

1 Secondary dwellings in Zones RU1, RU2 and RU4

1.1 Application

This section applies to development for the purposes of **secondary dwellings** and ancillary structures, such as garages and carports, in Zones RU1, RU2 and RU4. A secondary dwelling is defined in the Kyogle LEP 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.'*

1.2 Objectives

- a) To ensure that secondary dwellings are located in proximity to the principal dwelling.
- b) To ensure that secondary dwellings are appropriately buffered from surrounding land uses and are not subject to adverse amenity impacts.
- c) To ensure that secondary dwellings are designed and sited to avoid impact on the character of the rural landscape and significant views or settings.
- d) To ensure that secondary dwellings are designed and sited to minimise earthworks.
- e) To ensure that secondary dwellings are designed and sited to minimise impacts on ecological functions and biodiversity values.
- f) To ensure that secondary dwellings are sited to avoid unacceptable risk from natural hazards and contaminated land.
- g) To ensure that secondary dwellings do not adversely impact on the ecological or hydrological functions of watercourses, water bodies and wetlands.
- h) To ensure that secondary dwellings have suitable vehicular access and are appropriately serviced.
- i) To encourage the development of well-designed dwellings that are adaptable, comfortable and maximise water and energy efficiency.
- j) To ensure the preservation of cultural heritage.

1.3 Development Guidelines

Note: the Acceptable Solutions in the table below represent one way to meet the corresponding Performance Criteria. Applicants that choose not to, or that cannot, meet an Acceptable Solution must demonstrate how they meet the corresponding Performance Criteria.

Performance criteria	Acceptable solution
Minimum lot size	
P1 The lot is of appropriate size and dimensions to accommodate a principal and secondary dwelling including effluent disposal areas	A1 The lot has an area of at least 5000m²1ha
Relationship with principal dwelling	
P2 Secondary dwellings are smaller scale than the principal dwelling	A2 Total floor area of secondary dwellings including decks and verandas (but excluding any area used for parking) does not exceed 60m ² or 60% of the total floor area of the principal dwelling, whichever is the greater
P3 Secondary dwellings are located within reasonable proximity of the principal dwelling and <u>will not:</u> <ul style="list-style-type: none"> • adversely impact on the agricultural potential or viability of the subject land • increase the potential for land use conflict • impact adversely on environmental values or watercourses <u>are used in conjunction with the principal dwelling</u>	A3 Secondary dwellings are located within 200-100 metres of the principal dwelling
Design and siting of buildings and structures	
P4 Site layout and building design seeks to utilise natural grades of the land and minimises cut and fill	A4.1 Secondary dwellings are not located on land with a gradient that exceeds 20% A4.2 Cut or fill does not exceed 1 metre in height and a total height of 2 metres
P5 The setback of secondary dwellings from the primary road frontage is consistent with the surrounding area	A5.1 Secondary dwellings are set back a minimum of 20 metres from the front boundary OR Where site has frontage to a classified road: A5.2 Secondary dwellings are set back from front boundary a minimum of: <ul style="list-style-type: none"> • Where in Zones RU1 or RU2:- 50 metres

Performance criteria	Acceptable solution
	<ul style="list-style-type: none"> • Where in Zone RU4:- 30 metres
<p>P6 The setback of secondary dwellings from side and rear property boundaries does not impact on the amenity of adjoining properties</p>	<p>A6.1 Secondary dwellings are set back a minimum of 10 metres from side boundary</p> <p>A6.2 Secondary dwellings are set back at least 10 metres from rear boundary</p> <p>OR</p> <p>Where side or rear boundary is a secondary road:</p> <p>A6.3 Secondary dwellings are set back at least 20 metres from property boundary</p>
Visual impact	
<p>P7 Secondary dwellings do not impact adversely on significant views or rural and/or natural landscape character and do not reflect light on surrounding properties</p>	<p>A7.1 Secondary dwellings are not located on prominent ridgelines or hilltops or in prominent locations when viewed from significant public vantage points</p> <p>A7.2 External walls and roofs are clad in non-reflective materials and colours are muted</p>
Environmental impact	
<p>P8 The siting of secondary dwellings does not impact on ecological or hydrological values of watercourses, water bodies and wetlands</p>	<p>A8.1 Secondary dwellings are set back a minimum of 100 metres from the top of bank of permanent watercourses (Order 3 Stream or greater) or water bodies and 40 metres from the top of bank of an Order 1 or 2 Stream</p> <p>A8.2 Secondary dwellings are set back a minimum of 100 metres from the edge of wetland</p>
<p>P9 Development does not create unacceptable impact on ecological functions or biodiversity values</p>	<p>A9.1 Siting of secondary dwellings and driveways does not require the clearing of native vegetation</p> <p>A9.2 Secondary dwellings are not located within a mapped ecological corridor</p>
Effluent management	
<p>P10 Secondary dwellings make suitable provision for management of effluent that does not create public health impacts or adversely impact quality of surface and ground waters</p>	<p>A10.1 Secondary dwellings utilise the on-site sewage management system of the principal dwelling where the system is of a suitable capacity</p> <p>OR</p> <p>A10.2 Secondary dwellings are serviced by an independent on-site sewage management system that meets the requirements of the Kyogle Council</p>

