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## 2.1 Exempt & Complying Development

### **Note: NEW - State-Wide Exempt and Complying Development Code in force from 27 February 2009**

State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 ("the Codes SEPP") has state-wide application and commenced on the **27 February 2009**. This new Codes SEPP contains exempt development types and Complying Development Codes such as the General Housing Code, the Housing Internal Alterations Code and the General Commercial and Industrial Code.

A copy of the Codes SEPP and further information on the Complying Development Codes is available at: [www.planning.nsw.gov.au](http://www.planning.nsw.gov.au). For further information or specific questions in relation to the Codes SEPP please email [planningreform@planning.nsw.gov.au](mailto:planningreform@planning.nsw.gov.au) or call the Department of Planning's Information Centre on Freecall 1300 305 695 or (02) 9228 6333.

#### **Exempt Development**

From the **27 February 2009**, if the exempt development types listed in Council's Development Control Plan are also listed as 'Exempt' development in the Codes SEPP, Council's Development Control Plan will no longer apply.

**For example:** Decks are an Exempt development type listed in both Council's Development Control Plan and the new Codes SEPP. Consequently, Council's exemption requirements for decks are no longer applicable.

For 'Exempt' Development Types which are not covered by the Codes SEPP, the exemptions in Council's current Development Control Plan will continue to apply.

#### **Complying Development**

Applicants will have the choice to apply for a Complying Development Certificate under Council's Development Control Plan or the Codes SEPP 2008 until **31 December 2010**. After this date only the Codes SEPP will apply.

When a choice is made between the Codes SEPP and Council's Development Control Plan, the full set of development standards must be used. That is, there can be no mixing between the development standards in the Codes SEPP and Council's Development Control Plan.

For 'Complying' Development Types which are not covered by the Codes SEPP, the complying development requirements in Council's current Development Controls Plan will continue to apply.

Potential applicants and land owners should be aware the state wide complying development provisions (Codes SEPP) do not apply to all allotments in the Hurstville Local Government Area.

**For example:** Sites within Council's Foreshore Scenic Protection Area (FSPA) and bushfire prone land are excluded.

Please contact Hurstville City Council on (02) 9330 6222 to obtain advice on whether Complying Development may be possible on your site.

There are three main categories of development. These are exempt development, complying development, and development where a development application is required. Exempt development is a category for minor development with minimal environmental impact (such as some fences, garden sheds, barbecues etc). Exempt development does not require Council approval, provided it meets the specified requirements as set out in this section. Complying development is a category of routine development that is subject to fixed development standards or requirements and does not involve merit assessment. Complying development can only be carried out upon receipt of a Complying Development Certificate. All other development will require a development application and will be subject to the relevant provisions of this DCP.

The requirements and controls for exempt and complying development are contained in this Section of the DCP.

### 2.1.1 General Information

#### 2.1.1.1 Aims

The primary aims of this section are to:

- (a) Identify exempt and complying development
- (b) remove the need for Council consent for certain minor works;
- (c) create a streamlined, seven day approval system for Complying Development;
- (d) allow Accredited Certifiers to issue Complying Development Certificates; and
- (e) preserve and protect the amenity of the area for residents and the community.

#### 2.1.1.2 How to use this Section

This section provides for exempt and complying development within the local government area of Hurstville City and should be read in conjunction with the Hurstville Local Environmental Plan (LEP) 1994 (as amended).

**Step 1 →** Determine whether your development can be classified as 'exempt development'. An explanation of exempt development and a schedule of development types is provided in Section 2.1.2.1 and Schedule 1 of this section.

**Step 2 →** Determine whether your development can be classified as 'complying development'. An explanation of complying development and a schedule of complying development type is provided in Section 2.1.3 and Schedule 2 of this section. If your development is complying development you will need to obtain a Complying Development Certificate either from Hurstville City Council or from an Accredited Certifier, as detailed in Section 2.1.3 of this section.

**Step 3 →** For your development to be classified as either exempt or complying development, it will need to comply with ALL the specified requirements. If it does not, a development application will need to be submitted for Council's approval and this section of the DCP does not apply to you.

**Step 4 →** If your development can be classified as either exempt or complying, you are advised to:

- consult a building surveyor (accredited under the *Environmental Planning & Assessment Act 1979*) to ensure that works will comply with the Building Code of Australia and any relevant Australian Standards; and
- consult a structural engineer (who is a Corporate Member of the Institute of Engineers) where any activity may impact upon the structural stability of any structure; and
- irrespective of this plan, ensure that you comply with all relevant Acts and Regulations.

#### 2.1.1.3 Related Documents

The following documents, (including but not limited to), are related to this DCP:

- Local Government Act 1993 – particularly Chapter 7;
- Local Government (Approvals) Regulations 1993;
- Building Code of Australia;
- Environmental Planning & Assessment Act 1979 and related Regulations;
- State Environmental Planning Policy No. 4 – Development Without Consent and Miscellaneous Exempt and Complying Development;
- State Environmental Planning Policy (Temporary Structures and Places of Public Entertainment) 2007;
- State Environmental Planning Policy ( Exempt and Complying Development Codes) 2008;
- Australian Standards;
- National Code for the Construction and Fitout of Food Premises published by the Australian Institute of Environmental Health.

#### Other Useful References

- Department of Planning website [www.planning.nsw.gov.au](http://www.planning.nsw.gov.au) for information regarding State Environmental Planning Policies (SEPPs) and other State planning documents.
- Standards Australia website [www.standards.com.au](http://www.standards.com.au) for information regarding various Australian and New Zealander technical and business standards.
- Australasian Legal Information institute website [www.austlii.edu.au](http://www.austlii.edu.au) for online legislation and regulation.
- WorkCover NSW website [www.workcover.nsw.gov.au](http://www.workcover.nsw.gov.au) for information about workplace safety, injury management, and potential health and safety hazards.
- Department of Environment, Climate Change and Water NSW, website [www.environment.nsw.gov.au](http://www.environment.nsw.gov.au) for information about reducing the risks to human health from hazards such as asbestos and lead.
- Industry and Investment NSW website for information about reducing greenhouse gas emissions through the use of sustainable energy technologies – [www.industry.nsw.gov.au/energy](http://www.industry.nsw.gov.au/energy)

## 2.1.2 Exempt Development

Exempt development is a category for minor development with minimal environmental impact (such as some fences, garden sheds, barbeques etc). Exempt development does not require Council approval, providing it meets ALL the specified requirements as set out in this section.

If you comply in full with sections 2.1.2.1(2) and 2.1.2.1(3) then go to Schedule 1 to check that you comply with the detailed requirements.

Should any doubt exist as to whether a particular activity requires approval, consultation should be arranged with Council officers prior to work commencing.

### 2.1.2.1 What is Exempt Development?

- (1) Development listed in Schedule 1 is exempt development except as provided by sections 2.2.2(2) and 2.2.2(3).
- (2) Development is NOT exempt development if it is carried out on land that is:
  - (a) the site of a heritage item or draft heritage item listed under *Hurstville Local Environmental Plan 1994*, or that is subject to an Interim Heritage Order under the *Heritage Act 1977*, or that is listed on the State Heritage Register under that Act, or
  - (b) identified as an Aboriginal place or known as an Aboriginal relic, or is dedicated under the *National Parks and Wildlife Act 1974*, or
  - (c) reserved or dedicated under the *Crown Lands Act 1989* for the preservation of flora, fauna or geological formations or for other environmental protection purposes, or
  - (d) an aquatic reserve declared under the *Fisheries Management Act 1994*, or
  - (e) land to which State Environmental Planning Policy No. 14 - Coastal Wetlands applies, or
  - (f) land to which State Environmental Planning Policy No. 19 – Urban Bushland applies, or
  - (g) land to which State Environmental Planning Policy No. 26 - Littoral Rainforests applies, or
  - (h) declared a marine park under the *Marine Parks Act 1997*, or
  - (i) within 40m of a waterway, watercourse or body of water, or
  - (j) between a foreshore building line (FBL) and mean high water mark (MHWM) or is below MHWM, or
  - (k) located in Zone No. 7 (Waterways Zone), or

- (l) identified in any plan, policy or legislation as being flood liable or contaminated land, or land subject to subsidence, slip or erosion.
- (3) Development is exempt development only if:
  - (a) it is permissible under the Hurstville LEP 1994 within the applicable zone, and any other legislation, and
  - (b) the proposed development complies with ALL the 'exemption requirements' specified for the development type in Schedule 1 of this DCP, and
  - (c) is contained wholly within the property on which it is located, and
  - (d) it will not result in a lesser landscaped area than is required by sections 4 and 8 of this DCP (excluding Pet Cages and Kennels); and
  - (e) it will not result in a greater floorspace ratio than what is permitted by any Plan, and
  - (f) it will not result in a variation to a building envelope in this Plan, and
  - (g) it does not interfere with the amenity of the neighbourhood because of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste, water, waste products, grit or oil or otherwise, and
  - (h) it complies with all relevant deemed-to-satisfy provisions of the *Building Code of Australia* (BCA), and the standards currently contained in the *Environmental Planning and Assessment Regulation 2000*, and
  - (i) it does not contravene any condition of a development consent applying to the land, and
  - (j) it does not obstruct drainage of the site on which it is carried out, or result in the redirection or increase of surface stormwater/ run-off onto or from any adjoining property, and is in accordance with Council's stormwater and drainage guidelines, and
  - (k) it does not restrict any vehicular or pedestrian access to or from the site, and
  - (l) it is carried out at least 1 metre from any easement or public sewer main or, if over a sewer main, the proposal complies with the "building over sewer" requirements of Sydney Water Corporation Limited applying to the land, and
  - (m) it does not require more than 5 cubic metres of cut and fill to accommodate the proposed development, and
  - (n) it does not result in the ringbarking, cutting down, lopping, topping, removal, injuring or destruction of any tree to which Council's Tree Preservation Order applies, and
  - (o) it does not involve earthworks or the erection of any new structure within 3 metres of

a tree to which Council's Tree Preservation Order applies, and

- (p) it does not reduce the number of car parking spaces provided on the site below the minimum required by Section 6 – Development Guidelines and all car parking is designed in accordance with AS 2890.1-1993 and,
- (q) all relevant authorities have been consulted with in regard to underground infrastructure, such as Energy Australia, Telstra, AGL, Sydney Water, and
- (r) if appropriate, any installation involved is carried out in accordance with the manufacturer's specifications and requirements, and
- (s) it is not carried out on land that involves public entertainment or gaming facilities of any kind, and
- (t) does not involve the opening of any footpath or road (s.138 of the *Roads Act 1993*), and
- (u) if it relates to an existing building that is classified under the BCA as class 1b or classes 2-9, the building must have a current fire safety certificate or fire safety statement or the building must be a building for which no fire safety measures are currently implemented, required or proposed, and
- (v) it is not located on land that is identified in any environmental planning instrument as land that is potentially affected by acid sulfate soils and which requires an acid sulfate soils management plan for the proposed development, and
- (w) it is not located on land that is identified in any environmental planning instrument as being bushfire prone, and
- (x) it is consistent with any recovery plan or threat abatement plan in force under the *Threatened Species Conservation Act 1995* that apply to the land, and
- (y) it is not classified as designated development under the *Environmental Planning and Assessment Act 1979*.

**Note:**

Section 76(3) of the EP&A Act says development can not be exempt development if it is carried out on land that:

- (i) is critical habitat, or
- (ii) is, or is part of, a wilderness area (within the meaning of the *Wilderness Act 1987*), and
- (iii) Part 5 of the EP&A Act does not apply to the development.

#### 2.1.2.2 SCHEDULE 1: Exempt Development

Your work must fit a “Type of Development” (left column) in this table and is only exempt if it meets all the “Exemption Requirements” (right column).

“Advisory Notes” have been included for some development types as a further reference to provide additional information needing consideration. These do not form part of this Plan.

TYPE OF DEVELOPMENT	EXEMPTION REQUIREMENTS
<b>1. Access Ramps for People with a Disability</b>	
	<ul style="list-style-type: none"> <li>(a) Maximum height of ramp 1 metre above existing ground level at any point.</li> <li>(b) Maximum grade is 1:14 (vertical:horizontal) and complies with AS1428.1, except where work is carried out by, or on behalf of Council and only involves replacement or repair of an existing footpath, accessway or ramp.</li> <li>(c) Not less than 900mm from side boundaries.</li> </ul> <p><b>Advisory Note:</b> The Disability Discrimination Act 1992 of the Commonwealth should be consulted concerning discrimination of the disabled.</p>
<b>2. Advertising Signs</b>	
<b>2.1. General Requirements for All Signs</b>	<ul style="list-style-type: none"> <li>(a) Complies with Chapter 8.7 Advertising and Signage of this DCP.</li> <li>(b) Advertising sign is replacing one lawfully approved by Council, and it fully complies with any existing development consent.</li> <li>(c) Complies with all applicable requirements of the BCA, including Section B1 (“Structural Provisions”).</li> <li>(d) Designed, fabricated and installed in accordance with the relevant Australian Standard (AS).</li> <li>(e) Signs which display a language other than English must contain an accurate and complete English translation using wording and/or numbering that is at least the same size as the non-English message.</li> <li>(f) Not lower than 2.6 metres above any footway, and at least 600mm from the kerbline or roadway edge.</li> <li>(g) Message must relate to the legal use of the premises, and not used for general advertising.</li> </ul>

TYPE OF DEVELOPMENT	EXEMPTION REQUIREMENTS
	<p>(h) Name or logo of the person who owns or leases an advertisement or advertising structure must not be greater than 0.25 square metres, and may appear only within the advertising display area.</p> <p>(i) Not illuminated, unless replacing an existing lawfully approved sign, or unless a new under awning sign where there is no existing under awning sign on the premises.</p> <p><u>Advisory Note:</u> Advertising associated with street furniture and bus shelters is exempt under 'Street Furniture'.</p>
<p><b>2.2. Awning fascia sign</b></p> <p>A sign on the fascia or return end of an awning.</p>	<p>(a) Within the perimeter of the fascia or return end of the awning.</p> <p>(b) Flush with the fascia e.g. painted</p> <p>(c) Only one sign per premises.</p>
<p><b>2.3. Business directory board (multiple occupancy)</b></p> <p>Free standing advertising structure that is located within the property boundary of a multiple occupancy premises, and which identifies the names and activities of the occupants of the premises.</p>	<p>(a) Maximum area does not exceed 4 square metres.</p> <p>(b) Maximum height of 4 metres above ground level.</p> <p>(c) Only one sign per premises.</p>
<p><b>2.4. Commercial sign</b></p> <p>An advertisement, which, in respect of any place or premises to which it is affixed, contains a reference to the identification or description of the place or premises, or the occupation or activities carried out, or the goods or services provided at the place or premises, or the name of the person carrying out the business, or particulars or notifications required or permitted to be displayed by or under any Act or any Act of the Parliament of the Commonwealth.</p> <p><b>Note:</b> Please refer to Appendix 1 of this DCP for the complete statutory definition of "Commercial Sign."</p>	<p>(a) Located a maximum height of 3.1metres above ground level, or below the first floor window sill level where there is no awning, whichever is lower.</p> <p>(b) The building's street number is provided so that it is visible from the street, and the number/s is a minimum height of 70mm.</p> <p>(c) Advertising structure type can be identified as 'exempt development' under the provisions of this Plan, <u>or</u></p> <p>(d) A wall sign that does not project more than 200mm beyond the building alignment, and it will result in only one wall sign on the building elevation, and it has a maximum area of 0.75 square metres if located in a Business or Residential Zone, or a maximum area of 4 square metres if located in an Industrial Zone.</p>
<p><b>2.5. Community notice sign</b></p> <p>A notice or display of public information erected by, or on behalf of a <u>public authority</u>, giving information or directions</p>	<p><u>Permanent fixed sign</u></p> <p>(a) Maximum area does not exceed 1.8 square metres.</p> <p>(b) Maximum height does not exceed 3 metres</p>

