

Explanation of Intended Effect

Proposal to amend State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 to include new exempt and complying development controls for rural and regional NSW

Part 1

Introduction

This Explanation of Intended Effect outlines the current proposed amendment to the State policy for exempt and complying development, which is contained in *State Environmental Planning Policy (Exempt and Complying Development) 2008* (the Policy).

The proposed amendment will see the introduction of a new 'Inland Code' which is intended to apply to all local government areas located west of the Great Dividing Range, as detailed in the map in **Figure 1**.



Figure 1 – Proposed area of application for the Inland Code.

The proposed amendment is intended to reduce the complexity of the Policy as it applies to rural and regional NSW and ensure that the resulting residential development controls recognise and respond to the differences in built form between metropolitan and rural and regional NSW.

The proposed changes mean that the existing General Housing Code and Rural Housing Code will no longer apply in the local government areas covered by the Inland Code. A detailed explanation of the proposed amendments is provided in **Part 2**.

In addition to the proposed Inland Code, it is proposed to make amendments to the General Exempt Development Code which will apply to rural lots State-wide. These amendments will ensure that low impact development to support agricultural activities on rural zoned land can be undertaken without planning or building approval if applicable pre-determined development standards can be met. These activities include the erection of farm buildings, grain storage bunkers and silos. **Part 3** provides a detailed summary of the proposed amendments to the General Exempt Development Code.

The State Policy for exempt and complying development

The Policy sets a consistent State-wide approach for development that does not require planning or building approval (exempt development) and fast-tracked development consents (complying development).

In 2013-14 complying development approvals constituted 29 per cent of all development approvals in NSW. In total 24,814 developments were approved via the streamlined complying development process, saving time and money for families and business owners. The value of complying developments in 2013/2014 equated to \$4.4 billion.

The time savings of complying development are also of great benefit to home owners and businesses. Residential complying development can be approved within 14 days and even faster for commercial and industrial development.

The State-wide controls are reviewed regularly to ensure that the standards for exempt and complying development continue to be low impact and effective in reducing red tape, reducing costs, and reducing delays for homes owners and businesses.

Objectives and intended outcomes

The draft Inland Code is proposed to fit within the existing hierarchy of the State policy for exempt and complying development and will be subject to the existing land based exclusions and general requirements that apply to both the existing General Housing and Rural Housing Codes. The definitions contained within the Policy will also continue to apply to the Inland Code.

Consistent with the Department's review of the General Housing Code, it is proposed that the draft Inland Code will also be written using plain English and structured in an easier to use format with explanatory diagrams to assist with interpretation.

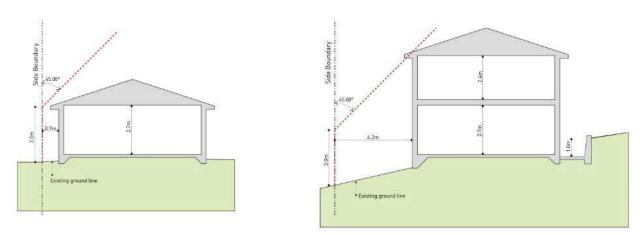


Figure 2 – Example of how diagrams can assist with interpretation of development standards

Summary of key amendments:

- The existing General and Rural Housing Code provisions will be combined and simplified in a single Inland Code for complying development. This means dwelling houses and attached ancillary development, outbuildings, detached studios and farm buildings will now be permitted under the Inland Code. In local government areas located west of the Great Dividing Range the existing General and Rural Housing Code will no longer apply.
- The site coverage, articulation zone and principal open space development standards will no longer apply to development under the Inland Code.
- Gross floor area, landscaped area and setbacks will be the principle controls for determining the area which can be built upon.
- Setback clauses will be simplified in order to better reflect the prevailing single storey built form.
- Built to boundary setbacks will no longer apply to dwelling houses.
- The range and scale of farm buildings which are able to be erected under the existing General Exempt Development Code is to be expanded for all rural land in NSW.
- The size and scale of farm buildings are to be determined by the size of a total land holding, as opposed to a single lot.

Part 2

Proposed complying development standards for the Inland Code

The following table provides a summary of the key development standards that will apply to development under the proposed Inland Code.

