

*Rob*  
*Donner*

*File*

Bodhi Farm  
The Channon  
2480

22.2.88

David Kanaley,  
D.E.P.  
P.O. Box 6,  
Grafton, 2450.

Dear David,

re: MULTIPLE OCCUPANCY MANUAL

Herewith minor corrections to the draft Manual as referred to in recent phone conversation. The page numbers refer to the Second Draft.

page 46. The 3 paragraphs from "'Immediate Location'... to prior to the heading "The Social Environment" should not in my view be indented.

page 47. Delete the three items under "Physical Environment" and substitute the following in lieu.

- \* The physical road network pattern (eg., grid, radial, cul-de-sac pattern). Cross roads with a corner store or the like, should be examined to see if in effect they are common to two or more, otherwise self contained areas of 'immediate location'.

- \* agricultural use of the land if any, (eg., similarities or dissimilarities in the use of the land);

- \* the land form and ecology of the area eg. a timbered valley.

page 47. To the heading "Typical Characteristics of an 'Immediate Location' add "in a Rural Area". (Comment. To highlight the difference with those who are familiar with the characteristics in an urban area.)

page 47. first line under the heading "Typical Characteristics of an 'Immediate Location' ..." to read:-

- having an average radius up to say 10 km (maximum 15 km)

third line to read:-

- being centered on a village ...

after "- being associated with the local water ..." add a new line:-

- haing a strong sence of local identity.

In the fourth line from the bottom of the page, delete "the demarcation" and include in lieu "bounded

page 48 first line. "Enquiry" is spelt "Inquiry". (Comment. I have not checked elsewhere in the manuscript for this spelling.)

page 49 third para. from the top should read:-

"In general, a condition for road upgrading under s.90 should ...".  
(Comment. A \$ contribution cannot in my opinion, be a condition

~~under s.90).~~  
under s.90).

The s.94(a) Directive should presumably be noted in the above para. and elsewhere in the manuscript, as appropriate.

page 56 It seems to me appropriate, either under the section on DCP'S on page 56, or at the end of the draft DCP on page 60, to make reference to Wyatt's Report and proposed DCP for MO, eg. on page 60:-

"For a proposed DCP for MO in the Bollingen Shire see Wyatt 1986."

page 68 . Under Wyatt the correct entry is "Multiple Occupancy: The Report and Development Control Plan" Bollingen Shire Council and NSW Department of Housing, 1986

page 69. Two references are incomplete. Under Woodward the entry should read "Commission of Inquiry". The whole reference list should be in alphabetical order.

Kind regards,

.....

The Association welcomes the long awaited release of the Draft Policy and hopes that the final gazettal and implimentation of the policy will occur as soon as possible.

In general terms we support the broad policy objectives of the Draft Policy in that it should enable multiple occupancy (M.O.) to occur in many areas of the State subject to strict environmental assessment. A number of comments specific to certain clauses of the Draft Policy follow:

Cl. 2-Aims, objectives etc.

to be inserted by Peter Hamilton

Cl. 6(1)a-Single allotment

If a Developer owns two or more parcels of land, with a seperate title and each comprising an area of 40 ha or more we do not see the need to require the consolodation of the title, providing it can be demonstrated that a subsequent seperation of the parcels would not breach any other clause of this Policy- eg. adequacy of water supply, density of development.

Cl. 6(1)(b)- Minimum area

We are of the view that the minimum of 40 ha should be reduced to a lower level, or that Councils should be given more discretion to determine each application on its merits. This would permit greater flexibility and closer dovetailing between this policy and the Dual Occcupancy Policy.

Cl. 7- Heads of Consideration

It is suggested that the manual which is released with the final Policy should incorporate this list with that of s.90 of the E.P.A. Act so that applicants will appreciate and can hopefully address all the relevant heads of consideration in any Development Application they submit to Council.

Cl. 8(2)- Density of Development

The present wording would require Council to consider the design of the individual dwellings before consenting to the Development Application (and Building Applications!). The intent of this clause could be preserved by allowing Councils to place a condition on a Development Approval to the effect that the dwellings subsequently approved shall not reasonably accommodate in total more people than the number calculated by multiplying that maximum number of dwellings by 4.

Cl. 9- Subdivision

We support the intent of Cl. 6(1)(d) which stipulates that at least 80% of the land be held in common ownership and Cl. 9 to prohibit subdivision. However, Noel Hemmings, Q.C. in a Memorandum of Advice has expressed the view that principal legal structures wherein a Deed of Trust or Articles in a Company grant a member an exclusive right of occupancy do in fact constitute a subdivision within the meaning of the Local Government Act. The instructing solicitor, Mr. A. B. Pagotto has expressed the opinion that the Advice of Counsel would also cover "any community which granted a member exclusive right to occupy a dwelling (whether in writing, verbally or by way of a minute in the community records)".

