

9 December 2016

Ms L Sheridan  
Director, Codes and Approval Pathways  
Department of Planning & Environment  
GPO Box 39  
SYDNEY NSW 2001

Dear Ms Sheridan,

### **Canterbury–Bankstown Council Submission**

I refer to the exhibition of the Draft Medium Density Housing Code and Design Guide.

Canterbury–Bankstown Council considered the Draft Code and Design Guide at the Ordinary Meeting of 6 December 2016, and does not support the proposal to expand complying development to include medium density housing for the following reasons:

1. The proposed development controls will result in medium density housing that is incompatible with the prevailing low density character and amenity of the suburban neighbourhoods in the City of Canterbury–Bankstown.
2. Complying development does not take into consideration the unique characteristics and issues within the various suburbs in the City of Canterbury–Bankstown, and is not designed to customise solutions to address potential impacts.
3. Private certifiers are not qualified to assess the architectural merits of medium density housing to ensure it meets community expectations, particularly in the suburban neighbourhoods of the City of Canterbury–Bankstown.
4. Complying development does not provide the community with the opportunity to comment on medium density housing proposals in the same way as development applications.
5. The Draft Medium Density Housing Code does not recognise Council's demonstrated record that it can fast track the supply of medium density housing via the development assessment process.

6. The Draft Medium Density Housing Code does not recognise current state and local strategic planning which already delivers medium density housing in the City of Canterbury–Bankstown. The Draft Code also pre-empted the Draft District Plans prepared by the Greater Sydney Commission, in particular the requirement for councils to prepare local housing strategies to identify the best positions for medium density housing in the city.

The attached Council report outlines Council's submission in more detail.

If you have any enquiries, please contact Council officer Mauricio Tapia on 9707 9923.

Yours sincerely,



**Mitchell Noble**  
**Manager Spatial Planning**

---

## Planning Matters - 6 December 2016

---

**ITEM 5.6**                      **Draft Medium Density Housing Code and Design Guide to Expand Complying Development to include Medium Density Housing**

**AUTHOR**                      **Planning**

### **ISSUE**

---

This report outlines Council's submission to the Department of Planning & Environment's proposal to expand complying development to include medium density housing such as dual occupancies, manor houses and multi dwelling housing (terraces). The proposal has the potential to significantly impact on the character and amenity of the city's suburban neighbourhoods.

### **RECOMMENDATION**

---

That Council endorses the submission to the Department of Planning and Environment Draft Medium Density Housing Code and Draft Medium Density Design Guide as shown in Attachment A.

### **BACKGROUND**

---

#### **Exhibition of Discussion Paper**

At present, the State Environmental Planning Policy (Exempt and Complying Development) 2007 allows houses, outbuildings and alterations/additions to existing residential development to be assessed as complying development under a fast track approval system. Council or private certifiers can approve complying development.

In November 2015 to March 2016, the Department of Planning & Environment exhibited a Discussion Paper, which proposed to expand the range of residential development that can be undertaken as complying development across NSW. It proposed to expand complying development to include medium density housing such as dual occupancies, manor houses and multi dwelling housing (villas, terrace houses and townhouses).

At the Ordinary Meeting of 15 December 2015, Council endorsed a submission on the Discussion Paper. The submission did not support the proposal to expand complying development to include medium density housing.

## **Exhibition of Draft Medium Density Housing Code and Design Guide**

In October 2016, the Department of Planning & Environment commenced the exhibition of a Draft Medium Density Housing Code and Design Guide.

### Draft Medium Density Housing Code

The Draft Code proposes to expand complying development to include medium density housing, specifically dual occupancies (attached–side by side), dual occupancies (attached–one dwelling over the other), dual occupancies (detached), manor houses and multi dwelling housing (terraces).

According to the Draft Code, the intended outcomes are to provide an efficient mode of delivery for low–rise medium density housing, remove existing obstacles to delivering this form of housing, and providing a variety of housing choice across NSW in areas that are zoned for medium density housing.

The Draft Code will apply to Zone R1 General Residential, Zone R2 Low Density Residential, Zone R3 Medium Density Residential and Zone RU5 Village. The Draft Code will not apply to Zone R4 High Density Residential, heritage conservation areas or draft heritage conservation areas.

The Draft Code will also provide principal development standards for complying development such as floor space ratio, building height, lot size, landscaped area, setbacks and subdivision.

### Draft Medium Density Design Guide

The Draft Medium Density Design Guide may apply to both complying development and development applications.

In relation to complying development, the Draft Guide requires the designer to submit a design verification statement. The statement must provide evidence of compliance with the design criteria if it is to be issued with a complying development certificate. The design criteria includes solar access, visual privacy, private open space, dwelling size, car parking, ancillary development and other design matters.

In relation to development applications, Council will have the option to adopt the Draft Guide by reference within a development control plan. Should Council decide to take this option, it must adopt the Draft Guide in its entirety and the requirement for a design verification statement will apply. Proposed development can comply with the design criteria or use an alternate solution that satisfies the objectives.

Attachment B contains a summary of the exhibition of the Draft Medium Density Housing Code and Design Guide. Council has until 12 December 2016 to make a submission.