TYPE OF DEVELOPMENT	EXEMPTION REQUIREMENTS
about services or events provided by that authority.	<p style="text-align: center;">above ground/footpath.</p> <p><u>Temporary sign</u></p> <ul style="list-style-type: none"> <li>(a) Contains only public information about services provided by that authority.</li> <li>(b) Displayed no longer than 7 days.</li> </ul>
<p><b>2.6. Construction sign</b></p> <p>During the construction of a building, the various firms who are involved in the construction may advertise at the site.</p>	<ul style="list-style-type: none"> <li>(a) Maximum area does not exceed 3 square metres.</li> <li>(b) Sign removed at the completion of building works.</li> <li>(c) Located within property boundaries.</li> </ul>
<p><b>2.7. Drop awning sign (weather protection sign)</b></p> <p>A sign displayed on a roll down blind, retractable sun/weather protection awning, or the like, that is attached to the under side or outer edge of the awning and is parallel to the kerb.</p>	<ul style="list-style-type: none"> <li>(a) Message relates to the use of the premises.</li> <li>(b) The advertisement does not exceed a maximum coverage of 40% of the surface area of the blind or awning.</li> <li>(c) Blind or awning is attached behind the fascia.</li> <li>(d) Blind or awning is setback a minimum 600mm from the line of the kerb.</li> <li>(e) Minimum height of 2.3 metres from the footpath to the underside of the blind hooks and blind roller is provided, and any blind flap extends no more than 300mm below the roller.</li> </ul>
<p><b>2.8. Flag Pole Sign</b></p>	<ul style="list-style-type: none"> <li>(a) Erected by, or on behalf of Council.</li> </ul>
<p><b>2.9. Fly poster (bill poster)</b></p> <p>A poster-type advertisement promoting any event, activity, product or service fixed to power poles, bus shelters or other public property, fences, buildings, shop fronts, shop front windows or hoardings.</p>	<ul style="list-style-type: none"> <li>(a) Must be erected by, or on behalf of Council, in accordance with Council's Policy on Signs Attached to Power Poles.</li> <li>(b) Does not contain a message or image relating to political elections.</li> </ul>
<p><b>2.10. Inflatable sign</b></p> <p>A sign in the form of an inflatable structure.</p>	<ul style="list-style-type: none"> <li>(a) Displayed within the premises which contains the business or product being advertised.</li> <li>(b) Displayed no longer than 28 days.</li> </ul>
<p><b>2.11. Newsagent headline placards</b></p> <p>Signs providing notice of news and entertainment headlines and the like, including magazine promotions.</p>	<ul style="list-style-type: none"> <li>(a) Maximum width 600mm.</li> <li>(b) Minimum height 750mm.</li> <li>(c) Maximum height 1.1 metres.</li> <li>(d) Contained in frames securely fixed to the facade of the premises.</li> <li>(e) Does not project more than 75mm from the building façade.</li> <li>(f) Not propped against the facade of the premises.</li> </ul>

TYPE OF DEVELOPMENT	EXEMPTION REQUIREMENTS
	<b><u>Advisory Note:</u></b> For signs placed in windows, see requirements for “window signs.”
<p><b>2.12. Public information sign</b> <b>Directional sign / Traffic sign</b></p> <p>Sign erected for the specific purpose of:</p> <ul style="list-style-type: none"> <li>▪ directing the public to buildings or places of tourist interest or recreational facilities;</li> <li>▪ providing public information such as regulatory information, funding notification, and public notices; or providing the name and location of streets, parks, car parks, traffic hazards and signals, and the like.</li> </ul>	<ul style="list-style-type: none"> <li>(a) Erected by, or on behalf of Council or a public authority, including the Roads and Traffic Authority (RTA).</li> <li>(b) Must comply with Section 8.7. Advertising and Signage of this DCP.</li> </ul>
<p><b>2.13. Real estate sign</b></p> <p>A temporary sign that contains only a notice that the place or premises to which it is fixed is for sale or letting together with particulars of the sale or letting, and is removed no later than 7 days after letting or sale of the premises to which the sign relates.</p>	<ul style="list-style-type: none"> <li>(a) Removed no later than 7 days after letting or sale of the premises to which the sign relates.</li> <li>(b) Located wholly within property boundaries.</li> <li>(c) Only advertise premises for sale or lease.</li> <li>(d) Only one sign per premises.</li> <li>(e) Not erected more than 28 days prior to the auction.</li> <li>(f) <u>In the Residential zone</u> – Maximum area of 2.5 square metres.</li> <li>(g) <u>In the Business zones or Industrial zone</u> - Maximum area of 5 square metres.</li> </ul>
<p><b>2.14. Temporary Sign (special event)</b></p> <p>An advertisement of a temporary nature which announces a local event of a religious, educational, cultural, political or recreational character (excluding private businesses) or relates to any temporary matter in connection with such an event.</p>	<ul style="list-style-type: none"> <li>(a) Displayed on the property where the special event is to be held, except if erected by, or on behalf of Council or a public authority, where signs can be located elsewhere, including across a street.</li> <li>(b) Sponsors name or logos subsidiary to message/announcement.</li> <li>(c) Not containing a message or image relating to political elections that is affixed to a power pole or the like.</li> <li>(d) No general advertising apart from the name of the event sponsor(s).</li> <li>(e) Displayed no longer than 28 days before the event and removed within 48 hours after the event.</li> </ul>
<p><b>2.15. Top Hamper Sign (under awning wall sign)</b></p> <p>A sign painted to or attached to the transom of a doorway or display window at ground floor level of a building.</p>	<ul style="list-style-type: none"> <li>(a) Sign must be above the head of the doorway or window to which it is attached.</li> <li>(b) Does not project more than 200mm beyond the building alignment.</li> <li>(c) Located within the perimeter of the building walls.</li> <li>(d) Does not cover any windows or architectural</li> </ul>

TYPE OF DEVELOPMENT	EXEMPTION REQUIREMENTS
	<p>features.</p> <p>(e) One per shop front, showroom or the like.</p>
<p><b>2.16. Under awning bracket sign</b></p> <p>A sign suspended from a wall-mounted bracket or pole under awning level.</p>	<p>(a) Maximum of two per shop front.</p> <p>(b) Base of bracket located a minimum of 2.3 metres above the ground.</p> <p>(c) Does not project more than 500mm from the wall on which it is mounted.</p>
<p><b>2.17. Under awning sign (suspended)</b></p> <p>A sign which is attached to and hangs below an awning, and is erected at right angles to the building wall.</p>	<p>(a) Does not project beyond the awning.</p> <p>(b) Not lower than 2.6 metres above a footpath at any point.</p> <p>(c) Maximum length of 2.5 metres.</p> <p>(d) Maximum height of 500mm.</p> <p>(e) Not closer than 600mm to the kerb.</p> <p>(f) Structurally sound and securely fixed to awning.</p> <p>(g) One per premises, or one sign per 6 metres of an individual shop front on larger premises.</p>
<p><b>2.18. Window Sign</b></p> <p>A sign located on, or displayed in the window of a building.</p>	<p>(a) Located on the inside of the window or glass door.</p> <p>(b) Located at ground level, or above the awning or the first floor window only if it solely involves painted lettering on the glazed areas only.</p> <p>(c) At least 50% of the window or glass door area remains uncovered by advertising or any other obstruction.</p> <p><b><u>Advisory Note:</u></b></p> <p>(a) No signs, including fly posters, can be posted on the outside of windows.</p> <p>(b) Office stationary materials such as coloured cardboard, office paper, and the like, with hand drawn messages are prohibited.</p>
<p><b>3. Aerials and Antennae</b></p>	
<p>For domestic use only.</p> <p>For receiving purposes only – transmitters require development consent.</p>	<p>(a) For domestic use only in the reception of radio and television broadcast signals.</p> <p>(b) Not attached to a residential flat building.</p> <p>(c) Not located on the front facade of buildings.</p> <p>(d) Maximum height of 3 metres above the ridge height of the roof.</p> <p>(e) Located wholly within property boundary.</p> <p>(f) Only one per property.</p>

TYPE OF DEVELOPMENT	EXEMPTION REQUIREMENTS
<b>4. Air Conditioning Units</b>	
	<p>(a) Not visible from a public place where attached above the ground floor on residential and commercial premises.</p> <p>(b) Not located on the front building facade.</p> <p>(c) Not a water cooling tower.</p> <p>(d) Located a minimum 3 metres from any property boundary.</p> <p>(e) The noise level of the unit will not exceed 5dBA above the ambient background noise level measured at the nearest residential property boundary between the hours of 7am-10pm Monday to Friday, and 8am-10pm weekends and public holidays.</p> <p>(f) The noise level of the unit will not exceed the ambient background noise level measured at the nearest residential property boundary between the hours of 10pm-7am Monday to Friday, and 10pm-8am weekends and public holidays.</p> <p>(g) Not roof mounted, unless located in an industrial zone.</p> <p>(h) Complies with the Public Health Act 1991 and AS 3666 and AS 1668, and Protection of the Environment Operations Act 1997 and Regulations.</p> <p>(i) Structural integrity of the building is not reduced.</p> <p>(j) Any opening created is adequately weatherproofed.</p> <p><u>Advisory Notes:</u></p> <ul style="list-style-type: none"> <li>▪ Reference should be made to legislation before installing any air conditioning plant or equipment.</li> <li>▪ Council has the power to require the removal, relocation or modification of air conditioning units that create offensive noise.</li> </ul>
<b>5. Awnings, canopies and similar shade structures</b>	
<b>5.1. Private Land</b>	<p>(a) Ancillary to a dwelling house only.</p> <p>(b) Maximum area 20 square metres per structure.</p> <p>(c) Maximum height 2.7 metres above ground level.</p> <p>(d) Located behind building line.</p>

TYPE OF DEVELOPMENT	EXEMPTION REQUIREMENTS
	<ul style="list-style-type: none"> <li>(e) Located minimum 500mm from a side boundary.</li> <li>(f) Located wholly within property boundaries when fully extended.</li> <li>(g) Does not contain advertising material.</li> <li>(h) Non-reflective materials.</li> </ul> <p><b><u>Advisory Notes:</u></b></p> <ul style="list-style-type: none"> <li>▪ The design, colour and materials of awnings, canopies and the like should be in keeping with the surrounding natural and built environment.</li> <li>▪ Consideration should be given to the impact on adjoining properties.</li> <li>▪ Materials should be non-combustible if located in the vicinity of a bushfire prone area.</li> </ul>
<p><b>5.2. Public Land or Educational Establishments</b></p> <p>Includes sunshades over playground equipment.</p>	<ul style="list-style-type: none"> <li>(a) Constructed by or on behalf of Council or the Crown.</li> </ul>
<p><b>6. Barbeques (fixed structure)</b></p>	
	<ul style="list-style-type: none"> <li>(a) Maximum height 2.6 metres above ground level, including any chimney or flue or hood or covering.</li> <li>(b) Located behind the building line or no further forward than the building line of any adjoining development, whichever is the greater.</li> <li>(c) Located minimum 500mm from any side or rear boundary.</li> <li>(d) Located no closer than 1.2 metres to any pool safety fence.</li> <li>(e) Only one per property.</li> <li>(f) For domestic use only.</li> </ul> <p><b>Advisory Notes:</b>            Portable barbecues should consider the impact of smoke and fumes on adjoining properties.            Barbeques must not be used to burn rubbish, any green flora/garden material green timber or wet timber.            An on the spot fine exceeding \$200 will be imposed for backyard burning.</p>
<p><b>7. Bird Aviaries</b></p>	
	<ul style="list-style-type: none"> <li>(a) Ancillary to a dwelling house only.</li> <li>(b) No pigeon aviaries.</li> <li>(c) Only one bird aviary per property.</li> <li>(d) Keeping or breeding of birds is not for business or commercial purposes or financial gain.</li> <li>(e) Maximum area 10 square metres.</li> <li>(f) Bird aviary is located a minimum 5 metres from a</li> </ul>

TYPE OF DEVELOPMENT	EXEMPTION REQUIREMENTS
	<p>dwelling, habitable room, doorway, public hall, school, hospital or premises used for the manufacture, preparation, sale or storage of food, or 900mm from any side and rear boundary, whichever is the greater.</p> <p>(g) A poultry or fowl aviary is located a minimum 30 metres from any building referred to above.</p> <p>(h) Enclosed to prevent the escape of birds.</p> <p>(i) Maximum height 2.4 metres from ground level to the top of the roof of the structure.</p> <p>(j) Located behind building line or no further forward than the building line of any adjoining development, whichever is the greater.</p> <p>(k) Provision is made for the proper collection and disposal of roof water, and waste water associated with cleaning the aviary structure, to the sewerage system.</p> <p>(l) 300mm bund to the base of the aviary structure is provided to prevent spillage of any feed in addition to restricting access to vermin.</p> <p>(m) Floors are paved, tiled or concreted underneath the roosts or perches.</p> <p>(n) All animals must be kept in accordance with Part 3 and Division 2 of Schedule 5 to the <i>Local Government (Orders) Regulation 1999</i>.</p> <p>(o) All animals must be kept in strict compliance with Council's Local Orders Policy – Keeping of Animals (as in place or as amended from time to time).</p> <p>(p) Stormwater disposal is in accordance with Council's stormwater and drainage guidelines.</p> <p><b><u>Advisory Notes:</u></b></p> <p>Council's Local Orders Policy specifies numbers of birds, and the conditions in which they must be kept.</p> <p>Free lofting of racing or domestic pigeons is prohibited.</p> <p>A Development Application must be lodged for pigeon aviaries.</p>
<b>8. Bridges and Staircases</b>	
	<p>(a) Erected in public parks and recreation spaces where construction is by or for Council.</p> <p>(b) Span of a bridge is no greater than 5 metres.</p> <p>(c) Designed, fabricated and installed in accordance with the BCA (Section B) and AS 4100 and AS 1720 and AS 3600 and Part D2 of Section D of</p>

