



HOUSING INDUSTRY ASSOCIATION



**Reforming Building & Planning Laws**

Submission to the

Department of Planning & Environment

**Review of Complying Development in Greenfield Areas**

7 July 2017



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## ABOUT THE HOUSING INDUSTRY ASSOCIATION

The Housing Industry Association (HIA) is Australia's only national industry association representing the interests of the residential building industry, including new home builders, renovators, trade contractors, land developers, related building professionals, and suppliers and manufacturers of building products.

As the voice of the industry, HIA represents some 40,000 member businesses throughout Australia. The residential building industry includes land development, detached home construction, home renovations, low/medium-density housing, high-rise apartment buildings and building product manufacturing.

HIA members comprise a diversity of residential builders, including the Housing 100 volume builders, small to medium builders and renovators, residential developers, trade contractors, major building product manufacturers and suppliers and consultants to the industry. HIA members construct over 85 per cent of the nation's new building stock.

HIA exists to service the businesses it represents, lobby for the best possible business environment for the building industry and to encourage a responsible and quality driven, affordable residential building development industry. HIA's mission is to:

*“promote policies and provide services which enhance our members’ business practices, products and profitability, consistent with the highest standards of professional and commercial conduct.”*

The residential building industry is one of Australia's most dynamic, innovative and efficient service industries and is a key driver of the Australian economy. The residential building industry has a wide reach into manufacturing, supply, and retail sectors.

The aggregate residential industry contribution to the Australian economy is over \$150 billion per annum, with over one million employees in building and construction, tens of thousands of small businesses, and over 200,000 sub-contractors reliant on the industry for their livelihood.

HIA develops and advocates policy on behalf of members to further advance new home building and renovating, enabling members to provide affordable and appropriate housing to the growing Australian population. New policy is generated through a grassroots process that starts with local and regional committees before progressing to the National Policy Congress by which time it has passed through almost 1,000 sets of hands.

Policy development is supported by an ongoing process of collecting and analysing data, forecasting, and providing industry data and insights for members, the general public and on a contract basis.

The association operates offices in 23 centres around the nation providing a wide range of advocacy, business support including services and products to members, technical and compliance advice, training services, contracts and stationary, industry awards for excellence, and member only discounts on goods and services.

## 1.0 INTRODUCTION

The Housing Industry Association (HIA) welcomes the opportunity to provide comments on the current review of complying development greenfield areas. Recent figures provided by the Department of Planning and Environment estimate that complying development currently only accounts for just over 30% of all development approvals in NSW. Initiatives which seek to promote greater use of complying development are needed to ensure sufficient numbers of new dwellings are delivered each year and that NSW can return to a more practical arrangement whereby single dwellings on residential land only require a single approval in the majority of circumstances.

Removing impediments and barriers to increased take up of complying development and developing a new code specifically aimed at greenfield sites could unlock the delivery of much needed housing construction and achieve this objective.

It is important to establish what is included in the definition of “greenfield” within the context of this review. It is also important that it be as broad as possible to take into account all urban release areas, including those in the metropolitan area (Sydney, Newcastle and Wollongong) and any release area on the fringe of towns in regional NSW. There should be a clearly defined method of identifying where the proposed greenfield code applies whether that be by published maps or reference to areas specified in environmental planning instruments (EPIs) or local government areas.

HIA has reviewed the Background Paper and Explanation of Intended Effects released for public comment and provides the following comments for consideration.

## 2.0 REVIEW OF COMPLYING DEVELOPMENT IN GREENFIELD AREAS

### 2.1 OVERCOMING BARRIERS TO HOUSING APPROVALS

The removal of barriers impeding the take up of complying development in greenfield areas is a positive step and long overdue. Currently certain aspects of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Codes SEPP) have created unintended impediments which limit greater use of complying development certificates (CDC). Those matters include:

#### 2.1.1 Unregistered Land

The current restriction which prevents a complying development certificate (CDC) being issued upon an unregistered lot is a major barrier to more use of complying development. HIA has previously raised this issue with the Department of Planning and Environment and welcomes action being taken to overcome the obstacle.

