

7 July 2017

Ms Carolyn McNally
Secretary
NSW Department of Planning and Environment
GPO Box 39,
Sydney NSW 2001

Dear Ms McNally

Proposed Greenfield Housing Code

The Property Council welcomes the opportunity to provide comments on the proposed Greenfield Housing Code. We support the Government's aim to increase the supply of housing to improve affordability in NSW, in particular Sydney.

The Property Council encourages the Government to consider expanding the application of the proposed Greenfield Housing Code to cover a more diverse range of greenfield development options, not restricted per say, by minimum lot sizes and or depths. A broadened application will be more commensurate of the Code's intention to facilitate a greater uptake of complying development.

Noting our concerns, we appreciate the opportunity to provide comments which seek to enhance the operation of a Greenfield Code, should that mechanism be pursued.

We understand that it is proposed to amend the Codes SEPP and introduce a new Greenfield Housing Code to fast track the supply of housing in greenfield areas by increasing the use of complying development for new dwelling houses, in preference to obtaining development consent under local planning controls or other instruments. The Background Paper identifies barriers to the uptake of complying development and recommendations to facilitate faster housing approval, and the Explanation of Intended Effect (EIE) report contains the proposed amendments and draft Greenfield Housing Code.

This submission consolidates feedback from Property Council members and highlights collective and reoccurring industry views regarding the proposed Greenfield Housing Code. Individual members of the Property Council are likely to provide their own submissions, aimed at addressing particular and relevant components of the proposed code and its implications for their business in the delivery of greenfield development.

Key Directions of the proposed code

The objectives of the Greenfield Housing Code are supported in principle; anything the NSW Government can do to increase the speed of delivery of new homes is positive. However, there are some fundamental questions raised by our review of the Discussion Paper and the Explanation of Intended Effect:

- Will another Code, especially one which further fragments and complicates decision making by establishing another approval pathway, help to reduce complexity and increase the supply of housing?
- How does the proposed Greenfield Housing Code overlap and interact with other NSW Government policy initiatives, including the proposed medium density housing code, and changes foreshadowed in the Department's North West Priority Growth Area Land Use and Infrastructure Implementation Plan (which the Property Council has also made a submission on)?
- Are the proposed Complying Development standards well suited to housing products that the market demands in Greenfield Release Areas?
- Could some of the new controls and changes to SEPP (Exempt and Complying Development) that are proposed to apply specifically to greenfield release areas, apply more broadly under the General Housing Code?
- Because the subdivision process is critical to defining and creating quality new communities, can the relationship between subdivision approvals and the ability to do complying development be strengthened and could a more integrated approach to subdivision and dwelling approvals (without reverting to restrictive "integrated development approaches") substantially improve assessment and approval timeframes and the speed of delivery of new homes?

While elements of the proposed Greenfield Housing Code are an improvement on the General Housing Code (including amendments through the simplified Code that came into effect in July this year), there are complexities associated with multiple approval pathways under the Growth Centres SEPP, local environmental plans and the various Complying Development Codes (both in force and proposed). Amendments to the overall framework of planning instruments that establish approval pathways for new homes should lead to greater consistency of development standards/complying development standards to reduce complexity, increase the take up of complying development and increase the rate of delivery of new homes.

Industry is able to deliver increased housing supply and manage affordability pressures when it is able to operate efficiently. This is particularly the case in greenfield release areas. We believe that the majority of new homes in greenfield subdivisions should be approved as complying development because the majority of house designs are standardised and have been designed to work on lots of specific dimensions and sizes. If developers and home builders have a consistent set of development standards to work to when designing subdivisions and project homes across different jurisdictions, the industry will adapt and increased use of complying development (the core aim of the proposed Greenfield Housing Code) will follow.

The development standards must enable subdivisions and house designs that are attractive and affordable to the end user; the purchaser and future resident of Sydney's new suburbs. Consumers are the ultimate barometer of quality and affordability, and the development industry

is constantly responding to consumer demand. The improvements we have identified to the proposed code would ensure that the objectives of quality, affordability and supply are met.

Subdivision and Master Planning Guidelines

The emphasis added on subdivision and master planning under Chapter 3 of the Background Paper is not directly related to the controls proposed for greenfield development and overall objectives in improving the uptake of complying development and housing supply. The guidelines are not directly related to up take of CDC, nor will they speed up CDC or housing supply in general. There are no clear links to the objectives of the EIE and Background Paper.

It is unclear how the introduction of state-wide master planning guidelines will accelerate housing in greenfield areas. While we agree in principle that the greatest gains in amenity, liveability and sustainability can be achieved in greenfield areas through the subdivision stage of development, there is no clear need for more guidance from Government on good subdivision design. Good design is already being implemented and the case studies in the Discussion Paper demonstrate this.

