

State Environmental Planning Policy (Exempt and Complying Development Codes) Amendment (Commercial and Industrial) 2009

under the

Environmental Planning and Assessment Act 1979

1 Name of Policy

This Policy is *State Environmental Planning Policy (Exempt and Complying Development Codes) Amendment (Commercial and Industrial) 2009*.

2 Commencement

This Policy commences on 7 September 2009 and is required to be published on the NSW legislation website.

3 Repeal of this Policy

- (1) This Policy is repealed on the day following the day on which all of the provisions of the Policy have commenced.
- (2) The repeal of this Policy does not, because of the operation of sections 5 (6) and 30 of the *Interpretation Act 1987*, affect any amendment made by this Policy.

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[1] Clause 1.4 Land to which Policy applies

Insert at the end of clause 1.4 (2) (b):

, and

- (c) *Bathurst Regional (Interim) Local Environmental Plan 2005* applies.

[2] Clause 1.5 Interpretation—general

Insert in alphabetical order in clause 1.5 (1):

alternative solution has the same meaning as in the *Building Code of Australia*.

Note. The term is defined as follows:

alternative solution means a **building solution** which complies with the **performance requirements** other than by reason of satisfying the **deemed-to-satisfy provisions** (where each of those terms is also defined in that document).

class, in relation to a building or part of a building, has the same meaning as in the *Environmental Planning and Assessment Regulation 2000*.

commercial premises means business premises, office premises or retail premises.

environmentally sensitive area means any of the following:

- (a) the coastal waters of the State,
- (b) a coastal lake,
- (c) land to which *State Environmental Planning Policy No 14—Coastal Wetlands* or *State Environmental Planning Policy No 26—Littoral Rainforests* applies,
- (d) land reserved as an aquatic reserve under the *Fisheries Management Act 1994* or as a marine park under the *Marine Parks Act 1997*,
- (e) land within a wetland of international significance declared under the Ramsar Convention on Wetlands or within a World heritage area declared under the World Heritage Convention,
- (f) land within 100m of land to which paragraph (c), (d) or (e) applies,

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- (g) land identified in this or any other environmental planning instrument as being of high Aboriginal cultural significance or high biodiversity significance,
- (h) land reserved under the *National Parks and Wildlife Act 1974* or land to which Part 11 of that Act applies,
- (i) land reserved or dedicated under the *Crown Lands Act 1989* for the preservation of flora, fauna, geological formations or for other environmental protection purposes,
- (j) land identified as being critical habitat under the *Threatened Species Conservation Act 1995* or Part 7A of the *Fisheries Management Act 1994*.

excluded land identified by an environmental planning instrument means land identified by an environmental planning instrument as being any of the following:

- (a) within a buffer area,
- (b) a coastal erosion hazard,
- (c) a difficult site,
- (d) within an ecologically sensitive area,
- (e) environmentally sensitive land,
- (f) within a foreshore scenic protection area,
- (g) within a protected area,
- (h) within a scenic area,
- (i) within a scenic preservation area,
- (j) within a scenic protection area,
- (k) within a special area.

General Commercial and Industrial Code means the code for complying development set out in Part 5.

hard stand space means an area of concrete, paving or other hard material at ground level designed solely for parking a motor vehicle.

Housing Internal Alterations Code means the code for complying development set out in Part 4.

[3] Clause 1.5, definition of “building height (or height of building)”

Omit “greatest”.

[4] Clause 1.5, definition of “building line”

Insert “or roof” after “wall” wherever occurring.

[5] Clause 1.6 Interpretation—references to land use zones

Insert “or to land” after “to a lot” where firstly occurring in clause 1.6 (1).

[6] Clause 1.6 (1) (a) and (b) and (2)

Omit “to a lot” wherever occurring. Insert instead “to land”.

[7] Clause 1.6 (3)

Omit “, or is not,”.

[8] Clause 1.6, table

Omit the table. Insert instead:

Named land use zone	Permitted land uses
RU1 Primary Production	Primary production, including agriculture
RU2 Rural Landscape	Compatible rural land uses, including extensive agriculture
RU3 Forestry	Forestry land uses
RU4 Rural Small Holdings	Compatible rural land uses, including extensive agriculture on small rural lots
RU5 Village	Dwelling houses, business and retail premises and associated uses and facilities in a rural village setting
R1 General Residential	Residential accommodation of various types
R2 Low Density Residential	Primarily dwelling houses
R3 Medium Density Residential	Mix of dwelling houses and multi dwelling housing
R4 High Density Residential	Primarily residential flat buildings
R5 Large Lot Residential	Dwelling houses on large residential lots in a rural setting
B1 Neighbourhood Centre	Small scale business and retail premises, community facilities and shop top housing in a neighbourhood centre
B2 Local Centre	Business and retail premises, entertainment and community facilities and shop top housing in a local centre

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Named land use zone	Permitted land uses
B3 Commercial Core	Large scale business, office and retail premises and community and entertainment facilities in a major centre
B4 Mixed Use	A variety of business, office and retail premises, community and entertainment facilities and associated dwellings
B5 Business Development	Large floor area premises, including bulky goods premises, warehouse or distribution centres and other business and retail premises
B6 Enterprise Corridor	Business, office and retail premises, hotel or motel accommodation, light industries, warehouse or distribution centres and associated facilities along a main road
B7 Business Park	Light industries, neighbourhood shops, office premises, passenger transport facilities, warehouse or distribution centres and associated facilities in a business park
IN1 General Industrial	Depots, freight transport facilities, industries, neighbourhood shops and warehouse or distribution centres in a general industrial setting
IN2 Light Industrial	Depots, light industries, neighbourhood shops and warehouse or distribution centres in a light industrial setting
IN3 Heavy Industrial	Depots, freight transport facilities and heavy industries, including hazardous and offensive industries and storage establishments in a heavy industrial setting
IN4 Working Waterfront	Boat launching ramps, boat repair facilities, jetties and light industries along a waterfront

[9] Clause 1.16 General requirements for exempt development

Omit “those provisions do not apply” from clause 1.16 (1) (a).

Insert instead “there are no such relevant provisions”.

[10] Clause 1.17 What development is complying development?

Insert “or that is identified as an item of environmental heritage in an environmental planning instrument” after “*Heritage Act 1977*” in paragraph (d) of the note at the end of clause 1.17.

