

FAX DOCUMENT FROM PETER HAMILTON

✓ 1/50 Paterson Street, Byron Bay, 2481 (02) 6685 8648 (F/T) email: peterh@nor.com.au

Pan Community Council Homepage:- <http://www.nor.com.au/users/pancom>

TO: Graham

FAX No: DATE: 20-7-99

Number of pages (including this sheet): 7

SUBJECT: Lismore Rural Settlement Strategy Committee Minutes

COMMENTS: Herewith Minutes for your information. Please
note the Committee agreed to delete "segregated"
areas for LIC's - viz dropping Map 9!!

This is a great credit to Bill's presentation. Do you
still have the report as I wish to speak with you
re Lindsay Taylor's advice? Regards Peter

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TO: Di

FAX No: DATE: 20-7-99

Number of pages (including this sheet): 7

SUBJECT: Rural Settlement Strategy Committee

COMMENTS:

Herewith the minutes as discussed.

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Regards

Peter



LISMORE
City Council

MASTER
+200?
FAX to →

All communications to
GENERAL MANAGER

Reference Number

HM:MJK: S668

Contact

Helen Manning

July 13, 1999

B e t w e e n t h e R a i n f o r e s t & t h e S e a

Mr B Kidd
Pan Community Council, C/- Bohdie Farm
Wallace Road
THE CHANNON 2480

Dear Sir

RURAL SETTLEMENT STRATEGY STEERING COMMITTEE

Please find attached minutes of the Steering Committee meeting of July 12, 1999. Please note that another meeting of the Steering Committee is to be held on Monday, July 26, 1999 at 9.30am in the Lismore Room, to discuss a revised draft of the Rural Landsharing Communities Strategies. A copy of this Strategy will be forwarded as soon as it has been revised and printed.

If you have any further enquiries, please do not hesitate to contact Helen Manning on telephone (02) 6625 0565.

Yours faithfully

Helen Manning
MANAGER-STRATEGIC PLANNING



MINUTES OF THE MEETING OF THE RURAL SETTLEMENT STRATEGY STEERING COMMITTEE HELD IN THE LISMORE ROOM ON MONDAY, JULY 12, 1999 at 9.00am.
(HM:MJK: S668)

PRESENT: Cr E Cole, Cr M King, Helen Manning, Alan Kerr, Damian Chapelle, Brian Moynihan, Malcolm Scott, Alan Moses, Bill Kidd and Vanessa Ekins.

APOLOGIES: Phil Sarin, Matt Kelly, Bob Hanby, Cr G Wilson.

DISCLOSURE OF INTEREST: All have an interest in rural residential subdivision.

MINUTES OF PREVIOUS MEETING

Alan Moses clarified that his statement meant that he preferred rural residential development only in close proximity to an existing village. With the addition of that comment, the Steering Committee adopted the minutes as accurate.

REPORTS:

The following comments all related to the draft Report for the Strategy for Rural Landsharing Communities, dated June 1999.

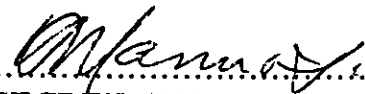
Bill Kidd commented that PanCom prefers that localities are not identified and that the criteria for choosing suitable land be listed. He recommended further consultation before exhibition of the draft Strategy. Much discussion resulted on whether or not to identify specific localities; it was decided that Map 9 and comment on specific localities would be deleted in the draft Strategy to be put to Council and that the criteria for determining suitable land be included in the draft LEP amendment. These criteria should include the protection of current and future horticultural industries from conflicts from adjoining residential development.

Comments were also received on amendments to various specific wording throughout the document. These have been noted on the document and will be addressed by Consultant, Malcolm Scott.

The Steering Committee agreed with the proposed timetable which sees the draft Rural Subdivision and Multiple-Occupancy Strategies presented to Council for endorsement for public exhibition on August 10, 1999. To this end, a revised draft Rural Landsharing Communities Policy will be prepared within the next two weeks for presentation to another meeting of the Steering Committee on July 26, 1999.

NEXT MEETING

The next meeting of the Steering Committee will be held on **Monday, July 26, 1999 at 9.30am** in the **Lismore Room**.


.....
SECRETARY



MEETING NOTICE

The meeting of the **RURAL SETTLEMENT STRATEGY STEERING COMMITTEE** to be held on **MONDAY, JULY 26, 1999** at 9.30am in the **COUNCIL CHAMBERS**. (S668)

MEMBERS only are requested to attend, however interested Councillors are welcome.

A full copy of the business paper is available upon request.

Helen Manning
SECRETARY

BUSINESS

- 1 APOLOGIES
- 2 DISCLOSURE OF INTEREST
- 3 MINUTES OF MEETING OF July 12, 1999 (copy attached).
- 4 BUSINESS ARISING
- 5 CORRESPONDENCE
- 6 REPORTS
- 7 GENERAL BUSINESS
- 6 NEXT MEETING



All communications to
GENERAL MANAGER

Reference Number
HM:MG:S668

Contact
Helen Manning

July 7, 1999

Mr B Kidd
Pan Community Council
C/- Bohdie Farm
Wallace Road
THE CHANNON 2480

Dear Sir

RE: MEETING OF RURAL SETTLEMENT STRATEGY STEERING COMMITTEE

The Rural Settlement Strategy Steering Committee has determined that it will hold another meeting to consider the draft Rural Landsharing Communities Strategy.

This meeting will be held in the Lismore Room, on Monday, July 12, 1999 at 9.00am. If you have any other comments on the Rural Subdivision document, would you please bring them along to this meeting or give them to me in writing so that they can be considered by all the other Committee members.

Should you have any further enquiries regarding this matter, please do not hesitate to contact Helen Manning at Council's Administration Centre, Oliver Avenue, Goonellabah, on telephone (02) 6625 0565, between the hours of 8.30am and 10.00am, Monday to Friday.

Yours faithfully

Helen Manning
MANAGER-STRATEGIC PLANNING

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MINUTES OF THE MEETING OF THE RURAL SETTLEMENT STRATEGY STEERING COMMITTEE HELD IN THE COUNCIL CHAMBERS ON TUESDAY, JULY 6, 1999
(HM:MG: S668)

PRESENT: Cr G Wilson, Cr E Cole, Cr M King, Damian Chapelle, Matt Kelly, Alan Kerr, Lindsay Walker, Bob Hanby, Helen Manning, Malcolm Scott, Brian Moynihan, Alan Moses, Bill Kidd, Paul Pellandine and Vanessa Ekins.

APOLOGIES: Duncan Raymont and Graham Cole.

DISCLOSURE OF PECUNIARY INTEREST: All have an interest in rural residential subdivision.

CORRESPONDENCE:

Letter from Duncan Raymont forwarding his apologies and making suggestions for improvements to the Rural Settlement Strategy.

MINUTES OF PREVIOUS MEETING

Minutes were adopted as accurate.

REPORTS:

Various comments were made on the report which was presented to the Steering Committee.

- Lindsay Walker said that residents of the Tullera Road area were doing some background research to prove that noise from the Showground was not an absolute constraint to residential development on the plateau, as the speedway was limited to only ten (10) meetings per year. Helen Manning responded that the residents were welcome to put in a submission to the exhibition of the draft strategy and it would be considered by the Steering Committee and by Council. Bob Hanby commented that in his experience the noise remains a problem.
- Alan Moses recommended that Council not provide any more rural residential subdivision because of the problem it causes.
- Merv King requested that there be no further provision for hobby farms.
- Brian Moynihan said he will organise community consultation workshops at Nimbin.
- Vanessa Ekins stated that areas that had been deleted from the rural residential strategy were now coming up in the multiple occupancy strategy and there was an inconsistency there which should be resolved.
- Paul Pellandine supports the comments made by Duncan Raymont and prefers Village style cluster development to ribbon style rural residential development along a road.

- Bill Kidd pointed out that the strategy still refers to hobby farms in places and these should be deleted. He requested that the rural landsharing strategy document should be the basis of further proposals for rural landsharing communities, rather than the rural residential strategy because it only identified land in The Channon area. Helen Manning pointed out that there needed to be a cross reference between the two documents to enable subdivision of some MO's if that was proposed. Bill Kidd stated that Pan Com acknowledges the rating problems and is willing to participate in any discussion with Council about rating of MO's. He requested that the rural settlement strategy (subdivision part) delete any mention of MO's.

There was discussion on the need for quotas for rural residential development and for multiple occupancy. It was determined that there is no need for a quota for MO's but a quota for rural subdivision should be kept in the draft strategy.

It was also determined that the subdivision minimum areas from the Section 94 Plan should be put into the rural settlement strategy.

CONSULTATION:

The Committee accepted the proposed consultation set out in the report covering both strategies. It was suggested that copies be put in the libraries, the Economic Development Unit, the Big Scrub and could be mentioned on the web site.

The Committee prefers to see both documents remain separate.

REPORTS:

Draft Lismore Rural Settlement Strategy

Eleanor Cole suggested that comments should be submitted to Helen Manning within a week.

In the introduction, Multiple Occupancies should be deleted from inclusion in the quota of thirty five (35) dwellings per annum. Suggestions were made for clarifying Point 4 in the Aims and Objectives. There was no comment made on the supply and demand section, but the strategy section should delete reference to hobby farms.

In relation to Richmond Hill area, Lindsay Walker pointed out an area that could be added in.

Paul Pellandine pointed out in relation to Cameron's Road that some of the land was extremely steep and current land owners had already applied to vary the building line to build their houses right next to the road. He prefers to see a village concept based around community facilities, such as the old McLeans Ridges School.

Detached dual occupancy section is to be altered by requiring a second dwelling to be located within a radius of 80 metres from the original house.

The Rural Residential section of DCP 28 should be appended to the strategy.

NEXT MEETING

The meeting closed at 11.00am, there being insufficient time to discuss the Rural Landsharing Communities/Strategy. It was determined to hold another meeting to discuss this strategy on Monday, July 12, 1999 at 9.00am. This meeting will be held in the Lismore Room.



.....
SECRETARY

2. Draft Strategy for Rural Development
Wales & South Wales
Consultant Peter H., & B. H. H. H.
02-246-090

Wales & South Wales Development Strategy (Appendix)
WAD - Town & Country Development Agency (CT) of 1990
in areas outside the regional development
res. dev. in terms of cultural rural development
& the DWP "Rural Development Guidelines".

Council letter to Phillip Fox 29.1.99 & 10.2.99
"As part of Rural Development Strategy, Council wishes
to enable the land on which approved mo
dev. is located to be converted to CT".

"SEPP 15 RLC... applies to all land within the district"

"I am instructed that no land is currently zoned Rural
1991 for RLC & Zone" LEP 1992

Advice sought

1. Can Council permit CT of approved mo that have been
subjected to the Conveyancing and Estate Title Act?
2. If no, what is the most appropriate legislation that would
allow a process for achieving the conversion
title."

Get copy of the Turner & Co. 1995. A Comparative Study of Rural
dev. & CT concentrating on the social, political &
economic context. - Book Review by Philip H. H. H.
(unpublished)

* Scanned to p 19.

Di + Bill + Pat Phone Conference Tues 6th
 DCP - for MO Meeting Tues 6, 9am
 More prescriptive than Rural Strategy
 bill attendees, Dis is not affected
 RR - MO \neq 20°
 18°
 p28 ALSC to land
 Not 25% prime crop showing

⓪ (4) Cant have 100 on Class 1, 2, 3
 Exception via DE - DWA
 list of road to meet the standards
 + collect road.

⓪ Not Wallace Thru
 So. Thomas Circle Turballe Cr Rd?
Location criteria - varied, North

⓪ hang 8 overlays.

⓪ Subject to review in acceptance of the ^{prop} rural
 Res Strategy
 for public exhibition

Covered - Lalla Rd, Jambani, CT, Hobby Farm,
Gunas, Crofton

RR not affordable. 7 DR in ACC

CT Heckin offering CT to MO Lindsay Taylor.
 SEPP-1

⓪ DOAP unlikely to agree for 2022
 By 2022 CT-MO.

801 p26 @ Corral Corral / Drains / delivered [Not understood]
 100 Prime crop / delivered
 p28. 4C 695.

(2)

Drafts no

LEP. NO Draft Name.

LEP for RA not there.

Turnable:

Harfords.

on Rd

3 - 5 Km.

RURAL SETTLEMENT STRATEGY
PROPOSED TIMETABLE FOR COMPLETION

Finish Steering Committee consideration	12 July 1999
To Council for endorsement for public exhibition	10 August 1999
Commence exhibition	19 August 1999
End exhibition	18 November 1999
Analysis of submissions	late November/early December
Steering Committee meeting to consider submissions	late December
To Council for adoption	first Council meeting of 2000

1. how is list of roads
to be used.
2. existing communities?
3. DUAP approval yet?
- ag dept etc
also
before exhibition

DRAFT

REPORT

for the

④ look at road list
- ??

STRATEGY FOR RURAL LANDSHARING COMMUNITIES

June 1999

- director general's
discretion is missing
from LEP

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- 1. Nature and number of approved multiple occupancy developments, Pre 1980 to July 18, 1995.
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Appendices

- One Alteration to Interim Development Order No. 1 – Shire of Terania and map showing Existing Multiple Occupancies and Parish boundaries.
- Two List Constraints Mapping.
- Three List of Roads meeting Assessment Criteria.
- Four Copy of State Environmental Planning Policy No 15 – Rural Landsharing Communities and Guidelines.
- Five Copy of advises regarding community titled subdivision of existing multiple occupancies.

Preamble and introduction

This is a report to Lismore City Council's Rural Settlement Strategy Committee in respect of a strategy for the development of land for rural landsharing communities. The terms rural landsharing communities and multiple occupancy are used synonymously in the report. /

The report comprises:

- a description of the background and reasons for the report,
- an overview of the history, demand and supply and alternative planning methods of providing for the development,
- a description of the strategy assessment criteria and mapping to identify lands considered potentially suitable for rural landsharing community development and
- a draft local environmental plan and development control plan which would enable and manage the form of development should the State Government be satisfied with the overall approach and outcomes of the strategy.

The report also considers the issue of community titled subdivision of existing multiple occupancy developments.

1 Background

Lismore City Council is preparing "in house" a strategy for closer rural settlement. The strategy is to comply with requirements of the North Coast Regional Environmental Plan, 1987 (NCREP) and accord with the Dept. of Urban Affairs and Planning "Guidelines on Rural Settlement on the North Coast of NSW".

At its meeting of August 25 1998 Council resolved that it pursue its own policy for rural landsharing opportunities and seek exemption from State Environmental Planning Policy No 15 (SEPP No 15) as part of the closer rural settlement strategy. Council also resolved that a consultant be appointed to carry out this work. SEPP No 15 is attached to this report as Appendix 4.

It is intended that the strategy for rural landsharing communities be read in conjunction with and form an appended addition to the comprehensive rural settlement strategy.

The brief to undertake the rural landsharing strategy required the consultant to address the following:

- a) Identify localities suitable for rural landsharing community development using the criteria adopted by Council's Rural Settlement Strategy Committee for the location of closer rural settlement. / RSSC

As the RSSC presumably has not yet adopted this criteria - or has it under review it is a non-sequita or presumptive to consider ~~the~~ a "brief" to "identify localities".

viz the SEPP-14 provision applies viz all Rural (1a) land

- On whose authority and on what basis has this been prepared!*
- b) Inclusion of other provisions currently included in SEPP No. 15 and altered where appropriate to accord with local conditions. Such other provisions include, but are not limited to:
- Prohibition of any form of subdivision
 - A minimum area for rural landsharing communities
 - A maximum area of prime agricultural land that may be included in the community
 - Building height limits
 - Environmental and habitat protection measures
 - Slope
 - Matters for Council to consider including but not limited to those matters contained in clause 9 of SEPP No. 15
 - Matters to be included in a Management Plan, including but not limited to those items set out in clause 10 of SEPP No. 15
 - Appropriate density controls
 - Any other relevant matters, such as those contained in the repealed DCP No. 20 – Multiple Occupancy, the draft DCP No. 37 – Rural Landsharing Communities, or the SEPP No. 15 Guide prepared by DUAP.

It is envisaged that the final policy will contain sufficient guidelines and detail to avoid the need for a separate Development Control Plan.

- c) The potential for community title subdivision of multiple occupancies approved before February 1 1995.
- d) Suggest and participate in any community consultation procedures considered necessary beyond those proposed for exhibition of the completed Rural Settlement Strategy.
- e) Evaluate submissions concerning the policy received after exhibition, and make any necessary changes to the policy.
- f) Suggest amendments to LEP 1992 to implement the policy

It would seem reasonable that PanCom would have been formally approached for consultation in the preparation of this Draft – not after it is presented to the Committee when a general exhibition. [See 5 page 4]

Am I correct in assuming that this consultant (ie Malcolm Scott) is still under contract to carry out this part of the brief?

2 Historic overview

The initial planning control to enable and regulate multiple occupancy development of rural land within the existing City of Lismore local government area was introduced by the Minister for Planning and Environment (Mr Paul Landa) by way of alteration to the Shire of Terania Interim Development Order No. 1 (Terania IDO) on February 29, 1980.

The alteration applied to those parts of land in the Parishes of Boorabee, Bungabbee, Jiggi, Nimbin, Hanging Rock, Terania and Whian Whian in the City of Lismore. The alteration also provided a 'retrospective' form of approval to twenty-three (23) 'parcels' of land on which multiple occupancy had been developed or proposed.

Appendix One is copy of the alteration to the Shire of Terania Interim Development Order and map showing the part parishes to which the alteration applied.

The provisions enabling multiple occupancy developments that were applied to Terania IDO were 'carried over' verbatim into the City of Lismore Interim Development Order No. 40 (Lismore IDO #40) gazetted August 29, 1980. The interim development order consolidated into the one planning instrument the City of Lismore Planning Scheme Ordinance and the IDO's relating to the City of Lismore and Shires of Terania and Gurdurimba.

The local planning provisions enabling multiple occupancy were removed (January 15, 1988) from Lismore IDO #40 by the gazettal (January 22, 1988) of State Environmental Planning Policy No. 15 – Multiple Occupancy of Rural Lands (SEPP #15). On January 11, 1988 the Minister for Planning and Environment issued a direction to councils, which limited the contribution, councils could require from multiple occupancy developments for services and community facilities to \$1,950 per dwelling. The direction was revoked June 14, 1988.

SEPP No 15 was amended once (November 23, 1990), repealed (December 1, 1994 by SEPP # 42) and reintroduced with some minor amendment and alteration (April 9, 1998). Councils were advised at the time SEPP No 15 was repealed that the control of multiple occupancy was considered a matter for local government. It appears however, as councils in the State generally had not made local provision for multiple occupancy, the State government proposed that SEPP No 15 be introduced and exhibited a draft policy.

Lismore City Council has recently considered several reports from Council's Planning and Development Group regarding the proposed Community Title subdivision of existing multiple occupancy developments, the reintroduction of SEPP No 15 and future multiple occupancy development in the context of Council's closer rural settlement strategy.

DRAFT REPORT
STRATEGY FOR RURAL LANDSHARING COMMUNITIES

The following resolutions effectively summarise Council's current position in relation to future multiple occupancy development in the local government area:

Meeting held August 27, 1996 – Rural Residential Strategy / SEPP No 15.
Council resolved:

1. That the issue of multiple occupancy development be referred to the proposed Rural Residential Steering Committee for its urgent consideration as to potential for multiple occupancies in appropriate locations for inclusion in the new rural Residential Development Strategy.

CURRENT

2. That Council write to the Department of Urban Affairs and Planning seeking exemption from any new State Environmental Planning Policy which may be introduced relating to rural multiple occupancy on the basis that the issue of multiple occupancy that the issue of multiple occupancy will be addressed in Council's soon to be prepared Rural Residential Strategy.

FULFILLED

3. That Council make another approach to the Director General and the Minister for Urban Affairs and Planning requesting that they meet with a delegation of North Coast Councils with an interest in the proposed reintroduction of SEPP No 15.

FULFILLED

4. That Council seek a meeting with the Minister or the Departmental Director for Urban Affairs and Planning regarding Draft LEP No. 26 – Community Title Subdivision of Multiple Occupancies.

FULFILLED

5. That a representative of the PAN Community Council be co-opted onto the committee for consideration of the multiple occupancy issue in the Rural Residential Strategy.

FULFILLED

Next *The draft has only just been made available (1)*

Meeting held January 28, 1997 – SEPP No 15.

Council resolved:

1. That Council make a submission to the Department of Urban Affairs and Planning seeking either an exemption from the proposed SEPP No 15 Multiple Occupancy or deferral of the coming into force of the draft SEPP until at least July 1, 1998, on the basis that Council will agree to include multiple occupancy provisions within its LEP, introduced within an agreed rural settlement strategy.

FULFILLED

2. That the submission outline the points of concern as detailed in the report to this Council meeting by the Group Manager – Planning and Development, and in particular that the introduction of a SEPP is inappropriate in view of the essentially local or at most regional implications of the multiple occupancy.

FULFILLED

3. Council seek the support of the Local Government Executive to pursue this matter as a matter of urgency and with the same vigour it took on the matter of dual occupancy.

FULFILLED ?

4. Council put forward a motion to the annual Local Government Association Conference to discuss this matter, recommending adoption of a policy that local government be responsible for implementing its own policy and not be dictated to by state government in relation to multiple occupancies.

FULFILLED ?

0) I rang Helen Manning for official copy to Pan Com (as directed to copy to our rep on Council) & was denied same. What sort of consultation is this!!

**DRAFT REPORT
STRATEGY FOR RURAL LANDSHARING COMMUNITIES**

Meeting held May 13, 1997 – Community Title of Existing Approved Multiple Occupancies.

Council resolved:

That Lismore Local Environmental Plan 1992 Amendment No. 26 be withdrawn from further action and the issues contained in this amendment be addressed in the Rural Settlement Strategy instead.

FULFILLED AND CURRENT

Meeting held August 25, 1998 – Preparation of Local Provisions for Rural Landsharing Communities.

Council resolved:

1. That Council pursues its own policy for rural landsharing opportunities and seek exemption from SEPP No 15.

CURRENT

2. That Council appoint a consultant to carry out this work and that a short list of consultants be presented to Council for its determination.

FULFILLED AND CURRENT

3. That the consultant be appointed to the Rural Settlement Strategy Steering Committee.

N/A

4. That the Draft DCP No. 37 be referred to the Rural Settlement Strategy Steering Committee for consideration.

FULFILLED AND CURRENT

5. That all information on multiple occupancies be forwarded to members of the Committee as early as practicable.

CURRENT

6. That Council not seek from DUAP any extension of the quota for rural residential lot approvals until completion of Council's Rural Settlement Strategy.

FULFILLED AND CURRENT

7. That all Councillors be invited to submit input to the Committee.

CURRENT

Meeting held November 17, 1998.

Council resolved:

1. Determine that Mr Malcolm Scott, Consulting Town Planner, be appointed to prepare Council's Rural Landsharing Communities Policy;

CURRENT

2. That the other consultants be advised and thanked for their interest in undertaking the work;

CURRENT

3. That, rather Mr Scott being appointed to the Steering Committee which could result in unnecessary costs and a conflict on interests, he be invited to attend meetings of the Committee only where relevant to the preparation of the Rural Landsharing Communities Policy.

CURRENT

3 Demand and Supply

It is difficult to accurately predict the general demand for rural housing. It is particularly difficult to predict demand for housing provided on multiple occupancy (rural landsharing) developments given the unique nature of the form of development.

A variety of factors such as:

- future rates of general population growth,
- lifestyle and interest in the notion of being part of a rural intentional community,
- relative costs of rural housing opportunities (rural residential, multiple occupancy and village),
- an individuals wealth or credit rating,
- interest rates and access to home finance,
- access and distances to facilities such as shops, schools and community facilities,
- variation in and acceptance of different forms of land ownership and tenure arrangements,
- individual community 'by-laws', management plans, articles of association and the like,
- relative costs and development opportunities in adjoining local government areas (especially Byron and Kyogle Shires),
- enabling planning legislation to provide for the form of development,
- the notion of a finite land supply, not physically constrained and suitable for rural housing opportunities,
- the condition and cost of up-grading (if required) and on-going maintenance of community infrastructure, especially the ailing rural road network, etc.

will impact on the demand for both the traditional forms of rural residential and multiple occupancy development.

Many of these factors are unquantifiable and unpredictable. Individual, or group decisions regarding lifestyle, social, cultural and environmental aspirations will influence the demand and need for a supply of land and dwelling sites suitable for future rural landsharing communities. These variables will influence the 'take-up' rates for vacant or undeveloped sites on existing multiple occupancies.

3.1 Demand

Legislative and development approvals

The report titled Post Development Approvals Inspections of Multiple Occupancy Developments to Council's meeting of July 18, 1995 identified the following:

Table 1: Nature and number of approved multiple occupancy developments, Pre 1980 to July 18, 1995.

Nature of existing community	No. of communities	%age
Unchanged since the gazettal of the Terania IDO alteration	9	15
Terania IDO developments with subsequent approval	14	23
LCC and LEC approved developments	37	62
TOTAL	60	100

Twenty three (23) representing 38% of the total number of developments were approved in 1980 as part of the alteration to the Terania IDO. For the period Jan. 1981 to July 1995 (14 years) the other 37 developments (62%) represents a general average of 2 – 3 Development Applications per year which were made to Council and approved by either Council (LCC) or the Land and Environment Court (LEC).

Table 2: Size (dwelling sites) of approved multiple occupancy developments.

Number of dwelling sites	Number of developments	% age
2	9	15
3 to 5	21	35
5 to 10	9	15
10 to 15	10	17
15 to 20	4	7
20 to 25	1	2
25+	6	10
Total	60	100

Two dwelling site multiple occupancies were approved prior to the November 23, 1990 amendment to SEPP No 15. The amendment increased the minimum size of multiple occupancies from two (2) to three (3) dwelling sites. The majority (67%) of approved multiple occupancies are between 3 and 15 dwelling sites. Generally, multiple occupancies between 3 and 5 dwelling sites (35% of total number) appear to have been developed by extended families and are more of a themed specific purpose development, e.g. agricultural or spiritual uses.

Table 3: Number of approved sites and dwellings, at July 18, 1995.

Approved sites*	700	
No. of dwellings on approved sites	413	59%
No. of vacant sites	258	37%
No. of temporary occupations	29	4%

* or equivalent, early approvals set a maximum level on the number of adults that were permitted to live on a development.

At the time (July 1995) of the report to Council, SEPP No 15 had been repealed and until April 9 1998 no legislative and planning framework existed to enable DA's for multiple occupancy to be made to, or approved by Council.

The following table shows the number of Development Applications made to Council since the reintroduction of the SEPP No 15 (April 9 1998).

Table 4: Development applications for rural landsharing communities since re-introduction of SEPP No 15

Number	Proposed number of dwelling sites	Locality / road	Approval status
1	1 additional site on an existing development	463 Wallace Rd Tuntabla Creek	Awaiting determination
2	15	30 Henson Rd Nimbin	Awaiting determination
3	5	459 Blade Rd Nimbin	Awaiting determination
4	5	8 Potessu Rd Nimbin	Awaiting determination
5	11	929 Blue Knob Rd Blue Knob	Awaiting determination

For the period July 1995 to February 1999, the following numbers of Building Applications for dwellings on existing approved dwelling sites had been made to Council:

Table 5: Building applications on existing multiple occupancies, July 1995 to Feb. 1999.

