

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 4 Detached development

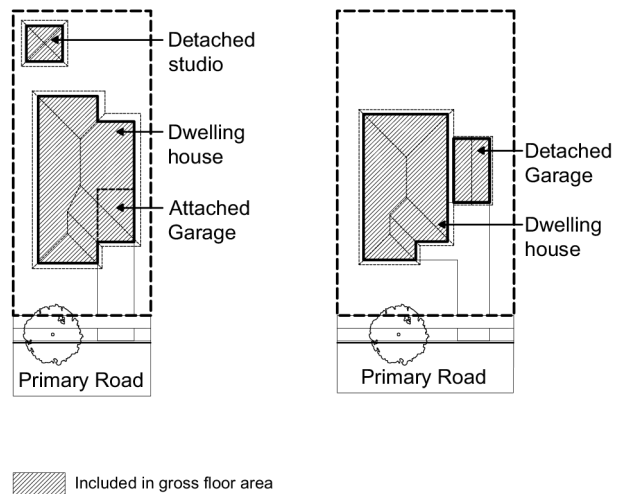
Subdivision 1 Primary development standards for detached development

3.30 Maximum gross floor area

- (1) The maximum gross floor area for all development on a lot, including detached development under this Division, is shown in the following table:

Lot size	Maximum gross floor area
200m ² –250m ²	90% of lot size
>250m ² –350m ²	85% of lot size
>350m ² –400m ²	75% of lot size
>400m ² –500m ²	65% of lot size
>500m ² –700m ²	60% of lot size
>700m ² –920m ²	50% of lot size
>920m ²	460m ²

Example for clause 3.30 (1):



- (2) When calculating the area of a battle-axe lot, the area of the access laneway is excluded.

Note. Battle-axe lot is defined in clause 1.5.

Note 2. Gross floor area has the same meaning as it has in the Standard Instrument.

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3.31 Minimum landscaped area

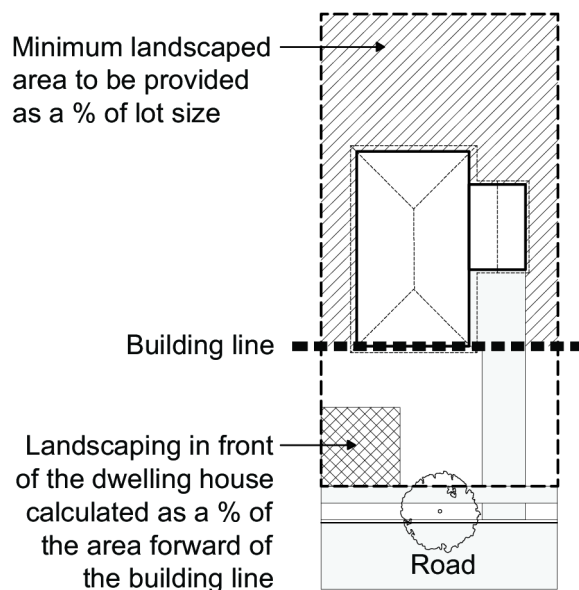
- (1) The minimum landscaped area that must be provided for development on a lot, including detached development under this Division, is shown in the following table:

Lot size	Minimum landscaped area
200m ² –300m ²	10% of lot size
>300m ² –400m ²	15% of lot size
>400m ² –500m ²	20% of lot size
>500m ² –600m ²	25% of lot size
>600m ² –750m ²	30% of lot size
>750m ² –900m ²	35% of lot size
>900m ² –1,500m ²	40% of lot size
>1,500m ²	45% of lot size

- (2) Each landscaped area must have a minimum width of 1.5m.
- (3) The percentage of the landscaped area that must be located in front of the building line is shown in the following table:

Lot width (measured at the building line)	Percentage of landscaped area in front of the building line
18m or less	25% of the minimum required landscaped area
>18m	50% of the minimum required landscaped area

Example for clause 3.31 (1) and (3):



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- (4) The minimum area of principal private open space that must be provided for development on a lot, including detached development under this Division, is shown in the following table:

Lot width (measured at the building line)	Minimum principal private open space
>6m–10m	16m ²
>10m	24m ²

Note 1. *Building line* and *principal private open space* are defined in clause 1.5.

Note 2. *Landscaped area* and *private open space* have the same meanings as they have in the Standard Instrument.

