



Ordinary Council

LATE REPORTS

Business Paper

date of meeting: Wednesday 20 June 2018

location: Council Chambers
17 Burrawan Street
Port Macquarie

time: 5.30pm

Community Vision

A sustainable high quality of life for all

Community Mission

Building the future together
People Place Health Education Technology

Council's Corporate Values

- ★ Sustainability
- ★ Excellence in Service Delivery
- ★ Consultation and Communication
- ★ Openness and Accountability
- ★ Community Advocacy

Community Themes

- ★ Leadership and Governance
- ★ Your Community Life
- ★ Your Business and Industry
- ★ Your Natural and Built Environment

How Members of the Public Can Have Their Say at Council Meetings

Council has a commitment to providing members of the public with an input into Council's decision making. The Council's Code of Meeting Practice provides two (2) avenues for members of the public to address Council on issues of interest or concern at the Ordinary Council Meeting. These are:

- Addressing Council on an Agenda Item (if the matter **is** listed in the Council Business Paper)
- Addressing Council in the Public Forum (if the matter **is not** listed in the Council Business Paper)

You can request to address Council by completing the:

- 'Request to Speak on an Agenda Item' form
- 'Request to Speak in the Public Forum' form

These can be obtained from Council's Offices at Laurieton, Port Macquarie and Wauchope or by downloading it from Council's website.

Requests can also be lodged on-line at:

<http://www.pmhc.nsw.gov.au/About-Us/How-Council-Works/Council-Committee-Meetings/Request-to-speak-on-an-Agenda-Item>

<http://www.pmhc.nsw.gov.au/About-Us/How-Council-Works/Council-and-Committee-Meetings/Request-to-speak-in-a-Public-Forum>

Your request to address Council must be received by Council no later than 4:30pm on the day prior to the Council Meeting.

- Council will permit no more than two (2) speakers 'in support of' and two (2) speakers 'in opposition to' the recommendation on any one (1) Agenda Item.
- A maximum of five (5) speakers will be heard in the Public Forum.
- There is no automatic right under legislation for the public to participate in a Meeting of Council or a Committee of Council.
- For a member of the public to be considered to address Council they must agree to strictly adhere to all relevant adopted Council Codes, Policies and Procedures at all times.
- Consideration of items for which requests to address the Council Meeting have been received will commence at 5:30pm.
- When your name is called, please proceed to the Council Table and address Council.
- Each speaker will be allocated a maximum of five (5) minutes to address Council. This time is strictly enforced.
- Councillors may ask questions of a speaker following an address. Each answer, by the speaker to a question, is limited to two (2) minutes. A speaker cannot ask questions of Council.
- An Agenda Item will be debated by Council following the address.
- Council will not determine any matter raised in the Public Forum session, however Council may resolve to call for a future report.
- If you have any documentation to support your presentation, provide two (2) copies to Council by 12 noon on the day of the Meeting.
- If a speaker has an audio visual presentation, a copy of the presentation is to be provided to Council by 12 noon on the day of the Meeting.
- The following will **not** be considered in the Public Forum (in accordance with the Code of Meeting Practice, clause 2.14.14):
 - Proposed or current development and rezoning applications and related matters.
 - A third (3rd) or subsequent application by a single member of the public to address Council on the same issue in the same calendar year. Council, at its discretion, may elect to exempt representatives or members of community groups from this restriction.
 - Any formal procurement process, contract negotiation or dispute resolution being undertaken.
 - Any matter the General Manager (or their delegate) considers inappropriate for discussion in the Public Forum.
- Council accepts no responsibility for any defamatory statements made by speakers.
- Members of the public may quietly enter and leave the Meeting at any time.

Ordinary Council Meeting
Wednesday, 20 June 2018

LATE REPORTS

Items of Business

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4 Your Natural and Built Environment

What we are trying to achieve

A connected, sustainable, accessible community and environment that is protected now and into the future.

What the result will be

We will have:

- Effective management and maintenance of essential water, waste and sewer infrastructure
- A community that is prepared for natural events and climate change
- Sustainable and environmentally sensitive development outcomes that consider the impact on the natural environment
- Accessible transport network for our communities
- Infrastructure provision and maintenance that meets community expectations and needs
- Well planned communities that are linked to encourage and manage growth
- Accessible and protected waterways, foreshores, beaches and bushlands
- An environment that is protected and conserved for future generations
- Renewable energy options that are understood and accessible by the community

How we will get there

- 4.1 Provide (appropriate) infrastructure and services including water cycle management, waste management, and sewer management
- 4.2 Aim to minimise the impact of natural events and climate change, for example, floods, bushfires and coastal erosion
- 4.3 Facilitate development that is compatible with the natural and built environment
- 4.4 Plan for integrated transport systems that help people get around and link our communities
- 4.5 Plan for integrated and connected communities across the Port Macquarie-Hastings area
- 4.6 Restore and protect natural areas
- 4.7 Provide leadership in the development of renewable energy opportunities
- 4.8 Increase awareness of issues affecting our environment, including the preservation of flora and fauna



Item: 12.11

Subject: LOW RISE MEDIUM DENSITY HOUSING CODE

Presented by: Development and Environment, Daniel Croft

Alignment with Delivery Program

4.3.1 Undertake transparent and efficient development assessment in accordance with relevant legislation.

RECOMMENDATION

That Council:

1. **Note the information contained in the report.**
2. **Not seek a 12 month delayed commencement of the Low Rise Medium Density Housing Code in the Port Macquarie-Hastings local government area.**

Executive Summary

The Department of Planning and Environment (the Department) is implementing the next phase of an expanded state-wide complying development framework through the Low Rise Medium Density Housing Code (the Code).

