

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

PROPOSED AMENDMENTS TO

THE DUAP DRAFT SEPP-15

MULTIPLE OCCUPANCY

OF RURAL LAND

10th April 1997

PAN COMMUNITY COUNCIL

PROPOSED AMENDMENTS

TO

The DUAP Draft SEPP-15

Multiple Occupancy of Rural Land

INTRODUCTION

What is presented here is:-

- (a) those clauses in the DUAP Draft which it is proposed be amended, deleted or added to the Policy. (Where a section is proposed be amended etc, the section is spelt out in full.)
- (b) Where it is proposed to omit text in whole or part, the wording is ~~struck-through~~.
- (c) Insertion of new words or text is made in bold typeface, and "Comment" is made in [...] in *Times Roman* Italic typeface.

CONTENTS

Part A Policy Overview Statement

Part B Proposed Amendments to Draft SEPP-15

#####

PART A

POLICY OVERVIEW STATEMENT

Pan Community Council:-

1. Welcomes the exhibition of Draft SEPP-15, and recommends as far as possible:-

that the wording of the original SEPP-15 be retained for the reason that in general it has successfully stood the "test of time" and to this extent is a credit to the Department, and

that amendments to the Policy be directed to those issues that enhance the implementation of the Policy.

(2) (a) Supports councils introducing MO provisions into their respective LEP's provided they are not less encompassing than the requirements in the SEPP, and

(b) does not support a council being exempt from the SEPP until approved LEP provisions have been gazetted.

(3) Recommends that where a council provides for MO in their LEP that the Department recommends that the introduction of an MO DCP be considered. (Without necessarily endorsing everything in the Lismore City Council Draft MO DCP-20 1994, this Draft is submitted as a basis for such consideration.)

(4) That the wording of the SEPP Policy together with LEP and DCP legislation, where possible be based on "performance" outcomes, rather than "prescriptive" directives.

(5) Supports the Department publishing **Draft Guidelines** to accompany the release of the SEPP Policy.

A Pan Com submission on the **Draft Guidelines** will follow.

(6) Supports the Department publishing a **Rural Landsharing Community Manual** to assist potential new settlers and council staff unfamiliar with this form of development. This Manual is seen to compliment the **Draft Guidelines**, addressing fundamental environmental and social issues (such as guidelines to property selection) not addressed elsewhere. A Pan Com submission on this proposed Manual will follow at a latter date.

(7) In general reference to s.90(1) in the Planning Act has continued to be used, notwithstanding the proposed amendments to this Act. It is our view that to attempt to pre-empt what amendments may occur is at the best speculative. Our view is to review the new SEPP-15 in the light of such amendments once made and then amend the SEPP if considered necessary.

(8) This submission is the collective outcome of a great deal of discussion, meetings and work by our Council members.

####

PART B

State Environmental Planning Policy No. - 15 ~~Multiple Occupancy of Rural Land~~ Rural Landsharing Communities - (Insert next available Number)

1 Name of Policy

This Policy is the State Environmental Planning Policy No. -
~~15 Multiple Occupancy of Rural Land~~ Rural Landsharing
Communities - (Insert next available Number)

[Comment: (1) The name needs to be changed to better reflect the social aspects of this form of development and to remove it from being seen as having anything in common with "Dual Occupancy" with which it is sometimes associated.

"Landsharing" as one word, is deliberately used in lieu of "Land Sharing" to avoid possible confusion with the concept of "Rural Land" used in other planning contexts.

(2) The SEPP number needs to be changed so as to remove potential confusion between the new and old Policy.]

2 Aims of Policy

This policy aims:

- (a) to encourage a ~~community based and environmentally sensitive approach to rural settlement, and~~ facilitate the development of intentional Rural Landsharing Communities committed to environmentally sensitive and sustainable land use practices, and thus

[Comment: While allowing for communities with principally social or economic objectives, the revised wording emphasises the commitment to environmental sensitive and sustainable land use practices.

The addition of the word "thus" between 2(a) and 2(b) serves to clarify that 2(b) does not consist of a list of separate aims but details ways of achieving the principle laid down in 2(a).]

