



Planning &
Environment

Explanation of Intended Effect

*Housekeeping
Amendments to
the State
Environmental
Planning Policy
(Exempt and
Complying
Development
Codes) 2008*

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Introduction

This Explanation of Intended Effect (**EIE**) outlines the proposed housekeeping amendments to the *State Environmental Planning Policy (Exempt and Complying Development) 2008* (**State Policy**).

The proposed amendments reflect feedback the Department has received from stakeholders including councils, accredited certifiers, industry and the community. They support the NSW Government's efforts to encourage faster development approvals through the implementation of streamlined exempt and complying development in NSW. The proposed housekeeping amendments to the State Policy will improve its clarity, performance and implementation.

Section 3.30 of the *Environmental Planning and Assessment Act 1979* (**Act**) requires that the Minister, before recommending the making of an environmental planning instrument by the Governor, is 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 3.30 of the Act and forms an explanation of the intended effect of the proposed amendments to the State Policy.

Proposed housekeeping amendment: State Environmental Planning Policy (Exempt and Complying Development Codes) 2008

The proposed amendments to the *State Environmental Planning Policy (Exempt and Complying Development) 2008* (State Policy) have been designed to improve the implementation and performance of the policy and clarify its intent.

The proposed amendments:

- introduce new definitions to provide clarity and certainty as to development permissible under the State Policy;
- clarify the policy intent in the case of minor inconsistencies and refine certain clauses and provisions to ensure they achieve the policy intent;
- improve existing diagrams to ensure they adequately reflect the development standards; and
- correct minor drafting errors including incorrect clause references.

The proposed amendments reflect feedback the Department has received from stakeholders including councils, accredited certifiers, industry and the community. They support the NSW Government's efforts to encourage faster development approvals through the implementation of streamlined exempt and complying development in NSW, and contributes to the Premier's Priority for faster housing approvals (90% of housing applications approved within 40 days).

Exempt and Complying Development

The State Policy sets a consistent State-wide approach for development that does not require planning or building approval (**exempt development**) and straightforward development that can be carried out under a fast tracked approval pathway (**complying development**).

Both exempt and complying development must comply with specific development standards. These standards address matters like the location, scale and form of development on a site, and seek to protect the amenity of surrounding development. These controls provide certainty about what type of development is allowed under the policy. To be exempt or complying development, the development must comply with all the relevant development standards in the State Policy.

Complying development is generally of a larger scale than exempt development and require assessment to ensure they meet the relevant development standards. Consequently, complying development must be approved by a council or accredited certifier through the grant of a complying development certificate (**CDC**) to ensure the development meets all technical and safety standards. A CDC 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.

Exempt and complying development also provides certainty to the local community about the type and scale of developments that are acceptable in their local area. Redirecting more straightforward development to the complying development pathway also means that council assessment resources are freed up to deal with more complex development assessments and strategic planning.

A key target for the NSW Government is to reduce red tape for small businesses and homeowners by improving development approval processes. Increasing the number of housing developments that are approved without the need for detailed assessment enables the Government to deliver greater housing supply and diversity to accommodate the needs of the growing population.

The Government is committed to increasing the take up of exempt and complying development in NSW to reduce red tape, and reduce costs and delays for home owners and businesses. Approvals under the fast-track complying development pathway can be issued in as little as 20 days. Homeowners can save up to \$15,000 when building a house under complying development.

Streamlining the State Policy

The new simplified Housing Code commenced on the 14 July 2017. It sets out clear planning rules for complying development including new one and two storey homes, renovations and extensions.

The new Housing Code was drafted in plain English so that it is clear and simple to understand. It also includes easy to follow diagrams to make it easier for homeowners, certifiers and councils to understand the rules for complying development.

Planning rules for building a home under the fast-track complying development approval pathway have also been simplified, making it easier, cheaper and faster for homeowners to get an approval.

Under the new Housing Code, development can be carried out as complying development where the relevant development standards in the State Policy are met. These standards have been developed following extensive consultation with the community, councils and industry, to ensure impacts on neighbours are minimised and include:

- maximum building height;
- maximum gross floor area;
- minimum setbacks from roads and boundaries;
- minimum landscaped area; and
- privacy requirements.

Benefits of the new Housing Code include:

- simple and clear planning rules, with easy to follow diagrams;
- time and money savings for home owners;
- cutting red tape;
- more certainty for certifiers and councils when assessing proposals; and
- faster and more efficient housing delivery.

