

Attachment 4. Additional changes - Department of Primary Industries (DPI) and in relation to rural land sharing communities

Note: "ADDITIONAL COMMENTS" refers to comments made in addition to comments made in response to the DPI submission as seen in Attachment 2.

Action	Theme	Original submission	Response in addition to that previously reported to Council	Recommendation
11	Subdivision for primary production purposes	<p>The intent of this action is acknowledged however rural subdivision creates a high risk of future land use conflict scenarios, in this instance between the subdivided dwelling lot and surrounding primary production activities. The lot with the dwelling can potentially become an 'island'.</p> <p>The potential for changes in ownership of these lots from a house associated with a working farm to one with no association between house and farm can lead to heightened land use conflict risk, if not adequately managed. Additionally the potential impact from a secondary dwelling should be further considered in this scenario.</p>	<p>CURRENT WORDING of ACTION 11 READS:</p> <p>"Amend Tweed LEP 2014 to retain dwelling entitlement where a subdivision of land for primary production purposes under clause 4.2 Rural subdivision, and consolidation of lots which results in creation of a parcel which is less than the MLS and contains an existing legal dwelling on the non-agricultural parcel created.</p> <p>The amendment is to also include local provisions for its application."</p> <p>Amend to open with "Investigate ..."</p>	<p>ADDITIONAL PROPOSED CHANGES</p> <p>Wording of Action 11 changed to read:</p> <p>"Investigate amending Tweed LEP 2014 to retain dwelling entitlement where a subdivision of land for primary production purposes under clause 4.2 Rural subdivision which results in creation of a parcel less than the MLS and contains an existing legal dwelling on the non-agricultural parcel created.</p> <p>The amendment is to also include preparation of local provisions for its application, including minimising the potential for landuse conflict and loss of agricultural land."</p>
57, 58	Function centres	<p>There is significant potential for land use conflict with function centres in rural zones. Evidence exists throughout NSW of complaints from these types of development in rural areas due to poor siting and/or poor management. DPI Agriculture is currently liaising with other councils regarding this matter and would suggest a collaborative approach to dealing with this matter to ensure consistency with nearby local government areas; suggest 'investigate the amendment'.</p>	<p>ADDITIONAL COMMENTS</p> <p>These actions are now numbered as Actions 56 and 57 in the final draft version.</p> <p>Wording has already been changed in previous versions reported to Council to read "Investigate....."</p> <p>No further amendments proposed.</p>	
60	Processing & packaging	<p>Caution is needed with the scale of these industries on RU1 land.</p>	<p>ADDITIONAL COMMENTS</p>	

	hub	These types of development are considered more suitable for industrial zone which then allows more area of land for agricultural production.	Concerns regarding the potential for adverse impacts are acknowledged and it is proposed to work with the DPI in development of planning guidelines and local provisions to ensure that development is compatible with the surrounding landuses and protects agricultural land, the scenic amenity of the location, local character, and environment of the locality. No further amendments proposed.	
62		Action supported. Suggest adding agri-business in strategy also	CURRENT WORDING of ACTION 61 READS: "Prepare a tourism strategy which identifies and provides opportunities to overcome barriers to growth of rural tourism." ADDITIONAL COMMENTS Wording of Action 61 changed to include reference to Agri-business. This action is now numbered as Action 61. in the final draft version.	ADDITIONAL PROPOSED CHANGES Wording of Action 61 changed to read: "Prepare a tourism strategy which identifies and provides opportunities to overcome barriers to growth of rural tourism, including agri-business."
64	RU1 & RU2 increased flexibility	It is important that any development permitted in the rural area are ancillary to primary production, are small scale and consistent with the objectives of the primary production zone. It is suggested that this action include the words 'Investigate' and be based on the outcomes of Action 62 also.	ADDITIONAL COMMENTS These actions are now numbered as Actions 63 and 64 in the final draft version. A substantial amount of work will be required to ensure guidelines and planning provisions support protection of agricultural land and that the character of the locality, scenic amenity, potential to generate landuse conflict and alienate agricultural land, and a range of other matters are given proper consideration when assessing the merits of proposals. Any changes to the LEP or DCP will require consultation with Government agencies (Including DPI) in preparation of proposed changes, and public exhibition at which time further opportunities will be available for broad input into implementation of this and related actions.	
65	RU1 & RU2 increased flexibility	A precautionary approach to any amendments to zone objectives is required to ensure the core objective of RU1 and RU2 zone remains primary production and any additional permitted uses are ancillary to agriculture. DPI Agriculture would welcome input to this action should it progress.	ADDITIONAL COMMENTS Refer to additional comments to '64' above.	
82, 83	Dual occupancy	Refer to previous correspondence in relation to potential risks of	CURRENT WORDING of ACTION 82 READS: "Amend Tweed LEP 2014 to permit with consent dual occupancy	ADDITIONAL PROPOSED CHANGES

