



New South Wales

State Environmental Planning Policy (Exempt and Complying Development Codes) Amendment (Additional Codes) 2010

under the

Environmental Planning and Assessment Act 1979

The Administrator, with the advice of the Executive Council, has made the following State environmental planning policy under the *Environmental Planning and Assessment Act 1979*. (10/03562)

TONY KELLY, MLC
Minister for Planning

State Environmental Planning Policy (Exempt and Complying Development Codes) Amendment (Additional Codes) 2010

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 (Additional Codes) 2010*.

2 Commencement

This Policy commences on 25 February 2011 and must be published on the NSW legislation website.

3 Repeal of Policy

- (1) This Policy is repealed on the day following the day on which this Policy commences.
- (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

Omit clause 1.4 (2)–(4). Insert instead:

- (2) This Policy does not apply to land:
 - (a) to which *State Environmental Planning Policy (Kosciuszko National Park—Alpine Resorts) 2007* applies, and
 - (b) to which *State Environmental Planning Policy (Western Sydney Parklands) 2009* applies, and
 - (c) that is within 18km of the land owned by the Australian National University at Siding Spring.

[2] Clause 1.4A Development to which this Policy does not apply

Omit the clause.

[3] Clause 1.5 Interpretation—general

Omit the definitions of *complying development code*, *dwelling house*, *excluded land identified by an environmental planning instrument* and *storey* from clause 1.5 (1).

[4] Clause 1.5 (1)

Insert in alphabetical order:

boundary wall means a wall that has a setback of less than 150mm from the side or rear boundary of a lot.

bush fire attack level-40 (BAL-40) has the same meaning as it has in AS 3959—2009, *Construction of buildings in bushfire-prone areas*.

common wall means a wall shared between 2 properties.

complying development code means any of the following codes:

- (a) the General Housing Code,
- (b) the Rural Housing Code,
- (c) the Housing Alterations Code,
- (d) the General Development Code,
- (e) the General Commercial and Industrial Code,

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- (f) the Subdivisions Code,
- (g) the Demolition Code.

Demolition Code means the code for complying development set out in Part 7.

detached studio means ancillary development that is habitable and is:

- (a) established in conjunction with a dwelling house, and
- (b) on the same lot of land as the dwelling house, and
- (c) separate from the dwelling house.

dwelling house means a building containing one dwelling, an attached dwelling or a semi-detached dwelling, but does not include any part of the building that is ancillary development or exempt development under this Policy.

excluded land identified by an environmental planning instrument means:

- (a) land identified by an environmental planning instrument as being any of the following:
 - (i) within a buffer area,
 - (ii) within a river front area,
 - (iii) within an ecologically sensitive area,
 - (iv) environmentally sensitive land,
 - (v) within a protected area, or
- (b) land identified by an environmental planning instrument, a development control plan or a policy adopted by the council as being a coastal erosion hazard.

flame zone (BAL-FZ) has the same meaning as it has in AS 3959—2009, *Construction of buildings in bushfire-prone areas*.

floor area, for a balcony, deck, patio, pergola, terrace or verandah referred to in Part 3, 3A or 4, means the area of the balcony, deck, patio, pergola, terrace or verandah, measured at the floor level, within the outer face of:

- (a) the external walls if the balcony, deck, patio, pergola, terrace or verandah is enclosed, or
- (b) the balustrade or other safety barrier if the balcony, deck, patio, pergola, terrace or verandah, is not enclosed.

floor area, for a dwelling house referred to in Part 3, 3A or 4, means the sum of the areas of each storey of the dwelling house

and any carport, garage, balcony, deck, patio, pergola, terrace or verandah, measured at a height of 1.4m above each floor level, that is within the outer face of:

- (a) the external walls of the dwelling house, and
- (b) the walls of the carport, garage, balcony, deck, patio, pergola, terrace or verandah,

but does not include any of the following:

- (c) any part of an awning, blind or canopy that is outside the outer wall of a building,
- (d) the eaves,
- (e) a lift shaft,
- (f) a stairway,
- (g) a void above a lower storey.

floor area, for an outbuilding referred to in Part 3, 3A or 4, means the sum of the areas of each storey of the outbuilding, measured at a height of 1.4m above each floor level, within the outer face of:

- (a) the external walls of the outbuilding if it is enclosed, or
- (b) the supporting columns or posts of the outbuilding if it is not enclosed,

but does not include any of the following:

- (c) any part of an awning, blind or canopy that is outside the outer wall of a building,
- (d) the eaves,
- (e) a stairway.

General Development Code means the code for complying development set out in Part 4A.

lane means a public road, with a width greater than 3m but less than 7m, that is used primarily for access to the rear of premises, and includes a nightsoil lane.

off peak time means any time other than peak time.

peak time means:

- (a) the time between 8:00 am and 10:00 pm on any Saturday, Sunday or public holiday, or
- (b) the time between 7:00 am and 10:00 pm on any other day.

privacy screen means a screen that:

- (a) faces a boundary, and

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- (b) is 1.5m high, measured from the floor level, and
- (c) has no individual opening more than 30mm wide, and
- (d) has a total area of all openings that is less than 30 per cent of the surface area of the screen.

residential zone means Zone R1, R2, R3, R4 or R5.

Rural Housing Code means the code for complying development set out in Part 3A.

rural zone means Zone RU1, RU2, RU3, RU4, RU5 or RU6.

site coverage, for development, does not include any of the following:

- (a) an access ramp,
- (b) any part of an awning, blind or canopy that is outside the outer wall of a building,
- (c) a balcony, deck, patio, pergola, terrace or verandah attached to the dwelling house that is not enclosed by a wall higher than 1.4m above the floor level,
- (d) the eaves,
- (e) a driveway,
- (f) a farm building,
- (g) a fence or screen,
- (h) a pathway or paving,
- (i) a rainwater tank that is attached to the dwelling house,
- (j) a swimming pool or spa pool.

[5] Clause 1.5 (1)

Insert after paragraph (d) in the definition of *ancillary development*:

- (d1) detached studio,

[6] Clause 1.5 (1)

Omit “Internal” from the definition of *Housing Internal Alterations Code*.

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

Insert after clause 1.6 (1):

- (1A) In relation to land in the local government area of Warringah, until a new principal local environmental plan is made under section 33A (2) of the Act, a reference in this Policy to a lot or to land in a named land use zone is a reference to land specified in

such a zone in the draft Warringah Local Environmental Plan 2009 that was subject to community consultation under section 57 of the Act.

[8] Clause 1.7

Omit the heading to the clause. Insert instead “**Maps**”.

[9] Clauses 1.8 (4) and (5) and 1.9 (2), (4) and (5)

Omit “1 January 2011” wherever occurring.

Insert instead “1 September 2011”.

[10] Clause 1.9 Relationship with local environmental plans and development control plans

Insert after clause 1.9 (1):

- (1A) Subclause (1) does not apply to development on land to which the *Bathurst Regional (Interim) Local Environmental Plan 2005* applies until 1 September 2011.

[11] Clause 1.14

Omit the clause. Insert instead:

1.14 Review of Policy

The Minister must ensure that the provisions of this Policy are reviewed at least every 5 years after its commencement.

[12] Clause 1.16 General requirements for exempt development

Insert “for the purposes of this Policy” after “To be exempt development” in clause 1.16 (1).

[13] Clause 1.16

Insert after clause 1.16 (1) (c):

Note. Designated development is defined in section 77A of the Act as development that is declared to be designated development by an environmental planning instrument or the regulations.

[14] Clause 1.16 (2)

Insert “for the purposes of this Policy” after “is exempt development”.

[15] Clause 1.16 (3)

Insert “for the purposes of this Policy” after “To be exempt development”.

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[16] Clause 1.16 (3) (b)

Omit “must”.

[17] Clause 1.16 (4)

Omit.

[18] Clause 1.17 What development is complying development?

Omit the note to the clause.

[19] Clause 1.17A

Insert after clause 1.17:

1.17A Requirements for complying development for all environmental planning instruments

To be complying development for the purposes of any environmental planning instrument, the development must not:

- (a) be development for which development consent cannot be granted except with the concurrence of a person other than:
 - (i) the consent authority, or
 - (ii) the Director-General of the Department of Environment, Climate Change and Water as referred to in section 79B (3) of the Act, or
- (b) be on land that is critical habitat, or
- (c) be on land that is, or is part of, a wilderness area (within the meaning of the *Wilderness Act 1987*), or
- (d) be on land that comprises, or on which there is, an item of the environmental heritage:
 - (i) that is subject to an interim heritage order under the *Heritage Act 1977*, or that is listed on the State Heritage Register under that Act, or
 - (ii) that is identified as such an item in an environmental planning instrument, or
- (e) be on land that is within an environmentally sensitive area.

[20] Clause 1.18

Omit the clause. Insert instead:

1.18 General requirements for complying development for this Policy

- (1) To be complying development for the purposes of this Policy, the development must:
 - (a) not be exempt development under this Policy, and
 - (b) be permissible, with consent, in the land use zone in which it is carried out, and
 - (c) meet the relevant provisions of the *Building Code of Australia*, and
 - (d) before the complying development certificate is issued, have an approval, if required by the *Local Government Act 1993*, for:
 - (i) an on-site effluent disposal system if the development is undertaken on unsewered land, and
 - (ii) an on-site stormwater drainage system, and
 - (e) before the complying development certificate is issued, have written consent from the relevant roads authority, if required by the *Roads Act 1993*:
 - (i) for each opening of a public road required by the development, and
 - (ii) to operate or store machinery, materials or waste required by the development on a road or footpath reserve, and
 - (f) if it is the alteration or erection of improvements on land in a mine subsidence district within the meaning of the *Mine Subsidence Compensation Act 1961*, have the prior approval of the Mine Subsidence Board, and
Note. Information about mine subsidence is information that is a prescribed matter for the purpose of a planning certificate under section 149 (2) of the Act.
 - (g) not be the construction or installation of a skylight or roof window on land to which *Orana Regional Environmental Plan No 1—Siding Spring* applies, and
 - (h) if it involves the removal or pruning of a tree or other vegetation that requires a permit or development consent to which clause 3.6A or 3A.7 does not apply, before the

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complying development certificate is issued, have a permit or development consent for that removal or pruning.

Note. A permit for the removal or pruning of a tree or other vegetation may be granted under a local environmental plan. A development consent for the removal of native vegetation may be granted under the *Native Vegetation Act 2003*. Paragraph (h) may not apply to certain trees or vegetation near complying development under Part 3 (see clauses 3.6A and 3A.7).

- (2) The erection of a new dwelling house or an addition to a dwelling house on land in the 20-25 ANEF contours is complying development for this Policy, if the development is constructed in accordance with AS 2021—2000, *Acoustics—Aircraft noise intrusion—Building siting and construction*.
- (3) A complying development certificate for complying development under this Policy is subject to the conditions specified in this Policy in respect of that development.

Note. Clause 136A of the *Environmental Planning and Assessment Regulation 2000* requires a complying development certificate to be issued subject to the conditions specified in that clause.

[21] **Clause 1.19 Land on which exempt development and complying development may not be carried out**

Omit clause 1.19 (2) and (3). Insert instead:

- (2) The general land exemptions set out in clause 1.17A and subclause (4) apply to complying development specified for the following codes:
 - (a) the General Housing Code,
 - (b) the Rural Housing Code,
 - (c) the Housing Alterations Code,
 - (d) the General Development Code,
 - (e) the General Commercial and Industrial Code,
 - (f) the Subdivisions Code,
 - (g) the Demolition Code.

[22] **Clause 1.19 (5) and (6)**

Omit clause 1.19 (5). Insert instead:

- (5) Despite subclause (4), if land is part of a lot to which the Rural Housing Code applies, complying development may be carried out on the part of the lot to which this clause does not apply.

(6) **Specific land exemptions for General Housing Code and Rural Housing Code**

To be complying development specified for the General Housing Code or the Rural Housing Code, the development must not be carried out on:

- (a) land within a heritage conservation area or a draft heritage conservation area, unless the development is a detached outbuilding, or
- (b) land that is reserved for a public purpose in an environmental planning instrument, or
- (c) land identified on an Acid Sulfate Soils Map as being Class 1 or Class 2, or
- (d) land that is subject to a biobanking agreement under Part 7A of the *Threatened Species Conservation Act 1995* or a property vegetation plan under the *Native Vegetation Act 2003*, or
- (e) excluded land identified by an environmental planning instrument, or
- (f) land in a foreshore area, or
- (g) land that is in the 25 ANEF contour or a higher ANEF contour, unless the development is only for the erection of ancillary development, the alteration of or an addition to ancillary development or the alteration of a dwelling house, or
- (h) unsewered land:
 - (i) to which *Drinking Water Catchments Regional Environmental Plan No 1* applies, or
 - (ii) in any other drinking water catchment identified in any other environmental planning instrument, or
- (i) land that is declared to be a special area under the *Sydney Water Catchment Management Act 1998*.

