**Submission No 80**

# INQUIRY INTO RURAL HOUSING AND SECOND DWELLINGS REFORM

**Organisation:** Bega Valley Shire Council

**Date Received:** 10 October 2025

bega valley shire council

Zingel Place, Bega
PO Box 492, Bega NSW 2550
(02) 6499 2222
council@begavalley.nsw.gov.au
ABN 26 987 935 332

9 October 2025

Select Committee on Rural Housing and Second Dwellings Reform
Parliament of NSW

By email: ruralhousing@parliament.nsw.gov.au

Dear Sir/Madam

**Subject: Bega Valley Shire Council submission to Rural Housing and Second Dwellings Reform**

Bega Valley Shire Council (Council) is appreciative of the opportunity to comment on the Parliamentary Inquiry into Rural Housing and Second Dwellings Reform. The SEPP (Housing) reforms and Terms of Reference on the subject have been reviewed with consideration of the implications for the Bega Valley Shire and the following feedback is provided.

For the purposes of this submission, 'second dwellings' is interpreted as a collective reference to the defined land use terms 'secondary dwellings' and 'dual occupancies'.

## Response to Terms of Reference 1(b) and 1(c)

**Term of Reference 1(b) raises the potential for amendments to SEPPs (Housing) and/or (Exempt and Complying Development Codes), specifically to:**

- **Permit second dwellings as complying development in all rural zones**
- **Remove requirements for second dwellings to be "attached" to the principal dwelling**
- **Eliminate size limits, allow second dwellings to be equal to or larger than the principal dwelling and potentially function as the primary dwelling**
- **Remove or relax distance restrictions**

**Term of Reference 1(c) seeks feedback on the benefits and risks of permitting 'second dwellings' on RU1–RU6, C3 and C4 zoned lands, including via complying development.**

Broadening permissibility for 'second dwellings'

Bega Valley Shire Council permits secondary dwellings and dual occupancies (detached or attached) in most rural zones, where appropriate or in accordance with historical planning settings. Despite this, Council is not supportive of state-level planning interventions that undermine local land use planning and zone permissibility settings, and therefore objects to any state-wide proposal to broaden the permissibility of 'second dwellings' in rural zones.

Rural land across NSW has unique characteristics, with variations in rainfall, climate, soil quality, biodiversity, accessibility and topography. Together, these characteristics have shaped the development of unique, fragile, and potentially irreplaceable rural agricultural industries, that can only be carried out on rural land. It is not considered good policy to override local rural land use planning with state-level provisions that permit potentially conflicting and industry-inhibiting land uses.

Due to the individual characteristics of each Council's rural zones and the resulting variation in land use permissibility, Council is cautious of any approach that risks undermining local planning. For example, Bega Valley Shire's rural land use planning provides essential support to industries that potentially conflict with increased rural housing; the dairy industry, oyster aquaculture industry and local dairy manufacturing. Milk accounted for 61.2% of Bega Valley Shire's total agricultural output in value terms in 2020/21[1] and provides a critical mass of milk supply to the Bega Cheese factory in Bega, which is the Shire's largest single employer. In Bega Valley Shire, Food Manufacturing had the largest output by industry, generating $690.7 million in 2023/24[2]. These industries have been cultivated in Bega Valley Shire over many generations and are highly dependent on suitable agricultural conditions, including reliable water supply, maintaining the right to farm, logistical access and pristine coastal waterways. Careful planning is required to ensure that additional rural dwellings do not lead to rural land use conflict, decreased water reliability, or polluted coastal waterways.

The Draft *South East and Tablelands Regional Plan 2041* identifies that 'Productive agricultural lands often face competing pressures from urban development and other important industries which support the NSW economy'. The Draft Regional Plan restricts changes to rural zones unless '…justified by a rural lands strategy (or the like) endorsed by the council and the department…'. Allowing additional residential land uses in rural zones without an accompanying strategy is not consistent with this plan.

Complying development for second dwellings in rural zones

Council can see the potential benefits of a complying development pathway for dual occupancies and secondary dwellings in rural zones, due to potential fast-track dwelling approvals and reduced application costs, however there are numerous risks that need to be effectively mitigated and may not be resolvable under a complying development pathway.

