

Proposed Greenfield Housing Code

Response to exhibited material

**Urban Development
Institute of Australia (NSW)
Response**



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1. EXECUTIVE SUMMARY

The Urban Development Institute of Australia New South Wales (UDIA NSW) welcomes the opportunity to provide comment on the Proposed Greenfield Housing Code - Explanation of Intended Effect (EIE) and the Background Paper “A Review of Complying Development in Greenfield Areas”, May 2017.

The Urban Development Institute of Australia (UDIA) NSW is the leading industry organisation for the urban development sector of NSW. The Institute represents over 500 organisations and our members include developers, regulators, and leading professional advisors. Local councils, particularly growth area councils, are also active members of the Institute. The Institute’s advocacy is focused on creating more liveable, affordable and connected cities.

UDIA NSW supports the State Priority Target of 50,000 approvals every year. However, the planning process requires simplification, coordination and efficiency to reach this target. The Proposed Greenfield Housing Code (Code) is an important component to a simplified and faster planning process. The proposed Code provides “...certainty by simplifying the assessment process for new homes, saving time and money for industry and homeowners.” In reviewing the Code there are a few anomalies and issues that have been identified. These are addressed in this submission.

UDIA NSW believes the proposed Code must align with other planning instruments to better achieve housing diversity and a simplification of the planning system. The proposed Code should align with the Growth Centres Housing Diversity DCP and be easy to comply with otherwise the proposed Code will not be used.

The proposed Code is exhibited at a time when the building industry is spending considerable effort and money revisiting designs because of new BASIX 2017 requirements and recent BCA amendments. The proposed Code if adopted, would require further reworking of these housing products adding cost to comply with some of its metrics including, 2.7m ceiling heights. At a time when supply and affordability remain challenges for NSW, careful consideration should be given to the impact of these multiple requirements and amendments.

Currently thousands of homes have been sold on unregistered land in Sydney’s Greenfield estates with many not starting construction until 2018 or 2019. These homes have been designed to comply with current DCP and CDC controls. Any proposed increased design standards and the addition of landscaping will add cost and require a variation to existing building contracts if the proposed Code is used. Consequently, in its current form few applications may choose to go through the proposed Code.

UDIA NSW makes the following recommendations to the proposed Greenfields Housing Code:

Recommendation 1

That controls applicable for dual occupancy and semi-detached dwellings should be clearly stated in the Greenfields Code.

Recommendation 2

It is recommended that strata subdivision of up to 5 dwellings (strata units) on lots under 600m² be permitted under the proposed Code where it is permissible. This would capture the strata subdivision as well as the construction of dual occupancy, Fonzie Flats and Manor Homes (micro-stratas of 2-5 dwellings) where they are permissible under a State Environmental Planning Policy (SEPP) or Local Environmental Plan (LEP).

Recommendation 3

To align definitions, development standards, approval pathways and lot size controls proposed in the Greenfields Housing Code with State Environmental Planning Policy (Sydney Region Growth Centres) 2006 and the associated Housing Diversity Development Control Plan. This should allow for smaller and narrower lots to be created without being tied to concurrent dwelling construction.

Recommendation 4

Remove the criteria requirement for lot depths.

Recommendation 5

Amendments to the development standards as per table on pages 11-12.

Recommendation 6

Landscaped areas should be clearly defined. The Department should further investigate the function and intent of the requirement for 75% of the front setback area of dwellings on 7m to 10m wide lots and the ability for dwellings with front garages and driveways to achieve this requirement.

Clarification will be required over the local council control of removing a tree within 3m of a structure.

Recommendation 7

The minimum ceiling height of 2.7m should be removed.

Recommendation 8

The maximum depth of 6m from a primary window of a habitable room should be removed.

Recommendation 9

A new definition to be created that incorporates the ability to title secondary dwellings into the Greenfield Housing Code.

2. INTRODUCTION

Despite a 300% increase in housing supply over the past 10 years, Sydney requires an additional 100,000 dwellings now and at least 725,000 new homes to accommodate 1.7 million people by 2036. That is, 825,000 homes to be delivered in 20 years, or 41,250 annually. Greater Sydney has never achieved this level of dwelling completions. With a median house price of \$1,151,565 (Domain: March Quarter 2017), Sydney is currently ranked the second least affordable city in the world (2017 Demographia International Housing Affordability Survey).

