

Submission on proposed changes to NSW Complying Development to cover medium density housing

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About the Property Council of Australia

The Property Council of Australia is the nation's peak representative for the property and construction industry.

Our 2,000 member firms and 55,000 active individuals span the entire property and construction industry, which includes all:

- **dimensions of property activity** — financing, funds management, development, ownership, asset management, transaction and leasing.
- **major property types** — offices, shopping centres, residential development, industrial, tourism, leisure, retirement and infrastructure.
- **major regions** of Australia and **international** markets.
- **four quadrants of investment** — public, private, equity and debt.

The property and construction industry also underpins the health and prosperity of the NSW economy. The industry:

- generates over **311,000 jobs** - one in ten workers
- provides **\$20.3 billion in wages** to workers and their families
- pays **\$9.8 billion in State taxes** to the NSW Government – the State's single largest tax payer
- is levied an additional **\$7.2 billion** in local council rates and charges annually
- contributes **\$54.5 billion directly to Gross State Product** – 11.1 percent of total GSP, and creates \$88.3 billion in flow on activity.

Executive Summary

The Property Council strongly supports this initial expansion to the complying development framework, presented in *Volume 1 – Discussion Paper ‘Option for Low Rise Medium Density Housing as Complying Development (‘the discussion paper’)*.

The proposed changes have the potential to positively impact housing supply. We make a range of recommendations within our enclosed submission. All ideas are intended to support and strengthen the options presented within the discussion paper.

Planning systems have a direct impact on housing affordability. When they’re efficient, streamlined, and consistent, they reduce the time it takes to build a house, and minimise the costs involved.

The Property Council of Australia has consistently identified an expansion of the complying development framework as a critical part of planning reform needed to improve housing supply and affordability in NSW.

At its core, complying development is a common sense concept widely used in other states: if a project meets defined criteria, it should advance efficiently through the planning system saving time and money.

That’s why, in 2015, the Property Council partnered with JBA to present the Government with the *Complying Development Report Card 2015*. (Attachment 1)

In our report we noted improvements to the complying development framework over recent years which have translated to a higher number of approvals. In 2013-14, 29% of all development approvals in NSW were fast-tracked with a complying development certificate (CDC). This is a significant improvement on 2010-11, when only 18.5% of approvals were processed as complying development.

We are pleased to see the options presented in the discussion paper *“The Missing Middle - Options for Low Rise Medium Density Housing as Complying Development”* seek to extend the complying development framework in line with one of the central recommendations in our report.

Our members have a strong commercial interest in the outcomes of this process and are actively planning for, designing, engineering and constructing a range of medium density housing types proposed to be included as complying development including dual occupancy, manor homes, townhouses and terraces that will result in 2-10 dwellings erected on a parcel of land.

Looking ahead, we would like the refresh and the expansion of the complying development process to continue over coming months - in particular, we’d like to see the government pick up our headline proposal of allowing CDCs to be issued for developments in Priority Precincts that meet pre-defined criteria.

Summary of recommendations

Recommendation 1: Ensure the type of medium density product created through the exempt and complying SEPP is consistent with the product created through the Growth Centres SEPP and has the same design and amenity rigour applied.

Recommendation 2: Ensure the expansion of complying development complements the vertical planning process at a State, district, and local level.

Recommendation 3: The new SEPP may require additional controls to manage garage dominance.

Recommendation 4: The siting of dwellings should be determined through environmental performance and streetscape considerations.

Recommendation 5: It is suggested that the Codes SEPP replicate the controls provided within the Growth Centres DCP whereby the minimum front setback is determined according to lot width of the site.

Recommendation 6: Consider the provision of built form guidance to accompany proposed changes to the complying development SEPP. This includes architectural design, integration with existing streetscapes, and impacts to local traffic and servicing.

Recommendation 7: Consider the impact on affordability of higher amounts of terrace style product which are strata subdivided.

1. Strategic Planning and Growth Centres

Recommendation 1: Ensure the type of medium density product created through the exempt and complying SEPP is consistent with the product created through the Growth Centres SEPP and has the same design and amenity rigour applied.