If this interperatation is to pervail, then it follows that virtually all multiple occupancy communities may contain defacto subdivisions. If this is to be the case then either the Local Government Act should be amended or Cl. 9(2) of the Draft Policy amended by adding a further Clause to the effect that sub-clause (1) of Clause 9 will not apply to a granting to a member of the community of a right of exclusive occupation over the home site to be occupied by him or her.

Cl. 12- Contributions pursuant to s.94 of E.P.A. Act

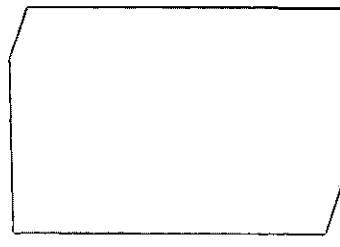
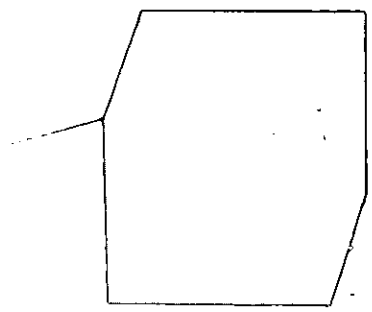
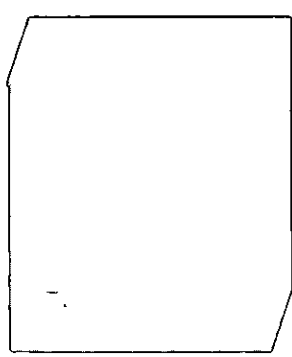
We believe the wording should be altered to the effect that the development identifies a "possible" (and not "likely") increased demand for services. We are also of the view that once current proposed amendments to the E.P.A. Act are gazetted the Minister should use his increased discretion to specify a maximum amount of contribution which applicants in receipt of or entitled to a Health Care Card will be expected to contribute.

This is fcap put out reduced to 90%

1988

# Multiple Occupancy In Rural New South Wales

 Department of Environment and Planning



## Foreword

The growing interest in new forms of rural lifestyles in recent years means that non-traditional developments have become a significant factor in rural planning in many parts of New South Wales.

The State Government has had a policy since 1980 of encouraging multiple occupancy — where people pool their resources to acquire and jointly operate a rural property — in suitable circumstances. However, few councils have made provision in their planning controls for such developments.

The Department of Environment and Planning has now produced a draft State environmental planning policy which proposes a framework to permit multiple occupancy in most rural areas of the State, subject of course to strict environmental and planning controls.

This brochure and other material have been prepared to explain the proposals and to encourage people to comment on them. The suggestions of councils, community groups and individuals will be invaluable when we move towards the finalisation of the policy.



BOB CARR  
Minister for Planning  
and Environment

## What is Multiple Occupancy?

Multiple occupancy is a type of rural development where a group of people, not necessarily related to each other, live on a single rural property in several dwellings.

The intentions of the groups concerned vary widely, but usually they have the following common desires:

- to live as a community and erect a number of dwellings in a rural setting on unsubdivided land;
- to manage the land for communal purposes in an environmentally sensitive way; and
- to enable people, particularly those on low incomes, to pool their resources to develop communal rural living opportunities.

Farming is not necessarily intended as the primary source of income.

Multiple occupancy developments occur where the major part of the property is held in common ownership and management, most of the residents are owners or participants in its management and the property is their principal place of residence. Various forms of legal title are permissible but subdivision of the land, including strata subdivision under the Strata Titles Act, 1973, is prohibited.

## Types of Housing on Multiple Occupancy Properties

Housing arrangements on multiple occupancy properties may vary from dispersed single family dwellings to clusters of expanded houses where groups of buildings function as a dwelling house, with shared facilities such as a kitchen and bathroom. Figure 1 is an example of an expanded house.

"Clustered" and "dispersed" settlements are two forms of development. These are shown diagrammatically in Figure 2.

In both forms of development not less than 80 per cent of the total land area must be available for common use.