(7) **Specific land exemptions for Housing Alterations Code and General Development Code**

To be complying development specified for the Housing Alterations Code and General Development Code, the development must not be carried out on unsewered land:

- (a) to which *Drinking Water Catchments Regional Environmental Plan No 1* applies, or
- (b) in any other drinking water catchment identified in any other environmental planning instrument.

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[23] Clause 2.2 Development standards

Omit clause 2.2 (b). Insert instead:

- (b) be located at least 450mm from each side boundary and the rear boundary, and

[24] Clause 2.2

Insert at the end of the clause:

Note. See AS 1428.1—2009, *Design for access and mobility—General requirements for access—New building work* and the *Disability (Access to Premises—Buildings) Standards 2010* under the *Disability Discrimination Act 1992* of the Commonwealth which specifies the design requirements for new building work to provide access for people with disabilities.

[25] Clauses 2.2 (e), 2.3 (b), 2.6 (1) (g), 2.6 (1A) (e), 2.9, 2.11, 2.17, 2.19, 2.22 (b), 2.23 (b), 2.25, 2.27, 2.29, 2.31 (b), 2.41 (b), 2.42B (1) (f), 2.42C, 2.47, 2.49, 2.51 (1), 2.53, 2.59, 2.64 (1) (k), 2.66 (1) (e), 2.69, 2.72 (k), 2.73 and 2.79

Omit “, or in relation to,” wherever occurring.

[26] Clause 2.4 Development standards

Insert at the end of the clause:

Note. There are other existing legislative requirements relating to the clearance of power lines and Obstacle Limitation Surfaces near airport flight paths.

[27] Clause 2.5 Specified development

Insert at the end of the clause:

Note. For evaporative cooling units see clause 2.30A.

[28] Clause 2.6 Development standards

Insert after clause 2.6 (1) (f):

- (f1) be designed so as not to operate:
 - (i) during peak time—at a noise level that exceeds 5 dB(A) above the ambient background noise level measured at any property boundary, or
 - (ii) during off peak time—at a noise level that is audible in habitable rooms of adjoining residences, and

[29] Clause 2.6 (1A) (d1)

Insert after paragraph (d):

- (d1) be designed so as not to operate:
 - (i) during peak time—at a noise level that is more than 5 dB(A) above the ambient background noise level measured at any property boundary, or
 - (ii) during off peak time—at a noise level that is audible in habitable rooms of adjoining residences, and

[30] Clause 2.6, note

Insert at the end of the clause:

Note. For further information about noise control see the *Noise Guide for Local Government* (ISBN 978 1 74232 942 0) published by the Department of Environment, Climate Change and Water NSW in October 2010.

[31] Clause 2.6B Development standards

Insert “, when it is not a stable for the keeping of horses in Zone RU1, RU2, RU3 or RU4,” after “that development” in clause 2.6B (1).

[32] Clause 2.6B (1) (i)

Omit “in, or in relation to,”. Insert instead “on or in”.

[33] Clause 2.6B (2)

Insert “for development referred to in subclause (1)” after “lot”.

[34] Clause 2.6B (3) and (4)

Insert after clause 2.6B (2):

- (3) The standards specified for that development when it is a stable for the keeping of horses in Zone RU1, RU2, RU3 or RU4 are that the development must:
 - (a) be for domestic purposes only, and
 - (b) not have a floor area of more than 50m², and
 - (c) be not higher than 3m above ground level (existing), and
 - (d) be located at least 20m from any road boundary and 5m from every other lot boundary, and
 - (e) be located at least 30m from any dwelling on an adjoining lot, and

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- (f) if roofed—be constructed or installed so that roof water is disposed of on site, without causing a nuisance to adjoining owners, and
 - (g) if it is in Zone RU4 and to the extent it is comprised of metal components—be constructed of low reflective, factory pre-coloured materials, and
 - (h) have an impervious floor, and
 - (i) if it is located on bush fire prone land and is less than 5m from a dwelling—be constructed of non-combustible material.
- (4) There must not be more than 1 development per lot for development referred to in subclause (3).

[35] Clause 2.8 Development standards

Omit clause 2.8 (1) (b)–(d). Insert instead:

- (b) not have a floor area of more than:
 - (i) in a rural zone—30m², or
 - (ii) in any other zone—10m², and
- (c) be not higher than:
 - (i) in a rural zone—3m above ground level (existing), or
 - (ii) in any other zone—2.4m above ground level (existing), and
- (d) be located:
 - (i) in a rural zone—at least 20m from the road boundary and 5m from each other lot boundary, or
 - (ii) in any other zone—in the rear yard and at least 900mm from each side and rear boundary, and

[36] Clause 2.8 (1) (g1)

Insert after clause 2.8 (1) (g):

- (g1) if it is located in a residential zone and to the extent it is comprised of metal components—be constructed of low reflective, factory pre-coloured materials, and

[37] Clause 2.8, note

Insert at the end of the clause:

Note. For fowl and poultry houses see clause 2.41.

[38] Clause 2.10 Development standards

Insert after clause 2.10 (b):

- (b1) be at least 450mm from each side and rear boundary when fully extended, and

[39] Clause 2.10 (d1)

Insert after clause 2.10 (d):

- (d1) if it is constructed or installed on or in a heritage conservation area or a draft heritage conservation area—be located in the rear yard, and

[40] Clause 2.12 Development standards

Omit “20m²” from clause 2.12 (b). Insert instead “25m²”.

[41] Clause 2.12 (c)

Omit the paragraph. Insert instead:

- (c) not cause the total floor area of all such structures on the lot to be more than:
 - (i) for a lot larger than 300m²—15% of the ground floor area of the dwelling on the lot, or
 - (ii) for a lot 300m² or less—25m², and

[42] Clause 2.12 (j) and (j1)

Omit paragraph (j). Insert instead:

- (j) if it is a roofed structure attached to a dwelling—not extend above the roof gutter line of the dwelling, and
- (j1) be no higher than 3m at its highest point above ground level (existing), and

[43] Part 2, Division 1, Subdivision 7, heading

Insert “and other outdoor cooking structures” after “Barbecue”.

[44] Clause 2.13 Specified development

Insert “or other outdoor cooking structure” after “barbecue”.

[45] Part 2, Division 1, Subdivision 8 Bed and breakfast accommodation

Omit the Subdivision.

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[46] Clause 2.18 Development standards

Omit clause 2.18 (1) (b). Insert instead:

- (b) not have a floor area of more than:
 - (i) on land in Zone RU1, RU2, RU3, RU4 or R5—50m², or
 - (ii) on land in any other zone—20m², and

[47] Clause 2.18 (1) (h)

Insert after clause 2.18 (1) (g):

- (h) to the extent it is comprised of metal components—be constructed of low reflective, factory pre-coloured materials if it is located on land in a residential zone, and

[48] Clause 2.20 Development standards

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

- (b) not have a floor area more than:
 - (i) for a lot larger than 300m² in a rural zone or Zone R5—50m², or
 - (ii) for a lot larger than 300m² in a zone other than a rural zone or Zone R5—25m², or
 - (iii) for a lot 300m² or less in any zone—20m², and

[49] Clause 2.20A Specified development

Insert after clause 2.20A (j):

- , or
- (k) a community or recreation use to another community or recreation use,

[50] Clause 2.23 Specified development

Omit “or in a heritage conservation area or a draft heritage conservation area” from clause 2.23 (b).

[51] Clause 2.24 Development standards

Insert after clause 2.24 (1):

- (1A) If the development is in a heritage conservation area or a draft heritage conservation area, it must be located in the rear yard and must not be visible from a public road.

[52] Clauses 2.28 (e), 2.42D(1) (i), 3.28 (2) and 3.33 (2)

Omit “Australian Standard” wherever occurring.

[53] Clause 2.30 Development standards

Insert after clause 2.30 (h):

- (h1) if the fill is imported to the site—only contain natural materials and must be free of building and other demolition waste, and

[54] Part 2, Division 1, Subdivision 15AA

Insert after Subdivision 15:

Subdivision 15AA Emergency work and temporary repairs**2.30AA Specified development**

The temporary repair of any damage to a building or structure caused by an event that constitutes a significant and widespread danger to life or property in any zone in an area declared by an order under section 33 of the *State Emergency and Rescue Management Act 1989* to be an area where a state of emergency exists is development specified for this code.

2.30AB Development standards

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

- (a) be carried out within 6 months of the declaration being made, and
- (b) not change the configuration of the floor space of the building or structure being repaired, and
- (c) not increase the floor space of the building or structure being repaired, and
- (d) be to make the building or structure weatherproof and, if a dwelling, suitable for habitation.

[55] Clause 2.30A Specified development

Omit “, or in relation to, a heritage item or a draft heritage item, or in a heritage conservation area or a draft heritage conservation area” from clause 2.30A (1).

Insert instead “or in a heritage item or a draft heritage item”.

[56] Clause 2.30A, note

Insert at the end of the clause:

Note. For air-conditioning units see clause 2.5.

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[57] Clause 2.30B Development standards

Insert after clause 2.30B (e):

- (e1) be designed so as not to operate:
 - (i) during peak time—at a noise level that is more than 5 dB(A) above the ambient background noise level measured at any property boundary, or
 - (ii) during off peak time—at a noise level that is audible in habitable rooms of adjoining residences, and

[58] Clause 2.30B (g)

Insert after clause 2.30B (f):

, and

- (g) if it is constructed or installed in a heritage conservation area or a draft heritage conservation area—be located in the rear yard and must not be visible from a public road.

[59] Clause 2.30B, note

Insert at the end of the clause:

Note. For further information about noise control see the *Noise Guide for Local Government* (ISBN 978 1 74232 942 0) published by the Department of Environment, Climate Change and Water NSW in October 2010.

[60] Clause 2.32 Development standards

Insert at the end of clause 2.32 (f):

, and

- (g) to the extent it is a silo—not be fitted with a motorised fan for aeration or drying purposes.

[61] Clause 2.32 (2)

Insert at the end of the clause:

- (2) If the development is a shipping container, there must not be more than 1 shipping container per lot.

[62] Clauses 2.33 (b), 2.35 (b) and 2.37 (b)

Omit “or in relation to” wherever occurring. Insert instead “or adjacent to”.

[63] Clauses 2.33, 2.35 and 2.37

Insert at the end of each clause:

Note. If the fence is a dividing fence, the *Dividing Fences Act 1991* also applies.

[64] Clause 2.34 Development standards

Insert after clause 2.34 (1) (b):

- (b1) if it is a boundary fence on land in Zone R5—be constructed using post and wire or post and rail, and

[65] Clauses 2.34 (1) (g) and 2.36 (h)

Insert “, key Koala habitat or a Koala movement corridor” after “core Koala habitat” wherever occurring.

[66] Clause 2.38 Development standards

Omit “if it is a boundary fence that has a frontage to a public road—” from clause 2.38 (b).

Insert instead “subject to paragraph (d),”.

[67] Part 2, Division 1, Subdivision 19A

Insert after Subdivision 19:

Subdivision 19A Filming**2.38A Specified development**

Filming is development specified for this code.

2.38B Development standards

- (1) The standards specified for that development are as follows:
- (a) the development may only be carried out on land:
- (i) on which there is a heritage item, or
 - (ii) within a heritage conservation area, or
 - (iii) identified as an environmentally sensitive area, if the filming does not involve or result in any of the following:
 - (iv) any changes or additions that are not merely superficial and temporary to any part of a heritage item, a heritage conservation area or an environmentally sensitive area,
 - (v) the mounting or fixing of any object or article on any part of such an item or area (including any building or structure),
 - (vi) the movement, parking or standing of any vehicle or equipment on or over any part of such an item or area that is not specifically designed for the

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- movement, parking or standing of a vehicle or equipment on or over it,
- (vii) any changes to the vegetation on, or level of, such an item or area or any changes to any other natural or physical feature of the item or area,
 - (b) the development must not create significant interference with the neighbourhood,
 - (c) the person carrying out the filming must obtain a policy of insurance that adequately covers the public liability of the person in respect of the filming for an amount of not less than \$10,000,000,
 - (d) if the filming is carried out on private land, the filming must not be carried out for more than 30 days within a 12-month period at the particular location,
 - (e) a filming management plan must be prepared and lodged with the consent authority for the location at least 5 days before the commencement of filming at the location. The plan must contain the following information and be accompanied by the following documents (without limiting the information or documents that may be submitted):
 - (i) the name, address and telephone number of the person carrying out the filming (such as a production company) and of the producer for the filming,
 - (ii) a brief description of the filming to be carried out (for example, a television commercial, a television series, a feature film or a documentary),
 - (iii) the proposed location of the filming,
 - (iv) the proposed commencement and completion dates for the filming at the location,
 - (v) the proposed daily length of filming at the location,
 - (vi) the number of persons to be involved in the filming,
 - (vii) details of any temporary structures (for example, tents or marquees) to be erected or used at the location for the purposes of the filming,
 - (viii) the type of filming equipment to be used in the filming (such as a hand-held or mounted camera),
 - (ix) proposed arrangements for parking vehicles associated with the filming during the filming,

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- (x) whether there will be any disruption to the location of the filming or the surrounding area and the amenity of the neighbourhood (for example, by the discharge of firearms or explosives, the production of offensive noise, vibrations, disruption to traffic flow or the release of smells, fumes, vapour, steam, soot, ash, dust, waste water, grit or oil),
 - (xi) whether the filming will involve the use of outdoor lighting or any other special effects equipment,
 - (xii) a copy of the public liability insurance policy that covers the filming at the location,
 - (xiii) a copy of any approval given by a public or local authority to carry out an activity associated with the proposed filming at the location, such as the following:
 - (A) an approval by the Roads and Traffic Authority for the closure of a road,
 - (B) an approval by the Council for the erection or use of a temporary structure, closure of a road or a public footpath, or a restriction in pedestrian access,
 - (C) an approval by the Environment Protection Authority for an open fire,
 - (D) an approval by the NSW Police Force for the discharge of firearms,
 - (E) an approval by the Land and Property Management Authority for the use of Crown land,
 - (xiv) details of any temporary alteration or addition to any building or work at the location for the purposes of the filming,
- (f) the person carrying out the filming must, at least 5 days before the commencement of filming at the particular location, give notice in writing (by way of a letter-box drop) of the filming to residents within a 50m radius of the location. The notice must contain the following information:
- (i) the name and telephone number of the person carrying out the filming (such as a production company) and of a contact representative of that person,
 - (ii) a brief description of the filming to be carried out at the location, and any proposed disruptions to the

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- location or the surrounding area or the amenity of the neighbourhood,
- (iii) the proposed commencement and completion dates for the filming at the location,
- (iv) the proposed daily length of filming at the location.

