



16 May 2016

Office of the General Manager

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Director, Policies and Systems Implementation
Department of Planning and Environment
GPO Box 39
SYDNEY NSW 2001

Dear Director

SUBJECT Submission on the Review of Complying Development for Inland NSW

The Department of Planning and Environment (the Department) have placed on exhibition proposed changes to the State Environment Planning (Exempt and Complying Development Codes) 2008 (Codes SEPP) to make approvals for low-impact, straightforward building projects easier and faster for homeowners and businesses in rural and regional NSW. These proposed changes are currently on public exhibition to 13 May 2016.

Inland Code versus state wide implementation

The proposed changes around the introduction of an Inland Code to the Codes SEPP are not relevant to the Blue Mountains as it is not one of the 83 local government areas west of the Great Dividing Range as to be covered by the Code. However, Blue Mountains Council is opposed to the proposed changes to the exempt development controls for all rural zones across the state for farm buildings, specifically the proposal to permit farm buildings up to 12m in height and 500m² in area as exempt development on lots as small as 4 hectares (ha).

In addition to opposing these proposed changes, Council is disappointed that a State wide change is proposed as part of a review which ostensibly applies only to 'inland NSW'. This is another in a series of recent changes proposed by the Department to the Codes SEPP and Standard Instrument Order where the details of potentially significant outcomes have not been separately and clearly identified and addressed in exhibition material.

The exhibited Background Paper contains only four sentences to explain the reasons for proposing these exempt development changes, with no analysis of potential outcomes or consideration of the appropriateness of such a change for the diversity of rural areas across the State, include metro fringe and coastal councils. This is insufficient for such a significant change which more than doubles the size of farm buildings which can be built all rural land in NSW without any assessment being required on lots as small as 4ha.

Changes to Exempt Development for Farm Buildings

The Codes SEPP currently has a section in Exempt Development on Farm Buildings which includes farm buildings, stock yards and silos. The proposed changes see the amendment of current controls and the creation of new subsections specific to Private Stocking Holding and Grain Storage Bunkers and Silos.

Some of the proposed changes are as below:

- Maximum height of farm building for lots greater than 4ha to now be 12m (an increase of 71% from 7m);
- Maximum floor area of farm building for lots greater than 4ha to now be 500m² (an increase of 150% from 200m²);
- Maximum floor area of farm building for lots less than 4ha to now be 100m² (an increase of 100% from 50m²); and
- Maximum height for grain silos to now be 15m (an increase of 115% from 7m).

Impacts of increased size of farm buildings

In the Blue Mountains, the proposed changes to the exempt development controls for farm buildings could have a significant impact on the City's rural areas in the Megalong Valley, Sun Valley, Mount Tomah, Mount Wilson, and Mount Irvine. The agricultural activities and character of these rural areas are very different to inland NSW which the review is based on.

These areas of the City previously identified under BMCC LEP as being of high value landscapes that contribute to the cultural significance of this City within a World Heritage Listed National Park.

The size of farm buildings proposed to be permissible as exempt development is excessive for the small size of lot on which they are proposed. They also appear to be based on the presumption that the rural areas in which they can occur are isolated. 4ha lots are not particularly large and could be found on the fringe of metro Sydney or regional centres meaning such large structures constructed most likely from reflective metal materials could have a visual impact that has not been fully considered.

The Megalong Valley is located below the escarpment of Medlow Bath and Blackheath, and is visible from these townships, notably from popular tourist spots. The introduction of large farm buildings up to 500m² is likely to have a significant visual impact on these important vistas. Where the use of these rural lands requires such a large farm building this should occur through the development assessment process which would consider all the impacts and ensure the best outcome is achieved. It is appropriate that smaller, low impact, farm buildings can be built as exempt development, but farm buildings of such a large size as those proposed should not be given blanket permissibility as exempt development.

A 12m high 500m² farm building would be a large structure on a 4ha lot. The need for sheds of this scale appears to be most relevant to larger scale rural enterprises. Where there is a need for this scale of shed on a small holding there is opportunity to consider a development application for permissible uses, such as intensive horticulture.

Changes to the Building Code of Australia

The exhibition material does not provide justification for such a significant increase, of over 100%, in the size of farm buildings permissible as exempt development from the current size limit of 200m² apart from a mention that this is in line with proposed changes to the Building Code of Australia. However, this is a spurious argument as the BCA contains no reference to size of lot when defining building classes.

Alternative approach

In the event that it is deemed that there is a need to permit larger farm buildings on larger lots as exempt development, then Council proposes that farm buildings of this scale (12m high and 500m²) only be permissible as exempt development on truly large lots, such as those greater than 40ha. On lots of this size, the size of the farm buildings would be more aligned with the type of agricultural activities that could occur on the property. The BCA contains no controls regarding lot size for farm buildings and therefore the choice of 4ha appears arbitrary and increasing the lot size to 40ha has merit as described above.

The Council also requests that the future exhibition of proposed policy and statutory amendments be more transparent about those proposed policy changes, their application, and the potential outcome of the changes. Additionally, exhibition material should contain documentation of analysis and investigation, and discussion of the planning merits and reasons for proposed changes which is of a level or extent commensurate with the potential impacts or significance of the proposed changes.

For further information on this submission please contact Ms Michelle Maher, Acting Manager Development and Planning Services, on (02) 4780 5000.

Yours faithfully

A handwritten signature in black ink, appearing to read 'LMorgan', written in a cursive style.

LEE MORGAN
Acting General Manager