[11] Clause 1.17, note

Omit “1995), or”. Insert instead “1995)), or” in paragraph (e).

[12] Clause 1.18 General requirements for complying development

Omit clause 1.18 (2) (c).

[13] Clause 1.18 (2A)

Insert after subclause (2):

- (2A) To be complying development specified for the General Housing Code, the development must not be carried out on land that is less than the minimum lot size for the erection of a dwelling house under an environmental planning instrument applying to the land.

[14] Clause 1.19

Omit clause 1.19. Insert instead:

1.19 Land on which exempt development and complying development may not be carried out**(1) General land exemptions**

To be exempt development or complying development, the development must not be carried out on land that is an environmentally sensitive area.

- (2) The general land exemptions set out in subclauses (3) and (4) apply to complying development specified for the following codes:

- (a) the General Housing Code,
- (b) the Housing Internal Alterations Code,
- (c) the General Commercial and Industrial Code.

- (3) To be complying development, the development must not be carried out on:

- (a) land that comprises, or on which there is, an item that is listed on the State Heritage Register under the *Heritage Act 1977* or that is subject to an interim heritage order under the *Heritage Act 1977*, or

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- (b) land that comprises, or on which there is, a heritage item or a draft heritage item, or
 - (c) land within a wilderness area (identified under the *Wilderness Act 1987*).
- (4) If only a part of a lot is land to which this clause applies, complying development must not be carried out on any part of that lot.
- (5) **Specific land exemptions for General Housing Code**
To be complying development specified for the General Housing Code, the development must not be carried out on:
- (a) land within a heritage conservation area or a draft heritage conservation area, or
 - (b) land that is reserved for a public purpose in an environmental planning instrument, or
 - (c) unsewered land to which *Drinking Water Catchments Regional Environmental Plan No 1* applies, or
 - (d) land identified on an Acid Sulfate Soils Map as being Class 1 or Class 2, or
 - (e) land that is bush fire prone land, or
 - (f) a flood control lot, or
 - (g) excluded land identified by an environmental planning instrument, or
 - (h) land in a foreshore area.

[15] Part 2 Exempt Development Codes

Omit the second paragraph from note 2 under the heading to Part 2.

Insert instead:

In addition to the requirements specified for development under this code, adjoining owners' property rights, the applicable common law and other legislative requirements for approvals, licences, permits and authorities still apply. For example, requirements relevant to development in this code may be contained in the Act, the *Environmental Planning and Assessment Regulation 2000*, various State environmental planning policies, the *Protection of the Environment Operations Act 1997*, the *Roads Act 1993*, the *Swimming Pools Act 1992* and Acts applying to various infrastructure authorities. If the development is in proximity to infrastructure, including water, stormwater and sewer mains, electricity power lines and telecommunications facilities, the relevant infrastructure authority should be contacted before commencing the development.

[16] Clause 2.2 Development standards

Insert “and is less than 5m from a dwelling” after “land” in clause 2.2 (d).

[17] Clause 2.4 Development standards

Insert “if it is on land in Zone R1, R2, R3, R4, R5, RU1, RU2, RU3 or RU4—” before “be” in clause 2.4 (1) (a).

[18] Clause 2.4 (1) (d) (i)

Omit “the dwelling”.

Insert instead “any dwelling, bulky goods premises, commercial premises, premises used for light industry or warehouse or distribution centre located”.

[19] Clause 2.4 (2)

Omit the subclause. Insert instead:

- (2) There must be not more than 1 development:
 - (a) per lot if there is a dwelling on the lot, or
 - (b) per lot or per each separate occupation of premises on the lot, whichever is the greater, in any other case.

[20] Clause 2.6 Development standards

Insert “, if for domestic purposes only,” after “that development” in clause 2.6 (1).

[21] Clause 2.6 (1) (a)

Omit the paragraph. Insert instead:

- (a) not be located on the wall or roof of a building that faces the primary road, or forward of the building line to the primary road, and

[22] Clause 2.6 (1A)

Insert after subclause (1):

- (1A) The standards specified for that development, if for purposes other than domestic purposes only, are that the development must:
 - (a) not be located on the wall or roof of a building that faces the primary road, or forward of the building line to the primary road, and
 - (b) not be built into any external wall unless the development is more than 3m from each side and rear boundary and 6m from any other building on the lot, and

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- (c) not involve work that reduces the structural integrity of the building, and
- (d) not reduce the existing fire resistance level of a wall or roof, and
- (e) if it is constructed or installed on or in, or in relation to, a heritage item or draft heritage item—not be wall mounted, and
- (f) if it is constructed or installed in a heritage conservation area or a draft heritage conservation area—be located behind the building line of any road frontage.

[23] Part 2, Division 1, Subdivisions 3A and 3B

Insert after Subdivision 3 of Division 1 of Part 2:

Subdivision 3A Animal shelters

2.6A Specified development

The construction or installation of an animal shelter is development specified for this code if it is not constructed or installed on land in a foreshore area.

2.6B Development standards

- (1) The standards specified for that development are that the development must:
 - (a) be for domestic purposes only, and
 - (b) not have a floor area of more than 10m², and
 - (c) be not higher than 1.8m above ground level (existing), and
 - (d) if it is not on land in Zone RU1, RU2, RU3 or RU4—be located behind the building line of any road frontage, and
 - (e) be located at least 450mm from each side and rear boundary, and
 - (f) if roofed—be constructed or installed so that roofwater is disposed of into an existing stormwater drainage system, and
 - (g) to the extent it is comprised of metal components—be constructed of low reflective, factory pre-coloured materials and have an impervious floor, and
 - (h) if it is located on bush fire prone land and is less than 5m from a dwelling—be constructed of non-combustible material, and

- (i) if it is constructed or installed in, or in relation to, a heritage item or a draft heritage item, or in a heritage conservation area or a draft heritage conservation area—be located in the rear yard.
- (2) There must not be more than 2 developments per lot.

Subdivision 3B Automatic teller machines

2.6C Specified development

The construction or installation of an automatic teller machine is development specified for this code.

2.6D Development standards

The standards specified for that development are that the development must be located inside, and only be accessible from within, existing bulky goods premises or commercial premises.

[24] Clause 2.8 Development standards

Omit clause 2.8 (1) (e).

