

Nim BP & PA.

9 copies

Nimbin Rotepyeri Drug Ass (Reddell)

✓ Eddie

R/ Simon. 25/11/93

(See Greta no copies of Newsletter)

TCMA & Mrs Wilson of Ballia

Ex Leigh  
Revised  
in TCMA  
Mrs Hogg (neighbour of Harold  
& Woodville  
very anti MO.)

10th. Run <sup>went to</sup> → Stormenda.

Greta & I sent bundle to Di.  
Retained some for Wallace Rd

SIMON

Balance sent to Simon for  
Channar Dist.

~~Prasanth~~ → District Sec.

Abadihi Meeting Xmas <sup>He will follow up</sup>  
A Fun leadership/poetess awards.  
(Gent coord to organize)

1/12/93 Simon sending me copies.

11/1/93

RI Di 1/ Copies of Newsletter for me?

- 2/ Dist in B. Shire?

Pan Cem flr 3/ Does nrc have supply?

✓ 4/ Is Rob on her list? y/n

✓ 5/ Belton has got. y/n

6 Jan NCE

7/ Quarry

Reize  
J Meeting

Lark. avail next Tues, Wed / & will flr. (y/n)  
re Brief & flr in m. Review.

San Louis  
McClain Byrnes

- 1 Seindipit
- 2 Wottd Rd, Upper Main Arm
- 3 Sherrys Bridge, Upper Main Arm

24/11/93 T-nevan Pinar (was another P.H in Syd)

to Rep by his area.

Pinar still  
by policy. intention originally to  
review after say 5 yrs.

Write for. <sup>Does</sup> "not <sup>want to</sup> put us through this"  
ie for process  
mo still continue -

# NIMBIN and DISTRICT RATEPAYERS AND PROGRESS ASSOCIATION INC.

Environment & Development Services  
Lismore City Council  
P.O. Box 23A  
Lismore 2480

LISMORE CITY COUNCIL RECEIVED	
18 NOV. 1993	
FILE No 5/6-3-523-1	
LETTER No 93-9704	ALLOC. PS

RMB 111  
Blue Knob Road  
Nimbin 2480.

Attention M. Scott.

## Re: Multiple Occupancy Discussion Paper Resolution 663/93 and 664/93

① multiple occ disc. paper

② comments m/p disc. paper

The Nimbin Ratepayers and Progress Association is submitting the following comments regarding the resolution of Council No 663/93 and 664/93.

1. We support the option of retaining SEPP15 and preparing a Development Control Plan in accordance with Section 5.4 of the Report to Council on 7 September, 1993. We are of the view that current approval processes with regard to Multiple Occupancies (MOs), results in unpredictable and unplanned development and is an anomaly in the strategic planning process. Hence we suggest that the DCP establish a mechanism for quotas regarding MO lots that is related to supply and demand. In addition, we suggest that the DCP re establish the original objectives of MO development namely that the majority of applicants for an MO intend to establish their principal place of residence on the land.
2. We support the move by Council to upgrade and update their information base on MOs and consider that this information upgrade should take a census approach with regard to determining the number of MOs, their status, no of residential lots approved and no. taken up, etc. The importance of an adequate data base was highlighted recently with the release of the Nimbin Community Services Plan where information in that report was incorrect and grossly inaccurate. This deficiency impacted significantly on the calculation of Section 94 contributions to the extent that the amount shown in this report has no validity or integrity. Similar errors exist in the Council's Open Space Plan. If Council is going to establish Section 94 contributions that withstand legal challenge, then an accurate data base is essential. Hence, we support a full census approach, not a random review dependent upon response to a mail survey. We believe that all shareholders, whether resident or not, of all MOs should be included in the survey, and Council should attempt to gain at least a 70% return rate; we consider this to be a matter for priority.

3. We support the establishment of a Multiple Occupancy Advisory Panel and request that the Nimbin Ratepayers and Progress Association be given representation on this panel.
4. We support the resolution 664/93 of Council proposing a 12 month amnesty period and request the Council also establish a moratorium on approval of new MOs while those partially established are given time to comply and also while a full census review is undertaken.

Finally, the Nimbin and District Ratepayers and Progress Association strongly urges Council to ensure that conditions of approval are complied with in the future and that the data base is kept up to date.

Yours Sincerely,



*for* P. Utting  
Secretary.

DELETE as required & return to recorder  
ACTION COM-LETE/N.A.R. or  
RESUBMIT ON

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*for* P. Utting  
Secretary.

DELIVERED AS REQUIRED & RETURN TO RECORDS  
ACTION COM-1117 N.A.R. or  
RESUBMIT ON

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① multiple occ disc. 12/93

② comments m/p disc. 12/93

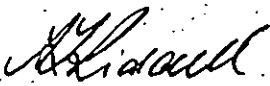
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*for* P. Utting  
Secretary.

ARROW  
Avenue  
COUNCIL

P.O. Box 188  
NIMBIN 2480  
28/10/93

The General Manager,  
Lismore City Council,  
P.O. Box 23A,  
LISMORE 2480.

M. A. J. T. E. L. (A)

**Re: Submission concerning the Multiple Occupancy Discussion Paper.**

Firstly, all of those involved should be congratulated for preparing a well researched, thoughtful and thought-provoking document. A document such as this has been long over-due. I would like to address only a few issues raised in the report as follows:

**Advantages of multiple occupancy.** Supporters of this form of development put forward many factors in favour of closer settlement of this type, the main one being affordability. There are two aspects to this:

- **establishment costs.** This stems from the original cost of the land (usually classified by experts as marginal agricultural land) through to the cost of services provided in the development. In many cases very little infrastructure is provided in developments of this type and a good part of this "saving" is usually passed onto the purchasers. Like everything in life you get what you pay for and the level of infrastructure provided in MO's simply reflects this. Whilst it can be argued that MO share purchasers are aware of what they are buying and make their choice accordingly (which is OK if in fact that is the case) needs and expectations change with time.

Council has a role where the impact of a development spreads to the broader community. There are many examples of this from effluent disposal to fire fighting where members of the community at large are physically affected by closer settlement developments. On the issue of fire fighting, for example, where the internal road system is not adequate, either in design or standard of construction, members of the fire brigade could be placed at risk when attending fires in such developments. Indeed there is anecdotal evidence that a "black-list" exists of MO's which are regarded as being too dangerous to enter under fire conditions. If there is an expectation that MO's should be afforded the same protection in the event of fire as the rest of the community then minimum standards on roadworks inside the development need to be established and enforced. If not then that needs to be stated as well.

The same sorts of external effects can be raised in terms of effluent disposal, water use and so on. I do not believe that these aspects of social impact of MO developments have been adequately addressed in the discussion paper. Council has a role in determining minimum standards and in ensuring that

1 these standards are actually implemented in those areas where the development has wider social impact.

0 on-going costs. Multiple occupancy is a form of subsidised housing particularly in respect of the provision of Council services. Whilst an argument exists in support of such subsidies, questions have to be raised concerning who is paying the subsidy, what is their capacity to maintain that subsidy, what social equity exists in the distribution of this subsidy and what capacity exists, if at all, for an expansion of this level of subsidy in the future?

