Submission No 67

INQUIRY INTO RURAL HOUSING AND SECOND DWELLINGS REFORM

Name: Name suppressed

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The Secretary,
Select Committee on Rural Housing and Secondary Dwellings
Parliament of New South Wales
October 9, 2025

Introduction

I am lodging this submission in support of additional houses on small rural acreages within RU2, where site justification warrants. In addition to overall support for changes to legislation for the broader shire and State I relay my own experience of being repeatedly denied additional dwelling entitlements despite owning multiple Lots separately Titled in a district set out for occupation and where Lots were purchased as suburban Lots at Public Auction in the late 1800's and early 1900's. In other words a subdivision existing and tightly held by the same family for over 150 years.

The holding has reduced in size due to multiple sales over several decades and where formerly held Lots now have dwelling entitlement but a denial under my family's ownership and despite proof of prior multiple buildings and dwellings. The property is regarded by Tweed Shire Council as one holding and because a farming enterprise is no longer established is rated as residential but fees per Lot applicable when lodging enquiries.

Denial of existing use rights or indeed outright denial with rigid enforcement limits housing availability and opportunities but prevents potential income and in my case has lost me substantial sums by reducing property values per Lot, or forced expensive, lengthy and futile procedures because a No Dwelling Entitlement has been declared, and irrespective of the lack of logic or satisfactory explanation with no opportunity or willingness by Tweed Shire Council for compromise. I have lodged investigations via legal representation and registered surveyors at different times and have received conflicting replies and determinations with references to IDO 1964, IDO 1966, and The Crown Plan. However all would indicate entitlement particularly the Crown Plan as the Lots were part of the township layout.

As in some cases where Council objects to Road Reserve closures there was no objection when a proposal was lodged to close a Reserved Road originally mapped to provide access to Lots in the NW corner of my property with insufficient time for me to object to the closure. This has resulted in necessity of a right of carriageway formation via other Lots at considerable cost and intrusion. Such instances should require adjoining owners signed agreement as previously the requirement. The Reserved Road closure also demonstrates Councils apparent determination to stand firm on denial declaring entitlement is exhausted because two houses exist but legal advice disputes that reasoning as the existing houses are on separate Lots and Titles.

Many rural acreages in Tweed Shire are below 40ha. The TSC Planning staff in being oppositional to additional dwellings or even one dwelling on smaller rural acreages, make reference to extensive community consultation during the development stage of the Rural Land Strategy. Submissions at that time indicated many calls for additional dwellings on smaller acreages.

One proposal within that document in 2016 was an LGA wide review to commence when the RLS was adopted. This review never commenced.

As proposed or adopted by many councils in NSW whereby every Lot should be considered on merit, or by proof of existing use rights, or alternatively community property owners allowed one chance to have their site considered for a dwelling entitlement via an LGA wide review.

Where existence of entitlement is disputed by Tweed Council; property owners if wishing to pursue now have to commence an expensive and time consuming exercise of a least twelve months via a planning proposal to prove entitlement as existing or site specific justification for entitlement and run the risk Council will repeatedly say No.

I have already been through a twelve month investigation and supplied additional information at Council's request but still resulting in the negative.

It has been a practice of the planning department to be in a state of denial irrespective of what property owners can prove via historical records and to enforce that denial simply because it does not sit well with present day policy.

The concept of dwelling entitlement has been such a contentious issue many councils have proposed to change the process.

Rural property owners desire to live on the land they own and on which they pay rates and fees and in most cases carry out some form of farming activity irrespective of the acreage and in many cases just a lifestyle.

There is now a proposal by some Tweed Shire Councillors to allow secondary dwellings on areas of 10ha or greater. Why the lower limit of ten, five was previously proposed, and this does not address those Lots 1-2 ha and of varying area of which there are many.

Opposition to Proposal From TSC Planning Department

The reasons identified by the planning department in adhering to the current restrictions is for the protection of agricultural land, an opposition to hobby or lifestyle farms, maintain rural character by preventing suburban style density in the countryside, and avoiding land use conflict between residential dwellers and those operating farming enterprises.

Apart from obvious tracts of sugar cane land there are very few larger farming enterprises remaining within the Tweed Shire, and conflict has already occurred, and does occur and even between neighbours who are both farming, but no such concern was expressed when Hundred Hills estate was developed, nor the various developments at West Banora Point, or indeed West Murwillumbah, involving hundreds of allotments. Tweed Shire Planning Department in their opposition to the proposal also references pressure on rural roads and waste systems. The rural acreages where additional housing is called for would have on site effluent systems, own water supply, and in most cases Solo Waste is willing to provide a collection service. No one is proposing suburbs or Gold Coast style developments.