## REPORT

---

Following a review of the Draft Medium Density Housing Code and Design Guide, Council does not support the proposal to expand complying development to include medium density housing for the following key reasons:

1. The proposed development controls will result in medium density housing that is incompatible with the prevailing low density character and amenity of the suburban neighbourhoods in the City of Canterbury–Bankstown.
2. Complying development does not take into consideration the unique characteristics and issues within the various suburbs in the City of Canterbury–Bankstown, and is not designed to customise solutions to address potential impacts.
3. Private certifiers are not qualified to assess the architectural merits of medium density housing to ensure it meets community expectations, particularly in the suburban neighbourhoods of the City of Canterbury–Bankstown.
4. Complying development does not provide the community with the opportunity to comment on medium density housing proposals in the same way as development applications.
5. The Draft Medium Density Housing Code does not recognise Council’s demonstrated record that it can fast track the supply of medium density housing via the development assessment process.
6. The Draft Medium Density Housing Code does not recognise current state and local strategic planning which already delivers medium density housing in the City of Canterbury–Bankstown. The Draft Code also pre–empts the Draft District Plans prepared by the Greater Sydney Commission, in particular the requirement for councils to prepare local housing strategies to identify the best positions for medium density housing in the city.

Attachment A discusses these key reasons in more detail.

## POLICY IMPACT

---

Council has a demonstrated record of efficiently delivering medium density housing, removing existing obstacles to delivering this form of housing, and providing a variety of housing choice in areas that are zoned for medium density housing.

Firstly, Council adopted Local Area Plans to identify the best positions for medium density housing across the city, consistent with the Metropolitan Plan ‘*A Plan for Growing Sydney*’ and the Draft South District Plan. This occurred in consultation with the community, industry, state agencies and other key stakeholders. Consistent with community and market expectations, the best positions are located in areas that are well serviced by infrastructure and community facilities, and have access to good public transport. The zoning and planning control changes have been or are in the process of being incorporated in Council’s LEP and DCP.

As a result, Canterbury–Bankstown Council delivered 1,853 new dwellings in 2014/15 and 1,572 new dwellings in 2015/16. Around half of the new dwellings are in the form of medium density housing.

Secondly, the Environmental Planning & Assessment Act 1979 provides an appropriate development assessment process to consider and determine medium density housing proposals, particularly within Zone R2 Low Density Residential.

The development assessment process must consider Council's LEP and DCP, which have been adopted in consultation with the community, industry, state agencies and other key stakeholders. The development assessment process must also consider the likely impacts of development, the suitability of the site for the development, any submissions made during the notification period and the public interest.

Council has a demonstrated record that it can manage the development assessment process within the required 40 day period under the Act. In the 2014/15 financial year, the median time for determining development applications was 36 days and in 2015/16, the median time for determining development applications was 35 days.

The concern with the complying development process is it does not take into account the above matters, which are important to ensure medium density housing is compatible with the prevailing low density character and amenity of the suburban neighbourhoods in the City of Canterbury–Bankstown.

In addition, the requirement for design verification statements does not provide an adequate safeguard to ensure complying development will deliver better quality building designs that respond appropriately to the character of the area, landscaped setting and surrounding built form. Private certifiers are not qualified to assess the architectural merits of medium density housing to ensure it meets community expectations.

Council therefore does not support the Department of Planning & Environment's proposal to expand complying development to include medium density housing.

It is noted the proposal to expand complying development to include medium density housing pre-empts the proposed actions under the Draft District Plans, prepared by the Greater Sydney Commission. These include the requirement to complete the Sydenham to Bankstown Urban Renewal Corridor Strategy and the requirement for Council to prepare a local housing strategy to identify the best positions for medium density housing in the city.

If strategic planning is to occur in a coordinated and orderly manner in NSW, Council should first be given the opportunity to complete the above strategic planning. Once Council demonstrates that it can continue to efficiently deliver medium density housing in the city, it should also be given the opportunity to be exempt from the Draft Medium Density Housing Code (similar to the exemption granted under the former State Environmental Planning Policy No. 53, which aimed to stimulate medium density housing in targeted areas).

## **FINANCIAL IMPACT OF RECOMMENDATIONS**

---

The Draft Medium Density Housing Code does not discuss the process for the collection of Section 94A Development Contributions or subdivision costs for complying development proposals.

## **RECOMMENDATION**

---

That Council endorses the submission to the Department of Planning and Environment Draft Medium Density Housing Code and Draft Medium Density Design Guide as shown in Attachment A.

