

## Dual Occupancy and Secondary Dwellings Hot Topic

### Secondary Dwellings

The Hot Topic does not mention that in non-urban areas dwellings are also consistent uses in the Rural, Rural residential and Limited development (landscape residential) Zones, and that secondary dwellings can be established where compliant with the Dwelling House Code.

While the Code provides common and different rules for urban and non-urban situations that mostly seem appropriate, a recent amendment to the Code has created a potential issue in the rural areas that won't apply to most urban areas. AO12.2 says: Where freestanding, the secondary dwelling is located within 20m of the primary dwelling (measured from the outermost projection of each dwelling).

Dwellings and secondary dwellings in rural areas need to comply with front, rear and side boundary setbacks of the Code, but there are also setback requirements under the Plumbing Code for the location of an onsite effluent disposal system needed in an unsewered rural area. Setbacks are required from watercourses, wetlands, bores, house foundations, inground tanks and swimming pools, neighbouring properties, and trees and other vegetation that can affect the operation of the system. Some onsite effluent systems require large irrigation fields covering several hundred square metres.

The sizing of the onsite effluent disposal system is matched to the number of bedrooms in the dwelling. Adding a secondary dwelling with an additional one or two bedrooms will often mean that the onsite system of the primary dwelling can no longer comply with the Plumbing Code if the system is shared. In many instances it will be necessary to install a new, separate onsite system somewhere on the lot for the secondary dwelling (this is envisaged by AO13 of the Code). But that second system for the secondary dwelling then has to comply with a different set of setbacks to be given approval.

There are also often setback requirements in the Planning Scheme to protect valuable vegetation and habitat, and setbacks from vegetation creating a bushfire hazard (such as defined building envelopes) or setbacks in the Bushfire Hazard Code from identified highly flammable, high risk vegetation.

There are also setback/buffer requirements relating to State controlled roads and designated scenic routes, and where a driveway can be located on a State controlled road.

Parts of the lot might also be subject to other natural hazard limitations such as steep and unstable land or flood liable land where a house or other structure is not permitted.

Despite the fact that the lot sizes for the above rural zones are large compared with urban lots, the combined effect of all of these potential setback and exclusion requirements is that it is often very difficult to find a site for a primary dwelling that complies with all the requirements and harder again to identify a compliant site for a secondary dwelling. The new requirement in AO12.2 to locate the secondary dwelling within 20m of the primary dwelling creates yet another challenge to siting the secondary dwelling at a compliant position on the lot.

All of the above setbacks and exclusion requirements appear to be warranted to achieve a reasonable planning performance outcome – but not AO 12.2.

It is very difficult to see the rationale for the new AO12.2 20m proximity rule in the above rural zones that lack reticulated water and sewerage infrastructure. There is an expectation that the

occupants of a primary and secondary dwelling have some relationship to each other such as being related or part of the same household, but the proximity of the two dwellings is irrelevant to demonstrating that that relationship exists. There might be very good reasons why the occupants might want the two dwellings to be separated by far more than 20 from each other. AO13 of the Code requires a shared street number and post box and a common driveway etc, which is a better indicator than building proximity that there is a relationship between the occupants of the dwellings.

Finally, the current Blackall Range Local Area Code aims to preserve the visual and scenic amenity of the Range in part by sensitive siting and design of buildings in the rural landscape, avoiding building mass and large and intrusive buildings, and using vegetation to screen buildings. Requiring a minimum 20m separation distance between a 60 or 90m<sup>2</sup> secondary dwelling and the primary dwelling is at odds with achieving those Code outcomes in many if not most situations. The buildings will be massed close together and therefore more visually prominent and potentially intrusive in the landscape than if the buildings were spaced further apart. In addition to the two separate dwellings there might be carports or garages or a farm shed nearby that makes the massed visual impact potentially even more significant. Providing screening vegetation to soften the visual impact will often be more effective if the buildings are spaced further apart.