



# **LOCAL PLANNING SCHEME POLICY NO. 49: ANCILLARY DWELLINGS & DETACHED HABITABLE ROOMS**

**Adopted on the XX<sup>th</sup> Month 20XX in accordance with  
Schedule 2, Part 2 of the *Planning & Development (Local Planning  
Schemes) Regulations 2015***

## 1. INTRODUCTION

This Local Planning Policy has been prepared under the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations) and the *Shire of Denmark Local Planning Scheme No. 3* (the Scheme).

The purpose of this Policy is to detail how the Shire will consider proposals for the development of an Ancillary Dwelling.

## 2. OBJECTIVES

This Policy aims to:

- Promote the development of Ancillary Dwellings as a type of small-format housing that contributes to housing diversity.
- Preserve the amenity of all areas from inappropriate development.
- Identify development standards that the Shire will apply to proposals for an Ancillary Dwelling where the R-Codes do not apply.
- Identify development standards that demonstrate the distinction between what the Shire considers to be an Ancillary Dwelling and a Grouped Dwelling.
- Define and provide for the development of detached habitable rooms within appropriate limits to enable flexible living and working spaces.

## 3. DEFINITIONS

Definitions for terms used in this Policy are consistent with the Scheme, the R-Codes and the Regulations.

### 3.1 Ancillary Dwelling

An Ancillary Dwelling is defined in the R-Codes as a *'Self-contained dwelling on the same lot as a single house which may be attached to, integrated with or detached from the single house'*.

An Ancillary Dwelling is typically limited in size and subsidiary to a Single House, unlike a Grouped Dwelling which is a second (or multiple) house that is entirely separate to and comparable in size and function to a Single House.

An Ancillary Dwelling typically contains bedroom and bathroom facilities to enable it to be used for overnight accommodation. A kitchen, laundry and other services may be provided or may be used in common with the primary residence.

### 3.2 Detached Habitable Room

A detached habitable room may include a studio, office, personal gym, workshop, games room or similar indoor space that is classed as habitable under the Building Code of Australia and constructed to be physically separate (unable to be accessed internally) from the primary residence on a property.

*Note: A house that includes a separate 'pavilion', 'parents retreat' or similar space may be assessed by the Shire as an Ancillary Dwelling or Detached Habitable Room, and not simply as an additional part of a single house. The intent of these provisions is to accommodate this form of development where appropriate, but to avoid the de-facto development of multiple Ancillary Dwellings or Grouped Dwellings on sites that are not otherwise zoned for this purpose. The Shire will assess each proposed design on its merits to determine the most appropriate classification, including consideration of whether a proposed separate habitable space is capable of overnight*

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*accommodation (ie. including a bedroom and bathroom), detached (does not share common walls with other habitable rooms of the house), and serviced by a separate external entrance.*

#### **4. DEVELOPMENT APPROVAL REQUIREMENTS**

##### **4.1 Residential Zone**

Development approval is not required for an Ancillary Dwelling or a Detached Habitable Room in the Residential Zone where:

- The Residential Design Codes (R-Codes) apply to the works.
- The works comply with the deemed-to-comply provisions of the R-Codes.
- The works are not located in a heritage-protected place.

Development approval is required where a proposal fails to meet the deemed-to-comply provisions of the R-Codes, is located in a heritage-protected place, or is otherwise inconsistent with the Scheme and relevant Local Planning Policies (including this one).

##### **4.2 All Other Zones**

Under the Scheme an Ancillary Dwelling or Detached Habitable Room is considered as development that is incidental to a Single House and therefore requires approval in all other zones.

#### **5. POLICY PROVISIONS – ANCILLARY DWELLINGS**

##### **5.1 Permissibility**

5.1.1 A maximum of one (1) Ancillary Dwelling can be permitted on any lot.

5.1.2 The Shire will not support proposals for an Ancillary Dwelling in the following circumstances:

- (a) In the Rural Zone where the Shire has otherwise permitted the development of two or more dwellings.

