



Shire Planning



Report Title: Planning Proposal - Minimum Lot Size for Dual Occupancy and Multi Dwelling Development

Report Number: PLN010-18 Committee Meeting Date: 07/08/2017

▼ EXECUTIVE SUMMARY

- Development of dual occupancy and multi dwelling housing on small lots can result in poor planning outcomes. Larger lots have greater scope for improved design that can mitigate adverse impacts on neighbours.
- Draft 'missing middle' amendments to complying development codes (State Environmental Policy Exempt and Complying Development (2008)) require compliance with Council's local environmental plan and provisions for minimum lot sizes. As such it would be prudent for council to introduce a minimum lot size for dual occupancy and multi dwelling housing developments.
- To improve development outcomes, a minimum lot size of 600m² is considered appropriate for dual occupancy in zone R2 Low Density Residential. In zone E4 Environmental Living a larger minimum lot size of 700m² is recommended for construction of dual occupancies. This is consistent with the minimum residential subdivision size that generally applies in the E4 zone.
- To improve outcomes, a minimum lot size of 1200m² is considered appropriate for multi dwelling housing in the R2 Low Density Residential zone.
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▼ REPORT RECOMMENDATION

THAT:

1. A planning proposal be prepared to amend Sutherland Shire Local Environmental Plan 2015 (SSLEP2015) to introduce:

- a minimum lot size of 600m² for dual occupancy in Zone R2 Low Density,
- a minimum lot size of 700m² for dual occupancy in Zone E4 Environmental Living
- a minimum lot size of 1200m² for multi dwelling housing in Zone R2 Low Density Residential.

2. The planning proposal be submitted to NSW Planning for Gateway Determination in order to allow to the proposal to be publicly exhibited. The plan is a local matter and is to proceed under delegation to Council.

3. The General Manager be given delegated authority to make any amendments that are required by the Gateway Determination before the draft planning proposal is exhibited.



PURPOSE

The development of dual occupancy and multi dwelling housing on small lots can result in poor planning outcomes. This report recommends that Council amends Sutherland Shire Local Environmental Plan 2015 (SSLEP2015) to introduce minimum lot sizes for dual occupancy and multi dwelling housing. This will improve built form outcomes by providing greater flexibility in design options and lessening impacts on neighbours.

BACKGROUND

SSLEP2015 was made on 23 June 2015. Since then, Council has assessed development applications using the SSLEP2015 and the draft Sutherland Shire Development Control Plan (SSDCP2015). During this time, Council has approved (or has pending) over 600 development applications for dual occupancy and over 575 multi dwelling housing units. The majority of this development is clustered in Sylvania, Miranda and Caringbah.

A briefing on development outcomes of SSLEP2015 and SSDCP2015 was held with Councillors on 22 May 2017, as required by Council resolution (MOT015-17). At the briefing staff suggested that introducing minimum lot sizes is one way to improve planning outcomes for dual occupancy and multi dwelling housing. This is because larger lot sizes generally allow for greater flexibility in design options, resulting in less visually intrusive development. Also larger lots can better accommodate ancillary elements that add to building bulk that are not controlled by FSR provisions. Councillors called for a further report on the issue.

DISCUSSION

Draft SEPP amendments: the 'Missing Middle'

In February 2017, Council considered a report (PLN015-17) on proposed changes to the SEPP Exempt and Complying Development Codes. The draft amendments introduce a new code for complying development for dual occupancy and forms of multi dwelling housing – called the 'Missing Middle'. The draft legislation aims to facilitate dual occupancy, terrace houses and manor houses with greater bulk and density than currently permitted by SSLEP2015. Under the amended draft SEPP, dual occupancy with FSR up to 0.75:1 could be realised on very small lots and 0.6:1 realised on lots 525m² or greater. This would proceed as complying development and would not be subject to development assessment. Similarly, the amendment would allow multi dwelling housing with FSR up to 0.75:1 on very small lots and 0.7:1 on lots 525m² or greater without the need for a Development Application.

