



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

Current version for 29 August 2025 to date (accessed 8 September 2025 at 8:57)

Part 1

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 \(Precincts—Regional\) 2021](#), Chapter 4 applies, and
 - (b) to which [State Environmental Planning Policy \(Precincts—Western Parkland City\) 2021](#), Chapter 7 applies, and
 - (c) that is less than 18 kilometres from the Siding Spring Observatory, except as provided by clause 1.16A, and
 - (d) identified as “Asbestos Encapsulation Area” on the [Asbestos Encapsulation Area Map](#).
- (3), (4) (Repealed)

1.4A Development to which Policy does not apply

This Policy does not apply to development to which *State Environmental Planning Policy (Housing) 2021*, Chapter 2, Part 3 applies.

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.

Agritourism and Farm Stay Accommodation Code means the code for complying development set out in Part 9.

Agritourism and Farm Stay Accommodation Exempt and Complying Development Map means the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 Agritourism and Farm Stay Accommodation Exempt and Complying Development Map*.

ancillary development, in Parts 1, 2, 3A and 4, 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,
- (d) basement,
- (e) carport that is attached to a dwelling house,
- (f) detached studio,
- (g) driveway, hard stand space, pathway or paving,
- (h) fence or screen,
- (i) garage that is attached to a dwelling house,
- (j) outbuilding,
- (k) rainwater tank that is attached to a dwelling house,
- (l) retaining wall,
- (m) swimming pool or spa pool and child-resistant barrier.

ancillary development, in Parts 5 and 5A, means any of the following that are not exempt development under this Policy—

- (a) access ramp,
- (b) awning, blind or canopy,
- (c) carport,
- (d) driveway, hard stand space, pathway or paving,
- (e) earthworks, retaining wall and structural support,

- (f) fence or screen,
- (g) garbage bin store enclosure,
- (h) landscaping,
- (i) loading dock,
- (j) pergola,
- (k) rainwater tank (above ground),
- (l) rainwater tank (below ground),
- (m) roller shutter door,
- (n) shed,
- (o) storage enclosure.

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.

annexe has the same meaning as in the [Local Government \(Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings\) Regulation 2021](#).

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.

Asbestos Encapsulation Area Map means the [Byron Local Environmental Plan 2014 Asbestos Encapsulation Area Map](#).

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

attached development means any of the following, if it is situated not more than 900mm from a building that is residential accommodation to which it relates and is not exempt development for the purposes of this Policy—

- (a) access ramp,
- (b) awning, blind or canopy,
- (c) balcony, deck, patio, pergola, terrace or verandah,
- (d) basement,
- (e) cabana, cubby house, fernery, garden shed, gazebo or greenhouse,
- (f) carport,
- (g) driveway,
- (h) garage or hard stand space,
- (i) pathway or paving,

(j) rainwater tank,

(k) retaining wall,

(l) shed.

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 150mm or less from the side or rear boundary of a lot.

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

building line means the line of the existing or proposed external wall of a building (other than any ancillary development, attached development or detached development) closest to the property boundary adjacent to—

(a) the primary road of the lot, or

(b) in the case of a battle-axe lot, the rear boundary of the dwelling house on the lot in front of the battle-axe lot, or

(c) any other stated boundary of the lot.

bush fire attack level-40 (BAL-40) has the same meaning as it has in AS 3959:2018, *Construction of buildings in bushfire-prone areas*.

campervan has the same meaning as in the [*Local Government \(Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings\) Regulation 2021*](#).

caravan has the same meaning as in the [*Local Government \(Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings\) Regulation 2021*](#).

carport means a roofed structure for the shelter of motor vehicles that has 2 or more sides open and not less than one-third of its perimeter open.

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

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

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

Industrial and Business Buildings 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 clause 4 of Schedule 1 to 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 Housing Code,

(b) the Rural Housing Code,

- (b1) Low Rise Housing Diversity Code,
- (b2) the Greenfield Housing Code,
- (c) the Housing Alterations Code,
- (d) the General Development Code,
- (e) the Industrial and Business Alterations Code,
- (e1) the Industrial and Business Buildings Code,
- (e2) the Container Recycling Facilities Code,
- (f) the Subdivisions Code,
- (g) the Demolition Code,
- (h) the Fire Safety Code,
- (i) the Inland Code,
- (j) the Agritourism and Farm Stay Accommodation Code,
- (k) the Pattern Book Development Code.

container deposit scheme means the container deposit scheme established by Part 5 of the [Waste Avoidance and Resource Recovery Act 2001](#).

