



New South Wales

# **State Environmental Planning Policy (Exempt and Complying Development Codes) Amendment (Low Rise Medium Density Housing) 2017**

under the

**Environmental Planning and Assessment Act 1979**

His Excellency the Governor, with the advice of the Executive Council, has made the following State environmental planning policy under the *Environmental Planning and Assessment Act 1979*.

ANTHONY ROBERTS, MP  
Minister for Planning

## **State Environmental Planning Policy (Exempt and Complying Development Codes) Amendment (Low Rise Medium Density Housing) 2017**

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### **1 Name of Policy**

This Policy is *State Environmental Planning Policy (Exempt and Complying Development Codes) Amendment (Low Rise Medium Density Housing) 2017*.

### **2 Commencement**

This Policy commences 3 months after the day on which it is published on the NSW legislation website.

### **3 Repeal of Policy**

- (1) This Policy is repealed on the day following the day on which this Policy commences.
- (2) The repeal of this Policy does not, because of the operation of sections 5 (6) and 30 of the *Interpretation Act 1987*, affect any amendment made by this Policy.

## Schedule 1 Amendment of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008

### [1] Clause 1.5 Interpretation—general

Omit “dwelling house” from the definition of *attached development* in clause 1.5 (1).  
Insert instead “building that is residential accommodation”.

### [2] Clause 1.5 (1)

Omit the definitions of *gross floor area* and *principal private open space*.

Insert in alphabetical order:

*carport* means a roofed structure for the shelter of motor vehicles that has 2 or more sides open and not less than one-third of its perimeter open.

*gross floor area* has the same meaning as it has in the Standard Instrument. However, in Part 3 or 3B it means the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4m above the floor, and includes habitable rooms in a basement or an attic, but excludes the following:

- (a) any storage area, vehicular access area, loading area, garbage area or services located in a basement,
- (b) 1 car parking space per dwelling (including access to the parking space),
- (c) any terrace or balcony with outer walls less than 1.4m high,
- (d) voids above a floor at the level of a storey or storey above,
- (e) any common area intended to be used by occupants of the building to access dwellings on higher or lower storeys of the building such as a stairwell or lift shaft.

*Low Rise Medium Density Housing Code* means the code for complying development set out in Part 3B.

*Medium Density Design Guide* means the Medium Density Design Guide published by the Department of Planning and Environment on the day on which *State Environmental Planning Policy (Exempt and Complying Development Codes) Amendment (Low Rise Medium Density Housing) 2017* commences.

**Note.** A copy of the Guide is available on the website of the Department.

*principal private open space* means an area outside a dwelling that is directly accessible from, and adjacent to, a habitable room in the dwelling, other than a bedroom.

### [3] Clause 1.5 (1), definition of “complying development code”

Insert after paragraph (b):

- (b1) Low Rise Medium Density Housing Code,

### [4] Clause 1.5 (1), definition of “corner lot”

Insert “(other than a lane)” after “road or roads”.

### [5] Clause 1.5 (1), definition of “detached development”.

Omit “dwelling house”. Insert instead “building that is residential accommodation”.

- [6] **Clause 1.5 (1), definition of “floor area for a balcony, deck, patio, pergola, terrace or verandah”**  
Insert “, 3B” after “3A”.
- [7] **Clause 1.19 Land on which complying development may not be carried out**  
Insert “, Low Rise Medium Density Housing Code” after “for Housing Code” in the heading to clause 1.19 (1).
- [8] **Clause 1.19 (1)**  
Insert “, the Low Rise Medium Density Housing Code” after “the Housing Code”.
- [9] **Clause 1.19 (2)**  
Insert “or the Low Rise Medium Density Housing Code” after “Housing Code”.
- [10] **Clause 1.19 (3A)**  
Insert after clause 1.19 (3):  
(3A) Development specified in the Low Rise Medium Density Housing Code is not complying development under that code if it is carried out on land on which there is a heritage item or a draft heritage item.
- [11] **Clause 2.20 Development standards**  
Omit clause 2.20 (1) (f).
- [12] **Clause 2.20 (1), note**  
Insert after clause 2.20 (1) (n):  
**Note.** See the definition of *carport* in clause 1.5 (1) that sets out additional requirements for carports.
- [13] **Clause 3.13 Minimum landscaped area**  
Insert after clause 3.13 (4):  
(4A) The principal private open space must:  
(a) be at least 3m wide and 3m long, and  
(b) not be steeper than 1:50 gradient.
- [14] **Clause 3.23 Other development standards for detached garages and carports**  
Omit clause 3.23 (4).
- [15] **Clause 3.27 Minimum landscaped area**  
Insert after clause 3.27 (4):  
(4A) The principal private open space must:  
(a) be at least 3m wide and 3m long, and  
(b) not be steeper than 1:50 gradient.
- [16] **Clause 3.28 Development standards for swimming pools**  
Omit “, principal private open space” from Note 1.

**[17] Clause 3A.25**

Omit the clause. Insert instead:

**3A.25 Principal private open space**

A lot in Zone RU5 that has an area of less than 4,000m<sup>2</sup> and on which a new dwelling house is erected must have principal private open space that:

- (a) is at least 24m<sup>2</sup>, and
- (b) is at least 3m wide, and
- (c) is not steeper than 1:50 gradient.

**[18] Part 3B**

Insert after Part 3A:

**Part 3B Low Rise Medium Density Housing Code**

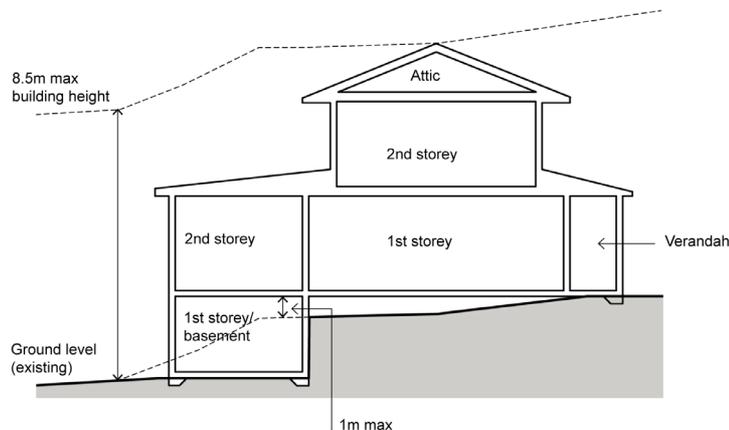
**Note 1.** Clause 1.18 (1) (b) states that to be complying development for the purposes of this Policy the development must be permissible with consent under an environmental planning instrument applying to the land on which the development is carried out.

**Note 2.** In addition to the requirements specified for development under this code, adjoining owners' property rights, the applicable common law and other legislative requirements for approvals, licences, permits and authorities still apply. For example, requirements relevant to development in this code may be contained in the Act, the *Environmental Planning and Assessment Regulation 2000*, various State environmental planning policies, the *Protection of the Environment Operations Act 1997*, the *Roads Act 1993*, the *Swimming Pools Act 1992* and Acts applying to various infrastructure authorities. If the development is in proximity to infrastructure, including water, stormwater and sewer mains, electricity power lines and telecommunications facilities, the relevant infrastructure authority should be contacted before commencing the development.

**Division 1 Requirements for complying development under this code**

**3B.1 Development that can be complying development under this code**

- (1) The erection or alteration of, or addition to, any of the following can be complying development under this code:
  - (a) any 1 or 2 storey dual occupancy, manor house or multi dwelling housing (terraces),
  - (b) any attached development or detached development related to any building referred to in paragraph (a).
- (2) For the purposes of calculating the number of storeys in a building for the purposes of this code, only those parts of a basement that comprise habitable rooms are to be counted as a storey.



(3) **Lot requirements**

Complying development specified for this code may only be carried out on a lot that meets the following requirements:

- (a) the lot must be in Zone RU5, Zone R1, Zone R2 or Zone R3,
- (b) the lot must have lawful access to a public road at the completion of the development.

(4) **Erection of attached development and detached development**

Attached development or detached development may be erected on a lot:

- (a) if a dual occupancy, manor house or multi dwelling housing (terraces) exists on the lot, or
- (b) if there is a current development consent or complying development certificate for the construction of a dual occupancy, manor house or multi dwelling housing (terraces) on the lot.

**Note 1. Complying development certificate** has the same meaning as it has in the Act.

**Note 2.** Clauses 1.17A, 1.18 and 1.19 (1) set out additional requirements for complying development.

**3B.2 Development that is not complying development under this code**

The following development is not complying development under this code:

- (a) the erection or alteration of, or an addition to, a roof terrace on the top most roof of a building,
- (b) development that is complying development under the Housing Alterations Code,
- (c) development on a battle-axe lot,
- (d) development that is attached to a secondary dwelling or group home,
- (e) the erection of a building over a registered easement,
- (f) the alteration of, or an addition to, a garage or carport that is located forward of the building line,
- (g) the erection of multi dwelling housing (terraces) on bush fire prone land.

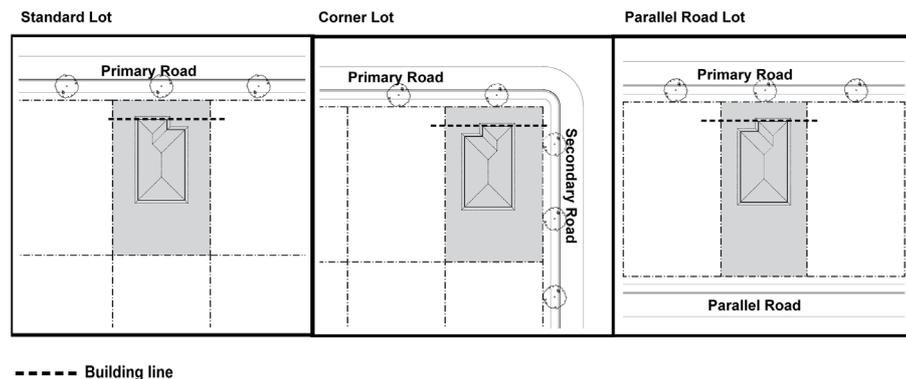
### 3B.3 Determining lot type

In this code, a reference to a lot is a reference to any of the following lots:

- (a) standard lot,
- (b) corner lot,
- (c) parallel road lot.

**Note 1.** *Corner lot, lane, parallel road lot* and *standard lot* are defined in clause 1.5.

**Note 2.** A lot that adjoins a lane is not a parallel road lot or a corner lot. The lot type depends on which other roads it fronts (if any).



### 3B.4 Complying development on bush fire prone land

- (1) This clause does not apply to the following complying development under this code:
  - (a) a non-habitable detached development that is more than 10m from any residential accommodation,
  - (b) a landscaped area,
  - (c) a non-combustible fence,
  - (d) a swimming pool.
- (2) If complying development under this code is carried out on bush fire prone land, all of the following development standards also apply:
  - (a) the development will not be carried out on any part of the lot that is bush fire attack level-40 (BAL-40) or in the flame zone (BAL-FZ),
  - (b) the lot on which the development is to be carried out must have direct access to a public road or a road vested in or maintained by the council,
  - (c) the dual occupancy or manor house must be able to be connected to mains electricity,
  - (d) if reticulated or bottled gas is installed and maintained on the lot:
    - (i) it must be installed and maintained in accordance with AS/NZS 1596:2008, *The storage and handling of LP Gas*, and
    - (ii) the storage and handling of any LP gas on the lot must comply with the requirements of the relevant authorities (including the use of metal piping),
  - (e) any gas cylinder stored on the lot within 10m of any dwelling must:
    - (i) have its release valves directed away from the dwelling, and
    - (ii) be enclosed on the hazard side of the installation, and

- (iii) have metal connections to and from the cylinder,
- (f) there must not be any polymer sheathed flexible gas supply lines to gas meters adjacent to the dual occupancy,
- (g) if the development is carried out on a lot in Zone RU5, there must be:
  - (i) a reticulated water supply connection to the lot and a fire hydrant within 60m of any part of the development, or
  - (ii) a 10,000 L capacity water tank on the lot,
- (h) if the development is carried out on a lot in any zone other than Zone RU5, there must be:
  - (i) a reticulated water supply connection to the lot, and
  - (ii) a fire hydrant within 60m of any part of the development,
- (i) the development must comply with the requirements of all of the following:
  - (i) *Planning for Bush Fire Protection* (ISBN 0 9751033 2 6) published by the NSW Rural Fire Service in December 2006,
  - (ii) Addendum: Appendix 3 (published by NSW Rural Fire Service in 2010) to *Planning for Bush Fire Protection* (ISBN 0 9751033 2 6),
  - (iii) AS 3959–2009, *Construction of buildings in bushfire-prone areas*,
  - (iv) any other document required by the *Environmental Planning and Assessment Regulation 2000* (in accordance with section 79BA of the Act).

**Note 1. Attached development, bush fire attack level-40 (BAL-40), council, detached development and flame zone (BAL-FZ)** are defined in clause 1.5.

**Note 2. Bush fire prone land, landscaped area, road and swimming pool** have the same meanings as they have in the Standard Instrument.

- (3) A development standard specified in subclause (2) (a) is satisfied if the council or a person who is recognised by the NSW Rural Fire Service as a suitably qualified consultant in bush fire risk assessment certifies that the development is not in bush fire attack level-40 (BAL-40) or the flame zone (BAL-FZ).

### **3B.5 Complying development on flood control lots**

- (1) Development under this code must not be carried out on any part of a flood control lot, other than a part of the lot that the council or a professional engineer who specialises in hydraulic engineering has certified, for the purposes of the issue of the relevant complying development certificate, as not being any of the following:
  - (a) a flood storage area,
  - (b) a floodway area,
  - (c) a flow path,
  - (d) a high hazard area,
  - (e) a high risk area.
- (2) If complying development under this code is carried out on any part of a flood control lot, the following development standards also apply in addition to any other development standards:
  - (a) if there is a minimum floor level adopted in a development control plan by the relevant council for the lot, the development must not cause any habitable room to have a floor level lower than that floor level,

- (b) any part of a building that is erected at or below the flood planning level is constructed of flood compatible material,
  - (c) any part of a building that is erected is able to withstand the forces exerted during a flood by water, debris and buoyancy up to the flood planning level (or if an on-site refuge is provided on the lot, the probable maximum flood level),
  - (d) the development must not result in increased flooding elsewhere in the floodplain,
  - (e) the lot must have pedestrian and vehicular access to a readily accessible refuge at a level equal to or higher than the lowest habitable floor level of the dual occupancy, manor house or multi dwelling housing (terraces),
  - (f) vehicular access to any dwelling will not be inundated by water to a level of more than 0.3m during a 1:100 ARI (average recurrent interval) flood event,
  - (g) the lot must not have any open car parking spaces or carports lower than the level of a 1:20 ARI (average recurrent interval) flood event.
- (3) The requirements under subclause (2) (c) and (d) are satisfied if a joint report by a professional engineer specialising in hydraulic engineering and a professional engineer specialising in civil engineering states that the requirements are satisfied.

(4) A word or expression used in this clause has the same meaning as it has in the *Floodplain Development Manual*, unless it is otherwise defined in this Policy.

(5) In this clause:

***flood compatible material*** means building materials and surface finishes capable of withstanding prolonged immersion in water.

***flood planning level*** means:

- (a) the flood planning level adopted by a local environmental plan applying to the lot, or
- (b) if a flood planning level is not adopted by a local environmental plan applying to the lot, the flood planning level adopted in a development control plan by the relevant council for the lot.

***Floodplain Development Manual*** means the *Floodplain Development Manual* (ISBN 0 7347 5476 0) published by the NSW Government in April 2005.

***flow path*** means a flow path identified in the council's flood study or floodplain risk management study carried out in accordance with the *Floodplain Development Manual*.

***high hazard area*** means a high hazard area identified in the council's flood study or floodplain risk management study carried out in accordance with the *Floodplain Development Manual*.

***high risk area*** means a high risk area identified in the council's flood study or floodplain risk management study carried out in accordance with the *Floodplain Development Manual*.

**Note 1.** ***Council, flood control lot, habitable room*** and ***professional engineer*** are defined in clause 1.5.

**Note 2.** A section 149 certificate from a council will state whether or not a lot is a flood control lot.

### **3B.6 Development standards for land near Siding Spring Observatory**

- (1) If complying development under this code is carried out on land in the local government area of Coonamble, Gilgandra, Warrumbungle Shire or that part of the local government area of Dubbo Regional that was formerly in the City of Dubbo, the development standards in this clause also apply in addition to any other development standards.
- (2) Complying development specified for this code may only be carried out if it does not result in residential accommodation on land in the local government area of:
  - (a) Coonamble, Gilgandra, Warrumbungle Shire or that part of the local government area of Dubbo Regional that was formerly in the City of Dubbo with an outside light fitting other than a shielded light fitting, and
  - (b) Coonamble, Gilgandra or Warrumbungle Shire with more than 7 shielded outside light fittings or more than 5 such light fittings that are not automatic light fittings.

## **Division 2 Development standards for certain dual occupancies and attached development**

### **Subdivision 1 Application of Division**

#### **3B.7 Application of Division**

This Division sets out the development standards that apply to the following types of complying development under this code:

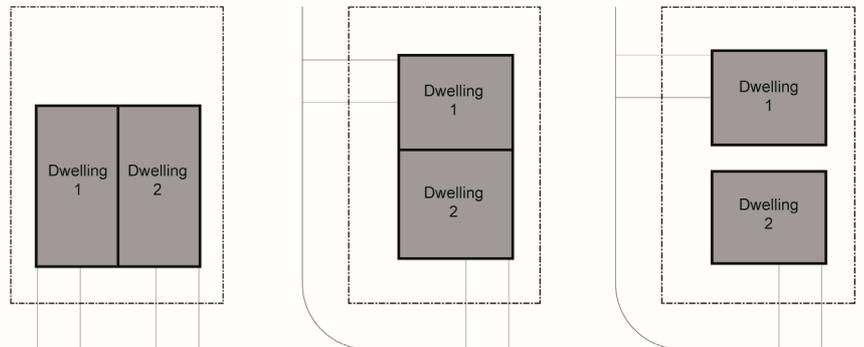
- (a) the erection or alteration of, or an addition to, a dual occupancy where no part of a dwelling is located above any part of another dwelling,
- (b) the erection or alteration of, or addition to, attached development that is related to any such dual occupancy.

**Note.** Clauses 1.17A, 1.18 and 1.19 (1) set out additional requirements for complying development.

### **Subdivision 2 Built form development standards**

#### **3B.8 Lot requirements**

- (1) The area of the lot must not be less than whichever is the greater of the following:
  - (a) 400m<sup>2</sup>,
  - (b) the minimum lot area specified for dual occupancies in the environmental planning instrument that applies to the land concerned.
- (2) The width of the lot must not be less than 12m measured at the building line.  
**Note.** See clause 1.18.



Certain attached dual occupancies (where no part of the dwelling is located above any part of another dwelling) on a standard lot

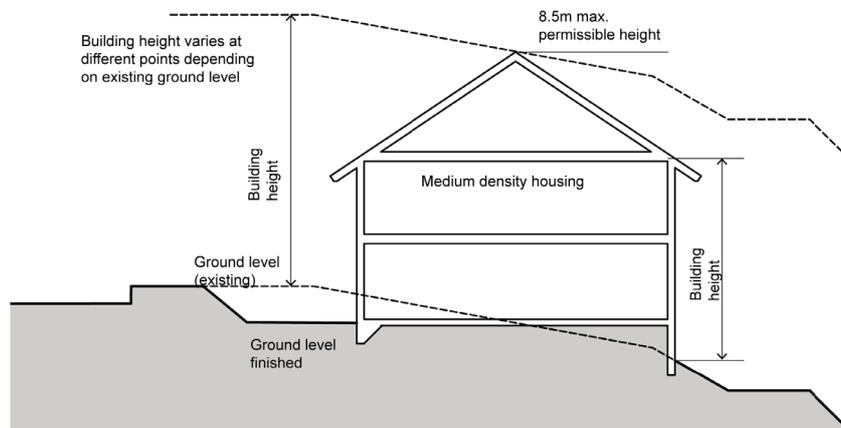
Certain attached dual occupancies (where no part of the dwelling is located above any part of another dwelling) on a corner lot

Certain detached dual occupancies (where no part of the dwelling is located above any part of another dwelling) on a corner lot

### 3B.9 Maximum building height

The maximum height for a dual occupancy and any attached development is 8.5m above ground level (existing).

