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Expanding the use of complying development certificates in the NSW planning system

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Summary

The NSW Department of Planning and the Environment (the Department) is proposing to reform planning regulations to allow certain types of development to go through a faster assessment process. Currently, most developments are assessed by councils through Development Applications (DAs), which can take considerable amounts of time, money and administrative effort to process. Some types of development can be assessed through Complying Development Certificates (CDCs), which are faster to process.

The CDC system has been in place since 2007-08. In 2013-14 almost 25,000 projects were assessed with CDCs, nearly 30 per cent of development assessments. This provided approximately $157 million in savings for project proponents and councils, 0.55 per cent of total value of approved development, summarised in Table ES1 below:

Table ES1: CDC and DA overview, 2013-14

	Total	Percentage of total development and costs
CDC determinations	24,814	29%
DA determinations	60,791	71%
Total determinations	85,605	NA
Value of CDC approvals	$ 4,427,367,813	15%
Value of DA approvals	$ 24,258,551,970	85%
Total value of approved development	$ 28,685,919,783	NA
Estimated value of time saving for average CDC project	$6,323	NA
Estimated value of CDC time savings in 2013-14	$ 156,620,710	0.55%

Sources: Local Development Performance Monitoring data 2013-14, Deloitte Access Economics, 2012, Time and cost benchmarking project: A New Planning System for NSW, TAI calculations

The proposal is to:

- Expand the use of CDCs to types of development where they are currently not issued, and:
- Increase the use of CDCs more broadly through an education program and by simplifying the Housing Code.

Expanding use of CDCs

The proposed expansion of CDC use to more development types includes specifically:

- Dual occupancies
- Townhouses
- Development proposals in some environmental zones (E3 and E4)
- Development proposals in heritage zones

The Australia Institute has estimated the quantifiable economic benefits of these proposals. These benefits are achieved mostly because a shorter time for planning determination will reduce financing costs for proponents, as well as some reduced fee and compliance costs and a reduced administration load for councils. These savings are summarised in Table ES2 below:

Table ES2: Summary of savings from expanded CDC use

CDC approval savings	Low-case	High-case
Second occupancy	$4,543,008	$15,451,629
Townhouses	$12,928,366	$32,320,916
E3 and E4 environment zones	$4,404,447	$8,808,894
Heritage zones	$2,766,535	$5,533,070
Total	**$24,642,356**	**$62,114,509**

If the CDC system operates well, costs should be minimal. If CDC specifications are set in a way that approves only projects that would definitely receive DA approval without modification, any CDC assessed proposal would be granted without the policy change, just over a longer timeframe.

The proposal comes with risks, however. CDCs remove council, neighbours and the community from the approval process, reducing the involvement of people best placed to identify and evaluate costs that fall on them and the environment. Given this risk, CDC specifications must be set at conservative levels, with councils and communities involved the process that sets these specifications.

Our estimates are based on several data sources and various modelling assumptions. Our key assumption is that the CDC system is implemented in a consultative way and operates well. We assume that only projects that would definitely have been approved through a DA receive certification. We also assume that CDC conditions are enforced and adhered to following determination, at least to the same extent as projects approved through a DA. This assumption means that costs are not imposed on other stakeholders and the wider community, beyond what occurs with DA development.

Bearing these assumptions in mind, the proposed expansions to CDC usage would deliver substantial savings to project proponents and councils, at minimal cost to other stakeholders, and are therefore desirable from an economic perspective.

Increasing use of CDCs through an education program and by simplifying the Housing Code

The Department is proposing an education program about CDC use and simplifying the wording of the Housing Code to increase the use of CDCs. Likely educational activities include:

- Workshops for planning professionals, council staff and community members
- Publication of fact sheets and other materials
- Online resources including e-learning tools, videos and user guides.

The cost of these proposals is incurred by the state government, which will conduct the program, as well as councils and community members, who will spend valuable time participating in it. While the final details of the current proposal have not been set, we estimate that earlier programs have resulted in costs to all stakeholders totalling around $300,000, and costs for this program seem unlikely to exceed $1 million.

Estimating the benefits of the program is difficult, as they depend on the rate of uptake of CDC approval with and without this change. We have estimated the benefits that might be realised if the share of CDC use to total development assessment increases from the current three per cent per year growth to four or five percent, based on savings to an average-sized CDC referred project. These estimates are shown in Table ES3 below:

Table ES3: Estimated benefits from increasing CDC determination rates

	Current	Alternative 1	Alternative 2
Increasing share of CDCs in project determinations	3%	4%	5%
Increased numbers of CDCs per year	2,369	3,158	3,948
Value of CDC time saving for average sized project	$6,323	$6,323	$6,323
Value of annual savings	$14,978,133	$19,970,844	$24,963,555
Present value of difference to current growth over 10 years at 7% discount rate	N/A	$ 185,583,426	$371,166,853

Given the highly uncertain nature of future CDC take up rates with and without these initiatives – especially since the initiatives themselves are still being finalised – it is more useful to assess what rates of adoption would be needed to outweigh the costs detailed above. At the cost saving for the average value CDC referral of $6,323, the program would need to increase CDC determinations by 160 above current growth levels to be cost effective (depending on their timing). If this occurs, the costs incurred by the State Government and program participants are less than the savings brought about by the increase in CDC referrals.

Overall, the proposed changes to expand CDC use to more development contexts and to increase CDC uptake through education and simplification are likely to deliver substantial economic benefits to NSW. Although modest in comparison to the overall size of the construction sector, the proposals represent a positive step towards a more efficient planning process.

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Introduction

The NSW Department of Planning and the Environment (the Department) is proposing to reform planning regulations to reduce the time it takes for certain types of development to be assessed. In general, developments are assessed by councils through Development Applications (DAs), which can take considerable amounts of time, cost and administrative effort to process. For example, the average DA for a second occupancy development – a second dwelling on a plot of land – takes 98 days to determine.[1]

The *State Environmental Planning Policy (Exempt and Complying Development Codes)* (Codes SEPP) allows for some developments to be assessed faster if they are 'complying developments'. Some types of development that can demonstrate that they entirely comply with planning regulations can be issued with a Complying Development Certificate (CDC). CDCs can be issued by councils or by accredited private certifiers and take around 25 days to process.

Since approval through CDCs began in 2008–09, the number of developments assessed this way has steadily increased, from 9,000 in 2008–09 to 25,000 in 2013–14. This represents 29 per cent of the 86,000 development approvals in 2013–14. The value of approvals through CDCs was $4.4 billion in 2013–14, out of a total $28.7 billion of approved local development. This represents 15 per cent of the total value of approvals, reflecting that CDC developments tend to be smaller than those requiring a DA.

Approval through CDCs benefits developers and councils by reducing the time and cost involved in development assessment. Based on the average savings estimates used in this report, in 2013–14 CDC use saved developers and councils approximately $157 million.

Approval through CDCs can potentially impose costs on neighbours, the community and environment by limiting their involvement in the planning process and encouraging poorer planning outcomes. Protection of existing standards is necessary to avoid these costs, with community and council involvement in the process of setting relevant CDC specifications.

[1] Source: Local Development Performance Monitoring data 2013–14. Based on "mean gross days for new second occupancy DA determined" and "new second occupancy - number of DA determined".

This is not the first time expanding the use of complying development and the Codes SEPP has been proposed. The 2013 Planning White Paper recommended wide-ranging planning reforms including conducting 80 per cent of assessments under the Codes SEPP by 2018, up from an earlier goal of 50 per cent by 2012–13.[2] The White Paper proposal emphasised the benefits that could be gained from better use of the Codes SEPP as well as the role of the community:

> *Community participation in the preparation of plans and a vision for their local areas represents a key change in the new planning system. This means that the opportunity for the community to participate at the start of the planning process and on an ongoing basis will be prioritised and integral to setting the vision and ground rules for local areas.*[3]

The White Paper's suggested system did not pass the upper house of NSW Parliament and since then changes to the planning system have been modest. The need to balance improvements to the system with community concern remains fundamental to NSW planning reform, including the current proposal.

Under the current proposal the Department plans to expand the types of development that can be approved through CDC to include:

- townhouses and dual occupancies as additional complying development types.
- development proposals in some areas zoned as 'environmental living' and 'environmental management'.
- development proposals in heritage conservation areas.

