A Review of Complying Development for Inland NSW

Background Paper

NSW GOVERNMENT Planning & Environment

March 2016

Smith & Tzannes was commissioned by NSW Department of Planning and Environment to carry out research into complying development in the Western (inland) Region of NSW and prepare this background paper.

Neil Diamond from Pro Cert provided technical assistance.

TITLE	**A Review of Complying Development for Inland NSW**
PROJECT	**Western Region Complying Development Review 15_077**
CLIENT	**NSW Department of Planning and Environment**
PRINCIPAL AUTHOR	**Peter Smith** psmith@s-tz.com.au
REVISION & DATE	**REV H 17-11-2015**
STATUS	**FINAL REPORT**

ISBN 978-1-76039-183-6

smithtzannes.com.au

CONTENTS

1.0

EXECUTIVE SUMMARY

1.0

EXECUTIVE SUMMARY

The Department of Planning and Environment (the Department) is examining opportunities to increase the uptake of residential complying development in regional areas by simplifying the *State Environmental Planning Policy (Exempt and Complying Codes) 2008*. This work forms part of the overall simplification of the Policy.

There are significant benefits associated with increasing the uptake of complying development in regional areas - such as reduced approval times, single consents, reducing development costs and greater certainty - all of which will be explored further in this Paper.

The proportion of development consents for residential development that have utilised the complying development pathway is significantly less in the inland region of NSW compared with the metropolitan areas of Sydney, Newcastle and Wollongong. In the inland region, complying development certificates account for only 25 per cent of all single dwelling development consents compared with 44 per cent in the metropolitan areas.

This Paper identifies possible explanations for the low uptake of complying development in regional areas. Firstly, it is noted that there are fundamental differences in built form between regional and metropolitan areas which the Policy does not reflect. Combined with attractive approval times for development applications in the inland region, the attractiveness of the complying development pathway is reduced.

To address these issues relating to the low uptake of complying development in regional areas, this Paper recommends that a separate code known as the 'Inland Code' be introduced for housing in regional NSW. The Inland Code would:

- simplify development standards for complying development, in particular those for; setbacks, gross floor area and landscaped area;
- ensure standards are tailored to the built form outcomes common in regional area;
- provide consistency with definitions in the Standard Instrument LEP;
- delete unnecessary development standards - including site coverage and principle private open space - which are not as relevant to regional areas;
- combine standards for housing on rural and urban zoned land into the one code;
- provide enhanced standards for farm buildings and silos; and
- simplify development standards for complying development.

Plain English drafting, diagrams, as well as the use of tables to clearly convey development standards will assist with interpretation of the Inland Code and forms an important part of the Department's overall work in simplifying the Policy.

2.0

INTRODUCTION

2.1

PURPOSE OF THE BACKGROUND PAPER

The Department of Planning and Environment is seeking to examine opportunities to increase the uptake of residential complying development in regional areas by simplifying the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* (the 'Policy').

This work forms part of the Department's overall commitment to simplify and improve the Policy as it applies across the State.

The purpose of simplifying residential complying development in regional areas is to:

- remove barriers to housing delivery to meet NSW's growing population;
- increase investment certainty;
- reduce red tape for homeowners and small businesses;
- reduce determination times for assessing low impact developments;
- reduce costs for homeowners and small businesses, increasing feasibility; and
- free up council resources.

This Background Paper reviews the application of exempt and complying development in regional areas of NSW. It also investigates scope for the simplification of the existing development standards and scope for additional development types that could be included as exempt or complying development.

For the purpose of this Paper, it is anticipated that the Inland Code will apply to all Local Government Areas west of the Great Dividing Range. For the purpose of this paper this area is known as the 'inland region'. (Figure 1)

FIGURE 1 – AREA OF PROPOSED APPLICATION OF INLAND CODE

2.2

BACKGROUND

State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (the Policy) was gazetted on 12 December 2008, and commenced on 27 February 2009.

The Policy applies State-wide and includes a number of codes which allow for certain types of development to be carried out as exempt development (without approval) or complying development (a fast-track approvals process).

Exempt development generally applies to low impact developments. This includes minor home renovations and small building projects. This includes minor home renovations like the erection of a carport, balcony, deck or garden shed. As long as the building project meets specific development standards and land requirements, no planning or building approval is needed.

Other straightforward, low impact residential, commercial and industrial developments that do require planning approval may qualify for a fast-track approval process known as complying development. If the application meets specific standards and land requirements, a Complying Development Certificate (CDC) can be obtained either through a local council or an accredited certifier without the need for a full development application.

The Policy currently includes the following codes:

- exempt Development codes
- general Housing code
- rural Housing code
- housing Alterations code
- general Development code
- commercial and Industrial code
- commercial and Industrial (New Buildings and Additions) code
- subdivisions code
- demolition code
- fire Safety code

When the Policy was introduced, the Government was clear that over time it would increase the range of development types that the Policy covered. This expansion and refinement of the codes were commenced on the following dates:

- stage 1 of the Commercial and Industrial Code, and the Housing Alterations Code (commenced on 7 September 2009);
- rural Housing Code (commenced on 25 February 2011);
- expansion of Exempt Codes, Expansion of dwelling houses to lots with an area greater than 200m² and additional codes (commenced on 25 February 2011);
- stage 2 of the commercial and industrial codes, and Fire Safety Code on 22 February 2014;
- subdivision Code (commenced on 4 June 2010);
- fire Safety Code (commenced on 22 February 2014); and

- significant amendments to all codes were commenced on 22 February 2014.

Along with the expansion of the Policy, continual refinement to the Codes within the Policy has taken place over time to ensure relevance to development within the State, whilst providing appropriate environmental protections.

A general amendment to Codes SEPP was placed on consultation on 19 October and includes some refinements to definitions and standards throughout the whole SEPP.

On 28 October, the *Environmental Planning and Assessment Act* was amended to remove the 14-day notification requirement prior to the issue of a complying development certificate for regional areas of NSW.

FIGURE2 – TYPICAL STREETSCAPE IN MORE CONTEMPORARY SUBDIVISION IN REGIONAL NSW

2.3

EXEMPT AND COMPLYING DEVELOPMENT IN NSW

Complying development has been in place in NSW since 1998. This joint planning and construction approval path was developed to ensure simple low risk and low impact development types do not have to be assessed via the merit path of a development application. For these low impact and low risk developments, the complying development path has proven time and cost savings for homeowners, business owners, industry and local government.

Exempt and complying development is currently permitted through a number of different state and local government policies including:

- *Local Environmental Plans (council (LEP)),*
- *State Environmental Planning Policy (Exempt and Complying Codes) 2008,*
- *State Environmental Planning Policy (Infrastructure) 2009,*
- *State Environmental Planning Policy (Affordable Rental Housing) 2009.*
- *State Environmental Planning Policy (Three Ports) 2013.*

The Department is committed to simplifying exempt and complying development across the State as part of the ongoing improvements to the NSW planning system.

2.4

SIMPLIFICATION OF THE GENERAL HOUSING CODE

In addition to the proposed Inland Code, The Department is also working on amendments to the General Housing Code which involves simplifying the language and development standards to improve its legibility and accessibility to the general public. Simplification of the General Housing Code includes:

- introducing tables and diagrams;
- re-writing clauses in plain English;
- removing unnecessary development standards; and
- clarification of other ambiguities within the Code.

2.5

A REVIEW OF COMPLYING DEVELOMENT IN THE INLAND REGION OF NSW

As a proportion of overall development consents for dwelling houses in the inland region of NSW, complying development accounts for less than 25 per cent of all single dwelling housing approvals compared to 36 per cent in the Sydney, Newcastle and Wollongong Metropolitan areas[1].

With the aim of ensuring the complying development pathway is effective in regional NSW, the Department engaged Smith & Tzannes to conduct a thorough analysis and review of the current Policy as it applies to rural and regional NSW. The review was undertaken with advice and assistance from Neil Diamond, a private certifier working in the western region of NSW.

Throughout the review process, it has become apparent that the low uptake of complying development in regional areas can partly be attributed to more attractive development application approval times that are less than half of those in the metropolitan areas[2]. This may be due to a number of factors including:

- increased complexity of development assessment in metropolitan areas;
- more onerous neighbour notification requirements in metropolitan areas; and
- increased numbers of development assessments undertaken per assessment planner in the metropolitan areas compared with the inland region[3].

In addition to the above factors which contribute to reduced development assessment times in the inland region of NSW, councils and other stakeholders have raised issues about the complexity and relevance of the State Policy to regional areas.

This complexity coupled with pre 28 October 2015 notification requirements under the *Environmental Planning and Assessment Regulation 2000* is reducing the ability for regional communities to effectively utilise the complying development pathway for low impact, routine development proposals.

Regional forum & reference group

A Regional Forum was held in Sydney on Tuesday 6 May 2014, facilitated by the Department of Planning and Environment. The Forum had 21 participants from regional councils (10), Master Builders Association (7) members, Housing Industry Association (2) members, a Private Certifier (1), and Local Government NSW to ascertain what is working well with the State Policy and what

[1] Local Development Performance Monitering – NSW Department of Planning 2014-2015
Inland region – DA 7,089 vs CDC 2,325. Sydney, Newcastle, Wollongong Metro DA 33769 vs CDC 12,223

[2] Local Development Performance Monitoring – NSW Department of Planning 2013-2014
Inland region – 36 days. Sydney, Newcastle, Wollongong Metro 79 days

[3] Local Development Performance Monitoring – NSW Department of Planning 2013-2014
Inland region – average 26 applications per EFT DA staff per year, Newcastle, Wollongong Metro – average 73 applications per EFT DA staff per year

requires improvement in a regional context. The Forum was unanimous that changes were required to the State Policy to improve its application in regional NSW.

The Forum created an opportunity for State and local government and industry representatives to discuss issues openly. There was positive feedback from the participants.

A Reference Group was subsequently formed to further consider the comments made at the Forum and work on the State Policy in detail, with the view to creating a new Inland Code or standards tailored specifically to regional areas.

The Reference Group consisted of representatives from large regional councils of Albury, Dubbo and Orange, rural councils of Weddin and Oberon, a member of Housing Industry Association and Master Builders Association, a Private Certifier and Departmental officers from the Codes team and Western Region. There has also been contribution from Local Government NSW and the Department's ePlanning Team. Consultation was also more widely undertaken with Tamworth, Inverell, Narellan, Wagga Wagga, Queanbeyan, Palerang and Goulburn-Mulwaree councils.

The Reference Group met in Sydney on 22 May 2014 and in Orange on 5 June 2014, with this group playing an important role in informing what development types and controls are relevant to regional areas.

Having regard to the advice received from the Forum and Reference Group, a Draft Western Region Exempt and Complying Development Code was provided to the Reference Group and other stakeholders for further discussion and comments.