TYPE OF DEVELOPMENT	EXEMPTION REQUIREMENTS
	<p>the BCA (balustrade heights and construction).</p> <p>(d) Compliance with the applicable Plan of Management in effect for the area.</p>
<b>9. Building Alterations (external)</b>	
<p>Applies only to minor alterations to the exterior of a previously completed building that was approved by Council, such as re-cladding, painting, plastering, cement rendering, or repair, restoration or maintenance of damaged materials of roofs or walls, or attaching fittings and decorative work.</p>	<p>(a) Exemption does not apply to multiple dwellings or residential flat buildings.</p> <p>(b) Building is not between a FBL and MHWM, or within 40 metres of MHWM.</p> <p>(c) Non structural work only i.e. work must not affect the load-bearing capacity of any wall or other building element.</p> <p>(d) No change to roof shape or roof pitch.</p> <p>(e) Alterations or renovations are to a previously approved and completed building.</p> <p>(f) Involves only replacing existing materials with similar materials that are compatible with the existing building and finish.</p> <p>(g) Where roof is replaced, the replacement roofing is of the same, or a lighter weight than the previous roofing.</p> <p>(h) Reflectivity of new materials is not increased.</p> <p>(i) Building footprint or floor space is not increased.</p> <p>(j) External configuration of the building is not altered eg. there is no increase to the sizes of any windows, doors, walls and roofs.</p> <p>(k) Doorways are not repositioned to affect egress.</p> <p>(l) The removal of asbestos cement and lead paint complies with the WorkCover Authority's guidelines.</p> <p>(m) Replacement of glass complies with AS 1288 and AS 2208.</p> <p>(n) Opaque or other obscured glazing is replaced with similar opaque glazing so as not to affect the privacy of neighbours.</p>
<b>10. Building Alterations (internal)</b>	
<p>Includes replacement of doors, walls, ceilings, floor linings or decorated frame members, and renovations of bathrooms, kitchens and the inclusion of built-in fixtures such as vanities, cupboards and wardrobes.</p>	<p>(a) Non-structural work only i.e. work must not affect the load-bearing capacity of any wall or other building element.</p> <p>(b) Alterations or renovations are to a previously approved and completed building.</p> <p>(c) Existing floor area is not increased.</p>
<b>10.1. General Requirements</b>	<p>(d) Work does not include changes to the</p>

TYPE OF DEVELOPMENT	EXEMPTION REQUIREMENTS
	<p>configuration of rooms whether by removal of existing walls, partitions or by other means.</p> <p>(e) Equivalent or improved quality materials are used.</p> <p>(f) Doorways are not repositioned to affect egress.</p> <p>(g) The removal of asbestos cement and lead paint complies with the WorkCover Authority's guidelines.</p> <p>(h) Where applicable - water conservation devices with an AAA rating are installed, including tap flow regulators, shower head roses and dual flush toilets.</p> <p><b><u>Advisory Notes:</u></b></p> <p>You are advised to consult a structural engineer, architect or building surveyor before commencing alterations to ensure you comply with the BCA and will not affect the structural sufficiency and stability of the building.</p> <p>Where smoke alarms have not been installed and connected to a permanent power supply, these alarms must be installed whilst renovations are being done (BCA Housing Provision).</p>
<b>10.2. Residential</b>	<p>(a) External size and envelope of the dwelling is not increased.</p> <p>(b) Use of a room is not altered from non habitable to habitable.</p>
<p><b>10.3. Commercial and Industrial</b></p> <p>Includes shelving, displays, benches, and partitions that do not provide structural support to any part of the building.</p>	<p>(a) Premises does not prepare or sell food.</p> <p>(b) Maximum floor area of building 200 square metres.</p> <p>(c) Fire safety or accessibility to a fire exit is not compromised.</p>
<b>11. Carers for Family Day Care Children's Services, and Home Based Children's Service</b>	
	<p>(a) The <i>Family Day Care and Home Based Child Care Services Regulation 1996</i> and <i>Children and Young Persons (Care and Protection) Act 1998</i> are fully complied with, and</p> <p>(i) the carer is registered with Council's Family Day Care Scheme, <u>or</u></p> <p>(ii) a license has been obtained from the NSW Department of Community Services.</p> <p><b><u>Advisory Note:</u></b></p>

TYPE OF DEVELOPMENT	EXEMPTION REQUIREMENTS
	If the above criteria are not met, the child care activity in the home is prohibited.
<b>12. Change of Use</b>	
<p>Applies only where a building is to change from a:</p> <ul style="list-style-type: none"> <li>▪ Business premises or office premises or shop or refreshment room or food shop to business premises;</li> <li>▪ Shop to shop;</li> <li>▪ Bulky goods to bulky goods;</li> <li>▪ Industry to industry; or</li> <li>▪ Warehouse to warehouse.</li> </ul> <p>Exemption does not apply in the following instances:</p> <ul style="list-style-type: none"> <li>▪ Change to a new food shop;</li> <li>▪ Change from a food shop or refreshment room to a food shop or refreshment room;</li> <li>▪ Electrical or mechanical repairs and chemical storage;</li> <li>▪ Change of use where 'existing use rights' apply as defined in section 106 of the Environmental Planning and Assessment Act 1979;</li> <li>▪ Methadone clinics;</li> <li>▪ Sex Services premises;</li> <li>▪ Skin penetration;</li> <li>▪ Hairdressing;</li> <li>▪ Beauty salon;</li> <li>▪ Amusement centre or places where amusement equipment is installed; Funeral parlour;</li> <li>▪ Licensed premises;</li> <li>▪ Massage parlour;</li> <li>▪ Internet café;</li> <li>▪ Places of public entertainment; and</li> <li>▪ Adult book shops and similar restricted premises.</li> </ul>	<ul style="list-style-type: none"> <li>(a) Is a change from an existing legal use to another legal use that complies with a relevant development consent.</li> <li>(b) The new use provides the level of car parking provision required under DCP No. 4 - Hurstville Town Centre or DCP No. 2 - Car Parking, whichever is applicable to the site.</li> <li>(c) Use is consistent with the current classification under the BCA.</li> <li>(d) Premise is not open outside the existing approved hours of operation.</li> <li>(e) Gross floor area of the building is not increased.</li> <li>(f) Use will not require the upgrade of any fire safety, health, environmental or other standards.</li> <li>(g) Landscaping, loading and waste facilities required by development consent are retained.</li> <li>(h) Curtilage of the premises not to be used for storage or display purposes.</li> <li>(i) Use complies with Part 8 of the Protection of the Environment Operations Act 1997.</li> <li>(j) Industrial and Warehouse Premises</li> <li>(k) Building has a maximum floor area of 500 square metres.</li> </ul> <p style="text-align: center;"><u>All Other Premises</u></p> <ul style="list-style-type: none"> <li>(a) Building has a maximum floor area of 200 square metres.</li> </ul> <p style="text-align: center;"><u>Advisory Notes:</u></p> <ul style="list-style-type: none"> <li>▪ Any alterations required as a result of change of use must comply with the standards of the BCA.</li> <li>▪ You are advised to consult a Building Surveyor accredited under the EP&amp;A Act to assess compliance with the BCA.</li> <li>▪ Where applicable, water conservation devices with an AAA rating should be installed, including tap flow regulators, shower head roses and dual flush toilets.</li> </ul>

TYPE OF DEVELOPMENT	EXEMPTION REQUIREMENTS
<b>13. Clothes Lines/Hoists</b>	
	<ul style="list-style-type: none"> <li>(a) Installed at ground level or mounted a maximum 2.1 metres above ground level.</li> <li>(b) Located behind the building line or no further forward than the building line of any adjoining development, whichever is the greater.</li> <li>(c) Only one per property.</li> <li>(d) Not placed on balconies or elevated decks that are visible from the street or a public place.</li> </ul>
<b>14. Cubby Houses and Playground Equipment (private)</b>	
	<ul style="list-style-type: none"> <li>(a) Exemption does not apply to multiple dwellings or residential flat buildings.</li> <li>(b) Property is in a Residential or Special Use Zone.</li> <li>(c) Not located between a FBL and MHWM, or below MHWM, or within 40 metres of MHWM.</li> <li>(d) Maximum area 10 square metres.</li> <li>(e) Maximum height 2.1 metres above ground level.</li> <li>(f) Maximum floor height 600mm above existing ground level.</li> <li>(g) Not constructed of masonry or brick.</li> <li>(h) Prefabricated and installed in accordance with manufacturer instructions.</li> <li>(i) Located minimum 900mm from any side or rear boundary.</li> <li>(j) Located behind the building line.</li> <li>(k) Must comply with the requirements of AS 1924 and AS/NZS 4486 and AS/NZS 4422.</li> </ul> <p><b><u>Advisory Notes:</u></b></p> <ul style="list-style-type: none"> <li>▪ Council approval is required for masonry and brick structures.</li> <li>▪ Should be sited so as not to cause interference to the amenity enjoyed by adjoining properties.</li> <li>▪ Include adequate safety arrangements, including soft landing surfaces.</li> </ul>
<b>15. Decks and Patios</b>	

TYPE OF DEVELOPMENT	EXEMPTION REQUIREMENTS
	<ul style="list-style-type: none"> <li>(a) Ancillary to a dwelling house only.</li> <li>(b) Not located between a FBL and MHWM, or below MHWM, or within 40 metres of MHWM.</li> <li>(c) Maximum floor level 600mm above natural ground level at any point.</li> <li>(d) Maximum area 20 square metres.</li> <li>(e) Not located within 5 metres of the windows to adjacent buildings other than where a fence with a height of at least 1.7 metres above the finished floor level is between the deck or patio and window(s).</li> <li>(f) Located behind the building line or no further forward than the building line of any adjoining properties, whichever is the greater.</li> <li>(g) No roof to be erected over the deck or patio.</li> <li>(h) Located minimum 900mm from any side and rear boundary.</li> <li>(i) The proportion of the total site area provided as soft landscaped open space is not reduced to less than 40%.</li> <li>(j) Stormwater disposal is in accordance with Council's stormwater and drainage guidelines.</li> <li>(k) Only one deck or patio per property.</li> </ul> <p><b><u>Advisory Notes:</u></b></p> <ul style="list-style-type: none"> <li>▪ Approval is required for roofing of the deck or patio.</li> <li>▪ Sufficient step down is to be provided to prevent the entry of water into the dwelling</li> </ul>
<b>16. Demolition</b>	
<p>Applies where:</p> <ul style="list-style-type: none"> <li>▪ the building/ structure did not need consent for it's construction (i.e. exempt development); or</li> <li>▪ a demolition order or notice of intention to issue a demolition order has been issued by Council; or</li> <li>▪ demolition is a condition of council consent for subdivision, building or development</li> </ul>	<ul style="list-style-type: none"> <li>(a) Not a retaining wall.</li> <li>(b) Demolition is carried out pursuant to the AS 2601-1991 Demolition Code.</li> <li>(c) All materials, plant, equipment or the like are confined within the site.</li> <li>(d) All materials are removed from the site</li> <li>(e) Compliance with all WorkCover Authority requirements, including the removal of asbestos cement and lead paint.</li> <li>(f) Any work involving lead paint removal does not cause lead contamination of the air, ground, or water.</li> <li>(g) Sediment control measures are installed prior to</li> </ul>

TYPE OF DEVELOPMENT	EXEMPTION REQUIREMENTS
<p>approvals; or</p> <ul style="list-style-type: none"> <li>▪ the building is ancillary to a dwelling house and has a total floor area not exceeding 20 square metres.</li> </ul>	<p>demolition and remain until completion and the surface of the site is to be stabilised with buildings/ structures and landscaping.</p> <p>(h) A written undertaking is given to Council prior to commencement of work to repair any damage to Council property.</p> <p><b><u>Advisory Notes:</u></b></p> <ul style="list-style-type: none"> <li>▪ Failure to install and maintain erosion controls will result in the issue of Penalty Infringement Notices without warning.</li> <li>▪ Where the buildings/structures to be demolished are likely to have been treated with pesticides, care should be taken to avoid contact with the top 10-20 millimetres of soil and not to leave topsoil exposed where children or other individuals may come into contact with it.</li> <li>▪ Measures must be in place to ensure that properties serviced by a common sewerage system do not have their service interrupted as a result of the demolition works.</li> </ul>
<h3>17. Driveways and Pathways</h3>	
<p>Includes the construction of driveways between the street and property alignment by a contractor for works approved by Council.</p>	<p>(a) Not on public land except for driveways/pathways constructed for, or on behalf of Council.</p> <p>(b) Structurally sound and of stable construction.</p> <p>(c) Not elevated or suspended above ground level.</p> <p>(d) Works will not result in a lesser landscaped area than is required by Council's DCP No. 3 – Dwelling Houses or Council's DCP No. 11 – Dual Occupancy Housing or Council's Interim residential Development Code, whichever applies to the site.</p> <p>(e) Driveway access gradients are designed to align with footpath crossing levels issued by Council and comply with the access gradient requirements of AS 2890.1-1993 and Section 6.1 – Car Parking.</p> <p>(f) Stormwater disposal is in accordance with Council's stormwater and drainage guidelines.</p> <p><b><u>Advisory Notes:</u></b></p> <ul style="list-style-type: none"> <li>▪ Council crossings over footpaths require approval.</li> <li>▪ You are advised to consult with relevant utilities</li> </ul>

TYPE OF DEVELOPMENT	EXEMPTION REQUIREMENTS
	<p>regarding underground infrastructure and easements.</p> <ul style="list-style-type: none"> <li>▪ Impervious driveway surfaces should be minimised to limit stormwater runoff.</li> <li>▪ For State &amp; Regional Roads appropriate approval is required to be sought from the Roads and Traffic Authority</li> </ul>
<b>18. Emergency Works</b>	
<p>Works relating to the safety of life and the environment carried out by or for the Council, State or Federal government or utility provider.</p>	<p>(a) Emergency works do not cause any destruction or dismantling to an item of environmental heritage or reduce the structural integrity of a building or structure.</p>
<b>19. Fences and Gates</b>	
<p>Includes replacement of existing fences and gates.</p> <p>Excluding fences covered by the Swimming Pools Act 1992</p> <p><b>19.1. General Requirements for all fences</b></p>	<p>(a) Does not apply to fencing on a secondary street frontage on land occupied by a dual occupancy, multiple dwelling (townhouse, villa house or the like) or a residential flat building.</p> <p>(b) Constructed in accordance with the Dividing Fences Act 1991.</p> <p>(c) Not located between a FBL and MHWM.</p> <p>(d) Fence would not impede overland stormwater flow.</p> <p>(e) Located behind the building line or secondary building line.</p> <p>(f) Does not include any masonry construction higher than 1 metre above ground level.</p> <p><b><u>Advisory Notes:</u></b></p> <ul style="list-style-type: none"> <li>▪ It is the responsibility of owners to check for restrictions on fencing in title documents, such as covenants, which may apply to fences.</li> <li>▪ The erection or extension of any fence exceeding the above requirements, irrespective of the type of material, requires Development Consent.</li> <li>▪ Owners are advised to talk to adjoining owners at an early stage, and consult the Dividing Fences Act 1991 if necessary.</li> <li>▪ Fencing disputes are a civil matter; it is therefore the role of the Local Court to adjudicate on such disputes, not Council.</li> </ul>

