

**To: Department of Planning and Infrastructure**

**RE: SUBMISSION ON THE DRAFT MEDIUM DENSITY HOUSING CODE to be Included into the Codes SEPP.**

From Ursula Bonzol, 65 Middle Harbour Road, Lindfield NSW 2070

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Firstly, thank you for allowing me to make a submission on this important proposed legislative amendment and associated documents.

Overall, I do not support the proposal, as it stands, for a new Low-Rise Medium Density Code targeting R2 Residential zones as code complying development under SEPP guidelines.

My reasons are as follows:

#### **Complying Development**

- I am opposed to Complying Development of anything more than a minor nature in R2 Residential Zones.
- I agree with Planning Minister Stokes who said in his SMH interview on May 6 2016 that he aimed "to remove the idea that people will be surprised by the things that are happening next door to them". Mr Stokes also went on to claim that "the government had learnt from the experience (2013 failed Planning Reforms) and had jettisoned contentious reforms like "code assessment", which fast-tracked complying development with limited community objection rights." <http://www.smh.com.au/nsw/ask-the-neighbours-first-new-da-process-for-nsw-considered-by-rob-stokes-20160505-gomxyc.html>
- Complying development does not allow neighbours and the community to have a say in how their areas are being developed. Something that Minister Stokes said would be an essential element of any planning process he would be recommending. ([NSW Planning Media Release 6 May 2016-](#))
- The draft Medium Density Housing Code as it is presented, totally contravenes the Minister's own desire for a community engaged in how its area is to be developed. There is no limit to how many of these complying developments will be allowed in an area which could prove highly detrimental to existing residents and their amenity.
- As long as these medium density developments meet a predetermined set of guidelines they will be fast-tracked through Council. This is in direct contravention of what the Minister claims was so important to maintain...engagement with the community and a 'no surprises' policy! Having 5 townhouses built on your boundary in an R2 zoning would definitely be a surprise!
- Code complying will override Council Local Environment Plans which were agreed with communities. This puts the developments across R2 residential in the hands of the highly flawed, and often conflicted, private certifier system instead of the appropriate strategic planning instruments through the Council Development Application process.

### **Medium Density should remain in areas zoned Medium Density**

- There is a raft of existing legislation that allows for dual occupancy development, duplexes and semis on existing lots with Council approval where it is warranted, as cited in section 1.2 of the Document 'Explanation of Intended Effects'. There is no need to simplify this by bypassing the community via a code complying approach.
- The only reason there is a 'missing middle' is that developers are allowed to build apartments to the exclusion of other style of developments in High and Medium Density zones, as it results in the greater level of profit. Were Medium Density areas specifically retained for townhouses, villas, terraces and Manor homes there would not be an issue with the current lack of a variety of housing styles.
- The principle of Medium Density zones is to allow a transition from high-rise zoning to single dwellings. This means that Medium Density zones abutting single residential areas should be available for townhouses, terraces and villa dwellings. This should be the norm in medium density rather than extending these into R2 residential zones without an adequate Council approval process and resident consultation.
- A Manor Home, or essentially a 2 storey set of flats, should definitely not be considered as part of an R2 zone, especially in areas where the site would allow more than one of these buildings. This would comprehensively change the character of a street or an area.

### **Cumulative Impact and lack of Controls**

- With the recommendation that these low-rise Medium Density homes would be code complying, there is no recourse for Council to reject or alter the approval to minimise the cumulative impact of increased density on a specific area.
- Impacts in terms of increased traffic, street parking, use of infrastructure, parks and schools must all be taken into account in terms of whether a multiple of additional dwellings are allowed within a street or area. Irrespective of the size of the site, Council needs to determine the impact of multiple dwellings in any specific location and allow for the feedback from neighbours as per any standard development application.
- What will be the controls on the number allowed for these types of developments? We have targets within the Greater Sydney Commission District Plans, so will these developments be restricted to meet these numbers? Will these medium density developments be allowed to be 1%, 5% or more of an area, allowing a substantial change in the character and amenity of an area.? Allowing medium density, especially as code complying development, to extend into R2 residential zones as proposed has the possibility of destroying the single dwelling zoning for years to come.
- In Page 156 of the Design Code, the diagrams presented more than double the number of dwellings in each block. This will have a major effect on the block and surrounding area, with the weight of increased dwellings providing high noise and visual pollution, plus the effect on street parking, traffic and services. This attempt to 'swamp' existing blocks with medium density needs to be avoided at all costs.
- As residents, we have selected where we live by the character of the area and the amenity that affords us. Though change is a part of life, the impact of the proposed code amendment is beyond that of a reasonable solution. We need diversity, not a massive intrusion of new dwellings on smaller and smaller subdivisions.

