

# State Environmental Planning Policy (Exempt and Complying Development Codes) 2008

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New South Wales

## Status Information

### Currency of version

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Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **Does not include amendments by**
  - [State Environmental Planning Policy \(Exempt and Complying Development Codes\) Amendment \(Housing Code\) 2017 \(269\)](#) (not commenced — to commence on 14.7.2017)
  - [State Environmental Planning Policy \(Exempt and Complying Development Codes\) Amendment \(Miscellaneous and Affordable Housing\) 2017 \(270\)](#) (not commenced — to commence on 14.7.2017)
  - [State Environmental Planning Policy Amendment \(Miscellaneous\) 2017 \(350\)](#) (not commenced — to commence on 14.7.2017)

### Authorisation

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# State Environmental Planning Policy (Exempt and Complying Development Codes) 2008



New South Wales

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# State Environmental Planning Policy (Exempt and Complying Development Codes) 2008



New South Wales

## Part 1 General

### Division 1 Preliminary

#### 1.1 Name of Policy

This Policy is *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.

#### 1.2 Commencement

This Policy commences on 27 February 2009.

#### 1.3 Aims of Policy

This Policy aims to provide streamlined assessment processes for development that complies with specified development standards by:

- (a) providing exempt and complying development codes that have State-wide application, and
- (b) identifying, in the exempt development codes, types of development that are of minimal environmental impact that may be carried out without the need for development consent, and
- (c) identifying, in the complying development codes, types of complying development that may be carried out in accordance with a complying development certificate as defined in the Act, and
- (d) enabling the progressive extension of the types of development in this Policy, and
- (e) providing transitional arrangements for the introduction of the State-wide codes, including the amendment of other environmental planning instruments.

#### 1.4 Land to which Policy applies

- (1) This Policy applies to the State, except as provided by this clause.
- (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 less than 18 kilometres from the Siding Spring Observatory, except as provided by clause 1.16A.
- (3), (4) (Repealed)

#### 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.)

#### 1.5 Interpretation—general

- (1) In this Policy:

**Acid Sulfate Soils Map** means a map in an environmental planning instrument that identifies land containing acid sulfate soil.

**Advertising and Signage Exempt Development Code** means the code for exempt development set out in Division 2 of Part 2.

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

**Note—**

The term is defined as follows:

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

**ancillary development** means any of the following that are not exempt development under this Policy:

- (a) access ramp,
- (b) awning, blind or canopy,

- (c) balcony, deck, patio, pergola, terrace or verandah that is attached to a dwelling house,
- (c1) basement,
- (d) carport that is attached to a dwelling house,
- (d1) detached studio,
- (e) driveway, hard stand space, pathway or paving,
- (f) fence or screen,
- (g) garage that is attached to a dwelling house,
- (h) outbuilding,
- (i) rainwater tank that is attached to a dwelling house,
- (j) retaining wall,
- (k) swimming pool or spa pool and child-resistant barrier.

**ANEF contour**, for an airport, means a noise exposure contour shown as an ANEF contour on any Noise Exposure Forecast Contour Map for that airport prepared by the Department of the Commonwealth responsible for airports.

**articulation zone** means an area of a lot forward of the building line within which building elements are permitted to be located, being an area measured from:

- (a) one side boundary of the lot to the opposite side boundary of the lot, or
- (b) if the lot is a corner lot—the secondary road boundary of the lot to the boundary opposite the secondary road boundary.

**attached**, in relation to a building or structure that is complying development, means not more than 900mm from another building or structure.

**automatic light fitting** means a light fitting that is activated by a sensor and switches off automatically after a period of time.

**battle-axe lot** means a lot that has access to a road by an access laneway.

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

**building element** has the meaning set out in the code in which it is used.

**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*.

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

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

**Commercial and Industrial (New Buildings and Additions) Code** means the code for complying development set out in Part 5A.

**common wall** means a wall shared between 2 properties.

**community consultation** means:

- (a) consultation with the community under section 57 of the Act, or
- (b) public exhibition under section 66 of the Act, as in force on 30 June 2009.

**community event** means a function or event open to the public or a section of the public that is a ceremony, cultural celebration, exhibition, fete, fair, gathering, market or sporting event.

**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 Commercial and Industrial Alterations Code,
- (e1) the Commercial and Industrial (New Buildings and Additions) Code,
- (f) the Subdivisions Code,
- (g) the Demolition Code,
- (h) the Fire Safety Code.

**corner lot** means a lot that has 2 contiguous boundaries with a road or roads that intersect at an angle of 135 degrees or less (whether or not the lot has any other boundaries with a road).

**council** means the council of a local government area and, in relation to a particular development, means the council of the local government area in which the development will be carried out.

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

**detached**, in relation to a building or structure that is complying development, means more than 900mm from another building or structure.

**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.

**development consent** includes an approval under Part 3A of the Act (before its repeal), and an approval under Part 5.1 of the Act.

**dilapidation report** means a report, prepared by a professional engineer, confirming the structural condition of the adjoining wall before any development commences.

**draft heritage conservation area** means an area of land identified as a heritage conservation area or place of Aboriginal heritage significance in a local environmental plan that has been subject to community consultation, other than an area that was consulted on before 1 March 2006, but has not been included in a plan before 27 February 2009.

**draft heritage item** means a building, work, archeological site, tree, place or aboriginal object identified as a heritage item in a local environmental plan that has been subject to community consultation, other than an item that was consulted on before 1 March 2006, but has not been included in a plan before 27 February 2009.

**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.

**environmentally sensitive area** means any of the following:

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

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

**exempt development code** means any of the following codes:

- (a) the General Exempt Development Code,
- (b) the Advertising and Signage Exempt Development Code,
- (c) the Temporary Uses and Structures Exempt Development Code.

**Fire Safety Code** means the code for complying development set out in Part 8.

**fire sprinkler system** means a system designed to automatically control the growth and spread of fire that may include components such as sprinklers, valves, pipework, pumps, boosters and water supplies.

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

**flood control lot** means a lot to which flood related development controls apply in respect of development for the purposes of industrial buildings, commercial premises, dwelling houses, dual occupancies, multi dwelling housing or residential flat buildings (other than development for the purposes of group homes or seniors housing).

**Note—**

This information is a prescribed matter for the purpose of a certificate under section 149 (2) of the Act.

**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.

**foreshore area** means the land between a foreshore building line and the mean high water mark of an adjacent waterbody (natural).

**foreshore building line** means the foreshore building line identified by:

- (a) a development control plan adopted before 12 December 2008, or
- (b) an environmental planning instrument.

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

**General Exempt Development Code** means the code for exempt development set out in Division 1 of Part 2.



**General Housing Code** means the code for complying development set out in Part 3.

**habitable room** has the same meaning as in the *Building Code of Australia*.

**Note—**

The term is defined as a room used for normal domestic activities, other than a bathroom, laundry, toilet, pantry, walk in wardrobe, hallway, lobby, clothes drying room or other space of a specialised nature that is not occupied frequently or for extended periods.

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

**heritage conservation area** means an area of land identified as a heritage conservation area or a place of Aboriginal heritage significance, including any heritage items situated on or within that area, in an environmental planning instrument.

**heritage item** means a building, work, archaeological site, tree, place or Aboriginal object identified as a heritage item in an environmental planning instrument.

**horizontal plane**, in relation to a light fitting, means the horizontal plane passing through the centre of the light source (for example the bulb) of the light fitting.

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

**industry** has the same meaning as in the Standard Instrument but includes packaging industry.

**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.

**outbuilding** means any of the following:

- (a) balcony, deck, patio, pergola, terrace or verandah that is detached from a dwelling house,
- (b) cabana, cubby house, fernery, garden shed, gazebo or greenhouse,
- (c) carport that is detached from a dwelling house,
- (d) farm building,
- (e) garage that is detached from a dwelling house,
- (f) rainwater tank (above ground) that is detached from a dwelling house,
- (g) shade structure that is detached from a dwelling house,

(h) shed.

**outside light fitting** means a light fitting that is attached or fixed outside, including on the exterior of, a building.

**packaging industry** means a building or place used for the handling, storage or packaging of any products for commercial purposes.

**parallel road** means, in the case of a lot that has boundaries with parallel roads, the road that is not the primary road.

**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.

**Premises Standards** means the [Disability \(Access to Premises—Buildings\) Standards 2010](#) made under section 31 of the [Disability Discrimination Act 1992](#) of the Commonwealth.

**primary road** means the road to which the front of a dwelling house, or a main building, on a lot faces or is proposed to face.

**privacy screen** means:

(a) a structure that provides a screen or visual barrier between a window of a habitable room or an outdoor area on a lot and an adjoining lot that:

(i) has no individual opening more than 30mm wide, and

(ii) has a total area of all openings that is no more than 30% of the surface area of the screen or barrier, or

(b) a window, the whole of which has translucent glass and is fixed and not able to be opened.

**professional engineer** has the same meaning as in the *Building Code of Australia*.

**Note—**

The term is defined as a person who is:

(a) if legislation is applicable—a registered *professional engineer* in the relevant discipline who has appropriate experience and competence in the relevant field, or

(b) if legislation is not applicable:

(i) a Corporate Member of the Institution of Engineers, Australia, or

(ii) eligible to become a Corporate Member of the Institution of Engineers, Australia, and has

appropriate experience and competence in the relevant field.

**protected tree** means a tree that requires a separate permit or development consent for pruning or removal, but does not include a tree that may be removed without development consent under this Policy.

**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.

**secondary road** means, in the case of a corner lot that has boundaries with adjacent roads, the road that is not the primary road.

**setback** means the horizontal distance between the relevant boundary of the lot and the building line.

**setback area** means the area between the building line and the relevant boundary of the lot.

**shielded light fitting** means a light fitting that does not permit light to shine above the horizontal plane.

**Siding Spring Observatory** has the same meaning as in clause 5.14 of the Standard Instrument.

**Standard Instrument** means the standard local environmental planning instrument prescribed by the [Standard Instrument \(Local Environmental Plans\) Order 2006](#).

**Subdivisions Code** means the code for complying development set out in Part 6.

**Temporary Uses and Structures Exempt Development Code** means the code for exempt development set out in Division 3 of Part 2.

**the Act** means the [Environmental Planning and Assessment Act 1979](#).

**water utility** means:

- (a) a council or county council exercising water supply functions under Division 2 of Part 3 of Chapter 6 of the [Local Government Act 1993](#), or
- (b) a water supply authority or major utility within the meaning of the [Water Management Act 2000](#).

**working day** means a day other than a Saturday, Sunday or public holiday.

- (2) A word or expression used in this Policy has the same meaning as it has in the Standard Instrument unless it is otherwise defined in this Policy.

- (3) (Repealed)
- (4) A reference in this Policy to a type of building or other thing is a reference to development for the purposes of that type of building or other thing.
- (5) Notes included in this Policy do not form part of this Policy.

### 1.6 Interpretation—references to land use zones

- (1) A reference in this Policy to a lot or to land in a named land use zone is a reference:
  - (a) to land that, under an environmental planning instrument made as provided by section 33A (2) of the Act, is in a land use zone specified in the Standard Instrument, and
  - (b) to land that, under an environmental planning instrument that is not made as provided by section 33A (2) of the Act, is in a land use zone in which equivalent land uses are permitted to those permitted in the named land use zone.
- (1A) Land identified as “Deferred matter” on the [Land Application Map](#) within the meaning of [Warringah Local Environmental Plan 2011](#) is, for the purposes of this Policy, taken to be in Zone E3 Environmental Management.
- (1B) Despite subclause (1) (b), in relation to land:
  - (a) to which an environmental planning instrument that is not made as provided by section 33A (2) of the Act applies, and
  - (b) to which a draft environmental planning instrument that complies with that section and has been the subject of community consultation also applies,a reference in this Policy to a lot or land in a named land use zone is a reference to a lot or land specified in such a zone in the last such draft environmental planning instrument that was the subject of such community consultation.
- (1C) In subclause (1B), **community consultation** means community consultation under section 57 of the Act or public exhibition under section 66 of the Act (as continued on by clause 12 of the [Environmental Planning and Assessment Regulation 2000](#)).
- (2) In this clause:

**equivalent land uses**, in relation to land in a named land use zone, means uses equivalent to the permitted land uses shown opposite that named land use zone in the table to this clause.
- (3) If the Director-General, by order published in the Gazette, determines that a land use zone in a specified environmental planning instrument that is not made as provided by section 33A (2) of the Act is a land use zone in which equivalent land uses are permitted to those permitted in a named land use zone, that certification is conclusive

for the purposes of this clause.

<b>Named land use zone</b>	<b>Permitted land uses</b>
RU1 Primary Production	Primary production, including agriculture and a diverse range of primary industry enterprises
RU2 Rural Landscape	Compatible rural land uses, including extensive agriculture
RU3 Forestry	Forestry land uses and other development compatible with forestry land uses
RU4 Rural Small Holdings	Compatible rural land uses, including extensive agriculture on small rural lots
RU5 Village	Dwelling houses, business and retail premises and associated uses and facilities in a rural village setting
RU6 Transition	Housing and other land uses that provide a transition between rural land uses and other land uses of varying intensities or environmental sensitivities
R1 General Residential	Residential accommodation of various types and densities and associated services and facilities
R2 Low Density Residential	Generally low density dwellings with associated services and facilities
R3 Medium Density Residential	Mix of medium density dwellings with associated services and facilities
R4 High Density Residential	High density dwellings including residential flat buildings with associated services and facilities
R5 Large Lot Residential	Dwelling houses on large residential lots in a rural setting
B1 Neighbourhood Centre	Small scale business and retail premises, community facilities and shop top housing in a neighbourhood centre
B2 Local Centre	Business and retail premises, entertainment and community facilities and shop top housing in a local centre
B3 Commercial Core	Large scale business, office and retail premises and community and entertainment facilities in a major centre

B4 Mixed Use	A variety of business, office and retail premises, community and entertainment facilities and associated uses
B5 Business Development	Large floor area business uses, including warehouse or distribution centres, and specialised retail premises in areas that are close to, and support the viability of, centres
B6 Enterprise Corridor	Business premises, office premises, retail premises and light industries, warehouse or distribution centres and associated facilities along a main road, residential uses only as part of a mixed use development
B7 Business Park	Office premises and light industries, that encourage employment opportunities, together with associated facilities and services
B8 Metropolitan Centre	Large scale business, office and retail premises, public administration buildings, community and entertainment facilities, education establishments, health services and tourism accommodation
IN1 General Industrial	Depots, freight transport facilities, industries, neighbourhood shops and warehouse or distribution centres in a general industrial setting
IN2 Light Industrial	Depots, light industries, neighbourhood shops and warehouse or distribution centres in a light industrial setting
IN3 Heavy Industrial	Depots, freight transport facilities and heavy industries, including hazardous and offensive industries and storage establishments in a heavy industrial setting
IN4 Working Waterfront	Waterfront industrial and maritime activities, including boat launching ramps, boat repair facilities, jetties and light industries
SP1 Special Activities	Special land uses and development ancillary to those uses that is appropriate for the special character of the area
SP2 Infrastructure	Infrastructure development and other uses ancillary to that purpose
SP3 Tourist	Tourist-orientated development and related uses

RE1 Public Recreation	Public recreational uses and open space appropriate for the natural environment
RE2 Private Recreation	Private recreational uses, open space and ancillary facilities appropriate for the natural environment
E1 National Parks and Nature Reserves	Authorised uses in national parks and nature reserves
E2 Environmental Conservation	Development that is suitable in areas of high ecological, scientific, cultural or aesthetic value that will not threaten or have an adverse effect on those values
E3 Environmental Management	Development, including low density housing, that is suitable in areas of high ecological, scientific, cultural or aesthetic value and that will not threaten or have an adverse effect on those values
E4 Environmental Living	Low-impact residential housing that is suitable for areas with special ecological, scientific or aesthetic values
W1 Natural Waterways	Development that is appropriate for the ecological and scenic value of natural waterways
W2 Recreational Waterways	Recreational development that is appropriate for the ecological, scenic and recreational value of recreational waterways
W3 Working Waterways	Maritime industrial development and associated facilities that are appropriate on working waterways

### **1.7 Maps**

- (1) A reference in this Policy to a named map adopted by this Policy is a reference to a map by that name:
  - (a) approved by the Minister when the map is adopted, and
  - (b) as amended or replaced from time to time by maps declared by environmental planning instruments to amend or replace that map, and approved by the Minister when the instruments are made.
- (2) Any 2 or more named maps may be combined into a single map. In that case, a reference in this Policy to any such named map is a reference to the relevant part or aspect of the single map.

- (3) Any such maps are to be kept and made available for public access in accordance with arrangements approved by the Minister.
- (4) For the purposes of this Policy, a map may be in, and may be kept and made available in, electronic or paper form, or both.
- (5) This clause does not apply to an Acid Sulfate Soils Map.

## **1.8 Relationship with other State environmental planning policies**

### **Note**

This clause is subject to section 36 (4) of the Act.

- (1) If this Policy and any other State environmental planning policy, whether made before or after the commencement of this Policy, specify the same development, as either exempt development or complying development, the other Policy does not apply to that development, except as provided by subclauses (2)–(4).
- (2) Despite subclause (1), in each of the following circumstances, *State Environmental Planning Policy (Infrastructure) 2007* continues to apply and this Policy does not apply:
  - (a) if this Policy and *State Environmental Planning Policy (Infrastructure) 2007* specify the same development as complying development,
  - (b) if this Policy and *State Environmental Planning Policy (Infrastructure) 2007* specify the same development as exempt development,
  - (c) if this Policy specifies development as exempt development and *State Environmental Planning Policy (Infrastructure) 2007* specifies the same development as complying development,
  - (d) if this Policy specifies development as complying development and *State Environmental Planning Policy (Infrastructure) 2007* specifies the same development as exempt development.
- (3) If this Policy and *State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007* specify the same development as either exempt or complying development, this Policy does not apply to that development.
- (4) If this Policy and *State Environmental Planning Policy (Affordable Rental Housing) 2009* specify the same development as either exempt or complying development, that Policy prevails to the extent of any inconsistency.
- (4A) (Repealed)
- (5) If this Policy and *State Environmental Planning Policy (Port Botany and Port Kembla) 2013* specify the same development as either exempt or complying development, this Policy does not apply to that development.



- (6) If another State environmental planning policy 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 other Policy.
- (7) If a provision of this clause provides for another State environmental planning policy to continue to apply to development, that development may be carried out under this Policy or under that other Policy.

**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.

### **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 (1) does not apply in relation to land in Bathurst Regional** Despite subclause (1), if this Policy and *Bathurst Regional Local Environmental Plan 2014* specify the same development as exempt development or complying 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.
- (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.
- (6A) (Repealed)
- (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.

### 1.10 Same development

- (1) For the purposes of this Policy, 2 or more instruments are taken to specify the same development if they specify that development for the same purpose may be carried out on the same land, even though there may be some differences in the specifications or development standards for that development.

**Note—**

For example, “deck” is a development, even if the size of the deck or its location varies in different local environmental plans or development control plans.

- (2) The Director-General may certify in writing, for the purpose of this Policy, that 2 or more instruments do, or do not, specify the same development and any such

certificate has effect according to its tenor.

- (3) Notice of any certification by the Director-General under subclause (2) must be published in the Gazette.

### **1.11 Amendment of environmental planning instruments**

The environmental planning instruments specified in Schedule 1 are amended as set out in that Schedule.

### **1.12 Variations to certain codes**

- (1) The exempt development codes are varied, in relation to the land described or otherwise identified on a map specified in Column 1 of the Table to Schedule 2, in the manner described opposite that land in Column 2.
- (2) The complying development codes are varied, in relation to the land described or otherwise identified on a map specified in Column 1 of the Table to Schedule 3, in the manner described opposite that land in Column 2.
- (3) If the exempt development codes or the complying development codes are varied because of the application of subclause (1) or (2) in relation to land, any provision of an existing local environmental plan or development control plan that would have applied to that land, but for clause 1.9, does not apply to that land.

### **1.13 Savings provisions**

- (1) A development application or an application for a complying development certificate that has been made but not finally determined before the commencement of this Policy, or an amendment to this Policy, must be determined as if this Policy or the amendment had not commenced.
- (2) A development application or an application for a complying development certificate that has been made but not finally determined before the commencement of *State Environmental Planning Policy (Exempt and Complying Development Codes) Amendment (Commercial and Industrial Development and Other Matters) 2013* must be determined as if that Policy had not commenced.
- (3) Development that was commenced before the commencement of *State Environmental Planning Policy (Exempt and Complying Development Codes) Amendment (Commercial and Industrial Development and Other Matters) 2013* and that was, immediately before that commencement, exempt development in accordance with an environmental planning instrument that was amended by that Policy may be continued as if that Policy had not commenced.

### **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.

## Division 2 Exempt and complying development

### 1.15 What development is exempt development?

- (1) Development that is specified in an exempt development code that meets the standards specified for that development and that complies with the requirements of this Division for exempt development is exempt development for the purposes of this Policy.
- (2) For the purposes of subclause (1), development that is specified includes any specified limitations as to the land on which that development may be carried out.

**Note—**

Under section 76 of the Act, exempt development may be carried out without the need for development consent under Part 4 of the Act or for assessment under Part 5 of the Act.

The section states that exempt development:

- (a) must be of minimal environmental impact, and
- (b) cannot be carried out in critical habitat of an endangered species, population or ecological community (identified under the [Threatened Species Conservation Act 1995](#) or the [Fisheries Management Act 1994](#)), and
- (c) cannot be carried out in a wilderness area (identified under the [Wilderness Act 1987](#)).

### 1.16 General requirements for exempt development

- (1) To be exempt development for the purposes of this Policy, the development:
  - (a) must meet the relevant deemed-to-satisfy provisions of the *Building Code of Australia*, or if there are no such relevant provisions, must be structurally adequate, and
  - (b) must not, if it relates to an existing building, cause the building to contravene the *Building Code of Australia*, and
  - (c) must not be carried out on land that is, or on which there is, an item that is listed on the State Heritage Register under the [Heritage Act 1977](#), or that is subject to an interim heritage order under that Act.
  - (d) (Repealed)
- (1A) Despite subclause (1) (c), if development meets the requirements and standards specified by this Policy and that development:
  - (a) has been granted an exemption under section 57 (2) of the [Heritage Act 1977](#), or
  - (b) is subject to an exemption under section 57 (1A) or (3) of that Act,

the development is exempt development under this Policy.

- (1B) If an item listed on the State Heritage Register is not located on, or does not comprise, the whole of the relevant land, subclause (1) (c) applies only to the part of the land that is described and mapped on that register.
- (1C) If an item not listed on the State Heritage Register but identified as an item of environmental heritage in an environmental planning instrument does not comprise, or is not located on, the whole of the relevant land, any restriction on carrying out development on the relevant land on which the item is located applies only to the part of the land that is described and mapped on that instrument.
- (2) Development that relates to an existing building that is classified under the *Building Code of Australia* as class 1b or class 2-9 is exempt development for the purposes of this Policy only if:
  - (a) the building has a current fire safety certificate or fire safety statement, or
  - (b) no fire safety measures are currently implemented, required or proposed for the building.
- (3) To be exempt development for the purposes of this Policy, the development must:
  - (a) be installed in accordance with the manufacturer's specifications, if applicable, and
  - (b) not involve the removal or pruning of a tree or other vegetation that requires a permit or development consent for removal or pruning, unless that removal or pruning is undertaken in accordance with a permit or development consent.

**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](#).

- (4) (Repealed)

**1.16A Exempt development on land within 18 kilometres of Siding Spring Observatory**

Clauses 1.15 and 1.16 and Part 2 apply to development on land that is less than 18 kilometres from the Siding Spring Observatory, but only if:

- (a) the development does not have, and will not require, any form of lighting, and
- (b) the development is not development that is specified in any of the following provisions of Division 1 of Part 2:
  - (i) Subdivision 6 Balconies, decks, patios, pergolas, terraces and verandahs,

- (ii) Subdivision 10 Carports,
- (iii) Subdivision 10A Change of use of premises,
- (iv) Subdivision 10B Change of use of places of public worship,
- (v) Subdivision 16 Farm buildings,
- (vi) Subdivision 24 Landscaping structures,
- (vii) Subdivision 27 Minor building alterations (external),
- (viii) Subdivision 27A Mobile food and drink outlets,
- (ix) Subdivision 37 Skylights, roof windows and ventilators.

#### **1.17 What development is complying development?**

- (1) Development that is specified in a complying development code that meets the standards specified for that development and that complies with the requirements of this Division for complying development is complying development for the purposes of this Policy.
- (2) For the purposes of subclause (1), development that is specified includes any specified limitations as to the land on which that development may be carried out.

#### **1.17A Requirements for complying development for all environmental planning instruments**

- (1) 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 carried out on land that:
    - (i) comprises an item that is listed on the State Heritage Register under the [Heritage Act 1977](#) or on which such an item is located, or
    - (ii) is subject to an interim heritage order under that Act or on which is located an

item that is so subject, or

(iii) is identified as an item of environmental heritage or a heritage item by an environmental planning instrument or on which is located an item that is so identified, or

(e) except as otherwise provided by this Policy, be on land that is within an environmentally sensitive area.

(2) Despite subclause (1) (d), if development meets the requirements and standards specified by this Policy and that development:

(a) has been granted an exemption under section 57 (2) of the *Heritage Act 1977*, or

(b) is subject to an exemption under section 57 (1A) or (3) of that Act,

the development is complying development under this Policy.

(3) If an item listed on the State Heritage Register is not located on, or does not comprise, the whole of the relevant land, subclause (1) (d) applies only to the part of the land that is described and mapped on that register.

(4) If an item not listed on the State Heritage Register but identified as an item of environmental heritage in an environmental planning instrument does not comprise, or is not located on, the whole of the relevant land, subclause (1) (d) applies only to the part of the land that is described and mapped on that instrument.

### **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, under an environmental planning instrument applying to the land on which the development is carried out, and

(c) meet the relevant provisions of the *Building Code of Australia*, and

(c1) must not require an environment protection licence within the meaning of the *Protection of the Environment Operations Act 1997*, and

(c2) must not be designated development, and

**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.

(c3) not be carried out on land that comprises, or on which there is, a draft heritage item, 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 under section 138 of the *Roads Act 1993*) for the building of any kerb, crossover or driveway, and

**Note—**

Other consents may be required under section 138 of the *Roads Act 1993* before carrying out other works in relation to roads.

- (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, but the information is not included in a certificate issued under clause 279 (2) of *Environmental Planning and Assessment Regulation 2000*.

- (g) not be the construction or installation of a skylight or roof window on land in the local government area of Coonamble, City of Dubbo, Gilgandra or Warrumbungle Shire, 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, 3A.7 or 5A.3 does not apply—before the 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 this Policy (see clauses 3.6A, 3A.7 and 5A.3).

- (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.

### **1.19 Land on which complying development may not be carried out**

- (1) **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 swimming pool, or
  - (b) land that is reserved for a public purpose by 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 approved under the *Native Vegetation Act 2003*, or
  - (e) land identified by an environmental planning instrument as being:
    - (i) within a buffer area, or
    - (ii) within a river front area, or
    - (iii) within an ecologically sensitive area, or
    - (iv) environmentally sensitive land, or
    - (v) within a protected area, or
  - (f) land that is identified by an environmental planning instrument, a development control plan or a policy adopted by the council as being or affected by:
    - (i) a coastline hazard, or
    - (ii) a coastal hazard, or
    - (iii) a coastal erosion hazard, or
  - (g) land in a foreshore area, or
  - (h) 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
  - (i) land that is declared to be a special area under the *Water NSW Act 2014*, or
  - (j) unsewered land:

- (i) to which *State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011* applies, if that development will result in an increase to the number of bedrooms on the site or a site disturbance area of more than 250m<sup>2</sup>, or
  - (ii) in any other drinking water catchment identified in any other environmental planning instrument.
- (2) Development specified in the General Housing Code is not complying development under that code if it is carried out on land described or otherwise identified on a map specified in Schedule 5.
- (3) Subclause (2) ceases to have effect on 30 November 2018 in relation to:
  - (a) land in the local government area of Mosman and identified on any map specified in Schedule 5, and
  - (b) land in the local government area of Lake Macquarie and identified on *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 Lake Macquarie Complying Development Land Map (SEPP\_ECD\_4650\_LCD\_002\_20130730)* specified in Schedule 5.
- (4) **Specific land exemptions for Housing Alterations Code and General Development Code** To be complying development specified for the Housing Alterations Code or the General Development Code, the development must not be carried out on unsewered land:
  - (a) to which *State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011* applies, if that development will result in an increase to the number of bedrooms on the site or in a site disturbance area of more than 250m<sup>2</sup>, or
  - (b) in any other drinking water catchment identified in any other environmental planning instrument.
- (5) **Specific land exemptions for Commercial and Industrial (New Buildings and Additions) Code** To be complying development specified for the Commercial and Industrial (New Buildings and Additions) Code, the development must not be carried out on:
  - (a) land within a heritage conservation area or a draft heritage conservation area, or
  - (b) land that is reserved for a public purpose in an environmental planning instrument, or
  - (c) land identified on an Acid Sulfate Soils Map as being Class 1 or Class 2, or
  - (d) land that is significantly contaminated land within the meaning of the *Contaminated Land Management Act 1997*, or
  - (e) land that is subject to a biobanking agreement under Part 7A of the *Threatened*

*Species Conservation Act 1995* or a property vegetation plan approved under the *Native Vegetation Act 2003*, or

- (f) land identified by an environmental planning instrument as being:
  - (i) within a buffer area, or
  - (ii) within a river front area, or
  - (iii) within an ecologically sensitive area, or
  - (iv) environmentally sensitive land, or
  - (v) within a protected area, or
- (g) land that is identified by an environmental planning instrument, a development control plan or a policy adopted by the council as being or affected by:
  - (i) a coastline hazard, or
  - (ii) a coastal hazard, or
  - (iii) a coastal erosion hazard, or
- (h) land in a foreshore area, or
- (i) unsewered land:
  - (i) to which *State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011* applies, or
  - (ii) in any other drinking water catchment identified in any other environmental planning instrument.

#### **1.20 Suspension of covenants, agreements and instruments**

- (1) For the purpose of enabling development on land in any zone to be carried out in accordance with this Policy, or with a consent granted under the Act, any agreement, covenant or other similar instrument that restricts the carrying out of that development does not apply to the extent necessary to serve that purpose.
- (2) This clause does not apply:
  - (a) to a covenant imposed by a council, or that a council requires to be imposed, requiring compliance with a development standard that is:
    - (i) consistent with the development standards specified for the development concerned under this Policy, or
    - (ii) not dealt with by the development standards specified for the development concerned under this Policy, or

- (b) to a covenant that is specifically required by another environmental planning instrument, or
  - (c) to a covenant imposed by an owner or former owner of the land concerned, other than a covenant that has been required by a council to be imposed, or
  - (d) to any prescribed instrument within the meaning of section 183A of the *Crown Lands Act 1989*, or
  - (e) to any conservation agreement within the meaning of the *National Parks and Wildlife Act 1974*, or
  - (f) to any Trust agreement within the meaning of the *Nature Conservation Trust Act 2001*, or
  - (g) to any property vegetation plan approved under the *Native Vegetation Act 2003*, or
  - (h) to any biobanking agreement within the meaning of Part 7A of the *Threatened Species Conservation Act 1995*, or
  - (i) to any planning agreement within the meaning of Division 6 of Part 4 of the Act.
- (3) This clause does not affect the rights or interests of any public authority under any registered instrument.
- (4) Under section 28 of the Act, the Governor, before the making of this clause, approved of subclauses (1)–(3).

## Part 2 Exempt Development Codes

### Note 1—

Schedule 2 contains the variations to this code.

### Note 2—

A person may carry out development specified in this code without obtaining development consent from a consent authority if the person complies with the development standards that apply to the development (which includes the deemed-to-satisfy provisions of the *Building Code of Australia*).

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 General Exempt Development Code

## **Subdivision 1 Access ramps**

### **2.1 Specified development**

The construction or installation of an access ramp is development specified for this code.

### **2.2 Development standards**

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

- (a) be not more than 1m above ground level (existing), and
- (b) be located at least 450mm from each side boundary and the rear boundary, and
- (c) not interfere with the functioning of existing drainage fixtures or the natural surface flow of water, and
- (d) if it is located on bush fire prone land and is less than 5m from a dwelling—be constructed of non-combustible material, and
- (e) if it is constructed or installed on or in a heritage item or a draft heritage item or in a heritage conservation area or a draft heritage conservation area—be located in the rear yard.

**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.

## **Subdivision 2 Aerials, antennae and communication dishes**

### **2.3 Specified development**

The construction or installation of an aerial, antenna or a satellite communications dish (including any supporting mast) is development specified for this code if the construction or installation does not comprise fire alarm communication link works within the meaning of the *Environmental Planning and Assessment Regulation 2000*.

### **2.4 Development standards**

- (1) The standards specified for that development are that:
  - (a) if the development is attached to an existing building, either by being mounted on the roof or attached to an external wall of a building:
    - (i) the development must not have a diameter of more than 900mm if the development is installed in connection with the use of a dwelling on the lot, and

- (ii) the development must not have a diameter of more than 1.8m if installed for any other purpose, and
  - (iii) the development must not be higher than 1.8m above the highest point of the roof of the building, and
  - (iv) if the development is constructed or installed on a heritage item or draft heritage item—the development must only be attached to the rear wall and roof plane of the existing building and must not be higher than the highest point of the roof of the building, and
- (b) if the development is located at ground level (existing), the development:
- (i) must not have a diameter of more than 1.8m, and
  - (ii) must not be higher than 1.8m above ground level (existing), and
  - (iii) must be located at least 900mm from each lot boundary, and
  - (iv) must be located at the rear of the lot if it is not on land within Zone RU1, RU2, RU3, RU4, RU6 or R5, and
  - (v) must resist loads in accordance with *AS/NZS 1170.0:2002 Structural design actions, Part 0: General Principles* and *AS/NZS 1170.2:2011 Structural design actions, Part 2: Wind actions*, and
  - (vi) must be anchored by a concrete slab or footing designed in accordance with *AS 3600—2009 Concrete structures*, and
- (c) if the development is a mast or attached to a mast, the mast:
- (i) must not have a diameter of more than 100mm, if a solid mast or 500mm if constructed as an open lattice frame, and
  - (ii) must not be higher than 10m above ground level (existing) inclusive of the mast and any attachments, and
  - (iii) must be located at least 5m from each lot boundary, if the mast is over 5m in height, and 2m from each lot boundary, if the mast is 5m or less in height, and
  - (iv) must not be constructed or installed on or in a heritage item or draft heritage item, and
  - (v) must be located at the rear of the lot if it is not on land within Zone RU1, RU2, RU3, RU4, RU6 or R5, and
  - (vi) must resist loads in accordance with *AS/NZS 1170.0:2002 Structural design actions, Part 0: General Principles* and *AS/NZS 1170.2:2011 Structural design actions, Part 2: Wind actions*, and

(vii) must be anchored by a concrete slab or footing designed in accordance with AS 3600—2009 *Concrete structures*.

