

A photograph of modern, two-story houses at dusk. The houses have light blue and grey facades with large windows and balconies. The sky is a mix of blue and orange from the setting sun. A white diagonal line runs from the top left towards the bottom left. The title text is overlaid on the right side of the image.

# ○ ***Explanation of Intended Effect***

***Proposed Greenfield Housing Code***

May 2017



Planning &  
Environment



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# ***Chapter 1 – Introduction***

## 1.1 What is an Explanation of Intended Effect?

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 (EIE) of the proposed instrument and to seek and consider submissions from the public on the matter.

This EIE has been prepared for the purposes of section 38 and forms an explanation of the intended effect of the proposed amendments to the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* (the Codes SEPP).

The proposed amendments will introduce a new 'Greenfield Housing Code' into the Codes SEPP.

This EIE accompanies a Background Paper – *A Review of Complying Development in Greenfield Areas*, which discusses barriers to the take-up of complying development and identifies options to facilitate faster housing approvals and ensure good design outcomes in greenfield areas.

***The introduction of a new Greenfield Housing Code supports the ongoing work to meet the Premier's Priority Target for Faster Housing Approvals, which is to achieve 90% of housing approvals within 40 days by 2019 and the State Priority to increase housing supply across NSW by delivering more than 50,000 approvals every year.***



**Figure 1:** Brighton Lakes, Moorebank (source: Mirvac)

## 1.2 Context

The *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* (Codes SEPP) allows for the development of 1-2 storey dwelling houses, attached and detached development and alterations and additions to be carried out under a fast track approval process called complying development.

Provided the proposed development complies with pre-determined development standards, approval in the form of a complying development certificate (CDC) can be issued on average within 20 days, compared to 71 days on average for a development application (DA). The development standards were developed in consultation with stakeholders and are designed to preserve neighbourhood amenity through setbacks, landscaping and height controls to reinforce the principles of good design. Complying development is an effective and low cost way to streamline the approvals process and improve housing affordability.

There are significant benefits associated with increasing the uptake of complying development in greenfield areas - such as reduced approval times, reduced development costs and greater certainty - all of which are explained in detail within the Background Paper.

Complying developments can be approved significantly faster than DAs. Accordingly, the Department of Planning and Environment (the Department) is examining opportunities to increase the uptake of residential complying development in greenfield areas by simplifying the development standards and tailoring them to suit these new growth areas.

There are also significant cost savings when carrying out complying development compared to a DA – a cost benefit analysis undertaken for the Department

by The Centre for International Economics (CIE) in 2015 found that there are savings of up to \$15,000 for single dwellings if approved under a CDC instead of a DA.

The 2014/15 Local Development Performance Monitor report showed that:

- CDCs now account for 32% of development approvals, up from 29% in 2013-14;
- \$5.24 billion worth of CDCs were approved under the NSW local development assessment system in 2014-15, up from \$4.43 billion in 2013-14, representing an increase of 18%;
- 29 075 CDCs were approved by council or private certifiers, representing a 17.4% increase from 24 770 in 2013-14;
- CDCs took an average 22 days to determine in 2014-15, an increase of 25% from 18 days in 2013-14.

Current barriers to the uptake of complying development have been identified, such as driveway approvals, complex development standards, and the ability to obtain a CDC prior to lot registration. These issues are explored in more detail in the Background Paper.

In addition to simplifying complying development, the NSW Government recognises that it is critical that new developments in greenfield areas are well designed to create distinct and attractive places for people which are environmentally, economically and socially sustainable.

### 1.3 Objectives and Intended Outcomes

The draft Greenfield Housing Code is intended to fit within the existing Codes SEPP and will be subject to the existing land based exclusions and general requirements that applies to the existing General Housing Code. The definitions contained within the Codes SEPP will also apply to the Greenfield Housing Code.

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

The new Code will provide simplified, tailored development standards with a focus on good design outcomes to promote more residential housing in new release areas to be carried out under the fast-tracked complying development approval pathway.

### 1.4 Summary of the Key Elements

The key elements of the Greenfield Housing Code are:

- consistency of rear setbacks with those permitted under Growth Centres DCPs and the Codes SEPP;
- consistent front setbacks for all lot widths and removal of the front setback averaging rule currently required under the General Housing Code of the Codes SEPP;
- simplification of side setbacks to ground and upper levels;
- allowance of a double garage on lots that are 10m wide and over (permissible to two storey houses only on 10m wide lots); and
- criteria for determining different development standards is to be based on lot width rather than lot area, which is more relevant to greenfield areas.

The Department also proposes to include

development standards in the new Code, which will contribute to improving streetscape, building design quality and amenity outcomes. These include:

- a maximum depth of 6m for any habitable room from a window; and
- the requirement to plant a tree in the front and rear setbacks of the lot.

#### Transitional Period

The Department is aware that home builders and developers have designed new housing developments based on current development standards in the General Housing Code and the relevant council LEPs and DCPs.

