



Planning Proposal

to Permit Dual Occupancy (detached) with Consent in the RU2 Rural Landscape Zone

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Prepared by:

GREAT LAKES COUNCIL

**Breese Parade
Forster NSW 2428**

T: +61 (2) 6591 7222

F: +61 (2) 6591 7200

E: council@greatlakes.nsw.gov.au

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Attachments

ATTACHMENT A: Rural Dwellings Issues Paper, 17/09/2015

1. Background

At the Great Lakes Strategic Committee meeting of 10 November 2015, Council discussed the need to amend Great Lakes Local Environmental Plan 2014, and resolved as follows:

- "A: In accordance with Section 55 of the Environmental Planning and Assessment Act, 1979 Council resolve to prepare a Planning Proposal to permit dual occupancy (detached) as permitted with consent in the RU2 Rural Landscape zone based on the provisions set out in the report."*
- B: Once prepared, the planning proposal be submitted to the NSW Minister for Planning and Environment for a Gateway Determination.*

This Planning Proposal provides justification to:

- (i) amend Great Lakes Local Environmental Plan 2014 to permit dual occupancy (detached) with consent in the RU2 Rural Landscape zone; and
- (ii) insert new local provisions that provide objectives for the dual occupancy (detached) and secondary dwellings as well as siting and design criteria that Council will consider in determining an application for these types of development.

Property Details

It is intended that the Planning Proposal will apply to all land zoned RU2 Rural Landscape under Great Lakes LEP 2014.

2. Part 1 – Objectives and Intended Outcomes

The planning proposal will:

- Permit dual occupancy (detached) dwellings in the RU2 zone with Council consent; and
- Set out consent considerations for development of detached dual occupancies and secondary dwellings in the RU2 zone to address matters such as access, siting, land suitability and potential impacts.

This will provide for an additional form of rural housing for rural land owners that when correctly implemented should have limited negative impacts on agriculture and other rural land uses.

Part 2 – Explanation of Provisions

The proposed outcome will be achieved by amendments to Great Lakes LEP 2014 as follows:

- Amend the land use table to the RU2 Rural Landscape zone to delete the word “(attached)” following “dual occupancies”. This has the effect of permitting both attached and detached dual occupancy development with consent in the RU2 zone.
- Amend Clause 4.2A to add the words “or dual occupancy” immediately after dwelling house, wherever it occurs. This has the effect of permitting both attached and detached dual occupancy development on RU2 land wherever you can currently undertake a dwelling house.
- Including a new local provision that provides objectives for the land use as well as siting and design criteria that Council will consider in determining an application for a detached dual occupancy and secondary dwellings. A recommended draft local provision is set out below:

4.2B Erection of dual occupancies (detached) in Zone RU2

- (1) *The objectives of this clause are as follows:*
 - (a) *to provide alternative accommodation for rural families and workers,*
 - (b) *to ensure that development is of a scale and nature that is compatible with the primary production potential, rural character and environmental capabilities of the land,*
 - (c) *to set out consent considerations for development of dual occupancies (detached) and secondary dwellings to address matters such as access, siting, land suitability and potential impacts.*
- (2) *Development consent must not be granted to development for the purpose of a dual occupancy (detached) or secondary dwelling that is separate from the principle dwelling on land in Zone RU2 Rural Landscape unless the consent authority is satisfied that:*
 - (a) *the development will not impair the use of the land (or adjacent land) for agriculture or rural industries, and*
 - (b) *each dwelling will use the same vehicular access to and from a public road, and*
 - (c) *any dwellings will be situated within 100 metres of each other, and*
 - (d) *the land is physically suitable for the development, and*
 - (e) *the land is capable of accommodating the on-site disposal and management of sewage for the development, and*
 - (f) *the development will not have an adverse impact on the scenic amenity or character of the rural environment.*

This provision provides some guidance on what must be addressed in an application for a detached dual occupancy development.

One of the key aspects of the proposed clause is the 100m distance between the two dwellings. Specifying a distance will ensure the dwellings are clustered, which will assist in minimising land use conflict and reduce impact on the rural landscape and character. The 100 metre standard provides more opportunity for privacy between dwellings and variations in the topography of rural properties. It is a useful starting point for consideration of detached dual occupancy and, as it would be a development standard, can be varied under clause 4.6 of the LEP where the applicant demonstrates that the variation is warranted.

Provisions

1 Name of plan

The plan will be cited as Great Lakes Local Environmental Plan 2014 (Amendment No. <<insert>>).

2 Aims of the plan

The plan aims to amend Great Lakes Local Environmental Plan 2014 to zone the land to which this plan applies as follows:

i. Amend the land use table to the RU2 Rural Landscape zone to permit detached dual occupancy development with consent in the RU2 zone

ii. Amend Clause 4.2A to add the words "or dual occupancy" immediately after dwelling house, wherever it occurs.

iii. Including a new local provision that provides objectives for the land use as well as siting and design criteria that Council will consider in determining an application for a detached dual occupancy development and secondary dwellings.

3 Land to which this plan applies

This plan applies to all land in the RU2 Rural Landscape zone of Great Lakes Local Environmental Plan 2014.

3. Part 3 – Justification

Section A – Need for the Planning Proposal

Is the planning proposal a result of any strategic study or report?

Great Lakes Rural Living Strategy 2004 is the relevant land use planning document adopted by Council to guide local rural land use. It is open to the concept that dual occupancies could be detached but states (page 67), "decisions must be made about how to regulate their form (attached or detached), size, design, location and environmental impacts to ensure that the desired rural character is maintained."

Questions at a recent Council meeting lead to staff organising a workshop on 6 October 2015 to discuss rural dwelling issues and rural workers' accommodation options in the Great Lakes LEP. A Rural Dwellings Issues Paper (Attachment A) was prepared to focus discussion at the workshop. This clearly outlines the reasons why Council supports the amendment to LEP 2014 to allow dual occupancy (detached) with consent in the RU2 Rural Landscape zone. The resolution to prepare the Planning Proposal followed.

Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

A Planning Proposal is considered to be the only way to change the land use table and local provisions for the RU2 zone.

Section B – Relationship to Strategic Planning Framework

Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (in this case the Mid North Coast Regional Strategy)?

The Planning Proposal is largely consistent with the outcomes and actions contained within the Mid North Coast Regional Strategy (MNCRS). In particular, the actions related to Settlement and Housing and Environment and Natural Resources. The proposal specifically responds to the following actions:

- Councils will plan for a range of housing types of appropriate densities, location and suitability that are capable of adapting and responding to the ageing of the population.
- Local government will consider a range of affordable housing strategies, including forms of low cost housing.
- Local environmental plans will include provisions to limit dwellings in the rural and environmental zones.

Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?

