



Blue Mountains Conservation Society Inc

ABN 38 686 119 087

PO Box 29 Wentworth Falls NSW 2782

Phone: 0490 419 779 E-Mail: bmcs@bluemountains.org.au

Web Site: www.bluemountains.org.au

Nature Conservation Saves for Tomorrow

15 June 2026

NSW Department of Planning, Housing and Infrastructure

Online submission to: <https://www.planningportal.nsw.gov.au/draftplans/exhibition/low-rise-housing-and-targeted-assessment-discussion-paper>

Submission on the ‘Low-rise housing reforms and targeted assessment Discussion Paper’

The Blue Mountains Conservation Society (the Society) is a community volunteer organisation with over 900 members which has been in existence for over 60 years. The Society’s aim is to help conserve the natural environment of the Blue Mountains and to increase awareness of the natural environment in general. We are pleased to have the opportunity to comment on the ‘Low-rise housing reforms and targeted assessment’ Discussion Paper.

The Discussion Paper includes information and questions for consideration about the new Targeted Assessment Pathway (TAP) in general as well as the first proposed class of development for this pathway: low-rise housing. This class of development is presently regulated through Part 3B Low Rise Housing Diversity Code in the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (the Codes SEPP) and currently applies in the Blue Mountains LGA.

The Society requests that the Blue Mountains Local Government Area be exempt from the operations of the Targeted Assessment Pathway and proposed new consolidated low-rise housing State Environmental Planning Policy for the same reasons that the Minister previously provided an exemption from the Low-and Mid-rise Housing Policy (Housing SEPP,2021); notably, the LGA’s environmental characteristics and bushfire hazard.

We will address targeted assessment and the low-rise housing reforms separately.

1. Targeted Assessment Pathway (TAP)

The Targeted Assessment Pathway was introduced as part of the NSW planning reforms in late 2025. It is an accelerated pathway to development approval achieved through ‘switching off’ certain matters for consideration in the Environmental Planning and Assessment Act (s4.15) — notably, (1)(b) the significant likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality, (1)(c) the suitability of the site for the development and (1)(e) the public interest. The Discussion Paper states

that these matters for consideration have been removed from the Act because they are addressed through detailed controls in the proposed code.

The Discussion Paper tells us that targeted assessment is a flexible, streamlined development application (DA) pathway for development that has undergone detailed assessment at a strategic level. Under this approach, key planning issues are addressed through strategic planning processes, with any residual issues managed through detailed controls and specific merit considerations. We are given no details of what this strategic level assessment comprises and what this strategic planning process involves at this stage.

Targeted assessment is meant to capture development that does not meet the criteria for complying development and would otherwise require a full development application (DA) and merit assessment. It is meant to apply to development deemed low risk and low impact, yet could also include State Significant Development that is not otherwise Designated Development so long as they have met the as yet unspecified set strategic planning requirements upfront. Development that does not qualify for complying (Complying Development Certificate, CDC) or targeted assessment pathways would continue to be assessed through the traditional DA pathway.

Targeted assessment developments are still subject to the usual DA processes and requirements including the need to prepare a Statement of Environmental Effects (SEE) or Environmental Impact Statement (EIS), undertake statutory referrals and concurrences, address the requirements of relevant Local Environmental Plans (LEPs), State Environmental Planning Policies (SEPPs) and applicable legislation such as the *Biodiversity Conservation Act 2016* (NSW).

TAP will be operationalised through State Environmental Planning Policies which over-ride local planning controls, such as LEPs and DCPs, and other planning controls. We understand that the local council will be the consent authority for DAs under the targeted assessment pathway.

The Society has many questions and concerns about the targeted assessment pathway, the developments which will be eligible for TAP and how that will be determined, though we understand that information will be forthcoming in the case of low-rise housing in the Explanation of Intended Effect.