[25] Clause 2.10 Development standards

Insert at the end of clause 2.10 (d):

, and

- (e) not be used for advertising.

[26] Clause 2.12 Development standards

Omit clause 2.12 (1) (g).

[27] Clause 2.12 (1) (o)

Omit “in the rear yard”.

Insert instead “behind the building line of any road frontage”.

[28] Clause 2.12 (1)

Omit the subclause number.

[29] Clause 2.14 Development standards

Omit clause 2.14 (e). Insert instead:

- (e) not be used for commercial purposes.

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[30] Part 2, Division 1, Subdivision 8A

Insert after Subdivision 8 of Division 1 of Part 2:

Subdivision 8A Bollards

2.16A Specified development

The construction or installation of a bollard is development specified for this code.

2.16B Development standards

The standards specified for that development are that the development must:

- (a) be not higher than 1.4m above ground level (existing), and
- (b) not have a diameter of more than 600mm, and
- (c) be associated with any of the following development:
 - (i) bulky goods premises,
 - (ii) commercial premises,
 - (iii) premises used for light industry,
 - (iv) warehouse or distribution centre, and
- (d) not reduce any existing means of entry to, or exit from, any such associated development or the lot on which it is situated.

[31] Clause 2.18 Development standards

Omit clause 2.18 (1) (a) and (h).

[32] Clause 2.18 (1) (k)

Insert at the end of clause 2.18 (1) (j):

, and

- (k) if it is located adjacent to another building—be located so that it does not interfere with the entry to, or exit from, or the fire safety measures contained within, that building.

[33] Clause 2.20 Development standards

Omit clause 2.20 (1) (a). Insert instead:

- (a) not result in a building classified under the *Building Code of Australia* as class 7a, and

[34] Clause 2.20 (1) (n)

Insert at the end of clause 2.20 (1) (m):

, and

- (n) be located so that it does not reduce vehicular access to, or parking or loading or unloading on, or from, the lot.

[35] Clause 2.20 (3)

Omit the subclause. Insert instead:

- (3) There must not be more than 1 development:
 - (a) per lot if there is a dwelling on the lot, or
 - (b) per lot or per each separate occupation of premises on the lot, whichever is the greater, in any other case.

[36] Part 2, Division 1, Subdivision 10A

Insert after Subdivision 10 of Division 1 of Part 2:

Subdivision 10A Change of use of premises**2.20A Specified development**

A change from a current use to a new use that is a change from:

- (a) a type of business premises to another type of business premises, or
- (b) business premises to office premises, or
- (c) a type of office premises to another type of office premises, or
- (d) office premises to business premises, or
- (e) a type of retail premises to another type of retail premises, or
- (f) a bulky goods premises to another bulky goods premises, or
- (g) a light industry to another light industry, or
- (h) a warehouse or distribution centre to another warehouse or distribution centre, or
- (i) a light industry to a warehouse or distribution centre, or
- (j) a warehouse or distribution centre to a light industry,

is development specified for this code.

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2.20B Development standards

The standards specified for that development are that:

- (a) the current use must be a lawful use, and
- (b) the current use must not be an existing use within the meaning of section 106 of the Act, and
- (c) the new use must be permissible in the land use zone in which it is carried out, and
- (d) the new use must not result in a change of building use under the *Building Code of Australia*, and
- (e) the new use must not be carried out at premises that are a manufactured home, moveable dwelling or associated structure, temporary structure, tent, swimming pool, ship or vessel, and
- (f) the new use must not be any of the following:
 - (i) food and drink premises,
 - (ii) a funeral chapel,
 - (iii) a funeral home,
 - (iv) retail premises where firearms within the meaning of the *Firearms Act 1996* are sold,
 - (v) landscape and garden supplies,
 - (vi) a market,
 - (vii) premises that are a beauty salon or hair dressing salon,
 - (viii) premises where a skin penetration procedure within the meaning of section 51 of the *Public Health Act 1991* is carried out,
 - (ix) restricted premises,
 - (x) a roadside stall,
 - (xi) sex services premises,
 - (xii) vehicle sales or hire premises, and
- (g) the new use must not involve building alterations, other than alterations that are exempt development under this Policy, and
- (h) the new use must not result in an increase in the gross floor area of any building within which it is carried out, and

- (i) the new use must not cause the contravention of any existing condition of a development consent that applies to the premises relating to hours of operation, car parking, vehicular movement, traffic generation, landscaping or waste management.

Note. *Development consent* is defined in section 4 of the Act to include a complying development certificate.

[37] Clause 2.24 Development standards

Omit clause 2.24 (1) (a).

[38] Clause 2.24 (2)

Omit the subclause. Insert instead:

- (2) There must not be more than 1 development:
- (a) per lot if there is a dwelling on the lot, or
 - (b) per lot or per each separate occupation of premises on the lot, whichever is the greater, in any other case.

[39] Clause 2.29 Specified development

Insert “or on a flood control lot” after “draft heritage item”.

[40] Part 2, Division 1, Subdivision 15A

Insert after Subdivision 15 of Division 1 of Part 2:

Subdivision 15A Evaporative cooling units (roof mounted)

2.30A Specified development

- (1) The construction or installation of a roof mounted evaporative cooling unit on land in Climate Zone 4 is development specified for this code if it is not carried out on, or in relation to, a heritage item or a draft heritage item, or in a heritage conservation area or a draft heritage conservation area.
- (2) For the purposes of this clause, land is in Climate Zone 4 if it is within an area identified as Zone 4 of the Climate Zones for Thermal Design in the *Building Code of Australia*.

2.30B Development standards

The standards specified for that development are that the development must:

- (a) be for domestic purposes only, and
- (b) be located at least 3m from each side boundary, and

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- (c) be not higher than 1.8m above the highest point of the roof of the building on which it is mounted, and
- (d) be constructed or installed so that any opening created is adequately weather proofed, and
- (e) not involve work that reduces the structural integrity of the building, and
- (f) if it is located on bush fire prone land—be constructed of non-combustible material and be adequately sealed or protected to prevent the entry of embers.

