling; and
- the limited living area maximises the amount of common land to be used for gardens, roads, environmental protection and community facilities.

The suggested size of the "house sites" is 200-300 m². Three hundred square metres is considered to be an absolute upper limit in order to retain the community attributes of MO development. The area ultimately selected in local areas should be sufficient to allow the construction of a dwelling of a reasonable size and a small curtilage around the outside. Any associated outbuildings such as garages, workshops and animal facilities would be located on community land.

During the field consultations, this approach was discussed with Councils and MO residents and was generally supported as a workable solution.

Standard or Torrens Titles

Standard subdivision is not seen to be a viable alternative for MOs as there is currently no mechanism associated with it for the management of community land and facilities.

Responses to the MO Resident survey indicated that such subdivision would encourage the fragmentation of rural lands and encourage the alienation and social dislocation of the existing MO communities and result in a social structures and barriers to interaction found in most towns and cities. Such subdivision would also be in sharp conflict with current rural-residential planning practices.

Possible Approaches:

1. *No subdivision permitted.*
2. *Amend policy to allow the subdivision of MOs under the community Title Legislation.*
3. *Restrict Subdivision to the maximum required for the construction of the relevant dwelling (maximum say 200-300m²), to ensure emphasis remain on the communal nature of the development.*
4. *Allow subdivision only after substantial establishment of the MO to ensure a community orientation to the development.*

3.9.3 Alternatives

Three alternative options exist for this aspect of subdivision and tenure, as outlined below:

- continued prohibition of subdivision;
- allowance of subdivision under Community or Strata Titles; and
- the allowance of subdivision under Standard or Torrens Titles.

Continued Prohibition of Subdivision

Continuation of the current policy is in line with the philosophical stance of community living derived from the communal ownership of land. A majority of Councils (61%) and MOs (63%) indicated that the continuation of this prohibition was necessary to ensure the community living objectives.

Subdivision was seen to be against the philosophy of MOs and would result in the creation of rural suburbs, the fragmentation of land management and rural lands in general and reduced sense of and commitment to the community. The shared aspects of land ownership currently is seen to act as a focus for social and environmental objectives and aspirations of the MO occupants. Members also recognised that there would be loss in the right to determine who could buy into the community.

The main negative aspects of this option is that it does not solve the problems for many residents of access to finance.

Community or Strata Title

If subdivision is permitted, Community Title is seen as the more appropriate option over Strata Title.

The majority of Councils (54%) and MO residents (73%) recognised that these subdivisional form could encompass a form of the community living objectives and the current philosophy of the MOs.

Community title would allow similar living styles as SEPP 15 but result in the creation of separate titles acceptable to financial institutions. Its advantages were seen to be clearer definition of internal decision making and conflict resolution processes as provided by the group management structures and greater accountability for environmental management. It would also facilitate a better standard of development, and more effective funding of infrastructure on common land that would enhance environmental management.

Subdivision by this means would however, increase the establishment costs of MOs, thereby pricing out the low income groups.

3.11 Financial

ISSUE: How to ensure that MO developments are treated equitably and meet their financial obligations.

3.11.1 Council Rates

Currently, MOs pay rates on the basis of being a single rural property. Effectively this means that a large MO with many dwellings pays the same rates as a rural landholding with accommodating one family. Councils have expressed concern that they are unable to charge MOs rates on a per dwelling basis (refer **Attachment B2.21**). The MO policy contained in Circular NO. 44 stated that rating is a local matter and should be dealt with at the local level.

Currently, rates are determined by multiplying the valuation of the land (as determined by the Valuer General) by the rate in the dollar (as determined from time to time by Council). It is not practical for the land to be separately valued as an MO as this would have implications for all rural land capable of MO development. The discretion available to Councils is to set a higher rate in the dollar for MO holdings. While this might recover more money, it would not necessarily reflect the number of residents on the land and hence the demand for services.

Clearly, where there are multiple dwellings on a property, there is an additional demand placed on Council resources. The survey of Councils indicated that many believed that increased demand for services was a main disadvantage of MOs. Discussions with MO residents indicated that there is some acceptance that the current situation is inequitable and that there would be some acceptance of increased rates. It is noted however that this may create financial hardship amongst some MO residents.

3.11.2 Section 94 Contributions

The issues relating to Section 94 contributions are:

- whether they should be on a user pays/cost recovery basis, and
- collection of the levies.

A further consideration of Section 94 contributions is whether they effectively discourage unapproved MOs from seeking formal approval.

The second point above is allied to the discussion of ensuring compliance with the conditions of consent. Some Councils pointed out that if subdivision was allowed this would lead to better realisation of levies (refer **Attachment B2.16.2**).

Increased demand for Council services was identified by many Councils as a main disadvantage of MO development (refer **Attachment B2.13**). 48% of responding Councils were not satisfied that MO developments adequately contributed towards the cost of funding services and infrastructure (refer **Attachment B2.21**).

3.10 Neighbourly Relations

ISSUE: How to minimise conflict between MOs and neighbours.

The MO resident survey indicates that a majority (90%) of MOs have friendly relations with neighbours (refer **Attachment C2.12**). The Council survey indicated that there is a mixed attitude on the part of neighbours towards MOs with 28% of responding Councils indicating that adjoining landowners were generally opposed to MOs (refer **Attachment B2.14.2**).

However, during the conduct of this review, it became clear that there are occurrences of ongoing conflict between MOs and neighbours pursuing traditional rural activities such as farming, gravel extraction and logging. The conflict can be quite serious and involve sabotage of water supplies, leaving gates open, trespass and tampering with equipment.

The nature of the conflicts occurring include:

1. **Water rights/usage:** sources of conflict were over the use of natural water sources such as streams and springs. MOs place increased demands on local water resources as well as potentially may impact on the quality of such resources;
2. **Conflict with traditional agriculture:** sources of conflict include spraying, machinery noise, animal noise, scare guns and stock on roads, growing of illegal crops; and
3. **Traffic and roads:** sources of conflict are unfenced roads providing access to MOs, additional traffic generated by MOs on local roads and consequent maintenance implications.

In general, conflict would appear to be limited to certain members of MOs rather than all of the members of a community. Conflict can occur in any situation and may not necessarily be confined to MOs and other neighbours. The task is to seek to minimise the conflict by early consideration of the likely relationship between a new MO and the existing local community. Effective consultation will provide an avenue of identifying issues which may be able to be resolved in the development assessment process.

As with other situations, Council could act as a mediator between conflicts between adjacent property residents.

4 CONCLUSIONS AND RECOMMENDATIONS

This chapter evaluates the various policy options for improving the facilitation of MO development and identifies a range of specific actions to support the endorsed policy.

As regard the future of the policy, there are four possible options available:

1. retain the Policy in its present form;
2. amend and retain the Policy;
3. revoke the policy; and
4. transfer of MO Controls to Councils.

Either of Options 2 or 4 are supported by the consultants and will address the problems currently being experienced. The essential difference is whether MO development should be enabled by a local instrument or a state instrument.

On balance, it is recommended that the Department pursue Option 4.

4.1 Retain Current Policy

This option would not involve any change to the policy or its implementation at the state or local level.

This review has highlight a number of deficiencies associated with the existing policy and its implementation which emphasises the need for change. In addition a number of issues have been identified which are of concern to MO residents and Councils as well as state government agencies.

As a result a number of specific actions are considered necessary warranting change to the policy and its implementation. This policy is therefore **not recommended**.

4.2 Amend and Retain SEPP 15

Option 2 provides for the basic policy to be retained but amended to address the matters raised in the review.

If this option is adopted, then it is recommended that the Department actively support Councils wishing to incorporate MO provisions reflecting local conditions in their LEPs in place of the SEPP 15.

The current provisions of Section 94 seek to enable the levying of contributions on a user pays basis. Experience with the calculation of road contributions in some locations indicates that high contribution rates can result from the methodology. For example, recently calculated road contributions in Bellingham range between \$10-15,000 per dwelling in MOs for roads in catchments. (Source: Bellingham Council, May 1994)

Current practice in determining Section 94 contributions will result in significant rates and this may deter MO development in some instances. However, if properly assessed such contributions are based on a user pays principle and will be consistent with the treatment of other forms of development. To levy a lesser rate would effectively create an inequity between MO development and other forms of development and result in the community subsidising in part the demands placed on community services and facilities.

The levying of effective contributions adds an additional cost to the development of an MO and will significantly add to the cost of a share. The result may be that MOs are no longer low cost rural living opportunities.

Possible Approaches:

1. *Investigate ways of levying rates so as to better reflect the occupancy of an MO and the demand for public facilities and services.*
2. *Continue cross-subsidies to MOs through continued use of standard rural rates and existing methods of collection.*

Under Policy Option 2, subdivision remains prohibited by the policy. Subdivision is a matter which has potentially significant local implications and should only be facilitated by local Councils. Accordingly, this matter should be addressed by advising Councils that the Department supports Community Title subdivision of MOs in principle subject to the following:

- consistency with local rural land release strategy;
- the area of individual title being limited to a maximum of 300m² (i.e.; sufficient to accommodate the dwelling footprint only plus a small curtilage), to ensure emphasis remains on the communal nature of the development. Outbuildings be constructed on communal land;
- a comprehensive management plan being prepared for the site;
- issue of linen plans following completion of all essential development works and payment of contributions; and
- properties intended for agricultural use not be subdivided until main features of a submitted farm plan are implemented. Such feature be nominated at time of approval.

To pursue subdivision of MOs under this option, Councils would be required to prepare or amend their own LEP, incorporating MO provisions as above and applying for simultaneous exemption from SEPP 15.

This Option is supported but not recommended.

4.3 Revoke SEPP 15

This Option involves repeal of the SEPP 15 at State level without transfer of planning responsibilities for MOs to Councils. It could be implemented immediately and effectively denies Councils the continuity of this form of development.

The review has demonstrated basic support for MOs as an alternative form of rural housing. Revoking SEPP would effectively remove the opportunity for this form of development entirely, without an opportunity to hand over to Local Councils. All future MO style development would therefore be considered under other forms of development including Community Title subdivision. Existing MOs would continue non conforming uses.

This Option is not supported or recommended.

Proposed amendments are:

1. Review existing Policy objectives (Clause 2) to reflect the contemporary role of MO developments by:
 - placing greater emphasis on the environmental characteristics of the site and land capability over the form of development;
 - deleting clause 2(c)(iii) relating to 'opportunities for an increase in rural population', due to its irrelevance in the majority of Council areas;
 - incorporating clarifying legal advice which ensures that the intent of the policy is not jeopardised by the inappropriate wording; and
 - addressing issues raised in Section 3.3.4 of this report.
2. Increasing the minimum lot size to coincide with minimum size permissible under the relevant local planning instrument for the approval of rural dwellings (Clause 7(b));
3. permit MOs on prime crop and pasture land subject to demonstrated intent (ie submission of farm management plan) for agricultural uses (Clause 7(d));
4. Require all MO development applications to be accompanied by a detailed site plan (refer clause 8(2));
5. Reduce the potential development density of MOs on rural land. The suggested maximum density is 1 dwelling for every 5 ha (Clause 9);
6. Require all MO applications to be treated as advertised developments (refer clause 11(1));
7. Strengthen the provisions of the Policy relating to bushfire management and control by requiring a management plan incorporating development and management matters (Clause 8);
8. Include provisions requiring consideration of weed infestation and management (Clause 8);
9. Incorporate details of circumstance where the height limit can be varied into a development guide (Clause 7(c)); and
10. Develop provisions in the policy which set the development density on the basis of the sustainable capability of the land (Clause 9).

4.5 Action for Improved MO Implementation

This section draws together various suggestions from Councils, State Government agencies and MO residents, arising during the course of the review, which would lead to improved implementation of MO policy at the state and local level.

The responsibilities for implementing these actions are divided between the Department of Planning and Councils.

4.5.1 Department of Planning:

The Department would be responsible for:

1. Facilitate the preparation of a guide for MO development applications. This may take the form of a checklist of matters to be addressed and information to be provided.
2. Encourage a "best practice" approach to MO development management amongst Councils by:
 - preparation of a checklist of the various standard requirements of public authorities.
 - preparation of a development guide incorporating:
 - main concerns of the relevant public authorities and identify matters which require detailed investigation and/or referral;
 - the advantages and disadvantages of clustered and dispersed development forms; and
 - practical guidelines identified by public authorities.

This review provides sufficient material to enable the preparation of above guidelines and checklists.

4.5.2 Councils

To encourage better implementation at the local level, Councils could adopt the following actions:

1. Ensure effective consultation as a part of the development assessment process and actively facilitate the resolution of conflict matters.
2. In assessing a development application, give consideration to the need for the ongoing monitoring of environmental performance and/or management of the MO. These matters should be clearly identified in the consent and a process of periodic checking instituted.

4.4 Transfer of MO Controls to Councils

Option 4 would hand over control of MOs to Councils. It acknowledges that the Policy has served its purpose and that it is now more appropriate for MOs to be controlled by local instruments. However, it is important to ensure that the phasing out of the Policy at the State level will not remove the possibility for MO development. An important component of this Option is that provision be made in local planning instruments for the approval of multiple dwellings on single allotments under the broad philosophy of MOs.

This option has three key advantages:

- maintains continuity of MO development at the local level;
- enhances the environmental management of MOs; and
- devolves responsibility for planning of MOs to Councils.

There are two ways of implementing this options. The first and preferred way would involve:

- amendment of the Policy as outlined in Option 2 (Section 4.2) to incorporate proposed improvements;
- inclusion of a "sunset clause" in the Policy which causes it to cease to have effect after say 2 years; and
- advise Councils that the Policy will cease to have effect after 2 years and that replacement provisions should be incorporated into local planning instruments, if so desired.

Subdivision should not be enabled by these amendments as this is considered to be a matter that has significant local implications and should be addressed as part of the local planning process. Subdivision would be facilitated by Councils through amendment of LEPs. This would follow completion of any necessary studies or investigations reflecting local issues and circumstances.

The second way of implementing this Option would involve the issuing of a circular to Councils advising that it is intended to revoke the Policy after two years and that Councils should, if so desired, in the intervening period adopt relevant provisions to provide for the development of MOs. The circular would encourage Councils to adopt the amendments outlined in Option 2 (Section 4.2) and contain guidelines for subdivision of MOs. Subdivision would be supported by the Department of Planning as an option for those Councils wishing to adopt this approach. It is not intended that subdivision be mandatory.

This is the **recommended** Option and the first approach is preferred.

15. Implement user pays principles to remove cross subsidy of MOs for use of public infrastructure. Apply Section 94 contribution and normal rating provision to MOs.
16. Consider MOs as an integral part of Councils' rural land release strategy.
17. Consider the potential for villages in MO districts as a focus for community facilities.
18. Adopt a pro-active approach by engaging a part time officer to focus attention on the issue of illegal dwelling. This is likely to have a deterrent effect. Follow up all DA's to establish whether illegal buildings undertaken.
19. Examine ways of fostering a "bushfire awareness" culture with MOs, including involvement with local bush fire brigades from adjoining rural communities.

4.6 Further Consultation by DOP

Further consultation should be undertaken regarding outcomes possibly in conjunction with the Local Government and Shire Association and representatives of MOs.

Based on this review, it is further recommended that the Department undertake the following consultation on the recommended option to enable a final decision by Government:

- release discussion paper (existing report or summary);
- liaison with Local Government and Shires Association; and
- organise regional conference(s).

These actions would lead to refinement of the preferred approach and a better understanding of the need for Councils to integrate MO development into their rural planning activities. Effective consultation will also encourage a general acceptance of the changes by all involved parties.

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3. Minimise the impact of road construction and ongoing maintenance by clustering dwellings, ensuring optimal location with minimal earthworks and seeking to ensure that work is carried out to a good standard that will require minimal maintenance.
4. Ensure that adequate site information is supplied with the development application to enable the identification of potential hazards and constraints an adequate assessment of the impact of development.
5. Adopt a Total Catchment Management (TCM) approach to development assessment taking into account the potential for further development and the likely cumulative impacts.
6. Consider their own local conditions and formulate policies regarding specialist input into the preparation of applications (eg: geotechnical evaluation, engineering design, water quality).
7. Consider the use of management plans to demonstrate intent of landuse and to provide for the ongoing management of MO developments (e.g, farm management plan).
8. Require a weed report/certificate from the local control authority to accompany a development application if weed control is an issue in the local area.
9. Consider the need for initial eradication of weeds and the ongoing management of the problem as a part of the development assessment process. The extent of the problem should be considered in the context of any local control strategies already in place and the likely impact on nearby activities.
10. Ensure consultation with local bushfire authorities at the development assessment stage and incorporate recommendations into the consent.
11. Check the condition of consent during the processing of a building application involving a MO, to ensure that any relevant requirements are met.
12. Institute a process of monitoring building activity to ensure that building approval is obtained and the necessary supervision carried out.
13. Investigate ways of levying rates so as to better reflect the occupancy of an MO and the demand for public facilities and services.
14. Encourage local solicitors to request a noxious weed certificate for a MO when dealing with a transfer.

ATTACHMENT A

STATE ENVIRONMENTAL PLANNING POLICY NO. 15

~~Circular All and SEPP is not included in this
copy (except for Sch 1 - where the Policy applies -
and Sch 3 - where MO Provision in LEP.)~~

CONTENTS OF THE POLICY

- Clause 1 gives the name of the policy.
- Clause 2 states the aims and objectives of the policy.
- Clause 3 defines specific local government areas to which the policy applies. These are listed in Schedule 1. Clause 8(1) limits the applicability of the policy within those areas to rural and non-urban zones. Schedule 2 details lands in rural areas to which the policy does not apply, such as national parks, State forests and scenic protection areas.
- Clause 4 deletes multiple occupancy provisions in local environmental planning instruments existing at the date this policy came into effect. This avoids confusion between SEPP No. 15 and any local environmental planning instrument which contained multiple occupancy provisions prior to this policy.
- Clause 5 defines the terms used in the policy. Note the definition of 'dwelling' allows the concept of expanded dwelling-houses. These are intended to meet the needs of people, not necessarily related, who wish to live as a single household, but in two or more separate structures with shared facilities. This concept is more specifically stated in clause 5(2).
- Clause 6 states the relationship of this policy to other planning instruments. SEPP No. 15 prevails in the event of an inconsistency between it and any other instrument. The date of the making of another instrument does not affect the interpretation of this clause.
- Clause 7 subclause (1) provides that multiple occupancy is a development requiring the council's consent for three or more dwellings on any rural or non-urban land to which this policy applies. However, before a council may consent to a multiple occupancy development, it must ensure that certain conditions are met. These conditions are clearly stated in clause 7(1)(a) to (h).
- Subclause (2) states that this policy allows a development application to be made even though it may be prohibited under another planning instrument, including any local environmental plan. It is an elaboration of clause 4.
- Subclause (3) refers to the condition in 7(1)(b) that land which is the subject of a multiple occupancy development application must be at least ten hectares in area. Subclause (3) recognises that in most local environmental planning instruments the minimum area for subdivision is more than ten hectares. It ensures that a subdivision that would otherwise be illegal under a planning instrument cannot be carried out through the use of this policy.