1.1 Declaration of TAP development

It seems that developments can be declared TAP so long as they have met 'set strategic planning requirements' upfront. As previously noted, these set strategic planning requirements are not explained in the Discussion Paper, though we understand that the principles or criteria of declaring low-rise housing as targeted assessment will be forthcoming in the Explanation of Intended Effect. This declaration process is of concern to the Society because of recent events regarding a housing development in Narrow Neck Rd Katoomba, which was declared a Housing Development Authority (HDA) State Significant Development. We were appalled that the recommendation for SSD status was made despite the proposal's inconsistency with the HDA's criteria. The HDA's deliberations and reasons were not published, and the process was not transparent.

The Society is therefore concerned that the same opacity and unaccountability could apply to declaring TAP developments, particularly where questionable developments approved can avoid thorough environmental scrutiny and assessment by sidestepping the requirement for environmental impact evaluation.

The Society calls for a commitment to transparency of process in TAP declarations.

1.2 Development Application (DA) requirements for TAP developments

The Society finds it hard to reconcile TAP DA requirements with a code-based 'tick box' assessment process. The applicant is required to prepare a Statement of Environmental Effects (SEE) or Environmental Impact Statement (EIS), undertake statutory referrals and concurrences, address the requirements of relevant Local Environmental Plans (LEPs), State Environmental Planning Policies (SEPPs) and applicable legislation such as the *Biodiversity Conservation Act 2016* (NSW). But unless we've missed something, we can't understand the purpose of a SEE or EIS if the EP&A Act clause 4.15 (1)(b) has been excluded from evaluation — that is, an evaluation of significant likely impacts of that development, including environmental impacts on both the natural and built environments. Would the SEE or EIS form the basis for a 'tick box' assessment under minimalist environmental code standards?

We also understand that the DA will still be assessed against the LEP which contains environmental protections. It is unclear how the DA can be assessed against environmental protections in the LEP without an evaluation of environmental impacts. We hope this will be clarified or addressed in the Explanation of Intended Effect.

1.3 Codification of matters for consideration that have been excluded from evaluation.

The Discussion Paper states that the matters for consideration in Section 4.15 of the EP&A Act removed from evaluation will be addressed through the detailed controls in the code. The matters excluded from evaluation include significant likely impacts on both the natural and built environments, and social and economic impacts in the locality, the suitability of the site for the development and the public interest. There is no discussion about how these matters could possibly be reduced to decontextualised minimal objectives and numerical standards in the code and assessed in a 'tick box' manner, as building standards are. Not only does this seem unworkable in the least but it is hard to take seriously as a mode of evaluation that has any credibility and integrity that the public can have any confidence in for such important matters. We will have more to say when the description of the standards, requirements, objectives and/or controls proposed to be contained within the low-rise housing code are revealed in the Explanation of Intended Effect.

The Society does not consider that the evaluation of matters such as the significant likely impacts of the development on the natural environment and the evaluation of the suitability of the site for the development, can be reduced to compliance with codes. This represents a severe downgrading of environmental protections.

2. Low-rise housing reforms

The first class of development to be subject to the TAP is low-rise housing (dual occupancies, terraces, multi-dwelling housing and manor houses). This class of development is presently regulated through Part 3B Low Rise Housing Diversity Code in the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008. The Low Rise Housing Code currently applies to 'R' Residential zones in the Blue Mountains LGA despite the Blue Mountains City Council's and the Society's best efforts to have the LGA excluded, mainly on the basis of the code's inadequate minimal stormwater standards ('Drainage') which are insensitive to the Blue Mountains context. The stringent stormwater controls in the Blue Mountains LEP 2015, along with other planning controls, were prepared to appropriately manage development in a city within a World Heritage Area.

The Discussion Paper proposes the consolidation of the current myriad residential codes into a single state-wide low-rise housing SEPP for both the complying development pathway (CDC) and the new Targeted Assessment Pathway (TAP).

The Society is concerned about losing the Blue Mountains LGA's exemption from Low-and Mid Rise Housing (Chapter 6, Housing SEPP 2021) if this is incorporated into the new consolidated low-rise housing SEPP. The Society would expect that the exemption would stand and that, in the name of consistency, the Blue Mountains LGA would also be exempt from the new low-rise housing SEPP.

