



New South Wales

# **State Environmental Planning Policy (Exempt and Complying Development Codes) Amendment (Container Recycling) 2017**

under the

Environmental Planning and Assessment Act 1979

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

ANTHONY ROBERTS, MP  
Minister for Planning

## **State Environmental Planning Policy (Exempt and Complying Development Codes) Amendment (Container Recycling) 2017**

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### **1 Name of Policy**

This Policy is *State Environmental Planning Policy (Exempt and Complying Development Codes) Amendment (Container Recycling) 2017*.

### **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- (1) This Policy is repealed on the day following the day on which this Policy commences.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 1.5 Interpretation—general**

Insert in appropriate order in clause 1.5 (1):

*collection point* has the same meaning as in Part 5 of the *Waste Avoidance and Resource Recovery Act 2001*.

*container deposit scheme* means the container deposit scheme established by Part 5 of the *Waste Avoidance and Resource Recovery Act 2001*.

*Container Recycling Facilities Code* means the code for complying development set out in Part 5B.

*container recycling facility*—see clause 5B.1.

*manual collection point*—see clause 5B.1.

*reverse vending machine* has the same meaning as in Part 5 of the *Waste Avoidance and Resource Recovery Act 2001*.

### **[2]    Clause 1.5 (1)**

Insert after paragraph (e1) of the definition of *complying development code*:

(e2)    the Container Recycling Facilities Code,

### **[3]    Clause 2.20A Specified development**

Omit “an existing use” and “**Existing use**” wherever occurring in clause 2.20A.

Insert instead “a current use” and “**Current use**”, respectively.

### **[4]    Clause 2.20B Development standards**

Omit “building use” from clause 2.20B (d). Insert instead “building classification”.

### **[5]    Clause 2.20B (f) (v)**

Omit “landscape and garden supplies”. Insert instead “landscaping material supplies”.

### **[6]    Part 2, Division 1, Subdivision 12**

Insert after Subdivision 11 of Division 1 of Part 2:

#### **Subdivision 12    Container recycling equipment**

##### **2.23    Specified development**

(1)    The following development is specified for this code:

- (a)    the erection on land of a reverse vending machine or a container collection cage,
- (b)    the erection or operation of a mobile reverse vending machine.

(2)    The development is not development specified for this code if it is carried out on land in a residential or rural zone, unless:

- (a)    the land is lawfully used for the purposes of a community facility, an educational establishment or any other building or place used for the physical, social, cultural or intellectual development or welfare of the community, or

- (b) the development is carried out in connection with a commercial, community or retail event or a private function.
- (3) In this Subdivision:
  - container collection cage** means a cage, or other structure, that is designed to store containers deposited at collection points.
  - container recycling equipment** means:
    - (a) a reverse vending machine, or
    - (b) a mobile reverse vending machine, or
    - (c) a container collection cage.
  - erection or operation of a mobile reverse vending machine** means:
    - (a) the erection on land of a mobile structure that is fitted with a reverse vending machine, or
    - (b) the operation of a reverse vending machine on land from a vehicle.
  - mobile reverse vending machine** means a vehicle, or mobile structure, that is fitted with a reverse vending machine.
  - Noise Policy** means the document entitled *NSW Industrial Noise Policy* published by the Environment Protection Authority and in force as at the commencement of this Subdivision.

## 2.24 Development standards

- (1) The standards specified for that development are that:
  - (a) the container recycling equipment must not restrict any vehicular or pedestrian access to or from, or entry to any building on, the land on which the equipment is located, and
  - (b) the container recycling equipment must not obstruct the operation of, or access to, any utility services on the land on which the equipment is located or on adjacent land, and
  - (c) the container recycling equipment must, if erected outdoors:
    - (i) be constructed of material that protects the equipment from weathering, and
    - (ii) be painted or treated to protect the equipment from weathering, and
    - (iii) in the case of a reverse vending machine or mobile reverse vending machine—be constructed so that any opening created is adequately weather proofed, and
  - (d) the container recycling equipment must be constructed of low reflective materials, and
  - (e) the container recycling equipment must be provided with lighting that complies with AS/NZS 1158.3.1:2005 *Lighting for roads and public spaces, Part 3.1: Pedestrian area (Category P) lighting—Performance and design requirements*, and
  - (f) the container recycling equipment must not redirect the flow of any surface water or ground water or cause sediment to be transported onto an adjoining property, and
  - (g) the container recycling equipment must not:
    - (i) emit noise at a level that is more than 70 dB(A), measured in accordance with the Noise Policy, or