Great Lakes 2030 has four key directions. The Planning Proposal is consistent with Key Direction 1 in that it will "ensure that development is sensitive to our natural environment" through the local provisions and the accompanying DCP clauses. It is consistent with Key Direction 3 in that it will "plan for sustainable growth and development". It is consistent with Key Direction 4 in that it will "represent the community's interests through regional leadership".

The opportunity to make farm succession easier for retiring farmers is consistent with housing recommendations of the *Great Lakes Active Ageing Strategy*.

Great Lakes Rural Living Strategy 2004 is the relevant land use planning document adopted by Council to guide local rural land use. It is open to the concept that dual occupancies could be detached but states (page 67), "decisions must be made about how to regulate their form (attached or detached), size, design, location and environmental impacts to ensure that the desired rural character is maintained."

Is the planning proposal consistent with applicable state environmental planning policies?

The State Environmental Planning Policies (SEPPs) relevant to the Planning Proposal are identified in Table 1 and discussed in the following section.

Table 1: Consistency with SEPPs

Relevant SEPP	Requirement	Consistency
<i>SEPP No. 55 – Remediation of Land</i>	Introduces state-wide planning controls for the remediation of contaminated land. If the land is unsuitable, remediation must take place before the land is developed. Clause 6 of the SEPP requires consideration of contamination in any change of use that may permit residential use.	Consistent. In this case no land is actually being rezoned and the detached dual occupancy will only be permissible where a dwelling is already permitted on the land. Because the Planning Proposal is not significantly increasing the range of sensitive land uses on the site and past land use will still be addressed in any development application, it is consistent with the SEPP.
<i>SEPP No. 62 – Sustainable Aquaculture</i>	Requires a consent authority to consider whether, because of its nature and location, development may have an adverse effect on oyster aquaculture development or a priority oyster aquaculture area. Refer that development to DPI if an adverse effect is likely.	Consistent. Any application arising from this Planning Proposal will only be approved if it is consistent with the matters in Part 3A of SEPP 62.
<i>SEPP (Mining, Petroleum Production and Extractive Industries) 2007</i>	Introduces state wide planning controls to enable mining and extractive industries on rural and other land.	Consistent. Nothing in this Planning Proposal will alter the permissibility of mining or extractive industries on the subject land. The Planning Proposal is consistent with the SEPP.
<i>SEPP (Rural Lands) 2008</i>	Identifies rural planning principles (clause 7) that must be taken into account when a Council prepares a Planning Proposal. These are brought into effect	Consistent. The Planning Proposal is consistent with the rural planning principles and any application arising from this Planning Proposal will only be approved if it is consistent with the matters in clause 10.

Relevant SEPP	Requirement	Consistency
	through a s117 Direction. The SEPP also identifies matters to be considered in determining development applications for rural subdivision and rural dwellings (clause 10).	On balance, it is consistent with the SEPP.

Is the planning proposal consistent with applicable Ministerial Directions (s117 Directions)?

Consistency with the relevant s117 Directions is assessed in the following Table 2.

Table 2: Consistency with s117 Directions

s117 Direction	Application	Relevance to this planning proposal	Consistency with direction
1. Employment and Resources			
1.1 Business and Industrial Zones	Applies when a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed business or industrial zone (including the alteration of any existing business or industrial zone boundary).	This Planning Proposal will not affect business or industrial zones.	N/A
1.2 Rural Zones	Applies when a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed rural zone (including the alteration of any existing rural zone boundary). Under this direction a planning proposal must: (a) not rezone land from a rural zone to a residential, business, industrial, village or tourist zone. (b) not contain provisions that will increase the permissible density of land within a rural zone (other than land within an existing town or village).	This Planning Proposal will not alter the zone of any rural land. Attached dual occupancy (and secondary dwellings) are already permitted in the RU2 zone. Permitting detached dual occupancy will allow the additional dwelling to be located away from the primary dwelling on the land. This will be more attractive for land owners but will not actually increase the permitted density.	Consistent.
1.3 Mining, Petroleum Production and Extractive Industries	Applies when a relevant planning authority prepares a planning proposal that would have the effect of: (a) prohibiting the mining of coal or other minerals, production of petroleum, or winning or obtaining of extractive materials, or (b) restricting the potential development of resources of coal, other minerals, petroleum or extractive materials which are of State or regional significance by permitting a land use that is likely to be incompatible with such development.	Nothing in this Planning Proposal will prohibit or restrict exploration or mining.	N/A
1.4 Oyster Aquaculture	Applies when a relevant planning authority prepares any planning proposal that proposes a change in land use which could result in:	Priority Oyster Aquaculture Areas are mapped and include areas located within Wallis Lake and Port	Consistent.

s117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	(a) adverse impacts on a Priority Oyster Aquaculture Area or a "current oyster aquaculture lease in the national parks estate", or (b) incompatible use of land between oyster aquaculture in a Priority Oyster Aquaculture Area or a "current oyster aquaculture lease in the national parks estate" and other land uses. The objectives of this direction are to ensure Priority Oyster Aquaculture Areas and other aquaculture areas are adequately considered by planning proposals.	Stephens. However there is minimal likelihood the Planning Proposal will have adverse impacts on POAA as an environmental assessment will be required on a case by case basis.	
1.5 Rural Lands	Applies when: (a) a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed rural or environment protection zone (including the alteration of any existing rural or environment protection zone boundary), or (b) a relevant planning authority prepares a planning proposal that changes the existing minimum lot size on land within a rural or environment protection zone. A planning proposal to which clauses (a) and (b) apply must be consistent with the Rural Planning Principles listed in <i>State Environmental Planning Policy (Rural Lands) 2008</i>. A planning proposal to which clause (b) applies must be consistent with the Rural Subdivision Principles listed in <i>State Environmental Planning Policy (Rural Lands) 2008</i>.	This Planning Proposal will affect land zoned RU2. It is consistent with the Rural Planning Principles listed in <i>State Environmental Planning Policy (Rural Lands) 2008</i> as follows: (a) <i>the promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas</i> – the proposed amendment is not intended to undermine or create conflict with agriculture or other rural land uses. Applications will be required to address this as it will be a head of consideration in the LEP clause. The planning proposal will also support economic farming activities by providing for another type of housing for workers and family members who are engaged in farm activities. (b) <i>recognition of the importance of rural lands and agriculture and the changing nature of agriculture and of trends, demands and issues in agriculture in the area, region or State</i> – the need for detached dual occupancy is in response to the changing nature of	Consistent.

