

OUTCOMES COMMITTEE

52

Meeting Date 14 May 2013

Item Number.

SUBJECT: Rural Area - Secondary Dwellings Study and Planning Proposal

Proposal: Rural Area - Secondary Dwellings Study and Planning Proposal

Premises: Horsley Park and Cecil Park

Applicant: N/A

Zoning: draft Fairfield LEP 2011 - RU2_Rural Landscape, RU_4 Primary Production Small Lots

FILE NUMBER: 12/04666

REPORT BY: Andrew Mooney, Acting Manager Strategic Planning

RECOMMENDATION:

That;

1. Council endorse the draft Rural Lands - Secondary Dwellings Study (Attachment A) and Planning Proposal (Attachment B) to allow consideration of secondary dwellings as an additional form of residential accommodation in zones RU2 – Rural Landscape and RU4 – Primary Production Small Lots in Horsley Park and Cecil Park.
2. Council inform the Department of Planning and Infrastructure (DP&I) that pursuant to relevant provisions of the EP&A Act and associated Regulations, Council wishes to commence the Gateway Determination Process to amend the draft Fairfield Local Environmental Plan 2011 to allow secondary dwellings as use permissible with development consent in zones RU2 – Rural Landscape and RU4 – Primary Production Small Lots in Horsley Park and Cecil Park.
3. In requesting the gateway determination, Council advise the DP&I that it seeks to utilise the delegation for LEP Plan Making (delegated by the Minister under Section 23 of the EP&A Act 1979). The delegated functions will be undertaken by the Group Manager City Development who has been delegated these powers by Council and the City Manager under Section 377 of the Local Government Act 1993.
4. Subject to the DP&I issuing a gateway determination supporting the Planning Proposal, that the Planning Proposal and draft Study be publicly exhibited in accordance with the Consultation Strategy outlined in this report and the conditions outlined in the Gateway Determination.
5. A separate report be referred to Council regarding detailed DCP controls to be applied to secondary dwellings in the Rural Areas.

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Note: This report deals with a planning decision made in the exercise of a function of Council under the EP&A Act and a division needs to be called.

SUPPORTING DOCUMENTS:

AT-A	Secondary Dwelling Study - Horsley and Cecil Park	51 Pages
AT-B	draft Planning Proposal	15 Pages

CITY PLAN

This report is linked to *Theme 2 Places and Infrastructure* in the Fairfield City Plan.

SUMMARY:

In April 2012 as part of its consideration of the draft Fairfield LEP 2011 Council resolved as follows;

A study (ahead of and independent from the Rural Land Study) be initiated to determine whether a Planning Proposal should be prepared to permit secondary dwellings (granny flats) in any of the rural zones other than RU1.

This report provides an overview of the Rural Lands – Secondary Dwellings Study (Attachment A), with the key findings of the Study being;

- The proposal to allow secondary dwellings is generally consistent with relevant Council and State Government Strategies and Policy aimed at promoting housing diversity and to address current and future housing needs of residents in Horsley Park and Cecil Park.
- There is likely to be no significant increase in population as a result of introducing secondary dwellings (granny flats) to the rural lands.
- Given the relatively small size and scale of secondary dwellings, there are no major environmental or infrastructure constraints to the provision of this form of housing in the rural area.
- Similarly the size of secondary dwellings and controls on the location of secondary dwellings will mitigate potential impacts on agricultural production in the area.
- Given the lack of public transport available to the area it is recommended that secondary dwellings are required to include a parking space.

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- The proposal to permit secondary dwellings in the rural area will not generate a significant increase in residential density of the area and is considered consistent with the Ministerial s.117 Direction 1.2 – Rural Zones.

In light of the above, the recommendations to this report provide the basis for Council to consider preparation of a planning proposal aimed at amending the provisions of the draft Fairfield LEP 2011 to allow 'secondary dwellings' as use that can be considered with development consent in zones RU2 – Rural landscape and RU4 – Primary production small lots applying to the rural areas of Horsley Park and Cecil Park.

BACKGROUND

Following public exhibition of the draft Fairfield LEP 2011 Council resolved to bring forward a study to consider the merits of allowing secondary dwellings in the RU2 and RU4 zones. At the time this report was being prepared the draft LEP 2011 Council was awaiting advice from the Department of Planning and Infrastructure (DP&I) regarding the possible timing for making (gazettal) of the draft LEP 2011.

