



# ***Explanation of Intended Effects***

*Proposed Medium Density Housing Code*



Planning &  
Environment



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Explanation of the intended effect of a proposed amendment to the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 and modifications to the Standard Instrument Local Environmental Plan and to insert a new Medium Density Housing Code.

REVISION & DATE	<b>REV M.1 28-10-2016</b>
	<b>For Exhibition</b>
STATUS	Amendments to correct errors where inconsistent with the Draft MDDG and clarify proposed change to definition of multi dwelling housing

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# 1.0



## INTRODUCTION

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## INTRODUCTION

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Section 38 of the Environmental Planning and Assessment Act 1979 (the Act) requires the Minister, before recommending the making of an environmental planning instrument by the Governor, to take such steps, if any, as the Minister considers appropriate or necessary to publicise an explanation of the intended effect of the proposed instrument and to seek and consider submissions from the public on the matter.

This document has been prepared for the purposes of section 38 and forms an explanation of the intended effect of the proposed amendments to the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* (the Codes SEPP) and the *Standard Instrument Local Environmental Plan* (SI SEPP).

The proposed amendments will introduce a new 'Medium Density Housing Code' into the Codes SEPP and introduce new definitions into the SI SEPP to support the new Code.

The new Code will:

- Provide an efficient mode of delivery for low rise medium density housing;
- Remove existing obstacles to delivering this form of housing; and
- Provide a variety of housing choice across NSW in areas that are zoned for medium density housing.

### **The Missing Middle**

A planning system that facilitates a diverse range of housing options is important in delivering greater housing choice to support the growing population and changing demographics of NSW.

The Codes SEPP provides planning guidance for the fast tracked, combined planning and building approval of one and two storey dwelling houses under the complying development pathway.

The *State Environmental Planning Policy No 65 Design Quality of Residential Apartment Development* (SEPP 65) ensures that the assessment and delivery of apartment buildings are guided by clear, effective, evidence based planning requirements.

A policy gap exists in providing design guidance for medium density housing types, including low rise examples such as dual occupancies, manor homes, townhouses and terrace houses. This policy gap is known as the 'Missing Middle'.

A Discussion Paper and Background Paper 'Options for low rise medium density housing as complying development' (the Paper) was exhibited by the Department from 27 November 2015 until 1 March 2016.

The Discussion Paper recommended that dual occupancies, manor homes, townhouses and terraces be permitted as complying development. The aim is to make approvals for these housing types more efficient and provide greater consistency with approvals. This will make it easier to increase supply and choice to the market, putting downward pressure on housing costs.

To ensure that housing delivered in this way is well designed, the Discussion Paper also recommended that a design guide for low rise medium density housing be developed, similar in nature to SEPP 65 and the Apartment Design Guide (ADG). The Discussion Paper recommended that the Design Guide be used by designers and councils as an educational tool on designing low rise medium density housing.

## The value of low rise medium density housing

Low rise medium density housing provides a low cost and sustainable way to achieve higher densities with minimal impact on the existing urban form.

Current housing market trends indicate a preference for people to live closer to centres and with the amenity that medium density housing can provide.

## Medium density housing as complying development

The Missing Middle includes a variety of dwelling types, from dual occupancies, manor houses, terrace houses and multi-dwelling housing (townhouses and villas). It is low rise medium density housing characterised by the entry and private open space being at ground level.

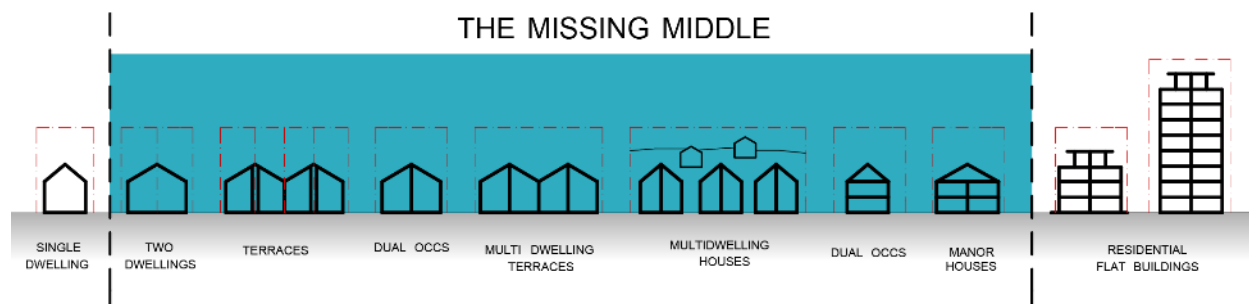


FIGURE 1: RESIDENTIAL DEVELOPMENT SPECTRUM

Complying development in the medium density spectrum is aimed at the simple small scale low rise development without the additional design challenges found in residential flat buildings such as common areas, privacy and scale impacts.

The demand for low rise medium density housing is rising as people choose to live in areas close to existing centres, but not everyone wants to live in an apartment. This form of development is able to provide a good balance providing range of positive outcomes including:

- Increasing opportunities for affordable housing as a result of simple affordable construction techniques and utilising existing infrastructure
- Increased density improves viability for more frequent and accessible transport
- Increased viability for local shops and businesses as walkability of areas improves and the population of a retail catchment increases
- Opportunities for landscaping in front and rear gardens
- Space for a garden to grow veggies or children to play
- Provide interest and variety in urban areas through a range of dwelling types

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This scale of development is able to be delivered by a range of builders with simple and often less expensive construction methods.

Importantly this form of development can allow for highly valued individual lot titles.

For a type of development to be considered appropriate for approval through the complying development pathway it must:

- Be delivered through a simple set of pre-defined measurable development standards.
- Result in predictable outcomes with predictable impacts.
- Have minimal scope for impact on adjoining properties.

Complying development is not intended to override a council's strategic planning, but work with the controls developed through strategic planning to efficiently deliver simple housing forms.

## **Medium Density Design Guide**

The Medium Density Design Guide (MDDG) has been developed for both development applications and complying developments, allowing a range of low rise medium density housing types. The MDDG encourages good design outcomes for this development across NSW. This is achieved by establishing development standards for these dwelling types that align to best practice design principles.

While there is a need to increase housing to meet NSW's growing population, it is important to ensure that new developments are well designed, respectful of the environment, and contribute positively to the existing built form.

The MDDG will support the proposed changes to the Codes SEPP to allow a range of low rise medium density housing types, including dual occupancies, manor homes, townhouses and terraces, to be carried out as complying development.

The MDDG is intended to encourage best practice design of low rise medium density dwellings, and will be used as a tool for designers and councils to encourage high quality, liveable and attractive homes. It is proposed that the MDDG will be used for both complying development applications and development applications, to ensure a high level of amenity is achieved for low rise medium density housing in NSW.

## **Medium density housing as development application**

Medium density housing can be carried out as a development application where consent is provided by council or a Joint Regional Planning Panel.

It is not proposed that the MDDG would automatically override council controls. Council would need to adopt the MDDG by reference within a development control plan. If the council does not adopt the MDDG there are no changes to the current controls or the requirements for the application. The MDDG will not be relevant to the application, and a Design Verification Statement will not be required.

Where a council does adopt the MDDG it is to be adopted in its entirety and the requirement for submission including the Design Verification Statement will apply. This will ensure consistency in planning approach across the state.

Where council does adopt the MDDG it will still need prepare the principal development standards that include height, floor space ratio, landscaped area and setbacks.