We understand the draft Planning Bill (*Environmental Planning and Assessment Amendment Bill 2017*) released in January 2017 proposed allowing a CDC to be issued subject to a deferred commencement condition. HIA made a submission on the draft Planning Bill and welcomed the changes described above.

Along with a change to the legislation to permit a CDC to be issued subject to a deferred commencement condition, there needs to be improvement in the process for subdivision approvals, to ensure that information on services (water, sewer, power, gas, etc) for the site are shown accurately on any land sales material and the subdivision development consent.



Buildings are finding with many clients, they buy an unregistered block of land and are given little more than a diagram with the site boundaries and a lot number. If designers and builders are required to accurately prepared a dwelling house submission for unregistered land, it is essential that all information regarding the servicing of the land, such as gully pits, light poles, Telstra pits, NBN conduits, sewer service pits, driveway positions are accurately shown on land sale information to enable informed decisions to be made for the house design and build. This may require changes to legislation beyond the Environmental Planning and Assessment Act 1979 such as the Conveyancing Act 1919 to pick up information provided to purchasers following DA approval of the land subdivision.

Currently builders are only able to accurately determine all of the site conditions once the land is registered. Even on subdivisions where the developer has included information on services, their final location may change from their planned position. This can result in the client/builder will need to change the design to reflect the true location of services and the resulting additional expense being incurred with amending plans and modifying the approval. These changes can be costly and result poor design outcomes that could be avoided if there was better control around the planning of the land subdivision and the quality and accuracy of the information provided to the land purchaser at the time of land sale.

It is important to make sure that this proposal is implemented in a way that will support its appropriate use in all local government areas. An education and awareness program to inform accredited certifiers of this change should be provided to further encourage take up of the new arrangements.

### **2.1.2 Easements**

It is becoming increasingly common for side walls of houses to be built along the side boundaries (zero lot boundary walls) in greenfield areas. During the land subdivision process, many local council will impose a condition requiring the creation of a maintenance easement. The presence of a maintenance easement can be an impediment to the use of complying development because building over a registered easement is generally prohibited. This has been identified as an issue in greenfield areas where it is proposed to construct eaves and roof guttering within the area of a maintenance easement.

It is appropriate to allow for the erection of building elements, such as roof eaves and gutters, within the boundary of a registered easement, where such works do not have a negative impact upon the right being provided by the easement. The Department needs to have a clear position whether building works will have an impact on a registered easement. For example on a 2-storey dwelling the eaves, fascia and gutter would be acceptable and for a 1-storey dwelling the fascia and gutter would be acceptable. We do not support local councils being given the discretion to determine if works will have a negative impact as that causes considerable uncertainty depending on the differing views held between councils. Requiring a single dwelling to move to the development application pathway is considered unreasonable. Most councils that implement the Growth Centres DCP as part of a development application will allow eaves and gutters within maintenance easements when adequately justified.

Allowing eaves to overhang over a maintenance easement unlocks a valuable section of the site to be built upon. Depending on the length of the home and depth of the site an additional 10m<sup>2</sup> to 15m<sup>2</sup> of additional building area can become available from not having to allow extra setback to accommodate eaves and gutters. As house sites continue to get smaller, every square metre is extremely valuable. Therefore, having the ability to make the dwelling design wider creates the opportunity for better design outcomes.

### **2.1.3 Roads Act approvals**

Before a CDC can be issued, the Codes SEPP requires that written consent from the relevant roads authority be obtained in respect of the building of any kerb, crossover or driveway. In most cases, the local council is the relevant roads authority. The requirement to obtain this approval can be a factor delaying CDC approvals.

The Background Paper has proposed a two-stage process for driveway approvals comprising of an in-principle concept approval of the driveway location as part of the subdivision DA consent and then a final consent from the roads authority could be given after the CDC is obtained and prior to construction commencing. This relies upon the location of the driveway being known at the time of subdivision approval which is unreasonable in the majority of circumstances where no owner exists and no home design has been selected.

