

9. Rural Land Strategy

This chapter considers the rural land within the Shire. The rural lands are considered to be a significant part of the Shire and contribute to its productive potential for a wide range of agricultural uses as well as rural housing. The rural lands also make up the scenic rural landscape that is so valued by tourists.

9.1 Rural Land Uses

This section provides a discussion on the following land uses that have been identified in the research and discussions conducted in the formulation of this study as requiring specific management due to particular issues:

- ▶ Agricultural Uses
- ▶ Housing in Rural Areas
- ▶ Rural tourist facilities

A table at the end of this section summarises the uses and gives an indication of how they are to be dealt with in relation to the proposed land use zones.

9.1.1 Agricultural Uses

This section covers the various terms used to describe agriculture and sustainable agriculture. It has been included because it is considered that there is confusion and contradiction in the way that they are used in current rural planning documents.

The term “sustainable agriculture” has many connotations and is linked to the concept of Ecologically Sustainable Development, which embodies the 3 themes of Environment, Economics and Social.

A definition of sustainable agriculture in the ' Strategic Plan for Sustainable Agriculture - Sydney Region' is

“Agriculture that improves the total quality of life, both now and in the future, in a way that maintains the ecological processes on which life depends”

Another definition is provided by the Standing Committee on Agriculture of the Australian Agriculture Council Working Group on Sustainable Agriculture:

“Sustainable Agriculture is the use of farming practices and systems which maintain and enhance the economic viability of agricultural production; the natural resource base; and other ecosystems which are influenced by agricultural activities”

All of these definitions embrace the concepts of environmental and economic issues, but do not consider the social aspects of sustainable agriculture. These include the capacity of agriculture to meet the demands of the population for healthy and fresh food and fibre products, as well as its ability to have a minimal impact on the amenity and peace of mind of community members, thus reducing rural land use conflict.

A land use planning definition for sustainable agriculture, which incorporates the environmental, economic and social aspects of agriculture as a land use is as follows.



Sustainable Agricultural use of land means the use of land for animal boarding or training establishments, cattle feedlots, extensive agriculture, intensive horticulture, intensive livestock keeping establishments, opportunity feedlots or turf farming, which can be maintained and managed so that the land remains:

- environmentally sustainable (that is, environmental pollution and land degradation arising from the use is minimised);*
- socially sustainable (that is, land use conflict and loss of amenity of the surrounding area arising from the use is minimised); and*
- economically sustainable (that is, there is a capability of making a net farm profit from the use).*

Whilst the above definition can not be added to the new LEP, it provides suitable objectives for the RU1 Primary Production zone.

9.1.2 Housing in Rural Areas

Housing in rural areas takes four forms from a planning point of view and these are as follows:

- Dwelling Houses
- Dual Occupancies
- Multiple Occupancies
- Rural Workers accommodation

Dwelling Houses

The LEP does not provide for a dwelling-house on each and every allotment of land in the Shire. In this regard, it is consistent with State planning principles. The intent of the LEP is to provide the potential for the erection of a dwelling-house on land that complies with the criteria set out in Clause 50 (3) of the LEP. In some circumstances there exists justification for some of these allotments to be given a dwelling potential where such dwelling potential does not exist.

Properties identified for dwelling potential as part of Council's Rural Land Audit include:

- Lot 3 DP755541 (Parish of Dingle)
- Lot 3 DP 578284 and Lot 4 DP755542 (Parish of Dudley) - a dwelling-house, following consolidation of those allotments.
- Lot 23 DP755542 (Parish of Dudley)
- Lot 13 DP559561, 104 Gordonville Rd, Gleniffer.

The following properties were identified by the Rural Land Audit however due to the land use zoning the issue of dwelling potential shall be resolved through Amendment No 9 to BLEP 2003.

