

Essential Codes SEPP updates

The NSW Government has made essential updates to the exempt and complying Codes to make them easier to interpret and implement.

Why have we made these essential updates?

The *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* (Codes SEPP) has been updated to make it easier to use and understand. Feedback from stakeholders including councils, accredited certifiers, industry and the community, on the Codes SEPP has helped shape these updates.

What updates have been made to the Codes SEPP?

Key updates – Exempt development

Part 2 – Exempt Development Codes

Expanding exempt development provisions for air-conditioning units to include upper levels of residential buildings.

Clarifying:

- mechanical air handling systems are not exempt development
- minor building alterations (internal and external) specified as exempt development includes remedial work needed to repair or maintain a building
- farm buildings damaged by natural disasters cannot be constructed on or in a heritage item, draft heritage item or in an environmentally sensitive area under the exempt development pathway.

Key updates – Complying development

Part 3 – Housing Code

Allowing downpipes and underground drainage to be built in certain easements.

For balconies, decks, patios, terraces and verandahs:

- updating requirements on small lots to only apply to lots up to 300m² in area
- made the development standards clearer.

Adding:

- requirements for swimming pool pumps to avoid noise impacts on neighbours.

Clarifying that:

- alterations and additions to detached development in heritage conservation areas (HCAs) are complying development
- lanes cannot be the primary road for dwellings.

Excluding pier depth from excavation limits, where supported by an engineer. This ensures dwellings with pier and beam footings are not ruled out of a complying development pathway.

Part 3A – Rural Housing Code

- Clarifying that lanes cannot be the primary road for dwellings.
- Excluding pier depth from excavation limits where supported by an engineer. This ensures dwellings with pier and beam footings are not ruled out of a complying development pathway.

Part 3B – Low Rise Housing Diversity Code

Updating:

- requirements for dual occupancy (attached) and multi dwelling housing (terraces) to have a common wall joining each dwelling
- parking setbacks to clearly apply from the road boundary of a lot.

Clarifying:

- each terrace must be at least 6 metres wide inclusive of any car parking accessed from the front of the terrace
- balcony and verandah provisions
- lanes cannot be the primary road for dwellings.

Adding:

- requirement that balconies must align with the adjacent internal floor level of the dwelling
- savings provision that ensures dual occupancies or terraces built as complying development can also be subdivided as complying development (this also covers changes to a local environmental plan between the complying build application and the application for complying subdivision)
- protected tree provisions apply to protected trees on adjacent lots
- additional requirements for swimming pool pumps to avoid impacts on neighbours.

Excluding pier depth from excavation limits under the residential codes where supported by an engineer. This ensures dwellings with pier and beam footings are not ruled out of a complying development pathway.

Part 3C – Greenfield Housing Code

For balconies, decks, patios, terraces and verandahs:

- updating requirements on small lots to only apply to lots up to 300m² in area
- made the development standards clearer.

Clarifying:

- lanes cannot be the primary road for dwellings
- tree planting requirements.

Adding:

- setbacks to secondary road boundaries for swimming pools.

Excluding pier depth from excavation limits under the residential codes where supported by an engineer. This ensures dwellings with pier and beam footings are not ruled out of a complying development pathway.

Removing obsolete clauses and correcting maps.

Part 3D – Inland Code

Adding:

- additional requirements for swimming pool pumps to avoid impacts to neighbours.

Excluding pier depth from excavation limits under the residential codes where supported by an engineer. This ensures dwellings with pier and beam footings are not ruled out of a complying development pathway.

Clarifying:

- lanes cannot be the primary road for dwellings.

Part 4 – Housing Alterations Code

Clarifying:

- work to the roof of a one-storey dwelling house in a HCA is not complying development (this is to protect heritage values)
- external alterations and additions to the front of an existing attached or semi-detached dwelling are not complying development.

Part 7 – Demolition Code

Updating:

- allow swimming pools to be demolished in HCAs
- require that the pools demolished in HCAs are replaced by a landscaped area.

Key updates – Definitions and other changes

We have changed the Codes SEPP in response to stakeholder feedback about definitions and general issues by:

- updating the definition of screen enclosures to not include a solid enclosing wall
- removing obsolete clauses and maps
- adding that the extended trading hours of licensed premises during special events will be notified in the NSW Government Gazette.

Key updates – Agritourism

We have changed Part 9 of the Codes SEPP to improve the consistency and clarity of the exempt and complying provisions relating to farm experience, farm gate premises and farm stay accommodation.

Clarifying:

- a change of use of a building is exempt development, if it involves a change from;
 - farm experience premises or farm gate premises to its previous lawful use
 - farm stay accommodation to a manufactured home (where that was the previous lawful use),
- where a change of use occurs, the development consent conditions originally applicable to the previous use will remain in effect after the conversion back from agritourism.

Amending:

- exempt development waste facilities provisions for farm stay accommodation to allow a human waste storage facility to be emptied offsite
- general requirements for agritourism and farm stay accommodation provisions to state that complying development cannot occur on land subject to landslide risk.

Adding

- new provisions to ensure that the same lot and landholding size requirements apply to both non-residential and residential buildings when proposed for a change of use to farm stay accommodation under the complying development pathway (section 9.11)

- these requirements will not apply to alterations or additions to existing residential accommodation or manufactured homes for the purposes of farm stay accommodation.

Minor amendments to refine provisions, correct drafting errors and ensure that terms used are consistent.

Key updates – Asbestos

The changes also include updates on asbestos guidance in the *State Environmental Planning Policy (Transport and Infrastructure) 2021*. The update clarifies that certain asbestos removal as exempt development can only be carried out by a licensed asbestos removalist. For more information about the updated asbestos guidance, please visit [Exempt and complying development policy](#).

Further information

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