Application on a vacant site	20
Application to recognise existing dwelling	1
Application for temporary occupation	2
Total	23

Twenty two (22) additional dwellings and temporary occupation licences [seven (7) dwellings per year] have been approved on thirteen existing communities for the period July 1995 to Feb. 3 1999 (3.5 years).

The above analysis of Council records suggests that there is not a significant demand for either new multiple occupancy living opportunities nor is the rate of approved dwelling construction particularly great on existing approved vacant sites.

Real Estate Industry Comments

Comments were sought from real estate agents operating in Nimbin in order to get a an "anecdotal feel" from an industry perspective of the demand for land for future multiple occupancy development, existing dwellings and vacant sites on existing approved developments.

The following summarises the comments made:

Interest and inquiries for land on which to establish a rural landsharing community;

- ? {
- 4 – 5 per year.
 - in the past 6 months, 13 – 14 people through the door looking for land, though they're not necessarily clear as to what they are seeking.
 - not many inquiries are pursued to reality.

Opinion
+ Contradictory

Interest and inquiries for dwellings on existing established communities;

- 1 per month, saleability appears to be strongly influenced by community by-laws and degree of organisation efficiency on particular communities,
- demand appears to be increasing, particularly for reasons of affordability. Dwellings can be priced as low as \$35,000 - \$55,000, the median price ranges between \$70,000 and \$90,000, which appears cheaper than dwellings on 'traditional' rural residential estates. There appears to be a greater sense of stability on communities and acceptance of the development as a form of housing choice.

Start in ignorance with R.E. agents

Interest and inquiries for vacant sites on established and developing communities;

- 1 per month.
- Prices generally range from \$20,000 to \$25,000 and \$35,000 'top of the range'.

It is recognised that this information does not reflect the use of lifestyle magazines and similar publications, existing formal and informal (friend and family) networks, internet etc. One agent suggested 50% of share and dwelling sales maybe through these mechanisms.

** prob 70%*

3.2 Supply

The July 18, 1995 report attempted to quantify the potential number of additional undeveloped dwelling sites on existing multiple occupancy developments. The 'spare capacity' of existing approved developments, not developed to the maximum density formula provided for in SEPP No 15, was calculated and was estimated to be in the order of 396 additional dwelling sites.

It was "guess-estimated" that 130 – 150 dwelling sites may be able to be created by application in the future. However, the realisation or use of this 'spare capacity' may not be possible due to both physical land constraints and capabilities and socio-economic factors relating to ownership, management, lifestyle etc.

4 Locational Options to Provide for Rural Landsharing Communities

In general, the earlier and current SEPP No 15 policies permitted the form of development in broad areas (e.g. areas defined by Parish boundaries or rural zones of the Interim Development Order and Local Environmental Plan). These strategies were supplemented by establishing specific and general environmental planning objectives and standards, which had to be assessed, met and adopted.

A catchment based approach to closer rural settlement including rural residential estates, hobby farms, rural retreats and cluster / multiple occupancy has now been adopted and promoted by the State Government to local councils. *reference?*

The following briefly identifies the existing and some alternative strategic locational approaches, which may be considered suitable for future rural landsharing developments.

4.1 Existing situation

Currently SEPP No 15 is the planning mechanism, which enables DA's to be made to Council for rural landsharing communities (multiple occupancy). In general the Policy potentially enables rural landsharing developments on lands zoned rural. It excludes areas, which may be physically constrained, or of environmental significance by establishing performance standards or criteria which intending applicants and Councils should consider when proposing and assessing applications. *- on a site specific basis*

The Policy applies to lands within the Lismore local government area that:

- are zoned rural under the Lismore LEP. This might potentially include lands zoned rural General-1(a), Agricultural-1(b) and Riverlands-1(r);
- is a single allotment;
- are not the following land types:
 - within the meaning of the National Parks and Wildlife Act 1974 e.g. a national park, historic site, State recreation reserve, nature reserve, State game reserve, wilderness area, Aboriginal area, protected archaeological area or Aboriginal place etc.,
 - to which a wilderness protection agreement applies,
 - which are Crown, State forest etc. lands under either the Crown Lands or Forestry Acts or
 - which is critical habitat under the Threatened Species Conservation Act;
 - identified under the Lismore LEP that are identified for environmental protection, conservation, water catchment, open space, scenic protection etc.;
- has an area greater than 10 ha;
- contains not more than 25% prime crop or pasture land;
- is adequate in terms of availability of suitable land on the site so that no dwelling will be located on land in excess of 18° (1:3 or 33%) or land prone to mass movement and

- no structure or work is located in an area, which is a wildlife refuge, corridor or management area.

4.2 Other Approaches

The approach in SEPP No 15 is one of several that could be developed and adopted to allow rural landsharing in the Lismore local government area. A number and / or mix of other locational options can also be considered in the preparation of the strategy.

4.2.1 Catchment approach

This is the approach outlined in the guidelines produced by the Dept. of Urban Affairs and Planning titled, *Rural Settlement: Guidelines for Rural Settlement of the North Coast of NSW*. It is generally acknowledged that rural settlement strategies prepared in accordance with the guidelines will satisfy the requirements of the NCREP that rural housing be undertaken in a planned manner. The regional plan requires that Councils have prepared rural settlement strategies prior to approving draft local environmental plans for rural residential development.

Interestingly and somewhat contrary to the rather 'footloose' or generally open approach of SEPP No 15, the planning guidelines produced by the Dept. of Urban Affairs and Planning for SEPP No 15 also appears to be steering Councils and future rural landsharing development to a locality or catchment approach.

The SEPP No 15 guidelines (pg 5) state that "many local government areas have guidelines or strategies in place which indicate preferred locations and forms for settlement in rural areas". The guidelines particularly note the relevance of the *Rural Settlement: Guidelines for Rural Settlement of the North Coast of NSW* and indicate "it would be appropriate for rural landsharing communities to be located in areas which are consistent with these guidelines and strategies".

Council at the time it resolved to seek exemption from the provisions of the Policy and to prepare its own local provisions for rural landsharing development was advised by the Northern Regional Office of the Dept. of Urban Affairs and Planning (Aug. 10 1998) that:

"The Departments Circular to Councils B11 indicates that councils may apply for exemption from SEPP No 15 if similar provisions allowing rural landsharing are incorporated into a local environmental plan. Given the requirements of the Department's "Guidelines of Rural Settlement on the North Coast of NSW", that rural landsharing opportunities be restricted to appropriate locations, it is likely the Department would consider a suitable LEP amendment upon adoption by the Council of a suitable rural residential strategy."

The Minister for Urban Affairs and Planning responding (Oct. 26 1998) to a letter from Council expressing concerns regarding the re-introduction of SEPP No 15 and it's desire to provide its own policy for rural landsharing advised:

"When SEPP No 15 was reintroduced, the accompanying Circular to Councils No B11 prepared by the Department of Urban and Affairs and Planning (1 April 1998), indicated that councils may make provisions which provide the same opportunities as SEPP No 15 for rural landsharing communities and may then apply for exemption from the Policy. It is envisaged that such provisions would, however, form part of a local environmental plan (LEP) rather than a "local policy" as suggested by your Council.

I understand that Lismore City Council is reviewing its strategy for rural living opportunities. As indicated in the Department's Circular, where rural settlement guidelines apply, such as the "Guidelines on Rural Settlement on the North Coast of NSW" these should be taken into account. The consequent LEP could then form the basis for an exemption from SEPP No 15."

X | The Lismore Rural Settlement Strategy has outlined and adopted the key features of the approach promoted in the rural settlement guidelines. The brief for the preparation of this component of the rural settlement strategy requires that suitable localities be identified for rural landsharing community development.

but has not considered let alone adopted what criteria be used in determining such localities

4.2.2 Contain rural landsharing development to specified areas *or localities*

Generally, these approaches define a broad area in which the development is permitted and set a range of planning performance standards to be met. *(a) is a "locality"*

- (i) Use of large cadastral (parish or county) boundaries to define general localities and areas.

The alteration to the Terania IDO in Feb. 1980 adopted this approach.

What relevance is this? | Of the sixty approved multiple occupancy developments in the City, the majority [50 (83%)] of approved multiple occupancies still occur in the part Parishes of Boorabee, Bungabee, Jiggi, Nimbin, Hanging Rock, Terania and Whian Whian within the Lismore local government area.

- (ii) Nominate or use an existing rural landuse zone.

This is similar to the current approach adopted of SEPP No 15 and might exclude those lands primarily zoned on the basis of a particular land attribute or constraint, e.g. prime agricultural land zoned 1(b) – agriculture zone, or flood prone lands zoned 1(r) – riverlands.

- (iv) Provide and designate a landuse planning zone specifically for multiple occupancy.

- (v) Use individual property cadastral boundaries to specifically define land considered suitable for rural landsharing development.

- (vi) Define general localities

4.2.3 No future provision for rural landsharing development

This option is not considered viable or practical, inevitably it is likely that unauthorised use of land would result. To-date no substantive planning argument has been produced to prohibit further multiple occupancy development which, if undertaken in a planned and responsible manner, is generally accepted as a legitimate use of rural land for residential purposes, particularly in the region. Furthermore, the State Government has required that Council's local environmental plan enable the form of development in order for Council to achieve exemption from SEPP No 15.

4.2.4 Recommendation

For the purposes of facilitating the change from the State Government planning policy (SEPP No 15) to Local Government planning policies (LEP & DCP) and to recognise the current locational approach adopted by the State to enable future rural landsharing developments. It is recommended that general localities, in which land has been identified as potentially suitable for future rural landsharing communities, be utilised as a basis for providing and managing the form of development.

The localities should meet the land suitability assessment criteria described in the following section.

5 Criteria for Identifying Land with Potential for Rural Landsharing Communities

A key feature of Council's draft rural settlement strategy is the prior identification of lands considered potentially suitable for those forms of development. Closer rural settlement includes the use of rural land for rural residential subdivisions, multiple occupancy, rural hamlets, hobby farms and detached rural dual occupancy.

The criteria adopted for closer rural settlement was required by Council to be adopted in the preparation of the strategy for future rural landsharing development. — reference?

Therefore the range of assessment criteria that was chosen is generally the same as that adopted for the rural settlement strategy.

These assessment criteria are grouped into the following general categories:

- Landuse planning objectives
- Locational suitability
- Land suitability
- Availability of services
- Standard of vehicular access
- Potential development conflicts
- Environmental impacts
- Socio-economic impacts
- Community development benefits
- Environmental enhancement

See below.

The criteria, as the basic framework for identifying land potentially suitable for future rural landsharing opportunities, is modified in order to reflect the unique historic, socio-cultural and locational nature and characteristics of multiple occupancy development.

Council will not consider development of rural land for rural landsharing communities unless such land has been identified as being potentially suitable for this particular form of closer rural settlement.

5.1 Landuse planning objectives

Land considered potentially suitable for future rural landsharing development shall accord with the Department of Urban Affairs and Planning's "Guidelines on Rural Settlement on the North Coast of NSW" and shall be capable of being developed in an economically, environmentally and socially sustainable manner. Locations should reinforce the settlement pattern of existing multiple occupancies and not result in the fragmentation of prime agricultural land or sterilisation of resources, nor adversely affect existing amenity and the environment. Land should not be identified for rural landsharing developments where it is identified as being required for future urban or village development.

Development areas shall be accessible to services, be physically suitable for development, acceptable to local communities and not result in any adverse environmental impacts.

5.2 Locational suitability

Land potentially suitable for rural landsharing opportunities shall be readily accessible to at least one of the following types of existing community facilities and services which might act as an existing social 'conduit' or centre of community focus:

- primary school,
- shops,
- community halls or
- bushfire sheds.

Tentative Coop built all of these on their property
DISCRIMINATORY

Consequently, land should be within walking or easy cycling distance (approximately 3 – 5 kms, say 4 kms road distance) of the above types of facilities or an urban area, village or hamlet, which contains these facilities.

A map showing Lismore's existing settlement hierarchy and location of existing multiple occupancies is shown as **Map 1**.

Adequate separation shall be provided from areas of environmental, resource or agricultural significance. Identified localities should also offer an attractive living environment, outlook and aspect. Areas of heritage or Aboriginal significance or subject to development hazards must be avoided. It is expected that virtually all potentially suitable areas will be located within the existing General Rural 1(a) zone, as other rural zones are generally constrained in some way, eg flooding, prime agriculture, environmentally sensitive, etc.

5.2 Land suitability

In general, land must have the physical attributes to be able to ecologically sustain the development proposed. Consistent with the "Lismore City Broadhectare Study, 1994" by Dames and Moore the following three (3) types of constraints are identified to guide assessment of land suitability:

1. Absolute constraints: land attributes, which prohibit development and cannot be overcome in the foreseeable future.
2. Partial constraints: land attributes which either allow limited development to take place or for which development potential cannot be determined without further information. In either case, it is likely that development will cost more or have a lower yield in terms of potential number of dwelling sites.
3. No constraint: land attributes, which enable and are potentially suited to development.

This particular criteria is applied to ensure that unsuitable lands are excluded at a broader scale.

At the specific property level it is likely that a parcel of land will contain some areas comprising absolute or partially constrained land which, should not be developed for either residential or infrastructure purposes. However, the land parcel may also comprise land that is suitable for a rural landsharing development of a size (number of dwelling sites) design and, management regime suitable for the land.

It is important to establish and recognise as a design objective, that multiple occupancy development provide the number of dwellings that are sited in a manner to avoid unsuitable lands and minimise environmental impacts.

The following are considered as absolute constraints and should be excluded from areas considered to have potential for rural landsharing development:

- WHY?*
- 20% IN SEPT 15*
- RLCS record on env- sensitivity is excellent*
- land that predominantly comprises prime agricultural land. This includes lands that have been identified as having an agricultural land suitability class 1, 2 and 3 (as classified by NSW Agriculture). *prime???*
 - land that is in excess of 33% (1:4 or 45°) slope. Development on excessively steep slope is more likely to be subject to problems such as bushfire risk, soil erosion, mass movement, and provision of infrastructure such as roads and wastewater disposal.
 - land that is in a recognised high bushfire risk areas.
 - land that is floodprone.
 - land and contiguous vegetation communities that are environmentally significant by reason of the existence of protected, vulnerable and endangered flora and fauna scheduled under both the National Parks and Wildlife Act, 1974 and Threatened Species Conservation Act, 1995. This might include important vegetation communities, rainforest remnants, wildlife habitat, wildlife corridors and links between vegetation remnants.

Community infrastructure development including access roads, common wastewater treatment and disposal areas, water supplies must not be provided on lands exceeding 33% slope, or recognised as being environmentally sensitive.

Home improvement areas, building envelopes and dwelling sites should be free of hazards and risks from flooding, bushfire, contaminated land, poor drainage, potential for erosion and landslip and slopes exceeding 20%.

5.4 Availability of services

Services such as a school bus, postal service, telephone and electricity supply (if required) should be available to the locality and land or economically capable of being provided to the land. A sufficient on-site potable water supply and if necessary a reticulated rural raw water supply must be capable

of being provided without adversely affecting water quality and availability to other landholdings in the locality.

5.5 Standard of vehicular access

The primary or main road access into general localities considered to be suitable for rural landsharing development, shall be a sealed road of adequate standard to accommodate increased traffic likely to be generated from existing and future development to the nearest urban area or village. The minimum standard of this road is to be a 6 metre wide seal on an 8 metre gravel formation, with adequate pavement quality.

For the purposes of this strategy, roads with a minimum 6 metre seal and identified in the Lismore City Wide Roads Study as 'arterial', 'sub-arterial' and 'collector' roads are considered a suitable level of 'primary' access into localities considered suitable for future rural landsharing development. Appendix Three is a list and map of the roads.

In the first instance, lands considered to be potentially suitable for rural landsharing development must have direct access to an 'arterial', 'sub-arterial' and 'collector' road, excluding State Highways.

Council's s.94 Rural Roads Plan indicates that occupants of dwellings on multiple occupancies do not generate traffic at a rate equivalent to occupants of dwellings on other forms of closer rural settlement.

Therefore, a lesser road standard (reduced seal width or an all weather gravel surface) is considered an appropriate level of 'secondary' access from the primary access road to the land proposed to be developed and where:

- existing and future traffic levels are likely to remain very low (less than 200 traffic movements per day),
- the Councils maintenance costs for the length of the secondary road is not beyond the proportional financial capability of existing and the proposed development for the rural landsharing community,
- a safe standard of road access can be provided, and
- the length of the 'secondary' road to be used from the 'primary' access into the localities to the specific property is not greater than 2 kms.

Where the above standards of access currently does not exist, it must be shown that it is economically feasible for future development to meet the costs of upgrading existing substandard access roads.

Direct vehicular access from proposed communities to a State Highway should not be permitted. Where direct vehicular access to an 'arterial' road is proposed a Traffic Impact Study is to be prepared to justify the access requirements of the development.

5.6 Potential development conflicts

A number of activities in rural areas such as feedlots, quarries, intensive farming, dairies, horticulture, high tension power lines, offensive and

hazardous industries, rural industries and the like have potential to impact adversely on residential amenity associated with rural landsharing developments.

Land in close proximity to landuses which may adversely impact on residential amenity is not to be considered suitable for dwellings. Council's Development Control Plan No. 27 - Buffer Areas details buffers, which need to be provided between residential and potentially conflicting landuses.

The following known landuses and buffer areas nominated in DCP #27 are considered constrained and excluded from the strategy:

Table 6: Landuse Buffers.

Landuse	Primary buffer distance	Secondary buffer distance
Cattle tick dips	200 m.	
Abattoir	800 m.	1,000 m.
Quarries	> 10,000 m ³ pa: 500 m. 5,000-10,000 m ³ pa: 400 m. < 5,000 m ³ pa: 300 m.	> 10,000 m ³ pa: 800 m. 5,000-10,000 m ³ pa: 600 m. < 5,000 m ³ pa: 400 m.
Sewerage treatment works	400 m.	
Garbage tips	300 m.	
Rifle range	500 m, around range	
Airport	4,000 m. and runway approaches	

Rural landsharing developments should also be clearly separated from commercial forestry areas, significant wetlands, water catchment/conservation areas and areas of mineral or other resource value.

*why - if
Referent to
harvest such forests!*

5.7 Environmental impacts

An assessment must be made of the potential environmental impacts of any proposed rural landsharing development in terms of likely impacts on water quality (both ground and surface), erosion and land stability, flora and fauna, drainage, vegetation, other components of natural systems and on views from public roads. Any locations where likely adverse impacts are more than minimal are to be avoided.

5.8 Socio-economic impacts

Future rural landsharing developments generally should occur in areas, which complement existing settlement patterns, maintain or enhance the viability of existing communities, services and facilities and be acceptable to the local community. Areas developed should not result in adverse economic impacts such as a loss of good quality agricultural land, sterilisation of resources or lead to a restriction on farming practices or reduction in the amenity of existing residents.

Assess

Any location considered suitable must also be able to be feasibly developed having regard to land and development costs, including Council levies and

requirements relating to services and environmental protection. There should be reasonable certainty that the development will have an adequate cash flow to ensure that costs are met.

Locations, which may require potentially uneconomic extension of services, should be avoided.

5.9 Community development benefits

The development of areas considered suitable for rural landsharing opportunities should make a positive contribution to the community development of those localities. Positive contributions may include; reversal of population decline, provision of additional community facilities and services or improvement to existing facilities and services, creation of jobs, substantial improvement in the standard of road access and public transport, broadening of the population base, enhancement of the quality of life in the area, improved recreational facilities, etc.

The form of development increases opportunity and choice to purchase rural land to provide secure housing. Council's 'Lismore Affordable Housing Strategy' recognises multiple occupancy as an affordable housing option.

5.10 Environmental enhancement

Development is traditionally seen to have at least some adverse impact or at best a neutral impact on the environment. Current levels of demand would suggest that settlement of rural areas for primarily residential use should not be a high priority for Council, however, it is recognised that there is a legitimate market for this form of living.

Council's Rural Settlement Strategy requires that closer rural settlement create positive environmental impacts. Environmental benefits may include, for example, the restoration of degraded land and stream banks, re-forestation, habitat enhancement, tree planting and landscaping, creation of nature reserves or wildlife corridors or contributions to support conservation projects such as purchase and enhancement of environmentally sensitive lands.

6 Catchment Planning and Constraints Mapping

The above criteria were recognised in a two (2) staged 'sieve' mapping evaluation and assessment process undertaken to objectively ensure that future rural landsharing development will occur on land which, as a result of broad scale analysis, is considered suitable for the form of development.

It is recognised there are and will be limitations and possible errors in the accuracy of current computerised geographic information. It is envisaged that the strategy will be subject to review after each Australian Bureau of Statistics Population and Housing Census and the outcomes of a development monitor to ensure land supply is matched with demand.

A list of the information used, its source and date is attached as Appendix Two.

A summary of each of these stages follows:

Stage one: Broad scale physical and environmental land capability assessment

The primary purpose of this was the broad scale mapping and identification of lands, which posed no physical or environmental constraints to development.

Map 1 - Local Government Area and Existing Multiple Occupancies, describes the general character of the local government area and shows:

- boundaries of the local government area,
- existing multiple occupancies,
- the urban areas of Lismore and villages, the location of rural primary schools and country halls, the road network and watercourses.

Lands containing the following absolute constraints to rural landsharing development were identified at a local government area wide scale of 1 : 50,000 utilising Council's Geographic Information System (GIS) and MapInfo® software:

- land predominantly comprising prime agricultural land;
- land in excess of 33% (1:4 or 45°) slope;
- land in a recognised high bushfire risk areas; and
- land that is floodprone.

Onto these constraints were layered the Lismore LEP 1992 land use zones in which rural landsharing development is prohibited. These zones and areas included:

- Urban areas zoned; Nos. 2 residential & village, Nos. 3 business, No. 4 industrial and Nos. 6 recreation;
- Urban investigation areas identified on the zoning maps;
- Zone No. 1(d) – Investigation Zone;

- Zone No 1(f) – Forestry Zone;
- Zone No. 8 - National Parks and Nature Reserves;
- Zone No. 7(a) - Environmental Protection (Natural Vegetation and Wetlands);
- Zone No. 7(b) - Environmental Protection (Habitat);
- The area included in LEP No. 31 - Dunoon Water Supply Catchment; and
- The buffers areas for quarries, cattle tick dip sites, airport, rifle range, garbage tips and sewerage treatment works.

The integration of this information permits the objective identification of lands potentially most suitable for rural landsharing development in terms of their physical attributes. New up-dated information, particularly that sourced or available from State Government agencies such as NSW Agriculture and Dept. of Land and Water Conservation and outcomes of any future land assessment studies, e.g. a comprehensive city wide flora and fauna study can be incorporated into future strategy reviews when it becomes available.

The following maps show these absolute constrained lands:

Map 2 – High Bushfire Risk Areas and Flood Prone Lands, shows areas of high bushfire risk and flood prone lands.

Map 3 – Land Classified having a Land Capability Class I, II & III, shows land classified by the Dept. of Land & Water Conservation as having a land capability class I, II & III for agriculture. This information has been utilised as been broadly representative of the location of better agricultural land. The data will be revised when NSW Agriculture completes its revision of agricultural land suitability mapping in the local government area.

Map 4 – Slope > 33% and Mass Movement, shows slope greater than 33% and areas having a high and medium severity of mass movement.

Map 5 – Landuse Buffer Areas, shows buffers areas for quarries, cattle tick dip sites, airport, rifle range, garbage tips and sewerage treatment works.

Map 6 – Exclusion Landuse Zones and Areas, shows land use zones and areas in which rural landsharing development is prohibited.

Based on the above broad scale physical and environmental land capability assessment **Map 7 - Areas not Physically Constrained**, represents rural land that is not constrained by the above land attributes.

Stage Two: Social, economic and infrastructure servicing capability assessment.

Council's Rural Settlement Strategy recognises the existing historic settlement pattern or hierarchy as the basis for identifying and assessing 'social' servicing catchments. Refer to **Map1**. This hierarchy is generally based on

the size and level of services provided of the respective population centres in the local government area. It is important to recognise that the settlement hierarchy of Lismore and villages provide both a regional 'higher' order level of services to land in adjoining local government areas (e.g. Nimbin to areas of Kyogle and Tweed Shires) and exist as a 'lower' order of services to that provided in larger provincial cities and Southeast Queensland.

NOT Anecdotal evidence suggests a strong sense of community exists on multiple occupancies. This is evidenced by the number of the existing larger multiple occupancies either having, or the potential to provide; community support services such as a shop, community hall, spiritual or religious, educational and childcare facilities for themselves and to the wider community. Similarly, a number of communities and individuals within a community participate in the array of voluntary community services e.g. rural bushfire brigades, SES, land and river care, hall committee's etc. It is desirable that these unique aspects of existing multiple occupancy developments are recognised and used to build and reinforce the social catchments of existing multiple occupancies. ✓

As a part of the 'servicing' criteria for future rural landsharing opportunities, all lands with development potential defined in the physical and environmental land capability assessment were reduced to those lands with frontage to a suitable road network within 4 kms distance of the following:

- a rural primary school,
- known shops,
- community halls,
- existing multiple occupancy developments exceeding twenty five (25) approved dwellings sites,
- two or more adjoining existing multiple occupancy developments where the number of approved dwelling sites will exceed twenty-five (25).

In order to recognise the desirable minimum standard of roads [six (6) metre wide seal on an eight (8) metre formation] servicing the localities having development potential for rural landsharing roads of this standard were layered on the 'service' catchments. Roads currently of this standard are identified in Appendix Three.

The outcomes of the above assessment process is shown on **Map 8 - Social and Infrastructure Assessment**.

Map 8 shows rural primary schools, community halls, rural shops, existing individual and adjoining multiple occupancies exceeding 25 approved dwelling sites and roads meeting the road suitability criteria (Appendix Three).




Map 9 - Localities Considered Suitable for Future Rural Landsharing Development, shows the localities identified in the two stage assessment and considered the potentially most suitable for ecologically, socially and economically sustainable future rural landsharing development.