As shown in Appendix A of the draft Secondary Dwellings Study (Attachment A), the Study is restricted to zones RU4 – Primary Production Small Lots applying to Horsley Park and Cecil Park (west of the M7 Orbital) and RU2 – Rural landscape zone ('keyhole' lands) located between Cowpasture Road and M7.

The Study addresses key strategic issues relevant to consideration of secondary dwellings in the RU2 and RU4 zones, including issues highlighted by the NSW DP&I relating to the consistency of the proposal to allow secondary dwellings in the rural area with State Government Strategy and Policy.

Definition of Secondary Dwellings:

It is important to note that under the NSW Standard LEP, the standardised (mandatory) definition of secondary dwellings is as follows;

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.*

An important outcome of the above definition is that secondary dwellings cannot be subdivided (i.e. placed on a separate title).

Further, pursuant to the provisions of Clause 5.4(9) of the draft Fairfield LEP 2011, the following specific Standard LEP controls (below) would automatically apply to any future secondary dwellings not only in the rural area but also in all other zones across the City.

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Secondary dwellings

If development for the purposes of a secondary dwelling is permitted under this Plan, the total floor area of the dwelling (excluding any area used for parking) must not exceed whichever of the following is the greater:

- (a) 60 square metres,*
- (b) 10 % of the total floor area of the principal dwelling.*

Under the NSW Standard LEP, there is no discretion for Council to vary the provisions of part (a) 60 square metres (above). However, the percentage provisions of part (b) are discretionary and as part of its broader consideration of the draft LEP 2011 Council resolved to apply the 10% maximum to secondary dwellings.

Specific DCP provisions currently apply to secondary dwellings in the residential zones of the City and as detailed in this report, under the secondary dwellings Study it is proposed that more detailed DCP controls also be developed for secondary dwellings in the rural areas to ensure appropriate environmental outcomes for this form of residential accommodation.

KEY FINDINGS OF DRAFT STUDY

The following provides an overview of the key issues and findings of the draft Study included in Attachment A.

A. Need for Secondary Dwellings

Part 2 of the draft Study provides an analysis of Census data relevant to Horsley Park and Cecil Park which revealed a number of key demographic trends for these areas as follows;

- Continued reduction in household sizes – 2006 (3.53 persons) to 2013 (3.13 persons)
- Age structure – ageing population. The largest increase over the next 20 years is identified for people between the age of 65-69 to 85 and over
- Decline in younger population between the ages of 0-4 and 15-19, indicating a reduction in the number of family groups in the area
- Projected increase in lone person and couples without dependents.

Generally, larger homes are more demanding to maintain as residents get older and proposal to allow secondary dwellings in the rural area would be beneficial for both ageing and younger family members in terms of providing smaller scale housing.

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B. Consistency with Key Strategies and Policies

As detailed under Part 3 of the draft Study the proposal to allow secondary dwellings in the rural is consistent with directions in the draft Metro Strategy and current Subregional Plan as follows;

Draft Sydney Metropolitan Strategy for Sydney to 2031;

- ACTION 6.1 - Prepare housing strategies to provide for future housing mix and identify local affordable housing opportunities;
- ACTION 6.3 - Plan for the inclusion of affordable housing in Sydney.

Draft West Central Subregional Strategy;

- ACTION C2.2 - provide self-care housing for seniors and people with a disability;
- ACTION C2.3 - Provide a mix of housing.

Planning Comments

The introduction of secondary will allow older people to “age in-place” at the family home. This form of housing would be required to be generally single storey or located on ground floor (attached) of a new dwelling which will promote accessibility to the dwelling for the ageing population.

The smaller scale construction of secondary dwellings would help promote the affordability of this housing option for residents of the rural area and creates opportunities for moderately priced rental accommodation.

In addition to the above, the proposal supports Goals and Strategies contained in Fairfield City Plan 2010 – 2020 and draft Fairfield Residential Strategy 2009 of providing a new housing type in the rural areas which caters for different life stages, family needs and levels of affordability.

C. Advice from Department of Planning and Infrastructure

Advice was received from the DP&I (Attachment A – Appendix C) regarding issues that would need to be addressed under the Study and planning proposal for secondary dwellings in the rural area. In addition to demonstrating consistency with relevant regional and sub-regional strategy, the DP&I also requested Council;

- Assess the impact on the agricultural production value of rural land
- Demonstrate consistency with Ministerial Direction 1.2 Rural Zones that states an LEP proposal must “*not contain provisions which will increase the permissible density of land within a rural zone (other than land within an existing town or village)*”.

