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## Complying Development Checklist for

### *Swimming Pools*

## under the NSW General Housing Code

### **Zones R 1 - 4 and RU 5 or equivalent**

#### **Introduction**

In 2009, the NSW State Government introduced a new provision for the assessment of development of a minor nature that, if it meets certain prescribed standards, will have minimal environmental impact. The provisions are contained in State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (the SEPP). The SEPP includes a document entitled the NSW General Housing Code.

The NSW General Housing Code includes requirements and standards applicable to land and development that, if complied with, will enable applicants to apply for a complying development certificate instead of applying for a development consent and construction certificate.

This will enable applicants to save valuable time and money when undertaking house renovations and construction of new homes that meet the strict requirements contained in the Code.

This edition of the checklist includes all amendments to the SEPP at the time of printing (including those that took effect on 22 February 2014).

The following checklist is a summary of the swimming pool requirements of the NSW General Housing Code only and is to be used primarily for the assessment of development for compliance with the Code.

When you are considering designing your development to comply with the NSW General Housing Code you should obtain a copy of the Code and the SEPP from the NSW Department of Planning or through their website <http://housingcode.planning.nsw.gov.au/>

## Important definitions

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

- (a) access ramp, retaining wall, driveway, pathway, paving, awning, blind, canopy, fence and screen,
- (b) garage, carport, rainwater tank, balcony, a basement, deck, patio, pergola, terrace or verandah that is attached to a dwelling house,
- (c) driveway, hardstand space, pathway or paving,
- (d) outbuilding or detached studio,
- (e) swimming pool or spa pool and child-resistant barrier.

**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.

**flood control lot** means a lot to which flood related development controls apply in respect of development for the purposes of dwelling houses (amongst other uses).

**landscaped area** means a part of a site used for growing plants, grasses and trees, but does not include any building, structure or hard paved area.

**outbuilding** means any of the following:

- (a) carport, garage, shade structure, rainwater tank, balcony, deck, patio, pergola, terrace or verandah that is detached from a dwelling house,
- (b) cabana, shed, cubby house, fernery, garden shed, gazebo or greenhouse.

## General requirements for complying development

To be complying development, the development must:

- (a) meet the relevant provisions of the *Building Code of Australia*, and
- (b) on land that comprises or on which an item that is listed on the State Heritage Register under the Heritage Act 1977 (or an environmental planning instrument), or on land, or land that contains an item, that is subject to an interim heritage order under the Act (except as provided for under Clause 1.17A (2) – (4) of the SEPP), or
- (c) have a prior 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

(d) have, if required by the *Roads Act 1993*, the prior consent from the relevant roads authority for the building of any kerb, crossover or driveway.

(e) if it involves the removal or pruning of a tree or other vegetation that requires a permit or development consent, a copy of the permit or development consent for that removal or pruning must be submitted with the complying development certificate application unless:

i) the tree is not listed on a significant tree register or register of significant trees kept by the council, and

ii) the tree or vegetation will be within 3m of a proposed building that has an area of more than 25m<sup>2</sup>, and

iii) the tree or vegetation has a height that is less than:

a) 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

b) for any other development—6m.

(f) have the relevant approval of the Mine Subsidence Board if it is located in a mine subsidence district.

(g) land that is within the 20 – 25 ANEF contours of an airport unless, in the case of a dwelling house, the development is to be constructed in accordance with AS2021 – 2000 – *acoustics – Aircraft noise intrusion – building siting and construction*, or

(h) is not development that would require the concurrence of another body.

(i) be permissible, with consent, under an environmental planning instrument applying to the land on which the development is proposed and not be Exempt Development under the Policy.

(j) must not require an environment protection licence.

(k) must not be designated development.

## **Land-based requirements for complying development**

To be complying development, the development must not be carried out on:

(a) not on land on which there is a draft heritage item,

(b) land within a heritage conservation area or a draft heritage conservation area, unless the development is a detached outbuilding or swimming pool,

(c) land that is reserved for a public purpose, or

(d) land identified on an Acid Sulfate Soils Map as being Class 1 or Class 2, or

(e) land that is subject to a bio-banking agreement, or

(f) land identified by an environmental planning instrument as being within:

- i. buffer area,
- ii. a river front area,
- iii. an ecologically sensitive area,
- iv. on environmentally sensitive land (except where specifically provided for in the Policy),  
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,
- ii. a coastal hazard, or
- iii. a coastal erosion hazard,

(h) land in a foreshore area, or

(i) land that is within the 20 – 25 ANEF contours of an airport unless, in the case of a dwelling house, the development is to be constructed in accordance with AS2021 – 2000 – *acoustics – Aircraft noise intrusion – building siting and construction*, or

(j) 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

(k) un-sewered land to which REP No. 1 applies or is within a drinking water catchment area, or

(l) land declared to be a special area under the Sydney Water Catchment Management Act.

