



# State Environmental Planning Policy (Infrastructure) 2007 – Amendment - Health Services Facilities

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Explanation of Intended Effect

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## Executive Summary

An amendment is proposed to *State Environmental Planning Policy (Infrastructure) 2007* (the Infrastructure SEPP) to provide a more efficient planning framework for health infrastructure in NSW.

The proposed amendments form part of the NSW Planning Reform Action Plan to update certain planning provisions that will ensure the efficient delivery of important government infrastructure that serves the NSW community. This amendment will specifically facilitate efficient planning pathways for low impact health infrastructure.

The scope of the proposed amendment extends to development with consent, development without consent, complying development and exempt development provisions within the Infrastructure SEPP. The amendments will enable efficient delivery of infrastructure that is important to support the health and wellbeing of NSW communities such as community health centres, consulting rooms and ambulance facilities.

The updated provisions will ensure there is an appropriate level of environmental assessment commensurate with the impacts of the development, whilst also helping to deliver essential social infrastructure in a timely manner to the direct benefit of the people of NSW.

## Purpose of amendment to *State Environmental Planning Policy (Infrastructure) 2007*

Areas for regulatory improvement have been identified by the Department of Planning, Industry and Environment in consultation with NSW Health for the provision of health infrastructure in the NSW planning system. These areas include:

- Speeding up timeframes for the determination of low scale health infrastructure projects by expanding development without consent provisions, allowing public authorities such as Health Infrastructure to assess and self-determine these low impact developments ,
- The expansion of exempt and complying provisions to allow minor works to be undertaken in a timely manner, and
- The expansion of complying development certificate conditions to allow minor and emergency activities to occur out of standard construction hours.

The proposed amendments to the Infrastructure SEPP will address the identified areas for improvement, support the development of world-class health infrastructure and accelerate necessary social infrastructure projects that benefit the community, create jobs and support economic growth in NSW.

## Background to the Infrastructure SEPP

State Environmental Planning Policies created under the *Environmental Planning and Assessment Act 1979* (the EP&A Act) facilitate the protection, improvement or utilisation of land in NSW. The Infrastructure SEPP facilitates flexible and orderly planning pathways for the development of essential infrastructure in NSW, including hospitals, roads and railways. The Infrastructure SEPP provides regulatory assurance to the development of key infrastructure by allowing flexibility, while also providing for appropriate consultation and design parameters.

Key aims of the Infrastructure SEPP, which support the proposed amendment include:

- *providing greater flexibility in the location of infrastructure and service facilities,*
- *providing for consultation with relevant public authorities about certain development during the assessment process or prior to development commencing, and*
- *providing opportunities for infrastructure to demonstrate good design outcomes.*

Further to the aims of the Infrastructure SEPP, this proposed amendment also supports the following objects of the EP&A Act:

- *to promote the orderly and economic use and development of land, and*
- *to promote good design and amenity of the built environment.*

## NSW Planning Reform Action Plan

The NSW Government has introduced a suite of reforms to deliver a better planning system for NSW. Work is underway to improve assessment timeframes and reduce complexity in the planning system. Part of these reforms include developing improved assessment processes that facilitate more efficient delivery of Government projects, while also ensuring there is an appropriate level of assessment commensurate with the potential impacts of these Government led developments. This is to enable efficient delivery of Government investment in public infrastructure, whilst also ensuring there is an appropriate level of environmental assessment. This proposed Infrastructure SEPP amendment for health infrastructure forms a part of these planning reforms.

## Health infrastructure in NSW

The NSW Government has committed \$10.1 billion up to June 2023 for health infrastructure investment. With over 80 projects underway across metro and regional NSW, NSW Health is managing Australia's largest portfolio of health capital works. The delivery of these critical infrastructure projects is essential to the health and wellbeing of NSW communities and supports growth in the local economy, particularly those affected by recent bushfires and the impact of COVID-19.

## Strategic justification for proposed amendment

Small-scale, lower impact health infrastructure projects that currently requires development consent have experienced delays in determination. Projects experiencing delays including minor developments within the boundaries of existing health services facilities and hospital sites, such as developing small community health facilities and single-story accommodation buildings in rural and regional areas.

To address these delays the Department is proposing to update the Infrastructure SEPP provisions for health infrastructure works so that the planning assessment requirements is commensurate with the level of impacts. The proposed amendments seek to reduce costly project delays for small scale, lower impact projects and enable the timely delivery of world class health infrastructure in NSW.

Proposed amendments are consistent and proportionate in the current NSW planning framework. the Department has largely adopted similar provisions to those in other environmental planning instruments (EPs). The Department adopted similar existing provisions from the following EPs:

- The Infrastructure SEPP
- *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 (the Education SEPP)*
- *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (the Codes SEPP)*

Further detail on the consistency of the proposed amendments to the current planning framework is outlined in the next section of the Explanation of Intended Effect.

In addition to addressing reported determination delays, the Department has also reviewed health infrastructure provisions more broadly in the Infrastructure SEPP. These proposed amendments

are aimed at ensuring minor health infrastructure land uses have an effective planning pathway that strikes a balance between timely determination and proportionate level of assessment. This will deliver a planning framework that supports the NSW Government’s NSW Planning Reform Action Plan and provides for the timely delivery of health infrastructure to NSW communities.