TYPE OF DEVELOPMENT	EXEMPTION REQUIREMENTS
<p><b>19.2. Front fences</b> Includes fences between the building line and the front property boundary or any other public place.</p>	<ul style="list-style-type: none"> <li>(a) Residential and Industrial Zones only.</li> <li>(b) Maximum height 1 metre.</li> <li>(c) On-site parking or vehicular access is not reduced.</li> </ul>
<p><b>19.3. Side and rear fences</b></p>	<ul style="list-style-type: none"> <li>(a) Premises is not located within a FSPA.</li> <li>(b) Fencing is behind the building line.</li> <li>(c) Maximum height 1.8 metres above ground level if constructed of timber, metal or lightweight materials.</li> <li>(d) Maximum height 1 metre above ground level if constructed of brick or masonry.</li> <li>(e) Maximum height 2.5 metres for Light Industrial Zone if fencing is open form.</li> </ul>
<p><b>19. Flagpoles</b></p>	
	<ul style="list-style-type: none"> <li>(a) Does not display advertising materials, logos or the like, unless erected by, or on behalf of Council.</li> <li>(b) Maximum flag area 3 square metres and 6 square metres if located within an Open Space Zone.</li> <li>(c) Maximum height 6 metres above ground level or 12 metres if located within an Open Space Zone or public roadway.</li> <li>(d) Only one flagpole per property, with the exception of an Open Space Zone or public roadways.</li> <li>(e) Structurally sound, and installed in accordance with manufacturer specifications.</li> <li>(f) Does not project over property boundaries.</li> <li>(g) Adequate clearance from powerlines.</li> <li>(i) Must not cause offensive noise under the Protection of the Environment Operations Act 1997.</li> </ul> <p><b><u>Advisory Notes:</u></b></p> <ul style="list-style-type: none"> <li>▪ Council approval is required for flagpoles projecting over public roads.</li> <li>▪ Development Applications for flagpoles over a Public Road are to be a minimum 3.6 metres above footway level at any point; must not extent over the carriageway of the road; and must not interfere with any public services.</li> </ul>

TYPE OF DEVELOPMENT	EXEMPTION REQUIREMENTS
	<ul style="list-style-type: none"> <li>▪ Flagpoles with advertising are considered to be signs and are not permitted.</li> </ul>
<b>21. Garden Sheds and Greenhouses</b>	
	<ul style="list-style-type: none"> <li>(a) Exemption does not apply to multiple dwellings or residential flat buildings.</li> <li>(b) The proportion of the total site area of a dwelling house provided as soft landscaping open space is not reduced to less than 40%.</li> <li>(c) Structure is not proposed between a FBL and MHWM, or below MHWM.</li> <li>(d) Maximum area 10 square metres.</li> <li>(e) Maximum floor height 600mm above existing ground level.</li> <li>(f) Maximum height 2.4 metres above existing ground level.</li> <li>(g) Located in rear or side yards, behind the building line or no further forward than the building line of any adjoining development, whichever is the greater.</li> <li>(h) Located minimum 500mm from any side and rear boundary.</li> <li>(i) Only one structure per property.</li> <li>(j) Non-reflective pre-finished materials.</li> <li>(k) Prefabricated sheds only and installed in accordance with manufacturer specifications.</li> <li>(l) Glass used to comply with AS 2208-1996 Safety Glazing Materials in Buildings.</li> <li>(m) Stormwater disposal is in accordance with Council's stormwater and drainage guidelines.</li> </ul> <p style="margin-left: 20px;"><b><u>Advisory Notes:</u></b></p> <ul style="list-style-type: none"> <li>▪ Buildings to comply with BCA (for Class 10 structures).</li> <li>▪ The design, colour and materials of garden sheds and greenhouses should be in keeping with the surrounding natural and built environment.</li> <li>▪ Consideration should be given to the impact on adjoining properties.</li> </ul>

TYPE OF DEVELOPMENT	EXEMPTION REQUIREMENTS
<p><b>22. Gazebos and Cabanas</b></p>	<ul style="list-style-type: none"> <li>(a) Exemption does not apply to multiple dwellings or residential flat buildings.</li> <li>(b) The proportion of the total site area of a dwelling house provided as soft landscaping open space is not reduced to less than 40%.</li> <li>(c) Structure is not proposed between a FBL and MHWM, or below MHWM.</li> <li>(d) Maximum area 10 square metres.</li> <li>(e) Maximum floor height 600mm above ground level.</li> <li>(f) Maximum height 2.4 metres above existing ground level.</li> <li>(g) Located behind building line or no further forward than the building line of any adjoining development, whichever is the greater.</li> <li>(h) Located minimum 500mm from any side and rear boundary.</li> <li>(i) Not occupied as a separate dwelling.</li> <li>(j) Only one structure per property.</li> <li>(k) Non-reflective pre-finished materials.</li> <li>(l) Glass used to comply with AS 2208-1996 Safety Glazing Materials in Buildings.</li> <li>(m) Stormwater disposal is in accordance with Council's stormwater and drainage guidelines.</li> </ul> <p><b><u>Advisory Notes:</u></b></p> <ul style="list-style-type: none"> <li>▪ Buildings to comply with BCA (for Class 10 structures).</li> <li>▪ The design, colour and materials of gazebos and cabanas should be in keeping with the surrounding natural and built environment.</li> <li>▪ Consideration should be given to the impact on adjoining properties.</li> <li>▪ Materials should be non-combustible if located in the vicinity of a bushfire prone area.</li> </ul>
<p><b>23. Heating Appliances</b></p> <p>Includes open fires, slow combustion heaters, oil and gas heater installations, water heaters and the like.</p>	<ul style="list-style-type: none"> <li>(a) Solid fuel heaters and cooking devices comply with: <ul style="list-style-type: none"> <li>▪ AS 2918-1990 and AS 4013-1999 and carry the AS</li> </ul> </li> </ul>

TYPE OF DEVELOPMENT	EXEMPTION REQUIREMENTS
	<p>4013 compliance plate, and</p> <ul style="list-style-type: none"> <li>▪ Clean Air (Domestic Solid Fuel Heaters) Regulation 1997,</li> <li>▪ Section G2 of the BCA, and</li> <li>▪ Environmental Protection Authority Guidelines.</li> </ul> <p>(b) Located behind the building line.</p> <p>(c) No structural alterations or reduction in the structural integrity of the building.</p> <p>(d) Fuel or gas storage structure for a heating or cooking appliance located to the rear or side of the building.</p> <p>(e) Chimney discharge height no more than 2 metres above the ridge line of the building on which it is located.</p> <p>(f) Chimney fitted with a concentric rain excluder (chimney hats not permitted).</p> <p><b><u>Advisory Notes:</u></b></p> <ul style="list-style-type: none"> <li>▪ Council discourages solid Fuel Burning Appliances. Gas is favoured and reverse cycle air conditioning should also be considered.</li> <li>▪ Fuel should be coke, charcoal or well seasoned, dry hardwood, which emit less smoke than other fuels.</li> <li>▪ Where a nuisance is caused by smoke, Council can require modification or removal of the appliance under the Protection of the Environment Operations Act 1997, EP&amp;A Act 1979 and Local Government Act 1993.</li> </ul>
<b>24. Home Activity</b>	
<p>Exemption does not apply to:</p> <ul style="list-style-type: none"> <li>▪ Occupations that require registration of premises under the Factories, Shops and Industries Act 1962;</li> <li>▪ Catering or food businesses;</li> <li>▪ Bed and breakfast accommodation;</li> <li>▪ Health consulting rooms;</li> <li>▪ or Sex services premises.</li> </ul>	<p>(a) Complies with definition in Hurstville LEP 1994.</p> <p>(b) Any sound producing plant equipment, machinery or fittings associated with or forming part of a mechanical ventilation system and/ or refrigeration system which is installed as part of a home activity to be sound insulated or isolated.</p> <p>(c) Hours of operation are limited to 8:30am to 5:30pm, Monday to Friday, and 8:30am to 2pm on Saturday. Home activities are not permitted outside the above hours, on Sundays or on any Public Holiday without prior development consent from Council.</p> <p>(d) Any business or building identification sign complies with the Advertising and Signage section of this DCP.</p>

TYPE OF DEVELOPMENT	EXEMPTION REQUIREMENTS
	<p><b><u>Advisory Note:</u></b></p> <ul style="list-style-type: none"> <li>See “Carers for Family Day Care Children’s Services, and Home Based Children’s Service” for home activities involving caring for children.</li> </ul>
<p><b>25. Landscaping Works</b></p>	
<p><b>25.1. General Requirements</b></p> <p>Exemption does not apply to residential flat buildings or multiple dwellings.</p>	<p>(a) Works are ancillary to a dwelling house only.</p> <p>(b) Works are ordinarily incidental or ancillary either to a use allowed by a Development Consent or an Existing Use (as defined in section 106 of the EP&amp;A Act 1979).</p> <p>(c) The proportion of the total site area provided as soft landscaping open space is not reduced to less than 40%.</p> <p>(d) Does not include buildings, reclamation works or the creation of wetlands and/or seawalls.</p> <p>(e) Does not involve the excavation at or below the ground water table on land identified on the Acid Sulfate Soils Planning Maps.</p> <p>(f) Stormwater disposal is in accordance with Council’s stormwater and drainage guidelines.</p> <p><b><u>Advisory Note:</u></b></p> <ul style="list-style-type: none"> <li>Landscaped area will vary according to development type, and the location of the property. Refer to the DCP that is applicable to your dwelling or development type to ascertain the minimum proportion of your site that must be provided as landscaped open space.</li> <li>Refer to Appendix 1 for the recommended species list for landscaping in the Hurstville local government area.</li> </ul>
<p><b>25.2. Private Works</b></p> <p>Includes general landscaping, gardening, lawn top soiling, paving and the like.</p>	<p>(a) Does not involve land filling in excess of 200mm above existing ground level.</p> <p>(b) Maximum depth of cut and fill is 600mm, and no more than 5 cubic metres of cut and fill is required.</p>
<p><b>25.3. Public Works</b></p> <p>Includes non-domestic works for the purposes of landscaping, gardening and beach and foreshore protection works.</p>	<p>(a) Public land only.</p> <p>(b) All work is in accordance with the adopted Plan of Management for Community Land, and undertaken by Council or on behalf of Council.</p>
<p><b>26. Letter Box</b></p>	
	<p>(a) Single letter boxes have the minimum</p>

TYPE OF DEVELOPMENT	EXEMPTION REQUIREMENTS
	<p>dimensions of 330mm x 230mm x 160mm high.</p> <p>(b) Single letter boxes have an opening that is located between 900mm and 1.2 metres above existing ground level.</p> <p>(c) Nests of letter boxes have openings located between 600mm and 1.6 metres above existing ground level.</p> <p>(d) All letter boxes should have street numbers or apartment numbers prominently displayed on or near the boxes.</p> <p>(e) Letter box is located on the footpath boundary of the property.</p> <p>(f) One box provided for the Owners' Corporation if a strata-titled development.</p>
<b>27. Pergolas</b>	
	<p>(a) Ancillary to a dwelling house only.</p> <p>(b) Not roofed or enclosed.</p> <p>(c) Maximum area 20 square metres.</p> <p>(d) Maximum height 2.7 metres above ground level.</p> <p>(e) Located behind building line.</p> <p>(f) Located minimum 500mm from side boundaries.</p> <p>(g) Located wholly within property boundaries.</p> <p>(h) Non-reflective materials, and no roller doors or panel lift doors are to be installed on the structure.</p> <p><b><u>Advisory Notes:</u></b></p> <ul style="list-style-type: none"> <li>▪ Roof additions or enclosed pergolas require approval.</li> <li>▪ The design, colour and materials of the pergola should be in keeping with the surrounding natural and built environment.</li> <li>▪ Materials should be non-combustible if located near a bushfire prone area.</li> </ul>
<b>28. Playground Equipment (public)</b>	

TYPE OF DEVELOPMENT	EXEMPTION REQUIREMENTS
	<ul style="list-style-type: none"> <li>(a) Construction is by, or on behalf of Council.</li> <li>(b) Designed, fabricated and installed in accordance with AS 1924, AS 2155 and DR 94007- DR 94010.</li> <li>(c) Does not apply to equipment associated with a commercial use.</li> <li>(d) In accordance with the adopted Plan of Management or approved program of works.</li> </ul>
<b>29. Pet cages and kennels</b>	
	<ul style="list-style-type: none"> <li>(a) Must only be used for family pets and not for business, commercial or breeding purposes</li> <li>(b) Does not include avaries</li> <li>(c) Maximum height 1.8m and maximum floor area 10 m<sup>2</sup></li> <li>(d) Must not result in an environmental or public nuisance</li> <li>(e) Not to be used for the keeping of poultry, roosters, fowl, pigeons, vermin or, other animals or birds which may cause a health nuisance</li> <li>(f) Enclosures for dangerous and restricted dogs must comply with the requirements of the Companion Animals Regulation, 1999 and are restricted to a maximum of one dangerous or restricted dog per property.</li> </ul>
<b>30. Public Meetings</b>	
	<ul style="list-style-type: none"> <li>(a) Carried out in a Class 9b building under the BCA.</li> </ul> <p><b><u>Advisory Note:</u></b></p> <ul style="list-style-type: none"> <li>• A Class 9b building is an assembly building, and can include a trade workshop, laboratory or the like in a primary or secondary school, but excludes any other parts of the building that are of another Class.</li> </ul>
<b>31. Rainwater Tanks</b>	
Does not apply to below ground tanks, or tanks requiring excavation of more than 600mm, or the filling of more than 1 metre, from the existing ground level.	<ul style="list-style-type: none"> <li>(a) The capacity of the tank, or combined capacity of tanks, on a lot must not exceed 10,000 litres or, in the case of a tank or tanks installed on a lot used for an educational establishment, 25,000 litres.</li> </ul>

TYPE OF DEVELOPMENT	EXEMPTION REQUIREMENTS
	<p>For the purposes of this clause, <b>educational establishment</b> means a building or place used for education (including teaching) and includes a pre-school, a school, a tertiary institution that provides formal education (such as a university or TAFE establishment) and an art gallery or museum that is not used to sell the items displayed in it (whether or not the building or place is also used for accommodation for staff or students).</p> <ul style="list-style-type: none"> <li>(b) The tank must be designed to capture and store roof water from gutters or downpipes on a building.</li> <li>(c) The tank must not collect water from a source other than gutters or downpipes on a building or a water supply service pipe.</li> <li>(d) The tank must be fitted with a first-flush device, being a device that causes the initial run-off of any rain to bypass the tank to reduce pollutants entering the tank.</li> <li>(e) The tank must be structurally sound.</li> <li>(f) The tank must be prefabricated, or be constructed from prefabricated elements that were designed and manufactured for the purpose of the construction of a rainwater tank.</li> <li>(g) The tank must be assembled and installed in accordance with the instructions of the manufacturer or designer of the tank.</li> <li>(h) The tank, and any stand for the tank, must be installed and maintained in accordance with any requirements of the public authority that has responsibility for the supply of water to the premises on which the tank is installed.</li> <li>(i) The installation of the tank must not involve the excavation of more than 1 metre from the existing ground level, or the filling of more than 1 metre above the existing ground level.</li> <li>(j) The tank must not be installed over or immediately adjacent to a water main or a sewer main, unless it is installed in accordance with any requirements of the public authority that has responsibility for the main.</li> <li>(k) The tank must not be installed over any structure or fittings used by a public authority to maintain a water or sewer main.</li> <li>(l) No part of the tank or any stand for the tank may rest on a footing of any building or other structure, including a retaining wall.</li> <li>(m) The tank must be located behind the front alignment to the street of the building to which the</li> </ul>

