

Understanding complying development

Important note

This information sheet is for guidance only and may not contain all the information relevant to every property in NSW. Applicants should refer to the [relevant planning controls](#)¹ before beginning work, or seek professional advice on how the planning controls apply to their property.

The majority of the development that can be done as exempt or complying development in NSW is identified in the State wide exempt and complying development policy (the policy). View the policy at the [Exempt and Complying Development Policy website](#)².

What is complying development?

Many types of straightforward building work don't need applicants to submit a full development application to your local council. This is called complying development.

Before you start any works you must obtain a complying development certificate (CDC) from an accredited certifier or council. The certificate is a combined planning and building approval.

Before starting complying development, the applicant must find out what planning controls apply to the land.

A section 149 planning certificate from council will outline what planning controls apply and whether particular parts of the policy can be used for development on the land.

Alternatively if your council has a Standard Instrument LEP you can find out what planning policies apply to your land. Go to the [Planning Viewer website](#)³.

A number of information sheets are available at the [exempt and complying development policy website](#)⁴. They provide general information about different types of exempt development.

Complying development

What types of development can be complying development?

The policy contains a number of complying development codes. Each code relates to a different complying development type. The complying development codes in the policy are the:

- General Housing Code
- Rural Housing Code
- Housing Alterations Code
- General Development Code
- Commercial and Industrial Alterations Code
- Commercial and Industrial (New Buildings and Additions) Code
- Subdivision Code
- Demolition Code
- Fire Safety Code

Under the General and Rural Housing Codes you can build a new single and two storey dwelling house up to a height of 8.5m, and ancillary development associated with that dwelling on lots of:

- 200m² or more in residential zones, and
- 4000m² or more in rural zones.

Under the two Commercial and Industrial Codes you can build the following as complying development:

¹ <https://maps.planningportal.nsw.gov.au/Terms>

² <http://www.planning.nsw.gov.au/exemptandcomplying>

³ <https://maps.planningportal.nsw.gov.au/Terms>

⁴ <http://www.planning.nsw.gov.au/exemptandcomplying>

- new industrial buildings and additions up to a maximum of 20,000m²,
- building additions for retail premises up to 1,000m²,
- building additions for any other commercial purposes up to 2,500m², and
- internal work, changes of use, first use, and ancillary and related development.

What up front requirements apply to complying development?

- To be complying development a project must be permissible with consent in the land use zone, under the relevant council's Local Environmental Plan (or other environmental planning instrument). You can find out the zone of your land at the [Planning Viewer website](#)⁵.
- All works must comply with the requirements of the [Building Code of Australia](#)⁶.
- Complying development does not override private covenants or similar legal instruments. For example, a covenant that requires a specific construction material or limits building heights, continue to apply to the land.

How do I know if my project is complying development?

The policy sets out the development standards that a project must meet to be complying development. To be complying development the development must comply 100% with all of the relevant development standards.

If the development cannot comply with all the relevant development standards, a development application must be lodged with council for the proposed works.

The development standards set the parameters for complying development. Examples of development standards in the policy include:

- controlling the number of development types on the lot,
- managing the location, floor area and height of the specified development,
- setting hours of operation, and
- managing noise levels.

Each complying development code identifies the relevant development standards for the specific development types.

If any of the development standards for the particular complying development type cannot be met, you must get development approval from your local council.

Can I do complying development on my land?

To protect areas that are environmentally sensitive, complying development cannot take place in some areas. Complying development cannot be done on land affected by the following land designations:

- the State Environmental Planning Policy (Kosciuszko National Park-Alpine Resorts) 2007.
- the State Environmental Planning Policy (Western Sydney Parklands) 2009.
- within 18km of the land owned by the Australian National University at Siding Spring.
- critical habitats under the *Threatened Species Conservation Act 1995* or *Fisheries Management Act 1994*.
- A wilderness area under the *Wilderness Act 1987*.
- a State heritage item listed on the State Heritage Register (SHR) or an interim heritage item under the *Heritage Act 1977*.
- a local heritage item listed in an Environmental Planning Instrument (EPI).

Where a lot is only partly affected by a land-based exclusion, complying development is allowed on the parts of the lot which are not affected.

