Submission No 86

INQUIRY INTO RURAL HOUSING AND SECOND DWELLINGS REFORM

Organisation: Kiama Municipal Council

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KIAMA MUNICIPAL COUNCIL
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The Director, Select Committee on Rural Housing and Second Dwellings Reform,
By email: ruralhousing@parliament.nsw.gov.au

Dear Director

NSW Legislative Council Select Committee on Rural Housing and Second Dwelling Reforms

Thank you for offering Council the opportunity to make a submission into the NSW Legislative Council Select Committee on Rural Housing and Second Dwelling Reforms. Council welcomes the opportunity to make a submission to the Inquiry and acknowledges the importance of ensuring that any reforms to facilitate additional housing flexibility in rural areas are carefully tailored to protect agricultural productivity, rural character, and environmental values, while still allowing flexibility to support housing needs and family succession.

A general but important observation is that the Committee's Terms of Reference refers to "second dwellings" in reference to rural-zoned land. The use of this terminology has created ambiguity as it does not follow the definitional terms within the legislation of 'secondary dwelling' and 'dual occupancy' (attached or detached). Clarity regarding the extent of application of the reform would have aided consideration of the issues and provided for a more tailored response.

Despite this ambiguity, I provide the below submission under the assumption that the Parliamentary Inquiry into 'second dwellings' includes secondary dwellings, dual occupancies (attached) and dual occupancies (detached) as defined by the *Standard Instrument Local Environmental Plan (SI LEP)*.

Over a third of the Kiama Municipality is zoned for Primary Production or Rural Landscape. Council's current position has been established through its Local Strategic Planning Statement (2025). This strategy and its positions on rural housing have been informed by extensive community engagement, technical studies, and regional planning directions and statutory planning frameworks, particularly the Illawarra Shoalhaven Regional Plan.

The Tabled Document, titled State Environmental Planning Policy (Housing) Amendment (Second Dwellings in Rural Zones) 2025, indicates that these reforms seek to:

1. Permit second dwellings are complying development in all rural zones
2. Remove requirements for second dwellings to be "attached" to the principal dwelling
3. Eliminate size limits, allowing second dwellings to be equal to or larger than the principal dwelling and potentially function as the primary dwelling
4. Removing or relaxing distance restrictions
5. Allowing second dwellings on properties above a specified elevation or outside 1-in-100 year flood zones
6. Enable flexible legal title arrangements (e.g. tenants in common, strata-like agreements) without subdivision.

It is noted that the Tabled Document also indicates that these reforms would apply to C2 Environmental Conservation and C4 Environmental Living zones. The inclusion of these zones seems at odd with the purpose to "…liberalize second dwelling construction on rural

zoned properties (RU1-RU6)…". Additionally, it is unusual for the SI LEP C3 Environmental Management zone to be specifically excluded. Clarification ought to be provided to the application of these reforms.

I note that section 3.1 of the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* (SEPP CODES) permits 'secondary dwelling's as complying development in the RU5 Village zone. Under the *Kiama Local Environmental Plan (LEP) 2011* 'secondary dwellings' are permitted with consent in our RU1 Primary Production and RU2 Rural Landscape zones (noting that the Kiama LEP does not include the remain RU zones). Introducing a complying development pathway for secondary dwellings in the RU1, RU2, RU4 and RU6 is not opposed. Greater consideration should be given to introducing 'secondary dwellings' as complying development in the RU3 Forestry zone as the SI LEP objectives of this zone are to enable development for forestry purposes and the SEPP CODES does not allow the erection of a principal dwelling as complying development in this zone.

To the best of my knowledge neither the SEPP CODES nor the Kiama LEP prescribe that secondary dwellings must be attached to the principal dwelling, and as such this listed purpose is not deemed necessary. It may be that some councils have made the decision to only list 'dual occupancies (attached)' as permissible forms of dual occupancy in their rural zones. Kiama has chosen to prohibit all forms of dual occupancies in our rural zones given the strategic desire to limit fragmentation as outlined in our LSPS:

> "Kiama has a strong history in agriculture, however recent industry adjustments have changed the viability of traditional farming businesses. New farm based enterprises have the potential to grow the local economy however any reform in this sector needs to ensure the long term protection of agricultural land as a resource for food and fibre production. Two (2) planning priorities have been identified to protect rural landscapes in our Municipality. We need to be very careful about the types and mix of agricultural and/or ancillary uses that we permit in our rural zones. The introduction of uses that fundamentally shift the market value of important agricultural lands (such as rural residential and some tourism uses) should be avoided. As should introducing smaller rural lot sizes that have the potential to impact on production capacity, land values and business viability."

While Council permits secondary dwellings in our rural zones, Council has adopted a maximum 120sqm floor area for secondary dwellings under the optional SI LEP clause 5.5. This size was adopted to manage the overall size of dwellings being constructed on rural lands. The Kiama LEP does not prescribe a floor space ratio for rural and environmental zones. The proposal to enable secondary dwellings to be equal to or larger than the principal dwelling and potentially function as the primary dwelling is of great concern as it would enable increasingly larger dwellings to be constructed. This in no way solves the current housing crisis as it would not increase the number potential dwellings only their size.

Similarly, Council has adopted a maximum separation distance under optional SI LEP clause 5.5 to minimum fragmentation of primary production lands. Dwellings located in close proximity to each other can utilise the same internal roads/driveways thus reducing the need for multiple roads/driveways traversing farm lands.

What is of concern is that the tabled reforms effectively propose allowing dual occupancies in RU1-RU6, C2 and C3 which may also result in some kind of subdivision of the land.

The cumulative impacts on infrastructure, services, right to farm and land use conflict, compliance and rating implications also need to be considered.

The resulting fragmentation of land due to subdivision of land containing the second dwelling will likely impact the agricultural viability of the land as well as complicate any future urban expansion if the area is identified for that in the future.

The proposed minimum lots size of 8000m2 to build 2x dwellings with up to 30% building coverage, adequate On-Site Sewerage Management coverage and suitable buffer distances seems unrealistic and has the potential to fundamentally alter the viability of any agricultural lands and rural landscapes that are so highly valued by the community.

Council does not believe that enabling unplanned additional dwellings and subdivision of rural and environment lands will effectively address or substantially reduce the impacts of the current housing crisis. Council has recently adopted its Housing Strategy which has identified suitable lands for urban expansion. An objective of this strategy is also to ensure the protection of rural lands from unplanned urban development whilst enabling housing and associated infrastructure to be provided in an orderly and planned way.

It is also worth noting that 'secondary dwellings' creates additional burdens on council's financial sustainability. As the Committee would be aware, councils' ability to levy rates is prescribed by the *Local Government Act 1993*. Chapter 15 of this Act outlines that councils are unable to charge rates, for the additional demand placed on its services, for second dwellings unless that are on separate torrens, strata or community lots. Increasing the permissibility of unplanned second dwellings will result in further financial strains to NSW council.s

I would welcome the opportunity to meet with the Committee on these reforms.

Yours faithfully

Ed Paterson
Acting Chief Executive Officer