[41] Clause 2.32 Development standards

Omit clause 2.32 (e). Insert instead:

- (e) be located at least 50m from a waterbody (natural), and

[42] Clause 2.34 Development standards

Omit clause 2.34 (1) (b). Insert instead:

- (b) if it is constructed of masonry materials or chain wire—not be higher than:
 - (i) 1m above ground level (existing), if for domestic purposes only, or
 - (ii) 1.8m above ground level (existing), in any other case, and

[43] Clause 2.37 Specified development

Omit clause 2.37 (b) and (c). Insert instead:

- (b) not constructed or installed on or in, or in relation to, a heritage item or a draft heritage item or in a heritage conservation area or a draft heritage conservation area.

[44] Clause 2.38 Development standards

Insert at the end of clause 2.38 (f):

- , and
- (g) if it is constructed or installed on a flood control lot—not redirect or interrupt the flow of surface water on that lot.

[45] Clause 2.40 Development standards

Omit “each lot” from clause 2.40 (1) (c). Insert instead “each side and rear”.

[46] Clause 2.40 (3)

Insert “and must not be used for advertising” after “2.5m²”.

[47] Clause 2.42 Development standards

Omit clause 2.42 (1) (h).

[48] Part 2, Division 1, Subdivisions 21A and 21B

Insert after Subdivision 21:

Subdivision 21A Garbage bin storage enclosure

2.42A Specified development

The construction or installation of a garbage bin storage enclosure is development specified for this code if it is not carried out on land in a foreshore area.

2.42B Development standards

- (1) The standards specified for that development are that the development must:
 - (a) be for a dwelling house only, and
 - (b) be located at least 1m behind the building line of any road frontage, and
 - (c) be located at least 450mm from each side and rear boundary, and
 - (d) if it is constructed of metal components—be of low reflective, factory pre-coloured materials, and
 - (e) if it is located on bush fire prone land and is less than 5m from a dwelling—be constructed of non-combustible material, and
 - (f) if it is constructed or installed on or in, or in relation to, a heritage item or a draft heritage item or in a heritage conservation area or a draft heritage conservation area—be located in the rear yard.
- (2) There must not be more than 1 development per lot.

Subdivision 21B Hard stand spaces

2.42C Specified development

The construction or installation of a hard stand space, whether open or part of a carport, is development specified for this code if it is not carried out on or in, or in relation to, a heritage item or a draft heritage item or in a heritage conservation area or a draft heritage conservation area or on land in a foreshore area.

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2.42D Development standards

- (1) The standards specified for that development are that the development must:
 - (a) be for domestic purposes only, and
 - (b) be associated with a driveway, and
 - (c) measure at least 2.6m wide by 5.4m long, and
 - (d) have an area of not more than 20m², and
 - (e) be located at least 1m behind the building line of any road frontage, and
 - (f) be located at least 900mm from each side or rear boundary, and
 - (g) be constructed so that any surface water is disposed of without causing a nuisance to adjoining owners, and
 - (h) not require cut or fill more than 600mm below or above ground level (existing), and
 - (i) be constructed in accordance with Australian Standard AS 2890.1—1993, *Parking facilities—Off-street car parking*.
- (2) There must not be more than 1 development per lot.

[49] Part 2, Division 1, Subdivision 23A

Insert after Subdivision 23:

Subdivision 23A Hot water systems

2.46A Specified development

The construction or installation of a hot water heater or a hot water storage tank is development specified for this code.

2.46B Development standards

The standards specified for that development are that the development must:

- (a) not be a solar hot water system, and
- (b) if constructed or installed externally and on, or in relation to, a heritage item or a draft heritage item or in a heritage conservation area or a draft heritage conservation area:
 - (i) not be located on a roof, and

(ii) be located in the rear yard.

Note. Division 4 of Part 3 of *State Environmental Planning Policy (Infrastructure) 2007* regulates solar hot water systems.

[50] Clause 2.50 Development standards

Omit clause 2.50 (2).

[51] Clause 2.51 Specified development

Omit “to a dwelling” from clause 2.51 (1).

[52] Clause 2.51 (1) (e)–(g)

Insert at the end of clause 2.51 (1) (d):

, or

- (e) an existing sanitary fixture, such as a grease trap or the like, or
- (f) shelving or racking that is not higher than 2.7m, or
- (g) a work station or counter,

[53] Clause 2.52 Development standards

Insert before clause 2.52 (a):

- (aa) not be an alteration to a food preparation area in food and drink premises, and

[54] Clause 2.52 (e)

Insert “, or interfere with the entry to, or exit from, or the fire safety measures contained within,” after “of”.

[55] Clause 2.53 Specified development

Omit “(1)” from clause 2.53.

[56] Clause 2.53

Omit “to a dwelling”.

[57] Clause 2.53 (d)

Insert after clause 2.53 (c):

- (d) the installation of a security screen or grill to a door or window or a security door,

[58] Clause 2.54 Development standards

Insert “or roof” after “wall” in clause 2.54 (b).

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[59] Clause 2.54 (d)–(f)

Insert at the end of paragraph (c):

, and

- (d) not affect any existing fire resisting components of the building, and
- (e) not affect the means of egress from the building in an emergency, and
- (f) if it is the installation of a security screen or grill to a door or window or a security door—be for domestic purposes only.

[60] Clause 2.60 Development standards

Insert “, if it is the construction or installation of a portable swimming pool or spa,” after “that development” in clause 2.60 (1).

[61] Clause 2.60 (1) (a1)

Insert before paragraph (a):

- (a1) be for domestic purposes only, and

[62] Clause 2.64 Development standards

Insert “, if the tank has a height of more than 1.8m above ground level (existing)” after “boundary” in clause 2.64 (1) (a) (iii).

[63] Clause 2.64 (1) (j)

Omit the paragraph.

[64] Part 2, Division 1, Subdivision 34, heading

Omit the heading. Insert instead:

Subdivision 34 Scaffolding, hoardings and temporary construction site fences

[65] Clause 2.67

Omit the clause. Insert instead:

2.67 Specified development

The construction, installation and removal of a scaffold, hoarding or temporary construction site fence that is used in connection with development that is exempt development or complying development is development specified for this code.

[66] Clause 2.68 Development standards

Omit clause 2.68 (b). Insert instead:

- (b) if it is a temporary construction site fence adjoining, or on, a public place—be covered in chain wire mesh, and

[67] Clause 2.68, notes 1 and 2

Insert after 2.68 (c):

Note 1. A structure on public land or on or over a public road requires the prior approval of the relevant authority under the *Local Government Act 1993* or the *Roads Act 1993*, respectively.

