



# Submission to the Draft Amendment GC206 – Small Lot Housing Code Update

August 2022

## CONTENTS

Contact .....	2
About UDIA victoria .....	2
Introduction .....	3
Proposed Amendments to Small Lot Housing Code Type A and B .....	4
Proposed Small Lot Housing Code Type C.....	8
Small Lot Housing Code Practice Note Consultation Version.....	9
SLHC and Major Changes to the National Construction Code .....	10

## CONTACT

For further information about any matter raised in the submission please contact:

**Caroline Speed**  
Director of Policy and Advocacy  
(03) 9832 9600  
[caroline@udiavic.com.au](mailto:caroline@udiavic.com.au)

## ABOUT UDIA VICTORIA

The Urban Development Institute of Australia, Victoria Division (UDIA Victoria) is a not for profit advocacy, research and educational organisation supported by a membership of land use and property development organisations, across the private sector and Victoria's public service. We are committed to working with both industry and Government to deliver housing, infrastructure, and liveable communities for all Victorians.

## INTRODUCTION

UDIA Victoria welcomes the opportunity to make a submission to the Victorian Planning Authority (VPA) in response to the Draft Amendment GC206 – Small Lot Housing Code update. We understand the Amendment seeks to:

- Update the Type A and Type B standards that were identified in the 2019 Stage 1 review and improve design outcomes where possible to align with new Type C standards.
- Introduce a new ‘Type C’ standard that will streamline the delivery of dwellings on lots between 60 and 150 sqm.

We commend the VPA on the work carried out to date to refine the SLHC Type A and B, and develop the new Type C, to facilitate development on more compact lots. UDIA Victoria considers the SLHC to be vital to achieving the objectives in the revised Precinct Structure Plan (PSP) Guidelines, including increased diversity of housing and achieving higher densities of 30 dwellings per hectare around areas of high amenity.

The SLHC typology has gained both support and market share since its introduction in 2011 due to ongoing land price increases requiring overall lot sizes to contract to remain affordable. SLHC product now represents approximately 20 per cent of a typical subdivision in Melbourne’s greenfield areas. More recently, townhouse style development utilising lots that are typically 6 metres wide by 20 to 25 metres deep has gained support, especially in the first home buyer market.

However, our members have raised concerns about the manner in which councils treat the SLHC product in plans of subdivision, requiring far more detail than was intended by the VPA to gain permit approval. This is contrary to the intent of the SLHC and serves to delay approvals where there should be no basis for this.

In this context we support the ongoing improvement of the SLHC standards such that they remove the capacity for councils to request further information and delay approvals for plans of subdivision where this is unnecessary.

Outlined below is our feedback regarding the:

- Proposed amendments to type A and Type B;
- Proposed Type C;
- Small Lot Housing Code Practice Note Consultation Draft; and
- Interaction between the major changes to the National Construction Code and the SLHC review.

UDIA Victoria has worked closely with our members and the Housing Industry Association during the consultation process. In particular, we support the submission from Lendlease, which represents the views of experienced SLHC volume builders who deliver a significant proportion of new homes across Melbourne. We consider this submission to be complementary with the feedback outlined below.

We have included feedback about the interaction between the SLHC and the proposed major changes to the National Construction Code (NCC), which include the adoption of the Liveable Housing Design Guidelines (LHDG) Silver standard and seven star thermal efficiency requirements. We understand these are proposed to be applied to all new dwellings and will come into effect on 1 October 2022.

Both our developer and builder members have significant concerns about the practical implications of the LHDG silver standard requirement being applied to SLHC product. These concerns include implementation issues relating to a mismatch between already approved subdivisions which will not

provide adequate lot width to accommodate the LHDG Silver standard requirements, the conflict between the new Type C lot size and the LHDG Silver standard requirements, and the associated cost to deliver the LHDG Silver standard requirements.