The Department proposes to allow a transition period of three years between the application of the existing policies for residential complying development (General Housing Code, soon to be replaced with the Simplified Housing Code) and the introduction of the new Greenfield Housing Code for new release areas. This would allow home builders and developers to deliver on their existing products and give them enough time to design new dwellings to comply with the development standards in the Greenfield Housing Code. The DA pathway will continue to be available.



**Figure 2:** Shawood at The Hermitage, Gledswood Hills  
(source: Sekisui House)



**2**

## ***Chapter 2 – The Greenfield Housing Code***



## 2.1 Where the Greenfield Housing Code would apply

The Greenfield Housing Code is proposed to apply to land defined as a residential release area under clause 136AB of the *Environmental Planning and Assessment Regulation 1979* (EP&A Regulation), and any other greenfield release areas nominated by councils and identified in a schedule to the Code. Clause 136AB includes land within:

- an urban release area identified within a local environmental plan that adopts the applicable mandatory provisions of the Standard Instrument;
- a land release area identified under the Eurobodalla Local Environmental Plan 2012;
- any land subject to State Environmental Planning Policy (Sydney Region Growth Centres) 2006;
- any area included in Parts 6, 26, 27, 28 and 29 of Schedule 3 of the *State Environmental Planning Policy (Major Development) 2005* (now referred to as SEPP (State Significant Precincts) 2005).

There are also a number of greenfield areas across

the State that have been released by councils for residential urban development that could benefit from the simplified controls in the proposed new Greenfield Housing Code. The Department invites feedback from councils, landowners and industry on any other areas where the new Code should apply.

The Code would apply to new dwelling houses in defined residential release areas on land which follows all of the criteria listed below:

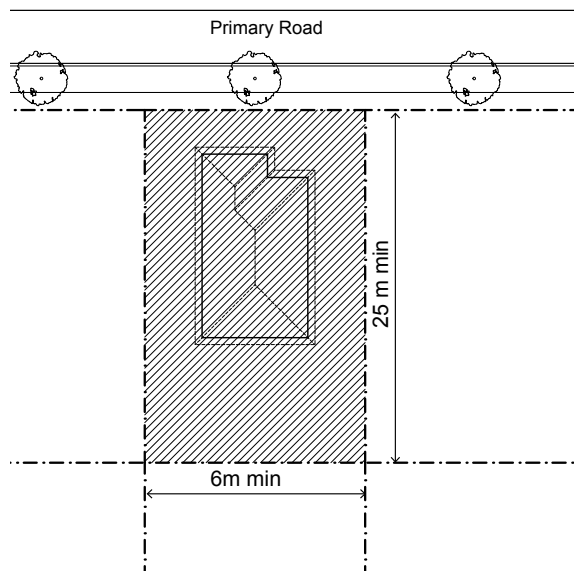
- in a residential zone – R1 General Residential, R2 Low Density Residential, R3 Medium Density Residential, R4 High Density Residential, and RU5 Village;
- has been granted subdivision consent;
- a minimum of 6 metres wide measured at the building line (as defined by the State Policy);
- a minimum of 25 metres lot depth from the frontage to a primary road to the rear lot boundary;
- a minimum lot size of 200 m<sup>2</sup>.

All of the above requirements need to be met in order to use the Greenfield Housing Code. They are illustrated in the following **Figures 4, 5 and 6**.



**Figure 3:** Brighton Lakes, Moorebank (source: Mirvac)

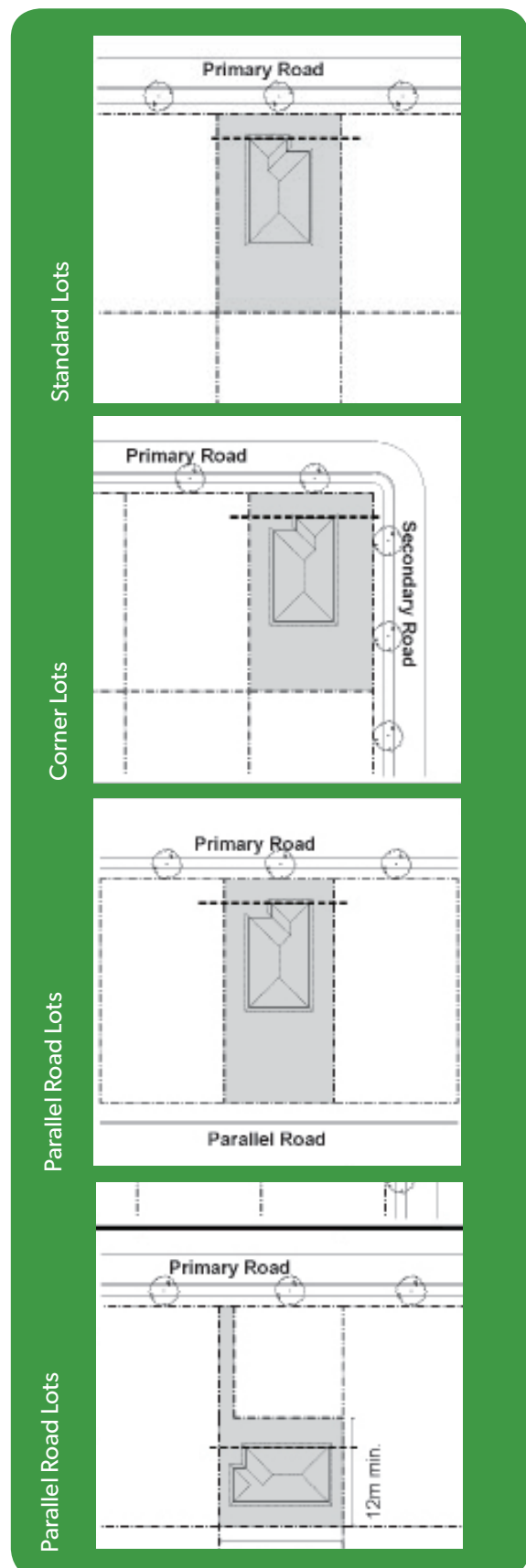
**Figure 4** below illustrates the minimum dimensions for a lot to be applicable under the Greenfield Housing Code.