Note 2. The *Occupational Health and Safety Act 2000* and *Occupational Health and Safety Regulation 2001* contain provisions relating to scaffolds, hoardings and other temporary structures.

[68] Clause 2.70 Development standards

Omit “(1)” from clause 2.70 (1).

[69] Clause 2.70 (l)

Omit “be located in the rear yard”.

Insert instead “not be attached to any balcony, deck, patio, pergola, terrace or verandah that faces any road”.

[70] Part 2, Division 1, Subdivision 36A

Insert after Subdivision 36:

Subdivision 36A Signage (replacement of identification signs)

2.72A Specified development

The replacement of:

- (a) an existing building identification sign or the content of such a sign, or
- (b) an existing business identification sign or the content of such a sign,

is development specified for this code.

2.72B Development standards

The standards specified for that development are that the development must:

- (a) replace a lawful sign, and
- (b) not be greater in size than the sign that is replaced, and

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- (c) not be a sign that is flashing or animated, and
- (d) not involve any alteration to the structure or vessel on which the sign is displayed, and
- (e) not obstruct or interfere with traffic signs.

Note. The *Summary Offences Act 1988* regulates or prohibits certain business signs.

[71] **Clause 2.74 Development standards**

Insert before clause 2.74 (a):

- (aa) be for domestic purposes only, and

[72] **Clause 2.78 Development standards**

Omit clause 2.78 (d).

[73] **Clause 2.80 Development standards**

Insert after clause 2.80 (a):

- (a1) not have a surface area of more than 10m², and

[74] **Part 3 General Housing Code**

Omit the note under the heading to Part 3. Insert instead:

Note 1. Schedule 3 contains variations to this code.

Note 2. In addition to the requirements specified for development under this code, adjoining owners' property rights, the applicable common law and other legislative requirements for approvals, licences, permits and authorities still apply. For example, requirements relevant to development in this code may be contained in the Act, the *Environmental Planning and Assessment Regulation 2000*, various State environmental planning policies, the *Protection of the Environment Operations Act 1997*, the *Roads Act 1993*, the *Swimming Pools Act 1992* and Acts applying to various infrastructure authorities. If the development is in proximity to infrastructure, including water, stormwater and sewer mains, electricity power lines and telecommunications facilities, the relevant infrastructure authority should be contacted before commencing the development.

[75] **Clause 3.2 Existing single storey and two storey dwelling houses**

Omit "code".

Insert instead "code, other than development that is specified for the Housing Internal Alterations Code".

[76] Clause 3.3 Basements and roof terraces excluded

Insert at the end of clause 3.3:

- (2) The erection of a roof terrace on the topmost roof of:
 - (a) an existing or a new dwelling house, or
 - (b) an existing or a new outbuilding that is detached from a dwelling house,is not included in development that is specified for this code.

[77] Clause 3.10 Maximum floor area for dwelling houses

Insert “(other than the external wall of a dwelling house)” after “wall” in clause 3.10 (1).

[78] Clause 3.11 Maximum floor area for outbuildings

Omit “200m²” from clause 3.11 (1) (a). Insert instead “500m²”.

[79] Clause 3.11 (1) (b)

Omit “60m²”. Insert instead “100m²”.

[80] Clause 3.11 (2)

Omit the subclause. Insert instead:

- (2) The floor area of any outbuilding on a lot in Zone R1, R2, R3, R4, R5 or RU5 must not be more than:
 - (a) 45m², if the lot has an area of at least 450m² but less than 600m², or
 - (b) 60m², if the lot has an area of at least 600m² but less than 900m², or
 - (c) 100m², if the lot has an area of at least 900m².

[81] Clause 3.11 (3)

Omit “subclause (1)”. Insert instead “subclauses (1) and (2)”.

[82] Clause 3.12 Maximum floor area for balconies, decks, patios, pergolas, terraces and verandahs

Omit “3.8m above ground level (existing) is 9m²” from clause 3.12 (1).

Insert instead “3m above ground level (existing) is 12m²”.

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[83] Clause 3.12 (2), definition of “floor area”, paragraph (b)

Omit “supporting columns or posts”.

Insert instead “balustrade or other safety barrier”.

[84] Clause 3.13

Omit the clause. Insert instead:

3.13 Building heights of dwelling houses and outbuildings

- (1) The maximum building height of a new dwelling house or the alterations and additions to an existing dwelling house must not be more than 8.5m above ground level (existing).
- (2) The maximum building height of a new outbuilding or the alterations and additions to an existing outbuilding on a lot in Zone R1, R2, R3, R4, R5 or RU5 must not be more than 4.8m above ground level (existing).
- (3) The maximum building height of a new outbuilding or the alterations and additions to an existing outbuilding on a lot in Zone RU1, RU2, RU3 or RU4 must not be more than 7m above ground level (existing).

[85] Clauses 3.16 (1) and 3.17 (1)

Omit “A dwelling house with a building height of up to 3.8m and any carport, garage, balcony, deck, patio, pergola, terrace or verandah that is attached to the dwelling house” wherever occurring.

Insert instead “A dwelling house and any carport, garage, balcony, deck, patio, pergola, terrace or verandah that is attached to the dwelling house with a building height at any part of up to 3.8m”.

[86] Clauses 3.16 (2) and 3.17 (2)

Omit “A dwelling house with a building height of up to 3.8m and any carport, garage, balcony, deck, patio, pergola, terrace or verandah that is attached to the dwelling house” wherever occurring.

Insert instead “A dwelling house and any carport, garage, balcony, deck, patio, pergola, terrace or verandah that is attached to the dwelling house with a building height at any part of more than 3.8m”.

[87] Clause 3.18 Setbacks of outbuildings from side and rear boundaries

Omit “height of” wherever occurring. Insert instead “height at any part of”.

[88] Clause 3.19 Exceptions to setbacks

Omit clause 3.19 (b). Insert insert:

- (b) side and rear setbacks and setbacks from the boundary with a road do not apply to the existing parts of a dwelling house or ancillary development where it is proposed to carry out any of the following:
 - (i) alterations or additions to an existing dwelling house,
 - (ii) alterations or additions to existing ancillary development,
 - (iii) the demolition or removal of an existing dwelling house or ancillary development, and
- (c) side and rear setbacks and setbacks from the boundary with a road do not apply to allowable encroachments permitted under clause 3.7.1.7 of Volume 2 of the *Building Code of Australia* or any eave or roof overhang that has a horizontal width of not more than 450mm.