Subdivision 2 Secondary development standards for detached development

3.32 Development standards for cabanas, cubby houses, ferneries, garden sheds, gazebos and greenhouses

(1) **Maximum height**

The maximum height for a detached cabana, cubby house, fernery, garden shed, gazebo and greenhouse is 4.5m above ground level (existing).

(2) **Maximum gross floor area**

The maximum gross floor area of a detached cabana, cubby house, fernery, garden shed, gazebo and greenhouse is shown in the following table:

Lot size	Maximum gross floor area
<300m ²	36m ²
>300m ² –600m ²	45m ²
>600m ² –900m ²	60m ²
>900m ²	100m ²

(3) **Primary road setbacks**

A detached cabana, cubby house, fernery, garden shed, gazebo or greenhouse must be located behind the building line of the dwelling house that fronts any primary or secondary road.

(4) **Side setbacks**

A detached cabana, cubby house, fernery, garden shed, gazebo or greenhouse must have a minimum setback from the side boundary as shown in the following table:

Lot width at the building line	Minimum setback from each side boundary
6m–12.5m	0.9m
>12.5m–18m	0.9m
>18m–24m	1.5m

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Lot width at the building line	Minimum setback from each side boundary
>24m	2.5m

(5) **Built to boundary setbacks**

Despite subclause (4), a detached cabana, cubby house, fernery, garden shed, gazebo or greenhouse of masonry construction may be built to 1 or both side boundaries if the setback complies with the following table:

Lot width at the building line	Conditions required for built to boundary setback
6m–8m	The building may be built to both side boundaries if any wall of a building on the adjoining lot within 900mm of that boundary: (a) is of masonry construction, and (b) does not have a window facing that boundary.
>8m–12.5m	The building may be built to only 1 side boundary if any wall of a building on the adjoining lot within 900mm of that boundary: (a) is of masonry construction, and (b) does not have a window facing that boundary.

(6) **Height of built to boundary walls**

The height of a wall erected within 900mm of a side boundary must not exceed:

- (a) 3.3m above ground level (existing), or
- (b) if the height of the built to a boundary wall on an adjoining lot is higher than 3.3m—the height of that wall, but not more than 4.5m.

(7) **Maximum length of boundary walls**

The length of a wall erected within 900mm of a side boundary must not exceed the length shown in the following table:

Lot width at the building line	Maximum length of boundary wall
6m–10m	20m or 50% of the depth of the lot, whichever is the lesser
>10m–12.5m	10m

(8) Despite subclause (7), the length of a wall erected within 900mm of a lot side boundary may be longer than the length calculated under subclause (7) if it is no longer than the length of the built to boundary wall on the adjoining lot.

Note. A wall built within 900mm of a wall on an adjoining lot is subject to clause 3.41 (Protecting adjoining walls) in Division 5.

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(9) **Rear setbacks**

A detached cabana, cubby house, fernery, garden shed, gazebo or greenhouse must have a minimum setback from the rear boundary as shown in the following table:

Lot area	Minimum setback from the rear boundary
200m ² –300m ²	3m
>300m ² –900m ²	3m
>900m ² –1,500m ²	5m
>1,500m ²	10m

(10) **Setbacks from parallel roads and rear lanes**

A detached cabana, cubby house, fernery, garden shed, gazebo or greenhouse must have a minimum setback from a parallel road of 3m.

- (11) Despite subclause (9), if the lot has a rear boundary with a parallel road or a lane, a detached cabana, cubby house, fernery, garden shed, gazebo or greenhouse may abut the rear boundary for not more than 50% of the length of that boundary.

(12) **Lots with only 3 boundaries**

Subclause (9) does not apply to a lot that only has 3 boundaries.

(13) **Heritage conservation areas**

Despite any other provision of this clause, a detached cabana, cubby house, fernery, garden shed, gazebo or greenhouse may not be erected on a lot in a heritage conservation area or a draft heritage conservation area if the lot adjoins a lane, a secondary road or a parallel road.

- (14) If the lot does not adjoin a lane, a secondary road or a parallel road, the detached cabana, cubby house, fernery, garden shed, gazebo or greenhouse may be erected on the lot if it:

- (a) is located behind the rear building line of the dwelling house, and
- (b) is no closer to the side boundaries than the dwelling house, and
- (c) has a gross floor area of not more than 20m².

