REPORT ON PROCEEDINGS BEFORE

SELECT COMMITTEE ON RURAL HOUSING AND SECOND DWELLINGS REFORM

UNCORRECTED

At Twin Towns Conference and Function Centre , Tweed Heads
on Monday 8 December 2025

The Committee met at 11:30 am

PRESENT

The Hon. John Ruddick (Chair)

The Hon. Wes Fang
The Hon. Scott Farlow (Deputy Chair)
Ms Sue Higginson
The Hon. Emily Suvaal

UNCORRECTED

The CHAIR: Good morning, everybody, and welcome to the second hearing of the Committee's inquiry into rural housing and second dwellings reform. My name is John Ruddick and I am the Chair of the Committee. I acknowledge that the reason we are having our second inquiry here in the Tweed is that we had so many submissions. We are here to listen and to learn, and to refine our findings. I ask everyone to please turn their mobile phones to silent. Parliamentary privilege does apply to witnesses in relation to the evidence they give today. However, it does not apply to what witnesses may say outside of the hearing. I urge witnesses to be careful about making comments to the media or to others after completing their evidence. In addition, the Legislative Council has adopted rules to provide procedural fairness for inquiry participants. I encourage Committee members and witnesses to be mindful of those procedures.

Mr CRAIG HUF, Chair, Far North Coast Branch, NSW Farmers Association, sworn and examined

Mr PETER BENNETT, Lifetime Member, Tyalgum District Community Association, affirmed and examined

The CHAIR: Welcome and thank you for making time to give evidence. You are both invited to make an opening statement.

PETER BENNETT: First point: I did provide a copy of the land zonings in the shire and I'd like those to be available for reference. My first statement is that I'd really appreciate it if the inquiry could actually ask the relevant Minister to defer any further work on the current development control plan that has been put forward by the Tweed Shire Council regarding rural land housing until after the inquiry has made its own response to the matter. Proceeding with it at the moment would just be a waste of time if the inquiry actually comes up with something that the council won't abide.

The second thing is that I have an amendment to the submission I put in. On the second page I refer to the land size as being 420 square metres. It should be 450 square metres. We've had a meeting and discussed that. The size coverage should be reduced from 5 per cent to 3 per cent at the bottom of the second page. I'd like to thank you, Mr Ruddick, and the upper House for the inquiry. The Tweed has the worst housing situation in New South Wales, if not Australia, and there are probably up to 1,600 people living in unapproved dwellings at the moment. I think I'll just stop at that. There'll be enough coming from Craig as well. We've both worked together on a range of issues in dealing with this matter over the last 15 years, and I think that, between the two of us, we will be able to express enough concern about the failure of this council to provide second dwellings.

CRAIG HUF: I thank you for coming here today. This inquiry really does mean a lot to local people, and we're genuinely grateful that you've made the effort to come to our region and hear our story firsthand. As I said, I chair the branch of the NSW Farmers Association. The late Col Brooks and I spent, on and off, the better part of 10 years pushing and speaking up for rural housing reform in this area. I'm a sixth generation farmer, with my kids now the seventh. Our family farmed for generations west of the Great Dividing Range before moving to the east coast. Unfortunately, we didn't take on the old family place; we had to start again from scratch, so we know only too well the pressures and the costs that come with trying to establish, and get up and going, a farm.

I have a degree in economics and business, and did some postgraduate work at UQ Gatton looking into the key drivers affecting farm viability. One of the clear things that came out of that was that scale—the size of an operation—is one of the biggest factors or variables that decide whether a farm stays viable. Farming on the east coast is incredibly challenging when it comes to achieving scale. As the terms of trade for agriculture decline, those challenges become more pronounced. It's increasingly difficult for farmers on the east coast to remain viable. Government policies also have a lot to do with the viability of small agriculture and family farming enterprises.

Every bit of red tape, every new compliance burden and every time responsibilities are pushed down from government onto small family farms, it takes its toll. Each one chips away at the viability of family farms like ours. Those pressures don't just make life harder; they end up pushing food production out of the hands of family farmers, who take pride in the quality and nutrition of their food, and into large corporatised agricultural operations that are concerned more with their bottom line. All we're asking is that government doesn't add any more weight to the backs of family farmers. Where possible, use the tools that are there, like rural housing reform, to help family-run farms stay sustainable and keep the next generation on the land.

The CHAIR: I will start off with a question to you, Mr Huf. I understand that the local council recently had a motion put forward by Councillor Kimberly Hone, who I understand is with us today, that was in favour of rural second dwellings being built. Are you confident that these changes can be successfully implemented via the LEP, or do you think the more realistic option here is to change the SEPP?

CRAIG HUF: Based on my observation over the last 15 years, I think the local council suffers badly from analysis paralysis. We've rolled off from having a rural land strategy that took quite a few years to put in place that actually had a strategy for rural housing, which we as an association didn't necessarily agree with, and we have now a housing strategy. My concern is that, while it's heading in a good direction, it could take forever to actually land houses on the ground. That's my observation and concern.

The CHAIR: Besides being a landowner, Mr Huf, I understand you're also involved in the construction industry. How is the local construction industry going? Do you think if these reforms come in that it will be a boost for them?

CRAIG HUF: It's not something I'm involved in every day at the moment. I'm more focused on our farming operations. I think there are certainly challenges with trade supplies, but I think the construction industry is bogged down in a lot of red and green tape. That's why we possibly need more simple pathways to provide

housing. That's the feedback I get from many guys in the sector—that it's the red and green tape that they get bogged down in that actually burdens the output and getting houses completed.

The CHAIR: You represent the New South Wales farmers in this part of the world. Some critics of this proposal to liberalise the construction of second dwellings are saying that it's going to be detrimental to our agricultural output. What's your view on that?

CRAIG HUF: I welcome that question because we've got to look at housing, and the alternative to putting a single dwelling on a farm—an additional dwelling on a farm, which has a footprint of possibly 400 square metres—is to continue suburban or urban sprawl. If you look at our local village that is six kilometres up the road from us, there's a proposed housing development over prime agricultural land there, which would be an urban development. If you look at the output or the net yield of that development, my understanding is only 60 per cent of an urban development actually gets utilised as a housing footprint, and 40 per cent is taken up in roads, parks and footpaths. When you look at the output of putting a single-footprint additional dwelling on a farm, it's less impacting on agriculture. You've got to also remember that the resource that an additional dwelling provides to a farm helps the sustainability and the production and output on that farm drastically. I think it's a crazy argument to say that it will impact any agricultural production.

The CHAIR: Mr Bennett, I understand that the local council did in 2013 amend the LEP so that there could be second dwellings constructed, but only if they are attached to the primary residence.

PETER BENNETT: Yes.

The CHAIR: What are the negatives associated with that, and have many people taken up that option?

PETER BENNETT: I circulated this. If you have a look at that map, it shows that 90 per cent of the population in the shire lives in the white area on the far side, which is 10 per cent of the land. On the dark-coloured brown and the lighter coloured brown, that's the RU1 and RU2 properties. That's 90 per cent of the land being taken up by 10 per cent of the population. That's significant. The issue is that we're not using the land to its maximum advantage, particularly given the housing shortage that there is. By simply using 450 square metres of land on all of those properties—and there are 5,000 properties—we'd only be taking up 23 hectares of property. That would leave 97.3 per cent of the area still available for agriculture.

It's our proposal that, in fact, having the total second dwelling occupying 180 square metres and an average original home of 270 square metres is 450 square metres. It's going to take up nothing in the shire and leaves the rest of the land perfectly acceptable as green or trees or what have you, but it's not going to take up anything. The point is that all that dark colour there is RU2, and RU2 has already been found not suitable for primary agricultural production. This small amount that is lighter brown is all cane fields, moving towards the coast. The problem with that is the council moved a resolution for 10 hectares and above. Most of that white area is where the 10 hectares and above is, and they're on flood plains. What we've done is we've got a resolution—which is at least a move in the right direction, and I commend the four brave councillors who managed to put it forward—that we actually have second dwellings on properties above 10 hectares.

Unfortunately, most of them will be on a flood plain, which won't be allowed to be built, so that's just shooting in the wind. You're wasting your time. The size of the area that is being occupied by houses would be less than 450 square metres—less than half a hectare. There's close to 100,000 hectares in the shire. We're using 2,300 hectares out of virtually 100,000 hectares for housing, and that is so small, it's negative—it's nothing. The problem is we don't know why they obstruct it. Under the engagement and participation thing, they're supposed to tell us why we can't have the land, and it is "Oh, you're chopping down trees. The sun's shining in the wrong direction. You haven't got it angled correctly." They are all superfluous, really dumb issues. The council has to defend, legally be forced to defend, arbitrary decisions it makes to block people having second dwellings.

We've got to have permission to have 450 square metres on any of those 5,000 properties, because that's how many make up that dark brown and the light brown on the image. That's it. There's only 2,300 places there that would actually get second dwellings on them. It's miniscule. The decisions that they've made just don't make any sense. Until they're forced to actually give objective decisions, the way the council defends it is, "Sorry, we'll put the brakes on. You've put an application in to go. We'll fight you every inch of the way to stop you having a second dwelling. You've got to take us to court." The average person can't do it. But this council spends more money on litigation than it does on building roads.

The CHAIR: Can I just stop you there? You're sure about that, more on litigation than on roads?

PETER BENNETT: There's an inquiry. They're looking into how much they're spending now on it. I don't think anybody's got a figure on how it is, but they really spend some money on litigation.

The CHAIR: That's appalling.

PETER BENNETT: Yes, and it's ridiculous. I mean, it really is. If they are forced to come up with objective information about why a house can't be built and it's tested, not by a court but just simply being able to have that information in front of them, a person can make a decision whether they should be taking it to court. We don't get that. It's all superfluous-type stuff. It's really airy-fairy. It doesn't have substance, but nobody can afford to take the council to court, knowing full damn well the council will oppose it and knock them out of the ballpark before they even start the game. It's not fair. It really isn't. The obligation should be on council to provide the evidence, beyond any shadow of a doubt, that it really will cause the sort of damage that they're talking about. That doesn't happen. The average person doesn't have any means to be able to fight back. They've been doing this for, as Craig just said, at least 15 years that we've been trying to get the changes here.

The really sad part about it is that six surrounding shires have all got it. They allow second dwellings, detached, on other properties but this council doesn't. The council does a really good job for about 85 per cent of the time, but the second it gets into the rural area, it bogs down. And why? Because there's no money in it. You don't get rates out of the second dwelling, so they'll have to change legislation to get second dwellings out of rural properties. It's time-wasting for them. It's using resources. So the easiest way to stop that happening is block it, and that's what they're doing. Now, I can understand doing it. It makes a lot of sense. It's convenient for the organisation. It's economical for the organisation. But it wrecks housing and it stops people being able to use their land to solve problems that they have. Okay, sorry. Get off the soapbox!

The CHAIR: No, that's okay. Just before I hand over to my colleague, I am guessing that the reform in 2013, which did permit a second dwelling to be built but only if it's detached, has really done nothing to alleviate the problems that we're addressing, because the people want some privacy.

PETER BENNETT: The RU2s that are on the image, that dark brown, are all on land that's been decided doesn't qualify as productive agricultural land. That is because the damned thing's too hilly. I could run goats on my place but that'd be about the only thing I could run, and yet the council says, "No, no, you've got a prospective agricultural resource there." No, I don't—not at all. I even thought about having cotton or coffee beans on my place and made some inquiries but, "No, sorry. You're on the wrong angle." It's just not practical. Under those circumstances, all of this land here is being wasted. We don't want a flood of houses just coming on it. They should not dominate the rural land. If they're only 450 square metres, the combined total of the primary land and the secondary house, it's miniscule. If properties use 450 square metres on land, it's only 1.2 per cent of the property. That's leaving 98.8 per cent unused, still with trees and what have you growing on it.

When I shifted into my place, it was covered in lantana, bracken and privet. It took me four years to clear it. Everybody says that the rural area of the Tweed shire is really beautiful; it is lovely. It's lovely because the rural landholders make it lovely, and we keep it lovely. Stopping people coming onto our land and helping it—I'm sorry, I'm 85 years of age; my wife is 90. We wanted 15 years ago to put a second dwelling on there so somebody could come in and help me with the land and the wife could come on and help my wife. We've been blocked for the last 15 years for no reason that I can understand. It doesn't make any sense. To have that additional help will relieve the 1,600 people who are currently living rough on this shire.

The Hon. WES FANG: Chair—

PETER BENNETT: Lastly, there are—

The CHAIR: Just one moment, sir. Yes, Mr Fang?

The Hon. WES FANG: I just had a question.

The CHAIR: Let's hear your question, Mr Fang.

The Hon. WES FANG: Thank you. I was actually going to ask Mr Huf. In relation to the nexus of second dwellings and the environment, do you have some views on how second dwellings may impact—or not—the environment on a rural land?

CRAIG HUF: It's a good question. There are concerns being raised that somehow these extra dwellings will negatively impact the environment. My observation—and talking to our farming community—is quite the opposite, actually, for two reasons. We observe that with increased biosecurity pressure and new weeds that are in the district, like giant devil's fig and the continuing camphor pressures, having extra help on the property will maintain the environment. I also know of other farmers who have a spare farmhouse, for example, and they rent that out. One particular farmer I'm aware of uses that income from that rental property to rehabilitate creek banks. There are lots of positives, and I think the way that the pressures are at the moment for weeds and to keep the environment and the farming land under control and weed free and maintain the environment—there's definitely a need to actually have additional resources to be able to do that.

The Hon. WES FANG: It's not as if we're talking about building mini cities on rural plots, is it? We're talking about a single second dwelling being allowed to be built on a plot of land that's more than capable of sustaining that second dwelling. What would it mean to the local area to have additional housing available to families, those who can't afford to buy a block and build, or perhaps those who can't secure a rental? Is this a way of at least tackling part of the housing crisis in the Tweed?

CRAIG HUF: I think it's a case of every bit helps. Our local dairy farmer some years ago had to go to town and buy a block of land and build a house for his father to move off the property and move into town—which is not where he wanted to be in the first place—and he had to pull working capital out of his farming operation to be able to do that. That has taken up one lot in town that somebody else could have had. I'm also aware of other families that have their sons living in town, who come out to the farm each day. If they didn't have to live in town, then obviously there would be another vacant house that someone else could have. The other thing we've got to remember too is when we build homes on farms, it's incredibly affordable because there's no land component that you have to cough up for. It's a fairly attractive option.

Further to the Chair's point about the connectivity and the ability to build houses with a connecting roof, I would say that—for example, in my son's situation, we would like to see him have a little bit more autonomy than be right there under a connected roof. I'm probably the exception—and I'm conscious I'm under oath saying this—but a lot of people probably aren't particularly keen on living right next to their mother-in-law either. I will say I think I am the exception to that, possibly.

The Hon. SCOTT FARLOW: For safety's sake.

CRAIG HUF: So there's that to bear in mind. You picture yourself in a connected roof situation and the next generation is right there. I don't think that's very workable, in my eyes. We love our children. We probably don't quite love them that much, perhaps.