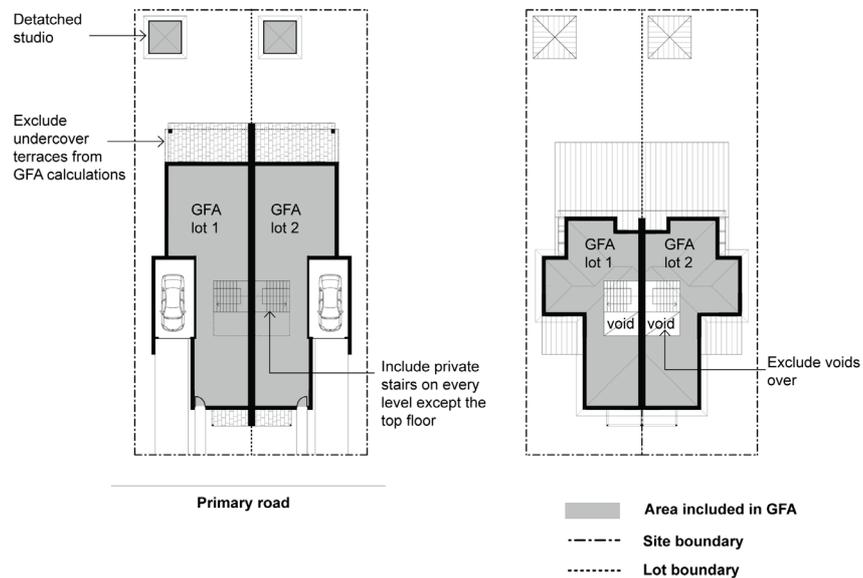
**Note. Ground level (existing)** is defined in the Standard Instrument as the existing level of a site at any point.



### 3B.10 Maximum gross floor area of all buildings

The maximum gross floor area of all buildings on a lot is shown in the following table:

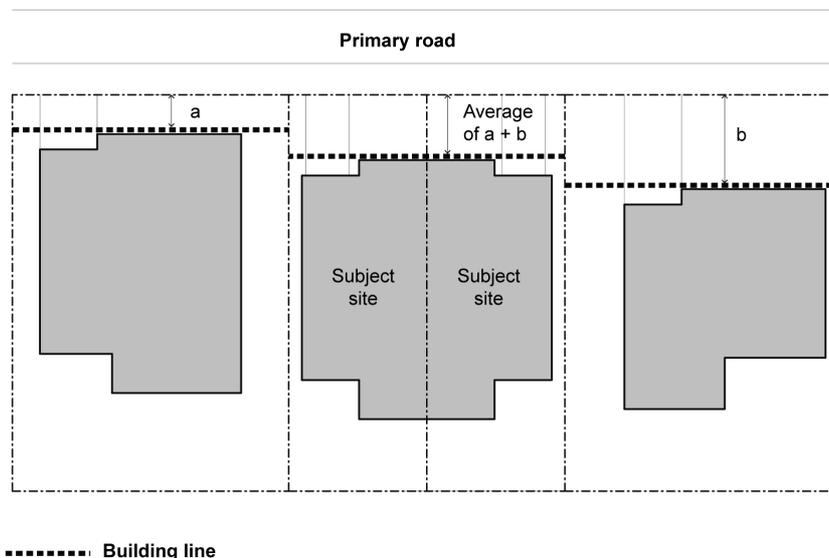
Lot area	Maximum GFA
400m <sup>2</sup> –2,000m <sup>2</sup>	25% of lot area + 300m <sup>2</sup>
>2,000m <sup>2</sup>	800m <sup>2</sup>



### 3B.11 Minimum setbacks and maximum height and length of boundary walls

#### (1) Primary road setbacks

The setback of a dual occupancy and any attached development from a primary road must not be less than the average setback from the primary road of the 2 nearest dwelling houses or dual occupancies within 40m of the lot and on the same side of the primary road.



**Note.** Clause 3B.12 contains certain exclusions from, and exceptions to, the setbacks in this clause.

- (2) For the purpose of determining the setbacks from the primary road of the 2 nearest dwelling houses or dual occupancies, the following are not to be included:
- (a) dwelling houses or dual occupancies on battle-axe lots,
  - (b) any attached development or detached development on other lots,
  - (c) building elements in the articulation zone.
- (3) If there are not 2 dwelling houses or dual occupancies within 40m of the lot on the same side of the primary road, the dual occupancy and any attached development must have a minimum setback from the boundary with the primary road as shown in the following table:

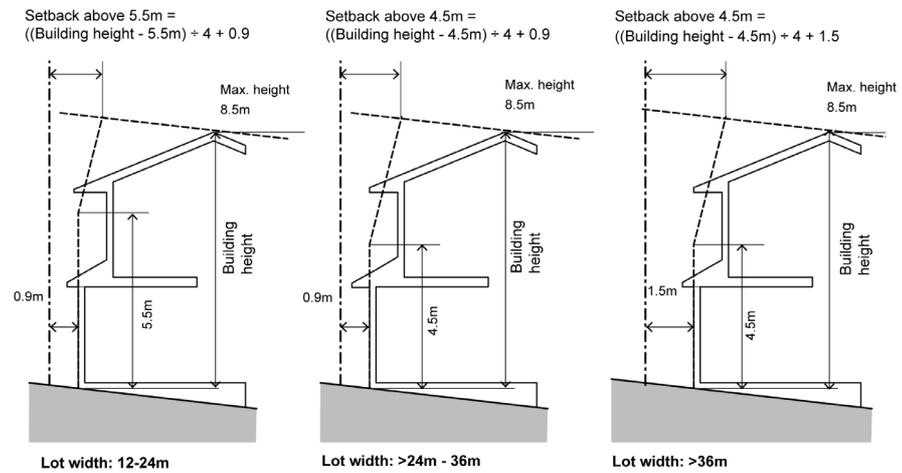
Lot area	Minimum setback from primary road boundary
400m <sup>2</sup> –900m <sup>2</sup>	4.5m
>900m <sup>2</sup> –1,500m <sup>2</sup>	6.5m
>1,500m <sup>2</sup>	10m

(4) **Side setbacks**

The following buildings must have a minimum setback from a side boundary as shown in the table to this subclause:

- (a) a dual occupancy,
- (b) a garage or an attached carport,
- (c) a balcony, deck, patio, pergola, terrace or verandah,
- (d) a cabana, cubby house, garden shed, gazebo, fernery, greenhouse or shed.

Lot width at the building line	Building height	Minimum required setback from each side boundary
12m–24m	0m–4.5m	0.9m
12m–24m	>4.5m–8.5m	(building height–4.5m) ÷ 4 + 0.9m
>24m–36m	0m–4.5m	1.5m
>24m–36m	>4.5m–8.5m	(building height–4.5m) ÷ 4 + 1.5m
>36m	0m–8.5m	2.5m

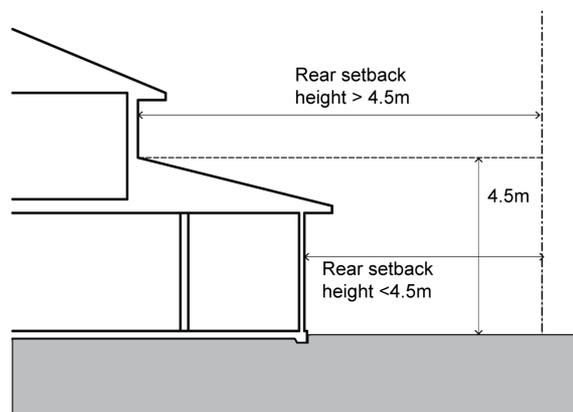


(5) **Rear setbacks**

Each part of a dual occupancy (other than a dual occupancy on a corner lot) and any carport, garage, balcony, deck, patio, pergola, terrace or verandah must have a minimum setback from the rear boundary as shown in the following table:

Lot area	Height of building part	Minimum setback from rear boundary
400m <sup>2</sup> –900m <sup>2</sup>	0m–4.5m	3m
400m <sup>2</sup> –900m <sup>2</sup>	>4.5m–8.5m	8m
>900m <sup>2</sup> –1,500m <sup>2</sup>	0m–4.5m	5m
>900m <sup>2</sup> –1,500m <sup>2</sup>	>4.5m–8.5m	12m
>1,500m <sup>2</sup>	0m–4.5m	10m
>1,500m <sup>2</sup>	>4.5m–8.5m	15m

**Note.** Certain exceptions to the rear setbacks apply if the lot has a rear boundary with a lane (see clause 3B.12 (4)).

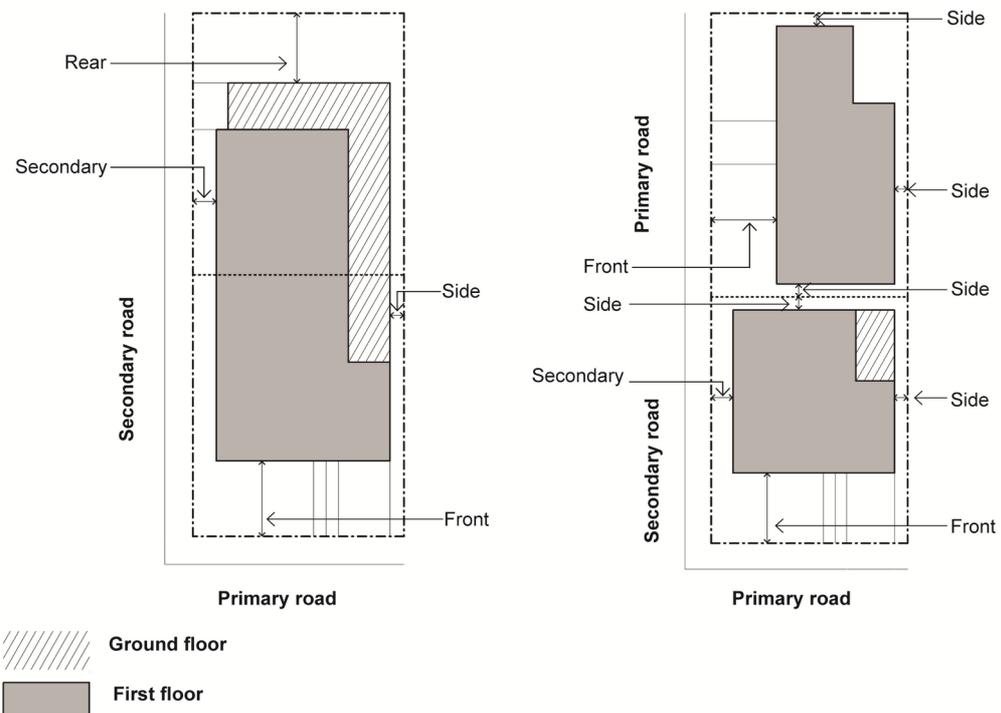


**(6) Secondary road setbacks for corner lots**

Despite any other setback specified in this clause, a dual occupancy and any attached development must have a minimum setback from a boundary with a secondary road as shown in the following table:

Lot area	Minimum setback from secondary road boundary
400m <sup>2</sup> –900m <sup>2</sup>	2m
>900m <sup>2</sup> –1,500m <sup>2</sup>	3m
>1,500m <sup>2</sup>	5m

**Note.** In many cases the primary road and secondary road may be different for each of the dwellings comprising a dual occupancy (detached) on a corner lot. This is because for each dwelling the primary road is the road that the dwelling faces. Accordingly, the setbacks for each of these dwellings will not necessarily align.



**(7) Dual occupancy (detached) on a corner lot**

If a dual occupancy on a corner lot has dwelling fronting different roads, the rear of each dwelling is to be treated as a side for the purposes of determining the setbacks required under this clause.

**(8) Parallel road setbacks for parallel road lots**

Despite any other setback specified in this clause, a dual occupancy and any attached development must have a setback from a boundary with a parallel road of at least 3m unless, in the case of a dual occupancy (attached), 1 of the

dwellings in the dual occupancy faces the parallel road, in which case the setback must be the same as if the parallel road were a primary road.

**Note.** The primary road and parallel road may be different for each of the dwellings comprising a dual occupancy (detached) if the dwellings face in opposite directions. This is because for each dwelling the primary road is the road that the dwelling faces.

(9) **Classified road setbacks**

Despite any other setback specified in this clause, a dual occupancy and any attached development must have a setback from a boundary with a classified road of at least 9m.

(10) **Public reserve setbacks**

Despite any other setback specified in this clause, a dual occupancy and any attached development must have a setback from a boundary with a public reserve of at least 3m.

**Note 1.** *Articulation zone, attached development, battle-axe lot, boundary wall, building element, building line, detached development, dwelling house, lane, primary road, setback* and *standard lot* are defined in clause 1.5.

**Note 2.** *Building height* and *classified road* have the same meanings as they have in the Standard Instrument.

**3B.12 Exceptions to setbacks**

(1) **Development to which side and rear setbacks do not apply**

The setback standards specified in clause 3B.11 (4) and (5) do not apply to the following:

- (a) access ramps,
- (b) downpipes,
- (c) driveways or hard stand spaces,
- (d) electricity or gas meters,
- (e) fascias,
- (f) fences,
- (g) gutters,
- (h) light fittings,
- (i) pathways and paving.

(2) **Development to which side and rear setbacks do not apply if 450mm from boundary**

The setback standards specified in clause 3B.11 (4) and (5) do not apply to the following if they are at least 450mm from the relevant boundary:

- (a) aerials,
- (b) antennae,
- (c) awnings,
- (d) chimneys,
- (e) cooling or heating appliances,
- (f) eaves,
- (g) flues,
- (h) pipes,
- (i) privacy screens,
- (j) rainwater tanks,

(k) structures associated with the provision of a utility service.

(3) **Development to which road setbacks do not apply**

The setback standards specified in clause 3B.11 (1), (3), (6), (8) and (9) do not apply to the following:

- (a) access ramps,
- (b) driveways,
- (c) eaves,
- (d) pathways and paving,
- (e) retaining walls,
- (f) any building elements that are permitted within a primary road articulation zone.

(4) **Lots with rear lanes**

Despite clause 3B.11 (5), if the lot has a rear boundary with a lane, a building to which that subclause applies may be erected within 900mm of, or abut, the rear boundary for a maximum length of 7m.

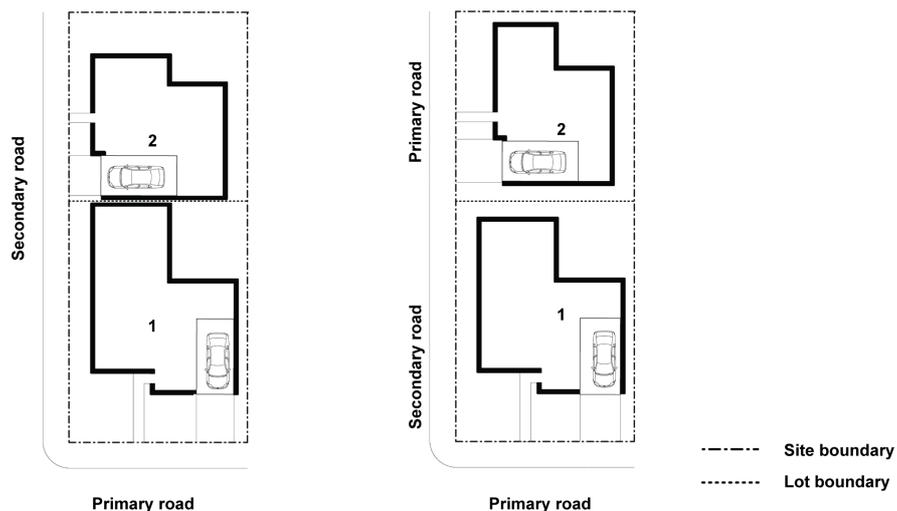
(5) **Setbacks do not apply to existing parts of dual occupancy or attached development**

The setbacks standards specified in clause 3B.11 do not apply to any existing parts of a dwelling house, dual occupancy or attached development that will remain on a lot after the complying development is carried out.

**Note.** *Articulation zone, attached development, dwelling house, primary road and setback* are defined in clause 1.5.

**3B.13 Dwelling configuration on lot**

- (1) Each dwelling must face a public road.
- (2) No dwelling must be located behind another dwelling on the same lot (except on a corner lot).



- (3) The 2 buildings comprising a dual occupancy (detached) (including any attached development) must be located at least 3m from each other.

- (4) Each dwelling must have a minimum width (measured at the building line) of 5m.
- (5) The width of a dwelling is to be measured from the centre of a side wall if that wall adjoins another building or from the outside of the side wall if that wall is an external wall.

**3B.14 Other development standards for new balconies, decks, patios, terraces and verandahs attached to side or rear of dual occupancy**

- (1) The maximum height of the floor level of the balcony, deck, patio, terrace or verandah is 4m.
- (2) Any attached side or rear balcony, deck, patio, terrace or verandah that has a floor level of more than 2m above ground level (existing) must have a setback from side and rear boundaries of at least 3m.
- (3) The total floor area of all attached decks having a floor level of more than 2m above ground level (existing) must not be more than 12m<sup>2</sup>.

**Note 1.** *Attached*, *building line* and *floor area* are defined in clause 1.5.

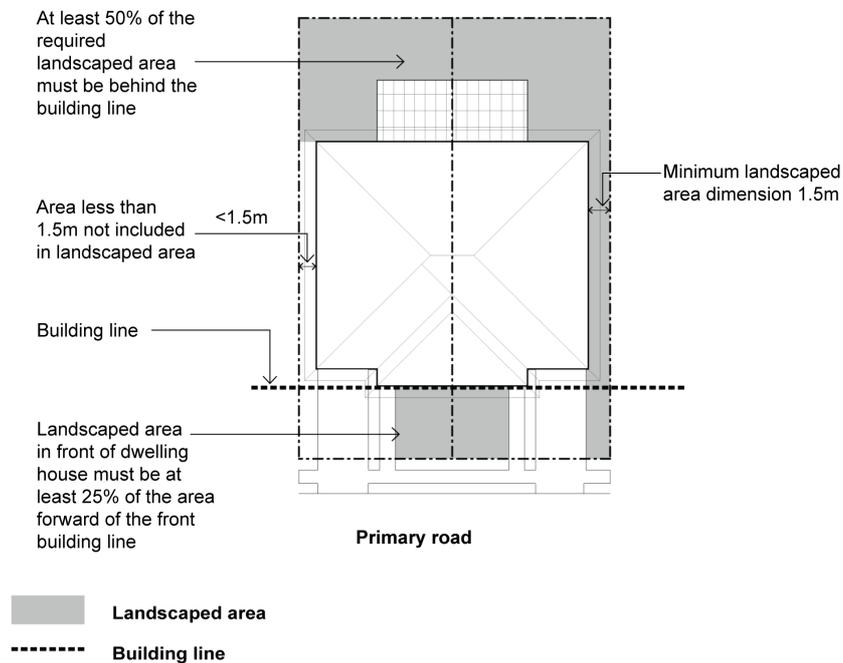
**Note 2.** *Ground level (existing)* has the same meaning as it has in the Standard Instrument.

**Note 3.** A balcony may require a privacy screen—see clause 3B.17.

### **Subdivision 3 Landscape development standards**

**3B.15 Minimum landscaped area**

- (1) The minimum landscaped area that must be provided for each dwelling on a lot is 50% of lot area minus 100m<sup>2</sup>.
- (2) At least 25% of the area of the lot forward of the building line must be landscaped.
- (3) Each landscaped area must have:
  - (a) a minimum width of 1.5m, and
  - (b) a minimum length of 1.5m.



- (4) Principal private open space must be provided for each dwelling that:
- is at least 16m<sup>2</sup>, and
  - is at least 3m wide.
- (5) This clause does not apply to complying development that is the alteration of, or addition to, a dual occupancy or attached development if the development does not:
- increase the footprint of the dual occupancy or attached development, or
  - decrease the landscaped area on the lot, or
  - decrease the principal private open space for a dwelling.