Overall we foresee the LHDG Silver standard requirements limiting the adoption of SLHC in future subdivisions, whereas we would otherwise predict the SLHC would be more widely adopted in the future, especially the new Type C. We consider that these requirements will render the delivery of SLGC product impossible in many situations due to the natural slope of the ground, narrower lot widths, and, when combined with the seven star thermal efficiency requirement, the orientation of the lots. This is in conflict with the clear direction outlined in the recently updated Precinct Structure Plan Guidelines seeking to increase the density and diversity of housing product around nodes of high amenity through an increased proportion of SLHC lots.

On this basis, we have already written to the Minister for Planning to request that the SLHC be exempted from these requirements and a three year transition period be adopted. Failing this, the introduction of any new requirements should be deferred by 12 months given the current market context of rising construction costs, skills shortages, supply chain issues, and the significant delays this is causing in delivering new dwellings to market.

During this time, we encourage the State Government to review the impacts of the LHDG Silver standard requirements on the built form and urban design outcomes, and therefore on the capacity for industry to meet the stated objectives of the new PSP Guidelines relating to increased density, diversity, and affordable housing.

## PROPOSED AMENDMENTS TO SMALL LOT HOUSING CODE TYPE A AND B

The UDIA Victoria response to the proposed amendments to SLHC Type A and B as outlined in the Small Lot Housing Code Consultation Draft is provided below, including suggested improvements where appropriate. This is followed by additional feedback relating to side setbacks, walls on boundaries, overlooking and daylight to habitable room windows.

### RESPONSE TO THE PROPOSED AMENDMENTS

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#### **Proposed amendment**

Former Standard 1.1 Maximum setback now deleted.

#### **Response**

1. We support this. We note this was one of the key differences between Type A and B of the SLHC.

#### **Proposed amendment**

Former Standard 2.1 now broadens the definition of ‘recreation reserve’.

#### **Response**

2. We support this. The definition of ‘recreation reserve’ (now defined as an ‘open space reserve’) was associated with the minimum setback requirements, and was also one of the key differences between Type A and B of the SLHC.

3. Given the importance of the minimum and maximum setbacks in differentiating between Type A and B SLHC building envelopes, we now query whether there is sufficient difference between Type A and Type B to warrant the distinction between them.

#### **Proposed amendment**

Standard 2.a now requires a window at entryways.

#### **Response**

4. We support this in principle however we recommend that, where there is glazing in the door, this should suffice and an additional window should not be necessary. This requirement should also be considered in the context of the LHDS silver standard requirement for a wider entry which will result in wider doorways. Requiring a window separate to the door at the entry will result in an even wider entry and associated hallway, which will then require a wider lot. All of these will increase the cost of delivering new housing and will more acutely impact SLHC townhouse product.

#### **Proposed amendment**

Standard 2.b now requires minimum material variation at front, side and rear frontages.

#### **Response**

5. We consider this amendment too prescriptive on the basis that it inadvertently excludes a single material facade that can be visually appealing. We also query whether the same material but treated with two different colours is considered sufficiently different to meet the proposed amendment.

We understand that this amendment seeks to ensure a minimum level of variety in the façade and to eliminate the prospect of poor aesthetic outcomes, however this amendment appears to be aimed at lifting the standards of the lowest common denominator without considering the impact of additional regulation on innovation in design. In our view this approach is too prescriptive and we are concerned that this will constrain innovation and encourage homogenous outcomes.

6. We suggest options to manage this through the Practice Note and the Design Guidance Note be explored as an alternative.

#### **Proposed amendment**

Former Standard 2.5 b) iv. which previously required balconies to occupy more than 80 per cent of the frontage. The intent is for balconies to occupy 100 per cent of the frontage.

#### **Response**

7. We support this, however we note consideration will need to be given to the fire rating requirements for party walls as required by the National Construction Code.
8. In this context, please provide clarification of Standard 2.5 b) iv) and v) regarding the definition of the 'front wall'. Specifically, in terms of the relationship between a front wall that is not sited at the minimum front setback that is also at the rear of a balcony and:
  - Has a roofed balcony more than 1.0 metre deep; or
  - Unroofed balcony more than 1.5 metres deep.

