



Better Planning Network Inc.

22 December 2016

Manager, Codes and Approval Pathways

Department of Planning and Environment

GPO Box 39 Sydney NSW 2001

Submission by the Better Planning Network Inc. on the Medium Density Design Guide and Explanation of Intended Effect for the New Medium Density Housing Code

Dear Sir/Madam

After reviewing the Explanation of Intended Effect of the Medium Density Housing Code (MDH Code) and the Medium Density Design Guide (MD Design Guide) BPN is of the view that implementation of the MDH Code as Complying Development in the residential zones R1, R2, and RU5 would be particularly problematic and would not be in the public interest. While medium density development as complying development would be less of a problem in an R3 zone, the preferred method of utilizing the MD Design Guide would be by a similar mechanism to the Apartment Design Guide, where all development applications are determined by Council on merit and neighbours and the community are given the opportunity to comment. Unlike low density development, the potential environmental impacts, individually or cumulatively, associated with medium density would be of sufficient magnitude to preclude its categorisation as low impact and therefore its suitability for assessment as Complying Development in all Residential Zones including R3.

BPN strongly objects to the use of the proposed MDH Code as Complying Development in the zones R1, R2 and RU5 for the following reasons:

1 The proposed MDH Code introduces concurrent subdivision with development. This fundamentally changes the nature of Complying Development by allowing significant increases in building intensity without the need for development approval. Previously, under the Housing Code, the intensity of a development was tied to the characteristics of the original lot, including its size. However with the proposed concurrent subdivision the Floor Space Ratio (FSR) – a measure of building intensity, is determined by the final lot size after development, not the original lot size. As Table 1 shows, this introduces the potential for a significant increase in building intensity over what would have been allowed on the original site. Final FSRs of 0.7:1 or more are normally associated with medium density R3 zones, not R2 or RU5 zones. The minimum landscaped area can also decrease significantly. As an example, for a side by side dual occupancy, a 550 sqm, site which originally allowed development with a maximum FSR of 0.6:1, would yield 2 sites of 275 sqm with a maximum allowed FSR of 0.75:1, an increase of 25%. The minimum landscape area loss would be 57%. In practice, in existing R2 zones, many sites have houses with FSRs of 0.4:1 or less, so the increase in density, the loss of landscaping and the impact on the street would be considerably more.

www.betterplanningnetwork.org.au

Email bpn@betterplanningnetwork.org.au

Table 1. Proposed Medium Density Housing Code - Principal Development Standards

Dual Occupancy Type	final lot size (sqm)	Max FSR	Min Landscaped Area (% of final lot size)
side by side	200 - 300	0.75:1	20%
	>300 - 400	0.70:1	25%
	>400 - 500	0.65:1	30%
	>500	0.60:1	35%
1 up 1 down	>600 - 700	0.6:1	30%
	>700 - 900	0.5:1	35%
	>900 - 1500	0.4:1	40%
	> 1500	0.4:1	45%

Medium Density Type	final lot size (sqm)	Max FSR	Min Landscaped Area (% of final lot size)
Terrace	200 - 300	0.8:1	20%
	>300 - 400	0.75:1	25%
	>400 - 500	0.65:1	30%
	>500	0.60:1	35%
Manor House	>600 - 700	0.6:1	30%
	>700 - 900	0.5:1	35%
	>900 - 1500	0.4:1	40%
	> 1500	0.4:1	45%

2 For Councils that included multi-dwelling housing as permissible development with consent in their low density housing R2 zones the situation is potentially even worse. The MDH Code would allow in these R2 zones building intensities only normally seen in medium density R3 zones with FSRs up to 0.8:1 – all without the need for approval. As an example Lane Cove Council’s LEP permits with consent, multi-dwelling housing in its low density residential R2 zone, with the provision that the maximum FSR is limited to 0.4:1 (clause 4.4 Floor Space Ratio, 2A(a)). This allows the low density floor space to be distributed over several buildings in the form of villas. With the proposed MDH Code a site that required development consent for villas with a maximum FSR of 0.4:1 - to be compatible with its low density R2 zoning, could be developed through a complying development pathway and without the need for approval, as two storey plus attic terraces, with a final FSR of 0.8:1 – potentially doubling the housing density. The impacts from such housing density changes, both at the site level and cumulatively with further similar development could hardly be regarded as minor.

3 With proposed and existing Council amalgamations it is possible for some of the original member councils to have multi-dwelling housing or dual occupancies as permissive development with consent in their R2 zones, while others may not. Since permissiveness is a blunt instrument with broad application within a given land use zone, these permitted uses are likely to flow through to all the former council areas when a new LEP is developed for the single merged council.

4 Low density residential housing is by far the dominant residential land use in Sydney and NSW. Allowing complying medium density in these areas, even if initially restricted to Council areas where dual occupancy or multi-dwelling housing is a permissive use with consent, would have the potential to significantly change their character and would create public uncertainty as to the extent and concentration of medium density. It would also undermine orderly strategic planning and Councils’ capacity to plan for the population increase and required infrastructure.



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5 The subdivision pattern, including lot sizes, is instrumental in determining the landscape and urban character of an area. Any changes to lot size through Torrens Title subdivision can have a significant effect over time on that character and should therefore require public consultation, as occurs through the current Council determination procedure. BPN strongly opposes extending Complying Development to include Torrens Title subdivision.

6 The use of private certifiers in Complying Development has proved increasingly problematic prompting the need for a recent NSW Government review into the effectiveness of the current building and certification system. Given these inherent problems, Complying Development would not provide a reliable pathway for quality Medium Density Housing delivery.

7 For many developers the desire to maximise profits will take precedence over good design, when there is a conflict between the two. While the Medium Density Housing Guide provides guidance for good design, given the inherent conflict of interest and problems with private certifiers, there is no demonstrated effective framework for ensuring compliance and good design outcomes.

Other Issues:

It is BPN's view that the minimum landscape areas should be set at maximum practicable levels to compensate for Climate Change.

Yours Sincerely

(Dr) Andrew Little

On behalf of the Committee,

BPN