

# (Draft) Complying Development Code

Wet 'n' Wild Sydney

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**Approved:**

**Sam Haddad**  
**Director-General**  
**NSW Department of Planning**

**Date**

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## 1.0 Preliminary

### 1.1 Name of Code

This Code is the 'Wet'n'Wild Sydney Complying Development Code'.

### 1.2 Commencement of Code

This Code commences on the date of the Order issued by the NSW Minister for Planning on \_\_\_\_\_ under Section 75P(2)(d) of the *Environmental Planning and Assessment Act 1979* (hereafter referred to as the EP&A Act).

### 1.3 Land to Which Code Applies

This Code applies to the land known as Lot 1 DP 1045771 bound by the M4 motorway, Reservoir Road, and Watch House Road, Prospect.

### 1.4 Aims and Objectives of Code

The aims and objectives of this code are:

- to provide a streamlined assessment process for development on the land to which the Code applies for the purpose of water theme park and entertainment facilities that comply with specified development standards and requirements identified in this Code;
- to identify the types of complying development that may be carried out in accordance with a complying development certificate as defined in the EP&A Act;
- to specify the development standards that are required to be met by complying development;
- to specify the conditions to be imposed on complying development certificates issued in accordance with this Code.

### 1.5 Relationship with environmental planning instruments

This Code operates in conjunction with State Environmental Planning Policy (Western Sydney Parklands) 2009 which is the principal environmental planning instrument applying the land to which this Code applies.

State Environmental Planning Policy (Western Sydney Parklands) 2009 establishes the classification of development in the parklands including the classes of 'prohibited development', 'permissible development' that can only be carried out with consent under Part 4 or approval under Part 3A of the EP&A Act, and 'exempt development' that can be carried out with consent.

This Code supplements the provisions in State Environmental Planning Policy (Western Sydney Parklands) 2009 by establishing an additional class of 'complying development' on the land to which this Code applies.

### 1.6 What is complying development

Development that is specified in this Code that meets the standards specified for that development and that complies with the requirements of this Code for complying development is complying development under the *Environmental Planning and Assessment Act 1979*.

Complying development can only be carried out under the *Environmental Planning and Assessment Act 1979* if a complying development certificate has been issued for the development by either an accredited private certifier or Blacktown City Council, and the development is carried out in accordance with the complying development certificate and this Code.

Development that is permissible and does not meet the standards and requirements of this Code is to be subject to a Development Application.

## 2.0 Complying Development

### 2.1 Development that is Complying Development under this Code

Development for the purposes of a recreation facility (major), recreation facility (indoor), recreation facility (outdoor), entertainment facility, amusement centre, ancillary facilities and temporary structures that are permissible with consent on the land to which this Code applies are development specified for this Code.

The use of the building known as the former policeman's cottage and its curtilage, as defined by the edge of the access road, car park and property boundaries on the southwest corner of the land to which this Code applies, for any purpose that is permissible with consent is development specified for this Code.

### 2.2 Development Standards for this Code

This section sets out the specified development standards that apply to development specified for this Code.

#### 2.2.1 Building Envelopes – Heights and Setbacks

- The height of ride structures is not to exceed 35m above finished ground level.
- The height of any building other than a ride structure is not to exceed 12 metres above finished ground level.
- Buildings other than ride structures are not to exceed the building height plane defined as starting from ground level at the boundary of the land to which this Code applies and projecting inwards into the site at an angle of 45 degrees.
- Development is to maintain a view corridor across the land to which this Code applies between the curtilage of the former historic Policemans Cottage on the south west corner of this land and St Bartholomew's Church in Prospect.
- All building structures other than fences and minor structures such as gate houses, pump housing, below ground structures etc. are to be setback a minimum of 15m from the property boundary.
- The footprint of any building other than a ride structure is not to exceed 1,000m<sup>2</sup>.

#### 2.2.2 Structural Engineering

- Plans of every new water theme park ride or attraction must be supported by a report by a qualified structural engineer confirming the structural integrity and safety of the ride.