s117 Direction	Application	Relevance to this planning proposal	Consistency with direction
		agriculture in Great Lakes LGA including the need for part-time labour and additional income to keep the farm viable. (c) <i>recognition of the significance of rural land uses to the State and rural communities, including the social and economic benefits of rural land use and development</i> – Great Lakes LGA supports the sustainable farming program and understands the benefits of maintaining rural land uses. The proper application of detached dual occupancy will not undermine this. (d) <i>in planning for rural lands, to balance the social, economic and environmental interests of the community</i> – the nature of rural land use is changing and the socio-economic interests of the Great Lakes LGA community will be best served by permitting this form of rural housing for the reasons set out in the Issues Paper in Attachment A. (e) <i>the identification and protection of natural resources, having regard to maintaining biodiversity, the protection of native vegetation, the importance of water resources and avoiding constrained land</i> – the LEP amendment will require consideration of the physical environment in which the development will be located as well as its visual impact. (f) <i>the provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities</i> – detached dual occupancy will allow additional rural residents to contribute to the rural communities and to provide an alternate form accommodation for families and labour associated with agricultural activities of Great Lakes LGA. (g) <i>the consideration of impacts on services and</i>	

s117 Direction	Application	Relevance to this planning proposal	Consistency with direction
		<i>infrastructure and appropriate location when providing for rural housing</i> – on-site sewage management will be a key matter in assessing applications and will influence the location of the development. A shared driveway will reduce impacts on public roads. Keeping the dwellings close (within 100 m) should allow sharing of electricity and telephone connections as well. There will be no significant increase on other rural services and infrastructure. (h) <i>ensuring consistency with any applicable regional strategy of the Department of Planning or any applicable local strategy endorsed by the Director-General</i> – the Mid North Coast Regional Strategy applies to Great Lakes LGA and this Planning Proposal is consistent with it, particularly in relation to providing for a range of housing types including affordable housing.	
2 Environment and Heritage			
2.1 Environment Protection Zones	A planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas. A planning proposal that applies to land within an environment protection zone or land otherwise identified for environment protection purposes in a LEP must not reduce the environmental protection standards that apply to the land (including by modifying development standards that apply to the land). This requirement does not apply to a change to a development standard for minimum lot size for a dwelling in accordance with clause (5) of Direction 1.5 “Rural Lands”.	The Planning Proposal does not alter or remove any environment protection zone.	Consistent.
2.2 Coastal Protection	This Direction applies when a relevant planning authority prepares a planning proposal that applies to land in the coastal zone. A planning proposal must include provisions that give effect to	Some of the RU2 land affected by this Planning Proposal is located within the coastal zone, which affects the eastern parts of Great Lakes LGA. It is consistent with the NSW Coastal Policy as there is	Consistent.

s117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	and are consistent with: (a) the NSW Coastal Policy: A Sustainable Future for the New South Wales Coast 1997, (b) the Coastal Design Guidelines 2003, (c) the manual relating to the management of the coastline for the purposes of section 733 of the <i>Local Government Act 1993</i> (the NSW Coastline Management Manual 1990).	minimal likelihood of physical impact on the environment and it will require an assessment of the visual impact on a case by case basis. If any RU2 land affected by coastal erosion issues is the subject of an application for detached dual occupancy then Council will consider the management of the coastline in assessing that application.	
2.3 Heritage Conservation	A planning proposal must contain provisions that facilitate the conservation of: (a) items, places, buildings, works, relics, moveable objects or precincts of environmental heritage significance to an area, in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item, area, object or place, identified in a study of the environmental heritage of the area, (b) Aboriginal objects or Aboriginal places that are protected under the <i>National Parks and Wildlife Act 1974</i>, and (c) Aboriginal areas, Aboriginal objects, Aboriginal places or landscapes identified by an Aboriginal heritage survey prepared by or on behalf of an Aboriginal Land Council, Aboriginal body or public authority and provided to the relevant planning authority, which identifies the area, object, place or landscape as being of heritage significance to Aboriginal culture and people.	Great Lakes LEP 2014 currently contains provisions that are consistent with this Direction. This Planning Proposal will not alter those provisions and they will apply to any future applications for detached dual occupancy.	N/A

s117 Direction	Application	Relevance to this planning proposal	Consistency with direction
2.4 Recreation Vehicle Areas	A planning proposal must not enable land to be developed for the purpose of a recreation vehicle area (within the meaning of the <i>Recreation Vehicles Act 1983</i>): (a) where the land is within an environment protection zone, (b) where the land comprises a beach or a dune adjacent to or adjoining a beach, (c) where the land is not within an area or zone referred to in paragraphs (4)(a) or (4)(b) unless the relevant planning authority has taken into consideration: (i) the provisions of the guidelines entitled <i>Guidelines for Selection, Establishment and Maintenance of Recreation Vehicle Areas, Soil Conservation Service of New South Wales, September 1985</i>, and (ii) the provisions of the guidelines entitled <i>Recreation Vehicles Act, 1983, Guidelines for Selection, Design, and Operation of Recreation Vehicle Areas, State Pollution Control Commission, September 1985</i>.	The Planning Proposal does not enable land to be developed for the purpose of a recreation vehicle area.	N/A
3. Housing, Infrastructure and Urban Development			
3.1 Residential Zones	This direction applies when a relevant planning authority prepares a planning proposal that will affect land within: (a) an existing or proposed residential zone (including the alteration of any existing residential zone boundary), (b) any other zone in which significant residential development is permitted or proposed to be permitted. A planning proposal must include provisions that encourage the provision of housing that will: (a) broaden the choice of building types and locations available in the housing market, and (b) make more efficient use of existing infrastructure and services, and	The Planning Proposal does not affect residential zoned land or a zone that permits significant residential uses.	N/A

s117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	(c) reduce the consumption of land for housing and associated urban development on the urban fringe, and (d) be of good design. A planning proposal must, in relation to land to which this direction applies: (a) contain a requirement that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it), and (b) not contain provisions which will reduce the permissible residential density of land.		
3.2 Caravan Parks and Manufactured Home Estates	Applies when a relevant planning authority prepares a planning proposal. In identifying suitable zones, locations and provisions for caravan parks in a planning proposal, the relevant planning authority must: (a) retain provisions that permit development for the purposes of a caravan park to be carried out on land, and (b) retain the zonings of existing caravan parks, or in the case of a new principal LEP, zone the land in accordance with an appropriate zone under the Standard Instrument (Local Environmental Plans) Order 2006 that would facilitate the retention of the existing caravan park. In identifying suitable zones, locations and provisions for manufactured home estates (MHEs) in a planning proposal, the relevant planning authority must: (a) take into account the categories of land set out in Schedule 2 of SEPP 36 as to where MHEs should not be located, (b) take into account the principles listed in clause 9 of SEPP 36 (which relevant planning authorities are required to consider when assessing and determining the development and	This Planning Proposal does not seek development for the purposes of a caravan park or manufactured homes estate, nor does it impact upon any land that does permit development for the purposes of a caravan park or manufactured homes estate.	N/A

