



13 October 1994

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END

Photocopy for  
no meeting

Col

Hill

DeLoe

Kennally

Jane

Falls

Spence 4

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9

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**news release****minister for planning  
minister for housing**

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*Webster PR  
- SEPP 15*

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**telephone 368 2666 facsimile 368 2688**

**news release**



new south wales

**minister for planning  
minister for housing**

13 October 1994

From MASTER  
David Webster  
Said to be passed  
18th Dec. 25th 17

Ex David Webster  
Sat 18.10.94 Red  
25.10.94

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John Conkill say 1985 Greens have been  
no discussion with them anything of  
exchange of profits. This could happen.  
Hence he sees it as not app. he needs  
ANP candidates copy of their Release  
If we, or anyone else, chooses to do this  
that is their business.





# news release



minister for planning  
minister for housing

*Set comment from EDO on Anson  
eligibility*  
13 October 1994

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*Dep  
Cancelled* (D) R

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#### NOTES

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## SUMMARY

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

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

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

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

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

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

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

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

There is no evidence to suggest that the present rate will decline or that existing one will expand within the next 10 years.

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

*Country  
to REP.*

The main conclusions from the Review are as follows:

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

*by whom Key see also*

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

*Not clear. If it is to be done by the State Government, it is a transfer of resp' suggest way to suggest that be to local councils be a state requirement, but this is inconsistent with the statement that this would only apply if it were seen as being a relevant local priority.*

26.10-94

Molecular has made report to P+R  
meeting on Nov 8. (Nick charged them to  
rec. intro. of MO into LEP.

& publishing SEPP-142 = immediately.  
(He expects it in NS or NDS.) but note,  
Nick says he wants P+R OK, which would  
mean 14 is correct!



17-10-94 TAM Treason

~~SEP~~ Treason/Jim C. 17-10-94

- ① Process? what does "more to report" mean?
- ② What form will "new policy" take?  
Will it be SEPP?
- ③ If how can DA be covered under  
890 if no prov in LEP? (where  
~~it is prohibited to~~ prohibited  
under zoning provisions?)

Get copy of (mail)

- (a) News release
- (b) Summary
- (c) "further advise" incl
- (d) Attachment A.
- (e) other data in the band report.



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telephone 368 2666 facsimile 368 2688

21 October 1994

OFFICIAL NOTICES

6403

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*Di. Would you please fax copy of this to Simon and Rob. and leave copy at Environment Centre for Graham to collect. Thanks Peter*

6:04

## OFFICIAL NOTICES

21 October 1994

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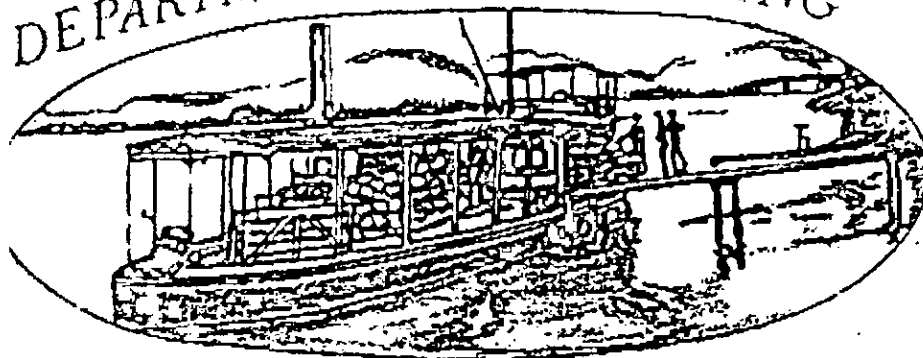
- 1 Citation
- 2 Aims, objectives etc
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- 4 Definition
- 5 Land to which this Policy applies
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- 7 Transitional provision

25 DOP GRAFTON

TEL 61 66 420640

P 001

# DEPARTMENT OF PLANNING



GRAFTON

FAX NO. 066 420640

ORIGINAL TO FOLLOW

YES ☐

NO ☒

Subject: REPEAL OF SEPP 42

From: JIM CLARK

Phone No.

To: PETER HAMILTON

Fax No.:

Date: 24.10.94

No. of Pages 3

COMMENTS

## MO Revocation

Scinar

Dep paid \$25,000 to Purdum to tell them  
80% of MO's in need!