## 1.2

# EXISTING PROVISIONS

Under Part 3 of the *State Environmental Planning Policy (Exempt and Complying Codes) 2008* (Codes SEPP), the General Housing Code currently allows development of a dwelling house (a building containing one dwelling) on land that has an area of at least 200m<sup>2</sup>, and a width of 6m.

This minimum lot width and size was selected to balance the need to efficiently deliver housing on smaller lots, good internal amenity and limit the impacts on adjoining properties. Housing can be effectively designed and delivered on smaller lots, however it requires careful assessment of the impacts on internal amenity and on adjoining properties.

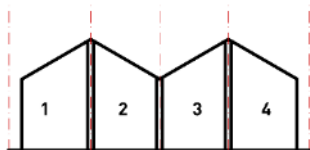
Clause 126(4) of the *Environmental Planning and Assessment Regulation 2000* (Regulations) allows for a single complying development certificate to be made for development that includes concurrent erection of dwelling houses where they are on existing adjoining lots.

Part 6 of the Codes SEPP contains provision for the strata subdivision of a multi-dwelling housing or a building, other than a dual occupancy development where consent has already been granted to the development.

This allows dwellings of the size typical of terrace houses and townhouses under the existing provisions in the Codes SEPP. If the subdivision exists, a street of terraces houses could currently be erected under the Codes SEPP if they are of individual construction, as illustrated in the table below.

TABLE 1: EXAMPLES OF COMPLYING DEVELOPMENT ALREADY PERMITTED FOR CONSTRUCTION OF MULTIPLE DWELLINGS.

Development Type	Scope	Comments
Dwelling houses	Min Lot Area – 200m <sup>2</sup> Min Lot Width – 6m	Concurrent erection of new dwelling houses on adjoining lots. The lot must already exist. One dwelling house per lot Multiple dwellings under one CDC In Sydney Growth Centres these are known as abutting dwellings. <sup>1</sup>



<sup>1</sup> Abutting dwellings is a term used in Sydney Growth Centres to describe a building containing one dwelling houses that is constructed to the side boundary immediately adjacent another dwelling. It is structurally independent from the adjoining dwelling house

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## PROPOSED DEVELOPMENT TYPES

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### Rationalisation of development terms in the Standard Instrument Local Environmental Plan

There are a large number of terms along the medium density housing spectrum. Unlike other development types within the *Standard Instrument Local Environmental Plan* the housing terms have little in the way of hierarchy.

It is proposed to rationalise these terms and create a hierarchy to provide better definition to the development types and reduce confusion.

The existing standard instrument definition for multi dwelling housing is to be amended.

Existing definition: *multi dwelling housing* means 3 or more dwellings (whether attached or detached) on one lot of land, each with direct access at ground level, but does not include a residential flat building.

The amended definition of multi-dwelling housing is to be amended to ensure it does not include dwellings above or below another dwelling as is characteristic of a residential flat building. Like traditional townhouses and villas direct access to the dwelling is at ground level. The definition should also removes the circular reference that exists between the definitions of multi dwelling housing and residential flat buildings.

Proposed definition:

**multi dwelling housing** means 3 or more dwellings (whether attached or detached) on one lot of land, each with direct access at ground level, and no other dwellings are above or below.

The following new terms will need to be added to the standard instrument dictionary:

**manor house** means a building containing 3 or 4 dwellings on one lot of land, where:

- (a) each dwelling is attached to another dwelling by a common wall and / or floor, and
- (b) the building contains no more than two storeys, excluding any basement storey.

**multi dwelling housing (terraces)** means 3 or more dwellings (whether attached or detached) on one lot of land, each dwelling has a frontage to a public road and no other dwellings are above or below.

Multi dwelling housing (terraces) will be a type of multi-dwelling housing.

### Proposed development types as complying development

The proposed changes to the Codes SEPP, look to enable certain medium density dwelling types as complying development where it is permissible under the council local environmental plans.

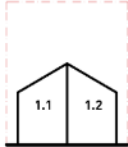
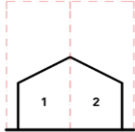
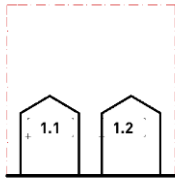
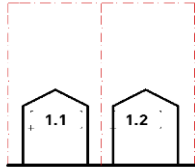
The development proposed as complying development is intended to be of similar scale as a dwelling house that can be currently carried out as complying development under the current General Housing Code in the Codes SEPP. (For example a dwelling house carried out under the General Housing Code will be of similar scale to a terrace house proposed under these changes, and a manor house containing 3 or 4 dwellings will be of similar scale to a dwelling house carried out under the General Housing code).

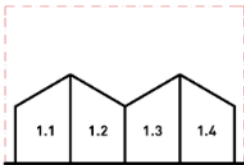
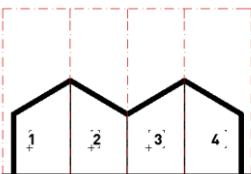
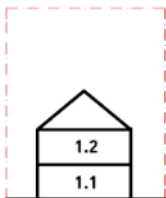

The development proposed generally has significant similarities with a single dwelling house in that:

- Each dwelling has a frontage to a street
- Each dwelling has a front and rear setback
- Private open space is typically located at ground level

The following development is recommended for inclusion in the Codes SEPP as complying development:

TABLE 2: SPECIFIED COMPLYING DEVELOPMENT

Development Type	Requirements	Comments
Two dwelling side by side (attached)	Min lot size for development – as specified in an LEP so long as each dwelling has a completed lot area >200m <sup>2</sup> and minimum frontage to the road of 6m.	Same bulk and scale as a dwelling house under the Codes SEPP.
	Each dwelling must have a frontage to a primary road.	Provisions for greater lot width where the garage is accessed from a primary road.
Dual Occupancy (Strata)	Maximum Floor Area: Same as dwelling house for same size block of land.	
	Can be strata or Torrens titled subdivided.	
Torren titled		
Two dwellings (detached)	Min lot size for development – as specified in an LEP so long as each dwelling has a completed area >200m <sup>2</sup> and minimum frontage to the road of 6m.	Ensures each dwelling has adequate amenity and privacy and allows landscaping between the dwellings.
	Each dwelling must have a frontage to a primary, secondary or parallel road.	It would only be permitted on a corner lot or side by side.
Dual Occupancy (Strata)	Minimum building separation provisions apply.	Reduces impacts of dwellings in the rear gardens of existing subdivisions.
	If a dwelling does not have a frontage to a primary road it is limited in height to 4.8m and single storey.	Both houses together would have the same bulk and scale as a dwelling house under the Codes SEPP.
Torrens titled	Maximum Floor Area: Same as dwelling house for same size block of land.	Provisions for greater lot width where the garage is accessed from a primary road.
	Can be strata or Torrens titled subdivided.	

