



PLANNING PROPOSAL

Increased Floor Area for Secondary Dwellings

Prepared by Warringah Council

October 2015

TRIM 2015/027729

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Acronyms used in this Report

Council	Warringah Council
CSP	Community Strategic Plan
Department	Department of Planning and Environment (former Department of Planning and Infrastructure)
SEPP	State Environmental Planning Policy
WLEP 2011	Warringah Local Environmental Plan 2011

Introduction

This Planning Proposal seeks to amend *Warringah Local Environmental Plan 2011* (WLEP 2011) to allow Secondary Dwellings with floor areas up to 75 square metres, within existing dwellings. This will allow for development of two bedroom Secondary Dwellings, suitable for an increased range of demographics. This Planning Proposal does not change floor space limits for other types of Secondary Dwellings.

Secondary Dwellings are permitted by *SEPP (Affordable Rental Housing)*, which sets requirements for the type of development. This includes the maximum floor area, which is set at 60 square metres, the typical size of a single bedroom residence. While this housing type may be suitable for individuals or couples, it may not address the needs of others that require affordable housing choices.

In 2014, Council undertook a desktop review of the viability of allowing this type of development (TAG 4). This review found that *SEPP (Affordable Rental Housing)* allowed Council to increase the maximum floor area of Secondary Dwellings. The review found that the increase could be limited to development within existing homes. This method would allow for the benefits of increased floor areas without increasing the overall size of the existing home.

On 25 November 2014, Council resolved to prepare a Planning Proposal to increase the maximum floor area for Secondary Dwellings located within an existing dwelling house to 75 square metres (TAG 5). This Planning Proposal seeks amend WLEP 2011 as per the resolution.

The Planning Proposal

This Planning Proposal comprises parts consistent with the *A Guide to Preparing Planning Proposals* (October 2012) and *A Guide to Preparing Local Environmental Plans* (April 2013):

Part 1 - Objectives or Intended Outcomes

Part 2 - Explanation of Provisions

Part 3 - Justification

Part 4 - Community Consultation

Part 1: Objectives or Intended Outcomes

The objective of this Planning Proposal is to allow Secondary Dwellings up to 75 square metres in floor area, if they are:

- Within an R2 – Low Density Residential or R3 – Medium Density Residential zone
- Within an existing dwelling house

The intended outcome of the Planning Proposal is that larger Secondary Dwellings will be developed in established residential areas, increasing housing choice without increasing the size of existing dwellings. This outcome is supported by the objectives of Council's Community Strategic Plan, *A Plan for Growing Sydney (2014)* and *SEPP (Affordable Rental Housing)*, as described in Part 3.

Part 2: Explanation of Provisions

Subject to future consultation with Parliamentary Counsel's Office for legal drafting of the amendment, Council foreshadows that the Planning Proposal would involve the following amendments to WLEP 2011:

Relevant sections of WLEP2011	Proposed Amendments
Land Use Table: Zone R2 Low Density Residential	Insert new item in 3. Permitted with consent "Secondary Dwellings"
Land Use Table: Zone R3 Medium Density Residential	Insert new item in 3. Permitted with consent "Secondary Dwellings"
Part 6 Additional Local Provisions	Additional clause that: - Contains an objective to ensure that development of Secondary Dwellings in Zones R2 – Low Density Residential and R3 – Medium Density Residential is low impact and without adverse effects on the ecological, social and aesthetic values of the land. - Allows development consent for a development of a secondary dwelling of up to 75 square metres in Zones R2 – Low Density Residential and R3 – Medium Density Residential, if the consent authority is satisfied that the development will be carried out only within an existing dwelling house.

Table 1: Explanations of Provisions

Part 3: Justification

Section A - Need for the Planning Proposal.

Is the Planning Proposal a result of any strategic study or report?

The Planning Proposal is the result of a Council resolution made on 25 November 2014 (TAG 5). That resolution was in response to a desktop review of the viability of increasing the maximum floor space of Secondary Dwellings to 75 square metres in specific circumstances (TAG 4).

Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The Planning Proposal is an appropriate means of achieving the objective listed in Part 1. The following is noted in support of this view:

- Secondary Dwellings controls are primarily defined by *SEPP (Affordable Rental Housing)*
- *SEPP (Affordable Rental Housing)* allows environmental planning instruments, such as WLEP 2011, to increase limits to the total floor area of Secondary Dwellings
- The proposed amendment allows for additional floor space for 'internal' Secondary Dwellings and does not modify or limit current controls on 'attached' or 'detached' Secondary Dwellings
- The proposed amendment modifies WLEP 2011 in a way which is consistent with existing controls in *SEPP (Affordable Rental Housing)*

Is there a net community benefit?

The Planning Proposal will deliver a net community benefit. The key community benefits include:

- Delivery of additional housing choice in Warringah
- Maintenance of the existing character and built form of established areas

Section B - Relationship to Strategic Planning Framework

Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy, including the Sydney Metropolitan Strategy and exhibited draft strategies?

1. A Plan For Growing Sydney (2014)

A Plan for Growing Sydney is the latest metropolitan strategy released by the Department of Planning and Environment to set the framework for Sydney's growth to 2031 and beyond.

A key focus of the strategy is boosting housing and jobs growth across Sydney. The strategy sets a dwelling target (net additional) of 664,000 new dwellings across Sydney by 2031.

