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

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Part 3A

Part 3A Rural Housing Code

Note 1. Clause 1.18 (1) (b) states that to be complying development for the purposes of this Policy the development must be permissible with consent under an environmental planning instrument applying to the land on which the development is carried out.

Note 2. Schedule 3 contains variations to this code.

Note 3. In addition to the requirements specified for development under this code, 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 development in this code 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*, the *Swimming Pools Act 1992* 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.

Division 1 Development that is complying development under this code

3A.1 Land to which code applies

This code applies to development that is specified in clauses 3A.2–3A.5 on lots in Zones RU1, RU2, RU3, RU4, RU6 and R5.

3A.2 New single storey and two storey dwelling houses

- (1) The erection of a new single storey or two storey dwelling house is development specified for this code if the development is erected on a lot:
 - (a) in Zone RU1, RU2, RU4 or RU6 that has an area of at least 4,000m², or
 - (b) in Zone R5.
- (2) This clause does not apply if the size of the lot is less than the minimum lot size for the erection of a dwelling house under the environmental planning instrument applying to the lot.

3A.2A Calculating number of storeys

For the purposes of calculating under this code the number of storeys in a dwelling house, any basement (including a garage) is to be counted as a storey.

3A.3 Alterations or additions to existing single storey and two storey dwelling houses

- (1) Alterations or additions to an existing single storey or two storey dwelling house or the addition of a second storey to an existing single storey dwelling house is development specified for this code if the development is erected on a lot:
 - (a) in Zone RU1, RU2, RU3, RU4 or RU6 that has an area of at least 4,000m², or
 - (b) in Zone R5.
- (2) Subclause (1) does not include development specified in the Housing Alterations Code.

3A.4 Roof terraces excluded

- (1) (Repealed)

- (2) The erection of a roof terrace on the topmost roof of:
- (a) an existing or a new dwelling house, or
 - (b) an existing or a new outbuilding that is detached from a dwelling house,
- is not development specified for this code.

3A.5 Ancillary development

- (1) The erection of new ancillary development, or alterations or additions to existing ancillary development, is development specified for this code if the development is ancillary to a dwelling house and erected on a lot:
- (a) in Zone RU1, RU2, RU3, RU4 or RU6 that has an area of at least 4,000m², or
 - (b) in Zone R5.
- (2) Subclause (1) does not include development specified in the Housing Alterations Code.
- (3) Ancillary development that is permitted by a current complying development certificate may be erected on a lot:
- (a) if a dwelling house exists on the lot—at any time, or
 - (b) if there is a current development consent or complying development certificate for the construction of a dwelling house on the lot—before the construction of the dwelling house.

Note. See clause 1.19 (1) (a) in relation to development that is detached ancillary development or a swimming pool in a heritage conservation area or a draft heritage conservation area.

3A.6 Calculating lot area

For the purpose of calculating the area of a lot, the area of the access laneway is excluded if it is a battle-axe lot.

Division 2 Removal or pruning of trees

3A.7 When separate permits are not required under this Part

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

- (a) the tree is not listed on a significant tree register or register of significant trees kept by the council, and
- (b) the tree or vegetation will be within 3m of development that is a building that has an area of more than 25m², and
- (c) the tree or vegetation has a height that is less than:
 - (i) for development that is the erection of a new dwelling house—8m and is not required to be retained as a condition of consent to the subdivision of the lot, or
 - (ii) for any other development—6m.

Division 3 Development standards for this code

Subdivision 1 Application

3A.8 Application of development standards

This Division sets out the specified development standards that apply to development specified for this code.

Subdivision 2 Site requirements

3A.9 Lot requirements and building envelope

- (1) Development specified for this code may only be carried out on a lot that:
 - (a) at the completion of the development will have only one dwelling house, and
 - (b) if the lot is in Zone R5 and is not a battle-axe lot—has a width, measured at the building line, of at least 18m, and
 - (c) if the lot is in Zone R5 and is a battle-axe lot—has an access laneway at least 3m wide and measures at least 12m × 12m, excluding the access laneway.
- (2) A lot on which a new single storey or two storey dwelling house is erected must have lawful direct frontage access or a right of carriageway to a public road or a road vested in or maintained by the council (other than a Crown road reserve).
- (3) If under section 88B of the *Conveyancing Act 1919* a restriction is created that specifies a building envelope for a lot, development specified for this code may only be carried out within the building envelope specified.