Complies  Yes  No

## Covenants

The SEPP suspends agreements, covenant or other similar instrument that restricts the carrying out of that development that would otherwise prevent a complying development certificate to be issued except covenants, agreements and the like imposed or required by a council that are consistent with or not dealt with in the development standards of the SEPP, required to be imposed by another planning instrument, imposed by an owner, or previous owner, of the land or imposed through specified Acts.

**A copy of the title of the land and all covenants may be required to be submitted with an application for a complying development certificate.**

Complies  Yes  No

## Assessment

### Part 1

The following pages include a summary of the NSW General Housing Code that relates to swimming pools and can be used to determine if your application can qualify as complying development under the Code.

The tables on the following pages include check boxes that you can use to identify which of the standards are applicable to your proposed development and whether the proposal complies with the standards.

It is important to read the Notes after each table.

**If the proposal does not comply with all the relevant standards and you wish to submit a complying development application – you will need to amend the proposal so that it complies with the Code.**

**If an application does not comply with all the relevant standards – it cannot be approved as complying development. In these cases you will need to lodge a development application and an application for a construction certificate - not a complying development certificate application.**

**When you submit your complying development certificate application you should submit this completed assessment sheet to demonstrate that you have fully considered all the standards in respect to your proposal. You will also need to supply a copy of a current Section 149 Planning Certificate issued through your local council (except in the case of applications within Sutherland Shire). The certificate will address most of the previous requirements of the SEPP and confirm whether, generally, complying development is permissible on the site. Additionally, a copy of your land title and any covenants that are included on the title is required to be submitted with the application**

Many of the standards for complying development relate to the size and/or width of the land on which the work is proposed.

In some cases the Code adopts 6 types of lots based on the area of the land on which the work is proposed. Your initial step is to determine the size or area of your land. You can then identify the standards that will effect your proposal.

For instance, if your land area is 575m<sup>2</sup> then you will need to use “Site Type D” in the table. If your land area is 625m<sup>2</sup> use “Site Type E”.

## Complying development requirements summary from NSW General Housing Code (Table 1)

| SITE TYPE<br>(See Note 1)                   | Max No. of Dwellings per lot | Minimum Street Frontage<br>(See Note 1) | Maximum Site Coverage<br>(See Note 2) | Minimum Landscape Area<br>(See Note 3) | Minimum Area Principal Private Open Space<br>(See Note 4) | Car Parking<br>(See Note 6) |     |    |
|---|------------------------------|---|---------------------------------------|--|---|-----------------------------|-----|----|
|   |                              |   |                                       |  |   | NA                          | Yes | No |
| <b>A</b><br>(200-250 m <sup>2</sup> )       | 1                            | 6m                                      | 65%                                   | 10%                                    | 16-24m <sup>2</sup>                                       | 1                           |     |    |
| <b>Complies</b>                             | Yes                          | No                                      | NA                                    | Yes                                    | No  | NA                          | Yes | No |
| <b>B</b><br>(251-300 m <sup>2</sup> )       | 1                            | 6m                                      | 60%                                   | 10%                                    | 16-24m <sup>2</sup>                                       | 1                           |     |    |
| <b>Complies</b>                             | Yes                          | No                                      | NA                                    | Yes                                    | No  | NA                          | Yes | No |
| <b>C</b><br>(301-450 m <sup>2</sup> )       | 1                            | 6m                                      | 55%                                   | 15%                                    | 16-24m <sup>2</sup>                                       | 1                           |     |    |
| <b>Complies</b>                             | Yes                          | No                                      | NA                                    | Yes                                    | No  | NA                          | Yes | No |
| <b>D</b><br>(451-600 m <sup>2</sup> )       | 1                            | 6m                                      | 50%<br>(See Note 3A)                  | 20%                                    | 16-24m <sup>2</sup>                                       | 1                           |     |    |
| <b>Complies</b>                             | Yes                          | No                                      | NA                                    | Yes                                    | No  | NA                          | Yes | No |
| <b>E</b><br>(601-900 m <sup>2</sup> )       | 1                            | 6m                                      | 50%                                   | 30%                                    | 16-24m <sup>2</sup>                                       | 1                           |     |    |
| <b>Complies</b>                             | Yes                          | No                                      | NA                                    | Yes                                    | No  | NA                          | Yes | No |
| <b>F</b><br>(more than 900 m <sup>2</sup> ) | 1                            | 6m                                      | See Note 3A                           | 40-45%                                 | 16-24m <sup>2</sup>                                       | 1                           |     |    |
| <b>Complies</b>                             | Yes                          | No                                      | NA                                    | Yes                                    | No  | NA                          | Yes | No |

General Notes: This table is a summary of the swimming pool provisions of the NSW General Housing Code published by the NSW Department of Planning.

