

COMPLYING DEVELOPMENT SELF ASSESSMENT CHECKLIST

Under the General Commercial and Industrial Code Part 5 of the Codes SEPP

If certain requirements and standards applicable to land and development are met, there is an opportunity for an application for development on a property to be lodged as a Complying Development application, instead of the traditional Development Application and Construction Certificate.

The *General Commercial and Industrial Code* is a publication issued by the NSW Department of Planning that includes requirements and standards applicable to land and development that, if complied with, will enable Complying Development.

Before you lodge as a Complying Development application, you need to determine whether your development proposal complies with the *General Commercial and Industrial Code*. This checklist gives a summary of their requirements for Complying Development, and which is to be used primarily for self assessment.

The checklist relates to Complying Development proposals under the *General Commercial and Industrial Code* for either:

- Building alterations (internal) including shop fitouts
- Change of use of premises
- Mechanical ventilation systems
- Shop front and awning alterations, or
- Skylights and roof windows

The checklist is an integral part of your Complying Development application and must be completed and submitted with a Complying Development application form. Submission of the checklist demonstrates you have fully considered all the standards in respect of your proposal.

The checklist gives a summary of the *General Commercial and Industrial Code* and will help to determine if your application qualifies as Complying Development under the Code. A complete copy of the General Commercial and Industrial Code is available from the *General Commercial and Industrial Code* website.

When you are considering designing your development or considering opening new commercial or industrial premises, you should obtain a copy of the *General Commercial and Industrial Code* from the NSW Department of Planning or through their website.

The assessment tables within this checklist include check boxes that will identify which of the standards apply to your proposed development. It is the applicant's responsibility to confirm whether the proposal complies.

If the proposed development does not comply with all the standards and criteria set out in the assessment tables but you still wish to lodge your proposal as a Complying Development application, you will need to amend the proposal so that it does comply.

If a lodged application does not comply with all the standards and criteria, it cannot be approved as Complying Development and a Development Application and a Construction Certificate application will have to be lodged.

DEFINITIONS

Commercial Premises means premises, office premises or retail premises.

LAND BASED REQUIREMENTS

Complying Development can only be carried out on certain land. Land based requirements apply to the general locality and the specific site. Some land is excluded from Complying Development due to its constrained nature.

The simplest way to find out whether any Land Based Exclusions exist and therefore rule out Complying Development on your property is to obtain a Planning Certificate from Council (referred to as a 149(2) Certificate). This document will explicitly state whether or not Complying Development can occur and it will also provide a comprehensive list of planning matters and constraints affecting the land. Although this is not compulsory, it is recommended, as it will alleviate the need to answer the questions in the following table.

Have you obtained a 149(2) Certificate which confirms Complying Development can occur on the property?

Yes

No

You must answer the following Land Based Criteria questions

LAND BASED CRITERIA			Office Use
	Yes	No	Compliance Checked
Does the land contain:			
a. An item listed on the State Heritage Register?			
b. A heritage item or draft heritage item?			
Is the land designated as:-			
c. Environmentally Sensitive Area? being <ul style="list-style-type: none"> • Land identified in any environmental planning instrument as being of high Aboriginal cultural significance or high biodiversity significance. • Land reserved under the <i>National Parks and Wildlife Act 1974</i> or land to which Part 11 of that Act applies. • Land reserved or dedicated under the <i>Crown Lands Act 1989</i> for the preservation of flora, fauna, geological formations or for other environmental purposes. 			

If you answered 'No' to all the above questions, the proposal can be Complying Development as the land does not contain any Land Based Exclusions.

If you answered 'Yes' to any of the questions, you cannot do Complying Development on the land and a Development Application/Construction Certificate application will have to be lodged.

Note: If only a part of a lot of land is affected by (a) – (c) above then complying development cannot be carried out on any part of the land

Office Use	
Complies	<input type="checkbox"/> Yes <input type="checkbox"/> No

GENERAL REQUIREMENTS

To be complying development, the development must:

CRITERIA	COMPLIES		
	Yes	No	N/A
a) Meet the relevant provisions of the <i>Building Code of Australia</i>			
b) If required, have a prior approval by the <i>Local Government Act 1993</i> , for: <ul style="list-style-type: none"> i. an onsite effluent disposal system if the development is undertaken on unsewered land, and ii. an onsite stormwater drainage system. 			
c) If required by the <i>Roads Act 1993</i> , have prior consent from the relevant roads authority for each opening of a public road required for the development, and the prior written permission from the relevant roads authority to operate or store machinery, or waste required by the development on a road or footpath reserve.			
d) Not require the removal or pruning of a tree or other vegetation except where the prior permission has been obtained and the work is in accordance with that approval, or <ul style="list-style-type: none"> i. the tree or vegetation is within 3m of the development, and ii. is less than 6m high, and iii. is not listed on a significant tree register or register of significant tree kept by the council 			

Office Use	
Complies	<input type="checkbox"/> Yes <input type="checkbox"/> No

CATEGORY 1 – BUILDING ALTERATIONS (INTERNAL)

This category applies to a proposed internal alteration to a building that is used as bulky goods premises, commercial premises, premises for light industry or a warehouse or distribution centre.