- Lots 483, 484 & 485 DP755557 (Parish of South Bellingen)
- Lot 139 DP755557
- Lot 130 DP755557
- Lot 80 & 388 DP755557
- Lot 129 DP755557



► Existing Use Rights:

- Lot 2 DP845116, Whisky Creek Rd, Dorriggo
- Lot 117 DP755551, 2660 Waterfall Way, Thora
- Lot 227 DP752830, 206 Lower Bielsdown, Dorriggo
- Lot 1 DP417324, 283 Roses Road, Bellingen
- Lots 24 & 45 DP755543, 1128 Kalang Road, Bellingen
- Lot 136 DP755551, Little North Arm Road, Thora

► Additional Properties

- Lot 6 DP264514, 2239 Waterfall Way, Thora
- Lot 234 DP752830, 26 Darley and Bains Road, North Dorriggo
- Lot 7 DP264514, 2233 Waterfall Way, Thora
- Lot 49 DP752813, 270 Whisky Creek Road, Dorriggo

In addition to those properties listed above Council has received legal advice from its solicitors that a specific amendment should be made to BLEP 2003 to address a number of abnormalities surrounding dwelling potential within the Shire. As such it is proposed that an amendment be made to Clause 50(3) of BLEP 2003 to permit dwellings on land the subject of a building approval for a dwelling, or extensions to a dwelling. An example of the clause may read:

"(u) is land subject to a building approval for a dwelling, or extensions to a dwelling, granted between [insert period]"

► North Dorriggo.

North Dorriggo is a rural centre approximately 10 km north of the town of Dorriggo. It has an existing subdivision pattern with a number of dwellings on the land at present. It is not serviced by a reticulated water or sewer system. Residents are reliant upon water from bores and rain tanks and effluent is disposed of on-site. Concern has been raised regarding the potential impact on bores if the number of dwellings increased. Current guidelines also prohibit the disposal of effluent within 200 metres of a bore. The construction of a reticulated water and sewer system for the village would be expensive and would need to be borne by existing residents. Given the fact that North Dorriggo is over 5 km from the services and facilities within Dorriggo and for the reasons outlined above it is not recommended that a dwelling right be given to each of the lots.

Dual Occupancies

Dual occupancy, in its most traditional form, is the construction of a second dwelling on a property for accommodation of a family member (either aged or young people) and is commonly referred to as a granny flat.

The concept of a dual occupancy is to have the second dwelling as a small addition to the house or be a smaller building and not to be as large as the main dwelling. However this has not occurred and in both urban and rural situations, 2 new dwelling houses (of equal size) can be constructed side by side on a single lot. In an urban context, there has been the ability to subdivide these 2 dual occupancies. This has caused a considerable amount of community unrest where it has been proposed in new urban release



areas where such small lots were not planned. In rural zones, dual occupancies are often required to be attached by use of a garage / carport or breezeway. However the outcome is often one long building whose bulk and scale is not consistent with the rural streetscape character that consists of residential buildings and sheds separated by large spaces.

Provisions exist within the North Coast Regional Environmental Plan for the erection of an attached second dwelling on rural land, only for purposes other than to accommodate rural workers. Such provisions can be incorporated into the new LEP.

Multiple Occupancies

There are 25 approved Rural Land Sharing Communities (multiple occupancies (MO) in the Shire with a total of 193 approved dwelling sites. Since the reintroduction of SEPP 15, Council has received only two applications. The first application involves the addition of two dwelling sites to an already approved MO. The second involves the establishment of a new MO with three dwelling sites. Both applications are pending.

Council officers has received a few enquiries regarding the community title subdivision of existing MOs. Preliminary advice from the DOP has indicated that any such subdivision would require a rezoning of the land. In light of this, Council is not prepared to support community title subdivision where it is inconsistent with the criteria used for determining suitable rural-residential land. The DOP has also advised that Rural Land Sharing Communities remain a significant form of affordable housing on the Mid North Coast and allowing community title subdivision of these lands would mean a significant reduction in the amount of available affordable housing stocks.

If multiple occupancies are to continue in the future then the type of controls and guidelines that are offered by SEPP 15 need to be strictly adhered with to ensure Council is not allowing defacto rural residential development. Development controls like those offered by SEPP 15 ensure that the overriding principles and objectives of MOs are achieved and people have a clear expectation and an understanding of what they are entering into. Furthermore, amendments to Section 94 Contributions Planning offer new opportunities for Council to ensure that MO developments make appropriate contributions to infrastructure etc relative to their impact.

Council has resolved to assess applications for conversion of Multiple Occupancies to Community Title on their merits. Council will investigate other models adopted by other Councils within the region and undertake stakeholder and public consultation on the matter to allow further consideration of the issue.

Rural Workers Accommodation

Rural workers accommodation are additional dwelling houses that are permitted only to house people who are required to work on a property. They are required for mainly intensive forms of agriculture or large extensive agricultural holdings which need more than one family to operate them.