## **ATTACHMENTS**

---

- A. Council's Submission
- B. Exhibition Summary—Draft Medium Density Housing Code and Design Guide

## **ATTACHMENT A–Council’s Submission to the Exhibition of the Draft Medium Density Housing Code and Draft Medium Density Design Guide**

Following a review of the Draft Medium Density Housing Code and Design Guide, Council does not support the proposal to expand complying development to include medium density housing for the following key reasons:

**Key Concern 1: The proposed development controls will result in medium density housing that is incompatible with the prevailing low density character and amenity of the suburban neighbourhoods in the City of Canterbury–Bankstown.**

At present, Council permits dual occupancies, attached dwellings and multi dwelling housing in the following residential zones subject to development consent:

<b>Local Environmental Plans</b>	<b>Zone R2 Low Density Residential</b>	<b>Zone R3 Medium Density Residential</b>
Bankstown LEP 2015	Dual occupancies and multi dwelling housing (i.e. villas)	Attached dwellings and multi dwelling housing (i.e. villas and townhouses)
Canterbury LEP 2012	Dual occupancies	Dual occupancies, attached dwellings and multi dwelling housing (i.e. villas and townhouses)

Dual occupancies, attached dwellings and multi dwelling housing are not permitted as complying development in these zones. This allows Council to assess development proposals in accordance with the LEP and DCP, which have been adopted in consultation with the community, industry, state agencies and relevant stakeholders.

The proposal to expand complying development to include dual occupancies, manor houses and multi dwelling housing (terraces) in these zones removes this capability, and introduces a ‘one size fits all’ blanket approach that is not customised to the unique characteristics of the City of Canterbury–Bankstown or is informed by community consultation.



There is significant concern this approach will result in development that is incompatible with the prevailing character and amenity of the suburban neighbourhoods, namely:

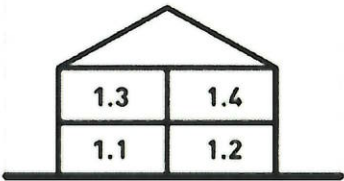
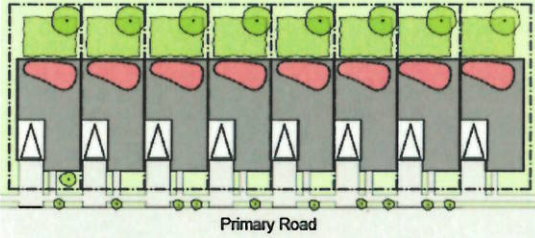
**1. Introduction of manor houses and multi dwelling housing (terraces) in Zone R2 Low Density Residential and inconsistency with Council’s strategic planning**

The objectives of Zone R2 Low Density Residential are to provide for the housing needs of the community within a low density residential environment, to allow for the development of low density housing that has regard to local amenity, and to require landscape as a key characteristic in the low density residential environment.

Council permits dwelling houses and dual occupancies in Zone R2 Low Density Residential consistent with the zone objectives. Based on Council’s strategic planning, Council also permits multi dwelling housing solely in the form of villas (two storey at the front and single storey at the rear) in keeping with the prevailing low density character and amenity of the suburban neighbourhoods.

According to the Draft Medium Density Housing Code, *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.*

However, the Draft Code is proposing to override Council’s strategic planning by introducing two new forms of medium density housing in Zone R2 Low Density Residential, to be known as manor houses and multi dwelling housing (terraces).

	<p>Manor house means a building containing 3 or 4 dwellings on one lot of land where:</p> <ul style="list-style-type: none"> <li>• each dwelling is attached top another dwelling by a common wall and / or floor, and</li> <li>• the building contains no more than two storeys excluding any basement storey.</li> </ul>
	<p>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.</p>

Following a review of the Draft Code, this proposal is not supported as:

- This proposal introduces manor houses in Zone R2 Low Density Residential, which is a low-rise form of residential flat buildings. At present, residential flat buildings are prohibited in Zone R2.
- This proposal introduces multi dwelling housing (terraces) in Zone R2 Low Density Residential, which is a low-rise form of attached dwellings. At present, attached dwellings are prohibited in Zone R2.
- This proposal attempts to fit 3 or more dwellings on the same lot size as a dual occupancy which will result in a built form that is incompatible with the prevailing low density character and amenity of the suburban neighbourhoods.

## 2. Increased floor space ratio in Zone R2 Low Density Residential and inconsistency with Council's strategic planning

According to the Draft Medium Density Design Guide, *dual occupancies tend to have limited impact on the streetscape and surrounds as the scale of the development is consistent with that of a large freestanding house.*

In the case of the City of Canterbury–Bankstown, the limited impact on the streetscape is achieved by applying a maximum 0.5:1 floor space ratio to dwelling houses, dual occupancies and multi dwelling housing in Zone R2 Low Density Residential.

The floor space ratio ensures the building envelope of dual occupancies and multi dwelling housing are compatible with the prevailing low density character and amenity of the suburban neighbourhoods.