The Planning Proposal is consistent with the relevant objectives summarised in the table below:

A Plan For Growing Sydney Action	Consistency
2.1.1 Accelerate housing supply and local housing choices	The Planning Proposal will allow for more flexible Secondary Dwelling layouts that will improve housing choice, benefiting land owners and future tenants.
2.1.2 Accelerate new housing in designated infill areas (established urban areas) through the priority precincts and Urbangrowth NSW programs	The Planning Proposal supports development within existing residential areas. This will take advantage of current infrastructure and reduces the need for greenfield development.

2.2.3 Deliver more opportunities for affordable housing	The Planning Proposal encourages the development of Secondary Dwellings, a type of affordable rental housing. By allowing larger Secondary Dwellings, they are likely to be more appealing to a wider variety of household types. This supports the objective to deliver more opportunities for affordable housing.
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Table 2: A Plan for Growing Sydney Actions Summary

2. Draft North East Subregional Strategy (2007)

The draft *North East Subregional Strategy* translates the objectives of NSW Government's *Metropolitan Strategy* (2005) to the local level. The following actions are relevant to the Planning Proposal:

Draft North East Subregion Strategy Action	Consistency
C2.3.2 North East councils to provide for an appropriate range of residential zoning to cater for changing housing needs	The Planning Proposal will allow for larger Secondary Dwellings in R2 and R3 areas. Larger Secondary Dwellings can provide more flexible affordable housing layouts for downsizing seniors, young families and other demographics.

Table 3: A Plan for Growing Sydney Actions Summary

Is the Planning Proposal consistent with council's local strategy or other local strategic plan?

The Planning Proposal is consistent with the Community Strategic Plan. While the Planning Proposal is not directly related to an action area of the CSP, it is consistent with the following objective:

Objective	Consistency
5.3 We offer a variety of housing choices that meet the needs of our community and complements local neighbourhoods and the Warringah Lifestyle	The Planning Proposal will encourage the provisioning of a variety of housing choices across Warringah. Internally constructed Secondary Dwellings will complement the local character of residential areas by maintaining the built form of the local area.

Table 4: CSP Objective Summary

Is the Planning Proposal consistent with applicable State Environmental Planning Policies (SEPP's)?

The Planning Proposal is consistent with the relevant SEPP. The relevant SEPP is summarised below:

SEPP	Consistency
SEPP (Affordable Rental Housing)	The SEPP provides a consistent planning regime for the provision of affordable rental housing. The Planning Proposal allows for larger Secondary Dwellings, a type of housing allowed by the SEPP. This will allow for more flexibility in the types of Secondary Dwellings built in Warringah.

Table 5: SEPP Summary

Is the Planning Proposal consistent with applicable Ministerial Directions (s117 directions)?

The following Ministerial Directions are applicable to the proposal:

- 3.1 Residential Zones
- 3.4 Integrating Land Use and Transport
- 6.1 Approval and Referral Requirements
- 7.1 Implementation of the Metropolitan Plan for Sydney 2036

Ministerial Direction	Objectives	Comment
3.1 Residential Zones	The objectives of this direction are: (a) to encourage a variety and choice of housing types to provide for existing and future housing needs, (b) to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and (c) to minimise the impact of residential development on the environment and resource lands.	The Planning Proposal is consistent with the objectives of the direction and will: - encourage variety and choice of housing types by allowing more types of affordable housing development - promote development in established areas, maintaining access to infrastructure and services - reduce the need for development on the urban fringe by increasing the development potential of established areas
3.4 Integrating Land Use and Transport	The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives: (a) improving access to housing, jobs and services by walking, cycling and public transport, and (b) increasing the choice of available transport and reducing dependence on cars, and (c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and (d) supporting the efficient and viable operation of public transport services, and (e) providing for the efficient movement of freight	The Planning Proposal is consistent with the objectives of the direction as it will increase housing choice in established areas. New residents may take advantage, and enhance of viability of existing and mature services (e.g. commercial uses and public transportation).
6.1 Approval and Referral Requirements	The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.	The Planning Proposal is consistent with the objective of the direction as it will take advantage of complying development legislation, encouraging efficient and appropriate assessment of development

Ministerial Direction	Objectives	Comment
7.1 Implementation of the Metropolitan Plan for Sydney 2036	The objective of this direction is to give legal effect to the vision, transport and land use strategy, policies, outcomes and actions contained in the Metropolitan Plan for Sydney 2036.	The Planning Proposal is consistent with the <i>Plan for Growing Sydney</i> , the most recent Metropolitan Plan, as discussed above.

Table 6: S117 Summary

Section C - Environmental, Social and Economic Impact.

Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

The type of development, Secondary Dwellings within existing dwellings, is currently permitted. The proposal will not increase the likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected.

Are there any other likely environmental effects as a result of the Planning Proposal and how are they proposed to be managed?

The type of development, Secondary Dwellings within existing dwellings, is currently permitted. Development controls are managed through *SEPP (Affordable Rental Housing)*, *SEPP (Exempt and Complying Development)*, WLEP 2011 and *Warringah Development Control Plan 2011*.

Future applications allowed by the Planning Proposal will be assessed under the same suite of controls which mitigate the likelihood of environmental effects. Any environmental effects that may occur will be managed through those controls.