(b) to enable:

- (i) people to collectively own a single allotment of land and use it as their principal place of residence, and
- (ii) the erection of multiple dwellings on the allotment and 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: **having due regard for the characteristics of the terrain and to the proposed management plan referred to in clause 10 of this Policy:**

- ~~(i) in a manner that both protects the environment and does not create a demand for the unreasonable or uneconomic provision of public amenities or public services by the State or Commonwealth governments, a council or other public authorities, and~~

[Comment: Redundant as regarding environmental protection and services provisions as these are adequately described in clause 2(a), Schedule 2 and in s.90 of the E.P. & A. Act.]

It also discriminates against Rural Landsharing Communities in comparison with other forms of rural residential development which are not similarly required to prove that they do “not create a demand for the unreasonable or economic provisions of public amenities or public services”.]

- ~~(ii) in a manner that does not involve subdivision, strata title or any other form of separate land title, and in a manner that does not involve separate legal rights to parts of the land through other means such as agreements, dealings, company shares, trusts or time-sharing arrangements, and~~
- ~~(iii) to create opportunities for an increase in the rural population in areas that are suffering or are likely to suffer from a decline in services due to rural population loss, and~~

[Comment: Deleted as this is of peripheral relevance and because the issue is a factor to be considered under clause 9 of the Policy and under s.90 of the E.P.A & A Act and is discriminatory for the same reason as in clause 2(c)(1) above.]

(d) to repeal State Environmental planning Policy No 42- Multiple Occupancy of Rural Land (Repeal).

3 Land to which this Policy applies

This Policy applies to ~~all rural land within the areas specified in Schedule 1 except as provided by this clause.~~ **New South Wales except as provided in Schedule 1.**

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

[Comment: There seems to be no valid planning reason why the Policy should not apply to all rural land in NSW except those specified in Schedule 1.]

4 Definitions

(1) In this Policy -

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

community management body means a group of three or more persons who are shareholder or part owners of the property and each has signed a Statutory Declaration that they will take up residence as a founding member on the property.

[Comment: This term is defined in connection with its use in the new subclause 9(1)(a) and 9(1)(r) below. The essence of this provision is as an expression of intent by a founding member.

It is recognised and acknowledged however that the signing of such a Statutory Declaration would not necessarily bind a person as subsequent extenuating circumstances may make this impractical. This however is not considered to be an adequate reason for not including this provision because in our view (a) it conveys an "intent" and (b) may be seen as a further disincentive to use this Policy by speculative developers.

If there is reservation about including such wording, then we would invite the Department to propose other wording to achieve this desired outcome.

We do not see this provision being an impediment to a speculative developer selling a property say to a group of 3 or more bona fide members agreeing to purchase a property on the condition of an approved DA, as they can sign such a Declaration thereby complying with this provision.]

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

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

height of a building means the distance measured vertically from ~~any point on the ceiling of the topmost~~ **the top of the wall plate of the uppermost** floor of the building to the ground level immediately below that point.

[Comment: To overcome the circumstance where there is no horizontal ceiling. This solution is a practice used for example in the Byron Shire.]

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

home industry has the meaning given in the Model Provisions 1980.

[Comment: In order to include an addition to clause 7(2) below, it is necessary to add the definition of the term used in that clause.]

intentional rural landsharing community means a group of people having the clear desire to live in a way that facilitates and encourages strong social bonding, cooperation and sharing within the context of the Aims of the Policy."

[Comment: To define this term as used in clause 2(a).]

prime crop and pasture land means land within an area:

- (a) identified, on a map prepared before the commencement of this Policy by or on behalf of the Director-General of Agriculture and deposited in an office of the Department of Agriculture, as Class 1, Class 2 or Class 3 or as land of merit for special agricultural uses, or
 - (b) identified, on a map prepared after the commencement of this Policy by or on behalf of the Director-General of Agriculture marked "Agricultural land Classification Map" and deposited in an office of the Department of Agriculture, as Class 1, Class 2 or Class 3 or as land of merit for special agricultural uses, or
 - (c) certified by the Director-General of Agriculture, and notified in writing, by or on behalf of the Director-General of Agriculture to the council, to be prime crop and pasture land for the purposes of this Policy.
- (2) For the purposes of this Policy, the council may, in respect of development proposed to be carried out pursuant to this Policy, treat two or more dwellings as a single dwelling if it is satisfied that, having regard to the sharing of any cooking or other facilities and any other relevant matter the dwellings comprise a single household.

