



<b>THE FIRST SIX MONTHS OF THE NSW HOUSING CODE</b>	
<b>DATE</b>	November 2009

## Introduction

In February 2009, the State Government commenced the State Environmental Planning Policy (Exempt and Complying Codes) 2008, known as the Codes SEPP. The Codes SEPP gave effect to two codes – the Exempt Code and the NSW Housing Code. These codes standardise the planning provisions across the state for ‘exempt’ and ‘complying’ development. Exempt development is development that does not require development consent. Complying development requires a Complying Development Certificate (CDC) which can be issued by a council or an accredited certifier within 10 days. The development must comply with the standards set out in the NSW Housing Code.

The purpose of the legislative changes is to provide for quick approvals of new single dwellings, alterations and addition to single dwellings and ancillary development on sites over 450m<sup>2</sup>.

Alongside the Exempt Code and the NSW Housing Code, councils have planning provisions under their own Local Environmental Plans or within their Development Control Plans that allow for exempt development and permit complying development. However, these provisions vary considerably across the state and the number of CDCs issued under councils’ codes also varies significantly. These codes are referred to as “council codes” in this report.

Following the commencement of the Codes SEPP, the Associations committed to monitoring its impact on councils in NSW. As part of this monitoring, the Associations undertook a survey of councils which sought information on the uptake of CDCs under the Codes SEPP, as well as councils’ views on its first six months of operation (February to August 2009). The results of the survey have been compiled and used as the basis for this report. The report highlights the issues facing Local Government in relation to the Codes SEPP and options to improve its operation.

The Associations will use the results of the survey to provide feedback to the Department of Planning on the operation of the Codes SEPP to ensure that any problems with the Exempt Code and the NSW Housing Code are reviewed and corrected as soon as possible. The report will also be used by the Associations in future discussions with the Department, particularly in relation to the proposed Stage 2 of the NSW Housing Code, which will see its extension to smaller lot sizes and other forms of residential development.

While there are limits to the information collected in the survey, the report provides a useful early ‘snapshot’ of the operation of the Exempt Code and NSW Housing Code: Its level of use, issues arising and potential improvements.

The response rate to the survey was high with nearly half of all councils (71 of 152 councils) completing the survey. This indicates that there is strong interest by councils in the operation and effectiveness of the codes. Full details of the survey responses are provided in the appendices to this report.

## Key findings

### **Fewer CDCs issued under Codes SEPP than council codes**

- From February to August 2009, responding councils (71 or 46%) issued 2,252 CDCs, with 968 issued under the NSW Housing Code and 1284 under council codes. Thus, the majority of CDCs were approved under councils own planning controls (57%), with 43% approved under the NSW Housing Code.

- The NSW Housing Code is being used predominantly to approve developments in greenfield areas in outer metropolitan LGAs.
- A significant number of regional councils issued a high number of CDCs under council codes with very few (or nil) CDCs issued under the NSW Housing Code. It appears that these council codes have strong local support, are easy to understand, and deliver acceptable outcomes to applicants.
- Of the CDCs approved under the NSW Housing Code, 70% were approved by accredited certifiers.
- The average number of CDCs issued under the NSW Housing Code was 12 CDCs per council compared to 19 CDCs per council issued under council codes.

### **Exempt Code and NSW Housing Code too complex**

- The majority of councils believe that the codes are too complex, difficult for applicants to understand and overly onerous given that they apply to small scale development.
- The complexity of the NSW Housing Code was given as a probable reason why the number of CDCs issued under council codes has remained high in some areas.
- Many councils indicated that the Exempt Code was too complex and hard to explain. In particular, the criteria that qualifies exempt activities (i.e. that limit the scale or intensity of the exempt activity) is not understood by the average user.

### **Exempt Code and NSW Housing Code do not account for local context**

- Some councils indicated that the development standards in the codes were too stringent in some areas and needed to be relaxed to allow more development to be considered under the exempt or complying provisions. However, other councils indicated that the codes were not stringent enough and enabled development that was inappropriate for the local area.
- Some councils supported the need for local variations and identified setbacks, floor area controls (for ancillary buildings), overshadowing, and character controls as development standards that should be able to be adjusted to suit the local context.
- Some councils indicated that variations should be incorporated into the codes, rather than added to the schedule at the end of the Codes SEPP.
- The majority of respondent councils indicated that the list of excluded lands under clause 1.19 of the Codes SEPP should not be extended. However, some councils indicated that land based exclusions (e.g. 'flood lot land' and 'bush fire prone land') could be modified to increase the use of complying development provisions, but only where appropriate planning controls and processes were in place. Other councils supported the option of allowing for locally-based exclusions.
- A few councils indicated that difficulties have arisen where the codes override the current local provisions within DCPs for planned estates. More recent developments approved under the NSW Housing Code have lesser standards than previous developments approved under the estate's DCP, creating a perception of inequity and resulting in inconsistent planning outcomes.