Performance criteria	Acceptable solution
	On-site Sewage Management Strategy
Water supply	
P11 Secondary dwellings make suitable provision for supply of potable water without drawing unreasonably from natural watercourses, water bodies or groundwater	No Acceptable Solution is provided: demonstrate how the proposal achieves the Performance Criteria
Stormwater management	
P12 Stormwater is managed on the development site and does not contribute to flooding on adjoining properties	No Acceptable Solution is provided: demonstrate how the proposal achieves the Performance Criteria
Electricity supply	
P13 Secondary dwellings make adequate provision for electrical power without impacting on the amenity of surrounding properties through emission of noise, fumes, light or glare through on-site power generation	A13 Secondary dwellings are connected to the reticulated electricity network
Telecommunications	
P14 The dwelling must make suitable arrangements for the supply of constant, reliable telecommunications	A14 Secondary dwellings are connected to the fixed line telecommunications network
Site access	
P15 Vehicular access is suitable to service the secondary dwelling and does not create safety issues on a public road	A15 Secondary and principal dwellings utilise the same vehicular access point and driveway
Land use conflict avoidance	
P16 Secondary dwellings are not located where they are likely to be impacted by surrounding land uses	A16 Secondary dwellings achieve buffers specified in Table C3.1 in Appendix C3
Natural hazards	
P17 Secondary dwellings, residents, visitors and firefighters are not exposed to unacceptable risk from bushfire* <i>*Achievement of P17 will generally need to be demonstrated through submission of a report prepared by a Certified Bushfire Practitioner that demonstrates the dwelling can achieve the requirements of the Rural Fire Service publication 'Planning for Bushfire Protection' 2006 or any superseding guideline</i>	A17.1 Secondary dwellings are not sited on land that is mapped as bushfire prone land OR A17.2 The dwelling is assessed as having a Bushfire Attack Level (BAL) no greater than BAL 29 and complies with the requirements of the Rural Fire Service publication 'Planning for Bushfire Protection' 2006 or any superseding guideline and Australian Standard AS3959

Performance criteria	Acceptable solution
P18 Buildings, structures and persons on the development site should not be exposed to unacceptable risk from flooding	<p>A18.1 Secondary dwellings are not sited on land prone to flooding from inundation or overland flow</p> <p>OR</p> <p>Where a secondary dwellings is proposed on land that is mapped as or known to be prone to flooding:</p> <p>A18.2 A report is submitted by a suitably qualified person that demonstrates the floor level of the development achieves a height of at least the level of a 100 year ARI flood event plus 0.5 metres freeboard</p>
P19 Buildings, structures and persons on the development site should not be exposed to unacceptable risk from landslip or mass movement	<p>A19.1 The development site does not display evidence of landslip or mass movement</p> <p>OR</p> <p>A19.2 A report prepared by a suitably qualified engineer is submitted that demonstrates the site is geotechnically stable and suitable to accommodate a dwelling</p>
Contaminated land	
P20 Residents and visitors are not exposed to unacceptable risk from contamination	<p>A20.1 Development is not on a site that is listed as contaminated</p> <p>AND</p> <p>A20.2 Secondary dwellings are not located within 200 metres of a cattle dip</p> <p>OR</p> <p>A20.3 A report prepared by a suitably qualified person is submitted that demonstrates the site is suitable to accommodate a residential use</p>
Building orientation and energy efficiency	
P21 Building design and orientation facilitates passive lighting, heating and cooling	<p>A21.1 Living areas* are orientated to the north or east</p> <p>A21.2 Window and door placement allows internal solar access between April and August and limits internal solar access between September and March</p> <p>A21.3 Eaves are minimum of 450 mm deep</p> <p>A21.4 Internal building layout and location of windows facilitate internal passage of cooling easterly and southerly breezes</p> <p><i>*Living areas are considered to be kitchen, lounge</i></p>