Development Type	Requirements	Comments
Multi Dwelling housing (terraces)  3 or more dwellings (whether attached or detached)   Strata titled   Torrens titled	Minimum strata lot: 200m <sup>2</sup> Minimum lot width: 6m  Maximum Floor Area: Varies based on size of completed lots.  Maximum height 9m  Maximum number of storeys: 2, excluding basement <sup>2</sup>  Each dwelling must have a frontage to a primary road.  The development must not result in one dwelling being located over or partly over another dwelling.	This enables terrace houses that may not be able to be carried out as a dwelling house or abutting dwelling (above) and need strata titling as a result of minimum lot size.  Torren or Strata subdivision.  Provisions for greater lot width where the garage is accessed from a primary road.  The restrictions to the configuration ensure that all dwellings are side by side.
Dual Occupancy (attached - one above the other)  Manor Houses (3-4 dwellings)    	Min lot size – as specified in an LEP, or 600m <sup>2</sup> .  Min lot width (at any point): 15m.  Maximum Floor Area: Same as dwelling house for same size block of land.  Maximum height 8.5m  Maximum number of storeys: 2 (excluding basement)	Strata subdivision only.  New definition of manor house to be included in Standard Instrument Local Environmental Plan.  Class 2 development – BCA requires min 3m boundary setback without fire protection. Additional side setbacks needed to mitigate against privacy impacts.  Same bulk and scale as a dwelling house under the Codes SEPP.

The following development is not currently being considered for complying development:

TABLE 3: NOT RECOMMENDED TO BE CARRIED OUT AS COMPLYING DEVELOPMENT

Development Type	Description
Dual occupancies (attached)	Where one dwelling has a frontage to a primary road and the other is directly behind.
Dual occupancies (detached)	Where the dwelling does not have a frontage to a road.
Multi-dwelling housing	Mews style, townhouses, villas where each dwelling does not have a frontage to the street.
Multi-dwelling housing (terraces)	Dwellings have a frontage to the street but the width of each dwelling is less than 6m, and the lot is less than 200m <sup>2</sup> .

<sup>2</sup> A storey is defined by the *Standard Instrument Local Environmental Plan* – and excludes an attic

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## 1.4

# THE ROLE OF THE DESIGN GUIDE

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The Medium Density Design Guide (MDDG) will supplement the complying development standards. The purpose is to provide a resource to improve the planning and design of medium density housing by providing benchmarks for designing and assessing these developments.

The MDDG has been developed to:

- deliver quality design for housing that responds appropriately to the character of the area, landscape setting and surrounding context
- improve liveability through enhanced internal and external amenity ensuring functional room sizes, solar access, privacy and natural ventilation
- provide options for well-designed houses that are connected to existing communities and infrastructure
- improve neighbourhood streetscape
- enable diversity in built form.

The guide is divided into 4 parts:

- Part 1 – Introduction
- Part 2 - Design Guidelines
- Part 3 - Design Objectives and Design Criteria
- Part 4 – Delivery

The appendices contain templates and toolkit information to assist in preparing strategic plans and applications.

### **Tools for local councils, planning and urban design professionals**

The MDDG has been prepared to be used by local councils, planning and urban design professionals to assist with the strategic planning and preparation of local controls to create successful communities. Parts 2 and 4, and

### **Tools for designers and applicants**

The MDDG provides further explanation of the development standards under complying development, and guidance on the finer design details of the development that lead good design outcomes and liveable housing.

### **Using the design guide for complying development**

When preparing the design for a medium density housing development as complying development a designer should use Part 2 as a reference for good design.

Part 3 contains the design criteria that must be met. A design statement prepared by the designer will confirm and provide evidence of compliance with the design criteria. Any medium density complying development application will be required to include a Design Verification Statement from the person that designed the development that confirms that the design of the proposed development is consistent with the design principles in the MDDG.

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## **Relationship to the Codes SEPP**

The development standards for complying development are contained both within the Codes SEPP and the MDDG.

The Codes SEPP will set out what development is permissible under the code and the land to which the code applies.

The Codes SEPP will also contain the general development provisions for development on bush fire prone land, flood prone land and other development requirements.

The development standards for complying development consist of:

### **PRINCIPAL STANDARDS**

- Gross floor area
- Landscaped Area
- Building Height
- Setbacks

### **DESIGN PROVISIONS STANDARDS**

- This section will require that the development comply with the design criteria in the relevant section of Part 3 of the MDDG.
- It will contain a development standard that will require the design verification statement to be prepared by the person who designed the development.

### **GENERAL DEVELOPMENT STANDARDS**

- This section will contain standards on ancillary development, outbuildings earthworks and drainage.

## **Using the design guide for a development application**

Where a council has adopted the guide, the designer should use Part 2 as a reference for good design.

Part 3 contains objectives and design criteria. The design criteria set a clear and measurable standard of how each objective can be practically achieved. The proposed development can comply with the design criteria or use an alternate solution that satisfies the objective. The development application will be required to include a Design Verification Statement from the person that designed the development that confirms that the design of the proposed development is consistent with the design principles and objectives in the MDDG and provide evidence of how the objectives have been achieved.

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## 1.5

# PERMISSIBILITY

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Clause 1.18 of the Codes SEPP would apply to all proposed medium density development types.

- (1) *To be complying development for the purposes of this Policy, the development must:*
- a. ...
  - b. *Be permissible, with consent under an environmental planning instrument applying to the land on which the development is carried out*

The development type must be permissible on the subject land to be carried out as complying development.

For example: To construct a dual occupancy as complying development, dual occupancies must be permitted development in the zone that applies to the land. The zone is defined in the Local Environmental Plan that applies to the land.

The only exception to this is the manor house. It is proposed to amend the Standard Instrument LEP to add the manor house, which is currently not a defined term.

As a new development type, to enable it across NSW it is proposed to allow a manor house as complying development on any land where multi-dwelling housing or a residential flat building is permitted.

Further it is proposed to restrict complying development to R1, R2, R3 and RU5 land use zones. R4 zoned land is excluded as typically larger scale residential flat buildings are anticipated in this zone.

All other provisions under clause 1.17, 1.17A and 1.18 of the Codes SEPP would also apply to the proposed medium density development types.

Consistent with development specified for the General Housing Code, the proposed complying development cannot be carried out in:

- heritage conservation areas or draft heritage conservation areas
- heritage items or draft heritage items
- land reserved for public purposes
- environmentally sensitive areas
- all other areas listed in clause 1.19(1) and (2) of the Codes SEPP.

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## 1.6

# SUBDIVISION

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Over the past few decades most multi-dwelling and medium density housing has been delivered as strata titled development. This form of development is useful to resolve the management of common spaces within a development site, however it can reduce the independence and flexibility of ownership.

The traditional Torrens title system of subdivision is often a preferred method of ownership as it provides independence, reduced costs of ownership, and flexibility for future alterations and changing family circumstances.

### **The opportunity**

Most local environmental plans have standards such as minimum lot size and minimum lot width that apply to sites where medium density is permissible. These are often large and reflect the size of traditional detached dwelling houses with large gardens – even in areas zoned for medium density housing.

### **If it looks like Torrens title it should be.**

It is currently possible for a complying development certificate to be issued for a development that contains more than one dwelling. Strata subdivision is already permissible as complying development under the Codes SEPP.

The complying development proposed for medium density housing will result in the dwelling having a frontage to a public road. Therefore, the multi-dwelling housing will essentially look like a terrace house. If there is no common area there is no need for it to be strata titled.

Currently, from the street they look the same as development as development constructed on a Torrens title lot, the only difference between the two is the land title.

### **Solutions for complying development**

Strata subdivision is already possible as complying development. This can be used where it is desirable for commercial reasons or there is common area within the development.

It is proposed to allow Torrens title subdivision with the construction of two or more dwellings as complying development. This will provide an alternative to strata subdivision.

It is important that this does not encourage speculative subdivision. Development standards are proposed to ensure minimum standards are met and the subdivision will be registered only when the development is near completion.

As the subdivision is concurrent with the consent of the dwelling, the completed dwelling will comply with all the development standards on the completed lot.