Has the Planning Proposal adequately addressed any social and economic effects?

The Planning Proposal will have positive social and economic effects, as it will allow for more flexibility in the types of affordable housing in Warringah. This will increase housing choice, providing benefits for both land owners and tenants.

Section D - State and Commonwealth Interests.

Is there adequate public infrastructure for the Planning Proposal?

The type of development, Secondary Dwellings within existing dwellings, is currently permitted. The Planning Proposal may increase development of Secondary Dwellings, increasing density by a marginal amount. However, any additional density would be located in established areas with a nominal impact on public infrastructure.

What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

The views of State and Commonwealth agencies will be known after the gateway determination.

Part 4: Community Consultation

Council will exhibit the Planning Proposal in accordance with the requirements of section 57 of the *Environmental Planning and Assessment Act (1979)*.

Council also proposes to undertake community consultation in accordance with Council's adopted Community Engagement Policy, in the following manner:

- Advertise the Planning Proposal in a local newspaper and on Council's website at the start of the exhibition period
- Exhibit the Planning Proposal for the period of time stipulated by the Gateway Determination.

Conclusion

The Planning Proposal has been written with consideration to the Department's *Guide to Preparing Planning Proposals*, *SEPP (Affordable Rental Housing)* and State and local strategies. It contributes to Council's commitment to allowing for a variety of housing choices that meet the needs of the community and complements local neighbourhoods and the Warringah lifestyle.

The Planning Proposal will amend controls in WLEP 2011 to allow development of Secondary Dwellings, of floor areas up to 75 square metres, when within existing dwellings. In doing so, it will increase the capacity for housing choice within Warringah and make them viable homes for a range of demographics.

Limiting the additional floorspace to Secondary Dwellings within existing dwellings will help preserve local character by maintaining the bulk and scale of existing dwellings. In addition, development will largely be located in established areas, allowing for use of existing services and infrastructure.

TAG 3
COUNCIL RESOLUTION
29 APRIL 2014

VOTING

For the resolution: Crs Daley, De Luca, Giltinan, Gobert, Harrison, Heins, Kerr, Menano-Pires, Moskal and Regan

Against the resolution: Nil

CARRIED

5.2 MAYORAL MINUTE NO 5/2014 - SECONDARY DWELLINGS IN TERREY HILLS AND DUFFYS FOREST

BACKGROUND

I have previously raised the critical issue regarding the lack of housing choice and affordability across our local government area. As the State Government has repeatedly failed to provide effective solutions, I am keen to see Council take the initiative to seek community feedback and develop the appropriate strategies to tackle this issue.

Council recently hosted two public forums during which valuable input was received from a wide range of stakeholders including residents, developers, local businesses and not for profit organisations. Unsurprisingly, the issue of affordability generated significant interest with feedback supporting the need for appropriate short and longer term actions.

It is obvious that a range of solutions must be examined in order to deal with such a complex issue. One option we should consider is to increase the availability of affordable accommodation through the provision of secondary dwellings, colloquially known as 'granny flats'. In doing this we can address the issue of providing opportunities for families and those wishing to downsize including those who wish to stay on their existing property and remain in the same community.

More specifically Council could consider, and in fact ease the State Government's restrictions on granny flats for strictly internal conversions only. It is my understanding that secondary dwellings are self-contained dwellings that may be attached to or detached from the principal home. They however cannot be subdivided from the principal home or sold off separately. They currently provide an alternate form of accommodation and are in most cases limited to 60 square metres in size. They are relatively cheap to build and can be rented out, or lived in by extended family or a friend.

The State Government's regulations only allow a max of 60 square metres which is a reasonable size single bedroom apartment. This is particularly important to maintain in relation to the external controls and the direct impact on their neighbour's amenity. Having said this though, I believe an opportunity exists to allow additional floor space on the proviso that it does not impact on the size of an existing building. For example, 75 square metres is equivalent to a good sized two bed unit and provides more floor plan options. It allows retiring couples to remain in their community and live independently and there is also the benefit of providing an income for pensioners and the obvious benefit that we can help in meeting the current housing demands.

I have included an extract from a neighbouring Council's planning documents that outlines a definition referred to as a 'Family Flat' which Warringah may wish to consider using as a starting point.

***Family flat** means a second dwelling built within the envelope of the original dwelling or attached at ground level to the original dwelling, where the development meets the provisions and objectives of a single dwelling-house (except density provisions), but:*

- a) is not more than 75m² in gross floor area; and,*
- b) shall not be separately titled.*

The report should also address the possibility of such a proposal being classed as exempt development and or complying development. Council should also investigate whether a small contribution, similar to the current process for Section 94 contributions, could go towards the additional public facilities required of increasing the population pressures of such a policy. That contribution should not be prohibitive and provide flexible payment options to allow for low-income earners.

Secondary dwellings are already permitted through the State Government's Affordable Housing State Environmental Planning Policy legislation for residential areas in Warringah. However, they are not permitted in the RU4 rural zone which applies to large proportion of Terrey Hills and Duffys Forest. I have been approached by a number of residents from this area who are very supportive of this concept.

As a result, I am requesting that staff prepare a short report to be considered by Council regarding the appropriateness of Secondary Dwellings as outlined above and more specifically in relation to the RU4 land use zone.

