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

SUMMARY REPORT

**Report to NSW Department of
Planning**

by

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This report summarises the main findings and recommendations of a comprehensive review of State Environmental Planning Policy 15 which was enacted in 1988 to make provision for Multiple Occupancy development on rural land in NSW.

The Review was prepared for the NSW Department of Planning by Purdon Associates and Christopher Murray & Associates, and submitted in June 1994. Since completing the main Review, the Department of Planning has sought further advice regarding implementation of the recommended policy action. The advice on this extended Brief has been included in this summary report.

The main purpose of the Review was to consider the effectiveness of SEPP 15 and its ongoing need at a State level (Attachment A). The Review also formed part of the Department's ongoing policy evaluation procedures.

Multiple Occupancy (MO) is commonly understood to be a type of rural development whereby a group of people, who are not necessarily related, combine their resources to collectively buy and operate a single rural property. MOs are part of a continuum of rural housing, which includes more traditional rural developments such as rural workers dwellings, dual occupancies, hobby farms and rural residential housing.

SEPP 15 was introduced in response to demand for opportunities for community living in rural areas that had emerged in the 1970s and early 1980s. The policy has applied to most non-metropolitan Councils throughout NSW since 1988 and built upon earlier government guidelines (Planning & Environment Commission (PEC) Circular 35 on 7 November 1979).

Whilst many MOs are thought to have received planning approval under either SEPP 15 or the local planning instrument, a number of MOs still exist without formal approval of the Local Council, or contain unapproved structures.

The majority of MOs (81%) are concentrated in the north-eastern corner of NSW. Evidence suggests there could be a total of about 200 MO sites accommodating up to 7000 residents in NSW. This represents only a very small percentage of total properties or resident population throughout the state.

Recent years have seen a substantial decline in both the number of new MO applications and development approvals, with only a handful of each being dealt with over the last few years by all Councils throughout NSW. There is no evidence to suggest that this demand is likely to increase. The very low level of demand for MO developments reinforces the conclusion that MO development is essentially of local rather than State significance.

Many issues relating to MO development have always been the responsibility of Local councils rather than SEPP15. These include administration of S.94 contributions, development approvals, rating, compliance with conditions of consent, and illegal MO's and dwellings. A decision to revoke SEPP15 would not affect these responsibilities of local Councils. Allowing Councils to have full responsibility for MO development, as with other forms of rural settlement, would give councils more effective control over implementation of the Policy.

The main conclusions from the Review are as follows:

- there is a small but ongoing demand for MO development, and the incidence of MOs across the State represent only a very small percentage of rural accommodation;
- there is no longer a need for the State Government to operate a state-wide policy to control this form of development;
- MOs should be treated in a similar manner to other forms of rural development in terms of planning assessment, environmental management, rating and S.94 Development Contributions;
- a number of changes to existing SEPP 15 guidelines would be warranted if this policy was to be retained;
- Local Government is well placed to manage development applications for future MOs under amended provisions of their own Local Environmental Plans if this is seen as a relevant local priority; and
- removal of SEPP 15 is not seen as having any adverse effect on existing MO communities, but would require Local Councils to amend existing LEP's to accommodate new applications for MOs.

After consideration of several policy options, it is recommended that SEPP 15 be rescinded at an early date, and that the State Government assist the transfer of responsibility for MOs to Local Councils by facilitating amendments to LEP's for the inclusion of MO type developments.

2 BACKGROUND AND PURPOSE

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

This Review was commissioned by the Department of Planning to thoroughly examine the operation of the Policy since its inception. The specific Terms of Reference are at Attachment A.

The Review has been based on the following approach:

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

Information from a study of MOs by Lismore City Council (1993) was also used in this Review. There is no specific data available from the Australian Bureau of Statistics on MOs.

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

SEPP 15 has been the principle vehicle for approval of MOs since 1988. The main provision of SEPP 15 are summarised in Attachment B. However, under current provisions Councils are also able to process MO applications by incorporating alternative provision in its LEP and/or prepare a Development Control Plan aimed at addressing specific local matters.

3 EXISTING SITUATION

Table 1 summarises a typical profile of rural MO's, and has been compiled from information collected during the Review.

In 1994, there was an estimated total of ... MOs throughout NSW, with the majority concentrated in 8 local government areas along the north eastern coast of NSW.

