

Variations and changes to complying development

Explanation of Intended Effect (EIE)

May 2026



Acknowledgement of Country

The Department of Planning, Housing and Infrastructure acknowledges that it stands on Aboriginal land. We acknowledge the Traditional Custodians of the land, and we show our respect for Elders past, present and emerging through thoughtful and collaborative approaches to our work, seeking to demonstrate our ongoing commitment to providing places in which Aboriginal people are included socially, culturally and economically.

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Explanation of Intended Effect: Variations and changes to complying development

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Abbreviations/Glossary

Term	Explanation
BAL	Bushfire Attack Level.
Codes SEPP	<u>State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.</u>
CDC	Complying development certificate. A CDC is an approval for development that meets specified development standards included within an environmental planning instrument, such as the Codes SEPP.
Complying development standard and development standard	Development standard means provisions of an environmental planning instrument, or the regulations in relation to the carrying out of development, being provisions by or under which requirements are specified or standards are fixed in respect of any aspect of that development. A reference to a complying development standard in this EIE relates to a relevant development standard of the Codes SEPP. Note, the Planning Systems Reforms Act will insert a new definition of <i>complying development standard</i> within the EP&A Act. This will be defined as a development standard, as varied by a variation certificate, or a provision of a DCP identified as a standard or requirement of a DCP.
DA	Development application. An application for development, lodged by an applicant and typically assessed by a council under Part 4 of the EP&A Act.
DCP	Development Control Plan.
EP&A Act	<u>Environmental Planning and Assessment Act 1979.</u>
EP&A Regulation	<u>Environmental Planning and Assessment Regulation 2021.</u>
EIE	Explanation of Intended Effect (this document).
GFA	Gross floor area.
LEP	Local Environmental Plan.
NCC	National Construction Code.
Planning Systems Reforms Act	<u>Environmental Planning and Assessment Amendment (Planning Systems Reforms) Act 2025.</u>

Term	Explanation
Privacy screen	A structure that blocks views between the window of a habitable room or an outdoor area on a lot and an adjoining lot, where: (i) no individual opening is wider than 30 millimetres (ii) the total area of all openings is no more than 30% of the screen or barrier's surface area Or a fixed window made entirely of translucent glass.
Protected tree	A tree that requires a separate permit, approval or development consent for pruning or removal. This does not include a tree that may be removed without development consent under the Codes SEPP.
Residential zone	Land Use Zones R1 – General Residential, R2 – Low Density Residential, R3 – Medium Density Residential, R4 – High Density Residential or R5 – Large Lot Residential
Rural zone	Land Use Zones RU1 – Primary Production, RU2 – Rural Landscape, RU3 – Forestry, RU4 – Primary Production Small Lots, RU5 – Village or RU6 – Large Lot Residential
SEPP	State Environmental Planning Policy.
Setback	The horizontal distance between the relevant boundary of a lot and the building line.

1 Introduction

1.1 Overview

The *Environmental Planning and Assessment Amendment (Planning System Reforms) Act 2025* (Planning System Reforms Act) introduced a number of reforms to modernise the planning system and make it faster, fairer, more proportionate and outcomes focused. One of the changes introduced by the Planning System Reforms Act is a new complying development certificate (CDC) variation pathway, designed to streamline approvals for low-risk, low-impact development by introducing greater flexibility within the existing complying development framework.

Currently the complying development pathway is too rigid, and all development standards must be met, otherwise the development must go through a full development application (DA) process. This pushes proposals that may only vary slightly from development standards into the much lengthier DA process adding an average of more than 60 days to the assessment process.

The NSW Government is aiming to make it easier for more development to use the complying development pathway. We're working to make assessment of such proposals more proportionate and speed up the planning process, allowing people to get building sooner. The changes we're making will:

- create greater flexibility within the complying development framework without compromising on good planning outcomes,
- speed up the assessment of low-risk, low-impact development,
- give applicants' greater certainty of assessment timelines,
- retain council oversight in assessing variations from existing development standards,
- allow councils to re-focus their resources on more complex matters with bigger impacts.

To facilitate this, changes to the *Environmental Planning and Assessment Regulation 2021* (EP&A Regulation) and *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* (Codes SEPP) are proposed to:

- allow variations to certain complying development standards, and
- to amend existing development standards in the Codes SEPP.

This document explains:

- the planning system changes necessary to facilitate variations of complying development standards,
- the complying development standards that are proposed to be the subject of variation applications, and
- the other changes proposed to the Codes SEPP.

Tell us what you think

We welcome your feedback on the changes. To have your say, please complete the online survey feedback form or upload a submission by 24 June 2026.

We have included some questions in this EIE to help guide feedback on the matters that we are considering. You do not need to respond to all of the questions in your submission, and we also welcome any additional suggestions or ideas.

If you have questions about the EIE please email cdcvariations@dphi.nsw.gov.au.

1.2 Relevant legislation

This EIE has been prepared for the purposes of section 3.30 of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

2 Role of complying development

2.1 Current complying development process

Complying development offers a fast-track approval process, generally taking 10 to 20 days for straightforward residential, commercial and industrial development.

Complying development applies to homes, businesses and industry, and allows for a range of development types, including the construction of a new house, alterations and additions to a house, low and mid-rise housing, new industrial buildings, demolition of a building, and changes to a business use, as well as agritourism uses.

Complying development is permitted through State Environmental Planning Policies (SEPPs) that apply across NSW. The Codes SEPP is the main SEPP that enables complying development. However, a number of other SEPPs also allow complying development, including the *State Environmental Planning Policy (Housing) 2021* and the *State Environmental Planning Policy (Transport and Infrastructure) 2021*.

There are several general requirements that must be met for development to be eligible as complying development. These include that complying development may only be carried out on land with minimal environmental constraints, and that the proposed development must comply with all applicable development standards set out in the relevant SEPP. Under the current complying development process, if a proposed development doesn't meet these standards, no matter how minor the departure is, the entire development must be assessed through the development application process which can add over 60 days on average to assessment times and demands more resources of the planning system.

A complying development certificate is a combined development approval and construction certificate. This means complying development can commence works as soon as a CDC is issued. By contrast, once a development receives approval from council, it also requires a construction certificate to be issued before works can start.

Complying development can be approved by either a council or a private registered certifier. Further information on complying development can be found in the [Guide to Complying Development](#).

2.2 Role of complying development in planning approvals

Complying development provides an important planning approval pathway in delivering housing and other development approvals.

Complying development currently accounts for 45% of all planning approvals in NSW. Its use is increasing, particularly for housing developments. In the 2024-25 financial year, 63% of dwelling houses, medium-density and secondary dwellings were approved through the CDC pathway compared to the DA process.

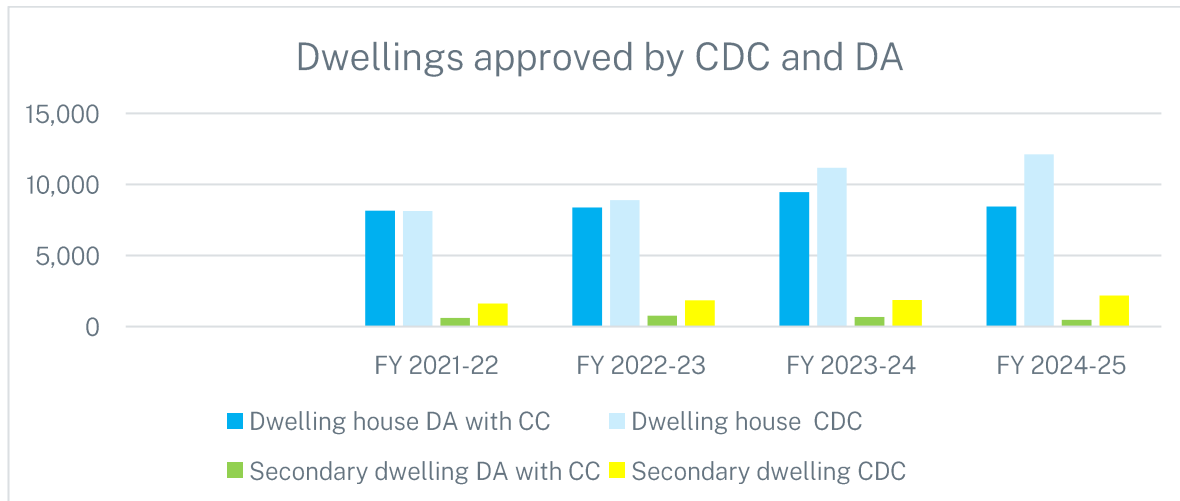


Figure 1: Comparison showing the increasing role of CDCs for dwelling approvals

2.3 Opportunities to expand complying development

Amendments to the Codes SEPP over the years have progressively expanded the range of development eligible for the complying development pathway. However, many relatively minor proposals still do not meet every prescribed standard. As a result, applications with only minor non-compliances are unable to access the faster complying development pathway and must instead be assessed through the more complex and time-consuming development application process. Approximately 90% of all development applications in NSW are for alterations, additions and single-dwelling houses with an estimated value of less than \$1 million. A large proportion of these applications could be assessed through the faster complying development pathway.

Currently 50% of applications are approved through the development application pathway by councils, 5% are assessed as State Significant development (SSD) by the Minister for Planning and Public Spaces, or the Independent Planning Commission, and 45% are assessed as a complying development by private certifiers or councils.

The proposed amendments to the Codes SEPP are intended to increase the number of small-scale developments, that can progress through the complying development pathway, while ensuring higher impact development or development on environmentally sensitive sites continues to be assessed through the development application and SSD pathways.

These amendments will result in faster approvals, delivering housing and other development sooner. The changes we're making will create greater flexibility within the complying development framework without compromising on good planning outcomes with a focus on minor low impact design variations. The changes will speed up the assessment of low-risk, low-impact development, while retaining council oversight of variations that don't meet existing development standards. This will also free up council resources so they can focus on assessment of larger and more complex development.

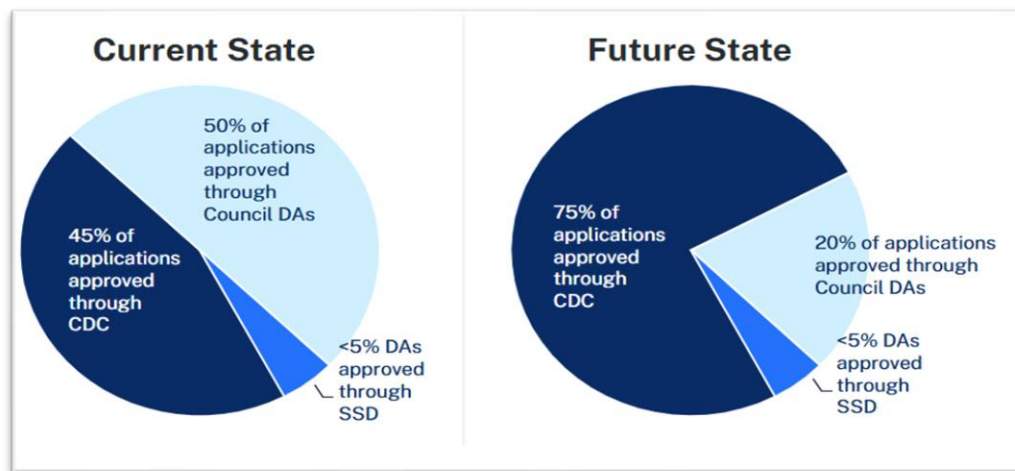


Figure 2: Current and future state of planning approval pathways

2.4 Role of complying development variations in the broader planning system reforms

Complying development variations are part of a series of reforms introduced through the Planning System Reforms Act aimed at making the planning system faster, fairer and more modern. Further information on these reforms can be found on our [website](#) and in the *Reforming the NSW planning system* overview document.

We are also seeking feedback on other planning system reforms through a discussion paper on low-rise housing reforms and targeted assessment. The discussion paper seeks feedback on the proposed establishment of a new Low-Rising Housing Code, which would include objectives and standards for complying development and targeted assessment, including the use of variations. The future state for low-rise housing pathways outlined in the discussion paper is shown in Figure 3.

The variations proposed in this EIE are the first stage of variations. Further amendments to the Codes SEPP, and additional variations may be required in the future to align with a new Low-Rise Housing Code, should it be established.

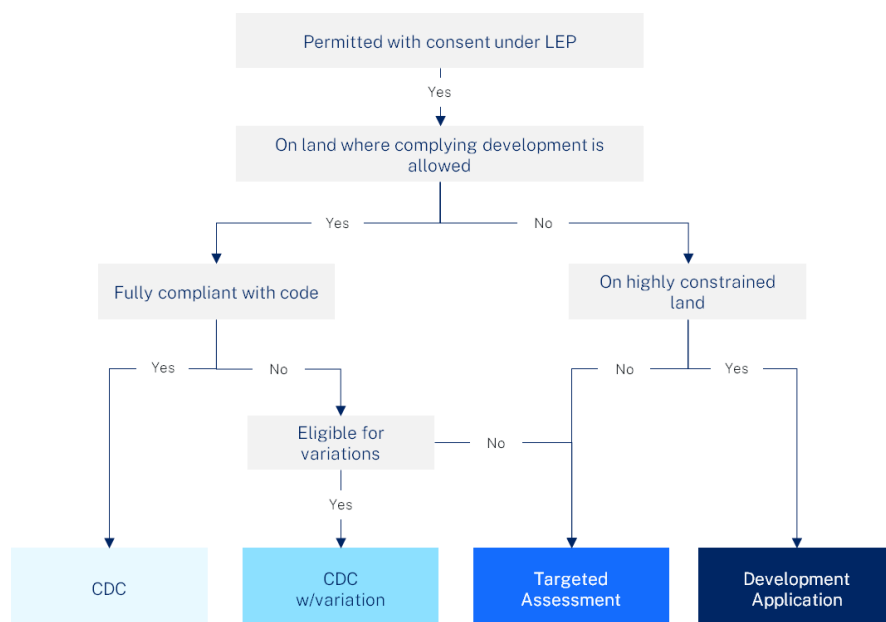


Figure 3: Proposed future state for low-rise housing pathway

3 Complying development variation process

3.1 Variations to complying development

The NSW Government is establishing a new CDC variation process, where variations to specified complying development standards can be approved by council through the issue of a variation certificate. Once a variation certificate has been issued, the other components of the CDC application can continue to be considered by a registered certifier or by council.

The proposed changes are intended to allow more lower-impact development to proceed through the faster complying development pathway, rather than the development application pathway, while maintaining council oversight on variations that don't meet all development standards.

Variation certificates may be issued for a CDC and for modifications to complying development. Variations would need to be applied for before construction works commence and would not be available to address issues that arise during the construction process.

The complying development standards that can be varied will be detailed in environmental planning instruments (EPIs) and in the first instance this will be in State Environmental Planning Policies, such as the Codes SEPP.

The relevant SEPP may set out any limitations on the extent that a development standard can be varied, or the objectives that must be achieved in varying the standard.



Figure 4: Current and future state of complying development

Development that fully complies with development standards



Development that mostly meets development standards and requires a variation certificate



Figure 5: Existing complying development process and CDC with variations

3.2 Proposed process for applications for variation certificates

It is proposed that an application for a variation certificate may be made both:

- when an applicant lodges a CDC application, and
- after a CDC application is lodged, if a certifier or council assessing the CDC identifies a variable standard that is not complied with.

The variation certificate application must be supported by a document justifying the variations, plans showing the variations and the information requirements as outlined in Chapter 4 of this EIE. See section 3.5 for more information on these requirements.

The application for a variation certificate will be made as part of the application for a CDC on the planning portal. The certifier will refer the variation certificate application to council via the portal for their assessment with the applicant paying the relevant fee to council.

Council will provide a determination on the variations within a set timeframe, or it will be deemed approved. Council will have 10 calendar days to assess the variation when the CDC is referred from a private certifier or 20 calendar days when council is assessing both the variations and the CDC.

Where variations are supported, council will issue a variation certificate or where variations are deemed approved, the certifier or council can continue assessing the proposed development against the remaining complying development standards.

If the variations are refused, an applicant will either need to amend their plans to meet all complying development standards to continue to be assessed as a CDC or alternatively submit a development application to council.