To achieve this projected level of supply, the housing supply chain needs to be more efficient and productive. The NSW Government is to be congratulated on their commitment to provide “...certainty by simplifying the assessment process for new homes, saving time and money for industry and homeowners.” To achieve the State Priority Target of 50,000 approvals every year, the planning process requires simplification, coordination and efficiency for the delivery of all housing. The proposed Code is an important component to a simplified and faster planning process.

There is opportunity for the Code to be integrated into the *ePlanning* program and continued work with the NSW Department of Finance, Services and Innovation, through Cadastre NSW, to develop a digital transformation of the approval stage of the development process. Using the property identifier (lot and DP) to be tracked through the process would assist with some of the issues identified as barriers including ‘deferred commencement conditions’, easements, and the Roads Act and Local Government Act Approvals.

Efforts should continue to save time and money to ensure housing is delivered more affordably. The Background Paper notes the savings of around \$15,000 if a CDC path is taken over a Development Application approval pathway. The proposed Code needs to ensure that it can be used efficiently to deliver the housing outcomes, otherwise applicants will be forced to continue to use the Development Application process pathway.

The building industry is currently spending considerable time and effort revisiting designs because of the new BASIX 2017 requirements and recent BCA amendments. The proposed Code as exhibited would require further reworking of these designs with costs added to ensure compliance with some of its metrics including, 2.7m ceiling heights. At a time when supply and affordability remain challenges for NSW, careful consideration should be given to the multiple impact of these requirements and changes. It is therefore important that the CDC document is robust and delivers the right outcome for the new home owners, industry and planners.

It remains important to consider the interrelationships of individual planning initiatives and reforms in the context of the greater planning system and in the case of housing, the ongoing supply of relevant, diverse and affordable housing. Section 3 discusses this further.

Sections 4-7 of the submission focuses on the following areas in making its comments and recommendations:

- Identified Barriers and Proposed Approach
- Proposed Development Standards
- Secondary Dwellings
- Subdivision and Masterplan Guidelines.

3. HOUSING DIVERSITY AND EFFICIENCIES

Approximately 80% of metropolitan Sydney's residential land is zoned R2 Low Density Residential. It is important that it supports the population's various housing needs in terms of built form, affordability and supply.

In recent years, the Department of Planning and Environment has introduced some planning initiatives like the Growth Centres Housing Diversity Package and the Missing Middle Design Guidelines. These planning initiatives have paved the way for innovation and set the parameters for the industry to deliver more diverse and affordable housing products. It is important with the introduction of the proposed Code and the Draft Housing Code that these align with the broader objectives of housing supply and diversity in the simplification of the process.

3.1 Growth Centres Housing Diversity

The Housing Diversity package was implemented in 2014 for Sydney's North West and South West Priority Growth Areas and has had a significant impact by empowering the industry to deliver more affordable land and housing outcomes. One of the objectives of the Diversity package was to:

“Ensure planning controls and approval pathways allow housing product and types that reflect market demand and contributes to the availability of more affordably priced housing in Sydney's Growth Centres.”

The North West Priority Growth Area Land Use and Infrastructure Implementation Plan identifies the potential to deliver around 12% of Sydney's new homes over the next 20 years. The majority of these homes will be family homes “...but there is a growing demand for more diverse housing types like terraces, apartments and studios. Land sizes and house sizes are decreasing as housing affordability becomes increasingly important.”

3.2 Secondary Dwellings

The Explanation of Intended Effects (EIE) outlines a proposed relationship with the State Environmental Planning Policy (Affordable Rental Housing) 2009 (Affordable Housing SEPP) for the treatment and planning pathway for secondary dwellings. Secondary dwellings contribute to the supply of affordable housing. However, they are isolated in the Affordable Housing SEPP from better design outcomes and importantly only deliver a rental outcome. It is important that these dwellings permit separate titling. Relying on rental stock is no longer adequate – there must be more opportunities for people to purchase their own home.

Controls that relate to dual occupancy, secondary dwellings and semi-detached dwellings should be clearly stated in the proposed Code. The reference to the Affordable Housing SEPP is confusing and Councils or Principle Certifying Authorities may assume the necessity for these to be built for rental outcomes.