And develop criteria for local exclusions to the Codes SEPP to:

- Ensure heritage significance is maintained.
- Define and map environmentally sensitive land within council areas

The policy proposal also includes measures to engage the community and increase the use of CDCs more broadly:

- An education program to increase understanding and engagement with the CDC mechanism and current policy change.
- New and expanded online information about which locations and developments are eligible.
- Simplifying the Codes SEPP wording and operation to make it easier for councils and other stakeholders to understand and use.

[2] NSW Government 2013, A New Planning System for NSW, Planning White Paper, see p119-121
[3] White Paper, p44

The Department has commissioned The Australia Institute to assess the economic costs and benefits of these policy changes, compared to maintaining the current planning arrangements. We have divided the assessment into two parts:

- Firstly, an assessment of proposed expansions of the Codes SEPP to dual occupancy, townhouses, environment and heritage zones.
- Secondly, an assessment of increases in use of CDCs through the education program and the simplification of regulations.

In preparing this report we have had reference to:

- NSW Treasury, 2007, *NSW Government Guidelines for Economic Appraisal*
- Department of Finance and Administration, 2006, *Handbook of Cost–Benefit Analysis*
- Office of Best Practice Regulation, 2014, *Cost–benefit analysis guidance note*
- Boardman et al, 2006, *Cost benefit analysis: Concepts and practice*

Proposal in detail

If a development application meets specific criteria it can be issued with a CDC rather than a full development application. Once a CDC has been issued the development cannot be refused. There are no further objection rights for neighbours, council or other stakeholders. There are regulations around what notice must be given prior to CDC determination and construction and usual regulations apply to construction noise and conditions, but the approval of the development cannot be refused. CDC approval is currently available for:

- most home renovations
- development of a granny flat
- building a swimming pool
- property extensions (up to two storeys)
- building a garage or carport
- the construction of a new industrial building
- alterations and additions to industrial and commercial buildings
- the demolition of a building[4]

For CDCs to be issued these developments must completely comply with the relevant standards, such as:

- Set back from boundaries and neighbours
- Roof height
- Floor height

Full compliance with the council's Local Environmental Plans, the Building Code of Australia and various other laws and regulations is also compulsory. Where full compliance is not obvious to the CDC assessor, a full DA must be submitted.

The Department proposes to expand the scope of the CDC system and increase the use of CDCs. The expanded system would include:

- Townhouses and dual occupancies.
- Proposals in areas zoned as E3 Environmental Management Zones and E4 Environmental Living Zones.

[4] http://hub.planning.nsw.gov.au/BuildingorRenovating/DoIqualifyforfasttrackapproval/Complyingdevelopment.aspx

- Additional types of development within heritage conservation areas, most of which is currently not assessable through the CDC process.

While other parts of the proposal aim to increase the use of CDCs through:

- An education program aimed at councils and other stakeholders.
- Simplifying amendments to the Codes SEPP to make it easier to understand and use.

EXPANDING CDCS TO NEW ZONES AND TYPES OF DEVELOPMENT

Dual occupancies and Townhouses

CDCs are already issued for 'granny flats' if they are:

- Established in conjunction with another dwelling (the principal dwelling),
- On the same lot of land as the principal dwelling (and not an individual lot in a strata plan or community title scheme)[5]

The Department's proposal would expand this to include:

- Second principle/self-contained dwellings on the same lot of land
- Townhouse developments of up to two stories, on sites with existing zoning permitting townhouse developments.

E3 Environmental Management Zones and E4 Environmental Living Zones

Councils in NSW set Local Environmental Plans, which restrict or place conditions on land uses and development in areas zoned as having environmental importance or being environmentally sensitive. These zones are:

- **E1 – National parks and Nature Reserves** – Minimal development permitted.
- **E2 – Environmental Conservation** – Areas where managing and restoring highly significant areas is a priority and development that would have an adverse effect on those priorities is prevented.

[5] http://hub.planning.nsw.gov.au/BuildingorRenovating/DoIqualifyforfasttrackapproval/Grannyflats.aspx

- **E3 – Environmental Management** –A range of development is permitted, including homes, home industries and some businesses, but with the objective of protecting, managing and restoring environmental values.
- **E4 – Environmental Living** – The objective is to provide for low-impact residential development with restrictions on most industrial development.[6]

Currently CDCs are not issued for developments in environmental zones even if they comply with all other requirements. The Department is proposing to allow CDC assessment for existing CDC development types in these areas, subject to suitable protective measures.

The policy proposal includes measures to assess where exclusions to CDC availability are required and to better define and map sensitive areas within councils' Local Environmental Plans.

Heritage Conservation Areas

Developments are generally not assessed under the CDC process if they are within a heritage conservation area. Only minor developments such as sheds, carports and swimming pools are assessed this way. Development consent is required for demolishing or altering most aspects of heritage buildings, trees or Aboriginal sites.[7]

The proposal is to expand the share of development that is CDC assessed in heritage areas, provided protection of heritage significance can be maintained.

Redefining environmentally sensitive land

Many councils also identify specific areas as "environmentally sensitive land", distinct from the E1, E2, E3 and E4 zones discussed above. Complying development is generally not permitted on environmentally sensitive land.

The Department believes that in some cases environmentally sensitive land definition is used by councils to manage development in areas that are not environmentally sensitive per se, but that have other environmental challenges. In particular, areas that are flood prone or at bushfire risk have been identified as environmentally sensitive not for their conservation value, but to address flood and fire risks.

Part of the Department's proposal is to engage with councils and communities to better define and map environmentally sensitive land to ensure it is protecting

[6] http://www.legislation.nsw.gov.au/maintop/view/inforce/epi+155a+2006+cd+0+N
[7] http://www.legislation.nsw.gov.au/maintop/view/inforce/epi+155a+2006+cd+0+N

environmental values rather than performing other functions. If risks such as flood or fire are not increased and environmental values not put at risk, there would be benefit to changing definitions of environmentally sensitive areas to allow complying development.

INCREASING USE OF CDCS

Education program

The Department proposes to undertake an education program to increase understanding and awareness of the policy amongst councils and the community. Proposed activities include:

- Engagement with council staff, planning professionals and community groups.
- Industry forums.
- Publication of fact sheets, guides and e-learning tools, including:
    - Planning Portal to allow DAs and CDCs to be tracked online.[8]
    - Expansion of Interactive Building tool, which currently provides information on exempt development for properties to include complying development.[9]
    - Expansion of the Electronic Housing Code, which provides information on complying development by property and facilitates applications.[10]
    - Expansion of the Planning Viewer tool, which provides information on zoning, heritage status and other planning overlays.[11]

Simplification of Housing Code

The Department proposes to simplify the Housing Code within the State policy for exempt and complying development via a housekeeping amendment. The aim is that this will make the policy wording easier for stakeholders to understand and encourage uptake of CDCs in areas where legislative complexity has slowed their uptake.

[8] https://maps.planningportal.nsw.gov.au/Map
[9] http://interactivebuildings.planning.nsw.gov.au/
[10] http://hub.planning.nsw.gov.au/PlanningTools/ElectronicHousingCode.aspx
[11] http://hub.planning.nsw.gov.au/PlanningTools/PlanningViewer.aspx

Costs and benefits of expanding CDC approval and increasing CDC use

BENEFITS

Time savings and reduced costs

The main benefits of the proposed policy change to planning regulations are reduced time taken for development approval and reduced administration work for councils. As most people proposing redevelopment and construction of dwellings borrow money to fund their property acquisition and development, they accrue interest costs that can be reduced by expediting development.[12]

The value of time savings in approval processes were estimated by Deloitte Access Economics in a 2012 study commissioned by the Department, *Time and cost benchmarking project: A New Planning System for NSW*. The Deloitte study included to relevant case studies for the current proposal, with estimates for savings for a single dwelling project home and a 12 unit townhouse development. Deloitte examined administrative costs, substantive compliance costs, fees and charges and delay costs for each of these kinds of development and compared these under DA approval and CDC/Codes approval. Their estimates of costs savings are summarised in Table 1:

Table 1: Estimated cost savings from Deloitte study

	Administrative savings	Substantive compliance savings	Fees and charges savings	Delay cost reduction	Total savings
Single dwelling project home	$778	$85	$951	$5,332	$7,145
12 unit townhouse development	$4,172	$2,200	0	$107,589	$113,960

Source: Deloitte Access Economics, 2012, Time and cost benchmarking project: A New Planning System for NSW.