10 In answer to the first part, it is the other ratepayers of Lismore City Council area who are providing the subsidy. MO's clearly dilute the rate base as demand for Council services is a function of population and not of land value. From the figures provided in the paper there are 670 dwellings in 67 MO's in the Lismore City Council area. The Council is receiving around \$100,000 in rates from the existing MO developments whereas, under forms of freehold title such as straight rural residential, the Council could expect to receive around \$500,000 in rates. This represents a current subsidy of \$400,000 per annum or \$597 per approved MO lot.

20 In answer to the two questions concerning the ability to maintain the subsidy as well as equity it is useful to look at other Councils' provision of this form of subsidisation. As shown in the discussion paper, p6, Lismore City Council area has 67 MO's; more than twice that of its neighbour Tweed despite Tweed having a larger population base as well as having a larger geographical area. Even the Kyogle Shire, with 17, has less MO's per capita than does Lismore. Hence the ratepayers of Lismore City Council are subsidising this form of housing at a far higher rate than ratepayers of any of the surrounding local government areas. Although the discussion paper raises the question of rates, neither the extent of the subsidy and the ability of the rest of the rate base to maintain this subsidy nor the question of its equity at its present levels is addressed. Another aspect of social equity concerns the economic status of the recipient of the subsidy; most forms of social welfare address the need of the recipient to actually receive the subsidy. This is not the case with the rate subsidisation of MO's and there are quite a number of professionally qualified persons in full employment living in MO's and hence receiving the subsidy.

30 40 The remaining question concerning the ability of the broader community to provide this subsidy at a rate even higher than that currently provided is a planning issue that Council has to face and the sooner the better. The recent attempt by Council to address the community service needs of the Nimbin community was hampered by the lack of base data about the community. The deficiencies in the existing data base can be readily seen in the Nimbin community services plan which highlights the poor data in the area by listing fully established MO's as being undeveloped. Accurate data is essential for

Council to be able to make meaningful planning decisions and a full survey and census needs to be taken of the MO developments in the area, both legal and illegal, as a matter of urgency. The community services plan outlined a proposed schedule of works for the Nimbin village that was out of all proportion to the population base let alone the rate base. Council needs to introduce a moratorium on the approval of any more MO's until a full analysis has been made of the broader social impact of this form of development. Such a move is more than justified in Lismore as the City area already contains more MO's, both in total number as well as per capita, than any other local government area in the State. As SEPP 15 is a State Government Planning instrument, Lismore City Council needs to seek discussions and advice with the relevant Departments (Local Government as well as Planning) regarding the impact of this Planning Policy, with a view to addressing issues of social equity, erosion of rate base etc.

The final point I would like to make flows from the points made above and concerns the approval process for MO developments. Under the current situation in Lismore City Council, as stated in the discussion paper, there is no planning instrument or zoning that limits the extent of MO development as applies to other forms of residential development such as rural residential, urban or village. This lack of limits results in unplanned and unpredictable development and population growth with its subsequent demand on infrastructure and community facilities. Whilst some of this is able to be addressed by Section 94 contributions, development of this type is outside of any planning framework and tends to be overlooked, e.g. the formula to determine the level of S94 contributions relies heavily on projections of population increase based on known approvals, and zoning capabilities. Once again, scrutiny of the Nimbin Community Services Plan illustrates this point, as no projected population increase for MO's was calculated or included, and the same applies to the Council Open Space Plan. This situation appears to be a major planning anomaly given that rural residential development is subject to both quotas from State Government as well as zoning restrictions.

It is apparent that Council needs to address the need for a Planning instrument regarding MO's: one that, besides addressing approval conditions, also addresses the question of supply and demand, economic constraints, equity issues, rating structures and social impact in order to determine future approval rate of this form of development. It is suggested that Council impose a moratorium on further MO approvals until an extensive study and planning instrument have been prepared.

Thank you for the opportunity to comment,  
Sincerely,

*John Hunter*

John Hunter



MASTER (B) (B)

LISMORE CITY COUNCIL RECEIVED	
14 OCT 1993	
FILE No. S/6-3-523-1	
LETTER No. 93-8826	ALLOC. PS

Mr P.T. Muldoon  
Town Clerk  
Lismore City Council  
P.O. Box 23A  
Lismore 2480

"Llynden"  
Cook's Lane  
Dalwood via Alstonville, 2477  
8th October 1993

Dear Mr Muldoon

**Re:- Multiple Occupancy Review.**

1 Thank you for your letter (Ref MRS:MR:S/523) of 21/9/93 and the attached planning services report of 7/9/93. I wish to comment on that report, particularly in reference to some of the comments on page 34.

10 It seems unusual that the planning services report has highlighted in italics sections of a letter from the Department of Planning to the Pan Community Council. Parts of this letter, which reportedly carried the advice that it was unable to provide legal advice on the interpretation of environmental planning instruments in regard to the legal application of State Environmental Planning Policy No. 15 (SEPP 15), seem to have been inserted in order to support a legal interpretation of this planning instrument despite the warning it contained. These selected quotes also apparently conflict with earlier advice from that same Department that subclauses 2 b) and 2 c) should be read conjunctively. "This view was supported in correspondence to Council from the Department of Planning (July 15, 1993)." -see page 34, paragraph 2. Not only that but the second section quoted in italics appears to be internally inconsistent. Clause 7(1) contains subclause 7(1)(h) "the aims and objectives of this Policy are met." which is joined to the rest of the clause by the conjunction "and" (see highlighted in pink on the attached copy). It would seem an unsustainable argument that if the aims and objectives of the Policy are not met, Council could consent to a development merely because some other selected part of the same clause 7(1) is complied with. The views put forward in the letter would seem to also indicate that it would be quite alright to arbitrarily exclude any of the 3 parts of subclauses 2 b) or 2 c) to allow developments where they would not otherwise not be permitted.

30 As regards the reported explanation by "the "architect" of the policy, Mr David Kanaley", who I believe is or was the Strategic Planning Manager with Byron Shire Council, it may not have been his intention that SEPP 15 be constructed in the way it was, but this is the form in which it has been approved. It is not unknown that architects sometimes have their plans changed by those employing them. Clause 2 of SEPP 15 is comprised of 3 subclauses, a), b) and c) which again are joined by the conjunction "and" (again highlighted in pink). Subclauses 2 b) and 2 c) each have 3 limbs, i), ii) and iii). Again each is joined by the conjunction "and" (see highlighted in blue). Further, if one or more of the aims and objectives contained in SEPP 15 are not satisfied then it follows that the mandatory requirement of subclause 7(1)(h) is not satisfied because the reference in that subclause to "the aims and objectives" is to a singular body of principles. I do not think that it can be accepted that the use of a semi-colon in SEPP 15 can change the meaning of the word "and". If the subsections of clause 2 and 7(1) were intended to be alternatives, the conjunction used would have been the word "or" and subclause 7(1)(h) would have read "any of the aims and objectives of this Policy are met." In the Shorter Oxford English Dictionary, the conjunction "and" is defined as "side by side with, along with, in addition to", whilst "or" is defined as "A particle co-ordinating two (or more) words, phrases, or clauses, between which there is an alternative." As both words are in common use in the English language and not easily confused, it is difficult to envisage that SEPP 15 has been approved in a form where the word "and" has been used where it was intended the word "or" be used. Even if this was the result of a proof reading error and the word "or" was intended, SEPP 15 would then become quite impractical, riddled with internal inconsistencies. For example, if such a development met only the requirement that it was located in an area of rural decline, then it would not be grounds for refusal of consent that it did not protect the environment, created unreasonable demands on governments or involved separate land title. Similarly, if the land comprised a single allotment then

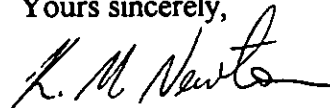
consent could be given notwithstanding that the land had an area of less than 10 hectares, buildings exceeded 8 metres in height and the aims and objectives of the Policy were not met.