5.2 MAYORAL MINUTE NO 5/2014 - SECONDARY DWELLINGS IN TERREY HILLS AND DUFFYS FOREST

427/14 RESOLVED

Cr Regan

That Council prepare a short report to:

- A. investigate the appropriateness of allowing Secondary Dwellings in the RU4 Primary Production Small Lots land use zone in Terrey Hills and Duffys Forest
- B. investigate the viability of allowing a second dwelling within an existing house in a residential zone up to 75m² where there is no external building expansion to dwelling.
- C. consider the option of such a proposal being classed as exempt development and or complying development under the WLEP
- D. investigate whether Council could charge a small contribution with flexible payment options to go towards the additional public facilities required of increasing the population pressures of such a policy

VOTING

For the resolution: Crs Daley, De Luca, Giltinan, Gobert, Harrison, Heins, Kerr, Menano-Pires, Moskal and Regan

Against the resolution: Nil

CARRIED

TAG 4
COUNCIL REPORT
25 NOVEMBER 2014

ITEM 8.12	RESPONSE TO MAYORAL MINUTE 5/2014 - SECONDARY DWELLINGS IN TERREY HILLS AND DUFFYS FOREST
REPORTING MANAGER	GROUP MANAGER STRATEGIC PLANNING
TRIM FILE REF	2014/295350
ATTACHMENTS	1 Mayoral Minute No 5/2014 - Secondary Dwellings in Terrey Hills and Duffys Forest

EXECUTIVE SUMMARY

PURPOSE

To report the findings of investigations following the adoption of Mayoral Minute 5/2014 – *Secondary Dwellings in Terrey Hills and Duffys Forest* at the Council meeting held on 29 April 2014.

SUMMARY

Mayoral Minute 5/2014 – *Secondary Dwellings in Terrey Hills and Duffys Forest* requested investigations and a short report in relation to the potential opportunities for increasing Secondary Dwellings in Warringah. This stemmed from concerns raised about the lack of housing choice and affordability across the area.

The matters requested for investigation relate to the potential for:

- allowing Secondary Dwellings in Terrey Hills and Duffys Forest,
- increasing the allowable size of Secondary Dwellings from 60 to 75sqm,
- classing Secondary Dwellings as Exempt and/or Complying Development; and
- imposing a small development contribution to cover the potential costs arising from the potential population growth.

In response, each of these matters has been investigated and the findings are now presented to Council in this report.

In summary, there are opportunities to support increased development of secondary dwellings as an affordable housing choice within Warringah.

FINANCIAL IMPACT

Nil

POLICY IMPACT

Nil

RECOMMENDATION OF DEPUTY GENERAL MANAGER ENVIRONMENT

That Council:

- A. Prepare a Planning Proposal to allow development of Secondary Dwellings of up to 75 square metres in R2 and R3 zones, if it is located within an existing dwelling house.



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- B. Forward the Proposal to the Department of Planning and Environment seeking Gateway Determination and upon Gateway Determination, publicly exhibit the Proposal.
 - C. Consult with the New South Wales Rural Fire Service, Sydney Water and New South Wales National Parks and Wildlife Service regarding their views about the potential environmental impacts associated with allowing Secondary Dwellings in RU4 zones within Duffys Forest and Terrey Hills.
-

REPORT

BACKGROUND

At its meeting on 29 April 2014, Council resolved to prepare a short report to:

- A. *Investigate the appropriateness of allowing Secondary Dwellings in the RU4 Primary Production Small Lots land use zone in Terrey Hills and Duffys Forest*
- B. *Investigate the viability of allowing a second dwelling within an existing house in a residential zone up to 75m² where there is no external building expansion to dwelling.*
- C. *Consider the option of such a proposal being classed as exempt development and or complying development under the WLEP (Warringah Local Environmental Plan).*
- D. *Investigate whether Council could charge a small contribution with flexible payment options to go towards the additional public facilities required of increasing the population pressures of such a policy*

This report responds to the resolution.

What are Secondary Dwellings?

A Secondary Dwelling is a self-contained dwelling that is related to, and on the same lot as, a principal dwelling. In relation to the principal dwelling, a Secondary Dwelling may be:

- located within (separated by new internal walls)
- attached to the dwelling
- separate from (a new building or out-building conversion)

Planning controls relating to Secondary Dwellings are provided by *State Environmental Planning Policy (Affordable Rental Housing) 2009* (SEPP). These establish the standards development must meet in order to be classified as a Secondary Dwelling.

What are the current Secondary Dwelling controls in Warringah?

WLEP 2011 contains development standards for Secondary Dwellings with a maximum 60m², or 11% of the principal dwelling's floor area, whichever is higher. 60m² is typically the size of a single or small 2 bedroom residence.

Despite WLEP 2011 containing these mandatory development standards for Secondary Dwellings, they are not a permissible land use in Warringah under the plan. However SEPP (*Affordable Rental Housing*) provides the mechanism to permit Secondary Dwellings in residential zones (i.e. R1 – R5). This does not include RU4 zones. Key provisions of the SEPP include:

- Secondary Dwellings are complying development,
- A maximum size of 60m², or more, if Council permits a larger size.