However, the Draft Medium Density Housing Code is proposing a higher floor space ratio for dual occupancies, manor houses and multi dwelling housing (terraces) in Zone R2 Low Density Residential as follows:

Development type	Maximum FSR in Zone R2 under Council's LEPs	Maximum FSR proposed for complying development (for each lot) in Zone R2	Compatibility with the prevailing character and amenity of the suburban neighbourhoods in the City of Canterbury Bankstown
Dual occupancies	Bankstown LEP 2015 – 0.5:1	200–300m <sup>2</sup> = 0.75:1 > 300–400m <sup>2</sup> = 0.7:1	X
	Canterbury LEP 2012 – 0.5:1	> 400–500m <sup>2</sup> = 0.65:1 > 500m <sup>2</sup> = 0.6:1	X

Multi dwelling housing	Bankstown LEP 2015 – 0.5:1	Multi dwelling housing (terraces) 200–300m <sup>2</sup> = 0.8:1 > 300–400m <sup>2</sup> = 0.75:1 > 400–500m <sup>2</sup> = 0.65:1 > 500m <sup>2</sup> = 0.6:1  Manor houses > 600–700m <sup>2</sup> = 0.6:1 > 700–900m <sup>2</sup> = 0.5:1 > 900m <sup>2</sup> = 0.4:1	X
------------------------	----------------------------	--	---

The proposed floor space ratio will result in increased building bulk, reduced setbacks, less off-street car parking, less private open space and landscaping, and no building design or amenity considerations.

This approach is inconsistent with the objectives of Zone R2 Low Density Residential, and is likely to undermine the community's confidence in dual occupancies and multi dwelling housing as a housing option in this zone. Particularly, if the built form is contrary to community expectations and is incompatible with the prevailing low density character and amenity of the suburban neighbourhoods.

This approach is also inconsistent with the Land & Environment Court's planning principle in relation to floor space ratios, which reads:

*The standard of 0.5:1 FSR has found expression in numerous planning instruments and policies whose aim is to integrate increased density housing into low-density residential areas without destroying the existing open character. The Seniors Living State Environmental Planning Policy adopts a FSR of 0.5:1 as a "deemed to comply" standard. State Environmental Planning Policy 53 – Metropolitan Residential Development adopts it as the maximum permissible density in relation to dual occupancy. Many local planning instruments and policies guiding dual occupancy development in suburban areas also contain a maximum FSR control of 0.5:1.*

*The above suggests that there is a general acceptance by the planning profession that an open suburban character is most easily maintained when the FSR of buildings does not exceed 0.5:1. The question raised above may therefore be answered thus: The upper level of density that is compatible with the character of typical single-dwelling areas is around 0.5:1. Higher densities tend to produce urban rather than suburban character. This is not to say that a building with a higher FSR than 0.5:1 is necessarily inappropriate in a suburban area; only that once 0.5:1 is exceeded, it requires high levels of design skill to make a building fit into its surroundings.*

It is noted private certifiers are not qualified to assess the architectural merits of medium density housing to ensure it meets the above planning principle or community expectations.

### 3. Inconsistency between the Draft Code and Design Guide's criteria and Council's development controls

The Draft Medium Density Housing Code proposes to adopt the complying development criteria currently applicable to dwelling houses under the State Environmental Planning Policy (Exempt and Complying Development) 2007.

The Draft Code gives the explanation that medium density housing has similarities with dwelling houses in that each dwelling has a frontage to a street, each dwelling has a front and rear setback, and private open space is typically located at ground level.

Following a review of the Draft Code and the Draft Medium Density Design Guide, this proposal is not supported as the proposed development controls will result in a built form that is contrary to community expectations and is incompatible with the prevailing low density character and amenity of the suburban neighbourhoods as shown in the tables below:

#### (a) Dual occupancies

Development controls	Council's development controls for dual occupancies in the former City of Bankstown	Council's development controls for dual occupancies in the former City of Canterbury	Proposed complying development controls for dual occupancies (detached and attached-side by side)	Compatibility with the prevailing character and amenity of the suburban neighbourhoods in the City of Canterbury Bankstown
Minimum lot size	Attached – 500m <sup>2</sup> Detached – 700m <sup>2</sup>	600m <sup>2</sup>	Not less than minimum lot size in LEP	✓
Minimum lot width	Attached – 15 metres Detached – 20 metres	15 metres	12 metres	✗
Subdivision	Torrens or strata. Must not be a battle axe lot.	Torrens or strata. Must not be a battle axe lot.	Torrens or strata. Must not be a battle axe lot.	✓
Minimum subdivision lot size	250m <sup>2</sup>	300m <sup>2</sup> and 7.5 metre frontage.	200m <sup>2</sup> and 6 metre frontage.	✗
Dwelling orientation	Both dwellings must face the street.	Each dwelling to have frontage to the street.	Each dwelling has a frontage to a primary, secondary or parallel road.	✓