Based on the advice received from the Reference Group, it was found that the key changes should be to the General Housing Code and Rural Code, with the Exempt Code being retained with some minor variations applicable to regional areas. A summary of the recommended changes were as follows:

- create separate controls for regional areas. These controls apply to local government areas west of the Great Dividing Range, excluding coastal and metropolitan councils;
- review and reduce current notification requirements;
- maintain development types but simplify the development standards;
- focus controls on simplified standard setbacks rather than lot size area, lot width and remove complex thresholds;
- revert to basic setbacks from boundaries, simplify the height controls and specify 65% maximum gross floor area, as well as 24m^2 landscaped area;
- permit dwellings with 3 car garages, subject to conditions. There has been no objection from the Reference Group or the industry to this development type. Councils advised that this has the potential to increase complying development uptake. In the case of Orange City Council this increase could be as high as 20 per cent;
- investigate flood control lot provisions with the intent to address the development standards for minor development on flood control lots due to the nature of flooding in regional areas;
- investigate allowing complying development where covenants benefitting private developers are concerned – similar to the way councils deal with covenants;
- permit certain ancillary development and outbuildings prior to dwellings being constructed on the land i.e. allow a shed or freestanding garage prior to the construction of a dwelling house;

- allowing larger farm buildings on rural allotments to be consistent and relevant with needs of agricultural producers, such as on-site grain storage and larger machinery sheds and silos; and
- include simple explanatory diagrams.

Items outside the scope of this paper

While this discussion paper is primarily focused on the appropriate development standards to support a new proposed Inland Code, reference should be made to the valid suggestions from the forum and reference group which are beyond the scope of this report:

- *flood control lot provisions* – due to the slow moving nature of flooding in some regional areas particularly on the Murray, Darling and Murrumbidgee river systems. This is a boarder issue that is to be investigated in future amendments to the code after being reviewed by an appropriately qualified person;
- *notification requirements* – these were separately reviewed and the EP&A Regulations amended on 28 October 2015;
- construction of ancillary development prior to erection of dwelling house – is being reviewed as part of general amendments to the Codes SEPP;
- *secondary dwellings and dual occupancy – incorporation* of secondary dwellings and dual occupancies be explored as a broader policy issue that could apply to the whole of NSW;
- *development on heritage items* – It is considered that a merit assessment should be required for development on heritage items forward of the building item due to the potential impact on the item when viewed from the street and the wide variety in significance and character of the items; and
- *private covenants – The* suggestion of allowing complying development to override private covenants benefiting developers was found not to be appropriate to be considered in the draft Inland Code.

3.0

RESEARCH AND EVIDENCE

3.1

BUILT FORM IN INLAND REGION OF NSW

The case for the review of development standards for exempt and complying development as they apply in regional areas is based on the claim that the built form in the inland region of NSW is different to the built form in metropolitan areas and that the State Policy does not adequately respond to this difference.

As a whole, the Policy is seen as being too complicated and the complexity is currently acknowledged to be a deterrent to utilising the complying development pathway.

An analysis of development consents within the inland region was undertaken to ensure that the perceived differences in built form were an accurate reflection of development in regional NSW.

The analysis identified significant differences in built form outcomes when compared with new metropolitan development. Some of the key differences include:

- new dwellings and alterations to existing dwellings are predominantly single storey[4];
- car ownership is greater, due to reduced access to public transport, requiring additional garaging[5];
- vacant lots for new development typically have a wider frontage compared with metropolitan lots;
- dwelling sizes are typically smaller in area[6];
- lots are typically larger[7]; and
- the landscaped area is generally a larger proportion of the lot.

Evidence gained from dwelling approval statistics and mapping surveys suggested that the very high majority of development within the inland of NSW is typically single storey dwelling houses. This remains consistent for new dwellings and alterations and additions to existing dwellings. This contrasts significantly from development in the metropolitan areas of NSW where the majority of new dwelling approvals are for two storey dwellings[8].

[4] Visual analysis of regional centres by Google Street view and Google maps September 2015. Australian Bureau of Statistics Building Approvals April 2008

[5] Australian Bureau of Statistics, Census of Population and Housing, 2006 and 2011 51% of households have access to 2 or more cars in regional NSW vs 44% in Greater Metropolitan Sydney

[6] BASIX data 2005 – 2014 Floor area data – inland region – average dwelling size 180m². Sydney Region – average dwelling size 210m²

[7] BASIX data 2005 – 2014 Floor area data – inland region – median dwelling size 970m². Sydney Region – median dwelling size 550m²

[8] Australian Bureau of Statistics Building Approvals April 2008 – Metropolitan Sydney 69% Inland region 32%

FIGURE 3: TYPICAL SINGLE STOREY STREETSCAPE IN SUBURBAN WESTERN NSW

FIGURE 4: TYPICAL SUBDIVISION IN THE INLAND REGION – DUBBO NSW

FIGURE 5: TYPICAL STREETSCAPE IN METROPOLITIAN SYDNEY – ROUSE HILL NSW

FIGURE 6: TYPICAL NEW SUBDIVISION IN METROPOLITIAN SYDNEY – ROUSE HILL NSW

The character of new and existing subdivisions is also different. Due to pressures on land availability in metropolitan Sydney, trends in block sizes have seen both a reduction in lot area and also lot width, with new lots having an average width of around 12m. In the inland region lot dimensions have traditionally been larger, even within urban centres. This trend continues in more recent subdivisions with wider lots of greater than 20m being common.

3.2

OTHER BARRIERS TO THE USE OF COMPLYING DEVELOPMENT

The analysis of approvals identifies clear differences in the built form between metropolitan and regional NSW. These factors described below also contribute to a reduction in the attractiveness of utilising the complying development pathway as it currently applies to regional NSW.

Assessment times

Evidence from some councils suggest that the development assessment process provides for a superior level of service and a potential assessment time less than that available under the Policy.

It is common for councils to offer a combined development application and construction certificate and 'express services' for development applications that comply with the relevant development control plan. In Dubbo, the express service for construction certificates guarantees approval within 14 days and assessment times can be reduced to 7 days depending on availability of staff.

Statistics in some councils suggest that based on the volume of residential development applications, some applications are being assessed within 2-3 days. In Tamworth, the fast track system provides an approval for a development application in 21 days.

A development application is not required to be notified where the application complies with the controls in the relevant development control plan. In effect, this is the same as complying development.

Familiarity with what you know and flexibility

In regional areas builders, draftspersons and architects often have close relationships with the local council and have a good understanding of the local controls in the development control plan.

The complying development standards are in some areas more restrictive and do not offer the same level of flexibility. The lack of flexibility in the standards means a higher level of education is required to ensure compliance. While the development application will always provide a greater degree of flexibility due to the merit assessment that applies which allows for discretion, a code that has greater regional sensitivity to the existing built form should reduce the need for reliance on the development application pathun.

Additionally, substantial education to explain the application of complying development codes has been carried out by the Department of Planning and Environment and industry bodies, but this has mostly been undertaken in metropolitan areas of NSW, meaning the same level of education has not always been provided for professionals in rural or regional areas.

3.3

CASE FOR A SEPARATE CODE FOR REGIONAL NSW

While the Department is already undertaking work to simplify the General Housing Code, a review of the development standards has clearly identified additional opportunities to provide tailored development standards for complying development which recognise the fundamental differences in built form between regional and metropolitan areas of NSW.

It is considered that the most effective way of tailoring complying development controls for regional NSW is to introduce a new Inland Code. By implementing a new code, complication of the existing General Housing Code through additional standards, exceptions and variations would be avoided.

It is also thought that providing additional provisions in Schedule 3 of the Policy as a variation to the existing General Housing Code standards would be inappropriate. This is due to the number of development standards that would differ and the extent of land which is proposed to be covered by the new code.

A separate code within the State Policy applying only to regional NSW will be easier to navigate and understand and will provide a robust basis for future expansion or amendments.

A separate code also provides an opportunity to incorporate the provisions of the existing Part 3A Rural Housing Code. This will make it even easier for people to understand the complying development standards that apply to all housing in regional NSW.

To ensure consistency within the Policy, any new standards proposed as part of the new code would be consistent in format and language to the proposed simplification of the General Housing Code.

3.4

OPPORTUNITY TO COMBINE CODES ON RURAL AND URBAN ZONED LAND

As indicated by the Reference Group, with the creation of a new Inland Code and simplification of the codes the distinction between rural and urban development standards becomes less significant.

A review of the current Rural Housing Code has found that many of the requirements for rural zoned land are simply the upper end of those development standards which currently apply to zones R1, R2, R3, R4 and RU5 in the General Housing Code.

Where additional standards are required to protect dwellings in rural zoned land, these can be generally added as additional clauses in the relevant section.

Other standards simply become irrelevant due to the size of the lot. For example, privacy standards only apply for parts of dwellings with a setback of less than 6m from a boundary, on rural zoned land the minimum setback is 10m so the privacy standards would have no effect.

Combining the existing General Housing Code and Rural Housing Code into the Inland Code would have the benefit of reducing the number of provisions that apply across regional NSW. This will reduce complexity and make it easier for the industry in regional NSW to utilise the code.

Alterations and Additions

Generally alterations and additions can be carried out under the proposed new code – there is no need to distinguish between a new dwelling and alterations and additions to existing dwellings.

There will be land based restrictions on the application of the new code. Until further research has been carried out on matters identified by the forum and Reference Group such as development on flood control lots, it is anticipated that the same land based restrictions that currently apply to the Rural Housing Code and General Housing Code would apply to the new Inland Code.

On land where the code cannot apply Part 4 – Alterations Code provides for a limited extent of external development and significant internal development. This is a general code that applies across many development types and is not limited to single dwelling houses. Given the general nature of the code there are not barriers to the use of this code in the regional areas that have been identified and the contents of this code should remain separate and not included in the new code. This will avoid duplication within the Codes SEPP.

4.0

ANALYSIS & TESTING OF PROPOSED DEVELOPMENT STANDARDS FOR REGIONAL NSW

4.1

SITE COVERAGE, LANDSCAPED AREA AND FLOOR AREA

Floor area

The control on floor area is one of the most common development standards applied across NSW – usually expressed as a Floor Space Ratio (FSR) (and defined in the Standard Instrument). It is proposed to use gross floor area to control floor area within the Inland Code.

This will achieve the following:

- provide consistency between council LEPs and the proposed simplified General Housing Code;
- reduce complexity by using Standard Instrument definitions;
- provide a development standard that is proportional to the lot size; and
- enable effective control of the footprint of single dwelling houses and the overall built form of two storey dwellings.

Although for single storey dwelling houses the effect of a gross floor area standard has a similar outcome to a site coverage standard, the real benefit to using gross floor area is the control of bulk and scale for two storey dwellings.

