



DEPARTMENT OF LOCAL GOVERNMENT

Minute

Subject:— RATING OF MULTIPLE OCCUPANCY PROPERTIES
Prepared for seminar on Multiple Occupancy Properties
held 19th April, 1985 by the Land Commission of N.S.W.

M 5795

Government Print

There is no proposal before the Government to legislate for the rating of multiple occupancy properties. The existing rating provisions including differential rating confers on Councils a wide discretion in the determination of their rating policies. It is open to Councils to define individual parcels of rural land as portions of an area, levy different amounts of the general rate on each parcel and determine a minimum amount of that rate.

It has been suggested that Councils could not obtain an equitable solution under the differential rating provisions because it cannot levy a rural land differential rate higher than the general rate. Therefore, the only recourse available appears to be a substantial contribution under the provisions of section 94 of the Environmental Planning and Assessment Act.

It has also been suggested that multiple occupancy results in increased usage of roads of an inferior standard and that in a normal sub-division application the Councils would require contribution for road development. A further suggestion is that Councils recover the contribution over a period of several years by levying the minimum rate on each dwelling house.

In this regard, some Councils appear to assume that there is a direct connection between rates and the demand on Local Government services, such as the upgrading of roads. This connection, in a direct sense does not exist and has never existed except perhaps in the case of local rates. Local Government rating is primarily a tax based on the value of land to provide support for Local Government.

In the context of rating, the difference between multiple occupancy development and other development is one of degree. The Department can see no reason why people living in a multiple occupancy development should be treated differently from people living in a block of flats or units, people living in a granny flat, or even perhaps a substantial number of people, whether related or not, living in a single dwelling. In practice, any change in the zoning of the land will be reflected in the land valuation and will have an effect on the rates levied on the land.

If the development is carried out in such a way that the individual components are capable of separate occupation, they must be separately valued and rated without any requirement for subdivision. In addition, if the scheme enables a community to lease an area for a group to occupy, the land will be separately valued and the same rules will apply.

If the land is not adapted to separate occupation and is not leased, it will not be separately valued and will be rated as a single parcel in accordance with the usual principles under the Local Government Act. This would happen in those hamlet developments in which there are some communal facilities which would make it impossible to divide the land into separate occupations.

There is no evidence available at present in the light of the above comments to suggest that the present rating and valuation laws are inadequate to cope with the concept of multiple occupancies on farms.

The Local Government (Rates and Charges) Amendment Act, 1983, currently prevents councils generally from varying the existing rate structure. Upon receipt of an application from a council, however, the Minister may consent to such a variation.



CSIRO
Division of Forestry and Forest Products

A Division of the Institute of Plant Production and Processing

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Postal address: PO Box 65, Highett, Vic. 3190, Australia

Contact Officer: HG: SM

Phone:

15 January 1988

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

Dear Mr Lambert

I am in receipt of your letter of 1 November 1987.


I would be interested to hear your reasons for considering that the preservative treatment of all construction timber in houses built in termite active areas is not a satisfactory alternative to sub-floor chemical treatment. Had such a procedure taken place in your Lismore example, the house timber would not have been attacked. Surely, economic reasons cannot be advanced in a case like that. If health and safety arguments are advanced I would point out that we are dealing with the copper-chrome-arsenic (CCA) type of chemical which is almost totally reacted with and chemically-bound into the wood. Properly carried out and utilised CCA treated timber does not pose a health hazard and would certainly resist termite (and fungal) attack.

To return to the main thrust of your letter: we believe that the quality of the concrete slab has a marked effect upon the ability of termites to penetrate it and thereby gain access to the dwelling. These insects can penetrate plastic underlay, fine checks or cracks in or between slabs, porous pockets where cement loading is low, bolt holes if left without the bolt, other building defects, etc.

We do not have the resources to carry out exhaustive testing of the above aspects. At the present time my priorities are to devise alternative control strategies, such as the baiting procedure I have referred to in my advice to the Chairman and which he conveyed to you. I cannot divulge the details you seek at the present time, but would assure you that my entomologists are making excellent progress.

Should you require more comment on termites and their control, may I suggest you write to our Mr J.W. Creffield or Dr J.R.J. French.

Yours sincerely,


DR H. GREAVES
Manager
Wood Science & Technology

c.c. J.W. Creffield
J.R.J. French

Coffs Harbour City Council

PLEASE ADDRESS ALL
COMMUNICATIONS TO

The Town Clerk
P.O. Box 155
Coffs Harbour 2450
Fax (066) 52 1517



Administration Building
Castle Street
Coffs Harbour 2450
Telephone (066) 52 2555
Telex 66985 D.X 7559

Our Ref: E2

22 December 1987

Mr Peter Hamilton

Round Park

Coffs Harbour 2450

Dear Sir,

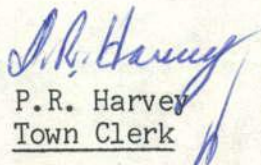
Eligibility for Enrolment - Council Elections

The provisions of the Local Government Act, and Ordinances thereunder, enable a person who permanently resides in a local government area to seek inclusion on a residential roll. The ownership either in part or whole, by any means (i.e., tenant in common, joint tenant, strata etc) is not a requirement for such inclusion.

