



THE LAW SOCIETY
OF NEW SOUTH WALES

Our ref: EP&D:JW/b070521

7 May 2021

Planning Policy
Department of Planning, Industry and Environment
Locked Bag 5022
PARRAMATTA NSW 2124

By email: localplanning@planning.nsw.gov.au

Dear Sir/Madam,

Building Business Back Better

The Law Society appreciates the opportunity to comment on the Explanation of Intended Effect (EIE), which proposes reforms to the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* (Codes SEPP). The Law Society's Environmental Planning and Development Committee contributed to this submission.

The EIE states that the NSW Government is pursuing an accelerated timeframe with changes to the Codes SEPP proposed for mid-2021 to help support economic recovery following the COVID-19 pandemic. As a result, it is not possible to align this review with the later consultation on the proposed employment zones framework, which is planned for mid-2021 and which will then be implemented in stages. It is acknowledged that there may be a need, because of the two reform projects having different timeframes, for further amendments to the Codes SEPP "to ensure that impacts continue to be appropriately managed for complying development under the Codes SEPP" (page 8). We consider that it is crucial, in these circumstances, that all amending instruments are formally exhibited, including any proposed changes to the *Environmental Planning and Assessment Act 1979*, the Codes SEPP and the Principal Standard Instrument Local Environmental Plan.

Without the ability to see the detail of the proposed amendments, we are concerned that amenity impacts caused by new types of complying development may not be adequately managed under the Codes SEPP. For example:

- traffic noise (as opposed to noise emanating from the premises) is not covered by the Industrial Noise Policy but a local distribution centre operating until 10pm (as proposed) might cause significant traffic noise.
- 24-hour operation in an Industrial zone might be problematic if located close to a residential zone.

New builds and alterations and additions in B5, B6 and B7 zones are to be subject to a design verification process. Given the subjective nature of design verification statements and the size of the buildings permitted under the proposed changes (10,000m² and 5 storeys) we

question the ability of a certifier to do anything more than give a superficial approval for an application subject to such a process. This would cause even more concern at zone boundaries.

The Law Society appreciates the opportunity to participate in the reform process. If you have any questions about this submission, please contact Liza Booth, Principal Policy Lawyer, at liza.booth@lawsociety.com.au or on (02) 9926 0202.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'JW', followed by a horizontal line extending to the right.

Juliana Warner
President