



New South Wales

State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017

under the

Environmental Planning and Assessment Act 1979

[The following enacting formula will be included if this Policy is made:]

His Excellency the Governor, with the advice of the Executive Council, has made the following State environmental planning policy under the *Environmental Planning and Assessment Act 1979* in accordance with the recommendation made by the Minister for Planning.

Minister for Planning

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State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017

under the

Environmental Planning and Assessment Act 1979

Part 1 Preliminary

1 Name of Policy

This Policy is *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017*.

2 Commencement

This Policy commences on the day on which it is published on the NSW legislation website.

3 Aims of Policy

The aim of this Policy is to facilitate the effective delivery of educational establishments and early childhood education and care facilities across the State by:

- (a) improving regulatory certainty and efficiency through a consistent planning regime for educational establishments and early childhood education and care facilities, and
- (b) simplifying and standardising planning approval pathways for educational establishments and early childhood education and care facilities (including identifying certain development of minimal environmental impact as exempt development), and
- (c) establishing consistent State-wide assessment requirements and design considerations for educational establishments and early childhood education and care facilities to improve the quality of infrastructure delivered and to minimise impacts on surrounding areas, and
- (d) allowing for the efficient development, redevelopment or use of surplus government-owned land, and
- (e) providing for consultation with relevant public authorities about certain development during the assessment process or prior to development commencing, and
- (f) aligning the NSW planning framework with the National Quality Framework that regulates early childhood education and care services, and
- (g) ensuring that proponents of new developments or modified premises meet the applicable requirements of the National Quality Framework for early childhood education and care services, and of the corresponding regime for State regulated education and care services, as part of the planning approval and development process.

4 Land to which Policy applies

This Policy applies to the State.

5 Definitions

- (1) 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.

Note. In particular, the following terms are as defined by the Standard Instrument:

centre-based child care means a building or place used for the education and care of children that provides any one or more of the following:

- (a) long day care,
- (b) occasional child care,
- (c) out-of-school-hours care (including vacation care),
- (d) preschool care,
- (e) a family day care service (within the meaning of the *Children (Education and Care Services) National Law (NSW)*),

but does not include:

- (f) a building or place used for home-based child care or school-based child care, or
- (g) an office of a family day care service, or
- (h) a babysitting, playgroup or child-minding service that is organised informally by the parents of the children concerned, or
- (i) a child-minding service that is provided in connection with a recreational or commercial facility (such as a gymnasium) to care for children while the children's parents are using the facility, or
- (j) a service that is concerned primarily with the provision of private tutoring, or lessons or coaching in, or providing for participation in, a cultural, recreational, religious or sporting activity, or
- (k) a child-minding service that is provided by or in a health services facility, but only if the service is established, registered or licensed as part of the institution operating in the facility.

early childhood education and care facility means a building or place used for the education and care of children, and includes any of the following:

- (a) centre-based child care,
- (b) home-based child care,
- (c) school-based child care.

educational establishment means a building or place used for education (including teaching), being:

- (a) a school, or
- (b) a tertiary institution, including a university or a TAFE establishment, that provides formal education and is constituted by or under an Act.

gross floor area 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 1.4 metres above the floor, and includes:

- (a) the area of a mezzanine, and
- (b) habitable rooms in a basement or an attic, and
- (c) any shop, auditorium, cinema, and the like, in a basement or attic,

but excludes:

- (d) any area for common vertical circulation, such as lifts and stairs, and
- (e) any basement:
 - (i) storage, and
 - (ii) vehicular access, loading areas, garbage and services, and
- (f) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and
- (g) car parking to meet any requirements of the consent authority (including access to that car parking), and
- (h) any space used for the loading or unloading of goods (including access to it), and

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- (i) terraces and balconies with outer walls less than 1.4 metres high, and
- (j) voids above a floor at the level of a storey or storey above.

ground level (existing) means the existing level of a site at any point.

home-based child care means:

- (a) a family day care residence (within the meaning of the *Children (Education and Care Services) National Law (NSW)*), or
- (b) a dwelling used for the purposes of a home based education and care service (within the meaning of the *Children (Education and Care Services) Supplementary Provisions Act 2011*),

if the number of children (including any children who reside at the dwelling) does not at any one time exceed 7 children under the age of 13 years, including no more than 4 who do not ordinarily attend school.

school means a government school or non-government school within the meaning of the *Education Act 1990*.

school-based child care means a building or place within a school that is used to provide out-of-school-hours care (including vacation care) for school children.

(2) In this Policy:

appropriately qualified arborist means an arborist with a minimum AQF level 5 in Arboriculture under the Australian Qualifications Framework (within the meaning of section 7 of the *Higher Education Act 2001*).

Blue Book means *Managing Urban Stormwater: Soils and Construction* (4th edition, Landcom, 2004), as in force at the commencement of this Policy.

Child Care Planning Guideline means the document titled *Child Care Planning Guideline: Planning and designing quality child care facilities in NSW*, published in the Gazette by the Secretary on [date to be inserted].

consent means development consent.

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.

draft heritage item means a building, work, place, tree, archaeological site or Aboriginal object that is identified as a heritage item in a local environmental plan that has been subject to community consultation.

environmental management works means:

- (a) works for the purpose of avoiding, reducing, minimising or managing the environmental effects of development (including effects on water, soil, air, biodiversity, traffic or amenity), and
- (b) environmental protection works.

heritage conservation area means land identified as a heritage conservation area or place of Aboriginal significance (or by a similar description) in an environmental planning instrument.

local heritage item means:

- (a) a building, work, place, relic, tree, archaeological site or Aboriginal object that is identified as a heritage item (or by a similar description) in a local environmental plan, or
- (b) an item of local heritage significance, as defined by the *Heritage Act 1977*, that is the subject of an interim heritage order in force under that Act or is listed as an item of local heritage significance on the State Heritage Inventory under that Act.

National Quality Framework means the national education and care services quality framework within the meaning of the *Children (Education and Care Services) National Law (NSW)*.

rail corridor means land:

- (a) that is owned, leased, managed or controlled by a public authority for the purpose of a railway or rail infrastructure facilities, or
- (b) that is zoned under an environmental planning instrument predominantly or solely for development for the purpose of a railway or rail infrastructure facilities, or
- (c) in respect of which the Minister has granted approval under Part 3A or Part 5.1 or (before its repeal) Division 4 of Part 5 of the Act, or consent under Part 4 of the Act, for the carrying out of development (or for a concept plan for a project comprising or including development) for the purpose of a railway or rail infrastructure facilities.

Note. Copies of the Minister's approvals are available on the website of the Department of Planning.

rail infrastructure facilities include:

- (a) railway tracks, associated track structures, cuttings, drainage systems, fences, tunnels, ventilation shafts, emergency accessways, bridges, embankments, level crossings and roads, pedestrian and cycleway facilities, and
- (b) signalling, train control, communication and security systems, and
- (c) power supply (including overhead power supply) systems, and
- (d) railway stations, station platforms and areas in a station complex that commuters use to get access to the platforms, and
- (e) public amenities for commuters, and
- (f) associated public transport facilities for railway stations, and
- (g) maintenance, repair and stabling facilities for rolling stock, and
- (h) refuelling depots, garages, maintenance facilities and storage facilities that are for the purposes of a railway, and
- (i) railway workers' facilities, and
- (j) rail freight terminals, sidings and freight intermodal facilities,

but do not include buildings or works that are for residential, retail or business purposes and unrelated to railway purposes.

railway station includes any station for a metro railway (within the meaning of the *Transport Administration Act 1988*).

site compatibility certificate means a certificate issued under clause 13 (5).

Standard Instrument means the standard local environmental planning instrument prescribed by the *Standard Instrument (Local Environmental Plans) Order 2006* made under the Act.

State heritage item means an item of State heritage significance, as defined by the *Heritage Act 1977*, that is the subject of an interim heritage order in force under that Act or listed on the State Heritage Register under that Act.

State land means:

- (a) Crown land within the meaning of the *Crown Lands Act 1989*, or
- (b) any other land of the Crown or vested in a Minister on behalf of the Crown, or
- (c) land owned by a public authority other than:
 - (i) a council or other body established under the *Local Government Act 1993*, or
 - (ii) (to the extent that it is prescribed as a public authority under the Act) a non-government school.

TAFE establishment has the same meaning as in the *Technical and Further Education Commission Act 1990*.

tertiary institution means a tertiary institution, including a university or a TAFE establishment, that provides formal education and is constituted by or under an Act.

the Act means the *Environmental Planning and Assessment Act 1979*.

the Regulation means the *Environmental Planning and Assessment Regulation 2000*.

university means an Australian university within the meaning of the *Higher Education Act 2001*.

- (3) If this Policy provides that development for a particular purpose that may be carried out without consent includes **construction works**, the following works or activities are (subject to and without limiting that provision) taken to be construction works if they are carried out for that purpose:
- (a) accessways,
 - (b) temporary construction yards,
 - (c) temporary lay-down areas for materials or equipment,
 - (d) temporary structures,
 - (e) conduct of investigations,
 - (f) subject to any other law, clearing of vegetation (including any necessary cutting, lopping, ringbarking or removal of trees) and associated rectification and landscaping,
 - (g) demolition,
 - (h) relocation or removal of infrastructure,
 - (i) extraction of extractive materials at the construction site solely for the purpose of the construction.
- (4) A reference in this Policy to an existing educational establishment or early childhood education and care facility or other building or facility is a reference to one that is being lawfully used for the purpose concerned.
- (5) A reference in this Policy:
- (a) to a development application, includes a reference to an application for modification to a development consent, and
 - (b) to development consent, includes a reference to the grant of an application for modification to a development consent.
- (6) 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 33A (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 33A (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.
- (7) For the purposes of this Policy, and despite any other provision of this Policy, development that is subject to a precondition that must be satisfied before it may be carried out is not development that may be carried out without consent under this Policy until the precondition is satisfied.

- (8) Notes included in this Policy do not form part of this Policy.

Note. The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Policy.

6 Relationship to other environmental planning instruments

- (1) Subject to subclause (2), if there is an inconsistency between this Policy and another environmental planning instrument, whether made before or after the commencement of this Policy, this Policy prevails to the extent of the inconsistency.
- (2) If there is an inconsistency between this Policy and any of the following Policies, the other Policy prevails to the extent of the inconsistency:

State Environmental Planning Policy (Coastal Management) 2016 [On exhibition],

Drafting note 2.1 *The State Environmental Planning Policy (Coastal Management) 2016 has not been made but is currently on exhibition.*

State Environmental Planning Policy (State and Regional Development) 2011,
State Environmental Planning Policy (Three Ports) 2013.

- (3) The fact that another environmental planning instrument (other than one referred to in subclause (2)) and this Policy specify the same development as either exempt or complying development does not of itself make this Policy and the instrument inconsistent for the purposes of subclause (1). Accordingly, that development may be carried out under this Policy or that other instrument.

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.

7 Review of Policy

The Minister must ensure that the provisions of this Policy are reviewed:

- (a) as soon as is reasonably practicable after the first anniversary of the commencement of this Policy, and
- (b) as soon as is reasonably practicable:
- (i) after any review of the National Quality Framework undertaken by the Federal, State and Territory Governments, or
 - (ii) after the end of each 5-year period following the commencement of this Policy, if no review of the National Quality Framework referred to in subparagraph (i) occurs within that period.

Part 2 General

Division 1 Consultation and notification

8 Consultation with councils—development with impacts on council-related infrastructure or services

- (1) This clause applies to development carried out by or on behalf of a public authority that this Policy provides may be carried out without consent if, in the opinion of the public authority, the development:
 - (a) will have a substantial impact on stormwater management services provided by a council, or
 - (b) is likely to generate traffic to an extent that will strain the capacity of the road system in a local government area, or
 - (c) involves connection to, and a substantial impact on the capacity of, any part of a sewerage system owned by a council, or
 - (d) involves connection to, and use of a substantial volume of water from, any part of a water supply system owned by a council, or
 - (e) involves the installation of a temporary structure on, or the enclosing of, a public place that is under a council's management or control that is likely to cause a disruption to pedestrian or vehicular traffic that is not minor or inconsequential, or
 - (f) involves excavation that is not minor or inconsequential of the surface of, or a footpath adjacent to, a road for which a council is the roads authority under the *Roads Act 1993* (if the public authority that is carrying out the development, or on whose behalf it is being carried out, is not responsible for the maintenance of the road or footpath).
- (2) A public authority, or a person acting on behalf of a public authority, must not carry out development to which this clause applies unless the authority or the person has:
 - (a) given written notice of the intention to carry out the development (together with a scope of works) to the council for the area in which the land is located, and
 - (b) taken into consideration any response to the notice that is received from the council within 21 days after the notice is given.

9 Consultation with councils—development with impacts on local heritage

- (1) This clause applies to development carried out by or on behalf of a public authority if the development:
 - (a) is likely to affect the heritage significance of a local heritage item, or of a heritage conservation area, that is not also a State heritage item in a way that is more than minimal, and
 - (b) is development that this Policy provides may be carried out without consent.
- (2) A public authority, or a person acting on behalf of a public authority, must not carry out development to which this clause applies unless the authority or the person has:
 - (a) had an assessment of the impact prepared, and
 - (b) given written notice of the intention to carry out the development, with a copy of the assessment and a scope of works, to the council for the area in which the heritage item or heritage conservation area (or the relevant part of such an area) is located, and

- (c) taken into consideration any response to the notice that is received from the council within 21 days after the notice is given.

10 Notification of councils and State Emergency Service—development on flood liable land

- (1) A public authority, or a person acting on behalf of a public authority, must not carry out, on flood liable land, development that this Policy provides may be carried out without consent and that will change flood patterns other than to a minor extent unless the authority or person has:
 - (a) given written notice of the intention to carry out the development (together with a scope of works) to the council for the area in which the land is located and the State Emergency Service, and
 - (b) taken into consideration any response to the notice that is received from the council within 21 days after the notice is given.
- (2) In this clause, **flood liable land** means land that is susceptible to flooding by the probable maximum flood event, identified in accordance with the principles set out in the manual titled *Floodplain Development Manual: the management of flood liable land* published by the New South Wales Government and as in force from time to time.