BILLEN
CLIFFS
(NOT MO)
STRATA PLAN

0 3.5 7
Kilometres

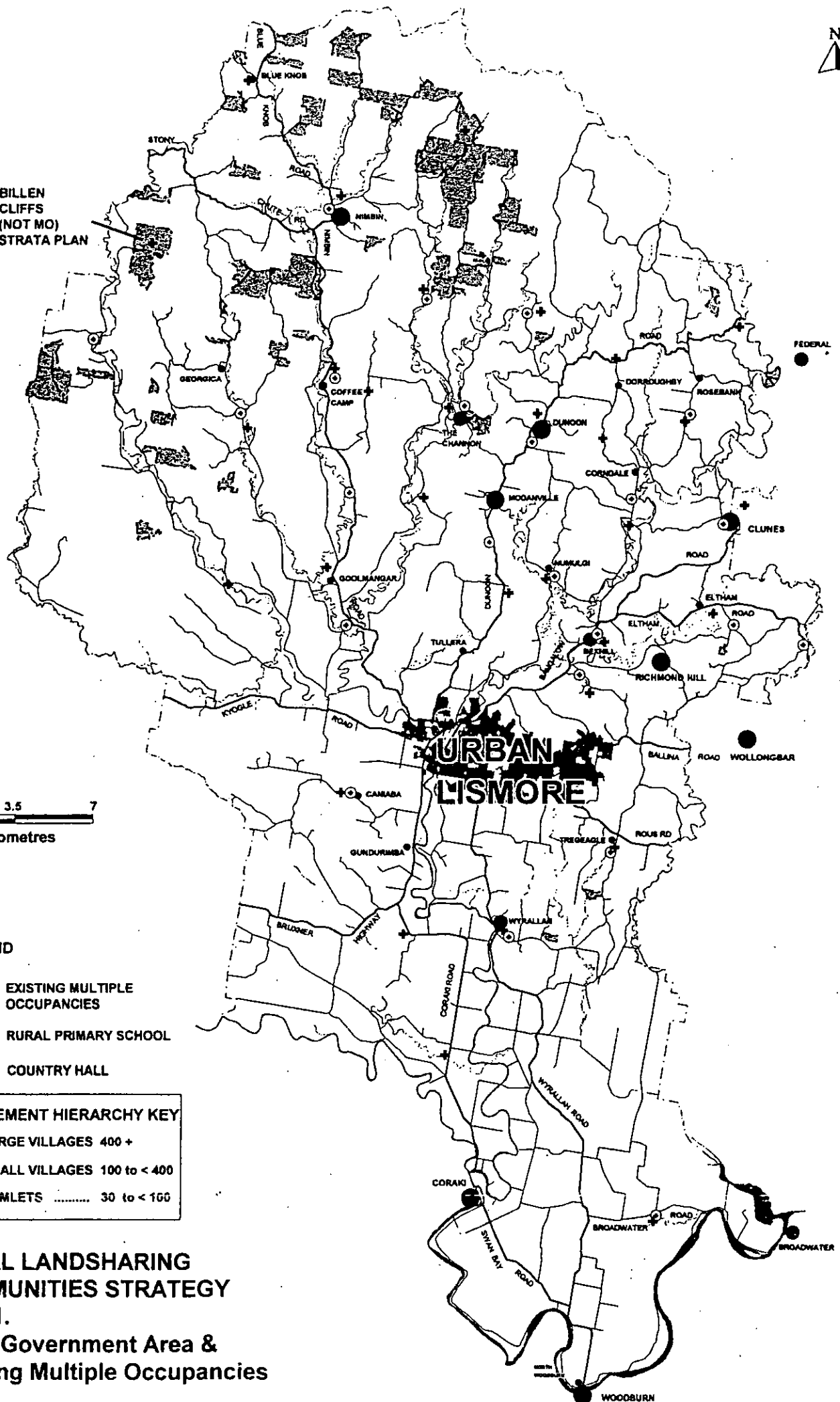
LEGEND

-  EXISTING MULTIPLE OCCUPANCIES
-  RURAL PRIMARY SCHOOL
-  COUNTRY HALL

SETTLEMENT HIERARCHY KEY

-  LARGE VILLAGES 400 +
-  SMALL VILLAGES 100 to < 400
-  HAMLETS 30 to < 100



RURAL LANDSHARING COMMUNITIES STRATEGY MAP 1. Local Government Area & Existing Multiple Occupancies



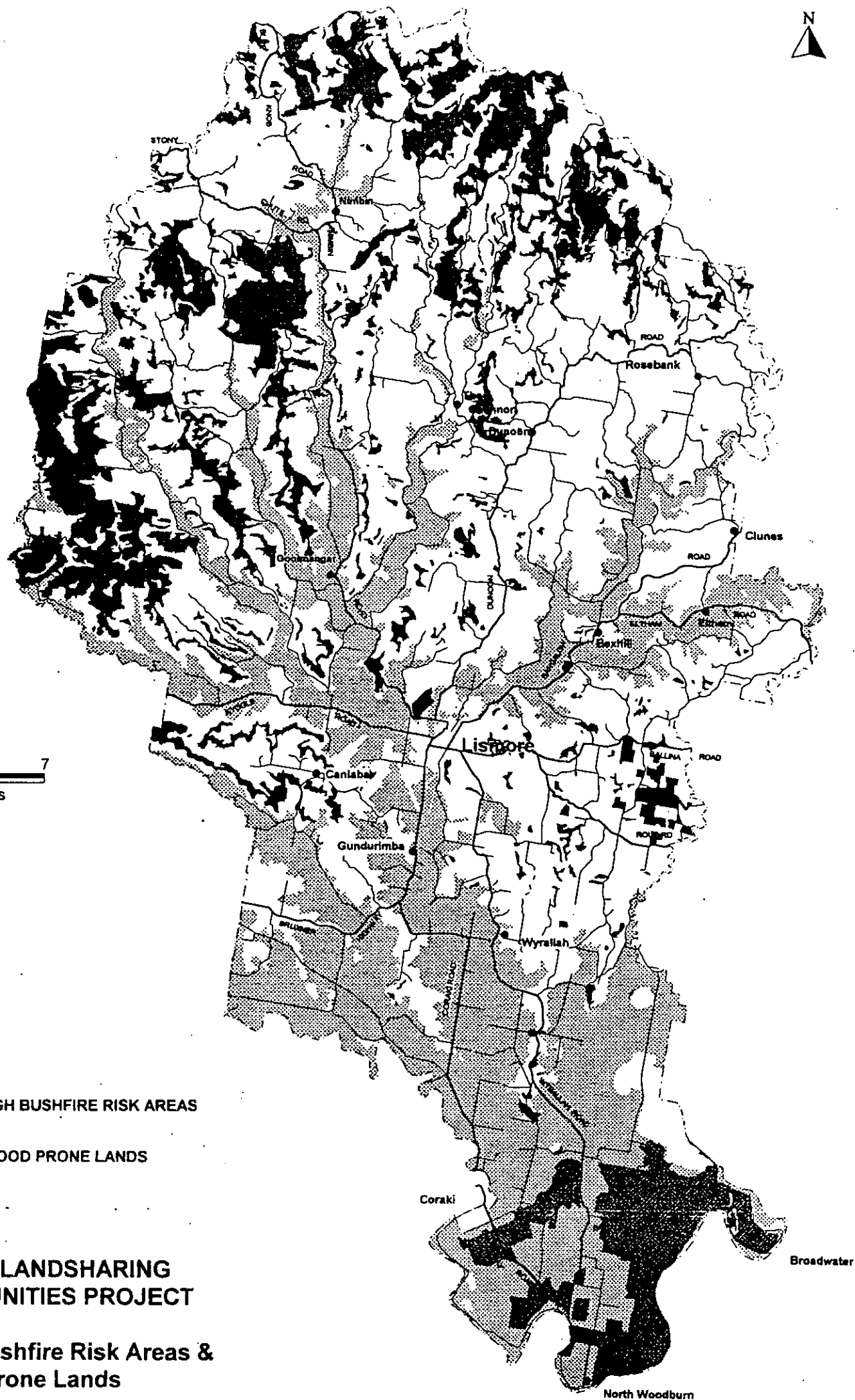


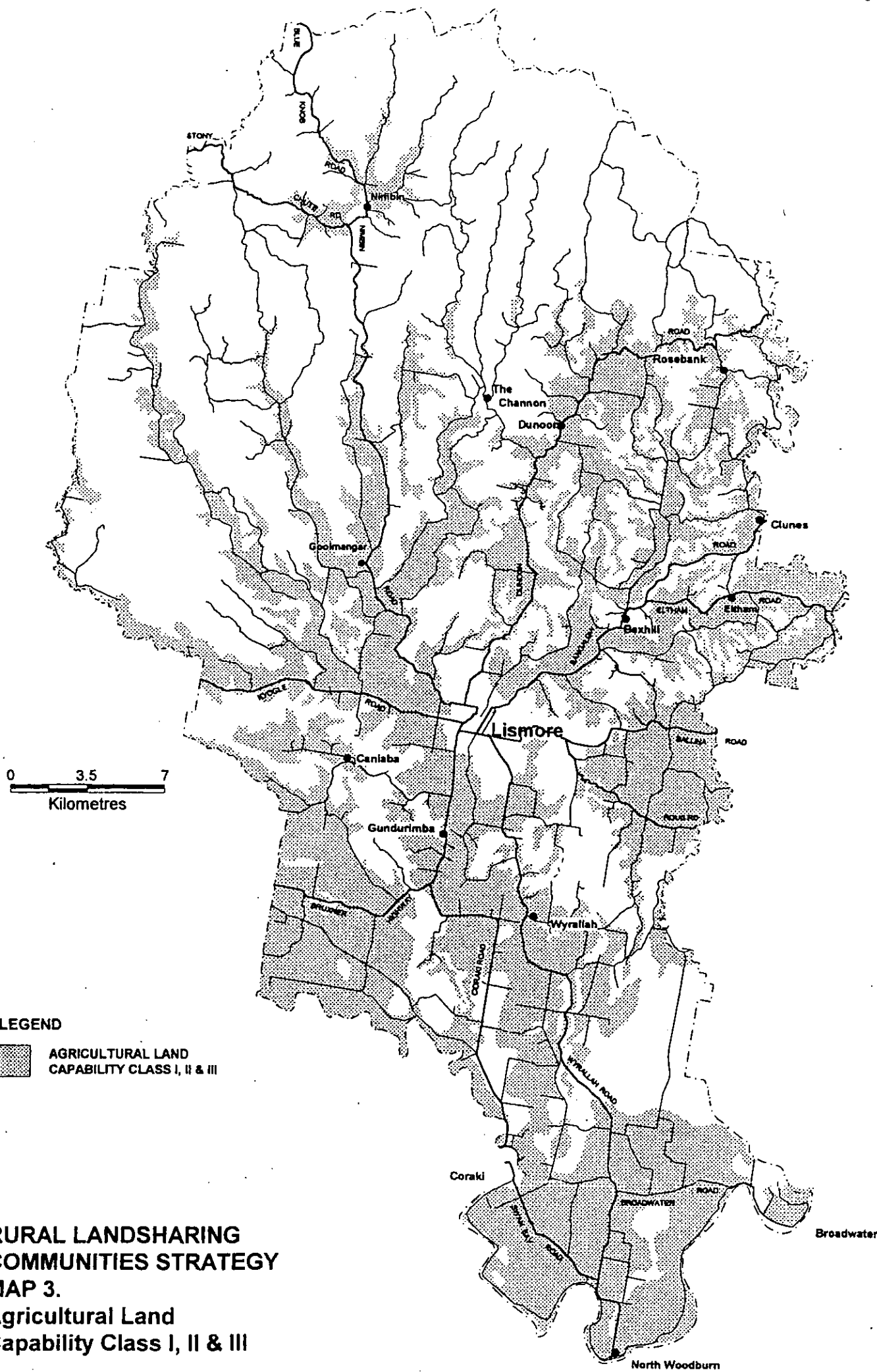
0 3.5 7
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LEGEND

-  HIGH BUSHFIRE RISK AREAS
-  FLOOD PRONE LANDS

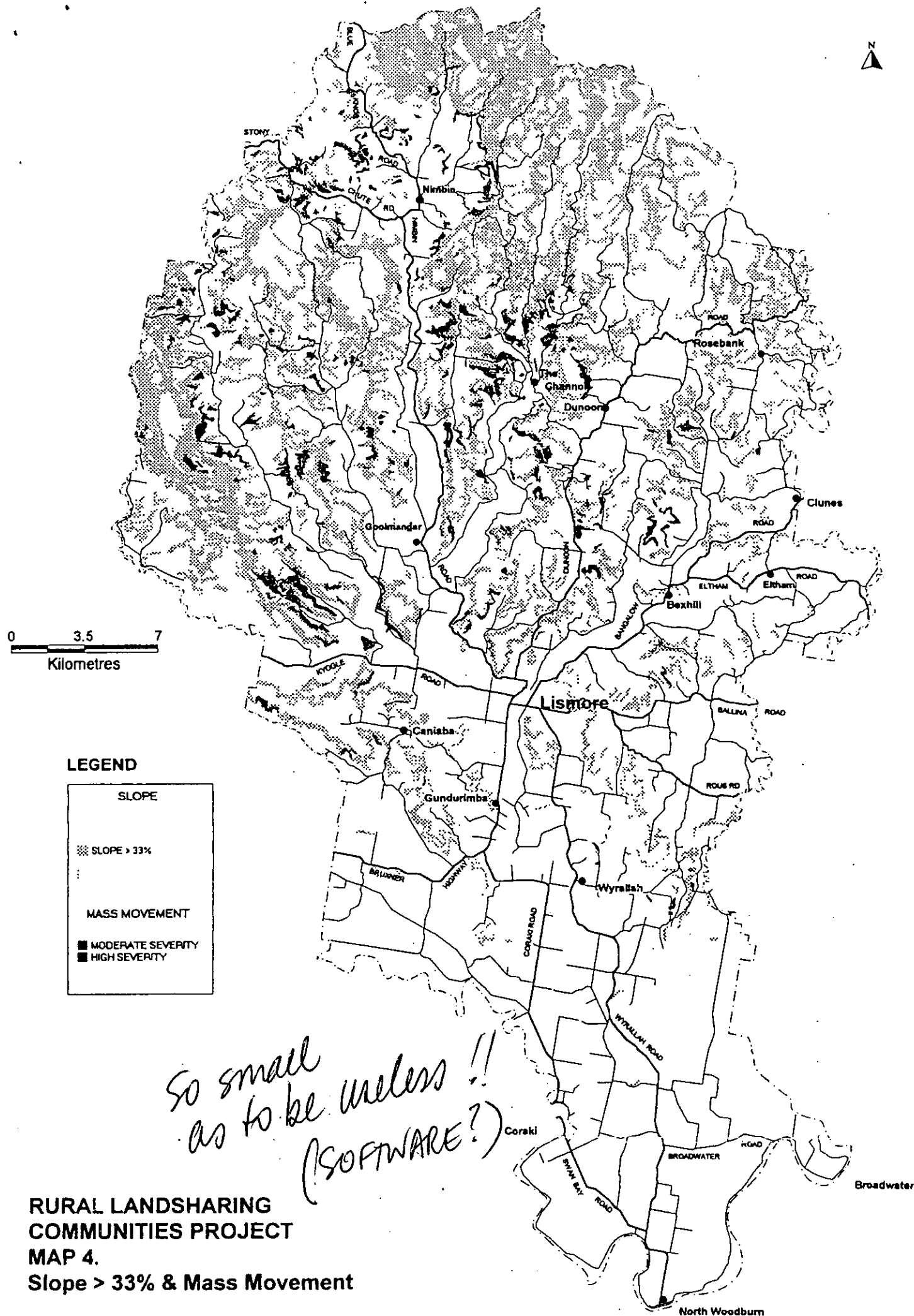
**RURAL LANDSHARING
COMMUNITIES PROJECT
MAP 2.
High Bushfire Risk Areas &
Flood Prone Lands**



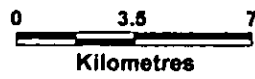


LEGEND
 AGRICULTURAL LAND
CAPABILITY CLASS I, II & III

**RURAL LANDSHARING
COMMUNITIES STRATEGY
MAP 3.
Agricultural Land
Capability Class I, II & III**









**RURAL LANDSHARING
COMMUNITIES PROJECT
MAP 4.
Slope > 33% & Mass Movement**



AIRPORT
BUFFER

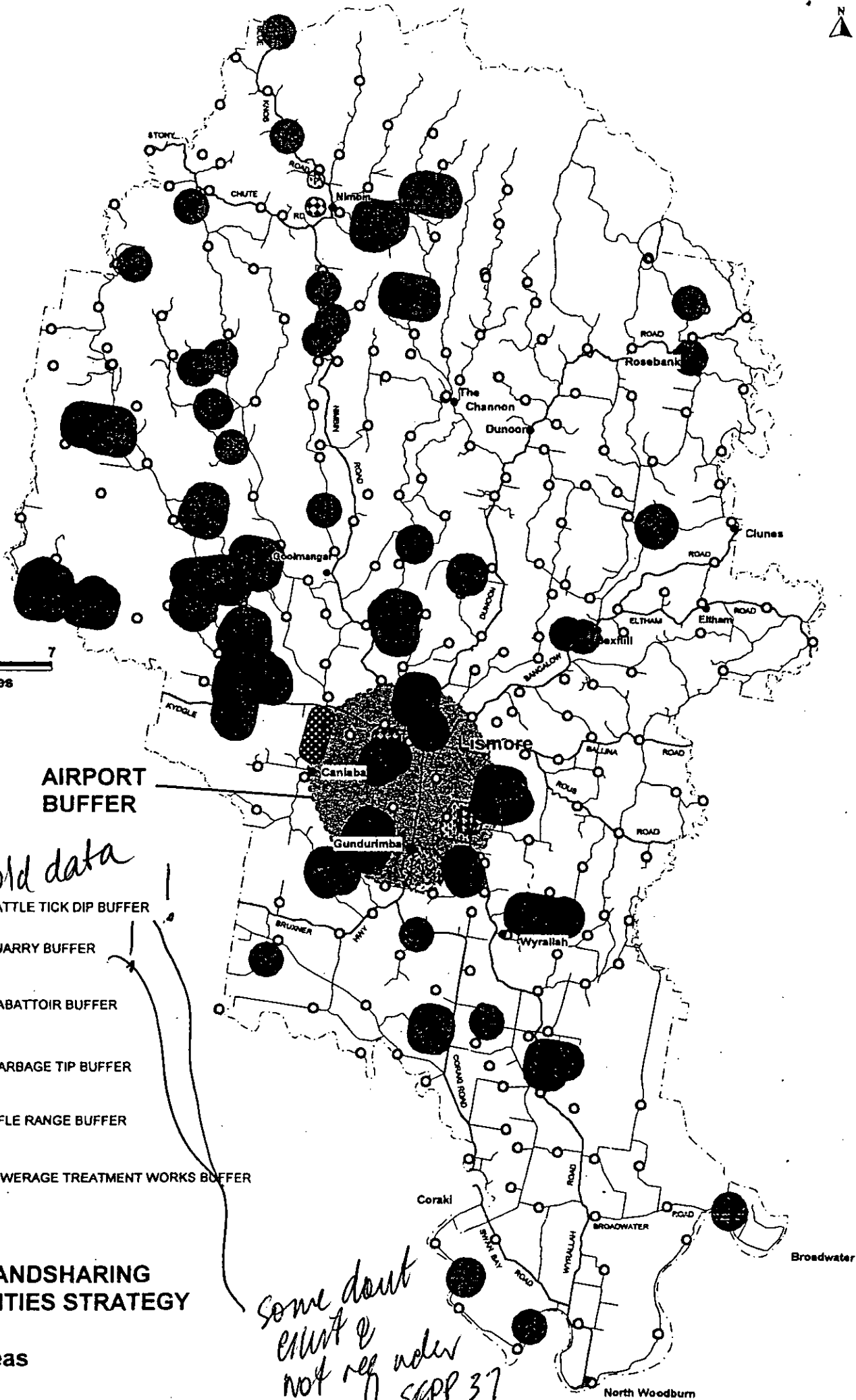
LEGEND

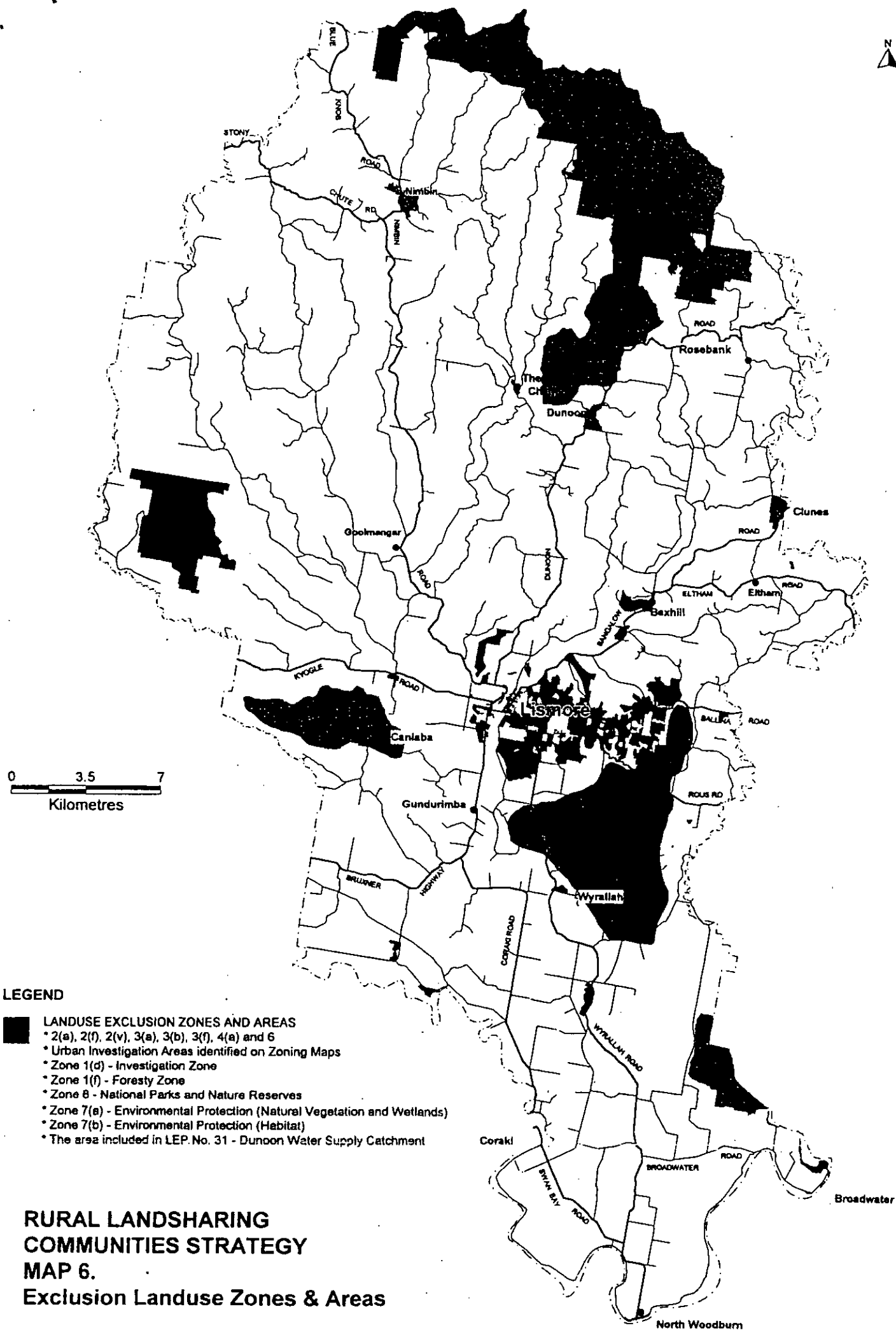
old data

-  200m CATTLE TICK DIP BUFFER
-  800m QUARRY BUFFER
-  1,000m ABATTOIR BUFFER
-  300m GARBAGE TIP BUFFER
-  500m RIFLE RANGE BUFFER
-  400m SEWERAGE TREATMENT WORKS BUFFER

RURAL LANDSHARING
COMMUNITIES STRATEGY
MAP 5.
Buffer Areas

*Some doubt
about
not ref under
SEPP 37*







0 3.5 7
Kilometres

LEGEND



AREAS NOT PHYSICALLY CONSTRAINED

RURAL LANDSHARING
COMMUNITIES STRATEGY
MAP 7.

Areas not Physically Constrained



THIS SHOULD
BE THE
MAPS FOR
RLC'S



*social
explain
this map*

PPK ROAD STUDY KEY

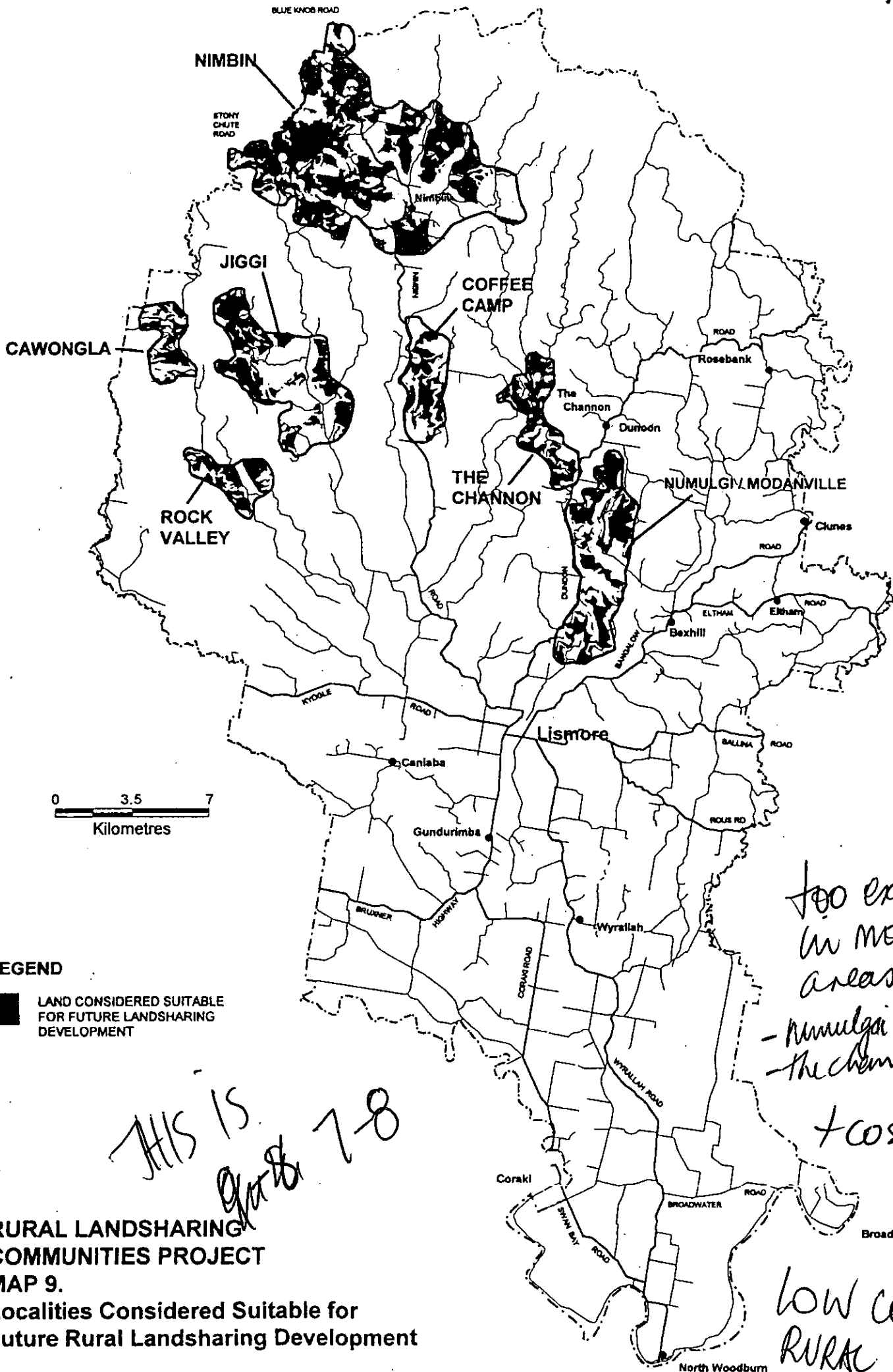
- ARTERIAL ROAD
- - - SUB ARTERIAL ROAD
- COLLECTOR ROAD

LEGEND

- ⊙ RURAL PRIMARY SCHOOL
- + COUNTRY HALL
- ⊙ BUSHFIRE STATIONS

Existing Multiple Occupancies
(exceeding twenty five (25) approved
dwelling sites, or with two or more adjoining
existing multiple occupancy developments
where the number of approved dwelling sites
will exceed twenty-five (25).

