

# Affordable rental housing - supporting secondary dwellings (granny flats)

The *State Environmental Planning Policy (Affordable Rental Housing) 2009* encourages the development of secondary dwellings, commonly known as granny flats, by:

- allowing granny flats to be approved as complying development,
- allowing granny flats to be built in all residential zones, and
- setting clear standards for the development of granny flats.

## What is the State Environmental Planning Policy (Affordable Rental Housing) 2009?

The *State Environmental Planning Policy (Affordable Rental Housing) 2009* (Affordable Housing SEPP) was introduced in July 2009 and increases the supply and diversity of affordable rental and social housing in NSW.

The *Affordable Rental Housing SEPP* enables the development of secondary dwellings (commonly known as granny flats) which can add value and flexibility to your home.

A secondary dwelling can be a place where elderly relatives or younger people who have not yet left home can reside in a space of their own.

A secondary dwelling can be made available to a relative or a friend or be rented out. There are no rent provisions for secondary dwellings outlined within the *Affordable Housing SEPP*.

## Why do we need affordable housing?

There is a strong need for affordable housing for all communities throughout NSW. Figures show that in February 2010, over 47,000 people in NSW were on waiting lists for suitable accommodation

It is essential that all levels of government, private industry and the non-government sector work in partnership to develop innovative ways to provide more affordable housing for the NSW people.

## GENERAL INFORMATION ABOUT SECONDARY DWELLINGS

### What is a secondary dwelling?

A secondary dwelling, or a 'granny flat', is a self-contained dwelling:

- established in conjunction with another dwelling (the principal dwelling), and
- on the same lot of land as the principal dwelling (not being an individual lot in a strata plan or community title scheme), and
- may be located within, or attached to, or separate from, the principal dwelling.

### Where are secondary dwellings permitted?

- Zone R1 General Residential
- Zone R2 Low Density Residential
- Zone R3 Medium Density Residential
- Zone R4 High Density Residential
- Zone R5 Large Lot Residential (via development application only)
- Or equivalent zones for the local council area. A guide to the equivalent zones can be found at: <http://housingcode.planning.nsw.gov.au/LegislativeandPolicyDocuments/NSWCouncilEquivalentZonesUndertheCode.aspx>



Granny flat  
Newbury, Stanhope Gardens  
Image Source: Landcom

### What is the assessment process?

There are two ways an application for a granny flat can be assessed.

**Complying development:** Providing a proposal for a granny flat meets all complying development requirements, an application may be determined within 20 days by a relevant local council or accredited certifier if it meets the complying development provisions in the *Affordable Housing SEPP*.

The certifying authority is required to notify neighbours of an application for complying development 14 days prior to approval. Where a Complying Development Certificate has been issued, the owner will need to provide neighbour notification 7 days prior to works commencing.

A list of accredited certifiers can be found at [www.bpb.nsw.gov.au](http://www.bpb.nsw.gov.au).

For more detail, see the flow chart on page 6.

**Development application:** If the proposal for a granny flat is not able to meet the complying development requirements, a development application can be lodged with the relevant local council. In this case, the council assesses and determines the proposal in accordance with the *Affordable Housing SEPP* and all relevant council policies.