	(Detached) & Secondary dwellings	increasing the housing density in the rural zones.	<p>(detached) as a use on properties greater than 40 hectares in the RU1 and RU2 zones.”</p> <p>CURRENT WORDING of ACTION 83 READS: “Amend Tweed LEP 2014 to permit with consent secondary dwellings as a use on properties greater than 10 hectares in the RU1 and RU2 zones.”</p> <p>ADDITIONAL COMMENTS Wording of these actions to be amended to acknowledge the need to undertake investigations as part of preparing any amendment to the LEP.</p> <p>Actions 82 and 83 required detailed guidelines and planning provisions to be prepared before any amendment to the LEP can occur. This is fully covered in proposed Action 86 Dwellings – guidelines.</p> <p>Any amendment to the LEP would require a planning proposal to be prepared and sent to the DPE for a Gateway determination. Preparation of such a proposal would require investigations to justify the changes proposed and would be reviewed by the DPE prior to being placed on public exhibition.</p> <p>An additional change is proposed to clarify action 82 such that allotments that are exactly 40 hectares in size qualify under this amendment. Likewise the wording of Action 83 is to be amended to clarify the fact that properties equal to or greater than 10 hectares qualify under this proposed amendment.</p>	<p>Wording of Action 82 amended to read:</p> <p>“Investigate amending Tweed LEP 2014 to permit with consent dual occupancy (detached) as a use on properties equal to or greater than 40 hectares in the RU1 and RU2 zones.”</p> <p>Wording of Action 83 amended to read:</p> <p>“Investigate amending Tweed LEP 2014 to permit with consent secondary dwellings as a use on properties equal to or greater than 10 hectares in the RU1 and RU2 zones”.</p>
84	Rural Workers Dwellings	The intent of this action is acknowledged given the proximity of farms in Tweed LGA to villages and towns however there is concern for the number of housing opportunities permitted within the rural zones under the Draft Strategy given actions 82 and 83.	<p>CURRENT WORDING of ACTION 84 READS: “Amend clause 4.2C in Tweed LEP 2014 Erection of rural workers’ dwellings in Zones RU1 and RU2 by removing 4.2C(3)(d) which requires the land to be in a remote or isolated location.”</p> <p>ADDITIONAL COMMENTS Implementation of Action 84 required detailed guidelines and planning provisions to be prepared before any amendment to the LEP can occur. This is fully covered in Action 86 Dwellings – guidelines.</p> <p>Development of these guidelines and any changes to the LEP will be developed in consultation with DPI and other Government agencies and key stakeholders.</p> <p>Wording to be amended to open with “Investigate ...”</p>	<p>ADDITIONAL PROPOSED CHANGES</p> <p>Wording of Action 84 amended to read:</p> <p>“Investigate amending clause 4.2C in Tweed LEP 2014 Erection of rural workers’ dwellings in Zones RU1 and RU2 by removing 4.2C(3)(d) which requires the land to be in a remote or isolated location.”</p>