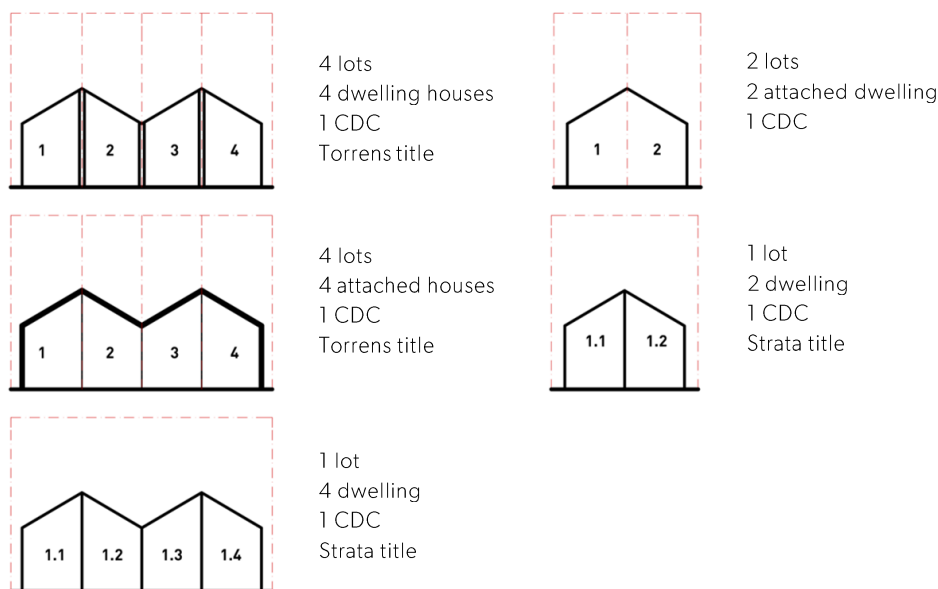


FIGURE 2: OPTIONS FOR SUBDIVISION

It is proposed that the following could be carried out as complying development:

- Minimum lot width: 6m.
- Minimum lot size 200m<sup>2</sup>
- Each dwelling must have a frontage to a road.
- The development standards will apply to each dwelling on the completed lot.
- Development standards for servicing of the lot will apply.
- Where a dual occupancy or multi-dwelling 'terrace house' would normally be proposed a Torrens title subdivision may be carried out concurrently in conjunction with consent for attached dwellings or dwelling houses under the one CDC.
- The title cannot be registered until after the occupation certificate of the dwelling has been issued.

This enables a good design outcome as the subdivision will be a result of the integrated design of the dwelling and lot layout.

A dwelling house can currently be approved as complying development on a lot with the same width and minimum lot size. This provides a consistent base-level standard for complying development/

When the lot size is smaller than this, design solutions are reduced. The flexibility of merit assessment will allow better outcomes.

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## Recommendation for efficient State wide consistency

The standard minimum size of lots has generally been formulated on the basis of a conventional subdivision for a single dwelling. In most cases dual occupancy, multi dwelling housing and residential flat buildings require the original ('parent') lot to be larger than shown on the Minimum Lot Size Map.

The model provision (*Clause 4.1B Minimum lot sizes for a dual occupancy multi-dwelling housing and residential flat buildings*)<sup>3</sup> aims to clarify the amount of land (site area) required before certain residential development can occur.

Where a council area seeks to apply a minimum lot size it should, in all future amendments conform to this model clause. This will provide a consistency of approach to subdivision and lot size for medium density housing.

## Concurrent consent for dwelling and subdivision

Many councils have different provisions in their local environmental plans that allow for the consent of a dual occupancy and subsequent subdivision on completion, or a concurrent subdivision and construction of two or more dwelling houses where the minimum lot size does not equal the standard for subdivision alone.

The design of the dwelling alongside the subdivision design is a preferred outcome and ensures the dwelling and lot size are appropriately matched. This ensures that subdivision on smaller lots is undertaken in a co-ordinated manner.

A new standard instrument clause would ensure a uniform approach across NSW. The new format will be required as councils make amendments to their local environmental plans in the future.

### 4.1C Concurrent consent for development and subdivision [optional]

- (1) The objective of this clause is are:
  - (a) encourage housing diversity without adversely impacting on residential amenity, and
  - (b) to ensure that lot sizes are consistent with the predominant subdivision pattern of the area and maintain a low density residential character in existing neighbourhoods.
- (2) This clause applies to land in the following zones:  
[insert land use zones] AND OR  
identified as 'Area [insert number]' on the Lot Size Map
- (3) Despite clause 4.1 consent may be granted to a single application to which this clause applies that is both of the following:
  - (a) the subdivision of land into 2 lots
  - (b) the erection of a dwelling house, attached dwelling or semi-detached dwelling on each lot resulting from the subdivision if the size of each lot is equal to or greater than:
    - (i) for the erection of an attached or semi-detached dwelling—[insert number more than less 60] % of the area on the lot size map in relation to that land, or
    - (ii) for the erection of a dwelling house—[insert number more than less 75] % of the area on the lot size map in relation to that land, or

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<sup>3</sup> [http://www.planning.nsw.gov.au/Plans-for-Your-Area/Local-Planning-and-Zoning/Resources#model\\_clauses](http://www.planning.nsw.gov.au/Plans-for-Your-Area/Local-Planning-and-Zoning/Resources#model_clauses)

# 2.0



## DETAILED DESIGN

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## 2.1

# DESIGN PRINCIPLES

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Good design is an integral part of creating sustainable and liveable communities. As a core planning principle, plan makers and decision makers should always seek to secure high quality design. Achieving good design is about creating places, buildings, or spaces that work well for everyone, look good, last well, and will adapt to the needs of future generations.

Good design responds in a practical and creative way to both the function and identity of a place. It puts land, water, drainage, energy, community, economic, infrastructure and other such resources to the best possible use – over the long term, as well as the short term.

The following design principles have been used to guide the development of the standards:

- Understanding context and neighbourhood character
- Ensuring density is appropriate for the development type and density generally permitted in the land use zone
- Ensuring the built form is compatible with other development permissible within the zone
- Encouraging development that orientates and addresses the street and public domain
- Providing generous landscaped area in the front and rear setbacks that is suitable for tree planting
- Ensuring that car parking does not dominate the streetscape
- Ensuring amenity is provided for future residents and residents of adjoining properties, appropriate for the scale of the development and land use zone
- Providing opportunities for different housing types and catering for different needs in the community.

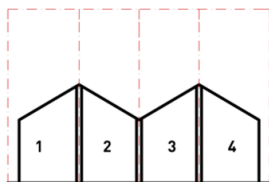
## 2.2

# TORRENS VS STRATA TITLING

There is an overall preference in the community for Torrens titled properties as they provide greater independence on how the dwelling is managed, adapted and used. Small strata titled properties (say between 2-6 dwellings) result in addition costs to the home owner.

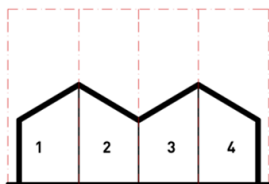
Torrens titling allows for individual owners to make future changes and adaptations to the dwelling to suit their individual needs

There will be three options available for titling arrangements for low rise medium density development as complying development under the Codes SEPP.



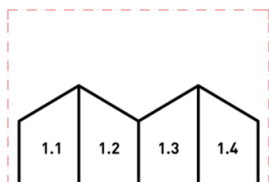
OPTION A:

Construction of attached dwellings where each dwelling is constructed on an existing lot.



