Submission No 61

INQUIRY INTO RURAL HOUSING AND SECOND DWELLINGS REFORM

Organisation: Cootamundra-Gundagai Regional Council

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NSW Legislative Council
Committee on Rural Housing and Second Dwellings Reform
6 Macquarie St,
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Provided via email: ruralhousing@parliament.nsw.gov.au

Dear Hon John Ruddick (Committee Chair)

RE: Submission on Inquiry into Rural Housing and Second Dwellings Reform

Refence is made to the inquiry into rural housing and second dwellings.

Thank you for the opportunity to provide comment on the inquiry on the potential planning reforms.

Cootamundra-Gundagai Regional Council (CGRC) is supportive of planning reforms to facilitate construction of secondary dwellings in rural land zones. In particular, in consideration of the Terms of reference and intent of the committee Council makes the following comments: -

1. **Amendments to State Environmental Planning Policy (Housing) 2021 (Housing SEPP) and State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Codes SEPP) to include pathway for secondary dwellings on rural-zoned land**

   Council is supportive of the inclusion of secondary dwellings through a complying development pathway under the relevant State Environmental Planning Policies, including overriding of LEP provisions through the Housing SEPP to facilitate secondary dwellings on rural zoned land, in a manner similar as to the pathway made for secondary dwellings in residential zoned land, where:
   - The property has an existing lawful dwelling on the property; and
   - The lot has adequate land area to support an on-site effluent management system for both the principal and secondary dwelling, ensuring no adverse environmental or health impacts arise; and
   - The principal and secondary dwelling are clustered on the allotment to prevent fragmentation of productive farmland and to minimise potential for landuse conflict, when approved through a complying development pathway.

   Presently, land use tables for rural zoned lands under the Cootamundra and Gundagai LEP's provide for the following:

Zoning	Cootamundra LEP	Gundagai LEP
Secondary Dwellings		
RU1	Permitted with consent	Permitted with consent
RU2	Permitted with consent	N/A – no RU2 zoning

RU3	N/A – no RU3 zoning	Prohibited
RU4	Prohibited	Permitted with consent
RU5	Permitted with consent	Permitted with consent
Dual Occupancy (Detached)		
RU1	Prohibited	Prohibited
RU2	Prohibited	N/A – no RU2 zoning
RU3	N/A – No RU3 zoning	Prohibited
RU4	Prohibited	Prohibited
RU5	Permitted with consent	Permitted with consent
Dual occupancy (Attached)		
RU1	Permitted with consent	Prohibited
RU2	Permitted with consent	N/A – No RU2 zoning
RU3	N/A – No RU3 zoning	Prohibited
RU4	Permitted with consent	Prohibited
RU5	Permitted with consent	Permitted with consent

While both the LEP's provides a mechanism for each zone (excluding RU3) for approval to be obtained for a second dwelling to be erected, whether that be a secondary dwelling or dual occupancy (attached), consistency in the nature of the permitted landuse whether through changes to the Standard Instrument LEP or through a SEPP would benefit the community.

Further, it is noted that few owners of rural zoned land seek consent for dual occupancy (attached) development. Permitting secondary dwelling within the RU4 zone under the Cootamundra LEP would provide increased housing opportunity and provide for an attached or detached option as appropriate to the context of the site and any existing buildings.

2. **Benefits of Permitting secondary dwellings on rural zoned lands**

   a) **Succession planning:**
      i. **Aging in Place:** Secondary dwellings provide opportunities for aging landowners to remain on their property while enabling the transfer of farming operations to family members. This arrangement supports the concept of "aging in place," where assistance is readily available from nearby family or property managers.
      ii. **Reducing Fragmentation:** Allowing secondary dwellings can lessen the pressure for farmland to be subdivided to facilitate succession planning, thereby preserving the integrity of agricultural land.

   b) **Income diversification:** Provision of a secondary dwelling on farmland provides an opportunity for ongoing rental income, whether for short or long-term rental, including during times where agricultural operations may be experiencing downturn due to drought or other matters, whilst also providing for increased housing.

   c) **Minimisation of land use conflicts:** Permitting secondary dwellings in proximity to existing principal dwellings, through clustering provisions, on rural lands would provide for small and controlled increase in density that would be unlikely to have a significant adverse impact on surrounding agricultural activities and undertakings or generate increased land use conflict.