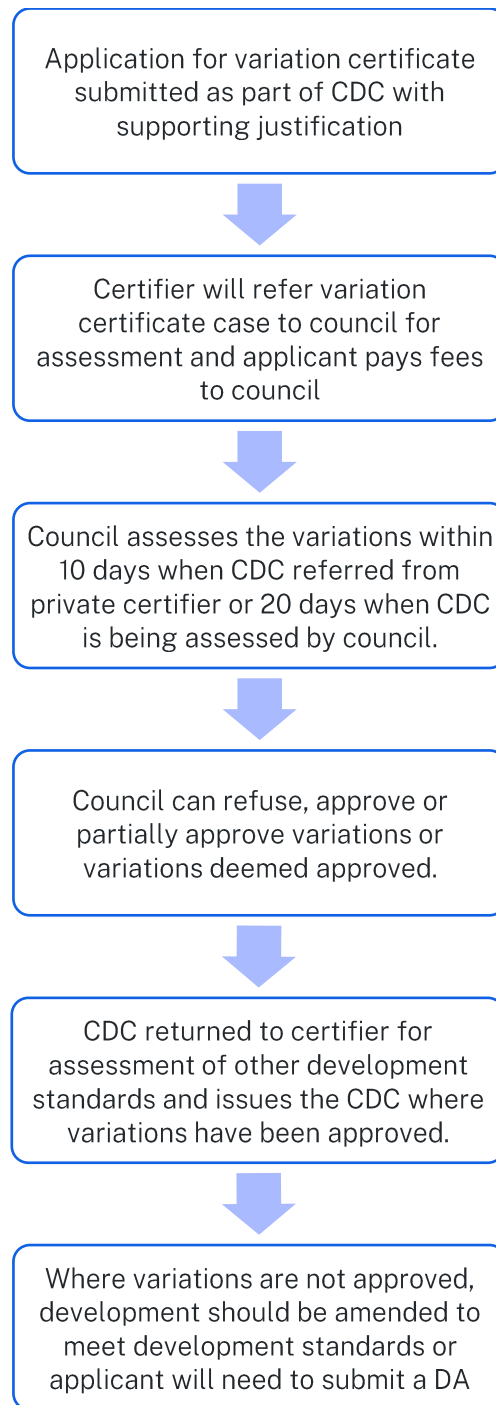


Figure 6: CDC variation certificate process

Tell us what you think

- Do you have any comments on this proposed process or suggestions on how this process could be improved?

3.3 Complying development standards that can be varied

The NSW Government is proposing that variations focus on the most common types of standards where minor non-compliances currently prevent development applications from proceeding through the complying development pathway. The emphasis is on low-risk and low-impact variations, which should have minimal environmental impact.

The first stage of the reforms will focus on low-rise housing to assist with the delivery of more housing. We're proposing that variations will apply to the following parts of the Codes SEPP:

- Part 3 Housing Code
- Part 3A Rural Housing Code
- Part 3B Low Rise Housing Diversity Code
- Part 3C Greenfield Housing Code
- Part 3D Inland Code

A summary of the types of complying developments standards that may be varied is outlined below. Further details of how these could be varied are set out in Chapter 4 of this EIE.

Complying development standards proposed for variation

Setbacks

- Front setbacks
- Side setbacks
- Rear setbacks
- Primary road articulation zones

Site requirements

- Dual occupancies widths and requirements
- Habitable windows on ground floor on narrow lots

Amenity standards

- Maximum building height
- Maximum Gross Floor Area
- Privacy screens

Vehicle access and arrangements

- Maximum width of garage doors
- Access requirements for dual occupancies on narrow lots

Other

- Swimming pool standards
- Tree protection

Figure 7: Proposed variations

Tell us what you think

- Should we include any other complying development standards that can be varied?
- Let us know your feedback on the proposed way in which complying development standards can be varied.

3.4 Number of complying development standards that can be varied

It is proposed that no more than three to four complying development standards may be varied for any single development. This cap would apply to the development as a whole, including the initial CDC application and any subsequent modification applications. Variations will be limited to complying development standards and will not extend to the general requirements for complying development eligibility. This means that a variation would not be permitted to allow complying development to occur on certain land, such as environmentally sensitive land or other land where complying development is currently prohibited.

Tell us what you think

- How many complying development standards do you think should be able to be varied for the one development?

3.5 Application and assessment process for variations

3.5.1 Documentation requirements

Justification to support application for variation certificate

It is proposed that an application for a variation certificate must be supported by a justification document prepared on behalf of the applicant.

It is suggested the justification document:

- outline the complying development standards in the relevant SEPP being varied and the variations sought,
- demonstrate consistency with the way in which the SEPP outlines the complying development standard may be varied,
- provide reasons and justification why a variation to the complying development standard is appropriate,
- include drawings or plans of the proposed development illustrating the part of the development where the variation is being sought and the proposed variation, and
- include the information requirements as outlined in Chapter 4.

The justification document may be prepared by the applicant or their building designer, architect or planner.

Applicants are expected to provide all required information to councils upfront to assess the variation certificate.

The Department will prepare a template justification document for applicants, so that all requests for variation certificates are standardised and contain the required information.

Along with the justification document, we are proposing that all plans be referred to councils when the certifier refers the application to council via the planning portal.

Variation certificate

The Department will prepare a variation certificate template document, which councils will use in determining applications.

Tell us what you think

Are there any additional information requirements that would assist councils in assessing the variation certificates within 10 days?

3.5.2 Fees for variation certificates

The NSW Government is considering two possible fee structures for applications for variation certificates to be paid to councils.

These fees would also apply for a new variation certificate where an applicant amends or modifies their application and reassessment of the variations is required.

This fee would be in addition to any other fees payable to the registered certifier or council for assessment of the CDC.

Option 1: Set fee

This option would impose a set fee of 4 fee units for a variation certificate application, which equates to \$456 in the 2025/26 financial year, and would be payable to councils.

Option 2: Fee per variation

This option would impose a fee based on the number of variations to complying development standards being considered by council. This could be scaled as follows:

- one variation = 3 fee units (\$342)
- two variations = 4 fee units (\$456)
- three or four variations = 5 fee units (\$569)

Tell us what you think

- Should the fee be set or be based on the number of complying development standards included within the request for a variation certificate?
- Let us know your thoughts on the proposed fees for variation certificates.

Note, these fees would be subject to annual indexation in accordance with the Consumer Price Index and we are not proposing refund of fees for these applications.

3.5.3 Assessment of variation certificates

Section 4.31A of the Planning Systems Reforms Act sets out the requirements for determining an application for a variation certificate.

A council assessing an application for a variation certificate must only consider the complying development standards being varied and its application to the proposed development.

In doing so, Council must also consider whether the variation is permitted by the relevant EPI (i.e. the Codes SEPP) and whether it's consistent with how the SEPP provides that a complying development standard may be varied and that there will no significant additional adverse impacts.

A council may either:

- **Approve a variation certificate**

Where an applicant has sought multiple variations to complying development standards, council may approve all or only some of the variations. In this instance, the variation certificate should detail the complying development standards that have been approved within the certificate and the variations that have been refused.

We are not proposing conditions will be required for variation certificates as these are minor design variations and the Codes SEPP already contains conditions that must be included in the CDC.

- **Refuse a variation certificate**

A council should refuse a variation certificate where:

- the complying development standards proposed for variation are standards which can't be varied in the SEPP.
- the variations sought are not consistent with the way or extent the SEPP prescribes how the standard may be varied.
- the development is located on land on which complying development is not permitted.
- no justification or insufficient information has been provided to support the variation.
- the application has not been made in accordance with the SEPP or regulation.

If council does not provide a decision on the variation within the required timeframe, the variation certificate will be deemed approved and the CDC can continue to be assessed in the complying development pathway, with the certifier's review focusing on the assessment of the other complying development standards.

The EP&A Regulation will include safeguards, so variations are not deemed approved where these are not made in accordance with the relevant SEPP or the EP&A Regulation requirements. Deemed approvals will not apply where an applicant seeks to vary development standards that can't be varied, the maximum number of allowable variations has been exceeded, or the variations exceeds the numerical limits specified in the relevant SEPP on how the development standards can be varied.

For example, if an applicant applies for a variation of increased height that exceeds the LEP height controls, then this variation could not be deemed approved.

If council refuses an application for variations or does not approve all the variations to complying development standards, an applicant will either need to:

- amend their CDC application to meet any non-conforming development standards that have not been approved if they want to continue in the complying development pathway, or
- proceed with a development application instead.

Tell us what you think

- Are there any other assessment matters we should consider or do you have any comments on the assessment of variation certificates?

3.5.4 Timeframes and deemed approvals of variation certificates

CDC assessed by a registered (private) certifier

Where a CDC application is being assessed by a private certifier, council will need to determine the application for a variation certificate within 10 calendar days.

If an application is not refused within this timeframe, the variations will be taken to have been deemed approved, and the private certifier should continue assessing the remainder of the CDC application.

The EP&A Regulation will include safeguards, so variations are not deemed approved where these are not made in accordance with the relevant SEPP or the EP&A Regulation requirements.

CDC assessed by council

Where a CDC application is being assessed by council, council will need to determine the variation certificate within 20 calendar days. This allows council to issue both the CDC and variation certificate at the same time.

The timeframe for considering a variation request will commence once an applicant has paid the relevant fee for the variation certificate application.

Please note that the timeframes will not apply to the two-week period around Christmas.

Tell us what you think

- Are these timeframes achievable for councils?
- What information and procedural requirements would assist with councils being able to meet these timeframes?

3.6 Review of the CDC variation certificate process

Once the CDC variation certificate process is operating, we will undertake regular reviews of this new process to identify the type of complying development standard variations being most commonly sought, approved or refused.

These reviews will help us identify whether amendments are needed to the Codes SEPP and whether any adjustments are needed to the variation pathway process.

We will consider whether this process should be included in the Minister's Statement of Expectations and council reporting.

4 Variations to complying development standards

4.1 Summary of the high-priority complying development standards being considered for variations

The initial focus of the new CDC variation certificate pathway is on low-rise housing developments to assist with the delivery of more housing.

We are proposing that variations will apply to the following parts of the Codes SEPP:

- Part 3 Housing Code
- Part 3A Rural Housing Code
- Part 3B Low Rise Housing Diversity Code
- Part 3C Greenfield Housing Code
- Part 3D Inland Code

The following changes are proposed within parts of these codes, noting that the changes may only apply to some of the Codes, with further detail included in the sections below.

1. **Maximum building height:** Allow minor variations of height where consistent with LEP height controls from:
 - 8.5 m up to 9 m for dwellings, dual occupancies and manor homes, and
 - 9 m up to 9.5 m for multi-dwelling housing (terraces).
2. **Maximum gross floor area for development:** Allow up to a 10% increase in the gross floor area requirements for dwellings, dual occupancies, manor homes, multi-dwelling housing (terraces) and attached development. The development would still be required to meet the landscape and private open space complying development standards.
3. **Primary road setbacks:** We are proposing permanent amendments to the development standards for the primary road setback of a new dwelling to allow alignment with one of the two nearest dwellings for dwelling houses in the Housing Code, as well as dual occupancies, attached development and manor houses in the Low Rise Housing Diversity Code. This would then become the starting point for any variation.

Variations to the primary road setback may be sought where the front setback is consistent with the established street setback or development control plan (DCP) controls.

4. **Primary and secondary road articulation zones:** Allow balconies, decks, pergolas, terraces, verandahs, bay windows and other design features within the front setback articulation zone up to 50% of the building width to allow articulation and design features forward of the front building line. Currently this is limited to 25% of the lot width. This will apply for dwellings, dual occupancies, manor homes and multi-dwelling housing (terraces).
5. **Side setbacks:** Changes are proposed to side setbacks to allow:

- alteration or additions to an existing dwelling to align with an existing dwelling's side boundary setback, or 900 mm, whichever is greater in the Housing Code and Inland Code.
 - reduced setbacks of 900 mm for part of the development that is less than 4.5 m in height for dwellings, dual occupancies, manor homes, attached development and terraces in the Low Rise Housing Diversity Code.
 - reduced setbacks for parts of dual occupancies (one above another) and manor homes 10 m behind the building line and above 4.5 m in height.
 - reduced setbacks in the Rural Housing Code and the Inland Code for RU1, RU2, RU3, RU4 and RU6, where consistent with a council DCP.
 - reduced upper storey setbacks for zones RU5, R1, R2, R3 and R4 in the Inland Code for lots less than 18 m wide.
6. **Rear setbacks:** Allow variations where the rear setback is consistent with council DCP rear setback controls or is consistent with the average rear setback of the 2 adjoining dwellings within 40 m.
7. **Privacy screens:** The following variations are proposed:
- Allow variations to privacy screen requirements for dwellings and dual occupancies (side by side) if there is no direct line of sight to the neighbouring property.
 - Permanent changes are also proposed to the Codes SEPP to clarify that privacy screens are not required along the edge of a balcony facing a public road or public open space.
8. **Maximum width of garage doors:** The following variations are proposed:
- Variations are proposed to allow carparking setbacks to be varied from being 1m setback behind the building line to align with the building line.
 - Changes are also proposed to increase garage door sizes on small and narrow lots where currently only a single garage may be permitted, where the garage is integrated into the dwelling design, it's not visually dominant and presents as a single driveway at the property boundary.
9. **Dual occupancies – lot requirements, width and access:** Allow variations for two-storey attached dual occupancies on lot widths of 12 m to 15 m, with each dwelling able to have a single garage with access from a primary road and allow a reduced width of each dwelling to 5 m.
10. **Building design - windows to habitable rooms:** Allow a variation for two-storey dwellings on narrow lots of less than 11 m wide to not require a window to a habitable room on the ground floor facing the primary or parallel road, where the dwelling includes windows to habitable rooms or balconies facing the street on the upper-level which provide passive surveillance of the street.
11. **Detached development:**
- Detached development includes a deck, patio, pergola, terrace or verandah, cabana, cubby house, fernery, garden shed, gazebo or greenhouse, carport or garage, and sheds.
- **Maximum GFA:** Allow a variation to the maximum GFA of detached development. This will allow the GFA to be varied to 60 m² for lots 400–600 m², 75 m² for lots 600–900 m², and for lots > 900 m² in the Inland Code be varied up to 120 m². Noting the GFA of detached structures is considered in the overall GFA for the development.

- **Side setbacks:** We are proposing to allow a variation to side setbacks for alterations and additions to an existing detached development where it aligns with the existing detached structure's setback, provided the proposal meets the design and amenity tests for the relevant code. This includes demonstrating that the development maintains required landscaped area.
12. **Detached studios:** We are proposing to allow variations up to an additional 10% of the maximum gross floor area for detached studios associated with a dwelling, dual occupancy, manor home or terrace, with these currently being limited to 20-36 m². This will still be included within the overall maximum GFA for a lot.
 13. **Swimming pools:** We are proposing to allow minor variations to setback and location requirements of swimming pools. The changes will allow reduced secondary road setbacks for swimming pools on corner lots, pools in the side yard of a dual occupancy or manor home and pools to be located behind the front setback requirements for certain rural development.
 14. **Tree protection:** Allow variations for complying development to occur on land within 3 m of a protected tree located on the site or adjoining lot, where an arborist report has determined an appropriate setback from the tree trunk and the proposed setback is consistent with the arborist report recommendation.

Further details on the proposed changes are provided in the sections below.

4.2 Maximum building height

Currently the Codes SEPP places limits on the height of buildings, despite the development meeting the current height controls within the relevant council Local Environmental Plan (LEP). The NSW Government is proposing to allow minor height variations from 8.5 m to 9 m for dwellings, dual occupancies, manor homes, and 9 m to 9.5 m for multi-dwelling housing (terraces) where this is consistent with a council's LEP height controls.

This will allow for minor height differences due to differing site topography, roof features and allow higher development where it is consistent with the height limits of a locality and as permitted by the relevant council LEP.