Early identification of issues associated with the driveway approval through an in-principle approval is appropriate. Developing improved DA assessment processes during the subdivision phase of development is required. The location of driveways should only be a relevant issue on properties adjacent to corners or where traffic impediments (such as service pits and the like) exist. This is not relevant for the majority of standard allotments and is unnecessarily complicating the complying development process.

### **2.1.4 Local Government Act Approvals (s68 approvals for onsite effluent disposal systems)**

Residential development on unsewered land which requires the construction and operation of an effluent disposal system may require an approval under Section 68 of the Local Government Act 1993. The Codes SEPP currently requires an approval to be obtained before a CDC is issued. As some local councils do not issue Section 68 approvals on vacant land as they prefer to link this with the known location of a dwelling house instead asking for a development application to be submitted.

It is understood the Department is currently giving consideration to a range of options intended to overcome this impediment. The options include it issuing policy guidance such as a circular or practice note addressing this issue, also a possible amendment to the Codes SEPP to make it clear that a CDC can be issued in affected greenfield areas and lastly, a possible legislative amendment to make it clear that Section 68 approvals can be issued on vacant land. It is imperative that a clearly workable solution to this impediment is required. The Department should fully consider all the proposed options and determine the most appropriate response to allow improved certainty for the housing construction industry.

Permitting construction via the issue of a CDC in effect provides greater certainty for the assessment of the section 68 application. This is because it allows an appropriate location of the system to be determined having regard to the location of the dwelling. This issue may be better managed with a standard condition of consent for dwellings which require a system, to not permit an Occupation Certificate to be issued until approval and installation has been completed.

### **2.1.5 Interpretation of Development Standards**

It is understood the Department has received feedback from stakeholders indicating that complying development standards are difficult to interpret and not designed for the unique circumstances of building in greenfield areas. Another matter raised has been the standards contained within the Codes SEPP do not reflect particular design features preferable in greenfield areas. In response the Department has developed a new draft Greenfield Housing Code with simplified standards to assist in ease of use and interpretation.



The development of a complying development code specifically aimed at greenfield areas is appropriate and warranted. The code should provide for increased use of complying development in new land release areas which have differing issues to be considered in comparison to existing infill areas. Further comments on the intention to prepare a greenfield housing code are provided in Section 3.0.

## **2.2 SUBDIVISION AND MASTER-PLAN GUIDELINES**

Chapter 3 of the Background Paper proposes the development of guidelines for improved subdivision design. It is understood the guidelines are intended to be used by local councils to establish development controls for greenfield areas and assist with the assessment of applications for new subdivisions. Developers would also be encouraged to use the guidelines when they prepare estate masterplans which is appropriate so that their plans are consistent with the outcomes expected by the council.

It is stated the overall purpose of the guidelines would be to inform residential-led masterplans to create attractive, sustainable communities, with a distinct character and high level of residential amenity. The types of controls identified as being suitable for adoption include appreciation of natural assets and character, built form, open space network and residential amenity. The intent of the proposed subdivision and masterplan guidelines has merit and may improve the quality of residential neighbourhoods being delivered. It is important that there is adequate inbuilt scope to respond to local conditions and circumstances and recognition that a one size fits all response is generally not appropriate.

An indicative structure has been provided consisting of five key considerations:

- identifying the context
- shaping the natural and urban structure
- creating connections
- providing amenity
- detailing the place

The development of clear advice to local councils and the residential development industry on best practice subdivision design is a positive outcome. Councils should be encouraged to adopt the strategies within the guidelines into their development control plans to ensure good design becomes a part of the council's planning policies. It is appropriate that an applicant who adopts the guidelines for the design and master-planning of a new subdivision be rewarded with fast tracking of the subdivision DA to receive a much faster approval.

