



16 June 2017

Environmental Planning and Assessment Amendment (ePlanning) Regulation 2017
NSW Department of Planning and Environment
GPO Box 39
SYDNEY NSW 2001

Via: online lodgment

Dear Sir/Madam,

RE: Submission relating to the Proposed Greenfield Housing Code, State Environmental Planning Policy (Exempt and complying Development Codes) 2008

Thank you for the invitation to make a submission to the proposed Greenfield Housing Code.

Pro Cert Group Pty Ltd is a regionally based certification company with offices in Dubbo, Tamworth and Orange. We have considered the proposed Greenfield Housing Code EIE and Background Paper and request the following matters be taken into consideration when determining the proposed code.

We support the following proposed development standards for the Greenfield Housing Code and feel that this would assist in achieving the goal of increasing the number of dwellings that could be approved under a CDC. We would also see that the inclusion of these development standards into the General Housing Code would have the potential to greatly increase the number of CDC approvals for dwellings:

- Maximum garage door width at the front of the property: The proposed increase in the maximum garage door width at the front boundary for lots greater than 15m to 50% of the façade width to a max of 7.2m. This change will allow more flexibility in building designs that can be approved under a CDC particularly in regional areas where multiple garages are more common.
- Minimum side setback (Ground Level): The proposed minimum side boundary setback for lots more than 15m in width of 0.9m will increase the number of CDC in regional areas compared to the sliding scale based on the width of the lot that is in the current Codes SEPP. This development standard will also align the SEPP with a number of Regional Council DCPS that allow dwellings to have a side setback of 0.9m or less therefore allowing more applications to be a CDC. This will also reduce the complexity of the development standards.
- Corner lots – Minimum secondary street side setback: The proposed reduction in the minimum setback from the secondary street boundary will significantly increase the number of applications that can be CDC's as the current Code SEPP setbacks of 3m and 5m required based on lot size has reduced the number of applications that can be approved as CDCs on corner lots in regional areas.

The following development standards from proposed Greenfield Housing Code we believe will reduce the number of CDC approvals and which we believe will not assist in achieving the goal of having more dwellings being able to be approved under a CDC particularly in regional areas.

- Minimum ceiling heights. The proposed development standard for requiring a 2.7m minimum ceiling height is greater than the minimum ceiling height of 2.4m for habitable rooms as required under the Deemed-to-Satisfy provisions of Volume 2 of the National Construction Code (NCC). The NCC sets the minimum standards for health and amenity within dwellings with ceiling height being one of the standards by which this is established. To require a higher room height is considered to be detrimental to the aim of increasing the uptake of CDC for the following reasons:
 - We have spoken to a number of builders in our region and to increase the ceiling height of an average sized 250m² dwelling from 2.4m to 2.7m will add to the cost of construction of the dwelling by approximately \$8,000. Given that the NSW State Government is battling against a housing affordability crisis, particularly in metropolitan areas, it appears contradictory for the government to then implement a Greenfield Housing Code that will apply to areas where the most construction growth and new housing stock will occur that will have, as a result of its development standards, an increase in the construction costs for new dwellings;

- The NCC already establishes minimum ceiling heights for the purposes of establishing minimum standards for health and amenity via the Deemed-to-Satisfy provisions and the majority of standard housing designs are designed around these requirements which have been considered to be acceptable and have remained unchanged in the NCC for many years and this is a reason why this would decrease the uptake of CDC across the state wherever this SEPP would apply;
- Most Regional Council DCPs are silent on the matter of establishing minimum ceiling heights as it is recognised that this is a function of the NCC and not of a planning policy and as a result of this any dwelling that may otherwise meet the proposed requirements of the proposed Greenfield Housing Code other than in relation to ceiling height would be approved under a Development Application which does not achieve the aim of increasing uptake of CDC approvals for dwellings;
- The increase in ceiling height from 2.4m to 2.7m will also result in more air volume within the dwelling that then has to be controlled via heating and cooling which will further increase heating and cooling costs for these houses and will increase the costs required in order to comply with BASiX in NSW as a result of the BASiX system recognising the need for higher heating and cooling loads which again increases both the cost of construction and the ongoing cost to the occupier which is again not considered to be consistent with the government aims of addressing housing affordability;
- Maximum depth of habitable room from primary window being 6m. We are concerned that this proposed requirement has not been properly explained and defined and that this requirement will not allow the current trend in design of the majority of dwellings that have an open plan design for combined family, meals and kitchen areas to be a CDC as the depth of such a combined area have a depth greater than 6m in many cases. These combined areas typically have a number of windows including doors that open onto outdoor living areas and the intent of this development standard has not been adequately explained as to how what this will achieve in relation to amenity. Also the EIE does not address what would be considered to be the primary window if the space has multiple windows or what would occur if the primary window is in the end wall of a space but there are also other windows in the side wall of the space.

Again the NCC sets minimum standards for the provision of natural light and ventilation to habitable rooms being 10% and 5% respectively of the floor area of the room and again this requirement has been accepted and designed to by the construction industry and has remained unchanged for many years. It is considered inappropriate for a state based planning policy to begin setting development standards for the internal health and amenity of a dwelling when this has been already established by a National Construction Code.