*Note: In effect, a lot within the Rural Zone can contain a maximum of two dwellings only, either a Single House and Second Dwelling where lots are greater than 10ha or limited to a Single House and Ancillary Dwelling, on lots of 10ha or less.*

- (b) In association with a Single House that has been approved in the Rural Multiple Occupancy Zone, Tourist Zone or the Industrial Zone.

##### **5.2 Development Standards**

5.2.1 All proposals for the development of an Ancillary Dwelling will be assessed against the design principles outlined in the R-Codes in addition to relevant provisions of this policy.

5.2.2 The Ancillary Dwelling is of an appropriate scale, clearly subsidiary to an existing primary residence and not a second, comparable dwelling by virtue of being:

- (a) Within a single building envelope (where applicable) or otherwise separated by no more than 50 metres from the primary residence.
- (b) A maximum plot ratio area of 70m<sup>2</sup>.
- (c) Containing no greater than 30m<sup>2</sup> of outdoor living area.

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- (d) Containing no greater than 8m<sup>2</sup> of enclosed store rooms, which must not be of a design or size capable of use for habitable purposes, including:
- (i) External access only, unless integrated within a garage.
  - (ii) No major openings other than an access door (as defined in the R-Codes).

*Note: Should a proposal seek a greater floorspace for an outdoor living area or store room than is identified above the Shire will assess the overall scale of the development and may not support the maximum allowable floorspace for the proposed ancillary dwelling. For example, if an applicant seeks to develop an ancillary dwelling with 35m<sup>2</sup> of outdoor living area the Shire may only support a maximum internal floorspace of 65m<sup>2</sup> for the ancillary dwelling.*

5.2.3 The Ancillary Dwelling is appropriately sited, designed and serviced, including being:

- (a) Located to minimise bushfire risk, avoid impacts on remnant vegetation and be developed consistent with relevant planning and building requirements for bushfire protection.
- (b) Located and developed in materials that minimise the visual impact of development, particularly on evident landscape values.
- (c) Designed to be generally compatible with the colour, roof pitch and materials of the single house on the same lot.
- (d) Provided with 1 dedicated parking bay.
- (e) Consistent with all other relevant provisions of the zone, including boundary setbacks.
- (f) Connected to adequate servicing for water supply, wastewater disposal and electricity supply, as determined by the Shire.
  - Where an on-site potable water supply is to be provided instead of connection to a reticulated water service, a minimum storage capacity of 92,000 litres is to be provided to service the ancillary dwelling in addition to the minimum of 92,000 litres required for the existing single residence.
  - Where on-site wastewater disposal is proposed, an ancillary dwelling is to be connected to the same wastewater disposal system as the existing single dwelling.
- (g) An Ancillary Dwelling may be permitted in front of an existing dwelling subject to planning approval. Proposals will be assessed in accordance with the following criteria:
  - Compliance with required setbacks from the street.
  - Compatibility of built form with the existing residence.
  - High standard of design, aesthetics and contribution to the streetscape.
  - Within the Residential and Special Residential zones, orientation to the street and contribution to passive surveillance.
- (h) Within the Special Residential Zone:
  - Sized such that a minimum of 80% open space is maintained on the lot.
  - Connected to the existing primary residence or otherwise designed to appear as single development form.

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- Designed in accordance with the specific Special Residential zone provisions and Section 5.5.1 and Section 5.4.4 of the Residential Design Codes.

### 5.3 Short Stay Accommodation

Approval for an Ancillary Dwelling to be developed assumes that it will be used as a permanent residence and does not automatically allow for use as short stay accommodation.

Application may be made to the Shire to use an Ancillary Dwelling for short stay accommodation under the 'Holiday Accommodation' use class in the Scheme, where this is permissible.