Note 1. *Boundary wall, building line, dwelling house, floor area, heritage conservation area, lane, parallel road, primary road, secondary road and setback* are defined in clause 1.5.

Note 2. *Gross floor area* and *ground level (existing)* have the same meanings as they have in the Standard Instrument.

3.33 Development standards for detached garages and carports

- (1) This clause:

- (a) applies to:
 - (i) a new garage or carport to be built on a lot, and
 - (ii) an extension to, or work on, an existing garage or carport behind the building line, and
- (b) does not apply to an existing garage or carport forward of the building line.

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(2) **Car parking and vehicle access requirements**

A detached garage or carport must be accessed by a driveway to a public road that is constructed in accordance with AS 2890.1:2004, *Parking facilities—Off-street car parking*.

(3) The off-street car parking space for a battle-axe lot must be constructed so that vehicles can leave the lot in a forward direction.

(4) A detached garage or carport may only be erected on a lot that has a width of less than 8m at the building line if the lot is accessed from a secondary road, a parallel road or a lane only.

(5) A carport must have 2 or more sides open and have not less than one-third of its perimeter open.

(5) **Maximum height**

The maximum height for a detached garage or carport is 4.5m above ground level (existing).

(7) **Maximum gross floor area**

The maximum gross floor area of a detached garage or carport is shown in the following table:

Lot size	Maximum gross floor area
<300m ²	36m ²
>300m ² –600m ²	45m ²
>600m ² –900m ²	60m ²
>900m ²	100m ²

(8) **Primary road setbacks**

A detached garage or carport that is accessed from a primary road must have a minimum setback as shown in the following table:

If the primary road setback of the dwelling house is	The minimum required garage or carport setback from the primary road is
<4.5m	5.5m
4.5m or more	at least 1m behind the building line of the dwelling house

(9) **Secondary road setbacks**

A detached garage or carport on a corner lot must have a minimum setback from the secondary road as shown in the following table:

Lot size	Minimum setback from primary road
200m ² –600m ²	2m
>600m ² –1,500m ²	3m
>1,500m ²	5m

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(10) **Setbacks from boundaries adjoining rear lanes**

A detached garage or carport must have a minimum setback from the rear boundary adjoining a lane as shown in the following table:

Lot area	Building height at that point	Minimum setback from the rear boundary
>200m ² –900m ²	0m–4.5m	900mm
>900m ² –1,500m ²	0m–4.5m	1.5m
>1,500m ²	0m–4.5m	2.5m

- (11) If the lot has a rear boundary with a lane, a detached garage or carport may abut the rear boundary for not more than 50% of the length of that boundary.

(12) **Setbacks from parallel roads**

A detached garage or carport must have a minimum setback from a parallel road of 3m.

- (13) If the lot has a rear boundary with a parallel road or a lane, a detached garage or carport may abut the rear boundary for not more than 50% of the length of that boundary.

(14) **Side boundary setbacks**

A detached garage or carport must have a minimum setback from the side boundary as shown in the following table:

Lot width at the building line	Minimum setback from each side boundary
6m–12.5m	0.9m
>12.5m–18m	0.9m
>18m–24m	1.5m
>24m	2.5m

(15) **Built to side boundary**

Despite subclause (14), a detached garage or carport of masonry construction may be built to 1 or both side boundaries if the setback complies with the following table:

Lot width at the building line	Conditions required for built to boundary setback
6m–8m	The building may be built to both side boundaries if any wall of a building on the adjoining lot within 900mm of that boundary: (a) is of masonry construction, and (b) does not have a window facing that boundary that is within 5m of the building.

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Lot width at the building line	Conditions required for built to boundary setback
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>8m–12.5m	The building may be built to only 1 side boundary if any wall of a building on the adjoining lot within 900mm of that boundary: <ul style="list-style-type: none">(a) is of masonry construction, and(b) does not have a window facing that boundary that is within 5m of the building.
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(16) **Height of built to boundary walls**

The height of a wall erected within 900mm of a side boundary must not exceed:

- (a) 3.3m above ground level (existing), or
- (b) if the height of the built to a boundary wall on an adjoining lot is higher than 3.3m—the height of that wall, but not more than 4.5m.

