

**Subject            9.2 Mayoral Minute: Postponement of NSW Low Rise Medium Density Housing Code and the Preparation of a Housing Strategy (11057490)**

To my fellow Councillors

**Mayoral Minute**

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**Summary**

The purpose of this Mayoral Minute is to seek Council's endorsement to seek a twelve-month postponement of the introduction of the Low Rise Medium Density Housing Code in the Shellharbour Local Government Area (LGA) and associated Standard Instrument LEP amendments to Shellharbour LEP 2013 that includes the introduction of "manor houses" into our R2 and R3 zones.

It also seeks Council's endorsement for the preparation of a Housing Strategy that addresses the appropriate provision of housing for the community of Shellharbour.

Endorsement is also sought for Council staff to report on the issues involved in preparing a Planning Proposal to consider amending Shellharbour LEP 2013 based on the implications of the Low Rise Medium Density Housing Code and associated Standard Instrument LEP amendments to Shellharbour LEP 2013.

**Background**

The NSW Government is proposing to introduce the Low Rise Medium Density Housing Code on 6 July 2018 as part of the State Environmental Planning Policy (Exempt & Complying Development Codes) 2008. As stated on the NSW Department of Planning and Environment's website, "The new Low Rise Medium Density Housing Code will allow one and two storey dual occupancies, manor houses and terraces to be carried out under a fast track complying development approval".

Complying development is development that meets specified standards. These standards are contained in the complying development code. In this case, it is the Low Rise Medium Density Housing Code. This means that a wider and denser range of medium density housing development would be permitted in the vast majority of the Shellharbour LGA residential areas without development consent or community input. The State's residential complying development code currently only applies to single dwelling houses but is now being extended to the above stated types of medium density development.

In addition, the State Government is proposing to amend Shellharbour Local Environmental Plan 2013, by introducing "manor houses" as a permissible use with development consent in our R2 Low Density Residential and R3 Medium Density Residential zones. The majority of our residential areas are zoned R2 with a smaller proportion zoned R3 based on certain criteria such as proximity to town centres. The definition of "manor house" is a building containing three or four dwellings, where:

- (a) Each dwelling is attached to another dwelling by a common wall or floor, and

- (b) At least 1 dwelling is partially or wholly located above another dwelling, and
- (c) The building contains no more than two storeys (excluding any basement).

This means that a person could submit a development application with Council for a manor house in an R2 or R3 zone if such a development could not meet the mandatory standards of the complying development code. This type of development has never been contemplated by Council in its residential areas and does not have appropriate controls in its Development Control Plan (DCP) to appropriately guide or assess such applications.

Conversely, Council would have a reduced ability to refuse such applications. Additionally, Council has not had the opportunity to engage with its community about the introduction of this type of development or the other types of medium density complying development as proposed under the code.

On 25 February 2016 and 16 December 2016, Council made submissions to the State Government opposing the introduction of such a code in Shellharbour. This has previously been referred to by the State as "The Missing Middle". It appears that Shellharbour, like other Councils, have had their concerns about the introduction of such a code dismissed.

However, in announcing the introduction of the code, the Minister for Planning advised that the introduction of the code in the local government area of Ryde would be postponed for twelve months or until the Council had undertaken the development of a new Local Housing Strategy and Local Environmental Plan (LEP). The Minister advised that the code would be postponed in the Canterbury Bankstown LGA until Council had prepared an amending LEP to seek exemption from the Code in their R2 Low Density Residential zone. Other Councils that have been granted a postponement include Lane Cove and Northern Beaches.

Council staff have been liaising with officers of the NSW Department of Planning and Environment about how such an exemption could be applied for by Shellharbour City Council. Staff have been advised that there is no formal process for this to occur, however Council can put forward a request for postponement in writing for consideration.

On this basis, I am proposing that Council formally write to the Minister for Planning and the NSW Department of Planning and Environment requesting that the introduction of the Low Rise Medium Density Housing Code and associated Standard Instrument LEP amendments to Shellharbour LEP 2013, which include the introduction of "manor houses" into our R2 and R3 zones, be postponed for twelve months.

This would allow Council to prepare a Housing Strategy. A Housing Strategy would amongst other matters, include a supply/demand assessment forecast for different dwelling types and where they should be located. This would provide a basis of where low rise medium density housing is needed (and for that matter other dwelling types) and this can be balanced against site/locality attributes and constraints (including neighbourhood character). This work can be the basis for:

- i. An exemption case in relation to the complying development code
- ii. Any required LEP amendments
- iii. Any required DCP amendments
- iv. Any corporate (Council as owner/partner) housing initiatives

The Housing Strategy, when completed, would provide a further strategic basis for consideration of planning proposals, especially on the urban fringe. Council staff are currently assessing three planning proposals totalling about 222 hectares of rural land for rural residential and residential purposes.

## **Recommendation**

### **That Council:**

- 1. Seek a twelve-month postponement of the introduction of the Low Rise Medium Density Housing Code in Shellharbour LGA and associated Standard Instrument LEP amendments to Shellharbour LEP 2013 that includes the introduction of "manor houses" into our R2 and R3 zones.**
- 2. Prepare a Housing Strategy that addresses the appropriate provision of all forms of housing for the community of Shellharbour.**
- 3. Request a report from Council staff on the issues involved in preparing a Planning Proposal to consider amending Shellharbour LEP 2013 based on the implications of the Low Rise Medium Density Housing Code and associated Standard Instrument LEP amendments to Shellharbour LEP 2013.**



Approved for Council's consideration: \_\_\_\_\_

**Date of Meeting:** 12 June 2018

### **Attachments**

Nil