Should however you have ownership entitlement to land in the local government area, but you do not reside in the area, you may by specific application seek inclusion on the non-residential roll. This roll is prepared prior to any election but is not valid when 3 months after the election for which the roll was prepared has expired. Application for such inclusion must be made prior to each election.

I trust the above information answers your enquiry.

Yours faithfully,


P.R. Harvey
Town Clerk

RM:VR

PTO

Please return
P.H.

Paul,

This is in reply to K Maccham
You may come to print this in the
Question if you think it
has wider interest.

Mr Peter Hamilton
Rochester
THE CHANNON 2480

Dear Sir,

Eligibility for Election - Council Elections

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Town Clerk

RM:VR

without them and affix them there, to install means of receiving water and gas by taps, to put in a sink supported by a cupboard which is affixed to the wall and the floor, to insert a waste pipe through the floor from the sink and to join it to the general drainage system, represent together an alteration to the form and structure of the room considered as part of the building and an alteration within the meaning of s. 311. In the present case a like alteration has been made to twelve or thirteen of the rooms in the building. I find that the defendant has committed breaches of s. 311." A mandatory injunction was granted ordering the defendant to remove the installations.

As to the form of a mandatory injunction where unauthorised alterations are made to a building, see *Ashfield M.C. v. Pungar* 17 L.G.R.A. 382; (1970) Austn. Digest 18, where the defendant owned a cottage which, prior to 1961, had been used as two residential flats. In 1961 and 1962 certain alterations were made with the approval of the plaintiff council and subsequently, approval of further alterations was sought but not granted. The defendant nevertheless carried out further alterations. The council instituted proceedings for a mandatory injunction to compel demolition of the unauthorised work and to restrain the defendant using the building as residential flats.

It was held that it was proper that a mandatory injunction should be granted but that it should not require the demolition of unauthorised work which, if it had been the subject of a proper application, would have been approved or within the power of the council to approve, and that, on the evidence the council had consented to the use of the building as a residential flat building and therefore no order should be made restraining such use.

[1-085] **Building already erected.** Since its approval must be given "beforehand", a council has no power to approve of an application to erect or alter a building if the building has already been erected or altered. Since the decision of the Court on appeal under s. 317L or s. 317M is "deemed to be the final decision of the council", it follows that the Court would likewise have no power to approve in a case where the alteration or erection for which approval is sought has already been effected. See *Tennyson Textile Mills Pty. Ltd. v. Ryde M.C.* 18 L.G.R. 231 at p. 232; 3 Austn. Digest (2nd ed.) 435, where the question was considered in relation to an appeal under s. 341, as it then stood, but the reasons there given apply equally to the case of an appeal to the Tribunal. See also *Longa v. Blacktown C.C.* (1985) 54 L.G.R.A. 422. Cf. *Minty v. Wagga Wagga M.C.* (1929) 9 L.G.R. 105; 3 Austn. Digest (2nd ed.) 436, and *Re Leckner & Imlay S.C.* 5 Land Laws Service 148. As to the issue by a council of a certificate under s. 317A, see notes to that section and also note under s. 313—"Dispensing power".

Neither the responsible authority, the Land and Valuation Court nor the Board of Appeal, on appeal, had power to grant consent under cl. 27 of the County of Cumberland Planning Scheme Ordinance to an application for approval of the erection of a building, where the building had already been completed: *Lowe v. Mosman M.C.* 19 L.G.R. 193. Consent may be given under that clause to a use which has already commenced, but such consent is prospective only and does not relieve against the consequences of past breaches: *Holland v. Bankstown M.C.* 2 L.G.R.A. 143; 3 Austn. Digest (2nd ed.) 676; *Lux Motor Auctions Pty. Ltd. v. Bankstown M.C.* 20 L.G.R. 178. *Quaere*, as to the effect of giving the prescribed notice under s. 342P: *Holland's* case (above).

Where an intention exists that a wheeled caravan brought onto certain land should remain there indefinitely, its placement on the land amounts to an "erection": *Hay S.C. v. Crease* 27 L.G.R.A. 8; (1973) Austn. Digest 17.



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Department of Local Government



The Town Clerk,
Lismore City Council,
DX 7761, LISMORE.

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Telegrams: DELOGO
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Telephone: (02) 231 0922 Ext.: 4327

Our reference: F86/1501

Your reference: PBR:JBG/86/216

16 JUN 1986

Development application for approval for expanded house by the Turkey
Creek Community at Fox Road, Rosebank: Council's letter - 9/5/86

Dear Sir,

In reply to the first of the two questions raised in the Council's above letter this Department considers that an expanded house is a single dwelling house, i.e. Class I and should not be construed as a multiple occupancy.

On the second question, the Department believes that the subject development may be classified under Ordinance No. 70 under the Local Government Act, 1919 as either a Class I or Class III development.

It is a matter for the council having regard to the design and proposed use of the buildings to determine the classification of the buildings. The classification for the purpose of Ordinance No. 70 may be at variance with a classification in use for the purpose of a local planning instrument.

From the information supplied, it appears that the buildings, individually and collectively, are deficient in terms of facilities required pursuant to Part 46 of Ordinance No. 70 and hence the development does not meet the requirements of either Class I or Class III.