The key issue in relation to subdivision design is in coordination of delivery in more fragmented greenfield release areas, not large masterplanned estates where a single developer has overall responsibility, particularly for delivering public domain outcomes (streetscape, open space and environmental corridors). We suggest that the newly established Housing Delivery team and Office of Housing Coordinator should focus on delivery coordination and resolving impediments to development in already rezoned greenfield release areas where land fragmentation is a threat to implementation of masterplan outcomes.

The Department already provides leadership in subdivision design, for example in the North West and South West Priority Growth Areas. The masterplanning process in these areas is often undertaken in partnership with the private sector and councils, and provides a sound framework, through Development Control Plans, for delivery. Our members indicate that, in general, the planning process in the Priority Growth Areas is resulting in workable and sustainable development outcomes.

The relationship between subdivision and the construction of new dwellings in greenfield areas is an opportunity to accelerate housing delivery that is not explored sufficiently in the Discussion Paper or the draft Greenfield Housing Code. Feedback from members suggests that the potential to establish a complying development pathways for residential subdivision could accelerate delivery. Similar to the current process for complying dwellings, where effectively the development consent and building approval are combined into a single Complying Development Certificate, a complying development approval that provides development consent and a subdivision certificate as a single approval would substantially accelerate the approval process.

One of the key issues limiting the use of complying development is the complexity and confusion of determining whether complying development applies to the proposed dwelling. An avenue to provide greater certainty would be to nominate lots and building envelopes that are suitable for a dwelling house that can be approved as complying development. A building envelope could be nominated on the subdivision plans that meets the setback and height standards in the Greenfield Code, with a notation on the subdivision plan indicating that a house that fits within the building envelope can be approved as complying development. This approach could suit

developers who offer house and land packages with a pre-determined range of house designs that are suited to particular lot dimensions.

Approaches in the form of legislative amendments which seek to enable complying development of unregistered land, is supported in principle. Such approaches, however, should consider potential implications associated with the coordination of dwelling delivery and infrastructure services. Dwellings which are delivered after the completion of all services and roads for example, will have to conform to the positioning of these services, potentially impacting design layout and or driveway positioning. The land owner may however be required to rectify the augmentation of services to enable a compliant and feasible dwelling.

A summary of other issues raised by Property Council members includes:

- The increase in complexity with introducing further guidelines.
- The relevance and status of the proposed guidelines if DCPs address site specific parameters which ensure the location is developed in accordance with the density achievable, environmental constraints, and proximity to key centres. The introduction of additional mandatory state-wide guidelines may reduce design creativity and reduce innovation between developers and builders.
- Concern that, as with other guidelines (e.g. The Apartment Design Guide), councils will strictly apply the guidelines and they will become de-facto development controls. This reduces the use of design based responses to address specific site constraints and or opportunities.
- The Department needs to be clear as to the proposed transition/relationship between the proposed guidelines and guidelines already prepared by the lead developer. Would these new guidelines be applicable to only new masterplans, not sites partially complete?
- If design guidelines are applied, the Department needs to ensure flexibility with respect to open space location and distribution. Councils often favour consolidated open space areas (i.e. fewer, but larger parks), instead of a more dispersed distribution of open space because of ongoing maintenance costs. Councils are often unwilling to take on ownership and management of riparian corridors because of cost issues and because they are not listed as Essential Infrastructure under section 94 directions. The discussion paper does not adequately consider or offer solutions to issues such as these which can significantly influence the implementation of sound policy and achievement of sustainability and amenity objectives.
- Councils in some instances, prefer not to integrate water sensitive urban design initiatives such as rain gardens, drainage swales and median strips. These initiatives provide both a functional and aesthetic purposes and add character to the streetscape. Broad state-wide guidelines should contain a degree of flexibility to accommodate alternative design solutions and innovative stormwater management approaches. Flexibility will ensure initiatives are commensurate of variances in site location and condition.
- Streetscape design is not standardised across all Local Government Areas within NSW. Council policies in relation to truncations, road and street hierarchies, laneway design and

street cross sections for example, are significantly varied. Councils in some instances, support six metre street corner truncations in greenfield areas on all street types regardless of the hierarchy and function of the street. Truncations should be reduced where appropriate and greater reflect the hierarchy of residential streets. Six metre truncations for example, are suited to collector roads, four metres for primary access streets, while three metre truncations are better suited for local access streets; and

- Excessive Council engineering requirements for road and intersection design impacts on affordability and the promotion of active transport. The ease of pedestrian movements and level vehicular access should have greater weight in determining the design of roads. The reduction of T-intersections and greater use of cross-intersections for example, may be more suitable in certain instances where view corridors and pedestrian networks are desired.