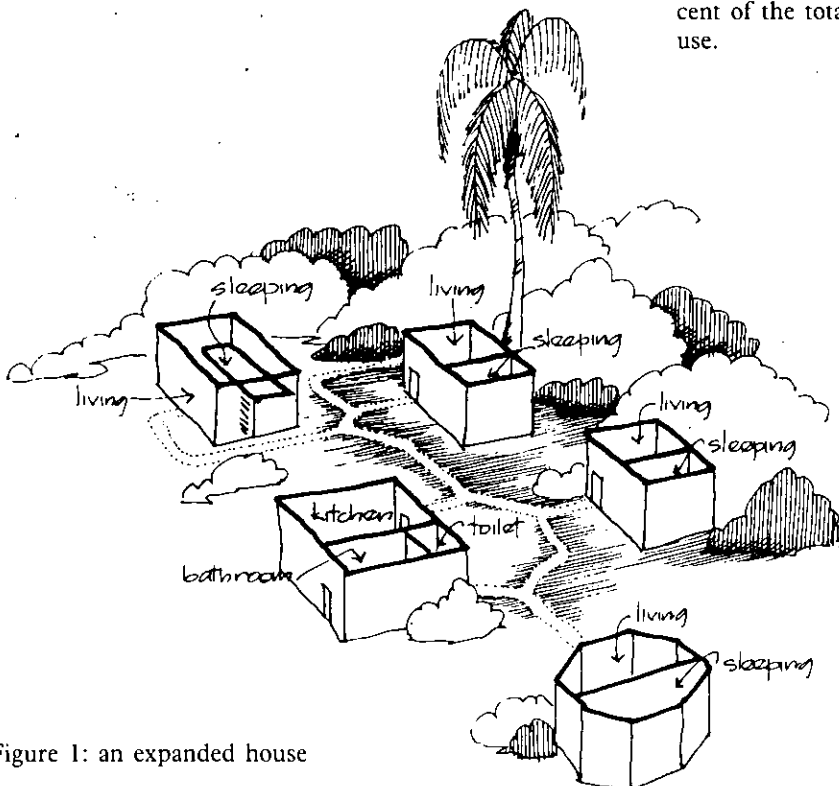


Figure 1: an expanded house

## Where Would Multiple Occupancy be Allowed?

Multiple occupancy is now permissible in only a few areas of New South Wales. The existing policy, introduced in 1980, is not mandatory and very few councils have adopted it. The proposed policy, however, will establish a statutory framework which will allow multiple occupancy developments in most rural areas of the State.

The only areas where it could not be carried out are:

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

Multiple occupancy would be permissible in areas classified by the Department of Agriculture as prime crop and pasture land so long as dwellings and non-agricultural buildings are not themselves located on such lands.

## How to Apply for Multiple Occupancy

Under the proposed policy, people wanting to pursue multiple occupancy would make a development application to their local council. In considering the applications, councils would be required to assess matters

such as road access, water supply, bushfire protection, waste disposal, potential hazards, vegetation conservation, visual impact, community facilities on and off the land, proposed siting of buildings, the need for related uses, and if the council has identified the land for future urban or rural residential expansion.

Where more than four dwellings were planned, a map showing the characteristics of the land and the proposed development would have to be included with the development application. In these cases, a council would advertise the proposal for public comment before determining the application.

If the property consists of several parcels of land, steps should be taken to consolidate these into a single title at the same time as the development application is made.

## Development Standards for Multiple Occupancy

The draft policy proposes that the minimum size of land required for multiple occupancy should be 40 hectares.

The maximum density of accommodation on the land would vary according to a formula that has been designed to prevent overdevelopment. For example, on 40 hectares the maximum density is 12 dwellings; for 400 hectares it is 80 dwellings.

## Non-residential Development

The draft policy would make it possible to have multiple occupancy for uses other than dwellings and agriculture so long as they are intended primarily to serve the needs of people living on the land, and they are minor in scale.

For instance, schools, community facilities, workshops and visitors' accommodation could be permitted.

## Existing Multiple Occupancy Development

Some of the existing multiple occupancy developments have been created without development consent. Often they have been in areas where there are no local planning controls to deal with multiple occupancy. Some of these developments may not meet all the conditions and criteria laid down in the draft policy, especially the provisions on land size.

These communities should register themselves with the Department and provide details of the property, existing development and development proposals. The Department will then work with local councils to consider these cases on their merits through the use of State Environmental Planning Policy No. 1: Development Standards. This allows the development standards such as land size to be varied, where there is good reason.

## Have your say

This brochure has been prepared to stimulate informed discussion on the issues raised in the draft policy. More detailed information is also available from the offices of the Department.

Your comments on these issues and on the draft policy itself will help ensure the widest possible range of views are taken into account when the Department considers finalisation of the policy.