**Figure 4:** Minimum dimensions for applicable lots

The Greenfield Housing Code would apply to standard lots, corner lots, parallel lots and battle-axe lots as currently defined under the draft Housing Code. These are illustrated in **Figure 5** adjacent and are listed as follows:

- standard lots - with one frontage to a primary road;
- corner lots - with one frontage to a primary road and a second frontage to a secondary road;
- parallel road lots - with one frontage to a primary road and a second frontage to a parallel road;
- and
- battle-axe lots - with driveway access only to a primary road.



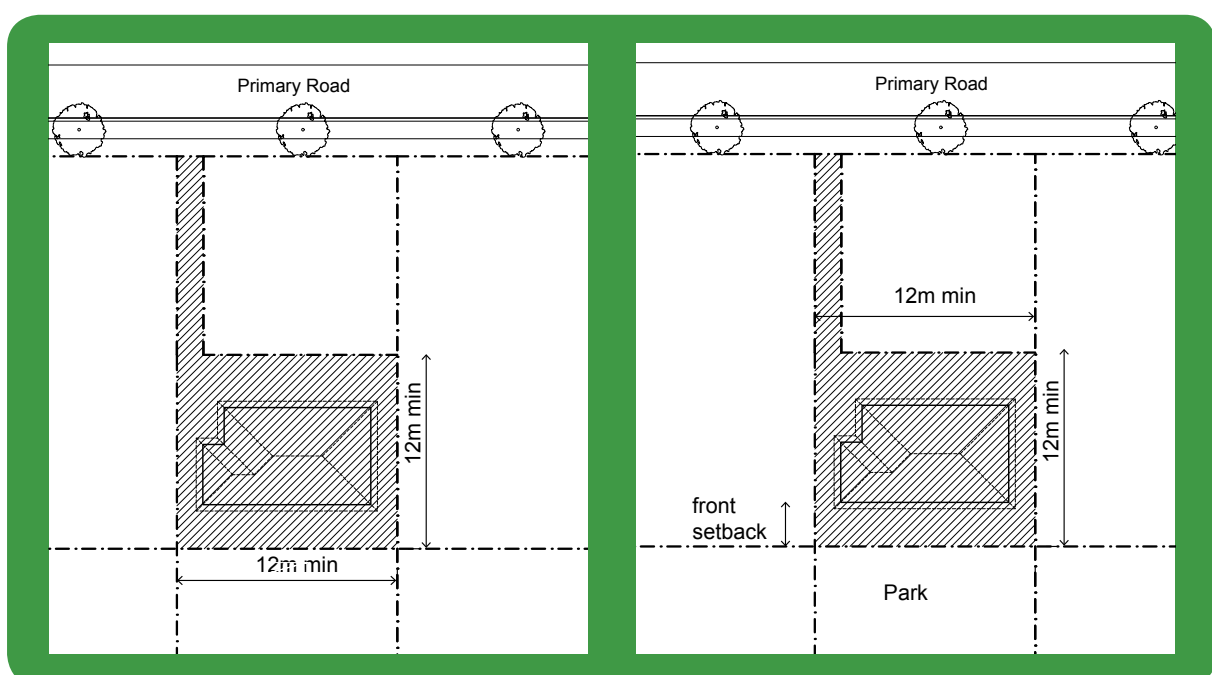
**Figure 5:** Four different lot conditions

While battle-axe lots are not common in new release areas, they are proposed to be included in the Greenfield Housing Code. There are some circumstances where battle-axe lots occur in new release areas, including lots which directly front public land such as a park and irregular shaped land parcels.