7 ~~Multiple Occupancy~~ Rural Landsharing Communities

- (1) Despite any provision in an environmental planning instrument concerned with the use of land for the purposes, only of a dwelling or dwellings (as the case may be) in rural or non-rural zones, development may, with the consent of council, be carried out for the purposes of 3 or more dwellings on land to which this Policy applies within such a zone if:
 - (a) the land comprises a single allotment not subdivided under the *Conveyancing Act 1919* or the *Strata Titles Act 1973*, and
 - (b) the land has an area of not less than 10 hectares, and
 - (c) the height of any building on the land does not exceed 8 metres, and
 - (d) not more than 25 per cent of the land consists of prime crop and pasture land, and

- (e) the part of the land on which any dwelling is situated is not prime crop and pasture land, and
- (f) the development is not carried out ~~ef~~ for the purposes of a motel, hotel, caravan park or any other type of holiday, tourist or weekend residential accommodation, except where development for such purposes is permissible under the provisions of another environmental planning instrument in the zone, and
- ~~(g) slopes in excess of 18 degrees do not occur on more than 80 per cent of the land, and~~

[Comment: This subclause deleted as being unnecessarily prescriptive and also redundant, for example it is conceivable that a Rural Landsharing Community could be quiet appropriate on land where 80% of the land area has slopes of more than 18°, if the remaining 20% is large enough and otherwise suitable for such development.]

Moreover s.90(e), (f), (g) and (m1) of the E.P. & A Act and clause 9(k) of this Policy already provide safeguards in respect to development on steep land.]

- (g) [New (g) , previously (h)] all the aims of this Policy are met.

[Comment: The word "all" is added to make it clear that every clause of the Aims must be met in a Rural Landsharing Community DA, before council may give approval.]

- (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 land for the purpose of carrying out development pursuant to this Policy.~~

[Comment: This subclause does not appear to have any necessary function in the operation of the Policy.]

- (3) Home industry shall be a permissible land use.

[Comment: This provision is added to further the implementation of Clause 2(b)(iii) so that the Policy encourages rather than restricts this land use. For definition see Clause 4.]

- (4) Subject to any legally binding agreement between members of a Rural Landsharing Community, the occupants of a dwelling on such a community shall have the right of exclusive occupation of such dwelling without otherwise restricting the community's rights to the land.

[Comment: Inserted to safeguard the rights of community householders to exclusive occupation of their homes on communities which do not already have their own legally binding rules on this matter. See also Clause 12(3).]

9 Matters for council to consider

- (1) In addition to the matters prescribed under s.90(1) of the *Environmental Planning and Assessment Act 1979* a council must not consent to an application made in pursuance of clause 7 unless it has taken into consideration such of the following matters as are of relevance to the development the subject of the application:

[Comment. Addition included to make clear that it is mandatory for councils to consider these matters in addition to those prescribed in clause 7.]

- (a) the means proposed for establishing collective land ownership, dwelling occupancy rights, a community management body, environmental and community management, to ensure the aims and objectives of this Policy and in particular (the former) clause 2(c)(ii) are met,

[Comment: (1) To reinforce the “communal” aspects of the Aims of this Policy.

(2) To be consistent with the deletion of the term “objectives” in clause 2 above.

(3) To specifically require details of the legal structure especially in respect to a renewable lease providing occupancy rights to portions of the land.]

- ~~(b) the area or areas proposed for erection of buildings, including Any proposals for the clustering of buildings,~~

[Comment: Wording deleted as this is already covered in the Schedule 2 “Site Analysis”.]

- (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 need 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,~~

[Comment: Deleted as this matter is already covered in s.90 of the E.P. & A. Act, the Threatened Species Conservation Act and in Schedule 2 "Site Analysis" of this Policy.]

- (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, services installations, and land adjoining the development from any such hazard,
- (l) the visual impact of the proposed development on the landscape,
- (m) the effect of the proposed development on the present and potential use, including agricultural use, of the land and of lands in the vicinity, ~~including the need for separation and buffers to avoid land use conflicts.~~

[Comment: The deleted words are redundant as they are covered in s.90 and because any council policy on Buffer Zones in rural areas should apply equally to all rural development.]

- (n) whether resources of coal, sand, gravel, petroleum or other mineral or extractive deposits will be sterilised by the proposed development,
- (o) the effect of the proposed development on the quality of the water resources in the vicinity,
- (p) any land claims by local Aborigines and the presence of any Aboriginal relics and sites,
- ~~(q) whether the land has been identified by the council as being required for future urban or rural residential expansion,~~

[Comment:

1. Since any land intended for "future urban use" would be so zoned, such zoning would as a matter of course, exclude any possibility of Rural Landsharing Community development.