[68] Clause 2.42 Development standards

Insert after clause 2.42 (1) (g):

- (h) to the extent it is comprised of metal components—be constructed of low reflective, factory pre-coloured materials if it is located on land in a residential zone, and

[69] Clause 2.42 (2)

Omit “In all zones other than Zone RU1, RU2, RU3 and RU4, there”.

Insert instead “There”.

[70] Part 2, Division 1, Subdivision 21AA

Insert after Subdivision 21:

Subdivision 21AA Fuel tanks and gas storage

2.42AA Specified development

The construction or installation of an above ground fuel tank or gas storage facility for agricultural activity is development specified for this code if it is constructed or installed on a lot in a rural zone that is larger than 2ha.

2.42AB Development standards

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

- (a) not have a capacity of more than:
 - (i) for a fuel tank—5,000 L, or
 - (ii) for a gas tank—1,000 L, and
- (b) be located at least 20m from the primary road frontage of the lot and at least 10m from each other lot boundary, and
- (c) be bunded with the capacity to contain at least 110% of the capacity of the tank, and
- (d) if a fuel tank—be constructed of prefabricated metal, be freestanding and installed in accordance with the

requirements of AS 1940–2004, *The storage and handling of flammable and combustible liquids*, and

- (e) if a gas tank—be designed and constructed in accordance with the requirements of AS/NZS 1596:2008, *The storage and handling of LP Gas* by a professional engineer, and
- (f) not be used for advertising, and
- (g) be located at least 1m from any registered easement, sewer main or water main.

Note. Other existing legislative requirements still apply in relation to work place health and safety issues.

[71] Clause 2.43 Specified development

Insert “that does not involve the manufacture of food products or skin penetration procedures” after “occupation”.

[72] Clause 2.46B Development standards

Insert after clause 2.46B (a):

- (a1) if it uses a heat pump water heater, be designed so as not to operate:
 - (i) during peak time—at a noise level that is more than 5 dB(A) above the ambient background noise level measured at any property boundary, or
 - (ii) during off peak time—at a noise level that is audible in habitable rooms of adjoining residences, and

[73] Clause 2.46B (b)

Omit “, or in relation to,”. Insert instead “or in”.

[74] Clause 2.46B, note

Omit the note after the clause. Insert instead:

Note 1. See note relating to Solar Hot Water Systems.

Note 2. For further information about noise control in relation to heat pump water heaters, see the NSW Government’s *Noise Guide for Local Government* published in 2010 (ISBN 978 1 74232 942 0).

[75] Clause 2.51 Specified development

Insert “, including stairs and stairwells” after “member” in clause 2.51 (1) (b).

[76] Clause 2.53 Specified development

Insert after clause 2.53 (d):

- (e) the repair to or replacement of a balustrade,

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- (f) restumping or repairing structure foundations without increasing the height of the structure,

[77] Clause 2.58 Development standards

Insert after clause 2.58 (b):

- (b1) be located at least 450mm from each side and rear boundary, and

[78] Clause 2.62 Development standards

Omit “rear yard, and” from clause 2.62 (d). Insert instead “rear yard.”.

[79] Clause 2.62 (e)

Omit the paragraph.

[80] Clause 2.64 Development standards

Omit “RU3 or RU4” from clause 2.64 (1) (a) and (b) wherever occurring.

Insert instead “RU3, RU4, R5, E2, E3 or E4”.

[81] Clause 2.65

Omit the clause. Insert instead:

2.65 Specified development

The construction or installation of a rainwater tank below ground is development specified for this code if:

- (a) it is constructed or installed on land in Zone RU1, RU2, RU3, RU4 or R5, and
- (b) it is not constructed or installed on land that is identified on an Acid Sulfate Map as being Class 1–5.

[82] Clause 2.70 Development standards

Omit clause 2.70 (j). Insert instead:

- (j) if it is not located on bush fire prone land—have at least two-thirds of its perimeter comprising open screen mesh material, and
- (j1) if it is located on bush fire prone land—cover all openings, including any sub-floor areas, operable windows, vents and eaves, and be made of a non-corrosive metal material with a maximum aperture of 2mm, and

[83] Clause 2.72 Development standards

Omit clause 2.72 (a) and b. Insert instead:

- (b) not have an area more than:
 - (i) if for domestic purposes—20m², or
 - (ii) for any other purpose—30m², and

[84] Clause 2.72 (c)

Omit “the dwelling”. Insert instead “all buildings”.

[85] Clause 2.73 Specified development

Insert at the end of the clause:

- (2) Development referred to in subclause (1) is not exempt development if it is constructed or installed on land to which *Orana Regional Environmental Plan No 1—Siding Spring* applies.

[86] Note and Part 2, Division 1, Subdivision 38

Insert after Subdivision 37:

Note. Development for the purposes of a solar hot water system or a photovoltaic system is specified as exempt development under clause 39 (1) of *State Environmental Planning Policy (Infrastructure) 2007*. That subclause states that:

Development for the purpose of a photovoltaic system or solar hot water system for a building is exempt development if it complies with clause 20 (2) (Exempt development) and all of the following requirements are met:

- (a) the system is integrated into the building or is flush or parallel with the surface of its roof,
- (b) the development does not:
 - (i) reduce the structural integrity of, or involve structural alterations to, the building, or
 - (ii) necessitate the removal of trees from near the building to ensure that solar energy is available for the system,
- (c) on average, over any 5 year period, at least 75 per cent of the electricity generated by the system in a 12 month period is used in or for the building,
- (d) the system is not located on a building that is a State or local heritage item or is in a heritage conservation area.

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Subdivision 38 Subdivision

2.75 Specified development

The subdivision of land, for the purpose only of any one or more of the following, is development specified for this code:

- (a) widening a public road,
- (b) a minor realignment of boundaries that does not create:
 - (i) additional lots or the opportunity for additional dwellings, or
 - (ii) lots that are smaller than the minimum size specified in an environmental planning instrument in relation to the land concerned,
- (c) a consolidation of lots that does not create additional lots or the opportunity for additional dwellings,
- (d) rectifying an encroachment on a lot,
- (e) creating a public reserve,
- (f) excising from a lot land that is, or is intended to be, used for public purposes, including drainage purposes, rural fire brigade or other emergency service purposes or public toilets.

2.76 Development standards

Note. (At the commencement of this clause no standards were specified.)

[87] Part 2, Division 1, Subdivisions 39A–39C

Insert after Subdivision 39:

Subdivision 39A Temporary structures (other than tents and marquees), and temporary alterations or additions to buildings or works, solely for filming purposes

2.78A Specified development

The construction or installation of a temporary structure (other than a tent or marquee), and temporary alterations or additions to a building or work, solely for filming purposes is development specified for this code.

2.78B Development standards

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

- (a) be erected, used, altered or added to in connection with filming that is exempt development, and
- (b) not be at the location for more than 30 days within a 12-month period, and
- (c) if it is an alteration or addition to the building or work— not remain in place for more than 30 days within a 12-month period, and
- (d) not, in its altered or added to form, be accessible to the public.

Subdivision 39B Tennis courts**2.78C Specified development**

The construction or installation of a tennis court is development specified for this code if it is:

- (a) constructed or installed on a lot with a size of at least 1ha in a rural zone or Zone R5, and
- (b) not constructed or installed on or in a heritage item, a draft heritage item, a heritage conservation area or a draft heritage conservation area.

2.78D Development standards

- (1) The standards specified for that development are that the development must:
 - (a) be for domestic purposes only and associated with a dwelling, and
 - (b) be located behind the building line of any road frontage, and
 - (c) not have lighting, and
 - (d) not require cut or fill more than 600mm below or above ground level (existing).
- (2) There must not be more than 1 development per lot.

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Subdivision 39C Tents or marquees used solely for filming purposes

2.78E Specified development

The construction or installation of a tent or marquee used solely for filming purposes is development specified for this code.

2.78F Development standards

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

- (a) only be used in connection with filming that is exempt development, and
- (b) for all tents or marquees on location at the same time—not have a total floor area exceeding 200m², and
- (c) be located at least 3m from any boundary adjoining a public road and at least 1m from any other boundary, and
- (d) have the following number of exits arranged so as to afford a ready means of egress from all parts of the tent or marquee to open space or a road:
 - (i) 1 exit if the floor area of the tent or marquee does not exceed 25m²,
 - (ii) 2 exits in any other case, and
- (e) have a width for each exit of at least:
 - (i) 800mm if the floor area of the tent or marquee is less than 150m², or
 - (ii) 1m in any other case, and
- (f) have a height for the walls not exceeding:
 - (i) 4m if erected on private land, or
 - (ii) 5m in any other case, and
- (g) have a height as measured from the surface on which the tent or marquee is erected to the highest point of the tent or marquee not exceeding 6m, and
- (h) resist loads determined in accordance with the following Australian and New Zealand Standards entitled:
 - (i) AS/NZS 1170.0:2002, *Structural design actions—General principles*,
 - (ii) AS/NZS 1170.1:2002, *Structural design actions—Permanent, imposed and other actions*,

(iii) AS/NZS 1170.2:2002, *Structural design actions—Wind actions*, and

(i) not remain at the location for more than 2 days after the completion of the filming at the location.

[88] Clause 2.80 Development standards

Insert at the end of the clause:

(2) Despite subclause 1 (a), a pond sump may be placed in a water feature or pond below a water depth of 300mm if the sump is covered with a bolted or anchored grate that is capable of supporting a weight of 150kg.

[89] Clause 2.81 Specified development

Omit “for commercial power generation”.

Insert instead “connected to the electricity grid”.

[90] Clause 2.82 Development standards

Insert after clause 2.82 (a):

(a1) be located at least 20m from any road boundary and 5m from each other lot boundary, and

[91] Clause 2.82

Insert at the end of the clause:

Note. There are other existing legislative requirements relating to the clearance of power lines and Obstacle Limitation Surfaces near airport flight paths.

[92] Part 2, Division 2

Omit the Division.

[93] Clauses 3.1–3.5

Omit the clauses. Insert instead:

3.1 Land to which code applies

This code applies to development that is specified in clauses 3.2–3.5 on any lot in Zone R1, R2, R3, R4 or RU5 that:

- (a) has an area of at least 200m², and
- (b) has a width, measured at the building line fronting a primary road, of at least 6m.

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3.2 New single storey and two storey dwelling houses

The erection of a new single storey or two storey dwelling house is development specified for this code.

3.3 Alterations or additions to existing single storey and two storey dwelling houses

- (1) Alterations or additions to an existing single storey or two storey dwelling house or the addition of a second storey to an existing single storey dwelling house is development specified for this code.
- (2) Subclause (1) does not include development specified in the Housing Alterations Code.

3.4 Basements and roof terraces excluded

- (1) The erection of a basement, either as part of a new dwelling house or as an addition or alteration to an existing dwelling house, is not development specified for this code if:
 - (a) on a lot that has a width, measured at the building line, of at least 10m—the basement has an area greater than 45m², or
 - (b) on a lot that has a width, measured at the building line, of at least 6m, but less than 10m—the basement has an area greater than 25m².
- (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 development specified for this code.

3.5 Ancillary development

- (1) The erection of new ancillary development, or alterations or additions to existing ancillary development, is development specified for this code.
- (2) Subclause (1) does not include:
 - (a) development specified in the Housing Alterations Code, and
 - (b) development that is a balcony, deck, patio, pergola, terrace or verandah that is, or will be, attached to a dwelling house on a lot that has an area of less than 300m² and a width,

measured at the building line, of 10m or less, unless the development is to the primary road frontage of the lot.

Note. See clause 1.19 (6) (a) in relation to development that is detached ancillary development in a heritage conservation area or a draft heritage conservation area.