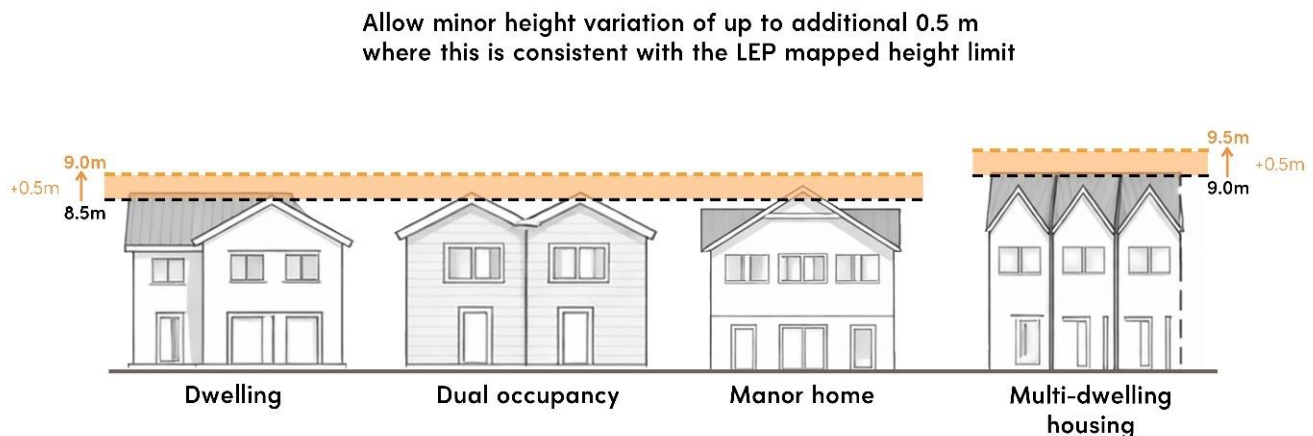


Figure 8: Proposed variations for maximum building height

Table 1: Proposed variations for maximum building height

Relevant code and clauses of the Codes SEPP	Current controls	Proposed variations
Housing Code – cl 3.8 Rural Housing Code – cl 3A.14(1) for R5 zone only Low Rise Housing Diversity Code – cl 3B.9, 3B.22(1) and 3B.34 Greenfield Housing Code – cl 3C.9	Maximum height of buildings and attached development for dwellings, dual occupancies, manor homes and attached development is 8.5 m. Maximum height of building for multi-dwelling houses (terraces) and attached development is 9.0 m.	Allow minor variations of height from: 8.5 m up to 9 m for dwellings, dual occupancies, manor homes, and 9.0 m up to 9.5 m for multi-dwelling housing (terraces). Provided the development remains consistent with the LEP height controls.

Information requirements to support applications for a variation certificate for increased building height

The application should outline why an increase in heights is required, how the development responds to the topography of the site and to adjoining development, as well as a consideration of how the increased height may impact on the immediately adjoining properties and any views. This should include consideration of overshadowing impacts on neighbouring properties and be supported by shadow diagrams.

4.3 Maximum gross floor area (GFA) for development

Currently the Codes SEPP includes a maximum GFA based on the lot size of development, the type of development and the relevant code that applies. The same maximum GFA applies regardless of whether development is one or two-storey. A number of councils do not include GFAs in their DCP and instead rely on floor space ratios and site coverage.

Gross floor area is a measure of the sum of the floor area of each floor of a building, measured from the internal face of external walls. It excludes certain parts of a building, such as voids, storage and vehicle access areas, and terrace or balconies with walls less than 1.4 m high, as illustrated below.

The NSW Government is proposing to allow a variation of up to a 10% increase of the maximum GFA to allow instances where a dwelling may not meet the current GFA standards within the Codes SEPP. This will apply to dwellings, dual occupancies, manor homes, terraces and attached development where permitted within the Housing Code, Low Rise Housing Diversity Code, Greenfield Housing Code and Inland Code. This will be particularly beneficial for two-storey development and larger lots that can still meet the other relevant complying development amenity standards, such as landscape and private open space standards.

As an example, for a dwelling on a 450 m² lot in the Housing Code, this would allow the current GFA to be increased from 290 m² to 319 m². Noting that landscape and private open space standards will continue to apply to ensure sufficient landscaping and open space on the lot.

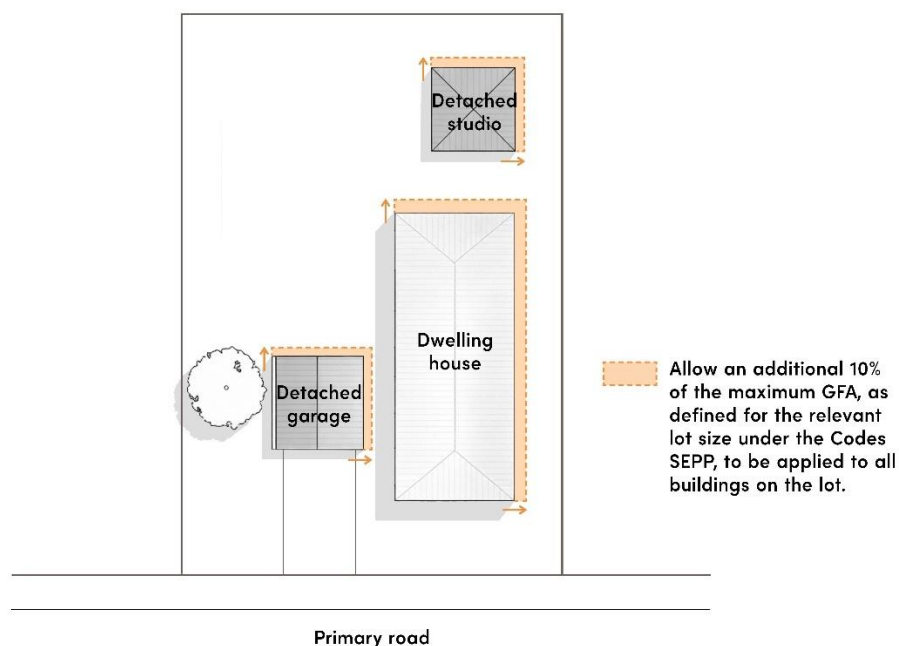


Figure 9: Variations proposed for maximum GFA

Table 2: Proposed variations for maximum GFA

Relevant code and clauses of the Codes SEPP	Current controls	Proposed variations
Housing Code – cl 3.9(1) and 3.19(1) Low Rise Housing Diversity Code – cl 3B.10, 3B.23 and 3B.35 Greenfield Housing Code – cl 3C.10(1) and 3C.22(1) Inland Code – cl 3D.20(1)	Currently, the maximum GFA varies based on the size of the lot.	Allow an additional 10% of the maximum gross floor area as defined for the particular size of lot in the Codes SEPP.

4.4 Primary road setbacks (front setbacks)

Currently, the Codes SEPP requires that the primary road frontage is based on the average setback of the two nearest dwellings on the same road, or if there are no two dwellings within 40 m, a set frontage is included. For rural zones, a front setback distance is defined.

Where a proposed development adjoins another dwelling that has an irregular setback much further than other dwellings within the street, this is restricting development from using the CDC pathway.

We are proposing to make both changes to the Codes SEPP, as well as allowing variations for this clause. We are proposing to allow the primary front setback to align with one of the two nearest dwellings within 40 m on the same side of the primary road, rather than averaging the two. This change is to apply to dwelling houses in the Housing Code as well as dual occupancies, attached development and manor houses in the Low Rise Housing Diversity Code. This change is further detailed in Chapter 5 below. This would then become the starting point for any variation.

The NSW Government is also proposing to allow variations where the front setback is consistent with the established street setback or is consistent with DCP controls for dwellings, dual occupancies, manor homes and terraces.

These changes are to reflect that setbacks may not be uniform, and council DCPs may contain different setback controls for different zones and areas, particularly areas undergoing change and redevelopment for more diverse housing.

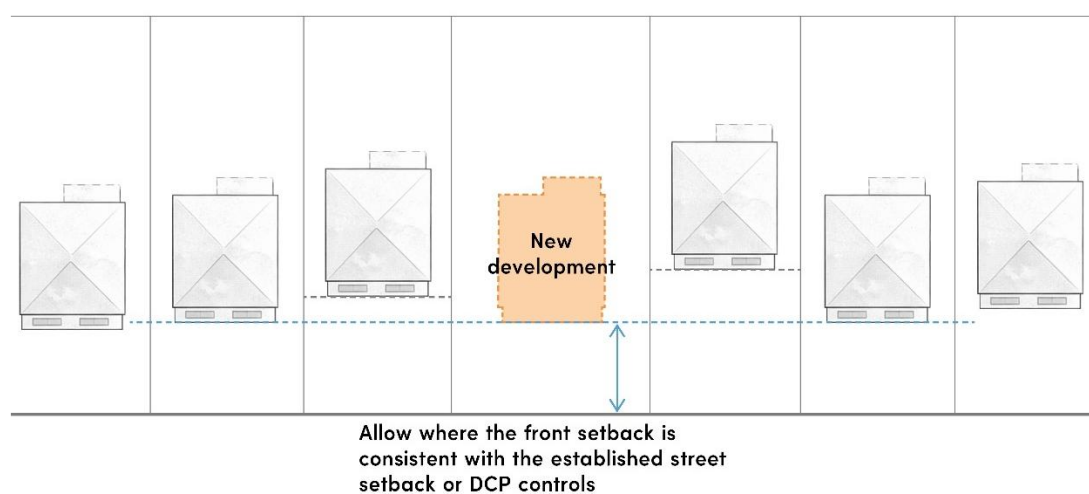


Figure 10: Variations to primary road setback

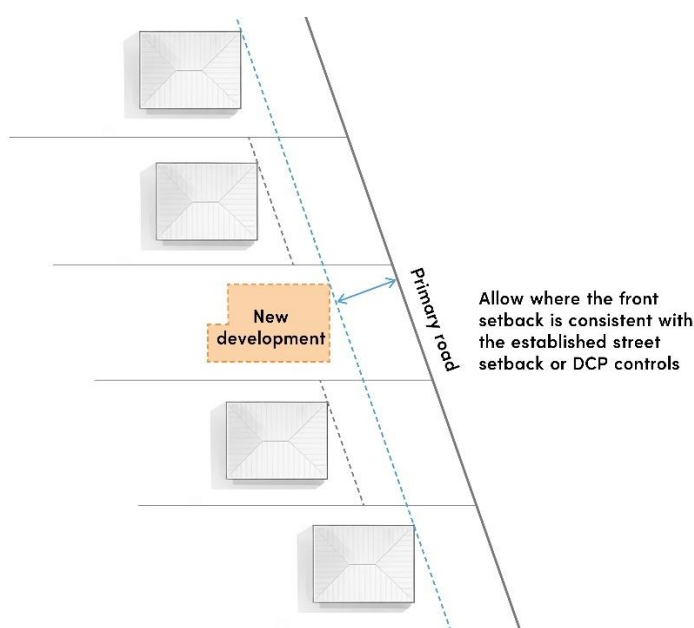


Figure 11: Variations to primary road setback on angular streets

Table 3: Proposed variations for primary road setbacks (front setbacks)

Relevant code and clauses of the Codes SEPP	Current controls	Proposed variations
Housing Code - cl 3.10(1) Low Rise Housing Diversity Code - cl 3B.11(1), 3B.24(1) and 3B.36(1)	Front setback is based on the average of the two closest dwellings within 40 m, noting a permanent change is proposed to allow alignment with an adjoining dwelling.	Allow where the front setback is consistent with the established street setback or DCP controls. This will apply to dwellings, dual occupancies, attached development, manor house and terraces.
Rural Housing Code – cl 3A.15(2)(b), (c)	Front setback is 30 m in the RU4 zone and 50m in RU1, RU2, RU3 or RU6 zones.	Allow where the front setback is consistent with the established street setback or DCP controls.
Rural Housing Code – cl 3A.15(1) and 3A.15(2)(a)	In the R5 zone, for lots less than 4,000 sqm, the front setback is based on the average setback of the 2 nearest dwellings or where no dwellings are within 40 m, the setback is 10 m. In the R5 zone, for lots at least 4,000 m ² in size - a set 15 m front setback applies.	Allow where the front setback is consistent with the established street setback or DCP controls.
Inland Code - cl 3D.12(1), 3D.21(1) and 3D.32(1)	Front setback is based on the average primary road setback of the 2 nearest dwelling houses on the same side. For R5 zone lots at least 4,000 m ² in size, a minimum setback of 15 m applies. Front setback is 30 m for RU4 and 50 m in RU1, RU2, RU3 or RU6 zones and 50 m for an unsealed road.	Allow where the front setback is consistent with the established street setback or DCP controls.

Information requirements to support applications for variations for primary road setbacks

The application should justify the variation with an analysis of the existing street setbacks and outline why a variation is being sought and how the development responds to the existing street setback or Council DCP provisions. It should also outline any potential impacts on adjoining properties and how these have been mitigated.

4.5 Primary and secondary road articulation zones

Currently the Codes SEPP allows certain elements of a building to extend 1.5 m forward of the front building line setback up to a maximum extent of 25% within an area known as the articulation zone as illustrated below. This allows certain building elements such as entry features, porticos, balconies, decks, pergolas, terraces or verandahs, window box treatments, bay windows, awnings, sun shading features and eaves to extend 1.5 m forward of the building.

Currently this is limited to 25% of the articulation zone which is based on the lot width and extends 1.5 m forward. It is proposed that a variation to permit balconies, decks, pergolas, terraces up to a maximum of 50% of the building, as opposed to lot width within the articulation zone, to allow dwellings to include slightly wider and more usable decks and verandah structures and articulation features, while ensuring these do not extend further than 1.5 m into the front setback area. This will apply for dwellings, dual occupancies, manor homes, terraces were permitted within the Housing Code, Low Rise Housing Diversity Code, Greenfield Housing Code and the for the RU5, R1, R2, R3 and R4 zones in the Inland Code.

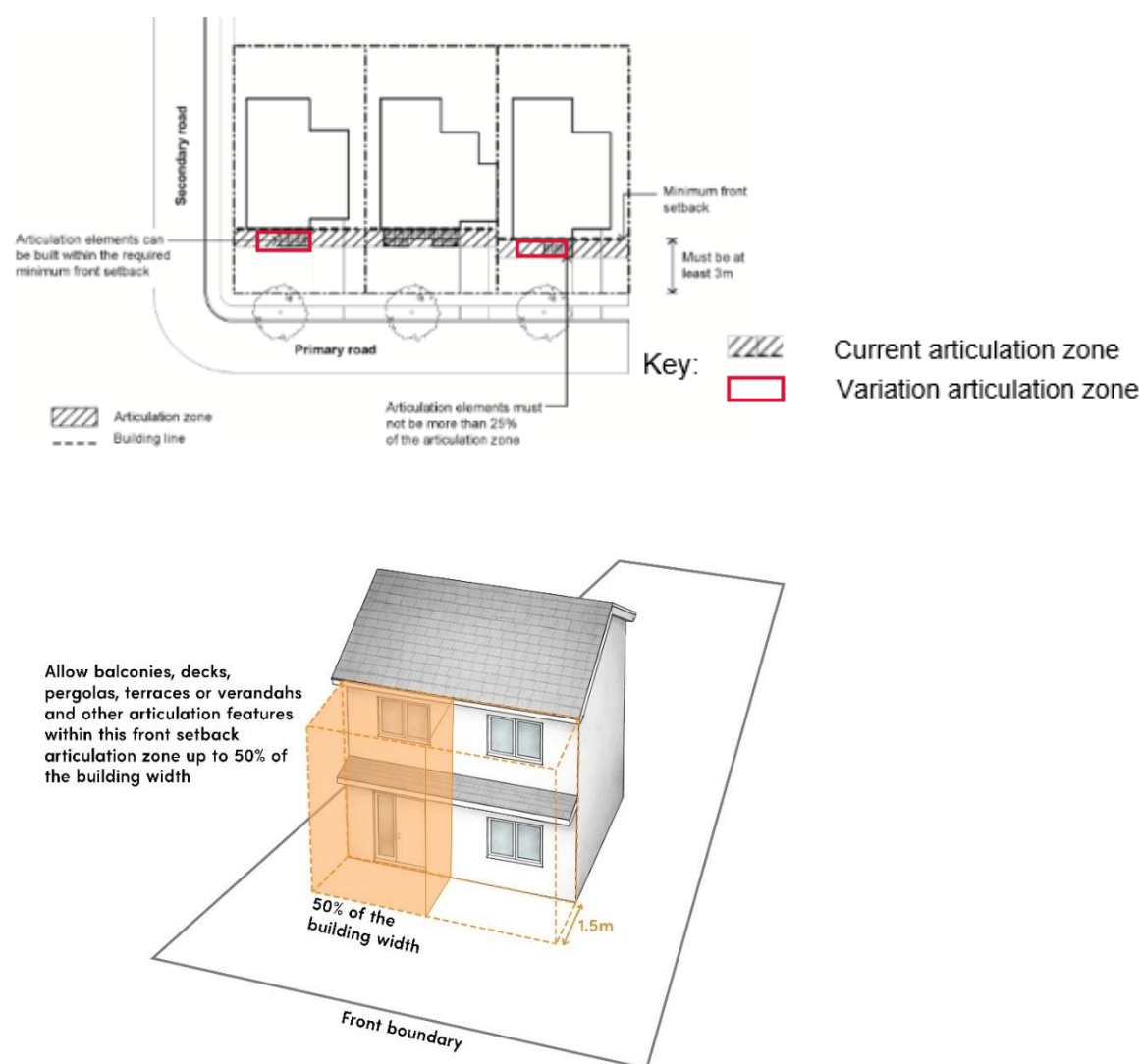


Figure 12: Variations for articulation zones

Table 4: Proposed variations for articulation zones

Relevant code and clauses of the Codes SEPP	Current controls	Proposed variations
Housing Code – cl 3.14(5) Low Rise Housing Diversity Code – cl 3B.16(3), 3B.28(3) and 3B.41(3) Greenfield Housing Code – cl 3C.16(5) Inland Code – cl 3D.25(5)	Currently allows a range of building elements such as porticos, balconies, decks, awnings, eaves and sun shading features, etc. to extend 1.5 m into the front setback up to a maximum extent of 25% of the articulation zone.	Allow balconies, decks, pergolas, terraces or verandahs and other articulation features within this front setback articulation zone up to 50% of the building width to allow greater balconies, decks, verandahs and design features forward of the front building line.