Intending applicants should obtain a copy of the NSW General Housing Code from <http://housingcode.planning.nsw.gov.au/>

Note 1: For battle-axe shaped lots – the access handle must be at least 3 m wide and the main area of the site must be at least 12m by 12m (exclusive of the access handle).

The lot on which a new dwelling house is proposed to be erected must have lawful access to a public road must have lawful access to a public road.

Note 2: **site coverage** means the proportion of a site area covered by buildings. However, the following are not included for the purpose of calculating site coverage any basement, any

part of an awning that is outside the outer walls of a building and that adjoins the street frontage or other site boundary, any eaves or unenclosed balconies, decks, pergolas and the like.

Note 3A: If the site has an area of at least 450m<sup>2</sup> but less than 500m<sup>2</sup>, the site coverage for 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 site has an area of at least 900m<sup>2</sup> and less than 1500m<sup>2</sup> - the maximum site coverage is 40%. For site areas of 1500m<sup>2</sup> and more the maximum site coverage is 30%.

Note 3: At least 50% of the landscaped area must be located behind the building line to the primary road.

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.

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.

The landscaped area must be at least 1.5 metres wide.

For Site type F - 40% landscaped area where the site is less than 1500m<sup>2</sup> and 45% where the site are is 1500m<sup>2</sup> or greater.

Note 4: ***principal private open space*** means an area at least 3m wide, that is directly accessible from, and adjacent to, a habitable room (other than a bedroom) and has a maximum slope of 1:50.

Only applies to new dwelling houses.

The principal private open space is required to be a minimum of 16m<sup>2</sup> where the width of the site is not more than 10 m, measured at the building line. Where the lot width is more than 10m the minimum area is 24m<sup>2</sup>.

Complies  Yes  No  NA

## Part 2

The following additional standards are applicable to some proposals irrespective of the area of the land on which the work is proposed.

### (a) Privacy

A detached balcony, deck, patio, pergola, terrace or verandah or any alterations or additions to an existing deck, patio, pergola or terrace, must not have a floor level that is more than 600mm above existing ground level.

Complies  Yes  No  NA

### (b) Swimming pools

Excavation for swimming pools must be no more than the depth required for the pool structure.

A swimming pool for private use must be located on a lot:

- i) behind the setback area from the primary or main road frontage, or
- ii) in the rear yard.

The swimming pool water line must have a setback of at least 1m from a side or rear boundary.

Decking around a swimming pool must not be more than 600mm above existing ground level.

Coping around a swimming pool must not be more than:

- i) 1.4m above existing ground level, and
- ii) 300mm wide if the coping is more than 600mm above existing ground level.

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.

A child-resistant barrier must be constructed or installed in accordance with the requirements of the *Swimming Pools Act 1992*.

Pumps attached to the development must be housed in a soundproof enclosure.

If the swimming pool is being constructed at a different time to, the erection of a dwelling on the lot, the development standards for this code (other than the standards for site coverage and landscaped area) do not apply to the construction.

Complies  Yes  No  NA



(c) Earthworks

An excavation must be supported by retaining walls or by unprotected embankments that do not redirect surface flows onto an adjoining property. Any retaining wall or embankment must not extend further than 2m from the pool.

Complies  Yes  No  NA

(d) Drainage

Run-off and erosion controls must be implemented to prevent soil erosion, water pollution or the discharge of loose sediment on surrounding land 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) not stockpiling top soil, excavated materials, construction and landscaping supplies and debris within the lot.

All stormwater collecting as a result of the erection of a pool must be conveyed by gravity or by a charged system to:

- i) a public drainage system, or
- ii) an inter-allotment drainage system, or
- iii) an on-site disposal system.

The disposal of the stormwater must be in accordance with the requirements contained in the relevant local council's Development Control Plan (DCP). This may require utilisation of one or a combination of the following:

- i) On site retention;
- ii) On site detention; and/or
- iii) On site disposal.