Within the Residential, Special Residential or Special Rural zones the Shire will only support the use of an Ancillary Dwelling for 'Holiday Accommodation' where the landowner is the host and resides permanently on site.

The Shire will not support the use of an Ancillary Dwelling as an unhosted form of short stay accommodation in the Residential, Special Residential or Special Rural zones, including:

- Short stay leasing of an ancillary dwelling in addition to the primary residence as one combined accommodation unit; or,
- Short stay leasing of both a primary residence and an ancillary dwelling as two separate accommodation units.

*Note: There are few Special Residential and Special Rural zones where the Shire may consider proposals for Holiday Accommodation – please refer to the Scheme and contact the Shire for further advice.*

## 6. POLICY PROVISIONS – DETACHED HABITABLE ROOMS

### 6.1 Use

6.1.1 A Detached Habitable Room is not permitted to be used for overnight accommodation of any form and may not be developed in a manner that may facilitate use for accommodation. The following criteria will apply:

- A Detached Habitable Room may contain a small toilet and handwashing basin but must otherwise be entirely dependent on the services of the existing residence, and is not permitted to contain a bathroom, kitchen or laundry facilities.
- A Detached Habitable Room must have a purpose specified on any application for approval to enable the correct classification of its use under the Scheme and Building Code of Australia.

*Note: A Detached Habitable Room with the provision of any services facilitating its use for overnight accommodation will be classified as an Ancillary Dwelling and assessed accordingly.*

### 6.2 Development Standards

6.2.1 A Detached Habitable Room must be of an appropriate scale, subsidiary to an existing primary residence and not result in over-development of the subject site. The following criteria will apply:

- A maximum floorspace of 40m<sup>2</sup> may be permitted.
- The permitted area of Detached Habitable Room(s) will be subtracted from the allowable area of outbuildings on the subject site.

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*Note: For example, on a lot under 1000m<sup>2</sup> in the Residential Zone where an outbuilding/s of up to 80m<sup>2</sup> may be permitted, this allowance may be reduced to 40m<sup>2</sup> if a Detached Habitable Room of 40m<sup>2</sup> is developed on the site. Refer to Local Planning Policy 13.4: Outbuildings for detail of allowable areas of outbuildings.*

- 6.1.2 The Detached Habitable Room is appropriately sited, designed and serviced, including being:
- (a) Located to minimise bushfire risk, avoid impacts on remnant vegetation and be developed consistent with relevant planning and building requirements for bushfire protection.
  - (b) A Detached Habitable Room must be located within a single building envelope (where applicable) or otherwise separated by no more than 50 metres from the primary residence.
  - (c) Located and developed in materials that minimise the visual impact of development, particularly on evident landscape values.
  - (d) Designed to be generally compatible with the colour, roof pitch and materials of the primary residence on the same lot.
  - (e) Consistent with all other relevant provisions of the zone, including boundary setbacks.
  - (f) A Detached Habitable Room may be permitted in front of an existing dwelling subject to:
    - Complying with street setback requirements.
    - Contributing positively to passive surveillance, aesthetics and streetscape.
  - (g) Within the Special Residential Zone, a Detached Habitable Room must be connected to an existing residence or outbuilding and ensure that a minimum of 80% open space is maintained on the lot.

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| Related Policies                 | <i>Local Planning Scheme Policy No. 7: Second Dwellings/Additional Houses and Chalet Developments on Rural Zoned Lots</i><br><i>Local Planning Scheme Policy No. 13.4: Outbuildings</i><br><i>Local Planning Scheme Policy No. 18: Tourist Development other than 'Bed &amp; Breakfast' Uses within the Residential Zone</i><br><i>Local Planning Scheme Policy No. 19.5: Holiday Home Policy</i> |
| Related Procedures and Documents | <i>Planning and Development (Local Planning Schemes) Regulations 2015</i><br><i>State Planning Policy 3.7: Planning in Bushfire Prone Areas</i><br><i>State Planning Policy No. 7.3 Residential Design Codes Volume 1</i>   |
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## SCHEDULE OF SUBMISSIONS