This is because by limiting the overall floor area, the full envelope established by the setbacks and maximum height controls cannot be filled. This has the effect of reducing potential privacy and overshadowing impacts (Figure 2), but still allows flexibility in design.

If only a site coverage or landscaped area standard was proposed, the only effective control for the top floor of the dwelling house would be the side and rear setbacks. With the current setback standards this could result in some very large dwelling houses that would have considerable bulk and scale impacts on adjoining neighbours (Figure 1).

The alternative would be highly restrictive setback standards that create a smaller envelope. This would reduce flexibility in site specific building design and could unnecessarily reduce the application of the code.

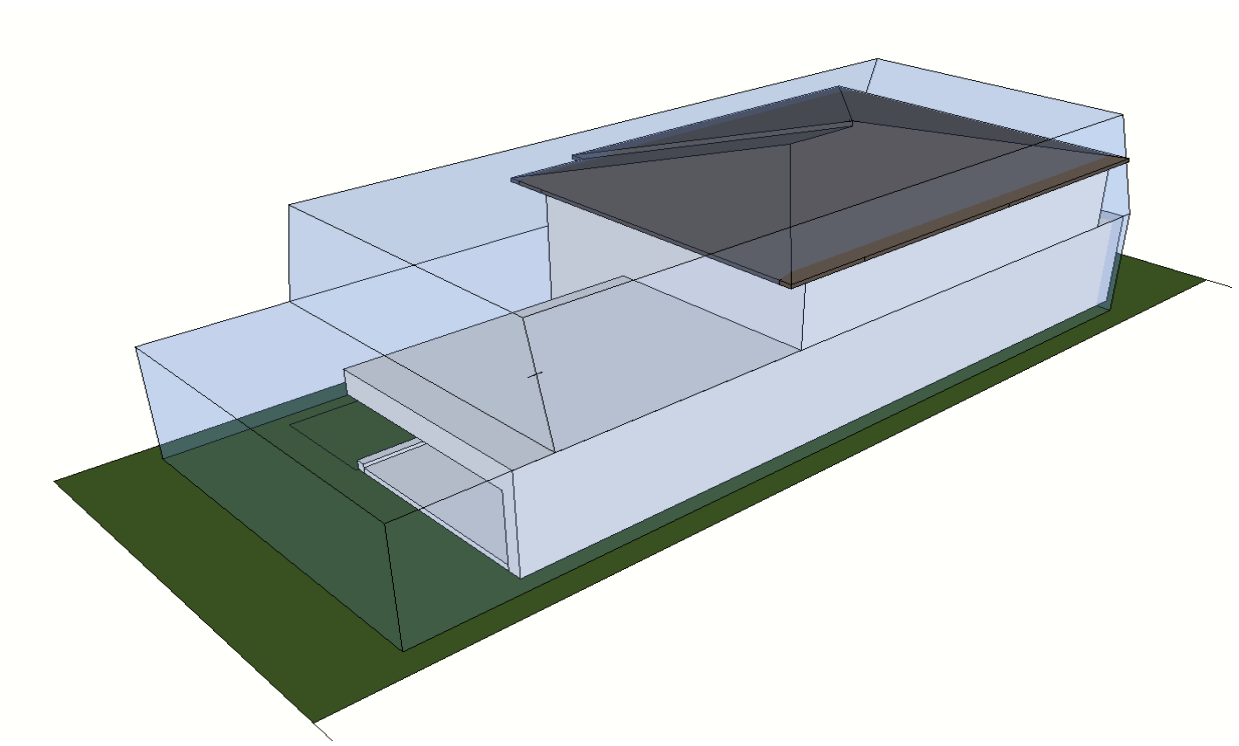


FIGURE 7: MAXIMUM DEVELOPMENT POTENTIAL WITH A GROSS FLOOR AREA CONTROL – THE BUILDING ENVELOPE ESTABLISHED BY SETBACKS AND HEIGHTS IS NOT FILLED

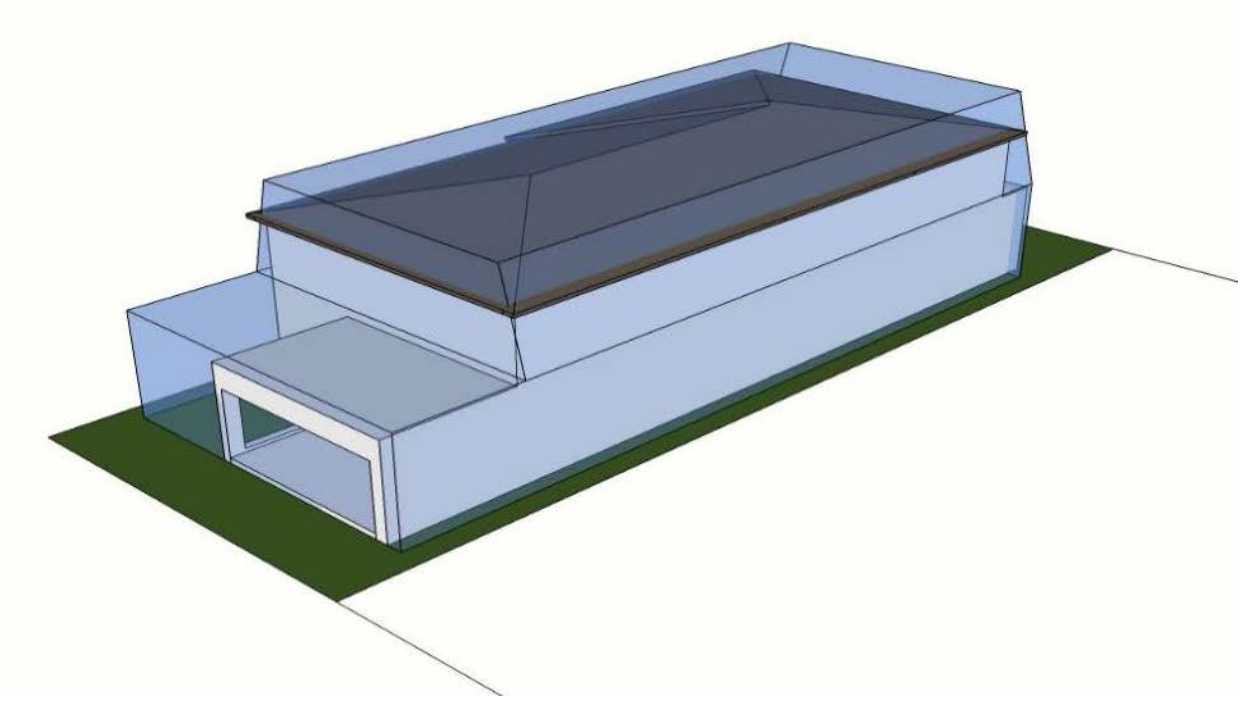


FIGURE 8: MAXIMUM DEVELOPMENT POTENTIAL WITH NO GROSS FLOOR AREA CONTROL – ONLY LANDSCAPED AREA STANDARD AND SITE AND REAR SETBACKS

This approach is similar to that being considered for the simplified Housing Code where the floor area as a proportion of the lot area is appropriate and consistent with the common approach to the control of floor area.

The definition of gross floor area in the Standard Instrument is:

> ***Gross floor area*** means the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes:
>
> a) the area of a mezzanine, and
>
> b) habitable rooms in a basement or an attic, and
>
> c) any shop, auditorium, cinema, and the like, in a basement or attic,
>
> but excludes:
>
> d) any area for common vertical circulation, such as lifts and stairs, and
>
> e) any basement:
>
> f) storage, and
>
> g) vehicular access, loading areas, garbage and services, and
>
> h) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and
>
> i) car parking to meet any requirements of the consent authority (including access to that car parking), and
>
> j) any space used for the loading or unloading of goods (including access to it), and
>
> k) terraces and balconies with outer walls less than 1.4 metres high, and
>
> l) voids above a floor at the level of a storey or storey above.

The primary difference between this definition and the current definition of floor area under the Policy is the exclusion of car parking required by the code (1 car space) and that the area is measured from the internal face of external walls rather than the external face. While the rationale for controlling floor area is explained above, the primary reason for adopting the Standard Instrument definition of gross floor area is to provide consistency of definitions across the planning system.

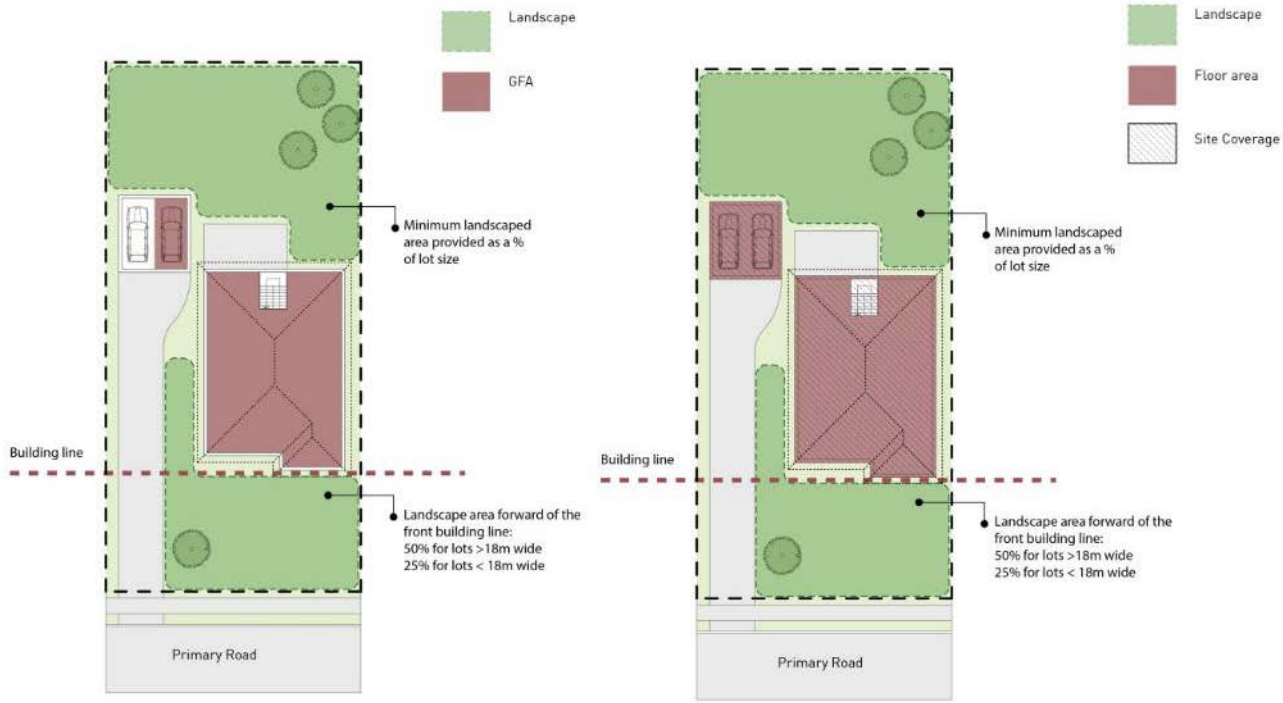


FIGURE 9: COMPARISON OF FLOOR AREA DEFINITIONS

LEFT: PROPOSED GROSS FLOOR AREA AND LANDSCAPED AREA RIGHT: EXISTING FLOOR AREA, SITE COVERAGE AND LANDSCAPED AREA

In the existing General Housing Code the floor area of outbuildings is controlled by separate standards to the area of the dwelling house. It is proposed to simplify the standard so that instead of multiple floor area limits applying to the site, one gross floor area standard applies to all buildings on the site.