## Impact of policy

- families & children becoming adults.
- Kyogle Council may not incl MO.
- forcing illegal situation

21-10-94

Jim Clark

- ① Leigh Knight away on maternity leave, who was handling this.
- ② Our letter of 18.10.94 received.
- ③ He will speak with Tolson on release retention of m.o. on the DEP. He now advises that do to a delay (relating to implication of look at the Nova Headland court case) the draft DEP amendments are still with the Dept in Syd & have not yet gone to Parliamentary Draftsmen - He will act to seek retention of m.o.
- ④ Advised him that he can't photocopy the bound copy he has. Jim will see if there is a spare bound copy in Grafton office, or they are able to copy same, or get loose copy from Fundan. (This all fees & or advantage. Re printing he estimates it could take months, if into next year. [It should have been available at time of situation release])
- ⑤ Jim unclear if they can initiate.

Pan Com  
Repeal (B)  
Habeed. version.

=====

REPEAL OF SEPP-15  
NOTES ON DISCUSSION WITH TREVOR PRIOR & JIM CLARK.  
(DOP Grafton) 17.10.94

=====

As at 17.10.94 Trevor Prior (TP) had not seen the Minister's News Release of 13.10.94.

He understands that the decision to repeal the Policy was made on the basis that:-

- \* it is only attracting eleven MO DA's per year.
- \* it is considered that it is not serving a statewide need.
- and \* it is now be a matter that should be handled by Local Government.

PH: "What does the Minister mean when he says he will 'move for its repeal'?"

TP: It means that the repeal will become effective at 31 Jan 1994, but that in the meantime notification is given that applications may be lodged under SEPP-15 until 30 Nov 1994.

PH: "Does a "new policy" mean a new SEPP"?

TP: "Yes. The reason for this is that the only way a State Policy can be removed, is by way of another State Policy.

The new State Policy will merely repeal the existing Policy and put in place appropriate "transitional provisions". (ie there is no way a State Policy can be revoked, other than by following this procedure).

The new Policy requires the signature of the Governor and then must be Gazetted. It becomes effective as of the date of Gazettel.

PH: "What is the shortest time for this process to be completed"?

TP: "It could be completed within one week".

PH: "In introducing a new SEPP, is it required that this be placed on public exhibition"?

TP: "No".

PH: "Is it the practice to do so notwithstanding that it is not compulsory"?

TP: "I do not know. This is probably the first repeal of this type".

A SEPP may be issued at the discretion of the Minister and the Director.

Normally when a SEPP is being developed or changed it has been the practice that consultation (with those affected) takes place.



In this case because Purdon consultants had been engaged and made a Report, the decision has been made that no further consultation will occur."

PH: "Is this saying that even in creating a new SEPP (to repeal an existing SEPP) that there need be no consultation"?

TP: "Yes, the discretion lies with the Minister".

s.38 & 39 says:-

"The Minister shall take such steps IF ANY, as he considers appropriate or necessary, to publicise a draft SEPP and consider submissions" (My emphasis).

PH: "As the Act provides in its Objectives:-

"to provide increased opportunity for public involvement and participation in environmental planning and assessment".

it would seem reasonable to me, that the Minister takes this into consideration, especially in the circumstances of our situation".

TP: "I am sure he has".

PH: "I am sure he has too, and in coming to his decision he has come up with a different decision than that which we would prefer!".

PH: "The News Release states:-

"if councils have not prepared their own provisions by (31 January 1995), applications will be assessed using the matters outlined in s.90 of the Act".

TP: "What this is saying is that SEPP-15 ceases as from 31 January 1995. If a council has not made provisions for MO (under their LEP) by this date, they can up to this date assess an MO DA under s.90".

PH: "Where an LEP zoning description makes no provision for multiple development it would therefore appear not possible to consider an MO DA"?

TP: "I am certain this is what the New Release is saying as obviously a council can not assess an MO DA under s.90 unless it is permitted in the zone."

COMMENT: To my knowledge Byron Council is the only Council in the State with MO provisions in their LEP.

The introduction of an amendment to an LEP is normally a lengthy process as in part it usually require the preparation of a Local Environmental Study (LES).

This requires public exhibition as does the draft LEP! How this is expected to be achieved by 31 Jan.1995, particularly in view of the Christmas holidays, is unclear!"

If it is the case that no council besides Byron, has zoning provisions in their LEP permitting MO, and LEP's cannot be introduced by 31 January 1995, then no DA for a new MO or expansion of an existing MO, can be made unless and until the local council amends their LEP.