- Applicable Yes please answer the questions in the table below
 No please select another category

To be Complying Development, the development must meet all the following criteria:

CRITERIA	COMPLIES	
	Yes	N/A
a. The current use must be a lawful use and must be permissible on the land on which the premises are located.		
b. The current use of the premises must not be an <i>existing use</i> within the meaning of section 106 of the Act.		
c. The alterations must not increase the gross floor area of the building.		
d. The alterations must not involve the conversion of an area excluded from the calculation of gross floor area such as a basement, plant room, car parking space, loading space or void.		
e) If the alterations involve a loading dock, the alterations must not: <ul style="list-style-type: none"> i. reduce the number or capacity of the trucks accommodated, or ii. reduce the area for goods and/or waste handling, or iii. reduce the manoeuvring area or access driveway. 		
f. Must not relate to the cooking of food at the premises by barbecue or charcoal methods.		
g. If the alterations involve food and drink premises, the alterations must comply with AS 4674–2004, Design, Construction and Fitout of Food Premises. If the alterations involve a food business, as defined under the <i>Food Act 2003</i> , the alterations must comply with that Act.		
h. Any demolition must comply with AS 2601–2001, The Demolition of Structures.		
i. If the building has been subject to an Alternative Solution under the <i>Building Code of Australia</i> , the alterations must be consistent with the Alternative Solution.		
j. If the alteration involves an area of more than 500m ² of bulky goods premises or commercial premises, or an area of more than 1,000m ² of premises used for light industry or a warehouse or distribution centre, that area must: <ul style="list-style-type: none"> i. comply with the requirements set out in DP2–DP5 of Volume 1 of the <i>Building Code of Australia</i>, and ii. comply with the number of sanitary and other facilities set out in FP2.1, FP2.5 and FP2.6 of Volume 1 of the <i>Building Code of Australia</i>, and iii. comply with the light and ventilation requirements set out in FP4.1–FP4.5 of Volume 1 of the <i>Building Code of Australia</i>. 		

CRITERIA	COMPLIES	
	Yes	N/A
k. If the building contains residential accommodation (class 2, 3 or 4), the altered area must be separated from the residential area by building elements that comply with the fire resistance performance requirements provided for in CP2 and CP8 of Volume 1 of the <i>Building Code of Australia</i> .		

Note: If the alterations involve a premises on which a skin penetration procedure is carried out, the premises must comply with the *Public Health Act 1991* including the Guidelines on Skin Penetration (April 2008).

Office Use	
Complies	<input type="checkbox"/> Yes <input type="checkbox"/> No

CATEGORY 2 – CHANGE OF USE OF PREMISES

- Applicable Yes please answer the questions in the table below
 No please select another category

The following changes of use can occur as Complying Development:

- a bulky goods premises to another bulky goods premises, or
- a type of commercial premises to another type of commercial premises, or
- a light industry to another light industry, or
- a warehouse or distribution centre to another warehouse or distribution centre, or
- a light industry to a warehouse or distribution centre, or
- a warehouse or distribution centre to a light industry, or
- a light industry to an ancillary office, or
- a warehouse or distribution centre to an ancillary office

To be Complying Development, the development must meet all the following criteria:

CRITERIA	COMPLIES	
	Yes	N/A
a. The current use must be a lawful use and must be permissible on the land on which the premises are located.		
b. The new use must not be any of the following: <ul style="list-style-type: none"> i. a funeral chapel or funeral home ii. for the sale of firearms, landscape and garden supplies, timber and building supplies iii. vehicles sales or hire iv. a market or roadside stall v. a pub vi. restricted premises vii. sex services premises. 		
c. The new use must not result in a change of building use under the <i>Building Code of Australia</i> that is any of the following: <ul style="list-style-type: none"> i. from a class 5 or 6 building to a class 2, 3, 4, 7a, 7b, 8, 9a, 9b or 9c building ii. from a class 7b or 8 building to a class 2, 3, 4, 6, 7a, 9a, 9b or 9c building. 		
d. A change or use to an ancillary office within premises used for warehouse or distribution centre or for light industry must not exceed 20% of the gross floor area of the building.		
e. Conditions in respect to hours of operation, carparking and landscaping contained in the most recent Development Consent applying to the premises, are required to be complied with. Please nominate the applicable Development Consent No. _____		
f. If there are no existing conditions relating to the hours of operation, the following applies: Bulky Goods or Commercial Premises 7.00am to 10.00pm Monday to Saturday 7.00am to 8.00pm Sundays and Public Holidays		