Recommendation 2: Ensure the expansion of complying development complements the vertical planning process at a State, district, and local level.

Growth Centres

The expansion of complying development for medium density should be applied in such a way as to ensure the type of terrace product able to be created through the exempt and complying development controls is consistent with the product which is created through the Growth Centres SEPP.

It is currently unclear whether the proposed changes to the complying development SEPP allow medium density development types to be permitted as complying development only in zones where they are permissible under the LEP or if medium density development types will be permitted as complying development across all land in NSW (with a small number of exceptions via Clause 1.17A, 1.18 or 1.19.)

The Property Council has articulated the case for an expansion of the Code to medium density product within zones where multi-dwelling housing is permitted under existing State plans and policies. We also note that the Growth Centres provide detailed controls¹ relating to block layout, housing diversity and design of housing product within their precincts.

For example, a draft Precinct development control plan (DCP) is also developed for each growth centre at both the master planning, subdivision and integrated DA stages. The DCP provides detailed controls for the Precinct such as urban design requirements expected to be addressed in any future local DCPs. Importantly, the draft Precinct DCP provides principles which must be included in future DCPs.

These requirements may be a set of numerical standards e.g. certain road widths, or a direction to include a control within a DCP e.g. solar access provisions. Overall, however, the controls are intended not to be prescriptive but provide a foundation for future DCPs development.

Medium density housing product created via the exempt and complying development approval pathway should be subject to the same design and amenity rigour applied within the Growth Centres controls.

¹ State Environmental Planning Policy (Sydney Region Growth Centres) 2006 (SEPP) and the EP&A Amendment Regulation 2006 establishes the broad planning controls required to oversee the development of the Growth Centres

District Planning

Any expansion of complying development should be consistent with the vision, and planning controls, implemented at a State, district, and local level.

Early in 2017, the Greater Sydney Commission will be releasing District Plans which will help local government areas deliver on targets set within *A Plan for Growing Sydney* (Sydney Metropolitan Strategy).

As part of this process, Local Environmental Plans (LEPs) will be required to be updated in line with district plans and metro planning strategies.

In making any changes to the complying development SEPP the Department should ensure that the proposed options within the discussion paper complement the vertical planning process at a State, district, and local level.

2. Design Standards – location of car parking structures

Recommendation 3: The new SEPP may require additional controls to manage garage dominance.

Our members are concerned about the impact of the proposed changes on design quality. For example, the way that on-site parking is designed affects the net density of a precinct and the character of a neighbourhood.

When garages are built on lots larger than 450m², the visual impact will generally be low. However, for smaller and medium-sized housing on lots up to about 450m² in size, the design of on-site parking needs to be carefully considered to ensure no adverse effects on adjacent properties in terms of visual impact and overshadowing.

Further, the way that car parking is incorporated within the dwelling design may also result in garages being used for storage, leading to driveway and on-street parking. Many successful medium density housing designs incorporate parking in the form of detached garages accessed from a rear laneway/shared private access way.

Rear setback parking also allows for significant improvement of the streetscape considering that dwelling frontages will consist of habitable rooms rather than a series of garage doors, which can be obtrusive alongside landscaping.

Ultimately, finding the best approach to parking incorporation will depend on local circumstances, however the solution will be outcomes that do not compromise amenity and any original density advantages. The new SEPP may require additional controls to manage garage dominance.

3. Design Standards – dwelling orientation, minimum front setback

Recommendation 4: The sitting of dwellings should be determined through environmental performance and streetscape considerations.

Recommendation 5: It is suggested that the Codes SEPP replicate the controls provided within the Growth Centres DCP whereby the minimum front setback is determined according to lot width of the site.

The proposed design standard with regard to dwelling orientation is also rigid in including the concerns of a particular streetscape in its assessment. For example under the proposed options a development of 3-10 dwellings must not be orientated towards a side boundary.