Maximum floor space ratio	0.5:1	0.5:1	200–300m <sup>2</sup> = 0.75:1 > 300–400m <sup>2</sup> = 0.7:1 > 400–500m <sup>2</sup> = 0.65:1 > 500m <sup>2</sup> = 0.6:1	X
Maximum building height	9 metres	8.5 metres	8.5 metres	✓
Maximum wall height	7 metres	7 metres	No requirement	X
Storey limit	2 storeys plus attic	2 storeys	2 storeys plus attic	✓
Minimum front setback (primary road)	5.5 metres	6 metres	200–300m <sup>2</sup> = 3.5 metres > 300–900m <sup>2</sup> = 4.5 metres > 900–1,500m <sup>2</sup> = 6.5 metres > 1,500m <sup>2</sup> = 10 metres	X
Minimum front setback (secondary road)	3 metres	3.5 metres	200–900m <sup>2</sup> = 2 metres > 900–1,500m <sup>2</sup> = 3 metres > 1,500m <sup>2</sup> = 5 metres	X
Minimum side setback	Wall height < 7 metres = 0.9 metre  Wall height 7 metres or more = 1.5 metres	1.2 metres	Front half of lot = 1.2 metres  Rear half of lot = 45° plane projected from a height 3.6m above the boundary.	✓
Minimum rear setback	Must accommodate 80m <sup>2</sup> private open space per dwelling.	6 metres	Where building height is <4.5 metres: 200–600m <sup>2</sup> = 3 metres > 600–1,500m <sup>2</sup> = 6 metres > 1,500m <sup>2</sup> = 15 metres Where building height is 4.5 metres or more: 200–1,500m <sup>2</sup> = 10 metres > 1,500m <sup>2</sup> = 15 metres	X
Minimum private open space	80m <sup>2</sup> per dwelling	50m <sup>2</sup> per dwelling	16m <sup>2</sup> per dwelling	X

Minimum width of private open space	5 metres	2.5 metres	1.5 metres	X
Minimum landscaped area	45% of the front yard.	Merit assessment	200–300m <sup>2</sup> = 20% > 300–400m <sup>2</sup> = 25% > 400–500m <sup>2</sup> = 30% > 500m <sup>2</sup> = 35%	X
Solar access requirements	Living area of each dwelling and adjoining dwellings = Minimum 3 hours between 8.00am and 4.00pm on the winter solstice.	Living area of each dwelling and adjoining dwellings = Minimum 2 hours between 9.00am and 3.00pm on the winter solstice.	Living room windows = Minimum 2 hours between 9am and 3pm on the winter solstice.  For adjoining dwellings, living room windows more than 3 metres from the boundary = Minimum 2 hours between 9am and 3pm on the winter solstice.	X
Privacy requirements	Privacy requirements for windows and balconies that face onto adjoining dwellings and private open spaces.	Privacy requirements for windows and balconies that face onto adjoining dwellings and private open spaces.	Windows with sill levels less than 1.5 metres above a floor level that is more than 1 metre above ground level must be screened if they are less than 3 metres from a boundary.  Balconies / terraces with an area > 3m <sup>2</sup> must include privacy screens.	X

Facade design	Asymmetrical design to provide each dwelling with an individual identity when viewed from the street; or incorporate architectural elements that are compatible with the asymmetrical appearance of neighbouring dwelling houses, particularly where a pattern is established by a group of adjoining dwelling houses.	Do not use identical facades for each dwelling – use variations in terms of plan dimensions, shape, plus height and wall alignment as well as colours and materials.	Submit design verification statement.	<b>X</b>
Minimum car parking provision	1 car space per dwelling with 2 or less bedrooms; or 2 car spaces per dwelling with 3 or more bedrooms.	1–2 bedroom dwelling = 1 space; 3+ bedroom dwelling = 2 spaces	1 car space per dwelling	<b>X</b>

**(b) Manor houses and dual occupancies (attached—one dwelling over the other)**

Development controls	Council's development controls for dual occupancies in the former City of Bankstown	Council's development controls for dual occupancies in the former City of Canterbury	Proposed complying development controls for manor houses and dual occupancies (attached—one dwelling over the other)	Compatibility with the prevailing character and amenity of the suburban neighbourhoods in the City of Canterbury Bankstown
Minimum lot size	Attached – 500m <sup>2</sup> Detached – 700m <sup>2</sup>	600m <sup>2</sup>	600m <sup>2</sup>	X
Minimum lot width	Attached – 15 metres Detached – 20 metres	15 metres	15 metres	X
Subdivision	Torrens or strata. Must not be a battle axe lot.	Torrens or strata. Must not be a battle axe lot.	Strata. Must not be a battle axe lot.	✓
Dwelling orientation	Both dwellings must face the street.	Each dwelling to have frontage to the street.	Each dwelling has a frontage to a primary, secondary or parallel road.	✓
Maximum floor space ratio	0.5:1	0.5:1	> 600–700m <sup>2</sup> = 0.6:1 > 700–920m <sup>2</sup> = 0.5:1 > 920m <sup>2</sup> = 0.4:1	X
Maximum building height	9 metres	8.5 metres	8.5 metres	✓
Maximum wall height	7 metres	7 metres	No requirement	X
Storey limit	2 storeys plus attic	2 storeys	2 storeys plus attic	✓
Minimum front setback (primary road)	5.5 metres	6 metres	600–900m <sup>2</sup> = 4.5 metres > 900–1,500m <sup>2</sup> = 6.5 metres > 1,500m <sup>2</sup> = 10 metres	X
Minimum front setback (secondary road)	3 metres	3.5 metres	600–1,500m <sup>2</sup> = 3 metres > 1,500m <sup>2</sup> = 5 metres	✓