**Note 1.** *Building line* and *principal private open space* are defined in clause 1.5.

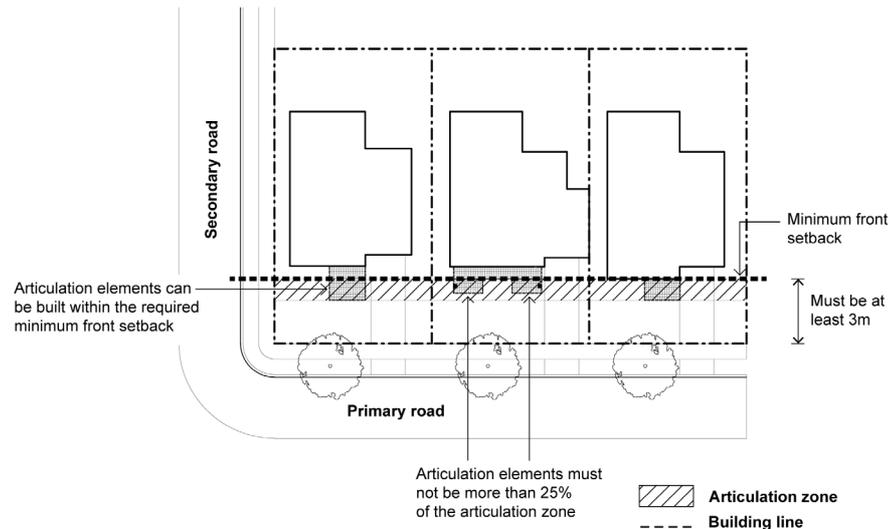
**Note 2.** *Landscaped area* has the same meaning as it has in the Standard Instrument.

#### Subdivision 4 Amenity development standards

##### 3B.16 Primary and secondary road articulation zones

- A dual occupancy may have a primary road articulation zone and a secondary road articulation zone that each extend up to 1.5m forward of the minimum required setback from the primary road or secondary road.
- The following building elements can be located in the primary road articulation zone or secondary road articulation zone:
  - an entry feature or portico,
  - a balcony, deck, pergola, terrace or verandah,
  - a window box treatment,
  - a bay window or similar feature,
  - an awning or other feature over a window,

- (f) a sun shading feature,
  - (g) an eave,
  - (h) an access ramp.
- (3) The maximum total area of all building elements in the articulation zone, other than a building element specified in subclause (2) (e), (f), (g) or (h), must not comprise more than 25% of the area of the articulation zone.



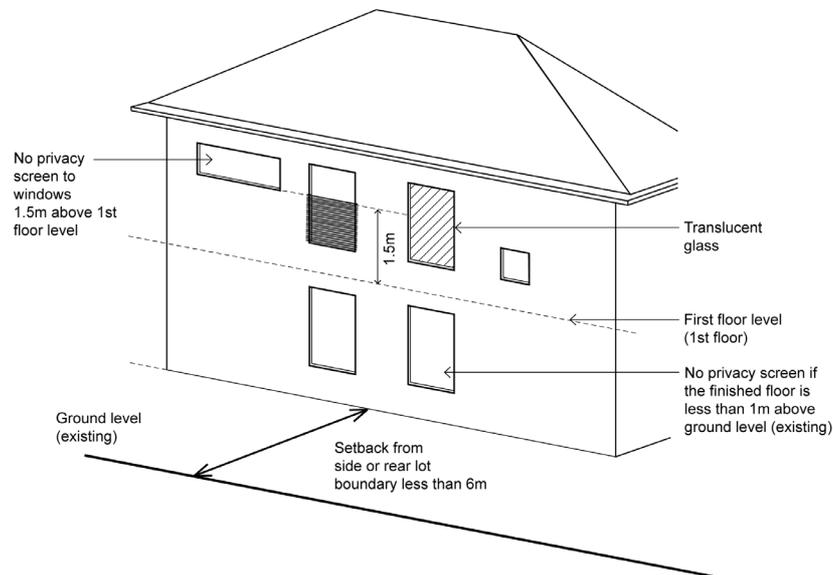
- (4) Each habitable room that has a wall facing a road must have a window in that wall.
- Note.** *Articulation zone*, *building element*, *primary road*, *secondary road* and *setback* are defined in clause 1.5.

### 3B.17 Privacy screens for windows and certain attached development

#### (1) Windows in habitable rooms near boundaries or other dwellings

A window in a habitable room must have a privacy screen over any part of that window that is less than 1.5m above the floor level of the room in the following cases:

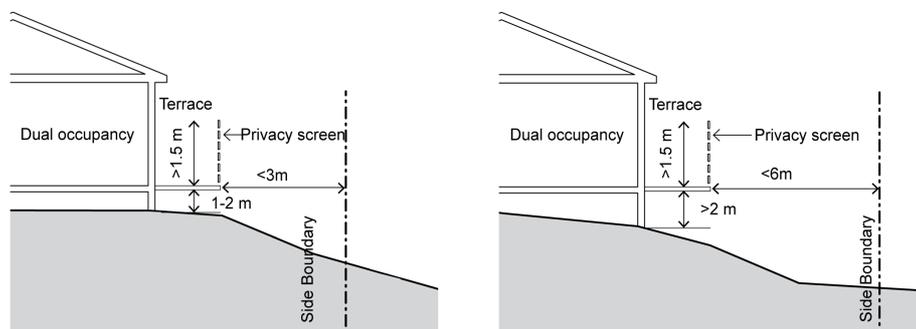
- (a) the floor level of the habitable room is 1m or more, but not more than 3m, above ground level (existing) and the window faces a side or rear boundary and is less than 3m from that boundary,
- (b) the floor level of the habitable room is more than 3m above ground level (existing) and the window faces a side or rear boundary and is less than 6m from that boundary,
- (c) the floor level of the habitable room is 1m or more, but not more than 3m, above ground level (existing) and the window faces a dwelling on the same lot and is less than 6m from that dwelling,
- (d) the floor level of the habitable room is more than 3m above ground level (existing) and the window faces a dwelling on the same lot and is less than 12m from that dwelling.



- (2) Subclause (1) does not apply to:
- (a) a habitable room with a floor level not more than 1m above ground level (existing), or
  - (b) a window that faces a road or public space, or
  - (c) a bedroom window that has an area of not more than 2m<sup>2</sup>.
- (3) **Balconies, decks, patios, terraces or verandahs near boundaries or other dwellings**

The edge of a balcony, deck, patio, terrace or verandah must have a privacy screen with a height of at least 1.5m above the floor level of a balcony, deck, patio, terrace or verandah in the following cases:

- (a) the floor level of the balcony, deck, patio, terrace or verandah is 1m or more, but not more than 3m, above ground level (existing) and the edge faces a side or rear boundary and is less than 3m from that boundary,
- (b) the floor level of the balcony, deck, patio, terrace or verandah is more than 3m above ground level (existing) and the edge faces a side or rear boundary and is less than 6m from that boundary,
- (c) the floor level of the balcony, deck, patio, terrace or verandah is 1m or more, but not more than 2m, above ground level (existing) and the edge faces a dwelling on the same lot and is less than 6m from that dwelling,
- (d) the floor level of the balcony, deck, patio, terrace or verandah is more than 2m above ground level (existing) and the edge faces a dwelling on the same lot and is less than 12m from that dwelling.



- (4) Subclause (3) does not apply to a balcony, deck, patio, terrace or verandah:
- with a floor level not more than 1m above ground level (existing), or
  - that faces a road or public space, or
  - that has an area of not more than 2m<sup>2</sup>.

(5) **Existing windows, balconies, decks, patios, terraces or verandahs**

This clause does not apply to any existing parts of a dwelling house, dual occupancy or attached development that will remain on the lot after the complying development is carried out.

**Note 1. Habitable room** and **privacy screen** are defined in clause 1.5.

**Note 2. Ground level (existing)** has the same meaning as it has in the Standard Instrument.

**3B.18 Car parking and vehicle access requirements**

- This clause applies to:
  - the erection of a dual occupancy, or
  - the alteration of, or addition to, a dwelling house that causes a dual occupancy to be on the lot.
- At least 1 off-street car parking space must be provided for each dwelling.
- The off-street car parking space may be an open hard stand space or a carport or garage, whether attached to or detached from the dual occupancy.
- All off-street car parking spaces and vehicle access must comply with AS/NZS 2890.1:2004, *Parking facilities, Part 1: Off-street car parking*.
- In the case of a lot that has a width of less than 15m measured at the building line any car parking space must be provided at the rear of the lot or in a basement and must be accessed only from a secondary road, parallel road or lane.
- A garage, carport or car parking space at ground level (existing) and accessed from a primary road, secondary road or parallel road must have a minimum setback as shown in the following table:

Setback of dual occupancy from primary road	Minimum off-street parking setback from road
0–4.5m	5.5m
>4.5m	1m or more behind the building line of the dual occupancy

- (7) The maximum width of all garage doors accessed from a primary road is shown in the following table:

<b>Lot width</b>	<b>Maximum width of garage door openings</b>
12m–15m	3.2m
>15m–20m	6m
>20m–25m	9.2m
>25m	12m

**Note 1.** *Attached, building line, detached, hard stand space, lane, parallel road, primary road, secondary road* and *setback* are defined in clause 1.5.

**Note 2.** Clause 2.28 applies to the construction or installation of a driveway as exempt development.

**Note 3.** Alterations or additions to a garage or carport that is forward of the building line is not complying development under this code (see clause 3B.2 (g)).

### **3B.19 Building design**

- (1) The design of a dual occupancy must be consistent with the relevant design criteria in the Medium Density Design Guide.
- (2) However, the requirements of this Part prevail to the extent that the Guide is inconsistent with this Part.

## **Division 3 Development standards for manor houses, certain dual occupancies and attached development**

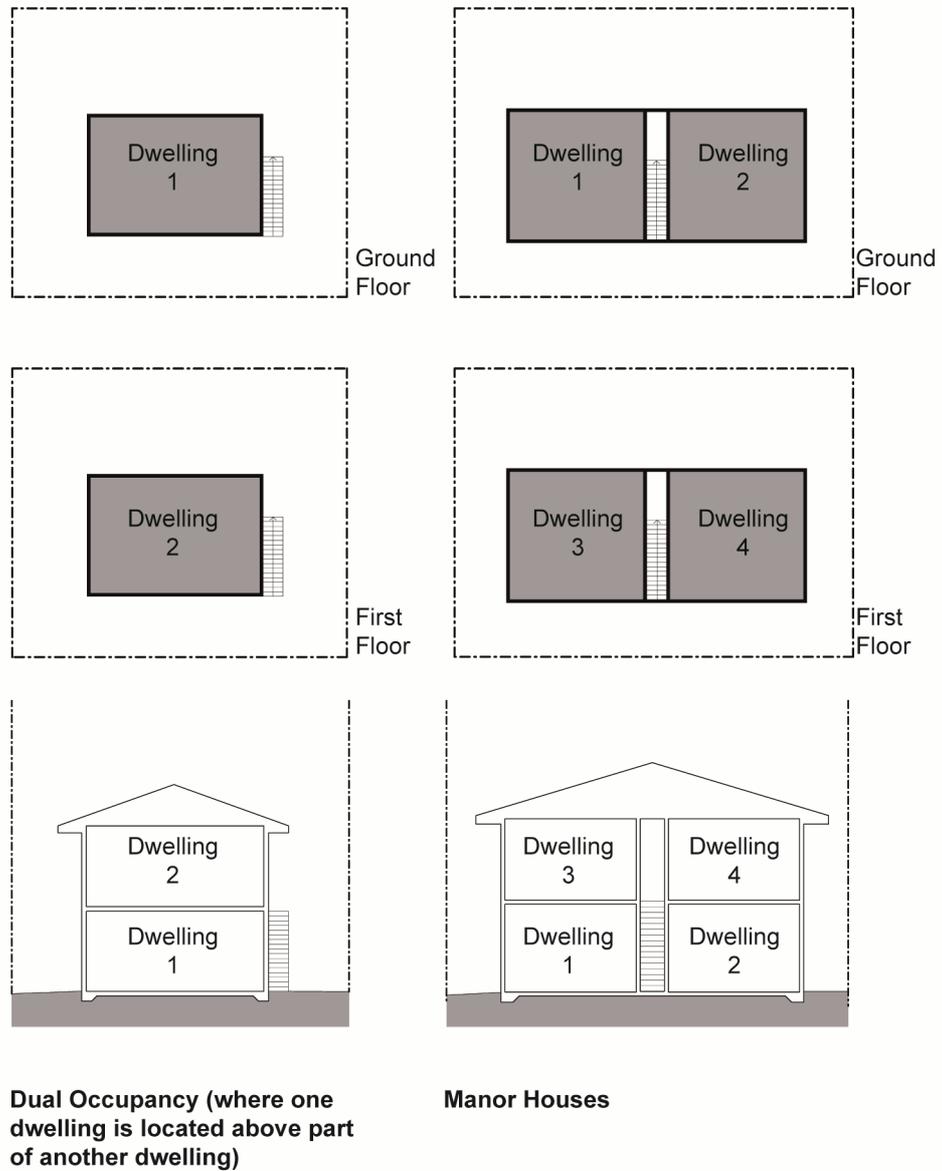
### **Subdivision 1 Application of Division**

#### **3B.20 Application of Division**

This Division sets out the development standards that apply to the following types of complying development under this code:

- (a) the erection or alteration of, or an addition to, a manor house,
- (b) the erection or alteration of, or an addition to, a dual occupancy (attached) where part of a dwelling is located above part of another dwelling,
- (c) the erection or alteration of, or addition to, attached development that is related to any such dual occupancy or manor house.

**Note.** Clauses 1.17A, 1.18 and 1.19 (1) set out additional requirements for complying development.



## Subdivision 2 Built form development standards

### 3B.21 Lot requirements

The lot must meet the following requirements:

- (a) in the case of a manor house—the area of the lot must not be less than 600m<sup>2</sup>,
- (b) in the case of a dual occupancy—the area of the lot must not be less than whichever is the greater of the following:
  - (i) 400m<sup>2</sup>,
  - (ii) the minimum lot area specified for dual occupancies in the environmental planning instrument that applies to the land concerned,

- (c) the width of the lot must not be less than 15m measured at the building line.

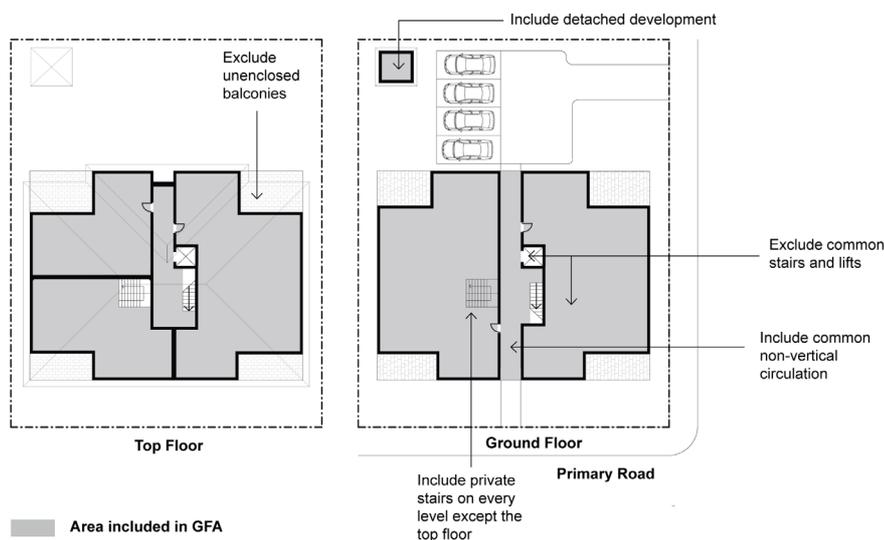
### 3B.22 Maximum building height

- (1) The maximum height for a manor house, dual occupancy and any attached development is 8.5m above ground level (existing).
- (2) This clause does not apply to any existing part of a building that is more than 8.5m above ground level (existing) before the relevant complying development takes place.

**Note. Ground level (existing)** is defined in the Standard Instrument as the existing level of a site at any point.

### 3B.23 Maximum gross floor area of all buildings

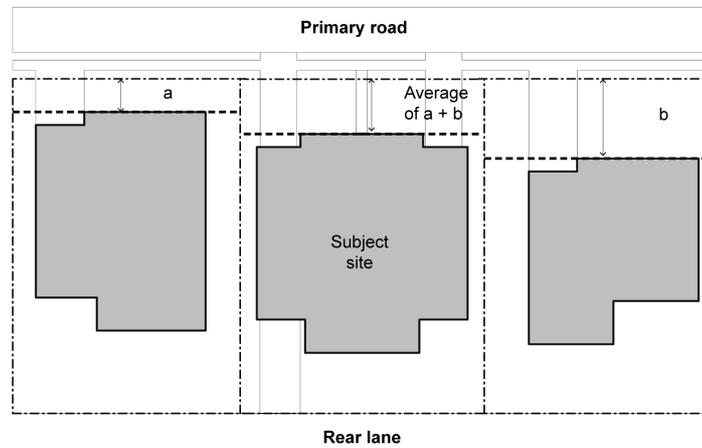
The maximum gross floor area of all buildings on a lot is 25% of the lot area plus 150m<sup>2</sup>, to a maximum of 400m<sup>2</sup>.



### 3B.24 Minimum setbacks and maximum height and length of boundary walls

- (1) **Primary road setbacks**

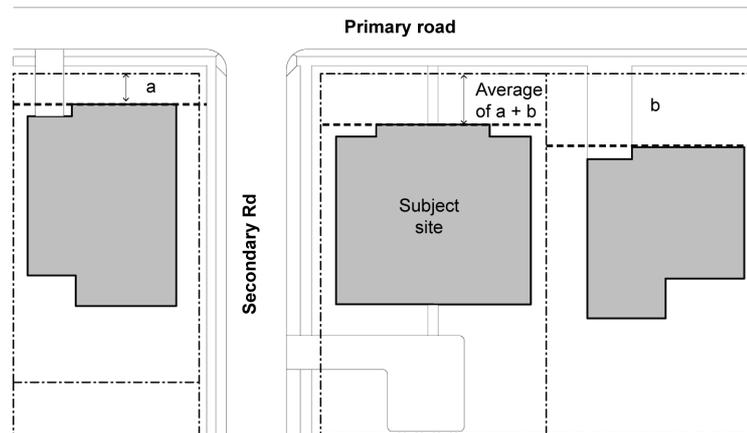
The setback of a manor house, dual occupancy and any attached development from a primary road must not be less than the average setback from the primary road of the 2 nearest buildings within 40m of the lot and on the same side of the primary road that are residential accommodation.



----- Building line

- (2) For the purpose of determining the setbacks from the primary road of the 2 nearest buildings that are residential accommodation, the following are not to be included:
- (a) buildings on battle-axe lots,
  - (b) any ancillary development on other lots,
  - (c) building elements in the articulation zone.

**Note.** Setbacks for boundaries with classified roads and public reserves are set out in subclauses (9) and (10).



----- Building line

- (3) If there are not 2 buildings that are residential accommodation within 40m of the lot on the same side of the primary road, the manor house or dual occupancy and any attached development must have a minimum setback from the boundary with the primary road as shown in the following table:

Lot area	Minimum setback from primary road boundary
400m <sup>2</sup> –900m <sup>2</sup>	4.5m
>900m <sup>2</sup> –1,500m <sup>2</sup>	6.5m
>1,500m <sup>2</sup>	10m

(4) **Side setbacks**

A manor house, dual occupancy or any attached development must have a minimum setback from a side boundary of 1.5 m.