## **2.3 GREEN GRID**

The Greater Sydney Commission has sought to deliver the Green Grid as an interconnected network of open spaces. Reference to the Green Grid includes open spaces, parks, bushland, natural areas, waterway corridors and tree-lined streetscapes. The environmental and social values of expanding the Green Grid into new urban release areas are acknowledged. Draft District Plans released by the Greater Sydney Commission in late 2016 provided a set of six objectives for the Green Grid. These objectives have been reflected in the proposed Greenfield Subdivision Guidelines and Draft Greenfield Housing Code.

HIA supports efforts which encourage homeowners to establish landscaping around their homes and to maintain landscaped areas to provide an appropriate level of residential amenity. Common sense has shown that landscaping and tree planting should be determined based on the constraints of the land, including the size of the front and rear gardens, as well as the individual preference of the owner/occupier. Plant selection needs to reflect local climatic conditions and soil type. Any policy decisions regarding these issues should be determined by local councils as part of the preparation of their Development Control Plans. This can assist in

avoiding the application of principles that inadvertently limit home design on lots zoned for residential buildings and ensures that complying development continues to be an option for the approval of those dwellings.

In respect to obligations to provide trees and other landscaping in new greenfield areas, it is appropriate that planning documents should acknowledge responsibility for planting trees and shrubs rests with the homeowner and not be tied to the builder or developer. It is also essential for affordability that any requirements for landscaping not be lined to Occupation Certificates and are managed in other ways.

### **3.0 PROPOSED GREENFIELD HOUSING CODE**

Chapter 4 of the Background Paper and Explanation of Intended Effects provide extensive details regarding the proposed Greenfield Housing Code which is intended to be included within the Codes SEPP.

#### **3.1 TRANSITION PERIOD**

The Background Paper indicates that a three (3) year transition period between the application of existing policies for residential complying development and the introduction of the new Greenfield Housing Code is proposed. This transition period is appropriate as it will allow adequate time for the industry to update their products and design to meet the changed planning rules.

#### **3.2 WHERE THE CODE WILL APPLY**

It is understood the Department of Planning and Environment is seeking feedback on where the proposed Greenfield Housing Code should apply. The Background Paper has identified land defined as a residential release area under Clause 136AB of the Environmental Planning and Assessment Regulation 2000. This includes urban release areas identified in a council's local environmental plan, land subject to the State Environmental Planning Policy (Sydney Region Growth Centres) 2006 and certain areas affected by State Environmental Planning Policy (State Significant Precincts) 2005.

Often large residential subdivisions in outer ring areas will take place in established areas (such as the redevelopment of the 38 hectare former Ashlar golf course at Blacktown). This is an example of a site which could be considered to be either "greenfield" or "brownfield". The site has potential to be developed for up to 1,200 new houses. The planning rules contained in the proposed Greenfield Housing Code should be considered appropriate for this type of large urban redevelopment despite the land being some distance from the semi-urban fringe. It could be argued that the proposed Greenfield Code could be applied to smaller subdivisions of around 20-30 lots where mainly detached housing is proposed.

It is understood that the areas where the Greenfield Housing Code will apply are intended to be mapped. The content of the maps should be made available within the Planning Portal so that the areas where the Code applies can be easily accessed by local councils, accredited certifiers, other stakeholders and the general public.

The proposed Code should apply within as many new land release areas as possible so that its benefits can be experienced widely. There should be sufficient flexibility provided in the Codes SEPP to quickly update the list of areas where the Code applies. It is imperative that new locations where the Code will apply are either identified by either an amendment to the Codes SEPP itself, updated mapping or through an Order made by the Minister.



## ***Neighbour Notification***

The Background Paper indicates that the pre-approval notification (cl 130AB) and pre-construction notification (cl 136AB) will continue to apply to development carried out under the proposed Code. It is noted the Environmental Planning and Assessment Regulation 2000 has specific procedures for Residential Release Areas. It is appropriate to clarify the notification procedures in the Code to remove any doubt regarding whether those procedures will apply to areas where the Greenfield Housing Code applies. As most greenfield areas start unoccupied it would make sense to exempt CDC applications from neighbor notification for the initial house construction. The notification requirement could then take effect for any subsequent alterations and additions.