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	subdivision proposals), and (c) include provisions that the subdivision of MHEs by long term lease of up to 20 years or under the <i>Community Land Development Act 1989</i> be permissible with consent.		
3.3 Home Occupations	Planning proposals must permit home occupations to be carried out in dwelling-houses without the need for development consent.	This Planning Proposal does not alter home occupation provisions in Great Lakes LEP 2014.	N/A
3.4 Integrating Land Use and Transport	Applies when a relevant planning authority prepares a planning proposal that will create, alter or remove a zone or a provision relating to urban land, including land zoned for residential, business, industrial, village or tourist purposes. A planning proposal must locate zones for urban purposes and include provisions that give effect to and are consistent with the aims, objectives and principles of: (a) <i>Improving Transport Choice – Guidelines for planning and development</i> (DUAP 2001), and (b) <i>The Right Place for Business and Services – Planning Policy</i> (DUAP 2001).	The Planning Proposal does not affect urban land.	N/A
3.5 Development Near Licensed Aerodrome	Applies when a relevant planning authority prepares a planning proposal that will create, alter or remove a zone or a provision relating to land in the vicinity of a licensed aerodrome. The main requirements of the Direction are that Council takes into consideration the Obstacle Limitation Surface (OLS) as defined by that Department of the Commonwealth for residential purposes, and does not increase residential densities in areas where the ANEF, as from time to time advised by that Department of the Commonwealth, exceeds 25.	There are no licensed aerodromes in Great Lakes LGA. The grass airstrip on Wallis Island is a limited use private strip that does not have OLS or ANEF mapping.	N/A

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4. Hazard and Risk			
4.1 Acid Sulfate Soils	Applies when a relevant planning authority prepares a planning proposal that will apply to land having a probability of containing acid sulfate soils as shown on the Acid Sulfate Soils Planning Maps. A council shall not prepare a draft LEP that proposes an intensification of land uses on land identified as having a probability of containing acid sulfate soils on the Acid Sulfate Soils Planning Maps unless the council has considered an acid sulfate soils study assessing the appropriateness of the change of land use given the presence of acid sulfate soils.	There are significant areas of RU2 land in Great Lakes LGA that are affected by acid sulfate soils. The Planning Proposal will not lead to intensification of land uses proposed on land identified on the Acid Sulfate Soils Planning Maps. Council will consider acid sulfate soils if it receives an application in these locations in accordance with cl 7.1 of Great Lakes LEP 2014.	Consistent.
4.2 Mine Subsidence and Unstable Land	Applies when a relevant planning authority prepares a planning proposal that permits development on land that: (a) is within a mine subsidence district, or (b) has been identified as unstable in a study, strategy or other assessment undertaken: (i) by or on behalf of the relevant planning authority, or (ii) by or on behalf of a public authority and provided to the relevant planning authority.	This Planning Proposal does not impact on any mine subsidence area.	N/A
4.3 Flood Prone Land	Applies when a relevant planning authority prepares a planning proposal that creates, removes or alters a zone or a provision that affects flood prone land. A planning proposal must include provisions that give effect to and are consistent with the NSW Flood Prone Land Policy and the principles of the <i>Floodplain Development Manual 2005</i> (including the <i>Guideline on Development Controls on Low Flood Risk Areas</i>). A planning proposal must not rezone land within the flood	The Planning Proposal will not rezone any land. Great Lakes LEP 2014 already contains a flood planning clause that would apply to detached dual occupancy if they were proposed on land that is flood prone. Given that attached dual occupancy is already permitted in the RU2 zone, the Planning Proposal will not permit significant development on flood prone land (beyond that already permitted).	Consistent.

s117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	planning areas from Special Use, Special Purpose, Recreation, Rural or Environment Protection Zones to a Residential, Business, Industrial, Special Use or Special Purpose Zone. A planning proposal must not contain provisions that apply to the flood planning areas which: (a) permit development in floodway areas, (b) permit development that will result in significant flood impacts to other properties, (c) permit a significant increase in the development of that land, (d) are likely to result in a substantially increased requirement for government spending on flood mitigation measures, infrastructure or services, or (e) permit development to be carried out without development consent except for the purposes of agriculture (not including dams, drainage canals, levees, buildings or structures in floodways or high hazard areas), roads or exempt development. A planning proposal must not impose flood related development controls above the residential flood planning level for residential development on land, unless a relevant planning authority provides adequate justification for those controls to the satisfaction of the Director-General (or an officer of the Department nominated by the Director-General). For the purposes of a planning proposal, a relevant planning authority must not determine a flood planning level that is inconsistent with the <i>Floodplain Development Manual 2005</i> (including the <i>Guideline on Development Controls on Low Flood Risk Areas</i>) unless a relevant planning authority provides adequate justification for the proposed departure from that Manual to the	Detached dual occupancy will require Council consent. Inclusion of it in Great Lakes LEP 2014 as a permitted use in the RU2 zone is consistent with the <i>Floodplain Development Manual 2005</i>, and there is unlikely to be a net increase in demand for flood rescue services for sites where it is approved.	

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	satisfaction of the Director-General (or an officer of the Department nominated by the Director-General).		
4.4 Planning for Bushfire Protection	Applies when a relevant planning authority prepares a planning proposal that will affect, or is in proximity to land mapped as bushfire prone land. In the preparation of a planning proposal the relevant planning authority must consult with the Commissioner of the NSW Rural Fire Service following receipt of a gateway determination under section 56 of the Act, and prior to undertaking community consultation in satisfaction of section 57 of the Act, and take into account any comments so made. A planning proposal must: (a) have regard to <i>Planning for Bushfire Protection 2006</i>, (b) introduce controls that avoid placing inappropriate developments in hazardous areas, and (c) ensure that bushfire hazard reduction is not prohibited within the APZ. A planning proposal must, where development is proposed, comply with the following provisions, as appropriate: (a) provide an Asset Protection Zone (APZ) incorporating at a minimum: (i) an Inner Protection Area bounded by a perimeter road or reserve which circumscribes the hazard side of the land intended for development and has a building line consistent with the incorporation of an APZ, within the property, and (ii) an Outer Protection Area managed for hazard reduction and located on the bushland side of the perimeter road, (b) for infill development (that is development within an already	Large parts of the land zoned RU2 in Great Lakes LGA are identified as bushfire prone land. This will be a consideration in any application for a detached dual occupancy. Consultation with the Commissioner of the NSW Rural Fire Service following receipt of a Gateway Determination under section 56 of the Act will take place when the Gateway Determination has been received. Given the precedent set by other NSW Councils, it is assumed that any concerns RFS may have can be addressed.	Consistent.