A single set of standards with related objectives will apply to both complying development (CDC) and targeted assessment development (TAP). Under this model, most low-rise residential development would be assessed through either a CDC or TAP pathway under the same unified code. In CDC the standard would operate as a complying development standard. For TAP these same controls would operate as non-discretionary development standards. We understand that the objectives of the standard only come into play in targeted assessment developments where a non-discretionary development standard is not met. In that case, the acceptability of the non-compliance would be assessed on merit against the relevant objectives.

The Society understands that for land that is not eligible for either the complying development or targeted assessment pathway (e.g. highly constrained or vulnerable to natural hazards like bushfire), development would continue to be assessed through the traditional DA pathway. However, it is envisaged that once a standardised code is introduced, this traditional DA pathway would only need to be utilised by a small percentage of low-rise housing development proposals. In this way, as the Discussion Paper clearly states, local planning controls are reduced in the name of accelerated housing delivery. While this may be desirable for the Department and developers, the Society believes this will be entirely detrimental to the Blue Mountains environment.

Exhibition requirements for targeted assessment applications will be influenced by the finalisation of the statewide Community Participation Plan (CPP). The draft CPP proposes that low-rise housing applications will be exempt from public exhibition and notification in the case of complying development (as it currently is), and 14 days in the case of targeted assessment. Like Housing Delivery Authority projects, this restricted exhibition period reduces the community's capacity to meaningfully participate in the process.

2.1 More (intensive) housing on land affected by natural hazards?

It is clear in the Discussion Paper that the Department is trying to find ways to reduce planning controls and open up currently restricted land to housing development, and more intensive development at that. Based on analysis of the requirements and exclusions for complying development, the Discussion Paper states that an (unacceptable) proportion of residentially zoned land is unable to access the CDC pathway due to constraints like site slope, bushfire prone land designation etc. While acknowledging that many of these exclusions from CDC are appropriate and necessary, the Discussion Paper's conclusion is that TAP could apply instead, where risks can be appropriately managed through development and construction standards.

The Society is alarmed by the suggestion that low-rise housing under the targeted assessment pathway could be approved on constrained land which is ineligible for the complying development pathway (e.g. bushfire prone land). This suggestion seems to be a 'kite-flying' exercise testing public opinion, because it is accompanied by questions to which answers are invited: *"Should hazard affected land be eligible for targeted assessment?"* and *"Do you have any other comments or concerns related to natural hazards?"*. **The Society answers 'no' to the first question because of the simplified DA process and attenuated assessment applying to TAP developments e.g. 'suitability of**

the site' not considered in evaluation. The Society believes that more intensive development on constrained land affected by natural hazards should not be considered. There's a good reason that there are currently such strict regulations applying to development on bushfire prone land, for instance, as Blue Mountains residents well understand. The LGA is possibly the most bushfire prone LGA in Australia, and the fire risk is increasing due to climate change. The Society would not want to see more people put in harm's way through locating intensified low-rise housing development on bushfire prone land in the Blue Mountains. We also take this issue up in the following section.

2.2 Proposed expansion of low-rise housing into conservation zones C3 and C4

So far we have proceeded on the assumption that the proposed new consolidated housing SEPP will only apply to 'R' residential and some 'RU' rural zones, as it does currently in the Low Rise Housing Diversity Code. However, this is not explicitly stated in the Discussion Paper and the reason for this is clear in Section 5.3 Non-standard residential zones where it is suggested that the new low-rise housing SEPP could also apply to the C3 and C4 conservation zones. This is of major concern to the Society.

The proposal again appears to be a 'kite-flying' exercise testing public opinion and is accompanied by the questions: "Should conservation zones be included in the reforms" and "Are there any specific concerns with applying targeted assessment in these zones?" **The Society argues that conservation zones should not be included in the reforms for reasons outlined below.**

First of all, the Blue Mountains LGA doesn't need to make marginal land at some distance from town centres and services available for intensified housing development. The Blue Mountains City Council is already meeting, if not exceeding, its agreed-to (by the Department) housing target for the LGA.

The Blue Mountains' decentralised settlement pattern is dictated by its geography. The most urbanised areas in the LGA are the town centres dotted along the 60km stretch of Great Western Highway from Lapstone to Mount Victoria, and along part of Bells Line of Road to the north. Isolated fingers of ridgetop development extend some distance north and south of the highway into bushland abutting the national park. There are also areas of bushland with limited development between the townships. The C3 and C4 conservation zones are concentrated in these outlying areas and would all be mapped as bushfire prone land.