It is rather perplexing that a letter from the Department of Planning which not only apparently says that it is unable to provide legal advice and appears internally inconsistent and contradictory with earlier correspondence from the same Department should be emphasised, whilst legal opinion from Council's own solicitors is apparently ignored. I refer to advice to Council reproduced in part on page 34 of Council's business paper of 15/6/93 which I understand was prepared in consultation with a barrister. It states in part "that Council ... should form an opinion as to whether all the objectives in SEPP 15 clause 2 are able to be met." I am aware of the opinions of several solicitors and the same number of barristers and there seems to be unanimity of opinion that the requirements in the clauses of SEPP 15 referred to above are not options but mandatory requirements. These opinions come from people who I believe to be experienced and competent legal practitioners and it would seem reasonable to assume that other experienced lawyers, for example judges of the Land and Environment Court, may form the same opinion. In the circumstances, it would seem only fair for the Council's solicitors to be given the right of reply. Perhaps they may be in a position to supply case law to support their opinion. At the same time they may also be able to provide further information on the comment "as the Courts have determined" at point 8 on page 15 of the planning services report of 7/9/93 in reference to the preference for a clustered style of development. There appeared to be some confusion in regard to what this preference was referring to in the last sentence of paragraph 1 on page 41 of the Council's business paper of 15/6/93. In view of the proposed State Government review of SEPP 15 this would seem an appropriate time to eliminate any points of confusion.

It seems premature to decide on what action to take at the present time. Frequent references are made in the planning services report of 7/9/93 to the need for more information on which to make decisions. It is pointless to gather data after the decisions have been made as it rather pre-empts the outcome. In addition, very little has been said on how the proposed "random selection" of MO's is to be carried out. It is essential to avoid statistical bias which would invalidate any data which was gathered and undermine decisions which were based on this data.

At the present time, it is of prime importance that Council should unequivocally remove the uncertainty surrounding its commitment to enforce consents issued and to ensure that the requirements of planning instruments are complied with. The unsatisfactory situation referred to on page 5 of the discussion paper on MO's coupled with the "yet another" amnesty suggestion referred to on page 23 of the planning services report of 7/9/93 must be resolved, otherwise it will be a pointless waste of time and money to go any further with data gathering or the preparation of a draft Policy Development Control plan. Council should also ensure that any "without prejudice" discussions which result from any amnesty do not raise false expectations, particularly where MO's could never be expected to be approved in accordance with planning requirements.

Yours sincerely,



Mr K. M. Newton

## STATE ENVIRONMENTAL PLANNING POLICY No 15

[SEPP No 15 insert Gaz 12 of 22 January 1988; am Gaz 41 of 26 February 1988; Gaz 27 of 15 October 1990]

### [43235] Citation

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

### [43236] Aims, objectives, etc

2 The aims, objectives, policies and strategies of this Policy are –

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

### [43237] 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.

### [43238]

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

### [43239] 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.

**[43242] Multiple occupancy.**

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

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

[sub-cl (1) am Gaz 152 of 23 November 1990]

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

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

[cl 7 renumbered Gaz 41 of 26 February 1988]

**[43243] 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;

# LISMORE & DISTRICT UNITED RATEPAYERS ASSOCIATION INC

(C)

President: Eleanor Cole, Duncan Road, Numulgi. Ph. 282332.

Secretary: Merv King, 20 Oliver Ave., Goonellabah. Ph. 251230.

16th October, 1993.

Mr. N. Juradowitch,  
Divisional Manager-Planning Services,  
Lismore City Council,  
Goonellabah.

Dear Sir,

Submission to Planning Department.  
Planning Options re Multiple Occupancy Discussion Paper.

LISMORE CITY COUNCIL RECEIVED	
18 OCT 1993	
FILE NO. 5/6-3-523-1	
LETTER NO. 3-8934	ALLOC. PS

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The Lismore and District United Ratepayer's Association Inc. wishes to submit the following information in relation to the Multiple Occupancy review.

We support Option 5.3. However we are aware implications may result from the State Planning Authority's Proposed Statewide review of State Environmental Planning Policy No. 15 and it's current inquiry into Alternative Forms of Rural Residential Development. We believe that Council must be flexible and be prepared to incorporate part of or adopt wholly any beneficial policies that may result from the above inquiries. As well, Health Department regulations and the need to preserve and protect water supplies must be an integral part of a new policy.


We suggest that any firm action by Council should be delayed until the above inquiries are completed.

We are quite interested in the concept outlined in Option 5.4 where Bellingen Council's D.C.P. increases lot sizes and decreases dwelling densities. We support this concept in principle.

We believe that Sections 6.1.1 Illegal Development and 6.1.2 Compliance with Development Consent should be implemented and enforced.

Section 6.1.4. We believe that theoretically this is a good idea and deserving of implementation.

Yours faithfully

  
M.H. King, for the Association.

MASTER (C)

## Department of Planning

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25 OCT 1993

The General Manager  
Lismore City Council  
PO Box 23A  
LISMORE NSW 2480

FILE NO.

S/6-3-285-1

S/6-3-523-1

LETTER NO

ALLOC.

93-9128

PS

N.S.W. Government Offices  
49 Victoria Street,  
Grafton 2460  
P.O. Box 6, Grafton 2460

Telephone : (066) 42 0622 Ext:

Fax No. : (066) 42 0640

Contact :

Our Reference :

Your Reference :

21 OCT 1993

# REVIEW OF STATE ENVIRONMENTAL PLANNING POLICY NO. 15 - MULTIPLE OCCUPANCY OF RURAL LANDS

State Environmental Planning Policy No. 15 - Multiple Occupancy of Rural Lands (SEPP 15) was introduced in June, 1988 to facilitate and provide guidelines for multiple occupancy in certain rural areas throughout the State, subject to planning consent. The policy encourages communal living and provides opportunities for people interested in an environmentally-sensitive rural lifestyle where ownership and use of the land are shared.

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Recent applications for multiple occupancy development for speculative purposes and attempts to subdivide existing multiple occupancies, have the potential to undermine current Departmental and Council strategies aimed at regulating the residential development of rural land. Further, the appropriateness of the policy and the objectives it sets out to achieve have also been questioned.

These issues have been highlighted by recent representations from local members of Parliament and residents. In response to these concerns the Minister has undertaken to review SEPP 15. In particular, the review will examine the adequacy of the provisions within the policy and the extent of its use, impact and relevance throughout the State. Councils approached by the Department's consultant are asked to participate in the review and to assist by providing relevant details.

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The results of the current review may assist councils in  
assessing the application of multiple occupancy to their  
particular area.

10 | For further information, please contact the Department's  
Regional Manager for your Council's area.