Recent stakeholder feedback

The Department receives ongoing feedback from stakeholders about the performance and implementation of the State Policy.

Input into the review and continued development of the Policy is received through consultation with stakeholders including the Department's Complying Development Expert Panel (CDEP). The CDEP comprises representatives from councils, the Building Professional's Board and key stakeholders including the Association of Accredited Certifiers, the Australian Institute of Building Surveyors, Local Government NSW, the Property Council of NSW and industry.

The Department also receives feedback on the performance of the State Policy directly from applicants, the community, councils and accredited certifiers via the Department's exempt and complying development telephone hotline and email address. This feedback assists the Department in identifying common policy issues and possible improvements to the State Policy.

Objectives and intended outcomes of the amendment

The proposed amendments to the State Policy addresses a number of minor housekeeping matters related to the application of the exempt and complying development policy. It is anticipated that the proposed amendments will make the policy easier to understand and implement by:

- clarifying a number of existing defined terms and introducing new definitions;
- clarify the policy intent in the case of minor inconsistencies and refine certain clauses and provisions to ensure they achieve the policy intent;
- improve existing diagrams to ensure they adequately reflect the development standards; and
- correcting minor clause references and typographic errors.

The proposed amendment is part of the ongoing policy review of the State Policy to improve its performance and make it easier to use and understand.

Explanation of the proposed amendments to the State Policy

The proposed housekeeping amendment comprises over 50 individual amendments to the State Policy.

The following tables summarise the general amendments and provide examples of key proposed amendments. The issue, aims, effects and rationale is described and explained for each of the proposed amendments.

Table 1– General amendments to the State Policy

Policy Issue	Affected Code	Draft Policy Amendment	Reason for Draft Amendment
Minor amendments and errors	The whole policy	The Amending SEPP will introduce minor amendments to improve operation of the policy and to clarify the policy intent of certain provisions. It will also correct drafting errors, update existing diagrams and incorporate new diagrams.	These minor amendments are aimed at improving the implementation of the policy. They will clarify policy intent and ensure the efficient operation of the policy. Amendments will also correct errors such as grammatical mistakes, incorrect references and other drafting errors and fix/incorporate new diagrams to improve clarity based on stakeholder feedback.
Deferred commencement	Residential Complying Development Codes	For each residential complying development code, insert a new condition for deferred commencement. Clarify that where a CDC is issued before a lot is legally created, the CDC will not operate until the lot is legally created. The applicant must satisfy the council or certifier who issued the certificate, that the lot legally created is identical to the lot on which the CDC relates.	Legislative changes to the <i>Environmental Planning & Assessment Act 1979 (NSW)</i> which commenced on 1 March 2018, provide for deferred commencement conditions to be imposed on CDCs. This amendment will give effect to this legislative update to allow for a CDC to be granted before a lot is legally created. The CDC will remain inoperative until the condition is satisfied and the lot is legally created.

Table 2 – Examples of proposed amendments to the State Policy

Policy Issue	Affected Code	Draft Policy Amendment	Reason for Draft Amendment
<i>Proposed changes to defined terms</i>			
Floor area	Exempt Development Codes	Amend all definitions of “floor area” to apply to Part 2 of the State Policy	The amendment will result in the application of the definition of “floor area” to the Exempt Development Codes (Part 2 of the State Policy). This amendment clarifies that the definition of “floor area” applies to development carried out under the Exempt Development Codes.
Gross Floor Area Definition	The whole policy	Amend the SEPP to clarify when calculating GFA, that the maximum size of the “1 car parking space” that can be excluded for each dwelling (excluding secondary dwellings) is 18m ² .	To make it clear how much floor space can be excluded from the GFA calculation for each car space. It is proposed to amend the State Policy to include an upper limit of 18m ² for the “1 car parking space” in this definition. This amendment responds to stakeholder feedback that this is currently unclear.
Outbuildings	The whole policy	Amend the definition of “outbuilding” in clause 1.5 by replacing “class 10a building under the BCA” with “non-habitable building”	The definition of ‘outbuildings’ will refer to ‘non-habitable’ buildings rather than to building classification as not all buildings listed as an ‘outbuilding’ are class 10a.
Environmentally sensitive land	The whole policy	Insert a definition into clause 1.5 that “environmentally sensitive land” is ‘land identified within an environmental planning instrument as	To clarify that ‘environmentally sensitive land’ is land identified as ‘environmentally sensitive’ in an environmental planning instrument.