SCHEDULE 1

(Cl. 3)

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

Quint-llies
pgf

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 four 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.

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.

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.

SCHEDULE 3

(Cl. 4)

COLUMN 1	COLUMN 2
Environmental Planning Instrument	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 Severn	13A
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

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 *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.

PLEASE NOTE:

Schedules 1 and 3 of the policy have subsequently been amended in line with the following:

- (i) Severn Local Environmental Plan 1991 gazetted on 27th December, 1991 - introduced provisions for multiple occupancy (MO) in Severn local government area (LGA). Severn was deleted from Schedules 1 and 3;
- (ii) Byron Local Environmental Plan 1992 (Amendment No. 15) gazetted on 1st May, 1992 - introduced MO provisions in Byron LGA. Byron was deleted from Schedule 1.

THE POLICY (Gazetted 22 January 1988;
as amended on 23 November 1990.)

Citation

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

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 management / manage the allotment; and
 - (iii) the pooling of economically and socially disadvantaged *Or* where low incomes are involved, to encourage the development of communal rural living and 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.

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.

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1 INTRODUCTION

1.1 Purpose

Part of the initial phase of the SEPP 15 review involved a survey of local Councils throughout NSW to identify the extent of the policy's application and issues associated with its implementation. It also helped identify those local Government areas to be used in Stage 2 of the review for more detailed assessment.

1.2 Methodology

A mail back reply paid questionnaire was sent to all 67 local Councils in non-metropolitan New South Wales in November 1993. Of the Councils surveyed, SEPP 15 is applicable to 63, with another four Councils having independent multiple occupancy provisions under their relevant Local Environmental Plans.

A total of 55 responses were received from Councils, representing a 82% response rate.

2 MAIN FINDINGS

The Section outlines Council responses to the survey and is discussed in terms of the issues raised in the survey. A copy of the survey is contained in **Appendix 1**. Detailed tabulation of results is available in **Volume 2** of this report.

2.1 Council Use of SEPP 15 provisions (Q1 and 2)

Table B1 summarises MO development approvals identified in the survey.

One quarter of Councils have used SEPP 15 for **approval** of applications for MO developments since introduction of the policy in 1988. The total number of MO approvals since 1988 is 107, and includes approximately 486 dwellings accommodating an estimated population of 1,354 people. On average, this results in five dwellings per MO site accommodating 13 people. The majority of MO development occurs on the North coast of the State.

Based on the response, Lismore, Kempsey, Kyogle, Bellingen and Shoalhaven were adopted for further consideration in Stage 2 of the review.

With the exception of 1991, there has been a general decline in the annual level of MO development applications and the associated dwelling creation over the period since introduction of the policy. **Table B2** shows this distribution of Development Applications over time.

TABLES:

Table B1:	SEPP 15 Development Approvals	B:2
Table B2:	Timing of SEPP 15 Applications	B:2
Table B3:	LEP Development Approvals	B:4
Table B4:	Timing of LEP Applications	B:4
Table B5:	Section 94 Contributions	B:20

The average size of MOs is between 11 and 80 ha with only three Councils identifying sites larger than 80 ha.

Almost two thirds of Councils (61%) identified rural-residential living as being the predominant theme in approved MO developments. Other examples of main MO themes included share-farming, horticulture, permaculture, rainforest living/preservation and religious oriented activities. In some cases, more than one of these themes are present in any one development.

Four Councils have used SEPP 15 to refuse a total of nine (9) applications for MO developments. The reasons for these refusals have included:

- proposals did not comply with SEPP 15 objectives and standards. (Eurobodalla);
- inadequate access and services and inappropriate land capability (Shoalhaven City Council);
- extent of prime agricultural land (Lismore City Council);
- dwellings located on prime agricultural land (Lismore City Council);
- dispersed nature of settlement (Lismore City Council);
- insufficient information re water (Lismore City Council);
- proposed effluent disposal (Lismore City Council);
- risk and hazard (Lismore City Council);
- impacts of adjoining development (Lismore City Council); and
- inadequate site plans. (Lismore City Council).

2.2 Council Use of LEP (Q3 and 4)

Ten Councils have used provisions in their LEP to approve MO development applications. Of these, six Councils approved a total 31 applications. This has resulted in at least 152 dwellings accommodating approximately 427 people. The majority of applications under LEP provisions have occurred in Byron Bay. Table B3 refers.

Table B1: SEPP 15 Development Approvals

Region	Council	No. of D.A.s Approved	No. of Dwell's	Av. Dwell/D.A	Est. Pop.	Pop./ D.A.
Richmond-Tweed	Lismore	25	118	5	354	14
Clarence	Bellingen	21	162	8	437	21
Richmond-Tweed	Kyogle	14	N/A	0	0	0
Hastings	Kempsey	14	36	3	101	7
Illawarra	Shoalhaven	11	57	5	154	14
Clarence	Ullmarra	8	20	3	56	7
Richmond-Tweed	Tweed	6	46	8	115	19
Clarence	Copmanhurst	2	11	6	33	17
Central Tablelands	Greater Lithgow	1	13	13	38	38
Clarence	Maclean	1	4	4	10	10
Hunter	Merriwa	1	3	3	8	8
Clarence	Nymboida	1	9	9	27	27
Hunter	Port Stephens	1	5	5	15	15
Northern Tablelands	Uralla	1	2	2	6	6
Total		107	486	5	1,354	13

Source: *Purdon Associate Local Government Survey 1991*

Table B2: Timing of SEPP 15 Applications

Year	No. of D.A. Approved	No. of Dwellings	Dwellings per D.A.
1988	28	149	5.3
1989	25	111	4.4
1990	15	43	2.9
1991	20	87	4.4
1992	8	53	6.6
1993	11	43	3.9
Total	107	486	4.5

Source: *Purdon Associate Local Government Survey 1991*

Byron Shire identified permaculture, rural residential and religious as the main themes occurring in this area.

Three Councils have used LEP provisions to refuse a total of four MO development applications, with the main reason given for refusal being that the developments did not comply with relevant provisions of Councils' LEPs.

2.3 Recent MO Applications (Q5 and 6)

Only two Councils (Lismore City and Byron Shire) currently have MO development application before them for consideration. These applications are to be considered under SEPP 15 and relevant LEP provisions respectively.

The majority of Councils receiving MO applications in recent years indicated that the level of MO development applications have remained relatively constant, with most Councils receiving one to two per year. Applications in Lismore and Byron are running at about three to five per year.

Only Young Shire recorded an increase in MO development applications (up one), whilst Bellingen experienced a decline in the number of applications from seven in 1988 to one in 1993.

2.4 Population Trends (Q7)

Eighteen out of 20 Councils indicated that rural population had increased since the introduction of the policy in 1988. The remaining Councils believed that rural population had remained constant.

Of those Councils which recorded an increase in rural population, only Lismore believed that a significant portion of this increase could be attributed to MO developments, and that MOs have been more successful than other forms of rural settlement in creating this population increase. It should be noted, however, that other forms of rural residential had been restricted by provisions within Lismore's LEP.

2.5 SEPP 15 Minimum Allotment Size (Q8)

Sixteen Councils felt that the existing minimum allotment size of 10 ha was appropriate for MOs. The remainder of respondents indicated that the minimum lot size should relate more specifically to the provisions in Councils' planning instruments which relate to minimum rural subdivision lot sizes and the minimum lot required for the construction of a rural dwelling. It was felt that this discrepancy created a loophole in a number of planning schemes across the state. The main standards put forward on the basis of existing LEP provisions were 100 and 40 ha.

Table B3: LEP Development Approvals

Region	Council	No. of D.A.s Approved	No. of Dwell's	Av. Dwell/D.A	Est. Pop.	Pop./ D.A.
Richmond-Tweed	Byron	25	131	5	367	15
Clarence	Nambucca	2	N/A	0	N/A	0
Illawarra	Wingecarribee	1	4	4	12	12
Cent'l Tablelands	Evans	1	4	4	10	10
North'n Slopes	Parry	1	10	10	30	30
South'n Tablelands	Young	1	3	3	8	8
Total		31	152*	5	427*	14

Source: *Purdon Associate Local Government Survey 1991*

Note: *N/A = Not Available*

* = *excluding Nambucca*

Table B4 shows the distribution of Development Applications over time. On average, five applications have been approved and there appears to be no apparent trend over the period since 1988.

Table B4: Timing of LEP Applications

Year	No. of D.A. Approved	No. of Dwellings	Av. No. of Dwellings per D.A.
1988	5	21	4
1989	5	16	3
1990	7	41	6
1991	1	6	6
1992	8	45	6
1993	5	23	5
Total	31	152	5

Source: *Purdon Associate Local Government Survey 1991*

The average size of MO application under LEP provision is similar to those under SEPP 15.

MOs under LEP provisions had similar themes to those approved under SEPP 15.

- densities should be halved with higher densities (up to present SEPP standards) only possible if development is clustered and land capability adequate (Lismore City).

2.7 Dwelling Type (Q10)

The policy provides for the construction of individual or expanded dwellings which are either clustered in one portion of the site or dispersed across the either site. Eighteen Councils indicated that the predominant housing form on existing MO developments was individual single family dwelling units and mainly dispersed across the site. Clustered housing or mixed housing forms were not very common.

2.8 Conflict between SEPP 15 and LEPs (Q11)

Almost one half (43%) of Councils indicated some level of conflict between SEPP 15 and Councils' rural policy instruments. The main areas of conflict include:

- minimum rural lot size for dwellings. In Evans Shire and Cooma-Monaro LEPs, this is set at 100 ha. No dwellings is usually permissible on smaller allotments. MO makes minimum size redundant. In the case of Walcha Shire the equivalent is 40 ha.
- subdivision of small rural lots of less than 40ha is limited to specific roads in the Rural 1(a) zone, SEPP 15 allows MOs to be approved on any Rural 1(a) zone. Impacts on rural areas is the same for both forms of development. (Tweed)
- SEPP 15 enables a greater number of dwellings to be located in poorly serviced dispersed locations without resulting in increased agricultural production. (Kempsey)
- Nambucca Council does not permit MO in its upper river catchment areas to protect water catchment areas and downstream water quality. These areas are also constrained by floods, steep slopes, bushfires and poor road access.
- SEPP 15 allows 3+ dwellings on land where one dwelling may be prohibited and applies a totally different approach to Councils Rural LEP 1(c) zone. (Eurobodalla)
- SEPP 15 although prohibiting subdivision allows a development which has same the implications as subdivision (Shoalhaven City).
- Council seeks to establish rural residential forms of development with in two kms of villages. MOs are another form of rural residential development and but are not restricted in terms of location.

Other comments included:

- majority of MOs have only been proposed on poor agricultural land in outlying areas where services are poor, therefore a larger lot area is required. (Kempsey);
- 40 ha is the minimum commercial area required by the Department of Agriculture for agriculture activity. Anything less can not be agriculturally sustainable. (Nambucca);
- the current standard establishes defacto rural residential areas of subdivisions without the same demand for servicing. (Shoalhaven City); and
- Lot size is dependant on site constraints and the proposed density of dwellings (Byron).

2.6 SEPP 15 Density Standards (Q9)

Sixteen Councils felt that the existing density standards were appropriate. Reasons given by the remaining Councils against current density standards were as follows:

- it establishes defacto rural residential areas of subdivisions with the same demand for servicing (Shoalhaven City);
- SEPP 15 standards should not undermine local planning instruments (Eurobodalla);
- the current density standards create environmental problems (Nambucca); and
- density should be based on environmental capacity of land, compatibility with adjoining patterns of land use and some degree of relativity to existing residential dwelling densities of MOs in LGAs (Lismore City).

Several alternative standards were suggested as follows:

- a much lower density of one dwelling for 5 ha of site area based on the merits of the subject land and proposal (Nambucca and Bellingen).
- blanket numeric standards are not appropriate, and should be replaced by the approach adopted in the relevant local planning instruments (Eurobodalla Shire).
- MO densities should be similar to standards for other forms of subdivision relating to a particular area (Shoalhaven City);

Correspondence received indicates that there is some confusion over the application of these objectives. It appears to be unclear whether developments are required to meet all or only some of the objectives prior to approval. This is particularly the case in respect of clause 2(c)(iii) which relates to the halting rural population decline. As indicated in Section 2.4 the rural population in the relevant shires has increase over the period since the policy's introduction. If all objectives had to be applicable for the approval of an MO no further applications could be approved.

The following reasons were given by Councils where objectives were not being adequately met:

- nature of the developments (Evans);
- in most cases MOs have been located on lots that cannot be subdivided further. Dwellings have been dispersed over allotments. MOs have been small developments. (Kempsey)
- MOs facilitate pooling of resources to enable purchase of land. Individuals then tend to do their own thing and not collectively. MO will only work where it is associated with genuine agriculture activity over the land otherwise it becomes "defacto" rural-residential. (Nambucca)
- because of lack of tenure to individual home sites MO development is not seen as an attractive form of development. Most MO proposals are pursued because land cannot be subdivided under LEP and main objective is to secure a home site rather than live in "co-operative" situation. (Tweed)
- most MOs had been established prior to SEPP 15 objectives, and using MOs as a cheap means of housing. (Ulmarra); and
- difficult to gauge demand on services from MO developments (Bellingen).

Councils were also asked to indicate the relative importance given by Council to each SEPP 15 objective in the assessment of MO development applications.

Fifteen Councils responded to this question. In general a relatively even rating was given to each of the objectives. However the following objectives were given a marginally greater weight than the others:

- encourage environmentally sensitive rural settlement (clause 2(a));
- avoid demand for Council/Government services (clause 2(c)(i)); and
- avoid subdivision of rural land (clause 2(c)(ii)).

- constraints placed on other forms of rural development involving housing in terms of location, serviced required etc., by Councils LEP (Lismore City).

2.9 SEPP 15 Objectives (Q12 and 14)

SEPP 15 contains seven objectives. Councils were asked to indicate how successfully each objective was being met by MO developments in their LGA. Main responses were as follows:

- encouragement of community-based rural settlement (clause 2(a)):
 - successfully achieved (2/15);
 - unsuccessful (7/15);
 - undecided (6/15);
- environmentally sensitive rural settlement:
 - undecided (7/15);
 - unsuccessful (5/15);
- enabling collective living objective (clause 2b(ii) and (iii)):
 - successfully achieved (3/5);
 - partially unsuccessful (5/15);
 - partially successful (6/15);
- pooling of resources (clause 2b(ii) and (iii)):
 - unsuccessful (2/15);
 - partially unsuccessful (3/15);
 - partially successful (6/15);
 - undecided (4/15);
- facilitation of clustered style rural development (clause 2(c)):
 - partially unsuccessful to unsuccessful (10/15)
- relating to the minimisation of demand on Council/Government services (clause 2(c)(i)):
 - partially unsuccessful to unsuccessful (9/15);
- avoidance of subdivision of rural land (clause 2(c)(i)):
 - partially successful to very successful (8/15);
 - undecided (1/15).

- difficult to police due to large area of LGAs, and limited resources devoted to such enforcement (Kempsey, Lismore, Nymboida and Ulmarra).
- in general, little detail provided with development application (Kempsey).
- Council has no practical means of enforcing or substantiating ownership or occupancy restrictions, e.g. permanent and not week-end occupancy, owner occupation only (Eurobodalla and Kempsey).
- limited enforcement capability. If there is a need to resort to the Land and Environment Court this can be both time consuming and costly (Tweed).
- continued bushfire mitigation presents some difficulties (Kyogle).

Despite the belief by some Councils that they were unable to enforce the implementation of this documentation, all felt that appropriate documentation be a requirement of application. Other suggested documentation included:

- a statement of environmental effects addressing the issues outlined in SEPP 15 and Section 90(1) - matters for consideration of the Act (Lismore);
- Bushfire Plans (Kyogle); and
- Servicing Plans (Byron).

Documentation as part of MO applications was sought by Council for the following reasons:

- to provide Council with sufficient information to assess and determine development applications and to identify problems and issues to both the applicant and wider community (Evans, Kempsey, Kyogle, Wingecarribee);
- to ensure standards are maintained and provides some certainty for future occupiers (Copmanhurst and Lismore);
- Land Management Plans are essential in environmentally sensitive areas (Young);
- ownership/occupancy structure important for Council's records and rates and to overcome ownership/legal problems (Copmanhurst and Young);
- community plans for designating community areas (Young);
- The Land Management Plan would be more likely to be enforceable (Eurobodalla).

The main difference to this trend has been the use of clause 2(c)(iii) which relates to opportunity for an increase in rural population. This objective was considered important due the lack of declining rural populations in the majority of relevant LGAs.

This differential implementation has created a legal issue regarding the policies implementation of the policy (refer main report).

2.10 Approval of Illegal Rural Dwellings (Q13)

About one half of Councils (48%) indicated that SEPP 15 has not been used to legitimise illegal rural dwellings. Reasons given for this include:

- no illegal MO dwellings exist (Lithgow);
- many of Council's illegal MOs are in upper catchment areas where they are least environmentally acceptable, and are therefore not consistent with Council's LEP for reasons based on water quality and environmental constraints. (Nambucca); and
- there are some problems with access, and substandard buildings(Eurobodalla).

In Tweed a number of MO properties with illegal dwellings have investigated use of SEPP 15 but have been reluctant to adopt this approach because of possible costs associated with Section 94 contributions, particularly for roads. In Lismore some "illegal" MOs have apparently sought regularisation due to a past Council policy concerning collection of S94 levies.

2.11 Application Documentation (Q15, 16 and 17)

Councils were asked what information they sought from MO development applications. The majority of Councils (70%) received copies of the proposed ownership/occupancy structures for the MO developments. However only 9% received community plans and 35% received land management plans in addition to site plans. One Council also required the submission of Bushfire Plans.