Contact: Leigh Knight  
Our Reference: G93/00210



Trevor Prior  
Manager  
(Northern Regions)

Department of Planning *DEPT*

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P.O. Box 6, Grafton 2460

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MASTER (D)

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21 OCT 1993

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Trevor Prior  
Manager  
(Northern Regions)

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Lismore City Council  
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LISMORE NSW 2480

N.S.W. Government Offices  
49 Victoria Street,  
Grafton 2460  
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Contact: Leigh Knight  
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Trevor Prior  
Manager  
(Northern Regions)



## Department of Planning

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The General Manager  
Lismore City Council  
PO Box 23A  
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(054)

N.S.W. Government Offices  
49 Victoria Street,  
Grafton 2460  
P.O. Box 6, Grafton 2460

Telephone : (066) 42 0622 Ext:  
Fax No. : (066) 42 0640

Contact :

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Your Reference :

(1) SEPP 15 m/o Review  
(2) Multiple Occ. under SEPP 15

21 OCT 1993

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Contact: Leigh Knight  
Our Reference: G93/00210



Trevor Prior  
Manager  
(Northern Regions)

Department of Planning *Dept*

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PO Box 23A  
LISMORE NSW 2480

N.S.W. Government Offices  
49 Victoria Street,  
Grafton 2460  
P.O. Box 6, Grafton 2460

Telephone : (066) 42 0622 Ext:

Fax No. : (066) 42 0640

Contact :

Our Reference :

Your Reference :

(1) SEPP 15 m/o Review  
(2) Multiple Occupancy SEPP 15

21 OCT 1993

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Contact: Leigh Knight  
Our Reference: G93/00210



Trevor Prior  
Manager  
(Northern Regions)

(A)

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P.O. Box 188  
NIMBIN 2480  
28/10/93

The General Manager,  
Lismore City Council,  
P.O. Box 23A,  
LISMORE 2480.

SPARES (A)

**Re: Submission concerning the Multiple Occupancy Discussion Paper.**

Firstly, all of those involved should be congratulated for preparing a well researched, thoughtful and thought-provoking document. A document such as this has been long over-due. I would like to address only a few issues raised in the report as follows:

**Advantages of multiple occupancy.** Supporters of this form of development put forward many factors in favour of closer settlement of this type, the main one being affordability. There are two aspects to this:

• **establishment costs.** This stems from the original cost of the land (usually classified by experts as marginal agricultural land) through to the cost of services provided in the development. In many cases very little infrastructure is provided in developments of this type and a good part of this "saving" is usually passed onto the purchasers. Like everything in life you get what you pay for and the level of infrastructure provided in MO's simply reflects this. Whilst it can be argued that MO share purchasers are aware of what they are buying and make their choice accordingly (which is OK if in fact that is the case) needs and expectations change with time.

Council has a role where the impact of a development spreads to the broader community. There are many examples of this from effluent disposal to fire fighting where members of the community at large are physically affected by closer settlement developments. On the issue of fire fighting, for example, where the internal road system is not adequate, either in design or standard of construction, members of the fire brigade could be placed at risk when attending fires in such developments. Indeed there is anecdotal evidence that a "black-list" exists of MO's which are regarded as being too dangerous to enter under fire conditions. If there is an expectation that MO's should be afforded the same protection in the event of fire as the rest of the community then minimum standards on roadworks inside the development need to be established and enforced. If not then that needs to be stated as well.

The same sorts of external effects can be raised in terms of effluent disposal, water use and so on. I do not believe that these aspects of social impact of MO developments have been adequately addressed in the discussion paper. Council has a role in determining minimum standards and in ensuring that



1 these standards are actually implemented in those areas where the development has wider social impact.

10 on-going costs. Multiple occupancy is a form of subsidised housing particularly in respect of the provision of Council services. Whilst an argument exists in support of such subsidies, questions have to be raised concerning who is paying the subsidy, what is their capacity to maintain that subsidy, what social equity exists in the distribution of this subsidy and what capacity exists, if at all, for an expansion of this level of subsidy in the future?

20 In answer to the first part, it is the other ratepayers of Lismore City Council area who are providing the subsidy. MO's clearly dilute the rate base as demand for Council services is a function of population and not of land value. From the figures provided in the paper there are 670 dwellings in 67 MO's in the Lismore City Council area. The Council is receiving around \$100,000 in rates from the existing MO developments whereas, under forms of freehold title such as straight rural residential, the Council could expect to receive around \$500,000 in rates. This represents a current subsidy of \$400,000 per annum or \$597 per approved MO lot.

30 In answer to the two questions concerning the ability to maintain the subsidy as well as equity it is useful to look at other Councils' provision of this form of subsidisation. As shown in the discussion paper, p6, Lismore City Council area has 67 MO's; more than twice that of its neighbour Tweed despite Tweed having a larger population base as well as having a larger geographical area. Even the Kyogle Shire, with 17, has less MO's per capita than does Lismore. Hence the ratepayers of Lismore City Council are subsidising this form of housing at a far higher rate than ratepayers of any of the surrounding local government areas. Although the discussion paper raises the question of rates, neither the extent of the subsidy and the ability of the rest of the rate base to maintain this subsidy nor the question of its equity at its present levels is addressed. Another aspect of social equity concerns the economic status of the recipient of the subsidy; most forms of social welfare address the need of the recipient to actually receive the subsidy. This is not the case with the rate subsidisation of MO's and there are quite a number of professionally qualified persons in full employment living in MO's and hence receiving the subsidy.

40 The remaining question concerning the ability of the broader community to provide this subsidy at a rate even higher than that currently provided is a planning issue that Council has to face and the sooner the better. The recent attempt by Council to address the community service needs of the Nimbin community was hampered by the lack of base data about the community. The deficiencies in the existing data base can be readily seen in the Nimbin community services plan which highlights the poor data in the area by listing fully established MO's as being undeveloped. Accurate data is essential for

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Council to be able to make meaningful planning decisions and a full survey and census needs to be taken of the MO developments in the area, both legal and illegal, as a matter of urgency. The community services plan outlined a proposed schedule of works for the Nimbin village that was out of all proportion to the population base let alone the rate base. Council needs to introduce a moratorium on the approval of any more MO's until a full analysis has been made of the broader social impact of this form of development. Such a move is more than justified in Lismore as the City area already contains more MO's, both in total number as well as per capita, than any other local government area in the State. As SEPP 15 is a State Government Planning instrument, Lismore City Council needs to seek discussions and advice with the relevant Departments (Local Government as well as Planning) regarding the impact of this Planning Policy, with a view to addressing issues of social equity, erosion of rate base etc.

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The final point I would like to make flows from the points made above and concerns the approval process for MO developments. Under the current situation in Lismore City Council, as stated in the discussion paper, there is no planning instrument or zoning that limits the extent of MO development as applies to other forms of residential development such as rural residential, urban or village. This lack of limits results in unplanned and unpredictable development and population growth with its subsequent demand on infrastructure and community facilities. Whilst some of this is able to be addressed by Section 94 contributions, development of this type is outside of any planning framework and tends to be overlooked, e.g. the formula to determine the level of S94 contributions relies heavily on projections of population increase based on known approvals, and zoning capabilities. Once again, scrutiny of the Nimbin Community Services Plan illustrates this point, as no projected population increase for MO's was calculated or included, and the same applies to the Council Open Space Plan. This situation appears to be a major planning anomaly given that rural residential development is subject to both quotas from State Government as well as zoning restrictions.