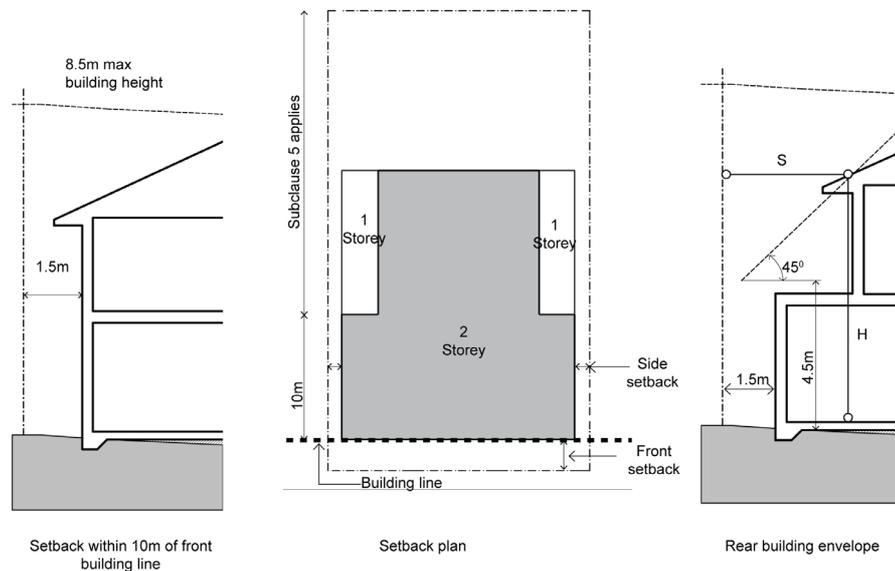
- (5) Despite subclause (4), any part of a manor house, dual occupancy or any attached development that is more than 10m behind the building line and that is more than 4.5m above ground level (existing) must have a minimum setback from a side boundary of:

$$s = h - 3m$$

where:

**s** is the minimum setback in metres.

**h** is the height of the part of the building in metres.



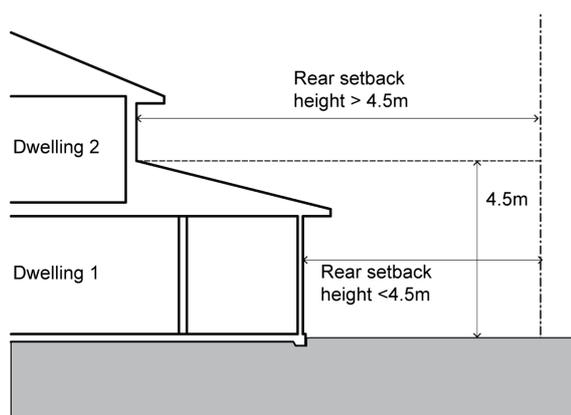
(6) **Rear setbacks**

Each part of a manor house or dual occupancy and any attached development must have a minimum setback from the rear boundary as shown in the following table:

Lot area	Height of building part	Minimum setback from rear boundary
400m <sup>2</sup> –1,500m <sup>2</sup>	0m–4.5m	6m
>1,500m <sup>2</sup>	0m–4.5m	10m

Lot area	Height of building part	Minimum setback from rear boundary
400m <sup>2</sup> –1,500m <sup>2</sup>	>4.5m–8.5m	10m
>1,500m <sup>2</sup>	>4.5m–8.5m	15m

**Note.** Certain exceptions to the rear setbacks apply if the lot has a rear boundary with a lane (see clause 3B.25 (4)).



(7) **Secondary road setbacks for corner lots**

Despite any other setback specified in this clause, a dual occupancy, manor house and any attached development must have a minimum setback from a boundary with a secondary road as shown in the following table:

Lot area	Minimum setback from secondary road boundary
400m <sup>2</sup> –1,500m <sup>2</sup>	3m
>1,500m <sup>2</sup>	5m

(8) **Parallel road setbacks for parallel road lots**

Despite any other setback specified in this clause, a dual occupancy, manor house and any attached development must have a setback from a boundary with a parallel road of at least 3m.

(9) **Classified road setbacks**

Despite any other setback specified in this clause, a dual occupancy, manor house and any attached development must have a setback from a boundary with a classified road of at least 9m.

(10) **Public reserve setbacks**

Despite any other setback specified in this clause, a dual occupancy, manor house and any attached development must have a setback from a boundary with a public reserve of at least 3m.

**Note 1.** *Articulation zone, attached development, battle-axe lot, boundary wall, building element, building line, detached development, dwelling house, lane, primary road, setback and standard lot* are defined in clause 1.5.

**Note 2.** *Building height, classified road and ground level (existing)* have the same meanings as they have in the Standard Instrument.

### **3B.25 Exceptions to setbacks**

(1) **Development to which side and rear setbacks do not apply**

The setback standards specified in clause 3B.24 (4), (5) and (6) do not apply to the following:

- (a) access ramps,
- (b) downpipes,
- (c) driveways and hard stand spaces,
- (d) electricity or gas meters,
- (e) fascias,
- (f) fences,
- (g) gutters,
- (h) light fittings,
- (i) pathways and paving.

(2) **Development to which side and rear setbacks do not apply if 450mm from boundary**

The setback standards specified in clause 3B.24 (4), (5) and (6) do not apply to the following if they are at least 450mm from the relevant boundary:

- (a) aerials,
- (b) antennae,
- (c) awnings,
- (d) chimneys,
- (e) cooling or heating appliances,
- (f) eaves,
- (g) flues,
- (h) pipes,
- (i) privacy screens,
- (j) rainwater tanks,
- (k) structures associated with the provision of a utility service.

(3) **Development to which road setbacks do not apply**

The setback standards specified in clause 3B.24 (1), (3), (7), (8) and (9) do not apply to the following:

- (a) access ramps,
- (b) driveways,
- (c) eaves,
- (d) pathways and paving,
- (e) retaining walls,
- (f) any building elements that are permitted within a primary road articulation zone.

(4) **Lots with rear lanes**

Despite clause 3B.24 (6), if the lot has a rear boundary with a lane, the building may be erected within 900mm of, or abut, the rear boundary for a maximum of 50% of the length of the boundary.

(5) **Certain attached development may be built within parallel road setback**

Despite clause 3B.24 (8), a cabana, cubby house, fernery, garden shed, gazebo, greenhouse or shed may be built within 3m of, or abut, a parallel road boundary for a maximum of 50% of the length of that boundary if the parallel road is not a classified road.

(6) **Setbacks do not apply to existing parts of dual occupancy, manor house or attached development**

The setback standards specified in clause 3B.24 do not apply to any existing parts of a dual occupancy, manor house or attached development that will remain on a lot after the complying development is carried out.

**Note 1.** *Dwelling house*, *primary road* and *setback* are defined in clause 1.5.

**Note 2.** *Classified road* and *public reserve* have the same meanings as they have in the Standard Instrument.

**3B.26 Other development standards for new balconies, decks, patios, terraces and verandahs attached to side or rear of dual occupancy or manor house**

(1) The maximum height of the floor level of a balcony, deck, patio, terrace or verandah is 4m.

(2) Any attached side or rear balcony, deck, patio, terrace or verandah that has a floor level of more than 2m above ground level (existing) must have a setback from side and rear boundaries of at least 3m.

(3) The total floor area of all attached side or rear balconies, decks, patios, terraces and verandahs having a floor level of more than 2m above ground level (existing) must not be more than 12m<sup>2</sup>.

**Note 1.** *Attached*, *building line* and *floor area* are defined in clause 1.5.

**Note 2.** *Ground level (existing)* has the same meaning as it has in the Standard Instrument.

**Note 3.** A balcony may require a privacy screen—see clause 3B.29.

### **Subdivision 3 Landscape development standards**

**3B.27 Minimum landscaped area**

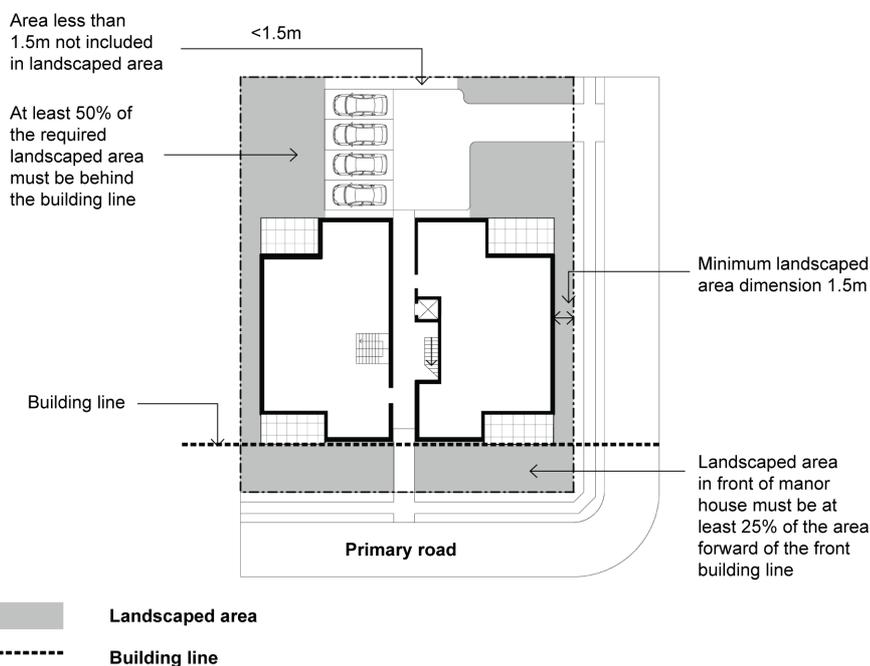
(1) The minimum landscaped area that must be provided on a lot is 50% of the lot area minus 100m<sup>2</sup>.

(2) At least 50% of the area forward of the building line must be landscaped.

(3) Each landscaped area must have:

(a) a minimum width of 1.5m, and

(b) a minimum length of 1.5m.



- (4) The principal private open space that must be provided for each dwelling is:
- for a 1 bedroom dwelling or a studio— $8\text{m}^2$  with a minimum width of 2m, and
  - for a dwelling with 2 bedrooms— $12\text{m}^2$  with a minimum width of 2m, and
  - for a dwelling with 3 or more bedrooms— $16\text{m}^2$  with a minimum width of 2m.
- (5) This clause does not apply to complying development that is the alteration of, or addition to, a dual occupancy or manor house if the development does not:
- increase the footprint of the dual occupancy or manor house, or
  - decrease the landscaped area on the lot, or
  - decrease the principal private open space for a dwelling, or
  - change the number of dwellings on the lot.

**Note 1.** *Building line* and *principal private open space* are defined in clause 1.5.

**Note 2.** *Landscaped area* has the same meaning as it has in the Standard Instrument.

## Subdivision 4 Amenity development standards

### 3B.28 Primary road articulation zone

- A dual occupancy or manor house may have a primary road articulation zone that extends up to 1.5m forward of the minimum required setback from the primary road.
- The following building elements can be located in the primary road articulation zone:
  - an entry feature or portico,
  - a balcony, deck, pergola, terrace or verandah,

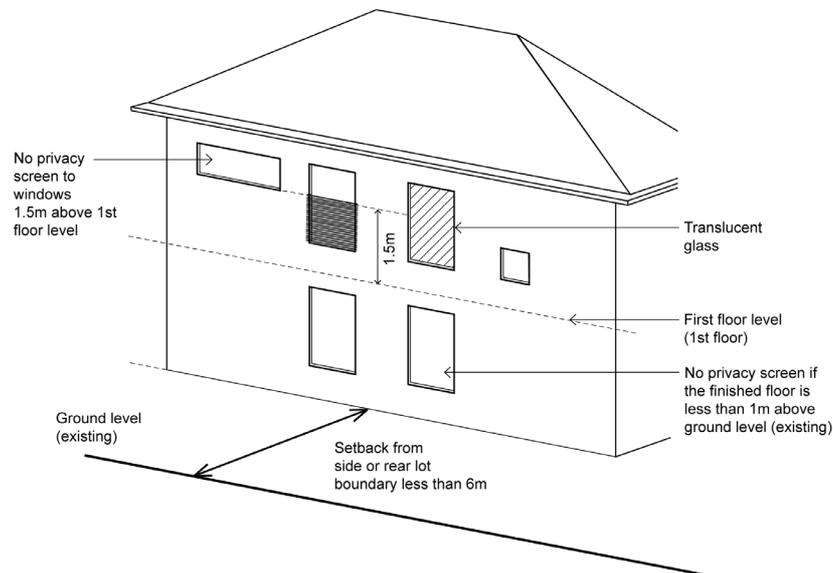
- (c) a window box treatment,
  - (d) a bay window or similar feature,
  - (e) an awning or other feature over a window,
  - (f) a sun shading feature,
  - (g) an eave,
  - (h) an access ramp.
- (3) The maximum total area of all building elements in the articulation zone, other than a building element specified in subclause (2) (e), (f), (g) or (h), must not comprise more than 25% of the area of the articulation zone.
- (4) Each habitable room that has a wall facing a road must have a window in that wall.
- Note.** *Articulation zone, building element, habitable room, primary road and setback* are defined in clause 1.5.

### **3B.29 Privacy screens for windows and certain attached development**

#### **(1) Windows in habitable rooms near boundaries or other dwellings**

A window in a habitable room must have a privacy screen over any part of that window that is less than 1.5m above the floor level of the room in the following cases:

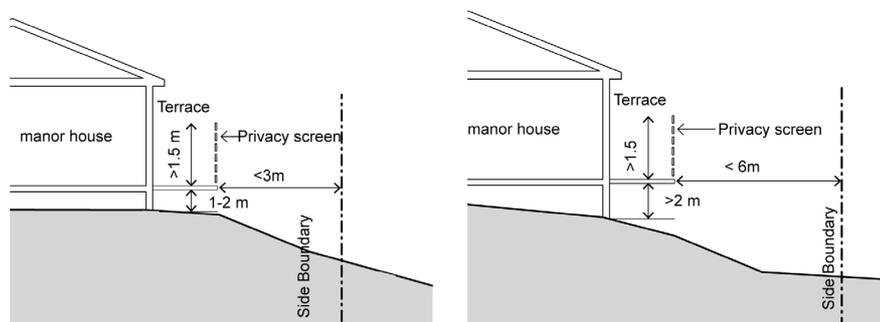
- (a) the floor level of the habitable room is 1m or more, but not more than 3m, above ground level (existing) and the window faces a side or rear boundary and is less than 3m from that boundary,
- (b) the floor level of the habitable room is more than 3m above ground level (existing) and the window faces a side or rear boundary and is less than 6m from that boundary,
- (c) the floor level of the habitable room is 1m or more, but not more than 3m, above ground level (existing) and the window faces a dwelling on the same lot and is less than 6m from that dwelling,
- (d) the floor level of the habitable room is more than 3m above ground level (existing) and the window faces a dwelling on the same lot and is less than 12m from that dwelling.



- (2) Subclause (1) does not apply to:
- (a) a habitable room with a floor level not more than 1m above ground level (existing), or
  - (b) a window that faces a road or public space, or
  - (c) a bedroom window that has an area of not more than 2m<sup>2</sup>.
- (3) **Balconies, decks, patios, terraces or verandahs near boundaries or other dwellings**

The edge of a balcony, deck, patio, terrace or verandah must have a privacy screen with a height of at least 1.5m above the floor level of a balcony, deck, patio, terrace or verandah in the following cases:

- (a) the floor level of the balcony, deck, patio, terrace or verandah is 1m or more, but not more than 3m, above ground level (existing) and the edge faces a side or rear boundary and is less than 3m from that boundary,
- (b) the floor level of the balcony, deck, patio, terrace or verandah is more than 3m above ground level (existing) and the edge faces a side or rear boundary and is less than 6m from that boundary,
- (c) the floor level of the balcony, deck, patio, terrace or verandah is 1m or more, but not more than 2m, above ground level (existing) and the edge faces a dwelling on the same lot and is less than 6m from that dwelling,
- (d) the floor level of the balcony, deck, patio, terrace or verandah is more than 2m above ground level (existing) and the edge faces a dwelling on the same lot and is less than 12m from that dwelling.



- (4) Subclause (3) does not apply to a balcony, deck, patio, terrace or verandah:
- with a floor level not more than 1m above ground level (existing), or
  - that faces a road or public space, or
  - that has an area of not more than 2m<sup>2</sup>.

(5) **Existing windows, balconies, decks, patios, terraces or verandahs**

This clause does not apply to any existing parts of a dwelling house, dual occupancy or attached development that will remain on the lot after the complying development is carried out.

**Note 1.** *Habitable room* and *privacy screen* are defined in clause 1.5.

**Note 2.** *Ground level (existing)* has the same meaning as it has in the Standard Instrument.

**3B.30 Car parking and vehicle access requirements**

- (1) This clause applies to:
- the erection of a dual occupancy or manor house, or
  - the alteration of, or addition to, a dwelling house, dual occupancy or manor house that causes an increase in the number of dwellings on the lot.
- (2) One parking space must be provided for each dwelling.
- (3) The car parking space may be an open hard stand space or a carport or garage, whether attached to or detached from the dual occupancy or manor house.
- (4) All off-street car parking spaces and vehicle access must comply with AS/NZS 2890.1:2004, *Parking facilities, Part 1: Off-street car parking*.
- (5) A garage, carport or car parking space at ground level (existing) and accessed from a primary road, secondary road or parallel road must have a minimum setback from the relevant road as shown in the following table:

Setback of building from road	Minimum off-street parking setback from road
<4.5m	5.5m
>4.5m	1m behind the building line

- (6) The maximum width of all garage doors accessed from a primary road or secondary road is 6m.

**Note 1.** *Attached, building line, detached, hard stand space, lane, parallel road, primary road, secondary road* and *setback* are defined in clause 1.5.

**Note 2.** Clause 2.28 applies to the construction or installation of a driveway as exempt development.

**Note 3.** Alterations or additions to a garage or carport that is forward of the building line is not complying development under this code (see clause 3B.2 (g)).

**3B.31 Building design**

- (1) The design of a dual occupancy or a manor house must be consistent with the relevant design criteria in the Medium Density Design Guide.
- (2) However, the requirements of this Part prevail to the extent that the Guide is inconsistent with this Part.

**Division 4 Development standards for multi dwelling housing (terraces) and attached development**

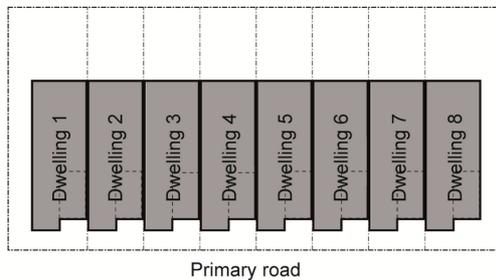
**Subdivision 1 Application of Division**

**3B.32 Application of Division**

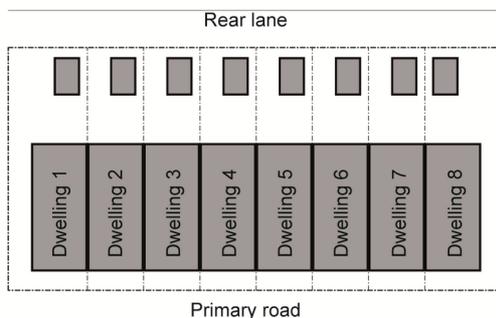
This Division sets out the development standards that apply to the following types of complying development under this code:

- (a) the erection or alteration of, or an addition to, multi dwelling housing (terraces),
- (b) the erection or alteration of, or addition to, attached development that is related to multi dwelling housing (terraces).

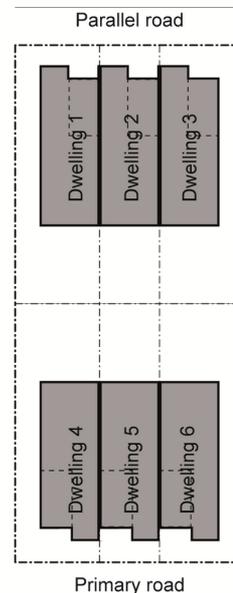
**Note.** Clauses 1.17A, 1.18 and 1.19 (1) set out additional requirements for complying development.



Multi dwelling housing (terraces) on a standard lot



Multi dwelling housing (terraces) with a rear lane



Multi dwelling housing (terraces) on a parallel lot

## Subdivision 2 Built form development standards

### 3B.33 Lot requirements

- (1) The area of the lot must not be less than:
  - (a) the minimum lot area specified for multi dwelling housing in the environmental planning instrument that applies to the land concerned, or
  - (b) if no minimum lot area is specified in that environmental planning instrument—600m<sup>2</sup>.
- (2) The width of the lot must not be less than 18m measured at the building line.

### 3B.34 Maximum building height

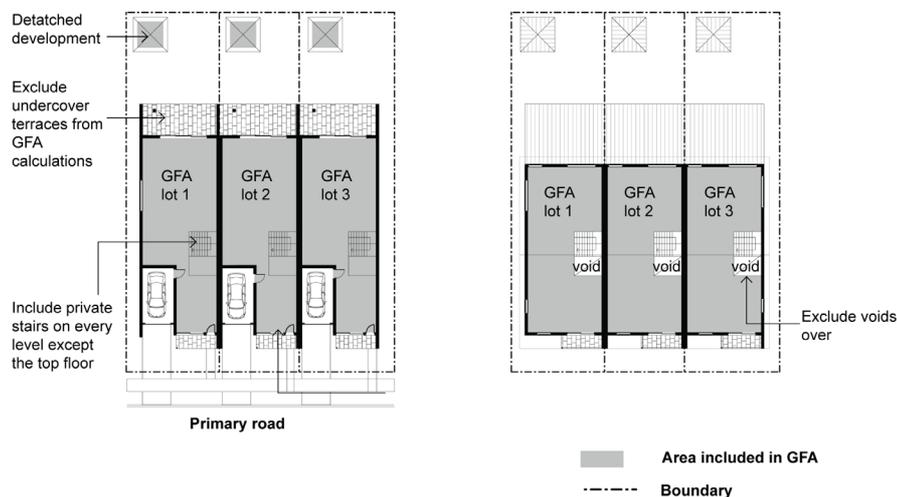
The maximum height for a multi dwelling housing (terraces) and any attached development is 9m above ground level (existing).

