

13 May 2016

Director
Policies and System Implementation
GPO Box 39
Sydney NSW 2001

Sent by email: codes@planning.nsw.gov.au

Dear Sir/Madam

A Review of Complying Development for Inland NSW

EDO NSW welcomes the opportunity to comment on the proposal to amend State Environmental Planning Policy (Exempt and Complying Development) 2008 (**Policy**).

We wish to reiterate the comments made in our recent submission on Options for Low Rise Medium Density Housing as Complying Development (**General Housing Code Submission**). As noted in that submission, we do not support the expansion of code-based assessment until critical issues are fully addressed. These issues include:

- Effectively excluding complying development from environmentally sensitive areas
- Assessing and accounting for cumulative impacts
- Improving governance of private certifiers
- Ensuring meaningful community engagement on design standards
- Mandating leading practice sustainability standards.

These issues are dealt with in greater detail in our General Housing Code Submission, which is attached **below** in PDF form.

We particularly wish to emphasise the importance of the following two issues:

- Ensuring appropriate governance arrangements are in place before the Policy is expanded. This is because many inland councils lack the resources to manage resident concerns regarding inappropriately certified development, or to rectify such breaches in the Land and Environment Court.
- Proper consideration of cumulative impacts. Specifically, we are concerned that residential subdivisions comprising 200m² lots (each with a 'complying' dwelling) will result in unforeseen cumulative impacts, including on sensitive environmental areas. Accordingly, housing developments on subdivided blocks beyond a certain clear objective threshold should be assessed and approved by a consent authority bound by s. 79C of the Environmental Planning and Assessment Act 1979 (**EP&A Act**).

We are further concerned that consultation for the Policy is occurring before a Draft Exposure Bill proposing to amend the EP&A Act has been placed on public exhibition.¹ It is difficult to properly assess how these reform processes will interact (and affect the community and environment). For example, expanding complying development could undermine the proposed reforms foreshadowed by the Planning Minister regarding requirements to consult neighbours prior to making development applications. It is also unclear how incremental code expansions will not undermine local strategic planning processes.

In summary, we do not support amending or expanding the Policy until the issues outlined in the General Housing Code Submission are resolved, and there is clear evidence that the various reform processes in train will result in proper strategic planning and ecologically sustainable development in inland NSW.

Please do not hesitate to contact us if you have any inquires regarding this submission.

Kind Regards,



Dr Emma Carmody
Policy and Law Reform Solicitor



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Document

[Rural Housing Code Submission](#)

¹ <http://www.planning.nsw.gov.au/Policy-and-Legislation/Legislative-Updates;>