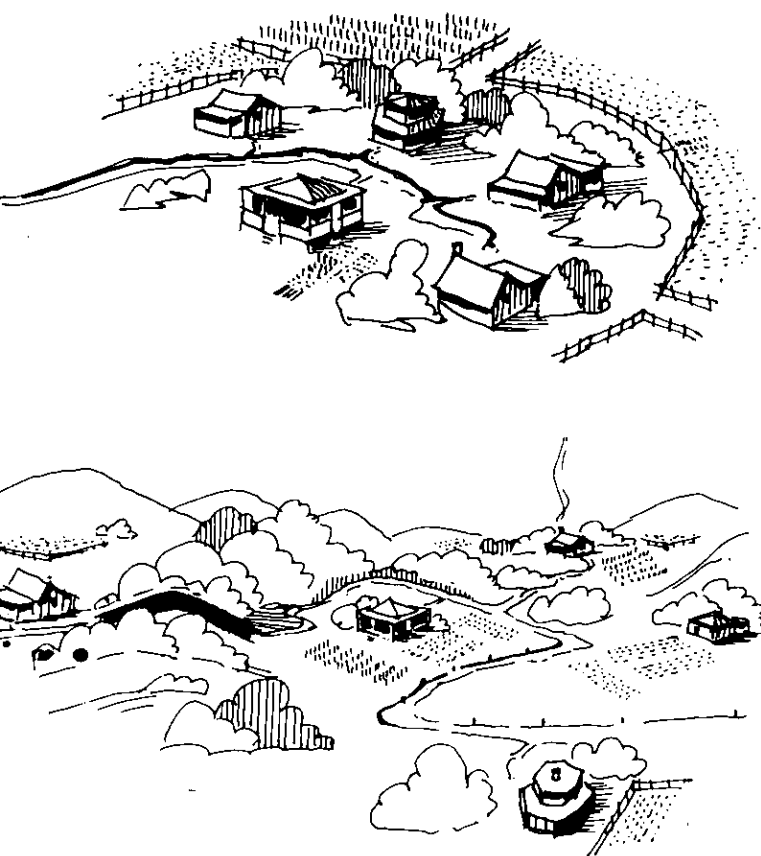


Figure 2: clustered and dispersed development

**Head Office**

175 Liverpool Street, Sydney 2000

Phone (02) 266 7111

**Western Sydney Office**

31-39 Macquarie Street, Parramatta 2150

Phone (02) 639 8111

**Macarthur Office**

233 Queen Street, Campbelltown 2560

Phone (046) 26 4400

**Central Coast Office**

40 Mann Street, Gosford 2250

Phone (049) 24 7766

**Northern Regions Office**

40 Victoria Street, Crafton 2460

Phone (066) 42 0622

**Hunter Office**

20 Auckland Street, Newcastle 2300

Phone (049) 26 2666

**South Eastern Office**

251 Crawford Street, Queanbeyan 2620

Phone (062) 97 6911

**Botany Office**

52 Bay Street, Rockdale 2216

Phone (02) 597 1233

**Wawarra Office**

200 Crown Street, Wollongong 2500

Phone (042) 23 4644

Written submissions should be sent by 27

September 1985 to:

The Secretary

Department of Environment and Planning

P.O. Box 6, Crafton 2460



# Multiple Occupancy Of Rural Land

State Environmental Planning Policy No. 15



Department of Environment and Planning



1988

# **Multiple Occupancy Of Rural Land**

## **State Environmental Planning Policy No. 15**

Department of Environment and Planning  
Sydney 1988

## FOREWORD

The growing interest in different types of rural lifestyles has meant that new forms of development must be considered in planning for many parts of New South Wales.

Since 1980, the State Government has encouraged multiple occupancy - where people pool their resources to acquire and jointly operate a rural property - in suitable circumstances. Few councils, however, provide for such developments in their planning controls.

The Government has decided to introduce a State environmental planning policy which provides a framework for allowing multiple occupancy in particular rural areas of New South Wales, subject to strict planning controls.

I encourage all people interested in multiple occupancy and the planning of rural areas to observe the aims of the policy and maintain the balance between the development and conservation of our rural areas.



BOB CARR  
Minister for Planning and Environment  
and Minister for Heritage

This booklet explains the State Government's policy on multiple occupancy of rural land. More information is available from the Department of Environment and Planning. The policy will be reviewed after 12-18 months of operation and comments are welcome. They should be addressed to the Regional Manager, Northern Regions Office, PO Box 6, Grafton, NSW, 2460.

The Department hopes to publish a multiple occupancy handbook with more detailed advice by mid 1988.

Head Office  
175 Liverpool Street, Sydney 2000  
Phone: (02) 266 7111

Western Sydney Office  
31-39 Macquarie Street, Parramatta 2150  
Phone (02) 689 8111

Northern Regions  
49 Victoria Street, Grafton 2460  
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251 Crawford Street, Queanbeyan 2620  
Phone (062) 97 6911

Botany Office  
52 Bay Street, Rockdale 2216  
Phone (02) 597 1233

Illawarra Office  
84 Crown Street, Wollongong 2500  
Phone (042) 28 4644

January 1988

## INTRODUCTION

### What is multiple occupancy?

Multiple occupancy is a type of rural development where a group of people, not necessarily related to each other, live on a single property in several dwellings.

These people usually have the desire to:

- . live as a community and build a number of dwellings in a rural setting on unsubdivided land as their main place of residence;
- . manage the land for communal purposes in an environmentally sensitive way; and
- . pool their resources to develop communal rural living opportunities.

Farming is not necessarily intended as the primary source of income.

Various forms of legal organisation are possible but subdivision of the land, including strata subdivision under the Strata Titles Act, 1973 is not. Legal titles giving separate entitlement to a small part of the land plus the sharing of common land has been shown to be a form of subdivision and is prohibited under the multiple occupancy policy.

Multiple occupancy entails the sharing of the land and communal ownership of the whole land holding. People, often on low incomes, may either pool their resources to purchase land collectively or purchase a share in an existing community. They may seek approval from the local council to build and/or occupy either a dwelling or part of an expanded house. This form of community rural lifestyle can be achieved and sustained at a much lower cost than separate, conventional, urban and rural residential situations. It is the rural equivalent of people sharing a house in an urban area.