It is appropriate that through DA pathways that the location of any proposed secondary dwellings be assessed on individual merit. However, it is envisaged that only CDC provisions should require clustering, noting that individual assessment of potential landuse conflicts isn't likely to be possible through CDC.

3. Removal of dwelling size restrictions for secondary dwellings

It is noted that neither the *Cootamundra Local Environmental Plan 2013* nor *Gundagai Local Environmental Plan 2011*, which apply to the Cootamundra Gundagai Regional Council area have adopted *clause 5.5 Controls relating to secondary dwellings on land in a rural zone* of the Standard Instrument LEP as outlined below.

> ***5.5 Controls relating to secondary dwellings on land in a rural zone [optional]***
> *If development for the purposes of a secondary dwelling is permitted under this Plan on land in a rural zone—*
> *(a) the total floor area of the dwelling, excluding any area used for parking, must not exceed whichever of the following is the greater—*
> *(i) [insert number] square metres,*
> *(ii) [insert number]% of the total floor area of the principal dwelling, and*
> *(b) the distance between the secondary dwelling and the principal dwelling must not exceed [insert number] metres.*

However, in LEPs where the clause has been adopted, the clause does not prevent applications for new principal dwellings and change of use for existing dwellings to secondary dwellings. As such, the clause offers minimal benefit or restriction in practice.

Further, where existing residences are small and may not meet the needs of larger families, allowing the construction of new, larger family homes to support multi-generational living on rural land offers significant benefits for rural communities and landowners. CGRC therefore supports removal of such restrictions through the Standard Instrument or any SEPP amendments.

4. Bushfire Considerations – Removal of ambiguity

Current planning controls around the erection of secondary dwellings on bushfire prone land has some ambiguity. In particular, *clause 100B Bush fire safety authorities* of the Rural Fires Act 1997 requires a bushfire safety authority from the RFS Commissioner for:

(a) a subdivision of bush fire prone land that could lawfully be used for residential or rural residential purposes, or
(b) development of bush fire prone land for a special fire protection purpose.

The definition of a special fire protection purpose under the Act and associated regulation does not include secondary dwelling or dual occupancy development. However, *Part 8.2.1 Increased residential densities* of *Planning for Bushfire Protection 2019,* specifies as follows:

> *"Where a new dwelling or dwellings are proposed on existing lots which already contain one or more dwellings, this is considered to be an increase in residential density and can include the following:*
> - *dual occupancy;*
> - *multi-dwelling housing;*
> - *secondary dwellings;*

- *rural workers dwellings; and*
- *boarding houses.*

This increase in residential density does not necessarily require a subdivision approval. ***However, the same principles and criteria associated with subdivisions in bush fire prone areas will apply.*** *This includes ensuring an APZ based on a radiant heat threshold of 29kW/m² for any new dwellings, along with suitable provision for construction, access, water and landscaping."*

In detailing that the same principles and criteria which apply to subdivisions also apply to secondary dwellings and other forms of development that increase residential density, it is suggested that a bush fire safety authority, is required despite this not being specified under the *Rural Fires Act 1997* or the associated Regulation. It is therefore sought that as part of the changes being considered the ambiguity surrounding the requirement for bush fire safety authority for development which increases residential density be removed.

Should you require further information or wish to discuss the matter please Lauren Dawes, Acting Manager Sustainable Development, on 1300 459 689.

Yours faithfully

Roger Bailey
Interim General Manager

9 October 2025