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Complying Development Checklist for Alterations (not Additions) to Dwellings & Ancillary Development under the NSW Housing Alterations Code

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 Housing Alterations Code.

The NSW Housing Alterations Code and the SEPP include 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 requirements of the NSW Housing Alterations 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 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, hardstand space, pathway, paving, awning, blind, canopy, fence and screen,
- (b) garage, carport, rainwater tank, basement, balcony, deck, patio, pergola, terrace or verandah that is attached to a dwelling house,
- (c) driveway, pathway or paving,
- (d) outbuilding or detached studio,
- (e) swimming pool or spa pool and child-resistant barrier.

attached in relation to a building or structure means not more than 900mm from another building or structure.

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

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.

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.

residential accommodation means a building or place used predominantly as a place of residence, and includes the following (and others – see Standard Instrument):

- (a) attached and semi detached dwellings, dwelling houses, secondary dwellings and dual occupancies.
- (b) boarding houses, group homes and hostels,
- (c) multi dwelling housing and residential flats,
- (d) seniors housing, and
- (e) shop top housing,

but does not include tourist and visitor accommodation or caravan parks.

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*, 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 25m², 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 under The NSW Housing Alterations Code, the development must not be carried out on:

(a) land on which there is a draft heritage item,

(b) to which *State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011* applies, if that development will result in an increase to the number of bedrooms on the site or in a site disturbance area of more than 250m², or

(c) in any other drinking water catchment identified in any other environmental planning instrument.

Complies Yes No

Covenants

The SEPP suspends agreements, covenants or other similar instrument that restrict 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 is required to be submitted with all application for a complying development certificate.

Complies Yes No

Assessment

Part 1 Internal alterations

Internal alterations to existing residential accommodation, including alterations to common property or existing ancillary development that is associated with residential accommodation

(but not including development that is the erection or conversion of a basement to existing residential accommodation).

Development standards

The standards specified for that development are that the development:

- (a) must not result in a change of classification of the building under the Act or the *Building Code of Australia*, and
- (b) must not result in any additional separate dwelling, and
- (c) must not result in the creation of an additional floor within a dwelling.

Complies Yes No NA

Part 2 External alterations to dwelling houses

This Part applies to the following types of development:

- (a) if the development is on land that is not within a heritage conservation area or a draft heritage conservation area—external alterations to an existing dwelling house,
- (b) if the development is on land that is within a heritage conservation area or a draft heritage conservation area—external alterations to that part of the dwelling house that is a single storey,
- (c) external alterations to existing ancillary development that is associated with a dwelling house.

Development standards

The standards specified for that development are that the development:

- (a) must not result in a change of classification of the building under the Act or the *Building Code of Australia*, and
- (b) must not result in a change to the floor area of the dwelling house, and
- (c) must not result in a change to the footprint of the dwelling house, and
- (d) if it is a new window (other than a window located in a bedroom where the window has an area of not more than 2m²) it must have a privacy screen for any part of the window that is less than 1.5m above finished floor level if:
 - i) the window:
 - (A) is in a habitable room that has a floor level of more than 1m above existing ground level, and
 - (B) has a sill height of less than 1.5m above that floor level, and

(C) faces a side or rear boundary and is less than 3m from that boundary, or

(ii) the window:

(A) is in a habitable room that has a floor level of more than 3m above existing ground level (existing), and

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

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

e) if it is located in a heritage conservation area or a draft heritage conservation area—must not be to a wall facing the primary road or any wall that connects to a wall facing the primary road.

f) the development must comply with *Planning for Bush Fire Protection* (published December 2006) including *Addendum 3* (published 2010) by the NSW Rural Fire Service.

g) if the land is bush fire prone, the development must conform to the specifications and requirements of the following documents that:

(i) *Planning for Bush Fire Protection* published by the NSW Rural Fire Service in December 2006,

NSW (ii) *Planning for Bush Fire Protection, Addendum: Appendix 3* published by Rural Fire Service in 2010, and

(iii) if another document is prescribed by the regulations for the purposes of section 79BA of the *Environmental Planning and Assessment Act 1979*—that document.

