
Public consultation draft

State Environmental Planning Policy (Exempt and Complying Development Codes) Amendment (Housing Code) 2016 [NSW]
Schedule 1 Amendment of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008

Division 5 Tertiary development standards

3.39 Earthworks, retaining walls and structural support

(1) Excavation

Excavation for the purposes of development under this code must not exceed a maximum depth, measured from ground level (existing), of:

- (a) if located not more than 1m from any boundary—1m, and
- (b) if located more than 1m but not more than 1.5m from any boundary—2m, and
- (c) if located more than 1.5m from any boundary—3m.

- (2) Despite subclause (1), the excavation must not be more than 1m below ground level (existing) if the land is identified as Class 3 or 4 on an Acid Sulfate Soils Map or is within 40m of a waterbody (natural).

- (3) Excavation for the purposes of development under this code must be contained by a retaining wall or structural support that meets the standards on subclause (9).

(4) Fill

Fill for the purpose of development under this code must not exceed a maximum height, measured from ground level (existing) of:

- (a) if located not more than 1m from any boundary—600mm, and
- (b) if located more than 1m from any boundary—1m.

- (5) Despite subclause (4), the height of fill contained wholly within the footprint of the dwelling house or ancillary development is not limited.
- (6) Fill that is higher than 150mm above ground level (existing) and is not contained wholly within the footprint of the dwelling house or ancillary development is limited to 50% of the landscaped area of the lot.
- (7) The ground level (finished) of the fill must not be used for the purposes of measuring the height of any development erected under this Policy.
- (8) Fill must be contained by a retaining wall or structural support that meets the requirements of subclause (9).

(9) Retaining walls and structural supports

Support for earthworks must take the form of a retaining wall or other structural support that:

- (a) has been designed so as not to redirect the flow of any surface water or ground water, or cause sediment to be transported, onto an adjoining property, and
- (b) has adequate drainage lines connected to the stormwater drainage system for the site, and
- (c) does not result in a retaining wall or structural support with a total height measured vertically from the base of the retaining wall or structural support to its uppermost portion that is more than the height of the associated excavation or fill, and
- (d) is separated from any retaining wall or structural support on the site by at least 2m, measured horizontally, and
- (e) has been installed in accordance with any manufacturer's specifications, and

Public consultation draft

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- (f) if it is an embankment or batter—must have its toe or top more than 1m from any side or rear boundary.
- (10) Retaining walls or structural supports for earthworks erected under subclause (9) must be certified by a professional engineer if the earthworks are:
 - (a) more than 600mm above or below ground level (existing) within 1m of a boundary, or
 - (b) more than 1m above or below ground level (existing) and more than 1m from a boundary.

Note 1. *Excavation, fill* and *ground level (existing)* have the same meanings as they have in the Standard Instrument.

Note 2. *Complying development certificate* has the same meaning as it has in the Act.

Note 3. Fill and excavation that is not associated with a building may be exempt development under clauses 2.29 and 2.30.

3.40 Drainage

- (1) All stormwater collecting as a result of development erected, altered or added to under this code must be directed by a gravity fed or charged system to:
 - (a) a public drainage system, or
 - (b) an inter-allotment drainage system, or
 - (c) an on-site disposal system.
- (2) All stormwater drainage systems and connections to public drains or on inter-allotment drainage system must:
 - (a) if an approval is required under section 68 of the *Local Government Act 1993*—be approved under that Act, or
 - (b) comply with the requirements for the disposal of stormwater contained in the development control plan applicable to the land.

Note. *Drainage* has the same meaning as it has in the Standard Instrument.

3.41 Protecting adjoining walls

Any wall constructed within 0.9m of a lot boundary must be built in accordance with the support method proposed by the professional engineer's report provided with the application for the complying development certificate.

Note 1. *Professional engineer* is defined in clause 1.5.

Note 2. *Complying development certificate* has the same meaning as it has in the Act.