MOs have an average block size of between 10-80 ha, with an estimated 15 dwellings per site. Total resident MO population is estimated at a maximum of 7000 across NSW. A large number of MOs were established pre-SEPP 15, although about 140 have been approved since early 1988 under SEPP 15 or related LEPs.

Evidence suggests that the demand for new MOs has declined over recent years. The local government survey showed a decline in approvals across NSW since the inception of the policy from 28 in 1988 to 11 in 1993. Many of the approvals during this early period were for MO's established prior to SEPP15.

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

The main development themes of MOs include dispersed residential and environmentally sensitive lifestyles: forest living/preservation; permaculture; communal rural lifestyle; horticulture; and religion. Cluster housing only occurred on a small percentage of MOs surveyed.

A wide range of community facilities have been built on MOs, principally for private residents use. Common forms of land use on MOs were residential, agriculture (including horticulture) and environment preservation. Ownership characteristics of the majority of MOs include: communal structures based on Tenants in common (42% of MOs), Proprietary Companies (32%), Co-operatives (14%) or Trusts (10%).

Table 1: Typical Multiple Occupancy Profile

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

Source: Purdon Associates Survey Results (1994)

4

ISSUES

The Review canvasses a wide range of issues from the perspective of MO residents, Local Councils, and State Government agencies through the use of several techniques including public consultations, surveys, and discussions with government agencies. The following sections summarise the main issues arising from this consultation and review.

4.1 Policy Context & Objectives

In a broad policy context the Review questioned the need for continuation of SEPP 15 across the state. The Policy is only used by 14 Councils throughout the state and has not had to deal with many applications since its inception five years ago. Considerable numbers of unapproved MO continue to exist despite the opportunity for formal approval under SEPP 15. Management of unapproved MOs is now and will continue to be essentially a local issue, unaffected by the existence of the Policy.

SEPP 15 can be used to override local planning strategies in relation to use of rural land, and has an unpredictable impact on local population distribution. Transferring responsibility for MOs back to Local Councils would enable more effective and integrated local area planning.

The Review found that the treatment of MOs in relation to rural residential development is not equitable. Rural residential development planning is largely the responsibility of local government. Considerable time and resources are directed into this type of development whilst there is little local control over MO development.

A set of guidelines provided under SEPP15 and suggested amendments provided by this review (Attachment C) could be incorporated by Local Councils into amended local planning instruments.

Some of the objectives for MOs as outlined in SEPP 15 were given different emphasis and interpretation by each of the stakeholders. However, the Review also found that there was some common ground with Councils and MO residents placing greatest emphasis on 'encouraging environmentally sensitive rural settlement' and generally agreed on the importance of 'avoiding subdivision of rural land'.

Differences between Local Councils and MO respondents occurred in relation to Councils' emphasis on '*avoiding demand for Council/Government services*', compared with MO resident emphasis on '*the sharing of facilities and resources*'; '*encouragement of community based rural settlement*'; and the '*pooling of resources*'.

The objective relating to '*opportunities for an increase in rural population*' was considered to be unimportant. Councils and MO residents expressed the view that it should be deleted.

Despite the large degree of acceptance by both Council and MO residents of the objectives, Councils indicated that they were largely not being achieved by MO developments in their area. Most Councils considered that implementation of the policy was not resulting in 'environmentally sensitive rural development', and that the main use of MOs was for low cost housing.

4.2 Regulation and Assessment

Three areas of the regulation and assessment process emerged as important: the development application and assessment process; the building approval/illegal dwelling control processes; and the enforcement of conditions of consent.

All of these issues are effectively the responsibility of Local Councils and would not be affected by a transfer of MO planning responsibility to the local level.

As with other forms of development, the proper assessment of a MO development proposal should require comprehensive documentation of the proposal and its compliance with the provisions of the Policy. There is a wide variation in the standard of documentation submitted to Councils, with the general view being that the standard was inadequate. Use by Councils of a simple plain english guide, including a checklist, to prepare a development application would assist with resolving this issue. Such a guide could also identify the parameters under which an application is referred to particular government authorities.

Effective consultation during the DA assessment process has been identified as an essential ingredient in achieving good development, with the need for public notification being highlighted, and the responsibility being essentially dependent on the initiative of Councils. All MOs should be treated as the equivalent of "Advertised Developments" to ensure adequate public notification and consultation.

