

- **Compliance Cost Saving in \$ = [CDR – SDR] x Dwelling Area x Energy Cost/MJ (electricity = 0.36 x \$0.103)** (where the area is measured to the outside wall surfaces and excludes non-habitable spaces such as a garage, laundry, and storeroom).
- Only where the **Cost Of Compliance exceeds “five times” the Compliance Cost Saving**, do the special conditions provide for a waiver of the “Uneconomic Clause”.

NOTE:

Only the “Uneconomic Clauses” of the Policy are waived; other provisions of the Policy still apply.

16. CLASS 1 BUILDINGS - DWELLINGS

Health & Amenity Requirements

Health and Amenity requirements are to be in accordance with Part 3.8 – *Health and Amenity* of the Building Code of Australia.

Facilities to be Provided

Every Class 1 dwelling shall be provided with:

- a) A kitchen or facilities in another room for the preparation of food.
- b) A bath or shower.
- c) Clothes washing facilities comprising at least one wash tub and a space in the same room for the installation of a washing machine.
- d) A closet fixture (water closet).
- e) Smoke Detectors – hard wired.

All dwellings will be required to meet the minimum standards set by the Local Government Act 1993, the Environmental Planning and Assessment Act 1979 and conform with the Building Code of Australia.

15.1 Wet Areas

All wet areas eg. Bathrooms, water closets and laundries are to be provided with a completely impervious floor and a regulation floor waste. The junctions of walls and floors must be treated to prevent the penetration of moisture.

15.2 The Walls

- a) immediately adjoining or behind baths; or
- b) of a shower compartment including the walls surrounding an open shower, shall be finished to a height of not less than 1,800mm above the floor with cement render, ceramic tiles or other approved impervious finish.

15.3 Kitchen

The kitchen shall be fitted with an adequate stove and sink.

15.4 Windows

Each habitable room shall have a window opening directly to the outside air. No window to such a room shall be less than 1/10 of the floor area of the room and the measurement shall be clear of the sash frame. Natural ventilation shall be by means of windows, doors or other devices capable of opening directly to the outer open space. Such ventilation opening shall be not less than 1/20 of the floor area of the room to be ventilated.

15.5 Ceiling Heights

a) Habitable Rooms

A habitable room with vertical walls shall be for at least 2/3 of the area of its floor area not less than 2,400 mm in height and shall not in any part be less than 1,500 mm in height. Special requirements exist where any wall of a habitable room is not perpendicular to the floor.

b) Bathrooms, Shower rooms, Water Closets, Laundries

Rooms with vertical walls shall be at least 2,100 mm in height for at least 2/3 of the floor area of the room and shall not be less than 1,500 mm in height in any part. Special requirements exist where any wall of such room is not perpendicular to the floor.

15.6 Sub-Floor Ventilation

Shall be provided in external walls with evenly distributed openings with an unobstructed area of 2,100 sq mm. per lineal metre. Cross ventilation openings shall be provided in all external walls. Large openings shall be left in all internal walls at the same level as the air vents in the external walls.

Council requires the entire sub-floor area to all dwellings of conventional construction to have a brick foundation wall (or similar fire resistant material) installed to Council's satisfaction to the perimeter of the dwelling if within 900mm of a side boundary, in accordance with Part 3.7 – *Fire Safety* of the Building Code of Australia.

17. EXISTING DWELLINGS RELOCATED FROM ONE SITE TO ANOTHER

Council will consider permitting the relocation of a newly or previously constructed building from one site to another, subject to:

1. A Development Application being lodged with Council, together with all statutory fees and three (3) copies of plans and specifications.
2. Newly constructed transportable / relocatable buildings must be issued with a Construction Certificate prior to transportation into Gunning Shire.
3. Previously constructed transportable / relocatable buildings must be certified by a certified practising structural engineer prior to removal from original/existing site, before Council will issue a Construction Certificate.
4. Photographs of previously constructed buildings must accompany applications for development of previously constructed transportable / relocatable buildings.
5. All transportable / relocatable buildings must be erected under an owner/builder permit or builders license.
6. A bank guarantee or performance bond of \$6,500.00 in favour of Gunning Shire Council prior to approval of the Development Application. This guarantee/bond is

refunded upon completion of all works associated with relocation and completion of the building to relevant standards and requirements within the Building Code of Australia, Local Government Act 1993, and Environmental Planning and Assessment Act 1979.

