

The Council of the City of Lismore

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MRS:MR: S523



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Planning Services

December 14, 1994

Ms Tarang Bates
C/- Pan Community Council
PO Box 102
NIMBIN 2480

Dear Madam

PETITION TO COUNCIL REQUESTING PROVISIONS BE MADE FOR MULTIPLE OCCUPANCY IN THE LISMORE LOCAL ENVIRONMENTAL PLAN

I refer to the above matter and advise that Council at the meeting of December 6, 1994, did not support the Notice of Motion lodged by Cr Roberts to provide for multiple occupancy in the Lismore Local Environmental Plan.

I would appreciate if the resolution of Council could be conveyed to the petitioners. Should you or your organisation wish to discuss this matter with Council's Planning Services Division, please do not hesitate to contact Council.

Yours faithfully

Ken Gainger
GENERAL MANAGER

per:

A handwritten signature in black ink, appearing to be 'K. Gainger'.

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DISCUSSION PAPER
ON
MULTIPLE OCCUPANCY
OF
RURAL LAND
IN
LISMORE CITY COUNCIL
LOCAL GOVERNMENT AREA

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1. WHY THE REVIEW

The main objective of this review is to ensure the system of multiple occupancy development of rural lands in Lismore City Local Government Area meets the needs of the 1990's. Different people require different things of the planning system and these requirements change with experience and time.

Objectives of this review are

- to identify the principle land use planning issues relative to multiple occupancy development of rural land

- to identify options for changes to the planning system regulating and controlling multiple occupancy development

- to facilitate communication and good relations between existing and future multiple occupancy dwellers, Lismore City Council and the general community

Wholesale change is not envisaged, rather a re-think and possible fine tuning to "localise" and adapt existing planning mechanisms to achieve greater certainty for Council, future occupants of multiple occupancy developments, and the general community.

The discussion paper is not exhaustive in content and scope and is seen as the first step in a process of information gathering and consultation. Some statements are perhaps provocative but in the context of the review paper are such to stimulate responses to the ideas and issues within the review.

2. WHAT IS MULTIPLE OCCUPANCY

Multiple occupancy is a type of rural development where a group of people, not necessarily related to each other, live on a single property in several dwellings. This involves the sharing of land and communal ownership of the whole land-holding. People may pool resources to develop communal rural living opportunities usually in a sustainable and environmentally sensitive way. Farming may not necessarily be intended as the primary source of income. Multiple occupancy development enables people, often on low incomes, virtually the only means to occupy land in common. Communal ownership of and control of land permits individuals to share various philosophic, social, cultural, religious, economic ideals and lifestyles.

Housing arrangements on multiple occupancy developments range from dispersed single family dwellings to clusters of expanded houses (and temporary living units, tepees etc.), functioning as a dwelling house with shared facilities (kitchen, eating areas etc). Clustered and dispersed settlements are the main forms of development.

Various forms of non-residential development such as pre-schools, community facilities and workshops, training and enterprise centres are permitted within multiple occupancy developments, provided they are intended to primarily serve the needs of the people living on the land.

Multiple occupancy is seen in terms of occupancy and management rather than ownership, it is hence distinct from other perhaps more traditional forms of rural development such as rural workers dwelling and dual occupancy. The rural worker dwelling requires justification on the need for agricultural workers to assist with the operation of a rural based enterprise, dual occupancy is limited to two dwellings per allotment with a current requirement that the

second building be connected to the first. Multiple occupancy development is by virtue of the prohibition of land subdivision, different from traditional rural residential subdivision by either conventional "Torrens" or "Community Title" forms of subdivision. Land speculation is not likely, although developer involvement in multiple occupancies has occurred in the past and will probably occur in the future.

3. GUIDE TO LEGISLATION

Environmental planning instruments include state environmental planning policies, regional environmental plans and local government plans. These planning instruments address questions of the distribution and interrelationships of land uses and provide the basis for development control. They permit or prohibit specific types of development.

State Environmental Planning Policies

These are referred to in this report as a 'SEPP' or 'State Policy' and have two main functions. Such policies may apply to particular areas within the State, the State generally, address specific matters of state-wide significance or deal with issues where state-wide application of policy is considered necessary.

State Environmental Planning Policy No 15 (SEPP 15) was gazetted on January 22 1988 to allow a number of dwellings to be built on single rural or non-urban holding held in collective ownership. An amendment to the policy occurred on November 23 1990 to incorporate some changes to the policy in light of experience in operation of the policy. Appendix 1 is a copy of the amended SEPP 15 together with "plain English" explanatory notes as supplied by the Dept of Planning in a Circular No B 11 to Councils.

SEPP No 15 addresses the following issues in relation to multiple occupancy development:

- Aims and objectives of the policy;
- minimum standards relating to land ownership and size;
- building height;
- prime agricultural land;
- slope etc;
- matters for Councils to consider when assessing applications;
- density of development on land using a formula;
- subdivision prohibition and
- matters relating to subdivision.

Local Environment Plans

Referred to in this report as an 'LEP', local plans focus on development control relying on land-use zonings, although they may also address such matters as protection and conservation of heritage, environmental protection, and provisions relating to multiple occupancy.

LEPs are prepared by local Councils, and unless the LEP is of a minor nature must be preceded by an environmental study. Public involvement is made by way of exhibition of the study (if required) and draft plan and receipt of submissions. The Minister for Planning approves the plan after the Director of Planning is satisfied with the plan's exhibition processes and is consistent with State Policies and directions. LEPs may be amended or prepared in a manner which exempts Councils from provisions of a State Policy. Byron Shire, Nambucca Shire and Hastings Shire Councils are for example exempt from the provisions of SEPP 15.

Development Control Plans

Development Control Plans are referred to in this report as a 'DCP'. Development Control Plans (DCP's) are useful where a Council wishes to alter or control details of development control. In Lismore a variety of DCP's exist, for example car parking, land use guidelines

in specific areas, setbacks, residential and medium density development. A DCP may be prepared for multiple occupancy development to reflect local circumstance, but such a DCP could not be inconsistent with any provisions in an LEP or a State Policy.

Appendix 4 is a draft DCP prepared by the Rural Resettlement Task Force. This DCP establishes more detailed development and performance standards for multiple occupancy development. It is included as an example of the way in which a DCP could apply to multiple occupancy. Appendix 3 is a Multiple Occupancy Code previously utilised by Council until the gazettal of SEPP No 15. Both these documents also provide examples of issues and standards previously thought to be important in relation to multiple occupancy development. DCPs are prepared by Council, exhibited, amended if necessary, adopted and implemented and may then be subsequently amended.

Development Control

Development control involves the assessment of development proposals and includes the decision to approve, approve conditionally or refuse development applications. Part IV of the Environmental Planning and Assessment Act, as amended, provides the requirements for making and determining development applications. Appendix 2 is a copy of Section 90 of the Act which details the matters to be considered when the Council assesses a development application. Council when assessing an application for multiple occupancy development utilises the provisions of SEPP No 15 and S90 - this includes some fifty-seven matters, although there is thankfully some overlap.

In virtually all cases persons making the application are entitled to appeal to the Court if an application is not determined within a statutory time (40-60 days) or is refused or conditions attached to approval are unacceptable. Designated development applications (quarries, tanneries, chemical works and the like) permit third party objection. An objector to a designated form of development has a third party right of appeal. SEPP 15 requires that applications in excess of 4 dwelling sites be exhibited and adjoining owners notified. No third party appeal rights are conferred on objectors to multiple occupancy development. Appendix 6 is a list of conditions that have been typically applied to several multiple occupancy developments recently approved by Council.

4. BRIEF HISTORY AND LEGISLATIVE CONTEXT

Multiple occupancy developments, formally approved and illegal have been a part of the North Coast since the early 1970's. Illegal developments probably occur because of a rejection of the bureaucratic and political processes and for many years, no constituted recognition and legal means existed for multiple occupancy to be approved. In this past context numerous "battles" have occurred both politically and legally - Co-ordination Co-operative, Bodhi Farm, Billen Cliffs, Glenbin, Crystal Waters to identify a few, are multiple occupancy developments which have achieved some notoriety in the past.

The current legislative framework under which applications for multiple occupancy development are made and assessed is State Environmental Planning Policy No 15: Multiple Occupancy of Rural Land and Part IV - Environmental Planning Control, both, within the provisions of the Environmental Planning and Assessment Act 1979 as amended. See attached appendices 1 & 2.

Prior to the gazettal of the State Policy multiple occupancy development was regulated by Interim Development Order (IDO) No 1 - Shire of Terania amended on February 29, 1980, to enable multiple occupancy of rural land zoned 1(a). This amendment applied to lands to the north and west of the former shire within the Parishes of Boorabee, Bungabee, Jiggi, Nimbin, Hanging Rock, Terania and Whian Whian only. Colloquially known as the "hippy line", development for multiple occupancy settlement was permitted on areas not less than 40 hectares. The land was to remain unsubdivided and be owned in its entirety in common by at least 2/3 of all adult residents residing on the land. Residential density was restricted to one person per hectare of the land. The amendment granted approval to some

23 multiple occupancy developments in the Shire that had existed or were planned.

The gazettal in August 1980 of Interim Development Order No 40 City of Lismore consolidated IDO No 1: Shire of Gundurimba, IDO No 1: Shire of Terania, Lismore City Council Scheme and 38 other IDOs into one instrument. It adopted as Clauses 15 and 16 the multiple occupancy provisions verbatim from IDO No 1: Shire of Terania.

Following gazettal of the IDO by the Minister (Landa) on 29th February 1980 to permit multiple occupancy within the seven Northern Parishes Lismore City Council, prepared and adopted in August 1980 a Multiple Occupancy Code. This code set more detailed standards in relation to area of land, ownership application detail; access; density of occupation; services which Council was not obligated to provide; building location, consent and demolition; fire protection; water; and drainage. A copy of this code is attached as Appendix 3. Also attached is a copy of a model Development Control Plan drafted by the Rural Resettlement Task Force February 1987 at the time Lismore City Council was beginning to prepare the comprehensive Local Environment Plan for its local government area and the NSW Government was preparing State Policy No 15.

Prior to the gazettal of the State Policy land development for the purposes of multiple occupancy was regulated by a series of policies issued by the State Planning Authority (circulars 67, 74, 76 and 80); Planning and Environment Commission (circulars 13, 35 and 44) and Department of Environment and Planning (circulars 74, 77 and 83). These policies related to subdivision and residential development in non-urban areas, worker dwellings, planning in fire prone areas, small holding and co-operative agricultural developments and dwelling houses in rural areas (multiple occupancy). The current State Policy is in essence a "final form" in the development of State policies. Lismore City Council currently has one policy relating to multiple occupancy development of rural land. This policy relates principally to the payment of road and other contributions prior to the issue of building approvals. The policy is said to discourage currently illegal multiple occupancy developments from applying to formalise existence because of the cost of road contributions and also that it discriminates against smaller multiple occupancy developments. A copy of the policy is attached as Appendix 4.

Council in consenting to development for multiple occupancy, normally does so subject to compliance with certain conditions. A list of typical conditions is attached as appendix 5. These conditions and either compliance or non-compliance with them has been raised as a significant issue in respect of multiple occupancy developments. Historically, Council has not regularly "policed" compliance with consents issued under the Act unless grievances and/or complaint in writing are received. This situation has been a result of lack of available staff resources and uncertainty in respect of Council's real commitment to enforce consents issued.

5. LOCATION AND DEMAND

A location map, shown as Appendix 7, provides a "stylized" indication of the location and size of most of the approved multiple occupancy developments in the local government area. The map demonstrates the concentration of MO's in the Northern area of the former Terania Shire.

In a regional context, the Lismore local government area contains the predominate number of multiple occupancy developments. The following table indicates approximately the number of approved multiple occupancies in adjoining local government areas and the planning mechanisms used in each to enable and control this form of rural land development.

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

The demand/supply equation is very difficult to determine and cannot be effectively assessed without detailed analysis of approvals, and the subsequent rate of dwelling construction together with some quantification of the number of "illegal" developments including the occurrence of rural occupation in temporary dwelling forms (mobile shelter caravans, houses and the like, tents, tepees etc). As a guide, the May 1985 Multiple Occupancy Report by Lismore City Council found that in October 1984, twenty-two multiple occupancies were operating. This number included some which had not sought development approval from the Council but did not include some properties which had been approved but were not then operative. As previously indicated, Council has record of approximately sixty (60) multiple occupancy developments in the local government area, varying in sizes from two houses (approved prior to the November 1990 amendments to the State Policy which increased the minimum number of dwellings from two to three) to some 150 houses.

The following table indicates the number of approved multiple occupancy developments since 1980. Many of these comprise only two dwellings as shown in brackets. It is estimated that there are about ten (10) or a dozen illegal multiple occupancies, generally are small scale developments comprising less than five (5) dwellings.

Approved multiple occupancy development applications

Year	No.	No. Sites/Units
Pre 1980	3	62
1980	3	20
1981	5	68
1982	4	160
1983	2	41
1984	4	70
1985	1	10
1986	7 (1)	91
1987	4 (1)	19
1988	9 (3)*	44
1989	10 (8)*	17
1990	7 (4)*	19
1991	3 (1)*	8
1992	5	41
TOTAL	67	670

* this figure also includes minor dwelling site amendments to approved development

N.B. The number of sites/units figure is indicative only and relates only to approved sites, Council's records are not accurate in regards actual number of dwellings or approved developments. Similarly it is known that not all recently approved developments have been fully developed. Appendix 7 shows the approximate distribution and sizes of most known multiple occupancies in the local government area.

ISSUES

The following issues are principally identified utilising State Environmental Planning Policy No 15, Section 90 of the Environmental Planning and Assessment Act 1979, as amended and a review of submissions received in relation to multiple occupancy development applications. Generally, the current situation is discussed, with comments offered and questions raised as to possible change in the context of current planning practice. Options for change to the current system may include:

- . possible exemption from SEPP 15 and preparation of an enabling amendment to the Lismore Local Environment Plan 1992 and adoption of a "localised" development control plan,
- . remaining with SEPP 15 and preparing a localised DCP,
- . amending SEPP 15 with the agreement of the Minister for Planning,
- . do nothing

Within this context some scope exists to adapt the approach according to the arguments expressed to Council as a consequence of public exhibition and submissions received to this review. For example, it may be seen as advantageous to stay within the umbrella of SEPP 15 and develop a complimentary more detailed and educative development control plan.

1. SUBDIVISION

Subdivision of the land upon which a multiple occupancy is developed is not permitted via operation of SEPP 15. The land is to remain as a single allotment, consolidated if an application is made where the land occupies two or more allotments, and not subdivided under the Conveyancing Act 1919, Strata Titles Act 1973 or community titles legislation introduced in August 1990.

Various forms of legal organisation are possible, including private company, company limited by guarantee, co-operative, public company, trust, charity or religious organisation, joint tenancy, no legal structure, voluntary association, single ownership. Whilst it is noted none of these structures will effectively balance the interests of the group and individual, may be legally messy and contradict other legislation and restrict the multiple occupancy resident from obtaining finance to build homes etc. the maintenance of the single lot, communally owned, is in essence one of the underlying principle philosophies of multiple occupancy.

The introduction of community titles legislation has however, added a degree of flexibility, provided established planning procedures are followed (environmental study, rezoning etc.) to those seeking a shared rural lifestyle within a mutually agreed framework. It has been suggested that Community Title subdivision may be suitable for multiple occupancies.

Would Community Title destroy the culture and philosophy of multiple occupancy? Would such subdivision create de facto rural-residential estates?

2. MINIMUM AREA

The minimum area for a multiple occupancy approval under the State Policy is 10ha, although provided there are good planning grounds for doing so, this minimum may be reduced utilising provisions under State Environmental Planning Policy No 1 - Development Standards. This policy provides flexibility in the application of planning controls where strict compliance may be unnecessary or unreasonable.

Density of development, i.e. the number of proposed dwellings on the land is calculated

utilising the following formula, (A copy of the formula is found in Appendix 1). On a 10 ha lot 4 dwellings may be erected (1 per 2.5 ha), on a 50 ha lot, 14 dwellings may be erected (1 per 3.6 ha), on a 210 ha lot, 54 dwellings may be erected (1 per 3.8 ha), on a Lot in excess of 360 ha, 80 dwellings maximum may be erected (1 per 4.5 ha).

This calculation is subject to a requirement that Council shall not consent to the application if those dwellings are so designed that they could reasonably accommodate in total more people than the number calculated by multiplying that maximum number of dwellings by four (4).

The minimum area for multiple occupancy is considered satisfactory, however the formula regulating density of development should be examined in terms of land capacity and may need to be subject to more rigid performance standards. Such standards may well take account of physical environmental constraints (slope, vegetation, hazard, waste disposal, impact on landscape, adjoining pattern of settlement) and services (water supply, standard of road access etc.) in the locality. Multiple occupancies developed to the maximum density have been the subject of objections on the basis of overdevelopment.

Is the minimum area too small or the density formula too generous?

3. AGRICULTURAL LAND

Multiple occupancy may not be created on an allotment where greater than 25 % of the land consists of prime crop and pasture land. Dwellings shall not be located on prime crop and pasture land. Prime crop and pasture is generally defined as land identified as having an agricultural Class 1, 2 or 3 or land of merit for special agricultural uses.

It is submitted that where an application for multiple occupancy contains objectives of a sustainable agricultural nature and is supported by a farm management plan prepared by suitably qualified persons (agronomists, economist etc.) that consideration be given to the application irrespective of the agricultural class of the land. The input of shared labour and capital could be used to more effectively farm and use the land. Similarly the nature and concept of agriculture is changing as the dynamics of the market place is changing, for example organic produce and permaculture farming methods are being more sought after and utilised. Multiple occupancy can also be utilised by traditional farmers to maintain the "family farm" by provision of residential accommodation to family to maintain working farm viability.

Noxious weed control is difficult and expensive. Conventional practices are often contrary to an ideal or philosophy behind many multiple occupancies. Complaints are received along the lines that: "that place breeds noxious weeds". Should Council require the instigation of a noxious weed control program?

Are multiple occupancies effective and efficient utilisers of agricultural land? How? Should the 25 % agricultural land requirement be reconsidered to enable multiple occupancy developments on land with a greater percentage of prime land?

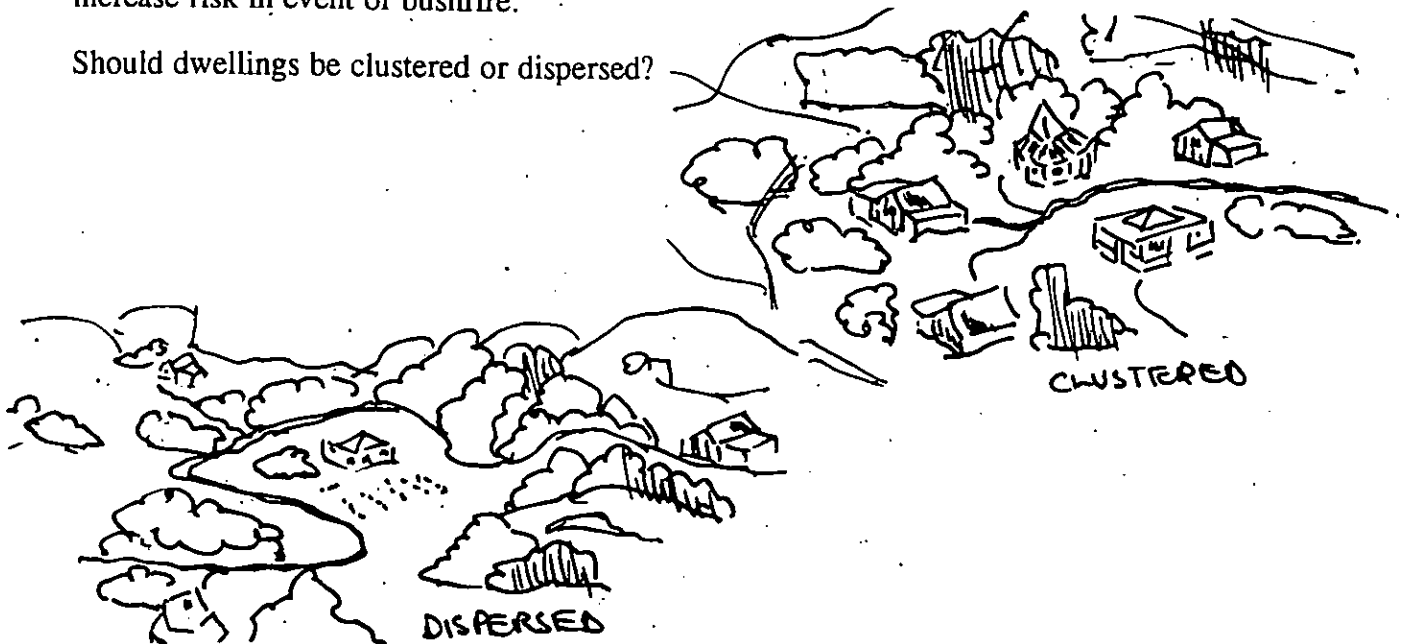
4. NON-RESIDENTIAL DEVELOPMENT

Schools, community facilities and workshops, training centres are permissible as long as they are intended to primarily serve the needs of the people living on the land and are of an ancillary nature. Where development for such purposes as rural tourist accommodation, shops, restaurants are permissible under Council's Local Environmental Plan they are permitted with multiple occupancy developments. The maintenance of this position is seen to be desirable in that it improves the economic viability of the developments and the quality of lifestyle for inhabitants of multiple occupancies, whilst also having a positive impact on the local economy.

