PIA RECOMMENDATION RE MODIFICATION OF MEDIUM DENSITY COMPLYING DEVELOPMENT CODE

Given, the Minister’s decision to postpone the operation of the code in some councils, PIA recommend that the enabling instrument be modified to exclude the operation of the code for terraces and manor houses in the R2 zone. This would mean that dual occupancies would remain code assessable in R2 - and that DAs could continue to be considered for other medium density housing types in this zone. The code should continue to operate for any medium density housing type in the R3 zone.

Introduction

PIA supports the provision of housing diversity across Sydney to accommodate the variety of families and groups, differing households as well as levels of affordability. With many smaller households, the ageing population - and many wanting to age in place, the Medium Density Housing Code provides significant benefits. We acknowledge that suburbs require supportive social and community facilities, as well as good design of housing to complement the character of the area.

However, we are concerned that the NSW Government’s recent approaches to treat some council areas differently from a planning perspective, is not beneficial to planning certainty or the housing of communities.

This letter therefore offers a solution designed to retain the capacity of councils to consider development applications for medium density housing forms notwithstanding modifications to the operation of the code with respect to the R2 zone. We would be happy to discuss this with you.

Background

The introduction of the Medium Density Complying Development Code would have automatically made dual occupancy, terraces and manor houses complying development (subject to new standards and Council’s LEPs, ) where a council had ‘dual occupancy’ and ‘multi-dwelling housing’ permissible in the R2 low density residential zone.
The Minister has opened the door for councils to get a 12 month delay in the operation of the Code which establishes a significant precedent as well as changing the goal posts for communities, and creating uncertainty and doubt in the planning system, especially for small scale developers. The councils that have the ‘multi dwelling housing’ definition in R2 are/have requested and in most cases received, the delay (eg Ryde, Canterbury Bankstown – and now Northern Beaches, Lane Cove and five others in the pipeline in the implementation of the Code.

Our concern is that some councils will now seek an obvious (but inappropriate) solution to amend their LEPs to exclude ‘multi dwelling housing’ from R2 zone entirely. This would mean that certain medium density housing development (ie terraces, manor houses) could not even be considered via DA, as well as not being complying development. If these types of amendments occur, the Medium Density Code reforms would be creating a situation worse than the status quo, and would also not be able to implement the overarching objective for housing diversity over time.

Potential solution

PIA proposes and promotes an alternative pathway to the Department, namely that they amend the prevailing Instrument to enable the Medium Density Code to apply to the R2 zone to accommodate dual occupancies as complying development in R2 (assuming permissible) – but not ‘multi dwelling housing’ (ie terraces, manor houses). For R3 the complying code should continue to apply for dual occupancies, terraces and manor houses.

PIA considers that this approach would retain the ability for Councils to manage their local housing policy via the DA process, particularly in R2 zones. This could also be entrenched in a S9.1 Direction.

Council housing strategies

PIA is of the view, and supports the NSW Government, that Councils need funding to prepare Local Housing Strategies, with the mandatory need for the Local Housing Strategies to resolve local housing policy and inform LEP review with more considered evidence on their medium density housing needs.

We understand that some councils have been granted priority funding, however a more detailed guideline of what to include, how to approach it, alignment with the District plans/Regional Plans is critical. Further, with resource shortages in some councils there may need to be reprioritisation towards those councils in the predicament (re uses in R2) described above.

We look forward to liaising with you and assisting you in this solution. Please call me on 0400 953 317 should you wish to discuss this further.

Yours sincerely,

Jenny Rudolph
President, PIA NSW