2. Where rural land is identified as suitable for future "rural residential expansion", then there appears to be no sound planning reason why a Rural Landsharing Community should be excluding from such an area. See for example in this regard "RURAL SETTLEMENT: Guidelines on Rural Settlement on the North Coast of NSW", DUAP, 1995, pages 40, 29, and 27 in particular, which supports this principle.

Should further evidence of the appropriateness of this reference be sought, we refer you to the comments by the Director-General, Mrs Gabrielle Kibble in the Department's "NORTHERN NEWS" March 1997, on the occasion of the Royal Australian Planning Institute's AWARD for EXCELLENCE for this publication.]

- ~~(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.~~

[Comment: See comment in clause 2(c)(iii) above.] [Insert new (r).]

- (r) where a Development Application for a Rural Landsharing Community is not proposed by 3 or more members of a community management body, the development Application is to be by means

of a Deferred Commencement. Proceeding with the implementation of the consent shall be subject to the fulfilment of the requirement of there being a *community management body*.

[Comment: The desired outcome of this provision is that the founding group of resident members on the property have the determining say in the implementation of the approved D.A. under s. 91AA of the Act.

This provision, along with clauses 2(a) and 9(1)(a) above, is aimed at being a disincentive for speculative developers who may attempt to subvert the aims of this policy for private gain. This practice is sometimes referred to as using the former policy for the purpose of “defacto subdivision”.

Having said this we hasten to say that entrepreneurial developers, professionals and government agencies can play a valuable role in creating new Rural Landsharing Communities and we welcome such initiative where it is bona fide.]

- (2) A council must not consent to an application made in pursuance of clause 7 unless it has taken into consideration a site analysis that;
 - (a) contains information about the site and its surrounds as described in Schedule 2. ~~and~~
 - ~~(b) is accompanied by a written statement explaining how the design of the proposed development has regard to the site analysis.~~

[Comment: This is redundant as the general issue is already addressed in s.90(1) of the E.P. & A. Act, in clause 9(m) and Schedule 2 “Site Analysis”, of this Policy.]

- (3) Nothing in subclause 7(3) is to be construed as authorising the subdivision of land for the purpose of carrying out development pursuant to this policy.

[Comment: Addition made to reinforce the prohibition on subdivision and to make clear that a householder’s right of exclusive occupation does not include any rights over the title of the land which could give rise to a subdivision.]

10 Management plan

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

- (a) bushfire management, and
- (b) control of noxious weeds, and
- (c) provision and maintenance of internal roads, water reticulation, service corridors for telephone and electricity cables and similar matters.

[Comment: To make clear that this is required only where applicable, for example there not be any noxious weeds on the property, or, the town supply of electricity and telephone services may not be required as per clause 9(1)(g) above.]

12 Subdivision prohibited

- (1) If development is carried out on land pursuant to this policy, the issue of a certificate of the general manager of a council, under the *Local Government Act 1919*, or of a council's certificate under the *Strata Title Act 1973*, required for the subdivision of the land is prohibited.
- (2) Subclause (1) does not apply with respect to the subdivision of land for the purpose of any one or more of the following:
 - (a) widening a public road;
 - (b) making an adjustment to a boundary between allotments, being an adjustment that does not involve the creation of any additional allotment;
 - (c) rectifying an encroachment upon an allotment;
 - (d) creating a public reserve;
 - (e) consolidation 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.
- (3) **Exclusive occupation of dwellings under the provision of clause 7(3) shall not constitute subdivision for the purposes of this Policy.**

[Comment: This further strengthens the prohibition against subdivision and makes it clear that household occupancy rights cannot amount to or permit subdivision.]

13 Monitoring of applications

- (1) If a council receives an application made in pursuance of clause 7, the council must, within 30 days of determining the application or an **application for a variation of an existing approval**, forward a copy of the application to the **Secretary of the Department** together with a copy the notice of the determination of the application.

[Comment: The question has been raised "Secretary" of what! We hold that this process is an important provision notwithstanding that instances have come to our notice that some councils have been slack in supplying this information. We see that council staff need Guidelines on the manner of implementing this provision. The use of a Departmental Circular may also be helpful in this regard.]

A variation sought under s.102 in respect to, for example conditions of consent or, expansion of development, should be treated as for the original application.]

