

## 10 REPORTS TO COUNCIL

### Council Meeting

28/09/2022

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Item No	10.1
Subject	<b>Draft Planning Proposal - Minimum Lot Sizes for Dual Occupancies and Semi-detached Dwellings</b>
Report by	Peter Barber, Director City Futures
File	F21/387

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### Summary

This report follows a previous report on the matter, considered by Council at its meeting on 24 August 2021, where it resolved:

*That this item be deferred to the next Council Meeting for an analysis of the impacts of the change being the minimum lot size being equal to or greater than 650 sq m and the frontage width being equal to or greater than 15 m for Zone R2 Low Density Residential – Dual Occupancy.*

The purpose of this report is to provide further analysis on options to introduce new minimum lot area and lot width controls for Dual Occupancy and Semi-Detached Dwelling development under *Bayside Local Environmental Plan 2021* (BLEP 2021).

Full background information is available in the report on this matter to the 10 August 2022 City Planning and Environment Committee reference CPE022.023.

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### Officer Recommendation

- 1 That, pursuant to s3.34 of the *Environmental Planning and Assessment act 1979* (EP&A Act), a draft Planning Proposal comprising the proposed planning controls outlined in Option 1 be submitted to the Department of Planning and Environment for a Gateway Determination.
  - 2 That, should a Gateway Determination be issued, a further report be presented to Council following the public exhibition period to demonstrate compliance with the Gateway Determination and to provide details of any submissions received throughout that process.
  - 3 That the Rockdale Development Control Plan 2011 (RDCP 2011) and Botany Bay Development Control Plan 2013 (BBDCP 2013) be reviewed concurrently with the draft Planning Proposal, to ensure consistency between controls contained in these documents and the draft Planning Proposal.
  - 4 That, should a Gateway determination be issued, a future report be tabled to Council to consider any proposed amendments to the RDCP 2011 and BBDCP 2013, which would be exhibited concurrently with the draft Planning Proposal.
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## Background

Council considered a report at its meeting on 24 August 2022, regarding a draft Planning Proposal (pre-Gateway Determination) to introduce new planning controls for Dual Occupancy and Semi-Detached Dwelling development under *Bayside Local Environmental Plan 2021* (BLEP 2021).

The proposed amendments to BLEP 2021 included:

Location	<i>New Minimum Lot Size (for construction of dual occupancies)</i>	<i>New Minimum Lot Size (for subdivision of dual occupancies or construction of semi-detached dwellings)</i>	<i>New Minimum Lot Width (for dual occupancies)</i>	<i>New Minimum Lot Width (for subdivision of dual occupancies or construction of semi-detached dwellings)</i>
On R2-zoned land in the localities of Mascot, Botany, Rosebery and Eastlakes, identified as 'Area A' (refer to <b>Attachment 1</b> )	500 sqm	250 sqm	15m for lots with single road frontage 12m for lots with multiple road frontages	7.5m for lots with single road frontage 6m for lots with multiple road frontages
On all other R2-zoned land	600 sqm	300 sqm		

At its meeting, Council resolved:

*That this item be deferred to the next Council Meeting for an analysis of the impacts of the change being the minimum lot size being equal to or greater than 650 sq m and the frontage width being equal to or greater than 15 m for Zone R2 Low Density Residential – Dual Occupancy.*

## Further Options

This report has been prepared in response to the August 2022 Council resolution and outlines three options for Council to consider in determining whether to proceed with a draft PP on this matter. The options include:

	<i>Minimum lot size for construction of dual occupancies</i>	<i>Minimum lot size for subdivision of dual occupancies or construction of semi-detached dwellings</i>	<i>Minimum lot width for dual occupancies</i>	<i>Minimum lot width for subdivision of dual occupancies or construction of semi-detached dwellings</i>
<b>Option 1</b> (recommended)	'Area A': 500 sqm	'Area A': 250 sqm	15m for lots with single road frontage 12m for lots with multiple road frontages	7.5m for lots with single road frontage 6m for lots with multiple road frontages
	Remainder of R2 zone: 600 sqm	Remainder of R2 zone: 300 sqm		
<b>Option 2</b>	'Area A': 500 sqm	'Area A': 250 sqm		
	Remainder of R2 zone: 650 sqm	Remainder of R2 zone: 325 sqm		
<b>Option 3</b>	Entire R2 zone: 650 sqm	Entire R2 zone: 325 sqm		

Analysis of each option is summarised below, in relation to:

- Forecast approvals for new development under each option; and
- Design outcomes under different lot sizes, including floor area and landscaped area.