It is apparent that Council needs to address the need for a Planning instrument regarding MO's: one that, besides addressing approval conditions, also addresses the question of supply and demand, economic constraints, equity issues, rating structures and social impact in order to determine future approval rate of this form of development. It is suggested that Council impose a moratorium on further MO approvals until an extensive study and planning instrument have been prepared.

Thank you for the opportunity to comment,  
Sincerely,

*John Hunter*

John Hunter

(B) (B)

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14 OCT 1993	
FILE NO. S/6-3-523-1	
LETTER NO. 93-8826	ALLOC. PS

"Llynden"  
Cook's Lane  
Dalwood via Alstonville, 2477  
8th October 1993

Mr P.T. Muldoon  
Town Clerk  
Lismore City Council  
P.O. Box 23A  
Lismore 2480

*Double check SEPP 15*  
*93-5178*  
*93-5344*

Dear Mr Muldoon

Re:- Multiple Occupancy Review.

Thank you for your letter (Ref MRS:MR:S/523) of 21/9/93 and the attached planning services report of 7/9/93. I wish to comment on that report, particularly in reference to some of the comments on page 34.

It seems unusual that the planning services report has highlighted in italics sections of a letter from the Department of Planning to the Pan Community Council. Parts of this letter, which reportedly carried the advice that it was unable to provide legal advice on the interpretation of environmental planning instruments in regard to the legal application of State Environmental Planning Policy No. 15 (SEPP 15), seem to have been inserted in order to support a legal interpretation of this planning instrument despite the warning it contained. These selected quotes also apparently conflict with earlier advice from that same Department that subclauses 2 b) and 2 c) should be read conjunctively. "This view was supported in correspondence to Council from the Department of Planning (July 15, 1993)." -see page 34, paragraph 2. Not only that but the second section quoted in italics appears to be internally inconsistent. Clause 7(1) contains subclause 7(1)(h) "the aims and objectives of this Policy are met." which is joined to the rest of the clause by the conjunction "and" (see highlighted in pink on the attached copy). It would seem an unsustainable argument that if the aims and objectives of the Policy are not met, Council could consent to a development merely because some other selected part of the same clause 7(1) is complied with. The views put forward in the letter would seem to also indicate that it would be quite alright to arbitrarily exclude any of the 3 parts of subclauses 2 b) or 2 c) to allow developments where they would not otherwise not be permitted.

As regards the reported explanation by "the "architect" of the policy, Mr David Kanaley", who I believe is or was the Strategic Planning Manager with Byron Shire Council, it may not have been his intention that SEPP 15 be constructed in the way it was, but this is the form in which it has been approved. It is not unknown that architects sometimes have their plans changed by those employing them. Clause 2 of SEPP 15 is comprised of 3 subclauses, a), b) and c) which again are joined by the conjunction "and" (again highlighted in pink). Subclauses 2 b) and 2 c) each have 3 limbs, i), ii) and iii). Again each is joined by the conjunction "and" (see highlighted in blue). Further, if one or more of the aims and objectives contained in SEPP 15 are not satisfied then it follows that the mandatory requirement of subclause 7(1)(h) is not satisfied because the reference in that subclause to "the aims and objectives" is to a singular body of principles. I do not think that it can be accepted that the use of a semi-colon in SEPP 15 can change the meaning of the word "and". If the subsections of clause 2 and 7(1) were intended to be alternatives, the conjunction used would have been the word "or" and subclause 7(1)(h) would have read "any of the aims and objectives of this Policy are met." In the Shorter Oxford English Dictionary, the conjunction "and" is defined as "side by side with, along with, in addition to", whilst "or" is defined as "A particle co-ordinating two (or more) words, phrases, or clauses, between which there is an alternative." As both words are in common use in the English language and not easily confused, it is difficult to envisage that SEPP 15 has been approved in a form where the word "and" has been used where it was intended the word "or" be used. Even if this was the result of a proof reading error and the word "or" was intended, SEPP 15 would then become quite impractical, riddled with internal inconsistencies. For example, if such a development met only the requirement that it was located in an area of rural decline, then it would not be grounds for refusal of consent that it did not protect the environment, created unreasonable demands on governments or involved separate land title. Similarly, if the land comprised a single allotment then

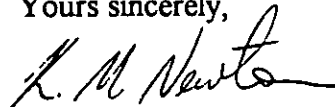
consent could be given notwithstanding that the land had an area of less than 10 hectares, buildings exceeded 8 metres in height and the aims and objectives of the Policy were not met.

It is rather perplexing that a letter from the Department of Planning which not only apparently says that it is unable to provide legal advice and appears internally inconsistent and contradictory with earlier correspondence from the same Department should be emphasised, whilst legal opinion from Council's own solicitors is apparently ignored. I refer to advice to Council reproduced in part on page 34 of Council's business paper of 15/6/93 which I understand was prepared in consultation with a barrister. It states in part "that Council ... should form an opinion as to whether all the objectives in SEPP 15 clause 2 are able to be met." I am aware of the opinions of several solicitors and the same number of barristers and there seems to be unanimity of opinion that the requirements in the clauses of SEPP 15 referred to above are not options but mandatory requirements. These opinions come from people who I believe to be experienced and competent legal practitioners and it would seem reasonable to assume that other experienced lawyers, for example judges of the Land and Environment Court, may form the same opinion. In the circumstances, it would seem only fair for the Council's solicitors to be given the right of reply. Perhaps they may be in a position to supply case law to support their opinion. At the same time they may also be able to provide further information on the comment "as the Courts have determined" at point 8 on page 15 of the planning services report of 7/9/93 in reference to the preference for a clustered style of development. There appeared to be some confusion in regard to what this preference was referring to in the last sentence of paragraph 1 on page 41 of the Council's business paper of 15/6/93. In view of the proposed State Government review of SEPP 15 this would seem an appropriate time to eliminate any points of confusion.

It seems premature to decide on what action to take at the present time. Frequent references are made in the planning services report of 7/9/93 to the need for more information on which to make decisions. It is pointless to gather data after the decisions have been made as it rather pre-empts the outcome. In addition, very little has been said on how the proposed "random selection" of MO's is to be carried out. It is essential to avoid statistical bias which would invalidate any data which was gathered and undermine decisions which were based on this data.

At the present time, it is of prime importance that Council should unequivocally remove the uncertainty surrounding its commitment to enforce consents issued and to ensure that the requirements of planning instruments are complied with. The unsatisfactory situation referred to on page 5 of the discussion paper on MO's coupled with the "yet another" amnesty suggestion referred to on page 23 of the planning services report of 7/9/93 must be resolved, otherwise it will be a pointless waste of time and money to go any further with data gathering or the preparation of a draft Policy Development Control plan. Council should also ensure that any "without prejudice" discussions which result from any amnesty do not raise false expectations, particularly where MO's could never be expected to be approved in accordance with planning requirements.