OPTION B:

Simultaneous consent for subdivision and attached dwellings. At the completion of the development each dwelling will be constructed on a new Torrens title lot.



OPTION C:

Construction of a dual occupancy multi-dwelling terrace development. Each dwelling has a frontage to the street. The development is constructed on one lot. The dwellings are on separate strata titles.

Torrens titling each dwelling requires that it be connected to the ground and that no dwelling be located above or below another.

Where a development has areas that are in common to all owners, Torrens titling is more difficult and can result in complicated easements. Strata or community titling is better suited to these circumstances.

Most of the development proposed to be included in the Codes SEPP as complying development can be carried out with a Torrens title subdivision.

---

## 2.3

# TWO DWELLINGS SIDE BY SIDE

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### PRINCIPAL CONTROLS

The intention is that the resulting built form would be the similar to a dwelling house that could be constructed on each of the resulting lots.

Gross floor area, landscaped area, building height and setbacks are proposed and will result in a similar scale development to those currently specified for a dwelling house in Part 3 of the Codes SEPP.

Further detailed modelling has proposed a slightly reduced FSR and landscaped area compared with the recently exhibited Simplified Housing Code.

There are no built to boundary provisions as traditional semi-detached dwellings have a side setback on either side of the development site.

### CONFIGURATION

Dual occupancies or 2 attached dwellings could be provided in the following configurations:

- Semi-detached – with two dwellings having a frontage to the primary road.
- Detached dwellings – one dwelling with frontage to primary road, second dwelling with frontage to secondary or parallel road

Both configurations could be Torrens or strata subdivided.

A minimum of one car space is to be provided for each dwelling.

Car parking that faces the primary road is restricted based on the frontage so as not to dominate the streetscape.

### DESIGN CONTROLS AND AMENITY

Design controls and amenity are provided in the MDDG design criteria in Part 3.1.

### IMPACT ON ADJOINING PROPERTIES

The impact on the adjoining properties would be similar to a single dwelling house with respect to privacy, over shadowing and the scale of the development.

The setback standards have been amended to encourage the upper level to be located closer to the street frontage. The proposed envelope that applies to the rear half of the site will allow improved solar access and daylight access to adjoining properties compared to current complying development controls.

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## 2.4

# MULTI-DWELLING TERRACES / 3+ DWELLINGS SIDE BY SIDE

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### PRINCIPAL CONTROLS

This development type is only permitted where multi-dwelling development is permitted under the council's LEP. Typically this is in areas where the densities are greater and the primary controls reflect this.

Gross floor area and landscaped area requirements are similar to the current requirements for a single dwelling house under the Codes SEPP, however it is based on the final lot size (strata or Torrens), rather than the development site.

Further detailed modelling has proposed a slightly reduced FSR and landscaped area compared with the recently exhibited Simplified Housing Code. This ensures that the FSR, landscape and setbacks work together to provide a built form outcome that delivers amenity to the dwelling and minimises impacts on neighbouring properties.

The building height is increased to 9m to allow for attic development or basement car parking.

Setbacks only apply to the outer perimeter of the development site – not any common or internal boundaries. These are a simplified version of the setbacks for a dwelling house taking into account the increased density being sought.

There are no built to boundary provisions to allow for 'sets' of multi-dwelling terraces and to provide breaks within the streetscape.

### CONFIGURATION

Each dwelling is required to have a frontage to a primary, secondary or parallel road.

Terraces could be provided in the following configurations:

- Torrens or strata titled with car parking from a rear lane
- Torrens or strata titled with car parking from the primary or secondary road – these would have a wider frontage
- Strata titled with car parking contained within a common basement.

A minimum of one car space is to be provided for each dwelling.

Car parking that faces the primary road is restricted based on the frontage so as not to dominate the streetscape.

### DESIGN CONTROLS AND AMENITY

Design controls and amenity are provided in the MDDG design criteria in part 3.2.

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## **IMPACT ON ADJOINING PROPERTIES**

The impact on the adjoining properties would be similar to a single dwelling house with respect to privacy, over shadowing and the scale of the development, however the design guide provides protection from overshadowing and privacy that is more considerate of the context than a dwelling house.

The setback standards have been amended to encourage the upper level to be located closer to the street frontage. The proposed envelope that applies to the rear half of the site will allow improved solar access and daylight access to adjoining properties compared to current complying development controls.

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## 2.5

# MANOR HOUSES AND DUAL OCCUPANCIES WHERE A DWELLING IS ABOVE OR BELOW ANOTHER

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### PRINCIPAL CONTROLS

The intention is that the resulting built form would be the same as a dwelling house that could be constructed over the entire lot.

Gross floor area, landscaped area, building height and setbacks are proposed to be the same as those currently specified for a dwelling house in Part 3 of the Codes SEPP.

There are no built to boundary provisions proposed as greater separation between the manor house and neighbouring property is required for privacy and the larger built form.

### CONFIGURATION

A dual occupancy – attached:

- One dwelling over the other – 2 dwellings

A manor house could be provided in the following configurations:

- One dwelling on the ground floor and two over – 3 dwellings (and vice versa)
- Two dwellings on the ground floor and two dwellings on level 1

Note: if the dwellings are side by side they are a multi-dwelling ‘terrace’ development and not a manor house development.

It is proposed that the building will be strata titled.

A minimum of one car space is to be provided for each dwelling.

Car parking that faces the primary road is restricted based on the frontage so as not to dominate the streetscape.

### DESIGN CONTROLS AND AMENITY

Design controls and amenity are provided in the MDDG design criteria in Part 3.4.

Minimum dwelling sizes are reduced compared to other forms of medium density development and may include studio dwellings to encourage this form of development as an affordable housing option.

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## **IMPACT ON ADJOINING PROPERTIES**

The impact on the adjoining properties would be the similar to a single dwelling house with respect to over-shadowing and the scale of the development.

The setback standards have been amended to encourage the upper level to be located closer to the street frontage. The proposed envelope that applies to the rear half of the site will allow improved solar access and daylight access to adjoining properties compared to current complying development controls.

The upper level living rooms and private open space of dwellings are required to face the street or rear setback.

# 3.0

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## DEVELOPMENT STANDARDS

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## 3.1

# BACKGROUND

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The Codes SEPP was gazetted on 12 December 2008, and commenced on 27 February 2009.

The Codes SEPP applies Statewide and includes a number of Codes which allow for certain types of development to be carried out as exempt development (without approval) or complying development (a fast-track approvals process).

Exempt development generally applies to low impact developments. This includes minor home renovations and small building projects, such as the erection of a carport, balcony, deck or garden shed. As long as the development meets specific development standards and land requirements as set out in the Codes SEPP, no planning or building approval is needed.

Other straightforward, low impact residential, commercial and industrial developments that do require planning approval may qualify for a fast-track approval process known as complying development. If the application meets specific standards and land requirements, a CDC can be obtained either through an accredited council or private certifier without the need for a full DA through the local council.