### **Approvals Forecast**

As per a requirement of the Department of Planning and Environment (DPE) for preparing this draft PP, Council officers have carried out a review of Dual Occupancy and Semi-Detached Dwelling development approvals issued over the past 5 years (including development application (DA) consents and complying development certificates (CDC)) and forecast likely approvals in the upcoming 5 years (explained in further detail in the Analysis of Historical and Forecast Supply at **Attachment 2**).

To determine an approximate forecast, the rate of take-up of available lots over the past 5 years was calculated and applied to the future number of available lots under the draft PP controls. This approach was applied to each of the three options outlined in this report.

The net numbers of available lots for each option (as well as a 'do nothing' scenario, where no PP proceeds) are shown below:

<i>Approval Type / Location</i>	<b><i>Available Lots</i></b>			
	<b>'Do Nothing' Scenario</b>	<b>Option 1</b>	<b>Option 2</b>	<b>Option 3</b>
<b>For Development Applications (under BLEP 2021)</b>				
Former Rockdale LGA side:	749	1,905	1,408	1,408
Former Botany Bay LGA side:	1,214	356	256	154
<b>TOTAL</b>	<b>3,355</b>	<b>2,261</b>	<b>1,664</b>	<b>1,562</b>
<b>For Complying Development (under LRHD Code)</b>				
Former Rockdale LGA side:	4,682	1,833	1,357	1,357
Former Botany Bay LGA side:	356	158	115	70
<b>TOTAL</b>	<b>5,038</b>	<b>1,991</b>	<b>1,472</b>	<b>1,427</b>

Applying the rate of take-up observed for the previous 5 years, the following approvals forecasts were determined for each option:

Approval Type / Location	Forecast Approvals			
	'Do Nothing' Scenario	Option 1	Option 2	Option 3
For Development Applications (under BLEP 2021)				
Former Rockdale LGA side:	57	146	109	109
Former Botany Bay LGA side:	46	12	8	5
<b>TOTAL</b>	<b>103</b>	<b>158</b>	<b>117</b>	<b>114</b>
For Complying Development (under LRHD Code)				
Former Rockdale LGA side:	85	33	25	25
Former Botany Bay LGA side:	6	3	2	1
<b>TOTAL</b>	<b>91</b>	<b>36</b>	<b>27</b>	<b>26</b>
All Approvals				
<b>TOTAL</b>	<b>194</b>	<b>194</b>	<b>144</b>	<b>140</b>

In summary, a total of 194 approvals for dual occupancy and semi-detached developments are forecast for the upcoming 5 years, as a result of the proposed LEP controls recommended under Option 1. This is the same number of approvals as forecast under a 'do nothing' scenario, with the difference in the outcome essentially being that the type of development will be more in keeping with the character where it occurs under Option 1 compared to the 'do nothing' scenario.

By comparison, Options 2 and 3 are forecast to result in fewer future approvals, of 144 and 140, respectively, when compared with the forecast under a 'do nothing' scenario. This does not assist with either dwelling supply or providing diversity and choice in housing for Bayside residents.

### **Design Outcomes**

A review of relevant urban design considerations has been undertaken with the assistance of a Registered Architect, in order to determine the most appropriate minimum lot size and width controls for different parts of Bayside LGA's R2 zone (elaborated upon in the Urban Design Considerations, at page 39 of Planning Proposal at **Attachment 3**).

This review took into account development capabilities for dual occupancy proposals under both local controls for development applications (BLEP 2021, Rockdale Development Control Plan 2011 and Botany Bay Development Control Plan 2013) and the LRHD Code controls for complying development.

### Floor Area

Under the LRHD Code, maximum floor area for a dual occupancy development is *25% of the site area plus 300 sqm*.

This equates to a sliding scale of allowable floor space relative to the size of the site, which exceeds the allowable Floor Space Ratio (FSR) controls under BLEP 2021 on any R2-zoned site smaller than 1,000 sqm. Allowable floor areas under each instrument, for lot sizes ranging between 400 sqm and 700 sqm, are depicted below:

Site Area	Maximum Floor Space Allowed		
	LRHD Code	Former Rockdale LGA R2 zone – BLEP 2021 FSR control: 0.5:1	Former Botany Bay LGA R2 zone – BLEP 2021 FSR control: 0.55:1
400 sqm	400 sqm (1:1)	200 sqm	220 sqm
450 sqm	412 sqm (0.92:1)	225 sqm	247.5 sqm
500 sqm	425 sqm (0.85:1)	250 sqm	275 sqm
550 sqm	437.5 sqm (0.79:1)	275 sqm	302.5 sqm
600 sqm	450 sqm (0.75:1)	300 sqm	330 sqm
650 sqm	462.5 sqm (0.71:1)	325 sqm	357.5 sqm
700 sqm	475 sqm (0.67:1)	350 sqm	385 sqm
Note: this excludes certain sites in former Botany Bay LGA, which are subject to higher FSR controls			