- (ii) emit noise that is audible within residential or office premises on any lot adjoining the lot on which the equipment is located, or
- (iii) emit noise at a level that is more than 5 dB(A) above background noise when measured at any adjoining property boundary in accordance with the Noise Policy, and
- (h) any display screen affixed externally to the container recycling equipment must not be more than 50cm in length or 30cm in width, and
- (i) the development must not result in any damage to public property on the land on which the container recycling equipment is located or on adjacent land (except any damage resulting from securing or affixing the container recycling equipment to the ground as a safety measure), and
- (j) the development must not cause the contravention of any condition of a development consent that is in force relating to car parking, loading, vehicular movement, waste management or landscaping, and
- (k) arrangements must be made for the removal of waste or recyclable materials likely to be generated as a result of the development or the operation of the container recycling equipment, and
- (l) the siting, design and construction of the container recycling equipment must meet all of the requirements imposed by the Environment Protection Authority under the container deposit scheme, and  
**Note.** The EPA has published a *Design Guide for Container Recycling Equipment and Facilities under the Container Deposit Scheme*. The Design Guide can be accessed at [www.planning.nsw.gov.au](http://www.planning.nsw.gov.au) or [www.epa.nsw.gov.au](http://www.epa.nsw.gov.au).
- (m) the container recycling equipment must not display any signage other than signage approved by the Environment Protection Authority under the container deposit scheme, and
- (n) if the container recycling equipment is located in a car park—the area occupied by the equipment must not exceed the greater of the following areas:
  - (i) the area comprising 3 car parking spaces,
  - (ii) 42m<sup>2</sup>, and
- (o) if it is the erection of a reverse vending machine—the machine must:
  - (i) not have a floor area of more than 50m<sup>2</sup>, and
  - (ii) not be more than 3m in height, 10m in width or 5m in depth, and
  - (iii) not be erected within 5m of any residential premises, and
- (p) if it is the erection of a reverse vending machine or a container collection cage—the machine or cage must not be erected within 2m of any street or right of way, and
- (q) if it is the erection of a container collection cage—the cage must:
  - (i) be located in a car park or commercial premises, and
  - (ii) not have a floor area of more than 15m<sup>2</sup>, and
  - (iii) not be more than 3m in height, and
- (r) if it is the erection or operation of a mobile reverse vending machine in connection with a commercial, community or retail event or a private function—the machine must not be parked or located:
  - (i) on the land for more than 2 days before the event or for more than 2 days after the event, or
  - (ii) within 2m of any street intersection or right of way, and

- (s) if it is the erection or operation of a mobile reverse vending machine in connection with a commercial or retail event—the reverse vending machine contained in the mobile reverse vending machine must operate only:
  - (i) between 7.00 am and 11.00 pm on a Monday, Tuesday, Wednesday or Thursday, and
  - (ii) between 7.00 am and 12.00 am on a Friday or Saturday, and
  - (iii) between 8.00 am and 8.00 pm on a Sunday.
- (2) Despite subclause (1) (n), the equipment may occupy an additional car parking area in addition to the area specified in that paragraph if:
  - (a) an environmental planning instrument, development control plan or condition of a development consent that is in force requires the car park to provide a minimum number of car parking spaces, and
  - (b) the car park provides a number of car parking spaces that exceeds the minimum number required (*the additional spaces*).
- (3) The *additional car parking area* is the greater of the following areas:
  - (a) an area comprising not more than 3 of the additional spaces,
  - (b) an area not exceeding 42m<sup>2</sup>.

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

See note 2 to this Part for examples of other requirements that apply in addition to the requirements of this code.

**[7] Clause 5.3 Specified complying development**

Omit “an existing use” and “**Existing use**” wherever occurring in clause 5.3 (1).

Insert instead “a current use” and “**Current use**”, respectively.