As the Society consistently argues each time a proposal for increased housing development and density is presented to us, it is irresponsible to facilitate population growth in highly bushfire prone areas. And the C3 and C4 conservation zones are at the highest risk from bushfire. With limited evacuation routes in the case of bushfire, it is simply unacceptable to open up these lands for targeted assessment low-rise housing development.

Apart from the bushfire risk, these conservation lands interface with bushland and often the national park directly. This is recognised in the objectives for these zones in Blue Mountains LEP 2015:

C3 Environmental Management

- To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.
- To provide for a limited range of development that does not have an adverse effect on those values.
- To protect the natural bushland buffer between towns, to avoid ribbon development and to conserve vistas of bushland obtained from public places and the Blue Mountains National Park.
- To ensure that the form and siting of buildings, colours, landscaping and building materials are appropriate for, and harmonise with, the bushland character of the area.
- To encourage landscaping and regeneration of natural bushland in areas with sparse tree or canopy cover.

C4 Environmental Living

- To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.
- To ensure that residential development does not have an adverse effect on those values.
- To preserve and re-establish native bushland in those areas that exhibit a predominantly bushland character, where consistent with the protection of assets from bush fire.
- To ensure that the form and siting of buildings are appropriate for, and harmonise with, the bushland character of the locality.

These objectives exceed those required in the Standard Instrument LEP because of these zones' location directly abutting bushland and the World Heritage Area. Applying a 'one-size-fits-all' state-wide, code-based low-rise housing SEPP and targeted assessment in these areas would not be compatible with these objectives.

Further, Clause 6.1 (5) Development on environmentally sensitive land in Zone C3 or Zone C4 in the Blue Mountains LEP 2015 stipulates additional requirements for land classified as 'environmentally sensitive land', which is very common in the Blue Mountains. Environmentally sensitive land includes zone C2 Environmental Conservation, land on which rare species of flora or significant vegetation community is located, slope constraint areas, watercourses and ecological buffer areas. The LEP stipulates that "Development consent must not be granted for development ... in Zone C3 Environmental Management or Zone C4 Environmental Living that contains environmentally sensitive land unless the consent authority is satisfied that the proposed development, including any clearing required for an asset protection zone, would be designed, sited and managed to avoid any adverse environmental impact on the environmentally sensitive land." If zones C3 and C4 were to be included in the new proposed consolidated low-rise housing SEPP, we understand that these LEP requirements could be over-ridden by minimal, numerically-based code standards. This reduction of protection for environmentally sensitive land is unacceptable.

As we have noted on many occasions, the Blue Mountains is not another suburb of Sydney — it is a city surrounded by a World Heritage Area that strong local development controls are in place to protect. It is unacceptable that a lower standard of environmental control and assessment should apply to these areas which directly abut bushland and the national park. For example, the stringent stormwater management controls contained in Clause 6.9 of Blue Mountains LEP 2015 – designed to protect water quality flowing to the national park/World Heritage Area – would not apply to low-rise housing development in C3 and C4 zones if they were included in the new SEPP, whereas they would apply to all other housing types in those zones. Once again, this would produce the inconsistency in outcomes that the consolidated housing SEPP is ostensibly attempting to overcome.

Application of new SEPP to C3 and C4 zones inconsistent with draft Sydney Plan

Because of their location outside the urban centres these C3 and C4 lands are designated Rural and Conservation Lands (RCL) in the draft Sydney Plan. The RCL designation replaces the Metropolitan Rural Area in the Greater Sydney Regional Plan - A Metropolis of Three Cities (2018) and the Western City District Plan (2018), which covers the entirety of the Blue Mountains LGA. Confirming the purpose of the MRA/RCL and the environmental values it seeks to preserve, page 64 of the draft Sydney Plan states "These lands are not waiting for urban development" and "Urban development outside of the urban footprint is generally not supported". The 'urban footprint' is a newly imposed designation applying to the town centres of Blaxland, Springwood, Katoomba and Blackheath, which we objected to in our submission to the draft Plan.