The proposed Greenfield Housing Code

The points below summarise key issues:

1. Application of the proposed Greenfield Housing Code – defining what is a greenfield release area

The Department has sought feedback on how to define a greenfield release area. This issue is complex, and goes to the fundamental question of whether a separate code for greenfield areas is the best solution.

The Department should consider whether the controls proposed in the Greenfield Code are fundamentally different, and would result in fundamentally different outcomes, to those in the General Housing Code. The question of whether different development outcomes are appropriate in greenfield areas to established residential areas is raised in the Discussion Paper, but the conclusion that a new Greenfield Housing Code is required is reached without considering whether the proposed development standards could also apply under the General Housing Code.

In particular, the Discussion Paper suggests that the Code could apply to new subdivisions in regional areas. These subdivisions are often fundamentally different to those in metropolitan Sydney and high growth regional areas like the Lower Hunter, where affordability and land availability pressures are different. We believe that the Department consider limiting application of the Greenfield Code to metropolitan Sydney, the Illawarra and Lower Hunter where the proposed controls better acknowledge the context of smaller lot sizes through provisions such as zero side setbacks.

2. Consistency with other development controls in greenfield release areas

Efficiencies associated with standardised house designs and faster approvals are critical to the home building industry. The Growth Centres SEPP and DCP, while able to be improved through minor revisions, were devised with substantial input from the development industry and as a result are leading responses by project home designers who are developing house designs capable of being sited on a range of lot sizes and which are compliant with the development standards and DCP controls. The majority, if not all, project homes should be capable of being approved as complying development.

A key issue with the current system (that substantially affects efficiencies and therefore increases prices and slows supply) is the multiple and different controls that apply under different planning instruments. The development controls in the code therefore need to reflect acceptable designs that are attractive to the market for home buyers. A single set of development controls that applies to dwelling houses in greenfield release areas would dramatically assist the project home industry to create house designs that can be approved under CDC. Any proposed complying development controls should be generally consistent with the Growth Centres controls if increased use of CDC is to be encouraged. The Department could consider, as an alternative to introducing another code:

- Broader application of the controls for dwelling houses in the Growth Centres SEPP and DCP to other release areas; and
- Specifying that development that meets the standards in those instruments is complying development.

Applicants who have greater certainty about their approval pathway under CDC, are more likely to use CDC because approval timeframes are faster than for DAs. For this reason, clarity is required on where the code will apply, and the controls need to be easily understood and applied to project home designs so there is certainty and the determination of whether or not the code applies to particular house designs is an easy and quick process.

The application of code is limited in nature and does not consider development on smaller, narrower and or corner lots considered under the Housing Diversity Package. The proposed Greenfield Housing Code should be considerate of the full range of housing types applicable to greenfield development.

3. Determining whether a dwelling house is Complying Development under the Code

The code needs to provide clear guidance to the forms of development which will apply. The Code should not exclude developments that may be part of a shared ownership structure or fractured land ownership. The relationship of the proposed Greenfield Housing Code to the proposed Medium Density Housing Code must be clear, so that any complying development dwelling types to be permitted under the Medium Density Housing Code are not precluded as a result of the application of the Greenfield Housing Code.

The Growth Centres housing diversity amendments introduced greater flexibility in the range of developments that are permissible in greenfield release areas, particularly in the Low Density Residential (R2) zones. In considering the relationship of the Greenfield Housing Code to the proposed Medium Density Housing Code, the Department should consider whether the Medium Density Housing Code should apply to multiple occupancy dwelling types such as manor homes, town houses and terraces where those uses are permissible in the R2 zone under another planning instrument. Alternatively, the Greenfield Housing Code could specify those development types as Complying Development in greenfield release areas.

4. Neighbour Notification Requirements

The draft Greenfield Housing Code specifies that requirements to notify the owners of adjacent lots would apply in the same way as under the General Housing Code. However, neighbour notification is often not necessary in greenfield areas, particularly where adjoining lots are

vacant or dwellings are being constructed at the same time, which is generally the case in the first phase of dwelling construction. There is a reasonable expectation in greenfield subdivisions that construction activities will occur concurrently or at roughly the same time across each stage of a subdivision, and people who are moving into new release areas generally do so in the knowledge there will be ongoing construction activity in the surrounding area.