Eleven Councils believed the developments had occurred in accordance with plans and documentation as submitted. Five Councils were unsure as to the MOs operations in accordance with this documentation. Councils generally (78%) felt that these plans and documents could be enforced. Those Councils who expressed concern or inability in regard to enforcement, did so because:

- most MOs are located in areas where building applications are not required (Kempsey).

2.14 Community Attitude to MO Developments (Q21, 22 and 23)

Three aspects of Community attitudes were addressed in the survey as follows:

2.14.1 General Community Perceived Attitudes

Of the 20 responses a majority (45%) of Councils recorded a mixed attitude to MO developments. A further 40% indicated that the community's attitude to MO developments was neutral. Only three Councils indicated that the community was opposed to such developments, with the opposition due to:

- land not being subject to rezoning process (Shoalhaven);
- traditional opposition to alternative lifestyle (Ullmarra); and
- MOs are seen to be an attempt to eventually obtain rural residential subdivision and to circumvent minimum 40ha rural lot standard (Wingecarribee).

2.14.2 Public Notification

Of the 23 responses about half of the Councils (52%) recorded a some opposition to MO developments at the time of public notification. The main reasons for this opposition included:

- no understanding of the concept (Evans);
- road and traffic issues including poor road access, dust and increased traffic (Bellingen, Byron, Cooma-Monaro, Kempsey, Kyogle, Nambucca and Tweed);
- proposal contrary to agricultural zone objectives (Kempsey);
- Council unable to police who lives there (Kempsey);
- bushfire hazards (Bellingen and Nambucca);
- visual and environmental impacts including resulting from removal of trees, pollution (Tweed, Nambucca and Lismore);
- opposition to alternative lifestyles and social changes (Bellingen, Copmanhurst and Kyogle);
- land use conflicts (Bellingen, Copmanhurst, Kyogle and Lismore);
- out of character with locality (Cooma-Monaro, Tweed and Shoalhaven);

2.12 Council MO Decision Making Resources (Q18)

Councils were requested to give an indication of the relative level of resources devoted to the processing of MO development applications.

Over one third of Councils (39%) indicated that MOs generally required average to greater than average resources to assess MO applications.

2.13 Advantages and Disadvantages of MO Developments (Q19 and 20)

Councils were asked to identify the three main advantages and disadvantages of MO Development.

The main advantages were identified as follows:

- provision of alternative lifestyle opportunities (43%);
- lower cost rural living (33%);
- the potential for good environmental management (10%);
- other advantages mentioned included the introduction of new agricultural forms; continued agricultural land uses; innovative house styles; and increased fire fighting facilities.

The main disadvantages were:

- the increased demand for Council services (29%);
- increased traffic on rural roads (24%);
- poor solid waste disposal practices (14%);
- increased bushfire hazard and adverse effect on water quality (10% each); and
- other disadvantages included: poor land management practices; increased conflict between different land uses; social disruption; interference with traditional agricultural activities; lower property values; non-payment of rates; and adverse environmental impact.

- result in existing Council policies restricting subdivision to be circumvented (Tweed); and
- be a fundamental contradiction to the very concept of "multiple" occupancy of land. Retaining one lot reinforces the concept of communal ownership and focuses the social and environmental objectives and aspirations of the occupants and also provides a low cost mechanism to provide affordable housing. (Copmanhurst, Lismore).

Several Councils recognised that if subdivision of MOs is to be allowed, it should be either under Community or Strata titles as Wingecarribee felt that the development of MOs is already viewed as defacto subdivision and the pressure already exists for subdivision.

2.16 Community Living Objectives and Alternative Subdivision Forms (Q25)

Councils were asked whether the community living objectives for MOs could be achieved by other forms of rural residential development such as Standard Subdivision, Strata Title, or Community Title.

Of 23 responses, 54% of Councils indicated that Community Title or Strata Title could achieve the desired objectives. Only 17% indicated support for standard subdivision as suitable tenure.

A number of general comments were made in respect of alternative subdivision options of MOs:

- subdivision creates an opportunity for "individual ownership" of part of the land, notwithstanding other shared facilities may exist. This is contradictory to the concept of all property being vested in the group - a key principle of MOs (Lismore);
- subdivision results in the creation of titles which are generally irrelevant in terms of physical impact (Byron).

Other Councils believed that differing forms of subdivision may be possible within the objectives of SEPP 15:

- subdivision of MOs would give Councils the opportunity to address MOs in a strategic sense (Shoalhaven); and
- MOs should be included in Councils existing policies on small lot rural subdivision in specific zone and 'clustering' of dwellings in appropriate locations (Wingecarribee).

- reduction in property values (Kyogle and Tweed);
- density (Shoalhaven);
- increased demand on services and adverse effect on water supplies (Bellingen, Shoalhaven and Lismore);
- lack of subdivision (Shoalhaven);
- lack of information in DA (Lismore);
- lack of applicants knowledge of subject land (Lismore);
- impact on adjoining properties (Lismore); and
- expectation that contributions would not be paid (Byron).

However, all except for two LGSs, these concerns did not materialise once development was completed.

2.14.3 Attitude of Adjacent Landowners

Of the 18 responses, the majority of Councils (56%) recorded a mixed attitude for adjoining land owner towards MO developments. Another 28% indicated that adjoining land owners were generally opposed to such development. Only one Council indicated general support for such developments. The remaining Councils indicated a neutral attitude.

2.15 Subdivision of MOs (Q24)

Of the 23 responses, almost two thirds (61%) of Councils indicated that prohibition on subdivision of MO developments was necessary to maintain the philosophy behind the SEPP 15.

Reasons sighted by Councils (Q24a) for retention of the **no subdivision** clause were that subdivision of MOs particularly under torrens title would:

- allow more development by removing economic obstruction created by the attitudes of lending authority to this type of development (Evans);
- create defacto rural/residential subdivision in dispersed locations and therefore should be treated and managed as such. This would include the draft LEP process. (Eurobodalla, Kempsey Lithgow and Shoalhaven);
- encourage fragmentation of rural land which is against Councils policy and LEPs (Bellingen, Cooma-Monaro, Parry and Young);

Such a change in policy would also result in the demise of MOs as they currently exist. The development standard would increase, however due to increasing costs there would be a corresponding change in social character. The 'typical' MO resident would be unable to afford many of the approval and development requirements of the alternative subdivision forms. Councils would also achieve better realisation of contributions and fees. (Byron and Parry)

If MO subdivision was possible the number of MOs could be expected to increase because of the opportunity this created for individual title to house sites. Currently, many MOs do not proceed because property owners cannot obtain finance to borrow for dwellings because of multiple ownership (Nambucca). However with the creation of a saleable item, finance would become easier and land prices could be expected to rise, placing development pressures on adjoining agricultural lands (Kempsey).

2.17 Pressure for MO Subdivision

Councils at Byron, Kyogle, Nambucca, Tweed, Ulmarra and Young have received repeated requests for the subdivision of existing MO developments.

Byron, Evans, Kempsey and Lismore indicated that they would be receptive to the concept of rezoning existing MO developments under community title legislation, although Lismore indicated that this would only be considered if the land complied with Council's Rural Residential Policy. Byron indicated that Council has already initiated this action through its Residential Development Strategy.

2.18 Conventional Rural Residential Development and SEPP 15 (Q28)

Eleven respondent Councils (48%) indicated that they were aware of instances where MO applications have been submitted with the intended use being for conventional rural residential purposes rather than communal/community living.

The main reasons cited by Councils for use of MOs as defacto rural residential subdivisions were as follows:

- avoidance of minimum lot sizes in planning instruments (39% responses);
- avoidance of zoning requirements (35%);
- development cost (17%);
- fewer legal land management requirements (4%); and
- better use of land having regard to site constraints (4%).

Strata title subdivision was considered to have the following effects:

- it allows for the communal management of the land with Community assets be located on common property, ensuring access and management by all owners jointly. (Eurobodalla, Evans, Kempsey, Nambucca, Tweed and Young); and
- it allows for private ownership, thus enabling individuals to obtain finance to erect dwellings (Nambucca).

It was recognised by two Councils that subdivision should only be permissible where rural smallholdings were permissible and the management of each scheme would need to be carefully assessed. (Eurobodalla and Young).

Community title subdivision was also recognised as providing the potential for the management of community land and assets. (Eurobodalla, Evans Tweed and Young). However the following concerns and stipulation were expressed in respect of use of community title:

- care is needed to ensure that defacto rural residential subdivision does not occur (Kyogle and Lithgow);
- management of each scheme needs to be carefully assessed (Young);
- use of community title should only be allowed where rural smallholdings are permissible under Council planning schemes (Eurobodalla);
- use of community title to restrict the size and location of building envelopes within the total site (Kyogle); and
- use of community title should be linked to the minimum lot size for subdivision in rural areas (Bellingen).

2.16.1 Implications of Permission to Subdivide

Councils were generally concerned that the introduction of subdivision provisions for MOs would create a major loophole in strategic planning of local government areas. This would result from the lack of detailed geographical constraints on existing MO developments.

Subdivision approvals would result in a dramatic increase in unplanned rural settlement and the further fragmentation of rural lands. The loss of viable on adjoining agricultural land and increased demand on service provision could also be expected. In most Council areas such subdivision, particularly of existing MOs, would be in conflict with the broad acre zoning objectives and minimum lot sizes (Bellingen, Kempsey, Kyogle, Lismore Ulmarra and Young).

Table B5: Section 94 Contributions

LGA	Minimum (\$/dwell)	Maximum (\$/dwell)	Standard (\$/dwell)	Comments
Bellingen	1,500	2,000	n.a.	
Byron	n.a.	n.a.	n.a.	Varies by catchment
Copmanhurst	n.a.	n.a.	1,800	
Kempsey	n.a.	n.a.	n.a.	Variable road contribution
Kyogle	n.a.	n.a.	2,200	
Lismore	3,000	6,000	n.a.	Predominantly for rural road up- grading with charges increasing for more isolated locations.
Ulmarra	n.a.	n.a.	4,000 140 1,000	- Roads - Bushfire - Community Facilities

An aspect of MO contribution to services is the annual rates levied by Council. In general these rates reflect land value rather than demand for services and therefore a large MO may pay only marginally more than a farm with only one family (Lismore).

Councils were also asked to indicate the level of satisfaction with current arrangement for the levying of rates on MO developments (Q33). A total of eight Councils (35%) were dissatisfied with current rating arrangements and/or levels of contribution being collected.

The dissatisfaction is generally derived from the basis of rating MOs on ownership or assessable property rather than occupancy levels or dwelling numbers. As a result there is currently an inequity between level of demand for services and the contribution towards the provision of services. (Copmanhurst, Nambucca, Nymboida, Tweed and Young). One suggestion put forward was the introduction of a special rate for MOs based on the level of occupancy (Lismore).

There appears to be some uncertainty as to Councils' position under the new Local Government Act in this regard and a general review of this issue is required (Byron and Young).

The concern was also raised as to the ability of MOs to meet the real cost of the provision of services (Byron).

2.19 Cluster Housing (Q29)

Fourteen Councils (61%) recognised that cluster housing offer advantages for environmentally sensitive land management over those offered by dispersed housing.

Of those responding, the main advantages were listed as follows:

- minimises vegetation clearance (14 responses)
- limits road construction (12)
- eases servicing (10)
- increases fire protection (7)
- avoids land slip (3)

It was also recognised by one Council that the advantages of Cluster housing also are its disadvantages. For example, although the concentration of housing eases servicing requirements, any inadequacy in those requirements results in a concentration of any impact.

2.20 Community Facilities (Q30)

Councils were asked about the number of community facilities constructed as part of existing MO developments. No single facility was identified as occurring in all developments. Farm building were the most frequently provided, followed by stables, play equipment, and community hall.

2.21 Financial Contribution to Public Facilities (Q31, 32 and 33)

Fourteen Councils (16%) have S.94 Contribution Plans in place to levy MO developments. Details were provided from nine Councils, with contributions ranging from a minimum of \$1500 per dwelling in Bellingen, to \$6000 in Lismore. The specific contributions are outlined in **Table B5** below.

A total of 11 Councils (48%) were not satisfied that MO developments adequately contribute towards the cost of funding services and infrastructure.

The reasons for MOs not adequately contributing towards the costs in services in part relates to their remote location. The cost of upgrading public infrastructure (especially roads) far outweighed any contributions received. In addition, demand for services generated by MOs is greater than the adjoining existing agricultural uses due to the density of development (Nambucca, Ulmarra).

MOs are generally subsidised by the remainder of the community because of their remoteness and level of demand for services. Pressure also exists from MOs to increase the level of subsidisation on the basis that MOs are resident in the shire rather than developers who sell and move on (Kempsey, Shoalhaven). However it was also recognised that many of the MO residents can not realistically afford the level of contributions required for the provide on the required services (Byron).

2.24 General Comments (Q37)

Other Comments that were made regarding the effectiveness of SEPP 15 for the management of community-based developments on rural lands (Q37) included:

- not currently relevant to the central west but it is anticipated that this will change in the next 5-10 years (Evans).
- provisions should be freed up to allow people to set up companies and provide dwelling entitlements via shares. Councils could be a party to the company's articles to ensure intent of SEPP 15 upheld. Would allow for inevitable turnover of occupant (Kempsey).
- need to define public road access as a result of recent legislative changes (Copmanhurst).
- SEPP 15 has not been widely used. Council's dual occupancy provisions seem to cover the most common types of development in Eurobodalla. Cluster housing is encouraged in the ICC7 rural small holdings zone, where MO is permissible under Council's LEP but preventing re-subdivision of the residue has been an almost insurmountable obstacle. Thus it has only been used where the residue is environmentally sensitive/undevelopable (Eurobodalla).
- from our experience the concept of community-based developments have not been taken up under SEPP 15 and some of the early MO approvals (1984/85) are low looking at rezoning or other ways to allow subdivision of the property to gain sufficient equity to recover the investment they have made in their dwellings (Tweed).
- as indicated, LEP provisions do exist. There does not really appear to be any demand. Difficult to sell and raise finance upon (Wingecarribee).
- there has been very little interest in SEPP 15 in this Council area possibly for two reasons: (1) no-one knows about it, (2) the requirement for joint ownership scares those who are not wanting genuine multiple occupancy (Great Lakes).

2.22 Community Title subdivisions (Q34 and Q35)

There were five rural residential Community Title subdivisions operating in LGA's that responded to the survey.

Another eight applications had been received over the last 12 months for this type of development from LGA's in the survey.

2.23 Future of SEPP 15 (Q36)

In exploring the future of SEPP 15, Councils were given four alternative scenarios for the future management of MO developments. Of 22 Councils involved in MO developments there appears to be no clear preference for the future of SEPP 15, as shown by survey results:

- should be retain SEPP 15 in its present form (27%);
- felt retain SEPP 15, in an amended form (19%);
- introduce a replacement provision within Council's LEP (27%); and
- revoke SEPP 15 in its entirety (27%).

Suggested **amendments** to SEPP 15 included provisions to:

- revise the objectives to make practical in intent and application (Lismore);
- reduce the minimum number of dwellings back to two as previous provision allowed. Families could then share land and provide for sons and daughters to live on the family property. Amendment appears to have occurred to take pressure of DoP when deciding whether to concur with SEPP 15 Subdivisions (Kempsey);
- enable special small lot subdivision (e.g. Community/Strata Title) (Byron and Nambucca);
- increase minimum lot size to enable sustainable agriculture activity (Nambucca);
- amend dwelling densities to ensure greater environmentally acceptable levels. This should reflect particular local government area and land capabilities (Lismore and Nambucca);
- require rezoning of subject land (Shoalhaven); and
- establish a genuine commitment to MO policies (Ulmarra).

Byron Shire also adopted a Development Control Plan in 1991. This DCP recognises the provisions contained in Councils LEP as well as:

- encouraging clustered development unless environmentally undesirable;
- requiring 50% of the site to be set aside for common use on which a community facility is to be erected;
- requiring an environmental impact assessment; and
- outlining requirements for bushfire protection, carparking provision; vehicular access, water supply, drainage, development within defined water catchments and development and building application procedures.

3.3 Lismore City Council

Lismore City Council has undertaken an extensive review of MOs in their area, as summarised in Chapter 1 of the main report. Council produced Draft Development Control Plan #20 in December 1993. The main provisions of this DCP include:

- Minimum Lot size of 10 ha;
- Prohibition of subdivision and requirement for amalgamation of multiple lots;
- Majority of adult residents to have an ownership interest in land;
- Maximum density of one dwelling per 5 ha;
- Requirement to cluster dwellings unless environmentally undesirable;
- Specified requirements for vehicular access;
- Maximum Building height of eight metres; and
- Protection of prime crop and pasture land.

The DCP also addresses requirements on building location, water supply, effluent disposal, waste disposal, fire protection, ancillary uses, Section 94 contributions and development and building application procedures as well as optional requirements for cemeteries and utilises.

In addition, Lismore Council has sought legal advice regarding the intended implementation of objectives within SEPP 15. Concern has been expressed as to whether MO developments are required by the wording of Clause 2 (Aims, objectives, etc.) to meet all objectives prior to approval. The implication being that MOs could only be approved in areas with declining rural population (Clause 2(c)(iii)). The advice indicated that although all objectives are to be taken into consideration in determining an application, they may be disregarded where not applicable.

3 OTHER COUNCIL INFORMATION

A number of Councils provided additional information as background to their response. A brief summary of this information is outlined below.

3.1 Bellingen Shire Council

Bellingen Shire Council has adopted a development Control plan to complement the provisions of SEPP 15. The main provisions of this DCP are:

- a minimum lot area of 15 ha;
- prohibition of subdivision and a requirement for amalgamation of multiple lots;
- at least two thirds of adult residents to have an ownership interest in land which is owned entirely in common ownership;
- a sliding scale of dwelling density ranging from one dwelling per five ha for a holding up to 80 ha to one dwelling per 15 ha for a holding over 360 ha with a maximum of 80 dwellings;
- Maximum Building height of eight metres;
- protection of prime crop and pasture land; and
- restrictions on residential flat buildings and tourist accommodation.

The DCP also addresses requirements on vehicular access, building location and approval, transitional accommodation, fire protection, water supply, effluent disposal, waste disposal, Section 94 contributions and development and building application procedures as well as optional requirements for utilises.

3.2 Byron Shire

Byron Shire is exempt from the provisions of SEPP 15 due to provision contained in clause 17A., Byron LEP 1988. This clause allows for the development of three or more dwellings on specified rural lands. The provisions:

- require development to occur on one lot only;
- require an environmental impact report has been lodged with Council as part of the associated development application;
- impose a minimum lot area of 10 ha or 20 ha in specified localities;
- impose a maximum density of one dwelling for ever 3 ha or six ha in specified localities;
- restrict separate legal rights to parts of the land;
- prohibit subdivision of land by standard subdivision or strata title; and
- prohibit tourist accommodation other than as a rural tourist facility.