TYPE OF DEVELOPMENT	EXEMPTION REQUIREMENTS
	<p>tank is connected (or, in the case of a building on a corner block, the tank must be located behind both the street front and street side alignments of a building).</p> <p>(n) The tank must not exceed 3 metres in height above ground level, including any stand for the tank.</p> <p>(o) The tank must be located at least 450mm from any property boundary.</p> <p>(p) A sign must be affixed to the tank clearly stating that the water in the tank is rainwater.</p> <p>(q) Any overflow from the tank must be directed into an existing stormwater system.</p> <p>(r) The tank must be enclosed, and any inlet to the tank must be screened or filtered, to prevent the entry of foreign matter or creatures.</p> <p>(s) The tank must be maintained at all times so as not to cause a nuisance with respect to mosquito breeding or overland flow of water.</p> <p>(t) Any plumbing work undertaken on or for the tank that affects a water supply service pipe or a water main must be undertaken:</p> <p>(i) with the consent of the public authority that has responsibility for the water supply service pipe or water main, and</p> <p>(ii) in accordance with any requirements by the public authority for the plumbing work, and</p> <p>(iii) by a licensed plumber in accordance with the New South Wales Code of Practice – Plumbing and Drainage</p> <p>(u) Any motorised or electric pump used to draw water from the tank or to transfer water between tanks:</p> <p>(i) must not create an offensive noise, and</p> <p>(ii) in the case of a permanent electric pump, must be installed by a licensed electrician.</p> <p><b><u>Advisory Note:</u></b>  <i>For the purposes of this clause, educational establishment means a building or place used for education (including teaching) and includes a pre-school, a school, a tertiary institution that provides formal education (such as a university or TAFE establishment) and an art gallery or museum that is not used to sell the items displayed in it (whether or not the building or place is also used for accommodation for staff or students).</i></p>

<b>32. Recreation Facilities</b>	
	<ul style="list-style-type: none"> <li>(a) Only where constructed for or on behalf of Council.</li> <li>(b) Includes goal posts, sight screens, night time uses, temporary lighting facilities, and similar sporting structures.</li> <li>(c) Only on sporting or playing fields for use in the playing or performing of sporting events.</li> <li>(d) Exemption does not apply to buildings.</li> </ul>
<b>33. Residential Office</b>	
<p>Exemption does not apply to:</p> <ul style="list-style-type: none"> <li>▪ Occupations that require registration of premises under the Factories, Shops and Industries Act 1962;</li> <li>▪ Catering or food businesses;</li> <li>▪ Health consulting rooms;</li> <li>▪ Brothels; or</li> <li>▪ Bed and breakfast accommodation.</li> </ul>	<ul style="list-style-type: none"> <li>(a) Complies with definition in the prevailing Hurstville LEP.</li> <li>(b) Not more than two persons practise or are employed on the premises at any one time.</li> <li>(c) No goods are sold or displayed on the premises.</li> </ul> <p><u>Advisory Note:</u></p> <ul style="list-style-type: none"> <li>• See “Carers for Family Day Care Children’s Services, and Home Based Children’s Service” for home activities involving caring for children.</li> </ul>
<b>34. Retaining Walls</b>	
<p>Exemption does not apply to multiple dwellings or residential flat buildings.</p>	<ul style="list-style-type: none"> <li>(a) Works are ancillary to a dwelling house only.</li> <li>(b) The maximum height for each wall is 600mm or 3 metres on public roads or within an open space zones where works are carried out by, or on behalf of Council.</li> <li>(c) Wall is not located between a FBL and MHWM or within 40 metres of MHWM.</li> <li>(d) No site filling or raising of site levels greater than 200mm within 1.5 metres of a side or rear boundary.</li> <li>(e) No more than 5 cubic metres of cut and fill is required.</li> <li>(f) No cutting or removal of rock in the FSPA, with the exception of road, footpath and drainage works carried out by, or on behalf of Council.</li> </ul>

	<p>(g) Where multiple walls are proposed, the collective height difference is not to exceed 1.2 metres, and walls are a minimum 300mm apart and a maximum 600mm apart, excluding the open space zone and public roadways.</p> <p>(h) Masonry walls to comply with AS 3700, AS 3600 and AS 1170.</p> <p>(i) Timber walls to comply with AS 1720 and AS 1170.</p> <p>(j) Stormwater disposal is in accordance with Council's stormwater and drainage guidelines, and does not adversely affect any adjoining property.</p> <p>(k) Located wholly within property boundaries.</p> <p><b><u>Advisory Notes:</u></b></p> <ul style="list-style-type: none"> <li>▪ Exemption permits the construction of small retaining walls to stabilise sloping sites. Retaining walls for the purpose of raising whole site levels (filling land) can only be constructed with Council approval.</li> <li>▪ Walls exceeding 600mm in height must be designed or certified by a professional structural or civil engineer.</li> </ul>
<b>35. Roof Ventilators</b>	
Exemption does not apply to multiple dwellings or residential flat buildings.	<p>(a) Located on a dwelling house only.</p> <p>(b) Maximum cumulative area of installation 1 square metre.</p> <p>(c) Openings created by installation must be adequately weatherproofed.</p> <p>(d) No structural alterations to the building.</p>
<b>36. Skylights (non-opening)</b>	
	<p>(a) Only applies to Class 1 and 10 buildings/structures.</p> <p>(b) Maximum 2 square metres of skylights per dwelling.</p> <p>(c) Located minimum 900mm from a property boundary.</p> <p>(d) Located minimum 900mm from a wall separating attached dwellings.</p>
	<p>(e) The building work must not reduce the structural integrity of the building or involve structural alterations.</p>

TYPE OF DEVELOPMENT	EXEMPTION REQUIREMENTS
	<ul style="list-style-type: none"> <li>(f) Does not penetrate fire rated ceilings or ceilings required to hold a Sound Transmission Class under the BCA.</li> <li>(g) Flush with roof pitch.</li> <li>(h) Non-reflective framing materials are used which are compatible with the roof materials and colour.</li> </ul>
<b>37. Solar Water Heaters and Solar Collection Cells</b>	
	<ul style="list-style-type: none"> <li>(a) Installation does not reduce the structural integrity of the building or involve any structural alterations.</li> <li>(b) Installed by a licensed tradesperson, in accordance with manufacturer specifications.</li> <li>(c) Not to be located on front elevation of building.</li> <li>(d) Maximum height must not exceed the highest point of a pitched roof, or 1 metre above the highest point of a flat roof.</li> <li>(e) It does not result in the ringbarking, cutting down, lopping, topping, removal, injuring or destruction of any tree to which Council's Tree Preservation Order applies, in order to achieve solar access.</li> <li>(f) Any openings created by the installation are adequately weatherproofed.</li> <li>(g) Non-reflective framing materials are used that are compatible with the roof materials and colour.</li> </ul>
<b>38. Street and Park Furniture</b>	
Includes bus shelters, seats, bins, pre-fabricated toilet installations and picnic tables, including advertising notices associated with furniture in accordance with Council's policy and contractual arrangement.	<ul style="list-style-type: none"> <li>(a) Construction is by, or on behalf of Council on land under the control of Council or the RTA.</li> <li>(b) Designed, fabricated and installed in accordance with relevant AS and/ or the BCA.</li> <li>(c) Installations and fittings comply with the requirements of this DCP.</li> </ul>
<b>39. Temporary Structures</b>	

<p><b>39.1. Private Land</b> Includes builder's sheds, Portaloos, marquees and mini stages.</p>	<p>(a) Written notification is given to Council advising of the date of erection</p> <p>(b) Removed after construction of associated development.</p>
	<p>(c) Marquees/mini stages not in place longer than 1 week with a maximum gross floor area of 12 square metres.</p> <p>(d) Site amenity facilities provided in conjunction with the carrying out of works for which a valid and current consent applies.</p> <p>(e) Stormwater disposal is in accordance with Council's stormwater and drainage guidelines.</p> <p>(f) Not occupied as a separate dwelling.</p> <p>(g) Located wholly within property boundaries.</p>
<p><b>39.2. Public Land</b></p>	<p>(a) Structure is erected by, or on behalf of Council.</p>
<p><b>40. Water Heaters</b></p>	
	<p>(a) Location not visible from a public place.</p> <p>(b) Maximum height 1.8 metres.</p> <p>(c) Maximum capacity 3,000 litres.</p> <p>(d) Work does not reduce the structural integrity of the building or involve any structural alterations.</p> <p>(e) Installed by a licensed tradesperson, in accordance with manufacturer specifications.</p> <p>(f) Minimum 3.5 star energy rating.</p> <p><b><u>Advisory Notes:</u></b></p> <ul style="list-style-type: none"> <li>▪ Location of solar water heaters should take into account overshadowing from adjoining properties.</li> </ul>

#### 2.1.3. Complying Development

Complying development is a category of routine development that is subject to fixed development standards or requirements and does not involve merit assessment.

Complying development can only be carried out upon receipt of a Complying Development Certificate certifies that the development satisfies the requirements for complying development as set out in this Plan and the Environmental Planning and Assessment Act 1979 and Regulations. The Certificate can be issued by either Hurstville City Council or a private sector professional called an Accredited Certifier who holds accreditation under the *Environmental Planning and Assessment Act 1979* to certify that the development satisfies the requirements for complying development as set out in this Plan and the Environmental Planning and Assessment Act and Regulations. Any complying development certificate issued is to be subject to the conditions for the development specified in Schedule 2: Complying Development Categories.

If you comply in full with sections 2.1.3.1(2) and 2.1.3.1(3), then go to Schedule 2: Complying Development Categories to check that you comply with the detailed requirements.

If a development of a type listed in Schedule 2 does not comply with ALL the requirements specified, the development is not classified as complying development, and a development application must be lodged with Council.

Council should be consulted prior to work commencing if there is any doubt as to whether a particular development requires approval or a Complying Development Certificate.

##### 2.1.3.1 What is Complying Development

- (1) Development listed in Schedule 2: Complying Development Categories is complying development, except as provided by sections 2.1.3.1(2) and 2.1.3.1(3).
- (2) Development is NOT complying development if it is carried out on land that is:
  - (a) the site of a heritage item or draft heritage item under the prevailing Hurstville LEP, or that is subject to an Interim Heritage Order under the *Heritage Act 1977*, or that is listed on the State Heritage Register under that Act, or
  - (b) identified as an Aboriginal place or known as an Aboriginal relic, or is dedicated under the *National Parks and Wildlife Act 1974*, or
  - (c) reserved or dedicated under the *Crown Lands Act 1989* for the preservation of flora, fauna or geological formations or for other environmental protection purposes, or
  - (d) an aquatic reserve declared under the *Fisheries Management Act 1994*, or
  - (e) land to which State Environmental Planning Policy No. 14 - Coastal Wetlands applies, or
  - (f) land to which State Environmental Planning Policy No. 19 – Urban Bushland

- applies, or
- (g) land to which State Environmental Planning Policy No. 26 - Littoral Rainforests applies, or
  - (h) declared a marine park under the *Marine Parks Act 1997*, or
  - (i) has previously been used as a service station, or mining or extractive industry, or waste storage or waste treatment or the manufacture of chemicals, asbestos or asbestos products, and a notice of completion of remediation work for the proposed use has not been given to the Council in accordance with the State Environmental Planning No. 55 - Remediation of Land, or
  - (j) within 40 metres of a waterway, watercourse or body of water, or
  - (k) between a foreshore building line (FBL) and mean high water mark (MHWM) or is below MHWM, or
  - (l) located in Zone No. 7 (Waterways Zone), or
  - (m) identified in any plan, policy or legislation as being flood liable or contaminated land, or land subject to subsidence, slip or erosion.
- (3) Development is complying development only if:
- (a) it is permissible under Council's prevailing LEP within the applicable zone, and any other legislation, and
  - (b) the proposed development complies with ALL the 'complying requirements' specified for the development type in Schedule 2: Complying Development Categories of this DCP, and
  - (c) the landowners' written consent has been obtained, and
  - (d) it does not involve a building or site in or on which an existing use, as defined in section 106 of the *Environmental Planning and Assessment Act 1979*, is being carried out, and
  - (e) it is contained wholly within the property on which it is located, and
  - (f) it will not result in a lesser landscaped area than is required by the relevant sections of this DCP, and
  - (g) it will not result in a greater floorspace ratio than what is permitted by any Plan, and
  - (h) it will not result in a variation to a building envelope that is not permitted by any Plan, and

- (i) it does not interfere with the amenity of the neighbourhood because of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste, water, waste products, grit or oil or otherwise, and
- (j) it complies with all relevant deemed-to-satisfy provisions of the *Building Code of Australia* (BCA), and the standards currently prescribed in the *Environmental Planning and Assessment Regulation 2000*, and
- (k) it does not contravene any condition of a development consent applying to the land, and
- (l) it does not obstruct drainage of the site on which it is carried out, or result in the redirection or increase of surface stormwater/ run-off onto or from any adjoining property, and is in accordance with Council's stormwater and drainage guidelines, and
- (m) it will not restrict vehicular or pedestrian access to or from the site, and
- (n) no more than 10 cubic metres of cut and fill is required to accommodate the proposed development, and
- (o) it does not result in the ringbarking, cutting down, lopping, topping, removal, injuring or destruction of any tree to which Council's Tree Preservation Order applies, and
- (p) it does not involve earthworks or the erection of any new structure within 3 metres of a tree to which Council's Tree Preservation Order applies, and
- (q) it does not reduce the number of car parking spaces provided on the site below the minimum required by Council, and all car parking is designed in accordance with Chapter 6 – General Planning Considerations – Car Parking and AS 2890, and
- (r) all relevant authorities have been consulted with in regard to underground infrastructure, such as Energy Australia, Telstra, AGL, Sydney Water, and
- (s) a Compliance Certificate has been issued for the development by Sydney Water Corporation under the Sydney Water Act 1994, if required, or a certificate of compliance issued by any other relevant service authority, and
- (t) if appropriate, any installation involved is carried out in accordance with the manufacturer's specifications and requirements, and
- (u) it is not located on land that is identified in any environmental planning instrument as land that is potentially affected by acid sulfate soils and which requires an acid sulfate soils management plan for the proposed development, and
- (v) it is not located on land that is identified in any environmental planning instrument as being bushfire prone, and

- (w) it is consistent with any plan of management approved under State Environmental Planning Policy No 44 - Koala Habitat, and with any recovery plan or threat abatement plan in force under the *Threatened Species Conservation Act 1995*, that apply to the land, and
- (x) it is carried out at least 1 metre from any easement or public sewer main, or if over a sewer main the proposal complies with the “building over the sewer” requirements of Sydney Water Corporation Limited applying to that land).

#### **Note**

Section 76A(6) of the EP&A Act 1979 states, the following development cannot be complying development:

- (a) Designated development,
- (b) if the development is development for which development consent cannot be granted except with the concurrence of a person other than:
  - (i). The consent authority
  - (ii). The Director-General of National Parks and Wildlife as referred to in section 79B(3) of the Act
- (c) apply to land that is critical habitat
- (d) apply to land that is, or is part of, a wilderness area (within the meaning of the Wilderness Act 1987), or
- (e) apply to land that comprises, or on which there is, an item of environmental heritage:
  - (i). that is subject to an interim heritage order under the Heritage Act 1977, or that is listed on the State Heritage Register under that Act, or
  - (ii). That is identified as such an item in an environmental planning instrument, or
- (f) apply to land that is identified as an environmentally sensitive area in the environmental planning instrument that makes provision for the complying development.

#### **2.1.3.2 Procedure for Complying Development**

You may carry out complying development on land if:

- (a) a Complying Development Certificate for the development has been issued; and
- (b) appropriate fees and bonds have been paid; and
- (c) development is carried out in accordance with:
  - (i) the Complying Development Certificate; and
  - (ii) any provisions of an environmental planning instrument, development control plan or the regulations that apply to the complying development on that land.