[94] Part 3, Division 1A

Insert after Division 1:

Division 1A Removal or pruning of trees

3.6A When separate permits are not required under this Part

A complying development certificate for complying development under Division 1 is taken to satisfy any requirement under this Policy for a permit or development consent to remove or prune a tree or other vegetation if the tree or vegetation:

- (a) is within 3 metres of the proposed development, and
- (b) is less than 6 metres high, and
- (c) is not listed on a significant tree register or register of significant trees kept by the council.

[95] Clause 3.8 Lot requirements

Omit clause 3.8 (1) (b) and (c). Insert instead:

- (b) if it is a battle-axe lot—has an access laneway at least 3m wide and measures at least 12m × 12m, excluding the access laneway.

[96] Clauses 3.9–3.12

Omit clauses 3.9–3.12. Insert instead:

3.9 Maximum site coverage of all development

- (1) The site coverage of the dwelling house and all ancillary development on a lot must not be more than the following:
 - (a) 65 per cent of the area of the lot, if the lot has an area of at least 200m² but less than 250m²,
 - (b) 60 per cent of the area of the lot, if the lot has an area of at least 250m² but less than 300m²,
 - (c) 55 per cent of the area of the lot, if the lot has an area of at least 300m² but less than 450m²,
 - (d) 50 per cent of the area of the lot, if the lot has an area of at least 450m² but less than 900m²,

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- (e) 40 per cent of the area of the lot, if the lot has an area of at least 900m² but less than 1500m²,
 - (f) 30 per cent of the area of the lot, if the lot has an area of at least 1500m².
- (2) Despite subclause (1) (d), the site coverage of a single storey dwelling house and all ancillary development on a lot must not be more than 55 per cent of the area of the lot, if the lot has an area of at least 450m² but less than 500m².

3.10 Maximum floor area for dwelling houses

The floor area of a dwelling house on a lot must not be more than the following:

- (a) 90 per cent of the area of the lot, if the lot has an area of at least 200m² but less than 250m²,
- (b) 85 per cent of the area of the lot, if the lot has an area of at least 250m² but less than 300m²,
- (c) 270m², if the lot has an area of at least 300m² but less than 450m²,
- (d) 330m², if the lot has an area of at least 450m² but less than 600m²,
- (e) 380m², if the lot has an area of at least 600m² but less than 900m²,
- (f) 430m², if the lot has an area of at least 900m².

3.11 Maximum floor area for outbuildings

The floor area of an outbuilding on a lot must not be more than the following:

- (a) 36m², if the lot has an area of less than 300m²,
- (b) 45m², if the lot has an area of at least 300m² but less than 600m²,
- (c) 60m², if the lot has an area of at least 600m² but less than 900m²,
- (d) 100m², if the lot has an area of at least 900m².

3.12 Maximum floor area for balconies, decks, patios, pergolas, terraces and verandahs

The floor area of a balcony, deck, patio, pergola, terrace or verandah attached to a dwelling house with a floor level more than 3m above ground level (existing) on the lot must not be more than 12m².

[97] Clause 3.13

Omit clause 3.13. Insert instead:

3.13 Maximum height of dwelling houses and outbuildings

- (1) The height of a 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 height of an outbuilding or the alterations and additions to an existing outbuilding on a lot must not be more than 4.8m above ground level (existing).

[98] Clause 3.14 Setbacks of dwelling houses and ancillary development from roads, other than classified roads

Omit “in Zone R1, R2, R3, R4, R5 or RU5” wherever occurring in clause 3.14 (1)–(3).

[99] Clause 3.14 (1) (b) and (3) (b)

Omit the paragraphs. Insert instead:

- (b) in any case where 2 dwelling houses are not located within 40m of the lot:
 - (i) 3m, if the lot has an area of less than 300m², or
 - (ii) 4.5m, if the lot has an area of at least 300m² but less than 900m², or
 - (iii) 6.5m, if the lot has an area of at least 900m² but less than 1500m², or
 - (iv) 10m, if the lot has an area of at least 1500m².

[100] Clauses 3.16–3.18

Omit clauses 3.16–3.18. Insert instead:

3.16 Setbacks of dwelling houses and outbuildings from side boundaries, and built to boundary walls

- (1) This clause applies to the following:
 - (a) a dwelling house and any carport, garage, balcony, deck, patio, pergola, terrace or verandah that is attached to the dwelling house (a *building*),
 - (b) an outbuilding, or alterations and additions to an existing outbuilding (also a *building*).

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- (2) Any point of a building on a lot must have a setback from the side boundary nearest to that point of at least the following:
 - (a) if the lot has a width, measured at the building line, of at least 6m, but less than 10m:
 - (i) for any part of the building with a height of up to 5.5m—0.9m,
 - (ii) for any part of the building with a height of more than 5.5m—0.9m plus one-quarter of the height of the building above 5.5m,
 - (b) if the lot has a width, measured at the building line, of at least 10m, but less than 18m:
 - (i) for any part of the building with a height of up to 4.5m—0.9m,
 - (ii) for any part of the building with a height of more than 4.5m—0.9m plus one-quarter of the height of the building above 4.5m,
 - (c) if the lot has a width, measured at the building line, of at least 18m, but less than 24m:
 - (i) for any part of the building with a height of up to 4.5m—1.5m,
 - (ii) for any part of the building with a height of more than 4.5m—1.5m plus one-quarter of the height of the building above 4.5m,
 - (d) if the lot has a width, measured at the building line, of at least 24m—2.5m for all building heights.
- (3) Despite subclause (2) (a):
 - (a) if the lot has a width, measured at the building line, of at least 6m, but less than 8m, the building may be built to both side boundaries, or
 - (b) if the lot has a width, measured at the building line, of at least 8m, but less than 10m, the building may be built to only one side boundary.
- (4) Subclause (3) does not apply if:
 - (a) the wall of the building adjoining the boundary is not of masonry construction and is within 900mm of the boundary, or
 - (b) the wall of the building adjoining the boundary has a window facing the boundary and is within 900mm of the boundary.

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- (5) A boundary wall of a building erected under subclause (3):
- (a) must not be higher than 3.3m, or
 - (b) if the wall is to be built to a boundary wall on an adjoining lot, must not be higher than the height of that wall, or
 - (c) if the lot on which the building is erected is an adjoining lot for which a single complying development certificate has been issued under clause 126 (4) of the *Environmental Planning and Assessment Regulation 2000*, must not be higher than the height of the wall on the adjoining lot, but in any case must not be higher than 8.5m.
- (6) The boundary wall of a building erected under subclause (3):
- (a) together with the length of the boundary walls of any other buildings on the lot, must not have a length totalling more than 20m or 50% of the depth of the lot, whichever is the lesser, or
 - (b) if the wall is to be built to a boundary wall on an adjoining lot, must not be longer than the length of that boundary wall, or
 - (c) if the lot on which the building is erected is an adjoining lot for which a single complying development certificate has been issued under clause 126 (4) of the *Environmental Planning and Assessment Regulation 2000*, must not be longer than the length of the wall on the adjoining lot.

3.17 Setbacks of dwelling houses from rear boundaries

- (1) This clause applies to a dwelling house and any carport, garage, balcony, deck, patio, pergola, terrace or verandah that is attached to the dwelling house (a **building**).
- (2) Any point of a building on a lot must have a setback from the rear boundary of the lot nearest to that building of at least the following distance:
 - (a) if the lot has a width, measured at the building line, of at least 6m, but less than 10m, for any part of the building with a height of up to 4.5m—3m,
 - (b) if the lot has a width, measured at the building line, of at least 6m, but less than 8m—the average of the nearest 2 adjoining dwellings or, if there are not 2 adjoining dwellings, 6m for any part of the building with a height greater than 4.5m,

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- (c) if the lot has a width, measured at the building line, of at least 8m, but less than 10m, for any part of the building with a height greater than 4.5m—6m,
 - (d) if the lot has a width, measured at the building line, of at least 10m, but less than 15m:
 - (i) for any part of the building with a height of up to 4.5m—3m,
 - (ii) for any part of the building with a height greater than 4.5m—8m,
 - (e) if the lot has a width, measured at the building line, of at least 15m, but less than 18m:
 - (i) for any part of the building with a height of up to 4.5m—5m,
 - (ii) for any part of the building with a height greater than 4.5m—12m,
 - (f) if the lot has a width, measured at the building line, of at least 18m:
 - (i) for any part of the building with a height of up to 4.5m—10m,
 - (ii) for any part of the building with a height greater than 4.5m—15m.
- (3) Despite subclause (2), if the lot has a rear boundary with a lane the building may have a building line that abuts that boundary for not more than 50 per cent of the length of that boundary.

3.18 Setbacks of outbuildings from rear boundaries

- (1) This clause applies to a new outbuilding, or alterations and additions to an existing outbuilding (an *outbuilding*).
- (2) Any point of an outbuilding on a lot must have a setback from the rear boundary of the lot of at least the following:
 - (a) if the lot has a width, measured at the building line, of at least 6m, but less than 12m:
 - (i) for any part of the outbuilding with a height of up to 3.3m—the outbuilding may be built to the rear boundary,
 - (ii) for any part of the outbuilding with a height greater than 3.3m—one-quarter of the height of the outbuilding above 3.3m,

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- (b) if the lot has a width, measured at the building line, of at least 12m, but less than 18m:
- (i) for any part of the outbuilding with a height of up to 3.8m—0.9m,
 - (ii) for any part of the outbuilding with a height greater than 3.8m—0.9m plus one-quarter of the height of the outbuilding above 3.8m,
- (c) if the lot has a width, measured at the building line, of at least 18m, but less than 24m:
- (i) for any part of the outbuilding with a height of up to 3.8m—1.5m,
 - (ii) for any part of the outbuilding with a height greater than 3.8m—1.5m plus one-quarter of the height of the outbuilding above 3.8m,
- (d) if the lot has a width, measured at the building line, of at least 24m:
- (i) for any part of the outbuilding with a height of up to 3.8m—2.5m,
 - (ii) for any part of the outbuilding with a height greater than 3.8m—2.5m plus one-quarter of the height of the outbuilding above 3.8m.
- (3) Despite subclause (2) (a) if:
- (a) the wall of the building adjoining the boundary is not of masonry construction and is within 900mm of the boundary, or
 - (b) the wall of the building adjoining the boundary has a window facing the boundary and is within 900mm of the boundary,
- the outbuilding must have a setback from the rear boundary of the lot of at least the following:
- (c) for any part of the outbuilding with a height of up to 3.8m—0.9m,
 - (d) for any part of the outbuilding with a height greater than 3.8m—0.9m plus one-quarter of the height of the outbuilding above 3.8m.
- (4) Despite subclause (2), if the lot has a rear boundary with a lane the outbuilding may have a building line that abuts that boundary for not more than 50 per cent of the length of that boundary.

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[101] Clause 3.19 Exceptions to setbacks

Insert “and” after “development,” in clause 3.19 (b) (ii).

[102] Clause 3.19 (b) (iii)

Omit the subparagraph.

[103] Clause 3.20 Calculating setbacks

Insert after clause 3.20 (3):

- (4) For the purpose of calculating setbacks for a battle-axe lot, the setback on the opposite side of the lot to the rear setback is taken to be a side setback.

[104] Clause 3.20A

Insert after clause 3.20:

3.20A Protecting adjoining walls

Despite any other development standard of this code, if the development involves the erection of a wall to a boundary that has a wall less than 0.9m from the boundary, the wall must be built in accordance with the method of support proposed by the professional engineer’s report provided with the application for the complying development certificate.

[105] Clause 3.22 Building elements within the articulation zone

Omit clause 3.22 (2). Insert instead:

- (2) A building element on a dwelling house (other than a pitched roof to an entry feature or portico that has the same pitch as the roof on the dwelling house) must not extend more than:
 - (a) 1m above the gutter line of the eaves of a single storey dwelling house, or
 - (b) above the gutter line of the eaves of a two storey dwelling house.

[106] Clause 3.23 Privacy

Omit clause 3.23 (4).

[107] Clauses 3.24 and 3.25

Omit the clauses. Insert instead:

3.24 Landscaped area

- (1) A lot on which development specified for this code is carried out must have a landscaped area of at least the following:
 - (a) 10% of the area of the lot, if the lot has an area of at least 200m² but less than 300m²,
 - (b) 15% of the area of the lot, if the lot has an area of at least 300m² but less than 450m²,
 - (c) 20% of the area of the lot, if the lot has an area of at least 450m² but less than 600m²,
 - (d) 30% of the area of the lot, if the lot has an area of at least 600m² but less than 900m²,
 - (e) 40% of the area of the lot, if the lot has an area of at least 900m² but less than 1,500m²,
 - (f) 45% of the area of the lot, if the lot has an area of at least 1,500m².
- (2) If the lot has a width, measured at the building line, of at least 18m, at least 50% of the area forward of the building line to the primary road must be landscaped.
- (3) If the lot has a width, measured at the building line, of less than 18m, at least 25% of the area forward of the building line to the primary road must be landscaped.
- (4) At least 50% of the landscaped area must be located behind the building line to the primary road.
- (5) The landscaped area must be at least 1.5m wide.
- (6) Subclauses (1)–(5) do not apply to development referred to in clause 3.3 if the development does not:
 - (a) increase the existing site coverage of the lot, or
 - (b) decrease the existing landscaped area.