It is trusted that the above information will be of assistance to the Council's further determination of the matter.

Yours faithfully,

L. Dix

L. Dix,
for Acting Secretary

Nimbin, 19 April, 1985

MULTIPLE OCCUPANCY DEVELOPMENTS AND LAND TAX

Comment is offered on this topic under two headings

- . the present position, and
- . on what may be involved in change.

The present position is that there is no legislative concession from land tax that appears suitable to the needs generally of multiple occupancy communities ~~that~~ own rural land on which is an approved multiple occupancy development.

A concession can sometimes take the form of an exemption or partial exemption, a deduction from the assessable land value, or a reduction from the tax otherwise payable.

Briefly the charging provisions of the Act make New South Wales land liable, if that land is not exempt and its value exceeds \$55,000 (for the 1985 tax year). Then a land tax return is required to be completed and lodged, and land tax is payable after an assessment issues. If more than one liable item is owned by the same owner, the land value of each is aggregated.

The present exemptions from land tax and the conditions of eligibility are specified in the several provisions of Section 10 of the Act.

These include exemptions for land such as

- residential land used and occupied as the principal place of residence;
- land used for primary production; and
- land owned by an organisation not carried on for pecuniary profit.

However the conditions which are attached to eligibility for an exemption have not allowed the land owned by multiple occupancy communities to be found exempt, except in one case.

The exception relates to land owned by a rural society registered under the Co-operation Act, 1923. Such land is exempt as land used for primary production under the Land Tax Management Act, 1956. This form of ownership of land would not necessarily suit the various objectives and needs of a multiple occupancy community. Also it is possible that the prerequisites for registration as a rural society may be reconsidered or the exemption provision may be amended.

Apart from the land tax exemptions, there is a tax reduction available in certain circumstances where land on which are constructed two or more flats, is owned by joint owners or a company, where exclusive rights of occupancy of a flat are held by each joint owner or each shareholder as the case may be, and who are required to be natural persons and to use and occupy the flat as their principal place of residence. There are other conditions including an area limitation.

At an Interstate Conference of State Taxation Officers last month, the experience of other States was sought but little information was forthcoming. It appears indeed that multiple occupancy communities in New South Wales are leaders in this type of development activity.

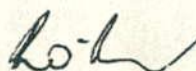
Any change of the present land tax situation for future tax years, requires an amendment to the land tax legislation and this is a matter for decision by Government.

Should an amendment of a concessional nature (exemption or tax reduction) be considered, it could be expected that some conditions for eligibility would apply. These could include

- (i) the ownership of rural land by a multiple occupancy community with an approved development thereon;
- (ii) an ownership right to exclusive use of a portion of the land by a natural person who is a member of the community;
- (iii) personal use and occupation of the land and a dwelling thereon by that member as the principal place of residence; and
- (iv) other conditions and/or limitations as may be considered appropriate.

For (i) and (ii), the forms of ownership considered in Landcom's study report of June 1984, and the concept of a proprietary lease appear to provide a suitable structure to which a Land Tax concession could be related.

On the possibility of change, it can be said that the Minister for Finance, Mr Bob Debus, is well aware of the matter, is sympathetic towards it, and it will be considered when amendments to the legislation are under review later this year.