(2) For subclause (1), there must be:

- (a) no more than 3 developments per lot, and
- (b) not more than 1 mast or antenna located at ground level (existing) on the lot.

(3) Despite subclause (2), development in connection with the use of dwellings in a residential flat building on the lot may comprise 1 (but not more than 1) dish, aerial or antenna per dwelling.

**Note—**

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

## **Subdivision 3 Air-conditioning units**

### **2.5 Specified development**

The construction or installation of an air-conditioning unit is development specified for this code.

**Note—**

For evaporative cooling units see clause 2.30A.

### **2.6 Development standards**

- (1) The standards specified for that development, if for residential uses only, are that the development must:
  - (a) not be located on the wall or roof of a building that faces the primary road, or forward of the building line to the primary road, and
  - (b) be located at least 450mm from each lot boundary, and
  - (c) subject to paragraph (g), be attached to the external wall of a building or ground mounted, and
  - (d) be not higher than 1.8m above ground level (existing), and
  - (e) not involve work that reduces the structural integrity of the building, and
  - (f) not reduce the existing fire resistance level of a wall, and
  - (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
  - (g) if it is constructed or installed on or in a heritage item or a draft heritage item—not be wall mounted, and
  - (h) if it is constructed or installed in a heritage conservation area or a draft heritage conservation area—be located in the rear yard.
- (1A) The standards specified for that development, if for purposes other than residential uses only, are that the development must:
- (a) not be located on the wall or roof of a building that faces the primary road, or forward of the building line to the primary road, and
  - (b) not be built into any external wall unless the development is more than 3m from each side and rear boundary and 6m from any other building on the lot, and
  - (c) not involve work that reduces the structural integrity of the building, and
  - (d) not reduce the existing fire resistance level of a wall or roof, and
  - (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
  - (e) if it is constructed or installed on or in a heritage item or draft heritage item—not be wall mounted, and
  - (f) if it is constructed or installed in a heritage conservation area or a draft heritage conservation area—be located behind the building line of any road frontage.
- (2) Any opening created by the construction or installation of the development must be adequately waterproofed.

**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.

## **Subdivision 3A Animal shelters**

### **2.6A Specified development**

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



## 2.6B Development standards

- (1) The standards specified for that development, when it is not a stable for the keeping of horses in Zone RU1, RU2, RU3, RU4 or RU6, are that the development must:
  - (a) be associated with a residential use, and
  - (b) not have a floor area of more than 10m<sup>2</sup>, and
  - (c) be not higher than 1.8m above ground level (existing), and
  - (d) if it is not on land in Zone RU1, RU2, RU3, RU4 or RU6—be located behind the building line of any road frontage, and
  - (e) be located at least 450mm from each side and rear boundary, and
  - (f) if roofed—be constructed or installed so that roofwater is disposed of into an existing stormwater drainage system, and
  - (g) to the extent it is comprised of metal components—be constructed of low reflective, factory pre-coloured materials and have an impervious floor, and
  - (h) if it is located on bush fire prone land and is less than 5m from a dwelling—be constructed of non-combustible material, and
  - (i) if it is constructed or installed on or in a heritage item or a draft heritage item, or in a heritage conservation area or a draft heritage conservation area—be located in the rear yard.
- (2) There must not be more than 2 developments per lot for development referred to in subclause (1).
- (3) The standards specified for that development when it is a stable for the keeping of horses in Zone RU1, RU2, RU3, RU4 or RU6 are that the development must:
  - (a) be associated with a residential use, and
  - (b) not have a floor area of more than 50m<sup>2</sup>, 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
  - (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).

## **Subdivision 3B Automatic teller machines**

### **2.6C Specified development**

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

### **2.6D Development standards**

The standards specified for that development are that:

(a) the development:

(i) must be located inside, and only be accessible from within, existing commercial premises, or

(ii) must be located inside existing commercial premises within an external wall that is at least 2m from a road and not be installed or constructed on land in a heritage conservation area or draft heritage conservation area, and

(b) the development must be installed in accordance with AS 3769—1990 *Automatic teller machines—User access*.

## **Subdivision 4 Aviaries**

### **2.7 Specified development**

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

### **2.8 Development standards**

(1) The standards specified for that development are that the development must:

(a) be for residential uses only, and

(b) not have a floor area of more than:

(i) in a rural zone—30m<sup>2</sup>, or

(ii) in any other zone—10m<sup>2</sup>, 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
  - (e) (Repealed)
  - (f) have an impervious floor, and
  - (g) be constructed or installed so that roofwater is disposed of without causing a nuisance to adjoining owners, and
  - (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
  - (h) if it is located on bush fire prone land and is less than 5m from a dwelling—be constructed of non-combustible material.
- (2) There must not be more than 2 developments per lot.

**Note—**

For fowl and poultry houses see clause 2.41.

## **Subdivision 5 Awnings, blinds and canopies**

### **2.9 Specified development**

The construction or installation of any of the following structures over a window or door opening is development specified for this code if the structure is not constructed or installed on or in a heritage item or a draft heritage item:

- (a) an awning or canopy associated with a residential use,
- (b) a blind (including a storm blind, security blind or sun blind) or similar structure for any purpose.

**Note—**

See separate entry for shade structures.

## **2.10 Development standards**

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

- (a) not have an area more than 10m<sup>2</sup>, and
- (b) not project beyond the external wall of the building by more than 2m, and
- (b1) be at least 450mm from each side and rear boundary when fully extended, and
- (c) if it is connected to a fascia—be connected in accordance with a professional engineer's specifications, and
- (d) if it is located on bush fire prone land—be constructed of non-combustible material, and
- (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
- (e) not be used for advertising.

## **Subdivision 6 Balconies, decks, patios, pergolas, terraces and verandahs**

### **2.11 Specified development**

The construction or installation of a balcony, deck, patio, pergola, terrace or verandah (whether free standing or attached to the ground floor level of a building, or roofed or unroofed) is development specified for this code if it is not constructed or installed on or in a heritage item or a draft heritage item or on land in a foreshore area.

### **2.12 Development standards**

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

- (a) (Repealed)
- (b) have an area of not more than 25m<sup>2</sup>, and
- (c) not cause the total floor area of all such structures on the lot to be more than:
  - (i) for a lot larger than 300m<sup>2</sup>—15% of the ground floor area of the dwelling on the lot, or
  - (ii) for a lot 300m<sup>2</sup> or less—25m<sup>2</sup>, and
- (d) not have an enclosing wall higher than 1.4m, and
- (e) be located behind the building line of any road frontage, and

- (f) be located at a distance from each lot boundary of at least:
  - (i) for development carried out in Zone RU1, RU2, RU3, RU4, RU6 or R5—5m, or
  - (ii) for development carried out in any other zone—900mm, and
- (g) (Repealed)
- (h) to the extent it is comprised of metal components—be constructed of low reflective, factory pre-coloured materials, and
- (i) have a floor height not more than 1m above ground level (existing), and
- (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
- (k) if it is connected to a fascia—be connected in accordance with a professional engineer’s specifications, and
- (l) be constructed or installed so that any roofwater is disposed of into an existing stormwater drainage system, and
- (m) not interfere with the functioning of existing drainage fixtures or flow paths, and
- (n) if it is located on bush fire prone land and is less than 5m from a dwelling—be constructed of non-combustible material, and
- (o) if it is constructed or installed in a heritage conservation area or a draft heritage conservation area—be located behind the building line of any road frontage.

## **Subdivision 7 Barbecues and other outdoor cooking structures**

### **2.13 Specified development**

The construction or installation of a barbecue or other outdoor cooking structure is development specified for this code.

### **2.14 Development standards**

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

- (a) not have an area of more than 4m<sup>2</sup>, and
- (b) be not higher than 1.8m above ground level (existing), and
- (c) if it is not on land in Zone RU1, RU2, RU3, RU4 or RU6—be located behind the building line of any road frontage, and

- (d) be located at least 450mm from each lot boundary, and
- (e) not be used for commercial purposes.

## **Subdivision 8**

### **2.15, 2.16 (Repealed)**

## **Subdivision 8A Bollards**

### **2.16A Specified development**

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

### **2.16B Development standards**

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

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

## **Subdivision 9 Cabanas, cubby houses, ferneries, garden sheds, gazebos and greenhouses**

### **2.17 Specified development**

The construction or installation of a cabana, cubby house, fernery, garden shed, gazebo or greenhouse is development specified for this code if it is not constructed or installed on or in a heritage item or a draft heritage item, on land in a foreshore area or in an environmentally sensitive area.

### **2.18 Development standards**

- (1) The standards specified for that development are that the development must:
  - (a) (Repealed)

- (b) not have a floor area of more than:
  - (i) on land in Zone RU1, RU2, RU3, RU4, RU6 or R5—50m<sup>2</sup>, or
  - (ii) on land in any other zone—20m<sup>2</sup>, and
- (c) be not higher than 3m above ground level (existing), and
- (d) be located at a distance from each lot boundary of at least:
  - (i) for development carried out in Zone RU1, RU2, RU3, RU4, RU6 or R5—5m, or
  - (ii) for development carried out in any other zone—900mm, and
- (e) if it is not on land in Zone RU1, RU2, RU3, RU4 or RU6—be located behind the building line of any road frontage, and
- (f) not be a shipping container, and
- (g) be constructed or installed so that roofwater is disposed of without causing a nuisance to adjoining owners, and
- (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
- (i) if it is located on bush fire prone land and is less than 5m from a dwelling—be constructed of non-combustible material, and
- (j) if it is constructed or installed in a heritage conservation area or a draft heritage conservation area—be located in the rear yard, and
- (k) if it is located adjacent to another building—be located so that it does not interfere with the entry to, or exit from, or the fire safety measures contained within, that building, and
- (l) be a Class 10 building and not be habitable, and
- (m) be located at least 1m from any registered easement.

(2) There must not be more than 2 developments per lot.

## **Subdivision 10 Carports**

### **2.19 Specified development**

The construction or installation of a carport is development specified for this code if it is not constructed or installed on or in a heritage item or a draft heritage item or on land in a foreshore area.

## 2.20 Development standards

- (1) The standards specified for that development are that the development must:
  - (a) not result in a building classified under the *Building Code of Australia* as class 7a, and
  - (b) not have a floor area more than:
    - (i) for a lot larger than 300m<sup>2</sup> in a rural zone or Zone R5—50m<sup>2</sup>, or
    - (ii) for a lot larger than 300m<sup>2</sup> in a zone other than a rural zone or Zone R5—25m<sup>2</sup>, or
    - (iii) for a lot 300m<sup>2</sup> or less in any zone—20m<sup>2</sup>, and
  - (c) be not higher than 3m above ground level (existing) or, if attached to an existing single storey dwelling, be not higher than the roof gutter line, and
  - (d) be located at least 1m behind the building line of any road frontage, and
  - (e) be located at a distance from each lot boundary of at least:
    - (i) for development carried out in Zone RU1, RU2, RU3, RU4, RU6 or R5—5m, or
    - (ii) for development carried out in any other zone—900mm, and
  - (f) have 2 or more sides open and not less than one-third of its perimeter open, and
  - (g) to the extent it is comprised of metal components—be constructed of low reflective, factory pre-coloured materials, and
  - (h) not involve the construction of a new driveway or gutter crossing unless the consent of the relevant road authority for each opening of a public road required for the development has been obtained under the *Roads Act 1993*, and
  - (i) be constructed or installed so that any roofwater is disposed of into the existing stormwater drainage system, and
  - (j) if it is connected to a fascia—be connected in accordance with a professional engineer's specifications, and
  - (k) (Repealed)
  - (l) if it is located on bush fire prone land and is less than 5m from a dwelling—be constructed of non-combustible material, and
  - (m) if it is constructed or installed in a heritage conservation area or a draft heritage conservation area—be located in the rear yard, and



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

(2) The roof of the development must be located at least 500mm from each lot boundary.

(3) There must not be more than 1 development:

(a) per lot if there is a dwelling on the lot, or

(b) per lot or per each separate occupation of premises on the lot, whichever is the greater, in any other case.

## **Subdivision 10A Change of use of premises**

### **2.20A Specified development**

A change of use from an existing use specified in a category in Column 1 of the Table to this clause to a use specified in the corresponding category in Column 2 of the Table to this clause is development specified for this code.

#### **Table**

##### **Column 1 Existing use**

##### **Column 2 New use**

##### **Category 1**

##### **Category 1**

business premises

business premises

office premises

office premises

shop

shop

kiosk

##### **Category 2**

##### **Category 2**

landscaping material supplies

landscaping material supplies

hardware and building supplies

hardware and building supplies

garden centre

garden centre

plant nursery

plant nursery

rural supplies

rural supplies

timber yard

timber yard

vehicle sales or hire premises

##### **Category 3**

##### **Category 3**

general industry

light industry

light industry	packaging industry
packaging industry	warehouse or distribution centre
warehouse or distribution centre	wholesale supplies
wholesale supplies	self-storage premises

### **2.20B Development standards**

The standards specified for that development are that:

- (a) the current use must be a lawful use, and
- (b) the current use must not be an existing use within the meaning of section 106 of the Act, and
- (c) the new use must be permissible with consent under an environmental planning instrument applying to the land on which the development is carried out, and
- (d) the new use must not result in a change of building use under the *Building Code of Australia*, and
- (e) the new use must not be carried out at premises that are a manufactured home, moveable dwelling or associated structure, temporary structure, tent, swimming pool, ship or vessel, and
- (f) the new use must not be any of the following:
  - (i) food and drink premises,
  - (ii) a funeral chapel,
  - (iii) a funeral home,
  - (iv) retail premises where firearms within the meaning of the *Firearms Act 1996* are sold,
  - (v) landscape and garden supplies,
  - (vi) a market,
  - (vii) premises that are a beauty salon or hair dressing salon,
  - (viii) premises where a skin penetration procedure within the meaning of section 51 of the *Public Health Act 1991* is carried out,
  - (ix) restricted premises,
  - (x) a roadside stall,

- (xi) sex services premises,
- (xii) vehicle sales or hire premises, and
- (g) the new use must not involve building alterations, other than alterations that are exempt development under this Policy, and
- (h) the new use must not result in an increase in the gross floor area of any building within which it is carried out, and
- (i) the new use must not cause the contravention of any existing condition of the most recent development consent (other than a complying development certificate) that applies to the premises relating to hours of operation, noise, car parking, vehicular movement, traffic generation, loading, waste management and landscaping, and
- (j) if there is no such existing condition applying to the premises relating to the hours of operation, the premises must only operate between 7.00 am and 7.00 pm on any day.

**Note—**

Certain types of uses are subject to a maximum floor area to be permissible development in a particular zone under the relevant environmental planning instrument. In those cases, the maximum floor area requirement for that use must be complied with for a change of use to be exempt development.

## **Subdivision 10B Change of use of places of public worship**

### **2.20C Specified development**

A change from a current use to a new use that is a change from a place of public worship to another place of public worship is development specified for this code.

### **2.20D Development standards**

The standards specified for that development are that:

- (a) the current use must be a lawful use, and
- (b) the current use must not be an existing use within the meaning of section 106 of the Act, and
- (c) the new use must not cause the contravention of any existing condition of the most recent development consent (other than a complying development certificate) that applies to the premises relating to hours of operation, noise, car parking, vehicular movement, traffic generation, loading, waste management and landscaping, and
- (d) the new use must not increase or create significant adverse environmental impacts by reason of noise, waste products or traffic generation.

## **Subdivision 10C Charity bins and recycling bins**

### **2.20E Specified development**

The construction or installation of a charity bin or recycling bin is development specified for this code.

### **2.20F Development standards**

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

- (a) be associated with commercial premises or a place of public worship, and
- (b) if located on the same lot as the commercial premises or place of public worship—be wholly located within the lot and not located on a road or road reserve, and
- (c) not result in more than 3 such bins on one lot, and
- (d) be located behind the building line of any road frontage, and
- (e) be operated by a person or organisation that is the holder of an authority under the [Charitable Fundraising Act 1991](#), and
- (f) not display any advertising other than details of the person or organisation that operates it, and
- (g) not cause the contravention of any existing condition of the most recent development consent (other than a complying development certificate) that applies to the premises relating to car parking, loading, vehicular movement, waste management and landscaping.

## **Subdivision 11 Clothes hoists and clothes lines**

### **2.21 Specified development**

The construction or installation of a clothes hoist or clothes line is development specified for this code if it is not constructed or installed on land in a foreshore area.

### **2.22 Development standards**

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

- (a) be located behind the building line of any road frontage, and
- (b) if it is constructed or installed on or in a heritage item or a draft heritage item or in a heritage conservation area or a draft heritage conservation area—be located in the rear yard.

## **Subdivision 12**

### **2.23, 2.24 (Repealed)**

## Subdivision 13 Demolition

### 2.25 Specified development

Demolition of development that would be exempt development under this code if it were being constructed or installed is development specified for this code if it is not carried out on or in a heritage item or a draft heritage item or in a heritage conservation area or a draft heritage conservation area.

### 2.26 Development standards

The standards specified for that development are that the development must be carried out in accordance with AS 2601—2001, *The demolition of structures*.

**Note—**

A building constructed before 1987 may contain asbestos. Businesses are licensed to undertake asbestos removal work under the *Occupational Health and Safety Regulation 2001* (refer to *Working with Asbestos: Guide 2008* (ISBN 0 7310 5159 9) published by the WorkCover Authority). If the work is not undertaken by a licensed contractor it should still be undertaken in a manner that minimises risks (refer to *Fibro & Asbestos—A Renovator and Homeowner's Guide* at <http://more.nsw.gov.au>). Information on the removal and disposal of asbestos to landfill sites licensed to accept this waste is available from the Department of Environment, Climate Change and Water.

## Subdivision 14 Driveways and hard stand spaces

### 2.27 Specified development

The following development is specified for this code if it is not constructed or installed on or in a heritage item or a draft heritage item, in a heritage conservation area or a draft heritage conservation area, on land in a foreshore area or in an environmentally sensitive area:

- (a) the construction or installation of a driveway associated with access to an open hard stand space, a carport, a loading bay or a garage,
- (b) the construction or installation of a hard stand space associated with a driveway, whether open or part of a carport.

### 2.28 Development standards

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

- (a) be constructed or installed so that any surface water or runoff is disposed of by a drainage system that is connected to the existing stormwater drainage system, and
- (b) be constructed in accordance with AS/NZS 2890.1:2004, *Parking facilities, Part 1: Off-street car parking* or AS: 2890.2—2002, *Parking facilities, Part 2: Off-street commercial vehicle facilities*, and
- (c) if the development is ancillary development to a dwelling—not require cut or fill more

than 600mm below or above ground level (existing), and

- (d) if the development is not ancillary development to a dwelling—not require cut or fill more than 1m below or above ground level (existing), and
- (e) if the development is a driveway:
  - (i) not be wider than the open hard stand space, carport or garage with which it is associated, and
  - (ii) be constructed in accordance with the relevant road authority’s policy and specifications on vehicle and driveway crossings, and
  - (iii) be subject to written consent from the relevant roads authority (if required under section 138 of the [Roads Act 1993](#)) for the building of any kerb, crossover or driveway, and
- (f) if the development is a hard stand space:
  - (i) measure at least 2.6m wide by 5.4m long, and
  - (ii) have an area of not more than 20m<sup>2</sup>, and
  - (iii) if the development is ancillary to a dwelling—be located at least 1m behind the building line of any road frontage (other than a laneway) and at least 900mm from each side or rear boundary, and
  - (iv) in any other case—be located clear of any required landscaped area, and
- (g) if the development is constructed or installed in a residential zone or rural zone—not result in the total area of all driveway or hardstand areas, pathways and paved areas on the lot exceeding 15% of the area of the lot or 150m<sup>2</sup>, whichever is the lesser, and
- (h) if constructed or installed in a residential zone:
  - (i) if a lot has a width at the front building line of not more than 18m—have at least 25% of the area forward of the building line as landscaped area, and
  - (ii) if a lot has a width at the front building line of more than 18m—have at least 50% of the area forward of the building line as landscaped area.

## **Subdivision 15 Earthworks, retaining walls and structural support**

### **2.29 Specified development**

Earthworks and the construction or installation of a retaining wall or other form of structural support is development specified for this code if it is not carried out, constructed or installed on or in a heritage item or a draft heritage item, on a flood control lot or in an environmentally sensitive area.

### 2.30 Development standards

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

- (a) not be a cut or fill of more than 600mm below or above ground level (existing), and
- (b) be located at least 1m from each lot boundary, and
- (c) if it is carried out, constructed or installed in a heritage conservation area or a draft heritage conservation area—be located in the rear yard, and
- (d) be located at least 40m from a waterbody (natural), and
- (e) not redirect the flow of any surface water or ground water or cause sediment to be transported onto an adjoining property, and
- (f) if it is a retaining wall or structural support for excavation or fill, or a combination of both:
  - (i) be not be more than 600mm high, measured vertically from the base of the development to its uppermost portion, and
  - (ii) be separated from any retaining wall or other structural support on the site by at least 2m, measured horizontally, and
  - (iii) be located at least 1m from any registered easement, sewer main or water main, and
  - (iv) have adequate drainage lines connected to the existing stormwater drainage system for the site, and
- (g) if the fill is more than 150mm deep—not occupy more than 25% of the area of the lot, and
- (h) if the fill is imported to the site—be free of building and other demolition waste, and only contain virgin excavated natural material (VENM) as defined in Part 3 of Schedule 1 to the [Protection of the Environment Operations Act 1997](#).

## 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.

## **Subdivision 15A Evaporative cooling units (roof mounted)**

### **2.30A Specified development**

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

**Note—**

For air-conditioning units see clause 2.5.

### **2.30B Development standards**

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

- (a) be for residential uses only, and
- (b) be located at least 3m from each side boundary, and
- (c) be not higher than 1.8m above the highest point of the roof of the building on which it is mounted, and
- (d) be constructed or installed so that any opening created is adequately weather proofed, and
- (e) not involve work that reduces the structural integrity of the building, and
- (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
- (f) if it is located on bush fire prone land—be constructed of non-combustible material and be adequately sealed or protected to prevent the entry of embers, 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.

**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.

## **Subdivision 16 Farm buildings**

### **2.31 Specified development**

The construction or installation of a farm building used for the purpose of an agricultural activity and not used for habitable purposes is development specified for this code if it is:

- (a) constructed or installed on land in Zone RU1, RU2, RU3, RU4 or RU6, and
- (b) not constructed or installed on or in a heritage item or a draft heritage item or in an environmentally sensitive area.

### **2.32 Development standards**

- (1) The standards specified for that development are that the development must:
  - (a) be not higher than 7m above ground level (existing), and
  - (b) not have an area of more than:
    - (i) if it is a stockyard—0.5ha, or
    - (ii) if it is any other building—200m<sup>2</sup> (if situated on a lot of 2ha or more) or 50m<sup>2</sup> (if situated on a lot of less than 2ha), and
  - (c) be located at least 20m from the primary road frontage of the lot and at least 10m from the other lot boundaries, and
  - (d) not be constructed or installed within 50m of a dwelling on an adjoining property, and
  - (e) be located at least 50m from a waterbody (natural), and
  - (f) to the extent it is comprised of metal components—be designed by, and constructed in accordance with the specifications of, a professional engineer, and

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

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

## **Subdivision 17 Fences (residential zones)**

### **2.33 Specified development**

The construction or installation of a fence on land within Zone R1, R2, R3 or R4 is development specified for this code if it is not constructed or installed:

- (a) on a lot, or along a common boundary of a lot, that contains a heritage item or a draft heritage item, or
- (b) along the boundary of, or within the setback area of, a primary or secondary road within a heritage conservation area or draft heritage conservation area, or
- (c) on a flood control lot, or
- (d) on land that is identified as being in a foreshore area.

**Note—**

If the fence is a dividing fence, the [Dividing Fences Act 1991](#) also applies.

### **2.34 Development standards**

- (1) The standards specified for that development are that the development must:
  - (a) not be higher than 1.8m above ground level (existing), and
  - (b) not be of masonry construction to a height that is more than 1.2m above ground level (existing), and
  - (c) if it includes an entrance gate—not have a gate that opens outwards, and
  - (d) if it is located in a core koala habitat or potential koala habitat within the meaning of [State Environmental Planning Policy No 44—Koala Habitat Protection](#) or in a movement corridor used by koalas—be constructed or installed in accordance with any relevant council policy or guideline under that Policy, and
  - (e) if it is located on bush fire prone land—be constructed of non-combustible materials or hardwood, and
  - (f) if it is constructed of metal components—be of low reflective, factory pre-coloured materials, and
  - (g) not be an electrical fence or use barbed wire.

- (2) Despite subclause (1), any fence located along the boundary of, or within the setback area to, a primary or secondary road must:
  - (a) not be more than 1.2m above ground level (existing), and
  - (b) be open for at least 20% of the area of the fence that is more than 400mm above ground level (existing), with any individual solid element of the fence above this height being no more than 350mm in width with a minimum aperture of 25mm.
- (3) If a lot has a frontage to a secondary road or roads, subclause (2) only applies to 50% of the length of all contiguous secondary road boundaries, measured from the corner with the primary road boundary.
- (4) Subclause (2) (b) does not apply to the part of the fence along the side boundary and within the setback area to the primary road.
- (5) Despite subclauses (1) and (2), if the fence is erected on a sloping site and stepped to accommodate the fall in the land:
  - (a) a fence that is required to be not more than 1.2m above ground level (existing), must not be more than 1.5m above ground level (existing) at each step, and
  - (b) a fence that is required to be not more than 1.8m above ground level (existing), must not be more than 2.2m above ground level (existing) at each step.

## **Subdivision 18 Fences (rural and environment protection zones and Zone R5)**

### **2.35 Specified development**

The construction or installation of a fence on land within a rural zone, an environment protection zone or Zone R5 is development specified for this code if it is not constructed or installed:

- (a) on a lot, or along a common boundary of a lot, that contains a heritage item or a draft heritage item, or
- (b) along the boundary of, or within the setback area of, a primary or secondary road within a heritage conservation area or draft heritage conservation area.

**Note—**

If the fence is a dividing fence, the [Dividing Fences Act 1991](#) also applies.

### **2.36 Development standards**

- (1) The standards specified for that development are that the development must:
  - (a) not be higher than 1.8m above ground level (existing), and

- (b) not include any masonry construction that extends more than 3m from either side of the entrance to the property from the primary road, and
  - (c) be constructed using post and wire or post and rail, and
  - (d) if it includes an entrance gate—not have a gate that opens outwards, and
  - (e) if it is located in a core koala habitat or potential koala habitat within the meaning of *State Environmental Planning Policy No 44—Koala Habitat Protection or in a movement corridor used by koalas*—be constructed or installed in accordance with any relevant council policy or guideline under that Policy, and
  - (f) if it is located on bush fire prone land—be constructed of non-combustible materials or hardwood, and
  - (g) if it is constructed of metal components—be of low reflective, factory pre-coloured materials, and
  - (h) if it is electrical fencing—be constructed in accordance with AS/NZS 3014:2003, *Electrical installations-electrical fences*, and
  - (i) if it is constructed or installed on a flood control lot—not redirect or interrupt the flow of surface or ground water on that lot.
- (2) Despite subclause (1), if the fence is erected on a sloping site and stepped to accommodate the fall in the land the fence may be not more than 2.2m above ground level (existing) at each step.

## **Subdivision 19 Fences (business and industrial zones)**

### **2.37 Specified development**

The construction or installation of a fence within a business or industrial zone is development specified for this code if it is not constructed or installed:

- (a) on a lot, or along a common boundary of a lot, that contains a heritage item or a draft heritage item, or
- (b) along the boundary of, or within the setback area of, a primary or secondary road within a business zone, or
- (c) on a flood control lot, or
- (d) on land that is identified as being in a foreshore area.

**Note—**

If the fence is a dividing fence, the [Dividing Fences Act 1991](#) also applies.

### **2.38 Development standards**

- (1) The standards specified for that development are that the development must:
  - (a) not be higher than 3m above ground level (existing), and
  - (b) not be of masonry construction to a height that is more than 1.2m above ground level (existing), and
  - (c) if it includes an entrance gate—not have a gate that opens outwards, and
  - (d) if it is located in a core koala habitat or potential koala habitat within the meaning of *State Environmental Planning Policy No 44—Koala Habitat Protection or in a movement corridor used by koalas*—be constructed or installed in accordance with any relevant council policy or guideline under that Policy, and
  - (e) if it is located on bush fire prone land—be constructed of non-combustible materials or hardwood, and
  - (f) if it is constructed of metal components—be of low reflective, factory pre-coloured materials, and
  - (g) not be an electrical fence or use barbed wire.
- (2) Despite subclause (1):
  - (a) any fence located along the boundary of a site that adjoins land within a residential zone must be open for at least 75% of the area of the fence that is more than 1.8m above ground level (existing), and
  - (b) any fence located on the boundary of, or within the setback area of, a road must be open for at least 75% of the area of the fence that is more than 1.2m above ground level (existing).

## **Subdivision 19A**

### **2.38A, 2.38B (Repealed)**

## **Subdivision 20 Flagpoles**

### **2.39 Specified development**

The construction or installation of a free-standing flagpole is development specified for this code.

### **2.40 Development standards**

- (1) The standards specified for that development are that the development must:
  - (a) be not higher than 6m above ground level (existing), and

- (b) not have a diameter of more than 90mm, and
  - (c) be located at least 3m from each side and rear boundary.
- (2) There must not be more than 1 development per lot.
- (3) Any flag flown from the development must not have an area of more than 2.5m<sup>2</sup> and must not be used for advertising.

## **Subdivision 20A Footpaths—outdoor dining**

### **2.40A Specified development**

The use of a footway or public open space within the meaning of the *Roads Act 1993* as an outdoor dining area associated with lawful food and drink premises is development specified for this code.

### **2.40B Development standards**

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

- (a) not be associated with a pub or a small bar, and
- (b) be carried out in accordance with an approval granted under section 125 of the *Roads Act 1993*, including in accordance with any hours of operation to which the approval is subject, and
- (c) be carried out in accordance with any approval granted under section 68 of the *Local Government Act 1993*.

## **Subdivision 21 Fowl and poultry houses**

### **2.41 Specified development**

The construction or installation of a fowl or poultry house is development specified for this code if it is:

- (a) constructed or installed on land in a residential or rural zone, and
- (b) not constructed or installed on or in a heritage item or a draft heritage item, and
- (c) not constructed or installed on land in a foreshore area.

### **2.42 Development standards**

- (1) The standards specified for that development are that the development must:
- (a) if the development is constructed or installed on land in Zone R1, R2, R3, R4, R5 or RU5:
    - (i) be not higher than 3m above ground level (existing), and

- (ii) not have a floor area of more than 15m<sup>2</sup>, and
  - (iii) be located in the rear yard, and
  - (iv) (Repealed)
- (b) if the development is constructed or installed on land in Zone RU1, RU2, RU3, RU4 or RU6:
- (i) be not higher than 7m above ground level (existing), and
  - (ii) not have a floor area of more than 50m<sup>2</sup>, and
- (b1) if the development is constructed or installed on land (other than land within Zone R5)—not house more than 5 fowl or poultry and not house any roosters, and
- (b2) if the development is constructed or installed on land within Zone R5—not house more than 10 fowl or poultry, and
- (c) be located at least 3m from each lot boundary, and
- (d) if it houses fowls (including guinea fowls) only—be located at least 4.5m from any dwelling, public hall, school or premises used for the manufacture, preparation, sale or storage of food, and
- (e) if it houses other types of poultry—be located at least 30m from any dwelling, public hall, school or premises used for the manufacture, preparation, sale or storage of food, and
- (f) be enclosed to prevent the escape of poultry, and
- (g) be constructed or installed so that roofwater is disposed of without causing a nuisance to adjoining owners, and
- (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
- (i) if it is located on bush fire prone land and is less than 5m from a dwelling—be constructed of non-combustible material, and
- (j) if it is constructed or installed in a heritage conservation area or a draft heritage conservation area—be located in the rear yard.
- (2) There must not be more than 1 development per lot.

### **Subdivision 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 and is not constructed or installed in an environmentally sensitive area.

#### **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.

### **Subdivision 21A Garbage bin storage enclosure**

#### **2.42A Specified development**

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

#### **2.42B Development standards**

- (1) The standards specified for that development are that the development must:
  - (a) be for a dwelling house only, and



- (b) be located at least 1m behind the building line of any road frontage, and
- (c) be located at least 450mm from each side and rear boundary, and
- (d) if it is constructed of metal components—be of low reflective, factory pre-coloured materials, and
- (e) if it is located on bush fire prone land and is less than 5m from a dwelling—be constructed of non-combustible material, and
- (f) if it is constructed or installed on or in a heritage item or a draft heritage item or in a heritage conservation area or a draft heritage conservation area—be located in the rear yard, and
- (g) be located at least 1m from any registered easement.

(2) There must not be more than 1 development per lot.

## **Subdivision 21B**

### **2.42C, 2.42D (Repealed)**

## **Subdivision 22 Home businesses, home industries and home occupations**

### **2.43 Specified development**

A home business, a home industry or a home occupation that does not involve the manufacture of food products or skin penetration procedures is development specified for this code.

### **2.44 Development standards**

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

- (a) not involve a change of building use, and
- (b) if the development is on land to which a local environmental plan made under section 33A of the Act applies, comply with the applicable standards specified under clause 5.4 (2) and (3) of that plan.

#### **Note 1—**

The elements that must comprise this development are specified in the definition of **home business**, **home industry** or **home occupation** the Standard Instrument.

#### **Note 2—**

Under the *Building Code of Australia*, a change of building use involving a floor area greater than 10% of the floor area of a building would cause the building to contravene the development standard.

## **Subdivision 23 Home-based child care**

### **2.45 Specified development**

Home-based child care is development specified for this code if it is not carried out on bush fire prone land.

### **2.46 Development standards**

No standards are specified for this development.

**Note—**

The elements that must comprise this type of development are specified in the definition for this development in the Standard Instrument. If all the elements are not present, the development is not development to which this Division applies.

## **Subdivision 23A Hot water systems**

### **2.46A Specified development**

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

### **2.46B Development standards**

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

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

**Note 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).

## **Subdivision 24 Landscaping structures**

### **2.47 Specified development**

The construction or installation of a landscaping structure (including a garden arch), other than a retaining wall is development specified for this code if it is not constructed or installed on or in a heritage item or a draft heritage item or on land in a foreshore area.