In the light of this I can see no situation in which consideration under s.90 could arise!

Jim Clark (JC): "I understand that the recommendation of the Executive was to 'do nothing', (ie make no change to the existing Policy).

He does not know what the reference in the Executive Report to "further information" (ie further to the Purdon Report) is referring to.

PH: "What is the status of the amendments to the Regional Environmental Plan (REP)"?

COMMENT: Clause 22 in the North Coast REP currently says:-

"Draft local environmental plans shall incorporate provisions to enable development in the form of multiple occupancy."

This REP was in place before SEPP-15 was Gazetted.

Earlier this year the DOP decided to "clean up " the REP and the deletion of Clause 22 was proposed as it was held to be superfluous as overridden by the introduction of SEPP-15.

JC: "The amended REP has not yet been Gazetted and is presently before the Parliamentary Draftsman for checking.

It could be Gazetted any day and is desired by the Regional Office to be so Gazetted by the end of November at the latest".

Pan Com has already sent letters to the Minister and the Regional Manager seeking that they leave Clause 22 in the REP.

JC: "The original understanding of the Grafton Branch was that any amendments to the Policy would go on public exhibition for comment.

Any MO applications lodged after 30 November or 1 February, must be considered in terms of the planning controls as they apply at the date of the application..

Any MO appeal lodged in the Court but not determined before 31 January 1995 will have had it"!

COMMENT: Pan Com is submitting to the Minister that the "transitional provisions" provide that any MO appeal lodged prior to 30 November 1994, be dealt with by the Court under SEPP-15 regardless of how long it takes the Court to make a decision.

Peter Hamilton  
20.10.94

3-17-94 P.

see tape

S 78-39 re Winton description re LBPP's

17-1-94

David Winton DOP

Ex Assistant Ho. posting (or FAXing  
address known - touch.

In posting me <sup>today</sup> Press Release + Exec.  
Report with Ponder Report (which is  
being printed) to be photocopied +  
sent tomorrow.

Nuttan. 2/10/94 advised material not recd  
Wed. 21. He assumes me it went Tues.  
Ponder report being printed at least 2 wks  
delay (never away for week).  
Difficulty re photocopying as board!

news release



Spere  
minister for planning  
minister for housing

13 October 1994

## CHANGES TO MULTIPLE OCCUPANCY PLANNING

Following an independent review of the State policy on multiple occupancy of rural land, Minister for Planning and Minister for Housing, Robert Webster, today announced he would move for its repeal.

In future, local councils will need to prepare provisions in their local plans for the assessment of multiple occupancy applications.

Mr Webster said the use of the policy (*State Environmental Planning Policy No. 15 - Multiple Occupancy of Rural Land*) had declined since its inception in 1988, to the point where it no longer had a statewide application.

He said the Environmental Planning and Assessment Act 1979 specifies that State policies can only apply to matters of State significance.

"The review, undertaken by Purdon Associates, found that about 80 per cent of multiple occupancies are located on the North Coast," Mr Webster said.

"It is clear that in terms of the extent and range of its use the policy is not now serving a State need."

The Minister said he would seek to make a new policy which would introduce transitional provisions, enabling applications to be lodged with councils under SEPP 15 until 30 November 1994.

"The new SEPP would mean that councils may assess multiple occupancy applications, using the provisions of SEPP 15, until 31 January 1995," Mr Webster said.

"If councils have not prepared their own provisions by then, applications will be assessed using the matters outlined in section 90 of the Act," Mr Webster said.

The Minister said that the review of SEPP 15 concluded that its removal would not have any adverse effect on existing multiple occupancy communities, but that it would require local councils to amend existing LEPs to accommodate new applications for multiple occupancies.

end.

telephone 368 2666 facsimile 368 2688

*Handwritten notes:*  
ie 2/9/94  
off this date  
provide the zoning provisions  
allow N10  
as none  
do it  
effectively  
prohibit  
the council  
until the council  
has brought  
provisions into their LEP

## SUMMARY

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

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

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

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

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

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

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

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

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

The main conclusions from the Review are as follows:

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

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

2/ Inform - immediate letter to  
Webster to stop proceeding for  
following reasons -

- ~~No app to be heard. - & app over,~~  
~~no app to have been given~~
- ~~The Pardon Report has not been~~  
We have had no opportunity to  
comment <sup>on the pardon report</sup> (or if app. rebut same,  
~~we~~ despite many requests to  
be given this opportunity.

