
CHAPTER 3 DWELLING HOUSES, RURAL WORKER'S DWELLINGS AND SECONDARY DWELLINGS



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6 INTRODUCTION

6.1 Application

This Chapter applies in preparing and assessing applications for development of **dwelling houses, rural worker's dwellings, secondary dwellings**, extensions and additions to existing dwelling houses, ancillary development and outbuildings in any zone where the development is permitted with consent under the Kyogle Local Environmental Plan 2012.

Additions and extensions to existing dwellings include detached buildings that are part of the existing dwelling, such as studios. Development ancillary to a dwelling house includes driveways, parking areas, retaining walls, pools, landscaping, stand-alone power systems of domestic scale and tennis courts. Outbuildings are buildings that are associated with a residential use including sheds, garages, carports, gazebos and greenhouses.

This Chapter does not apply to applications for Attached dwellings, Dual occupancies, Mixed use development, Multi dwelling housing, Residential Flat buildings, Semi-detached dwellings, Seniors housing, Shop-top housing, Group homes or Hostels.

6.2 Aims of Chapter 3

- a) To provide development guidelines to assist the design of development proposals and preparation of development applications and the assessment of those applications.
- b) To facilitate the development of dwelling houses, rural worker's dwellings, secondary dwellings and ancillary development that is consistent with the applicable zone objectives.
- c) To facilitate the development of well-designed buildings that are adaptable, comfortable, efficient in their use of energy and water and are responsive to their site and surroundings.

2 DWELLING HOUSES AND RURAL WORKER'S DWELLINGS IN ZONES RU1, RU2 AND RU4

2.1 Application

This section applies to development for the purposes of **dwelling houses** and **rural worker's dwellings** in Zones RU1, RU2 and RU4. This section also applies to extensions and additions to dwellings (including studios) and ancillary buildings and structures.

A studio is considered to be an addition to or an extension of an existing dwelling and is therefore considered part of the existing dwelling. It is intended to be a small scale building or room that is to be used for recreational, creative or artistic pursuits that cannot be undertaken in the main dwelling. A studio cannot function as a separate self-contained dwelling and cannot therefore be habitable. A building is considered to be habitable if it contains a kitchen and bathroom. A building that is self-contained and separate from the main dwelling is considered to be an additional dwelling.

Where the development guidelines below list 'additional' guidelines for certain development types, these guidelines apply in addition to the general guidelines for dwelling houses.

2.2 Exempt and Complying Development

Certain development ancillary to dwellings (including driveways, garages, carports and garden sheds) is permitted as Exempt Development (development that does not require development consent, subject to certain requirements). Reference should be made to any relevant State Environmental Planning Policy.

Certain dwelling houses and ancillary development 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 dwelling houses and rural worker's dwellings are appropriately buffered from surrounding land uses and are not subject to amenity impacts.
- b) To ensure that dwelling houses and rural worker's dwellings are designed and sited to minimise the visual impact on the character of the rural landscape and significant views or settings.
- c) To ensure that buildings and structures are designed and sited to minimise cut and fill.
- d) To ensure that buildings and structures are designed and sited to minimise impacts on ecological functions and biodiversity values.
- e) To ensure that dwelling houses and rural worker's dwellings are sited to avoid unacceptable risk from natural hazards and contaminated land.

- f) To ensure that buildings and structures do not adversely impact on the ecological or hydrological functions of watercourses, water bodies and wetlands.
- g) To ensure that dwelling houses and rural worker's dwellings have suitable vehicular access.
- h) To ensure that dwelling houses and rural worker's dwellings are appropriately serviced.
- i) To allow the development of detached dwelling additions where these are small scale, in proximity of the main dwelling and intended for use by occupants of the main dwelling.
- j) To encourage the development of well-designed dwellings that are adaptable, comfortable and maximise water and energy efficiency.