s117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	subdivided area), where an appropriate APZ cannot be achieved, provide for an appropriate performance standard, in consultation with the NSW Rural Fire Service. If the provisions of the planning proposal permit Special Fire Protection Purposes (as defined under section 100B of the <i>Rural Fires Act 1997</i>), the APZ provisions must be complied with, (c) contain provisions for two-way access roads which link to perimeter roads and/or to fire trail networks, (d) contain provisions for adequate water supply for fire fighting purposes, (e) minimise the perimeter of the area of land interfacing the hazard which may be developed, (f) introduce controls on the placement of combustibile materials in the Inner Protection Area.		
5. Regional Planning			
5.1 Implementation of Regional Strategies	Planning proposals must be consistent with a regional strategy released by the Minister for Planning.	The Planning Proposal is largely consistent with the outcomes and actions contained within the Mid North Coast Regional Strategy (MNCRS). In particular, the actions related to Settlement and Housing and Environment and Natural Resources. The Planning Proposal specifically responds to the following actions: <i>Councils will plan for a range of housing types of appropriate densities, location and suitability that are capable of adapting and responding to the ageing of the population.</i> <i>Local government will consider a range of affordable housing strategies, including forms of low cost housing.</i> <i>Local environmental plans will:</i>	Consistent.

s117 Direction	Application	Relevance to this planning proposal	Consistency with direction
		- <i>include minimum subdivision standards for rural and environment protection zones;</i> - <i>include provisions to limit dwellings in the rural and environmental zones.</i> The Planning Proposal includes criteria to limit the location and impact of detached dual occupancy.	
5.2 Sydney Drinking Water Catchments	Applies when a relevant planning authority prepares a planning proposal that applies to the hydrological catchment.	The Planning Proposal is not within this catchment.	N/A
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	The planning proposal must not rezone land mapped as State or regionally significant farmland under the Northern Rivers Farmland Protection Project for an urban use.	The Planning Proposal is not within the area affected by this Direction.	N/A
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	A planning proposal that applies to land located on “within town” segments of the Pacific Highway must provide that: (a) new commercial or retail development must be concentrated within distinct centres rather than spread along the highway, (b) development with frontage to the Pacific Highway must consider the impact the development has on the safety and efficiency of the highway. (c) For the purposes of this paragraph, “within town” means areas which, prior to the draft local environmental plan, have an urban zone (eg “village”, “residential”, “tourist”, “commercial”, “industrial”, etc) and where the Pacific Highway speed limit is less than 80 km/hour. A planning proposal that applies to land located on “out-of-town” segments of the Pacific Highway must provide that: (a) new commercial or retail development must not be established near the Pacific Highway if this proximity would be	This Planning Proposal does not affect commercial or retail uses in proximity to the Pacific Highway.	N/A

s117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	inconsistent with the objectives of this Direction, (b) development with frontage to the Pacific Highway must consider the impact the development has on the safety and efficiency of the highway. (c) For the purposes of this paragraph, "out-of-town" means areas which, prior to the draft local environmental plan, do not have an urban zone (eg "village", "residential", "tourist", "commercial", "industrial", etc) or are in areas where the Pacific Highway speed limit is 80 km/hour or greater.		
6. Local Plan Making			
6.1 Approval and Referral Requirements	A planning proposal must: (a) minimise the inclusion of provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority, and (b) not contain provisions requiring concurrence, consultation or referral of a Minister or public authority unless the relevant planning authority has obtained the approval of: (i) the appropriate Minister or public authority, and (ii) the Director-General of the Department of Planning and Environment (or an officer of the Department nominated by the Director-General), prior to undertaking community consultation in satisfaction of section 57 of the Act, and (c) not identify development as designated development unless the relevant planning authority: (i) can satisfy the Director-General of the Department of Planning and Environment (or an officer of the Department nominated by the Director-General) that the	The Planning Proposal will not include provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority.	N/A

s117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	class of development is likely to have a significant impact on the environment, and (ii) has obtained the approval of the Director-General of the Department of Planning and Environment (or an officer of the Department nominated by the Director-General) prior to undertaking community consultation in satisfaction of section 57 of the Act.		
6.2 Reserving Land for Public Purposes	A planning proposal must not create, alter or reduce existing zonings or reservations of land for public purposes without the approval of the relevant public authority and the Director-General of the Department of Planning and Environment (or an officer of the Department nominated by the Director-General).	The Planning Proposal does not create, alter or reduce land reserved for a public purpose.	N/A
6.3 Site Specific Provisions	Applies when a relevant planning authority prepares a planning proposal that will allow a particular development to be carried out. A planning proposal that will amend another environmental planning instrument in order to allow a particular development proposal to be carried out must either: (a) allow that land use to be carried out in the zone the land is situated on, or (b) rezone the site to an existing zone already applying in the environmental planning instrument that allows that land use without imposing any development standards or requirements in addition to those already contained in that zone, or (c) allow that land use on the relevant land without imposing any development standards or requirements in addition to those already contained in the principal environmental planning	The Planning Proposal does not seek to allow a particular development to be carried out. The Planning Proposal does not contain schematic drawings.	N/A

s117 Direction	Application	Relevance to this planning proposal	Consistency with direction
	instrument being amended. A planning proposal must not contain or refer to drawings that show details of the development proposal.		

Section C – Environmental, Social and Economic Impact

Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

No. Detached dual occupancy would be regarded as minor development as a primary dwelling would normally be in place on the subject land. However, Council will still require a thorough ecological assessment to accompany any application consistent with the requirements of the Environmental Planning and Assessment Act, 1979.

Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

The Planning Proposal may result in an impact on rural character over time. The proposed provision for insertion in the LEP includes a criterion that allows consideration to be given to this issue at the time the development application is submitted. Other environmental impacts, such as managing on-site effluent disposal, can be dealt with at the development assessment stage.

Has the planning proposal adequately addressed any social and economic effects?

The Planning Proposal will allow additional choices of dwelling types to rural land owners, which has the potential to provide increased social, financial and physical support for residents of rural areas as they age. It also allows an aging population to support family members. It may also permit farmers to keep farms productive by using the housing to source labour or providing an additional income stream to the farm.

Section D – State and Commonwealth Interests

Is there adequate public infrastructure for the planning proposal?

Detached dual occupancy in rural locations is typically going to be self-sufficient in water and on-site sewage management. Power and telephone will usually be linked to the primary dwelling (if not also self-sufficient). Section 94 contributions will be applicable to development applications for detached dual occupancy. These will be applied to rural road maintenance and services as provided in Council's Contributions Plan. Requiring a shared driveway to the public road will assist in minimising traffic issues. Emergency services are not expected to be affected by the additional option of detached dual occupancy. On balance, the planning proposal is unlikely to create excessive demands for public infrastructure.

What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

State and Commonwealth public authorities have not been formally involved in this particular Planning Proposal as it is yet to receive Gateway Approval.