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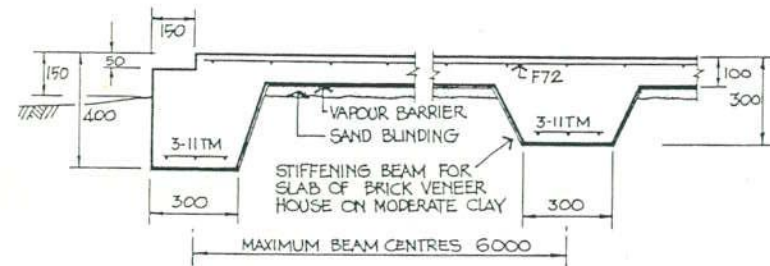
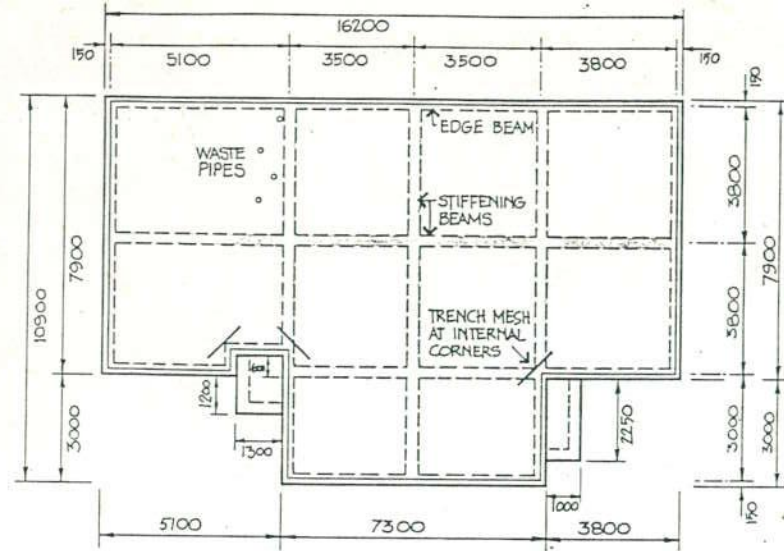
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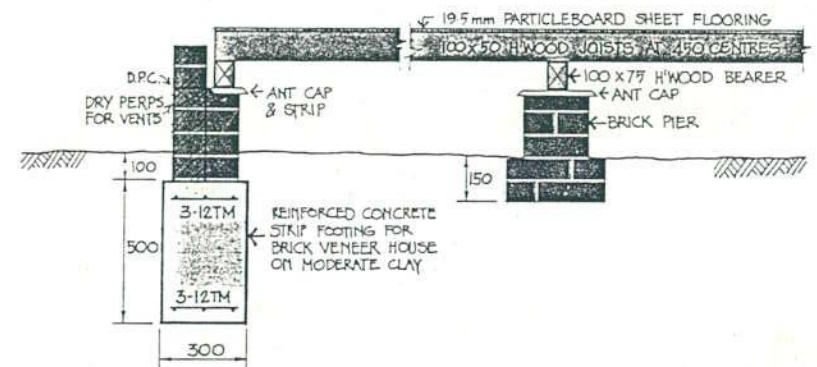
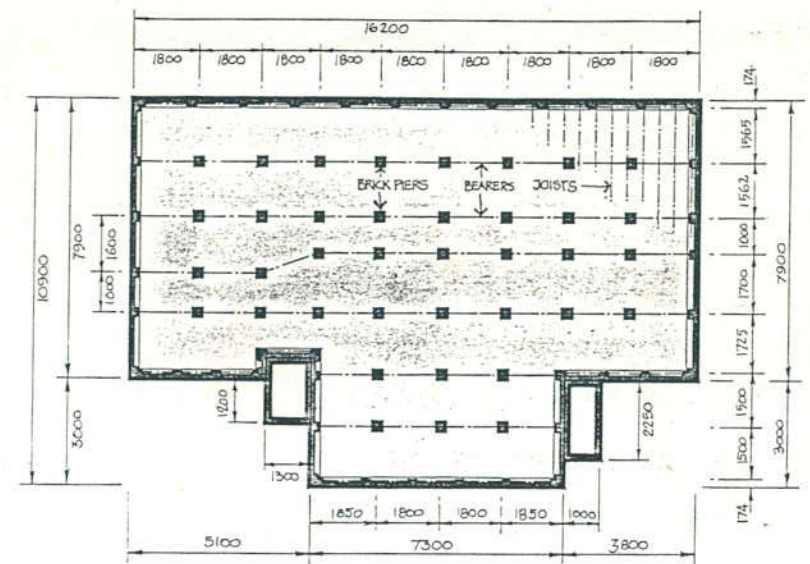
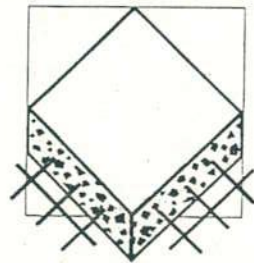
DR H. GREAVES
Manager
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c.c. J.W. Creffield
J.R.J. French



PLAN AND DETAIL SECTION OF STIFFENED RAFT SLAB
FOR TYPICAL BRICK VENEER HOUSE OF 149.1 SQUARE METRES
ON A MODERATE CLAY SITE.

REINFORCED CONCRETE A GREAT FOUNDATION FOR THE FUTURE



PLAN AND DETAIL SECTION OF STRIP FOOTING,
PIERS, FRAME & PARTICLEBOARD FLOOR
FOR COST COMPARISON WITH THE STIFFENED RAFT SLAB.

An independent building-cost consultant took an average of the rates used by eight of the largest house-building companies in NSW to prepare this cost comparison. The rates include labour and materials, allowance for laps, waste, handling and fixing to which has been added overheads, preliminaries and builders' margins.

A mid-range figure has been taken for materials, such as bricks, that have a wide price variation depending on selection and delivery distance.

REINFORCED CONCRETE SLAB

LEVEL SITE WITH MODERATE CLAY SOIL

	QUANT.	OUR PRICING RATE (\$)	OUR PRICING COST (\$)	YOUR PRICING RATE (\$)	YOUR PRICING COST (\$)
PRELIMINARIES					
Geotechnical site classification			225		
Slab selection and set-out			95		
TOTAL — PRELIMINARIES			320		
EXCAVATOR					
Scrape top soil, per m ²	150	1.50	225		
Excavate beam trenches, per m ³	9	25.00	225		
Fill under slabs, per m ³	10	9.00	90		
Site grading			135		
TOTAL — EXCAVATOR			675		
PLUMBER					
Extra under-slab pipework			185		
TOTAL — PLUMBER			185		
CONCRETOR					
Formwork: rebated edge, porch steps			220		
Blinding sand: levelled, compacted, per m ²	7	25.00	175		
Vapour barrier plastic, per m ²	150	1.30	195		
Reinforcing mesh and fabric, per m ²	174	6.32	1100		
Concrete: 20 MPa placed and finished, per m ³	27	165.00	4455		
Curing plastic: supplied and laid, per m ²	150	0.50	75		
TOTAL — CONCRETOR			6220		
HARDWARE					
Flashing: 300-mm-wide Alcor, per linear m	50	2.50	125		
Fixings for bottom plate to slab			25		
TOTAL — HARDWARE			150		
ESTIMATED COST (OVERHEADS AND PROFIT INCLUDED)			\$7550		