4 SUMMARY OF ISSUES

The main issues arising from the survey of Local Councils throughout NSW include:

- the policy was introduced to cater for a recognised need. Since the initial introduction and period during which MOs were made to comply with the policy there has been a general decline in MO Development Applications;
- the majority of MO applications approved are located in 6 of the 63 Councils to which SEPP 15 apply;
- the majority of Councils have experienced a rural population increase over the term of the policy. In the remaining LGAs rural population has been constant;
- the majority of Councils consider minimum lot sizes for MOs are appropriate. However, concern was expressed about the conflict between SEPP 15 and Councils' rural dwelling lot standards and the potential for the policy to be used to by-pass these latter provisions;
- density standards are considered appropriate by a majority of Councils, although concerns were expressed that MO densities were too high and that they should relate more closely to the environmental capacity of the site;
- SEPP 15 conflicts with a number of Council LEPs on the following issues:
 - the minimum size rural lots on which dwellings may be constructed;
 - Councils' rural settlements strategies which indicates locations for rural residential development (MOs are viewed as defacto rural residential);
- policy objectives receiving greatest emphasis by Councils:
 - encourage environmentally sensitive rural settlement (clause 2(a));
 - avoid demand for Council/Government services (clause 2(c)(i)); and
 - avoid subdivision of rural land (clause 2(c)(ii)).

However due to the overall population increase in rural areas clause 2(c)(iii) which relates to opportunity for an increase in rural population was considered to be unimportant.

3.4 Scone Shire Council

Information provided consists of an extract from the Scone Local Environmental Plan (1986). The main features of these provisions are:

- minimum allotments size for MO development of 40 ha;
- prohibition of Subdivision;
- owner ship in common to be by at least two thirds of resident adults;
- prohibition of tourist accommodation;
- consolidation of multiple allotments prior to development of MO; and
- population density of not greater than one person per ha.

It appears that these provisions are superseded by SEPP 15. Council is currently unsure of their status on this issue, but because of its lack of use, is not in any hurry to clarify or review.

SEPP 15 REVIEW **MULTIPLE OCCUPANCY (MO) OF RURAL LANDS** **LOCAL GOVERNMENT SURVEY**

1. Has Council used SEPP 15 to approve MO development applications within its rural zones? Yes ☐
 No ☐

If No, go to Question 2

- (a) Please complete the following Summary of Development Applications approved by Council using SEPP 15 Provision:

YEAR	Number of DAs approved	Total Dwellings	Number of DAs Notified to DOP
1988			
1989			
1990			
1991			
1992			
1993			
TOTAL			

- (b) What is the average size in hectares of MO developments approved by Council over the last five years using SEPP 15? *(Please tick one box only)*

0 - 10 ha ☐ 11-40 ha ☐ 41-80 ha ☐ 81-210 ha ☐ 211-360 ha ☐ >360 ha ☐

- (c) Please list the main themes present in approved MO developments using SEPP 15

Share-farming ☐
 Horticulture ☐
 Permi-culture ☐
 Rural-residential ☐
 Rainforest living/preservation ☐
 Tourist-oriented ☐
 Weekend/Holiday Homes ☐
 Other *(Please Specify)* ☐

- a minority of Councils received land management plans with development applications from MOs;
- some Councils felt that greater documentation was required with MO applications, including statements of environmental effects, bushfire plans and servicing plans;
- although subdivision is generally against the principles of MOs, Strata or Community title would encourage the better management of land and community assets but would not be able to be afforded by the 'typical' MO resident;
- MOs do not adequately contribute toward the provision of services and infrastructure, either through Section 94 contributions or Council rates;
- whilst most Councils suggested amendments to the operation of SEPP 15, only 14% of Councils listed this option as a preferred course of action; and
- there was no marked preference for any particular solution to the future of SEPP 15 with Councils' views spread across the following options:
 - revoke policy (27%);
 - incorporate policy into LEP (27%);
 - retain existing with no amendments (27%)

PURDON ASSOCIATES
June 1994

- (c) Please list the main themes present in these approved MO developments using its LEP provisions.

Share-farming	<input type="checkbox"/>
Horticulture	<input type="checkbox"/>
Permi-culture	<input type="checkbox"/>
Rural-residential	<input type="checkbox"/>
Rainforest living/preservation	<input type="checkbox"/>
Tourist-oriented	<input type="checkbox"/>
Weekend/Holiday Homes	<input type="checkbox"/>
Other (Please Specify)	<input type="checkbox"/>

4. Has Council used its LEP provisions to refuse MO development applications within its rural zones? Yes ☐
No ☐

If No, go to "Instructions" below.

- (a) How many MO applications have been refused by Council over the last five years using its LEP?

- (b) What were the main reasons for refusal of MO development applications using its LEP.

.....
.....
.....
.....

Please attach a copy of your LEP provisions with your completed questionnaire.

Instructions

If you have answered No to all questions above, you need go no further. Please fill in the details at the end and return the questionnaire. Thank you for your assistance.

The following questions relate to all MO development in rural areas regardless of whether they were approved under SEPP 15 or Council's LEP.

5. How many MO development applications are currently before Council which are subject to:

SEPP 15?	.....
Council's LEP provisions?	.....

2. Has Council used SEPP 15 to refuse MO development applications within its rural zones? Yes ☐
No ☐

If No, go to Question 3

- (a) How many MO applications have been refused by Council over the last five years using SEPP 15?

- (b) What were the main reasons for refusal of MO development applications using SEPP 15.

.....
.....
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.....

- (c) Is it usual practice for Council to notify DOP of these refusals? Yes ☐
No ☐

3. Does Council have MO provisions within any of its LEP(s) which control the development of MOs in rural zones? Yes ☐
No ☐

If No, please go to Question 4

- (a) Please complete the following Summary of Development Applications approved by Council using its LEP provisions:

YEAR	Number of DAs approved	Total Dwellings
1988		
1989		
1990		
1991		
1992		
1993		
TOTAL		

- (b) What is the average size in hectares of MO developments approved by Council over the last five years using its LEP provisions? (Please tick one box only)

0-10 ha ☐ 11-40 ha ☐ 41-80 ha ☐ 81-210 ha ☐ 211-360 ha ☐ >360 ha ☐

10. What is the predominant dwelling type constructed on MO developments in your LGA?
(please tick one)

- Individual single family dwelling units dispersed throughout site ☐
- Individual single family dwelling units clustered on one portion of site ☐
- Clusters of expanded dwellings with shared facilities ☐
- Individual expanded dwelling with shared facilities ☐
- Other (please specify) ☐

11. Does SEPP 15 conflict with Council's rural planning policy instruments? Yes ☐
No ☐

(a) If Yes, In what way?

.....

.....

.....

12. Using the following 5-point scale, please indicate how successfully each of the following SEPP 15 Objectives are being met by MOs in your LGA.

	Not Successful			Very Successful	
Encourage community based rural settlement;	1	2	3	4	5
Encourage environmentally sensitive rural settlement;	1	2	3	4	5
Enable collective living;	1	2	3	4	5
Enable sharing of facilities and resources;	1	2	3	4	5
Enable pooling of resources;	1	2	3	4	5
Facilitate clustered style rural development;	1	2	3	4	5
Avoid demand for Council/Government services;	1	2	3	4	5
Avoid subdivision of rural land;	1	2	3	4	5
Increase in rural population;	1	2	3	4	5

(a) If the objectives are not being adequately met, why is this the case?

.....

.....

.....

6. Over the last 12 months, has the number of MO applications: *(please tick one)*

declined? ☐ remained constant? ☐ increased? ☐

OR were no applications received? ☐

7. Since 1988, Has the rural population in your LGA: *(please tick one)*

declined? ☐ remained constant? ☐ increased? ☐

If the rural population increased:

(a) can a significant portion of this increase be attributed to MO developments? Yes ☐
No ☐

(b) If the rural population increased, have MOs been more successful than other forms of rural settlement in creating population increase? Yes ☐
No ☐

8. In Council's opinion, is the minimum allotment size of 10 hectares an appropriate minimum standard? Yes ☐
No ☐

(a) If No, what should the minimum lot size be?

.....

Please explain your reasons.

.....
.....

9. Are the density standards established by SEPP 15 appropriate? Yes ☐
No ☐

(a) If No, what should the standard be?

.....
.....

(b) Please explain your reasons.

.....
.....

16. In general, does Council feel that they can enforce such plans/documents? Yes ☐
No ☐

(a) If No, Please explain why

.....
.....
.....

17. Which of the following should be a requirement of application?

Proposed ownership/occupancy structures	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Community plans	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Land management plans	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Other (please specify)	Yes <input type="checkbox"/>	No <input type="checkbox"/>

(a) Please explain your reasons.

.....
.....
.....

18. Compared with other rural residential/living development applications, what level of Council resources is taken up in the determination of each MO development application? (please tick one only)

More than average ☐ Average ☐ Less than average ☐

19. In your opinion, what are the three main advantages of MO developments? (please rank 1 to 3 only with 1 being the biggest advantage).

Alternative lifestyle opportunities	.....
Lower cost rural living	.....
Good environmental management (e.g. decreased land degradation)	.....
Improved land management practises (e.g. decreased weed infestations)	.....
Introduction of new forms of agricultural activity	.....
Continued use of land for agriculture	.....
Innovative house styles	.....
Increased bushfire fighting facilities	.....
Other (please specify)	

13. Has the policy resulted in previously illegal rural dwellings being legalised in your LGA?

Yes ☐
No ☐

If No, please explain why?

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14. Using the following 5-point scale, please indicate the relative importance given by Council to each SEPP 15 objective in the assessment of MO development applications?

	Not Important			Very Important	
	1	2	3	4	5
Encourage community based rural settlement;	1	2	3	4	5
Encourage environmentally sensitive rural settlement;	1	2	3	4	5
Enable collective living;	1	2	3	4	5
Enable sharing of facilities and resources;	1	2	3	4	5
Enable pooling of resources;	1	2	3	4	5
Facilitate clustered style rural development;	1	2	3	4	5
Avoid demand for Council/Government services;	1	2	3	4	5
Avoid subdivision of rural land;	1	2	3	4	5
Increase in rural population;	1	2	3	4	5

15. Have any MO applications received by Council been accompanied by any of the following documentation:

Proposed ownership/occupancy structures	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Community plans	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Land Management plans	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Other (please specify)	Yes <input type="checkbox"/>	No <input type="checkbox"/>

- (a) In general, have the developments occurred in accordance with these plans/documents?

Yes ☐
No ☐
Not Known ☐

24. In Council's opinion is the prohibition on subdivision of MO developments necessary to maintain the philosophy behind the SEPP 15? Yes ☐
No ☐

(a) Please explain why

.....

25. Could the community living objectives for MO's be achieved by other forms of rural residential development such as:

Standard Subdivision	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Strata Title	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Community Title	Yes <input type="checkbox"/>	No <input type="checkbox"/>

(a) Please explain your reason(s).

.....

(b) What implications would such subdivision have locally?

.....

26. Has Council received repeated requests for the subdivision of existing MO developments? Yes ☐
No ☐

27. Would Council be receptive to the concept of rezoning existing MO developments to enable their subdivision under community title legislation? Yes ☐
No ☐

32. Is Council satisfied that, in comparison with other rural residential developments, MO developments adequately contribute towards the cost of funding services and infrastructure? Yes ☐
No ☐

(a). If No, please explain why.

.....
.....
.....

33. Is Council satisfied with the current arrangements for levying rates on MO developments? Yes ☐
No ☐
N/A ☐

(a) If No, please explain why

.....
.....
.....

34. How many rural residential Community Title subdivisions are located in your LGA?

35. How many applications for rural residential Community Title subdivisions in your LGA has Council received in the last 12 months?

36. Would Council prefer to: *(please select one only)*

- Introduce a replacement provision in Council's LEP? ☐
Revoke SEPP 15 ☐
Retain SEPP 15 in its present form? ☐
Retain SEPP 15 in an amended form? ☐
Other? *(please specify)* ☐

(a) If you would prefer to amend SEPP 15, what changes would improve its operation?

.....
.....
.....

28. Is Council aware of instances where MO applications have been submitted with the intended use being for conventional rural residential purposes rather than communal/community living? Yes ☐ No ☐
- (a) If Yes, What is the main reason applicants have chosen MO over other forms of Land Tenure? *(please select one reason only)*
- Development cost ☐
- Fewer legal land management requirements ☐
- Avoidance of zoning requirements ☐
- Avoidance of minimum lot sizes in planning instruments ☐
- Other *(please specify)* ☐
29. In Council's opinion, does cluster housing offer advantages for environmentally sensitive land management over those offered by dispersed housing? Yes ☐ No ☐
- (a) If Yes, what are the main advantages? *(please rank 1 to 3 only)*.
- Limits road construction
- Avoids land slip
- Minimises vegetation clearance
- Eases servicing
- Increases fire protection
- Other *(please specify)*
30. Using the following code, please indicate how frequently each of the following community facilities are constructed as part of existing MO developments? (1 = never, 2 = sometimes, 3 = often, 4 = always)
- Community shop
- Play equipment
- Schools
- Community hall
- Artists workshops/gallery
- Farm buildings
- Stables
- Other *(please specify)*
31. Do you have a Section 94 Plan which enables you to levy contributions on MO developments? Yes ☐ No ☐
- (a) If Yes, What level of Section 94 contributions, if any have been applied to MO sites? *(please indicate in \$ per dwelling unit)*

ATTACHMENT C

RESULTS OF CONSULTATIONS WITH PUBLIC AUTHORITIES

37. Do you have any other comments regarding the effectiveness of SEPP 15 for the management of community-based developments on rural lands?

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Thank you for your co-operation. In the event that we require further information or clarification of your responses, please supply a contact name and phone number

Contact Details

Name:

Position:

Council:

Phone:

1 BACKGROUND

The project brief called for consultations to be undertaken with selected public authorities. A list of relevant authorities was prepared in consultation with the Department of Planning. Thirty three consultation letter were sent out. In some cases regional offices were included as well as head offices. A total of 13 responses were received.

The authorities consulted were:

NSW Agriculture (North Coast Region and Head Office)
NSW Department of Water Resources (Regional Offices and Head Office)
NSW Health (Regional Offices and Head Office).
Police Department (Regional Offices and Head Office).
Department of Conservation and Land Management (Soil Conservation Service) (Regional Offices and Head Office).
National Parks and Wildlife Service (Regional Offices and Head Office).
NSW Department of Local Government and Co-operatives
Local Government and Shires Association
Lower Clarence County Council
Rous County Council
Far North Coast County Council
State Forests
State Emergency Services
Department of Bush Fire Services

2 SUMMARY RESPONSES RECEIVED

2.1 NSW Agriculture

- In general, MO development has virtually no known impact throughout the State on agricultural activities, but in specific locations it has been a contentious form of rural development.
- Opposition can be for a range of social reasons, but also because of perceived conflicts which might arise between the agricultural activities and MO's.
- Concerns need to be addressed at the development application stage.
- NSW Agriculture's "Guidelines for Subdivision and Development in Agricultural Areas" is generally applicable to MO developments in particular the likelihood of potential conflicts.

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- Soil erosion and sediment movement:
 - problems with the construction of access roads and the clearing of homesites. Access roads are a problem often due to poor construction and design and location on steep lands.
 - sharing of road accesses may be a major advantage as this tends to diminish the adverse environmental affects of multiple access roads and makes property development more affordable through the pooling of resources. However, an overly dispersed development may cause substantial problems as a consequence of road construction.
 - construction of farm dams on existing slump features may initiate mass movement.
 - poor location of dwellings may make them susceptible to mass movement.

- Sewage effluent and solid waste disposal:
 - as a consequence of the potentially higher populations, there is an increased potential for pollution of waterways and wetlands necessitating adequate effluent and solid waste disposal arrangements.
 - important to ensure that downstream landowners are not adversely affected by any reduction in water quality.
 - need to ensure that site constraints are properly assessed during the approval process and the best options for waste management selected.
 - potential problems include: saturation of soils and possible landslip, death of vegetation due to increased nutrients and higher water profile, pollution of nearby waterways and wetlands.
 - siting in upper catchments or undeveloped areas enhances the significance of any pollution and has the potential of impacting on entire waterways and thereby reducing water quality for all downstream users.

- Bushfire hazard reduction:
 - acknowledged as a necessary activity for this type of development.
 - cumulative affect of clearing creates further potential for soil erosion and sediment movement. It is important that dwelling densities are determined with this problem in mind.
 - flexibility may be required to determine dwelling densities according to specific site considerations. Site densities should not be determined on land area alone.

- Consulting neighbours to ascertain views on impacts on existing activities is relevant.
- Detailed assessment of the agricultural classification is required.
- Suggest the preparation of a "Model Development Application".
- 10 ha minimum too small to enable a balanced design. Design should be on a sub-catchment basis wherever possible to achieve sustainability. Suggest a 30-40 ha minimum. Could result in fewer applications and more rigorous and thorough design and assessment.
- MO development applications should be "Advertised Development".
- Planning focus meetings can facilitate an exchange of views early in the process.
- The cumulative impacts of MO developments can have potential social, economic and environmental impacts in rural areas.

2.2 Department of Conservation and Land Management

Two responses have been received; from the Casino and Goulbourn offices.

2.2.1 Lands Section

- No comments in relation to land dealings under its administration.
- Supports MO's as an opportunity for increasing the choices available to the community when seeking a rural living style and environment.
- In appropriate circumstances, the Department may utilise opportunities permitted by SEPP 15.

2.2.2 Soil Conservation Section

- MOs generally occur on the Service's Rural Land Capability Classes VI, VII, and VIII which can pose severe environmental constraints to rural living. Most common constraints include; slope gradient, mass movement, shallow rocky soils, wet spring areas and erodible soils.
- Major concerns of soil erosion and sediment movement, sewage effluent and solid waste disposal, access and bushfire hazard reduction.
- The majority of problem sites have, in the Department's experience, been illegal developments. These development have not had the benefit of the Department's input.

2.3 NSW Health

Four responses were received from Orana and Far Western Division, the Asset Management Unit, North Coast Region and the South Eastern Region. The most comprehensive response was from the North Coast Region reflecting the greater experience of this region with MO development.