Minimum side setback	Wall height < 7 metres = 0.9 metre  Wall height 7 metres or more = 1.5 metres	1.2 metres	Front half of lot = 1.5 metres  Rear half of lot = 45° plane projected from a height 3.6m above the boundary.	✓
Minimum rear setback	Must accommodate 80m <sup>2</sup> private open space per dwelling.	6 metres	Where building height is <4.5 metres: 600–1,500m <sup>2</sup> = 6 metres > 1,500m <sup>2</sup> = 15 metres  Where building height is 4.5 metres or more: 200–1,500m <sup>2</sup> = 10 metres > 1,500m <sup>2</sup> = 15 metres	✗
Minimum private open space	80m <sup>2</sup> per dwelling	50m <sup>2</sup> per dwelling	1 bedroom dwelling = 8m <sup>2</sup> 2–3+ bedroom dwelling = 12m <sup>2</sup> Ground floor dwelling = 16m <sup>2</sup>	✗
Minimum width of private open space	5 metres	2.5 metres	2 metres	✗
Minimum landscaped area	45% of the front yard.	Merit assessment	600–750m <sup>2</sup> = 30% > 750–900m <sup>2</sup> = 35% > 900–1,500m <sup>2</sup> = 40% > 1,500m <sup>2</sup> = 45%	✗
Solar access requirements	Living area of each dwelling and adjoining dwellings = Minimum 3 hours between 8.00am and 4.00pm on the winter solstice.	Living area of each dwelling and adjoining dwellings = Minimum 2 hours between 9.00am and 3.00pm on the winter solstice.	Living room or private open space in 75% of dwellings = Minimum 2 hours between 9am and 3pm on the winter solstice. For adjoining dwellings, living room windows more than 3 metres from the boundary =	✗

			Minimum 2 hours between 9am and 3pm on the winter solstice.	
Privacy requirements	Privacy requirements for windows and balconies that face onto adjoining dwellings and private open spaces.	Privacy requirements for windows and balconies that face onto adjoining dwellings and private open spaces.	Windows with sill levels less than 1.5 metres above a floor level that is more than 1 metre above ground level must be screened if they are less than 3 metres from a boundary. Balconies / terraces with an area > 3m <sup>2</sup> must include privacy screens.	X
Minimum car parking provision	1 car space per dwelling with 2 or less bedrooms; or 2 car spaces per dwelling with 3 or more bedrooms.	1–2 bedroom dwelling = 1 space; 3+ bedroom dwelling = 2 spaces	1 car space per dwelling	X

**(c) Multi dwelling housing (terraces)**

<b>Development controls</b>	<b>Council's development controls for multi dwelling housing in Zone R2</b>	<b>Proposed complying development controls for multi dwelling housing (terraces)</b>	<b>Compatibility with the prevailing character and amenity of the suburban neighbourhoods in the City of Canterbury Bankstown</b>
Minimum lot size	1,200m <sup>2</sup>	No requirement	<b>X</b>
Minimum lot width	20 metres	No requirement	<b>X</b>
Subdivision	Strata. Must not be a battle axe lot.	Torrens or strata. Must not be a battle axe lot.	<b>X</b>
Minimum subdivision lot size	1 dwelling per 300m <sup>2</sup> of site area.	200m <sup>2</sup> and 6 metre frontage.	<b>X</b>
Dwelling orientation	The front dwellings must face the street.	Each dwelling has a frontage to a primary, secondary or parallel road.	<b>✓</b>
Maximum floor space ratio	0.5:1	200–300m <sup>2</sup> = 0.8:1 > 300–400m <sup>2</sup> = 0.75:1 > 400–500m <sup>2</sup> = 0.65:1 > 500m <sup>2</sup> = 0.6:1	<b>X</b>
Maximum building height	9 metres for front dwellings and 6 metres for rear dwellings.	8.5 metres	<b>✓</b>
Maximum wall height	7 metres for front dwellings and 3 metres for rear dwellings.	No requirement	<b>X</b>
Storey limit	2 storeys (plus attic) for front dwellings and single storey (plus attic) for rear dwellings.	2 storeys plus attic	<b>X</b>
Minimum front setback (primary road)	5.5 metres	200–300m <sup>2</sup> = 3.5 metres > 300–900m <sup>2</sup> = 4.5 metres > 900–1,500m <sup>2</sup> = 6.5 metres > 1,500m <sup>2</sup> = 10 metres	<b>X</b>

Minimum front setback (secondary road)	4.5 metres	200–900m <sup>2</sup> = 2 metres > 900–1,500m <sup>2</sup> = 3 metres > 1,500m <sup>2</sup> = 5 metres	X
Minimum side setback	5 metres (walls with windows) and 2 metres (blank walls).	Front half of lot = 1.2 metres  Rear half of lot = 45° plane projected from a height 3.6m above the boundary.	X
Minimum rear setback	5 metres (walls with windows) and 2 metres (blank walls).	Building height <4.5 metres: 200–600m <sup>2</sup> = 3 metres > 600–1,500m <sup>2</sup> = 6 metres > 1,500m <sup>2</sup> = 15 metres  Building height 4.5 metres or more: 200–1,500m <sup>2</sup> = 10 metres > 1,500m <sup>2</sup> = 15 metres	X
Minimum private open space	60m <sup>2</sup> per dwelling	16m <sup>2</sup> per dwelling	X
Minimum width of private open space	5 metres	3 metres	X
Minimum landscaped area	Merit assessment	200–300m <sup>2</sup> = 20% > 300–400m <sup>2</sup> = 25% > 400–500m <sup>2</sup> = 30% > 500m <sup>2</sup> = 35%	✓
Solar access requirements	Living area of each dwelling and adjoining dwellings = Minimum 3 hours between 8.00am and 4.00pm on the winter solstice.	Living room windows = Minimum 2 hours between 9am and 3pm on the winter solstice.  For adjoining dwellings, living room windows more than 3 metres from the boundary = Minimum 2 hours between 9am and 3pm on the winter solstice.	X

