

Complying development – farm buildings, rural sheds and earthworks provisions in the Inland and Rural Housing Codes

This document answers frequently asked questions about the proposed changes to State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Codes SEPP) for earthworks and farm building provisions in the Inland and Rural Housing Codes.

How are the provisions (conditions) for farm buildings changing?

The current provisions in the Rural Housing Code do not specify the maximum floor area of farm buildings in rural zones and only specify sizes for farm buildings on R5 land less than 4,000 m². This is resulting in farm buildings that are out of scale with the local landscape and incompatible with the large lot residential setting intended for Zone R5. To make the requirements for farm buildings in the Rural Housing Code consistent with the requirements in the Inland Code, we are proposing to include a maximum floor area for farm buildings under the Rural Housing Code. We propose to insert development controls into the Rural Housing Code limiting the size of farm buildings on land zoned RU1, RU2, RU3, RU4 and RU6. We also propose to insert development controls on R5 zoned land under and over 4,000 m². We will also tighten the requirements for farm buildings on R5 large lot residential-zoned land in the Rural Housing Code, as R5 is a residential zone.

To make sure the provisions are responsive to stakeholder needs and consistent across both codes, we are proposing a slight increase in the maximum footprint of farm buildings permitted under the Inland Code.

If I intend to build a second farm building, will I need to lodge a development application with council under the proposed changes?

This is not proposed to change, and still needs to be determined on a site-by-site basis. The size of the farm building, proposed footprint and the size of the land will determine how many farm buildings are permitted.

- It is proposed that, in the Rural Housing Code, for land zoned R5 with an area less than 4,000 m², the footprint of all farm buildings on a landholding, including any ancillary office, must not exceed 10% of the area of the landholding.
- Under the proposed changes, in the Inland Code and the Rural Housing Code, for land zoned RU1, RU2, RU3, RU4, RU6, and land 4,000 m² and over that is zoned R5, the footprint of all farm buildings on a landholding, including any ancillary office, must not exceed:
 - 3% of the area of the landholding for 4,000 m² to 4 ha landholdings
 - 1,250 m² for landholdings larger than 4 ha to 10 ha
 - 2,500 m² for landholdings larger than 10 ha.

Why are the provisions for outbuildings changing?

We have heard that the current rural shed controls for land in R5 zones have impacted the amenity and landscape values of rural areas because some outbuildings being developed are out of scale with the home on the site. We are proposing to limit the size of outbuildings that are not to be used for agricultural purposes on lots zoned R5 in the Rural Housing Code, and to apply the same size limits in the Inland Code. This would make the outbuildings better suited to the size of the lot and the associated home.

Under the existing exempt development controls, can farm buildings connect to a water supply?

Currently, the Codes SEPP does not say if a farm building under exempt development can connect to a water supply. As we aim to ensure the Codes SEPP is easy to use and understand, we are clarifying that the farm buildings under the [Exempt Development Code](#) are permitted to connect to a water supply with the relevant authority's approval. We are proposing to include a development standard advising that if a farm building has plumbing fixtures, it must be connected to an approved wastewater treatment device or have an approved connection to the sewer.

Is a detached studio ancillary to a farm building?

In the Codes SEPP, a detached studio is included in the definition of *ancillary development* and can be ancillary to a farm building. However, you must establish the detached studio together with a home on the same lot of land and you cannot use it as a separate dwelling.

Can I construct a detached studio that forms part of a farm building?

Yes. A detached studio is defined as detached development. In the Codes SEPP, detached development means the detached studio must be more than 900 mm from a building that is residential accommodation only. As a farm building is not defined as residential accommodation, a

detached studio (with a floor area no more than 35 m²) can form part of a farm building if it meets all relevant Codes SEPP development standards.

Can part of an existing farm building and/or shed be converted into a detached studio?

Under the current provisions, yes. To be complying development, the detached studio must meet all relevant Codes SEPP development standards in full.

What is the proposed limit for fill being imported onto a site as complying development?

The amount of fill currently permitted to be exported into a site under the [Rural Housing Code](#) is affecting amenity and the environment. The Department of Planning, Housing and Infrastructure proposes to align the amount of fill permitted under the Rural Housing Code with that permitted under the Inland Code, including a limit on fill higher than 150 mm and not wholly contained within the footprint of a home or ancillary development to no more than 25% of the landscaped area of a lot. It is also proposed to add a note into the Rural Housing Code development standards flagging the current requirement that all fill must be virgin excavated natural material (VENM). This requirement is currently in the conditions of consent, and we have received feedback that it is sometimes missed at the project planning stage.

With this proposed change, landowners would still be able to seek council approval to import greater quantities of fill through the development assessment process.

Can I still fill my site as exempt development?

No change is proposed to the current exempt development provisions for earthworks. As exempt development [under clause 2.30](#) of the Codes SEPP, cut or fill of no more than 600 mm below or above ground level (existing) is currently allowed. In addition, if the land is in a rural zone or conservation zone, the fill cannot exceed 100 m³ on each lot and all fill must be VENM. No change is proposed to these exempt development provisions.

What is virgin excavated natural material (VENM)?

'Virgin excavated natural material' means natural material (such as clay, gravel, sand, soil or rock fines) that:

- has been excavated or quarried from areas that are not contaminated with manufactured chemicals, or with process residues, as a result of industrial, commercial, mining or agricultural activities
- does not contain any sulfidic ores or soils or any other waste.

For more information, please refer to Part 3 of Schedule 1 to the [Protection of the Environment Operations Act 1997](#).

Where are the requirements in the Codes SEPP for fill to be VENM?

Schedule 6 of the Codes SEPP requires fill to be VENM. To ensure landowners are aware of this requirement, we are proposing to add this requirement into the development standards of the Rural Housing Code.

This change will not add a new requirement for complying development under the Rural Housing Code, but will flag the requirement upfront and reinforce this requirement at the complying development assessment stage, rather than after the conditions of consent have been issued.

How are the complying development provisions for Class 2 acid sulfate soil land proposed to change?

Class 2 acid sulfate soil land is land where acid sulfate soils are likely to be found below the natural ground surface. Currently, complying development cannot be undertaken on any land that is identified on an Acid Sulfate Soils Map as being Class 2 in the Housing Code, Inland Code, Low Rise Housing Diversity Code, Rural Housing Code, Agritourism and Farm Stay Accommodation Code and Greenfield Housing Code. Where a Preliminary Soil Assessment carried out by a suitably qualified expert certifies that an acid sulphate soil management plan is not required, we propose to allow complying development on Class 2 acid sulfate soil lands to ensure Class 2 lands are not unnecessarily excluded from a complying development pathway.

Where can I find more information?

For more information, contact the policy team at codes@planning.nsw.gov.au or through [our online form](#).