11 Consultation with public authorities other than councils

- (1) A public authority, or a person acting on behalf of a public authority, must not carry out specified development that this Policy provides may be carried out without consent unless the authority or person has:
 - (a) given written notice of the intention to carry out the development (together with a scope of works) to the specified authority in relation to the development, and
 - (b) taken into consideration any response to the notice that is received from that authority within 21 days after the notice is given.
- (2) For the purposes of subclause (1), the following development is **specified development** and the following authorities are **specified authorities** in relation to that development:
 - (a) development adjacent to land reserved under the *National Parks and Wildlife Act 1974* or acquired under Part 11 of that Act—the Office of Environment and Heritage,
 - (b) development adjacent to a marine park declared under the *Marine Estate Management Act 2014*—the Marine Estate Management Authority,
 - (c) development adjacent to an aquatic reserve declared under the *Marine Estate Management Act 2014*—the Department of Industry, Skills and Regional Development,
 - (d) development in the foreshore area within the meaning of the *Place Management NSW Act 1998*—Place Management NSW,
 - (e) development for the purposes of an educational establishment or school-based child care in an area that is bush fire prone land (as defined by the Act)—the NSW Rural Fire Service,

Note. The Act defines **bush fire prone land**, in relation to an area, as land recorded for the time being as bush fire prone land on a map certified as referred to in section 146 (2) of the Act.

Note. When carrying out development of a kind referred to in paragraph (e), consideration should be given to the publication of the NSW Rural Fire Service, titled *Planning for Bush Fire Protection*, 2006.

- (f) development for the purpose of an existing school:
 - (i) that is adjacent to a classified road, and
 - (ii) that will result in the school being able to accommodate 50 or more additional students,Roads and Maritime Service,
- (g) development on land immediately adjacent to a rail corridor that:
 - (i) is likely to have an adverse effect on rail safety, or
 - (ii) if the rail corridor concerned is used by electric trains, involves the placing of a metal finish on a structure, or
 - (iii) involves the use of a crane in air space above any rail corridor,the chief executive officer of the rail authority for the rail corridor,
- (h) development that may increase the amount of artificial light in the night sky and that is on land within the dark sky region as identified on the dark sky region map—the Director of the Observatory,
Note. The dark sky region is land within 200 kilometres of the Siding Spring Observatory.
- (i) development on land in a mine subsidence district within the meaning of the *Mine Subsidence Compensation Act 1961*—the Mine Subsidence Board.

(3) In this clause:

ARTC means Australian Rail Track Corporation Ltd (ACN 081 455 754).

ARTC arrangement means a lease, licence agreement or other arrangement under Part 8A of the *Transport Administration Act 1988*.

dark sky region map means the map marked “Dark Sky Region Map” held in the head office of the Department of Planning and Environment.

rail authority for a rail corridor means:

- (a) in relation to a rail corridor that is vested in or owned by ARTC or is the subject of an ARTC arrangement—the chief executive officer of ARTC, and
- (b) in relation to a rail corridor that is vested in or owned by RailCorp—the Chief Executive of RailCorp, and
- (c) in relation to any other rail corridor—the Secretary of the Department of Transport.

RailCorp means Rail Corporation New South Wales constituted under the *Transport Administration Act 1988*.

Note. Clause 18A (2) of *State Environmental Planning Policy (Sydney Region Growth Centres) 2006* requires public authorities (or persons acting on their behalf) to consult with the Department of Planning and Environment before carrying out any development comprising the clearing of native vegetation on certain land within a growth centre (within the meaning of that Policy). The land concerned is land other than the subject land (within the meaning of Part 7 of Schedule 7 to the *Threatened Species Conservation Act 1995*). The subject land is generally land to which precinct plans apply under that Policy.

12 Exceptions

- (1) Clauses 8–11 do not apply with respect to development to the extent that:
 - (a) they would require notice of the intention to carry out the development to be given to a council or public authority from whom an approval is required in order for the development to be carried out lawfully, or
 - (b) they would require notice to be given to a council or public authority with whom the public authority that is carrying out the development, or on whose behalf it is being carried out, has an agreed consultation protocol that applies to the development, or

- (c) they would require notice to be given to a council or public authority that is carrying out the development or on whose behalf it is being carried out, or
 - (d) the development is exempt development under any environmental planning instrument (including this Policy), or
 - (e) the development comprises emergency works that:
 - (i) involve no greater disturbance to soil or vegetation than necessary, and
 - (ii) are carried out in accordance with all applicable requirements of the Blue Book, or
 - (f) the development is in connection with a registered non-government school and is carried out in accordance with an approved code (within the meaning of section 111A of the Act) that applies to the development.
- (2) In this clause:
- approval** means any licence, permission or any form of authorisation, other than development consent, under any other law.
- consultation protocol** means an arrangement that:
- (a) is about when and how the parties to the arrangement will consult one another about proposed development, and
 - (b) is recorded in writing, and
 - (c) is approved in writing on behalf of any public authority that is a party to the arrangement by a person who is authorised to do so.
- emergency works** means works for the purpose of maintaining or restoring an educational establishment or early childhood education and care facility, or equipment, in order to ensure public safety or to protect buildings or the environment due to:
- (a) a sudden natural event, including a storm, flood, tree fall, bush fire, land slip or coastal inundation, or
 - (b) accident, equipment failure or structural collapse, or
 - (c) damage caused by vandalism or arson.

Division 2 Site compatibility certificates

13 Site compatibility certificates

- (1) An application for a site compatibility certificate for the purpose of clause 14 may be made to the relevant planning panel:
 - (a) by the owner of the land on which the development is proposed to be carried out, or
 - (b) by any other person with the consent of the owner of that land.
- (2) An application under this clause:
 - (a) must be in writing in the form approved by the relevant planning panel, and
 - (b) must be accompanied by:
 - (i) information demonstrating that the proposal is not inconsistent with the relevant district plan made under Part 3B of the Act (***district plan***), and
 - (ii) any other document or information required by the relevant planning panel to accompany the application, and
 - (c) must be accompanied by the fee, if any, prescribed by the regulations.
- (3) The relevant planning panel may request further documents and information to be furnished in connection with an application under this clause.

- (4) Within 7 days after the application is made, the relevant planning panel must provide a copy of the application to the council for the area in which the development concerned is proposed to be carried out, unless the relevant planning panel refuses, before those 7 days have elapsed, to issue a certificate.
- (5) Subject to subclause (6), the relevant planning panel may determine the application by issuing a certificate or refusing to do so.
- (6) The relevant planning panel must not issue a certificate unless the relevant planning panel:
 - (a) has taken into account any comments received from the council within 21 days after the application for the certificate was made, and
 - (b) is of the opinion that the development concerned is compatible with the surrounding land uses having regard to the following matters:
 - (i) the existing uses and approved uses of land in the vicinity of the development,
 - (ii) the impact that the development (including its bulk and scale) is likely to have on the existing uses, approved uses and uses that, in the opinion of the relevant planning panel, are likely to be the preferred future uses of that land,
 - (iii) the services and infrastructure that are or will be available to meet the demands arising from the development, and
 - (c) is of the opinion that the development concerned is not likely to have an adverse effect on the environment and does not cause any unacceptable environmental risks to the land, and
 - (d) is of the opinion that the development concerned is in the public interest, and will deliver social, economic and environmental benefits to the wider community, and
 - (e) is of the opinion that the development concerned is consistent with the relevant district plan.
- (7) A certificate may certify that the development to which it relates is compatible with the surrounding land uses only if it satisfies certain requirements specified in the certificate.
- (8) A certificate continues to apply to the land in respect of which it was issued despite any change in the ownership of that land.
- (9) A certificate is valid for 5 years or such other period specified in the certificate.
- (10) In this clause:

relevant planning panel means the following:

- (a) a joint regional planning panel constituted under section 23G of the Act for the particular part of the State concerned,
- (b) (by operation of Part 3 of the *Greater Sydney Commission Act 2015*) a Sydney planning panel constituted for the part of the Greater Sydney Region concerned.

Note. Part 3 of the *Greater Sydney Commission Act 2015* provides that a Sydney planning panel constituted under that Part is taken to be a joint regional planning panel under and for the purposes of the *Environmental Planning and Assessment Act 1979* and the instruments made under that Act (including this Policy).

Division 3 Additional uses of State land

Note. Consent for development under this Division may be granted only if the development is the subject of a certificate of the relevant planning panel certifying that the development is compatible with surrounding land uses.

14 Additional uses of certain State land permitted

- (1) In this clause, *prescribed State land* means State land that is:
 - (a) not zoned for conservation purposes under an environmental planning instrument, and
 - (b) not a forestry area within the meaning of the *Forestry Act 2012*, and
 - (c) not reserved under the *National Parks and Wildlife Act 1974*, and
 - (d) not reserved under the *Crown Lands Act 1989* for a public purpose that, in the opinion of the relevant planning panel, is an environmental protection or nature conservation purpose.
- (2) Development for a purpose that is permitted without consent on land by the zoning of that land may be carried out without consent on adjacent land that is prescribed State land despite any local environmental plan applying to that adjacent land.

Note. This subclause and subclause (3) apply whether or not the land to which the relevant zoning applies and the adjacent State land (or former State land) are subject to the same environmental planning instruments.
- (3) Development for a purpose that is permitted with consent on land by the zoning of that land may be carried out with consent on adjacent land, despite any local environmental plan applying to that adjacent land, if:
 - (a) there is a valid site compatibility certificate applying to the development, and
 - (b) the adjacent land was prescribed State land when the relevant planning panel issued the certificate.
- (4) However, subclause (3) does not apply in relation to the development if the adjacent land concerned is no longer prescribed State land because it is:
 - (a) a forestry area within the meaning of the *Forestry Act 2012*, or
 - (b) reserved under the *National Parks and Wildlife Act 1974*, or
 - (c) reserved under the *Crown Lands Act 1989* for a public purpose that, in the opinion of the relevant planning panel, is an environmental protection or nature conservation purpose.
- (5) This Policy does not:
 - (a) prevent a consent authority from:
 - (i) granting consent for development on land by reference to site and design features that are more stringent than those identified in a site compatibility certificate for the same land, or
 - (ii) refusing to grant consent for development on the grounds of the consent authority's own assessment of the compatibility of the development with the surrounding land uses, or
 - (b) otherwise limit the matters to which a consent authority may have regard in determining a development application for development to which this clause applies.
- (6) Land is adjacent to other land for the purpose of this clause even if it is separated from that other land by a road, or road related area, as defined by the *Road Transport Act 2013*.

- (7) In this clause, a reference to land ***zoned for conservation purposes*** means land in any of the following land use zones:
- (a) Zone RE1 Public Recreation,
 - (b) Zone E1 National Parks and Nature Reserves,
 - (c) Zone E2 Environmental Conservation,
 - (d) Zone W1 Natural Waterways.
- (8) In this clause:
relevant planning panel has the same meaning as it has in clause 13.

Division 4 Exempt development

Note 1. Section 76 of the Act contains requirements applying to exempt development.

Note 2. In addition to the requirements set out in this Policy in relation to exempt development, adjoining owners' property rights, the applicable common law and other legislative requirements for approvals, licences, permits and authorities still apply. For example, requirements relevant to the kind of exempt development concerned may be contained in the Act, the *Environmental Planning and Assessment Regulation 2000*, various State environmental planning policies, the *Protection of the Environment Operations Act 1997*, the *Roads Act 1993* and Acts applying to various infrastructure authorities. If the development is in proximity to infrastructure, including water, stormwater and sewer mains, electricity power lines and telecommunications facilities, the relevant infrastructure authority should be contacted before commencing the development.

15 General requirements for exempt development

- (1) This clause applies to any development that this Policy provides is exempt development.
- Note.** Clause 16 and other provisions of this Policy identify kinds of development that are exempt development if they meet the requirements of this clause.
- (2) Development that is specified in an exempt development code that meets the standards specified for that development and that complies with the requirements of this Division for exempt development is exempt development for the purposes of this Policy.
- (3) To be exempt development, 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:
 - (i) cause the building to contravene the *Building Code of Australia*, or
 - (ii) compromise the fire safety of the building or affect access to any fire exit, and
 - (c) must be carried out in accordance with all relevant requirements of the Blue Book, and
 - (d) must not be designated development, and
- Note.** Designated development is defined in section 77A of the Act as development that is declared to be designated development by an environmental planning instrument or the regulations.
- (e) if it is likely to affect a State or local heritage item or a heritage conservation area—must involve no more than minimal impact on the heritage significance of the item or area, and be in accordance with any applicable heritage conservation management plan, and
 - (f) must be installed in accordance with the manufacturer's specifications, if applicable, and

- (g) must not involve the removal or pruning of a tree or other vegetation that requires a permit or development consent for removal or pruning, unless that removal or pruning is undertaken in accordance with a permit or development consent, and

Note. A permit for the removal or pruning of a tree or other vegetation may be granted under a local environmental plan. A development consent for the removal of native vegetation may be granted under the *Native Vegetation Act 2003*.

- (h) must not involve the removal of asbestos, unless that removal is undertaken in accordance with *How To Safely Remove Asbestos: Code of Practice* (ISBN 978-0-642-33317-9) published by Safe Work Australia.

- (4) In this clause:

exempt development code means any of the following codes:

- (a) the General Exempt Development Code set out in Division 1 of Part 2 of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*,
- (b) the Advertising and Signage Exempt Development Code set out in Division 2 of Part 2 of that Policy,
- (c) the Temporary Uses and Structures Exempt Development Code set out in Division 3 of Part 2 of that Policy.

Note. A service approval is required to operate an early childhood education and care facility that is an education and care service to which the *Children (Education and Care Services) National Law (NSW)* applies or a State regulated education and care service to which the *Children (Education and Care Services) Supplementary Provisions Act 2011* applies. Approved services are subject to various operational requirements under that legislation, including requirements for the physical environment of the approved service.

16 Exempt development for Schedule 1 purposes carried out by public authorities in connection with educational establishments

Development for a purpose specified in Schedule 1 is exempt development if:

- (a) it is carried out by or on behalf of a public authority in connection with an existing educational establishment, and
- (b) it meets the development standards for the development specified in Schedule 1.

Note. Exempt development must also comply with the general requirements in clause 15.

Division 5 Complying development

17 General requirements for complying development

- (1) This clause applies to any development that this Policy provides is complying development.
- (2) To be complying development, the development must:
 - (a) meet the general requirements for complying development set out in clause 1.17A of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, and
 - (b) not be exempt development under this Policy, and
 - (c) be permissible, with consent, under an environmental planning instrument applying to the land on which the development is carried out, and

Note. Accordingly, development that is permitted to be carried out without consent is not complying development.

- (d) meet the relevant provisions of the *Building Code of Australia*, and

- (e) before the complying development certificate is issued, have written consent from the relevant roads authority, if required by the *Roads Act 1993*:
 - (i) for each opening of a public road required by the development, and
 - (ii) to operate or store machinery, materials or waste required by the development on a road or footpath reserve, and
- (f) 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 149 (2) of the Act.