### Where does the multiple occupancy policy apply?

The policy applies to many local government areas in the coastal and tablelands parts of New South Wales, but it excludes the Newcastle, Sydney and Wollongong areas and the ACT and Kosciusko subregions. The municipalities and shires where it applies are listed in Schedule 1 to the policy (at the rear of this booklet).

Multiple occupancy is excluded from national parks, nature reserves, areas zoned for environment protection and coastal protection, and areas where more than 80 per cent of the land has slopes in excess of 18 degrees. A range of environmentally related criteria must be met before development approval can be granted under the policy.

It is also not permitted on prime crop and pasture land and the development must be designed to minimise impact on existing agriculture. Furthermore, multiple occupancy cannot be approved on blocks where more than 25 per cent of the land is 'prime crop and pasture land'.

#### What area of land is needed for multiple occupancy?

The minimum area for a multiple occupancy approval under the policy is 10 hectares. A formula determines the number of dwellings permissible. On 10 hectares four dwellings are allowed; on 200 hectares, 51 are possible; and a maximum of 80 dwellings are possible on blocks of 360 hectares or more.

Multiple occupancies on smaller blocks may be allowed, provided there are good planning grounds for such approval.

#### Types of housing on multiple occupancy properties

Housing arrangements on multiple occupancy properties vary from dispersed single family dwellings to clusters of expanded houses where groups of buildings function as a dwelling-house, with shared facilities such as a kitchen and bathroom (Figure 1).

'Clustered' and 'dispersed' settlements are two forms of development (Figure 2). The clustered form is generally preferred because it minimises the impact of development and construction, facilitates a single services corridor, and encourages community living.

#### Non-residential development

Under the multiple occupancy policy, schools, community facilities and workshops could also be permitted as long as they are intended primarily to serve the needs of people living on the land and are minor in scale.