### Landscaped Area

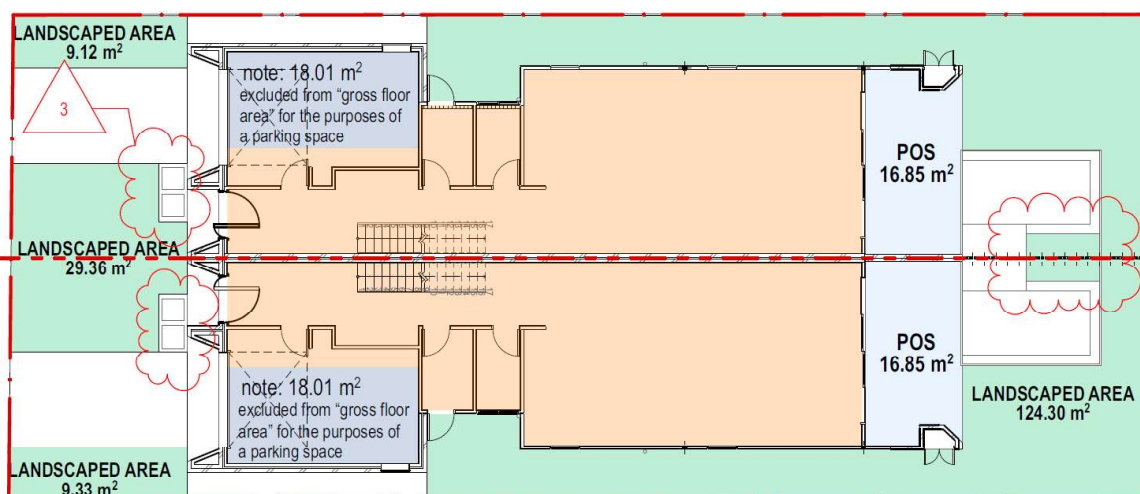
Under the LRHD Code, the minimum landscaped area for a dual occupancy development is stated as *50% of the site area minus 100 sqm* (provided at least half of this area occurs behind the building line). Landscaping requirements for lot sizes ranging between 400 sqm and 700 sqm are outlined below:

Site Area	LRHD Code
400 sqm	100 sqm
450 sqm	125 sqm
500 sqm	150 sqm
550 sqm	175 sqm
600 sqm	200 sqm
650 sqm	225 sqm
700 sqm	250 sqm

The following examples of recent CDCs issued in Bayside LGA illustrate compliance with the above LRHD Code requirements under different potential minimum lot size scenarios considered under this draft PP, being: 500 sqm; 600 sqm; and 650 sqm.

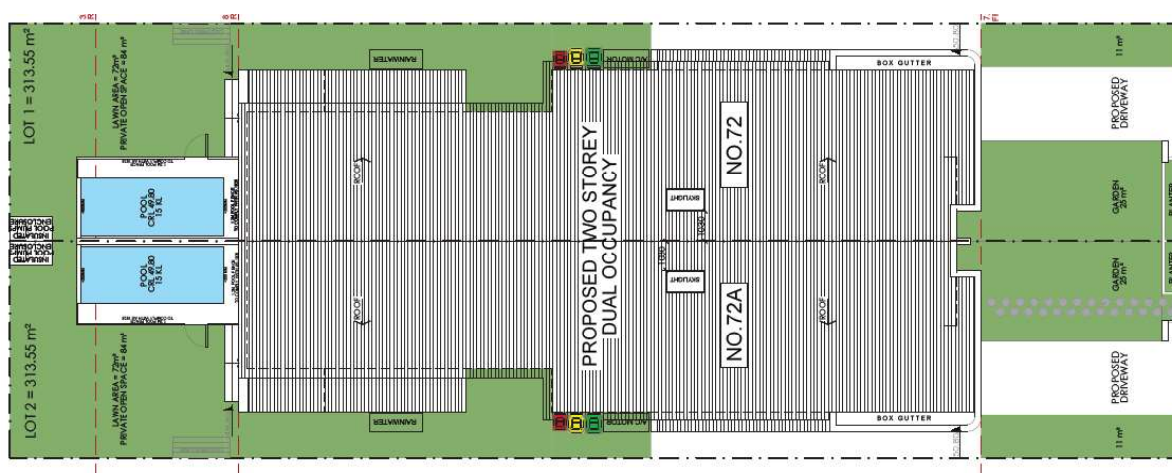
*Example 1 – Illustration of compliance under a Minimum Lot Size of 500 sqm*