3A.10 Maximum site coverage of all development

The site coverage of a new dwelling house and all ancillary development on a lot in Zone R5 that has an area of less than 4,000m² must not be more than 30 per cent.

3A.11 Maximum floor area for new dwelling houses

The floor area of a new dwelling house on a lot in Zone R5 that has an area of less than 4,000m² must not be more than 430m².

3A.12 Maximum floor area for new outbuildings

The floor area of a new outbuilding on a lot in Zone R5 that has an area of less than 4,000m² must not be more than the following:

- (a) 500m², if the only purpose of the outbuilding is for agricultural use,
- (b) 100m², in any other case.

3A.13 Setbacks and maximum floor area for balconies, decks, patios, terraces and verandahs

- (1) The total floor area of all balconies, decks, patios, terraces and verandahs on a lot must not be more than 12m² if:
 - (a) any part of the structure is within 6m from a side or the rear boundary, and
 - (b) the structure has any point of its finished floor level more than 2m above ground level (existing).
- (2) A balcony, deck, patio, terrace or verandah must not have any point of its finished floor level:

- (a) if it is located within 3m of a side or the rear boundary—more than 2m above ground level (existing), or
 - (b) if it is located more than 3m but not more than 6m from a side or the rear boundary—more than 3m above ground level (existing), or
 - (c) if it is located more than 6m from a side or the rear boundary—more than 4m above ground level (existing).
- (3) Any detached balcony, deck, patio, terrace or verandah (including any alterations or additions to the detached balcony, deck, patio, terrace or verandah) must not have a floor level that is more than 600mm above ground level (existing).
- (4) This clause does not apply to a balcony, deck, patio, terrace or verandah that is located on the front elevation of a dwelling house unless the dwelling house is located on a battle-axe lot.

Note. Development identified in this clause may require privacy screens under clause 3A.23.

Subdivision 3 Building heights and setbacks

3A.14 Maximum heights of dwelling houses and outbuildings

- (1) The height of a dwelling house or the alterations and additions to an existing dwelling house on a lot in Zone R5 that has an area of less than 4,000m² must not be more than 8.5m above ground level (existing).
- (2) The height of an outbuilding or the alterations and additions to an existing outbuilding on a lot in Zone R5 that has an area of less than 4,000m² must not be more than 4.8m above ground level (existing).
- (3) The height of a dwelling house or the alterations and additions to an existing dwelling house on the following lots must not be more than 10m above ground level (existing):
- (a) a lot in Zone RU1, RU2, RU3, RU4 or RU6,
 - (b) a lot in Zone R5 that has an area of at least 4,000m².
- (4) The height of an outbuilding, or of the alterations and additions to an existing outbuilding, must not be more than:
- (a) if the outbuilding is located on a lot in Zone RU1, RU2, RU3, RU4 or RU6 and the outbuilding is not a farm building or shed—4.8m above ground level (existing), or
 - (b) if the outbuilding is located on a lot in Zone R5 that has an area of at least 4,000m² and the outbuilding is not a farm building or shed—4.8m above ground level (existing), or
 - (c) if the outbuilding is a farm building or shed—7m above ground level (existing).
- (5) The highest point of a dwelling house or the alterations and additions to an existing dwelling house referred to in subclause (1) or (3) must be at least 5m below the highest ridgeline of any hill within 100m of the dwelling or alteration.

3A.15 Setbacks of dwelling houses and ancillary development from roads

- (1) A dwelling house and all ancillary development on a lot in Zone R5 that has an area of less than 4,000m² must have a setback from the boundary with a primary road that is not a classified road of at least:
- (a) the average distance of the setbacks of the nearest 2 dwelling houses having the same primary road boundary and located within 40m of the lot on which the dwelling house is erected, or
 - (b) in any case where 2 dwelling houses are not located within 40m of the lot, 10m.

