

Planning and Regulatory.J Gaynor.JDunkerley
Phone: 02 4974 2891

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



PO Box 489, Newcastle
NSW 2300 Australia
Phone 02 4974 2000
Facsimile 02 4974 2222
Email mail@ncc.nsw.gov.au
www.newcastle.nsw.gov.au

Dear Sir/Madam

DRAFT MEDIUM DENSITY DESIGN GUIDE AND EXPLANATION OF INTENDED EFFECT FOR THE NEW MEDIUM DENSITY HOUSING CODE

Thank you for the opportunity to make a submission in relation to the above matter.

Newcastle City Council supports the efforts of the NSW government to improve the quality of medium density development through the introduction of the Medium Density Design Guide (Design Guide) and Medium Density Housing Code (Housing Code). Council also supports complying development being limited to the three (3) proposed forms of medium density housing.

Newcastle City Council provides the following comments in relation to the Design Guide and Housing Code:

Medium Density Housing Code

1 Subdivision

The proposed new standard instrument clause '4.1C Concurrent consent for development and subdivision' to enable concurrent Torrens title subdivision with development is supported in principle. However, the clause should be further refined to accommodate an 'existing' dwelling on one of the resultant lots rather than necessarily requiring the 'erection' of a dwelling on each of the lots. This is because many multi-dwelling housing proposals and dual-occupancies propose to retain an existing dwelling on the site. Clause '4.1A Exception to minimum lot sizes for certain residential development' under Newcastle LEP 2012 provides an example of possible wording.

It is agreed that Torrens title is often a desirable outcome for ownership and, if done appropriately, can alleviate some of the complexities faced with Strata title schemes. However, caution needs to be taken to including Torrens title subdivision as complying development. In practice there are a number of site / development specific requirements that need to be considered on a case by case basis to ensure the success of Torrens titling. For example, each development must have independent services, particularly stormwater management systems. The application of easements can often address some matters but must be considered and balanced to ensure that allotments are not unnecessarily burdened into the future. Unlike Strata title the Torrens title system does not put in place a future management regime to be able to manage any issues that may arise. It is therefore recommended that Torrens

title not be included as complying development and can be adequately accommodated as a development application.

2 Height of multi-dwelling (terraces)

For multi-dwelling housing (terraces) the maximum height limit should be restricted to 8.5m, not 9m as proposed. This would ensure consistency with single dwelling and dual occupancy complying development. It is also noted that 8.5m is a typical building height for the R2 Low Density zone in LEPs. Where an LEP permits a greater height limit, an alternate development can adequately be considered and accommodated through the development application path.

Medium Density Design Guide

The design provisions of the Design Guide are generally sound and Council supports the requirement for a design verification statement to be submitted with each application, as it can be used to hold designers to account if they are routinely providing designs that do not comply. However, there are a number of matters that require further clarification and Council also provides suggestions to improve the format and content of the Design Guide.

1 Clarification of controls and the Standard Instrument Principal Local Environmental Plan (LEP)

a) Floor Space Ratio

The Design Guide suggests the application of a range of floor space ratios dependent on lot size and building typology. Although Council supports the intent of a floor space range, it is noted that this is difficult to achieve under the existing standard instrument principal LEP. Although the standard instrument principal LEP allows Councils to use a table to specify various FSRs based on site area or development type, the LEP Practice Note (PN 08-001) suggests that *"this approach will usually be suitable only in centres and redevelopment areas."* Consideration should be given to broadening the guidelines so that floor space ranges may be used in all zones where medium density development is permitted.

b) Landscaped area

The Design Guide also makes a number of references to landscaped area being addressed through controls within the LEP. For example, page 22 includes the statement:

"Landscaped area is best controlled in the LEP for low and medium density development where it can effectively preserve the landscaped character; and..."

However, the standard instrument principal LEP does not currently contain provisions for landscaped area. Clarification is requested as to whether it is intended to introduce landscaped area controls into the LEP, or if landscaped area will continue to be retained as a 'principal' control within a development control plan (DCP). Council's preference is to retain landscaping controls within the DCP.

2 Structure / length of the document

While the design content of the Design Guide is generally sound, there are opportunities to streamline it into a more user friendly format. This is an important

goal, given that the Design Guide will be used for the design of relatively small scale and straightforward development proposals.

The document is structured so that each building typology is contained in its own discrete section. This results in an unnecessarily lengthy and repetitive document. To reduce repetition, Part 3 of the Design Guide could be split into two sections. One section would contain the design criteria that are specific to each development type. The second section would contain general design criteria that are the same for all residential building types. These more general design criteria could include visual privacy, acoustic privacy, noise and pollution and the like.

The Design Guide could also be simplified further by combining the guidelines in Part 2 and the general controls from Part 3. At present there appears to be unnecessary repetition of design guidance between Part 2 and Part 3. If this were pursued it is recommended that objectives be included in Part 2, similar to the Apartment Design Guide.