7. The roof of previously built relocated buildings may be required to be re-sheeted with new roof cladding material prior to a Final Occupation Certificate being issued.
8. All dilapidated external wall cladding must be replaced prior to Council issuing a Final Occupation Certificate.
9. The landowner/applicant and transport company must notify Council of the time and date of transportation, including all subsequent amendments to the transportation schedule, prior to transportation of the subject building.
10. The building must be completed to the required standard within six (6) months of its relocation to the new site.
11. All asbestos and derivatives of asbestos cement must be removed prior to the buildings placement in the Gunning Shire.

18. TEMPORARY DWELLINGS

Temporary dwellings (eg. caravans, garages, etc) must be fitted with suitable provisions for ablutions, cooking and sanitation during the actual period of the construction of a permanent dwelling on the allotment, subject to:

- a) Plans and specifications of the proposed permanent dwelling being submitted to and approved by Council.
- b) Written applications being made to Council seeking permission for the temporary occupation of a Caravan or other suitable structure during the construction of the dwelling.
- c) Evidence being provided from a financial institution that finance is available for the construction of the proposed permanent dwelling within a reasonable period. The reasonable period is deemed to be six (6) months from the date of approval of the permanent dwelling.
- d) Any extension of time is to be the subject of further written application. It must be established by Council's Environmental Services Manager that the dwelling will in fact be completed within the period of extension.

19. CLASS 2 - 9 BUILDINGS

Class 2 – 9 Buildings must conform with Facility and Service Requirements as described in Volume 1 of the Building Code of Australia.

20. CLASS 10 BUILDINGS – GARAGES AND OTHER STRUCTURES

Class 10 Buildings must conform with Facility and Service Requirements as described in Volume 2 of the Building Code of Australia.

21. CONSTRUCTION OF GARAGES

No garage/shed is to be constructed upon any allotment in a village zone without plans for a dwelling house on that block being approved beforehand.

22. ON-SITE WASTE MANAGEMENT SYSTEMS

All dwellings and buildings containing a water closet and not serviced by sewerage shall be connected to an on-site waste management system by a NSW licensed plumber and drainer.

The installation of an on-site waste management system is to be subject of an application accompanied by the application fee.

A geotechnical effluent report (soil test) by a qualified practising soil consultant is required to accompany all applications.

23. FENCES

The maximum height of the dividing fence between the street alignment and the building line shall be 1.2 metres. The fence is then permitted to increase to a height of 1.8 metres beyond the building line. Any person wishing to erect a fence outside the guidelines specified above is required to submit a Development Application. Also see Council's separate code on fencing.

24. SWIMMING POOLS

Before commencing construction of a private swimming pool, a Development Application or Complying Development Application (see also Complying Development Section 25 below) shall be lodged with Council. This application should be accompanied by complete plans and specifications of the structure of the pool and a site plan showing the location of the pool in relation to:

- a) Existing and proposed buildings on the allotment.
- b) Any existing fences on the allotment. These fences should be described.

i) Location of Pool on Site

- a) A private swimming pool should not be located so as to encroach upon any building line fixed by Council.
- b) A private swimming pool and associated fencing shall not be constructed between a building and the street alignment in such position, or, of such a manner, which in the opinion of the Council would detract from the amenity of the neighbourhood.
- c) No pool shall be sited at a distance of less than 1500 mm from side or rear boundaries.

ii) Drainage

- a) All drainage from the pool and backwash from the filters shall be connected to Council's sewer by a NSW licensed plumber and drainer.
- b) In unsewered areas, water may be drained from the pool over the surface of the subject allotment in a manner that nuisance to adjoining allotments is not created.

iii) Fencing

- a) A childproof fence not less than 1.2 metres high shall be constructed around all inground pools. The fence shall be provided with a gate fitted with a self closing device and a substantial catch located at a point out of reach to small children. (Fences and gates to comply with the Swimming Pools Act 1992 and Australian Standard 1926).
- b) Any above ground pool, the sides of which in the absence of a ladder, form a barrier equivalent to a fence 1.2 metres, may be fitted with a safety ladder in lieu of being fenced as detailed above. (All safety ladders to comply with Australian Standard 2233-1979).

iv) Water Treatment

- a) All private swimming pools shall be provided with some form of water purification.
- b) It is the owner's responsibility to ensure that the pH of the water in the pool is maintained between 7.2 and 7.6.

25. BUILDING CERTIFICATES

Issued under the *Environmental Planning and Assessment Act 1979* Section 149D

A building certificate is essentially a certificate of "non-action". That is, a certificate which prevents Council from ordering the demolition or rectification of a building by reason of the condition of the building at the time of issue of the certificate. (The certificate prevents Council from issuing an order within seven (7) years from the issue of the certificate if deterioration ONLY by virtue of fair wear and tear has occurred).