Information requirements to support applications for variations primary and secondary road articulation zones

The applicant should demonstrate that the additional built elements or façade features will not detract from the visual quality of the street.

4.6 Side setbacks

The side setback is the distance between the dwelling and the side boundary of that property. The current Codes SEPP includes different side setbacks based on the type of development, the relevant code that applies and the height of the building or the zone the development is located within.

Maintaining side setbacks is important for providing separation between dwellings and allowing solar access particularly for upper-level setbacks, which is why the Codes SEPP includes controls where development steps in for the upper level. Whilst maintaining setbacks is important, particularly for upper storeys, larger side setbacks can impact the development that can occur on a lot.

The Housing Code already allows build to boundary for small and narrow lots less than 12.5 m in certain circumstances. To help encourage more development and more diverse housing types, it is proposed some minor variations to side setbacks to allow a more consistent 0.9 m setback for the ground floor part of the building, which is less than 4.5 m or 5.5 m in height, where this is consistent with council DCP controls or there is no significant adverse impacts. Variations are also proposed for dual occupancies (one above the other) and manor homes to apply consistent setback requirements as for dual occupancies (side by side) for part of the upper storey setbacks.

For rural zones, a standard setback of 10 m applies, variations will also be allowed in these areas where it is consistent with council DCP controls. The NSW Government is also proposing for residential development in zones RU5, R1, R2, R3 and R4 in the Inland Code for lots less than 18 m wide, that the upper storey's setback may be varied more consistently with how other upper storeys

setback are calculated, as the current standard restricts the upper storey development width for lots wider than 18 m.

The NSW Government is also proposing to allow a variation to side setbacks for alterations and additions to an existing dwelling where that dwelling does not currently meet the Codes SEPP controls, so the new additions can align with the current dwelling setback for development under the Housing Code and Inland Code.

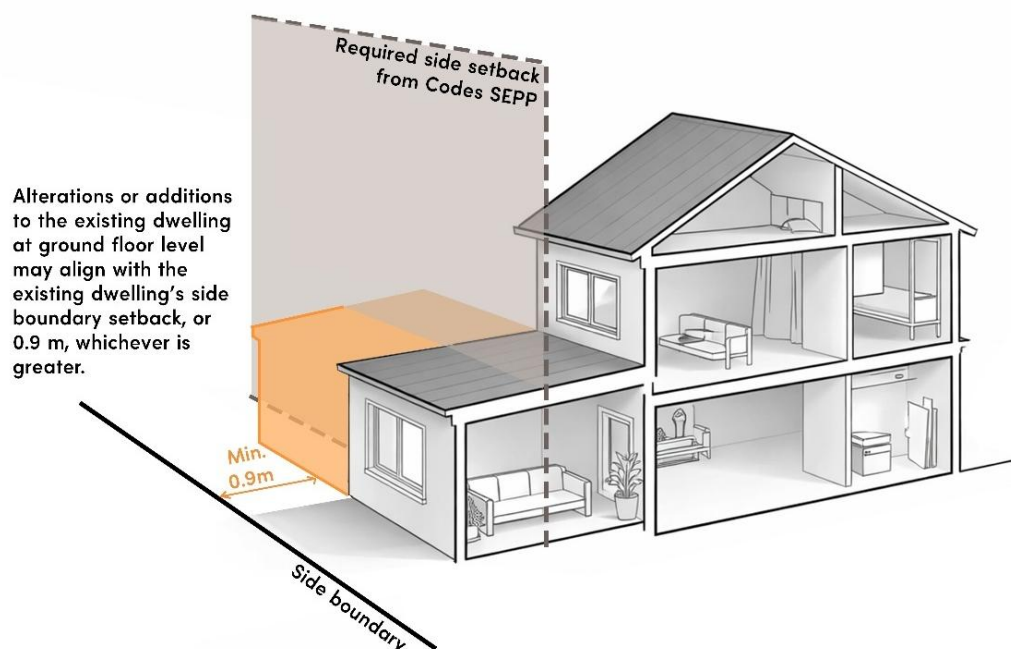


Figure 13: Alterations and additions will be allowed to align with existing setbacks

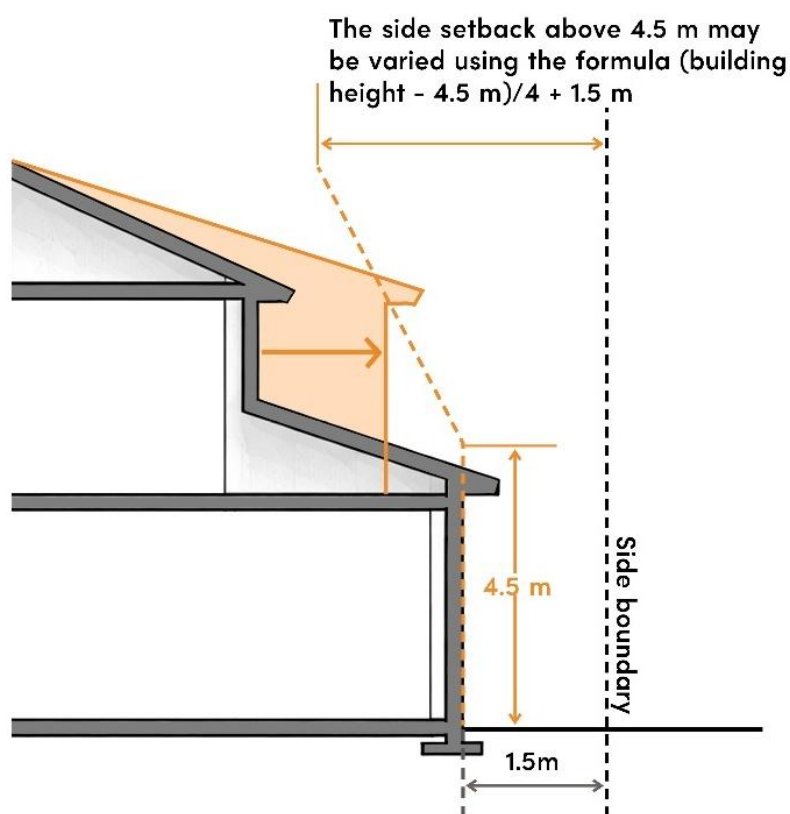


Figure 14: Variations to upper floor side setbacks for parts of manor homes and new dwellings under inland code

Table 5: Proposed variations for side setbacks

Relevant code and clauses of the Codes SEPP	Current controls	Proposed variations
Setbacks for alterations or additions to existing dwellings		
Housing Code – cl 3.10(4) Inland Code - cl 3D.21(7)	The required side setback is based on the lot width at the building line.	Alterations or additions to the existing dwelling may align with the existing dwelling's side boundary setback, or 0.9m, whichever is greater.
Side setbacks for new dwellings		
Housing Code – cl 3.10(4)	For building heights up to 4.5 m: • 0.9 m for lot widths less than 18 m, • 1.5 m for 18-24 m wide lots • 2.5 m for lots greater than 24 m wide.	Allow variations to side setbacks for building height less than 4.5 m to no less than 0.9 m, where this is consistent with the council's DCP or there are no significant adverse impacts.
Rural Housing Code – cl 3A.16(2)	For lots in the RU1, RU2, RU3, RU4 and RU6 zones, the side setback is 10 m. For lots in the R5 zone with lots less than 4,000 m ² , the side setback is 2.5 m and for lots at least 4,000 m ² in size, the side setback is 10 m.	Allow variations where the side setback is consistent with council DCP side setback controls or there are no significant adverse impacts.
Low Rise Housing Diversity Code – cl 3B.11(4)	For building heights up to 4.5 m: • 0.9 m for lots up to 24 m wide • 1.5 m for lots 24-36 m wide • 2.5 m for lots greater than 36 m wide.	The side setback may be varied to 0.9 m for part of the development that is less than 4.5 m in height, regardless of lot width.
Low Rise Housing Diversity Code – cl 3B.24(4), 3B.24(5) and 3B.36(4)	The side setback of a manor house, dual occupancy (one above another), terrace or attached development must have a 1.5 m setback for both lower and upper storeys. Dual occupancies (one above the other and manor homes): Any part of the development that is 10 m from the building line must be setback using a formula of the height of the building minus 3 m, which means a development of 8.5 m height would need to step in 5.5 m on each side for the upper storey.	The side setback may be varied to 0.9m for part of the development that is less than 4.5 m in height. Dual occupancies (one above the other and manor homes): The side setback for part of the development 10 m behind the building line and above 4.5 m in height, may be varied to be setback using the same calculation for building setbacks for dual occupancies in cl 3B.11(4) where the side setback is based on the (building height-4.5 m)/4 + 1.5 m.

Relevant code and clauses of the Codes SEPP	Current controls	Proposed variations
Inland Code – cl 3D.12(4)	For lots in the RU1, RU2, RU3, RU4 and RU6 zones, the side setback is 10 m.	Allow variations where the side setback is consistent with council DCP side setback controls or there are no significant adverse impacts.
Inland Code – cl 3D.21(8)	In zones RU5, R1, R2, R3 and R4 - any part of the development more than 4.5 m must have minimum side setbacks using a formula of the height of the building minus 3 m, which means a development of 8.5 m height would need to step in 5.5 m on each side for the upper storey, impacting upper storey development for smaller lots.	The side setback for the upper storey may be varied using the formula (building height-4.5 m)/4 + 1.5 m for lots less than 18 m in width.

Information requirements to support applications for variations to reduced side setbacks

The application should outline any amenity impacts on adjoining properties with consideration of how the development mitigates privacy impacts on neighbouring properties through window placement and the use of screening, planting and fences to improve privacy.

The application should include plans and drawings demonstrating the proposed development in the context of the adjoining development, including neighbouring windows.

For two-storey development with reduced setbacks, these should be supported by an analysis of any overshadowing impacts.

4.7 Rear setbacks

Currently, development in residential zones rear setbacks are based on the lot width at the building line, the type of development and the height of the building, with different setbacks applying for the ground floor generally below 4.5 m in height and the first floor with height 4.5-8.5 m. The Codes SEPP does not consider council DCP controls or setbacks of other adjoining development, apart from small lots of less than 300 sqm.

We are proposing to allow variations to mostly upper rear setbacks to consider local setback provisions and also adjoining development average rear setbacks. Changes are also proposed for both the lower and upper level setbacks for development in rural zones in the Rural Housing Code.

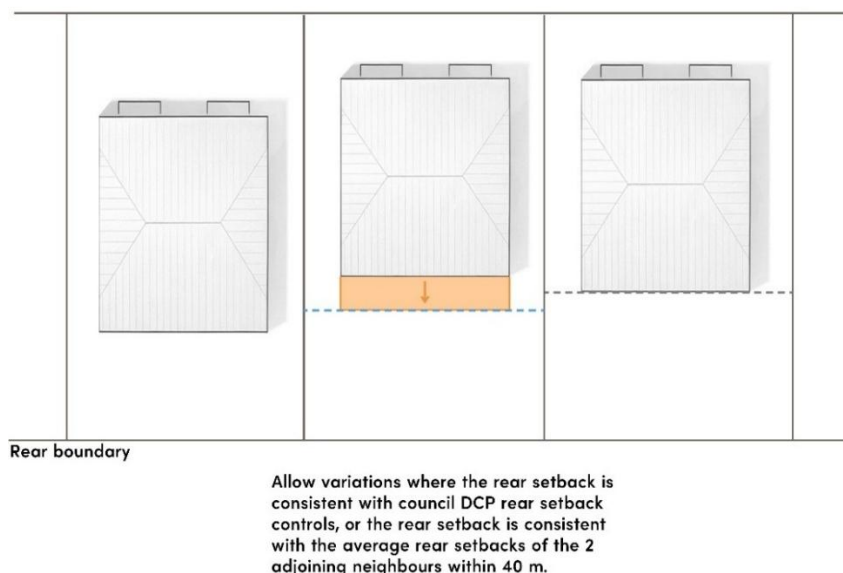


Figure 15: Variation for rear setbacks

Table 6: Proposed variations for rear setbacks

Relevant code and clauses of the Codes SEPP	Current controls	Proposed variations
Housing Code – cl 3.10(10)	Rear setback varies based on the lot size and building height.	Allow variations for all lot widths for an upper storey where the rear setback is consistent with council DCP rear setback controls, or the rear setback is consistent with the average rear setback (excluding a corner lot) of the 2 adjoining dwellings within 40 m.
Rural Housing Code – cl 3A.17(2) for RU1, RU2, RU3, RU4, RU6 and R5.	Rear setback is 15 m for any point of the building.	Allow variations where the rear setback is consistent with council DCP rear setback controls, or the rear setback is consistent with the average rear setback of the 2 adjoining dwellings within 40 m.
Low Rise Housing Diversity Code – cl 3B.11(5) Dual occupancies (side by side excluding corner lots)	Rear setback is based on lot size and building height. For lot sizes 400-900 m ² , for building parts with a height over 4.5 m, a rear setback of 8m is required.	Allow variations on 400-900 m ² lots where the setback for the part of a building above 4.5 m is consistent with the average of any adjoining dwellings second floor setback (apart from a corner lot) or allow variation to 6 m where this will not have significant adverse impacts.
Low Rise Housing Diversity Code – cl 3B.24(6) Dual occupancies (one above another)	Rear setback is based on lot size and building height. For lots, 400-1500 m ² , for building parts with height of >4.5-8.5m, a rear setback of 10 m is required.	The rear setbacks for dual occupancies and any attached development, apart from manor homes, on lots up to 900 sqm with building parts with a height of >4.5-8.5 m may be varied to be

Relevant code and clauses of the Codes SEPP	Current controls	Proposed variations
		consistent with the average or any adjoining dwelling's second floor setback (apart from a corner lot); or reduced to 8 m where the reduced setback will not have significant adverse impacts on adjoining dwellings.
Inland Code – cl 3D.21(14)	Rear setback varies based on the lot size and building height.	Allow variations for all lot widths for an upper storey where the rear setback is consistent with council DCP rear setback controls, or the rear setback is consistent with the average rear setback (excluding a corner lot) of the 2 adjoining dwellings within 40 m.

Information requirements to support applications for variations to reduced rear setbacks

The application should outline any amenity impacts on adjoining properties with consideration of how the development mitigates privacy impacts on neighbouring properties through window placement and the use of screening, planting and fences to improve privacy.

The application should include plans and drawings demonstrating the proposed development in the context of the adjoining development, including neighbouring windows and private open spaces.

For two-storey development with reduced setbacks, these should be supported by an analysis of any overshadowing impacts.

4.8 Privacy screens

The Codes SEPP currently requires privacy screens for certain habitable-room windows that face a side or rear boundary, as well as for elevated outdoor spaces such as balconies, decks and terraces. While these provisions are intended to protect the privacy of adjoining properties, in practice they often result in the widespread use of translucent glazing or high-sill windows for most side-facing habitable rooms. This can significantly reduce natural daylight access and restrict design outcomes, particularly for dwellings that rely on side-facing windows as their primary source of light and ventilation. By contrast, many council DCPs allow a merit-based assessment of visual privacy impacts, focusing on design solutions that minimise overlooking rather than mandating screening in all circumstances.