The following table provides a summary of the relevant public authorities, which in the opinion of Council, should be consulted in accordance with the Gateway Determination:

Public authority/stakeholder	Issue requiring comment
NSW Rural Fire Service	Section 117 of the <i>Environmental Planning and Assessment Act 1979</i> , Ministerial Direction 4.4 to consult with the Commissioner of the NSW Rural Fire Service.
NSW Trade and Investment - Primary Industries	Impact of rural housing on farming and rural industries.

The NSW Department of Primary Industries (DPI) raised concerns about the recent Byron Shire planning proposal to permit dual occupancy (detached) in RU1 and RU2 zones, and may oppose this Planning Proposal. A response to NSW DPI is outlined in the Rural Dwellings Issues Paper at Attachment A.

At this stage there do not appear to be any issues of interest to Commonwealth authorities.

4. Part 4 – Mapping

The Planning Proposal does not involve any map amendments. It will apply to all land zoned RU2 Rural Landscape.

5. Part 5 – Community Consultation

Council will undertake community consultation in accordance with the Gateway Determination. For the purposes of public notification, the Planning Proposal is not considered to be low impact as outlined in the Department of Planning and Infrastructure's, *A guide to preparing local environmental plans*, and a **28 day public exhibition period** is recommended.

In accordance with Council's consultation protocols the following will be undertaken:

- a notice in a local newspaper that circulates in the Great Lakes LGA;
- Exhibition material and consultation documents will be made available at Council's Administration Buildings; and
- Exhibition material and consultation documents will be made available on the website of Great Lakes Council.

This Planning Proposal is not anticipated to be complex or potentially controversial.

6. Part 6 – Project Timeline

The proposed timeline for completion of the Planning Proposal is as follows:

Estimated completion	Plan making step
January 2016	Planning Proposal to NSW Department of Planning and Environment seeking Gateway Determination
March 2016	Gateway Determination issued by Department of Planning and Environment.
April 2016	Public exhibition of planning proposal. Government agency consultation.
May/June 2016	Analysis of public submissions. Preparation of Council report.
July 2016	Public submissions report to Council.
August 2016	Endorsed Planning Proposal submitted to Department of Planning and Environment for finalisation.

7. Part 7 – Conclusion

Great Lakes Council has been considering the issue of rural housing for some time. This culminated in a Workshop in October 2015 to discuss rural dwelling issues and rural workers' accommodation options in the Great Lakes LEP.

In November 2015 Council initiated a Planning Proposal to modify its 2014 LEP to permit detached dual occupancy in the RU2 Rural Landscape zone.

The preferred method to achieve this will be to:

- Amend the Land Use Table in Part 2 of LEP 2014 for the RU2 zones to permit detached dual occupancy development.
- Amend Clause 4.2A to add the words "or dual occupancy" immediately after dwelling house, wherever it occurs. This has the effect of permitting both attached and detached dual occupancy development on RU2 land wherever you can currently undertake a dwelling house.

- Include a new local provision that provides objectives for the land use as well as siting and design criteria that Council will consider in determining an application for a detached dual occupancy development.

The Planning Proposal is consistent with the Great Lakes Rural Living Strategy 2004 and Mid North Coast Regional Strategy. It is also consistent with relevant SEPPs and section 117 Directions.

ATTACHMENT A: Rural Dwellings Issues Paper, 17/09/2015



MikeSvikisPlanning

Experience/Commitment/Quality

Rural Dwellings Issues Paper

Prepared for Great Lakes
Council by MikeSvikisPlanning
17/09/2015

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MIKESVIKISPLANNING

ABN 84638645183

3 Gibingbell Close Ocean Shores 2483

Mob: 0447 805 871

Ph: (02) 6680 1003

E: mikesvikisplanning@bigpond.com

Rev No	Author	Approved for issue	
		Signature	Date
3	Mike Svikis		17/09/2015



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Purpose of the issues paper

This issues paper has been prepared to focus discussion on rural housing in an upcoming Great Lakes Council workshop. It will address rural workers' dwellings and detached dual occupancy, and will look at the pros and cons of permitting these developments on rural zoned land.



Current planning controls and policy

Great Lakes LEP 2014

Great Lakes LEP 2014 currently permits (with consent) the following types of *residential accommodation* in the RU2 Rural Landscape zone:

- *Dual occupancies (attached)*
- *Dwelling houses*
- *Secondary dwellings.*

Dual occupancy (detached) is prohibited. *Secondary dwellings* do not have to be attached, but they are size limited (60 square metres or 20% of the total floor area of the principal dwelling, whichever is the greatest). As with many NSW councils, Great Lakes LEP 2014 prohibits a range of urban housing options such as *multi-dwelling housing* and *residential flat buildings*.

Great Lakes Rural Living Strategy 2004

In 2004, Council adopted the Great Lakes Rural Living Strategy, which recommended the following in relation to general rural land (page 104):

Agricultural Landscape:

- *Preservation of the open rural landscape and its cultural heritage values*
- *Maintenance of large holdings*
- *Provision for both intensive and extensive forms of agriculture*
- *Buildings to blend into the landscape*
- *Protection and improvement of water quality*
- *Preservation and enhancement of native vegetation, including habitat linkages*
- *Protection of the amenity of existing residents.*

In relation to permitted land uses, it recommended (page 106):

Prepare specific controls for the following land uses and define and regulate them in a new rural LEP and DCP as set out in the strategy:

- *Dual occupancies*
- *Farm gate sales*
- *Intensive animal establishment*
- *Intensive plants*
- *Rural residential development*
- *Rural tourist development*
- *Land clearing.*

The strategy envisaged that housing in rural areas should take three forms from a planning point of view (page 67):



- *Dwelling Houses*
- *Dual Occupancies*



- *Rural Workers' Dwellings.*

It also stated that dual occupancies should be either attached, or if detached then (page 67), “decisions must be made about how to regulate their form (attached or detached), size, design, location and environmental impacts to ensure that the desired rural character is maintained.”

In relation to rural workers' dwellings, the strategy stated (page 68):

Rural workers' dwellings 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.



Rural workers' dwellings

Rural workers' dwellings are a concept that is currently available (as a land use in the standard LEP) for farms or rural-based industries to enable the farm or rural industry workers to live on the property and be available for duties as required. Councils such as Tweed, Byron and Kyogle have standard LEPs that include *rural workers' dwellings* while Councils such as Coffs Harbour, Lismore and Greater Taree do not.

To be granted a *rural workers dwelling*, under the standard clause adopted by Councils such as Tweed and Byron Shires, it must be demonstrated that the worker is required to support the operation of the farm (or rural industry) and it must be necessary because it is remote or isolated (Appendix A). These two factors are difficult to satisfy in most coastal LGAs given the network of villages and rural roads, and the low or sporadic production levels of many farms. So even though this provision has been available for several decades (it was in previous LEPs), it is not widely used. There is also some differences in the way this clause is interpreted at different Councils.