Council's Environmental Services Manager shall issue a Building Certificate under Delegated Authority where:

- a) It is the inspector's opinion that the building will not, within reason, become the subject of an order.
- b) The necessary application has been made and the statutory fee paid (\$50.00).
- c) There is no encroachment upon neighbouring land.
- d) Any non-compliance's with boundary setbacks as required by the Building Code of Australia and Council's building lines are of a minor nature.
- e) A survey plan is provided for all village allotments.

26. EXEMPT & COMPLYING DEVELOPMENT – STATE ENVIRONMENTAL PLANNING POLICY (SEPP) 60

Exempt Development

To be exempt development the proposal must:

- meet the standards contained in schedule three of the SEPP; and
- meet the deemed to satisfy provisions of the BCA; and
- be more than a metre away from an easement or a sewer main; and
- if the development involves works in or to an existing building (but only class 1b and classes 2-9 under the BCA), there must be a current fire safety certificate or fire safety statement in

place. The requirement does not apply to houses or where there are no fire safety measures implemented, required or proposed.

Also, to be exempt development, the proposal must NOT:

- cause an existing building to contravene the BCA; and
- require a tree to be removed (if possible move the proposal, if not obtain an approval to remove the tree from council); and
- interfere with the amenity of the neighbourhood because of pollution; and
- be designated development.

The proposal MUST NOT be on land that is considered as environmentally sensitive.

Advertising

Minor advertising structures (posts, billboards) and advertisements are listed as exempt development in the SEPP. The exemption depends on the type of advertisement or structure and the provisions of the Gunning Local Environmental Plan 1997.

Possible exempt advertising categories include:

- new advertisements, although these are limited by zoning and size;
- advertisements in a shop window;
- temporary advertisements for social, cultural, political or recreational events;
- public notices;
- real estate signs;
- replacements for structures and advertisements that were erected or placed with an approval; or
- internal advertising not visible from outside the site. Typically these are signs from sponsors at sporting grounds, theme parks and the like.

Related development

Related development is based on the principle that any development related to a use permissible under an LEP is also permissible. For example a gazebo is said to be related to a house because it could be used for having dinner or drinks. If houses are permissible with (or without consent) in a zone, gazebos would also be a permissible development because that are related to houses. Legally this is the concept of ancillary and incidental development.

The SEPP uses the concept of related development to say that any minor structure (which is less than 3m from ground level and no more than 25 square metres), that is related to a permissible use, is exempt development. There are a number of restrictions on this type of development:

- excavation is limited to 600mm;
- the structure must be at least 1 m from a boundary;
- there must not be any storage of hazardous chemicals;
- the development must comply with a council set site-coverage control. This enables councils to restrict the potential for cumulative impacts of development.

Boundary adjustments

Minor subdivisions of land to correct or adjust boundaries, small boundary adjustments are exempt development, while the Act still requires the issue of a subdivision certificate.

Under the SEPP boundary adjustments must:

- not result in any building contravening the deemed-to-satisfy provisions of the *Building Code of Australia*, and
- not create any additional allotments or dwelling entitlements, and
- not change the area of any allotment by more than 10%, and
- retain all services within the existing allotments.

Other exemptions

Minor building works, like painting, cladding and internal changes that do not affect load bearing walls or other components and landscaping, gardening, paving or the erection of a minor structure (but not building alterations), are exempt development.

Demolition of anything erected as exempt development is also exempt development, but the demolition must comply with the relevant Australian Standard and the item to be demolished must be less than 25 square metres.

Changes of use are exempt development where:

- a new use replaces a former use and can be undertaken under the current building classification; or
- the new use is a change from an office to a shop or a shop to an office; or

There are some common restrictions for changes of use, like the development does not involve the preparation or storage of food, the use is not prohibited, and existing development consent conditions are met. Office to shop and shop to office changes must be related to areas less than 2000 square metres because of fire safety matters.

Flagpoles, home occupations and public meetings are also exempt development. These developments must meet the amenity requirements in the SEPP.

Complying Development

Complying development is local development. Complying development is also development that is so routine in nature that, providing it complies with the standards contained or listed in the SEPP or the Gunning Local Environmental Plan 1997, a complying development certificate is all that is needed to carry out the proposal.

Complying development certificates have the same value as a development consent, but they certify that the development proposal complies with all the pre-set standards. A complying development certificate can be issued by a council or an accredited certifier.

To be complying development the proposal must:

- meet the standards contained in schedule five of the SEPP for regional NSW area;
- meet the deemed to satisfy provisions of the BCA;
- be more than a metre away from an easement or sewer main – or comply with any building over sewer requirements; and

- have an approval from council for the on-site effluent disposal system if the development is on unsewered land.

Complying development must not be carried out on land that is considered environmentally sensitive.