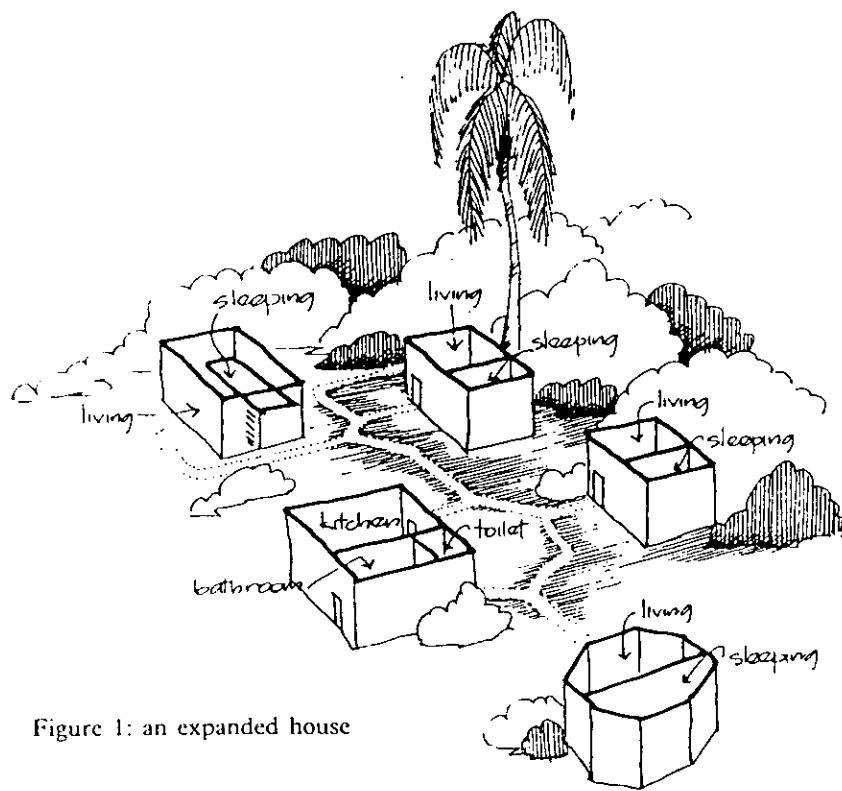


Figure 1: an expanded house

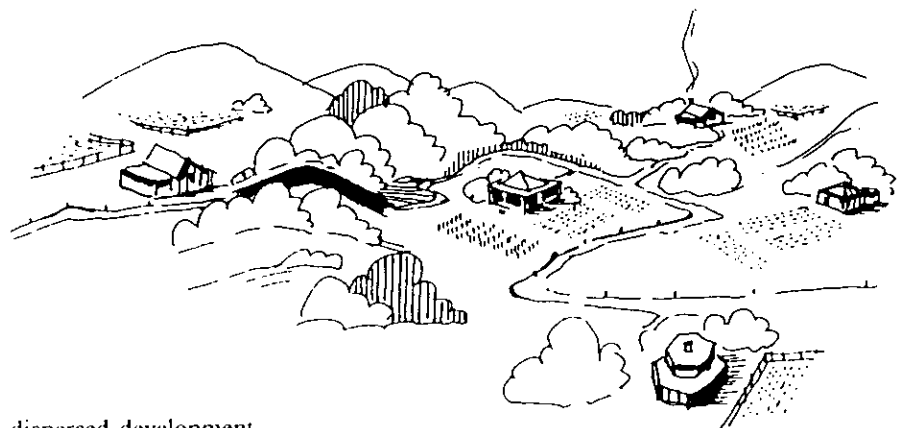
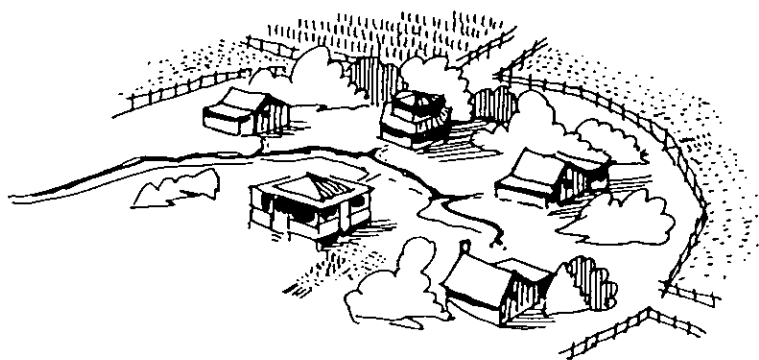


Figure 2: clustered and dispersed development

### Contributions for services payable to council

The Minister for Planning and Environment has issued a direction under section 94A of the Environmental Planning and Assessment Act, 1979 to limit contributions for services and community facilities to a maximum of \$1950 per dwelling. The actual amount to be charged will be determined by individual councils having regard to the characteristics and location of the proposed multiple occupancy.

### Existing developments

Some existing multiple occupancy-style developments have been created without development consent. Often they have been in areas where there were no local planning controls to deal with multiple occupancy. Some of these developments may not meet all the conditions laid down in the policy. The Department of Environment and Planning is available to advise people in this situation and local councils to help them to comply with planning provisions.

### How to apply for multiple occupancy

People interested in multiple occupancy should make a development application to their local council. The council may approve of the proposal subject to it meeting the planning provisions specified in the policy and being in an appropriately zoned area.

When more than four dwellings are intended, a map showing the characteristics of the land and the proposed development must be included. In these cases, the council will advertise the proposal for public comment before determining the application.

If the property consists of several parcels of land, these should be consolidated when the development application is made.

## EXPLANATORY NOTES

### STATE ENVIRONMENTAL PLANNING POLICY NO 15

#### Multiple Occupancy of Rural Land

- Clause 1 gives the name of the policy.
- Clause 2 states the aims and objectives of the policy.
- Clause 3 defines specific local government areas to which the policy applies. These are listed in Schedule 1. Clause 8(1) limits the applicability of the policy within those areas to rural and non-urban zones. Schedule 2 details lands in rural areas to which the policy does not apply, such as national parks, State forests and scenic protection areas.
- Clause 4 deletes multiple occupancy provisions in local environmental planning instruments existing at the date this policy came into effect. This avoids confusion between this policy and any local environmental planning instrument which contained multiple occupancy provisions prior to the policy.
- Clause 5 defines the terms used in the policy. Note the definition of 'dwelling' allows the concept of expanded dwelling-houses. These are intended to meet the needs of people, not necessarily related, who wish to live as a single household but in two or more separate structures with shared facilities. This concept is more specifically stated in clause 5(2).
- Clause 6 states the relationship of this policy to other planning instruments. This policy prevails in the event of an inconsistency between it and any other instrument. The date of the making of another instrument does not affect the interpretation of this clause.



Clause 7

subclause (1) provides that multiple occupancy is a development requiring the council's consent for two or more dwellings on any rural or non-urban land to which this policy applies. Before a council may consent to a multiple occupancy development, however, it must ensure that certain conditions are met. These conditions are clearly stated in clause 7(1)(a) to (h).

Subclause (2) states that this policy allows a development application to be made even though it may be prohibited under another planning instrument including any local environmental plan. It is an elaboration of clause 4.

Subclause (3) refers to the condition in 7(1)(b) that land which is the subject of a multiple occupancy development application must be at least 10 hectares in area. Subclause (3) recognises that in most local environmental planning instruments the minimum area for subdivision is more than 10 hectares. It ensures that a subdivision that would otherwise be illegal under a planning instrument cannot be carried out through the use of this policy.