- (2) A dwelling house and all ancillary development on a lot in the following zones must have a setback from the boundary with a primary road that is not a classified road of at least the following:
 - (a) if the lot is in Zone R5 and has an area of at least 4,000m²—15m,
 - (b) if the lot is in Zone RU4—30m,
 - (c) if the lot is in Zone RU1, RU2, RU3 or RU6—50m.
- (3) A dwelling house and all ancillary development on a corner lot must have a setback from a boundary with a secondary road that is not a classified road of at least the following:
 - (a) if the lot is in Zone R5 and has an area of less than 4,000m²—5m,
 - (b) if the lot is in Zone R5 and has an area of at least 4,000m², or is in Zone RU1, RU2, RU3, RU4 or RU6—10m.
- (4) A dwelling house and all ancillary development on a lot in Zone R5 that has an area of less than 4,000m² must have a setback from a boundary with a parallel road that is not a classified road of at least 10m.
- (5) If a lot fronts a classified road, a dwelling house and any ancillary development must have a setback from the boundary with the classified road of:
 - (a) if another environmental planning instrument applying to that lot specifies a setback for those circumstances, the setback specified by the other instrument, or
 - (b) the setback specified by subclauses (1) and (2),whichever is the greater.

3A.16 Setbacks of dwelling houses from side boundaries

- (1) This clause applies to a dwelling house and any carport, garage, balcony, deck, patio, pergola, terrace or verandah that is attached to the dwelling house (a *building*).
- (2) Any point of a building, on a lot to which this code applies, must have a setback from the side boundary nearest to that point of at least the following distance:
 - (a) if the lot is in Zone R5 and has an area of less than 4,000m²—2.5m,
 - (b) if the lot is in Zone R5, and has an area of at least 4,000m², or is in Zone RU1, RU2, RU3, RU4 or RU6—10m.

3A.17 Setbacks of dwelling houses from rear boundaries

- (1) This clause applies to a dwelling house and any carport, garage, balcony, deck, patio, pergola, terrace or verandah that is attached to the dwelling house (a *building*).
- (2) Any point of the building must have a setback from the rear boundary nearest to that point of at least 15m.

3A.18 Setbacks of outbuildings from side and rear boundaries

An outbuilding, or alterations and additions to an existing outbuilding, must have a setback from a side or rear boundary of at least:

- (a) if the only purpose of the outbuilding is for agricultural use—10m, or
- (b) in any other case—5m.

3A.19 Exceptions to setbacks

Despite any other clause in this Subdivision:

- (a) a new dwelling house or outbuilding must have a setback of at least 3m from a boundary with a public reserve, and
- (b) side and rear setbacks and setbacks from the boundary with a road do not apply to the existing parts of a dwelling house or ancillary development where it is proposed to carry out any of the following:
 - (i) alterations or additions to an existing dwelling house,
 - (ii) alterations or additions to existing ancillary development, and
- (c) side and rear setbacks do not apply to:
 - (i) any aerial, antenna, awning, eave, flue, chimney, pipe, cooling or heating appliance, any rainwater tank greater than 1.8m in height or any other structure associated with the provision of a utility service, if it is located at least 450mm from the relevant boundary, and
 - (ii) any fence, fascia, gutter, downpipe, light fitting, electricity or gas meter, driveway, hard stand space, pathway or paving, if it is located within any required setback area to the relevant boundary, and
- (c1) the setback from a road does not apply to:
 - (i) a driveway, fence, hard stand space, pathway, paving or retaining wall, or
 - (ii) any building element that is permitted within the articulation zone, and
- (d) a dwelling house or outbuilding must have a setback of at least 40m from the bank of any perennial watercourse identified on a 1:50,000 topographical map published by the Land and Property Management Authority, and
- (e) a dwelling house or outbuilding must have a setback of at least 250m from a boundary with adjoining land being used for any of the following:
 - (i) forestry,
 - (ii) intensive livestock agriculture,
 - (iii) intensive plant agriculture,
 - (iv) mines and extractive industries,
 - (v) railway lines,
 - (vi) rural industries.