### **2.48 Development standards**

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

- (a) be not higher than 2.1m above ground level (existing), and
- (b) be not wider than 1.5m, and
- (c) be located at least 900mm from each lot boundary, and
- (d) not comprise masonry construction higher than 1m from ground level (existing), and
- (e) if it is constructed or installed in a heritage conservation area or a draft heritage conservation area—be located in the rear yard.

## **Subdivision 25 Letterboxes**

### **2.49 Specified development**

The construction or installation of a letterbox, whether free standing or in banks, is development specified for this code if it is not constructed or installed on or in a heritage item or a draft heritage item.

### **2.50 Development standards**

- (1) The standards specified for that development are that the development must:
  - (a) be not higher than 1.2m above ground level (existing), and
  - (b) be visible from the road alignment, and
  - (c) have appropriate numbering that is visible from the road alignment.
- (2) (Repealed)

## **Subdivision 25A Maintenance of buildings in draft heritage conservation areas**

### **2.50A Specified development**

The maintenance of a building in a draft heritage conservation area comprising only:

- (a) painting, plastering, cement rendering, or cladding, or

- (b) the repair or replacement of an external window, glazing areas or a door (other than those on bush fire prone land), or
- (c) the repair or replacement of a non-structural wall or roof cladding, or
- (d) the repair or replacement of a balustrade,

is development specified for this code if it is not constructed or installed on or in, or in relation to, a heritage item or draft heritage item.

### **2.50B Development standards**

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

- (a) reproduce the existing materials, finish and design of the building so as not to alter its appearance, and
- (b) not result in an increase of floor area or alter the layout of the building, and
- (c) not comprise the making of, or an alteration to the size of, any opening in a wall or roof, such as a doorway, window or skylight, and
- (d) not reduce the existing fire resistance level of a wall or roof, and
- (e) if located on bush fire prone land:
  - (i) be adequately sealed or protected to prevent the entry of embers, and
  - (ii) use equivalent or improved quality materials, and
- (f) not affect any existing fire resisting components of the building, and
- (g) not affect the means of egress from the building in an emergency.

## **Subdivision 26 Minor building alterations (internal)**

### **2.51 Specified development**

- (1) A minor internal building alteration for the replacement or renovation of:
  - (a) a doorway, wall, ceiling or floor lining, or
  - (b) a deteriorated frame member, including stairs and stairwells, or
  - (c) a bathroom or kitchen, or
  - (d) a built in fixture such as a vanity, a cupboard or a wardrobe, or
  - (e) an existing sanitary fixture, such as a grease trap or the like, or
  - (f) shelving or racking that is not higher than 2.7m, or

(g) a work station or counter,

is development specified for this code if it is not constructed or installed on or in a heritage item or a draft heritage item.

(2) The installation of new or replacement insulation material in the ceiling, floor or wall of a building is development specified for this code.

## **2.52 Development standards**

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

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

(a) if it is the replacement or renovation of a deteriorated frame member—be of equivalent or improved quality materials, and

(b) not include a change to the configuration of a room, whether by removal of an existing wall, partition or other means, and

(c) not cause reduced window arrangements for light and ventilation needs, reduce the size of a doorway or involve the enclosure of an open area, and

(d) not affect the load bearing capacity (whether vertical or horizontal) of a building, and

(e) not include a change to the fire resisting components of, or interfere with the entry to, or exit from, or the fire safety measures contained within, a building, and

(f) if it is the installation of new or replacement insulation material in a dwelling, it must be in accordance with Part 3.12.1 of the *Building Code of Australia*.

## **Subdivision 27 Minor building alterations (external)**

### **2.53 Specified development**

A minor external non-structural building alteration, such as the following:

(a) painting, plastering, cement rendering, cladding, attaching fittings or decorative work,

(b) the replacement of an external window, glazing areas or a door (other than those on bush fire prone land),

(c) the repair to or replacement of a non-structural wall or roof cladding,

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

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

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

is development specified for this code if it is not constructed or installed on or in a heritage item or a draft heritage item or in a heritage conservation area or a draft heritage conservation area.

#### **2.54 Development standards**

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

- (a) not comprise the making of, or an alteration to the size of, any opening in a wall or roof, such as a doorway, window or skylight, and
- (b) not reduce the existing fire resistance level of a wall or roof, and
- (c) if located on bush fire prone land:
  - (i) be adequately sealed or protected to prevent the entry of embers, and
  - (ii) use equivalent or improved quality materials, and
- (d) not affect any existing fire resisting components of the building, and
- (e) not affect the means of egress from the building in an emergency, and
- (f) if it is the installation of a security screen or grill to a door or window or a security door:
  - (i) be for the purposes of a dwelling, or
  - (ii) be for any other purpose so long as:
    - (A) the screen or grill is installed for a door or window that is situated at least 5m from the boundary of any road, or
    - (B) the security door is installed at least 5m from the boundary of any road.

**Note—**

See separate entry for skylights.

### **Subdivision 27A Mobile food and drink outlets**

#### **2.54A Specified development**

The carrying out of the retail sale of food, drinks and related products on land from a mobile outlet such as a food truck, van, cart or other similar vehicle is development specified for this code.

#### **2.54B Development standards**

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

- (a) have the consent of the owner of the land on which the development is carried out or,

if a council or public authority has the control and management of the land, the consent, in writing, of the council or public authority, and

- (b) not restrict any vehicular or pedestrian access to or from the land or entry to any building on the land, and
- (c) not obstruct the operation of, or access to, any utility services on the land or on adjacent land, and
- (d) not be located within the canopy of, or result in damage to, any tree growing on the land or on adjacent land, and
- (e) not result in any damage to public property on the land or on adjacent land, and
- (f) if carried out on land within or immediately adjacent to a residential zone—only be carried out between 7.00 am and 7.00 pm on any day, and
- (g) if located on a public place—have any approval required under section 68 of the [Local Government Act 1993](#), and
- (h) if located on private land—be limited to 1 development on that land and not contravene any conditions of a development consent for any other use carried out on the land.

**Note—**

A registrable vehicle within the meaning of the [Road Transport \(Vehicle Registration\) Regulation 2007](#), or a cart, bicycle cart or the like must operate in accordance with the [Guidelines for mobile food vending vehicles \(NSW/FA/F1055/1302\)](#) published by the NSW Food Authority in February 2013, and any requirements of the [Food Act 2003](#).

## **Subdivision 28 Pathways and paving**

### **2.55 Specified development**

- (1) The construction or installation of a pathway or paving, including any paving of a deck, pergola, patio or terrace is development specified for this code.
- (2) Subclause (1) does not include any paving of a driveway, hard stand space or turning or parking area to be used by vehicles for any purpose, including the delivery or loading of goods.

### **2.56 Development standards**

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

- (a) be constructed or installed so that any surface water or runoff is disposed of by a drainage system that is connected to the existing stormwater drainage system, and
- (b) if constructed or installed in a residential zone or Zone RU5:

- (i) not require cut or fill more than 600mm below or above ground level (existing), and
  - (ii) not result in the total area of all paved areas (including driveways and hardstand areas) on the lot exceeding 15% of the area of the lot or 150m<sup>2</sup>, whichever is the lesser, and
- (c) if constructed or installed in a residential zone:
- (i) on a lot that has a width at the front building line of not more than 18m—have at least 25% of the area forward of the building line as landscaped area, and
  - (ii) on a lot that has a width at the front building line of more than 18m—have at least 50% of the area forward of the building line as landscaped area, and
- (d) if constructed or installed in a zone (other than a residential zone or Zone RU5):
- (i) not require cut or fill more than 1m below or above ground level (existing), and
  - (ii) not reduce any required landscaped area along a boundary with a road or an adjoining lot on which a dwelling is located.

**Note—**

The Standard Instrument defines **landscaped area** as a part of a site used for growing plants, grasses and trees, but not including any building, structure or hard paved area.

## **Subdivision 29 Playground equipment**

### **2.57 Specified development**

The construction or installation of playground equipment is development specified for this code.

### **2.58 Development standards**

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

- (a) (Repealed)
- (b) be not higher than 2.5m above ground level (existing), and
  - (b1) be located at least 450mm from each side and rear boundary, and
- (c) if it is on land in Zone R1, R2, R3 or R4—be located in the rear yard.
- (d) (Repealed)

## **Subdivision 30 Portable swimming pools and spas and child-resistant**



## **barriers**

### **2.59 Specified development**

The construction or installation of a portable swimming pool or spa or a child-resistant barrier that is required under the *Swimming Pools Act 1992* is development specified for this code if it is not constructed or installed on or in a heritage item or a draft heritage item or on land in a foreshore area.

### **2.60 Development standards**

- (1) The standards specified for that development, if it is the construction or installation of a portable swimming pool or spa, are that the development must:
  - (a1) be for residential uses only, and
  - (a) be located in the rear yard, and
  - (b) be located at least 1m from each lot boundary, and
  - (c) not exceed 2,000 L in capacity, and
  - (d) not require structural work for installation, and
  - (e) not impact on the structural stability of any building.
- (2) A child-resistant barrier must be constructed or installed in accordance with the requirements of the *Swimming Pools Act 1992*.

## **Subdivision 31 Privacy screens**

### **2.61 Specified development**

The construction or installation of a privacy screen that is not attached to a boundary fence or retaining wall is development specified for this code if it is not constructed or installed on land in a foreshore area.

### **2.62 Development standards**

- (1) The standards specified for that development are that the development must:
  - (a) if attached to a balcony, deck, patio, terrace or verandah—be at least 1.7m, but not more than 2.2m, above the finished floor level of that development, and
  - (b) if located on the ground—be not higher than 2.5m above ground level (existing), and
  - (c) be not longer than 5m, and
  - (d) be located at least 900mm from each lot boundary, and

(e) be located in the rear yard.

(2) There must not be more than 2 such privacy screens erected under this clause on any lot.

## **Subdivision 32 Rainwater tanks (above ground)**

### **2.63 Specified development**

The construction or installation of a rainwater tank above ground is development specified for this code if it is not constructed or installed on land in a foreshore area or in an environmentally sensitive area.

### **2.64 Development standards**

(1) The standards specified for that development are that the development must:

- (a) if it is on land other than land in Zone RU1, RU2, RU3, RU4, RU6, R5, E2, E3 or E4:
  - (i) for an educational establishment—not have a capacity of more than 25,000 L, and
  - (ii) in any other case—not have a capacity more than 10,000 L, and
  - (iii) be located at least 450mm from each lot boundary, if the tank has a height of more than 1.8m above ground level (existing), and
- (b) if it is on land in Zone RU1, RU2, RU3, RU4, RU6, R5, E2, E3 or E4—be located at least 10m from each lot boundary, and
- (c) be located behind the building line of any road frontage, and
- (d) not rest on the footings of an existing building for support, and
- (e) not require cut and fill of more than 1m below or above ground level (existing), and
- (f) be fitted with a screened rain head designed to ensure self-cleaning and prevent leaf litter entering into the water tank, and
- (g) be fitted with a first-flush device incorporating an automatic resetting valve that causes initial run-off rainwater to bypass the tank, and
- (h) be constructed or installed with inlets and outlets designed to prevent mosquitoes breeding in it, and
- (i) have its overflow connected to an existing stormwater drainage system that does not discharge to an adjoining property, or cause a nuisance to adjoining owners, and

- (j) have a sign affixed to it with a statement to the effect that the water in the tank is rainwater, and
  - (k) if it is constructed or installed on or in a heritage item or a draft heritage item—be located in the rear yard.
- (2) Pumps attached to the development must be housed in an enclosure that is soundproofed.
- (3) If reticulated water is provided to the lot, the development must not be interconnected with any system supplying drinking water to the lot unless it complies with the relevant water authority's requirements.
- (4) In this clause:

***educational establishment*** means a building or place used for education (including teaching) and includes a pre-school, a school, a tertiary institution that provides formal education (such as a university or TAFE establishment) and an art gallery or museum that is not used to sell the items displayed in it (whether or not the building or place is also used for accommodation for staff or students).

## **Subdivision 33 Rainwater tanks (below ground)**

### **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, RU6 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, and
- (c) it is not constructed or installed on land that is identified as an environmentally sensitive area.

### **2.66 Development standards**

- (1) The standards specified for that development are that the development must:
- (a) be fitted with a first-flush device that causes initial run-off rainwater to bypass the tank, and
  - (b) have a sign affixed to it stating the water in it is rainwater, and
  - (c) be constructed or installed to prevent mosquitoes breeding in it, and
  - (d) have its overflow connected to an existing stormwater drainage system that does not discharge to an adjoining property, or cause a nuisance to adjoining owners,

and

(e) if it is constructed or installed on or in a heritage item or a draft heritage item—be located in the rear yard.

(2) Pumps attached to the development must be housed in an enclosure that is soundproofed.

(3) If reticulated water is provided to the lot, the development must not be interconnected with any system supplying drinking water to the lot unless it complies with the relevant water authority's requirements.

### **Subdivision 33A Roller shutter doors adjoining lanes**

#### **2.66A Specified development**

The installation of a roller shutter door on a boundary adjoining a lane is development specified for this code.

#### **2.66B Development standards**

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

- (a) be associated with a hard stand, garage or carport, and
- (b) have a width of not greater than 4.5m, and
- (c) not be higher than 3m above ground level (existing), and
- (d) not encroach on the lane, and
- (e) comply with AS/NZS 2890.1:2004 *Parking facilities, Part 1: Off-street parking*.

### **Subdivision 34**

#### **2.67, 2.68 (Repealed)**

### **Subdivision 35 Screen enclosures (of balconies, decks, patios, pergolas, terraces and verandahs)**

#### **2.69 Specified development**

The construction or installation of a screen by attaching it to a balcony, deck, patio, pergola, terrace or verandah of a dwelling is development specified for this code if it is not constructed or installed on or in a heritage item or a draft heritage item.

#### **2.70 Development standards**

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

- (a) not have a solid enclosing wall higher than 1.4m above the floor level of the structure it is enclosing, and
- (b) if it encloses a structure attached to the ground level of a single storey dwelling or the upper level of a two storey dwelling—not be higher than the roof gutter line, and
- (c) if it encloses a structure attached to the ground level of a two storey dwelling—not be higher than 3m above the floor level of the structure it is enclosing, and
- (d) if it encloses a freestanding structure—not be higher than 3m above the floor level of the structure it is enclosing, and
- (e) if it encloses a structure attached to the upper level of a two storey dwelling—not enclose an area of more than 9m<sup>2</sup>, and
- (f) be located behind the building line of any road frontage, and
- (g) be located at least 900mm from each lot boundary, and
- (h) to the extent it is comprised of metal components—be constructed of low reflective, factory pre-coloured materials, and
- (i) if it is connected to a fascia—be connected in accordance with a professional engineer’s specifications, and
- (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
- (k) if it is located on bush fire prone land and is less than 5m from a dwelling—be constructed of non-combustible material, and
- (l) if it is constructed or installed in a heritage conservation area or a draft heritage conservation area—not be attached to any balcony, deck, patio, pergola, terrace or verandah that faces any road.

## **Subdivision 36 Shade structures of canvas, fabric, mesh or the like**

### **2.71 Specified development**

The construction or installation of a shade structure of canvas, fabric, mesh or the like is development specified for this code if it is not constructed or installed on land in a foreshore area.

**Note—**

See separate entry for awnings, blinds and canopies.

## 2.72 Development standards

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

- (a) (Repealed)
- (b) not have an area more than:
  - (i) if for residential uses—20m<sup>2</sup>, or
  - (ii) if it is constructed or installed for the purposes of a child care centre in a residential zone—40m<sup>2</sup>, or
  - (iii) if it is constructed or installed for the purposes of a child care centre in a zone other than a residential zone—60m<sup>2</sup>, or
  - (iv) if it is constructed or installed for the purposes of any other use—30m<sup>2</sup>, and
- (c) not cause the total area of all such structures on the lot to be more than 15% of the ground floor area of all buildings on the lot, and
- (d) not be higher than 3m from ground level (existing), and
- (e) be located at a distance from each lot boundary of at least:
  - (i) if the development is carried out in Zone RU1, RU2, RU3, RU4, RU6 or R5—5m, or
  - (ii) in any other case—900mm, and
- (f) be located behind the building line of any road frontage, and
- (g) to the extent it is comprised of metal components—be constructed of low reflective, factory pre-coloured materials, and
- (h) if it is connected to a fascia—be connected in accordance with a professional engineer's specifications, and
- (i) not interfere with the functioning of existing drainage fixtures or flow paths, and
- (j) if it is located on bush fire prone land and is less than 5m from a dwelling—be constructed of non-combustible material, and
- (k) if it is constructed or installed on or in a heritage item or a draft heritage item or in a heritage conservation area or a draft heritage conservation area—be located in the rear yard, and
- (l) if it is constructed or installed for the purposes of a child care centre—be constructed of non-combustible material.

## **Subdivision 36A**

### **2.72A, 2.72B (Repealed)**

## **Subdivision 37 Skylights, roof windows and ventilators**

### **2.73 Specified development**

- (1) The construction or installation of a skylight, roof window or ventilator is development specified for this code if it is not constructed or installed on or in a heritage item or a draft heritage item.
- (2) Development referred to in subclause (1) is not exempt development if it is constructed or installed on land in the local government area of Coonamble, City of Dubbo, Gilgandra or Warrumbungle Shire.

### **2.74 Development standards**

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

- (aa) be for residential uses only, and
- (a) not cause the total area of all such structures to be more than 2% of the total roof area of the building, and
- (b) be located at least 900mm from each lot boundary, and
- (c) be located at least 900mm from a wall separating attached dwellings, and
- (d) be constructed or installed so that any opening created is adequately weather proofed, and
- (e) not involve work that reduces the structural integrity of the building, and
- (f) if located on bush fire prone land—be adequately sealed or protected to prevent entry of embers, and
- (g) if constructed or installed in a heritage conservation area or a draft heritage conservation area—not be visible from any road frontage.

#### **Note—**

Development for the purposes of small wind turbine systems or solar energy systems (ie a photovoltaic electricity generating system, solar hot water system or solar air heating system) is specified as exempt development under Division 4 of Part 3 of [State Environmental Planning Policy \(Infrastructure\) 2007](#).

## **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 realignment of boundaries:
  - (i) that is not carried out in relation to land on which a heritage item or draft heritage item is situated, and
  - (ii) that will not create additional lots or the opportunity for additional dwellings, and
  - (iii) that will not result in any lot that is smaller than the minimum size specified in an environmental planning instrument in relation to the land concerned (unless a lot or lots whose boundaries are being realigned is or are already smaller than the minimum size and that lot or those lots will only increase in size at the completion of the subdivision), and
  - (iv) that will not adversely affect the provision of existing services on a lot, and
  - (v) that will not result in any increased fire risk to existing buildings, and
  - (vi) if located in Zone RU1, RU2, RU3, RU4, RU6, E1, E2, E3 or E4—that will not result in more than a minor change in the area of any lot, and
  - (vii) if located in any other zone—that will not result in a change in the area of any lot by more than 10%,
- (c) (Repealed)
- (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.)

## **Subdivision 39 Sculptures and artworks**

### **2.77 Specified development**

The installation and display of any outdoor sculpture or other form of freestanding artwork is development specified for this code if it is not constructed or installed on or in a heritage item or draft heritage item, in a heritage conservation area or draft heritage



conservation area or on land in a foreshore area.

### **2.78 Development standards**

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

- (a) be approved by the owner of the land on which it is installed or, if it is installed on a public road, be approved by the relevant roads authority (within the meaning of the [Roads Act 1993](#)), and
- (b) be structurally sound and securely fixed with any moveable parts securely attached, and
- (c) not give rise to any noise or other nuisance to any adjoining property, and
- (d) if installed on land in a residential zone—be not more than 3m in height and 3m in diameter, and
- (e) if installed on land in any other zone—be not more than 6m in height, and
- (f) if installed on land adjoining land in a residential zone—must be wholly located at least 3m from the boundary with that adjoining land.

## **Subdivision 39A**

### **2.78A, 2.78B (Repealed)**

## **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 or in an environmentally sensitive area.

### **2.78D Development standards**

(1) The standards specified for that development are that the development must:

- (a) be for residential uses 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), and

(e) have a setback from a side or rear boundary of at least 5m.

(2) There must not be more than 1 development per lot.

## **Subdivision 39C Waste storage containers**

### **2.78E Specified development**

The installation of a waste storage container in a public place (within the meaning of the [Local Government Act 1993](#)) is development specified for this code.

### **2.78F Development standards**

The standards specified for that development are that the development must be located in accordance with an approval granted under the [Local Government Act 1993](#).

## **Subdivision 40 Water features and ponds**

### **2.79 Specified development**

The construction or installation of a water feature or pond is development specified for this code if it is not constructed or installed on or in a heritage item or a draft heritage item.

### **2.80 Development standards**

(1) The standards specified for that development are that the development must:

(a) not have a water depth of more than 300mm, and

(a1) not have a surface area of more than 10m<sup>2</sup>, and

(b) if it is constructed or installed in a heritage conservation area or a draft heritage conservation area—be located in the rear yard.

(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.

## **Subdivision 40A Waterways structures—minor alterations**

### **2.80A Specified development**

The following works to existing lawful boat sheds, jetties, marinas, pontoons, water recreation structures and wharf or boating facilities are development specified for this code if the works are not carried out on or in a heritage item or a draft heritage item:

- (a) the repair or replacement of the following:
  - (i) decking on a boardwalk, gangway, ramp, jetty, landing, landing steps, pontoon or wharf or on any stairs, steps or skids,
  - (ii) a handrail or ladder,
  - (iii) non-load bearing members,
- (b) non-structural internal or external alterations to an existing lawful boat shed, including painting, plastering, cement rendering, cladding, attachment of fittings and decorative work,
- (c) the installation of the following:
  - (i) emergency items such as lifebuoys and any associated signage,
  - (ii) lighting,
  - (iii) service pedestals,
- (d) painting or other similarly applied surface treatment that is intended to protect a structure from corrosion or weathering.

### **2.80B Development standards**

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

- (a) if it is for the repair or replacement of non-load bearing members:
  - (i) use members of like dimension to the members being repaired or replaced, and
  - (ii) not modify the footprint for the structure concerned, and
  - (iii) use materials that are equivalent to the quality of the existing approved materials being repaired or replaced, and
- (b) if it is for a non-structural internal or external alteration to a boat shed—not affect the load bearing capacity of any component of the boat shed, and
- (c) not result in a pile being left exposed within the waterway, and
- (d) if it relates to the surfaces of pontoons, ramps or jetties (including the tops of piles)—be untreated, or stained or painted in recessive colours sympathetic to the existing natural landscape and built form, unless otherwise required for safety reasons, and
- (e) if it is the installation of lighting:
  - (i) be for the purpose of aiding pedestrian movement to, from and on the facility and be fixed to the existing structure at a height of no more than 1.5m above the

- surface used for pedestrian movement, and
- (ii) not exceed 15 lux (being a unit of measurement for illumination) measured at the area to which the lighting is directed, and
- (iii) be designed and located so as not to affect safe navigation or cause any nuisance to neighbours or users of the waterway, and
- (f) if it is the installation of service pedestals:
  - (i) be attached to an existing structure and installed in accordance with the manufacturer's specifications, and
  - (ii) not be higher than 1.4m above the level of any wharf or deck on or near which it is located, and
  - (iii) not exceed a width or depth of 300mm, and
- (g) if it is pollution control facilities, occupational health and safety measures and environmental management works:
  - (i) satisfy any applicable legislative requirements relating to pollution control, and
  - (ii) not be undertaken for the purpose of remediating contaminated land, and
- (h) not reduce the amount of light penetration to any water below, and
- (i) not increase the area of the existing footprint of any building, and
- (j) not change the classification of any building under the *Building Code of Australia*, and
- (k) not involve disturbance of, or injury to, the bed of any waterway or marine vegetation (within the meaning of the *Fisheries Management Act 1994*), and
- (l) not include a change to the fire resisting components of, or interfere with the entry to or exit from, or the fire safety measures contained within, any building, and
- (m) use recessive colours sympathetic to the existing natural landscape and built form, and
- (n) be consistent with the terms of any applicable development consent, and
- (o) if an approval is required under the *Fisheries Management Act 1994*—be approved under that Act, and
- (p) if a licence is required under the *Protection of the Environment Operations Act 1997*—be licenced under that Act.

## Subdivision 41 Windmills

### 2.81 Specified development

The construction or installation of a windmill for purposes other than the generation of electricity is development specified for this code if it is constructed or installed on land in Zone RU1, RU2, RU3, RU4 or RU6.

### 2.82 Development standards

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

- (a) be free standing, and
- (a1) be located at least 20m from any road boundary and 5m from each other lot boundary, and
- (b) be designed by a professional engineer, and
- (c) be located at least 1m from any registered easement.

**Note—**

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

## Division 2 Advertising and Signage Exempt Development Code

### Subdivision 1 General requirements for advertising and signage

#### 2.83 General requirements

- (1) To be exempt development under this code, development specified in this Division must:
  - (a) have the consent in writing of the owner of the land on which the sign is to be located and, if the sign or part of the sign projects over adjoining land, the consent of the owner of the adjoining land, and
  - (b) be approved under section 138 of the [Roads Act 1993](#), if the sign or part of the sign projects over a public road, including a footway, and
  - (c) not be carried out on or in relation to a building being used as restricted premises, and
  - (d) not cover any mechanical ventilation inlets or outlets located on any building on which it is carried out, and
  - (e) not obstruct or interfere with any traffic sign, and

(f) not result in more than 3 business identification signs being constructed or installed in relation to a building if the building houses only one commercial tenant, and

(g) not result in more than 6 business identification signs being constructed or installed in relation to any building, and

(h) not result in more than one business identification sign being constructed or installed in relation to a home business, home industry or home occupation in a residential zone.

(2) This clause does not affect any other requirement of this Policy in relation to exempt development.

**Note—**

The [Summary Offences Act 1988](#) regulates or prohibits certain business signs.

## **Subdivision 2 Building identification signs**

### **2.84 Specified development**

The construction or installation of a building identification sign on the facade of a building for the purpose of identifying or naming a building is development specified for the purposes of this code if it is not constructed or installed on a heritage item or draft heritage item, in a heritage conservation area or draft heritage conservation area.

### **2.85 Development standards**

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

(a) have only one sign displayed on each street frontage, and

(b) not be more than 2.5m<sup>2</sup> in area, and

(c) be mounted flat against an exterior wall or parapet and must not protrude more than 300mm from the face of the wall or parapet, and

(d) not be located higher than:

(i) the parapet or eaves of the building, or

(ii) 15m above ground level (existing),

whichever is the lower, and

(e) not cover any window, door or architectural feature, and

(f) be securely fixed to the building in accordance with:

(i) AS/NZS 1170.0:2002, *Structural design actions, Part 0:General principles*, and

- (ii) AS/NZS 1170.2:2011, *Structural design actions, Part 2:Wind actions*, and
- (g) not include any advertising of goods, products or services, and
- (h) if the sign is illuminated:
  - (i) have its means of illumination, including any associated cables, concealed or integrated within the frame of the sign, and
  - (ii) not be animated, flashing or moving, and
  - (iii) comply with AS 4282—1997, *Control of the obtrusive effects of outdoor lighting*, and
- (i) if the sign is on a building on land that is within a residential, rural or environment protection zone, or is within 50m of and faces toward land that is within one of those zones—only be illuminated:
  - (i) if the hours of operation of the business identified on the sign have been approved—during those hours, or
  - (ii) if the hours of operation of the business identified on the sign have not been approved—between 7.00 am and 10.00 pm on any day.

## **Subdivision 3 Wall signs**

### **2.86 Specified development**

The construction or installation of a business identification sign (including a business identification sign for a home business) that is flat mounted or painted on the exterior wall of an existing building, or on an existing boundary fence or wall, is development specified for the purposes of this code if it is not constructed or installed on a heritage item or draft heritage item, in a heritage conservation area or draft heritage conservation area.

### **2.87 Development standards**

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

- (a) not result in more than 4 business identification signs of this type for the building (which may refer to more than 1 business within the building) so long as only one sign is visible on each elevation of the building, and
- (b) be attached to the building in which the business identified in the sign is located, and
- (c) if it is a sign that is located in a residential, rural or environment protection zone:
  - (i) for a sign for a home business, home industry or home occupation—not be more than 1m<sup>2</sup> in area, and
  - (ii) for a sign for any other use—not be more than 2.5m<sup>2</sup> in area, and

- (d) if it is a sign that is located in a business zone or Zone RU5—not be more than 5m<sup>2</sup> in area, and
- (e) if it is a sign that is located in an industrial zone:
  - (i) not be more than 16m<sup>2</sup> in area if the sign is a wall sign attached or fixed to a building (other than a wall sign referred to in subparagraph (ii)), or
  - (ii) not be more than 20% of the surface area of the wall of the building if the sign is a wall sign painted or applied by adhesive material on a building, and
- (f) not project beyond the parapet or eaves of the building to which it is attached, and
- (g) not be more than 2.5m above ground level (existing) in a residential zone, and not be more than 8m above ground level (existing) in any other zone, and
- (h) not cover any window, door or architectural feature, and
- (i) be securely fixed to the building in accordance with:
  - (i) AS/NZS 1170.0:2002, *Structural design actions, Part 0: General principles*, and
  - (ii) AS/NZS 1170.2:2011, *Structural design actions, Part 2: Wind actions*, and
- (j) if the sign is illuminated:
  - (i) have its means of illumination, including any associated cables, concealed or integrated within the frame of the sign, and
  - (ii) not be animated, flashing or moving, and
  - (iii) comply with AS 4282—1997, *Control of the obtrusive effects of outdoor lighting*, and
- (k) if the sign is on a building, fence or wall on land within a residential, rural or environment protection zone, or is within 50m of and faces toward land within one of those zones—only be illuminated:
  - (i) if the hours of operation of the business identified on the sign have been approved—during those hours, or
  - (ii) if the hours of operation of the business identified on the sign have not been approved—between 7.00 am and 10.00 pm on any day.

## **Subdivision 4 Fascia signs**

### **2.88 Specified development**

The construction or installation of a business identification sign on the existing fascia of the awning of a building is development specified for the purposes of this code.



## **2.89 Development standards**

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

- (a) be mounted flat and securely fixed to the fascia, and
- (b) involve a rigid signboard or a signboard within a rigid frame, and
- (c) not project below, above or beyond the sides of the fascia, and
- (d) be at least 600mm behind the alignment of any kerb within the adjacent road, and
- (e) not be illuminated.

## **Subdivision 5 Under awning signs**

### **2.90 Specified development**

The construction or installation of a business identification sign suspended below the existing awning of a building is development specified for the purposes of this code.

### **2.91 Development standards**

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

- (a) not result in more than one sign of this type for each ground floor tenancy, and
- (b) not be more than 1.5m<sup>2</sup> in area, and
- (c) not be more than 2.5m in length, and
- (d) be erected with the lower edge at least 2.6m above ground level (existing), and
- (e) be suspended at right angles to the building, and
- (f) not project beyond the awning fascia, and
- (g) be securely fixed to the building in accordance with:
  - (i) AS/NZS 1170.0:2002, *Structural design actions, Part 0: General principles*, and
  - (ii) AS/NZS 1170.2:2011, *Structural design actions, Part 2: Wind actions*, and
- (h) if the sign is illuminated:
  - (i) have its means of illumination, including any associated cables, concealed or integrated within the frame of the sign, and
  - (ii) not be animated, flashing or moving, and
  - (iii) comply with AS 4282—1997, *Control of the obtrusive effects of outdoor lighting*.

## **Subdivision 6 Top hamper signs**

### **2.92 Specified development**

The construction or installation of a business identification sign above a display window or attached to the transom of a doorway in an existing building is development specified for the purposes of this code if it is not constructed or installed on a heritage item or a draft heritage item.

### **2.93 Development standards**

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

- (a) not result in more than one sign of this type for each ground floor tenancy, and
  - (b) not be more than 2.5m<sup>2</sup> in area, and
  - (c) not be more than 600mm in height, and
  - (d) be erected with the lower edge at least 2.1m above ground level (existing), and
  - (e) not project below the transom of any doorway, and
  - (f) if constructed or installed in a heritage conservation area or in a draft heritage conservation area:
    - (i) be fixed flush to the transom, and
    - (ii) not project below the top of the doorway or display window, and
    - (iii) not be externally illuminated, and
  - (g) if the sign is illuminated:
    - (i) have its means of illumination, including any associated cables, concealed or integrated within the frame of the sign, and
    - (ii) not be animated, flashing or moving, and
- comply with AS 4282—1997, *Control of the obtrusive effects of outdoor lighting*.

## **Subdivision 7 Window signs**

### **2.94 Specified development**

The construction or installation of a business identification sign inside any window of an existing building is development specified for the purposes of this code.

### **2.95 Development standards**

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

- (a) not cover more than 20% of the surface of the window in which it is displayed or 6m<sup>2</sup>, whichever is the lesser, and
- (b) not be illuminated, and
- (c) if it involves a sign advertising a home business, home industry or home occupation—not result in more than one sign per premises.

## **Subdivision 8 Replacement of identification signs**

### **2.96 Specified development**

The replacement of:

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

is development specified for this code.

### **2.97 Development standards**

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

- (a) replace a lawful sign, and
- (b) not be greater in size than the sign that it replaces, and
- (c) not be a sign that is animated, flashing or illuminated, unless the sign it replaces is the subject of a development consent to be an illuminated sign, and
- (d) not involve any alteration to the structure or vessel on which the sign is displayed, and
- (e) not obstruct or interfere with traffic signs.

## **Subdivision 9 Internal signs**

### **2.98 Specified development**

The construction, installation or display of advertisements or signs within an area enclosed by a building (for example, a sports stadium or shopping centre) is development specified for the purposes of this code.

### **2.99 Development standards**

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

- (a) not be visible from any public place outside the site of the building concerned, and
- (b) be securely fixed and installed in accordance with:

- (i) AS/NZS 1170.0:2002, *Structural design actions, Part 0: General principles*, and
- (ii) AS/NZS 1170.2:2011, *Structural design actions, Part 2: Wind actions*.

## **Subdivision 10 Community notice and public information signs**

### **2.100 Specified development**

The construction or installation of a sign that provides information on, or advertises services or activities on a site for, a public or community institution or organisation is development specified for the purposes of this code.

### **2.101 Development standards**

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

- (a) not result in more than one sign facing any road frontage, and
- (b) not have a surface area of more than 3.5m<sup>2</sup>, and
- (c) not be higher than 5m above ground level (existing), and
- (d) be located wholly within the boundaries of the site, and
- (e) be securely fixed and installed in accordance with:
  - (i) AS/NZS 1170.0:2002, *Structural design actions, Part 0: General principles*, and
  - (ii) AS/NZS 1170.2:2011, *Structural design actions, Part 2: Wind actions*, and
- (f) if on the site of a heritage item or draft heritage item—not be attached to a building, and
- (g) not be illuminated.