5. SITING OF DWELLINGS

The State Policy enables either clustered or dispersed dwelling location and siting, with a preference to clustered configurations. Both forms of dwelling siting occur. Spatial distribution of dwellings should reflect land capability and have regard to visual effects on the existing landscape and patterns of settlement. Dispersed dwelling location provides greater degree of privacy however, they require additional access roads (if provided) and service lines (water), leave fewer areas of the holding visually and physically untouched and increase risk in event of bushfire.

Should dwellings be clustered or dispersed?



6. PUBLIC ACCESS

Currently Council requires that multiple occupancy developments will be approved only if located with access from a Council maintained road. Usually a minimum all weather gravel standard access is required. Applications are considered on their respective merits when contributions to road up-grading are determined. The currently exhibited S94 contributions plans for rural roads will in future be the instrument used by Council to assess road contributions.

The relative isolation of multiple occupancy developments means that in most instances the public access is via an unsealed road system. The greatest impact on these types of road systems is the use of the network by heavy vehicles during wet seasons. It is considered important and necessary that access be via public roads and not by rights-of-way. Given the short periods of flooding restricting access, is flood free access considered necessary? Are current road standards and upgrading contributions appropriate?

8. WATER SUPPLY

Sufficient quantities of water should be provided for domestic, agricultural (house gardens, farming e.g. horticulture) and fire fighting purposes. Stored supplies of up to 46,000 litre capacity is often sought at each dwelling site where land has a bushfire history. Domestic supply should have a drought reliability and not be reliant upon creek and river resources. The effect on downstream users should be taken into account, a water management plan addressing issues such as consumption, source, storage, quality for development in excess of say four (4) dwellings is considered necessary and may take the form of utilisation of ground water resources or surface water collection. How important is the impact of MO's on water resources?

9. WASTE DISPOSAL

Sewerage disposal is a major concern not only in relation to multiple occupancy development but also to other forms of rural and residential development. This concern has prompted the Department of Health to promote the "1 ha policy" where rural residential developments are proposed without reticulated sewer services. Traditional "wet" systems (septic and aerated schemes) may not be suitable in certain soils and areas subject to slip in high rainfall area.

The maintenance of the requirement that houses and waste disposal systems be not located within 50 metres of any creeks or overland flow paths is considered essential to avoid any risk of pollution or health risk. Degradation of ground water must also be considered.

The use of composting systems is being currently investigated by Council's Health Department. Should proposed waste disposal systems be identified at the time a development application is submitted? Are the standards adequate?

10. ENVIRONMENTAL RISK/HAZARD

10.1 FIRE PROTECTION - measures either of a self regulatory nature or Council imposed requirements, must be practical, legal, reflect the reality of bushfire behaviour and make sense. Hazard areas (high/medium/low) have been previously identified by Council. It is considered important that any residential development in areas of high risk hazard be subject to conditions which seek to minimise risk.

An agreed fire management plan to limit threat (perception of risk and danger) is considered suitable for multiple occupancy developments in hazard areas of medium/low risk. Such fire management plans must address the following key areas; selective land use practices, landscaping, building construction, and fuel management, fire suppression access. Fire management plans necessitate qualified assessment of fire history, characteristic of vegetation understorey, vegetation patterns, exotic vegetation, recent and adjoining forms of development, aspect and slope effects. Measures should be prescribed in the plans which address fuel reduction, density of dwellings, landscaping and vegetation management, water supply and importantly fire education. Are existing bushfire protection measures and requirements appropriate and enforceable?

10.2 FLOODING - dwellings on multiple occupancy developments or for that matter any form of residential developments should not be located in floodways.

10.3 SLIP/SUBSIDENCE - many areas in the Lismore local government area are subject to slip and mass movement. A geotechnical report which assesses surface and sub-surface soil characteristics and impact of various disposal techniques is considered necessary for each proposed dwelling site and access roads of a proposed multiple occupancy development. Should geotechnical assessment be considered and address the issue of up-slope mass movement and be submitted at the time of making the development application?

11. VISUAL IMPACT

The landscape and scenic qualities of a rural locality are an important consideration. Although a subjective issue, recognition and assessment should be made of a development proposal in the context of existing patterns of settlement (building density), terrain and drainage patterns, significant vegetation and cultural features such as lot sizes, fencing, roads, buildings, dams etc. Should landscaping and rehabilitation plans be clearly defined and not addressed as generalised "motherhood" statements?

12. IMPACT ON ADJOINING LAND USES

Should an adjoining property and land use be a buffer for a use creating an impact? Many rural conflicts have been identified although there appears to be a lack of evidence to suggest that a multiple occupancy of rural land will ultimately result in the cessation of existing rural land use. Dwelling location of proposed multiple occupancy developments as with any other form of rural land use should be subject to locational criteria and buffer restrictions in respect of existing potentially hazardous or offensive forms of development (quarries, piggeries, intensive horticultural operations, bananas, macadamias etc.) commonly found in rural zones.

13. FAUNA IMPACT

All multiple occupancy applications should be accompanied by a fauna impact assessment as established by the recently enacted Endangered Fauna (Interim Protection) Act 1991.

14. SPECULATION

To "guard" against land speculation in multiple occupancy development Council continues to set a condition which appears to have been derived from early State Policies that ownership be vested in at least two-thirds of the multiple occupancy adult residents. Such a requirement cannot be easily enforced and could easily be overcome by speculators for example not making applications in their own names. Speculation may by character involve the making of an application or series of applications by the one applicant holding a number of dwelling sites and for the maximum number of dwelling sites under the density formula irrespective of the land capability and patterns of rural settlement.

The social and philosophical objectives of multiple occupancy development may act as a deterrent to land speculation in multiple occupancy. Apparent desirability that all shareholders be involved in the conceptual planning and development of multiple occupancies may also deter speculation. Would this matter be most satisfactorily addressed by education and communication within the "industry"? Is there a role for Council to play in respect of multiple occupancy development and regulation and control of ownership of multiple occupancies?

15. COMPLIANCE WITH CONDITIONS OF CONSENT

Non-compliance with conditions of development consent is a matter which is clearly defined in the Environmental Planning and Assessment Act, 1979 as amended. Simply Council may seek compliance, as non-compliance is a breach of the Act, particularly where consent has been issued and no appeal lodged within twelve months of receipt of notification of a development consent. Should Council "police" applied conditions of consent and unapproved building development or only act where complaints are received?

16. ILLEGAL DEVELOPMENTS

Should Council actively regulate and take action against illegal multiple occupancy development? Is this heavy handed or fair, what about illegal residential development in town?

Council is aware of a number of illegal multiple occupancy developments in the Lismore area. These initially usually take the form of temporary or transitional dwellings. Experience suggests that temporary becomes permanent, with the inevitable erection of ancillary structures. Concerns are raised regarding standard of services and facilities (waste disposal, water etc.)

17. RATING

Currently multiple occupancy developments are rated at a general rural rate, based on land value, at 1.7052 per \$1. The Valuer General, in determining land value does not consider actual land use but relies predominantly on zoning. There is no special zoning for multiple occupancy development. Rates for multiple occupancy with one exception range from \$1,000 - \$2,000 per annum. It is possible for Council's to "strike" a differential rate based on the concept of "centre of population". The meaning of such is not clear and is difficult to distinguish between large and small multiple occupancy, dual occupancy etc. Should Council "strike" a separate rate levy for multiple occupancy developments, if so at what rate?

The issue is to be addressed in the near future as a separate report to council regarding overall rating structures in Lismore. There are those that believe MO's are underated given the number of people residing on such properties.

18. PAYMENT OF S94 LEVIES

Refer to Appendix 5. Where a development generates a need for additional local government services and facilities, and a nexus is clearly demonstrated, Council may levy developments for contributions (money or land) to upgrade those facilities as a consequence of the development.

Levies for multiple occupancy development are usually sought for road improvement, community and recreational facilities, and bushfire protection. Council requires road improvement levies or a proportion thereof, depending on the size of the development, be paid prior to release of building approvals. Should Council maintain this position? Should Council seek to permit "in kind" contributions in lieu of monetary contributions?

19. APPLICATIONS

The following information is felt to be necessary and should be provided with applications for multiple occupancy development. Applications for developments in excess of four dwellings are subject to provisions within the Environmental Planning and Assessment Act relating to "advertised" development (see section 3). Applicants are encouraged to discuss proposals with Council staff prior to making the application.

- (1) Detailed site plan including:
 - Contours at 10 metre intervals
 - Location and types of vegetation
 - Location of creeks and dams
 - Areas of the site to be reafforested, retained in natural state or used for grazing or other agricultural activities
 - House and building sites
 - Access roads and walking tracks
 - Water supply pipelines
 - Water storage tanks for both domestic and fire-fighting purposes
 - Fire trails and hazard reduction zones around dwellings, other buildings and access roads
 - Garbage and sanitation waste disposal
 - North point and scale at which the plan is drawn
 - Adjoining intensive agricultural pursuits
 - Areas to be used for development other than dwellings

(2) Statements and Assessments advising and analysing:

- . a description of the multiple occupancy development proposed in the application, including full details of numbers of persons to be accommodated and proposed land use on the subject land, including;
 - (i) A statement of the objectives of the proposed Multiple Occupancy in relation to the use of the land.
 - (ii) Full details of internal organisational arrangements
 - (iii) Copies of legal documents relating to shared ownership
 - (iv) Details on staging of development, if required
- . analysis of the land to accommodate the number of persons proposed in the application with particular regard to living space for each household, water supply, waste disposal
- . analysis of the likely community needs of the residents of the Multiple Occupancy when fully developed and details of proposals contained within the application to satisfy their needs
- . assessment of internal road requirements, resident parking, visitor parking and parking at communal buildings and works
- . assessment of the bushfire hazards of the site as a whole and of the individual building and improvements. A fire management plan should be prepared where a development is located in an area identified as having a high bushfire risk.
- . a geotechnical report assessment for each dwelling site for the benefit of any future occupier and Council in order that areas subject to erosion, slip and subsidence are fully identified
- . an assessment of the current agricultural suitability of the land plus a full description of proposed agricultural uses of the land when developed for Multiple Occupancy
- . description of the water supply system proposed for individual dwellings, communal building and other works to include details of source, treatment (if any), storage, reticulation etc.
- . a description of the waste disposal system, solid and liquid proposed for individual dwellings (or cluster dwelling) community building and works and community solid waste disposal arrangements. Affects on local streams by the development is to be fully assessed.
- . an assessment of the impact of the Multiple Occupancy on the environment, landscape or scenic quality of the locality. If any harm is identified the proposed means to protect the environment or mitigate the harm are to be listed.
- . assessment of the noxious weeds prevalent on the site together with a noxious weeds eradication programme.
- . a fauna impact assessment addressing the relevant factors outlined by S4A of the Environmental Planning and Assessment Act

Are there any other matters which should be included in the preparation and assessment of development applications for multiple occupancies?

3. Applications for multiple occupancy development are currently referred to the following State Government Departments and authorities

- . NSW Agriculture
- . Department of Conservation and Land Management
- . NSW Forestry
- . National Parks and Wildlife Service
- . Department of Health
- . Department of Water Resources

These statutory authorities at times raise concerns within areas of their respective responsibility. For example, loss of prime agricultural land, concerns regarding mass movement and slippage, issues relating to Aboriginal archeology, impact on water reserves.

Applicants are encouraged to contact and liaise with those authorities to ensure any relevant requirements which may be necessary are satisfactorily addressed in the application.

Is the requirement for referrals reasonable? Should any other agencies be consulted?

CONCLUSION

The review paper has examined a range of issues relating to multiple occupancy of rural lands. As previously indicated it is not exhaustive in content and is written to assist in discussion of the issues and provide Council with guidance as to the best means of planning for multiple occupancy development within the land use planning context of the Environmental Planning and Assessment Act 1979.

Multiple occupancy is but another form of rural land use and provides an affordable lifestyle option for many people across a wide socio-economic spectrum in the North Coast Region. This form of development and its occupants have added to the social, cultural and economic enrichment of the area. Conversely some adverse impacts as a consequence of this form of development have been identified. Land use planning should reflect agreed goals and aspirations of the people and society it serves, and recognise the overall public benefit and well being.

Written submissions to this discussion paper and suggested or preferred possible amendments to the existing land using planning system regulating multiple occupancy development are welcomed, during the public exhibition period for this discussion paper.

REFERENCES AND ACKNOWLEDGEMENTS

1. Dept of Environment and Planning: Multiple Occupancy in Rural NSW: A Discussion. Paper. Sydney 1985
2. Lismore City Council: Multiple Occupancy Report by S Barker and S Knox 1985
3. Dept of Bushfire Services: Planning for Bushfire Protection May 1991
4. Dept Of Planning: Circular No B 11 State Environmental Planning Policy No 15 Multiple Occupancy of Rural Land December 1990
5. Bellingen Shire Council and NSW Dept of Housing: Multiple Occupancy by J Wyatt July 1986
6. Multiple Occupancy of Rural Land in the Clarence Valley by P Cuming 1985
7. Land Commission of NSW: Multiple Occupancy Development: Feasibility Study June 1984
8. Mr C Spence, Walters Solicitors, Lismore
9. Mr T Newton, Summerland Credit Union, Lismore
10. Mr R Doolan, Lismore

APPENDIX 1: State Environmental Planning Policy No 15 Multiple Occupancy of Rural Land

CONTENTS OF THE POLICY

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

Clause 8

lists the matters that a council must consider before determining an application for multiple occupancy.

Subclause (1) applies to all applications which will result in three or more dwellings.

Subclause (2) lists additional matters that must be considered where an application will result in four or more dwellings. It prevents a council giving its consent to a multiple occupancy development application proposing four or more dwellings unless the site plan accompanying the application contains the additional information clearly stated in clause 8(2)(a) to (f).

Clause 9

determines the density of multiple occupancy development which may be permitted on an allotment.

Subclause (1) gives the formulae for calculating the maximum number of dwellings permissible, including any existing dwellings, based on the area of the allotment. To determine the maximum number of dwellings permissible, substitute the area of the subject land for the letter 'A' in the appropriate formula in column 2 of the table. The answer is easily calculated.

Clause 9 also provides the maximum permissible density for a given area of land. When it has considered the matters listed in clause 8, a council may determine that a lesser density is more appropriate for a particular development application.

The formulae are designed so that the density of development decreases as the area of the subject land increases.

On more than 360 hectares, the maximum number of dwellings permissible is 80 regardless of how much larger than 360 hectares the land area is.

Subclause (2) states that if the number of permissible dwellings results in a fraction of one-half or greater, it shall be deemed to constitute one whole dwelling. If the fraction is less than one-half, it shall not be deemed to constitute a dwelling and the fraction is ignored.

Subclause (3) requires that density is also limited by an assessment of the accommodation needs for a population maximum at an average of four persons per permissible dwelling. This provides a way to judge an application which includes expanded dwellings.

Clause 10

prohibits subdivision of land as part of a multiple occupancy development under this policy. Subclause (2) permits minor subdivisions for particular purposes such as widening a public road, creating a public reserve or consolidating allotments.

- Clause 11 provides for multiple occupancy development for four or more dwellings to be advertised for public comment. This clause recognises the fact that the environmental impact of larger multiple occupancy developments is likely to be greater and should therefore be subject to public scrutiny. Public comment can then be taken into consideration by a council in reaching its decision.
- Clause 12 enables the Department of Planning to monitor and review the policy. It is considered necessary that councils forward a copy of development applications and notice of determination of these applications to the department so the department can assess how well the demand for multiple occupancy is met by this policy.
- Clause 13 suspends provisions of section 37 of the *Strata Titles Act 1973*; and any agreement, covenant or instrument which would otherwise prevent multiple occupancy from being carried out in accordance with (i) this policy; and (ii) the consent of the relevant council made under the *Environmental Planning and Assessment Act 1979* in accordance with this policy.
- SCHEDULE 1 lists the local government areas to which the policy applies:
- SCHEDULE 2 lists land that is rural or non-urban, but is excluded from the policy.
- SCHEDULE 3 removes existing multiple occupancy clauses from local environmental plans.

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

Citation

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

Aims, objectives etc.

2. The aims, objectives, policies and strategies of this Policy are -
 - (a) to encourage a community based and environmentally sensitive approach to rural settlement;
 - (b) to enable -
 - (i) people to collectively own a single allotment of land and use it as their principal place of residence;
 - (ii) the erection of multiple dwellings on the allotment and the sharing of facilities and 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.

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.

Amendment of certain environmental planning instruments

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

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

Interpretation

5. (1) In this Policy -

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

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

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

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

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

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

(a) identified, on a map prepared before the commencement of this Policy by or on behalf of the Director-General of Agriculture and deposited in an office of the Department of Agriculture, as Class 1, Class 2 or Class 3 or as land of merit for special agricultural uses;

(b) identified, on a map prepared after the commencement of this Policy by or on behalf of the Director-General of Agriculture marked “Agricultural Land Classification Map” and deposited in an office of the Department of Agriculture, as Class 1, Class 2 or Class 3 or as land for special agricultural uses; or

(c) certified by the Director-General of Agriculture, and notified in writing, by or on behalf of the Director-General of Agriculture to the council, to be prime crop and pasture land for the purposes of this Policy;

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

(2) For the purposes of this Policy, the council may, in respect of development proposed to be carried out pursuant to this Policy, treat two or more dwellings as a single dwelling if it is satisfied that, having regard to the sharing of any cooking or

other facilities and any other relevant matter, the dwellings comprise a single household.

Relationship to other planning instruments

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

Multiple occupancy

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

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

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

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

Matters for council to consider

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

- (a) the means proposed for establishing land ownership, dwelling occupancy rights, environmental and community management will ensure the aims and objectives of this Policy are met;
- (b) the area or areas proposed for erection of buildings, including any proposals for the clustering of buildings;
- (c) the area or areas proposed for community use (other than areas for residential accommodation and home improvement areas);
- (d) the need for any proposed development for community use that is ancillary to the use of the land;
- (e) the availability and standard of public road access to the land;
- (f) the availability of a water supply to the land for domestic, agricultural and fire fighting purposes and, where a proposed water supply is from a river, creek, dam or other waterway, the effect upon other users of that water supply;
- (g) if required by the applicant, the availability of electricity and telephone services;
- (h) the availability of community facilities and services to meet the needs of the occupants of the land;
- (i) whether adequate provision has been made for waste disposal from the land;
- (j) the impact on the vegetation cover of the land and any measures proposed for environmental protection, site rehabilitation or reafforestation;
- (k) whether the land is subject to bushfires, flooding, soil erosion or slip and, if so, the adequacy of any measures proposed to protect occupants, buildings, internal access roads, service installations and land adjoining the development from any such hazard;
- (l) the visual impact of the proposed development on the landscape;
- (m) the effect of the proposed development on the present and potential use, including agricultural use, of the land and of lands in the vicinity;
- (n) whether resources of coal, sand, gravel, petroleum or other mineral or extractive deposits will be sterilised by the proposed development;
- (o) the effect of the proposed development on the quality of the water resources in the vicinity;

- (p) any land claims by local Aboriginals and the presence of any Aboriginal relics and sites;
 - (q) whether the land has been identified by the council as being required for future urban or rural residential expansion;
 - (r) whether the development would benefit an existing village centre suffering from a declining population base or a decreasing use of the services provided in that centre.
- (2) The council shall not consent to an application made in pursuance of clause 7 for the carrying out of development on land for the purposes of four or more dwellings unless the site plan accompanying the application identifies -
- (a) vegetated areas requiring environmental protection or areas where rehabilitation or reafforestation will be carried out;
 - (b) any part of the land which is subject to a risk of flooding, bushfire, landslip or erosion or any other physical constraint to development of the land in accordance with this Policy;
 - (c) any part of the land that is prime crop and pasture land;
 - (d) any areas of the land to be used for development other than for dwellings;
 - (e) the source and capacity of any water supply, electricity, telephone and waste disposal systems for the dwellings; and
 - (f) the proposed access from a public road to the area or areas in which the dwellings are to be situated.

Density of development

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

(2) If the number calculated in accordance with the formula as referred to in subclause (1) includes a fraction, the number shall be rounded up to the nearest whole number in the case of a fraction of one-half or more or rounded down to the nearest whole number in the case of a fraction of less than one-half.

TABLE

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

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

Subdivision prohibited

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

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

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

'A' SECTION

DIVISIONAL MANAGER-PLANNING SERVICES' REPORT

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

PREPARED BY: Development Control Planner - Mr M Scott

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

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

CORPORATE PLAN REF: N/A

PROGRAMME BUDGET REF: N/A

INTRODUCTION:

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

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

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

This is page **21** of the Business Paper comprising portion of minutes of an Ordinary Meeting of the Lismore City Council held on September 7, 1993.

1. REVIEW OF SUBMISSIONS TO DISCUSSION PAPER

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

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

1.1 GOVERNMENT

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

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

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

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

This is page 22 of the Business Paper comprising portion of minutes of an Ordinary Meeting of the Lismore City Council held on September 7, 1993.

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

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

1.1.2 Water Resources, Grafton, making the following comments;

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

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

This is page ²³ of the Business Paper comprising portion of minutes of an Ordinary Meeting of the Lismore City Council held on September 7, 1993.

water environment:

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

1.1.3 Department of Conservation and Land Management, Casino.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1.1.4 NSW National Parks and Wildlife Service, Alstonville.

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

1.1.5 Department of School Education, Lismore.

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

1.1.6 Health Department, Lismore

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

Identifies the following additional issues:

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

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

The Department made comment on the following issues:

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

1.1.7 Department of Agriculture, Wollongbar

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

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

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

1.1.8 NSW Forestry Commission

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

1.2 COMMUNITY ORGANISATIONS

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

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

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

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

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

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

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

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

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

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1.3 INDIVIDUALS

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

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

1.3.2 A submission from an Individual Requesting Public Anonymity

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

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

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

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

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

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

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

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

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

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

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

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

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

1.4 MULTIPLE OCCUPANCIES

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

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

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

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

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

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MAYOR

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

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- #15. Determination of S94 levies on the basis of distance from Lismore inequitable. Payment should be made at time of BA. Legislation requires Council to consider "in kind" payments, eg road up-grading, construction of public facilities, halls.
- 21) **Applications** - information suggested in the Discussion Paper follows what is required under S90 and SEPP #15.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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Makes the following comments.