To provide greater flexibility and improve design outcomes, the NSW Government is proposing to introduce both changes to the Codes SEPP and to allow variations to the privacy screen requirements. A change to the Codes SEPP is proposed to clarify that privacy screens are not required along the edge of a balcony that faces a public road or public open space. This aligns the

Housing Code, Rural Housing Code, Greenfield Housing Code and Inland Code with the existing approach in the Low Rise Housing Diversity Code, recognising that overlooking of public areas does not raise the same privacy concerns as overlooking of private residential spaces. Further details on this change are included in Chapter 5 below.

In addition, it is proposed to allow variations where privacy screens are not required if a habitable-room window or raised open space (including a balcony, deck, patio, terrace or verandah) does not have a direct line of sight into a habitable-room window of an adjoining dwelling or into the principal private open space of an adjoining property.

A direct line of sight would be defined as any line measured from a height of 1.7 m above the finished floor level, taken from the perimeter of the window or raised open space, to any point within a horizontal distance of 9 m and within a 45-degree horizontal viewing angle. This variation would apply to the Housing Code, Zone R5 in the Rural Housing Code, Low Rise Housing Diversity Code, Greenfield Housing Code, Inland Code and the Housing Alteration Code.

These changes aim to maintain appropriate levels of residential privacy while enabling better access to natural light, improved design flexibility and more balanced outcomes consistent with council DCP approaches.

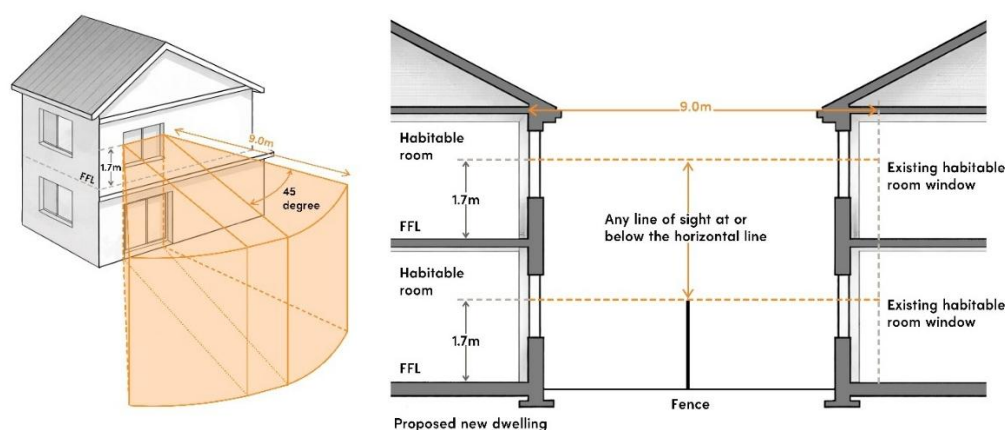


Figure 16: Direct line of sight – overlooking into habitable room windows

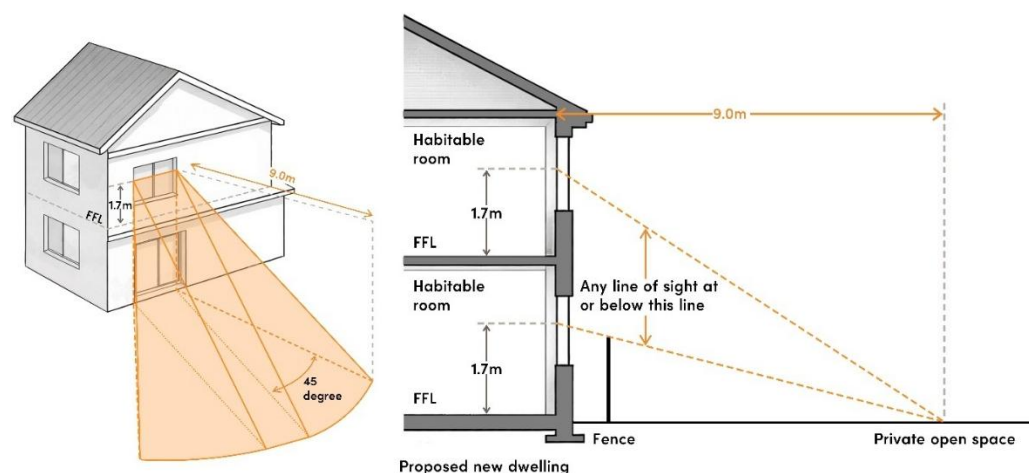


Figure 17: Direct line of sight – overlooking to private open space

Table 7: Proposed variations for privacy screens

Relevant code and clauses of the Codes SEPP	Current controls	Change to Codes SEPP proposed	Proposed variations
Part 3 Housing Code			
Housing Code – cl 3.15(1) and (3), and cl 3.25(9)	Currently requires privacy screens for certain habitable-room windows that face a side or rear boundary, as well as for elevated outdoor spaces such as balconies, decks and terraces.	Introduce a new clause in cl 3.15 to clarify that privacy screens are not required along the edge of a balcony facing a public road or public open space.	No privacy screen is needed if there is no direct line of sight to the neighbouring property.
Part 3A Rural Housing Code			
Rural Housing Code – cl 3A.23(2) and (4)	For lots in the R5 zone with an area of less than 4,000 sqm, the Codes SEPP currently requires privacy screens for certain habitable room windows that face a side or rear boundary, as well as for elevated outdoor spaces such as balconies, decks and terraces.	Introduce a new clause in cl 3A.23 to clarify that privacy screens are not required along the edge of a balcony facing a public road or public open space.	No privacy screen is needed if there is no direct line of sight to the neighbouring property.
Part 3B Low Rise Housing Diversity Code			
Low Rise Housing Diversity Code – cl 3B.17(1) and (3)	Currently requires privacy screens for dual occupancy and attached development for certain habitable-room windows that face a side or rear boundary, as well as for elevated outdoor spaces such as balconies, decks and terraces.	No permanent change proposed.	No privacy screen is needed for dual occupancy and attached development if there is no direct line of sight to the neighbouring property.
Part 3C Greenfield Housing Code			
Greenfield Housing Code – cl 3C.18(1) and (3) and 3C.28(9)	Currently requires privacy screens for certain habitable-room windows that face a side or rear boundary, as well as for elevated outdoor spaces such as balconies, decks and terraces.	Introduce a new clause in cl 3C.18 to clarify that privacy screens are not required along the edge of a balcony facing a public road or public open space.	No privacy screen is needed if there is no direct line of sight to the neighbouring property.
Part 3D Inland Code			
Inland Code – cl 3D.26(1) and (3) and 3D.37(3)(5)	Currently requires privacy screens for certain habitable-room windows that face a side or rear	Introduce a new clause in cl 3D.26 to clarify that privacy screens are not required along the edge	No privacy screen is needed if there is no direct line of sight to

Relevant code and clauses of the Codes SEPP	Current controls	Change to Codes SEPP proposed	Proposed variations
	boundary, as well as for elevated outdoor spaces such as balconies, decks and terraces.	of a balcony facing a public road or public open space.	the neighbouring property.
Part 4 Housing Alteration Code			
Housing Alteration Code – cl 4.4(2)	Currently requires privacy screens for certain habitable-room windows that face a side or rear boundary.	No permanent change proposed.	No privacy screen is needed if there is no direct line of sight to the neighbouring property.
Codes not included: No changes are proposed to clauses 3B.29 and 3B.42 for manor houses, dual occupancies where part of a dwelling is located above another dwelling, and multi-dwelling housing under the Low Rise Housing Diversity Code, as these development types are more intensive than single dwellings or dual occupancies and therefore warrant stronger privacy controls.			

Information requirements to support applications for variations to privacy screens

The application should include plans and sections demonstrating the proposed development in context of the adjoining development, including neighbouring windows and private open space areas.

The application should demonstrate how the proposal mitigates privacy impacts on neighbouring properties through window placement, the use of design, planting and fences and that the development does not have a direct line of sight into a habitable-room window of an adjoining dwelling or into the principal private open space of an adjoining property.

4.9 Maximum width of garage door opening and car parking requirements

The Codes SEPP currently includes maximum garage-door widths based on lot width, which in turn determines whether a dwelling can accommodate a single, double or triple garage. It also requires off-street parking spaces to be set back 1 m behind the building line. These controls aim to reduce bulk and visual dominance of garages when viewed from the street.

However, the visual impact of a garage is influenced by a range of design factors, including the proportion of the façade occupied by the garage, the number of storeys, articulation, and the overall scale of the dwelling. In practice, the current prescriptive limits can restrict functional garage design and limit the ability to accommodate additional parking on lots, even where the visual impact could be appropriately managed.

The NSW Government is proposing to allow variations for attached double garages (with garage-door openings up to 5 m) for two-storey dwellings on lots with a width between 10 m and

12 m where a single driveway presents at the street boundary and tapers to the garage. These variations would be subject to a merit-based assessment by council, demonstrating that the garage does not visually dominate the streetscape, the garage is integrated into the dwelling design. This variation would apply to the Housing Code and for zones RU5, R1, R2, R3 and R4 under the Inland Code.

Flexibility is also proposed for off-street parking setbacks by allowing parking to align with the building line, where the parking is integrated into the dwelling design and the garage doors are visually recessive. This variation would apply to the Housing Code, the Low Rise Housing Diversity Code, Greenfield Housing Code and to Zones RU5, R1, R2, R3 and R4 under the Inland Code.

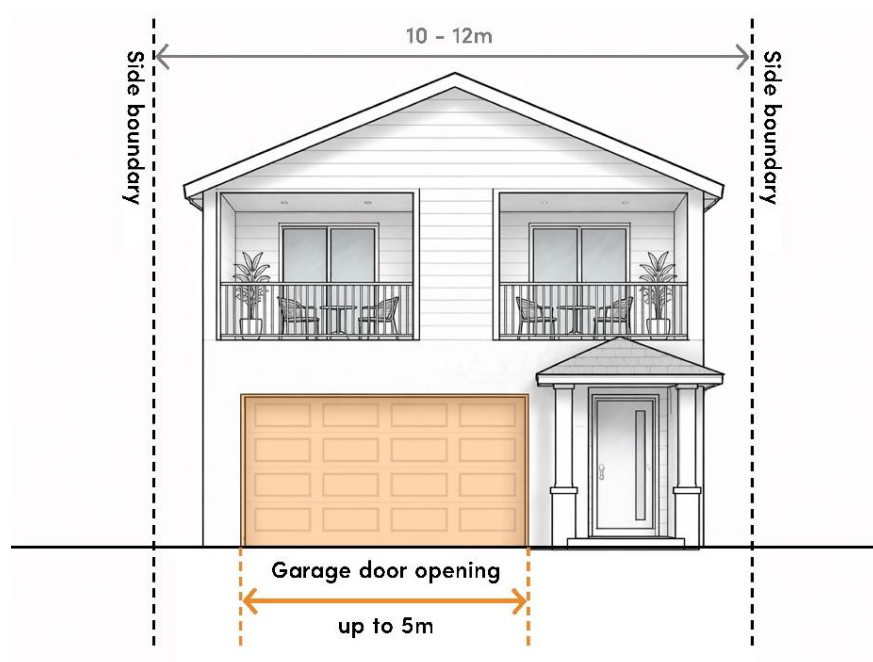


Figure 18: Variations for attached garage door width for two storey dwellings on lots between 10 m and 12 m wide

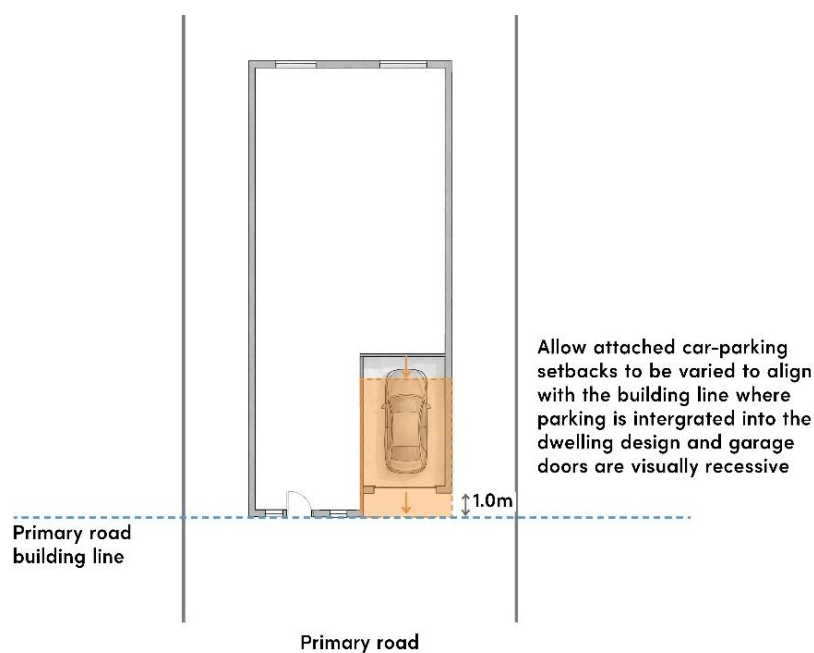


Figure 19: Variations for car-parking setback to align with the building line

Table 8: Proposed changes for garage widths and car parking setback requirements

Relevant code and clauses of the Codes SEPP	Current controls	Proposed variations
Housing Code – cl 3.16(5) Low Rise Housing Diversity Code – cl 3B.18(6) and 3B.30(5) Greenfield Housing Code – cl 3C.19(5) and 3C.26(6) Inland Code – cl 3D.27(2)	Currently requires car parking to be setback 1 m behind the building line where the setback is 4.5 m or more or otherwise be 5.5 m from the primary road.	Allow attached car-parking setbacks to be varied to align parking with the building line where parking is integrated into the dwelling design and garage doors are visually recessive.
Housing Code – cl 3.16(6) and Inland Code – cl 3D.27(7)	Maximum garage door width is 3.2 m for lots 8–12 m wide, and 6 m for lots wider than 12 m.	Allow the maximum attached garage door width to be varied to up to 5 m for two-storey dwellings on lots between 10 m and 12 m wide where the garage does not visually dominate the streetscape, the garage is integrated into the dwelling design, and driveways present as a single crossing at the property boundary.

Information requirements to support variations for changes to garage widths and car parking requirements

The application should demonstrate that the proposal will be in keeping with the streetscape and how the garage or parking is integrated into the dwelling design and does not visually dominate the frontage.

4.10 Dual occupancies (attached) – lot requirements, width and access

Currently, the Codes SEPP requires dual occupancies on lots less than 15 m wide to gain access from a secondary road, parallel road or rear lane, restricting a number of dual occupancies from using the Codes SEPP, as many lots are unable to achieve this access.

It is proposed a variation be allowed to attached two-storey dual occupancies on lot widths of 12-15 m to gain access from a primary road, with each dwelling to have a garage door width of no more than 3.0 m. Changes are also proposed to allow a variation of the width of the dual occupancy to be varied from 6 m to 5 m to allow development on these narrow lots.

The NSW Housing Pattern Book allows dual occupancies on lots with similar widths and access requirements in areas in which the Low- and Mid-Rise Housing Policy applies.



Figure 20: [Semis 01 Pattern Book by Anthony Gills Architects](#)



Figure 21: [O'Donnell Case Study by MHNDU](#)

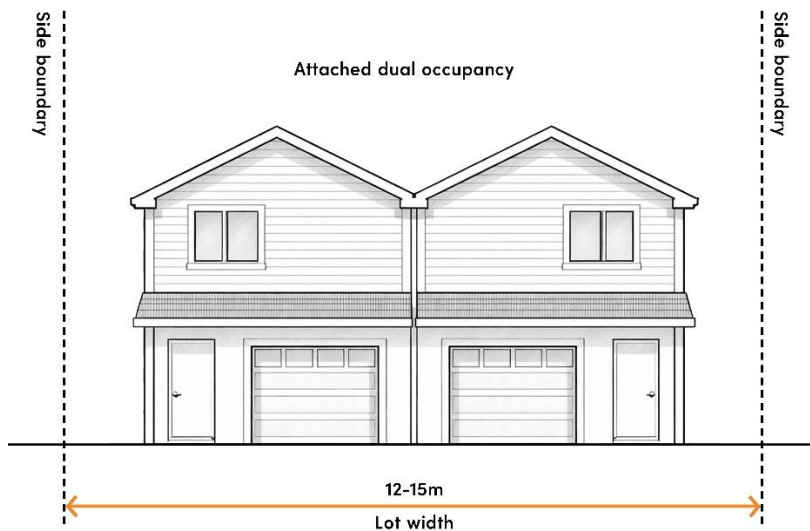


Figure 22: Allow attached two storey dual occupancies on lot widths of 12-15 m to gain access from a primary road

Table 9: Proposed changes for dual occupancies

Relevant code and clauses of the Codes SEPP	Current controls	Proposed variations
Low Rise Housing Diversity Code – cl 3B.8(2)(a)	The width of the parent lot must not be less than the following when measured at the building line— (a) if the car parking space for the parent lot is accessed only from a secondary road, parallel road or lane—12 m, (b) otherwise—15 m.	Allow a variation for development under this Code on 12-15 m wide lots for attached two storey dual occupancies with car parking access from a primary road.
Low Rise Housing Diversity Code – cl 3B.13(4)	Each dwelling, including an off-street car parking space for the dwelling, must have a minimum width, measured at the building line, of 6.5 m if the car parking space is accessed from a primary road or otherwise – 5 m.	Allow variation for an attached dual occupancy on lots 12-15 m wide for each dwelling to have a minimum width of 5m.