**RURAL LANDSHARING PROJECT
MAP 8.
Social & Infrastructure Assessment**



LEGEND

 LAND CONSIDERED SUITABLE FOR FUTURE LANDSHARING DEVELOPMENT

too expensive
 in most
 areas
 - Numulgin
 - The Channon
 + cost!

THIS IS
 78

RURAL LANDSHARING COMMUNITIES PROJECT MAP 9.

Localities Considered Suitable for
 Future Rural Landsharing Development

low cost
 RURAL
 HOUSING

7 Land Potentially Suitable for Rural Landsharing Development

The following is a general description of the localities shown on **Map 9** and considered to be potentially suitable for future rural landsharing opportunities.

7.1 Nimbin locality

The locality has an area of approximately ?? ha. The primary agricultural land uses are cattle grazing and intensive horticulture. Approximately 22 existing multiple occupancies either occur within or adjoin the locality. The locality is serviced by Nimbin village, which provides a range of services, e.g. primary and high school, health services, shops, community centre and recreational facilities etc. A number of other community halls and rural bushfire brigade sheds also occur in the area.

DISNEY LAND
Land meeting the suitability criteria in the locality provides a range of development opportunities for either 'themed' or more traditional 'residential rural landsharing communities, within reasonable proximity to Nimbin village and other established multiple occupancies. A road network providing an arterial and collector road level of service to Nimbin and Lismore services the locality.

Future development for rural landsharing communities will need to recognise existing rural landuses (e.g. piggeries and intensive horticulture) that have the potential to adversely impact on the residential amenity of rural landsharing developments.

7.2 Cawongla and Rock Valley localities

The localities have an area of approximately ?? ha. The primary agricultural landuse is cattle grazing. Six existing multiple occupancies occur or adjoin the localities. The Billen Cliffs community is located approximately 6 km from the areas. An existing rural primary school services the areas. A community hall is located at Rock Valley and another hall is located at the Billen Cliffs community.

The locality provides the opportunity for more 'isolated' rural landsharing development. Cawongla and Rock Valley Roads provide a 'collector' level of road service to Lismore.

7.3 Jiggi locality

The localities have an area of approximately ?? ha. The primary agricultural landuse is cattle grazing with scattered intensive horticultural landuses. Three existing multiple occupancies occur or adjoin the locality. An existing school and community hall is located in the area.

Jiggi Road provides a 'collector' and 'sub-arterial' level of road service between the locality and Lismore.

7.4 Coffee Camp locality

The localities have an area of approximately ?? ha. The primary agricultural land use is cattle grazing. A number of smaller existing multiple occupancies adjoin the locality. An existing school and two community halls are located in the area.

Nimbin Road provides an 'arterial' level of road service between the locality, Nimbin and Lismore.

7.5 The Channon locality

The locality has an area of approximately ?? ha. The primary agricultural land uses are cattle grazing and intensive horticulture. A number of existing multiple occupancies are located on lands to the north of The Channon village. One approved multiple occupancy occurs in the locality. The locality is serviced by The Channon village, which provides services and infrastructure such as a primary school, shop, hotel, hall and recreational facilities etc.

The Channon, Koonorigan and Tuntab Creek Road provide a 'collector' and 'sub-arterial' level of road service within the locality to the village. Dunoon Road provides an 'arterial' level of road service to Lismore or Dunoon village.

7.6 Numulgi / Modanville locality

The locality has an area of approximately ?? ha. The primary agricultural land uses are cattle grazing, dairying and intensive horticulture. Existing land use will limit the areas potentially suitable for the rural landsharing communities to be developed in the locality. Two rural schools and community halls are located either in or near the locality.

The Woodlawn / Numulgi Roads and Duncan Road provide a 'collector' and 'sub-arterial' level of road service between the locality and Lismore. Dunoon Road provides an 'arterial' level of road service to Lismore or Dunoon village.

The locality has the potential to provide for small rural landsharing developments that might be 'themed' or based on a co-operative agricultural use of the land.

7.7 Summary

The total area of the localities considered potentially suitable for rural landsharing development is approximately ?? ha. This represents approximately ?? % of the total (1,267 km² ha) land area in the local government area.

Not all land within the localities is suitable for development for rural landsharing communities. Lands to be developed must meet the assessment criteria and Councils adopted planning requirements.

A range of services and facilities such as a rural primary schools, community and privately owned halls and in most instances a rural bushfire brigade

sheds are located in or near the localities. The Channon, Dunoon and Nimbin villages provide a higher order of local commercial, light industrial and recreational convenience services and facilities.

A minimum 'collector' level sealed rural road provides the main public road access between the localities and Lismore and villages.

Lands within the localities provide for a broad range of 'traditional' and innovative rural landsharing development opportunities.

8 Method of Providing for Future Rural Landsharing Communities

The preparation of a draft Local Environmental Plan will recognise and fulfil:

- the resolution of Council to seek exemption from SEPP No 15;
- make local planning provision for rural landsharing communities; and
- the recent advice of the Dept of Urban Affairs and Planning.

In order to reduce the potential additional bulk to the Lismore LEP the preferred 'planning model' is the preparation of an enabling draft LEP supplemented by a DCP. Council has spent a considerable amount of work and time in preparing a DCP for multiple occupancy. It has been time 'tested' and shown to be a reasonable more detailed local set of 'guidelines'.

The following are draft plans, which may be prepared under the Environmental Planning and Assessment Act to enable rural landsharing communities in the local government area.

The draft plan instrument generally adopts the objectives and guidelines of SEPP No 15.

8.1 Draft Local Environmental Plan

Draft Local Environmental Plan - Rural Landsharing Communities.

Citation

1. This plan may be cited as Lismore Local Environmental Plan 1992 (Amendment No. ??) – Rural Landsharing (Multiple Occupancy) Communities

Aims, objectives etc

2. This plan aims to encourage and facilitate the development of rural landsharing (multiple occupancy) communities committed to environmentally sensitive and sustainable land use practices.

Land to which this plan applies

3. This plan applies to lands shown ?? on the map marked as "Lismore Local Environmental Plan 1992 (Amendment No. ??)" deposited in the office of Lismore City Council.

Relationship to other environmental planning instruments

4. This plan amends as Lismore Local Environmental Plan 1992 in the manner set out in Clause 5.

Amendment to Lismore Local Environmental Plan 1992

5. Lismore Local Environmental Plan 1992 is amended by ?? and inserting the following new clause ??

(??)(1) This clause applies to land as identified in ?? on the map marked as "Lismore Local Environmental Plan 1992 (Amendment No. ??)".

(2) The objectives of this clause are:

- (a) to enable:
 - (i) people to collectively own a single allotment of land and use it as their principal place of residence, and
 - (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
- (b) to facilitate development, preferably in a clustered style:
 - (i) in a manner that both protects the environment and does not create a demand for the unreasonable or uneconomic provision of public amenities or public, ~~and~~ SERVICES
 - (ii) in a manner that does not involve subdivision, strata title or any other form of separate land title, and in a manner that 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.

(3) Definitions

In this clause:

"home improvement area" means the area of land, not exceeding 5000 square metres, around a dwelling (this expression is defined in this Clause for the purpose of designating the use of the area of land so defined and not for the purpose of creating a separate entitlement to the area of land by way of subdivision or agreement prohibited by this plan).

"prime crop and pasture land" means land within an area:

- (a) identified, on a map prepared 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, or
- (b) identified, on a map prepared 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 Plan.

(4) Rural landsharing community

The Council may consent to development for the purposes of three (3) or more dwellings, inclusive of any existing dwellings on land, to which this Clause applies if:

- (a) the land comprises a single allotment not subdivided, and
- (b) the land has an area of not less than 10 hectares, and
- (c) the part of the land on which any dwelling, structure, infrastructure or works is proposed to be situated does not have a slope in excess of 18 degrees, and
- (d) not more than 25 per cent of the land consists of prime crop and pasture land, and ** consistent*
- (e) the land is within an locality area nominated to be potentially suitable for rural landsharing development, and
- (f) the aims of this Clause are met

(5) Notice of development applications - advertised development
Section 79(A) of the Environmental Planning and Assessment Act 1979 apply to development for the purposes of rural landsharing communities.

(6) Matters for council to consider

A council must not consent to an application made in pursuance of clause 4 unless it has taken into consideration such of the following matters as are of relevance to the development the subject of the application:

- (a) the means proposed for establishing land and home improvement area ownership, dwelling occupancy rights, environmental and community management,
- (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, if required by the applicant, the availability of electricity and telephone services,
- (g) the availability of community facilities and services to meet the needs of the occupants of the land,
- (h) whether adequate provision has been made for waste disposal from the land,
- (i) the impact on the vegetation cover of the land and any measures proposed for environmental protection, site rehabilitation or reafforestation,
- (j) whether the land is subject to a risk of flooding, bush fires, landslip or erosion or whether there are areas with actual or potential acid sulfate soils 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,

- (k) the visual impact of the proposed development on the landscape,
(l) the effect of the proposed development on the present and potential use, including agricultural use, of the land and of lands in the vicinity, including the need for separation and buffers to avoid land use conflicts,
(m) the effect of the proposed development on the quality of the water resources in the vicinity,

*burden
of
proof ??
Who provides
the buffer.*

(7) Environmental management plans

Council shall not consent to an application for rural landsharing development unless the applicant has submitted with the application an environmental management plan for the development that makes adequate provision for the following:

- (a) water management,
- (b) waste management,
- (c) prevention, control and management of soil erosion,
- (d) bush fire management,
- (e) management of flora and fauna and land repair and enhancement,
- (f) communal plan for social organisation and understanding,
- (g) provision and maintenance of internal roads, boundary fences, water reticulation, service corridors for telephone and electricity cables and similar matters.

(8) Density of development

(1) Subject to subclause (2), a council shall not consent to an application for a rural landsharing community 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 is to 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

(9) Subdivision prohibited

(1) If development is carried out on land pursuant to this Clause the subdivision of the land is prohibited.

(2) Subclause (1) does not apply with respect to the subdivision of land for the purpose of any one or more of the following:

- (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,
- (f) excising from an allotment land that is, or is intended to be, used for public purposes, including drainage purposes, bush fire brigade or other rescue service purposes or public conveniences.

8.2 Draft Development Control Plan

The draft development control plan can either be adopted as a plan under the Act or as a policy of Council. The draft plan is a refined version that submitted to Council at the time SEPP No 15 was gazetted.

Draft Development Control Plan – Performance Guidelines for Rural Landsharing Communities.

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 - 1.2 Aims and objectives
 - 1.3 Land to which this Plan applies
 - 1.4 Commencement date
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 - 2.9 Cemeteries
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 - 2.11 Fire protection
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 - 2.16 Restricted uses and ancillary development
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1. INTRODUCTION

1.1 Citation

This plan may be cited as Development Control Plan No. 37 - Rural Landsharing Communities. It constitutes a Development Control Plan prepared and adopted in accordance with the provisions of the Environmental Planning and Assessment Act 1979 (as amended), and the Regulations thereunder.

1.2 Aim

To supplement the provisions of Lismore local Environmental Plan 1992 (Amendment No ??) by providing details and guidelines to assist applicants making a Development Application for a Rural Landsharing.

1.3 Land to which this Plan applies

This plan applies to lands shown ?? on the map marked as "Lismore Local Environmental Plan 1992 (Amendment No. ??)" deposited in the office of Lismore City Council

1.4 Commencement date

This Plan will become effective on the date upon which Council gives public notification of its decision to adopt the Plan.

1.5 Amendments

This Plan may be varied in part or in full by a decision of the Council in the manner provided by the Environmental Planning and Assessment Regulation 1994 (as amended).

Where Council is of the opinion that strict compliance with a specified numerical standard or requirement is unreasonable or unnecessary, it may permit such a variation notwithstanding the above clause.

In all cases where a departure or variation is sought, all the appropriate aims and objectives of the "Lismore Local Environmental Plan 1992 (Amendment No. ??)" must, in the opinion of Council, be met.

1.6 Relationship to other planning instruments

This Plan should be read in conjunction with:

- Lismore Local Environmental Plan 1992 (as amended),
- North Coast Regional Environmental Plan 1988 (as amended),
- Department of Urban Affairs and Planning titled "Guidelines on Rural Settlement on the North Coast of NSW",
- Rural community services and facilities plan applying to locality in which the development is proposed,
- Section 94 Contributions Plans for rural roads, public open space, State Emergency Services and bushfire services and,
- DCP No. 27 - Buffer Areas.

1.7 Definitions

1.7.1 For the purposes of this plan the following definitions apply:

"Expanded dwelling" means one dwelling-house developed under the following circumstances:

- All habitable structures exist within an area equivalent to a circle of 60 metres diameter,
- Structures to be connected by all weather accessways easily traversed,
- Structures may be used for tourist accommodation only where the development consent of Council is obtained,
- Only one kitchen and laundry facility are present,
- There being an identifiable common (living) room to be so used,

- All structures within the expanded house cluster require a building permit through a development application and compliance with the Building Code of Australia.

"prime crop and pasture land" means land within an area:

- (d) identified, on a map prepared before the commencement of this Clause 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, or
- (e) 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
- (f) 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 Clause.

2. APPLICATION REQUIREMENTS, PROCESSES, ASSESSMENT MATTERS AND PERFORMANCE STANDARDS

2.1 Application requirements

Development may, with the consent of Council, be carried out for the purposes of establishing a rural landsharing community on land to which this plan applies if it meets the general requirements of "Lismore Local Environmental Plan 1992 (amendment ??) and:

- the height of any building on the land does not exceed 8 metres, and
- not more than 25% of the land consists of prime crop and pasture land, and
- the part of the land on which any dwelling is to be situated is not prime crop and pasture land, and
- the part of the land on which any structure or work is to be situated is not land that is a wildlife refuge, wildlife corridor or wildlife management area and development and management of the rural landsharing community does not adversely affect any area identified as a wildlife refuge, wildlife corridor or wildlife management area, and
- 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 in Lismore Local Environmental Plan 1992, and
- the part of the land on which any structure is to be situated does not have a slope in excess of 18 degrees, or has been determined not to be prone to mass movement.

Applicants are encouraged to approach Council with preliminary concept plans prior to lodgement of development applications.

It is recommended that applicants who are considering preparing a Development Application (particularly where more than five dwellings are proposed) consult with persons qualified and skilled in environmental impact assessment.

Some of the areas of expertise necessary to submit a development application, which meets the requirements of this plan, will include; engineering geotechnical, wastewater, water quantity testing and hydraulic advice, agricultural suitability assessments, and flora & fauna assessment.

Development Applications for rural landsharing communities are to be made on the prescribed form, obtainable from Council. Ten copies of the application plans and Statement of Environmental Effects should be provided.

2.1.1 Plans and Statement of Environmental Effects

A site analysis is to form part of the application and provide the following information on plans and in documentation (where relevant). Plans are to be drawn to a scale appropriate to the size of land and proposed development and provide the following detail (where relevant):

With regard to the physical characteristics of the site:

- site dimensions and site area,
- spot levels, contours and north point,
- views to and from the site,
- prevailing winds,
- orientation, micro climates, significant noise sources,
- land with a slope greater than 18 degrees,
- watercourses and groundwater resources,
- natural wetlands,
- land subject to pondage, seasonal waterlogging, high watertable or salinity,
- natural drainage,
- any part of the land that is subject to a risk of flooding, bush fires, landslip, erosion (or areas with actual or potential acid sulfate soils) or any other physical constraint to development of the land in accordance with this Plan,
- soil types and, where present, the geology of any rocky outcrops on the site,
- any part of the land that is prime crop and pasture land,
- any parts of the land that contain significant natural vegetation areas, wildlife corridors, refuges or reserves and areas requiring environmental protection or areas where rehabilitation or reafforestation will be carried out.
- A Section 5A of the Environmental Planning and Assessment Act 1979 assessment of the on effect flora and fauna,
- the current situation in relation to the extent of noxious weed infestation, including a report / certificate from the local authority (as defined in the Noxious Weeds Act 1993),

- identification of previous use and any contaminated soils or filled areas,
- location of known resources of mineral or extractive deposits on or adjacent to the proposed development or otherwise potentially sterilised by the development,
- any road reserve areas that impinge on the site,
- location of fences, boundaries and any other notable features (natural or historical),
- any heritage items (including items of Aboriginal heritage), relics and sites, and their curtilages.

With regard to the development details of the site:

- location of dwellings, expanded dwellings, buildings and other structures,
- indicative footprints of the proposed buildings,
- design and siting of proposed dwellings, if known at DA stage,
- any areas of the site to be used for development other than dwellings,
- proposed access from a public road to the area or areas in which the dwellings are to be situated (plus other tracks necessary for agricultural use, firefighting or property maintenance and any tracks that cross Crown land or watercourses),
- easements for drainage services,
- source and capacity of any water supply, electricity, telephone and waste disposal systems for the dwellings, plus strategies for dealing with domestic wastewater, areas designated for storage of solid waste. An assessment of water supply flow rate quantity, drought reliability and quality is to be provided.
- areas designated for landfill of solid waste,
- where possible, measures aimed at preventing the spread of bushfire.

With regard to the land surrounding the site:

- the heritage significance of surrounding buildings and landscape,
- characteristics of any adjacent public land,
- directions and distances to childcare and education facilities, shops, public halls, sport and recreation facilities, bushfire services, public transport routes,
- a brief description of the land uses on surrounding land.

2.1.2 Environmental Management Plan

The "Lismore Local Environmental Plan 1992 (amendment ??) requires that an Environmental Management Plan be prepared as part of an application for a proposed rural landsharing community. The management plan should comprise map/s and supporting documentation and address the following matters:

- (a) water management,
- (b) waste management,
- (c) prevention, control and management of soil erosion,
- (d) bush fire management,

- (e) management of flora and fauna and land repair and enhancement,
- (f) communal plan for social organisation and understanding,
- (g) provision and maintenance of internal roads, boundary fences, water reticulation, service corridors for telephone and electricity cables and similar matters.

Applicants are encouraged to prepare a comprehensive plan addressing each of the above matters, as much of the information will overlap.

This DCP contains general guidelines to assist in the preparation of the environmental management plan. Refer to:

- Section 2.4.4 – water management,
- Section 2.5.6 – waste management,
- Section 2.2.4 – soil erosion and
- Section 2.11.1 – bushfire.

The 'key' aspects of a communal plan for social organisation and understanding should be identified and briefly described in the application. The plan may include the issues of:

- ownership of dogs, cats and firearms,
- noise generation,
- maintenance of common facilities and utilities such roads, water supply, effluent and wastewater treatment, garbage disposal, recycling etc.,
- use of common land,
- internal conflict resolution, and the engaging of a facilitator if required,
- external conflict resolution, including the manner of resolving difficulties with neighbours, and utilisation of the mediation process as established by the Land and Environment Court Act,
- community social bonding etc.

If the development is to occur in stages, the communal plan is an appropriate mechanism to provide this information indicating anticipated timing of stages. Note: Council recognises the diverse evolutionary nature of rural landsharing communities, and recognises that precise figures and timing are not necessarily binding on the applicant.

2.1.3 On-site requirements

All dwelling sites are to be identified by a numbered peg / flag / stake. Internal access roads are to be pegged at twenty metre intervals and the location of water sources are to be identified.

2.1.4 Advertising

All applications for rural landsharing communities are subject to the provisions for advertised development in the Environmental Planning and Assessment Act 1979 (as amended).

All applications shall be notified to adjoining owners and advertised at least once in a local newspaper. This notice advises that the details of the application may be inspected at Council offices for a period of 21 days, and that within that period, submissions will be received either in support of or in objection to proposals. Where an objection is made, reasons for the objection have to be set out in the submission.

The period of exhibition may extend to 40 days where an application includes 10 dwelling sites or more.

Council has a statutory obligation to process a development application within 40 days, or where referral to other agencies is required, within 60 days. Proposals for larger Rural Landsharing Communities, usually exceeding 10 dwelling sites, have in the past generated varying degrees of public interest, hence in some instances the above time frames may not be able to be achieved.

To permit ample public participation in the planning process, experience suggests that an exhibition period of a maximum of 40 days permits ample opportunity for comment. When an application has not been determined by the end of the statutory processing time, applicants may consider the application to be deemed to be refused, and may appeal the matter to the Land and Environment Court. Council will advise applicants of the assessment and reasons for exhibition periods.

2.1.5 Ownership and responsibility

It is a requirement that all the owner(s) of the property sign the development application form. The communal management body shall be nominated on the application form, and shall be responsible for all commitments and obligations to Council. This body shall receive, on behalf of all owners and tenants, notices issued by Council in respect of the rural landsharing community.

Where a rural landsharing community is being established by an individual speculator, consortium or government agency, it is expected that the development application be staged. The first stage will comprise an application by the developer, and the second stage will comprise an application by, or endorsed by, the community management body.

2.2 Access

2.2.1 Public road access

Direct vehicular access from proposed communities to a State Highway is not permitted. Where direct vehicular access to an 'arterial' road is proposed a

D!
attempts to stop the conflict between community owners & individual owner.

when King-
to be retained
Janet Latham
or
Brian
Munro

Traffic Impact Study is to be prepared to substantiate the access requirements of the development.

Public road access to a holding shall be via a constructed road, which may have a gravel surface. The access is not required to be flood free.

Gravel roads are considered satisfactory where:

- existing and future traffic levels are likely to remain very low (less than 200 traffic movements per day),
- the Council's maintenance costs for the length of the secondary road is not beyond the proportional financial capability of existing and the proposed developments for the rural landsharing community,
- a safe standard of road access can be provided and
- the length of the 'secondary' road to be used from the 'principal' access into the localities to the specific property is not greater than 2 kms.

2.2.2 Access between land and a public road

Any road access between a public road (Council constructed and maintained) and the boundary of land proposed for a rural landsharing community shall generally be in accordance with Council's standards.

These roads must:

- have a width suitable for two vehicles at the access point onto the public road,
- have a width suitable for one-way traffic and provide suitable two lane passing points at intervals which suit topography and traffic visibility points, and
- have a minimum surface suitable for two-wheel drive and emergency vehicles in wet weather.

Access to the land may be by use of a right-of-way providing:

- satisfactory legal opinion supports the use of the right-of-way by the proposed rural landsharing community and
- the access is constructed to Council's adopted road standards.

2.2.3 Internal access

Standards for internal access roads within the subject allotment are generally for the owners to decide, but shall not exceed a grade of 20% (1:5 or 11°) unless constructed to meet Council's standards.

Roads shall be constructed and drained to provide most weather access and to minimise soil erosion. When internal access is located on existing or potential mass movement areas, geotechnical engineering advice / comments should be provided with the development application.

Where roads are on sloping land, it is recommended that the Department of Land and Water Conservation be consulted for advice.

Vehicle access to individual dwelling sites is optional. Emergency access by four-wheel drive to within at least 15 metres of each dwelling must be provided.

2.2.4 Soil erosion control plan

The soil erosion control plan should show and address the management of on-site soils in particular at building sites and internal access. The plan should address the following (where relevant):

- Site characteristics including:
 - topography,
 - soils (types and limitations)
 - potential problem areas (high erosion areas, wet, slip and slump areas and steep land)
 - environmentally sensitive areas (significant drainage lines, watercourses)
- Location of access roads, parking areas and building sites
 - nature and extent of earthworks
- Selected erosion control practices
 - temporary during construction and
 - permanent (catch drains, dams, windrows, stabilising techniques, proposed drainage etc.)
- Staging of preventative measures
 - integration with vegetation and water management

2.3 Buildings

2.3.1 Approvals

Development approval for each building **MUST** be obtained from Council before erecting or expanding any building on the land unless otherwise advised by Council's Planning and Development Group.

Each residential and communal building must comply with the Local Government Act and Building Code of Australia, except for exempt and complying development that does not require Council approval.

A geotechnical assessment of each building site or cluster area is required stating the classification of each site in accordance with Australian Standard No. 2870: Residential Slabs and Footings.

All development applications shall conform with the approval.

2.3.2 Building location and height

No buildings shall exceed 8 metres in height, from natural ground level, nor be erected on prominent ridge lines, land liable to flooding, existing or potential landslip or on prime crop and pasture land.

Building setbacks from boundaries should recognise the adjoining land uses. If required, buffer areas shall be provided in accordance with the requirements of DCP No. 27 - Buffer Areas.

2.3.3 Temporary accommodation

In order to provide for transitional accommodation during the process of construction of permanent dwellings, Council has a policy and issues licenses for temporary residential occupation of rural land. Licenses are subject to application and will include the following typical requirements:

- owners are to occupy the temporary accommodation,
- licenses are not transferable,
- development consent for dwellings are to be obtained within 12 months of licence date of issue,
- adequate water and sanitary facilities are to be provided prior to temporary accommodation.

Development approval for the rural landsharing community is required prior to the issue of any temporary accommodation licences, in excess of one license.

2.3.4 Construction fire standards

Dwellings and expanded dwellings located in a designated bushfire risk area are to be constructed in accordance with Australian Standard No. 3959: "Construction of Buildings in Bushfire Prone Areas". Buildings generally should protect combustible materials and openings into and under the building.

2.4 Water Supply

2.4.1 General

In the development of land for a rural landsharing community, the impact on water resources should be examined in detail. Developments should not necessarily be reliant on creek and river supply for domestic use and should provide stored or ground water reserves for domestic agricultural and fire protection purposes.

2.4.2 Potable water

An adequate potable water supply with a demonstrated drought reliability shall be made available to each dwelling.

A piped water supply shall be provided to each kitchen, fed from an appropriate source. Such a source could be roof water collection tanks, springs, bores or dams independent of existing creek and river supplies. A minimum of 5,000 litres storage per person for domestic use is suggested if the supply is from roof water.

It is recommended that water supply quality be tested to ensure it is safe for drinking. Council's Environmental Health Section can provide suitable testing advice.

2.4.3 Firefighting reserves

In areas likely to comprise medium or high bushfire risk areas, appropriate reserved supplies of water for fire fighting purposes shall be maintained in suitable tanks or dams, if adequate permanent pools in creeks or rivers are

not available. Any water pumped or reticulated in pipes, plastic pipes, such as poly pipes, from these sources shall be laid underground where possible.

For advice on the appropriate capacity of these reserves, contact Council's Fire Control Officer.

It is recommended that connection points with standard fittings for fire hoses be placed at intervals, at the end of any reticulated water lines and / or at access roads to the property. Where pressure or flow is not adequate, a standby pump is strongly recommended.

MUST be available.

2.4.4 Water management plan

The water management plan should show and address the management of at least the following (where relevant):

- location of drainage lines, ground water, bores, wells, springs, dams, swamps, floodplains and seasonal wet areas,
- location, source and capacity of water supply for domestic, agricultural and fire prevention uses,
- seasonal water needs and storage capacities,
- vegetation buffers between areas of development and waterways,
- erosion and sediment control measures,
- land clearing and shaping,
- drainage facilities and discharge points.

2.5 Effluent disposal

2.5.1 General

A septic or other approved system, e.g. composting toilet shall service all dwellings or expanded dwellings. Such systems shall be in conformity with the requirements of Council's Environmental Health Section, and approved by the Health Department of NSW (Council has a list of approved systems). Some systems not approved may also be permitted after consultation with Council's Environmental Health Section. Septic systems must have an adequate water supply.