CRITERIA	COMPLIES	
	Yes	N/A
<p>In Any Other Case 7.00am to 7.00pm Monday to Saturday No work on Sunday or Public Holidays</p>		
<p>g. If there is no existing condition relating to carparking, the use must comply with all carparking requirements contained in <i>Shellharbour Development Control Plan 2013</i> - Chapter 13 Parking Traffic and Transport.</p>		
<p>h. If the change of use involves an area of more than 500m² of bulky goods premises or commercial premises, or an area of more than 1,000m² of premises used for light industry or a warehouse or distribution centre, that area must:</p> <ul style="list-style-type: none"> i. comply with the requirements set out in DP2-DP5 of Volume 1 of the <i>Building Code of Australia</i>, and ii. comply with the number of sanitary and other facilities set out in FP2.1, FP2.5 and FP2.6 of Volume 1 of the <i>Building Code of Australia</i>, and iii. comply with the light and ventilation requirements set out in FP4.1 - FP4.5 of Volume 1 of the <i>Building Code of Australia</i>. 		
<p>i. If the building contains residential accommodation (class 2, 3 or 4), the altered area must be separated from the residential area by building elements that comply with the fire resistance performance requirements provided for in CP2 and CP 8 of Volume 1 of the <i>Building Code of Australia</i>.</p>		

Office Use	
Complies	<input type="checkbox"/> Yes <input type="checkbox"/> No

CATEGORY 3 - MECHANICAL VENTILATION SYSTEMS

Applicable Yes please answer the questions in the table below
 No please select another category

This category relates to the construction, installation or alteration of a mechanical ventilation system on a building that is used as bulky goods premises, commercial premises, premises for light industry or a warehouse or distribution centre provided it is not carried out on, or in relation to, a heritage item or a draft heritage item or at premises located on bushfire prone land.

To be Complying Development, the development must meet all the following criteria:

CRITERIA	COMPLIES	
	Yes	N/A
a. The development must be located at least 3.5m behind the building line from any lot boundary.		
b. The development must be designed so as not to emit noise exceeding LAeq of 5dB(A) above the background noise level when measured at any lot boundary.		
c. The development must be located not more than 1m above the ridge of a pitched roof or 3m above a flat roof.		
d. The development must not relate to the cooking of food at the premises by barbecue or charcoal methods.		
e. Any demolition necessary must be carried out in accordance with AS 2601-2001, The Demolition of Structures.		

Note: If the system is a *regulated system* within the meaning of the *Public Health Act 1991*, the system must comply with the requirements of that Act including AS/NZS 3666.1-2002, Air-Handling And Water Systems of Building - Microbial Control - Design Installation and Commissioning.

Office Use	
Complies	<input type="checkbox"/> Yes <input type="checkbox"/> No

CATEGORY 4 - SHOP FRONT AND AWNING ALTERATIONS

Applicable Yes please answer the questions in the table below
 No please select another category

Applies to shop fronts and awning on buildings used as bulky goods or commercial premises only.

To be Complying Development, the development must meet all the following criteria:

CRITERIA	COMPLIES	
	Yes	N/A
a. Must not increase the gross floor area of the building.		
b. Must not reduce the clear glass area of the shop front.		
c. Must not reduce the level of transparency of the shop front, such as by using obscure glazing.		
d. Must not reduce the existing level of access to the building for people with a disability.		
e. Any demolition must comply with AS 2601-2001, The Demolition of Structures.		

Office Use	
Complies	<input type="checkbox"/> Yes <input type="checkbox"/> No

CATEGORY 5 - SKYLIGHTS AND ROOF WINDOWS

Applicable Yes please answer the questions in the table below
 No please select another category

Applies to construction or installation on buildings that are used as bulky goods, commercial or light industry premises or as a warehouse or distribution centre, other than a premises located on bushfire prone land.

To be Complying Development, the development must meet all the following criteria:

CRITERIA	COMPLIES	
	Yes	N/A
a. Must be constructed or installed so that any opening created is adequately weather proofed.		
b. Any demolition must comply with AS 2601-2001, The Demolition of Structures.		

Office Use	
Complies	<input type="checkbox"/> Yes <input type="checkbox"/> No