Policy Issue	Affected Code	Draft Policy Amendment	Reason for Draft Amendment
		environmentally sensitive land’.	
Pathways	The whole policy	Insert a definition into clause 1.5 for ‘pathway’ as ‘a path but does not include a stairway, stairs or the like’	This amendment will clarify that construction of a pathway as exempt development does not include a stairway.
Stairway	The whole policy	Insert a definition into clause 1.5 for ‘stairway as ‘a series or flight of stairs’.	This amendment will introduce a definition for a stairway as distinct from a pathway. The definition will align with the BCA definition for a flight of stairs as being a constant series of risers including winders that is not interrupted by a landing.
Cabanas	General Exempt Development Code	Include a definition for “cabana” and clarify that a cabana carried out as exempt development cannot include shower or bathroom facilities or a kitchenette or cooking facilities.	The amendment will introduce a definition for “cabana”. Where water or sewage connection is required, the amendment will require this “cabana” to be carried out as complying development to ensure that a technical assessment of the proposal is undertaken.
Floor Space	General Exempt Development Codes	Amend cl 2.30AB(b) and (c) to replace the term “floor space” with “floor area”	Because “floor space” is not a defined term in the State Policy, the amendment proposes to replace the term “floor space” with the defined term “floor area”.

Proposed policy refinements and clarifications

Calculating lot area	The whole policy	Amend the State Policy to include a provision clarifying that the lot area is the whole area of the lot, and includes the area of any land on the	This amendment seeks to clearly outline that the relevant lot area is the area of the whole lot including any land subject to a land-based
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Policy Issue	Affected Code	Draft Policy Amendment	Reason for Draft Amendment
		lot that may be subject to a land-based exclusion.	exclusion (such as Class 1 or 2 Acid Sulfate Soil).
Acid Sulfate Soil	Complying Development	Insert a Note to clarify that development is permitted on those parts of the lot that are not class 1 or 2.	Currently, complying development is prohibited from being carried out on land identified on an Acid Sulfate Soils Map as being class 1 or 2. This amendment proposes to clarify that complying development is not allowed on those parts of the lot which are class 1 or 2 Acid Sulfate Soil, but is allowed on any other parts of the lot that are not class 1 or 2.
Contaminated Land	Complying Development	Amend subclause 1.19(1)(e) to include a new subclause: land that is significantly contaminated land within the meaning of the <i>Contaminated Land Management Act 1997 (CLM Act)</i> .	Currently, complying development on land defined as significantly contaminated land under the CLM Act is only prohibited where the development is proposed to be carried out under the Commercial and Industrial Code. It is proposed to expand this exclusion to prohibit complying development being carried out under all of the complying development Codes.
Development near rail corridors	Complying Development	Insert a condition for complying development that where the development is in or adjacent to a rail corridor and is for the purposes of residential accommodation, appropriate measures should be taken to ensure that the following LAeq levels are not exceeded: <ul style="list-style-type: none"> - in any bedroom – 35dB(A) at any time 	This amendment responds to stakeholder concerns regarding the impact of rail noise and vibration on development near rail corridors. It is proposed to replicate noise criteria contained in clause 87(3) of the <i>State Environmental Planning Policy (Infrastructure) 2007</i> which sets controls for residential development near rail corridors

Policy Issue	Affected Code	Draft Policy Amendment	Reason for Draft Amendment
		<p>between 10:00pm and 7:00am</p> <ul style="list-style-type: none"> - anywhere else in the residential accommodation (other than a garage, kitchen, bathroom or hallway) – 40dB(A) at any time. 	where development consent is required.
Landslide hazard	Complying Development	Amend clauses 1.19(1)(f) and 1.19(5)(g) to include ‘a landslide hazard’.	This amendment responds to stakeholder feedback and restricts complying development where land is identified by an environmental planning instrument (EPI) as being affected by a landslide hazard.
Mosman temporary exclusion	Complying Development	Amend clause 1.19(3)(a) to extend the time in which clause 1.19(2) applies to land in the local government area of Mosman.	This amendment extends the current expiry date for the exclusion of certain land in the Mosman LGA from the application of the State Policy for a further two years until 30 November 2020.
Street libraries	Exempt Development	<p>Amend Part 2 (Exempt Development Codes) to insert a new Subdivision to permit street libraries as exempt development if:</p> <ul style="list-style-type: none"> - it has a footprint of no more than 1.5m², and - is not higher than 1.5m above ground level (existing), and - is structurally adequate with adequate footings or attachments, and 	This amendment will permit street libraries to be carried out as exempt development provided all relevant development standards are met.

