

FOR ACTION

ORDINARY COUNCIL

17/04/2018

TO: Manager Strategic Planning (Alan Bright)

Subject: Proposed amendment to Randwick Local Environmental Plan 2012 – Attached dual occupancies and minimum lot sizes.
Target Date: 1/05/2018
Notes: Council resolution forwarded to Alan Bright for actioning.
Document No.: D03197447
Report Type: Report
Item Number: CP7/18

Note: Having previously declared an interest, Cr Bowen left the chamber (at 6.13pm) and took no part in the debate or voting on this matter.

RESOLUTION: (Said/Matson) that Council:

- a) Amend the provisions under Randwick LEP 2012 in relation to the minimum subdivision lot size and attached dual occupancy development in the R2 Low Density Residential zone to allow for dual occupancy development in the R2 Low Density Residential zone that was approved prior to 6 July 2018 to be subdivided in accordance with the relevant standards contained in the Low Rise Medium Density Code;
- b) Prepare a draft planning proposal to be forwarded to the Greater Sydney Commission or its delegate requesting 'Gateway Determination' under section 3.34 of the *Environmental Planning and Assessment Act 1979*;
- c) Following 'Gateway Determination', exhibit the draft Planning Proposal in accordance with the conditions of the gateway determination and bring back a report to Council detailing the results of the community consultation for final consideration by Council;
- d) Authorise the Director, City Planning to make minor typographical, grammatical or formatting changes to the documentation.

MOTION: (Said/Matson) CARRIED - SEE RESOLUTION.

A **DIVISION** was taken and the names of the Councillors voting FOR and AGAINST were as follows:

FOR	AGAINST
Councillor Da Rocha	Councillor Neilson
Councillor D'Souza	
Councillor Hamilton	
Councillor Luxford	
Councillor Matson	
Councillor Parker	
Councillor Roberts	
Councillor Said	
Councillor Seng	
Councillor Shurey	
Councillor Stavrinou	
Councillor Veitch	
Total (12)	Total (1)

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EXTRAORDINARY COUNCIL MEETING

BUSINESS PAPER

TUESDAY 17 APRIL 2018

Administrative Centre 30 Frances Street Randwick 2031
Telephone: 1300 722 542
Fax: 02 9319 1510
council@randwick.nsw.gov.au
www.randwick.nsw.gov.au



EXTRAORDINARY COUNCIL MEETING

Notice is hereby given that an Extraordinary Council Meeting of the Council of the City of Randwick will be held in the Council Chamber, 1st Floor, 90 Avoca Street, Randwick on Tuesday, 17 April 2018 at 6:00pm

Prayer and Acknowledgement of the local indigenous people

Prayer

"Almighty God,

We humbly beseech you to bestow your blessings upon this Council and to direct and prosper our deliberations to the advancement of your glory and the true welfare of the people of Randwick and Australia. Amen"

Acknowledgement of the local indigenous people

"I would like to acknowledge that we are here today on the land of the Bidjigal people of the Dharwahal Nation. The Bidjigal people are the traditional owners and custodians of this land and form part of the wider aboriginal nations of the Sydney area. On behalf of Randwick City Council I would also like to acknowledge and pay my respects to the Elders both past and present."

Apologies/Granting of Leave of Absences

Declarations of Pecuniary and Non-Pecuniary Interests

Address of Council by Members of the Public

Privacy warning;

In respect to Privacy & Personal Information Protection Act, members of the public are advised that the proceedings of this meeting will be recorded for the purposes of clause 69 of Council's Code of Meeting Practice.

Audio/video recording of meetings prohibited without permission;

A person may be expelled from a meeting for using, or having used, an audio/video recorder without the express authority of the Council.

Mayoral Minutes

Mayoral Minutes, if any, will be distributed on the night of the meeting.

Urgent Business

Director City Planning Report

CP7/18 Proposed amendment to Randwick Local Environmental Plan
2012 – Attached dual occupancies and minimum lot sizes.1

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Ray Brownlee
GENERAL MANAGER

Director City Planning Report No. CP7/18



Subject: Proposed amendment to
Randwick Local Environmental
Plan 2012 – Attached dual
occupancies and minimum lot
sizes.

Folder No: F2017/00530

Author: Elena Sliogeris, Senior Environmental Planning Officer -
Strategic Planning

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Introduction

This report seeks Council's endorsement to amend the Randwick Local Environmental Plan (LEP) 2012 development standards relating to the minimum subdivision lot size and attached dual occupancy in the R2 Low Density Residential zone to allow for the subdivision of existing and approved dual occupancy development. It also seeks Council's endorsement to submit a draft planning proposal to the Greater Sydney Commission (GSC) for 'Gateway Determination', to proceed with an amendment to LEP 2012.

The Council has conducted a review of the minimum subdivision lot size standard for attached dual occupancy development due to concerns from members of the community, who have entered into company title schemes for attached dual occupancies and are facing financial hardship. This has largely been brought about by limitations and/or restrictions in financing from banks to people who have entered into company title schemes.