When an individual engineer-designed slab is required, or when a site does not allow for access of a concrete mixer truck then a concrete pump may be required. In such cases the following extra allowances should be added to the estimated cost:

EXTRA ALLOWANCES		
Engineer-designed slab		\$250-\$300
Pump for concrete delivery on site		\$300-\$350

As fewer trades are needed to get a house on a concrete slab up to floor level, this part of the construction is quicker and easier to organise. Because a slab floor is just above ground level it acts as a useful work platform and materials store — the overall wall height is also reduced so there is less need for scaffolding, and subsequent building work is hastened. Usually builders save one or two weeks construction time with a slab floor compared to a framed floor. No allowance is made here for these savings of time and money.

STRIP FOOTING

WITH PARTICLEBOARD OR T&G FLOORING

LEVEL SITE WITH MODERATE CLAY SOIL

	QUANT.	OUR PRICING RATE (\$)	OUR PRICING COST (\$)	YOUR PRICING RATE (\$)	YOUR PRICING COST (\$)
PRELIMINARIES					
Geotechnical site classification			225		
Footing selection and set-out			95		
TOTAL — PRELIMINARIES			320		
CONCRETOR					
Excavate trenches for strips, per m ³	13	25.00	325		
Reinforcing trench mesh, per linear m	130	6.04	785		
Concrete: 20 MPa placed, per m ³	10	135.00	1350		
TOTAL — CONCRETOR			2460		
BRICKLAYER					
Face bricks, delivered, per 1000	1.5	400.00	600		
Common bricks delivered, per 1000	0.8	290.00	232		
Dampcourse: 110-mm Alcor, per linear m	50	1.20	60		
Ant stripping and ant caps			150		
Arch bar at access door			15		
Lay bricks, supply mortar, per 1000	2.3	360.00	828		
Face finishing of bricks, per 1000	1.4	25.00	35		
Backfill to strips			40		
TOTAL — BRICKLAYER			1960		
CARPENTER					
Framing: hardwood house lot, per m ²	2.47	315.00	778		
Particleboard — 19.5 mm (regular), per m ²	128	12.20	1562		
Particleboard — 19.5 mm (wet area), per m ²	18	15.35	279		
Glue for particleboard, per cartridge	15	9.80	147		
Lay bearers and joists, per m ²	149	4.36	650		
Lay bearers	146	4.11	600		
Supply and fix sub-floor door			32		
Sanding particleboard joints			102		
Fibreglass waterproof coving, per m ²	4	10.00	40		
TOTAL — CARPENTER			4190		
PAVIOR					
Compacted fill to porches, per m ²	1.4	18.00	25		
Concrete: 20 MPa laid and finished, per m ²	0.4	245.00	98		
Precast steps on brick bases			67		
TOTAL — PAVIOR			190		
ESTIMATED COST (OVERHEADS AND PROFIT INCLUDED)			\$9120		

When floorboards, such as T & G cypress pine, are to be laid instead of particleboard sheet flooring, the following variations will apply to the estimated cost:

VARIATIONS to CARPENTER'S COST		
Total (\$9120) less all costs associated with particleboard (\$2090)		\$7030
Add T & G cypress flooring — supply and lay		2747
Add fibre-cement sheet over wet areas		180
Add sanding of floorboards		123
ESTIMATED COST (OVERHEADS AND PROFIT INCLUDED)		\$10080

REINFORCED CONCRETE STIFFENED RAFT SLAB FLOOR

ADDITIONS TO ESTIMATED COST ON LEVEL
SITE FOR SITE WITH 300-mm FALL
ACROSS THE AREA OF THE HOUSE

	QUANT.	OUR PRICING RATE (\$)	COST (\$)	YOUR PRICING RATE (\$)	COST (\$)
EXCAVATOR					
150 mm cut / 150 mm fill, per m³	15	15.00	225		
TOTAL — EXCAVATOR			225		
CONCRETOR					
Concrete: 20 MPa, per m³	0.6	135.00	80		
Concrete dish drains, per linear m	18	15.00	270		
TOTAL — CONCRETOR			350		
TOTAL — ADDITIONAL COSTS			575		
COST ON FLAT SITE			7550		
ESTIMATED COST (OVERHEADS AND PROFIT INCLUDED)			\$8125		

There is a misconception that concrete slabs on sloping ground cost substantially more than on level ground. It is true that sloping ground is more expensive to build on than level ground, but the increase for a slab floor on a site with a 900-mm fall across the house area, is only about 11% more than on a level site. A strip footing, timber frame and particleboard floor (the cheapest type of timber floor) would cost 23% more on such a site than on a level site.