The same controls are proposed to apply to battle-axe lots. Determining the orientation of setbacks is the key difference as there is usually no frontage to a primary road. The primary lot boundary (the boundary where the front setback controls apply) is defined for battle-axe lots as:

- the boundary that adjoins a public road (excepting the boundary of a battle-axe access handle) or land reserved or otherwise identified for public recreation, or public infrastructure; and
- where there is no frontage as described above, the boundary closest to the primary street from which the property gains vehicular access (excluding the boundary of any part of the lot that is an access handle).

**Figure 6** below illustrates the required minimum dimensions for a battle-axe lot.



**Figure 6:** Minimum dimensions for battle-axe blocks



### Alterations and additions

The Code would also apply to alterations and additions, allowing changes to houses in new release areas to be carried out as complying development. To remove any future uncertainty, it is important that the same development standards apply to any alterations or additions to houses that are constructed in accordance with the Code.

### Secondary dwellings

Secondary dwellings in greenfield areas are intended to be carried out in greenfield areas under the *State Environmental Planning Policy (Affordable Rental Housing) 2009* (Affordable Housing SEPP). These secondary dwelling controls are currently proposed to be transferred to the Codes SEPP.

### Bushfire and flood prone land

The same conditions and requirements for development on bushfire prone land and flood control lots under the draft Housing Code would apply to complying development under the Greenfield Housing Code. These clauses provide additional requirements for siting and construction of development for lots that are bushfire prone or identified as a flood control lot by the local council.



**Figure 7:** Brighton Lakes, Moorebank (source: Mirvac)



## 2.2 Proposed Structure of the Greenfield Housing Code

To address stakeholder concerns that the Codes SEPP is complex to use and understand, the Department will simplify the structure, language and standards that apply to greenfield areas and align these standards with the development controls of the Growth Centres SEPP and DCPs.

The controls are proposed to be presented based on lot widths. There are 4 proposed categories of lot widths. All primary controls would be set out in a table format with accompanying diagrams that illustrate how the controls apply to lots with different configurations.

This structure is different to how the controls are presented in the draft Housing Code, which is intentional given the unique nature of greenfield areas, where lot width and depth are more relevant to housetype designs. The Code will be simpler to use in greenfield areas if controls are based on lot dimensions, rather than lot area.

The development standards for the Greenfield Housing Code are intended to be divided into the following lot width bands:

- lots that are from 6 metres wide to 7 metres wide;
- lots that are greater than 7 metres wide to 10 metres wide;
- lots that are wider than 10 metres to 15 metres wide; and
- lots that are wider than 15 metres.

The general structure for the Greenfield Housing Code aligns with the proposed divisions as in the draft Housing Code.

The structure of the proposed Greenfield Housing Code is listed as follows:

**Division 1** - sets requirements for Complying Development under this Code.

**Division 2** - sets out development standards for new dwelling houses and attached development (such as balconies and attached garages).

**Division 3** - sets out development standards for detached development (such as detached garages and carports).

**Division 4** - contains similar development standards for associated works and standard conditions for complying development in Greenfield Housing Code.



## 2.3 The intent of the proposed development standards

The development standards in the proposed Greenfield Code are divided under the three design quality principles of Built Form, Landscape and Amenity. Standards under these three principles establish a complying building envelope which ensures good levels of amenity are achieved.

Controls are proposed to be set based primarily on the width of the lot at the front building line (the front setback). Standards such as landscape area and upper level site coverage, which control the amount of development on the lot, are based on the lot area.

The development standards have been formed based on the standards contained within both the Simplified Housing Code and the Growth Centres DCP. The aim is to simplify the standards so that they are easier to use. This simplification includes both the number of the standards to be incorporated and the way in which they will be presented in the Code.

### Built Form Development Standards

The proposed built form standards (refer to Tables 1, 2 and 3) include:

- maximum building height;
- maximum upper level site coverage;
- minimum front setback (including minimum front garage setback);
- minimum side setback (single and double storey and corner lots);
- minimum rear setback (single and double storey)
- maximum rear garage height;
- minimum rear garage setbacks;
- maximum rear garage width;
- maximum garage door width; and
- maximum driveway width.

The combination of building height, setbacks and articulation zones are the most effective way to establish good streetscape outcomes and ensure

appropriate built form, amenity, privacy and environmental outcomes within lots and dwellings.

Front and rear setbacks ensure good relationships to street and neighbouring properties. Side setbacks contribute further to amenity in terms of privacy and solar access and are intended to ensure a good built form outcome. Upper level setbacks and an upper level site coverage ensure the bulk and scale of the dwelling is appropriate and allow for good solar access to rear gardens and habitable rooms.

### Landscape Development Standards

Environmental benefits provided by increased landscaped areas include climate change mitigation, carbon storage and sequestration, air and water pollution mitigation, better drainage and soil protection.

Increased vegetation on a block by block basis will also contribute to soil formation, biodiversity habitats for species as well as oxygen production, with very clear benefits in relation to visual amenity, landscape and sense of place.

