

# State Environmental Planning Policy No 15—Rural Landsharing Communities (1998 EPI 206)

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New South Wales

## Status Information

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### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Authorisation

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# State Environmental Planning Policy No 15—Rural Landsharing Communities (1998 EPI 206)



New South Wales

## 1 Name of Policy

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

## 2 Aims of Policy

This Policy aims:

- (a) to encourage and facilitate the development of rural landsharing communities committed to environmentally sensitive and sustainable land use practices, and thus
- (b) to enable:
  - (i) people to collectively own a single allotment of land and use it as their principal place of residence, and
  - (ii) the erection of multiple dwellings on the allotment and the sharing of facilities and resources to collectively manage the allotment, and
  - (iii) the pooling of resources, particularly where low incomes are involved, to economically develop a wide range of communal rural living opportunities, including the construction of low cost buildings, and
- (c) to facilitate development, preferably in a clustered style:
  - (i) in a manner that both protects the environment and does not create a demand for the unreasonable or uneconomic provision of public amenities or public services by the State or Commonwealth governments, a council or other public authorities, and
  - (ii) in a manner that does not involve subdivision, strata title or any other form of separate land title, and in a manner that does not involve separate legal rights to parts of the land through other means such as agreements, dealings, company

shares, trusts or time-sharing arrangements, and

(iii) to create opportunities for an increase in the rural population in areas that are suffering or are likely to suffer from a decline in services due to rural population loss, and

(d) to repeal *State Environmental Planning Policy No 42—Multiple Occupancy of Rural Land (Repeal)*.

### 3 Land to which this Policy applies

(1) This Policy applies to land within the areas specified in Schedule 1, except as provided by this clause.

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

### 4 Definitions

(1) In this Policy:

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

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

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

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

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

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

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

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

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

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

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

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

## **6 Repeal of SEPP No 42**

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

## **7 Rural landsharing community**

- (1) Despite any provision in an environmental planning instrument concerned with the use of land for the purposes only of a dwelling or dwellings (as the case may be) in rural or non-urban zones, development may, with the consent of the council, be carried out for the purposes of 3 or more dwellings on land to which this Policy applies within such a zone if:
- (a) the land comprises a single allotment not subdivided under the [Conveyancing Act 1919](#) or the [Strata Schemes \(Freehold Development\) Act 1973](#), and
  - (b) the land has an area of not less than 10 hectares, and
  - (c) the height of any building on the land does not exceed 8 metres, and
  - (d) not more than 25 per cent of the land consists of prime crop and pasture land, and
  - (e) the part of the land on which any dwelling is to be situated is not prime crop and pasture land, and
  - (f) the part of the land on which any structure or work is to be situated is not land that is a wildlife refuge, wildlife corridor or wildlife management area and development and management of the rural landsharing community does not

adversely affect any area identified as a wildlife refuge, wildlife corridor or wildlife management area, and

(g) the development is not carried out for the purposes of a motel, hotel, caravan park or any other type of holiday, tourist or weekend residential accommodation, except where development for such purposes is permissible under the provisions of another environmental planning instrument in the zone, and

(h) the part of the land on which any structure is to be situated does not have a slope in excess of 18 degrees, or has been determined not to be prone to mass movement, and

(i) the aims of this Policy are met.

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

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

#### **8 Notice of development applications—advertised development**

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

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

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

(a) the means proposed for establishing land ownership, dwelling occupancy rights, environmental and community management to ensure the aims and objectives of this Policy are met,

(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 reforestation,
  - (k) whether the land is subject to a risk of flooding, bush fires, landslip or erosion or whether there are areas with actual or potential acid sulfate soils and, if so, the adequacy of any measures proposed to protect occupants, buildings, internal access roads, service installations, and land adjoining the development from any such hazard,
  - (l) the visual impact of the proposed development on the landscape,
  - (m) the effect of the proposed development on the present and potential use, including agricultural use, of the land and of lands in the vicinity, including the need for separation and buffers to avoid land use conflicts,
  - (n) whether resources of coal, sand, gravel, petroleum or other mineral or extractive deposits will be sterilised by the proposed development,
  - (o) the effect of the proposed development on the quality of the water resources in the vicinity,
  - (p) any land claims by local Aborigines and the presence of any known Aboriginal relics and sites,
  - (q) the impact of the proposed development on any heritage item, relic or site, or on their curtilages,
  - (r) whether the land has been identified by the council as being required for future urban or rural residential expansion,
  - (s) whether the development would benefit an existing village centre suffering from a declining population base or a decreasing use of the services provided in that centre.
- (2) A council must not consent to an application made in pursuance of clause 7 unless it has taken into consideration a site analysis that:

- (a) contains information about the site and its surrounds as described in Schedule 3, and
- (b) is accompanied by a written statement explaining how the design of the proposed development has regard to the site analysis.