The Hon. WES FANG: I note that the council passed a motion supporting the addition of second dwellings to rural plots. Is everybody on council supportive of that motion? Do you have any information on that?

CRAIG HUF: My understanding is that the motion was passed. The mayor is here today but I don't think she supported that.

PETER BENNETT: No.

The Hon. WES FANG: We might ask a few questions about that later.

The Hon. SCOTT FARLOW: Thank you both for your attendance here today and, Mr Bennett, thank you for your detailed submission on behalf of the association. I am interested in a couple of points in your submission in particular. One of the things you called for was an amnesty for secondary dwellings.

PETER BENNETT: Definitely.

The Hon. SCOTT FARLOW: From your perspective, are there a lot of unapproved secondary dwellings that exist throughout the rural lands of the shire at the moment?

PETER BENNETT: There was a councillor in the last batch of councillors who had a gas run in the area. Virtually every rural property, up until the time we got solar, had to have gas on their property. He went around to just about every place in the shire. He said he thought that there were between 1,600 and 2,000, but eventually settled on 1,600 unapproved second dwellings in the area. These are dwellings that go from shipping containers, caravans, humpies, sheds, garages, what have you, that are all out there because they can't get a right to build a second dwelling. That was his opinion. That's the need that there is out there at the moment.

You have to have an amnesty when this registration hopefully goes through and sense hits the fan at long last that those people who have already built those places will be not charged with an offence for having those second dwellings or told to pull them down or anything else. There's got to be a space where those people have got a right to say, "I want to make a second dwelling on my property." But we don't want to get bogged down by the council saying, "Wait a second, we've got to make sure whether the sun is shining in the right direction or whether the wind is blowing in the right direction before you're allowed to build".

If it's lasted the length of time it has now, it obviously isn't a problem. If it's not a problem, can't we get those ones fixed up to the point where they are legitimate and there isn't a problem, so if they have to sell the property at some stage, they've got something that's on their books that says it's legal. Without that, the whole thing grinds to a standstill. Anybody wanting to sell their property now that's got a second dwelling on it has got a choice: Either they pull it down or else they hope that the person coming in is prepared to go ahead with an illegal dwelling on their property. The situation is really bad, and I'd like to agree with virtually everything Craig said in his last comments.

The Hon. SCOTT FARLOW: Mr Bennett and Mr Huf, some of the evidence we've heard in this inquiry to date has been about the productivity that can be maintained by having a secondary dwelling on rural property. Mr Bennett, I'm struck by your perspective as well that in your case—and in the case of, I take it, many of your members—this is not productive agricultural land that you're inhabiting, but largely lifestyle land. In your submission you've outlined 58 per cent being less than five hectares in terms of the RU2 properties that exist in the area.

PETER BENNETT: Yes.

The Hon. SCOTT FARLOW: Much of this is lifestyle property, not prime agricultural land that is being used.

PETER BENNETT: It's lifestyle because it's not suitable for agriculture. That's a decision that has already been made: The land use is not suitable. There's one patch on my land where I've got a house and there's another patch about 150 to 200 yards away. That's the only other spot on my land. The rest of it I could run goats on it and that would be the end of it. That's the whole area. Everybody talks about the hills that we've got out there, and the dark brown on there is four times larger than the area of agricultural land. That's the part that's totally being wasted. All of those 1,600 places we've got out there, at least at the moment nobody's complaining about them. They've existed for yonks. Nobody is saying, "Having all of those extra places on the properties is causing problems." We're being congratulated for the wonderful state of our rural areas at the moment, with 1,600 illegal dwellings on them. It's not hard.

The bottom line is if I put a second dwelling on, it would be so far away from the road you'd never see the damned thing. All the fabrication that the council comes up with about the reasons why you can't have this aren't documented. They aren't sustainable. They're not true. They just angle it in a way that makes it look like we'd be creating problems. We aren't creating problems; we're solving problems. You did ask Craig, "Is there any benefit from it?" I'm sorry, the other gentleman did. Having those extra places is kids in schools. We almost lost the Tyalgum school for the lack of attendance. There were fewer people in there. You can sustain that village better if we've got more people around. The place becomes economical. The shops that are in there actually work better. We'll create a better village if we've got people being able to attend there. It will make the rural areas thrive better than they are thriving now. We might even get a service station back again—that would be wonderful—instead of having to drive 35 minutes to the closest place to get petrol. Having extra people in the area isn't a problem.

The council uses the threat—and it's a threat, trust me—of "We'll put rates on your property." The only thing they supply for me at the moment is a road. That's it. I don't know whether they're going to change the road system around or not and widen the road—I doubt it. But I supply my own water. I supply my own sewerage. Electricity comes from another source. That's it. Council doesn't provide anything else. The village has got a park in it, but I have to say I had to fight to get that park in it because it used to be we had a dump, and I said, "Don't spend any more money on the dump. Can you use that to get the village park going?" They actually closed down the dump and then used the money that they had been spending on it to open up parks. That's the way we had to get parks. The park that we had there beforehand was something like 17 years out of use before it had been condemned. Putting more people into the area won't cause a problem; it'll save the problem.

The Hon. EMILY SUVAAL: Thank you both for appearing today. I'd like to ask a question of both of you. I think, Mr Bennett, you've largely answered this. As I understand it, you reside on an RU2 zoned property?

PETER BENNETT: Yes.

The Hon. EMILY SUVAAL: Mr Huf, is your property RU2 or RU1?

CRAIG HUF: We're RU1.

The Hon. EMILY SUVAAL: And the size?

CRAIG HUF: About 300 acres.

The Hon. EMILY SUVAAL: And yours, Mr Bennett?

PETER BENNETT: It's 3.5 hectares.

The Hon. EMILY SUVAAL: Just to get my head around sort of what we're looking at here because obviously there are different processes in place for the RU1 and RU2 properties. Mr Bennett, in your submission—and I thank you for it; it's quite a detailed submission—it talks about the fact that until the critical housing shortage eases, short-term rentals or Airbnb stays should be banned. I just wondered whether that was also the position of the NSW Farmers—

PETER BENNETT: I'm sorry, I couldn't hear that.

The Hon. EMILY SUVAAL: The banning of short-term rentals or Airbnb stays.

PETER BENNETT: Yes. Honestly, my view is if you grant places to have second dwellings—and I don't think Craig would agree with me on this—I would suggest that for the first three years after a place is built it must be used for long-term accommodation, for at least the first three years. After that it can be used for Airbnb but only 60 days a year. The rest of the time is long-term accommodation. It is our hope that what you would get in these additional houses is people getting permanent accommodation and not just being built for Airbnb. Airbnb has been a problem for the council because some places have misused it so badly that they've had to spend thousands of dollars getting it solved, but the legislation that was put through, I think, about three years ago tightened up on Airbnb and other issues around that. That's been really moving in the right direction, but I think it even needs to be strengthened.

The Hon. EMILY SUVAAL: Mr Huf, is that the position of the Farmers Association?

CRAIG HUF: I think the priority definitely is to have, first and foremost, next generation on the farm; secondly, permanent rentals, or workers, to help on the farm. Notwithstanding, though, we've got to remember that our two biggest income earners in this shire are agriculture and tourism. To have tourists, we've got to put them somewhere. I don't think we have a position as far as a short-term holiday and stay goes, but we're mindful that tourists have got to stay somewhere. That crosses over with some of the agritourism provisions where we've been trying to provide, for example, adventure holiday spots on our farms for tourists to stay and try and help accommodate that as well.

The Hon. EMILY SUVAAL: In terms of RU1 zoned properties—this may be a question for you, Mr Huf, as opposed to Mr Bennett—my understanding, and please correct me if I'm wrong, was that there are provisions already in place to allow, or at least permit, dwellings to be approved where they are for workers, basically to support the running of the farm.

CRAIG HUF: Rural cottages.

The Hon. EMILY SUVAAL: That's what I'm trying to say. Thank you, Mr Huf.

CRAIG HUF: Rural workers' dwellings, I think, is what you're referring to.

The Hon. EMILY SUVAAL: Yes.

CRAIG HUF: Yes, there are provisions in place, and this is what I'm fearful of if the determinations for additional dwellings is left in the council's hands, because we have, technically, approval to put rural workers' dwellings on our land. But, unfortunately, no-one meets the criteria.

The Hon. EMILY SUVAAL: Why is that?

CRAIG HUF: Because the criteria for rural workers' dwellings, my understanding is that you have to establish economic viability of your farming operation, and a lot of local farmers actually have off-farm income to sustain their farming operations. The off-farm income can't be counted towards the test, so not many people—I think you can count on one hand the number of rural workers' dwellings that have been approved in the last decade in the shire, from my understanding. It's not very feasible to have those provisions. That's why I'm frightened if we put the additional housing tests in the hands of council, technically they'll say, "Yes, you can do this," but the reality is the compliance requirements will make it not viable for anybody to do it.

PETER BENNETT: Hear, hear.

CRAIG HUF: That's why I think a State government exempt pathway would be perfect in this situation—or complying pathway.

The Hon. EMILY SUVAAL: In terms of the permission of the secondary dwellings, I'm just interested for both of your associations whether any work has been done to understand what, if any, tax implications there could be. It's something that I suppose I have a concern around, if we change some of this—permit secondary dwellings perhaps more liberally, particularly on primary producers' land. Farmers that have the tax benefits that are associated with that primary producer status, if we then permit secondary dwellings—we'll say the average medium rental income here is $800 a week for a two-bedroom house, freestanding dwelling. That's probably erring on the side of caution. There would be bad years where you could foreseeably have your rental income from your secondary dwelling overshooting that of your farm. Is that something that either association have looked at?

CRAIG HUF: Our position on that is that each farmer obviously has their own accountant, they're in consultation with their accountant, and there are so many variables at play. For example, if you've got your family there and they're not paying rent, it's not an issue. If you've got a worker there and it's part of their package, then

it's probably not an issue, either. There are so many variables. I think to get into that detail is very fraught with danger. It's something that we're saying to our members: "Go and visit your accountant. Get advice on this situation before you do something." I think that's typically what they would do.

PETER BENNETT: In respect of RU2s, most of the places aren't houses anyhow, right? They're lean-tos and sheds and all the rest of it, so they usually aren't declared. I don't have one, but I know of at least five within a stone's throw of my place all have either family members that are on it or friends, and they're only charging a modest amount just to make it convenient for them to be able to be there rather than having to pay a fortune somewhere else. They are able to look after one another's dogs and assist with the areas. It's not an economic issue that really comes up at all. This is being able to live and live in comfort without a problem and somebody saying, "You've got to get out of here, and you're now hit with $800 a week rent."

The Hon. EMILY SUVAAL: One of the other things—

The CHAIR: Actually, Ms Suvaal, we've only got a couple of minutes left of this session. I might hand over to Ms Sue Higginson.

The Hon. EMILY SUVAAL: Sure, please do.

Ms SUE HIGGINSON: I don't have much, just a couple of questions. Thank you both very much for your evidence today. Mr Huf, I'm curious, how long has the NSW Farmers Association branch been here in operation in the Tweed?

CRAIG HUF: We formed about four years ago. Prior to that, there was an organisation called the Combined Tweed Rural Industries Association.

Ms SUE HIGGINSON: That's right. I remember.

CRAIG HUF: The gentleman I mentioned in my introductory remarks was the president of that association. He could see a need to lobby State and having a farming lobby at more State level because of the frustration we had at the local government level. That's why he handed the baton over and endorsed our branch, and they transferred a few dollars they had in the bank to our branch, and we established the branch to lobby State for and have advocacy at a State level for the issues that we're facing locally.

Ms SUE HIGGINSON: Thank you. Just on that, and just to be clear, when did you become the NSW Farmers Tweed branch?

CRAIG HUF: That was late 2022, I believe.

Ms SUE HIGGINSON: When you say "to have a voice" and "to lobby State", is this the biggest issue that you've had to deal with in your couple of years of existence?

CRAIG HUF: Look, it definitely is one of the main ones.

PETER BENNETT: Hear, hear!

CRAIG HUF: Each year at our AGM, we identify our focus areas. We have five or six focus areas. The other one that's very big for us at the moment, for example, is cattle tick in the area. Rural housing has been consistently in the top five focus areas of the branch since its establishment.

Ms SUE HIGGINSON: Just on that, you're advocating for housing for farmers on rural land for families and passive income. Is that the best summary, or character?

CRAIG HUF: Primarily I think it's the next generation of what most people want to accommodate. The examples that are existing show that if farmers do have a house they can rent, they can utilise that for their sustainability and the maintenance of their farm, so it's a win-win situation for rentals and for the farmer.

Ms SUE HIGGINSON: Earlier in your evidence you talked about the construction industry and your experience with that. In particular, you referred to—and I know everybody refers to this—the idea of red tape. Could you give me just a quick explanation about what you're referring to when you make that comment?

CRAIG HUF: I think there's a lot of frustration out there that DAs have been taking a long time, and councils seem entangled in their own bureaucracy and are not being able to deliver.

PETER BENNETT: Hear, hear!

CRAIG HUF: I think we're listed in the bottom 10 performing councils in the last analysis that I saw here, so to get things out of the ground, I know ourselves personally we put an application in for a minor thing on our property and it took—I just have to be careful of my facts here—I think it took well over 12 months before we heard back.

Ms SUE HIGGINSON: I'll finish on this, perhaps for both of you. If we are looking at a dwelling that's 400 square metres, as I think somebody suggested—

PETER BENNETT: Total.

Ms SUE HIGGINSON: Total. What does that speak to in terms of the additional requirements such as asset protection zones, sewerage, increased hard surfaces or flood? Are they all factors that you recognise as something that would need to be considered in any merit assessment, so a secondary dwelling could be refused if it didn't satisfy those things? What's your submission on that?

CRAIG HUF: I think there's room for alternative solutions. This is why I'm frightened that too many rules will back people into a corner. Most farmers I know have a patch or a couple acres of grazing land that they could put an additional dwelling on, and that's open and cleared grazing land. There are very few who don't have that, and they could put an additional dwelling on that location. Your APZs—asset protection zones—and everything are satisfied, and there's no clearing of vegetation.

I think it's important that the constraints are very flexible so that, if there's a better spot to put a house, where the impact is less and it's more feasible—I mean, there were things tabled like distances from the primary dwelling, and I don't understand where they came from or why they came. To me, the more flexibility you have, you look at the best position on a rural property and go, "That's the best spot for a house," be it 100 metres away or 300 metres away from the primary residence. It ticks all the boxes—we can do the effluent disposal safely, it's got a good asset protection zone and it's got good access to driveway. That should be the spot, not these thought-up distances away from a primary dwelling. I think it's a crazy thing to put too many constraints around this.

The CHAIR: Thank you very much, gentlemen, for that valuable contribution. Our time has come to an end, but we appreciate your appearance and your submissions.

(The witnesses withdrew.)