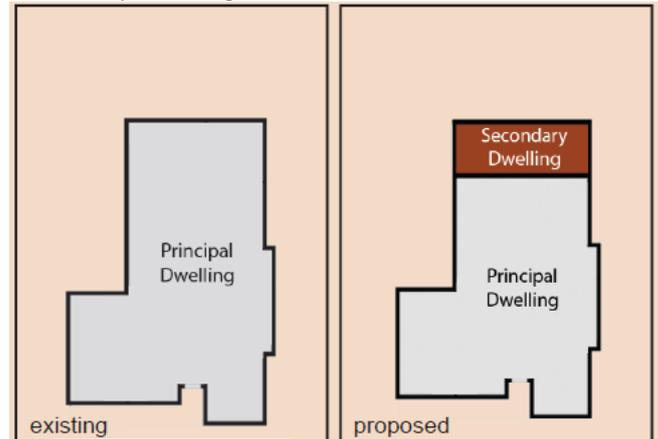


## DESIGN OPTIONS

**Any of the options below may require the lodgement of a development application with your local council.**

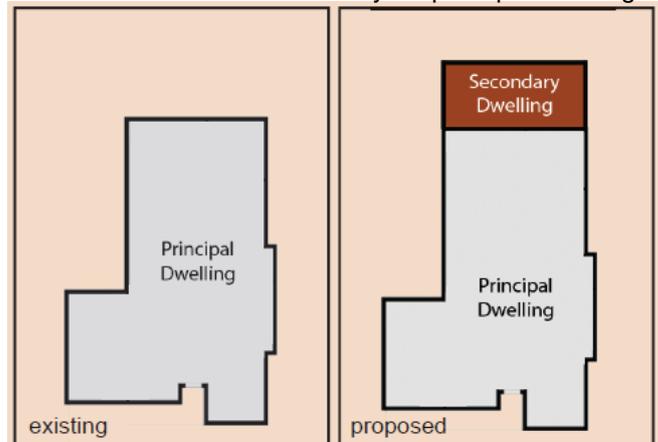
### Option: Conversion

The *Affordable Housing SEPP* allows you to convert part of the principal dwelling, structure or garage into a secondary dwelling.



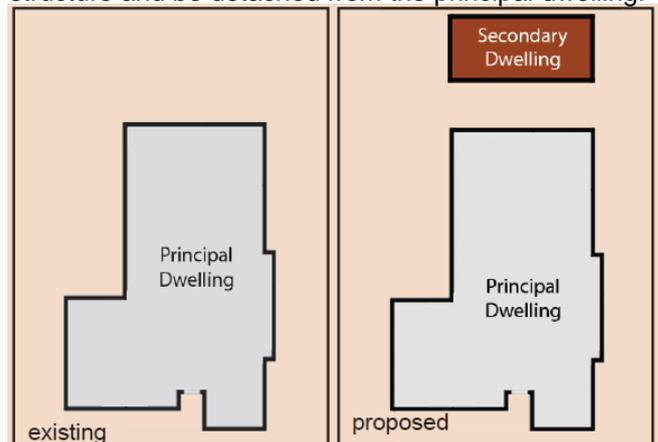
### Option: Attached

A secondary dwelling can be built as an extension or as alterations and additions to your principal dwelling.



### Option: Detached

A secondary dwelling can be built as a separate structure and be detached from the principal dwelling.



## SECONDARY DWELLING PROVISIONS

The following provides an overview of the minimum controls outlined in the *Affordable Housing SEPP*. This is a general guide only. It is advised that if you are considering building a secondary dwelling, you review the provisions contained in the *Affordable Housing SEPP*, available at [www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au).

### General provisions

#### One principal dwelling, one secondary dwelling:

Development of a secondary dwelling can only result in there being one principal dwelling and one secondary dwelling on the site.

**Subdivision:** Not permitted.

**Total floor area:** A secondary dwelling is to have a maximum floor area of 60m<sup>2</sup>. The maximum floor area of the principal dwelling and secondary dwelling is to be no greater than that permitted by the local council in that zone when the development is approved through a development application. The controls for complying development are contained in Schedule 1 of the *Affordable Housing SEPP*, as outlined below.

**Site area:** Minimum of 450m<sup>2</sup>.

**Building Code of Australia (BCA):** All relevant requirements within the BCA apply. Some secondary dwellings may result in a change in building classification under the BCA. Principal and secondary dwellings will be classified as class 1a or class 2 under the BCA depending on the configuration of those dwellings.

For example, if **any part** of the secondary dwelling is built above or below the principal dwelling, the building containing **both** dwellings will be classified as Class 2 under the BCA.