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

container recycling facility—see clause 5B.1.

corner lot means a lot that has 2 contiguous boundaries with a road or roads (other than a lane) 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 development means any of the following, if it is situated more than 900mm from a building that is residential accommodation to which it relates and is not exempt development under this Policy—

- (a) access ramp,
- (b) awning, blind or canopy,
- (c) deck, patio, pergola, terrace or verandah,
- (d) cabana, cubby house, fernery, garden shed, gazebo or greenhouse,
- (e) carport,
- (f) detached studio,
- (g) driveway, hard stand space,
- (h) garage or hard stand space,

- (i) pathway or paving,
- (j) rainwater tank (above ground),
- (k) retaining wall,
- (l) screen,
- (m) shade structure,
- (n) shed,

and any fence, swimming pool or spa pool and child-resistant barrier that is not exempt development under this Policy.

detached studio means a habitable building that is used for purposes ancillary to a dwelling house such as a home office, entertainment area, art studio or guest room and—

- (a) is established in conjunction with a dwelling house, and
- (b) is on the same lot of land as the dwelling house, and
- (c) is separate from the dwelling house, and
- (d) is not used as a separate dwelling house, and
- (e) does not contain any cooking facilities.

development consent includes an approval under Part 3A of the Act (before its repeal), and an approval under Division 5.2 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.

drop edge beam means a vertical concrete slab—

- (a) constructed at the edge of a horizontal concrete slab, and
- (b) designed to hold fill under the horizontal concrete slab.

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, attached development, detached 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 identified in *State Environmental Planning Policy (Resilience and Hazards) 2021*, Schedule 1,
- (c) land identified as “coastal wetlands” or “littoral rainforest” on the *Coastal Wetlands and Littoral Rainforests Area Map*, within the meaning of *State Environmental Planning Policy (Resilience and Hazards) 2021*,

Chapter 2,

- (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 Land Management Act 2016* 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.

external combustible cladding has the same meaning as in the *Environmental Planning and Assessment Regulation 2000*.

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 3959:2018, *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 10.7(2) of the Act.

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

flood planning level, for a lot, means—

- (a) the flood planning level adopted by a local environmental plan applying to the lot, or
- (b) if a flood planning level is not adopted by a local environmental plan applying to the lot—the flood planning level adopted in a development control plan by the council for the lot, or
- (c) if a flood planning level is not adopted by a development control plan applying to the lot—the flood planning level otherwise adopted by the council for the lot.

Flood Risk Management Manual means the *Flood Risk Management Manual*, ISBN 978-1-923076-17-4, published by the NSW Government in June 2023.

floor area, for a balcony, deck, patio, pergola, terrace or verandah referred to in Part 2, 3, 3A, 3B, 3C 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 2, 3, 3A, 3C 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, 3C, 3D 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.

flow path means a flow path identified in the council's flood study or floodplain risk management study carried out in accordance with the *Flood Risk Management Manual*.

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.

fruit and produce picking, by a visitor to farm gate premises, means picking, gathering, selecting or otherwise harvesting fruit, vegetables and other agricultural products from the farm for purchase by the visitor.

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.

grain bunker means a lined area in which grain is stored under a non-structural cover.

Greenfield Housing Code means the code for complying development set out in Part 3C.

Greenfield Housing Code Area means the area identified as the Greenfield Housing Code Area by the [Greenfield Housing Code Area Map](#).

Greenfield Housing Code Area Map means the [State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008 Greenfield Housing Code Area Map](#).

Note.

