

Complying Development Conditions

Development Control Plan

9.0-03 Edition 1

Sutherland Shire Council



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1. Where does the Plan apply?

This plan applies to:

- all development classified as complying development to which Sutherland Shire Local Environmental Plan 2000 applies.

2. What is the Purpose of the Plan?

The purpose of this plan is to specify a set of standard conditions applicable to all complying development, as part of a Complying Development Certificate issued by the Council or an accredited certifier.

3. Can the Plan be Varied?

This Plan identifies conditions, which must be complied with on complying development applications.

A Complying Development Certificate may only be issued either by the Council or an accredited certifier. A person may carry out complying development upon receipt of a Complying Development Certificate, subject to compliance with the relevant conditions specified in this plan.

Any variations to this Plan would deem the Complying Development Certificate to be invalid and the development would no longer be classified as complying development. Where a development cannot comply with this plan, a development application for the development would then need to be submitted to the Council.

Note: There is no right of appeal against the determination of, or a failure or refusal to determine, an application for a complying development certificate by a council or an accredited certifier.

4. Accredited Certifier Responsibility

The accredited certifier must ensure the owner, builder and Principal Certifying Authority (PCA) are aware of their obligations and responsibilities under the provisions of this plan.

5. Conditions

The following conditions shall apply to all Complying Development Certificates issued by the Council or an accredited certifier.

5.1 General Conditions

These general conditions are imposed to ensure that the complying development is carried out to an approved standard, having regard to the environmental circumstances of the site.

5.1.1 Approved Plans

The development shall be implemented in accordance with the details set out on the plans/drawings submitted with the complying development certificate to the Council and on any supporting information received with the application.

5.1.2 Appointment of a Principal Certifying Authority (where applicable)

- a) Two days before any site works, building or demolition begins, the applicant must:
 - (i) Forward a *Notice of Commencement of Work and Appointment of Principal Certifying Authority* (Form 7 of the *Environmental Planning and Assessment Regulation 1994*) to the Council; and
 - (ii) Inform the adjoining owners in writing that work will commence. This advice should specify the name and accreditation number of the appointed Principal Certifying Authority and the builder's name, phone number and licence number.
- b) The applicant may appoint the Council or an accredited certifier (where qualified) as the principal certifying authority for the development.

- c) If the principal certifying authority is not the Council, then the person so nominated must provide an acceptance of the nomination in writing to the Council at the time of appointment. This includes where there is a change in principal certifying authority during the development approval process.
- d) If the principal certifying authority is the Council, the nomination will be subject to the entering into of a written agreement for the provision of the service and the payment of fees for the service to cover the cost of undertaking all necessary inspections and the issue of appropriate certificates.

Note: A copy of the home warranty insurance (where applicable) and any additional information as specified in this plan, must be submitted with the *Notice of Commencement of Work Form*.

5.2 Prior to Commencement of Works Approved by a Complying Development Certificate

These conditions are imposed to ensure that the following matters are complied with before any work is commenced.

5.2.1 Before Work Begins

Two days before any site works, building or demolition begins, the applicant must:

- a) Notify the Council of the name, address, phone number and licence number of the builder; and
- b) Erect a sign at the front of the property with the name and accreditation number of the appointed Principal Certifying Authority, the builder's name, phone number, licence number and the site address, and a statement that unauthorised entry to the work site is prohibited. Any such sign shall be removed when the work has been completed.

5.2.2 Council Property Security

Prior to the commencement of any works the applicant shall provide to the Council security to the value prescribed in the Council's adopted Schedule of Fees and Charges. The security is required to cover the cost of making good any damage to any Council property as a consequence of the works approved under the complying development certificate. The security may be provided by way of deposit with the Council or guarantee satisfactory to the Council. Should any of the Council's property sustain damage during the course of construction or demolition, the Council may carry out any works necessary to repair the damage. The cost of these works will be deducted from the security. A request for release of the security may be made to the Council after all construction or demolition work has been completed. Satisfactory photographic evidence of the current condition of the subject site must be provided to the Council with the *Notice of Commencement of Work Form*.

5.2.3 Demolition (where applicable)

To ensure that demolition of structures is carried out in an acceptable and safe manner:

- a) The owner shall provide photographic details of any existing damage to the footpath, road reserve and/or public areas with the *Notification of Commencement of Work Form*. Any damage other than that shown with the *Notification of Commencement of Work Form*, will be the responsibility of the owner of the property for repair or reinstatement; and
- b) The owner or applicant shall ensure that the contractor has a current public risk insurance cover for a minimum of \$5 million. A copy of the Policy must be submitted to the Council with the *Notification of Commencement of Work Form*.