## **Barriers to using the NSW Housing Code**

The major barriers to improving the effectiveness of the NSW Housing Codes were identified as:

- The existing house does not conform with the standards in the NSW Housing Code;
- The land based exclusion under clause 1.19 of the Codes SEPP reduces the opportunity for complying developments to be lodged; and
- The development does not comply with all of the development standards under the NSW Housing Code.

## **Problems with planning certificates**

- Many councils indicated that it was difficult for councils to implement changes to planning certificates as required by the Codes SEPP. This was due to the late notice given to councils about the changes, compounded by unclear directions and confusion as to its application at the local level. Some councils are still having problems in providing accurate information as some land based exclusions have been difficult to map.

## **Suggestions for improvement**

The key suggestions from councils for improving the Codes SEPP are as follows:

- The complexity of the codes needs to be addressed. Many councils suggested a standard check list would be useful and others recommended forms and guides to make the legislation easier to understand. Some councils suggested the format was difficult to navigate as relevant information was contained in different sections and it was easy to miss all relevant information for a proposed activity. Some councils indicated the content itself could be simplified. Many councils made reference to the Exempt Code being unnecessarily complicated to use and the need to simplify it. One council mentioned that a continuing education program would be useful.
- Specific amendments to the content of the codes were offered by some councils. Some of these suggestions were matters that have been omitted or placed in other legislation that was considered more appropriate under the Codes SEPP. Others changes have been suggested so that the codes align more appropriately with local planning issues and controls. Specific changes are listed in the Appendices.
- Councils indicated that some land based exclusions could be modified, or locally adjusted, to increase the scope for using the complying development provisions under the NSW Housing Code. Most councils indicated that this would only be acceptable if appropriate planning standards and processes were in place.
- Local variations were supported by councils as a mechanism to allow the NSW Housing Code to better align development to the local context. Councils indicated that where the codes create a different set of controls to local planning controls for CDCs and DAs; it will result in very different development outcomes with resultant impacts on the local area.
- Councils suggested a larger number of development standards should be able to be varied than currently is stipulated by the Department of Planning. A few councils suggested that overshadowing and character controls should be allowed as local development controls. Many councils suggested a different approach to applying local standards and considered the current process of adding a local variation to the schedule in the Codes SEPP needed to be reconsidered as it added to the complexity of the codes and only allowed very few variations to be considered.

- Some councils suggested the term 'exempt development' should be altered to 'self assessed development' as this would improve applicants understanding of the Exempt Code. A number of councils suggested that the option of applying for a certificate for exempt development be provided so that users have the assurance that the development is lawful. Some councils indicated that applicants requested development approval under a DA, when not strictly necessary, so that there was a record that the work had been undertaken lawfully.

## Conclusions

The survey indicates that in the first six months of the operation of the Codes SEPP, the majority of CDCs were issued under council codes. In particular, some councils have retained a high level of approvals of CDCs under their local codes; with conversely very few (even nil) CDCs issued under the NSW Housing Code.

This may be a reflection of the quality of specific council codes on complying development, rather than the effectiveness of the NSW Housing Code. Nevertheless, as yet, the NSW Housing Code has not delivered on its intended outcomes – that is, to increase the number of CDCs across the state and reduce the time taken to gain approvals for new residential dwellings, alterations and additions to houses and ancillary developments.

There are a handful of council areas where the NSW Housing Code is starting to be used as an alternative to council codes or the merit assessment (DA) pathway. However, it is too early to judge whether this trend will continue in those areas or will extend to other council areas.

The general conclusions that can be drawn from the survey results and councils' comments are:

- The NSW Housing Code and the Exempt Code, as currently written, are too complex and difficult for applicants to understand and use. Even councils are finding that it is hard to explain the codes to applicants. The complexity of the codes, and their lack of 'user friendliness' is considered by councils as a major obstacle to the wider application and use of the codes.
- Changes need to be made to the codes to allow for a better alignment between the development standards in the codes and the local context and local planning controls. The fundamental challenge in developing state-wide codes is producing codes that are workable and provide appropriate planning outcomes for all areas of the State – metropolitan, regional and rural areas – and for established areas as well as green field sites. There is a need to consider ways of providing for greater flexibility in the codes to reflect local context and better alignment with local planning objectives.