Ms CHRIS CHERRY, Mayor, Tweed Shire Council, affirmed and examined

Mrs DENISE GALLE, Director Planning and Regulation, Tweed Shire Council, affirmed and examined

The CHAIR: Good afternoon. I welcome our next witnesses. If you would like to make an opening statement, you are welcome to do so now.

DENISE GALLE: I think we both have a brief one. The extent of rural housing has been a debated topic for decades in the Tweed. For context, Tweed has approximately 6,224 rural zoned properties, being RU1 and RU2, most of which are relatively small compared to other regional shires. Nearly 70 per cent of RU1 and RU2 zoned land, or about 4,345 properties, are under 10 hectares in size. Our goal in Tweed has always been to try to strike the right balance between protecting the primacy of agricultural land—the right to farm—enabling additional rural housing, and protecting the scenic and biodiverse character of our rural landscapes.

The adopted rural land strategy in 2020, at action 82 and 83, supported the concept of secondary dwellings. In that term, a secondary dwelling was a granny flat, not a whole second house. It supported them on lots over 10 hectares in size with detached dual occupancies, being the second house, on lots over 40 hectares. But the New South Wales department of planning first wanted to see a growth management housing strategy. Tweed Shire Council is preparing that growth management housing strategy. At the moment, while that preparatory work is being done, our current LEP allows attached dual occupancies. However, this has a very low take-up rate in our rural areas.

The endorsed growth management housing strategy option paper went to council on 3 April 2025. It supported the same provisions as were adopted in the rural land strategy, so allowing granny flats on lots over 10 hectares and a whole second house on lots over 40 hectares. A more recent resolution of council on 2 October 2025 supports second dwellings—not just a granny flat but a whole second dwelling—on blocks of land over 10 hectares and for this to be reflected in the upcoming growth management housing strategy for council's review and endorsement for exhibition. This will again provide the community with the opportunity to comment on whether this 10-hectare approach is achieving the right balance, given Tweed's context.

Based on the figures that I've just advised, Tweed has 1,879 lots over 10 hectares that these provisions would apply to—that is, 1,879 dwellings where you could build a second house. From a local government financial sustainability perspective, this could potentially represent a loss in rating income of approximately $4.3 million, as second homes on rural land cannot be separately rated. The population increase would be 1,879 properties times approximately 2.6 people. This would be an extra 4,885 people in our rural zones. Those people would expect services such as parks, roads, pools, libraries et cetera. Any change to permit two dwellings on each rural property should have regard to the rate revenue to fund those services going forward.

I note the terms of reference also mention the possibility of complying development being used to allow detached dual occupancies on rural land over 8,000 square metres. For Tweed, it should be noted that the current constraints rule out complying development certificates for bushland layers, class 1 acid sulfate soils, contamination, heritage, national parks and other buffer areas. In Tweed, those exclusions represent 45 per cent of rural land or 2,767 rural properties which would not be eligible to undertake a CDC as the legislation is currently written. Mayor Cherry, would you like to elaborate on that opening?

CHRIS CHERRY: Thank you very much. We heard in the previous submissions that the priority is for intergenerational housing and rural workers' housing. We have really heard that from our community. You've heard now that we are currently working towards allowing those secondary dwellings on lots of 10 hectares and above, and detached dual occupancies on lots greater than 10 hectares in our growth management housing strategies. Rural worker dwellings and attached dual occupancies are already permissible on any sized lots in the shire to allow for intergenerational farming families and housing for rural workers. We've got a rural land and industry management committee and, in response to the feedback that they've provided, we are also currently working to make the rural workers' dwelling easier to obtain. We heard from the previous speaker that that's an important thing. We are trying to apply a balanced and strategic approach that protects our productive use of agricultural land while also allowing for increased housing in rural lands.

Last week, the Government released the *Northern Rivers Economic Profile and Natural Hazard Impacts* report. I'm not sure if you've had a chance to have a look at it. It's a landmark report showing the impact of cumulative natural hazard events on the economic and social wellbeing of our region. It shows that agriculture was the fastest growing industry in the Northern Rivers. The New South Wales disaster adaptation plan has also identified our area as being one of the highest in New South Wales in terms of exposure to natural disasters into the future. By limiting the possibility of detached dual occupancies to lots greater than 10 hectares, as we are

proposing, rather than the 8,000 square metres that you're proposing, we are allowing one-third of our rural properties to access this form of housing.

It's like a compromised starting position that allows us to gauge whether we can manage the impacts or risks that DDOs can create in terms of impacts on agricultural viability, the safety of those future residents and the ability to service them into the future. Those risks are the ability to defend residences in rural areas in times of bushfire, like we've just seen on the Central Coast, and in times of flood and tidal inundation. There's also the risk for the potential for environmental impacts of the onsite sewage management systems—because these areas are not sewered—and the land use conflicts that can impact on agricultural viability.

When you introduce residents that are not accustomed to rural industry noise, dust and ash, you can create severe conflict with those searching for a peaceful rural lifestyle. We currently produce around a third of New South Wales's sugarcane and bananas here in the Tweed. We still burn that cane, and we overhead spray our bananas. Larger lots have more potential to provide house sites that do not impact on productive capability of the land and away from other hazards including bushfire, flood and tidal inundation. What they don't do is manage the ability for council to provide services for the new rural residents. This is a really important aspect of our submission.

Currently the local government rating system is based on the unimproved value of land. When you build a second dwelling or a detached dual occupancy on the property you are doubling that property's demand for council's infrastructure. That second family wants the same access to our parks, our pools, our sporting fields and our libraries. They often need access to clean drinking water in times of drought, when rainwater tanks run dry. They want the SES and the RFS to rescue them in times of need. Currently council has no way of collecting increased rates to cover all of these things, so the load is taken up by the rest of the ratepayers, effectively subsidising rural housing.

We need a way to rectify this. We suggest changing the rating system to allow a multiplying factor for properties with a secondary dwelling or a detached dual occupancy. We ask you to include this in any recommendations you make with regards to increased rural housing. We hope you can support our staged approach in providing housing in the areas we can defend best in the times of bushfire, that are safest in times of flood, where we can provide services such as water and sewerage as, in expanding our rural villages, these are the things that we want to prioritise. I hope you can support us in that.

The Hon. WES FANG: Mayor, I just wanted to ask—I'm slightly confused. You said that there was a motion passed by council that supported second dwellings, yet it seems like your opening statements were anything but supportive of second dwellings. Could you expand on your evidence to the Committee in relation to what the council resolved?

CHRIS CHERRY: Absolutely. I would just like to clarify: We are absolutely supportive of secondary dwellings and second homes on lots greater than 10 hectares. The risks and impacts I was trying to talk about were trying to explain why we're saying on those larger lots, not on any sized lot.

The Hon. WES FANG: Just in relation to your proposal to the Committee in relation to amending legislation to ensure that rates for a second dwelling can be charged, is that a resolution of council?

CHRIS CHERRY: Yes. That was included in our submission, which was a resolution of council.

The Hon. WES FANG: Did councillors vote on a resolution to charge second dwelling rates?

CHRIS CHERRY: No, to include it in our submission to you for consideration, and we have.

The Hon. WES FANG: I appreciate that. What I'm asking is: Was there a motion voted on by councillors at Tweed council in relation to charging rates?

CHRIS CHERRY: It was part of the Rural Lands Strategy that we investigate the ability to rate for a second dwelling in order to fund the infrastructure.

The Hon. WES FANG: Did that motion pass?

CHRIS CHERRY: Yes.

The Hon. WES FANG: We heard earlier from the witnesses in relation to money spent by Tweed Shire Council. How much is spent on enforcement action?

CHRIS CHERRY: I don't have that quantified between development applications—

The Hon. WES FANG: How much is spent on legal fees?

CHRIS CHERRY: Legal fees, total, including property transfers, dealing with the Land and Environment Court and compliance action, is just under $3 million in the last financial year.

The Hon. WES FANG: Is it just under $3 million or just over $3 million?

CHRIS CHERRY: Sorry?

The Hon. WES FANG: Is it $3.4 million?

CHRIS CHERRY: I don't have it in front of me. In my head, it was just under, but I'll stand corrected if you've got the figures there.

The Hon. WES FANG: In those circumstances, how much was budgeted?

CHRIS CHERRY: I don't actually have that in front of me either, but if you've got it there, I'd be happy to hear it.

The Hon. WES FANG: Is it around $2 million? I think you're over a budget of about a million and a half. Is that right?

CHRIS CHERRY: Council doesn't budget money and hold it for legal costs in the case of whether we do or don't. We budget an amount that we think we might use, and then when we use more than that or less than that, we find that from other sources. We obviously have reserves that we can use in those circumstances, or unallocated moneys for projects that haven't gone forward that we can use at that time.

The Hon. WES FANG: For the $1.5 million that's not expected in relation to legal fees, is that due to council initiating or instigating legal action or is that because you've been asked to defend decisions that you've made through the Land and Environment Court?

CHRIS CHERRY: The bulk of that money is usually deed refusals, where we then have to defend those actions. They're not council—the bulk of them haven't so far been on refusals. I think you'll find that one of the largest costs that we had in this last year was on a caravan park, which was a refusal. It did actually take up around $1 million in defending that case, but it was something that the community asked very strongly for us to defend. The lawyers agreed and we won that case, so we will receive costs back, hopefully for a large part of that.

The Hon. WES FANG: How many refusals have gone to court?

CHRIS CHERRY: I don't have that number in front of me. Denise, would you have that number at all?

DENISE GALLE: Not exactly, no, but are you talking in the last year or ever?

The Hon. WES FANG: Let's go with the last 12 months.

DENISE GALLE: I would suggest that there's been between 15 and 20 appeals for class 1 or class 4 decisions.

The Hon. WES FANG: How many of those have been a result of councillors voting against what's recommended by the council staff?

CHRIS CHERRY: Two.

The Hon. WES FANG: Have they been successful?

CHRIS CHERRY: One hasn't been determined yet, and one we've just heard about which was unsuccessful, unfortunately, just recently.

The Hon. WES FANG: What was the cost to defend that one?

CHRIS CHERRY: Actually, no, there's two. Sorry, there's three.

DENISE GALLE: Gales and Creek Street.

CHRIS CHERRY: Yes. Sorry, there's two: one we did just sit hear about, which was the Creek Street one in Hastings Point, which we managed to get some changes, and the other one is Gales Holdings, which we managed to get the proponent to amend their proposal so that they basically were addressing all of our concerns.

The Hon. WES FANG: In circumstances where you're prepared to accept a second dwelling that's under the one roof line, as opposed to a detached second dwelling, when you spoke about the issues around services, libraries, parks et cetera, how do you differentiate between one being under one roof line and being allowed versus one that's detached?

CHRIS CHERRY: Our support for the attached dual occupancy and the rural workers' dwellings, which both have that same impact, has been based on the fact that we're trying to support the intergenerational housing. We have heard from our farmers: Rural workers' dwellings and intergenerational housing is the most important thing. For them, this was considered a cost that was worth bearing.

The Hon. WES FANG: But I'm confused as to why you think two dwellings under one roof line is okay, and you haven't got an issue about the impacts on council services. But if you separate the dwellings—same footprint and everything else but under two different roof lines—why do you have an objection to that? Why is one not going to have an impact and the other one will?

CHRIS CHERRY: You were asking in terms of just the ability to service, but the main objection to the detached is the other issues and the other risks and impacts that I mentioned, which were the impact on agricultural productivity, the contamination through OSSMs, where one might be here and one might be there, so you're doubling the risk of having to rescue people in a bushfire or in a flood—that kind of situation. It's those impacts that are doubled when they're detached. So it's not only about the number of people who are on the site; it's about where they're located.

The Hon. WES FANG: I'm sorry, the logic escapes me in relation to this. Explain to me, please, how you've made this determination that if you've got a house that's under one roof line, it somehow will mitigate all of these issues, as opposed to having two detached dwellings.

CHRIS CHERRY: Luckily, it's not our logic that we've just come to. It stems from the Ministerial Direction 1.5 – Rural Lands, which requires the changes to the LEP to include the consideration of land use conflict, minimise the potential for land fragmentation and ensure protection of the agricultural production of rural lands. That's where it's coming from. It's also obviously coming from the North Coast Regional Plan, which gives clear guidance to direct urban and rural residential dwellings away from important farmlands and smaller primary production. That's what we're trying to achieve.

The Hon. WES FANG: Whilst I accept that you're talking about the protection of rural lands—and, as a Nat, I'm 100 per cent down with that. I'm with you 100 per cent.

CHRIS CHERRY: Thank you.

The Hon. WES FANG: But you spoke about issues of supporting in a bushfire or inundation and all these sorts of matters. If you've got two separate dwellings with complete detachment, but under the one roof line, how is that any safer than having two detached dwellings?

CHRIS CHERRY: I'm not sure if you flew into our shire or drove, but if you flew then you would see overhead how much of our shire is forested—heavily forested. A lot of rural blocks have got very heavily forested areas.

The Hon. WES FANG: If it's heavily forested, though—we're talking about prime agricultural productive land, aren't we? You're conflating two different issues.

CHRIS CHERRY: I was talking about the bushfire risk, which is what you just asked me about.

The Hon. WES FANG: I appreciate that, but if you're talking about protecting agricultural lands then you're conflating two different issues if it's heavily forested.

The CHAIR: We have limited time, so we might move to Ms Sue Higginson.

Ms SUE HIGGINSON: Thank you both for being here to give your evidence today. It's my understanding that the Tweed shire, the Tweed LGA, is one of the highest biodiversity regions within New South Wales. Has there been any work done, even if it's not directly available on this, in terms of what the cumulative impacts could be if we were to allow relatively unconstrained second dwellings across all these RU1 and RU2 properties, what that might mean for biodiversity and what that might mean in terms of the attraction of this area for all of those incredible values that Tweed shire boasts?

CHRIS CHERRY: Sure. We are listed as having the highest biodiversity in New South Wales, here, in the Tweed shire, and it's the third highest in Australia. It is very significant, and we are trying to take that role as custodians of that very seriously. When you think about the impact—and I know you've heard from previous speakers that the impact would only be about 450 square metres. When we're talking about a detached dual occupancy, that can be any size; an average size is around 250 square metres. If you think about the asset protection zone that needs to come around that, that can be about 40 metres in any direction, so you're greatly increasing the footprint. We're then talking about the access road that gets to that point. In all of that area, you have clearing and you have earthworks that need to happen. Also, you have edge effects, with the inevitable introduction of weeds that happens with agricultural living.

If we have the 1,891 properties that Denise was talking about earlier having a second home, we really do have some massive impacts. I don't have the calculation, I guess, of how much that would be—I don't know if you've got that calculation there, Denise. But we are talking about very serious impacts. We're not talking about 450 square metres. It's really important for this shire. With our growth management housing strategy, we went to our community about what's most important to them. We did get 639 submissions for our growth management housing strategy, and 348 comments were received regarding the protection of our natural environment and concern about the impact of increased housing on our natural area. It is a really important thing for our community.