### Complying development provisions

**Partial/Internal conversions:** See Division 2, clause 23(2) in the *Affordable Housing SEPP*.

**Lot requirements:** Excludes environmentally sensitive land and heritage restrictions.

**Specific requirements:** Must not involve external alterations to the principal dwelling other than an additional entrance.

Erection of a basement or alterations to an existing basement, or the erection of a roof terrace is not permitted under the complying development provisions of the *Affordable Housing SEPP*.

**Site area:** Minimum 450m<sup>2</sup>.

**Height:** Maximum 8.5 metres and does not include the erection of a basement or additions to a basement or the erection of a roof terrace.

**Lot requirements:** Outlined in the *Affordable Housing SEPP* (see Schedule 1, Part 2, Clause 2).

**Site coverage and floor area:** See Schedule 1, Part 2, Clause 3, 4 and 5, *Affordable Housing SEPP*.

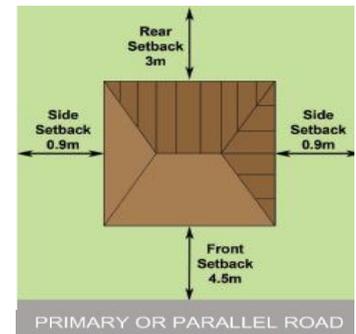
**Landscaped area:** As outlined in Schedule 1, Part 4, Clause 16 of the *Affordable Housing SEPP* and varies depending on the size of the site.

**Privacy:** As outlined in Schedule 1, Part 3, Clause 15 of the *Affordable Housing SEPP*, a new window in either the secondary or principal dwelling must have a privacy screen in certain circumstances.

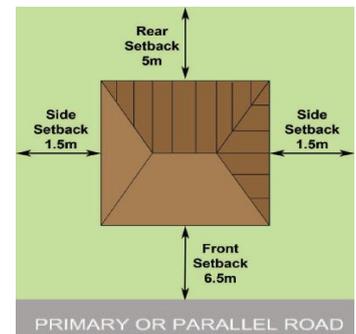
Setbacks and floor heights also need to be considered when including a balcony, deck, patio, pergola, terrace or verandah.

**Setbacks:** As outlined in Schedule 1, Part 3, Clauses 7-12 of the *Affordable Housing SEPP*, the setback of a site with a front boundary on a primary road or parallel road is equal to the average of the front setbacks of the nearest two dwelling houses on the same road. These dwelling houses must be located within 40 metres of your lot (see Schedule 1, Clause 7). Otherwise setbacks are shown below:

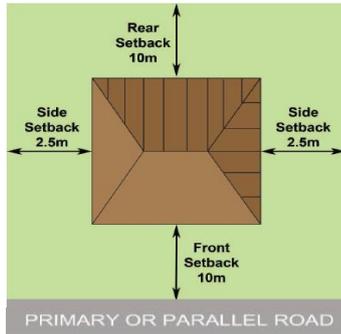
**Lot size:**  
At least 450m<sup>2</sup>, but less than 900m<sup>2</sup>



**Lot size:**  
At least 900m<sup>2</sup>, but less than 1,500m<sup>2</sup>



**Lot size:**  
At least 1,500m<sup>2</sup>



**Private open space:** As outlined in Schedule 1, Part 4, Clause 17 of the *Affordable Housing SEPP*, at least 24m<sup>2</sup> and accessible from a habitable room, at least 4 metres wide and with a gradient not steeper than 1:50.

**Earthworks and drainage:** As outlined in Schedule 1, Part 4, Clauses 18-21 of the *Affordable Housing SEPP*.

**Articulation zones:** As outlined in Schedule 1, Part 3, Clause 13-14 of the *Affordable Housing SEPP*, either the principal or the secondary dwelling must have a front door and a window to a habitable room facing the primary or parallel road. Development on a corner lot must result in either the principal dwelling or the secondary dwelling having a window in a habitable room that is at least 1m<sup>2</sup> in area and that faces and is visible from a secondary road.

