



New South Wales

State Environmental Planning Policy (Exempt and Complying Development Codes) Amendment (Miscellaneous) (No 2) 2011

under the

Environmental Planning and Assessment Act 1979

Her Excellency the Governor, with the advice of the Executive Council, has made the following State environmental planning policy under the *Environmental Planning and Assessment Act 1979*.

BRAD HAZZARD, MP
Minister for Planning and Infrastructure

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1 Name of Policy

This Policy is *State Environmental Planning Policy (Exempt and Complying Development Codes) Amendment (Miscellaneous) (No 2) 2011*.

2 Commencement

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- (1) This Policy is repealed on the day following the day on which this Policy commences.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

Schedule 1 **Amendment of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008**

[1] Clause 1.8 Relationship with other State environmental planning policies

Omit “1 September 2011” wherever occurring in clause 1.8 (4) and (5).

Insert instead “1 September 2012”.

[2] Clause 1.9

Omit the clause. Insert instead:

1.9 Relationship with local environmental plans and development control plans

(1) Exempt or complying development under this Policy and standard plans

A standard plan does not apply to development that is specified in the plan as exempt development or complying development and that is specified in this Policy as exempt development or complying development.

(2) Exempt development under this Policy and non-standard plans

If this Policy and a non-standard plan specify the same development as exempt development, the non-standard plan does not apply to that development.

(3) Subclause (2) not to apply in relation to land in Bathurst Regional

Despite subclause (2), if this Policy and *Bathurst Regional (Interim) Local Environmental Plan 2005* specify the same development as exempt development, that Plan continues to apply to that development.

(4) Complying development under this Policy and non-standard plans

If this Policy and a non-standard plan specify the same development as complying development, the non-standard plan continues to apply to that development.

(5) Subclause (4) not to apply in relation to land in Kiama or Wyong

Despite subclause (4), if this Policy and a non-standard plan that applies to land in the local government area of Kiama or Wyong specify the same development as complying development, that plan does not apply to that development.

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(6) **Complying development under this Policy and exempt development under non-standard plan**

If this Policy specifies development as complying development and a non-standard plan specifies the same development as exempt development, the non-standard plan does not apply to that development.

(7) **Exempt development under this Policy and complying development under non-standard plan**

If this Policy specifies development as exempt development and a non-standard plan specifies the same development as complying development, the non-standard plan continues to apply to that development.

(8) **Subclause (7) not to apply in relation to land in Kiama and Wyong**

Despite subclause (7), if this Policy specifies development as exempt development and a non-standard plan that applies to land in the local government area of Kiama or Wyong specifies the same development as complying development, that plan does not apply to that development.

(9) **Additional exempt and complying development under standard and non-standard plans**

If a standard plan or non-standard plan specifies exempt development or complying development that is not the same as development specified as either exempt development or complying development in this Policy, this Policy does not affect the operation of that plan in relation to that development.

- (10) If a provision of this clause provides for a plan to continue to apply to development, that development may be carried out under this Policy or under the plan.

Note. The *Environmental Planning and Assessment Regulation 2000* specifies that a person must refer to the environmental planning instrument under which the development is complying development in an application for a complying development certificate.

(11) In this clause:

non-standard plan means a local environmental plan (whether made before or after the commencement of this Policy) that has not been made as provided by section 33A (2) of the Act and a deemed environmental planning instrument and includes a development control plan adopted for the purposes of the plan or instrument.

standard plan means a local environmental plan (whether made before or after the commencement of this Policy) that has been made as provided by section 33A (2) of the Act and includes a development control plan adopted for the purposes of the plan.

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

Omit clause 3.14 (4).

[4] Clause 3.33 Development standards for detached studios adjoining lanes

Insert “3.8,” after “clauses” in clause 3.33 (1) (b).

[5] Clause 3.33 (10) and (11)

Insert after clause 3.33 (9):

(10) A window in a new detached studio or a new window in any alterations or additions to an existing detached studio must have a privacy screen if:

- (a) the window faces a dwelling house on the same lot or on an immediately adjoining lot, and
- (b) the window is in a room that has a floor level of more than 2.5 metres above ground level (existing), and
- (c) the window has a sill height of less than 1.5 metres.

(11) Paragraphs (a) and (b) of the definition of ***privacy screen*** in clause 1.5 (1) do not apply to a privacy screen referred to in subclause (10).

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[6] Schedule 3 Complying development codes—variations

Insert in alphabetical order in Columns 1 and 2, respectively:

Palerang

All of the land in the local government area of Palerang that is inside the heavy black line shown on the map within the meaning of the *Cooma-Monaro Local Environmental Plan 1999—(Rural)*

The Rural Housing Code is varied in its application by:

- (a) inserting “(other than on land in the local government area of Palerang that is inside the heavy black line shown on the map within the meaning of the *Cooma-Monaro Local Environmental Plan 1999—(Rural)*)” after “dwelling house” in clause 3A.2 (1),
- (b) inserting after clause 3A.2 (2) the following subclause:
 - (2A) The erection of a new single storey or two storey dwelling house on land in the local government area of Palerang that is inside the heavy black line shown on the map within the meaning of the *Cooma-Monaro Local Environmental Plan 1999—(Rural)* is development specified for this code if the development is erected on a lot that:
 - (a) has an area of at least 80 hectares, or
 - (b) is subject to a restriction created under section 88B of the *Conveyancing Act 1919* that specifies a building envelope for the lot and was required by the council.