Ms SUE HIGGINSON: In terms of what Tweed boasts compared to other regions across New South Wales, would you say that capitalising on the natural environment, on clean, green production—I see a lot of regenerative agriculture—on this new, emerging side of agriculture tourism inextricably linked to the health and wellbeing of the natural environment is front and centre in Tweed's future growth and strategic direction?

CHRIS CHERRY: Absolutely. You can look in our destination management plan for our tourism strategy. It's the front and centre. It is why people come here to the Northern Rivers. It's why people want to live here, and it's what we have to protect. Yes, I think it is incredibly important and a priority for our council and our community.

Ms SUE HIGGINSON: I'm sorry that this is probably a bit contentious, and I don't mean any offence whatsoever to the previous witness. But does it strike you as an interesting proposition that the NSW Farmers' branch is arguing against a council that is trying to protect rural agricultural production land?

CHRIS CHERRY: I think it's not consistent with what a lot of farmers in our area think. I speak to a lot of farmers who haven't chosen to become members of this particular branch of the NSW Farmers—but are members of other ones—who desperately oppose secondary dwellings and second homes because of the land use conflict, because they are trying to burn their cane and that ash that comes across that people hate. Our farmers want to prioritise their productive lands, and they can see that issue with land use conflict that they don't want to have to deal with.

Ms SUE HIGGINSON: Finally, in that staged approach that you are taking, are you getting community engagement?

CHRIS CHERRY: Yes. The staged approach is what we've put out in our growth management housing strategy. Change 17 is what it has become; it was change 77. We received 129 submissions relating to this issue, and 59 of them—basically half—were supportive of how we're going ahead. Around half were also saying conditionally supportive. The main issue was they were saying they'd like to have larger houses than just the secondary dwellings that we were proposing.

We've addressed that now with the new resolution that we did only a couple of months ago. I think that we are doing what the people have told us they wanted when we've done the consultation. I'd just like to mention that we did bring the growth management housing strategy to the—we've got a Rural Lands Industry Management Committee. On that we've got cane farmers, small vegetable growers, cattle graziers—we've got a representative group—and the only issue that they raised with that document when it was brought to them was the rural workers' dwellings and wanting to have that easier to be able to obtain. I think that's a very valid thing and it's something we're working towards.

The Hon. EMILY SUVAAL: As a nice segue from that, I am interested to hear, if you can update the Committee, what if any work is going on with that rural workers' dwelling and if there are any suggestions? If it's too early, then please say that, but is there anything you can update us on?

CHRIS CHERRY: I'll have to hand to Denise for that one.

DENISE GALLE: We have permissibility of rural workers' dwellings in our LEP 2014 at clause 4.2C. The criteria at the moment in part (3) is that it has to be on the same lot as the existing lawfully created dwelling and it can't impair the use of the land for agricultural or rural industries. The third and fourth ones are where it gets harder for people. The third one is that the agricultural or rural industry being carried out on the land has a demonstrated economic capacity to support the ongoing employment of rural workers. That's the financial side of it.

Part (d), which is probably the one that people are most wanting changed, is that the development is necessary considering the nature of agricultural or rural industry land use lawfully occurring on the land or as a result of the remote or isolated location of the land. For example, in Murwillumbah, which is just 20 kilometres south of Tweed Heads, it's hard to demonstrate that due to the isolation you need a second dwelling. One of the things that we're putting forward to the Government is removing part (d), to remove the isolation provision. But we're still recommending support of that economic capacity, because if you're approving a second house for the

purposes of rural workers' accommodation, you want to make sure that that land is being used for farming purposes and can viably sustain a second worker.

The Hon. EMILY SUVAAL: Thank you. That is very helpful. We heard from earlier witnesses that Tweed council does not allow second dwellings that are detached. That is not the case, given your evidence this morning.

DENISE GALLE: Just to clarify, under LEP 2014, at the moment you're allowed attached only. There is a resolution on foot from 2 October that investigates allowing them as detached on land over 10 hectares and we're advancing that through our growth management housing strategy, which is anticipated to come back before the council in February and March of next year. If council resolves to place that on exhibition, that will go on exhibition. Once we have that in place, the Government will then allow us to do a planning proposal to amend our LEP.

The Hon. EMILY SUVAAL: Thank you, that is much clearer to me now. In your submission you've provided a copy of the resolution that council passed on 2 October. You mentioned at point 3 your resolved position around the rating mechanism or rate multiplier. I think you mentioned in your opening statement, Ms Cherry, a rate multiplier. Has council done any work on what that would look like or how that would apply?

DENISE GALLE: Through our general manager and through LGNSW we've just continued to raise it as an issue. It's whether a second dwelling on a rural block of land might not get rated as two, for example—it might have a multiplier of 1.6 or 1.8. It is just to acknowledge the increase in population in our rural area. We have 100,000 people in the Tweed. If you increase the population by 10,000 people, that's a 10 per cent increase in our population with no additional rate base. So what we've continued to lobby for is the Government to consider amending the Local Government Act to enable some kind of proportional rating scheme for those properties that might contain more people.

The Hon. EMILY SUVAAL: With the indulgence of the Chair, I have a question around DA approval times. We heard earlier some frustration. It's a hot topic. Everyone likes talking about it, including our planning Minister. So how are you going with your DA approval times? Are they improving?

DENISE GALLE: I might start and just say we're actually really proud of our results in Tweed. Over the years, we did have bad approval times, but it was for a good reason. We actually had a facilitated approach. We would work and work with applicants, get amended plans after amended plans, and it meant that we ended up with more DAs on our books. At our worst time we had over 500 DAs on our books at any one time. The more every individual officer had on their desk, the ones that were approval-ready just got involved in that backlog, so to speak. I'm proud to say we have no backlog anymore.

We have between 130 and 150 DAs on our books at any given time. That number fluctuates daily. At the moment we're fully compliant with the State's expectations order. We're at 98 days average assessment time. Our median for our houses is about 60 days. Our median for a pool is about 39 days. So we're doing incredibly well, but it's lost that facilitative approach, and it means that there are sometimes more refusals, because if a DA has not got all the information that we need, we're refusing it or it might get withdrawn. We're working with people as a pre-DA phase to try and get them ready so that they're approvable ready.

The Hon. SCOTT FARLOW: I'm conscious of the time but if I can ask on notice, with respect to the rules following the 2014 LEP, how many attached secondary dwellings did the council approve? If I can ask that on notice, unless you've got it here.

DENISE GALLE: I've got it for you.

The Hon. SCOTT FARLOW: Wow. Prepared. Excellent.

DENISE GALLE: Rural workers' dwellings in the Tweed since 2002—the reason I've used 2002 is that's just our modern system that we've got; it was the easiest to pull the data from. We've had 32 rural workers' dwellings—I realise that's ridiculously low—with a 6 per cent refusal rate and an 80 per cent approval rate. Fifteen per cent were withdrawn. Then attached dual occupancies since that same period, 165, but only 20 since 2002 in our rural zone—again a 90 per cent approval rate and two of those were withdrawn, with the 10 per cent withdrawn rate, so very, very low uptake of the attached dual occupancies, which is probably why council wasn't overly concerned about the earlier questioning in terms of extra people in a rural area, because the uptake has been so low it hasn't really been a factor. We really feel that if we were to allow detached dual occupancies on blocks of land greater than 10 hectares then that's going to be noticeable. You're not going to get 100 per cent uptake—not everyone can afford to build a whole second house—but you're certainly going to have more uptake than we've had in the last 25 years.

CHRIS CHERRY: Can I just add one thing at the end, just to let you know that in terms of our growth management we are very conscious of the housing crisis and a need to address that. We have more than 13,000 in our shire that currently are approved. At the moment our approval rate is actually exceeding the development on the ground rate. I guess we need that to catch up.

The CHAIR: Thank you very much for coming along. Sorry we've gone a little bit overtime, but we found your contributions valuable.

(The witnesses withdrew.)

(Luncheon adjournment)

Mr MARK AWAD, Individual, Property Owner, affirmed and examined

Mr BERND JERZYNA, Individual, Property Owner, affirmed and examined

The CHAIR: Welcome back, everybody. Gentlemen, we've read your submissions, which really detail your personal experiences. You're now invited to make an opening statement if you so choose.

BERND JERZYNA: I suppose my wife and I are the typical tree changers. We moved to the Tweed eight years ago to retire. It didn't turn out that way, but we found a lovely place and fixed it up, with all the mod cons that we needed. We put in electric and water tanks and what have you. We really love the place and we feel a strong bond to the land and the community. We are now planning for, I suppose, our sunset years. The property, or the house itself, is not suited for an older person that is infirm or has a disability, so we're planning to build a new home. We explored the option of attached dual occupancy, but that does not work with the house and with the site, so we decided to build a new house about 30 metres away, on an already disturbed site that has a garage and water tanks that we would put down, make that accessible, and that will allow us to stay where we want to stay for as long as possible.

We're about to submit a DA, hopefully this year still, but because we cannot have the dual occupancy, we need to decommission the original house, which in our case probably means that we will have to remove the kitchen, all the cupboards and the plumbing. We have the laundry under the house that will have to go. We find it a complete waste of resources to do that just to allow us to stay on the land really. It's an additional cost for us, removing the kitchen, and it will devalue the house. It's a perfectly functioning nice house that could have many, many uses while we're still in a different dwelling on the property.

MARK AWAD: First off, I'd like to thank the select Committee for this opportunity to present to you today. My family owns a small 2.83-hectare property in Tintenbar, which is just down in Ballina shire. The property was created as part of the village of Tintenbar parish of Ballina and Teven on 20 March 1885. It's no different to the numerous other small-acreage rural properties in the region and the area. It's safe from floods, so it has direct access to Fernleigh Road, and an approved onsite sewage system. The only thing that sets it apart from the neighbouring properties is that it lacks a dwelling entitlement, simply because no-one built a house on it prior to the introduction of the relevant planning instruments at the time.

Two neighbouring properties suffer from the same lack of an entitlement. I've provided you with a handout that shows our three properties right there, surrounded by other properties that are smaller, larger and the same size. There are properties in the area where small is a half-acre, on up to ones of 100-plus acres, all of which have entitlements. I know this is not a new problem. I know other people that have submitted to the Committee here have highlighted it as well. I'm approaching this—we are approaching it from the perspective of keeping in mind the intent of the zoned areas we're in. The intended use is primarily agriculture, and we want to respect that. We're not looking at this simply to have a house on the property. We purchased it in 2020 with an eye towards developing a rural agricultural industry business. We own a craft distillery. We've run that for several years. We're well into our ninth year.

A huge part of our plan and what we want to achieve is really building a farm on our property, and we've gone a long ways towards that. But our initial enthusiasm and confidence quickly gave way to reality when we came to understand the immense challenges of undertaking this without being able to live onsite. Some of these include a lack of ability to secure good finance. Funnily enough, banks don't want to lend to you if you can't get a house on there, and the banks that do require really low loan to value ratios. We've had to put much more capital into the property than we intended to. We bought it right before the housing prices took off before COVID, and found ourselves essentially priced out of the housing market. In the meantime, we are renting in Ballina and we're taking up a rental that could go to a family that really needs it. There are a lot of families in the area, particularly here in the Northern Rivers, that are desperately in need of housing.

Other issues include security. We've had a couple of security issues, one of which was fairly serious and involved the police searching through a number of blocks for an individual on our property. We have biosecurity concerns. With the floods, the fences have come down and our neighbour's livestock have ended up on our property with direct access to the road. All of these problems could be mitigated with living onsite. We've been cut off from the property during the floods and haven't been able to access it for a few days. We didn't see the extent of the housing crisis coming, unfortunately, and that's put us in this position. But we've written to the Minister for planning, the Hon. Paul Scully; and the Minister for Small Business, Minister for Recovery, and Minister for the North Coast, the Hon. Janelle Saffin. Both have encouraged us to reach out to Ballina council, which we've done, but they've not really been willing to engage. I look forward to this opportunity to present.

The CHAIR: Thank you. Mr Awad, how big did you say your land is?

MARK AWAD: It's 2.83 hectares, so it's seven acres.

The CHAIR: Because it had never had a house built on it, you now just can't even build one house.

MARK AWAD: Correct. The only reason we cannot get a dwelling entitlement on it is because no-one built a house on it prior to the implementation of the SEPP and the relevant LEPs. There's no difference from our property to the neighbouring properties.

The CHAIR: Have you put in an application with the local council to build and they just came back and said, "No-one's allowed to build here."

MARK AWAD: They will knock us back on the fact that it doesn't meet the minimum land requirement, which is 40 hectares, 100 acres, in our area, which is an impossible ask. There's simply no way that can ever be achieved.

The CHAIR: I am going to read a sentence from your submission:

> The consequences of this policy are visible across the region: overgrown properties, invasive weed infestations, dumping grounds, and blocks sitting idle due to lack of incentive or capacity to improve them.

You're saying this is not a case of being here and there. It's quite a widespread problem. Can you speak to that, please?

MARK AWAD: It is more widespread, I think, than most people realise, but it's not a dominant feature. Tweed council did some modelling, and I think it's very difficult even for the councils to put their finger on exactly how many properties are subject to that. If I remember correctly, their estimates were between 10 per cent and 12 per cent of the rural properties lacked dwelling entitlements. That is available online on Tweed council's website. I think it would be reasonable to infer that that would carry over to Ballina as well, and there are a number of properties, yes, where the owners simply can't use them for anything. They can't invest in them, so they let them go fallow. There were a few that have just become exactly what I said—rural dumping grounds. Ballina council took over a couple, I believe, because the rates were unpaid on them and they're converting them into a park, but they had to clear a massive amount of rubbish out of it. It's an issue that even councillors that I've spoken with in Ballina were largely unaware of.

The CHAIR: Mr Jerzyna, we've seen a photo of your current property, which looks like a very cute little house.

BERND JERZYNA: It is.

The CHAIR: It's only 50 square metres.

BERND JERZYNA: Yes, if that.

The CHAIR: So you and your wife—

BERND JERZYNA: It's a single room with a loft that we use as a bedroom. It has a small kitchen of maybe two square metres and a bathroom.

The CHAIR: And you've got 12 acres?

BERND JERZYNA: Yes.

The CHAIR: Are you doing any agriculture with those 12 acres, or is it just lifestyle?

BERND JERZYNA: No, just lifestyle.

The CHAIR: You've gone to the council and you said you want to build a second residence, a larger residence?

BERND JERZYNA: Correct.

The CHAIR: And they told you, "Well, that's okay, but you've got to knock this one down first".

BERND JERZYNA: Yes, we had one of those preliminary Das. Before you lodge a DA, you can talk to council town planners. They basically advised, I suppose—he started talking about removing walls as well but, because there are no internal walls, that doesn't apply to us. It's pretty harsh what you have to do to a house to not make it count as a dwelling. That doesn't make sense. It's an asset that can be used for family or for emergency accommodation. Domestic violence, floods, bushfire and what have you—there will always be times when a small little place like that can come in handy to support somebody.