- MO's have not touched the Orana and Far Western Division.
- MO's are similar to other forms of development as they affect the environment and people's enjoyment of existing lifestyles. The Department's publication "Environmental Health Considerations Prior to Development" is a guide to developers and Councils in addressing development issues.
- The Department has a preference for Community Title subdivision as it would allow greater control over potential conflict issues.
- MO's should be treated a potential small rural communities. Accordingly, the needs of such communities should be considered in the broader sense. (eg: effects on residents of MO's, effects on neighbours and the need for supporting community structure).
- Consideration needs to be given to:
 - the total catchment effects of MO developments in relation to population, water supplies and effluent disposal.
 - assessment of potential conflicts.
 - mechanisms for controlling pollution including impacts on water sources.
 - waste disposal (effluent and solid).
 - impacts on roads including emergency access.
 - need for social infrastructure such as schools, public halls, libraries, senior citizens centres, pre-schools, parks and recreation areas and facilities.
 - movement of people.
 - impact on existing commercial and industrial activity.
 - previous land usage and whether this affect future development.
- Need to assess potential environmental limits and whether these impose development limits.
- Need to consider demands for private burials on MOs.
- The economic sustainability of MO development should be evaluated with particular reference to the ongoing cost of providing for social and community needs.

- consideration needs to be given to the availability of water to fight fires. If dams are to be constructed, the land must be capable of supporting them.
 - access must be of a high standard not only to reduce soil erosion but to provide a reliable access during a fire event. The provision of alternative escapes routes may be necessary.
- Development applications should include:
- detailed information in relation to soil types and their limitations for road and dam construction, sewage effluent and solid waste disposal
 - details of proposed building envelopes within the property
 - a summary of catchment management proposals and measures to mitigate potential land degradation problems and bushfire events.
 - details of on-going management and maintenance arrangements.
 - an determination of site densities based on the characteristics of the land.
 - an assessment of the impact on the total catchment.
 - an assessment of the risk to dwellings and access roads to mass movement.
- Checklist for assessing development applications:
- Does the block of land have a suitable sites for a multiple residences? For slab construction the cut and fill should not exceed 1.5m.
 - Does the site have practical 2 wheel drive all weather access? The grade of the access road should not exceed 10 degrees generally.
 - Does the block have an adequate water supply for non domestic use (gardens, stock etc;)? This will include dam sites and availability of bore water.
 - What impact will additional effluent disposal systems (septics, envirocycles etc;) have on streams? This will depend on soil types, slope and proximity to streams.
 - In areas where a rural development is near a significant stream care should be taken to ensure that damage to the stream bank does not occur.
- Development applications should be referred to the Department for comment and review.

- Policy review provides the opportunity to incorporate the principles of Total Catchment Management into the decision making process. Impacts of MOs on local catchments is a major consideration.
- SEPP 15 should have more specific provisions relating to the protection of the State's water resources including a more specific listing of matters to be considered.
- Factors to be considered when evaluating an MO development:
 - Water Quality: including nutrient input to waterways and dams, soil disturbance and erosion, increased runoff and altered drainage patterns and functional values of ecosystems in particular wetlands and riparian zones.
 - Water Supply: impact of farm dam storages and abstraction on local streams. A suitable supply should be available that does not induce any adverse impacts on existing users.
 - Ongoing Property Management: including septic tank maintenance.
 - Impacts on Flooding:
 - Impacts on Stream Channel or Floodplain.
 - Impacts on Aquatic Ecosystems.
 - Impacts on Groundwater. in particular the effects of septic tanks and other forms of effluent disposal. Salinity is also an issue in parts of the State which may preclude MO developments.
- Specific recommendations for SEPP 15 changes:

Water quality:

- remove "in the vicinity" from clause 8(1)(o) as impacts can extend beyond the vicinity of the proposal to other parts of the catchment and affect both surface and groundwater.
- adjust clause 8(1)(o) to more specifically include factors affecting water quality in the locality such as: nutrients, sediments, turbidity, salinity, quality/velocity of surface runoff, chemical usage and alteration of flow patterns.

Control of development intensity:

- remove clause 5(2) as more building result in a greater area of disturbance. One dwelling should equal one building.
- amend clause 9 to emphasise that maximum development is dependant on site constraints and impacts on the catchment.

- Need to determine and plan for future health service needs in areas where MO activity will be significant.

2.4 NSW National Parks and Wildlife Service (Head Office)

- Little direct involvement in MO's due to their exclusion from national parks, nature reserves, areas zoned for environmental protection and coastal protection.
- MO's should continue to be excluded from these areas due to the likely adverse environmental impacts.
- Recommend that guidelines for environmentally sensitive planning of MO's may be beneficial to the application of the Policy.

2.5 Department of Water Resources (Parramatta Office and Sydney and South Coast Region)

- The Sydney/South Coast Region has had virtually no experience with multiple occupancies to date.
- The Department's general management policies provide guidance. Useful publications include:
 - "Amendments to the NSW Rivers and Foreshores Improvements Act"
 - "The 7-step Method of controlling Bank Erosion and Sediment Buildup"
 - "The importance of the Riparian Zone in Water Resource Management - A Literature Review"
 - "NSW State River and Estuaries Policy"
 - "Evaluation of Groundwater Supplies for Small Holding and Rural Subdivisions in Rural New South Wales"
 - a revised "General Requirements for Environmental Impact Statements"
- Intensification of rural development will have the potential to impact on the long term sustainability of the State's rivers, estuaries and wetlands. Badly designed or located proposals may have a significant detrimental impact on catchments.
- Key planning question is how to control the potential impact of MO so they do not cause significant environmental impact or degradation.

Water management and groundwater report:

- clause 8 should require the applicant to provide a Water Management Plan and Groundwater Report prepared with regard to TCM practices.

Rehabilitation of earthworks/disturbed area:

- the Policy should require rehabilitation of all disturbed earthworks.
development applications should specify control works for prevention of runoff.

Protection of wetlands:

- the Policy should prohibit MO development on wetlands and provide for incorporation of appropriate buffer zones.

Protection of riparian zone:

- drainage and water courses should have fully vegetated buffer strips.
- protected land under Section 21 of the Soil Conservation Act and a suitably defined riparian zone should be included in Schedule 2.

Effluent management:

- clause 8(1) should require specific consideration of effluent disposal. Reword (i) to *"whether adequate and suitable provision has been made for waste and effluent disposal from and/or on the land, taking into consideration any environmental constraints in the catchment"*.
- clause 8(1) should require the preparation of a waste management plan. The impact, site specific and cumulative, on water resources in the vicinity should be taken into account
- alternatives to septic tanks should be evaluated for each proposal taking into account local conditions. Investigation of package treatment plants should be mandatory for each development. Siting of effluent disposal systems should account for bores, shallow groundwater and certain soil types.

2.6 Department of Bush Fire Services (Head Office)

- MOs are a major problem for bushfire authorities, particularly where not approved. Tend to be in remote locations and have a “natural” design.
- Department does not object to MO per se. Encourages Councils to incorporate fire protection features into developments.
- Wholesale clearing not encouraged but clearing of vegetation in close proximity strongly recommended together with reasonable standards of house construction.
- Appropriate access for fire fighting and evacuation and adequate water supply are a must.
- Fire fighters have an obligation to enter properties to save lives.
- Balance between rights and responsibilities of the individual needs to be achieved. The Policy should ensure an adequate standard of fire protection.

2.7 Far North Coast County Council - Noxious Plants (Casino)

- People moving to MOs are from outside the region and not “rurally oriented” and hence have little or no knowledge of noxious weeds or the associated responsibilities.
- Not uncommon for land to be purchased without necessary searches and certificates thus inheriting a major noxious weed problem.
- Problems exacerbated by reluctance of MO residents to use herbicides.
- Weed issues should be addressed in the planning stages. This would also assist in reducing opposition from traditional farming neighbours.
- Development applications include:
 - plan illustrating current situation in relation to noxious weeds including a report/certificate from the local weed authority.
 - a land use management plan and a noxious weed control program prepared in consultation with the local control authority and taking into account surrounding weed management practices.

2.8 Local Government and Shires Association of NSW

- The Associations would be willing to facilitate further consultation with relevant Councils once a preliminary review of issues has been completed.

ATTACHMENT D

**MULTIPLE OCCUPANCY
RESIDENT SURVEY**

3 SUMMARY OF KEY ISSUES RELATING TO THE POLICY

3.1 Consultation

- Consultation with neighbours to ascertain potential impacts on existing activities is warranted.
- Use of planning focus meeting to identify and resolve development issues.
- Area: Review of minimum area to enable a more balanced design.
- Dwelling densities: Need to acknowledge that dwelling densities may be limited by site constraints.
- Regulation:
 - problems occurring with illegal developments or through lack of enforcement of consents.
 - consideration needs also to be given to the ongoing monitoring of MO developments.
- Development Planning:
 - TCM approach required for site planning with particular attention to site constraints.
 - need for a waste management plan (including effluent disposal).
 - need for bush fire management plan.
 - need to minimise site disturbance and impact of access roads.
 - site capability for construction of buildings may require confirmation.
 - check required for weed infestation.
- Development Assessment:
 - refer development applications to relevant authorities during assessment process.
 - need to be mindful of environmental limits and constraints of each site and the external impacts of each development.
 - need to be aware of cumulative environmental impacts of development in the locality possibly using TCM principles.
 - need to assess long term impacts on local services and infrastructure and address the issue of cost recovery.
 - need to address the ongoing management of the development.

1 INTRODUCTION

1.1 Purpose

The Attachment presents to the main findings of a mail-back survey undertaken as part of the second phase of the SEPP 15 review. It involved the collection of detailed information from residents of existing MOs from six Local Government Areas (LGA) to develop an understanding of the way in which MOs operate and the implications of this for SEPP 15. This survey was undertaken by Purdon Associates.

1.2 Methodology

Based on the Stage 1 survey of local government authorities (refer **Attachment B**), six Councils were selected for inclusion in stage two of the review based on the number of applications received. These Councils were;

- | | |
|-------------|--------------|
| ▪ Bellingen | ▪ Kyogle |
| ▪ Byron | ▪ Lismore |
| ▪ Kempsey | ▪ Shoalhaven |

A self complete, reply paid questionnaire was developed by Purdon Associates in consultation with the Department of Planning, the Pan-Community Council and Bellingen Multiple Occupancy Action Group. Questionnaires were sent to all known MOs in these areas. A copy of the survey form is at **Appendix D-1**.

An address list of predominantly MO developments were collected from two sources, namely:

- information from Council rate records or development application files. Limitations associated with the latter source meant that not all current residents were contacted. This resulted in a low response rate in some areas (e.g. Shoalhaven);
- advertisements placed in local newspapers requesting involvement of MO residents or other interested people. This resulted in a broad cross section of interested parties not all of whom resided in the six Council areas.

A total of 257 surveys were despatched. Only four were returned undelivered. A response rate of 23% (58 responses) was achieved by the cut off date with another 11 responses being received after the completion of data analysis. Comments from late responses have been incorporated where possible in the following analysis. Not all questions from all returned survey forms were completed by respondents.

Distribution of responses included in the analysis is shown in **Table 1**.

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have obtained legitimisation. By far the greatest number of approvals was 14 in 1988, which predominantly occurred in the Lismore and Bellingen Local Government areas. There appears to be no definite trend in the rate of approval being gained.

2.2 Size (Q5)

The majority of MO developments (67%) have an area of less than 100ha of which 20 are less than 50ha. Only eight properties (14%) exceed 200ha and none are under 10ha.

2.3 Community Themes (Q8)

The main themes catered for by these communities included:

- dispersed residential lifestyle (47%);
- environmentally sensitive lifestyles (47%);
- forest preservation/regeneration (43%);
- permaculture (28%);
- communal rural lifestyle (27%); and
- horticulture (23%).

Spiritual themes were only identified by 15% of the respondents.

Multiple themes may exist on each MO.

2.4 Social-Economic Characteristics

2.4.1 Average Length of Stay of Permanent Residents (Q4)

The majority of residents (71%) could be considered longterm residents (more than six years). This is compared with 16 respondents (30%) who indicated that residents stay an average of one to five years.

2.4.2 Community Structure (Q6, 7 and 11)

In general each MO consists of one community with only five responses indicated that there was more than one distinct separate community on the same site.

The majority of MOs interviewed (34%) have between six and 10 households. This is compared with 31% of responses having five or less households and 19% between 11 and 20 households. From the survey, only two MOs (3%) have greater than 50 households.

Table 1: Distribution of Responses.

LGA	Surveys Sent Out	Responses Received	Response Rate	Late Responses
Bellingen	37	11	30	2
Byron	76	12	16	1
Kempsey	13	0	0	0
Kyogle	40	7	18	2
Lismore	68	28	41	3
Shoalhaven	14	1	7	1
Other	9	0	7	0
Total	257	59	23	10

Due to the low response rate from Kempsey and Shoalhaven local government areas, a follow up letter was sent to each address in an attempt to promote responses from these areas. No further responses have been received.

Where possible, responses to questions have been tabulated (refer **Volume 2: Data File**). However, a number of questions in the survey were open ended and the frequent responses to these questions are included below. Individual survey forms have been treated in confidence by the consultants, with all responses aggregated. The survey forms will be retained by the Department of Planning on completion of the report who will be responsible for protecting the confidentiality of responses.

2 ANALYSIS

The following section analyses the responses received from the survey and should be read in conjunction with notes from meeting with MO resistants (**Attachment**).

2.1 Establishment Date (Q1, 2 and 3)

Each respondent was asked to indicate the year in which their community was established. Of the 56 responses, only 13% have been established since SEPP 15 was introduced (1988). About equal numbers of MOs were established prior to 1980, or between 1981 and 1987.

The generalised distribution of MOs results in a concentration of the far North Coast in Lismore, Byron and Kyogle and small cluster of MOs occurs around Bellingen.

Since the introduction of the policy, only a total of about 30 MOs have gained approval across NSW indicating that a number of MOs established prior to 1988

Table 3: Average Household Income

Regional Area	Income	
	Average Weekly	Average Annual
Research - Low Income Status	\$384.62	\$20,000
Richmond-Tweed/Mid-North Coast	\$458.37	\$23,835
Northern/North West/Central West/Far West	\$551.60	\$28,683
Illawarra/South Eastern/Murray/Murrumbidgee	\$563.33	\$29,293
Hunter	\$574.40	\$29,870
Sydney	\$719.38	\$37,407
New South Wales	\$651.93	\$33,900

Source: Household Expenditure Survey 1988/1989

In the survey, Lismore has the highest concentration of low income households with 71% of responses indicating that greater than 75% of households fit this definition.

2.4.5 Place of Employment (Q13, 14)

The majority of the residents between 18 - 60 years of age were engaged in activities on the MO. This reflects the self sufficiency philosophy of MOs.

2.5 Mode of Transport (Q15 and 16)

Virtually all respondents (98%) indicated that the most common mode of transport used by MOs is by individual private vehicle. This was followed by shared private transport (43% of responses) and public transport (24%). Other forms of transport included hitchhiking (7%), Community transport (3%), School bus (3%) and walking (2%).

2.6 Settlement Type and Structure (Q17 and 18)

Dispersed settlements is the most common pattern (81%). Clustered settlement only occurs on 14% of MOs and the remaining 5% include a combination of both.

The reasons for choosing **dispersed settlement** were predominantly base on topography and individual household privacy. Other advantages of dispersed settlement were seen as:

- minimises the visual and noise impact of development;
- accommodates individual differences and preferences within the community;

2.4.3 Population Size and Age Structure (Q9 and 10)

A total of 1748 people are accommodated by the 59 MOs under consideration, averaging approximately 30 people per MO. The population of MOs range from less than six people to more than 100 per site. The majority (46%) range between six and 15 permanent residents and 21 to 50 residents (23%). Only three of the respondents exceed the 100 permanent residents all of which were located in the Lismore City Council Area.

The age structure of the sample group is shown in Table 2. This indicates that the majority of residents (59%) are of working age between 18 and 55 years. School age children the second largest group (29%). Pre-school age and older members form only a minor portion of the MO community totalling approximately 12%. It should however be noted that 0 to 18 years age brackets are significantly higher than the NSW average, with 37% compared to 30% Statewide. There is a much lower percentage of over 55 years age groups in the sample group compared to the State average.

Table 2: Age Structure

Age Group	MO Survey		NSW Average	Average per MO	
	No.	%		No.	%
0 - 4 years	151	8.6	7.4	2.6	8.6
5 - 18 years	498	28.5	22.2	8.4	28.0
19 - 54 years	1037	59.3	49.7	17.6	58.6
55+ years	62	3.5	20.6	1.1	3.6
Total	1,748	100	100	30	99

Source: Purdon Associate MO Resident Survey, March 1994

Note: The age groups for the NSW % vary slightly from those used for MOs. The age groups are 0-4 years, 4-19 years, 20-54 years and 55 and over years.

Based on the above information, the average MO would have approximately 30 individuals, including two to three children under the age of 4 years, 8-9 children of school age (5-18), 17-18 working age people (19-55 years) and 1-2 over the age of 55 years.

2.4.4 Income (Q12)

Three quarters of households or 61% of MOs had income levels less than \$20,00 p.a. This compares with a State average of \$33,900 p.a. and confirms the relatively high incidence of low income households in MO developments. Table 3 shows average household income for regions across the State.

2.7 Community Facilities (Q19, 20 and 21)

There are two types of facilities found on MOs. The first type is required for management and operation of the property and is the most recurrent. These facilities include utilities services (occur on 55% of MOs), bushfire/flood facilities (71%) and workshop/farm buildings (61%).

The second type of community facility depended largely on the type of community, its philosophies and interests.

Table 4 shows the type and nature of community own facilities indicated by the respondent. Multiple responses were possible for this question.

Table 4: Community Facilities

Community Facilities	% of responses
Type 1:	
Utilities (Dams, pumps, power, roads)	95
Bushfire/flood facilities	71
Type 2:	
Workshop/farm buildings	61
Recreation facilities	48
Community Centre	32
Community laundry	31
Community house	27
Artists Workshops/gallery	20
Community Kitchen/eatery	19
Community hall	17
Religious facilities	14
Child Care facilities	10
Education facilities	10
Other	9
Health/Medical	5
Tractors/farm machinery	5
Site with no facilities	3

About half (53%) of Mos did not permit use of facility by non-residents.

- protects existing native vegetation;
- is more environmentally sensitive;
- suits the permacultural style of agriculture; and
- meets individuals desire for space.