(17) **Maximum length of boundary walls**

The combined length of all walls erected within 900mm of a side boundary must not exceed the length shown in the following table:

Lot width at the building line	Maximum length of boundary wall
6m–10m	20m or 50% of the depth of the lot, whichever is the lesser
>10m–12.5m	10m

- (18) Despite subclause (17), the combined length of a wall erected within 900mm of a side boundary may exceed the length calculated under subclause (16) if it is no longer than the length of the built to boundary wall on the adjoining lot.

Note. A wall built within 900mm of a wall on an adjoining lot is subject to clause 3.41 (Protecting adjoining walls) in Division 5.

(19) **Setbacks from rear boundaries**

A detached garage or carport must have a minimum setback from the rear boundary, other than a rear boundary adjoining a lane, as shown in the following table:

Lot area	Building height at that point	Minimum setback from the rear boundary
>200m ² –900m ²	0m–4.5m	900mm
>900m ² –1,500m ²	0m–4.5m	1.5m
>1,500m ²	0m–4.5m	2.5m

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(20) **Built to rear boundary**

Despite subclause (19), a detached garage or carport of masonry construction may be built to the rear boundary if the requirements in the following table are met:

Lot area	Conditions required for built to rear boundary
>200m ² –300m ²	The building may be built to the rear boundary if any wall of a building on the adjoining lot within 900mm of that boundary: (a) is of masonry construction, and (b) does not have a window facing that boundary.

(21) **Lots with only 3 boundaries**

Subclause (19) does not apply to a lot that only has 3 boundaries.

(22) **Maximum width of garage doors**

The maximum width of all detached garage and carport door openings facing a primary, secondary or parallel road is shown in the following table:

Lot width at the building line	Maximum width of garage doors
8m–12m	3.2m
>12m	6m

(23) **Heritage conservation areas**

Despite any other provision of this clause, a detached garage or carport may not be erected on a lot in a heritage conservation area or a draft heritage conservation area if the lot adjoins a lane, a secondary road or a parallel road.

(24) If the lot does not adjoin a lane, a secondary road or a parallel road, the detached garage or carport may be erected on the lot if it:

- (a) is located behind the rear building line of the dwelling house, and
- (b) is no closer to the side boundaries than the dwelling house, and
- (c) has a gross floor area of not more than 20m².

Note 1. *Battle-axe lot, boundary wall, building line, corner lot, detached, dwelling house, floor area, heritage conservation area, lane, parallel road, primary road, secondary road* and *setback* are defined in clause 1.5.

Note 2. *Building height, gross floor area* and *ground level (existing)* have the same meanings as they have in the Standard Instrument.

3.34 Development standards for detached decks, patios, pergolas, terraces and verandahs

(1) **Maximum height**

The maximum height for a detached deck, patio, pergola, terrace or verandah is 4.5m above ground level (existing).

(2) The maximum finished floor level for a detached deck, patio, pergola, terrace or verandah is 600mm above ground level (existing).

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(3) **Maximum gross floor area**

The maximum gross floor area of a detached deck, patio, pergola, terrace or verandah is shown in the following table:

Lot size	Maximum gross floor area
<300m ²	36m ²
>300m ² –600m ²	45m ²
>600m ² –900m ²	60m ²
>900m ²	100m ²

(4) **Primary road setbacks**

A detached deck, patio, pergola, terrace or verandah must be located behind the building line of the dwelling house that fronts any primary or secondary road.

(5) **Side and rear setbacks**

A detached deck, patio, pergola, terrace or verandah must have a minimum setback from the side boundary as shown in the following table:

Lot width at the building line	Minimum setback from each side boundary
6m–12.5m	0.9m
>12.5m–18m	0.9m
>18m–24m	1.5m
>24m	2.5m

(6) **Lots with only 3 boundaries**

Subclause (5) does not apply to a lot that only has 3 boundaries.

(7) **Heritage conservation areas**

Despite any other provision of this clause, a detached deck, patio, pergola, terrace or verandah may not be erected on a lot in a heritage conservation area or a draft heritage conservation area if the lot adjoins a lane, a secondary road or a parallel road.

(8) If the lot does not adjoin a lane, a secondary road or a parallel road, the detached deck, patio, pergola, terrace or verandah may be erected on the lot if it:

- (a) is located behind the rear building line of the dwelling house, and
- (b) is no closer to the side boundaries than the dwelling house, and
- (c) has a gross floor area of not more than 20m².