[12] Even if proponents have not borrowed money to fund their development, from an economic perspective there is still a cost associated with funding a development from savings: the opportunity cost of investing those savings elsewhere.

As shown in Table 1, the most significant saving identified by Deloitte is delay cost reduction. Their estimates are based on:

- Single dwelling project home:
    - Financing a loan of $212,222 at an interest rate of 7 per cent.
    - Average cost of vacant residential land in NSW, weighted to accommodate regional and metropolitan prices.
- 12 unit townhouse development:
    - Financing a loan of $3,300,000 at an interest rate of 7 per cent.
    - Costs of development in "middle ring" suburbs, such as Parramatta, Ryde or Canterbury, "on the basis that these areas represent an 'average' area in which such a development is likely to occur."[13]

Deloitte also break these savings down between savings to councils from reduced administrative costs and savings to proponents:

Table 2: Cost savings to councils and proponents

	Savings to councils	Savings to proponents	Total savings
Single dwelling project home	$593	$6,552	$7,145
12 unit townhouse development	$825	$113,136	$113,960

Source: Deloitte Access Economics, 2012, Time and cost benchmarking project: A New Planning System for NSW

These estimates form the basis for our calculations around time savings and reduced costs for the current proposed changes to the Codes SEPP, shown in Table 3 below:

Table 3: Savings estimates applied to CDC expansion proposals

Development	Estimated saving
Dual occupancy	$7,528
Townhouse savings per unit	$10,005
CDCs in E3, E4 and Heritage zones	$6,323

Source: Deloitte Access Economics, 2012, Time and cost benchmarking project: A New Planning System for NSW and TAI calculations

To arrive at the savings in Table 3:

- Dual occupancy:
    - We assume that financing for a dual occupancy is equal to that of the average project home described by Deloitte.

[13] Quotes from Deloitte 2012, page 25.

    - We have adjusted mid-2012 prices to 2015 prices in line with the Australian Bureau of Statistics (ABS) Producer Price Index for inputs to the house construction industry.
- Townhouse developments:
    - Divided Deloitte's estimate by 12 to give a per-unit saving. This is necessary as data is not available for number of townhouse developments, only for townhouse units.
    - We have adjusted mid 2012 prices to 2015 prices in line with the ABS Producer Price Index for inputs to the house construction industry.
- CDC developments in E3, E4 and heritage zones:
    - Because the average value of a project approved under CDC is lower than the single dwelling estimate by Deloitte, we have discounted the savings in line with the likely lower financing costs. This is because many projects approved under CDC are smaller than a new single dwelling, such as extensions, sheds, etc. According to the Local Development Performance Monitoring data 2013–14, the average value of projects approved through CDC is $178,739. This is 16 per cent lower than the $212,222 that Deloitte's saving estimate was based on, so we have applied a 16 per cent discount to savings to proposals in these areas.
    - We have adjusted mid 2012 prices to 2015 prices in line with the ABS Producer Price Index for inputs to the house construction industry.

Note that Deloitte's estimates are based on what they consider to be the average relevant land values. While the average value for state-wide estimates is appropriate, this may cause council-specific estimates to be overstated for areas with below-average land values, such as outer suburban areas, and understated for above-average areas such as the Northern Beaches. Their estimates do not include any sort of benefit a more certain approval may confer, such as reduced risk premium by lenders, or reduced contingency costs by building contractors.

We assume that Deloitte's estimates around administration costs, substantive compliance costs and fees are still accurate and that no major reforms to these procedures have occurred. We have reviewed how these estimates were derived, but updating them in line with current council practice is beyond the scope of this assessment, particularly given the relatively minor value of these savings relative to delay costs.

An important assumption around valuing benefits of time savings is that they actually occur; that is to say that the days saved through using CDCs actually translate to people being able to use their new development sooner. If other types of approval and

certification are required for the development, the benefit of faster CDC approval is reduced if these other processes mean that completion time is still largely unaffected.

An example of where such benefits have not been realised comes from the Federal Department of the Environment and its estimate of the costs of project delays related to the Environmental Protection and Biodiversity Conservation (EPBC) Act. The Environment Department estimated that the EPBC act resulted in delays of 186 days, worth $56 million to the Warkworth coal mine extension in the Hunter Valley.[14]

However, the Warkworth project's state approval was overturned in the NSW Land and Environment Court in an appeal that ran in conjunction with the EPBC process. Had the EPBC process been expedited, no economic saving would have been realised by the proponents, Rio Tinto, as another factor caused further delay.

If other aspects of CDC approved projects cause other delays – such as problems with financing, building difficulties or other approvals – these may reduce the actual cost savings of CDC approval. In our assessment we assume this is not the case, but where other delays exist, time saving benefits would be overstated.

To conclude this section on the benefits of time savings that CDC expansion could bring, it is important to remember that these benefits derive largely from the time saving itself, not from the use of CDCs per se. Similar benefits could be realised from other reforms to the planning process that expedited approvals with minimal costs to the community.

Unquantified benefits

The policy has the potential to have a range of other benefits, but these have not been quantified due to uncertainty around their occurrence, measurement or valuation.

Note that the benefits of time savings are quantified only through savings on interest payments, compliance costs and council wages. For some development proponents, such as property developers, these will be the key benefits. However, these savings may not reflect the value that other people gain from completing their development sooner: satisfaction at being able to move in and enjoy their house or extension; reduced costs of storage, rent and other costs related to living around development; or the inconvenience of living in conditions that need redevelopment.

For many developments, these benefits could be considerable. Ascertaining in what cases they exist and how to measure them is difficult as we have no market for faster

[14] http://www.environment.gov.au/system/files/resources/c3954859-fca6-4728-a97b-c17f90f6142c/files/regulatory-cost-savings-oss-52-projects.pdf

approvals – a good thing due to the problems this would raise with transparency, corruption and equity. Where no market value exists for a good or service, economists attempt to measure such values by assessing people's 'willingness to pay' for the good or service. Willingness to pay is assessed either by looking at prices paid for comparable services in other markets, or by asking people through surveys. Conducting such research goes beyond the scope of this assessment and this value is left unquantified. Readers should note that this could cause a substantial understatement of the benefit of the policy for some stakeholders.

Under the proposed policy change the number of development approvals could increase as more council resources become available and in response to the lower cost and smaller time frame for completion. The Department suggests that the certainty that CDCs provide may also encourage more development proposals. However, such responses are difficult to predict and relate to many other factors. Such changes would likely be small as the savings are likely to be modest relative to the overall value of a development.

CDC approval of dual occupancy would be likely to increase urban density in some areas, resulting in reduced public costs of servicing the same population, relative to a more spread-out population. The effect of the current policy proposal is likely to be small and difficult to measure and has not been estimated in our assessment.

In our assessment we assume that development proposals are not altered by proponents to gain CDC approval rather than going through the DA process. Alterations may involve some cost to proponents in terms of the reduced size of the building or other aspect of development, but would result in a net benefit due to the time saving.

COSTS

General

From an economic perspective, if CDC specifications are set appropriately then there is minimal cost to neighbours or the community by issuing CDC approval. Any CDC assessed proposal would be granted without the policy change, just over a longer timeframe. There may in fact be benefit through reduced time, legal costs and neighbourhood disharmony as objections, legal challenges are costly and affect neighbourhood relations.

However, the policy change could increase:

- development that imposes costs on neighbours.
- development in environmentally sensitive areas that imposes costs on the environment and community.
- development in areas with heritage value that imposes costs on the community.

A key assumption in our analysis is that these costs will be minimal. However, if the expansion of CDCs, and commensurate narrowing of the ability of the community to object, results in developments that have significant impacts on neighbours and the community being approved, these costs would be significant.

To minimise costs to the community caused by worse planning outcomes, the CDC system must operate well. CDC specifications must be set in a way that approves only projects that would definitely receive DA approval without modification. CDCs remove council, neighbours and the community from the approval process, reducing the involvement of the people best placed to identify and evaluate these costs. Given this risk, CDC specifications must be set at conservative levels, with councils and communities involved the process that sets these specifications.