3.25 Principal private open space

- (1) A lot, with a width measured at the building line of at least 6m but less than 10m, on which a new dwelling house is erected must have at least 16m² of principal private open space.
- (2) A lot, with a width measured at the building line of at least 10m, on which a new dwelling house is erected must have at least 24m² of principal private open space.

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- (3) 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 3m wide, and
 - (c) is not steeper than 1:50 gradient.

[108] Clause 3.26 Car parking requirements

Insert after clause 3.26 (1):

- (1A) Subclause (1) does not apply to a lot that has a width, measured at the building line, of less than 8m, except in the local government areas of Fairfield City and Holroyd City.

[109] Clause 3.27

Omit the clause. Insert instead:

3.27 Garages, carports and car parking spaces

- (1) A garage, carport or car parking space for a dwelling house must:
- (a) if the dwelling house has a setback from a road boundary of 4.5m or more—be at least 1m behind the building line of the dwelling house, or
 - (b) if the dwelling house has a setback from a road boundary of less than 4.5m—be at least 5.5m from the boundary.
- (2) If the door or doors on a garage face a primary road, a secondary road or a parallel road, the total width of all the door openings must not exceed:
- (a) 3.2m, if the lot has a width, measured at the building line, of at least 8m, but less than 12m, or
 - (b) 6m, if the lot has a width, measured at the building line, of at least 12m.
- (3) A garage cannot be erected on a lot that has a width, measured at the building line, of less than 8m, except in the local government areas of Fairfield City and Holroyd City.
- (4) An open hard stand car parking space must measure at least 2.6m wide and 5.4m long.

[110] Clause 3.28 Vehicle access

Omit “1993” from clause 3.28 (2). Insert instead “2004”.

[111] Clause 3.28 (3)

Insert after clause 3.28 (2), before the note:

- (3) The off street car parking space for a battle-axe lot must be constructed in a way that allows vehicles to leave the lot in a forward direction.

[112] Clause 3.33

Omit the clause. Insert instead:

3.33 Development standards for detached studios adjoining lanes

- (1) This clause applies:
 - (a) to a detached studio that adjoins a lane, and
 - (b) in addition to the development standards specified in clauses 3.9 and 3.24.
- (2) A detached studio must be at least 3m from any part of the dwelling house below 4.5m in height and 6m from any part of the dwelling house above 4.5m.
- (3) A detached studio must not be more than 6m high, 9m wide or 7m deep.
- (4) The floor area of a detached studio must not be more than the following:
 - (a) 60m², if the lot has a width, measured at the building line, of at least 6m, but less than 12m,
 - (b) 75m², if the lot has a width, measured at the building line, of at least 12m, but less than 15m,
 - (c) 100m², if the lot has a width, measured at the building line, of at least 15m.
- (5) The side setback for a detached studio is the following:
 - (a) if the lot has a width, measured at the building line, of at least 6m, but less than 15m:
 - (i) 0.9m for a building height of up to 4.5m,
 - (ii) 1.2m for a building height greater than 4.5m,
 - (b) if the lot has a width, measured at the building line, of at least 15m, but less than 18m:
 - (i) 0.9m for a building height of up to 4.5m,
 - (ii) 1.5m for a building height greater than 4.5m,

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- (c) if the lot has a width, measured at the building line, of at least 18m:
 - (i) 1.5m for a building height of up to 4.5m,
 - (ii) 2.5m for a building height greater than 4.5m.
- (6) Despite subclause (5):
 - (a) if the lot has a width, measured at the building line, of at least 6m, but less than 8m, the building may be built to both side boundaries, or
 - (b) if the lot has a width, measured at the building line, of at least 8m, but less than 10m, the building may be built to only one side boundary.
- (7) Subclause (6) does not apply if:
 - (a) the wall of the building adjoining the boundary is not of masonry construction and is within 900mm of the boundary, or
 - (b) the wall of the building adjoining the boundary has a window facing the boundary and is within 900mm of the boundary.
- (8) A boundary wall of a detached studio erected under subclause (6):
 - (a) must not be higher than 3.3m, or
 - (b) if the wall is to be built to a boundary wall on an adjoining lot, must not be higher than the height of that wall, or
 - (c) if the lot on which the detached studio is erected is an adjoining lot for which a single complying development certificate has been issued under clause 126 (4) of the *Environmental Planning and Assessment Regulation 2000*, must not be higher than the height of the wall on the adjoining lot,but in any case must not be higher than 8.5m.
- (9) The boundary wall of a detached studio erected under subclause (6):
 - (a) together with the length of the boundary walls of any other buildings on the lot must not have a length totalling more than 20m or 50% of the depth of the lot, whichever is the lesser, or
 - (b) if the wall is to be built to a boundary wall on an adjoining lot, must not be longer than the length of that boundary wall, or

- (c) if the lot on which the detached studio is erected is an adjoining lot for which a single complying development certificate has issued under clause 126 (4) of the *Environmental Planning and Assessment Regulation 2000*, must not be longer than the length of the wall on the adjoining lot.

[113] Clause 3.34 Swimming pools

Insert after clause 3.34 (5), before the note:

- (6) Pumps attached to the development must be housed in a soundproof enclosure.
- (7) If the swimming pool is being constructed after, and at a different time to, the erection of a dwelling on the lot, the development standards for this code (other than the standards referred to in clauses 3.9 and 3.24) do not apply to the construction.

[114] Clauses 3.35 (4A) and 3.36 (2)

Omit “non combustible” from clauses 3.35 (4A) and 3.36 (2) wherever occurring.

Insert instead “non-combustible”.

[115] Clause 3.36 Construction of fences

Omit “, unless the fence is on a lot in Zone RU1, RU2, RU3 or RU4” from clause 3.36 (1).

[116] Part 3, Division 2, Subdivisions 8 and 9

Insert after Subdivision 7:

Subdivision 8 Outbuildings

3.36A Development standards for outbuildings in heritage conservation areas

- (1) This clause applies:
- (a) to an outbuilding erected on a lot in a heritage conservation area or a draft heritage conservation area to which this code applies, and
- (b) in addition to the development standards specified in clauses 3.9, 3.13, 3.16 and 3.18.
- (2) The outbuilding must be located:
- (a) behind the rear most building line of the dwelling house, and

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- (b) no closer to each side boundary than the dwelling house.
- (3) The floor area of an outbuilding must not be more than 20m².
- (4) The lot must not adjoin a lane or a secondary or parallel road frontage.

Subdivision 9 Development standards for particular land

3.36B Development standards for bush fire prone land

- (1) This clause applies:
 - (a) to all development specified for this code that is to be carried out on a lot that is wholly or partly bush fire prone land (other than development that is the erection of non-habitable ancillary development that is more than 10m from any dwelling house, landscaping, a non-combustible fence or a swimming pool), and
 - (b) in addition to all other development standards specified for this code.
- (2) The development may be carried out on the lot only if:
 - (a) the development conforms to the specifications and requirements of the following that are relevant to the development:
 - (i) *Planning for Bush Fire Protection* (ISBN 0 9751033 2 6) published by the NSW Rural Fire Service in December 2006,
 - (ii) *Addendum: Appendix 3* (ISBN 0 9751033 2 6, published by NSW Rural Fire Service in 2010) to *Planning for Bush Fire Protection* (ISBN 0 9751033 2 6),
 - (iii) if another document is prescribed by the regulations for the purposes of section 79BA of the *Environmental Planning and Assessment Act 1979*—that document, and
 - (b) the part of the lot on which the development is to be carried out is not in bush fire attack level-40 (BAL-40) or the flame zone (BAL-FZ), and
 - (c) the lot has direct access to a public road or a road vested in or maintained by the council, and
 - (d) a reticulated water supply is connected to the lot, and
 - (e) a fire hydrant is located less than 60 metres from the location on the lot of the proposed development, and

- (f) mains electricity is connected to the lot, and
- (g) reticulated or bottled gas on the lot is installed and maintained in accordance with AS/NZS 1596:2008, *The storage and handling of LP Gas* and the requirements of relevant authorities (metal piping must be used), and
- (h) any gas cylinders on the lot that are within 10m of a dwelling house:
 - (i) have the release valves directed away from the dwelling house, and
 - (ii) are enclosed on the hazard side of the installation, and
 - (iii) have metal connections to and from the cylinders, and
- (i) there are no polymer sheathed flexible gas supply lines to gas meters adjacent to the dwelling.

Note. The requirements of AS 3959—2009, *Construction of buildings in bushfire-prone areas* set out in the *Building Code of Australia* also apply.

- (3) A standard specified in subclause (2) (b) is satisfied if one of the following certifies that the development is not in bush fire attack level-40 (BAL-40) or the flame zone (BAL-FZ):
 - (a) until 25 February 2012—the NSW Rural Fire Service, or
 - (b) a person who is recognised by the NSW Rural Fire Service as a suitably qualified consultant in bush fire risk assessment, or
 - (c) the council.

Note. More information about the categories of bush fire attack, including the flame zone, can be found in Table A3.4.2 of *Addendum: Appendix 3* (ISBN 0 9751033 2 6 and published by NSW Rural Fire Service in 2010) to the publication titled *Planning for Bush Fire Protection* (ISBN 0 9751033 2 6) published by NSW Rural Fire Service in 2006.

3.36C Development standards for flood control lots

- (1) This clause applies:
 - (a) to all development specified for this code that is to be carried out on a flood control lot, and
 - (b) in addition to all other development standards specified for this code.

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- (2) The development must not be on any part of a flood control lot that has been certified by the council or a professional engineer who specialises in hydraulic engineering as:
 - (a) a flood storage area,
 - (b) a floodway area,
 - (c) a flow path,
 - (d) a high hazard area,
 - (e) a high risk area.
- (3) The development must, to the extent it is within a flood planning area:
 - (a) have all habitable rooms no lower than the floor levels set by the council for that lot, and
 - (b) have the part of the development at or below the flood planning level constructed of flood compatible material, and
 - (c) be able to withstand the forces of floodwater, debris and buoyancy up to the flood planning level (or if on-site refuge is proposed, the probable maximum flood level), and
 - (d) not increase flood affectation elsewhere in the floodplain, and
 - (e) have reliable access for pedestrians and vehicles from the development, at a minimum level equal to the lowest habitable floor level of the development, to a safe refuge, and
 - (f) have open car parking spaces or carports that are no lower than the 20-year flood level, and
 - (g) have driveways between car parking spaces and the connecting public roadway that will not be inundated by a depth of water greater than 0.3m during a 1:100 ARI (average recurrent interval) flood event.
- (4) A standard specified in subclause (3) (c) or (d) is satisfied if a joint report by a professional engineer who specialises in hydraulic engineering and a professional engineer who specialises in civil engineering confirms that the development:
 - (a) can withstand the forces of floodwater, debris and buoyancy up to the flood planning level (or if on-site refuge is proposed, the probable maximum flood level), or
 - (b) will not increase flood affectation elsewhere in the floodplain.

- (5) A word or expression used in this clause has the same meaning as it has in the Floodplain Development Manual, unless it is otherwise defined in this clause.
- (6) In this clause:
- flood compatible material*** means building materials and surface finishes capable of withstanding prolonged immersion in water.
- Floodplain Development Manual*** means the *Floodplain Development Manual* (ISBN 0 7347 5476 0) published by the NSW Government in April 2005.
- flow path*** means a flow path identified in the council's flood study or floodplain risk management study carried out in accordance with the Floodplain Development Manual.
- high hazard area*** means a high hazard area identified in the council's flood study or floodplain risk management study carried out in accordance with the Floodplain Development Manual.
- high risk area*** means a high risk area identified in the council's flood study or floodplain risk management study carried out in accordance with the Floodplain Development Manual.

[117] Clause 3.39B

Insert after clause 3.39A:

3.39B Adjoining wall dilapidation report

- (1) If a wall on a lot is to be built to a boundary and there is a wall (the ***adjoining wall***) on the lot adjoining that boundary that is less than 0.9m from that boundary, the person having the benefit of the complying development certificate must obtain a dilapidation report on the adjoining wall.
- (2) If the person preparing the report is denied access to the adjoining lot for the purpose of inspecting the adjoining wall, the report may be prepared from an external inspection of the adjoining wall.
- (3) In this clause:
- dilapidation report*** means a report, prepared by a professional engineer, confirming the structural condition of the adjoining wall before the development commences.

[118] Clause 3.40 Hours for construction

Omit "or demolition" wherever occurring.

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[119] **Clause 3.43 Maintenance of site**

Omit “Demolition materials and waste materials” from clause 3.43 (2).

Insert instead “Waste materials”.

[120] **Part 3A**

Insert after Part 3:

Part 3A Rural Housing 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 Development that is complying development under this code

3A.1 Land to which code applies

This code applies to development that is specified in clauses 3A.2–3A.5 on lots in Zones RU1, RU2, RU3, RU4 and R5.