- (2) **The Department shall keep a register of such data and shall make a copy of same available on request by any person, free of charge.**
- (3) **All such applications forwarded under subclause (1) above shall be made available to any person on request to the Department or to a council.**

[Comment: We wish to monitor, in conjunction with the Department, the use of this Policy throughout the State. We do not consider it to be in our best interest for the Policy to be used in a way that is inconsistent with the aims of the Policy, such as may arise through a "smart" developer finding a way to achieve defacto subdivision, or a council consistently approving ill considered recommendations for approval

Comment on (2) and (3): To ensure public availability of information relating to the implementation of the Policy for the purpose of monitoring and assessing for example, the frequency, size, conditions of consent and geographic disposition of new Rural Landsharing Communities.

We would seek that there be appropriate community consultation in preparing the items to be included in such a Register and would appreciate the opportunity to be involved in this process.

As such requests are likely to be infrequent, we do not envisage this requirement imposing any great hardship on the relevant Departmental staff.]

Schedule 1 ~~Land to which this policy applies~~

~~—(See clause 1.3)~~

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

[Comment:

- 1. In view of the proposed changes to clause 3 above, this list is no longer necessary.]***
- 2. Without prejudice to the above proposal , if an inclusion list is to be retained then we seek advice on whether or not Nambucca, Wingecarribee and Hastings have an MO provision in their LEP. In the case of the Byron Shire, if concurrence is granted to delete the MO provisions in their LEP then we would ask that the reinstated SEPP apply to Byron Shire until such time as they choose to reintroduce MO provisions in their LEP in accordance with Item 2 in our POLICY OVERVIEW STATEMENT.***

Schedule 2 1 Specified land to which this Policy does not apply

(See clause 3)

[Comment: The former Schedule 2 now becomes Schedule 1.]

Land that is a national park, historic site, State recreational area, nature reserve, State game reserve, karst conservation reserve, wilderness area, Aboriginal area, protected archaeological area, ~~wildlife refuge, wildlife management area,~~ land to which a conservation agreement relates or Aboriginal place, within the meaning of the National Parks and wildlife Act 1974.

[Comment: It is expected that some Rural Landsharing Communities will wish to seek a "wildlife refuge" or a "wildlife management area" status, or, obtain a "conservation agreement" over at least part of their property. See for example, recent Conservation Agreement in the Tweed Council area signed by the Minister for the Environment on 4 April 1997.

As stated in the media coverage of this event this Conservation Agreement was described as a model for other land owners whose properties contained sensitive environmental land. While this particular property was not an MO, it could easily have been one!]

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

Land that is a reserve within the meaning of the Crown Lands Act 1989.

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

[Comment: See comment to clause 3 above.]

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

~~Land that, 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, or~~
- ~~(b) Coastal lands protection, or~~
- ~~(c) Conservation, or~~
- ~~(d) Escarpment, or~~
- ~~(e) Environment protection, or~~
- ~~(f) Environmental protection, or~~
- ~~(g) Open space, or~~
- ~~(h) Rural environmental protection, or~~
- ~~(i) Scenic, or~~
- ~~(j) Scenic protection, or~~
- ~~(k) Water catchment, or~~
- ~~(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.~~

and to which Eurobodalla Rural Local Environmental Plan 1987 applies.

[Comment: The proposed amendment to clause 7 above allows for Rural Landsharing Communities to be permissible in any zone where a dwelling is permissible, the principle being that in any zone where a dwelling is permissible then a Rural Landsharing Community should be permissible. Consider for example the case of the SCENIC / ESCARPMENT ZONE [Zone 7(d)] in the Byron Shire LEP where the objectives of zone are:-

“(a) to protect and enhance the scenic qualities of the Shire,

(b) to enable development for certain purposes where such development would not have a detrimental effect on the scenic quality and visual amenity of the Shire”, and, development is permissible with consent for: “.... bed and breakfast establishments dwelling-houses environmental facilities home industries roads” .

Byron Council is also considering introducing a new Wildlife Corridor Zone into its LEP which would permit dwellings with Council consent in this Zone, subject to a Management Plan relating to environmental “repair”.

It is also to be noted that the Tweed Council has a “Habitat Zone”, 7(l) in which dwellings are permissible with Council consent.]

Schedule 3 2 Site analysis

(See clause 9(2))

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

With regard to the site:

- site dimensions and site area,
- spot levels, contours and north point,
- **watercourses and the vegetation of the riparian land**

[Comment: To consider the state of the riparian land in relationship to the watercourse. This also relates to the issues raised in dot point 12 below.]

