

12 December 2016

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Dear Madam/Sir

**Subject: Tweed Shire Council Submission on the NSW Government Draft Density Design Guide and Associated Draft Medium Density Design Guide**

Tweed Shire Council (TSC) appreciates the opportunity to provide comment on the proposed Medium Density Housing Code and the Draft Medium density Design guide.

TSC is supportive of the Department of Planning and Environment's leadership in developing a comprehensive set of design guidelines addressing low rise medium density housing types in a similar style and presentation to the SEPP 65 Apartment Design Guidelines which has achieved a higher level of design outcome.

Supporting a framework which promotes a diverse mix of medium density housing types, in well located, connected and serviced areas resonates with many of TSC locality planning and urban design strategies. Tweed has a high proportion of single and couple households which is projected to increase into the future. Market research to date has indicated a strong trend towards medium density housing types which have individual street frontages with small individual yards outside of expensive strata title arrangements.

Particularly within some of our well located greenfield development sites there are opportunities for medium density housing typologies, and this will increase housing choice and density within close proximity to our business and activity centres. Promoting these well connected and walkable communities will help leverage greater public benefit and liveability standards, improve access to more affordable and fit-for-purpose housing, and stimulate the transition to a more diverse and demographically receptive housing stock, which are necessitated by changing lifestyle, social and economic needs and expectations.

However providing increased opportunity and development incentive for low rise medium density housing types needs to be tempered and balanced within the context of the receiving communities. In many cases these are local communities who have been extensively consulted and have substantially contributed to the local

characterisation, place based design guidelines and development controls located within the Shire's existing suite of locality plans.

Emphasising the importance of respecting existing community values embodied in these locality plans is the comment in the '*Explanation of Intended Effects*' where it states that '*complying development is not intended to override a Council's strategic planning, but work within the controls developed through strategic planning to efficiently deliver simple housing forms*'. Delivering on that clear intent will require an unequivocal articulation of it through the resultant regulatory objectives, clauses and development standards, including allowance for their calibration to suit the local context and character. The existing development application process provides a good opportunity to address these issues and to resolve party conflict through negotiated planning outcomes, however there is far less certainty and ability to achieve tailored planning outcomes within a code assessable framework. It will elevate the prospect of strategic planning objectives being eroded through the cumulative impact of suboptimal planning outcomes and will undermine both community values and their confidence in the broader planning framework.

TSC request that these latter points be duly considered for their longer-term impact, as the cost of planning strategically ultimately for and with a hostile community is more likely to outweigh the short-term cost benefit of allowing quicker approval times. This will also affect the development industry at the front end of the housing and commercial land delivery pipeline, if this, and like code assessable policy, is allowed to continue without proper safeguards for delivering strategic planning outcomes, or is improperly regulated and managed.

In consideration of both the draft Medium Density Housing Code (Explanation of Intended Effects) and the Draft Medium density Design Guide, TSC provide the following key issues and comments for your consideration, which relate more specifically to the code assessable rather than development application framework, as exhibited.

## **Key Issues**

### *Potential for Character Impacts in Existing Low Density Residential Areas*

- *The proposed model clause with regard to minimum lot size (60% of TLEP minimum lot size) represents a significant departure Council's minimum lot size provisions within R2 zones where minimum lot size is 450sqm (TLEP) or 900sqm for dual occupancy development (TDCP).*
- *No maximum number of terrace houses have been nominated, which is beyond the scope of 'low impact development' particularly within R2 low density residential areas.*
- *Lack of ability for Councils to determine and make decisions regarding the cumulative impact of a number of code assessable low rise medium density developments particularly within established/existing residential areas.*
- *Less stringent principle standards compared to community consulted desired future character, local development standards and planning controls (DCP) which may result in disjointed and non-coherent built form adjacencies.*
- *Low rise medium density as code assessable development circumvents design criteria held within site/estate specific s.88b instruments.*

### *Potential for Underdevelopment in R3 Zones*

- *Permitting low rise medium density and concurrent subdivision of sites as complying development will provide 'lower cost' development incentive particularly in the R3 zones which may represent underdevelopment.*
- *If the uptake was significant, this could result in fragmentation of land (through proliferation of small lot sizes) which would restrict or stagnate future larger medium density redevelopment (residential flat buildings) that requires a larger lot size. This could increasingly be an issue in terms of underdevelopment within key strategically identified density areas which has implications for infrastructure planning and s.94 contributions.*

### *Public Interest*

- *Lack of effective community consultation processes within the CDC framework including neighbour notifications for low rise medium density proposals which could significantly increase land use intensity.*
- *Difficult in negotiating and resolving amenity based issues where code assessable development directly adjoins and impacts existing low density residential development.*
- *Council is often called into mediate or respond to poor CDC amenity based outcomes both during approval processes but particularly during construction and post occupation. Increased CDC opportunity will have an addition resource implication on local government to mediate wide range of CDC issues without the benefit of the appraisal / merit assessment process.*

