

## Remedial building work – State Environmental Planning Policy (Exempt and Complying Development Codes) 2008

The purpose of this fact sheet is to provide assistance in understanding how the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Codes SEPP)* applies to remedial building work.

This factsheet provides **general information only**. The party for whom the remedial building works are being performed (such as an Owners Corporation) is ultimately responsible for assessing the nature of the remedial building work to be carried out, how the Codes SEPP applies to that work and the necessary compliance obligations.

---

### 1. Exempt development, Clause 1.16 Codes SEPP

To be exempt development for the purposes of the Codes SEPP, the works being carried out, *inter alia*:

- (a) *must meet the relevant fire safety requirements (refer to Footnote 1), and*
- (b) *must meet the relevant deemed-to-satisfy provisions of the Building Code of Australia, or if there are no such relevant provisions, must be structurally adequate, and*
- (c) *must not, if it relates to an existing building, cause the building to contravene the Building Code of Australia*

### 2. Remedial building work as ‘exempt development’ in the Codes SEPP

Remedial building work covers a wide range of repair and maintenance activities, such as waterproofing, re-tiling, concrete and masonry repairs, window replacement, lintel replacement, re-roofing, and framing member replacements.

**Minor building alterations are considered exempt development under the Codes SEPP if that work:**

- does not **permanently alter** the load bearing capacity of the building
- re-instates a building element to its **intended structural capacity** and does not reduce the structural adequacy of that building element
- does not change the original architecture or design intent ie. ‘like-for-like’
- poses minimal impact to the built environment.

Minor building alterations (internal)

**Subdivision 26 section 2.51 Minor building alterations (internal) in Part 2 Division 1 of the Codes SEPP** specifies a definitive list of repair, replacement and renovation works that can be considered minor internal building alterations under the Codes SEPP.

### Minor building alterations (external)

Subdivision 27 section 2.53 Minor building alterations (external) in **Part 2 Division 1 of the Codes SEPP** specifies works (including repair and replacement) that can be considered minor external non-structural building alterations under the Codes SEPP. Section 2.54 of the Codes SEPP list the development standards required to be met when carrying out the works.

#### ***The Codes SEPP - Subdivision 27 Minor building alterations (external), section 2.53 Specified Development***

A minor external non-structural building alteration, **such as the following** –

- (a) painting, plastering, cement rendering, cladding, attaching fittings or decorative work,
- (b) the replacement of an external window, glazing areas or a door (other than those on bush fire prone land),
- (c) the repair to or replacement of a non-structural wall or roof cladding,
- (d) the installation of a security screen or grill to a door or window or a security door,
- (e) the repair to or replacement of a balustrade,
- (f) restumping or repairing structure foundations without increasing the height of the structure,

**Note:** The list of works in clause 2.53 are examples only AND are not to be read as an exhaustive list.

## 3. Complying Development or Development Application

If the remedial building works are not exempt development under the Codes SEPP, the works may be able to be carried out as Complying Development or a Development Application may need to be lodged. Refer to the [NSW Fair Trading website](#) for further information.

## 4. Design and Building Practitioners Act 2020

Even if work is exempt development under the Codes SEPP, for some building elements the *Design and Building Practitioners Act 2020 (DBP Act)* applies, e.g. ‘waterproofing’ and recladding remedial building work. Please refer to [NSW Fair Trading web site](#).

### Examples of works considered to be ‘exempt development’ under the Codes SEPP

The below examples are considered exempt development **provided** they meet the development standards set out in the Codes SEPP.

#### **External window and door replacement**

The works need to meet the requirements of the National Construction Code (NCC), applicable standards and the window opening size is not altered.

#### **Balcony balustrade repair or replacement**

The works can be considered as exempt development, provided the remedial building work meets the requirements of the NCC and applicable standards.

#### **Roof tiling, sheeting and wall cladding repair or replacement**

The works can be considered as exempt development, provided the tiling material meets the performance requirements and does not compromise the structural integrity of the building. It should be noted that works involving wall cladding can't be carried out on any building other than a 1 or 2 storey dwelling house, attached development or detached development, and can't involve the use of external combustible cladding – as per section 2.54(d1)

#### **Replace a deteriorated cavity flashing or a leaking cavity flashing**

The works can be considered to be exempt development, provided the cavity flashing material meets the performance requirements and does not permanently alter the load bearing elements of the building.

#### **Replace a tiled balcony/terrace with a pedestal paving system**

The works can be considered to be exempt development, provided the remedial building work is structurally adequate.

#### **Replace a steel lintel with a reinforced concrete lintel**

The works can be considered to be exempt development, provided the remedial building work is supervised by a Registered Professional Engineer and the new lintel is structurally adequate and does not undermine the structural integrity of the building.

#### **Concrete repairs to a beam, slab, or column**

The works can be considered as exempt development, provided the remedial building work is supervised by a Registered Professional Engineer and the building element is returned to its appropriate structural capacity and does not reduce the structural adequacy, or fire resistance, of that building element.

#### **Balcony, Terrace, or Roof Waterproofing**

The works are considered exempt development, provided the waterproofing design complies with the NCC, Australian Standards, and complies with requirements set out in the DBP Act.

#### **Repainting of facade**

The works are considered exempt development.

## Class 2 buildings

Even if work is exempt development under the Codes SEPP, the building work may still be subject to the DBP Act. That is regulated design and design compliance declaration requirements needs to be met. Refer to the DBP Act and the [Dept. of Fair Trading website](#) for information on working on class 2 buildings

The DBP Act and the Design and Building Practitioners Regulation 2021 (**DBP Regulation**) apply to building work for class 2 buildings (including mixed-use buildings with a class 2 part).

This includes remedial building work, which is work involving:

- rectification or corrective actions or upgrades for deteriorating building elements in aging buildings
- rectification of defects in relatively new buildings.

The process for complying with the obligations under the DBP Act and DBP Regulation differs depending on the nature of the remedial building work undertaken and may include building practitioners lodging all designs, documents, and declarations in the NSW Planning Portal.

### Footnotes

1. SEPP clause 1.16(2) Development that relates to an existing building that is classified under the Building Code of Australia as class 1b or class 2–9 is exempt development for the purposes of this Policy only if –

- (a) the building has a current fire safety certificate or fire safety statement, or
- (b) no fire safety measures are currently implemented, required, or proposed for the building.

2. Any structures that would be located on public land, or on or over a public road (including temporary structures), must have separate approval from the relevant council, or Roads and Maritime Services under the Roads Act 1993 and the Local Government Act 1993.

3. Exempt work does not apply to:

- performed on or in a heritage item or a draft heritage item or in a heritage conservation area or a draft heritage conservation area.
- Non-compliant cladding.
- Please refer to [SEPP Clause 2.54](#)

4. Buildings constructed before 1987 may contain asbestos. If you are unsure, you should have the building assessed by a qualified professional before carrying out any renovation or maintenance work. Visit [asbestosawareness.com.au](http://asbestosawareness.com.au) or call 1800 Asbestos (1800 272 378) or read the [NSW Government Asbestos Fact Sheet](#) for more information.

5. Some exempt development work is regulated by the Design and Building Practitioners Act (DBPA). [Clause 13](#) of the Regulation provides detail of the exempt work that is excluded from the DBPA.

6. Remedial building works in NSW may require individuals and businesses to be appropriately registered and possess the relevant licences to undertake their works.

7. Registered Professional Engineer as defined in the [DBPA Section 32](#)

### Fire Safety Orders

Note: This factsheet does not apply to any Fire Safety Orders made under s 121B of the Environmental Planning and Assessment Act 1979 ('EPA Act') to remove and replace any combustible cladding.