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

1.5 COUNCIL DEPARTMENTS

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

1.5.2 Environmental Health:

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

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

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

1.6 COMMENT

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

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

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

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

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

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

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

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

2. SUMMARY OF WORKSHOP PROCEEDINGS

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

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

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

2.1 WORKSHOP SPEAKERS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2.2 SUMMARY OF ORAL AND WRITTEN REPORT BACK SESSIONS

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

- a) **SEPP #15**
 - * C12c(iii) and 7(l)(h) may need to be amended to support spirit in which SEPP #15 was drawn up - avoid legal challenge.
 - * no exemption from SEPP #15 necessary, amending SEPP not appropriate.
 - * status quo - satisfied; suggest more information on S149 certificates on adjoining land use to reduce/avoid conflicts and production of MO users guide together with a MO code or policy and/or advisory panel. Greater informational role for Council.
 - * agreed that the advertising and public exhibition provision should remain.
- b) **Subdivision**
 - * Speculation and subdivision not appropriate, community title subdivision not permissible and not appropriate.
- c) **Density**
 - * Density of clustering of MO's needs to be examined in relation to rural development generally together with density within MO's.
 - * How to address the issue of density when/if neighbouring community feel it is too great??
 - * development to maximum density, or near, requires serious investigation in relation to social issues as future generation's needs.
- d) **Minimum Area** - General satisfaction with 10ha minimum.
- e) **Siting of Dwelling** - generally prefer cluster, but each application considered on merit.
- f) **General/Other Issues**
 - * need for a strategic plan for rural area and development (such should include rural residential, agriculture MO's etc.) - need to protect rural environment.
 - * 25% prime agricultural land max. too arbitrary, should be raised/flexible to enable MO development for agricultural uses.
 - * MO occupiers should not be redirected to particular type of land and to a specific set of rules which may be discriminatory.
 - * applications for MO's must include the provision of internal community facilities, otherwise does not demonstrate commitment to philosophy of MO.

2.2.2 Group 2 - Issue 5 (Agriculture)

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

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

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

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

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

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

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

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include a monitoring process for water quality and quantity.

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

b) Waste Disposal

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

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

a) Mass Movement/Slip

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

b) Land Capability

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

c) Fire

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

d) Fauna Impact

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

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

a) S94

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

b) Speculation

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

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

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

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

2.2.8 General Discussion (At end of evening)

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

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

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

2.2.9 Comment

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

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

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

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

3. MULTIPLE OCCUPANCY TOUR

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

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

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

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

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

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

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

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

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

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

4.1 Nambucca Council

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

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

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

4.2 Byron Council

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

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

4.3 Hastings Council

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

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

4.4 Bellingen Council

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

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

4.5 Comment

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

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

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

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

5. PLANNING OPTIONS

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

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

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

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

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

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

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

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

Aims, objectives etc (of SEPP #15)

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

- a) to encourage a community based and environmentally sensitive approach to rural settlement;
- b) to enable-
 - i) people to collectively own a single allotment of land and use it as their principal place of residence;
 - ii) the erection of multiple dwellings on the allotment and the sharing of facilities and resources to collectively manage the allotment; and
 - iii) the pooling of resources, particularly where low incomes are involved, to economically develop a wide range of communal rural living opportunities, including the construction of low cost buildings; and
- c) to facilitate development, preferably in a clustered style -

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5.6 Comment

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

6. OTHER ISSUES AND CONCLUSIONS

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

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

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

6.1.3 Council Policy No. 03.01.06 - Multiple Occupancy Policy Guidelines for Road Conditions
This policy (see Appendix 3) appears to be discriminatory in nature, although it is noted that the overall purposes for which it was framed was to ensure reasonable public access to multiple occupancy developments. Council has been advised that the policy has had the effect of "sending some MO developments underground" because of cost and imposition of unnecessary financial constraints. Particularly in relation to larger developments where each stage is considered to be a minimum of six (6) dwellings and that S94 contributions be required for six (6) dwellings of that stage be paid prior to the

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

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

6.1.4 MO Advisory Panel

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

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

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

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

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

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

Declaration:

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

RECOMMENDATION (PLAN26)

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

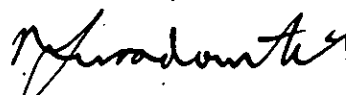
This is page **57** of the Business Paper comprising portion of minutes of an Ordinary Meeting of the Lismore City Council held on September 7, 1993.

DIVISIONAL MANAGER-PLANNING SERVICES' REPORT

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



(M R Scott)
DEVELOPMENT CONTROL PLANNER



(N Juradowitch)
**DIVISIONAL MANAGER-
PLANNING SERVICES**

APPENDIX ONE

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

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

[121,405] Citation

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

[121,410] Aims, objectives, etc

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

[121,415] Land to which this Policy applies

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

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

[121,420]

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

[121,425] Amendment of certain environmental planning instruments

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

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

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

[cl 4 renumbered Gaz 41 of 26 February 1988]

[121,430] Interpretation

5 (1) In this Policy —

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

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

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

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

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

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

(a) identified, on a map prepared before the commencement of this Policy by or on behalf of the Director-General of Agriculture and deposited in an office of the Department of Agriculture, as Class 1, Class 2 or Class 3 or as land of merit for special agricultural uses;

(b) identified, on a map prepared after the commencement of this Policy by or on behalf of the Director-General of Agriculture marked “Agricultural Land Classification Map” and deposited in an office of the Department of Agriculture, as Class 1, Class 2 or Class 3 or as land for special agricultural uses; or

(c) certified by the Director-General of Agriculture, and notified in writing, by or on behalf of the Director-General of Agriculture to the council, to be prime crop and pasture land for the purposes of this Policy;

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

(2) For the purposes of this Policy, the council may, in respect of development proposed to be carried out pursuant to this Policy, treat 2 or more dwellings as a single dwelling if it is satisfied that, having regard to the sharing of any cooking or other facilities and any other relevant matter, the dwellings comprise a single household.

[cl 5 renumbered Gaz 41 of 26 February 1988]

[121,435] Relationship to other planning instruments

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

[cl 6 renumbered Gaz 41 of 26 February 1988]

[121,440] Multiple occupancy

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

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

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

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

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

[cl 7 renumbered Gaz 41 of 26 February 1988]

[121,445] Matters for council to consider

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

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

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

[cl 8 renumbered Gaz 41 of 26 February 1988]

PLEASE DO NOT
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DISCUSSION PAPER
ON
MULTIPLE OCCUPANCY
OF
RURAL LAND
IN
LISMORE CITY COUNCIL
LOCAL GOVERNMENT AREA

REFER TO
BLUE PAPER
APPENDICES.

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6. Issues
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3. 1980 Multiple Occupancy Code
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7. Locational Map

Disclaimer: Any representation, statement, opinion or advice, expressed or implied in this discussion paper is made in good faith but on the basis that Lismore City Council, its agents and employees are not liable (whether by reason of negligence, lack of care or otherwise) to any person for damage or loss whatsoever which has occurred or may occur in relation to that person taking or not taking (as the case may be) action in respect of any representation, statement, or advice referred to above.

1. WHY THE REVIEW

The main objective of this review is to ensure the system of multiple occupancy development of rural lands in Lismore City Local Government Area meets the needs of the 1990's. Different people require different things of the planning system and these requirements change with experience and time.

Objectives of this review are

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

Wholesale change is not envisaged, rather a re-think and possible fine tuning to "localise" and adapt existing planning mechanisms to achieve greater certainty for Council, future occupants of multiple occupancy developments, and the general community.

The discussion paper is not exhaustive in content and scope and is seen as the first step in a process of information gathering and consultation. Some statements are perhaps provocative but in the context of the review paper are such to stimulate responses to the ideas and issues within the review.

2. WHAT IS MULTIPLE OCCUPANCY

Multiple occupancy is a type of rural development where a group of people, not necessarily related to each other, live on a single property in several dwellings. This involves the sharing of land and communal ownership of the whole land-holding. People may pool resources to develop communal rural living opportunities usually in a sustainable and environmentally sensitive way. Farming may not necessarily be intended as the primary source of income. Multiple occupancy development enables people, often on low incomes, virtually the only means to occupy land in common. Communal ownership of and control of land permits individuals to share various philosophic, social, cultural, religious, economic ideals and lifestyles.

Housing arrangements on multiple occupancy developments range from dispersed single family dwellings to clusters of expanded houses (and temporary living units, tepees etc.), functioning as a dwelling house with shared facilities (kitchen, eating areas etc). Clustered and dispersed settlements are the main forms of development.

Various forms of non-residential development such as pre-schools, community facilities and workshops, training and enterprise centres are permitted within multiple occupancy developments, provided they are intended to primarily serve the needs of the people living on the land.

Multiple occupancy is seen in terms of occupancy and management rather than ownership, it is hence distinct from other perhaps more traditional forms of rural development such as rural workers dwelling and dual occupancy. The rural worker dwelling requires justification on the need for agricultural workers to assist with the operation of a rural based enterprise, dual occupancy is limited to two dwellings per allotment with a current requirement that the

second building be connected to the first. Multiple occupancy development is by virtue of the prohibition of land subdivision, different from traditional rural residential subdivision by either conventional "Torrens" or "Community Title" forms of subdivision. Land speculation is not likely, although developer involvement in multiple occupancies has occurred in the past and will probably occur in the future.

3. GUIDE TO LEGISLATION

Environmental planning instruments include state environmental planning policies, regional environmental plans and local government plans. These planning instruments address questions of the distribution and interrelationships of land uses and provide the basis for development control. They permit or prohibit specific types of development.

State Environmental Planning Policies

These are referred to in this report as a 'SEPP' or 'State Policy' and have two main functions. Such policies may apply to particular areas within the State, the State generally, address specific matters of state-wide significance or deal with issues where state-wide application of policy is considered necessary.

State Environmental Planning Policy No 15 (SEPP 15) was gazetted on January 22 1988 to allow a number of dwellings to be built on single rural or non-urban holding held in collective ownership. An amendment to the policy occurred on November 23 1990 to incorporate some changes to the policy in light of experience in operation of the policy. Appendix 1 is a copy of the amended SEPP 15 together with "plain English" explanatory notes as supplied by the Dept of Planning in a Circular No B 11 to Councils.

SEPP No 15 addresses the following issues in relation to multiple occupancy development:

- Aims and objectives of the policy;
- minimum standards relating to land ownership and size;
- building height;
- prime agricultural land;
- slope etc;
- matters for Councils to consider when assessing applications;
- density of development on land using a formula;
- subdivision prohibition and
- matters relating to subdivision.

Local Environment Plans

Referred to in this report as an 'LEP', local plans focus on development control relying on land-use zonings, although they may also address such matters as protection and conservation of heritage, environmental protection, and provisions relating to multiple occupancy.

LEPs are prepared by local Councils, and unless the LEP is of a minor nature must be preceded by an environmental study. Public involvement is made by way of exhibition of the study (if required) and draft plan and receipt of submissions. The Minister for Planning approves the plan after the Director of Planning is satisfied with the plan's exhibition processes and is consistent with State Policies and directions. LEPs may be amended or prepared in a manner which exempts Councils from provisions of a State Policy. Byron Shire, Nambucca Shire and Hastings Shire Councils are for example exempt from the provisions of SEPP 15.

Development Control Plans

Development Control Plans are referred to in this report as a 'DCP'. Development Control Plans (DCP's) are useful where a Council wishes to alter or control details of development control. In Lismore a variety of DCP's exist, for example car parking, land use guidelines

in specific areas, setbacks, residential and medium density development. A DCP may be prepared for multiple occupancy development to reflect local circumstance, but such a DCP could not be inconsistent with any provisions in an LEP or a State Policy.

Appendix 4 is a draft DCP prepared by the Rural Resettlement Task Force. This DCP establishes more detailed development and performance standards for multiple occupancy development. It is included as an example of the way in which a DCP could apply to multiple occupancy. Appendix 3 is a Multiple Occupancy Code previously utilised by Council until the gazettal of SEPP No 15. Both these documents also provide examples of issues and standards previously thought to be important in relation to multiple occupancy development. DCPs are prepared by Council, exhibited, amended if necessary, adopted and implemented and may then be subsequently amended.

Development Control

Development control involves the assessment of development proposals and includes the decision to approve, approve conditionally or refuse development applications. Part IV of the Environmental Planning and Assessment Act, as amended, provides the requirements for making and determining development applications. Appendix 2 is a copy of Section 90 of the Act which details the matters to be considered when the Council assesses a development application. Council when assessing an application for multiple occupancy development utilises the provisions of SEPP No 15 and S90 - this includes some fifty-seven matters, although there is thankfully some overlap.

In virtually all cases persons making the application are entitled to appeal to the Court if an application is not determined within a statutory time (40-60 days) or is refused or conditions attached to approval are unacceptable. Designated development applications (quarries, tanneries, chemical works and the like) permit third party objection. An objector to a designated form of development has a third party right of appeal. SEPP 15 requires that applications in excess of 4 dwelling sites be exhibited and adjoining owners notified. No third party appeal rights are conferred on objectors to multiple occupancy development. Appendix 6 is a list of conditions that have been typically applied to several multiple occupancy developments recently approved by Council.

4. BRIEF HISTORY AND LEGISLATIVE CONTEXT

Multiple occupancy developments, formally approved and illegal have been a part of the North Coast since the early 1970's. Illegal developments probably occur because of a rejection of the bureaucratic and political processes and for many years, no constituted recognition and legal means existed for multiple occupancy to be approved. In this past context numerous "battles" have occurred both politically and legally - Co-ordination Co-operative, Bodhi Farm, Billen Cliffs, Glenbin, Crystal Waters to identify a few, are multiple occupancy developments which have achieved some notoriety in the past.

The current legislative framework under which applications for multiple occupancy development are made and assessed is State Environmental Planning Policy No 15: Multiple Occupancy of Rural Land and Part IV - Environmental Planning Control, both, within the provisions of the Environmental Planning and Assessment Act 1979 as amended. See attached appendices 1 & 2.

Prior to the gazettal of the State Policy multiple occupancy development was regulated by Interim Development Order (IDO) No 1 - Shire of Terania amended on February 29, 1980, to enable multiple occupancy of rural land zoned 1(a). This amendment applied to lands to the north and west of the former shire within the Parishes of Boorabee, Bungabee, Jiggi, Nimbin, Hanging Rock, Terania and Whian Whian only. Colloquially known as the "hippy line", development for multiple occupancy settlement was permitted on areas not less than 40 hectares. The land was to remain unsubdivided and be owned in its entirety in common by at least 2/3 of all adult residents residing on the land. Residential density was restricted to one person per hectare of the land. The amendment granted approval to some

23 multiple occupancy developments in the Shire that had existed or were planned.

The gazettal in August 1980 of Interim Development Order No 40 City of Lismore consolidated IDO No 1: Shire of Gundurimba, IDO No 1: Shire of Terania, Lismore City Council Scheme and 38 other IDOs into one instrument. It adopted as Clauses 15 and 16 the multiple occupancy provisions verbatim from IDO No 1: Shire of Terania.

Following gazettal of the IDO by the Minister (Landa) on 29th February 1980 to permit multiple occupancy within the seven Northern Parishes Lismore City Council, prepared and adopted in August 1980 a Multiple Occupancy Code. This code set more detailed standards in relation to area of land, ownership application detail; access; density of occupation; services which Council was not obligated to provide; building location, consent and demolition; fire protection; water; and drainage. A copy of this code is attached as Appendix 3. Also attached is a copy of a model Development Control Plan drafted by the Rural Resettlement Task Force February 1987 at the time Lismore City Council was beginning to prepare the comprehensive Local Environment Plan for its local government area and the NSW Government was preparing State Policy No 15.

Prior to the gazettal of the State Policy land development for the purposes of multiple occupancy was regulated by a series of policies issued by the State Planning Authority (circulars 67, 74, 76 and 80); Planning and Environment Commission (circulars 13, 35 and 44) and Department of Environment and Planning (circulars 74, 77 and 83). These policies related to subdivision and residential development in non-urban areas, worker dwellings, planning in fire prone areas, small holding and co-operative agricultural developments and dwelling houses in rural areas (multiple occupancy). The current State Policy is in essence a "final form" in the development of State policies. Lismore City Council currently has one policy relating to multiple occupancy development of rural land. This policy relates principally to the payment of road and other contributions prior to the issue of building approvals. The policy is said to discourage currently illegal multiple occupancy developments from applying to formalise existence because of the cost of road contributions and also that it discriminates against smaller multiple occupancy developments. A copy of the policy is attached as Appendix 4.

Council in consenting to development for multiple occupancy, normally does so subject to compliance with certain conditions. A list of typical conditions is attached as appendix 5. These conditions and either compliance or non-compliance with them has been raised as a significant issue in respect of multiple occupancy developments. Historically, Council has not regularly "policed" compliance with consents issued under the Act unless grievances and/or complaint in writing are received. This situation has been a result of lack of available staff resources and uncertainty in respect of Council's real commitment to enforce consents issued.

5. LOCATION AND DEMAND

A location map, shown as Appendix 7, provides a "stylized" indication of the location and size of most of the approved multiple occupancy developments in the local government area. The map demonstrates the concentration of MO's in the Northern area of the former Terania Shire.

In a regional context, the Lismore local government area contains the predominate number of multiple occupancy developments. The following table indicates approximately the number of approved multiple occupancies in adjoining local government areas and the planning mechanisms used in each to enable and control this form of rural land development.

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

The demand/supply equation is very difficult to determine and cannot be effectively assessed without detailed analysis of approvals, and the subsequent rate of dwelling construction together with some quantification of the number of "illegal" developments including the occurrence of rural occupation in temporary dwelling forms (mobile shelter caravans, houses and the like, tents, tepees etc). As a guide, the May 1985 Multiple Occupancy Report by Lismore City Council found that in October 1984, twenty-two multiple occupancies were operating. This number included some which had not sought development approval from the Council but did not include some properties which had been approved but were not then operative. As previously indicated, Council has record of approximately sixty (60) multiple occupancy developments in the local government area, varying in sizes from two houses (approved prior to the November 1990 amendments to the State Policy which increased the minimum number of dwellings from two to three) to some 150 houses.

The following table indicates the number of approved multiple occupancy developments since 1980. Many of these comprise only two dwellings as shown in brackets. It is estimated that there are about ten (10) or a dozen illegal multiple occupancies, generally are small scale developments comprising less than five (5) dwellings.

Approved multiple occupancy development applications

Year	No.	No. Sites/Units
Pre 1980	3	62
1980	3	20
1981	5	68
1982	4	160
1983	2	41
1984	4	70
1985	1	10
1986	7 (1)	91
1987	4 (1)	19
1988	9 (3)*	44
1989	10 (8)*	17
1990	7 (4)*	19
1991	3 (1)*	8
1992	5	41
TOTAL	67	670

* this figure also includes minor dwelling site amendments to approved development

N.B. The number of sites/units figure is indicative only and relates only to approved sites, Council's records are not accurate in regards actual number of dwellings or approved developments. Similarly it is known that not all recently approved developments have been fully developed. Appendix 7 shows the approximate distribution and sizes of most known multiple occupancies in the local government area.

ISSUES

The following issues are principally identified utilising State Environmental Planning Policy No 15, Section 90 of the Environmental Planning and Assessment Act 1979, as amended and a review of submissions received in relation to multiple occupancy development applications. Generally, the current situation is discussed, with comments offered and questions raised as to possible change in the context of current planning practice. Options for change to the current system may include:

- . possible exemption from SEPP 15 and preparation of an enabling amendment to the Lismore Local Environment Plan 1992 and adoption of a "localised" development control plan,
- . remaining with SEPP 15 and preparing a localised DCP,
- . amending SEPP 15 with the agreement of the Minister for Planning,
- . do nothing

Within this context some scope exists to adapt the approach according to the arguments expressed to Council as a consequence of public exhibition and submissions received to this review. For example, it may be seen as advantageous to stay within the umbrella of SEPP 15 and develop a complimentary more detailed and educative development control plan.

1. SUBDIVISION

Subdivision of the land upon which a multiple occupancy is developed is not permitted via operation of SEPP 15. The land is to remain as a single allotment, consolidated if an application is made where the land occupies two or more allotments, and not subdivided under the Conveyancing Act 1919, Strata Titles Act 1973 or community titles legislation introduced in August 1990.

Various forms of legal organisation are possible, including private company, company limited by guarantee, co-operative, public company, trust, charity or religious organisation, joint tenancy, no legal structure, voluntary association, single ownership. Whilst it is noted none of these structures will effectively balance the interests of the group and individual, may be legally messy and contradict other legislation and restrict the multiple occupancy resident from obtaining finance to build homes etc. the maintenance of the single lot, communally owned, is in essence one of the underlying principle philosophies of multiple occupancy.

The introduction of community titles legislation has however, added a degree of flexibility, provided established planning procedures are followed (environmental study, rezoning etc.) to those seeking a shared rural lifestyle within a mutually agreed framework. It has been suggested that Community Title subdivision may be suitable for multiple occupancies.

Would Community Title destroy the culture and philosophy of multiple occupancy? Would such subdivision create de facto rural-residential estates?

2. MINIMUM AREA

The minimum area for a multiple occupancy approval under the State Policy is 10ha, although provided there are good planning grounds for doing so, this minimum may be reduced utilising provisions under State Environmental Planning Policy No 1 - Development Standards. This policy provides flexibility in the application of planning controls where strict compliance may be unnecessary or unreasonable.