The [Greenfield Housing Code Area Map](#) adopted by this Policy is to be made available on the NSW legislation website.

gross floor area has the same meaning as it has in the Standard Instrument. However, in Part 3, 3B, 3C or 3D it means the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4m above the floor, and includes habitable rooms in a basement or an attic, but excludes the following—

- (a) any storage area, vehicular access area, loading area, garbage area or services located in a basement,
- (b) 1 car parking space per dwelling, including access to the parking space, if—
 - (i) the dwelling is not a secondary dwelling, and
 - (ii) the excluded area is not more than 18m²,
- (c) any terrace or balcony with outer walls less than 1.4m high,
- (d) voids above a floor at the level of a storey or storey above,
- (e) any common area intended to be used by occupants of the building to access dwellings on higher or lower storeys of the building such as a stairwell or lift shaft.

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.

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 *Flood Risk Management 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 *Flood Risk Management Manual*.

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.

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

human waste storage facility has the same meaning as in the [Local Government Act 1993](#).

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

Inland Code means the code for complying development set out in Part 3D.

landholding includes one or more lots of land (whether held under the same title, different titles or different kinds of titles) that constitute or are worked as a single property and that are contiguous with one another or are separated from one another only by a road, river, creek or other watercourse.

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.

Low Rise Housing Diversity Code means the code for complying development set out in Part 3B.

Low Rise Housing Diversity Design Guide means the *Low Rise Housing Diversity Design Guide* published by the Department of Planning, Industry and Environment on the day on which [State Environmental Planning Policy \(Exempt and Complying Development Codes\) Amendment \(Low Rise Housing Diversity Code\) 2020](#) commences.

Note.

A copy of the Guide is available on the website of the Department.

manor house means a residential flat building containing 3 or 4 dwellings, where—

- (a) each dwelling is attached to another dwelling by a common wall or floor, and
- (b) at least 1 dwelling is partially or wholly located above another dwelling, and
- (c) the building contains no more than 2 storeys (excluding any basement).

manual collection point—see clause 5B.1.

multi dwelling housing (terraces) means multi dwelling housing where all dwellings are attached and face, and are generally aligned along, 1 or more public roads.

Noise Policy means the document entitled *NSW Noise Policy for Industry* (ISBN 978 1 76039 481 3) published in October 2017 by the Environment Protection Authority.

off peak time means any time other than peak time.

outbuilding means any of the following class 10a buildings under the *Building Code of Australia*—

- (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.

parallel road lot means a lot that has boundaries with 2 parallel roads, not including a lane.

parent lot, in relation to subdivision, means the lot that is being subdivided.

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.

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

Note.

The term is defined as follows—

performance 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).

Planning for Bush Fire Protection means the document prescribed by the [*Environmental Planning and Assessment Regulation 2021*](#), section 271.

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, and includes any road that intersects with that road at an angle of more than 135 degrees and with which the dwelling house or main building has contiguous boundaries.

principal private open space means an area outside a dwelling that is directly accessible from, and adjacent to, a habitable room in the dwelling, other than a bedroom.

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) registered in the relevant discipline on the National Engineering Register (NER) of the Institution of Engineers Australia (which trades as 'Engineers Australia'), or
- (ii) eligible to become registered on the Institution of Engineers Australia's NER and has appropriate experience and competence in the relevant field.

protected tree means a tree that requires a separate permit, approval 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.

resulting lot means a lot that is created through the subdivision of a parent lot.

reverse vending machine has the same meaning as in Part 5 of the [Waste Avoidance and Resource Recovery Act 2001](#).

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.

significantly contaminated land has the same meaning as in the [Contaminated Land Management Act 1997](#).

site coverage means the proportion of a site area covered by buildings.

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

standard lot means a lot that is not a battle-axe lot, a corner lot or a parallel road lot.

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

Sydney Drinking Water Catchment has the same meaning as in [State Environmental Planning Policy \(Biodiversity and Conservation\) 2021](#), Chapter 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.

Note.

The Act and the [Interpretation Act 1987](#) contain definitions and other provisions that affect the interpretation and application of this Policy.