#### 2.1.3.3 What is a Complying Development Certificate?

Section 85 (1) of the Act says that a Complying Development Certificate is a certificate:

- (a) that states that the particular proposed development is Complying Development and (if carried out as specified in the certificate) will comply with all development standards applicable to the development with other requirements prescribed by the Regulations concerning the issue of complying development certificate, and
- (b) in the case of a development involving the erection of a building identifies the classification of the building in accordance with the BCA.

#### **Advisory Note:**

It is possible for a Complying Development Certificate to indicate different classifications for different parts of the same building.

A Complying Development Certificate that enables the erection of a building is sufficient to authorise the use of a building when erected for the purpose for which it was erected only if the purpose is specified in the application for the complying development certificate. An Occupation Certificate is required for the occupation and use of a building, but is not mandatory for Class 1a or Class 10 buildings.

A Complying Development Certificate that enables the subdivision of land may authorise the carrying out of any physical activity in, on, or over land in connection with the subdivision, including the construction of roads and stormwater drainage systems. A plan of subdivision, however can not be registered under the Conveyancing Act 1919 unless a subdivision certificate has been issued for the subdivision.

#### 2.1.3.4 How do you get a Complying Development Certificate?

You may apply to either Council or an accredited certifier for a Complying Development Certificate. An application may be made by the owner of the land, or by any other person with the owner's consent.

If you are applying to Council for a Complying Development Certificate, you will need to complete an application form, which is available from Council.

#### 2.1.3.5 How is your application assessed?

Council or an accredited certifier must consider your application and determine:

- (a) whether or not the proposed development is complying development; and
- (b) whether or not the proposed development complies with the relevant complying development requirements.

Section 85A (4) of the Act says that Council or an accredited certifier must not refuse to grant a Complying Development Certificate on the grounds that any component, process or design relating

to the development is unsatisfactory if the component, process or design is accredited in accordance with the regulation.

Council or an accredited certifier may determine an application by issuing a Complying Development Certificate subject to such conditions prescribed by the regulations or required by this Plan or refuse to issue a Complying Development Certificate.

Council or an accredited certifier cannot refuse to issue a certificate if your development complies with the applicable development standards.

Council or an accredited certifier must complete determination of an application for a Complying Development Certificate within 7 days after lodgement of your application. The applicant may agree to a longer period.

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 Council or an accredited certifier.

When an application for issue of a Complying Development Certificate has been determined, Council or an accredited certifier must notify you of the determination. If an accredited certifier has issued your Complying Development Certificate, the accredited certifier is required to notify Council within 7 days after the date of the determination. Copies of the determination, any endorsed plans specifications and any other documents must be forwarded to Council.

**Advisory Note:**

Where applicable, when issuing a Complying Development Certificate, the person doing so must attach a fire safety schedule to the certificate. The fire safety schedule must specify the fire safety measures (both current and proposed) that should be implemented in the building premises including the standard of performance (Clause 80C of the EPA Amendment Regulations 1998). On completion, a final fire safety certificate must be completed and forwarded to Council.

The Environmental Planning and Assessment Regulation 2000, Schedule 1: Forms provides a list of documents to accompany an application for a complying development certificate.

#### 2.1.3.6 SCHEDULE 2: Complying Development Categories

Your work must fit a “Type of Development” (left column) in this table and is only exempt if it meets all the “Exemption Requirements” (right column).

“Advisory Notes” have been included for some development types as a further reference and provide additional information that should be considered.

TYPE OF DEVELOPMENT	EXEMPTION REQUIREMENTS
<p><b>1. Bed and Breakfast Accommodation</b></p>	
<p>The use of an existing lawful dwelling by its permanent residents for the temporary accommodation of visitors for commercial purposes.</p>	<ul style="list-style-type: none"> <li>(a) Maximum of 2 guest bedrooms.</li> <li>(b) Minimum of 2 bathrooms and 2 toilets.</li> <li>(c) Breakfast service provided for guests.</li> <li>(d) Smoke detection system is installed complying with AS 3786 and AS 3000.</li> <li>(e) Fire extinguisher and fire blanket located in the kitchen.</li> <li>(f) Does not contain facilities for the preparation of food by guests.</li> <li>(g) Is not used for the permanent or long term accommodation of any persons other than those who operate and manage the establishment and who normally reside in the dwelling house.</li> <li>(h) Approval obtained from the owners corporation, or the community, precinct or neighbourhood association, where a dwelling is subject to the Strata Schemes Management Act 1996 or the Community Land Development Act 1989.</li> </ul>
<p><b>2. Building Alterations (internal)</b></p>	
<p>Applies only to alterations or renovations to previously completed buildings that were approved by Council.</p>	<ul style="list-style-type: none"> <li>(a) Does not compromise fire safety or affect accessibility to a fire exit.</li> <li>(b) Does not result in a change to the class of the building under the BCA.</li> <li>(c) Building and its use must be an existing approved use.</li> <li>(d) Industrial premises only – no increase to existing gross floor area except where it is an internal mezzanine floor, up to a maximum floor area of 50 square metres but then only for the purposes of office associated with the industry for use by existing staff, storage or amenities, and must comply with development controls</li> </ul>

TYPE OF DEVELOPMENT	EXEMPTION REQUIREMENTS
	<p>contained within this DCP.</p> <p>(e) Existing gross floor area not increased (with the exception of paragraph 'd' above), including extensions within pedestrian arcades in commercial zones.</p> <p>(f) Works to food premises and restaurants must comply with the:</p> <ul style="list-style-type: none"> <li>• Food Act 1989</li> <li>• Food (General) Regulations 1997</li> <li>• Council's Code for Food Premises</li> <li>• National Code for the Construction &amp; Fitout of Food Premises published by the Australia Institute of Environmental Health</li> <li>• Clean Air (Plant &amp; Equipment) Regulation 1997</li> <li>• Protection of the Environment Operations Act 1997</li> <li>• AS 1668 Parts 1 &amp; 2</li> </ul> <p>(g) Works to hairdressers, beauty salons and skin penetration premises must comply with the:</p> <ul style="list-style-type: none"> <li>• Public Health Act</li> <li>• Public Health Regulations</li> <li>• NSW Health "Skin Penetration Guidelines"</li> <li>• Local Government Act - Orders Regulations.</li> </ul> <p>(h) Any sound producing plant equipment, machinery or fittings associated with or forming part of any mechanical ventilation system and/ or refrigeration system, which is installed as part of the fitout, is to be insulated and/ or isolated. Insulation and/ or isolation, however, is only required so that the noise emitted does not exceed LA10 of 5dBA above the background level in any octave band from 63 Hz centre frequencies inclusive at the boundary of the site. The method of measurement shall be carried out in accordance with AS 1055.</p>

<b>3. Carports</b>	
<p>Does not apply to properties located in a Foreshore Scenic Protection Area.</p> <p>Does not apply to multiple dwellings or residential flat buildings.</p>	<ul style="list-style-type: none"> <li>(a) Ancillary to a dwelling house only.</li> <li>(b) Complies with development controls relating to Car Parking in this DCP.</li> <li>(c) Maximum area 40m<sup>2</sup>.</li> <li>(d) Maximum height of 2.4 metres.</li> <li>(e) Located a minimum 1 metre behind the front building setback.</li> <li>(f) Carport opening is not to exceed one third of the frontage width of the dwelling house.</li> <li>(g) One driveway with a maximum width of 3 metres is to be constructed where no existing driveway currently exists.</li> <li>(h) Not located closer than 500mm from any side boundary, and must be designed in accordance with the BCA.</li> <li>(i) Finished floor level a maximum 600mm above ground level at any point.</li> <li>(j) The proportion of the total site area provided as soft landscaping open space is not reduced to less than 40%.</li> <li>(k) Stormwater disposal is in accordance with Council's stormwater and drainage guidelines.</li> </ul> <p><b><u>Advisory Notes:</u></b></p> <ul style="list-style-type: none"> <li>• External finishes should be compatible with any existing buildings on the site ie. colours and materials should be in keeping with the surrounding natural and built environment.</li> </ul>

TYPE OF DEVELOPMENT	EXEMPTION REQUIREMENTS
<p><b>4. Change of Use</b></p> <p>Applies only to a change of building use from a shop to a business premises or office premises, or from a business premises or office premises to a shop (but not a food shop).</p>	<ul style="list-style-type: none"> <li>(a) Is a change from an existing legal use to another legal use that complies with a relevant development consent.</li> <li>(b) The new use can provide the level of car parking provision required in this DCP.</li> <li>(c) Use is consistent with the current classification under the BCA.</li> <li>(d) All aspects of the structure shall comply with the deemed to satisfy provisions of the BCA.</li> <li>(e) Premises is not open outside the existing approved hours of operation.</li> <li>(f) Gross floor area of the building is not increased.</li> <li>(g) Use will not require the upgrade of any fire safety, health, environmental or other standards.</li> <li>(h) A maximum floor area of 500 square metres is changed from an office to a shop, or from a shop to an office.</li> <li>(i) Fire safety or accessibility to a fire exit is not compromised, and work complies with the fire egress requirements of the BCA.</li> <li>(j) Landscaping, loading and waste facilities required by development consent are retained.</li> <li>(k) A certificate from a qualified Structural Engineer is submitted, if altering any load bearing capacity.</li> <li>(l) Use is not potentially hazardous or offensive.</li> <li>(m) Certificate from Sydney Water (s.73 of the Sydney Water Act 1994) where the development involves a change in type of volume of trade wastes from the premises, or an increase in water use or wastewater.</li> </ul> <p><b><u>Advisory Notes:</u></b></p> <ul style="list-style-type: none"> <li>▪ You are advised to consult a Building Surveyor accredited under the EP&amp;A Act to assess compliance with the BCA.</li> </ul>

TYPE OF DEVELOPMENT	EXEMPTION REQUIREMENTS
<p><b>5. Commercial Building Alterations</b></p>	
<p>Applies only to internal alterations to a shop or office that alter the load-bearing capacity of load-bearing components.</p>	<ul style="list-style-type: none"> <li>(a) Gross floor area of the building is not increased.</li> <li>(b) All aspects of the structure shall comply with the deemed to satisfy provisions of the BCA.</li> <li>(c) Fire safety or accessibility to a fire exit is not compromised, and work complies with the fire egress requirements of the BCA.</li> <li>(d) Parking, landscaping, loading and waste facilities required by development consent are retained.</li> <li>(e) Certificate from Sydney Water (s.73 of the Sydney Water Act 1994) where the development involves a change in type of volume of trade wastes from the premises, or an increase in water use or wastewater.</li> <li>(f) A certificate from a qualified Structural Engineer is submitted.</li> </ul> <p><b><u>Advisory Notes:</u></b></p> <ul style="list-style-type: none"> <li>▪ You are advised to consult a Building Surveyor accredited under the EP&amp;A Act to assess compliance with the BCA.</li> <li>▪ Where applicable - water conservation devices with an AAA rating are installed, including tap flow regulators, shower head roses and dual flush toilets.</li> </ul>

TYPE OF DEVELOPMENT	COMPLYING REQUIREMENTS
<b>6. Demolition</b>	
Does not apply to any property listed as a Heritage Item.	<ul style="list-style-type: none"> <li>(a) Not to be carried out on any identified contaminated lands or potentially contaminated lands.</li> <li>(b) Structure to be demolished can be classified as 'complying development' under the provisions of this DCP and has a floor area not exceeding 40 square metres.</li> <li>(c) Demolition to be carried in accordance with the WorkCover requirements for the demolition of structures and AS2601-1991 Demolition Code.</li> <li>(d) Removal of asbestos cement and lead paint complies with the WorkCover Authority's guidelines.</li> <li>(e) Any work involving lead paint removal must not cause lead contamination of the air, ground or water.</li> <li>(f) Appropriate measures have been put in place to ensure that the adjoining properties will not be adversely affected by dust, noise, traffic, or falling objects.</li> <li>(g) All demolition materials must be removed from the site and disposed to a facility approved under the Waste Minimisation Act.</li> <li>(h) All demolition plant, equipment or the like must be confined within the property boundaries.</li> <li>(i) Sediment control measures must be installed prior to the start of demolition and remain until demolition is completed and the surface of the site is stabilised with buildings/ structures and landscaping.</li> <li>(j) Does not involve the lifting or craning of materials over a public footway or roadway, unless prior approval of Council has been given.</li> <li>(k) No explosives are used.</li> <li>(l) Burning of waste material is prohibited.</li> <li>(m) All aspects of the structure shall comply with the deemed to satisfy provisions of the BCA. The requirements include site preparation, footings and slabs, masonry construction, framing, roof and wall cladding, glazing, fire safety, health and amenity, safe movement and access.</li> </ul>

TYPE OF DEVELOPMENT	COMPLYING REQUIREMENTS
<p><b>7. Garages</b></p> <p>Exemption does not apply to properties located in a Foreshore Scenic Protection Area.</p> <p>Does not apply to multiple dwellings or residential flat buildings.</p>	<ul style="list-style-type: none"> <li>(a) Ancillary to a dwelling house only,</li> <li>(b) Complies with Section 6 – General Planning Considerations - Car Parking.</li> <li>(c) Maximum area 40m<sup>2</sup>.</li> <li>(d) Maximum height of 2.4 metres.</li> <li>(e) Located a minimum 1 metre behind the front building setback.</li> <li>(f) Garage is not to exceed one third of the frontage width of the dwelling house.</li> <li>(g) One driveway with a maximum width of 3 metres is to be constructed where no existing driveway currently exists.</li> <li>(h) Not located closer than 1 metre from any side boundary, with eaves and gutters not less than 675mm from any side boundary.</li> <li>(i) Finished floor level a maximum 600mm above ground level at any point.</li> <li>(j) The proportion of the total site area provided as soft landscaping open space is not reduced to less than 40%.</li> <li>(k) Stormwater disposal is in accordance with Council's stormwater and drainage guidelines.</li> <li>(l) Not occupied as a separate dwelling.</li> </ul> <p><b><u>Advisory Notes:</u></b></p> <ul style="list-style-type: none"> <li>▪ External finishes should be compatible with any existing buildings on the site ie. colours and materials should be in keeping with the surrounding natural and built environment.</li> </ul>

TYPE OF DEVELOPMENT	COMPLYING REQUIREMENTS
<p><b>8. Garden Sheds and Greenhouses</b></p>	
<p>Exemption does not apply to properties located in a Foreshore Scenic Protection Area.</p> <p>Does not apply to multiple dwellings or residential flat buildings.</p>	<p>(a) Exemption does not apply to multiple dwellings or residential flat buildings.</p> <p>(b) The proportion of the total site area provided as soft landscaping open space is not reduced to less than 40%.</p> <p>(c) Maximum area 20 square metres.</p> <p>(e) Maximum height 2.7 metres above existing ground level.</p> <p>(f) Located behind the building line or no further forward than the building line of any adjoining development, whichever is the greater.</p> <p>(g) Located minimum 900mm from any side boundary.</p> <p>(h) Maximum floor height 600mm above existing ground level.</p> <p>(i) Stormwater disposal is in accordance with Council's stormwater and drainage guidelines.</p> <p>(j) Not occupied as a separate dwelling.</p> <p><b><u>Advisory Notes:</u></b></p> <ul style="list-style-type: none"> <li>For structures with an area of 10 square metres or less, see Schedule 1 for Exempt Development.</li> <li>External finishes should be compatible with any existing buildings on the site ie. colours and materials should be in keeping with the surrounding natural and built environment.</li> </ul>