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
Design and siting of buildings and structures	
P1 Site layout and building design seeks to utilise natural grades of the land and minimises cut and fill	<p>A1.1 Buildings and structures are not located on land with a gradient that exceeds 20%</p> <p>A1.2 Cut or fill does not exceed 1 metre in height and a total height of 2 metres</p>
P2 The setback of buildings and structures from the primary road frontage is consistent with the surrounding area	<p>A2.1 Buildings and structures are set back a minimum of 20 metres from the front boundary</p> <p>OR</p> <p>Where site has frontage to a classified road:</p> <p>A2.2 Buildings and structures are set back from front boundary a minimum of:</p> <ul style="list-style-type: none"> • Where in Zones RU1 or RU2:- 50 metres • Where in Zone RU4:- 30 metres
P3 The setback of buildings and structures from side and rear property boundaries does not impact on the amenity of adjoining properties	<p>A3.1 Buildings and structures are set back a minimum of 10 metres from side boundary</p> <p>A3.2 Buildings and structures 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>A3.3 Buildings and structures are set back at least 20 metres from property boundary</p>

Performance criteria	Acceptable solution
Visual impact	
P4 Buildings and structures do not impact adversely on significant views or rural and/or natural landscape character and do not reflect light on surrounding properties	<p>A4.1 Buildings and structures are not located on prominent ridgelines or hilltops or in prominent locations when viewed from significant public vantage points</p> <p>OR</p> <p>A4.2 Landscaping is used to screen views of the development from significant vantage points</p> <p>A4.3 External walls and roofs are clad in non-reflective materials and colours are muted</p>
Environmental impact	
P5 The siting of buildings and structures does not impact on ecological or hydrological values of watercourses, water bodies and wetlands	<p>A5.1 Buildings and structures 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>A5.2 Buildings and structures are set back a minimum of 100 metres from the edge of wetland</p>
P6 Development does not create unacceptable impact on ecological functions or biodiversity values	<p>A6.1 Siting of buildings, structures and driveways does not require the clearing of native vegetation</p> <p>A6.2 Buildings and structures are not located within a mapped ecological corridor</p>
Effluent management	
P7 The development makes suitable provision for management of effluent that does not create public health impacts or adversely impact quality of surface and ground waters	<p>A7.1 The lot contains land with gradient <20% suitable to accommodate effluent disposal fields</p> <p>A7.2 The soil type is suitable for on-site treatment of effluent</p> <p>A7.2 The development is serviced by an on-site sewage management system that meets the requirements of the Kyogle Council On-site Sewage Management Strategy</p>
Water supply	
P8 The development must make suitable provision for supply of potable water without	No Acceptable Solution is provided: demonstrate how the proposal achieves the Performance Criteria

Performance criteria	Acceptable solution
drawing unreasonably from natural watercourses, water bodies or groundwater	
Stormwater management	
P9 Stormwater does not create a nuisance for adjoining properties	A9 Stormwater is managed on the development site and does not contribute to flooding on adjoining properties
Electricity supply	
P10 The development must 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	A10 The dwelling is connected to the reticulated electricity network
Telecommunications	
P11 The dwelling must make suitable arrangements for the supply of constant, reliable telecommunications	A11 The development is connected to the fixed line telecommunications network
Solid waste disposal	
P12 The development must make satisfactory arrangements for the storage and removal of solid waste	A12 Solid waste is disposed of at an approved facility and is not buried or burnt on site
Transport and Access	
P13 The development must have suitable vehicular access	<p>A13.1 Vehicles are able to enter and leave the site in a forward direction</p> <p>A13.2 The development site has access to a constructed public road</p> <p>A13.3 Site access, internal driveways, manoeuvring and parking areas are designed and constructed in accordance with the Northern Rivers Local Government Development & Design and Construction Manual and Council's Property Access and Addressing Management Plan</p>
Land use conflict avoidance	
P14 Dwelling houses and rural worker's dwellings are not located where they are likely to be impacted by surrounding land uses	A14 Development achieves buffers specified in Table C3.1 in Appendix C3