The proposed amendments appear to prohibit these situations, however these are relatively common for reverse living townhouses where the first floor balcony is also the private open space and is often 3.0 metres deep.

9. Further to the above we suggest the removal of controls with regard to ‘roofed’ or ‘unroofed’ balconies and allow roofed or unroofed balconies to project up to 1.5 metres into the front setback. The SLHC should encourage balconies regardless of roofing, whereas the current requirements penalise and discourage balconies with roofs. This will encourage and allow for greater facade and design diversity and better streetscape outcomes.
10. We also suggest the Standard be amended to permit balcony elements, including the supporting wall structure, to encroach into the front setback by up to 1.5 metres and to be exempt from the side setback provisions.

#### **Proposed amendment**

Standard 6.1 which has been modified to require a minimum of one car park per dwelling for Type A and Type B irrespective of the number of bedrooms.

#### **Response**

11. We support this amendment, however we note the unintended consequence may be that the relevant council requires on street car parking to compensate for a reduction in on site carparking. We strongly urge the VPA consider measures to ensure councils do not seek to circumvent the intent of this requirement by requiring additional on street carparking.

#### **Proposed amendment**

Standard 8.1 c) has been modified to remove the requirement to not have a side wall above 3.6 metres extending more than 2 metres from a shared wall on boundary.

#### **Response**

12. Refer to the feedback below.

#### **Proposed amendment**

Standard 12.1 Overlooking has been modified to only require windows overlooking living rooms to be screened.

#### **Response**

13. We support this.

### **ADDITIONAL FEEDBACK**

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#### **General comments**

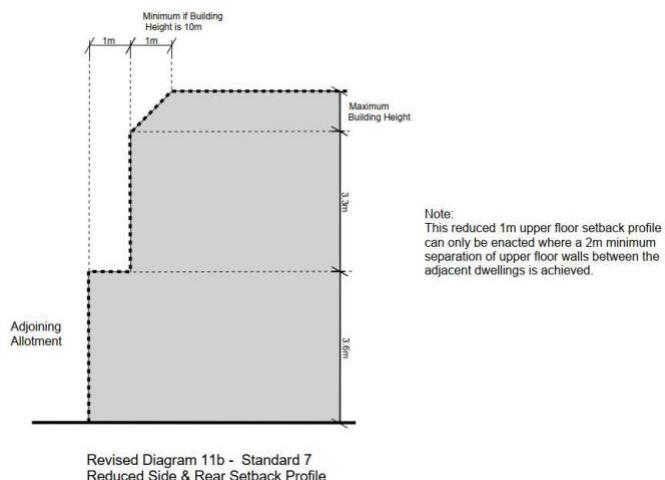
14. Overall the proposed amendments are generally supported, however we note that the proposed amendments have resulted in there being only minor differences between Type A and type B, such as the option of a three metre setback. Some members have questioned the value in maintaining the distinction between the two typologies.
15. We request that guidance be provided to councils to reiterate that the intention of the SLHC is to provide discretion to the permit applicant to determine which lots are designated as Type A and

Type B. We have received feedback indicating that one council in particular requires permit applicants to nominate a Type B lot where it is opposite open space.

16. Further, given there is some overlap between Type A, B- and C, such as the requirements for fences, the SLHC could be simplified by having a section that applies to all three types to avoid doubling up of the text for those sections.