RESPONSE TO MAYORAL MINUTE

- A. *Investigate the appropriateness of allowing Secondary Dwellings in the RU4 Primary Production Small Lots land use zone in Terrey Hills and Duffys Forest*

A desktop review of the RU4 zoned land in Terrey Hills and Duffys Forest has been undertaken in order to assess the appropriateness of this type of development in the zone. This investigation has considered the possible impacts on character, environment and Council services that Secondary Dwelling development may have on the area.

Currently, all RU4 zoned land is located in Terrey Hills and Duffys Forest. The objectives of this zoning in WLEP 2011 seek to 'enable primary industry' and that such land uses are 'low intensity'. While dwellings are permitted, the objectives also seek to 'maintain the rural and scenic character of the land.'

With approximately 300 dwellings in RU4 zone areas, an additional 300 Secondary Dwellings could be built if this change were made. This estimate assumes that no Secondary Dwellings currently exist, and no restraints exist on the lots. This could increase density to approximately 0.8 dwellings per hectare in RU4 zones. With an estimated occupancy of 1.8 people per dwelling, the change could increase the population by 540 people.

Given the area's semi-rural and bushland character, consideration needs to be given to the potential environmental impacts that Secondary Dwellings may present. These impacts relate to bushfire, onsite waste treatment systems, water supply and neighbouring National Parks. In order to investigate the impact of these issues, further consultation with the authorities such as Rural Fire Service, Sydney Water and National Parks and Wildlife Service is recommended before further consideration of this matter.

B. Investigate the viability of allowing a second dwelling within an existing house in a residential zone up to 75m² where there is no external building expansion to dwelling.

In response to this request, consideration has been given as to how to increase the possible size of Secondary Dwellings while minimising the effect to the surrounding area. An assessment has analysed the benefits and potential impacts of 75m² Secondary Dwellings, if built within an existing dwelling. The assessment has found that this change would be viable within Warringah for the following reasons:

- Larger Secondary Dwellings provide more flexible affordable housing layouts for downsizing seniors, young families and other demographics.
- 75m² would allow for comfortable 2 bedroom Secondary Dwellings to be built. 60m² requires compromises with living space to achieve this outcome.
- Limiting larger Secondary Dwellings to internal modifications would not affect the overall size of the principal dwelling.
- Impacts on the character of the dwelling would be less than if a detached Secondary Dwelling were constructed.

Clause 5.4 (9) of WLEP 2011's permits Secondary Dwellings to be 60m². In order to allow Secondary Dwellings of this type to be 75m² across residential zones in Warringah, Clause 5.4 (9) would require an amendment. Proposed wording for this amendment is included below as point (c):

5.4 (9) 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) 11% of the total floor area of the principal dwelling.*
- (c) 75 square metres, if the secondary dwelling is located within an existing dwelling house**

In addition, Secondary Dwellings would need to be added to the Land Use Table under Zone R2 Low Density Residential and Zone R3 Medium Density Residential as 'Permitted with consent'. This would bring Clause 5.4 (9) into effect in these zones.

Considering the benefits to the provision of affordable housing, low impact, statutory feasibility, this change is viable and is recommended.

- C. *Consider the option of such a proposal being classed as exempt development and or complying development under the WLEP.*

Consideration has been given to the opportunities to class this type of development as Exempt or Complying development. The following is provided in response:

In relation to Exempt development:

It is not appropriate for Secondary Dwellings be classified as Exempt development. This is due to the level of building upgrade requirements triggered under the Building Code of Australia for this form of housing. These are technical matters relating to fire safety that need to be assessed by a qualified professional as a part of a Development Application or Complying Development Certificate. Exempt development does not provide this level of protection.

In relation to Complying development:

Secondary Dwellings are a form of complying development by virtue of Clause 23 (2) (h) of SEPP (Affordable Rental Housing). The SEPP states that:

(2) Development for the purposes of a secondary dwelling that is located entirely within an existing dwelling house is complying development if the development:

*(h) will not result in the floor area of the secondary dwelling being more than 60 square metres or, **if a greater floor area is permitted in respect of a secondary dwelling on the land under another environmental planning instrument, being more than that greater floor area.***

As previously detailed in response to Item B of the Mayoral Minute, it is recommended to amend WLEP 2011 to permit Secondary Dwellings in the R2 and R3 Residential Zones.

This satisfies Clause 23 (2) (h) and, in conjunction with the proposed amendments to clause 5.4 (9) *Secondary dwellings*, will have the effect of making Secondary dwellings up to 75 square metres within an existing dwelling house Complying Development under the WLEP 2011.

- D. *Investigate whether Council could charge a small contribution with flexible payment options to go towards the additional public facilities required of increasing the population pressures of such a policy*

Any systematic Development Contributions relating to Secondary Dwellings would need to satisfy the Environmental Planning and Assessment Act.

Council presently has a Section 94A Development Contributions system in place which charges a small contribution in most instances (as outlined below).

Council charges a levy on all development, including Secondary Dwellings that exceed \$100,000 in capital value. If the development exceeds \$100,000 a 0.5% levy is charged on the estimated capital value. If the development exceeds \$200,000 a 1.0% levy is charged on the estimated capital value. For example, a Secondary Dwelling with a value of \$120,000 would attract a contribution of \$600.