(We draw to your attention that  
on our entreaties, we have insisted  
your Dept in <sup>its preparation</sup> ~~consult~~ of the survey  
firm & its administration)

○ It is a fact that is effected by the  
outcome we submit with respect  
that at law we are entitled

to be have the opportunity to hand before  
a decision this is made to revoke the Policy

○ We ask that you listen <sup>as a matter of</sup> advise from  
your legal branch as to our rights in  
this regard.

○ We also ask that you stop any  
formulation or implementation of any action  
not conforming the Policy <sup>at this time</sup> as the law is  
resolution on the above matters.

We advise that we earnestly do not wish  
to bring a legal charge against you

Given the opportunity we would will bring before  
you

○ Details of deficiencies in the conduct of  
carried out by Pardon Act.

○ Grounds for why the Policy should be retained  
unaltered.

○ Suggestions for to be for reconsideration in reversing  
the Dept. monitoring of Policy Dept's monitor  
of the Policy so as to advocate the need for  
engaging an external consultant.

○ Relevant data not brought in the survey.  
Rebuttal.



Rejection of the ground that <sup>the</sup> decline in the use of the Policy since 1988 is <sup>not</sup> a ground that there is <sup>assertion</sup> grounds that this Policy still has state significance

A written that this Policy facilitates family communities exist over an ongoing basis from generation to generation and is as is supported by the 14th Cabinet doc. -  
quote =

to this form of family lifestyle <sup>is possible</sup> ~~should not be~~ ~~pass~~ without this legislation we submit it ~~has~~ state significance

• We would put before you cases of other SEPP

If you suggest that <sup>because most</sup> ~~the Policy is primarily in a~~ ~~particular geographic area~~ (in this case the north coast) that this is a ground for evidence that there is not now a state need, we will <sup>put</sup> before you details regarding other SEPPs and ask the Q "That so as not to ~~discriminate~~ discriminate against ~~no settlement as per the~~ ~~Policy~~ ~~that various other SEPPs~~ ~~the why should~~ ~~you not~~ ~~separately~~ ~~reversed or amended~~ ~~various other~~ ~~SEPPs~~ the same way as proposed for SEPP 15.

In the event that ~~if~~ we have proposed ~~such~~ without prejudice to ~~the~~ ~~about~~, if you ~~proceed~~ to make a new policy, with transitional provisions that we be given the opp to participate in this at the draft stage

Before 8BPP13 was introduced many councils refused to recognise or accept MO, DAs, forcing such applicants to consider building illegally.

We consider that <sup>Today a statewide policy</sup> the removal of the ~~present policy~~ is highly likely to result in the ~~to~~ encourage illegal build in those Council areas where the relevant Council chooses to not to permit MO.

(We would bring to your attention the case of a ~~common~~ group professionals, whose MO DA was refused, immigrating in lots to another State.)

We would bring to your attention that the removal of the Policy ~~would~~ may adversely affect existing communities.

Many communities stage their development by generations. If a <sup>particular</sup> Council choose not to acc. MO then extension to cater for the new generation will not be possible.

<sup>Furthermore</sup> As many communities have been settled for some 15 years <sup>it is deep</sup> the children of these parents will, <sup>over the next decade</sup> be wishing to establish their own

<sup>extended</sup> families. Not to be able to do so will have a significant ~~an~~ adverse effect on the <sup>existing</sup> families.

We submit it ~~shows~~ that this is a basic human right, makes good planning sense, and ~~can~~ should not be left to the perverse Council to refuse to <sup>even</sup> consider

(4)

applic to dev in this way.

To view of the ~~Admission~~ process & way of this situation you will  
app. That we all this to be an open letter

cc media, MP's

freq reg  
In view of the ~~consider~~  
we have made for ~~an~~  
an app. to comment on  
Pendon Report ~~we are~~  
~~most~~ and ~~submission~~  
options put to you, we  
wish to place on record  
our extreme disappointment  
that ~~before~~ <sup>before making the decision</sup>  
~~that~~ <sup>you personally</sup>  
to ~~review the~~ <sup>to review the</sup>  
~~have not~~ <sup>seen fit to</sup>  
~~ask~~ check that we, as  
those affected, had been  
consulted.

We wish place on record on  
the strongest possible terms,  
that your action is a denial  
of natural justice, a <sup>series</sup> breach  
of "procedural fairness".

in contrast to the principle of  
community consultation  
enshrined in the planning  
legislation, and a plain  
discounting act.