These concerns are echoed in the current draft report of the *Independent Review of the Building Professionals Act 2005*, which states:

> *The Government has a commitment to expand the range and level of developments that can be handled as complying developments. The objective is to reduce the costs and delays in proceeding with developments, while ensuring conformity with planning and building requirements. However, the effectiveness of this initiative is vitally dependent on the effectiveness and integrity of the certification process leading to the issue of the CDC. The evidence is that the system is not as effective and thorough as needed to have confidence in the outcomes generated through the Complying Development process.*[15]

One factor that reduces confidence in the CDC system and increases the risk of costs borne by the community is the role of private certifiers. Certifiers are largely employed directly by developers, creating a potential conflict of interest: private certifiers might be subject to pressure from developers to interpret CDCs conditions liberally and issue certificates where they might not have been approved by councils. This was a concern raised by community, environment and heritage interest groups consulted for this

[15] Lambert, 2015, *Independent Review of the Building Professionals Act 2005*, draft report August 2015. Available at: http://bpb.nsw.gov.au/sites/default/files/public/Information%20sheets%20%26%20practice%20advice/Draft%20Review%20of%20the%20Building%20Professionals%20Act%202005%20-%2021%20August%202015.pdf

report and supported with examples of prosecutions of certifiers by the Building Professionals Board, which oversees the system.

For example, the Building Professionals Board website discusses a case where a certifier issued CDCs for houses that showed two-storeys on the floor plan, but actually had three storeys. The Board found the certifier to have engaged in unsatisfactory professional conduct in issuing CDCs for development that didn't meet the standards of the Codes SEPP, fined the certifier and imposed conditions on their operations.[16]

Another issue is whether the conditions under CDC approval are adhered to by developers once approval has been granted. Auditing and enforcement of these conditions is important to ensure that costs are not incurred by neighbours and other stakeholders. If CDC conditions are not adhered to, our assumption that no cost is incurred would result in an overstatement of net benefit. A further consideration is whether CDC conditions are complied with and audited to a greater or lesser degree than DA approval. Our analysis assumes that conditions are complied with, at least to the same level as DA approvals.

Environment and Heritage considerations

Provided the CDC specifications permit only development that would definitely be approved under the DA process, expanding the Codes SEPP to include E3 and E4 environmental zones and heritage areas should also have minimal impact because the policy proposal includes developing criteria for guiding local exclusions to further protect sensitive heritage and environmental areas.

Currently, many DAs in environmentally sensitive and heritage areas require specialist assessment and modification to ensure environmental and heritage values are properly assessed and protected. CDC specifications should be set so as to maintain this specialist input and protection.

Our estimates assume that DAs and CDCs require the same level of environmental and heritage scrutiny, and thus incur the same costs from environment and heritage considerations.

A measure to help avoid environmental and heritage costs is the proposed Local Exclusions and Variations Strategy. This will allow councils to apply for variations such as:

- specific alterations to one or more of the Codes

[16] http://bpb.nsw.gov.au/case-studies/determining-number-storeys-codes-sepp

- varying development standards, such as heights and setbacks
- allowing exempt or complying development on certain excluded land
- varying the policy as it applies in a smaller part of a local government area
- providing more flexibility than the Policy already allows[17]

Local exclusions are also proposed to be permitted relating to certain types of development on specific land within a local government area, such as on certain environmentally sensitive lands.

If these policies are successful and areas of local significance which could affect values held by the community or by individuals are excluded from the policy change, then there should be no economic cost. As above, this assumes that CDC conditions are adhered to once the certificate has been issued. Auditing and enforcement could be important in ensuring that this is the case. We assume that conditions are adhered to, at least to the same level as DA approvals.

Key assumptions

Our key assumption is that the CDC system operates well and does not impose large costs on the community through poorer planning outcomes. Overall, we believe this is a reasonable assumption because the vast majority of proposals are approved and only a small number of CDC certifiers have had complaints lodged against them. In 2013–14, 97.7 per cent of DA determinations were approved, with just 2.3 per cent refused, suggesting that most development is within community expectations.[18]

This report provides some estimates at a council level. We have not researched particular council circumstances beyond the referenced sources and our estimates are also based on the assumption of a well-functioning system. Councils with special circumstances such as large heritage areas or particular environmental attributes may require many variations and our estimates may not be valid. These estimates are provided as a guide to where potential for CDC expansion may be, rather than an exact calculation. Most council-level estimates use that council's existing CDC use rate to minimise the risk of over-stating the benefits.

We assume that the potential for the CDC system to impose costs on the community does not change as CDC use increases as a percentage of planning approvals. On one hand, as more councils, developers, certifiers and communities gain experience with CDCs, the system may work better and specifications be optimised for different

[17] These points are taken from a draft version of the Local Variations and Exclusions Strategy.
[18] Source: Local Development Performance Monitoring data 2013–14.

circumstances. On the other, CDC use already focuses on smaller, lower impact development that is easier to assess and future increases may require CDC assessment of development that is more suited to DA-style merit assessment.

The proposals for CDC expansion assessed in this report are unlikely on their own to cause a major shift in the share of CDCs in planning assessments as they relate to a small proportion of overall development proposals – dual occupancy DAs are only 3.5 per cent of total determinations, E3, E4 and Heritage zones represent around 5 per cent of land plots. However, our high-case for CDC use reaches about 60 per cent in 2023–24. At this level a sophisticated and well-implemented CDC system would be required to avoid poor planning outcomes on more complex developments. We note that our assumed growth scenario is substantially lower than current and recent NSW Government policy. The current goal is for 90 per cent of housing approvals to be determined within 40 days, suggesting a very high share of CDC use. The former policy was for an 80 per cent share of CDC and related code assessment, by 2018.[19]

To avoid unnecessary costs relating to the policy change, particular attention could be paid to councils with high rates of DA refusal. These could be areas that receive large numbers of inappropriate development proposals, or where the community is particularly sensitive to development. The ten councils with the highest rates of DA refusal for 2013–14 are shown in Table 4 below:

Table 4: Councils with high rates of DA refusal

Council name	Number of DA refused	Number of DA determined	Percentage of DA refused
Greater Taree City Council	60	473	12.7%
Mosman Municipal Council	25	234	10.7%
Leichhardt Municipal Council	47	449	10.5%
The Council of the Municipality of Hunters Hill	16	178	9.0%
Manly Council	17	222	7.7%
Waverley Council	40	528	7.6%
Fairfield City Council	54	742	7.3%
Woollahra Municipal Council	40	557	7.2%
Marrickville Council	41	596	6.9%
Canterbury City Council	31	501	6.2%

Source: Local Development Performance Monitoring data 2013–14.

[19] https://www.nsw.gov.au/making-it-happen, NSW Government, 2013, A New Planning System for NSW – White Paper, p119, available at: https://majorprojects.affinitylive.com/public/50e8717a9968716223532455eb67e51e/White-Paper-full-document.pdf

Quantifying benefits of expanding CDC use

EXPANDING CDC APPROVAL TO DUAL OCCUPANCY

Local Development Performance Monitoring data 2013–14 includes data on secondary occupancy approvals under DAs and CDCs. These figures include approval for 'granny flats' or 'secondary dwellings' which can already be approved through CDC. The proposed reforms to the Codes SEPP would make all dual occupancy assessable through CDCs.

In some council areas, nearly 80 per cent of their second occupancy proposals are assessed through the CDC mechanism: Campbelltown City council with 79 per cent and Hornsby with 78 per cent in 2013–14. Based on this, we estimate a high-case savings estimate based on 80 per cent assessment of dual occupancy through CDC; some dual occupancy proposals are still likely to need DA assessment even under an expanded Codes SEPP. A low-case estimate where only 50 per cent of dual occupancy approvals is reached is also included; this would represent an increase of only 12 percentage points on the existing state average and so represents a likely lower bound. The levels actually achieved will depend to some extent on the Department's planned education program to encourage the use of CDCs, discussed in a later section. Estimated low-case and high-case savings are shown in Tables 5 and 6 below:

Table 5: Savings of 80 per cent assessment of dual occupancy through CDC

Total number of dual occupancy approvals 2013–14	4,927
% Dual occupancy currently assessed as CDC in leading councils	80%
% Dual occupancy assessed as CDC average total	38%
Potential percentage point increase under expanded CDC policy	42%
Potential increase in second occupancies assessed through CDC based on 2013–14	2,082
Benefit of CDC approval for dual occupancy	$7,528
Benefit of expanding CDC to dual occupancy	$15,451,629

Table 6: Savings of 50 per cent assessment of dual occupancy through CDC

Total number of dual occupancy approvals 2013–14	4,927
% Dual occupancy assessed as CDC low-case	50%
% Dual occupancy assessed as CDC average total	38%
Potential percentage point increase under expanded CDC policy	12%
Potential increase in dual occupancies assessed through CDC based on 2013–14	604
Benefit of CDC approval for dual occupancy	$7,528
Benefit of expanding CDC to dual occupancy	$4,543,008

Sources: Local Development Performance Monitoring data 2013–14 and TAI calculations

Key assumptions behind estimates in Tables 5 and 6:

- That CDCs are only issued for developments that would have been approved under DA, so there is no additional cost imposed on neighbours and the community.
- CDCs are assessed rigorously and their conditions are adhered to.
- Level of dual occupancy applications in 2013–14 is maintained.
- Up to 80 per cent approval through CDCs is possible on average over all councils that get dual occupancy development proposals
- Savings based on Deloitte's single dwelling estimate adjusted for inflation.
- No consideration of unquantified benefits.