- Though the Design Guide has merit, it does not take into account the local character of existing architecture, parking impact, traffic management, noise management, services and infrastructure such as sewerage and water. Already there are areas in Sydney, such as in Turramurra, where sewerage odours are prevalent due to increased density and lack of infrastructure.
- On Page 7 of the Explanation of Intended Effects, it states “While there is a need to increase housing to meet NSW’s growing population, it is important to ensure that new developments are well designed, respectful of the environment, and contribute positively to the existing built form.” However, the Diagrams on page 156 of the Design Guide and lack of controls on design through Council do not support this philosophy.
- As complying development, this medium density proposal will lead to ad hoc development, permitting poor quality residential development that is not integrated with planned infrastructure.
- Again, I state that Medium Density must stay in Medium density. Complying medium density should only be considered for sites within 'core' R3 medium density zones, that is, sites where the R3 zone does not interface a lower density zone”.

#### **Lack of Clarity in the Explanation of Intended Effects and Design Guide:**

- Under the objectives of the code on Page 5 it is stated to ‘provide a variety of housing choice across NSW in areas that are zoned for medium density housing.’ An interpretation that limits the code to R3 medium density zone development only.
- Under section 1.5 Permissibility, it is stated that “the development must be permissible on the subject land to be carried out as complying development. For example, to construct a dual occupancy as complying development, dual occupancies must be permitted in the zone that applies to the land. The zone is defined in the local Environment Plan that applies to this land.” Hence the only interpretation is that this must only apply to Medium Density zoning.
- Within the Design Guide FAQs on how it will work, the proposal states that “Medium density housing will only be able to be carried out as complying development in areas that already allow medium density development under a council’s local environmental plan.” Again, supporting a Medium Density zoning provision for medium density developments.
- However importantly in section 1.5, it is stated that ‘it is proposed to restrict complying development to R1, R2, R3 and RU5 land use zones.’ This is in opposition to the earlier statements and is the area of deep concern to residents.
- Why is the permissibility of these complying medium density developments so obtuse? Why this lack of clarity for residents and communities to voice their concerns and objections to these proposals?

#### **Feedback on Design Guide:**

- Overall a very determined effort to improve residential design in NSW.
- Under the heading Strategic Planning, the Design Guide makes the statement “Designed strategic planning is based on an understanding of the existing features of an area, subdivision patterns, dwelling types, and demand for new dwellings. .... Starting the strategic planning process by understanding the existing natural and built environment is vital when exploring how an area can transform to a higher density. A fine grained and

directed approach that tests scenarios should be used to find the best outcome.”  
Wonderful sentiments, but how can this be managed when there is no resident or Council input for a complying development, only a verification certificate by a private certifier?

- Within the Design Guide there needs to be more emphasis on local character and existing streetscape. For example, if all homes have peaked roofs then the new dwellings should aim to comply. We are not looking for a homogenisation across Sydney suburbs that have distinctive historical or developmental differences!
- Important to the streetscape, setbacks at the front, side and rear need to more strongly reflect those of the neighbouring dwellings.
- There needs to be a greater stringency on ensuring that a row of townhouses/terraces does not result in a streetscape that appears to be a row of garages and carports.
- The above points and the overall design must be overseen and approved by Council and not a Private Certifier to ensure a greater probability of an unbiased result.

### **Recommendations:**

1. Allow minimal code complying medium density only in areas zoned R3 Medium Density
2. Ensure that areas abutting R2 residential are one of the low-rise options and adhere to the Development Application process through Council that allows for resident comment and objections.
3. That all low rise medium density meets a Design Guide as described, but with greater local input from Council re character, services and infrastructure requirements.
4. That low-rise medium density in R2 zones must proceed through the standard Development Approval process which includes resident comment.
5. That limits are enforced to ensure that the impact on any one residential block does not result in a doubling of dwellings, as per page 156 of the Design Guide. That no more than a 5% increase in dwellings on any one block be allowed.

Though a variety of low-rise medium density housing choice is desirable, this should be restricted to R3 medium density zones, and not be at the expense of ‘surprises’ to existing residents by allowing it as ‘complying development’ in R2 residential zones.

Yours Sincerely,

Ursula Bonzol