STRIP FOOTING WITH SUSPENDED FRAMED FLOOR

ADDITIONS TO ESTIMATED COST ON LEVEL
SITE FOR SITE WITH 300-mm FALL
ACROSS THE AREA OF THE HOUSE

FOR PARTICLEBOARD FLOORING

	QUANT.	OUR PRICING RATE (\$)	COST (\$)	YOUR PRICING RATE (\$)	COST (\$)
EXCAVATOR/CONCRETOR					
Excavate for stepped trench, per m³	1	25.00	25		
Trench mesh, fixing at steps, per linear m	4	6.50	26		
Concrete: 20 MPa placed, per m²	0.38	135.00	51		
TOTAL — EXCAVATOR/CONCRETOR			102		
BRICKLAYER					
Face bricks delivered/1000	0.5	400.00	200		
Common bricks delivered/1000	0.2	290.00	58		
Lay bricks, supply mortar/1000	0.7	360.00	252		
Face Finishing/1000	0.5	24.00	12		
Additional backfill			6		
TOTAL — BRICKLAYER			528		
TOTAL — ADDITIONAL COSTS			630		
COST ON FLAT SITE			9120		
ESTIMATED COST (OVERHEADS AND PROFIT INCLUDED)			\$9750		

FOR T&G CYPRESS PINE FLOORING

Cost on Flat Site	10080	
Additional Costs	630	
ESTIMATED COST (OVERHEADS AND PROFIT INCLUDED)	\$10 710	

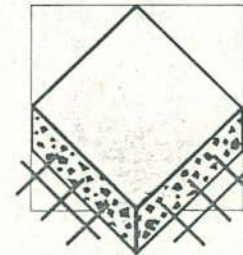
Rural Resettlement Task Force
P.O. Box 62
Nimbin, N.S.W. 2450

FOOTING/FLOOR TYPE	SITE CLASSIFICATION (Soil Reactivity)			
	Stable	Moderate	High	Extreme
REINFORCED CONCRETE SLAB	\$6850	\$7550	\$8800	\$11 000
STRIPS, PIERS, FRAME AND PARTICLEBOARD	\$8950	\$9120	\$11 100	Not Recommended

The footings costed here, are for moderately reactive clay sites which are common in the developing areas of Sydney. Often, however, house sites are classified as having 'stable' soil. For stable sites a slab-on-ground (similar to a stiffened raft without internal stiffening beams) can be built. For the house costed here a slab-on-ground would cost about \$700 less than the 'moderate' stiffened raft. A strip footing on stable soil will also cost less than the strip footing costed here.

Conversely, in the rare case where a site is classified as having 'highly' or 'extremely' expansive soil, then house footings will have to be more substantial than those used for this costing exercise. The approximate cost variations are tabulated here for each site classification. Design recommendations of Australian Standard 2870 — 1986 *Residential Slabs and Footings* have been used and a level site assumed.

REINFORCED CONCRETE A GREAT FOUNDATION FOR THE FUTURE



Cement & Concrete
Association of Australia
Incorporated in NSW
100 Walker Street,
North Sydney, 2060
Telephone 929 5866

Cement & Concrete Association of Australia



Telephone 929 5866

incorporated in NSW

100 Walker Street
North Sydney NSW 2060

Our Ref

KA/js

File Ref. Y/0000

21 December, 1987

Mr. P. Hamilton,
Rural Resettlement Task Force,
Post Office Box 62,
NIMBIN. 2480

Dear Sir,

I refer to your request for advice dated the 1 November, but which was not received here until the 3 December.

A properly constructed concrete floor will not be subject to termite infestation. However, one should always be careful to prevent access for termites through timber which may reach the surrounding ground. In such cases appropriate ant caps would be required.

To assist you generally with construction of concrete slabs on ground for housing, I enclose a folder of information titled "Concrete Floors Timber". I trust that you will find this useful. Additionally, you may wish to obtain from the Standards Association of Australia a copy of the new Australian Standard 2870, "Residential Slabs and Footings". I understand the price of this document is \$22.67. You may obtain these from the Standards Association of Australia, Post Office Box 458, North Sydney N.S.W. 2060.

Yours faithfully,

Kevin Abrams,
Regional Manager,

encls.

ltr/rrtfl221



DEPARTMENT OF LOCAL GOVERNMENT

Minute
Subject:-

BUILDING REGULATIONS

40608-0899



A Paper Delivered by Lyall Dix of the Department of Local Government of New South Wales to a Seminar Organised by the Land Commission of New South Wales at Nimbin, dated 19th April 1983.

Mr/Madam Chairman,

I would like to take this opportunity to thank the organisers for their kind invitation and to participate at this seminar on behalf of the Department of Local Government. This particular paper will be primarily focused upon the building control aspects of multiple occupancy.

To give a quick introduction of building regulatory legislation the responsibility for such control i.e. the law that governs erection of buildings, in Australia, rests constitutionally with the individual states and territory forming the Commonwealth. The day to day application and administration of this control has been vested by the states to local government, i.e. councils. The states have retained the right, however, to formulate and promulgate building regulations. In summary the state makes the law, the councils administer it.

To outline my position I am the head of the Building Branch of the Department of Local Government, having been appointed to this position some six months ago. The major function of this branch is to recommend changes to existing legislation or appropriate new legislation as it affects building regulations to the Minister for Local Government to ensure that such legislation is kept up to date with changing needs and technology.