Relevant code and clauses of the Codes SEPP	Current controls	Proposed variations
Low Rise Housing Diversity Code - cl 3B.18(5)	For lots less than 15 m wide, car parking spaces must be provided at the rear of the lot or in a basement and must be accessed only from a secondary road, parallel road or lane.	Allow developments on 12-15 m wide lots to have carparking access from the primary street frontage with a garage door opening limited to 3 m wide per dwelling.

Information requirements to support applications for variations to dual occupancy

The application should demonstrate how the development will be in keeping with the streetscape.

4.11 Building design

Currently, the Codes SEPP requires at least one door and one window to a habitable room at the ground floor level facing a primary or parallel road. It can be difficult to provide functional living spaces and windows on the ground floor of a two-storey dwelling, which also incorporates a double garage on narrow lots of less than 11 m, with double garages of up to 6 m already permissible in the Greenfield Housing Code on lots less than 11 m.

Habitable spaces and decks on the upper level can ensure passive surveillance and reduce garage dominance.

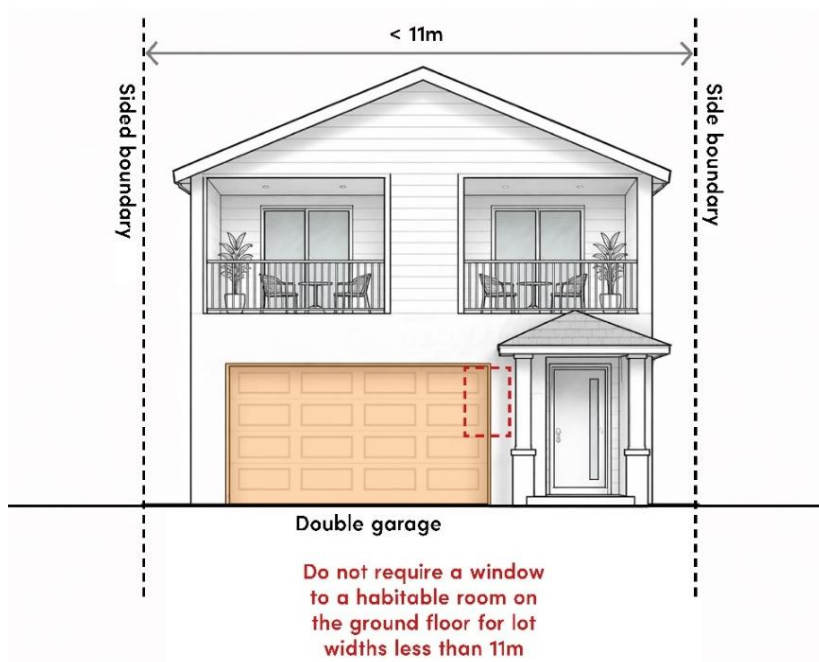


Figure 23: Variations for windows to habitable rooms at the ground floor

Table 10: Building design – windows to habitable rooms

Relevant code and clauses of the Codes SEPP	Current controls	Proposed variations
Housing Code – cl 3.14(2) Greenfield Housing Code – cl. 3C.16(2) Inland Code – cl 3D.25(2) for RU5, R1, R2, R3 and R4 zones	Requires at least one door and one window to a habitable room at the ground floor level facing a primary or parallel road.	Allow a variation for two-storey dwellings to not require a window to a habitable room on the ground floor facing the primary or parallel road for lot widths less than 11 m where the dwelling includes windows to habitable rooms or balconies facing the street on the upper level, which provide passive surveillance of the street.

Information requirements to support applications for variations to building design

The application should demonstrate how the development fits into the streetscape and provides passive surveillance of the street.

4.12 Certain detached development – maximum GFA and side setbacks

Detached development on a lot includes a deck, patio, pergola, terrace or verandah, cabana, cubby house, fernery, garden shed, gazebo or greenhouse, carport or garage, and sheds.

4.12.1 Maximum GFA

The Codes SEPP currently sets maximum GFAs for the detached elements listed above that vary by lot size, typically ranging from 36 sqm to 100 sqm. These limits operate alongside the site-wide maximum GFA, so the area of any detached structure is counted toward the total allowable GFA for the dwelling and associated development.

As part of the broader proposal to permit a minor variation of up to 10% to the maximum GFA for all development types, it is also proposed to allow a variation to the maximum GFA for certain detached structures. This would provide greater flexibility for functional and well-designed ancillary structures while retaining overall GFA controls. The variation would apply to the Housing Code, Low Rise Housing Diversity Code, Greenfield Housing Code and Inland Code.

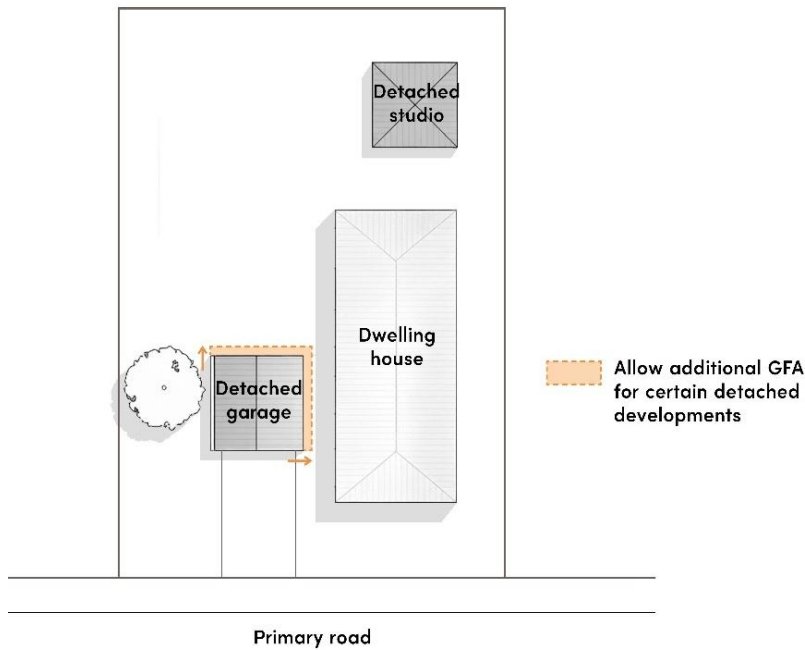


Figure 24: Variation of GFA for detached development

4.12.2 Side setbacks

The Codes SEPP currently requires side setbacks for detached structures that vary by lot width, generally between 0.9 m and 2.5 m. It is proposed to allow a variation to side setbacks for alterations and additions to an existing detached structure where the existing structure does not comply with the current Codes SEPP setback controls. Under the proposal, new additions would be permitted to align with the existing detached structure's setback, provided the proposal meets the design and amenity tests for the relevant code. This variation would apply to the Housing Code, Greenfield Housing Code and Inland Code.

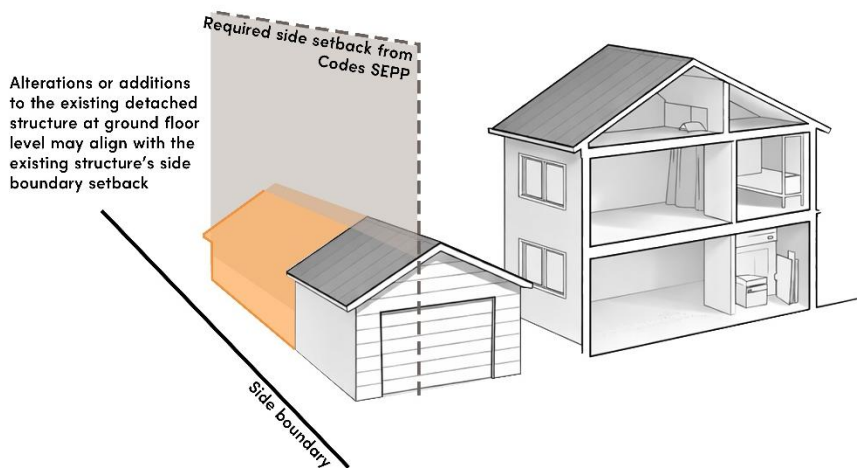


Figure 25: Variations for alterations and additions to development that does not currently meet the setback controls

Table 11: Proposed variations for detached development

Relevant code and clauses of the Codes SEPP	Current controls	Proposed variations
Maximum GFA		
Housing Code – cl 3.20 Greenfield Housing Code – cl 3C.23	Sets maximum GFA for detached development that varies by lot size: 36 m ² for lots 200–300 m ² , 45 m ² for lots 400–600 m ² , 60 m ² for lots 600–900 m ² , and 100 m ² for lots > 900 m ² .	Allow the maximum GFA of detached development to be varied to 60 m ² for lots 400–600 m ² and to 75 m ² for lots 600–900 m ² .
Low Rise Housing Diversity Code – cl 3B.48(1)(2)	Sets maximum GFA for detached development that varies by lot size: 45 m ² for lots 400–600 m ² , 60 m ² for lots 600–900 m ² , and 100 m ² for lots > 900 m ² .	
Inland Code – cl 3D.43	Sets maximum GFA for detached development that varies by lot size: 46 m ² for lots 200–300 m ² , 45 m ² for lots 400–600 m ² , 60 m ² for lots 600–900 m ² , and 100 m ² for lots > 900 m ² .	Allow the maximum GFA of detached development to be varied to 60 m ² for lots 400–600 m ² , to 75 m ² for lots 600–900 m ² , and to 120 m ² for lots > 900 m ² .
Side Setbacks		
Housing Code – cl 3.21(2) Greenfield Housing Code – cl 3C.24(2) Inland Code – cl 3D.44(2)	Currently requires minimum side setbacks for detached development that vary by lot width: 0.9 m for lots 6–18 m wide; 1.5 m for lots >18–24 m wide; and 2.5 m for lots > 24 m wide.	Allow a variation to side setbacks for alterations and additions to an existing detached structure where the existing structure does not comply with the current Codes SEPP setback controls, permitting new additions to align with the existing detached structure's setback.

Information requirements to support applications for variations to reduced side setbacks

The application should outline the alterations and additions proposed, any amenity impacts on adjoining properties, with consideration of how the development mitigates privacy impacts on neighbouring properties. The application should include plans and drawings demonstrating the proposed development in the context of the adjoining development, including neighbouring windows.

For two-storey alterations and additions with reduced setbacks, these should be supported by an analysis of an overshadowing impacts.

4.13 Detached studios

The Codes SEPP currently sets maximum GFA limits for detached studios based on the size of the lot. Under the Housing Code, Greenfield Housing Code and Inland Code, detached studios are limited to a maximum of 20 sqm on lots between 200–350 sqm, and 36 sqm on lots greater than 350 sqm. Under the Rural Housing Code, the maximum GFA for a detached studio is 35 sqm for all

lot sizes. Under the Low Rise Housing Diversity Code, the maximum GFA for a detached studio is 36 sqm for all lot sizes. These controls operate alongside the broader maximum GFA requirements for all development on a site, meaning the GFA of a detached studio is included within the total allowable GFA for the dwelling and any associated development.

As part of the broader proposal to allow a minor variation of up to 10% to the maximum GFA for all development types, it is also proposed to allow a corresponding 10% variation to the maximum GFA of detached studios.

For example, on a 300 sqm lot under the Housing Code, the current maximum detached studio GFA of 20 sqm could be increased to 22 sqm under the proposed variation. This minor increase responds to the overall 10% GFA variation for the site and provides applicants with greater flexibility to pursue a CDC rather than a DA, while still maintaining landscape requirements to ensure adequate open space and site permeability.

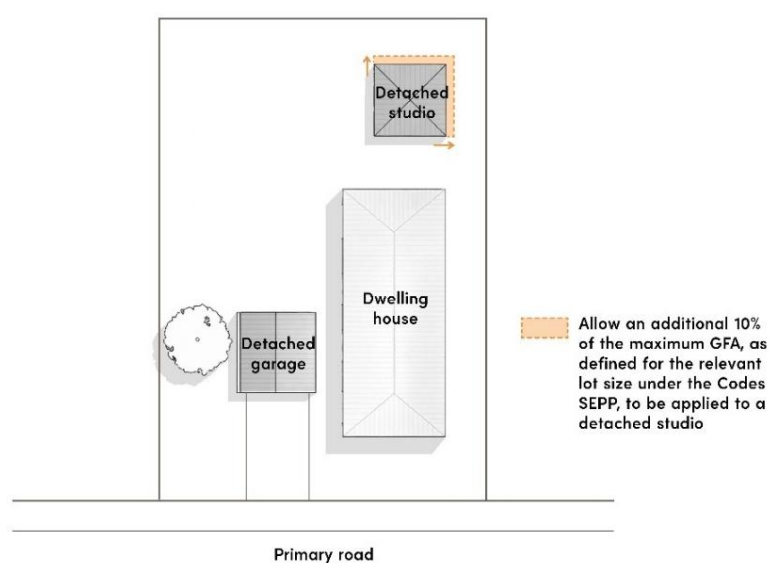


Figure 26: Variation of GFA for detached studios

Table 12: Proposed variations for detached studios

Relevant code and clauses of the Codes SEPP	Current controls	Proposed variations
Part 3 Housing Code, Part 3C Greenfield Housing Code and Part 3D Inland Code		
Housing Code – cl 3.25(3) Greenfield Housing Code – cl 3C.28(3) Inland Code – cl 3D.48(3)	The maximum gross floor area for detached studios is 20 sqm for lots between 200–350 sqm, and 36 sqm for lots greater than 350 sqm.	Allow up to an additional 10% of the maximum gross floor area as defined for the particular size of lot in the Codes SEPP.
Part 3A Rural Housing Code		
Rural Housing Code – cl 3A.33A(6)	The maximum gross floor area of a detached studio is 35 sqm.	Allow an additional 10% of the maximum gross floor area.
Part 3B Low Rise Housing Diversity Code		
Low Rise Housing Diversity Code – cl 3B.52(3)	The maximum gross floor area of a detached studio is 36 sqm.	Allow an additional 10% of the maximum gross floor area.

4.14 Swimming pools

The Codes SEPP currently places limitations on where swimming pools may be located on residential lots, and these controls vary across the Housing Code, Greenfield Housing Code, Rural Housing Code and Low Rise Housing Diversity Code. While these provisions aim to manage amenity, privacy and streetscape impacts, in practice they often prevent pools from being located in reasonable and low-impact locations, particularly on corner lots. We are proposing to allow variations that provide councils with greater flexibility to approve pools in locations that remain consistent with local character and amenity expectations.

Under the Housing Code and Greenfield Housing Code, swimming pools on corner lots must follow the same secondary road setback as the dwelling house. This often results in very limited permissible locations for a pool on a corner lot, even though councils routinely approve pools closer to the secondary road boundary through a DA where they are satisfied the impacts are minimal. It is proposed swimming pools can encroach into the secondary road setback on corner lots, provided a minimum 1 m setback is maintained between the water line and the secondary road boundary.