Under this approach and assumptions, the councils that would experience the greatest savings are shown in Table 7 below:

Table 7: Councils with largest savings under 80% CDC approval for dual occupancy

	Saving to council	Savings to proponents	Total
Bankstown City Council	$219,623	$2,526,591	$2,746,214
Holroyd City Council	$70,920	$815,878	$886,798
Parramatta City Council	$55,869	$642,729	$698,598
Wollongong City Council	$52,618	$605,329	$657,947
Fairfield City Council	$52,738	$606,714	$659,453
Auburn City Council	$39,373	$452,958	$492,331
Sutherland Shire Council	$37,928	$436,336	$474,264
Byron Shire Council	$36,604	$421,099	$457,702
Penrith City Council	$37,808	$434,950	$472,758
Newcastle City Council	$34,677	$398,935	$433,613
All councils	$1,235,714	$14,215,916	$15,451,629

Source: Local Development Performance Monitoring data 2013–14 and TAI calculations

Key assumption behind estimates in Table 7:

- Distribution of savings to councils and proponents based on Deloitte's single dwelling application estimate, adjusted for inflation.

EXPANDING CDC APPROVAL TO TOWNHOUSES

The Department proposes to extend CDC approval to townhouse developments in areas where such developments are already permissible. The CDC specifications around townhouses are still under consideration. For our estimates below we are using the ABS data for "Semi-detached, row or terrace houses, townhouses" both one and two storey.[20]

It is necessary to use ABS data on townhouses rather than Local Development Performance Monitoring data, as the local data does not separate townhouses from other forms of multi-dwelling development, including large blocks of flats which would not be approvable under CDC. The ABS data does not break down these approvals by local government area.

An important assumption is the proportion of townhouse developments that can realistically be approved under CDC. The Department is proposing to extend CDC

[20] See ABS 8731.0 - Building Approvals, Australia, Jul 2015, TABLE 22. Dwelling Units Approved in New Residential Buildings, Number and Value, Original - New South Wales, available at: http://abs.gov.au/AUSSTATS/abs@.nsf/DetailsPage/8731.0Jul%202015?OpenDocument

approval only to townhouse developments in locations with existing permission for such developments, suggesting that many counted in the ABS data could still require DA approval. These kinds of development could also be difficult to design and be subject to community opposition, further reducing the potential for CDC approval. We estimate a low-case of 20 per cent of townhouse developments being approved under CDCs and a high-case of 50 per cent. The level of savings actually achieved is likely to depend on the performance of the Department's proposed education program and regulatory simplification, discussed in a later section.

The Department's commissioned report on *Time and cost benchmarking project: A New Planning System for NSW*, by Deloitte Access Economics includes an estimate of cost savings for a townhouse development. This estimate is the basis of our calculations below:

Table 8: Benefits of 30 per cent CDC approval for townhouses

	Low-case	High-case
Number of townhouse dwelling units in 2014–15	6,458	6,458
Portion of townhouses to be approved under CDC	20%	50%
Number of townhouse dwelling units to be approved under CDC	1,292	3,229
Cost savings per unit to council	$72	$72
Cost savings per unit to developers	$9,937	$9,937
Total cost savings to councils	$93,593	$233,981
Total cost savings to developers	$12,834,774	$32,086,935
Total cost savings	$12,928,366	$32,320,916

Source: ABS 8731.0 – Building Approvals and TAI calculations

Under these assumptions, the vast bulk of the benefits accrue to developers due to the reduced financing costs due to time savings on loans, as calculated by Deloitte. Deloitte's estimate is based on developments in suburbs such as Parramatta, Ryde or Canterbury. They use these suburbs as mid-priced areas, so these savings are likely overstated for developments in more rural areas and understated for inner-urban or high-value coastal areas.

While this saving of between $12.8 and $32.3 million based on 2014–15 seems large at first glance, it should be seen in the context of this part of the building industry. Approvals of *Semi-detached, row or terrace houses, townhouses* category dwellings had a total value of $1.6 billion in 2014–15 according to the ABS. While it would be a

welcome saving to individual developers, it will not have a major effect on the economics of residential building overall.

EXPANDING CDC APPROVAL TO E3 AND E4 ENVIRONMENTAL ZONES

Data was provided by the Department on how many plots of land councils have in total, and how many are zoned as E3 Environmental Management and E4 Environmental Living. This data was available for 122 of the 152 councils in NSW. These councils represent 90% of the population and 80% of the NSW landmass that is incorporated into Local Government Areas.[21]

Data is also available on the total number of development proposals and the percentage of developments determined by CDC through the Local Development Performance Monitoring data 2013–14.

Based on these sources we have calculated the percentage of properties with development proposals in the year, the number of E3 and E4 plots and the percentage of proposals determined by CDC. Assuming that E3 and E4 plots have the same rate of development proposals as the general council area, potential benefits of expanding the Codes SEPP are estimated in Table 9 below, under a low-case scenario where 20 per cent of these applications are assessed as CDCs and a high-case of 40 per cent. CDC assessments currently make up 29 per cent of all assessments:

[21] A large part of NSW is not covered by a council, some 9.4 million hectares. This area is mostly very sparsely populated in the northwest of the state and we assume no benefits from the proposal accrue to people in this area. http://www.lpma.nsw.gov.au/crown_lands/western_region

Table 9: Estimated benefits of expanding CDC approval to E3 and E4 plots in councils with data available

	Low-case	High-case
Percentage of properties with proposals in year	2.8%	2.8%
Number of E3 and E4 plots	123,981	123,981
Likely number of proposals from E3 and E4 plots	3,481	3,481
% of proposals approved by CDC	20%	40%
Number of E3 and E4 proposals likely to be determined by CDC	696	1,393
Savings based on average CDC value	$6,323	$6,323
Annual saving to councils	$365,548	$731,095
Annual saving to proponents	$4,038,900	$8,077,799
Total savings	$4,404,447	$8,808,894

Sources: EHC (Electronic Housing Code) data provided by the Department, Local Development Performance Monitoring data 2013–14 and TAI calculations

In Table 10 below we extrapolate this average result for the available council areas across the council areas without data to estimate the one year benefit across the whole state of NSW:

Table 10: Estimated benefits of expanding CDC approval to E3 and E4 plots all NSW

	Low-case	High-case
Potential annual benefit from expanded CDC approval, 2014–15	$4,404,447	$8,808,894
Percentage of population covered	90%	90%
All NSW estimate	$4,893,830	$9,787,660

Sources: ABS 2011 Census and TAI calculations

Key assumptions and limitations of estimates in Tables 9 and 10:

- Assumption that E3 and E4 residents are just as likely to propose development as the wider council area landholders

- Assumption that E3 and E4 development proposals will be as likely to be of CDC complying type as wider council area.
- Savings based on Deloitte's single dwelling estimate adjusted for inflation and discounted to reflect average CDC value.
- Population in councils with EHC data just as likely to propose development as in other areas where data not currently available.