The proposed landscape standards (refer to Table 4) include:

- minimum landscape area (including minimum requirements within front setback); and
- provision of a tree to the front and rear garden

Landscape development standards control the amount of landscape area that is required on a lot. This ensures that there is adequate area for deep soil planting and facilitates tree planting within front and rear gardens. This improves the conditions discussed within the Background Paper of hotter temperatures (particularly experienced in Western Sydney) by providing shade.

This standard, along with the setback standards (Built Form) limit the building footprint on the site and the overall site coverage.

In addition to this, the requirement of a tree to the front and rear garden benefits the urban environment, in relation to air quality, climate and biodiversity. They also contribute to the streetscape and improve the experience of pedestrians.

### **Amenity Development Standards**

The proposed amenity development standards (refer Table 5) include:

- no windows and doors to be located within a wall that is less than 900mm from a boundary;
- minimum ceiling height; and
- maximum depth of habitable room from a window.

Amenity development standards ensure adequate levels of amenity to both the proposed dwelling and its relationship with adjoining dwellings including solar access, daylight access and privacy. These in turn help to facilitate good dwelling layouts.

The following section (section 2.4) illustrates the proposed standards, and how they differ from the Housing Code and the Growth Centres DCP. It also illustrates how are to be presented in a simpler form, with standards grouped under key headings.



**Figure 8:** Brighton Lakes, Moorebank (source: Mirvac)

## 2.4 Comparison of the Standards

	Draft Housing Code	Growth Centres DCP	Proposed Greenfield Code
BUILT FORM	Building Height	Building Height	Building Height
	Gross Floor Area		
		Site coverage (ground & upper)	Site coverage (upper only)
	Front setbacks	Front setbacks	Setbacks including front , rear and side
	Rear setbacks	Rear setbacks	
	Side Setbacks	Side Setbacks	
	Corner Setbacks	Corner Setbacks	
	Rear garage setbacks	Rear garage setbacks	
	Front garage setbacks	Front garage setbacks	Articulation including garage setback and garage width
	Front garage	Front garage	
LANDSCAPE	Articulation zone	Articulation zone	
	Landscaped Area	Landscaped Area	Landscaped Area including tree to front and rear garden
AMENITY		Principle Private Open Space	
	Privacy screens		Privacy screens
		Solar access	Maximum depth of habitable rooms
			Ceiling heights (attics)

**Figure 9:** Comparison of the Standards



## 2.5 The Proposed Development Standards

**Table 1 – Summary of proposed Built form standards**

Control	Lot width (measured at front setback line)			
	6m to 7m wide	>7m to 10m	>10m to 15m	More than 15m
<b>Maximum Building Height (dwelling)</b>	8.5m	8.5m	8.5m	8.5m
<b>Site coverage</b>	Upper level - no more than 50% of lot area	Upper level - no more than 40% of lot area	Upper level - no more than 35% of lot area	Upper level - no more than 30% of lot area
<b>Minimum front setback</b>	4.5 metres (to front building façade); 3m to articulation zone;	4.5m (to front building façade); 3m to articulation zone;	4.5 m (to front building façade); 3m to articulation zone;	4.5 m (to front building façade); 3m to articulation zone;
<b>Minimum front garage setback</b>	N/A (rear garages only)	5.5 m	5.5 m	5.5 m
<b>Minimum side setback (ground level)</b>	Side A:0m Side B:0m	Side A:0m Side B:0.9m	Side A:0m Side B:0.9m	Side A:0.9m Side B:0.9m
<b>Minimum side setback (upper level)</b>	Side A:1.5m Side B:0m	Side A:1.5m Side B:0.9m	Side A:1.5m Side B:0.9m	Side A:1.5m Side B:0.9m
<b>Maximum built to boundary wall for all development on site</b>	20m or 50% of lot depth (which ever is the lessor). The remainder setback along the boundary is 0.9m	15m or 50% of lot depth (which ever is the lessor)	11m or 50% of lot depth (which ever is the lessor)	n/a
<b>Minimum rear setback (single storey)</b>	3m	3m	3m	3m
<b>Minimum rear setback (double storey)</b>	6m	6m	6m	6m
<b>Corner lots - Minimum secondary street side setback</b>	1m	2m	2m	2m

Side boundary A and side boundary B are nominated by the applicant or nominated on the plan of subdivision / precinct plan. Where the boundaries are nominated by the applicant the following criteria must be applied:

- a) where the adjoining development is built to the boundary this boundary is to be nominated as Side A,
- b) where the adjoining development is setback less than 1.5m from the boundary but not built to the boundary, this boundary is to be nominated as Side B,
- c) where there is adjoining development only on one side, the other side is to be nominated the alternate
- d) a corner lot has two side boundaries and no rear boundary