The ability to establish 'flexible payment options' is limited by the Act. Essentially, proponents need to pay their contribution before they commence construction. The administration cost of potentially collecting money at a later stage, for small amounts of typically \$500 to \$750, are likely to be significant and not recommended.

Consideration has been given to how other neighbouring council's approach contributions on Secondary Dwellings. Some are operating on a S94 system, others using S94A like Warringah. There are a range of approaches to levying contributions on Secondary Dwellings.

Consideration could be given to an alternate approach in future. It is noted that Council will be preparing a Local Planning Strategy in 2015. This will consider growth options for housing and jobs in Warringah. It is likely that any housing supply options recommended by the strategy will need to plan for the accompanying infrastructure provision. As part of this Council will need to consider the most effective means of raising funding, which may involve additional S94 plans or changes to the current S94A 'broad based' development levy approach.

It's recommended that if Council wishes to pursue consideration of charging a levy specific to Secondary Dwellings that this be undertaken as part of the wider body of work involved in delivery of the Local Planning Strategy.

In summary the current S94A system collects a small contribution for the development of Secondary Dwellings and therefore it is recommended to maintain the current approach for the time being.

CONSULTATION

Preliminary consultation with Council's Natural Environment Unit and NSW Department of Planning and Environment has been undertaken as part of these investigations. If Council resolves to prepare a Planning Proposal, additional statutory consultation would be undertaken. This would include consulting with government stakeholders and public exhibition of the Planning Proposal.

CONCLUSION

Council staff investigated the matters raised in Mayoral Minute 5/2014 – Secondary Dwellings in Terrey Hills and Duffys Forest. In response, the following is concluded:

- With regards to Item A, additional consultation with external agencies regarding potential impacts relating to the semi-rural nature of Terrey Hills and Duffys Forest is recommended.
- With regards to Item B, it would be viable to allow 75m² Secondary Dwellings, if the Secondary Dwelling is located within an existing dwelling house. This type of development would allow for more versatile affordable housing offerings in Warringah. A Planning Proposal is required to amend WLEP 2011 to allow this type of development.
- With regards to Item C, the proposed amendments to WLEP 2011 will make 75m² Secondary Dwellings that are in an existing house complying development; Exempt development would be inappropriate due to the need to satisfy building safety requirements.
- With regards to Item D, Council is already collecting a small contribution for secondary dwellings which is considered the appropriate approach.

FINANCIAL IMPACT

Nil

POLICY IMPACT

Nil



ITEM 5.2	MAYORAL MINUTE NO 5/2014 - SECONDARY DWELLINGS IN TERREY HILLS AND DUFFYS FOREST
TRIM FILE REF	2014/085879
ATTACHMENTS	NIL

Note: This Mayoral Minute was circulated in the supplementary agenda on 29 April 2014

BACKGROUND

I have previously raised the critical issue regarding the lack of housing choice and affordability across our local government area. As the State Government has repeatedly failed to provide effective solutions, I am keen to see Council take the initiative to seek community feedback and develop the appropriate strategies to tackle this issue.

Council recently hosted two public forums during which valuable input was received from a wide range of stakeholders including residents, developers, local businesses and not for profit organisations. Unsurprisingly, the issue of affordability generated significant interest with feedback supporting the need for appropriate short and longer term actions.

It is obvious that a range of solutions must be examined in order to deal with such a complex issue. One option we should consider is to increase the availability of affordable accommodation through the provision of secondary dwellings, colloquially known as 'granny flats'. In doing this we can address the issue of providing opportunities for families and those wishing to downsize including those who wish to stay on their existing property and remain in the same community.

More specifically Council could consider, and in fact ease the State Government's restrictions on granny flats for strictly internal conversions only. It is my understanding that secondary dwellings are self-contained dwellings that may be attached to or detached from the principal home. They however cannot be subdivided from the principal home or sold off separately. They currently provide an alternate form of accommodation and are in most cases limited to 60 square metres in size. They are relatively cheap to build and can be rented out, or lived in by extended family or a friend.

The State Government's regulations only allow a max of 60 square metres which is a reasonable size single bedroom apartment. This is particularly important to maintain in relation to the external controls and the direct impact on their neighbour's amenity. Having said this though, I believe an opportunity exists to allow additional floor space on the proviso that it does not impact on the size of an existing building. For example, 75 square metres is equivalent to a good sized two bed unit and provides more floor plan options. It allows retiring couples to remain in their community and live independently and there is also the benefit of providing an income for pensioners and the obvious benefit that we can help in meeting the current housing demands.

I have included an extract from a neighbouring Council's planning documents that outlines a definition referred to as a 'Family Flat' which Warringah may wish to consider using as a starting point.

Family flat means a second dwelling built within the envelope of the original dwelling or attached at ground level to the original dwelling, where the development meets the provisions and objectives of a single dwelling-house (except density provisions), but:

- a) is not more than 75m² in gross floor area; and,*
- b) shall not be separately titled.*

The report should also address the possibility of such a proposal being classed as exempt development and or complying development. Council should also investigate whether a small contribution, similar to the current process for Section 94 contributions, could go towards the



additional public facilities required of increasing the population pressures of such a policy. That contribution payment options to allow for low-income earners.