However, neighbour notification would be appropriate where alterations and additions to existing dwellings in greenfield areas occur following the initial phase of dwelling construction. Provisions in the Greenfield Housing Code could specify that notification is only required for alterations and additions to existing dwelling houses.

5. Cost implications

Ceiling heights of a minimum 2.7 metres will increase costs for home builders, and therefore home buyers. Costs will be passed on to the consumer, with resultant impacts on affordability.

Mandating 2.7 metre ceiling heights under the Code will discourage the use of complying development, as most DCPs do not specify a minimum ceiling height and rely on the National Construction Code. While the design and amenity intent of the proposed ceiling height control is understood, those benefits are outweighed by the impacts on affordability and are counter to the objective of increasing the use of complying development.

6. Controls

The proposed Greenfield Housing Code controls have been reduced and simplified. The general intent to simplify controls, and the proposed controls for greenfield complying development, are generally supported. The proposed format of the Code, with diagrams in addition to written controls, will improve clarity and useability, and will help to encourage use of the Code. Specifically:

- The setback controls are more consistent with other planning instruments that are predominantly relied on by greenfield home builders (e.g. The Growth Centres DCPs) and are simpler and easier to apply than those in the General Housing Code.
- The removal of average front setback controls is positive. The proposed numerical standards are easier to apply and will deliver appropriate streetscape outcomes.
- Reduced upper level and rear setback controls are positive. The proposed controls are simpler and will assist with development on shallower lots.
- The creation of lots without the easements/instruments on title that burden lots adjoining a zero lot boundary is supported. The application of an easement at the subdivision stage (which is common practice for many release area councils) unnecessarily restricts the use of adjoining lots, particularly where the dwelling that is eventually constructed doesn't have a zero lot wall. The Code needs to be clear that an easement is not required on an adjoining lot (next to a zero lot wall).

Notwithstanding, numerous details have the potential to reduce the application of the proposed Greenfield Housing Code, including:

- The draft Greenfield Housing Code proposes a higher proportion of landscaped area, in particular for narrower lot sizes, as compared to the existing housing code. This may unnecessarily constrain development, although (particularly for single storey dwellings) it may assist in limiting site coverage to provide appropriately sized outdoor space and limit impacts such as urban heat islands.
- The minimum 25 metre lot depth is not consistent with development trends for more diverse lot sizes and dimensions. More shallow lots are increasingly common and the Code should not be limited by lot depth, particularly because the Code proposes setback controls that will determine the relationship between the dwelling, lot boundaries and adjoining properties.
- The Code needs to clarify how it would apply to abutting dwellings (where there are two adjoining zero lot boundary walls). This housing type is supported under the Growth Centres SEPP and DCP. The Code may need to include specific controls or more clarity to ensure that abutting dwellings can be approved as Complying Development.
- There are some apparent inconsistencies between the controls and the diagrams provided on page 18 of the EIE:
 - Landscaped area within front setback is not 50% and 75% in the lot width diagrams for detached dwellings with widths >10-15m; and
 - More clarity is required on whether the driveway is included or excluded in the area calculations for front landscaping.
- More detail is required in relation to the mechanisms to implement requirements for trees in front and rear yards. For examples, is the tree required to be planted prior to issue of occupancy certificate? In addition, in most cases councils require tree planting in the street verge as part of subdivision approvals to provide shade and contribute positively to streetscape. Space within the front setback for a tree may be constrained as in most cases the location of the tree may result in overlap of the canopy with street trees on the adjoining verge. While the principle of providing more trees is supported, this requirement needs to be considered in the context of established practices in greenfield subdivisions.

7. Internal amenity

There are a number of areas of potential clarifications in relation to the controls proposed to ensure appropriate internal amenity and energy efficiency:

- As previously mentioned, the proposed minimum ceiling height of 2.7 metres will impact negatively on affordability and will discourage, rather than encourage, the use of complying development;
- The relevance of habitable room depths from primary windows is questionable for dwelling houses. Unlike apartments, dwellings generally have more options to ensure natural light penetration into habitable rooms, because there are generally more external walls. The proposed room dimension controls are unnecessary for dwelling houses, add a further layer of control that doesn't apply under the majority of dwelling design controls in greenfield

areas, and will also discourage the use of the Code.

- The use of the term 'primary window' doesn't recognise the predominantly open plan design of project homes, where natural light is likely to penetrate from a number of directions into living areas.

Thank you once again for the opportunity to provide comment.

If you have any queries or would like to discuss this submission further please contact me on cthomas@propertycouncil.com.au or 9033 9107.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'C Thomas'.

Cheryl Thomas
Deputy Executive Director, NSW
Property Council of Australia