3A.2 New single storey and two storey dwelling houses

- (1) The erection of a new single storey or two storey dwelling house is development specified for this code if the development is erected on a lot:
 - (a) in Zone RU1, RU2 or RU4 that has an area of at least 4,000m², or
 - (b) in Zone R5.
- (2) This clause does not apply if the size of the lot is less than the minimum lot size for the erection of a dwelling house under the environmental planning instrument applying to the lot.

3A.3 Alterations or additions to existing single storey and two storey dwelling houses

- (1) Alterations or additions to an existing single storey or two storey dwelling house or the addition of a second storey to an existing single storey dwelling house is development specified for this code if the development is erected on a lot:
 - (a) in Zone RU1, RU2, RU3 or RU4 that has an area of at least 4,000m², or
 - (b) in Zone R5.
- (2) Subclause (1) does not include development specified in the Housing Alterations Code.

3A.4 Basements and roof terraces excluded

- (1) The erection of a basement, either as part of a new dwelling house or as an addition or alteration to an existing dwelling house is not development specified for this code.
- (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 development specified for this code.

3A.5 Ancillary development

- (1) The erection of new ancillary development, or alterations or additions to existing ancillary development, is development specified for this code if the development is erected on a lot:
 - (a) in Zone RU1, RU2, RU3 or RU4 that has an area of at least 4,000m², or
 - (b) in Zone R5.
- (2) Subclause (1) does not include development specified in the Housing Alterations Code.

Note. See clause 1.19 (6) (a) in relation to development that is detached ancillary development in a heritage conservation area or a draft heritage conservation area.

3A.6 Calculating lot area

For the purpose of calculating the area of a lot, the area of the access laneway is excluded if it is a battle-axe lot.

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Division 2 Removal or pruning of trees

3A.7 When separate permits are not required under this Part

A complying development certificate for complying development under Division 1 is taken to satisfy any requirement under this Policy for a permit or development consent to remove or prune a tree or other vegetation if the tree or vegetation:

- (a) is within 3 metres of the proposed development, and
- (b) is less than 6 metres high, and
- (c) is not listed on a significant tree register or register of significant trees kept by the council.

Division 3 Development standards for this code

Subdivision 1 Application

3A.8 Application of development standards

This Division sets out the specified development standards that apply to development specified for this code.

Subdivision 2 Site requirements

3A.9 Lot requirements and building envelope

- (1) Development specified for this code may only be carried out on a lot that:
 - (a) at the completion of the development will have only one dwelling house, and
 - (b) if the lot is in Zone R5 and is not a battle-axe lot—has a width, measured at the building line, of at least 18m, and
 - (c) if the lot is in Zone R5 and is a battle-axe lot—has an access laneway at least 3m wide and measures at least 12m × 12m, excluding the access laneway.
- (2) A lot on which a new single storey or two storey dwelling house is erected must have lawful direct frontage access or a right of carriageway to a public road or a road vested in or maintained by the council (other than a Crown road reserve).
- (3) If under section 88B of the *Conveyancing Act 1919* a restriction is created that specifies a building envelope for a lot, development specified for this code may only be carried out within the building envelope specified.

3A.10 Maximum site coverage of all development

The site coverage of a new dwelling house and all ancillary development on a lot in Zone R5 that has an area of less than 4,000m² must not be more than 30 per cent.

3A.11 Maximum floor area for new dwelling houses

The floor area of a new dwelling house on a lot in Zone R5 that has an area of less than 4,000m² must not be more than 430m².

3A.12 Maximum floor area for new outbuildings

The floor area of a new outbuilding on a lot in Zone R5 that has an area of less than 4,000m² must not be more than the following:

- (a) 500m², if the only purpose of the outbuilding is for agricultural use,
- (b) 100m², in any other case.

3A.13 Maximum floor area for balconies, decks, patios, pergolas, terraces and verandahs

The floor area of a balcony, deck, patio, pergola, terrace or verandah attached to a dwelling house with a floor level of more than 3m above ground level (existing) on a lot in Zone R5 that has an area of less than 4,000m² must not be more than 12m².

Subdivision 3 Building heights and setbacks**3A.14 Maximum heights of dwelling houses and outbuildings**

- (1) The height of a dwelling house or the alterations and additions to an existing dwelling house on a lot in Zone R5 that has an area of less than 4,000m² must not be more than 8.5m above ground level (existing).
- (2) The height of an outbuilding or the alterations and additions to an existing outbuilding on a lot in Zone R5 that has an area of less than 4,000m² must not be more than 4.8m above ground level (existing).
- (3) The height of a dwelling house or the alterations and additions to an existing dwelling house on the following lots must not be more than 10m above ground level (existing):
 - (a) a lot in Zone RU1, RU2, RU3 or RU4,
 - (b) a lot in Zone R5 that has an area of at least 4,000m².

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- (4) The height of an outbuilding or the alterations and additions to an existing out building on the following must not be more than 4.8m above ground level (existing):
 - (a) a lot in Zone RU1, RU2, RU3 or RU4,
 - (b) a lot in Zone R5 that has an area of at least 4,000m².
- (5) The highest point of a dwelling house or the alterations and additions to an existing dwelling house referred to in subclause (1) or (3) must be at least 5m below the highest ridgeline of any hill within 100m of the dwelling or alteration.

3A.15 Setbacks of dwelling houses and ancillary development from roads

- (1) A dwelling house and all ancillary development on a lot in Zone R5 that has an area of less than 4,000m² must have a setback from the boundary with a primary road that is not a classified road of at least:
 - (a) the average distance of the setbacks of the nearest 2 dwelling houses having a boundary with the same primary road and located within 40m of the lot on which the dwelling house is erected, or
 - (b) in any case where 2 dwelling houses are not located within 40m of the lot, 10m.
- (2) A dwelling house and all ancillary development on a lot in the following zones must have a setback from the boundary with a primary road that is not a classified road of at least the following:
 - (a) if the lot is in Zone R5 and has an area of at least 4,000m²—15m,
 - (b) if the lot is in Zone RU4—30m,
 - (c) if the lot is in Zone RU1, RU2 or RU3—50m.
- (3) A dwelling house and all ancillary development must have a setback from a boundary with a secondary road that is not a classified road of at least the following:
 - (a) if the lot is in Zone R5 and has an area of less than 4,000m²—5m,
 - (b) if the lot is in Zone R5 and has an area of at least 4,000m², or is in Zone RU1, RU2, RU3 or RU4—10m.
- (4) A dwelling house and all ancillary development on a lot in Zone R5 that has an area of less than 4,000m² must have a setback from a boundary with a parallel road that is not a classified road of at least 10m.

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- (5) If a lot fronts a classified road, a dwelling house and any ancillary development must have a setback from the boundary with the classified road of:
- (a) if another environmental planning instrument applying to that lot specifies a setback for those circumstances, the setback specified by the other instrument, or
 - (b) the setback specified by subclauses (1) and (2), whichever is the greater.

3A.16 Setbacks of dwelling houses from side boundaries

- (1) This clause applies to a dwelling house and any carport, garage, balcony, deck, patio, pergola, terrace or verandah that is attached to the dwelling house (a *building*).
- (2) Any point of a building, on a lot to which this code applies, must have a setback from the side boundary nearest to that point of at least the following distance:
 - (a) if the lot is in Zone R5 and has an area of less than 4,000m²—2.5m,
 - (b) if the lot is in Zone R5, and has an area of at least 4,000m², or is in Zone RU1, RU2, RU3 or RU4—10m.

3A.17 Setbacks of dwelling houses from rear boundaries

- (1) This clause applies to a dwelling house and any carport, garage, balcony, deck, patio, pergola, terrace or verandah that is attached to the dwelling house (a *building*).
- (2) Any point of the building must have a setback from the rear boundary nearest to that point of at least 15m.

3A.18 Setbacks of outbuildings from side and rear boundaries

An outbuilding, or alterations and additions to an existing outbuilding, must have a setback from a side or rear boundary of at least:

- (a) if the only purpose of the outbuilding is for agricultural use—10m, or
- (b) in any other case—5m.

3A.19 Exceptions to setbacks

Despite any other clause in this Subdivision:

- (a) a new dwelling house or outbuilding must have a setback of at least 3m from a boundary with a public reserve, and

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- (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, 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, and
- (d) a dwelling house or outbuilding must have a setback of at least 40m from the bank of any perennial watercourse identified on a 1:50,000 topographical map published by the Land and Property Management Authority, and
- (e) a dwelling house or outbuilding must have a setback of at least 250m from a boundary with adjoining land being used for any of the following:
 - (i) forestry,
 - (ii) intensive livestock agriculture,
 - (iii) intensive plant agriculture,
 - (iv) mines and extractive industries,
 - (v) railway lines,
 - (vi) rural industries.

Note. The allowable encroachments permitted under clause 3.7.1.7 of Volume Two of the *Building Code of Australia* include fascias, gutters, downpipes, rainwater tanks, chimneys, flues, domestic fuel tanks, cooling or heating appliances, light fittings, electricity and gas meters, aerials, antennae, pergolas, sun blinds, unroofed terraces, landings, steps and certain ramps.

3A.20 Calculating setbacks

- (1) For the purpose of calculating the setback of an existing dwelling house, the location of any of the following is not included:
 - (a) any part of an existing garage or carport that is located between the building line of the dwelling house and a boundary with the primary road,
 - (b) any existing building element of a dwelling house that is located within the articulation zone.

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- (2) For the purpose of calculating the setbacks of the nearest two dwelling houses, those dwelling houses must be on the same side of the road as the lot.
 - (3) For the purpose of calculating the setbacks of a new dwelling house, any building element that is permitted in the articulation zone is not included.
 - (4) For the purpose of calculating setbacks for a battle-axe lot, the setback on the opposite side of the lot to the rear setback is taken to be a side setback.
 - (5) For the purpose of calculating the setback from a road, a reference to ancillary development does not include the following:
 - (a) a driveway, pathway or paving,
 - (b) the eaves,
 - (c) a fence or screen,
 - (d) a retaining wall,
 - (e) any ancillary development that is a building element that is permitted in the articulation zone.

3A.21 Articulation zone

- (1) This clause applies only to lots in Zone R5 that have an area of less than 4,000m².
- (2) A dwelling house, other than a dwelling house on a battle-axe lot, must have a front door and a window to a habitable room in the building wall that faces a primary road.
- (3) A dwelling house, other than a dwelling house on a battle-axe lot, must have a door and a window to a habitable room in the building wall that faces a parallel road.
- (4) A dwelling house, other than a dwelling house that has a setback from a primary road of less than 3m, may incorporate an articulation zone to a primary road.

3A.22 Building elements within the articulation zone

- (1) This clause applies only to lots in Zone R5 that have an area of less than 4,000m².
- (2) The following building elements are permitted in an articulation zone:
 - (a) an entry feature or portico,
 - (b) a balcony, deck, patio, pergola, terrace or verandah,

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- (c) a window box treatment,
 - (d) a bay window or similar feature,
 - (e) an awning or other feature over a window,
 - (f) a sun shading feature.
- (3) A building element on a dwelling house (other than a pitched roof to an entry feature or portico that has the same pitch as the roof on the dwelling house) must not extend more than:
- (a) 1m above the gutter line of the eaves of a single storey dwelling house, or
 - (b) above the gutter line of the eaves of a two storey dwelling house.
- (4) The maximum area of all building elements within the articulation zone, other than a building element listed in subclause (2) (e) or (f), must not be more than 25 per cent of the area of the articulation zone, measured through the horizontal plane of the elements.

3A.23 Privacy

- (1) This clause applies only to lots in Zone R5 that have an area of less than 4,000m².
- (2) A window in a dwelling house or a new window in any alterations or additions to an existing dwelling house must have a privacy screen if:
- (a) it is a window in a habitable room, other than a bedroom, that has a floor level of more than 1m above ground level (existing), and
 - (b) the wall in which the window is located has a setback of less than 3 metres from a side or rear boundary, and
 - (c) the window has a sill height of less than 1.5m.
- (3) A balcony, deck, patio, pergola, terrace or verandah and any alterations to an existing balcony, deck, patio, pergola, terrace or verandah must have a privacy screen if it:
- (a) has a setback of less than 3m from a side or rear boundary, and
 - (b) has a floor area more than 3m², and
 - (c) has a floor level more than 1 metre above ground level (existing).

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- (4) A detached deck, patio, pergola or terrace or any alterations or additions to an existing deck, patio, pergola or terrace must not have a floor level that is more than 600mm above ground level (existing).

Subdivision 4 Landscaping

3A.24 Landscaped area

- (1) A lot in Zone R5 that has an area of less than 4,000m² must have at least 45% of its area landscaped.
- (2) At least 50% of the area forward of the building line to the primary road must be landscaped.
- (3) The landscaped area must be at least 2.5m wide.

3A.25 Principal private open space

- (1) A lot in Zone R5 that has an area of less than 4,000m² and on which a new dwelling house is erected must have at least 24m² of principal private open space.
- (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 3m wide, and
 - (c) is not steeper than 1:50 gradient.