Earth closets and pit toilets will only be considered as a temporary means of effluent disposal. Approved systems shall be in place within two years of issuance of a temporary residential occupation licence or development application for the dwelling.

2.5.2 System location and construction

The location, construction and size of absorption trenches is to be in accordance with Council's effluent guidelines.

No pit, closet, sullage or septic effluent absorption trench shall be located within 50 metres of any water course.

All grey water (bathroom, laundry, kitchen) is to pass through a holding tank (min. 1200ltr) prior to subsoil disposal in accordance with Council's effluent guidelines.

No sullage water shall be discharged onto the ground surface. Sullage water may be considered for re-use proposals after being collected in the holding tank. All effluent re-use is to be discussed with and approved by Council's Environmental Health Section.

2.5.3 Wastewater assessment

At the time of submitting a development application Council requires the provision of an effluent disposal report addressing the following matters :

A contour plan of the dwelling sites at maximum 500mm intervals and to an approved scale, it should show significant site features, eg drainage lines and water courses, escarpments, rock outcrops and significant trees.

Details of site assessment procedures for each individual allotment including reference to AS1547 and to other recognised standards/practices. Effluent loadings, soil characteristics, biomass permeability and the impact of ground and surface water should also be addressed. Potential effluent reduction by water conservation practices or devices may also be included.

Provide information on the long term capability of the land to accept effluent and include minimum design details for effluent disposal systems addressing the following:

- provision of expanded dwelling developments;
- replacement of effluent disposal areas;
- identify preferred areas on each home management area for effluent disposal and identify likely house sites. Effluent disposal areas should avoid landslip areas and not be subject to any vehicular traffic and be clear of areas utilised for general recreation;
- details of surface and subsoil drainage in relation to effluent disposal areas;
- management practices to ensure optimum long term operation of site disposal systems.

The use of the standard porosity test in assessing the long term acceptance rate for effluent disposal is to reflect the sodium absorption ratio of the soil. The test must be done with an effluent or liquid chemically similar to laundry effluent to determine the effectiveness of any land disposal system.

2.5.6 Wastewater management plan

The water management plan should show assessment and management of at least the following (where relevant):

- flood potential,
- site exposure,
- slope,
- soils (depth, permeability, fragmentation, pH, density, conductivity, sodicity, cation exchange, phosphorus sorption, dispersiveness)
- landform,

- run-on and upslope seepage,
- erosion potential,
- site drainage,
- fill on the land,
- buffer distances,
- land area and
- geology

2.6 Waste Disposal

In order to reduce health hazards to occupants, all non-recyclable solid wastes shall, where possible, be stored in fly proof containers and preferably taken to Council's tip.

Any common area used to store contained waste shall be in a location which:

- is placed not in direct view from any public road, adjoining property, main community access road, dwelling house, or expanded dwelling house;
- is not located in any water catchment strata and located so as to avoid contamination of any water source or watercourse;
- is concealed by topography or existing planted vegetation;
- has vehicular access; and
- is operated in accordance with directions of Council's Environmental Health Section.

Composting of all organic wastes is encouraged. Council's Environmental Health Section should be contacted for advice and location of rural recycling pick-up points and centres.

2.7 Prime Crop and Pasture Land

Rural landsharing communities are not permitted where more than 25% of the holding consists of prime crop and pasture land.

No dwelling houses, expanded dwelling houses, solid waste disposal or waste collection points shall be permitted within any area of "prime crop and pasture land" as defined. These areas shall be reserved for agricultural and horticultural uses only. Sheds associated with these uses may be permitted on "prime crop and pasture" land if other appropriate sites are not available.

An agricultural suitability assessment including maps shall be provided where the holding comprises any "prime crop and pasture land".

A copy of the assessment and development application will be forwarded by Council to the NSW Agriculture for comment.

2.7.1 Fauna, flora and revegetation management

The vegetation and revegetation management plan should include at least the following (where relevant):

- planting strategy,

- timeframe,
- specify the location of planting areas
- site preparation – clearing of competitive grasses and weeds
- specify plant species – having regard to rainfall, slope, soils, existing native vegetation with a preference to local species and diversity,
- water supply and plant irrigation,
- maintenance and replacement of dead plants, fertilising, fencing to exclude animals,
- control of noxious weeds.

Plans should show:

- existing native vegetation,
- wildlife corridors and vegetation connecting significant areas of native vegetation,
- watercourses,
- proposed planting locations,
- common agricultural areas.

Information of fauna should include:

- list of native and exotic animal species known to exist,
- control of feral animals and
- control and management of domestic animals (esp. dogs and cats)

2.8 Adjoining Land Uses

To determine and avoid any potential land use conflicts the applicant shall consider adjoining agricultural uses and have undertaken an adjoining land owner survey. This information should be included in the statement of environmental effects and address issues such as:

- natural features (hills, vegetation, watercourses, etc),
- distances between the proposed development and adjoining land uses,
- competing water demands,
- noise,
- agricultural spray and chemical application,
- control of domestic animals,
- intensive agricultural land use (dairies, piggeries, horticulture, etc),
- quarries,
- fencing etc. and
- noxious weed and feral animal control.

Buffer areas are to be provided within the subject land in accordance with requirements of Development Control Plan No. 27 - Buffer Areas.

2.9 Cemeteries

Applications are encouraged to consider the setting aside of a suitable area of land for the establishment of cemeteries at the time of making a development application.

Approval of Council is required prior to the establishment of cemeteries and interments on private land. The following includes typical requirements:

- accurate details to an approved scale showing the precise location of the cemetery as related to permanent existing observable landmarks. Council reserves the right to require that the location of the cemetery be set out and be verified by a registered surveyor.
- accurate details to an approved scale showing the layout of the cemetery including each grave site and proposed dimensions of same.
- the land on which the cemetery is to be located must not be located in a drinking or domestic water supply catchment area.
- any proposed community cemetery be sited a minimum of 100 metres from the boundary of the land and any habitable buildings on the land.
- the boundaries of the cemetery must be permanently marked with posts, fencing or other approved method.
- the operation of the cemetery and the interment of deceased persons must be carried out in accordance with all statutory requirements.

2.10 Utility Services

Connection of telephone and electricity supply to the holding is optional. Where connection is proposed written evidence from the relevant supply authorities should be provided with the development application indicating availability of supply and proposed location of the reticulation system.

2.11 Fire Protection

The occupiers of each building shall maintain adequate fire fighting facilities and are encouraged to join appropriate strategies in conjunction with local fire brigades, Council's Fire Control Officer and neighbours.

2.11.1 Fire Management Plan

A fire management plan is to be submitted with all Development Applications. The plan can be incorporated into the statement of environmental effects and should address at least the following issues (where relevant):

- Landscaping fire protection breaks and zones and controlled burning.
- Access for emergency vehicles and overall site layout to fire fighting facilities.
- Building design criteria.
- Internal organisational and consultation processes (eg local brigades and Council's Fire Control Officer).
- Equipment to be provided.

2.11.2 Fire buffers

Adequate fire breaks shall be provided to protect each living area and to inhibit the escape of any fire from the area.

Each building should have an area surrounding it not less than 10 metres in width kept clear of flammable material (such as fallen leaves, bark or twigs) except for cultivated garden and fire retardant species.

Where any dwelling house or dwelling unit is sited in or close to an area considered to be a of medium bushfire risk area and adjoining any forest area, consideration should be given to reduction of the tree canopy.

2.12 Staging of development

The Environmental Planning and Assessment Act provides for staging of development proposals and deferred commencement approvals.

Where a development application indicates and involves the creation of approved dwelling sites in excess of the number of owners as shown on the development application, the applicant/s should provide to Council reasons why a staged development application should not be required.

Staging details of a rural landsharing community may be submitted with the original development application.

Under Section 80(4) of the Environmental Planning and Assessment Act 1979 as amended, Council is able to grant development consent for staged development or to stage aspects of a development. It is possible to grant a development consent subject to a condition that the development or some specified part or aspect of it will require another development consent.

If this version of determination is of value to applicants it is important that once an issue is determined it is not repeated in a later approval. This requires the Council to be sure that all relevant considerations have been addressed when making its determination.

The granting of an approval subject to some part of the development requiring a further development consent will be in response to an application for such an approval. Segmentation of approvals, where this is not sought by the applicant, is undesirable because this unnecessarily draws out the regulatory process. A refusal rather than a highly-qualified consent may be more appropriate.

A deferred consent, under Section 80(3) of the Act, involves granting approval on condition that a specified matter be resolved before the consent can operate. The consent must clearly distinguish the conditions concerning matters, which remain to be addressed to the satisfaction of the consent authority.

This form of consent will remove the need for a development application to be resubmitted where an issue (or issues) have not been fully addressed in the submitted application and the consent authority is clear on the performance standards which the development must meet.

Where on-site community facilities are proposed, staging proposals must give due regard to those facilities in early stages of development. It will be permitted to fully develop all residential buildings as a first stage followed by community facilities at a later stage.

Development applications may be submitted over a period of time for each stage of development.

If appropriate, at a later date an application may be made for amendment to development consent under Section 96 of the Environmental Planning and Assessment Act.

2.13 Restricted uses and ancillary development

No holding approved for a rural landsharing community shall be developed for a purpose prohibited under the provisions of Lismore Local Environmental Plan 1992. The zoning provisions of this plan prohibit certain uses in rural zones such as residential flat buildings, shops (other than convenience shops and shops ancillary to a permitted use), warehouses, etc.

Other forms of development such as rural tourist facilities, motels, hotels, caravan parks, industries, etc are permissible in certain rural zones subject to the development consent of Council being obtained prior to the commencement of that use.

Nothing in this clause prohibits the development on-site of ancillary uses other than dwelling houses or agriculture, providing that these uses are intended primarily to serve the needs of people living on the land. Example of such uses are schools, community facilities, home and light industries and workshops.

2.14 Contributions

If it is identified by Council that rural landsharing communities will cause an increased demand for public amenities and public serves, the dedication of land or monetary or an in kind contribution or a combination of these will be required under Section 94 of the Environmental Planning and Assessment Act 1979, as amended and Council's Contribution Plans.

This contribution will occur as a condition of development consent and be to the upgrading but not maintenance of those amenities and services.

The type of public amenities and public services referred to above may include:

- Rural road upgrading,
- Community and recreation facilities,
- Public open space,
- Bush fire fighting facilities and
- State emergency services.

A water supply headworks will be payable if the land is connected to a Council or Rous County Council water supply.

Contributions attributed to each dwelling may be paid at the time of submission of a development application for that dwelling rather than paying the total contribution at the commencement of the multiple occupancy development. Contribution rates are generally increased on a yearly basis generally in line with the Building Price Index or similar.

Council will give consideration to dedication of land or in kind contributions under Section 94(5)(a)&(b) being labour or works or other contribution, as part or all of the contribution required if such works are identified in the applicable S94 Contribution Plan.

When a Section 94 Contribution is required, and where the applicants either:

- propose a long-term staged development; or
- propose a large staged development;

Council may give consideration to deferment of contribution and/or the contribution to be made by instalments, subject to payment of interest.

DEAD
ISSUE HM

9 Conversion of Approved Multiple Occupancies to Community Title

9.1 Introduction and background

'Community Title' is means of providing individual title and communal ownership of facilities. It is legally provided through the Community Land Development Act, 1989 and Community Land Management Act, 1989.

NO

The Community Land Development Act deals with plan requirements, plan registration, changes to the subdivision and dealing in the lots and Community Land Management Act deals with the management and financial issues in the running of community schemes.

Despite some ten (10) years in existence only a few rural community title developments have been realised in the North Coast region. Therefore experience and research is limited.

The concept of community title subdivision of existing multiple occupancy has been researched in a 1995 final year university project titled "A Comparative Study Between Multiple Occupancy and Community Title Development Concentrating on the Social, Political and Economic Constraints".

Some 40 individuals (acting as a particular community representative) on existing multiple occupancies were interviewed.

The study found the following: areas in the North Coast

- The majority (57%) of communities surveyed felt that the community objectives of multiple occupancies would be compromised if subdivision was permitted, 40% did not and 3% were undecided.

23
16
1

The opinions of surveyed communities were equally divided when asked whether or not community objectives could be achieved by either Community, Strata or Torrens title.

- The majority (60%) of communities surveyed indicated that they do not wish to re-develop to Community title, 17% indicated they would seriously consider change and 23% were undecided.

These 17% should probably never have been approved! of Byron Council

9.2 Councils position

Council at its meeting of May 13, 1997 resolved that the matter of enabling the conversion of existing multiple occupancy (single title joint ownership of community land and facilities and legally binding land use and management agreements etc.) developments to a community title (freehold lots, joint ownership of community land and facilities and legally binding land use and management agreements etc.) be addressed in the preparation of the rural settlement strategy.

Council had previously (April 1995) attempted to exhibit a draft local environmental plan enabling the above for multiple occupancies of three (3) or

more dwellings. A draft plan was 'tested' by public exhibition for 60 days and drew two (2) submissions generally in favour. However, the Dept. of Urban Affairs and Planning advised that the delegations under either sections 65 or 69 of the Act would not be available to Council. This action prevented the necessary certification to publicly exhibit the draft plan.

The following reasons for the refusal were expressed in the Dept's letter to Council July 26, 1995:

"Multiple occupancies and subdivision, whether under the Community Land Development Act or not, are considered to be mutually exclusive. Multiple occupancies are based on a specific philosophy and community lifestyle (as set out in the objectives of the former State Environmental Planning Policy No 15) and subdivision is prohibited. Community title developments involve subdivision to create small allotments for residential purposes, and larger allotments for community purposes. As such in rural areas they are considered to be rural residential in nature.

Accordingly, community title proposal in rural zones need to be considered in the same way as rural residential proposals – they must comply with all the criteria set out in clause 15 of Lismore LEP 1992.

Under the circumstances the Department will find it difficult to support the plan suggested by Council unless the ability to convert multiple occupancies to community title is restricted in the same terms as clause 15. In addition, any new lots created should be included in the release "quota" of clause 15(10). If no such restrictions are included Council's proposal is inconsistent with the Director's agreed rural residential release strategy for Lismore and therefore inconsistent with clause 20(1) of the North Coast Regional Environment al Plan, 1988."

9.3 Legal and legislative opinion

In order to have a clear understanding of the concept and the best means to achieve it legislative and legal advice was sought from Council's legal advisers (Phillips Fox) and Dept. of Urban Affairs and Planning.

The following summarises the advises:

1. Dept of Urban Affairs and Planning, Northern Regional Office.
 - Fundamental basis on which consent was granted would no longer apply,
 - Conversion would render the development "rural residential" and it is likely that such development would not be permitted in most rural zones,
 - If permitted a new Development Application would be necessary and any consent issued would have to require the surrender of the multiple occupancy consent under s. 80A(b), otherwise an application of community title could not be approved without either a SEPP No 1 application or an amending LEP,
 - Policy matter involved, where such conversions are clearly inconsistent with the fundamental element of MO under SEPP No 15 and
 - The issue was thoroughly examined and rejected prior to the re-introduction of the SEPP.

2. Phillips Fox.

The opinion summary of advises stated:

"Clause 12 of SEPP 15 prohibits subdivision of land where development has been carried out pursuant to SEPP 15. In my opinion, SEPP 15 only applies to development carried out after SEPP 15 was gazetted. Therefore, subdivision is not prohibited on MO land where development has been carried out pursuant to Previous SEPP 15 even though Previous SEPP 15 had a clause similarly worded to clause 12 of SEPP 15.

Clause 11(1) of the LEP prohibits the Council from consenting to subdivision of land if the land will be used for the purpose of agriculture, forestry or a dwelling house and the area of each lot is less than 40 hectares. However, in my opinion, this restriction is a development standard so the Council may still consent to such a subdivision if an objection is made by the subdivider/developer in accordance with clause 6 of State Environmental Planning Policy No. 1 (SEPP 1 Objection).

If a SEPP 1 Objection fails, the Council's only option is to rezone the MO land by an amending LEP. This LEP would have to comply with clause 20 of the North Coast Regional Environmental Plan 1998 (NCREP).

Where the subdivided land will be used for the purpose of a building, work, activity, or place lawfully permitted within the Zone (other than agriculture, forestry, a dwelling house or rural worker's dwelling) the Council may consent to a subdivision creating any sized lot subject to other requirements in clause 11(4) of the LEP".

Copies of the advises are attached as Appendix Five.

who wanted to consent to CT!
9.4 Approach taken by Adjoining Local Councils.

Byron Shire Council has also investigated the community title subdivision of existing multiple occupancies as part of the preparation of its closer rural settlement strategy. The proposal was exhibited, received broad support from existing communities, the Council resolved to support community title subdivision of existing multiple occupancies within a specified timeframe and a draft plan prepared and submitted to the Dept. of Urban Affairs and Planning.

PAN !
COM !
The Dept. has deferred consideration of the plan and does not appear overly willing to support the matter.

The subsequent strategy adopted by Byron Council & approved by DUMP permits only those wanting to apply for CT where they fall within the areas designated for CT generally.
9.5 Summary and conclusion
There does not appear to be a demand or need by existing multiple occupancies to subdivide to community title developments.

Subdivision to create community title may be possible, provided the multiple occupancy is within lands described as potentially suitable for closer rural settlement and the Director of the Dept. of Urban Affairs and Planning concurs to permit such as part of Council's rural settlement strategy

This involves relinquishing the M.D.D.A. & consent to C-T with all the associated extra costs etc.

Should the Dept. approve, in general, the planning process for undertaking a proposed community title subdivision can be either:

- by development application, supported by an objection under State Environmental Planning Policy No. 1, where the lots proposed will be less than the minimum lot areas of the zone or
- a rezoning of the land to enable smaller lot subdivision followed by a development application.

The additional lots created by the subdivision of existing multiple occupancies to community title will have to be included in Councils annual release "quota" of rural residential lots.

step 1 check what is "Councils ^{current} annual release" quota of rural residential lots. Say "x" lots.

step 2 Check what ~~is~~ number of "additional lots ^{theoretically} could be created by existing MO's (under previous SEPP-15(1)). and say "y" lots.

step 3 By deducting "y" from "x" will leave the number of lots permissible for CT unrelated to MO.
Note $x - y$ may result in a negative value!
In this situation were to prevail there would be no available 'quota' for rural res. lots by genuine developers who otherwise qualified for CT?

Comment 1. I would see that from this point of view it would not be from the developers point of view ~~to~~ advantageous to support conversion of MO to CT?

Comment 2. Council may give this scenario, seek to increase its "quota". This debate would open up a host of other considerations, particularly increased traffic flow on rural roads!!

10. References

Byron Shire Council. 1998 *Draft Byron Rural Settlement Strategy*, Mullumbimby, NSW.

Dames and Moore. 1994 *Lismore City Broadhectare Study*, Brisbane, Qld.

Lismore City Council. 1998 *Lismore Affordable Housing Strategy*, Brian Elton & Assoc., Planning Housing Health and Social Policy Consultants.

NSW Dept. of Urban Affairs and Planning. 1995 *Rural Settlement: Guidelines on Rural Settlement on the North Coast of NSW*, Sydney, NSW.

NSW Dept. of Urban Affairs and Planning. *State Environmental Planning Policy No 15 – Rural Landsharing Communities*.

NSW Dept. of Urban Affairs and Planning. *Guidelines for SEPP No 15 – Rural Landsharing Communities*.

Turner A.S. 1995 *A Comparative Study between Multiple Occupancy and Community Title Developments Concentrating on the Social, Political and Economic Constraints*. A planning report submitted in partial fulfilment of the requirements for a Bachelor of Urban & Regional Planning. UNE, Armidale, (unpublished).

Appendix One

**Alteration to Interim Development Order No. 1 – Shire of
Terania and map showing Existing Multiple Occupancies
and Parish boundaries.**



[Published in Government Gazette No. 34 of 29th February, 1980.]

LOCAL GOVERNMENT ACT, 1919
ALTERATION OF INTERIM DEVELOPMENT ORDER NO. 1—
SHIRE OF TERANIA

I, the Minister for Planning and Environment, having considered a report thereon by the New South Wales Planning and Environment Commission, in pursuance of section 342U (5) of the Local Government Act, 1919, do by this my notification alter Interim Development Order No. 1—Shire of Terania in the manner set out in the Schedule hereto. (77-10420 Pt. 2)

PAUL LANDA,
Minister for Planning and Environment.

Sydney, 29th February, 1980.

SCHEDULE

Interim Development Order No. 1—Shire of Terania is altered—

- (a) by inserting next after clause 13 the following new clauses:

Multiple Occupancy Communities

13A. (1) This clause applies to those parts of lands in the Parishes of Boorabee, Bungabee, Jiggi, Nimbin, Hanging Rock, Terania and Whian Whian as are situated—

- (a) within the City of Lismore; and
(b) within Zone No. 1 (a).

(2) Notwithstanding clause 13 development for residential purposes comprising permanent dwelling or living accommodation may be carried out on land to which this clause applies with the consent of Council subject to compliance with the following conditions—

- (a) the land upon which the development is carried out—
(i) has an area of not less than the minimum area for subdivision prescribed by clause 12 (1) (a);
(ii) is and remains unsubdivided either under the Local Government Act, 1919, or the Strata Titles Act, 1973, so as to comprise a single parcel;
(iii) is owned in its entirety in common by at least two-thirds of all adult persons residing on the land or is otherwise owned on behalf of those persons; and
(b) the residential accommodation shall not exceed that reasonably required to house one person for each hectare of the land.

(3) In considering an application for consent under this clause the Council shall have particular regard to the environmental suitability of the land for the proposed development.

(4) Nothing in subclause (2) (a) (ii) shall prevent the Council from determining an application for consent under this clause in respect of land in more than one parcel but any consent granted hereunder shall be subject to the requirement that the land be consolidated into a single parcel prior to the development being carried out.

(5) Whenever land is developed in accordance with this clause the following development on that land is prohibited—

- (a) development for the purposes of a hotel, motel, caravan park, or any other type of holiday, tourist or weekend residential accommodation; and
(b) subdivision of the land either under the Local Government Act, 1919, or the Strata Titles Act, 1973.

13B. (1) Permission is hereby granted in respect of each of the parcels of land described in Schedule 1 for the following development:

- (a) development of the land for residential purposes comprising permanent dwelling or living accommodation; and

- (b) the use of the buildings in existence on the aforesaid land at the date upon which this clause takes effect for the purposes referred to in paragraph (a).

(2) Permission granted by subclause (1) in respect of any development referred to in subclause (1) (a) shall—

- (a) operate, in relation to the erection of any buildings, so as to permit only the erection of those buildings in existence on the aforesaid land, at the date upon which this clause takes effect; and
(b) in addition to its taking effect in accordance with subclause (1), and without prejudice to that subclause, be deemed to have been granted by this Order as in force immediately before the day upon which that development was commenced, on that day.

(3) Nothing in this clause shall prevent the application of clause 13A in respect of any land the subject of this clause but in any such application the development permitted by this clause shall be taken into account for the purposes of clause 13A (2) (b).

(b) by inserting at the end the following Schedule:

Schedule 1

Description of parcels of land referred to in clause 13B.

- Parcel 1—Portions 120 and 121, Parish of Boorabee (known as Mackellar Range Trust).
Parcel 2—Part portion 126, Parish of Boorabee, being lot 1, Deposited Plan 358225 (known as Elysian Farm).
Parcel 3—Portions 21, 22, 35, 36, 37, 38, 39, 47, 52 and 142, Parish of Nimbin (known as Nimbin Rocks Co-operative).
Parcel 4—Portion 84, Parish of Whian Whian (known as Rainbow Falls).
Parcel 5—Part portion 20, Parish of Whian Whian, being lot 2, Deposited Plan 582835 (known as Dharmananda).
Parcel 6—Part portion 30, Parish of Whian Whian, being lot 11, Deposited Plan 601178 (known as Bodhi Farm).
Parcel 7—Portions 132, 133 and 137, Parish of Nimbin, and lot 3, shown in Subdivision Application No. 79/143 approved by the Lismore City Council.
Parcel 8—Lot 2 shown in Subdivision Application No. 79/143 approved by the Lismore City Council.
Parcel 9—Portion 81, Parish of Terania (known as Paradise Valley).
Parcel 10—Part portions 30 and 32, Parish of Whian Whian, being lot 12, Deposited Plan 601178 (known as Freecloud).
Parcel 11—Portion 43, Parish of Hanging Rock (known as Indavar).
Parcel 12—Part portion 104, Parish of Terania, being lot 2, Deposited Plan 591391.
Parcel 13—Part portion 54, Parish of Whian Whian, being lot 1, Deposited Plan 574139.
Parcel 14—Portions 71 and 79, Parish of Terania (known as Sam's Gully).
Parcel 15—Lot 2, Deposited Plan 522761, lot 4, Deposited Plan 575079 and lot B, Deposited Plan 389381, Parish of Terania (known as Tuntable Falls—West Side).
Parcel 16—Portion 26, Parish of Whian Whian.
Parcel 17—Portion 36 and part portion 37, Parish of Terania, being lot 3, Deposited Plan 599123.
Parcel 18—Part portion 42, Parish of Terania, being lot 2, Deposited Plan 593665.
Parcel 19—Part portion 55, Parish of Nimbin, being lot 1, Deposited Plan 227248 (known as High Street).
Parcel 20—Part portion 21, Parish of Whian Whian, being lot 1, Deposited Plan 573694 (known as Crystal).
Parcel 21—Part portion 21, Parish of Whian Whian, being lot 2, Deposited Plan 591496.
Parcel 22—Part portion 85, Parish of Terania, being lot 1, Deposited Plan 574981.
Parcel 23—Part portion 42, Parish of Terania, being lot 3, Deposited Plan 593665. (9159)

APPENDIX TWO

Geographical Information Systems – Land Constraints Mapping

Constraint mapped	Data source & date	Reliability
Local Government Area	Lismore City Council	High
Existing Multiple Occupancies	Lismore City Council	High
High Bushfire Risk Areas	NPWS, State Forests & DLAWC	Fairly high
Flood Prone Lands	Lismore City Council	High
Land Classified having a Land Capability Class I, II & III	Dames & Moore	Medium
Slope > 33%	DLAWC	Medium
Mass Movement Areas	DLAWC	Medium
Buffer Areas	Lismore City Council	Fairly high
Exclusion Landuse Zones and Areas	Lismore City Council	High
Social Infrastructure	Lismore City Council PPK Road Study	Fairly high