The Hon. WES FANG: Mr Jerzyna, I've had a read of your submission. Obviously there's a beautiful picture of the house that you currently have on that block. Is it the circumstance that that house isn't suitable for you and your wife now that you're getting older and there are a number of stairs and the like? Is that part of the issue?

BERND JERZYNA: That's at the core of the issue. The house itself is timber. You access it via three steps, so it makes it immediately unsuitable for wheelchair access. Access to the bedroom is a steep ladder, rather than stairs.

The Hon. WES FANG: You spoke about the fact that in order to have a house on the block of land that you own that is suitable as you age, you'd probably want something that is single level, is flat and provides access as you get older so that you're not climbing up to a loft. You can't do that under the current rules until you decommission that existing house. Is that correct?

BERND JERZYNA: That's correct, yes.

The Hon. WES FANG: That's because Tweed shire has a rule that any second dwelling has to be under the same roof line. Is that correct?

BERND JERZYNA: I'm not quite sure what the exact definition is of "attached". Today I read it was sharing a wall. It just doesn't fit. If you look at the picture, you can extend a little bit, but—

The Hon. WES FANG: In effect, you're forced to either knock that house down or decommission it so that you can then build the house that's suitable for you?

BERND JERZYNA: It's not one preceding the other. I understand that we can keep the old house and live there until we have the occupation certificate, but it will be a condition of the DA to decommission the house afterwards.

The Hon. WES FANG: I guess you're suggesting that in the midst of a housing crisis—and the fact that it's not a five-bedroom double-storey mansion; we're talking about a small dwelling that is less than 50 square metres with a loft in it—in circumstances where you might be able to provide housing, whether it be short term or long term, to somebody that is struggling to actually find accommodation, it's ridiculous that the council would make you remove or decommission a perfectly suitable dwelling simply because the rules are such that that's the only option available to you. Is that, effectively, what you're saying?

BERND JERZYNA: Yes, it doesn't really make sense. You can have an attached house, or I could build four bedrooms attached to the existing house, which would be a complete mess. But from a defects perspective, environmental and traffic and what have you, it's really the same thing.

The Hon. WES FANG: We heard evidence from the mayor that said that allowing a second dwelling on a property such as yours would impact, potentially, the prime agricultural aspects of your property. That's not the case on your property, is it?

BERND JERZYNA: I don't think so. I think the place was subdivided in the early '80s, I would say, and the block that we occupy is really not suited for agriculture at all.

The Hon. WES FANG: In those circumstances, if there was a flood or fire risk on one side of the property or the other, is it going to create some safety issue, do you believe?

Ms SUE HIGGINSON: Not flood; fire.

BERND JERZYNA: I don't think so, no.

The Hon. WES FANG: Inundation was definitely mentioned, Sue.

Ms SUE HIGGINSON: In certain circumstances.

The Hon. WES FANG: Yes, in circumstances, I know.

Ms SUE HIGGINSON: Chair, because the *Hansard* will reflect strangely, the member and I are having a short conversation. I am a bit concerned that the member—although I don't think he's doing it intentionally—is in fact misrepresenting some of the evidence of a previous witness. The previous witness, namely the mayor, spoke about all of these issues not as if they apply to every lot but as if they could. They were isolated. Obviously, flood and fire can apply separately—that is, if you have an area that is not in flood plain but may be subject to fire. The member is making out that the previous witness suggested that all of these things apply at once: agricultural loss, fire and flood. The witness gave evidence that those things can happen in an isolated way.

The Hon. WES FANG: Chair, I am not sure if that was a point of order.

Ms SUE HIGGINSON: It was a clarification.

The Hon. WES FANG: If it was a point of order, I would submit to the point of order that the member took that, in effect, I am seeking to understand which of the aspects that were raised by the mayor would apply to this property.

The CHAIR: We will let Mr Fang continue his question and then we'll head straight to Ms Higginson.

The Hon. WES FANG: You don't see that an ability to escape fire, flood, act of God, lightning strike, locust plague or any of those things might be impacted by putting a second dwelling on that land?

BERND JERZYNA: I don't quite understand what you're trying to say.

The Hon. WES FANG: That's okay. I was just as confused by her evidence as you seem to be by my question. What you're seeking is a bit of common sense with what is not necessarily a common issue but one that is specific to your circumstance, but the rules are black and white. Have you tried to talk to the Tweed council about this? Have they recognised that this is an individual circumstance—that the circumstances aren't that you're going to bring in a family of seven or eight and put them in a house; all you're seeking to do is build a house that is suitable as you age. You need something more level, and you don't want to lose what can be effectively a residential property for somebody that needs it. Have you spoken to the council?

BERND JERZYNA: Yes, we have. Like I mentioned before, we had a preliminary meeting with the town planner from the council and explained, pretty much like I did in the submission, what we need and what we're planning.

The Hon. WES FANG: And they just told you, flat out, no?

BERND JERZYNA: Correct, yes.

The Hon. WES FANG: They didn't try to work with you? They didn't try to find a way to keep what is effectively a perfectly good 50-square-metre house and allow you to then build a house that is suitable for your stage of life?

BERND JERZYNA: No, they didn't.

The Hon. WES FANG: The council now having passed a motion by Councillor Kimberly Hone about perhaps allowing a second dwelling, there is a ray of hope that you could actually get a bit of common sense out of this council. Is that correct?

BERND JERZYNA: What I read was that the land size required for a second detached dwelling was, I think, 10 acres and ours is just under five, so that wouldn't apply to us. Certainly our house is what people would call a granny flat, typically. That's what it is, and we feel strongly that there should be provision in the plans to allow that in circumstances like this. If you travel from our place about two or three kilometres towards Uki, there's a development, Panorama. I'm not sure when it was subdivided—probably decades ago. But they built that in the last two or three years. They're small lots, between one and two acres and a few larger ones. The first place, they sold 23 lots there. If you drive through the rural landscape, you suddenly see what is starting to look like a suburb. The second stage is coming—probably another 20 or so lots. I don't per se have a problem with that, but it feels unfair that we are trying a gentle approach to maintain an asset, while still having the quality of life that we need. It's unfair. We would impact our property and the neighbours very little.

The Hon. WES FANG: It's unfair. There's a lack of common sense.

BERND JERZYNA: On the other side, very close by, you have a fairly dense development.

The Hon. EMILY SUVAAL: Chair, I'm just indicating I've got a couple of questions as well.

The Hon. WES FANG: My apologies, Chair.

The CHAIR: We do need to be careful with the timing.

The Hon. WES FANG: I understand that.

The CHAIR: We've only got about another five minutes with these—

The Hon. WES FANG: Mr Awad, if I could just ask you quickly, in circumstances where your block of land clearly hasn't got a dwelling on there, it's only because of the fact that there was no previous dwelling on there that it hasn't been permitted. Do you think there's a lack of common sense in relation to Ballina Shire Council accepting that this is something that is reasonable and fair in the circumstances?

MARK AWAD: As with most legislation, I think it was probably crafted with the best of intentions years ago. I'm not sure of the exact origins of where these minimum lot size requirements came in. I do know that they exist with regard to subdivision, which I support. I don't support subdivision because that's death by a thousand cuts. There was talk around the concession of lots of days gone by. I'm not looking for any reinstatement of that. We don't advocate that. Our properties, they're a fact on the ground—literally. They exist. We're not looking to create anything that is new. They exist as they are. Some, such as ours, have existed for 140-plus years now, as they are. I think I would like to see flexibility.

It's not about, I suppose, fairness or not—it's that there is no flexibility in the system that allows for it. What we're trying to do is actually the intended use of agriculture. That's in the face of seeing all these properties around us that are being sold as trophy lifestyle properties where they have an existing orchard or an existing farm on them that's been ripped out. Then they just have 100 acres of lawn to mow. That really saddens me because I've been involved in the food industry here in the Northern Rivers for several years, in a leadership position. I was chair of Northern Rivers Food for a point. Food security is a massive issue for us in the region. We're trying to buck the trend of all these farms disappearing. We have found that we are really to the point of can't do it without being able to live on the property.

As everyone who testifies in front of you will tell you, having a second dwelling really helps them to be able to ensure every bit of viability for those properties. We just want one; that's it. There are quite a few others that are in the same boat. We're sort of an unrepresented constituency because we're just out there and we're trying. Fairness is an issue. I think just flexibility. It's not just Ballina; it's an issue that exists to some degree or another statewide. The reason you're seeing it up here in the Northern Rivers more, I suspect—because you've got 110 submissions and 30 or 40 per cent of them were from the Northern Rivers, it seems—is because we have such an acute housing crisis here and pressures and everything.

Ms SUE HIGGINSON: If you were to put your DA in for your second dwelling, would you be required to have an asset-protection zone? Or is your land already cleared for bushfire risk?

BERND JERZYNA: No, we had a bushfire assessment. That's already done. We have an asset protection zone 60 metres, I think, from the western fence line we need to build. I suppose that place for the new dwelling is a much, much safer place than the current one.

Ms SUE HIGGINSON: You wouldn't need to do anything, clear any more vegetation, for the purpose—

BERND JERZYNA: No. I'm not quite sure, if the existing dwelling was still classified as a dwelling, through whatever miracle, then I think some building standards and bushfire regulations would apply too. What that would mean, I don't know. We haven't explored that fully.

Ms SUE HIGGINSON: Obviously, I can't know exactly where your property is, but I'm fairly familiar with the area, and I suspect that there probably would be some bushfire requirements.

BERND JERZYNA: Yes, there are. But where we're built, it's completely cleared. Like I said, it's a disturbed site. It has a garage and water tanks on it. The next trees are 20, 30 metres away. If I recall correctly, in the bushfire report, there was no mention of vegetation typically.

Ms SUE HIGGINSON: Mr Awad, just briefly, has council given you any reason—other than the fact there is no dwelling entitlement, have they given you any mechanism as to how you might navigate that, or it's just been a blank "No, you can't" from Ballina Council?

MARK AWAD: Council has been very reluctant to engage with us in discussions. We have councillors who have been largely supportive until they have talked to planning staff, and planning staff have provided, to my knowledge, several arguments that are strawman and slippery slope against.

Ms SUE HIGGINSON: I think that's what I'm trying to understand, if you could throw one of those at us.

MARK AWAD: An example would be that they have held up a rural estate that probably never should have gone ahead, but it did, and it was obviously approved through council. They've held that up and said, "Look, if we have a real strategy, if we allow dwelling entitlements on these properties, this is what's going to happen." And it's not at all what will happen. They've implied that we have all bought these properties really cheaply and we will realise a large financial gain if they give us a dwelling entitlement, and therefore they can't do that, which, again, is not the case. At least in our circumstance, we paid over market for it. I'm trying to think of another example.

Ms SUE HIGGINSON: But just on that first one, is your understanding of that, if they said, "Where there's no previous dwelling entitlement, if we entertain the idea of lifting that, there could be a kind of—" I don't want to use the term "floodgate", but it could set a precedent for following, other landholders?

MARK AWAD: It certainly would set a precedent. But I would ask, is that a bad precedent?

Ms SUE HIGGINSON: Yes, either/or.

MARK AWAD: If they allow someone who's really trying to work the land and do that, and they facilitate and enable that, it's not a bad precedent.

Ms SUE HIGGINSON: Yes, that's definitely the second thing. There may be various opinions, but is that your understanding in terms of that first argument they've put to you?

MARK AWAD: I think that underlies it, yes. It's very hard for me to understand, because I'm, I think, approaching it from a very logical point of view. I think that there may be some fear underlying it, or something—I don't know. But there would not be a floodgate really, particularly if they just would—I would like to see, in addition to the LEP, the clauses that mandate a minimum lot size and a few other requirements, if they added something in there and simply said, "If the applicant is undertaking genuine agricultural use on the property, demonstrated agricultural use, if they're registered as a prime producer", or something similar to that.

Ms SUE HIGGINSON: And something along the lines of protecting biodiversity and those sort of things, if that was one of the concerns.

MARK AWAD: Absolutely. Yes, something like that, and that's another opportunity, a way forward. It allows us to manage the property properly. As everyone that will come in front of you will tell you, you need to be on the land to manage it and work it. We've found that out the hard way, and we're continuing to deal with it, but all we ask is for that opportunity to be able to do that. I think that's a reasonable ask.

The CHAIR: Gentlemen, thank you very much. We enjoyed your testimony.

(The witnesses withdrew.)

Mr JOHN COLVIN, Individual, Tweed Resident, affirmed and examined

Ms ALICE WITHERS, Individual, Property Owner, affirmed and examined

The CHAIR: Thank you for joining us today and making time to give evidence. Would either of you, or both of you, like to make an introductory statement?

JOHN COLVIN: Yes, please. Thank you for inviting me to give evidence today. My late father's family have farmed in New South Wales for over 200 years and do so to this day. My late mother's family have lived here in the border district since before Queensland separated from New South Wales in 1859. Until age 26, I was a farmer and grazier on the border between Texas and Tenterfield. After that I pursued a career in IT and telecommunications and completed an MBA before retiring to the Tweed. Farmers aren't environmental vandals. They're environmental custodians. In the 1970s my family successfully fought to carve a cave with a bat colony out of a new limestone mine on our property.

City people have work-life balance, a separation between home and work; farmers don't. Their home is their work, seven days a week. If a cow is stuck in a dam and is likely to drown, they don't clock off. They save the cow. City people often don't understand the lack of access to social and emergency services in the country. It's much better here than west of the ranges, but consider what happens if a farmer has a heart attack or breaks a bone. They can't call 000 or a friend, because there's no mobile or wi-fi coverage. If there is, they may need to find their own way to hospital if the ambulance is over an hour away. There are no buses or Ubers to take them, and often no doctors to treat them. It's cruel and unfair for elderly farmers to live alone and uncared for while paying the taxes that fund these services in towns and cities. The farmers aren't asking for a handout. They aren't even asking for equal treatment—an ambulance station within 30 minutes and a doctor in every town. They're asking for the freedom to solve their own problems as a family, as a business, at no cost to their community.

The CHAIR: Mr Colvin, I enjoyed your submission. It is very succinct and very professionally put together. Can I ask what your occupation is?

JOHN COLVIN: I'm a retired IT and telecommunications consultant. I did a lot of reports, and I was a project director on projects of up to, in today's money, maybe $2 billion.

The CHAIR: In some of the submissions and in some of the testimony we've heard today, people have said there's quite a large number of illegal residents in place at the moment, and some have suggested we should give an amnesty to all of those. Can I ask your opinion on that?

JOHN COLVIN: I think that any buildings should meet the building code that was in place when they were built. For example, where I came from, there would be shearers quarters and all sorts of things. They need to be to a reasonable standard. But as well as that I probably spent 10 years in the mining industry in Western Australia and we'd live in a donga—three rooms to a donga—so our room would be maybe the size of this little area here, and then we might have our own toilet and shower or might share one with the next room. People who work in rural areas are quite used to living in those kinds of conditions. They don't have to be the kind of houses that we see on the hill over here.