3.3 Strata Subdivision

Whilst the proposed Code may assist in making the approval process for individual dwellings more efficient for home builders and purchasers, it does not tackle the underlying problem of how long it takes to deliver new lots to build on. As part of the Government's commitment to increasing housing supply, more intervention is required to improve the approval timeframes for subdivisions.

Given the Greenfield Housing Code establishes controls for dwellings based on best practice and the Housing Diversity package, the Department needs to pursue greater reform of subdivision controls to enable smaller lots to be created without concurrent built form. This will allow for greater utilisation of the Greenfield Housing Code and make the approval process more efficient for more affordable house and land packages.

The examples shown in sections 3.1-3.4 highlight opportunities through a variety of planning instruments and initiatives to achieve housing diversity. The ability to deliver these size lots are heavily restricted and can only occur in medium density areas, or in select locations within low density areas. This means that the full extent of the dwelling diversity proposed in the Code, and potential increased use of the Code, is currently not able to be realised.

The proposed Code is an excellent opportunity to revisit the work done in the Growth Centres Housing Diversity DCP and align the outcomes into a simplified and efficient planning system. There is another opportunity with the definition of secondary dwellings for it to be reviewed and placed into a planning instrument that supports housing diversity and permits the product to be titled. See Section 6 of this submission for more detail.

Recommendation 1

That controls applicable for dual occupancy, semi-detached dwellings should be clearly stated in the Greenfields Code.

Recommendation 2

It is recommended that strata subdivision of up to 5 dwellings (strata units) on lots under 600 m² be permitted under CDC where it is currently permissible. This would capture the strata subdivision as well as the construction of dual occupancy, Fonzie Flats and Manor Homes (micro-stratas of 2-5 dwellings) where they are permissible under the SEPP or LEP.

4. REMOVAL OF IDENTIFIED BARRIERS AND PROPOSED APPROACH

The Government should be congratulated for engaging with stakeholders to identify barriers to address delays and issues that limit the utilisation of Complying Development over the traditional Development Application process.

The proposed Code defines its application to new dwelling houses in defined residential release areas on land which follows all the criteria listed. It is important to understand geographically what is defined as a 'Greenfield' area.

Given the proposed Code establishes controls for dwellings based on best practice it is important that it aligns itself with the development controls and lot widths of the Housing Diversity DCP.

In Sydney's 'Greenfield' areas, (generally understood, but not limited to, the North West and South West Priority Growth Areas), standard planning controls do not allow developers to directly subdivide lots down to 200m² or with widths narrower than 9m. To obtain approvals for lots of this size, it is necessary for Development Applications (DA) to be lodged for both subdivision and construction of dwellings at the same time. These approvals take on average, between 7-9 months. Significantly longer than the 1-month approval process that the Greenfield Housing Code would provide.

The Department should pursue greater reform of subdivision controls to enable smaller lots to be created without concurrent built form. This will allow for greater utilisation of the proposed Code and make the approval process more efficient for the delivery of affordable house and land packages.

Consideration should also be given to removing the minimum lot depth requirement. Greenfield blocks are currently being produced that are 22m and 23m deep. Precluding these size lots, if they can meet the other standards, is unreasonable. A minimum block size of 200m² would be sufficient criteria for the Code to apply with the other standards as noted in the EIE. Page 18 of the EIE document inadvertently uses an example of a lot 23m to demonstrate compliance with lot widths.

Recommendation 3

To align definitions, development standards, approval pathways and lot size controls proposed in the Greenfields Housing Code with State Environmental Planning Policy (Sydney Region Growth Centres) 2006 and the associated Housing Diversity Development Control Plan. This should allow for smaller and narrower lots to be created without being tied to concurrent dwelling construction.

Recommendation 4

Remove the criteria requirement for lot depths.

4.1 Unregistered Lots

The barriers around complying development being undertaken on unregistered lots have resulted in the proposed amendments to:

- Allowing a 'deferred commencement condition';
- The Regulations to allow a CDC to be issued for a new dwelling house to be constructed on an unregistered lot
- Development standards in the General Housing Code so that they apply to unregistered lots.

