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Draft Medium Density Design Guide and Draft Medium Density Housing Code

Dear Ms Sheridan

Thank you for the opportunity to make a submission on the October 2016 Draft Medium Density Design Guide, Draft Medium Density Housing Code and associated Explanation of Intended Effect (the exhibition package).

The following submission has been prepared by Council officers and has not been adopted by Council.

Shellharbour City Council advises that it does not support the expansion of complying development into medium density housing, nor does it support many of the design and planning aspects of the draft code and draft guide.

Issues with private certification

While it's agreed there needs to be more done to address the "missing middle" at the state level, sending this type of development out to certification is not considered the best mechanism.

In this regard it may be appropriate to address the missing middle in a state environmental planning policy (SEPP), with a guideline as per SEPP 65 – Design Quality of Residential Apartment Development, which could provide appropriate controls/guidance to the community, practitioners, and consent authorities.

An ongoing issue to consider is the numerous instances of non-compliance by certifiers for single dwellings. Once certified and constructed the community are left with an outcome that should never have eventuated.

Unless there is adequate reform of the certification process and the problems that have emerged with private certification and Building Code of Australia (BCA) compliance are addressed, the proposed increase in the dwelling types that can be complying, with inadequate certifier accountability, will inevitably have increasingly adverse consequences for the community.

The success of envelope controls often depends on lot orientation and the potential for reducing overlooking and overshadowing of neighbours. These types of infill development are often heavily objected to in public submissions. Under the current development application process, relevant amendments may be required to mitigate identified impacts. If this notification process is removed the result is likely to be aggrieved neighbours as development of these types could be approved and constructed with no consultation by a principal certifying authority, except for a notice 2 days prior to construction commencing.

Exacerbating this adversity is that certifiers do not have appropriate governance structures to disclose conflicts of interest, keep and publish records relevant to development decisions and manage and respond to enquiries and complaints.

Other questions that need to be addressed include what accreditation will be required for a principal certifying authority and author of a design verification statement to deal with the exhibition package and how proponents do a post consent modification to their development including the approach for a design verification statement.

Resourcing/policy/procedural implications

The resourcing/policy/procedural implications of approval requirements for waste servicing/storage, stormwater/on – site detention needs to be addressed.

Infrastructure

The types of development proposed by the exhibition package has the potential ability to rapidly increase the density of lower density areas. What are the implications for water, sewer, electricity provision and the capacity of roads/public transport?

Neighbourhood impact

The expansion of complying development as proposed has the potential to impact significantly on the character and amenity of an area. This is particularly relevant in older established neighbourhoods where local communities have an expectation of the type of developments that may occur. These expectations are generally drawn from strategic planning exercises that produce controls and expectations that reflect the communities' needs and priorities. These studies and documents include Local Environmental Plans, Development Control Plans, Neighbourhood Plans, Community Strategic Plans and other specifically local studies which are all developed with community input.

The inclusion of substantial development into the complying development code as proposed cannot possibly reflect the unique character of a local neighbourhood and is likely to create visually generic neighbourhoods in existing urban areas. The same will apply to release areas in the absence of a developer controlled master planning.

While heights in the exhibition package are similar to Shellharbour Council's, floor space ratios are much greater and would see higher density product inserted into suburban lower density areas, as dictated by land economics, creating bulk, scale and massing outcomes out of character with surroundings. The higher densities proposed compromise the ability to provide and maintain sufficient neighbourhood aesthetics and amenity via appropriate setbacks, solar access, private open space and visual/acoustic privacy, both within and external to development.

Local neighbourhood character builds community connections. This is threatened if the community has not played a part in the making of the character of that area. The risk of community unrest and concern over the more substantial developments will also be exacerbated as a result of the lack of input and influence. This may result in increased animosity between neighbours as infill parcels are targeted for complying medium density development in existing low density areas.

Shellharbour Council appreciates the need for varied housing stock and is not adverse to the concept of dual occupancy side by side, terrace housing, manor housing, but recommends any implementation of it, be in an arrangement akin to SEPP 65 and the Apartment Design Guide. To ensure any future development will integrate with the desired future built forms, controls such as densities and heights should reflect the local LEP controls. This arrangement would still have the effect of increasing the supply of missing middle product by minimising reasons for refusal, similar to SEPP 65.