The CHAIR: Ms Withers, just remind us how large is your property in terms of acreage?

ALICE WITHERS: I actually only have a four-acre property, so I'm not here so much. Well, I'm here for a different reason—to actually advocate more for opening it up to any size rural zoned block, or even an acre or larger, as I feel that that's quite discriminative in itself. If it's a rural zoned block and you're undertaking some sort of rural or farming practice, you shouldn't be not given the same opportunity as someone with a five-acre block or a five-hectare block or a 100-acre block or bigger. That's probably my biggest point to make for today.

The CHAIR: Do you have neighbours and other people you know in the local area who are in a similar situation to you?

ALICE WITHERS: Yes, some.

The CHAIR: I'm guessing this is something that's of acute concern to them, and it has been a frustration for them for many years.

ALICE WITHERS: I guess so. I haven't really discussed it in detail with my neighbours, but I'm sure if the opportunity was there for them and they are in a similar situation to me, I would say that they would agree with me. There are not that many blocks of my size in my local vicinity. Some are bigger, but then some are smaller too. I'd say they would agree with me. Of the 5,600 or whatever rurally zoned properties in the region,

there is a small percentage of smaller ones, but I'm sure most would feel that they're being discriminated against just by being a smaller lot size and not being included.

The Hon. SCOTT FARLOW: Thank you both for your attendance here today and for your submissions as well. Ms Withers, your story is quite an emotive one in terms of looking after your family, and that was part of your submission as well. Where are they placed at the moment? How are they getting by?

ALICE WITHERS: Actually, since I did the submission, my son and his wife and their four children are moving into my house with me. I am in the process of trying to build in my garage to fit them in because they cannot afford or get a rental in the area. The house they've been renting for five years now has just gone on the market, and they cannot get another rental that would fit their family that they could afford. Even if they could afford it, they would have a very hard time finding one. Our only solution is to do this, and the children are sharing bedrooms. We want to keep them in the area they grew up in. We don't want the children to have to move schools. My son—they are both wanting to stay in the area with their jobs, that sort of thing. The only alternative for them was to move a long way away, and now what we're faced with is we're cramming into my three-bedroom house.

The Hon. SCOTT FARLOW: I guess that is the reality. We have all these discussions about what would be an appropriate-sized house; we have all the discussions about what the impact would be on the local community if you had the additional population into these areas. But the reality is that without being allowing a secondary dwelling, you have—what is it?—six people coming into a three-bedroom home instead.

ALICE WITHERS: Yes, that's right.

The Hon. SCOTT FARLOW: Ms Withers, if you were allowed to build a secondary dwelling on your premises, what would you be looking at doing? Have you done any investigations into that at all?

ALICE WITHERS: I was told originally that, no, I wouldn't be able to put anything further on. It has not been confirmed, but one person I approached about putting in a granny flat, which was the best we thought we could do, felt—and she does this a fair bit; she's a draftsperson in the area—that I would have an okay chance of putting a 60-square-metre granny flat somewhere on the property, close by. But she wasn't sure that I would get that passed. Even then, that was—since my submission I found that out—not a confirmed thing. For us, that still wouldn't—I mean, I couldn't probably live in that, but the rest of my family would still be living in a three-bedroom house and half in the garage. I just feel that for me, in my personal situation, if I could build a house, a second dwelling, it wouldn't necessarily be anything huge; it would just be able to accommodate—because I also have two other daughters who are in the same boat. One has just finished uni and the other one is in a casual teaching position, can't get a permanent position at the moment, but neither of them can afford to live other than in shared accommodation. I would love to be able to offer them the opportunity to build on our family farm and have their families grow up there. So that's my personal position.

The Hon. SCOTT FARLOW: As someone with a four-hectare property with a three-bedroom house that I take it is not particularly large, what is the rest of the property used for at present?

ALICE WITHERS: At the moment, my daughter, who's just finished naturopathy, will be—she's already started—growing natural herbs and things. It has its own dam, its own water supply. We have, obviously, tank water and a septic system, which would be the case, and solar would be also utilised. We wouldn't be drawing on anything. We would just have at least one other liveable dwelling that even they could live in, because I'm obviously not going to be there forever. Once I retire, I may move somewhere into a little place. I'll try to stay there if I can, which would be lovely if there was that room for me, but for us it's about keeping family together in the place where they want to be rather than them having to move.

The Hon. SCOTT FARLOW: And a practical solution to addressing the housing crisis?

ALICE WITHERS: And the property would stay within the family. My daughter would be growing her herbs and things, and everyone could stay at school and live their lives the way it was their intention, I guess.

The Hon. SCOTT FARLOW: Mr Colvin, as you pointed out, you live at Fingal. You have no skin in the game but have put together an excellent submission. Following on from Ms Withers' commentary, you outline in your submission the rates of homelessness in the Tweed—the highest rates in the State—and the challenges there. You have outlined your connection to the land, but I am interested in what made you put forward your submission, having no personal skin in the game? Is it your observance of the challenges facing the local community?

JOHN COLVIN: Yes. Similar people hang around with each other and, being a farmer, I hang around with farmers. I hear these stories—I won't say from day to day, but certainly from week to week and month to month—where somebody says, "I bought these 10 acres," or something like that, "and I'm 70 years old. There was an old house there," which might have been a 1970s kit home or something. "The homestead, an old

Queenslander, was run-down, so I've done the old Queenslander up and I'm running a landscaping business here and doing some farming, but my kids can't come and stay with me or look after me now that I've had a heart attack because I'm not allowed to have a second house." The second house is there, it's just unoccupied.

I look at that and think to myself, "Why would you do that?" I think they've just been sold now, but at the time of my submission there were all these houses zoned uninhabitable for no reason other than that they'd been in a flood. Perfectly good houses—why don't you move them five miles up the road, rather than send them to landfill, in terms of homelessness? The other thing is I think the Government needs to take some responsibility. I'm not saying this Government, but governments generally have pumped a lot of money into the economy over the last 10 years and it really hasn't helped, because the money has to have somewhere to go. In this case it's gone into houses. Houses are worth as much money as you can pay for them. If I want a better house than you and I've got more money than you, that works. If you've got more money than me, that works for you.

But really the value of a house is the amount of money you've got. I think the Government has created this housing price problem, maybe inadvertently. I'm a beneficiary of it but I do see how all of these other people, they've got their kids who are trying to move out of Sydney because they can't afford to live there anymore. They could get up here and get a bit of a foothold in. They could look after mum and dad, so you don't have all the social services coming out to see mum and dad every day from town. They could be looking after them and doing their grocery shopping et cetera. Quite often the home is already there. It could even be a manufactured home. They do manufacture homes around here.

A lot of people around here live in manufactured homes. We have a large number of manufactured home parts. So everything is here for someone to just whack in a few stumps and put a house there. I don't think they'd be put on arable land normally. They wouldn't need to knock down any trees. They just need to throw some stumps in the ground and drive in with a semitrailer with a manufactured home on the back of it. That's more than a granny flat. You can't expect a couple who have been farming for 40 years, living in their homestead, to move out into a granny flat so the kids can take the house. And you can't expect the kids who have been living in town in a three-bedroom house to move into a granny flat and maybe put some cubby houses and tents out the back for the kids. The whole attached granny flat thing is totally unnecessary in the bush.

The Hon. EMILY SUVAAL: I just have a couple of quick questions. Thank you to you both for your submissions—they're very insightful—particularly yourself, Ms Withers, for bringing the perspective that you have. It hasn't been heard through the inquiry today, so it's a really useful perspective for the Committee to hear. I wanted to ask you off the back of your submission at point (f), where you talk about flood mapping elevation and environmental considerations, having a performance-based approach to that. Can I ask you what has driven this? Has there been some experience at your end in trying to get through this? What is the merit that you see or examples you can give us from that?

ALICE WITHERS: From the flood perspective, that's not relevant to me. I'm not in any sort of flood map zone. I agree that no further housing should be allowed to be built anywhere near flood zoning. I also have the environmental—the environmental change in legislation was coming onto my property and actually going to cut I think it was about an acre off my property, as far as I wasn't allowed to touch it anymore. I'm not sure whether that's actually progressed any further. I did lodge my feelings towards that. I absolutely am all for looking after the environment on my property.

I have just cleared 50 camphor trees off my property at my own expense to be able to make it—and I'm in the process of planting local Indigenous bush tucker food and flora and fauna, wildlife-attracting vegetation. I'm putting a lot of effort into my little property to make it as environmentally friendly as I possibly can. It's my legacy to my children. They're going to inherit that property. I have three children. It's just a little unfair if someone with a larger block can pop a house on and all their family can be there. That's my biggest point I suppose. We're all working together on this property. It would be lovely if they felt they could take it on or live there—or at least two of them—and do what they want with the property, continue it on.

The Hon. EMILY SUVAAL: In your conclusion, you urged the Committee to recommend reforms that enable the second dwellings on rural zoned land over one hectare in size, through streamlined complying development pathways. We've heard this morning from Tweed council about some changes that they're looking at that were passed recently, but that is obviously on rural properties in excess of 10 hectares, which is much larger than what you have proposed. We also heard from Tweed council that there are 13,000 residential lots that have been approved but are yet to be brought to market. I'm sympathetic to your circumstances and the plight that you're in. I wonder whether you foresee any unintended knock-on consequences of allowing there to be those secondary dwellings on rural zoned land over one hectare in size in terms of property developers.

ALICE WITHERS: There are just so few of them in the Tweed shire. If the environmental impacts of something like 13,000 residential lots being approved and the impacts of 260—I'm not sure exactly, maybe a bit

smaller than that; I did look it up but I can't think right now—smaller lots that would be excluded in the Tweed shire, that impact is far smaller than something like the impact of 13,000 lots or something like Kings Forest. My block actually is quite close to there, and I know what's happened in that. I've been watching what's been happening there, the changes and the impact of those. Of all those smaller blocks, not every one of them—in fact, probably 10 per cent, 15 per cent; I don't know—is going to go and put another house on that small block. Even if they did, there are ways of being able to control what that dwelling is used for. There could be things written into the legislation.

In my case, it's for family to continue on doing what they want to do. The impact would be minimal in that it's a septic system and it's all contained. I'm not clearing any more land. In fact, I'm doing the opposite of that. I'm actually making sure it's the most environmentally friendly property for me, and the children would agree. I think you just have to put covenants or put legislation in to avoid, I guess—but I still feel it's such a small amount. When you talk about 13,000 residential lots in the Tweed and there may be 200-odd of these smaller properties having an extra house, the impact is so minimal, but yet for those people, a maximum—and my family, there's no way they can afford any of those lots of land, never will be able to. They are not that—it's just not going to be possible.

The Hon. EMILY SUVAAL: The prices are extraordinary, yes. Mr Colvin, in your submission, you talk about there being—and what we heard from a previous witness about—blocks of lands that have no dwelling entitlement. I wondered if you were able to comment on that and what mechanism or anything that you could suggest that the Committee might want to recommend around that.

JOHN COLVIN: I think that might have been fairly comprehensively dealt with by the former witness who sat in this position, the American/Canadian fellow.

The Hon. EMILY SUVAAL: Mr Awad, yes.

The Hon. WES FANG: Mr Colvin, noting that your submission highlights a number of what you say are advantages to allowing a second dwelling, and given that you've heard some of the evidence previously to this inquiry, do you see that there are any credible negatives to allowing a second dwelling? Or do you think a lot of the arguments that are put up are perhaps spurious at best?

JOHN COLVIN: I would say that maybe there's a misunderstanding. I said before about the difference between being able to call an ambulance and not being able to call an ambulance. If you can call an ambulance and you've got a mobile phone, then you can call an ambulance. We hear arguments about whether 000 is down for 10,000 people—well, there are a million people who don't have 000 every day—and whether an ambulance takes 22 minutes or 28 minutes to get there. When my father died, the ambulance said, "It'll take us two hours to get there. Sounds like he's dead. If he's not dead yet, he'll be dead by the time we get there. We don't transport dead bodies, so get an undertaker." That's what I'm trying to get away from, so I'm saying we don't want to have—well, it'd be really nice if we had mobile phone coverage. You can almost see places from here that have Elon Musk Starlink because they don't have NBN or mobile phone coverage. I think that's a disgrace on the edge of the fifth or sixth biggest city in Australia. But, nevertheless, if you're not going to give them mobile phone coverage, and you're not going to give them ambulances, and you're not going to give them doctors—and I'm not just talking about Tweed here—you need to give them a family member or a friend who'll be there to at least give them CPR or maybe throw them in the back of a car and head towards mobile phone coverage.

Ms SUE HIGGINSON: I've just got one question. Just on the communications, wouldn't it have been good if we hadn't sold it all off and we'd kept it in public ownership—then we could control it. Sorry, that was not my question. Ms Withers, I'm just curious: If you were able to build the second dwelling to the standard and size you want, and so forth, would you be required, do you think with your current understanding, to upgrade or increase your onsite sewerage system capacity, or do you think it would carry the increased load?

ALICE WITHERS: If it was a separate dwelling, it would have its own. It would not link into the one I've got.

Ms SUE HIGGINSON: You would require a whole new onsite sewerage system?

ALICE WITHERS: A septic, yes.

The CHAIR: Thank you very much for your evidence today. We've found your contributions valuable. The Committee will pause for a 15-minute break.

(The witnesses withdrew.)

(Short adjournment)

Mr DAMIEN JENKINS, Farmer, affirmed and examined

Mrs KIMBERLY HONE, Individual, sworn and examined

The CHAIR: Welcome back, everybody. We normally ask for a short statement at this point in time. Councillor Hone, I understand you did make a submission, but we've had a glitch.

KIMBERLY HONE: Yes.

The CHAIR: Maybe we can start with you. Tell us, what was the summary of your submission, which we will read but we have not read it at this stage.

Ms SUE HIGGINSON: Chair, sorry for the interruption. Ms Hone, can we confirm that you are here in your individual capacity, not on behalf of council or anything to that effect?

KIMBERLY HONE: That's right. I will just go with my statement, if that's okay, because it's kind of a summary, anyway. I can't really add any more than what has been said today. I think all the speakers here have been brilliant. I do want to start with three stories that bring this whole issue into reality and are in real time. Just a few weeks ago a single father with three kids was removed from his shed on a rural property because he can't live there, because we don't have these measures in place yet. I don't know where that family is going to go. Where are they going to go? Another family of three generations—four families, actually—living in two properties on a rural dwelling have also been asked to demolish their homes and remove themselves from at least one of those homes. Again, one of those kids has a severe disability. I don't know where that family is going to go.

Another elderly couple, who have a very successful rural farming business and also horticultural business, can no longer manage that on their own. They've asked their younger generation—their son and family—to come back and live on the property to manage that business, and they'll move into a second, smaller dwelling. They've been asked to remove that second dwelling; they can't live in that second dwelling. They can't manage their business, and they can't bring their next generation to come and manage that business. Again, we have another family who doesn't have a future and doesn't have a solution, moving forward.

