

Circular	PS 11-010
Issued	25 February 2011
Related	PS 09-004; 09-005; PS 09-006; PS 09-012; PS 09-013; PS 09-020; PS 09-021; PS 10-003 PS-10-028, PS-10_027

Codes SEPP 2008 – Amendment Miscellaneous 2011

The purpose of this circular is to inform councils and complying development practitioners of minor amendments to State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (the Codes SEPP) through the State Environmental Planning Policy (Exempt and Complying Development Codes) Amendment (Miscellaneous) 2011 (2011 amendment). The 2011 amendment commences on the 25 February 2011, the same day as the previous amendment made in December 2010.

Introduction

In December 2010 State Environmental Planning Policy (Exempt and Complying Development Codes) Amendment (Additional Codes) 2010 (Additional Codes amendment) was gazetted. This amendment added new complying development codes for a range of additional development types.

The 2011 amendment makes minor corrections to development standards and minor changes arising from council and industry feedback on the Additional Codes amendment.

Reasons for the amendments

The 2011 amendments clarify some minor matters around the operation of the Additional Codes amendment. This amendment commences concurrently with the Additional Codes amendment on the 25 February 2011.

Overview of the current amendment

The 2011 amendment seeks to:

- ensure the Codes SEPP and Standard Instrument LEP template are consistent in relation to subdivision, minor maintenance works for draft heritage conservation areas, development standards for the number of bedrooms in bed and breakfast establishments, and floor area for home businesses
- clarify that ancillary development is ancillary to a dwelling house
- clarify an exception when calculating front setbacks where an adjoining property is a battle axe lot

- increase setback allowances for cut and fill for a dwelling house in rural zoned lots
- introduce a new development type of removal of swimming pools in the Demolition Code
- re-instate draft heritage items as an exclusion under clause 1.19 of the Codes SEPP
- introduce swimming pools in rear yards in heritage conservation area as complying development
- revert to lot area as the trigger for determining rear setbacks for development under the General Housing Code. How to measure first floor average rear setbacks on smaller lots has also been clarified
- introduce a local exclusion for Wingecarribee Council to exclude certain lots from the General Housing Code
- introduce a temporary local variation for Cooma-Monaro Council to establish a minimum allotment size under the Rural Housing Code to address the issue of concessional lots.

Planning certificates

The current amendment reinstates a draft heritage item as a general land exemption under clause 1.19(3) of the Codes SEPP for each of the complying development codes which was unintentionally omitted. Planning certificates currently note draft heritage items as being excluded from the operation of the codes. With this amendment this exclusion will continue.

No other changes to planning certificates are proposed as part of the current amendment. Changes to planning certificates as a result of the Additional Codes amendment are outlined in

Fact Sheet 12 – Changes councils need to make to Section 149 Certificates as a result of the Amendments to the Codes SEPP available from:

<http://housingcode.planning.nsw.gov.au/Resources.aspx>

Bushfire prone land

The Rural Fire Service (RFS) will provide fact sheets,, bushfire risk certification forms, criteria for 'suitably qualified persons' and general information to support the commencement of the new bushfire provisions on the 25 February 2011 for development applications and complying development certificates. The supporting documentation and frequently asked questions are available on the RFS website at:

http://www.rfs.nsw.gov.au/dsp_content.cfm?cat_id=1048

Nominations for local exclusions and local inclusions

As a result of the significant expansion to the Codes SEPP, the Minister for Planning and Local Government Shires Association (LGSA) announced in December 2010 a second round of local exclusions and inclusions extending to the land and development types captured by the Codes SEPP.

Councils will shortly be invited to nominate areas that they consider should be excluded from the application of the expanded Codes SEPP. A local exclusion nomination can be received for land now incorporated into the Codes SEPP, as a result of the Additional Codes amendment.

Councils will be notified of the process for nominating local exclusions and inclusions in early March.

Timing of changes

The current amendment has been gazetted and will come into effect on 25 February 2011.

Further information

For further information, please contact codes@planning.nsw.gov.au or call the Department of Planning's Information Centre on 1300 305 695 or 02 9228 6333.

Department of Planning circulars are available from: <http://www.planning.nsw.gov.au/circulars>

Authorised by:

**Sam Haddad
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