Performance criteria	Acceptable solution
	<i>room, living room or dining room</i>
Where located on the site of a heritage item	
P22 Secondary dwellings do not detract from the heritage significance of the heritage item or site	A22 The secondary dwelling is located at the rear of a heritage building and is not visible from a road or public place
Additional guidelines where secondary dwelling is created within part of existing dwelling	
P23 Principal and secondary dwellings are compatible and comply with the provisions of the Building Code of Australia for fire separation and noise attenuation	No Acceptable Solution is provided: demonstrate how the proposal achieves the Performance Criteria
Additional guidelines where secondary dwelling is an attached extension	
P24 Principal and secondary dwellings are compatible and comply with the provisions of the Building Code of Australia for fire separation and noise attenuation	No Acceptable Solution is provided: demonstrate how the proposal achieves the Performance Criteria

2 Secondary dwellings in Zones R1, R3, R5 and RU5

2.1 Application

This section applies to development for the purposes of **secondary dwellings** and ancillary structures in Zones R1, R3, R5 and RU5. A secondary dwelling is defined in the Kyogle LEP 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.'*

2.2 Complying Development

Certain secondary dwellings are permitted as Complying Development (minor development which does not require development consent, but can be certified by Council or a private certifier). Reference should be made to any relevant State Environmental Planning Policy.

2.3 Objectives

- a) To ensure that secondary dwellings are compatible with surrounding development and do not impact the amenity of surrounding residential development.
- b) To ensure that secondary dwellings make suitable provision for vehicular access and parking.
- c) To ensure that secondary dwellings provide a satisfactory living environment including the provision of private open space.
- d) To ensure that secondary dwellings are adequately serviced.
- e) To ensure the preservation of cultural heritage.

2.4 Development Guidelines

Note: the Acceptable Solutions in the table below represent one way to meet the corresponding Performance Criteria. Applicants that choose not to, or that cannot, meet an Acceptable Solution must demonstrate how they meet the corresponding Performance Criteria.

Performance criteria	Acceptable solution
Minimum lot size and dimensions	
P1 The lot is of appropriate size and dimensions to accommodate a principal and secondary dwelling	<p>Where development site is serviced by reticulated sewerage:</p> <p>A1.1 The lot has an area of at least 450m² and a minimum average width of 12 metres</p> <p>OR</p> <p>Where development site is not serviced by reticulated sewerage:</p> <p>A1.2 The lot has an area of at least 5000m²</p>
Development footprint	
P2 Secondary dwellings are smaller scale than the main dwelling and do not constitute overdevelopment of the site	A2 Total floor area of secondary dwellings including decks and verandas (but excluding any area used for parking) does not exceed 60m ² or 60% of the total floor area of the principal dwelling, whichever is the greater
P3 The total development footprint allows for sufficient private open space and does not impact on amenity of adjoining properties or result in overdevelopment of the site	<p>A3 The total site coverage of all dwellings, structures and outbuildings does not exceed:</p> <ul style="list-style-type: none"> • Where lot size <900m²= 40% • Where lot size 901-1500m²= 30% • Where lot size >1500m²= 25%
Height of buildings and structures	
P4 The height of buildings is consistent with the surrounding area and does not create overshadowing or a loss of privacy of adjoining residential properties	A4 Building height does not exceed maximum height shown on the Height of Buildings Map
Front boundary setback	
P5 Secondary dwellings do not alter the building line of the street and allow sufficient area for private open space, car parking and landscaping	A5 Secondary dwellings are located behind the building line of the principal dwelling
Side boundary setback	
P6 Secondary dwellings have sufficient side boundary setback to maintain privacy and solar access of adjoining properties, permit	<p>In Zones R1, R3 and RU5 and where outer wall or structure adjacent side boundary is <4.5m high:</p> <p>A6.1 Buildings and ancillary structures associated</p>