## **Subdivision 11 Temporary event signs**

### **2.102 Specified development**

The construction or installation of a sign or banner that advertises a commercial, community or retail event or a private function (including sponsorship of the event or function) is development specified for the purposes of this code.

### **2.103 Development standards**

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

- (a) not result in more than one banner and one other type of temporary sign facing any road frontage, and
- (b) not have a surface area of more than 6m<sup>2</sup>, and

- (c) be located wholly within the boundaries of the property or, if attached to a building, fence or wall, not project more than 100mm from the building, fence or wall, and
- (d) not be higher than 5m above ground level (existing), and
- (e) not be permanently fixed to a building, fence or wall, and
- (f) if advertising a commercial or retail event—not be constructed or installed in a residential zone, and
- (g) not be illuminated, and
- (h) not be displayed earlier than 14 days before the event, and
- (i) be removed within 2 days after the event.

## **Subdivision 12 Real estate signs**

### **2.104 Specified development**

The construction or installation of a temporary sign to advertise real property for sale or rent, being a sign that is located on the property for sale or on the site of the property for sale, is development specified for the purposes of this code.

### **2.105 Development standards**

- (1) The standards specified for that development are that the development must:
  - (a) if it is advertising a parcel of land or one or more dwellings in a multi dwelling development with less than 10 dwellings:
    - (i) not result in more than one sign for each parcel of land or dwelling (except that dwellings in the same ownership must be advertised on one sign), and
    - (ii) not be more than 1.5m<sup>2</sup> in area, and
    - (iii) not be more than 3m above ground level (existing), and
    - (iv) not be externally illuminated, and
    - (v) if the development is advertising the sale or lease of a dwelling—be removed within 14 days after the sale or lease, and
    - (vi) if the development is advertising the sale or lease of vacant land—be removed no later than the commencement of any construction on the land, and
  - (b) in any other case—not result in more than one sign on any road frontage and each sign must:

- (i) not be more than 10m<sup>2</sup> in area, and
  - (ii) not be more than 5m above ground level (existing), and
  - (iii) if the sign is more than 3.5m<sup>2</sup> in area—be securely fixed and installed in accordance with:
    - (A) AS/NZS 1170.0:2002, *Structural design actions, Part 0: General principles*, and
    - (B) AS/NZS 1170.2:2011, *Structural design actions, Part 2: Wind actions*, and
  - (iv) not be illuminated, and
  - (v) if on the site of a heritage item or draft heritage item—not be attached to a building, and
  - (vi) be removed within 14 days after the sale or lease of the property.
- (2) Despite subclause (1) (b), a sign that complies with the following development standards may be constructed or installed if the sign is advertising the sale of all the lots in a subdivision with more than 10 lots or all the dwellings in a multi dwelling development with 10 dwellings or more:
- (a) the sign must:
    - (i) not be more than 10m<sup>2</sup> in area, and
    - (ii) not be more than 5m above ground level (existing), and
    - (iii) if the sign is more than 3.5m<sup>2</sup> in area—be securely fixed and installed in accordance with:
      - (A) AS/NZS 1170.0:2002, *Structural design actions, Part 0: General principles*, and
      - (B) AS/NZS 1170.2:2011, *Structural design actions, Part 2: Wind actions*,
  - (b) the sign must be removed when 90% (rounded down to the nearest whole number) of the lots in the subdivision or dwellings in the multi dwelling development are sold or at the expiration of 2 years, whichever occurs first,
  - (c) the sign may be additional to any sign permitted under subclause (1) (b), but only one such additional sign may be constructed or installed.

## **Subdivision 13 Election signs**

### **2.106 Specified development**

- (1) The display of any poster that contains electoral matter in relation to an election held

under the *Commonwealth Electoral Act 1918* of the Commonwealth, the *Parliamentary Electorates and Elections Act 1912* or the *Local Government Act 1993* is development specified for the purposes of this code.

(2) In this clause, **electoral matter** means:

- (a) any matter that is intended or calculated or likely to affect or is capable of affecting the result of an election or that is intended or calculated or likely to influence or is capable of influencing an elector in relation to the casting of his or her vote at an election, or
- (b) the name of a candidate at an election, the name of the party of any such candidate and the picture of any such candidate (including any photograph of the candidate and any drawing or printed matter that purports to depict any such candidate or to be a likeness or representation of any such candidate).

### **2.107 Development standards**

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

- (a) not be more than 0.8m<sup>2</sup> in area, and
- (b) if on the site of a heritage item or draft heritage item—not be attached to a building, and
- (c) be displayed by or on behalf of a candidate at an election referred to in clause 2.106 or the party (if any) of any such candidate, and
- (d) be displayed in accordance with any relevant requirements of the Act under which the election is held, and
- (e) be displayed only during the following periods:
  - (i) 5 weeks immediately preceding the day on which the election is held,
  - (ii) the day on which the election is held,
  - (iii) 1 week immediately following the day on which the election is held.

## **Division 3 Temporary Uses and Structures Exempt Development Code**

### **Subdivision 1 General requirements for temporary uses and structures**

#### **2.108 General requirements**

- (1) To be exempt development under this code, development specified in this Division must:

- (a) have the consent in writing of the owner of the land on which the development is carried out or, if a council or public authority has the control or management of the land, the consent in writing of the council or public authority,
  - (b) not restrict any car parking required to be provided by a condition of a development consent applying to the land or any vehicular or pedestrian access to or from the land unless that parking and access is on land owned, controlled or managed by a council or public authority and that council or public authority has given its written consent to the temporary use of the land for the erection of the temporary structure,
  - (c) not redirect the flow of any surface water or ground water, or cause sediment to be transported, onto an adjoining property,
  - (d) not result in damage to any protected tree growing on the land or on adjacent land,
  - (e) if it is the erection of a temporary structure—be erected on a surface that is sufficiently firm and level to sustain the structure while in use,
  - (f) if it is the erection of a temporary structure—be able to resist loads determined in accordance with the following Australian and New Zealand Standards:
    - (i) AS/NZS 1170.0:2002, *Structural design actions, Part 0: General principles*,
    - (ii) AS/NZS 1170.1:2002, *Structural design actions, Part 1: Permanent, imposed and other actions*,
    - (iii) AS/NZS 1170.2:2011, *Structural design actions, Part 2: Wind actions*,
  - (g) be covered by a policy of insurance taken out by the person carrying out the development that adequately covers the public liability of the person in respect of the carrying out of the development for an amount approved by the owner of the land on which the development is carried out,
  - (h) have an approval for the use of the land related to the purpose of the temporary structure, unless the use of the temporary structure is specified as exempt development or is ancillary to the principal use of the land.
- (2) In this clause, any development standard that specifies a separation distance to a side or rear boundary:
- (a) only applies in respect of a boundary with adjoining land that is under a different ownership, and
  - (b) does not apply in respect of adjoining land that is owned by the council or other public authority if the written consent of the council or other public authority has been obtained.



**Note—**

Under section 68 of the *Local Government Act 1993* certain activities require the approval of the council.

## **Subdivision 2 Scaffolding, hoardings and temporary construction site fences**

### **2.109 Specified development**

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

### **2.110 Development standards**

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

- (a) enclose the work area, and
- (b) if it is a temporary construction site fence adjoining, or on, a public place—be covered in chain wire mesh that is designed, appropriately fixed and installed in accordance with AS 2423—2002, *Coated steel wire fencing products for terrestrial, aquatic and general use*, and
- (c) be removed immediately after the work in relation to which it was erected has finished if no safety issue will arise from its removal.

**Note 1—**

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

**Note 2—**

The *Work Health and Safety Act 2011* and *Work Health and Safety Regulation 2011* contain provisions relating to scaffolds, hoardings and other temporary structures.

## **Subdivision 3 Temporary builders' structures**

### **2.111 Specified development**

The construction or installation of a building site shed, office or associated amenities structure is development specified for this code.

### **2.112 Development standards**

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

- (a) be located on the lot in relation to which development consent has been granted, and
- (b) if it contains plumbing fixtures—have those fixtures connected to an approved waste

water treatment device or an approved connection to the sewer, and

- (c) not be used for residential purposes, and
- (d) be removed from the lot immediately after completion of the works for which the development consent was granted.

## **Subdivision 4 Filming**

### **2.113 Specified development**

Filming is development specified for this code.

### **2.114 Development standards**

The standards specified for that development are as follows:

- (a) the filming 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),
  - (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 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 filming must not create significant interference with the neighbourhood,
- (c) 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,
- (d) if the filming is to be carried out for more than 2 consecutive days—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, whether it involves 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,
- (v) the proposed daily length of filming,
- (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,
- (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 or 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, such as the following:
  - (A) an approval given by Roads and Maritime Services for the closure of a road,
  - (B) an approval given by a council for the erection or use of a temporary structure, closure of a road or a public footpath, or the restriction of pedestrian access,
  - (C) an approval given by the Environment Protection Authority for an open fire,
  - (D) an approval given by the NSW Police Force for the discharge of firearms,

- (E) an approval given by the Department of Primary Industries, Crown Land Division, 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,
- (e) if the filming is to be carried out for more than 2 consecutive days—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 of any proposed disruptions to the location or the surrounding area or the amenity of the neighbourhood,
  - (iii) the proposed commencement and completion dates for the filming,
  - (iv) the proposed daily length of filming.

## **Subdivision 5 Temporary structures and alterations or additions to buildings for filming purposes**

### **2.115 Specified development**

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

### **2.116 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 a 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 6 Tents or marquees used for filming purposes and private functions**

### **2.117 Specified development**

The construction or installation of a tent or marquee used for filming purposes or a wedding, private party or other private function is development specified for this code if it is carried out on any of the following land:

- (a) land within a rural, residential or environment protection zone and used for residential accommodation,
- (b) land in a zone other than a rural, residential or environment protection zone,
- (c) Crown land (within the meaning of the *Crown Lands Act 1989*),
- (d) land vested in or under the control and management of the council or other public authority of the area in which the development is carried out.

### **2.118 Development standards**

The standards specified for that development are as follows:

- (a) for all tents or marquees being used at the same time—the development must not have a total floor area exceeding 200m<sup>2</sup>, if located in a residential zone, or 300m<sup>2</sup>, if located in any other zone,
- (b) if the development is carried out on land used for residential accommodation—each tent or marquee must be located:
  - (i) at least 1m from any boundary of the land, and
  - (ii) behind any building setback fixed by an environmental planning instrument or development control plan applying to the land,
- (c) if the development is carried out on land not used for residential accommodation—each tent or marquee must be located at least 3m from any boundary of the land,
- (d) each tent or marquee must be erected so as to provide an unobstructed pedestrian circulation area at least 1.5m wide around the perimeter of the tent or marquee, unless it is attached to or abuts a building with no separation,
- (e) each tent or marquee must be erected at ground level,
- (f) each tent or marquee must 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 tent or marquee has a floor area of not more than 25m<sup>2</sup>,
  - (ii) 2 exits if the tent or marquee has a floor area of not more than 100m<sup>2</sup>,

- (iii) 4 exits in any other case,
- (g) if any tent or marquee will include internal seating, stalls, tables or other obstructions, a clear path of travel to any exit no greater than 40m in length must be provided,
- (h) each tent or marquee must have a width for each exit of at least:
  - (i) 850mm if the floor area of the tent or marquee is less than 150m<sup>2</sup>, or
  - (ii) 1m in any other case,
- (i) no tent or marquee can have a wall height exceeding 4m,
- (j) each tent or marquee must 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,
- (k) no tent or marquee can contain tiered seating,
- (l) any wedding, private party or other private function must take place only during the following periods:
  - (i) 7.30 am to 11.00 pm on Monday, Tuesday, Wednesday or Thursday,
  - (ii) 7.30 am to 12.00 am on Friday or Saturday,
  - (iii) 8.00 am to 8.00 pm on Sunday,
- (m) if the development is carried out for the purposes of a wedding, private party or other private function (unless it is a community event to which Subdivision 7 applies):
  - (i) each tent or marquee must not be erected on the land for more than 7 days, and
  - (ii) the number of days for which a tent or marquee is erected on the land together with the number of days for which tents or marquees have previously been erected on the land for private functions in the same calendar year must not exceed 30 days,
- (n) in any other case—each tent or marquee must not remain on the land for more than 2 days after the function or after the completion of the filming at the location,
- (o) arrangements must be made for the removal of any waste or recyclable materials likely to be generated as a result of the function or the filming activities.

## **Subdivision 7 Tents, marquees or booths for community events**

### **2.119 Specified development**

The construction or installation of a tent, marquee or booth used for a community event is development specified for this code if it is carried out on land other than land within a

rural, residential or environment protection zone.

### **2.120 Development standards**

The standards specified for that development are as follows:

- (a) for all tents, marquees and booths being used at the same time—the development must not have a total floor area exceeding 300m<sup>2</sup>,
- (b) each tent, marquee or booth must be located at least 3m from any boundary of the land,
- (c) each tent, marquee or booth must be erected so as to provide an unobstructed pedestrian circulation area at least 1.5m wide around the perimeter of the tent, marquee or booth, unless it is attached to or abuts a building with no separation,
- (d) each tent, marquee or booth must be erected at ground level,
- (e) each tent or marquee must 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 tent or marquee has a floor area of not more than 25m<sup>2</sup>,
  - (ii) 2 exits if the tent or marquee has a floor area of not more than 100m<sup>2</sup>,
  - (iii) 4 exits in any other case,
- (f) if any tent or marquee will include internal seating, stalls, tables or other obstructions, a clear path of travel to any exit no greater than 40m in length must be provided,
- (g) each tent or marquee must have a width for each exit of at least:
  - (i) if the floor area of the tent or marquee is less than 150m<sup>2</sup>—850mm, or
  - (ii) in any other case—1m,
- (h) no tent or marquee can have a wall height exceeding 4m,
- (i) each tent or marquee must 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,
- (j) no tent or marquee can contain tiered seating,
- (k) the event must take place only during the following periods (unless it is a community event to which Subdivision 9 applies):
  - (i) 7.30 am to 11.00 pm on Monday, Tuesday, Wednesday or Thursday,

- (ii) 7.30 am to 12.00 am on Friday or Saturday,
- (iii) 8.00 am to 8.00 pm on Sunday,
- (l) each tent, marquee or booth must not remain on the land for more than 7 days after the event,
- (m) arrangements must be made for the removal of any waste or recyclable materials likely to be generated as a result of the event.

## **Subdivision 8 Stages or platforms for private functions**

### **2.121 Specified development**

The construction or installation of a stage or platform used for a wedding, private party or other private function is development specified for this code if it is carried out on any of the following land:

- (a) land within a rural, residential or environment protection zone and used for residential accommodation,
- (b) land in a zone other than a rural, residential or environment protection zone,
- (c) Crown land (within the meaning of the [Crown Lands Act 1989](#)),
- (d) land vested in or under the control and management of the council or other public authority of the area in which the development is carried out.

### **2.122 Development standards**

The standards specified for that development are as follows:

- (a) the stage or platform must not have a floor area exceeding 50m<sup>2</sup>,
- (b) if it is development carried out on land used for residential accommodation—the stage or platform must be located:
  - (i) at least 1m from any boundary of the land, and
  - (ii) behind any building setback fixed by an environmental planning instrument or development control plan applying to the land,
- (c) if it is development carried out on land not used for residential accommodation—the stage or platform must be located at least 3m from any boundary of the land,
- (d) the stage or platform must be erected at ground level,
- (e) the stage or platform must have a height as measured from the surface on which the tent or marquee is erected to the floor of the stage or platform not exceeding 2m,



- (f) a notice indicating the actual distributed and concentrated load for which the stage or platform has been designed must be conspicuously displayed on the stage or platform,
- (g) if it is development carried out on land used for residential accommodation or land in a business or special purpose zone:
  - (i) the stage or platform must not be erected on the land for more than 7 days, and
  - (ii) the number of days for which the stage or platform is erected on the land together with the number of days for which stages or platforms have previously been erected on the land for private functions in the same calendar year must not exceed 30 days,
- (h) the stage or platform must not remain on the land for more than 2 days after the function,
- (i) arrangements must be made for the removal of any waste or recyclable materials likely to be generated as a result of the function,
- (j) the function must take place only during the following periods:
  - (i) 7.30 am to 11.00 pm on Monday, Tuesday, Wednesday or Thursday,
  - (ii) 7.30 am to 12.00 am on Friday or Saturday,
  - (iii) 8.00 am to 8.00 pm on Sunday.

## **Subdivision 9 Stages or platforms for community events**

### **2.123 Specified development**

The construction or installation of a stage or platform used for a community event is development specified for this code if it is carried out on land other than land within a rural, residential or environment protection zone.

### **2.124 Development standards**

The standards specified for that development are as follows:

- (a) the stage or platform must not have a floor area exceeding 50m<sup>2</sup>,
- (b) the stage or platform must be located at least 3m from any boundary of the land,
- (c) the stage or platform must be erected at ground level,
- (d) the stage or platform must have a height, as measured from the surface on which the tent or marquee is erected to the floor of the stage or platform, not exceeding 2m,
- (e) a notice indicating the actual distributed and concentrated load for which the stage or

platform has been designed must be conspicuously displayed on the stage or platform,

- (f) the community event must take place only during the following periods (unless it is a community event to which Subdivision 11 applies):
  - (i) 7.30 am to 11.00 pm on Monday, Tuesday, Wednesday or Thursday,
  - (ii) 7.30 am to 12.00 am on Friday or Saturday,
  - (iii) 8.00 am to 8.00 pm on Sunday,
- (g) the stage or platform must not be erected on the land for more than 7 days,
- (h) the stage or platform must not remain on the land for more than 2 days after the event,
- (i) arrangements must be made for the removal of any waste or recyclable materials likely to be generated as a result of the event.

## **Subdivision 10 Major events sites—additional temporary development**

### **2.125 Specified development**

- (1) This Subdivision applies to the following land:
  - (a) land identified as Circular Quay, Darling Harbour or The Rocks on the [Sydney Harbour Foreshore Sites Map](#) within the meaning of *State Environmental Planning Policy (Major Development) 2005* and that is within the public domain within the meaning of the *Sydney Harbour Foreshore Authority Act 1998*, and
  - (b) Lots 1 and 3, DP 876516, being the Overseas Passenger Terminal at Circular Quay, and
  - (c) Sydney Olympic Park Site as shown marked as such on the [State Significant Development Sites Map](#) within the meaning of *State Environmental Planning Policy (State and Regional Development) 2011*, and
  - (d) the Barangaroo site as shown marked as such on the [State Significant Development Sites Map](#) within the meaning of *State Environmental Planning Policy (State and Regional Development) 2011*.
- (2) Development for the purposes of temporary uses in the public domain, including development for the following purposes, is development specified for this code:
  - (a) a community event,
  - (b) a commercial event (such as a product launch and sampling),
  - (c) trading for retail or other commercial purposes (such as providing a temporary

dining and drinking area),

(d) associated storage areas and truck lay-by areas and the like.

### **2.126 Development standards**

The standards specified for that development are as follows:

- (a) if the use is a community or commercial event:
  - (i) the period of the use must be for not more than 21 consecutive days, from the start of set-up to the completion of clean-up for the use, and
  - (ii) a location must not be used for more than 140 days, inclusive of set-up and clean-up time, in any calendar year,
- (b) if the use is for the operation of a street market carried out, coordinated or managed by a public authority—the use must be for not more than 3 consecutive days and a location must not be used for more than 120 days in any calendar year,
- (c) there must be no permanent physical change to the fabric of the location where the use occurs,
- (d) emergency vehicle access must be maintained to and around the location at all times,
- (e) pedestrian access must be maintained along existing footpaths at the location or barriers must be erected between alternative pedestrian pathways and traffic on any adjoining road,
- (f) the use must not occur before 6.00 am or after midnight on any day, except New Year's Eve (when the use may occur until 2.00 am the following day),
- (g) set-up time for the use must not start earlier than 6.00 am, or end later than midnight, on any day,
- (h) clean up time for the use must end no later than 2 hours after the use was to stop occurring under paragraph (f),
- (i) temporary flags relating to the use:
  - (i) must be attached to existing flagpoles, and
  - (ii) must not be displayed for more than 14 days before the use starts, and
  - (iii) must be removed within 7 days after the use ends,
- (j) other temporary signs (including freestanding banners):
  - (i) must not be more than 2.5m in height, and

- (ii) must not be larger than 1.2m by 2.4m, and
  - (iii) must not be displayed for more than 7 days before the use starts, and
  - (iv) must be removed within 2 days after the use ends,
- (k) any mobile structures or equipment installed as part of the event, such as video screens, communications equipment and mobile phone towers are to be erected or installed on level ground with secure footings and are to be located so as not to obstruct pedestrian paths of travel.

## **Subdivision 11 Sydney Cricket Ground—additional temporary development**

### **2.127 Specified development**

Development for the purposes of temporary outdoor non-sporting events (such as concerts) and associated equipment, structures and facilities (such as stages, public address systems, food or beverage outlets, video screens and information or ticket booths) is development specified for this code if it is carried out on land described in Schedule 2 to the *Sydney Cricket and Sports Ground Act 1978*.

### **2.128 Development standards**

The standards specified for that development are as follows:

- (a) the development must comply with any noise controls in a prevention notice issued under the *Protection of the Environment Operations Act 1997*,
- (b) each event must not have a total duration of more than 14 days,
- (c) each event must comply with any written plan for the management of traffic, parking and vehicle and pedestrian access in relation to the event.

## **Subdivision 12 Trading hours—temporary extensions for Christmas**

### **2.129 Specified development**

The operation of retail premises for 24 hours a day during the period of 2 weeks immediately before 25 December in any year is development specified for this code if:

- (a) it is carried out on land within a business zone, and
- (b) for a food and beverage premises—the premises are not licensed premises, and
- (c) for premises within a mixed-use building—the premises are not on the same floor as one on which a residential use is located or on a floor immediately above or below a floor where a residential use is located.

### **2.130 Development standards**

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

- (a) be for the operation of premises that are the subject of a development consent, and
- (b) comply with all conditions of the consent for the use of the premises other than any condition that restricts the trading hours of the premises, and
- (c) if the conditions of the consent do not specify hours for the loading or delivery of goods to, or the removal of waste from, the premises—only be carried out between 7.00 am and 7.00 pm on any day

## **Subdivision 13 Trading hours—temporary extension for licensed premises**

### **2.131 Specified development**

The operation of licensed premises for extended hours is development specified for this code if:

- (a) there is a development consent under which the development may be carried out at times other than the extended trading hours, and
- (b) the development is authorised by an extended trading authorisation granted under section 49 of the *Liquor Act 2007* for a special occasion of local, State or national significance referred to in section 49 (5) (b) of that Act, and
- (c) the premises are not situated wholly or partly within a freeze precinct (within the meaning of Division 1A of Part 4 of the *Liquor Act 2007*) while the freeze period (as referred to in that Division) applies to that precinct.

### **2.132 Development standards**

- (1) The standards specified for that development are that the development must not contravene any terms of a development consent that are applicable to the development when carried out at times other than during the extended trading hours.
- (2) Subclause (1) does not apply to a term of a development consent that sets out or restricts the hours of operation of, or trading on, the premises.

## **Part 3 General 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**

### **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 200m<sup>2</sup>, and
- (b) has a width, measured at the building line fronting a primary road, of at least 6m.

### **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.

#### **3.2A Calculating number of storeys**

For the purposes of calculating under this code the number of storeys in a dwelling house, any basement (including a garage) is to be counted as a storey.

### **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 General exclusions from this code**

The following development is not development specified for this code:

- (a) the erection of a roof terrace on the topmost roof of an existing or new dwelling house or an existing or new outbuilding,
- (b) the erection of a building over a registered easement.

### **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 if the development is

ancillary to a dwelling house.

(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 300m<sup>2</sup> and a width, measured at the building line, of 10m or less, unless the development is to the primary road frontage of the lot, and
- (c) development for the purposes of a basement that will have an area of more than:
  - (i) if the lot that has a width, measured at the building line, of a least 6m, but not more than 10m—25m<sup>2</sup>, or
  - (ii) if the lot that has a width, measured at the building line, of more than 10m—45m<sup>2</sup>, and
- (d) development that is attached to a secondary dwelling or a group home.

**Note—**

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

### **3.6 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.

## **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 on a lot if:

- (a) the tree is not listed on a significant tree register or register of significant trees kept by the council, and
- (b) the tree or vegetation will be within 3m of any development that is a building that has an area of more than 25m<sup>2</sup>, and
- (c) the tree or vegetation has a height that is less than:
  - (i) for development that is the erection of a new dwelling house—8m and is not required to be retained as a condition of consent to the subdivision of the lot, or
  - (ii) for any other development—6m.

## **Division 2 Development standards for this code**

### **Subdivision 1 Application**

#### **3.7 Application of development standards**

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

### **Subdivision 2 Site requirements**

#### **3.8 Lot requirements**

- (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 it is a battle-axe lot—has an access laneway at least 3m wide and measures at least 12m × 12m, excluding the access laneway.
  - (c) (Repealed)
- (2) A lot on which a new single storey or two storey dwelling house is erected must have lawful access to a public road.

#### **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 200m<sup>2</sup> but less than 250m<sup>2</sup>,
  - (b) 60 per cent of the area of the lot, if the lot has an area of at least 250m<sup>2</sup> but less than 300m<sup>2</sup>,
  - (c) 55 per cent of the area of the lot, if the lot has an area of at least 300m<sup>2</sup> but less than 450m<sup>2</sup>,
  - (d) 50 per cent of the area of the lot, if the lot has an area of at least 450m<sup>2</sup> but less than 900m<sup>2</sup>,
  - (e) 40 per cent of the area of the lot, if the lot has an area of at least 900m<sup>2</sup> but less than 1500m<sup>2</sup>,
  - (f) 30 per cent of the area of the lot, if the lot has an area of at least than 1500m<sup>2</sup>.
- (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 450m<sup>2</sup> but not more than 500m<sup>2</sup>.



### 3.10 Maximum floor area

The total floor area of a dwelling house, detached studio, basement and any secondary dwelling on a lot must not be more than the following:

- (a) if the lot has an area of at least 200m<sup>2</sup> but not more than 250m<sup>2</sup>—90% of the area of the lot,
- (b) if the lot has an area of more than 250m<sup>2</sup> but not more than 300m<sup>2</sup>—85% of the area of the lot,
- (c) if the lot has an area of more than 300m<sup>2</sup> but not more than 450m<sup>2</sup>—270m<sup>2</sup>,
- (d) if the lot has an area of more than 450m<sup>2</sup> but not more than 600m<sup>2</sup>—330m<sup>2</sup>,
- (e) if the lot has an area of more than 600m<sup>2</sup> but not more than 900m<sup>2</sup>—380m<sup>2</sup>,
- (f) if the lot has an area of more than 900m<sup>2</sup>—430m<sup>2</sup>.

**Note—**

A secondary dwelling is complying development specified under [State Environmental Planning Policy \(Affordable Rental Housing\) 2009](#).

### 3.11 Maximum floor area for outbuildings

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

- (a) if the lot has an area of not more than 300m<sup>2</sup>—36m<sup>2</sup>,
- (b) if the lot has an area of more than 300m<sup>2</sup> but not more than 600m<sup>2</sup>—45m<sup>2</sup>,
- (c) if the lot has an area of more than 600m<sup>2</sup> but not more than 900m<sup>2</sup>—60m<sup>2</sup>,
- (d) if the lot has an area of more than 900m<sup>2</sup>—100m<sup>2</sup>.

### 3.12 Setbacks and maximum floor area for balconies, decks, patios, terraces and verandahs

- (1) The total floor area of all balconies, decks, patios, terraces and verandahs on a lot must not be more than 12m<sup>2</sup> if:
  - (a) any part of the structure is within 6m from a side or the rear boundary, and
  - (b) the structure has any point of its finished floor level more than 2m above ground level (existing).
- (2) A balcony, deck, patio, terrace or verandah must not have any point of its finished floor level:
  - (a) if it is located within 3m of a side or the rear boundary—more than 2m above ground level (existing), or

- (b) if it is located more than 3m but not more than 6m from a side or the rear boundary—more than 3m above ground level (existing), or
  - (c) if it is located more than 6m from a side or the rear boundary—more than 4m above ground level (existing).
- (3) Any detached balcony, deck, patio, terrace or verandah (including any alterations or additions to the detached balcony, deck, patio, terrace or verandah) must not have a floor level that is more than 600mm above ground level (existing).
- (4) This clause does not apply to a balcony, deck, patio, terrace or verandah that is located on the front elevation of a dwelling house unless the dwelling house is located on a battle-axe lot.

**Note—**

Development identified in this clause may require privacy screens under clause 3.23.

### **Subdivision 3 Building heights and setbacks**

#### **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).

#### **3.14 Setbacks of dwelling houses and ancillary development from roads other than classified roads**

- (1) A dwelling house and all ancillary development on a lot 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 the same primary road boundary and located within 40m of the lot on which the dwelling house is erected, or
  - (b) if 2 dwelling houses are not located within 40m of the lot:
    - (i) if the lot has an area of not more than 300m<sup>2</sup>—3m, or
    - (ii) if the lot has an area of more than 300m<sup>2</sup> but not more than 900m<sup>2</sup>—4.5m, or
    - (iii) if the lot has an area of more than 900m<sup>2</sup> but not more than 1500m<sup>2</sup>—6.5m, or
    - (iv) if the lot has an area of more than 1500m<sup>2</sup>—10m.
- (2) A dwelling house and all ancillary development on a lot must have a setback from a

boundary with a parallel road that is not a classified road of at least 3m.

- (3) Despite subclause (2), an outbuilding may be built within 3m of, or abut, a parallel road boundary that is not a classified road for not more than 50% of the length of that boundary.
- (4) A dwelling house and all ancillary development on a lot 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 has an area of at least 200m<sup>2</sup> but not more than 600m<sup>2</sup>—2m, or
  - (b) if the lot has an area of more than 600m<sup>2</sup> but not more than 1,500m<sup>2</sup>—3m, or
  - (c) if the lot has an area of more than 1500m<sup>2</sup>—5m.
- (5) For the purposes of this clause, if a lot is a corner lot:
  - (a) one of the boundaries that is 6m or more in length is taken to be a boundary with a primary road, and
  - (b) the other boundaries are taken to be boundaries with a secondary road.
- (6) For the purposes of this clause, if a lot has contiguous boundaries with a road or roads but is not a corner lot, the lot is taken to have a boundary only with a primary road.
- (7) If the setback provided for a dwelling house from a secondary road boundary is not more than 4.5m:
  - (a) the walls of the dwelling house within 4.5m of and facing the secondary road boundary must include:
    - (i) building elements identified in clause 3.22 (1) (a), (b) or (d) for a minimum of 20% of the length of the elevation of those walls that extend not more than 1m from those walls, or
    - (ii) a step of at least 600mm in depth for at least 20% of the length of the elevation of those walls, and
  - (b) any part of a gable or hipped roof that overhangs walls within 4.5m of the secondary road boundary must include eaves that extend for the length of those walls and project at least 450mm but not more than 1m from those walls.

### **3.15 Setbacks of dwelling houses and ancillary development from classified roads**

A dwelling house and all ancillary development on a lot must have a setback from a boundary with a classified road of at least:

- (a) if another environmental planning instrument applying to the lot establishes a setback for a dwelling house having a boundary with a classified road, that distance, or

(b) 9m in any other case.

### **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**).

(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 not more than 10m:
  - (i) for any part of the building with a height of up to 5.5m—0.9m, and
  - (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 more than 10m, but not more than 18m:
  - (i) for any part of the building with a height of up to 4.5m—0.9m, and
  - (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 more than 18m, but not more than 24m:
  - (i) for any part of the building with a height of up to 4.5m—1.5m, and
  - (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 more than 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 not more 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 not more than 12.5m—the building may be built to only one side boundary.

- (4) Subclause (3) does not apply if:
- (a) the wall of the building on the adjoining lot is not of masonry construction and is within 900mm of the boundary, or
  - (b) the wall of the building on the adjoining lot has a window facing the boundary and is within 900mm of the boundary.
- (5) A wall of a building erected under subclause (3) and within 900mm of the boundary:
- (a) must not be higher than 3.3m above ground level (existing) unless paragraph (b) or (c) applies, 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 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 higher than the height of the wall on the adjoining lot,
- but in any case must not be higher than 8.5m.
- (6) The length of a wall of a building erected under subclause (3) and within 900mm of the boundary, together with the length of the boundary walls of any other buildings along the same boundary of the lot must not be greater than:
- (a) for a lot with a width, measured at the building line, of at least 6m, but not more than 10m—20m or 50% of the depth of the lot, whichever is the lesser, or
  - (b) for a lot with a width, measured at the building line, of more than 10m, but not more than 12.5m—10m.
- (7) Despite subclause (6), the length of a wall of a building erected under subclause (3), and within 900mm of the boundary, may be greater than the length specified in subclause (6) if:
- (a) it is to be built to a boundary wall on an adjoining lot, and is not longer than the wall on the adjoining lot, or
  - (b) where a 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*—it is of the same or is of a lesser length and height as 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 an area of at least 200m<sup>2</sup>, but not more than 900m<sup>2</sup>, for any part of the building with a height of up to 4.5m—3m,
  - (b) if the lot has an area of at least 200m<sup>2</sup>, but not more than 300m<sup>2</sup>, for any part of the building with a height greater than 4.5m:
    - (i) if there are 2 adjoining dwelling houses with a height greater than 4.5m—10m or the average distance setback from the rear boundary of that part of those adjoining dwelling houses which is greater than 4.5m, whichever is the lesser, or
    - (ii) if there are not 2 such adjoining dwelling houses—10m,
  - (c) if the lot has an area of more than 300m<sup>2</sup>, but not more than 900m<sup>2</sup>, for any part of the building with a height greater than 4.5m—8m,
  - (d) if the lot has an area of more than 900m<sup>2</sup>, but not more than 1500m<sup>2</sup>:
    - (i) for any part of the building with a height of up to 4.5m—5m, or
    - (ii) for any part of the building with a height greater than 4.5m—12m,
  - (e) if the lot has an area of more than 1500m<sup>2</sup>:
    - (i) for any part of the building with a height of up to 4.5m—10m, or
    - (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 an area of at least 200m<sup>2</sup>, but not more than 300m<sup>2</sup>:
    - (i) for any part of the outbuilding with a height of up to 3.3m—the outbuilding may be built to the rear boundary, or
    - (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,

- (b) if the lot has an area of more than 300m<sup>2</sup>, but not more than 900m<sup>2</sup>:
  - (i) for any part of the outbuilding with a height of up to 3.8m—0.9m, or
  - (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 an area of more than 900m<sup>2</sup>, but not more than 1500m<sup>2</sup>:
  - (i) for any part of the outbuilding with a height of up to 3.8m—1.5m, or
  - (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 an area of more than 1500m<sup>2</sup>:
  - (i) for any part of the outbuilding with a height of up to 3.8m—2.5m, or
  - (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.