TYPE OF DEVELOPMENT	COMPLYING REQUIREMENTS
<p><b>9. Gazebos and Cabanas</b></p>	
<p>Exemption does not apply to properties located in a Foreshore Scenic Protection Area.</p> <p>Does not apply to multiple dwellings or residential flat buildings.</p>	<p>(a) Exemption does not apply to multiple dwellings or residential flat buildings.</p> <p>(b) The proportion of the total site area provided as soft landscaping open space is not reduced to less than 40%.</p> <p>(c) Maximum area 20 square metres.</p> <p>(d) Maximum height 2.7 metres above existing ground level.</p> <p>(e) Located behind the building line or no further forward than the building line of any adjoining development, whichever is the greater.</p> <p>(f) Located minimum 900mm from any side boundary.</p> <p>(g) Finished floor level a maximum 600mm above ground level at any point.</p> <p>(h) Stormwater disposal is in accordance with Council's stormwater and drainage guidelines.</p> <p>(i) Not occupied as a separate dwelling.</p> <p><b><u>Advisory Notes:</u></b></p> <ul style="list-style-type: none"> <li>▪ For structures with a maximum area less than 10 square metres, see Schedule 1 for Exempt Development.</li> <li>▪ External finishes should be compatible with any existing buildings on the site ie. colours and materials should be in keeping with the surrounding natural and built environment.</li> </ul>

TYPE OF DEVELOPMENT	COMPLYING REQUIREMENTS
<p><b>10. Single Storey Dwelling Houses</b>  <b>Ground Floor Single Storey Additions to Dwelling Houses</b>  <b>Alterations to Single Storey Dwelling Houses</b></p>	<p>(a) Dwelling or works, including garages and carports and landscaping must comply with the relevant controls for residential development in this DCP.</p> <p>(b) Dwelling or works comply with BASIX.</p> <p>(c) If BASIX does not apply then development must comply with Energy Efficiency section of this DCP.</p> <p>(d) Maximum height 5.4 metres from ground level to the highest point of roof, provided that the roof pitch is not less than 23 degrees (or same as the main buildings).</p> <p>(e) Maximum distance between the finished floor level and the underside of the eaves is 3.6 metres.</p> <p>(f) Minimum front boundary setback of 5.5 metres measured perpendicular from the front boundary to any wall of the dwelling house or single storey alteration or addition or the front edge of any structure (patio, landing etc) which has a height of more than 1 metre above natural ground level.</p> <p>(g) Minimum rear boundary setback of 4 metres, measured perpendicular from the rear boundary line to the closest external wall of a new dwelling house or any addition.</p> <p>(h) Walls are located a minimum 1 metre from any side boundary, with eaves and gutters not less than 675mm from any side boundary.</p> <p>(i) Ground floor level of the structure at any point is a maximum 600mm above ground level.</p> <p>(j) Cut and fill is limited to a maximum depth of 600mm, and no more than 10 cubic metres of cut and fill is required to accommodate the proposed development.</p> <p>(k) Where fill is required to support raised floor levels on sloping sites, fill is not to be placed external to the walls of the building.</p> <p>(l) Car parking provision is to comply with Chapter 3 – General Planning Considerations of this DCP.</p> <p>(m) Stormwater disposal is in accordance with</p>
<p>Exemption does not apply to land defined as a Foreshore Scenic Protection Area.</p>	

TYPE OF DEVELOPMENT	COMPLYING REQUIREMENTS
	<p>Chapter 5 – Design Guidelines for Buildings, Public Domain &amp; Open Spaces – Stormwater and Drainage Guidelines.</p> <p>(n) All roof openings are flush with the roof pitch.</p> <p>(o) Living areas and private yards must receive at least three hours of sunlight between 9am and 3pm mid winter (21 June).</p> <p>(p) Habitable room windows with a direct outlook within 9metres of the habitable room window of an adjacent dwelling must be:</p> <ul style="list-style-type: none"> <li>• Offset by a minimum 1 metre from the edge of the opposite window; or</li> <li>• Screened, louvered or orientated to ensure visual privacy; or</li> <li>• Have a sill height 1.5 metres above floor level; or</li> <li>• Have fixed opaque (frosted) glazing in any part of the window below 1.5 metres.</li> </ul> <p>(q) The proportion of the total site area provided as soft landscaped open space is not reduced to less than 40%.</p> <p>(r) Each new dwelling provides a space of at least 3 metres x 1 metre for the storage of garbage and recycling bins that is not visible from the street.</p> <p>(s) Each new dwelling provides a space of six cubic metres per dwelling set aside exclusively for general storage.</p> <p>(t) Any ancillary matters (eg. Skylights, solar hot water heaters) meet the exempt development standards.</p>
<b>11. Subdivision</b>	
	<p>(a) Widening of a public road by a public authority.</p> <p>(b) Adjustment does not result in any variation to the maximum floor space ratio or minimum dimensions or area of an allotment as required by any LEP or DCP.</p> <p>(c) Adjustment must not result in an increased number of lots, the re-orientation of existing lots or redefine MHWM.</p> <p>(d) Correcting an encroachment on a lot, but only where there will be no variation to the minimum dimensions or area of an allotment</p>

TYPE OF DEVELOPMENT	COMPLYING REQUIREMENTS
	<p>as required by the prevailing LEP.</p> <p>(e) Strata subdivision of any building approved and constructed after 1/7/1988 subject to the development conforming to any condition of any applicable development consent.</p> <p>(f) A section 73 Application is lodged with Sydney Water.</p>
<b>12. Swimming Pools and Spas</b>	
<p>Applies only: To lots over 450 square metres; Pool or spa is incidental to a dwelling house and occupied for private use.</p>	<p>(a) Not located between the dwelling and front boundary.</p> <p>(b) Located behind the building line or no further forward than the building line of any adjoining development, whichever is the greater.</p> <p>(c) Located minimum 1.5 metres from any boundary to the waterline of the pool.</p> <p>(d) Swimming pools and spas must not:</p> <ul style="list-style-type: none"> <li>▪ be built within 1 metre of an easement</li> <li>▪ breach any covenant to which the council is a party</li> <li>▪ be located within a zone of influence of a public sewer</li> <li>▪ be located within a zone of influence of a public drainage pipe or public sewer, without the written approval of the relevant person or authority benefiting from the easement, covenant or occupation.</li> </ul> <p>(e) Aboveground pools – maximum 1.2 metres above ground level at any point (no attached decking).</p> <p>(f) Maximum height of pool coping and/or decking is 600mm above natural ground level at any point.</p> <p>(g) Noise emitted from filter pumps and drainage of waste not to exceed 5dBA above the ambient background noise level measured at the boundary of the site.</p> <p>(h) Any water from the swimming pool is discharged into the sewerage system and not the stormwater drainage system.</p> <p>(i) Installation and construction of pool complies with AS/NZS 1838, AS/NZS 1839 and AS 2783.</p> <p>(j) Pool and surrounding structures including safety fencing, complies with AS 1926.2 – Swimming Pool Safety.</p>

	<p>(k) Pool and surrounding structures, including safety fencing and gates complies with AS 1926 and the Swimming Pools Act 1992 and Swimming Pools Regulation 1998.</p> <p><b><u>Advisory Notes:</u></b></p> <ul style="list-style-type: none"><li>▪ Swimming and spa pool applications will be assessed under criteria in Council's Swimming Pool and Spa Code.</li><li>▪ Noise measurement shall be carried out in accordance with AS 1055.</li></ul>
<b>13. Temporary Buildings</b>	<p>(a) Erection of a building and its use for a period not exceeding five years.</p> <p>(b) Not used for residential purposes, or for the storage or handling of flammable materials.</p> <p>(c) Maximum height 1 storey.</p> <p>(d) Building is set back from every boundary of the lot by a minimum of 3 metres.</p> <p><b><u>Advisory Notes:</u></b></p> <ul style="list-style-type: none"><li>▪ The building must be demolished or removed no later than 60 days after the specified period expires.</li></ul>

#### 2.1.3.6 Complying Development Conditions

Once a development has been categorised as complying development and received a Complying Development Certificate from either Hurstville City Council or an Accredited Certifier, the following conditions will be imposed and must be met.

- (1) The development must be carried out in accordance with the Complying Development Certificate.

The development is to be implemented substantially in accordance with the details set out on the approved plan/drawing and on the application form and on any supporting information received with the application except as amended by the conditions specified in this Certificate.

All building work must be carried out in accordance with the deemed-to-satisfy provisions of the Building Code of Australia.

- (2) Before you begin work
  - (a) Two days before any site works, building or demolition begins, the applicant must:
    - (i) have appointed a Principal Certifying Authority and forwarded a “Notice of Commencement of Work and Appointment of Principal Certifying Authority” (Form 7 of the Regulation) to Council (where Council is not the Principal Certifying Authority), and
    - (ii) have notified the adjoining owners that work will commence.
  - (b) Before any site works, building or demolition begins, the applicant or builder must:
    - (i) notify the Council in writing of the name, address, phone number and licence number of the builder, and
    - (ii) erect a sign at the front of the property with the builder's name, licence number, site address, and the same of the Principal Certifying Authority, accreditation number and telephone number where Council is not the Principal Certifying Authority, or number given by Council to the application for the Complying Development Certificate, where Council is the Principal Certifying Authority, and
    - (iii) provide a temporary on-site toilet, and
    - (iv) protect and support any neighbouring buildings and land as required, and
    - (v) protect any public place from obstruction, inconvenience or damage due to the carrying out of the development,
    - (vi) prevent any substance from falling onto a public place, and

(vii) comply with any other conditions prescribed by any Regulation.

(3) Site management

- (a) Run-off and erosion controls must be implemented to prevent soil erosion, water pollution or the discharge of loose sediment into Council's stormwater drains or watercourses or onto surrounding land, prior to any site works, as follows:
- (i) divert uncontaminated run-off around cleared or disturbed areas, and
  - (ii) erect a silt fence to prevent foreign bodies escaping into drainage systems or waterways, and
  - (iii) prevent tracking of sediment by vehicles onto roads, and
  - (iv) stockpile topsoil, excavated material, construction and landscaping supplies and debris only within the site. No such material is to be stored on the footpath, road or any other public place.
- (b) Removal or disturbance of vegetation and topsoil must be confined to within 3 metres of the proposed building.

(4) Drainage

- (a) The land surrounding any structure must be graded to divert surface water to the street, and must be clear of existing and proposed structures and adjoining premises.
- (b) Where the land falls to the rear of the property, water must be collected and drained via a gravity system to a Council stormwater line or disposed of in a manner consistent with the Council's Soil and Water Management Policy.

(5) Inspections during construction

The applicant must notify either the Council or an accredited certifier in advance (at least 48 hours in writing or 24 hours by phone) to inspect the following:

- (a) erosion controls, site works and set out, before building starts, and
- (b) placement of piers or foundation before placement of footings, and
- (c) steel reinforcing before pouring concrete, and
- (d) framework of structure before lining or cladding is fixed, and
- (e) stormwater drainage and on-site detention before backfilling, and
- (f) wet areas treated before lining or tiling, and

(g) upon completion of work prior to occupation.

(6) Hours of works

Any building work must be carried out between 7.00 am and 6.00 pm Monday to Friday and 8.00 am to 5.00 pm Saturdays, but no work is to take place on Sundays or public holidays.

(7) Survey certificate

Survey certificate must be given to the Principal Certifying Authority, at the following stages:

- (a) on completion of floor slab framework before concrete is poured, detailing the height and location of the structure to the boundaries, and
- (b) at completion of the lowest floor, confirming that levels are in accordance with the Complying Development Certificate (which levels must relate to the datum shown on the certificate).

(8) Safety

- (a) Fire safety measures must be included, in compliance with the BCA.
- (b) All scaffolding and support materials to be erected and used in accordance with relevant legislation and work practices.

(9) Site access

Where kerb and gutter is provided:

- (a) driveways are to be a minimum of 500 millimetres clear of all drainage structures on the kerb and gutter and are not to interfere with the existing public utility infrastructure, including Council drainage structures, unless prior approval is obtained from the relevant authority.
- (b) Driveways are to be constructed in accordance with any relevant requirements of AS 2890 with appropriate transition zones and Council's DCP No. 2 – Car Parking.

(10) Temporary Buildings

Any building erected for use for a specified period of not more than 5 years pursuant to Part 1 of this Schedule must be completely demolished or removed from the site no later than 60 days after the specified period ends.

**Advisory Notes:**

The building shall not be occupied or used until Council or an accredited certifier, issues an Occupation Certificate.

The complying development certificate shall be issued in the name of the Council or the accredited certifier with an accreditation number.

#### 11. Swimming Pools

- (a) The pool is to be enclosed by a minimum 1.2 metre high child resistant barrier, fitted with a self-closing, self latching, outwardly opening gate, all constructed in accordance with the requirements of the Swimming Pools Act 1992 and Swimming Pools Regulation 1998. The barrier to be erected prior to the placement of any water in the pool.
- (b) The occupier of the premises on which the pool is situated must ensure that there is, at all times, maintained in a prominent position in the immediate vicinity of the pool, a sign bearing notice that contains the words “Young children should be supervised when using this swimming pool”, together with details of resuscitation techniques.
- (c) All wastewater from the pool filtration system is to discharge to Sydney Water’s sewer.
- (d) All windows that open into the pool enclosure are to be fitted with approved security screens fixed by screws and having openings not greater than 100 millimetres. The option of restricting the windows to a maximum opening of 100 millimetres may only be used as an alternative if natural ventilation to the room concerned is maintained at 5% of the floor area of the room.
- (e) There is to be no nuisance caused to adjoining property owners by the operation of the filter pump.

## 2.2 Neighbour Notification & Advertising of Development Application

### 2.2.1 General Information

#### 2.2.1.1 Land to which this Section applies

This section applies to all land within the Hurstville CBD as shown on the map in Appendix 2 (with certain exceptions as outlined in this Plan) for the notification of applications for:

- (a) development consent (other than designated, state significant, or advertised development);
- (b) amendments to the terms of development consent taking the form of an application under section 96 (modification of consents) of the *Environmental Planning and Assessment Act 1979*.

#### 2.2.1.2 Aims

The primary aims of this section are to:

- (a) enable public participation in the consideration of development applications;
- (b) provide a process for property owners and residents to make submissions;
- (c) provide a process when notification is required;
- (d) set out the matters Council will consider when forming its opinion as to whether or not the enjoyment of adjoining and neighbouring land may be detrimentally affected by a development after its completion;
- (e) ensure notification of landholders who may be affected by a development application even though they do not own adjoining land; and
- (f) define the circumstances when notification is not required.

## 2.2.2 Persons to be Notified & Applications to be Advertised

### 2.2.2.1 Notification and Advertising Requirements

The category listings below aim to differentiate between minor and significant development, where Category A is minor development and Category C and D are more significant development. Upon Council receiving an application detailed below, the specific notification requirements will be met.

**Category A Development application involving structures of minor significance (outbuildings, minor additions and the like) which are not exempt development:**

- (a) A written notice will be forwarded to the owners and tenants of adjoining land.
- (b) The owners and occupiers of other neighbouring land, may be notified who, in the opinion of Council, may be impacted by the proposal.