#### 2.2.3 Landscaping

- A landscape plan must be included to integrate the landscaping of new development with the landscaping on the site approved in the Part 3A Concept Plan Approval for the Wet'n'Wild Sydney water theme park.

#### 2.2.4 Water Management

- Development is to be consistent with the Water Cycle Management Plan in the Part 3A Concept Plan Approval for the Wet'n'Wild Sydney water theme park.

### 2.2.5 Access

- Access paths are to provide a continuous path of travel with links to all parts of the water theme park other than on ride tower structures, and comply with the following:
  - Federal Disability Discrimination Act (DDA) - Access to Premises Standards;
  - Building Code of Australia (BCA) Part D3;
  - AS 1428.1:2009;
  - AS 1428.4.1:2009 - (Tactile Ground Surface Indicators)
  - AS 1735.12 - (Lift facilities for persons with disabilities).
- Emergency vehicle access is to be maintained throughout the water theme park rides, attractions and ancillary facilities.

### 2.2.6 Signage

- Signage is to be consistent with the Signage Strategy in the Part 3A Concept Plan Approval for the Wet'n'Wild Sydney water theme park.

### 2.2.7 Operating Times

- Park operation times are to be consistent with the Part 3A Concept Plan Approval for the Wet'n'Wild Sydney water theme park.

### 2.2.8 Safety and Security

- All water rides and water bodies are to include facilities for attendants and life guards.

### 2.2.9 Food premises

- Development involving food and drink premises must be carried out in accordance with AS 4674—2004, *Design, construction and fit out of food premises*.

**Note:** If the development involves premises that are a **food business** within the meaning of the [Food Act 2003](#), the premises must comply with the requirements under that Act.

### 2.2.10 Demolition

- Any demolition must be carried out in accordance with AS 2601—2001, *The demolition of structures*.

### 2.2.11 Geotechnical

- Development is to be carried out in accordance with the recommendations in the geotechnical report in the Part 3A Concept Plan Approval for the Wet'n'Wild Sydney water theme park.

### 2.2.12 Earthworks

- Earthworks are to achieve a net balance of cut and fill on the land to which the Code applies so that no fill is imported onto the land and no spoil is exported off the land.
- All future earthworks are to be carried out in accordance with the measures for managing potential archaeological deposits/ relics of aboriginal and non-aboriginal heritage significance as specified in the Part 3A Concept Plan Approval for the Wet'n'Wild Sydney water theme park.

### 2.2.13 Tree Removal

- No tree above 10 metres in height is to be removed as complying development under this Code.
- No tree or vegetation within the areas of remnant or regenerating Cumberland Plain Woodland on the site identified in the approved Landscape Masterplan is to be removed as complying development unless the tree or vegetation is declared a noxious weed under the Noxious Weeds Act 1993 or is a species that is not representative of Cumberland Plain Woodland.

### 2.2.14 Bushfire protection

- Development is to be consistent with the recommendations for bushfire protection measures in the Bushfire Assessment in the Part 3A Concept Plan Approval for the Wet'n'Wild Sydney water theme park.

### 2.2.15 Environmental Management Plan

- Development is not to contravene the Environmental Management Plan in the Part 3A Concept Plan Approval for the Wet'n'Wild Sydney water theme park.

### 2.2.16 Prescribed Development Standards in the EP&A Regulation

Complying development carried out under this Code will need to comply with the relevant prescribed development standards in Part 7 – Division 2 of the *Environmental Planning and Assessment Regulation 2000* (EP&A Regulation) which are quoted below.