Under these assumptions and each council's current rate of CDC assessment, the councils that would experience the greatest savings are shown in Table 11 below:

Table 11: Councils most affected by expanding CDC approval to E3 and E4 zones, based on current CDC use rates

	E3 and E4s likely to be approved by CDC	Saving to council	Saving to proponents	Total benefit
Sutherland Shire Council	296	$175,661	$1,940,858	$2,116,519
Pittwater Council	90	$53,550	$591,669	$645,219
Ku-ring-gai Council	76	$44,812	$495,124	$539,936
Willoughby City Council	73	$43,562	$481,316	$524,878
Penrith City Council	34	$20,161	$222,758	$242,919
Hills Shire Council	27	$16,162	$178,572	$194,734
Wollongong City Council	26	$15,700	$173,473	$189,173
Kogarah City Council	24	$14,341	$158,448	$172,789
Wyong Shire Council	20	$11,778	$130,138	$141,916
Hornsby Shire Council	19	$11,169	$123,402	$134,571
All councils	1122	$567,684	$6,528,369	$7,096,054

Sources: EHC data provided by the Department, Local Development Performance Monitoring data 2013–14 and TAI calculations

Note that some of the councils in Table 11, particularly Sutherland Shire, have relatively high numbers of E3 and E4 plots and high existing rates of CDC approval. Some councils have high numbers of E3 and E4 plots, but very low rates of CDC approval. Some examples are listed in Table 12 below:

Table 12: Selected councils environmental plots and CDC approval

	Percentage of environmental plots	Percentage of CDC approvals
Blue Mountains City Council	60%	3%
Bega Valley Shire Council	11%	8%
Palerang Council	18%	4%
Queanbeyan City Council	8%	0%

Sources: EHC data provided by the Department, Local Development Performance Monitoring data 2013–14 and TAI calculations

With relatively low existing use of CDC approval, these councils could benefit more from the policy change if the rate of CDC approvals could be increased without affecting environmental values. These results may be of interest in targeting the resources of the proposed education program.

Major councils by population for which EHC data was not available are shown in Table 13 below:

Table 13: Main councils omitted from Environmental zone data

Council	Population
Sydney	169,507
Gosford	162,440
North Sydney	62,291
Woollahra	52,159
Bathurst Regional	38,518
Mosman	27,452
Singleton	22,695
Hunters Hill	13,216
Young	12,236
Dungog	8,317

Source: TAI calculation and ABS census

As some of these councils have considerable populations and are of political and environmental significance, further work on this topic should ensure that the EHC data for these councils is incorporated if available.

EXPANDING CDC APPROVAL TO HERITAGE ZONES

Data was provided by the Department on how many plots of land councils have in total and how many are zoned as heritage areas. This data was available for 73 of the 152 councils in NSW, representing 50% of the population and 50% of the NSW landmass.

Data is also available on the total number of development proposals and the percentage of developments determined by CDC through the Local Development Performance Monitoring data 2013–14.

For the 73 councils available, we have calculated the percentage of properties with development proposals in the year, the number of heritage plots and the percentage of proposals determined by CDC. Assuming that heritage plots have the same rate of development proposals as the general council area, high and low-case estimates of savings from expanding the Codes SEPP to apply in heritage areas are estimated for available councils in Table 14 below:

Table 14: Estimated benefits of expanding CDC approval to heritage plots in councils with data available

	Low-case	High-case
Percentage of plots with proposals in year	2.9%	2.9%
Number of heritage plots	37,216	37,216
Likely number of proposals from heritage plots	1,094	1,094
% of proposals approved by CDC	20%	40%
Number of heritage proposals likely to be determined by CDC	219	438
Benefit to a single dwelling	$6,323	$6,323
One year benefit	$1,383,267	$2,766,535

Sources: EHC data provided by the Department, Local Development Performance Monitoring data 2013–14 and TAI calculations

In Table 15 below we extrapolate this average result for the available council areas to council areas without data to estimate the one year benefit across the whole state of NSW:

Table 15: Benefits of E3 and E4 expansion NSW estimate

	Low-case	High-case
Potential annual benefit from expanded CDC approval to heritage zones, available councils 2014–15	$1,383,267	$2,766,535
Percentage of population covered	50%	50%
All NSW estimate	$2,766,535	$5,533,070

Sources: ABS 2011 Census and TAI calculations

Key assumptions and limitations of estimates in Table 15:

- Assumption that heritage residents are as likely to propose development as other council area landholders
- Assumption that heritage area development proposals will be as likely to be of CDC complying type as wider council area.
- Savings based on Deloitte's single dwelling estimate adjusted for inflation and discounted to reflect average CDC value.
- Population in councils with EHC data are just as likely to propose development as in other areas where data is not currently available.

Under this approach and assumptions, the councils for which data is available that would experience the greatest savings based on their existing level of CDC use are shown in Table 16 below:

Table 16: Selected councils heritage plots and CDC approval, at current CDC use rates

	Number of CDC determinations likely from heritage plots	Savings to council	Savings to proponents	Total savings
Ashfield Council	40	$20,469	$235,395	$255,864
Waverley Council	35	$17,857	$205,357	$223,214
Hornsby Shire Council	34	$17,412	$200,242	$217,655
Orange City Council	25	$12,563	$144,473	$157,036
Marrickville Council	25	$12,562	$144,467	$157,029
Randwick City Council	19	$9,511	$109,382	$118,893
Canterbury City Council	14	$6,832	$78,567	$85,399
Strathfield Municipal Council	12	$6,070	$69,806	$75,876
Mid-Western Regional Council	9	$4,428	$50,927	$55,356
Kogarah City Council	9	$4,349	$50,016	$54,365
All councils	634	$320,918	$3,690,558	$4,011,476

Sources: EHC data provided by the Department, Local Development Performance Monitoring data 2013–14 and TAI calculations

With only half of councils represented in the EHC data available, some very significant councils are not included. The ten largest by population that are missing from our sample are listed in Table 17 below. Future extensions to this work should incorporate data for these councils when available.

Table 17: Main councils omitted from heritage zone data

Council	Population
Blacktown	301,098
Sutherland Shire	210,863
Lake Macquarie	189,005
Fairfield	187,766
Bankstown	182,351
Liverpool	180,141
Sydney	169,507
Gosford	162,440
Wyong	149,745
Campbelltown	145,969

Source: TAI calculation and ABS census

REDEFINING ENVIRONMENTALLY SENSITIVE LAND

The Department believes that in some cases environmentally sensitive land definition is used by councils to manage development in areas that are not environmentally sensitive per se, but that have other environmental challenges. In particular, areas that are flood prone or at bushfire risk have been identified as environmentally sensitive not for their conservation value, but to address flood and fire risks.

If risks such as flood or fire are not increased and environmental values not put at risk, it would be beneficial to change regulation of environmentally sensitive areas to allow complying development. No data is available on how many properties would be affected by this change, so no state-wide or individual council benefits can be estimated. Benefits would accrue mainly to property owners in areas defined as environmentally sensitive who could use CDCs for development on their properties.

Costs of this proposal are potentially worse planning outcomes and/or the time, money and effort that would have to go into ensuring this did not occur. Engagement with councils and community groups could be necessary to understand the background of each definition and to communicate the intention of the policy. Independent assessment of environmental values and other risks may be necessary. Commissioning such studies can be expensive, perhaps the reason councils have identified land as environmentally sensitive in the first place.

Implementation of this proposal could deliver unambiguous benefit in some areas, but incur considerable cost for minimal benefit in others. In all cases it would involve consultation with communities and councils to understand the local issues.

SUMMARY OF BENEFITS FROM EXPANDING CDC APPROVAL

As discussed in the sections above, considerable benefits could be derived from expanding CDC approval into types of development and areas where they are currently not used. Increases in numbers of CDCs and associated savings are summarised in Tables 18 and 19 below:

Table 18: Summary of increases in CDC assessments

CDC assessment numbers	Low-case	High-case
Second occupancy	604	2,053
Townhouses	108	269
E3 and E4 environment zones	774	1,547
Heritage zones	438	875
Total	1,922	4,744

Notes: Townhouses calculation based on ABS dwelling unit numbers and divided by 12 to estimate the number of CDCs, so this assumes an average 12 unit development. The environment and heritage zone calculations divide estimates of increased CDCs in councils with data available by percentage of population covered (90% and 50%) to estimate total number of CDCs assessed.

Table 19: Summary of savings from expanded CDC use

CDC approval savings	Low-case	High-case
Second occupancy	$4,543,008	$15,451,629
Townhouses	$12,928,366	$32,320,916
E3 and E4 environment zones	$4,404,447	$8,808,894
Heritage zones	$2,766,535	$5,533,070
Total	$24,642,356	$62,114,509

Source: TAI calculations

In total, between $25 million and $62 million in savings could be realised annually, based on the calculations and assumptions outlined above. Most of this saving would accrue to people proposing development through reduced financing costs, while over $2 million per year would be saved by councils through reduced staff time spent on longer approvals, based on Deloitte's estimates.