Note: A number of existing development standards that provide further clarity and direction on matters such as exceptions to setbacks and calculating lot area are proposed to be retained. Other detailed requirements of the existing Policy such as requirements for drainage, protection of adjoining walls, and when separate permits for the removal of trees are required are also intended to be retained in the proposed Inland Code.

	oment standards are applicable to dwelling houses, ancillary development cluding farm buildings).	Key changes and rationale
Lot requirements	Minimum lot size The minimum lot size for the erection of a new single storey, or two storey dwelling house, ancillary development and outbuildings in Zones R1, R2, R3, R4 and RU5 is 200m². The minimum lot size for the erection of a new single storey, or two storey dwelling houses, ancillary development and outbuildings in Zones RU1, RU2, RU3, RU4 and RU5 must meet the minimum lot size for the erection of a dwelling house under the environmental planning instrument applying to the lot. Other requirements Other relevant general requirements and exclusions under the existing General and Rural Housing Codes will continue to apply. For example: minimum dimensions for battle-axe lots; lawful access to a public road; and prohibitions on the erection of roof terraces.	On land zoned for residential uses it is considered that a 200m² lot is appropriate. This is consistent with the existing General Housing Code. There will also no longer be a minimum lot size of 4,000m² for lots in Rural zones. However, to maintain the integrity of councils strategic planning and desired residential character of larger lots on the urban fringe and rural areas it is proposed that the requirement to meet the minimum lot size requirements of the applicable LEP from the existing Rural Housing Code will apply.

Maximum gross	Lot Area	% Max GFA	A gross floor area (GFA) development
floor area	200 – 400m ²	75%	standard will be introduced. This development standard will replace the
	>400 – 700m ²	65%	existing development standards for floor
	>700 – 1000m ²	50%	area and site coverage.
	>1000m ²	500m ²	
			A GFA development standard is necessary
			to effectively control the bulk and scale of single and two storey dwelling houses.
			To ensure that a reasonably sized dwelling house can be built on different sized lots the
			GFA of all development on a lot (except for
			farm buildings) will be determined on a
			sliding scale, represented in a table that is
			simple and easy to understand.
			The current definition of GFA from the
			Standard Instrument LEP will apply to
			development under the Inland Code.
Minimum	Lot Area	% Minimum required landscaped area	A landscaped area is a part of a site used
landscaped area			for growing plants, grasses and trees.
	$200 - 400 \text{m}^2$	15%	
	>400 - 700m ² >700 - 1000m ²	25% 35%	It is necessary to maintain a landscaped area control as it is the only development
	>700 - 1000111 >1000 - 1500m ²	40%	standard that is effective in ensuring that
	>1500m ²	60%	there is an area of the site which is left
			unbuilt upon.
			The required minimum landscaped area will
			be determined on a sliding scale.
Minimum	Lot width	% of area forward of building line	A minimum landscaped area forward of the
landscaped area		0.504	building line is required to ensure that
required forward of	<18m >18m	25%	complying development makes a positive
the building line	>10111	50%	contribution to the streetscape.

Earthworks and structural support

The development standards for excavation fill and associated retaining walls and structural support are proposed to be consistent with those within the existing General Housing Code.

The development standards are summarised below:

Fill

- Fill within the building footprint is unlimited
- Maximum fill outside the building footprint is:

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

Excavation

Maximum excavation is as follows:

Distance from boundary	Maximum fill depth
0-1m	1m
>1m – 1.5m	2m
>1.5m	3m

Retaining walls and structural support

Support for earthworks must take the form of a retaining wall or other structural support such as an embankment.

The development standards for earthworks and structural support within the General Housing Code are currently under review as part of the housekeeping amendment.

The proposed development standards have been developed in consultation with industry and are designed to ensure that there is sufficient flexibility for home builders to respond to the topography of any given site, while minimising the privacy impacts that could occur from raising the height of the land in close proximity to boundaries.

	pment standards are applicable to dwelling houses and ancillary ing outbuildings or farm buildings)	Rationale
Maximum height	8.5m / Maximum of two storeys	A maximum height of 8.5m for a dwelling house is consistent with the existing General Housing Code and is also consistent with many DCPs. A height of 8.5m is considered to provide enough flexibility in design to accommodate a two storey dwelling house even on sloping sites. To maintain simplicity the current maximum height that applies to a dwelling house on R5 lots which exceed 4ha and rural zoned land has been decreased from 10m to 8.5m.
Additional height requirements for land zoned RU1, RU2, RU3, RU4 RU5 and RU6.	For lots on more than 4ha the highest point of a structure must be at least 5m below the highest ridgeline of any hill within 100m of a building, where the topography in that distance has a change in level of more than 20m.	On rural zoned land maintaining the character of the landscape is often a key objective of the zone, as well as a head of consideration for a merit assessed development application. It is best practice to maintain visual character by not allowing dwelling houses to be located on top of dominant ridgelines. Whilst there is an existing control which addresses this within the existing Rural Housing Code it has been difficult to apply as there was no definition of ridgeline. The additional slope criteria will assist in determining where this standard is applicable. It is also proposed to include a diagram to assist.