Policy Issue	Affected Code	Draft Policy Amendment	Reason for Draft Amendment
		<ul style="list-style-type: none"> - any footings are not more than 600mm below ground level (existing) and located clear of any underground utility services, and - is not constructed or installed in or on an item listed as a heritage item or proposed for listing as a draft heritage item, and - it is not constructed or installed on a public road (including the nature strip and a footpath). <p>A note will be inserted to clarify that a public road is defined in the <i>Roads Act 1993</i> and <i>Road Rules 2014</i> to include the road, the nature strip and any adjacent footpath.</p>	
Stairway	General Exempt Development Code	<p>Insert a new subdivision into Part 2 Division 1 to permit the construction or installation of stairs or a stairway as exempt development if:</p> <ul style="list-style-type: none"> - the stairs or stairway is constructed in association with a balcony, deck, patio, pergola, terrace, veranda or be located directly adjacent to and 	<p>This amendment responds to stakeholder feedback and will permit the construction of a stairway provided the relevant development standards are met. These development standards have been designed to reduce impact to neighbour amenity and privacy.</p>

Policy Issue	Affected Code	Draft Policy Amendment	Reason for Draft Amendment
		<p>serve an external access door to a dwelling</p> <ul style="list-style-type: none"> - the height of the topmost step is not more than 1m above ground level (existing) - it is located at least 450mm from the side or rear boundaries - it does not interfere with the functioning of existing drainage fixtures or the natural surface flow of water - it is constructed of non-combustible material if located on bush fire prone land and is less than 5m from any dwelling - it is located in the rear yard if constructed or installed on or in a heritage item or draft heritage item or in a heritage conservation area or draft heritage conservation area 	
Signage on cranes	Advertising and Signage Exempt Development Codes	<p>Amend Part 2 Division 3 to insert a new subdivision which allows signage on cranes to be exempt development if:</p> <ul style="list-style-type: none"> - the size of the sign is no greater than 600mm in height and 2m in width 	<p>In response to stakeholder concerns regarding the lack of controls regarding signage on cranes, this amendment will introduce development standards for the erection of signage on cranes as exempt development.</p>

Policy Issue	Affected Code	Draft Policy Amendment	Reason for Draft Amendment
		<ul style="list-style-type: none"> - the signage does not obstruct line of sight to traffic control signals, driveways or other critical road infrastructure - it does not contain reflective materials, colours and finishes - it does not incorporate sound, vibration, odour and other emissions - it does not contain or use flashing lights, electronically changeable messages, animated display, moving parts, simulated movements, complex displays that hold a drivers attention beyond 'glance appreciation', or displays resembling traffic signs or signals by use of colour, shape or words that can be construed as giving instruction to traffic - it is not illuminated - the signage shall contain only the name or logo of the construction company, builder, or developer, or crane operator and contact details. Third party advertising is not permitted. 	

Policy Issue	Affected Code	Draft Policy Amendment	Reason for Draft Amendment
Carport height	General Exempt Development Code	Amend clause 2.20(1)(c) to specify the maximum height of a carport attached to dwelling.	The amendment will clarify that to be exempt development, the maximum height of a carport, where it is attached to an existing single storey dwelling, is either 3m or the roof gutter line of the dwelling, whichever is lower.
Fences facing a public space	General Exempt Development Code	Amend clause 2.34 to require that any front boundary fence which faces a public space or walkway must also meet the requirements in subclause (2).	The current controls assume that houses face a primary road, however this is not always the case. This amendment will extend front boundary controls (maximum 1.2m height and openness for at least 20% of the area above 400mm above ground level) to situations where a house faces a public space, such as a public park or walkway.
Fences in E4 zones	General Exempt Development Code	Amend subdivision 17 to include E4 zones and subdivision 18 to exclude E4 zones.	Exempt fences in all environmental protection zones are required to have a maximum height of 1.8m and be of post and rail or post and wire construction. Stakeholder feedback has indicated that this is not appropriate for E4 Environmental Living zones which often accommodate residential development. This amendment will result in exempt development fence controls in E4 zones which are consistent with those for residential zones.