In addition to the limitations on complying development contained in the SEPP, the Act restricts the types of development that can be carried out as complying. The Act does not allow complying development if:

- it is on land that is critical habitat (of threatened species); or
- it is on land within, or partly within a Wilderness area (see the *Wilderness Act 1987*);
- there is a heritage order (under the Heritage Act) or a heritage listing (either under the *Heritage Act 1977* or an environmental planning instrument) for an item on the land; or
- the development is designated development; or
- the development is State significant development; or
- the development requires concurrence (except threatened species concurrences, which do not apply to complying development).

Where a proposal requires another approval (making it integrated development) but it also meets the requirements for complying development and an application for a complying development certificate (CDC) has been made, a CDC can be issued without following the integrated development process. The applicant must, however, get the other approval in order to proceed.

The list of complying development in the SEPP includes:

- bed and breakfasts,
- commercial uses and building alterations,
- houses and additions, and
- swimming pools.

Bed and breakfasts

Bed and breakfasts (B&Bs) have been listed as complying development as part of the Government's commitment to the NSW Tourism Masterplan. The SEPP allows B&Bs in existing houses if they have:

- a maximum of 3 guest bedrooms,
- a minimum of 2 bathrooms,
- a smoke detection system, and
- a fire extinguisher and blanket in the kitchen.

Commercial uses and building alterations

The SEPP allows changes of use from shop to office and office to shop, or internal alterations that affect load bearing components as complying if there is:

- no increase to the total floor area of the building;
- no more than 2000 square metres of floor area is changed from an office to a shop;

- a change of building use, the new use must replace a former use carried out in accordance with a development consent; and
- compliance with any existing development consent conditions.

Houses and Additions

The SEPP allows various types of houses, alterations and additions to houses and development related to houses as complying development. The SEPP also allows the demolition of these types of structures, but there are conditions relating to demolition standards and the waste management policy must be followed.

In regional areas the following housing types are complying:

- single storey houses on urban zoned lots (like residential, village or township zones) that are more than 450 square meters;
- single or two storey houses on rural zoned lots.

The standards for houses fall into categories:

- height limits;
- energy efficiency;
- setbacks;
- overshadowing;
- streetscape; and
- open space.

Height limits are set by the description of the development (single or two storey) and an internal floor to ceiling limit of 2.7 metres (except the garage). Cut and fill is limited to 1 metre from natural ground level (ground floor is to be no more than 1 metre from natural ground level). In flood affected areas Councils can impose their own height limit on certain houses.

Energy efficiency standards have been introduced. All complying development must meet a minimum NatHERS 3.5 star rating.

Setbacks vary depending on the type of development:

- Houses and garages are to be setback in accordance with Section 9 (above) *Building Line*.
- Single storey houses are to be at least 900mm from side and rear boundaries.
- Two storey houses are to be at least 1350mm from side and rear boundaries.
- Development related to houses is to be at least 450mm from side and rear boundaries.

On larger lots the setback from the boundaries is at least 15m.

Overshadowing of neighbouring properties must meet the following:

- for at least 3 hours between 9 am and 5 pm on June 21 at least 50% of the neighbouring properties' main area of private open space is not in shadow, or where this standard cannot be met, no additional overshadowing occurs.

Streetscape standards include the setback of houses and garages, as well as the limit of the width of garages to 6.3 m or 50 percent of the width of the lot at the building line, whichever is lesser.

At least 20 percent of the lot is to be open space which is to be provided at the rear of the lot. Also, no more than one-third of the front yard is to be paved or sealed.

In rural areas additional requirements ensure that the minimum lot size of the Gunning Local Environmental Plan 1997 is met and that a buffer is provided between the house and adjoining agricultural uses.

Swimming pools

Swimming pools are listed in the SEPP as complying development provided the following requirements are met:

- swimming pools cannot be in the front yard;
- coping and decking is not more than 750 mm above ground level;
- the pool is at least 1.5 metres from the boundary;
- the noise of the filter does not exceed 5 dBA above ambient levels at the boundary;
- 20 percent of the lot must be soft landscaped;
- installation complies with various Australian Standards; and
- the pool and surrounding structures, particularly fencing, comply with the Swimming Pools Act and the relevant Australian Standard.

27. STANDARD CONDITIONS OF APPROVAL AS PER THE LOCAL GOVERNMENT ACT 1993 & THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

It is a condition of an approval referred to in Section 80 of the Environmental Planning and Assessment Act 1979 that the activity approved, and any building or work associated or carried out in connection with the activity, complies with any applicable standards established by this Regulation or by or under the Acts, including for eg. regulations pertaining to; structural drawings, excavations and backfilling, retaining walls, and support for neighbouring buildings.