### **3.3 SIMPLIFIED DEVELOPMENT STANDARDS**

The Background Paper states the development standards for the proposed Greenfield Housing Code has been simplified by grouping them using accepted design quality principles. The three groupings proposed are: built form, landscape and amenity. In much the same way the Simplified Housing Code adopted plain English and explanatory diagrams, the proposed Greenfield Housing Code will also reduce the complexity associated to aid understanding and provide opportunities for expanding its use.

Figure 23 of the Background Paper provides a graphical representation of the grouping of development standards under the three key design principles and Figure 24 compares the development standards applying to the Simplified Housing Code and the Growth Centres DCP. These illustrate the considerable removal of complexity that is proposed. The approach of stripping back the planning rules and the use of diagrams to improve the explanation of the development standards will be beneficial. It is important to ensure that the simplified planning rules can be easily interpreted and applied.

### **3.4 COMPARISON WITH THE DRAFT HOUSING CODE**

The Background Paper provides a summary of the key differences between the proposed Greenfield Housing Code and the Simplified Housing Code (to take effect on 17 July 2017). A detailed comparison of the planning rules which apply using these other codes is provided in Appendix 1.

In summary, the main difference is the determination of site coverage, front and side setback standards is now based using the lot width. This change is supported.

## **4.0 EXPLANATION OF INTENDED EFFECT**

The Explanation of Intended Effect (EIE) has been released to accompany the Background Paper and provides an outline the proposed amendments to the Codes SEPP. The EIE indicates that the proposed Greenfield Housing Code will fit into the existing Codes SEPP. Existing land based exclusions and general requirements that apply to the General Housing Code (Part 3) will continue.

## 4.1 SUMMARY OF KEY ELEMENTS

The EIE states the key elements of the proposed Greenfield Housing Code to be as follows (and HIA response to each):

Consistency of rear setbacks with those permitted under the Growth Centres DCP and the Codes SEPP	Supported
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	Supported
Simplification of side setbacks to ground and upper levels	Supported
Allowance of a double garage on lots that are 10m wide and over (permissible to two storey houses only on 10m wide lots)	Supported
The criteria for determining different development standards will be based on lot width rather than lot area, which is more relevant to greenfield areas.	Supported
A maximum depth of 6m for any habitable room from a window.	Not supported. This issue is adequately addressed by the National Construction Code (NCC) and using planning regulation to override National building regulations is not supported.
A requirement to plant a tree in the front and rear setbacks of the lot.	Supported – homeowner to provide and not linked to issue of an Occupation Certificate.

## 4.2 WHERE THE CODE WILL APPLY

The EIE indicates that the Greenfield Housing Code will 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.	Supported.
Has been granted subdivision consent	Supported
A minimum of 6m wide measured at the building line (as defined by the State policy)	Supported.
A minimum of 25m lot depth from the frontage to a primary road to the rear lot boundary.	Not supported. Land is being subdivided with lot depths of between 20m and 23m. The Code should acknowledge and apply to these lot depths. If the

	intention is to prohibit battle axe lots from the application of the Code, this should be explicitly stated rather than using a dimension. For lots that directly front a road, the lot depth should not be relevant if a minimum lot size combined with a minimum width is applied.
A minimum lot size of 200m <sup>2</sup>	Supported.

### 4.3 ALTERATIONS AND ADDITIONS

The EIE states the Greenfield Housing Code will apply to alterations and additions, which will allow changes to houses in new release areas, to be carried out as complying development. It is appropriate that the complying development pathway is available to undertake alterations and additions to houses constructed in accordance with the Greenfield Housing Code.