A "planning focus" meeting would also seem appropriate for larger proposals or those potentially having a significant environmental impact.

The standard of assessment of MO applications varies considerably according to the experience of Council and the number of applications received. Experienced Councils have introduced Development Control Plans (DCP's), provide more detailed pre-application advice and adopt a more rigorous approach to assessment.

The Review established that many MOs do not lodge a BA after development consent is given by Council. This reduces the scope for management of what is finally built, creates conditions conducive to the presence of illegal dwellings and means that Section 94 Contributions are not collected by Council for the development.

4.3 Existing Development Standards

SEPP 15 currently contains a number of development standards which reflect the aims and objectives of the policy. Consideration has been given to the continued relevance of these standards in light their implementation.

The Review found that 81% of MOs have been developed with a dispersed settlement patterns, rather than cluster housing forms encouraged by SEPP 15. The reasons why many MO's have chosen dispersed settlement were predominantly base on the site's topography and vegetation patterns and the desire by residents for privacy and space for activities such as permaculture.

The concept of *cluster housing* for MOs and other settlement types in rural areas is supported by a majority of Councils and has a number of advantages:

- minimises vegetation clearance;
- limits road construction and construction impacts;
- eases servicing;
- increases fire protection; and
- avoids land slip.

The current provisions SEPP 15 restrict the height of buildings to 8 metres above natural ground level. Most respondents felt that this standard is appropriate, although there is also an argument for treatment of applications on a merits basis which are outside this regulation where this would permit innovative design solutions without adverse environmental or residential amenity impacts.

Ultimately, the decision to allow subdivision for any form of rural property should relate to planning, agricultural potential and environmental management principles contained in a *rural lands strategy* for each local government area. This approach would determine what is the most ecologically sustainable, efficient and equitable pattern of population distribution within the local area.

The Review concluded that existing guidelines in the Policy should remain (ie. no subdivision of MOs) until and unless the existence of a properly prepared rural lands strategy for the local area identified such action as appropriate.

However, if subdivision was subsequently considered appropriate in principle for a specific location(s) within the local area, *Community Title* was favoured over other tenure options including Torrens Title (conventional subdivision), Strata Title, and Multiple Occupancy. These forms of tenure would be considered as an alternative to MO, and people seeking these forms of lifestyle should be looking for land within approved strategy areas and be prepared to comply with Councils' rural residential policy. Under these circumstances, existing MO's may be able to convert but only if they were consistent with an agreed strategy and rural residential policy - ie they would cease to be an MO and become a rural residential use instead.

Under Community Title subdivision for a large part of the site could be held and managed in common ownership. This retains many of the principles embodied in MO as well as creating the prospect of good environmental management. It also creates a situation of greater flexibility in raising development capital and transfer of property rights. It is noted however that any form of subdivision would result in higher establishment costs for community residents than currently applies to MO developments.

4.5 Environmental Impacts

The Review identified several kinds of adverse environmental impact resulting from but not exclusive to MOs. It also concluded that MOs should be treated in the same way as any other form of rural development, notwithstanding the potential for MOs to offer better prospects for environmental management.

The construction of internal roads has been identified by the Soil Conservation Service as a particular source of significant environmental impacts on MOs, and is by far the greatest problem resulting in sediment movement and reduction in water quality.

The main problem on MO's was seen as the lack of capital to properly construct and maintain the roads to an adequate standard. Clustering of dwellings would minimise road lengths and enable limited funds to be spent more efficiently.

The minimum lot size established by SEPP 15 is 10 ha. Although this standard was accepted by the majority of people consulted, several concerns were raised. These included: many Councils considered that SEPP 15 was being used by MO's as a loophole around minimum subdivision standards for other forms of development which range from 40 to 100 ha; mixed views about the effectiveness of small block subdivision on agricultural productivity; and the suitability of smaller blocks for more intensive agricultural uses such as permaculture.

The current provision under SEPP 15 for development density involves a graded formula based on number of dwellings by block size. To simplify the calculation, and bring MOs into line with density standards applying to other forms of rural development it was concluded that a new density standard of 1 dwelling per 5ha be adopted, but that higher densities be considered on a case by case basis in relation to the land capability of the site, and the use of cluster housing solutions.