Note 1. *Boundary wall, building line, detached, dwelling house, floor area, heritage conservation area, lane, parallel road, primary road, secondary road and setback* are defined in clause 1.5.

Note 2. *Building height, gross floor area and ground level (existing)* have the same meanings as they have in the Standard Instrument.

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3.35 Development standards for detached studios

(1) Maximum height

The maximum height for a detached studio is:

- (a) 4.5m above ground level (existing), or
- (b) if the detached studio is within 0.9m of a lane and is above a garage—6m.

(2) Maximum gross floor area

The maximum gross floor area of a detached studio is shown in the following table:

Lot size	Maximum gross floor area
Not more than 350m ²	20m ²
>350m ²	35m ²

(3) Primary road setbacks

A detached studio must be located behind the building line of the dwelling house fronting a primary or secondary road.

(5) Side boundary setbacks

A detached studio must have a minimum setback from each side boundary as shown in the following table:

Lot width at the building line	Minimum setback from each side boundary
6m–18m	0.9m
>18m	1.5m

(6) Side boundary setbacks for lots abutting a lane

Despite subclause (5), a detached studio that is located within 900mm of a rear lane may be built to 1 or both side boundaries if the requirements in the following table are met:

Lot width at the building line	Conditions required for built to boundary setback
6m–8m	<p>The building may be built to both side boundaries if any wall of a building on the adjoining lot within 900mm of that boundary:</p> <ul style="list-style-type: none">(a) is of masonry construction, and(b) does not have a window facing that boundary.

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Lot width at the building line	Conditions required for built to boundary setback
>8m–12.5m	The building may be built to only 1 side boundary if any wall of a building on the adjoining lot within 900mm of that boundary: (a) is of masonry construction, and (b) does not have a window facing that boundary.

(7) **Height of built to boundary walls**

The height of a wall erected within 900mm of a side boundary must not exceed:

- (a) 3.3m above ground level (existing), or
- (b) if the detached studio is above a garage—the height of the built to a boundary wall on an adjoining lot, but not more than 6m.

(8) **Maximum length of boundary walls**

The length of a wall erected within 900mm of a side boundary must not exceed the length shown in the following table:

Lot width at the building line	Maximum length of boundary wall
6m–10m	20m or 50% of the depth of the lot, whichever is the lesser
>10m–12.5m	10m

- (9) Despite subclause (8), the maximum length of a wall erected within 900mm of a lot side boundary may exceed the length calculated under subclause (6) if it is no longer than the length of the built to boundary wall on the adjoining lot.

Note. A wall built within 900mm of a wall on an adjoining lot is subject to clause 3.41 (Protecting adjoining walls) in Division 5.

(10) **Lots with only 3 boundaries**

Subclause (5) does not apply to a lot that only has 3 boundaries.

- (11) A privacy screen must be provided for any part of a window to a detached studio that is less than 1.5m above the finished floor level of that room if:

- (a) the window is less than 3m from a side or rear boundary and the room has a finished floor level more than 1m above ground level (existing), or
- (b) the window is 3–6m from a side or rear boundary and the room has a finished floor level more than 3m above ground level (existing).

(12) **Heritage conservation areas**

Despite any other provision of this clause, a detached studio may not be erected on a lot in a heritage conservation area or a draft heritage conservation area if the lot adjoins a lane, a secondary road or a parallel road.

- (13) If the lot does not adjoin a lane, a secondary road or a parallel road, the detached studio may be erected on the lot if it:

- (a) is located behind the rear building line of the dwelling house, and
- (b) is no closer to the side boundaries than the dwelling house, and

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- (c) has a gross floor area of not more than 20m².

Note 1. *Boundary wall, building line, detached, dwelling house, floor area, heritage conservation area, lane, parallel road, primary road, privacy screen, secondary road* and *setback* are defined in clause 1.5.

Note 2. *Building height, gross floor area* and *ground level (existing)* have the same meanings as they have in the Standard Instrument.

3.36 Development standards for swimming pools

- (1) A swimming pool may only be complying development under this code if it is for private use and is associated with a dwelling house.
- (2) 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.
- (3) The pump must be housed in an enclosure that is soundproofed.