Privacy requirements	Privacy requirements for windows and balconies that face onto adjoining dwellings and private open spaces.	Windows with sill levels less than 1.5 metres above a floor level that is more than 1 metre above ground level must be screened if they are less than 3 metres from a boundary.  Balconies / terraces with an area > 2m <sup>2</sup> must include privacy screens.	X
Minimum car parking provision	1 car space per 1 bedroom dwelling; or 1.5 car spaces per 2 bedroom dwelling; or 2 car spaces per 3 or more bedroom dwelling; and 1 visitor car space per 5 dwellings.	1 car space per dwelling.  Where a basement car park serves more than 10 dwellings = 1 visitor space per 5 dwellings.	X

**Key Concern 2: Complying development does not take into consideration the unique characteristics and issues within the various suburbs in the City of Canterbury–Bankstown, and is not designed to customise solutions to address potential impacts.**

Council has a demonstrated record of efficiently delivering medium density housing, removing existing obstacles to delivering this form of housing, and providing a variety of housing choice in areas that are zoned for medium density housing.

Firstly, Council adopted Local Area Plans to identify the best positions for medium density housing across the city, consistent with the Metropolitan Plan 'A Plan for Growing Sydney' and the Draft South District Plan. This occurred in consultation with the community, industry, state agencies and other key stakeholders. Consistent with community and market expectations, the best positions are located in areas that are well serviced by infrastructure and community facilities, and have access to good public transport. The zoning and planning control changes have been or are in the process of being incorporated in Council's LEP and DCP.

As a result, Canterbury–Bankstown Council delivered 1,853 new dwellings in 2014/15 and 1,572 new dwellings in 2015/16. Around half of the new dwellings are in the form of medium density housing.

Secondly, the Environmental Planning & Assessment Act 1979 provides an appropriate development assessment process to consider and determine medium density housing proposals, particularly within Zone R2 Low Density Residential.

The development assessment process must consider Council's LEP and DCP, which have been adopted in consultation with the community, industry, state agencies and other key stakeholders.

The development assessment process also enables Council to consider various issues that have direct implications on the siting and building design of dual occupancies and multi dwelling housing as required by the objectives and section 79C of the Environmental Planning & Assessment Act 1979. These include the likely impacts of development, the suitability of the site for the development, any submissions made during the notification period and the public interest.

Council has a demonstrated record that it can manage the development assessment process within the required 40 day period required by the Act. In the 2014/15 financial year, the median time for determining development applications was 36 days and in 2015/16, the median time for determining development applications was 35 days.

It is important for this process to continue as it enables Council to assess dual occupancies and multi dwelling housing within the local context of the suburban neighbourhoods, and to ensure these forms of development deliver better quality building designs that respond appropriately to the character of the area, landscaped setting and surrounding built form.

It is also important to customise solutions to address potential impacts resulting from medium density housing, in particular:

- Narrow streets and the cumulative impact of traffic on the local road network.
- Impact on amenity (solar access and privacy) within the development site or on neighbouring properties.
- Impact on topography and slopes.
- Impact on the foreshore scenic quality particularly adjacent to the Georges River.
- Compatibility with Council's Tree Preservation Order policy.
- Impact on the canopy and roots of trees on neighbouring properties.
- Compatibility with Council's waste collection requirements.
- Compatibility with environmental constraints such as flooding, bushfire risk, acid sulfate soils, ANEF noise contours, and OLS building height restrictions adjacent to the Bankstown Airport.
- Proximity to industrial lands, and the need for certain setbacks from industries that may have noise and air quality impacts.
- Impact if the proposal is in the vicinity of heritage items.
- Vehicle access to state and regional roads and amenity impacts (noise and air quality) from traffic.
- Impact on endangered ecological communities and biodiversity corridors within development sites and neighbouring properties.
- Contamination.
- Replacement of dividing fences.

- Impact on stormwater disposal and the requirement for downstream easements
- Impact on site cover
- Impact of excavation and geotechnical / engineering requirements.
- The staging of development and associated infrastructure in accordance with planning agreements.
- Referrals for integrated development.

The concern with the complying development process is it does not consider any of these important matters.

The complying development process also does not acknowledge community expectations for high quality design and built form outcomes, and does not apply the same rigour as the development assessment process to address urban design issues.