As a political act <sup>we</sup> ~~we~~  
see that your <sup>indeterminer</sup> ~~action~~  
~~is~~ and attack on the good

---

that you have <sup>made</sup> ~~not~~ seen fit  
to at least <sup>make</sup> ~~put~~ your proposal  
~~out~~ for public discussion  
overall, <sup>before</sup>  
deciding to revoke the Policy.

---

efforts of the Premier in  
acknowledging & supporting  
the sanctity of the family  
in all its diverse forms in  
this year of the 14th.

Do meet Rebase along the  
stone line

---

~~We ask that~~  
If you personally view that  
our above comments are  
in any way, <sup>misleading</sup> ~~misleading~~  
or unreasonable, we ask that  
you advise of us accordingly.  
If your reply provides  
sufficient evidence and argument, to  
contradict the above, we  
will be happy to withdraw  
our comments or apologise.  
We await your reply.

---

Put as paid ltr in Echo v2

In view of the policy  
intent and mission of  
the issue involved, you  
will agree that this  
~~letter~~ be treated as an  
open letter

We await your reply  
yours for the security of  
the family. <sup>to</sup> community consultation  
in the planning process  
and support

~~We~~ We are disappointed that  
you have <sup>today</sup> not seen fit to  
take up our <sup>previous</sup> invitation to  
visit <sup>visit</sup> inspect an <sup>account</sup> community.  
Our cordial invitation still  
stands.

we do not consider ~~your~~ <sup>this</sup> action  
to be reasonable and  
we believe that the court  
will support us in this  
view.

---

# Pentecost is this reproducible  
~~in the 14F.~~  
being the 14F

Buy FAX



The revoking of the no policy is an attack on  
the sanctity of the family

<sup>Minister</sup>  
The Govt. abandoning of the no policy is an  
attack on the sanctity of the family

The Govt's. abandoning the policy to facilitate rural  
communities is a denial of the right to  
adopt a family lifestyle of ones choice.

In <sup>meaning</sup> revoking the no policy, the Govt is/will have  
denied the right of the individual to ~~live~~ live  
in a family of their choice.

If the Govt has any respect for the sanctity of the  
family ~~then~~ then it will not deny the right  
and opportunity for an indiv. to live in  
~~extended~~ communities of extended families.

The Minister's action is an attack on & denial of  
the Premier's IF policy. (on the sanctity of  
the family.)

MASTER

Dist.

- Graham
- ✓ Rob
- ✓ Warwick
- ✓ Devine

news release



mir  
mib

13 October 1994

## CHANGES TO MULTIPLE OCCUPANCY P

Chapman & Co. Pty Ltd. is a company limited by guarantee.

## SUMMARY

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

to be collected

*Per*

From

PETER HAMILTON  
UNIT 1,  
50 PATERSON ST.,  
BYRON BAY, 2481

17-10-94

Attention:

Graham Irvine.

Rob has read the "Points of Claim" to me and they are fine by me. If you have any suggestions for change, I suggest you ring him right away, have him make the changes, and that he then FAX'es direct to Geoff. Ensure it is marked as a DRAFT.

*Teter*

back 24.10.94

17-10-94

Trurot Pricer: no ~~no~~ Repeal of SEPP-15

Has not seen the "News Release" (of 13 Oct 1994) but understands that the decision was made on the basis that the use of the policy is running at "DA/yr".

It is considered that the policy is not worth having a state wide need

and is now a matter that should be put back to local govt.

~~I need clarification~~

The Release says the Minister will be "move for its repeal". What does this mean?

(31 Jan 95)  
That means that at a certain date, the repeal will become effective but that in the meantime ~~provision~~ notification ~~is being~~ is given that ~~the SEPP-15~~ enabling that applications may be lodged under SEPP-15 until 30 Nov 94.

Does a "new policy" mean a new SEPP?

yes. The reason for it is that the only way you can get rid of a state policy is by way of another state policy.

That state policy will merely ~~repeal~~ repeal the existing policy, and put in place any transitional provisions.

PH ~~Does~~ (What is the procedure to ~~repeal~~ repeal a policy outright?).



Q. It is repealed by the Minister approving a new SEPP, the Governor signing, and it being gazetted.  
 A. To repeal a SEPP in toto, <sup>(or deduct it from an amendment)</sup> can only be done by way of another SEPP.

Such a SEPP all such a SEPP does is repeal the existing SEPP in its entirety and put the case put in place some transitional provisions.