This will give the flexibility for home owners with respect to the size of the outbuilding while limiting the overall development on the site. However it is considered appropriate that an outbuilding should not dominate the development on the site. An additional standard that provides an upper limit for the gross floor area of an outbuilding would prevent this.

Consistent with the current General Housing Code it is appropriate that an upper limit applies for the gross floor area of dwelling houses approved as complying development. This is because larger dwelling houses, irrespective of the lot size will have more significant impacts that need to be considered, including visual impacts; these considerations are more appropriately assessed via the DA process.

In the inland region 97 per cent of all dwellings approved in the past 9 years have an area less than 345m[9], a gross floor area of the same is considered more than appropriate. Adding to this floor area for an outbuilding of up to 100m² would provide a maximum gross floor area for the dwelling house and any other development across the site of 445m². The 500m² recommended by the reference panel is more than appropriate as a maximum[10].

While initially the Reference Group suggested a flat percentage for the floor area control, this will disadvantage and limit the uptake of development on smaller lot sizes and potentially provide development that is too large and out of context on larger lot sizes.

However due to the reduced range in lot sizes in the inland region a more condensed range of standards can be applied. Having large jumps in the bands also tends to disadvantage development on lots at the edge of the bands – previous research has identified this as a barrier to the uptake of complying development.

To further simplify the application of the standard and enable it to be consistent with the way it is applied under the Standard Instrument LEP, the gross floor area control will apply to all buildings across the site. To ensure that outbuildings and the ancillary development does not dominate the dwelling house on residential zoned land a maximum area standard will apply to outbuildings.

9 BASIX DATA 2005-2014 Inland region Total Floor Area statistics; 99% percentile 430 m², 95% percentile: 310 m², 50% percentile: 168m0

10 When comparing the gross floor area definition in the standard instrument and the floor area definition in the General Housing Code, a dwelling house under the standard instrument definition would be about 9-15% larger due to the exclusion of the external wall thicknesses, and the exclusion of one car space.

PROPOSED STANDARDS

A. The total gross floor area for buildings on the land is not to exceed the area in the table below
B. Gross floor area of an outbuilding is not to exceed the lessor of 10% of the lot area or 100m²

TABLE 1: PROPOSED GROSS FLOOR AREA STANDARDS

LOT AREA	GROSS FLOOR AREA
200-400m²	75%
>400-700m²	65%
>700m²-1000m²	50%
>1000m²	500m²

Site Coverage

The current General Housing and Rural Housing Code contains a site coverage control, in addition to the floor area controls. It is not proposed to include a development standard for site coverage in the proposed Inland Code.

It was originally proposed by the Reference Group to adopt a flat site coverage control in lieu of a gross floor area standard. This is not considered appropriate as it does not adequately control the scale of development and can lead to unintended built form outcomes.

The site coverage development standard has limited purpose. As discussed above, it is a poor standard for the control of the bulk and scale of the built form, but it is also a poor manner in which to control the ground floor built footprint of development on the site. The current definition excludes unenclosed spaces such as balconies decks, and patios so it does not adequately control the amount of a site that is covered by buildings as would be expected. In fact the minimum landscaped area development standard provides much more control over open spaces.

In many Development Control Plans (DCP), the definition of site coverage is different to the Standard Instrument definition and can include paved areas, terraces and built structures – in this sense it is essentially the inverse of the landscape standard.

As a development standard site coverage is rarely used in Standard Instrument LEPs and DCPs.

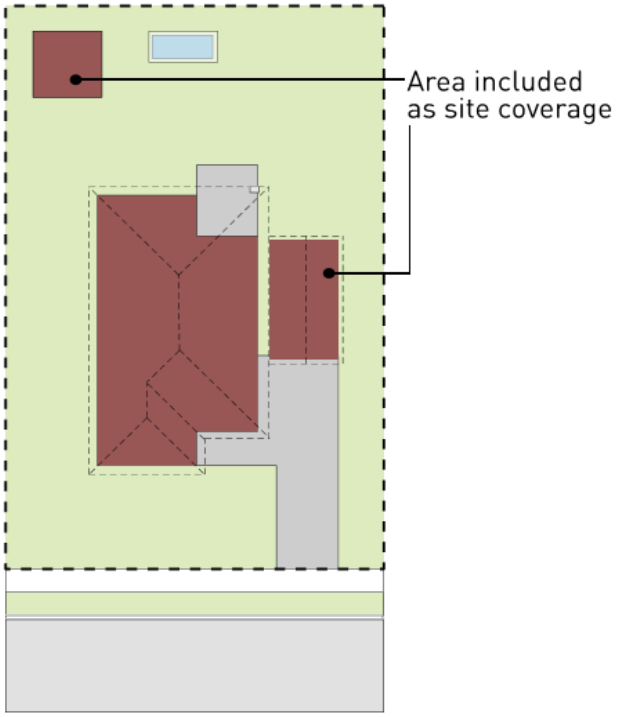


FIGURE 10: AREA INCLUDED IN SITE COVERAGE

Minimum Landscaped Area

A landscape area defines the 'planted' area of the site. In the existing General Housing Code it allows for useful areas of planting that positively contribute to the vegetation and spatial character of urban areas.

Without a landscaped area standard there would be no effective development standard to ensure that full development of the site in both a single consent and progressively over time could not occur. This is a result of gaps within the definitions of both site coverage and gross floor area. These gaps are outlined below:

- **Gross floor area** does not define the actual footprint of a dwelling. The area excludes:
    - parking required by the code;
    - wall thicknesses;
    - area occupied by vertical circulation; and
    - areas outside the bounding walls of the structure such as terraces, decks patios.

- **Site coverage** although more comprehensive in the development which is addressed is only concerned with the ground floor footprint of the enclosed part of any structure. Site coverage excludes area excludes:
    - any unenclosed decks, balconies pergolas; and
    - paths, driveways other paved areas.

  It does however include the area of a swimming pool.

- **Side and rear setbacks** allow for a generous building envelope that gives flexibility to the designer to accommodate different site constraints and orientation. However, the setbacks are not sufficient on their own to ensure that an adequate amount proportion of the site is left un-built upon. This is because side and rear setbacks do not apply to all parts of the development such as paved areas.

While the setbacks do provide a generous building envelope, it is not intended that development would fill the entire envelope and the proposed minimum landscaped area control will ensures that this is the case. The alternative to not including a minimum landscaped area would be to have more onerous setback provisions, such as an increase in the rear setback to encourage rear gardens. This however, would reduce flexibility in building and site design and could reduce the application of the code.

The following diagrams compare the extent of development possible on an 850m² lot with and without a minimum landscaped area standard. (Figure 1)

The absence of a landscaped area standard can clearly have unintended consequences and lead to an unacceptable proportion of the site being covered with paved surfaces and other structures. Although BASIX does require the landscaped area to be nominated – is only used to assess the water use generated by the landscaped area. In fact, BASIX discourages landscaped area as a reduced landscaped area would reduce water consumption and deliver a higher BASIX water score.

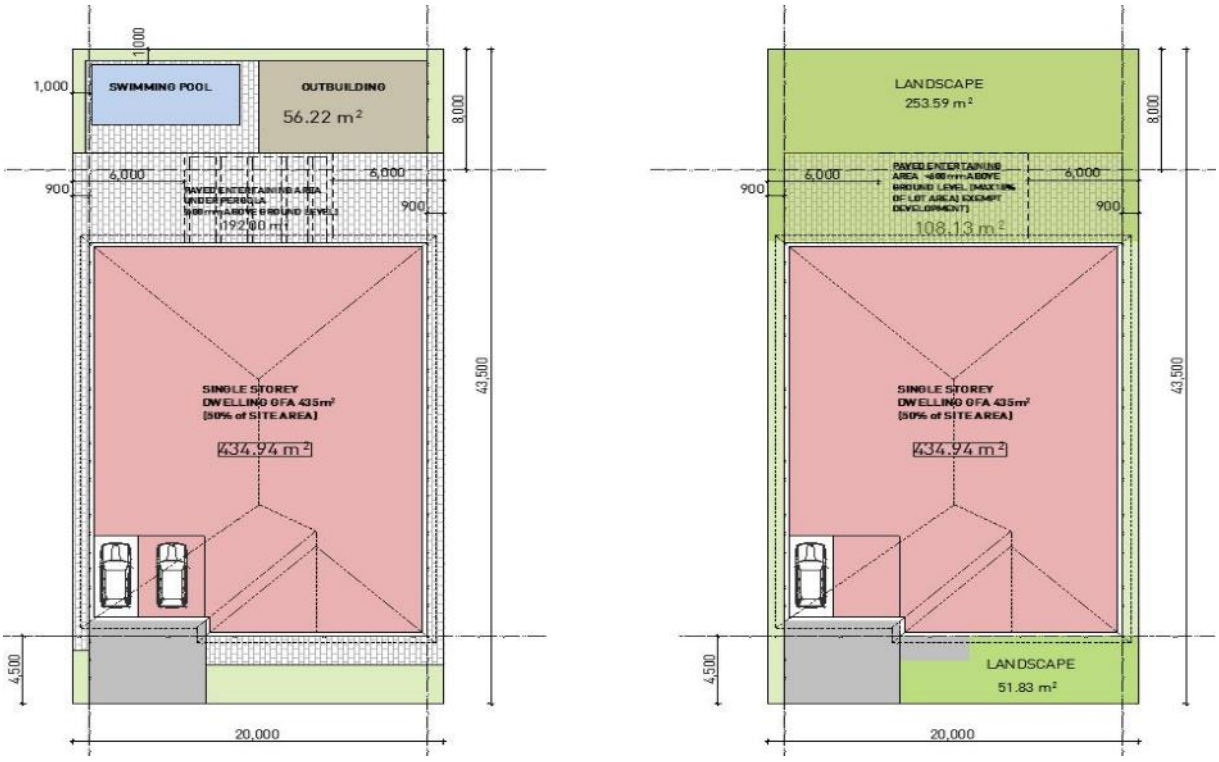


FIGURE 11: COMPARISON OF DEVELOPMENT PERMISSIBLE ON AN 850M² LOT WITH AND WITHOUT A LANDSCAPED AREA STANARD

A landscaped area control preserves a proportion of the site to be unbuilt area and unlike gross floor area and setbacks it also has the ability to constrain the areas of paths, pergolas, cabanas etc., whether or not they are open or enclosed.