The potential 3.5, 4.5 metre front setbacks for smaller lots, combined with articulations zones containing additional building elements will adversely impact line of sight, amenity, and create a cluttered streetscape. The side setbacks of .9m for dual occupancy side by side and terrace houses and 1.2 metres for manor housing in the front 15m is significantly less than Council's DCP standards. The associated higher densities of the exhibition package will force development up, with resultant high building walls inappropriately close to adjoining existing development with associated amenity problems. This is particularly concerning for rear manor housing which may only have an outlook to the side or rear.

Development Contributions

The Draft Code and Draft Design Guide are silent on Section 94/94A development contributions. If the exhibition package proposal progresses, a standard condition should be included requiring the payment of a Section 94/94A development contribution to the relevant Council.

Multi-dwelling developments, including dual occupancies, generally require the payment of development contributions through either a Section 94 or Section 94A Contributions Plan. Where these approvals are granted through the Codes SEPP and issued by Private Certifiers, there is an exposure to risk in correctly interpreting and levying the applicable development contributions for the development. Appropriate mechanisms should be put in place to ensure this risk exposure is minimised.

Definitions

For clarity, primary, secondary, parallel road and lane should be defined.

Waste management

The exhibition package allows bin storage in garages which will be connected to living areas which may give rise to odour and hygiene problems, especially in such small dwellings. Limited road frontage widths will mean there may be insufficient linear space for bin pick up, especially as many councils have 3 bins for each dwelling. In particular, this may be an issue for manor housing on 15 metre wide lots. Consideration should be given to requiring waste management plans as part of the complying criteria. This should include ensuring entrances and any onsite servicing

area is adequately configured, including being high and wide enough to accommodate waste vehicles.

Parking

Parking: parts 2.3, 2.4, 2.5 of the Explanation of Intended Effects (EoIE) require 1 parking space per dwelling for two dwellings side by side, multi dwelling housing (terraces) and manor housing. Other parts of the exhibition package are silent on numerical parking requirements for multi dwelling housing (terraces) or manor housing. Part 3.3 of the EoIE requires 1 space per dwelling for two dwellings side by side. The guide and code would apply to areas remote or close to public transport/services etc. Either way, there will be varying degrees of car ownership/visitor parking. Resultantly there will be higher demand for on street parking including in areas with narrow carriageways and or already high street parking demand.

For any form of medium density development, developers are likely to opt for more than 1 space, meaning non built on areas including street frontages will be visually dominated by vehicles or facilities for vehicles.

Even the provision of 1 space per dwelling, may only be practical in areas very well serviced by public transport, especially rail, other services and high/sustainable levels of varying employment opportunity. Even in those scenarios households are likely to want more than one car. Does the department have access to anecdotal information on car ownership in established high/medium density, well serviced areas to support its proposal for these minimal parking requirements? If not, it should address this question and revisit the practicality of these parking standards. Otherwise there may not be available on street parking and or developers will opt to provide more parking than the minimum. This would have the effect of onsite car facilities dominating residential streetscapes. In time front yard landscaping would become parking areas.

Further exacerbating potential parking problems, there is no provision in the exhibition package for visitor parking. On street parking supply will be diminished by potentially having driveways every few metres to service developments with narrow frontages.

Vehicle manoeuvring and pedestrian amenity

It appears (page 104 of the guide) that only where there are 3 or more terrace dwellings serviced by 1 driveway will forwarding on and off site be required. It appears manor housing can have reversing to the street. These provisions have the potential to adversely impact pedestrian amenity and safety by driveways punctuating the footpath every few metres. There does not appear to be anything in the exhibition package to address this.

Setbacks and stack parking

The minimal front setback requirement will not accommodate any informal stack parking on site. This will lead to stack parking substantially overhanging the footpath, causing barriers for pedestrians.

Small dwelling sizes and using garages for storage/living area

The very small dwellings proposed would increase the propensity for residents to use garage space for storage and living area with their cars parked on the street, further constraining parking supply.

Heritage

Due to the densities, massing, scale exceeding Councils' LEP provisions, consideration should be given to the complying aspects of the exhibition package not applying to land adjoining heritage items.

Draft Medium Density Design Guide

Page 6, 1.3 Planning Context: as a large percentage of medium density development would in the future be under the exhibition package as complying development, the scope to influence future area character via design led strategic planning would be very limited.

Page 21, 2B Floor Space Ratio: refers to incentives for additional floor space as part of council's developing their own local controls. There is no indication on the legal mechanism that would facilitate this. Standard instrument local environmental plans currently do not provide for incentivised additional floor space.

