Submission - "Missing Middle" Proposed Medium Density Housing Code Proposals which will make certain Dual Occupancies, Manor Houses and Terraces Home development "Code Complying" development in zones where currently permitted (document on public exhibition until 23 December 2016)

A. General Comments.

1. "Codifying" the design process and listing "design criteria" that need only be considered by certifiers may not necessarily ensure consistently good design outcomes because it "promotes a set of "ideal" design outcomes which are pre-determined to be the "correct" ones. This approach denies alternatives, particularly when faced with a local context that may be anything but a "greenfield" site. Sydney abounds with unusual site circumstances, from steeply sloping landforms and important heritage areas. "Codification" is perhaps a process better suited to developing precincts rather than being a generic solution within established areas of Sydney.

2. Although specified design criteria in the "Code" must be considered and "ticked off" by certifiers, this "compliance" process may be superficial and may not adequately consider unusual site circumstances such as steeply sloping landforms or the different built form character present within the inner suburbs of Sydney. For example, the presence of heritage conservation areas and heritage items may necessitate an innovative/adaptive design response. In contrast, the current (more flexible) development assessment process achieves this and has regard to the provisions of Council's LEP's and DCP's adopted in consultation with the community, industry, state agencies and other key stakeholders. In other words, the EP&A Act's development assessment process more fully considers the likely impacts of development, the suitability of the site for the development, relevant heritage issues and any submissions made during the notification period and the public interest.

3. "Code complying" development is not considered suitable for dual occupancies/terrace homes or "manor home" type developments (which may contain up to 4 flats) comprising more than 3 individual buildings. The environmental/streetscape impacts for substantial developments are more complex and will increase exponentially for larger developments. Developments comprising more than 3 buildings should be required to follow a separate approval pathway via the normal development assessment process. The "codifying" process diminishes the abilities and skills of trained, qualified and experienced professionals currently providing a role in our society to design and document successful buildings. Certifiers simply become regulators applying a "codifying" process. The end result is a loss of human skills to a process governed by a "rule book".

4. Only qualified architects should be authorised to prepare "code complying" proposals. They have the appropriate expertise and training to achieve good design outcomes in the absence of a DA process. In addition, certification of code complying schemes should only be carried out by either a qualified architect or a town planner with relevant urban design expertise. Private certifiers without relevant architectural or urban design experience and appropriate academic qualifications are not specifically trained to assess the architectural merits of medium density housing to ensure it meets community expectations, particularly in sensitive locations adjoining heritage items or heritage conservation areas.

5. Private Certifiers for medium density housing developments should not be compensated directly by the developer to achieve transparency, probity and to avoid perceived conflicts of interest. Certifier's fees should instead be paid to an independent body by the developer and the certifier then reimbursed by that body.

6. Neighbours who live in single dwellings both within and outside medium density zones may be significantly and adversely affected by larger "code complying" medium density developments, possibly involving multiple buildings, resulting in the loss of solar access/privacy etc. Under the "Code Complying" process there will be no avenue available for neighbours to provide submissions which might otherwise help to improve built form

outcomes. Neighbours are only required to be notified that a code complying proposal has been approved and proponents may disregard neighbour submissions if they so wish.

7. An alternative to an inflexible “code complying” approach is to introduce a rigorous time frame for medium density housing DA assessment with Councils appropriately resourced to achieve this objective. A timely appeal mechanism which bypasses the LEC could also be introduced to speed up the determination process. Removing the need for DA assessment for the sake of a probable 3-5 week saving in DA processing times is arguably an example of expediency and cost cutting at the expense of ensuring consistently good design outcomes.

8. There is no mention in the document of Section 94 Contributions – this needs to be addressed.

B. Comments Regarding Proposed Standards/Criteria

1. Proposed minimum required landscaped areas for 2 dwellings side-by-side and for terraces are considered inadequate – this should scale from 25-40 % of site area dependent on lot sizes. Larger manor homes require adequate landscaped areas around them to integrate successfully within the streetscape. The proposed scale for these should be from 35% - 50%. It is noted that current “code complying” landscape standards applied to single dwellings across Sydney are probably insufficient, with many (very large) dwellings erected on smaller blocks and with equally small rear garden areas.

2. Maximum permitted FSR’s ranging from 0.60 - 0.80:1 dependent on the development typology may be overly generous and if “maximised” by a proponent may result in excessively bulky buildings relative to site area and nearby buildings. A lower maximum permitted range of FSR’s appropriate to different development typologies should be tested to ascertain whether this will help achieve superior design outcomes.

3. Minimum proposed lot sizes and lot widths for code complying medium density housing such as Torrens title terraces and strata title manor homes appear inadequate to achieve sufficient car parking provision and workable vehicle turning areas that will comply with relevant standards in circumstances where no rear lane access or corner frontage is available. Most traditional terraces have either rear lane or corner access in circumstances where car parking is available on-site. Owners will wish to maximise FSR by providing basement parking. However, substantial excavation within a primary street setback to construct a driveway accessing basement car parking (in circumstances where no rear lane access is available and the site is not a corner lot) should be prohibited. Mandating a wider minimum lot dimension to encourage surface access and/or limiting the depth of excavation to a maximum of 3 metres within the required primary road setback for developments on smaller sites will help to avoid this problem.

4. Finally, what are the minimum required standards for “strata title multi dwelling terrace housing development” mentioned in the *preamble* of the document referring to terrace development? The code simply says that these dwellings need not comply with minimum lot sizes so exactly what standards (if any) are relevant? Is this form of development proposed to be “complying” and if so, how many dwellings will be permitted? The primary document, including the “Explanation of Intended Effect” requires clarification on this point.