3.42 Setbacks of dwelling houses and ancillary development from protected trees

(1) Pruning and removal of trees

A complying development certificate for complying development under Division 1 is taken to satisfy any requirement under this Policy for a permit or development consent to remove or prune a tree or other vegetation on a lot if:

- (a) the tree is not listed on a register of significant trees kept by the council, and
- (b) the tree or vegetation will be within 3m of any building that has an area of more than 25m², and

Public consultation draft

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Schedule 1 Amendment of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008

- (c) the tree or vegetation has a height that is less than:
 - (i) for development that is the erection of a new dwelling house—8m and is not required to be retained as a condition of consent, or
 - (ii) in any other case—6m.

(2) **Setbacks from protected trees**

Development under this code must be at least 3m from each protected tree (measured from the base of the trunk of the tree).

- (3) Despite subclause (2), the following development can be located within 3m of a protected tree if works do not involve excavation or fill of more than 150mm below or above ground level (existing):
- (a) an access ramp,
 - (b) a driveway, pathway or paving,
 - (c) an awning, blind or canopy,
 - (d) a fence, screen, or child-resistant barrier associated with a swimming pool or spa pool.

Note 1. *Development consent* and *dwelling house* are defined in clause 1.5.

Note 2. *Council, excavation, fill, ground level (existing), spar pool* and *swimming pool* have the same meanings as they have in the Standard Instrument.

Note 3. *Complying development certificate* has the same meaning as it has in the Act.

Note 4. A separate permit or development consent may be required if the branches or roots of a protected tree on the lot or on an adjoining lot are required to be pruned or removed.

3.43 Conditions applying to complying development certificates under this code

- (1) A complying development certificate for development under this code must be issued subject to the conditions specified in Schedule 6.
- (2) A reference in any environmental planning instrument to the conditions shown in Division 3 of Part 3 of this Policy (as in force immediately before the commencement of *State Environmental Planning Policy (Exempt and Complying Development Codes) Amendment (Commercial and Industrial Development and Other Matters) 2013*) is to be construed as a reference to the conditions shown in Schedule 6 to this Policy.

Note. *Complying development certificate* and *environmental planning instrument* have the same meanings as they have in the Act.

[5] Schedule 3 Complying development codes—variations

Omit “General Housing Code” wherever occurring. Insert instead “Housing Code”.

[6] Schedule 5 Land excluded from the General Housing Code

Omit “General Housing Code” from the heading. Insert instead “Housing Code”.

[7] Schedule 6 Conditions applying to complying development certificates under the General Housing Code and the Rural Housing Code

Omit “General Housing Code” from the heading. Insert instead “Housing Code”.

[8] Schedule 6, Note 1

Omit “General Housing Code”. Insert instead “Housing Code”.

Public consultation draft

State Environmental Planning Policy (Exempt and Complying Development Codes) Amendment (Housing Code) 2016 [NSW]
Schedule 2 Amendment of Sydney Local Environmental Plan (Glebe Affordable Housing Project) 2011

Schedule 2 Amendment of Sydney Local Environmental Plan (Glebe Affordable Housing Project) 2011

Schedule 3 Complying development

Omit “Division 3 of Part 3 of” from Part 2. Insert instead “Schedule 6 to”.

Public consultation draft

State Environmental Planning Policy (Exempt and Complying Development Codes) Amendment (Housing Code) 2016 [NSW]
Schedule 3 Amendment of Sydney Local Environmental Plan (Green Square Town Centre) 2013

Schedule 3 Amendment of Sydney Local Environmental Plan (Green Square Town Centre) 2013

Schedule 3 Complying development

Omit “Division 3 of Part 3 of” from Part 2. Insert instead “Schedule 6 to”.

Public consultation draft

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Schedule 4 Amendment of Sydney Local Environmental Plan (Green Square Town Centre—Stage 2) 2013

Schedule 4 Amendment of Sydney Local Environmental Plan (Green Square Town Centre—Stage 2) 2013

Schedule 3 Complying development

Omit “Division 3 of Part 3 of” from Part 2. Insert instead “Schedule 6 to”.