



# Secondary dwellings

## What is a secondary dwelling?

A secondary dwelling or granny flat is self-contained accommodation within, attached or separate from the main dwelling.

A secondary dwelling must be:

- established in conjunction with the main dwelling
- on the same lot of land (not being a lot in a strata plan or community title scheme) as the main dwelling

A secondary dwelling may be allowed with consent in the following zones under the Kiama Local Environmental Plan 2011 (LEP 2011):

- R2 Low Density Residential
- R3 Medium Density Residential
- R5 Large Lot Residential
- RU1 Primary Production
- RU2 Rural Landscape
- C3 Environmental Management.

## Do I need approval?

You need to obtain approval before building a secondary dwelling through one of the following approval processes.

### 1. Complying Development

A secondary dwelling can sometimes be approved under a complying development certificate, which is a fast-track application that combines approval for use of the land and the building construction.

Council certifiers can certify secondary dwellings as a complying development provided they meet the specific development standards in State Environmental Planning Policy (Housing) 2021.

Further information on secondary dwellings under complying development can be found at [www.planningportal.nsw.gov.au/](http://www.planningportal.nsw.gov.au/)

### 2. Development Application

If requirements under complying development cannot be satisfied a development application must be lodged with Council.



Applications submitted as a development application must comply with the requirements of LEP 2011 and Development Control Plan 2020.

An approved construction certificate is also required prior to starting any construction.

## How big can my secondary dwelling be?

In residential and environmental zones, a secondary dwelling must not exceed 60 metres<sup>2</sup> or 100 per cent of the floor area of the main dwelling on the land, whichever is the greater.

On 26<sup>th</sup> November 2021 the new controls for rural secondary dwellings were introduced in the LEP 2011. In rural zones, a secondary dwelling must not exceed 120 metres<sup>2</sup>. In rural zones, the distance between the secondary dwelling and the principal dwelling must not exceed 60 metres.

## What do the recent changes to the LEP mean for me?

As part of publishing the *State Environmental Planning Policy (Housing) 2021* (the SEPP), the State government made the above discussed changes to the Kiama LEP 2011. The SEPP contains savings and transitional provisions which outlines that the SEPP does not apply to applications made, but not yet determined, on or before 26<sup>th</sup> November 2021.

Unfortunately, the SEPP does not apply to secondary dwellings on rural lands and therefore these savings and transitional provisions do not apply to these applications.

This means that Council cannot approve your application if your proposed rural secondary dwelling is bigger than 120 metres<sup>2</sup> and/or located more than 60 metres from the principal.

For secondary dwellings which have already been approved these changes do not nullify your approvals.

New applications for secondary dwellings will need to comply with the new controls.

### **What if my land is identified as bushfire prone?**

As secondary dwellings increase the density on land, NSW Rural Fire Service (RFS) may not support the development on land with high bushfire attack levels as this exposes additional people to unacceptable levels of risks.

Council may consult with RFS during the assessment.

### **What if my land is identified as flood prone?**

The floor will need to meet the floor height planning level for your property.

For more information please refer to Topic 2.5 of the DCP.

### **Development contributions- s7. 11**

Council levies for a wide range of development types, including secondary dwellings.

It is important to review Council's Development Contribution Plan to establish if a s7.11 levy applies to your proposal.

More information on s7.11 development contributions is available on our [website](#).

## Building certification

Council provides building certification services that are flexible and personalised. More information about this service is available on our website.

## Need help?

If you have any questions, Council's Development Assessment staff are available for brief consultations and to provide general advice at Council's Customer Service counter between 8.45am and 11am Monday to Friday.

Appointments may be made outside these hours, subject to availability. Council staff cannot assist in the preparation of your application or the supporting documents.

## Disclaimer

This fact sheet provides a summary of key elements of secondary dwellings. Any person using this document must do so on the basis that, not every scenario and issue can be addressed, and discussion with relevant staff at Council should be undertaken. This document is subject to change without notice.