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Planning Comments

To address these issues, under Part 4 of the draft Study a survey of current land uses in the area was undertaken and compared with similar data obtained in 2006. In addition Part 5 of the Study deals with the local value of agricultural commodities (\$13.5m) obtained from ABS Data.

In summary the key findings and outcomes of the above investigations were as follows;

- In the period 2006-2013 the number of residential lots in the RU4 zone in Horsley increased from 527 to 599 lots
- Approximately 140 lots remain that are being utilised for primary production, representing 40% of land mass of the RU4 zone
- In the RU2 (keyhole lands) area 50% of lots were being utilised for residential purposes whilst 35% are associated with primary production
- The total value of agricultural production in the area is approximately \$13.5m.

Part 5 (B) of the Study outlines how secondary dwellings would not have a significant impact on the value of agricultural production of the rural area or increase the density of residential development as;

- Secondary dwellings in the rural area would have a smaller building footprint (generally an average of 70m² gross floor area) than dwelling houses in the area. In terms of minimum lot sizes required for subdivision, this represents approximately 0.7% of a 1ha lot in the RU4 zone or 0.07% of site area of a 10ha lot in the RU2 zone
- The major driver for change in RU4 zone is likely to be 1hectare subdivisions and not secondary dwellings
- As discussed further below, the controls on secondary dwellings will help mitigate the impacts of secondary dwellings on land available for agricultural production.

D. Environmental Constraints

Part 6 of the Study provides an assessment of environmental constraints (including bushfire prone land, riparian corridors, vegetation, soils, contaminated land, flooding) and did not identify any significant constraints for secondary dwellings in the rural area.

Established DCP controls and State Government requirements (e.g. Planning for Bushfire Prone Land, SEPP – Contaminated Land) provide an adequate framework for dealing with impacts of secondary dwellings in the rural area.

E. Infrastructure Issues

Part 7 of the Study provides an analysis of infrastructure issues relating to secondary dwellings with key issues as follows;

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On-site sewerage disposal

- Applications for secondary dwellings would be required to submit a report showing that adequate arrangements can be made for on-site disposal of waste water whilst at the same time mitigating potential impacts on the surrounding environment and properties in accordance with Council's On-Site Sewage Management Policy.
- There may be scope to connect to or expand the capacity of existing treatment systems but this will need to be considered on a case by case basis.

Stormwater Drainage

- Applications for secondary dwellings would need to be designed to comply with Council's Rural Area On-site Detention guidelines and include the submission of a stormwater drainage concept plan.

Traffic Generation

- Council's traffic planning section has provided advice that the local road networks of Horsley Park and Cecil Park have sufficient capacity to cope with traffic generated by secondary dwellings.

Acoustic Issues

- Secondary dwellings within 500m of a quarry would need to submit an acoustic report and incorporate relevant measures to mitigate against the potential impacts from quarry activities.
- In 2010, as a result of the release of the Federal Government Aviation White Paper indicating that Badgerys Creek was "no longer an option" as Sydney's Second Airport site, Council amended DCP controls applying to residential development in the rural area changing acoustic proofing measures from aircraft noise from a compulsory to an advisory measure.

PROPOSED REQUIREMENTS FOR SECONDARY DWELLINGS

Statutory (LEP) Controls

As detailed under the background section of this report, the key statutory controls applying to secondary dwellings are established under the definition of secondary dwelling and provisions of cl.5.4 of the NSW Standard LEP.

These requirements mean that an application for secondary dwellings in the rural area can only be considered where it is;

- established in conjunction with another dwelling (the principal dwelling), and
- on the same lot of land as the principal dwelling, and
- located within, or is attached to, or is separate from, the principal dwelling, and
- has a floor area of no more than whichever is the greater of 60m² or 10% of the total floor area of the principal dwelling.

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Development (DCP) Requirements

Council has discretion to apply more detailed DCP controls not covered by the LEP provisions. The following table provides a summary of the proposed DCP requirements for secondary dwellings and rationale for these controls arising from the analysis and assessment of issues contained in the draft Study.