**Category B Development application involving:**

- **dwelling houses**
- **dual occupancies**
- **small lot housing**
- **Torrens Title subdivisions (excluding subdivision of approved dual occupancy developments)**

- (a) A written notice will be forwarded to the owners and occupiers of land located three (3) properties on either side of the proposal, the property at the rear and opposite the proposal, and three (3) properties on either side of the rear and three (3) properties generally opposite (across any road).
- (b) The owners and occupiers of other neighbouring land, may be notified who, in the opinion of Council, may be impacted by the proposal.

**Category C Development application involving:**

- **multiple dwellings (3 or more dwellings and includes villas, townhouses, terraces, cluster housing and the like)**
- **residential flat buildings**
- **mixed use premises**
- **housing for older people or people with a disability**

- (a) A notice will be placed in the local newspaper (The St George and Sutherland Leader) advertising the development application.
- (b) A written notice will be forwarded to the owners and occupiers of land located three (3) properties on either side of the proposal, the property at the rear and opposite the proposal, and three (3) properties on either side of the rear and three (3) properties generally opposite (across any road).

- (c) The owners and occupiers of other neighbouring land, may be notified who, in the opinion of Council, may be impacted by the proposal.

**Category D Development application involving:**

- **new buildings in a Business or Light Industrial Zone**
- **child care centres**
- **demolition, alteration or use of a building or land that is or contains a heritage item listed on Schedule 2 of the Hurstville Local Environmental Plan 1994**
- **hospitals**
- **educational establishments**
- **places of worship**
- **any other development Council considers should be advertised**

- (a) A notice will be placed in the local newspaper (The St George and Sutherland Leader) advertising the development application.
- (b) A written notice will be forwarded to the owners and occupiers of land located three (3) properties on either side of the proposal, the property at the rear and opposite the proposal, and three (3) properties on either side of the rear and three (3) properties generally opposite (across any road).
- (c) The owners and occupiers of other neighbouring land, may be notified who, in the opinion of Council, may have the amenity or enjoyment of their land affected.

**Other Notification:** A notice in accordance with Section 4 of the Act will be given to Kogarah, Rockdale and Canterbury Councils in respect of development applications for the erection of a building on land adjoining these local government areas, asking the adjoining Council to notify their residents/ratepayers.

#### 2.2.2.2 General Provisions

- (a) Where public concern is raised to any application, Council may consider a wider notification of an application or extension in the time available for comment should the case warrant such action.
- (b) Notwithstanding the legislative requirements for Integrated Development under the Act, certain applications will require notification to other government authorities to seek that authority's concurrence. In these circumstances notification will be in accordance with the requirements set out in section 90 of the *Local Government Act 1993*, and Section 79B of the *Environmental Planning and Assessment Act 1979*.
- (c) Where Council receives an application under s.96 of the Environmental Planning and Assessment Act 1979 to modify a development consent (and determines that a review or modification may be undertaken in the particular case) Council will notify:
- (i) the owners of land and any other person who has previously lodged submissions to

the original or previous application to which the s.96 application relates; and

- (ii) any other owners of land, who, in the opinion of Council, may be impacted by the proposal and any amendments or variations to that application.
- (d) In the case of Strata Titled properties, a notice will be forwarded to the Owners Corporation, or an Association (under the *Community Land Development Act 1989*) as well as the owners and occupiers of each strata unit.
- (e) Council will not place an application on public notification and advertising in cases where an application has been submitted and in the opinion of Council is incomplete and/or Council is awaiting further information or clarification from the applicant on outstanding matters prior to the notification process.

#### 2.2.2.3 Applications Which Will Not Be Notified

Council will not publicly notify or advertise applications where:

- (a) the proposal represents exempt or complying development pursuant to *Hurstville Local Environmental Plan 1994 (refer note below)*;
- (b) change of use of a building is proposed in a Business or Industrial Zone and the site is not adjacent to a Residential Zone;
- (c) amendments made to an application which are of a lesser impact to adjoining properties than what was initially proposed;
- (d) amendments to a development application under s.96 of the Environmental Planning and Assessment Act 1979 where there is no increased impact as assessed by Council's senior planning officer;
- (d) applications to strata subdivide or company title buildings;
- (e) applications to stratum subdivide approved buildings;
- (f) Torrens subdivision of approved dual occupancy developments;
- (g) applications affected by *State Environmental Planning Policy No. 10 – Retention of Low-Cost Rental Accommodation (SEPP 10)*; and
- (h) applications only for the lopping or removal of trees required under Council's tree preservation order (TPO), which are not associated with any other development occurring on the site.

**NOTE:** Amendments to the Environmental Planning and Assessment Act 1979, introduced two (2) new categories of development known as exempt and complying development. Exempt development does not require consent from the Council to be carried out. Complying development is development that can be carried once it is certified by Council or an accredited certifier.

There is no opportunity to make a submission in relation to exempt or complying development. Please refer to Council's Development Control Plan No. 14 – Exempt and Complying Development for the types of development which have been classified as either exempt or complying within the City of Hurstville.

#### **2.2.2.4 Matters to be Considered in Forming an Opinion that Amenity of Land May Be Adversely Affected**

In determining which neighbouring land may be impacted and should be notified in terms of Section 2.3.2, the Council will take into account the following criteria:

- (a) the views to and across/over the application site;
- (b) overshadowing;
- (c) privacy;
- (d) noise;
- (e) the visual quality of the building in relation to the neighbouring properties and the streetscape;
- (f) the use of the proposed building;
- (g) the hours of use;
- (h) the scale, height, external appearance and bulk of the proposal;
- (i) the siting of the proposed building in relation to the streetscape and neighbouring properties;
- (j) means of access to and from, or provision of parking on the application site;
- (k) heritage and cultural significance;
- (l) removal of trees, or trees at risk of damage or removal, which preserve Hurstville's indigenous trees;
- (m) the likely effect on the drainage of the adjoining sites;
- (n) economic and social impacts;
- (o) pedestrian and vehicular traffic;
- (p) the character and quality of the environment within foreshore areas; and
- (q) particular circumstances of the application.

#### 2.2.3 Form of the Notice & the Notification Plan

##### 2.2.3.1 Required Information

A written notice is to be forwarded by Council to the owners and occupiers of adjoining land and will contain the following information:

- (a) the lodgement date of the application;
- (b) the address to which the development application relates;
- (c) a brief description of the proposed development;
- (d) the name of the applicant;
- (e) the name of the consent authority;
- (f) an invitation to inspect the application and the documents accompanying that application;
- (g) where the plans can be inspected;
- (h) a statement that any person during the period specified may make a written submission in relation to the development to the consent authority;
- (i) the time within which written submissions will be received;
- (j) that the substance of written submissions will be included in reports in relation to the proposal;
- (k) that Council is subject to Freedom of Information laws and the substance of written submissions may be made available to any person who may be entitled to lodge an application under those laws;
- (l) a notification plan for Category A, B and C developments (see Section 5.2);
- (m) that the recipient of the notice, may by request, and upon payment of a fee as determined by Council, obtain a copy of the full scale plans of the proposal showing the height and external configuration of the building subject to the provision that this will not be construed as providing any extension to the period for the making of a submission to Council; and
- (n) that compliance with the quantitative standards and objectives of Council's policies and Codes and/or support by Council's professional staff, does not necessarily guarantee approval.
- (o) for integrated development, or threatened species developments, matters prescribed under clauses 79A and 79B of the Environmental Planning and Assessment Act 1979.

#### 2.2.3.2 Requirements of the Notification Plan

For the purpose of this section, the notification plan is to:

- (a) be on an A4 size sheet which is legible;
- (b) be of a scale which will clearly delineate the features of the proposal;
- (c) show the height and external configuration of any proposed building in relation to the site on which it is proposed to be erected;
- (d) include a site plan showing the relationship of the proposed building to the boundaries of the allotment (including a north point), as well as show an outline of the adjoining buildings and their relationship to the subject allotment (including general dimensions);
- (e) show any new buildings or additions to existing buildings by means of cross hatching or a similar means;
- (f) have clearly figured dimensions to indicate size, height and position of the building;
- (g) indicate the levels of floors, ceilings and ridges in relation to the levels of the site;
- (h) include the location of all trees on the site which are protected by Council's Tree Preservation Order; and
- (i) include any other information, if in the opinion of Council or a CA, is appropriate to the case.

Should the form of the plan and details defined and described above be considered inadequate to sufficiently convey to the recipients of the notice the details of the proposal, the form of the plan is to be in the form approved by the Council's authorised officer.

#### 2.2.3.3 Applicant to prepare notification plans

When an application is made to Council, the applicant must submit a minimum of eight (8) A4 copies of the plan, to facilitate the distribution of the notification plan to those persons who are required to be notified.

#### 2.2.3.4 Applications to amend plans or modify consent

For the purpose of notifying owners in respect of applications for a review or modification of consent in accordance with the Act, the form of the written notice is to contain the following information:

- (a) the lodgement date of the application to modify the consent;
- (b) the address to which the application relates;
- (c) the description of the proposal and reference to the original consent;
- (d) an invitation to inspect the whole of the submission lodged with Council by the applicant;

- (e) where the plans and the submissions may be inspected;
- (f) the owner's/person's/occupier's right to lodge a written submission;
- (g) the time within which written submissions will be received;
- (h) that the substance of written submissions will be included in reports in relation to the proposal;
- (i) that Council is subject to Freedom of Information laws and the substance of written submissions may be made available to any person who may be entitled to lodge and application under those laws; and
- (j) a notification plan if defined as Category A, B or C development.

#### 2.2.3.5 Display sign on site

Where a development is proposing:

- (a) dwelling houses (includes the demolition of an existing building),
- (b) small lot housing,
- (c) dual occupancies;
- (d) multiple dwellings (3 or more and includes villas, townhouses and the like), and
- (e) residential flat buildings,
- (f) child care centres,
- (g) demolition, alteration or use of a building or land that is or contains a heritage item listed on Schedule 2 of the Hurstville LEP 1994,
- (h) hospitals,
- (i) places of worship,
- (j) any other development of a potentially contentious nature,

The Applicant must erect a sign on the site which displays the following information:

- (a) the address to which the application relates;
- (b) a brief description of the proposal;
- (c) the name of the applicant;
- (d) a site plan; and

- (e) where and when plans can be inspected.

The display sign must be erected on the front of the site. Where a site has dual street frontage (corner site of front and back), a display sign must be erected on both frontages.

#### **2.2.4 Period during which a person may inspect an Application and Make a Submission**

- (a) Development applications may be inspected during business hours and submissions can be made by any one during the notification period. A period of 14 calendar days, excluding public holidays, will be allowed for persons to inspect an application and make a submission. The inspection period may be extended by Council if warranted by the circumstances of the case.
- (b) In the case of nominated integrated development or threatened species development, pursuant to Clause 89(3) of the Regulations, the period of 30 days.
- (c) To account for the holiday period associated with Christmas and New Year, from 15 December to 15 January the following year, the period to inspect an application and make a submission will be extended to 21 calendar days, excluding public holidays.
- (d) To account for the holiday period associated with Easter, the period to inspect an application and make a submission will be extended to 21 calendar days, excluding public holidays.
- (e) Council will not determine a development application before the notification period has expired.

#### **2.2.5 Form of Submissions from Persons Notified and The General Public**

- (a) A submission can:
  - (i) support an application;
  - (ii) object to an application;
  - (iii) object to part of an application;
  - (iv) suggest alternatives to an application or element of an application.
- (b) Submissions must be in writing and received within fourteen (14) days of the date of Council's letter, advertisement or site notice (unless varied by the circumstances of the case), and on or before the close of the notification period.

- (c) Submissions can be mailed, e-mailed or faxed to Council:  
The General Manager  
Hurstville City Council  
PO Box 205  
Hurstville BC NSW 1481  
Fax: (02) 9330 6223  
Email: [hccmail@hurstville.nsw.gov.au](mailto:hccmail@hurstville.nsw.gov.au)
- (d) Submissions must clearly indicate the:
  - (i) name and address of the person making the submission;
  - (ii) development application number and the address of the application site; and
  - (iii) reason for the submission.
- (e) Any written submissions made are open to public scrutiny in accordance with the Local Government Act 1993.
- (f) Special alternative arrangements may be made where any difficulty exists in the provision of written submissions, such as language aides.

#### **2.2.6 Any person may inspect Plans**

- (a) Any person, whether or not entitled to be given formal notice under the provisions of this Plan, may at any time during the ordinary office hours of the Council and during the notification period, inspect free of charge, the details or plans of a development application.
- (b) A copy of the notification plan and/or copies of other parts of the application plans (as permitted by copyright laws) can be obtained by any person upon written application, and payment of the prescribed fee, under the provisions of Section 12 of the *Local Government Act 1993*.

#### **2.2.7 Council Must Consider All Submissions**

- (a) Council must consider all submissions made within the period allowed for the making of submissions (notification period), before it determines the application.
- (b) Council will not take into account matters extraneous to those prescribed within this DCP, other policies of Council, or the relevant Acts and Regulations. Personal disputes between neighbours will not be considered.
- (c) Council is not bound by any submission and the assessment of the application will involve considering the merits of the application together with all submissions. Those who make a submission do not have a statutory right to prevent the approval of an application nor a statutory right of appeal.

#### 2.2.8 Notification of Council Meeting

- (a) If an application is placed on the agenda of the Development Assessment Committee of Council for determination, the applicant and any person who has made a written submission will be notified of the time and date of the meeting.
- (b) Not all applications which receive objections need to be referred to the Development Assessment Committee of Council.

#### 2.2.9 Notice of Determination

Each person who made a submission in respect of an application will be notified in writing of the result of Council's decision.

#### 2.2.10 Referral to NSW Police (Crime Prevention Through Environmental Design)

**The following types of development proposals may be referred by Council to the Police for comment:**

- Multiple units, townhouse/villa development with 20 or more dwellings
- Mixed use developments with 20 or more dwellings (retail/commercial uses with residential)
- New or upgraded commercial/retail developments (major works)
- New or upgraded industrial complexes with multiple industrial units
- New or upgraded schools, child care centres and hospitals (major works)
- Any developments on railway stations
- Large sports and community facilities
- Clubs/hotels (including extension, gaming rooms, extended hours etc)
- Hospitals
- Other developments (i.e. amusement centres, arcades).

Please refer to Section 3.4 Crime Prevention Through Environmental Design (CPTED) in relation to relevant matter to be considered in the assessment of the development application.

The Police will respond to Council within 14 days and their comments will be taken into account when determining the application.

#### 2.2.11 Public Notification of Applications for Radiocommunications and Telecommunications Facilities

- Development applications should comply with the relevant sections of this DCP relating to *Neighbour Notification and Advertising of Development Applications*.
- For facilities covered by the LIF Determination, the carrier is to consult with affected community, irrespective of Council boundaries, as required by the ACIF Code.
- The applicant is to consult with Council about a consultation strategy.
- Consultation must be commensurate with the anticipated impact of the facility.
- The applicant must make reasonable endeavours to conduct consultation in such a way that local ethnic communities are informed about the proposal and able to comment on it.
- For each facility, a permanent and legible weatherproof sign must be publicly visible in the immediate proximity of the facility and visible to the general public, to identify the name and contact details of the operator or site manager, consistent with the ACIF Code.
- For each facility, a sign must be erected notifying the intention of the carrier to erect infrastructure on site and providing the name and contact details of the carrier, consistent with the ACIF Code.
- The applicant must provide council with the results of its community consultation undertaken for facilities covered by the LIF Determination.