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

Complies Yes No NA

Part 3 External alterations to residential accommodation other than dwelling houses

This Part applies to development involving external alterations to existing residential accommodation and existing ancillary development to residential accommodation (other than a dwelling house) if the development is:

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

Development standards

The standards specified for that development are that the development:

- (a) must not result in a change of classification of the building under the Act or the *Building Code of Australia*, and
- (b) must not result in an increase to the gross floor area of the existing residential accommodation or ancillary development, and
- (c) must only use materials and finishes of a similar colour palette and substance to the existing building, and
- (d) must not affect any existing fire resisting components of the building, and
- (e) must not affect the means of egress from the building in an emergency, and
- (f) must comply with any height limits contained in an environmental planning instrument applying to the land or, if there are no such limits, the external works must not be higher than the uppermost habitable floor level, and
- (g) must be located at least 3m from any side or rear boundary, and
- (h) must be located behind the building line of any primary or secondary road frontage.
- (i) if the land is bush fire prone, the development must conform to the specifications and requirements of the following documents that:

- (i) *Planning for Bush Fire Protection* published by the NSW Rural Fire Service in December 2006,

- (ii) *Planning for Bush Fire Protection, Addendum: Appendix 3* published by NSW Rural Fire Service in 2010, and

- (iii) if another document is prescribed by the regulations for the purposes of section 79BA of the *Environmental Planning and Assessment Act 1979*—that document.

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

(j) must comply with *Planning for Bush Fire Protection* (published December 2006) including *Addendum 3* (published 2010) by the NSW Rural Fire Service.

Points (g) and (h) above do not apply if the development is for the purpose of providing pedestrian access in the form of an access ramp or stair lift to the ground floor level, including any balustrade, handrail or other device relating to safety.

If the development is for the purposes of external works to an existing building, the development must only be to the first 3 storeys of the building, not including any basement or parking level, unless the development is for:

- (a) the installation of services and utilities, or
- (b) the alteration of existing services and utilities.

If the development is for the purpose of an alteration to an existing balcony, deck, patio, terrace or verandah, the development must not increase the floor area or the floor level above existing ground level of the development.

Complies Yes No NA

Part 4 Attic Conversions

This Part applies to an attic conversion in a dwelling house that existed prior to 25 February 2011.

Development standards

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

- (a) must be contained entirely within the roof space, and
- (b) must not result in a change in the roof pitch, and
- (c) must have one dormer window if the building is less than 6m wide or 2 dormer windows if the building is 6m wide or more, and
- (d) the flashing or waterproofing for a dormer window must not span the roof ridge, and
- (e) if it is constructed in a heritage conservation area or a draft heritage conservation area:
 - (i) must not contain a dormer window or extend the roof in any way, and

(ii) must only have windows that are flush with the existing roof plane, and

(iii) must only have windows that are located in the existing rear roof plane, and

(iv) must only have windows that do not exceed 1.5m² in total.

(f) All dormer windows:

(i) must not have a width of more than 1.3m, and

(ii) must not exceed the height of the existing roof ridge height, and

(iii) must be set in at least 500mm from the edge of the roof, and

(iv) must be at least 200mm below the existing roof ridge height, and

(v) facing to the rear of the building, must not have a total area of more than 4m².

(g) if the land is bush fire prone, the development must conform to the specifications and requirements of the following documents that:

(i) *Planning for Bush Fire Protection* published by the NSW Rural Fire Service in December 2006,

NSW (ii) *Planning for Bush Fire Protection, Addendum: Appendix 3* published by Rural Fire Service in 2010, and

(iii) if another document is prescribed by the regulations for the purposes of section 79BA of the *Environmental Planning and Assessment Act 1979*—that document.

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

Complies Yes No NA