The ability to secure early release of a housing Development Application (DA) and Construction Certificate (CC) via a CDC pathway on unregistered land is critical for quicker housing delivery. The 'deferred commencement condition' may have limited benefit as there are existing early release arrangements which allow for 60% completion prior to linen registration.

Implementation of the 'deferred commencement condition' will require a higher degree of coordination by the developer with home builders and purchasers to ensure dwellings are sited and designed to respond to the subdivision that has yet to be completed. A plan coordinating the proposed interface and boundary treatment may be helpful to guide the development and its impact on the adjoining property. This plan could indicate things like: vehicular cross overs, physical infrastructure like drainage pits, electricity pillars, street trees and zero lot lines.

4.2 Easements and other instruments under the Conveyancing Act

The following comments are offered as feedback on the practical use and needs of easements in this context.

- Allow eave overhang on maintenance easements. The easement is meant to facilitate access to clean gutters, do painting or other minor repair works on the lot benefitted by the easement.
- Generally, the built to boundary wall is limited in length and the easement provided is either the full or half the length on the adjoining lot, access is available anywhere along this easement.
- The current maximum offset of 150mm from boundary for a zero lot wall results in the fascia/gutter being built over garage or habitable room. This results in an 'ordinary' façade and creates a potential water penetration issue. This can be overcome by increasing the maximum offset to 200mm allowing the fascia/gutter to be built within the lot boundary whilst providing an offset to run services if required.

4.3 & 4.4 Approvals under the Road Act and Local Government Act

The proposed approach to have driveways approved in principle early in the subdivision or masterplan stage seems sensible which would then allow the final written consent prior to construction.

4.5 Communicating Complying Development standards more effectively

To ensure a simplified and faster planning process, complying development needs to be easily understood and communicated well. This would include its integration into the *ePlanning* Program.

5. PROPOSED DEVELOPMENT STANDARDS

It is important that the proposed development standards align with the Growth Centres SEPP and DCP, especially with regard to lot width. This alignment makes the housing supply chain more efficient and simplified when the existing and known standards are readily translated into a complying Code.

UDIA NSW provides the following commentary on improving the proposed development standards contained within the EIE. Changes are highlighted and include notations which follow with a justification and explanation for the suggested change.

5.1 Lot Dimensions

Control	Lot Width			
	6m to 7m	>7m to 10m	>10m to 15m	More than 15m
Maximum Building Height (dwelling) see section 5.3.2	8.5m	8.5m	8.5m	8.5m
Site Coverage ¹	Upper level – no more than 50% of lot area	Upper level – no more than 40% of lot area	Upper level – no more than 35% of lot area	Upper level – no more than 30% of lot area
Minimum front setback ²	3m (to front building facade); 1.5m to articulation zone.	3m (to front building facade); 3m to articulation zone.	4.5m (to front building facade); 3m to articulation zone.	4.5m (to front building facade); 3m to articulation zone.
Minimum front garage setback	N/A (rear garaging only)	5.5m	5.5m	5.5m
Minimum side setback (ground level)	Side A:0 Side B:0	Side A:0m Side B:0.9m	Side A:0m Side B:0.9m	Side A:0.9m Side B:0.9m
Minimum side setback (upper level) ³	Side A:1.2m Side B:0m	Side A:1.2m Side B:0.9m	Side A:1.5m Side B:0.9m	Side A:1.5m Side B:0.9m
Max built to boundary wall for all development on site	20m or 50% of lot depth (whichever is less). The remainder setback along the boundary is 0.9m.	15m or 50% of lot depth (whichever is less).	11m or 50% of lot depth (whichever is the less).	N/A
Minimum rear setback (single storey)	3m	3m	3m	3m
Minimum rear setback (double storey)	6m	6m	6m	6m
Corner lots – minimum secondary street side setback	1m	2m	2m	2m

Or facade treatments				
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Notations, explanations and suggestions:

1 Site Coverage – a relationship between the upper level of the dwelling and the lot area appears to be a new standard. It is unclear as to what the intended effect of this new standard is. It is worth noting that the proposed upper floor site coverage controls do not fully align with the Housing Diversity DCP and may limit utilisation of the Greenfield Housing Code. The site coverage controls for the Housing Diversity Development Control Plan were based on lot sizes and analysis of available project home designs. Adopting different site coverage regimes will force home builders to redesign their current suite of products to comply with the proposed Code or to continue to rely on the Housing Diversity DCP.