- (g) not involve the removal or pruning of a tree or other vegetation that requires a permit or development consent for removal or pruning, unless that removal or pruning is undertaken in accordance with a permit or development consent, and

Note. A permit for the removal or pruning of a tree or other vegetation may be granted under a local environmental plan. A development consent for the removal of native vegetation may be granted under the *Native Vegetation Act 2003*.

- (h) not be carried out within 1 metre of any public sewer, if the development comprises the erection of a building, except with the written approval of the authority that has management or control of that sewer, and
- (i) if it is on land that is:
 - (i) within or above a rail corridor, or
 - (ii) within 25 metres (measured horizontally) of a rail corridor, or
 - (iii) within 25 metres (measured horizontally) of the ground directly above an underground rail corridor,not involve excavation to a depth greater than 2 metres below ground level (existing) on the land, and
- (j) if it is on land that is in or immediately adjacent to a rail corridor, must not involve the use of a crane in the air space above any rail corridor.

Note. A service approval is required to operate an early childhood education and care facility that is an education and care service to which the *Children (Education and Care Services) National Law (NSW)* applies or a State regulated education and care service to which the *Children (Education and Care Services) Supplementary Provisions Act 2011* applies. Approved services are subject to various operational requirements under that legislation, including requirements for the physical environment of the approved service.

18 Development affecting certain trees or vegetation

Complying development under this Policy is not required to satisfy the requirements of clause 17 (2) (g) in respect of the removal or pruning of a tree or other vegetation if:

- (a) in the case of any tree, it is not listed on a significant tree register or register of significant trees kept by the council, and
- (b) the tree or vegetation is within 3 metres of the development, and
- (c) the tree or vegetation has a height that is less than 8 metres.

19 General conditions of complying development certificates

Note. The *Protection of the Environment Operations Act 1997* and the *Protection of the Environment Operations (Noise Control) Regulation 2008* contain provisions relating to noise.

(1) General

A complying development certificate for complying development under this Policy is subject to the conditions specified in this clause.

Note. The regulations made under the Act contain additional conditions of a complying development certificate, including conditions relating to the *Building Code of Australia*, requirements under the *Home Building Act 1989*, BASIX and asbestos removal.

(2) Conditions applying before works commence

A temporary hoarding or temporary construction site fence must be erected between the work site and adjoining land before the works begin and must be kept in place until after the completion of works if the works:

- (a) could cause a danger, obstruction or inconvenience to pedestrian or vehicular traffic, or
- (b) could cause damage to adjoining land by falling objects, or
- (c) involve the enclosure of a public place or part of a public place.

Note. See the entry for hoardings in Schedule 1. See also the entry for scaffolding, hoardings and temporary construction site fences in the General Exempt Development Code in *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.

- (3) Toilet facilities must be available or provided at the work site before works begin and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.

- (4) Each toilet must:

- (a) be a standard flushing toilet connected to a public sewer, or
- (b) have an on-site effluent disposal system approved under the *Local Government Act 1993*, or
- (c) be a temporary chemical closet approved under the *Local Government Act 1993*.

- (5) A garbage receptacle must be provided at the work site before works begin and must be maintained until the works are completed.

(6) Conditions applying during works

Construction or demolition may only be carried out between 7.00 am and 5.00 pm on Monday to Saturday and no construction or demolition is to be carried out at any time on a Sunday or a public holiday.

- (7) Works must be carried out in accordance with the plans and specifications to which the complying development certificate relates.
- (8) Run-off and erosion controls must be effectively maintained until the site has been stabilised and landscaped.
- (9) Building, or demolition, materials and equipment must be stored wholly within the work site unless an approval to store them elsewhere is held.
- (10) Demolition materials and waste materials must be sorted, and must be disposed of at a waste or resource management facility.
- (11) The work site must be left clear of waste and debris at the completion of the works.

(12) **Utility services**

If the complying development requires alteration to, or the relocation of, utility services on the lot on which the complying development is carried out, the complying development is not complete until all such works are carried out.

(13) **Post-works requirements**

If:

- (a) the development involves the erection or change of use of a building within a water supply authority's area of operations, and
 - (b) the water supply authority requires a certificate of compliance to be obtained with respect to the erection or change of use of the building,
- the building cannot be occupied before such a certificate has been obtained.

(14) In this clause:

certificate of compliance, in relation to a water supply authority, means a certificate of compliance issued by the water supply authority under the Act under which the water supply authority is constituted.

water supply authority means:

- (a) the Sydney Water Corporation, the Hunter Water Corporation or a water supply authority within the meaning of the *Water Management Act 2000*, or
- (b) a council or county council exercising water supply, sewerage or stormwater drainage functions under Division 2 of Part 3 of Chapter 6 of the *Local Government Act 1993*.

Part 3 Early childhood education and care facilities—specific development controls

Note. A service approval is required to operate an early childhood education and care facility that is an education and care service to which the *Children (Education and Care Services) National Law (NSW)* applies or a State regulated education and care service to which the *Children (Education and Care Services) Supplementary Provisions Act 2011* applies. Approved services are subject to various operational requirements under that legislation, including requirements for the physical environment of the approved service.

Note. Complying development controls specifically for school-based child care, and centre-based child care in connection with TAFE establishments, are provided for in clauses 34 and 50, respectively.

20 Centre-based child care—concurrence of Regulatory Authority required for certain development

- (1) This clause applies to development for the purpose of centre-based child care if:
 - (a) the floor area of the building or place does not comply with clause 107 (indoor unencumbered space requirements) of the *Education and Care Services National Regulations*, or
 - (b) the outdoor space requirements for the building or place do not comply with clause 108 (outdoor unencumbered space requirements) of those Regulations.
- (2) The consent authority must not grant consent to development to which this clause applies except with the concurrence of the Regulatory Authority.
- (3) The consent authority must, within 7 days of receiving a development application for development to which this clause applies:
 - (a) forward a copy of the development application to the Regulatory Authority, and
 - (b) notify the Regulatory Authority in writing of the basis on which the Authority's concurrence is required and of the date it received the development application.
- (4) In determining whether to grant or refuse concurrence, the Regulatory Authority is to consider any requirements applicable to the proposed development under the *Children (Education and Care Services) National Law (NSW)*.
- (5) The Regulatory Authority is to give written notice to the consent authority of the Authority's determination within 28 days after receiving a copy of the development application under subclause (3).

Note. The effect of section 79B (11) of the Act is that if the Regulatory Authority fails to inform the consent authority of the decision concerning concurrence within the 28 day period, the consent authority may determine the development application without the concurrence of the Regulatory Authority and a development consent so granted is not voidable on that ground.
- (6) The consent authority must forward a copy of its determination of the development application to the Regulatory Authority within 7 days after making the determination.
- (7) In this clause:

Regulatory Authority means the Regulatory Authority for New South Wales under the *Children (Education and Care Services) National Law (NSW)* (as declared by section 9 of the *Children (Education and Care Services National Law Application) Act 2010*).

Note. Concurrence to development may be granted subject to conditions. A development consent subject to concurrence may be voidable if it is granted not subject to any conditions of the concurrence. (See section 79B of the Act.)

21 Centre-based child care—matters for consideration by consent authorities

The consent authority:

- (a) must take into consideration Part 2 of the *Child Care Planning Guideline*, and
- (b) may take into consideration Part 3 of the *Child Care Planning Guideline*, before determining a development application for development for the purpose of centre-based child care.

22 Centre-based child care in Zone IN1 or IN2—additional matters for consideration by consent authorities

- (1) The object of this clause is to minimise land use conflicts with existing developments on surrounding land and to ensure the safety and health of people using or visiting centre-based child care on land in Zone IN1 General Industrial or Zone IN2 Light Industrial.
- (2) The consent authority must consider the following matters before determining a development application for development for the purpose of centre-based child care on land in Zone IN1 General Industrial or Zone IN2 Light Industrial:
 - (a) whether the proposed development is compatible with neighbouring land uses, including its proximity to restricted premises, sex services premises or hazardous land uses,
 - (b) whether the proposed development has the potential to restrict the operation of existing industrial land uses,
 - (c) whether the location of the proposed development will pose a health or safety risk to children, visitors or staff.
- (3) The matters referred to in subclause (2) are in addition to any other matter that the consent authority must consider before determining a development application for development for the purpose of centre-based child care.

23 Centre-based child care—non-discretionary development standards

- (1) The object of this clause is to identify development standards for particular matters relating to centre-based child care that, if complied with, prevent the consent authority from requiring more onerous standards for those matters.
- (2) The following are non-discretionary development standards for the purposes of section 79C (2) and (3) of the Act in relation to the carrying out of development for the purposes of centre-based child care:
 - (a) **location**—the development may be located at any distance from an existing or proposed early childhood education and care facility,
 - (b) **indoor or outdoor space**
 - (i) for development to which clause 107 (indoor unencumbered space requirements) or 108 (outdoor unencumbered space requirements) of the *Education and Care Services National Regulations* applies—the unencumbered area of indoor space and the unencumbered area of outdoor space for the development complies with the requirements of those clauses, or
 - (ii) for development to which clause 28 (unencumbered indoor space and useable outdoor play space) of the *Children (Education and Care Services) Supplementary Provisions Regulation 2012* applies—the development complies with the indoor space requirements or the useable outdoor play space requirements in that clause,

- (c) **site area, site coverage and site dimensions**—the development may be located on a site of any size, cover any part of the site and have any length of street frontage or any allotment depth,
 - (d) **colour of building materials or shade structures**—the development may be of any colour or colour scheme unless it is a heritage item or in a heritage conservation area,
 - (e) **design**—the development satisfies the design criteria in the *Child Care Planning Guideline*.
- (3) To remove doubt, this clause does not prevent a consent authority from:
- (a) refusing a development application in relation to a matter not specified in subclause (2), or
 - (b) granting development consent even though any standard specified in subclause (2) is not complied with.

24 Centre-based child care—development control plans

- (1) A provision of a development control plan that specifies a requirement, standard or control in relation to any of the following matters (including by reference to ages, age ratios, groupings, numbers or the like, of children) does not apply to development for the purpose of centre-based child care:
- (a) glazed areas,
 - (b) operational or management plans or arrangements (including hours of operation),
 - (c) demonstrated need or demand for child care services,
 - (d) proximity of facility to other early childhood education and care facilities,
 - (e) fencing,
 - (f) laundry and hygiene facilities,
 - (g) indoor space requirements,
 - (h) outdoor space requirements (including natural environment and shade),
 - (i) toilet and hygiene facilities,
 - (j) ventilation and natural light,
 - (k) administrative space,
 - (l) nappy change facilities,
 - (m) any matter provided for in the *Child Care Planning Guideline*,
 - (n) any other matter relating to development for the purpose of centre-based child care for which provision is made by or under the *Children (Education and Care Services) National Law (NSW)* or the *Children (Education and Care Services) Supplementary Provisions Act 2011*.
- (2) This clause applies regardless of when the development control plan was made.

25 Mobile child care—exempt development

- (1) Development for the purpose of mobile child care is exempt development for the purposes of this Policy if it meets the standards specified for the development in subclause (2).
- Note.** Exempt development must also comply with the general requirements in clause 15.
- (2) If the development involves the erection of a temporary structure, it:
- (a) must not restrict any car parking required to be provided by a condition of a development consent applying to the land or any vehicular or pedestrian

access to or from the land unless that parking and access is on land owned, controlled or managed by a council or public authority and that council or public authority has given its written consent to the temporary use of the land for the erection of the temporary structure, and

- (b) must not redirect the flow of any surface water or ground water, or cause sediment to be transported, onto an adjoining property, and
- (c) must be erected on a surface that is sufficiently firm and level to sustain the structure while in use, and
- (d) must meet any development standard imposed by a local environmental plan applying to the land that sets a separation distance to a side or rear boundary with adjoining land that is under different ownership.

Note. In addition to the requirements set out in this Policy in relation to exempt development, adjoining owners' property rights, the applicable common law and other legislative requirements for approvals, licences, permits and authorities still apply.

- (3) Subclause (2) (d) does not apply in respect of adjoining land that is owned by the council or other public authority if the council or public authority has consented in writing to the development standard not applying.

- (4) In this clause:

education and care service means a service that provides care (other than residential care) or care and education, whether directly or indirectly, for one or more children under the age of 6 years who do not ordinarily attend school (disregarding any children who are related to the person providing the care).

mobile child care means an education and care service that visits premises, an area or a place for the purpose of providing child care, but does not include any of the following:

- (a) a babysitting, playgroup or child-minding service that is organised informally by the parents of the children concerned,
- (b) a service involving medical or clinical care provided by a hospital,
- (c) a service that is concerned primarily with the provision of private tutoring, or lessons or coaching in, or providing for participation in, a cultural, recreational, religious or sporting activity.

26 Emergency relocation of early childhood education and care facility—exempt development

- (1) Development for the purpose of an early childhood education and care facility is exempt development for the purposes of this Policy if:

- (a) the building or place to be used for the development already exists, and
- (b) the development:
 - (i) is necessary to enable an early childhood education and care facility to be relocated following, or in anticipation of, an emergency, and
 - (ii) meets the standards specified for the development in subclause (2).

Note. Exempt development must also comply with the general requirements in clause 15.

- (2) The development must:

- (a) have the consent of the owner of the land on which the development is carried out or, if a council or public authority has the control and management of the land, the consent, in writing of the council or public authority, and
- (b) be carried out within 12 months from the date on which a service approval to operate the relocated early childhood education and care facility is granted.

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- (3) The use of the building or place for the purpose of the relocated early childhood education and care facility must cease within 12 months from the date on which a service approval to operate the relocated facility is granted.
- (4) In this clause:
emergency means an emergency due to an actual or imminent occurrence (such as fire, flood, storm, earthquake, explosion, terrorist act, accident, epidemic or warlike action) which endangers, or threatens to endanger, the safety or health of persons in the early childhood education and care facility or destroys or damages, or threatens to destroy or damage, the facility.

Part 4 Schools—specific development controls

27 Definition of “prescribed zone”

In this Part:

prescribed zone means any of the following land use zones:

- (a) Zone RU1 Primary Production,
- (b) Zone RU2 Rural Landscape,
- (c) Zone RU4 Primary Production Small Lots,
- (d) Zone RU5 Village,
- (e) Zone RU6 Transition,
- (f) Zone R1 General Residential,
- (g) Zone R2 Low Density Residential,
- (h) Zone R3 Medium Density Residential,
- (i) Zone R4 High Density Residential,
- (j) Zone R5 Large Lot Residential,
- (k) Zone B1 Neighbourhood Centre,
- (l) Zone B2 Local Centre,
- (m) Zone B3 Commercial Core,
- (n) Zone B4 Mixed Use,
- (o) Zone B5 Business Development,
- (p) Zone B6 Enterprise Corridor,
- (q) Zone B7 Business Park,
- (r) Zone B8 Metropolitan Centre,
- (s) Zone SP1 Special Activities,
- (t) Zone SP2 Infrastructure,
- (u) Zone E4 Environmental Living.