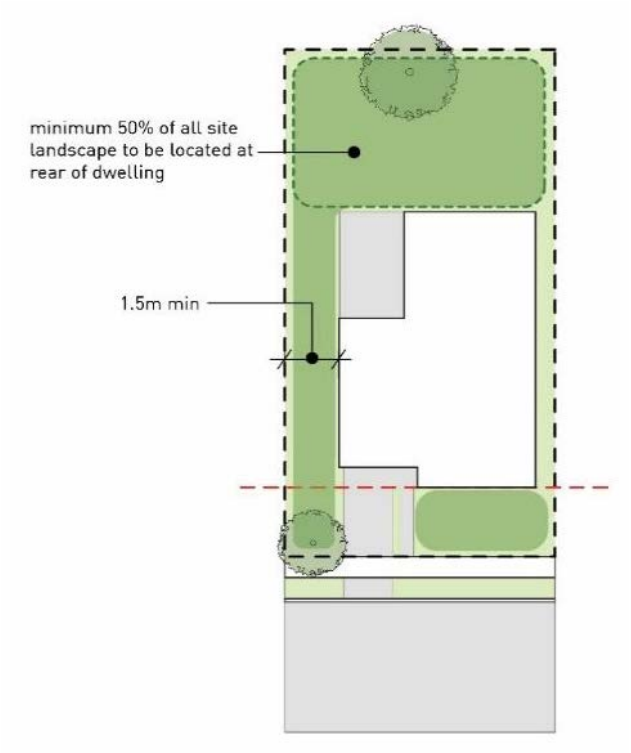


FIGURE 12: LANDSCAPED AREA

Importantly, the minimum dimension provision relating to landscaped areas in the current Policy ensures that the space allocated for landscaped area is of a size effective for mature planting to develop. It also assists in preserving the landscaped character of the streetscape. As discussed, the example in Figure 6 indicates the potential development that would be permissible in the absence of any control on landscaped area compared with the maximum development potential achievable with the proposed landscaped area standard.

It is noted that in addition to the development permissible as complying development the provision of landscaped area could potentially be reduced by the development that is specified as exempt development such as paving, paths and car ports. However, the full extent of this development typically has a maximum limit across the site contained within the exempt development standards.

PROPOSED STANDARDS

A. *The minimum landscaped area that must be provided on the lot must not be less than the area in the table below.*
B. *The minimum dimension for an area counted towards the landscaped area is 1.5m*

TABLE 2: PROPOSED LANDSCAPED AREA STANDARDS

LOT AREA	*LANDSCAPED AREA*
200-400m²	*15%*
>400-700m²	*25%*
>700m²-1000m²	*35%*
>1000m²-1500m²	*40%*
>1500m²	*60%*

The minimum landscaped area requirement is proposed to apply to all residential and rural zones. It is noted that in many areas of regional NSW the lots are very large in area and far exceed 1500m^2. In particular for rural zoned land it is unlikely that the extent of proposed development on a lot would cause the amount of landscaped area to far exceed the minimum required. However in the interests of simplification it is better to have a standard that becomes by default irrelevant on larger lots, rather than having different standards applying for different land use zonings. The absence of a standard means that it is possible that the whole site could be covered with development and no landscaped area provided.

The Reference Group recommended a minimum landscaped area of 24m^2; however this appears to have been confused with the private open space standard.

4.2

BUILDING HEIGHT

To ensure that complying development in regional and rural areas provides a positive contribution to the streetscape, the landscaped area provisions that relate to the proportion of the front setback that contains landscaping will be carried through from the General Housing Code. This control will apply to R1, R2, R3, R4 and RU5 zoned land.

It is proposed that the current maximum building height of 8.5m will remain for dwelling houses.

A consistent maximum building height for outbuildings and detached studios is also proposed to remain at 4.8m.

On rural zoned land, visual impact is often key a merit assessment criteria with respect to the location of the dwelling house. It is considered best practice that to preserve the visual character of rural areas that dwelling houses are not located on dominant ridgelines.

Clause 3A.14 of the Rural Housing Code provides a standard to that ensure the ridge must be 5m below the ridgeline of any hill within 100m. This standard has proved to be unworkable as it was unclear what defines a hill and a ridgeline.

The visual impact is not an issue where the rural topography is gently rolling, only where the steep topography presents defined ridgelines. By adding slope criteria this will assist in determining where this standard is applicable.

The applicable slope criteria is a 20m fall within 100m of the ridge line (a 1:5 slope) This can be easily determined on readily available map viewers including SIX Maps[11] that display contours.

Further it is considered appropriate that this standard only apply where the lot area exceeds 4ha. On smaller lots the visual impact is generally not a consideration due to the increased density. The smaller lots also have less room for flexibility with respect to the location of the dwelling house.

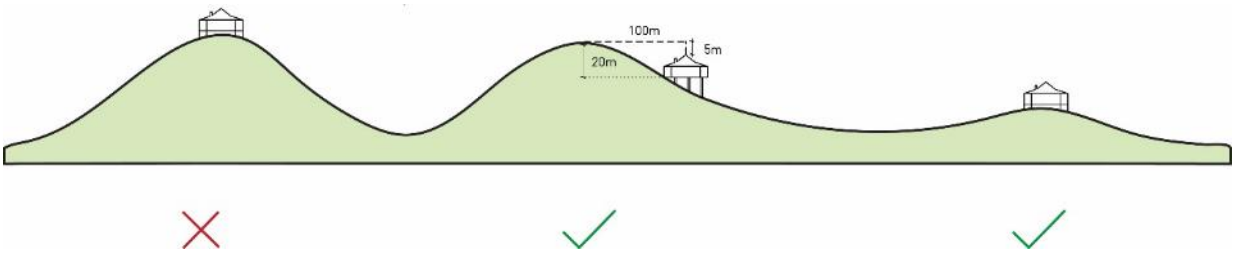


FIGURE 13: HOUSE ON RIDGE – POOR OUTCOME VS HOUSE ON SLOPE AND HOUSE ON ROLLING HILLS GOOD OUTCOME

[11] NSW Land and Property Information, SIX VIEWER LITE http://maps.six.nsw.gov.au provides topographic maps with 10m contours.

4.3

SIDE SETBACKS

The side setback provisions have anecdotally been the most troublesome provisions contained within the existing General Housing Code. They are often described as being complicated and difficult to understand.

The general principle behind the controls is that the first floor of the dwelling house has a greater setback from the boundary than the ground floor. Traditionally this results in a two storey dwelling house having a greater setback than a single storey dwelling house.

Evidence gained from dwelling approval statistics and mapping surveys suggested that the very high majority of development within the inland region of NSW is typically single storey dwelling houses. This remains consistent for new dwellings and alterations and additions to existing dwellings. This contrasts significantly from development in metropolitan NSW where the high majority of development is two storey in scale. Where two storey developments have been constructed generally greater setbacks from the boundary have been provided – whether desired by the building owners or required by council through consent or development control plans.

The side setback provision in the General Housing Code currently relate to a wide range of subdivision and streetscape types. In the urban areas of western NSW the pattern of subdivision does not have the same variation as it does in metropolitan Sydney. Lot widths are typically 18 – 24m+ in the urban areas of the inland region. Further there is greater consistency among the development control plans applied by the inland region councils with respect to side setback controls that suggest a simplified approach can be accommodated. Due to the predominance of single storey dwellings, a more conservative approach to the setback of the first floor can be applied to preserve the amenity of adjoining neighbours, retain streetscape character and encourage a first floor that is more centrally located on the site.

A standard setback of 0.9m from the boundary is uniformly applied and is generally accepted across the region – this is therefore considered an appropriate setback for the ground floor in the proposed Inland Code.

A building envelope established by a height plane is proposed to control the location of the first floor in cases where one is proposed. The proposed height plane is angled at 45° at a height of 3.0m above the boundary.

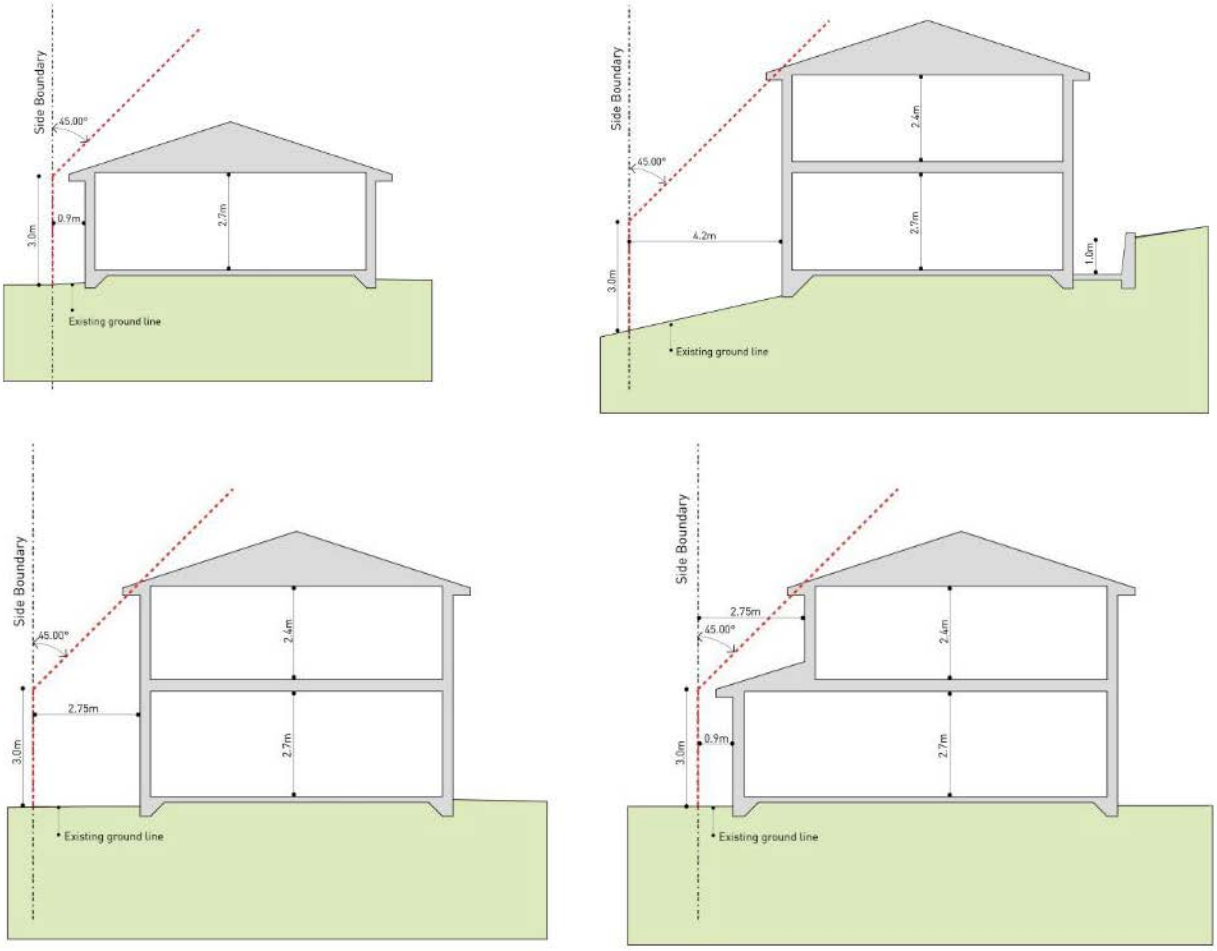


FIGURE 14: SIDE SETBACK STANDARD – OPTIONS FOR BUILT FORM OUTCOMES

With the proposed side setbacks being measured from the boundary it will also be easier to establish the height above existing ground level as when a survey is completed for a site, levels can be accurately obtained along a boundary. This is important for the simplicity in application of the proposed code as the location of the proposed dwelling is often not known at the time of carrying out the survey so levels are often interpolated.