3A.20 Calculating setbacks

- (1) For the purpose of determining the nearest 2 dwelling houses in clause 3A.15 (1), a battle-axe lot is to be disregarded.
- (2) For the purpose of calculating the setbacks of the nearest 2 dwelling houses in clause 3A.15 (1):
 - (a) any ancillary development is to be disregarded, and
 - (b) any building element listed in clause 3A.22 (2) is not to be included.
- (2A) (Repealed)

- (3) For the purpose of calculating the setbacks of a new dwelling house, any building element that is permitted in the articulation zone is not included.
- (4) For the purpose of calculating setbacks for a battle-axe lot, the setback on the opposite side of the lot to the rear setback is taken to be a side setback.
- (5) (Repealed)

3A.21 Building articulation

- (1) This clause applies only to lots in Zone R5 that have an area of less than 4,000m².
- (2) A dwelling house, other than a dwelling house on a battle-axe lot, must have a front door and a window to a habitable room in the building wall that faces a primary road.
- (3) A dwelling house, other than a dwelling house on a battle-axe lot, must have a door and a window to a habitable room in the building wall that faces a parallel road.
- (4) A dwelling house, other than a dwelling house that has a setback from a primary road of less than 3m, may incorporate an articulation zone that extends from the building line to a distance of 1.5m into the required setback from the primary road.
- (5) A new dwelling house on a corner lot must have a window to a habitable room that is at least 1m² in area and that faces and is visible from a secondary road.

3A.22 Building elements within the articulation zone to a primary road

- (1) This clause applies only to lots in Zone R5 that have an area of less than 4,000m².
- (2) The following building elements are permitted in an articulation zone in the setback from a primary road:
 - (a) an entry feature or portico,
 - (b) a balcony, deck, patio, pergola, terrace or verandah,
 - (c) a window box treatment,
 - (d) a bay window or similar feature,
 - (e) an awning or other feature over a window,
 - (f) a sun shading feature.
- (3) A building element on a dwelling house (other than a pitched roof to an entry feature or portico that has the same pitch as the roof on the dwelling house) must not extend more than:
 - (a) 1m above the gutter line of the eaves of a single storey dwelling house, or
 - (b) above the gutter line of the eaves of a two storey dwelling house.
- (4) The maximum total area of all building elements within an articulation zone, other than a building element listed in subclause (2) (e) or (f), must be not more than 25% of the area of the articulation zone.

3A.23 Privacy

- (1) This clause applies only to lots in Zone R5 that have an area of less than 4,000m².
- (2) A window in a new dwelling house, or a new window in any alteration or addition to an existing dwelling house, must have a privacy screen for any part of the window that is less than 1.5m above floor level if:

- (a) the window:
 - (i) is in a habitable room that has a finished floor level of more than 1m above ground level (existing), and
 - (ii) has a sill height of less than 1.5m above that floor level, and
 - (iii) faces a side or rear boundary and is less than 3m from that boundary, or
- (b) the window:
 - (i) is in a habitable room that has a finished floor level of more than 3m above ground level (existing), and
 - (ii) has a sill height of less than 1.5m above that floor level, and
 - (iii) faces a side or rear boundary and is at least 3m, but not more than 6m, from that boundary.
- (3) Subclause (2) does not apply to a window located in a bedroom where the window has an area of not more than 2m².
- (4) A new balcony, deck, patio, terrace or verandah and any alteration to an existing balcony, deck, patio, terrace or verandah that has a floor area of more than 3m² must have a privacy screen if the balcony, deck, patio, terrace or verandah is:
 - (a) within 3m of a side or rear boundary and has a floor level more than 1m above ground level (existing), or
 - (b) between 3m and 6m of a side or rear boundary and has a floor level more than 2m above ground level (existing).
- (5) Any privacy screen required under subclause (4) must be installed:
 - (a) to a height of at least 1.7m, but not more than 2.2m, above the finished floor level of the balcony, deck, patio, terrace or verandah, and
 - (b) at the edge of that part of the development that is within the areas specified in subclause (4) (a) or (b) and is parallel to or faces towards the relevant side or rear boundary.

Subdivision 4 Landscaping

3A.24 Landscaped area

- (1) A lot in Zone R5 that has an area of less than 4,000m² must have at least 45% of its area landscaped.
- (2) At least 50% of the area forward of the building line to the primary road must be landscaped.
- (3) The landscaped area must be at least 2.5m wide.

3A.24A Setbacks of dwelling houses and ancillary development from protected trees

- (1) A dwelling house and all ancillary development, and any associated excavation, must have a setback of at least 3m from the base of the trunk of each protected tree on the lot.
- (2) Despite subclause (1), ancillary development comprising the following is permitted within this setback, if the development does not require a cut or fill of more than 150mm below or above ground level (existing):
 - (a) an access ramp,

- (b) a driveway, pathway or paving,
- (c) an awning, blind or canopy,
- (d) a fence, screen or child-resistant barrier associated with a swimming pool or spa pool.