28 Development for the purpose of student accommodation

In this Part, development for the purpose of a school does not include development for the purpose of student accommodation associated with a school, regardless of whether, or the extent to which, the school is involved in, or exercises control over, the activities and life of the students living in the accommodation.

29 Schools—development permitted with consent

- (1) Development for the purpose of a school may be carried out by any person with consent on land in a prescribed zone.
- (2) Development for a purpose specified in clause 33 (1) or 34 (2) (e) may be carried out by any person with consent on land within the boundaries of an existing school.
- (3) The following development may be carried out by any person with consent on the following land that is not in a prescribed zone:
 - (a) development for the purpose of a school—on land within the boundaries of an existing school,
 - (b) development for the purpose of the expansion of an existing school—on land adjacent to land within the boundaries of an existing school.

- (4) A school (including any part of its site and any of its facilities) may be used, with consent, for any community purpose, whether or not it is a commercial use of the establishment.
- (5) Before determining a development application for development of a kind referred to in subclause (1), (3) or (4), the consent authority must take into consideration the design quality of the development when evaluated in accordance with the design quality principles set out in Schedule 4.
- (6) Subclause (3) does not require consent to carry out development on land if that development could, but for this Policy, be carried out on that land without consent.

30 Schools—development permitted without consent

- (1) Development for any of the following purposes may be carried out by or on behalf of a public authority without consent on land in a prescribed zone if the development is in connection with an existing school:
 - (a) construction, operation or maintenance, more than 5 metres from any property boundary with land in a residential zone and more than 1 metre from any property boundary with land in any other zone, of:
 - (i) a library or an administration building that is not more than one storey high, or
 - (ii) a portable classroom (including a modular or prefabricated classroom) that is not more than one storey high, or
 - (iii) a permanent classroom that is not more than one storey high to replace an existing portable classroom and that is used for substantially the same purpose as the portable classroom, or
 - (iv) a kiosk, cafeteria or bookshop for students and staff that is not more than one storey high, or
 - (v) a car park that is not more than one storey high,
 - (b) minor alterations or additions, such as:
 - (i) internal fitouts, or
 - (ii) alterations or additions to address work health and safety requirements or to provide access for people with a disability, or
 - (iii) alterations or additions to the external facade of a building that do not increase the building envelope (for example, porticos, balcony enclosures or covered walkways),
 - (c) restoration, replacement or repair of damaged facilities,
 - (d) security measures, including fencing, lighting and security cameras,
 - (e) demolition of buildings or structures.
- (2) However, subclause (1) applies only to development that:
 - (a) does not require an alteration of transport or traffic arrangements, and
 - (b) in the case of development referred to in subclause (1) (a)—does not allow for an increase in:
 - (i) the number of students the school can accommodate, or
 - (ii) the number of staff employed at the school,that is greater than 10% (compared with the average of each of those numbers for the 12-month period immediately before the commencement of the development).
- (3) Nothing in this clause authorises the carrying out of development in contravention of any existing condition of a development consent (other than a complying

development certificate) that applies to any part of the school, relating to hours of operation, noise, car parking, vehicular movement, traffic generation, loading, waste management, landscaping or student or staff numbers.

- (4) A reference in this clause to development for a purpose referred to in subclause (1) (a), (b) or (c) includes a reference to development for the purpose of construction works if that development is in connection with the purpose referred to in subclause (1) (a), (b) or (c).

31 Notification of carrying out of certain development without consent

- (1) This clause applies to development to which clause 30 (1) (a) applies.
- (2) Before development to which this clause applies is carried out, the proponent of the development must:
- (a) give written notice of the intention to carry out the development to the council for the area in which the land is located (unless the proponent is that council) and to the occupiers of adjoining land, and
 - (b) take into consideration any response to the notice that is received within 21 days after the notice is given.

32 Existing schools—exempt development

- (1) Development for any of the following purposes is exempt development if it is in connection with an existing school and complies with any requirements in this subclause that apply to the development:
- (a) an awning or canopy that is more than 1 metre from any property boundary,
 - (b) the removal or lopping of a tree that has been assessed by an appropriately qualified arborist as posing a risk to human health or safety or of damage to infrastructure,
 - (c) landscaping, including irrigation schemes (whether using recycled or other water),
 - (d) play equipment where adequate safety provisions (including soft landing surfaces) are provided, but only if any structure is more than 1.2 metres from any fence,
 - (e) routine maintenance (including earthworks associated with playing field regrading or landscaping),
 - (f) walking paths (including raised walking paths), boardwalks, ramps, minor pedestrian bridges, stairways, gates, seats, barbecues, shelters and shade structures,
 - (g) a sporting field, tennis court, basketball court or any other type of court used for sport, and associated awnings or canopies, if the development does not involve the clearing of more than 2 hectares of native vegetation,
 - (h) directional signage for pedestrians and information boards,
 - (i) the use of existing facilities or buildings for the purposes of school-based child care for primary school students, or for community purposes (whether or not it is a commercial use of the establishment),
 - (j) an amenities building, workshop or storage shed that is not more than one storey high and is more than 5 metres from any property boundary,
 - (k) environmental management works,
 - (l) a portable classroom (including its removal):
 - (i) that is not more than one storey high, and

- (ii) that is more than 5 metres from any property boundary with land in a residential zone and more than 1 metre from any property boundary with land in any other zone,
- (m) demolition of development that would be exempt development under this or any other environmental planning instrument if it were being constructed or installed, if it is not carried out on or in a heritage item or in a heritage conservation area.

Note. Exempt development must also comply with the general requirements in clause 15.

- (2) Clause 15 (3) (g) does not apply in relation to development carried out under subclause (1) (b).
- (3) Development for a purpose specified in Schedule 1 that is carried out by a person other than a public authority is exempt development if:
 - (a) it is carried out on land within the boundaries of an existing school, and
 - (b) it meets the development standards for the development specified in Schedule 1.

Note 1. Exempt development must also comply with the general requirements in clause 15.

Note 2. Clause 16 covers development carried out by or on behalf of a public authority.

33 Existing schools—complying development

- (1) Development carried out by or on behalf of any person on land within the boundaries of an existing school is complying development if:
 - (a) it consists of the construction of, or alterations or additions to, any of the following:
 - (i) libraries, administration buildings or office premises,
 - (ii) gyms, indoor sporting facilities or halls,
 - (iii) classrooms, lecture theatres, laboratories, trade or training facilities,
 - (iv) cafeterias that are carried out in accordance with *AS 4674—2004 Design, construction and fit-out of food premises*, published by Standards Australia on 11 February 2004,
 - (v) kiosks or bookshops for students or staff (or both),
 - (vi) halls with associated covered outdoor learning areas or kiosks,
 - (vii) an outdoor learning or play area and associated awnings or canopies,
 - (viii) demolition of buildings (unless the building is a State or local heritage item or is within a heritage conservation area), if the footprint of the building covers an area no greater than 250 square metres,
 - (ix) minor alterations or additions such as internal fitouts, or alterations or additions to address work health and safety requirements or to provide access for people with a disability,
 - (x) restoration, replacement or repair of damaged facilities,
 - (xi) an at-grade car park, and
 - (b) it complies with this clause.
- (2) Development carried out by or on behalf of any person on land within the boundaries of an existing school is complying development if:
 - (a) it is an alteration or addition referred to in subclause (1) or clause 34 (2) (e) that is carried out for the purpose of a change of use to another use specified in subclause (1), and

Note. Complying development must also comply with the general requirements in clause 17.

(b) it complies with this clause.

Note. Complying development must also comply with the general requirements in clause 17.

- (3) The development standards for complying development under this clause (other than for development referred to in subclause (1) (a) (viii), (ix) or (x)) are set out in Schedule 2.
- (4) Clause 17 (2) (g) does not apply in relation to development carried out under this clause.
- (5) Nothing in this clause authorises the carrying out of development in contravention of any existing condition of a development consent (other than a complying development certificate) that applies to any part of the school, relating to hours of operation, noise, car parking, vehicular movement, traffic generation, loading, waste management, landscaping or student or staff numbers.
- (6) Nothing in this clause authorises development (including excavation) that is for the purpose of underground facilities or usable spaces located underground.

34 School-based child care—complying development

- (1) Development carried out by or on behalf of any person for the purpose of school-based child care is complying development for the purposes of this Policy if it complies with this clause.

Note. Complying development must also comply with the general requirements in clause 17.

- (2) The standards specified for the development are as follows:
 - (a) the development must be carried out within the boundaries of an existing school,
 - (b) the development must not be on bush fire prone land,
 - (c) the current use of the premises must not be an existing use within the meaning of section 106 of the Act,
 - (d) if there is no existing condition on development consent applying to the school relating to the hours of operation—the school-based child care must not operate on a Saturday or Sunday, or before 7.00 am or after 7.00 pm on a weekday.
 - (e) if the development consists of the construction of, or alterations or additions to, school-based child care—the development must comply with the standards set out in Schedule 2 (other than clause 11 of that Schedule),

Note. A service approval is required to operate an early childhood education and care facility that is an education and care service to which the *Children (Education and Care Services) National Law (NSW)* applies or a State regulated education and care service to which the *Children (Education and Care Services) Supplementary Provisions Act 2011* applies. Approved services are subject to various operational requirements under that legislation, including requirements for the physical environment of the approved service (for example, minimum requirements for indoor and outdoor space).

- (3) Clause 17 (2) (g) does not apply to development referred to in subclause (2) (a) that is carried out under this clause.
- (4) Nothing in this clause authorises the carrying out of development in contravention of any existing condition of a development consent (other than a complying development certificate) that applies to any part of the school, relating to hours of operation, noise, car parking, vehicular movement, traffic generation, loading, waste management, landscaping or student or staff numbers.

35 Complying development certificates—additional conditions

A complying development certificate for development that is complying development under this Division is subject to the following conditions (in addition to the conditions set out in clause 19):

- (a) any demolition work must be carried out in accordance with *AS 2601—2001 The demolition of structures*, published by Standards Australia on 13 September 2001,
- (b) any removal or lopping of vegetation must be carried out in accordance with *AS 4970—2009 Protection of trees on development sites*,
- (c) development must be carried out in accordance with all relevant requirements of the Blue Book,
- (d) the person having the benefit of the complying development certificate must give at least 2 days' notice in writing of the intention to commence the works to the owner or occupier of any dwelling that is situated within 20 metres of the lot on which the works will be carried out.

36 State significant development for the purpose of schools—application of development standards in local environmental plans

Development consent may be granted to development for the purpose of a school that is state significant development even though the development would contravene a development standard imposed by the local environmental plan under which the consent is granted.

Part 5 Universities—specific development controls

37 Definition of “prescribed zone”

In this Part:

prescribed zone means:

- (a) any land within the boundaries of an existing university, or
- (b) any of the following land use zones:
 - (i) Zone B2 Local Centre,
 - (ii) Zone B3 Commercial Core,
 - (iii) Zone B4 Mixed Use,
 - (iv) Zone B5 Business Development,
 - (v) Zone B6 Enterprise Corridor,
 - (vi) Zone B7 Business Park,
 - (vii) Zone B8 Metropolitan Centre,
 - (viii) Zone SP1 Special Activities,
 - (ix) Zone SP2 Infrastructure.

38 Development for the purpose of student accommodation

In this Part, development for the purpose of a university does not include development for the purpose of student accommodation associated with a university, regardless of whether, or the extent to which, the university is involved in, or exercises control over, the activities and life of the students living in the accommodation.

39 Universities—development permitted with consent

- (1) Development for the purpose of a university may be carried out by any person with consent on land in a prescribed zone.
- (2) Development for a purpose specified in clause 43 (1) may be carried out by any person with consent on land within the boundaries of an existing university.
- (3) The following development may be carried out by any person with consent on the following land that is not in a prescribed zone:
 - (a) development for the purpose of a university—on land within the boundaries of an existing university,
 - (b) development for the purpose of the expansion of an existing university—on land adjacent to land within the boundaries of an existing university.
- (4) A university (including any part of its site and any of its facilities) may be used, with consent, for any community purpose, whether or not it is a commercial use of the establishment.
- (5) Subclause (3) does not require consent to carry out development on land if that development could, but for this Policy, be carried out on that land without consent.

40 Universities—development permitted without consent

- (1) Development for any of the following purposes may be carried out by or on behalf of a public authority without consent on land in a prescribed zone if the development is in connection with an existing university:
 - (a) construction, operation or maintenance, more than 5 metres from any property boundary with land in a residential zone and more than 1 metre from any property boundary with land in any other zone, of:

- (i) a library or an administration building that is not more than one storey high, or
 - (ii) a portable classroom that is not more than one storey high, or
 - (iii) a permanent classroom that is not more than one storey high to replace an existing portable classroom and that is used for substantially the same purpose as the portable classroom, or
 - (iv) a kiosk, cafeteria or bookshop for students and staff that is not more than one storey high, or
 - (v) a car park that is not more than one storey high, or
 - (vi) an outdoor learning or play area and associated awnings or canopies,
 - (b) minor alterations or additions, such as:
 - (i) internal fitouts, or
 - (ii) alterations or additions to address work health and safety requirements or to provide access for people with a disability,
 - (c) restoration, replacement or repair of damaged facilities,
 - (d) demolition of buildings or structures.
- (2) However, subclause (1) applies only to development that:
- (a) does not require an alteration of transport or traffic arrangements, and
 - (b) does not cause the contravention of any existing condition of the most recent development consent (other than a complying development certificate) that applies to the university relating to hours of operation, noise, car parking, vehicular movement, traffic generation, loading, waste management, landscaping or student or staff numbers, and
 - (c) complies with:
 - (i) any development standard that sets a maximum floor space ratio, and
 - (ii) any development standard that sets a maximum gross floor area, for a building on the land, imposed by a local environmental plan, and
 - (d) if the development involves an alteration or addition to a building:
 - (i) does not extend the gross floor area of the existing building by more than 50%, and
 - (ii) does not result in the building having a gross floor area of more than 2,000 square metres, and
 - (e) if the development is on a site with an area of:
 - (i) 2,000 square metres or less—does not result in the floor space ratio for all buildings on the site exceeding 1:1, or
 - (ii) more than 2,000 square metres— does not extend the existing gross floor area for all buildings on the site by more than 2,000 square metres.
- (3) A reference in this clause to development for a purpose referred to in subclause (1) (a), (b) or (c) includes a reference to development for the purpose of construction works if that development is in connection with the purpose referred to in subclause (1) (a), (b) or (c).
- (4) In this clause:
site means one or more lots that are contiguous and owned by the same entity.