### Draft Revised Local Planning Policy 49: Ancillary Dwellings & Detached Habitable Rooms

#### Submissions Received from Public

| Ref No. | Submitter Details | Verbatim Submission  | Planning Services Comment   |
|---------|-------------------|--|---|
| 1       | Name withheld     | <p><i>Survey form submitted via Your Denmark</i></p> <p><i>Do you support the proposed changes to the Local Planning Policy for Ancillary Dwellings?</i></p> <p>No</p> <p><i>What are your questions, comments or concerns?</i></p> <p>The size of 70m<sup>2</sup> for an ancillary dwelling seem to be abnormally small - too tiny for practical purposes. to me, a size of at least 100m<sup>2</sup> plus the 20m<sup>2</sup> outdoor living area would seem to be a necessary maximum.</p>  | <p>The 70m<sup>2</sup> limit on the size of an Ancillary Dwelling is set within the Residential Design Codes and applied consistently across the State. This limit ensures that an Ancillary Dwelling is smaller and dependent and is not a grouped dwelling of a comparable size and function.</p> <p>It is noted that the Shire's current local planning framework supports a second full sized residential dwelling on lots over 10ha in the Rural Zone (in place of an Ancillary Dwelling).</p>   |
| 2       | Name withheld     | <p>Building an ancillary dwelling on one's own property, in my opinion should"n't be so hard &amp; indeed restrictive . I believe you should be able to build on your land, one without , or the ability to change the building envelope. &amp; as far as having the ancillary dwelling 50 meters next to your house simply ridiculous. Nothing SCREAMS suburbs like a house smack right next door! Why not with your rules, can't we build away from the main house. I love my family, but to live right next door, when there's so much more room, stupid. Land &amp; house price are high, so if a family can help, by having family members to live on family land ,THEIR land. That should be, well be there business, &amp; we should be able to come to the shire for guidance &amp; GOOD advice not restrictions &amp; threats. Thankyou again for this opportunity, I've discussed this at length with many people &amp; we think you are out of step, with what is actually happening out there!</p> | <p>Building envelopes are designated on properties where there is a need to limit the extent of development to preserve significant remnant vegetation, visual landscape values, or other physical or cultural features. This includes to all lots within the Special Rural Zone, and various properties within the Special Residential, Landscape Protection and Tourist zones and selected Additional Use sites.</p> <p>For all other properties the policy includes a standard of 50 metres and other measures to ensure that Ancillary Dwellings are subsidiary to an existing residence (not separate Grouped Dwellings), clearing required for bushfire protection is minimised, and the amenity of the neighbourhood is preserved.</p> |
| 3       | Name withheld     | <p><i>Survey form submitted via Your Denmark</i></p>   | <p>The policy (existing and proposed) provides for development to be 'generally compatible' with the existing house. This is not</p>  |

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|  | <p><i>Do you support the proposed changes to the Local Planning Policy for Ancillary Dwellings?</i></p> <p>No</p> <p><i>What are your questions, comments or concerns?</i></p> <p>Some of the provisions appear unnecessarily restrictive, and don't support our strategic community plan with regards to creativity, sustainability, innovation and village living- specifically the requirement that anc dwellings have the same materials, colour and roof pitch as original house. Seriously? I can't paint my studio yellow because my house is white?? And I can't build it out of mud brick because my house is cement clad ?? There's no innovation to be seen here.</p> | <p>intended to infer that they are required to be exactly the same. In practice this provision can be utilised to help avoid development that is entirely incompatible, impacts on neighbours, and is inappropriate within the surrounding context.</p> <p>This provision is consistent with the requirements of the Residential Design Codes.</p> <p>Other than in relation to this provision it is not specified how the submitter believes the policy to be restrictive.</p> |
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