

# » secondary dwellings (granny flats)



**Useful information if you are considering building a secondary dwelling**

## » What is a secondary dwelling?

Secondary dwelling is a term which is defined in Ballina Local Environmental Plan 2012 as:

*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.*

A secondary dwelling may be a free standing building, be attached to a principle dwelling or result from alterations or additions to a principal dwelling.

The secondary dwelling cannot be located on a lot in a strata plan or community title scheme.

## » What Council incentives are there to build a secondary dwelling?

Where more than one dwelling is to be located on an allotment, a one off payment to council of developer contributions towards the provision and maintenance of infrastructure is required. This includes contributions collected for Rous County Council and applies to all secondary dwellings.

These contributions are referred to as Section 7.11 and Section 64 contributions and charges. They are levied under the Environmental Planning and Assessment Act and Local Government Act. To encourage the development of secondary dwellings in general, the Council has resolved to waive the payment of contributions as below:

- When a secondary dwelling is attached to, or located within the principal dwelling on the site, and has been designed as a visually integrated

addition (typically through use of a common wall and similar roof design), then **100%** of the applicable contributions will be waived.

- When a secondary dwelling is detached from the principal dwelling on the site or is otherwise not visually integrated with the principal dwelling then only **50%** of the applicable contributions will be waived.

## » Why are detached secondary dwellings treated differently?

Council has found when assessing secondary dwelling applications that detached secondary dwellings frequently generate more community concerns, such as perceived negative amenity impacts related to increased noise and loss of privacy and perceived negative visual impacts related to building design factors.

Therefore, Council is using its Developer Contributions Investment Incentive policy to encourage attached secondary dwellings which have been visually integrated with the principal dwelling, but still retain some financial incentive for detached secondary dwellings.

## » What zones does this apply to?

The policy applies to all land where secondary dwellings are permitted under the provisions of *Ballina LEP 2012* (including the R2 and R3 residential zones). The secondary dwelling provisions of the Affordable Rental Housing SEPP apply within Ballina Shire to land zoned R2 and R3.

Secondary dwellings are not permitted on rural zoned land.

## »» *When did the developer contributions and charges waiver commence?*

Applications lodged after 31 March 2018 will be subject to the new contribution and charges waiver policy provisions. This will result in only a 50% waiver of contributions and charges being applied to detached secondary dwelling proposals or those proposals which are not visually integrated with the principal dwelling.

Any applications lodged prior to 1 April 2018 will be subject to the contribution and charges waiver provisions applicable at the time the application was lodged. This means that detached secondary dwellings that are the subject of an application lodged before 1 April 2018, whether or not approved prior to 1 April 2018, will be eligible for the 100% contribution and charges waiver provision.

For Development Applications lodged after 1 November 2021, Rous County Council will no longer be waiving the water supply contributions.

Council will continue to exercise the 50% and 100% waiver of the Council contributions but will now have to apply Rous Water contributions to all future Secondary Dwelling applications.

## »» *I already have development consent, am I required to pay developer contributions and charges?*

An application to modify an existing development consent which does not contain a reference to the contribution and charges waiver provisions, is operational, complies with the provisions of the waiver policy, and has not been commenced may be submitted. The consent can be modified with the approval of Council to incorporate a reference to the developer contribution and charges waiver provisions.

## »» *I have already paid developer contributions for a secondary dwelling will these now be refunded?*

Once paid, developer contributions are not refundable.

## »» *How do I get approval for a secondary dwelling?*

There are two pathways of applying for approval to have a Secondary Dwelling:

### **1. Complying Development Application**

If your plans meet the requirements criteria for a Secondary Dwelling within State Environmental Planning Policy (Affordable Rental Housing) 2009 and State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 it can be approved as Complying Development by either Council's Accredited Certifier or a privately Accredited Certifier.

There are a number of specific criteria in the State Environmental Planning Policies (SEPP's) that have to be met to be approved as Complying Development. If any one of these criteria is not able to be met, the application cannot be approved.

### **2. Development Application**

Although there are planning controls to be satisfied, assessment under the Development Application pathway is a merit based assessment based largely on meeting objectives. However, there are some criteria that still must be met such as:

- R2 or R3 Urban zone
- Minimum lot size of 450m<sup>2</sup>
- Maximum floor area of 50% of the Principal Dwelling (Note section on Contributions below)
- Maximum Floor Space Ratio of all building is 0.5:1
- Merit assessment against Secondary Dwelling criteria of the Affordable Rental Housing SEPP

## »» *Will my rates increase if I build a secondary dwelling?*

Yes. Charges for waste collection, water and sewer will be levied for the secondary dwelling on an ongoing basis through the rates system.



***If you have any questions or concerns please contact:***

Council's Planning and Environmental Health Division, ph 1300 864 444  
[ballina.nsw.gov.au](http://ballina.nsw.gov.au)



**ballina**  
shire council