Plus {Wallace Road
Terania Ck Road

APPENDIX THREE: List of Roads Meeting Assessment Criteria

Road Name	Access restrictions			Comments
Rural Arterial Roads				
Bruxner Highway (SH 16)	No direct access permitted			
Kyogle Rd (MR 544)	Access considered on merit			6 m. seal sections only
Nimbin & Blue Knob Rds (MR142)	Access considered on merit			6 m. seal sections only
Dunoon Rd (MR 306)	Access considered on merit			6 m. seal sections only
Bangalow Rd (MR 65)	No direct access permitted			
Eltham Rd (MR 146)	Access considered on merit			6 m. seal sections only
Rous Rd (MR 555)	Access considered on merit			6 m. seal sections only
Wyrallah Rd (MR147)	Access considered on merit			6 m. seal sections only
Rural Sub-arterial Roads (6 m. seal sections only)	Council Rd classification	Trafficable width (range)	Trafficable seal type (range)	Comments 6 m. seal sections only
Caniaba Rd	B, C A-Lo	8.5 – 5.4 m. 4.5	flush seal unsealed	
Rock Valley (Kyogle to Quilty Rds)	B-RV	8 – 5.5	flush seal	
Boggumbil Rd and Jiggi Rd (to Nimbin Rd)	D B	4.5 8.6 – 4.6	unsealed flush seal	Boggumbil Road not included
Rosehill Rd (Rock Valley to Nimbin Rds)	A	8.6 – 7.3	flush seal	
Stony Shute Rd (MR 141A)				No statistics
Koonorigan and The Channon Rds (route)	C, D A	7 – 4.5 7.2 – 6	flush seal flush seal	
Duncan and Lockton (between Duncan and Corndale Rds) to MR 65	B-Dun B, C	6.3 – 5.6 7 – 6.5	flush seal flush seal	

**DRAFT REPORT
STRATEGY FOR RURAL LANDSHARING COMMUNITIES**

Hunters Hill, Corndale and James Gibson Rds	B A A	7.4 – 6.5 7.5 – 6 6.7 - 5	flush seal flush seal flush seal	
Richmond Hill Rd	A	11.4 – 6.2	flush seal	
Cowlong and Pearson Rd (route)	B, C D	7 – 5.4 5	flush seal flush seal	
Alphadale Rd	A	8 – 7	flush seal	
Tregeagle Rd	A, B-Wy	9.2 - 6	flush seal	
Robson Rd	D	6.6 – 6	flush seal	
Gundurimba and River Bank Rds (route)	B D	7.5 – 5.6 6.4 - 5	flush seal flush seal	
Coraki Rd (MR 148)				No statistics
Swan Bay Rd (MR 149)				No statistics
Wyrallah Ferry Rd	A	7.4 – 6.1	flush seal	
Rural Collector Roads	Council Rd classification	Trafficable width (range)	Trafficable seal type (range)	Comments 6 m. seal sections only
Rock Valley and Cawongla Rd (route Thorne Bridge to Lindsay Rd)	B-RV, A B	8 – 5.5 7.8 – 6.5	flush seal flush seal	
Jiggi, Mountain Top and Whitney Rds (route)	B D C	8.6 – 4.6 5.3 – 4.6 3.6	flush seal ?? unsealed	Mountain Top Rd is not sealed
Pinchin, Keerong Bridge and Keerong Rds (route)	C A A-Ker, D	7.5 – 5.3 3.5 7.8 – 5	flush, unseal unsealed flush seal	
Tuntable Creek and Tuntable Falls Rds (route to Blue Knob Rd)	A C	7.4 – 5.6 7.7 – 5.3	flush seal flush seal	Tuntable Creek Rd not included

**DRAFT REPORT
STRATEGY FOR RURAL LANDSHARING COMMUNITIES**

Whian Whian Rd (Dunoon to Leeson Rds)	C	6 – 5	flush seal	
Woodlawn and Numulgi Rds	A	7.5 – 5.5	flush seal	
	A	8.4 – 4.3	flush seal	
Cusack Rd	A	3.5	unsealed	Cusack Rd not included
Corndale Rd	A	7.5 – 6	flush seal	
Dorroughby Rd	C	4.8 – 4.6	flush seal	
Rosebank Rd	A, B-Cor	6.6 – 5.6	flush seal	
Boatharbour and McKenzie Rds (routes)	C	9 – 4.2	flush seal	
	C	5.6	flush seal	
Tucki Tucki Rd (between Robson and Marom Creek Rds)	B, C	7.8 – 3.5	flush seal	
Dungarubba Rd and Stibbard Ln (route)	C	3.5	unsealed	Dungarubba Rd and Stibbard Ln, not included
	C			
Tuckean Island Rd (between Dungarubba and Hoare Ln)	C	3.5 – 3	unsealed	Tuckean Island Rd not included
Broadwater Rd	C	7.9 – 5.2	flush seal	
Bagotville Rd	C	6.5	flush seal	
Tuckurimba Rd	C	8 – 5.6	flush seal	
Tatham Rd	C	9 – 6.7	flush seal	
Rogerson Rd (between Auckram and Coraki Rds)	A	6	flush seal	
Flood Reserve Rd	B	4.5	unsealed	Flood Reserve Rd not included
Frame Rd	C	5.8	unsealed	Frame Rd not included

The road hierarchy is composed of four classes which are in decreasing order of importance for traffic efficiency and with increasing emphasis on local amenity:

Arterial roads: predominantly carry through traffic from one region to another forming principle avenues of communication for traffic movements.

Sub-arterial roads: connect the arterial road to areas of development or carry traffic from one part of a region to another. They may also relieve traffic on arterial roads in some circumstances.

Collector roads: connect the sub-arterial roads to the local road system in developed areas.

Local roads: are the sub-subdivisional roads within a particular developed area. These roads are used solely as local access roads.

CITY WORKS EXPLANATION OF CLASSIFICATION SYSTEM & ROADS CRITERIA ETC

Appendix Four

**Copy of State Environmental Planning Policy No 15 – Rural
Landsharing Communities and Guidelines.**

Department of Urban Affairs and Planning

State Environmental Planning Policy No 15—Rural Landsharing Communities

under the

Environmental Planning and Assessment Act 1979

His Excellency the Governor, with the advice of the Executive Council, has made the following State environmental planning policy under the *Environmental Planning and Assessment Act 1979* in accordance with the recommendation made by the Minister for Urban Affairs and Planning.

CRAIG KNOWLES MP

Minister for Urban Affairs and Planning

1 Name of Policy

This Policy is the *State Environmental Planning Policy No 15—Rural Landsharing Communities*.

2 Aims of Policy

This Policy aims:

- (a) to encourage and facilitate the development of rural landsharing communities committed to environmentally sensitive and sustainable land use practices, and thus
- (b) to enable:
 - (i) people to collectively own a single allotment of land and use it as their principal place of residence, and

Clause 2

State Environmental Planning Policy No. 15—Rural Landsharing Communities

-
- (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 that 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, and
 - (ii) in a manner that does not involve subdivision, strata title or any other form of separate land title, and in a manner that 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 that are suffering or are likely to suffer from a decline in services due to rural population loss, and
- (d) to repeal *State Environmental Planning Policy No. 42—Multiple Occupancy of Rural Land (Repeal)*.

3 Land to which this Policy applies

- (1) This Policy applies to land within the areas specified in Schedule 1, except as provided by this clause.
- (2) This Policy does not apply to land specified in Schedule 2.

4 Definitions

- (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 of 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.

heritage item means a building, work, relic, tree or place (which may or may not be situated on or within land that is a heritage conservation area) described as a heritage item in an environmental planning instrument.

home improvement area means the area of land, not exceeding 5 000 square metres, around a dwelling (and this expression is defined in this Policy for the purpose of designating the use of the area of land so defined and not for the purpose of creating a separate entitlement to the area of land so defined).

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, or
 - (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.
- (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

Clause 4 State Environmental Planning Policy No 15—Rural Landsharing Communities

that, having regard to the sharing of any cooking or other facilities and any other relevant matter, the dwellings comprise a single household.

5 Relationship to other planning instruments

In the event of an inconsistency between this Policy and a regional environmental plan or a local environmental plan whether made before, on or after the day on which this Policy takes effect, this Policy prevails to the extent of the inconsistency.

6 Repeal of SEPP No 42

State Environmental Planning Policy No 42—Multiple Occupancy of Rural Land (Repeal) is repealed in its entirety and not only in relation to the land to which this Policy applies.

7 Rural landsharing community

- (1) Despite 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 if:
 - (a) the land comprises a single allotment not subdivided under the *Conveyancing Act 1919* or the *Strata Schemes (Freehold Development) Act 1973*; and
 - (b) the land has an area of not less than 10 hectares, and
 - (c) the height of any building on the land does not exceed 8 metres, and
 - (d) not more than 25 per cent of the land consists of prime crop and pasture land, and
 - (e) the part of the land on which any dwelling is to be situated is not prime crop and pasture land, and
 - (f) the part of the land on which any structure or work is to be situated is not land that is a wildlife refuge, wildlife corridor or wildlife management area and development

State Environmental Planning Policy No 15—Rural Landsharing Communities

Clause 7

-
- and management of the rural landsharing community does not adversely affect any area identified as a wildlife refuge, wildlife corridor or wildlife management area, and
- (g) 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, and
 - (h) the part of the land on which any structure is to be situated does not have a slope in excess of 18 degrees, or has been determined not to be prone to mass movement, and
 - (i) the aims 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) is to be construed as authorising the subdivision of land for the purpose of carrying out development pursuant to this Policy.

8 Notice of development applications—advertised development

Sections 84, 85, 86, 87 (1) and 90 of the *Environmental Planning and Assessment Act 1979* (which provide for the giving of notice, and for the making and consideration of submissions, about proposed development) apply to development referred to in clause 7.

9 Matters for council to consider

- (1) A council must 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 the application:
 - (a) the means proposed for establishing land ownership, dwelling occupancy rights, environmental and community management to ensure the aims and objectives of this Policy are met,

Clause 9

State Environmental Planning Policy No 15—Rural Landsharing Communities

-
- .. (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 a risk of flooding, bush fires, landslip or erosion or whether there are areas with actual or potential acid sulfate soils 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, including the need for separation and buffers to avoid land use conflicts,
 - (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 Aborigines and the presence of any known Aboriginal relics and sites,
 - (q) the impact of the proposed development on any heritage item, relic or site, or on their curtilages,
 - (r) whether the land has been identified by the council as being required for future urban or rural residential expansion,
 - (s) 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) A council must not consent to an application made in pursuance of clause 7 unless it has taken into consideration a site analysis that:
- (a) contains information about the site and its surrounds as described in Schedule 3, and
 - (b) is accompanied by a written statement explaining how the design of the proposed development has regard to the site analysis.

10 Management plan

A council must not consent to an application made in pursuance of clause 7 unless the applicant has submitted a management plan for the development that makes adequate provision for the following:

- (a) water management,
- (b) waste management,
- (c) prevention, control and management of soil erosion,
- (d) bush fire management,
- (e) flora and fauna management, including the control of noxious weeds and noxious animals,
- (f) provision and maintenance of internal roads, boundary fences, water reticulation, service corridors for telephone and electricity cables and similar matters.

Clause 11 State Environmental Planning Policy No 15—Rural Landsharing Communities

11 Density of development

- (1) Subject to subclause (2), a council must 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 is to 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 must 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 dwelling by 4.

State Environmental Planning Policy No 15—Rural Landsharing Communities Clause 12

12 Subdivision prohibited

- (1) If development is carried out on land pursuant to this Policy, the issue of a certificate of the general manager of a council, under the *Local Government Act 1919*, or of a council's certificate under the *Strata Schemes (Freehold Development) 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 any one or more of the following:
 - (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,
 - (f) excising from an allotment land that is, or is intended to be, used for public purposes, including drainage purposes, bush fire brigade or other rescue service purposes or public conveniences.

13 Monitoring of applications

If a council receives an application made in pursuance of clause 7, the council must, within 30 days of determining the application, forward a copy of the application to the Secretary together with a copy of the notice of the determination of the application.

14 Suspension of certain laws

- (1) For the purpose of enabling development to be carried out in accordance with this Policy or in accordance with a consent granted under the *Environmental Planning and Assessment Act 1979* in relation to development carried out in accordance with this Policy:
 - (a) section 37 of the *Strata Schemes (Freehold Development) Act 1973*, and

Clause 14 State Environmental Planning Policy No 15—Rural Landsharing Communities

-
- (b) any agreement, covenant or instrument imposing restrictions as to the erection or use of buildings for certain purposes or as to the use of land for certain purposes, to the extent necessary to serve that purpose, does not apply to the development.
- (2) Pursuant to section 28 of the *Environmental Planning and Assessment Act 1979*, before the making of this clause:
- (a) the Governor approved of subclause (1), and
 - (b) the Minister for the time being administering the provision of the *Strata Schemes (Freehold Development) Act 1973* referred to in subclause (1) concurred in writing in the recommendation for the approval of the Governor of that subclause.

State Environmental Planning Policy No 15—Rural Landsharing Communities

Land to which this Policy applies

Schedule 1

Schedule 1 Land to which this Policy applies

(Clause 3)

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

State Environmental Planning Policy No 15—Rural Landsharing Communities

Schedule 2 Specified land to which this Policy does not apply

Schedule 2 Specified land to which this Policy does not apply

(Clause 3)

Land that is a national park, historic site, State recreation area, nature reserve, State game reserve, karst conservation reserve, wilderness area, Aboriginal area, protected archaeological area, or Aboriginal place, within the meaning of the *National Parks and Wildlife Act 1974*.

Land to which a wilderness protection agreement under the *Wilderness Act 1987* relates.

Land that is Crown land within the meaning of the *Crown Lands Act 1989*.

Land that is subject to the *Western Lands Act 1901*.

Land that is a State forest, flora reserve or timber reserve within the meaning of the *Forestry Act 1916*.

Land that is identified as critical habitat under the *Threatened Species Conservation Act 1995*.

Land identified in another environmental planning instrument by any of the following descriptions or by like descriptions or by descriptions that incorporate any of the following words or expressions:

- (a) coastal lands acquisition,
- (b) coastal lands protection,
- (c) conservation,
- (d) escarpment,
- (e) environment protection,
- (f) environmental protection,
- (g) open space,
- (h) rural environmental protection,
- (i) scenic,
- (j) scenic protection,
- (k) water catchment,
- (l) proposed national park.

Land that is within an area declared to be a special area or an outer catchment area by an order in force under the *Water Board (Corporatisation) Act 1994*.

Land to which *Eurobodalla Rural Local Environmental Plan 1987* applies.

State Environmental Planning Policy No 15—Rural Landsharing Communities

Site analysis

Schedule 3

Schedule 3: Site analysis

(Clause 9 (2) (a))

The following information, where appropriate, is to be shown in a site analysis:

With regard to the physical characteristics of the site:

- site dimensions and site area,
- spot levels, contours and north point,
- views to and from the site,
- prevailing winds,
- orientation, micro climates, significant noise sources,
- land with a slope greater than 18 degrees,
- watercourses and groundwater resources,
- natural wetlands,
- land subject to pondage, seasonal waterlogging, high watertable or salinity,
- natural drainage,
- any part of the land that is subject to a risk of flooding, bush fires, landslip, erosion (or areas with actual or potential acid sulfate soils) or any other physical constraint to development of the land in accordance with this Policy,
- soil types and, where present, the geology of any rocky outcrops on the site,
- any part of the land that is prime crop and pasture land,
- vegetated areas requiring environmental protection or areas where rehabilitation or reforestation will be carried out,
- identification of previous use and any contaminated soils or filled areas,
- location of known resources of mineral or extractive deposits on or adjacent to the proposed development or otherwise potentially sterilised by the development,
- any road reserve areas that impinge on the site,

Page 13

State Environmental Planning Policy No 15—Rural Landsharing Communities

Schedule 3

Site analysis

- location of fences, boundaries and any other notable features (natural or historical),
- any heritage items (including known items of Aboriginal heritage), relics and sites, and their curtilages.

With regard to the development details of the site:

- location of buildings and other structures,
- indicative footprints of the proposed buildings,
- design and siting of proposed buildings and their relationship to existing heritage items,
- any areas of the site to be used for development other than dwellings,
- proposed access from a public road to the area or areas in which the dwellings are to be situated (plus other tracks necessary for agricultural use, fire fighting or property maintenance and any tracks that cross Crown land or watercourses),
- easements for drainage services,
- source and capacity of any water supply, electricity, telephone and waste disposal systems for the dwellings, plus strategies for dealing with domestic wastewater,
- areas designated for storage of solid waste,
- areas designated for landfill of solid waste,
- where possible, measures aimed at preventing the spread of bushfire.

With regard to the land surrounding the site:

- the heritage significance of surrounding buildings and landscape,
- characteristics of any adjacent public land,
- directions and distances to local shops, schools, public transport, parks and community facilities,
- a brief description of the land uses on surrounding land.

SEPP15 Guide

**PLANNING GUIDELINES
FOR STATE ENVIRONMENTAL PLANNING POLICY NO. 15
— RURAL LAND-SHARING COMMUNITIES**

Department of Urban Affairs and Planning

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ERRATUM

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Please include Tweed in the list of local government areas to which SEPP 15 applies.

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Introduction

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A rural land-sharing community is a form of development where a group of people, not necessarily related to each other, live on a single property in several dwellings and own and manage the property on a common basis. Such a community may also be termed a multiple occupancy.

State Environmental Planning Policy No. 15 (SEPP 15) is a legal planning document which encourages community-based, environmentally-sensitive rural settlement. Under the policy rural land-sharing must be approved by the local council.

These guidelines accompany SEPP 15 and provide guidance to an intending applicant on the management of the key environmental factors that a local council is likely to consider when making a decision on a rural land-sharing community development. They explain:

- the development process
- how to choose a site
- the requirements of a 'statement of environmental effects' (SEE)—including the environmental issues that must be addressed in a written statement and management plan for the development.

The guidelines are not exhaustive and intending applicants should thoroughly discuss the development application process with their local council to determine which issues require particular attention according to local circumstances.

Copies of SEPP 15 are available from the local council, any office of the Department of Urban Affairs and Planning or by phoning the department's Information Centre on (02) 9391 2222.

Overview

.....

.....

State Environmental Planning Policy No. 15
(SEPP 15) enables people to:

- live as a community and manage the land for communal purposes, in a way that both protects the environment and does not create an unreasonable or uneconomic demand for services
- build a number of dwellings in a rural setting on undivided land as their main place of residence—a clustered style development where buildings are grouped near each other, say within 80 metres, is preferred (unless an alternative arrangement can be shown to be more environmentally sound) as it allows efficient provision of services
- pool their resources to develop affordable rural living opportunities, including the construction of low-cost buildings with shared facilities and resources.

SEPP 15 applies to the local government areas listed in Schedule 1 of the policy. These are listed in Appendix 1.

GETTING APPROVAL

To develop a rural land-sharing community under the policy requires the consent of the local council, so a development application (DA) will need to be prepared. Figure 1 summarises the development application process.

FIGURE 1. STEPS IN THE DEVELOPMENT PROCESS

An applicant needs to

choose a possible site

**consult with local council,
community and neighbours;
and talk to relevant State
government agencies**

do a site analysis

**consider a proposed
development**

**consider the interaction
or relationship between
the environment and the
proposed development**

**consider ways to minimise
impacts**

**submit a development
application (DA) to council
along with a statement of
environmental effects—a site
analysis map and a written
statement, including a
management plan**

**review the site
selected, if the kind
of development is
not suitable**

Council will

**advertise the development
to inform the community of
the proposal**

**allow time for public
submissions or comments to
be made. [Any issues arising
from the exhibition of the
proposal may need to be
discussed with the council
and the community]**

**decide whether to approve
the DA**

Note:
If you have never made a development application, consult *Lodging a Development Application* published by the then Department of Planning. This document outlines the kind of information generally required by council and some of the terms used by planners. The local council may also have a similar publication giving advice from a local perspective.



In assessing a rural land-sharing community DA, the council decides if the proposal is appropriate given the intended type and pattern of use of the land. In making this assessment the council considers:

- section 79C of the *Environmental Planning and Assessment Act 1979* (EP&A Act)
- requirements of clauses 9 and 10 of SEPP 15
- requirements of any other relevant:
 - planning instrument, for example, any local environment plan, regional environment plan or other State environmental planning policies such as SEPP 14—Coastal Wetlands, SEPP 26—Littoral Rainforest or SEPP 44—Protection of Koala Habitat
 - legislation such as the *Threatened Species Conservation Act 1995*.

In areas where rural settlement guidelines or strategies apply, such as *Rural Settlement: Guidelines for Rural Settlement on the North Coast of NSW* (Department of Urban Affairs and Planning 1995) or *Lower South Coast: Lower South Coast Regional Settlement Strategy* (Department of Urban Affairs and Planning 1997), they should also be taken into account by councils and the applicant when considering a proposal for a rural land-sharing community.

It is important that the applicant address these requirements in the statement of environment effects (SEE) which should accompany the DA. See Preparing a SEE, page 7.

As well as development consent, many rural land-sharing community proposals will require other licences and permits for particular aspects of the proposal, such as creek crossings and water supply bores. It is the applicant's responsibility to obtain the necessary approvals, but the local council should be able to advise which government agencies need to be consulted. Appendix 2 also serves as a guide.

CONSULTATION

Early consultation with the councils, government agencies, local rural industries and the community can be of great assistance in making a preliminary assessment of the potential viability of a rural land-sharing community proposal on a particular site. It enables an applicant to:

- clarify any legislation or government policy which may apply to the site (such as on coastal policy, flooding, bushfire, land clearing)
- identify feasible alternatives (such as layout, design, infrastructure provision) and their relative merits in terms of environmental factors
- identify important environmental and local issues.

To maximise the benefits of consultation, requests for advice should be accompanied by adequate information on the proposal and site. As environmental factors are site specific, the consultation request should be targeted towards identifying important issues and should specifically relate to the particulars of the proposed location, design and environmental management.

Good communication between an applicant and council can result in a well prepared DA which increases the chance of gaining consent quickly. Some councils have development assessment panels or committees that can offer broad-based advice on proposals. Early consultation with the council's development assessment planners or panels can help to avoid delays and maintain effective communication with all relevant divisions within council.

The following government agencies may also be able to provide information of assistance in the design and assessment of a rural land-sharing community proposal:

- Environment Protection Authority
- NSW Agriculture
- Department of Land and Water Conservation
- National Parks and Wildlife Service
- NSW Rural Fire Service
- NSW Health
- Department of Mineral Resources.



After discussions with the local council and government agencies it is important for the applicant to focus on those issues identified as key to decision-making, particularly in preparing a SEE.

The community likely to be affected, whether directly or indirectly, should be informed of the proposal early in the process. This could include neighbours as well as other affected individuals,

community groups, and groups with special interests, for example, local Aboriginal land councils or industry associations such as extractive industry organisations. Often conflict can be minimised by ensuring that those affected are informed by the applicant before design and layout details are finalised, so their concerns can be accommodated where possible.

Choosing a site

To be able to submit a proposal for rural land-sharing community under SEPP 15 a site must:

- be zoned rural or non-urban and remain a single allotment
- not be of a land type specified in Schedule 2 (areas in which the policy does not apply)
- be not less than 10 hectares
- have no more than 25 percent prime crop or pasture land
- have adequate suitable land on the site so that:
 - no dwelling will be located on land with a slope of greater than 18 degrees or on land prone to mass movement
 - no structure or work is located in an area which is a wildlife refuge, corridor or management area, or so that it will adversely affect such wildlife areas.

Many local government areas have guidelines or strategies in place which indicate preferred locations and forms for settlement in rural areas. Of particular relevance are *Rural Settlement: Guidelines for Rural Settlement on the North Coast of NSW* and *Lower South Coast: Lower South Coast Regional Settlement Strategy*. It would be appropriate for land-sharing communities to be located in areas which are consistent with these guidelines and strategies.

All sites have inherent opportunities and constraints. These factors should be considered to provide the best opportunity for the sustainable management of the rural land-sharing community development. At the initial site selection stage, sites should be analysed to determine whether the characteristics meet the needs of the particular proposal and present a low risk of adverse environmental outcomes.



By selecting a site where the environmental risks are low, the costs of environmental management strategies can be minimised and the level of public concern and potential for delays in the approval process can be reduced.

In selecting options for the layout of the proposal, consideration should be given the characteristics of the location and sound design principles. While it is desirable to maximise the convenience and efficiency of use of the site, the layout and design of facilities, such as dwellings, community facilities, access roads and on-site waste disposal systems, should also minimise environmental impacts. In addition consideration should be given to changes that may be required in the future, for example, for expansion.

When selecting a site and designing the layout, avoid:

- flood liable land
- disturbance of land immediately adjacent to natural lakes, rivers and creeks or sensitive wetlands

- areas adjacent to groundwater recharge areas or where the watertable is high
- areas of contaminated soils or where there are salinity or acid sulfate soils problems
- areas that are highly prone to bushfires
- areas where there are known mineral deposits or locally important sources of extractive minerals (for example, sand and gravel)
- areas where the provision of adequate access or other services to the site or within the site is uneconomical
- disturbance of prominent ridgelines, steep land, drainage lines or where there have been slips or subsidence

and, minimise disturbance to:

- areas of important vegetation communities, for example, the habitat for threatened species, populations or communities or their habitats, riparian areas, wildlife corridors or remnant vegetation
- areas of high heritage significance including Aboriginal relics or sites.

This list is only indicative. Other matters could also be relevant in particular circumstances.

Preparing a SEE

The EP&A Act requires that most development applications include a statement of environmental effects (SEE). A SEE must provide sufficient information to identify any potential impacts the development may have upon the environment, including biophysical, social and economic factors. A SEE should also set out what steps are proposed to protect the environment and to mitigate harm on the site and its immediate surroundings.

For a rural land-sharing community proposal, the SEE should set out the information required by clauses 9(2) and 10 of SEPP 15. This includes:

- an analysis of the site and surrounds
- a description of the proposal
- an analysis of the potential impacts of the development on the environment—
indicating how the design of the proposed development has regard to the site analysis
- a management plan.

The following chapters deal with each of these requirements. The analysis of key environmental issues and potential impacts, and the plan to manage them, are discussed together under the heading Management plan (see page 13). The final chapter includes other issues which must be covered in a SEE, if relevant to the chosen site.



**PRESENTATION OF A STATEMENT OF
ENVIRONMENTAL EFFECTS**

The Site Analysis and the Proposal

The level of detail required will depend on the characteristics of the proposal and the site, and the issues critical for decision-making—applicants should discuss this as early as possible with the council.

In addition to a general description, drawings or maps can be used to show the site characteristics. For example, an aerial photo can be used as a base map of the physical features, with one or more overlays showing how the proposed development relates to these characteristics.

Site analysis

SITE ANALYSIS FOR A STATEMENT OF ENVIRONMENTAL EFFECTS

The preparation of a site analysis is an opportunity to gain a thorough understanding of the constraints and opportunities offered by a particular site and its surrounds. Schedule 3 of the SEPP sets out the factors that should form the basis of the analysis. This list is the minimum requirement—other factors may also be relevant depending on the particular site.

The following information, as appropriate, is to be included:

OVERVIEW OF SITE

Location

- a topographic map or drawing of the site with spot levels, contours, orientation, and north point
- site dimensions and site area.
- the location of fences and boundaries
- direction of prevailing winds (any other microclimatic characteristics)
- previous land uses on the site

Soils, Geology and Landscape Characteristics

- the soil types and, where present, the geology of any rocky outcrops on the site
- any contaminated soils or filled area
- any part of the land that is subject to a risk of erosion or areas with actual or potential acid sulfate soils
- land with a slope greater than 18 degrees
- any part of the land that is subject to a risk of landslip
- any part of the land that is prime crop and pasture land
- the location of known resources of mineral or extractive deposits on or adjacent the site likely to be sterilised by the development



Water-related Characteristics

- natural drainage patterns on the site
- the presence of watercourses, dams and groundwater resources particularly those of potential sources of water supply
- natural wetlands or land subject to pondage, seasonal waterlogging, high watertable or salinity
- any part of the land that is subject to a risk of flooding

Vegetation Characteristics

- vegetated areas requiring environmental protection for example riparian areas, vegetation on steep slopes, remnant vegetation, potential wildlife corridors, outstanding communities of native vegetation, habitat of threatened species, populations or communities, koala habitat
- areas where it is proposed that rehabilitation or reforestation will be carried out

Social Issues

- views to and from the site
- significant noise sources

- any part of the land that is subject to a risk of bushfires
- any other notable features on the site (natural or historic)
- any heritage items (including known items of Aboriginal heritage), relics and sites and their curtilages

OVERVIEW OF THE LAND SURROUNDING THE SITE

- a brief description of the land uses on surrounding land, particularly those which will be affected by the development
- an outline of the heritage significance of surrounding buildings and landscape (identify any heritage buildings, items or places likely to be affected)
- the characteristics of any adjacent public land, such as, a road reserve, national park, school
- the directions and distances to local shops, schools, public transport parks and community facilities
- any road reserve areas that impinge on the site.