## Recommendations

1. Given that many councils are continuing to issue a high number of CDCs under council codes, the Department of Planning needs to review its policy of extinguishing all council codes on exempt and complying development in February 2010. The Department needs to assess the advantages and disadvantages of maintaining concurrent planning controls at a state and local level for exempt and complying development.
2. The Department of Planning needs to consider ways of reducing the complexity of the Codes SEPP, for example, by developing check lists, revising associated material to assist users, and

reviewing the format and content of the codes documentation. A complying development checklist and guide were issued in October 2009 by the Building Professionals Board and Department of Planning with the aim of assisting council and accredited certifiers to assess complying development applications. The project now underway in the Department to deliver the NSW Housing Code in an electronic format (the eHC project) also may assist in improving the accessibility of the code. However further work needs to be done in relation to simplifying the policy content and delivery of the code.

3. The Exempt Code needs to be reviewed to reduce its complexity. The Department of Planning should consider changing the language associated with the Exempt Code from 'exempt development' to 'self assessed development'. Options for improving applicant's compliance with the Exempt Code (and assuring themselves that their development is legally exempt) should be explored.
4. The Department of Planning should consider ways of improving the flexibility of the Codes SEPP, so that controls can be adjusted to suit the local context. This would include allowing a wider range of local variations and providing for local exclusions. A consistent set of development standards that are able to be applied variably is likely to significantly improve the use of exempt and complying development without compromising planning objectives at the local level. Consideration also should be given to the use of overlays for particular precincts (e.g. character statements, controls in planned estates).
5. The Department of Planning should consider ways to adjust the scope of certain land based exclusions (e.g. for 'flood lot land' and 'bush fire prone land') but only where those exclusions can be accurately mapped and where appropriate planning controls and processes are in place. The Department also should consider the option of allowing land based exclusions to be locally adjusted.
6. The Department of Planning should ensure that all councils are given a minimum of 6 weeks notice of changes to planning certificates. This will allow councils time to adjust their processes and ensure that all certificates can be issued accurately and in the time frame required.
7. The Department of Planning consider these recommendations in the development of Stage 2 of the codes, particularly as the application of the codes to smaller lots will raise more significant disparities with local codes and may result in increased negative impacts on neighbours

# APPENDIX 1: THE QUESTIONNAIRE

## The Survey on the Codes SEPP

Sent to all councils on 17 September 2009

Council Name

Contact Name

Email

2. Under the Codes SEPP and for the period 27 February to 31 August 2009, how many CDCs have been issued by your Council under the Codes SEPP? \*
3. Under the Codes SEPP and for the period 27 February to 31 August 2009, how many CDCs have been issued by private certifiers under the Codes SEPP in your local government area?
4. Under the Codes SEPP and for the period 27 February to 31 August 2009, for CDCs lodged but not proceeding, what are the most common reasons for the applications not meeting the requirements of the Codes SEPP?
5. Under Council's own LEP/ DCP and for the period 27 February to 31 August 2009, how many CDCs have been lodged with your Council for new single or two storey dwelling houses and alterations and additions to existing single or two storey dwelling houses?
6. Under Council's own LEP/ DCP and for the period 27 February to 31 August 2009, how many CDCs have been issued by your Council for new single or two storey dwelling houses and alterations and additions to existing single or two storey dwelling houses?
7. Do you think that increasing the number and range of local variations would increase the uptake of CDCs under the Codes SEPP?  
If yes, what changes to the local variations provisions would you like to see for your area?
8. Do you think that the list of excluded lands is too extensive and could be reduced?
9. If no, please comment on whether the list of exclusions is about right or whether there should be additional exclusions and what they should be:
  - Development does not meet the requirements of CI 1.18
  - Land is excluded under Clause 1.19
  - Land is < 450 sq metre
  - Development is not a single dwelling (e.g. a semi)
  - Development is not in the specified zones (R1, R2, R3 or R4)
  - The development does not meet one or more of the Codes SEPP development standards (Division 2 of the Codes SEPP)
  - Existing house is non-complying under the Codes SEPP.
10. Is your council experiencing problems with s149 (2) certificates in relation to the Codes SEPP?  
If yes, please provide details.
11. Has your council encountered any problems in relation to exempt development under the Codes SEPP?
12. Have you any suggestions for improving the Codes SEPP? \* Yes  
If yes, please provide your suggestions: Amending the Codes SEPP to include council's local variations.
13. Any other comments?