41 Notification of carrying out of certain development without consent

- (1) This clause applies to development to which clause 40 (1) (a) applies.

- (2) Before development to which this clause applies is carried out, the proponent of the development must:
 - (a) give written notice of the intention to carry out the development to the council for the area in which the land is located (unless the proponent is that council) and to the occupiers of adjoining land, and
 - (b) take into consideration any response to the notice that is received within 21 days after the notice is given.

42 Existing universities—exempt development

- (1) Development for any of the following purposes is exempt development if it is in connection with an existing university and complies with any requirements in this subclause that apply to the development:
 - (a) an awning or canopy that is more than 5 metres from any property boundary,
 - (b) the removal or lopping of a tree that has been assessed by an appropriately qualified arborist as posing a risk to human health or safety or of damage to infrastructure,
 - (c) landscaping, including irrigation schemes (whether using recycled or other water),
 - (d) play equipment where adequate safety provisions (including soft landing surfaces) are provided, but only if any structure is more than 1.2 metres from any fence,
 - (e) routine maintenance (including earthworks associated with playing field regrading or landscaping, and maintenance of existing access roads),
 - (f) cycleways, walking paths (including raised walking paths), boardwalks, ramps, minor pedestrian bridges, stairways, gates, seats, barbecues, shelters and shade structures,
 - (g) a recreation facility (outdoor), including a playing field (but not including a grandstand or other viewing structure), if:
 - (i) the development does not involve the clearing of more than 2 hectares of native vegetation, and
 - (ii) any structure is located at least 200 metres from any property boundary with land in a residential area,
 - (h) a viewing platform:
 - (i) with an area not exceeding 100 square metres, and
 - (ii) with a height above ground level (existing) not exceeding 3 metres, and
 - (iii) that is located behind the building line, and
 - (iv) that is set back at least 5 metres from any boundary with land in a residential zone,
 - (i) directional signage for pedestrians and information boards,
 - (j) an amenities building that is not more than one storey high and is more than 5 metres from any property boundary,
 - (k) environmental management works,
 - (l) a portable or temporary classroom, a temporary office or portable or temporary amenities, (including its removal):
 - (i) that is not more than one storey high, and
 - (ii) that is more than 5 metres from any property boundary with land in a residential zone and more than 1 metre from any property boundary with land in any other zone, and

- (iii) that is removed within 7 days after the use ends,

Note. See Schedule 1 for the development standards for a portable office.

- (m) demolition of development that would be exempt development under this or any other environmental planning instrument if it were being constructed or installed, if it is not carried out on or in a heritage item or a draft heritage item or in a heritage conservation area or a draft heritage conservation area.

Note. Exempt development must also comply with the general requirements in clause 15.

- (2) Clause 15 (3) (g) does not apply in relation to development carried out under subclause (1) (b).
- (3) Development for a purpose specified in Schedule 1 that is carried out by a person other than a public authority is exempt development if:
 - (a) it is carried out on land within the boundaries of an existing university, and
 - (b) it meets the development standards for the development specified in Schedule 1.

Note 1. Exempt development must also comply with the general requirements in clause 15.

Note 2. Clause 16 covers development carried out by or on behalf of a public authority.

43 Existing universities—complying development

- (1) Development carried out by or on behalf of any person in connection with an existing university is complying development if:
 - (a) it is carried out on land in a prescribed zone, other than land:
 - (i) that is, or on which is located, a draft heritage item, or
 - (ii) that is within a heritage conservation area or a draft heritage conservation area, and
 - (b) it consists of the construction of, or alterations or additions to, any of the following:
 - (i) a library or an administration building or office premises,
 - (ii) a recreation facility (indoor) or recreation facility (outdoor),
 - (iii) a classroom, lecture theatre, laboratory, trade or training facility,
 - (iv) a cafe, cafeteria or take away food and drink premises to provide for students or staff (or both) that is carried out in accordance with *AS 4674—2004 Design, construction and fit-out of food premises*, published by Standards Australia on 11 February 2004,
 - (v) a kiosk or bookshop to provide for students or staff (or both),
 - (vi) a hall, including a hall with an associated covered outdoor learning area or kiosk,
 - (vii) an environmental facility, including a greenhouse or glass house,
 - (viii) an information and education facility,
 - (ix) a community facility,
 - (x) a storage or maintenance facility,
 - (xi) an amenities building,
 - (xii) if the development is not on bush fire prone land or if the educational establishment is not, or does not contain, a heritage item—an outdoor learning or play area and associated awnings or canopies,
 - (xiii) demolition of buildings (unless the building is a State or local heritage item or is within a heritage conservation area), if the footprint of the building covers an area no greater than 250 square metres,

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- (xiv) minor alterations or additions such as internal fitouts, or alterations or additions to address work health and safety requirements or to provide access for people with a disability,
 - (xv) restoration, replacement or repair of damaged facilities,
 - (xvi) a car park, and
 - (c) it complies with:
 - (i) any development standard that sets a maximum floor space ratio, and
 - (ii) any development standard that sets a maximum gross floor area, for a building on the land, imposed by a local environmental plan, and
 - (d) for development that involves an alteration or addition to a building:
 - (i) it does not extend the gross floor area of the existing building by more than 50%, and
 - (ii) it does not result in the building having a gross floor area of more than 2,000 square metres, and
 - (e) for development that is on a site with an area of:
 - (i) 2,000 square metres or less—it does not result in the floor space ratio for all buildings on the site exceeding 1:1, or
 - (ii) more than 2,000 square metres—it does not extend the existing gross floor area for all buildings on the site by more than 2,000 square metres, and
 - (f) it complies with this clause.
- Note.** Complying development must also comply with the general requirements in clause 17.
- (2) Development carried out by or on behalf of any person in connection with an existing university is complying development if:
 - (a) it is carried out on land in a prescribed zone, and
 - (b) it is an alteration or addition referred to in subclause (1) that is carried out for the purpose of a change of use to another use specified in subclause (1), and
 - (c) it complies with this clause.
- Note.** Complying development must also comply with the general requirements in clause 17.
- (3) The development standards for complying development under this clause are set out in Schedule 3.
 - (4) Development that will result in the erection of a building over a registered easement is not complying development under this clause.
 - (5) Clause 17 (2) (g) does not apply in relation to development carried out under this clause.
 - (6) In this clause:
site means one or more lots that are contiguous and owned by the same entity.

Part 6 TAFE establishments—specific development controls

44 Definition of “prescribed zone”

In this Part:

prescribed zone means any of the following land use zones:

- (a) Zone RU1 Primary Production,
- (b) Zone RU2 Rural Landscape,
- (c) Zone RU4 Primary Production Small Lots,
- (d) Zone RU5 Village,
- (e) Zone RU6 Transition,
- (f) Zone R1 General Residential,
- (g) Zone R2 Low Density Residential,
- (h) Zone R3 Medium Density Residential,
- (i) Zone R4 High Density Residential,
- (j) Zone R5 Large Lot Residential,
- (k) Zone B1 Neighbourhood Centre,
- (l) Zone B2 Local Centre,
- (m) Zone B3 Commercial Core,
- (n) Zone B4 Mixed Use,
- (o) Zone B5 Business Development,
- (p) Zone B6 Enterprise Corridor,
- (q) Zone B7 Business Park,
- (r) Zone B8 Metropolitan Centre,
- (s) Zone SP1 Special Activities,
- (t) Zone SP2 Infrastructure,
- (u) Zone E4 Environmental Living.

45 Development for the purpose of student accommodation

In this Part, development for the purpose of a TAFE establishment does not include development for the purpose of student accommodation associated with a TAFE establishment, regardless of whether, or the extent to which, the TAFE establishment is involved in, or exercises control over, the activities and life of the students living in the accommodation.

46 TAFE establishments—development permitted with consent

- (1) Development for the purpose of a TAFE establishment may be carried out by any person with consent on land in a prescribed zone.
- (2) Development for a purpose specified in clause 50 (1) may be carried out by any person with consent on land within the boundaries of an existing TAFE establishment.
- (3) The following development may be carried out by any person with consent on the following land that is not in a prescribed zone:
 - (a) development for the purpose of a TAFE establishment—on land within the boundaries of an existing TAFE establishment,

- (b) development for the purpose of the expansion of an existing TAFE establishment—on land adjacent to land within the boundaries of an existing TAFE establishment.
- (4) A TAFE establishment (including any part of its site and any of its facilities) may be used, with consent, for any community purpose, whether or not it is a commercial use of the establishment.
- (5) Subclause (3) does not require consent to carry out development on land if that development could, but for this Policy, be carried out on that land without consent.

47 TAFE establishments—development permitted without consent

- (1) Development for any of the following purposes may be carried out by or on behalf of a public authority without consent on land in a prescribed zone if the development is in connection with an existing TAFE establishment:
 - (a) construction, operation or maintenance, more than 5 metres from any property boundary with land in a residential zone and more than 1 metre from any property boundary with land in any other zone, of:
 - (i) a library or an administration building that is not more than one storey high, or
 - (ii) a portable classroom that is not more than one storey high, or
 - (iii) a permanent classroom that is not more than one storey high to replace an existing portable classroom and that is used for substantially the same purpose as the portable classroom, or
 - (iv) a kiosk, cafeteria or bookshop for students and staff that is not more than one storey high, or
 - (v) a car park that is not more than one storey high,
 - (b) minor alterations or additions, such as:
 - (i) internal fitouts, or
 - (ii) alterations or additions to address work health and safety requirements or to provide access for people with a disability,
 - (c) restoration, replacement or repair of damaged facilities,
 - (d) demolition of buildings or structures.
- (2) However, subclause (1) only applies to development that:
 - (a) does not require an alteration of transport or traffic arrangements, and
 - (b) in the case of subclause (1) (a), does not allow for an increase in:
 - (i) the number of students the TAFE establishment can accommodate, or
 - (ii) the number of staff employed at the TAFE establishment,that is greater than 10% (compared with the average of each of those numbers for the 12-month period immediately prior to the commencement of the development).
- (3) Nothing in this clause authorises the carrying out of development in contravention of any existing condition of a development consent (other than a complying development certificate) that applies to any part of the TAFE establishment, relating to hours of operation, noise, car parking, vehicular movement, traffic generation, loading, waste management, landscaping or student or staff numbers.
- (4) A reference in this clause to development for a purpose referred to in subclause (1) (a), (b) or (c) includes a reference to development for the purpose of construction works if that development is in connection with the purpose referred to in subclause (1) (a), (b) or (c).

48 Notification of carrying out of certain development without consent

- (1) This clause applies to development to which clause 47 (1) (a) applies.
- (2) Before development to which this clause applies is carried out, the proponent of the development must:
 - (a) give written notice of the intention to carry out the development to the council for the area in which the land is located (unless the proponent is that council) and to the occupiers of adjoining land, and
 - (b) take into consideration any response to the notice that is received within 21 days after the notice is given.

49 Existing TAFE establishments—exempt development

- (1) Development for any of the following purposes is exempt development if it is in connection with an existing TAFE establishment and complies with any requirements in this subclause that apply to the development:
 - (a) an awning or canopy that is not within 5 metres of any property boundary,
 - (b) the removal or lopping of a tree that has been assessed by an appropriately qualified arborist as posing a risk to human health or safety or of damage to infrastructure,
 - (c) landscaping, including irrigation schemes (whether using recycled or other water),
 - (d) play equipment where adequate safety provisions (including soft landing surfaces) are provided, but only if any structure is more than 1.2 metres from any fence,
 - (e) routine maintenance (including earthworks associated with playing field regrading or landscaping, and maintenance of existing access roads),
 - (f) cycleways, walking paths (including raised walking paths), boardwalks, ramps, minor pedestrian bridges, stairways, gates, seats, barbecues, shelters and shade structures,
 - (g) a recreation facility (outdoor), including a playing field (but not including a grandstand or other viewing structure), if the development does not involve the clearing of more than 2 hectares of native vegetation,
 - (h) directional signage for pedestrians and information boards,
 - (i) the use of existing facilities or buildings for the purposes of providing out-of-school hours care (including vacation care) for primary school students,
 - (j) an amenities building that is not more than one storey high and is more than 5 metres from any property boundary,
 - (k) environmental management works,
 - (l) a portable or temporary classroom, a temporary office or portable or temporary amenities:
 - (i) that is not more than one storey high, and
 - (ii) that is more than 5 metres from any property boundary with land in a residential zone and more than 1 metre from any property boundary with land in any other zone.
 - (m) demolition of development that would be exempt development under this or any other environmental planning instrument if it were being constructed or installed, if it is not carried out on or in a heritage item or in a heritage conservation area.

Note. Exempt development must also comply with the general requirements in clause 15.

- (2) Clause 15 (3) (g) does not apply in relation to development carried out under subclause (1) (b).
- (3) Development for a purpose specified in Schedule 1 that is carried out by a person other than a public authority is exempt development if:
 - (a) it is carried out on land within the boundaries of an existing TAFE establishment, and
 - (b) it meets the development standards for the development specified in Schedule 1.

Note 1. Exempt development must also comply with the general requirements in clause 15.

Note 2. Clause 16 covers development carried out by or on behalf of a public authority.

50 Existing TAFE establishments—complying development

- (1) Development carried out by or on behalf of any person on land within the boundaries of an existing TAFE establishment is complying development if:
 - (a) it consists of the construction of, or alterations or additions to, any of the following:
 - (i) a library or an administration building or office premises,
 - (ii) a recreation facility (indoor) or recreation facility (outdoor),
 - (iii) a classroom, lecture theatre, laboratory, trade or training facility,
 - (iv) a cafe, cafeteria or take away food and drink premises to provide for students or staff (or both) that is carried out in accordance with *AS 4674—2004 Design, construction and fit-out of food premises*, published by Standards Australia on 11 February 2004,
 - (v) centre-based child care,
 - (vi) a kiosk or bookshop for students or staff (or both),
 - (vii) a hall, including a hall with an associated covered outdoor learning area or kiosk,
 - (viii) an environmental facility, including a greenhouse or glass house,
 - (ix) an information and education facility,
 - (x) a community facility,
 - (xi) a storage or maintenance facility,
 - (xii) an outdoor learning or play area and associated awnings or canopies
 - (xiii) demolition of buildings (unless the building is a State or local heritage item or is within a heritage conservation area), if the footprint of the building covers an area no greater than 250 square metres,
 - (xiv) minor alterations or additions such as internal fitouts, or alterations or additions to address work health and safety requirements or to provide access for people with a disability,
 - (xv) restoration, replacement or repair of damaged facilities,
 - (xvi) a car park, and
 - (b) it complies with this clause.
- Note.** Complying development must also comply with the general requirements in clause 17.
- (2) Development carried out by or on behalf of any person on land within the boundaries of an existing TAFE establishment is complying development if:
 - (a) it is an alteration or addition referred to in subclause (1) that is carried out for the purpose of a change of use to another use specified in subclause (1), and
 - (b) it complies with this clause.