**Note.** *Ground level (existing)* is defined in the Standard Instrument as the existing level of a site at any point.

### 3B.35 Maximum gross floor area of all buildings

The maximum gross floor area of all buildings on a lot is shown in the following table:

Land use zone in which development is carried out	Maximum GFA
Zone RU5, Zone R1 or Zone R2	60% of lot area
Zone R3	80% of lot area



### 3B.36 Minimum setbacks and maximum height and length of boundary walls

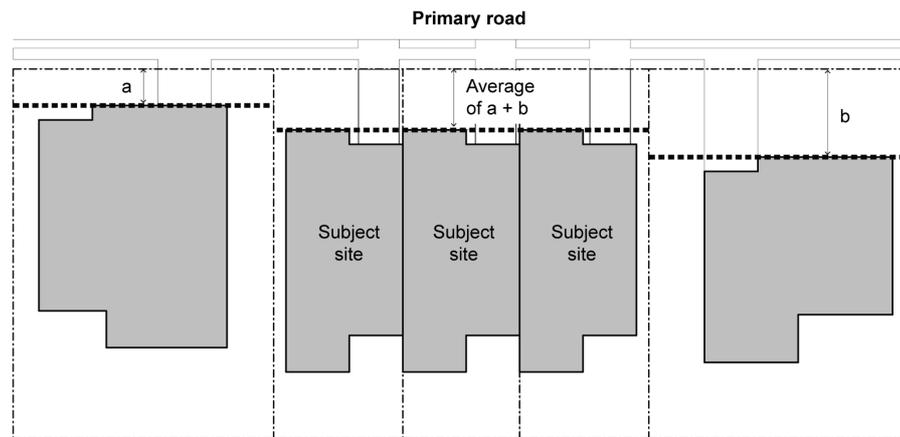
#### (1) Primary road setbacks

The setback of multi dwelling housing (terraces) and any attached development (on land in Zone RU5, Zone R1 or Zone R2) from a primary road must not be less than the average setback from the primary road of

the 2 nearest buildings within 40m of the lot and on the same side of the primary road that are any of the following:

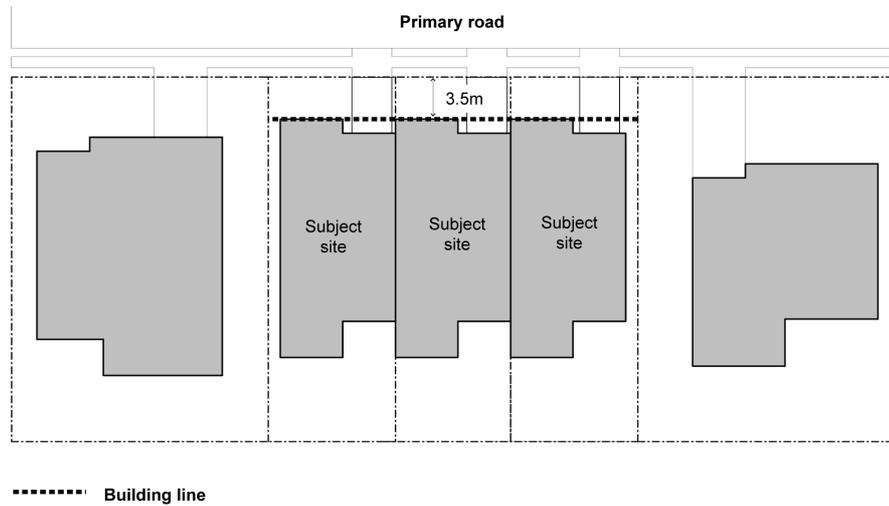
- (a) dwelling house,
- (b) dual occupancy,
- (c) multi dwelling housing (terraces).

**Note.** Clause 3B.37 contains certain exclusions from, and exceptions to, the setbacks in this clause.



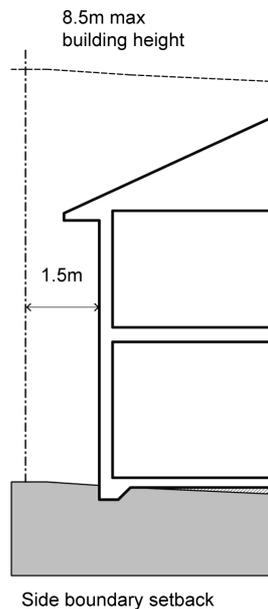
----- Building line

- (2) For the purpose of determining the setbacks from a primary road of the 2 nearest buildings that are dwelling houses, dual occupancies or multi dwelling housing (terraces), the following are not to be included:
  - (a) buildings on battle-axe lots,
  - (b) any attached development or detached development on other lots,
  - (c) building elements in the articulation zone.
- (3) If there are not 2 buildings that are dwelling houses, dual occupancies or multi dwelling housing (terraces) within 40m of the lot on the same side of the primary road or if the development is on land in Zone R3, the multi dwelling housing (terraces) and any attached development must have a minimum setback from the boundary with the primary road of 3.5m.



(4) **Side setbacks**

Multi dwelling housing (terraces) and any attached development must have a minimum setback from a side boundary of 1.5m.



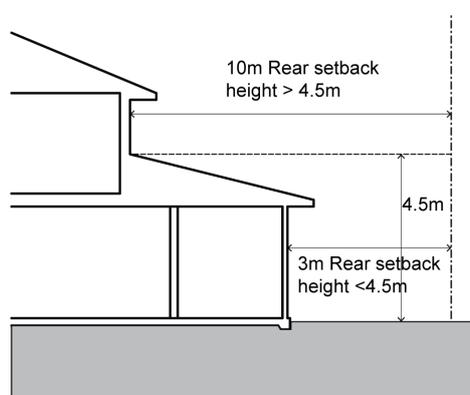
(5) **Rear setbacks**

Each part of multi dwelling housing (terraces) and any carport, garage, balcony, deck, patio, pergola, terrace or verandah must have a minimum setback from the rear boundary as shown in the following table:

Lot area	Height of building part	Minimum setback from rear boundary
>600m <sup>2</sup> -900m <sup>2</sup>	0m-4.5m	3m

Lot area	Height of building part	Minimum setback from rear boundary
>600m <sup>2</sup> –900m <sup>2</sup>	>4.5m–8.5m	8m
>900m <sup>2</sup> –1,500m <sup>2</sup>	0m–4.5m	5m
>900m <sup>2</sup> –1,500m <sup>2</sup>	>4.5m–8.5m	12m
>1,500m <sup>2</sup>	0m–4.5m	10m
>1,500m <sup>2</sup>	>4.5m–8.5m	15m

**Note.** Certain exceptions to the rear setbacks apply if the lot has a rear boundary with a lane (see clause 3B.37 (4)).



(6) **Secondary road setbacks for corner lots**

Despite any other setback specified in this clause, multi dwelling housing (terraces) and any attached development must have a minimum setback from a boundary with a secondary road as shown in the following table:

Lot area	Minimum setback from secondary road boundary
600m <sup>2</sup> –900m <sup>2</sup>	2m
>900m <sup>2</sup> –1,500m <sup>2</sup>	3m
>1,500m <sup>2</sup>	5m

(7) **Parallel road setbacks for parallel road lots**

Despite any other setback specified in this clause, multi dwelling housing (terraces) and any attached development must have a setback from a boundary with a parallel road of at least 3m unless 1 of the dwellings in the multi dwelling housing (terraces) faces the parallel road, in which case the setback must be the same as if the parallel road were a primary road.

(8) **Classified road setbacks**

Despite any other setback specified in this clause, multi dwelling housing (terraces) and any attached development must have a setback from a boundary with a classified road of at least 9m.

(9) **Public reserve setbacks**

Despite any other setback specified in this clause, multi dwelling housing (terraces) and any attached development must have a setback from a boundary with a public reserve of at least 3m.

**Note 1.** *Articulation zone, attached development, battle-axe lot, boundary wall, building element, building line, detached development, dwelling house, lane, primary road, setback* and *standard lot* are defined in clause 1.5.

**Note 2.** *Building height, classified road* and *ground level (existing)* have the same meanings as they have in the Standard Instrument.

**3B.37 Exceptions to setbacks**

(1) **Development to which side and rear setbacks do not apply**

The setback standards specified in clause 3B.36 (4) and (5) do not apply to the following:

- (a) access ramps,
- (b) downpipes,
- (c) driveways or hard stand spaces,
- (d) electricity or gas meters,
- (e) fascias,
- (f) fences,
- (g) gutters,
- (h) light fittings,
- (i) pathways and paving.

(2) **Development to which side and rear setbacks do not apply if 450mm from boundary**

The setback standards specified in clause 3B.36 (4) and (5) do not apply to the following if they are at least 450mm from the relevant boundary:

- (a) aerials,
- (b) antennae,
- (c) awnings,
- (d) chimneys,
- (e) cooling or heating appliances,
- (f) eaves,
- (g) flues,
- (h) pipes,
- (i) privacy screens,
- (j) rainwater tanks,
- (k) structures associated with the provision of a utility service.

(3) **Development to which road setbacks do not apply**

The setback standards specified in clause 3B.36 (1), (3), (6), (7) and (8) do not apply to the following:

- (a) access ramps,
- (b) driveways,
- (c) eaves,
- (d) pathways and paving,

- (e) retaining walls,
- (f) any building elements that are permitted within a primary road articulation zone.

(4) **Lots with rear lanes**

Despite clause 3B.36 (5), if the lot has a rear boundary with a lane, the building may be erected within 900mm of, or abut, the rear boundary for a maximum length of 7m.

(5) **Setbacks do not apply to existing parts of multi dwelling housing (terraces) or attached development**

The setbacks standards specified in clause 3B.36 do not apply to any existing parts of any multi dwelling housing (terraces) or attached development that will remain on a lot after the complying development is carried out.

**Note 1. Articulation zone, attached development, dwelling house, primary road and setback** are defined in clause 1.5.

**Note 2. Classified road and public reserve** have the same meanings as they have in the Standard Instrument.

**Note 3. Environmental planning instrument** has the same meaning as it has in the Act.

**3B.38 Dwelling configuration on lot**

- (1) Each dwelling must face a public road.
- (2) No dwelling must be located behind another dwelling on the same lot.
- (3) Each terrace must have a minimum width (measured parallel to the building line) of 6m.
- (4) The width of a terrace is to be measured from the centre of a side wall if that wall adjoins another terrace or from the outside of the side wall if that wall is an external wall.
- (5) In this clause:  
*terrace* means a single dwelling in multi dwelling housing (terraces).

**3B.39 Other development standards for new attached side or rear balconies, decks, patios, terraces or verandahs**

- (1) The maximum height of the floor level of a balcony, deck, patio, terrace or verandah is 4m.
- (2) Any attached side or rear balcony, deck, patio, terrace or verandah that has a floor level of more than 2m above ground level (existing) must have a setback from side and rear boundaries of at least 3m.
- (3) The total floor area of all attached decks having a floor level of more than 2m above ground level (existing) must not be more than 12m<sup>2</sup>.

**Note 1. Attached, building line and floor area** are defined in clause 1.5.

**Note 2. Ground level (existing)** has the same meaning as it has in the Standard Instrument.

**Note 3.** A balcony may require a privacy screen—see clause 3B.42.

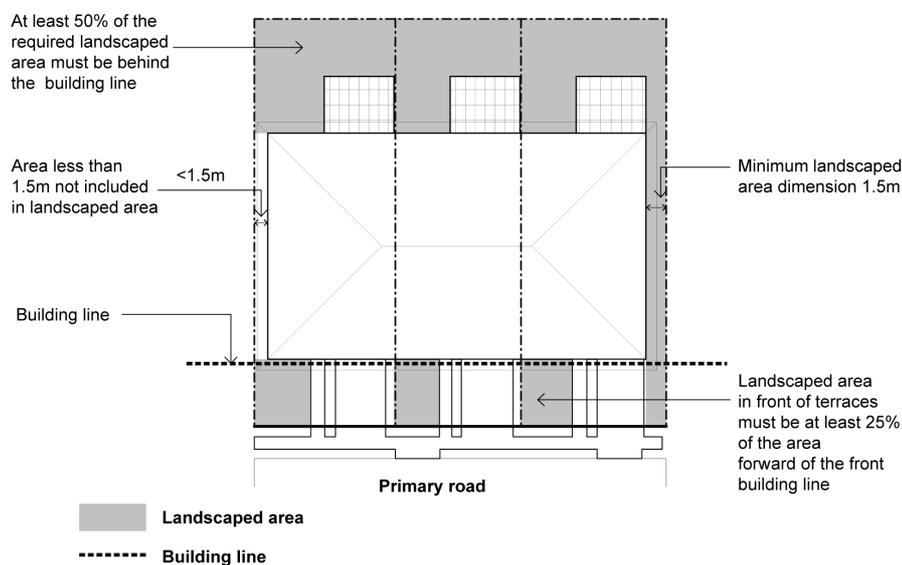
### **Subdivision 3 Landscape development standards**

**3B.40 Minimum landscaped area**

- (1) The minimum landscaped area that must be provided for each dwelling on a lot is shown in the following table:

Land use zone in which development is carried out	Landscaped area
Zone RU5, Zone R1 or Zone R2	30% of lot area
Zone R3	20% of lot area

- (2) At least 25% of the area of the lot forward of the building line must be landscaped.
- (3) Each landscaped area must have:
- a minimum width of 1.5m, and
  - a minimum length of 1.5m.

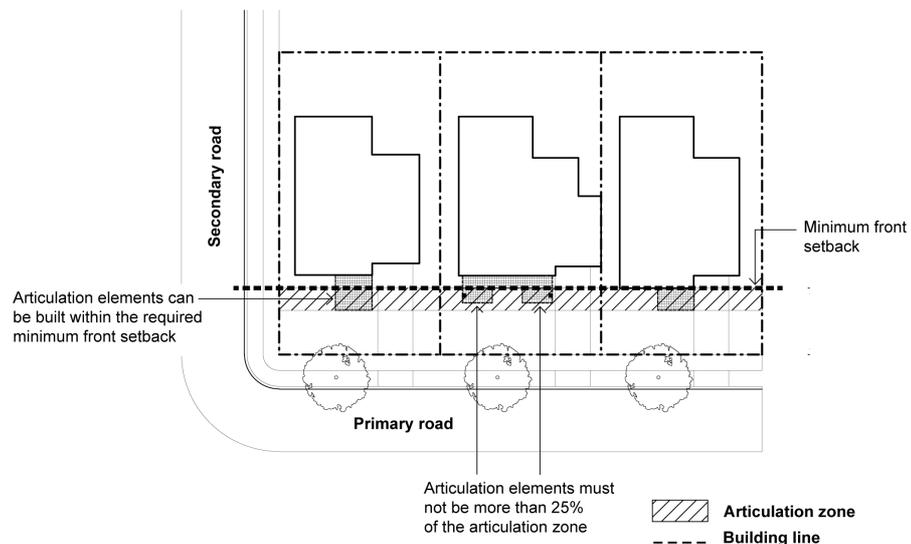


- (4) The area of principal private open space that must be provided for each terrace is at least  $16\text{m}^2$  with a minimum width of 3m.
- (5) This clause does not apply to complying development that is the alteration of, or addition to, multi dwelling housing (terraces) or attached development if the development does not:
- increase the footprint of the multi dwelling housing (terraces) or attached development, or
  - decrease the landscaped area on the lot, or
  - decrease the area of principal private open space for a terrace.
- Note 1.** *Building line* and *principal private open space* are defined in clause 1.5.  
**Note 2.** *Landscaped area* has the same meaning as it has in the Standard Instrument.
- (6) In this clause:  
*terrace* means a single dwelling in multi dwelling housing (terraces).

## Subdivision 4 Amenity development standards

### 3B.41 Primary and secondary road articulation zones

- (1) Multi dwelling housing (terraces) may have a primary road articulation zone and a secondary road articulation zone that each extend up to 1.5m forward of the minimum required setback from the primary road or secondary road.
- (2) The following building elements can be located in the primary road articulation zone or secondary road articulation zone:
  - (a) an entry feature or portico,
  - (b) a balcony, deck, pergola, terrace or verandah,
  - (c) a window box treatment,
  - (d) a bay window or similar feature,
  - (e) an awning or other feature over a window,
  - (f) a sun shading feature,
  - (g) an eave,
  - (h) an access ramp.
- (3) The maximum total area of all building elements in the articulation zone, other than a building element specified in subclause (2) (e), (f), (g) or (h), must not comprise more than 25% of the area of the articulation zone.



- (4) Each habitable room that has a wall facing a road must have a window in that wall.

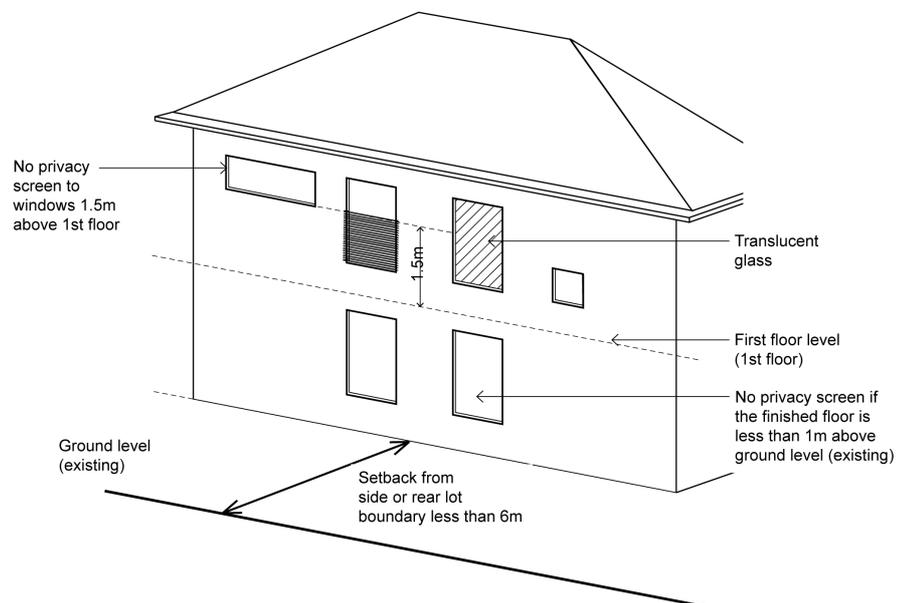
**Note.** *Articulation zone, building element, primary road, secondary road and setback* are defined in clause 1.5.

### 3B.42 Privacy screens for windows and certain attached development

- (1) **Windows in habitable rooms near boundaries or other dwellings**

A window in a habitable room must have a privacy screen over any part of that window that is less than 1.5m above the floor level of the room in the following cases:

- (a) the floor level of the habitable room is 1m or more, but not more than 3m, above ground level (existing) and the window faces a side or rear boundary and is less than 3m from that boundary,
- (b) the floor level of the habitable room is more than 3m above ground level (existing) and the window faces a side or rear boundary and is less than 6m from that boundary,
- (c) the floor level of the habitable room is 1m or more, but not more than 3m, above ground level (existing) and the window faces a dwelling on the same lot and is less than 6m from that dwelling,
- (d) the floor level of the habitable room is more than 3m above ground level (existing) and the window faces a dwelling on the same lot and is less than 12m from that dwelling.