The proposal

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**DESCRIBING THE PROPOSAL FOR A
STATEMENT OF ENVIRONMENTAL EFFECTS**
The applicant needs to include the following.

PROPOSED MANAGEMENT

Identify the number of people who will live on the site and, where relevant, their groupings. Outline the proposed means for establishing land ownership, dwelling occupancy rights and environmental and community management, to ensure the aims or objectives of the SEPP are met.

PROPOSED USE

Indicate the location and size of the area(s) for:

- dwellings or dwelling clusters
- community use (other than residential accommodation and home improvement areas)
- any other uses.

Identify the need for any proposed development for community use that is ancillary to the use of the land.

For proposed buildings, detail:

- the size, location and capacity of dwellings (accommodation numbers) and other structures such as community buildings, recreational facilities and buildings for agriculture or other purposes
- their design and siting (consider issues such as the aspect, solar orientation, shading, ventilation and prevailing winds in relation to energy efficiency and solar design principles resource conservation issues and building materials)
- their height (buildings which exceed eight metres are not permissible under SEPP 15)
- their relationship to any heritage items.

PROPOSED INFRASTRUCTURE

Consider the efficiency of the proposed layout of buildings for the provision of roads, utilities and other services; also, whether the layout design has minimised the need for access tracks and service trenches.



Identify:

- the location of the proposed access from a public road to the area or areas in which dwellings are to be situated as well as the internal network of roads necessary for agricultural use, fire-fighting or property maintenance. Indicate any tracks that cross Crown land or watercourses
- the location and capacity of any electricity, telephone or other utilities supplied to the site and the distribution network
- the location, source and capacity of any water supply resource and any reticulation networks
- any drainage easement or drainage system, especially for the collection and storage of stormwater
- the location, type and capacity of any sewage systems for the dwellings, identify areas involved with the domestic wastewater disposal
- the location, type and capacity of any facilities for the storage or reprocessing of solid waste, identify the location and capacity of facilities designated for landfill of solid waste
- the location and type of measures aimed at preventing the spread of bushfires.

Management plan

ASSESSING KEY ISSUES AND POTENTIAL IMPACTS AND PREPARING A MANAGEMENT PLAN FOR A STATEMENT OF ENVIRONMENTAL EFFECTS

SEPP 15 requires an applicant to explain how their proposal has been developed with regard to the environmental characteristics of the site and what measures will be taken to protect the environment and mitigate harm. In particular, the following should be addressed:

- water
- waste
- soil erosion prevention and control
- bushfire prevention
- flora and fauna, including control of noxious weeds and animals
- provision and maintenance of internal roads, boundary fences, water reticulation, service corridors for telephone and electricity cables and similar matters.

Each of these key issues is discussed in turn.

Under clause 10 of SEPP 15, an applicant is also required to submit a management plan for the property as part of their development application. The purpose of the plan is to demonstrate that the rural land-sharing community proposal will be managed in a way which is environmentally responsible for the life of the proposal. The management plan should form the basis for the construction phase as well as the ongoing management of site.

The management plan should pull together all the measures outlined in this chapter, to provide a practical strategy for the management of the proposal. The plan should also consider measures to manage any other potential environmental impacts some of which are discussed in the next chapter.



WATER

SEPP 15 requires consideration of:

- the availability of a water supply to the land for domestic, agricultural and fire-fighting purposes
- where a proposed water supply is from a river, creek, dam or other waterway, the effect upon other users of that water supply
- the effect of the proposed development on the quality of water resources in the vicinity.

The adequacy of a water supply sources in terms of quality and quantity and their reliability during adverse seasonal conditions are critical factors in selecting a suitable site for a rural land-sharing community. The other critical factor is the likely affect of the proposal on any natural waterbody, wetlands or groundwater aquifer and how that would impact on other users and the environment.

Most rural land-sharing community sites are located away from a town water supply and rely for their water on either a natural watercourse, dam, groundwater or rainwater storage tank or a combination of these. Adequate storage of roof rainwater, stormwater or recycled water can significantly reduce the need to rely on watercourses or groundwater during dry spells. The stress placed on the environment by the use of water from watercourses or groundwater can be considerable leading to decline in environmental flows and water quality with harm to the environment.

The proposed water supply should be from sources which will not adversely affect other users, and:

- be of an adequate quantity or reliability to meet the needs of the community, especially in drought
- be of a suitable quality for potable use and for waste management, garden, stock and crops
- provide a reserve for bushfire-fighting.

The quality of any proposed water source should be checked early in the process as some bores and wells may have unacceptable nutrient, metals, pesticides or bacterial levels which make them unsuitable for drinking water, for example, creek or well water may be polluted from a feedlot or sewerage systems upstream.

Issues in Water Management

In making provisions to manage the water supply the following should be identified:

- the seasonal water supply needs of the proposed development in terms of potable and other non-potable domestic or agricultural needs and for bushfire management
- the potential on-site and off-site water sources (for example, rainwater storage, dams, wells or creeks), their capacities and seasonal reliability
- any existing or proposed storage facilities and their capacities—outline the program to maintain the structural integrity of any existing or proposed dams relative to the catchment size and the design and dam wall material. If new dams are to be constructed in coastal areas, the likely disturbance of acid sulfate soils should be considered prior to earth-moving being undertaken and, if present, an adequate management strategy developed in accordance with relevant guidelines.

Outline:

- the procedures intended to maintain and monitor water quality in any water supply source
- measures proposed to conserve water and minimise water wastage, including ways to maximise recycling such as dual water reticulation and irrigation of effluent schemes
- what measures are to be used to prevent poor water quality in any creek, river or wetland likely to be affected by the proposal. These might include:
 - minimising sustained or unnecessary soil movement during construction or agricultural activities
 - using sediment control measures during periods of construction, and until adequate groundcover has been established
 - minimising the use of fertiliser with drainage systems which capture and reuse agricultural drainage water
 - locating and maintaining roads and access tracks to prevent erosion
 - capturing, storing and using water from hard surfaces such as roofs, roads, and paths
 - providing adequate on-site waste management systems (water and solids) designed and maintained to meet the maximum capacity needs of the community



- and located taking into consideration the soil and drainage characteristics
- ensuring adequate separation distance from a watercourse of any structures or waste management facilities
- protecting (or establishing) and maintaining vegetated buffers along rivers, streams or wetlands to filter sediments and remove pollutants from surface runoff. (A minimum width of 20 metres from either bank is recommended, but the wider the buffer the more effective it will be.)

Further Advice

The Department of Land and Water Conservation (DLWC) can offer advice on water management in relation to particular sites as well as the design of water supply schemes. It is the responsibility of the applicant to conform with any requirements and obtain any licence or permit necessary for the extraction of river water or groundwater or for the construction of dams or weirs on any watercourse (which includes any well defined drainage line). An approval must also be obtained from NSW Fisheries for dams or weirs which prevent the passage of fish. In considering whether to approve these activities, both the rights of existing users and the health of the aquatic environment will be considered.

WASTE

SEPP 15 requires consideration of:

- whether there is adequate provisions has been made for waste disposal on the land.

The applicant should demonstrate that any intended on-site wastewater and solid waste management systems have been designed, installed and will be maintained and managed so that risks to public health are minimised and pollution does not occur to land or water. Where possible the generation of waste should be minimised, or waste re-used, recycled or re-processed. Only as a last resort should disposal be considered.

On-Site Wastewater

As soon as possible, discussion should be held with local councils regarding wastewater management options. If the rural land-sharing community is within the range of existing town sewerage systems, connection to the system

should be investigated, particularly if on-site management is likely to be unsustainable because of soil, groundwater or topography constraints or because of the environmental sensitivity of the area.

Preliminary site assessment (especially soil and groundwater characteristics) should be undertaken as a priority, to identify the extent of any constraints so management alternatives can be investigated. Some of the factors which must be considered when choosing an appropriate location or system for a site are:

- the soil characteristics including permeability
- slope and geological characteristics
- proximity of watercourses and re-charge areas for aquifers
- depth to the watertable and seasonal variations
- climatic influences
- exposure and size of area available for an absorption field
- surface run-off or up slope seepage
- flood liability.

In some locations on-site effluent disposal is not an acceptable option, as health and environmental problems can result. If the ground water is shallow or if soil does not have adequate water holding capacity, wastewater will flow to pollute groundwater, wetlands or streams or to emerge as contaminated seepage on lower terrain.

The design of wastewater management systems should be undertaken on a site-specific basis. In order to ensure that an appropriate on-site wastewater system is designed and properly located, it is recommended that a detailed soil assessment be undertaken by an appropriately qualified person familiar with *Environment and Health Protection Guidelines: On-Site Sewage Management for Single Households* (Department of Local Government 1998).

Issues in Wastewater Management

In making provisions to manage the wastewater, reference must be made to the guidelines mentioned above. The applicant will also need to identify/outline:

- the potential sources of wastewater, the quantities and likely quality
- options considered—justify the selection of



- the preferred option in terms of human health issues, potential risks to the environment and impacts on water supply demands
- the method, elements and capacity of the proposed wastewater management system or systems for sewage and other wastewater
- opportunities for recycling and any further treatment necessary prior to recycling—outline measures to ensure that any non-potable water is not used for potable uses
- (if trenches, artificial wetlands or irrigated landscaping or agriculture is a component of the scheme) all areas where wastewater is to be applied, the composition of the water and the proposed management regime
- the management and maintenance regime for the system
- the nature and extent of environmentally sensitive areas in the vicinity of the system, and the likely impact on these areas should there be system failure (that is, outline contingency measures to manage or prevent impact).

Solid Waste

Solid waste generated by the rural land-sharing community must be managed so that detrimental effects on the environment are prevented. A high priority should be given to waste minimisation and the reuse, recycling or reprocessing of waste as an alternative to waste disposal.

Issues in Solid Waste Management

The applicant will need to identify the potential volume and type of solid waste and whether they are to be managed on- or off-site.

If on-site, outline:

- arrangements to collect, store and reuse or recycling of waste on-site, and procedures to manage and maintain these waste management facilities
- any proposed composting (including vermiculture) procedures including the proposed site and management regime; and procedures to minimise odour and problems from flies or vermin and to prevent contamination of surface and groundwater.

If off-site, outline:

- how the waste material not to be re-used on site will be collected, stored and transferred

to an appropriate transfer station or landfill. Applicants should establish whether a rural garbage collection service is available. Where no such service exists, outline arrangements to transfer the solid waste either to a local waste transfer station where it can be collected by the council or directly to the council's landfill.

Where it is not feasible to remove solid waste from the site, an on-site waste landfill may be allowed in certain circumstances for some types of waste material, for example, non-hazardous. Reference should be made to the Environment Protection Authority's *Environmental Guideline: Solid Waste Landfills* regarding the appropriate siting, design and management of landfills.

Also, outline procedures to manage the collection, storage and disposal of rubber tyres and any hazardous agricultural, chemical, paints or pesticide waste, including their containers.

Further Advice

The local council will approve the sewage and waste management system intended for the site. In addition to the local council, the following agencies may also be able to provide further information:

- Department of Health
- Environment Protection Authority (EPA)
- DLWC.

If water pollution is likely, a licence from EPA may be advisable under the *Protection of the Environment Operations Act 1997*.

PREVENTION, CONTROL AND MANAGEMENT OF SOIL EROSION

SEPP 15 requires consideration of:

- whether the land is subject to a risk of erosion or landslip and, if so, the adequacy of the measures proposed to protect occupants, buildings, internal access roads, service installations, and land adjoining the development from any such hazard
- the effect of the proposed development on the quality of the water resources in the vicinity.

Soil is a vital resource and its proper management is crucial. Soil erosion can occur as a result of a



wide range of factors such as intensive or inappropriate agricultural use, poor design of works or insensitive land disturbance which results in the removal of the existing groundcover.

Once soil loss occurs, rehabilitation is difficult and costly. It is therefore essential that the applicant is familiar with the susceptibility of the land to erosion and implements management strategies which preserves the integrity of the soil.

A site with a high proportion of steep land is not suitable for development because of the high probability of erosion problems with any disturbance. Slopes greater than 18 degrees should be left undisturbed with good native vegetation cover. The DLWC has maps of protected and sensitive land. However a preliminary site analysis should be undertaken particularly prior to site selection and design layout.

A soil survey and land capability assessment can identify the type and qualities of the soil on the site essential in considering site alternatives for buildings, waste management facilities or agricultural activities. Based on this information, appropriate protective measures can be developed in relation to preventing soil degradation and erosion as well as other soils related issues such as managing soil contamination or acid sulfate soils or designing an effluent disposal schemes.

Issues in the Prevention, Control and Management of Soil Erosion

The applicant will need to identify areas where the soils or vegetation will be disturbed, for example:

- construction of buildings, roads, utilities, waste management facilities
- cultivation or grazing activities, bushfire or weed management.

Outline measures to minimise erosion during construction activities, for example:

- selection of stable sites for the location of buildings, roads or other facilities with manageable slopes
- design of works to minimise gradients in drainage systems especially along roads or in service trenches

- scheduling of works so that large cleared areas are not exposed to severe seasonal storms or winds; disturbed areas should be checked following periods of heavy rainfall or wind and action taken immediately in any problem areas
- staging the project so that a minimum area is denuded at any one time; all soil disturbed by construction work should be returned to a stable contour and a good groundcover of grass or mulch established as soon as practical
- implementation of sediment control measures during construction and maintenance of measures until the soil surface is protected by groundcover or stabilised by other measures.

Outline measures to minimise erosion during agricultural activities, for example:

- minimising tillage and avoiding scheduling tillage or weed eradication works during the months of greatest rainfall
- avoiding tillage of slopes or tillage in accordance with best practice (see NSW Agriculture)
- minimising over-grazing or high levels of stock movement on slopes especially during drought
- fencing off of watercourses with controlled access for watering or off-stream watering points.

Further Advice

Further information can be obtained from the DLWC and NSW Agriculture. The DLWC may have useful maps and soils data on the site or surrounding areas as well as lands mapped as protected lands under the Soil Conservation Act.

BUSHFIRE PREVENTION

SEPP 15 requires consideration of:

- whether the land is subject to a risk of bushfires, and if so, the adequacy of any measures proposed to protect occupants, building, internal access roads, service installations and land adjoining the development from any such hazard.

Poorly managed or maintained rural developments can create serious bushfire hazards and constitute a significant danger to the community residents, the neighbours and the bushfire brigades.



SEPP 15 GUIDE

Council as the consent authority is required to refer to the document *Planning for Bushfire Protection* (1991) issued by the Department of Bush Fire Services when considering a development application. This is a comprehensive guide and provides pertinent advice on site selection, layout of the community and design of, or buildings materials for, structures.

Issues in Bushfire Management

In addition to consulting *Planning for Bushfire Protection*, the applicant should consult the bushfire officer at their local council or the local fire brigade to obtain information on local conditions and bushfire patterns.

In planning to minimise the risks from bushfires, the following should be covered:

- the level of potential risk given the topography, climatic conditions and vegetation on the site and in the surrounding area
- site design features that incorporate bushfire preventative measures such as:
 - location of buildings relative to slopes and existing vegetation
 - provision of suitable access for emergency vehicles
 - building design and materials which incorporate bushfire protection and fire-retarding measures
 - use of appropriate vegetation planting strategies particularly fire-retarding species
 - the location of firebreaks around buildings or fire trails
- the location and capacity of on-site water storage facilities which can be used for fire-fighting purposes (for example, permanent pools in watercourses, dams, ponds, swimming pools)
- proposed fire-fighting equipment, including pumps, hoses and vehicles which can be used in fire-fighting, and their maintenance
- maintenance procedures for:
 - firebreaks and other preventive measures around buildings, particularly immediately prior to bushfire season (for example, removing flammable material around the buildings, fuel storage areas and haystacks on roofs or in gutters, removing overhanging branches)
 - fire-fighting access roads
 - any hazard reduction burning program
 - any other prevention measures used.

Further Advice

Assistance in the preparation of a bushfire management plan can be obtained from:

- the bushfire officer of the local council
- local fire brigade
- NSW Rural Fire Service.

Further information is also available from:

- State Forests of NSW
- National Parks and Wildlife Service (NPWS).

FLORA AND FAUNA

SEPP 15 requires consideration of:

- the impact on the vegetation cover of the land and any measures proposed for environmental protection, site rehabilitation or re-forestation
- impact of the proposed development on any heritage item, relic or site, or on their curtilages. [This includes natural heritage.]

The management of vegetation on the proposed site provides an opportunity to protect and preserve the biodiversity of the area including threatened species, populations and ecological communities and their habitat. The management plan should detail the measures proposed to maintain and protect the ecology and where possible enhance or restore degraded ecological communities.

If any vegetation or habitat of fauna species is to be disturbed by the proposal, council will require the applicant to prepare an '8-part test' (refer to section 5A of the EP&A Act) to determine whether the proposed development is likely to have a significant effect on threatened species, populations, ecological communities or their habitats. If there is likely to be a significant effect, then a species impact statement must accompany the development application, prepared in accordance with the *Threatened Species Conservation Act 1995* and the circular prepared by the NPWS [see Bibliography]. It should be noted that land that is critical habitat as defined in the *Threatened Species Conservation Act* is exempt from the provisions of SEPP 15.

See Appendix 3 for information on critical habitats and threatened species, populations and ecological communities.



If weeds or feral animals are present on the site, there is a responsibility to manage, suppress or destroy these pests under the *Rural Lands Protection Act 1989*. Advice should be sought from local council, relevant county councils or DLWC regarding the provisions in the particular area. Category 1 noxious weeds are notifiable to the local control authority and must be fully and continuously suppressed and destroyed. Occupiers may also be responsible for the control of noxious weeds in a river or watercourse adjoining their property and penalties exist for those who fail to exercise their responsibilities. Appropriate management methods should be discussed with the local control authority particularly the use of any chemicals. Under the provisions of the *Rural Lands Protection Act*, occupiers of land are required to continuously suppress and destroy noxious animals such as rabbits, wild dogs or feral pigs, or any other 'declared' animal or bird. Provisions should also be adopted for the control of domestic animals.

Issues in Flora and Fauna Management

Identify habitats (plant and animal) and ecological communities and where appropriate, populations and species in areas that may be directly or indirectly affected by the proposal; indicate the local and regional scarcity of these habitats, ecological communities, populations and species. As relevant, identify the following, indicating their incidence on the site:

- threatened species, populations or ecological communities listed in Schedule 1 or 2 of the *Threatened Species Conservation Act 1995*; aquatic species protected under the *Fisheries Management Act 1994*
- areas affected by the provisions of: SEPP 14—Coastal Wetlands, SEPP 26—Littoral Rainforest, SEPP 44—Koala Habitat Protection, Murray Regional Environmental Plan No. 2—Murray River, or other environmental planning instruments; the *Wilderness Act 1987*; international agreements such as RAMSAR wetlands, Japan Australia Migratory Bird Agreement (JAMBA) and China Australia Migratory Bird Agreement (CAMBA); as well as, the Australian Nature Conservation Agency's Directory of Important Wetlands in Australia
- wildlife corridors and remnant vegetation important for native fauna.

Assess the potential impacts on:

- species, populations or ecological communities or the number, distribution or size of their habitats as a result of disturbance, for example:
 - dredging or clearing especially of native vegetation, wildlife corridors or remnant vegetation important for native fauna
 - the location of dwellings, buildings, access roads, agricultural activities and management practices
 - any existing weed or feral animal problem
 - the likely impact from the introduction of non-indigenous species, weeds, ferals or pathogens
 - noise or dust or changes in water regime or by affecting species in the food chain
 - the use of chemicals on the site (for example, herbicides, pesticides and fertilisers)
 - any proposed bushfire management strategy
- any wilderness areas.

Develop mitigation measures, including:

- where possible, the retention of native vegetation, especially that of high conservation or heritage values. Outline the measures necessary to maintain the environment of any protected native plants or wildlife on or adjacent to the site. If SEPP 44—Koala Habitat Protection applies, make reference to the requirements of the policy
- landscaping and rehabilitation proposals and their role in mitigation of impacts; outline opportunities for the establishment of compensatory rehabilitation or reforestation with indigenous species or creation of new habitat
- proposed management of any agricultural or other activities on the site, including the use of any chemicals, proposed crops and the location and composition of buffer areas to minimise impacts on native vegetation or on adjoining waterways—outline the proposed maintenance program for the buffer areas
- measures to prevent escape or spread of non-indigenous plant or animal species, pathogens and diseases—outline a maintenance program
- measures to control existing noxious plants or feral animals especially along rivers and watercourses—outline a seasonal maintenance program.



Also, outline what monitoring is proposed, to determine effectiveness of management and maintenance programs.

Further Advice

Advice should be sought from local councils regarding the presence of any protected trees, areas or vegetation communities and the provisions relating to their protection.

If any vegetation is to be cleared by the proposal, the provisions of the *Native Vegetation Act 1997* may apply. Advice should be sought from DLWC early in the site selection stage with regard to these provisions and any approvals which may be required. In addition DLWC can provide advice with regard to nature reserves, the provisions relating to Native Title and Crown land.

If any vegetation is to be cleared or fauna habitat to be disturbed by the proposal, advice should be sought from NPWS regarding the likely presence of any threatened species, populations or communities or their habitats and for any guidelines for undertaking an '8-part test' under the *Threatened Species Conservation Act 1995*. In addition NPWS can provide advice with regard to the presence of land protected by conservation agreements, wilderness areas or areas protected under other conservation provisions.

Further information concerning the identification of noxious weeds and advice about eradication measures can be obtained from any of the noxious plants advisory committees which exist throughout the State or from the local county council or council. Similarly, information on noxious animals can be obtained from the local Rural Land Protection Board or council.

PROVISION AND MAINTENANCE OF ACCESS, FENCES AND UTILITIES

SEPP 15 requires consideration of the following:

- the availability and standard of public road access to the land
- the availability of a water supply to the land for domestic, agricultural or fire-fighting purposes
- if required by the applicant, the availability of electricity and telephone services.

Internal roads need to be well constructed, stable and trafficable in all weather conditions. In laying out the internal road network, steep slopes, areas subject to mass movement or subject to seasonally high watertables should be avoided as construction and maintenance costs will be high. In addition the road network should minimise stream crossings and avoid encroaching on stream banks. Any crossing of a creek or active drainage line should be a properly designed ford, culvert or bridge preferably constructed at right angles to the channel.

Consideration of environmental issues at the planning and construction stage will reduce the cost and increase the effectiveness of maintenance procedures. Poorly constructed and inadequately maintained roads can lead to serious soil erosion and contribute to poor water quality. Service corridors which have been poorly located can result in unnecessary destruction of vegetation, visual impacts and erosion problems. Wherever possible, the use of the road corridor for the provision of services is preferable. Where underground services are to be provided, co-trenching is preferable to minimise impacts.

Issues in the Provision and Maintenance of Internal Roads

This applicant will need to identify:

- the likely road usage including the type of vehicles and the numbers of daily movements
- the preferred junction with the public road of any access roads from the site—consider the implications of the location of the junction in terms of road safety issues (sight lines, waiting of turning vehicles and so on)
- the routes of the proposed internal road network—outline the proposed design, construction methods including drainage
- measures to minimise erosion, sedimentation, vegetation or acid sulfate soils disturbance as a result of the location of the roads and during construction particularly at any stream crossing.

Outline the proposed maintenance program for roads and their associated drainage, with emphasis on the early years after construction following any heavy usage or exceptionally heavy rainfall, to ensure effective erosion control, revegetation and track stability.



**Issues in the Provision and Maintenance of
Boundary Fences**

The applicant will need to indicate:

- the existing boundary fencing on the property in terms of type, performance and present condition
- any new fencing works required in terms of type and performance, especially near waterbodies, and any staging for their construction
- the proposed maintenance program especially in stock areas and where likely to be affected by flooding
- the potential implications of failure of the boundary fences and the proposed contingencies to rectify any impacts.

**Issues in the Provision and Maintenance of Water
Reticulation, Service Corridors for Telephone and
Electricity Cable and Similar Matters**

The applicant will need to identify/outline:

- any utilities to be provided to the site (for example, water, gas, telephone and electricity) and the likely supply. Also, include any preferred access route onto the site and

internal networks—if the preferred route or network is not along roads, justify the alternative route

- measures to minimise erosion, sedimentation, vegetation or acid sulfate soils disturbance as a result of the location of the service corridors and during construction particularly at any stream crossing
- if relevant, the proposed maintenance program especially if it involves vegetation disturbance.

Further Advice

For information on the design, construction and maintenance of roads can be obtained from the DLWC. DLWC can also advise on the necessary permits for stream crossings and tree clearing. If access is from a local road, the local council should be consulted regarding performance standards for egress. If access is from an arterial road, the RTA must be consulted.

For information on individual utilities, it will be necessary to consult with the service providers. Council can assist in identifying who are the service providers in the area. It should be noted that permission to construct roads or lay utilities on Crown land must be obtained from DLWC.

Other issues

OTHER ISSUES TO CONSIDER IN A STATEMENT OF ENVIRONMENTAL EFFECTS

While SEPP 15 requires an applicant to focus on the management of the six key areas in clause 10 covered in the previous chapter, other issues may also need assessment and management depending on the characteristics of the site and proposal.

OTHER SOILS ISSUES

Acid Sulfate Soils

SEPP 15 requires consideration of:

- whether the land is subject of landslip or whether there are areas with actual or potential acid sulfate soils and, if so, the adequacy of any measures proposed to protect the occupants, buildings, internal access roads, service installations and land adjoining the development from any such hazard.

Acid sulfate soils (ASSs) are normally found in low-lying, waterlogged areas near the coast. When acid sulfate soils are drained for agricultural use or disturbed for construction sulfuric acid is released acidifying the soil and any associated groundwater or drainage system. If the acid leaches into watercourses, the health of fish, oysters and other aquatic organisms will be detrimentally affected. Acid groundwater is unsuitable for human consumption because of the associated high metals content especially aluminium. The acidification of soils result in poor pasture or crop productivity and difficulties with landsharing of denuded areas.

DLWC ASS Risk Maps and ASS Planning Maps should be consulted to determine if acid sulfate soils are likely to occur on the site. If so, a plan of management should be prepared according to the draft guideline, *Acid Sulfate Soils Assessment and Management Guidelines* (ASSMAC 1997). Preferably, no drainage or excavation works should be carried out where there are likely to be acid sulfate soils present.



If disturbance of the soil in a risk area is unavoidable, specialist soils advice needs to be obtained from DLWC or NSW Agriculture.