The Minister for Planning has outlined his support to fast-track an approval for 'Gateway Determination' on this issue and requested that the Council call an Extraordinary meeting to discuss the matter. In addition, it also responds to the recent legislation announcement of the introduction of the Low Rise Medium Density Code (Code) which is to commence on 6 July 2018. This new Code will have significant implications to Council's current review of the minimum subdivision lot size provisions applicable to attached dual occupancy development in the R2 Low Density Residential zone.

The key implications are that the new Code will permit the subdivision of dual occupancies (in accordance to the new Code) as complying development on lots smaller than those currently permissible and subject to a development application under the LEP 2012. However, the subdivision provisions under the new Code will not be applicable to existing dual occupancies including those under company title. As such, the only measure available through the local planning framework to assist those owners of existing dual occupancies wishing to subdivide in the R2 Low Density Residential zone, is to amend the LEP 2012 via a planning proposal to bring Council's minimum subdivision provisions in line with the new Code's subdivision provisions for attached dual occupancy development.

Further detail on the planning process to amend the Local Environmental Plan and the new Code is provided below.

Background

At the 28 February Ordinary Council meeting, the Council considered a report on the findings of a review of the minimum subdivision lot size standard applicable to dual occupancy development in the R2 Low Density Residential zone. This was in response to concerns raised by some members of the community that the lending restrictions placed by banks on attached dual occupancies under company title is placing financial hardship on the owners of these properties.

At this meeting, the Council resolved to proceed with an eight week community consultation programme on this important issue to hear from the community their concerns, opinions and suggestions. Consultation is still underway until 4 May 2018 and to date, has included a direct mail out to all households in the Central and Southern wards informing of the consultation and how to have you say (via the dedicated YourSay webpage 'Minimum lot size review', by post or mail and via an online survey).

A community forum was also held on the 28 March 2018, which was independently facilitated and attended by 286 community members including 45 people who spoke at the forum. A report is to be prepared on the outcomes of the forum.

However, during the consultation process it has become apparent that there is considerable community support for allowing the subdivision of dual occupancy properties that are currently under company title. The Minister for Planning's announcement on 6 April 2018, releasing the Low Rise Medium Density Code has significant implications for the review process of the minimum subdivision lot size for attached dual occupancy development in the R2 Low Density Residential zone. It will effectively provide for small lot subdivision of dual occupancy development in the R2 Low Density Residential zone and thereby has potentially significant character implications for Council's suburbs.

Low Rise Medium Density Housing Code

The following table compares some of the key development standards for dual occupancy development under the new Code against Council's existing development standards under the RLEP 2012 and the built form controls contained in the Development Control Plan (DCP) 2013.

Table 1.1 Comparative table of dual occupancy standards – two dwellings (side by side or detached)

Development standard	Low rise medium density Code	RLEP 2012/RDCP 2013
Permissibility	Zone RU5, R1, R2 or R3 * But only where the development type is permitted under the relevant LEP	R2 - only permits attached dual occupancies R1 and R3 – both attached & detached dual occupancies are permissible
Min lot size	400m ² or min lot size specified in relevant LEP (i.e. 450m² in RLEP), whichever is greater	450m ² for attached dual occupancy in R2 low density zone
Min frontage width	12m	15m for attached dual occupancy in R2; 18m for detached dual occupancy in R3 (DCP control)

Max height	8.5m	Refer to the LEP height map: 9.5m or 12m						
No. storeys	1 or 2 storeys (only those parts of a basement with habitable rooms can be counted as a storey)	No numerical controls on number of storeys						
Max GFA	<table><tr><th>Lot area</th><th>Maximum GFA</th></tr><tr><td>400m²–2,000m²</td><td>25% of lot area + 300m²</td></tr><tr><td>>2,000m²</td><td>800m²</td></tr></table>	Lot area	Maximum GFA	400m ² –2,000m ²	25% of lot area + 300m ²	>2,000m ²	800m ²	Refer to the LEP FSR map For example: Max FSR of 0.5:1 in R2
Lot area	Maximum GFA							
400m ² –2,000m ²	25% of lot area + 300m ²							
>2,000m ²	800m ²							
Car parking	Min 1 off-street car parking space per dwelling	1 space per dwelling with up to 2 bedrooms 2 spaces per dwelling house with 3 or more bedrooms						
Subdivision	Torrens – 60% of min. subdivision lot size specified in the LEP (RLEP 400sqm = 240 sqm); Strata – strata area at ground level must be at least 180m2 (excl. common areas)	Torrens or strata – each resulting lot 400 sqm min.						

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As the table above illustrates, the new Code for dual occupancies allows a greater FSR of up to 0.9:1, whilst Council allows 0.5:1, and a lesser site frontage of 12m where Council requires 15m. Although, the new Code does have a lower maximum height of 8.5m compared to Council's LEP height limit of 9.5m. In terms of subdivision, the new Code will allow a torrens subdivision at 240sqm per lot (total site area of 480sqm) and strata if the strata area at ground level is at least 180sqm on a lot that is a minimum of 450sqm.