**[8] Clause 5.3 (1), Table**

Insert at the end of the Table:

**Category 8**

service station

**Category 8**

manual collection point

**[9] Clause 5.3 (3)**

Insert after clause 5.3 (2):

- (3) For a change of use under this clause from a service station to a manual collection point to be complying development, the land on which the development is to be carried out must be the subject of a site audit statement prepared by a site auditor under the *Contaminated Land Management Act 1997* specifying that the land is suitable for use as a manual collection point without any remediation works.

**[10] Clause 5.4 Development standards**

Insert after clause 5.4 (1) (h):

- (i) if the new use is a manual collection point—the land on which the new use is carried out must not contain any underground storage tanks.

**[11] Part 5B**

Insert after Part 5A:

**Part 5B Container Recycling Facilities Code**

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

**Division 1 Preliminary**

**5B.1 Definitions**

In this Division:

**automated counting and sorting centre** means a building or place:

- (a) that is used in connection with the container deposit scheme, and
- (b) that contains a machine or other device designed for large-scale and high-speed counting, sorting and verification of beverage containers, and
- (c) that may contain or be attached to any other type of container recycling facility.

**container recycling facility** means any of the following:

- (a) an automated counting and sorting centre,
- (b) a drop-off collection point,
- (c) an encased automatic machine,
- (d) a large reverse vending machine,
- (e) a manual collection point,
- (f) an outdoor express centre.

**drop-off collection point** means a building or place:

- (a) that is used in connection with the container deposit scheme, and
- (b) that consists of a collection point at which beverage containers are counted, and refund amounts issued, by staff, and
- (c) that contains a structure or facility for the storage of beverage containers, and
- (d) that may contain a machine or other device for the counting and sorting, or counting, sorting and verification, of beverage containers.

**encased automatic machine** means a structure:

- (a) that is used in connection with the container deposit scheme, and
- (b) that contains a reverse vending machine, and
- (c) that contains a machine or other device, located within or attached to the reverse vending machine, that is designed to count and sort beverage containers.

**large reverse vending machine** means a reverse vending machine:

- (a) that is used in connection with the container deposit scheme, and

- (b) that has a floor area of more than 50m<sup>2</sup> or is more than 3m in height, 10m in width or 5m in depth.

**manual collection point** means a building or place:

- (a) that is used in connection with the container deposit scheme, and
- (b) that consists of a collection point at which beverage containers are manually counted, and refund amounts issued, by staff, and
- (c) that may include a drive-through area enabling a person to drive a vehicle into the collection point for the purpose of exchanging beverage containers contained in the vehicle for the issue of a refund amount.

**outdoor express centre** means a structure:

- (a) that is used in connection with the container deposit scheme, and
- (b) that consists of a collection point at which beverage containers are counted, and refund amounts issued, by staff, and
- (c) that may be constructed from a shipping container adapted for use as a collection point, and
- (d) that contains a structure or facility for the storage of beverage containers, and
- (e) that may contain or be attached to an encased automatic machine, and
- (f) that does not include a drive-through area.

## **Division 2      Development that is complying development under this code**

### **5B.2      Development to which code applies**

- (1) This code applies to development that is specified in clause 5B.3 on any lot in Zone B1, B2, B3, B4, B5, B6, B7, B8, IN1, IN2, IN3, IN4 or SP3.
- (2) This code applies to development that is specified in clause 5B.3 on any other land if:
  - (a) the development is for the purposes of an encased automatic machine, a large reverse vending machine or an outdoor express centre, and
  - (b) the land is lawfully used for the purposes of a railway station or ferry terminal operated by a public authority.
- (3) However, this code does not apply to the following development:
  - (a) development for any of the following purposes that is carried out on land in a business zone:
    - (i) an automated counting and sorting centre,
    - (ii) a drop-off collection point (other than a drop-off collection point that is ancillary to the lawful use of the land),
    - (iii) a manual collection point (other than a manual collection point resulting from a change of use under clause 5.3),
  - (b) development for the purposes of a container recycling facility that is carried out on land in a car park (unless the use of the land for the purposes of the car park is lawful),
  - (c) development for the purposes of an outdoor express centre that is carried out on any land (unless the land is used for the purposes of commercial premises and that use is lawful).