This approach is easy to apply, and simple to superimpose on elevations and sections to determine compliance.

It is proposed that the same standard would apply across all lots with an area less than 4000m^2.

Rural and R5 zoned land would be subject to the same setbacks that apply in the current Rural Housing Code being 2.5m for lots with an area less than 4000m^2 and 10m for lots with an area of more than 4000m^2.

Due to the limited application of dwelling houses built to the boundary, it is proposed that this provision would not apply in the inland region to dwelling houses and only to the outbuildings.

The proposed approach would typically result in a built outcome where single storey dwelling houses are built with 0.9m setback, but two storey dwellings, where proposed would be setback closer to 2m due to the 45° degree height plane pushing the second storey away from side boundaries.

4.4

ARTICULATION ZONE

The articulation zone, located forward of the front building setback zone, was implemented to allow for small elements such as porticos, bay windows and entry porches to be constructed forward of the building line. On smaller block sizes, this articulation zone acted as a bonus allowing small amounts of development to be contained within this area.

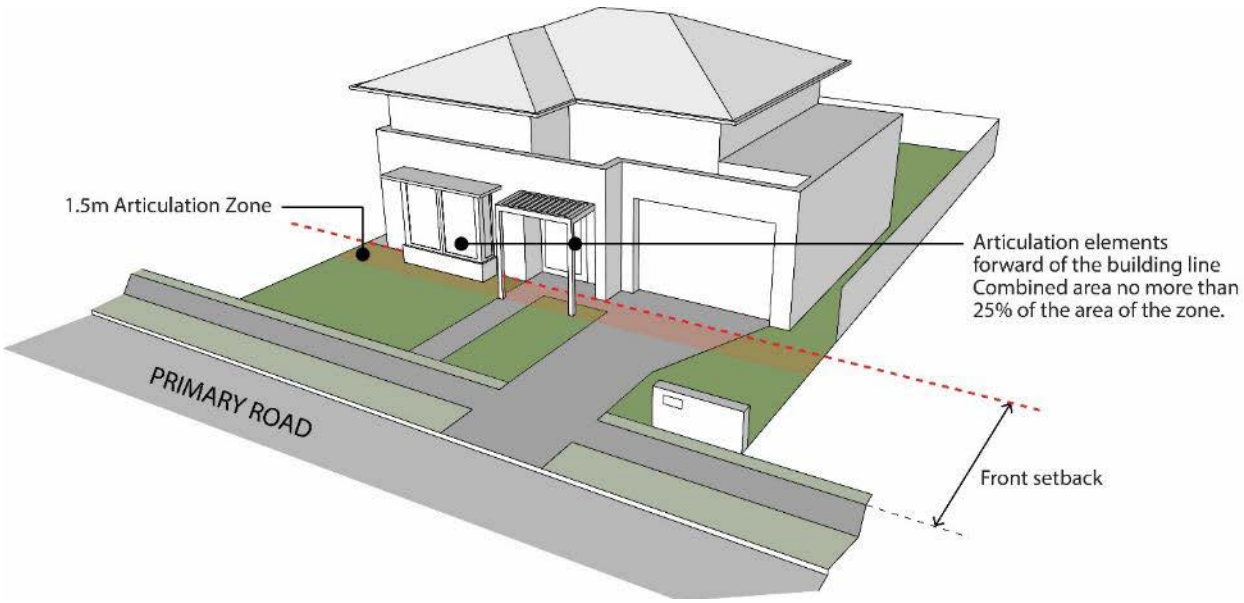


FIGURE 15: ARTICULATION ZONE

In the inland region of NSW where block sizes are generally larger. the allowance for a small amount of bonus area for these minor developments is not seen as necessary.

The proposed minimum setback from the primary road of 4.5m for blocks located in these regions, does not allow for much space in the front of the block to comfortably accommodate this articulation zone within the regional streetscape.

It can also be seen that since the implementation of the articulation zone provision in 2008, housing design has become more articulated, reducing the need for any incentive to provide further articulated street facades.

Therefore it is proposed to remove the articulation zone provision from any future NSW regional housing complying development codes.

4.5

PRIVATE OPEN SPACE

The Inland Code will not contain the current private open space provisions which are currently in the General Housing Code.

The underlying purpose of the private open space standard is to require that every dwelling house has an outdoor area directly accessible from the living space of the dwelling. The area has criteria with minimum dimensions and slope to ensure that furniture can be accommodated for outdoor dining.

This is the only standard within the General and Rural Housing Codes that is concerned with the amenity for the occupant. There are no standards for minimum ceiling heights, minimum room dimensions or even the requirement that there must be an internal living space.

Housing trends and lifestyle changes since the introduction of the Policy in 2009 have made it desirable to have private open space. These market trends have reduced the necessity to have private open space included as a complying development requirement. Given that the high majority of dwelling houses constructed under the Policy are carried out by the occupant or future occupant it is questionable whether this lifestyle choice needs to be mandated. Even for those that are not carried out by the owner occupier, market demand for level outdoor spaces sees this amenity provided for.

FIGURE 16: EXAMPLE OF PRIVATE OPEN SPACE ATTACHED TO LIVING AREA

Furthermore the current provision requires that private open space must not have a gradient of more than 1:50. On steeply sloping sites this makes adherence to this requirement extremely difficult, resulting in developments which otherwise could have been approved through the complying development process, instead having to go through the development application process.

4.6

GARAGES

The General Housing Code currently requires that:

- at least one car space is provided if the lot has a width no less than 8m,
- the car space must be located at least 5.5m from the boundary and 1m behind the building line fronting the primary road,
- the maximum width of any garage door that has a frontage to a road is:
    - If the lot has a width of more than 8 but less than 12m – 3.2m
    - If the lot has a width of 12m or more – 6m
- there is no limitation to the number of car spaces that can be provided for on the site, aside from the limitations created by the floor area and landscape area standards.

The purpose of the standard is to limit what is considered the undesirable urban design impacts of garage doors dominating the streetscape. It is typically considered that if garage doors are located forward of the building line and occupy more than 50 per cent of the façade, that combined with the paved areas in front of them, the streetscape becomes dominated by cars and garages.

FIGURE 17: STREETSCAPE WITH THREE CAR GARAGES

However in many areas of NSW, lots for residential dwellings have a significant frontage. These wider lots have the potential to accommodate a total garage door width of greater than 6m.

Further it needs to be made clear that this limitation does not apply to garage doors that are located behind the rear building line and contained within an outbuilding as these structures do not result in a visual impact on the streetscape.

FIGURE 18: GARAGE SEPARATE AND TO THE REAR OF DWELLING

It is considered appropriate that where garages do have a frontage to the street, an additional single garage door width could be accommodated in circumstances where the additional garage door is set back a further 1m.

This is considered appropriate on lots with a width greater than 24m as the total width of garage doors would then be less than 50 per cent of the overall dwelling frontage.

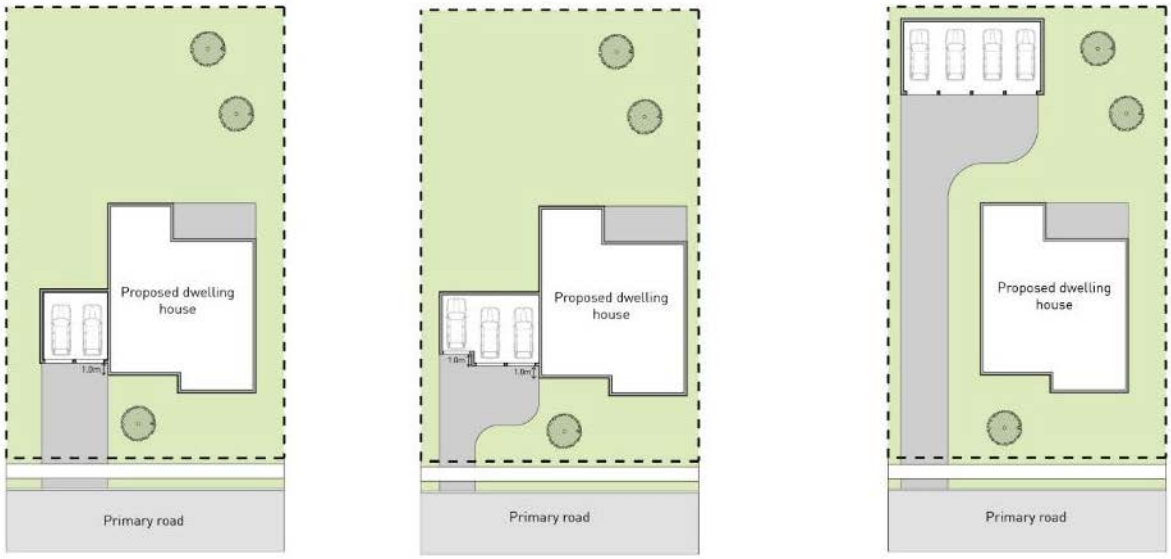


FIGURE 19: EXAMPLES OF DRIVEWAY AND GARAGE CONFIGURATION

To further reduce visual impact the driveway at the property boundary should not exceed 6m in width. Where the drive does not narrow the visual impact on the streetscape results in the driveway dominating the streetscape as indicated in Figure 20.