(4) Height of coping and decking

Coping around a swimming pool must not be more than:

- (a) 1.4m above ground level (existing), and
 - (b) 300mm wide if the coping is more than 600mm above ground level (existing).
- (5) Decking around a swimming pool must not be more than 600mm above ground level (existing).
 - (6) A swimming pool must be located behind the building line of the dwelling house.
 - (7) The swimming pool water line must have a setback of at least 1m from a side or rear boundary.

(8) Heritage conservation areas

Despite subclauses (6) and (7), if the swimming pool is being constructed in a heritage conservation area or a draft heritage conservation area the swimming pool must be located:

- (a) behind the rear most building line of the dwelling house, and
- (b) no closer to each side boundary than the dwelling house.

Note 1. *Building line, dwelling house, heritage conservation area* and *setback* are defined in clause 1.5.

Note 2. *Ground level (existing)* has the same meaning as it has in the Standard Instrument.

3.37 Development standards for fences

- (1) A fence may be erected on a lot under this code if it is not constructed or installed:
 - (a) on a lot, or along a common boundary of a lot that contains a heritage item or a draft heritage item, or
 - (b) along the boundary of, or within the setback area of, a primary or secondary road within a heritage conservation area or draft heritage conservation area.
- (2) A fence erected behind the building line on a lot must:
 - (a) not be higher than 1.8m above ground level (existing), and
 - (b) not incorporate barbed wire in its construction or be electrified, and

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- (c) if it includes an entrance gate—not have a gate that opens outward, and
 - (d) if it is constructed of metal components—be of low reflective, factory pre-coloured materials, and
 - (e) if it is on a sloping site and stepped to accommodate the fall in the land—be no higher than 2.2m above ground level (existing) at each step.
- (3) A fence erected forward of the building line on a lot must:
 - (a) not be higher than 1.2m above ground level (existing), and
 - (b) not incorporate barbed wire in its construction or be electrified, and
 - (c) if it includes an entrance gate—not have a gate that opens outward, and
 - (d) if it is constructed of metal components—be of low reflective, factory pre-coloured materials, and
 - (e) be open for at least 20% of the area of the fence that is more than 400mm above ground level (existing), with any individual solid element of the fence above that height being no more than 350mm wide with a minimum aperture of 25mm.
- (4) Despite subclauses (2) (a) and (3) (a), any fence located in the setback area of a primary or secondary road must not be higher than 1.2m above ground level (existing).

Note 1. *Building line, primary road, secondary road* and *setback* are defined in clause 1.5.

Note 2. *Ground level (existing)* and *heritage item* have the same meanings as they have in the Standard Instrument.

3.38 Exceptions to setbacks

- (1) The side and rear setback requirements of this code do not apply to the following development:
 - (a) if it is located at least 450mm from the relevant boundary—any aerial, antenna, awning, eave, flue, chimney, pipe, cooling or heating appliance, any rainwater tank greater than 1.8m in height or any other structure associated with the provision of a utility service,
 - (b) any fence, fascia, gutter, downpipe, light fitting, electricity or gas meter, driveway, hard stand space, pathway or paving.
- (2) Road setbacks must be measured from the outer face of the building wall.
- (3) The outer face of the building wall does not include any of the following development:
 - (a) a driveway, fence, hard stand space, pathway, paving or retaining wall,
 - (b) building elements that are permitted within a primary or secondary articulation zone.
- (4) **Built to boundary walls**

The length and height of a built to boundary wall erected under any clause of this Division may be longer than the length and height specified in that clause if it is of the same or lesser length and height of an adjoining wall on an adjoining lot that is subject to the same complying development certificate.

Note. Under clause 126 (4) of the *Environmental Planning and Assessment Regulation 2000* a complying development certificate may be issued over more than 1 lot.

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

(5) **Classified roads**

Despite any other clause of this Division, development carried out under this Division must have a setback from a boundary with a classified road of at least:

- (a) the setback distance for a dwelling house from a classified road set by any other environmental planning instrument applying to the lot, or
- (b) in any other case—9m.

(6) **Public reserves roads**

Despite any other clause of this Division, development carried out under this Division must have a setback of at least 3m from a boundary with a public reserve.

Note 1. *Articulation zone*, *boundary wall*, *building line*, *dwelling house* and *setback* are defined in clause 1.5.

Note 2. *Classified road*, *public reserve* and *rainwater tank* 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.