3 Clarification of principal controls

Section 1.3 Planning Context 'Relationship to Development Control Plans' states:

*"Where a Council has adopted this guide, the document is intended to sit alongside the Development Control Plan applying to a site. The DCP provides guidance on local principal controls such as **character**, building envelope, setbacks and car parking requirements."*

However, it is not clear how Council would be able to include and apply local character controls if it chooses to adopt the Design Guide. The 'Local Character and Context' controls in Part 3 of the Design Guide are not listed under the Principal controls section. In addition, the design criteria for 'Local Character and Context' do not require a statement to address local character controls within the applicable DCP.

The 'Local Character and Context' design criteria should be relocated to the principal controls, to allow appropriate local character controls to be developed and applied to medium density development. Alternatively, the design criteria should be amended to compel the design statement to demonstrate compliance with the Local Character and Context requirements contained in the relevant DCP.

4 Improved design criteria for multi dwelling housing

Newcastle Council receives a significant number of development applications for multi dwelling housing in the form of 'row housing' and is currently reviewing DCP controls to improve the built form outcomes of these forms of development. Council is concerned that the design criteria in section 3 of the Design Guide lacks sufficient guidance to result in good built form and amenity outcomes, and is inconsistent with the recommended controls for multi dwelling housing contained in the appendices. Additional objectives and design criteria should be included in Part 3 of the Design Guide for multi dwelling housing, including:

- Specifying the minimum required frontage.
- Reference the use of courtyard design for these forms of development.
- Address the need to include significant gaps between dwellings for landscaping.

- Clarify controls within 3.3H Building separation - do the separation and building length requirements apply to a number of attached or semi-detached dwellings in a row house development or to individual dwellings?

5 Application of Design Guide to residential flat buildings where SEPP 65 does not apply

SEPP 65 and the Apartment Design Guide apply to residential flat buildings that are 3 or more storeys in height and contain 4 or more dwellings, and the Medium Density Design Guide will apply to 'Manor Houses' which are a maximum of two storeys and 4 dwellings. A policy gap will now exist for residential flat buildings that are two storeys in height but contain more than 4 dwellings and three storey residential flat buildings containing three dwellings. To address this policy gap, the Medium Density Design Guide should also apply to all residential flat buildings where SEPP 65 does not apply.

7 Changes to specific design criteria

Newcastle Council suggests changes to the following specific design criteria:

- 2D Local Character and Context** - the design guidance (page 27 and 28) would more logically be ordered from the broadest context down, i.e. 1. Local scale, 2. Neighbourhood scale, 3. Streetscape Scale, 4. Site scale. This would more logically correspond to Figures 2-17 to 2-20.
- 3.2P Visual Privacy** - The design criteria "74" detailing screening requirements for a terrace, balcony or verandah is inconsistent with the objective and it appears that it should be referring to privacy screening where the terrace is less than a specified distance from boundary and also elevated. The wording of this criteria should be consistent with the wording in sections 3.1P, 3.3P and 3.4P.

This is an example of criteria that could readily be specified as a general criteria for all development types rather than being repeated for each development type.

- 3.3H Building separation** - The maximum building length of 45m is significant and a building of this length is unlikely to meet the objective. This may result in two storey buildings extending from the front setback to the rear setback without a break, resulting in visual bulk impacts to adjoining properties. In addition, 3m separation distance between buildings does not provide adequate space for significant landscaping. A maximum building length of 25m and a minimum separation distance of 5m may be more appropriate.
- Public Domain Interface (3.1E, 3.2E, 3.3E and 3.4E)** - requirements for fencing include the design criteria that "*The maximum fence height within the front setback is 1.5m, with an average no greater than 1.2m*". The wording of this clause may lead to conflict in interpretations and should be reviewed. It would also be beneficial for the objectives to reference the local streetscape character, particularly for development within heritage conservation areas.
- Water Management and Conservation (3.1Y, 3.2Y, 3.3Y and 3.4Y)** - controls in this section should clearly state that stormwater drainage systems are to be provided in accordance with a DCP.
- Waste Management (3.1Z, 3.2Z, 3.3Z and 3.4Z)** - controls in this section should clearly reference compliance with any waste management controls within a Council DCP or Policy. This is particularly important for large multi dwelling developments where there is insufficient space for a street collection

service and suitable arrangements need to be made for onsite collection by private contractors.

Council reaffirms its support to the efforts of the NSW Government to improve the quality of medium density housing, and requests that the above matters be considered when finalising the Medium Density Housing Code and Design Guide

Please contact Joanne Dunkerley on 4974 2891, should you have any questions in relation to the issues raised in this submission.

Yours faithfully

A handwritten signature in dark ink, appearing to read 'Jill Gaynor', with a stylized flourish at the end.

Jill Gaynor
MANAGER, STRATEGIC PLANNING