Policy Issue	Affected Code	Draft Policy Amendment	Reason for Draft Amendment
Safety of existing awnings	Exempt Development Codes Housing Code Rural Housing Code Commercial and Industrial Alterations Code	Introduce development standards requiring compliance with Section B of Volume 1 of the Building Code of Australia for existing awnings over public land.	To address safety concerns regarding awnings projecting over public space, this amendment will require certification by a structural engineer that existing awnings which project over public roads and footpaths comply with Section B of Volume 1 of the BCA wherever exempt or complying development works are being undertaken, regardless of whether the proposed works are to the awning or not.
Non-structural decking	General Exempt Development Code	Amend clause 2.53 to allow the replacement of non-structural decking as exempt development. Amend clause 2.54 to require the use of equivalent or improved quality materials when carrying out replacement of non-structural decking as exempt development.	This amendment identifies the replacement of non-structural decking, provided equivalent materials are used, as exempt development.
Playground equipment	General Exempt Development Code	Insert a Note in clause 2.57 that clarifies that playground equipment on private land refers to children's play equipment such as swings, slides, trampolines and the like, but does not include a skateboard ramp.	This amendment clarifies the type of playground equipment capable of being carried out as exempt development on private land.
Rainwater tanks (above	General Exempt	Amend development standards in clause 2.64 to	Stakeholder feedback has indicated that a 10m setback from

Policy Issue	Affected Code	Draft Policy Amendment	Reason for Draft Amendment
ground) in E4 Zones	Development Code	allow above ground rainwater tanks in E4 zones if they are located at least 900mm from each lot boundary.	each lot boundary is inappropriate for E4 zones. This amendment will introduce a lesser setback.
Tennis court fences	General Exempt Development Code	Change the title of Part 2 Division 1 Subdivision 39B from 'tennis courts' to 'tennis courts and tennis court fences'.	Tennis courts are currently permitted as exempt development, however this subdivision is silent as to whether tennis court fences are allowed. This amendment will clarify that tennis court fences are allowed as exempt development on lots of at least 1ha in a rural zone or a R5 zone provided they satisfy the relevant standards.
Illuminated Real Estate advertising	Advertising and Signage Exempt Development	Amend Division 2, Subdivision 12 Real Estate Signs to require that illuminated and electronic displays on private property: <ul style="list-style-type: none"> - do not exceed 200 candela/m² at nighttime, and 500 candela/m² at dawn or dusk; and - do not contain animated or video/movie style advertising or messages including live television, satellite, internet or similar broadcasts - dwell times for image display must not be less than 10 seconds for areas where the speed limit for passing 	This amendment will introduce development standards for electronic or illuminated displays that are on private property in response to stakeholder feedback that such displays may pose a distraction to drivers and pedestrians.

Policy Issue	Affected Code	Draft Policy Amendment	Reason for Draft Amendment
		<p>vehicles is below 80km/h and 25 seconds for areas where the speed limit is 80km/h and over.</p> <ul style="list-style-type: none"> - Any digital sign that is within 250m of a classified road and is visible from a school zone must be switched to a fixed display during school zone hours. 	
Temporary use	Temporary Uses and Structures Exempt Development Code	Amend clauses relating to temporary use in Part 2 Division 3 to clarify that a temporary use is exempt development where a temporary structure is constructed or installed as exempt development	The construction or installation of temporary structures for a specified use are expressly permitted as exempt development. Stakeholder feedback has indicated that it is unclear if the specified temporary use itself is exempt or not. This amendment will clarify that the relevant temporary use is also exempt development.
Complying Development carried out on single lot	Residential Codes	Insert a clause stating that a single dwelling cannot be built across multiple lots under complying development.	This amendment seeks to clarify that complying development may only take place on one lot. A dwelling that stretches across two or more lots cannot be carried out as complying development.
Exceptions to setbacks	Residential Codes	Amend clauses 3.10(14), 3.21(11) and 3A.19(a) to mitigate overshadowing and amenity impacts on public reserves from detached garages and detached studios.	Previously, the General Housing Code required detached garages and studios (previously defined as 'outbuildings') to be setback from public reserves. This was mistakenly omitted in the simplified Housing Code. To address this, an amendment is