Contaminated Soils

The history of previous land use on the site should be considered to determine the likelihood that any areas may be contaminated by previous chemical use, for example banana plantations, intensive horticultural use, dip sites, timber processing or landfill or village tip sites or chemical accidents. Councils, NSW Agriculture or EPA may be able to assist. If chemical contamination is likely, then an assessment should be undertaken according to the draft guideline, *Managing Land Contamination* (1997), and an appropriate remediation plan prepared

LAND USE

SEPP 15 requires consideration of the following:

- the effect of the proposed development on the present and potential use, including agricultural use, of the land and of the lands in the vicinity, including the need for separation and buffers to avoid land use conflicts
- whether resources of coal, sand, gravel, petroleum or other mineral or extractive deposits will be sterilised by the proposed development
- whether the land has been identified by the council as being required for future or rural residential expansion.

Reference should be made to any settlement strategy, regional environmental plan or local environmental plan to determine if the proposed land use is consistent with the strategic planning for the area. If the proposal is inconsistent with any aspects of these strategies, justification for the variation should be given.

Present and proposed agricultural, mining or extractive industries activities should be identified to determine if there are likely to be any conflicts, especially if there are odour, dust or noise generating industries in the vicinity. In these circumstances, discussions should be held at the site selection and design layout stage, with council and the industry concerning appropriate separation distances so that impacts

on the amenity of the rural land-sharing community is minimised. If there is likely to be a conflict, justification for the proposal in the particular location should be provided.

In addition at the site selection and design layout stage, discussions should be held with the Department of Mineral Resources (Land Use and Resource Assessment, Geological Survey) to determine if mineral and extractive resources are located on or adjacent to the proposed development. If there is likely to be any sterilisation of resources, or if the project is likely to make development of the resource difficult in the future, justification for the proposal in the particular location should be provided.

HERITAGE

SEPP 15 requires consideration of the following:

- any land claims by local Aborigines and the presence of any aboriginal relics and sites
- the impact of the proposed development on any heritage item, relic or site or on their curtilages.

Consideration should be given to the likely impact of the development on the heritage significance of the areas. As a first step, consultation with local councils should determine if any heritage items, places, relics or sites have been identified on the site from the following sources:

- local environmental plan (LEP)
- any register established under the *Heritage Act 1977*
- any site register maintained by NPWS
- the NSW State Heritage Inventory
- registers prepared under section 170 of the *Heritage Act 1977*
- the Register of the National Estate prepared under the *Australian Heritage Commission Act 1975*
- the register of the National Trust of Australia (NSW Division)
- any heritage study prepared by or on behalf of the council
- any Aboriginal heritage survey prepared by or on behalf of an Aboriginal land council, or any other Aboriginal body, which has been provided to the council.



If council advises that a heritage survey should be undertaken because of the potential heritage significance of the area, an assessment of the potential impacts of the proposal on that significance should be undertaken by a suitably qualified consultant under any relevant guidelines issued by the Heritage Office or NPWS.

If necessary, a management plan should be developed.

If the proposal affects Crown Land (including the bed of rivers) consideration should be given to Aboriginal land claims issues. Consultation should be undertaken with DLWC who are responsible for processing land claims under both State and Commonwealth legislation.

VISUAL IMPACTS

SEPP 15 requires consideration of the following:

- the visual impact of the proposed development on the landscape.

The siting and design of buildings can have significant impacts on the potential visual impacts of the proposal, for example, proposals on ridgelines particularly in areas of important scenic value are likely to have significant impacts. Within the site, consideration should be given to the location of buildings and waste management facilities to minimise visual impacts as viewed from roads or other vantage points onto the site. The retention of vegetation buffers or the use of landscaping to minimise visual

impacts between the development and any possible conflicting adjoining land use should also be considered.

In developing strategies to manage visual impacts consideration should be given to:

- the potential visual significance of the area where the proposal is located
- the potential impact of the proposal on any significant area
- measure proposed to minimise the impacts
- potential for the proposal to overview other land uses and the likely impacts on privacy
- measures proposed to minimise these impacts.

SOCIAL AND ECONOMIC ISSUES

SEPP 15 requires consideration of the following:

- availability of community facilities and services to meet the needs of the occupants
- whether the development would benefit an existing village centre suffering from a declining population base or a decreasing use of the service provided in that centre.

The impacts of the proposal on the local social and economic environment should be considered. For example, whether significant impacts will occur on community facilities or services requiring additional State or local government resources. Impacts on the local economy could also be considered in terms of proposed production from the rural land-sharing community and interaction with local businesses.

Appendix 1

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.....

AREAS WHERE SEPP 15 APPLIES (SCHEDULE 1)

Under SEPP 15 people can apply to develop a rural land-sharing community in the following local government areas:

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

Appendix 2

CONSULTATION AND APPROVALS

It is the responsibility of the person preparing the development application to determine what approvals will be required as a result of the proposal and to demonstrate that the proposal can meet all approval and licensing requirements. In preparing the SEE, consultation with relevant parties should be undertaken early in the process and their comments taken into account in the SEE.

Approvals or consultation which may be required include the following:

Local councils—for development approvals under Part 4 of the EP&A Act and, until 30 June 1998, building approval under the *Local Government Act 1993*; and for alteration to local roads or buildings or trees of local heritage significance. Depending on the location of the proposal local councils may also be responsible for water supply, sewerage and waste disposal.

Department of Urban Affairs and Planning—for concurrence if the proposal impacts on SEPP 14—Coastal Wetlands, SEPP 26—Littoral Rainforest, potential or actual koala habitat under SEPP 44—Koala Habitat Protection; and for Minister for Urban Affairs and Planning consent where SEPP 34—Major Employment Generating Industrial Development applies (more than \$20 million investment or more than 100 employees [20 with rural industries]).

Environment Protection Authority—for air, water and noise licences, approvals and certificates of registration under relevant pollution control legislation; regulation of waste generation, transportation and disposal; licences for transport of dangerous goods under the *Dangerous Goods Act*; and licences for chemicals subject to chemical control orders under the *Environmentally Hazardous Chemicals Act 1985*.



NSW Fisheries—if fish or fish habitat is affected (including dredging or reclamation works, impeding fish passage, damaging marine vegetation, desnagging, use of explosives or other dangerous substances in or adjacent to a waterway which may result in fish kills).

Department of Land and Water Conservation—for information, advice and if relevant, approval on:

- the status, tenure and permissible uses of Crown lands which includes most submerged land in tidal waterways, large areas of foreshore land, and areas of reserved, leased and vacant Crown land or land used for a public purpose (for example, Crown road reserves)
- whether land is subject to Aboriginal native title legislation
- management or clearing of native vegetation, riparian land and wetlands
- non-metropolitan water supply, including surface and groundwater; design of dams and reticulation systems; groundwater aquifers or piezometers; and works on a floodplain or in the riparian zone
- soil types and characteristics; design of sediment/erosion control structures and land rehabilitation schemes and wastewater management and disposal techniques.

National Parks and Wildlife Service—for information and advice where:

- land clearing or impacts on natural vegetation are likely—if any 'threatened species, populations or ecological communities or their habitats or land that is critical habitat are affected' the provisions of the *Threatened Species Conservation Act 1995* are triggered
- approvals are required if sites of Aboriginal heritage significance are to be affected
- National Parks, Reserves or areas under Conservation Agreements, Wilderness Protection Agreements or Interim Protection Order Areas are likely to be affected.

NSW Health Department—with regard to the potential health hazard caused by the operation of the facility (processed foods, sewage, wastewater).

Catchment or estuary management committees or trusts (contact via council or Department of Land and Water Conservation)—for information on catchment or estuary management and planning.

Department of Aboriginal Affairs and the local Aboriginal land council—if the proposal is in an area of significance to the Aboriginal community. for issues relating to Aboriginal owned lands, community concerns and traditional sites.

NSW Rural Fire Service—if the area is in a location of bushfire hazard.

Department of Mineral Resources—if a resource management plan applies or if the proposal is in an area of important mineral resources, concerning its responsibilities under Sydney Regional Environmental Plan No. 9—Extractive Industry, and for blasting.

NSW Heritage Office—if the proposal is likely to affect any place or building having State heritage significance or if the proposal is affected by interim conservation orders (ICO) or permanent conservation orders (PCO).

NSW Agriculture—if the proposal is on land with high agricultural value or will cause dislocation to the agricultural industry.

Mining Subsidence Board—if the proposal is in an underground mining area.

Roads and Traffic Authority—if the proposal is likely to result in significant traffic impacts.

Relevant service authorities—such as water, electricity, gas, telecommunication, drainage, flood mitigation, sewerage or other utility organisations.

State Forests of NSW—in relation to impacts on State Forests and Crown Timber Reserves.

Sydney Water Corporation or Hunter Water Corporation—to ascertain overflow and sewage treatment plant discharge points; for notification of the corporation of any abattoir proposal located within special areas or outer catchment areas; approval for activities in Special Areas including using water, waste disposal, and waste water treatment and disposal.

Appendix 3

PROVISIONS IN THE THREATENED SPECIES CONSERVATION ACT

The *Threatened Species Conservation Act 1995* (TSC Act) integrates threatened species considerations into decisions made under the *Environmental Planning and Assessment Act 1979* (EP&A Act). This appendix contains an extract from the TSC Act and provisions for assessing impacts on the conservation of critical habitats, and threatened species, populations or ecological communities and their habitats.

What are critical habitats, threatened species, populations or ecological communities and key threatening processes?

Critical habitats are prescribed in Part 3 of the TSC Act. Threatened species, populations or ecological communities are prescribed in Schedules 1 and 2 of the TSC Act. Key threatening processes are presented in Schedule 3.

When is a species impact statement (SIS) required?

Under sections 77(3)(d1) and 112(1B) of the EP&A Act, a SIS is required if a proposal:

- is on land that is, or is part of, 'critical habitat', or
- is likely to significantly affect threatened species, populations or ecological communities, or their habitats.

A species impact statement (SIS) must be prepared in accordance with Division 2 of Part 6 of the TSC Act.

What factors are used in deciding if an SIS is required?

An SIS is required if the proposal is likely to be a significant effect on threatened species, populations, ecological communities, or their habitats. In order to make the decision, section 5A of the EP&A Act (known as the 8-part test) must be applied:



...the following factors must be taken into account in deciding whether there is likely to be a significant effect on threatened species, populations or ecological communities, or their habitats:

- (a) in the case of a threatened species, whether the life cycle of the species is likely to be disrupted such that a viable local population of the species is likely to be placed at risk of extinction
- (b) in the case of an endangered population, whether the life cycle of the species that constitutes the endangered population is likely to be disrupted such that the viability of the population is likely to be significantly compromised
- (c) in relation to the regional distribution of the habitat of a threatened species, population or ecological community, whether a significant area of known habitat is to be modified or removed
- (d) whether an area of known habitat is likely to become isolated from currently interconnecting or proximate areas of habitat for a threatened species, population or ecological community
- (e) whether critical habitat will be affected
- (f) whether a threatened species, population or ecological community, or their habitats, are adequately represented in conservation reserves (or other similar protected areas) in the region
- (g) whether the development or activity proposed is of a class of development or activity that is recognised as a threatening process
- (h) whether any threatened species, population or ecological community is at the limit of its known distribution.

What is the form and content of an SIS?

Under section 110 of the TSC Act, the requirements for the form and content of an SIS are as follows.

General information [section 110(1)]

1. A species impact statement must include a full description of the action proposed, including its nature, extent, location, timing and layout and, to the fullest extent reasonably practicable, the information referred to in this section.

Information on threatened species and populations [section 110(2)]

2. A species impact statement must include the following information as to threatened species and populations:

- (a) a general description of the threatened species or populations known or likely to be present in the area that is the subject of the action and in any area that is likely to be affected by the action
- (b) an assessment of which threatened species or populations known or likely to be present in the area are likely to be affected by the action
- (c) for each species or population likely to be affected, details of its local, regional and Statewide conservation status, the key threatening processes generally affecting it, its habitat requirements and any recovery plan or threat abatement plan applying to it
- (d) an estimate of the local and regional abundance of those species or populations
- (e) a general description of the threatened species or populations known or likely to be present in the area that is the subject of the action and in any area that is likely to be affected by the action
- (f) a full description of the type, location, size and condition of the habitat (including critical habitat) of those species and populations and details of the distribution and condition of similar habitats in the region
- (g) a full assessment of the likely effect of the action on those species and populations, including, if possible, the quantitative effect of local populations in the cumulative effect in the region
- (h) a description of any feasible alternatives to the action that are likely to be of lesser effect and the reasons justifying the carrying out of the action in the manner proposed, having regard to the biophysical, economic and social considerations and the principles of ecologically sustainable development
- (i) a full description and justification of the measures proposed to mitigate any adverse effect of the action on the species and populations, including a compilation (in a single section of the statement) of those measures



- (j) a list of any approvals that must be obtained under any other Act or law before the action may be lawfully carried out, including details of the conditions of any existing approvals that are relevant to the species or population.

Information on ecological communities
[section 110(3)]

- 3. A species impact statement must include the following information as to ecological communities:
 - (a) a general description of the ecological community present in the area that is the subject of the action and in any area that is likely to be affected by the action
 - (b) for each ecological community present, details of its local, regional and State-wide conservation status, the key threatening processes generally affecting it, its habitat requirements and any recovery plan or any threat abatement plan applying to it
 - (c) a full description of the type, location, size and condition of the habitat of the ecological community and details of the distribution and condition of similar habitats in the region
 - (d) a full assessment of the likely effect of the action on the ecological community, including, if possible, the quantitative effect of local populations in the cumulative effect in the region
 - (e) a description of any feasible alternatives to the action that are likely to be of lesser effect and the reasons justifying the carrying out of the action in the manner proposed, having regard to the biophysical, economic and social considerations and the principles of ecologically sustainable development
 - (f) a full description and justification of the measures proposed to mitigate any adverse effect of the action on the ecological community, including a compilation (in a single section of the statement) of those measures
 - (g) a list of any approvals that must be obtained under any other Act or law before the action may be lawfully carried out, including details of the conditions of any existing approvals that are relevant to the ecological community.

Credentials of persons undertaking an SIS
[section 110(4)]

- 4. A species impact statement must include details of the qualifications and experience in threatened species conservation of the person preparing the statement and of any other person who has conducted research or investigations relied on in preparing the statement.

State-wide conservation status [section 110(5)]

- 5. The requirements of subsections 2 and 3 (above) in relation to information concerning the State-wide conservation status of any species or population, or any ecological community, are taken to be satisfied by the information in that regard supplied to the principal author of the species impact statement by the NPWS, which information that service is by this subsection authorised and required to provide.

What are the procedures for preparing an SIS?

Under Section 111 of the TSC Act, the Director-General of National Parks and Wildlife must be consulted in writing for the requirements for an SIS. These requirements must be provided within 28 days from when a request is made.

Because of the circumstances of the case, the Director-General of National Parks and Wildlife may limit or modify the extent of matters prescribed in section 110. In other cases if the impacts are considered to be trivial or negligible, the Director-General of National Parks and Wildlife may dispense with the requirement for an SIS to be prepared.

An SIS may be prepared as a separate document or incorporated in an EIS. If the SIS is separate to the EIS, it must be exhibited concurrently with the EIS.

The SIS must be in writing and be signed by the principal author of the document and the applicant/proponent.

Bibliography

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Acid Sulfate Soils Management Advisory Committee (ASSMAC) 1997. *Acid Sulfate Soils Assessment and Management Guidelines*.

Department of Bush Fire Services 1991. *Planning for Bushfire Protection: A Guide for Land Use Planners, Fire Authorities, Developers and Home Owners*. Discussion Document.

Department of Planning 1989. *Lodging a Development Application: Five Ways to Reduce Delays*.

Department of Local Government 1998. *Environment and Health Protection Guidelines: On-Site Sewage Management for Single Households*.

Department of Urban Affairs and Planning 1997. *Lower South Coast: Lower South Coast Regional Settlement Strategy*.

Department of Urban Affairs and Planning 1995. *Rural Settlement: Guidelines on Rural Settlement on the North Coast of NSW*.

Department of Urban Affairs and Planning 1995. *SEPP 44—Koala Habitat Protection*. Circular B35.

Environment Protection Authority 1996. *Environmental Guidelines: Solid Waste Landfills*.

Environment Protection Authority and Department of Urban Affairs and Planning 1997. *Managing Land Contamination: Draft Planning Guidelines*.

National Parks and Wildlife Service 1996. *Threatened Species Assessment under the EP&A Act: The '8 Part Test'*. Information Circular No. 2.

Scott Carver Pty Limited 1997. *Making the NSW Planning System Work for You*, Scott Carver Pty Ltd and Australian Business, Sydney.

Appendix Five

**Copy of advises regarding community titled subdivision of
existing multiple occupancies.**

New South Wales Government Department of Urban Affairs and Planning

Northern Regional Office

Mr K Gainger
General Manager
Lismore City Council
PO Box 23A
LISMORE NSW 2480

LISMORE CITY COUNCIL	
22 JAN 1999	
File No: 5668	
Licence No: 99-1207	Adm Off: PDHM
Complaint	Act
By: [Signature]	
Complete:	Resub:

Contact:

Our Reference: G93/00130

Your Reference: HM:TMI:S668

22-1-99

Dear Mr Gainger

MULTIPLE OCCUPANCY/ COMMUNITY TITLES

I refer to your letter of 14 January 1999, requesting advice concerning the possibility of conversion of existing approved multiple occupancies to community title.

I note that Council is obtaining its own legal advice and this is the appropriate course of action in the circumstances.

In answer to your questions, in the Department's view, the fundamental basis (State Environmental Planning Policy (SEPP) No 15 etc) on which the consent was granted would no longer apply if conversion to community title was contemplated. Conversion would render the development "rural residential", and it is likely that such development would not be permitted in most rural zones. If it is permitted, then a new development application for community title development would be necessary and any consent would require surrender of the multiple occupancy consent (under section 80A(b) of the Environmental Planning and Assessment Act). Otherwise, an application for community title subdivision could not be approved without either a SEPP No 1 application or an amending local environmental plan.

In addition, there is a policy matter involved. Such conversions are clearly inconsistent with the fundamental element of multiple occupancy under SEPP No 15. The issue of community titles for multiple occupancies was thoroughly examined and rejected prior to

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G93/00130

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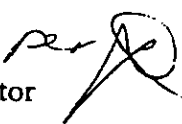
the re-introduction to SEPP No 15. Therefore, the Department is unlikely to agree to community title subdivision of multiple occupancies in areas outside those agreed suitable for rural residential development in terms of any council rural residential strategy and the Department's "Rural Settlement Guidelines".

I trust the foregoing is of assistance to you.

Yours sincerely

T. Prior

Trevor Prior
Regional Director
(North Coast)



3 March 1999

General Manager
Lismore City Council
DX 7761
LISMORE NSW

Attention : Helen Manning

Dear Sir

LISMORE CITY COUNCIL	
J m :R 1999	
File No:	S 668
Letter No:	99-3748
Ad Ct:	PDHM
Complaint:	Ack:
File out with:	PDHM
Conc:	Recub:

By Fax : 02-6625 0421

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CONVERSION OF EXISTING COMMON TITLED MULTIPLE OCCUPANCY DEVELOPMENT

Our Ref: LXT 986720 JOST

Your Ref : HM:TMI:S668 99-1139

Introduction

I refer to your letter of 29 January 1999 and your fax of 10 February 1999.

I am instructed that Lismore City Council ("Council") is currently preparing its strategy for closer rural settlement. As part of this strategy, Council wishes to enable the land on which approved multiple occupancy development is located ("M.O. Land") to be converted to Community Title.

You have instructed me that the planning history of the Land is as follows :

1. Prior to February 1980 a number of rural land holdings were developed for rural living purposes involving the erection of dwellings contrary to restrictions in Interim Development Order No. 1 - Shire of Terania ("IDO No.1").
2. On 29 February 1980 IDO No.1 was altered to permit multiple occupancy development and to retrospectively approve the use of land which had already been used or proposed to be used as multiple occupancy.
3. On 29 August 1980 IDO 1 was repealed and the clauses in IDO 1 enabling multiple occupancy development were incorporated into Interim Development Order No.40 - Lismore ("IDO No.40").
4. These clauses were repealed on 22 January 1988 by gazettal of State Environmental Planning Policy No. 15 - Multiple Occupancy of Rural Land ("Previous SEPP 15"). The Previous SEPP 15 had the effect of allowing multiple occupancy development

notwithstanding restrictions in any planning instrument and prohibiting subdivision of multiple occupancy developments made pursuant to the policy. Previous SEPP 15 was repealed on 19 October 1994 by SEPP 42. SEPP 42 was subsequently repealed on 9 April 1998 by the current SEPP 15 - Rural Landsharing Communities ("SEPP 15"). SEPP 15 applies to all land within Lismore and has the same effect as Previous SEPP 15.

5. All multiple occupancy development in Lismore has either been retrospectively approved under IDO No.1 or has been granted development consent under IDO No.40, Previous SEPP 15 and, possibly, the current SEPP 15.

The Land

I am instructed that the M.O. Land is currently zoned Rural 1(a) (General Rural Zone) ("the Zone") pursuant to Lismore Local Environmental Plan 1992 ("LEP"). In the Zone, development for the purpose of, amongst other uses, agriculture is permissible without consent and development for the purpose of dwellings is permissible with consent.

Dwelling is defined in the Environmental Planning and Assessment Model Provisions 1980 (which are adopted, subject to certain exclusions, by clause 6 of the LEP) to mean :

"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"

Advice Sought

You have asked me to advise as follows :

- "1. Can Council permit community title subdivision of approved multiple occupancies that have been subject to a statute or approval / consent that prohibits subdivision (Conveyancing and Strata Title Acts)?
2. [If so], what is considered the most appropriate legislative and legal means and process for achieving the conversion of title?"

I assume that a typical community title subdivision of M.O. Land would ordinarily create a number of neighbourhood allotments used for residential purposes, and precinct or community allotments used for community purposes (such as agriculture or access).

I have read the Community Land Development Act 1989 ("CLD Act") and the definition of subdivision in section 4B of the EPA Act. I am satisfied that such a community title subdivision is subdivision within the meaning of section 4B. Therefore, the question of whether M.O. Land can be subdivided falls to be answered by determining whether SEPP 15 or the LEP allows subdivision.

Community title does not involve the "conversion" of title. Allotments within a community title subdivision are created by registration of plans of subdivision at the Land Titles Office under either the Real Property Act 1900 or the Strata Titles legislation. Essentially, the

Council's role with community title subdivision is as consent authority under the EPA Act and the CLD Act. Accordingly, the issue of "conversion" of title does not arise.

Summary of Advice

Clause 12 of SEPP 15 prohibits subdivision of land where development has been carried out pursuant to SEPP 15. In my opinion, SEPP 15 only applies to development carried out after SEPP 15 was gazetted. Therefore, subdivision is not prohibited on M.O. Land where development has been carried out pursuant to Previous SEPP 15 even though Previous SEPP 15 had a clause similarly worded to clause 12 of SEPP 15.

Clause 11(1) of the LEP prohibits the Council from consenting to subdivision of land if the land will be used for the purposes of agriculture, forestry or a dwelling house and the area of each lot is less than 40 hectares. However, in my opinion, this restriction is a development standard so the Council may still consent to such a subdivision if an objection is made by the subdivider/developer in accordance with clause 6 of State Environmental Planning Policy No. 1 ("SEPP 1 Objection").

If a SEPP 1 Objection fails, the Council's only option is to rezone the M.O. Land by an amending LEP. This LEP would have to comply with clause 20 of North Coast Regional Environmental Plan 1988 ("NCREP").

Where the subdivided land will be used for the purposes of a building, work, activity or place lawfully permitted within the Zone (other than agriculture, forestry, a dwelling house or rural worker's dwelling) the Council may consent to a subdivision creating any sized lot subject to other requirements in clause 11(4) of the LEP.

Advice

Does State Environmental Planning Policy 15 allow subdivision?

Clause 12 of SEPP 15 provides that :

- (1) *If development is carried out on land pursuant to this Policy, the issue of a certificate of the general manager of a council, under the Local Government Act 1919, or of a council's certificate under the Strata Schemes (Freehold Development) Act 1973, required for the subdivision of the land is prohibited.*

Does "this policy" in clause 12 include Previous SEPP 15? In my opinion, it does not.

Legislation does not have retrospective operation unless there is a reasonably certain or necessary intention in the legislation for it to do so. "This policy" is not defined. Nor are there any savings and transitional or other provisions in SEPP 15 which make reference to Previous SEPP 15. In these circumstances there is no reasonably certain or necessary intention that SEPP 15 has retrospective operation.

However, where multiple occupancies development have been approved pursuant to the current SEPP 15, subdivision is not permissible by virtue of clause 12 of SEPP 15.

Does Lismore Local Environmental Plan 1992 allow subdivision?

Clause 10 of the LEP generally permits subdivision with Council consent.

Clause 11(1) prohibits the Council from granting consent for a subdivision in the Zone where the council is satisfied that the land will be used for the purposes of agriculture, forestry or a dwelling house and the area of each lot created by the subdivision is less than 40 hectares.

Clause 11(4) of the LEP permits subdivision where the land to be subdivided will be used for the purposes of a building, work, activity or place lawfully permitted within the Zone (other than agriculture, forestry, a dwelling house or rural worker's dwelling) subject to other requirements.

The Council is prohibited from consenting to a development application for subdivision of the M.O. Land if it will be used for the purposes of agriculture, forestry or a dwelling house and the lots created by the subdivision have an area less than 40 hectares.

However, in my opinion, the provisions in clause 11(1) are development standards. Accordingly, the Council may still consider a subdivision application creating allotments with an area less than 40 hectares if the application is accompanied by a valid SEPP 1 Objection and where the Council obtains the concurrence of the Director-General of the Department of Urban Affairs and Planning ("Director") as required by clause 8 of SEPP 1.

If the subdivided land will not be used for agriculture, forestry, a dwelling house or a rural worker's dwelling the Council may consent to any sized allotment so long as clause 11(4) of the LEP is complied with.

What Options does the Council have?

The Council has the following options for allowing community title subdivision of approved multiple occupancies :

1. The Council may consent to a subdivision application for community title where the subdivision satisfies clauses 11(1) or 11(4) of the LEP. Where clause 11(1) is not satisfied the Council may still consider the application if it is accompanied by a SEPP 1 Objection.
2. A SEPP 1 Objection requires the concurrence of the Director. If concurrence is not received or the Council wishes to remove the restrictions contained in the LEP, subdivision will only be allowed through a rezoning.

With regards rezoning, I note the letter of 26 July 1995 from DUAP to the Council and note that an amending LEP would have to comply with clause 20 of NCREP.

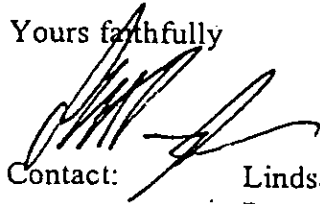
Conclusion

The Council can lawfully permit subdivision of the M.O. Land into allotments greater than 40 hectares. If the proposed allotments are less than 40 hectares the Council may still grant consent if a subdivision application is accompanied by a SEPP 1 Objection and if the Director concurs to such an objection.

If concurrence is not forthcoming Council would need to prepare an LEP which rezones the Land to allow for community title subdivision. Any LEP would have to comply with clause 20 of NCREP.

If you would like further advice on any issues or have any questions please contact me.

Yours faithfully



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