The Codes SEPP currently includes the following codes:

- Exempt Development Codes
- General Housing Code
- Rural Housing Code
- Housing Alterations Code
- General Development Code
- Commercial and Industrial Code
- Commercial and Industrial (New Buildings and Additions) code
- Subdivisions Code
- Demolition Code
- Fire Safety Code

When the Codes SEPP was introduced, the Government was clear that over time it would increase the range of development types that the Codes SEPP covered. The refinement of the Codes SEPP and the addition of new codes commenced on the following dates:

- stage 1 of the Commercial and Industrial Code, and the Housing Alterations Code (commenced on 7 September 2009);
- Rural Housing Code (commenced on 25 February 2011);
- expansion of Exempt Codes, Expansion of dwelling houses to lots with an area greater than 200m<sup>2</sup> and additional codes (commenced on 25 February 2011);
- stage 2 of the commercial and industrial codes, and Fire Safety Code on 22 February 2014;
- Subdivision Code (commenced on 4 June 2010);
- Fire Safety Code (commenced on 22 February 2014); and
- significant amendments to all codes were commenced on 22 February 2014.

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Along with the expansion of the Codes SEPP, continual refinement to the existing Codes has taken place over time to ensure relevance to development within the State, whilst providing appropriate environmental protections.

Current draft amendments proposed to the Codes SEPP include:

- a general housekeeping amendment to refine terms and definitions and better align with the standard instrument LEP;
- the Inland Code – to simplify the development standards for single dwelling housing in regional local government areas west of the Great Dividing Range;
- the simplified Housing Code a user friendly code which includes explanatory diagrams.

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## 3.2

# STRUCTURE

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The proposed complying development standards are proposed to be included in a new Medium Density Housing Code which will be included in the Codes SEPP.

### **Medium Density Housing Code**

It is proposed to structure the development standards in the new Medium Density Housing Code in the same manner as the structure of the standards under the recently exhibited 'Simplified Housing Code'.

The proposed structure of the Medium Density Housing Code will be broken up into the following five divisions, including:

- Division 1: Requirements for complying development under the Medium Density Housing Code
- Division 2: Two dwellings side by side
- Division 3: Multi-dwelling Housing (Terraces)
- Division 4: Manor houses and new attached dual occupancies (one over the other)
- Division 5: Tertiary development standards

### **Subdivision**

The proposed controls for concurrent Torrens title subdivision of terraces would be included in an expansion of Part 6 – Subdivision Code within the Codes SEPP.

## 3.3

# DIVISION 2 – TWO DWELLINGS SIDE BY SIDE

## SPECIFIED DEVELOPMENT

The following development can be complying development under this code:

- (a) The erection of a new 1 or 2 storey dual occupancy and any attached ancillary development<sup>4</sup>
- (b) The alteration of or an addition to a dual occupancy and any attached ancillary development
- (c) The development may also contain a basement for the purpose of car parking and access to that parking

The code only applies to complying development on a lot that meets the following requirements:

- (a) the lot must be in a Zone R1, R2, R3, or RU5<sup>5</sup>
- (b) the area of the lot must not be less than minimum lot size in an LEP for a dual occupancy
- (c) each strata lot must not have an area less than 200m<sup>2</sup>
- (d) the width of the lot must be not less than 12m measured at the building line,
- (e) there must be no more than 2 dwellings on the lot at the completion of the development
- (f) the lot must have vehicular access to a public road at the completion of the development,
- (g) the lot must not be a battle axe lot
- (h) both dwellings must have a frontage to a primary, secondary or parallel road.

## SUMMARY OF DEVELOPMENT STANDARDS

TABLE 4: DEVELOPMENT STANDARDS

STANDARD	SUMMARY DEVELOPMENT STANDARDS	
PRINCIPAL DEVELOPMENT STANDARDS		
Maximum Height of Building	Dwelling with frontage to a primary, secondary or parallel road- 8.5m	
Maximum FSR (for each lot)	200-300m²	0.75:1
	>300m²-400m²	0.70:1
	>400m²-500m²	0.65:1
	>500m²	0.60:1
Minimum Landscaped Area (for each lot)	200m²-300m²	20%
	>300m²-400m²	25%
	>400m²-500m²	30%
	>500m²	35%
	(Min width 1.5m)	
Landscaped area forward of building line.	25% minimum	
Primary Road Setback	Average of dwellings within 40m or	
(See note 1)	200m²-300m²	3.5m
	>300m²-900m²	4.5m
	>900m²-1500m²	6.5m
	>1500m²	10m
Secondary Road	200m²-900m²	2m

<sup>4</sup> A storey does not include an attic – ie an attic is permitted in addition to the 1 or 2 storey development.

<sup>5</sup> CI 1.18 requires that the development must be permissible with consent under an environmental planning instrument applying to the land on which the development is carried out.

setback (See note 1)	>900m <sup>2</sup> -1,500m <sup>2</sup> >1500m <sup>2</sup>	3m 5m
Side Setbacks (See note 1)	Front half of the lot up to 15m - 1.2m, or if there is a boundary wall on an adjoining lot - 0m Rear half of the lot, or distance >15m from front boundary; Building envelope defined by 45° plane projected from a height 3.6m above the boundary.	
Common wall	There are no side setback controls that relate to a common wall – even when subdivision is proposed as part of this development.	
Rear setback (See note 1)	Where the part of a development has a height of building less than 4.5m	
	<b>LOT AREA(m<sup>2</sup>)</b>	<b>SETBACK</b>
	200-600	3m
	>600-1500	6m
	>1500+	15m
	Where the part of a development has a height of building 4.5m or more	
	<b>LOT AREA(m<sup>2</sup>)</b>	<b>SETBACK</b>
	200-1500	10m
	>1500+	15m
Rear setback for lots with rear lanes	Dwelling house and ancillary development may abut the rear boundary for maximum width of 7.0m.	

## DESIGN STANDARDS

Design Criteria	<p>The development must comply with the design criteria listed in Part 3.1 of the Medium Density Design Guide.</p> <p>A design verification statement is required to be provided by the person who designed the development that provides evidence of compliance with the design criteria.</p> <p>A template for the design statement is provided in the appendix to the guide.</p>
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### Note:

1. The current exceptions to setbacks will still apply.
2. Existing provisions with respect to tree removal, bushfire prone land and flood affected land will continue to apply.
3. Existing provisions for vehicle access will still apply.

## 3.4

# DIVISION 3 – MULTI-DWELLING HOUSING (TERRACES)

### Specified development

The following development can be complying development under this code:

- (a) The erection of a new 1 or 2 storey multi-dwelling housing (terraces) development and any attached ancillary development<sup>6</sup>
- (b) The alteration of or an addition to a multi-dwelling housing (terraces) development and any attached ancillary development
- (c) The development may also contain a basement for the purpose of car parking and access to that parking

The code only applies to complying development on a lot that meets the following requirements:

- (a) the lot must be in a Zone R1, R2, R3, or RU5<sup>7</sup>
- (b) each strata lot must not have an area less than 200m<sup>2</sup>
- (c) each strata lot must have a width at the building line not less than 6m,
- (d) the lot must have vehicular access to a public road at the completion of the development,
- (e) the lot must not be a battle axe lot
- (f) all dwellings must have a frontage to a primary, secondary or parallel road.

