

Attachment 1 Proposed LEP Clause

SEPP 15—Rural Landsharing Communities

[1] Part 6A

Insert after Part 6:

Part 6A Rural landsharing communities

6A.1 Aims of Part

This Part 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.

6A.2 Land to which Part applies

- (1) This Part applies to land in any rural zone.
- (2) This part does not apply to the following land:
 - (a) land in an environmentally sensitive area for exempt or complying development within the meaning of clause 3.3
 - (b) land to which a wilderness protection agreement under the *Wilderness Act 1987* relates,
 - (c) land that is subject to the *Western Lands Act 1901*,
 - (d) land that is a forestry area within the meaning of the *Forestry Act 2012*,
 - (e) 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*.

6A.3 More than one dwelling may be treated as a single dwelling

For the purposes of this Part, the consent authority may, in respect of development proposed to be carried out under this Part, 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.

6A.4 Rural landsharing community permitted with consent

The consent authority may grant development consent to development on land to which this Part applies for the purposes of 3 or more dwellings if:

- (a) the land comprises a single allotment with an area of not less than 10 hectares, and
- (b) the height of any building on the land (measured vertically from any point on the ceiling of the topmost floor of the building to the ground level (existing) immediately below that point) will not exceed 8 metres, and
- (c) not more than 25 per cent of the land consists of prime crop and pasture land, and
- (d) the part of the land on which any dwelling is to be situated is not prime crop and pasture land, and
- (e) 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 area identified as a wildlife refuge, wildlife corridor or wildlife management area, and
- (f) the development is not carried out for the purposes of a motel, hotel, caravan park or any other type of holiday, tourist or weekend residential accommodation, except where development for such purposes is permissible under the provisions of another environmental planning instrument in the zone, and
- (g) 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
- (h) the aims of this Part are met.

6A.5 Matter to be considered

(1) Before granting consent to development under this Part the consent authority must take the following into account:

- (a) the means proposed for establishing land ownership, dwelling occupancy rights, environmental and community management to ensure the aims and objectives of this Part 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 any home improvement areas (being the area of land, not exceeding 5,000 square metres, around a dwelling),
- (d) the need for any proposed development for community use that is ancillary to the use of the land,
- (e) the availability and standard of public road access to the land,
- (f) the availability of a water supply to the land for domestic, agricultural and fire fighting purposes and, where a proposed water supply is from a river, creek, dam or other waterway, the effect upon other users of that water supply,
- (g) if required by the applicant, the availability of electricity and telephone services,
- (h) the availability of community facilities and services to meet the needs of the occupants of the land,
- (i) whether adequate provision has been made for waste disposal from the land,
- (j) the impact on the vegetation cover of the land and any measures proposed for environmental protection, site rehabilitation or reafforestation,
- (k) whether the land is subject to a risk of flooding, bush fires, landslip or erosion or whether there are areas with actual or potential acid sulfate soils and, if so, the adequacy of any measures proposed to protect occupants, buildings, internal access roads, service installations, and land adjoining the development from any such hazard,
- (l) the visual impact of the proposed development on the landscape,

- (m) the effect of the proposed development on the present and potential use, including agricultural use, of the land and of lands adversely affect any 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 Aboriginal land claims and the presence of any known Aboriginal relics and sites,
 - (q) the impact of the proposed development on any heritage item,
 - (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) The consent authority must not grant development consent under this Part unless it has taken into account the design of the proposed development having regard to the following:
- (a) the physical characteristics of the site, including the following:
 - (i) the site dimensions and site area,
 - (ii) the spot levels, contours and north point,
 - (iii) the views to and from the site,
 - (iv) the prevailing winds,
 - (v) orientation, micro climates, significant noise sources,
 - (vi) any land with a slope greater than 18 degrees,
 - (vii) watercourses and groundwater resources,
 - (viii) natural wetlands,
 - (ix) any land subject to pondage, seasonal waterlogging, high watertable or salinity,
 - (x) natural drainage,
 - (xi) 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 under this Part,
 - (xii) the soil types and, where present, the geology of any rocky outcrops on the site,
 - (xiii) any part of the land that is prime crop and pasture land,
 - (xiv) vegetated areas requiring environmental protection or areas where rehabilitation or reforestation will be carried out,
 - (xv) the previous use of the land and any contaminated soils or filled areas,
 - (xvi) the location of known resources of mineral or extractive deposits on or adjacent to the proposed development or otherwise potentially sterilised by the development,
 - (xvii) any road reserve areas that impinge on the site,
 - (xviii) the location of fences, boundaries and any other notable features (natural or historical),
 - (xix) any heritage items (including known Aboriginal objects), relics and sites, and their curtilages,
 - (b) the development details of the site including the following:
 - (i) the location of buildings and other structures,
 - (ii) indicative footprints of the proposed buildings,
 - (iii) the design and siting of proposed buildings and their relationship to existing heritage items,
 - (iv) any areas of the site to be used for development other than dwellings,
 - (v) proposed access from a public road to the area or areas in the 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),
 - (vi) any easements for drainage services,

- (vii) the source and capacity of any water supply, electricity, telephone and waste disposal systems for the dwellings, plus strategies for dealing with domestic wastewater,
- (viii) areas designated for storage of solid waste,
- (ix) areas designated for landfill of solid waste,
- (x) any measures to be used to prevent the spread of bush fires,
- (c) the land surrounding the site including the following:
 - (i) the heritage significance of surrounding buildings and landscape,
 - (ii) the characteristics of any adjacent public land,
 - (iii) the directions and distances to local shops, schools, public transport, parks and community facilities,
 - (iv) the land uses on surrounding land.

6A.6 Notice of development applications—advertised development

Development to which this Part applies is designated development

6A.7 Future management

The consent authority must not grant consent to development under this Part unless it is satisfied that adequate provision will be made 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.

6A.8 Density of development

(1) The consent authority must not consent to development under this Part that would result in more than the following number of dwellings on the land:

- (a) if the land has an area of 10 hectares or more but not more than 210 hectares—4 dwellings plus 1 additional dwelling for every 4 hectares land greater than 10 hectares, or
- (b) if the land has an area of 210 hectares or more—54 dwellings plus 1 additional dwelling for every 6 hectares of land greater than 210 hectares.

(2) Despite subclause (1) the maximum number of dwellings permitted on any land under this Part is 80.

(3) The consent authority must not consent to development for the purposes of dwellings under this Part that would result in the number of persons reasonably accommodated in all the dwellings on the land being greater than 4 times the maximum number of dwellings otherwise permitted by this clause.

Note. In such a case the number or size of the proposed dwellings will need to be reduced.

6A.9 Subdivision prohibited

(1) Development consent must not be granted for the subdivision of land if development has been carried out on the land under this Part or under *State Environmental Planning Policy No 15—Rural Landsharing Communities*.

(2) Subclause (1) does not apply to the subdivision of land for any of the following purposes only:

- (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.

6A.10 Suspension of section 37 of *Strata Schemes (Freehold Development) Act 1973*

(1) For the purpose of enabling development on land to be carried out in accordance with this Part or with a consent granted under this Part, section 37 of the *Strata Schemes (Freehold Development) Act 1973* does not apply to the extent necessary to serve that purpose.

(2) Under section 28 of the Act, the Governor, before the making of this clause, approved of subclauses (1)

[2] Dictionary

insert in alphabetical order:

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.

Drafting note: *The above definition will need to be updated.*