Density of development, i.e. the number of proposed dwellings on the land is calculated

utilising the following formula, (A copy of the formula is found in Appendix 1). On a 10 ha lot 4 dwellings may be erected (1 per 2.5 ha), on a 50 ha lot, 14 dwellings may be erected (1 per 3.6 ha), on a 210 ha lot, 54 dwellings may be erected (1 per 3.8 ha), on a Lot in excess of 360 ha, 80 dwellings maximum may be erected (1 per 4.5 ha).

This calculation is subject to a requirement that Council shall not consent to the application if those dwellings are so designed that they could reasonably accommodate in total more people than the number calculated by multiplying that maximum number of dwellings by four (4).

The minimum area for multiple occupancy is considered satisfactory, however the formula regulating density of development should be examined in terms of land capacity and may need to be subject to more rigid performance standards. Such standards may well take account of physical environmental constraints (slope, vegetation, hazard, waste disposal, impact on landscape, adjoining pattern of settlement) and services (water supply, standard of road access etc.) in the locality. Multiple occupancies developed to the maximum density have been the subject of objections on the basis of overdevelopment.

Is the minimum area too small or the density formula too generous?

3. AGRICULTURAL LAND

Multiple occupancy may not be created on an allotment where greater than 25 % of the land consists of prime crop and pasture land. Dwellings shall not be located on prime crop and pasture land. Prime crop and pasture is generally defined as land identified as having an agricultural Class 1, 2 or 3 or land of merit for special agricultural uses.

It is submitted that where an application for multiple occupancy contains objectives of a sustainable agricultural nature and is supported by a farm management plan prepared by suitably qualified persons (agronomists, economist etc.) that consideration be given to the application irrespective of the agricultural class of the land. The input of shared labour and capital could be used to more effectively farm and use the land. Similarly the nature and concept of agriculture is changing as the dynamics of the market place is changing, for example organic produce and permaculture farming methods are being more sought after and utilised. Multiple occupancy can also be utilised by traditional farmers to maintain the "family farm" by provision of residential accommodation to family to maintain working farm viability.

Noxious weed control is difficult and expensive. Conventional practices are often contrary to an ideal or philosophy behind many multiple occupancies. Complaints are received along the lines that: "that place breeds noxious weeds". Should Council require the instigation of a noxious weed control program?

Are multiple occupancies effective and efficient utilisers of agricultural land? How? Should the 25 % agricultural land requirement be reconsidered to enable multiple occupancy developments on land with a greater percentage of prime land?

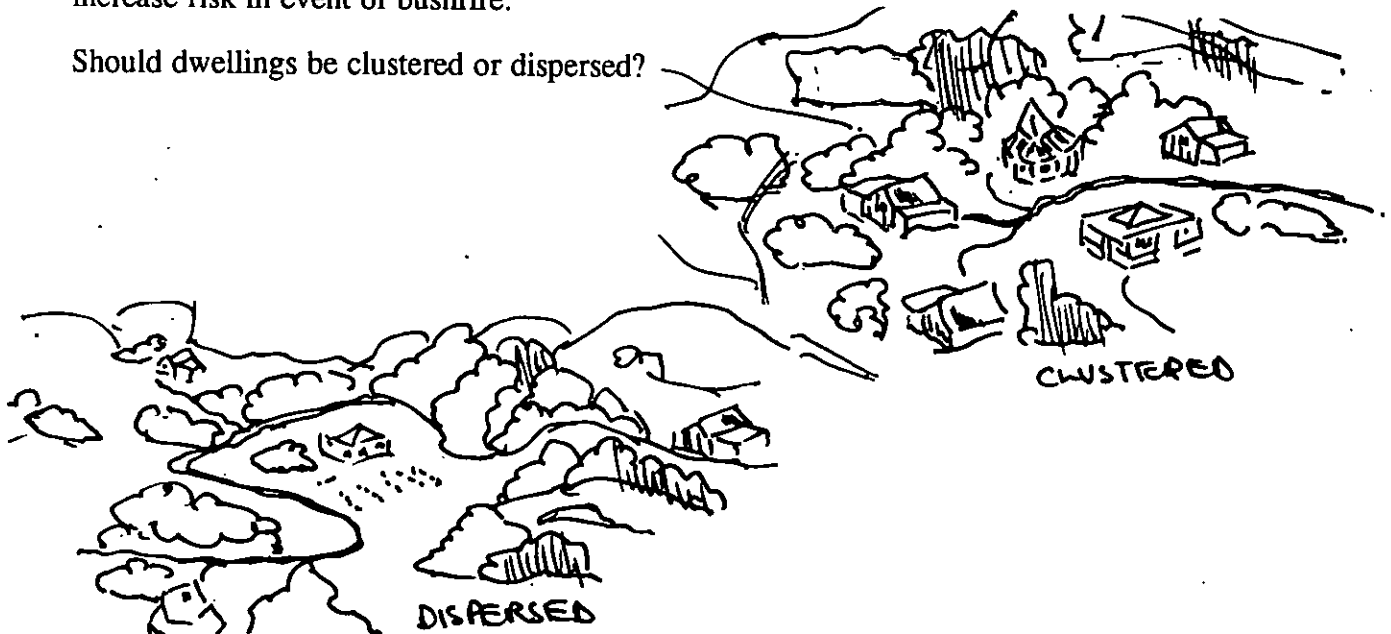
4. NON-RESIDENTIAL DEVELOPMENT

Schools, community facilities and workshops, training centres are permissible as long as they are intended to primarily serve the needs of the people living on the land and are of an ancillary nature. Where development for such purposes as rural tourist accommodation, shops, restaurants are permissible under Council's Local Environmental Plan they are permitted with multiple occupancy developments. The maintenance of this position is seen to be desirable in that it improves the economic viability of the developments and the quality of lifestyle for inhabitants of multiple occupancies, whilst also having a positive impact on the local economy.

5. SITING OF DWELLINGS

The State Policy enables either clustered or dispersed dwelling location and siting, with a preference to clustered configurations. Both forms of dwelling siting occur. Spatial distribution of dwellings should reflect land capability and have regard to visual effects on the existing landscape and patterns of settlement. Dispersed dwelling location provides greater degree of privacy however, they require additional access roads (if provided) and service lines (water), leave fewer areas of the holding visually and physically untouched and increase risk in event of bushfire.

Should dwellings be clustered or dispersed?



6. PUBLIC ACCESS

Currently Council requires that multiple occupancy developments will be approved only if located with access from a Council maintained road. Usually a minimum all weather gravel standard access is required. Applications are considered on their respective merits when contributions to road up-grading are determined. The currently exhibited S94 contributions plans for rural roads will in future be the instrument used by Council to assess road contributions.

The relative isolation of multiple occupancy developments means that in most instances the public access is via an unsealed road system. The greatest impact on these types of road systems is the use of the network by heavy vehicles during wet seasons. It is considered important and necessary that access be via public roads and not by rights-of-way. Given the short periods of flooding restricting access, is flood free access considered necessary? Are current road standards and upgrading contributions appropriate?

8. WATER SUPPLY

Sufficient quantities of water should be provided for domestic, agricultural (house gardens, farming e.g. horticulture) and fire fighting purposes. Stored supplies of up to 46,000 litre capacity is often sought at each dwelling site where land has a bushfire history. Domestic supply should have a drought reliability and not be reliant upon creek and river resources. The effect on downstream users should be taken into account, a water management plan addressing issues such as consumption, source, storage, quality for development in excess of say four (4) dwellings is considered necessary and may take the form of utilisation of ground water resources or surface water collection. How important is the impact of MO's on water resources?

9. WASTE DISPOSAL

Sewerage disposal is a major concern not only in relation to multiple occupancy development but also to other forms of rural and residential development. This concern has prompted the Department of Health to promote the "1 ha policy" where rural residential developments are proposed without reticulated sewer services. Traditional "wet" systems (septic and aerated schemes) may not be suitable in certain soils and areas subject to slip in high rainfall area.

The maintenance of the requirement that houses and waste disposal systems be not located within 50 metres of any creeks or overland flow paths is considered essential to avoid any risk of pollution or health risk. Degradation of ground water must also be considered.

The use of composting systems is being currently investigated by Council's Health Department. Should proposed waste disposal systems be identified at the time a development application is submitted? Are the standards adequate?

10. ENVIRONMENTAL RISK/HAZARD

10.1 FIRE PROTECTION - measures either of a self regulatory nature or Council imposed requirements, must be practical, legal, reflect the reality of bushfire behaviour and make sense. Hazard areas (high/medium/low) have been previously identified by Council. It is considered important that any residential development in areas of high risk hazard be subject to conditions which seek to minimise risk.

An agreed fire management plan to limit threat (perception of risk and danger) is considered suitable for multiple occupancy developments in hazard areas of medium/low risk. Such fire management plans must address the following key areas; selective land use practices, landscaping, building construction, and fuel management, fire suppression access. Fire management plans necessitate qualified assessment of fire history, characteristic of vegetation understorey, vegetation patterns, exotic vegetation, recent and adjoining forms of development, aspect and slope effects. Measures should be prescribed in the plans which address fuel reduction, density of dwellings, landscaping and vegetation management, water supply and importantly fire education. Are existing bushfire protection measures and requirements appropriate and enforceable?

10.2 FLOODING - dwellings on multiple occupancy developments or for that matter any form of residential developments should not be located in floodways.

10.3 SLIP/SUBSIDENCE - many areas in the Lismore local government area are subject to slip and mass movement. A geotechnical report which assesses surface and sub-surface soil characteristics and impact of various disposal techniques is considered necessary for each proposed dwelling site and access roads of a proposed multiple occupancy development. Should geotechnical assessment be considered and address the issue of up-slope mass movement and be submitted at the time of making the development application?

11. VISUAL IMPACT

The landscape and scenic qualities of a rural locality are an important consideration. Although a subjective issue, recognition and assessment should be made of a development proposal in the context of existing patterns of settlement (building density), terrain and drainage patterns, significant vegetation and cultural features such as lot sizes, fencing, roads, buildings, dams etc. Should landscaping and rehabilitation plans be clearly defined and not addressed as generalised "motherhood" statements?

12. IMPACT ON ADJOINING LAND USES

Should an adjoining property and land use be a buffer for a use creating an impact? Many rural conflicts have been identified although there appears to be a lack of evidence to suggest that a multiple occupancy of rural land will ultimately result in the cessation of existing rural land use. Dwelling location of proposed multiple occupancy developments as with any other form of rural land use should be subject to locational criteria and buffer restrictions in respect of existing potentially hazardous or offensive forms of development (quarries, piggeries, intensive horticultural operations, bananas, macadamias etc.) commonly found in rural zones.

13. FAUNA IMPACT

All multiple occupancy applications should be accompanied by a fauna impact assessment as established by the recently enacted Endangered Fauna (Interim Protection) Act 1991.

14. SPECULATION

To "guard" against land speculation in multiple occupancy development Council continues to set a condition which appears to have been derived from early State Policies that ownership be vested in at least two-thirds of the multiple occupancy adult residents. Such a requirement cannot be easily enforced and could easily be overcome by speculators for example not making applications in their own names. Speculation may by character involve the making of an application or series of applications by the one applicant holding a number of dwelling sites and for the maximum number of dwelling sites under the density formula irrespective of the land capability and patterns of rural settlement.

The social and philosophical objectives of multiple occupancy development may act as a deterrent to land speculation in multiple occupancy. Apparent desirability that all shareholders be involved in the conceptual planning and development of multiple occupancies may also deter speculation. Would this matter be most satisfactorily addressed by education and communication within the "industry"? Is there a role for Council to play in respect of multiple occupancy development and regulation and control of ownership of multiple occupancies?

15. COMPLIANCE WITH CONDITIONS OF CONSENT

Non-compliance with conditions of development consent is a matter which is clearly defined in the Environmental Planning and Assessment Act, 1979 as amended. Simply Council may seek compliance, as non-compliance is a breach of the Act, particularly where consent has been issued and no appeal lodged within twelve months of receipt of notification of a development consent. Should Council "police" applied conditions of consent and unapproved building development or only act where complaints are received?

16. ILLEGAL DEVELOPMENTS

Should Council actively regulate and take action against illegal multiple occupancy development? Is this heavy handed or fair, what about illegal residential development in town?

Council is aware of a number of illegal multiple occupancy developments in the Lismore area. These initially usually take the form of temporary or transitional dwellings. Experience suggests that temporary becomes permanent, with the inevitable erection of ancillary structures. Concerns are raised regarding standard of services and facilities (waste disposal, water etc.)

17. RATING

Currently multiple occupancy developments are rated at a general rural rate, based on land value, at 1.7052 per \$1. The Valuer General, in determining land value does not consider actual land use but relies predominantly on zoning. There is no special zoning for multiple occupancy development. Rates for multiple occupancy with one exception range from \$1,000 - \$2,000 per annum. It is possible for Council's to "strike" a differential rate based on the concept of "centre of population". The meaning of such is not clear and is difficult to distinguish between large and small multiple occupancy, dual occupancy etc. Should Council "strike" a separate rate levy for multiple occupancy developments, if so at what rate?

The issue is to be addressed in the near future as a separate report to council regarding overall rating structures in Lismore. There are those that believe MO's are underated given the number of people residing on such properties.

18. PAYMENT OF S94 LEVIES

Refer to Appendix 5. Where a development generates a need for additional local government services and facilities, and a nexus is clearly demonstrated, Council may levy developments for contributions (money or land) to upgrade those facilities as a consequence of the development.

Levies for multiple occupancy development are usually sought for road improvement, community and recreational facilities, and bushfire protection. Council requires road improvement levies or a proportion thereof, depending on the size of the development, be paid prior to release of building approvals. Should Council maintain this position? Should Council seek to permit "in kind" contributions in lieu of monetary contributions?

19. APPLICATIONS

The following information is felt to be necessary and should be provided with applications for multiple occupancy development. Applications for developments in excess of four dwellings are subject to provisions within the Environmental Planning and Assessment Act relating to "advertised" development (see section 3). Applicants are encouraged to discuss proposals with Council staff prior to making the application.

- (1) Detailed site plan including:
 - Contours at 10 metre intervals
 - Location and types of vegetation
 - Location of creeks and dams
 - Areas of the site to be reforested, retained in natural state or used for grazing or other agricultural activities
 - House and building sites
 - Access roads and walking tracks
 - Water supply pipelines
 - Water storage tanks for both domestic and fire-fighting purposes
 - Fire trails and hazard reduction zones around dwellings, other buildings and access roads
 - Garbage and sanitation waste disposal
 - North point and scale at which the plan is drawn
 - Adjoining intensive agricultural pursuits
 - Areas to be used for development other than dwellings

(2) Statements and Assessments advising and analysing:

- . a description of the multiple occupancy development proposed in the application, including full details of numbers of persons to be accommodated and proposed land use on the subject land, including;
 - (i) A statement of the objectives of the proposed Multiple Occupancy in relation to the use of the land
 - (ii) Full details of internal organisational arrangements
 - (iii) Copies of legal documents relating to shared ownership
 - (iv) Details on staging of development, if required
- . analysis of the land to accommodate the number of persons proposed in the application with particular regard to living space for each household, water supply, waste disposal
- . analysis of the likely community needs of the residents of the Multiple Occupancy when fully developed and details of proposals contained within the application to satisfy their needs
- . assessment of internal road requirements, resident parking, visitor parking and parking at communal buildings and works
- . assessment of the bushfire hazards of the site as a whole and of the individual building and improvements. A fire management plan should be prepared where a development is located in an area identified as having a high bushfire risk.
- . a geotechnical report assessment for each dwelling site for the benefit of any future occupier and Council in order that areas subject to erosion, slip and subsidence are fully identified
- . an assessment of the current agricultural suitability of the land plus a full description of proposed agricultural uses of the land when developed for Multiple Occupancy
- . description of the water supply system proposed for individual dwellings, communal building and other works to include details of source, treatment (if any), storage, reticulation etc.
- . a description of the waste disposal system, solid and liquid proposed for individual dwellings (or cluster dwelling) community building and works and community solid waste disposal arrangements. Affects on local streams by the development is to be fully assessed.
- . an assessment of the impact of the Multiple Occupancy on the environment, landscape or scenic quality of the locality. If any harm is identified the proposed means to protect the environment or mitigate the harm are to be listed.
- . assessment of the noxious weeds prevalent on the site together with a noxious weeds eradication programme.
- . a fauna impact assessment addressing the relevant factors outlined by S4A of the Environmental Planning and Assessment Act

Are there any other matters which should be included in the preparation and assessment of development applications for multiple occupancies?

3. Applications for multiple occupancy development are currently referred to the following State Government Departments and authorities

- . NSW Agriculture
- . Department of Conservation and Land Management
- . NSW Forestry
- . National Parks and Wildlife Service
- . Department of Health
- . Department of Water Resources

These statutory authorities at times raise concerns within areas of their respective responsibility. For example, loss of prime agricultural land, concerns regarding mass movement and slippage, issues relating to Aboriginal archeology, impact on water reserves.

Applicants are encouraged to contact and liaise with those authorities to ensure any relevant requirements which may be necessary are satisfactorily addressed in the application.

Is the requirement for referrals reasonable? Should any other agencies be consulted?

CONCLUSION

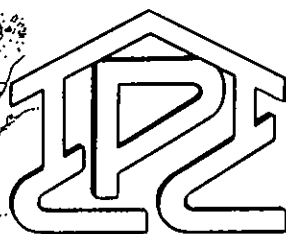
The review paper has examined a range of issues relating to multiple occupancy of rural lands. As previously indicated it is not exhaustive in content and is written to assist in discussion of the issues and provide Council with guidance as to the best means of planning for multiple occupancy development within the land use planning context of the Environmental Planning and Assessment Act 1979.

Multiple occupancy is but another form of rural land use and provides an affordable lifestyle option for many people across a wide socio-economic spectrum in the North Coast Region. This form of development and its occupants have added to the social, cultural and economic enrichment of the area. Conversely some adverse impacts as a consequence of this form of development have been identified. Land use planning should reflect agreed goals and aspirations of the people and society it serves, and recognise the overall public benefit and well being.

Written submissions to this discussion paper and suggested or preferred possible amendments to the existing land using planning system regulating multiple occupancy development are welcomed, during the public exhibition period for this discussion paper.

REFERENCES AND ACKNOWLEDGEMENTS

1. Dept of Environment and Planning: Multiple Occupancy in Rural NSW: A Discussion Paper. Sydney 1985
2. Lismore City Council: Multiple Occupancy Report by S Barker and S Knox 1985
3. Dept of Bushfire Services: Planning for Bushfire Protection May 1991
4. Dept Of Planning: Circular No B 11 State Environmental Planning Policy No 15 Multiple Occupancy of Rural Land December 1990
5. Bellingen Shire Council and NSW Dept of Housing: Multiple Occupancy by J Wyatt July 1986
6. Multiple Occupancy of Rural Land in the Clarence Valley by P Cuming 1985
7. Land Commission of NSW: Multiple Occupancy Development: Feasibility Study June 1984
8. Mr C Spence, Walters Solicitors, Lismore
9. Mr T Newton, Summerland Credit Union, Lismore
10. Mr R Doolan, Lismore



PAN-COMMUNITY
COUNCIL
P.O. BOX 102,
NIMBIN 2480

7.9.94

Attention Nick Juradowitch.

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

Dear Nick Juradowitch,

Re: Council Review of Multiple Occupancy,
Proceedings of Meeting of 21 July 1994

As discussed I enclose herewith "Proceedings of the Meeting of 21 July 1994" between ourselves and Council.

1. In respect to Item 1.1(c) re amendment of conditions of consent pursuant to s.102, I draw to your attention Regulation 47A1(a) which enables Council to dispense with the need to require a fee for a variation of a condition of consent.
2. In respect to Item 4.0 re "without prejudice" inspections and confidentiality of information obtained for planning purposes under the Planning Act, I draw your attention to the following statements:-
 - (a) "[It is a] basic privacy principle that where information is provided for a specific purpose, it should generally be used only for that purpose"

Privacy Committee of NSW, Annual Report 1992, p19.

and
 - (b) In respect to the Council making the MO Address list available to any person, other section of Council or, other authority, we draw your attention to the Privacy Committee's statement:-

"The Privacy Committee is totally opposed to any suggestion that address information be made publicly available, irrespective of the department or agency

which holds it, the purpose for which it was collected or the person by whom it is sought".

ibid. p.21

3. As has been expressed previously our members view "confidentiality" as being a sensitive issue. In this regard I draw your attention to the statement that:-

"the surveyor/inspector should explain to an informant the procedures being taken to protect confidentiality"

"Survey Guidelines: Guidelines for Surveys and Research", NSW Privacy Committee, Publication 42 (Revised), 1979.

While we appreciate the sensitive way in which you have respected these principles, we place on record for the benefit of those who follow you, that any deviation from these principles will be seen by our Council to be a breach of the Privacy Act.

In appreciation of your conduct of the MO inspection process.

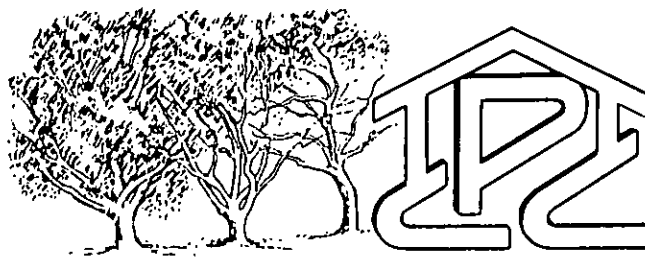
I would appreciate your acknowledgement of receipt of this correspondence.

Yours Sincerely,



Peter Hamilton

For and on behalf of the M.O. Review Collective.



