



"Weekenders" or Rural Dwellings Frequently Asked Questions

Background

Council have experienced a significant increase in compliance matters involving the use of sheds for residential purposes on rural land. These buildings are often referred to as “weekenders” and are frequently bought and sold with the intention of intermittent use without the perceived need for development approval.

The matter was addressed by Council at its meeting held 6 October 2020, whereby a resolution was made to reach out to all Real Estate agents, Conveyancers and Solicitors operating locally with the intent of mitigating the impacts of this growing issue.

"Weekenders"

A “weekender” is not a defined use within NSW as per the Standard Instrument (Local Environmental Plans) Order 2006, and therefore, is not an approved land use under the Goulburn Mulwaree Local Environmental Plan (LEP) 2009. Accordingly, a “weekender” is not considered to be a legitimate building or land use classification, and without a defined land use weekenders are considered to be an unlawful structure.

“Weekenders” often result from the unauthorised conversion of existing buildings, such as farm sheds, into a building intended for habitable purposes. In circumstances where a building is intended for the purpose of habitation (for example sleeping, living, meal preparation, ablutions, etc.), the building must be assessed as a Class 1 structure in accordance with the Building Code of Australia. These are the exact same standards required to construct a typical house.

Furthermore, any form of habitation requires the land to have dwelling entitlement under clause 4.2A of the *Goulburn Mulwaree Local Environmental Plan 2009*. Please note that not all land in the Goulburn Mulwaree Local Government Area has dwelling entitlement. Council cannot grant approval to a Development Application for a dwelling on land that does not have dwelling entitlement.

Community Implications

There are numerous reasons as to why “weekender” is not considered a defined land use. The primary reason is because structures that are intended to be occupied must be considered safe to do so, and in order to achieve this they must be assessed as having met the relevant construction and fit out standards of the Building Code of Australia via the Development Approval process. The Building Code of Australia can only provide one classification for any given space, hence why there cannot be an intermediate land use definition between a shed and a dwelling. In other words, a “weekender” can only be either a shed or a dwelling.

In addition to the safety of occupants, there are a number of other considerations as to why Council cannot endorse the use of “weekenders”. For example, approved rural dwellings are always addressed using a standardised rural addressing process that has been adopted by all Emergency Service Organisations. This enables Emergency Services to locate people in distress or in immediate danger, simply and effectively. Instances such as the 2019-20 Summer Bushfire Emergency highlight the importance of Emergency Services being able to locate and assist residents, particularly in remote and rural areas. Consequently, it has become evident to Council that the majority of unauthorised structures are not being constructed to an appropriate bushfire protection standard, nor is the land being appropriately managed, therefore constituting a threat and danger to the occupants and public.



It is evident that the majority of “weekenders” subject to investigation by Council do not have an appropriate or approved onsite sewage management system (i.e. septic tank). Apart from the obvious public health implications, Council has an obligation to ensure that our local catchments, including the wider Sydney Drinking Water Catchment, are not subjected to untreated or poorly treated effluent.

Unauthorised dwellings and structures create an unintended financial burden on the community, with the cost of rural road maintenance being just one example. Much of Council’s road maintenance budget is managed around knowing where land is being occupied which generally translates to where budgets are allocated. The cumulative impact from unauthorised “weekender” use means unexpected variations are required to ensure minimum road standards are met, often to the detriment of Council being able to provide other services to the community.

In instances where Council is notified or becomes aware of the presence of unauthorised structures such as a “weekender”, dwellings, sheds, land use etc, Council has a duty of care to the community and potential property buyers to ensure that the appropriate compliance pathway is actioned. In other words, properties that are found to contain an illegal/unlawful structure on the land will be subject to compliance and enforcement action. This may result in the need to remove the structure and any associated infrastructure, rehabilitation of the land to its pre-developed condition, Penalty Infringement Notices (potentially amounting to over \$20,000), or even prosecution.

Summary

In good faith, Council are asking:

- Real Estate Agents to consider the methods in which rural properties are advertised so as to ensure that property owners and prospective purchasers are not misled and create future liability issues for both Council and the real estate industry. Specifically, Council is requesting that property sale advertisements cease using terminology such as “weekenders”, or not having an entitlement to “live permanently” where no dwelling entitlement is legally permissible.
- Conveyancers and Solicitors to ensure that their clients fully understand the approval status of their purchase, as well as the permissibility of any proposed works or uses intended following purchase.
- Purchasers to do their due diligence and ensure structures are lawfully approved prior to exchange. Additionally, if use of the land for a residential purpose is proposed, discuss and satisfy with your conveyancer/solicitor whether the land attracts dwelling entitlement under clause 4.2A of the *Goulburn Mulwaree Local Environmental Plan 2009* prior to proceeding with the contract of sale.

In any circumstance, if the legality of a structure upon a rural property is not clear, it is strongly recommended that your solicitor be contacted, so as to ensure the correct actions are followed, and that prospective purchasers are not misled on their investment.

Should you require any further information, please contact Council’s Development Liaison Team on 02 4823 4444 or email council@goulburn.nsw.gov.au.