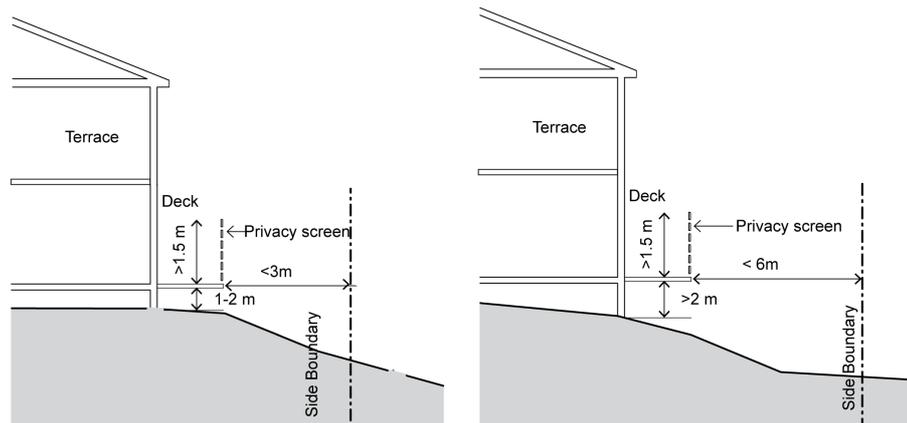


- (2) Subclause (1) does not apply to:
  - (a) a habitable room with a floor level not more than 1m above ground level (existing), or
  - (b) a window that faces a road or public space, or
  - (c) a bedroom window that has an area of not more than 2m<sup>2</sup>.
- (3) **Balconies, decks, patios, terraces or verandahs near boundaries or other dwellings**

The edge of a balcony, deck, patio, terrace or verandah must have a privacy screen with a height of at least 1.5m above the floor level of a balcony, deck, patio, terrace or verandah in the following cases:

- (a) the floor level of the balcony, deck, patio, terrace or verandah is 1m or more, but not more than 3m, above ground level (existing) and the edge faces a side or rear boundary and is less than 3m from that boundary,
- (b) the floor level of the balcony, deck, patio, terrace or verandah is more than 3m above ground level (existing) and the edge faces a side or rear boundary and is less than 6m from that boundary,

- (c) the floor level of the balcony, deck, patio, terrace or verandah is 1m or more, but not more than 2m, above ground level (existing) and the edge faces a dwelling on the same lot and is less than 6m from that dwelling,
- (d) the floor level of the balcony, deck, patio, terrace or verandah is more than 2m above ground level (existing) and the edge faces a dwelling on the same lot and is less than 12m from that dwelling.



- (4) Subclause (3) does not apply to a balcony, deck, patio, terrace or verandah:
  - (a) with a floor level not more than 1m above ground level (existing), or
  - (b) that faces a road or public space, or
  - (c) that has an area of not more than 2m<sup>2</sup>.

(5) **Existing windows, balconies, decks, patios, terraces or verandahs**

This clause does not apply to any existing parts of multi dwelling housing (terraces) or attached development that will remain on the lot after the complying development is carried out.

**Note 1. Habitable room** and **privacy screen** are defined in clause 1.5.

**Note 2. Ground level (existing)** has the same meaning as it has in the Standard Instrument.

**3B.43 Car parking and vehicle access requirements**

- (1) This clause applies to:
  - (a) the erection of multi dwelling housing (terraces), or
  - (b) the alteration of, or addition to, multi dwelling housing (terraces) that causes an increase in the number of dwellings on the lot.
- (2) At least 1 off-street car parking space must be provided for each dwelling.
- (3) The off-street car parking space may be an open hard stand space or a carport or garage, that is attached development or detached development.
- (4) All off-street car parking spaces and vehicle access must comply with AS/NZS 2890.1:2004, *Parking facilities, Part 1: Off-street car parking*.
- (5) A garage, carport or car parking space at ground level (existing) and accessed from a primary road, secondary road or parallel road must have a minimum setback as shown in the following table unless the road is a lane:

<b>Setback of multi dwelling housing (terraces) from primary road</b>	<b>Minimum off-street parking setback from road</b>
0–4.5m	5.5m
>4.5m	1 m or more behind the building line of the multi dwelling housing (terraces)

- (6) The maximum width of all garage door openings facing a primary, secondary or parallel road is shown in the following table (garage door openings are not permitted to face a primary, secondary or parallel road if the resulting lot width is less than 8m):

<b>Resulting lot width</b>	<b>Maximum width of garage door openings</b>
8m–12m	3.2m
>12m	6m

- (7) Despite subclause (6), if concurrent Torrens title subdivision is proposed—the maximum width of all garage door openings facing a primary, secondary or parallel road is 6m.

**Note 1.** *Attached, building line, detached, hard stand space, lane, parallel road, primary road, secondary road* and *setback* are defined in clause 1.5.

**Note 2.** Clause 2.28 applies to the construction or installation of a driveway as exempt development.

**Note 3.** Alterations or additions to a garage or carport that is forward of the building line is not complying development under this code (see clause 3B.2 (g)).

### **3B.44 Building design**

- (1) The design of multi dwelling housing (terraces) must be consistent with the relevant design criteria in the Medium Density Design Guide.
- (2) However, the requirements of this Part prevail to the extent that the Guide is inconsistent with this Part.

## **Division 5 Development standards for detached development**

### **Subdivision 1 Application of Division**

#### **3B.45 Application of Division**

This Division sets out the development standards that apply to the erection of detached development and to the alteration of, or an addition to, detached development under this code.

**Note.** Clauses 1.17A, 1.18 and 1.19 (1) set out additional requirements for complying development.

### **Subdivision 2 Built form development standards for detached development (other than swimming pools and fences)**

#### **3B.46 Lot requirements**

The lot must meet the following requirements:

- (a) the area of the lot must not be less than 400m<sup>2</sup>,

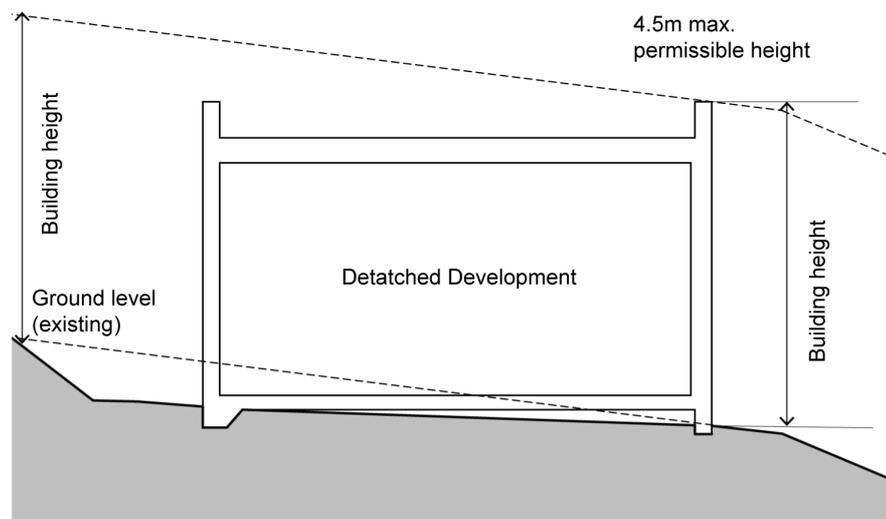
- (b) the width of the lot must not be less than 12m measured at the building line.

### 3B.47 Maximum height

The maximum height for any detached development is 4.5m above ground level (existing).

**Note 1. Detached development** is defined in clause 1.5.

**Note 2. Ground level (existing)** is defined in the Standard Instrument as the existing level of a site at any point.



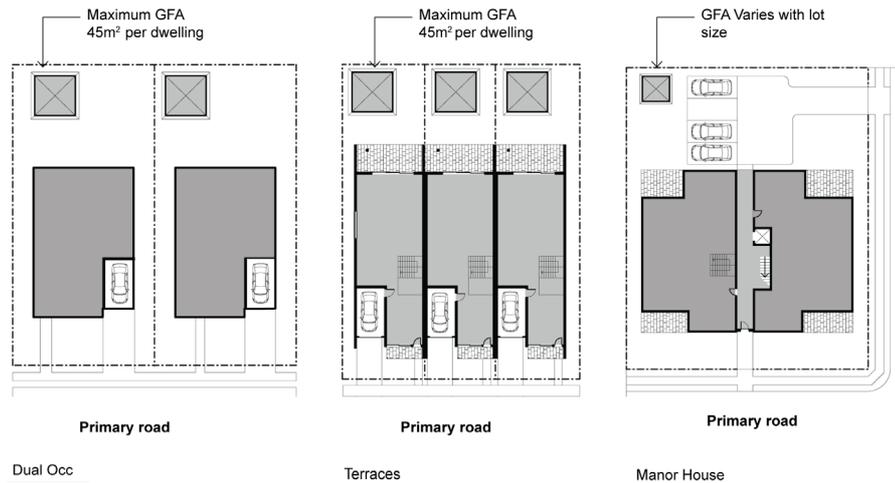
### 3B.48 Maximum gross floor area of certain detached development

- (1) The maximum gross floor area of all of the following detached development that relates to multi dwelling housing (terraces) or a dual occupancy where no part of a dwelling is located above any part of another dwelling is 45m<sup>2</sup>:
- a deck, patio, pergola, terrace or verandah,
  - a cabana, cubby house, fernery, garden shed, gazebo or greenhouse,
  - a carport or garage,
  - a shed.
- (2) The maximum gross floor area of all of the following detached development that relates to a manor house or dual occupancy (attached) where part of a dwelling is located above part of another dwelling is shown in the table to this clause:
- a deck, patio, pergola, terrace or verandah,
  - a cabana, cubby house, fernery, garden shed, gazebo or greenhouse,
  - a carport or garage,
  - a shed.

Lot area	Maximum gross floor area
400m <sup>2</sup> -600m <sup>2</sup>	45m <sup>2</sup>

Lot area	Maximum gross floor area
>600m <sup>2</sup> –900m <sup>2</sup>	60m <sup>2</sup>
>900m <sup>2</sup>	100m <sup>2</sup>

**Note.** The maximum gross floor area of detached studios is set out in clause 3B.52.



### 3B.49 Minimum setbacks and maximum height and length of built to boundary walls

#### (1) Primary and secondary road setbacks

Detached development (other than a detached garage or carport) must be located behind the building line of a building that is residential accommodation that is adjacent to any primary road or secondary road.

**Note 1.** Primary and secondary road setbacks for detached garages and carports are set out in clause 3B.50.

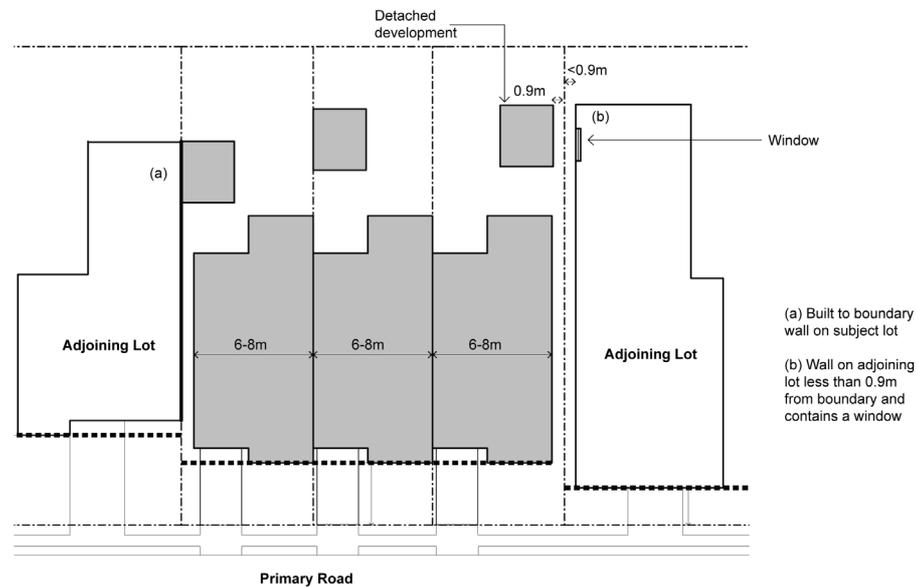
**Note 2.** Clause 3B.54 contains certain exclusions from, and exceptions to, the setbacks specified in this clause.

#### (2) Side setbacks

Detached development that is any of the following must have a minimum setback from the side boundary of a lot of 900mm:

- a deck, patio, pergola, terrace or verandah,
- a cabana, cubby house, fernery, garden shed, gazebo or greenhouse,
- a carport or garage,
- a rainwater tank (above ground),
- a shade structure or a shed.

**Note.** Side boundary setbacks for detached studios are set out in clause 3B.52.



(3) **Built to boundary setbacks**

Despite subclause (2), detached development that is referred to in that subclause may be built to 1 or both side boundaries if:

- (a) the detached development relates to a dual occupancy or multi dwelling housing (terraces), and
- (b) any building wall on the adjoining lot that is within 900mm of that boundary is of masonry construction and does not have a window facing that boundary, and
- (c) any wall erected within 900mm of a side boundary will not contain a door, window or any other opening facing that boundary,

but if the lot width measured at the building line is more than 8m, but not more than 12.5m the detached development may be built to 1 side boundary only.

(4) **Maximum height of built to boundary walls**

The height of a wall erected within 900mm of a side boundary must not exceed:

- (a) 3.3m above ground level (existing), or
- (b) if there is a building wall on the adjoining lot within 900mm of that boundary that is higher than 3.3m—the height of that wall, but not more than 4.5m, or
- (c) if the building on the adjoining lot is subject to the same complying development certificate under clause 126 (4) of the *Environmental Planning and Assessment Regulation 2000*—the height of the wall on the adjoining lot, but not more than 4.5m, or
- (d) if the detached development is a detached studio that is above a garage—the height of the built to boundary wall on the adjoining lot, but not more than 6m.

(5) **Maximum length of built to boundary walls**

The length of all walls on the lot that are within 900mm of a side boundary must not exceed 10m.

- (6) Despite subclause (6), the length of a wall erected within 900mm of a side boundary must not exceed:
- (a) if the length of the built to boundary wall on the adjoining lot is longer than the maximum length calculated under subclause (6)—the length of that wall, or
  - (b) if the building on the adjoining lot is subject to the same complying development certificate under clause 126 (4) of the *Environmental Planning and Assessment Regulation 2000*—the length of the wall on the adjoining lot.

(7) **Rear setbacks**

Any of the following detached development that relates to a dual occupancy where no part of a dwelling is located above any part of another dwelling or that relates to multi dwelling housing (terraces) must have a minimum setback from the rear boundary of a lot of 900mm (unless there is a wall of a building on the adjoining lot that is within 900mm of the boundary and that wall is of masonry construction and does not have a window facing the boundary):

- (a) a cabana, cubby house, fernery, garden shed, gazebo or greenhouse,
- (b) a rainwater tank (above ground),
- (c) a shade structure or a shed.

- (8) Any of the following detached development that relates to a dual occupancy (attached) where part of a dwelling is located above part of another dwelling or that relates to a manor house must have a minimum setback from the rear boundary of a lot as shown in the table to this subclause:

- (a) a cabana, cubby house, fernery, garden shed, gazebo or greenhouse,
- (b) a rainwater tank (above ground),
- (c) a shade structure or a shed.

Lot area	Minimum setback from rear boundary
400m <sup>2</sup> –900m <sup>2</sup>	900mm
>900m <sup>2</sup> –1,500m <sup>2</sup>	1.5m
>1,500m <sup>2</sup>	2.5m

**Note.** Rear setbacks for detached garages and carports, detached decks, patios, pergolas, terraces and verandahs and detached studios are set out in clauses 3B.50, 3B.51 and 3B.52, respectively.

(9) **Parallel road setbacks for parallel road lots**

Detached development on a lot must have a minimum setback from a parallel road of 3m.

**Note.** Clause 3B.54 (4) contains exceptions to this setback for certain types of detached development.

(10) **Setbacks from classified roads**

Despite any standard for a setback specified by this clause, detached development must have a setback from a boundary with a classified road of at least:

- (a) in the case of detached development related to a dual occupancy—the setback for a dual occupancy from a classified road specified by any other environmental planning instrument applying to the land, or

- (b) in the case of detached development related to a manor house—the setback for a manor house from a classified road specified by any other environmental planning instrument applying to the land, or
- (c) in the case of detached development related to multi dwelling housing (terraces)—the setback for multi dwelling housing (terraces) from a classified road specified by any other environmental planning instrument applying to the land, or
- (d) if no setback is specified for the purposes of paragraph (a), (b) or (c)—9m.

(11) **Setbacks from public reserves**

Despite any standard for a setback specified by this clause, the following detached development must have a setback from a boundary with a public reserve of at least 3m:

- (a) a cabana, cubby house, fernery, garden shed, gazebo or greenhouse,
- (b) a carport or garage,
- (c) a deck, patio, pergola, terrace or verandah,
- (d) a rainwater tank (above ground),
- (e) a shade structure or shed.

**3B.50 Other development standards for detached garages and carports**

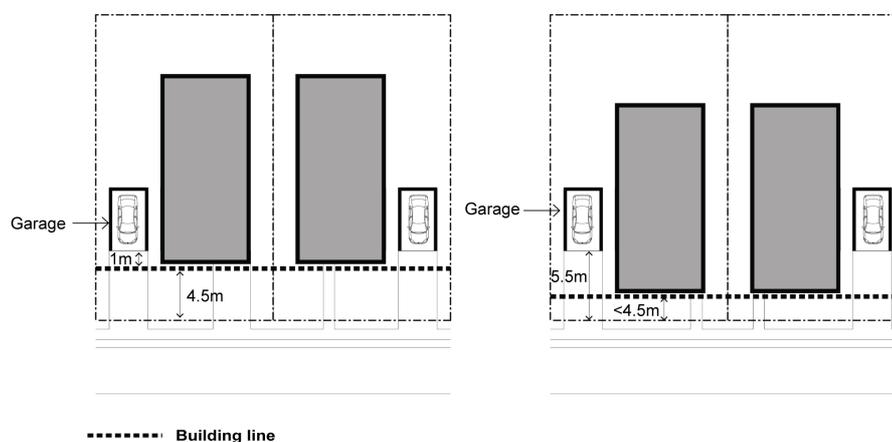
(1) **Car parking and vehicle access requirements**

All off-street car parking spaces and vehicle access must comply with AS/NZS 2890.1:2004, *Parking facilities, Part 1 Off-street car parking*.

(2) **Primary road setbacks**

A detached garage or carport that is accessed from a primary road must have a minimum setback as shown in the following table:

<b>Primary road setback of dwelling house</b>	<b>Minimum required garage or carport setback from primary road</b>
<4.5m	5.5m
4.5m or more	At least 1m behind the building line of the building that is the residential accommodation to which the garage or carport relates



(3) **Secondary and parallel road setbacks**

A detached garage or carport on a corner lot must have a minimum setback from a secondary road or parallel road as shown in the following table:

Lot area	Minimum setback from secondary or parallel road
400m <sup>2</sup> –600m <sup>2</sup>	2m
>600m <sup>2</sup> –1,500m <sup>2</sup>	3m
>1,500m <sup>2</sup>	5m

(4) **Rear setbacks**

A detached garage or carport must have a minimum setback from the rear boundary as shown in the following table:

Lot area	Building height at that point	Minimum setback from rear boundary
400m <sup>2</sup> –900m <sup>2</sup>	0m–4.5m	900mm
>900m <sup>2</sup> –1,500m <sup>2</sup>	0m–4.5m	1.5m
>1,500m <sup>2</sup>	0m–4.5m	2.5m

(5) **Built to rear boundary**

Despite subclause (4), a detached garage or carport of masonry construction may be built to the rear boundary if there is a wall of a building on the adjoining lot within 900mm of that boundary, the wall is of masonry construction and does not have a window facing that boundary.

(6) **Building separation**

A detached garage must be at least 3m from any building that is residential accommodation on the same lot.

(7) **Maximum width of garage doors**

The maximum width of all detached garage and carport door openings (except where the garage or carport is to the rear of the building that is residential

accommodation to which it relates) facing a primary, secondary or parallel road is 6m.

**Note 1.** *Boundary wall, building line, corner lot, detached, dwelling house, gross floor area, lane, parallel road, primary road, secondary road* and *setback* are defined in clause 1.5.

**Note 2.** *Building height* and *ground level (existing)* have the same meanings as they have in the Standard Instrument.

**3B.51 Other development standards for detached decks, patios, pergolas, terraces and verandahs**

(1) **Maximum floor level**

The maximum floor level for any detached deck, patio, pergola, terrace or verandah is 1m above ground level (existing) unless the deck, patio, pergola, terrace or verandah is less than 900mm from a side or rear boundary in which case the maximum floor level is 600mm above ground level (existing).

**Note.** *Ground level (existing)* has the same meaning as it has in the Standard Instrument.

(2) **Rear setbacks**

A detached deck, patio, pergola, terrace or verandah must have a minimum setback from the rear boundary of a lot as shown in the following table:

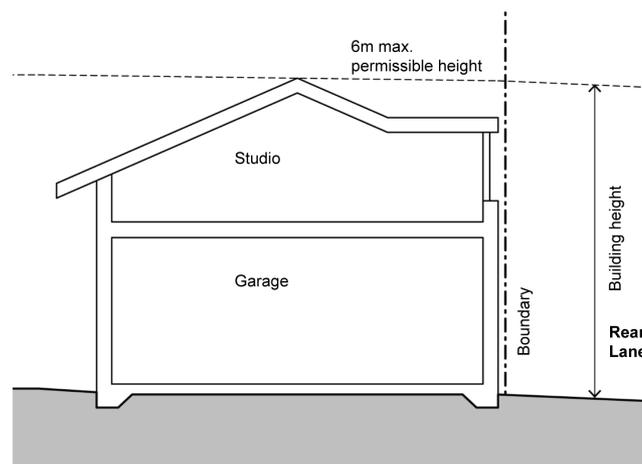
Lot area	Minimum setback from rear boundary
400m <sup>2</sup> –900m <sup>2</sup>	900mm
>900m <sup>2</sup> –1,500m <sup>2</sup>	1.5m
>1,500m <sup>2</sup>	2.5m

**3B.52 Other development standards for detached studios**

(1) At the completion of the development, there must be no more than 1 detached studio for each dwelling in the dual occupancy or multi dwelling housing (terraces).