They have become defacto dual occupancies in some areas where the use has changed so that there is no longer a need for the employment of a worker on the land. They have also been a reason given for subdivision of rural land. The option exists to abolish them completely as they are not considered necessary in the current context where settlements are close by and farm workers have access to transportation. This is considered to be the appropriate course of action.



9.1.3 Rural Tourism

Farmgate Sales

Farmgate sales or roadside stalls occur throughout the rural lands and are defined in the LEP as follows:

roadside stall means a building or place not exceeding 20 square metres in floor space or area, respectively, where only primary products produced on the property on which the building or place is situated are exposed or offered for sale or sold by retail.

They are generally permitted in rural zones. They have the potential to cause traffic hazards if they are located too close to the road and if there is not sufficient area for the cars to pull off the road completely. There is a need therefore to provide some guidelines for them.

Rural Tourist Development

It is recognised that rural tourism can provide a boost to the economic development in the rural area. There is a need therefore to encourage it by ensuring that the planning controls have sufficient flexibility in them.

The current provisions in the Bellingen LEP for tourist related developments are ambiguous and contradictory. The source of the problem is the definition of the term 'tourist facility' which is defined as follows:

"tourist facility means an establishment providing for holiday accommodation or recreation and may include a boatshed, boat landing facilities, camping ground, caravan park, holiday cabins, hotel, houseboat, marina, motel, playground, refreshment room, water sport facilities or a club used in conjunction with any such activities, but does not include a total destination resort".

It can be seen that this includes a number of other uses which are separately defined in the LEP. Of note are the terms 'camping ground', 'caravan park', 'hotel', 'motel' and refreshment room (restaurant). Total destination resorts are defined separately and do not conflict with these uses.

Each of the zones treats these differently and in a contradictory manner. All permit tourist facilities with development consent but prohibit some of the component parts of them. This is shown in Table 9-1.

Table 9-1 Treatment of Tourist Facility in each zone

Zone	Prohibitions
1(a1) Agricultural Protection	Motels and Refreshment Rooms
1(a2) Secondary Agriculture	Hotels
1(c1) Rural Residential	Tourist facilities
1(c2) Small Holdings	All permitted
1(c3) Rural Settlement	All permitted
2(a) Residential	Hotels
2 (b) Village	All permitted
7(s) Special Emphasis	All except tourist facilities

Source: Bellingen LEP 2003

It can be seen that in each of these zones, although the specific uses are prohibited by themselves, they are permitted as a tourist facility. Case law interprets such a situation as permitting the use where there is an ambiguity in the zoning table where a use is prohibited under one definition and permitted under another. So it can be seen that the prohibitions in certain zones are in fact ineffective. These contradictions can be remedied as part of the new LEP in line with the Standard LEP template.

The adoption of the term 'tourist accommodation' will enable the matter to be simplified. It can cover such activities as cabins, farmstays and ecotourism facilities that are currently being provided in the rural areas. It also deals with the issue of the length of stay.

9.2 Rural Lot Sizes

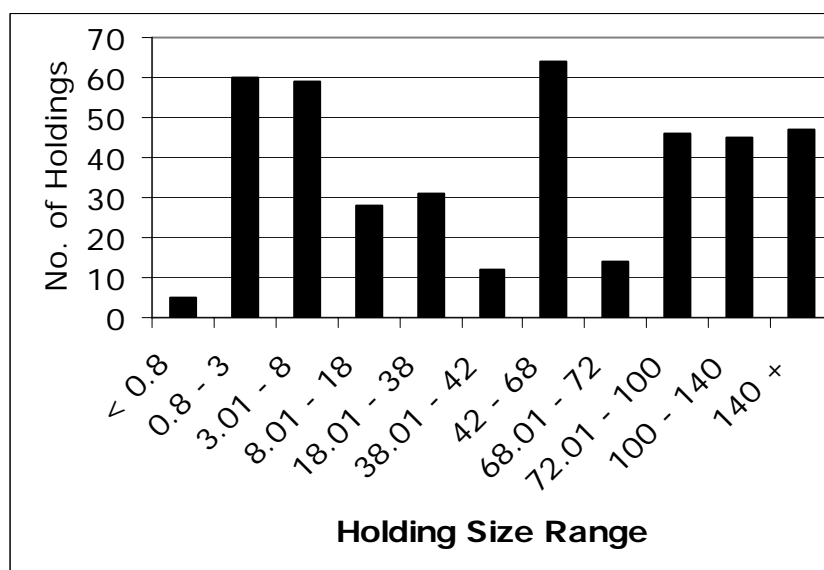
During the community consultation there was a desire to see the minimum lot size reduced from 70 ha to 40 ha on the Dorrigo Plateau. The reasons given were that it is not very productive land and it therefore can sustain more subdivision. It should be noted that the issue of subdivision minimums is related to two components. The first is the capability of the land to sustain the smaller holding size and the other is the provision of services to the area, which is usually provided in an adjoining town or village.