PAN-COMMUNITY
COUNCIL
P.O. BOX 102,
NIMBIN 2480

FOR FURTHER INFORMATION
CONTACT SHANA ROBERTS,
PETER HAMILTON, EDDIE
BUINDS OR SIMON CLOUGH.

PAN COMMUNITY COUNCIL

PROCEEDINGS OF MEETING WITH THE LISMORE CITY COUNCIL

Re: COUNCIL REVIEW OF MULTIPLE OCCUPANCY

21 July 1994

Abbreviations

DA: Development Application
EP&A Act: Environment Planning and Assessment Act
DCP-20: Development Control Plan No. 20 for MO.
"determination": The DA approval with "conditions of consent".
BA: Building Application
BCA: Building Code of Australia
SOE: State of the Environment

1.0 INSPECTION PROCESS

1.1 Amendment of conditions of consent.

- (a) Where mutual agreement is reached to amend a condition of consent that this be formalised by utilising the provisions of s.102 of the EP&A Act.
- (b) As far as possible, all conditions that are to be amended, are to be dealt with in one s.102 Form (viz. Form 5).
- (c) Where Council initiates a proposed amendment to a condition of consent, that no fee be charged.

Relationship to legislation other than the EP&A Act and, other Departments within the Council.

- (a) As described in Council's letter to all MOs on 19 May and 4 July 1994, the planning inspection will relate exclusively to the EP&A Act and the DA conditions of consent viz.

"... the inspection is only in respect of consent issued in accordance with the EPA Act. It is not proposed to undertake inspections for compliance re health and building requirements."

(b) Where a condition of consent requires work to be carried out on a Council road, Malcolm Scott will check the Council road files to see that the work has been carried out.

(c) Where a condition of consent requires certain bushfire measures to be provided, Malcolm Scott will inspect work carried out in this regard.

(d) The bushfire provisions in DCP-20 MO, will be used as a guideline where these may be an appropriate alternative to those in the determination.

It is understood that following recent amendments to the Bush Fire Act Council proposes to introduce a city wide Bush Fire Management Plan. As any future requirements of MO settlement in this regard will be dealt with at a latter time, same will not form part of the planning inspection.

Council undertakes to prepare a "Model Bush Fire Management Plan".

(e) As noted in the above Council letters to all MOs, inspections will be confined to planning issues and will not included matters under other legislation eg. sewerage matters under the Health Act, building under the Building Code of Australia or bushfire matters under the NSW Bushfire Act, unless specifically dealt with as a condition of consent.

1.4 Pan-Com relationship to site inspections.

Pan-Com does not wish to have a representative present during inspections.

2.0 BUILDING ISSUES

2.1 Houses

(a) Where a building has been erected on a DA approved building site, but no BA has been submitted, that the applicant be invited to regularise this situation by applying for registration under the BCA.

(b) Where there is a cluster of structures (including temporary dwellings etc), that the location and use of these be examined in the context of the "expanded house" provisions.

(c) If the number of existing permanent houses (where an "expanded house" is deemed to be one house), exceeds the number of DA approved building sites, that the DA applicant be invited to regularise this situation by applying for amendment of the determination.

2.2 Sundry Inspection Issues

(a) That the proposed inspections will not involve the physical counting of people on the property.

(b) That inspections will be carried out by Malcolm Scott and Scott Turner.

(c) That the "appropriateness of a condition" (Council letter of 13 May 1994) is to be taken to mean, what is considered by Malcolm Scott to be "reasonable" in the circumstances of the case.

(d) That Council places on the record that it cannot impose more stringent conditions of consent than those listed in the determination.

3.0 MEDIATION

In the event of negotiation not resulting in a mutually acceptable agreement that Council agrees in principle to refer the matter to mediation.

Notwithstanding this agreement, it is not considered likely that recourse to mediation will be necessary.

4.0 "WITHOUT PREJUDICE" INSPECTIONS

(a) It is agreed that "without prejudice" inspections means that no written notes or photographs, be placed on an official Council file except:-

(i) where it relates to an application for "Modification of Conditions (Form 5), or notification to the applicant of the registration of same, and,

(ii) where the parties mutually agree and confirm that the material be placed on the file.

(b) That every care be taken to ensure that privacy is respected and sustained and that information collected for planning purposes is not available for use by other sections or departments of Council, by other Government Departments or the public.

That every care be taken to ensure that notes etc, are not filed in any manner which may enable them to be available for inspection via for example FOI legislation or by subpoena.

(c) The Planning Manager advised that if the Mayor requested a file via the General Manager, he would be obliged to supply same.

It is the Planning Manager's understanding that a property owners file is not available for public inspection except with the owners consent.

5.0 MO REVIEW IN THE CONTEXT OF THE CITY-WIDE REVIEW

That there be no inspections prior to Council adoption of the proposed Plan of Management for a city-wide inspection of all development. It is expected that this Plan will be submitted to Council for adoption on 16 August 1994.

6.0 PROPOSED SURVEY

(a) A survey is to be carried out at a latter time. This is to be considered in the context of:-

- # the findings of the State-wide Review,
- # the Council 2020 Social Atlas, and
- # the annual SOE Survey Report.

It is seen that this strategy will enable a comparison to be made between MO settlement and other forms of rural settlement.

(b) When it is decided to conduct a survey:-

that the "trialing" of a pilot sample, is accepted as a principle,

that Pan Community Council will be invited to comment on the design, collection and evaluation of the survey.

(c) Council is aware that there are those on MO's and in the community with professional skills and experience in conducting social surveys. (The Nimbin Skills Survey 1993, is noted as a model in this regard).

7.0 s.94 ISSUES

If a condition of consent requires an external road to be upgraded, and before this work is carried out, the road is upgraded by others (eg. in connection with subdivision development on the same road) then it is seen that the relevant DA condition has been met.

The test in such cases being, "Is the external road of a standard to provide a reasonable means of access"?

Roads (both external and internal) will be inspected on the same basis as that for other forms of rural settlement.

8.0 THE INTERNATIONAL YEAR OF THE FAMILY

That Council is cognizant of, and sensitive to the fact that many MO communities relate to themselves as one, or, several extended families.

9.0 COUNCIL DECISION TO MEET WITH NEIGHBOURING COUNCILS RE MO SETTLEMENT

It is the understanding of the Planner Manager that the Council decision to meet with neighbouring councils re MO, relates to a proposed meeting of councillors only.

As at this date, the Planning Manager has no direction regarding involvement in the proposed joint meeting with neighbouring councils.

10.0 GENERAL

10.1 Time frame for inspections

(a) It is expected that the two planning staff allocated to carry out the inspections will be doing so in conjunction with other office responsibilities.

(b) It is expected on average that one inspection (of an hour or so) will be conducted per week. Hence the Council is looking to the inspections being carried out over a period of some thirty to forty weeks from commencement.

10.2 Time re compliance

(a) Where there is a agreement to "regularise" a condition of consent, the time in which to comply if applicable, may also be part of the agreement.

Such a time constraint will only be applicable where the original determination (if any), required a sequential development.

(b) Depending on the circumstances, it is appreciated that once an MO development has been commenced, there is no set time limit for its "completion".

10.3 Diversity of MO development

(a) It is noted that considerable variation may exist in the forms and stages of MO development, both from a environmental and social point of view, and, that this diversity will be respected as a chosen "family lifestyle".

(b) It is noted that Pan-Com does not necessarily speak for all MO settlers.

10.4 Caravans, temporary dwellings, sheds etc.

(a) It is recognised that the use of a caravan by a family member of a household does not require approval.

(b) That the use of caravans (other than in (a) above), temporary buildings, sheds etc is a matter for the Building Department of Council, and is not a matter for planning consideration.

10.5 Variation of standards

The use of SEPP-1 and Cl. 1.5.2 of DCP-20 MO is noted for possible use in varying standard, where applicable.

10.6 Review Report

That Pan-Com be afforded the opportunity to comment on the draft of preliminary and the final Review Report to Council with sufficient time for consideration of any comments or suggestions.

End

Do. For your ref P. *Di*
LISMORE CITY COUNCIL POLICY REGISTER

FILE NO: S/271

POLICY NO: 03.03.13

POLICY HEADING: TEMPORARY RESIDENTIAL OCCUPATION OF RURAL LAND

FUNCTIONS: DEVELOPMENT - BUILDING CONTROL

OBJECTIVE: To allow people to live in temporary living quarters whilst erecting proper dwellings.

POLICY:

That the Council allow through the issue of a formal permit; the temporary residential occupation of rural land and only where development consent is possible for the erection of a dwelling house on the land. The following requirements shall apply.

1. A Temporary Residential Occupation Permit may be issued by the Chief Health and Building Surveyor or his nominees for a period of two (2) years from the date of issue. The Permit may be renewed for a further period not exceeding one (1) year where the Chief Health and Building Surveyor is of the opinion that it is sufficient justification to do so.
2. A Temporary Residential Occupation permit shall only be issued to the owner of the land, who shall also be the formal occupant of the temporary accommodation.
3. That Development Consent and Building Approval be obtained within twelve (12) months from the date of issue of a Temporary Residential Occupation permit. The dwelling shall be completed to approved occupation stage on or before the expiry of the permit.
4. The Temporary Residential Occupation Permit is not transferable to any person except with written concurrence of Council.
5. That an adequate water supply and sanitary facilities are provided to the temporary occupation to the Health and Building Surveyor's satisfaction prior to occupation commencing.
6. Any other requirements deemed necessary by the Chief Health and Building Surveyor.
7. That the application permit fee be in accordance with Council's fees and charges. Such fee is non refundable following the issue of a permit. If the application is refused 50% of the fee is refundable.

*Applies where building
constructed without at BA.*

Di

LOCAL GOVERNMENT ACT 1993

PART 4 — CERTIFICATES CONCERNING BUILDINGS

[s 168] Effect of building certificate

(1) [Council's action] If a building certificate has been issued in relation to a building or part, a council:

- (a) by virtue of anything existing or occurring before the date of issue of the certificate; or
- (b) within 7 years after that date by virtue of the deterioration of the building or part solely by fair wear and tear,

must not:

- (c) make order No. 1, 3, 5(g) or 26 in the Table to section 124 in relation to the building or part; or
- (d) take proceedings for an order or injunction requiring the demolition, alteration, addition or rebuilding of or to the building or part; or
- (e) take proceedings in relation to any encroachment by the building or part onto land vested in or under the control of the council.

(2) [Contravening orders] An order made or proceeding taken in contravention of this section is of no effect.

(3) [Certificate allows some action] The issue of a building certificate does not prevent:

- (a) the taking of proceedings against any person under section 626 or 627; or
- (b) the making of order No. 4 in the Table to section 124.

[s 169] Application for building certificate

(1) [Approved applicants] An application for a building certificate in relation to the whole or a part of a building may be made to the council by:

- (a) the owner of the building or part or any other person having the owner's consent to make the application; or
- (b) the purchaser under a contract for the sale of property, which comprises or includes the building or part, or the purchaser's solicitor or agent; or
- (c) a public authority which has notified the owner of its intention to apply for the certificate.

(2) [Approved form and fee] An application must be in the approved form and be accompanied by the approved fee.

(3) [Public authority] Despite subsection (1)(a), the consent in writing of the owner of the building or part is not required if the applicant is a public authority and the public authority has, before making the application, served a copy of the application on the owner.

[s 170] Acknowledgment of application

The council, on receiving an application for a building certificate, must give written acknowledgment to the applicant of its receipt.

[s 171] Additional information

(1) [Information required] On receipt of an application, the council may, by notice, require the applicant to supply it with such information (including building plans, specifications, survey reports and certificates) as may be reasonably necessary to enable the proper determination of the application.

(2) [No material change] If the applicant is able to provide evidence that no material change has occurred in relation to the building or part since the date of a survey certificate which, or a copy of which, is supplied to the council by the applicant, the council is not entitled to require the applicant to supply a more recent survey certificate.

[s 172] Determination of application

(1) **[Must determine]** The council must determine an application for a building certificate by issuing or by refusing to issue a building certificate to the applicant.

(2) **[Certificate to be issued]** The council must issue a building certificate if it appears that:

(a) there is no matter discernible by the exercise of reasonable care and skill that would entitle the council:

(i) to make order No. 1, 3, 5(g) or 26 in the Table to section 124 in relation to the building or part; or

(ii) to take proceedings for an order or injunction requiring the demolition, alteration, addition or rebuilding of or to the building or part; or

(iii) to take proceedings in relation to any encroachment by the building or part on to land vested in or under the control of the council; or

(b) there is such a matter but, in the circumstances, the council does not propose to do any of the things referred to in paragraph (a).

(3) **[Reasons for refusal]** If the council refuses to issue a building certificate, it must inform the applicant, by notice, of its decision and of the reasons for it.

(4) **[Sufficient detail]** The reasons must be sufficiently detailed to inform the applicant of the work that needs to be done to enable the council to issue a building certificate.

(5) **[Council cannot refuse]** The council must not refuse to issue or delay the issue of a building certificate by virtue of the existence of a matter which would not entitle the council to do any of the things referred to in subsection (2)(a).

(6) **[Work needed to be done]** Nothing in this section prevents the council from informing the applicant of the work that would need to be done before the council could issue a building certificate or from deferring its determination of the application until the applicant has had an opportunity to do that work.

[s 173] Contents of building certificates

(1) **[Contents]** A building certificate must:

(a) identify the building or part to which it relates; and

(b) reproduce or include a summary of the provisions of section 168; and

(c) specify the classification of the building or part; and

(d) identify all written information (including building inspection reports, building plans, specifications, survey reports and certificates) used by the council in deciding to issue the certificate.

(2) **[Whole or part]** If an application is made in relation to:

(a) the whole of a building — the building certificate is to relate to the whole of the building; or

(b) part of a building — the building certificate is to relate only to that part of the building to which the application relates.

[s 174] Record of certificates

(1) **[Record to be kept]** The council must keep a record of building certificates issued by it in such form as it thinks fit.

(2) **[Inspection]** A person may inspect the record at any time during the ordinary office hours of the council.

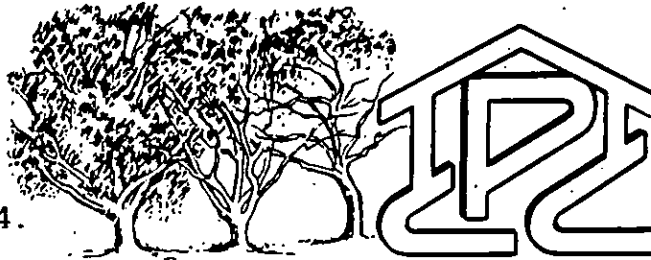
(3) **[Copy]** A person may obtain a copy of a building certificate from the record with the consent of the owner of the building and on payment of the approved fee.

[s 175] Other certificates and statements

The regulations may make provision for or with respect to the following:

- certificates of classification of buildings
- statements of classification concerning buildings.

26th July 1994.



PAN-COMMUNITY
COUNCIL
P.O. BOX 102,
NIMBIN 2480

NAME OF BUSINESS	DO YOU SUPPORT M.O.?		ARE YOU WILLING TO DISPLAY A 'I SUPPORT M.O. STICKER'?		
	YES	NO	YES	NO	
NIMBIN NEWS	✓		✓		G. Conner
NIMBIN ORGANIC ^{GROCER} GREEN	✓		✓		Gunnell, Steve
The DANCING DERVISH	✓		✓		L. Handley
The Nimbin GARAGE	It depends on how it is interpreted				Sha Alkinson
Nimbin Espresso BAR	✓		✓		Steve Cox
Nimbin Butcher		✓		✓	
Nimbin Apothecary	✓		✓		C Hadley
Nimbin Chemist		✓		✓	
Summerland Credit Union	✓		✓		
Emporium	✓		✓		
Nimbin Rocks CAFE	✓		✓		
Nimbin BAKERY	✓				
Nimbin MUSEUM	✓		✓		
Nimbin Lifestyle R.E.	✓			✓	Robbie L. Archib
Nimbin NEWSAGENT + Mini Mart	✓		✓		
Nimbin HARDWARE	✓			✓	B. B. B. B.
SUSUKKA TRADING	✓		✓		Stephen
LOCAL CRAFT + Clothing Boutique	✓		✓		Joan Coulter
Nimbin Neighbourhood Centre	✓		✓		
CHOICES CAFE	✓		✓		
Nimbin Hot Bread Kitchen	✓			✓	2 Britton
Nimbin Post Office	✓			✓	W. B. B. B.
Rainbow Power Company	✓		✓		P. B. B. B.
Nimbin Real Estate	✓				J. B. B. B.
Eric Bazzana	✓		✓		Eric Bazzana
Grey Gum Lodge	✓			✓	



PAN-COMMUNITY
COUNCIL
P.O. BOX 102,
NIMBIN 2480

SPECIAL MEETING

SUNDAY 19TH JUNE

MEDIA CENTRE NIMBIN 2PM

This is a very important meeting to discuss correspondence many of you will have recently received from Lismore Council advising you either that your M.O. is illegal or that your community is shortly to be inspected to check your compliance with your development consent. We are extremely concerned about the implications of this action by Council and believe that as an organisation we need to establish some collective strategies for dealing with this.

In September 1993 Council resolved :

- "1. That Council, after the adoption of matters relating to a preferred planning option (for MO), give notice of a 12 month period during which time "without prejudice" consultations are invited with a view of negotiating conditions of development consent which are currently not being met.
2. That Council upon future adoption of a preferred planning strategy, give public notice of an amnesty to enable illegal multiple occupancy developments the opportunity to formally make development applications to Council to regularise their existence in accordance with appropriate standards."

Council recently adopted development control plan (DCP) no. 20 which gives guidelines for those wishing to establish a multiple occupancy. This DCP will also operate as the basis for those wishing to negotiate development consent conditions they have not been able to comply with. We do not believe that the letter recently received by MOs in the Lismore area is in the spirit of the above resolution of Council. Entering into "without prejudice" consultations is very different to the proposed on-site inspections which are tantamount to a witch-hunt. No matter how low-key the approach of staff may be the reality is that they are having considerable

pressure put on them by some Councillors and members of the community (Nimbin in particular) to clean up the MO situation.

The special meeting has been called to discuss appropriate strategies for dealing with Council's proposed course of action. In the meantime Pan-Com will be working towards trying to ensure that negotiations will be held "without prejudice" and that no on-site inspections be conducted within the next 12 months unless individual MOs decide they are happy with that.

On a further matter, Council is currently trying to reduce the density of development allowed on MOs unless the housing is clustered. Pan-Com's position is that we are satisfied with the existing formula for calculating density and believe that each new application before Council should be looked at on its merits. In some instances the maximum density the formula allows may be quite appropriate even when issues such as environmental capability are taken into account. Similarly, clustering may not be an appropriate simply because it allows for more houses. We would urge you to write to the General Manager, Lismore Council, P.O. Box 23A with your thoughts on this matter before June 20th.

For further information on the above or any other matter related to multiple occupancy please contact:

Councillor Diana Roberts Ph. 891 529(w) 891 648(h)

Simon Clough Ph. 886217

Peter Hamilton Ph.858648

P.S. Thank you to those communities and individuals who have recently made donations to Pan-Com. Your financial support is very necessary and very much appreciated.

FROM: PAN-COMMUNITY COUNCIL
P.O. Box 102, NIMBIN 2480

TO:



Glen-bin Pty. Ltd.,
P.O. Box 230,
NIMBIN. 2480
891 546.

ACN No. 361 51209

8th June, 1993.

P.T. MULDOON,
GENERAL MANAGER/TOWN CLERK,
P.O. BOX 23A,
LISMORE. N.S.W. 2480

[Signature]
B.W. [Signature]
[Signature]
(DIRECTORS)

Dear Sir,

RE: MULTIPLE OCCUPANCY DISCUSSION PAPER

Please find enclosed this Company's Submission as formulated from the above Paper and compiled by the Community's Committee for the same.

We take this opportunity to thank Council for supplying us with our copy of the paper, it certainly generated much discussion, and for the open attitude Council appears to have adopted and we take this chance to submit to this discussion with honesty and optimism for the future as we are well aware of the need for a policy for M/O's which will benefit all!

We feel that OWNERSHIP IS FORMEOST in any person's mind when buying into an M/O as everyone needs security, and, from that feeling of security comes all the other shared and individual endeavours.

We feel, also, that each Development Application must be simply assessed on it's own merits so that the few cannot spoil it for the many.

Possibly one way to help would be to send a basic Questionare to each D.A. to assist Council in understanding the requirements of each before setting conditions that are rigid.

Also, Council could format a basic imformation booklet so that each new M/O will know exactly where it stands with Council and it's avenues of approaches to Council on related issues.

Attached is copy of Transcript notes taken from Land and Environment Court of NSW, Sydney, Wednesday, 2/3/88 before His Honour Mr. Justice Cripps. GLENBIN PTY. LTD V LISMORE CITY COUNCIL.

THIS IS ANNEXURE 1 TO LETTER TO COUNCIL - JUNE 1993 - SUBMISSION
TO MULTIPLE OCCUPANCY DISCUSSION PAPER

We find these sentiments to be very relevant 'across-the-board' with M/O's, especially, given the nature of past M/O approvals and the probability of many more applications in the future.

Page 22 of Transcript notes:

HIS HONOUR: ...is the potential that everyone eventually might behave like human beings do behave mostly and want to fence off their own lot and live separately.

...don't disallow a development that looks alright on the face of it because of something that might happen in the future because you, the Council, have absolute control of the future. It may turn out in years to come that it is appropriate to subdivide this land, but why you should not worry about it and plan on the basis of what you don't know as apposed to what you so know, is because Council will be ultimately in control.

....if it's not appropriate to subdivide the land the simple answer is application refused.