Depending on whether garages are at the front or rear of lots, the maximum site coverage for 7m wide lots varies from 40% to 50%. Greater consistency should be provided at this width with maximum site coverage gradually stepped down as lots become wider in line with the Housing Diversity DCP.

2 Minimum front setback – adjust to 3m setback and 1.5m articulation for the 6m to 7m wide lot if they front open space.

3 Minimum side setback (upper level) – adjust the side setback for the upper level on the two smaller lot sizes from 1.5m to 1.2m. Assuming the issue regarding the ability to approve the subdivision of lots less than 250m² and narrower than 9m wide is resolved, the inclusion of the ability to construct abutting zero lot lined walls for rear loaded lots is supported.

4 Facade treatment of secondary setbacks on corner lots – this should be discussed and controlled.

Recommendation 5

Amendments to the development standards as per table on pages 11-12.

5.2 Landscape Controls

Table 4 of the EIE sets out landscaping controls.

5.2.1 A landscaped area (min 1.5m wide) is required for 15% of the lot area 200-300m² for all lot widths. For lots greater than 300m², 50% of the lot area is to be landscaped (minus 100m²). The existing Exempt and Complying Code promotes 10% for less than 300m² and 15% for 300-450m². By comparison, a 450m² lot area under the current Code requirements is $0.15 \times 450 = 67.5\text{m}^2$. However, under the proposed Code, $0.5 \times 450\text{m}^2 - 100\text{m}^2 = 125\text{m}^2$. That is a 46% increase in area.

It is suggested that compliance with the existing Exempt and Complying Code control of 10% for a 6 to 7m wide lot and 15% of the lot area for lots 300-450m². Maintain the control lots proposed above 15m wide.

5.2.2. A Landscaped area (min 1.5m wide) within front setback is set out at 75% for 6m-10m lots and 50% for lots >10-15m+ lots. This appears not to be achievable.

Instead, it is recommended that 25% is set as the standard for landscaped areas of the front setback for lots 7-10m and 10-15m wide. This offers consistency with clause 3.24(3) of current Exempt and Complying Code.

5.2.3 Provision of a tree in the front garden with a minimum of 3-5m mature height and a 8-10m mature height tree in rear yard. Trees should be able to be planted by the residents themselves, within 6 months of issue of Occupancy Certificate to save money. Most builders do not include landscaping and it is more affordable for new owners to do it themselves.

Requiring the mature tree could potentially conflict with Councils' requirements of trees to be a minimum of 3m from a building structure.

Recommendation 6

Landscaped areas should be clearly defined.

The Department should further investigate the function and intent of the requirement for 75% of the front setback area of dwellings on 7m to 10m wide lots and the ability for dwellings with front garages and driveways to achieve this requirement.

Clarification will be required over the local council control of removing a tree within 3m of a structure.

5.3 Amenity Controls

5.3.1 Windows, doors and other openings: Due to frequency of zero lot development and the need to have these included in complying development, recommend rewording for lot widths 6-15m to "No windows, doors or other openings in any wall on the second storey that is less than 900mm from the boundary, or on the zero lot boundary wall for any storey" Often on zero lot developments garage doors and stacker doors to ground floor living on rear and laundry doors or windows on zero lot returns on ground floor are all within 900mm. However, it is reasonable to provide this requirement on second storey.

5.3.2 Minimum ceiling height. Building Code Australia (BCA) stipulates an acceptable height of 2.4m in a habitual room (excluding a kitchen) and 2.1m in a non-habitual room. This is an Australian Standard and one that which has been adopted by numerous home builders as a minimum design standard. Increasing ceiling heights for living areas especially when many homes now have living rooms on the second storey will increase the building height and result in increased cost due to extra brickworks, lining, painting, door/window heights. The Institute contends that this requirement can add between \$6,000 to \$8,000 onto the cost of construction of new homes. This cost is ultimately passed on to purchasers and reduces the affordability of housing.

The proposed Code will apply a maximum height of 8.5m. Generally, the controls within Sydney's Priority Growth Areas permit up to 9m for single dwellings. In addition, the EIE implies that habitable attics are permissible. If the ceilings heights of 2.7m needs to be adhered to, given typical roof pitches, habitable attics are unlikely to be accommodated within the 8.5m height limit.