Performance criteria	Acceptable solution
Natural hazards	
P15 Dwelling houses, rural worker's dwellings, residents, visitors and firefighters are not exposed to unacceptable risk from bushfire	<p>A15.1 Development is not on land that is mapped as bushfire prone land</p> <p>OR</p> <p>A15.2 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</p> <p>OR</p> <p>A15.3 A report prepared by a Certified Bushfire Practitioner is provided that demonstrates the dwelling can achieve the requirements of the Rural Fire Service publication 'Planning for Bushfire Protection' 2006 or any superseding guideline</p>
P16 Buildings, structures and persons on the development site should not be exposed to unacceptable risk from flooding	<p>A16.1 The location of the dwelling house or rural worker's dwelling is not prone to flooding from inundation or overland flow</p> <p>OR</p> <p>Where a dwelling house or rural worker's dwelling is proposed on land that is mapped as or known to be prone to flooding:</p> <p>A16.2 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>
P17 Buildings, structures and persons on the development site should not be exposed to unacceptable risk from landslip or mass movement	<p>A17.1 The development site does not display evidence of landslip or mass movement</p> <p>OR</p> <p>A17.2 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	
P18 Residents and visitors are not exposed to unacceptable risk from contamination	A18.1 Development is not on a site that is listed as contaminated

Performance criteria	Acceptable solution
	<p>AND</p> <p>A18.2 Development is not located within 200 metres of a cattle dip</p> <p>OR</p> <p>A18.3 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	
<p>P19 Building design and orientation facilitates passive lighting, heating and cooling</p>	<p>A19.1 Living areas* are orientated to the north or east</p> <p>A19.2 Window and door placement allows internal solar access between April and August and limits internal solar access between September and March</p> <p>A19.3 Eaves are minimum of 450 mm deep</p> <p>A19.4 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 room, living room or dining room</i></p>
Additional guidelines for rural worker's dwellings	
<p>P20 A rural worker's dwelling is in reasonable proximity to the main dwelling or agricultural workplace</p>	<p>A20 A rural worker's dwelling is located within 200 metres of the main dwelling</p>
<p>P21 Vehicular access is suitable to service two dwellings and does not create safety issues on a public road</p>	<p>A21 A rural worker's dwelling and the main dwelling are accessed via the same driveway and vehicular access point to a public road</p>
<p>P22 The rural worker's dwelling is adequately serviced</p>	<p>A22.1 A rural worker's dwelling has its own on-site sewage management system</p> <p>A22.2 A rural worker's dwelling has its own power and telecommunications connections</p> <p>A22.3 A rural worker's dwelling is self sufficient for potable water</p>

Performance criteria	Acceptable solution
Additional guidelines for detached additions and extensions (including studios)	
<p>P23 The building functions as an extension to the dwelling and is not used for separate habitation</p>	<p>A23.1 Kitchen and laundry facilities are only located in the main building</p> <p>A23.2 Additions or extensions do not contain ablution facilities other than a toilet and hand basin</p> <p>A23.3 Additions or extensions are not capable of independent habitation</p>
<p>P24 The addition or extension is small scale, is in proximity of the dwelling and does not create unreasonable environmental impact</p>	<p>A24.1 The floor area of additions or extensions does not exceed 60m² including decks or verandahs</p> <p>A24.2 The building does not contain internal partitions other than those necessary for ablution facilities or required for the use of the building</p> <p>A24.3 Additions or extensions are not located further than 50 metres from the outside wall of the dwelling</p> <p>A24.4 Construction of additions or extensions does not require construction of an additional vehicular property access</p> <p>A24.5 An additional on-site sewage management system is provided if required</p> <p>A24.5 Construction of buildings does not require clearing of vegetation</p>

3 Secondary dwellings in Zones RU1, RU2 and RU4

3.1 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.'*

3.2 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.