Note. Complying development must also comply with the general requirements in clause 17.

- (3) The following are the development standards for complying development under this clause:
- (a) **Building height standard**—the building height of a building must not exceed 12 metres.
 - (b) **Side and rear setback standard**—a building must be located at least 5 metres from any side or rear property boundary with land in a residential zone and at least 1 metre from side or rear property boundary with land in any other zone.
 - (c) **Materials standard**—any new external walls or roof of a building must be constructed of non-reflective material.
 - (d) **Overshadowing standard**—a building must not overshadow any adjoining residential property so that:
 - (i) solar access to any habitable room on the adjoining property is reduced to less than the minimum level (being 2 hours of solar access between 9:00 am and 3:00 pm at the winter solstice) or is reduced in any manner (if solar access to any habitable room on the adjoining property is already below the minimum level), or
 - (ii) solar access to the principal private open space of the adjoining property is reduced to less than the minimum level (being 3 hours of solar access to not less than 50% of that principal private open space between 9:00 am and 3:00 pm at the winter solstice) or is reduced in any manner (if solar access to the principal private open space of the adjoining property is already below the minimum level).
- (4) The following additional development standard applies to development for the purpose of centre-based child care:
- Design standard**—the development must satisfy the design criteria in the *Child Care Planning Guideline*.

Part 7 General development controls

51 Traffic-generating development

- (1) This clause applies to development for the purpose of an educational establishment that involves:
 - (a) new premises of the relevant capacity, or
 - (b) an enlargement or extension of existing premises, being an alteration or addition of the relevant capacity,on a site that has direct vehicular or pedestrian access to any road.
- (2) Before determining a development application for development to which this clause applies, the consent authority must:
 - (a) give written notice of the application to Roads and Maritime Services (**RMS**) within 7 days after the application is made, and
 - (b) take into consideration the matters referred to in subclause (3).
- (3) The consent authority must take into consideration:
 - (a) any submission that RMS provides in response to that notice within 21 days after the notice was given (unless, before the 21 days have passed, RMS advises that it will not be making a submission), and
 - (b) the accessibility of the site concerned, including:
 - (i) the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and
 - (ii) the potential to minimise the need for travel by car, and
 - (c) any potential traffic safety, road congestion or parking implications of the development.
- (4) The consent authority must give RMS a copy of the determination of the application within 7 days after the determination is made.
- (5) In this clause:
relevant capacity means capable of accommodating 50 or more students.

52 Development on land identified as coastal wetlands

- (1) This clause applies to land identified as “coastal wetlands” on the Coastal Wetlands and Littoral Rainforests Area Map within the meaning of *State Environmental Planning Policy (Coastal Management) 2016* [On exhibition].
- (2) Development for the purpose of bush fire hazard reduction work in connection with an educational establishment may be carried out by any person without consent on land to which this clause applies if:
 - (a) the land is within 20 metres of an educational establishment, and
 - (b) the bush fire hazard reduction work does not involve the use of fire, and
 - (c) the bush fire hazard reduction work is carried out under section 66, 70, 73 or 74E of the *Rural Fires Act 1997*, and
 - (d) the bush fire hazard reduction work is consistent with the standards relating to bush fire hazard reduction set out in the Department’s and NSW Rural Fire Service’s joint publication *Standards for Bush Fire Hazard Reduction Works in SEPP 14—Coastal Wetlands* published on the website of the Department.
- (3) Development for the purpose of maintaining a fire trail in connection with an educational establishment may be carried out by a public authority without consent on land to which this clause applies if:

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State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 [NSW]
Part 7 General development controls

- (a) the development is consistent with the applicable bush fire risk management plan under the *Rural Fires Act 1997*, and
 - (b) the fire trails are recorded as being fire trails on a publicly available Bush Fire Management Committee Fire Trail Register maintained by a Bush Fire Management Committee, and
 - (c) the development does not involve the use of fire, the widening of a fire trail, any clearing of vegetation (other than of regrowth on a fire trail) or any excavation.
- (4) In this clause:
Bush Fire Management Committee means a Bush Fire Management Committee established under the *Rural Fires Act 1997*.

public consultation draft

State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 [NSW]
Schedule 1 Exempt development—general

Schedule 1 Exempt development—general

(Clause 16)

Development purpose

General provisions

Access ramps for persons with a disability

- Ramps must provide access to public transport, outdoor recreational areas or the ground floor of buildings or car parks.
- Grade must not exceed 1:14 and must comply with AS 1428.1–2001, *Design for access and mobility—General requirements for access—New building work*.
- Ramp structures must not create a traffic or pedestrian hazard or be part of a State or local heritage item.

Air conditioning units

- Must have a Minimum Energy Performance Standard consistent with AS/NZS 3823.2:2013, *Performance of electrical appliances—Airconditioners and heat pumps—Energy labelling and minimum energy performance standard (MEPS) requirements*.
- Noise level must not exceed 5dB(A) above ambient background noise level measured at property boundary.

Building external alterations including re-cladding roofs or walls

- Must involve only repair or renovation, or painting, plastering or other decoration, of building.
- Must not result in enlargement or extension of building or increase in load-bearing capacity of any load-bearing component of building.
- Any re-cladding must involve only replacing existing materials with similar materials and not involve structural alterations.

Building internal alterations

- Must be non-structural alterations to existing building only, such as:
 - (i) replacement of doors, wall, ceiling or floor linings or deteriorated frame members with equivalent or improved quality materials, or
 - (ii) inclusion of built-in fixtures.
- Must not affect load-bearing capacity of any load-bearing component of building.

public consultation draft

State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 [NSW]
Schedule 1 Exempt development—general

Development purpose	Development standards
Car parks	<ul style="list-style-type: none">• Must be open (unenclosed) car parking (but may include associated gates including security booths and boom gates).• Must not reduce car parking spaces.• Must be constructed or installed so that any surface water or runoff is disposed of by a drainage system that is connected to the existing stormwater drainage system.• Must be constructed in accordance with AS/NZS 2890.1:2004, <i>Parking facilities, Part 1: Off-street car parking</i> or AS 2890.2—2002, <i>Parking facilities, Part 2: Off-street commercial vehicle facilities</i>.• Must not require cut or fill more than 1m below or above ground level (existing).• Must not be carried out on land within a growth centre (within the meaning of <i>State Environmental Planning Policy (Sydney Region Growth Centres) 2006</i>) that is not subject land within the meaning of clause 17 of Schedule 7 to the <i>Threatened Species Conservation Act 1995</i>.
Carports associated with an existing building	<ul style="list-style-type: none">• Surface area must not exceed 36m².• Height must not exceed 3.5m above ground level (existing) and external wall height must not exceed 3m above ground level (existing).• Must be located behind any relevant building setback.• Must be no part of structure within 500mm of any side or rear boundary.• Stormwater drainage or run-off must be via connection to existing stormwater system.
Decks (unroofed and attached to a building that is not located on bush fire prone land)	<ul style="list-style-type: none">• Surface area must not exceed 10m².• Finished surface level must not be more than 1m above ground level (existing).• Boundary setbacks for existing building to be maintained.
Demolition of buildings or structures the erection of which is exempt development under this Policy	<ul style="list-style-type: none">• Building or structure must not be a heritage item or within a heritage conservation area.• Must be carried out in accordance with AS 2601—2001, <i>Demolition of structures</i> and must not cover an area of more than 100m².
Fences—erection of security fences	<ul style="list-style-type: none">• Must be for infrastructure facility and erected along road frontage or non-road boundary.• Height must not exceed 3m above ground level (existing).
Fences (other than security fences or fences covered by the <i>Swimming Pools Act 1992</i>)	<ul style="list-style-type: none">• Must be constructed so as not to prevent natural flow of stormwater drainage or run-off.• If in a residential zone, height of boundary fence must not exceed 1.8m above ground level (existing) if behind front building line and 1.2m if forward of that line.• Must not include masonry construction to a height of more than 900mm above ground level (existing).

public consultation draft

State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 [NSW]
Schedule 1 Exempt development—general

Development purpose

Development standards

Fire fighting emergency equipment—construction or maintenance of emergency equipment including replacement or augmentation of fire systems and fire water tanks	<ul style="list-style-type: none">• If located within a residential care facility for seniors (within the meaning of <i>State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004</i>), a fire sprinkler system must comply with the Fire Sprinkler Standard (within the meaning of Division 7B in Part 9 of the <i>Environmental Planning and Assessment Regulation 2000</i>).
Flagpoles	<ul style="list-style-type: none">• Height must not exceed 6m above ground level (existing) or above an existing building.• Must not display commercial advertising.• Flagpole structure and any attached flag must not project over public road.
Hoardings to restrict unauthorised entry to construction sites—erection in conjunction with erection or demolition of, or carrying out of alterations or additions to, a building or carrying out of maintenance or repairs (for which, in each case, any required consent has been obtained)	<ul style="list-style-type: none">• Must not encroach onto footpath or public thoroughfare.• Must be removed immediately on completion of work if removal will not give rise to safety risk.
Landscaping (including paving and turfing and access tracks) carried out in conjunction with other development which is exempt under this Policy	
Lighting—installation, construction, maintenance or operation	<ul style="list-style-type: none">• Construction and maintenance of external lighting if light spill is contained within site and in accordance with AS 4282–1997, <i>Control of the obtrusive effects of outdoor lighting</i> and AS/NZS 1158:2007, <i>Lighting for Roads and Public Spaces</i>.• Construction and maintenance of lighting at or in vicinity of air transport facilities if consistent with <i>Manual of Standards (MOS)—Part 139—Aerodromes</i> published by the Civil Aviation Safety Authority (established under <i>Civil Aviation Act 1988</i> of the Commonwealth).
Offices—portable	<ul style="list-style-type: none">• Height must not exceed 1 storey.• Setbacks must be in accordance with any applicable setback provisions of development control plan applying to site.• Must not be carried out on land within a growth centre (within the meaning of <i>State Environmental Planning Policy (Sydney Region Growth Centres) 2006</i>) that is not subject land within the meaning of clause 17 of Schedule 7 to the <i>Threatened Species Conservation Act 1995</i>.
Pergolas and storm blinds	<ul style="list-style-type: none">• Surface area must not exceed 20m².• Height must not exceed 2.4m above ground level (existing).• Must maintain all required boundary setbacks for the associated building and no part of structure must be within 900mm of any property boundary.

public consultation draft

State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 [NSW]
Schedule 1 Exempt development—general

Development purpose

Development standards

Rainwater and bore water tanks

- Height (including any stand) must not exceed 2.4m above ground level (existing).
- No part of structure must be within 450mm of any property boundary or situated no closer to street than any associated building.
- Rainwater tank must be fitted with first-flush device that causes initial run-off of any rain to bypass tank to reduce pollutants entering tank.
- Installation must not involve excavation of more than 1m from ground level (existing), or filling of more than 1m above ground level (existing).
- Must not be installed over any structure or fittings used by public authority to maintain water or sewer main.
- Must be sign affixed to tank, clearly stating that water in tank is rainwater or bore water (as appropriate).

Retaining walls

- Must not provide for retaining of fill to height above ground level (existing) of more than 2m or excavation to depth below ground level (existing) of more than 1m.
- Must not prevent the natural flow of stormwater drainage/run-off.

Scaffolding—erection in conjunction with erection or demolition of, or carrying out of alterations or additions to, a building or carrying out of maintenance or repairs (for which, in each case, any required consent has been obtained)

- Must not encroach onto footpath or public thoroughfare.
- Temporary fencing must be provided to restrict unauthorised access to site if scaffolding is within 3m of any boundary.
- Must be removed immediately on completion of work if removal will not give rise to safety risk.

Security cameras—installation for security purposes

Sheds

- Must be free-standing, prefabricated and constructed of non-reflective materials.
- Development must not result in shed with a total floor area exceeding 30m².
- Height must not exceed 2.5m above ground level (existing).
- Must be located in rear of infrastructure facility.

Skylight or roof windows

- Area of skylight must not exceed 2m².
- Must not be located within 900mm of any property boundary or within 900mm of any wall separating attached dwellings.
- Work must not reduce structural integrity of building or involve structural alterations.

Signs

Existing signs—maintenance, replacement or change in display if existing sign is exempt under this Policy

- Must not involve a change in area, form or shape.

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State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 [NSW]
Schedule 1 Exempt development—general

Development purpose

Development standards

Identification, directional, community information or safety signs but not including roof-top signs or commercial advertising or signs associated with the use of road infrastructure (including signs associated with level crossings)

- Surface area must not exceed 3.5m².
- Must be located wholly within property boundary or be attached to existing boundary fence and not projecting more than 100mm from fence.
- Obtrusive effects of outdoor lighting must be controlled in accordance with AS 4282–1997, *Control of the obtrusive effects of outdoor lighting*.

Identification, directional, community information or safety signs associated with the use of road infrastructure

- Must be consistent with road safety policies and guidelines on outdoor advertising approved by the Secretary for the purpose of this standard and published in the Gazette.

Temporary signs advertising an event and associated relevant details including sponsorship of the event

- Surface area must not exceed 3.5m².
- Must be located wholly within property boundary.
- Must not be displayed earlier than 28 days before event and must be removed within 14 days after event.
- Obtrusive effects of outdoor lighting must be controlled in accordance with AS 4282–1997 *Control of the obtrusive effects of outdoor lighting*.

Schedule 2 Schools—complying development

(Clauses 33 (3) and 34 (2) (e))

1 Definitions

- (1) A word or expression used in this Schedule has the same meaning as it has in *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* unless it is otherwise defined in this Schedule.
- (2) In this Schedule:
ground level (finished) means, for any point on a site, the ground surface after completion of any earthworks (excluding any excavation for a basement, footings or the like) for which consent has been granted or that is exempt development.
ground level (mean) means, for any site on which a building is situated or proposed, one half of the sum of the highest and lowest levels at ground level (finished) of the outer surface of the external walls of the building.

2 Building height

The building height of a building (whether a new building, or an existing building as a result of an addition or alteration):

- (a) must not exceed 4 storeys, and
- (b) must not exceed 22m from ground level (mean).

