

Explanation of Intended Effect

*A proposed amendment to
the General Housing Code
in State Environmental
Planning Policy (Exempt and
Complying Development
Codes) 2008*

Introduction

Section 38 of the Environmental Planning and Assessment Act 1979 ("the Act") requires the Minister, before recommending the making of an environmental planning instrument by the Governor, to take such steps, if any, as the Minister considers appropriate or necessary to publicise an explanation of the intended effect of the proposed instrument and to seek and consider submissions from the public on the matter.

This document has been prepared for the purposes of section 38 and, when read together with the attached consultation draft Code, forms an explanation of the intended effect of the proposed amendments to the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (the State Policy).

The proposed amendments will introduce the 'Housing Code' (the new code) into Part 3 of the State Policy to replace the existing 'General Housing Code'.

The new code:

- ensures the development standards for one and two storey dwellings are well-structured and simple to use for all stakeholders; and
- replaces the development standards in the General Housing Code with plain English development standards that are supported by tables and diagrams where possible.

No amendments to the Act or the Environmental Planning and Assessment Regulation 2000 (the Regulation) are required to give effect to the new code.

The current General Housing Code and the new Housing Code

Complying development allowed under the current General Housing Code includes single and two storey dwelling houses and alterations and additions to existing dwellings on residential zoned land. Other development associated with residential dwellings such as swimming pools, garages, decks, landscaping and detached structures can also be built as complying development under the General Housing Code.

Stakeholder feedback received by the Department indicates that the development standards in the General Housing Code can be difficult to understand and apply, due to the technical and legalistic language used. In response to this feedback, the Department has prepared a new Housing Code that is expressed in plain English and contains diagrams so that it is clearer to understand and easy to interpret and apply.

The State Environmental Planning Policy (Exempt and Complying Development) Amendment (Housing Code) 2016 (Amending SEPP) will insert the new Housing Code for complying development into Part 3 of the State Policy, replacing the existing General Housing Code.

The simplification of the General Housing Code is intended to support the State government's target of increasing the take-up of complying development by removing complexity as a barrier to take up.

Proposed Amendments

The main changes between the new Housing Code and the existing General Housing Code are:

- the structure of the new Housing Code has been designed so that it is easy to navigate and so that all of the relevant development standards for each development type can be found in one place;
- existing clauses have been combined for clarity while maintaining their overall intent;
- the wording has been simplified;
- tables have been used to express numerical controls where appropriate; and
- explanatory diagrams have been included where required.

Minor policy changes are also proposed, including:

- the way side setbacks are expressed has been amended to provide a less complex formula;

- controls for secondary road articulation have been updated to better align with controls for primary road articulation;
- controls for garages, carports and detached studios have been amended to be more flexible;
- controls for cabanas, cubby houses, ferneries, garden sheds, gazebos and greenhouses have been amended to make the controls more flexible; and
- controls for fencing have been amended to limit fences with a setback to a primary or secondary road to 1.2m in height.

The controls for site coverage have also been removed from the new Housing Code. It is considered that the development standard for site coverage has little purpose as the current definition excludes unenclosed spaces and landscape area requirements adequately control open space. The built form and the amount of land occupied on the site will be controlled by the development standards for gross floor area and landscape area.

The overall intent of the amendment is to simplify the existing code to make it more accessible to the general public. The proposal to restructure the Housing Code is based on the need to provide a clearer and easier to navigate policy and to reduce the number of clauses that must be considered for each development type. The new structure will also support the introduction of new ePlanning tools in the future, which will be developed to provide access to the Housing Policy in an easy to use online format. See **Attachment A** for a breakdown of the proposed structure and corresponding clauses.

There is no proposal to make any major policy amendments that significantly alter the built outcome that can currently be achieved using the General Housing Code.

Background

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

To be exempt or complying development, the development must comply 100% with the development standards specified in the State Policy. The development standards manage the location, scale and form of development on a site, to protect the amenity of surrounding development. This provides certainty about what type of development is allowed under the State Policy.

Complying development is generally of a larger scale than exempt development and can potentially have a higher impact than exempt development. For this reason complying development must be 'signed off' by a suitably qualified professional to ensure the development meets all technical and safety standards. Applicants can get this 'sign off' by obtaining a complying development certificate from a council or an accredited certifier. The complying development certificate is a combined planning and building approval.

Exempt and complying development allows property owners and businesses to carry out minor and straightforward development without the need to obtain development approval from the local council. This means that works with little or no environmental or amenity impacts can be approved through a simpler, cheaper and faster process.

A key target for the NSW Government is to reduce red tape for small businesses and the community by improving development approval processes. Increasing the number of developments that are approved without the need for detailed assessment has been identified as a key initiative to ensure this target is met.

Benefits of complying development

The State Policy commenced in 2009. The State Policy provides consistent state wide standards for exempt and complying development allowing faster and cheaper approvals for low impact works that should not require a lengthy and costly merit assessment. The State Policy supports the objectives of reducing red tape, facilitating economic growth and delivering more housing for NSW.

The Department's Local Development Performance Monitoring Report for 2014-15 reported that CDCs now account for 32% of all development approvals, up from 29% in 2013-14. In 2014-15, the \$5.24 billion worth of CDCs were approved under the State Policy, up from \$4.43 billion in 2013-14, representing an increase of 18%.

Complying development is a fast tracked approval pathway with approvals being issued within an average of 22 days. This compares with the average determination time of 71 days for a development application, which involves a merit assessment by local council. Increasing the take-up of complying development means real savings in time and money for homeowners and businesses and frees up council planning resources to focus on more complex development applications and strategic planning.

The increase in the take-up of complying development also directly supports the Premier's Priority for Faster Housing Approvals, which sets a target of 90% of housing approvals determined within 40 days, by 2019. The Department is committed to achieving the Premier's target and has identified a range of initiatives to increase the take-up of complying development and improve development assessment timeframes.