**Key Concern 3: Private certifiers are not qualified to assess the architectural merits of medium density housing to ensure it meets community expectations, particularly in the suburban neighbourhoods of the City of Canterbury–Bankstown.**

It is important to assess dual occupancies and multi dwelling housing within the local context of the suburban neighbourhoods, and to ensure these forms of development:

- Deliver better quality design for buildings that respond appropriately to the character of the area, landscaped setting and surrounding built form.
- Deliver a more diverse housing mix and choice.

Whilst some of the assessment may be in the form of numerical requirements, experience has shown a large part of the assessment is based on merit assessment, particularly when responding to community concerns raised during the notification process. This requires the skill of qualified practitioners such as architects and town planners.

The requirement for design verification statements also does not provide an adequate safeguard to ensure complying development will deliver better design outcomes (compared to the development assessment process) when assessing merit issues such as building design and amenity.

In particular, the Draft Medium Density Housing Code and Design Guide do not require a proper assessment of building design within the local context of the suburban neighbourhoods (such as the impact of facade treatment, roof pitch and garage appearance from the street).

Experience has shown that once developers receive approval for a particular building design (particularly with dual occupancies and multi dwelling housing), they tend to duplicate the same symmetrical building design in all their projects.

This does not deliver better quality design or a more diverse housing mix and choice. It is likely that complying development may encourage this poor design practice.

**Key Concern 4: Complying development does not provide the community with the opportunity to comment on medium density housing proposals in the same way as development applications.**

At present, the development assessment process must consider the matters under section 79C of the Environmental Planning & Assessment Act 1979. These include the likely impacts of development, the suitability of the site for the development, any submissions made in accordance with the Act, and the public interest. As part of the development assessment process, the community has 14 days to review proposals and to make formal submissions for Council to consider.

The concern with the complying development process is it does not provide the community with this opportunity to comment on medium density housing proposals, and it does not take into consideration the public interest. This is despite the potential for these proposals to be inconsistent with the existing urban fabric.

**Key Concern 5: The Draft Medium Density Housing Code does not recognise Council's demonstrated record that it can fast track the supply of medium density housing via the development assessment process.**

According to the Draft Medium Density Housing Code, one of the intended outcomes is to fast track housing supply. It mentions that complying development applications take less time to approve compared to development applications.

However, the Draft Medium Density Housing Code does not recognise Council's demonstrated record that it can fast track the supply of medium density housing via the development assessment process. In the 2014/2015 financial year, the median time for determining development applications was 36 days and in 2015/2016, the median time for determining development applications was 35 days.

**Key Concern 6: The Draft Medium Density Housing Code does not recognise current state and local strategic planning which already delivers medium density housing in the City of Canterbury-Bankstown. The Draft Code also pre-empts the Draft District Plans prepared by the Greater Sydney Commission, in particular the requirement for councils to prepare local housing strategies to identify the best positions for medium density housing in the city.**

Council has a demonstrated record of efficiently delivering medium density housing, removing existing obstacles to delivering this form of housing, and



providing a variety of housing choice in areas that are zoned for medium density housing.

Council adopted Local Area Plans to identify the best positions for medium density housing across the city, consistent with the Metropolitan Plan 'A Plan for Growing Sydney' and the Draft South District Plan. This occurred in consultation with the community, industry, state agencies and other key stakeholders. Consistent with community and market expectations, the best positions are located in areas that are well serviced by infrastructure and community facilities, and have access to good public transport. The zoning and planning control changes have been or are in the process of being incorporated in Council's LEP and DCP.

As a result, Canterbury–Bankstown Council delivered 1,853 new dwellings in 2014/15 and 1,572 new dwellings in 2015/16. Around half of the new dwellings are in the form of medium density housing.

The concern with the complying development process is it does not take into account the above matters, which are important to ensure medium density housing is compatible with the prevailing low density character and amenity of the suburban neighbourhoods in the City of Canterbury–Bankstown.

The concern with the complying development process is it also pre-empted the proposed actions under the Draft Amendment to 'A Plan for Growing Sydney' and the Draft South District Plan, which read:

*Councils are in the best position to investigate opportunities for medium density in these areas, which we refer to as the 'missing middle'. Medium density housing is ideally located in transition areas between urban renewal precincts and existing suburbs, particularly around local centres and within the one to five kilometre catchment of regional transport where links for walking and cycling help promote a healthy lifestyle.*

Based on Council's strategic planning, the suburban neighbourhoods are generally located outside the transition areas of centres and regional transport, and do not meet the above criteria to have intensified medium density housing such as manor houses and multi dwelling housing (terraces).

Council's housing strategies and Local Area Plans do not identify the suburban neighbourhoods (i.e. Zone R2 Low Density Residential) as appropriate locations for manor houses and multi dwelling housing (terraces).

If strategic planning is to occur in a coordinated and orderly manner in NSW, Council should first be given the opportunity to complete the above strategic planning. If Council demonstrates that it can continue to efficiently deliver medium density housing in the city, it should also be given the opportunity to be exempt from the Draft Medium Density Housing Code (similar to the exemption granted under the former State Environmental Planning Policy No. 53, which aimed to stimulate medium density housing in targeted areas).