3 Side and rear setback

A building (whether a new building, or an existing building as a result of an addition or alteration) must comply with the following side and rear setbacks:

- (a) if the building height is 12m or less—the building must be located more than 5m from any side or rear property boundary with land in a residential zone or more than 1m from any side or rear property boundary with land in any other zone,
- (b) if the building height is more than 12m but no more than 15m—the building must be located more than 8m from any side or rear property boundary with land in a residential zone or more than 2.5m from any side or rear property boundary with land in any other zone,
- (c) if the building height is more than 15m but no more than 22m—the building must be located more than 10m from any side or rear property boundary with land in a residential zone or more than 4m from any side or rear property boundary with land in any other zone.

4 Design and materials

A new building or an alteration or addition to an existing building must comply with the following:

- (a) any new external walls or roof of the building must be constructed of non-reflective material,
- (b) any external walls of the building that face a public road or reserve must contain windows.

5 Overshadowing

A new building or an alteration or addition to an existing building must not overshadow any adjoining residential accommodation so that solar access to any habitable room or principal private open space on the adjoining property:

- (a) is reduced to less than 3 hours of solar access between 9:00 am and 3:00 pm at the winter solstice, or
- (b) is reduced in any manner if solar access to any habitable room on the adjoining property is already less than 3 hours.

6 Privacy

A window in a new building, or a new window in any alteration or addition to an existing building, must have a privacy screen for any part of the window that is less than 1.5m above finished floor level if:

- (a) the finished floor level is more than 1.5m above ground level (mean), and
- (b) the window faces a building used for residential accommodation on an adjoining lot, and
- (c) the wall in which the window is located has a setback of less than 5m from the boundary of that adjoining lot.

7 Landscape

Landscaping must be provided for a new building constructed adjacent to the boundary of land in Zone R1 General Residential, Zone R2 Low Density Residential, Zone R3 Medium Density Residential or Zone R4 High Density Residential, as follows:

- (a) the landscaped area must be 3m wide and along the common boundary,
- (b) the landscaped area must contain trees or shrubs (that grow to a mature height of 3m or more) that are:
 - (i) suitable for screening, and
 - (ii) not likely to pose a safety or health risk.

8 Waste

- (1) A garbage and waste storage area for recyclable and non-recyclable waste materials and receptacles for those materials must:
 - (a) be provided as part of the development, and
 - (b) be located entirely within the lot on which the development is being carried out and not on a road or road reserve, and
 - (c) comply with the following appendices in the document titled *Better Practice Guidelines for Waste Management and Recycling in Commercial and Industrial Facilities* (ISBN 978-1-74293-944-5), published by the NSW Environment Protection Authority in December 2012:
 - (i) Appendices A and B, for the size and location of garbage and storage areas and the size of waste receptacles,
 - (ii) Appendices C and D, for the design of openings of waste storage areas and loading bay turning circles for waste removal vehicles,
 - (iii) Appendix E, for standard signs for waste storage areas,
 - (iv) Appendix F, for the design and operational capacity of waste storage areas.
- (2) The waste storage area must:
 - (a) be screened, and
 - (b) be located behind the primary road frontage building line, and
 - (c) not be located in any car parking, loading or landscaped area, and

- (d) not be located on any side of the building that faces an adjoining lot on which there is residential accommodation.
- (3) Despite subclause (1) (a), the waste storage area may be part of an existing facility on the site that has capacity.

9 Earthworks

- (1) Earthworks for the purposes of the development must:
 - (a) be structurally supported in accordance with subclause (2), and
 - (b) if the land is not identified as Class 3 or Class 4 on the Acid Sulfate Soils Map—not be more than 3m below ground level (existing), and
 - (c) if the land is identified as Class 3 or Class 4 on the Acid Sulfate Soils Map—not be more than 1m below ground level (existing), and
 - (d) be carried out at least 40m from any waterbody (natural), and
 - (e) if the works are on a lot adjacent to a rail corridor—have a setback at least 3m from the corridor.
- (2) Structural support for earthworks more than 1m above or below ground level (existing) must take the form of a retaining wall or other form of structural support that:
 - (a) has been certified by a professional engineer, and
 - (b) has adequate drainage lines connected to an existing stormwater drainage system for the site, and
 - (c) does not redirect the flow of any water or cause sediment to be transported onto an adjoining property, and
 - (d) is not higher than 3m, and
 - (e) is separated from any other structural support on the site by at least 2m, measured horizontally.
- (3) Fill, for the purpose of the development, must:
 - (a) not raise the ground level (existing) more than 2m, and
 - (b) be wholly contained by structural support in accordance with subclause (2), and
 - (c) be located at least 40m from any waterbody (natural).

10 Drainage

- (1) All stormwater drainage collecting as a result of the development must be conveyed 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 within a lot and the connection to a public or an 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) if an approval is not required under section 68 of the *Local Government Act 1993*, comply with any requirements for the disposal of stormwater drainage contained in a development control plan that is applicable to the land.

11 Bush fire prone land

- (1) This clause applies:
 - (a) to all development on a lot that is wholly or partly bush fire prone land, and
 - (b) in addition to all other development standards specified for complying development under this Policy.
- (2) The development may be carried out on the lot only if:
 - (a) the development conforms to the specifications and requirements of the following that are relevant to the development:
 - (i) *Planning for Bush Fire Protection* (ISBN 0 9751033 2 6) published by the NSW Rural Fire Service in December 2006,
 - (ii) *Addendum: Appendix 3* (ISBN 0 9751033 2 6, published by NSW Rural Fire Service in 2010) to *Planning for Bush Fire Protection* (ISBN 0 9751033 2 6),
 - (iii) if another document is prescribed by the regulations for the purposes of section 79BA of the Act—that document, and
 - (b) the part of the lot on which the development is to be carried out is not in bush fire attack level-40 (BAL-40) or the flame zone (BAL-FZ), and
 - (c) the lot has direct access to a public road or a road vested in or maintained by the council, and
 - (d) a reticulated water supply is connected to the lot, and
 - (e) a fire hydrant is located less than 60m from the location on the lot of the proposed development, and
 - (f) mains electricity is connected to the lot, and
 - (g) 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 (such as the requirement that metal piping must be used), and
 - (h) any gas cylinders on the lot that are within 10m of a dwelling:
 - (i) have the release valves directed away from the dwelling, and
 - (ii) are enclosed on the hazard side of the installation, and
 - (iii) have metal connections to and from the cylinders, and
 - (i) there are no polymer sheathed flexible gas supply lines to gas meters adjacent to any dwelling on the lot or an adjoining lot.

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

- (3) A standard specified in subclause (2) (b) is satisfied if one of the following certifies that the development is not in bush fire attack level-40 (BAL-40) or the flame zone (BAL-FZ):
 - (a) a person who is recognised by the NSW Rural Fire Service as a suitably qualified consultant in bush fire risk assessment, or
 - (b) the council.

Note. More information about the categories of bush fire attack, including the flame zone, can be found in Table A3.4.2 of *Addendum: Appendix 3* (ISBN 0 9751033 2 6 and published by NSW Rural Fire Service in 2010) to the publication titled *Planning for Bush Fire Protection* (ISBN 0 9751033 2 6) published by NSW Rural Fire Service in 2006.

12 Flood control lots

- (1) This clause applies:
 - (a) to all development that is to be carried out on a flood control lot, and
 - (b) in addition to all other development standards specified for complying development under this Policy.
- (2) The development must not be on any part of a flood control lot unless that part of the lot has been certified, for the purposes of the issue of the relevant complying development certificate, by the council or a professional engineer who specialises in hydraulic engineering, as not being any of the following:
 - (a) a flood storage area,
 - (b) a floodway area,
 - (c) a flow path,
 - (d) a high hazard area,
 - (e) a high risk area.
- (3) The development must, to the extent it is within a flood planning area:
 - (a) have a minimum floor level no lower than the floor levels set by the council for that lot, and
 - (b) have the part of the development at or below the flood planning level constructed of flood compatible material, and
 - (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), and
 - (d) not increase flood affectation elsewhere in the floodplain, and
 - (e) have reliable access for pedestrians and vehicles from the development, at a minimum level equal to the lowest floor level of the development, to a safe refuge, and
 - (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.
- (4) A standard specified in subclause (3) (c) or (d) is 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), or
 - (b) will not increase flood affectation elsewhere in the floodplain.
- (5) If a word or expression used in this clause is defined in the Floodplain Development Manual, the word or expression has the same meaning as it has in that Manual unless it is otherwise defined in this clause.
- (6) In this clause:

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

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 149 (2) of the Act.

Floodplain Development Manual means the *Floodplain Development Manual* (ISBN 0 7347 5476 0) published by the NSW Government in April 2005.

flow path means a flow path identified in the council's flood study or floodplain risk management study carried out in accordance with the Floodplain Development Manual.

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 Floodplain Development 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 Floodplain Development Manual.

Schedule 3 Universities—complying development

(Clause 43 (3))

1 Definitions

- (1) A word or expression used in this Schedule has the same meaning as it has in *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* unless it is otherwise defined in this Schedule.
- (2) In this Schedule:
ground level (mean) means, for any site on which a building is situated or proposed, one half of the sum of the highest and lowest levels at ground level (finished) of the outer surface of the external walls of the building.
ground level (finished) means, for any point on a site, the ground surface after completion of any earthworks (excluding any excavation for a basement, footings or the like) for which consent has been granted or that is exempt development.

2 Building height

The building height of a building (whether a new building, or an existing building as a result of an addition or alteration):

- (a) must not exceed 3 storeys, and
- (b) must not exceed 15m from ground level (mean).

3 Maximum gross floor area

- (1) The maximum gross floor area of a new building is:
 - (a) the maximum gross floor area for a building on the land, imposed by an environmental planning instrument, or
 - (b) if no environmental planning instrument imposes a development standard referred to in paragraph (a)—2,000m².
- (2) If the development is an alteration or addition to an existing building, the maximum gross floor area of the building as altered or added to is:
 - (a) the maximum gross floor area for a building on the land, imposed by an environmental planning instrument, or
 - (b) if no environmental planning instrument imposes a development standard referred to in paragraph (a)—the lesser of:
 - (i) 2,000m², or
 - (ii) 50% of the gross floor area of the existing building.

4 Side and rear setback

- (1) A new building must be located at least 5m from any side or rear property boundary with land in a residential zone or at least 1m from any side or rear property boundary with land in any other zone.
- (2) Alterations or additions to an existing building must not:
 - (a) if the existing setback is less than 5m from a side or rear boundary—result in any decrease in the existing set back of the building from that boundary, or
 - (b) if the existing setback is 5m or more from a side or rear boundary—result in the building being located less than 5m from any side or rear property boundary with land in a residential zone or less than 1m from any side or rear property boundary with land in any other zone.

5 Front setback

- (1) A new building must have a front setback:
 - (a) that is not less than the average distance of the front setbacks of all existing development that is located within 70m of the building, or
 - (b) if there is no development located within 70m of the building—of at least 5m.
- (2) Alterations or additions to an existing building must not result in the building having a front setback:
 - (a) that is less than the average distance of the front setbacks of all existing development that is located within 70m of the building, or
 - (b) if there is no development located within 70m of the building—of less than 5m.

6 Design and materials

A new building or an alteration or addition to an existing building must comply with the following:

- (a) any new external walls or roof of the building must be constructed of non-reflective material,
- (b) any external walls of the building that face a public road or reserve must contain windows.

7 Noise

A new building or (if the development is an alteration or addition to an existing building for the purpose of changing its use) an existing building that is to be used for the purpose of a recreation facility (indoor) or a community facility must:

- (a) if the building adjoins land used for residential accommodation—be located at least 20m from any boundary of the land, and
- (b) be designed so as not to emit noise exceeding an LAeq of 5 dB(A) above background noise when measured at any lot boundary.

8 Overshadowing

A new building or an alteration or addition to an existing building must not overshadow any adjoining residential accommodation so that solar access to any habitable room or principal private open space on the adjoining property:

- (a) is reduced to less than 3 hours of solar access between 9:00 am and 3:00 pm at the winter solstice, or
- (b) is reduced in any manner if solar access to any habitable room on the adjoining property is already less than 3 hours.

9 Privacy

A window in a new building, or a new window in any alteration or addition to an existing building, must have a privacy screen for any part of the window that is less than 1.5m above finished floor level if:

- (a) the finished floor level is more than 1.5m above ground level (mean), and
- (b) the window faces a building used for residential accommodation on an adjoining lot, and
- (c) the wall in which the window is located has a setback of less than 10m from the boundary of that adjoining lot.

10 Landscape

Landscaping must be provided for a new building constructed adjacent to the boundary of land in Zone R1 General Residential, Zone R2 Low Density Residential, Zone R3 Medium Density Residential or Zone R4 High Density Residential, as follows:

- (a) the landscaped area must be 3m wide and along the common boundary,
- (b) the landscaped area must contain trees or shrubs (that grow to a mature height of 3m or more) that are:
 - (i) suitable for screening, and
 - (ii) not likely to pose a safety or health risk.

11 Waste

- (1) A garbage and waste storage area for recyclable and non-recyclable waste materials and receptacles for those materials must:
 - (a) be provided as part of the development, and
 - (b) be located entirely within the lot on which the development is being carried out and not on a road or road reserve, and
 - (c) comply with the following appendices in the document titled *Better Practice Guidelines for Waste Management and Recycling in Commercial and Industrial Facilities* (ISBN 978-1-74293-944-5), published by the NSW Environment Protection Authority in December 2012:
 - (i) Appendices A and B, for the size and location of garbage and storage areas and the size of waste receptacles,
 - (ii) Appendices C and D, for the design of openings of waste storage areas and loading bay turning circles for waste removal vehicles,
 - (iii) Appendix E, for standard signs for waste storage areas,
 - (iv) Appendix F, for the design and operational capacity of waste storage areas.
- (2) The waste storage area must:
 - (a) be screened, and
 - (b) be located behind the primary road frontage building line, and
 - (c) not be located in any car parking, loading or landscaped area, and
 - (d) not be located on any side of the building that faces an adjoining lot on which there is residential accommodation.
- (3) Despite subclause (1) (a), the waste storage area may be part of an existing facility on the site that has capacity.

12 Earthworks

- (1) Earthworks for the purposes of the development must:
 - (a) be structurally supported in accordance with subclause (2), and
 - (b) if the land is not identified as Class 3 or Class 4 on the Acid Sulfate Soils Map—not be more than 3m below ground level (existing), and
 - (c) if the land is identified as Class 3 or Class 4 on the Acid Sulfate Soils Map—not be more than 1m below ground level (existing), and
 - (d) be carried out at least 40m from any waterbody (natural), and
 - (e) if the works are on a lot adjacent to a rail corridor—have a setback at least 3m from the corridor.