FIGURE 20: FULL WIDTH OF THREE CAR DRIVEWAY EXTENDING TO KERB PROVIDES POOR URBAN DESIGN OUTCOME

4.7

EXCAVATION AND FILL

The excavation and fill provisions are often considered to be unnecessarily complicated. There is the need to protect adjoining properties from privacy impacts generated by increased fill and also the visual impact of large retaining walls resulting from excavation and fill.

However under the current provisions some forms of fill are unnecessarily excluded such as those provided to create outdoor terraces at a level greater than 600mm above ground level. Under the existing Policy the terrace below (Figure 21) could have been constructed as a timber deck or even a suspended concrete slab, but it could not be constructed over fill as the fill would extend more than 1.5m beyond the building footprint defined by the external walls of the dwelling house.

The changes to the standards have been proposed in the amendments exhibited during 19 October 2015 – 16 November 2015, and are consistent with the concerns raised by the forum.

FIGURE 21: CURRENTLY THIS FORM OF GARDEN TERRACE IN NOT PERMISSIBLE UNDER THE POLICY AS COMPLYING OR EXEMPT DEVELOPMENT

The fill provisions should allow for fill that exceeds the amount permissible under exempt development outside the building footprint to a maximum height of 1m in any location on the site. That said, it remains appropriate that a lower height of fill should be required in close proximity to the boundary to reduce privacy impacts. Further, if any terrace is provided on the fill the privacy provisions in the existing code would still apply.

PROPOSED STANDARDS

EXCAVATION

A. Maximum excavation within the building footprint —3m

B. Maximum excavation outside the building footprint

Distance from side or rear boundary	Maximum excavation depth
0-1m	1m
>1-1.5m	2m
>1.5m	3m

C. Maximum excavation 1m if land is identified as Class 3 or 4 Acid Sulfate or within 40m of a waterbody

FILL

D. Maximum fill within the building footprint – unlimited

E. Maximum fill outside the building footprint

Distance from side or rear boundary	Maximum fill depth
0-1m	0.6m
>1m	1m

SUPPORT

F. All excavation and fill must be contained by a retaining wall, structural support or unprotected embankment that complies with Table 3.1.1.1 of Volume 2 of the *Building Code of Australia*[12]

G. Support for earthworks that are within 1m from the boundary must be in the form or a retaining wall or other form of structural support

H. Any retaining wall or structural support must:
   a. be certified by a professional engineer if greater than 0.6m
   b. Not redirect flow of any surface water, ground water or sediment onto adjoining property
   c. have draining lines connected to existing storm water draining system, and
   d. be installed in accordance with any manufacturers specifications.
   e. be separated from another retaining wall or structural support by at least 2m measured horizontally

I. Maximum height of any retaining wall

Distance from side or rear boundary	Maximum height
0-1m	1m
> 1m	3m

12

[12] It is noted that Part 3.11 in Volume 2 of the BCA does not apply in NSW. Table 3.1.1.1 does apply but only by way of reference to the following clauses on draining. The explanation provided is that the provisions are enforced by way of consent, however currently the provisions relating to unprotected embankments are not included in the conditions – and it considered more appropriate they are a standard rather than a condition. This has also highlighted the need for more explicit conditions for protection of excavation and fill during construction. The existing conditions of consent should be strengthened to address this concern, or investigations made to remove the NSW variation to the BCA.

4.8

FARM BUILDING AND BCA 2016

Farm buildings are defined under the Standard Instrument as:

> ***Farm building*** means a structure the use of which is ancillary to an agricultural use of the landholding on which it is situated and includes a hay shed, stock holding yard, machinery shed, shearing shed, silo, storage tank, outbuilding or the like, but does not include a dwelling.

The definition of a farm building is very broad and includes open sheds, silos, tanks and outbuildings. Providing separate standards for the different types of farm building will ensure appropriate provisions are made that are appropriate for each type.

Currently farm buildings are only permitted as exempt development with an area up to 200m^2. The provisions for complying development under the Rural Housing Code permit farm buildings as a form of outbuilding (i.e. ancillary to the dwelling house). Under the existing provisions there is no maximum floor area for outbuildings in zones RU1 – RU4. However, these farm buildings are limited to being ancillary to a dwelling house on the same lot of land. This is problematic in many rural areas as many land holdings are spread across more than one lot of land and the farm building may not be associated with a dwelling house.

Under proposed changes to the BCA 2016 it has been proposed to create a new category for buildings constructed for farming purposes[13]. A 'farm building' and 'farm shed' will be defined terms under the proposed BCA 2016.

Different provisions with respect to fire safety will apply based on the number of storeys, frequency of occupation and number of occupants and floor area.

If the floor area standards for farm buildings as exempt development are to be increased, it is recommended that the standards include a maximum floor area of 500m^2 and that the building must be classified as a Class 10a Building. This ensures that there would be no additional BCA requirements relating to expert assessment.

In relation to complying development, an application for a farm building above 500m^2 would identify the BCA classification and require the application of the relevant BCA provisions if the building is determined to be a building of classification 7 or 8. The plans should be required to be appropriately detailed to demonstrate compliance with the additional BCA criteria. For this reason is important that this form of development is considered as complying development.

Farm buildings with an area below 500m^2 can be appropriately carried out as exempt development. These are often simple structures, often designed and constructed by specialised companies. Due to the simplicity of the structure it is not considered necessary that assessment be carried out by a certifier. Anecdotal evidence suggests many of these structures are currently being constructed without any consent. To require them to be complying development would add additional burden on applicants and certifiers.

[13] Australian Building Codes Board NCC 2016 public comment draft – overview of proposed changes for farm type buildings 26 May 2016

FIGURE 22: TYPICAL FARM BUILDING CONSTRUCTED AS EXEMPT DEVELOPMENT

FIGURE 23: FARM BUILDING THAT COULD BE CONSTRUCTED AS COMPLYING DEVELOPMENT

The maximum size and scale of development that should be considered as complying development is difficult to quantify. Anecdotally, it appears many farm buildings are currently erected with no consent (based on minimal development applications being considered for this building type). The typical height range of any commonly available 'off the shelf' farm shed have wall heights of 2.5-8m with an overall height between 3-10m. On smaller land holdings it is appropriate that the lower height of 4.5m be applied as they would be of a similar scale to other outbuildings on the land. In a similar way typical areas vary greatly from 30-300+m^2. Similarly, on smaller land holdings a lower maximum floor area is considered appropriate. For simplicity of

application exempt development would have a flat caps on the area, however due to additional requirements and information provided to the certifier a percentage control is more appropriate.

Figure 24: Farm building that could be constructed as exempt development

PROPOSED STANDARDS

A. Maximum building height:
    a. if the land has an area >4ha – 12m
    b. if the land has an area no more than 4ha – 7m

B. Maximum gross floor area for exempt development
    a. if the land has an area >4ha – 500m^2
    b. if the land has an area no more than 4ha – 100m^2

C. Maximum gross floor area for complying development
    a. 2.5% of land holding to a maximum of 2500m^2

Silos and Grain Storage Bunkers

Silos are a type of farm building. The construction of private silos is becoming increasingly necessary due to the changes in the grain industry. Large grain corporations are no longer permitting the long term storage of grain in road side silos, and market fluctuations in grain prices make it attractive for the storage of grain to seek the best price.

It is considered that separate development standards should be provided due to the different form of building, construction methodology and technical requirements that need to be applied to ensure that silos are constructed and operated in a manner that limits danger to life and property.

FIGURE 25: TYPICAL GRAIN SILO

FIGURE 26: GRAIN STORAGE BUNKER

FIGURE 27: GRAIN STORAGE BUNKER

5.0

SUMMARY OF RECOMMENDATIONS

5.1

A NEW COMPLYING DEVELOPMENT CODE FOR REGIONAL NSW

A review of the built form in regional NSW in comparison to metropolitan areas of NSW has identified a clear opportunity to amend the State Policy for exempt and complying development to include a new complying code specifically to regional NSW.

The new code, proposed to be called the Inland Code is proposed to apply to all local government areas west of the Great Dividing Range as shown in Figure 1 of this paper.

The new Inland Code is proposed to contain tailored complying development provisions for:

- new dwellings and alterations and additions to existing dwelling houses on both urban and rural zoned land;
- associated outbuildings and ancillary development; and
- various forms of farm buildings.

The format and wording of the proposed standards are proposed to be consistent with the Department's revised General Housing Code. It is to be written in plain English with tables and diagrams also included to assist with interpretation.

Zoning and lot requirements

It is intended that the code would apply to all residential and rural zoned land including R1, R2, R3, R4, R5, RU1, RU2, RU3, RU5 and RU6.

The general requirements under Part 1 of the Codes SEPP would apply to the Inland Code including restrictions on parts of the land that contain a heritage item or environmentally sensitive land.

The code would only apply to development where the lot size is at least 200m^2. It would also continue the existing standard in the Rural Housing Code where the code will only permit the erection of a dwelling house where the lot is more than the minimum lot size for the erection of a dwelling house under an environmental planning instrument that applies to the lot.

The same lot requirements that currently apply to the General Housing Code and Rural Housing Code would continue to apply such that:

- the code would not be applicable in heritage conservation areas;
- only one single or two storey dwelling house is permitted;
- it includes alterations and additions and new dwelling houses;
- restrictions where building envelopes are provided will continue to apply;
- minimum lot size of 200m^2 or that provided by an environmental planning instrument; and
- the lot must have a lawful frontage to a public road.

Roof terraces can be permitted where the lot area exceeds 4000m^2.

Application of the existing codes

The existing General Housing Code and Rural Housing Code will be amended so that they will not be applicable to those areas of NSW which will be covered by the Inland Code.

The Inland Code will be consistent with the current Policy in that it will exclude complying development on heritage items and restrict development in heritage conservation areas.

Part 4: Alterations Code of the Policy will continue to apply State-wide. This code predominantly covers internal alterations and minor external alterations to existing dwelling houses located in heritage conservation areas where the work is unable to be carried out as complying development under other parts of the Policy. The standards permit a wide range of internal development. During the course of the Department's review, there was no evidence to suggest that these forms of alterations are different across different parts of NSW.

5.2

A SUMMARY OF PROPOSED COMPLYING DEVELOPMENT STANDARDS

The following table provides a summary of the principle complying development standards as they are proposed to apply to dwelling houses, outbuildings and farm buildings on land covered by the Inland Code.

