

**Supplementary  
Submission  
No 2a**

## **INQUIRY INTO REGIONAL PLANNING PROCESSES IN NSW**

**Organisation:** Bathurst Regional Council

**Date received:** 9/02/2016

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4 February 2016

The Director  
Standing Committee on State Development  
Parliament House  
Macquarie Street  
SYDNEY NSW 2000

Dear Sir/Madam

**Inquiry – Regional Planning Process in NSW**

I refer to Council's previous submission in relation to the above matter.

To further illustrate Council's frustrations with a one size fits all approach to planning and its adverse impact on regional development please find **attached** Council's recent submissions to the Department of Planning and Minister for Planning with respect to the Discussion Paper for proposed changes to the Codes SEPP in relation to low rise medium developments.

This example highlights the Department's ignorance of regional and rural planning issues when developing one-size-fits all planning provisions.

Please do not hesitate to contact me in relation to this additional submission.

Yours faithfully

J E Bingham  
**ACTING DIRECTOR**  
**ENVIRONMENTAL, PLANNING & BUILDING SERVICES**



4 February 2016

The Hon R Stokes  
Minister for Planning  
GPO Box 5341  
SYDNEY NSW 2001

Dear Mr Stokes

**Codes SEPP – Low rise medium density developments discussion paper**

I refer to the above matter and to Council's previous representations to you, through the Country Mayors Group, in respect of its concerns about a one size fits all approach to the Codes SEPP.

Council has reviewed the abovementioned discussion paper and is extremely concerned that inadequate consideration (and investigation) has been given to its implications for regional and rural NSW.

In regards specifically for Bathurst the following implications are raised:

1. The proposed provisions for dual occupancy and medium density development undermine Council's local planning provisions for such development. Council's local provisions have been informed by detailed land use strategies incorporating extensive community consultation. The proposed Codes SEPP provisions will significantly alter the Bathurst landscape. It is clear that the Department has given no considerations to the range of local provisions in existence and how regional/rural controls vary so substantially from the metropolitan norm.
2. The proposed Codes SEPP provisions will permit medium density development within the surrounds of Mt Panorama. Council's local provisions specifically prohibit such development. Council cannot accept this outcome which will jeopardise the future of Mt Panorama as an international motor racing circuit.
3. The number of applications received for medium density development and dual occupancy development in Bathurst (and it is assumed in other regional centres) remains relatively low and does not warrant a shift to the complying development process. When and if numbers of applications increase, Council would be better placed to implement its own local complying development provision that reflect the existing local standards rather than relying on Codes SEPP provisions. In this regard it is interesting to note that Council has been able to achieve over 80% of new single dwellings as complying development under its own local provisions as compared to 0% when it has been subject only to the Codes SEPP provisions for single dwellings.

Minister for Planning  
4 February 2016

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Council strenuously objects to the proposed changes to the Codes SEPP. The proposed provisions give no regard to local planning provision and are not relevant to regional and rural NSW. Council is extremely concerned at their implications for Mt Panorama.

Council seeks your support for a more thorough investigation of this proposal as it relates to regional and rural NSW prior to any consideration to implement change. Council again reiterates its preference for exempt and complying development provisions to be developed by Council and highlights its own successes in the regard.

Council awaits your urgent advice.

Yours faithfully

J E Bingham  
**ACTING DIRECTOR**  
**ENVIRONMENTAL, PLANNING & BUILDING SERVICES**



4 February 2016

The Manager  
Codes and Approvals Pathways  
NSW Department of Planning and Environment  
GPO Box 39  
SYDNEY NSW 2001

Dear Sir/Madam

**SEPP Exempt and Complying Development Codes (2008) – Low rise medium density developments discussion paper**

Council strenuously objects to the proposed changes to the SEPP Exempt and Complying Development Codes (2008) with respect to dual occupancy and multi unit dwelling developments as complying development.

Council maintains that the Department's approach to 'one-size-fits-all' is of major concern with the potential impact on the Bathurst landscape being significant. Whilst Council understands the need for increasing the density of residential development, Council has expended considerable time and budgets in developing land use strategies which reflect the attitude of the Bathurst community. Those strategies have then informed its Local Environmental Plan to develop appropriate development controls to encourage a diversity of residential development.

Council maintains that the continued progression of more complex applications as complying development, which once were a merit based application, results in poor planning outcomes. There is a high level of consultation expected by different communities, and the use of the complying development provisions circumvent the opportunities for the affected residents and communities to review the development prior to an approval being issued. It would seem that these proposed changes are aimed at the development and construction industry at the expense of the general community.