Similarly, the Housing Delivery Authority's SSD project at Narrow Neck Rd Katoomba is located within the designated MRA/RCL area, outside the Katoomba urban footprint. Again, we make the observation that new inconsistencies will be introduced to the planning system if the proposed low-rise housing SEPP applies to C3 and C4 lands located in RCL areas.

2.3 Possible inclusion of other environmental matters into the new low-rise housing code

The Discussion Paper tells us that other environmental matters are being considered for inclusion in the new low-rise housing code, which means they would be subject to numerical standards (and relevant objectives) and code assessment. The environmental matters proposed include:

- tree retention, removal and landscaping
- biodiversity
- stormwater

The Society is again appalled by the possibility that more environmental matters could be included in the new low-rise housing code and by-pass LEP planning controls. Already, the Blue Mountains is subject to the environmentally degrading effects of the minimal stormwater standards in the existing Low-Rise Housing Diversity Code. And the Blue Mountains LEP and DCP 2015 have strong controls relating to tree removal which must be retained. We can't take seriously the idea that the myriad bioregions in the state and complex, context-bound matters such as 'biodiversity' (however that is defined here) could be brought into the realm of 'one-size-fits-all' development standards and code assessments. How does this sit alongside the Discussion Paper's statement that TAP developments are still subject to applicable legislation such as the *Biodiversity Conservation Act 2016* (NSW)?

Our argument here is the same as for the evaluation of environmental impact being reduced to compliance with code standards, discussed previously. Similarly, the idea of a state-wide standardised tick-box approach to assessing and approving 'tree retention, removal and landscaping' is anathema, especially if coupled with an extension of the code's application to C3 and C4 zones. The Discussion Paper has presented no serious justification for any of this other than to speed up housing delivery in environmentally sensitive marginal areas. This is unacceptable.

The Discussion Paper invites the public to answer the question: "Which standards should be included in the code and which standards are more appropriately left outside the code in existing SEPPs, LEPs and DCPs". Our answer is that, while the 'switching off' of key environmental considerations in evaluation of TAP developments is already legislated, there should be no attempt to reduce controls pertaining to the 'other environmental matters' referred to above e.g. 'biodiversity' to decontextualised numerical standards and objectives, and code compliance evaluation. **These matters must remain as development controls in existing 'place-based' LEPs and DCPs** which are based on local knowledge developed over many decades. Further, contextual differences in planning controls must be recognised — for example, the Blue Mountains City Council's additional stewardship responsibilities for the Greater Blue Mountains World Heritage Area.

The Society would like to see the idea of 'other environmental matters' being included in the new low-rise housing code dropped in the forthcoming Explanation of Intended Effect.

If we have misunderstood any elements of the Discussion Paper's proposals due to lack of clarity or details, we hope this will be rectified in the Explanation of Intended Effect.

Conclusion

The Blue Mountains LGA doesn't need an accelerated housing delivery pathway. To reiterate, the Blue Mountains City Council is already meeting, if not exceeding, its agreed-to (by the Department) housing target for the LGA. In 2025 it was reported that the Blue Mountains City Council was one of only six councils in the state which will meet its 2029 housing target. There is simply no argument that can support the idea that the Blue Mountains LGA needs an accelerated housing delivery mechanism.

For these reasons, the Society argues that the Blue Mountains LGA should be excluded from the proposed new consolidated, code-based low-rise housing SEPP and Targeted Assessment Pathway. For the same reasons, the Society reiterates its call for the Blue Mountains LGA to be exempt from Housing Delivery Authority housing projects. We hope a recognition of the limitations and inappropriateness of 'one-size-fits-all' policy initiatives in places like the Blue Mountains will be reflected in the Explanation of Intended Effect arising from this consultation, and concessions or 'carve-outs' made.

Thank you for the opportunity to comment on the Discussion Paper. If you have any queries, please contact me on president@bluemountains.org.au

Yours sincerely

A handwritten signature in cursive script that reads "Annette Sartor".

Annette Sartor

President

Blue Mountains Conservation Society