The reason that I wanted to share these particular three stories—and there are many more, but these are the most recent; all in the last couple of months and even in the last couple of weeks—really indicate three factors that I wanted to bring to your attention. Firstly, allowing second detached dwellings on rural property provides affordable housing and, in many cases, these houses are completely off the grid. Secondly, it keeps families together in a time when extra support is needed, and it helps farmers bring the next generation in or supportive hands in to help manage their farms and enterprises. The average land and house price in the Tweed shire is $1.5 million—as you can imagine, that's quite expensive—with the land being the most expensive item, at about $1.1 million on average. Rural land parcels provide land ready to build on, instantly reducing the cost of a home by $1 million. This is why allowing second detached dwellings on rural properties is the cheapest, easiest and quickest way to build homes.

Currently our council will only allow second detached dwellings on 40 hectares. A few weeks ago I moved a motion, which was carried, that would allow detached secondary dwellings on 10 hectares or more. I would actually like that to be far less than 10 hectares, and I know that the community sentiment out there is for it to be at least five hectares or even smaller, but when I moved the motion that was the only number that I could get in support in the council.

But here are the statistics of why the current stance of 40 hectares or more is almost laughable. With RU1 there are only roughly 13 per cent of properties greater than 40 hectares. That's a total of 104 properties. With RU2 there are only 10 per cent greater than 40 hectares. Seventy-one per cent are less than 10 hectares and 61 per cent are less than five hectares. We go from potentially providing land for a couple of hundred homes to possibly thousands of homes—in fact around about 4,000 to be exact. The average cost to build a new home is about $500,000. It's still a major hindrance to most new home buyers or even a family who's trying to build a second dwelling.

All councils surrounding the Tweed shire allow second detached dwellings, but Ballina shire provides a really good example of the uptake. Since they've allowed second detached dwellings, they've only had an uptake of two extra properties a year being built. We're not looking at a major shift in rural communities. We're still looking at a slow uptake. That is because the cost of building in Northern Rivers is really expensive. The cost to get materials here is expensive and it's very difficult to get trades because we compete with the infrastructure that's being built on the Gold Coast all the time, so jobs are going north all the time. All five surrounding councils, like I said, already have this measure in place. Even Tweed shire, which we've already touched on today, allow

attached dwellings, so we're not increasing the possibility of more population to our rural areas—we already have that as a possibility. I'm simply asking for the buildings to be detached.

Last year at Local Government NSW in Tamworth I supported a motion by Tweed Shire Council to allow for rates to be applied to secondary dwellings on rural land to be set by each individual council. But I would like to make these points if we go down the path of discussing rates. Many secondary rural dwellings do not use town water; they rely on tank water. They don't use town sewers; they rely on septic. And many do not travel to work because their business is on their property. I would also like to note that residential granny flats or small secondary dwellings in residential properties do not cause additional rates because the rateable amount is based on the value of the land itself, regardless of how many homes are built there.

I am gathering that the biggest challenge set before you all today is not the need for rural housing. It's not whether we can change legislation to allow it. It's how do we rate it. How do we collect funds from these homes? I would suggest that possibly there's a way that we could do community contributions, similar to what a developer would do if they're building a block of units. Normally, the council would approach the developer and say, "Can you contribute to the footpaths in your area," or the local pool or whatever it is, and normally that would be done in quite a large lump sum, up-front.

I'm suggesting that we do community contributions on these second detached dwellings yearly so they're not based on an indexed percentage and they don't go up with inflation, but they're based on what the community in that particular area needs. I'm very confident and very thankful for all of you here today. I do believe that, if you allow yourselves to get creative, we can come up with a solution that benefits communities, council and the State Government and also helps fix the housing crisis.

DAMIEN JENKINS: Firstly, I refer to a couple of documents in my speech and I've provided the staff with multiple copies to be spread around, and that includes my short speech now. Good afternoon, Committee. Thank you for the opportunity to give evidence. It was interesting to note that, out of 110 submissions, only 64 were from individuals. Of these, 58 per cent had the name suppressed. It begs the question why. My belief is they are afraid of retribution. My submission was brief and to the point because I, like many others, am fatigued by the number of previously lodged submissions that have achieved nothing. Our farm is one of 10 properties greater than 76 hectares with RU1 zoning. It is featured on calendars, NSW Land Services publications and even Tweed Shire Council letterhead. Copies are provided. Seven years ago our family pooled resources to purchase our farm with the intention of the family living and working on the property.

To this end we followed the path of forming a multiple occupancy—MO. However, on the eve of lodging our DA we were advised council had changed the rules to disallow all MOs in the Tweed shire. Subsequently we found that we had no alternative but to subdivide the farm with the intention of gaining two housing entitlements as attached dwellings. Our DA 25/0086 was submitted to Tweed Shire Council and, after 150 days, including onsite visits, or nine days before the council meeting because it had been called up, we were notified it did not meet their requirements for attached dual occupancy because they felt the garage space relative to living space was too large.

The Hon. WES FANG: Are you serious?

DAMIEN JENKINS: Our planners worked the weekend and nights to redraw the plans, bearing in mind we were only given nine days notice, only to be informed there was no time to submit or amend our DA. On 23 July 2025 stage 1 and 2 of our DA was approved but not stage 3. To this date we have not been able to commence construction as we still await more approvals and paperwork. These of course are at additional cost. Our costs to date in these planning processes exceed $200,000, excluding the hours incurred by our family. Part of the documentation supplied—I submit copies of the summary our town planner provided to council on the day of our hearing as it was called up by council for determination, notwithstanding it was recommended for approval by Tweed Shire Council planning department.

I would also like to point out that, in my experience, most farmers are conservationists as their land is their biggest single asset which provides their livelihood, so soil health is paramount. Many people in our community claim to be conservationists but farmers actually practise it. They know weed control is best dealt with by improving soil and pasture density. As a final point I would like to endorse extended family farming and living as it encompasses a shared knowledge of skills, history and storytelling. It provides physical and emotional support from childcare to aged care on the family farm and within the family unit.

The CHAIR: I would like to ask you about a point you just made, which is that 56 per cent of submissions from an individual had their names suppressed. You're saying it's your belief that they are afraid of retribution. That is somewhat alarming. Is that retribution from neighbours unhappy with them or from council bureaucrats?

DAMIEN JENKINS: Both.

The CHAIR: What type of retribution could that be?

DAMIEN JENKINS: How recent do you want it? In the past week, the road that we live on, Bakers Road—council, without any discussion with the residents and the farmers on Bakers Road put up a 4.5-tonne truck limit. We spoke to Kimberly, sent her photos and said, "What's going on?" This is the end of our farming life. We grow sugarcane and breed cattle. We can't bring the trucks on to take the harvested cane to the mill because there's a 4.5-tonne limit. We also said we adjoin a rural housing estate. That means all garbage services are going to end as well. I'm not on social media, I'm old fashioned, but I understand Tweed Shire Council have responded—I've not seen it—whereby residents on the road are exempt from these requirements. They argue that part of the reason they've put the load limit on is because of the amount of B-doubles and semitrailers that use the road. I have a heavy vehicle licence, and I can tell you that you couldn't drive a B-double on that road. It's just too narrow and windy. I think people are getting confused with a rigid and a dog, but that's not a B-double.

The Hon. SCOTT FARLOW: Mr Jenkins, are you saying that load limit put in place in retribution of you appearing here today or making a submission?

DAMIEN JENKINS: I'm saying it could be. I can give you many other instances in our DA, but I really encourage you all to get a copy of DA 25/0086 and read the saga that we've been put through. Our town planner said never in his history of town planning has he ever come up with an argument that you've got too much garage space and not enough living space. Our sons, they're outdoor people. They want a gym in their garage, they want a pool table, their vehicle and a caravan, so their living area is small by comparison. They don't need a big living area. We're on 216 acres. That's our backyard.

The Hon. WES FANG: Mr Jenkins, when I read the submission you've just provided us, it is extraordinary. I'm going to ask you this just for clarification. There is no exaggeration in any of the evidence that you've just provided and the statement? This has actually occurred, as you've written it?

DAMIEN JENKINS: It's fact.

The Hon. WES FANG: I think this needs to be referred to the Minister for Local Government and the Minister for Planning. I think what's occurred here, if it is the case, is absolutely extraordinary. What you've said about your road is also extraordinary, that they would all of a sudden whack a 4.5-tonne limit on there without any consultation. Who made that decision?

DAMIEN JENKINS: I asked the same question.

The Hon. WES FANG: And what were you told? You're a resident there. You should be told who made the decision.

DAMIEN JENKINS: We were told nothing, and the argument is semitrailers and B-doubles. Produce a photo of a B-double on the road. You cannot drive a B-double on that road.

The Hon. WES FANG: Was it recommended that your DA be approved by the council staff? Was that the evidence?

DAMIEN JENKINS: It was.

The Hon. WES FANG: Was it voted down by the councillors?

DAMIEN JENKINS: Stage one and stage two were. Stage three was turning sheds into residences and attaching them. The sheds originally were going to be built under SEPP 16, but then we found in totality we had more than 2,000 square metres of roof area because they included our undercover cattle yards, which we didn't realise were part of that maximum roof area. We were then forced to lodge an application to legalise those sheds through the process with Tweed Shire Council. My sons don't need a lot of living space. They've got two children each. One of them is a single parent. They were happy with 120 square metres of living space out of 180. The rest was going to be garage.

The Hon. WES FANG: I see no problem with that. Somebody who likes their cars and likes to work on their cars, and has a caravan and likes to work on their caravan, and likes to work on their other devices, like mowers and the like, it's not unreasonable. This is extraordinary, what you've actually said. Councillor Hone, you moved the motion in relation to second dwellings on properties of 10 hectares or more. Is that correct?

KIMBERLY HONE: Yes.

The Hon. WES FANG: That was passed by the majority of councillors? Is that correct?

KIMBERLY HONE: Yes.

The Hon. WES FANG: Who voted against the motion?

KIMBERLY HONE: The mayor and our Greens councillor.

The Hon. WES FANG: In those circumstances, why was it that council sent the mayor, somebody that voted against the proposal, to represent council at this hearing today?

KIMBERLY HONE: I'm not sure. That baffles me. I did write a letter to the mayor and the staff, reminding them that they are bound by the motion that was carried, to be in defence of that. I was also told that it's standard practice to always send the mayor, which I would argue is not accurate. I think the best person to have represented the community is someone who's been fighting for them and who has successfully moved a carried motion in council.

The Hon. WES FANG: You would have heard the evidence from the mayor today. Is it the case that council has concerns about issues such as protecting prime agricultural land, that having a separated dwelling not under one roof line is going to impact the ability for members to evacuate? Are those the sorts of things that were raised during that motion debate?

KIMBERLY HONE: I've actually never heard the fire claim that was made today. That was a new one for me; I've not heard that issue. I've heard those who have opposed the issue be largely concerned more about what the rural vista will look like when you have an extra home. I think these things can be mitigated anyway. At the moment we have a housing crisis, and I think what a rural vista looks like is not a priority. I've had other really ridiculous arguments in the chamber based around things like secondary detached dwellings will increase roadkill—really silly things.

The Hon. WES FANG: I noticed, when the mayor gave evidence, she made a request of the Committee to look at the ability for councils to charge rates on second dwellings if that was the case. When I asked her about whether that motion had passed, she indicated that it had. But I've had a look at some of the council records, and the amendment that the mayor put up in relation to rates for a second dwelling actually failed. You spoke about amending the ability for council to get community—

KIMBERLY HONE: Contributions, yes.

The Hon. WES FANG: Contributions. The mayor didn't indicate that at all in her submission. Is that part of the reason why you think the mayor wanted to actually appear today, pretending that she was actually supporting what the council had passed but, in effect, pushing her own agenda that she couldn't get passed at council?

KIMBERLY HONE: Possibly. I believe so. Largely, the council organisation have stressed to me their main concern is rates. Rather than just building homes, their concern is rates. I think that's appalling. Yes, you are right that the mayor tried to make an amendment to put rates into my motion. That was not carried; that was lost. And then I sort of created a middle ground where I said we can investigate ways to gain rates or to get community contributions, and that is what was passed.

The Hon. WES FANG: So the mayor provided misleading evidence to this Committee?

The Hon. EMILY SUVAAL: Point of order: This line of questioning is pretty outrageous. The submission from Tweed Shire Council, which I've got in front of me and I'm happy to read out to the member, is a copy-paste of the resolution. Point 4 says:

> Investigate the ability to rate for a second dwelling in order to fund infrastructure requirements generated by the second home.

The Hon. Wes Fang has, I think, misrepresented the witness's evidence from earlier today, and I think it's out of order.

Ms SUE HIGGINSON: To the point of order and the further misrepresentation: It should also be offered to this witness to correct the fact that the mayor's evidence that was given was entirely consistent with the council's position, because there was an implication that for some reason it wasn't, and that's just not what anyone heard. I think that's not very generous.

The CHAIR: But the council's official submission was basically just restating the motion that Councillor Hone had put up, so I think Mr Fang's questions are quite valuable.

Ms SUE HIGGINSON: But, Chair, the point is that this line of questioning started with the mayor coming here and giving evidence which was entirely consistent with the council's position, and to suggest otherwise—

The Hon. WES FANG: Which she voted against.

Ms SUE HIGGINSON: Which she did vote against, but to suggest that she hasn't come here and represented the council's position is actually putting this Committee in not a very good position.

The CHAIR: I heard the mayor. The mayor sounded like she was supportive of the concept. But Councillor Hone moved a motion and only two councillors voted against it, so I rule that Mr Fang's questions are in order.

The Hon. WES FANG: Thank you, Chair. I've got one last question. Mr Jenkins, in relation to your saga, as I think it's probably best described, what options are available to you now? Obviously, you've spent a lot of money. You've had a lot of time dedicated to this matter.

DAMIEN JENKINS: What are our options now? Praying that you guys allow second detached dwellings. We've got 216 acres, one of the eighth biggest properties in the shire. We're allowed one house, and that one house was built in 1936. It was the dairyman's house, and our son lives in it with his two daughters. They each have a bedroom and he sleeps in the loungeroom.

The Hon. WES FANG: The question that I was going to ask you was, under these circumstances—that are clearly ridiculous—has Tweed council provided any avenue at all for you to have this looked at with a little bit of common sense and a little bit of sensibility so that an adequate and reasonable outcome can be achieved for what is not an unreasonable ask?

DAMIEN JENKINS: My son drove that DA, because he is more skilled at that sort of thing than I. My understanding is that we can lodge a further DA down the track—because that was stage three of our DA—and reapply at more cost and more time.

The Hon. WES FANG: It is extraordinary. In the middle of a housing crisis, when the planning Minister and the Premier say that they want to see people in more housing, you've got councils such as this being absolute roadblocks. Mr Jenkins, on behalf the people of New South Wales, I'm sorry that you've had to go through this. I'll pass it over.

The CHAIR: Hear, hear!