Normally the Department of Planning and Environment has limited the ability of Councils to modify its preferred local clauses. However, it has softened this position in some situations. If Council was able to adopt a clause that permits the development if it is necessary considering the nature of the agricultural or rural industry land use lawfully occurring on the land without requiring that it also be remote or isolated this would be easier to justify and may be more widely used than the Department's standard clause.

Farm labour is often difficult to find or retain, and the option of accommodation is attractive as part of a package, even if a property is not remote. If Council wants to make it easier to undertake commercial agriculture on rural zoned land then accommodation for farm labour is a legitimate matter to consider. The use of "backpackers" as a labour source during certain parts of the season has become common on some farms. Accommodation is a key attraction for this type of labour.

However, any attempt to make the LEP controls more flexible in relation to additional dwellings could result in the *rural workers dwelling* becoming a defacto detached rural dual occupancy. Once it is approved, it becomes very difficult to control whether it is used to house a rural worker or not. It is typically not "size limited" (as with *secondary dwellings*), so it can add considerable capital cost to a farm. Additional accommodation, however, would be viewed by some purchasers as an asset worth paying for.

In the past there has been pressure in coastal NSW to subdivide rural lots that contain two dwellings. Fragmentation of farm land is a problem. However, the location of the additional dwelling (close to the main house and with a shared driveway) can reduce this pressure.

If detached rural dual occupancy is introduced for all rural land then there is possibly no need for a *rural workers' dwelling* clause.

An issue with additional dwellings in rural areas is that of conflict with agricultural activities on nearby property. There are cases where people living in rural areas who are not connected to rural activities are trying to use the environmental protection legislation to curtail agricultural practices which they consider them to be offensive (usually noise, dust and odour). This



situation can be alleviated by permitting *rural workers' dwellings* (instead of detached dual occupancy) as the occupants are directly connected to the rural use of the land. Limiting the distance that a *dual occupancy (detached)* is located from the main dwelling will also provide some protection from such situations. It may also be necessary to consider a minimum lot size for *dual occupancy (detached)* so we don't end up with two houses on a relatively small lot in the middle of a farming area.

Pros

- Can be used to attract reliable farm labour
- Can be used to house seasonal labour



- Can be any size – suited to single staff or families
- Can be used to house family members that work on the farm
- Can make a farm more attractive to future buyers.

Cons

- Can create overcapitalisation making a farm difficult to sell and limit the number of buyers that can afford it
- Can lead to pressure for subdivision to get separate title for the two dwellings
- Once approved, difficult to ensure it remains used by farm workers
- Needs to be appropriately located to avoid conflict with neighbouring farms and rural industry
- Can put traffic on roads and bridges that may not be able to deal with it.



Detached dual occupancy

Dual occupancy (detached) is permitted with consent in rural zones in Lismore, Kyogle and Byron LGAs. Greater Taree does not permit *Dual occupancy (detached)* in their rural zone but they permit *dual occupancy (attached)*. Most councils don't permit *dual occupancy (detached)* because the State government has for a long time opposed it. This opposition has diminished in recent times.

Dual occupancy (detached) and *secondary dwellings* are permitted widely in residential zones in LEPs because the lots are typically much smaller (so the dwellings are closer) and the services are typically available to support additional population; it is a recognised part of urban infill, often called urban consolidation.

Conversely, in rural areas detached dual occupancy has been perceived as a precursor to pressure for subdivision, over capitalisation of farm land and the urbanisation of rural land. Rural land is often not serviced, does not have urban infrastructure and should be used for farming or other rural pursuits. There are, however, circumstances where detached rural dual occupancy may work well, including:

- Two families own a farm together as either a joint tenancy or tenants in common sharing the workload but not wanting to live in the same house.
- A farm that requires some additional labour on a periodic basis (say planting or harvesting) but not enough to meet the *rural workers dwelling* requirements (or it does not satisfy the “remote” requirement) where a rental dwelling can be “bartered” for labour.
- Farm succession, where a retiring farmer or couple wants to remain on the family farm and participate where they can. The more intensive work is undertaken by the new occupant – often a family member.
- Rental income, where a farmer can generate a regular return on a rental dwelling and use that money to assist in running the farm rather than needing to obtain off-farm employment.

Both Byron and Lismore Councils include performance criteria and development standards in their LEPs. Appendix B includes the Byron LEP clause as an example.

If Great Lakes Council agrees to permit *dual occupancy (detached)* in the RU2 zone, it should also consider amending its DCP to reflect the circumstances in which it would be acceptable.

Lismore detached dual occupancy case study

Approximately 18 months ago Lismore City Council amended LEP 2012 to introduce detached dual occupancy as permitted with consent in the land use table for the RU1 zone. This rural zone covers most of the rural parts of Lismore. The RU2 zone is not widely used. It also introduced a special provision into its LEP to provide additional controls for detached dual occupancy. The clause Lismore used is similar to the Byron LEP clause in Appendix B.

The LEP amendment resulted in 10 development applications within the first 12 months of operation (although seven were for conversion of existing structures such as “studios”).



Council staff indicate there has been little concern over the shared driveway, but some applicants have indicated they want to extend the 100 metre maximum separation distance. A numerical standard such as a 100 metre separation distance can be varied on a site-by-site basis using clause 4.6 of the Standard LEP. On balance, Lismore Council staff consider the new clause change has been appropriately used.

Lismore City Council also **deleted** the standard rural workers dwelling clause from its LEP when it introduced the detached dual occupancy provisions because it was not being used. Council considered the test was too difficult



to achieve on relatively small farms in its LGA. The option of an attached rural dual occupancy remains, but this has generated only four applications in the previous 10 years.

Pros

- Allows families or colleagues to live together and work on the land but not have to live in the same house
- Can provide for farm succession with retiring parent/s staying on to assist with farm work
- Can be used to attract reliable farm labour or to house seasonal labour
- Is not size limited
- Can be rented out to non-farm workers and generate additional farm income
- Can provide an affordable housing option in some locations
- Can allow unlawful existing dwellings to be regulated.

Cons

- Can create overcapitalisation, making a farm difficult to sell and limit the number of buyers that can afford it
- Can lead to pressure for subdivision to get separate title for the two dwellings
- Needs to be appropriately located to avoid conflict with neighbouring farms and rural industry
- Can put traffic on roads and bridges that may not be able to deal with it
- Can lead to a change in the rural character and scenic quality of a locality.



Department of Primary Industries' position and response

The NSW Department of Primary Industries (DPI) was consulted in relation to the recent Byron Shire planning proposal to permit *dual occupancy (detached)* in the RU1 and RU2 zones.