Secondary dwellings are already permitted through the State Government's Affordable Housing State Environmental Planning Policy legislation for residential areas in Warringah. However, they are not permitted in the RU4 rural zone which applies to large proportion of Terrey Hills and Duffys Forest. I have been approached by a number of residents from this area who are very supportive of this concept.

As a result, I am requesting that staff prepare a short report to be considered by Council regarding the appropriateness of Secondary Dwellings as outlined above and more specifically in relation to the RU4 land use zone.

RECOMMENDATION

That Council prepare a short report to:

- A. investigate the appropriateness of allowing Secondary Dwellings in the RU4 Primary Production Small Lots land use zone in Terrey Hills and Duffys Forest
 - B. investigate the viability of allowing a second dwelling within an existing house in a residential zone up to 75m² where there is no external building expansion to dwelling.
 - C. consider the option of such a proposal being classed as exempt development and or complying development under the WLEP
 - D. investigate whether Council could charge a small contribution with flexible payment options to go towards the additional public facilities required of increasing the population pressures of such a policy
-

Michael Regan
MAYOR

TAG 5
COUNCIL RESOLUTION
25 NOVEMBER 2014

September 2014 be noted.

RESOLVED BY EXCEPTION

**8.9 DELEGATED AUTHORITY TO THE MAYOR – CHRISTMAS NEW YEAR RECESS
2014/2015**

626/14 RESOLVED

Cr Regan / Cr Menano-Pires

That, pursuant and subject to the limitations of Section 377 of the Local Government Act, authority is hereby granted to the Mayor to make such decisions and authorise work as provided by Policy GOV-PL125 - Decisions/ Delegations During Christmas/ New Year Recess during the 2014/2015 Christmas New Year recess being 17 December 2014 to 9 February 2015 inclusive.

RESOLVED BY EXCEPTION

8.10 REPORTING OF STRATEGIC REFERENCE GROUP MINUTES

627/14 RESOLVED

Cr Regan / Cr Menano-Pires

That Council note the draft minutes and notes of a meeting from the following meetings:

- A. A Connected Environment Strategic Reference Group: notes of a meeting held 14 October 2014.
- B. Vibrant Connected Communities Strategic Reference Group: draft minutes of meeting held 14 October 2014.
- C. ECOS Strategic Reference Group: draft minutes of meeting held 15 October 2014.
- D. Open Space and Recreation Strategic Reference Group: draft minutes of meeting held 15 October 2014.

RESOLVED BY EXCEPTION

**8.11 CREATION OF COMMUNITY COMMITTEES FOR AFFORDABLE HOUSING AND
ECONOMIC DEVELOPMENT**

628/14 RESOLVED

Cr Regan / Cr Menano-Pires

That Council adopt the charters for the Affordable Housing Community Committee and the Economic Development Community Committee.

RESOLVED BY EXCEPTION

**8.12 RESPONSE TO MAYORAL MINUTE 5/2014 - SECONDARY DWELLINGS IN TERREY
HILLS AND DUFFYS FOREST**

629/14 RESOLVED

Cr Regan / Cr Menano-Pires

That Council:

- A. Prepare a Planning Proposal to allow development of Secondary Dwellings of up to 75 square metres in R2 and R3 zones, if it is located within an existing dwelling house.
- B. Forward the Proposal to the Department of Planning and Environment seeking Gateway Determination and upon Gateway Determination, publicly exhibit the Proposal.
- C. Consult with the New South Wales Rural Fire Service, Sydney Water and New South Wales National Parks and Wildlife Service regarding their views about the potential environmental impacts associated with allowing Secondary Dwellings in RU4 zones within Duffys Forest and Terrey Hills.

RESOLVED BY EXCEPTION**8.13 RESPONSE TO MAYORAL MINUTE 11/2014 - PUBLIC SAFETY - STREET LIGHTING UPGRADES**

630/14 **RESOLVED**

Cr Regan / Cr Menano-Pires

That Council note the information provided in this report.

RESOLVED BY EXCEPTION**8.14 MINUTES OF THE DEE WHY SOUTH CATCHMENT FLOOD STUDY WORKING GROUP MEETING HELD 4 AUGUST 2014**

631/14 **RESOLVED**

Cr Regan / Cr Menano-Pires

That the Minutes of the Dee Why South Catchment Flood Study Working Group meeting held on 4 August 2014 be noted.

RESOLVED BY EXCEPTION**8.15 MINUTES OF THE MANLY LAGOON CATCHMENT COORDINATING COMMITTEE HELD 31 JULY 2014**

632/14 **RESOLVED**

Cr Regan / Cr Menano-Pires

That the Minutes of the Manly Lagoon Catchment Coordinating Committee meeting held on 31 July 2014 be noted.

RESOLVED BY EXCEPTION**8.16 MINUTES OF THE SYDNEY COASTAL COUNCILS GROUP MEETING HELD 13 SEPTEMBER 2014**

633/14 **RESOLVED**

TAG 6
DELEGATION EVALUATION
CRITERIA

ATTACHMENT 4 – EVALUATION CRITERIA FOR THE DELEGATION OF PLAN MAKING FUNCTIONS

Checklist for the review of a request for delegation of plan making functions to councils

Local Government Area:Warringah

Name of draft LEP:Warringah Local Environmental Plan 2011 (WLEP 2011)

Address of Land (if applicable):
All land zoned as R2 and R3

Intent of draft LEP:

The objective of this Planning Proposal is to allow Secondary Dwellings up to 75 square metres in floor area, if they are:

- Within an R2 – Low Density Residential or R3 – Medium Density Residential zone
- Within an existing dwelling house

The intended outcome of the Planning Proposal is that larger Secondary Dwellings will be developed in established residential areas, increasing housing choice without increasing the size of existing dwellings. This outcome is supported by the objectives of Council's Community Strategic Plan, A Plan for Growing Sydney (2014) and SEPP (Affordable Rental Housing), as described in Part 3.