The Minister in assisting him in this process is advised by the Building Regulations Advisory Committee of which the Department's representative, i.e. myself, is the Chairman. BRAC is composed of various building industry and Governmental representatives which give it a broad based view of any matters before it. This also ensures adequate consideration of any proposed legislation by a wide spectrum of organisations involved in the building industry.

In more recent times building regulations have adopted a national approach. This national approach to building regulations started at the Local Government Minister's conference in 1964 and was further re-inforced by the 1980 conference with the formal establishment of an inter-state building regulatory committee. This committee has produced a document entitled The Australian Model Uniform Building Code (AMUBC). This is a technically orientated code and it is an endeavour to maintain uniformity of technical requirements of building regulations throughout the nation.

The regulations in New South Wales are based upon the AMUBC and are promulgated as an ordinance under the Local Government Act, namely Ordinance No. 70. The purpose of building regulations is to seek the minimum standard of control whilst maintaining adequate public health and safety and to a lesser extent amenity. As a consequence the majority of building regulations deal with fire requirements in multi storey buildings, however, building regulations also encompass house construction. The current trend of building regulations as reflected in the AMUBC and thus Ordinance 70 is towards what are called performance standards. This is a departure from the previous form of regulation which were descriptive,

e.g. previous requirements for timber wall framing was
4" x 2" hardwood studs at 18" centres.

The Ordinance now states a performance standard namely, a building shall be designed and erected so that it is structurally sound in accordance with the principals of structural mechanics and capable of sustaining the most adverse combination of loads to which they will be subjected. The Ordinance then states various ways of obtaining this performance criteria that is deemed to comply provisions. To follow the example the Ordinance states that if a house is designed and erected in accordance with the timber framing code and the wind loading code it would meet the performance standard.

This new approach to building regulations is of benefit to people desirous of erecting unusual type structures, e.g. yurts, pole frame, mudbricks and pise construction. However, it is the Council's role to ensure that the building proposed to be erected will meet these performance standards and in that regard sufficient documentation would need to accompany any application so that the Council can adequately discharge its duties imposed upon it by the Ordinance.

The Department offers assistance to councils in a number of ways in their administration of building regulations by:

- having experienced building advisory officers available for phone enquiries, interviews etc whom can give expert advice in the interpretation and intent of building regulations,
- issue Building Regulation Advisory Notes on particular matters that may have been of concern to councils or that the Department feels the need to explain to councils' building surveyors. Some 70 have been issued to date.

On a matter that is more pertinent to the participants of this seminar the Minister has recently been requested to endorse the second draft of the low cost country home book. The matter has been referred to departmental officers and a number of matters require amendment to ensure the document is legally correct. Currently negotiations are being carried out to address these anomalies. It is hoped that if successful I would recommend the endorsement of the document to BRAC who may make a similar recommendation to the Minister. It will be up to the Minister, however, to make his own decision in respect of his personal endorsement. Conversely I could not recommend that the Minister endorse the document until the Department is satisfied itself of its accuracy.

I take this opportunity to advise members of the public that there does exist a department of Local Government with a branch specialising in building regulations and that although we sit in an ivory tower in Sydney we can become divorced from problems that may exist in the field. In this regard I take this opportunity to ask you that if you see a problem with the existing building legislation then write or phone the Department outlining the problem with reasons and explanations to support your case and suggest any possible solutions. We tend to take the view that a problem does not exist unless we are told or we perceive a need for a change.

I point out however, that due to the existence of the AMUBC and the Government's desire for uniform building regulations, changes to Ordinance 70 are complex and slow as all the other states are involved.

Please make use of the Building Advisory Service; it is available to the public as well as the Councils. If you desire an interpretation of a particular problem which you feel is significant to the industry or your community, I can arrange for a Building Regulation Advisory Note outlining the Department's view to be sent to all the Councils in the State. I point out, however, that the final decision for interpretation of the Ordinance is up to the individual councils.

I welcome any questions that you may have and if you prefer, feel free to ask me questions on an individual basis during the rest of the seminar.

L. Dix,
Chief, Land and Building
Development Branch.

A new framework for the building industry

DANIEL MOORE looks at an administrative change now under way which will affect just about everyone at some stage of their lives.

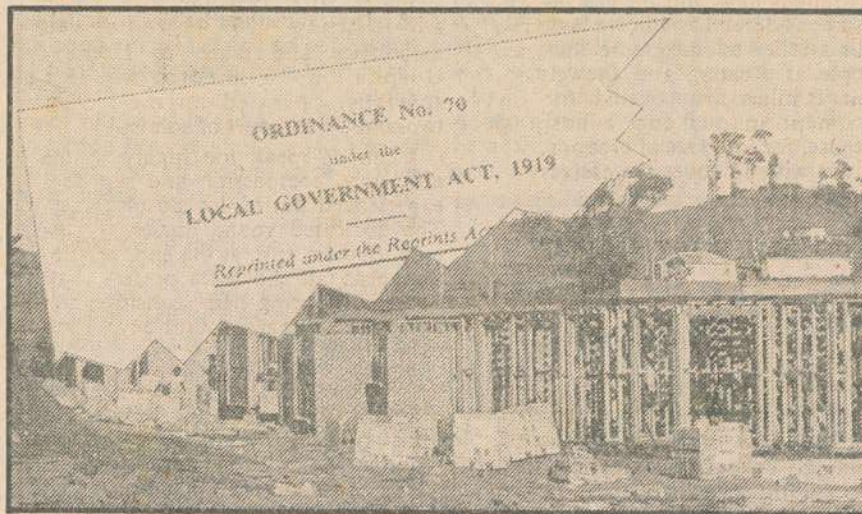
ONE of the least known but most important and pervasive documents which shape the way we live in NSW, the notorious Ordinance 70 of the Local Government Act, is about to be fully redrawn.