TABLE 5: DEVELOPMENT STANDARDS MUTI DWELLING HOUSING (TERRACES)

STANDARD	SUMMARY DEVELOPMENT STANDARDS	
PRINCIPAL DEVELOPMENT STANDARDS		
Min lot size for each dwelling	200m <sup>2</sup> 6m wide.	
Maximum Height of Building	9.0m	
Maximum gross floor area	200-300m <sup>2</sup>	0.80:1
(for each lot)	>300m <sup>2</sup> -400m <sup>2</sup>	0.75:1
	>400m <sup>2</sup> -500m <sup>2</sup>	0.65:1
	>500m <sup>2</sup>	0.60:1
Minimum Landscaped Area (for each lot)	200m <sup>2</sup> -300m <sup>2</sup>	20%
	>300m <sup>2</sup> -400m <sup>2</sup>	25%
	>400m <sup>2</sup> -500m <sup>2</sup>	30%
	>500m <sup>2</sup> +	35%
	(Min width 1.5m)	
Landscaped area forward of building line.	25% minimum	
Primary Road Setback	Average of dwellings within 40m or	
(See note 1)	200m <sup>2</sup> -300m <sup>2</sup>	3.5.m
	>300m <sup>2</sup> -900m <sup>2</sup>	4.5m
	>900m <sup>2</sup> -1500m <sup>2</sup>	6.5m
	>1500m <sup>2</sup>	10m

<sup>6</sup> A storey does not include an attic – ie an attic is permitted in addition to the 1 or 2 storey development.

<sup>7</sup> CI 1.18 requires that the development must be permissible with consent under an environmental planning instrument applying to the land on which the development is carried out.

Secondary Road setback (See note 1)	200m <sup>2</sup> -900m <sup>2</sup> 2m >900m <sup>2</sup> -1,500m <sup>2</sup> 3m >1500m <sup>2</sup> 5m														
Side Setbacks for development site (See note 1)	Front half of the lot up to 15m - 1.2m, or if there is a boundary wall on an adjoining lot - 0m Rear half of the lot, or distance >15m from front boundary; Building envelope defined by 45° plane projected from a height 3.6m above the boundary.														
Common wall	There are no side setback controls that relate to a common wall – even when subdivision is proposed as part of this development.														
Rear setback (See note 1)	Where the part of a development has a height of building less than 4.5m <table border="1"> <thead> <tr> <th>LOT AREA(m<sup>2</sup>)</th><th>SETBACK</th></tr> </thead> <tbody> <tr> <td>200-600</td><td>3m</td></tr> <tr> <td>&gt;600-1500</td><td>6m</td></tr> <tr> <td>&gt;1500+</td><td>15m</td></tr> </tbody> </table> Where the part of a development has a height of building 4.5m or more <table border="1"> <thead> <tr> <th>LOT AREA(m<sup>2</sup>)</th><th>SETBACK</th></tr> </thead> <tbody> <tr> <td>200-1500</td><td>10m</td></tr> <tr> <td>&gt;1500+</td><td>15m</td></tr> </tbody> </table>	LOT AREA(m <sup>2</sup> )	SETBACK	200-600	3m	>600-1500	6m	>1500+	15m	LOT AREA(m <sup>2</sup> )	SETBACK	200-1500	10m	>1500+	15m
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>600-1500	6m														
>1500+	15m														
LOT AREA(m <sup>2</sup> )	SETBACK														
200-1500	10m														
>1500+	15m														
Rear setback for lots with rear lanes	Dwelling house and ancillary development may abut the rear boundary for a maximum width of 7.0m														
<b>DESIGN STANDARDS</b>															
Design Criteria	<p>The development must comply with the design criteria listed in Part 3.2 of the Medium Density Design Guide.</p> <p>A design verification statement is required to be provided by the person who designed the development that provides evidence of compliance with the design criteria.</p> <p>A template for the design statement is provided in the appendix to the Medium Density Design Guide.</p>														

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## 3.5

# DIVISION 4 – MANOR HOUSE AND DUAL OCCUPANCY

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### Development that can be complying development under this code

The following development can be complying development under this code:

- (a) The erection of a new dual occupancy (attached – one dwelling over the other) and any attached ancillary development
- (b) The erection of a new 1 or 2 storey manor house and any attached ancillary development<sup>8</sup>
- (c) The alteration of or an addition to a manor house and any attached ancillary development
- (d) The erection of a new detached development or an alteration or addition to a detached ancillary development.
- (e) The development may also contain a basement for the purpose of car parking and access to that parking.

The code only applies to complying development on a lot that meets the following requirements:

- (a) the lot on land zoned: Zone R1, R2, R3 or RU5, but only if dual occupancy housing is permissible on the land.
- (b) the lot on land zoned: Zone R1, R2, R3 or RU5, but only if manor houses, residential flat buildings or multi-dwelling housing is permissible on the land.<sup>9</sup>
- (c) the area of the lot must not be less than 600m<sup>2</sup>
- (d) the width of the lot must be not less than 15m measured at the building line,
- (e) there must be no more than 4 dwellings on the lot at the completion of the development
- (f) the lot must have vehicular access to a public road at the completion of the development,
- (g) the lot must not be a battle axe lot
- (h) all dwellings must be contained within one building
- (i) a manor house, multi-dwelling housing or residential flat building must be a permissible use on the lot if a manor house development is proposed.
- (j) A dual occupancy (attached – one dwelling over the other) must be permissible on the lot if a dual occupancy development is proposed.

### Complying development on bush fire prone land

The same provisions as the General Housing Code (Part 3)

### Complying development on flood control lots

The same provisions as the General Housing Code (Part 3)

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<sup>8</sup> A storey does not include an attic – ie an attic is permitted in addition to the 1 or 2 storey development.

<sup>9</sup> A manor house is a new development type. As a new development type, to enable it across NSW it is proposed to allow a manor house development on any land where multi-dwelling housing or a residential flat building is permitted, except in R4 zone. R4 zoned land is excluded as typically larger scale residential flat buildings are anticipated on this land.

STANDARD	SUMMARY DEVELOPMENT STANDARDS													
PRINCIPAL DEVELOPMENT STANDARDS														
Maximum Height of Building	8.5m													
Maximum FSR	>600m <sup>2</sup> -700m <sup>2</sup> >700m <sup>2</sup> - 900m <sup>2</sup> >900m <sup>2</sup>	0.6:1 0.5:1 0.4:1												
Minimum Landscaped Area	>600m <sup>2</sup> -700m <sup>2</sup> >700m <sup>2</sup> -900m <sup>2</sup> >900m <sup>2</sup> -1500m <sup>2</sup> >1500m <sup>2</sup> (Min width 1.5m)	30% 35% 40% 45%												
Landscaped area forward of building line.	50% minimum													
Primary Road Setback  (See note 1)	Average of dwellings within 40m or  >600m <sup>2</sup> -900m <sup>2</sup> 4.5m >900m <sup>2</sup> -1500m <sup>2</sup> 6.5m >1500m <sup>2</sup> 10m													
Secondary Road setback (See note 1)	>600m <sup>2</sup> -1,500m <sup>2</sup> >1500m <sup>2</sup>	3m 5m												
Side Setbacks for development site (See note 1)	Front half of the lot up to 15m - 0.9m  Rear half of the lot, or distance >15m from front boundary;  Building envelope defined by 45° plane projected from a height 3.0m above the boundary.  Note: To avoid fire protection of windows and walls, as required under the BCA for this building class, greater separation may be required.													
Common wall	There are no side setback controls that relate to a common wall – even when subdivision is proposed as part of this development.													
Rear setback (See note 1)	Where the part of a development has a height of building less than 4.5m <table><tr><th>LOT AREA(m<sup>2</sup>)</th><th>SETBACK</th></tr><tr><td>&gt;600-1500</td><td>6m</td></tr><tr><td>&gt;1500+</td><td>15m</td></tr></table> Where the part of a development has a height of building 4.5m or more <table><tr><th>LOT AREA(m<sup>2</sup>)</th><th>SETBACK</th></tr><tr><td>600-1500</td><td>10m</td></tr><tr><td>&gt;1500+</td><td>15m</td></tr></table>		LOT AREA(m <sup>2</sup> )	SETBACK	>600-1500	6m	>1500+	15m	LOT AREA(m <sup>2</sup> )	SETBACK	600-1500	10m	>1500+	15m
LOT AREA(m <sup>2</sup> )	SETBACK													
>600-1500	6m													
>1500+	15m													
LOT AREA(m <sup>2</sup> )	SETBACK													
600-1500	10m													
>1500+	15m													
Rear setback for lots with rear lanes	Dwelling house and ancillary development may abut the rear boundary for maximum 50% of the length of that boundary													
DESIGN STANDARDS														
Design Criteria	The development must comply with the design criteria listed in Part 3.4 of the Medium Density Design Guide.  A design verification statement is required to be provided by the person who designed the development that provides evidence of compliance with the design criteria.  A template for the design verification statement is provided in the appendix to the guide.													