### **5B.3 Specified development**

- (1) Development for the following purposes is development specified for this code:
  - (a) the erection on land of a container recycling facility,
  - (b) any of the following development for the purposes of a container recycling facility:
    - (i) an addition to an existing building that is used for the purposes of industry (other than heavy industry), a warehouse or distribution centre or commercial premises,
    - (ii) the external alteration of an existing building that is used for the purposes of industry (other than heavy industry), a warehouse or distribution centre or commercial premises.
- (2) If development specified by this clause is to be provided with water supply or sewerage services (or both) by a water utility, to be complying development the applicant must obtain a notice or other form of written advice from the relevant water utility, or an entity authorised to do so by the utility, that specifies the works or other requirements to be completed as part of the development.

## **Division 3 Development standards for this code**

### **5B.4 Application of development standards**

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

### **5B.5 Application of standards under Commercial and Industrial (New Buildings and Additions) Code**

- (1) The development standards set out in the Commercial and Industrial (New Buildings and Additions) Code apply to development specified for this code as follows:
  - (a) the development standards set out in Division 2 of Part 5A apply to the development if it is carried out on land in an industrial zone or Zone SP3,
  - (b) the development standards set out in Division 3 of Part 5A apply to the development if it is carried out on land in a business zone,
  - (c) the development standards set out in Division 4 of Part 5A apply to the development if it is carried out on land in an industrial zone, a business zone or Zone SP3.
- (2) This clause applies in addition to all other development standards specified for this code.

### **5B.6 Development standards for container recycling facilities**

- (1) If the development is for the purposes of an encased automatic machine, a large reverse vending machine, an outdoor express centre or a drop-off collection point, on land in a car park:
  - (a) the container recycling facility must be located to allow adequate clearance for waste collection vehicles to enter and exit the car park for the collection of waste from the facility, and
  - (b) the container recycling facility must not be erected within 5m of any residential premises, and

- (c) containers deposited under the container deposit scheme must be dispatched from the container recycling facility for reuse or recycling only during the following periods:
  - (i) between 7.00 am and 5.00 pm on Monday, Tuesday, Wednesday, Thursday, Friday or Saturday,
  - (ii) between 9.00 am and 5.00 pm on Sunday.
- (2) If the development is for the purposes of an encased automatic machine, a large reverse vending machine, an outdoor express centre or a drop-off collection point, on land in a car park—the area occupied by the container recycling facility must not exceed the greater of the following areas:
  - (a) the area comprising 3 car parking spaces,
  - (b) 42m<sup>2</sup>.
- (3) If the development is for the purposes of a drop-off collection centre, the centre must not have a floor area of more than 300m<sup>2</sup>.
- (4) If the development is for the purposes of an encased automatic machine, the machine must not be more than 15m in height, 10m in width or 25m in length.
- (5) If the development is for the purposes of an outdoor express centre:
  - (a) the centre must operate only during the lawful operating hours of the commercial premises, and
  - (b) the centre must not have a floor area of more than 40m<sup>2</sup>, and
  - (c) the centre must not be more than 3m in height, 3m in width or 6.5m in length.
- (6) Despite subclause (2), the container recycling facility may occupy an additional car parking area in addition to the area specified in that subclause if:
  - (a) an environmental planning instrument, development control plan or condition of a development consent that is in force requires the car park to provide a minimum number of car parking spaces, and
  - (b) the car park provides a number of car parking spaces that exceeds the minimum number required (*the additional spaces*).
- (7) The **additional car parking area** is the greater of the following areas:
  - (a) an area comprising not more than 3 of the additional spaces,
  - (b) an area not exceeding 42m<sup>2</sup>.
- (8) The development standards set out in subclauses (1)–(5) prevail to the extent of any inconsistency with the development standards referred to in clause 5B.5.

#### **Division 4      Conditions applying to complying development certificates under this code**

##### **5B.7      Conditions specified in Schedule 8 apply**

A complying development certificate for development specified under this code must be issued subject to the conditions specified in Schedule 8.

**[12] Schedule 8**

Omit the heading. Insert instead:

**Schedule 8      Conditions applying to complying development certificates under the Commercial and Industrial Alterations Code, the Commercial and Industrial (New Buildings and Additions) Code and the Container Recycling Facilities Code**

**[13] Schedule 8, note 1**

Omit “and the Commercial and Industrial (New Buildings and Additions) Code”.

Insert instead “, the Commercial and Industrial (New Buildings and Additions) Code and the Container Recycling Facilities Code”.