[89] Clause 3.23 Privacy

Insert “new dwelling house or a new window in any alterations or additions to an existing” after “A window in a” in clause 3.23 (1).

[90] Clause 3.23 (2)

Insert “new balcony, deck, patio, pergola, terrace or verandah and any alterations to an existing” after “A”.

[91] Clause 3.23 (3)

Omit “balcony, deck, patio, pergola, terrace or verandah”.

Insert instead “deck, patio, pergola or terrace or any alterations or additions to an existing deck, patio, pergola or terrace”.

[92] Clause 3.25 Principal private open space

Omit clause 3.25 (2). Insert instead:

- (2) In this clause, *principal private open space* means an area that:
 - (a) is directly accessible from, and adjacent to, a habitable room, other than a bedroom, and
 - (b) is at least 4m wide, and
 - (c) is not steeper than 1:50 gradient.

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[93] Clause 3.37 Protection of adjoining areas

Omit “, fence or awning” from clause 3.37 (1).

Insert instead “or temporary construction site fence”.

[94] Clause 3.37 (2) and (3)

Omit the subclauses.

[95] Clause 3.37, note

Omit the note. Insert instead:

Note. See the entry in the General Exempt Development Code for scaffolding, hoardings and temporary construction site fences.

[96] Clause 3.39A

Insert after clause 3.39:

3.39A Notification to neighbours

The person having the benefit of the complying development certificate must give at least 2 days’ notice in writing of the intention to commence the works to the owner or occupier of each dwelling that is situated within 20m of the lot on which the works will be carried out.

[97] Clause 3.40

Insert “**of construction or demolition**” after “**Hours**” in the heading to the clause.

[98] Parts 4 and 5

Insert after Part 3:

Part 4 Housing Internal Alterations Code

Note 1. Schedule 3 contains variations to this code.

Note 2. In addition to the requirements specified for development under this code, adjoining owners’ property rights, the applicable common law and other legislative requirements for approvals, licences, permits and authorities still apply. For example, requirements relevant to development in this code may be contained in the Act, the *Environmental Planning and Assessment Regulation 2000*, various State environmental planning policies, the *Protection of the Environment Operations Act 1997*, the *Roads Act 1993*, the *Swimming Pools Act 1992* and Acts applying to various infrastructure authorities. If the development is in proximity to infrastructure, including water, stormwater and sewer mains, electricity power lines and telecommunications facilities, the relevant infrastructure authority should be contacted before commencing the development.

Division 1 Specified development

4.1 Specified complying development

Internal alterations to an existing dwelling house or existing ancillary development that is associated with a dwelling house, other than development that is the erection or conversion of a basement to an existing dwelling house, is development specified for this code.

Note. See the entry for minor building alterations (internal) in the General Exempt Development Code.

Division 2 Conditions applying to complying development certificate under this code

Note 1. Complying development must comply with the requirements of the Act, the *Environmental Planning and Assessment Regulation 2000* and the conditions listed in this Part.

Note 2. A contributions plan setting out the contribution requirements towards the provision or improvement of public amenities or public services may specify that an accredited certifier must, under section 94EC of the Act, impose a condition on a complying development certificate requiring the payment of a monetary contribution in accordance with that plan.

Subdivision 1 Conditions applying before works commence

4.2 Toilet facilities

- (1) Toilet facilities must be available or provided at the work site before works begin and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.
- (2) Each toilet must:
 - (a) be a standard flushing toilet connected to a public sewer, or
 - (b) have an on-site effluent disposal system approved under the *Local Government Act 1993*, or
 - (c) be a temporary chemical closet approved under the *Local Government Act 1993*.

4.3 Garbage receptacle

- (1) A garbage receptacle must be provided at the work site before works begin and must be maintained until the works are completed.
- (2) The garbage receptacle must have a tight fitting lid and be suitable for the reception of food scraps and papers.

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Subdivision 2 Conditions applying during the works

Note. The *Protection of the Environment Operations Act 1997* and the *Protection of the Environment Operations (Noise Control) Regulation 2008* contain provisions relating to noise.

4.4 Hours of construction or demolition

Construction or demolition may only be carried out between 7.00 am and 5.00 pm on Monday to Saturday and no construction or demolition is to be carried out at any time on a Sunday or a public holiday.

4.5 Compliance with plans

Works must be carried out in accordance with the plans and specifications to which the complying development certificate relates.

4.6 Maintenance of site

- (1) Building materials and equipment must be stored wholly within the work site unless an approval to store them elsewhere is held.
- (2) Demolition materials and waste materials must be disposed of at a waste management facility.
- (3) The work site must be left clear of waste and debris at the completion of the works.

Part 5 General Commercial and Industrial Code

Note 1. Schedule 3 contains variations to this code.

Note 2. In addition to the requirements specified for development under this code, adjoining owners' property rights, the applicable common law and other legislative requirements for approvals, licences, permits and authorities still apply. For example, requirements relevant to development in this code may be contained in the Act, the *Environmental Planning and Assessment Regulation 2000*, various State environmental planning policies, the *Protection of the Environment Operations Act 1997*, the *Roads Act 1993* and Acts applying to various infrastructure authorities. If the development is in proximity to infrastructure, including water, stormwater and sewer mains, electricity power lines and telecommunications facilities, the relevant infrastructure authority should be contacted before commencing the development.

Division 1 Specified development and development standards under this code**Subdivision 1 Building alterations (internal)****5.1 Specified complying development**

An internal alteration to a building that is used as bulky goods premises, commercial premises, premises for light industry or a warehouse or distribution centre is development specified for this code.

