

CITY OF BELMONT

Ancillary Dwelling (Granny Flat) / Checklist

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What is an Ancillary Dwelling (Granny Flat)?

An 'ancillary dwelling' (more commonly referred to as a 'granny flat'), is a small additional dwelling unit located on the same lot as a single house (with a minimum lot size of 450m²), which is used for residential living by another party. Ancillary dwellings may be freestanding or attached to the main dwelling, and no longer have any restriction on who may reside in the dwelling.

Ancillary dwellings cannot be sold independently of the main dwelling, except where subdivision or survey strata approval has been obtained.

Is Development Approval Required?

Development approval is not required for an ancillary dwelling where the development satisfies the deemed-to-comply requirements of the Residential Design Codes and the subject property is not listed in the State Heritage Register or on the City's Heritage List (under the *Planning and Development (Local Planning Schemes) Regulations 2015*, Schedule 2, Part 7, clause 61(d)).

Development Approval is required if the development does not satisfy the deemed-to-comply requirements of the Residential Design Codes, and/or the subject property is listed in the State Heritage Register or on the City's Heritage List.

Minimum required information*	Applicant Use Only	Council Use Only
<p>One (1) electronic copy of the complete application is required. Electronic plans should be submitted in PDF format and meet the following requirements:</p> <ul style="list-style-type: none"> • unlocked, no security or passwords • to scale • optimised for minimum file size. 	Copy of application provided by: <input type="checkbox"/> CD OR <input type="checkbox"/> Emailed to: planning@belmont.wa.gov.au (Max 10MB) OR <input type="checkbox"/> Online Lodgement	
<p>The following information is required:</p>		
<ul style="list-style-type: none"> • Application for Development Approval Form completed and signed by all landowners (registered on the certificate of title) of the land; or is accompanied by a letter of authorisation signed by all landowners of the land. 	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> • MRS Form 1 (only to be used in instances where development is proposed on or abutting land that is Reserved under the Metropolitan Region Scheme). 	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> • Current copy of the Certificate of Title (no older than 6 months). <i>Note: This is required to confirm ownership details and to check for caveats and memorials that may affect the proposed development. Available for purchase from Landgate (www.landgate.wa.gov.au).</i> 		
<ul style="list-style-type: none"> • Correct fee paid – refer to Schedule of Planning Fees 	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> • Site Plan drawn to an appropriate scale (e.g. 1:200) detailing car parking, access ways, the location of the existing dwelling and the location of the proposed Ancillary Dwelling. 	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> • Front, side and rear elevations of the proposed Ancillary Dwelling drawn to an appropriate scale (e.g. 1:100). <ul style="list-style-type: none"> – The plans should also show details of the materials and colours to be used 	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> • A written submission detailing the proposal and justification for any variations to the deemed-to-comply requirements. 	<input type="checkbox"/>	<input type="checkbox"/>

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Residential Design Codes

The Residential Design Codes (R-Codes) have been produced by the Western Australian Planning Commission as a State Planning Policy adopted under Part 3 of the *Planning and Development Act 2005* and the provisions apply State wide.

Under the R-Codes the following definitions are applicable:

Ancillary dwelling: self-contained dwelling on the same lot as a **single house** which may be attached to, integrated with or detached from the single house.

Single house: A dwelling standing wholly on its own green title or survey strata lot, together with any easement over adjoining land for support of a wall or for access or service and **excludes dwellings on titles with areas held in common property**.

Note: Ancillary dwellings/granny flats are not permitted on survey strata lots where there is common property (eg: a shared driveway).

Please refer to the R-Codes to view the deemed-to-comply requirements.

Note: In order to encourage the construction of liveable dwellings, Council will generally give consideration to applications proposing floor areas of up to 100m², provided the proposal includes a car parking space dedicated to the ancillary dwelling and all other deemed-to-comply requirements are satisfied.

Building Permit

A building permit application is required to be submitted to the City. The ancillary dwelling will need to meet the safety (structural and fire), health, amenity and sustainability requirements of the Building Code of Australia.

Gross Rental Value

For information, the construction of an ancillary dwelling increases the Gross Rental Value of the property. The Valuer General's Office is responsible for the amendment of the Gross Rental Value of properties and advises the City's Rates Department accordingly. The Rates Department will then issue an interim rating adjustment.