**Table 2 – Additional controls for rear garages**

<b>Lot width (measured at front setback line)</b>				
<b>Control</b>	<i>6m to 7m wide</i>	<i>&gt;7m to 10m</i>	<i>&gt;10m to 15m</i>	<i>More than 15m</i>
<b>Maximum Building Height (dwelling)</b>	3.3m	3.3m	3.3m	3.3m
<b>Minimum side setback</b>	0m on both sides for a max. length of 6.5m	0m on one side for a max. length of 6.5m 0.9m on one side	0m on one side for a max. length of 6.5m	0m on one side for a max. length of 6.5m
<b>Minimum rear garage setback (to lane)</b>	0m	0m	0m for a maximum length along rear boundary of 6.5m	0m for a maximum length along rear boundary of 9 metres

**Table 3 – Additional controls for front garages**

<b>Lot width (measured at front setback line)</b>				
<b>Control</b>	<i>6m to 7m wide</i>	<i>&gt;7m to 10m</i>	<i>&gt;10m to 15m</i>	<i>More than 15m</i>
<b>Maximum garage door width (at the front of the property)</b>	N/A (rear loaded garages only)	7-9m: Single 3.2m 10m: Double 6m (to 2 storey dwellings only)	Double - 6m	50% of the façade width to a maximum of 7.2m
<b>Maximum driveway width (at the front property boundary)</b>	N/A (rear loaded garages only)	3.0m	4.8m (double) 3.0m (single)	4.8m
<b>Maximum garage door width (access from secondary road only)</b>	7.2m max	7.2m max	7.2m max	7.2m max

**Table 4 – Landscape Controls**

<b>Lot width (measured at front setback line)</b>				
<b>Control</b>	<i>6m to 7m wide</i>	<i>&gt;7m to 10m</i>	<i>&gt;10m to 15m</i>	<i>More than 15m</i>
<b>Landscaped area (min. 1.5m wide)</b>	Lot area 200-300m <sup>2</sup> :15% of lot area >300m <sup>2</sup> :50% of lot area minus 100m <sup>2</sup>	Lot area 200-300m <sup>2</sup> :15% of lot area >300m <sup>2</sup> :50% of lot area minus 100m <sup>2</sup>	Lot area 200-300m <sup>2</sup> :15% of lot area >300m <sup>2</sup> :50% of lot area minus 100m <sup>2</sup>	Lot area 200-300m <sup>2</sup> :15% of lot area >300m <sup>2</sup> :50% of lot area minus 100m <sup>2</sup>
<b>Landscaped area (min. 1.5m wide) within front setback</b>	75% of area of the front setback (excluding articulation elements)	75% of area of the front setback (excluding articulation elements)	50% of area of the front setback (excluding articulation elements)	50% of area of the front setback (excluding articulation elements)
<b>Provision of tree</b>	Tree to front garden (min. 3-5m mature height) Tree to rear garden (min. 8-10m mature height)	Tree to front garden (min. 3-5m mature height) Tree to rear garden (min. 8-10m mature height)	Tree to front garden (min. 3-5m mature height) Tree to rear garden (min. 8-10m mature height)	Tree to front garden (min. 3-5m mature height) Tree to rear garden (min. 8-10m mature height)

**Table 5 – Amenity Controls**

<b>Lot width (measured at front setback line)</b>				
<b>Control</b>	<i>6m to 7m wide</i>	<i>&gt;7m to 10m</i>	<i>&gt;10m to 15m</i>	<i>More than 15m</i>
<b>Windows, doors and other openings</b>	No windows, doors or other openings in any wall that is less than 900mm from a boundary	No windows, doors or other openings in any wall that is less than 900mm from a boundary	No windows, doors or other openings in any wall that is less than 900mm from a boundary	No windows, doors or other openings in any wall that is less than 900mm from a boundary
<b>Minimum ceiling heights*</b>	Living rooms - 2.7m Habitable attics - 2.4m for at least two-thirds of the floor area of the room	Living rooms - 2.7m Habitable attics - 2.4m for at least two-thirds of the floor area of the room	Living rooms - 2.7m Habitable attics - 2.4m for at least two-thirds of the floor area of the room	Living rooms - 2.7m Habitable attics - 2.4m for at least two-thirds of the floor area of the room
<b>Maximum depth of habitable room from primary window</b>	6m	6m	6m	6m

\*When calculating the area of a room in an attic, any part where the ceiling height is less than 1.8m is not counted. For alterations and additions, existing ceiling heights can be retained.