When rural land is created through the subdivision process, each lot is required to demonstrate a suitable location for a dwelling house in relation to on-site wastewater disposal, potential land use conflict, bush fire planning, native vegetation clearing, access, and flood planning. However, the equivalent matters are not considered at the subdivision stage for 'second dwellings', which may make it more difficult and/or costly to erect 'second dwellings'. For instance, due to the sloping and bush fire prone nature of Bega Valley Shire's rural lands, many rural developments are not able to conform to a complying development approval pathway. Bush fire prone land introduces additional mitigation demands into developments per *Planning for Bushfire Protection 2019* (PBP) including higher building standards in terms of materials, finishes and design constraints which increase building costs. In higher bush fire risk areas (BAL-40 or Flame Zone) neither primary dwellings nor 'second dwellings' are able to be approved as complying development.

Council offers conditional support for complying development approval pathways for primary dwellings in zones C3 Environmental Management and C4 Environmental Living within established development envelopes, and for secondary dwellings and dual occupancies in RU5 Village zones, provided that the land use is permitted in the zone under the relevant Local Environmental Plan. These are current gaps in complying development that would be helpful to address. The majority of sewered RU5 Village zones in the Bega Valley Shire have comprehensive flood mapping in place and lower bush fire risk. This makes the RU5 Village zone a more suitable location for increasing housing density due to lower risks compared to other rural zones.

Council is not certain that the proposed reforms will have their intended effect, as framed in the context of a housing crisis and seeking to support the provision of housing that can be built affordably. Around one third of the population of the Bega Valley Shire live in rural areas outside urban areas and villages. *Bega Valley Local Environmental Plan 2013* (BVLEP 2013) currently permits both secondary dwellings and dual

[1] Australian Bureau of Statistics (ABS) - Value of Agricultural Commodities Produce 2020-21, accessed from .id

[2] National Economics (NIEIR) - Modelled series, accessed from .id

occupancies (attached and detached) in all rural zones excluding RU3 and RU4, noting that RU4 only permits attached dual occupancies and C3 prohibits dual occupancies. In the previous three years to 15 September 2025, excluding bush fire rebuilds, Council has approved 18 dual occupancies and 20 secondary dwellings in zones RU1, RU2, RU4, C3 and C4 in Bega Valley Shire, equating to 12-13 per year, or less than 10% of annual dwelling approvals.

## Response to Term of Reference 1(f)

**Term of reference 1(f) seeks feedback on the role of elevation criteria and 1-in-100-year flood mapping in determining permissibility and the use of performance-based solutions for flood-prone lands (e.g., elevation certification), other land-based hazards and environmental impacts.**

The majority of rural lands in the Bega Valley Shire have not been subject to a flood study. It is Council's policy that a Flood Impact Risk Assessment (FIRA) is required when development is proposed on land that is considered to have flood risk but where no existing flood study exists, or in locations where the overland flow hazard is considered high. At over 6,200 $km^2$ in area, it is unlikely that comprehensive flood mapping for the shire will be in place in the medium-long term.

## Response to Term of Reference 1(g)

**Term of reference 1(g) seeks feedback on the interaction between second dwellings and potential impacts on rural activities and productive capacity of land for agriculture, including feasibility and implications of allowing second dwellings without subdivision.**

Placement of dwelling houses across rural landscapes risks inhibiting the establishment of future industries, including manufacturing facilities, extractive industries, mines, poultry farms, composting facilities, sewerage systems and waste management facilities, due to increased reporting and assessment requirements under the NSW planning framework for these types of development within certain proximities of dwelling houses.

## Response to Term of Reference 1(h)

**Term of reference 1(h) seeks feedback on the use of non-discretionary, zone-specific development standards and their interaction with merit based assessment in complying pathways and legal frameworks for tenancy in common, co-ownership, and strata-like arrangements on rural land.**

Any subdivision of land, including strata subdivision and rural land sharing, must be subject to a development application. Rural subdivision applications are required to resolve the interaction of multiple constraints including topography, legal and practical access, hazards, servicing, biodiversity, riparian zones and wastewater disposal. These are complex applications that require a comprehensive assessment and approval process, with input from subject-matter experts within Council, to ensure they are suitable for the land.

BVLEP 2013 does not support strata subdivision of rural land, and Council objects to any proposal which would result in further fragmentation of productive rural land in Bega Valley Shire outside the bounds of any adopted strategic plan.