Servicing

You may need to install new meters or sub-meters for electricity, gas or water, depending on how you plan to rent the ancillary dwelling. You should contact relevant gas and electricity distributors and the Water Corporation to understand the different option available and which one suits you best. You are also likely to need a licensed electrician or plumber to install any new services.

Landlords and Tenants Information

Please contact the Department of Commerce:

Website: www.commerce.wa.gov.au/ConsumerProtection/

Phone: Consumer Protection Advice Line 1300 30 40 54

Developments Approvals Issued for Ancillary Dwellings Prior to 2 August 2013

The R-Codes were amended on 2 August 2013 and removed the restriction that ancillary dwellings could only be lived in by family members of the occupants of the main dwelling.

By virtue of the previous R-Codes requirements, any ancillary dwelling or ancillary accommodation approvals issued prior to 2 August 2013 would have had a condition of development approval that limits the occupation to family members of the occupier of the main dwelling. The condition also required that a Section 70A Notification be registered over the property Certificate of Title in order to notify prospective purchasers of the occupancy limitation.

Notwithstanding that the R-Codes now permit any person to reside in the Ancillary Dwelling, this change does not retrospectively override a development approval that has previously been issued with a condition relating to occupancy restriction. Owners are still required by law to comply with the condition of development approval, and the Section 70A Notification registered over the property is not permitted to be removed unless the landowner makes application to the City of Belmont to remove the occupancy condition.

Process for Removing Condition of Development Approval and Section 70A Notification

Before a previously constructed ancillary dwelling can be used by non-family members, the landowner must make application to the City of Belmont to remove the related condition of development approval. Should the application be approved, the City will subsequently authorise the removal of the Section 70A Notification from the Certificate of Title.

Request for Reconsideration of Planning Condition

Owners can submit an application for development approval requesting the reconsideration of a condition of development approval to the City's Planning Department (refer to the Development Application Checklist – Extension of Time and/or Amendment to Development Approval for further details). The request is subject to payment of the relevant fee. The Planning Department will assess the request and determine if the condition can be deleted.

If the request to delete the condition is supported an amended development approval will be issued (with the related condition removed). The owners can then select one of the following options to proceed with the removal of the Section 70A Notification from their Certificate of Title.

Option 1

The owner can elect for the City's solicitors to remove the Section 70A by submitting a 'Request for Permanent Removal of Section 70A Notification form' (available from www.belmont.wa.gov.au refer Services, Planning, Planning Forms and Information Sheets) to the City's Planning Department. The process will then be:

- On receipt of the request form, the request will be referred to the City's Solicitors.
- The City's Solicitors will send a letter to the owner advising that their request has been received that they are required to pay sum of approximately \$600 (inclusive of GST and disbursements) for their services into their trust account.
- On payment of the fee the City's Solicitors will prepare the required 'Removal or Modification of Notification' form and forward it to the owner for signing.
- Once the owner has signed the form, the form is to be forwarded to the City.
- The City will sign and seal the form and return it to the City's Solicitors.
- The City's Solicitors will then lodge the form with a copy of the amended development approval with Landgate to remove the Section 70A Notification from the Certificate of Title.

Option 2

The owner can elect to independently download the 'Removal or Modification of Notification under Section 70A' form from Landgate's web site: www.landgate.wa.gov.au refer, Titles & Surveys, Forms & Fees, Land Titling Forms and self-lodge the document. The process will then be:

- The owner completes and signs the form.
- Forwards the form with a covering letter to the City requesting the City for sign and seal the 'Removal or Modification of Notification under Section 70A' form.
- The City will sign and seal the form and return the form to the owner.
- The owner then lodges the form along with a copy of the amended development approval with Landgate to remove the Section 70A Notification from the Certificate of Title.
- The owner provides a copy of the Landgate lodgement receipt to the City for its records to confirm that the Section 70A has been lodged with Landgate.

It should be noted that requests are not always immediately processed by Landgate on lodgement and that there can be a backlog. Owners should contact Landgate on (08) 9273 7373 approximately 2-3 weeks following lodgement to confirm that the Section 70A Notification has been removed.

If you have any queries regarding ancillary dwelling, please contact Council's Planning Department on 9477 7222.