

Ordinary Council Meeting 23 June 2022
NOTICE OF MOTION - DUPLEX PROPERTY TITLE IN LANE COVE R2 AREAS

Subject: Notice of Motion - Duplex Property Title in Lane Cove R2 Areas
Record No: SU8814 - 31926/22
Division: Lane Cove Council
Author(s): Councillor David Brooks-Horn; Councillor Scott Bennison; Councillor Andrew Zbik;
Councillor Rochelle Flood

Executive Summary

This report seeks Council to prepare a planning proposal to permit strata sub-division of approved dual occupancy dwellings that are registered as either company title or tenants-in-common in Lane Cove.

Background

In December 2017, Council's Local Environmental Plan was amended to prohibit the subdivision of dual occupancies based on a previous long-standing Council policy. Dual occupancies are still permitted with consent in the R2 low density zone provided that the lot sizes are not less than 750 m² (attached) and 900 m² (detached). However, for subdivision and strata title in R2 zones the lot size is set as a minimum of 1100sqm. There are a small number of Duplex Property Titles in Lane Cove R2 areas that fall short of the minimum lot size. These properties can still be subdivided under Company Title or Tenants-in-Common instead of Strata, which was a workable solution in the past. Company Title or Tenants-in-Common affects council rates and some utilities, but not street numbers.

The major issue with Company Title or Tenants-in-Common is for the owner or potential owner obtaining finance or equity release from a banking institution or other lender, due to recent universal changes in lending policy. Council records indicate that currently only 37 properties are identified as Shared (Company / Tenants-in-Common) title.

Discussion

The 2019 Banking Royal Commission changed bank and other institutions' lending policies. Following this, most will no longer accept any form of shared title (e.g. Company or Tenants-in-Common) as security. There was little indication of this change in policy before the Commission. The inability to be able to release equity in properties for a variety of purposes, let alone resale, is a fundamental issue with very serious implications for owners. This clearly affects resale, subsequent release of equity for property improvements and maintenance, and the ability to secure business finance, a common practice for small business owners.

Perhaps most significantly in an ageing demographic, where the Government's recent White Paper encouraged retirees to use reverse mortgages or equity release schemes to supplement pension income, the major companies involved in these schemes have also indicated an unwillingness to consider shared title properties as security. This could severely disadvantage some elderly residents caught in this trap.

Other Councils in NSW have allowed limited subdivision of dual occupancies that meet a minimum size requirement in very narrow circumstances, to address this problem.

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What other councils have done?

In **Randwick's Local Environmental Plan** (LEP), following considerable pressure from residents affected by lending policy changes, they only allow subdivision of dual occupancies (attached) if:

- A development consent for dual occupancies was granted before July 2018; and
- it meets the subdivision standards specified in the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

In the **Hills Shire Council's** LEP, a number of conditions must be satisfied before development consent for subdivision can be granted. Such as:

- building work (for the dual occupancy) must have commenced on the site before December 2012;
- the erection of the building was under a development consent granted before October 1996;
- the approved plans showed parts of the building as being intended for separate occupation;
- the subdivision would create lots that align with the parts shown for separate occupation; and
- the land is being subdivided under a Strata Plan.

Note From the General Manager – Code of Meeting Practice Clauses 3.14 and 3.15

Should Council adopt the recommendation, given the administrative nature of the LEP amendment, the Planning Proposal can be prepared within existing resources and will have no additional budgetary impact.

RECOMMENDATION

That Council prepare a Planning Proposal to permit strata sub-division of approved dual occupancy dwellings that are registered as either company title or tenants-in-common on or before Thursday 16th June 2022.

Councillor David Brooks-Horn
Councillor

Councillor Scott Bennison
Councillor

Councillor Andrew Zbik
Councillor

Councillor Rochelle Flood
Councillor

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ATTACHMENTS:

There are no supporting documents for this report.