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

3A.25 Principal private open space

- (1) A lot in Zone R5 that has an area of less than 4,000m² and on which a new dwelling house is erected must have at least 24m² of principal private open space.
- (2) In this clause, *principal private open space* means an area that:
 - (a) is directly accessible from, and adjacent to, a habitable room, other than a bedroom, and
 - (b) is at least 3m wide, and
 - (c) is not steeper than 1:50 gradient.

Subdivision 5 Car parking and access

3A.26 Car parking requirements

- (1) This clause applies only to lots in Zone R5 that have an area of less than 4,000m².
- (2) At least one off-street car parking space must be provided on a lot on which a new dwelling house is erected.
- (3) At least one off-street car parking space must be retained on a lot on which alterations or additions to an existing car parking space are carried out.
- (4) A car parking space under this clause may be an open hard stand space or a carport or garage, whether attached to or detached from the dwelling house.

3A.27 Garages, carports and car parking spaces

- (1) This clause applies only to lots in Zone R5 that have an area of less than 4,000m².
- (2) A garage, carport or car parking space that is accessed from a primary road must:
 - (a) if the dwelling house has a setback from the primary road boundary of 4.5m or more—be at least 1m behind the building line of the dwelling house, or
 - (b) if the dwelling house has a setback from the primary road boundary of less than 4.5m—be at least 5.5m from that boundary.
- (3) If the door or doors on a garage face a primary road, a secondary road or a parallel road, the total width of all those door openings must:
 - (a) be not more than 6m, and
 - (b) if the lot has a frontage of more than 15m—be not more than 50 per cent of the width of the building, measured at the building line to the relevant property boundary, and
 - (c) if the lot has a frontage of not more than 15m—be not more than 60 per cent of the width of the building, measured at the building line to the relevant property boundary.

- (4) An open hard stand car parking space must measure at least 2.6m wide by 5.4m long.

3A.28 Vehicle access

- (1) A lot on which an off-street car parking space is provided or retained under clause 3A.27 must have a driveway to a public road.
- (2) A driveway on a lot must be constructed in accordance with AS/NZS 2890.1—2004, *Parking facilities—Off-street car parking*.

Note. Clause 2.28 applies to the construction or installation of a driveway as exempt development.

Subdivision 6 Earthworks and drainage

3A.29 Earthworks, retaining walls and structural support

(1) **Excavation**

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

- (a) if located not more than 1m from any boundary—1m, and
- (b) if located more than 1m but not more than 1.5m from any boundary—2m, and
- (c) if located more than 1.5m from any boundary—3m.
- (2) Despite subclause (1), the excavation must not exceed a maximum depth, measured from ground level (existing), of 1m if the land is identified as Class 3 or 4 on an Acid Sulfate Soils Map or is within 40m of a waterbody (natural).

(3) **Fill**

Fill must not exceed a maximum height, measured from ground level (existing), of:

- (a) if the fill is for the purposes of the erection or alteration of, or an addition to, a dwelling house under this code—1m, and
- (b) if the fill is for any other purpose under this code—600mm.
- (4) Despite subclause (3), the height of fill contained wholly within the footprint of a dwelling house or ancillary development is not limited.
- (5) Fill that is higher than 150mm above ground level (existing) and is not contained wholly within the footprint of a dwelling house or ancillary development is limited to 50% of the landscaped area of the lot.
- (6) The ground level (finished) of the fill must not be used to measure the height of any dwelling house or ancillary development under this code.

(7) **Retaining walls and structural supports**

Support for earthworks more than 600mm above or below ground level (existing) must take the form of a retaining wall or other structural support that:

- (a) a professional engineer has certified as structurally sound, including in relation to (but not limited to) the ability to withstand the forces of lateral soil load, and
- (b) has been designed so as not to redirect the flow of any surface water or ground water, or cause sediment to be transported, onto an adjoining property, and
- (c) has adequate drainage lines connected to the stormwater drainage system for the site, and

- (d) does not have a total height measured vertically from the base of the retaining wall or structural support to its uppermost portion that is more than the height of the associated excavation or fill, and
- (e) is separated from any other retaining wall or structural support on the site by at least 2m, measured horizontally, and
- (f) is installed in accordance with any manufacturer's specifications, and
- (g) if it is an embankment or batter—has a toe or top that is more than 1m from any side or rear boundary.