### Side and rear setbacks

17. Standard 7.3 of Chapter 3 of the Small Lot Housing Code Consultation Draft notes eaves, fascias and gutters may encroach into the setback by 600mm. We recommend this should be 750mm to align with the definition of site coverage on page 7 of this Draft.
18. We propose an additional amendment to Standard 7 Side and Rear Setbacks relating to the side setback. We recommend this be amended as shown in the image below so that it is reduced to one metre for simultaneously approved dwellings between 3.6 metres high and 6.9 metres high, rather than the angled setback created by the current requirements. This will allow for more design variation and product diversity that encourages built form separation.
19. We recommend that articulation elements such as balconies, porches, and pergolas be permitted to be located within the revised building envelope and to encroach into the front setback by 1.5 metres.



### Walls on boundary

20. We recommend the original 'wall on boundary' definition (Chapter 2) be reinstated which includes a wall located 0-200mm off the boundary.

### Overlooking

21. We recommend the overlooking provisions for Type A and B (Standard 12.2) mirror those for Type C (Standard 24.2). That is:

*A raised private open space that faces secluded private open space or living room windows of an existing or approved dwelling within a horizontal distance of 4.5 metres must have a sill height or*

*be screened to a height of 1.7 metres above the floor level and be no more than 25 per cent transparent.*

### **Daylight to habitable room windows**

22. Standard 13 - We recommend the original wording be retained. That is:

*Each required habitable room window must face...*

This allows the windows that are additional to the minimum required for light and ventilation can be located at the discretion of the designer and facilitates more design outcomes.

## **PROPOSED SMALL LOT HOUSING CODE TYPE C**

Overall we welcome the new SLHC Type C provisions and commend the VPA on the work that has been invested in developing these to date. We consider that the new SLHC Type C will provide more compact options for new home buyers that are more affordable, and as such we foresee the Type C has the potential to comprise an increasing proportion of new residential subdivisions.

Initial feedback from members indicates that the Type C provisions are considered more prescriptive and onerous than the current SLHC Type B, in particular the side and rear setbacks, and will result in a significantly higher build cost for a two-storey product. On this basis, and in the context of the current market, the Type B is more likely to be adopted.

However we note the Type C provisions appear to be aimed at facilitating a three storey product which we see as playing an important role in greenfield developments to increase the density and diversity of housing products. In the current market, the Type C has limited viability due to the associated construction costs and the relative cost of land, however this relationship is likely to change over time as land costs increase.

Overall, we recommend further refinements to the proposed Type C to ensure it is commercially viable and more likely to be adopted in the short term. Of relevance, we recommend the side and rear setbacks be more closely aligned with the Type B provisions on the basis that member feedback indicates that the Type C is unlikely to be located adjacent to conventional lots. Type C is more likely to be utilised in areas of more intense development, such as town centres, and is likely to be surrounded by other Type C, or Type A and B SLHC lots.

Further detailed feedback is provided below.

### **Setback - Side and rear profile**

23. Standard 7.2 Table 2 – The minimum setback from the side street alignment is 1.5 metres however Type B allows a minimum setback from a side street of 1 metre. Is the intention that Type C would have a larger setback from a side street?

### **Setback – Allowable encroachments**

24. Standard 8.1 – We suggest the allowable encroachment of 0.75 metres be increased to 1.5 metres to align with the Type B provisions.

### **Setback – Garage from street**

25. Standard 9.1 b) currently requires the entrance to the garage be no more than 4.0 metres from the street alignment. We suggest this be increased to 5.0 metres which allows for a standard car to fit in the driveway. This can be considered a visitor car park and may assist with ensuring councils do not increase the on street car parking requirements in future developments.

### **Car parking**

26. Standard 15.1 – The current wording is ambiguous. Is the intention to require a minimum of one car space, or a maximum of one car space? We suggest this be clarified by amending the clause to refer to one of the following:

- a. 'A minimum of one...' or
- b. 'A maximum of one...'

### **Daylight to private open space**

27. Standard 18.1 b) requires minimum access to sunlight for balconies. Our interpretation is that dwellings with a balcony providing the required private open space would not be permitted to face south. Please confirm whether this is the intention.