The current policy restricts the amount of prime crop and pasture land to 25% of the total MO site. This has implications in terms of: protection of agricultural land from unwarranted fragmentation; the ability of MO developments to pursue agricultural production; and the potential for degradation of non-prime agricultural land. The Review concluded that SEPP 15 could be reviewed to allow greater use of prime agricultural land by MOs if the proposal could demonstrate a clear intent for agricultural use in the form of a farm management plan.

4.4 Subdivision and Tenure

The question of whether MOs could be subdivided received considerable attention in the Review. The current policy prohibits the subdivision on the premise that SEPP 15 encourages a community based and environmentally sensitive approach to rural settlement.

The opportunity to subdivide MOs provides a potential source of development capital for these developments and the chance for community residents to dispose of their interest in the MO if so desired.

The presence of an MO, once established in an isolated part of the local government area will have implications for the use of public services and facilities regardless of the existence of the ability to subdivide. However, it is likely that a subdivision clause in the policy would have the effect of increasing demand for land and hence an increase in population in these relatively isolated locations.

The main areas of concern in relation to water quality are soil erosion from roads, clearing and levelling of dwelling sites and clearing of vegetated areas. Protected lands having a slope of greater than 18 degrees or as otherwise identified should receive special attention at the development application stage.

A detailed site plan as part of the MO application showing contours, watercourses, cleared and vegetated areas should be provided as a matter of course to assist the assessment process. Specialist advice may be necessary to assist Councils in making decisions.

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

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

4.6 MO Philosophy and Equity Issues

The current underlying philosophy of MO development engendered by SEPP 15 can be summarised as *"...the creation of environmentally sensitive, common interest rural communities by the provision of low cost rural housing"*. The review found divergent views as to whether this philosophy is still inherent in MO communities.

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

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

There is a reasonable community expectation for a range of housing choice and lifestyles to be provided locally. A large proportion of MOs contain low income households and MOs can be seen to contribute to this spectrum of housing choice.

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

In the case of low income housing on MOs, physical access to public facilities and services is typically lower than other forms of rural settlement because of relatively high levels of self sufficiency. Access to public services tends to rely on use of private transport.

It would appear that access to such social service and facilities has not been an issue or a deterrent to the demand for isolated MOs, although it should be acknowledged that there are both private and public costs arising from the travel associated with less accessible locations.

Current government policy is increasingly applying user-pay principles to government service provision as exhibited by Section 94 contributions. The view expressed by Councils, State Government agencies and other interested parties is that MOs have similar environmental issues and impacts to other forms of development and therefore should be treated in a similar manner.

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

Application of user pay principles will significantly increase the overall cost of individual occupancies on MOs and potentially create financial difficulties for the lower income residents.

Concern was also expressed during the consultation process, that current Council range and charging practices regimes were affecting the affordability of MO developments. It was also suggested that the increasing costs were in fact pricing MOs out of the low income household target group nominated in SEPP 15.

It is acknowledged that increased development requirements, including statements of environmental effect, bushfire management plans and farm management plans will potentially add to the cost of MO development.

However, the Review concluded that there was no reason why MOs should be treated differently to other forms of rural development in relation to documentation and assessment of proposals, as well as revenue collection.

4.7 Community Management Issues

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

Specific management issues include many that are common to other forms of development:

- noxious weed control - communal management on MOs offers opportunities for effective management;
- bushfire control - MO present specific problems for bushfire authorities because of the incidence of illegal dwellings and location in remote inaccessible bushland remote areas;
- internal roads and services - internal disputes amongst MO residents often created by the lack of clear upfront management guidelines have resulted in the lack of action to maintain on-site services and facilities;
- access to finance - collection of funds for maintenance work is a problem on some MOs, made more difficult in some cases by the lack of effective management guidelines.

All of the above matters could be addressed by the preparation of management plans at the outset of the development. Whilst possibly foreign to the philosophy of MOs, these management plans could prove very useful in providing new residents with a clearer understanding of their rights and obligations, as well as helping to convince the consent authorities that the development will be well managed.

4.8 Neighbourly Relations

The Review found that a large majority of MO residents and most Councils did not consider neighbour relations to be a problem. However, ongoing conflict between MOs and neighbours pursuing traditional rural activities does occur, and a number of sometimes serious cases were noted. Main areas for conflict included : water rights/usage; conflict with traditional agriculture; traffic and roads.