Instead the front and rear of any dwelling is to be provided on an axis that is perpendicular to the street, and living rooms and kitchens are not to be oriented to the side boundary. A design guide accompanying the proposed expansion of complying development, would assist in delivering better design outcomes for medium density development and ensure design is consistent with local character.

The setback of buildings from the street is a key determinant of neighbourhood character. This standard relates the front setback to neighbouring setbacks, and as such assists all new buildings to maintain the desired local character of the street.

A master planned community provides the mechanisms and processes in place to incorporate strategically placed medium density development with reduced front setback without compromising streetscape and avoiding the feel of overdevelopment. This is achieved through varying the street widths landscaping and the provision of open space.

Similarly, the Growth Centres policy framework (including both the SEPP and DCP) is more accustomed to considering dwelling density than the current Complying Development SEPP which is to be expanded under this review, and as such provides controls and guidance on minimum front setback, which is appropriate to managing increased density.

4. Amenity Standard - Built Environment

Recommendation 6: Consider the provision of built form guidance to accompany proposed changes to the complying development SEPP. This includes architectural design, integration with existing streetscapes, and impacts to local traffic and servicing.

Alongside the Discussion Paper released to provide recommendations on additional housing types that could be included as complying development, the Department has released a Background Paper providing the research undertaken to test proposed controls for low rise medium density housing forms.

The research identified a number of approved development applications that resulted in poor built form outcomes – for example, inadequate rear setbacks, poor relationship with the streetscape, and privacy/amenity impacts on neighbouring properties.

We support the finding that the proposed expansion of complying development provides an opportunity to address this finding of poor built form outcomes, and provide a better built form outcome for medium density development in NSW.

Yet we note that the proposed lot sizes (400sqm, 500 sqm and 600 sqm) presented within the options for medium density are relatively small to allow for 2 – 10 dwellings and still achieve other key planning objectives.

Whilst the proposed controls show consideration to the building envelope, further clarity and built form guidelines are needed around dwelling amenity, and the built environment including elements such as landscaping, streetscape, and/or character of the surrounding area.

The medium density complying development resulting from the proposed development standards in this discussion paper may result in intensifications of density on the land.

We further note that the proposed standards presented in the discussion paper do not provide guidance around expected increases to gross floor area or guidance around managing density increases.

This lack of forward-planning may result in a complete maximisation of the required setback and height in almost all cases and poor built form outcomes as noted in the research within the Background paper which the Department has provided.

5. Torrens title and Strata subdivision.

Recommendation 7: Consider the impact on affordability of higher amounts of terrace style product which are strata subdivided.

The following two options are proposed for the Subdivision of two dwellings on a lot as complying development:

1. Torrens title subdivision or strata subdivision for a lot with a dual occupancy (2 dwellings)
2. Strata subdivision only for all other housing types (3-10 dwellings, including manor homes)

We support the proposed Torrens title subdivision outlined at option 1 above, and note that this is consistent with current practice under the Growth Centres SEPP.

However, we have concerns about the second option proposed. This option will mean that complying development certificates can only be issued for strata subdivision of all housing types ranging from 3-10 dwellings.

This option works against the flexibility offered within the Growth Centres. Under the planning controls within Growth Centres, lots within a terrace or row house arrangements are able to be subdivided as Torrens title.

The rationale behind this development control within Growths Centres is to better facilitate the delivery of Torrens title lots on smaller development parcels, and particularly where emerging dwelling types such as terraces and multi dwelling housing are proposed.

Further the dwelling types allowed which may be Torrens title subdivided under the Growths Centre SEPP demonstrate that well designed, high quality and highly amenable terraces, multi dwelling housing and other small lot housing typologies, can be delivered as a Torrens titled product.

Our concerns also extend to the future use of the land once strata subdivision has been provided via a CDC. Subdivision of land can place barriers to future development of land which may be different to its original state in regards to its use or intensity.

As such, if high amounts of terrace style product are strata subdivided this could work against affordability in the Growth Centres and work against district planning and local planning at a wider scale.