#### ***Division 2 Determination of applications and commencement of complying development***

##### ***130 Procedure for determining application for complying development certificate and notification requirements***

*(1) A certifying authority must not issue a complying development certificate for building work unless the proposed building (not being a temporary building) will comply with the relevant requirements of the Building Code of Australia (as in force at the time the application for the certificate was made).*

*(2) In the case of complying development that is required to comply with the deemed-to-satisfy provisions of Volume One, or Section 3 of Volume Two, of the Building Code of Australia, a complying development certificate cannot authorise compliance with an alternative solution to the performance requirements corresponding to those deemed-to-satisfy provisions.*

*(2A) A certifying authority must not issue a complying development certificate for building work that involves an alternative solution under the Building Code of Australia in respect of a fire safety requirement unless the certifying authority has obtained or been provided with either or both of the following issued by a fire safety engineer:*

- (a) a compliance certificate referred to in section 109C (1) (a) (v) of the Act that certifies that the alternative solution complies with the relevant performance requirements of the Building Code of Australia,*
- (b) a written report that includes a statement that the alternative solution complies with the relevant performance requirements of the Building Code of Australia.*

*(2B) Until 28 February 2011, subclause (2A) applies only to building work in respect of:*



- (a) *a class 9a building, as defined in the Building Code of Australia, that is proposed to have a total floor area of 2,000 square metres or more, and*
  - (b) *any building (other than a class 9a building) that is proposed to have:*
    - (i) *a fire compartment, as defined in the Building Code of Australia, with a total floor area of more than 2,000 square metres, or*
    - (ii) *a total floor area of more than 6,000 square metres,**that involves an alternative solution under the Building Code of Australia in respect of the requirements set out in EP1.4, EP2.1, EP2.2, DP4 and DP5 in Volume 1 of that Code.*
- (2C) *From 1 March 2011, subclause (2A) applies to all building work that involves an alternative solution under the Building Code of Australia in respect of a fire safety requirement.*
- (2D) *A fire safety engineer may issue a written report under subclause (2A) (b) in respect of an alternative solution prepared by the engineer.*
- (2E) *A certifying authority must not issue a complying development certificate for proposed development comprising internal alterations to, or a change of use of, an existing building that is subject to an alternative solution relating to a fire safety requirement under the Building Code of Australia unless:*
- (a) *the certifying authority has obtained or been provided with a written report by another accredited certifier, who is an accredited certifier for the purpose of issuing a complying development certificate for a building of that kind, and*
  - (b) *the written report includes a statement that the proposed development is consistent with that alternative solution.*

### **131 Development standards for change of building use**

- (1) *This clause applies to development for which a complying development certificate is sought involving a change of building use of an existing building.*
- (2) *The development standards applicable to such development include the following requirements:*
- (a) *that, on completion of any building work, the fire protection and structural capacity of the building will be appropriate to the proposed use,*
  - (b) *that, whether or not any building work is carried out, the building will comply with such of the Category 1 fire safety provisions as are applicable to the proposed use,*
- assuming that any building work is carried out in accordance with the plans and specifications to which the complying development certificate relates and any conditions to which the complying development certificate is subject.*

### **132 Development standards for building work involving the alteration, enlargement or extension of an existing building**

- (1) *This clause applies to development for which a complying development certificate is sought involving the alteration, enlargement or extension of an existing building, otherwise than in connection with a change of building use of an existing building.*
- (2) *The development standards applicable to such development include the requirement that, on completion of the building work, the fire protection and structural capacity of the building will not be reduced.*
- (3) *That requirement assumes that the building work is carried out in accordance with the plans and specifications to which the complying development certificate relates and any conditions to which the complying development certificate is subject.*

**133 Development standards for erection of temporary structure**

*(1) This clause applies to development for which a complying development certificate is sought involving the erection of a temporary structure.*

*(2) The development standards applicable to such development include the following requirements:*

- (a) the fire protection and structural capacity of the structure will, when the structure is erected, be appropriate to the proposed use of the structure,*
- (b) the ground or other surface on which the structure is to be erected will be sufficiently firm and level to sustain the structure while in use.*

## 2.3 Conditions applying to complying development under this Code

### 2.3.1 Conditions applying before works commence

#### Protection of adjoining areas

- A temporary hoarding or temporary construction site fence must be erected between the work site and adjoining lands before the works begin and must be kept in place until after the completion of works if the works:
  - could cause a danger, obstruction or inconvenience to pedestrian or vehicular traffic, or
  - could cause damage to adjoining lands by falling objects, or
  - involve the enclosure of a public place or part of a public place.