**Figures 10 and 11** on the following pages illustrate the indicative intent of the standards.

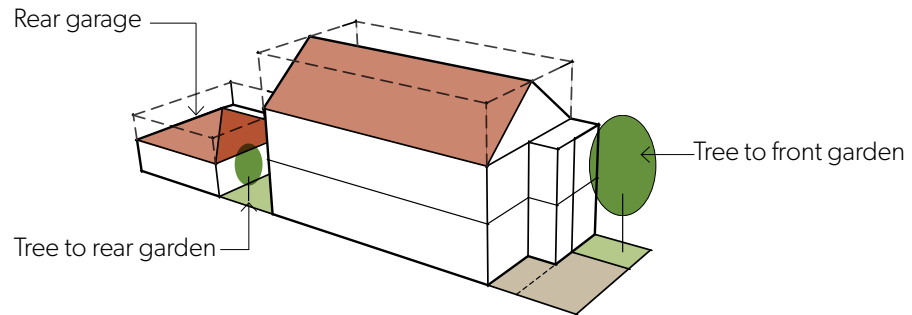


**Figure 10:** Indicative proposed standards



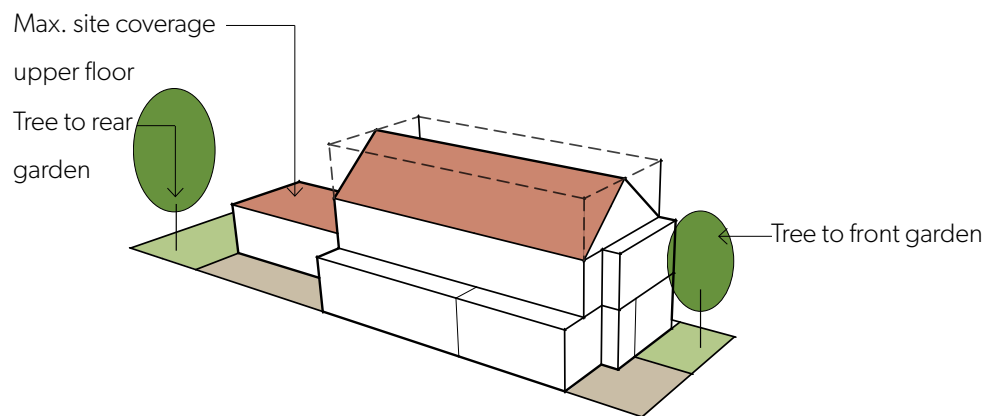
**Lot Width**

**6-7m**



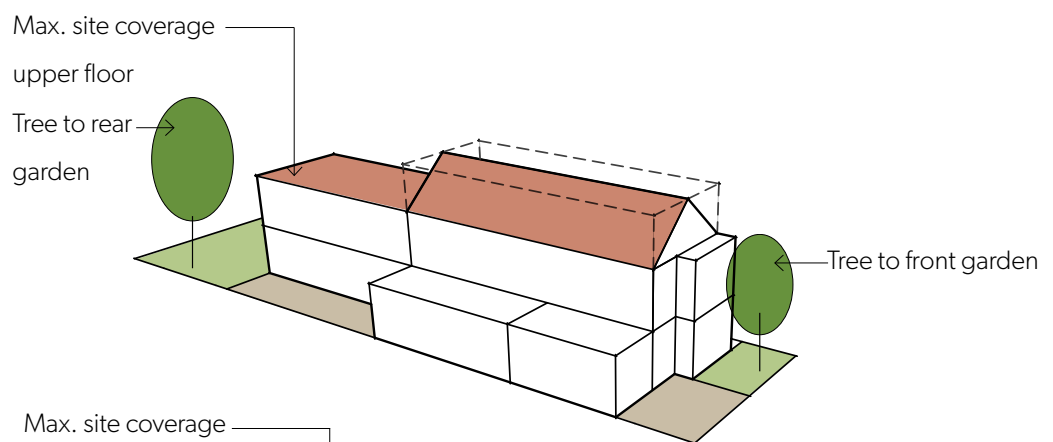
**Lot Width**

**>7-10m**



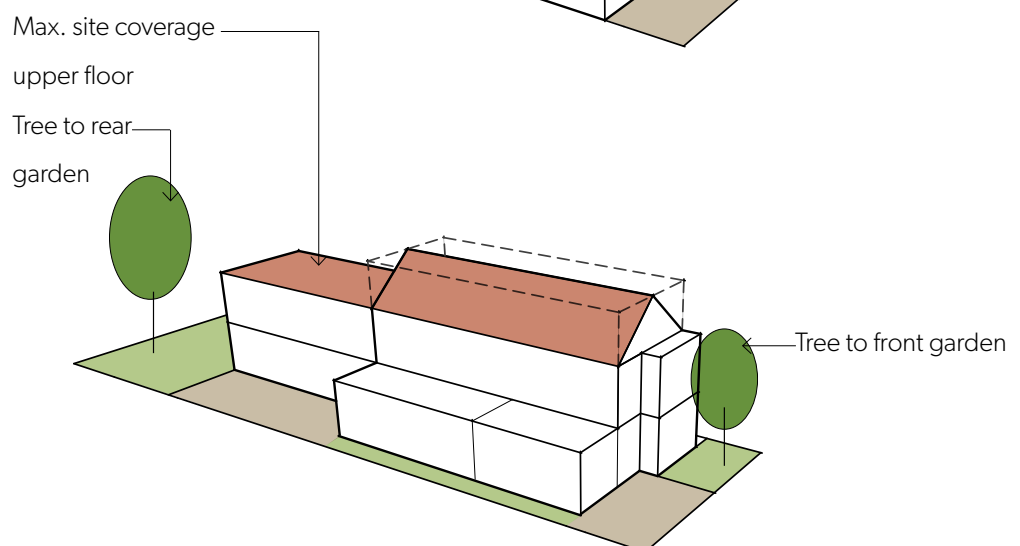
**Lot Width**

**>10-15m**



**Lot Width**

**>15m**



**Figure 11:** 3D indicative views

## 2.6 Other Development Standards

Other development standards contained in the draft Simplified Housing Code that address ancillary issues are proposed to be included in the Greenfield Housing Code. Some of these standards, such as requirements for storm water drainage collection and disposal, and requirements for protection of adjoining walls, could be standard conditions for complying development.