Policy Issue	Affected Code	Draft Policy Amendment	Reason for Draft Amendment
			proposed to require detached garages and detached studios to also be setback 3m from public reserves.
Minimum setbacks	Residential Codes	Amend clauses relating to parallel road setbacks and public reserve setbacks (such as 3.10(12) and (14)) to clarify that they apply only to any “lesser” standard, rather than any “other” standard, for a setback.	This amendment will clarify that where there is a boundary to a parallel road or a public reserve, development specified must be setback at least 3m, despite any lesser setback standard. However, any larger setbacks, for example rear setbacks, will still apply.
Building Design	Housing Code	Amend clause 3.14(2) to clarify that only the window facing the primary or parallel road needs to be to a habitable room. The door facing the primary or parallel road does not need to be to a habitable room.	This minor amendment will clarify that a dwelling house must contain at least one window to a habitable room and one door at ground floor level facing the primary road or any parallel road. The door does not need to be to a habitable room and can be to a hallway or entryway. This amendment is in response to stakeholder feedback that the current provisions are unclear.
Carparking and access	Housing Code	Amend the table in clause 3.16(5) to address off street parking where the dwelling is located exactly 4.5m from the primary road.	The clause currently only provides for where the dwelling is less than and greater than 4.5m from the primary road. This is a minor amendment to clarify that where a dwelling house is located exactly 4.5m or more from the primary road, the off-street parking setback is at least 1m behind the building line.

Policy Issue	Affected Code	Draft Policy Amendment	Reason for Draft Amendment								
Swimming pool setbacks from secondary roads	Housing Code	Amend clause 3.28 to require the pool to be setback from a secondary road according to the following table: <table border="1"> <thead> <tr> <th><i>Lot size (m²)</i></th> <th><i>Secondary road setback</i></th> </tr> </thead> <tbody> <tr> <td>200 – 600m²</td> <td>2m</td> </tr> <tr> <td>>600 – 1500m²</td> <td>3m</td> </tr> <tr> <td>>1500m²</td> <td>5m</td> </tr> </tbody> </table>	<i>Lot size (m²)</i>	<i>Secondary road setback</i>	200 – 600m ²	2m	>600 – 1500m ²	3m	>1500m ²	5m	This amendment will align the secondary road setbacks for swimming pools with the secondary road setbacks for the dwelling house under the current Housing Code.
<i>Lot size (m²)</i>	<i>Secondary road setback</i>										
200 – 600m ²	2m										
>600 – 1500m ²	3m										
>1500m ²	5m										
Excavation in acid sulfate soil	Housing Code	Amend clause 3.30 to permit excavation exceeding 1m on land identified as class 3 or class 4 on an Acid Sulfate Soils Map where a qualified geotechnical engineer has certified that the development proposed is not on land affected by acid sulfate soil.	Excavation as complying development cannot currently exceed 1m on land identified as class 3 or class 4 on an Acid Sulfate Soils Map. Stakeholder feedback has indicated that these Maps may be inaccurate. It is proposed to allow deeper excavation where a qualified geotechnical engineer has certified that the land where the development is proposed is not affected by acid sulfate soil class 3 or class 4.								
“Cut and fill”	Housing Code	Amend clause 3.30(3) to clarify that "fill" includes fill contained within a drop edge beam, except where the fill is wholly contained within the footprint of the dwelling house, any	This amendment clarifies that “fill” under complying development includes fill contained within a drop edge beam. However, fill within a drop edge beam that is contained within the footprint of the dwelling house, any attached development or detached								