- (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) A reference in this Policy to any type of residential accommodation has the same meaning as it has in the Standard Instrument (unless it is otherwise defined in this Policy), but does not include any part of the building that is ancillary development, attached development, detached development or exempt development under this Policy.
- (4) For the purposes of calculating site coverage of development, the following are not to be included in determining the area covered by buildings—
- (a) an access ramp,
 - (b) any part of an awning, blind or canopy that is outside the outer wall of a building,
 - (c) a balcony, deck, patio, pergola, terrace or verandah attached to a dwelling house that is not enclosed by a wall higher than 1.4m above the floor level,
 - (d) the eaves of a building,
 - (e) a driveway,
 - (f) a farm building,
 - (g) a fence or screen,
 - (h) a pathway or paving,
 - (i) a rainwater tank that is attached to a dwelling house,
 - (j) a swimming pool or spa pool.

(5) 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.

(6) Notes and diagrams 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 3.20(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 3.20(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 3.20(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 clause 4 of Schedule 1 to 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 Planning Secretary, 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 3.20(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.

Named land use zone	Permitted land uses
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
C1 National Parks and Nature Reserves	Authorised uses in national parks and nature reserves
C2 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
C3 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
C4 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 3.28(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 (Transport and Infrastructure) 2021*, Chapter 2 continues to apply and this Policy does not apply—
 - (a) if this Policy and *State Environmental Planning Policy (Transport and Infrastructure) 2021*, Chapter 2 specify the same development as complying development,
 - (b) if this Policy and *State Environmental Planning Policy (Transport and Infrastructure) 2021*, Chapter 2 specify the same development as exempt development,
 - (c) if this Policy specifies development as exempt development and *State Environmental Planning Policy (Transport and Infrastructure) 2021*, Chapter 2 specifies the same development as complying development,
 - (d) if this Policy specifies development as complying development and *State Environmental Planning Policy (Transport and Infrastructure) 2021*, Chapter 2 specifies the same development as exempt development.
 - (3) If this Policy and *State Environmental Planning Policy (Resources and Energy) 2021*, Chapter 2 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 (Housing) 2021* 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.
- (5A) If this policy and *State Environmental Planning Policy (Transport and Infrastructure) 2021* specify the same development as either exempt or complying development, State Environmental Planning Policy (Transport and Infrastructure) 2021 prevails to the extent of any inconsistency.
- (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 3.20(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 3.20(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 Planning Secretary 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 Planning Secretary under subclause (2) must be published in the Gazette.

1.11 (Repealed)

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 specified in Schedule 3 in the way described in the Schedule.
- (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.

- (4) If an application for a complying development certificate has been made before the commencement of *State Environmental Planning Policy Amendment (Planning for Bush Fire Protection) 2020* in relation to land to which this Policy applies and the application has not been finally determined before that commencement, the application must be determined as if that Policy had not commenced.
- (5) An amendment made to this Policy by *State Environmental Planning Policy (Exempt and Complying Development Codes) Amendment 2021* does not apply to an application for a complying development certificate made but not finally determined before the commencement of the amendment.
- (6) A development application or an application for a complying development certificate submitted but not finally determined before the commencement of *State Environmental Planning Policy (Exempt and Complying Development Codes) Amendment (Agritourism) 2022* must be determined as if the Policy had not commenced.
- (7) An application for a complying development certificate lodged before 1 May 2023 must be determined as if *State Environmental Planning Policy Amendment (National Construction Code) 2023* had not commenced.
- (8) An application for a complying development certificate made, but not finally determined, before the commencement of *State Environmental Planning Policy Amendment (Flood Planning) 2023* must be determined 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 is exempt development for the purposes of this Policy if the development—
 - (a) is specified in an exempt development code, and
 - (b) meets the standards specified for the development, and
 - (c) complies with the requirements of this Division for exempt development.
- (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 1.6 of the Act, the carrying out of exempt development does not require—

- (a) development consent under Part 4 of the Act, or
- (b) environmental impact assessment under Division 5.1 of the Act, or
- (c) State significant infrastructure approval under Division 5.2 of the Act, or
- (d) a certificate under Part 6 of the Act.

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
- (b1) must not be carried out on land that is a declared area of outstanding biodiversity value under the *Biodiversity Conservation Act 2016* or declared critical habitat under Part 7A of the *Fisheries Management Act 1994*, and
- (b2) must not be carried out on land that is, or is part of, a wilderness area (within the meaning of *Wilderness Act 1987*), 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, and
- (d) must not be carried out on land that is described or otherwise identified on a map specified in Schedule 4.
- (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, approval or development consent, unless the removal or pruning is carried out in accordance with the permit, approval or development consent,

Example—

A permit or approval may be required under *State Environmental Planning Policy (Biodiversity and Conservation) 2021*, Chapter 2 or other legislation.