What does how much time does it take for the Governor to sign & be gazetted?

Not much, it could all be done within a week.

In introducing a new SEPP is there not a not required to be a period of public consultation?

No there it is not.

Is it the practice to do so?

\* They don't know, this may be the first repeal of this sort. There is no requirement, the SEPP is issued at the discretion of the Minister & Director.

Normally when they are developing or changing SEPPS it has been the practice that there is consultation occurs but in this case because of the consultants have done a report and consultation, the decision has been made that no further consultation will occur.



Is this saying even in creating a new SEPP there need be no consultation?

yes that's right

§ 38-39 says:-

"The Minister shall take such steps if any, as he considers appropriate or necessary, to publicise a draft SEPP and consider submissions."

The discretion lies with the Minister.

The Act provides in its terms & objectives for consultation, so it would seem reasonable that he takes this into consideration, especially in this situation.

I am sure he has.

I am sure he has too, but he has come up with a different interpretation to what we would prefer!

The News Release states says

"If corrects - (3)"

What they are trying to do is to encourage councils to introduce before their own provisions.

This is saying if they haven't done that.

Up until the time when SEPP is close to have effect, Councils can consider on no DA with § 90

what it is saying is, if a Council has not made its own provisions for WIA (ie. under the LEP) <sup>but if not in place by 31 Dec 94</sup> they can assess it under s.90 under CEPP15.

<sup>where an zoning by-law does</sup> an LEP ~~may~~ <sup>that</sup> permit multiple development it would appear not possible to consider such a DA.

<sup>that this is what</sup> I am certain the News Release is saying as obvious a council can't assess an m.o. DA under s.90 unless it is permitted in the zone.

It will only be permitted in the zone by way of LEP provisions <sup>allowing it</sup> or by a SEPP.

If an LEP is not in place by 31 Jan they can assess it using s.90.

After Feb. they can no longer do this unless & until they have the enabling clause in their LEP.

Summary Report (of Pardon)  
TP is away for week.

HP marginal seats.  
Senior "made illegal" will have existing use rights.

Exec Decision was "do nothing" (ie no charge)  
The "further information" is not known  
at is & Jim does not what this is.

4. The proposal The next amendments to the RTP included a proposal to delete this as it was superfluous in the light of the STPP-15 (NB The prov in the RTP was in place before the STPP-15 was gazetted.)

The RKP has not been gazetted & is currently before the Probationary Counsel. <sup>Dr. D. S. S. is said to</sup> His clerical is said to be done to ensure local committee & don't. of working. To ensure they reputation is "worth fight"

~~File~~ (branch of the Interior Dept. Every bit of legislation goes through this process) REP 3.22 re m.a]

It could be done as a further amendment to REP.

Q Our <sup>original</sup> understand was that any policy like the new Policy would go on subscription so public could comment.

ask Ask for this to go on exhibit as - it need not

Y/O That any <sup>Yrs</sup> ~~SA~~ lodged before 30 Nov under SEPP-15  
containing to be treated under that policy so that  
any pretraded contract that may flow would <sup>have</sup>  
to ~~be~~ <sup>be</sup> ~~pretraded~~ <sup>be</sup> ~~under~~ <sup>be</sup> SEPP-15

~~This act~~ <sup>the precipitation</sup> of this repeal may have been prompted as a way of stopping both MO & A appeals!!

The Court if an application is considered after 30 Nov or 1 Feb the Court will be bound to consider the planning controls as they apply at that date.

If they don't allow MO at all, they will have had it.  
(x will have wasted their money to bring it to the  
Court in the first place)

They haven't allowed <sup>in the past</sup> for situations where the Court  
may not deal with a matter in 2 months

It is possible they could not clutter up the Press  
Release with such details.

Reason/Speculation of why the repeal <sup>is</sup> pushed  
through at this time + contrary to  
Exec. Dec.

1. To address constituents pressure re  
his as a Councillor & possibly as  
a State Green candidate. It's all as a  
election threat.
- and/or  
2. To get in early to next Council  
election
3. Responding to pressure to invalidate/  
cancel MO appeals to the Court.  
See Jigg & the Channon. (This is  
why likely)
4. Bowing to real estate lobby to  
(x press banking unit)  
force subdivision/mortgages &  
more property sales (cf Bell River)
5. To respond/reassure "non decent people  
settling in the LCC area - the local  
north coast area. (cf Crookier)

6. A belief that no lifestyle is in fact  
conducive to suicide (cf Bill Riker)

2

Council to introduce enabling legislation in their  
LTP is totally unacceptable.