The Hon. EMILY SUVAAL: Thank you to you both for appearing today and for your submissions. I want to start with you, Mrs Hone. The examples you gave us at the outset are really concerning examples—to hear about circumstances of those noncompliant dwellings where people are now being asked to move. Are you able to let us know whether they are above 10 hectares or otherwise? Do you know? What I'm trying to understand is would they fall within the proposed reforms that you've got before council?

KIMBERLY HONE: Some of them are; some of them are not. For example, the single father, he's living in a shed. The flooring of that shed is deemed lower than the next possible flood, so he must move out. He's trying to save the money to build a house. Essentially, he's been told to build a house to then build a house, which is ridiculous. That's that one. The elderly couple, they were over 10 hectares if you include all of their agricultural enterprises and horticultural enterprises. I would have to double-check the second property. I believe so, but I'd have to double-check that.

The Hon. EMILY SUVAAL: You also mentioned in your opening statement that, of the rural zoned land, 71 per cent was less than 10 hectares. You also stated the difference between 40 and 10 hectares—what you've got currently compared to what you're proposing as a council—was the difference between a couple of hundred homes and 4,500? I'm just trying to get my understanding correct. Is that right?

KIMBERLY HONE: Yes, so with RU1, 13 per cent are greater than 40 hectares and 6 per cent are less than 10 hectares. With RU2, 10 per cent are greater than 40 hectares and 71 per cent are less than 10 hectares. It's largely showing there the difference between potentially providing a couple of hundred homes to providing potentially thousands.

The Hon. EMILY SUVAAL: A couple of thousand.

KIMBERLY HONE: But it doesn't mean that we're going to have thousands straightaway.

The Hon. EMILY SUVAAL: No, it's just the scales. You gave the example of Ballina as well, which I thought was really interesting. The measures that they have in place—are you able to advise the Committee whether that is a 10 hectares and above scenario, or whether that's less or more?

KIMBERLY HONE: Theirs is the same, but they've got some measures written into their legislation—and this is the argument that I've used with our council. As I've said, all the concerns that you have around visual aspects, land clearing or anything else can be written into the legislation rather than just having a blanket rule against it. Ballina shire has four elements. The first one is that it doesn't hinder on agricultural land. Each dwelling has to have the same vehicular point of access—so the same driveway. I don't necessarily agree with that. It should be in the best place for the land, but that's their rule. Physically suitable for the development—so that may take in land slope. The last one is onsite disposal and management of sewage, to reduce pressure on the council.

The Hon. EMILY SUVAAL: That's for a detached second dwelling?

KIMBERLY HONE: Yes.

The Hon. EMILY SUVAAL: Do they have a minimum land size for theirs, or not?

KIMBERLY HONE: I thought theirs was the same as ours, but I just want to double-check that. I'm confident it's the same, but I'll take that on notice.

The Hon. EMILY SUVAAL: I want to ask you about what you're proposing around recouping rates or community contributions—whatever you want to call it. The community contributions is a novel idea. It's something that hasn't been suggested. Certainly, having a rating mechanism, or at least some sort of a lever for local councils to help with their sustainability, would be worthwhile. I wonder whether or not you or others have given any consideration for how that would get through IPART. I can see that would be necessary. You need to get your rates increases through IPART. Would that be a potential impediment?

KIMBERLY HONE: I think that, similar to the way that a rate is calculated for a residential block, it should be based on the value of the land. Whether you take into consideration that an extra property adds value to that land or not, maybe that makes a change there. But at the end of the day, it should be based on the value of the land. That's all I can really add to that. When you start to go down that sort of route, I think it's up to each individual property. The value of every property changes based on what it's being used for, whether it's prime agricultural or not.

The Hon. EMILY SUVAAL: Mr Jenkins, thank you for your submission as well. Currently, your land is obviously well over the 40 hectares, but you're not looking at getting the rural housing entitlement?

DAMIEN JENKINS: We have—we've picked one up, but the only way we could pick it up is by subdividing the land so we had two parcels greater than 40 hectares. I think we've got about 85 hectares. I talk the old language—216 acres. Forty hectares is 100 acres, so we had 16 spare, I guess. In round numbers, we cut it in half so we had two 106-acre blocks, and that then gave us a second housing entitlement. We then attempted to attach that second housing entitlement to another intended dwelling—attached, not detached. Then we would have had three houses on the property.

The Hon. EMILY SUVAAL: Is it your understanding that the proposed changes that are before Tweed Shire Council at the moment would apply to your property?

DAMIEN JENKINS: Yes, they would. We won't have to go down the path of resubmitting stage three of our DA to try to meet the criteria of an attached dwelling, because we'll have a second detached dwelling, but we might stay with our original plan anyway. But then on the second lot—I'll call it "lot B"—we pick up a second attached dwelling. One son wants to build on that, and if there are any changes, that will be good. We were then contemplating the original 1936 farmhouse either being tuned into farmstay or, at worst, we would have to decommission it. As a family, we've accepted that.

But as for allowing a second detached dwelling, I don't know at what point it'll kick in from a land size point of view. We would certainly need it because we have two, or will have, separate titles of greater than 40 hectares each. The council doesn't like land being cut up. We didn't want to cut it up, but we had no other alternative. Two councillors voted against our DA, and one of them—and you can go and get all the information about our DA—said, "This looks like a housing development to me." Hello? It's 216 acres and one extra house.

The Hon. WES FANG: Who was that?

The Hon. SCOTT FARLOW: It's hardly like a residential subdivision, is it?

DAMIEN JENKINS: That's what has been claimed, and our neighbour even tells people we're doing a 200-lot subdivision.

The Hon. WES FANG: Which councillor was that, Mr Jenkins?

DAMIEN JENKINS: Tweed Shire Council.

The Hon. WES FANG: No, which councillor said it looked like—

DAMIEN JENKINS: Do you want me to name a name?

The Hon. WES FANG: I would, yes.

DAMIEN JENKINS: It was Nola Firth, and Meredith Dennis seconded her. Kimberly wasn't present at that council meeting that our DA was determined. Today I said thanks to Chris Cherry for supporting our DA, but I think she was supporting her planning department because they recommended it.

The Hon. EMILY SUVAAL: Mr Jenkins, if I could just come back to a couple of questions about the situation in front of us. In terms of your land at the moment, have you got primary producer status? Are you farming?

DAMIEN JENKINS: We have—these are round numbers, old language—about 60 acres of sugar cane. We cut just under 3,000 tonnes of sugar cane a year, and we breed cattle there. They're Charbray cows with an Angus bull over them. A weaner heifer is a young female beast; we sell them. But the steers, we have another property at Tenterfield and we take them up there to take them on to full-sized bullocks. Generally our meat is exported, and it's known as Jap ox because of the quality of it. That's sort of a remote farming property. If you're going to breed, you have to be on hand for calving issues and wild dogs et cetera, where bullocks can look after themselves a bit. They only get a once in a 10-day visit from us, and they all come up and say, "What lollies have you got for us?"

The Hon. EMILY SUVAAL: I wondered whether or not you've received any, or at least considered receiving any, advice around whether there would be implications to some of the primary producer benefits. It's a question I asked earlier witnesses today around exemptions from different taxes or the capital gains tax benefits—as in, being exempt from capital gains tax if you sell the property. I wondered whether or not you've received any advice on that and whether that would be impeded at all by putting a second dwelling or otherwise on your property.

Ms SUE HIGGINSON: Or a farmstay.

The Hon. EMILY SUVAAL: Or a farmstay, yes.

DAMIEN JENKINS: I think any form of dwelling on a property adds value to it. The previous mayor was dead against second detached dwellings because she said they'll make the farms unaffordable for everyone. Hello? There's more demand than there is supply; that's what makes the price go up. I was a practising accountant, so I've given myself a lot of advice. There's no denying that we would gain a financial benefit, but we don't have a history of selling anything. Our family accumulate and work the land. I can't remember whenever we've sold a property because we're trying to pass our energies and efforts and success onto our family because we believe in the ethic of hard work, and they all have the same ethic. They love the land. We're trying to do it in an organic and diverse way. We get the mill mud from the—because we're sugar cane growers. You probably know nothing about mill mud, but it's one of the most fertile and productive by-products of crushing sugar cane. It's a very rich fertiliser; it's organic.

We put in a 24/7, regardless-of-weather access, and made a dump so they can dump it 24 hours a day. We have a $40,000 Marshall spreader pulled by a $140,000 tractor that spreads that over our pasture. In seven years, we can see the improvement, not just in our carrying capacity but in the quality of our grass. The best way to control weeds is to improve your pasture. When you grow sugar cane, the drains do silt up over time. We have an excavator. We move the silt, stockpile it and lime it for over a year or two to get rid of the acid sulphates, and then we spread that over what are called the bony or bare patches of our grazing land—again, to enhance its productivity. We're not photographed and appearing because the farm is going backwards, but we need manpower.

Ms SUE HIGGINSON: Mr Jenkins, you were talking about B-doubles. Did you know that so many people in our region think truck and dogs are B-doubles?

DAMIEN JENKINS: Sorry, what?

Ms SUE HIGGINSON: So many people in our region think truck and dogs are B-doubles.

DAMIEN JENKINS: That's the point I'm making.

Ms SUE HIGGINSON: Yes, I know. My hubby does B-doubles and trucks and dogs.

DAMIEN JENKINS: But they're not—nor is a rigid towing a tag trailer.

Ms SUE HIGGINSON: Exactly. That's right. But people do believe they are B-doubles, so forgive those people. It's just that they don't have a licence. They don't drive those vehicles.

DAMIEN JENKINS: I think the people in Tweed shire that wrote the directive on B-doubles don't even know what a B-double is.

The Hon. WES FANG: Which is a bit of a problem, isn't it, Mr Jenkins?

Ms SUE HIGGINSON: I think the point is that people also think truck and dogs are—

DAMIEN JENKINS: B-doubles.

Ms SUE HIGGINSON: No, just that they are big, heavy vehicles and they can be intimidating on small country roads. That's all.

DAMIEN JENKINS: Any truck is.

Ms SUE HIGGINSON: Yes, very much so. Sorry, I had to make that point.

DAMIEN JENKINS: I don't deny that Bakers Road—it was a bullock track. Originally it was put in for the bullocks to get into the town of Murwillumbah because there was no bridge over the Tweed River at Byangum. Even some of the crossings—Four Mile Crossing and Six Mile Crossing—

Ms SUE HIGGINSON: In your perfect world, Mr Jenkins, how many houses would you have on your 216 acres?

DAMIEN JENKINS: We've got three sons—one for each son and their family.

Ms SUE HIGGINSON: And maybe a farmstay of some sort?

DAMIEN JENKINS: That's only a byproduct; it's not an intention. Our family of five—Rhonda and I, and our three boys—are all desirous of living on the property.

Ms SUE HIGGINSON: Do all of your sons have off-farm income? Do they all have other jobs?

DAMIEN JENKINS: One does not, one does and our eldest son has some health issues. He derives a passive income from investments that have been offered to me, and I've sidestepped them and let him pick them up. Because of his health issues—he doesn't want to be dependent on the Government or anything—he has built himself a passive income.

The Hon. SCOTT FARLOW: Ms Hone, we've had a range of people come before us today, from Mr Jenkins on one of the largest blocks within the shire to some with much smaller rural housing desires but in a much more constrained way. For the residents that you're hearing from, what do you think is the sweet spot, so to speak? And picking up a little bit on Ms Higginson's last question as well, as to where the line should be drawn in terms of what you can allow on a rural property, which would meet the needs of the community but also maintain the rural landscape that you desire in the area.

KIMBERLY HONE: At the end of the day, I think if residential properties with a tiny little backyard are allowed to have a second dwelling, why can't larger blocks in our more rural areas? Maybe it comes down to size. If you've got a block that's smaller than five hectares, maybe there's a reduction in the size of the secondary home that you're allowed to have; and then, above that, you can have full scale. But, at the end of the day, I think most people who own a rural block in Tweed, when the land value is as high as it is, want to be able to build a secondary home on that block to help their family. It's largely about family. The argument against Airbnbs and all of that, I very rarely hear. It's about family. It's about mums and dads supporting the next generation, or it's about people my age supporting their mums and dads. At the end of the day, it's the quickest, easiest, cheapest way to build homes. We're reducing the price of a home by $1 million.

The Hon. SCOTT FARLOW: While we've had an increase in terms of construction costs, typically the land value is the most significant impediment when it comes to housing. Mr Jenkins, I pick up in your discussion here before the Committee that $200,000 was spent on the planning process, without the time or labour—

DAMIEN JENKINS: My superannuation.

The Hon. SCOTT FARLOW: Your superannuation. That's just ridiculous to hear your description of what is, in the scheme of things—with no offence meant—a relatively small development, where you have to talk about stages and your third stage of the development. You're literally talking about additional dwellings; we're not talking about a large construction project.

DAMIEN JENKINS: I'll give you one example. A $10,000 cost of the $200,000 was identified because there was a white-bellied sea eagle nest on our property, which we were well aware of and encouraged. In the end, we've had to have it surveyed and certain trees identified and protected for no development around those trees, ever. In Cyclone Alfred, the sea eagles' nest got damaged because of the cyclone, but no-one thought to consider that. The sea eagles then built a new nest on another property on the other side of the river. The only people who can now see it are ourselves, because it's not visible to any residential house in the area, yet they're the ones who put the complaint up. It was $10,000 for a biodiversity report to prove to them the sea eagle nest was no longer inhabited.

The Hon. SCOTT FARLOW: That was going to be my question, Mr Jenkins. So most of that money went to reports and consultants' reports?

DAMIEN JENKINS: Reports, yes. The Rural Fire Service is another one—especially, Sue, if your father is involved with trucks.

Ms SUE HIGGINSON: That's my hubby.

DAMIEN JENKINS: Your husband, sorry. We've put in a 750-metre long concrete driveway that's a minimum of three metres wide, and in most places 3.5 metres wide. To meet the Rural Fire Service requirements, that driveway has to be 4.5 metres wide. If you double that for passing traffic, there's no part of Bakers Road—the road that's just had the load limit put on it—that is nine metres wide. Technically, the Rural Fire Service trucks can't get to our property. They're breaching the 4.5-tonne limit, and then they've got to go down this super highway at 4.5 metres wide. If you can't drive on a three- to 3½-metre wide driveway in a rigid truck, you should hand your licence in.

The CHAIR: Thank you very much for your evidence today. We have found it valuable.

DAMIEN JENKINS: Can I make one last one-liner?

The CHAIR: Please do.

DAMIEN JENKINS: You asked Kimberly about the ultimate aim. I've used this phrase regularly: Our intention within our family unit on that property is to provide child care to aged care on that property within our family unit.

KIMBERLY HONE: Can I just add one last thing in conjunction with that? The more that we separate families and the more that we don't allow families to support one another, the more our people have to rely on the Government. This is a really great way of getting families to support one another so that there's less reliance on the Government.

The CHAIR: Hear, hear! That's a good way to conclude. That wraps up the public hearing today. Thank you very much, everybody.

(The witnesses withdrew.)

The Committee adjourned at 15:35.