Clause 8

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

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

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

Clause 9

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

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

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

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

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

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

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

Clause 10

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

- Clause 11 provides for multiple occupancy development of four or more dwellings to be advertised for public comment. This clause recognises the fact that the environmental impact of larger multiple occupancy developments is likely to be greater and should be subject to public scrutiny. Public comment can then be taken into consideration by a council in reaching its decision.
- Clause 12 enables the Department of Environment and Planning to monitor and review the policy. This is considered necessary as it is not known how well the demand for multiple occupancy will be met by this policy. Any particular areas of concern should be identified within 12-18 months of its operation.
- Clause 13 suspends provisions of section 37 of the Strata Titles Act, 1973; and any agreement, covenant or instrument which would otherwise prevent multiple occupancy from being carried out in accordance with (i) this policy; and (ii) the consent of the relevant council made under the Environmental Planning and Assessment Act, 1979 in accordance with this policy.
- SCHEDULE 1 lists the local government areas to which the policy applies.
- SCHEDULE 2 lists land that is rural or non-urban but is excluded from the policy.
- SCHEDULE 3 removes existing multiple occupancy clauses from local environmental plans.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

STATE ENVIRONMENTAL PLANNING POLICY No. 15 -  
MULTIPLE OCCUPANCY OF RURAL LAND

HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Environmental Planning and Assessment Act 1979, has been pleased to make the State Environmental Planning Policy set forth hereunder in accordance with the recommendation made by the Minister for Planning and Environment. (83-10203).

Minister for Planning  
and Environment

Sydney, 1988.

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**Citation**

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

**Aims, objectives etc.**

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

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

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

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

#### **Land to which this Policy applies**

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

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

#### **Amendment of certain environmental planning instruments**

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

#### **Interpretation**

5. (1) In this Policy -

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

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

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

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

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

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

- (a) identified, on a map prepared before the commencement of this Policy by or on behalf of the Director-General of Agriculture and deposited in an office of the Department of Agriculture, as Class 1, Class 2 or Class 3 or as land of merit for special agricultural uses;
- (b) identified, on a map prepared after the commencement of this Policy by or on behalf of the Director-General of Agriculture marked "Agricultural Land Classification Map" and deposited in an office of the Department of Agriculture, as Class 1, Class 2 or Class 3 or as land for special agricultural uses; or
- (c) certified by the Director-General of Agriculture, and notified in writing, by or on behalf of the Director-General of Agriculture to the council, to be prime crop and pasture land for the purposes of this Policy;

"the Act" means the Environmental Planning and Assessment Act 1979.

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

#### **Relationship to other planning instruments**

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

#### **Multiple occupancy**

7. (1) Notwithstanding any provision in an environmental planning instrument concerned with the use of land for the purposes only of a dwelling or dwellings (as the case may be) in rural or non-urban zones, development may, with the consent of the council, be carried out for the purposes of 2 or more dwellings on land to which this Policy applies within such a zone where -

- (a) the land comprises a single allotment not subdivided under the Conveyancing Act 1919 or the Strata Titles Act 1973;

- (b) the land has an area of not less than 10 hectares;
- (c) the height of any building on the land does not exceed 8 metres;
- (d) not more than 25 per cent of the land consists of prime crop and pasture land;
- (e) the part of the land on which any dwelling is situated is not prime crop and pasture land;
- (f) the development is not carried out for the purposes of a motel, hotel, caravan park or any other type of holiday, tourist or weekend residential accommodation;
- (g) slopes in excess of 18 degrees do not occur on more than 80 per cent of the land; and
- (h) the aims and objectives of this Policy are met.

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

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

#### **Matters for council to consider**

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

- (a) the means proposed for establishing land ownership, dwelling occupancy rights, environmental and community management will ensure the aims and objectives of this Policy are met;
- (b) the area or areas proposed for erection of buildings, including any proposals for the clustering of buildings;
- (c) the area or areas proposed for community use (other than areas for residential accommodation and home improvement areas);
- (d) the need for any proposed development for community use that is ancillary to the use of the land;
- (e) the availability and standard of public road access to the land;

- (f) the availability of a water supply to the land for domestic, agricultural and fire fighting purposes and, where a proposed water supply is from a river, creek, dam or other waterway, the effect upon other users of that water supply;
- (g) if required by the applicant, the availability of electricity and telephone services;
- (h) the availability of community facilities and services to meet the needs of the occupants of the land;
- (i) whether adequate provision has been made for waste disposal from the land;
- (j) the impact on the vegetation cover of the land and any measures proposed for environmental protection, site rehabilitation or reafforestation;
- (k) whether the land is subject to bushfires, flooding, soil erosion or slip and, if so, the adequacy of any measures proposed to protect occupants, buildings, internal access roads, service installations and land adjoining the development from any such hazard;
- (l) the visual impact of the proposed development on the landscape;
- (m) the effect of the proposed development on the present and potential use, including agricultural use, of the land and of lands in the vicinity;
- (n) whether resources of coal, sand, gravel, petroleum or other mineral or extractive deposits will be sterilised by the proposed development;
- (o) the effect of the proposed development on the quality of the water resources in the vicinity;
- (p) any land claims by local aboriginals and the presence of any aboriginal relics and sites;
- (q) whether the land has been identified by the council as being required for future urban or rural residential expansion;
- (r) whether the development would benefit an existing village centre suffering from a declining population base or a decreasing use of the services provided in that centre.