We note this is inconsistent with the requirements for Type A and B which require minimum access to sunlight for ground level and roof top private open space. We suggest the requirement for Type C be amended to be consistent with Type A and Type B.

### **Daylight to habitable rooms**

28. Standard 25.1 – We suggest the wording be amended to state:

*Each required habitable room window must face either of....*

This allows the windows that are additional to the minimum required for light and ventilation can be located at the discretion of the designer and facilitates more design outcomes.

## **SMALL LOT HOUSING CODE PRACTICE NOTE CONSULTATION VERSION**

Outlined below are suggested improvements or clarifications to the Small Lot Housing Code Practice Note Consultation Version. These comments align with the suggested amendments above.

### **Standard 8 - Setback – Allowable encroachments**

29. Standard 8.1 – We suggest the allowable encroachment of 0.75 metres for Type C be increased to 1.5 metres to align with the Type B requirements.

### **Standard 9 – Setback – Garage from Street**

30. Standard 9.1 – Note the maximum setback of four metres will prohibit the use of the driveway for parking a second car or visitor car. We suggest allowing the option of having a five metre setback to the garage to provide this flexible off street carparking and possibly offset council requirements for visitor car parking on the street.

### **Standard 15 – Carparking**

31. Standard 15.1 – Recognising that the proposed amendments to SLHC Type A and B now only require one car space regardless of the number of bedrooms, it is not clear whether Standard 15.1 is seeking to prohibit more than one car space on each lot. Suggest wording be amended to clarify whether this is a minimum or maximum of one car space permitted on each lot.
32. Standard 15.3 – The minimum car park width is 3.0 metres which is inconsistent with the minimum width of 3.2 metres as outlined in Standard 15.6.

### **Standard 25 – Daylight to habitable rooms**

33. Standard 25.1 – We suggest the wording be amended to state:

*Each required habitable room window must face either of....*

This allows the windows that are additional to the minimum required for light and ventilation can be located at the discretion of the designer and facilitates more design outcomes.

## **SLHC AND MAJOR CHANGES TO THE NATIONAL CONSTRUCTION CODE**

As noted previously, we are concerned about the interaction between the SLHC and the proposed major changes to the National Construction Code (NCC), which include the adoption of the Liveable Housing Design Guidelines (LHDG) Silver standard and seven star thermal efficiency requirements. We understand these are proposed to be applied to all new dwellings and will come into effect on 1 October 2022.

While we fully support the intent of increasing the number of new houses that are accessible, we urge the Victorian Government to have regard to both the current market context and the impact of these requirements on residential development in Melbourne and regional greenfield areas which deliver the majority of new affordable housing annually. These impacts are outlined below.

### **CURRENT MARKET CONDITIONS**

Since March 2020, a range of unprecedented conditions - including the Federal HomeBuilder Grant and successive lockdowns – coalesced in Melbourne to create additional demand for house and land packages in Melbourne's greenfield areas and regional areas. In the 2021 calendar year, 32,250 residential lots were sold in Melbourne's greenfield areas and regional areas, which is a substantial increase on the five year average of circa 17,500.

Industry is working hard to deliver the residential lots and construct the new houses; the current timeframe to deliver fully serviced residential lots and issue land titles is circa 18-24 months. The current timeframe to deliver new houses has increased from six months to nine months as a result of supply chain issues, skills shortages and cost increases. Further, the majority of contracts to construct new homes in greenfield areas are fixed price, which is creating further difficulties given the current market conditions.

In this context, a contract for a house and land package signed today is likely to be completed and ready to occupy in between two and half to three years.

## INTERACTION BETWEEN THE ACCESSIBLE HOUSING STANDARDS AND SMALL LOT HOUSING CODE

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The LHDG Silver standard will require a significant re-design of the entire product ranges of volume builders at a time when the industry is experiencing a shortage of both skills and staff, placing further pressure on the residential development sector in a resource-constrained environment.