This increased FSR combined with reduced setbacks and landscaping standards in the draft SEPP will result in an overall reduction in landscaping and an increase in building bulk and scale when compared to what is currently being achieved under SSLEP2015. These changes will jeopardise neighbourhood character in low-density zones, with amenity impacts on neighbours and reduced opportunities to retain or plant trees.

The draft SEPP amendments assume that LEPs specify a minimum lot size for dual occupancy and multi dwelling development, stating that applicants must 'check land zoning and minimum lot size' for a council area, set by the Standard LEP model clause "4.1B Minimum lot sizes for dual occupancy, multi dwelling housing and residential flat buildings". SSLEP2015 does not have these provisions. Without a minimum lot size clause, the impact of the SEPP in the Shire will be greater than that intended by the State.

Other Councils: minimum lot size

The objective of the Standard Instrument clause for minimum lot size is "to achieve planned residential density in certain zones". The clause allows for different minimum lot size standards for attached and detached dual occupancies, and for the same type of development in different zones.

Twelve local environmental plans of other Sydney councils were reviewed. Nine of these councils require a minimum lot size for dual occupancy developments with the model LEP clause. All except Blacktown, Burwood and Randwick have a minimum lot size in excess of 500m². Pittwater Council, which has a similar landscaped suburban context to Sutherland, has a minimum lot size of 800m² for dual occupancy development.

Council	Zone	Minimum site area for dual occ
Pittwater LEP2014	Where permissible	800 m ²
Hurstville LEP2012	Zone R2 or R3: Mapped Area G	630 m ²
	Zone R2 Mapped Area K (Oatley etc.)	1000 m ²
Kogarah LEP2012	As mapped Detached : 2 road frontages	650 m ² or 1000 m ²
Fairfield LEP2013	As mapped	600 m ² or 900 m ² or 2Ha
Canterbury LEP2012	R2 and R3	600 m ²
Bankstown LEP2015	Zone R2 Attached dual occ	500 m ² , 15m lot width
	Zone R2 Detached dual occ	700 m ² , 20m lot width
Blacktown LEP2015	Zone R2 Attached dual occ	500 m ²
	Zone R2 Detached dual occ	600 m ²
Burwood LEP2012	Zone R2 and R3 Attached dual occ	500 m ²
	Zone R2 and R3 Detached dual occ	600 m ²
Ryde LEP2014	Zone R2- Attached dual occ	580 m ²
Randwick LEP2012	Zone R2	

		450 m ²
Kuring-Gai LEP2015	No clause	
Hornsby LEP	No clause	
Warringah LEP2011	No clause	

Table 1: Review of other council's dual occupancy minimum lot sizes

Amongst Sydney area LEPs, permissibility for multi dwelling housing in the R2 zone is rare, and those few that do prescribe a minimum lot size for multi dwelling housing generally apply it only in the R3 Medium Density Residential zone. Bankstown's LEP is the exception. It specifies a minimum lot size for multi dwelling housing in the R2 zone at 1200m² and a minimum lot width of 20m.

SSLEP2015 Dual Occupancy Provisions

SSLEP2015 permits dual occupancy development with no minimum lot size in Zone R2 Low Density Residential and in Zone E4 Environmental Living, however only in that part mapped as Area A on the Additional Permitted Uses Map.

The previous LEP, SSLEP2006, permitted dual occupancies in Zone 4 Local Housing (equivalent to Zone R2) with minimum lot size 600m². Torrens title subdivision of dual occupancies under the previous LEP required minimum site area 800m² and lot width 18m and subdivision could not create an internal lot. Consequently, many dual occupancies were designed to be side-by-side and strata subdivided.