(2) **Maximum height**

Despite clause 3B.47, if a detached studio is within 900mm of a lane and is above a garage, the maximum height is 6m above ground level (existing).



(3) **Maximum gross floor area**

The maximum gross floor area of a detached studio is 36m<sup>2</sup>.

(4) **Side boundary setbacks**

A detached studio must have a minimum setback from each side boundary as shown in the following table:

<b>Lot width at the building line</b>	<b>Minimum setback from each side boundary</b>
12m–18m	900mm
>18m	1.5m

(5) **Rear boundary setbacks**

A detached studio must have a minimum setback from the rear boundary of 3m.

- (6) Despite subclause (5), if the lot has a rear boundary with a lane, the detached studio may be erected within 900mm of, or abut, the rear boundary for a maximum length of 50% of the length of that boundary.

(7) **Built to boundary setbacks**

Despite subclause (4), a detached studio that is within 900mm of a rear lane may be built to 1 or both side boundaries if:

- (a) the lot is not a corner lot, and
- (b) the lot width measured at the building line is at least 6m, but not more than 8m, and
- (c) if there is a building wall on the adjoining lot within 900mm of that boundary—that wall is of masonry construction and does not have a window facing that boundary, and
- (d) any wall erected within 900mm of a side boundary will not contain a door, window or any other opening.

- (8) Despite subclause (4), a detached studio that is within 900mm of a rear lane may be built to 1 side boundary if:

- (a) the lot width measured at the building line is more than 8m, but not more than 12.5m, and
- (b) any building wall on the adjoining lot within 900mm of that boundary is of masonry construction and does not have a window facing that boundary, and
- (c) any wall erected within 900mm of the side boundary will not contain a door, window or any other opening.

(9) **Maximum height of built to boundary walls**

The height of a wall erected within 900mm of a side boundary must not exceed:

- (a) 3.3m above ground level (existing), or
- (b) if the height of the built to boundary wall on the adjoining lot is higher than 3.3m—the height of that wall, but not more than 4.5m, or
- (c) if the building on the adjoining lot is subject to the same complying development certificate under clause 126 (4) of the *Environmental*

*Planning and Assessment Regulation 2000*—the height of the wall on the adjoining lot, but not more than 4.5m, or

- (d) if the wall is part of a detached studio that is above a garage—the height of the built to boundary wall on the adjoining lot, but not more than 6m.

(10) **Separation from residential accommodation**

A detached studio must be at least 3m from any building on the same lot that is residential accommodation.

(11) **Privacy**

A privacy screen must be provided for any part of a window in a detached studio that is less than 1.5m above the floor level of that room in the following cases:

- (a) the floor level of the studio is 1m or more, but not more than 3m, above ground level (existing) and the window faces a side or rear boundary (other than a boundary to a lane) and is less than 3m from that boundary,
- (b) the floor level of the studio is 3m or more above ground level (existing) and the window faces a side or rear boundary (other than a boundary to a lane) and is less than 6m from that boundary.

- (12) Any window in a detached studio with a floor level of more than 1.5m above ground level (existing) must not have an area of more than 2m<sup>2</sup>.

**3B.53 Other development standards for detached cabanas, cubby houses, ferneries, garden sheds, gazebos, greenhouses, rainwater tanks, shade structures or sheds**

A cabana, cubby house, fernery, garden shed, gazebo, greenhouse, rainwater tank (above ground), shade structure or shed must have a minimum setback from the rear boundary of 3m unless the lot has a rear boundary with a lane, in which case it may be erected within 900mm of, or abut, the rear boundary for a maximum length of 7m.

**3B.54 Exceptions to setbacks**

(1) **Development to which side and rear setbacks do not apply**

The side and rear setback standards specified in this Subdivision do not apply to the following:

- (a) access ramps,
- (b) downpipes,
- (c) driveways and hard stand spaces,
- (d) electricity or gas meters,
- (e) fascias,
- (f) fences,
- (g) gutters,
- (h) light fittings,
- (i) pathways and paving.

(2) **Development to which side and rear setbacks do not apply if 450mm from boundary**

The side and rear setback standards specified in this Subdivision do not apply to the following if they are at least 450mm from the relevant boundary:

- (a) aerials,

- (b) antennae,
- (c) awnings,
- (d) chimneys,
- (e) cooling or heating appliances,
- (f) eaves,
- (g) flues,
- (h) pipes,
- (i) privacy screens,
- (j) rainwater tanks,
- (k) structures associated with the provision of a utility service.

(3) **Development to which road setbacks do not apply**

The road setbacks specified in this Subdivision do not apply to the following:

- (a) access ramps,
- (b) driveways,
- (c) eaves,
- (d) fences,
- (e) pathways and paving,
- (f) retaining walls.

(4) **Rear boundaries with parallel roads or rear lanes**

Despite any rear setback specified in this Subdivision, if a lot has a rear boundary with a parallel road or lane, the following detached development may be erected within 3m of, or abut, the rear boundary for up to 50% of the length of that boundary:

- (a) a cabana, cubby house, fernery, garden shed, gazebo or greenhouse,
- (b) a rainwater tank (above ground),
- (c) a shade structure or shed.

(5) **Setbacks do not apply to existing parts of detached development**

The setbacks standards specified in this Subdivision do not apply to any existing parts of detached development that will remain on the lot after the complying development is carried out.

**Note 1.** *Articulation zone, attached development, dwelling house, primary road* and *setback* are defined in clause 1.5.

**Note 2.** *Classified road* and *public reserve* have the same meanings as they have in the Standard Instrument.

### **Subdivision 3 Landscape development standards for detached development (other than fences and child-resistant barriers)**

#### **3B.55 Minimum landscaped area**

The minimum landscaped area that must be provided on a lot is the minimum landscaped area required under this Part in respect of the residential accommodation to which the detached development relates.

**Note.** *Landscaped area* and *residential accommodation* have the same meanings as they have in the Standard Instrument.

## Subdivision 4 Built form development standards for swimming pools and fences

### 3B.56 Development standards for swimming pools

- (1) A swimming pool must be associated with a dual occupancy or manor house and be for the use of residents of the dual occupancy or manor house.
- (2) Water from a swimming pool must be discharged in accordance with an approval under the *Local Government Act 1993* if the lot is not connected to a sewer main.
- (3) The pump must be housed in an enclosure that is soundproofed.  
**Note.** The *Protection of the Environment Operations Act 1997* contains provisions relating to noise pollution.
- (4) Coping around a swimming pool must not be more than:
  - (a) 1.4m above ground level (existing), and
  - (b) 300mm wide if the coping is more than 600mm above ground level (existing).
- (5) The pool must be designed so that it cannot be filled to a height of more than 1.2m above ground level (existing).
- (6) A swimming pool must be located in the rear yard of the dual occupancy or manor house with a minimum setback of 1m from any side or rear boundary.
- (7) The construction of a swimming pool for an existing manor house or for an existing dual occupancy (attached) where part of a dwelling is located above part of another dwelling must not decrease the landscaped area, or the principal private open space for a dwelling, below the amounts specified in relation to the manor house or dual occupancy in clause 3B.27.

**Note 1.** *Ground level (existing)* and *landscaped area* have the same meanings as they have in the Standard Instrument.

**Note 2.** A child-resistant barrier must be constructed or installed in accordance with the requirements of the *Swimming Pools Act 1992*.

**Note 3.** Requirements relating to excavation for the purposes of a swimming pool are set out in clause 3B.58.

### 3B.57 Development standards for fences

- (1) A fence must not be erected under this code if:
  - (a) it is erected along a common boundary of a lot, that contains a heritage item or a draft heritage item, or  
**Note.** Clause 1.19 (3A) prevents the erection of a fence under this code on a lot that contains a heritage item or a draft heritage item.
  - (b) it is erected along the boundary of, or within the setback area of, a primary or secondary road within a heritage conservation area or draft heritage conservation area, or
  - (c) it incorporates barbed wire in its construction or it is electrified, or
  - (d) it is constructed of metal components that are not low reflective materials, or
  - (e) it is erected on bush fire prone land and is constructed of combustible material, or
  - (f) the design of the fence will restrict the flow of floodwater.
- (2) In the case of development on a flood control lot, the requirement in subclause (1) (f) is satisfied only if a joint report by a professional engineer

specialising in hydraulic engineering and a professional engineer specialising in civil engineering states that the design of the fence will not restrict the flow of floodwater.

- (3) A fence erected behind the building line on a lot must:
  - (a) not be higher than 1.8m above ground level (existing), and
  - (b) if it is on a sloping site and stepped to accommodate the fall in the land—not be higher than 2.2m above ground level (existing) at each step.
- (4) A fence erected forward of the building line on a lot must:
  - (a) not be higher than:
    - (i) 1.2m above ground level (existing), or
    - (ii) if it is erected adjacent to a public reserve—1.5m above ground level (existing), or
    - (iii) if it is located in the setback area of a classified road—2.1m above ground level (existing), and
  - (b) not have an entrance gate that opens outward, and
  - (c) be open for at least 20% of the area of the fence that is more than 400mm above ground level (existing), with a minimum aperture of 25mm, and
  - (d) if it is located in the setback area of a classified road—be setback at least 1.5m from the relevant boundary with a landscaped area between the fence and the boundary.

**Note 1.** *Building line*, *primary road*, *secondary road* and *setback* are defined in clause 1.5.

**Note 2.** *Ground level (existing)* and *heritage item* have the same meanings as they have in the Standard Instrument.

## **Division 6      Development standards for associated works including earthworks, retaining walls, drainage, protection of walls, protection of trees and conditions under complying development certificates**

### **3B.58    Earthworks, retaining walls and structural support**

- (1) **Excavation**

Excavation for the purposes of development under this code must not exceed a maximum depth, measured from ground level (existing), of:

  - (a) if located not more than 1m from any boundary—1m, and
  - (b) if located more than 1m but not more than 1.5m from any boundary—2m, and
  - (c) if located more than 1.5m from any boundary—3m.
- (2) Despite subclause (1), the excavation must not exceed a maximum depth, measured from ground level (existing), of 1m if:
  - (a) the land is identified as Class 3 or 4 on an Acid Sulfate Soils Map, or
  - (b) the land is within 40m of a waterbody (natural), or
  - (c) the excavation is an aquifer interference activity within the meaning of the *Water Management Act 2000*.
- (3) Before an excavation that exceeds a maximum depth, measured from ground level (existing), of 1m is carried out on a lot, a groundwater works summary

must be obtained for the lot that shows that there is no groundwater present on that part of the lot on which the excavation is to be carried out or that groundwater is present on that part of the lot but is below the level of the excavation.

**Note.** Groundwater summaries are available from [www.waterinfo.nsw.gov.au](http://www.waterinfo.nsw.gov.au).

(4) **Fill**

Fill must not exceed a maximum height, measured from ground level (existing), of:

- (a) if the fill is for the purposes of the erection or alteration of, or an addition to, a dual occupancy or manor house under this code—1m, and
- (b) if the fill is for any other purpose under this code—600mm.

(5) Despite subclause (4), the height of fill contained wholly within the footprint of a building or any attached development or detached development is not limited.

(6) Fill that is higher than 150mm above ground level (existing) and is not contained wholly within the footprint of a building or any attached development or detached development is limited to 50% of the landscaped area of the lot.

(7) The ground level (finished) of the fill must not be used to measure the height of any building or any attached development or detached development under this code.

(8) **Retaining walls and structural supports**

Support for earthworks more than 600mm above or below ground level (existing) must take the form of a retaining wall or other structural support that:

- (a) a professional engineer has certified as structurally sound, including in relation to (but not limited to) the ability to withstand the forces of lateral soil load, and
- (b) has been designed so as not to redirect the flow of any surface water or ground water, or cause sediment to be transported, onto an adjoining property, and
- (c) has adequate drainage lines connected to the stormwater drainage system for the site, and
- (d) does not result in a retaining wall or structural support with a total height measured vertically from the base of the retaining wall or structural support to its uppermost portion that is more than the height of the associated excavation or fill, and
- (e) is separated from any retaining wall or structural support on the site by at least 2m, measured horizontally, and
- (f) has been installed in accordance with the manufacturer's specifications (if any), and
- (g) if it is an embankment or batter—has a toe or top that is more than 1m from any side or rear boundary.

(9) If a retaining wall has a height of more than 600mm above ground level (existing) and is located within the front setback of a building, a landscaped

area with a minimum depth of 600mm must be provided in front of the wall (on the low side).

**Note 1.** *Excavation, fill* and *ground level (existing)* have the same meanings as they have in the Standard Instrument.

**Note 2.** Fill and excavation that is not associated with a building may be exempt development under clauses 2.29 and 2.30.

### **3B.59 Drainage**

All stormwater collecting as a result of development erected, altered or added to under this code must be directed by a gravity fed or charged system to:

- (a) a public drainage system, or
- (b) an inter-allotment drainage system, or
- (c) an on-site disposal system.

**Note 1.** *Drainage* has the same meaning as it has in the Standard Instrument.

**Note 2.** All stormwater drainage systems and connections to public drainage systems of inter-allotment drainage systems must either be approved under section 68 of the *Local Government Act 1993* or comply with the requirements for the disposal of stormwater contained in the development control plan that is applicable to the land.

### **3B.60 Protecting adjoining walls**

Any wall constructed within 900mm of a lot boundary must be built in accordance with the support method proposed by the professional engineer's report provided with the application for the complying development certificate.

**Note 1.** *Professional engineer* is defined in clause 1.5.

**Note 2.** *Complying development certificate* has the same meaning as it has in the Act.

### **3B.61 Setbacks of dual occupancies, manor houses, attached development and detached development from protected trees**

#### **(1) Pruning and removal of trees**

A complying development certificate for complying development under Division 1 is taken to satisfy any requirement under this Policy for a permit or development consent to remove or prune a tree or other vegetation on the lot if:

- (a) the tree is not listed on a register of significant trees kept by the council, and
- (b) the tree or vegetation will be within 3m of any building that has an area of more than 25m<sup>2</sup>, and
- (c) the tree or vegetation has a height that is less than:
  - (i) for development that is the erection of a new dual occupancy or manor house—8m and is not required to be retained as a condition of consent, or
  - (ii) in any other case—6m.

#### **(2) Setbacks from protected trees**

Development under this code must be at least 3m from each protected tree (measured from the base of the trunk of the tree).

#### **(3) Despite subclause (2), the following development can be located within 3m of a protected tree if works do not involve excavation or fill of more than 150mm below or above ground level (existing):**

- (a) an access ramp,

- (b) a driveway, pathway or paving,
- (c) an awning, blind or canopy,
- (d) a fence, screen, or child-resistant barrier associated with a swimming pool or spa pool.

**Note 1.** *Development consent*, *dwelling house* and *protected tree* are defined in clause 1.5.

**Note 2.** *Council*, *excavation*, *fill*, *ground level (existing)*, *spa pool* and *swimming pool* have the same meanings as they have in the Standard Instrument.

**Note 3.** *Complying development certificate* has the same meaning as it has in the Act.

**Note 4.** A separate permit or development consent may be required if the branches or roots of a protected tree on the lot or on an adjoining lot are required to be pruned or removed.

## **Division 7      Conditions applying to complying development certificates under this code**

### **3B.62      Conditions specified in Schedule 6A apply**

A complying development certificate for development specified under this code must be issued subject to the conditions specified in Schedule 6A.

#### **[19]      Clause 5.18 Development standards**

Omit clause 5.18 (1).

#### **[20]      Part 6**

Omit the Part. Insert instead:

### **Part 6      Subdivisions Code**

**Note.** In addition to the requirements specified for development under this code, adjoining owners' property rights, the applicable common law and other legislative requirements for approvals, licences, permits and authorities still apply. For example, requirements relevant to development in this code may be contained in the Act, the *Environmental Planning and Assessment Regulation 2000*, various State environmental planning policies, the *Protection of the Environment Operations Act 1997*, the *Roads Act 1993* and Acts applying to various infrastructure authorities. If the development is in proximity to infrastructure, including water, stormwater and sewer mains, electricity power lines and telecommunications facilities, the relevant infrastructure authority should be contacted before commencing the development.

## **Division 1      Strata subdivision**

### **6.1      Specified complying development**

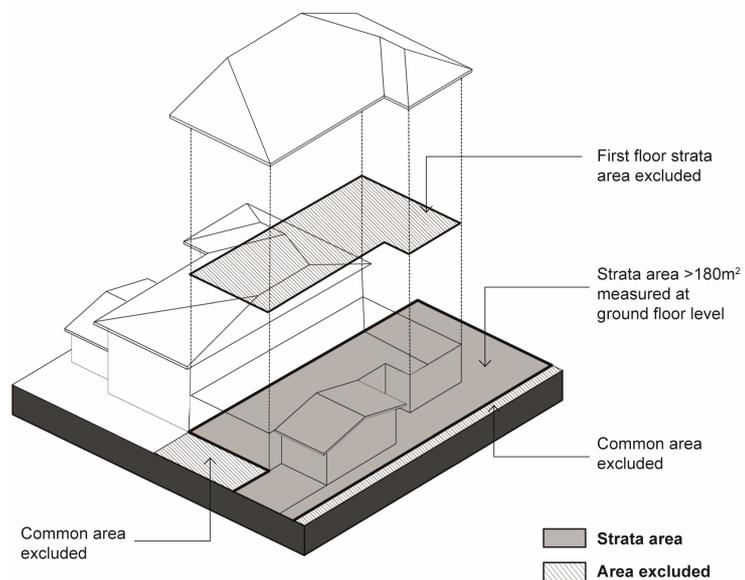
- (1) The strata subdivision of a building for which development consent or a complying development certificate was granted or issued is, for 5 years from the date the consent or certificate was granted or issued, development specified for this code.
- (2) The strata subdivision of a dual occupancy, manor house or multi dwelling housing (terraces), for which a complying development certificate has been issued under the Low Rise Medium Density Housing Code, is development specified for this code.
- (3) If a single complying development certificate application proposes both the strata subdivision of land and the erection of a dual occupancy, manor house or multi dwelling housing (terraces) on the land, the subdivision of that land is development specified for this code.

- (4) This clause does not include the strata subdivision of the following:
- (a) a secondary dwelling,
  - (b) a boarding house,
  - (c) a group home,
  - (d) a dual occupancy (except as provided by subclause (2) or (3)).

## 6.2 Development standards

The standards specified for that development are as follows:

- (a) that the subdivision must not contravene any condition of any development consent or complying development certificate applying to the development,
- (b) in the case of a dual occupancy or multi dwelling housing (terraces):
  - (i) each dwelling must have lawful frontage to a public road (other than a lane), and
  - (ii) no dwelling must be located behind any other dwelling on the same lot (except in the case of a corner lot or a parallel road lot), and
  - (iii) each resulting lot must have a minimum width (measured at the building line) of 6m,
- (c) in the case of a dual occupancy where no part of a dwelling is located above any part of another dwelling or multi dwelling housing (terraces), the strata area (being the area of the ground floor of all dwellings) is not less than 180m<sup>2</sup>.



**Note.** Registered interests on the land, the subject of the strata subdivision, the *Strata Schemes Management Act 2015* and the *Strata Schemes Development Act 2015* apply.

## **Division 2      Torrens subdivision**

### **6.3      Specified complying development**

- (1) This clause applies only to a dual occupancy or multi dwelling housing (terraces) where no part of a dwelling is located above any part of another dwelling.
- (2) The Torrens title subdivision of a dual occupancy or multi dwelling housing (terraces) to which this clause applies, for which a complying development certificate has been issued under the Low Rise Medium Density Housing Code, is development specified for this code.
- (3) If a single complying development certificate application proposes both the erection of a dual occupancy or multi dwelling housing (terraces) to which this clause applies on land and the Torrens title subdivision of land, the subdivision of that land is development specified for this code.