(2) The council shall not consent to an application made in pursuance of clause 7 for the carrying out of development on land for the purposes of 4 or more dwellings unless the site plan accompanying the application identifies -



- (a) vegetated areas requiring environmental protection or areas where rehabilitation or reafforestation will be carried out;
- (b) any part of the land which is subject to a risk of flooding, bush fire, landslip or erosion or any other physical constraint to development of the land in accordance with this Policy;
- (c) any part of the land that is prime crop and pasture land;
- (d) any areas of the land to be used for development other than for dwellings;
- (e) the source and capacity of any water supply, electricity, telephone and waste disposal systems for the dwellings; and
- (f) the proposed access from a public road to the area or areas in which the dwellings are to be situated.

### Density of development

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

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

TABLE

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

(3) Even if the number of proposed dwellings on land the subject of an application made in pursuance of clause 7 together with any existing dwellings on the land does not exceed the maximum number of dwellings permitted by subclause (1), the council shall not consent to the application if those dwellings are so designed that they could, in the opinion of the council, reasonably accommodate in total more people than the number calculated by multiplying that maximum number of dwellings by 4.

#### **Subdivision prohibited**

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

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

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

#### **Advertised development**

11. (1) This clause applies to development to be carried out pursuant to a consent referred to in clause 7, being development for the purposes of 4 or more dwellings (whether existing or proposed dwellings).

(2) Pursuant to section 30(4) of the Act, the provisions of sections 84, 85, 86, 87(1) and 90 of the Act apply to and in respect of development to which this clause applies in the same manner as those provisions apply to and in respect of designated development.

#### **Monitoring of applications**

12. Where a council receives an application made in pursuance of clause 7, the council shall, 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.

### **Suspension of certain laws**

13. (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 Act in relation to development carried out in accordance with this Policy -

- (a) section 37 of the Strata Titles Act 1973; and
- (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, shall not apply to the development.

(2) Pursuant to section 28 of the Act, before the making of this clause -

- (a) the Governor approved of subclause (1); and
  - (b) the Minister for the time being administering the provisions of the Strata Titles Act 1973 referred to in subclause (1) concurred in writing in the recommendation for the approval of the Governor of that subclause.
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SCHEDULE 1

(Cl. 3)

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

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SCHE D U L E 2

(Cl. 3)

Land which is a national park, historic site, nature reserve, Aboriginal area, state recreation area, protected archaeological area or game reserve within the meaning of the National Parks and Wildlife Act 1974.

Land which is a reserve within the meaning of Part IIIB of the Crown Lands Consolidation Act 1913 or which is vacant land within the meaning of that Act.

Land which is subject to the Western Lands Act 1901.

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

Land which, under an environmental planning instrument, is within an area or zone (within the meaning of that instrument) identified in that instrument by the description -

- (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,

or identified in that instrument by a word or words cognate with any word or words used in paragraph (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k) or (l) or by a description including a word or words so used and any other word or words.

SCHEDULE 3

(Cl. 4)

COLUMN 1	COLUMN 2
Environmental Planning Instrument	Clause or Matter
Interim Development Order No. 40 - Lismore	15, 16(3) and Schedule 6
Interim Development Order No. 2 - Shire of Bibbenluke	23
Interim Development Order No. 80 - Shire of Coffs Harbour	24A
Interim Development Order No. 1 - Shire of Evans	28, 29, 30 and Schedule 5
Interim Development Order No. 1 - Shire of Severn	13A
Interim Development Order No. 1 - Shire of Terania	13A and 13B(3)
Interim Development Order No. 1 - Shire of Ulmarra	13A
Interim Development Order No. 2 - Shire of Wingecarribee	The matter in Column I of the Table to clause 66 relating to Portions 26, 27 and 28, Parish of Bundanoon, Penrose and the matter specified opposite thereto in Column II of that Table
Interim Development Order No. 1 - Shire of Woodburn	13B
Interim Development Order No. 1 - Shire of Byron	11B and Schedule 8
Gloucester Local Environmental Plan No. 4	18
Great Lakes Local Environmental Plan No. 28	12
Nymboida Local Environmental Plan 1986	12 and 15
Orange Local Environmental Plan No. 11	29

Schedule 3 (Continued)

COLUMN 1	COLUMN 2
Environmental Planning Instrument	Clause or Matter
Wingecarribee Local Environmental Plan No. 55	Schedule 7 to clause 42 relating to Portions 4, 45 and 48 Clemens Road, Jellore.
Tweed Local Environmental Plan 1987	34
Hastings Local Environmental Plan 1987	29
Nambucca Local Environmental Plan 1986	16A