Performance criteria	Acceptable solution
access for maintenance and meet Building Code of Australia requirements	<p>with a secondary dwelling are set back from the side boundary a minimum 0.9 metres to wall and 0.45 metres to outer edge of eave or gutter</p> <p>OR</p> <p>In Zones R1, R3 and RU5 and where outer wall or structure adjacent side boundary is >4.5m high: A6.2 Buildings and ancillary structures associated with a secondary dwelling are set back from the side boundary a minimum 1.5 metres (to wall) plus 0.5 metres for every additional 2 metres in wall/structure height</p> <p>OR</p> <p>In Zones RE2 and R5: A6.3 Buildings and ancillary structures associated with a secondary dwelling are set back from the side boundary a minimum of 5 metres</p>
Rear boundary setback	
P7 Rear boundary setback of secondary dwellings is sufficient to allow for the maintenance of privacy, residential amenity and solar access of adjoining properties	<p>In Zones R1, R3 and RU5: A7.1 Rear boundary setback is a minimum of 3 metres</p> <p>OR</p> <p>In Zones R1, R3 or RU5 and where development site has rear boundary frontage to a laneway, road or public reserve: A7.2 Rear boundary setback is a minimum of 4 metres to house and 1 metre to garage or carport</p> <p>OR</p> <p>In Zones RE2 and R5: A7.3 Buildings and ancillary structures are set back from the rear boundary a minimum of 10 metres</p>
Corner allotments	
P8 Secondary dwellings on corner allotments have sufficient setback from the secondary street frontage to ensure pedestrian and vehicular visibility, to maintain the character and building line of the street	<p>A6.2 Setback of buildings and ancillary structures to the primary street frontage is in accordance with Table C3.2 Appendix C3</p> <p>OR</p> <p>Where site fronts a classified road: A6.3 Front boundary setback is at least:</p> <ul style="list-style-type: none"> • Where in Zone R1, R3 or RU5:- 9 metres • Where in RE2 or R5 (and lot has an area of at least 4000m²):- 15 metres

Performance criteria	Acceptable solution
	<p>AND</p> <p>A6.4 Setback of buildings and ancillary structures to the secondary road frontage is at least 4 metres in Zones R1, R3 and RU5 and at least 10 metres in Zones RE2 and R5</p> <p>A6.5 Setback of buildings and ancillary structures to side boundaries** is 2 metres in Zones R1, R3 and RU5 and 5 metres in Zones RE2 and R5</p> <p>A6.6 Vehicular access points are not closer than 6 metres from the intersection</p> <p><i>*The primary street frontage of corner allotments is considered to be the narrow frontage</i></p> <p><i>**Corner allotments are not considered to have a rear boundary</i></p>
Protection of privacy of adjoining properties	
<p>P9 Secondary dwellings do not impact on the privacy of adjoining residential properties</p>	<p>Where secondary dwelling has windows of habitable rooms or outdoor living areas* within 3 metres of an adjoining residential lot:</p> <p>A9.1 Windows and outdoor living areas have privacy screens that prevent overlooking or loss of privacy</p> <p>A9.2 Privacy screens have no opening more than 30mm and not more than 30% of the total area of the screen is open</p> <p>A9.3 Privacy screens are provided between 1.2 metres and 1.8 metres above floor level</p> <p><i>*Outdoor living areas means a patio, deck, veranda, balcony, pergola or terrace</i></p>
Landscaping and open space	
<p>P10 Landscaping provides a pleasant living environment and assists to soften the built form of the development and maintain privacy</p>	<p>A10.1 At least 20% of the development site consists of garden beds planted with trees, shrubs and groundcovers at a minimum density of one per 2 square metres</p> <p>A10.2 Garden beds are a minimum 2 metres wide</p> <p>A10.3 At least 50% of the landscaped area is located behind the building line of the primary road frontage</p> <p>A10.4 A landscape concept plan is provided that</p>

