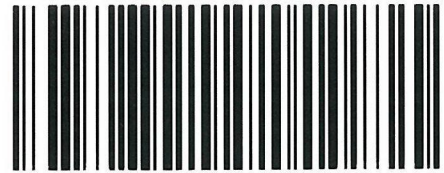


28 April 2016

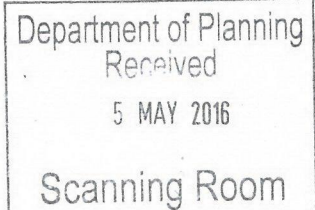


PCU065219

Director
Policies & System Implementation
NSW Department of Planning & Environment
GPO Box 39
SYDNEY NSW 2001

Copy to:

Mr Ashley Albury
Director, Regions, Western
NSW Department of Planning & Environment
westernregion@planning.nsw.gov.au



Dear Sir/Madam

A review of Complying Development for Inland NSW

Please find **enclosed** Council's submission in respect of the proposed Inland Code for Complying Development.

Council supports the new Code and the Department's recognition of the fundamental differences in built form between regional and metropolitan areas of NSW, a case Bathurst Regional Council has been arguing for many years.

Most importantly, Council seeks:

- (1) Confirmation from the Department that clause 1.9(3) of the Codes SEPP will be retained.
- (2) Confirmation that complying development provisions will not apply to bushfire prone lands and flood prone lands.
- (3) Exclusion of the RU2 zone from the complying development process in the Bathurst Regional LGA only to ensure protection of the Mount Panorama motor racing circuit.
- (4) Confirmation that the respective LEP minimum lot size will be applicable to the R5 zone.

Council looks forward to a further opportunity to comment on the Inland Code once it has been drafted so that the detailed controls proposed can be considered more carefully.

NSW Department of Planning & Environment
28 April 2016

If you have any queries, please contact Council's Manager Strategic Planning, Janet Bingham, on 6333 6211.

Yours faithfully



R Denyer

**ACTING DIRECTOR
ENVIRONMENTAL, PLANNING & BUILDING SERVICES**

Bathurst Regional Council Submission in relation to the Proposed Inland Codes SEPP

General Comments

Council supports the removal of the General Housing Code and Rural Housing Code and implementation of the new Inland Code as they apply to the Bathurst Region.

Council applauds the Department finally acknowledging the differences in regional and rural locations as compared to the metropolitan areas of the State. Councils such as Bathurst Regional have been advocating for such change since the introduction of the Codes SEPP.

Council, however, maintains that a one size fits all approach, even in regional and rural locations, will not account for all local variations. **Council therefore seeks confirmation from the Department that the existing parallel system for exempt and complying development enabled by clause 1.9(3) of the Codes SEPP in relation to the Bathurst Regional Local Government Area will be retained.**

In this regard Council again reiterates to the Department its successes in the implementation of exempt and complying development under the local provisions of Bathurst Regional Local Environmental Plan 2014, as amended. The Bathurst Regional LEP 2014 provisions have enabled Council to achieve:

- 80% to 85% of all new detached housing in suburban areas as complying development (Council approves CDCs for new dwellings within 24 hours of receipt); and
- one third of all development activity in the LGA as exempt development.

Council maintains that it will be these local LEP provisions rather than the Inland Code that will secure higher rates of exempt and complying development in the Bathurst Regional LGA because these provisions have been developed to suit the local Bathurst situation.

Council would appreciate a further opportunity to comment on the Inland Code once it is drafted so that the detailed controls proposed can be considered more carefully.

Specific Comments

- The current General Housing Code is NOT easy to interpret in both its language and structure and this is, in Council's opinion, one of the reasons the complying development process has not been taken up in the Bathurst Region under the Codes SEPP. The drafting of the Inland Code needs to be carefully considered to ensure it is user friendly.
- Council understands that clause 1.15 and clause 1.16 of the Codes SEPP will remain in place in relation to general requirements for exempt development under the Inland Code.
- Council understands that clause 1.17, 1.17A and 1.18 of the Codes SEPP will remain in place in relation to general requirements for complying development under the Inland Code.
- Council understands that Clause 1.19 of the Codes SEPP will be extended to apply to the Inland Code so that complying development cannot be carried out on lands such as heritage conservation areas. **Council seeks confirmation that the complying development provisions will not apply to bushfire prone lands and flood prone lands.**
- R5 and RU5 zones – in the case of Bathurst Regional Council these lands are generally un-sewered and the location of new development is controlled by means of land management restrictions on relevant DCP maps (e.g. to protect remnant vegetation and drainage lines, enhance opportunities for revegetation and to provide adequate buffers to agricultural lands). In general Council does not support the use of the complying development process in these zones (other than for additions and alteration) as a merit assessment is required to give weight to Council's DCP provisions, particularly for existing lots where development restrictions under the DCP cannot be imposed as a building envelop on subdivision plans. Where a subdivision plan restricts development (e.g. building envelop), the complying development process should enforce the same.
- R5 and RU5 zones – page 4 of the explanation provides for two different minimum lot size provisions for the RU5 zone and no provision for the R5 zone. This appears to be a typo. In Bathurst the RU5 zone is un-sewered and no minimum lot size imposed. One of the key determining factors in permitting new dwellings is the ability to dispose of effluent. The application for the dwelling and the effluent disposal system are usually presented to Council at the same time. On this basis it is preferred that the complying development process does not apply to the RU5 zone. In respect of the R5 zone some of these lands are sewerred and some are not. The lot size varies from 4,000 square metres to 10ha. Any minimum lot size requirement must be in accordance with the LEP provisions. However, as outlined above, Council's preference is for a merit assessment in the R5 zone to give weight to existing DCP provisions, particularly for existing lots, and appropriate effluent disposal arrangements.
- The explanation documentation makes no comment about developer contributions. In Bathurst developer contributions may be payable in all zones, depending upon the circumstances of the development.
- Front boundary setback of 4.5m – this is considerably less than Council's current standard. Whilst Council will review this standard from time to time it would be preferably for the Inland Code to adopt the local (LEP/DCP) front setback provision. A change to 4.5m should be referred to the local community through a consultation process before the change is made.
- Classified road access – In certain instances Bathurst Regional DCP restricts access to classified roads (e.g. the RU5 zone at Wattle Flat), how is this issue to be addressed? Where a new access might be warranted and is not restricted by relevant local planning controls, the new access

would require the concurrence/approval of the RMS pursuant to section 138 of the Roads Act 1993.

- RU2 Landscape Zone – in the Bathurst Region this zone is applied to privately owned land at Mount Panorama. The DCP restricts the creation of new accesses to the Mount Panorama circuit and imposes siting restrictions to protect the circuit. How will these issues be addressed?
Council would prefer the RU2 zone be excluded from the complying development process for the Bathurst Regional LGA to ensure maximum protection of the Mount Panorama motor racing circuit.
- No provisions are outlined for access requirements to rural properties. Reference to the Planning to Bushfire protection guidelines should be used as a minimum.
- It is noted generally that some provisions proposed are more onerous than the existing Bathurst local provisions and some slightly more generous.