Page 23

HIS HONOUR: ...the councils are given powers to plan and it must be assumed by the court surely that the councils will exercise their functions and powers responsibly. Now I think I'm being asked to assume that a council will agree to a subdivision of land that it knows is grossly improper just because it gives into a lobby group.

Page 24

HIS HONOUR: ...Wouldn't it be better if the theory of plan making as is in the EPA Act is the correct theory, and that is it should be left to local councils to respond to local needs and to make plans in accordance with the Act? Wouldn't it be better always to make descisions to keep the council as much discretion as possible to it in the future plan making process and not tie it's hands in the future rather than looking at it by saying let's make a descision now which means Council can't do something else in the future. Wouldn't it be better to say let's do something now that lets Council, if it's appropriate, lets Council give some discretion in the future, makes it easier in the future?

SUBMISSION TO COUNCIL RE: MULTIPLE OCCUPANCY DISCUSSION PAPER
SUBMITTED BY GLENBIN PTY. LTD.

1. SUBDIVISION

a) Would Community Title destroy the culture and philosophy of Multiple Occupancy?

What culture and philosophy?

People come to M/O's for many reasons and it is only one ethic that says 'share all and live together' which might be fine for a particular community but it must not be generalised to such a narrow degree as the prime consideration for most people to buy into an M/O is to provide 'their own space for their own place'!

Remember that old, revered adage about 'every Australian having the right to own their own home'? Well, M/O's will probably be the way in which many Australians are able to achieve that goal so the ability of M/O's to generate a useful commodity to the community at large should not be limited to any one narrow ethic.

b) Would such subdivision create defacto rural residential estates?

What is a defact rural residential anyway?

An approved M/O is a rural residential estate, it isn't hidden!, it's sole purpose is to provide residences for families with the possibility of being further able to generate livelihoods for those families as well.

Such approval for an M/O isn't something we can pull out of our back pockets ten years from now and go "Naggh nagh nagh, look what we've got and you didn't know! Ha, ha.!"

Why tie Council's hands? (see Annexure 1 to letter)

If any development wants to change it's status it must first present a new D.A. to Council so, again, what is defacto rural residential and what is hidden?

Surely illegal development is of more concern!

2. MINIMUM AREA

a) The minimum area is probably a good standard but Council must take each D.A. individually so that a smaller area could be reviewed as to it's merits but sewage and health standards would probably require particular attention.

Would it be feasible for Council to look at the idea of smaller M/O style housing in satellite villages to Lismore? Such an idea could use steel framed, kit houses sharing carports, play areas etc. and possibly cooking areas and ablutions blocks.

Such an idea could provide Council Frameworked Allotments similar to subdivided estates but would not be as expensive and would be jointly owned.

3. AGRICULTURAL LAND

a) Should Council require the instigation of noxious weeds control programs?

Yes.

This Community participates in such a program and has found it beneficial to us simply by virtue of the work done especially when we have new members and we have always found Council's personel in this department to be very helpful.

We would specifically like to see these types of programs extended to other development, rural holdings and to Council itself i.e bindii in parks and roadside weeds.

THIS IS ANNEXURE 1 TO SUBMISSION ON MULTIPLE OCCUPANCIES
BY GLENBIN PTY. LTD.

b) Are M/O's effective and efficient utilisers of agricultural lands?

Are most farmers efficient utilizers of agricultural land?

M/O's are effective land users simply by virtue of the homes and lifestyles built but in the early years of any community they are probably not efficient agricultural land users due to the need to build homes, workshops, barns etc. but the future in this Shire will be much benefitted by the diversity supplied by M/O's in all areas which will be experienced because of the used opportunities which will be advantageous to all concerned once people are established.

c) How?

There will be many avenues in all walks of life in which opportunities will present themselves, especially, to minds starved of most other stimuli, besides building, for some time!

The following is the list of categories used in Nimbin Skillsbank Directory No. 1 - 1992:-

- i Artists, Craftspeople, Clothing Makers
- ii Builders, Technicians, Tradespeople
- iii Clerical Workers, Salespeople, Hospitality, Shop Workers
- iv Health Workers, Therapists, Counsellors
- v Labourers, Machinery Operators, Transport Workers
- vi Land, Household, Food Workers
- vii Leisure, Sport, Personal Workers
- viii Professional, Managers, Administrators
- ix Teachers, Trainers, Coaches

So, you can see, the ways will be myriad!

d) Should the 25% agricultural land requirement be reconsidered to enable M/O development on land with a greater than 25% prime land?

Yes.

Probably the requirement is a fine standard generally but Council should, again, not tie it's hands and should assess each D.A. on it's own merits.

If any prime land were to be cut up or built upon in a disproportionate way then Council would reject such D.A. but if the primary aim of the D.A. is to farm then Council should give the D.A. it's full attention.

4. NON-RESIDENTIAL DEVELOPMENT

This Community supports and commends Council for it's attitude in this area and feels, further, that this attitude in dealing with M/O's be carried right throughout Council's final policy.

5. SITING OF DWELLINGS

a) Should dwellings be clustered or dispersed?

Spatial development is probably preferred by the majority of community members but cluster development certainly has it's place and Council would be best advised to treat each D.A. individually.

We believe the fire risk, in the case of a cluster,

THIS IS ANNEXURE 2 TO SUBMISSION ON MULTIPLE OCCUPANCIES
FROM GLENBIN PTY. LTD.

could be greater because of the possible conflagration of all buildings and possible resultant deaths as well as the possibility of hotter, faster moving fires due to dense forests and undergrowth.

Spatial development obviously has it's attended risks also (this could be addressed somewhat by the possible maximising of size of an M/O or if the property is very large then the development could still be spatial but be confined to an easily protected area) but, specifically, with spatial development each building has it's own primary and secondary fire zones which often overlap so firefighting methods will be more effective and bush and undergrowth will be in smaller and well defined areas.

6. PUBLIC ACCESS

a) Should access be by Council road only?

This has been dealt with in Court.

Council has no mandate to change a right-of-way which is legally written into the instrument of title.

The Land and Environment Court Judgement by Justice Cripps - Glenbin Pty. Ltd. V Lismore City Council Pages 17 & 18.....

I have regard to the circumstance that a right-of-way was created, is legally in existence and provides access.....

It would seem to me, with respect, that it is not appropriate for this Court to make a condition of the type asked for by the Council. I do not doubt that it is open to the Land & Environment Court to impose a condition that access to any one of the dwellings ought to be from a certain road. But I do not think it within the purview of the Land & Environment Court to require the owner of a dominant tene to consent to an application to the Equity Court by the owner of a servient tenement that a right-of-way be modified or wholly or partly extinguished.

Therefore, if the Land & Environment Court can't do or feels it can't do it then why does Council think it can??????

c) Are current road standards and upgrading standards appropriate?

No.

As Council states, "most M/O's are on gravel roads", these are poorly maintained at best and appalling mostly! They are, in fact, kept at the lowest possible standards of upgrading plan!

Council, together with the DMR, has no intention of upgrading such roads until they reach an AADT of 500 which is none of the mentioned roads and since Council doesn't inform the DMR of new development figures how can an up-date occur? Council also does not check local AADT figures before imposing conditions!

Considering the importance of planning for the economic regeneration needed for this Shire we would expect Council to lobby much harder for the allocations needed for Shire road upgrading as this is a major issue and one which is quite volatile and much discussed.

We make note of the fact that the short piece of road to the new sewerage works in Nimbin is to be graveled which makes it seem as though Council cares more for their trucks than it does for the safety of the children and voters in it's Shire!

THIS IS ANNEXURE 3 TO SUBMISSION ON MULTIPLE OCCUPANCIES
FROM GLENBIN PTY. LTD.

b) Is flood free access considered necessary?

No.

Council's and The Soil Conservation Service's requirements for all-weather roads and drainage etc. are high enough to regulate conditions necessary for least erosion etc.

In high areas of the Shire flooding only occurs for hours at a time so flood movement is quick which means residents are not marooned for long periods of time but erosion problems could be greater than in the lower areas where water movement is slower which means residents are marooned for longer but that erosion problems are probably less but these conditions apply to all not just to M/O's so, again, do not tie Council's hands and treat each D.A. on its own merits.

d) Are current contributions appropriate?

No.

SEPP 15 states....not more than \$1950 per dwelling....not that each dwelling must pay...

How many M/O's pay less than this amount?

One!?

Glenbin Pty. Ltd.

Council must consider that most community members are not financial giants so that such high levies do cause overburden.

Council must also consider each D.A.'s road access individually before placing conditions and Council must also be more flexible where payment is concerned

The Land and Environment Court Judgement by Justice Cripps - Glenbin Pty. Ltd. v Lismore City Council
Page 14....It is trite law that in order to justify the imposition of a condition (particularly one involving monetary contribution) there must be a proper nexus between the development proposed and the condition sought to be imposed.

Page 15....The Council does not seek contribution for the continued maintenance of the road - only an amount sufficient to bring the road up to the appropriate standard.

Page 16....Furthermore, I do not think the contribution need be paid prior to the release of the building approval for each dwelling.

....upon the release of each building approval.

So, Council most certainly has a mandate to impose much more realistic levies as well as to not impede building approvals because of those levies!

8. WATER SUPPLY

a) How important is the impact of M/O's on water resources?

Council's encouragement for large water facilities should cover most water requirements but care must be taken not to overburden a community or household by too harsh conditions with no flexibility, e.g. dams and tanks etc. could be installed over a time frame, say ten years.

Other requirements should be simply as required by all other water users.

9. WASTE DISPOSAL

a) Should proposed waste disposal systems be identified at the time a D.A. is submitted?

No.

THIS IS ANNEXURE 4 TO SUBMISSION ON MULTIPLE OCCUPANCIES
FROM GLENBIN PTY. LTD.

Waste disposal can be identified with each house approval and inspection of the same as already standardized.

b) Are the standards adequate?

Yes.

This Company commends the Council on it's attitude towards investigating other means of sewerage disposal.

10. ENVIRONMENTAL RISK/HAZARD

a) Are existing bush fire protection measures and requirements appropriate and enforceable?

Yes.

To the point of being a burden.

Flexibility must be the key word to enable members to meet necessary conditions and encouragement should be given to the community members to join the local brigades but this is an individual decision.

b) Dwellings on developments should not be in floodways?

Agreed.

c) Should geotechnic assessments be considered and address the issue of up-slope mass movement and be submitted at the time of making the D.A.?

Yes but allow some flexibility.

11. VISUAL IMPACT

a) Should landscaping and rehabilitation plans be clearly defined and not addressed as generalised "motherhood statements"?

No.

Unless this is a requirement of all other developments then it is not Council's business and surely most issues here would be covered in other regulations.

Such landscaping would be the individual house approval or attached to conditions relating to dams etc.

12. IMPACT ON ADJOINING LAND USES

a) Should dwelling location of proposed M/O development be subject to locational criteria and buffer restrictions in respect of existing potentially hazardous forms of development?

If adjoining developments are hazardous then the level of hazard should be ascertained but if such a hazard is very high then why should it be allowed to continue??

This can only be related to individual D.A.s.

13. FAUNA IMPACT

a) Should M/O D.A.s be accompanied by a fauna impact statement?

No.

Unless this is applied to all other D.A.s then it is not Council's business unless already identified by the National Parks and Wildlife or unless otherwise legislated.

M/O's tend to be low impact in this area so harm to fauna would be minimal and, in fact, such wildlife is probably safer on M/O land than on most other properties.

THIS IS ANNEXURE 5 TO SUBMISSION ON MULTIPLE OCCUPANCIES
FROM GLENBIN PTY. LTD.

14. SPECULATION

a) Would this matter be most satisfactorily addressed by education and communication within the industry?

Unlikely.

Council could try to alleviate the problem through a booklet (as previously mentioned in our cover letter) but speculation is a part of life and it's doubtful there is much Council can do to police this and I guess it isn't a problem except at grass-roots level because speculation and such speculators tend to cause upheaval and discontent within a community which is usually handled with the peer group pressure of the particular community.

Council can only assess each D.A. on it's merit and try to ascertain if such D.A. is purely speculative and after that it is the particular M/O's problem.

b) Is there a role for Council to play in respect of M/O development and regulation and control of ownership of M/Os?

Only if a particular M/O asked for that help but data can be offered during the time allowed before final appeal date.

How can Council police ownership of M/Os?

15. COMPLIANCE WITH CONDITIONS OF CONSENT

a) Should Council 'police' applied conditions of consent and unapproved building developments or only act where complaints received?

'Policing' should be seen in a better light.

Council should approach this as Co-operation or Liaison.

I really does become a problem if members are unreasonable but Council should always be approachable as most people respond to a positive approach.

Council could try giving specific times when an agent of the Council could visit for inspections and liaison sessions so that members have dates to work toward and much general data could be distributed in this manner.

In the past communities have been set up by the few and the rest were left to follow in ignorance and this needs to be addressed so that new members will be inspired to educate themselves as to the position they have or may have bought into.

Allow flexibility in time allowed to meet conditions set so as to help people have a good opinion of Council and extend the initial 120 days to appeal conditions so that consultation between M/Os and Council (which may facilitate a better working arrangement) may take place and then allow for appeal time.

If an M/O displays improvement in the areas of set conditions then Council should not apply pressure but specific attention probably should be directed to conditions which apply to safety and health and Council would, of course, act on any complaint.

16. ILLEGAL DEVELOPMENTS

a) Should Council actively regulate and take action against illegal M/O development?

Yes.

Council has had recent amnesties and now data gathering should be acted upon but, of course, Council needs to act

THIS IS ANNEXURE 6 TO SUBMISSION ON MULTIPLE OCUPANCIES
FROM GLENBIN PTY. LTD.

with compassion for the people concerned but the proof is there to be seen.

If Council does not apply it's power to expect compliance then many people do nothing and the many who do comply are disconcerted.

b) Is this heavy handed or fair and what about illegal development in the urban area?

Council is the one to dictate if their actions are heavy handed!

Urban illegal developments were the majority of developments applied to during Council's amnesty so these most certainly should be addressed.

17. RATING

a) Should Council 'strike' a separate rate levy for M/O's and if so at what rate?

Yes. Lower the current rate.

This could be assessed individually given the idea put forward earlier at Point 2. MINIMUM AREA re:- M/O's in satellite villages, such an M/O would have access to services, but generally, most M/O's receive no services other than very badly maintained gravel roads so why should they ^{pay} more than the rural rate when most of their endeavours are toward a rural livelihood?

So, such a rate could be on a sliding scale given the services actually received by any M/O.

If any ancillary development is established then Council would achieve a separate rate for that development as per existing by-laws attached to specific types of developments and this is added incentive for people to get themselves established and extra rates will be achieved at a better level in the future due to ancillary development.

Surely this will justify Council's base rate being applied for M/O's and should help enliven the economy.

Alternatively, Council must provide existing M/O's with the choice of Community Title to achieve higher income from rates if the Council so desires more such income.

18. PAYMENT OF S94 LEVIES

a) Should Council Maintain this position?

No.

See Point 6: PUBLIC ACCESS.

Council does not have a mandate to expect levy contributions prior to allowing building approvals.

b) Should Council seek to permit 'in kind' contribution in lieu of monetary contribution?

Yes.

Where applicable this could definitely lift the burden off many families but this would have to be by choice and not forced upon a member or a community unless that individual or community has proven to be not paying such contribution.

The Land and Environment Court Transcripts before Justice Cripps - Glenbin Pty. Ltd. V Lismore City Council 29/2/88

Page 93...

REYNDERS: ...allowing the members of M/O's to physically do

THIS IS ANNEXURE 7 SUBMISSION ON MULTIPLE OCCUPANCIES
FROM GLENBIN PTY. LTD.

work themselves on certain upgradings of the same road perhaps with the assistance of some hired equipment. On a public road it hasn't been done before but would that be in your opinion a feasible solution....

SMITH: It's a possibility if the work is of a minor nature...

REYNDERS: If the applicant could demonstrate that one or two of them have worked as a road supervisor or that they may get some help from freinds also there and they can demonstrate to Council that they are able to hire the proper equipment would under those circumstances perhaps an engineer from the Council be made available to supervise all that?

SMITH:

Yes, I would say so, for minor works.

REYNDERS: So...theoretically possible to have road upgrading done by these people within a specified time perhaps with a little money....

SMITH: Yes.

So it is definitely seen by all as having possibilities.

19. APPLICATIONS

- a) Detailed site plan including:-
- contours at ten metre intervals;
 - location and types of vegetation;
 - location of creeks and dams;
 - areas of the site to be re-afforested, retained in natural state or used for grazing or agricultural activities;
 - house and building sites;
 - access roads;
 - water storage for fire fighting purposes;
 - north point and scale at which plan is drawn;
 - adjoining intensive agriculture pursuits.

Other points in the Discussion Paper were either not necessary or can be applied to individual house and other building applications.

- b) Statements and assessments advising and analysing:
- a description of the multiple occupancy development in the application including details of numbers of persons to be accomodated and proposed land use on the subject land, including:
 - i a statement of the objectives of the proposed M/O in relation to the use of the land;
 - ii details on staging of development if required;
 - analysis of the land to accomodate the number of people proposed in the application with particular regard to living space for each household and water supply for fire fighting;
 - analysis of the likely community needs of the residents when the M/O is fully developed which would obviously be flexible in it's nature and subject to change with details of proposals contained within the application to satisfy their needs;

THIS IS ANNEXURE 8 TO SUBMISSION ON MULTIPLE OCCUPANCIES
FROM GLENBIN PTY. LTD.

- a geotechnical report assessment for each dwelling site for the benefit of any future occupier and Council in order that subject to erosion, slip and subsidence are fully identified;
- details of any water supply systems or dams which the M/O proposes to establish including fire fighting facilities but not including private dwellings;
- a description of the waste disposal systems to be used for community buildings not including private dwellings;
- the effects likely to be caused to waterways by the development needs to be fully assessed;
- an assessment of the environment's likely damage by the development and the methods to be used to repair such damage;
- an assessment of the noxious weeds on the land and in the surrounding areas;
- any possible damage to environment likely to effect fauna caused by the development and the methods to be used to lessen this impact.

c) The requirements for referral are reasonable but this really can only be offered not forced upon people.

Yours sincerely,
The Committee,
Cornucopia Community,
Glenbin Pty. Ltd.,
Stoney Chute.

MULTIPLE OCCUPANCY ISSUES AND COMMENTS

The following broad issues were identified within the discussion paper, as a consequence of review of submissions made to the paper and development control planning experiences.

Most submissions have been made in a format similar to the discussion paper. This paper identifies the broad issues and in point form lists the comments and opinions made in respect of the issues.

Opinion appears to be evenly divided as to whether or not Council should retain the existing system of planning consent and control enabling multiple occupancy of rural lands. It is anticipated that the workshop will further clarify community responses to this issue.

In general the submissions to the discussion paper were of a high quality and make a positive contribution to Council's understanding of this form of development.

ISSUES

1. SEPP #15

- aims and objectives must be met - problem.
- advertised development.
- exemption - Lismore requirements, eg density etc, prepare amending LEP, fine tune DCP.
- amend SEPP - lengthy process, near impossible.
- do nothing - satisfied with current system.
- Assessment Committee - similar to Architects Panel.
- exemption from SEPP and amending LEP could not minimise objectives of SEPP.
- Council produce MO users guide.
- Council prepare an MO code or policy document.
- Draft DCP not adopted to be tested over time.
- establish an MO Advisory Committee.

2. SUBDIVISION

- community title
 - no - communal ownership philosophy.
 - yes - finance, assets, speculation.
- preserve single title.
- clear choice between MO and community title, not a substitute.
- prefer community title greater degree of control.
- community title too expensive, restricts freedom individuality.
- MO must have internal management policies.
- permit community title - better tenure and management structures.
- individual will fence/create own area.
- simply refuse any subdivision applications.
- are MO's rural residential estates.
- community title will encourage speculation and profit making and instability within MO.
- individual aspiration to control own area - through internal management.
- "home improvement area" of 5,000m² too rigid - needs to be determined on basis of land constraints, objective of MO, cost.
- conversion to community title could attract requirement to improve internal roads and access, connection to services, S94 levies, rating structure, improve waste disposal.
- single lot, communal ownership, principle philosophy.
- to use community title would require relinquishing MO status.
- ownership is a legal matter not the business of Council.

3. MINIMISE LOT/AREA SIZE

- 40ha LEP subdivision min. should be used.
- 10ha current min. area satisfactory.
- rural residential - another form.
- land capacity - constraints - slope, slip, vegetation.
- low min. area enables opportunity (cost).
- too restrictive.
- too small for good design.
- merit assessment.
- satisfactory, consistent with rural subdivision patterns.

4. DENSITY OF DEVELOPMENT

- SEPP #15 formula.
- clustering
 - communal lifestyle/sharing
 - environmental impact - roads/service, visual fire.
- assessment and capability of land - hazards and constraints (slope, mass movement, soil type, ground water, erosion).
- settlement criteria for all rural development.
- should be greater than 1 person/ha, min 30 sites/MO.
- concept of overdevelopment should be linked to motion of social cohesion/constraints.
- maximising development, recent occurrence associated with "entrepreneurial" development.