To place these savings in context, the total value of development approved in NSW in 2013–14 was $28.7 billion, according to Local Development Performance Monitoring data. The proposed expansions represent significant savings to some parties, but are a small part of the overall capital value of development in NSW. While the proposals could affect investment decisions in relation to some marginal developments, they will not fundamentally change the economics of the NSW construction sector.

These benefits relate to one year's savings based on 2013–14 levels of development. However, what level of benefits could actually be realised depends on how quickly the assumed levels of CDC use are achieved, if at all. The next section assesses the growth in CDC use over time and the costs and benefits of efforts to increase this takeup rate, through education programs and simplifying the Housing Code.

Costs and benefits of increasing use of CDCs through education program and simplifying the Housing Code

PROPOSAL IN DETAIL

The Department is proposing to implement an education program about CDC use and to simplify the wording of the relevant legislation and regulations to increase use of CDCs. Much of the education program would build on past and existing efforts to engage with stakeholders around the Codes SEPP. Likely activities include:

- Workshops for:
    - Planning professionals
    - Council staff
    - Community members
- Industry forums
- Publication of:
    - Fact sheets
    - Planning circulars
- New and expanded online resources including:
    - Planning Portal
    - Interactive Building tool
    - Electronic Housing Code
    - Planning Viewer[22]

The Department has received feedback from stakeholders that the General Housing Code is complex and difficult to use, particularly Part 3. The current proposal is to simplify the Housing Code for complying development in a clear, easy to use format, in plain English with supporting diagrams, to replace the existing General Housing Code.

This section takes these two initiatives to increase CDC use – the education program and the simplification of the Housing Code – and assesses the potential benefits of them as a whole. As both have the same goal, are proposed to be implemented together and are subject to similar uncertainties around measurement, they are assessed together.

[22] Descriptions and references in *Proposal in Detail* section, above.

QUANTIFYING COSTS AND BENEFITS

Costs

The costs of these efforts to increase CDC use fall firstly on the state government and its spending on the education program. While the budget for the current proposal is still being established, earlier programs have budgeted around $100,000 for a twelve month period, although some resources remain in use for longer.

Costs are also incurred by council staff and community members who attend information sessions. Their time is valuable and working on learning about the Codes SEPP takes them from other work or leisure tasks. Based on data from previous education programs and wage estimates from NSW Better Regulation Office, we estimate this cost at around $220,000, as shown in Table 20 below:

Table 20: Estimate of council and community time cost

Council staff attendees	370
Community member attendees	480
Total	850
Wage rate	$32.20
Hours	8
Daily cost	$258
Cost to council	$95,312
Cost to community members	$123,648
Total attendance cost	$218,960

Sources: Data on 2008 education program,[23] wage rates from NSW Better Regulation Office (2012), *Guidelines for estimating savings under the red tape reduction target*, estimate of a one-day eight hour workshop, TAI calculations.

As the details of the current proposal have not been finalised, these estimates should be considered indicative only. Overall, it appears that the costs to the state government, councils and the community of running and attending the education program would be some hundreds of thousands of dollars.

[23] Note that this source also discusses forums attended by planning professionals, such as planning consultants, architects, planning lawyers, etc. We assume that these people attend as it is the best use of their time as planning professionals and, had they not attended CDC education sessions, they would have pursued the next most valuable professional development opportunity. The costs of their professional development are built into their consulting fees. Their time spent attending the forum is considered, therefore, to have minimal opportunity cost and is not included here.

Costs of rewriting the Housing Code also consist of diversion of State Government officials' time. It is unlikely this would add significant cost to the overall program.

It is worth restating the assumption that CDCs are issued impartially and in a way that imposes no additional cost on the community relative to a DA application. Examples exist where this has not been the case. This raises the possibility of unquantified costs being borne by the community and environment. Enforcing and monitoring the CDC system will be important for ensuring these costs are minimised.

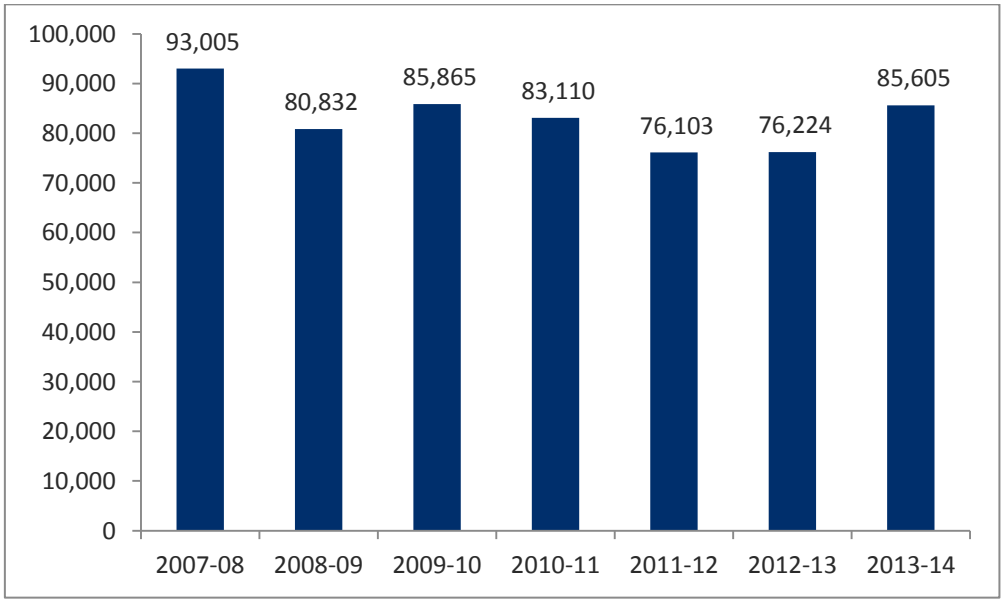
Benefits

Estimating the benefits of the initiatives to increase CDC use is more difficult, as they depend on the rate of uptake of CDC approval with and without this change. These benefits extend into the future, adding to the uncertainty.

Given the highly uncertain nature of future CDC take up rates with and without these initiatives – and that the initiatives themselves are still being finalised – it seems more useful to assess what rates of adoption would be needed to outweigh the costs detailed above, rather than a formal cost–benefit analysis.

The number of project assessments determined in NSW has shown no strong trend in the years Local Development Performance Monitoring data is available for. There has been neither steady growth nor long term decline in determination numbers as shown in Figure 1 below:

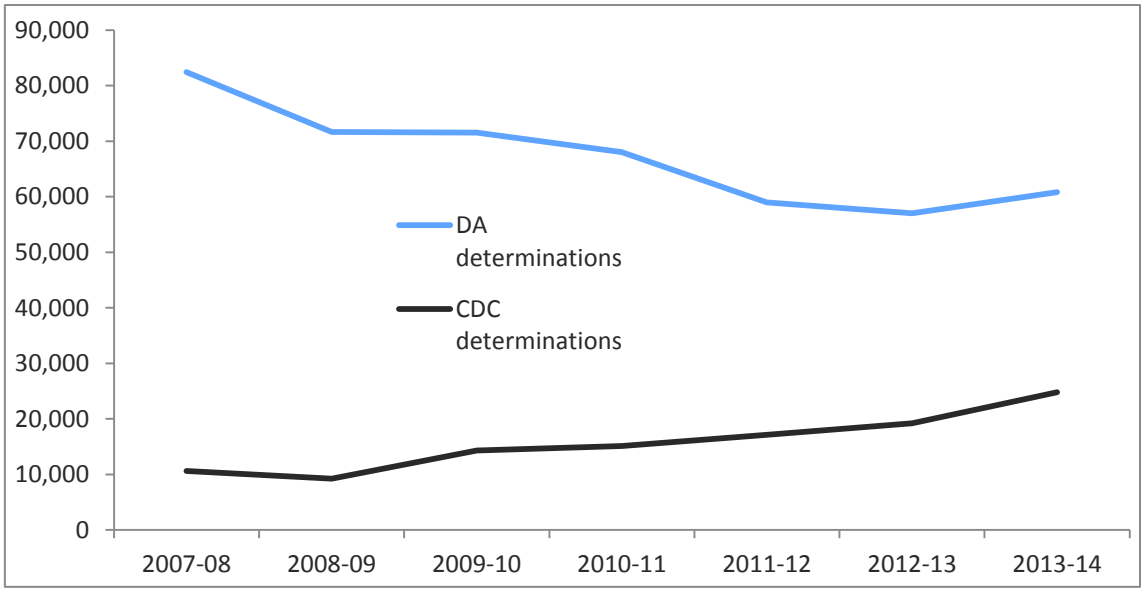
Figure 1: Total determinations in NSW



Source: Local Development Performance Monitoring data 2013–14, all years available