Additionally, the number of applications currently being received by Council for Dual Occupancies and Multi Dwelling housing does not warrant a shift toward the Complying Development process in the Bathurst Region. When and if it does, Council would be in a better position to develop its own local Complying Development provisions as the proposed standards in this discussion paper compromise all of Council's existing planning standards.

**Council most strongly objects to the adverse impacts this proposal will have on the home of Mount Panorama precinct.**

The proposed provisions are not relevant to regional and rural NSW and particularly the Bathurst Region. If these proposed controls are implemented, Council will actively seek further exclusions from the whole Codes SEPP.

Whilst the controls will establish some consideration for the amenity of adjoining landowners, Council's experience is that the adjoining landowners only raise their concerns once a development is proposed. The community's expectation is to have some input into the Planning process. An application represents the most tangible time that they can attempt to influence any planning outcome.

Attempting to manage all potential impacts using criteria applying to NSW State wide is fraught with danger, particularly with these proposed low rise medium density dwellings. These types of applications may be well suited to Sydney's Growth Centres, however their applicability and relevance to brownfield sites in regional and rural areas would appear to be limited and are better suited to a merit based Development Application.

Council does not support multi dwelling housing or manor homes as complying development in the Bathurst Region. The number of applications received for dual occupancies in the Bathurst Region does not warrant a move to a complying development process. When it does, Council would argue that it would be better placed to introduce local complying development provisions better suited to the Bathurst region.

**Attached** is a comprehensive response to each question posed in the discussion paper.

If you have any queries please contact Mr Nicholas Murphy of Council's Environmental, Planning & Building Services Department on 02 6333 6514.

Yours faithfully

J E Bingham  
**ACTING DIRECTOR**  
**ENVIRONMENTAL, PLANNING & BUILDING SERVICES**

Copy to: [westernregion@planning.nsw.gov.au](mailto:westernregion@planning.nsw.gov.au)

Bathurst Regional Council  
Response to Discussion Paper

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| 12   | 2.1     | 1        | <p>Within the Bathurst Region, the most appropriate zones for the proposed type of development would be the R1 and R3 zones. Due to the limitations of the Standard Instrument, Council has used the R2 Low Density zone to limit residential development within close proximity to the Bathurst Sewer Treatment Facility and within the 50dBa noise contour for Mount Panorama. Dual occupancy developments are a prohibited land use in the R2 zone under the Bathurst Regional LEP 2014. The impact of permitting these proposed developments within the R2 zone as complying development would have a significant impact and would compromise the planning controls in place to protect Mount Panorama as an international motor race circuit. Council cannot support dual occupancies as complying development in the R2 zone.</p> <p>An alternative could be to apply it to the zones, however link it to being a permissible land use within the relevant Council LEP.</p> <p>Council does <u>not</u> support a one-size-fits-all approach to complying development provisions for dual occupancy developments.</p> |
| 13   | 2.1.1   | 1        | <p>The minimum lot frontage of 14 metres compromises the planning standards has put in place to control the quality and location of dual occupancy developments.</p> <p>Council does not support the 14 metre frontage and suggests that the minimum lot size frontage should be as stated in the Council's LEP or DCP.</p>  |
| 14   | 2.12    | 1        | <p>Council acknowledges that the 8.5 metre height of dwellings would be consistent with the other Codes SEPP provisions.</p> <p>It would be more appropriate to limit the height of the dwelling to the height established in Council's LEP on the HOB map. Otherwise, what is the point of Council's establishing height limits under their LEP's</p>   |
| 14   | 2.1.2   | 2        | <p>Attic rooms should not be permissible, and may be used to further increase the density of the development to the detriment of the local community.</p>  |