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

Note 2. Fill and excavation that is not associated with a building may be exempt development under clauses 2.29 and 2.30.

3A.30, 3A.31 (Repealed)

3A.32 Drainage

- (1) All stormwater drainage collecting as a result of the erection of, or alterations or additions to, a dwelling house or ancillary 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.

Subdivision 7 Ancillary development

3A.33 Swimming pools

- (1) Ancillary development comprising a swimming pool for private use must be located on a lot:
 - (a) behind the setback area from a primary road, or
 - (b) in the rear yard.
- Note.** Development for the purposes of a swimming pool is not complying development under this Code unless it is ancillary to a dwelling house.
- (2) The swimming pool water line must have a setback of at least 1m from a side or rear boundary.
 - (2A) Despite subclauses (1) and (2), if the swimming pool is being constructed in a heritage conservation area, the swimming pool must be located:
 - (a) behind the rear most building line of the dwelling house, and
 - (b) no closer to each side boundary than the dwelling house.
 - (3) Decking around a swimming pool must not be more than 600mm above ground level (existing).

- (4) Coping around a swimming pool must not be more than:
 - (a) 1.4m above ground level (existing), and
 - (b) 300mm wide if the coping is more than 600mm above ground level (existing).
- (5) Water from a swimming pool must be discharged in accordance with an approval under the *Local Government Act 1993* if the lot is not connected to a sewer main.
- (6) Any pump attached to the development must be housed in an enclosure that is soundproofed.
- (7) If the swimming pool is being constructed after, and at a different time to, the erection of a dwelling house on the lot, the development standards for this Code (other than the standards referred to in clauses 3A.24, 3A.24A, 3A.25, 3A.29, 3A.38 and this clause) do not apply to the construction.

Note 1. A child-resistant barrier must be constructed or installed in accordance with the requirements of the *Swimming Pools Act 1992*.

Note 2. Requirements relating to excavation for the purposes of a swimming pool are set out in clause 3A.29.

3A.33A Development standards for detached studios

- (1) This clause applies:
 - (a) to a detached studio, and
 - (b) in addition to the development standards specified in clause 3A.24.
- Note.** Clauses 3A.9 and 3A.10 contain development standards that also apply to detached studios.
- (2) A detached studio must not be located in a heritage conservation area or draft heritage conservation area.
 - (3) A detached studio must be located behind the building line of a dwelling house.
 - (4) No more than one detached studio may be located on a lot.
 - (5) A detached studio must not have a building height of more than 3.6m.
 - (6) The floor area of a detached studio must not be more than 35m².
 - (7) A detached studio must have a setback from a side or rear boundary of at least:
 - (a) if the lot is in Zone R5 and has an area of less than 4,000m²—2.5m, or
 - (b) in any other case—5m.

3A.34, 3A.35 (Repealed)

Subdivision 8 Outbuildings

3A.36 Development standards for outbuildings in heritage conservation areas

- (1) This clause applies:
 - (a) to an outbuilding erected on a lot in a heritage conservation area or a draft heritage conservation area to which this code applies, and
 - (b) in addition to the development standards specified in clauses 3A.10, 3A.14, 3A.18 and 3A.24.
- (2) The outbuilding must be located:

- (a) behind the rear most building line of the dwelling house, and
 - (b) no closer to each side boundary than the dwelling house.
- (3) The floor area of an outbuilding must not be more than 20m².
- (4) The lot must not adjoin a lane or a secondary or parallel road frontage.