92	Allotments split by infrastructure	<p>The potential for subdivision due to infrastructure within this LGA is considered to be substantial. DPI Agriculture does not support this action and believes this action will further fragment rural land and reduce land available for agricultural production in the LGA. This action is therefore considered inconsistent with the NSW Right to Farm Policy and Maintaining Land for Agriculture Policy.</p>	<p>ADDITIONAL COMMENTS</p> <p>While it is understood that DPI's submission provides advice that has been developed to apply across the State, the Tweed's rural land has some unique features such as the overwhelming majority of properties already being less than the MLS. This makes it impossible to allow productive or potentially productive agricultural land to be 'cut off' for primary production purposes. It also results in the allotment containing the existing legal house being on an undersized allotment, resulting in the loss of dwelling entitlement for what was previously a legally constructed house.</p> <p>As such, the blanket response from DPI is acknowledged and the broader concern about the potential to lead to landuse conflict is recognised.</p> <p>As with actions 82, 83 and 84, and any other action which might lead to construction of additional dwellings, the guidelines to be prepared under Action 86 will guide the assessment of any application under these clauses. Action 86 establishes guidelines for new housing across all rural land.</p> <p>It is not the intention of this action to permit random subdivision of rural properties which may have a rural road intersecting part of the property, and as such, in addition to the guidelines to be prepared under Action 86 specific guidelines will be required as identified in Action 92 to ensure the protection of agricultural land, and those actions for creation of undersized allotments addressed in Action 91.</p> <p>Development of these guidelines and local planning provisions will occur in consultation with the DPI and other Government agencies and key stakeholders prior to being placed on public exhibition.</p>	
95	Small lot clusters	<p>It is recommended that potential cluster areas for subdivision are strategically identified to avoid speculation in areas not suitable due to the criteria listed under the action.</p>	<p>ADDITIONAL COMMENTS</p> <p>Development of any guidelines and/or local planning provisions will occur in consultation with the DPI and other Government agencies and key stakeholders prior to being placed on public exhibition.</p>	

Attachment 4. Additional changes - rural land sharing communities

94	Rural landsharing communities - local provision		<p>CURRENT WORDING of ACTION 84 READS:</p> <p>“Amend Tweed LEP 2014 to include a local provision for rural landsharing communities which reflects their desired future in the Tweed, and is consistent with the requirements of the Department of Planning and Environment.”</p> <p>COMMENTS</p> <p>The wording of this action to be amended to reflect Council’s resolution of 16 August 2018 which defers consideration of rural land sharing communities for consideration as part of the implementation of the Rural Land Strategy.</p>	<p>PROPOSED CHANGES</p> <p>Wording of Action 94 amended to read:</p> <p>“Investigate options to amend Tweed LEP 2014 to include a local provision for rural landsharing communities which reflects their desired future in the Tweed, and is consistent with the requirements of the Department of Planning and Environment.”</p>
	4 th paragraph page 118	Due to recent advice from the DPE relating to transfer of legislation relating to rural land sharing communities to the Rural Land SEPP, the 4 th paragraph on page 118 of the Strategy under the heading of Multiple Occupancy and rural land sharing communities has been updated to reflect this change in legislation.	<p>CURRENT WORDING of PARAGRAPH 4 PAGE 118</p> <p>“The new SEPP provides transitional arrangements where communities had been approved under SEPP 15. The SEPP will be repealed two years after commencement, giving councils time to include a local provision for rural landsharing communities in their LEPs or, where this has not occurred, for the clause to be transferred to another planning instrument.”</p>	<p>PROPOSED CHANGES</p> <p>Wording of paragraph 4 page 118 amended to read:</p> <p>“The new SEPP provided transitional arrangements where communities had been approved under SEPP 15; however, the SEPP was only a temporary arrangement giving councils time to include a local provision for rural landsharing communities in their LEPs or, where this has not occurred, for the clause to be transferred to another planning instrument. On 6 August 2018 provisions relating to rural land sharing communities were transferred into SEPP (Rural Land) 2008.”</p>