Conflict between neighbours can occur in any situation and are not necessarily confined to MOs. The challenge is to seek to minimise the conflict by early consideration of the likely relationship between a new MO and the existing local community. Effective consultation will provide an avenue of identifying issues which may be able to be resolved in the development assessment process. As with other situations, there is a potential role for Council to act as a mediator between conflicts between adjacent property residents.

Revenue Base

The Review found that there was a reasonable concern by many Councils that MOs do not pay their way in terms of Council rates. This situation arises because most rates are struck in rural areas on the basis of one household per property, whereas MOs typically have a number of households and substantially larger numbers of residents than other forms of individual rural accommodation.

A move by Council to reduce this level of indirect cross subsidisation of MOs by other ratepayers in the local area would be consistent with a more equitable sharing of revenue generation, but may result in financial hardship for some MO communities.

Section 94 Contributions are a means whereby Councils can generate revenue for specified capital works and improvements resulting from the approval of new development projects.

The Review found that increased demand for Council services was identified by many Councils as a main disadvantage of MO development, and that half of Councils were not satisfied that MO developments adequately contributed towards the cost of funding services and infrastructure.

Current practice in determining Section 94 contributions will result in the need for substantial payments attaching to any form of rural residential development, and that this may deter MO development in some instances.

CONCLUSIONS AND RECOMMENDATIONS

The Review examined several policy options to facilitate MO developments as well as where responsibility should rest for continued implementation of this Policy.

The main policy options included:

- Option 1: Retain the Policy in its present form and continue implementation by the Department of Planning;
- Option 2: Amend and retain the Policy as above;
- Option 3: Revoke the policy with no further provision for MOs; and
- Option 4: Revoke the Policy but transfer responsibility for implementation of MOs to Local Councils.

A variation of Option 4 is recommended for implementation by the Government, involving a much shorter transition period for transfer of policy implementation from the Department of Planning to Local Councils than was initially suggested in the Review.

Option 1 was not considered a viable option because of the numerous deficiencies highlighted by the Review. These concerns arose from MO residents and Councils as well as state government agencies, and strongly supported the need for change.

Option 2 provides for the basic policy to be retained but amended to address the matters raised in the review. Proposed amendments to existing MO policy and guidelines are listed at Attachment C to this summary.

Under Policy Option 2, subdivision remains prohibited by the policy. Subdivision is a matter which has potentially significant local implications and should only be contemplated by Local Councils in accordance with a comprehensive rural lands strategy for the local area. The use of Community Title should be encouraged as an alternative to MOs where subdivision is possible because of the advantages over other forms of land tenure for land management and consistency with MO philosophy.

Option 3 involves repeal of the SEPP 15 at State level without transfer of planning responsibilities for MOs to Councils. This option could be implemented immediately but would effectively deny Councils and local communities access to this form of development. All future demand for MO

style development would therefore have to be considered under other forms of development including Community Title subdivision. Existing MOs would continue as non conforming uses.

As the review has demonstrated basic support for MOs as an alternative form of rural housing, Option 3 was not recommended.

Option 4 involves the rescinding of SEPP15 as a State Government Policy and a transfer of the responsibility for MOs to Councils. It acknowledges that the Policy has served its purpose at the State level, and that it is now more appropriate for MOs to be controlled by local instruments. Local Councils would then have the opportunity to either continue with provision for MOs under an amendment to their relevant LEP or encourage demand for this type of use to be channelled into other forms of tenure.

Option 4 represents a more efficient use of State Government resources than continuation with SEPP 15, and reinforces local planning priorities whilst at the same time making provision for the possibility of on-going MO development.

In addition, it allows Local Councils the opportunity to upgrade local planning instruments by incorporation of the amendments to existing MO policy guidelines arising from the Review (Attachments C & D refer).

Although an extended "sunset clause" for revocation of SEPP 15 is possible, a much shorter transition period is not considered to have any adverse impact on either Councils or MOs and is recommended. This would involve a one month period to lodge outstanding DAs from the time of a Ministerial announcement to revoke SEPP 15, and a further two months for processing and determination of DAs by Councils.

Under this scenario it would also be possible for Local Councils to initiate action to amend their LEP to incorporate provisions for MO development if required. These amendments could also include the suggested improvements as outlined in the Review. (Attachment C refer).