This matter ~~was~~ <sup>has</sup> not been publicly  
discussed in the past & we  
have not ~~and~~ had call or opportunity  
to present our evidence in this regard.

Any such a proposal flies in the face of  
one of the motivating reasons for why the  
statewide policy was introduced in  
the first place, viz  
no in any form of  
'Social housing' & as such we submit  
with every right to be available  
state-wide, ~~and not~~ to do otherwise  
would be discriminatory.

It ~~is~~ <sup>is</sup> ~~not~~ <sup>clearly</sup> no communities are in essence  
extended families & as such are  
recognized by the Social Director as  
a valid & to be supported as central  
to this fair policy.

See 14F data.

Experience was that many  
the Council did not introduce their own  
enabling legislation, even though there  
were existing illegal communities known to  
Councils as waiting to legitimize their  
situation.

In the case of large properties, clusters of  
extended families.

Encl. 14F data

Send copy this to 14F for their support

0 Quote Premias statement.

That any unilateral amendment to the Policy will affect the freedom of ~~family~~ to choose the of family association and housing option. (viz low cost self help housing without a mortgage ~~subsidy~~ <sup>subsidy</sup>)

For from these options being restricted ~~we~~ <sup>we</sup> ~~strongly~~ support the view that the ~~fast~~ <sup>fast</sup> ~~Minister~~ <sup>Minister</sup> should ~~initiate~~ <sup>initiate</sup> ~~initiate~~ <sup>initiate</sup> a report a study as to how the fast may assist the ~~development~~ <sup>development</sup> of comm family settlement.

From an economic point of view we would ~~like~~ <sup>like</sup> ~~like~~ <sup>like</sup> evidence to such an inquiry to support a view of the ~~exp~~ <sup>exp</sup> ~~groups~~ <sup>groups</sup> to the state in the form of ~~representation~~ <sup>representation</sup> ~~ask or arrange~~ <sup>ask or arrange</sup> a favoured policy, perhaps ~~as~~ <sup>even</sup> ~~as~~ <sup>as</sup> a model.

Resolution of the Policy, or amending with the effect that Councils may ~~initiate~~ <sup>initiate</sup> their own policy, as they see fit will where this does not occur, will ~~prohibit~~ <sup>prohibit</sup> ~~new~~ <sup>new</sup> ~~community~~ <sup>community</sup> ~~families~~ <sup>families</sup> from forming. ~~Preventing~~ <sup>Preventing</sup> ~~no~~ <sup>no</sup> ~~from~~ <sup>from</sup> ~~expanding~~ <sup>expanding</sup> as our children ~~become~~ <sup>become</sup> ~~adults~~ <sup>adults</sup> & wish to start their own families.

Such a result with respect would be contradictory to the fact strongly stated reorg. & support for the diversity of lifestyle propagated in the NPE 14F programme.

I refer you in this regard to the Premier's statement "\_\_\_\_\_".

Any notion that to have the intro of no leg. to local council, would be an effort on Council to negate the stated objectives of the 14F programme.

Further to our letter of \_\_\_\_\_ it has come to our attention that you may be considering revoking or amending the ST-15-15 policy.

In view of the community concern for about the issues at stake.

The sensitivity of this matter is such that you will app. our concern that this matter be as one of 'public concern' so that you may be presented with the whole picture, & its implications.

We were <sup>to our information</sup> ~~being~~ <sup>extremely</sup> involved during the conduct of the Dept. review. Notwithstanding this, however, we have not afforded any opportunity to make input into the <sup>conduct</sup> brief for this review.

We have <sup>already</sup> placed <sup>in</sup> ~~in~~ <sup>some</sup> regard our concerns about the limitations of the terms of & conduct of the survey brief.



We seek that we be given the opportunity to present <sup>our</sup> ~~our~~ <sup>community</sup> ~~community~~ <sup>view</sup> ~~view~~ before making any proposal any amendment to the Policy in its present form.

We draw to your attention that the Report by the Consultant engaged by you, <sup>despite</sup> ~~despite~~ has not been made available to us, despite our request for same.

Despite that ~~was~~ in the evidence we believe <sup>our</sup> ~~our~~ request is a reasonable ~~one~~ request we also view in all terms of "proceeding farmers" as those who <sup>are</sup> ~~stand~~ to be affected by any amendment, we have the opportunity to contribute to, comment on, propose options not otherwise raised. To assist you in your ~~the~~ consideration of this matter.