Minimum required Primary road setback	For lots in R1, R2, R3 R4 and RU5 zones For lots in R5 & RU1, RU2, RU3 and RU4 zones	The average distance of the setbacks of the nearest 2 dwelling houses having the same primary road boundary and located within 40m of the lot on which the dwelling house is erected, or if 2 dwelling houses are not located within 40m of the lot – 4.5m 10m, or 50m to unsealed roads	In zones R1, R2, R3, R4 and RU5 the existing average setback of the two nearest dwelling houses (within 40m) will continue to apply. This is necessary to ensure that where infill development takes place the setbacks remain consistent. On R5 large lots and rural zoned land a consistent setback of 10m from a primary road or 50m to unsealed roads is required. A required 50m setback from unsealed road is considered adequate setback to ensure that road noise, vibration and dust are adequately dealt with.
Minimum required secondary road setback	For lots in R1, R2, R3 R4 and RU5 zones Lot width <18m Lot width >18m For lots in R5 & RU1, RU2, RU3 and RU4 zones	3m 5m 10m	In zones R1, R2, R3, R4 and RU5 the applicable secondary road setback for corner lots will be either 3m or 5m. This is dependent on lot width measured at the building line. In most cases it is expected that lots will be at least 18m in width. However, on smaller lots in urban zoned land a smaller 3m setback is considered appropriate. On R5 large lots and rural zoned land a consistent setback of 10m from a secondary road is applicable.
Classified road setback		g instrument applying to that lot specifies a the setback specified by the other	A consistent 10m setback from all classified roads will apply to all zones, unless the relevant council has identified an appropriate setback within its LEP.

Minimum required setbacks from side boundaries.	For lots in R1, R2, R3 R4 and RU5 zones	0.9m and, a 45° building envelope measured from a height of 3.0m at the side boundary.	For lots in R1, R2, R3, R4 and RU5 zones the side setbacks standard will be simplified by removing bands based on lot width.
	For lots in R5 & RU1, RU2, RU3 and RU4 zones Lot area <4000m ² Lot area >4000m ²	2.5m 10m	A 0.9m setback is consistent with inland council DCPs, while the building envelope control will ensure that where a second storey is proposed, the resulting development will need to be setback closer to 2m in order for it to fit within the building envelope.
			While 2 storey dwelling houses are less common in regional and rural NSW there remains a need to minimise potential privacy and overshadowing impacts where a second storey is proposed in close proximity to other dwelling houses.
			On R5 large lots and rural zoned land where the lot is less than 4000m² a consistent 2.5m setback from the side boundary will apply. On R5 large lots and rural zoned land where the lot is at least 4000m² a consistent 10m setback will apply. There is no further building envelope control to consider.
Minimum required setback from rear boundaries	Lot area <4000m²	3m for any part of a building up to 4.5m 8m for any part of a building above 4.5m	The minimum required rear boundary setback for lots below 4000m² is 3m. However in order to minimise overshadowing and privacy impacts in urban zoned land a greater setback will be required for any part of a building with a height above 4.5m.

	Lot area >4000m² 10m	The threshold 4.5m height is considered appropriate to accommodate most single storey dwelling house designs. For lots with an area of at least 4000m² a consistent 10m rear boundary setback will apply. This is because a larger rear setback is typical of built outcomes on larger lots. A larger setback also reduces the application of development standards which address privacy impacts.
Minimum requirements for car parking and garages	 Car parking requirements at least one space must be provided behind the front building line; and car space and access to space to comply with AS2890.1. The following requirements will apply to garage doors proposed to face the primary road on lots on R1, R2, R3, R4 and RU5 zoned land: max width of garage doors 6m; minimum garage setback 5.5m from front boundary; additional 3.2m garage door may have frontage to street if setback further 1m from other garage door; and maximum width of driveway crossing at boundary 6m. 	The development standards for garage doors with a frontage to a primary road have been amended to better accommodate the typical development scenario in rural and regional NSW. The development standards within the Inland Code will permit 3 car garages. However to ensure that complying development still provides a positive contribution to the streetscape to accommodate this development a third single garage door is required to be setback behind main garage structure. To accommodate the minimum required landscape area and ensure that the streetscape is not dominated by hard surfaces driveway crossings at the boundary will be limited to a width of 6m.