Additional Supporting Points/Information:

Evaluation criteria for the issuing of an Authorisation	Council response		Department assessment	
	Y/N	Not relevant	Agree	Not agree
(Note: where the matter is identified as relevant and the requirement has not been met, council is attach information to explain why the matter has not been addressed)				
Is the planning proposal consistent with the Standard Instrument Order, 2006?	Y			
Does the planning proposal contain an adequate explanation of the intent, objectives, and intended outcome of the proposed amendment?	Y			
Are appropriate maps included to identify the location of the site and the intent of the amendment?	Y			
Does the planning proposal contain details related to proposed consultation?	Y			
Is the planning proposal compatible with an endorsed regional or sub-regional planning strategy or a local strategy endorsed by the Director-General?	Y			
Does the planning proposal adequately address any consistency with all relevant S117 Planning Directions?	Y			
Is the planning proposal consistent with all relevant State Environmental Planning Policies (SEPPs)?	Y			
Minor Mapping Error Amendments	Y/N			
Does the planning proposal seek to address a minor mapping error and contain all appropriate maps that clearly identify the error and the manner in which the error will be addressed?		X		
Heritage LEPs	Y/N			
Does the planning proposal seek to add or remove a local heritage item and is it supported by a strategy/study endorsed by the Heritage Office?		X		

Does the planning proposal include another form of endorsement or support from the Heritage Office if there is no supporting strategy/study?		X		
Does the planning proposal potentially impact on an item of State Heritage Significance and if so, have the views of the Heritage Office been obtained?		X		
Reclassifications	Y/N			
Is there an associated spot rezoning with the reclassification?		X		
If yes to the above, is the rezoning consistent with an endorsed Plan of Management (POM) or strategy?		X		
Is the planning proposal proposed to rectify an anomaly in a classification?	N			
Will the planning proposal be consistent with an adopted POM or other strategy related to the site?		X		
Will the draft LEP discharge any interests in public land under section 30 of the Local Government Act, 1993?	N			
If so, has council identified all interests; whether any rights or interests will be extinguished; any trusts and covenants relevant to the site; and, included a copy of the title with the planning proposal?		X		
Has the council identified that it will exhibit the planning proposal in accordance with the department's Practice Note (PN 09-003) Classification and reclassification of public land through a local environmental plan and Best Practice Guideline for LEPs and Council Land?		X		
Has council acknowledged in its planning proposal that a Public Hearing will be required and agreed to hold one as part of its documentation?		X		
Spot Rezoning	Y/N			
Will the proposal result in a loss of development potential for the site (ie reduced FSR or building height) that is not supported by an endorsed strategy?		X		
Is the rezoning intended to address an anomaly that has been identified following the conversion of a principal LEP into a Standard Instrument LEP format?	N			
Will the planning proposal deal with a previously deferred matter in an existing LEP and if so, does it provide enough information	N			

to explain how the issue that lead to the deferral has been addressed?				
If yes, does the planning proposal contain sufficient documented justification to enable the matter to proceed?		X		
Does the planning proposal create an exception to a mapped development standard?	N			
Section 73A matters				
Does the proposed instrument a. correct an obvious error in the principal instrument consisting of a misdescription, the inconsistent numbering of provisions, a wrong cross-reference, a spelling error, a grammatical mistake, the insertion of obviously missing words, the removal of obviously unnecessary words or a formatting error?; b. address matters in the principal instrument that are of a consequential, transitional, machinery or other minor nature?; or c. deal with matters that do not warrant compliance with the conditions precedent for the making of the instrument because they will not have any significant adverse impact on the environment or adjoining land? (NOTE – the Minister (or Delegate) will need to form an Opinion under section 73(A)(1)(c) of the Act in order for a matter in this category to proceed).		X		

NOTES

- Where a council responds 'yes' or can demonstrate that the matter is 'not relevant', in most cases, the planning proposal will routinely be delegated to council to finalise as a matter of local planning significance.
- Endorsed strategy means a regional strategy, sub-regional strategy, or any other local strategic planning document that is endorsed by the Director-General of the department.

PROPOSED TIMELINE

TAG 7

‘Increased Floor Area for Secondary Dwellings’ Planning Proposal Project Timeline

Task	Estimated Completion Time	Date
Submission of Planning Proposal to DP&E	N/A	26 October 2015
Anticipated Gateway determination	8 weeks	January 2016
Timeframe for government agency consultation	21 days (Pre-exhibition)	February 2016 (If required by Gateway)
Exhibition period	28 days	April 2016
Timeframe for consideration of submissions	14 days	April 2016
Submission report completed, Council report written.	21 days	May 2016
Council meeting		June 2016
Anticipated date RPA will make the plan	8 weeks (if delegated)	August 2016