### **3.19 Exceptions to setbacks**

Despite any other clause in this Subdivision:

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

(c) side and rear setbacks do not apply to:

- (i) any aerial, antenna, awning, eave, flue, chimney, pipe, cooling or heating appliance, any rainwater tank greater than 1.8m in height or any other structure associated with the provision of a utility service, if it is located at least 450mm from the relevant boundary, and
- (ii) any fence, fascia, gutter, downpipe, light fitting, electricity or gas meter, driveway, hard stand space, pathway or paving, if it is located within the required setback area to the relevant boundary, and

(d) the setback from a road does not apply to:

- (i) a driveway, fence, hard stand space, pathway, paving or retaining wall, or
- (ii) any building element that is permitted within the articulation zone, and

(e) the setback from a rear boundary required by clauses 3.17 and 3.18 does not apply to a lot that has only 3 boundaries, disregarding any boundary of an access lane if the lot is a battle-axe lot.

### **3.20 Calculating setbacks**

- (1) For the purpose of determining the nearest 2 dwelling houses in clause 3.14 (1), a battle-axe lot is to be disregarded.
- (2) For the purpose of calculating the setbacks of the nearest 2 dwelling houses in clause 3.14 (1):
  - (a) any ancillary development is not included, and
  - (b) any building element listed in clause 3.22 (1) is not included.
- (2A) (Repealed)
- (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), (6) (Repealed)



### **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.

### **3.21 Building articulation**

- (1) A new 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.
- (2) A new 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.
- (3) 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 that extends from the building line to a distance of 1.5m into the required setback from the primary road.
- (4) A new dwelling house on a corner lot must have a window to a habitable room that is at least 1m<sup>2</sup> in area and that faces and is visible from a secondary road.

### **3.22 Building elements within an articulation zone to a primary road**

- (1) 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,
  - (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.
- (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.
- (3) The maximum total area of all building elements within the articulation zone, other than a building element listed in subclause (1) (e) or (f), must not be more than 25% of the area of the articulation zone.

### 3.23 Privacy

- (1) A window in a new dwelling house, or a new window in any alteration or addition to an existing dwelling house, must have a privacy screen for any part of the window that is less than 1.5m above floor level if:
  - (a) the window:
    - (i) is in a habitable room that has a finished floor level of more than 1m above ground level (existing), and
    - (ii) has a sill height of less than 1.5m above that floor level, and
    - (iii) faces a side or rear boundary and is less than 3m from that boundary, or
  - (b) the window:
    - (i) is in a habitable room that has a finished floor level of more than 3m above ground level (existing), and
    - (ii) has a sill height of less than 1.5m above that floor level, and
    - (iii) faces a side or rear boundary and is at least 3m, but no more than 6m, from that boundary.
- (2) Subclause (1) does not apply to a window located in a bedroom where the window has an area of not more than 2m<sup>2</sup>.
- (3) A new balcony, deck, patio, terrace or verandah and any alteration to an existing balcony, deck, patio, terrace or verandah that has a floor area of more than 3m<sup>2</sup> must have a privacy screen if the balcony, deck, patio, terrace or verandah is:
  - (a) within 3m of a side or rear boundary and has a floor level more than 1m above ground level (existing), or
  - (b) between 3m and 6m of a side or rear boundary and has a floor level more than 2m above ground level (existing).
- (4) Any privacy screen required under subclause (3) must be installed:
  - (a) to a height of at least 1.7m, but not more than 2.2m, above the finished floor level of the balcony, deck, patio, terrace or verandah, and
  - (b) at the edge of that part of the development that is within the areas specified in subclause (3) (a) or (b) and is parallel to or faces towards the relevant side or rear boundary.

## **Subdivision 4 Landscaping**

### **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) if the lot has an area of at least 200m<sup>2</sup> but not more than 300m<sup>2</sup>—10% of the area of the lot,
  - (b) if the lot has an area of more than 300m<sup>2</sup> but not more than 450m<sup>2</sup>—15% of the area of the lot,
  - (c) if the lot has an area of more than 450m<sup>2</sup> but not more than 600m<sup>2</sup>—20% of the area of the lot,
  - (d) if the lot has an area of more than 600m<sup>2</sup> but not more than 900m<sup>2</sup>—30% of the area of the lot,
  - (e) if the lot has an area of more than 900m<sup>2</sup> but not more than 1,500m<sup>2</sup>—40% of the area of the lot,
  - (f) if the lot has an area of more than 1,500m<sup>2</sup>—45% of the area of the lot.
- (2) If the lot has a width, measured at the building line, of more than 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 not more 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.

### **3.24A Setbacks of dwelling houses and ancillary development from protected trees**

- (1) A dwelling house, and all ancillary development and any associated excavation, must have a setback of at least 3m measured from the base of the trunk of each protected tree on the lot.
- (2) Despite subclause (1), ancillary development comprising the following is permitted

within this setback if the development does not require a cut or fill of more than 150mm below or above ground level (existing):

- (a) an access ramp,
- (b) a driveway, pathway or paving,
- (c) an awning, blind or canopy,
- (d) a fence, screen, or child-resistant barrier associated with a swimming pool or spa pool.

**Note—**

A separate permit or development consent may be required if the branches or roots of a protected tree on the lot or on an adjoining lot are required to be pruned or removed.

### **3.25 Principal private open space**

- (1) A lot, with a width measured at the building line of at least 6m but not more than 10m, on which a new dwelling house is erected must have at least 16m<sup>2</sup> of principal private open space.
- (2) A lot, with a width measured at the building line of more than 10m, on which a new dwelling house is erected must have more than 24m<sup>2</sup> of principal private open space.
- (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.

## **Subdivision 5 Car parking and access**

### **3.26 Car parking requirements**

- (1) At least one off-street car parking space must be provided on the lot on which a new dwelling house is erected.
- (1A) Subclause (1) does not apply to a lot that has a width, measured at the building line, of less than 8m.
- (2) 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.
- (3) 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.

### 3.27 Garages, carports and car parking spaces

- (1) A garage, carport or car parking space that is accessed from a primary road must:
  - (a) if the dwelling house has a setback from the primary 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 the primary road boundary of less than 4.5m—be at least 5.5m from that boundary.
- (2) The total width of all garage door openings facing a primary road, a secondary road or a parallel road must not exceed:
  - (a) if the lot has a width, measured at the building line, of more than 8m, but not more than 12m—3.2m, or
  - (b) if the lot has a width, measured at the building line, of more than 12m—6m.
- (3) A garage may only be erected on a lot that has a width, measured at the building line, of less than 8m if the access to the garage is only from a secondary road, parallel road or lane.
- (4) An open hard stand car parking space must measure at least 2.6m wide and 5.4m long.

### 3.28 Vehicle access

- (1) A lot on which an off-street car parking space is provided or retained under clause 3.26 must have a driveway to a public road.
- (2) A driveway on a lot must be constructed in accordance with AS 2890.1—2004, *Parking facilities—Off-street car parking*.
- (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.

**Note—**

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

## Subdivision 6 Earthworks and drainage

### 3.29 Earthworks, retaining walls and structural support

- (1) **Excavation** Excavation for the purposes of development under this Part must be constructed in accordance with subclauses (5) and (6) and must not exceed a maximum depth measured from ground level (existing) of:
  - (a) if located not more than 1m from any boundary—1m, and

- (b) if located more than 1m but not more than 1.5m from any boundary—2m, and
  - (c) if located more than 1.5m from any boundary—3m.
- (2) Despite subclause (1), the excavation must not be more than 1m below ground level (existing) if the land is identified as Class 3 or 4 on an Acid Sulfate Soils Map or is within 40m of a waterbody (natural).
- (3) **Fill** Fill, for the purpose of erecting a dwelling house under this Part:
- (a) must not exceed 1m above ground level (existing), and
  - (b) must be contained in accordance with subclauses (5) and (6) by either:
    - (i) a retaining wall or other form of structural support that does not extend more than 1.5m from any external wall of the dwelling house, or
    - (ii) an unprotected sloping embankment or batter that does not extend from the dwelling house by more than 3m, in which case the toe of the embankment or batter must be more than 1m away from a side or rear boundary.
- (4) The finished ground level of the fill must not be used for the purposes of measuring the height of any development erected under this Policy.
- (5) **Retaining walls and structural support** Support for earthworks that are more than 600mm above or below ground level (existing) and within 1m of any boundary, or more than 1m above or below ground level (existing) in any other location, must take the form of a retaining wall or other form of structural support that:
- (a) has been certified by a professional engineer, and
  - (b) has adequate drainage lines connected to the existing stormwater drainage system for the site, and
  - (c) does not result in any retaining wall or structural support with a total height measured vertically from the base of the retaining wall or structural support to its uppermost portion that is:
    - (i) more than 1m in height and within 1m from a side or rear boundary, or
    - (ii) more than 3m in height in any other location.
- (6) Any excavation or fill that exceeds 600mm above or below ground level (existing) requires a retaining wall or structural support that must be:
- (a) constructed in accordance with subclause (5), and
  - (b) designed so as not to redirect the flow of any surface water or ground water, or cause sediment to be transported, onto an adjoining property, and

- (c) separated from any retaining wall or other structural support on the site by at least 2m, measured horizontally, and
- (d) installed in accordance with any manufacturer's specification.

**Note—**

Fill and excavation that is not associated with a building may be exempt development under clauses 2.29 and 2.30.

**3.30, 3.31 (Repealed)**

**3.32 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**

**3.33 Development standards for detached studios**

- (1) This clause applies:
  - (a) to a detached studio, and
  - (b) in addition to the development standards specified in clauses 3.8, 3.9 and 3.24.
- (2) A detached studio must not be located in a heritage conservation area or draft heritage conservation area.
- (3) A detached studio must be located behind the building line.
- (4) Not more than one detached studio may be located on a lot.

- (5) A detached studio must not have a building height of more than:
- (a) 3.6m, or
  - (b) if the studio is located within 900mm of a lane—6m.
- (6) The floor area of a detached studio must not be more than the following:
- (a) if the lot has an area of not more than  $350\text{m}^2$ — $20\text{m}^2$ ,
  - (b) if the lot has an area of more than  $350\text{m}^2$ — $35\text{m}^2$ .
- (7) A window in a new detached studio, or a new window in any alteration or addition to an existing detached studio, must have a privacy screen if:
- (a) the window:
    - (i) is in a habitable room that has a floor level of more than 1m above ground level (existing), and
    - (ii) has a sill height of less than 1.5m above that floor level, and
    - (iii) faces a side or rear boundary and is less than 3m from that boundary, or
  - (b) the window:
    - (i) is in a habitable room that has a floor level of more than 3m above ground level (existing), and
    - (ii) has a sill height of less than 1.5m above a floor level of more than 3m above ground level (existing), and
    - (iii) faces a side or rear boundary and is at least 3m, but not more than 6m, from that boundary.
- (8) The side and rear setbacks for a detached studio are as follows:
- (a) if the lot has a width, measured at the building line, of at least 6m but not more than 18m—0.9m,
  - (b) if the lot has a width, measured at the building line, of more than 18m—1.5m.
- (9) Despite subclause (8), a detached studio that is located within 900mm of a rear lane:
- (a) may be built to both side boundaries if the lot has a width, measured at the building line, of at least 6m, but not more than 8m, or
  - (b) may be built to only one side boundary if the lot has a width, measured at the building line, of more than 8m, but not more than 12.5m.
- (10) Subclause (9) does not apply if:



- (a) the wall of a building on the adjoining lot is not of masonry construction and is within 900mm of the boundary, or
  - (b) the wall of a building adjoining the lot has a window facing the boundary and is within 900mm of the boundary.
- (11) A wall within 900mm of a boundary of a lot on which a detached studio has been erected under subclause (9) must not be higher than:
- (a) 3.3m above ground level (existing), or
  - (b) if the wall is built to a boundary wall on an adjoining lot—the height of that boundary wall, but not higher than 6m.

### 3.34 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.

**Note—**

Development for the purposes of a swimming pool is not complying development under this Code unless it is ancillary to a dwelling house.

- (2) The swimming pool water line must have a setback of at least 1m from a side or rear boundary.
- (2A) Despite subclauses (1) and (2), if the swimming pool is being constructed in a heritage conservation area or draft heritage conservation area, the swimming pool 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) 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) The pump must be housed in an enclosure that is soundproofed.
- (7) If the swimming pool is being constructed after, and at a different time to, the erection of a dwelling house on the lot, the development standards for this Code (other than the standards referred to in clause 3.24 and this clause) do not apply to the construction.

**Note 1—**

A child-resistant barrier must be constructed or installed in accordance with the requirements of the [Swimming Pools Act 1992](#).

**Note 2—**

Requirements relating to excavation for the purposes of a swimming pool are set out in clause 3.29.

### **3.35 Fences**

- (1) This clause applies to a fence that is development specified in clause 2.33 and that meets the standards specified in clause 2.34, other than the standard specified in clause 2.34 (1) (b).
- (2) The fence must:
  - (a) not be higher than 1.8m above ground level (existing), and
  - (b) if it is located on bush fire prone land—be constructed of non-combustible materials, and
  - (c) not incorporate barbed wire in its construction or be electrified, and
  - (d) if it is constructed of metal components—be of low reflective, factory pre-coloured materials, and
  - (e) if it is on a sloping site and stepped to accommodate the fall in the land—be no higher than 2.2m above ground level (existing) at each step.

**Note—**

Development standards for fences in rural and environment protection zones are specified in clauses 2.33 and 2.34.

### **3.36 (Repealed)**

## **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

(b) no closer to each side boundary than the dwelling house.

(3) The floor area of an outbuilding must not be more than 20m<sup>2</sup>.

(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) in the case of land that is within a zone other than Zone RU5:

(i) a reticulated water supply is connected to the lot, and

- (ii) a fire hydrant is located less than 60m from the location on the lot of the proposed development, and
- (e) in the case of land that is within Zone RU5 and has a reticulated water supply connected to the lot—a fire hydrant is located less than 60m from the location on the lot of the proposed development, and
- (e1) in the case of land that is within Zone RU5 and does not have a reticulated water supply connected to the lot—there is a 10,000L capacity water tank on the lot, 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) (Repealed)
  - (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.
- (2) The development must not be on any part of a flood control lot unless that part of the lot has been certified, for the purposes of the issue of the relevant complying development certificate, by the council or a professional engineer who specialises in hydraulic engineering as not being any of the following:
  - (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) If a word or expression used in this clause is defined in the Floodplain Development Manual, the word or expression has the same meaning as it has in that 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.

### **3.36D Development standards for land near Siding Spring Observatory**

(1) This clause applies:

- (a) to all development specified for this code that is to be carried out on land in the local government area of Coonamble, City of Dubbo, Gilgandra or Warrumbungle Shire, and
- (b) in addition to all other development standards specified for this code.

(2) The development may be carried out only if it does not result in a dwelling house on land in the local government area of:

- (a) Coonamble, City of Dubbo, Gilgandra or Warrumbungle Shire with an outside light fitting other than a shielded light fitting,

- (b) Coonamble, Gilgandra or Warrumbungle Shire with more than 7 shielded outside light fittings or more than 5 such light fittings that are not automatic light fittings.

### **Division 3 Conditions applying to complying development certificates under this code**

#### **3.37 Conditions specified in Schedule 6 apply**

A complying development certificate for development specified under this code must be issued subject to the conditions specified in Schedule 6.

#### **3.38 Construction of references to conditions applying to complying development certificates**

A reference in any environmental planning instrument to the conditions set out in Division 3 of Part 3 of this Policy (as in force immediately before the commencement of this clause) is to be construed as a reference to the conditions set out in Schedule 6 to this Policy.

#### **3.39-3.45 (Repealed)**

## **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, RU6 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, RU4 or RU6 that has an area of at least 4,000m<sup>2</sup>, 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.2A Calculating number of storeys**

For the purposes of calculating under this code the number of storeys in a dwelling house, any basement (including a garage) is to be counted as a storey.

### **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, RU4 or RU6 that has an area of at least 4,000m<sup>2</sup>, or
  - (b) in Zone R5.
- (2) Subclause (1) does not include development specified in the Housing Alterations Code.

### **3A.4 Roof terraces excluded**

- (1) (Repealed)
- (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 ancillary to a dwelling house and erected on a lot:
  - (a) in Zone RU1, RU2, RU3, RU4 or RU6 that has an area of at least 4,000m<sup>2</sup>, 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 or a swimming pool 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.

## **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 on a lot if:

- (a) the tree is not listed on a significant tree register or register of significant trees kept by the council, and
- (b) the tree or vegetation will be within 3m of development that is a building that has an area of more than 25m<sup>2</sup>, and
- (c) the tree or vegetation has a height that is less than:
  - (i) for development that is the erection of a new dwelling house—8m and is not required to be retained as a condition of consent to the subdivision of the lot, or
  - (ii) for any other development—6m.

## **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 4,000m<sup>2</sup> 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 4,000m<sup>2</sup> must not be more than 430m<sup>2</sup>.

### **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 4,000m<sup>2</sup> must not be more than the following:

- (a) 500m<sup>2</sup>, if the only purpose of the outbuilding is for agricultural use,
- (b) 100m<sup>2</sup>, in any other case.

### **3A.13 Setbacks and maximum floor area for balconies, decks, patios, terraces and verandahs**

- (1) The total floor area of all balconies, decks, patios, terraces and verandahs on a lot must not be more than 12m<sup>2</sup> if:

- (a) any part of the structure is within 6m from a side or the rear boundary, and
- (b) the structure has any point of its finished floor level more than 2m above ground level (existing).

- (2) A balcony, deck, patio, terrace or verandah must not have any point of its finished floor level:

- (a) if it is located within 3m of a side or the rear boundary—more than 2m above ground level (existing), or
- (b) if it is located more than 3m but not more than 6m from a side or the rear boundary—more than 3m above ground level (existing), or
- (c) if it is located more than 6m from a side or the rear boundary—more than 4m above ground level (existing).

- (3) Any detached balcony, deck, patio, terrace or verandah (including any alterations or

additions to the detached balcony, deck, patio, terrace or verandah) must not have a floor level that is more than 600mm above ground level (existing).

- (4) This clause does not apply to a balcony, deck, patio, terrace or verandah that is located on the front elevation of a dwelling house unless the dwelling house is located on a battle-axe lot.

**Note—**

Development identified in this clause may require privacy screens under clause 3A.23.

### **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 4,000m<sup>2</sup> 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 4,000m<sup>2</sup> 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, RU4 or RU6,
  - (b) a lot in Zone R5 that has an area of at least 4,000m<sup>2</sup>.
- (4) The height of an outbuilding, or of the alterations and additions to an existing outbuilding, must not be more than:
  - (a) if the outbuilding is located on a lot in Zone RU1, RU2, RU3, RU4 or RU6 and the outbuilding is not a farm building or shed—4.8m above ground level (existing), or
  - (b) if the outbuilding is located on a lot in Zone R5 that has an area of at least 4,000m<sup>2</sup> and the outbuilding is not a farm building or shed—4.8m above ground level (existing), or
  - (c) if the outbuilding is a farm building or shed—7m above ground level (existing).
- (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 4,000m<sup>2</sup> 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 the same primary road boundary 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 4,000m<sup>2</sup>—15m,
  - (b) if the lot is in Zone RU4—30m,
  - (c) if the lot is in Zone RU1, RU2, RU3 or RU6—50m.
- (3) A dwelling house and all ancillary development on a corner lot 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 4,000m<sup>2</sup>—5m,
  - (b) if the lot is in Zone R5 and has an area of at least 4,000m<sup>2</sup>, or is in Zone RU1, RU2, RU3, RU4 or RU6—10m.
- (4) A dwelling house and all ancillary development on a lot in Zone R5 that has an area of less than 4,000m<sup>2</sup> must have a setback from a boundary with a parallel road that is not a classified road of at least 10m.
- (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 4,000m<sup>2</sup>—2.5m,
- (b) if the lot is in Zone R5, and has an area of at least 4,000m<sup>2</sup>, 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
- (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 do not apply to:
  - (i) any aerial, antenna, awning, eave, flue, chimney, pipe, cooling or heating appliance, any rainwater tank greater than 1.8m in height or any other structure associated with the provision of a utility service, if it is located at least 450mm from the relevant boundary, and
  - (ii) any fence, fascia, gutter, downpipe, light fitting, electricity or gas meter, driveway, hard stand space, pathway or paving, if it is located within any required setback area to the relevant boundary, and
- (c1) the setback from a road does not apply to:

- (i) a driveway, fence, hard stand space, pathway, paving or retaining wall, or
  - (ii) any building element that is permitted within the articulation zone, 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.

### **3A.20 Calculating setbacks**

- (1) For the purpose of determining the nearest 2 dwelling houses in clause 3A.15 (1), a battle-axe lot is to be disregarded.
- (2) For the purpose of calculating the setbacks of the nearest 2 dwelling houses in clause 3A.15 (1):
  - (a) any ancillary development is to be disregarded, and
  - (b) any building element listed in clause 3A.22 (2) is not to be included.
- (2A) (Repealed)
- (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) (Repealed)

### **3A.21 Building articulation**

- (1) This clause applies only to lots in Zone R5 that have an area of less than 4,000m<sup>2</sup>.
- (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 that extends from the building line to a distance of 1.5m into the required setback from the primary road.
- (5) A new dwelling house on a corner lot must have a window to a habitable room that is at least 1m<sup>2</sup> in area and that faces and is visible from a secondary road.

### **3A.22 Building elements within the articulation zone to a primary road**

- (1) This clause applies only to lots in Zone R5 that have an area of less than 4,000m<sup>2</sup>.
- (2) The following building elements are permitted in an articulation zone in the setback from a primary road:
  - (a) an entry feature or portico,
  - (b) a balcony, deck, patio, pergola, terrace or verandah,
  - (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 total area of all building elements within an articulation zone, other than a building element listed in subclause (2) (e) or (f), must be not more than 25% of the area of the articulation zone.

### **3A.23 Privacy**

- (1) This clause applies only to lots in Zone R5 that have an area of less than 4,000m<sup>2</sup>.
- (2) A window in a new dwelling house, or a new window in any alteration or addition to an existing dwelling house, must have a privacy screen for any part of the window that is less than 1.5m above floor level if:
  - (a) the window:

- (i) is in a habitable room that has a finished floor level of more than 1m above ground level (existing), and
  - (ii) has a sill height of less than 1.5m above that floor level, and
  - (iii) faces a side or rear boundary and is less than 3m from that boundary, or
- (b) the window:
  - (i) is in a habitable room that has a finished floor level of more than 3m above ground level (existing), and
  - (ii) has a sill height of less than 1.5m above that floor level, and
  - (iii) faces a side or rear boundary and is at least 3m, but not more than 6m, from that boundary.
- (3) Subclause (2) does not apply to a window located in a bedroom where the window has an area of not more than 2m<sup>2</sup>.
- (4) A new balcony, deck, patio, terrace or verandah and any alteration to an existing balcony, deck, patio, terrace or verandah that has a floor area of more than 3m<sup>2</sup> must have a privacy screen if the balcony, deck, patio, terrace or verandah is:
  - (a) within 3m of a side or rear boundary and has a floor level more than 1m above ground level (existing), or
  - (b) between 3m and 6m of a side or rear boundary and has a floor level more than 2m above ground level (existing).
- (5) Any privacy screen required under subclause (4) must be installed:
  - (a) to a height of at least 1.7m, but not more than 2.2m, above the finished floor level of the balcony, deck, patio, terrace or verandah, and
  - (b) at the edge of that part of the development that is within the areas specified in subclause (4) (a) or (b) and is parallel to or faces towards the relevant side or rear boundary.

## **Subdivision 4 Landscaping**

### **3A.24 Landscaped area**

- (1) A lot in Zone R5 that has an area of less than 4,000m<sup>2</sup> 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.24A Setbacks of dwelling houses and ancillary development from protected trees**

- (1) A dwelling house and all ancillary development, and any associated excavation, must have a setback of at least 3m from the base of the trunk of each protected tree on the lot.
- (2) Despite subclause (1), ancillary development comprising the following is permitted within this setback, if the development does not require a cut or fill of more than 150mm below or above ground level (existing):
  - (a) an access ramp,
  - (b) a driveway, pathway or paving,
  - (c) an awning, blind or canopy,
  - (d) a fence, screen or child-resistant barrier associated with a swimming pool or spa pool.

**Note—**

A separate permit or development consent may be required if the branches or roots of a protected tree on the lot or on an adjoining lot are required to be pruned or removed.

### **3A.25 Principal private open space**

- (1) A lot in Zone R5 that has an area of less than 4,000m<sup>2</sup> and on which a new dwelling house is erected must have at least 24m<sup>2</sup> 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 4,000m<sup>2</sup>.
- (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.

### **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 4,000m<sup>2</sup>.
- (2) A garage, carport or car parking space that is accessed from a primary road must:
  - (a) if the dwelling house has a setback from the primary 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 the primary road boundary of less than 4.5m—be at least 5.5m from that 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 Earthworks, retaining walls and structural support**

- (1) **Excavation** Excavation for the purposes of development under this Part must be carried out in accordance with subclauses (5) and (6) and must not exceed a maximum depth measured from ground level (existing) of:
  - (a) if located not more than 1m from any boundary—1m, and

- (b) if located more than 1m, but not more than 1.5m, from any boundary—2m, and
  - (c) if located more than 1.5m from any boundary—3m.
- (2) Despite subclause (1), the excavation must not be more than 1m below ground level (existing) if the land is identified as Class 3 or 4 on an Acid Sulfate Soils Map or is within 40m of a waterbody (natural).
- (3) **Fill** Fill, for the purpose of erecting a dwelling house under this Part must:
- (a) not exceed 1m above ground level (existing), and
  - (b) be contained in accordance with subclauses (5) and (6) by either:
    - (i) a retaining wall or other form of structural support that does not extend more than 1.5m from any external wall of the dwelling house, or
    - (ii) an unprotected sloping embankment or batter that does not extend from the dwelling house by more than 3m, in which case the toe of the embankment or batter must be more than 1m away from a side or rear boundary.
- (4) The finished ground level of the fill must not be used for the purposes of measuring the height of any development erected under this Policy.
- (5) **Retaining walls and structural support** Support for earthworks that are more than 600mm above or below ground level (existing) and within 1m of any boundary, or more than 1m above or below ground level (existing) in any other location, must take the form of a retaining wall or other form of structural support that:
- (a) has been certified by a professional engineer, and
  - (b) has adequate drainage lines connected to the existing stormwater drainage system for the site, and
  - (c) does not result in any retaining wall or structural support with a total height measured vertically from the base of the retaining wall or structural support to its uppermost portion that is:
    - (i) more than 1m in height and within 1m from a side or rear boundary, or
    - (ii) more than 3m in height in any other location.
- (6) Any excavation or fill that exceeds 600mm above or below ground level (existing) requires a retaining wall or structural support that must be:
- (a) constructed in accordance with subclause (5), and
  - (b) designed so as not to redirect the flow of any surface water or ground water, or cause sediment to be transported, onto an adjoining property, and

- (c) separated from any retaining wall or other structural support on the site by at least 2m, measured horizontally, and
- (d) installed in accordance with any manufacturer's specification.

**Note—**

Fill and excavation that is not associated with a building may be exempt development under clauses 2.29 and 2.30.

**3A.30, 3A.31 (Repealed)**

**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.

**Note—**

Development for the purposes of a swimming pool is not complying development under this Code unless it is ancillary to a dwelling house.

- (2) The swimming pool water line must have a setback of at least 1m from a side or rear

boundary.

- (2A) Despite subclauses (1) and (2), if the swimming pool is being constructed in a heritage conservation area, the swimming pool 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) 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) Any pump attached to the development must be housed in an enclosure that is soundproofed.
- (7) If the swimming pool is being constructed after, and at a different time to, the erection of a dwelling house on the lot, the development standards for this Code (other than the standards referred to in clause 3A.24 and this clause) do not apply to the construction.

**Note 1—**

A child-resistant barrier must be constructed or installed in accordance with the requirements of the [Swimming Pools Act 1992](#).

**Note 2—**

Requirements relating to excavation for the purposes of a swimming pool are set out in clause 3A.29.

**3A.34, 3A.35 (Repealed)**

## **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.

- (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 20m<sup>2</sup>.
- (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 development, being the erection of a dwelling house and any ancillary development within 10m of a dwelling house, that is carried out on land that is wholly or partly bush fire prone land, 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
  - (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 reticulated water supply is connected to the lot, or 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) (Repealed)
  - (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 unless that part of the lot has been certified, for the purposes of the issue of the relevant complying development certificate, by the council or a professional engineer who specialises in hydraulic engineering as not being any of the following:
- (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) If a word or expression used in this clause is defined in the Floodplain Development Manual, the word or expression has the same meaning as it has in that 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.

### **3A.38A Development standards for land near Siding Spring Observatory**

(1) This clause applies:

(a) to all development specified for this code that is to be carried out on land in the local government area of Coonamble, City of Dubbo, Gilgandra or Warrumbungle Shire, and

(b) in addition to all other development standards specified for this code.

(2) The development may be carried out only if it does not result in a dwelling house on land in the local government area of:

(a) Coonamble, City of Dubbo, Gilgandra or Warrumbungle Shire with an outside light fitting other than a shielded light fitting,

(b) Coonamble, Gilgandra or Warrumbungle Shire with more than 7 shielded outside light fittings or more than 5 such light fittings that are not automatic light fittings.

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

### **3A.39 Conditions specified in Schedule 6 apply**

A complying development certificate for development specified under this code must be issued subject to the conditions specified in Schedule 6.

### **3A.40-3A.48**

## **Part 4 Housing Alterations Code**

### **Note 1—**

Schedule 3 contains variations to this code.

### **Note 2—**

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

## **Division 1 Specified development and development standards under this code**

### **Subdivision 1 Internal alterations**

#### **4.1 Specified complying development**

Internal alterations to existing residential accommodation, including alterations to common property or existing ancillary development that is associated with residential accommodation (but not including development that is the erection or conversion of a basement to existing residential accommodation), is development specified for this code.

### **Note—**

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

#### **4.2 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 any additional separate dwelling, and
- (c) must not result in the creation of an additional floor within a dwelling.

### **Subdivision 2 External alterations to dwelling houses**

### 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.

### 4.4 Development standards

- (1) 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 comply with subclause (2), and
  - (e) if it is located in a heritage conservation area or a draft heritage conservation area—must not be to a wall facing the primary road or any wall that connects to a wall facing the primary road.
  - (f) (Repealed)
- (2) A new window in any alteration or addition to an existing dwelling house must have a privacy screen for any part of the window that is less than 1.5m above finished floor level if:
  - (a) the window:
    - (i) is in a habitable room that has a floor level of more than 1m above ground level (existing), and
    - (ii) has a sill height of less than 1.5m above that floor level, and
    - (iii) faces a side or rear boundary and is less than 3m from that boundary, or
  - (b) the window:
    - (i) is in a habitable room that has a floor level of more than 3m above ground

level (existing), and

(ii) has a sill height of less than 1.5m above that floor level, and

(iii) faces a side or rear boundary and is at least 3m, but not more than 6m, from that boundary.

(3) Subclause (2) does not apply to a window located in a bedroom where the window has an area of not more than 2m<sup>2</sup>.

## **Subdivision 2A External alterations to residential accommodation other than dwelling houses**

### **4.4A Specified complying development**

External alterations to existing residential accommodation (other than a dwelling house) or existing ancillary development to residential accommodation (other than a dwelling house) is development specified for this code if the development is:

- (a) on land that is not within a heritage conservation area or a draft heritage conservation area, and
- (b) on land that is not identified as being within a flood control lot, and
- (c) not the erection of a new balcony, deck, patio, terrace or verandah.

### **4.4B Development standards**

(1) 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 an increase to the gross floor area of the existing residential accommodation or ancillary development, and
- (c) must only use materials and finishes of a similar colour palette and substance to the existing building, and
- (d) must not affect any existing fire resisting components of the building, and
- (e) must not affect the means of egress from the building in an emergency, and
- (f) must comply with any height limits contained in an environmental planning instrument applying to the land or, if there are no such limits, the external works must not be higher than the uppermost habitable floor level, and
- (g) must be located at least 3m from any side or rear boundary, and
- (h) must be located behind the building line of any primary or secondary road

frontage.

- (2) Subclause (1) (g) and (h) do not apply if the development is for the purpose of providing pedestrian access in the form of an access ramp or stair lift to the ground floor level, including any balustrade, handrail or other device relating to safety.
- (3) If the development is for the purposes of external works to an existing building, the development must only be to the first 3 storeys of the building, not including any basement or parking level, unless the development is for:
  - (a) the installation of services and utilities, or
  - (b) the alteration of existing services and utilities.
- (4) If the development is for the purpose of an alteration to an existing balcony, deck, patio, terrace or verandah, the development must not increase the floor area or the floor level above ground level (existing) of the development.

### **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
  - (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 1.5m<sup>2</sup> 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 4m<sup>2</sup>.

## **Subdivision 3A Development standards for particular land**

### **4.6A Development standards for bush fire prone land**

- (1) This clause applies:
  - (a) to development specified in Subdivision 2, 2A or 3 that is to be carried out on a lot that is wholly or partly bush fire prone land, 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 the development conforms to the specifications and requirements of the following documents that are relevant to the development:
  - (a) *Planning for Bush Fire Protection* (ISBN 0 9751033 2 6), published by the NSW Rural Fire Service in December 2006,
  - (b) *Planning for Bush Fire Protection, Addendum: Appendix 3* (ISBN 0 9751033 2 6), published by NSW Rural Fire Service in 2010,
  - (c) if another document is prescribed by the regulations for the purposes of section 79BA of the *Environmental Planning and Assessment Act 1979*—that document.

**Note—**

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

## **Division 1A**

**(Repealed)**

## **Division 2 Conditions applying to complying development certificates under this code**

### **4.7 Conditions specified in Schedule 7 apply**

A complying development certificate for development specified under this code must be

issued subject to the conditions specified in Schedule 7.

#### **4.8-4.11 (Repealed)**

### **Part 4A General Development 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*, the *Disability (Access to Premises—Buildings) Standards 2010* of the Commonwealth 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) permissible with development consent under an environmental planning instrument applying to the land on which the development is carried out, 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 or, if there is a local environmental plan applying to the land that was made under section 33A of the Act, the maximum number of bedrooms specified in clause 5.4 (1) of that plan, 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.

## **Subdivision 2 Home businesses**

### **4A.3 Specified complying development**

A home business that involves the manufacture of food is development specified for this code.