- (c) not involve the removal of—
- (i) non-friable asbestos from an area of more than 10m², or
- (ii) friable asbestos.

Note—

Residential buildings constructed before 1990 may contain asbestos. See *Code of practice: How to safely remove asbestos* published by SafeWork NSW in December 2022 and www.asbestos.nsw.gov.au for further information.

(4) Subclause (3)(c) does not apply if the removal is carried out by a licensed asbestos removalist.

(5) In this clause—

friable asbestos, licensed asbestos removalist and *non-friable asbestos* have the same meaning as in the [Work Health and Safety Regulation 2017](#).

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

- (1) Development on land that is less than 18km from the Siding Spring Observatory is not exempt development for the purposes of this Policy if the development has, or will require, any form of lighting.
- (2) Development specified in Part 2, Division 1, Subdivision 10A, 10B, 27, 27A or 37 on land that is less than 18km from the Siding Spring Observatory is not exempt development for the purposes of this Policy.

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 4.13(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.

- (2A) Despite subclause (1)(d), development is complying development if the development—
- meets the requirements and standards specified by *State Environmental Planning Policy (Transport and Infrastructure) 2021*, Part 2.3, Division 10 or Part 3.4, and
 - is exempt or has been granted an exemption under the *Heritage Act 1977*, section 57(1A), (2) or (3).
- (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 under this Policy

- To be complying development for the purposes of this Policy, the development must—
 - not be exempt development under this Policy, and
 - be permissible, with consent, under an environmental planning instrument applying to the land on which the development is carried out, and
 - meet the relevant provisions of the *Building Code of Australia*, and
 - not require an environment protection licence within the meaning of the *Protection of the Environment Operations Act 1997*, and
 - not be designated development, and

Note.

Designated development is defined in section 4.10 of the Act as development that is declared to be designated development by an environmental planning instrument or the regulations.

- not be carried out on land that comprises, or on which there is, a draft heritage item, and
 - (c4) (Repealed)
- before the complying development certificate is issued, have an approval, if required by the *Local Government Act 1993*, for—
 - an on-site effluent disposal system if the development is undertaken on unsewered land, and
 - an on-site stormwater drainage system, and

- 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.

- 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 10.7(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*.

- not be the construction or installation of a skylight or roof window on land in the local government area of Coonamble, Gilgandra, Warrumbungle Shire or Dubbo Regional, and

- (h) for development involving the removal or pruning of a tree or other vegetation that requires a permit, approval or development consent—before the complying development certificate is issued, have the permit, approval or development consent.

Note—

A permit or approval may be required under [State Environmental Planning Policy \(Biodiversity and Conservation\) 2021](#), Chapter 2 or other legislation. Paragraph (h) may not apply to some removal or pruning of trees. See, for example, clause 3.33.

- (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 2021:2015, *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.

- (4) Development is not permissible with consent for the purposes of subclause (1)(b) if the development is permissible only because of the [Standard Instrument \(Local Environmental Plans\) Order 2006](#), Schedule 1, clause 5.