Yours sincerely,



Mr K. M. Newton

## STATE ENVIRONMENTAL PLANNING POLICY No 15

[SEPP No 15 insert Gaz 12 of 22 January 1988; am Gaz 41 of 26 February 1988; Gaz 27 of 15 October 1990]

### [43235] Citation

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

### [43236] Aims, objectives, etc

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

(a) to encourage a community based and environmentally sensitive approach to rural settlement;

(b) to enable -

(i) people to collectively own a single allotment of land and use it as their principal place of residence;

(ii) the erection of multiple dwellings on the allotment and the sharing of facilities and resources to collectively manage the allotment; ~~and~~

(iii) the pooling of resources, particularly where low incomes are involved, to economically develop a wide range of communal rural living opportunities, including the construction of low cost buildings; ~~and~~

(c) to facilitate development, preferably in a clustered style -

(i) in a manner which both protects the environment and does not create a demand for the unreasonable or uneconomic provision of public amenities or public services by the State or Commonwealth governments, a council or other public authorities;

(ii) in a manner which does not involve subdivision, strata title or any other form of separate land title, and in a manner which does not involve separate legal rights to parts of the land through other means such as agreements, dealings, company shares, trusts or time-sharing arrangements; ~~and~~

(iii) to create opportunities for an increase in the rural population in areas which are suffering or are likely to suffer from a decline in services due to rural population loss.

### [43237] 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.

### [43238]

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

### [43239] 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.

**[43242] Multiple occupancy.**

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

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

[sub-cl (1) am Gaz 152 of 23 November 1990]

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

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

[cl 7 renumbered Gaz 41 of 26 February 1988]

**[43243] 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;

# LISMORE & DISTRICT UNITED RATEPAYERS ASSOCIATION INC

President: Eleanor Cole, Duncan Road, Numulgi. Ph. 282332.

Secretary: Merv King, 20 Oliver Ave., Goonellabah. Ph. 251230.

16th October, 1993.

Mr. N. Juradowitch,  
Divisional Manager-Planning Services,  
Lismore City Council,  
Goonellabah.

Dear Sir,

Submission to Planning Department.

Planning Options re Multiple Occupancy Discussion Paper.

The Lismore and District United Ratepayer's Association Inc. wishes to submit the following information in relation to the Multiple Occupancy review.

We support Option 5.3. However we are aware implications may result from the State Planning Authority's Proposed Statewide review of State Environmental Planning Policy No. 15 and it's current inquiry into Alternative Forms of Rural Residential Development. We believe that Council must be flexible and be prepared to incorporate part of or adopt wholly any beneficial policies that may result from the above inquiries. As well, Health Department regulations and the need to preserve and protect water supplies must be an integral part of a new policy.


We suggest that any firm action by Council should be delayed until the above inquiries are completed.

We are quite interested in the concept outlined in Option 5.4 where Bellingen Council's D.C.P. increases lot sizes and decreases dwelling densities. We support this concept in principle.

We believe that Sections 6.1.1 Illegal Development and 6.1.2 Compliance with Development Consent should be implemented and enforced.

Section 6.1.4. We believe that theoretically this is a good idea and deserving of implementation.

Yours faithfully

  
M.H. King, for the Association.

LISMORE CITY COUNCIL  
RECEIVED

18 OCT 1993

FILE NO.

5/6-3-523-1

LETTER NO.

3-8934

ALLOC.

PS

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Delete as required & return to rec.

ACTION COMPLETE / N.A.b. or

RESUBMIT ON

Signed

Date

## 'A' SECTION

DIVISIONAL MANAGER-PLANNING SERVICES REPORT

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

PREPARED BY: Development Control Planner - Mr M Scott

REASON: To advise Council of submissions to the exhibition of Council's preferred planning option to retain and remain with the State Environmental Planning Policy (SEPP) No. 15 and prepare a supporting policy in a Development Control Plan (DCP).

OBJECTIVE: To obtain Council's resolution to prepare a Multiple Occupancy Policy in the format of a DCP and retain the enabling provisions of SEPP No. 15 (to be reviewed at completion of the State Government review of the State Policy).

CORPORATE PLAN REF: Function: N/A  
Strategy: N/A  
Action: N/A

PROGRAMME BUDGET REF: Page: N/A

CONTENTInformation:

Copies of the planning report and resolution of Council were forwarded to those 30 communities, organisations and individuals who made submissions to the Multiple Occupancy Discussion Paper. Partial copy of the report (identified planning options section only) and Council's resolution were also forwarded to the other 55 organisations etc (including bushfire brigades) with whom Council had previously consulted during the exhibition of the Discussion Paper. Public notice of the exhibition was also placed in the Northern Star advising of an exhibition period of one month.

At the expiration of this exhibition period five submissions had been received. The following is a review of the submissions. The Department of Planning also during this time, formally advised Council of the Department's review of SEPP #15.

SUBMISSIONS

## 1. Submissions from MO's, community organisations and individuals.

1.1 *Pan Communities Council, C/- S Clough, Ross Road, The Channon.*

Advising unable to prepare a detailed response due to ill-health and holidays. That Pan-Com is keen to make suggestions regarding the Advisory Panel and that suggestions to the Development Control Plan (DCP) will be based on the submission to Council 1987 by the Rural Resettlement Task Force.

This is page 28 of the Business Paper comprising portion of minutes of an Ordinary Meeting of the Lismore City Council held on November 6, 1993.



**Comment:** The Pan Council have verbally advised of support of Council's resolution and indicated a willingness to assist in the development of a policy which is both a management and educational document, together with survey design and framing terms of reference for the proposed Advisory Panel.

**1.2 *Lismore and District United Ratepayers Association Inc***

Advising support of option 5.3 (to seek exemption from State Environmental Planning Policy (SEPP #15) and prepare an amending Local Environmental Plan (LEP)) in the context of the State Government review of SEPP #15 and alternate forms of Rural Residential Development. That Council should be prepared to adopt beneficial policies from those inquiries and Health Department regulations to protect water supplies. Suggests Council delay firm action until the above inquiries are completed.

Supports the concept of increased lot size and decreasing dwelling densities as utilised in the Bellingen Council DCP for multiple occupancy.

Supports the Planning Division suggestions to Council in respect of illegal development and non compliance with development consent conditions. That at the finalisation and adoption of Council's preferred planning strategy an amnesty be declared to encourage regularisation of illegal developments, if possible, and without prejudice discussions to negotiate compliance with development consents and that consents be enforced.

Supports in theory the establishment of an MO Advisory Panel.

**Comment:** The Lismore and District Ratepayers submission appears to generally indicate a "wait and see" approach in the context of several State Government enquiries and reviews of rural settlement and development. The organisation proposed that Council should prepare its own Local Environmental Plan (LEP) for multiple occupancy.

Given the general weight of submissions to the discussion paper, it is considered that the enabling provisions of the SEPP should be retained and then re-evaluated at the completion of the State review (refer to comments within Section 2.1 of this report). Should it be generally considered appropriate to reject the enabling provisions of the SEPP, it is envisaged that the LEP would constitute a relatively flexible document supported by a complimentary DCP.

**1.3 *Mr KM Newton, "Llynden" Cooks Lane, Alstonville***

Expressing concern regarding the legal interpretation of the aims and objectives of SEPP #15, suggesting the correspondence and advice provided by the Department of Planning to Council, and subsequently to the Pan Community Council (with copy forwarded to Council) apparently conflicts. That legal opinion from Council's own Solicitors has apparently been ignored, wherein advice was supplied to Council in reference to a Development Application for multiple occupancy (Davis Road, Jiggi) which suggested in part "that Council ..... should form an opinion as to whether all objectives in SEPP #15 Clause 2 are able to be met".

