

## **Delivering Medium Density Housing**

### **Submission from the Property Council of Australia**

**15 December 2016**

## About the Property Council of Australia

The Property Council of Australia is the nation's peak representative for the property and construction industry.

Our 2,000 member firms and 55,000 active individuals span the entire property and construction industry, which includes all:

- **dimensions of property activity** — financing, funds management, development, ownership, asset management, transaction and leasing.
- **major property types** — offices, shopping centres, residential development, industrial, tourism, leisure, retirement and infrastructure.
- **major regions** of Australia and **international** markets.
- **four quadrants of investment** — public, private, equity and debt.

The property and construction industry also underpins the health and prosperity of the NSW economy. The industry:

- generates over **311,000 jobs** - one in ten workers
- provides **\$20.3 billion in wages** to workers and their families
- pays **\$9.8 billion in State taxes** to the NSW Government – the State's single largest tax payer
- is levied an additional **\$7.2 billion** in local council rates and charges annually
- contributes **\$54.5 billion directly to Gross State Product** – 11.1 percent of total GSP, and creates \$88.3 billion in flow on activity.

## Executive Summary

The Property Council strongly supports the expansion of the complying development framework to include more terrace-style development across the State, improving delivery timeframes, housing diversity and ultimately housing affordability.

Planning systems have a direct impact on housing affordability. When they're efficient, streamlined, and consistent, they reduce the time it takes to build a house, and minimise the costs involved.

The Property Council of Australia has consistently identified an expansion of the complying development framework as a critical part of planning reform needed to improve housing supply and affordability in NSW.

At its core, complying development is a common-sense concept widely used in other states: if a project meets defined criteria, it should advance efficiently through the planning system saving time and money.

The proposed Medium Density Housing Code (MDHC) builds on the Government's earlier Discussion Paper *Options for Low Rise Medium Density Housing as Complying Development*, providing detailed information to implement complying development to a specific housing product. The MDHC is a significant step towards streamlining the approvals process in regards to delivering much needed housing in NSW, and we welcome the opportunity to provide feedback on its detail.

The proposed MDHC, in the main, is a well-constructed and articulated document. We have, however, identified several opportunities where the document could be improved to enhance implementation of the policy intent. Key opportunities include:

- provision of a specific complying development pathway for medium density dwellings in the Growth Centres and Release Areas across NSW which align to existing policies and planning frameworks;
- 160-180 sqm minimum lot sizes; and,
- provisions for rear shared driveways.

The design objectives and criteria for each medium density typology must be aligned to the core function of those building types and the main reasons why people live in them. Otherwise developers and investors will not use the complying development process, as the end product will not meet the market needs (functionally or commercially).

Our submission focuses on ensuring clarity and consistency within and between the MDHC and the broader planning system, and refinements which would optimise use of the mechanism, in so doing accelerate the delivery of housing in NSW. Given its extensive scope and level of detail, we urge that the effectiveness of the MDHC be examined within two years of its introduction in consultation with the property industry, to enable its impact to be understood and assessed and improvements made to enhance its operation.

Looking ahead, we encourage the NSW Government to continuously look to refresh and expand the complying development process further, in particular, extending complying development certificates (CDCs) for developments in Priority Precincts that meet pre-defined criteria.

## Summary of recommendations

**Recommendation 1:** Implement permissibility of dual occupancies and semi-detached dwellings within all R2 Low Density Residential Zones regardless of whether an LEP considers them permissible.

**Recommendation 2:** Introduce a Growth Centre and Release Areas specific CDC pathway for medium density product that aligns with the existing controls for medium density established for the Growth Centres and Release Areas.

**Recommendation 3:** Reduce the minimum lot size for terrace style dwellings to 160 sqm- 180sqm for infill/established areas, to better achieve affordability objectives.

**Recommendation 4:** Provide for rear shared driveways, being similar to laneway development.

**Recommendation 5:** The new SEPP permit a minimum floor to ceiling height that is in line with the Building Code of Australia (BCA).

**Recommendation 6:** Refine and clarify proposed provisions to ensure the MDHC is able to be readily used as the preferred approval mechanism for medium density housing development.

**Recommendation 7:** Increase ability for terrace homes to be sold as Torrens title.

**Recommendation 8:** The Design Verification Statement should be prepared by a registered architect.

## 1. Implementation of the proposed Medium Density Design Guide and draft Medium Density Housing Code

**Recommendation 1:** Implement permissibility of dual occupancies and semi-detached dwellings within all R2 Low Density Residential Zones regardless of whether an LEP considers them permissible.

**Recommendation 2:** Introduce a Growth Centre and Release Areas specific CDC pathway for medium density product that aligns with the existing controls for medium density established for the Growth Centres and Release Areas.