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## 3.6

# PART 6 – SUBDIVISION CODE

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The Subdivision Code already permits strata subdivision of multi-dwelling housing for which a complying development certificate has been granted. It is proposed to expand this part to include Torrens title subdivision.

### **Strata subdivision of dual occupancies**

Amend clause 6.1 to include strata subdivision of dual occupancies where a complying development certificate was issued under the proposed new Medium Density Housing Code in the Codes SEPP.

Strata subdivision of other dual occupancies would remain a development application due to the complications arising from previous consents and varied approaches to dual occupancy across NSW.

### **Torrens title subdivision**

Establish a new Division 2 in Part 6 Subdivisions Code of the Codes SEPP to allow for concurrent Torrens title subdivision and dwelling house consent where a complying development certificate is issued under the Codes SEPP.

#### SPECIFIED DEVELOPMENT

The Torrens title subdivision of land for the purpose of a dwelling house, attached dwelling or semi-detached dwelling is development specified for this code where:

- (a) the land is zoned R1, R2, R3 and RU5, and a dual occupancy or multi-dwelling housing is permissible on the land, and
- (b) a single complying development certificate is issued for the concurrent<sup>10</sup> subdivision under this division and erection of two or more dwellings under the Medium Density Housing Code
- (c) at the completion of the development there is only one dwelling house on each lot.

The creation of any street, road or lane or lot for any other purpose other than a dwelling house is not development specified for this Code.

#### DEVELOPMENT STANDARDS

The standards specified for that development are:

- (a) that a subdivision certificate is not to be issued until the dwelling is suitable for occupation or use in accordance with its classification under the Building Code of Australia and an interim occupation certificate has been issued<sup>11</sup>
- (b) each lot must have a frontage to primary, secondary or parallel road.
- (c) any lot created must have a minimum dimension of at least 6m

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<sup>10</sup> Clause 126 of *Environmental Planning and Assessment Regulation 2000* permits a single CDC to be issued for concurrent erection of a new single storey or two storey dwelling house. This clause is proposed to be amended to also include reference to subdivision.

<sup>11</sup> This is currently part of the test for issue of an occupation certificate under cl109K in the *Environmental Planning and Assessment Act 1979*. In this instance final finishing, painting, floor finishes, fitting of fixtures and landscaping may still need to be completed. The intent of this standard is to stop speculative subdivision and ensure the dwelling house is completed. By allowing an interim occupation certificate to be issued it will ensure the registration of the title will not hold up completion of the development.

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(d) any lot created must have an area of at least:

- a. 50% of the minimum lot area specified for a dual occupancy in an environmental planning instrument that applies to the land; or
- b. Where there is no minimum lot size for a dual occupancy specified in an environmental planning instrument 60% of the minimum lot size or 200m<sup>2</sup> whatever is the greater.

Note: For the purpose of this Part, a battle axe lot is not considered to have a frontage to a road, even if the access handle has a width of 6m.

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## 3.7

# DEFINITIONS

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New and amended definitions have been highlighted.

**attached dwelling** means a building containing 3 or more dwellings, where:

- (a) each dwelling is attached to another dwelling by a common wall, and
- (b) each of the dwellings is on its own lot of land, and
- (c) none of the dwellings is located above any part of another dwelling.

**attic** means any habitable space, but not a separate dwelling, contained wholly within a roof above the ceiling line of the storey immediately below, except for minor elements such as dormer windows and the like.

**articulation zone** means an area of a lot forward of the building line within which building elements are permitted to be located, being an area measured from:

- (a) one side boundary of the lot to the opposite side boundary of the lot, or
- (b) if the lot is a corner lot—the secondary road boundary of the lot to the boundary opposite the secondary road boundary.

**basement** means the space of a building where the floor level of that space is predominantly below ground level (existing) and where the floor level of the storey immediately above is less than 1 metre above ground level (existing).

**building height** (or **height of building**) means in relation to the height of a building in metres—the vertical distance from ground level (existing) to the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.

**dual occupancy** means a dual occupancy (attached) or a dual occupancy (detached).

**dual occupancy (attached)** means 2 dwellings on one lot of land that are attached to each other, but does not include a secondary dwelling.

**dual occupancy (detached)** means 2 detached dwellings on one lot of land, but does not include a secondary dwelling

**dwelling** means a room or suite of rooms occupied or used or so constructed or adapted as to be capable of being occupied or used as a separate domicile.

**dwelling house** means a building containing only one dwelling.

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**gross floor area** means the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes:

- (a) the area of a mezzanine, and
  - (b) habitable rooms in a basement or an attic, and
  - (c) any shop, auditorium, cinema, and the like, in a basement or attic,
- but excludes:
- (d) any area for common vertical circulation, such as lifts and stairs, and
  - (e) any basement:
    - (i) storage, and
    - (ii) vehicular access, loading areas, garbage and services, and
  - (f) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and
  - (g) car parking to meet any requirements of the consent authority (including access to that car parking), and
  - (h) any space used for the loading or unloading of goods (including access to it), and
  - (i) terraces and balconies with outer walls less than 1.4 metres high, and
  - (j) voids above a floor at the level of a storey or storey above.

**landscaped area** means a part of a site used for growing plants, grasses and trees, but does not include any building, structure or hard paved area.

**manor house** means a building containing 3 or 4 dwellings on one lot of land, where:

- (a) each dwelling is attached to another dwelling by a common wall and / or floor, and
- (b) the building contains no more than two storeys, excluding any basement storey.

**multi dwelling housing** means 3 or more dwellings (whether attached or detached) on one lot of land, each with direct access at ground level, and no other dwellings are above or below.<sup>12</sup>

**multi dwelling housing (terraces)** means 3 or more dwellings (whether attached or detached) on one lot of land, each dwelling has a frontage to a public road and no other dwellings are above or below.

**private open space** means an area external to a building (including an area of land, terrace, balcony or deck) that is used for private outdoor purposes ancillary to the use of the building.

**semi-detached dwelling** means a dwelling that is on its own lot of land and is attached to only one other dwelling.

**storey** means a space within a building that is situated between one floor level and the floor level next above, or if there is no floor above, the ceiling or roof above, but does not include:

- (a) a space that contains only a lift shaft, stairway or meter room, or
- (b) a mezzanine, or
- (c) an attic.

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<sup>12</sup> The definition of multi-dwelling housing is amended as to include *direct* access to the dwelling *and the private open space* at ground level and not be characterised as an apartment building with other dwellings above or below.