The writer suggests that "Clause 2 of SEPP #15 is comprised of 3 subclauses, a), b) and c) which again are joined by the conjunction "and" (again highlighted in pink). Subclauses 2 b) and 2 c) each have 3 limbs, i), ii) and iii). Again each is joined by the conjunction "and" (see highlighted in blue). Further, if one or more of the aims and objectives contained in SEPP #15 are not satisfied then it follows that the mandatory requirement of

*subclause 7(1)(h) is not satisfied because the reference in that subclause to "the aims and objectives" is to a singular body of principles. I do not think that it can be accepted that the use of a semi-colon in SEPP #15 can change the meaning of the word "and". If the subsections of clause 2 and 7(1) were intended to be alternatives, the conjunction used would have been the word "or" and subclause 8(1)(h) would have read "any of the aims and objectives of this Policy are met".*

Suggests that in view of the proposed State Government review of SEPP #15, this would seem an appropriate time to eliminate any points of confusion. Also suggests that it would be premature to decide on what action to take until Council has collected the necessary information/data on which to make decisions, arguing that it is pointless to gather data after the decisions have been made as it rather pre-empt the outcome.

Further suggests that Council should unequivocally remove the uncertainty surrounding its commitment to enforce consents issued and to ensure that the requirements of planning instruments are met, and that otherwise the process of data gathering or preparation of a Policy DCP will be a waste of time and money. Concludes that "without prejudice" discussions which result from an amnesty should not raise false expectations, particularly where MO's could never be expected to be approved in accordance with planning requirements.

**Comment:** The issue of interpretation of the aims and objectives of the SEPP have been of paramount importance to the Planning Services Division which have forwarded copy of the comments and opinions provided to Council by the Department and the Pan Community Council to legal counsel for comment.

At the time of finalising this report Council's legal advice had not been received. It will be supplied to Council with appropriate comments prior to the November 16, Ordinary Meeting of Council. This advice may have a bearing on whether Council should remain under the umbrella of SEPP15.

In the context of the State Review, this issue has been flagged by the Department as being "on the agenda" for consideration. Given the relatively short period until the State's position is known, it does not appear necessary to seek exemption from the Policy at this time. It is considered that the aims and objectives of the policy (albeit generally) encapsulate the philosophy for the policy and enabling provisions within. Although it is noted that no rural area in Lismore City has a declining population base, compliance with the objective in essence creates its own inconsistency. As MO's are developed, population increases. With a literal interpretation of the objective therefore suggesting that further MO's should be refused because of the MO related population growth.

Retaining, for present, what is generally regarded as status quo together with the preparation of a policy position does not prejudice future re-consideration of the matter.

**1.4 Mr J Hunter and Ms L Riddell, PO Box 188, Nimbin**

Making a submission to the Multiple Occupancy Discussions Paper and raising the following points:

- 1) Supporters of the multiple occupancy development forward many factors in favour of the main one being affordability which comprises:

- a) Establishment costs - very little infrastructure provided and that this "saving" is usually passed onto purchasers. Suggests that Council has a role where the impact of the development spreads to the broader community, eg effluent disposal and fire fighting. In relation to fire protection and that if there is an expectation that MO's should be protected the same as the rest of the community, then minimum standards on internal roadworks need to be established and enforced.
- b) On-going costs - suggest that MO's are a form of subsidised housing particularly in respect of the provision of Council services. Queries and expresses concern regarding who is paying the subsidy, capacity to maintain that subsidy, what social equity exists in the distribution of this subsidy and what capacity exists to expand this level of subsidy.

Suggests that ratepayers at large are subsidising multiple occupancy development as demand for Council services is a function of population and not land value. Expresses concern that neither the extent of subsidy, nor the question of its equity at its present levels is addressed, exemplifying that most forms of social welfare address the need of the recipient to actually receive the subsidy. Notes that there are quite a number of professionally qualified persons in full employment living in MO's and hence receiving a subsidy.

Examples the difficulties and lack of base data and information for multiple occupancies in the recent Nimbin Community Services Plan. Suggests a full survey and census needs to be taken of all (legal and illegal) MO developments as a matter of urgency, and that a moratorium on the approval of any more MO's be introduced until a full analysis has been made of the broader social impacts of this form of development.

2. Expresses concern that there is no planning instrument or zoning that limits the extent of MO development as applies to other forms of residential development. This, it is suggested, results in unplanned and unpredictable development and population growth with its subsequent demand on infrastructure and community facilities. Examples again the exhibited Nimbin Community Services Plan in which no projected population increase for MO's were calculated or included. Suggests that this is a major anomaly given that rural residential development is subject to both quotas as well as zoning restrictions.
3. Suggests that there is a need for a planning instrument that besides addressing approval conditions also addresses questions of supply and demand, economic constraints, equity issues, rating structures and social impacts in order to determine future approval rates of this form of development.

**Comment:** This submission raised issues which are best addressed through the proposed further literature reviews and research (survey). Should it be considered appropriate to prepare an amending LEP for multiple occupancy the results of the survey will provide a substantial basis for any planning strategies and management practices. Future rural residential development in Lismore will not be based on zonings, but rather require that a comprehensive list of locational and servicing criteria be met.

- 1.5 *Glenbif Pty Ltd (Dingo Ridge Community), PO Box 128, Nimbin*  
Advising that at a recent meeting of the community it resolved to support Council's resolution (663/93) to remain with SEPP #15 and prepare a Policy Development Control Plan, survey of multiple occupancies, and formation of an MO Advisory Panel.

Comment: Supports the Council resolution.

2. Advice from Government

- 2.1 *Department of Planning, PO Box 6, Grafton*  
The Department formally advised Councils in NSW of the State review of SEPP #15 and has requested Councils approached by the consultants undertaking the review, to assist by providing relevant details.

The Department indicated that the review will examine the adequacy of the provisions within the policy and the extent of its use, impact and relevance throughout the State. The context in which the review is being undertaken follows representations from local members of Parliament and residents. It is argued that recent applications for multiple occupancy development for speculative purposes and attempts to subdivide existing multiple occupancies, have the potential to undermine current Departmental and Council strategies aimed at regulating the residential development of rural land. The appropriateness of the policy and the objectives it sets out to achieve have also been questioned.

The Department concluded by reminding Councils that provisions allowing multiple occupancy can be incorporated into local planning instruments by way of an amending LEP, and that such provisions can more accurately reflect the needs of individual local government areas. It was suggested that results of the current departmental review may assist Councils in assessing the application of multiple occupancy to their particular area.

Comment: In recent discussions with Departmental staff it appears that consultants undertaking the review have been engaged and the following programme proposed:

1. Survey and questionnaire of Councils to assess the extent of use and effectiveness of SEPP #15 (within the next two weeks).
2. Discussions with relevant State Government Departments.
3. Preliminary report to the Department of Planning.
4. Detailed case studies of Councils who have experienced a lot of applications under SEPP #15. This will also involve opportunities for communities, individuals and organisations to discuss issues with the Department's consultants.
5. Report to the Department mid March/April.

The consultants chosen by the Department are Purdon and Associates in conjunction with Chris Murray of Bellingen.