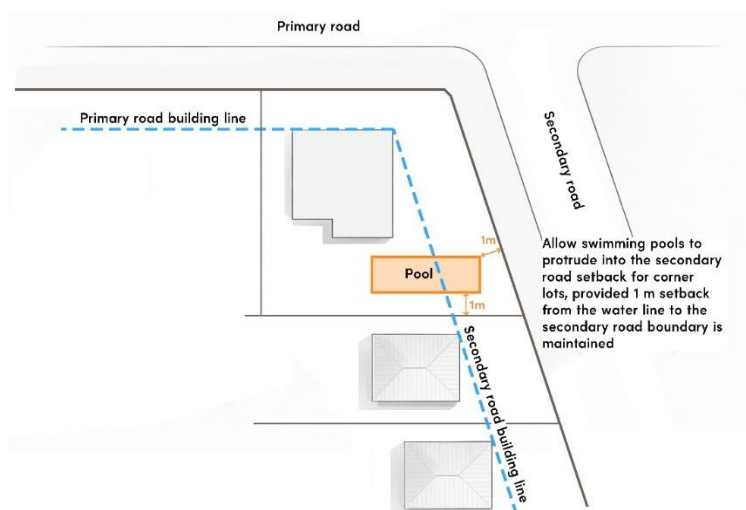


Figure 27: Variation for swimming pools in the secondary road setback of corner lots

Under the Rural Housing Code, swimming pools must be located behind substantial primary road setbacks. The Rural Housing Code requires a 30 m setback in RU4 zones and a 50 m setback in RU1, RU2, RU3 and RU6 zones. It is proposed that, instead of requiring swimming pools to be located behind the building line in these rural zones, that swimming pools to be located behind the front setback required under the relevant Council DCP or the Codes SEPP setback requirements, where the council is satisfied that the pool will have minimal visual or amenity impacts.

Under the Low Rise Housing Diversity Code, it is proposed to allow swimming pools to be located in the side yard of dual occupancies or manor homes where they are positioned behind the front building line, and to allow reduced secondary road setbacks to a minimum of 1 m between the water line and the secondary road boundary where appropriate.

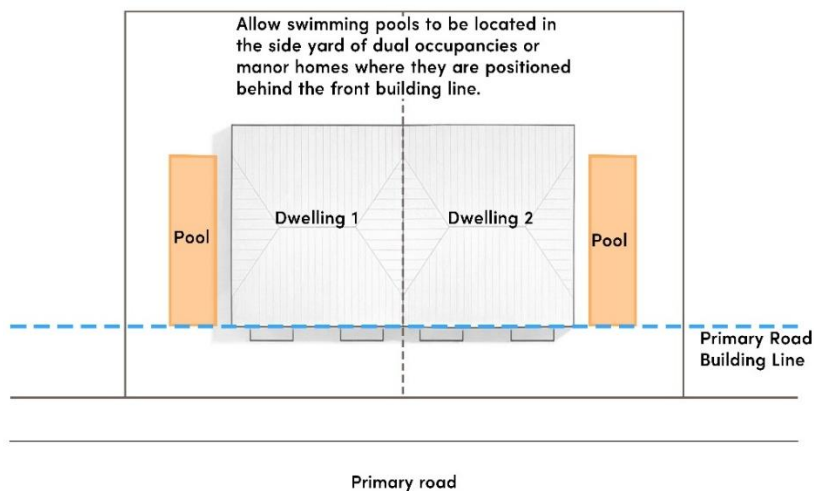


Figure 28: Variation for swimming pools for dual occupancies to allow these in the side setback

Table 13: Proposed variations for swimming pools

Relevant code and clauses of the Codes SEPP	Current controls	Proposed variations
Part 3 Housing Code and Part 3C Greenfield Housing Code		
Housing Code – cl 3.28(7A) Greenfield Housing Code – cl 3C.31(6A)	Currently requires swimming pools to be positioned behind the building line of the secondary road setback for corner lots. The secondary road setback varies based on the size of the lot and is 2 m for lots up to 600 m ² , 3 m for lots 600-1,500 m ² and 5 m for all other lots in the Housing Code and 2 m for the majority of lots in the Greenfield Housing Code.	Allow swimming pools to protrude into the secondary road setback for corner lots, provided 1 m setback from the water line to the secondary road boundary is maintained where these have minimal amenity impacts.
Part 3A Rural Housing Code		
Rural Housing Code – cl 3A.33(1) for rural zones (RU1, RU2, RU3, RU4 and RU6)	Currently requires swimming pools to be located behind the setback/building line from the primary road or in the rear yard with large setbacks of between 30 and 50 m.	Allow swimming pools to be located behind the front setback requirements of a Council DCP or Codes SEPP setback controls, where council is of the opinion that the development has minimal visual or amenity impacts.
Part 3B Low Rise Housing Diversity Code		
Low Rise Housing Diversity Code – cl 3B.56(6) and (8)	Currently requires the swimming pool to be in the rear yard with a minimum setback of 1 m from any side or rear boundary and behind the building line of the secondary road for corner lots.	Allow swimming pools in the side yard of a dual occupancy or manor home provided this is behind the front building line. Also allow swimming pools to protrude into the secondary road setback for corner lots, provided 1

Relevant code and clauses of the Codes SEPP	Current controls	Proposed variations
		m setback from the water line to the secondary road boundary is maintained, where these have minimal amenity impacts.

Information requirements to support application for variations for swimming pool location

The application should outline any potential amenity impacts to adjoining neighbours or on the streetscape and how the impacts will be minimal.

4.15 Tree protection

Currently, complying development must be setback at least 3 m from each protected tree on the lot and an adjoining lot. This requires increased side setbacks for development and makes complying development unworkable on sites that contain trees in close proximity to the development.

A variation to the 3 m setback from a tree on the lot or a neighbouring lot is proposed, if the proposal is supported by an arborist report prepared by an AQF Level 5 arborist, which determines an appropriate setback from the tree trunk in accordance with AS4970:2025, where the Notional Root Zone and the Structural Root Zone are identified. In such a case, standard side or rear setbacks may apply if supported by setback requirements of the Arborist report.

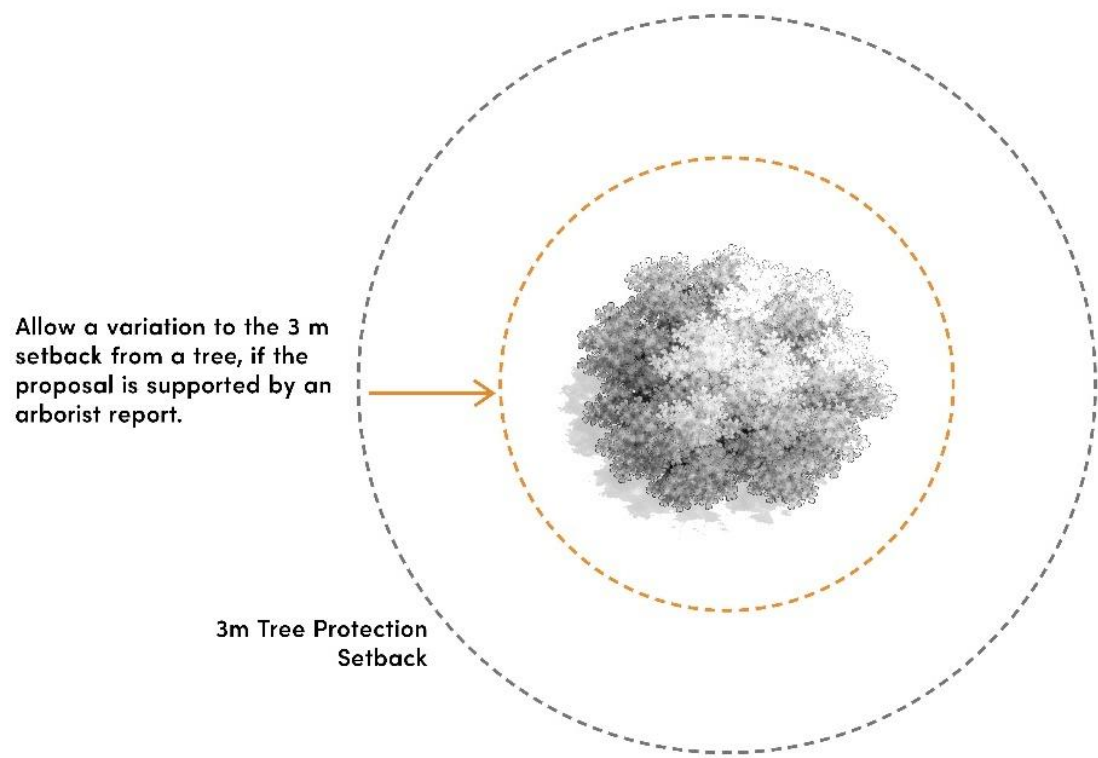


Figure 29: Variation to the setback from a protected tree

Table 14: Proposed variations for trees on the lot or on adjoining lots

Relevant code and clauses of the Codes SEPP	Current controls	Proposed variations
Housing Code – cl 3.33(2) Rural Housing Code – cl 3A.24A(1) Low Rise Housing Diversity Code – cl 3B.61(2) Greenfield Housing Code – cl 3C.36(2) Inland Code – cl 3D.64(2)	Currently complying development must be setback at least 3 m from each protected tree on the lot and on an adjoining lot.	Allow a variation to the 3 m setback from a tree on the lot or a neighbouring lot if the proposal is supported by an arborist report.

Information requirements to support application for variations for tree protection

The application should be supported by an arborist report prepared by an AQF level 5 arborist, which determines the Notional Root Zone, the Structural Root Zone and an appropriate setback from the tree trunk in accordance with AS490:2025. The plans must also demonstrate compliance with the setback standards identified in this report.

5 Other changes to the Codes SEPP

In 2025, a package of proposed amendments to the Codes SEPP was developed in response to suggestions from industry, councils and the community. The proposed amendments aimed to expand opportunities for complying development or make existing standards easier to apply.

The Department consulted on the proposed amendments with the Complying Development Expert Panel (CDEP) and local councils to help investigate the issues and develop appropriate policy solutions. The panel is a cross-sector expert advisory body to the Department that informs the development of NSW Government policy and initiatives relevant to exempt and complying development.

Several amendments to the Codes SEPP were considered and investigated, including:

- expanding low-impact remedial works as complying development,
- expanding complying development on bushfire and flood control lots where appropriate,
- changes to setbacks for complying development – including primary road setbacks and internal separation between two detached dual occupancies,
- expanding complying development for sloping sites, modern designs and garages,
- simplifying balcony and privacy screen requirements, and
- permitting above-ground rainwater tanks closer to the lot side boundary.

The Department refined the proposed amendments in response to the feedback received during this early consultation. The Department is now seeking feedback from the wider community and stakeholders on the proposed changes to the Codes SEPP.

5.1 Summary of the other changes to the Codes SEPP being considered

The following changes are proposed to the Codes SEPP, with additional detail provided in the sections below.

1. Expanding low-impact remedial works as complying development:
 - Expand complying development for external remediation works to apartments and multi-dwelling housing, including buildings above 3 storeys and within 3 m of side and rear boundaries.
 - Also proposing a small tolerance to enable remedial works on building façades and balconies, as complying development.
2. Complying development on bushfire prone land and flood control lots:
 - Enable demolition on bushfire prone land outside periods of Total Fire Ban.
 - Allow for minor internal alterations on flood control lots, as complying development.

3. Appropriate setbacks for complying development:

- Align primary road front setbacks to one of the nearest dwellings within 40 m for detached dwellings, manor houses, dual occupancies and attached development in the Housing Code and Low Rise Housing Diversity Code.
- Reduce the internal separation between dwellings in detached dual occupancies from 3 m to 1.8 m under the Low Rise Housing Diversity Code.

4. Expanding complying development for sloping sites, modern designs and garages:

- Allow front façade parapet walls up to 1 m above the gutter line under the Greenfield Housing Code.
- Measure the 3.3 m height limit of a garage wall from the finished floor level and not the existing ground level, to enable complying development of garages on sloping sites under the Housing Code.
- Remove the size restriction of 18 m² for attached garages accessed from a rear lane or parallel road under the Greenfield Housing Code.
- Include detached double garages for lots accessed from a rear lane or parallel road under the Greenfield Housing Code.

5. Simplifying balcony and privacy screen requirements:

- Exclude privacy screen requirements on balcony edges that face a public road or a public open space under the Housing Code, Rural Housing Code, Greenfield Housing Code and the Inland Code.
- Remove development standards relating to the floor level of a balcony, deck, patio, terrace or verandah as this is determined by the National Construction Code (NCC).

6. Above-ground rainwater tanks: Allow above-ground rainwater tanks to be closer than 450 mm from the side boundary for detached dwellings where the tank height is 1.8 m or less.

5.2 Expanding low-impact remedial works as complying development

Currently, common external full building remedial works, such as balustrade replacements, waterproofing, and fire safety upgrades cannot be undertaken as complying development for residential apartment buildings under the Codes SEPP. The remedial building industry has advised this is preventing straightforward remedial works and restricting time-sensitive repairs required to address issues with multi-storey residential buildings.

It is proposed to enable external remedial works to Part 4 of the Housing Alterations Code, Division 1, Subdivision 2A: External alterations to residential accommodation other than dwelling houses and ancillary development. This would enable straightforward and low-impact remedial works as complying development for residential apartment buildings and other multi-dwelling housing.

Table 15: Proposed changes to expand low-impact remedial works under Part 4 – Housing Alterations Code

Relevant code and clauses of the Codes SEPP	Current controls	Proposed changes to Codes SEPP
Housing Alterations Code - Subdivision 2A – cl 4.4B	External alterations must be set back at least 3 m from a side or rear boundary. External alterations must be behind the building line of any primary or secondary road frontage. External alterations are limited to the first three storeys of a building.	Include remedial works as additional works permitted under clause 4.4B to enable genuine remedial or safety-critical works without a DA, where the works: • are low-impact (like-for-like), • do not increase building bulk or encroach further into setbacks, • do not add new elements such as balconies, and • restore compliance with the National Construction Code (NCC) and building safety. Allowances for compliant building remediation works: • Full building remediation (noting current prohibitions on alterations over three storeys). • Allow up to a 100 mm tolerance to allow like-for-like cladding and waterproofing systems to meet NCC performance without triggering non-compliance. • Within 3 m of any side or rear boundary (currently alterations are not permitted within 3 m). • At any primary or secondary road frontage (currently alterations must be behind the building line of any primary or secondary road frontage).

Tell us what you think

- Will these changes allow low-impact remediation work as streamlined complying development?
- Are additional development standards required and is there anything else that needs to be considered?

5.3 Complying development on bushfire-prone land and flood control lots

Currently, complying development is not permitted on land classified as Bushfire Attack Level 40 (BAL-40) or the Flame Zone (BAL-FZ). As a result, demolition of a building on land classified as BAL-40 or BAL-FZ requires a development application (DA), even where the works pose minimal safety risk or would remove existing structures from hazardous areas and reduce bushfire fuel loads. It is therefore proposed to extend complying development to allow demolition on bushfire-prone land.

Flood related controls in the Codes SEPP currently prevent complying development on flood-affected land (flood control lots). Whilst the existing restrictions on new dwellings on these lots would be retained, it is proposed to allow minor internal alterations of flood control lots where certain conditions are met.

These proposed changes aim to reduce unnecessary regulation while supporting safe, low-impact works where potential risks can be effectively managed through clear standards and conditions.

Table 16: Proposed changes to introduce demolition to bush fire prone land and minor works to flood control lots

Relevant code and clauses of the Codes SEPP	Current controls	Proposed changes to Codes SEPP
cl 1.19A(1) & Part 7 Demolition Code	Demolition as complying development currently cannot be carried out on bushfire-prone land, being land classified as bushfire attack level 40 (BAL-40) or the flame zone (BAL-FZ).	It is proposed to permit demolition as complying development on land classified as BAL-40 or BAL-FZ, provided that demolition works are not carried out on days when a Total Fire Ban is declared.
Housing Code - cl 3.5(2)	Under clause 3.5(2)(e-g), minor alterations to buildings are not permitted as complying development if any part of the building is located on a flood control lot.	It is proposed to allow minor internal alterations on flood control lots as complying development, provided the works: • do not increase habitable floor area, • do not add or modify parking arrangements, • do not alter access arrangements, and • do not change the floor level or existing footprint of the building.

Tell us what you think

- Will these changes allow demolition on bushfire prone land and complying development on flood prone land where appropriate?
- Are additional development standards required and is there anything else that needs to be considered?

5.4 Appropriate setbacks for complying development

5.4.1 Primary road setbacks

Stakeholders have advised that the current method for calculating front setbacks, by averaging the two nearest dwellings within 40 m, can be skewed by outlier setbacks. This can result in larger building setbacks being required, meaning some development that would otherwise be straightforward must go through a longer and more complex approval process.

To address this issue, it is proposed to amend the Housing Code and Low Rise Housing Diversity Code for dwellings, dual occupancies and manor homes that new development can adopt the setback of one of the two nearest dwellings within 40 m on the same side of the road. This approach reduces the impact of outliers, limits reliance on the default setback provisions where there are few neighbouring dwellings and retains existing exclusions to ensure only relevant properties inform the setback calculation.