SECONDARY DWELLINGS - PROPOSED CONTROLS RURAL AREA		
Issue	Controls	Rationale
Location and position of Secondary Dwellings	<p><u>New Dwelling & Secondary Dwellings</u></p> <ul style="list-style-type: none"> - Secondary dwellings associated with a new principal dwelling needs to be attached to the principal dwelling <p><u>Existing Dwelling & Secondary Dwellings</u></p> <ul style="list-style-type: none"> - Where there is an existing principal dwelling, the secondary dwelling needs to be located within 10 metres of the existing dwelling 	<ul style="list-style-type: none"> - Achieve a high level of integration of secondary dwellings with the principal dwelling - Results in more efficient utilisation of site infrastructure, particularly waste water disposal, drainage services, on site detention systems and driveway areas. - Achieves a more 'compact' residential building footprint and site development area in the residential development leaving greater land available for other uses including open space, landscaping and agricultural activities.
Built form and design	<ul style="list-style-type: none"> - detached secondary dwellings limited to single storey - designed to be complementary to the built form and architectural appearance of the principal dwelling 	<ul style="list-style-type: none"> - Control the scale of detached secondary dwellings - Maintain consistency with existing controls applying to residential development in the rural areas
Carparking and access	<ul style="list-style-type: none"> - Minimum 1 carparking space required - Where possible utilise the access to the existing principal dwelling 	<ul style="list-style-type: none"> - There is limited availability to public transport services to the rural area - Minimise the need for new hard surface areas and maximise use of existing site access arrangements.
Infrastructure	<ul style="list-style-type: none"> - Accompanied by report prepared by relevant consultant confirming secondary dwelling complies with Council requirements in relation to disposal of waste water and connection to drainage services 	<ul style="list-style-type: none"> - Supports the above proximity controls for attached and detached secondary dwellings - Minimises the amount of site area required for secondary dwellings.

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SECONDARY DWELLINGS - PROPOSED CONTROLS RURAL AREA

Issue	Controls	Rationale
Open space	<ul style="list-style-type: none">- Include an area capable of being utilised for open space, no minimum numerical requirements proposed- Open space is separated and screened from the principal dwelling.- Include landscape measures that are consistent with the landscape context of the rural areas.	<ul style="list-style-type: none">- Currently there are no minimum private open space requirements for residential development in the rural areas.- Minimum subdivision requirements for zone RU4 (1ha) and RU2 (10ha) means there will be adequate open space available for secondary dwellings in the rural area.
Internal living space	<ul style="list-style-type: none">- Minimum 30m² available for living space (living and dining rooms, kitchen areas)- Minimum dimension of 4m- Minimum ceiling height of 2.7m- Direct connection between living area and private open space	<ul style="list-style-type: none">- Ensure secondary dwellings have adequate levels of internal and external amenity.

Subject to Council's endorsement of the draft Study and planning proposal on secondary dwellings, it is proposed that a separate more detailed report be referred to Council on the proposed DCP controls for secondary dwellings in the rural area. These controls would be placed on public exhibition concurrently with the draft Study and planning proposal.

Development Contributions

Currently there is no stand alone Section 94 plan applicable to residential development in the rural areas of the City. However pursuant to the provisions of s.94A a 1% levy would apply to development with a capital investment value of \$100,000.00.

In addition, the analysis undertaken in the draft Study of projected population levels for the rural area and demand generated by secondary dwellings on infrastructure did not identify a basis for modifying current arrangements applying to s.94 contributions for residential development in the rural area.

CONSULTATION STRATEGY

In addition to requirements issued by the DP&I under the planning proposal covering consultation with State Government Agencies and utility providers, it is proposed that consultation and public exhibition of the planning proposal (for a minimum of 28 days) be undertaken with land owners and residents of the rural area via;

- Letter to all property owners in the rural area
- Notice in the local newspapers

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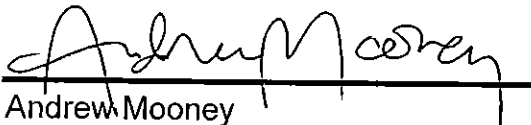
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- If timing required for public exhibition under the gateway determination permits and does not delay processing of the planning proposal, information to be included Councils newsletter 'City Life'
- Letters to adjoining Councils (Blacktown City, Liverpool City and Penrith City Councils).

CONCLUSIONS

The draft Rural Lands - Secondary Dwellings Study attached to this report provides the basis for Council to consider allowing secondary dwellings as an additional form of residential accommodation in zones RU2 – Rural Landscape and RU4 – Primary Production Small Lots in Horsley Park and Cecil Park.

It is recommended that Council endorse the findings of the draft Study and Planning Proposal attached to this report for referral to the DP&I for a gateway determination under the EP&A Act to allow public exhibition of the planning proposal for a minimum period of 28 days.



Andrew Mooney
Acting Manager Strategic
Planning

Authorisation:
Group Manager City Development



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***** END OF ITEM *****