As part of the Housing Strategy to accompany the new LEP, Council resolved (SDC003A-10) to remove the minimum lot size requirement. The intention was to increase dwelling supply by allowing scope for inventive design solutions on smaller sites. It was intended that merit assessment of applications using DCP development standards would maintain the character and amenity of the residential area. In Zone R2, Torrens title subdivision of dual occupancy development also became possible without any lot size restriction. The freeing up of dual occupancy provisions was subsequently aided by an increase in allowable floor space ratio in Zone R2 (increased from 0.45:1 up to 0.55:1), and a reduction in the required landscaped area (reduced from 45% to 35%). These changes to development standards increased the attractiveness of dual occupancy development. The recent dramatic increase in the value of residential property in Sydney has further encouraged residential redevelopment. The outcome has been widespread development of dual occupancies on sites ranging up in size from around 500sqm. In the year preceding the gazettal of LEP2015 (June 2015), 117 dual occupancies were approved compared to 238 in the year following gazettal, with the rate of development continuing to increase.

Dual Occupancy Development on Small Lots in Zones R2 and E4

In Sutherland Shire, there is some community dissatisfaction with the impacts of dual occupancy development on low-density neighbourhoods. The development of dual occupancies, while providing additional dwellings, can reduce the sense of openness, the degree of privacy and the landscaped character in an area predominantly occupied by single dwellings. What was previously a backyard of a single dwelling on an adjacent lot is built upon as a dual occupancy with a 6m rear setback. As more and smaller lots develop with dual occupancies, the loss of landscape is cumulative. On any size of lot, dual occupancy developments of variable design quality are built with the maximum allowable floor space ratio (0.55:1 in Zone R2). This usually replaces old single storey cottages with a very low floor space ratio and a small building footprint. New dual occupancy dwellings extend significantly deeper into a site than the single dwellings they replace, even with the limiting two storey development to the front 60% of the site (60/40 rule). Ancillary structures, parking and driveways for two new dwellings must fit into the open spaces around the buildings, adding to the site coverage and apparent building bulk.

After maintaining the required setbacks and parking, which remain constant whatever the site size, smaller sites have a smaller proportion of the site available for the building. The maximum floor space is still achievable where sites are smaller than 600m². However, with less buildable area there is less space to resolve site-specific design issues. Smaller lots are often also narrow. On lots less than 14m wide, it is difficult to provide a balanced outcome for attached side-by-side dual occupancies in terms of landscaping and quality design. Where central garaging is proposed, it is not possible to balance parking and manoeuvring areas with any meaningful landscaping. The alternative, being two separate driveways, also creates difficulties with street parking, with insufficient space for parking between the two driveways. Similarly, canopy trees in the front setback area and in Council's road reserve are almost impossible to achieve.

Some lot shapes present more difficult design challenges. Small site size in conjunction with difficult shapes (e.g. long and narrow, or close to square) can result in less satisfactory design outcomes. The shape of long narrow sites on corners (where the side setback becomes a 3m secondary street setback), is a limiting factor for design. With this size and shape, the site cannot accommodate side-by-side attached dual occupancies in the short dimension. When side-by-side two storey dual occupancies have the rear elevation on the long dimension of the site, the 60/40 rule may not be achieved, with greater privacy and overshadowing impacts on neighbours. The quality of the outdoor space within the side setback is also likely to be poor with this site configuration. The required street setbacks mean that one of the dual occupancies must have their principal private open space in the street setback, which is not an optimum solution for the building occupant or the streetscape. With more buildable site area available on larger sites, the design of dual occupancies on difficult shaped sites is easier to resolve. Larger sites usually have a greater site depth, with the consequence of providing greater rear setbacks than the 6m minimum. Larger sites provide more design flexibility with a

higher likelihood of better design outcomes for occupants, neighbours and the streetscape, and greater opportunities for tree retention.

A zone objective for R2 Low Density Residential is "To ensure the single dwelling character, neighbourhood character and streetscapes of the zone are maintained over time and not diminished by the cumulative impact of multi dwelling housing or seniors housing". Despite this objective, if intensified development can occur on all lots regardless of size, there is a cumulative impact on neighbourhood character. Maintaining the single dwelling character and streetscape of a neighbourhood is difficult to achieve, given the loss of landscaping opportunities, the need for increased parking, the impacts of ancillary development and the increased bulk and scale of dual occupancy development. The minimum lot size for a standard lot (vacant) residential subdivision in the R2 zone is 550m². The addition of an LEP clause requiring a minimum lot size of 600m² for dual occupancy development in Zone R2 Low Density Residential will prevent dual occupancies occurring on what are already very small lots.