The DPI raised a number of concerns about the planning proposal as follows:

- The planning proposal does not consider the long term implications or cumulative impacts on agriculture and resources
- The planning proposal is not consistent with the objectives of the RU1 zone
- The planning proposal is not well justified by an independent study or evidence
- The planning proposal is not consistent with the Government's position on affordable housing
- The decision for additional housing is not reversible
- The planning proposal does not address land use conflict, increased land values, or sterilisation of resources in the long term
- A landscape of houses will make it difficult for new agribusiness to occur in

the Shire. Below is the planning response to the DPI submission:

Long term implications are always difficult to gauge when applications are dealt with on a merits basis at a single point in time. Cumulative impacts are also difficult to gauge for the same reason. However, there is a requirement that the development "*will not impair the use of the land for agriculture or rural industries.*" Council can refuse an application if this requirement cannot be achieved. There is no assumption that all properties will be suited to additional dwellings.

The objectives of the Byron LEP RU1 zone are broad and include protecting the natural resource base, encouraging primary industries, minimising land fragmentation, minimising land use conflict, encouraging lot consolidation, enabling rural tourism, and protecting scenic landscapes. Additional dwellings could be either consistent or inconsistent with these objectives, depending on the circumstances. The six matters for consideration to be included in the LEP amendment are specifically aimed at ensuring any additional dwellings are consistent with the objectives of the RU1 (and RU2) zones. This is a reasonable position for Council to take.

Byron Council has not undertaken an independent study of this issue. The idea came from a Councillor workshop. However, both Lismore City and Kyogle Shire LEPs permit rural *detached dual occupancy* dwellings. This is a significant precedent and it is difficult to understand how it will be different in Byron Shire. The number of DAs that Byron receives may be influenced by the charges and fees that apply, including section 94 contributions.

Affordable housing is best placed in an urban environment with access to facilities and services, and less car dependence. However, there is a case that in some circumstances (eg family



members, those that want to remain on the farm after retirement, and farm workers) where *detached dual occupancy* (or *secondary dwellings*) can actually be more affordable than moving off the land. It is a way that someone who is asset rich but cash poor can provide accommodation at considerably less cost than buying a house with land in an urban area in Byron Shire where average house prices (or rents) are not very affordable. One submission pointed out that the recent parliamentary inquiry into affordable housing did recommend that SEPP



(Affordable Rental Housing) 2009 be amended to apply to rural land. This may be an indication of a shift in Government policy.

The decision to amend the LEP is reversible if Council, over time, considers it is not working. Any dwellings legally approved will be able to remain, but this is the same for all approvals. Importantly, the additional dwellings do not come with an expectation of future subdivision.

The potential for land use conflict is real, and is a problem in Byron Shire. This will be a matter that Council should consider in assessing any application. It is a consideration for *attached dual occupancy* in chapter D2 of Byron DCP 2014 – “The development must be located so that it does not create potential conflict with adjoining agricultural activities or other legitimate land uses.” This chapter will be amended to also apply to rural *detached dual occupancy* and *secondary dwellings*.

Council does not anticipate a “landscape of houses” as a result of this LEP amendment. It is expected that there will be an initial surge of interest, and many of these will be existing structures. It is also anticipated that the requirement for a shared vehicular access and a location of 100 metres from the primary dwelling should minimise the excessive sterilisation of rural land from future rural industries.



Conclusion

The options available to Council are:

- 1 Don't change Great Lakes LEP (it already provides for *secondary dwellings* and *dual occupancy attached*).
- 2 Amend Great Lakes LEP to include *rural workers' dwellings* (only) to provide for the legitimate demand for additional accommodation for farm workers. Use the clause in Appendix A to achieve this.
- 3 Amend Great Lakes LEP to permit *dual occupancy (detached)* (only). This will permit additional rural dwellings for both rural workers and others. Use the clause in Appendix B to achieve this.
- 4 Amend Great Lakes LEP to permit *dual occupancy (detached)* and *rural workers' dwellings* to give the widest range of options for additional dwellings in rural areas. Use both the clause in Appendix A and Appendix B to achieve this.

I recommend that option 3 be considered. If Council proceeds with either options 2, 3 or 4 it is also recommended that it prepare a section for its DCP that provides clear guidance to applicants about the siting, design and circumstances (including buffers and avoiding rural conflict) in which it will be acceptable to erect a detached dual occupancy or rural workers' dwelling on land zoned RU2 Rural Landscape. This should be exhibited at the same time as any planning proposal to amend the LEP.



Appendices

Appendix A: Tweed Local Environmental Plan 2014

Appendix B: Byron Local Environmental Plan 2014



APPENDIX A

Tweed Local Environmental Plan 2014

4.2C Erection of rural workers' dwellings in Zones RU1 and RU2

- (1) The objective of this clause is to ensure the provision of adequate accommodation for employees of existing agricultural or rural industries.
- (2) This clause applies to land in the following zones:
 - (a) Zone RU1 Primary Production,
 - (b) Zone RU2 Rural Landscape.
- (3) Development consent must not be granted to the erection of a rural workers' dwelling on land to which this clause applies, unless the consent authority is satisfied that:
 - (a) the development will be on the same lot as an existing lawfully erected dwelling house, and
 - (b) the development will not impair the use of the land for agriculture or rural industries, and
 - (c) the agriculture or rural industry being carried out on the land has a demonstrated economic capacity to support the ongoing employment of rural workers, and
 - (d) the development is necessary considering the nature of the agriculture or rural industry land use lawfully occurring on the land or as a result of the remote or isolated location of the land.



APPENDIX B

Byron Local Environmental Plan 2014

4.2D Erection of dual occupancies (detached) and secondary dwellings in Zones RU1 and RU2

- (1) The objectives of this clause are as follows:
 - (a) to provide alternative accommodation for rural families and workers,
 - (b) to ensure that development is of a scale and nature that is compatible with the primary production potential, rural character and environmental capabilities of the land,
 - (c) to set out consent considerations for development of dual occupancies (detached) and secondary dwellings to address matters such as access, siting, land suitability and potential impacts.
- (2) Development consent must not be granted to development for the purpose of a dual occupancy (detached) or secondary dwelling on land in Zone RU1 Primary Production or Zone RU2 Rural Landscape unless the consent authority is satisfied that:
 - (a) the development will not impair the use of the land for agriculture or rural industries, and
 - (b) each dwelling will use the same vehicular access to and from a public road, and
 - (c) any dwellings will be situated within 100 metres of each other, and
 - (d) the land is physically suitable for the development, and
 - (e) the land is capable of accommodating the on-site disposal and management of sewage for the development, and
 - (f) the development will not have an adverse impact on the scenic amenity or character of the rural environment.