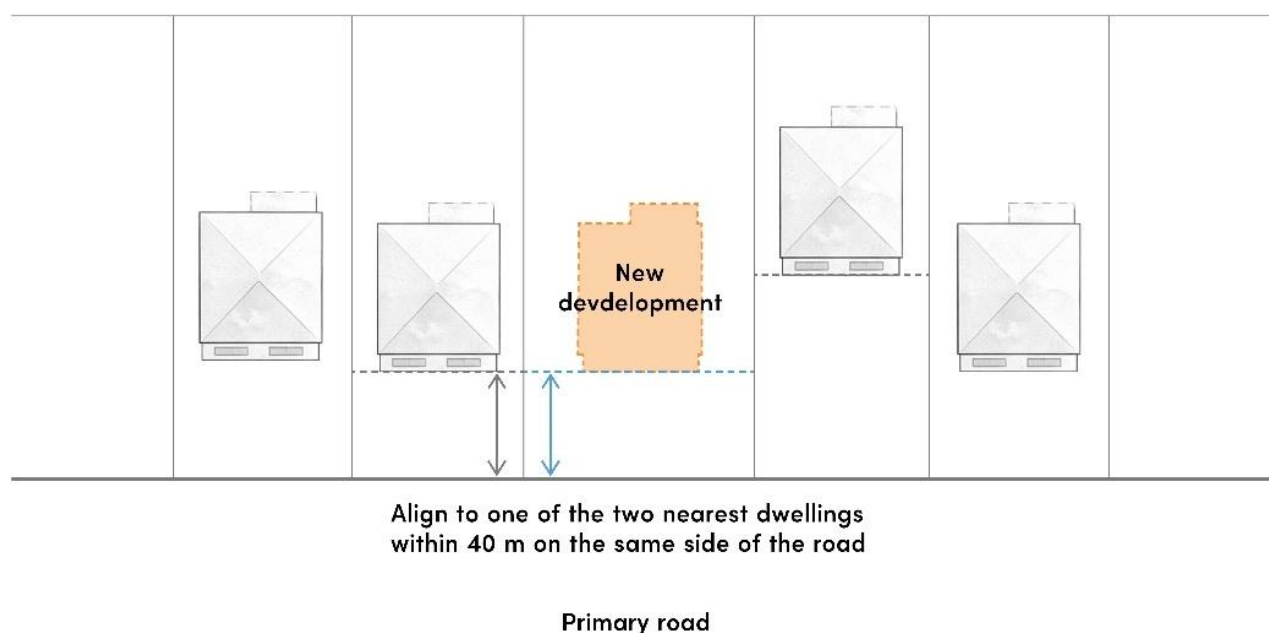


Figure 30: Align to one of the two nearest dwellings to determine the primary road setback

5.4.2 Internal separation between detached dual occupancies

Detached dual occupancies are currently required to provide a minimum separation of 3 m between the dwellings. Stakeholder feedback has indicated that this requirement can be more onerous than the side setback requirements to adjoining properties. For example, on lots between 12-24 m wide, a ground floor setback of only 900 mm is required to each side boundary.

It is proposed that the minimum internal separation between detached dual occupancies under the Low Rise Housing Diversity Code be reduced to 1.8 m, subject to development standards. This would better align internal separation with existing side setback controls while still enabling future subdivision and maintaining appropriate fire safety and building separation outcomes.

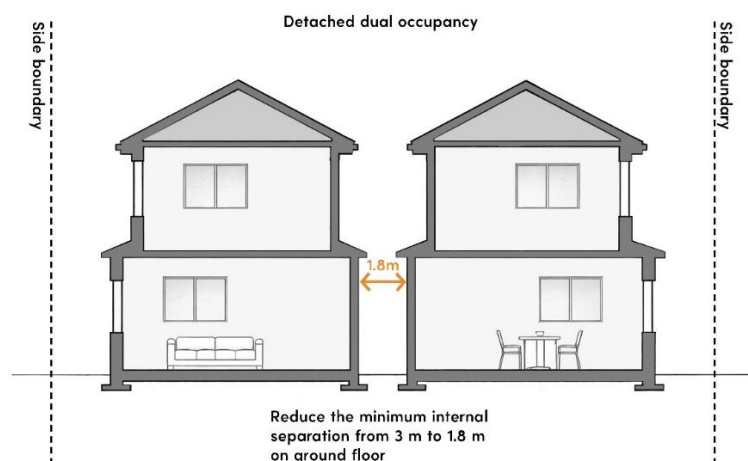


Figure 31: Reduce the minimum internal separation of detached dual occupancies from 3 m to 1.8 m

Table 17: Proposed changes to setbacks

Relevant code and clauses of the Codes SEPP	Current controls	Proposed changes to Codes SEPP
Primary Road Setbacks (Housing Code and Low Rise Housing Diversity Code)		
Housing Code - cl 3.10(1) Low Rise Housing Diversity Code – cl 3B.11(1), 3B.24(1)	The minimum front setback from a primary road is determined by the average setback of the two nearest dwellings on the same road. If there are not two dwellings within 40 m of the lot, required setbacks are provided in a table based on lot size.	It is proposed to align new development to one of the two nearest dwellings within 40 m on the same side of the road. The existing default primary road setback under clause 3.10(3) would be retained where there are no dwellings within 40 m on the same side of the road, or where the development involves lot types such as battle-axe lots or secondary dwellings. It is recommended to adopt this approach for detached dwelling houses and all similar housing types, including certain dual occupancies and attached development and for manor houses, dual occupancies and any attached development in the Low Rise Housing Diversity Code.
Internal separation between detached dual occupancies (Low Rise Housing Diversity Code)		
Low Rise Housing Diversity Code – cl 3B.13(3)	The dwellings in a dual occupancy (detached) must be located at least 3 m apart.	It is proposed to reduce the separation between dwellings in detached dual occupancies to 1.8 m and introduce the following development standards: principal private open space must be located behind the front building line, and

Relevant code and clauses of the Codes SEPP	Current controls	Proposed changes to Codes SEPP
		any second storey must be recessed, consistent with the controls applying to dwelling houses.
Codes not included: Existing primary road setbacks for the Rural Housing Code, multi-dwelling housing within the Low Rise Housing Diversity Code, Greenfield Housing Code and Inland Code are recommended to be retained, however these setbacks may be varied as outlined in the section above where council assesses the variation against established street setback or DCP controls.		

Tell us what you think

- Will these setback changes facilitate appropriate housing as complying development, while mitigating potential impacts?
- Are additional development standards required and is there anything else that needs to be considered?

5.5 Complying development for sloping sites, modern designs and garages

5.5.1 Front façade parapets to garages

Stakeholders have advised that the current 3.3 m wall height limit for attached garages under the Greenfield Housing Code can unintentionally restrict street facing design features. It is proposed to allow greater flexibility for architectural features, such as front parapets, to better integrate garages into contemporary building designs. An increase of up to 1 m above the gutter line at the front, with a parapet return of up to 500 mm along the side wall, is considered appropriate to avoid visual dominance. Existing wall height limits on side and rear boundaries would be retained to protect neighbouring amenity.

5.5.2 Garages over a drop edge beam

The Greenfield Housing Code allows higher garage walls on sloping sites by measuring the 3.3 m wall limit from the finished floor level, rather than the existing ground level, where a drop edge beam is used. This approach applies to lots wider than 8 m at the building line and reflects standard construction practice on sloping land.

In contrast, the Housing Code measures the height from the existing ground level, which can result in otherwise suitable designs deemed non-compliant. It is proposed the Housing Code align with the Greenfield Housing Code by measuring the 3.3 m wall height limit from the finished floor level to better accommodate sloping sites.

5.5.3 Remove garage size limits for attached garages accessed from the rear

The Greenfield Housing Code currently limits the floor area of attached rear garages within 6 m of a side or rear boundary to a maximum of 18 m². Feedback provided notes that this size limit is unnecessarily restrictive as rear access garages have a minimal impact on the primary streetscape and can accommodate larger double garages without compromising design quality.

It is proposed that the garage size limit be removed for garages accessed exclusively from the rear, while introducing a maximum width of garage doors of 6 m to manage built form outcomes. Existing setback, wall height, landscaping and gross floor area development standards would remain unchanged.

5.5.4 Allow detached garages for lots accessed from a rear lane

Clause 3C.26 of the Greenfield Housing Code sets maximum garage door widths for detached garages and carports facing primary, secondary and parallel roads, but does not expressly provide development standards for detached garages accessed from rear lanes. Stakeholders have advised that this absence of specific provisions has created uncertainty and led to overly restrictive outcomes for lots that rely solely on rear lane access.

To address this, it is proposed a new provision be introduced under clause 3C.26 that applies specifically to detached garages accessed exclusively from a rear lane or parallel road. The proposed provision would allow a maximum garage door opening of 6 m for lots with a minimum width of 11 m at the building line. Existing garage door width limits would continue to apply to detached garages facing primary or secondary roads. The amendment aims to improve clarity and consistency, explicitly recognise rear lane access garages, and support functional garage design on suitably sized lots.

Table 18: Proposed changes to support development on sloping sites, modern designs and garages

Relevant code and clauses	Current controls	Proposed changes to Codes SEPP
Front facade parapets to garages (Greenfield Housing Code)		
Greenfield Housing Code – cl 3C.13(8)	A wall of an attached garage that is within 900 mm of a boundary must not exceed 3.3 m above the finished floor level of the garage for more than 6.5 m along the boundary.	It is proposed to amend clause 3C.13(8) so that the 3.3 m height limit applies only to side and rear garage walls located within 900 mm of a boundary. Street facing garage elevations would be permitted to incorporate parapet designs that exceed 3.3 m, provided the parapet does not extend more than 1 m above the gutter line of a single-storey garage and includes a side return of no more than 500 mm along the side wall. All other wall height and setback development standards would continue to apply.

Relevant code and clauses	Current controls	Proposed changes to Codes SEPP
Garages over a drop beam edge (Housing Code)		
Housing Code - cl 3.23	The Housing Code measures the 3.3 m height from the existing ground level, rather than from the finished floor level.	It is proposed to amend the Housing Code to allow a garage wall height of up to 3.3 m above the finished floor level when the garage is built over a drop edge beam. The following development standards are proposed: • The depth of fill beneath the garage would be limited to 1.5 m. • Where a garage wall is located within 900 mm of a boundary, the length of that boundary wall would be limited to 6.5 m.
Remove garage size limits for attached garages accessed from the rear (Greenfield Housing Code)		
Greenfield Housing Code – cl 3C.13(5)	An 18 m ² total floor area limit currently applies to all attached rear garages that are within 6 m of a side or rear boundary. Attached garages on corner lots are excluded from this floor area limit.	It is proposed to remove the current 18 m² garage size limit in the Greenfield Housing Code for attached garages where the garage is accessed exclusively from a parallel road or rear lane and where the garage doors face the rear. A maximum garage door width of 6 m would be introduced. All existing development standards relating to setbacks, wall heights, landscaping and gross floor area would continue to apply.
Allow detached double garages for lots accessed from a rear lane (Greenfield Housing Code)		
Greenfield Housing Code – cl 3C.26(10)	Clause 3C.26 of the Greenfield Housing Code sets maximum garage door widths for detached garages and carports that face primary, secondary and parallel roads, but it does not expressly include or provide a maximum garage door width for lots that are accessed from rear lanes.	It is proposed to add a new provision to clause 3C.26 for detached garages accessed exclusively from a rear lane or rear parallel road. The provision would allow a maximum garage door opening width of 6 m, where: • vehicular access is obtained solely from the rear lane or rear parallel road, and • the lot has a minimum width of 11 m, measured at the building line.

5.6 Simplifying balcony and privacy screen requirements

Clause 3B.17(4)(b) of the Low Rise Housing Diversity Code provides that privacy screens are not required on balcony edges that face a road or a public space. This provision is not currently reflected in other codes. Privacy screens are intended to prevent overlooking of private spaces and requiring privacy screens on balcony edges that face a road or public space serves no practical purpose.

It is therefore proposed to align the Housing Code, Rural Housing Code and the Greenfield Housing Code with the Low Rise Housing Diversity Code by removing the requirement for privacy screens on balcony edges facing a road or a public space.

It is also proposed to delete the requirement that the external floor level of a balcony, deck, patio, terrace or verandah must be at the same level as the internal floor level, as floor level requirements are already addressed through the National Construction Code (NCC).

Table 19: Proposed changes to balcony screen requirements and floor levels

Relevant code and clauses of the Codes SEPP	Current controls	Proposed changes to Codes SEPP
Housing Code - cl 3.15(3) Rural Housing Code - cl 3A.23(5) Greenfield Housing Code – cl 3C.18(3) Inland Code – cl 3D.26(3)	Currently, privacy screens are required on the edge of a balcony that faces a side or rear road or a public space in the Housing Code, Rural Housing Code, Greenfield Housing Code and Inland Code.	It is proposed that privacy screens are not required on the edge of a balcony that faces a road or a public space.
Low Rise Housing Diversity Code - cl 3B.14(1A), 3B.26(1A), 3B.39(1A)	The floor level of a balcony, deck, patio, terrace or verandah must be the same level as the internal floor level of the part of the [dual occupancy, manor house or multi dwelling housing (terraces)] to which it is attached.	It is proposed to delete the requirement that the external and internal floor levels of a balcony, deck, patio, terrace or verandah must be at the same level, as floor level requirements are appropriately regulated through the National Construction Code.

Tell us what you think

- Will these changes to balcony privacy screen requirements simplify requirements while maintaining neighbouring privacy?
- Are additional development standards required and is there anything else that needs to be considered?

5.7 Above-ground rainwater tanks

Under the current controls, complying development requires a minimum side setback of 450 mm for above-ground rainwater tanks, which is more restrictive than exempt development, where no minimum setback applies for tanks under 1.8 m in height. Stakeholders have advised that this is overly limiting and that potential amenity impacts can be effectively managed and mitigated through appropriate development standards under the complying development pathway.

It is therefore proposed to allow above-ground rainwater tanks for detached dwellings, up to 1.8 m in height, to be located closer than 450 mm to a side boundary under the complying development pathway, subject to relevant development standards.

No additional standards are proposed for rainwater tanks located more than 450 mm from a side boundary, as this would introduce new requirements beyond what is currently permissible.

Table 20: Proposed changes to above ground rainwater tanks

Relevant code and clauses of the Codes SEPP	Current controls	Proposed changes to Codes SEPP
Housing Code – cl 3.11(2), 3.26(2) Greenfield Housing Code – cl 3C.12(2) Inland Code – cl 3D.14(2)	The minimum side setback for above-ground rainwater tanks under complying development is 450 mm.	It is proposed to allow above-ground rainwater tanks up to 1.8 m in height to be located closer than 450 mm to the side boundary, whilst introducing the following development standards: - Where a tank is located within 450 mm of a side boundary, development standards will be introduced that are consistent with the existing exempt development standards in clause 2.64. - Access and safety would be maintained by requiring clear side access on at least one side of the dwelling to ensure pedestrian movement, maintenance and emergency services can be accommodated between the most distant external part of the dwelling and the nearest public road. Existing standards would continue to apply to rainwater tanks that exceed 1.8 m in height or are located more than 450 mm from a side boundary, with no additional development standards proposed.

Codes not included: As reliable side access cannot be ensured for attached dwelling types, this amendment is recommended to apply only to detached dwellings. It is also proposed to exclude the Rural Housing Code (3A.19(c)), which requires above-ground rainwater tanks to be located at least 10 m from each lot boundary on land in zones RU1, RU2, RU3, RU4, RU6, R5, E2, E3 or E4.

Tell us what you think

- Will these changes encourage the uptake of above ground rainwater tanks without unintended consequences such as on the streetscape?
- Are additional development standards required and is there anything else that needs to be considered?

6 Have your say

The Department of Planning, Housing and Infrastructure welcomes community and stakeholder feedback on this EIE.

Your feedback will help us better understand the views of the community and stakeholders and will inform the proposals discussed in this document. Your submission may address the issues raised in this document or you may give more input about the changes we propose.

The Department will recommend final planning changes to the Minister for Planning and Public Spaces for the final decision.

Tell us what you think

We welcome your feedback on the changes. To have your say complete the online survey feedback form or upload a submission by 24 June 2026.

If you have questions about the EIE and any of the changes proposed, please email cdcvariations@dphi.nsw.gov.au.

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