# APPENDIX 2: SURVEY RESULTS

## 1. COMPLYING DEVELOPMENT

### 1.1 Complying Development Certificates issued between February and August 2009

The total number of Complying Development Certificates that were issued for the first six months of the operation of the new codes was 2,252 CDCs across 71 council areas.

The table below compares the number of CDCs issued under the NSW Housing Code and the number issued by councils under council codes for the six month period.

Total no. of CDCs approved under the NSW Housing Code	968	43%
No. of CDCs approved under council codes	1284	57%
Total no. of CDCs approved over the six month period	2252	100%

- The majority of CDCs (57%) were issued under councils own codes.

Other information reveals that:

- The data indicates that there is considerable variation between councils in the number of CDCs issued for that period, i.e. between the highest and the lowest.
- The number of CDCs issued under council codes was very high at 350 CDCs and 158 CDCs issued for that period which are considerably higher than the highest number of CDCs issued under the NSW Housing Code at 125 CDCs.

### 1.2 Complying Development Certificates issued under the NSW Housing Code

The following table indicates the number of CDCs issued under the NSW Housing Code by council certifier and by private certifier.

No. of CDCs approved by council	288	30%
No. of CDCs approved by private certifiers	680	70%
Total no. of CDCs approved under the NSW Housing Code	968	100%

Other information reveals that:

- Only 12 councils issued more than 20 CDCs under the NSW Housing Code (by council or private certifier);
- 125 CDCs was the highest number of CDCs issued under the NSW Housing Code (by the council and private certifier) for one Local Government area;
- A handful of councils have issued a high number of CDCs under the NSW Housing Code - though these figures are below those under councils codes.

### 1.3 Local Variations

The Codes SEPP allows councils to apply for local variation on specific development standards such as street setbacks, side setbacks and landscaped open space. Where an application is supported by

the Department of Planning, the local variation is added to the schedule to the Codes SEPP; at the back of the legislation.

Councils were asked whether increasing the number and range of local variations would increase the number of CDCs issued under the NSW Housing Code.

	Yes	No	Total
No. of respondents	23	48	71
% of respondents	32%	68%	100%

- About two thirds of councils indicated that they disagreed with the question that increasing local variations would increase the potential number of CDCs that can be approved under the NSW Housing Code.
- About one third of councils agreed that local variations could increase the uptake of CDCs under the NSW Housing Code.
- Some councils also indicated that there would be better planning outcomes if the codes were varied, even if the effectiveness of the codes was not necessarily extended.

The councils were subsequently asked what local variations they would like to see in their area.

Changes to development standards – setbacks, floor areas of structures, overshadowing and character controls	10	43%
Local modifications of certain excluded land – such as bushfire prone land, flood lot land and other environmentally sensitive land	8	35%
Variations should be allowed in principle	3	13%
Controls need to be more localized	2	9%
Total	23	100%

- The majority indicated that certain development standards should be varied such as setbacks, floor areas of ancillary structures, overshadowing controls and character controls.
- The list of local variations that councils considered suitable was wider than extent of variations currently allowed by the Department of Planning.

#### 1.4 Land Based Exclusions

The Codes SEPP allows land to be excluded where it is identified in clause 1.19 of the Code SEPP as environmentally sensitive. This includes a list of types of land based land exclusions such as bushfire prone land and flood lot land.

Councils were asked whether they thought the list of excluded land was too extensive or could be reduced.

	Yes	No	
No. of respondents	20	51	71
% of respondents	28%	72%	100%

- A large majority (72%) of councils indicated that they considered the list of land based exclusions was not too extensive and that the number of exclusions does not need to be reduced;

- 28% of councils indicated that land exclusions could be amended for the reasons outlined in the table below.
- Some councils confused local exclusions with local variations. Nevertheless, these respondents indicated that reducing the blanket land based exclusions for bushfire prone land and flood lot land to a reduced geographical area would extend the application of the codes.

Some exclusions could be locally adjusted –so they were more accurate	5	25%
Flood lots could be adjusted where levels to floor areas were applied	7	35%
Some development could be allowed in bushfire prone lands	6	30%
Some development could be allowed in heritage areas	2	10%
Total	20	100%

- Flood lot land and bushfire prone land were both identified as land based exclusions that could be adjusted;
- Councils indicated that land based exclusions could be able to be adjusted locally;
- Many of the above councils indicated that relaxing the blanket controls on specific land based exclusions would only be acceptable if appropriate planning standards were in place.