## **10 Management plan**

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

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

## **11 Density of development**

- (1) Subject to subclause (2), a council must not consent to an application made in pursuance of clause 7 for the carrying out of development on land unless the number of proposed dwellings on the land, together with any existing dwellings on the land, does not exceed the number calculated in accordance with the formula specified in Column 2 of the Table to this clause opposite the area of the land specified in Column 1 of that Table.
- (2) If the number calculated in accordance with the formula as referred to in subclause (1) includes a fraction, the number is to be rounded up to the nearest whole number in the case of a fraction of one-half or more or rounded down to the nearest whole number in the case of a fraction of less than one-half.

### **Table**

#### **Column 1**

**Area of land**

#### **Column 2**

**Number of dwellings where A represents the area of the land the subject of the application (measured in hectares)**



Not less than 10 hectares but not more than 210 hectares  $4 + \frac{(A - 10)}{4}$

More than 210 hectares but not more than 360 hectares  $54 + \frac{(A - 210)}{6}$

More than 360 hectares 80

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

## 12 Subdivision prohibited

- (1) If development is carried out on land pursuant to this Policy, the issue of a certificate of the general manager of a council, under the *Local Government Act 1919*, or of a council's certificate under the *Strata Schemes (Freehold Development) Act 1973*, required for the subdivision of the land is prohibited.
- (2) Subclause (1) does not apply with respect to the subdivision of land for the purpose of any one or more of the following:
- (a) widening a public road,
  - (b) making an adjustment to a boundary between allotments, being an adjustment that does not involve the creation of any additional allotment,
  - (c) rectifying an encroachment upon an allotment,
  - (d) creating a public reserve,
  - (e) consolidating allotments,
  - (f) excising from an allotment land that is, or is intended to be, used for public purposes, including drainage purposes, bush fire brigade or other rescue service purposes or public conveniences.

## 13 (Repealed)

## 14 Suspension of certain laws

- (1) For the purpose of enabling development to be carried out in accordance with this Policy or in accordance with a consent granted under the *Environmental Planning and Assessment Act 1979* in relation to development carried out in accordance with this

Policy:

- (a) section 37 of the *Strata Schemes (Freehold Development) Act 1973*, and
  - (b) any agreement, covenant or instrument imposing restrictions as to the erection or use of buildings for certain purposes or as to the use of land for certain purposes, to the extent necessary to serve that purpose, does not apply to the development.
- (2) Pursuant to section 28 of the *Environmental Planning and Assessment Act 1979*, before the making of this clause:
- (a) the Governor approved of subclause (1), and
  - (b) the Minister for the time being administering the provision of the *Strata Schemes (Freehold Development) Act 1973* referred to in subclause (1) concurred in writing in the recommendation for the approval of the Governor of that subclause.

## Schedule 1 Land to which this Policy applies

(Clause 3)

Armidale	Kempsey
Ballina	Kyogle
Barraba	Lake Macquarie
Bathurst	Maclean
Bega Valley	Manilla
Bellingen	Merriwa
Bingara	Mudgee
Blayney	Mulwaree
Bombala	Murrurundi
Casino	Muswellbrook
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
Cowra	Richmond River
Dumaresq	Rylstone
Dungog	Scone
Eurobodalla	Severn
Evans	Singleton
Glen Innes	Tallaganda
Gloucester	Tamworth
Goulburn	Tenterfield
Grafton	Tweed
Great Lakes	Ulmarra
Greater Taree	Uralla
Guyra	Walcha
Hastings	Yallaroi
Inverell	

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

(Clause 3)

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

Land to which a wilderness protection agreement under the [Wilderness Act 1987](#) relates.

Land that is Crown land within the meaning of the [Crown Lands Act 1989](#).

Land that is subject to the [Western Lands Act 1901](#).

Land that is a State forest, flora reserve or timber reserve within the meaning of the [Forestry Act 1916](#).

Land that is identified as critical habitat under the [Threatened Species Conservation Act 1995](#).

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

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

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

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

### **Schedule 3 Site analysis**

(Clause 9 (2) (a))

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

With regard to the physical characteristics of the site:

- site dimensions and site area,
- spot levels, contours and north point,
- views to and from the site,
- prevailing winds,
- orientation, micro climates, significant noise sources,
- land with a slope greater than 18 degrees,
- watercourses and groundwater resources,
- natural wetlands,

- land subject to pondage, seasonal waterlogging, high watertable or salinity,
- natural drainage,
- any part of the land that is subject to a risk of flooding, bush fires, landslip, erosion (or areas with actual or potential acid sulfate soils) or any other physical constraint to development of the land in accordance with this Policy,
- soil types and, where present, the geology of any rocky outcrops on the site,
- any part of the land that is prime crop and pasture land,
- vegetated areas requiring environmental protection or areas where rehabilitation or reforestation will be carried out,
- identification of previous use and any contaminated soils or filled areas,
- location of known resources of mineral or extractive deposits on or adjacent to the proposed development or otherwise potentially sterilised by the development,
- any road reserve areas that impinge on the site,
- location of fences, boundaries and any other notable features (natural or historical),
- any heritage items (including known items of Aboriginal heritage), relics and sites, and their curtilages.

With regard to the development details of the site:

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

With regard to the land surrounding the site:

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