For us not to be able to comment & participate in this way we feel with respect would be considered to be a breach of the principle of "proceeding farmers"; and we have every reason to believe that ~~the~~ your legal advisors would not trust, support us in this respect (refuse).

cc Friends / 14 Feb / notes / MP's

Given the opportunity we would ~~look to supply~~ <sup>provide</sup> ~~for~~ <sup>for</sup> ~~with~~ <sup>with</sup> ~~the~~ <sup>the</sup> ~~views~~ <sup>views</sup> of one community who, when their DA was rejected outright, rather than appealing, chose to merge as a community to another ~~stat~~ <sup>stat</sup>. They now have an established community.

6  
This decision is despite a commonly held view  
by ourselves & <sup>local</sup> planning consultants that  
~~they would then not~~ would be upheld  
if appealed to the Court!

In view of the ~~basic~~ widespread concern of our  
members in this matter you will appreciate  
our concern that this ~~matter~~ correspondence  
be treated as a public document.

Having not yet had the opportunity to  
comment on the proposals ~~but before~~ you  
being considered by your Ex. Dir. or yourself;  
as those who will be affected by any  
changes to the Policy we ~~view~~ this is  
effectively denying us the opportunity to respond  
to those who ~~propose~~ propose changes to this Policy.

We ~~police~~ record that we do not support  
the principle of reviewing Govt policy,  
and that our primary concern in this corresp  
is to address the process in which this  
is conducted.

We reaffirm our earlier invitation for you, or  
your <sup>parliamentary</sup> colleagues to visit some of our members  
and we would be happy to facilitate such a  
visit.

We would apprec. your contacting us with a  
view to visiting a "family" community  
at your earliest convenience.

Ref to our correspondence (by date) & forwarding

if req'd.

We submit with resp. that it would not be just <sup>in the circ.</sup> to make any changes to the Policy before we had an opportunity to be heard in respect to the prop. changes

We further submit that any protracted delay in est a procedure of "fairness", or opp to rebut what may be said by us as restrictive measure, would — — —

Any consideration of action to amend the Policy is a way that adversely affected existing in O's or the est of new MO's without their being an opportunity for a site to be heard, we submit would be unreasonable & unjust

As we trust <sup>that the rep would not be, or</sup> ~~is not what~~ <sup>he all to be in the way to be unjust</sup> or "unreasonable" we ask that your this path not be pursued & that the <sup>for public comment</sup> Report be ~~was~~ made available <sup>without</sup> further delay — so that you may have the benefit of the comments by those who stand to be affected by any such changes to the Policy

Re mo Review.

We want to be consulted

We want opportunity to support or rebut the claims made by those critical of an ~~lifelong~~ form of rural settlement  
the way we have settled in rural areas

If the Policy were to be ~~amended~~, there may be ways in which we could suggest it be amended, which have not been raised by the Dept.

The public needs the opportunity to be able to make an input into what changes (if any) may be addressed in any public consultation to change the policy

There are issues of concern to us, which if there were to be changes to the policy, we would seek also to be changed.

There may be issues not raised in the Consultants Report or well in the brief.

In our interview with Tunder he advised that issues had been raised following the public notice seeking submission on MO & that some of these submissions raised matters that were outside the specific subject matter in their brief. That despite this, the matters raised in submissions were being considered on the basis of expressions of concern, regardless

of argument or reliability.

(There has been no opportunity to see the survey results. so we have no way of knowing what criticisms have been made & hence no opportunity for us to rebut adverse allegations)

Sub allegations may not be able to be supported by evidence or being an accurate statement of the circumstances or situation

It is "well est practice in" admin law" that a party which may be affected by such action

We have a right to know of the claims by those members of the public or the consultant, and "a right to be heard" on the basis of "procedural fairness". (ref —)

(As the Minister may be accepted, but surely not his ministers!)

We also request <sup>st</sup> to be informed of the outcome of the consultant's report

b) the Dept draft proposal.

that in the event of that it is proposed to amend the Rules then on the basis of "procedural fairness" a public discussion paper be prepared inviting comment on proposed amendments, and ~~such~~ propositions for other amendments for consideration.

d) That after this process, if it is ~~not~~ <sup>not</sup> ~~stop~~ <sup>stop</sup> to seek amendment that the normal process of public exhibition be made for amendment to the Policy