### 4.4 SECONDARY DWELLINGS

The EIE states that planning rules for secondary dwellings in greenfield areas are proposed to be transferred from the State Environmental Planning Policy (Affordable Rental Housing) 2009 into the Codes SEPP. This action is considered appropriate.

### 4.5 BUSHFIRE AND FLOOD PRONE LAND

The EIE states that the current requirements for development on bushfire prone land and flood control lots under the General Housing Code would apply to complying development under the proposed Greenfield Housing Code. It is appropriate that the same rules apply between these two codes.

## 4.6 PROPOSED DEVELOPMENT STANDARDS

The following table outlines the main numerical development standards contained in the proposed Greenfield Housing Code:

### *Built form standards*

<b>Maximum building height</b> 8.5m	Supported
<b>Site coverage</b> Amount is based on lot width 6m-7m: upper level not more than 50% of lot area. 7m-10m: upper level not more than 40% of lot area. 10m-15m: upper level not more than 35% of lot area. 15m+ : upper level not more than 30% of lot area.	Supported
<b>Minimum front setback</b> 4.5m to front façade and 3m to articulation zone regardless of lot width.	Generally supported. The Department should consider a further reduced front setback (possibly 3m) on narrow lots, being lots less than 10m wide.
<b>Minimum side setback (ground level)</b> 6m-7m: Side A 0m / Side B 0m 7m-10m: Side A 0m / Side B 0.9m 10m-15m: Side A 0m / Side B 0.9m 15m+ : Side A 0.9m / Side B 0.9m.	Supported. The EIE states on page 15 how to identify Side Boundary A and Side Boundary A. This should be consistent with the same method used in the Growth Centres DCP where a practitioner will have previous experience applying this concept. If not consistent, then the Greenfield code needs to be reviewed to ensure the controls in the table are consistent with the basis of determining the two boundaries.
<b>Minimum side setback (upper level)</b> 6m-7m: Side A 1.5m / Side B 0m 7m-10m: Side A 1.5m / Side B 0.9m 10m-15m: Side A 1.5m / Side B 0.9m 15m+: Side A 1.5m / Side B 0.9m	This requirement is generally supported, however, the Department should consider reducing the side boundary setback (Side A) to 1.2m on lots less than 10m wide.  The diagrams provided in Figure 11 showing the upper floor side setback do not correspond to

	the numerical distances provided in Table 1.
<b>Maximum built to boundary wall for all development on site.</b> 6m-7m: 20m (or 50% of lot depth) 7m-10m: 15m (or 50% of lot depth) 10m-15m: 11m (or 50% of lot depth) 15m+: n/a	Supported.
<b>Minimum rear setback (single storey)</b> 6-7m: 3m 7m-10m: 3m 10m-15m: 3m 15m+: 3m	Supported.
<b>Minimum rear setback (double storey)</b> 6m-7m: 6m 7m-10m: 6m 10m-15m: 6m 15m+: 6m	Supported.

### **Landscape Controls**

<b>Landscaped Area (min. 1.5m wide)</b> Lot area 200-300m <sup>2</sup> : 15% of lot area Lot area 300m <sup>2</sup> and above: 50% of lot area minus 100m <sup>2</sup>	The requirement in the current General Housing Code is 10%. It is noted the Simplified Housing Code due to commence on 17 July 2017 will increase this requirement to 15%. We support these being consistent but question whether the 15% requirement is reasonable. HIA recommends this be reviewed.
<b>Landscaped Area (min 1.5m wide) within front setback</b> 6m-7m: 75% of area of front setback (excluding articulation elements) 7m-10m: 75% of area of front setback (excluding articulation elements) 10m-15m: 50% of area of front setback (excluding articulation elements) 15m+: 50% of front setback (excluding articulation elements).	It is difficult to see how this can be achieved on smaller lots unless the 75% landscaped area includes driveways and paths. The Department should review this requirement having regard to what can be practically achieved.
<b>Provision of a Tree</b> Tree to front garden (min 3-5m mature height) Tree to rear garden (min 8-10m mature height).	Supported. This should be the responsibility of the homeowner. We would not



	support this being enforced as an obligation to be satisfied prior to Occupation Certificate. Other means of ensuring compliance should be considered.
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### ***Amenity controls***