3.3 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 1ha
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 will not: <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 	A3 Secondary dwellings are located within 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 Where in Zone RU4:- 30 metres

Performance criteria	Acceptable solution
P6 The setback of secondary dwellings from side and rear property boundaries does not impact on the amenity of adjoining properties	<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	
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>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	
P8 The siting of secondary dwellings does not impact on ecological or hydrological values of watercourses, water bodies and wetlands	<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>
P9 Development does not create unacceptable impact on ecological functions or biodiversity values	<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	
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	A10 Secondary dwellings are serviced by an independent on-site sewage management system that meets the requirements of the Kyogle Council On-site Sewage Management Strategy
Water supply	

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

Performance criteria	Acceptable solution
	<i>*Living areas are considered to be kitchen, lounge 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

4 Dwelling houses in Zones R1, R3, R5, RE2 and RU5

4.1 Application

This section applies to development for the purposes of **dwelling houses** in Zones R1, R3, R5, RE2 and RU5. This section also applies to extensions and additions to dwellings (including studios) and ancillary buildings and structures.

A studio is considered to be an addition to or an extension of an existing dwelling and is therefore considered to be a part of the existing dwelling. It is intended to be a small scale building or room that is to be used for recreational, creative or artistic pursuits that cannot be undertaken in the main dwelling. A studio cannot function as a separate self-contained dwelling and cannot therefore be habitable. A building is considered to be habitable if it contains a kitchen and bathroom. A building that is self-contained and separate from the main dwelling is considered to be an additional dwelling.

4.2 Exempt and Complying Development

Certain development ancillary to dwellings (eg. driveways, carports, garden sheds) may be permitted as Exempt Development (development that does not require development consent, subject to certain requirements). Reference should be made to any relevant State Environmental Planning Policy.

Certain dwelling houses, secondary dwellings, additions and ancillary development may be 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.

4.3 Objectives

- a) To facilitate the development of dwelling houses and ancillary development that are designed and constructed to complement the character of their surroundings.
- b) To ensure that buildings and structures are designed and sited to minimise cut and fill.
- c) To ensure that development does not impact the amenity of surrounding residential development.
- d) To ensure that buildings and structures are designed and sited to minimise impacts on ecological functions and biodiversity values.
- e) To ensure that dwelling houses and ancillary development are sited to avoid exposure to unacceptable risk from natural hazards and contaminated land.
- f) To ensure that development does not adversely impact on the ecological or hydrological functions of watercourses and water bodies.
- g) To ensure that dwelling houses have appropriate vehicular access and are appropriately serviced.
- h) To allow the development of detached dwelling additions or extensions where these are small scale, in proximity of the main dwelling and intended for use by occupants of the main dwelling.
- i) To encourage the development of well-designed dwellings that are adaptable, comfortable and maximise water and energy efficiency.

4.4 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 allotment is sufficient size and dimensions to accommodate a dwelling house, car parking, open space and where required, on-site sewage management	<p>Where development site is in an area serviced by reticulated sewerage:</p> <p>A1.1 The development site has an area of at least 450m² and an average width of at least 12 metres</p> <p>OR</p> <p>Where development site is not in an area serviced by reticulated sewerage:</p> <p>A1.2 The development site has an area of at least 2000m² and an average width of at least 15 metres</p>
Height of buildings and structures	
P2 The height of buildings and ancillary structures is consistent with houses in the surrounding area and does not create overshadowing or a loss of privacy of adjoining residential properties	A2 Height of buildings and ancillary structures does not exceed maximum height shown on the Height of Buildings Map
Front boundary setback	
P3 Dwelling houses and ancillary structures have sufficient setback from the front boundary to maintain the character and building line of the street and to allow sufficient area for private open space, car parking and landscaping	<p>A3.1 Setback of buildings and ancillary structures to the front boundary is in accordance with Table C3.2 in Appendix C3.</p> <p>OR</p> <p>Where site fronts a classified road:</p> <p>A3.2 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
Side boundary setback	
P4 Side boundary setback is sufficient to maintain privacy, residential amenity and solar access of adjoining properties, permit access for maintenance and meet Building Code of Australia requirements	<p>In Zones R1, R3 and RU5 and where outer wall or structure adjacent side boundary is <4.5m high:</p> <p>A4.1 Buildings and ancillary structures 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>