- natural drainage,
- orientation, micro climates, significant noise sources, prevailing winds,
- easements for drainage services,
- location of buildings and other structures,
- indicative footprint of the proposed buildings,
- location of ~~fences~~, boundaries and any other notable features (natural or historical),
- any areas of the land to be used for development other than for dwellings,
- heritage features, including archaeology,
- vegetated areas requiring environmental protection or areas where rehabilitation or reforestation will be carried out,
- any part of the land that 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,
- views to and from the site,
- identification of previous use and any contaminated soils or filled areas,
- any part of the land that is prime crop and pasture land,
- sources and capacity of any water supply , electricity, telephone and waste disposal systems for the dwellings,
- proposed access from a public road to the area or areas in which the dwellings are to be situated,
- **any road reserve areas that impinge on the property.**

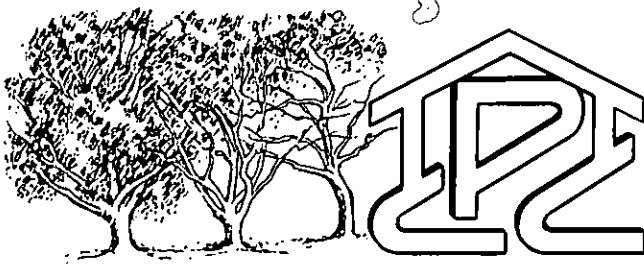
[Comment:

(1) The former Schedule now becomes Schedule 2.

(2) Fences other than boundary fences are not an issue of substance but if it is to be retained should specify "existing" fences for clarity.

(3) The last bullet point is included to indicate land that is a road reserve and that unless appropriate arrangements are made, will not be available as an area for buildings etc.]

####



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

*1/50 Paterson Street,
Byron Bay, 2481*

10 April 1997

Attention: Roger Elliott, Susan Sky, Martin Daley

*The Manager,
Planning and Design Branch,
Department of Urban Affairs and Planning,
G.P.O., Box 3927, Sydney, 2001*

Dear Roger Elliott,

Re: Submission on the Draft SEPP-15

- *Before commenting on our submission I wish to convey on behalf of our Council and myself personally, our appreciation of the visit made by yourself and staff as part of the Department's consultation process in respect to the Draft SEPP-15. I trust you and your staff found it to be as beneficial as we did.*
- *Please find attached our submission on the Draft Policy:*

As MO practitioners subscribing to the Aims of the former policy we trust you will give due consideration and weight to our proposals.

We are not necessarily attached to the wording of our suggested alterations to the Draft. We welcome that wording which will have the desired "performance" outcome in achieving at law, the intent of our proposal.

- *As to the timeframe for your report and recommendation to the Minister re this Policy, this is to confirm your verbal advise that you expected consideration of submissions to take about 4 weeks from the closing date of 11th April, and that preparation of your report about 8 weeks from completion of consideration of submissions.*

Not done.

If there should a likelihood of delay beyond this timeframe we would appreciate it if you would advise us accordingly.

- Not done*
- This is also to confirm your offer to forward to us an interim draft of your proposed revisions to the former Policy, with sufficient time for us to consider, and if necessary comment on same, before your presentation to the Minister.

We welcome and support this process. In this respect the action of Minister Webster in repealing the former policy without enabling us the opportunity to be heard in a matter that so materially affected our interests, remains a very sensitive one for our members.

On advise, we were of the view that "procedural fairness" was not followed by the Minister Webster, and that we had a "legitimate expectation" in seeking redress.

As you will note in our correspondence with the present Minister, we refrained from taking such an action in view of the pending State election and the electoral promise of the then opposition to reinstate the Policy if elected to government.

In this regard we have long held that the "community consultation" provisions in the planning legislation at all levels, is the corner stone of good planning and we are delighted that due attention is being given to this in the reinstatement of the former SEPP-15.

- If you have not already done so, we would draw your attention to the Woodward Commission of Inquiry into MO in the Tweed.

In general we support the findings of Commissioner Woodward in the context of the then SEPP-15. We hold however, that if the proposals we have made to the present Draft had been in place in the former SEPP-15, the situation that arose in the Tweed, necessitating a Commission of Inquiry should not and hopefully would not , have arisen.

We await your communication in due course.

Yours Sincerely,

.....
 Peter Hamilton
 For and on behalf of Pan Community Council

Cr. Gray Wilson LCC.