Clustered settlements were chosen for the following reasons:

- proximity to utility services (e.g. shared road access roads, water supply) and the associated savings in service provision to individual house sites;
- to utilise the best building sites created by the topographic characteristics of the locality;
- to maintain environmental integrity of property;
- to preserve the majority of the land for agriculture; and
- to create a sense of community.

In one instance, clustered settlement was chosen on the advice from a Council planning officer that dispersed settlement would not be approved.

Mixed clustered and dispersed settlement were chosen to fit in with the topography, to allow for shared roads and to comply with Council requests.

Within either cluster or dispersed settlement forms, the communities were accommodated in a total of 908 dwellings, averaging 15 per MO. The predominant form was the **Single dwelling** utilised by 91% of respondent MOs (54 out of 59) and representing 57% of all dwellings types. 50% of responses had between 1 and 5 single dwellings, 20% between 6 and 10 dwellings and only 5% in excess of 20 dwellings.

Sheds were also indicated as being a common form of housing with 58% (34 out of 59 responses). Where such accommodation was present, the majority (49% of total response) of communities had less than five sheds. Other common forms included six or less **covered caravans** (48%). **Expanded dwellings** are to found on approximately 30% of responding MOs with generally 1-2 such dwellings per site.

Communal house (12%), tent (15%), uncovered caravan (5%), illegal dwellings (2%) where other minor forms of accommodation used. Temporary dwellings and dwellings under construction incorporated 8% of responses.

The most common outside users of MO facilities were friends and visitors who came to stay and used various facilities. Neighbours used farm equipment and buildings, fire fighting equipment and shared roads and water. Some MOs used their community facilities house for running workshops and seminars with topics including CES enterprise creation, TAFE permaculture and business courses, meditation and yoga. Other shared uses included a general store, youth club, artist workshop gallery, pottery kiln, volleyball court, archery field and swimming holes. One MO uses their paddock for a Derby to raise funds for a school.

2.8 Land Take (Q22)

Respondents were asked to provide an estimate of the approximate site area associated with each type of land use within the MO.

The most common land uses present in MOs were residential (5-10% of site), agriculture (incl. horticulture) (5-10%) and environment preservation (51-100%).

Table 5 indicates the types of land use present in MOs based on a percentage of responses. Also shown is the percentage area of the total MO site occupied by each land use. The minimum, predominant and maximum land take ranges are shown.

Table 5: Land Take

Landuse	Landuse Presence (% of responses)	Minimum Land Take (% total site)	Predominant Land Take (% total site)	Maximum Land Take (% total site)
Residential	98	1	5-10	51-75
Agriculture	83	1	5-10	41-50
Environment Preservation	93	6-10	51-100	75-100
Active Open Space	44	1	5-10	6-10
Community Facility	56	1	1-2	16-20
Passive Community Land	64	1	5-10	75-100
Other	7	2	2-3	21-30

Source: *Purdon Associates, MO Resident Survey, March 1994*

2.9 Ownership and Management (Q23 - 30)

MOs are based on the communal ownership of land. Responses from the survey, indicated that land is owned as Tenants in common by 42% of respondents, followed by Proprietary Companies (32%) and Co-operatives in 14%. The title was held by trustees in 10% of the responding MOs. Other land ownership used in the minority of cases included joint tenancies and partnerships.

Within this ownership, the respondents were asked to indicate the arrangement for ownership of individual dwellings. In the majority (86%) of MOs individual dwellings are owned by the occupier. Only 12% of MOs had dwellings owned by the community as a whole.

The majority of responses (61%) indicated that they had fifteen or less share holders. Only two MOs (3%) indicated they had in excess of 100 shareholders.

In most MOs the majority of these shareholders currently live on the MOs. However only 15% of responses indicated that all shareholder currently lived on the site, while the majority of responses (62%) indicated up to five absentee shareholders. Conversely, there is only a minority of residents on MOs who are not currently shareholders.

The majority of responses (59%) indicated that shares are currently conditionally available. This means that shares can be purchased in an MO provided a house is available, there is an approved building site, and subject to the approval of existing resident members. A further 31% indicate that there are currently no shares available.

These shares on average are currently available for \$17,000. This ranges across the five Council areas from approximately \$14,400 in Bellingham through to \$25,200 Byron.

Of the shares currently available, approximately 33% are available for between \$20,000 to \$30,000. A further 31% are available for between \$10,000 to \$20,000, 20% for less than \$10,000 and only 17% are available for in excess of \$30,000. This compares with the original share prices where the majority (73%) were available for less than \$10,000.

The value of shares suggests only small growth in capital gain over an extended period, and that entry into an MO is generally not very expensive.

There has been considerable turnover of MO membership with almost three quarters of MOs indicating that less than 50% still reside on the MO.

2.10 Dwelling Finance (Q31, 32 and 33)

About three quarters (78%) of MO dwellings are financed by private capital. Other means used include individual private loans (12%), commercial bank loans (7%) and community capital (3%).

The reason for this high use of private capital is the difficulty experienced by residents in obtaining finance from lending institutions. This was confirmed by 80% of respondents.

Obstacles to funding arise from the lack of legal title over part of MO sites which can be given to lending institutions as security. Without such security, banks are reluctant to lend to MOs and invariably refuse any such loan application. Shares held in MOs are not recognised as a real legal title and therefore provide inadequate security. A related reason for this reluctance is that shares are difficult to sell in the case of defaulted home loans and repossession applies to building materials only and not the land on which they are situated.

Credit Unions appear to have been more co-operative than other types of financial institutions, although lending criteria have tightened since. However this has been since the 1970s when some loans have been obtained as tenants in common and involve having 12 signatories to the loan agreement. This approach by an individual potentially puts at stake the financial security of the other signatories and the MO as a whole. However in doing so emphasises the 'community' aspect of MOs and strengthens the common interests/links.

Personal loans for a small amounts form an expensive alternative to home loans, but are generally not available to many MO residents because of their low income or unemployed status.

As a result of difficulties experienced by other MOs, some have not even tried to obtain finance. In other cases, loans have been obtained by mortgaging property of family members who do not reside on the MO.

2.11 Management Structure (Q34, 35 and 36)

All communities have some form of democratic management. Most communities used a company style constituted by a Board of Directors, including a secretary and a treasurer. Others used a co-operative style or did not have a formal structure. Some communities had more elaborate structures including constitutions, committee sub-groups and day-to-day management committees.

Within this management structure, decisions are made generally on consensus. This may vary according to the importance of a decision. For example, approval of membership applications may require a unanimous agreement while general maintenance only 75% of members need agree.

Meetings are a mix of annual, monthly, weekly and "when necessary". Generally the newer the MO the more frequent the meetings. Maintenance meetings are often held more regularly without all members being present. Resident shareholders sometimes have a greater voting power than non-resident shareholders.

Common expenses are met by means of a levy imposed on the members. This may be annual, monthly or weekly in nature and range from an annual levy of \$175 plus one weeks work to \$25/week (\$1300/year). Other communities work on a ad-hoc/needs basis or share all costs equitably. An alternative to such levies include a community fund established for the purchase/sale of MO shares. Other communities levy members on an ad hoc basis as community expenses demand. There appears to be some conflict over payment of internal levies and concern there are fewer facilities for arbitration of conflicts with out expensive legal advice.

2.12 Relations with Adjoining Land Owners (Q37 and 38)

In considering the relationships between MOs and their adjoining land owner, each respondent was asked to classify their relationship with each neighbour as either "No contact", "friendly", "neutral" or "unfriendly". Multiple responses were possible for this question depending on the number of neighbours.

Overall the majority of MOs (90%) had friendly relations with the majority of their neighbours. Only 15% of MOs indicated that they had unfriendly contact with less than 20% of their neighbours.

These unfriendly relationships were mainly as a result of opposition to the MO concept. Others were because of personality conflict and undesirable neighbouring landuse (eg gravel extraction, logging etc.).

2.13 Community Attitudes (Q39 and 40)

The majority responding MOs (74%) have indicated that they have not been the subject of community opposition or misconceptions. The remaining (26%) MOs indicated that the community opposition or misconceptions were found at the public exhibition stage of development approval and were more to do with prejudice/fear of the unknown rather than specific landuse impacts. Specific issues which were raise included concerns about increased traffic, fire risks, social disruption, introduction of a rural slum, alternate lifestyle, religious beliefs and size of community.

2.14 Advantages and Disadvantages of MOs (Q41)

In an attempt to identify the main advantages of MO development, respondents were asked to identify in order of degree the three main advantages and disadvantages of MO Development. Multiple responses were possible.

The majority of responses indicated that the main advantages were:

- Lower cost rural living (80% of respondents);
- Alternative life style opportunities (61%); and
- Good environmental management (53%).

In addition, development costs, innovative housing styles and use of alternative technologies were identified by between 10 and 20% of responses.

The disadvantages were not as clearly defined. Only two were identified by a significant portion of the responses, namely:

- inability to obtain finance (83%); and
- low resale value (54%).

Social discrimination (14%) was identified as being as another disadvantage associated with MOs.

2.15 SEPP 15 Provisions

2.15.1 Objectives (Q42 and 43)

In an attempt to review the provisions of SEPP 15 from the perspective of the MO respondents, the relevance of the Objectives in Clause 2 to individual developments was considered.

Overall, the majority of the objectives were seen as being marginally to very relevant to the development of MOs. However only the 'Encourage environmentally sensitive rural settlement' was seen by the majority of respondents (74%) as being very relevant.

Those objectives which were seen to have some relevance included:

- Enable sharing of facilities and resources (64%);
- Encourage community based rural settlement (62%);
- Avoid subdivision of rural land (60%); and
- Enable pooling of resources (59%).

Responses were generally undecided about the relevance of the objective relating to 'Avoiding demand for Council/Government services'. Of the responses 43% indicated that it had some relevance while a further 24% were undecided. Similarly, 48% indicated some relevance and 18% were undecided with the 'decline in services due to decline in rural population'. However 25% indicated that this objective was not relevant.

The only objective clearly regarded as having little to no relevance was 'Facilitation of clustered style rural development'. This attracted a response of 64%.

Forty one per cent of respondents also indicated that the objective concerned with 'Enabling collective living was of little or no relevance.

Respondents were also asked to indicate aspects of MO developments which were not addressed by the current objectives. The suggested issues included:

- need to have a land tenure title that is recognised by lending institutions, government organisations and other private bodies;
- retention and protection of its ability to meet the need for low cost rural living and protection from land speculators;
- recognition of the Social and environmental benefits of this lifestyle;
- encouragement of community based Eco-tourism projects;
- contribution to the diversity of lifestyles in rural communities; and
- protection of wildlife habitats.

2.15.2 Building Height (Q44 and 45)

Seventy three percent of respondents felt that the current standard building height of 8 metres above natural ground level is appropriate. Of the remaining 27%, concern was expressed that such standards restricted design opportunities and dwellings should be approved on merit. Pole houses on steep sites were used as potential cases which would be restricted by the current standard, and it was suggested that the over-riding factor should be the dwelling's harmony with its environment.

2.15.3 Prime Crop and Pasture Land (Q46 and 47)

Almost two thirds of respondents (62%) consider inappropriate the restriction of prime crop and pasture land to a maximum of 25% of the MO site. The respondents felt that this restriction was discriminatory when the MO concept is often linked with agricultural production (e.g. permaculture) and self-sufficiency. The large number of people resident on MOs provide a cheap labour force for intensive agriculture which can be better achieve on prime land.

Alternative limits of 50%, 75% and 100% of the site being prime crop and pasture land were suggested particularly where the predominant theme of the relevant MO is agricultural production. Overall a flexible approach to the standard was proposed depending on the merits and proven intent of the application. This could be assessed through the submission of farm management plan with the development application. Given the agricultural emphasis, subdivision would remain prohibited.

2.15.4 Tourist Accommodation (Q48 and 49)

A majority of respondents (66%) indicated that there is definitely a place for tourist accommodation on MO developments. It was felt that small scale eco-tourism and farm-stay is appropriate and can help generate much needed income for MOs. It would also educate people about alternate lifestyles and environmental management, as well as providing general holiday accommodation close to national parks and world heritage areas.

2.15.5 Steep Slopes (Q50 and 51)

Two thirds of 58 respondents (66%) felt that the current slope standards for sites was appropriate. The comments opposing this view recognised that steep land can be developed and used effectively provided there is no adverse environmental impacts. Merit based judgement was urged by these respondents.

2.15.6 Minimum Allotment Size (Q52 and 53)

The Policy currently allows for a minimum allotment size of 10 ha for MO developments. A majority of 64% felt this was appropriate. A range of alternatives were suggested depending on varying MO concepts. These alternatives included from urban sized lots through to 40 ha. Emphasis for determining the appropriate size was on sustainability and environmental management.

2.15.7 Density (Q54 and 55)

Consideration of the existing density provisions resulted in a roughly even split. Approximately 58% believed the existing standards to be appropriate. Of those (42%) who considered the standard inappropriate. Some believed that the current formulae was too high (based on environmental impact) while others thought it too low (in terms of the best use of resources and creating a strong community). Provision of housing for children of MO communities has raised as an issue in this context, and does not appear considered by MOs in earlier planning. Alternative density provisions suggested by respondents included one dwelling per 10 ha, one per 2.5 ha and 1.5 ha.

2.16 Subdivision of MOs (Q56 and 57)

2.16.1 Current Policy

The Current policy prohibits the prohibition of subdivision of MOs. This was seen by 63% of responses as necessary to ensure that community living objectives of MO will be achieved. Subdivision is against the MO philosophy and would result in the creation of suburbs, the fragmentation of land management and rural lands in general and reduced sense of and commitment to the community. The shared aspects of land ownership would be nullified and members would lose the right to decide who can buy into the community. The low cost aspect of the MO would

also be lost through professional and Council fees, higher land costs and the potential for developer exploitations.

On the other hand subdivision would result in the creation of individual land titles which would be recognised by financial institutions and would help to solve problems created by socio-economic status and changes in social relationships. It was believed by some respondents that the philosophy of the MO would be able to override potential loss of community cohesion that may result from subdivision.

2.16.2 Subdivision Alternatives (Q58 and 59)

Despite the above results, 73% of respondents felt that the community living objectives for MOs could be achieved by other subdivisional forms. For example, Community Title Subdivision, Strata Title Subdivision and Standard Subdivision.

Community title would be an advantage if it allowed the same living style as SEPP 15 but allowed for separate title to gain financial power and autonomy to buy and sell real estate in convention ways. Other advantages of Community Title were seen to be its philosophical base, internal decision making process and conflict resolution process provided by the group management structures and provision which allow economic development of the community. However subdivision by this means would significantly increase the costs and red-tape in setting up and MO.

Strata title was felt to have similar advantages to Community Title. One example which is held up by its residents as demonstrating the benefits of subdivision for MOs is the Billen Cliffs (Solar Village) Community. This community feels that it is not the subdivision pattern which creates the community but rather the physical development form and management structure.

Standard subdivision was not seen as being a viable alternatives. Such subdivision encourages fences, streets and alienation as found in most towns and cities.

Although alternatives are possible, one response believed that MO as it currently exists best encapsulates the concept of community living.

2.17 Development Application

2.17.1 Public Exhibition (Q60, 61 and 62)

The majority of respondents (90%) felt that public notification of MO development applications was appropriate. This support was on the basis of MOs being no different to any other form of development. However it was recognised that it provided the opportunity for objections for those opposed to MOs on principle, rather than genuine concerns from immediate neighbours.

Council required consultation with community, private and/or government organisations in 64% (35 out of 55) of development applications.

2.17.2 Documentation (Q62 and 63)

In the submission of development applications to Council for approval, certain documentation is required. Respondents were asked to indicate which of the following documentation was required and the current status of that document in the MOs operation.

- **Community plans** were the main document required, and were submitted in 91% of cases and is now being predominantly used as community guidelines. Only 16% of responses used this plan as mandatory rules for the community;
- **Land management plans** were required in 75% of cases and again is now used as community guidelines. However 43% of responses uses this plan as mandatory rules for the MO;
- **Constitutions** were required to be submitted to Councils in approximately 60% of applications. These documents were used as mandatory rules in 100% of responses; and
- **Environmental studies** were only required in 51% of applications, and were used predominantly as community guidelines (67%).

2.17.3 Development Issues (Q64 and 65)

In consideration of development applications, Councils are required to consider certain aspects of development, not all of which become issues in the determination of DAs. Respondents were asked to indicate the issues which required resolution prior to approval in their case and which have arisen since approval. **Table 6** indicates the order of importance of development issues at the time of application (D.A. stage) and provides an indication their importance and nature since approval.

2.18 General Comments (Q67)

Other Comments that were made regarding the effectiveness of SEPP 15 for the management of community-based developments on rural lands can be summarised as:

- MOs are meeting a very important need of achieving low cost community rural living. However increasing land and Council costs/rates are taking it beyond the reach of those SEPP 15 was designed to help.

SEPP 15 REVIEW

Issue	D.A. Stage (% response)	Since Approval (% response)	Since Approval - Comment
Fauna and Flora Impact	41	26	Many MOs have made considerable effort to encourage wildlife and habitat regeneration, with pleasing success. Dogs and cats pose a danger to wildlife and results in some internal conflict. Some MOs ban the keeping dogs and cats.
Adjoining Land Uses	30	24	Chemical use and polluting, eroding management practices on neighbouring land are main issues. MOs can act as wildlife refuges.
Other	11	21	This includes minor issues raised by individual MOs including internal financial management and members not paying levies, substandard illegal housing, lack of enforcement of regulations by Council officers, cost of utility services in rural areas and lack of employment generation plans.
D.A.	5	0	
No. and standard of Dwells	4	8	
Finance	0	37	<p>Different aspects to this issue, namely:</p> <ul style="list-style-type: none"> ▪ inability to get bank finance resulting in sub-standard dwellings in some instances; ▪ increasing cost of Council levies/ contributions; and ▪ internal financial management.