5.2 Development standards—general

The standards specified for that development are that:

- (a) the current use of the premises must be a lawful use, and
- (b) the current use of the premises must not be an existing use within the meaning of section 106 of the Act, and
- (c) the alteration must not result in an increase in the gross floor area of any building within which it is carried out, and
- (d) the alteration must not involve the conversion of any area that is excluded from the measurement of gross floor area of the building (such as a basement, plant room, car parking space, loading space or void), and
- (e) if the alteration involves a loading dock, the alteration must not:
 - (i) reduce the number or capacity of the trucks accommodated, or
 - (ii) reduce the area for goods handling, or
 - (iii) reduce the area for waste handling (including any recycling area), or
 - (iv) reduce the manoeuvring area of the loading dock or access driveway, and
- (f) the alteration must not relate to the cooking of food at the premises by barbecue or charcoal methods, and
- (g) if the alteration involves food and drink premises, the alteration must be carried out in accordance with AS 4674—2004, *Design, construction and fit out of food premises*, and

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- (h) any demolition necessary must be carried out in accordance with AS 2601—2001, *Demolition of structures*.

Note 1. If the alteration involves premises that are a **food business** within the meaning of the *Food Act 2003*, the premises must comply with the requirements under that Act.

Note 2. If the alteration involves premises at which a **skin penetration procedure** is carried out within the meaning of the *Public Health Act 1997*, the premises must comply with the requirements under that Act, including the *Guidelines on Skin Penetration* (April 2008), published by the Department of Health.

5.3 Development standards—Building Code of Australia matters

The following standards are also specified for that development:

- (a) if the building that is being altered is subject to an alternative solution relating to a fire safety requirement, the alteration must be consistent with that alternative solution,
- (b) if the alteration involves an area of more than 500m² of bulky goods premises or commercial premises, or an area of more than 1000m² of premises used for light industry or a warehouse or distribution centre, that area must:
- (i) comply with the requirements set out in DP2–DP5 of Volume 1 of the *Building Code of Australia*, and
 - (ii) comply with the number of sanitary and other facilities set out in FP2.1, FP2.5 and FP2.6 of Volume 1 of the *Building Code of Australia*, and
 - (iii) comply with the light and ventilation requirements set out in FP4.1–FP4.5 of Volume 1 of the *Building Code of Australia*,
- (c) if the building is a mixed use development that also contains a class 2, 3 or 4 portion, the altered area must be separated from the class 2, 3 or 4 portion by building elements that comply with the fire resistance performance requirements set out in CP2 and CP8 of Volume 1 of the *Building Code of Australia*.

Subdivision 2 Change of use of premises

5.4 Specified complying development

A change from a current use to a new use that is a change from:

- (a) a bulky goods premises to another bulky goods premises, or

-
- (b) a type of commercial premises to another type of commercial premises, or
 - (c) a light industry to another light industry, or
 - (d) a warehouse or distribution centre to another warehouse or distribution centre, or
 - (e) a light industry to a warehouse or distribution centre, or
 - (f) a warehouse or distribution centre to a light industry, or
 - (g) a light industry to an ancillary office, or
 - (h) a warehouse or distribution centre to an ancillary office, is development that is specified for this code.

Note. See the entry for change of use of premises in the General Exempt Development Code.

5.5 Development standards—general

The standards specified for that development are that:

- (a) the current use must be a lawful use, and
- (b) the current use must not be an existing use within the meaning of section 106 of the Act, and
- (c) the new use must not be carried out at premises that are a manufactured home, moveable dwelling or associated structure, temporary structure, tent, swimming pool, ship or vessel, and
- (d) the new use must not be any of the following:
 - (i) a funeral chapel,
 - (ii) a funeral home,
 - (iii) retail premises where firearms within the meaning of the *Firearms Act 1996* are sold,
 - (iv) landscape and garden supplies,
 - (v) a market,
 - (vi) a pub,
 - (vii) restricted premises,
 - (viii) a roadside stall,
 - (ix) sex services premises,
 - (x) timber and building supplies,
 - (xi) vehicle sales or hire premises, and

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- (e) the new use must not result in a change of building use under the *Building Code of Australia* that is any of the following:
 - (i) from a class 5 or 6 building to a class 2, 3, 4, 7a, 7b, 8, 9a, 9b or 9c building,
 - (ii) from a class 7b or 8 building to a class 2, 3, 4, 6, 7a, 9a, 9b or 9c building, and
- (f) a new use that is an ancillary office within premises that are a warehouse or distribution centre or are used for light industry must not occupy more than:
 - (i) the maximum amount of gross floor area permitted for such an office in such a building under an environmental planning instrument applying to the land, or
 - (ii) 20% of the gross floor area of the building in any other case, and
- (g) the new use must not cause the contravention of any existing condition of the most recent development consent (other than a complying development certificate) that applies to the premises relating to hours of operation, car parking and landscaping, and
- (h) if there is no existing condition relating to hours of operation, the premises must not be operated outside the following hours:
 - (i) if the new use is as bulky goods premises or commercial premises—7.00 am to 10.00 pm Monday to Saturday and 7.00 am to 8.00 pm on a Sunday or a public holiday,
 - (ii) in any other case—7.00 am to 7.00 pm Monday to Saturday and the new use is not to be carried out at any time on a Sunday or a public holiday, and
- (i) if there is no existing condition relating to car parking, the new use must comply with any relevant requirements contained in an environmental planning instrument or a development control plan applying to the land relating to car parking.

Note. The construction or installation of a driveway or hard stand space in relation to bulky goods premises, commercial premises, premises used for light industry or a warehouse or distribution centre is not exempt development or complying development under this Policy.

5.6 Development standards—Building Code of Australia matters

The following standards are also specified for that development:

- (a) if the change of use involves an area of more than 500m² of bulky goods premises or commercial premises, or an area of more than 1000m² of premises used for light industry or a warehouse or distribution centre, that area must:
 - (i) comply with the requirements set out in DP2–DP5 of Volume 1 of the *Building Code of Australia*, and
 - (ii) comply with the number of sanitary and other facilities set out in FP2.1, FP2.5 and FP2.6 of Volume 1 of the *Building Code of Australia*, and
 - (iii) comply with the light and ventilation requirements set out in FP4.1–FP4.5 of Volume 1 of the *Building Code of Australia*,
- (b) if the building is a mixed use development that also contains a class 2, 3 or 4 portion, the area involved in the change of use must be separated from the class 2, 3 or 4 portion by building elements that comply with the fire resistance performance requirements set out in CP2 and CP8 of Volume 1 of the *Building Code of Australia*.