### *Local Government Adoption*

Enabling councils to decide whether to adopt the proposed code will reduce its effectiveness and not address the geographical imbalance of housing supply and diversity which exists, especially across the Sydney metropolitan region.

We urge the Government to make dual occupancies and semi-detached dwellings permissible within all R2 Low Density Residential Zones regardless of whether a particular LEP makes them permissible.

### *Growth Centres and Release Areas*

Expansion of complying development for medium density should be applied in a consistent and complementary fashion to the product created through the Growth Centres SEPP.

The delivery of medium density housing in greenfield areas poses different challenges compared to established areas. Sydney's Growth Centres and Release Areas across NSW often have detailed planning frameworks which already enable the delivery of smaller lots (from 125 sqm compared to the proposed 200 sqm). The MDHC policy may have the unintended consequence of creating larger lot sizes, which could result in projects not meeting nominated density targets, with a flow on impact of lower than forecast section 94 contributions available to deliver infrastructure within these precincts. On the other hand, the MDHC may "absorb" yield otherwise being delivered and paid for by a developer in a large master planned community.

Separate controls for medium density housing as complying development should be created for the Growth Centres and Release Areas to complement the detailed planning that has informed the planning framework for these areas and the MDHC should not apply to existing Release Areas and large master planned communities unless proposed by the applicant and incorporated into the planning framework for that area/project. If implemented without specific tailoring to reflect existing controls within Sydney's Growth Centre and Release Areas, the MDHC would require development of larger lots, thereby reducing intended housing diversity and potentially increasing housing costs.

## 2. Design Standards – lot sizes

**Recommendation 3: Reduce the minimum lot size for terrace style dwellings to 160 sqm- 180sqm for infill/established areas, to better achieve affordability objectives.**

The 200 sqm minimum lot size proposed, while consistent with the General Housing Code, will limit the affordability of terrace-style housing in Sydney and restrict site efficiencies. Smaller lot sizes, 160-180 sqm, could be set which deliver amenity through good design and integration with open space.

Lots sizes will largely be a function of lot depth in established areas. Given minimum width requirements (6 metres for rear-loaded and 7.5 metres for front-loaded), allowing a reduction in lot sizes without compromising amenity and design is possible and would enable the CDC to be used more widely, aligning better with existing lot arrangements across Sydney.

## 3. Design Standards - parking and lane access

**Recommendation 4: Provide for rear shared driveways, being similar to laneway development.**

Limited sites exist of a suitable size and configuration for development that also provide rear lane access. In the absence of this, basement parking or else wider lots to enable larger front loaded products would be required. Basement parking and wider lots both involve higher land and/or constructions costs, in turn reducing affordability.

An alternative solution would be to include provisions for shared driveway configurations along the rear lot, resulting in a similar outcome to rear laneways. If a shared driveway is introduced, a setback of between 0.5m to 1m could be applied to provide landscaped treatment along this hardstand driveway. A 0m setback for garages along the shared driveway.

## 4. Design Standards – Floor to Ceiling Height

**Recommendation 5: The new SEPP permit a minimum floor to ceiling height that is in line with the Building Code of Australia (BCA).**

A minimum height of 2.7m in living areas is been proposed, in excess of the 2.4m required under the Building Code of Australia (BCA).

We suggest that consistency should be maintained with the BCA, with the new SEPP requiring a minimum floor to ceiling height of 2.4m, providing adequate amenity in terms of natural light and ventilation and clearance for services such as air conditioning.

## 5. Definitions, Clarity and Consistency

**Recommendation 6:** Refine and clarify proposed provisions to ensure the MDHC is able to be readily used as the preferred approval mechanism for medium density housing development.

Consistent terminology should be used both within the MDHC, and between the MDHC and other planning policies. The housing types identified to be delivered in the MDHC already exist under current policies and should be applied consistently, this includes:

- ‘attached dwelling’
- ‘dual occupancy’
- ‘dwelling house’ (which includes ‘abutting dwellings’)
- ‘multi-dwelling housing’
- ‘manor home’
- ‘studio dwelling’

We suggest that the following changes should be made:

- ‘secondary dwelling’ is not included in the MDHC but should be to distinguish the difference from studio dwellings.
- ‘multi-dwelling housing (terraces)’ is an unnecessary inclusion, and creates inconsistencies between the Codes SEPP and other environmental planning instruments. It should be clarified to apply to ‘attached housing’.
- the definition of ‘multi dwelling housing (terraces)’ *“on one lot of land”* prevents development being subdivided under Torrens title, limiting these developments to strata subdivision only. If this definition is retained, the wording should be revised to permit Torrens title.
- Inclusion of ‘abutting dwellings’ would facilitate terrace style housing where each dwelling is contained on its own lot of land.
- Defining ‘multi dwelling housing’ whereby each dwelling requires *“direct access at ground level”* prohibits the provision of communal access and would stifle innovation in the delivery of housing forms where manor homes are not permissible.
- ‘attic’ needs better definition to clarify what ‘*minor elements*’ are or the extent to which it can facilitate additional floor space within the roof.