- Site area: **543.8 sqm**
- Floor area: **400 sqm**
- Landscaped area: **172 sqm**



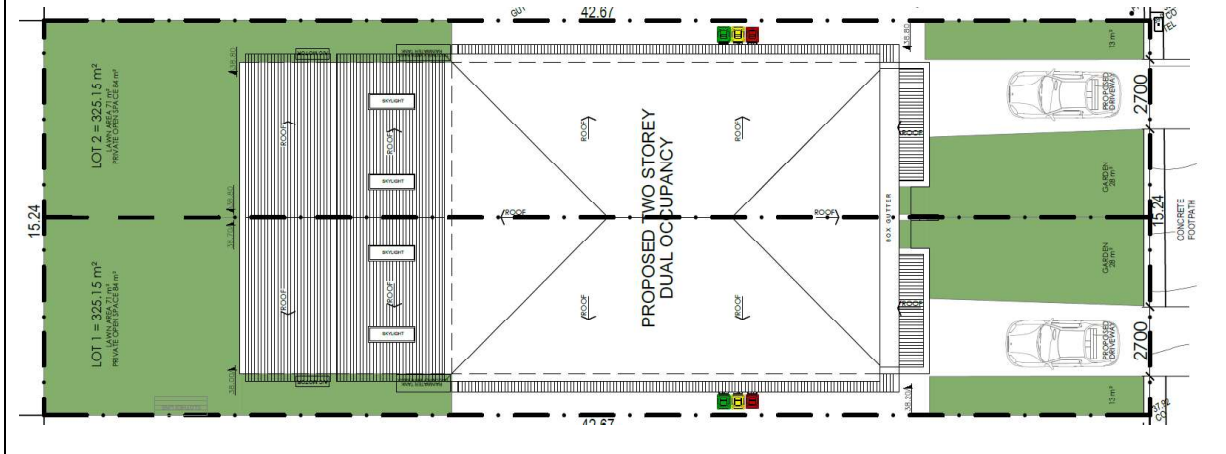
*Example 2 – Illustration of compliance under a Minimum Lot Size of 600 sqm*

- Site area: **627.1 sqm**
- Floor area: **430 sqm**
- Landscaped area: **213 sqm**



*Example 3 – Illustration of compliance under a Minimum Lot Size of 650 sqm*

- Site area: **650.3 sqm**
- Floor area: **404 sqm**
- Landscaped area: **236 sqm**



The above examples demonstrate incremental increases to the width and depth of landscaped area under the LRHD Code as the lot size increases.

The urban design review concluded that, when developed for dual occupancies under the LRHD Code, sites smaller than 500 sqm will infill the full extent of the allowable site envelope to achieve the maximum floor area allowed by the Code. This can result in an excessively bulky built form with poor articulation and a lack of useful landscaped area or opportunity for tree planting.

Sites between 500 sqm and 600 sqm can achieve a more balanced built form, that is still relatively urban in character, but more fitting of the higher-density neighbourhoods present in proposed 'Area A'.

A minimum lot size of 600 sqm still allows for a significant increase in FSR above the equivalent control in BLEP 2021. However, the ratio of building to envelope will be approximately 75%, which provides more scope for articulation and a more suburban character.

In order for a similar FSR to be achieved under the LRHD Code as the equivalent control in BLEP 2021, a lot size of 1,000 sqm would be required.

A minimum lot size of 650 sqm for all or part of the LGA under Options 2 or 3 would provide for more a suburban character than the lot sizes proposed under Option 1. This would limit to amount of development able and likely to occur.

The areas mapped under Option 1 that would have a smaller lot size, however, are more urban in character and the smaller minimum is considered appropriate in terms of both character and to allow some capacity for development to occur.



## Draft Planning Proposal

The draft PP seeks to amend BLEP 2021 by introducing new minimum lot size, subdivision lot size and frontage width controls across the R2 zone. These controls will affect development for the purposes of:

- Construction of Dual Occupancies;
- Subdivision of land on which Dual Occupancies exist or are proposed (creating Semi-Detached Dwellings); and
- Construction of Semi-Detached Dwellings (either involving or not involving subdivision of land).