Source: Purdon Associates, MO resident Survey, March 1994

Table 6: Development Issues

Issue	D.A. Stage (% response)	Since Approval (% response)	Since Approval - Comment
Bushfire Hazard	84	50	Majority appear to have strong management fire plans including hazard reduction, controlled burns, water storage, purchasing of tractors and fire fighting equipment. Concerns expressed about impact of management on ecology and endangered plant and animal species. Some conflict within MO and with neighbours.
Road and Flood Free Access	77	37	Council road maintenance not up to standard despite or due to the lack of payment of contribution. Contributions are too expensive. Flooding causes roads to degrade quickly and silt waterways. one MO is cut off by floods 1 day/year. The standard and amount of internal roads required by Council is excessive resulting in increased erosion.
Waste Disposal	75	0	Septic tank, composting and pit toilets are being used successfully. Non-organic waste is being minimised especially due to the long distance to local tips.
Visual Impact	59	13	The visual impact of buildings on MOs predominant concern, but is kept to a minimum through siting, non reflective materials and vegetation.
Water Supply	59	29	Low flow rate during dry periods, emergencies and storage capacity are areas that need generally need improving. Equity issues of water rights in total catchments and the security of that right is a problem.
Land Capability	57	5	Management plans are used to increase land capability for agriculture and employment, through permaculture, weed clearing and planting.
Mass Movement/L and Slip	57	26	Issue seems to result from previous land management practises and short term earth moving (preparation of house sites). General awareness appears to exist and management practices to stabilise and reduce risk have been adopted, including re-forestation and relocation of construction sites.
Impact on Water Quality	48	24	Neighbours use of chemicals and management practices resulting in pollution and changes to natural flow patterns of waterways are source of conflict. MOs are working towards clean and healthy waterways.

3 SUMMARY OF ISSUES

The main issues identified through the survey of MO residents include:

- SEPP 15 as it exists generally meets requirements of MO communities.
- MO developments are generally dispersed in nature which is inconsistent with the policy and Council initiatives. This dispersed nature is preferred by MO residents.
- the majority of MO residents have experienced difficulties in obtaining finance from commercial lending institutions for buying into the MO, building or extending their dwelling or for emergency purpose.
- security of title through limited forms of subdivision was seen by a number of respondents as an appropriate solution without adverse impact on MO philosophy;
- there were diverging views expressed as to whether subdivision for the purpose of gaining secure tenure and tangible assets to raise finance is against the philosophy of MO. Issues associated with subdivision of MOs included:
 - subdivision is inconsistent with MO philosophy;
 - loss of sense of community and commitment to community;
 - ability to have say in who purchases land in MO; and
 - fragmentation of land management with associated environmental implications;
 - prospective pricing out of low income households; and
 - higher establishment costs.

Community or Strata Title were seen as the main subdivisional alternatives.

- provisions should be made for small scale eco-tourism projects to supplement income of MO communities. Such projects could be developed for spiritual, environmental education purposes as well as providing access to the natural attractions adjoining many MOs.
- use of prime agricultural land as a restriction on MOs is inappropriate particularly where MOs can demonstrate intent to undertake legitimate agricultural expertise.
- Council levies are generally too expensive and have an adverse impact on the provision of low cost rural housing.

- SEPP 15 is generally effective but:
 - more effective implementation is required by Councils including possible preparation of handbook/guidelines and control of speculation;
 - density equation needs to take into account landscape of individual properties;
 - seems to result in a lot of low quality temporary accommodation and a high turnover of residents; and
 - SEPP 15 needs to be broadened to ensure MOs act as wildlife/flora reserves, have enterprise strategies, interface regularly with local government and yet ensure low cost, self help development standards.
- Security of tenure is required to enable bank financing to be obtained. The inability to get finance is seen as discriminatory and a disadvantage for MO residents. The disadvantages faced included:
 - difficulties in buying into MO;
 - difficulties in building or extending home resulting in substandard dwellings and conflict with Councils;
 - unemployment and lack of short-term finance can mean living in poverty; and
 - in ability to obtain finance in emergencies.

As a result provision should be made for MOs to be converted to Community or Strata Title or at least provide for individual title to home sites.
- Apparently Dept of Housing is introducing Community management Co-ops, any move to permit low cost housing must be supported and many styles are needed.
- There is a need for a government appointed body/person to specifically deal with internal disputes and/or act as an arbitrator for MOs as with Community Title Development, especially in relation to compliance with internal management agreements (i.e. enforcing contribution requirements). Legal advice and/or arbitration are currently costly.
- consideration require of legal management structures more appropriate for alternative living.

**SEPP 15 REVIEW
MULTIPLE OCCUPANCY (MO) OF RURAL LANDS
RESIDENT SURVEY**



INSTRUCTIONS:

Please answer the following questions by:

- writing numbers on line provided
- circling the relevant code by: Yes 1 No 2
- writing comment or details in respective space
- circling one number on the provided scale

Please write clearly to ensure that only one code number is included within each circle and the meaning of your response is obvious.

For the purpose of this survey:

- "MO" refers to the physical development containing multiple dwellings
- "community" refers to a group of people living together. One or more "communities" may live on any single MO.

1 In what year was your community established?

2 Has an approval been granted for your community under SEPP 15? Yes 1
No 2

3 If YES, in what year?

4 What is the average length of stay of residents (excluding visitors) in your community? (Circle one number only)

less than 1 year	1	1 - 5 years	2
6 - 10 years	3	more than 10 years	4

5 What is the approximate overall area (in hectares) of your MO?
hectares

6 Do you have distinct separate communities within your MO? Yes 1
No 2

7 If YES, how many?

8 Which of the following does your community cater for: (Please circle the corresponding code)

Communal rural lifestyle	1	Share-farming	6
Horticulture	2	Permaculture	7
Forest regeneration/preservation	3	Tourist-oriented activities	8
Weekend/holiday retreat	4	Spiritual	9
Dispersed residential	5	Environmentally sensitive lifestyle	10
Other (Please specify)			11



9 How many people normally live within your community on a permanent basis?

10 How many of these current residents are in each of the following age groups (approximately).

0 - 4 years	5 - 18 years
19 - 55 years	55+ years

11 How many separate households are there within your community?

12 What percentage of these households earn less than \$20,000 per year? %

13 What approximate percentage of residents between 18 - 60 years of age are engaged predominantly in daily activities on the MO? %

14 What percentage of residents between 18 - 60 years of age are engaged predominantly in activities which take them off the MO? (e.g. full or part time employment, education, volunteer or community work). %

15 Which of the following modes of transport are used by those people leaving the MO?

Private (individual) transport	1	Shared private	3
Community transport	2	Public transport	4
Other			5

16 Of these, which is the main form of transport used. (*Circle one only*)

Private (individual) transport	1	Shared private	3
Community transport	2	Public transport	4
Other			5

17 Which of the following settlement type has your community chosen: (See attached Figure 2) (*Circle one only*)

Clustered settlement	1
Dispersed settlement	2
Both	3

For what reasons?

.

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- 23 Which of the following ownership structures has your community adopted?
- | | | | |
|---------------------------------|---|--------------|---|
| Tenants in Common | 1 | Co-operative | 4 |
| Joint Tenants | 2 | Partnership | 5 |
| Title held by Trustee | 3 | | |
| Other (<i>Please specify</i>) | | | 6 |
- 24 Under what arrangement are individual dwellings owned and occupied?
- | | |
|---|---|
| All owned by Community | 1 |
| Individual dwellings owned by owner-occupiers | 2 |
| Other (<i>Please specify</i>) | 3 |
- 25 How many shareholders/members does your MO have?
- 26 Of these shareholders/members how many are not currently living on the MO?
- 27 How many people are currently living in your community who are not shareholders?
- 28 Are shares (or equivalent) currently: (*One only*)
- | | |
|---|---|
| (a) not available | 1 |
| (b) available to the public (i.e. on a first come basis) | 2 |
| (c) conditionally available, (e.g. subject to house available for purchase; or an approved building site; or on approval of other resident members; or the like.) | 3 |
- 29 What:
- | | |
|---|--------------|
| (a) Are current cost of shares (if any) or equivalent? | \$ |
| (b) Were original cost of shares (i.e. to the first residents)? | \$ |
- 30 What percentage of original shareholders still reside on the MO? %
- 31 What is the main source of finance for dwellings on your MO?
- | | | | |
|---------------------------------|---|-------------------------|---|
| Bank/Commercial loan | 1 | Individual private loan | 4 |
| Community Capital | 2 | Private Capital | 5 |
| Other (<i>Please specify</i>) | | | 6 |
- 32 Have your residents experienced any difficulty obtaining finance for dwelling construction from a lending institution? Yes 1
No 2
- 33 If YES, please give details:
-
-



- 18 How many of the following dwelling types are there within your community? (*Specify number of each*)

Single dwelling	.....	Communal House	.....
Shed	.....	Tent	.....
Covered caravan/caravan & shed	.....	
Expanded dwelling (see attached Figure 1)	.....	
Other (<i>Please specify</i>)	.....	

- 19 Which of the following community facilities does your MO have?

None	1	Community house	9
Community Centre	2	Community laundry	10
Community Kitchen/eatery	3	Child Care facilities	11
Utilities (Dams, pumps, power, roads)	4	Community hall	12
Artists Workshops/gallery	5	Workshop/farm buildings	13
Health/Medical	6	Religious facilities	14
Bushfire/flood facilities	7	Education facilities	15
Other (<i>Please specify</i>)	.....	Recreation facilities	16
			17

- 20 Are any of these facilities used on an ongoing basis either currently or in the past, by people who are not residents of your MO?
- | | |
|-----|---|
| Yes | 1 |
| No | 2 |

- 21 If YES, please give details:

.....

.....

.....

.....

- 22 Please estimate the approximate site area associated with each land use within your MO.

Residential	.....	%
Agriculture (incl. horticulture)	.....	%
Environment Preservation/Protection/retention	.....	%
Active Open Space facilities (play areas, playing fields)	.....	%
Community facilities (as listed in Q.20)	.....	%
Passive Community land (arboretum, creek bank reserve, gardens)	.....	%
Other (<i>Please specify</i>)	.....	%
TOTAL		100%



- 39 Has your community ever been the subject of community opposition or misconceptions (e.g. objection to DA, complaints to residents or council)? Yes 1
No 2

- 40 If YES, briefly provide any details and known reasons for this:

.....
.....

- 41 What do you believe are the three main advantages of MO Development? What are the three main disadvantages? (Please answer in the appropriate columns below. Please rank your answers from 1 to 3 only with 1 being the biggest Advantage/Disadvantage.)

	Advantage	Disadvantage
1 Communal lifestyle 1
2 Alternative lifestyle opportunities (including communal life style) 2
3 Lower cost rural living 3
4 Good environmental management (e.g. decreased land degradation) 4
5 Improved land management practices (e.g. decreased weed infestations) 5
6 Introduction of new forms of agricultural activity 6
7 Continued use of land for agriculture 7
8 Innovative house styles 8
9 Increased bushfire fighting facilities 9
10 Development cost 10
11 Fewer legal land management requirements 11
12 Fewer zoning requirements 12
13 Use of alternative technology (power, waste disposal) 13
14 Merging of social groups (farmers and MO residents) 14
15 Inability to obtain finance 15
16 Low re-sale value 16
17 Changes in land value 17
18 Environmental impact 18
19 Adverse poor land management practice 19
20 Increased bushfire risk 20
21 Other (<i>Please specify</i>) 21
22 Other (<i>Please specify</i>) 22
23 Other (<i>Please specify</i>) 23



34 Please describe the management structure, if any, operating within your community.

.....

.....

.....

35 How are community decisions made within your MO? *(Please explain)*

.....

.....

.....

.....

36 How does your community meet common expenses such as council rates, internal road maintenance and fencing costs? (e.g. annual levy on residents, ad-hoc contributions).

.....

.....

.....

37 In general, what are the relationships like between your community and major adjoining land owners? *(Place a tick on the relevant line for each neighbour where each number represents an adjoining land owner.)*

	1	2	3	4	5	6	7	8	9	10
No Contact										
Friendly										
Neutral										
Unfriendly										

38 If unfriendly, can you give any reason for this?

.....

.....

.....



47 If NO, what alteration to this limit, if any, do you feel would benefit future MO applicants?

.....

.....

.....

48 The Policy currently restricts tourist accommodation on MO developments (unless otherwise permitted in the zone). Do you feel there is a place for such development within MO? Yes 1 No 2

49 Please give details.

.....

.....

.....

50 The Policy currently requires that at least 20% of the land has slopes of less than 18 degrees. Do you feel this is an appropriate standard? Yes 1 No 2

51 If NO, what do you feel it should be and why?

.....

.....

.....

52 The Policy currently allows for a minimum allotment size of 10 hectares for MO developments. In your opinion, is this minimum allotment size of 10 hectares appropriate? Yes 1 No 2

53 If NO, what should the minimum lot size be and why?

.....

.....

54 Do you feel the density provisions as provided by clause 9 of the Policy are appropriate? Yes 1 No 2



- 42 SEPP 15, which relates to Multiple Occupancy developments, contains a set of Policy Objectives which apply to MO developments. Using the following 5-point scale, please indicate how relevant each of the following SEPP 15 Objectives are for your community.

	Not Relevant			Very Relevant	
	1	2	3	4	5
Encourage community based rural settlement					
Encourage environmentally sensitive rural settlement	1	2	3	4	5
Enable collective living	1	2	3	4	5
Enable sharing of facilities and resources	1	2	3	4	5
Enable pooling of resources	1	2	3	4	5
Facilitate clustered style rural development	1	2	3	4	5
Avoid demand for Council/Government services	1	2	3	4	5
Avoid subdivision of rural land	1	2	3	4	5
Avoid decline in services due to decline in rural population	1	2	3	4	5

- 43 In your opinion what issues relevant to MO Developments are not covered by these existing objectives. *(Please give details)*

.....
.....
.....

- 44 The Policy currently restricts the height of buildings to 8m. above natural ground level. Do you feel this restriction is appropriate? Yes 1
No 2

- 45 If NO, what should it be and why?

.....
.....
.....

- 46 SEPP 15 currently restricts the amount of prime crop and pasture land (as defined in the Policy) to a maximum of 25%. Do you feel this standard is appropriate? Yes 1
No 2



- 62 Which of the following (if any) were undertaken and submitted as part of your development application to satisfy the requirements of Clause 8 of the Policy?

Consultation (with community, private or government organisations)	1
Preparation of Community plans	2
Preparation of Land Management plans	3
Environmental study	4
Constitution	5
Other (<i>Please specify</i>)	6

- 63 For those indicated in Q62, what status is now given to these documents? Are they now considered by the community to be: (*Please specify the status of each if more than one applies*)

	Mandatory Rules	Community Guidelines	Other (<i>Please specify</i>)
Community Plan	1	2	3
Land Management Plan	1	2	3
Environmental Study	1	2	3
Constitution	1	2	3
Other	1	2	3

- 64 Prior to approval of your MO development application which of the following issues were required (by Council) to be resolved/addressed by your MO in order to satisfy the requirements of Clause 8 of the Policy?

Road and Flood Free Access	1
Impact on Water Quality	2
Water Supply	3
Mass Movement/Land Slip	4
Land Capability	5
Bushfire Hazard	6
Fauna & Flora Impact	7
Waste Disposal	8
Adjoining Land Uses	9
Visual Impact	10
Other (<i>Please specify</i>)	11



55 If NO, what should the provisions be and why?

.....

.....

56 In your opinion is the prohibition on subdivision of MO necessary to ensure the community living objectives of MO will be achieved? Yes 1
No 2

57 Please explain your answer.

.....

.....

.....

.....

58 Do you feel the community living objectives for MO's could be achieved by other means (e.g. Community Title Subdivision, Strata Title Subdivision, Standard Subdivision) Yes 1
No 2

59 Please explain your reason(s):

.....

.....

.....

.....

60 Do you feel that the requirement for public exhibition of certain MO development applications is appropriate? Yes 1
No 2

61 If NO, please explain why:

.....

.....



- (h) Waste Disposal
-
- (i) Adjoining Land Uses
-
- (j) Visual Impact
-
- (k) Financing the Development
-
- (l) Other (please specify)
-

67 Do you have any other comments regarding the effectiveness of SEPP 15 for the management of community-based developments on rural lands?

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Thank you for your co-operation. In the event that we require further information or clarification of your responses, please supply a contact name (if desired) and phone number.

Contact Details

Community:

Contact Name: (optional)

Phone:



65 Since approval, have any of the following issues become a concern to your community, or has council or any State Government agency advised that any are a concern?

Road and Flood Free Access	1
Impact on Water Quality	2
Water Supply	3
Mass Movement/Land Slip	4
Land Capability	5
Bushfire Hazard	6
Fauna & Flora Impact	7
Adjoining Land Uses	8
Visual Impact	9
Financing the Development	10
Other (<i>Please specify</i>)	11

66 If any of the issues in Q65 have become a concern, please state why and advise if a problem still exists:

- (a) Road and Flood Free Access
.....
- (b) Impact on Water Quality
.....
- (c) Water Supply
.....
- (d) Mass Movement/Land Slip
.....
- (e) Land Capability
.....
- (f) Bushfire Hazard
.....
- (g) Fauna & Flora Impact
.....

ATTACHMENT E

**SUMMARY OF GENERAL
CONSULTATIONS**

Figure 1: an expanded house



Figure 2: clustered and dispersed development

1 BACKGROUND

The project methodology provided for a consultations with local government, public authorities and selected MOs. To provide an opportunity for persons and bodies not captured by the formal consultation process, a series of face to face consultation opportunities were provided in the six local government areas subject to detailed investigation.

Consultations were undertaken during the week of 21 to 28 March, 1994. A total of 39 people were interview at the six Councils. People attending included MO residents, potential MO developers, neighbours, elected representatives and Council staff. One planning consultant and MO resident also attended. Representative of North Coast interest groups (Pan Community Council and Bellingen Multiple Occupancy Group) also attended. Some of the MO residents used the opportunity to discuss the survey and to clarify questions.

Five people attending were from outside the Council areas being surveyed but felt that it was important to make their view known.

Council:	Date:	Number interviewed:
Kempsey	21 March	2
Bellingen	22 March	10
Lismore	23 March	13
Kyogle	24 March	4
Shoalhaven	24 March	3
Byron	25 March	7

The north coast consultations were undertaken by Mr Chris Murray. Shoalhaven Council was attended by Purdon Associates.

This appendix provides a summary of the range of matters raised during this general consultation process. The summary should be read a containing the full range of views expressed which are sometimes conflicting.

2 SUMMARY OF MATTERS RAISED

2.1 Multiple Occupancy Residents

- Availability of only limited finance at personal loan rates prevents construction of dwellings of a good standard and tends to keep MO residents in a "poverty trap".

