



5 June 2020

Mr Jim Betts
Secretary
Department of Planning, Industry and Environment
Locked Bag 5022
PARRAMATTA NSW 2124

Dear Mr Betts

I am writing in follow up to my letter of 24 March 2020 on behalf of the Southern Sydney Regional Organisation of Councils (SSROC) to the Department of Planning Industry and Environment, regarding the Low Rise Medium Density Housing Code and Local Character Areas. A copy of my earlier correspondence is attached.

As I am yet to receive a reply to this letter, I am therefore hoping that you may be able to provide me with advice about the mechanisms that are currently available to communities and their councils to preserve and strengthen local character.

As you will be aware, the NSW Government has decided that the Low Rise Medium Density Code is due to be implemented on 1 July 2020. It is therefore disappointing that there is still no statutory mechanism to introduce a Local Character Overlay, nor any commitment by the Department to deliver such through a model clause to avoid a one size fits all model being applied.

SSROC is an association of eleven local councils in the area south of Sydney Harbour, covering central, inner west, eastern and southern Sydney. SSROC provides a forum for the exchange of ideas between our member councils, and an interface between governments, other councils and key bodies on issues of common interest. Together, our member councils cover a population of about 1.7 million, one third of the population of Sydney.

As you will no doubt appreciate, advice from the Department is now urgently required to enable our member councils to effectively manage these issues, where appropriate accelerate planning approval processes and provide clarity to communities, developers and other interested stakeholders.

In light of this pressing matter, I look forward to your early response. If you have any queries, please do not hesitate to contact me on 8396 3800.

Yours sincerely

A handwritten signature in black ink that reads 'H Sloan'.

Helen Sloan
Acting General Manager
Southern Sydney Regional Organisation of Councils



27 March 2020

Attention: Mr Marcus Ray
Group Deputy Secretary, Planning and Assessment
Department of Planning, Industry and Environment
GPO Box 39
SYDNEY NSW 2001

Dear Mr Ray

Re: Local Character Areas and the Low Rise Medium Density Code

I am writing on behalf of the SSROC Secretariat to thank the Department of Planning Industry and Environment, and in particular the Codes and Design team, for taking the time to meet with SSROC planners on 18 February 2020 to help them gain a better understanding of the *Local Character Guideline* and process. At their request, I am now seeking some further advice about the planning mechanisms Councils can currently use to preserve and strengthen local character.

Many Councils are very supportive of the new initiatives to elevate local character as a consideration in planning decisions. It is noted that many Local Strategic Planning Statements have prioritised preserving local character. The DPIE Local Character and Place Guideline provides useful tools to help define existing character and set a desired future character that aligns with the strategic direction for an area.

Councils are currently finalising the LEPs that will commence the delivery of the District Plan and the housing identified in their Local Housing Strategies (LHS). I understand that the Government's *First Home Buyers Policy*, June 2017, gave support to Councils preparing planning proposals which seek to protect the character of important local areas while supporting housing supply. As a consequence, many Councils are working to introduce Local Character Areas. These will consist of areas where the unique local character is to be maintained, as well as areas where the current character will be changed or enhanced. It is therefore disappointing that there is still no statutory mechanism to introduce a Local Character Overlay, nor any commitment by the Department to deliver such through a model clause.

As you will no doubt appreciate, a number of actions from the Department are now urgently required to enable our Local Councils to effectively manage these issues and provide clarity to communities, developers and other interested stakeholders.

Councils are seeking an exemption from Complying Development where unique local character is to be maintained

Many Councils have raised concern about the impact of complying development on local character that communities wish to see maintained. I note Part 3 of the Housing Code and Part 3B of the Low Rise Medium Density Housing Code (LRMDHC) are currently due to commence on 1 July 2020. At this time, it is not known if Councils can use local character 'overlays' to ameliorate the impacts of the Codes where they would appreciably undercut unique local character.

However, protection of unique local character that is to be maintained goes further than the introduction of a local character 'overlay'. Many Councils are therefore intending to seek a permanent exemption from Complying Development in areas where unique local character is to be maintained as the application of complying development, has been, and will continue to erode local character and therefore the community's trust in the planning system to protect what they value.

Action

Could the Department please clarify what the process and timing is for Councils to introduce local character overlays.

Low Rise Medium Density Housing Code

A concern, for example, is that complying development under Part 3 of the Housing Code for general housing has no requirement for local character consistency. Many Council areas therefore are experiencing the erosion of unique local character where applicants have chosen this approval pathway, rather than a DA pathway, where consistency with local character can be addressed.

Under Part 3B of the LRMDHC, complying development is required to be consistent with the design criteria in the Medium Density Design Guide and assessment against the Design Criteria Consistency Template. For many Councils the LRMDHC Code will allow forms of development that are not part of the existing local character. For example, terraces and manor houses are not found throughout the low density residential areas of Sydney.

The 'blanket application' of the LRMDHC to entire Local Government Areas and 'one size fits all' development provisions do not address the differing local characters throughout Sydney. R2 and R3 zones have been applied differently. For example, in some council areas, the R2 zone has been applied to dense urban/residential areas and in others it has been applied to more open suburban areas. Similarly, within the R2 zone there are different minimum lot sizes for development, and different maximum floor space ratios and heights. Few councils currently permit multi dwellings in the R2 zone.

Consequently, the impact of the LRMDHC on local character will be more significant for some Councils than others. Those council areas that have small lots relative to large minimum lot sizes (for such development) and higher FSRs, will be less impacted than those with generous lots, smaller minimum lot sizes (for such development) and lower FSRs. Communities that have endorsed detailed Development Control Plans that contain design guidelines, including setbacks and landscape provisions, to ensure local character is maintained/enhanced will be adversely impacted - these local character provisions are not respected by the LRMDHC.

Many councils are already delivering 'the missing middle' and see no need for additional provisions especially following the introduction of Local Housing Strategies to guide future development. Regardless, the LRMDHC effectively undermines the capacity of councils to do the nuanced planning for medium density housing to ensure that it is consistent with local character. Complying

development under the LRMDHC is often at odds with the local character provisions being promoted by the Department, as a way to achieve better neighbourhood amenity and ensuring local character is included as part of the decision making process.

Action

Could the Department please advise:

- how it will ensure the Code will not erode local character
- how the apparent inconsistency between the Code and local character will be managed
- what the process and timing are for its review of Council's Local Housing Strategies.

1 July 2020 implementation of the LRMDHC

With the 1 July 2020 date for implementation of the LRMDHC (for the existing 45 deferred councils) now only a few months' away, Councils are still unaware and uninformed about the status of the independent review recommendations with the Government. The absence of this guidance has left Council planners and concerned communities in a position of some uncertainty.

We therefore request an update on the status of these provisions and, more broadly, how local character provisions can be effectively implemented through the current planning framework to ensure that the delivery of more housing to meet Sydney's future needs, while avoiding the prospect of undermining important existing local character.

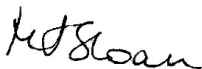
Action

Could the Department please update Councils on:

- the implementation of the Low Rise Medium Density Housing Code
- how the independent review of the Code will be addressed, and
- how the code will relate to local character.

If you have any queries please do not hesitate to contact me or Mark Nutting, SSROC's Strategic Planning Manager on 8396 3800.

Yours sincerely



Helen Sloan
Acting General Manager
Southern Sydney Regional Organisation of Councils

cc Mr Tim Hurst
Deputy Secretary
Local Government, Planning and Policy