- (2) Structural support for earthworks more than 1m above or below ground level (existing) must take the form of a retaining wall or other form of structural support that:
 - (a) has been certified by a professional engineer, and
 - (b) has adequate drainage lines connected to an existing stormwater drainage system for the site, and
 - (c) does not redirect the flow of any water or cause sediment to be transported onto an adjoining property, and
 - (d) is not higher than 3m, and
 - (e) is separated from any other structural support on the site by at least 2m, measured horizontally.
- (3) Fill, for the purpose of the development, must:
 - (a) not raise the ground level (existing) more than 2m, and
 - (b) be wholly contained by structural support in accordance with subclause (2), and
 - (c) be located at least 40m from any waterbody (natural).

13 Drainage

- (1) All stormwater drainage collecting as a result of the development must be conveyed 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 within a lot and the connection to a public or an 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) if an approval is not required under section 68 of the *Local Government Act 1993*, comply with any requirements for the disposal of stormwater drainage contained in a development control plan that is applicable to the land.

14 Bush fire prone land

- (1) This clause applies:
 - (a) to all development on a lot that is wholly or partly bush fire prone land, and
 - (b) in addition to all other development standards specified for complying development under this Policy.
- (2) The development may be carried out on the lot only if:
 - (a) the development conforms to the specifications and requirements of the following that are relevant to the development:
 - (i) *Planning for Bush Fire Protection* (ISBN 0 9751033 2 6) published by the NSW Rural Fire Service in December 2006,
 - (ii) *Addendum: Appendix 3* (ISBN 0 9751033 2 6, published by NSW Rural Fire Service in 2010) to *Planning for Bush Fire Protection* (ISBN 0 9751033 2 6),
 - (iii) if another document is prescribed by the regulations for the purposes of section 79BA of the Act—that document, and

- (b) the part of the lot on which the development is to be carried out is not in bush fire attack level-40 (BAL-40) or the flame zone (BAL-FZ), and
- (c) the lot has direct access to a public road or a road vested in or maintained by the council, and
- (d) a reticulated water supply is connected to the lot, and
- (e) a fire hydrant is located less than 60m from the location on the lot of the proposed development, and
- (f) mains electricity is connected to the lot, and
- (g) 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 (such as the requirement that metal piping must be used), and
- (h) any gas cylinders on the lot that are within 10m of a dwelling:
 - (i) have the release valves directed away from the dwelling, and
 - (ii) are enclosed on the hazard side of the installation, and
 - (iii) have metal connections to and from the cylinders, and
- (i) there are no polymer sheathed flexible gas supply lines to gas meters adjacent to any dwelling on the lot or an adjoining lot.

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

- (3) A standard specified in subclause (2) (b) is satisfied if one of the following certifies that the development is not in bush fire attack level-40 (BAL-40) or the flame zone (BAL-FZ):
 - (a) a person who is recognised by the NSW Rural Fire Service as a suitably qualified consultant in bush fire risk assessment, or
 - (b) the council.

Note. More information about the categories of bush fire attack, including the flame zone, can be found in Table A3.4.2 of *Addendum: Appendix 3* (ISBN 0 9751033 2 6 and published by NSW Rural Fire Service in 2010) to the publication titled *Planning for Bush Fire Protection* (ISBN 0 9751033 2 6) published by NSW Rural Fire Service in 2006.

15 Flood control lots

- (1) This clause applies:
 - (a) to all development that is to be carried out on a flood control lot, and
 - (b) in addition to all other development standards specified for complying development under this Policy.
- (2) The development must not be on any part of a flood control lot unless that part of the lot has been certified, for the purposes of the issue of the relevant complying development certificate, by the council or a professional engineer who specialises in hydraulic engineering, as not being any of the following:
 - (a) a flood storage area,
 - (b) a floodway area,
 - (c) a flow path,
 - (d) a high hazard area,
 - (e) a high risk area.
- (3) The development must, to the extent it is within a flood planning area:
 - (a) have a minimum floor level no lower than the floor levels set by the council for that lot, and

- (b) have the part of the development at or below the flood planning level constructed of flood compatible material, and
 - (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), and
 - (d) not increase flood affectation elsewhere in the floodplain, and
 - (e) have reliable access for pedestrians and vehicles from the development, at a minimum level equal to the lowest floor level of the development, to a safe refuge, and
 - (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.
- (4) A standard specified in subclause (3) (c) or (d) is 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), or
 - (b) will not increase flood affectation elsewhere in the floodplain.
- (5) If a word or expression used in this clause is defined in the Floodplain Development Manual, the word or expression has the same meaning as it has in that Manual unless it is otherwise defined in this clause.
- (6) In this clause:
 - flood compatible material*** means building materials and surface finishes capable of withstanding prolonged immersion in water.
 - 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 149 (2) of the Act.
 - Floodplain Development Manual*** means the *Floodplain Development Manual* (ISBN 0 7347 5476 0) published by the NSW Government in April 2005.
 - flow path*** means a flow path identified in the council's flood study or floodplain risk management study carried out in accordance with the Floodplain Development Manual.
 - 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 Floodplain Development 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 Floodplain Development Manual.

Schedule 4 Schools—design quality principles

(Clause 29 (5))

Principle 1—context, built form and landscape

Schools should be designed to respond to and enhance the positive qualities of their setting, landscape and heritage. The design and spatial organisation of buildings and the spaces between them should be informed by site conditions such as topography, orientation and climate.

Landscape should be integrated into the design of school developments to enhance on-site amenity, contribute to the streetscape and mitigate negative impacts on neighbouring sites.

Principle 2—sustainable, efficient and durable

Good design combines positive environmental, social and economic outcomes. Schools and school buildings should be designed to minimise the consumption of energy, water and natural resources and reduce waste and encourage recycling.

Schools should be designed to be durable, resilient and adaptable, enabling them to evolve over time to meet future requirements.

Principle 3—accessible and inclusive

School buildings and their grounds should provide good wayfinding and be welcoming, accessible and inclusive to people with differing needs and capabilities.

Note. Wayfinding refers to information systems that guide people through a physical environment and enhance their understanding and experience of the space.

Schools should actively seek opportunities for their facilities to be shared with the community and cater for activities outside of school hours.

Principle 4—health and safety

Good school development optimises health, safety and security within its boundaries and the surrounding public domain, and balances this with the need to create a welcoming and accessible environment.

Principle 5—amenity

Schools should provide pleasant and engaging spaces that are accessible for a wide range of educational, informal and community activities, while also considering the amenity of adjacent development and the local neighbourhood.

Schools should include appropriate, efficient, stage and age appropriate indoor and outdoor learning and play spaces, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage and service areas.

Principle 6—whole of life, flexible and adaptive

School design should consider future needs and take a whole-of-life-cycle approach underpinned by site wide strategic and spatial planning. Good design for schools should deliver high environmental performance, ease of adaptation and maximise multi-use facilities.

Principle 7—aesthetics

School buildings and their landscape setting should be aesthetically pleasing by achieving a built form that has good proportions and a balanced composition of elements. Schools should respond to positive elements from the site and surrounding

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neighbourhood and have a positive impact on the quality and character of a neighbourhood.

The built form should respond to the existing or desired future context, particularly, positive elements from the site and surrounding neighbourhood, and have a positive impact on the quality and sense of identity of the neighbourhood.

Schedule 5 Amendment of environmental planning instruments

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

[1] **Clause 2.45**

Omit “if it is not carried out on bush fire prone land”.

[2] **Clause 2.46**

Omit the clause. Insert instead:

2.46 Development standards

- (1) The standards specified for that development, if located on bush fire prone land, are as follows:

- (a) an asset protection zone must be established for the dwelling used for home-based child care (the *dwelling*), that is not on a slope exceeding 18 degrees and that is in accordance with *Planning for Bush Fire Protection* (ISBN 0 9751033 2 6) published by the NSW Rural Fire Service in December 2006,
- (b) a bush fire emergency management and evacuation plan must be prepared and a copy provided to the local fire service,
- (c) the dwelling and any associated access way must not be in bush fire attack level-40 (BAL-40) or the flame zone (BAL-FZ),
- (d) the lot on which the dwelling is located (the *lot*) must have direct access to a public road or a road vested in or maintained by the council,
- (e) either a reticulated water supply must be connected to the lot or a dedicated water supply of at least 10,000L must be stored in a tank on site for fire fighting purposes,
- (f) the dwelling must be located within 60m of a fire hydrant,
- (g) mains electricity must be connected to the lot,
- (h) reticulated or bottled gas on the lot must be installed in accordance with AS/NZS 1596:2008, *The storage and handling of LP Gas* and the requirements of relevant authorities (such as the requirement that metal piping be used),
- (i) any gas cylinders on the lot that are within 10m of the dwelling must:
 - (i) have their release valves directed away from the dwelling, and
 - (ii) be enclosed on the hazard side of the installation, and
 - (iii) have metal connections to and from the cylinders, and
- (j) there must be no polymer sheathed flexible gas supply lines to gas meters adjacent to the dwelling.

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

- (2) In this clause:

bush fire attack level-40 (BAL-40) has the same meaning as it has in AS 3959—2009, *Construction of buildings in bushfire-prone areas*.

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flame zone (BAL-FZ) has the same meaning as it has in AS 3959—2009, *Construction of buildings in bushfire-prone areas*.

Note 1. The elements that must comprise this type of development are specified in the definition for this development in the Standard Instrument. If all the elements are not present, the development is not development to which this Division applies.

Note 2. A service approval is required to operate an early childhood education and care facility that is an education and care service to which the *Children (Education and Care Services) National Law (NSW)* applies or a State regulated education and care service to which the *Children (Education and Care Services) Supplementary Provisions Act 2011* applies.

Note 3. More information about the categories of bush fire attack, including the flame zone, can be found in Table A3.4.2 of *Addendum: Appendix 3* (ISBN 0 9751033 2 6 and published by NSW Rural Fire Service in 2010) to the publication titled *Planning for Bush Fire Protection* (ISBN 0 9751033 2 6) published by NSW Rural Fire Service in 2006.

[3] Clause 2.64

Omit clause 2.64 (1) (a) (i) and (4).

[4] Clause 2.64 (1) (a) (ii)

Omit “in any other case—”.

[5] Clause 2.72

Omit “child care centre” from clause 2.72 (b) (ii) and (iii) and (l).

Insert instead “centre-based child care”.

[6] Clauses 5.2 (1A) and 5.4 (1A)

Insert after clause 5.2 (1) and 5.4 (1):

- (1A) Despite subclause (1), subclause (1) (e) does not apply to development in connection with a tertiary institution.

[7] Clause 5.2

Insert after clause 5.2 (2):

- (3) Subclause (2) (b) is also a standard specified for that development if the alteration involves an area of more than 500m² of a tertiary institution.

[8] Clause 5.3

Insert “tertiary institution” in appropriate order in the matter relating to **Category 2** in Columns 1 and 2 of the Table to the clause.

[9] Clause 5.3 (3)

Insert after clause 5.3 (2):

- (3) Despite subclause (1), a change in use from a tertiary institution or to a tertiary institution, as specified in category 2 in Columns 1 and 2 of the Table to this clause, is development specified for this code only if the gross floor area of the premises does not exceed 60m².

[10] Clause 5.5

Insert after clause 5.5 (1) (k):

- (l) a tertiary institution.

[11] Clauses 5.13 and 5.16

Insert “or building identification sign” after “business identification sign” wherever occurring.

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[12] Clause 5.14

Omit clause 5.14 (a). Insert instead:

- (a) not result in more than 4 business identification signs (which may refer to more than 1 business within the building) or building identification signs (or both) of this type for the building so long as only one sign is visible on each elevation of the building, and

[13] Clauses 5.14 (g) and 5.15 (i)

Insert “is a business identification sign and” after “if the sign”.

[14] Clause 5.14 (2)

Insert at the end of clause 5.14:

- (2) Despite subclause (1), subclause (1) (c) does not apply to development in connection with a tertiary institution.

[15] Clause 5A.1

Insert at the end of the clause:

- (2) This code also applies to development that is specified in clause 5A.2 (1) (d) or (e) on any lot in Zone SP1 or SP2 if that development is in connection with a tertiary institution.

[16] Clause 5A.24

Insert after clause 5A.24 (2):

- (3) If car parking is in connection with a tertiary institution, the following additional development standards apply:
 - (a) must not increase or reduce the number of car spaces currently approved for the land,
 - (b) if the parking area is on grade, provide at least 1 tree with a mature height of at least 8m for every 6 cars.

Note. Consent from the relevant roads authority may be required under section 138 of the *Roads Act 1993* for the building of any kerb, crossover or driveway. See clause 1.18 (1) (e).

5.2 State Environmental Planning Policy (State and Regional Development) 2011

Schedule 1 State significant development—general

Omit clause 15. Insert instead:

15 Educational establishments

- (1) Development for the purpose of a new school (regardless of the capital investment value).
- (2) Development that has a capital investment value of more than \$20 million for the purpose of alterations or additions to an existing school.
- (3) Any other development for the purpose of educational establishments (including associated research facilities) that has a capital investment value of more than \$30 million.

5.3 State Environmental Planning Policy (Infrastructure) 2007

[1] Clause 16 Consultation with public authorities other than councils

Omit “an educational establishment,” from clause 16 (2) (f). Insert instead “a”.

[2] Clause 20A Exempt development carried out by public authorities for purposes in Schedule 1

Insert at the end of the clause:

- (2) This clause does not apply to development carried out by public authorities in connection with an existing educational establishment.

Note. The *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2016* provides for exempt development carried out by public authorities in connection with an existing educational establishment.

[3] Part 3 Development controls

Omit Division 3 (Educational establishments).

[4] Clause 48B Development on land to which SEPP 14 applies

Omit “educational establishment,” from clause 48B (2) (a).

[5] Clause 48B (2) (a)

Omit “child care centre”. Insert instead “centre-based child care”.

[6] Clauses 87 (1) (d) and 102 (1) (d)

Omit “child care centre” wherever occurring. Insert instead “centre-based child care”.

[7] Schedule 1 Exempt development—general

Insert above the column headings “**Development purpose**” and “**Development standards**”:

Note. Clause 20A and this Schedule do not apply to development carried out by public authorities in connection with an existing educational establishment. Exempt development of that kind is provided for in *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2016*.

[8] Schedule 1

Omit “(except for an educational establishment)” from the development standard relating to awnings, canopies, pergolas and storm blinds.

[9] Schedule 3 Traffic generating development to be referred to the RTA

Omit from Columns 1 and 2, respectively, the matter relating to educational establishments.