Privacy controls

The following provides a summary of the proposed controls to address privacy under the Inland Code:

Setbacks and maximum floor area of balconies, decks, patios, terraces and verandahs

Maximum height of the floor level is set out in the table below:

Setback from the boundary	Maximum floor level
Less than 3m	2m
More than 3m-6m	3m
More than 6m	4m

The total floor area of all attached side or rear balconies, decks, patios, terraces and verandahs must not be more than 12m² if:

- it is located within 6m from a side or rear boundary; and
- has a finished floor level of more than 2m above ground level (existing).

Privacy Screens

Privacy screening to balconies and windows with a sill height of more than 1.5m IS required if:

- the finished floor level is more than 1m above ground; and
- the setback from a side or rear boundary is less than 3m; or
- the finished floor level is more than 3m above ground; and
- the setback from a side or rear boundary is less than 6m.

The suite of privacy controls contained will be consistent with those in the existing General and Rural Housing Codes.

It is necessary for the Inland Code to continue to address protect the privacy of adjoining neighbours in cases where dwelling houses are built in close proximity to the boundary.

These controls will generally only be applicable to two storey dwelling houses and elevated decks which can impact on neighbouring properties. They are unlikely to apply to single storey dwelling houses or houses on larger lots.

	pment standards are applicable to outbuildings (including detached uding farm buildings).	Key changes and rationale
Maximum gross floor area	10% of lot area or 100m ² , whichever is the lesser.	While an outbuilding is included in the overall GFA control which applies across the site it is appropriate to ensure that there is also a maximum GFA limit for outbuildings such as sheds and garages are subordinate to the dwelling house.
Maximum gross floor area for detached studios	35m²	A detached studio is not intended to be capable of be utilised as a separate dwelling. For this reason a maximum GFA of 35m ² consistent with the General Housing Code is to be applied. This is considered sufficient for use as a home office, rumpus room or similar.
Maximum height of outbuildings	4.5m	The maximum height for outbuildings has been set as 4.5m. A small reduction from 4.8m means that the setbacks for buildings above 4.5m need not apply to outbuildings.
Minimum required Setback from roads	Behind building line of dwelling house.	All outbuildings and detached studios are required to be located behind the building line of the dwelling house.
Minimum required side and rear setbacks	0.9m, or If masonry construction – 0m and 45° building envelope measured at a height of 3.0m at the side boundary. Note: relevant additional development standards relating to the length and height of built to boundary walls consistent with the existing General Housing Code will also be included.	It is proposed that minimum required setback for outbuildings will be 0.9m. However the opportunity to build on the boundary will apply if the outbuilding is of masonry construction and fits within the proposed building envelope. The built to boundary development setbacks will also be supported by additional requirements that prevent windows from being installed in built to boundary walls.

Privacy controls	Privacy controls are proposed to be consistent with the requirements for dwelling houses.	The erection of detached studios in close proximity to the boundary has the potential to impact privacy in the same way as a dwelling house. For this reason the privacy requirements are considered appropriate considerations.
The following develop	oment standards only apply to swimming pools	
Setback to road	Behind building line of dwelling house.	The development standards applicable to
Setback to side or rear boundary	Pool water line – 1m	swimming pools are consistent with those within the existing General and Rural
Max height of decking adjacent pool above ground level (existing)	600mm	Housing Codes, with the exception of further guidance on satisfying the development standards for pool pumps. It is not considered necessary to tailor these
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).	requirements for the Inland Code.
Pump	Located in a soundproofed enclosure, or comply with Table A3.1 EPA guide for default noise levels for noisy domestic equipment in <i>Noise Guide for Local Government 2013</i> published by NSW EPA.	
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.	

development.	pment standards apply to farm buildings if proposed as complying to 500m² can be erected as exempt development – see Part 3).	Key changes and rationale
Permissible land use zone	RU1, RU2, RU3, RU4	Farm buildings are required to be ancillary to the agricultural use of a landholding. For this reason farm buildings are restricted to rural zones.
Maximum height of building	Land holding <4ha - 7m Land holding >4ha - 12m	A maximum height limit of 7m is considered appropriate on smaller land holdings as the scale would be more consistent with other outbuildings on the site. However for larger land holding an increased height limit of 12m applies. This is considered sufficient to accommodate even the largest off the shelf' products and farm equipment.
Maximum gross floor area	Land holding <4ha - 2.5% land holding Land holding >4ha - 2,500m²	Note: a single landholding may contain more than one lot in the same ownership Consistent with a height limit of 4.5m it is considered appropriate to limit farm buildings to 2.5% of the size of a land holding smaller than 4ha. However for larger lots a flat maximum limit of 2,500m² is permitted.
Setbacks	Boundary with a road 20m Side and rear boundary 10m From water body (natural) 50m	The setbacks for farm buildings are consistent with the existing exempt development standards and are proposed to be retained for both exempt and complying development.
Earthworks and structural support	Earthworks and structural support are proposed to be consistent with the requirements for dwelling houses.	It is considered that the existing provisions for earthworks and structural support remain suitable for the erection of farm buildings as complying development.