There are a number of issues that have to be taken into consideration when considering the most appropriate subdivision minimum for the proposed rural landscape designation. They are as follows:

- ▶ Current fragmentation and holding pattern
- ▶ Potential to increase the fragmentation
- ▶ Number of potential subdivisions at the current minimum
- ▶ Impact on the ability to provide services and facilities
- ▶ The impact on the ability to do boundary adjustments

Figure 9-1 shows the number of holdings in each range of holding sizes. This illustrates the existing fragmentation of the rural land on the plateau. It can be seen that there are a large number of holdings less than 18 ha and in the 42 to 68 range. It is also significant to note the numbers greater than 72 ha.

Figure 9-1 Existing holding pattern on Dorrigo Plateau



The first matter to consider is whether the current minimum is adequate and whether it should be decreased or increased. The best way to gain an indication of this is to analyse the current holding pattern and assess the number of potential lots that could be created if all current holdings were subdivided to the existing minimum in the LEP, which for the current Rural zone on the plateau is 70 ha. A range of holding sizes below this is then also analysed. The results for this can be seen in Figure 9-2. It can be seen that at the current subdivision minimum there are still 151 lots that can be created. If the minimum is lowered to 40 and 20 ha the additional lots are 443 and 1207 respectively. The analysis can also provide the average holding size of the area which is currently 68 ha whilst the median is 44 ha. This suggests that there are a number of holdings that are less than the minimum of 70 ha already.

There are a number of options associated with the rural lot sizes. They are discussed below:

- ▮ *Decrease the minimum lot size.* Decreasing the minimum lot size will allow for a larger number of lots to be created. This can have an impact on the amount of traffic (each rural lot generates between 6 to 8 vehicle trips per day for the average family), pressure to seal unsealed roads, potential increase in pollution in surrounding streams, potential loss of vegetation and habitat and extra demand on the services and facilities provided by the Council.
- ▮ *Increase the minimum lot size.* This will stop any further subdivision occurring and depending on the new minimum, can allow for some subdivision.
- ▮ *No change in the minimum lot size.* This will keep the environmental attributes as they are and will not create any more lots than are permitted at present.
- ▮ *Variable minimum lot sizes across the LGA.* This is an option that can allow various parts of the LGA to have some more subdivision. It needs to be assessed in relation to the potential environmental, social and economic costs and benefits to ensure that it does not create problems for future generations.

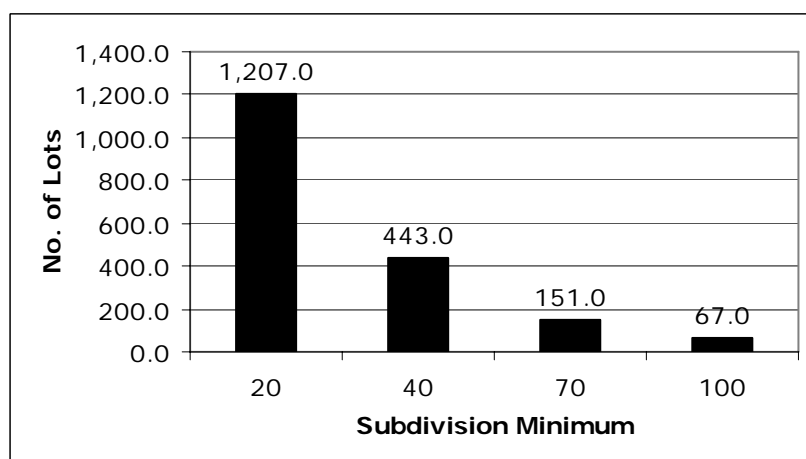


Figure 9-2 Rural subdivision scenarios on Dorrig Plateau

Having regard to the above discussion and the potential additional lots that would result from a reduction in the lot size as well as the current oversupply of suitable land in Dorrig, it is not considered that there is any need to reduce the minimum subdivision size on the plateau.