A stormwater design, prepared by a suitably qualified civil engineer, may be required to be submitted with the complying development certificate application demonstrating how the proposed work will comply with DCP.

Complies  Yes  No  NA

(e) Fences and retaining walls

A fence and any associated retaining wall located within the setback area from a primary road must:

- i) not be more than 1.2m above existing ground level, and
- ii) be open for at least 50 per cent of the upper 2/3 of the area of the fence, and
- iii) in relation to any brick or other solid portion of the fence above 600mm, be not more than 250mm wide.

A fence and any associated retaining wall located behind the setback area from a primary road or any side or rear boundary fence must not be more than 1.8m above existing ground level.

A retaining wall or embankment that is not subject to “e) Earthworks” above must not have a height above or below existing ground level of more than:

- i) 600mm at any distance up to 500mm from a side or rear boundary, or
- ii) 1m at any distance more than 500mm from a side or rear boundary.

A fence or a fence and associated retaining wall on a sloping lot may be stepped, provided the height of each step is not more than:

- i) 1.6m above existing ground level if it is located within a setback area from a primary road, or
- ii) in any other case, no more than 2.2m above existing ground level.

All fill on a lot that is not subject to “e) Earthworks” above must be retained by a retaining wall.

Fill more than 150mm deep must not occupy an area of more than 50 per cent of the landscaped area of the lot.

A fence must not incorporate barbed wire in its construction or be electrified.

Metal used in the construction of a fence must have a low reflectivity and be factory pre-coloured.

A fence must not be constructed so as to redirect the overland flow of surface water onto adjoining properties.

Fencing and retaining walls on land that is in a bush fire prone area must be non-combustible.

**Complies**  **Yes**  **No**  **NA**

### Part 3

The Policy provides specific standards for properties that are bushfire prone or are flood liable (see definitions at the front of the check sheet).

(a) Bushfire prone land

(i) The standards apply to all lots that are wholly or partly bush fire prone land and to all development on those lots except non-habitable ancillary development that is more than 10m from any dwelling house, landscaping, a non-combustible fence or a swimming pool. The standards are additional to those in Parts 1 and 2 of the checklist.

(ii) Development may be carried out on the lot only if the development conforms to the specifications and requirements of:

- (a) *Planning for Bush Fire Protection* published by the NSW Rural Fire Service in December 2006 and *Addendum: Appendix 3* published in 2010.
- (b) 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
- (c) Comply with the requirements of AS 3959—2009, *Construction of buildings in bushfire-prone areas*

(iii) Complying development cannot be undertaken on a part of a lot that is classified as bush fire attack level-40 (BAL-40) or the flame zone (BAL-FZ). More information can be found in the above publications.

The classification must be determine, and certified, by the NSW Rural Fire Service, a person who is recognised by the NSW Rural Fire Service as a suitably qualified consultant in bush fire risk assessment, or the council. The certification must be submitted with the complying development certificate application.

(iv) The lot must have direct access to a public road or a road vested in or maintained by the council.

(v) The lot must have a reticulated water supply connected.

(vi) A fire hydrant must be located less than 60 metres from the location on the lot of the proposed development.

(vii) Mains electricity must be connected to the lot

(viii) 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).

(ix) Any gas cylinders on the lot that are within 10m of a dwelling house must have the release valves directed away from the dwelling, be enclosed on the hazard side of the installation and have metal connections to and from the cylinders

(x) There are no polymer sheathed flexible gas supply lines to gas meters adjacent to the dwelling.

**Complies**  **Yes**  **No**  **NA**

(b) Flood control lots

The following standards, as well as those in Parts 1 and 2 of this checklist, apply to development on flood control lots.

(i) The development must not be on any part of a flood control lot that has been certified by the council or a professional engineer who specialises in hydraulic engineering as:

- (a) a flood storage area,
- (b) a floodway area,
- (c) a flow path - as identified in the council's flood study or floodplain risk management study,
- (d) a high hazard area - as identified in the council's flood study or floodplain risk management study,
- (e) a high risk area - as identified in the council's flood study or floodplain risk management study.

(ii) 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,
- (b) have the part of the development at or below the flood planning level constructed of flood compatible material (being building materials and surface finishes capable of withstanding prolonged immersion in water),
- (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),
- (d) not increase flood affectation elsewhere in the floodplain,
- (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,

- (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.

(iii) The standards specified in subclause (c) and (d) above are 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), and
- (b) will not increase flood affectation elsewhere in the floodplain.

**Complies**  **Yes**                       **No**                       **NA**