### **4A.4 Development standards**

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

- (a) not involve a change of building use, and
- (b) if the development is on land to which a local environmental plan made under section 33A of the Act applies—comply with the applicable standards under clause 5.4 (2) of that plan, and
- (c) be carried out in premises that comply with the relevant requirements of AS 4674—2004, *Design, construction and fit-out of food premises*.

**Note 1—**

The *Food Act 2003*, and the regulations under that Act, may contain additional requirements in relation to premises on which food is manufactured.

**Note 2—**

The elements that must comprise this development are specified in the definition of **home business** in the Standard Instrument.

**Note 3—**

Under the *Building Code of Australia*, a change of building use involving a floor area greater than 10% of the floor area of a building would cause the building to contravene the development standard.

## **Subdivision 3 Tents, marquees or booths for community events**

### **4A.5 Specified development**

The construction or installation of a tent, marquee or booth used for a community event is development specified for this code if it is not exempt development and is carried out on any of the following land:



- (a) land in a business, industrial (other than heavy industrial), open space or special purpose zone,
- (b) land that is unzoned.

#### **4A.6 Development standards**

The standards specified for that development are that:

- (a) each tent, marquee or booth must not have a total floor area exceeding 500m<sup>2</sup>, and
- (b) for all tents, marquees and booths being used at the same time—the development must not have a total floor area exceeding 1,000m<sup>2</sup>, and
- (c) each tent, marquee or booth must be located at least 3m from any boundary of the land unless the land is under the ownership, control or management of a council or public authority and that council or public authority has provided its consent in writing to the temporary use of the land for the erection of the tent, marquee or booth, and
- (d) each tent, marquee or booth must be erected so as to ensure that there is a distance of at least 1.5m from any other tent, marquee or booth that is unobstructed so as to allow for pedestrian circulation unless that other tent, marquee or booth is attached with no separation, and
- (e) each tent or marquee with an area exceeding 300m<sup>2</sup> must be located at least 6m from any other tent or marquee, and from any booth, to minimise the risk of fire spread, and
- (f) each tent or marquee with an area exceeding 300m<sup>2</sup> must be provided with a system of emergency lighting and an additional electrical supply capable of providing emergency lighting in the event of a power failure, and
- (g) each tent or marquee must 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) if the tent or marquee has a floor area of not more than 25m<sup>2</sup>—1 exit,
  - (ii) if the tent or marquee has a floor area of not more than 100m<sup>2</sup>—2 exits,
  - (iii) in any other case—4 exits, and
- (h) if any tent or marquee will include internal seating, stalls, tables or other obstructions, a clear path of travel to any exit no greater than 40m in length must be provided, and
- (i) each tent, marquee or booth must have a width for each exit of at least:
  - (i) if the floor area of the tent, marquee or booth is less than 150m<sup>2</sup>—850mm, or

- (ii) in any other case—1m, and
- (j) no tent or marquee can have a height for the walls exceeding 6m, and
- (k) each tent, marquee or booth must have a height, as measured from the surface on which the tent or marquee is erected to the highest point of the tent, marquee or booth, not exceeding 8m, and
- (l) each tent, marquee or booth must resist loads determined in accordance with the following Australian and New Zealand Standards:
  - (i) AS/NZS 1170.0:2002, *Structural design actions, Part 0: General principles*,
  - (ii) AS/NZS 1170.1:2002, *Structural design actions, Part 1: Permanent, imposed and other actions*,
  - (iii) AS/NZS 1170.2:2011, *Structural design actions, Part 2: Wind actions*, and
- (m) if on land in the local government area of Coonamble, City of Dubbo, Gilgandra or Warrumbungle Shire, any tent, marquee or booth must not have an outside light fitting other than a shielded light fitting and any such shielded light fitting must be downward facing.

## **Subdivision 4 Stages or platforms for community events**

### **4A.7 Specified development**

The construction or installation of a stage or platform used for a community event is development specified for this code if it is not exempt development and is carried out on any of the following land:

- (a) land in a business, industrial (other than heavy industrial), open space or special purpose zone,
- (b) land that is unzoned.

### **4A.8 Development standards**

The standards specified for that development are that:

- (a) the stage or platform must not have a floor area exceeding 100m<sup>2</sup>, and
- (b) each stage or platform must be located at least 3m from any boundary of the land unless the land is under the ownership, control or management of a council or public authority, and that council or public authority has provided its consent in writing to the temporary use of the land for the erection of the stage or platform, and
- (c) the stage or platform must have a height as measured from the surface on which the stage or platform is erected to the floor of the stage or platform not exceeding 2m,

and

- (d) the stage or platform must resist loads determined in accordance with the following Australian and New Zealand Standards:
  - (i) AS/NZS 1170.0:2002, *Structural design actions, Part 0: General principles*,
  - (ii) AS/NZS 1170.1:2002, *Structural design actions, Part 1: Permanent, imposed and other actions*,
  - (iii) AS/NZS 1170.2:2011, *Structural design actions, Part 2: Wind actions*, and
- (e) if on land in the local government area of Coonamble, City of Dubbo, Gilgandra or Warrumbungle Shire, any stage or platform must not have an outside light fitting other than a shielded light fitting and any such shielded light fitting must be downward facing.

## **Subdivision 5 Sydney Olympic Park—major events**

### **4A.9 Specified development**

- (1) The internal or external alteration or addition to a major event venue (other than Newington Armoury) situated on the Sydney Olympic Park site, including a new or replacement large format video screen within a stadium or auditorium, is development specified for this code if it is carried out on land within the Sydney Olympic Park site.
- (2) In this Subdivision, **major event venue** and **Sydney Olympic Park site** have the same meanings as in Part 23 of Schedule 3 to [State Environmental Planning Policy \(Major Development\) 2005](#).

### **4A.10 Development standards**

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

- (a) not add more than 100m<sup>2</sup> to the external envelope of the major event venue, and
- (b) not add a new seating area to the major event venue of more than 1,000m<sup>2</sup>.

## **Subdivision 6 Waterways structures**

### **4A.11 Specified development**

- (1) Structural repairs to, the replacement of, or the carrying out of maintenance works in relation to, existing lawful boat sheds, cranes, davits, jetties, marinas, pontoons, slipway rails, winches water recreation structures and wharf or boating facilities is development specified for this code if it is not carried out on or in a heritage item or a draft heritage item.
- (2) Development specified for this code may be carried out on land whether or not the

land is within an environmentally sensitive area.

#### **4A.12 Development standards**

- (1) The standards specified for that development are that the development must:
  - (a) not reduce the amount of light penetration to any water below, and
  - (b) not change the classification of any building under the *Building Code of Australia*, and
  - (c) not involve disturbance of or injury to the bed of any waterway or injury to any marine vegetation (as defined under the *Fisheries Management Act 1994*), and
  - (d) not increase the height or site coverage of the building concerned, and
  - (e) in the case of the repair or replacement of any crane, davit, slipway rails or winch—not be larger in size or capacity than the one being repaired or replaced, and
  - (f) not result in a pile being exposed within the waterway, and
  - (g) comply with AS 3962—2001, *Guidelines for design of marinas* and AS 4997—2005, *Guidelines for the design of maritime structures*, and
  - (h) if an approval is required under the *Fisheries Management Act 1994*—be approved under that Act, and
  - (i) if an approval is required under the *Protection of the Environment Operations Act 1997*—be approved under that Act.
- (2) Despite subclause (1) (c), if the development is for the purpose of the removal or the replacement of damaged or degraded piles, the following additional standards are specified for that development:
  - (a) the development must not cause a deterioration in water quality,
  - (b) the development must use silt curtains or similar effective methods to control pollution,
  - (c) the development must not dispose of spoil in the waterway.

## **Division 2 Conditions applying to complying development certificates under this code**

#### **4A.13 Conditions specified in Schedule 7 apply**

A complying development certificate for development specified under this code must be issued subject to the conditions specified in Schedule 7.

## Part 5 Commercial and Industrial Alterations Code

### Note 1—

Schedule 3 contains variations to this code.

### Note 2—

In addition to the requirements specified for development under this code, adjoining owners' property rights, the applicable common law and other legislative requirements for approvals, licences, permits and authorities still apply. For example, requirements relevant to development in this code may be contained in the Act, the *Environmental Planning and Assessment Regulation 2000*, various State environmental planning policies, the *Protection of the Environment Operations Act 1997*, the *Roads Act 1993*, the *Disability (Access to Premises—Buildings) Standards 2010* of the Commonwealth and Acts applying to various infrastructure authorities. If the development is in the proximity of infrastructure, including water, stormwater and sewer mains, electricity power lines and telecommunications facilities, the relevant infrastructure authority should be contacted before commencing the development.

## Division 1 Specified development and development standards under this code

### Subdivision 1 Building alterations (internal)

#### 5.1 Specified complying development

An internal alteration to a building that is used, or is the subject of a development consent for use, for any purpose (other than for the purpose of residential accommodation, heavy industry, sex services premises or restricted premises) is development specified for this code.

#### 5.2 Development standards

- (1) The standards specified for that development are as follows:
  - (a) the current use of the premises must be a lawful use,
  - (b) the current use of the premises must not be an existing use within the meaning of section 106 of the Act,
  - (c) the alteration must not result in an increase in the gross floor area of any building within which it is carried out, except if the increase is required for the alteration to comply with the Premises Standards,
  - (d) the alteration must not involve the conversion of any area that is excluded from the measurement of gross floor area of the building (such as a basement, plant room, car parking space, loading space or void),
  - (e) if the alteration is to a building used for the purposes of an entertainment venue (such as a cinema, theatre, hall or auditorium) in a registered club or used as an entertainment facility, the alteration must not increase the floor area used for those purposes,

- (f) if the alteration involves food and drink premises, the alteration must be carried out in accordance with AS 4674—2004, *Design, construction and fit-out of food premises*,
- (g) the alteration must not relate to the cooking of food at the premises by barbecue or charcoal methods,
- (h) if the alteration involves a loading dock, the alteration must not:
  - (i) reduce the number or capacity of the trucks accommodated, or
  - (ii) reduce the area for goods handling, or
  - (iii) reduce the area for waste handling (including any recycling area), or
  - (iv) reduce the manoeuvring area of the loading dock or access driveway.
- (i) (Repealed)

**Note 1—**

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

**Note 2—**

If the alteration involves premises at which a **skin penetration procedure**, within the meaning of the *Public Health Act 2010*, is carried out, the premises must comply with the requirements under that Act, and Part 4 of the *Public Health Regulation 2012*.

- (2) The following requirements of the *Building Code of Australia* are also standards specified for that development:
  - (a) if the building that is being altered is subject to an alternative solution relating to a fire safety requirement—the alteration must be consistent with that alternative solution,
  - (b) if the alteration involves an area of more than 500m<sup>2</sup> of commercial premises, or an area of more than 1,000m<sup>2</sup> of premises used for light industry or a warehouse or distribution centre—that area must:
    - (i) comply with the requirements set out in DP2–DP5 of Volume 1 of the *Building Code of Australia*, and
    - (ii) comply with the number of sanitary and other facilities set out in FP2.1, FP2.5 and FP2.6 of Volume 1 of the *Building Code of Australia*, and
    - (iii) comply with the light and ventilation requirements set out in FP4.1–FP4.5 of Volume 1 of the *Building Code of Australia*,
  - (c) if the building is a mixed use development that also contains a Class 2, 3 or 4

portion—the altered area must be separated from the Class 2, 3 or 4 portion by building elements that comply with the fire resistance performance requirements set out in CP2 and CP8 of Volume 1 of the *Building Code of Australia*.

## Subdivision 2 Change of use of premises

### 5.3 Specified complying development

- (1) A change of use from an existing use specified in a category in Column 1 of the Table to this clause to a use specified in the corresponding category in Column 2 of that Table is development specified for this code.

**Table**

**Column 1 Existing use**

**Column 2 New use**

**Category 1**

**Category 1**

bulky goods premises

landscaping material supplies

landscaping material supplies

hardware and building supplies

hardware and building supplies

vehicle sales or hire premises

vehicle sales or hire premises

garden centre

garden centre

plant nursery

plant nursery

rural supplies

rural supplies

self-storage units

timber yard

timber yard

warehouse or distribution centre

warehouse or distribution centre

neighbourhood shop

kiosk

wholesale supplies

business premises

office premises

light industry

general industry

packaging industry

industrial retail outlet

**Category 2**

business premises  
office premises  
shop  
food and drink premises  
kiosk  
medical centre  
veterinary hospital

**Category 3**

general industry  
light industry  
packaging industry  
industrial retail outlet

**Category 4**

self-storage units

**Category 5**

entertainment facilities

**Category 2**

medical centre  
shop  
food and drink premises  
kiosk  
business premises  
office premises

**Category 3**

neighbourhood shop  
kiosk  
industrial retail outlet  
warehouse or storage distribution centre  
self-storage units  
general industry  
light industry  
packaging industry  
business premises  
office premises

**Category 4**

neighbourhood shop  
kiosk  
light industry  
general industry  
packaging industry  
industrial retail outlet

**Category 5**

amusement centre



	shop
	food and drink premises
	kiosk
<b>Category 6</b>	<b>Category 6</b>
amusement centre	shop
function centre	food and drink premises
registered club	kiosk
<b>Category 7</b>	<b>Category 7</b>
wholesale supplies	neighbourhood shop
	kiosk
	industrial retail outlet
	warehouse or distribution centre
	rural supplies

**Note—**

Clause 1.18 (1) (b) requires the new use to be permissible, with consent, in the land use zone in which it is carried out. In addition, certain types of uses are subject to a maximum floor area to be permissible development in a particular zone under the relevant planning instrument, such as in clause 5.4 of a local environmental plan that is a Standard Instrument. In those cases, the maximum floor area requirement for that use must be complied with for a change of use to be complying development.

- (2) If development specified in subclause (1) 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 that specifies the works or other requirements to be completed as part of the development from the relevant water utility or an entity authorised to provide such a notice or advice by the utility.

**5.4 Development standards**

- (1) The standards specified for that development are as follows:
- (a) the current use must be a lawful use,
  - (b) the current use must not be an existing use within the meaning of section 106 of the Act,
  - (c) the new use must not be carried out at premises that are a manufactured home, moveable dwelling or associated structure, temporary structure, tent, swimming pool, ship or vessel,

- (d) the new use must not be any of the following:
  - (i) a funeral home,
  - (ii) sex services premises,
  - (iii) restricted premises,
  - (iv) retail premises where firearms within the meaning of the *Firearms Act 1996* are sold,
  - (v) a roadside stall,
  - (vi) a market,
  - (vii) food and drink premises with the capacity for more than 50 seats, other than premises where the seating is provided within a common food court or food hall,
  - (viii) a pub,
  - (ix) a small bar,
- (e) a new use that is an ancillary office within premises that are a warehouse or distribution centre, or that is an ancillary office or an industrial retail outlet within premises used for light industry, must not occupy more than:
  - (i) the maximum amount of gross floor area permitted for such an office in such a building under an environmental planning instrument applying to the land, or
  - (ii) 20% of the gross floor area of the building or 1,000m<sup>2</sup>,whichever is the lesser,
- (f) if the new use is food and drink premises—the premises must comply with AS 4674-2004 *Construction and fit-out of food premises*,
- (g) the new use must not cause the contravention of any existing condition of the most recent development consent (other than a complying development certificate) that applies to the premises relating to hours of operation, noise, car parking, loading, vehicular movement, traffic generation, waste management or landscaping,
- (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.

(i) (Repealed)

**Note—**

The term **pub** is defined in the Standard Instrument as meaning licensed premises under the *Liquor Act 2007*, the principal purpose of which is the retail sale of liquor for consumption on the premises, whether or not the premises include hotel or motel accommodation and whether or not food is sold or entertainment is provided on the premises.

(2) The following requirements of the *Building Code of Australia* are also standards specified for that development:

- (a) if the change of use involves an area of more than 500m<sup>2</sup> of commercial premises, or an area of more than 1,000m<sup>2</sup> of premises used for industry or a warehouse or distribution centre, that area must:
  - (i) comply with the requirements set out in DP2–DP5 of Volume 1 of the *Building Code of Australia*, and
  - (ii) comply with the number of sanitary and other facilities set out in FP2.1, FP2.5 and FP2.6 of Volume 1 of the *Building Code of Australia*, and
  - (iii) comply with the light and ventilation requirements set out in FP4.1–FP4.5 of Volume 1 of the *Building Code of Australia*,
- (b) if the building is a mixed use development that also contains a Class 2, 3 or 4 portion—the area involved in the change of use must be separated from the Class 2, 3 or 4 portion by building elements that comply with the fire resistance performance requirements set out in CP2 and CP8 of Volume 1 of the *Building Code of Australia*.

**Note—**

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

### Subdivision 3 First use of premises

## 5.5 Specified development

- (1) The first use of a part of a building that is a Class 5, 6, 7b or 8 building is development specified for this code if the use is not for any of the following:
  - (a) a funeral home,
  - (b) sex services premises,
  - (c) restricted premises,
  - (d) retail premises where firearms within the meaning of the *Firearms Act 1996* are sold,
  - (e) a roadside stall,
  - (f) a market,
  - (g) food and drink premises with the capacity for more than 50 seats, other than premises where the seating is provided within a common food court or food hall,
  - (h) a pub,
  - (i) a small bar,
  - (j) an entertainment facility,
  - (k) a registered club.

### Note—

The term **pub** is defined in the Standard Instrument as meaning licensed premises under the *Liquor Act 2007*, the principal purpose of which is the retail sale of liquor for consumption on the premises, whether or not the premises include hotel or motel accommodation and whether or not food is sold or entertainment is provided on the premises.

- (2) If development specified in subclause (1) 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 that specifies the works or other requirements to be completed as part of the development from the relevant water utility or an entity authorised to provide such a notice or advice by the utility.

## 5.6 Development standards

- (1) The standards specified for that development are that the development:
  - (a) must not result in an increase to the gross floor area of the building, and
  - (b) must not cause the contravention of any existing condition of the most recent development consent (other than a complying development certificate) that applies to the premises relating to hours of operation, noise, car parking, loading,

vehicular movement, traffic generation, waste management or landscaping, and

(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.

(2) The following requirements of the *Building Code of Australia* are also standards specified for that development:

(a) if the new use involves an area of more than 500m<sup>2</sup> of commercial premises, or an area of more than 1,000m<sup>2</sup> of premises used for industry or a warehouse or distribution centre—that area must:

(i) comply with the requirements set out in DP2–DP5 of Volume 1 of the *Building Code of Australia*, and

(ii) comply with the number of sanitary and other facilities set out in FP2.1, FP2.5 and FP2.6 of Volume 1 of the *Building Code of Australia*, and

(iii) comply with the light and ventilation requirements set out in FP4.1–FP4.5 of Volume 1 of the *Building Code of Australia*,

(b) if the building is a mixed use development that also contains a Class 2, 3 or 4 portion—the area involved in the change of use must be separated from the Class 2, 3 or 4 portion by building elements that comply with the fire resistance performance requirements set out in CP2 and CP8 of Volume 1 of the *Building Code of Australia*.

**Note—**

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

## **Subdivision 4 Mechanical ventilation systems**

### 5.7 Specified complying development

The construction, installation or alteration of a mechanical ventilation system on a building that is used for any purpose (other than a dwelling house) is development specified for this code if it is not carried out in a heritage conservation area or a draft heritage conservation area.

### 5.8 Development standards

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

- (a) be located at least 3.5m behind the building line from any lot boundary, and
- (b) be designed so as not to emit noise exceeding an LAeq of 5 dB(A) above background noise when measured at any lot boundary, and
- (c) be located not more than 1m above the ridge of a pitched roof or 3m above a flat roof, and
- (d) not relate to the cooking of food at the premises by barbecue or charcoal methods, and
- (e) if it is located on bush fire prone land—be constructed or installed so that any opening is sealed against the entry of embers.

**Note—**

If the mechanical ventilation system is a **regulated system** within the meaning of the [Public Health Act 2010](#), the system must comply with the requirements of that Act and the regulations made under it, including AS/NZS 3666.1:2002, *Air-handling and water systems of buildings—Microbial control, Part 1: Design, installation and commissioning*.

## Subdivision 5 Shop fronts and awnings

### 5.9 Specified complying development

An external alteration to, or the repair or replacement of, an existing shop front or awning, or the construction of a new awning, on a building that is used for any purpose other than for the purpose of a dwelling house is development specified for this code if it is not carried out in a heritage conservation area or a draft heritage conservation area.

### 5.10 Development standards

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

- (a) not result in an increase in the gross floor area of the building, and
- (b) not reduce the area of the window or other clear glass of the shop front, and
- (c) not reduce the level of transparency of the shop front, such as by using obscure glazing, and

- (d) not reduce the existing level of access to the building for people with a disability, and
- (e) be no less than 2.7m high at any point measured above ground level (existing), and
- (f) in the case of the replacement of an existing awning fascia—have a vertical depth for the replacement fascia not greater than the vertical depth of the existing awning fascia, and
- (g) in the case of the construction of a new awning—have a vertical depth for the awning fascia not greater than the average of the vertical depths of the immediately adjoining awning fascias or, if there are no adjoining awning fascias, 350mm, and
- (h) be no more than 3m in depth measured horizontally from the facade of the building to which it is attached, and
- (i) be no closer than 450mm to the edge of any kerb or alignment of any path on which vehicles travel, and
- (j) be designed and certified by a professional engineer, and
- (k) in the case of the replacement of an awning or the construction of a new awning—be constructed of non-combustible material if it is located on bush fire prone land.

**Note—**

A structure on public land or on or over a public road requires the prior approval of the relevant authority under the [Local Government Act 1993](#) or the [Roads Act 1993](#), respectively.

## **Subdivision 6 Skylights and roof windows**

### **5.11 Specified complying development**

The construction or installation of a skylight or roof window on a building that is used for any purpose other than a dwelling house is development specified for this code.

### **5.12 Development standards**

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

- (a) be constructed or installed so that any opening created is adequately weather proofed, and
- (b) if located on bush fire prone land—be constructed or installed so that any opening is sealed against the entry of embers, and
- (c) if located on land in a heritage conservation area or draft heritage conservation area—be constructed or installed within the plane of the roof and not be visible on the street elevation.

## **Subdivision 7 Projecting wall signs**

### 5.13 Specified development

The construction or installation of a business identification sign that projects from the exterior wall of an existing building is development specified for the purposes of this code if:

- (a) it is not carried out on or in a heritage item or draft heritage item or in a heritage conservation area or draft heritage conservation area, and
- (b) it is carried out on land that is in a business, industrial or special purpose zone.

### 5.14 Development standards

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

- (a) not result in more than 4 business identification signs of this type for the building (which may refer to more than 1 business within the building) so long as only one sign is visible on each elevation of the building, and
- (b) not project beyond the parapet or eaves of the building to which it is attached, and
- (c) if located in an industrial zone—be no more than 2.5m<sup>2</sup> in area and not project more than 1.5m horizontally from the facade of the building, and
- (d) if located in any other zone—be no more than 1.5m<sup>2</sup> in area and not project more than 0.75m horizontally from the facade of the building, and
- (e) be securely fixed to the wall in accordance with:
  - (i) AS/NZS 1170.0:2002, *Structural design actions, Part 0: General principles*, and
  - (ii) AS/NZS 1170.2:2011, *Structural design actions, Part 2: Wind actions*, and
- (f) if the sign is illuminated:
  - (i) have its means of illumination, including any associated cables, concealed or integrated within the frame of the sign, and
  - (ii) not be animated, flashing or moving, and
  - (iii) comply with AS 4282—1997, *Control of the obtrusive effects of outdoor lighting*, and
- (g) if the sign is on land that is within a residential zone or within 50m of land that is within a residential zone and the sign faces the residential zone—only be illuminated during the following periods:
  - (i) if the hours of operation of the business identified on the sign have been approved—during those hours,



- (ii) if the hours of operation of the business identified on the sign have not been approved—between 7.00 am and 10.00 pm on any day.

**Note—**

A structure on public land or on or over a public road requires the prior approval of the relevant authority under the [Local Government Act 1993](#) or the [Roads Act 1993](#), respectively.

## **Subdivision 8 Freestanding pylon and directory board signs**

### **5.15 Specified development**

The erection of a business identification sign that is displayed on a freestanding structure that is mounted on the ground on one or more supports is development specified for this code if:

- (a) it is not carried out on or in a heritage item or a draft heritage item or in a heritage conservation area or a draft heritage conservation area, and
- (b) it is carried out on land that is in a business, industrial or special purpose zone.

### **5.16 Development standards**

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

- (a) not result in more than one such freestanding sign for each street frontage of the lot on which the development is located that is more than 15m in width, and
- (b) not be higher than 6m from ground level (existing), and
- (c) not have an area for the sign of more than 8m<sup>2</sup> unless paragraph (d) applies, and
- (d) if the development is located on premises with more than one commercial tenant—not have an area for the sign of more than 16m<sup>2</sup>, and
- (e) not be located within 3m of any protected tree, and
- (f) be constructed and installed in accordance with:
  - (i) AS/NZS 1170.0:2002, *Structural design actions, Part 0: General principles*, and
  - (ii) AS/NZS 1170.2:2011, *Structural design actions, Part 2: Wind actions*, and
- (g) not obstruct the visibility sight lines of, or interfere with, any traffic control device, including traffic control lights, and
- (h) if the sign is illuminated:
  - (i) have its means of illumination, including any associated cables, concealed or integrated within the frame of the sign, and

- (ii) not be animated, flashing or moving, and
  - (iii) comply with AS 4282—1997, *Control of the obtrusive effects of outdoor lighting*, and
- (i) if the sign is on land that is within a residential zone or within 50m of land that is within a residential zone and the sign faces the residential zone—only be illuminated during the following periods:
- (i) if the hours of operation of the business identified on the sign have been approved—during those hours, or
  - (ii) if the hours of operation of the business identified on the sign have not been approved—between 7.00 am and 10.00 pm on any day.

**Note—**

A structure on public land or on or over a public road requires the prior approval of the relevant authority under the [Local Government Act 1993](#) or the [Roads Act 1993](#), respectively.

## **Subdivision 9 Development ancillary to the use of land**

### **5.17 Specified development**

Development, or the carrying out of works, that is or are ancillary to the use of land is development specified for this code if it is not carried out on a lot that:

- (a) contains a dwelling house, or
- (b) is a flood control lot.

### **5.18 Development standards**

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

- (a) have an area of not more than 100m<sup>2</sup>, or 15% of the area of the site on which the development is carried out, whichever is the lesser, and
- (b) not have a building height of more than 5m, and
- (c) be located at least 1m behind the building line of any road frontage (except where the development is a front awning on a building), and
- (d) be located at least 3m from any boundary adjoining land on which a dwelling is located, and
- (e) not be located over a registered easement, and
- (f) not reduce vehicular access to, parking on or loading or unloading on or from, the lot, and

- (g) not reduce the landscaped area of the lot, and
- (h) if carried out in a heritage conservation area or in a draft heritage conservation area:
  - (i) be located behind the rear building line and no closer to each side boundary than the existing development with which it is associated, and
  - (ii) not be carried out on a lot that adjoins a lane or a secondary or parallel road, and
- (i) to the extent that it is comprised of metal components—be constructed of low reflective, factory pre-coloured materials, and
- (j) if located on bush fire prone land—be constructed of non-combustible material, and
- (k) satisfy the requirements contained in an applicable development control plan applying to the land concerning its drainage systems and not interfere with the functioning of existing drainage fixtures or flow paths, and
- (l) if a carport—have 2 or more sides open and not less than one third of its perimeter open, and
- (m) in the case of a garbage bin enclosure:
  - (i) not have a floor area more than 5m<sup>2</sup>, and
  - (ii) not be higher than 3m if roofed or 1.5m above ground level (existing) if not roofed.

## **Subdivision 10 Earthworks, retaining walls and structural support**

### **5.19 Specified development**

Earthworks and the construction or installation of a retaining wall or other form of structural support are development specified for this code if they are not carried out on a lot that:

- (a) contains a dwelling house, or
- (b) is a flood control lot.

### **5.20 Development standards**

- (1) The standards specified for that work are that the work must:
  - (a) be structurally supported in accordance with subclause (2), and
  - (b) if the land is not identified as Class 1, Class 2, Class 3 or Class 4 on the Acid Sulfate Soils Map—not be more than 3m below ground level (existing), and
  - (c) if the land is identified as Class 1, Class 2, Class 3 or Class 4 on the Acid Sulfate Soils Map—not be more than 1m below ground level (existing), and

- (d) be carried out at least 40m from any waterbody (natural), and
  - (e) not result in a building being located over a registered easement.
- (2) Structural support for earthworks more than 1m above or below ground level (existing) must take the form of a retaining wall or other form of structural support that:
- (a) has been certified by a professional engineer, and
  - (b) has adequate drainage lines connected to an existing stormwater drainage system for the site, and
  - (c) does not redirect the flow of any water or cause sediment to be transported onto an adjoining property, and
  - (d) is not higher than 3m, and
  - (e) is separated from any other structural support on the site by at least 2m, measured horizontally.
- (3) The standards specified for fill are that the fill must:
- (a) not raise the ground level (existing) more than 2m, and
  - (b) be wholly contained by structural support in accordance with subclause (2), and
  - (c) be located at least 40m from any waterbody (natural).

## **Subdivision 11 Driveways, hard stand spaces, pathways and paving**

### **5.21 Specified development**

The following development is specified for this code if it is not carried out on a lot that contains a dwelling house:

- (a) the construction or installation of pathways or paving,
- (b) the construction or installation of a driveway associated with access to a hard stand space, carport, loading bay or garage,
- (c) the construction or installation of a hard stand space, whether open or part of a carport.

### **5.22 Development standards**

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

- (a) satisfy the requirements of any applicable development control plan concerning its drainage systems and not interfere with the functioning of existing drainage fixtures

or flow paths, and

- (b) not require a cut or fill of greater than 2m from ground level (existing), and
- (c) if it is a driveway or hard stand space:
  - (i) be constructed in accordance with AS/NZS 2890.1:2004, *Parking facilities, Part 1: Off-street car parking* or AS 2890.2—2002, *Parking facilities, Part 2: Off-street commercial vehicle facilities* and RMS Australian Standard Supplements, *Australian Standard—AS2890, Parking Facilities, Parts 1–6* issued by Roads and Maritime Services, and
  - (ii) be designed to allow all vehicles to turn around within the site and exit in a forward direction, and
  - (iii) be designed and certified by a professional engineer, and
- (d) if it is a driveway—have the consent required for a driveway under section 138 of the [Roads Act 1993](#) from the appropriate roads authority, and
- (e) if the development is a hard stand space:
  - (i) be associated with a driveway, and
  - (ii) be located at least 3m from any boundary that adjoins a residential zone, and
- (f) if it is a pathway or paving area to be used for pedestrian access—be designed or constructed in accordance with AS 1428.1—2009, *Design for access and mobility, Part 1: General requirements for access—New building work*.

## **Subdivision 12 Fences**

### **5.23 Specified development**

The construction of a fence that is not located on the boundary of a road, other than a rear lane, is development specified for this code if it is not carried out on a lot that contains a dwelling house.

### **5.24 Development standards**

- (1) The standards specified for that development are that the development must:
  - (a) be located on a side or rear boundary, and
  - (b) not be more than 3m above ground level (existing), and
  - (c) not be of solid construction.
- (2) Despite subclause (1), any fence located along the boundary of a site that adjoins land within a residential zone or a lane must be open for at least 75% of the area of

the fence that is more than 1.8m above ground level (existing).

**Note—**

Development standards for fences that are exempt development are specified in Division 1 of Part 2.

## **Division 2 Conditions applying to complying development certificates under this code**

### **5.25 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.

## **Part 5A Commercial and Industrial (New Buildings and Additions) 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 Development that is complying development under this code**

### **5A.1 Land to which code applies**

This code applies to development that is specified in clause 5A.2 on any lot in Zone B1, B2, B3, B4, B5, B6, B7, B8, IN1, IN2, IN3, IN4 or SP3.

### **5A.2 Alterations or additions to an existing building or construction of new building**

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

- (a) the construction of a building for the purposes of industry (other than heavy industry) or a warehouse or distribution centre,
- (b) an addition to an existing building that is used for the purpose of industry (other than heavy industry) or a warehouse or distribution centre,
- (c) the external alteration of an existing building used for the purpose of industry (other than heavy industry) or a warehouse or distribution centre,
- (d) an addition to the rear of existing commercial premises, other than on a corner lot,
- (e) the external alteration of existing commercial premises.

- (2) If development specified in subclause (1) (a)–(e) 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.
- (3) Development that requires the clearing of more than 1,000m<sup>2</sup> of native vegetation is not development for the purpose of this code.

### **5A.3 When separate permits are not required under this Part**

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

- (a) the tree is not listed on a significant tree register or register of significant trees kept by the council, and
- (b) the tree or vegetation is within 3m of the development, and
- (c) the tree or vegetation has a height that is less than 8m.

## **Division 2 Development standards for this code relating to industrial buildings**

### **Note—**

Division 4 of this Part also specifies additional development standards that apply to development relating to industrial buildings.

### **Subdivision 1 Application**

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

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

- (a) the construction of a building for the purpose of industry or of a warehouse or distribution centre, or
- (b) an addition to an existing building that is used for the purpose of industry, or
- (c) the external alteration of an existing building used for the purpose of industry.

### **Subdivision 2 General**

#### **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.

#### **5A.6 Registered easements**

Development that will result in the erection of a building over a registered easement is not complying development under this code.

### **Subdivision 3 Site requirements**

#### **5A.7 Maximum gross floor area**

- (1) If the development is a new building, the total gross floor area of the completed buildings on the site must not be more than 20,000m<sup>2</sup>.
- (2) If the development is an alteration or addition to an existing building, the total gross floor area of the building as altered or added to must not exceed:
  - (a) for an existing building with a gross floor area of 5,000m<sup>2</sup> or less—5,000m<sup>2</sup>, or
  - (b) in any other case—the gross floor area of the existing building with an additional 5,000m<sup>2</sup>.
- (3) If the development includes development for the purposes of an ancillary office or industrial retail outlet, the floor area of the ancillary office or industrial retail outlet must not be more than 20% of the total gross floor area of the completed building or 1,000m<sup>2</sup>, whichever is the lesser.

#### **Note—**

Clause 1.18 (1) (b) requires the new use to be permissible, with consent, in the land use zone in which it is carried out. In addition, certain types of uses are subject to a maximum floor area to be permissible development in a particular zone under the relevant planning instrument, such as in clause 5.4 of the Standard Instrument. In those cases, the maximum floor area requirement for that use must be complied with for a change of use to be complying development.

#### **5A.8 Maximum floor space ratio**

The maximum floor space ratio of a new building or an existing building that is altered or added to must not be more than:

- (a) the maximum floor space ratio applicable to the land on which the building is erected under another environmental planning instrument applying to the land, or
- (b) if there is no such applicable maximum floor space ratio—1:1.