Page 27, 2D Local Character and Context and elsewhere: the creation of new streets and lanes infers public ownership. Generally Section 94 of the Environmental Planning and Assessment Act is the mechanism to create new public lanes/roads in infill areas. This is unless it is a greenfields site or where a whole urban block(s) is under common ownership and a new road may be able to be negotiated.

Page 37, 2H Building Separation: providing breaks in rows of terraces may only be economically feasible for a developer with 80 metres or more of frontage. Providing a break is likely not to be feasible on a site with less frontage than this.

Page 47, 2M Private Open Space and elsewhere: 16m² is too small for private open space for most household types and with associate densities/heights espoused by the exhibition package would have inadequate solar access.

Page 86, 3.1F Internal Streets – Pedestrian and Vehicle Access: refers to battleaxe lots, but does not mention that complying can't use battleaxe lots.

Page 89, 3.1I & Page 107, 3.2I Solar and daylight Access: applies a minimum 2 hours winter solstice solar access daily for the complying development types in the exhibition package, except manor housing. This is well short of normal industry standards of 4 hours or more and is inadequate.

Page 87, 3.1G & Page 105, 3.2G & Page 143, 3.4G Orientation and Siting: solar access to adjacent properties living rooms requiring a minimum of 2hr solar access is inadequate.

Page 95, 3.1W & Page 114, 3.2W & Page 152, 3.4W Pools and Ancillary Development: need to clarify that pools are not included as landscaped area or as private open space area.

Page 96, 3.1Y & Page 115, 3.2Y & Page 153, 3.4Y Water Management and Conservation: need to include provision that stormwater design ensures downstream or other properties are not adversely impacted and or do not receive increase flows, when compared to the existing scenario, as a result of development.

Page 145, 3.4I Solar and Daylight Access: applies a minimum 2 hours winter solstice solar access daily for 75% of dwellings in manor housing. What does this mean for 3 dwelling manor housing? 2 hours is inadequate per se, anything less is grossly inadequate.

Page 92, 3.1O, Page 110 3.2O Car and Bicycle Parking: applying to side by side dwellings and terrace housing is the provision that if a lot is less than 7.5 metres width, it's vehicular access will be from a secondary, parallel road or lane (undefined terms). 7.5 metres therefore becomes the default minimum width for most lots. This is not mentioned in the EoIE under 2 dwellings side by side or terraces.

Page 84, 3.1C & Page 102, 3.2C & Page 140 3.4C Landscaped Area: councils using standard instrument LEPs have their tree removal provisions under that LEP/associated DCP. Tree preservation orders were generally provided for in non - standard instrument LEPs via the 1980 model provisions.

Page 118 onwards deals with multi dwelling housing and master planned communities: this is in part 3 of the guide which is understood to be about complying development criteria, however multi dwelling housing and master planned communities are not proposed as complying.

Page 94, 3.1V & Page 113, 3.2V & Page 152, 3.4V Visual Appearance and Articulation: other references to the design verification statement (DVS) do not mention addressing how.....aesthetics and articulation contribute to the character of the local area. This requirement should be consistently described throughout the exhibition package. How will it be ensured that this accounts for adopted future character strategies/policies and that the person preparing it is suitably qualified?

Page 174, Appendix 5 Recommended Principal Controls for Different Types: this title seems incomplete. Throughout the exhibition package and particularly in the guide's appendix 5, there are various graphics exemplifying built outcomes. There is no indication that the exhibition package design controls/provisions are successfully worked into these graphics. Has this been done?

Page 87, 3.1G & Page 105, 3.2G & Page 143, 3.4 G Orientation and Siting: excavation requirements should be amended to be in line with existing Codes SEPP requirements under 3.29 where if located more than 1.5m from any boundary a 3m depth applies. The exhibition package allows for 3 depths of more than 1m from any boundary.

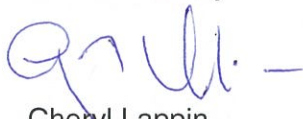
Explanation of Intended Effects

Page 7, Medium density housing as development application: re: the requirement that if adopted the Medium Density Design Guide is to be adopted in its entirety, is there potential to just adopt parts of it?

Page 38, Division 4 – Manor House and Dual Occ: consideration needs to be given to providing a floor space ratio for manor housing on sites larger than 920m².

Should you have any enquiries regarding this letter, please contact Cheryl Lappin, Acting Group Manager City Strategy on 4221 6127.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Cheryl Lappin', followed by a horizontal line.

Cheryl Lappin
Acting Group Manager City Strategy