In a typical subdivision, SLHC lots represent approximately 20 per cent of the total residential yield. The demand for these lots, and the associated housing product, is being driven largely by first home buyers because it represents an affordable new housing option due to the compact nature of the lots.

An increasing proportion of the SLHC lots are typically six metres wide and comprise townhouses built boundary to boundary. The dwellings designed for SLHC lots in particular are less able to accommodate the required LHDG Silver standard amendments such as a step-free entry, wider doorways, hallways, and circulation space within a garage, whilst also meeting the requirements of the SLHC.

We foresee this resulting and a mismatch between the SLHC lots in already approved subdivisions – but where the house does not yet have a building permit - and the revised house plans that incorporate the LHDG Silver standard requirements. It is possible that the already approved subdivisions will need to be redesigned to accommodate the revised LHDG Silver standard compliant house designs which will trigger an application for a planning permit amendment.

Alternatively, where the subdivision plans remain in place but no longer accommodate the updated house plans that include the LHDS requirements, bespoke designs will be required for SLHC lots which will add significant cost for the home buyer. Industry feedback indicates that, even with a bespoke design, a significant portion of lots in this situation are unlikely to be able to meet the combined requirements of the major changes to the NCC due to the slope of the land a non-preferred solar orientation.

We further foresee additional difficulty in meeting the LHDG Silver standards requirement for houses designed for the new SLHC Type C option, which is even smaller at 60 to 150 square metres, due to narrower lot widths. The new Type C lot is essential to achieving the stated objectives of increased diversity of housing and higher dwelling densities.

We estimate the additional cost to provide for the requirements of the LHDG Silver standard in a townhouse could be between \$60,000 to \$90,000 due to:

- Larger lot sizes to accommodate wider doorways and circulation space;
- Additional excavation to create a safe, continuous step-free pathway from the front boundary of the property to an entry door to the dwelling. In some cases, the lot will be unable to comply due to the topography of the land (that is, the natural slope is too great to excavate); and
- Larger house sizes with additional structural requirements.

These costs must be added to the cost of delivering seven star thermal efficiency requirements, which could range from \$2,000 to \$30,000 depending on the size and orientation of the dwelling. The costs relate to measures such as additional insulation, double glazing, low-e glazing, waffle pod slabs and sarking.

All of these outcomes are contrary to the stated purpose of the updated SLHC which seeks to:

- Deliver on Principle 5 of Plan Melbourne – living locally, 20-minute neighbourhoods by facilitating an increase in density in walkable catchments around areas of higher amenity.
- Provide diverse and affordable housing at densities conducive to viable and prosperous neighbourhoods.
- Improve amenity, streetscape outcomes, affordable housing and vibrant neighbourhoods.

Overall we foresee the LHDG Silver standard requirements limiting the adoption of SLHC in future subdivisions, whereas we would otherwise predict the SLHC would be more widely adopted in the future, especially the new Type C. On this basis, we strongly recommend that the SLHC be exempted from these requirements.

As noted previously, failing this, the introduction of any new requirements should be deferred by 12 months given the current market context of rising construction costs, skills shortages, supply chain issues, all of which are being managed in the context of fixed price contracts, as well as the significant delays in delivering new dwellings to market.

During this time, we encourage the Victorian Government to review the impacts of the LHDG Silver standard requirements on the built form and urban design outcomes, and therefore on the capacity for industry to meet the stated objectives of the new PSP Guidelines relating to increased density, diversity, and affordable housing. We further suggest that the Victorian Government use SLHC dwellings that are part of the Big Housing Build to test the application of the LHDG Silver standards on the townhouse typology.

**Urban Development  
Institute of Australia  
(UDIA) Victorian Division**

Level 4, 437 St Kilda Rd  
Melbourne Victoria

P +61 3 9832 9600  
E [admin@udiavic.com.au](mailto:admin@udiavic.com.au)

[www.udiavic.com.au](http://www.udiavic.com.au)