5. AGRICULTURE LAND

- 25 % prime crop and pasture land too generous, not generous enough.
- dwelling location on prime land.
- agricultural survey.
- buffers
 - distance - on who's land.
 - merit - topography, type of land use (quarry/dairy etc).
- adjoining uses - conflicts - various.
- noxious weeds control - cost/benefit - legal obligation support and supplement other authorities.
- share farming of agric. land.
- productivity - concept of it is narrowly focused.
- min. area no agricultural land.
- use agricultural land - must demonstrate viability.
- soil type - productive "red" country, should be excluded.
- "right to farm" - lifestyle conflict.
- research, case studies, evidence - more needed.
- bushland "regeneration", or noxious weed harbour.
- management plans if greater 25 % prime, eg ag. land.
- recognise the existence of rural activities to minimise conflict.
- significance of agricultural industries on Nth Coast, dairying \$190m employed 55 dairies, 350 employed by Norco in Lismore City.
- two kilometre buffer between existing agric. uses and MO.
- agricultural assessment by qualified persons to ensure objective of sustainable development.
- relevance of land classes - overly rigid.
- permit development on land which comprises prime agric. land - control dwelling location.
- conflict a civic not Council matter.
- effective users of land via range of skills of occupants.
- concept of land sharing will encourage better land management - reforestation, permaculture etc.
- conflict with adjoining agric. development assessed following "advertised development" procedures.
- many areas used for agricultural uses have been degraded as consequence of use.
- potential MO's should have right to be producers if they wish, not be constrained by 25 % requirement.

6. ROADS/ACCESS

- own legal access necessary.
- impact of existing "terminal" public road system.
- flood free access - Lismore does not have.
- minimum standard public road access to what standard.
- min. standard internal access systems.
- S94 - money, "in-kind", contract work.
- internal - location/design (min/fill, drainage, trafficability - geotechnical advise).
- emergency access.
- S94 contributions plan should set levy on basis of 6.7 veh/day/dwelling site - rural roads require upgrading shortly after increased traffic volume.
- standard access within should be set by MO with regard to traffic.
- right of way no concern - reduces use and requires shared maintenance, satisfactory form of access (Court).
- public road maintenance (500 AADT).

7. WATER

- source
 - river
 - ground water - not to be sourced in "basalt" country.
 - dams - location, care - min. 3 megalitre/ha.
 - roof.
 - off-river.
- quantity - reliability - 46,000 ltr storage - adequacy.
- quality - buffer and setback distances from waterways and ground water.
- licence creek/river pumping.
- THE major issue.
- protect potable supply.
- quantity sufficient for domestic, fire, agric. without impacting on down stream users.
- 15,400 litre/month garden demand.
- 63,000 litre min. four person/3 months.

8. LOCATION OF DWELLINGS

- cluster/dispersed - reflect land capability and visual impact.
- cluster only - min environ. impact - roads, waste.
- other forms of settlement.
- needs flexibility to cater for land size, land capability and MO requirements (noise, privacy).
- permit both forms of settlement.
- merit situation dependent on size and nature of property.
- SEPP only "prefers" this form of settlement.
- out of flood merit consideration.
- not allow access to waterway supply, permit only stored supply.
- MO should be bound to same water course management and riparian ownership laws as others.
- supply fire resources in central areas as alternative to each house.
- separate supply source and infrastructure for water quality demands.
- 50m min. setback from watercourses.
- cost substantial to provide storage - consider allow staging development.

9. WASTE DISPOSAL

- effectiveness of 50m from waterways.
- nature of soils/geology.
- means - septic, aerated, composting etc identified in DA to assess impact (legality).
- each site must be able to effectively dispose/reuse waste, if not find alternative.
- septic disposal major concern.
- pollution control.
- merit assessment - development stage, long term effects and capabilities of disposal.
- public health and total catchment analysis.
- no permanent or temporary occupation until adequate system supplied.
- non provision of adequate systems in existing MO's.
- merit, composting toilets should remain an option.

- composting toilets - water free - reuse of resource.
- problems with septics - size of tank and land capability - overflow, eutrophication, risk.
- proposed systems should be identified at BA stage.
- discourage flush systems - use water, pathogens entering ground and surface water.
- grey water direct to garden areas via separation process.
- time of supply of information dependent on scale of MO.
- climate factors reduce effectiveness of septics and pit toilets.

10. MASS MOVEMENT/SLIP/EROSION

- areas of low agric. potential.
- extent of lands subject to mass movement in Council area - full assessed by qualified person in DA.
- sediment control and management plan.
- encourage greater tree planting to reduce incidence.
- geotechnical engineering reports only if land subject to risk.
- cost of assessment may be prohibitive.

11. TOTAL CATCHMENT CONSIDERATION

- population.
- water supply.
- effect of sewerage systems and on-site disposal.
- MO no different from rural residential as a form of residential land use.

12. FIRE PROTECTION

- conditions of consent, unreasonable and unrealistic.
- Protected Lands, slopes greater than 18° - consent to clear.
- ongoing maintenance of protection zones.
- provision of adequate bushfire protection water storage.
- merits of proposal, not blanket requirements.
- water tanks with suitable outlet.
- working portable pump fire hose etc on-site at all times.
- sufficient area and access should be left for fire fighting vehicles.
- MO communities often belong to Volunteer Brigade and are aware of the hazard.
- current standards a burden.
- merit assessment should be utilised, each property unique.
- preparation of fire management plans.
- adequate turn around areas for fire vehicles.

13. VISUAL IMPACT/LANDSCAPING

- public areas, roads, lookouts, etc.
- siting of dwelling.
- landscape plans with DA, around dwelling areas.
- why, legislation of taste.
- information in application - full description and analysis of land.
- requirement for other forms of development.
- prepare DCP for rural development.
- landscaping occurs over time.
- MO's are low impact developments.

14. SECTION 94

- up-grade facilities.
- social and economic impact assessment.
- same rate as rural subdivisions.
- should also include contributions to establish local waste transfer and recycling facilities.
- payment of levies prior to release of permanent or temporary approvals.
- no exemptions from monetary contributions.
- lower S94 levies would encourage legality, permit time-to-pay.
- accept "in-kind" contributions such as halls, day centres, fire-sheds, preschools.
- should reflect MO's have greater incidence of vehicle sharing and pooling - low vehicle users.
- court determination of levies - proper nexus.
- paid at time of Building Application.
- greater use of "in-kind" contribution for minor road works where expertise exists.
- new S94 contribution plans may contradict "low income" emphasis of SEPP.

15. SPECULATION

- development of one or more MO's simultaneous or sequentially.
- provide development budget with DA.
- ownership.
- principle place of residence - onus of proof legal and equitable ownership (collective).
- subdivision
 - legal agreement
 - defacto, rural residential development.
- no role for Council.
- spirit and objectives of SEPP - adequate to stop it.
- bonding agreements to ensure infrastructure properly in place.
- max. density developments need close examination to ensure compliance with philosophy, aims and spirit of SEPP.
- roll for Council - speculation creates defacto rural residential estates.
- part of life and unavoidable, accept - self regulation best means of reducing incidence (internal conflicts with MO).
- unreasonable and unworkable to require that two-thirds of adult owners reside on the land.
- best controlled by internal management agreements.
- permit a process of facilitation to enable people to do administrative work to establish an MO.
- control through Advisory Committee.
- Council obligation to consider ownership, decision making structures, process for new members, share transfer arrangements should be community based.
- new members in MO be determined entirely by the MO members.

16. RATING/ECONOMICS

- same as rural residential.
- land use economics - alienation of other land uses.
 - survey agricultural resources - rural planning and resource management.
- zoning - fixed rate.
- minimum individual rate and a shared rate.
- differential rating - urban, rural residential, hobby farm, commercial farm.
- sustainable commercial/industrial development should be permissible with annual contributions.
- economic sustainability.
- 1.7 cents/\$1 plus fee/site relative to size of MO.
- individual dwelling assessment.
- many MO's are not provided with services provided by Councils.
- MO shares \$12,000.
- rates should reflect level of service received and relate to minimum area.
- separate rate for any ancillary development (commercial/industrial/tourist etc).

17. INFRASTRUCTURE

- roads
 - impact
 - consultation RTA - Main Roads.
- service - garbage collection, public transport.
- assess limitations of environment and infrastructure.

18. WILDLIFE/FAUNA

- domestic dogs and cats.
- consultation NPWS.
- fauna impact assessment necessary, fauna impact statement only when impacts are significant.

19. ERA/TIME

- 1960/70's Nth Coast decline - changed.
- 1990's population growth - desirable rate or areas of growth.
- changing focus high land costs.
- contribution to local area - positive economic, environmental, cultural, artist, education social effects.
- philosophy - quality relationship between occupants, land care, low cost and owner building, self-sufficiency (energy, housing, flood) land sharing.

20. COMPLIANCE/ILLEGAL DEVELOPMENT

- Dept Planning Circ. B11 - "must ensure that certain conditions are met".
- logic of change if problem exists now.
- legal requirement of Council's to enforce.
- health and safety within MO and community generally.
- impact on community and environ. non compliance (total catch. management).
- temporary dwelling - tent, tepee - condition - building within a period.
- act only when complaints received - "legalise" rather than "punish" - dialogue assist people to comply.
- why are there illegal developments - standards, process, cost.
- rules and practice.
- society order - voluntary compliance.
- random inspection - public announced.
- Council business to resolve.
- annual inspection with fee payable until compliance is achieved.
- avoid internal MO disputes.
- all developments should be encouraged to comply.
- Council should be evenhanded, ensure min. environmental health and development standards.
- declare amnesty to provide new "level playing field".
- high cost of S94 impedes legality and impact on low income nature of MO.
- unfriendly bureaucracy (past) impedes legality.
- permit mutual amendment of conditions of consent.
- MO's should not be "singled out" if illegal.
- survey of existing MO to determine extent of non-compliance/illegality.
- need for greater education and flexibility in time to comply - staging of facilities.
- do not discriminate.
- statutory policy and discretionary obligation of Council to enforce requirements.
- avoid over-rating.

21. SOCIAL EFFECTS

- community support services - current and future demand for youth education, aged care, employment services - liaison with levels of Government.
- positive contribution to area - character, concept or sharing and well being.
- aboriginal site impact assessment, survey.
- needs of community within MO's and impact on neighbours.
- community support, adjoining owners.
- population growth and health services.
- large MO's difficult to achieve equitable harmonious management.
- innovative lifestyle - energy, landuse, building form.
- encourage small business development.
- Council has obligation to support low income housing.
- members of MO often involve community and volunteer organisations.
- provides alternative to public housing.
- culture/philosophy - "share all and live together"; narrow interpretation of ethic.
- shared vision, value and interests should determine maximum capacity.
- social environment should be given as much "weight" as physical environment - social impact assessment.

22. ASSESSMENT AND APPLICATIONS

- information required/necessary relative to scale/size of proposal.
- bureaucratic over-kill - too many "heads" of consideration and consultation.
- locate and peg roads and sites.
- require supply of all information.
- environmental health assessment.
- encourage applicants to liaise with Council, State Govt referral if proposal outside established guidelines.
- soil, water and management plan - land information management techniques - between development and waterways, erosion and sediment control, drainage.

should provide all necessary information to properly statutory assess.

- process should include monitoring of consents from establishment to construction of all building (flow charts).
- Council survey of approved DA to monitor appropriateness of conditions.
- "basic information" booklet.
- provide to Council information which address social needs of future MO to reflect objectives of SEPP.
- provide own community facilities.
- fire management plans and negotiated consents.

23. RECOMMENDATIONS WITHIN SOME SUBMISSIONS

- review of MO's.
- no more, until legal compliance is established.
- no planning change until fund of Resource Assessment Commission and Public Health Report on contamination are released.
- rural land study.
- survey of land owners adjoining MO's
- survey of existing MO's/compliance SEPP and development approvals.
- S149 notification.
- constraints map of unsuitable areas.
- seek amendment of SEPP #15 - min. area, impact adjoining land, fauna impact, application.
- prepare DCP - access, water, waste, risk/hazard, visual impact.
- toughen up Council.
- new rating structure.
- change existing planning structure.
- form MO Advisory Committee to aid assessment process.

who

'A' SECTION

DIVISIONAL MANAGER-PLANNING SERVICES' REPORT

SUBJECT/FILE NO.: MULTIPLE OCCUPANCY LOCATIONAL OPTIONS
(MRS:LM: S/523, S/285)

PREPARED BY: Development Control Planner - M R Scott

REASON: Council's resolution (April 5, 1994) that a report be submitted on multiple occupancy locational options in Council's area.

OBJECTIVE: To advise Council of locational options.

CORPORATE PLAN REF: Function: Strategic Planning
Strategy: 1
Action: (i)

PROGRAMME BUDGET REF: Page: D2

CONTENT

1 Information/Background:
Council at the Ordinary Meeting held on April 5, 1994 after consideration of the following Notice of Motion to that meeting:

"That Council seek exemption from SEPP 15 - Multiple Occupancy and introduce its own planning control for multiple occupancy in Council's LEP."

resolved:

"That a report be submitted on multiple occupancy locational options in Council's area."

The following report considers locational options in terms of:

- historical context, ie what locational criteria have been used in the past and occurs now;
- multiple occupancy demand and supply by examining the characteristics of multiple occupancy approvals;
- existing multiple occupancy locations;
- Council's current position as related to other forms of rural housing, ie rural residential and detached rural dual occupancy;
- the 2020 Strategic Planning process including the broad hectare land capability studies and State of Environment Report, and
- the State Government current review of SEPP 15.

Council should recognise, as it has done with rural residential and detached rural dual occupancy, that multiple occupancy provides for a legitimate form of rural lifestyle and housing and that there is a demand, albeit small, for this form of development. In keeping with Council's corporate objective of providing a housing choice it should be acknowledged that this style of development should be permitted within appropriate locations of the City of Lismore.

This is page 33 of the Business Paper comprising portion of minutes of an Ordinary Meeting of the Lismore City Council held on June 7, 1994.

GENERAL MANAGER

MAYOR

LISMORE CITY COUNCIL - MEETING HELD JUNE 7, 1994

DMPs REPORT - MO LOCATIONAL OPTIONS

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2 Demand/Supply:

It is presently difficult to gain an accurate estimation as to the demand for multiple occupancy. The following tables derived from Council computer records indicate for the period 1980-1994, the numbers of multiple occupancy applications dealt with by Council and the current status of multiple occupancy approvals by Council of those 23 properties approved via the introduction of the State Government Multiple Occupancy Amendment to Interim Development Order No. 1 - Shire of Terania, in February, 1980.

TABLE 1:

	NEW		ADDITIONAL SITES		REFUSAL
	No. Appln.	House Sites	No. Appln.	House Sites	
Pre-1980	1	45			
1980					
1981	2	23	1	12	1
1982			1	20	
1983	2	41			
1984	3	65			1
1985					
1986	1	11			2
1987	3	18			
1988	8	44			
1989	5	11			1
1990	5	15			
1991	3	9			
1992	4	26			
1993	2	6	2	3	1
1994					2
TOTAL	39	314	4	35	8

NOTE: EXCLUDES: 2 properties of currently unknown status.
Billen Cliffs - 128 lots approved 1982 as MO - since strata titled.

LISMORE CITY COUNCIL - MEETING HELD JUNE 7, 1994

DMPS REPORT - MO LOCATIONAL OPTIONS

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Table 1 shows the approved number of new multiple occupancies and number of sites. Also shown is the number of applications for additional sites and number of refused applications. For the period pre-1980 (from 1978 on) to date Council has approved 39 applications for multiple occupancy, creating some 314 approved sites; an additional 4 applications, creating some 35 additional sites on approved multiple occupancies (total Council approved sites - 424). Eight (8) applications have been refused.

General averaging of these figures suggests that there are 2-3 applications for multiple occupancies per year.

Since 1990 Council has approved a total of 56 dwelling sites on 14 new and existing multiple occupancies. The largest application approved was Nimbin Rocks Co-op. (16 sites), followed by Adama (14 sites) and the Ananda Marga Community (5 sites). The remainder have been smaller - 3-4 site developments.

TABLE 2:

STATUS OF IDO APPROVED MULTIPLE OCCUPANCIES			
Council consent	10	No. sites	118
No Council consent	13	No. sites	To be determined in survey and inspections
TOTAL	23		118

Table 2 shows the status of the 23 multiple occupancies approved by the Clause 13A amendment to IDO No. 1 - Shire of Terania. Of those multiple occupancies approved by the IDO, ten have subsequently submitted applications to Council creating a total of 118 sites. It is not possible at this time to determine whether or not these sites are additional to or were existing at the time of the amendment to the IDO. The inspection and survey process will clarify this. Table 1 does not include MO dwellings which have been erected without approval. Identification of illegal dwelling is currently underway.

In summary, Council has within the local government area some 62 multiple occupancies of varying sizes (2-80+ sites), comprising approximately 432 approved dwelling sites. Although it is acknowledged that a multiple occupancy application, particularly for proposed larger communities (10+ sites), may create some interest and at times controversy, the number of new applications and approved dwelling sites is not significant in the context of either the total number of development applications received by Council or development applications for rural residential forms of development.

3 Historical Context:

The amendment to IDO No. 1 - Shire of Terania in February 1980 permitted the multiple occupancy use of some 23 properties at that time used for that purpose, and multiple occupancy use of rural land in the general rural zone 1(a) within the Parishes of Boorabee, Bungabee, Jiggi, Nimbin, Hanging Rock, Terania and Whian Whian.

LISMORE CITY COUNCIL - MEETING HELD JUNE 7, 1994

DMPS REPORT - MO LOCATIONAL OPTIONS

- 4 -

This "retrospective" approval of 23 properties and enabling provisions for multiple occupancy use of rural land was carried through into the provisions of IDO No. 40 - City of Lismore gazetted August, 1980. IDO No. 40 was subsequently amended at the time SEPP No. 15 was gazetted in January, 1988. At this time multiple occupancy use of rural land was then permitted, generally on rural lands subject to land capability and suitability criteria and an optimum/maximum density formula.

The attached Map No. 1 shows the approximate location of the approved multiple occupancies and the area in which they were permissible at the time of the amendment to the Terania Shire IDO No. 1.

Presently multiple occupancy is permissible, with the consent of Council, in all rural zones subject to meeting performance criteria expressed as objectives and land capability assessment criteria in SEPP No. 15 and consideration of issues under Section 90 of the Environmental Planning and Assessment Act.

Council now has in place DCP No. 20 - Multiple Occupancy which clearly establishes information and documentation to be supplied with NEW development applications for multiple occupancy development.

4 - Locational Criteria:

As previously indicated, SEPP No. 15, Section 90 and the DCP lead Council and the applicant into a land capability based assessment process for multiple occupancy.

The following is a list of criteria that is and should be applied when considering multiple occupancy forms of development. (The list is not exhaustive and not in order of preference.)

- a) Ensure development does not:
 - prevent future urban or village expansion;
 - sterilise future extractive or mineral resources;
 - conflict with existing and future intensive use of agricultural lands and preserve prime agricultural land;
 - adversely impact on water supplies in the locality.
- b) Avoid areas of:
 - high bush fire risk;
 - steep or unstable land;
 - flood prone lands;
 - ecologically sensitive lands which may contain wildlife habitat and/or endangered flora or fauna;
 - significant natural and scenic beauty;
 - areas of Aboriginal significance.
- c) Encourage development where there are already similar land uses in the locality.
- d) Considers the availability and standard of public road access to the land.
NOTE: Council's road counts currently suggest that on average multiple occupancies generate approximately half the traffic generated by conventional rural residential developments.
- e) Encourage applicants/developers to develop appropriate mechanisms for community decision making, social bonding and conflict resolution.

LISMORE CITY COUNCIL - MEETING HELD JUNE 7, 1994

DMPS REPORT - MO LOCATIONAL OPTIONS

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- f) Consider the broader social and economic impacts (positive and negative) as relate to distance to and availability of services such as:
 - education;
 - commercial centres - shops, banks, etc.;
 - public halls, sports and recreation facilities;
 - bush fire services;
 - transport;
 - social and cultural contributions to centres of population within the local community and region.
- g) Encourage development along a total catchment management or locality strategy.
- h) Consider and recognise the philosophical basis for multiple occupancy, as permitting:
 - alternative lifestyle, be it for rural retreat, land sharing, religious, cultural, agricultural or other purposes;
 - land sharing and a communal or collective form of ownership, ie not all persons in society may wish to individually own a lot/parcel, etc of land;
 - construction of low cost housing and use of non-grid energy systems.

5 Locational Options and Land Planning Mechanisms to Achieve Options:

In keeping with the locational criteria indicated above a number of locational options are available to Council to consider.

Council should note that issues like rating equity are not directly related to land use planning decision making. Although it is recognised that planning decisions impact on number of individual rateable properties and Council's rates revenue and expenditure, it is considered essential that Council address this matter through the appropriate rating mechanisms of the Local Government Act 1993.

Council should bear in mind that existing multiple occupancies are likely to remain as such, and that Council should now be prepared to work with these and future communities to redress and balance perceived problems.

The locational options are open and are as follows:

- a) Status quo.

COMMENT: This option currently permits multiple occupancy in all rural zones and is subject to the management controls of SEPP No. 15, S.90 of the Environmental Planning and Assessment Act, Lismore LEP 1992 and DCP No. 20.

This is Council's current position which was to be reviewed when the current State Government initiated review of SEPP No. 15 is complete.

- b) Contain multiple occupancy developments in particular localities.

COMMENT: This option would contain and permit multiple occupancy to specific areas which could be for example similar to that initiated at the time of the amendment to the Shire of Terania IDO No. 1.

LISMORE CITY COUNCIL - MEETING HELD JUNE 7, 1994

DMPS REPORT - MO LOCATIONAL OPTIONS

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The above options are not listed in any order of preference. The Planning Services Division on the basis of:

- * the relatively small number of applications received by Council for multiple occupancy use of land;
- * the recent adoption of a comprehensive guidelines and policy document to manage the form of development;
- * the soon to be finalised broad hectare land capability/suitability study;
- * State review of SEPP No. 15;

is of the opinion that status quo in terms of location options be maintained for the time being.