Subdivision 5 Car parking and access

3A.26 Car parking requirements

- (1) This clause applies only to lots in Zone R5 that have an area of less than 4,000m².
- (2) At least one off-street car parking space must be provided on a lot on which a new dwelling house is erected.
- (3) At least one off-street car parking space must be retained on a lot on which alterations or additions to an existing car parking space are carried out.
- (4) A car parking space under this clause may be an open hard stand space or a carport or garage, whether attached to or detached from the dwelling house.

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3A.27 Garages, carports and car parking spaces

- (1) This clause applies only to lots in Zone R5 that have an area of less than 4,000m².
- (2) A garage, carport or car parking space for a dwelling house must:
 - (a) if the dwelling house has a setback from a road boundary of 4.5m or more—be at least 1m behind the building line of the dwelling house, or
 - (b) if the dwelling house has a setback from a road boundary of less than 4.5m—be at least 5.5m from the boundary.
- (3) If the door or doors on a garage face a primary road, a secondary road or a parallel road, the total width of all those door openings must:
 - (a) be not more than 6m, and
 - (b) if the lot has a frontage of more than 15m—be not more than 50 per cent of the width of the building, measured at the building line to the relevant property boundary, and
 - (c) if the lot has a frontage of not more than 15m—be not more than 60 per cent of the width of the building, measured at the building line to the relevant property boundary.
- (4) An open hard stand car parking space must measure at least 2.6m wide by 5.4m long.

3A.28 Vehicle access

- (1) A lot on which an off-street car parking space is provided or retained under clause 3A.27 must have a driveway to a public road.
- (2) A driveway on a lot must be constructed in accordance with AS/NZS 2890.1—2004, *Parking facilities—Off-street car parking*.

Note. Clause 2.28 applies to the construction or installation of a driveway as exempt development.

Subdivision 6 Earthworks and drainage

3A.29 Excavation of sloping sites

- (1) Excavation associated with the erection of, or alterations or additions to, a dwelling house or ancillary development (other than a swimming pool) must:
 - (a) be not more than 2m below ground level (existing), and

- (b) be constructed using a retaining wall or unprotected embankment that meets the standards of subclause (2) or (3), respectively.
- (2) A retaining wall:
 - (a) must not redirect the flow of surface water onto adjoining property, and
 - (b) must not extend more than 2m horizontally from any external wall of the dwelling house or ancillary development.
- (3) An unprotected embankment must not extend more than 2m horizontally beyond the external wall of the dwelling house or ancillary development.
- (4) Excavation associated with the erection of, or alterations or additions to, a swimming pool must be not more than the depth required for the pool structure.

3A.30 Fill of sloping sites

- (1) Fill associated with the erection of, or an alteration or addition to, a dwelling house or ancillary development must:
 - (a) be contained wholly within the footprint of the dwelling house or ancillary development, or
 - (b) be adequately contained by a retaining wall that:
 - (i) is not higher than 600mm (including the height of any batters) above ground level (existing), and
 - (ii) does not redirect the flow of surface water onto adjoining property.
- (2) Despite subclause (1), exposed fill may be constructed using an unprotected embankment if the dwelling house or ancillary development has a setback of more than 2m from a side or rear boundary, if:
 - (a) the fill is not more than 600mm above ground level (existing), and
 - (b) the fill (but not the embankment) does not extend more than 1m beyond an external wall of the dwelling house or ancillary development, and
 - (c) the toe of the unprotected embankment has a setback of at least 400mm from a side or rear boundary.

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3A.31 Run-off and erosion controls

Run-off and erosion controls must be implemented to prevent soil erosion, water pollution or the discharge of loose sediment on the surrounding land by:

- (a) diverting uncontaminated run-off around cleared or disturbed areas, and
- (b) erecting a silt fence to prevent debris escaping into drainage systems and waterways, and
- (c) preventing tracking of sediment by vehicles onto roads, and
- (d) stockpiling top soil, excavated materials, construction and landscaping supplies and debris within the lot.

3A.32 Drainage

- (1) All stormwater drainage collecting as a result of the erection of, or alterations or additions to, a dwelling house or ancillary development must be conveyed by a gravity fed or charged system to:
 - (a) a public drainage system, or
 - (b) an inter-allotment drainage system, or
 - (c) an on-site disposal system.
- (2) All stormwater drainage systems within a lot and the connection to a public or an inter-allotment drainage system must:
 - (a) if an approval is required under section 68 of the *Local Government Act 1993*, be approved under that Act, or
 - (b) if an approval is not required under section 68 of the *Local Government Act 1993*, comply with any requirements for the disposal of stormwater drainage contained in a development control plan that is applicable to the land.

Subdivision 7 Ancillary development

3A.33 Swimming pools

- (1) Ancillary development comprising a swimming pool for private use must be located on a lot:
 - (a) behind the setback area from a primary road, or
 - (b) in the rear yard.
- (2) The swimming pool water line must have a setback of at least 1m from a side or rear boundary.

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- (3) Decking around a swimming pool must not be more than 600mm above ground level (existing).
 - (4) Coping around a swimming pool must not be more than:
 - (a) 1.4m above ground level (existing), or
 - (b) 300mm wide if the coping is more than 600mm above ground level (existing).
 - (5) Water from a swimming pool must be discharged in accordance with an approval under the *Local Government Act 1993* if the lot is not connected to a sewer main.
 - (6) Pumps attached to the development must be housed in a soundproof enclosure.
 - (7) If the swimming pool is being constructed after, and at a different time to, the erection of a dwelling on the lot, the development standards for this code (other than the standards referred to in clauses 3A.10 and 3A.24) do not apply to the construction.

Note. A child-resistant barrier must be constructed or installed in accordance with the requirements of the *Swimming Pools Act 1992*.

3A.34 Fences and retaining walls

- (1) A fence and any associated retaining wall located within the setback area from a primary road must:
 - (a) not be more than 1.2m above ground level (existing), and
 - (b) be open for at least 50 per cent of the upper $\frac{2}{3}$ of the area of the fence, and
 - (c) in relation to any brick or other solid portion of the fence above 600mm, be not more than 250mm wide.
- (2) A fence and any associated retaining wall located behind the setback area from a primary road or any side or rear boundary fence must not be more than 1.8m above ground level (existing).
- (3) A retaining wall or embankment that is not subject to Subdivision 6 must not have a height above or below ground level (existing) of more than:
 - (a) 600mm at any distance up to 500mm from a side or rear boundary, or
 - (b) 1m at any distance more than 500mm from a side or rear boundary.

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- (4) The fence or the fence and associated retaining wall on a sloping lot may be stepped, provided the height of each step is not more than:
 - (a) 1.6m above ground level (existing) if it is located within a setback area from a primary road, or
 - (b) 2.2m above ground level (existing) in any other case.
- (5) If the land on which a fence or retaining wall is to be erected is bush fire prone land, the fence or retaining wall must be constructed from non-combustible materials.
- (6) All fill on a lot that is not subject to Subdivision 6 must be retained by a retaining wall.
- (7) Fill more than 150mm deep must not occupy an area of more than 50 per cent of the landscaped area of the lot.

3A.35 Construction of fences

- (1) A fence must not incorporate barbed wire in its construction or be electrified if it is on a lot in Zone R5.
- (2) If the land on which a fence is to be erected is bush fire prone land, the fence must be constructed from non-combustible materials.
- (3) Metal used in the construction of a fence must be low reflective and factory pre-coloured.
- (4) A fence must not be of solid construction (for example, colourbond) if it is on a side or rear boundary of a lot.
- (5) A fence must not be constructed so as to redirect the overland flow of surface water onto adjoining properties.

Subdivision 8 Outbuildings

3A.36 Development standards for outbuildings in heritage conservation areas

- (1) This clause applies:
 - (a) to an outbuilding erected on a lot in a heritage conservation area or a draft heritage conservation area to which this code applies, and
 - (b) in addition to the development standards specified in clauses 3A.10, 3A.14, 3A.18 and 3A.24.

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- (2) The outbuilding must be located:
 - (a) behind the rear most building line of the dwelling house, and
 - (b) no closer to each side boundary than the dwelling house.
 - (3) The floor area of an outbuilding must not be more than 20m².
 - (4) The lot must not adjoin a lane or a secondary or parallel road frontage.

Subdivision 9 Development standards for particular land

3A.37 Development standards for bush fire prone land

- (1) This clause applies:
 - (a) to all development specified for this code that is to be carried out on a lot that is wholly or partly bush fire prone land (other than development that is the erection of a farm building that is more than 10m from any dwelling house, landscaping, a non-combustible fence or a swimming pool), and
 - (b) in addition to all other development standards specified for this code.
- (2) The development may be carried out on the lot only if:
 - (a) the development conforms to the specifications and requirements of the following that are relevant to the development:
 - (i) *Planning for Bush Fire Protection* (ISBN 0 9751033 2 6) published by the NSW Rural Fire Service in December 2006,
 - (ii) *Addendum: Appendix 3* (ISBN 0 9751033 2 6, published by NSW Rural Fire Service in 2010) to *Planning for Bush Fire Protection* (ISBN 0 9751033 2 6),
 - (iii) if another document is prescribed by the regulations for the purposes of section 79BA of the *Environmental Planning and Assessment Act 1979*—that document, and
 - (b) the part of the lot on which the development is to be carried out and any associated access way is not in bush fire attack level-40 (BAL-40) or the flame zone (BAL-FZ), and
 - (c) the lot has direct access to a public road or a road vested in or maintained by the council, and

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- (d) the development is located within 200m of that road, and
- (e) there is sufficient access designed in accordance with the acceptable solutions identified in clause 4.1.3 (2) of *Planning for Bush Fire Protection* (ISBN 0 9751033 2 6) published by the NSW Rural Fire Service in December 2006, and
- (f) a 20,000L water supply with 65mm metal Storz outlet with a gate or ball valve is provided for fire fighting purposes on the lot (the gate or ball valve, pipes and tank penetrations are to be designed to allow for a full 50mm inner diameter water flow through the Storz fitting and must be of a metal construction), and
- (g) reticulated or bottled gas on the lot is installed and maintained in accordance with AS/NZS 1596:2008, *The storage and handling of LP Gas* and the requirements of relevant authorities (metal piping must be used), and
- (g) all fixed gas cylinders on the lot are located at least 10m from flammable materials and are enclosed on the hazard side of the installation, and
- (h) any gas cylinders on the lot that are within 10m of a dwelling house:
 - (i) have the release valves directed away from the dwelling house, and
 - (ii) have metal connections to and from the cylinders, and
- (i) there are no polymer sheathed flexible gas supply lines to gas meters adjacent to the dwelling.

Note. The requirements of AS 3959—2009, *Construction of buildings in bushfire-prone areas* set out in the *Building Code of Australia* also apply.

- (3) A standard specified in subclause (2) (b) is satisfied if one of the following certifies that the development is not in bush fire attack level-40 (BAL-40) or the flame zone (BAL-FZ):
 - (a) until 25 February 2012—the NSW Rural Fire Service, or
 - (b) a person who is recognised by the NSW Rural Fire Service as a suitably qualified consultant in bush fire risk assessment, or
 - (c) the council.

Note. More information about the categories of bush fire attack, including the flame zone, can be found in Table A3.4.2 of *Addendum: Appendix 3* (ISBN 0 9751033 2 6 and published by NSW Rural Fire

Service in 2010) to the publication titled *Planning for Bush Fire Protection* (ISBN 0 9751033 2 6) published by NSW Rural Fire Service in 2006.

3A.38 Development standards for flood control lots

- (1) This clause applies:
 - (a) to all development specified for this code that is to be carried out on a flood control lot, and
 - (b) in addition to all other development standards specified for this code.
- (2) The development must not be on any part of a flood control lot that has been certified by the council or a professional engineer who specialises in hydraulic engineering as:
 - (a) a flood storage area,
 - (b) a floodway area,
 - (c) a flow path,
 - (d) a high hazard area,
 - (e) a high risk area.
- (3) The development must, to the extent it is within a flood planning area:
 - (a) have all habitable rooms no lower than the floor levels set by the council for that lot, and
 - (b) have the part of the development at or below the flood planning level constructed of flood compatible material, and
 - (c) be able to withstand the forces of floodwater, debris and buoyancy up to the flood planning level (or if on-site refuge is proposed, the probable maximum flood level), and
 - (d) not increase flood affectation elsewhere in the floodplain, and
 - (e) have reliable access for pedestrians and vehicles from the development, at a minimum level equal to the lowest habitable floor level of the development, to a safe refuge, and
 - (f) have open car parking spaces or carports that are no lower than the 20-year flood level, and

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- (g) have driveways between car parking spaces and the connecting public roadway that will not be inundated by a depth of water greater than 0.3m during a 1:100 ARI (average recurrent interval) flood event.
- (4) A standard specified in subclause (3) (c) or (d) is satisfied if a joint report by a professional engineer who specialises in hydraulic engineering and a professional engineer who specialises in civil engineering confirms that the development:
 - (a) can withstand the forces of floodwater, debris and buoyancy up to the flood planning level (or if on-site refuge is proposed, the probable maximum flood level), or
 - (b) will not increase flood affectation elsewhere in the floodplain.
- (5) A word or expression used in this clause has the same meaning as it has in the Floodplain Development Manual, unless it is otherwise defined in this clause.
- (6) In this clause:

flood compatible material means building materials and surface finishes capable of withstanding prolonged immersion in water.