5.2.4 Access Level Application (where applicable)

An access level application shall be made to the Council to obtain footpath crossing levels. Evidence that the proposed development complies with the Council's issued levels shall be submitted to the Principal Certifying Authority prior to commencement of works. Where a driveway is part of the complying development, the accredited certifier must ensure that the requirements are satisfied in the design.

5.2.5 Road Openings (where applicable)

For every opening of the public road, a road opening permit shall be obtained from the Council (or the Roads and Traffic Authority in some circumstances), prior to commencement of works. The application fee shall be in accordance with the Council's adopted Schedule of Fees and Charges.

5.2.6 Public Utility Authorities

Arrangements shall be made to the satisfaction of all Utility Authorities in respect to the services supplied by those authorities to the development. The necessity to provide or adjust conduits/ services within the road and footway areas is to be at full cost to the applicant/builder/owner.

5.2.7 Sydney Water Requirements

The approved plans shall be submitted to the appropriate Sydney Water office to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements. If the development complies with Sydney Water's requirements, the approved plans will be appropriately stamped.

5.2.8 Drainage

The stormwater shall be discharged by gravity feed to the street gutter or to an existing drainage structure within an easement to drain water or drainage easement to which the property has legal rights to drain. Where gravity feed is not available the stormwater shall be discharged to dispersal pits in accordance with the Council's "Stormwater Policy and guidelines" and Part 3.1.2 of the *Building Code of Australia – Housing Provisions*.

Connection to any existing domestic stormwater disposal system should only be made where that system is provided in accordance with Part 3.1.2 of the *Building Code of Australia – Housing Provisions* and is capable of disposing of any increased stormwater generated by the complying development works.

5.3 Construction Conditions

These conditions are imposed to ensure the development does not unreasonably impact on the amenity of the locality during the construction or demolition phase.

5.3.1 Permitted Hours for Building and Demolition Work

All building and demolition work shall be carried out only between the hours of 7.00am and 6.00pm Monday to Friday inclusive, 8.00am and 5.00pm Saturdays. No work shall be carried out on Sundays and public holidays.

This condition does not apply to internal fitouts of shops or business premises where the shop or business premise is within a shopping centre or arcade and is not in the vicinity of a residential premise. No time limits shall apply to such premises, providing the works are not audible within any residence.

5.3.2 Noise Control during Construction and Demolition

For construction and demolition periods of 4 weeks or less, an LAeq level measured over a period of 15 minutes when the construction or demolition site is in operation, must not exceed the background level by more than 20dB(A), when measured at the nearest affected premises.

For construction and demolition periods greater than 4 weeks, an LAeq level measured over a period of 15 minutes when the construction or demolition site is in operation, must not exceed the background level by more than 10dB(A), when measured at the nearest affected premises.

For construction and demolition periods greater than 26 weeks, an LAeq level measured over a period of 15 minutes when the construction or demolition site is in operation, must not exceed the background level by more than 5dB(A), when measured at the nearest affected premises.

5.3.3 Environmental Site Management

Water runoff and site erosion controls shall be installed prior to commencement of any site works and shall be continuously maintained during the period of construction or demolition. All control measures are to be maintained in accordance with the requirements of the Department of Housing manual for "Managing Urban Stormwater – Soils and Construction ('The Blue Book' – DOH, August 1998)" and Council's Development Control Plan for Environmental Site Management.

5.3.4 Construction Materials and Machinery must be Kept on Site

All construction materials, sheds, temporary water closets, spoil, hoardings and machinery shall be kept within the property. No vehicles or machines shall be permitted to stand or operate on the Council's footpath reserve, unless prior approval from the Council is granted in writing.

5.3.5 Spoil Deposited on Public Roads or within Road Reserves

Any spoil deposited on public roads or within road reserves during cartage of materials from or to the site, shall be removed immediately to the satisfaction of the Council. If the Council determines that continual depositing of spoil onto the roads is taking place the cartage of spoil shall cease if the Council so directs.

5.3.6 Landscaping Requirements

All trees/bushland areas on the site or within the road reserve shall be protected during construction or demolition in accordance with the requirements set out in the Landscape Development Control Plan approved by the Council. This includes provision of protective fencing and tree guards, identification of the area for root zone protection, exclusion of storage materials from within the dripzone, erosion control and soil pH maintenance.