While Figure 1 shows that determinations are still around the same level as in previous years, the advent of CDC approval has changed the way these determinations are made. Since their introduction in 2007–08, CDC approvals have grown steadily to now account for 29 per cent of approvals. Determinations through DAs have reduced correspondingly, as shown in Figure 2 below:

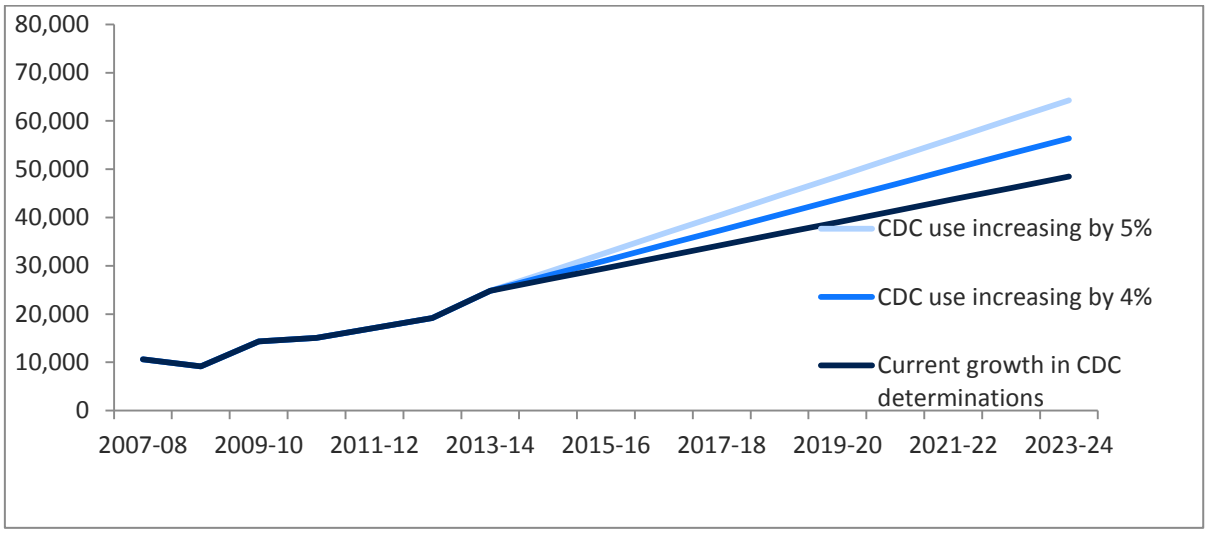
Figure 2: Determinations by DA and CDC 2007–08 to 2013–14



Source: Local Development Performance Monitoring data 2013–14, all years available

While Figure 2 above shows the trends around DA and CDC determinations, estimating the benefits of the education program and simplification of regulation involves estimating what these trends may be like in the future, with and without these changes. Neither of these trends can be predicted with certainty. In Figure 3 below, we compare the continuation of the 2007–08 trend where CDC approval share grew by 3 percentage points per year, with two scenarios where the education program and simplification lead to CDC share of assessments growing by 4 percentage points and 5 percentage points:

Figure 3: Alternative scenarios for future CDC determination numbers



Source: Local Development Performance Monitoring data, all years available, TAI estimates

The forecasts in Figure 3 represent just three of an infinite number of possibilities for future numbers of CDC determinations. Points to note:

- These growth estimates seem possible – they represent up to around 60 per cent of all developments by 2023–24, assuming some growth in numbers of developments in the coming decade. This is well within the Department's stated goal of 80 per cent of determinations under the Codes SEPP.
- The shape of the curves could change – for example, flattening once the easiest to assess developments have already moved to Codes SEPP approval, or steepening as a simpler system and population growth lead to more planning determinations.
- Our baseline scenario assumes continued growth on the current trend. Without some resources devoted to education and widening of the Codes SEPP, this baseline growth may not be maintained.

While these scenarios should be considered uncertain, assessing the benefits associated with them gives some indication of whether the benefits of the education program and simplification of the regulations are likely to be worth pursuing. The benefits derived from four and five percentage point CDC share increases are estimated in Table 21 below:

Table 21: Estimated benefits from increasing CDC determination rates

	Current	Alternative 1	Alternative 2
Increasing share of CDCs in project determinations	3%	4%	5%
Increased numbers of CDCs per year	2,369	3,158	3,948
Value of CDC time saving for average sized project	$6,323	$6,323	$6,323
Value of annual savings	$14,978,133	$19,970,844	$24,963,555
Present value of difference to current growth over 10 years at 7% discount rate	N/A	$ 185,583,426	$371,166,853

Sources: TAI calculations

Table 21 shows that if these increases in CDC determination can be achieved by the program, present value savings in the hundreds of millions could be realised. Seen in isolation, these are very large benefits. However, they should be seen in the context of the full costs of project approvals over this period, which would total many billions of dollars. Under the current growth scenario above, almost $2.4 billion worth of development would be approved under CDC alone.

Under our scenarios above, assuming the average value of a CDC project remains constant, the undiscounted value of projects in 2013-14 dollars, approved under CDC would reach:

- Under baseline growth - $68 billion
- 4% growth scenario - $75 billion
- 5% growth scenario - $83 billion.

Again, these figures should be seen in the context of total approvals. Total value of approved development in 2013-14 was $28.6 billion. Assuming minimal growth in approval numbers and value, total approvals over ten years would be at least $290 billion.

COMPARING COSTS AND BENEFITS

Given the uncertainty around future CDC usage, more important than the value estimate in Table 21 is an idea of how large an increase in CDC uptake is required for the savings enjoyed to offset the costs of the program to the government and the community. Such an approach to economic assessment is known as cost effectiveness analysis and is used by economists where uncertainty around a particular aspect of the assessment is great, or unquantifiable. Rather than looking to compare costs and

benefits, we ask what level of improvement is needed for a policy option to become cost effective.

The costs estimated for the education and simplification program are also uncertain, but are unlikely to exceed $1 million. At the cost saving for the average value CDC referral of $6,323, the program would need to increase CDC determinations by just 158 above current growth levels to make a $1m program cost effective. This number could increase slightly depending on the timing of this increase. If all were realised in the first year this number would be sufficient. More gradual increases would require slightly higher numbers due to the need to discount future benefits.

It seems highly likely, therefore, that the education program and simplification of the Housing Code would be cost effective and bring a net benefit to the state. The costs incurred by the State Government and program participants are would be more than outweighed by savings from an increase in CDC referrals.

An important consideration is the distribution of costs and benefits. As noted above, the vast bulk of cost savings are enjoyed by project proponents. For particular councils or other stakeholders, particularly those whose costs and benefits are far from these assumed average levels, participation in the program may not be cost effective.

Conclusion

Overall, the proposed changes to expand CDC use to more development contexts and to increase CDC uptake through education and simplification are likely to deliver substantial economic benefits to NSW. Although modest in comparison to the overall size of the construction sector, the proposals represent a positive step towards a more efficient planning process.

Development and planning issues are often controversial and emotional as they relate to people's homes and other places that they know and love. The frustration some people experience at being hindered in improving their homes is only matched by the consternation others feel toward the threat of inappropriate development. For these reasons clear and thorough planning regulations are required and enforcement and monitoring of them are just as important.

Nothing is assisted by avoidable delay, however, and that is what the current proposal seeks to address. NSW faces many challenges in its planning system and a reduction in delay costs to proponents that imposes little to no cost on other stakeholders is a clear improvement to the system. The proposal should be seen as a modest but worthwhile improvement that will save time and money. It is not a radical change that will lead to unrestricted development for better or worse, but a sensible step that is worth pursuing.

Ultimately, CDCs make sense from an economic perspective as they provide developers with an incentive to comply with specifications that minimise costs to other stakeholders. While planners, developers and the community may never be in unison as to what constitutes the perfect planning system, if the goals of the current proposal for CDCs can be realised they just might join together for one quick song – *Come ply with me, comply, let's comply away*…