Requirements for setbacks from protected trees are typically not an issue when a house is first constructed in a new subdivision, as trees that are retained are normally located on public land. However, this provision is to be included in the Greenfield Housing Code to capture any situations where there are protected trees adjacent to a lot on which complying development is proposed.

## 2.7 Standard conditions of approval

It is proposed that the standard conditions of approval for complying development under the Greenfield Housing Code will include those current standard conditions of approval under the draft Housing Code and additional conditions specific to greenfield areas. The following is a summary of some of the proposed conditions of approval.

### Construction Waste

The Department has received feedback that in certain greenfield areas of Sydney, councils are regularly required to clean up construction waste materials that have been illegally dumped. It has been estimated by one council that the cost to dispose of illegally dumped construction materials was over \$200,000 in the 2015 financial year. This figure covered the cost of disposal and not any staff time to investigate the illegal dumping.

To address this issue, the Department proposes a condition requiring the preparation of a waste management plan before construction starts and evidence of tipping receipts from a waste facility for all construction waste associated with that CDC issued under the Greenfield Code.

Currently the Industrial and Commercial Code in the State Policy includes conditions of consent requiring that a waste management plan and tipping receipts are presented to the certifier for industrial and commercial developments approved as complying development. However, this requirement does not apply to residential developments.



**Figure 12:** Brighton Lakes, Moorebank (source: Mirvac)

In addition, the following requirements are proposed for the management of construction waste for residential complying developments approved under the new Greenfield Housing Code:

- a garbage receptacle must be provided at the work site before works begin and must be maintained until the works are completed. It must have a tight fitting lid and be suitable for the reception of food scraps and papers;
- identify potential reuse/recycling opportunities of excess construction materials;
- retain all records demonstrating lawful disposal of waste and keep them readily accessible for inspection by regulatory authorities;
- any run-off and erosion control measures required must be maintained within their operating capacity until the completion of the works to prevent debris escaping from the site into drainage systems, waterways, adjoining properties and roads;
- all vehicles entering or leaving the site must have their loads covered;
- all vehicles, before leaving the site, must be cleaned of dirt, sand and other materials, to avoid tracking these materials onto public roads;
- at the completion of the works, the work site must be left clear of waste and debris.

### **Deferred Commencement**

The Background Paper *Review of Complying Development in Greenfield Areas* is exhibited alongside this EIE, and discusses in detail barriers to the take-up of complying development in greenfield areas with recommended options on how to overcome these barriers.

One identified barrier is the inability to obtain a CDC prior to lot registration – unlike a DA which can be granted subject to a condition that the consent is not to operate until the applicant satisfies the consent authority as to any matter specified in that condition (for example, lot registration). An applicant wishing to build a house in a new release area under the DA pathway could obtain consent prior to lot registration – unlike a CDC.

A way to overcome this barrier is to allow CDCs to be issued for a new dwelling on the condition that the lot is legally created prior to the completion of the development. A deferred commencement condition is where the consent does not operate until the applicant satisfies the consent authority that the lot has been registered. A CDC can be issued with a deferred commencement condition, specifying that construction of the dwelling cannot commence until the lot (as identified on the approved plan of subdivision) is registered.

Further detail on this proposal is set out in the Background Paper, which is exhibited alongside this EIE.



## ***Have Your Say***

The NSW Government is committed to delivering housing to meet the needs of a growing population in NSW. The State Policy provides a fast-tracked approval pathway for delivering new housing as complying development.

Feedback and discussion is encouraged to further explore the Department's proposed options in respect to overcoming barriers to the take-up of complying development in greenfield areas.

All feedback and submissions will be reviewed and the results will be used to inform any changes to the State Policy or other legislation.

Further information on the Policy can be found on the Department's website

**[www.planning.nsw.gov.au](http://www.planning.nsw.gov.au)**

and the Department's NSW Planning Portal at

**[www.planningportal.nsw.gov.au](http://www.planningportal.nsw.gov.au)**

or by calling **1300 305 695**.

If you cannot make a submission online,  
you can write to us via:

Email: **[codes@planning.nsw.gov.au](mailto:codes@planning.nsw.gov.au)**

Mail: Director, Codes and Approval Pathways

Department of Planning and Environment

GPO Box 39 Sydney NSW 2001





*To have your say on Explanation of Intended Effect  
visit [planning.nsw.gov.au/proposals](https://planning.nsw.gov.au/proposals)*