

Explanation of the intended effect

Proposed amendment to the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

Section 38 of the *Environmental Planning and Assessment Act 1979* ('the EP&A Act') requires the Minister to publish an explanation of the intended effect, if s/he considers it appropriate when proposing a change to a State environmental planning policy.

This document has been prepared for the purposes of Section 38 and forms an explanation of the intended effect of the proposed State Environmental Planning Policy (Exempt and Complying Development Codes) Amendment (Commercial and Industrial) 2014 (the Amending SEPP) to State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (the SEPP).

NSW Planning & Infrastructure will consider submissions on the Amending SEPP, before recommending that the proposed change be made by the Governor.

1. Objectives or intended outcomes

The proposed Amending SEPP seeks to refine the development standards and conditions of commercial and industrial complying development that came into force on 22 February 2014.

Feedback from stakeholders during a number of education sessions noted that there were minor drafting and typographical errors in the SEPP that require changes in order to achieve intended policy outcomes.

The aim of the proposed Amending SEPP is to ensure:

- There is a clear front building setback for industrial buildings.
- Car parking is considered and provided (where applicable) for commercial and industrial change of use and first use applications, and section 94 contributions are paid in lieu.
- Car parking is not required for internal fit-outs.
- The SEPP reflects what was publicly exhibited, the fact sheets and messaging at the road shows.

2. Explanation of provisions

This section provides an explanation of the changes in the proposed Amending SEPP.

2.1 Land to which the proposed Amending SEPP will apply

The proposed Amending SEPP will apply to the State, except to the following land:

- State Environmental Planning Policy (Kosciuszko National Park – Alpine Resorts) 2007, and
- State Environmental Planning Policy (Western Sydney Parklands) 2009, and

- 18km of the land owned by the Australian National University at Siding Spring.

2.2 Front building setbacks for industrial buildings from roads – Part 5A of the SEPP

- The front setback from non-classified roads for industrial development was included in the exhibited version of the SEPP and in the relevant fact sheets, however was omitted from the final SEPP.
- The amendment will reinstate the (exhibited) front setback requirement for industrial buildings.
- In Part 5A the clauses that will be amended are 5A.10(2) and 5A.10(4A).

2.3 Car parking development standards – Part 5 and 5A of the SEPP

- There are several clauses within these parts requiring car parking for different types of complying commercial and industrial development which were exhibited, however the wording differs slightly between clauses.
- The amendment will make car parking requirements consistent throughout the SEPP and ensure car parking is considered and provided (where applicable) or section 94 contributions are paid in lieu.
- In Part 5 the clauses that will be amended are clause 5.2(1)(i), clause 5.4(1)(i) and clause 5.6(1)(c).
- In Part 5A the clause that will be amended is clause 5A.24(1)(a).

2.4 Hours of operation – Part 5 and Schedule 8 of the SEPP

- The SEPP contains hours of operation for complying development in both the development standards and standard conditions which were exhibited. However hours of operation should only be included in one place, as a standard condition.
- The Amending SEPP proposes to delete the unnecessary clause to make all references to hours of operation consistent throughout the SEPP.
- In Part 5 the clauses that will be amended include clause 5.4(h), clause 5.6(c) and Schedule 8, clause 21.

2.5 Other amendments – Part 5A of the SEPP

- The SEPP provides for general standards that state a complying development must not contravene the conditions of an existing development consent.
- The Amending SEPP rewords the clause 5A.5 to make the conditions in this clause consistent with those specified in similar circumstances under clauses 2.20D, 5.4 and 5.6
- Clause 5A.11 (3) makes an incorrect reference to “environmentally sensitive land”. The Amending SEPP will replace this reference with “environmentally sensitive area”.