#### Toilet facilities

- 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.
- 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](#).

#### Garbage receptacle

- A garbage receptacle must be provided at the work site before works begin and must be maintained until the works are completed.
- The garbage receptacle must have a tight fitting lid and be suitable for the reception of food scraps and papers.

#### Notification to neighbours

- 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 each dwelling that is situated within 20m of the lot on which the works will be carried out.

### 2.3.2 Conditions applying during the works

**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.

#### Hours of construction or demolition

- 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.

#### Compliance with plans

- Works must be carried out in accordance with the plans and specifications to which the complying development certificate relates.

### Sedimentation and erosion controls

- Run-off and erosion controls must be effectively maintained until the site has been stabilised and landscaped.

### Maintenance of the site

- Building materials and equipment must be stored wholly within the work site unless an approval to store them elsewhere is held.
- Demolition materials and waste materials must be disposed of at a waste management facility.
- The work site must be left clear of waste and debris at the completion of the works.

## 2.3.3 Construction requirements

### Staging construction

- Any approval that is required for connection to the drainage system under the [Local Government Act 1993](#) must be held before the connection is carried out.
- If the complying development involves the construction of a vehicular access point, the access point must be completed before the occupation certificate for the complying development on the site is obtained.

### 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.

## 2.3.4 Post construction requirements

- Each new water theme park ride or attraction must be supported by a report by a qualified structural engineer confirming the structural integrity and safety of the ride prior to the use of the ride by the general public.
- Landscaping of development must be completed prior to the use of the development by the general public.

## 2.3.5 Prescribed Conditions and Requirements in the EP&A Act and Regulation

Complying development must also comply with the relevant provisions and conditions in:

- Section 86 of the EP&A Act; and
- Part 7 – Division 2A of the EP&A Regulation.

### Section 86 of the EP&A Act

#### **86 Commencement of complying development**

##### **(1) Erection of buildings**

*The erection of a building in accordance with a complying development certificate must not be commenced until:*

- (a) the person having the benefit of the complying development certificate has:*

- (i) appointed a principal certifying authority for the building work, and*
- (ii) notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and*
- (a1) the principal certifying authority has, no later than 2 days before the building work commences:*
  - (i) notified the council of his or her appointment, and*
  - (ii) notified the person having the benefit of the complying development certificate of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and*
- (a2) the person having the benefit of the complying development certificate, if not carrying out the work as an owner-builder, has:*
  - (i) appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential building work is involved, and*
  - (ii) notified the principal certifying authority of any such appointment, and*
  - (iii) unless that person is the principal contractor, notified the principal contractor of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and*
- (b) the person having the benefit of the complying development certificate has given at least 2 days' notice to the council, and the principal certifying authority if that is not the council, of the person's intention to commence the erection of the building.*

## Part 7 – Division 2A of the EP&A Regulation

### ***Division 2A Conditions of complying development certificate***

#### ***136A Compliance with Building Code of Australia and .....***

- (1) A complying development certificate for development that involves any building work must be issued subject to the following conditions:*
    - (a) that the work must be carried out in accordance with the requirements of the Building Code of Australia,*
    - (b) [Note: This subclause relates to residential development which is prohibited on the land to which this Code applies and is not relevant].*
  - (1A) A complying development certificate for a temporary structure that is used as an entertainment venue must be issued subject to the condition that the temporary structure must comply with Part B1 and NSW Part H102 of Volume One of the Building Code of Australia (as in force on the date the application for the relevant complying development certificate is made).*
  - (2) This clause does not limit any other conditions to which a complying development certificate may be subject, as referred to in section 85A (6) (a) of the Act.*
  - (3) This clause does not apply:*
    - (a) to the extent to which an exemption is in force under clause 187 or 188, subject to the terms of any condition or requirement referred to in clause 187 (6) or 188 (4), or*
    - (b) to the erection of a temporary building, other than a temporary structure that is used as an entertainment venue.*
  - (4) In this clause, a reference to the Building Code of Australia is a reference to that Code as in force on the date the application for the relevant complying development certificate is made.*
- Note.** There are no relevant provisions in the Building Code of Australia in respect of temporary structures that are not entertainment venues.