Performance criteria	Acceptable solution
	<p>OR</p> <p>In Zones R1, R3 and RU5 and where outer wall or structure adjacent side boundary is >4.5m high:</p> <p>A4.2 Buildings and ancillary structures 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:</p> <p>A4.3 Buildings and ancillary structures are set back from the side boundary a minimum of 5 metres</p>
Rear boundary setback	
<p>P5 Rear boundary setback is sufficient to allow for the maintenance of privacy, residential amenity and solar access of adjoining properties</p>	<p>In Zones R1, R3 and RU5:</p> <p>A5.1 Rear boundary setback is a minimum of 6 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:</p> <p>A5.2 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:</p> <p>A5.3 Buildings and ancillary structures are set back from the rear boundary a minimum of 15 metres</p>
Corner allotments	
<p>P6 Setbacks of buildings and ancillary structures on corner allotments are suitable to ensure safety for pedestrians and vehicles, to maintain the character and building line of the streets and allow for the maintenance of privacy, residential amenity and solar access of adjoining properties</p>	<p>A6.1 The narrow street frontage is treated as the primary street frontage</p> <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:</p> <p>A6.3 Front boundary setback is at least:</p> <ul style="list-style-type: none"> • Where in Zone R1, R3 or RU5:- 9 metres

Performance criteria	Acceptable solution
	<ul style="list-style-type: none"> • Where in RE2 or R5 (and lot has an area of at least 4000m²):- 15 metres <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>*Corner allotments are not considered to have a rear boundary</i></p>
Building orientation and energy efficiency	
P7 Building design and orientation facilitates passive lighting, heating and cooling	<p>A7.1 Living areas* are orientated to the north or east</p> <p>A7.2 Window and door placement allows internal solar access between April and August and limits internal solar access between September and March</p> <p>A7.3 Eaves are minimum of 450 mm deep</p> <p>A7.4 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 room, living room or dining room</i></p>
Streetscape	
P8 Houses address the street and allow for passive surveillance	<p>A8.1 The front door is visible from the street</p> <p>A8.2 At least one living area* has a window that faces the street</p> <p>A8.3 Solid front fencing higher than 1.2 metres is not used (except where required for noise attenuation where development site fronts a classified road)</p>

Performance criteria	Acceptable solution
	<i>*Living areas are considered to be kitchen, lounge room, living room or dining room</i>
P9 The front façade is not dominated by car accommodation	A9.1 Car accommodation is set back at least 1 metre behind the front building façade A9.2 Car accommodation does not exceed 50% of the width of the house
Where located on the site of a heritage item	
P10 Development does not adversely impact views or the setting of the heritage item	No Acceptable Solution is provided: demonstrate how the proposal achieves the Performance Criteria
Where adjoining the site of a heritage item	
P11 Development does not adversely impact views or the setting of the heritage item	No Acceptable Solution is provided: demonstrate how the proposal achieves the Performance Criteria
Where located in a heritage conservation area	
P12 Development complements the scale, form and character of existing development in the conservation area	No Acceptable Solution is provided: demonstrate how the proposal achieves the Performance Criteria
Site slope and earthworks	
P13 Development siting and layout utilises natural grades of the land and minimises cut and fill	A13 Buildings, structures and vehicular parking and manoeuvring areas are not located on land with a gradient exceeding 20%
P14 Cut and fill structures (including retaining walls) are structurally sound and do not impact on the amenity or geotechnical stability of adjoining properties	A14.1 Cut batters are a maximum 1 metre in height and no closer than 0.9 metres to property boundary A14.2 Fill batters are a maximum of 0.6 metres in height and no closer than 0.4 metres to property boundary A14.3 Retaining walls higher than 0.6 metres are designed and certified by an appropriately qualified engineer
Natural hazards	
P15 Dwelling houses, residents, visitors and fire fighters are not exposed to unacceptable risk from bushfire	A15.1 The dwelling house is not on land that is mapped as bushfire prone land OR A15.2 The house 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

