

December 12, 2016

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

Dear Sir/Madam,

RE: Consultation – Draft Medium Density Design Guide and Explanation of Intended Effect for the new Medium Density Housing Code

I refer to the recent consultation released by the Department of Planning & Environment regard to proposals to expand the complying planning provisions to include various types of low-rise medium density development.

The consultation sets out the Department's proposal to expand complying development under *State Environmental Planning Policy (Exempt and Complying Codes) 2008* (the SEPP) to cover the 'missing middle', provide a consistent State-wide approach for medium density housing forms and assist in the delivery of housing and housing diversity, along with some design guidance with the Medium Density Design Code.

Following consideration of the proposals put forward in the consultation paper, NSROC would like to make the following comments:

The 'Missing Middle'

The consultation (along with previous papers) states that there is an identified 'housing policy gap' with regards to opportunities to deliver low rise medium density housing to meet growing demand. This policy gap has been termed the 'missing middle' and applies to developments such as terraces, manor homes and dual occupancies.

The concept of the 'missing middle' is accepted by NSROC, and the Governments intention address this issue is generally supported in principle. NSROC member Councils certainly understand (and support) the need for a wider range of housing types, and agree that some policy focus should be placed on how to deal with this issue.

However, a 'blanket approach' to medium density housing by adopting state-wide Complying Development provisions for medium density housing in residential zones is not considered the best approach.

The Role of the District Plans

Establishing an approach for medium density development through the complying development provisions would undermine the role of the District Plans and local housing

strategies. At the current time we have draft District Plans on public consultation which set out that councils are best placed to investigate opportunities for medium density housing.

The proposal to introduce dual occupancy and 'manor housing' types as complying development would undermine the role of the District Plans and local housing strategies by enabling new dwellings without appropriate consideration of matters such as access to public transport, employment, community services and open space

A more appropriate approach would be to outline within District Plans a requirement that emerging local council strategies **MUST** aim to provide a mix of housing development types. Councils would then be obliged to ensure that they implement policies to meet these requirements.

Community Consultation in Planning

The Planning Reform White Paper released on 2013 for consultation canvassed the need to undertake up-front community consultation concerning the location of future housing growth.

The proposals contained within the consultation would remove the opportunity for upfront consultation and residents would be denied the opportunity to comment on appropriate locations for such development types – potentially undermining local community confidence in the planning system itself.

Preference for Merits Based Assessment

Developments carried out in accordance with a complying development certificates are typically low impact uses that are normally permitted by local planning instruments and readily conform to state wide development standards - incorporating a range of specific (numerical) controls to which developments must meet (including setbacks, height controls, minimum lot frontages, minimum lot sizes etc).

Compliance with a numerical development standard may still result in negative environmental effects such as privacy, solar access, drainage, waste and impact on vegetation/trees. In many instances, Councils have developed individually tailored development policies for such development types, having regard to the particular character (and emerging character) of their areas. Applying standard numerical standards does not take into account the particular characteristics of an area, and fails to recognise the individual character of residential locations.

These matters have significant potential to not only impact on the character of areas, but also on the provisions of services to the community. Again, poor development outcomes as a result of blanket numerical standards are likely to undermine community sentiment in the development system.

For these reasons, such development types are best dealt with through a merits based assessment process.

Exemptions for Councils


Should the Department proceed to amend the Codes SEPP in the manner proposed, provision should be made for councils to seek exemption where they can demonstrate that their local housing strategy has implemented the requirements of the District Plan and is consistent with the design intent of the Medium Density design Guide.

Individual Council Comments

This correspondence is aimed merely at providing the over-arching strategic objections to the proposal to expand Complying Development provisions. Each of the NSROC Councils are likely to make their own submissions dealing more specifically with their individual concerns and highlighting specific issues for their respective Local Government Areas.

If you have any further questions or require clarification, please do not hesitate to contact me directly.

Yours sincerely,



Andrew Roach
Executive Director