1.19 Land on which complying development may not be carried out

- (1) **Specific land exemptions for Housing Code, Inland Code, Low Rise Housing Diversity Code, Pattern Book Development Code, Rural Housing Code, Agritourism and Farm Stay Accommodation Code and Greenfield Housing Code** To be complying development specified for the Housing Code, the Inland Code, the Low Rise Housing Diversity Code, the Pattern Book Development Code, the Rural Housing Code, the Agritourism and Farm Stay Accommodation Code or the Greenfield 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, detached development (other than a detached studio) 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
- (c1) significantly contaminated land, 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
- (d1) land that is subject to a private land conservation agreement under the [Biodiversity Conservation Act 2016](#) or that is a set aside area under section 60ZC of the [Local Land Services Act 2013](#), 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—
 - (i) the erection of ancillary development, attached development or detached development, or
 - (ii) the alteration of, or an addition to, ancillary development, attached development or detached development, or
- (i) land that is declared to be a special area under the *Water NSW Act 2014*, or
- (j) unsewered land—
 - (i) in the Sydney Drinking Water Catchment, if that development will result in an increase to the number of bedrooms on the site or a site disturbance area of more than 250m², or
 - (ii) in any other drinking water catchment identified in any other environmental planning instrument.
- (2) Development specified in the Housing Code, the Inland Code, the Low Rise Housing Diversity Code or the Pattern Book Development 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—
 - (a) (Repealed)
 - (b) on 30 November 2023 in relation to land in the local government area of Mosman and identified on any map specified in Schedule 5, and
 - (c) (Repealed)
- (3A) Development specified in the Low Rise Housing Diversity Code or the Pattern Book Development Code is not complying development under that code if it is carried out on land on which there is a heritage item or a draft heritage item.
- (3B) Development specified in the Low Rise Housing Diversity Code or the Pattern Book Development Code is not complying development under that code if the development is—
 - (a) for the purposes of dual occupancies, and
 - (b) carried out on land in Zone R2 Low Density Residential, and
 - (c) permitted with development consent under *State Environmental Planning Policy (Housing) 2021*, Chapter 6, Part 2, Division 1 but not under another environmental planning instrument.
- (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) in the Sydney Drinking Water Catchment, 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 250m², or
 - (b) in any other drinking water catchment identified in any other environmental planning instrument.
- (5) **Specific land exemptions for Industrial and Business Buildings Code** To be complying development specified for the Industrial and Business Buildings 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) significantly contaminated land, or
- (d1) land that is subject to a private land conservation agreement under the *Biodiversity Conservation Act 2016* or that is a set aside area under section 60ZC of the *Local Land Services Act 2013*, 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) in the Sydney Drinking Water Catchment, or
 - (ii) in any other drinking water catchment identified in any other environmental planning instrument.

(6) **Specific land exemptions may apply only to part of a lot** Nothing in this clause prevents complying development being carried out on part of a lot that is not land referred to in this clause even if other parts of the lot are such land.

(7) **Savings and transitional provision** The amendment made to subclause (1) by *State Environmental Planning Policy (Exempt and Complying Development Codes) Amendment (Inland Code) 2019* applies to applications for complying development certificates made, but not finally determined, on or after 1 January 2019.

1.19A Land on which complying development may not be carried out—bush fire prone land

- (1) To be complying development specified for any complying development code (except the Housing Alterations Code)—
 - (a) the development must not be carried out on land in bush fire attack level-40 (BAL-40) or the flame zone (BAL-FZ), and
 - (b) in the case of development specified for the Rural Housing Code—any associated access way to the development must be on land that is—
 - (i) not in bush fire attack level-40 (BAL-40) or the flame zone (BAL-FZ), or

(ii) grasslands.

Note.

More information about the categories of bush fire attack, including the flame zone, can be found in Table A1.7 of *Planning for Bush Fire Protection*.

- (2) This clause does not apply to the following development—
 - (a) non-habitable detached development that is more than 6m from any dwelling house,
 - (b) landscaped areas,
 - (c) non-combustible fences,
 - (d) swimming pools.
- (3) For the purposes of this clause, land is not in bush fire attack level-40 (BAL-40) or the flame zone (BAL-FZ) if
 - (a) the council or a person who is recognised by the NSW Rural Fire Service as a suitably qualified consultant in bush fire risk assessment determines, in accordance with the methodology specified in *Planning for Bush Fire Protection*, that the land is not in bush fire attack level-40 (BAL-40) or the flame zone (BAL-FZ), or
 - (b) in the case of development carried out on grasslands—the development conforms to the specifications and requirements of Table 7.9a of *Planning for Bush Fire Protection* that are relevant to the development.
- (4) Nothing in this clause prevents complying development being carried out on part of a lot that is not land referred to in this clause even if other parts of the lot are such land.
- (5) In this clause, **grasslands** has the same meaning as in *Planning for Bush Fire Protection*.

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 relevant instrument within the meaning of section 13.4 of the *Crown Land Management Act 2016*, 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 7.1 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).

