

## EXEMPT AND COMPLYING DEVELOPMENT

### Current issues

The NSW Government believes householders are being forced to endure unnecessary delays, excessive paperwork and a lack of certainty when they want to build small-scale home developments, such as extensions. Small business owners often face similar issues.

In 2005-06, nearly half of all reported development applications determined by local councils were for residential alterations and additions. On average, councils took 68 days to process applications. Eight councils took more than 100 days to deal with applications valued at less than \$100,000 – typically home alterations.

Often, development applications are refused by a council even when their own standards are met. In other cases, councils approve an application even when standards are breached. This lack of certainty creates something of a “lucky dip” process for small-scale development for both applicants and neighbours.

It is proposed to expand the use of NSW’s **exempt or complying** development provisions, first introduced in 1997.

Exempt development does not require any approval and typically covers new fences, fixed barbecues, flagpoles, pergolas and sheds. There is no need to lodge a development application for development classed as exempt, provided the relevant standards are followed.

Complying development must be approved by an accredited certifier or council and cannot be refused, provided pre-set standards are met. It can be used for developments such as swimming pools, new detached homes, bed and breakfast facilities or house extensions.

About 11 per cent of NSW’s development proposals are currently being approved as complying development – compared to 50 per cent under an equivalent system in Victoria. This means an excessive number of proposals are being forced into a slow and uncertain development application process.

One reason for the low usage of complying development is the inconsistency of rules and standards that apply to even to most simple backyard developments and house extensions. Even in council areas with similar housing stock and lot sizes the rules vary considerably and without justification.

Across the State’s 152 councils there are many different rules. For instance, some councils demand minimum house lot sizes for swimming pools, while others do not. One Sydney council forces barbecues to be 15m from a neighbour’s property, while others have no such stipulation. Rules for carports, garages and front fences vary widely and some even control the height of wishing wells and sun dials. This means the system is unnecessarily complex, especially for builders.

### Key proposals for consideration:

- NSW Government to create consistent exempt and complying development to improve certainty and clarity – with the first of these to be prepared by next year;
- The consistent codes will be developed by an expert panel having skills in urban planning, architecture and building standards. It will be placed on public exhibition before adoption.
- Once adopted, the codes will ensure that homeowners have increased certainty about the type of small-scale development which can be built on their land or next door, at the time of purchase;

### Advantages of these proposals:

- Within four years, 50 per cent of all development proposals determined in NSW as complying development – up from 11 per cent at present;
- Upfront certainty about what development can be built 'as of right' if it meets determined pre-set standards;
- Reduced delays with a guaranteed ten-day turnaround for complying development;
- For the first time, a clear policy stating there must be neighbour courtesy notification for complying development;
- Codes that are broadly consistent and easier to understand but still take into account local factors;
- Much reduced approval times will occur as complying development certificates typically take ten days compared to current Development Applications which take an average of 68 days;
- Allowing councils to use their scarce planning resources on important long-term planning and large-scale proposals, rather than minor development applications.