### **Subdivision 4 Building heights and setbacks**

#### **5A.9 Maximum height**

- (1) The maximum height of a new building must not be more than:



- (a) the maximum height applicable to the land on which the building is erected under another environmental planning instrument applying to the land, or
  - (b) if there is no such applicable maximum height—15m.
- (2) The maximum height of an existing building that is being altered or added to must not be more than:
- (a) the maximum height applicable to the land on which the building is erected under another environmental planning instrument applying to the land, or
  - (b) if there is no such applicable maximum height—the height of the existing building or 15m, whichever is the lesser.

#### **5A.10 Setbacks of development from roads**

- (1) If the development has a boundary with a classified road, the building must have a setback from the boundary with the classified road of:
- (a) at least 10m, or
  - (b) if a greater setback is applicable in those circumstances under another environmental planning instrument applying to the land on which the building is erected—at least the setback specified in that instrument.
- (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.
- (3) If the development is on a lot that has a boundary with a parallel road that is not a classified road, the building must have a setback from the boundary with the parallel road determined in accordance with subclause (2).
- (4) If the development is located on a corner lot, the building must have a setback from the boundary of the secondary road of at least 3m if the secondary road is not a classified road.
- (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.

- (5) Despite the other provisions of this clause, an addition or alteration to an existing building may have a setback from the boundary of any road that is not a classified road at the same distance as the setback of the existing building from that boundary.
- (6) Despite the other provisions of this clause, the requirements of this clause do not apply to the existing parts of a building.

#### **5A.11 Setbacks of development from side and rear boundaries**

- (1) If the development is a new building, or the alteration of or an addition to an existing building, on land that adjoins a lot in a residential zone, the building must have a setback from the boundary of the adjoining lot of:
  - (a) for a building with a gross floor area of not more than 1,000m<sup>2</sup>—at least 3m, plus an additional metre for every whole metre by which the building exceeds 4.5m in height above ground level (existing), or
  - (b) for a building with a gross floor area of more than 1,000m<sup>2</sup> but not more than 5,000m<sup>2</sup>—at least 5m, plus an additional metre for every whole metre by which the building exceeds 4.5m in height above ground level (existing), or
  - (c) for a building with a gross floor area of more than 5,000m<sup>2</sup> but not more than 10,000m<sup>2</sup>—at least 20m, plus an additional metre for every whole metre by which the building exceeds 4.5m in height above ground level (existing), or
  - (d) for a building with a floor area of more than 10,000m<sup>2</sup> but not more than 20,000m<sup>2</sup>—at least 50m, with a maximum building height of 15m above ground level (existing).
- (2) If the development is a new building, or the alteration of or an addition to an existing building, on a lot that adjoins a public reserve, the building must have a setback from the boundary with the public reserve of at least 3m and the area of that setback must be a landscaped area.
- (3) If the development is a new building, or the alteration of or an addition to an existing building, on a lot that adjoins an environmentally sensitive area, the building must have a setback from the boundary with that environmentally sensitive area of at least 10m and an area of at least 3m in width of that setback must be a landscaped area.
- (4) Despite the other provisions of this clause, the requirements of this clause do not apply to the existing parts of a building that are not being altered or added to.

- (5) If the development is carried out on a lot that has a boundary with a railway corridor, the new building or addition and any ancillary development must be located at least 3m from that boundary.

## **Subdivision 5 Building and site design requirements**

### **5A.12 Front facade material finishes for new industrial buildings**

- (1) A new industrial building must have a front door or entry with an awning or portico, or be distinguished by the use of different building materials, as part of the front facade wall of the building that faces the primary road or principal entry onto the site.
- (2) The front facade wall of a new industrial building must contain at least 30% of materials that are not the main exterior finish.
- (3) Sun shading devices, screens or canopies must be provided for each glazed wall or window in a new industrial building if the glazed wall or window faces in a direction that is between north and west.
- (4) All glazing in a new industrial building must be of low reflective glass.

### **5A.13 Building elements within the articulation zone for new industrial buildings**

- (1) The following building elements are permitted within an articulation zone for a new industrial building:
  - (a) an entry feature or portico,
  - (b) an awning or canopy over a door or window.
- (2) A building element within the articulation zone of a new industrial building:
  - (a) must not reduce the required landscape area, car parking spaces or driveway, and
  - (b) may extend 2m into the minimum required front setback, but must not be more than 25% of the width of the front facade of the building, and
  - (c) must not be more than the maximum height of the building.

### **5A.14 Bunding**

All areas for the storage and handling of chemicals, fuels and oils on-site must be designed with appropriate bunded areas that:

- (a) have impervious flooring, and
- (b) have sufficient capacity to contain 110% of the largest container stored within the bund, and
- (c) are designed in accordance with pages 40–44 of the document entitled *Storing and*

*Handling Liquids: Environmental Protections, Participants Manual* published by the Department of Environment and Climate Change NSW in May 2007.

#### **5A.15 Caretakers' flats**

- (1) If the development includes development for the purposes of an ancillary caretaker's flat, the flat must:
  - (a) for development that is:
    - (i) the construction of a new building—form part of the new building, or
    - (ii) the alteration of or addition to an existing building—be an addition to the existing building, and
  - (b) comply with the relevant requirements contained in Volume 1 of the *Building Code of Australia* that are applicable to a Class 4 building, and
  - (c) have a floor area not exceeding 100m<sup>2</sup>.
- (2) The development must not include more than one caretaker's flat per lot.

#### **5A.16 Landscaped areas**

- (1) A landscaped area complying with the following specifications must be provided along each boundary of a lot on which the development is carried out with any adjoining road (except in areas necessary for vehicle and pedestrian access):
  - (a) at least 3m in width or, if the setback from the road boundary is less than 3m, the width of the setback, and
  - (b) with a soil depth of at least 1m, and
  - (c) if the width of a lot is more than 10m at the primary street frontage—with a species of trees planted at 3m intervals along that frontage that are capable of achieving a height of at least 8m at maturity and at least 2m within 2 years of the occupation of the development.
- (2) If the development adjoins a residential zone, the setback area referred to in clause 5A.11 (1) must have in it a landscaped area, adjacent to the boundary with that zone, that is:
  - (a) for a building with a gross floor area of more than 1,000m<sup>2</sup> but not more than 5,000m<sup>2</sup>—at least 3m wide in that setback, and
  - (b) for a building with a gross floor area of more than 5,000m<sup>2</sup> but not more than 10,000m<sup>2</sup>—at least 5m wide in that setback, and
  - (c) for a building with a gross floor area of more than 10,000m<sup>2</sup> but not more than 20,000m<sup>2</sup>—at least 10m wide in that setback.

- (3) The landscaped area required under subclause (2) must have trees and shrubs planted evenly across its length and width with, for every 3m<sup>2</sup> of the area:
- (a) 1 tree of a species capable of achieving a height of at least 8m at maturity and at least 2m within 2 years of the occupation of the development, and
  - (b) 1 shrub of a species capable of achieving a height of at least 2m within 5 years of the occupation of the development and no more than 5m at maturity.

## **Division 3 Development standards for this code relating to commercial premises**

### **Note—**

Division 4 also specifies development standards that apply to development relating to commercial buildings.

### **Subdivision 1 Application**

#### **5A.17 Application of development standards**

This Division sets out the development standards that apply to development specified for this code that comprises an addition to existing commercial premises at the rear of the premises or the external alteration of existing commercial premises.

### **Subdivision 2 General**

#### **5A.18 General standards**

The standards specified for that development are that:

- (a) the current use of the premises must be a lawful use, and
- (b) the current use of the premises must not be an existing use within the meaning of section 106 of the Act, and
- (c) the development must not contravene any condition of an existing development consent that continues to apply to the land, and
- (d) the finish to the proposed building addition or alteration that comprises the development must be of similar materials and colour to the existing premises so that the addition or alteration is in keeping with the existing premises, and
- (e) any new facade created by the development that faces any street must have a surface comprised of not more than 50% glazed materials which must be low reflective glass.

### **Subdivision 3 Site requirements**

#### **5A.19 Maximum gross floor area**

- (1) The total gross floor area of any part of additions to existing commercial premises that are to be used for retail purposes must not exceed 1,000m<sup>2</sup>, or 50% of the gross floor area of the existing commercial premises, whichever is the lesser.
- (2) The total gross floor area of any part of additions to existing commercial premises that are to be used for any other commercial uses must not exceed 2,500m<sup>2</sup>, or 50% of the gross floor area of the existing commercial premises, whichever is the lesser.

#### **5A.20 Maximum floor space ratio**

The maximum floor space ratio of the existing commercial premises as altered or added to must not be more than:

- (a) the maximum floor space ratio applicable to the land on which the premises are erected under another environmental planning instrument applying to the land, or
- (b) if there is no such applicable maximum floor space ratio—1:1.

### **Subdivision 4 Building heights and setbacks**

#### **5A.21 Maximum height**

- (1) The maximum height of the existing commercial premises as altered or added to must not be more than:
  - (a) if there is a dwelling on an adjoining lot—8.5m, or
  - (b) in any other case:
    - (i) the maximum height applicable to the land on which the building is erected under another environmental planning instrument applying to the land, or
    - (ii) if there is no such applicable maximum height—12m.
- (2) Despite subclause (1), the maximum height of any ancillary development must not be more than 5m.

#### **5A.22 Setbacks**

- (1) If the existing commercial premises as altered or added to has a boundary with a parallel road that is a classified road, the addition to the commercial premises must have a setback from the boundary with the parallel road of:
  - (a) at least 3m, or
  - (b) if a greater setback is applicable in those circumstances under another environmental planning instrument applying to the land on which the commercial premises are erected—at least the setback specified in that instrument.

- (2) If the existing commercial premises to be altered or added to is on a lot that is subject to a proposed road widening under a local environmental plan, the premises 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—3m.
- (3) If there is a building on an adjoining lot that is being used for residential accommodation and that building is located less than 3m from the boundary with the existing commercial premises being altered or added to, the following setbacks are required from the side and rear boundaries of the lot on which the commercial premises are located:
  - (a) a distance of at least 1.5m for any part of the alteration or addition to the commercial premises that does not exceed 3m in height above ground level (existing),
  - (b) a distance of at least 3m for any part of the alteration or addition to the commercial premises that exceeds 3m but does not exceed 6m in height above ground level (existing),
  - (c) a distance of at least 4.5m for any part of the alteration or addition to the commercial premises that exceeds 6m in height above ground level (existing).
- (4) Subclause (3) (a) does not apply if the building on the adjoining lot is being used for a mixed use development that does not include any residential accommodation on the ground floor facing the boundary with the lot on which the existing commercial premises are located.
- (5) If the site of the existing commercial premises has a boundary with a railway corridor, the commercial premises as altered or added to must be located at least 2m from that boundary.
- (6) Subject to the other provisions of this clause, the existing commercial premises as altered or added to may extend to the side and rear boundaries.
- (7) Despite the other provisions of this clause, the requirements of this clause do not apply to the existing parts of a building that are not being altered or added to.

### **5A.23 Privacy**

A window in any part of the existing commercial premises that is being altered or added to must have a privacy screen for any part of the window that is less than 1.5m above finished floor level if:

- (a) the window faces a building used for residential accommodation on an adjoining lot, and
- (b) the wall in which the window is located has a setback of less than 5m from the boundary of that adjoining lot.

## **Division 4 Development standards for both industrial and commercial development**

### **5A.24 Car parking and access**

- (1) Car parking must be provided on site:
  - (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
  - (b) if there are no relevant requirements as referred to in paragraph (a), in accordance with the document entitled *Guide to Traffic Generating Developments, Version 2.2*, published by the Roads and Traffic Authority in October 2002.
- (2) The dimensions of all car parking spaces must be designed in accordance with AS/NZS 2890.1:2004, *Parking facilities, Part 1: Off-street car parking* or AS 2890.2—2002, *Parking facilities, Part 2: Off-street commercial vehicle facilities* and RMS Australian Standard Supplements, Australian Standard—AS2890, *Parking Facilities, Parts 1-6*.

### **5A.25 Loading facilities and driveways**

- (1) Each building in the development must be provided with its own loading bay and the loading facilities must be contained wholly within the lot on which the development is carried out.
- (2) Loading bays must be located behind the front building line of the building and must not be located on any side of the building that faces an adjoining lot on which there is a dwelling.
- (3) Driveways within the lot on which the development is carried out must be designed so as to enable vehicles to leave the lot in a forward direction.
- (4) Ingress to and egress from the site, driveway widths, turning circles and the dimensions of all loading bays must be designed in accordance with:



- (a) AS/NZS 2890.1:2004, *Parking facilities, Part 1: Off-street car parking* or AS 2890.2—2002, *Parking facilities, Part 2: Off-street commercial vehicle facilities* and *RMS Australian Standard Supplements, Australian Standard—AS2890, Parking Facilities, Parts 1–6*, and
- (b) the document entitled *Guide to Traffic Generating Developments, Version 2.2*, published by the Roads and Traffic Authority in October 2002.

#### **5A.26 Garbage and waste storage**

- (1) A garbage and waste storage area for recyclable and non-recyclable waste materials and receptacles for those materials must:
  - (a) be provided as part of the development, and
  - (b) be located entirely within the lot on which the development is being carried out and not on a road or road reserve, and
  - (c) comply with the following appendices in the document entitled *Better Practice Guidelines for Waste Management and Recycling in Commercial and Industrial Facilities* (ISBN 978-1-74293-944-5), published by the NSW Environment Protection Authority in December 2012:
    - (i) Appendices A and B, for the size and location of garbage and storage areas and the size of waste receptacles,
    - (ii) Appendices C and D, for the design of openings of waste storage areas and loading bay turning circles for waste removal vehicles,
    - (iii) Appendix E, for standard signs for waste storage areas,
    - (iv) Appendix F for the design and operational capacity of waste storage areas.
- (2) The waste storage area must:
  - (a) be screened, and
  - (b) be located behind the primary road frontage building line, and
  - (c) not be located in any car parking, loading or landscaped area, and
  - (d) not be located on any side of the building that faces an adjoining lot on which there is a dwelling.

#### **5A.27 Earthworks**

- (1) Excavation works for the purposes of the development must:
  - (a) be structurally supported in accordance with subclause (2), and

- (b) if the land is not identified as Class 3 or Class 4 on the Acid Sulfate Soils Map—not be more than 3m below ground level (existing), and
  - (c) if the land is identified as Class 3 or Class 4 on the Acid Sulfate Soils Map—not be more than 1m below ground level (existing), and
  - (d) be carried out at least 40m from any waterbody (natural), and
  - (e) not result in a building being located over a registered easement, and
  - (f) if the works are on a lot adjacent to a rail corridor—have a setback at least 3m from the corridor.
- (2) Structural support for earthworks more than 1m above or below ground level (existing) must take the form of a retaining wall or other form of structural support that:
- (a) has been certified by a professional engineer, and
  - (b) has adequate drainage lines connected to an existing stormwater drainage system for the site, and
  - (c) does not redirect the flow of any water or cause sediment to be transported onto an adjoining property, and
  - (d) is not higher than 3m, and
  - (e) is separated from any other structural support on the site by at least 2m, measured horizontally.
- (3) Fill, for the purposes of the development must:
- (a) not raise the ground level (existing) more than 2m, and
  - (b) be wholly contained by a structural support in accordance with subclause (2), and
  - (c) be located at least 40m from any waterbody (natural).

#### **5A.28 Drainage**

- (1) All stormwater drainage collected as a result of the 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.

#### **5A.29 Development standards for bush fire prone land**

(1) This clause applies:

- (a) to all development specified in clause 5A.2 (1) for this code that is to be carried out on a lot that is wholly or partly bush fire prone land, 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 documents 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) *Planning for Bush Fire Protection, Addendum: Appendix 3* (ISBN 0 9751033 2 6), published by the NSW Rural Fire Service in April 2010,
  - (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 60m 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 (such as the requirement that metal piping be used), and

- (h) any gas cylinders on the lot that are within 10m of a dwelling:
  - (i) have their release valves directed away from the dwelling, 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 any dwelling on the lot or an adjoining lot.

**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 (1) (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) a person who is recognised by the NSW Rural Fire Service as a suitably qualified consultant in bush fire risk assessment, or
  - (b) 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) to the publication titled *Planning for Bush Fire Protection* (ISBN 0 9751033 2 6) published by NSW Rural Fire Service in 2006.

### **5A.30 Development standards for flood control lots**

- (1) This clause applies:
  - (a) to all development specified in clause 5A.2 (1) 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 unless that part of the lot has been certified, for the purposes of the issue of the relevant complying development certificate, by the council or a professional engineer who specialises in hydraulic engineering, as not being any of the following:
  - (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 a minimum floor level 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 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) If a word or expression used in this clause is defined in the Floodplain Development Manual, the word or expression has the same meaning as it has in that 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 5 Conditions applying to complying development certificates under this code**

### **5A.31 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.

## **Part 6 Subdivisions Code**

### **Note 1—**

Schedule 3 contains variations to this code.

### **Note 2—**

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

### **6.1 Specified complying development**

The strata subdivision of multi-dwelling housing or a building, other than a dual occupancy, for which development consent or a complying development certificate was granted or issued is, for 5 years from the date the consent or certificate was granted or issued, development specified for this code.

### **6.2 Development standards**

The standards specified for that development are:

- (a) that any development consent or complying development certificate relating to the building, the subject of the subdivision, and granted or issued before 1 January 2011 must require the allocation of parking spaces for each individual dwelling, and

- (b) that the subdivision must not contravene any condition of any development consent or complying development certificate applying to the development.

**Note—**

Registered interests on the land, the subject of the strata subdivision, the *Strata Schemes Management Act 1996* and the *Strata Schemes (Freehold Development) Act 1973* apply.

## **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,
  - (b1) a swimming pool,
  - (c) an industrial building,
  - (d) a commercial building that would be complying development under the Commercial and Industrial Alterations Code and the Commercial and Industrial (New Buildings and Additions) 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.
- (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.
- (4) If a swimming pool is removed:
  - (a) the site of the swimming pool must be filled (if necessary) so as to restore the site to the ground level (existing) adjacent to the pool, taking into account any sloping of the site, and



(b) the fill must be compacted, and

(c) any piping or similar material must be removed from the site before the site is filled.

## **Division 2 Conditions applying to complying development certificates under this code**

### **7.3 Conditions specified in Schedule 9 apply**

A complying development certificate for development specified under this code must be issued subject to the conditions specified in Schedule 9.

### **7.4-7.11 (Repealed)**

## **Part 8 Fire Safety Code**

### **Division 1 Development that is complying development under this code**

#### **8.1 Definitions**

In this code:

**alteration to a hydraulic fire safety system** has the same meaning as in clause 165 of the *Environmental Planning and Assessment Regulation 2000*.

**fire alarm communication link work** has the same meaning as in clause 3 of the *Environmental Planning and Assessment Regulation 2000*.

**hydraulic fire safety system** has the same meaning as in clause 165 of the *Environmental Planning and Assessment Regulation 2000*.

**private service provider** has the same meaning as in clause 3 of the *Environmental Planning and Assessment Regulation 2000*.

#### **8.2 Specified complying development**

The following development is specified for this code:

(a) the installation or extension of a fire sprinkler system in a residential care facility (within the meaning of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*),

(b) alteration to a hydraulic fire safety system for the purposes only of the installation or modification of:

(i) a fire main or other pipe work, or

- (ii) a fire water storage tank, or
  - (iii) a fixed on-site fire pump set, or
  - (iv) a fire brigade's booster connection,
- (c) the construction or installation of a new external pump house or enclosure to accommodate a fixed on-site fire pump set and associated pipe work,
- (d) the internal or external alteration of, or addition to, an existing building for:
- (i) the construction or installation of a pump house or enclosure to accommodate a fixed on-site fire pump set and associated pipe work, or
  - (ii) the installation or extension of a fire sprinkler system in a residential care facility, or
  - (iii) an alteration to a hydraulic fire safety system, or
  - (iv) fire alarm communication works,
- (e) fire alarm communication link work for:
- (i) the installation of a fire alarm communication link to connect with the fire alarm monitoring network of a private service provider, or
  - (ii) the conversion of a fire alarm communication link from a connection with the fire alarm monitoring network of a private service provider to the fire alarm monitoring network of another private service provider, or
  - (iii) the conversion of a fire alarm communication link from a connection with the fire alarm monitoring network of a private service provider to another fire alarm monitoring network of the private service provider.

**Note—**

Development to which section 100B (1) of the [Rural Fires Act 1997](#) applies is not complying development under this Policy.

## **Division 2 Development standards for this code**

### **Subdivision 1 General development standards**

#### **8.3 Development standards**

The development standards specified for that development are as follows:

- (a) the current use of the premises must be a lawful use,
- (b) if the building to which the development relates is subject to an alternative solution relating to a fire safety requirement, the development must be consistent with that

alternative solution,

- (c) the development must not reduce the level of fire safety or structural integrity provided by an existing building,
- (d) the development must not alter or extend an existing fire sprinkler system if the level of fire hazard arising from the current use of the building exceeds the level of fire hazard for which the fire sprinkler system was designed and installed,
- (e) the development must not contravene any condition of an existing development consent that applies to the land relating to vehicle access and loading facilities or result in the reduction of any car parking on the land by more than 2 car spaces,
- (f) the development must not:
  - (i) result in a change of classification of the building under the Act or the *Building Code of Australia*, or
  - (ii) result in an increase in the gross floor area of any current lawful use, or
  - (iii) affect any existing fire-resisting components of any building, or
  - (iv) affect the means of egress from the building in an emergency,
- (g) if the development includes excavation (unless it is for the purpose of underground pipe work connecting the system to a water main)—any excavation that is more than 600mm in depth must be supported by a structure or a structural support that has been certified by a professional engineer, and must not:
  - (i) be greater than 3m below ground level (existing), or
  - (ii) be less than 1.5m from any lot boundary,
- (h) all stormwater drainage collected as a result of the development must be conveyed by a gravity fed or charged system to:
  - (i) a public drainage system, or
  - (ii) an inter-allotment drainage system, or
  - (iii) an on-site disposal system,
- (i) all stormwater drainage systems within a lot where the development is being carried out, and the connection to a public or an inter-allotment drainage system, must:
  - (i) if an approval is required under section 68 of the *Local Government Act 1993*—be approved under that Act, or
  - (ii) 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 2 Water storage tanks**

### **8.4 Development standards**

The development standards applying to the installation of a new water storage tank, or an extension to an existing water storage tank for the purposes of the installation or extension of a fire sprinkler system or an alteration to a hydraulic fire safety system, are that:

- (a) the tank, or the extended existing tank, must have a capacity of no more than 100,000 litres, and
- (b) if the tank is to be located within a building—the tank must not increase the floor area of any room, and
- (c) if the tank is to be located outside a building—the tank must:
  - (i) be located behind the building line of the primary public road frontage (the front of the building), unless the tank is to be located below ground level, and
  - (ii) be located at least 3m from any other public road frontage, and
  - (iii) have a diameter or width of not more than 6m, and
  - (iv) have a height of not more than 5m above ground level (existing), and
  - (v) for any tank up to 3m in height—have a setback of at least 900mm from any side or rear boundary, and
  - (vi) for any tank 3m in height or greater—have a setback of at least 3m from any side or rear boundary, and
- (d) if the tank is to be located on the roof of a building:
  - (i) a tank on a flat roof must be no more than 3m above the roof level and be located at least 3.5m from the parapet edge of the building, or
  - (ii) a tank on a pitched roof must be no more than 1m above the ridge level of the roof of the building, and
- (e) the tank must not be located over a registered easement.

## **Subdivision 3 Fixed on-site fire pump sets and associated external pump houses or enclosures**

### **8.5 Development standards**

The development standards applying to the installation of a fixed-on-site fire pump set

and associated pipe work, and the construction of a new internal or external pump house enclosure for the purposes of the installation or the extension of a fire sprinkler system or an alteration to a hydraulic fire safety system, are that:

- (a) the walls and roof of any pump house or any enclosure of a pump set must be of a non-combustible material, unless otherwise required by the *Building Code of Australia*, and
- (b) the wall of any pump house or any enclosure of a pump set must have an external wall finish that is the same colour palette as the existing premises so that the pump room or enclosure is in keeping with the existing premises, and
- (c) any development comprising the construction of an attached pump house or enclosure must not increase the floor area of an existing building by more than 20m<sup>2</sup>, and
- (d) if the pump house or enclosure is to be located outside a building, it must:
  - (i) be located behind the building line of the primary public road frontage (the front of the building), unless the pump house or enclosure is to be located below ground level, and
  - (ii) be located at least 3m from any other public road frontage, and
  - (iii) have a height of not more than 3m above ground level (existing), and
  - (iv) have a setback of at least 900mm from any side or rear boundary, and
- (e) if the pump house or enclosure is to be located on the roof of a building:
  - (i) a pump house or enclosure on a flat roof must be no more than 3m above the roof level and be located at least 3.5m from the parapet edge of the building, or
  - (ii) a pump house or enclosure on a pitched roof must be no more than 1m above the ridge level of the roof of the building, and
- (f) any pump house or enclosure must be soundproofed to ensure that the house or enclosure does not emit noise exceeding an LAeq of 5 dB(A) above background noise when measured at any lot boundary, and
- (g) the fixed on-site fire pump set, the pump house and the enclosure must not be located over a registered easement.

## **Subdivision 4 Fire mains, pipes and booster connections**

### **8.6 Development standards**

- (1) The development standards applying to the installation of a new or replacement fire main or pipe and the connection to the water supply for the purposes of the

installation or extension of a fire sprinkler system or an alteration to a hydraulic fire safety system are that:

- (a) all pipe work is to be located within the building or located underground, other than the part of the pipe or main within a horizontal distance of:
    - (i) 2m of an above ground booster connection used by Fire and Rescue NSW, and
    - (ii) 2m of the point at which the pipe work enters the building, and
  - (b) a fire brigade booster connection, if it is not attached to the building, must not:
    - (i) have a height of more than 1.5m above ground level (existing), or
    - (ii) cover an area of more than 6m<sup>2</sup>.
- (2) Despite subclause (1) (a) (ii), in relation to a building within a heritage conservation area or draft heritage conservation area, all such pipe work is to be located within the building or underground or is to be attached to the side or rear of the building.

## **Subdivision 5 Fire alarm communication link works**

### **8.7 Development standards**

The development standards applying to fire alarm communication link works are that the works must consist only of:

- (a) internal alterations to a building, or
- (b) internal alterations to a building together with the mounting of an antenna and any support structure on an external wall or roof of a building so as to occupy a space of not more than 450mm × 100mm × 100mm.

## **Division 3 Conditions applying to complying development certificates under this code**

### **8.8 Conditions specified in Schedule 10 apply**

A complying development certificate for development specified under this code must be issued subject to the conditions specified in Schedule 10.

## **Schedule 1 (Repealed)**

## **Schedule 2 Exempt development codes—variations**

(Clause 1.12 (1))

<b>Column 1</b>	<b>Column 2</b>
<b>Land to which variation applies</b>	<b>Variation</b>

<p><a href="#">State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 Randwick Exempt Development Land Map</a> (SEPP_ECD_6550_LED_001_20101022)</p>	<p>The General Exempt Development Code is varied in its application by omitting Subdivisions 3A, 4, 6, 8A, 9, 10, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 21A, 21B, 24, 28, 29, 30, 32, 33, 35, 40 and 41</p>
<p>Part of Lot 121, DP 876962 and part of Lot 101, DP 1043160, 5 Viscount Place, Warwick Farm, as shown coloured light purple on the <a href="#">Liverpool Local Environmental Plan 2008 Key Sites Map</a></p>	<p>The General Exempt Development Code is varied in its application by omitting Subdivision 10A</p>
<p>Land at Penrith, being Lot 1021, DP 812335, 63 Mulgoa Road; Lot 1, DP 1043008, 73 Mulgoa Road; Lots 151 and 152, DP 863625, 83 and 109 Mulgoa Road; Lot 12 and part of Lot 13, DP 710086, 123-135 Mulgoa Road; Lot 1, DP 1064526, 1 Retreat Road</p>	<p>The General Exempt Development Code is varied in its application by omitting Subdivision 10A</p>
<p><a href="#">Shoalhaven Local Environmental Plan (Jerberra Estate) 2014 Land Application Map</a> (6950_PCT_LAP_001_040_20140116)</p>	<p>The General Exempt Development Code is varied in its application by omitting Subdivisions 3A, 4, 6, 7, 9, 10, 14, 15, 18, 21, 32, 33, 38 and 39B</p>

### Schedule 3 Complying development codes—variations

(Clause 1.12 (2))

<b>Column 1</b>	<b>Column 2</b>
<b>Land to which variation applies</b>	<b>Variation</b>
<p><b>Bankstown</b></p> <p>Every lot in the local government area of Bankstown that is in Zone R2 Low Density Residential and has an area of not more than 450m<sup>2</sup></p>	<p>The General Housing Code is varied in its application by inserting the following after clause 3.10:</p> <p>(2)</p> <p>However, the total floor area of a dwelling house, detached studio, basement and any secondary dwelling on a lot must not be more than 50% of the area of the lot.</p>

### **Bega Valley**

The Rural Housing Code is varied in its application by inserting the following after clause 3A.2 (2):

- All of the land in the local government area of Bega Valley
- (3) Despite subclause (2), if a lot referred to in subclause (1) (a) was created for the purpose of the erection of a new single storey or 2 storey dwelling house by a subdivision for which development consent has been granted, the erection of the dwelling house is development specified for this code.

### **Cooma Monaro**

The Rural Housing Code is varied in its application by:

- (a) inserting "(other than in the local government area of Cooma Monaro)" after "dwelling house" in clause 3A.2 (1),
- (b) inserting after clause 3A.2 (2) the following subclause:

- All of the land in the local government area of Cooma Monaro
- (2A) The erection of a new single storey or two storey dwelling house within the local government area of Cooma Monaro 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.

### **Fairfield City**

All of the land in the local government area of Fairfield City

The General Housing Code is varied in its application by inserting ", except in the local government areas of Fairfield City and Holroyd City" after "8m" wherever occurring in clauses 3.26 (1A) and 3.27 (3).

### **Holroyd City**

All of the land in the local government area of Holroyd City

The General Housing Code is varied in its application by inserting ", except in the local government areas of Fairfield City and Holroyd City" after "8m" wherever occurring in clauses 3.26 (1A) and 3.27 (3).



## Liverpool City

Part of Lot 121, DP 876962 and part of Lot 101, DP 1043160, 5 Viscount Place, Warwick Farm, as shown coloured light purple on the [Liverpool Local Environmental Plan 2008 Key Sites Map](#)

The General Commercial and Industrial Code is varied in its application by omitting Subdivision 2 of Division 1.

## Palerang

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:

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—\(Rural\)](#)

- (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.

## Penrith

Lot 1021, DP 812335, 63 Mulgoa Road; Lot 1, DP 1043008, 73 Mulgoa Road; Lots 151 and 152, DP 863625, 83 and 109 Mulgoa Road; Lot 12 and part of Lot 13, DP 710086, 123-135 Mulgoa Road; Lot 1, DP 1064526, 1 Retreat Road

The General Commercial and Industrial Code is varied in its application by omitting Subdivision 2 of Division 1

### Port Macquarie-Hastings

The General Housing Code is varied in its application by the following:  
(a) omitting clause 3.14 (1) (a) and (b) and by inserting instead:

All of the land in the local government area of Port Macquarie-Hastings

- (a) if the lot has an area of not more than 300m<sup>2</sup>—3m, or
  - (b) if the lot has an area of more than 300m<sup>2</sup>—4.5m,
- (b) omitting the words “but not more than 18m” from clause 3.16 (2) (b),
- (c) omitting clause 3.16 (2) (c) and (d).

### Riverstone Scheduled Lands

The General Housing Code is varied in its application by inserting the following subclause after clause 3.2:

All lots within the Riverstone Scheduled Lands (within the meaning of *State Environmental Planning Policy (Sydney Region Growth Centres) 2006*) other than a lot that has direct frontage to Loftus Street, Bandon Road or Windsor Road

(2)

However, such development is only specified for this code if it is carried out on a lot created in accordance with the provisions of Appendix 4 (Alex Avenue and Riverstone Precinct Plan 2010) of *State Environmental Planning Policy (Sydney Region Growth Centres) 2006*.

### Singleton

The Rural Housing Code is varied in its application by the following:  
(a) inserting the following after clause 3.A2 (2):

All of the land in the local government area of Singleton that is within the heavy black line shown on the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 Singleton Complying Development Land Map*

- (3) Despite subclauses (1) and (2), this clause does not apply to any lot (or part of a lot) within the heavy black line shown on the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 Singleton Complying Development Land Map*.

(b) inserting the following after clause 3.A3 (2):

- (3) Despite subclauses (1) and (2), this clause does not apply to any lot (or part of a lot) within the heavy black line shown on the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 Singleton Complying Development Land Map*.

### **Tamworth Regional**

All of the land in the local government area of Tamworth Regional

The General Housing Code is varied in its application by the following:  
(a) omitting the words “but not more than 18m” from clause 3.16 (2) (b),  
(b) omitting clause 3.16 (2) (c) and (d).

### **Wingecarribee**

All of the land in the local government area of Wingecarribee

The General Housing Code is varied in its application by:  
(a) inserting at the end of clause 3.14 (1) (b):

, or

(v) 15m, if the lot has an area of at least 4,000m<sup>2</sup>.

(b) inserting “or, if the lot has an area of at least 4,000m<sup>2</sup>, 7.5m for all building heights” after “building heights” in clause 3.16 (2) (d),  
(c) inserting “but less than 4,000m<sup>2</sup>” after “1,500m<sup>2</sup>” in clause 3.24 (1) (f),  
(d) inserting after clause 3.24 (1) (f):

(g) 75% of the area of the lot, if the lot has an area of at least 4,000m<sup>2</sup>.