The Department has advised that the intent of the Code is to provide more housing choice to meet different household needs, and improve housing affordability. It forms part of the NSW Government's commitment to facilitate faster housing approvals and deliver a diverse range of housing options to support NSW's changing demographics.

The Code takes effect on 6 July 2018. Some metropolitan Councils (the City of Ryde and the City of Canterbury Bankstown) have sought and obtained a 12 month deferred commencement of the Code in their respective local government areas. It is understood these Councils have sought deferral on the basis of concerns around infrastructure capacity issues and potential impacts on the character of some existing residential estates.

This deferral has prompted regional Departmental staff to contact Council and seek feedback as to whether a 12 month delayed commencement is sought for the Port Macquarie-Hastings. Given the relatively late notice of this deferral option (June 2018), the communications with Departmental staff has been limited to telephone discussions, with no formal correspondence inviting Council comment. Discussions with Department staff have also indicated that Coffs Harbour City Council and Byron Shire Council will be seeking deferred implementation of the Code.

For reasons outlined in the report, it is recommended that a deferred commencement of the Code not be sought by Council.

Discussion

Complying development essentially enables Council or a private certifier to issue a complying development certificate for developments that meet the pre-determined standards of the Code. Any development that does not meet the standards is ineligible to be considered as a complying development and would need to be lodged and assessed via a development application process i.e. complying development does not provide any scope for a merit-based assessment. Because complying development is aimed at facilitating development that 'ticks the box', there is no scope for neighbours to lodge submission/objections to be considered as part of the assessment process.

For residential development, complying development is currently limited to single dwellings and ancillary development. The new Code will expand residential development types that can be considered as complying development to include one and two storey dual occupancies, manor houses and terraces. Strata and Torrens title subdivision of dual occupancies and terrace housing will also be possible under the Code.

The Code includes detailed provisions to ensure that developments provide an appropriate level of amenity for occupiers of the development whilst also addressing potential impacts on neighbours. This is addressed through a range of building setback, landscaping, privacy, and open space standards. It should also be noted that the Code includes conditions requiring for any necessary alterations to infrastructure to be undertaken and relevant approvals being obtained from the Roads and Water Authority. The payment of developer contributions is also required where applicable. A link to the content of the Code is provided below:
<https://www.legislation.nsw.gov.au/EPIs/2018-132.pdf>

A link to frequently asked questions relating to the Code is provided below:
http://www.planning.nsw.gov.au/Policy-and-Legislation/Housing/~/_media/78E63670D25E49F29D2806B7880604C8.ashx

Under the Code, low rise medium density housing is only allowed in the R1 General Residential, R2 Low Density Residential, R3 Medium Density Residential and RU5 Village zones where a local environmental plan permits 'multi dwelling housing'. With respect to the Port Macquarie-Hastings Local Environmental Plan 2011 LEP, multi dwelling housing is permitted with consent in all the above zones except the R2 Low Density Residential zone. Therefore, dual occupancies, terraces and manor houses could be considered as complying development in the R1, R3 and RU5 zones where they meet the standards of the Code. It is noted that the majority of the urban areas of the towns and villages within the Port Macquarie-Hastings is zoned R1 General Residential.

It is understood that some councils have sought a 12 month delayed commencement of the Code on the basis of concerns around infrastructure capacity issues and potential impact on the character of some existing residential estates. Regional Departmental staff have verbally advised that this deferral is available for other Councils if a decision if the Department is notified by 27 June 2018.

It is considered that the main benefits and disadvantages of deferring the commencement of the Code are as follows:

Benefits

Notwithstanding that the types of development facilitated by the Code would be permissible with consent (via a development application) in the R1, R3 and RU5 zone under the LEP, there could be a perception by some residents that low rise medium density housing is not appropriate in their neighbourhood. The Code does not provide for any meaningful neighbour input into the assessment process that would otherwise be provided through neighbour notification of a development application.

It is understood that some Councils who have sought deferral of the Code intend to review their LEP's during the 12 month deferral period to determine whether it is appropriate to restrict application of the Code in certain areas where multi dwelling housing is not considered appropriate. Under PMHC's draft Urban Growth Management Strategy (being considered by Council at this 20 June 2018 meeting of Council), there is a proposed action to undertake a housing choice options review. This project is planned to be completed within 2 years from adoption of the strategy. Deferred implementation of the Code would enable this review to at least be partially completed before the Code comes into effect.

Disadvantages

Potential impact on the efficient provision of housing options. This could be poorly perceived by the development industry particularly noting Councils regional city status and high growth rate. Given the late notice of the deferral option, there has been no opportunity to consult with the industry who would otherwise be expecting, and potentially planning for, implementation of the Code on 6 July 2018.

There is also the potential perception by private certifiers and the development industry of anti-competition. Delaying implementation of the Code will arguably force proponents to lodge a development application that could be otherwise be approved by a private certifier via complying development. It is noted that Council is sometimes criticised on development application processing times and deferral of the Code would essentially prevent a proponent from choosing a more efficient approval stream.

Options

1. Seek a 12 month deferred commencement of the Code.
2. Not seek a 12 month deferred commencement of the Code.

It is recommended that option 2 be adopted noting that the disadvantages presented above.

Community Engagement & Internal Consultation

Internal consultation has been had with Development and Environment and Strategy and Growth staff.

Given the late notice of the deferral option there has been no opportunity for external consultation.

Planning & Policy Implications

The options presented will have a direct bearing on whether or not the Code applies in the Port Macquarie-Hastings for the first 12 months from 6 July 2018.

Financial & Economic Implications

There is the potential negative financial implication for a development proponent if the Code is deferred. The complying development process is cheaper and more efficient than the development application process.

Attachments

Nil