5.3.7 Swimming Pools (where applicable)

To minimise the impact of the proposed pool on adjoining properties and to ensure the safety of the pool area the design and construction of the swimming pool and associated equipment shall comply with the following requirements:

- a) The Swimming Pools Act 1992 & Regulations;
- b) Australian Standard 1926 – 1986 Swimming Pool Safety.
- c) Council's Development Control Plan – Swimming Pools.
- d) Protection of the Environment Operations (Noise Control) Regulation 2000.
- e) Environmental Site Management Development Control Plan

5.3.8 Asbestos

If the building contains asbestos sheeting or asbestos products, any demolition, removal and associated works, shall only be carried out by persons licensed by and in accordance with the requirements of the Workcover Authority. The formal approval of the Workcover Authority is required prior to commencement of work where the area of the sheeting or product exceeds 200 square metres.

5.3.9 Completion of Building Work

A copy of the compliance certificate must be forwarded to the Council on completion of all building work. All building work associated with the development shall be completed within 5 years of the date of physical commencement of those works.

Note: The *Environmental Planning and Assessment Act 1979* specifies that a complying development certificate lapses 5 years after the date endorsed on the certificate, but does not lapse if that development is physically commenced within those 5 years.

5.4 Prescribed Conditions

All complying development is subject to the conditions specified below, in accordance with section 80 A(11) and section 85A(6)(a) of the *Environmental Planning and Assessment Act 1979* and clause 78 of the *Environmental Planning and Assessment Amendment Regulation 1998*.

Building Code of Australia

(Clause 78A(1) - *Environmental Planning and Assessment Amendment Regulation 1998*)

All building work must be carried out in accordance with the provisions of the *Building Code of Australia*.

Residential building work

(Clause 78C - *Environmental Planning and Assessment Amendment Regulation 1998*)

- 1) Building work that involves residential building work (within the meaning of *the Home Building Act 1989*) must not be carried out unless the principal certifying authority for the development to which the work relates:
 - a) In the case of work to be done by a licensee under that Act:
 - (i) Has been informed in writing of the licensee's name and contractor licence number, and
 - (ii) Is satisfied that the licensee has complied with the requirements of Part 6 of that Act; or
 - b) In the case of work to be done by any other person:
 - (i) Has been informed in writing of the person's name and owner-builder permit number, or
 - (ii) Has been given a declaration, signed by the owner of the land, that states that the reasonable market cost of the labour and materials involved in the work is less than the amount prescribed for the purposes of the definition of "owner-builder work" in section 29 of that Act, and is given appropriate information and declarations under paragraphs (I) and (II) whenever arrangements for the doing of the work are changed in such a manner as to render out of date any information or declaration previously given under either of those paragraphs.

- 2) A certificate purporting to be issued by an approved insurer under Part 6 of *the Home Building Act 1989* that states that a person is the holder of an insurance policy issued for the purposes of that Part is, for the purposes of this clause, sufficient evidence that the person has complied with the requirements of that Part.

Excavations and backfilling

(Clause 78D - *Environmental Planning and Assessment Amendment Regulation 1998*)

- 1) All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.
- 2) All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

Retaining walls and drainage

(Clause 78E - *Environmental Planning and Assessment Amendment Regulation 1998*)

If the soil conditions require it:

- 1) Retaining walls associated with the erection or demolition of a building or other approved methods of preventing movement of the soil must be provided; and
- 2) Adequate provision must be made for drainage.

Support for neighbouring buildings

(Clause 78F - *Environmental Planning and Assessment Amendment Regulation 1998*)

- 1) If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:
 - a) Must preserve and protect the building from damage, and
 - b) If necessary, must underpin and support the building in an approved manner, and
 - c) Must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

- 2) The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.
- 3) In this clause, **allotment of land** includes a public road and any other public place.

Protection of public places

(Clause 78G - *Environmental Planning and Assessment Amendment Regulation 1998*)

- 1) If the work involved in the erection or demolition of a building:
 - a) Is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
 - b) Building involves the enclosure of a public place, a hoarding or fence must be erected between the work site and the public place.
- 2) If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.
- 3) The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
- 4) Any such hoarding, fence or awning is to be removed when the work has been completed.

Toilet facilities

(Clause 78I - *Environmental Planning and Assessment Amendment Regulation 1998*)

- 1) Toilet facilities are to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.
- 2) Each toilet provided:
 - a) Must be a standard flushing toilet, and
 - b) Must be connected :
 - (i) To a public sewer, or
 - (ii) If connection to a public sewer is not practicable, to an accredited sewage management facility approved by the council, or
 - (iii) If connection to a public sewer or an accredited sewage management facility is not practicable, to some other sewage management facility approved by the council.
- 3) The provision of toilet facilities in accordance with this clause must be completed before any other work is commenced.

6. Origin

Edition 1:

Action	Date
Council Endorse Revised Plan	3 October 2000
Exhibition – START	17 October 2000
Exhibition – FINISH	13 November 2000
Council Decision	11 December 2000
Public Notice	19 December 2000
In Effect	15 December 2000

9.0 Other Development
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