**Development application requirements**

**Site area:** The consent authority cannot refuse consent on the grounds of site area if the site area is at least 450square metres. However, a consent authority can grant consent to development of a secondary dwelling on a site of less than 450square metres.

**Parking:** The consent authority cannot refuse the application if no additional parking is provided on the site.

**Council controls:** Any relevant council policy that applies to secondary dwellings will continue to apply.



**New granny flat in Greystanes**  
Images courtesy of Granny Flats Australia

**FREQUENTLY ASKED QUESTIONS**

**Q. How does a person apply for approval of a secondary dwelling?**

- A.** Applications can be made in one of the following ways:
- complying development, by applying to an accredited certifier to construct a secondary dwelling if the secondary dwelling meets the complying development provisions in the *Affordable Housing SEPP*, or
  - a development application to the local council.

A list of accredited certifiers can be found at: [www.bpb.nsw.gov.au](http://www.bpb.nsw.gov.au).

**Q Are secondary dwellings permissible in rural zones?**

- A.** The provisions for secondary dwellings under the *Affordable Housing SEPP* do not apply to rural zones. Secondary dwellings may be permitted under the council's local environmental plan in these zones, but this would need to be checked with the relevant council.

**Q Can a secondary dwelling be established in conjunction with a 'principal dwelling' where the 'principal dwelling' is a dwelling in a dual occupancy or residential flat building (rather than a dwelling house)?**

**A.** No. Under clause 22 of the *Affordable Housing SEPP*, development for the purposes of a secondary dwelling cannot result in any dwelling other than the principal dwelling and the secondary dwelling on the land. This means that there can only be one other dwelling on the land with the secondary dwelling.

**Q. What is the height limit for a secondary dwelling that is complying development under the Affordable Housing SEPP, if the council's local environmental plan or development control plan imposes a lower limit?**

**A.** The height limit is 8.5 metres under the *Affordable Housing SEPP*. The complying development provisions for height are outlined in Schedule 1 of the *Affordable Housing SEPP*. Normally 8.5 metres will allow two storeys. The height of a secondary dwelling will also be governed by the setback requirements in Schedule 1 height limits in the council's local environmental plan or development control plan will not apply.

**Q. Will this cause overshadowing or loss of privacy?**

**A.** The height limit is the same as for dwelling houses under the Codes SEPP. The *Affordable Housing SEPP* also has setback provisions which are the same as the Housing Code, to minimise impacts like overshadowing and loss of privacy.

**Q. Do other local council planning controls continue to apply?**

**A.** If the *Affordable Housing SEPP* does not explicitly override a local council planning control, then the local council planning control continues to apply.

**Q. What happens if there is a conflict between the controls in a local environmental plan (LEP) and the Affordable Housing SEPP?**

**A.** If there is an inconsistency between the *Affordable Housing SEPP* and the relevant council's LEP, the provisions of the *Affordable Housing SEPP* will override those in an LEP to the extent of the inconsistency.

**Q. Do section 94 development contributions apply?**

**A.** The *Affordable Housing SEPP* does not affect the levying of development contributions under section 94 of the *Environmental Planning and Assessment Act 1979*.

**Q. Are dwellings approved under the SEPP exempt from bushfire and flood planning requirements?**

**A.** No, the *Affordable Housing SEPP* does not override bushfire or flood planning requirements.

**Q. Does BASIX apply?**

**A.** The *Affordable Housing SEPP* does not change the application of the Building Sustainability Index (BASIX) requirements.



## FURTHER INFORMATION

An updated version of the *Affordable Housing SEPP*, incorporating the changes set out in the amending SEPP, is available on the NSW legislation website: [www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au)

The *State Environmental Planning Policy (Affordable Rental Housing) 2009* and fact sheets on the recent changes can be found on the department's website: [www.planning.nsw.gov.au/affordablehousing](http://www.planning.nsw.gov.au/affordablehousing)

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**SECONDARY DWELLINGS CHECKLIST**