## **Schedule 4 Land excluded from the General Exempt Development Code**

(Clause 1.19 (1A))

[State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008 Botany Bay Exempt Development Land Map \(SEPP\\_ECD\\_1100\\_LED\\_001\\_20101022\)](#)

[State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008 Botany Bay Exempt Development Land Map \(SEPP\\_ECD\\_1100\\_LED\\_002\\_20101022\)](#)

[State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008 Botany Bay Exempt Development Land Map \(SEPP\\_ECD\\_1100\\_LED\\_003\\_20101022\)](#)

[State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008 Botany Bay Exempt Development Land Map \(SEPP\\_ECD\\_1100\\_LED\\_004\\_20101022\)](#)

[State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008 Wyong Exempt Development Land Map \(SEPP\\_ECD\\_8550\\_LED\\_001\\_20101022\)](#)

[State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008 Wyong Exempt Development Land Map \(SEPP\\_ECD\\_8550\\_LED\\_002\\_20101022\)](#)

[State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008 Wyong](#)

[Exempt Development Land Map \(SEPP\\_ECD\\_8550\\_LED\\_003\\_20101022\)](#)

[State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008 Wyong Exempt Development Land Map \(SEPP\\_ECD\\_8550\\_LED\\_004\\_20101022\)](#)

[State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008 Wyong Exempt Development Land Map \(SEPP\\_ECD\\_8550\\_LED\\_005\\_20101022\)](#)

[State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008 Wyong Exempt Development Land Map \(SEPP\\_ECD\\_8550\\_LED\\_006\\_20101022\)](#)

[State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008 Wyong Exempt Development Land Map \(SEPP\\_ECD\\_8550\\_LED\\_007\\_20101022\)](#)

[State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008 Wyong Exempt Development Land Map \(SEPP\\_ECD\\_8550\\_LED\\_008\\_20101022\)](#)

## **Schedule 5 Land excluded from the General Housing Code**

(Clause 1.19 (1B))

[State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008 Ballina Complying Development Land Map \(SEPP\\_ECD\\_0250\\_LCD\\_001\\_20101022\)](#)

[State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008 Ballina Complying Development Land Map \(SEPP\\_ECD\\_0250\\_LCD\\_002\\_20101022\)](#)

[State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008 Botany Bay Complying Development Land Map \(SEPP\\_ECD\\_1100\\_LCD\\_001\\_20101022\)](#)

[State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008 Botany Bay Complying Development Land Map \(SEPP\\_ECD\\_1100\\_LCD\\_002\\_20101022\)](#)

[State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008 Botany Bay Complying Development Land Map \(SEPP\\_ECD\\_1100\\_LCD\\_003\\_20101022\)](#)

[State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008 Botany Bay Complying Development Land Map \(SEPP\\_ECD\\_1100\\_LCD\\_004\\_20101022\)](#)

[State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008 Clarence Valley Complying Development Land Map \(SEPP\\_ECD\\_1730\\_LCD\\_001\\_20101022\)](#)

[State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008 Great Lakes Complying Development Land Map \(SEPP\\_ECD\\_3400\\_LCD\\_001\\_20101022\)](#)

[State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008 Holroyd Complying Development Land Map \(SEPP\\_ECD\\_3950\\_LCD\\_001\\_20131016\)](#)

[State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008 Kiama Complying Development Land Map \(SEPP\\_ECD\\_4400\\_LCD\\_001\\_20101022\)](#)

[State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008 Lake](#)

[Macquarie City Council Complying Development Land Map \(SEPP\\_ECD\\_4650\\_LCD\\_001\\_20120626\)](#)

[State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008 Lake Macquarie Complying Development Land Map \(SEPP\\_ECD\\_4650\\_LCD\\_002\\_20130730\)](#)

[State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008 Marrickville Complying Development Land Map \(SEPP\\_ECD\\_5200\\_LCD\\_001\\_20101022\)](#)

[State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008 Marrickville Complying Development Land Map \(SEPP\\_ECD\\_5200\\_LCD\\_002\\_20101022\)](#)

[State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008 Marrickville Complying Development Land Map \(SEPP\\_ECD\\_5200\\_LCD\\_003\\_20101022\)](#)

[State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008 Marrickville Complying Development Land Map \(SEPP\\_ECD\\_5200\\_LCD\\_004\\_20101022\)](#)

[State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008 Mosman Complying Development Land Map \(SEPP\\_ECD\\_5350\\_LCD\\_001\\_20101022\)](#)

[State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008 Mosman Complying Development Land Map \(SEPP\\_ECD\\_5350\\_LCD\\_002\\_20101022\)](#)

[State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008 Mosman Complying Development Land Map \(SEPP\\_ECD\\_5350\\_LCD\\_003\\_20101022\)](#)

[State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008 Mosman Complying Development Land Map \(SEPP\\_ECD\\_5350\\_LCD\\_004\\_20101022\)](#)

[State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008 Nambucca Complying Development Land Map \(SEPP\\_ECD\\_5700\\_LCD\\_001\\_20101022\)](#)

[State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008 Pittwater Complying Development Land Map \(SEPP\\_ECD\\_6370\\_LCD\\_001\\_20101022\)](#)

[State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008 Pittwater Complying Development Land Map \(SEPP\\_ECD\\_6370\\_LCD\\_002\\_20101022\)](#)

[State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008 Pittwater Complying Development Land Map \(SEPP\\_ECD\\_6370\\_LCD\\_003\\_20101022\)](#)

[State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008 Pittwater Complying Development Land Map \(SEPP\\_ECD\\_6370\\_LCD\\_004\\_20101022\)](#)

[State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008 Queanbeyan Complying Development Land Map \(SEPP\\_ECD\\_1520\\_LCD\\_001\\_20101022\)](#)

[State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008 Randwick Complying Development Land Map \(SEPP\\_ECD\\_6550\\_LCD\\_001\\_20101022\)](#)

[State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008 Shoalhaven Complying Development Land Map \(SEPP\\_ECD\\_6950\\_LCD\\_001\\_20101022\)](#)

[State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008 Shoalhaven Complying Development Land Map \(SEPP\\_ECD\\_6950\\_LCD\\_002\\_20101022\)](#)

[State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008 Shoalhaven Complying Development Land Map \(SEPP\\_ECD\\_6950\\_LCD\\_003\\_20101022\)](#)

[State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008 Shoalhaven Complying Development Land Map \(SEPP\\_ECD\\_6950\\_LCD\\_004\\_20101022\)](#)

[State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008 Shoalhaven Complying Development Land Map \(SEPP\\_ECD\\_6950\\_LCD\\_005\\_20101022\)](#)

[State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008 Shoalhaven Complying Development Land Map \(SEPP\\_ECD\\_6950\\_LCD\\_006\\_20101022\)](#)

[State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008 Shoalhaven Complying Development Land Map \(SEPP\\_ECD\\_6950\\_LCD\\_007\\_20101022\)](#)

[State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008 Shoalhaven Complying Development Land Map \(SEPP\\_ECD\\_6950\\_LCD\\_008\\_20101022\)](#)

[State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008 Shoalhaven Complying Development Land Map \(SEPP\\_ECD\\_6950\\_LCD\\_009\\_20101022\)](#)

[State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008 Shoalhaven Complying Development Land Map \(SEPP\\_ECD\\_6950\\_LCD\\_010\\_20101022\)](#)

[State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008 Shoalhaven Complying Development Land Map \(SEPP\\_ECD\\_6950\\_LCD\\_011\\_20101022\)](#)

[State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008 Wingecarribee Complying Development Land Map \(SEPP\\_ECD\\_8350\\_LCD\\_001\\_20110211\)](#)

[State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008 Wingecarribee Complying Development Land Map \(SEPP\\_ECD\\_8350\\_LCD\\_002\\_20110211\)](#)

[State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008 Wyong Complying Development Land Map \(SEPP\\_ECD\\_8550\\_LCD\\_001\\_20101022\)](#)

[State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008 Wyong Complying Development Land Map \(SEPP\\_ECD\\_8550\\_LCD\\_002\\_20101022\)](#)

[State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008 Wyong Complying Development Land Map \(SEPP\\_ECD\\_8550\\_LCD\\_003\\_20101022\)](#)

[State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008 Wyong Complying Development Land Map \(SEPP\\_ECD\\_8550\\_LCD\\_004\\_20101022\)](#)

[State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008 Wyong Complying Development Land Map \(SEPP\\_ECD\\_8550\\_LCD\\_005\\_20101022\)](#)

[State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008 Wyong](#)

[Complying Development Land Map \(SEPP\\_ECD\\_8550\\_LCD\\_006\\_20101022\)](#)

[State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008 Wyong Complying Development Land Map \(SEPP\\_ECD\\_8550\\_LCD\\_007\\_20101022\)](#)

[State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008 Wyong Complying Development Land Map \(SEPP\\_ECD\\_8550\\_LCD\\_008\\_20101022\)](#)

## **Schedule 6 Conditions applying to complying development certificates under the General Housing Code and the Rural Housing Code**

(Clauses 3.37 and 3A.39)

### **Note 1—**

Complying development under the General Housing Code and the Rural Housing Code must comply with the requirements of the Act, the [Environmental Planning and Assessment Regulation 2000](#) and the conditions listed in this Schedule.

### **Note 2—**

Division 2A of Part 7 of the [Environmental Planning and Assessment Regulation 2000](#) specifies conditions to which certain complying development certificates are subject.

### **Note 3—**

In addition to the requirements specified for development under this Policy, adjoining owners' property rights, applicable common law and other legislative requirements for approvals, licences, permits and authorities still apply.

### **Note 4—**

If the development is in the proximity of infrastructure (including water, stormwater or sewer mains, electricity power lines and telecommunications facilities), the relevant infrastructure authority should be contacted before commencing the development.

### **Note 5—**

Under section 86A of the [Environmental Planning and Assessment Act 1979](#), a complying development certificate lapses 5 years after the date endorsed on the certificate, unless the development has physically commenced on the land during that period.

## **Part 1 Conditions applying before works commence**

### **1 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 the 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—**

Clauses 2.67 and 2.68 of this Policy specify which scaffolding, hoardings and temporary construction site fences are exempt development and state the applicable standards for that development.

## 2 Toilet facilities

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

## 3 Garbage receptacle

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

## 4 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.

## 5 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 and providing any other necessary sediment control measures that will prevent debris escaping into drainage systems, waterways or adjoining properties, and
- (c) preventing the tracking of sediment by vehicles onto roads, and



- (d) stockpiling top soil, excavated materials, construction and landscaping supplies and debris within the lot.

## **6 Tree protection measures**

- (1) This clause applies to each protected tree and any other tree that is to be retained on a lot.
- (2) The trunk of each of the following trees must be provided with a tree guard that is comprised of hardwood timber panels each having a minimum length of 2m, minimum width of 75mm and minimum thickness of 25mm and secured, but not permanently fixed or nailed, to the tree and spaced a maximum of 80mm apart:
  - (a) each tree that is within 6m of a dwelling house or any ancillary development that is to be constructed, and
  - (b) each protected tree that is within 10m of a dwelling house or any ancillary development that is to be constructed.
- (3) Each protected tree that is within 6m of a dwelling house, outbuilding or swimming pool must have a fence or barrier that is erected:
  - (a) around its tree protection zone as defined by section 3.2 of AS 4970—2009, *Protection of trees on development sites*, and
  - (b) in accordance with section 4 of that standard.
- (4) The person having the benefit of the complying development certificate must ensure that:
  - (a) the activities listed in section 4.2 of that standard do not occur within the tree protection zone of any tree on the lot or any tree on an adjoining lot, and
  - (b) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained on the lot during the construction, is undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of that standard.
- (5) The tree protection measures specified in this clause must:
  - (a) be in place before work commences on the lot, and
  - (b) be maintained in good condition during the construction period, and
  - (c) remain in place for the duration of the construction works.

### **Note—**

A separate permit or development consent may be required if the branches or roots of a protected tree on the lot or on an adjoining lot are required to be pruned or removed.

## Part 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 Hours for construction

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

### 8 Compliance with plans

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

### 9 Maintenance of site

- (1) All materials and equipment must be stored wholly within the work site unless an approval to store them elsewhere is held.
- (2) Waste materials (including excavation, demolition and construction waste materials) must be managed on the site and then disposed of at a waste management facility.
- (3) Any run-off and erosion control measures required must be maintained within their operating capacity until the completion of the works to prevent debris escaping from the site into drainage systems, waterways, adjoining properties and roads.
- (4) During construction:
  - (a) all vehicles entering or leaving the site must have their loads covered, and
  - (b) all vehicles, before leaving the site, must be cleaned of dirt, sand and other materials, to avoid tracking these materials onto public roads.
- (5) At the completion of the works, the work site must be left clear of waste and debris.

### 10 Earthworks, retaining walls and structural support

- (1) Any earthworks (including any structural support or other related structure for the purposes of the development):
  - (a) must not cause a danger to life or property or damage to any adjoining building or structure on the lot or to any building or structure on any adjoining lot, and
  - (b) must not redirect the flow of any surface or ground water or cause sediment to be transported onto an adjoining property, and
  - (c) that is fill brought to the site—must contain only virgin excavated natural material

(VENM) as defined in Part 3 of Schedule 1 to the *Protection of the Environment Operations Act 1997*, and

(d) that is excavated soil to be removed from the site—must be disposed of in accordance with any requirements under the *Protection of the Environment Operations (Waste) Regulation 2005*.

(2) Any excavation must be carried out in accordance with *Excavation Work: Code of Practice* (ISBN 978-0-642-785442), published in July 2012 by Safe Work Australia.

### **11 Drainage connections**

(1) If the work is the erection of, or an alteration or addition to, a dwelling house, the roof stormwater drainage system must be installed and connected to the drainage system before the roof is installed.

(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.

### **12 Archaeology discovered during excavation**

If any object having interest due to its age or association with the past is uncovered during the course of the work:

(a) all work must stop immediately in that area, and

(b) the Office of Environment and Heritage must be advised of the discovery.

**Note—**

Depending on the significance of the object uncovered, an archaeological assessment and excavation permit under the *Heritage Act 1997* may be required before further the work can continue.

### **13 Aboriginal objects discovered during excavation**

If any Aboriginal object (including evidence of habitation or remains) is discovered during the course of the work:

(a) all excavation or disturbance of the area must stop immediately in that area, and

(b) the Office of Environment and Heritage must be advised of the discovery in accordance with section 89A of the *National Parks and Wildlife Act 1974*.

**Note—**

If an Aboriginal object is discovered, an Aboriginal heritage impact permit may be required under the *National Parks and Wildlife Act 1974*.

## **Part 3 Conditions applying before the issue of an occupation**

## certificate

### 14 Vehicular access

If the work involves the construction of a vehicular access point, the access point must be completed before the occupation certificate for the work on the site is obtained.

### 15 Utility services

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

## Schedule 7 Conditions applying to complying development certificates under Housing Alterations Code and General Development Code

(Clauses 4.7 and 4A.13)

### Note 1—

Complying development under the Housing Alterations Code must comply with the requirements of the Act, the [Environmental Planning and Assessment Regulation 2000](#) and the conditions listed in this Schedule.

### Note 2—

Division 2A of Part 7 of the [Environmental Planning and Assessment Regulation 2000](#) specifies conditions to which certain complying development certificates are subject.

### Note 3—

In addition to the requirements specified for development under this Policy, adjoining owners' property rights, applicable common law and other legislative requirements for approvals, licences, permits and authorities still apply.

### Note 4—

If the development is in the proximity of infrastructure (including water, stormwater or sewer mains, electricity power lines and telecommunications facilities), the relevant infrastructure authority should be contacted before commencing the development.

### Note 5—

Under section 86A of the [Environmental Planning and Assessment Act 1979](#), a complying development certificate lapses 5 years after the date endorsed on the certificate, unless the development has physically commenced on the land during that period.

## Part 1 Conditions applying before works commence

### 1 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](#).

## **2 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.

## **Part 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.

## **3 Hours for construction**

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

## **4 Compliance with plans**

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

## **5 Demolition**

Any demolition must be carried out in accordance with AS 2601—2001, *The demolition of structures*.

## **6 Maintenance of site**

- (1) All materials and equipment must be stored wholly within the work site unless an approval to store them elsewhere is held.
- (2) Waste materials (including excavation, demolition and construction waste materials) must be managed on the site and then disposed of at a waste management facility.
- (3) At the completion of the works, the work site must be left clear of waste and debris.

## **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

(Clauses 5.25 and 5A.31)

### Note 1—

Complying development under the Commercial and Industrial Alterations Code and the Commercial and Industrial (New Buildings and Additions) Code must comply with the requirements of the Act, the *Environmental Planning and Assessment Regulation 2000* and the conditions listed in this Schedule.

### Note 2—

Division 2A of Part 7 of the *Environmental Planning and Assessment Regulation 2000* specifies conditions to which certain complying development certificates are subject.

### Note 3—

In addition to the requirements specified for development under this Policy, adjoining owners' property rights, applicable common law and other legislative requirements for approvals, licences, permits and authorities still apply.

### Note 4—

If the development is in the proximity of infrastructure (including water, stormwater or sewer mains, electricity power lines and telecommunications facilities), the relevant infrastructure authority should be contacted before commencing the development.

### Note 5—

Under section 86A of the *Environmental Planning and Assessment Act 1979*, a complying development certificate lapses 5 years after the date endorsed on the certificate, unless the development has physically commenced on the land during that period.

## Part 1 Conditions applying before works commence

### 1 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 the 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—

Clauses 2.67 and 2.68 of this Policy specify which scaffolding, hoardings and temporary construction site fences are exempt development and state the applicable standards for that development.

### 2 Toilet facilities

- (1) Toilet facilities must be available or provided at the work site before works begin and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.

- (2) Each toilet must:
  - (a) be a standard flushing toilet connected to a public sewer, or
  - (b) have an on-site effluent disposal system approved under the *Local Government Act 1993*, or
  - (c) be a temporary chemical closet approved under the *Local Government Act 1993*.

### **3 Waste management**

- (1) A waste management plan for the work must be submitted to the principal certifying authority at least 2 days before work commences on the site
- (2) The waste management plan must:
  - (a) identify all waste (including excavation, demolition and construction waste materials) that will be generated by the work on the site, and
  - (b) identify the quantity of waste material in tonnes and cubic metres to be:
    - (i) reused on-site, and
    - (ii) recycled on-site and off-site, and
    - (iii) disposed of off-site, and
  - (c) if waste materials are to be reused or recycled on-site—specify how the waste material will be reused or recycled on-site, and
  - (d) if waste materials are to be disposed of or recycled off-site—specify the contractor who will be transporting the materials and the waste facility or recycling outlet to which the materials will be taken.
- (3) A garbage receptacle must be provided at the work site before works begin and must be maintained until the works are completed.
- (4) The garbage receptacle must have a tight fitting lid and be suitable for the reception of food scraps and papers.

### **4 Adjoining wall dilapidation report**

- (1) Before commencing any demolition or excavation works, the person having the benefit of the complying development certificate must obtain a dilapidation report on any part of a building that is within 2m of the works.
- (2) If the person preparing the report is denied access to the building for the purpose of an inspection, the report may be prepared from an external inspection.

## 5 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 and providing any other necessary sediment control measures that will prevent debris escaping into drainage systems, waterways or adjoining properties, and
- (c) preventing the tracking of sediment by vehicles onto roads, and
- (d) stockpiling top soil, excavated materials, construction and landscaping supplies and debris within the lot.

## Part 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.

## 6 Standard hours for construction

Construction may only be carried out between 7.00 am and 6.00 pm on Monday to Friday, or between 8.00 am and 1.00 pm on Saturdays, and no construction is to be carried out at any time on a Sunday or a public holiday.

## 7 Works outside standard hours for construction

- (1) Work may be carried out outside the standard hours for construction if the work only generates noise that is:
  - (a) no louder than 5 dB(A) above the rating background level at any adjoining residence in accordance with the *Interim Construction Noise Guideline* (ISBN 978 1 74232 217 9) published by the Department of Environment and Climate Change NSW in July 2009, and
  - (b) no louder than the noise management levels specified in Table 3 of that guideline at other sensitive receivers.
- (2) Work may be carried out outside the standard hours for construction:
  - (a) for the delivery of materials—if prior approval has been obtained from the NSW Police Force or any other relevant public authority, or
  - (b) in an emergency, to avoid the loss of lives or property or to prevent environmental harm.



## **8 Compliance with plans**

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

## **9 Demolition**

Any demolition must be carried out in accordance with AS 2601—2001, *The demolition of structures*.

## **10 Maintenance of site**

- (1) All materials and equipment must be stored wholly within the work site unless an approval to store them elsewhere is held.
- (2) Waste materials (including excavation, demolition and construction waste materials) must be managed on the site and then disposed of at a waste management facility.
- (3) Copies of receipts stating the following must be given to the principal certifying authority:
  - (a) the place to which waste materials were transported,
  - (b) the name of the contractor transporting the materials,
  - (c) the quantity of materials transported off-site and recycled or disposed of.
- (4) Any run-off and erosion control measures required must be maintained within their operating capacity until the completion of the works to prevent debris escaping from the site into drainage systems, waterways, adjoining properties and roads.
- (5) During construction:
  - (a) all vehicles entering or leaving the site must have their loads covered, and
  - (b) all vehicles, before leaving the site, must be cleaned of dirt, sand and other materials, to avoid tracking these materials onto public roads.
- (6) At the completion of the works, the work site must be left clear of waste and debris.

## **11 Earthworks, retaining walls and structural support**

- (1) Any earthworks (including any structural support or other related structure for the purposes of the development):
  - (a) must not cause a danger to life or property or damage to any adjoining building or structure on the lot or to any building or structure on any adjoining lot, and
  - (b) must not redirect the flow of any surface or ground water or cause sediment to be transported onto an adjoining property, and

(c) that is fill brought to the site—must contain only virgin excavated natural material (VENM) as defined in Part 3 of Schedule 1 to the *Protection of the Environment Operations Act 1997*, and

(d) that is excavated soil to be removed from the site—must be disposed of in accordance with any requirements under the *Protection of the Environment Operations (Waste) Regulation 2005*.

(2) Any excavation must be carried out in accordance with *Excavation Work: Code of Practice* (ISBN 978-0-642-785442 [PDF] and ISBN 978-0-642-785459 [DOCX]), published in July 2012 by Safe Work Australia.

## **12 Drainage connections**

(1) If the work is the erection of, or an alteration or addition to, a building, the roof stormwater drainage system must be installed and connected to the drainage system before the roof is installed.

(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.

## **13 Archaeology discovered during excavation**

If any object having interest due to its age or association with the past is uncovered during the course of the work:

(a) all work must stop immediately in that area, and

(b) the Office of Environment and Heritage must be advised of the discovery.

### **Note—**

Depending on the significance of the object uncovered, an archaeological assessment and excavation permit under the *Heritage Act 1997* may be required before further the work can continue.

## **14 Aboriginal objects discovered during excavation**

If any Aboriginal object (including evidence of habitation or remains) is discovered during the course of the work:

(a) all excavation or disturbance of the area must stop immediately in that area, and

(b) the Office of Environment and Heritage must be advised of the discovery in accordance with section 89A of the *National Parks and Wildlife Act 1974*.

### **Note—**

If an Aboriginal object is discovered, an Aboriginal heritage impact permit may be required under the *National Parks and Wildlife Act 1974*.

### **15 When a survey certificate is required**

- (1) If any part of the work is the erection of a new building, or an alteration or addition to an existing building, that is located less than 3m from the lot boundary, a survey certificate must be given to the principal certifying authority:
  - (a) before any form work below the ground floor slab is completed, or
  - (b) if there is no such form work—before the concrete is poured for the ground floor slab.
- (2) The survey certificate must be prepared by a registered land surveyor and show the location of the work relative to the boundaries of the site.

## **Part 3 Conditions applying before the issue of an occupation certificate**

### **16 Vehicular access**

If the work involves the construction of a vehicular access point, the access point must be completed before the occupation certificate for the work on the site is obtained.

### **17 Utility services**

- (1) If the work requires alteration to, or the relocation of, utility services on, or adjacent to, the lot on which the work is carried out, the work is not complete until all such works are carried out.
- (2) If the work will be the subject of a notice of requirements for water supply or sewerage services (or both) by a water utility or an entity authorised by the utility, the work must be satisfactorily completed before the occupation certificate is issued.
- (3) If the work will be the subject of a compliance certificate under section 73 of the [Sydney Water Act 1994](#), the work must be satisfactorily completed before the occupation certificate is issued.

### **18 Mechanical ventilation systems**

If the work includes a mechanical ventilation system that is a **regulated system** within the meaning of the [Public Health Act 2010](#), the system must be notified as required by the [Public Health Regulation 2012](#), before an occupation certificate (whether interim or final) for the work is issued.

### **19 Food businesses**

If the work relates to a **food business** within the meaning of the [Food Act 2003](#), the food business must be notified as required by that Act, or licensed as required by the [Food Regulation 2010](#), before an occupation certificate (whether interim or final) for the work is

issued.

## 20 Premises where skin penetration procedures are carried out

If the work relates to premises at which a **skin penetration procedure**, within the meaning of the *Public Health Act 2010*, will be carried out, the premises must be notified as required by Part 4 of the *Public Health Regulation 2012* before an occupation certificate (whether interim or final) for the work is issued.

## Part 4 Operational requirements

### 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.

### 22 Noise

- (1) The development must comply with the requirements for industrial premises contained in the Noise Policy.
- (2) Noise emitted by the development:
  - (a) must not exceed an L A (15 min) of 5dB(A) above background noise when measured at any lot boundary of the property where the development is being carried out, and
  - (b) must not cause the relevant amenity criteria in Table 2.1 in the Noise Policy to be exceeded.
- (3) In this clause, **the Noise Policy** means the document entitled *NSW Industrial Noise Policy* (ISBN 0 7313 2715 2) published in January 2000 by the Environment Protection Authority.

### **23 Lighting**

- (1) All new external lighting must:
  - (a) comply with AS 4282-1997 *Control of the obtrusive effects of outdoor lighting*, and
  - (b) be mounted, screened and directed in a way that it does not create a nuisance or light spill on to buildings on adjoining lots or public places.
- (2) Lighting at vehicle access points to the development must be provided in accordance with AS/NZS 1158 Set:2010 *Lighting for roads and public spaces Set*.

### **24 Unobstructed driveways and parking areas**

- (1) All driveways and parking areas must be unobstructed at all times.
- (2) Driveways and car spaces:
  - (a) must not be used for the manufacture, storage or display of goods, materials or any other equipment, and
  - (b) must be used solely for vehicular access and for the parking of vehicles associated with the use of the premises.

### **25 Landscaped area (planting and maintenance)**

- (1) Any tree or shrub that fails to establish within 2 years of the initial planting date must be replaced with the same species of tree or shrub.
- (2) All landscaped areas on the site must be maintained on an on-going basis.

## **Schedule 9 Conditions applying to complying development certificates under the Demolition Code**

(Clause 7.3)

#### **Note 1—**

Complying development under the Demolition Code must comply with the requirements of the Act, the [Environmental Planning and Assessment Regulation 2000](#) and the conditions listed in this Schedule.

#### **Note 2—**

Division 2A of Part 7 of the [Environmental Planning and Assessment Regulation 2000](#) specifies conditions to which certain complying development certificates are subject.

#### **Note 3—**

In addition to the requirements specified for development to be complying development under this Policy, adjoining owners' property rights, applicable common law and other legislative requirements for approvals, licences, permits and authorities still apply.

#### **Note 4—**

If the development is in the proximity of infrastructure (including water, stormwater or sewer mains, electricity power lines and telecommunications facilities), the relevant infrastructure authority should be contacted before commencing the development.

**Note 5—**

Under section 86A of the *Environmental Planning and Assessment Act 1979* a complying development certificate lapses 5 years after the date endorsed on the certificate, unless the development has physically commenced on the land during that period.

## **Part 1 Conditions applying before works commence**

### **1 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—**

Clauses 2.67 and 2.68 of this Policy specify which scaffolding, hoardings and temporary construction site fences are exempt development and state the applicable standards for that development.

### **2 Toilet facilities**

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

### **3 Waste management**

- (1) A waste management plan for the work must be submitted to the principal certifying authority at least 2 days before work commences on the site.
- (2) The waste management plan must:
  - (a) identify all waste (including excavation, demolition and construction waste material) that will be generated by the work on the site, and

- (b) identify the quantity of waste material, in tonnes and cubic metres, to be:
    - (i) reused on-site, and
    - (ii) recycled on-site and off-site, and
    - (iii) disposed of off-site, and
  - (c) if waste material is to be reused or recycled on-site—specify how the waste material will be reused or recycled on-site, and
  - (d) if waste material is to be disposed of or recycled off-site—specify the contractor who will be transporting the material and the waste facility or recycling outlet to which the material will be taken.
- (3) A garbage receptacle must be provided at the work site before works begin and must be maintained until the works are completed.
- (4) The garbage receptacle must have a tight fitting lid and be suitable for the reception of food scraps and papers.

#### **4 Adjoining wall dilapidation report**

- (1) If a building to be demolished is within 900mm of a boundary, and there is a wall (the **adjoining wall**) on the lot adjoining that boundary that is less than 900mm 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.

#### **5 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 and providing any other necessary sediment control measures that will prevent debris escaping into drainage systems, waterways or adjoining properties, and
- (c) preventing the tracking of sediment by vehicles onto roads, and
- (d) stockpiling top soil, excavated materials, construction and landscaping supplies and debris within the lot.

## Part 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.

### 6 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 Compliance with plans

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

### 8 Demolition

Any demolition must be carried out in accordance with AS 2601—2001, *The demolition of structures*.

### 9 Maintenance of site

- (1) All materials and equipment must be stored wholly within the work site unless an approval to store them elsewhere is held.
- (2) Waste materials (including excavation, demolition and construction waste materials) must be managed on the site and then disposed of at a waste management facility.
- (3) Copies of receipts stating the following must be given to the principal certifying authority:
  - (a) the place to which waste materials were transported,
  - (b) the name of the contractor transporting the materials,
  - (c) the quantity of materials transported off-site and recycled or disposed of.
- (4) Any run-off and erosion control measures required must be maintained within their operating capacity until the completion of the works to prevent debris escaping from the site into drainage systems, waterways, adjoining properties and roads.
- (5) During construction:
  - (a) all vehicles entering or leaving the site must have their loads covered, and
  - (b) all vehicles, before leaving the site, must be cleaned of dirt, sand and other materials, to avoid tracking these materials onto public roads.
- (6) At the completion of the works, the work site must be left clear of waste and debris.



## Schedule 10 Conditions applying to complying development certificates under the Fire Safety Code

(Clause 8.8)

### Note 1—

Complying development under the Fire Safety Code must comply with the requirements of the Act, the *Environmental Planning and Assessment Regulation 2000* and the conditions listed in this Schedule.

### Note 2—

Division 2A of Part 7 of the *Environmental Planning and Assessment Regulation 2000* specifies conditions to which certain complying development certificates are subject.

### Note 3—

In addition to the requirements specified for development under this Policy, adjoining owners' property rights, applicable common law and other legislative requirements for approvals, licences, permits and authorities still apply.

### Note 4—

If the development is in the proximity of infrastructure (including water, stormwater or sewer mains, electricity power lines and telecommunications facilities), the relevant infrastructure authority should be contacted before commencing the development.

### Note 5—

Under section 86A of the *Environmental Planning and Assessment Act 1979* a complying development certificate lapses 5 years after the date endorsed on the certificate, unless the development has physically commenced on the land during that period.

## Part 1 Conditions applying before works commence

### 1 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 the 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—

Clauses 2.67 and 2.68 of this Policy specify which scaffolding, hoardings and temporary construction site fences are exempt development and state the applicable standards for that development.

### 2 Toilet facilities

- (1) Toilet facilities must be available or provided at the work site before works begin, and must be maintained until the works are completed, at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.

(2) Each toilet must:

- (a) be a standard flushing toilet connected to a public sewer, or
- (b) have an on-site effluent disposal system approved under the [Local Government Act 1993](#), or
- (c) be a temporary chemical closet approved under the [Local Government Act 1993](#).

### **3 Waste management**

- (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.

### **4 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 and providing any other necessary sediment control measures that will prevent debris escaping into drainage systems, waterways or adjoining properties, and
- (c) preventing the tracking of sediment by vehicles onto roads, and
- (d) stockpiling top soil, excavated materials, construction and landscaping supplies and debris within the lot.

## **Part 2 Conditions applying during the works**

### **Note—**

The [Protection of the Environment Operations Act 1997](#) and the [Protection of the Environment Operations \(Noise Control\) Regulation 2008](#) contain provisions relating to noise.

### **5 Hours for construction**

Work may only be carried out between 7.00 am and 6.00 pm on Monday to Friday, or between 8.00 am and 1.00 pm on Saturdays, and no work is to be carried out at any time on a Sunday or a public holiday.

### **6 Compliance with plans**

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

## **7 Demolition**

Any demolition must be carried out in accordance with AS 2601—2001, *The demolition of structures*.

## **8 Earthworks, retaining walls and structural support**

- (1) Any earthworks (including any structural support or other related structure for the purposes of the development):
  - (a) must not cause a danger to life or property or damage to any adjoining building or structure on the lot or to any building or structure on any adjoining lot, and
  - (b) must not redirect the flow of any surface or ground water or cause sediment to be transported onto an adjoining property, and
  - (c) that involve fill brought to the site—must contain only virgin excavated natural material (VENM) as defined in Part 3 of Schedule 1 to the *Protection of the Environment Operations Act 1997*, and
  - (d) that involve excavated soil being removed from the site—must be disposed of in accordance with any requirements under the *Protection of the Environment Operations (Waste) Regulation 2005*.
- (2) Any excavation must be carried out in accordance with *Excavation Work: Code of Practice* (ISBN 978-0-642-785442), published in July 2012 by Safe Work Australia.

## **9 Maintenance of site**

- (1) All materials and equipment must be stored wholly within the work site unless an approval to store them elsewhere is held.
- (2) Waste materials (including excavation, demolition and construction waste materials) must be managed on the site and then disposed of at a waste management facility.
- (3) Any run-off and erosion control measures required must be maintained within their operating capacity until the completion of the works to prevent debris escaping from the site into drainage systems, waterways, adjoining properties and roads.
- (4) During construction:
  - (a) all vehicles entering or leaving the site must have their loads covered, and
  - (b) all vehicles, before leaving the site, must be cleaned of dirt, sand and other materials, to avoid tracking these materials onto public roads.
- (5) At the completion of the works, the work site must be left clear of waste and debris.

## **10 Alarm signalling equipment**

Any work to existing alarm signalling equipment must not result in any loss of monitoring service continuity unless fire watch measures are implemented for the full duration of the period in which the work is carried out.

## **11 Archaeology discovered during excavation**

If any object having interest due to its age or association with the past is uncovered during the course of the work:

- (a) all work must stop immediately in that area, and
- (b) the Office of Environment and Heritage must be advised of the discovery.

### **Note—**

Depending on the significance of the object uncovered, an archaeological assessment and excavation permit under the *Heritage Act 1997* may be required before further work can continue.

## **12 Aboriginal objects discovered during excavation**

If any Aboriginal object (including evidence of habitation or remains) is discovered during the course of the work:

- (a) all excavation or disturbance of the area must stop immediately in that area, and
- (b) the Office of Environment and Heritage must be advised of the discovery in accordance with section 89A of the *National Parks and Wildlife Act 1974*.

### **Note—**

If an Aboriginal object is discovered, an Aboriginal heritage impact permit may be required under the *National Parks and Wildlife Act 1974*.