*(Neither of which have had any direct experience with M.O.'s.)*

# LISMORE CITY COUNCIL - MEETING HELD NOVEMBER 16, 1993

## DIVISIONAL MANAGER-PLANNING SERVICES REPORT

- 6 -

For the present, it does not seem appropriate in terms of timing to prepare an amending LEP until the State Review is completed. The time for such an instrument to be prepared, consultation exhibited, review of submissions, and gazettal may in any event take longer than the State review.

### FINANCIAL SECTION N/A

### OTHER DEPARTMENT COMMENTS Not Requested.

### CONCLUSION

The responses to the exhibited planning options are mixed. Given the extent of formal consultation as highlighted at the beginning of this report, it is assumed that there is general satisfaction/agreement with Council's approach to-date.

As indicated in the various commentary sections above, there is seen to be little to be gained from alteration to Council's adopted preferred planning strategies. In general, preparation of a policy position (as a DCP) and retention of the current provisions of SEPP #15 is considered a satisfactory position until the Department's review is completed. The DCP as previously indicated to Council should address the following provisions and issues:

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

In relation to other relevant matters within Council's resolution 663/93 and 664/93 of September 7, work has commenced on preparation of survey material. Little specific comment has been made in relation to the Advisory Panel composition structure and terms of reference. It is proposed that this issue will be addressed in the survey, together with preparation of a draft management plan by staff for refinement by a panel, if formed.

This is page **33** of the Business Paper comprising portion of minutes of an Ordinary Meeting of the Lismore City Council held on November 6, 1993.

**LISMORE CITY COUNCIL - MEETING HELD NOVEMBER 16, 1993**

**DIVISIONAL MANAGER-PLANNING SERVICES REPORT**

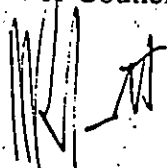
- 7 -

**Declaration:**

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


**RECOMMENDATION (PLAN74)**

That Council adopt the preferred planning strategy to remain within State Environmental Planning Policy #15, at present and pending the State Review of the Policy, and proceed to prepare a multiple occupancy DCP in consultation with interested parties, for future consideration of Council.



(MR Scott)  
DEVELOPMENT CONTROL PLANNER

*Adopted.*



(N Juradowitch)  
DIVISIONAL MANAGER-  
PLANNING SERVICES

M-S MASTERS  
Not copied

GLENBIF PTY LIMITED  
ACN 002 997 382

The Secretary  
GLENBIF PTY LIMITED  
P O Box 128  
NIMBIN NSW 2480

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File is out with PS  
Delete as required & return to records  
ACTION COMPLETE / N.A.H. or  
RESUBMIT ON \_\_\_\_\_ Date \_\_\_\_\_  
Signed \_\_\_\_\_  
October 25th 1993.

LISMORE CITY COUNCIL RECEIVED	
29 OCT 1993	
FILE No. 5/6-3-523	
LETTER No. 93-9326	ALLOC. PS

(041)

Malcolm Scott,  
Planning Services,  
LISMORE CITY COUNCIL,  
P O Box 23A,  
LISMORE NSW 2480

ATTENTION: Malcolm Scott

RE: REVIEW INTO MULTIPLE OCCUPANCY DEVELOPMENTS

Dear Sir,

The Company own land at 449B Gungas Road, Nimbin, and its shareholders have a partially established 11 site multiple occupancy called DINGO RIDGE COMMUNITY on the land. Conditional development consent has been granted by Lismore City Council and a s.102 (EPA Act, 1979) was lodged with Council addressing all matters covered in the consent conditions in December 1992.

The report and recommendations related to the review into multiple occupancy developments in Lismore Shire was made available to all resident members of our community; whereby at a recent meeting of our community it was resolved that Council be contacted in writing with support for Council's recommendations associated with Plan 26.

Our community would appreciate the opportunity to be involved in any further surveys associated with this matter.

Thank you for your valuable time.

Yours faithfully,

Robyn Scott

Robyn Scott

Secretary.

MS

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Delete as required & return to records.  
ACTION COMPLETE / N.A.K. or  
RESUBMIT ON \_\_\_\_\_ Date \_\_\_\_\_  
Signed 1

PAN COMMUNITIES COUNCIL

**LISMORE CITY COUNCIL**  
RECEIVED  
20 OCT 1993  
FILE NO.  
5/6-3-523-1  
LETTER NO.  
93-9026  
ALLOC.  
PS

Simon Clough  
Ross Road  
The Channon 2480  
14th October '93

Malcolm Scott  
Lismore City Council  
PO Box 23A  
LISMORE 2480

Dear Malcolm.

RE: RESPONSE TO MO REVIEW

① NO Renew response  
② multiple response

Because of ill health and holidays Pan Com has been unable to prepare a response to your request to date.

We are keen to make suggestions regarding the advisory panel . its constitution and the proposed DCP. I can say at this stage that our DCP proposal will be based on the submission put to Lismore City Council in 1987 by the Rural Resettlement Task Force.

I look forward to sending you our submission in the near future.

Warm Regards.

*Simon*  
for Pan Com



line notes to submissions to Council no Proposals.

A2:10 False logic

If freehold no settlement would & not have occurred  
then gain to Council of \$100,000 p.a. would not ~~be~~<sup>be</sup> occurring. No pay £.94 on an equity/user pay  
basis so where is the "subsidy"?

ditto infra structure costs eg roads with  
sewerage (if appl) bush fire.

In remote areas, all of these help the farmer  
& env.

where is the basis/grounds for griping

A2:35 of rural farmer's subsidy, flood relief, super and  
sub, rail sub, tax concession, <sup>drought</sup> field relief,  
transport subsidy, bus subsidy

A3:20 total zone - subject to constraints.

A3:27 part of the total

D1:10 which?

120 nonsense

135 & found adequate - be accountable, who?

D2:5 assumption

A3:1 of Gungahlin

A1:5 of social aspects / QOL

15 ignorance

25 whose def.?

30 if so, discrimination

A2:25 + income etc + into his district.

E3:40 foolish & dangerous, fool handy (see also B.  
where is complaint.

Implies (if quoted out of context) that this is staff  
ENVIRONMENTALLY FRIENDLY recommendation  
see however E4:45

E6: 2 Beware of this being taken out of context  
is NA.

AMCOS 2

(SCHOOL LETTERHEAD)

ALL SCHOOLS SEEKING TO BE LISTED AS A  
PARTICIPATING SCHOOL IN THE AIS/AMCOS SCHEME FOR 1988  
MUST FORWARD

ONE OF THE LETTERS 2, 3 OR 4  
(TOGETHER WITH THE CHEQUE MADE PAYABLE TO AMCOS)  
TO THE AIS BY 25TH MARCH 1988

The Executive Director.  
Australasian Mechanical Copyright  
Owners Society Limited,  
Through  
The Association of Independent Schools  
7th Floor, 37 York Street.  
SYDNEY N.S.W. 2000

Dear Sir.

I enclose the sum of \$1.

I understand that you will now provide this school with an indemnity in the form set out in schedule B of the Agreement between CAL and the Association of Independent Schools of N.S.W. made in 1988.

Yours sincerely,

---

(Signature of person authorised to sign  
on behalf of the Governing Body of the School)