Clarity is required in regards to the following:

- ‘attached dwellings’ are encouraged in R1 and R3 zones, and permitted in R2 zone only where an LEP already permits. An enabling clause could be included to permit ‘attached dwellings’ on R2 zoned land where there is amenity or proximity to public transport, sites fronting RE1 zoned land, schools or business zoned land (as exists within the Growth Centres).
- whether the policy will permit:
  - a complying development certificate over multiple lots rather than requiring a plan of consolidation first; and,
  - one larger site being developed as part of several smaller complying development certificate packages of work.

- whether a minimum lot size for ‘attached dwelling’ or ‘abutting dwellings’ is proposed or whether developers need to meet the minimum lot size specified within the LEP (if a minimum lot size cannot be met, then the development will need to be strata subdivided).
- side setback provisions for the rear half of the lot.
- whether dormer windows are appropriate elements to project into the setback and 45-degree height plane.
- the approvals process associated with basement parking i.e. a need for geotechnical investigation.

We propose that consistency could be achieved in regards to:

- front setback calculations for complying development to mirror those provided in the Growth Centres DCP, i.e. 8m rear setback if there is adjoining development, if no adjoining development, a 6m upper floor setback.

## 6. Subdivision

### **Recommendation 7: Increase ability for terrace homes to be sold as Torrens title.**

As drafted, the MDHC envisages that a subdivision certificate would be granted once the dwelling is near completion. This would prohibit pre-sales, inhibiting the financial feasibility of developments. The provision of subdivision certificates is required sooner, as occurs in the Growth Centres and Release Areas.

## 7. Design Verification Statement

### **Recommendation 8: the Design Verification Statement should be prepared by a registered architect.**

Introduction of a Design Verification Statement (DVS) is supported, to assist in achieving a high-quality development. There should, however, be a requirement that the DVS is prepared by a registered design professional, ideally a registered architect similar to requirements under SEPP 65.

## 8. Comments on design objectives and criteria that apply to all Medium Density types

The following comments are provided in respect to specific requirements proposed in the design guidelines, highlighting areas of concern which we would welcome an opportunity to discuss further:

- definition of landscaping should be amended to include hard landscaping including paving, ponds, verandahs, terraces and courtyards. The current controls which are limited to planting and soft landscaping are far too restrictive.



- defining fence designs is far too restrictive, e.g permeability, materials and maximum heights.
- all references to heights, setbacks and distances should be a weighted average, not a maximum, especially height above ground level for sloping sites.
- orientation and siting objectives should be modified to provide flexibility for different site geometries and aspects, e.g. south facing sites should not require living rooms to be on the south facing street. Furthermore, a requirement that every wall that faces a street must have a window to a habitable room is completely impracticable and not achievable.
- setback and building separation provisions to side boundaries are more onerous than LEP and SEPP 65, they need to be reduced.
- solar design and daylight access is difficult to achieve on long narrow sites, especially terrace houses. Borrowed light, internal facing rooms with courtyards must be included to provide design options. It is too restrictive to limit kitchens to be no more than 6m or any part of a habitable room to be no more than 8 m from a window. Kitchens are a functional space and secondary to living and family rooms, site geometry has a major impact on the kitchen location.
- ceiling height guidelines are far too prescriptive, minimum ceiling heights are acceptable but definitions for bulkhead profiles is too restrictive.
- private open space guidelines are too prescriptive, it is not necessary to define the orientation of the space relative to the aspect, or require downpipes to be integrated into the façade. It is also unnecessary and result in long term maintenance issues.
- car parking, guidelines are too prescriptive, e.g. it is impractical for driveways forward of the building line not to be hardstand, specifying the colour of the paver as light is not the purpose of the guidelines and requiring a separate pedestrian access in car parks is unviable, unnecessary and not an Australian standard, even for high volume commercial car parks.
- universal design is not required and an impost to development, having it as a “silver level - must” requirement is overly prescriptive. It is not understood by the design or construction community.
- communal spaces, requiring those spaces above 1,000 sqm to be dedicated is unnecessary, as councils will not maintain them and they will impose rules which the occupants may not agree with.
- dwelling sizes and layout, the total sizes of dwellings i.e. studio, 1 bed, 2 bed, 3 bed should be the same as for SEPP 65
- pools and ancillary development; we question why pools must be in the backyard, especially if the front yard is north facing, it is the main aspect and is adjacent to the living spaces.
- water management, the cost to have detention tanks below paved areas is far too prohibitive and costly. The result will be that pumps are required to reticulate the water for irrigation, household uses (toilets etc.).
- acoustic privacy, the DbA levels should be the same as EPA or Council DCP.

## Contacts

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