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| 14   | 2.1.2   | 3        | The imposition of a 2.7 metre ceiling as a mandatory requirement would be of little benefit and should not be imposed.  |
| 16   | 2.1.2   | 1        | The BCA measures its deem to satisfy provisions to the wall of the dwelling. The same should apply to the SEPP criteria.  |
| 16   | 2.1.2   | 2        | The boundary setback calculation should be consistent with the Codes SEPP provisions for dwellings.   |
| 19   | 2.1.4   | 1        | <p>The majority of dual occupancy applications Council is receiving contain the subdivision component. An application may include the subdivision component (either torrens or strata), however Council is primarily concerned with the servicing of the proposed lots once subdivided, and this has largely been ignored in Council's previous submissions. Council would not release the subdivision certificate until the buildings have been completed. Compliance certificates from the relevant utility authority should be lodged with the subdivision certificate.</p> <p>Additionally, applications which have a subdivision component may result in having more than one PCA certifying the buildings and the subdivisions. Council feels that this may further complicate the approvals process.</p> |
| 19   | 2.1.4   | 2        | Subdivision should only occur once construction had been completed. This will prevent landowners circumventing the minimum lot size provisions. This approach is consistent with Council's current processes.   |
| 22   | 2.2.1   | 1        | <p>Within the Bathurst Region, the most appropriate zones for the proposed manor homes would be the R1 and R3 zones. Due to the limitations of the Standard Instrument, Council has used the R2 Low Density zone to limit residential development within close proximity to the Bathurst Sewer Treatment Facility and within the 50dBa noise contour for Mount Panorama. The impact of permitting these proposed developments within the R2 zone would have a significant impact and compromise the planning controls in place to protect Mount Panorama.</p> <p>An alternative could be to apply it to the zones,</p>  |



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|      |         |          | <p>however link it to being a permissible land use within the relevant Council LEP.</p> <p>Council does <u>not</u> support manor homes as complying development in any case within the Bathurst Region.</p>  |
| 22   | 2.2.1   | 2        | <p>Within the Bathurst Region, these types of buildings will have a significant impact, particularly with respect to the site density. Placing these types of buildings on corner allotments, or lots with rear lane access will not reduce the impact of the building. If they were to be restricted to the corner lots or lots with rear lane access, it would improve the amenity issues associated with car parking and garage doors dominating the streetscape. This would however require all LEP's to define manor homes and mandate their use in relevant zones.</p> <p>Council does <u>not</u> support manor homes as complying development in any case within the Bathurst Region.</p> |
| 22   | 2.2.1   | 3        | <p>Council does <u>not</u> support manor homes as complying development in any case within the Bathurst Region.</p>  |
| 22   | 2.2.1   | 4        | <p>Compliance certificates, including works as executed plans, should be lodged with Council or the PCA as part of the completion of the development.</p> <p>Additionally, applications which have a requirement for onsite stormwater detention may result in having more than one PCA certifying the development and the subdivisions. Council feels that this may further complicate the approvals process.</p>   |
| 27   | 2.2.2   | 1        | <p>Developers should be required to comply with the Council's requirements for car parking. There should also be a requirement for visitor car parking which will reduce the increasing pressures of on-street parking.</p> <p>An impact on the on street car parking should take into consideration the location of the waste collection bins and the potential for loss of on street parking. An alternative would be to require a commercial rubbish collection rather than individual bins for each dwelling.</p> <p>Council does <u>not</u> support manor homes as complying development in any case within the Bathurst Region.</p>  |

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| 28   | 2.2.3   | 1        | <p>Subdivision should only occur once construction had been completed. This will prevent landowners circumventing the minimum lot size provisions. This approach is consistent with Council's current processes.</p> <p>However the main concerns for Council would be around the servicing of the development once the building is completed.</p> <p>Council does <u>not</u> support manor homes as complying development in any case within the Bathurst Region.</p>  |
| 30   | 2.3     | 1        | <p>Within the Bathurst Region, the most appropriate zones for the proposed type of development would be the R3 and B3 zones. Due to the limitations of the Standard Instrument, Council has used the R2 Low Density zone to limit residential development within close proximity to the Bathurst Sewer Treatment Facility and within the 50dBa noise contour for Mount Panorama. The impact of permitting these proposed developments within the R2 zone would have a significant impact and will compromise the planning controls in place to protect Mount Panorama. The R1 zone is used in Bathurst for low density development, interspersed with some medium density developments. The B3 zone has the highest density provisions of residential development in Bathurst.</p> <p>Council does <u>not</u> support multi dwelling housing as complying development in any case within the Bathurst Region.</p> |
| 31   | 2.3.1   | 1        | <p>Compliance certificates, including works as executed plans, should be lodged with Council for or the PCA as part of the completion of the development.</p> <p>Additionally, applications which have a requirement for onsite stormwater detention may result in having more than one PCA certifying the development and the subdivisions. Council feels that this may further complicate the approvals process.</p> <p>Council does <u>not</u> support multi dwelling housing as complying development in any case within the Bathurst Region.</p>   |
| 32   | 2.3.2   | 1        | <p>Attic rooms should not be permissible, and may be</p>  |

