

Laws leave neighbours in the shade

Sue Williams

Helen Persson is devastated after a developer was given the go-ahead to build a two-storey house next to her beloved single-level Hunters Hill home of 56 years: the new home will almost completely block out her sunlight.

Under state government fast-track legislation for complying development, which doesn't specifically guarantee a neighbour's access to natural light, the 88-year-old said she wasn't even given a decent chance to object.

"It's terrible," she said. "It's going to be so dark and cold in my house all the time. I'm not going to live much longer, maybe only another five years, so it's going to be very hard here."

"They have to give you two weeks' notice but it took a week for the letter to arrive and then, because I'm nearly blind, I couldn't even properly read it so I had to wait for a visitor before I knew exactly what it said. It's crazy and I'm very stressed."

Her neighbour Chloe Brown, 75, wept as she broke the news to Mrs Persson that the building was going to have a dramatic effect on her light.

"I just feel so bad for her," Mrs Brown said. "She's been a good neighbour to me for 22 years but we're just helpless to do anything about it."

"Her eyesight is poor anyway, so even now she has to go down and sit on her driveway if she wants enough sunlight to read anything. But when this goes ahead, she won't even get that sunlight there any more."

NSW planning legislation that came into force last year was designed to streamline the planning process and takes into account such factors as a proposed building's height, with a two-storey limit, its side setbacks, its gross floor area and its boundary setbacks.

But, unlike a council's Local Environmental Plan (LEP) and Development Control Plan (DCP), which previously helped determine whether a building could go ahead, it doesn't explicitly address, and measure, the issue of overshadowing.

"And this isn't a problem that's unique to Helen and Chloe," Hunters Hill deputy mayor Ross Williams said. "These new laws don't take into account the requirements for solar access at all and yet they completely overrule our guidelines that do."

"As a result we're seeing many



Devastated: Helen Persson, right, with her daughter Leslie Connolly, left, and neighbour Chloe Brown, is disturbed by the development next door.

buildings going up all over the place where neighbours don't have any say on their impact on their lives and where, like Helen, they're going to end up with no, or very little, sunlight during winter. It's outrageous and it's devastating for people."

NSW Planning and Housing Minister Anthony Roberts said that any new code introduced by the government was the result of detailed consultation and engagement with councils, industry and the community, and that solar access and impact on neighbours was considered during its development.

"Solar access is addressed under the code by requiring a two-storey [8.5m] height limit and minimum setbacks from all boundaries," he said. "Under the code, as a building gets taller, the upper part of the building must be set back further to limit overshadowing of neighbouring properties."

"It's worth noting that the maximum height allowed under the code is the same as Hunters Hill Council's local



environmental plan height limit." But neighbours of the two women claimed that height and boundary building limits are not sufficient to protect solar access, particularly if a taller house is built to the northern side of a single-storey home.

Most Sydney councils have LEPs and

DCPs that specifically protect the solar access of neighbours, they said, but their absence under the new rules means residents were losing their right to sun during winter, were facing higher electricity bills as a result, and were now not even able to install solar panels to try to reduce them.

"So, if a property is a single-level home and someone builds a two-storey house on the north side, then it can completely block the sun for the first person," said neighbour management consultant Kruno Kukoc.

"This is a major loophole in the NSW government's process for approving new development proposals, with many of the people affected not in a position to go to court to fight them."

Mrs Persson's daughter, Leslie Connolly, 58, visiting from interstate, said her mum was trying hard not to get too upset. "But it's now going to be so dark and cold all the time without that winter light," she said.

"It's terrible they can do this."

Looming threat: the kitchen where Mrs Persson spends much of her day. Photos: Peter Rae