### 1. 5 Barriers to applicants using the NSW Housing Code

The respondents identified and rated barriers to applicants using the NSW Housing Code (rated as either minor, medium or major barriers).

	Minor	Medium	Major
Development does not meet clause 1.18	44	19	8
Land is excluded under clause 1.19	27	15	29
Land in under 450m2	52	9	8
Development is not a single dwelling	50	13	8
Development does not comply with the zone	40	15	16
Development does not meet the development standards	16	28	27
The existing house is non conforming	23	16	32

The major barriers to improving the effectiveness of the NSW Housing Codes were identified as being that:

- The existing house does not conform with the requirements of the NSW Housing Code Codes;
- The land based exclusions under clause 1.19 of the NSW Housing Code limit application of the code; and
- The development does not comply with all of the development standards under the code.

## 2. PLANNING CERTIFICATES

Councils were asked whether they had experienced problems with planning certificates in relation to the NSW Housing Code.

	Yes	No	Total
No. of respondents	22	49	71
% of respondents	30%	70%	100%

- Nearly one third of councils experienced problems with their section 149(2) certificates in relation to the Codes SEPP.
- The reasons for these difficulties are outlined in the table below.

<b>Table 9: Reasons for problems with planning certificates</b>	
Short time frame to implement changes	6
Large amount of additional time to process certificates , deal with requests and updates	2
On going changes were required	3
Wording of changes unclear, and interpretation of definitions and information was confusing	7
Mapping was inadequate and therefore providing accurate information difficult	2
Waste of time and effort as the information given to applicant unclear and potentially misleading	2

The key concerns were that:

- Councils were given a short time frame to implement the changes; and
- The advice to councils was unclear, required interpretation and resulted in confusion.

### 3. EXEMPT DEVELOPMENT

Councils were asked whether they had experienced problems with the Exempt Code.

<b>Table 10: Problems with the Exempt Code?</b>			
	Yes	No	Total
No of respondents	40	29	69
% of respondents	58%	42%	1005

- 58% of councils indicated that they had experienced problems in relation to exempt development under the Codes SEPP.

<b>Table 11: Reasons for problems with the Exempt Code?</b>	
The content is too general and does not suit the local context. Examples given included the following; <ul style="list-style-type: none"> <li>• Ignores infrastructure that is not within easements;</li> <li>• Should exclude air conditioning units;</li> <li>• Decks, balconies and carports may need to be excluded;</li> <li>• Ignores heritage issues on adjoining sites and allows unsympathetic development in conservation areas;</li> <li>• Floor areas not the right fit for sheds and rural dwellings;</li> <li>• Coastal hazard zones should be excluded because of sea level rise policies;</li> <li>• Access has been ignored;</li> <li>• Water disposal requirements are ignored.</li> </ul>	17
Too complex and hard to explain	9
The standards associated with the activity are not understood by the average user	4
Too restrictive	7
Creates conflicts with planning controls over planned estates	3

- A high number of councils provided examples on how the exempt provisions were too general and did not suit the local context. The suggested changes were either matters that had been overlooked or development standards that needed to be amended to match the local controls.
- Many councils indicated that the code was too complex and hard to explain.

- Many councils said the provisions were too restrictive.
- Some councils indicated that the Exempt Code allows exempt development to be qualified by criteria that limits the scale and intensity of that exempt activity. This approach of qualifying activities was not generally understood by the average user.

Councils also indicated that the provisions of the Exempt Code now allowed development within planned estates that was previously not allowed under the DCP. This creates lower standards being allowed for development within certain planned estates.

#### 4. SUGGESTED IMPROVEMENTS

Councils were asked how the Exempt and NSW Housing Codes could be improved. A wide range of suggestions were offered.