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|      |         |          | <p>used to further increase the density of the development to the detriment of the local community.</p> <p>Council does <u>not</u> support multi dwelling housing as complying development in any case within the Bathurst Region.</p>  |
| 34   | 2.3.2   | 1        | <p>Yes, a building envelope is required to reduce the impact on the development on adjacent sites. Notwithstanding the development would be 7.5 metres before stepping back, the potential impact has been reduced. This approach would be consistent with the requirements of other types of development.</p> <p>Council does <u>not</u> support multi dwelling housing as complying development in any case within the Bathurst Region.</p> |
| 34   | 2.3.2   | 2        | <p>Yes.</p> <p>Council does <u>not</u> support multi dwelling housing as complying development in any case within the Bathurst Region.</p>  |
| 34   | 2.3.2   | 3        | <p>Yes.</p> <p>Council does <u>not</u> support multi dwelling housing as complying development in any case within the Bathurst Region.</p>  |
| 38   | 2.3.2   | 1        | <p>Developers should be required to comply with the Council's requirements for car parking. There should also be a requirement for visitor car parking which will reduce the pressures of on street parking.</p> <p>The alternative use of the RMS traffic Generating Development guidelines should be superseded if the Council has parking controls in its Development Control Plan.</p>  |
| 43   | 3.0     | 1        | <p>Yes, excavation for the basement carpark should form part of the application. If these parts were separated, the approvals process could be further complicated.</p> <p>The amount of excavation should be limited to the depth required to achieve minimum deemed to satisfy ceiling height in the BCA.</p>   |

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| 43   | 3.0     | 2        | Controls such as a dilapidation report of adjoining properties to be completed and submitted to Council. Not extending outside the footprint of the building (ie the basement cannot be larger than the building above).   |
| 44   | 3.0     | 1        | Compliance certificates, including works as executed plans, should be lodged with Council or the PCA as part of the completion of the development.   |
| 44   | 3.0     | 2        | Applications which have a requirement for onsite stormwater detention may result in having more than one PCA certifying the development and the subdivisions. Council feels that this may further complicate the approvals process.  |
| 44   | 3.0     | 3        | Developments which require certification from Council for certain components (apart from onsite waste water systems) may indicate that the development may require a merit based assessment and not be included as part of the complying development provisions. The CDC criteria should also provide for an alternate standard if the Council does not have a standard within their DCP for waste management. |
| 44   | 3.0     | 4        | The PCA should have the requisite qualifications to determine compliance with the relevant Council Standards.  |
| 45   | 3.0     | 1        | The "Towards 2020 – A Strategy for Universal Housing Design" strategy identifies that by 2020 all dwellings should be guidelines. Council acknowledges that we are starting from a very low base, and suggests that 25% of dwellings to be adaptable to the "Adaptable Class B" as defined in AS4299-1995.   |
| 45   | 3.0     | 2        | The proposed envelope controls are similar to those in the existing Codes SEPP for detached dwellings. A consistent approach is appropriate.   |
| 45   | 3.0     | 3        | Yes as it sets the maximum developable area for various sites.   |
| 45   | 3.0     | 4        | The building envelope should remain. Given the example in the discussion paper, the development should be able to adapt and respond to the site constraints. Those developments which cannot comply with the envelope controls may represent an  |

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|      |         |          | overdevelopment of the site and it may be more appropriate to undertake a merit based assessment of the proposed development through a development application.  |
| 45   | 3.0     | 5        | The BCA allows for various solutions to cater for dwelling setbacks. Establishing a 1.5m setback would cater for developments up to 6m in height, however would see a non-compliance with the setback for the remaining 2.5m in height. Imposing the variable setback will allow for a better building design and increased amenity.   |
| 45   | 3.0     | 6        | <p>Whilst the controls will establish some consideration for the amenity of adjoining landowners, Council's experience is that the adjoining landowners only raise their concerns once a development is proposed. The community's expectation is to have some input into the Planning process. An application represents the most tangible time that they can attempt to influence any planning outcome.</p> <p>Attempting to manage all potential impacts using criteria applying to NSW State wide is fraught with danger, particularly with these proposed low rise medium density dwellings. These types of applications may be well suited to Sydney's Growth Centres, however their applicability and relevance to brownfield sites in regional and rural areas would appear to be limited and are better suited to a merit based Development Application.</p> <p>Council does not support multi dwelling housing or manor homes as complying development in the Bathurst Region. The number of applications received for dual occupancies in the Bathurst Region does not warrant a move to a complying development process. When it does, Council would argue that it would be better placed to introduce local complying development provisions better suited to the Bathurst region.</p> |
| 45   | 3.0     | 7        | Limit the application of this policy to the Sydney Metropolitan areas, and particularly the Sydney Growth Centres. These provisions should <u>not</u> be applied to regional and rural locations in NSW.   |
| 45   | 3.0     | 8        | The proposed controls will dictate the footprint of the  |