Performance criteria	Acceptable solution
	demonstrates achievement of A10.1-A10.3
P11 Principal and secondary dwellings have access to adequate private open space	<p>A11.1 Secondary dwellings have a minimum of 10m² of private open space with a minimum dimension of 3 metres and a maximum gradient of 1 in 20</p> <p>A11.2 Private open space is accessible from a kitchen, dining or lounge room</p> <p>A11.3 At least 10m² of private open space receives solar access between April and September</p>
P12 Principal and secondary dwellings have access to space for drying laundry	A12.1 Secondary dwellings have an outdoor laundry drying area that receives solar access at all times of the year
Site access and parking	
P13 The entrance to secondary dwellings is evident at the road frontage of the site	A13 The secondary dwelling is connected to a road frontage by a pedestrian path
P14 Vehicular access for the secondary dwelling does not create unsafe conditions for vehicles or pedestrians	A14 Vehicular access to the main and secondary dwellings is via a single vehicular access
P15 Principal and secondary dwellings do not create unreasonable demand for on-street parking	A15 A minimum of two car parking spaces are provided on the lot
Servicing and infrastructure	
P16 Secondary dwellings are adequately serviced and do not impact on the amenity of surrounding properties through emissions of noise, fumes or glare through generation of on-site power	<p>A16.1 The secondary dwelling is connected to reticulated mains power</p> <p>A16.2 The secondary dwelling is connected to the fixed line telecommunications network</p> <p>A16.3 The secondary dwelling is connected to the reticulated water supply network</p> <p>A16.4 The secondary dwelling is connected to the reticulated sewerage network where in a serviced area or an approved On-site Sewage Management System where in an unserviced area</p> <p>A16.5 The secondary dwelling is connected to the stormwater drainage network</p>

Performance criteria	Acceptable solution
Where located on the site of a heritage item	
P17 Secondary dwellings do not detract from the heritage significance of the heritage item or site	A17 The secondary dwelling is single storey and not visible from a road or public place
Where on a site adjoining an item of environmental heritage or in a heritage conservation area	
P18 Secondary dwellings do not detract from the heritage significance of the heritage item or heritage conservation area	A18.1 Development is of a similar scale and form to adjoining development A18.2 Buildings and structures within 6 metres of the side boundary are no higher than 4.5 metres
Additional guidelines where secondary dwelling is created within part of existing dwelling	
P19 Principal and secondary dwellings are compatible and comply with the provisions of the Building Code of Australia for fire separation and noise attenuation	No Acceptable Solution is provided: demonstrate how the proposal achieves the Performance Criteria
Additional guidelines where secondary dwelling is an attached extension	
P20 Principal and secondary dwellings are compatible and comply with the provisions of the Building Code of Australia for fire separation and noise attenuation	No Acceptable Solution is provided: demonstrate how the proposal achieves the Performance Criteria

APPENDIX C3

Table C3.1 Recommended minimum buffer distances between dwellings and other land uses on adjoining or surrounding land not associated with proposal

Existing land use	Distance to dwellings (metres)
Piggeries- Housing and waste storage	500
Piggeries- Waste utilisation area	250
Feedlots- Yards and waste storage	500
Feedlots- Waste utilisation area	250
Poultry Farms- Sheds and waste storage	500
Poultry Farms- Waste utilisation area	250
Dairies- Sheds and waste storage	250
Dairies- Waste utilisation area	250
Other Intensive Livestock Operations	300
Cropping and Horticulture	200
Greenhouse & Controlled Environment Horticulture	200
Macadamia De-husking	300
Bananas	150
Turf Farms	200
Animal boarding and training establishments	500
Rural Industries	500
Abattoirs	1000
Extractive Industries that does not involve blasting	500
Extractive Industry that involves blasting	1000
Waste disposal facility	1000
Grazing of stock, cattle yards	50

Source: Department of Primary Industries; Living and Working in Rural Areas (2007)

Table C3.2 Minimum front boundary setback for dwellings and ancillary structures

Situation	Minimum front boundary setback
Where there are adjoining houses within 40 metres and fronting the same street	4.5 metres or the average of the setback of adjoining houses, whichever is the lesser
Where no adjoining houses within 40 metres	<ul style="list-style-type: none"> • 4.5 metres where lot has an area of at least 300m² but less than 900m² OR • 5.5m where the lot has an area of greater than 900m²
Where in Zones RE2 and R5	10 metres or the average of the setback of existing adjoining houses, whichever is the lesser
Garage, carport* or car parking space <i>*A carport is defined as a roofed structure for the accommodation of a single vehicle with no more than two sides enclosed and no less than 1/3 of its perimeter unenclosed</i>	<ul style="list-style-type: none"> • 5.5 metres where dwelling house has a setback of less than 4.5 metres OR • 1 metre behind front building line of house where the dwelling has a setback of more than 4.5 metres