## Proposed amendment to the Infrastructure SEPP

The Infrastructure SEPP sets out a framework for the provision of health infrastructure in NSW. This framework facilitates various planning pathways for health infrastructure including:

- development with consent – development that is assessed and determined by a relevant consent authority (usually a local council),
- development without consent – development undertaken by a public authority (e.g. Health NSW, Transport for NSW) that can be self-assessed and self-determined,
- complying development – development that must comply with prescribed conditions within an EPI and be subsequently certified by an approved authority, and
- exempt development – development of a minor nature that is not required to be assessed or provided consent to be undertaken.

An outline of the proposed Infrastructure SEPP amendments is detailed in the table below.

### Development with consent provisions

Proposed amendment	Effect of proposed amendment
The inclusion of a new provision under clause 57(2) allowing a new use, “health manufacturing”. Health manufacturing would involve the manufacturing of biological, pharmaceutical, medical or paramedical systems, goods or components. This definition is derived from the “high technology industry” definition within the <i>Standard Instrument—Principal Local Environmental Plan</i> .	The proposed provision facilitates a new use “health manufacturing” to be developed with consent within the boundaries of an existing health services facility. This land use would allow the manufacturing of essential medical equipment including ventilators and cochlear implants.

### Development without consent provisions

Proposed amendment	Effect of proposed amendment
A new provision under clause 58(1) that allows the development of standalone health services facilities, within the boundaries of an existing health services facility.	<p>This amendment will allow for standalone health services facilities including: medical centres, community health service facilities, health consulting rooms and hospitals to be developed without consent within the boundaries of an existing health services facility. The scale of these developments will continue to be limited to a minor nature under clause 58(2).</p> <p>A development without consent pathway facilitates a faster, self-assessment planning process for NSW Health, which will mitigate project delays. NSW Health will be required to fully self-assess all environmental impacts for a proposed development to determine the appropriateness of a project.</p>

Proposed amendment	Effect of proposed amendment
<p>An amendment to clause 58(2) increasing the maximum height of developments under clause 58 from 12 to 15m.</p>	<p>This amendment will increase the maximum height of a development under clause 58 from 12 to 15m.</p> <p>This expansion of clause 58(2) allows NSW Health to undertake more development as development without consent, mitigating delays experienced through alternative planning pathways.</p>
<p>A new provision under clause 58 permitting setbacks from property boundaries to be reduced to 1m in any zone except residential zones for one storey buildings within the boundary of an existing health services facility.</p>	<p>This amendment would allow a one storey development to be constructed with a 1m setback as development without consent. This expansion of clause 58 allows more developments to be undertaken as development without consent, avoiding potential delays experienced through alternative planning pathways.</p> <p>This provision is consistent with existing provisions provided for school related developments outlined in the Education SEPP.</p>
<p>A new provision under clause 48 allowing the development of an ambulance facility by or on behalf of a public authority may result in a building being located closer than 5 metres to any property boundary.</p>	<p>Currently an ambulance facility is permitted as development without consent but is required to be setback from a property boundary at a minimum distance of 5m. This proposed provision would allow the development of an ambulance facility to be closer than 5m to a property boundary, allowing more developments to be undertaken without consent, which will mitigate assessment delays.</p> <p>This proposal is consistent with an existing provision in the Infrastructure SEPP that allows the development of emergency services facilities closer than 5m to a property boundary by or on behalf of Fire and Rescue NSW.</p>

## Complying development provisions

Proposed amendment	Effect of proposed amendment
<p>A new provision outlining that complying development under clause 58C does not have to meet the general requirements of complying development under the Infrastructure SEPP for the removal or pruning of a tree or other vegetation if:</p> <ul style="list-style-type: none"> <li>• it is not a tree listed as a significant tree on a council register, and</li> <li>• the tree or vegetation is within 3 metres of the development, and</li> <li>• the tree or vegetation has a height that is less than 8 metres.</li> </ul>	<p>This proposed amendment would allow the removal or pruning of a tree or vegetation as complying development if consistent with the prescribed conditions. A complying pathway for this type of development will provide a faster more efficient process, which will mitigate potential determination delays experienced through an alternative planning pathway.</p> <p>This provision is consistent with existing complying provisions outlined in the Education SEPP for educational establishments and child care facilities.</p>

Proposed amendment	Effect of proposed amendment
<p>A new section under division 10 of the Infrastructure SEPP allowing additional conditions for complying development certificates relating to works outside standard hours for construction.</p>	<p>This proposed amendment provides additional complying development conditions allowing works to be undertaken outside of standard construction hours, but only if the works are for approved deliveries or are in an emergency situation (to avoid loss of life or property or to protect the environment). These works must be no louder than 5 dB(A) above the rating background level at any adjoining residence in accordance with the Interim Construction Noise Guideline.</p> <p>This provision is consistent with an existing provision relating to the undertaking of work outside standard hours for construction in the Codes SEPP.</p>

## Exempt development provisions

Proposed amendment	Effect of proposed amendment
<p>A new provision under clause 58B that allows the development of temporary construction sheds used solely for the construction of a health services facility, carried out within the boundaries of an existing health services facility</p>	<p>This new clause will allow the development of a temporary construction shed used for the development of a health services facility as exempt development.</p> <p>As this is a minor land use it is proposed to be included as an exempt provision. An exempt pathway for this type of development provides a fast process that is suitable for the development type.</p>

## How to get involved

This document is being exhibited in line with the Department's Community Participation Plan. To make a submission on the amendments proposed in this document please go to [www.planningportal.nsw.gov.au/isepp-health-infrastructure](http://www.planningportal.nsw.gov.au/isepp-health-infrastructure) and complete the submission form.