Note. Pursuant to the requirement under the Act that a building must be suitable for occupation and use in accordance with its classification under the *Building Code of Australia*, a change of use may require building work to be carried out despite such work not being included in an application for a complying development certificate.

Subdivision 3 Mechanical ventilation systems

5.7 Specified complying development

The construction, installation or alteration of a mechanical ventilation system on a building that is used as bulky goods premises, commercial premises, premises for light industry or a warehouse or distribution centre is development specified for this code if it is not carried out on, or in relation to, a heritage item or a draft heritage item, or in a heritage conservation area or a draft heritage conservation area or at premises located on bush fire prone land.

5.8 Development standards

The standards specified for that development are that:

- (a) the development must be located at least 3.5m behind the building line from any lot boundary, and

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- (b) the development must be designed so as not to emit noise exceeding an LAeq of 5 dB(A) above background noise when measured at any lot boundary, and
- (c) the development must be located not more than 1m above the ridge of a pitched roof or 3m above a flat roof, and
- (d) the development must not relate to the cooking of food at the premises by barbecue or charcoal methods, and
- (e) any demolition necessary must be carried out in accordance with AS 2601—2001, *Demolition of structures*.

Note. If the mechanical ventilation system is a **regulated system** in **regulated premises** within the meaning of the *Public Health Act 1991*, the system must comply with the requirements of that Act, including AS/NZS 3666.1:2002, *Air-handling and water systems of buildings—Microbial control—Design, installation and commissioning*.

Subdivision 4 Shop front and awning alterations

5.9 Specified complying development

An external alteration to, or the repair or replacement of, an existing shop front or awning on a building that is used as bulky goods premises or commercial premises is development specified for this code if it is not carried out in a heritage conservation area or a draft heritage conservation area.

5.10 Development standards

The standards specified for that development are that:

- (a) the development must not result in an increase in the gross floor area of the building, and
- (b) the development must not reduce the area of the window or other clear glass of the shop front, and
- (c) the development must not reduce the level of transparency of the shop front, such as by using obscure glazing, and
- (d) the development must not reduce the existing level of access to the building for people with a disability, and
- (e) any demolition necessary must be carried out in accordance with AS 2601—2001, *Demolition of structures*.

Note. A structure on public land or on or over a public road requires the prior approval of the relevant authority under the *Local Government Act 1993* or the *Roads Act 1993*, respectively.

Subdivision 5 Skylights and roof windows

5.11 Specified complying development

The construction or installation of a skylight or roof window on a building that is used as bulky goods premises, commercial premises, premises for light industry or a warehouse or distribution centre is development specified for this code, other than at premises located on bush fire prone land.

5.12 Development standards

The standard specified for that development is that:

- (a) the development be constructed or installed so that any opening created is adequately weather proofed, and
- (b) any demolition necessary must be carried out in accordance with AS 2601—2001, *Demolition of structures*.

Division 2 Conditions applying to complying development certificate under this code

Note 1. Complying development must comply with the requirements of the Act, the *Environmental Planning and Assessment Regulation 2000* and the conditions listed in this Part.

Note 2. A contributions plan setting out the contribution requirements towards the provision or improvement of public amenities or public services may specify that an accredited certifier must, under section 94EC of the Act, impose a condition on a complying development certificate requiring the payment of a monetary contribution in accordance with that plan. Contributions may be imposed in respect of development on certain land under section 61 the *City of Sydney Act 1988*.

Subdivision 1 Conditions applying before works commence

5.13 Protection of adjoining areas

A hoarding or a temporary construction site fence must be erected between the work site and adjoining lands before the works begin and must be kept in place until after the completion of works if the works:

- (a) could cause a danger, obstruction or inconvenience to pedestrian or vehicular traffic, or
- (b) could cause damage to adjoining lands by falling objects, or

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- (c) involve the enclosure of a public place or part of a public place.

Note. See the entry in the General Exempt Development Code for scaffolding, hoardings and temporary construction site fences.

5.14 Toilet facilities

- (1) Toilet facilities must be available or provided at the work site before works begin and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.
- (2) Each toilet must:
 - (a) be a standard flushing toilet connected to a public sewer, or
 - (b) have an on-site effluent disposal system approved under the *Local Government Act 1993*, or
 - (c) be a temporary chemical closet approved under the *Local Government Act 1993*.

5.15 Garbage receptacle

- (1) A garbage receptacle must be provided at the work site before works begin and must be maintained until the works are completed.
- (2) The garbage receptacle must have a tight fitting lid and be suitable for the reception of food scraps and papers.

Subdivision 2 Conditions applying during the works

Note. The *Protection of the Environment Operations Act 1997* and the *Protection of the Environment Operations (Noise Control) Regulation 2008* contain provisions relating to noise.

5.16 Hours for construction or demolition

Construction or demolition that is audible in any dwelling on an adjoining lot may only be carried out between 7.00 am and 8.00 pm on Monday to Saturday.

5.17 Compliance with plans

Works must be carried out in accordance with the plans and specifications to which the complying development certificate relates.

5.18 Maintenance of site

- (1) Building materials and equipment must be stored wholly within the work site unless an approval to store them elsewhere is held.
- (2) Demolition materials and waste materials must be disposed of at a waste management facility.
- (3) The work site must be left clear of waste and debris at the completion of the works.

Subdivision 3 Construction requirements**5.19 Utility services**

If the complying development requires alteration to, or the relocation of, utility services on the lot on which the complying development is carried out, the complying development is not complete until all such works are carried out.

5.20 Mechanical ventilation systems

If the complying development is a mechanical ventilation system that is a *regulated system* in *regulated premises* within the meaning of the *Public Health Act 1991*, the system must be notified as required by the *Public Health (Microbial Control) Regulation 2000*, before an occupation certificate (whether interim or final) for the complying development is issued.

5.21 Food businesses

If the complying development is a *food business* within the meaning of the *Food Act 2003*, the food business must be notified as required by that Act or licensed as required by the *Food Regulation 2004*, before an occupation certificate (whether interim or final) for the complying development is issued.

5.22 Premises where skin penetration procedures are carried out

If the complying development involves premises at which a *skin penetration procedure* within the meaning of the *Public Health Act 1991* will be carried out, the premises must be notified as required under the *Public Health (Skin Penetration) Regulation 2000* before an occupation certificate (whether interim or final) for the complying development is issued.