The Review also identified a number of possible actions that could be addressed by Councils in seeking to improve the implementation of MO policy. These are listed in Attachment D and are recommended for consideration by Local Councils in amendments to LEPs.

PURDON ASSOCIATES
September 1994

ATTACHMENT A SEPP 15 Review : Consultant Brief

The key objectives of the Multiple Occupancy (MO) review as established by the NSW Department of Planning Brief (1993) as follows:

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

ATTACHMENT B Main Provisions of SEPP 15

The following text is an extract from State Environmental Planning Policy No. 15 (Multiple Occupancy on Rural Lands).

1 Aims and Objectives of the Policy - Clause 2

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

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

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

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

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

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

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

3 Subdivision - Clauses 2, 7 and 10

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

4 Forms of Development - Clauses 2 and 7

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

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

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

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

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

6 Non-Residential Development - Clause 8

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

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

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

7 "Advertised" Development - Clause 11

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

ATTACHMENT C Recommended Policy Amendments to SEPP 15

The following amendments to SEPP 15 are based on outcomes of the Review. In the event of the Minister revoking SEPP 15 and transferring responsibility to Local Councils, these amendments could be incorporated into LEP amendments prepared by Councils.

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

8. Include provisions requiring consideration of weed infestation and management (Clause 8);
9. Incorporate details of circumstance where the height limit can be varied into a development guide (Clause 7(c)); and
10. Develop provisions in the policy which set the development density on the basis of the sustainable capability of the land (Clause 9).

ATTACHMENT D

Suggested Actions by Council to Improve mo Policy Implementation

The following suggestions have been drawn from various stakeholders including local councils, State Government agencies and MO residents consulted during the Review, and provide opportunities for local Councils to improve the implementation of MO policy:

- 1 Ensure effective consultation as a part of the development assessment process and actively facilitate the resolution of conflict matters.
- 2 In assessing a development application, give consideration to the need for the ongoing monitoring of environmental performance and/or management of the MO. These matters should be clearly identified in the consent and a process of periodic checking instituted.
- 3 Minimise the impact of road construction and ongoing maintenance by encouraging the use of cluster dwellings, ensuring optimal location with minimal earthworks and seeking to ensure that work is carried out to a good standard that will require minimal maintenance.
- 4 Ensure that adequate site information is supplied with the development application to enable the identification of potential hazards and constraints and an adequate assessment of the impact of development.
- 5 Adopt a Total Catchment Management (TCM) approach to development assessment taking into account the potential for further development and the likely cumulative impacts.
- 6 Consider local conditions and formulate policies regarding specialist input into the preparation of applications (eg: geotechnical evaluation, engineering design, water quality).
- 7 Consider the use of management plans to demonstrate intent of land use and to provide for the ongoing management of MO developments (e.g., farm management plan).
- 8 Require a weed report/certificate from the local control authority to accompany a development application if weed control is an issue in the local area.

Consider the need for initial eradication of weeds and the ongoing management of the problem as a part of the development assessment process. The extent of the problem should be considered in the context of any local control strategies already in place and the likely impact on nearby activities.

Encourage local solicitors to request a noxious weed certificate for a MO when dealing with a transfer.

- 9 Ensure consultation with local bushfire authorities at the development assessment stage and incorporate recommendations into the consent.
- 10 Examine ways of fostering a "bushfire awareness" culture with MOs, including involvement with local bush fire brigades from adjoining rural communities.
- 11 Monitor the condition of consent during the processing of a building application involving a MO, to ensure that any relevant requirements are met.
- 12 Institute a process of monitoring building activity to ensure that building approval is obtained and the necessary supervision carried out.
- 13 Investigate ways of levying rates so as to better reflect the occupancy of an MO and the demand for public facilities and services.
- 14 Implement user pay principles to remove cross subsidy of MOs for use of public infrastructure. Apply Section 94 contribution and normal rating provision to MOs.
- 15 Consider MOs as an integral part of Councils' rural land release strategy.
- 16 Consider the potential for villages in MO districts as a focus for community facilities.
- 17 Adopt a pro-active approach by engaging a part time officer to focus attention on the issue of illegal dwelling. This is likely to have a deterrent effect. Follow up all DA's to establish whether illegal buildings undertaken.