### *Infrastructure and Contributions*

- *Ambiguity in terms of managing and leveraging s.94 contributions for low rise medium density housing types within a CDC framework and additional resource requirement for Council's to provide calculations and quotations to private certifiers.*
- *Reduced ability for Councils to make informed decisions regarding provision and capacity of infrastructure with increased densities particularly within existing residential areas as well as underdevelopment scenarios in identified high growth urban areas.*

### *Design Based Issues*

- *The design guidance and identified design criteria generally provide a comprehensive consideration of a broad range of issues in an easy to follow format, with good relationship between intent, guideline and design criteria. In fact, with terraces housing having over 100 design criteria exceeding TSC design controls, brings into question the ability of any development to genuinely satisfy each of those provisions.*
- *The NSW Housing Code, as it applies to single detached dwellings, contain a number of minimum standards that enable reduced front setbacks, increased dwelling floor areas and reduced landscape open space areas compared to similar TSC minimum standards. This has cumulatively led to many dwelling houses assessed under the CDC process which have a large building envelope proportionally to the sites they occupy with less landscaping. Compared to TSC minimum standards, this increased building envelope and reduced landscape proportion changes neighbourhood character and visual amenity particularly within R2 Low density residential areas. An intensification*

*of density types within these traditionally low density zones has the potential to further exacerbate these residential character and visual amenity issues.*

- *Although the guidelines provide some discussion and guidance on local character and context, there is a lack of specific contextual and climatic design criteria which lacks a formal mechanism of appraisal within a complying development context ensuring a true consideration of site opportunities and constraints and a context appropriate design response.*
- *Given the standardised nature of code assessable criteria, there is limited opportunity for design requirements to respond to climatic considerations. As such, despite Tweed's subtropical climatic location, many single detached dwellings which have been approved through the housing code utilise materials and material colours inappropriate to the climate (dark brick and tiles) which often leads to occupants retrofitting air conditioners. Similar reservations could be levelled at CDC medium density developments.*
- *There is an inherent difficulty in ensuring well designed outcomes with the standardised numerical principle standards and design statements verified by private certifier's – dual occupancy and multi-unit development is often the result of detailed and high level negotiation and design review between Council's assessing officers and the applicant to get a better design and contextual outcome where conditions are often imposed to realise negotiated outcomes. This mechanism will largely be lost in complying development scenarios.*
- *Principle standard setback requirements apply to parent development site, rather than between dwellings, which are guided through less stringent criteria (building separation etc.).*
- *A number of criteria call for the preparation of design statements (e.g. 3.1V Visual appearance and articulation) to demonstrate how objectives have been met with no merits assessment process to determine the validity of the information provided. This is often more onerous than DA processes and will likely lead to a superficial addressing of these key design issues.*
- *Vertical dwellings (manor houses with up to 4 dwellings etc.) which will include elevated living spaces without external living areas as CDC may give rise to a range of amenity impacts including privacy and overlooking, occupant amenity.*

#### **Certification / Verification Issues**

- *Difficulty in implementing and certifying the design and merits based criteria including design principles, design guidance, design criteria contained within the MDDG as a CDC.*
- *Difficulty in ensuring consistency between CDC scheme and privately certified built outcome.*
- *Limited verification/appraisal process to check the integrity of the design verification statements.*
- *Opportunity for small lot detached dwellings (as side by side dwelling) within low density area with concurrent consent for dwelling and subdivision has the potential to change pattern of development particularly within existing R2 low density residential areas.*

Whilst simplifying planning processes around 'low impact' medium density development' through standardised development codes may provide incentive to the development industry and provide much needed housing diversity within our residential zones, its application across existing as well as greenfield development

areas has the potential to lead to poor design outcomes which do not respond well to context, the local climate as well as potential to significantly change the character of existing low density residential neighbourhoods.

As such these low rise medium density housing opportunities needs to be tempered and balanced within the local context, many of which have a consulted and endorsed strategic direction. As such the issues raised in this correspondence together with the following recommendations are made in the consideration of the final drafting of the SEPP Medium Density provisions, resultant model clauses for the Standard LEP and modifications to the design guide.

***Recommendation:***

1. Support ability of Council's to set/retain minimum lot sizes within existing R2 low density residential Areas.
2. Support ability of Council's to restrict code assessable low rise medium density housing types in identified high growth areas to ameliorate underdevelopment.
3. Devise additional climatic design criteria which relates specifically to the different climatic zones as defined by the Australian Building Codes Board used for the National Construction Code.

Council looks forward to working with the Department of Planning and Environment on the next phase of the Medium Density Housing Code and would welcome any further consultation or discussion on any of the key issues raised within this submission.

Yours faithfully



**Vince Connell**  
**DIRECTOR PLANNING & REGULATION**

