

Using complying development in schools and child care

State Environmental Planning Policy

(Educational Establishments and Child Care Facilities) 2017

January 2019

FACT SHEET

Complying development is a process of approval for development that can be determined through a fast-track assessment by a council or private accredited certifier. Approval for complying development is issued by council or an accredited certifier, provided it meets certain pre-determined standards.

In 2017, in response to the growing demand on schools and educational facilities, especially for extra classroom space, the NSW Government introduced a specific complying development pathway for the construction or alteration to certain types of school buildings. This pathway is fully outlined in the State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017.

The purpose of this fact sheet is to provide information regarding the types of development that can be built at schools using this fast-track pathway.

General conditions of complying development certificates can be found in Clause 21 of the policy.

Types of buildings allowed under this policy

Using the complying development pathway, the policy allows certain school buildings to be constructed, or altered, within the boundaries of an existing school.

The types of buildings include any of the following:

- A library, an administration building or office premises for the purposes of the school.
- A gym, indoor sporting facility or hall.
- A teaching facility (including lecture theatre), laboratory, trade facility or training facility.
- A cafeteria 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.
- A kiosk or bookshop for students or staff (or both).
- A hall with associated covered outdoor learning area or kiosk.
- An outdoor learning or play area and associated awning or canopy.
- Demolition of a building or structure (unless it is a state heritage item or a local heritage item).
- Minor alterations or additions (such as internal fit-outs, structural upgrades, or alterations or additions to enable plant or equipment to be installed, to address work health and safety requirements or to provide access for people with a disability).
- Restoration, replacement or repair of a damaged building or structure.

Types of buildings not allowed

The complying development provisions *do not* include buildings designed for the purposes of student accommodation, even if these are within the boundaries of an existing school.

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Where complying development can be carried out: existing schools

Complying development is permissible only when carried out within the boundaries of an 'existing school.' It can not occur outside the boundaries of an existing school, including on adjoining or nearby land.

Existing schools must be on land that has been lawfully occupied for the purpose of a school.

Where it cannot be carried out

The policy also sets out additional land on which complying development cannot occur. This includes land that is:

- reserved for a public purpose.
- identified on an Acid Sulphate Soils Map as being Class 1 or Class 2.
- significantly contaminated land within the meaning of the *Contaminated Land Management Act 1997*.
- subject to a biobanking agreement under Part 7A of the *Threatened Species Conservation Act 1995* or a property vegetation plan approved under the *Native Vegetation Act 2003*.
- identified by an environmental planning instrument as being within a buffer area, a riverfront area, an ecologically sensitive area, environmentally sensitive land, a protected area.
- identified as being or affected by a coastline hazard, coastal hazard, coastal erosion hazard, or in a foreshore area.
- unsewered in a drinking water catchment.

See Clause 19 for more details on the above.

Additionally, complying development must not be carried out on land that is:

- critical habitat.
- a wilderness area (within the meaning of the *Wilderness Act 1987*).
- an item that is listed on the State Heritage Register or subject to an interim heritage order under the *Heritage Act 1977*.
- an item of environmental heritage or a heritage item by an environmental planning instrument.
- within an environmentally sensitive area (defined in clause 1.5 of the Exempt and Complying Development Codes SEPP) 2008.

More information on the above can be found at Clause 1.17A of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

Bushfire prone land

The development of any school buildings on bushfire prone land cannot be undertaken as complying development. When development is being undertaken on bushfire prone land, a bushfire safety authority must be sought from the NSW Rural Fire Service. Questions regarding the application process for a bushfire safety authority should be directed to the NSW Rural Fire Service at development.policy@rfs.nsw.gov.au.

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Development standards such as height, noise and landscaping

The specific development standards that apply to complying development are listed in Schedule 2 of the policy and relate to:

- the building height of new buildings and additions to existing buildings.
- the front, side and rear setbacks of new buildings and additions to existing buildings.
- the design requirements and building materials that may be used.
- noise emission limitations.
- overshadowing of adjoining properties.
- design requirements to minimise loss of privacy of adjoining properties.
- landscaping for screening along boundaries.
- the provision of suitably located waste-storage facilities.
- the carrying out of earthworks related to the complying development.
- stormwater drainage connections.
- flood control lots.

Developments must comply with *all* of the applicable development standards in order to be approved as complying development. If a proposed development cannot comply with a development standard, then it will require a development application to be lodged instead. Other general requirements for complying development can be found in Clause 19.

Design requirements

There are seven design principles that must be considered on buildings 12 metres or higher. These include ensuring new developments respond appropriately to their setting, are accessible to all and provide a high level of amenity to students.

A written statement by a qualified designer verifying the development has applied these design principles must be submitted before the certifier can issue a complying development certificate for new buildings, or alterations and additions.

Traffic, road safety and parking

The management of traffic, road safety issues and parking requirements for schools is a significant issue.

For example, to obtain a complying development certificate, developments that will result in an additional 50 or more students must be accompanied by a certificate issued by the Roads and Maritime Services (RMS). The purpose of the certificate issued by the RMS is to certify that any impacts on the surrounding road network as a result of the development will be acceptable if specified requirements are met.

This means the developer of a school project must consult with the RMS regarding the proposed project before applying for a complying development certificate. The RMS may require submission of information in order to enable a proper assessment of the proposal and its likely impacts.

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Applications are made to the RMS at one of the below email addresses, depending on the NSW region. A map of the six RMS regions is available on the [RMS website](#).

- Development.Sydney@rms.nsw.gov.au
- Development.Western@rms.nsw.gov.au
- Development.South.West@rms.nsw.gov.au
- Development.Southern@rms.nsw.gov.au
- Development.Northern@rms.nsw.gov.au
- Development.Hunter@rms.nsw.gov.au

Consultation requirements

No consultation requirements exist in regard to complying development, although schools proposing developments are strongly encouraged to discuss development plans with their surrounding community.

However, the person undertaking the school development is required to give written notice to owners or occupiers of dwellings located within 20 metres of the land proposed to be developed at least two days before the commencement of works.

Additionally, the accredited certifier must notify the council within two days of the determination of a complying development application by forwarding copies of relevant documents including the determination, plans and specifications.

Prior to commencement of building works, the person undertaking the school development must give at least two days notice to the council and principal certifying authority (if not the council) of the intention to commence construction of the building.

Complaints about complying development

Individuals who believe a complying development does not conform to the required standards regarding, for example, noise or overshadowing specifications should raise this matter with the appointed principal certifying authority for resolution. If the certifier does not respond to the complaint or take any necessary action, a formal complaint can be lodged with the Building Professionals Board (BPB) about that certifier. Contact the BPB on (02) 8522 7800 or www.bpb.nsw.gov.au for further information.

Where can I find out more?

- Call on 1300 305 695.
- If English is not your first language, please call 131 450. Ask for an interpreter in your language and then request to be connected to our Information Centre on 1300 305 695.
- Email information@planning.nsw.gov.au.