Part 2 (continued)

The following table outlines the key development standards that will no longer apply under the Inland Code

The following developed	opment standards will no longer apply to development under the Inland	Rationale
Site coverage	The existing site coverage development standard will be removed.	The site coverage development standards are proposed to be removed from the development standards. This is because the combination of gross floor area and landscaped area controls are sufficient to control the bulk and scale of buildings and ensure there is sufficient land that is left un-built upon.
Articulation Zone	Note: dwelling houses will still need to comply with other existing articulation requirements such as including a window and a door to a habitable room.	It has been proposed to remove the existing articulation zone as the minimum setback of 4.5m does not allow enough room to comfortable accommodate this articulation within the regional streetscape. The articulation zone allowance has also been identified as confusing. Therefore its removal will further contribute to simplifying the Inland Code.
Principal private open space	The existing requirement for private open space will be removed.	Housing trends and lifestyle changes in recent years has increased the market demand for usable outdoor spaces which is directly accessible from the living space of the dwelling house. As a result there it is not considered necessary to mandate this requirement for the purposes of obtaining a complying development certificate.

Part 3 Proposed amendments to the General Exempt Development Code

The following table outlines the key changes to the General Exempt Development Code. These proposed amendments are intended to provide increased flexibility for the erection of various farm buildings to support the agricultural activities on rural zoned land. Unlike the Inland Code, these amendments will apply State-wide.

outbuildings 2.31 S New definition: The co A farm shed and agricul	pecified Development Instruction or installation of a farm building used for the purpose of an tural activity and not used for habitable purposes is development	It is proposed to amend the exempt development to increase the flexibility of the existing farm buildings category.
of farm building that consists of a shed or canopy and includes a hay shed, machinery shed, shearing shed, storage shed and outbuilding. • • • • • • • • • • • • • • • • • • •	ed for this code if it is: constructed or installed on land in Zone RU1, RU2, RU3, RU4 or RU6; and not constructed or installed on or in a heritage item or a draft heritage item or in an environmentally sensitive area; and a class 10a structure under the Building Code of Australia. evelopment Standards um building height: if the land has an area >4ha – 12m;	development to increase the flexibility of the
Maxim Setbac	if the land has an area >4ha – 12m; if the land has an area no more than 4ha – 4.5m. um gross floor area: if the land has an area >4ha – 500m²; if the land has an area no more than 4ha – 100m².	

Grain Storage Bunkers & Silos	Subdivision 16: Grain Storage Bunkers & Silos Specified Development The construction or installation of a grain storage bunker or silo is development specified for this code if it is: • constructed or installed on land in Zone RU1, RU2, or RU6; and • for private and non-commercial use; and • ancillary to the use of the land for primary production.	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.
	Development Standards Setbacks: • from boundary with a road: 15m; • from dwelling on adjoining lot: 100m; • from side or rear boundary: 100m; and • from waterbody (natural): 50m Maximum height of building • 15m Silos must comply with the following additional standards: • must only be for the storage of grain; and • 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	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.
	 Grain storage bunkers must comply with the following additional standards: maximum footprint – 7000m²; maximum excavation – 3m; roof of bunker must be non-structural; any slabs and walls must be constructed in accordance with a professional engineer's specification; and stormwater – surface water flows should remain as existing. 	
Stock holding yard	Specified Development	It is proposed to create new development
New Definition: Private Stock holding yard includes a place or unroofed fenced	The construction or installation of a stockyard is development specified for this code if it is: constructed or installed on land in Zone RU1, RU2, or RU6;and for private and non-commercial use; and	standards for private stockyards. This provides a clear distinction between the requirements for sheds and stock areas.

area that may be used for the short-	ancillary to the use of the land for primary production
term storage and watering of stock but does not include a stock and sale yard.	Development Standards Setbacks: • from boundary with a road: 10m; • from dwelling on adjoining lot: 200m; • from side or rear boundary: 10m; and • from waterbody (natural): 100m.
	Height:
	maximum height of 4.5m