Recommendation 7

The minimum ceiling height of 2.7m should be removed.

5.3.3 Maximum depth of habitable room from a primary window maybe a legacy from the Apartment Design Guidelines. The maximum depth of habitable rooms from primary windows is considered onerous. This is not required by the Housing Diversity DCP and will potentially limit the utilisation of the Greenfield Housing Code. Adoption of this will prevent the opportunity to stack living and dining areas that is accepted by the market and would likely increase the cost of construction.

Recommendation 8

The maximum depth of 6m from a primary window of a habitable room should be removed.

6.0 SECONDARY DWELLINGS

UDIA NSW supports the inclusion of Secondary Dwellings as a permissible housing form in the Code. Housing diversity is an important component to addressing both supply and affordability. Section 3 of this submission discusses the need for housing diversity and the role that complying codes have in the streamlining of various planning pathways with the view of achieving efficiency and affordability. Secondary dwellings need to be dealt with beyond its context in the Affordable Housing SEPP. The wide acceptance of the product as a viable housing form has been recognised. It is timely that its definition, design standards and application be incorporated into the proposed Code and a mechanism for it to be separately titled.

Recommendation 9

A new definition to be created that incorporates the ability to title secondary dwellings into the Greenfield Housing Code.

7.0 SUBDIVISION AND MASTERPLAN GUIDELINES

A well-designed masterplan is essential to create a productive, liveable and sustainable community and the preparation of a guideline document to direct developers to achieve this has merit. However, the guideline should be understood as that, a simple broad outline of those elements that should be considered in the preparation of a masterplan. It would also provide some consistency across Local Government Boundaries. However, there is a risk that these 'guidelines' become enshrined as standard controls. Limiting innovative solutions and opportunities for the industry to continue to evolve and provide changes through market preference is not supported by the Institute.

Greater focus should be applied to standardising development controls for subdivision in greenfield areas to make it easier for developers to operate in multiple Local Government Areas. Adoption of the Housing Diversity DCP as the baseline development controls for neighbourhood and subdivision design should be encouraged. Further attention should also be paid to amending subdivision development controls to allow smaller lots to be created so that the Greenfield Housing Code can be more broadly utilised.

We can offer the following issues encountered with regard to master planning for your consideration:

- Councils not accepting a hierarchy of open space and favouring consolidated open space provisions, instead of a more equitable distribution of open space in the way of pocket parks to provide better access, activation and amenity for more residents. In some instances, Councils do not want open space that exceeds their standard requirement, due to additional costs of maintenance, even though the additional open space contains existing mature significant trees that would contribute to the character of the neighbourhood and make for a site responsive masterplan.
- Place making initiatives – often Councils refuse the dedication of seating, play equipment, barbeque facilities and lighting within Council parks because of concerns with the cost of maintenance.
- Standard 6m corner truncations of all street types regardless of hierarchy and function of streets – even for small lots in medium density areas. Truncation should be kept to a minimum and reflect the hierarchy of the residential streets – 6m for collector roads, 4m for primary access streets and 3m for local access streets.
- Councils' engineering requirements are overly excessive and rigid for road and intersection designs in terms of curve radii that facilitate vehicular movements. These requirements are often at the expense of ease of pedestrian crossings at intersections.
- Making pedestrian-friendly grid network of streets difficult to achieve. There needs to be a shift from treating minor streets as thoroughfares for vehicles towards making them more pedestrian friendly in the residential context. Well designed, they provide opportunities for chance social encounters and recreational pursuits and need to be explored in the masterplan designs.

8.0 CONCLUSION

UDIA NSW has taken the opportunity in this submission to address the necessary alignment of this proposed Code with other planning instruments to better achieve housing diversity and a simplification of the planning system.

The Institute has made 9 recommendations for the Proposed Code to be amended and is hopeful that these are of assistance in the finalisation of the Plan.

UDIA NSW welcomes the opportunity to meet with the Department to discuss any aspect of this submission or any alternative solutions the Department may wish to consider.

If you require clarification on any of the above matters please do not hesitate to contact Justin Drew, General Manager, Policy and Corporate Affairs on jdrew@udiansw.com.au