Proposed amendment/s to Randwick Local Environmental Plan 2012 (RLEP 2012)

The draft planning proposal to be submitted to the GSC will outline a proposed amendment to the subdivision provision/s relating to dual occupancy development in the R2 Low Density Residential zone. The intended effect of the proposed amendment is to apply to those existing and approved attached dual occupancies in the R2 Low Density Residential zone the subject of a development consent granted before 6 July 2018.

This approach would enable those existing owners of dual occupancies (including those under company title) to subdivide in accordance to the same standards as those that would apply under the Low Rise Medium Density Code and could be achieved under a much faster time frame than if Council had to review its LEP in a comprehensive manner as informed by a housing strategy. It would also enable the Council time to review and consider the current planning provisions relating to dual occupancy development and subdivision contained within the RLEP 2012 and DCP 2013 in light of the introduction of the new Code.

This analysis will also be undertaken in preparation of the upcoming Local Housing Strategy. As previously reported to the Council, Councils will be required to prepare local housing strategies that respond to housing targets set by the GSC in its Greater Sydney Region Plan and District Plans. Local housing strategies are to outline how housing growth is to be managed and what the right locations are for additional housing supply in each LGA; and will inform an update of the relevant LEP.

The Planning Proposal process

The Environmental Planning and Assessment Act 1979 (The Act) and Regulations set out the process for amending the zoning or planning provisions relating to a parcel(s) of land in NSW (rezoning). Changes to the zoning or planning provisions can only be made via a formal amendment to the Local Environmental Plan (LEP).

A Planning Proposal is the first step to commence changes to the zoning or planning provisions relating to a parcel of land. It is a formal application that sets out the objectives, intended outcomes, and justification for the proposed changes, and also details the community consultation to be undertaken.

The Council can initiate a Council led Planning Proposal through a resolution of the Council which is then forwarded to the GSC for a 'Gateway Determination'. Currently, the Department of Planning and Environment (DPE) has delegation to prepare the determination on behalf of the GSC.

The 'Gateway Determination' is essentially a checkpoint for Planning Proposals, and enables those proposals that are not well founded, or not in the public interest to be stopped early in the process, before significant resources are committed in carrying out technical studies or investigations.

Following the Gateway determination, a planning proposal is formally placed on public exhibition along with any supporting technical studies. The final LEP and accompanying maps will be made by the Minister for Planning (and notified on the NSW legislation website) in accordance with the Act. Certain LEPs which are of local significance can be finalised by Council via delegation from the Minister (this is determined at the Gateway stage).

The Minister has agreed to fast track this process as much as possible so as to provide relief for property owners of dual occupancies with company title.

Relationship to City Plan

The relationship with the City Plan is as follows:

Outcome 4:	Excellence in Urban Design and Development.
Direction 4b:	New and existing development is managed by a robust framework.
Outcome 6:	A liveable City
Direction 6d:	A strategic land use framework provides for our lifestyle changes and for a continuing, yet low rate of growth across our City
Direction 6e:	Enhance housing diversity, accessibility and adaptability to support our diverse community.

Financial impact statement

There is no direct financial impact for this matter.

Conclusion

The recent introduction of the Low Rise Medium Density Housing Code has significant implications for Council's current review on the minimum subdivision lot size standard and dual occupancy development within the R2 Low Density Residential zone. The key implication being is that the new Code will not assist those owners of existing dual occupancies (including those under company title) wishing to subdivide. The only measure currently available through the local planning framework is to amend RLEP 2012 to allow existing and approved dual occupancies to be subdivided in accordance with the relevant standards set out in the new Low Rise Medium Density Code.

As outlined in this report, the Mayor has received confirmation that the Minister for Planning will fast-track an amendment to RLEP 2012 that will allow existing company title owned dual occupancy development to be subdivided.

Recommendation

That Council:

- a) Amend the provisions under Randwick LEP 2012 in relation to the minimum subdivision lot size and attached dual occupancy development in the R2 Low Density Residential zone to allow for dual occupancy development in the R2 Low Density Residential zone that was approved prior to 6 July 2018 to be subdivided in accordance with the relevant standards contained in the Low Rise Medium Density Code;
- b) Prepare a draft planning proposal to be forwarded to the Greater Sydney Commission or its delegate requesting 'Gateway Determination' under section 3.34 of the *Environmental Planning and Assessment Act 1979*;
- c) Following 'Gateway Determination', exhibit the draft Planning Proposal in accordance with the conditions of the gateway determination and bring back a report to Council detailing the results of the community consultation for final consideration by Council;
- d) Authorise the Director, City Planning to make minor typographical, grammatical or formatting changes to the documentation.

Attachment/s:

Nil

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