



PROPOSED GREENFIELD HOUSING CODE

Penrith City Council Development Services Department Submission

June 2017

Introduction

Thank you for the opportunity to provide comment on the proposed Greenfield Housing Code.

General Comments

The initiative to insert an additional Code into State Environmental Planning Policy Exempt and Complying development to provide development standards in keeping with the rollout of release area housing is supported. However, proposals to allow CDCs to be issued prior to the registration of land is likely to create issues which are greater to resolve than the benefits which would be obtained from avoiding a 20-day approval process. This is the case also for the proposal to remove the need for Road Act Approvals for driveways as well as to override easements on properties which are an integral part of the design and approval of subdivisions and ensure their workability.

The discussion paper refers to CDCs for dwellings and then refers to CDCs for building envelopes across a subdivision at master planning stage without providing detail background on the reasoning or how the proposal will work. The discussion paper lacks transparency on the source of “stakeholders” who have advocated for certain outcomes. The draft legislation for the proposed Code should be placed on exhibition so an accurate assessment of its implications can be undertaken and meaningful feedback provided.

A: Background Paper

Input from key stakeholders.

The background paper identifies the need to remove barriers to the take up of complying development in new release areas as well as other delays in obtaining approvals. The discussion paper identifies the development industry as its key source of information for this feedback. The approach taken in response to this feedback from developers does not appear to be objective or balanced by the interests of other stakeholder groups including community interest or Local Government. The reporting of the feedback received and its sources lacks the transparency which more detailed reporting indicating the sources of the feedback would provide.

Overcoming barriers to housing approvals

1. *Carrying out complying development on unregistered lots*

The purpose of introducing complication into the complying development process by proposing a complex process to issue a CDC prior to lot registration is unclear when the approval timeframe for a CDC is only 20 days. The necessity is questioned when documentation would be able to be prepared prior to lot registration making the CDC approval process a significantly more straightforward one with a CDC being able to be issued within days of the linen registration and works commencing soon after.

Disadvantages to introducing this regime are many and include;

- No certificate of title will be available for the property

- Dwelling proponents will be unable to obtain a planning certificate
- It will not be possible to accurately identify the location of easements
- There will be no certainty around the final form of 88B Instrument provisions – drafts may be subject to change rendering the CDC non-compliant
- Site constraints such as salinity, bushfire prone land and overland flow not finalised
- Infrastructure (kerb gullies and drains, laybacks, light poles and signs) may not be installed and may be relocated due to site/engineering requirements with no works as executed plans available
- Not able to obtain Roads Act approval as road either not constructed or not a Council asset
- No certainty as to sign off from infrastructure providers for power, water and sewerage
- Council's will have difficulty reconciling multiple approvals on a parent lot to the individual properties to keep property and rating databases accurate. This will be significant impost on resourcing
- There will be no registered owner of individual properties to authorise applications or enter into agreements with the Certifier
- There would be no guarantee that any remediation for contamination had been resolved

This proposal is not supported as it is considered to be of limited benefit due to the complexity it would add through deferred commencement processes etc. and it is not in the community's interest.

2. Disregarding easements and 88B Instrument provisions

Easements such as those for access and maintenance are placed on sites in newly approved subdivisions in accordance with the Master Planning for the subdivision in its early design stages and are essential to the functionality of the estate. These easements are commonly not wider than the minimum required side setback of 1m or 900mm as proposed in the draft Greenfield Code. Where it is appropriate for more than 2 houses in a row to share zero side setback, the subdivision planning should include provision for terrace housing.

The legality of this proposal is questioned as the easement for access or maintenance will always benefit the adjoining property and cannot legally be disregarded without disadvantage to the adjoining landowner who would be likely to have legal recourse for this action.

3. Roads Act approvals

Once a subdivision is registered, the roads and footpaths become an asset of the local council who will take responsibility for their management and maintenance and become authorised to issue consent for works on their infrastructure. The proposal outlined in the background paper appears to complicate the approval process from that currently in place adding an additional step into the process for the in-principle approval and then a further consent when the CDC for the house is obtained. This proposal serves to complicate the process create additional assessments for consent authorities without adding any real value. It would be of significantly greater benefit if streamlining of the existing approval processes with Local Government was investigated.

4. Approval for onsite effluent disposal systems

The need for this is questioned in regard to its relevance to Greenfield release areas. Effluent disposal systems are only required on rural or large lot residential properties.

Subdivision and masterplan guidelines

Adoption of the proposed Subdivision and Masterplan Guidelines should be optional. When finalised, the draft guidelines should be placed on public exhibition.

B: Explanation of Intended Effect

1.2 Context

Please refer to above comments regarding issues of CDCs prior to lot registration and timing of Road Act approvals.

2.1 Where the Greenfield Code will apply

Clarification is sought on the process and timing for Council's to nominate Greenfield release areas to be included in the SEPP. It is assumed that nomination will be voluntary. Inclusion into the SEPP could be of benefit where lot sizes are small and not catered for in a Council's DCP. The inclusion of any land outside of release areas identified in the Act will not be supported unless matters raised in the background paper and EIE which relate to pre-registration approvals and Roads Act approvals are resolved.

2.1 Where the Greenfield Code would apply

The proposal to transfer provisions for *secondary dwellings* from the ARH SEPP to the Codes SEPP is **not supported**. These provisions have been consistently delivering poor development outcomes which have had a significant detrimental effect on the character of a number of suburbs and have been the subject of previous representations to the Department.

The provisions, development controls and outcomes being delivered should be the subject of a comprehensive review and given the same attention that has been afforded to the expansion of complying development to medium density housing and Greenfield release areas.

2.2 Proposed structure of the Greenfield Housing Code

The proposed structure of the Code is supported.

2.3 Proposed Development Standard

The proposed development standards are supported