



# Secondary dwellings

## FACT SHEET

### What is a Secondary Dwelling?

**Secondary dwelling** means a self-contained dwelling that -

- (a) is established in conjunction with another dwelling (the **principal dwelling**), and
- (b) is on the same lot of land as the principal dwelling, and
- (c) is located within, or is attached to, or is separate from, the principal dwelling.

A secondary dwelling differs from a dual occupancy in that the total floor area of the secondary dwelling cannot exceed 60m<sup>2</sup> (measured from the internal face of the external walls). Where a laundry is proposed in a garage the washing machine, tub and a 500mm wide standing area in front of the laundry will be included in the 60m<sup>2</sup> calculation.

### Do I need approval?

Yes. You must get approval before building a secondary dwelling, through one of two approval paths:

#### 1. Complying Development

A secondary dwelling can sometimes be approved by seeking a Complying Development Certificate (CDC) issued by Council or a Private Certifier. This certificate combines approval for the use of the land and the building construction. For a CDC to be issued, the proposal must comply with all of the provisions within the *State Environmental Planning Policy (Housing) 2021*. Schedule 1 of that document contains some key matters for consideration and compliance. A CDC cannot be issued for a manufactured home or moveable dwelling. Restrictions which may restrict or prevent the issue of a CDC apply to flood liable land, bush fire prone land, as well as heritage items, environmentally sensitive areas, foreshore areas, allotments containing acid sulfate soils and drinking water catchment areas.

#### 2. Development Application

If a proposal doesn't meet all of the complying development provisions, you may lodge a Development Application (DA) with Council for assessment and determination. Applications submitted as a DA must comply with the requirements of the Local Environmental Plan (LEP) and Development Control Plan (DCP) that apply to the land, or in some cases, the *State Environmental Planning Policy (Housing) 2021*. If the DA is approved, you also need to apply for a Construction Certificate (CC) before any work can start on the site.

### Site Requirements

#### Residential Zones

Secondary dwellings are permissible in all residential zones under the *State Environmental Planning Policy (Housing) 2021*, but not as Complying Development on lots less than 450m<sup>2</sup> or as Complying Development in R5 Large Lot Residential zones.

#### Rural Zones

Secondary dwellings are permissible in RU1 and RU2 rural zones only under Council's LEP (not as Complying Development), subject to the secondary dwelling being located within 100m of the principal dwelling and utilising the same driveway access to a public road.

#### Other Zones

Secondary dwellings are also permissible in the E1 Local Centre and SP3 Tourist zones (not as Complying Development).

### **Can I subdivide a secondary dwelling?**

No. Subdivision is not allowed under the *State Environmental Planning Policy* or Council's LEP.

### **Converting existing structures**

Many existing structures such as a garage or shed are not constructed to the same standards as a dwelling. Anyone wanting to convert an existing structure to a secondary dwelling must ensure that the building complies with the Class 1 (habitable) construction requirements of the Building Code of Australia (BCA).

Some things to consider include:

- The slab must be constructed in accordance with AS2870, be at least 225mm above ground level and have a damp-proof membrane.
- The structure must have termite protection measures.
- The structure must meet natural light and ventilation requirements.
- There must be adequate fire separation between property boundaries and other buildings.
- Attached dwellings must meet the BCA fire, noise and impact separation requirements.
- Floor to ceiling height must be 2.4m.

The existing structure must also comply with the minimum rear and side setback requirements of Council's DCP for a residence. Setbacks are encouraged to be maximised in rural areas. If the existing structure doesn't meet all of these requirements an upgrade of the existing structure will be required. A structural engineer's report and certification may be required. Refer to Council's Factsheet - Conversion of a Shed to a Dwelling for more information.

### **Bushfire and flood planning requirements**

Bushfire and flood related development controls apply to all secondary dwelling proposals. Check the Section 149 Zoning Certificate for the property to see if any restrictions apply to the land. A Section 149 Certificate can be obtained on application to Council.

### **Basix requirements**

A BASIX Certificate is required for secondary dwelling proposals, including conversion of an existing structure to a secondary dwelling but not for a relocatable dwelling.

### **Neighbour notification**

Your neighbours will be notified of your application in accordance with Council's Community Participation Plan (available on Council's website). If a CDC has been issued, the owner must notify neighbours at least 2 days before works start on the site.

### **Developer contributions**

No developer contributions are levied on secondary dwelling approvals.

### **Will a secondary dwelling affect my annual rates charges?**

Yes. In a sewerage area all secondary dwellings will incur an additional sewerage charge. In an unsewered area an additional on site sewerage management charge will apply if an additional on site sewerage system is installed.

In a garbage service area, the secondary dwelling is required to have a separate service and an additional waste management charge will apply. Further information is available from Council's Revenue team.

### **Need more information?**

Please note this fact sheet only provides a summary of the key considerations concerning secondary dwellings. Not every scenario and issue can be addressed here. For more information contact Council's Development and Land Use Planning Section on 6643 0200.