Floodplain Development Manual means the *Floodplain Development Manual* (ISBN 0 7347 5476 0) published by the NSW Government in April 2005.

flow path means a flow path identified in the council's flood study or floodplain risk management study carried out in accordance with the Floodplain Development Manual.

high hazard area means a high hazard area identified in the council's flood study or floodplain risk management study carried out in accordance with the Floodplain Development Manual.

high risk area means a high risk area identified in the council's flood study or floodplain risk management study carried out in accordance with the Floodplain Development Manual.

Division 4 Conditions applying to complying development certificates 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

3A.39 Protection of adjoining areas

A temporary hoarding or 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
- (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.

3A.40 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*.

3A.41 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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3A.42 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.

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.

3A.43 Hours of construction

Construction 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.

3A.44 Compliance with plans

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

3A.45 Sedimentation and erosion controls

Run-off and erosion controls must be effectively maintained until the site has been stabilised and landscaped.

3A.46 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

3A.47 Staging construction

- (1) If the complying development is the erection of, or alterations or additions to, a dwelling house, the roof stormwater drainage system must be installed and connected to the drainage system before the roof covering is installed.

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- (2) Any approval that is required for connection to the drainage system under the *Local Government Act 1993* must be held before the connection is carried out.
 - (3) If the complying development involves the construction of a vehicular access point, the access point must be completed before the occupation certificate for the complying development on the site is obtained.

3A.48 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.

[121] Part 4, heading

Omit “**Internal**”.

[122] Clauses 4.2–4.6

Renumber as clauses 4.7–4.11.

[123] Clause 4.1A Development standards

Renumber as clause 4.2.

[124] Part 4, Division 1, Subdivision 2

Omit the Subdivision. Insert instead:

Subdivision 2 External alterations

4.3 Specified complying development

The following development is specified for this code:

- (a) if the development is on land that is not within a heritage conservation area or a draft heritage conservation area—external alterations to an existing dwelling house,
- (b) if the development is on land that is within a heritage conservation area or a draft heritage conservation area—external alterations to that part of the dwelling house that is a single storey,
- (c) external alterations to existing ancillary development that is associated with a dwelling house.

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4.4 Development standards

The standards specified for that development are that the development:

- (a) must not result in a change of classification of the building under the Act or the *Building Code of Australia*, and
- (b) must not result in a change to the floor area of the dwelling house, and
- (c) must not result in a change to the footprint of the dwelling house, and
- (d) if it is a new window in an alteration or addition to an existing dwelling house, must have a privacy screen if:
 - (i) it is a window in a habitable room, other than a bedroom, that has a floor level of more than 1m above ground level (existing), and
 - (ii) the wall in which the window is located has a setback of less than 3 metres from a side or rear boundary, and
 - (iii) the window has a sill height of less than 1.5m, and
- (e) if it is located on bush fire prone land and is a new opening—must be adequately sealed or protected to prevent the entry of embers, and
- (f) if it is located in a heritage conservation area or a draft heritage conservation area—is limited to a wall, including a wall opening, behind the rear most building line.

Subdivision 3 Attic conversions

4.5 Specified complying development

An attic conversion in respect of a dwelling house that existed at the commencement of this clause is development specified for this code.

4.6 Development standards

- (1) The standards specified for that development are that the development:
 - (a) must be contained entirely within the roof space, and
 - (b) must not result in a change in the roof pitch, and
 - (c) must have one dormer window if the building is less than 6m wide or 2 dormer windows if the building is 6m wide or more, and

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- (d) the flashing or waterproofing for a dormer window must not span the roof ridge, and
 - (e) if it is constructed in a heritage conservation area or a draft heritage conservation area:
 - (i) must not contain a dormer window or extend the roof in any way, and
 - (ii) must only have windows that are flush with the existing roof plane, and
 - (iii) must only have windows that are located in the existing rear roof plane, and
 - (iv) must only have windows that do not exceed 1.5m² in total.
 - (2) A dormer window referred to in subclause (1):
 - (a) must not have a width of more than 1.3m, and
 - (b) must not exceed the height of the existing roof ridge height, and
 - (c) must be set in at least 500mm from the edge of the roof, and
 - (d) must be at least 200mm below the existing roof ridge height, and
 - (e) facing to the rear of the building, must not have a total area of more than 4m².

[125] Clause 4.9 Hours for construction (as renumbered by item [122])

Omit “or demolition” from the clause wherever occurring.

[126] Clause 4.11 Maintenance of site (as renumbered by item [122])

Omit “Demolition materials and waste materials” from clause 4.11 (2).

Insert instead “Waste materials”.

[127] Part 4A

Insert after Part 4:

Part 4A General Development Code

Note 1. Schedule 3 contains variations to this code.

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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 and development standards under this code

Subdivision 1 Bed and breakfast accommodation

4A.1 Specified complying development

Bed and breakfast accommodation is development specified for this code if it is:

- (a) carried out on land in a land use zone where bed and breakfast accommodation is a permissible use, and
- (b) not constructed or installed on bush fire prone land.

4A.2 Development standards

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

- (a) be in an existing dwelling house, and
- (b) consist of not more than 4 guest bedrooms, and
- (c) have at least 1 guest bathroom, and
- (d) have a fire extinguisher and fire blanket in the kitchen, and
- (e) have at least 1 off-road car parking space per guest bedroom, and
- (f) not display any advertisement on the premises (other than a notice or sign indicating the name and occupation of the resident), and
- (g) if the dwelling house is subject to the *Strata Schemes Management Act 1996* or the *Community Land Management Act 1989*—have the prior approval of the owners corporation, or the community, precinct or neighbourhood association.

Note. The use of a dwelling as bed and breakfast accommodation will result in a change of building class for the dwelling under the *Building*

Code of Australia. There will be new fire safety and access requirements.

Division 2 Conditions applying to complying development certificates 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.

[When this SEPP was made there were no conditions in this Division.]

[128] Clause 5.2 Development standards—general

Omit “*premises, and*” from clause 5.2 (g). Insert instead “*premises.*”.

[129] Clause 5.2

Omit clause 5.2 (h).

[130] Clause 5.7 Specified complying development

Omit “on, or in relation to, a heritage item or a draft heritage item, or” from clause 5.7.

[131] Clause 5.8 Development standards

Omit “*methods, and*” from clause 5.8 (d). Insert instead “*methods.*”.

[132] Clause 5.8

Omit clause 5.8 (e).

[133] Clause 5.10 Development standards

Omit “*disability, and*” from clause 5.10 (d). Insert “*disability.*”.

[134] Clause 5.10

Omit clause 5.10 (e).

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[135] Clause 5.12

Omit clause 5.12. Insert instead:

5.12 Development standards

The standard specified for that development is that the development be constructed or installed so that any opening created is adequately weather proofed.

[136] Clause 5.16 Hours for construction

Omit “or demolition” from clause 5.16.

[137] Clause 5.18 Maintenance of site

Omit “Demolition materials and waste materials” from clause 5.18 (2).

Insert instead “Waste materials”.

[138] Part 7

Insert after Part 6:

Part 7 Demolition 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 and development standards under this code

7.1 Specified complying development

- (1) The demolition or removal of the following development, is development specified for this code:
 - (a) a dwelling,
 - (b) ancillary development,
 - (c) an industrial building,

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- (d) a commercial building that would be complying development under the General Commercial and Industrial Code if it were being constructed.
 - (2) If development specified under subclause (1) is within a heritage conservation area or a draft heritage conservation area, the development may only relate to:
 - (a) an outbuilding that may be constructed under clause 3.36A or 3A.36, or
 - (b) an alteration under clause 4.1, or
 - (c) an external alteration that may be constructed under clause 4.3 (b) or (c), or
 - (d) an attic conversion that may be constructed under clause 4.5.

7.2 Development standards

- (1) The standards specified for that development are that:
 - (a) the development must be carried out in accordance with AS 2601—2001, *The demolition of structures*, and
 - (b) run-off and erosion controls to prevent soil erosion, water pollution or the discharge of loose sediment on the land surrounding the development must be implemented by:
 - (i) diverting uncontaminated run-off around cleared or disturbed areas, and
 - (ii) erecting a silt fence to prevent debris escaping into drainage systems and waterways, and
 - (iii) preventing tracking of sediment by vehicles onto roads, and
 - (iv) stockpiling top soil, excavated materials, construction and landscaping supplies and debris within the lot, and
 - (c) any essential service must be disconnected from the structure being demolished or removed in accordance with the requirements of the relevant authority, and
 - (d) the structure being demolished or removed must not be relocated on the same lot or to a different lot, unless it meets the relevant development standards specified in Part 3 or Part 3A, and
 - (e) the development must, if it is the demolition or removal of an existing attached dwelling or a semi-detached dwelling, not be carried out within the front 6m of the dwelling or forward of the roof ridge line.

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- (2) Despite any other development standard of this code, if the development involves the demolition or removal of a wall to a boundary that has a wall less than 0.9m from the boundary, the wall must be demolished or removed in accordance with the method of maintaining support proposed by the professional engineer's report provided with the application for the complying development certificate.
- (3) If the demolition or removal referred to in subclause (2) results in the exposure of a common wall, the common wall must, at the completion of the development, be weatherproofed.

Division 2 Conditions applying to complying development certificates 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

7.3 Protection of adjoining areas

A temporary hoarding or 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
- (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.

7.4 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*.

7.5 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.

7.6 Notification to neighbours

- (1) 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.
- (2) The notice must state that the works may include the removal of asbestos and, if it does, it will be carried out by a licensed person in accordance with the requirements of the *Occupational Health and Safety Regulation 2001*.

7.7 Adjoining wall dilapidation report

- (1) If on a lot a wall built to a boundary is to be demolished and there is a wall (the ***adjoining wall***) on the lot adjoining that boundary that is less than 0.9m from that boundary, the person having the benefit of the complying development certificate must obtain a dilapidation report on the adjoining wall.
- (2) If the person preparing the report is denied access to the adjoining lot for the purpose of inspecting the adjoining wall, the report may be prepared from an external inspection of the adjoining wall.
- (3) In this clause:
dilapidation report means a report, prepared by a professional engineer, confirming the structural condition of the adjoining wall before the development commences.

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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.

7.8 Hours for demolition

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

7.9 Compliance with plans

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

7.10 Sedimentation and erosion controls

Run-off and erosion controls must be effectively maintained until the site has been stabilised and landscaped.

7.11 Maintenance of site

- (1) Demolition 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.

[139] Schedule 1 Amendment of other environmental planning instruments

Omit the Schedule.

Schedule 2 Amendment of State Environmental Planning Policy No 4—Development Without Consent and Miscellaneous Exempt and Complying Development

[1] Clause 2 Definitions

Omit the definition of *filming* from clause 2 (1).

[2] Clause 3 Aims, objectives etc

Omit clause 3 (3).

[3] Part 4 Exempt development

Omit the Part.

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Schedule 3 Amendment of State Environmental Planning Policy No 60—Exempt and Complying Development

Schedule 3 Amendment of State Environmental Planning Policy No 60—Exempt and Complying Development**[1] Schedule 3 Exempt development**

Omit clauses 3–6 and 10.

[2] Schedule 4 Complying development in metropolitan Sydney

Omit all matter relating to items 1–3 and 5 (including matter relating to Group A, Group B, Group C, Group D and Group F).

[3] Schedule 5 Complying development

Omit all matter relating to items 1–3 and 5 (including matter relating to Group A, Group B and Group D).

Schedule 4 Amendment of State Environmental Planning Policy (Affordable Rental Housing) 2009

[1] Clause 23 Complying development

Omit “clause 1.18 (1) and (2)” from clause 23 (1) (a).

Insert instead “clauses 1.17A (1) and 1.18 (1) and (2)”.

[2] Clause 23 (1) (b)

Omit “clause 1.19” from the paragraph.

Insert instead “clause 1.19 (1), (3) and (6)”.

[3] Clause 23 (2) (b) (i)

Omit “clause 1.19 of” from the subparagraph.

[4] Clause 23 (2A)

Insert after subclause (2):

(2A) Development under subclauses (2) and (3) must also satisfy the requirements for complying development specified in clauses 3.36B and 3.36C of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.

[5] Clause 45 Complying development—group homes

Omit “clauses 1.18 (2) (c) and 1.19 (2) (e)” from clause 45 (1).

Insert instead “clauses 1.18 (1) (h) and 1.19 (6) (b)”.

[6] Clause 45 (1) (a)

Omit “clause 1.19 (2) (c)” from the paragraph.

Insert instead “clause 1.19 (6) (a)”.

[7] Clause 45 (1) (b) and (c)

Omit the paragraphs.

[8] Clause 45 (1A)

Insert after subclause (1):

(1A) Development under subclause (1) must also satisfy the requirements for complying development specified in clause 3.36B of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.