- Provision of tree. This development standard raises concerns in relations as to how this will be regulated from a certifiers point of view and which is not adequately addressed in the EIE, with our concerns being as follows:
 - What size of tree is acceptable at the time of planting? For instance is a tube stock tree planted at final inspection stage sufficient if the tree species will achieve the required mature height or is it required to be out of a 300mm diameter pot?
 - When will the tree be required to be planted? For instance at the Final Inspection and Occupation Certificate stage the owner will request that an Occupation Certificate be issued to enable the finalisation of finance between the owner, bank and builder and in the majority of instances the landscaping of the site will be the responsibility of the owner who will not be able to complete these works until such time as they have been given an Occupation Certificate enabling them to make final payment to the builder and take possession of the site. As such to require the provision of these trees prior to Occupation Certificate will lead to issues and conflict where owners will not be able to obtain their Occupation Certificate due to not having the trees but also not being able to plant the trees due to not having access to the site.
- The proposed nominated mature tree heights in the EIE are considered to have possible structural implications where long term damage may be caused to the foundations and associated pipework of the dwellings due the required mature height of the tree and the potential close proximity to the dwelling of the trees root structure particularly where the tree is required to be located in the rear yard which may have a setbacks of as little as 3m under the proposed Greenfield Housing Code. It is recommended that further consultations should be undertaken with representatives who are Structural Engineers, Arborists and from the Insurance Industry in relation to whether the proposed tree planting requirements would align with their best practice recommendations.
- Construction Waste We have concerns in relation to how the proposed Construction Waste requirements are to be regulated from a certifier's point of view. Will this be the role of the Principal Certifying Authority (Private or Council) or will it be regulated by the Council through their powers under the POEO Act.

Further to this the EIE states incorrectly that the Industrial and Commercial Code includes conditions of consent requiring that a waste management plan and tipping receipts are presented to the certifier. We would like to point out that the conditions applying to the Industrial and Commercial Code for Waste Management currently do not require the provision of receipts to a certifier, only the preparation and provision of a waste management plan and as such the inclusion a condition within the Greenfield Housing Code requiring the provision of receipts for waste disposal to a certifier is inconsistent with the Codes of the current Codes SEPP.

The following are considered to be possible impediments to the uptake of the proposed Greenfield Code in Regional NSW;

- Road Act Approvals -Section 138 Road Access Permits We are aware that some LGA's will not accept a 138 Road Access permit until the land has been registered and as such the requirement to obtain an approval under 138 prior to the issue of the CDC approval would defeat the benefit mentioned in the EIE in being able to obtain a CDC approval prior to the land being registered. One solution could be to condition the CDC that prior to commencement of work a Road access permit is required to be obtained.
- Local Government Act Approvals - Section 68 Approvals For regional areas it is unlikely that Urban Release Areas will be required to obtain approval of onsite effluent or stormwater approvals as the Urban Release Areas are generally in areas that are provided with access to Council sewer and stormwater infrastructure. However there are lengthy delays being experience in obtaining the section 68 approvals to connect to the Council infrastructure after the CDC has been issued. As the approval hasn't been issued by the LGA works cannot commence on site until the approval has been obtain hence delaying the commencement of the building work regardless of how quickly the CDC approval has been issued. This delay will be further compounded by the fact that some LGA's will not allow the application for the Section 68 to be lodged until the land has been registered, again there would be no advantage in obtaining the CDC approval prior to the land being registered.
- Protection of Infrastructure We see that there is potential for infrastructure (sewer and stormwater mains) to be potentially impacted by approving dwellings prior to the registration of the land. It is our companies practice to check the depth of the sewer and stormwater infrastructure to ensure that the proposed dwelling will have no impact on the infrastructure and vice versa even if such infrastructure is located within an easement by ensuring that the dwelling's foundations are taken to below the zone of influence of the infrastructure in line with many Regional LGA requirements with many Council having a policy about building near or over Council owned infrastructure. In regional NSW the Council's hold information relating to the depth and location of this infrastructure and will only provide this information once the works as executed plans have been provided to them by the land developer as part of the registration of the subdivision. Due to potential impacts on Council infrastructure and the foundations of the dwelling we would be reluctant to issue a CDC for a dwelling before being able to obtain this information.
- Suspension of covenants, agreement and instruments How will the requirements of Clause 1.20 of the current Codes SEPP be able to satisfied if the subdivision has not been registered as the Covenant / s88B instrument will not have been finalised and cannot be relied upon until such time as the DP has been registered. We have had experience where a draft s88B instrument has been provided only to find that upon obtaining the registered s88B the covenant requirements have changed which resulted in a CDC not being able to be issued due to the provisions of Clause 1.20 of the Codes SEPP and needing to meet the requirements of the covenants. The only way that this could work in practice is for the provisions of Clause 1.20 of the Codes SEPP that relate to covenants not to be applicable to CDC's approved under the proposed Greenfield Code.
- Urban Release Areas As the proposed Code is only applicable in Urban Release Areas this will have limited uptake in Regional NSW as there are limited areas that have been identified as Urban Release Areas under the LEP and we would welcome there being more attention given to the proposed Simplified Housing Code and Regional Housing Code that have been spoken about for some time and rather than increase the complexity of legislation by the addition of another Code for housing that the developments standards proposed for the Greenfield Housing Code be evaluated for incorporation into the Simplified Housing Code and Regional Housing Code.

We look forward to the opportunity to provide further feedback on the process before the implementation of the proposed Greenfield Housing Code and would like to thank you for the opportunity to provide the above matters for your consideration when determining the final draft development standards prior to legislation.

If you have any questions in relation to this submission please feel free to contact the Directors anytime during business hours on (02) 6882 9866 or via info@procert.com.au.

Yours faithfully



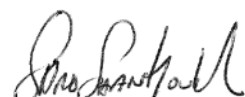
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