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1	BACKGROUND	E:1
2	SUMMARY OF MATTERS RAISED	E:1
	2.1 Multiple Occupancy Residents	E:1
	2.2 Elected Representatives	E:3
	2.3 Neighbouring Landowners	E:3
	2.4 Potential Developers	E:3
	2.5 Council Staff	E:3
	2.6 Interest Groups	E:4
3	SUMMARY OF KEY POLICY ISSUES	E:5
	3.1 Tenure Issues	E:5
	3.2 Development Issues	E:5

2.2 Elected Representatives

- Need to address the rating issue so that MOs pay their share of community costs.
- Communication problems between MO residents and bureaucrats are difficult to overcome.
- Need to be able to give title.

2.3 Neighbouring Landowners

- Problems with ad hoc approach to development of MOs.
- Drug growing on land near MOs affects neighbours.
- Policy objectives not given sufficient weight.
- Weed infestation on MOs impact on clean neighbouring land.
- MOs remove land from agricultural production.
- Limited consultation with government authorities at DA stage leads to inadequate assessment.
- MO residents oppose use of chemicals for agriculture.
- MOs do not pull their weight in controlling bushfires.
- MOs should be in areas identified by Council not the State.
- Wider community consultation required.
- Care needs to be taken to prevent traditional farms being sold for MOs with a consequent loss of agricultural production.

2.4 Potential Developers

- Inability to raise finance to fund the construction of a house makes MOs unattractive.
- Any loans on the land are “spread” over all the shares and hence all owners share in the liability.
- Company structure too cumbersome.

2.5 Council Staff

- Minimum area of 10 ha too low - unlikely to be communal and usually attracts those circumventing other restrictions on subdivision. 20+ ha might encourage the communal aspects of the Policy.
- Minimum area often reduced using SEPP No.1.
- Tenure limitations is an effective limiting control on MOs. Should remain to prevent speculation. Individual title would allow developers to prosper from MOs.

- Problems arising from common ownership of the land and hence all the assets. This is reflected in attitudes on some MOs that each member is part owner of all dwellings. Particularly a problem where there is a wide variation in the standard of housing.
- Roles and obligations of residents often unclear. This can be a particular problem when it comes to maintenance of community land and facilities such as water supplies, fences and roads.
- Problems collecting money from residents to pay rates and meet maintenance responsibilities.
- Contributions an impediment to low cost housing and will restrict this form of development.
- Community Title an inevitable evolution of the Policy as existing tenure options do not work.
- Lack of an effective dispute resolution process for existing title options.
- Density limits are arbitrary. Dwelling numbers should be based on site attributes
- Problems dealing with local authorities particularly for larger MOs having a range of complex issues requiring resolution.
- Some MOs reflect particular ideological directions such as requiring approval of new residents, consensus decision making, communal ownership of the land an essential element.
- Problems with changing rules and regulations or their interpretation.
- Acceptance of separate rating as inevitable.
- MOs can actually increase agricultural output of land from more intensive use.
- MOs should be assessed as to their “legitimacy” at the DA stage (as opposed to speculative developments).
- MOs can contribute positively to the local economy.
- A good management plan identifying occupancy areas is essential. Many disputes are over boundaries.
- Developer activity is a concern as the “community” aspects are lost.
- Control of animals can be an internal problem and potential impact on neighbours.

3 SUMMARY OF KEY POLICY ISSUES

3.1 Tenure Issues

- Inability to obtain finance.
- Lack of clarity in relation to property rights and community obligations.
- Difficulty in resolving disputes and collecting levies.
- Inability to manage change over time.

3.2 Development Issues

- Need for a comprehensive development assessment process including detailed consultation with neighbours and public authorities and assessment of environmental impacts.
- Development should be related to site conditions and capability.
- Loss of agricultural land and conflict with traditional agricultural activities.
- Bushfire management.
- Weed management.
- Waste disposal in particular effluent.
- Meeting the full costs of development both initially and on a recurrent basis.
- Equity of treatment in relation to other types of development.
- Relevance of original philosophical underpinning of MOs in particular the preservation of the concept of MOs as communities.
- General location of MOs should be determined by the local authority.

- Possibly allow separate title some time after MO is fully established. This may allow finance to be arranged but would limit developer activity.
- Consideration should be given to requiring a financial plan to demonstrate that the MO applicants have the resources to complete the development.
- No follow-up of conditions of consent - weak development control process. Problem arises from lack of resources and Council commitment.
- Concern about liability issues arising from unapproved structures.
- Dwellings are not finished and often constructed poorly.
- Some people try to do the right thing but many do not bother.
- MO development being used to circumvent rural subdivision controls.
- MOs often approved even though Council staff recommend refusal.
- Stronger policies required in relation to bushfire risk and management.
- Standard of access is often poor and controversial. Guidelines required as to access standards. Should be no different to any other form of development.
- Pressure to waive Section 94 contributions. MOs should not be treated any differently to other rural developments.
- Professional advice in preparing development applications rarely sought. Applications should include: hazard reduction plans, business plans, all weather access details, bridge crossings.
- Pressure over time to upgrade services as needs and lifestyles change.
- MOs should be treated no different to other development.

2.6 Interest Groups

- Attempts to allow subdivision against the original philosophy of MOs.
- Individual occupancy of land within MO should be defined by mutual understanding.
- Some credit unions will offer limited finance.
- Essential philosophy is based on principles of custodian ship of the land. Essential to retain this principle.
- Subdivision could lead to internal friction.
- Consideration could be given to allowing holiday accommodation as a minor use.
- Cottage industries are a compatible use with MOs.
- A more innovative approach to waste disposal is required. Composting toilets should be accepted.
- Acceptance of a minimum rate per dwelling.

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	2.5 MO Neighbour and Community Representative	F:2
	2.6 Pan-community Council	F:3
	2.7 MO Resident	F:3
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2.2 Town Planner

- MOs tend to be on low agricultural value land as it is less expensive.
- MOs not a form of rural residential development as they have a different philosophical background and are based on the desire to live in a community. Subdivision would equate to rural residential. Subdivision may also lead to increase prices and hence less low income housing opportunities.
- A major concern is bushfire risk. Many MOs have insufficient fire safety provisions or fighting equipment. Policy needs to emphasise bushfire management.

2.3 MO Neighbour

- No problems with neighbouring MO.
- MOs cater for both low and high income earners. There should be development opportunities for both types.
- Community Title not appropriate as costs are too high.

2.4 Representative Ratepayers' Association

- Conflict with traditional farmers.
- MO residents do not contribute adequately to the provision of services.
- Section 94 levies not always collected.
- Councils do not have a complete knowledge of the status of MOs in their areas.
- Low cost land should not be achieved at the expense of MOs meeting their financial obligations to contribute to services and facilities.

2.5 MO Neighbour and Community Representative

- MOs occur on land not having potential for rural residential development and hence are being used to sidestep planning controls.
- Policy does not contain a methodology to achieve environmental sensitivity.
- Use of land for MOs leads to degradation and infestation with weeds.
- Problem of not being able to obtain finance on MOs.
- Problem of meeting the costs of providing for demands arising from MO developments. Should the government pay or should the user?
- Communal ownership lacks the ability to convey rights and obligations in the same way as effected by subdivision and individual ownership.
- Rural population loss is an issue west of the divide not east.
- Single allotment rating of MOs is inequitable.
- Questions the appropriateness of Community Title.

1 BACKGROUND

During the course of the preparation of this review a number of submissions were received from interested parties. Some of the submissions follow from discussions with the consultants. Two submissions were by telephone and have been summarised from notes.

This Appendix provides a summary of the submissions so as to highlight the issues raised outside of the formal consultation process.

The emphasis in preparing the summary is on identifying issues and underlying concerns as they relate to the Policy. The summaries therefore do not purport to cover all of the matters raised. As the submissions were provided on a confidential basis care has been taken to not identify the authorship.

2 SUMMARY OF SUBMISSIONS

2.1 Resident Lismore Council Area

- MO developments are neither community based or environmentally sensitive.
- MO development essentially the same as rural residential development.
- Principle of collective ownership not being achieved.
- Inadequate consideration given to the demand for community services and facilities.
- Internal agreements relating to occupancy of section of land are contrary to the Policy's objectives.
- Need to eliminate current confusion about the interpretation of the Aims and Objectives of the Policy.
- Concern that some MOs are subdivided.
- Inadequate information supporting development applications and inadequate assessment of applications. Particular concerns about bushfire control, visual impact, impact on roads, conflict with neighbours, weed control, lack of consultation.
- Monitoring clause (Clause 12) not being observed.
- MOs are not paying rates on an equitable basis.
- SEPP 15 operates over the State without regard to environmental conditions.
- Concern that the Review process does not adequately allow for involvement of all concerned parties on an equitable basis. In particular, concern that the MO interest groups are having too great an influence. Requesting additional consultation with a wider group of interested parties.
- Development applications should be advertised and neighbours advised.

2.10 MO Residents

- Believes the MO provisions should remain as they work well; and
- Management Plans could reduce many problems such as fire management and boundaries, water and waste management.

2.11 MO Residents

- Supports SEPP 15;
- Believes there are many social advantages of MO which may be overlooked by the review;
- MO development usually more environmentally aware than general development. Community contribution often not recognised (e.g. Channon Pre-school built during community workdays, accommodation and rehabilitation of psychiatric patients);
- MO enables low income families to be housed without incurring large (possibly unachievable) debts and mortgages - often on productive agricultural land which can supplement low earnings;
- Believes there are fewer problems associated with low income earners on MO than found in traditional resident housing estates. Single (only) family children have benefits of an extended family;
- MOs have highly complex and effective decision making processes;
- Request that consideration be given to expanding the availability of MO and to offering training in skills needed to be involved in MO; and
- Current drug problems in Nimbin should not be associated with MO. Many MOs are "drug free" and have no involvement in any aspect of the drug culture.

2.12 MO Resident

- Lack of good legal advice (relating to structure) can delay proposal;
- Internal disorder also hampers development and structure of MO;
- Shareholders should have control of the equity in their own homes and/or shares;

2.6 Pan-community Council

- Expressing the view that "Aim 2c(iii)" should be read as disjointed. Suggesting that the interpretation of the Policy should be clarified.
- Formally recommending the preparation of an MO Manual to assist applicants and Council staff in the preparation and processing of applications.

(Included a detailed submission to Lismore Council dated 27 April, 1993).

2.7 MO Resident

- Need to provide more security of tenure. Strata Title suggested as a means of providing security and catering to pressure for development.

2.8 MO Resident

- MOs are potential poverty traps.
- Lack of ability to finance causes problems and reduces resale values.
- MOs effectively subdivision in all but the legal senses.
- Suggests that subdivision should be allowed after 10 years.
- MO developments should only be approved in areas identified for future subdivision.

2.9 MO Residents

- Concerned at unavailability of loans for building;
- Believe MO Residents are discriminated against by banks, Master Builders Association (won't issue Owner-Builder permits);
- Concerned at poor legal structures, inability to sell shares, loss of rights of individuals (particularly to complain about internal issues); and
- Believes there is a place for MO but fear that forcing MO to comply with "main stream" development standards would increase costs beyond the reach of many individuals.

- Concerns relating to use of "community " facilities by non-residents and resultant impacts from noise, traffic, etc. Questions Council 's ability to "police " operation of such facilities and development of the MO in general; and
- Suspicion relating to existing and proposed MO development.

2.15 MO Resident

- MO offers advantages to individuals such as cheaper options for land and home ownership and being part of a symbiotic community;
- MO are environmentally sensitive and often produce innovations;
- Community Titles would improve control of assets by MO residents and attract more people to this lifestyle; and
- MO is a benefit to the community.

2.16 MO Resident

- Believes MO residents contribute to environmental enhancement both on and off the MO; and
- Concerned that those "abusing " the MO provisions may endanger the future of MO.

2.17 MO Resident

- Support current MO policy;
- MO residents participate in community co-operatives - in this case involving a cattle tick dip (located on the MO), fences and stock management, land care groups and community hall fund; and
- MO also provides social and information sharing activities.

2.18 Individual

- MOs often do not attract appropriate Section 94 contributions or rating and appear to receive favourable treatment by Council; and
- Should adopt a "user pays " philosophy.

- Attempts to legalise MO though DA process have been subverted by internal activities (deliberate and disorganisational) and lack of pressure from Council to enforce building and development standards;
- Should be cheaper finance rates available for MO shareholders;
- Lack of internal management (including fire, weed, erosion control) worsens problems arising from poor criteria given to Council to assess applications;
- MO should continue traditional rural activities or employ alternative management practices. They should not be allowed to turn pasture into lantana and not maintain productivity;
- Subdivision could be warranted in some instances to aid management; and
- Extended dwelling provisions are open to abuse (i.e. separated rather than expanded dwellings which are let separately). This could greatly increase the number of residents.

2.13 MO Neighbour

- Believes the "onslaught" of MO development in some areas with have serious environmental implications;
- Adjacent property would never have been approved for subdivision but is currently subject to a DA for a six dwelling share MO;
- Impacts include: water use, waste disposal, soil erosion, increased traffic on an unsuitable road, social impacts, roaming dogs, loss of valuable habitat and/or species; and
- Concerns at speculative development of MO. People who buy shares may not be able to cope with lifestyle and rent to others - conflicts arise.

2.14 MO Neighbour

- Believes MO policy is being used to gain approval for development which ultimately can accommodate many more people;
- Concerned at the expanded dwelling provisions which could allow more residents;

- Problem of enforcing provisions relating to other uses and land ownership.
- Policy not related to local planning instruments and can lead to perceived inequitable treatment of landowners.

2.24 Lismore Council

- Preferred option is to retain Policy and to support it with a DCP.

3 SUMMARY OF KEY POLICY ISSUES

3.1 Policy Administration Issues

- Relevance and interpretation of aims and objectives.
- Monitoring provisions not being observed.
- Policy does not account for varying local environmental conditions.
- Community and collective ownership basis of MOs not being achieved.

3.2 Tenure Issues

- Financing of dwellings.
- Legal structures and lack of clear rights and obligations, and security.

3.3 Development/Management Issues

- Environmental performance of MOs.
- Consultation during DA process.
- Bushfire management.
- Weed control.
- Impact on and contribution towards community services and facilities.
- Guidelines to assist with application preparation and assessment.
- Inequitable rating of MOs.
- Need to cater to a broad range of MO dwellers.
- Collection of S94 levies.
- Equity of treatment of MOs.
- Management and enforcement of MO developments.
- Lack of local control over MO locations.

2.19 Byron Council

- Community Titles Subdivision should be permitted in MO - this provides for a "higher standard" of development, better land management and finance would be available. The objectives of SEPP 15 can be met through Community Titles.

2.20 Shoalhaven City Council

- Requested that the current provision relating to joint tenancies, Section 94 contributions and subdivision prohibition be retained.

2.21 Lismore and District United Ratepayers

- Concerned at the apparent imbalance of input from MO residents and other interested parties. (MO residents receive a survey, others have to write a submission);
- Believes the questionnaire has been structured to achieve a desired result; and
- Believes the review should be stopped and a fair program adopted.

2.22 Ballina Council

- Limited use of SEPP 15 in Shire.
- Policy is a poorly drafted document aimed at short term social policy rather than long term landuse planning outcomes.
- The objective relating to declining population would appear to exclude the application of the Policy in Ballina Council area and probably the north coast.
- Policy should be rescinded in favour of allowing individual Councils to pursue the rezoning of land for multiple occupancy if required.

2.23 Eurobodalla Council

- Currently undertaking a review of the area in which Policy applies with a view to providing enforceable controls appropriate to this area, possibly rendering the Policy unnecessary.
- Problem of distinguishing between MOs and weekend/tourist accommodation enabled by local controls.
- Impossible to meet Objective 2c(iii) as population in the area is not declining.

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Clause 8 lists the matters that a council must consider before determining an application for multiple occupancy.

Subclause (1) applies to all applications which will result in three or more dwellings.

Subclause (2) lists additional matters that must be considered where an application will result in four or more dwellings. It prevents a council giving its consent to a multiple occupancy development application proposing four or more dwellings unless the site plan accompanying the application contains the additional information clearly stated in clause 8(2)(a) to (f).

Clause 9 determines the density of multiple occupancy development which may be permitted on an allotment.

Subclause (1) gives the formulae for calculating the maximum number of dwellings permissible, including any existing dwellings, based on the area of the allotment. To determine the maximum number of dwellings permissible, substitute the area of the subject land for the letter 'A' in the appropriate formula in column 2 of the table. The answer is easily calculated.

Clause 9 also provides the maximum permissible density for a given area of land. When it has considered the matters listed in clause 8, a council may determine that a lesser density is more appropriate for a particular development application.

The formulae are designed so that the density of development decreases as the area of the subject land increases.

On more than 360 hectares, the maximum number of dwellings permissible is 80 regardless of how much larger than 360 hectares the land area is.

Subclause (2) states that if the number of permissible dwellings results in a fraction of one-half or greater, it shall be deemed to constitute one whole dwelling. If the fraction is less than one-half, it shall not be deemed to constitute a dwelling and the fraction is ignored.

Subclause (3) requires that density is also limited by an assessment of the accommodation needs for a population maximum at an average of four persons per permissible dwelling. This provides a way to judge an application which includes expanded dwellings.

Clause 10 prohibits subdivision of land as part of a multiple occupancy development under this policy. Subclause (2) permits minor subdivisions for particular purposes such as widening a public road, creating a public reserve or consolidating allotments.

- Clause 11 provides for multiple occupancy development for four or more dwellings to be advertised for public comment. This clause recognises the fact that the environmental impact of larger multiple occupancy developments is likely to be greater and should therefore be subject to public scrutiny. Public comment can then be taken into consideration by a council in reaching its decision.
- Clause 12 enables the Department of Planning to monitor and review the policy. It is considered necessary that councils forward a copy of development applications and notice of determination of these applications to the department so the department can assess how well the demand for multiple occupancy is met by this policy.
- Clause 13 suspends provisions of section 37 of the *Strata Titles Act 1973*; and any agreement, covenant or instrument which would otherwise prevent multiple occupancy from being carried out in accordance with (i) this policy; and (ii) the consent of the relevant council made under the *Environmental Planning and Assessment Act 1979* in accordance with this policy.
- SCHEDULE 1 lists the local government areas to which the policy applies.
- SCHEDULE 2 lists land that is rural or non-urban, but is excluded from the policy.
- SCHEDULE 3 removes existing multiple occupancy clauses from local environmental plans.

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 Environment Plan 1987 (Amendment No. 10) on 31 August 1990.

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 two 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.

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.

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 three 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 ten hectares;
- (c) the height of any building on the land does not exceed eight 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.

(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.

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 four 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, bushfire, 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.

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 four.

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, bushfire brigade or other rescue service purposes or public conveniences.