**136B Erection of signs**

- (1) A complying development certificate for development that involves any building work, subdivision work or demolition work must be issued subject to a condition that the requirements of subclauses (2) and (3) are complied with.
- (2) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
- (a) showing the name, address and telephone number of the principal certifying authority for the work, and
  - (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
  - (c) stating that unauthorised entry to the site is prohibited.
- (3) Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (4) This clause does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building, that does not affect the external walls of the building.
- (5) This clause does not apply in relation to Crown building work that is certified, in accordance with section 109R of the Act, to comply with the technical provisions of the State's building laws.
- (6) This clause applies to a complying development certificate issued before 1 July 2004 only if the building work, subdivision work or demolition work involved had not been commenced by that date.

**Note.** Principal certifying authorities and principal contractors must also ensure that signs required by this clause are erected and maintained (see clause 227A which currently imposes a maximum penalty of \$1,100).

**136C Notification of [Home Building Act 1989](#) requirements**

[Note: This clause relates to residential development which is prohibited on the land to which this Code applies and is not relevant].

**136D Fulfilment of BASIX commitments**

[Note: This subclause relates to residential development which is prohibited on the land to which this Code applies and is not relevant].

**136E Development involving bonded asbestos material and friable asbestos material**

- (1) A complying development certificate for development that involves building work or demolition work must be issued subject to the following conditions:
- (a) work involving bonded asbestos removal work (of an area of more than 10 square metres) or friable asbestos removal work must be undertaken by a person who carries on a business of such removal work in accordance with a licence under clause 318 of the [Occupational Health and Safety Regulation 2001](#),
  - (b) the person having the benefit of the complying development certificate must provide the principal certifying authority with a copy of a signed contract with such a person before any development pursuant to the complying development certificate commences,
  - (c) any such contract must indicate whether any bonded asbestos material or friable asbestos material will be removed, and if so, must specify the

*landfill site (that may lawfully receive asbestos) to which the bonded asbestos material or friable asbestos material is to be delivered.*

*(2) This clause applies only to a complying development certificate issued after the commencement of this clause.*

*(3) In this clause, **bonded asbestos material**, **bonded asbestos removal work**, **friable asbestos material** and **friable asbestos removal work** have the same meanings as in clause 317 of the [Occupational Health and Safety Regulation 2001](#).*

**Note 1.** Under clause 317 removal work refers to work in which the bonded asbestos material or friable asbestos material is removed, repaired or disturbed.

**Note 2.** The effect of subclause (1) (a) is that the development will be a workplace to which the [Occupational Health and Safety Regulation 2001](#) applies while removal work involving bonded asbestos material or friable asbestos material is being undertaken.

**Note 3.** Information on the removal and disposal of asbestos to landfill sites licensed to accept this waste is available from the Department of Environment, Climate Change and Water.

**Note 4.** Demolition undertaken in relation to complying development under the [State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008](#) must be carried out in accordance with Australian Standard AS 2601—2001, Demolition of structures.

#### **136F, 136G (Repealed)**

#### **136H Condition relating to shoring and adequacy of adjoining property**

*(1) A complying development certificate for development must be issued subject to a condition that if the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the certificate must at the person's own expense:*

*(a) protect and support the adjoining premises from possible damage from the excavation, and*

*(b) where necessary, underpin the adjoining premises to prevent any such damage.*

*(2) The condition referred to in subclause (1) does not apply if the person having the benefit of the complying development certificate owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.*