150 Paterson St.

Byron Bay 2481

16-7-97 858-648(F/T)

Gray,

At the meeting which you attended at the Byron Shire Council re the reinstatement of SEPP-15 earlier in the year, you will no doubt recall the presence of the three DUAP representatives from Sydney viz. Roger Elliott (the senior bureaucrat), Susan Day (legal officer) and Martin Day (junior officer).

A meeting with some seven Pan Com members took place in the afternoon with the DUAP party. Di Roberts was in attendance at both these meetings.

At the Pan Com meeting Roger Elliott agreed to my request for Pan Com to have an opportunity to comment on the Draft Policy before it was sent to the Minister.

This was confirmed in the Pan Com correspondence of 10 April a copy of which is attached. (see page 2).

Roger advised that he expected that the report to the Minister would be completed by the end of June. We have not yet received a copy of the report for comment.

I have been trying to reach Roger for some weeks on the phone but he has been unavailable or away on sick leave.

Trica Shantz advises me that Roger will be attending the AAS meeting in Disnare on Friday 18th which I understand you will also be attending.

I would appreciate it if you would button-hole Roger at some convenient time during the day, on behalf of the Com. seeking advice/confirmation as to when he will be sending us a copy of the draft as agreed.

If he should appear to be having second thoughts about this because we may go public with it before the Minister has seen it, please try to convince him he need have no concern on this account.

Should you seek further information please contact either myself or Di Roberts.

Your help in this regard would be greatly appreciated.

Kind Regards

Peter

To be collected Friday 18th.

FAX DOCUMENT FROM PETER HAMILTON

1/50 Paterson Street, Byron Bay, 2481 (066) 858 648 (F/T)

✓
TO: Councillor Gray Wilson

FAX No: DATE: 17-7-97

Number of pages (including this sheet): 5

SUBJECT: SEPP-15

COMMENTS: Herewith copy as requested.
Thanks for your help.

Regards
Peter

20/7/92

Gray Wilson with Roger Elliott.
Lengthy discussion. Recognised each
other from Byron meeting.

Roger advised report not completed,
& has not yet gone to the Ministers
Gray gave him both cover letter &
handwritten letter.

Roger said he would ring me.

Di. 20/1/92

Ex. finally S. far but

○ She asked for but
could not get copy of
report

○ She has written to Knowles asking
him (mildly) to renstate.

She is of the view that to push
him harder at this time may
result in a total rejection of
the commitment/proposal.

○ NB She is not in favour of introducing
a motion at the branch level
as the right one likely to roll
it.

12/7/97

- o di spoke with Jenelle.
- o she said she is not surprised.
- o she will try & get copy of report/
no grounds.
expects this to be same as for Webster

Coff ^{Roe}
Wed. Grafton.
Thur.

Roger in Coff Wed
Grafton Thurs
his. Frid.

^{Roger in}
his. Frid. ~~ATS~~

4/9 ^{Thurs.}
9- ^{Michael Caragher, DEC ATS - Cyp}
Jessey in Rogers phone number.

Tricia Shatz is the ATS officer.

10-4 with Roger

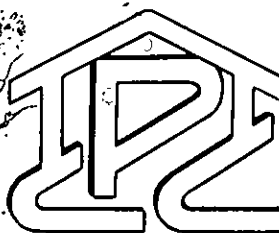
TRM/Tricia

Tricia
(Jannell Ellington)

Frid ~~10-9~~ with Elliott.
Lunch 1-1.30 - 3.30

~~AM Gray Wilson. Thurs am~~

~~Handwritten~~
Paste up
Original



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

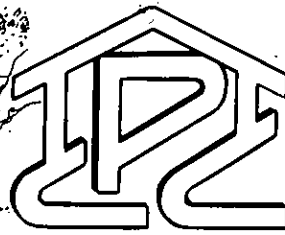
PROPOSED AMENDMENTS TO

THE DUAP DRAFT SEPP-15

MULTIPLE OCCUPANCY

OF RURAL LAND

10th April 1997



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

PROPOSED AMENDMENTS TO

THE DUAP DRAFT SEPP-15

MULTIPLE OCCUPANCY

OF RURAL LAND

10th April 1997

PROPOSED AMENDMENTS TO

THE DUAP DRAFT SEPP-15

MULTIPLE OCCUPANCY

OF RURAL LAND

10th April 1997