Council staff have now commenced the process of post development control inspections of all approved multiple occupancies in the local government area. This process is to involve on-site inspections of all multiple occupancies and checking compliance with development consents issued. This assessment will address matters such as water supply, effluent disposal, fire protection, payment of levies, access provision, location and number of dwellings, building approvals, Section 94 Contributions and other matters addressed in the issued consent. This exercise will coincide with the Council survey of multiple occupancies which will utilise and build on that information previously used in the report titled "Findings of a Survey of Attitudes of the Dweller of Multiple Occupancies" by S Barker and S Knox 1985. By using this report as a benchmark Council can make a comparative assessment of the growth, development, impacts and characteristics of multiple occupancy in the City.

FINANCIAL SECTION N/A

OTHER DEPARTMENT COMMENTS Not requested.

CONCLUSION

The above report briefly identifies several locational options for multiple occupancy development in Council's area. A process of public consultation would, without doubt, refine the locational options identified and/or identify additional options and alternative means of "tackling" this sensitive issue. At this time it is premature to proceed with defining particular location or locational criteria for multiple occupancy, given the pending finalisation of the State Government review of SEPP No. 15 and broad hectare land capabilities analysis of the local government area as part of the 2020 Strategic Plan. These studies will provide information which will be of assistance in further defining locational criteria and options.

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.'

Such an approach might also use the development strategies adopted by Council for rural residential and detached dual occupancy. A multiple occupancy development concept is permissible in these areas, however it is considered appropriate that such forms of development may utilise the Community Titles Act and comply with the requirements of the LEP and DCP.

The planning strategy appropriate in this situation would be to seek exemption from SEPP No. 15, amend the LEP to provide for multiple occupancy and prepare a map appended to the DCP which describes lands potentially suitable for multiple occupancy development. The soon to be completed broad hectare analysis which considers land capability in the local government area would be of use in this respect.

- c) Contain multiple occupancy developments in particular locations and within a particular zone, eg 1(a) General Rural Zone.

COMMENT: This option is essentially the same as that described above with an exclusion to use of land zone 1(r) Riverland and 1(b) Agricultural Zone. This would restrict residential use of agricultural land and possibly minimise potential for land use conflict with existing and future intensive agricultural uses. This option restricts multiple occupancy development which may have significant agricultural focus. It is envisaged that where land the subject of a development application for multiple occupancy use is either within a 1(b) zone or contains greater than 25% prime agricultural land, it may be considered, subject to a demonstrated commitment to productive use of that agricultural land.

- d) Prohibit further multiple occupancy use of rural land.

COMMENT: As previously indicated to Council (September, 1993) this option is not considered viable or practical nor have sufficient arguments been presented in the consultation processes to support an outright prohibition of multiple occupancy. This position fails to recognise the economic, social, cultural and environmental diversity and value of people who choose to live a communal based lifestyle.

- e) Attempt to provide a specific zone for MO development based on land assessment, land use and planning issues.

COMMENT: This option would be based on a land capability/assessment criteria land use survey and recognise the various planning issues and typical locational criteria identified in section 4 of this report.

This option would necessitate an amendment to the LEP instrument and maps. The delineated area may either be way of a land use zone permitting MO use of land or designation of a mapped hatched area or locality in which MO development is permissible subject to specified requirements, eg minimum land area, dwelling densities. MO's would then not be permissible outside this identified area. A clause dealing with MO's would be inserted in the LEP and Council exempted from SEPP No. 15.

RECOMMENDATION (PLAN85)

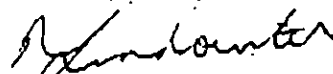
- 1 That Council not proceed, for the time being, with designating locational criteria for multiple occupancy development until such time as the completion of the:
 - a) 2020 Strategic Plan broad hectare land capability studies, and
 - b) State Government Review of SEPP No. 15.
- 2 That Council at the completion of the above studies prepare and exhibit a public consultation discussion paper on locational options for Multiple Occupancy development and seek community input as to the preferred locational options and land use planning mechanisms to achieve that option.



(M R Scott)
DEVELOPMENT
CONTROL PLANNER

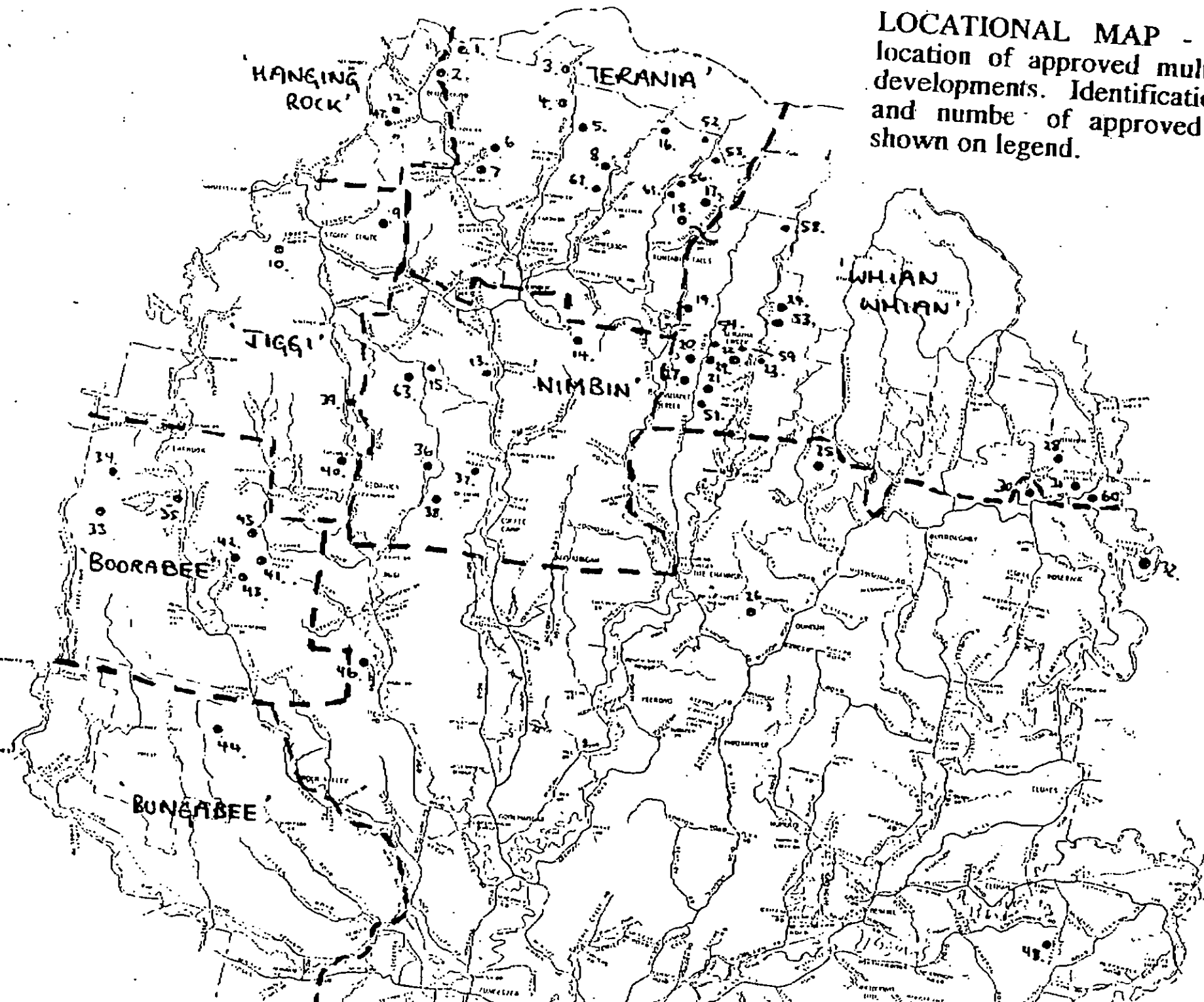


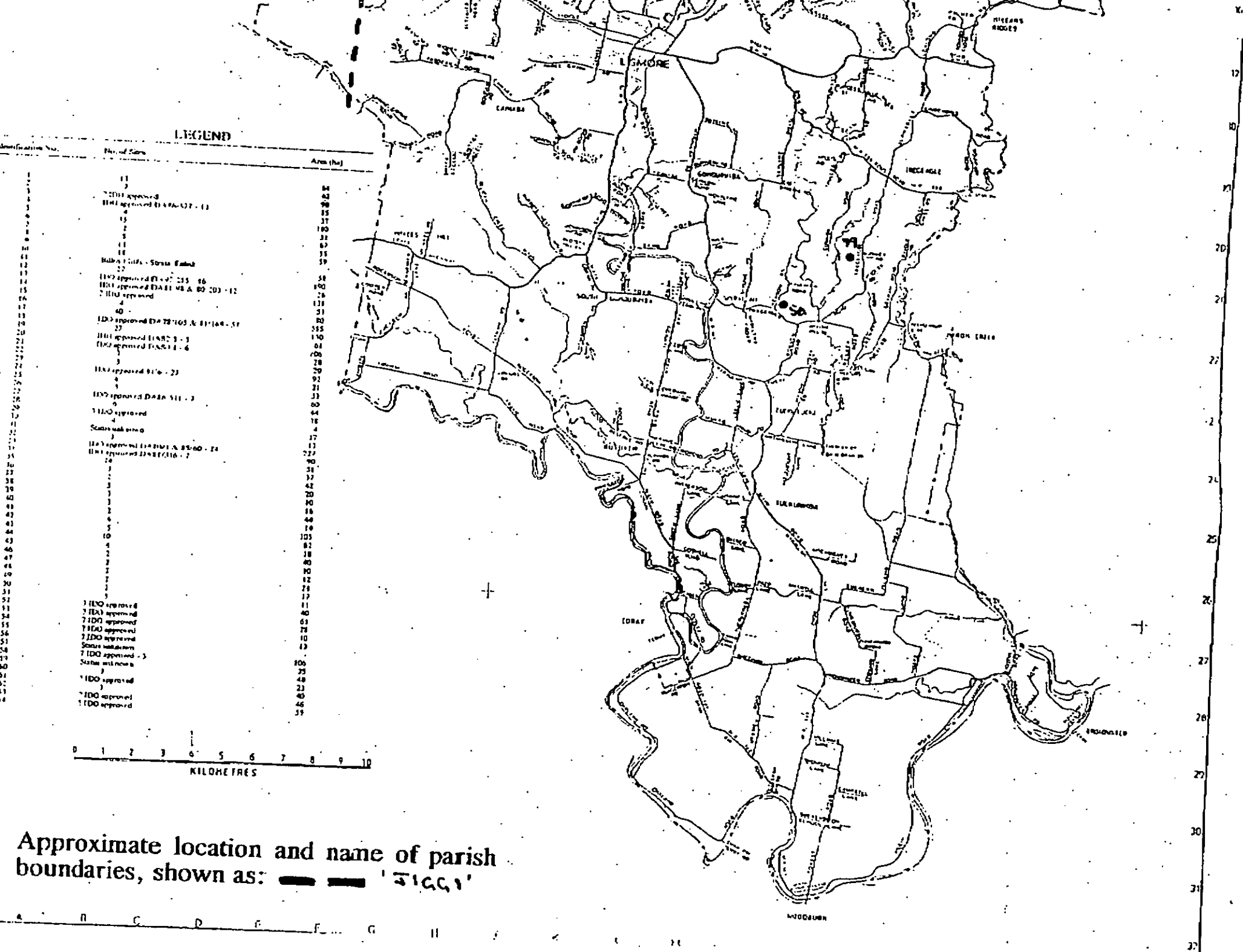
(J R Hampton)
MANAGER-
DEVELOPMENT CONTROL

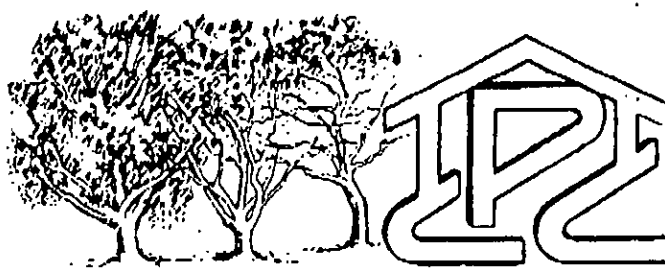


(N Juradowitch)
DIVISIONAL MANAGER-
PLANNING SERVICES

LOCATIONAL MAP - shows general location of approved multiple occupancy developments. Identification number, size and number of approved dwelling sites shown on legend.







Wick
PAN-COMMUNITY
COUNCIL
P.O. BOX 102,
NIMBIN 2480

SPECIAL MEETING

SUNDAY 19TH JUNE

MEDIA CENTRE NIMBIN 2PM

This is a very important meeting to discuss correspondence many of you will have recently received from Lismore Council advising you either that your M.O. is illegal or that your community is shortly to be inspected to check your compliance with your development consent. We are extremely concerned about the implications of this action by Council and believe that as an organisation we need to establish some collective strategies for dealing with this.

In September 1993 Council resolved :

"1. That Council, after the adoption of matters relating to a preferred planning option (for MO), give notice of a 12 month period during which time "without prejudice" consultations are invited with a view of negotiating conditions of development consent which are currently not being met.

2. That Council upon future adoption of a preferred planning strategy, give public notice of an amnesty to enable illegal multiple occupancy developments the opportunity to formally make development applications to Council to regularise their existence in accordance with appropriate standards."

Council recently adopted development control plan (DCP) no. 20 which gives guidelines for those wishing to establish a multiple occupancy. This DCP will also operate as the basis for those wishing to negotiate development consent conditions they have not been able to comply with. We do not believe that the letter recently received by MOs in the Lismore area is in the spirit of the above resolution of Council. Entering into "without prejudice" consultations is very different to the proposed on-site inspections which are tantamount to a witch-hunt. No matter how low-key the approach of staff may be the reality is that they are having considerable

pressure put on them by some Councillors and members of the community (Nimbin in particular) to clean up the MO situation.

The special meeting has been called to discuss appropriate strategies for dealing with Council's proposed course of action. In the meantime Pan-Com will be working towards trying to ensure that negotiations will be held "without prejudice" and that no on-site inspections be conducted within the next 12 months unless individual MOs decide they are happy with that.

On a further matter, Council is currently trying to reduce the density of development allowed on MOs unless the housing is clustered. Pan-Com's position is that we are satisfied with the existing formula for calculating density and believe that each new application before Council should be looked at on its merits. In some instances the maximum density the formula allows may be quite appropriate even when issues such as environmental capability are taken into account. Similarly, clustering may not be an appropriate simply because it allows for more houses. We would urge you to write to the General Manager, Lismore Council, P.O. Box 23A with your thoughts on this matter before June 20th.

For further information on the above or any other matter related to multiple occupancy please contact:

Councillor Diana Roberts Ph. 891 529(w) 891 648(h)

Simon Clough Ph. 886217

Peter Hamilton Ph. 858648

P.S. Thank you to those communities and individuals who have recently made donations to Pan-Com. Your financial support is very necessary and very much appreciated.

FROM: PAN-COMMUNITY COUNCIL
P.O. Box 102, NIMBIN 2480

TO:

NS 4.6.94

**REVIEW OF
MULTIPLE
OCCUPANCY
DEVELOPMENT
CONSULTATION IN
RESPECT OF COMPLIANCE
WITH CONSENTS AND
UNAUTHORISED
DEVELOPMENT**

Notice is given that Council has adopted a Development Control Plan for Multiple Occupancy Development of Rural Lands. The purpose of the plan is to give guidance to intending applicants in the selection of suitable land, design of multiple occupancy developments, and in making Development Applications for multiple occupancy development. Council at the Ordinary Meeting of September 7, 1993, resolved that after the adoption of the DCP notice be given of a twelve (12) month period, commencing June 4, 1994, during which 'without prejudice' consultations are invited between Council staff and Multiple Occupancy Communities to review appropriateness of conditions of development consent, particularly where such conditions are not consistent with Council's recently adopted DCP.

Council also, at that meeting, resolved to provide a period of 12 months to enable unauthorised multiple occupancy development and other forms of unauthorised rural occupation, the opportunity to lodge Development Applications with Council and seek approval in accordance with standards established in the DCP, as appropriate.

Enquiries should be directed to Council's Development Control Planner, Mr M Scott. All enquiries will be treated on a strictly confidential 'without prejudice' basis.

N/STAR

13/6/94

EDITORIAL Amnesty on MOs

The Lismore City Council's 12-month amnesty on unauthorised multiple occupancies is a generous offer.

Anyone who does not take up the chance to register and comply with council conditions, deserves any punitive action the council may decide to take thereafter.

MOs are a fact of life in this district. In many cases they have proved a highly successful housing alternative, particularly for lower income people and those who choose to live among like-minded people.

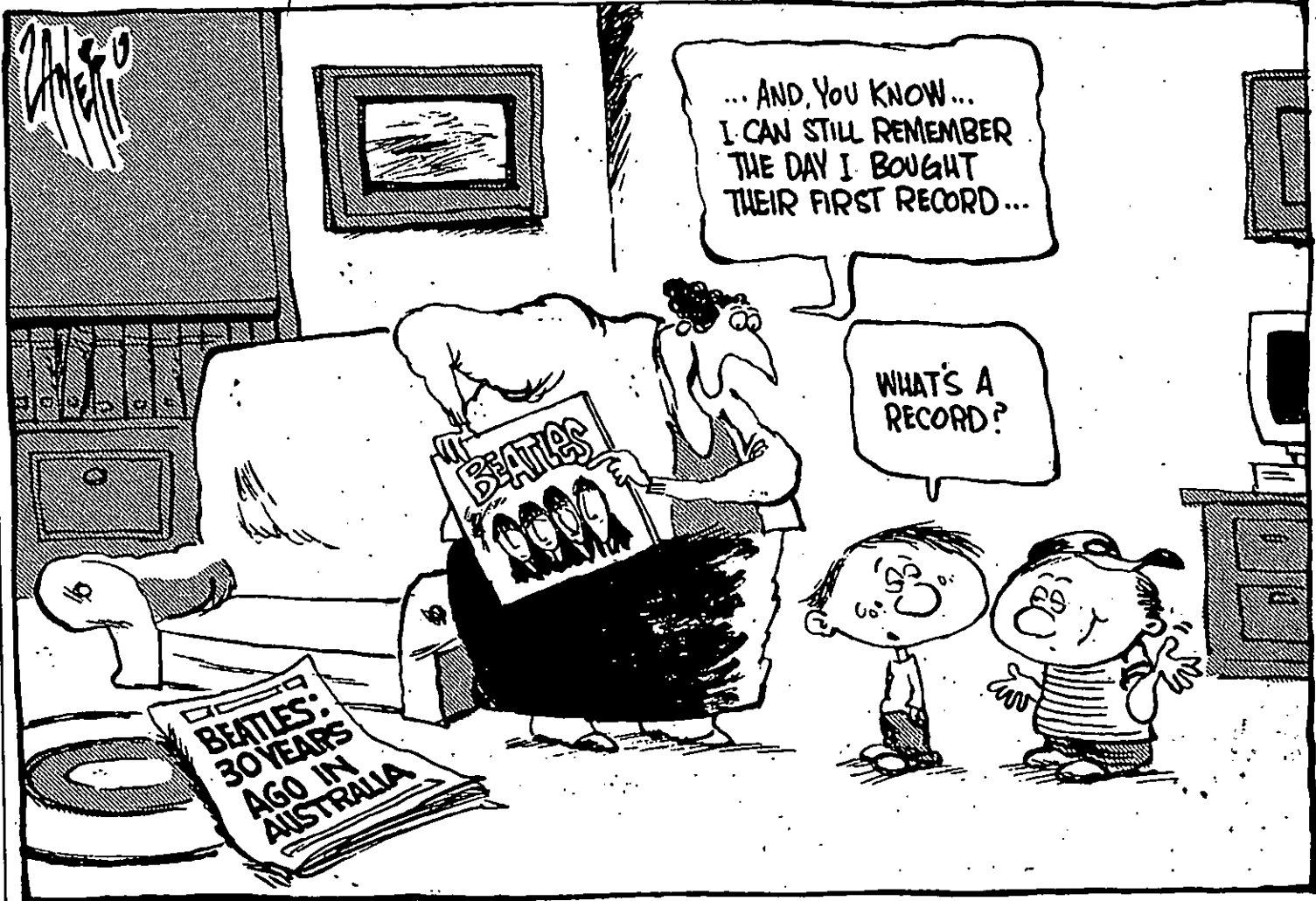
Some MO residents have challenged existing housing codes and financial contributions to councils. That is fine and progressive, but it is quite another thing for a few to flaunt all forms of control.

The wider community then pays when extra traffic damages stressed rural roads, creeks become more polluted, and neighbourhood amenity is affected by a population rise that has occurred without consultation.

As for the council, it should approach with caution plans to limit MOs to certain areas within its boundaries.

The council has deferred these plans in anticipation of land capability studies. But the council should always ensure its options are as flexible as possible.

Russell Eldridge
Deputy Editor



Letters to the Editor

Write to PO Box 423, Lismore

Party labels

LIAM Bathgate, secretary of the National Party of Australia, labels the ideas of the Australian Democrats as 'left trendy' (NS 31/5/94). I dislike labels and, although rarely tempted, always re-

that act to a particular group of people and lastly because it reinforces the conceit that there is something inherently wrong with these people.

This past summer I attended a Down To Earth Festival or Con-fest on the Murray River near

get a mention. They, one pre-sumes, are left with this ghastly invasion of their person and the memory of this dreadful experience, staying in their minds for the rest of their lives.

To them, all the sympathy Mr Maxwell can think up, is for the

And as politicians talk, women and children continue to be hacked to death and thrown into rivers or mass graves.

Crops that would normally be harvested in June and July to feed Rwanda will now rot, and survivors of the war are beggars

Truck safety

I WRITE with concern following comments made in an article in the Northern Star (26/5) headed 'Police Voice Alarm over Truck Safety'.

The article outlined the results