This will involve creating the following new LEP Clauses to give effect to these controls:

- 4.1A Exceptions to Minimum Subdivision Lot Size for Certain Residential Development
- Clause 4.1B Minimum Lot Sizes and Special Provisions for Certain Residential Development

A new *Special Provisions Map* will be introduced to illustrate land where exceptions are proposed to the zone-wide controls.

Should Council agree to proceed with Option 1 (as recommended in this report), the new Clause 4.1A will explain that development consent must not be granted for the subdivision of land in the R2 zone on which there is an existing Dual Occupancy, or on which Dual Occupancy or Semi-Detached Dwellings are proposed, unless the area of each *resulting lot* is at least 300 sqm (or 250 sqm in an area marked "Area A" on the proposed *Special Provisions Map*) and each of the lots will have on dwelling on it.

The clause also requires that each lot is at least 7.5m wide at the primary road frontage for lots with a single road frontage, or 6m wide for lots with multiple frontages to roads or laneways.

If Option 1 is endorsed by Council, the new Clause 4.1B will explain that development consent must not be granted for the construction of Dual Occupancies or Semi-Detached Dwellings on land in the R2 zone, unless:

- the area of the lot on which Dual Occupancies are proposed is at least 600 sqm (or 500 sqm in the area marked "Area A" on the proposed *Special Provisions Map*); and
- the area of each lot on which Semi-Detached Dwellings are proposed is at least 300 sqm (or 250 sqm in the area marked "Area A").

The clause also requires that:

- the lot on which Dual Occupancies are proposed is at least 15m wide at the primary road frontage for lots with a single road frontage, or 12m wide for lots with multiple frontages to roads or laneways; and
- each lot on which Semi-Detached Dwellings are proposed is at least 7.5m wide at the primary road frontage for lots with a single road frontage, or 6m wide for lots with multiple frontages to roads or laneways.



A detailed explanation of the draft PP (Option 1) is contained in the draft PP at **Attachment 3** to this report. The proposed *Minimum Lot Size for Dual Occupancies and Semi-Detached Dwellings Map* is at **Attachment 4** to this report.

## Conclusion

The primary purpose of this draft PP is to respond to Actions 3.6 and 6.1 in the Bayside LHS, by introducing minimum lot size and frontage width controls for Dual Occupancies and Semi-Detached Dwellings in the Bayside LGA's entire R2 zone within the BLEP 2021. In doing so, the draft PP will more appropriately guide built form outcomes in areas where this guidance is most urgently needed, through both CDCs against the LRHD Code, and assessment of Development Applications against the BLEP 2021.

As outlined earlier in this report, it is recommended that Council agree to proceed with the proposed controls outlined under Option 1, given that these controls can provide for both locationally-appropriate design outcomes and justifiable take-up and forecast approvals.

## Next Steps

Submit PP to DPE for Gateway	October 2022
Receive Gateway Determination and address any conditions	December 2022
Report to City Planning & Environment Committee (CP&EC) for endorsement to exhibit proposed DCP amendments	February 2023
Council to consider recommendations of CP&EC for exhibition of DCP amendments	February 2023
Concurrent Exhibition of PP and proposed DCP amendments	March 2023
Assessment of submissions	January 2023 - February 2023
BLPP meeting to consider post-exhibition report on PP	April 2023
CP&EC meeting to consider post-exhibition report on PP & DCP amendments	May 2023
Council to consider recommendations of CP&EC for finalisation of draft LEP and adoption of DCP amendments	May 2023
Submit final draft LEP for notification	June 2023

## Financial Implications

Not applicable



## Community Engagement

The draft PP will be exhibited for a period of 28 days in accordance with the provisions of the EP&A Act 1979, the *Environmental Planning & Assessment Regulation 2021* and any requirements of the Gateway determination.

Public exhibition of this draft PP will include, as a minimum:

- Community engagement project set up on Council's Have Your Say website;
  - Notices in Council libraries;
  - Notification to anyone who submitted feedback as part of Council's 'Planning Our Future', LSPS and BLEP 2021 consultation projects; and
  - Letters to State and Commonwealth Government agencies identified in the Gateway Determination.
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## Attachments

- 1 Attachment 1 - (Appendix C of PP) - Planning Proposal Map of Area A [↓](#)
- 2 Attachment 2 - (Appendix D of PP) - Analysis of Historical and Forecast Supply [↓](#)
- 3 Attachment 3 - Planning Proposal (Option 1 - recommended) [↓](#)
- 4 Attachment 4 - (Appendix E of PP) - R2 Zone Comparison Maps [↓](#)