<b>Table 12: Suggested improvement to the codes provided by councils</b>	
A check list and other forms or manuals to assist the user in better understanding the process and content of the codes	15
Local variations would make the codes more consistent with local planning codes	6
The content of the NSW Housing code needs to be amended to address the following issues: <ul style="list-style-type: none"> <li>• storm water controls were ignored and the need to specify on site detention tanks;</li> <li>• the SEPP should not apply to planned estates;</li> <li>• size of out buildings in rural areas needs to be revised;</li> <li>• setbacks are too complicated (need to be simplified to 900 for single storeys and 1200 for two storey development);</li> <li>• setbacks from roads need to be varied;</li> <li>• solar panel requirements should be incorporated within the Codes SEPP not the Infrastructure SEPP;</li> <li>• rainwater tanks need to be larger in rural areas;</li> <li>• aircraft noise needs to be considered;</li> <li>• air conditioning units should be deleted as they can create noise issues for neighbours;</li> <li>• the impact of a development on the heritage significance of a item on adjoining land has been ignored; and</li> <li>• Soil contamination needs to be considered.</li> </ul>	7
Some land based exclusions could be reviewed – such as bushfire prone land and flood lot land where appropriate planning controls are in place.	7
Changing the term ‘exempt development’ to ‘self assessed development’ would assist the users understanding of the Exempt Code. The option of allowing an applicant to apply for an exempt development certificate would give users clarity and assurance that the work is lawful.	4
Improved consultation processes Local Government would result in improving the codes.	2
An on-going educational program for all users would be beneficial as the codes are complex and require sound knowledge and experience to use appropriately.	1

The key suggestions for improvements were as follows:

- Addressing the complexity of the codes was found to be the most common suggestion by councils. Many councils suggested a standard check list would be useful and others recommended forms

and guides to make the legislative format easier to understand. Some councils suggested the format was difficult to navigate as relevant information was contained in different sections and it was easy to miss all relevant information for a proposed activity. Some councils indicated the content itself could be simplified where possible and there were many references to the Exempt Code being unnecessarily complicated to use. One council mentioned that a continuing education program would be useful as the interpretation of the documents is not straightforward.

- Specific amendments to the content of the codes were offered by some councils. Some of these suggestions were matters that have been omitted or placed in other legislation that was considered more appropriate under the Codes SEPP. Other changes have been suggested so that the codes align more appropriately with local planning issues and controls. These specific changes are listed in the table above.
- Councils indicated that some land based exclusions could be moderated, or locally adjusted, to allow for a higher number of CDCs that could be issued under the codes at a local level. Most councils indicated that this would only be acceptable if the appropriate planning standards were in place.
- Local variations were supported by councils as a mechanism to allow the NSW Housing Code to be more consistent with local controls. Councils indicated that where the NSW Housing Code and the Exempt Code create a different set of controls to local planning controls for CDCs and DAs, it will cause a disparity of outcomes and create inequality for the user. Examples given were the difficulties that now are created in the management of planned estates that were previously controlled by councils DCP. Now new development may be allowed either under the Exempt Code or NSW Housing Code that is less onerous than the requirements set under the DCP. As many estates have been partially developed under the DCP there may be a noticeable disparity in outcomes.
- The suggestion to change the language of 'except development' to 'self assessed development' would improve the understanding of the Exempt Code by the average user. A number of councils suggested that a certificate for exempt development be provided so that users have the assurance that the development is lawful. Some councils indicated that applicants requested DAs, when not strictly necessary so that there was a record that the work had been undertaken lawfully.

Other representative comments that were made by councils are listed below.

- *'The codes are too stringent for outer Sydney and regional NSW but they are not stringent enough for inner city areas;*
- *There is too much confusion with codes being constantly changed and the information is too complex;*
- *Councils have a difficult task in assessing what is legal and not legal under the codes and an even more challenging task in enforcing the Codes SEPP;*
- *The number of SEPPs on complying development needs to be consolidated into one SEPP;*
- *There needs to be more time for information exchange to occur between council and the Department before the codes are further revised;*
- *CDCs are being submitted that do not comply with the NSW Housing Code – there needs to be more educational work on the codes.*
- *The codes ignore sustainability issues.'*

### **APPENDIX 3: LIMITATIONS OF THE SURVEY**

The survey results represent a high proportion of councils and provide a reasonable snapshot of what is 'happening on the ground' in nearly half of NSW councils. However, as the survey results cover only half the councils in NSW and only the first six months of the operation of the codes (February to August 2009), there are obvious limitations on the data.

Furthermore, the survey relies on figures collected by council staff or provided by private certifiers to councils. Some figures provided to councils by private certifiers may not be reliable, as they did not always clearly delineate between CDCs issued under the NSW Housing Code and CDCs issued under council codes. In these cases, it was assumed the CDCs were issued under the NSW Housing Code. Therefore, the survey findings might slightly understate the number of CDCs issued under council codes.

Finally, figures on figures on the quantity of CDCs might be affected by the fact that some councils included data on swimming's pools, whereas other councils may have excluded CDCs for swimming pools.