For heritage items, if only part of the lot is identified, complying development can be done on

⁵ <https://maps.planningportal.nsw.gov.au/Terms>

⁶ <http://www.abcb.gov.au/about-the-national-construction-code/the-building-code-of-australia>

the parts of the lot that are not affected by the heritage listing.

See [Information Sheet 1.3⁷](#) for more information about land based exclusions.

What else do I need to know about residential complying development?

Residential development can be especially sensitive to environmental conditions of the land. For this reason, work under the General Housing Code and the Rural Housing Code cannot be carried out in some areas. These exclusions are identified in clause 1.19(1) of the policy and include:

- land affected by coastal hazards or coastal erosion,
- environmentally sensitive land,
- heritage conservation areas (swimming pools and detached outbuildings are allowed),
- foreshore areas,
- land that is affected by aircraft noise at 25 ANEF contours or above, and
- land identified as having an Acid Sulfate level of class 1 or class 2.

What else do I need to know about commercial and industrial complying development?

Commercial and industrial development can potentially impact upon environmentally sensitive land. For this reason, work under the Commercial and Industrial (New Buildings and Additions) Code cannot be carried out in some areas. These exclusions are identified in clause 1.19(5) and include:

- land affected by coastal hazards or coastal erosion,
- environmentally sensitive land and protected areas,
- heritage conservation areas and draft conservation areas, and

- land identified as having an Acid Sulfate level of class 1 or class 2.

Local exclusions and variations to complying development

There are some very special cases where the State wide policy has been amended to reflect part of a local government area.

Local exclusions and variations to the complying development codes have additional restrictions or requirements for complying development to address the local circumstances.

The local exclusions and variations to the complying development codes are listed in Schedules 2- 5 of the policy.

Other approvals that you may need

Before a complying development certificate is issued a separate approval may be required for one or more of the following:

- Approval to remove or prune existing trees or vegetation. You should check with your local council for this.
- Any structures that would be located on public land or on or over a public road (including a new driveway crossing and temporary structures). You may need approval from your local council or NSW Roads and Maritime Services. You should check with your local council for this.
- If the land is unsewered and an on-site effluent disposal system is required or an on-site stormwater drainage system is needed, approval is required under the *Local Government Act 1993*.

How do I apply for a complying development certificate?

- Complying development certificates can be issued by your local council or a private accredited certifier.

⁷ <http://www.planning.nsw.gov.au/en-us/buildinginnsw/exemptandcomplyingdevelopment.aspx>

- Fees for complying development certificates vary as certifiers are able to set their own rates.
- Accredited certifiers can be found online via the [register of accredited certifiers](#)⁸.
- Complying development applications can be made electronically via the Electronic Housing Code. Visit the [Electronic Housing Code website](#)⁹ to find out if it is used by your local council.

What information do I need for my complying development application?

- Complying development applications must include sufficient information so that the certifier can assess whether the proposal complies with the development standards of the policy.
- The information that must be included with complying development applications is listed in Schedule 1 of the *Environmental Planning & Assessment Regulation 2000* which can be viewed at the [NSW Legislation website](#)¹⁰.

Are there conditions of approval?

- Complying development is approved subject to conditions that must be complied with. The conditions protect against negative impacts during and after the construction of the development.
- The standard conditions that apply to the different complying development codes are contained in Schedules 6 to 10 of the State policy.
- All relevant approval conditions for complying development must be fully complied with.

Further Information

For more information visit the [Exempt and Complying Development Policy website](#)¹¹ or contact the Department's Exempt and Complying Development Team on 1300 305 695 or by [email](#)¹².

The Electronic Housing Code

The Electronic Housing Code website helps applicants determine whether the proposed development qualifies as exempt or complying development and the standards that must be met.

Applications for complying development can also be lodged and tracked online for those council areas which are using the Electronic Housing Code. Visit the [Electronic Housing Code website](#)¹³ to find out if it is used by your local council or for more details.

⁸ <http://bpb.nsw.gov.au/engage-certifier/find-certifier>

⁹ <http://www.electronichousingcode.com.au/>

¹⁰ <http://www.legislation.nsw.gov.au/>

¹¹ <http://www.planning.nsw.gov.au/exemptandcomplying>

¹² codes@planning.nsw.gov.au

¹³ <http://www.electronichousingcode.com.au/>