



Blue Mountains Conservation Society Inc

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Nature Conservation Saves for Tomorrow

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

6th of February, 2016.

Dear Ms McNally

NSW Department of Planning and Environment Discussion Paper - State Environmental Planning Policy – Exempt and Complying Code 2008

The Blue Mountains Conservation Society is a community based volunteer organisation with over 850 members. The goal of the Society is to promote the conservation of the environment in the Greater Blue Mountains region. The Society would like to make a submission in relation to the Discussion Paper outlining proposed changes to the *State Environmental Planning Policy – Exempt and Complying Code 2008*. We understand that the submission period has been extended to February 12 2016, but the relevant submission link on the departments website seems to have been removed so submission has been sent through the Department's normal email address.

It should be noted that the Blue Mountains community has just completed a long and hard fought process to update its Local Environmental Plans (LEP) to comply with the Standard LEP template. The resulting finalised Blue Mountains LEP contains significant provisions to conserve and protect the internationally recognised Greater Blue Mountains World Heritage Area and our unique heritage built environment, both of which are so essential to the local tourism and visitation economy. On finalisation of the LEP, the NSW Government issued a press release which "recognised the unique position the Blue Mountains holds in NSW" before acknowledging:

The Blue Mountains community is rightly proud of its historic towns and villages, its local environment, all living amidst a world-heritage listed National Park....This plan provides direction for the future of the area while protecting the historic atmosphere and environment that local people love.

The Society believes the proposed changes to the Exempt and Complying SEPP as outlined in the Discussion Paper will significantly undermine the protections contained in the Blue Mountains LEP 2015 aimed at protecting our built heritage and the Greater Blue Mountains World Heritage Area. The Discussion Paper is proposing to expand the range of complying development types to include low-rise (2-storey) medium density housing in a range of residential zones. The proposed changes have the potential to

significantly increase residential densities in the Blue Mountains by circumventing the controls in our LEP. Even more concerning, by making this increase in medium density residential development complying development, it will bypass the conventional development assessment process including neighbour and community consultation as part of the assessment process.

The proposed changes will increase the range of development which can be approved through the complying development pathway to include dual occupancies and low-rise medium density housing. Normally, complying development under the SEPP would only be permitted where the relevant LEP allows for it and if the particular proposal meets the complying development standards and could therefore be approved following the complying development approval pathway.

However, the proposed changes appear to overrule LEPs through the introduction of very small (eg 400m² - 600m²) minimum lot sizes for dual occupancies and medium density development. It also appears in the Discussion Paper that the NSW Government is contemplating that new development types such as townhouses, which would otherwise be prohibited under an LEP, should now be permitted. Should this change become policy it would have the effect of significantly altering the heritage streetscapes and increase densities in existing low density suburbs within the Blue Mountains

The development types and minimum lot sizes which the department is proposing to make permissible as complying development include Dual occupancies - 400m² minimum lot size; Manor homes (3-4 attached dwellings with separate ground level access) - 500m²; Multi-dwelling housing of up to 10 dwellings (typically these are town houses, terraces, or villas) - 600m²; and the '3-10 category' (a mix of dual occupancies and/or manor homes of between 3 and 10 dwellings) - 600m².

In terms of residential zones, under LEP 2015 Multi-dwelling housing is only permissible in zone R1 General Residential and R3 Medium Density Residential. These are the areas in the Blue Mountains planned for medium density development. Such development is currently prohibited in R2 Low Density Residential areas under LEP 2015, the most common of the City's residential zones. Under changes outlined in the Discussion Paper, via changes to the Codes SEPP and Standard Instrument, the State Government could override the LEP and allow multi-unit housing in areas zoned R2 Low Density Residential zone in the Blue Mountains, which is totally contrary to the planning intent of the LEP 2015. The vast majority of these lots in the Blue Mountains would meet the proposed minimum area requirements, and fundamentally undermine the role of the R2 Low Density Residential zone in the Blue Mountains. This means that under the proposed changes, a typical Blue Mountains lot of over 900m² would be able to be developed with up to 4-5 dwellings as complying development, despite LEP 2015. The areas zoned R2 Low Density Residential zone are zoned this way due to the fact they frequently back onto adjacent natural bushland areas and waterways, and due to the high bushfire risk. Having medium density development in these areas presents a significant risk to the environment and to residents.

Under Blue Mountains LEP 2015, dual occupancies are permissible in all residential zones, except the proposed zone R6 Residential Character Conservation, on lots greater than 900m² when attached, and 1100m² when detached. This is in direct contrast to the proposed minimum lot sizes in the Discussion Paper. The minimum lot

sizes proposed in the changes to the Code SEPP would allow dual occupancies to occur on much smaller lots than is permissible under LEP 2015.

The proposed Code SEPP changes, which introduce one size fits all minimum lot sizes and potentially expand the types of development that are permissible in a particular zone, would allow blanket increases in residential densities across the Blue Mountains without adequate regard for proximity to transport or services, infrastructure capacity, or the heritage, character or constraints of areas. The Society also believes that the changes fundamentally proposed undermine local strategic planning processes such as the development of LEP 2015. Why should communities invest time and effort in strategic planning processes, including consultations, when the outcomes can just be overridden by the State Government?

The Society understands Blue Mountains City Council is currently working toward preparing a Local Housing Strategy (LHS), and a resulting consultation process with the community. This is consistent with the recent NSW Government's requirement that local councils determine how to meet the housing needs of their communities, including identifying areas for increased densities. We understand that the NSW Government, as part of the wider planning for Greater Sydney, will place new housing projections or targets on councils – the Society believes if this is the case it is then up to communities and councils to work together to determine where new housing development will occur, including medium density.

The Society is also concerned that the changes to the Exempt and Complying SEPP are based on poor methodology and inadequate testing. The proposed changes are based on a Sydney-metro review, and the only regional areas investigated, Shoalhaven and Coffs Harbour, have significant regional centres with large CBDs and densities similar to parts of metro Sydney. There has been no consideration of different lot size and site coverage of individual localities, particularly those outside of metro Sydney which have challenging environmental constraints such as the Blue Mountains.

Lastly, the Society is very concerned that while the Discussion Paper proposes very significant and wide reaching changes, the public consultation process has been very inadequate, with no advertising of the changes in the mainstream media and no public briefings by the Department. The exhibition period of 2 months over the Christmas period was also totally inadequate.

To sum up, the Society is totally opposed the changes to the Exempt and Complying SEPP as outlined in the Discussion Paper, and asks the Department not to proceed with the changes proposed.

Yours sincerely



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cc Robert Greenwood, General Manager, Blue Mountains City Council