Table 3: PROPOSED INLAND CODE

STANDARD	REQUIREMENT	
All development on the site		
Maximum gross floor area	Lot area 200-400m² >400-700m² >700m²-1000m² >1000m²	% 75% 65% 50% 500m²
Landscaped area	Lot area 200-400m² >400-700m² >700-1000m² >1000-1500m² >1500m²	% 15% 25% 35% 40% 60%
Landscaped area forward of building line	Lot width <18m >18m	% of area forward of building line 25% 50%
Height of development on RU1, RU2, RU3, RU4 RU5 and RU6 zoned land >2ha	The highest point of a structure must be at least 5m below the ridgeline of any hill within 100m of building, where the topography in that distance has a change in level of more than 20m	
Dwelling House and ancillary development attached to dwelling house		
Maximum height of building	8.5m	
Primary road setback	R1-4 & RU5: Average within 40m or 4.5m 10m to classified roads R5 & RU1-4: 10m on RU1-4 zoned land 50m to unsealed roads	

STANDARD	REQUIREMENT
Secondary road setback	**R1-4 & RU5** If lot width: <18m – 3m >18m – 5m **R5 & RU1-4** 10m
Side Setbacks	**R1-4 & RU5:** 0.9m side setback and 45° building envelope measured 3.0m over side boundary **R5 & RU1-4:** Lot area <4000m² – 2.5m Lot area >4000m² – 10m
Rear setback	Lot area < 4000m² – 3m with 8m rear setback above 4.5m Lot area >4000m² – 10m
Garages door with frontage to street	Max width of garage doors 6m Additional 3.2m garage door may have frontage to street if setback further 1m from other garage door. Maximum width of driveway crossing at boundary 6m.
Car parking	At least one space behind the front building line – car space and access to space to comply with AS2890.1
Privacy controls	Privacy screening to balconies and windows with a sill <1.5m if: – Floor >1m above ground and setback from boundary <3m – Floor >3m above ground and setback <6m[14]
Balconies decks, patios, terraces and verandas maximum height	Setback <3m – 2m Setback 3-6m – 3m Setback >6m – 4m
Balconies decks, patios, terraces and verandas maximum area	If setback <6m and floor >2m above ground – maximum area 12m²
Outbuildings (including garages, and detached studios)	
Maximum gross floor area generally	10% lot area to max 100m²
Maximum GFA for habitable rooms (detached studios)	35m²
Maximum height of building	4.5m
Setback to road	Behind building line of dwelling house

[14] Screening not required to bedroom windows and only applies to part of window or balcony facing the side or rear boundary

STANDARD	REQUIREMENT
Side / Rear Setback	0.9m, or 0m and 45° building envelope measured 3.0m over side boundary if masonry construction
Privacy controls	Privacy screening to balconies and windows with a sill <1.5m where floor >1m above ground and setback from boundary <3m
Swimming pools	
Setback to road	Behind building line of dwelling house
Setback to side or rear boundary	Pool water line – 1m
Max height of decking adjacent pool above ground level (existing)	600mm
Max height of pool coping above ground level (existing)	1.4m above ground level (existing), or 300mm wide if the coping is more than 600mm above ground level (existing)
Pump	Located in a soundproofed enclosure, or comply with Table A3.1 EPA guide for default noise levels for noisy domestic equipment in *Noise Guide for Local Government 2013* published by NSW EPA to be a condition of consent rather than a standard
Water discharge	Water from a swimming pool must be discharged in accordance with an approval under the Local Government Act 1993 if the lot is not connected to a sewer main
Farm shed	
Land use zone	RU1, RU2, RU3, RU4
Maximum height of building	Land holding <4ha – 7m Land holding >4ha – 12m
Maximum gross floor area	2.5% land holding to maximum 2500m^2
Setbacks	Boundary with primary road – 20m Side and rear boundary – 10m From water body (natural) – 50m

Note:

1. Only one dwelling house will be permitted on a lot. Although the provisions of outbuildings could be extended to secondary dwellings with a maximum gross floor area of 60m^2.
2. The existing lot requirement and building envelope provisions would apply.
3. The current exceptions to setbacks will still apply.
4. Existing provisions for outbuildings in heritage conservation areas would continue to apply.
5. Existing provisions with respect to tree removal, bushfire prone land and flood affected land will continue to apply.
6. Existing provisions for vehicle access will still apply.

5.3

NEW EXEMPT DEVELOPMENT STANDARDS FOR BUILDINGS

The proposed Inland Code will only include complying development provisions. However, suggestions from the Reference Group also highlighted the need to provide a more flexible approach to the approval of development for agricultural purposes such as silos and stockyards.

Further analysis of the existing exempt and complying development provisions for farm buildings identified an opportunity to utilise exempt development as opposed to complying development to provide increased scope and flexibility for the provision of development for agricultural uses.

It was also considered appropriate to extend these provisions to rural land across the NSW, rather than limiting them to those LGAs where the Inland Code is proposed to apply.

5.4

SUMMARY OF PROPOSED EXEMPT DEVELOPMENT STANDARDS

The following new development standards for exempt development are proposed:

Farm sheds and outbuildings

Amend Subdivision 16 Farm Buildings to reflect the changes proposed in the Building Code of Australia version 2016.

Insert new definition of farm shed outbuilding as follows:

Farm shed and outbuilding A farm shed and outbuildings is a type of farm building that consists of a shed, canopy including a hay shed, machinery shed, shearing shed, storage shed and outbuilding.

SUBDIVISION 16: FARM SHED AND OUTBUILDING

2.31 SPECIFIED DEVELOPMENT

The construction or installation of a farm building used for the purpose of an agricultural activity and not used for habitable purposes is development specified for this code if it is:

a. constructed or installed on land in Zone RU1, RU2, RU3, RU4 or RU6; and
b. not constructed or installed on or in a heritage item or a draft heritage item or in an environmentally sensitive area; and
c. a class 10 structure under the *Building Code of Australia*.

2.32 DEVELOPMENT STANDARDS

1. Maximum building height:
    a. if the land has an area >4ha – 12m
    b. if the land has an area no more than 4ha – 7m
2. Maximum gross floor area:
    a. if the land has an area >4ha – 500m^2
    b. if the land has an area no more than 4ha – 100m^2
3. Setbacks:
    a. From road: 20m
    b. From dwelling on adjoining lot: 50m
    c. From side or rear boundary: 10m
    d. From waterbody (natural): 50m
4. The structure must be designed by, and constructed in accordance with the specifications of, a professional engineer, and
5. If the development is a shipping container, there must not be more than 1 shipping container per lot.

Stock holding yard

It is also proposed to create new development standards for private stockyards consisting of an unroofed fenced area. This provides a clear distinction between the requirements for sheds and fenced stock areas

Insert new definition for private stock holding yard as follows:

Private Stock holding yard includes a place or unroofed fenced area that may be used for the short-term storage and watering of stock but does not include a stock and sale yard.

SUBDIVISION 16A: PRIVATE STOCK HOLDING YARD

SPECIFIED DEVELOPMENT
The construction or installation of a stockyard is development specified for this code if it is:

a. constructed or installed on land in Zone RU1, RU2, or RU6, and
b. for private and non-commercial use
c. ancillary to the use of the land for primary production

DEVELOPMENT STANDARDS

1. Setbacks:
    a. From boundary with a road: 10m
    b. From dwelling on adjoining lot: 200m
    c. From side or rear boundary: 10m
    d. From waterbody (natural): 100m
2. Maximum height of stockyard fencing – 4.5m

Grain Storage Bunkers & Silos

Create a new development standard for grain storage bunkers and silos. These terms are already defined.

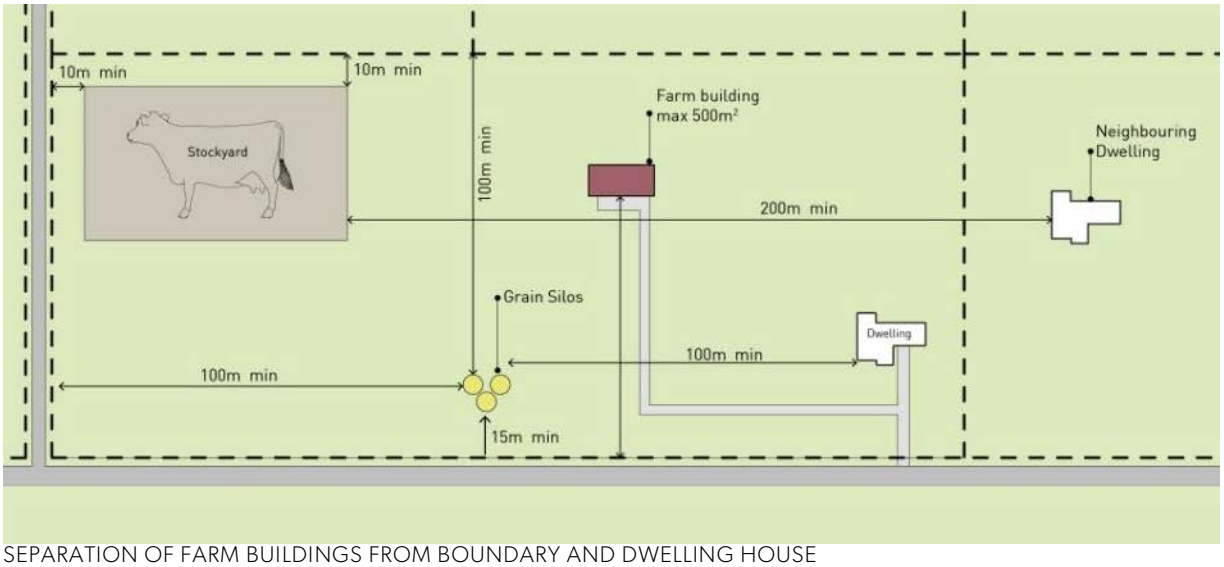
SUBDIVISION: GRAIN STORAGE BUNKERS AND SILOS

SPECIFIED DEVELOPMENT
The construction or installation of a grain storage bunker or silo is development specified for this code if it is:

a. constructed or installed on land in Zone RU1, RU2, or RU6; and
b. for private and non-commercial use; and
c. ancillary to the use of the land for primary production.

DEVELOPMENT STANDARDS

1. Setbacks:
    a. From boundary with a road: 15m
    b. From dwelling on adjoining lot: 100m
    c. From side or rear boundary: 100m
    d. From waterbody (natural): 50m
2. Maximum height of building – 15m
3. Silos must comply with the following additional standards
    a. Must only be for the storage of grain
    b. Must be constructed in accordance with SAFETY ASPECTS IN THE DESIGN OF BULK SOLIDS CONTAINERS INCLUDING SILOS, FIELD BINS AND CHASER BINS published by Work Cover
4. Grain storage bunkers must comply with the following additional standards:
    a. Maximum footprint – 7000m^2
    b. Maximum excavation – 3m
    c. Roof of bunker must be non-structural
    d. Any slabs and walls must be constructed in accordance with a professional engineer's specification
    e. Stormwater – surface water flows should remain as existing



SEPARATION OF FARM BUILDINGS FROM BOUNDARY AND DWELLING HOUSE