



New South Wales

# **State Environmental Planning Policy (Exempt and Complying Development Codes) Amendment (Commercial and Industrial) 2014**

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*.

PRU GOWARD, MP  
Minister for Planning

## **State Environmental Planning Policy (Exempt and Complying Development Codes) Amendment (Commercial and Industrial) 2014**

under the

Environmental Planning and Assessment Act 1979

### **1 Name of Policy**

This Policy is *State Environmental Planning Policy (Exempt and Complying Development Codes) Amendment (Commercial and Industrial) 2014*.

### **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- (1) This Policy is repealed on the day following the day on which this Policy commences.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 1.4A**

Insert after clause 1.4:

**1.4A    Development to which Policy does not apply**

This Policy does not apply to development for the purposes of the alteration or demolition of a building to which Part 3 of *State Environmental Planning Policy (Affordable Rental Housing) 2009* applies. (For that purpose only, Part 3 is to be construed as if any reference to a time relating to the lodgment of a development application were a reference to the time the development commences.)

**[2]    Clause 1.8 Relationship with other State environmental planning policies**

Omit “this Policy does not apply to that development” from clause 1.8 (4).

Insert instead “that Policy prevails to the extent of any inconsistency”.

**[3]    Clause 5.2 Development standards**

Omit clause 5.2 (1) (i).

**[4]    Clause 5.4 Development standards**

Omit clause 5.4 (1) (h) and (i). Insert instead:

- (h) car parking must be provided:
  - (i) in accordance with any existing condition relating to car parking that applies to the use of the land, or
  - (ii) if there is no existing condition relating to car parking either:
    - (A) in accordance with any relevant requirements contained in an environmental planning instrument or development control plan applying to the land, or
    - (B) if a contribution in relation to car parking in compliance with a contributions plan under Division 6 of Part 4 of the Act is imposed as a condition of approval under clause 136K of the *Environmental Planning and Assessment Regulation 2000*—if that contribution is made.

**[5]    Clause 5.6 Development standards**

Omit clause 5.6 (1) (c). Insert instead:

- (c) car parking must be provided:
  - (i) in accordance with any existing condition relating to car parking that applies to the use of the land, or
  - (ii) if there is no existing condition relating to car parking either:
    - (A) in accordance with any relevant requirements contained in an environmental planning instrument or development control plan applying to the land, or

- (B) if a contribution in relation to car parking in compliance with a contributions plan under Division 6 of Part 4 of the Act is imposed as a condition of approval under clause 136K of the *Environmental Planning and Assessment Regulation 2000*—if that contribution is made.

**[6] Clause 5A.5**

Omit the clause. Insert instead:

**5A.5 General standards**

The standard specified for development to which this Division applies is that it must not contravene any condition of an existing development consent that applies to the land in relation to car parking, hours of operation, landscaping, noise, loading, traffic generation, vehicular movement and waste management.

**[7] Clause 5A.10 Setbacks of development from roads**

Omit clause 5A.10 (2). Insert instead:

- (2) If the development has a boundary with a primary road that is not a classified road, the building must have a setback from that boundary of:
- (a) the average distance of the setbacks of the nearest 2 buildings that:
    - (i) have a boundary with the same road, and
    - (ii) are located within 40m of the lot on which the building is erected, and
    - (iii) are used for the purpose of industry or a warehouse or distribution centre, or
  - (b) at least 10m,
- whichever is the lesser.

**[8] Clause 5A.10 (4A)**

Insert after clause 5A.10 (4):

- (4A) If the development is on a lot that is subject to a proposed road widening under a local environmental plan, the building must have a setback from the boundary with the road, after acquisition for the road widening, of at least:
- (a) if the road widening is for a local road—10m, or
  - (b) if the road widening is for a classified road widening, a future classified road widening or a local road future classified road—4.5m.

**[9] Clause 5A.11 Setbacks of development from side and rear boundaries**

Omit “environmentally sensitive land” from clause 5A.11 (3).

Insert instead “an environmentally sensitive area”.

**[10] Clause 5A.11 (3)**

Omit “that land”. Insert instead “that environmentally sensitive area”.

**[11] Clause 5A.24 Car parking and access**

Omit clause 5A.24 (1) (a). Insert instead:

- (a) either:
  - (i) in accordance with any relevant requirements contained in an environmental planning instrument or a development control plan applying to the land, or
  - (ii) if a contribution in relation to car parking in compliance with a contributions plan under Division 6 of Part 4 of the Act that is imposed as a condition of approval under clause 136K of the *Environmental Planning and Assessment Regulation 2000*—if that contribution is made, or

**[12] Schedule 8 Conditions applying to complying development certificates under the Commercial and Industrial Alterations Code and the Commercial and Industrial (New Buildings and Additions) Code**

Omit clause 21. Insert instead:

**21 Hours of operation**

- (1) If there are existing conditions on a development consent applying to hours of operation, the development must not be operated outside the hours specified in those conditions.
- (2) If there are no existing conditions on a development consent applying to hours of operation, the development must not be operated outside the following hours:
  - (a) if the development involves a new use as bulky goods premises or other commercial premises—7.00 am to 10.00 pm Monday to Saturday and 7.00 am to 8.00 pm on a Sunday or a public holiday,
  - (b) if the development involves a new use as something other than a bulky goods premises or other commercial premises and adjoins or is opposite a residential lot within a residential zone or Zone RU5 Village—7.00 am to 7.00 pm Monday to Saturday and no operation on a Sunday or a public holiday,
  - (c) in any other case not referred to in paragraph (a) or (b)—7.00 am to 7.00 pm Monday to Saturday and 9.00 am to 6.00 pm on a Sunday or a public holiday.

## **Schedule 2      Amendment of State Environmental Planning Policy (Affordable Rental Housing) 2009**

**[1]    Clause 23 Complying development**

Omit “clause 1.19 (3)” from clause 23 (1) (b). Insert instead “clause 1.19 (1)”.

**[2]    Part 3 Retention of existing affordable rental housing**

Insert after the heading to the Part:

**Note.** Development that would otherwise be complying development cannot be carried out in relation to low-rental dwellings or low-rental residential buildings. (See clause 1.4A of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.)