<b><i>Windows, doors and other openings</i></b> No windows, doors or other openings in any wall that is less than 900m from a boundary.	Supported.
<b><i>Minimum ceiling heights</i></b> Living rooms – 2.7m Habitable attics – 2.4m for at least 2/3 of the floor area of the room	Not supported. Ceilings in living rooms should be consistent with the National Construction Code (Building Code of Australia). Requiring 2.7m ceilings will impose additional costs to the construction.
<b><i>Maximum depth of habitable room from primary window</i></b> 6m	Supported.

## **4.7 STANDARD CONDITIONS OF APPROVAL**

The EIE states that the standard conditions of approval for complying development under the General Housing Code will also apply under the Greenfield Housing Code. This is appropriate response. It is proposed that additional conditions specific to greenfield areas will also be applied. These include:

### ***Construction Waste***

The Department, responding to feedback from local councils in Sydney, intends to impose a condition dealing with the dumping of illegal waste. It is proposed that the condition require the preparation of a waste management plan before construction starts and the provision of evidence of tipping receipts from a waste facility for all construction waste associated with a CDC issued under the Greenfield Code.

Other requirements that will be applied include a garbage receptacle must be provided at the work site before works commence and must be maintained until works are completed. There are also requirements relating to the transportation of waste from building sites and the installation of erosion and sediment controls.

Where these new requirements transfer conditions from the Growth Centres DCP into the Codes SEPP, they would at face value be appropriate responses to issues with building sites. The requirement for evidence of tipping receipts to be provided will add further red tape and cost to the construction process.

As illegal dumping is managed under the Protection of the Environment Operations Act 1997 and the NSW Environment Protection Authority (EPA) has a strategy dealing with illegal dumping, it would seem to be

appropriate to deal with that issue through that legislation. More importantly, given illegal dumping has little to do with the property that is subject of the approval, the application of waste management plans is an unnecessary addition to the process and is not supported.

Waste management on-site is most appropriately managed with the use of a State-code setting out the principles for appropriate on-site waste management, combined with a prescribed condition which requires all residential building sites to apply the relevant techniques for the management of on-site waste. This approach allows either the PCA or the local council to effectively enforce non-compliance without the need for additional costly plans and the collection of receipts which serve no purpose in the real management of on-site waste.

A similar approach should be taken for the management of sediment and erosion controls on all building sites.

### ***Deferred Commencement***

As mentioned in the Background Paper, it is proposed to allow a CDC to be issued subject to a condition that the certificate does not operate until a condition has been satisfied. This is intended to overcome the current limitation whereby a CDC cannot be issued on unregistered lots. The proposal to permit a CDC to be issued subject to a deferred commencement condition is welcomed. Although there is no certainty that accredited certifiers will find the ability to issue deferred commencement CDCs fully overcomes the risks associated with unregistered land (such as uncertain boundaries), it will give the accredited certifiers a choice about whether to proceed and issue a deferred commencement CDC or wait until the lot has been registered.

## **5.0 CONCLUSION**

The proposed introduction of a complying development code for greenfield areas is supported. There is a need for planning guidelines tailored specifically for the unique circumstances found in urban release areas. This code represents an opportunity to further reduce red tape and delays, potentially improving housing affordability.

An outcome of the review must be an increased use of complying development in greenfield areas. It is appropriate that the current bias towards the Growth Centre DCP against the General Housing Code will be eliminated. This will avoid the current situation where homeowners choose a development application over a complying development certificate because of more generous development standards. Increased use of complying development should reduce the costs incurred and delays experienced by homeowners and builders.

HIA looks forward to continuing to work with the Department to finalise the proposed Greenfield Housing Code during 2017 and supporting its implementation across NSW in the future.