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|      |         |          | building in the first instance. By setting a minimum dwelling size may result in poor dwelling design. Setting the planning controls will allow dwellings to be designed with those constraints in mind.  |
| 46   | 3.0     | 1        | Certification that s94 Developer contributions have been paid, certification that sewer and water headworks contributions have been paid (s305 Water Management Act), certification that turning circles are appropriate, works as executed plans for water, drainage, sewer, roadwork, as a minimum. |
| 46   | 3.0     | 2        | See additional comments 1-9 below.  |

Other general comments:

1. The inference of the development types is that for the erection of new developments on a greenfield site, or vacant site. Will the standards apply to the construction of an infill dwelling to create a dual occupancy (ie a new dwelling behind or adjacent to an existing dwelling)?
2. Section 2.1.1 states that the proposed minimum lot size for a dual occupancy is 400 sqm. Within the Bathurst Region, Council has long established the minimum lot size for a dwelling at 550 sqm, with dual occupancies requiring 600 - 900 sqm and residential units requiring 900-2000 sqm depending on their location. The establishment of the proposed small lots may increase the pressure to develop lots in a manner inconsistent with Councils adopted land use strategies. (Refer to the LSM & LSD series of maps for the Bathurst Regional LEP 2014).
3. Section 2.1.2 states that the minimum front setback is to be 4.5 metres. Within the Bathurst Region, Council has established the front setback at 6 metres for dwellings. The potential imposition of a 4.5m setback would be in conflict with the controls in place for the Bathurst Region.
4. Section 2.1.2 requires a minimum of 30% landscaping. Council agrees with this requirement and the requirement for the width to be greater than 1.5 metres. Council's DCP requires private open space to have a depth of at least 4 metres to contribute towards open space.
5. Overshadowing associated with the proposed two storey developments has not been addressed within the discussion paper.
6. Contributions & Headworks associated with the proposed developments has not been addressed within the discussion paper. If provisions for the collection of the applicable Section 94 contributions or water and sewer headworks are not made, it would represent a significant imposition on Council's in the inability to collect those charges that would otherwise apply.

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7. Section 2.2.1 states that the proposed minimum lot size for a manor home is 500 sqm. Within the Bathurst Region, Council has long established the minimum lot size for a dwelling at 550 sqm, with dual occupancies requiring 600 - 900 sqm and residential units requiring 900-2000 sqm depending on their location. The establishment of the proposed small lots may increase the pressure to develop lots in a manner inconsistent with Council's adopted land use strategies. (Refer to the LSM & LSD series of maps for the Bathurst Regional LEP 2014).
8. Bushfire prone land associated with these proposed development types has not been appropriately addressed. As a minimum they should be required to comply with the provisions of the Planning for Bushfire Protection Guidelines and the developer should be required to obtain a BAL certificate before proceeding to obtaining a CDC.
9. The number of dual occupancy, multi dwelling housing applications currently being received by Council does not warrant a move towards the proposed complying development provisions. When it does, it would be more appropriate for Council's to prepare local complying development provisions for those developments that are more relevant to the local area and their communities. Council does not support the imposition of the proposed one size fits all complying development provisions for dual occupancy and multi dwelling housing as proposed. Council will actively seek complete exclusion from the Codes SEPP if this occurs.

Minister for Planning  
4 February 2016

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Council strenuously objects to the proposed changes to the Codes SEPP. The proposed provisions give no regard to local planning provision and are not relevant to regional and rural NSW. Council is extremely concerned at their implications for Mt Panorama.

Council seeks your support for a more thorough investigation of this proposal as it relates to regional and rural NSW prior to any consideration to implement change. Council again reiterates its preference for exempt and complying development provisions to be developed by Council and highlights its own successes in the regard.

Council awaits your urgent advice.

Yours faithfully

J E Bingham  
**ACTING DIRECTOR**  
**ENVIRONMENTAL, PLANNING & BUILDING SERVICES**