One may ask the question when is this intensive farming going to commence because the same argument was used ten years ago. Broad acreage is not needed for particular types of agriculture and Council Planning seem to be in a mindset of dairying and grazing.
Niche crops can be produced on a very small area and could even be produced within a 4000m2 area which could also include a building.

The current scope within RU2 imposes a greater pressure on rural roads from tourism rather than a few additional individuals travelling to and from their homes, taking into account visitors and deliveries.

Tweed Shire Council in some localities fail to adequately maintain roads and property owners attend to the verge and emergency repairs. In one instance they have failed to enforce their encroachment policy and refused to address a situation on Old Lismore Road that interferes with traffic flow on a blind corner creating a safety issue for motorists and pedestrians and preventing larger vehicles access for deliveries.
Despite knowledge of the problem they approved development beyond that location, took ten months to respond to the complaint and refuse to rectify it. Therefore the oppositional reasoning of pressure on roads is not supported by their actions.

Discrepancies with Enforcement and Interpretation within Current Policy on RU2 and Demand for Change

I refer to a DA at Dulguigan north of Murwillumbah, well in progress with the LEP amended in support to enable the development of 6 Lots within RU2, each with dwelling entitlement, 3 of the Lots being 2ha or less totalling 5.37 ha, another Lot of 19.19ha but split by Dulguigan Road with the proposed dwelling site on 2.77 ha. Irrespective of the total property area of 80ha the same footprint of buildings is the end result, other property owners with existing Lots of similar size from original surveys within RU2 with similar elevation and terrain are denied such privilege and this has been an issue I have been struggling against and again highlights discrepancy.

During the draft phase of The Rural Land Strategy subdivision in the 1970s was blamed for fragmentation. Fragmentation has again been mentioned as a reason to oppose the latest proposal. Once again not wanting to acknowledge that Lots from original surveys (Portions) and sales of Portions at public auction of 1 - 3 acres sold as suburban Lots in village districts.
Many farms at that time were only 40 or 50 acre Lots . Family members built additional houses, that did not destroy the aesthetics or the agricultural value.

Many properties comprised multiple Portions separately Titled. During the 1970s some properties were subdivided as per original Portions and sold with entitlement as approved by Council. There are properties of of variable area with two houses, two sheds, multiple others buildings, there are situations where 16 or more structures exist on 25 acres , 6 dwellings on 16ha, and many similar examples. To excuse these examples as being under a council approved subdivision does not alter the footprint and not satisfactory reasoning.

Recent approvals within scenic escarpment and visible from 17km however does have an effect on the rural outlook, as does recent approvals for structures that simply do not architecturally fit within a rural environment, and more suited to the Gold Coast , yet such specific examples were given clearance. Others are denied, this is when serious questions are raised.

Another example was the purchaser of a 2.25acre rural Lot with river frontage and having dwelling entitlement as acknowledged by Council who supplied a waste collection via Solo Waste, but later revoked the entitlement and evicted the owner. The adjoining neighbour acquired the 2.25 acre Lot for 30% of the unimproved capital value, this was not a good deal but mere exploitation of a situation created by incompetency and discrepancy and cannot be justified in this age or during the current situation with housing.

Property owners who are living a lifestyle and are not involved in intensive agriculture are charged residential rates, but are currently not allowed to build additional residences.

The demand for lifestyle blocks far outweighs enquiries for farming acreages and the first question potential buyers ask an agent is can they build a house on the listed Lot. I again stress one does not need broad acreage for certain types of agriculture. Niche crops or hydroponic enterprises can be carried out on a few acres. The extensive scope under RU2 does not support the oppositional reasons planning puts forward, and the footprint of some of the scope under RU2 is far greater than a dwelling would be with far more traffic both vehicular and people.

We've also read outlandish statements from at least one councillor that rich developers are taking over the Tweed, and our bushland and is being destroyed.There has been no evidence of such being made public, but the same councillor thinks developers should be penalised for delays with approved development, and hinted at a population limit within the Shire. That councillor's stance appears to be one of opposition to highrise, no land clearing, no subdivisions, and hesitation with additional houses on smaller rural acreages but in favour of multi storey walk up units, which doesn't allow for choice.

I and others have separately Titled flood free Lots suitable for a dwelling and agricultural activities. The obstacle however is Council Planning and some individual councillors defending the ridiculous on multiple fronts. I call for greater scope within policy where specific cases such as my property where dwelling entitlement would exist but is also justified by site and should be negotiated reasonably and not be opposed. However the stipulation needs to be prescriptive otherwise as is the case now Council Planning can simply say No without providing logical reasoning.

Yours faithfully,