The 300-plus pages of Ordinance 70 govern 85 per cent of the construction industry in the State and cover everything from fire materials and the excavation of foundations, to the distance flagpoles must be above the footpath and which room you can put a washing machine in.

It is also a hugely complex and unwieldy set of rules which councils, builders, home owners and developers have been struggling with for 15 years. Not only has it fallen out of step with modern building techniques and materials, but serious criticisms have been raised about the ease with which widely-differing interpretations of the document can be, and have been, made.

After years of work, the ordinance and similar regulations in the other States and territories, should be replaced by the end of this year by a Building Code of Australia (BCA). At this stage all the governments have agreed in principle to the change.

Final approval will depend on recommendations from a co-ordinating



Ordinance 70 ... now a new set of rules is on the way.

council which is now sifting through a mountain of final submissions before drafting the "plain English" code.

While there are many people who would argue that the present Ordinance 70 is a set of sensible, necessary rules under which safe, modern constructions can be built, nobody is totally happy with it.

The sheer complexity and confusion of the ordinance have given rise to accusations that council staff had accepted bribes, and the fire regulations were providing huge benefits for insurance companies. It has also been claimed that the ordinance clears the way for local councils to make often outrageous demands of their own.

Though they are State-wide regulations, the different way councils interpret them can mean a building which is quite acceptable in one suburb will be knocked back in the next.

There are also arguments that the ordinance, indirectly, is encouraging NSW cities and towns to resemble huge, uniformly-developed sub-divisions. There are many restrictions, for example, on the use of building materials, such as sandstone, in fire-rated buildings.

The majority of the ordinance is devoted to fire regulations. But there are convincing arguments that these stringent and costly regulations are not simply to protect lives, but are a result of pressure by insurance companies to save them millions of dollars a year.

"Ord 70 is about not letting buildings burn down," says a senior building inspector with 20 years' experience on councils. He points out that the Board of Fire Commissioners, which was influential in drafting Ord 70, is mostly funded by insurance companies.

Without doubt, the fire restrictions save lives. But according to the building inspector, while "the safety of persons has been advanced 10 to 20 per cent, the safety of buildings has gone up 100 per cent ... and that is the work of the insurance companies. They are the principal benefactors of Ordinance 70".

After a fire, however, there is still a building beautifully protected by the ordinance.

"A building can be gutted but you just shovel it out, put in new windows and carpets and such, and she's ready to go again," said the inspector. The fire restrictions can add up to 30 per cent on to the cost of a building, a cost borne by the owner but favouring the insurers.

Mr Bob Ryan, who teaches home-building courses at a number of universities as well as being a member of the Federal Government's Building Research and Development Advisory Council, criticises the ordinance for its negative stance.

The architect Mr Harry Seidler agrees. "They only tell you what not to do. They make restrictive rules and that will only encourage people to get around them," he says.

Mr Ryan believes that builders, from the largest developers down, take the easy option and set out houses uniformly, to the same simple, dull plan, because that's the easiest way to get council approval. Breaches of the ordinance can mean severe penalties.

Challenging council decisions is expensive and time-consuming, and councils have an added advantage because the ordinance lists only minimum requirements. They can demand much more. Hawkesbury Shire Council, for example, once told Mr Ryan he could not paint his roof white but had

to paint it green to blend with the "environment".

He refused, pointing out that white was also an "environmental" colour as seen in both clouds and the Hawkesbury River sand. He says he was then told that white would dazzle the pilots of aircraft flying overhead. Mr Ryan — with his white roof — is awaiting signs of legal action.

Some of the most public broadsides against the ordinance have come lately from people with physical disabilities. Generally, owners of public buildings of less than three storeys are not obliged to provide disabled access above the ground floor. Thus, while the increased value of ground-floor retail space has pushed cinemas upstairs, it has also forced disabled people to remain outside, window shopping.

While the ordinance will remain as an administrative document, all its regulations will be transferred to the new code. The BCA will not be an act of parliament but local councils will have to abide by it. The new code will take away from councils much of the latitude in interpreting building regulations. For the industry, the changes will include emphasis on how materials should perform rather than simply a list of those which can be used.

A major simplification will be that instead of buildings having to fit into one of five different construction types, there will be only three categories. The regulation of room sizes will also be removed.

The obstacles to companies operating nationally will also be overcome, because the BCA will replace the eight sets of construction rules in force around Australia.

Daniel Moore is the Herald's Civic Reporter.

SMH 29.1.88