Zone E4 Environmental Living applies to areas that have special ecological, scientific or aesthetic values. The E4 zone aims to ensure that "low impact" residential development does not have an adverse effect on those values, and preserves the natural landscape setting, trees, bushland and scenic values of the locality. The minimum lot sizes for a standard lot residential subdivision in this zone is generally 700m² with an accompanying maximum FSR of 0.5:1. Dual occupancy development is permissible in those parts of Zone E4 (mapped as Area A), which denotes properties without bush fire or evacuation risk. There has not been the same rapid redevelopment for dual occupancies in this zone. However, the potential impacts on the special environmental and scenic qualities of the zone are greater than for Zone R2. Consequently, a minimum lot size for construction of dual occupancies should reflect the larger residential subdivision lot size with a minimum lot size of 700m² being recommended for construction of a dual occupancy.

Multi Dwelling Development on Small Lots in the R2 zone

Multi dwelling housing is permissible in the R2 Low Density Residential, R3 Medium Density Residential and R4 High Density Residential zones. This discussion focuses on multi dwelling housing in the R2 zone where there is an expectation of low-density residential outcomes. Medium density is to be expected in the R3 and R4 zones.

Multi dwelling housing in the R2 Low Density Residential zone in SSLEP2015 is consistent with previous permissibility under SSLEP2006. Under SSLEP2006, the minimum lot size for the construction of a villa or townhouse was 1200m², with a minimum lot width of 25m, and a maximum FSR of 0.45:1. The minimum landscaped area for villas was 30% and 40% for townhouses. These provisions proved unattractive to developers. In the year before SSLEP2015 came into effect, only 39 villas and townhouses were approved throughout the whole of Sutherland Shire.

To facilitate housing choice, the SSLEP2015 introduced more generous development controls for multi dwelling housing. In the R2 zone, the FSR increased to 0.55:1 and the landscaped area reduced to 35%. The new LEP removed the minimum lot size requirement of 1200m², while draft SSDCP2015 introduced a minimum lot width of 20m. Response to these changes has been robust. Since SSLEP2015 came into force, 575 multi dwelling units have been approved or are pending approval in the R2 zone. Of these, just under half are developments on a 'small site', i.e., between 650m² and 1200m². The majority of these approvals are for the demolition of a single dwelling house and the construction of an average of 3.6 dwellings on a single, un-amalgamated lot with an average size of 1013m².

The rate of change and resulting impacts has led to increasing community dissatisfaction. Core complaints from the community include visual impacts of the bulk and scale on neighbours (expressed as 'over development'), loss of privacy, overshadowing, tree loss, traffic generation and the out-of-character nature of the development in the R2 zone. The high take up rate for multi dwelling housing also leads to an outcome somewhat at odds with a stated objective of the R2 zone:

"...To ensure the single dwelling character, landscaped character, neighbourhood character and streetscapes of the zone are maintained over time and not diminished by the cumulative impact of multi dwelling housing or seniors housing".

Based on two years of determining DAs for multi dwelling housing development under these controls, assessment officers confirm that, 'the better the quality of design, the better the overall outcome'. In general, multi dwelling housing developments on smaller lots can be acceptably compliant with regard to landscaped area and FSR; however, the smaller the site, the greater the difficulties in providing an adequate balance of private open space, setbacks and vehicle manoeuvrability.

Typically, developments on less than 1200m² do not provide sufficient width to accommodate a row or two of townhouses with adequate vehicular manoeuvring and garaging, while also providing suitably located and designed private open space. As the number of units increases, so does the parking requirement. While garages contribute significantly to the scale of a proposal, it does not count towards FSR. On smaller lots, this creates great difficulty, as while the setbacks remain constant, the extent of the built form displaces areas required for vehicular manoeuvring and open space. Very often, landscaped area is sacrificed to allow for driveway manoeuvring needed to support built form that, despite its extensive footprint, complies with FSR. The result is a development that is technically compliant but provides compromised amenity for residents and neighbours.