Performance criteria	Acceptable solution
	<p>'Planning for Bushfire Protection' 2006 or any superseding guideline and Australian Standard AS3959</p> <p>OR</p> <p>A15.3 A report prepared by a Certified Bushfire Practitioner is provided that demonstrates the dwelling can achieve the requirements of the Rural Fire Service publication 'Planning for Bushfire Protection' 2006 or any superseding guideline</p>
<p>P16 Buildings, structures and persons on the development site are not exposed to unacceptable risk from flooding</p>	<p>A16.1 The development site is not prone to flooding from inundation or overland flow</p> <p>OR</p> <p>Where development is proposed on flood prone land: A16.2 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 plus 0.5 metres</p> <p>OR</p> <p>Where development is proposed on a lot within the Flood Planning Area shown on the Flood Planning Map in the LEP: A16.3 The development complies with the provisions of the Development Control Plan in the Kyogle Council Floodplain Risk Management Plan 2009</p>
<p>P17 Buildings, structures and persons on the development site should not be exposed to unacceptable risk from landslip or mass movement</p>	<p>A17.1 The development site is not prone to landslip or mass movement</p> <p>OR</p> <p>A17.2 A report prepared by a suitably qualified person is submitted that demonstrates the site is geotechnically stable and suitable to accommodate a dwelling</p>
<p>Contaminated land</p>	
<p>P18 Residents and visitors are not exposed to unacceptable risk from contamination</p>	<p>A18.1 Development is not on a site that is listed as contaminated</p> <p>AND</p> <p>A18.2 Development is not located within 200 metres of a cattle dip</p> <p>OR</p>

Performance criteria	Acceptable solution
	A18.3 A report prepared by a suitably qualified person is submitted that demonstrates the site is suitable to accommodate a residential use
Environmental protection	
P19 Development does not create unacceptable impact on ecological functions or biodiversity values	A19.1 Siting of buildings and structures does not require the clearing of native vegetation A19.2 Buildings and structures are not located within a mapped ecological corridor
Protection of watercourses	
P20 The siting of buildings and structures does not impact on ecological or hydrological values of watercourses and water bodies	A20 Buildings and structures 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 ephemeral watercourse (Order 1 or 2 Stream)
Vehicular access and parking	
P21 Vehicular access for dwellings must allow vehicles to enter and leave the site in a forward gear and allow all weather access by two wheel drive vehicle	A21.1 The development site has access to a constructed public road A21.2 Vehicles are able to enter and leave the site in a forward direction A21.3 Site access, internal driveways, manoeuvring and parking areas are designed and constructed in accordance with the requirements of the Northern Rivers Local Government Development & Design and Construction Manuals and Council's Property Access and Addressing Management Plan
P22 The development makes suitable arrangements for vehicles to be parked on site	A22 Parking is provided on site for at least one car
Servicing and infrastructure	
P23 The development makes suitable provision for management of effluent that does not create public health impacts or adversely impact the quality of surface and ground waters	Where development site is in an area serviced by reticulated sewerage: A23.1 The dwelling is connected to the reticulated sewer system OR Where connection to reticulated sewer is not available:

Performance criteria	Acceptable solution
	A23.2 An effluent management system is provided that meets the requirements of the Kyogle On-site Sewage Management Strategy
P24 The development must make suitable provision for supply of potable water	<p>Where development site is in an area serviced by reticulated water:</p> <p>A24.1 The dwelling is connected to the reticulated water supply system</p> <p>OR</p> <p>Where connection to reticulated water supply is not available:</p> <p>A24.2 The dwelling is self-sufficient for water</p>
P25 Stormwater generated by the development does not cause nuisance to, or flooding of, adjoining properties	<p>Where development site is in an area serviced by a stormwater drainage network:</p> <p>A25.1 Stormwater is discharged to the stormwater drainage network and does not cause nuisance to adjoining properties</p> <p>OR</p> <p>Where development site is not in a serviced area:</p> <p>A25.2 Stormwater is effectively managed on site and does not contribute to flooding or nuisance on adjoining properties</p>
P26 The development must make adequate provision for electrical power without impacting on the amenity of surrounding properties through emissions of noise, fumes, light or glare through generation of on-site power	A26 The dwelling is connected to the reticulated electricity network
P27 The dwelling must make suitable arrangements for the supply of constant, reliable telecommunications	A27 The dwelling is connected to the fixed line telecommunications network
P28 The development makes satisfactory arrangements for the storage and removal of rubbish	A28 The dwelling is serviced by a domestic waste collection service
Additional guidelines for relocated and transportable houses	
P29 Relocated and transportable houses are structurally sound and complement existing development in the street	A29.1 Relocated and transportable houses are certified by a suitably qualified engineer that they are structurally stable

Performance criteria	Acceptable solution
	A29.2 Relocated and transportable houses complement the character of development existing in the street
Additional guidelines for detached additions or extensions (including studios)	
P30 Detached extensions or additions function as an extension to the dwelling and are not used for separate habitation	<p>A30.1 Kitchen and laundry facilities are only located in the main building</p> <p>A30.2 Detached additions or extensions do not contain ablution facilities other than a toilet and hand basin</p> <p>A30.3 Detached extensions or additions are not capable of habitation</p>
P31 The building is small scale and in proximity of the dwelling	<p>A31.1 The total floor area of additions and extensions (including decks and verandas) does not exceed 40m²</p> <p>A31.2 The building does not contain internal partitions other than those necessary for ablution facilities or required for the use of the studio</p> <p>A31.3 The building is located no further than 20 metres from an outside wall of the main part of the dwelling</p>
Additional guidelines for ancillary development	
P32 Sheds and detached garages are of domestic scale and do not impact on the visual amenity or residential character of the area	A32 The total floor area of all sheds and detached garages on the development site does not exceed 80m ²
P33 Photovoltaic solar power systems do not create unreasonable visual impact	<p>A33.1 Photovoltaic solar panels are located on the roof of an existing building</p> <p>A33.2 Solar photovoltaic panels do not extend more than 1.5 metres above the existing roofline</p>

5 SECONDARY DWELLINGS IN ZONES R1, R3, R5 AND RU5

5.1 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.'*

5.2 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.

5.3 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.

5.4 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

Performance criteria	Acceptable solution
Side boundary setback	
<p>P6 Secondary dwellings have sufficient side boundary setback to maintain privacy and solar access of adjoining properties, permit access for maintenance and meet Building Code of Australia requirements</p>	<p>In Zones R1, R3 and RU5 and where outer wall or structure adjacent side boundary is <4.5m high: A6.1 Buildings and ancillary structures associated 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	
<p>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>	<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	
<p>P8 Secondary dwellings on corner allotments have sufficient setback from the secondary street frontage to ensure pedestrian and</p>	<p>A6.2 Setback of buildings and ancillary structures to the primary street frontage is in accordance with Table C3.2 Appendix C3</p>

Performance criteria	Acceptable solution
vehicular visibility, to maintain the character and building line of the street	<p>OR</p> <p>Where site fronts a classified road:</p> <p>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 <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	
P9 Secondary dwellings do not impact on the privacy of adjoining residential properties	<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>

Performance criteria	Acceptable solution
Landscaping and open space	
P10 Landscaping provides a pleasant living environment and assists to soften the built form of the development and maintain privacy	<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 demonstrates achievement of A10.1-A10.3</p>
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	A16.1 The secondary dwelling is connected to reticulated mains power

Performance criteria	Acceptable solution
noise, fumes or glare through generation of on-site power	<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>
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	<p>A18.1 Development is of a similar scale and form to adjoining development</p> <p>A18.2 Buildings and structures within 6 metres of the side boundary are no higher than 4.5 metres</p>
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