Council continues to opt-in to the rural landsharing provisions of the SEPP (Primary Production) with several other councils, however, receives very little enquiry about this development type.

## Response to Term of Reference 1(i)

**Term of reference 1(i) seeks feedback on mechanisms to streamline the development application and Complying Development Certificate (CDC) processes.**

Complexities and delays in the NSW Planning system at the dwelling construction stage result from legacy issues in the planning system. A parcel of land may have been created through historical planning processes that didn't consider topography, legal and practical access, servicing, hazards, wastewater disposal, developer contributions or biodiversity consistent with contemporary requirements. Where constraints have

not been resolved to today's standards at the lot creation stage, they must be resolved at the dwelling construction stage, resulting in additional investigations and design considerations, adding costs and delays.

Given the additional constraints on development of rural land as a result of land being unsewered, non-serviced, bush fire prone, lacking flood studies, potentially lacking legal and practical access and containing native vegetation, streamlining development approvals in rural zones is even more difficult.

Where land has been created as part of a recent subdivision, it is more likely to be ready for construction of a dwelling house, however, as previously noted, creation of new rural lots only requires demonstration of a single feasible dwelling and effluent disposal area and does not consider appropriate sites for additional development such as secondary dwellings and dual occupancies.

Council has identified opportunities to streamline the Rural Housing Code, with benefits for Bega Valley Shire, by removing 3A.37(2)(d) which requires that development on bush fire prone land is located within 200m of a public road. Council considers that the 200m requirement made sense in its application to the Rural Housing Code prior to the Category 3 Grasslands mapping coming into effect, which served to significantly increase the area of bush fire prone land in the shire. Council considers that the 200m requirement is still likely relevant for Category 1 vegetation, and suggests that limiting the 200m requirement to land mapped Category 1 (removing the requirement where the access to the dwelling is mapped Category 2 or 3 vegetation) would allow complying development on bush fire prone land in appropriate locations and would bring the Rural Housing Code into alignment with the requirements in PBP in relation to access.

Advice from local development professionals in Bega Valley Shire identifies that restrictive provisions in complying development codes that do not consider development on sloping land, such as limitations on cut and fill and maximum height limits for decks and verandahs, continues to inhibit use of complying development pathways for dwelling houses in all land use zones.

## Response to Term of Reference 1(j)

**Term of reference 1(j) seeks feedback on the adequacy of existing infrastructure (eg sewerage, access roads) for servicing second dwellings and potential impacts of reforms on housing affordability, multigenerational living, and rural population growth.**

Council submits that urban areas are more appropriate locations for increased housing density in terms of lower risks and existing infrastructure, especially in relation to low-income households. Development in existing urban areas allow easier access to services, lower exposure to hazards/risks including bush fire, floods and wildlife vehicle strikes, and results in a more resilient community in the face of climate change. Rural areas in Bega Valley Shire are unsewered and most households rely on rainwater harvesting for water supply. Rural areas in Bega Valley Shire rely on Rural Fire Service and State Emergency Service volunteers for assistance during natural disasters.

Councils are under constant pressure from rural residents for more frequent road grading, and managing rural development is part of managing community expectations. Development in rural areas must be carefully managed by councils to ensure financial sustainability, in the face of significant local government funding shortfalls.

Previous advice from DPI regarding potential inclusion of secondary dwellings in the RU4 zone was that "Agricultural land is an important economic commodity and attempts to resolve a social issue that could potentially undermine the agricultural resource is not sustainable in the longer term."

## Response to Term of Reference 1(l)

**Term of reference 1(l) seeks feedback on any other related matters.**

There is significant opportunity to improve uptake of the complying development codes by making them more accessible, easier to use and understand, and able to be used with certainty by all proposed single dwelling houses, dual occupancies and secondary dwellings in zones R1, R2, R3 and RU5.

Council encourages the NSW Government to consider how it can build further collaboration with councils to improve local outcomes, while making the complying development codes better, through a process of sincere engagement and collaboration. For complying development to be supported by local council planning and building teams, it is essential that use of complying development codes does not undermine strategic land use planning. Consider allowing councils to opt in or out of various complying development codes where local issues are identified and not able to be resolved.

Thank you for the opportunity to make a submission on the Parliamentary Inquiry into Rural Housing and Second Dwellings Reform.

Yours sincerely,

Anthony McMahon
**Chief Executive Officer**