While the potential for multi dwelling housing development is not new in the R2 Low Density Residential zone, the cumulative impacts are. The magnitude of this change is most evident in Caringbah South, where 172 multi dwelling units (or 30% of all multi dwelling houses approved in the R2 zone) have been approved or are pending approval. On one street alone, 38 multi dwelling housing units are approved, with approval for four more dwellings pending. Here, all but one development is on a single un-amalgamated lot less than 1200m² in area, with an average number of new dwellings per site of 4.6. Caringbah South is the most impacted location to date. However, over time, a similar up take rate can be expected elsewhere under current controls.

It is reasonable to conclude that better individual development and community outcomes may be achieved through the re-instatement of a minimum lot size for multi dwelling development in the R2 Low Density Residential zone. In many circumstances, the increased lot size will require the amalgamation of two adjoining sites. This has clear advantages. It allows for a more efficient and rational design approach. It also typically produces a greater yield by eliminating the duplication of driveways and side boundary setbacks if both sites were to be developed independently. It also increases the opportunity for basement parking and subsequent improved landscaping, and private open spaces.

With the benefit of hindsight, it is considered that the previous minimum lot size of 1200m² has merit. It is a standard applied elsewhere in the Sydney area. Because it requires the amalgamation of average sized lots in the R2 zone, there is also a strong likelihood of achieving the 20m minimum lot width. Reintroducing the 1200m² minimum lot size may slow the rate of multi dwelling housing developments within the R2 zone, but will improve the overall quality of developments and protect neighbourhood character.

BUDGET AND RESOURCES

Preparation of a Planning Proposal to introduce minimum lot sizes is the responsibility of the Strategic Planning Unit utilising existing resources. Assistance will be required from Information Management & Technology and Legal Services.

POLICY

The recommendations in this report will amend Council's primary planning instrument SSLEP2015.

CONCLUSION

Development of multi dwelling and dual occupancy housing on smaller sites tends to result in disproportionate impacts on neighbourhood character and streetscape. Reinstatement of the 1200m² minimum lot size for multi dwelling housing is a sensible solution to address poor development outcomes and reduce the cumulative impacts on streetscape character in the R2 Low Density Residential zone.

In the R2 Low Density Residential zone, re-instatement of the 600m² minimum lot size for dual occupancies will improve development outcomes and limit the cumulative impacts on local neighbourhood character. The potential impacts on the special environmental and scenic qualities of Zone E4 Environmental Living are greater than for Zone R2, so a minimum lot size for construction of dual occupancies of 700m² is recommended.

The draft 'missing middle' amendments to complying development codes require compliance with Council's local environmental plan provisions for minimum lot sizes. This direction means that it would be prudent for Council to introduce a minimum lot size for multi dwelling development in Zone R2 and for dual occupancy development in Zones R2 and E4.

RESPONSIBLE OFFICER

The officer responsible for the preparation of this Report is the Manager Strategic Planning, Mark Carlon who can be contacted on 9710 0523

File Number: <<2016/244251>>

▼ COMMITTEE RECOMMENDATION

THAT the report "Planning Proposal - Minimum Lot Size for Dual Occupancy and Multi Dwelling Development" be referred to the Council Meeting to be held on 21 August, 2017.

(Councillor Riad / Councillor Provan)

▼ COUNCIL RESOLUTION

THAT:

1. A planning proposal be prepared to amend Sutherland Shire Local Environmental Plan 2015 (SSLEP2015) to introduce:

- a minimum lot size of 600m² for dual occupancy in Zone R2 Low Density,
- a minimum lot size of 700m² for dual occupancy in Zone E4 Environmental Living
- a minimum lot size of 1200m² for multi dwelling housing in Zone R2 Low Density Residential.

2. The planning proposal be submitted to NSW Planning for Gateway Determination in order to allow to the proposal to be publicly exhibited. The plan is a local matter and is to proceed under delegation to Council.

3. The General Manager be given delegated authority to make any amendments that are required by the Gateway Determination before the draft planning proposal is exhibited.

(Councillor Riad / Councillor Nicholls)