Policy Issue	Affected Code	Draft Policy Amendment	Reason for Draft Amendment
		attached development or detached development.	development will continue to be unlimited.
Protected trees	Housing Code	Omit the words 'on the lot' from clause 3.33(2).	The proposed amendment is required to ensure that dwelling houses, attached development and detached development are adequately setback from any protected tree on the lot and on an adjoining lot.
Internal Alterations to Residential Flat Buildings	Housing Alterations Code	Amend clause 4.2 to include a new development standard that internal alterations must not result in a change to the number of bedrooms within a residential flat building.	This amendment clarifies that internal alterations carried out as complying development must not change the number of bedrooms in an apartment.
Attic Dormers	Housing Alterations Code	Amend clause 4.6(2)(e) to ensure that the restrictions only apply if the dormer is facing the side or rear of the building.	This minor change will clarify that the restrictions in clause 4.6(2)(e) only apply where the dormer faces the side or rear of the building. Dormers are permitted at the front of a home without restriction.
Gym (recreation facility indoor)	Commercial and Industrial Alterations Code	Insert a new subclause 5.5(1)(m) to apply to <i>Recreation Facility (Indoor)</i>	Recreation facilities (indoor) are currently not allowed as a change of use under complying development, but are allowed as a first use. The proposed amendment will ensure that this type of development is also excluded from the operation of the complying development framework if it is a first use of premises. As a result, where the first use of a premises is intended

Policy Issue	Affected Code	Draft Policy Amendment	Reason for Draft Amendment
			to be a recreation facility (indoors), such as a gym, a DA is required. This responds to stakeholder concern that a recreation facility (indoors) may have sufficient noise and vibration impacts on neighbour amenity as to require a merit assessment.
Projecting wall signs	Commercial and Industrial Alterations Code	Amend clause 5.14 to insert a minimum height of 2.6m above footways as an additional development standard that must be met	At present there is no height limit for projecting wall signs above public roads (including footpaths). This amendment will impose a new standard that requires development to also comply with a height limit before it can be carried out as complying development. This is consistent with development controls for exempt development, and will help to minimise safety and amenity impacts.
Warehouse or distribution centres	Commercial and Industrial (New Buildings and Additions) Code	Amend clause 5A.4 to apply subclauses (b) and (c) to a warehouse or distribution centre	This amendment allows additions or external alterations to an existing building used for the purpose of a warehouse or distribution centre to be carried out under the Commercial and Industrial Code.
Contamination from demolition	Demolition Code	Amend clause 7.2(1) to clarify that demolition which poses a risk of contamination, it is not development for the purposes of this Code	This amendment will ensure that if demolition carries a risk of contamination, it cannot be carried out as complying development.

Policy Issue	Affected Code	Draft Policy Amendment	Reason for Draft Amendment
Wall on an adjoining lot	Demolition Code	Amend clause 7.2(2) to clarify that a professional engineer's report is required where the development involves the demolition or removal of a wall to a boundary that has a wall on an adjoining lot which is less than 900m from the boundary.	This amendment will clarify that where demolition of a wall near a side or rear boundary is adjacent to a wall on an adjoining lot within 900mm of the boundary, a professional engineer's report is required that details any necessary method of maintaining support.
Demolition	Demolition Code	Amend clause 7.1(1)(a) from a 'dwelling' to a 'dwelling house or secondary dwelling'.	This amendment will clarify policy intent that the demolition code only allows for the demolition of dwelling houses and secondary dwellings.
Demolition	Demolition Code	<p>Add a note to clause 7.2(4) that where a swimming pool has been removed, the fill used for the site must be:</p> <ul style="list-style-type: none"> - clean fill or virgin excavated natural material as defined in Part 3 of Schedule 1 of the <i>Protection of the Environment Operations Act 1997</i> - compacted consistent with the applicable guidelines for specification and testing of earthworks of the Australian Geomechanics Society (NSW) and Australian Standard AS 1289.0-2000 	This amendment will ensure that where a pool is demolished, appropriate measures will be taken to ensure that the fill used for the site is not contaminated and properly compacted.

Policy Issue	Affected Code	Draft Policy Amendment	Reason for Draft Amendment
Contamination discovered during works	Schedules 6, 8, 9	Insert a contamination condition into Schedules 6, 8 and 9 that provides that all works must be stopped immediately and the Environment Protection Authority and council notified if the land is found to be contaminated in the course of works.	This amendment will require works to stop where it is discovered that the land on which work is being carried out is contaminated. Notice of the contamination must also be given to the Environment Protection Authority and council.
Demolition	Schedule 9 Part 2	Amend Schedule 9, Part 2, Subclause 8 – Fill for the purposes of demolition must contain only virgin excavated natural material as defined in Part 3 of Schedule 1 of the <i>Protection of the Environment Operations Act 1997</i> .	This amendment will clarify that fill brought to the site for the purposes of the Demolition Code must only contain VENM fill. This is consistent with conditions relating to fill for other Codes.