Subdivision 9 Development standards for particular land

3A.37 Development standards for bush fire prone land

- (1) This clause applies:
- (a) to all development specified for this code that is carried out on a lot that is wholly or partly bush fire prone land (other than development that is the erection of non-habitable ancillary development that is more than 10m from any dwelling house, landscaping, a non-combustible fence or a swimming pool), and
 - (b) in addition to all other development standards specified for this code.
- (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 *Environmental Planning and Assessment Act 1979*—that document, and
 - (b) the part of the lot on which the development is to be carried out and any associated access way 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) the development is located within 200m of that road, and
 - (e) there is sufficient access designed in accordance with the acceptable solutions identified in clause 4.1.3 (2) of *Planning for Bush Fire Protection* (ISBN 0 9751033 2 6) published by the NSW Rural Fire Service in December 2006, and
 - (f) a reticulated water supply is connected to the lot, or a water supply with a 65mm metal Storz outlet with a gate or ball valve is provided for fire fighting purposes on the lot (the gate or ball valve, pipes and tank penetrations are to be designed to allow for a full 50mm inner diameter water flow through the Storz fitting and must be of a metal construction), and
 - (fa) the size of the non-reticulated water supply mentioned in paragraph (f) is:
 - (i) for a lot with an area no greater than 10,000m²—10,000L, and
 - (ii) for a lot with an area greater than 10,000m²—20,000L, 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 (metal piping must be used), and
- (g) all fixed gas cylinders on the lot are located at least 10m from flammable materials and are enclosed on the hazard side of the installation, and
- (h) any gas cylinders on the lot that are within 10m of a dwelling house:
 - (i) have the release valves directed away from the dwelling house, and
 - (ii) have metal connections to and from the cylinders, and
- (i) there are 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.

- (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) (Repealed)
 - (b) a person who is recognised by the NSW Rural Fire Service as a suitably qualified consultant in bush fire risk assessment, or
 - (c) 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.

3A.38 Complying development on flood control lots

- (1) Development under this code must not be carried out on any part of a flood control lot, other than a part of the lot that the council or a professional engineer who specialises in hydraulic engineering has certified, for the purposes of the issue of the complying development certificate, 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.
- (2) Development that is carried out under this code on any part of a flood control lot must meet the following requirements:
 - (a) if there is a minimum floor level adopted in a development control plan by the relevant council for the lot, the development must not cause any habitable room in the dwelling house to have a floor level lower than that floor level,
 - (b) any part of the dwelling house or any ancillary development that is erected at or below the flood planning level is constructed of flood compatible material,

- (c) any part of the dwelling house or any ancillary development that is erected is able to withstand the forces exerted during a flood by water, debris and buoyancy up to the flood planning level (or if an on-site refuge is provided on the lot, the probable maximum flood level),
 - (d) the development must not result in increased flooding elsewhere in the floodplain,
 - (e) the lot must have pedestrian and vehicular access to a readily accessible refuge at a level equal to or higher than the lowest habitable floor level of the dwelling house,
 - (f) vehicular access to the dwelling house will not be inundated by water to a level of more than 0.3m during a 1:100 ARI (average recurrent interval) flood event,
 - (g) the lot must not have any open car parking spaces or carports lower than the level of a 1:20 ARI (average recurrent interval) flood event.
- (3) The requirements under subclause (2) (c) and (d) are satisfied if a joint report by a professional engineer specialising in hydraulic engineering and a professional engineer specialising in civil engineering states that the requirements are satisfied.
- (4) A word or expression used in this clause has the same meaning as it has in the *Floodplain Development Manual*, unless it is otherwise defined in this Policy.
- (5) In this clause:

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

flood planning level means:

- (a) the flood planning level adopted by a local environmental plan applying to the lot, or
- (b) if a flood planning level is not adopted by a local environmental plan applying to the lot, the flood planning level adopted in a development control plan by the relevant council for the lot.

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*.

Note 1. *Council, flood control lot, habitable room* and *professional engineer* are defined in clause 1.5.

Note 2. A section 149 certificate from a Council will state whether or not a lot is a flood control lot.

3A.38A Development standards for land near Siding Spring Observatory

- (1) This clause applies:
- (a) to all development specified for this code that is to be carried out on land in the local government area of Coonamble, City of Dubbo, Gilgandra or Warrumbungle Shire, and
 - (b) in addition to all other development standards specified for this code.

- (2) The development may be carried out only if it does not result in a dwelling house on land in the local government area of:
- (a) Coonamble, Gilgandra, Warrumbungle Shire or that part of the local government area of Dubbo Regional that was formerly in the City of Dubbo with an outside light fitting other than a shielded light fitting,
 - (b) Coonamble, Gilgandra or Warrumbungle Shire with more than 7 shielded outside light fittings or more than 5 such light fittings that are not automatic light fittings.

Division 4 Conditions applying to complying development certificates under this code

3A.39 Conditions specified in Schedule 6 apply

A complying development certificate for development specified under this code must be issued subject to the conditions specified in Schedule 6.

3A.40–3A.48