### **6.4      Development standards**

#### **(1)      Lot requirements**

The standards specified for that development are as follows:

- (a) there must only be 1 dwelling on each resulting lot at the completion of the development,
- (b) each resulting lot must be in Zone RU5, Zone R1, Zone R2 or Zone R3,
- (c) each resulting lot must be at least 6m wide (measured at the building line) and have lawful access, and frontage to, a public road,
- (d) if the subdivision relates to a dual occupancy, the area of each resulting lot must be at least:
  - (i) 60% of the minimum size specified for the subdivision of land for the purpose of a dual occupancy in the environmental planning instrument that applies to the land, or
  - (ii) if no minimum size is specified—200m<sup>2</sup>,
- (e) if the subdivision relates to multi dwelling housing (terraces), the area of each resulting lot must be at least 200m<sup>2</sup>.

#### **(2)      Other requirements**

The standards specified for that development are as follows:

- (a) dual occupancies or multi dwelling housing must be permissible, with consent, under an environmental planning instrument applying to the land on which the development is carried out,
- (b) the subdivision must not contravene any condition of any complying development certificate applying to the development.

## **Division 3      Subdivision certificates**

### **6.5      Issue of certificate by accredited certifier**

A subdivision certificate may be issued by an accredited certifier for a subdivision under this Part in accordance with section 109D (1) (d) (iv) of the Act.

## **Division 4      Conditions applying to complying development certificates under this code**

### **6.6      Conditions specified in Schedule 6B apply**

A complying development certificate for development specified under this code must be issued subject to the conditions specified in Schedule 6B.

#### **[21]      Schedules 6A and 6B**

Insert after Schedule 6:

## **Schedule 6A      Conditions applying to complying development certificates under the Low Rise Medium Density Housing Code**

(Clause 3B.62)

**Note 1.** Complying development under the Low Rise Medium Density Housing Code must comply with the requirements of the Act, the *Environmental Planning and Assessment Regulation 2000* and the conditions listed in this Schedule.

**Note 2.** Division 2A of Part 7 of the *Environmental Planning and Assessment Regulation 2000* specifies conditions to which certain complying development certificates are subject.

**Note 3.** In addition to the requirements specified for development under this Policy, adjoining owners' property rights, applicable common law and other legislative requirements for approvals, licences, permits and authorities still apply.

**Note 4.** If the development is in the proximity of infrastructure (including water, stormwater or sewer mains, electricity power lines and telecommunications facilities), the relevant infrastructure authority should be contacted before commencing the development. Information in relation to underground assets can be obtained at [www.1100.com.au](http://www.1100.com.au) or by phoning 1100.

**Note 5.** Under section 86A of the Act, a complying development certificate lapses 5 years after the date endorsed on the certificate, unless the development has physically commenced on the land during that period.

**Note 6.** Street numbering and letter box facilities should be provided in accordance with Australia Post guidelines and to the satisfaction of the council.

## **Part 1      Conditions applying before works commence**

### **1      Evidence of payment of contributions**

Sufficient evidence must be provided to the principal certifying authority before works begin to reasonably satisfy the principal certifying authority that any contribution required to be paid under section 94 or 94A of the Act in respect of the development has been paid.

### **2      Protection of adjoining areas**

A temporary hoarding or temporary construction site fence must be erected between the work site and adjoining lands before the works begin and must be kept in place until after the completion of the works if the works:

- (a) could cause a danger, obstruction or inconvenience to pedestrian or vehicular traffic, or
- (b) could cause damage to adjoining lands by falling objects, or
- (c) involve the enclosure of a public place or part of a public place.

### **3 Toilet facilities**

- (1) Toilet facilities must be available or provided at the work site before works begin and must be maintained until the works are completed at a ratio of 1 toilet plus 1 additional toilet for every 20 persons employed at the site.
- (2) Each toilet must:
  - (a) be a standard flushing toilet connected to a public sewer, or
  - (b) have an on-site effluent disposal system approved under the *Local Government Act 1993*, or
  - (c) be a temporary chemical closet approved under the *Local Government Act 1993*.

### **4 Garbage receptacle**

- (1) A garbage receptacle must be provided at the work site before works begin and must be maintained until the works are completed.
- (2) The garbage receptacle must have a tight fitting lid and be suitable for the reception of food scraps and papers.

### **5 Wall dilapidation report**

- (1) If a wall on a lot is to be built to a boundary and there is a wall (the *adjoining wall*) on the lot adjoining that boundary that is less than 0.9m from that boundary, the person having the benefit of the complying development certificate must obtain a dilapidation report on the adjoining wall before works begin.
- (2) If the person preparing the report is denied access to the adjoining lot for the purpose of inspecting the wall, the report may be prepared from an external inspection of the wall.

### **6 Run-off and erosion controls**

Run-off and erosion controls must be implemented before works begin to prevent soil erosion, water pollution or the discharge of loose sediment on the surrounding land by:

- (a) diverting uncontaminated run-off around cleared or disturbed areas, and
- (b) erecting a silt fence and providing any other necessary sediment control measures that will prevent debris escaping into drainage systems, waterways or adjoining properties, and
- (c) preventing the tracking of sediment by vehicles onto roads, and
- (d) stockpiling top soil, excavated materials, construction and landscaping supplies and debris within the lot.

### **7 Tree protection measures**

- (1) This clause applies to each protected tree and any other tree that is to be retained on a lot.
- (2) The trunk of each of the following trees must be provided with a tree guard that is comprised of hardwood timber panels each having a minimum length of 2m, minimum width of 75mm and minimum thickness of 25mm and secured, but not permanently fixed or nailed, to the tree and spaced a maximum of 80mm apart:

- (a) each tree that is within 6m of any dual occupancy, manor house, multi dwelling housing (terraces) or ancillary development that is to be constructed,
  - (b) each protected tree that is within 10m of any dual occupancy, manor house, multi dwelling housing (terraces) or ancillary development that is to be constructed.
- (3) Each protected tree that is within 6m of a dual occupancy, manor house, multi dwelling housing (terraces), outbuilding or swimming pool must have a fence or barrier that is erected:
- (a) around its tree protection zone as defined by section 3.2 of AS 4970—2009, *Protection of trees on development sites*, and
  - (b) in accordance with section 4 of that standard.
- (4) The person having the benefit of the complying development certificate must ensure that:
- (a) the activities listed in section 4.2 of that standard do not occur within the tree protection zone of any tree on the lot or any tree on an adjoining lot, and
  - (b) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained on the lot during the construction, is undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of that standard.
- (5) The tree protection measures specified in this clause must:
- (a) be in place before work begins on the lot, and
  - (b) be maintained in good condition during the construction period, and
  - (c) remain in place for the duration of the construction works.
- Note.** A separate permit or development consent may be required if the branches or roots of a protected tree on the lot or on an adjoining lot are required to be pruned or removed.

## **8 Notification of works to water and sewerage supply authorities**

- (1) If the development involves the erection of a new building or an addition to an existing building, the person having the benefit of the complying development certificate must ensure that the following are given plans of the building work and have approved those plans:
- (a) any organisation having water or sewerage infrastructure on the land on which the development is to occur,
  - (b) any organisation that is required to provide water or sewerage services to the land as a result of the development.
- (2) Evidence of the giving of approval required under subclause (1) is to be provided to the principal certifying authority for the building work involved in the development before that work begins.

## **9 Drainage**

Any water supply, sewerage or stormwater drainage work carried out under section 68 of the *Local Government Act 1993* on the lot must be completed before building works begin.

## **10 Location of footings and external walls**

- (1) Before works begin, the position of the following are to be marked out on the ground on the lot by a registered surveyor:

- (a) all footings required for the proposed development,
  - (b) the external walls of any building to be erected as part of the development but only if the building will contain a habitable room.
- (2) The person having the benefit of the complying development certificate must ensure that before those external walls are constructed, the principal certifying authority is given a survey and a report by a registered surveyor that shows the position of the walls relative to the lot boundary.

#### **11 Safety of persons and the environment**

Before works begin appropriate measures must be in place to ensure all works and activities are carried out during the development in a manner that ensures the safety of persons and of the environment, including, if the council recommends specific environmental site management controls in respect of the development, those recommended controls.

## **Part 2 Conditions applying during the works**

**Note.** The *Protection of the Environment Operations Act 1997* and the *Protection of the Environment Operations (Noise Control) Regulation 2017* contain provisions relating to noise.

#### **12 Hours for construction**

Construction may only be carried out between 7.00 am and 5.00 pm on Monday to Saturday and no construction is to be carried out at any time on a Sunday or a public holiday.

#### **13 Construction noise**

Noise caused by construction must not exceed an LAeq (15 min) of 5dB(A) above background noise when measured at any lot boundary of the property where the construction is being carried out.

#### **14 Compliance with plans**

Works must be carried out in accordance with the plans and specifications to which the complying development certificate relates.

#### **15 Maintenance of site**

- (1) All materials and equipment must be stored wholly within the work site unless an approval to store them elsewhere is held.
- (2) Waste materials (including excavation, demolition and construction waste materials) must be managed on the site and then disposed of at a waste management facility.
- (3) Any run-off and erosion control measures required must be maintained within their operating capacity until the completion of the works to prevent debris escaping from the site into drainage systems, waterways, adjoining properties and roads.
- (4) During construction:
  - (a) all vehicles entering or leaving the site must have their loads covered, and
  - (b) all vehicles, before leaving the site, must be cleaned of dirt, sand and other materials, to avoid tracking these materials onto public roads.
- (5) At the completion of the works, the work site must be left clear of waste and debris.

## **16 Earthworks, retaining walls and structural support**

- (1) Any earthworks (including any structural support or other related structure for the purposes of the development):
  - (a) must not cause a danger to life or property or damage to any adjoining building or structure on the lot or to any building or structure on any adjoining lot, and
  - (b) must not redirect the flow of any surface or ground water or cause sediment to be transported onto an adjoining property, and
  - (c) that is fill brought to the site—must contain only virgin excavated natural material (VENM) as defined in Part 3 of Schedule 1 to the *Protection of the Environment Operations Act 1997*, and
  - (d) that is excavated soil to be removed from the site—must be disposed of in accordance with any requirements under the *Protection of the Environment Operations (Waste) Regulation 2014*.
- (2) Any excavation must be carried out in accordance with *Excavation Work: Code of Practice* (ISBN 978-0-642-78544-2), published in July 2012 by Safe Work Australia.

## **17 Drainage connections**

- (1) If the work is the erection of, or an alteration or addition to, any dual occupancy, manor house or multi dwelling housing (terraces), the roof stormwater drainage system must be installed and connected to the drainage system before the roof is installed.
- (2) Any approval that is required for connection to the drainage system under the *Local Government Act 1993* must be held before the connection is carried out.

## **18 Swimming pool safety**

If the work involves the construction of a swimming pool, a child-resistant barrier that complies with the requirements of the *Building Code of Australia* and AS 1926.1—2012, *Swimming pool safety, Part 1: Safety barriers for swimming pools* must be erected around that work during the construction.

## **19 Contamination discovered during works**

- (1) If in the course of works on the land comprising the lot, the land is found to be contaminated (within the meaning of the *Contaminated Land Management Act 1997*):
  - (a) all works must stop immediately, and
  - (b) the Environment Protection Authority and the council must be notified of the contamination.
- (2) Land is found to be contaminated for the purposes of this clause if the person having the benefit of the complying development certificate or the principal certifying authority knows or should reasonably suspect that the land is contaminated.

**Note.** Depending on the level of the nature and level of the contamination, remediation of the land may be required before further work can continue.

## **20 Archaeology discovered during excavation**

If any object having interest due to its age or association with the past is uncovered during the course of the work:

- (a) all work must stop immediately in that area, and

- (b) the Office of Environment and Heritage must be advised of the discovery.

**Note.** Depending on the significance of the object uncovered, an archaeological assessment and excavation permit under the *Heritage Act 1977* may be required before further work can continue.

#### **21 Aboriginal objects discovered during excavation**

If an Aboriginal object (including evidence of habitation or remains) is discovered during the course of the work:

- (a) all excavation or disturbance of the area must stop immediately, and
- (b) the person making the discovery must advise the Chief Executive (within the meaning of the *National Parks and Wildlife Act 1974*) of the discovery in accordance with section 89A of that Act.

**Note.** If an Aboriginal object is discovered, an Aboriginal heritage impact permit may be required under the *National Parks and Wildlife Act 1974*.

### **Part 3 Conditions applying before issue of occupation certificate**

#### **22 Vehicular access**

If the work involves the construction of a vehicular access point, the access point must be completed before the occupation certificate for the work on the site is obtained.

#### **23 Utility services**

If the work requires alteration to, or the relocation of, utility services on, or adjacent to, the lot on which the work is carried out, the work is not complete until all such works are carried out.

#### **24 On-site stormwater detention system**

- (1) If an on-site stormwater detention system is installed on the lot in relation to the development, the following must be registered before the occupation certificate for the work on the site is obtained:
  - (a) a public positive covenant enforceable by the council requiring the owner of the land to maintain and repair the system,
  - (b) a restriction as to user in favour of the council that is worded to the satisfaction of the council.
- (2) A certificate issued by an engineer that certifies that the on-site stormwater detention system has been constructed in accordance with the approval of the council must be given to the principal certifying authority before the occupation certificate for the work on the site is obtained.

#### **25 Evidence of certain matters**

- (1) Sufficient evidence must be provided to the principal certifying authority before the occupation certificate for the work on the site is obtained to reasonably satisfy the principal certifying authority that each new dwelling will be adequately serviced with water, sewerage, electricity, natural gas (where available) and telecommunications.
- (2) The following must be provided to the principal certifying authority before the occupation certificate for the work on the site is obtained:

- (a) a survey certificate prepared by a registered surveyor that certifies the location of any new buildings, or additions to existing buildings, in relation to the boundaries of the lot,
- (b) if the development has resulted in the installation of a mechanical ventilation system—a certificate from a mechanical ventilation engineer that states that the system complies with the approved plans and specifications,
- (c) if the council has design guidelines or constructions specifications for works to which the complying development certificate relates and those guidelines or specifications address the submission of compliance documentation to the council—that compliance documentation.

**26 Easement in gross over rear lane**

If the development results in the creation of a rear access lane, an easement in gross for public access in favour of the council must be created over the lane before the occupation certificate for the work on the site is obtained.

**27 Adaptable housing notification**

- (1) If a dwelling has been constructed in a manner that permits it to be adapted for persons with a disability, a permanent notice should be attached in a visible location near the electricity meter that informs future occupants of this.
- (2) Without limiting subclause (1), if the Secretary of the Department of Planning and Environment approves the form of a notice for the purposes of this clause, a notice in that form is taken to satisfy subclause (1).

**28 Trees**

- (1) At least 1 tree (that will have a mature height of at least 8m) is to be in each rear yard on the site before the occupation certificate for the work on the site is obtained.
- (2) At least 1 tree (that will have a mature height of at least 5m) is to be in the setback from the primary road for each dwelling house, dual occupancy, manor house or terrace on the site before the occupation certificate for the work on the site is obtained but only if that setback is more than 3m.
- (3) In this clause:  
*terrace* means a single dwelling in multi dwelling housing (terraces).

**Part 4 Condition applying after issue of occupation certificate**

**29 Notification to council**

The person having the benefit of a complying development certificate must, as soon as practicable after obtaining an occupation certificate from a principal certifying authority (other than the council), notify the council of issuing of the certificate.

## Schedule 6B Conditions applying to complying development certificates under the Subdivisions Code

(Clause 6.6)

**Note 1.** Complying development under the Subdivisions Code must comply with the requirements of the Act, the *Environmental Planning and Assessment Regulation 2000* and the conditions listed in this Schedule.

**Note 2.** Division 2A of Part 7 of the *Environmental Planning and Assessment Regulation 2000* specifies conditions to which certain complying development certificates are subject.

### 1 Evidence of certain matters relating to services and works

- (1) Sufficient evidence must be provided to the principal certifying authority before the subdivision certificate for the site is obtained to reasonably satisfy that person that each new lot on which there will be a dwelling will be adequately serviced with water, sewerage, electricity, natural gas (where available) and telecommunications.
- (2) A survey certificate prepared by a registered surveyor that certifies that the services to each lot are located on the lot or on appropriate easements must be provided to the principal certifying authority before the subdivision certificate for the site is obtained.
- (3) After the completion of the subdivision works and before the subdivision certificate for the site is obtained, copies of the plans approved in relation to the issue of the complying development certificate are to be provided to the principal certifying authority that:
  - (a) are marked in red to show how the works as executed depart from those approved plans, and
  - (b) are certified and dated by a registered surveyor or design engineer.

### 2 Boundary fencing

Fencing must be provided along all property boundaries located behind the building line before the subdivision certificate for the site is obtained.

**Note.** See the *Dividing Fences Act 1991* for requirements in relation to boundary fences.

### 3 Easements for stormwater drainage

- (1) Evidence that any stormwater pipelines that are on lots other than the lots that they benefit are on appropriate easements must be provided to the principal certifying authority before the subdivision certificate for the site is obtained.
- (2) An easement is appropriate for the purposes of this clause if:
  - (a) it was created (by registration of an instrument under Division 1 of Part 7 of the *Real Property Act 1900*), and
  - (b) its location was approved by the council, and
  - (c) it has a minimum width of:
    - (i) if the diameter of the stormwater pipeline is less than 350mm—1m, or
    - (ii) if the diameter of the stormwater pipeline is 350mm or more and no more than 1.4m—2.4m, or
    - (iii) in any other case—the diameter of the stormwater pipeline plus 1m.

**4 Common driveways**

If lots share a common driveway, rights of carriageway over that driveway to the benefit of each of those lots must be created.

**5 Plan of subdivision**

- (1) The plan of subdivision that is to be lodged with the Registrar-General and an instrument under section 88B of the *Conveyancing Act 1919* must be provided to the principal certifying authority before the subdivision certificate for the site is obtained.
- (2) The principal certifying authority must not issue the subdivision certificate unless the instrument and plans properly reflect the consent including the conditions to which the complying development certificate is subject.

## **Schedule 2 Amendment of other environmental planning instruments**

### **2.1 Bankstown Local Environmental Plan 2015**

#### **Land Use Table**

Insert “Manor houses;” in alphabetical order in item 3 of Zone R2 Low Density Residential.

### **2.2 Byron Local Environmental Plan 2014**

#### **Land Use Table**

Insert “Manor houses;” in alphabetical order in item 3 of Zone R2 Low Density Residential.

### **2.3 Campbelltown Local Environmental Plan 2015**

#### **Land Use Table**

Insert “Manor houses;” in alphabetical order in item 3 of Zone R2 Low Density Residential.

### **2.4 Eurobodalla Local Environmental Plan 2012**

#### **Land Use Table**

Insert “Manor houses;” in alphabetical order in item 3 of Zone R2 Low Density Residential.

### **2.5 Great Lakes Local Environmental Plan 2014**

#### **Land Use Table**

Insert “Manor houses;” in alphabetical order in item 3 of Zone R2 Low Density Residential.

### **2.6 Hurstville Local Environmental Plan 2012**

#### **Land Use Table**

Insert “Manor houses;” in alphabetical order in item 3 of Zone R2 Low Density Residential.

### **2.7 Lithgow Local Environmental Plan 2014**

#### **Land Use Table**

Insert “Manor houses;” in alphabetical order in item 3 of Zone R2 Low Density Residential.

### **2.8 Manly Local Environmental Plan 2013**

#### **Land Use Table**

Insert “Manor houses;” in alphabetical order in item 3 of Zone R2 Low Density Residential.

### **2.9 Port Macquarie-Hastings Local Environmental Plan 2011**

#### **[1] Land Use Table**

Insert “Manor houses;” in alphabetical order in item 3 of Zone RU5 Village.

#### **[2] Land Use Table, Zone R2 Low Density Residential**

Insert “Manor houses;” in alphabetical order in item 3.

## **2.10 Port Stephens Local Environmental Plan 2013**

### **Land Use Table**

Insert “Manor houses;” in alphabetical order in item 3 of Zone R2 Low Density Residential.

## **2.11 Ryde Local Environmental Plan 2010**

### **Land Use Table**

Insert “Manor houses;” in alphabetical order in item 3 of Zone R2 Low Density Residential.

## **2.12 Ryde Local Environmental Plan 2014**

### **Land Use Table**

Insert “Manor houses;” in alphabetical order in item 3 of Zone R2 Low Density Residential.

## **2.13 Shellharbour Local Environmental Plan 2013**

### **Land Use Table**

Insert “Manor houses;” in alphabetical order in item 3 of Zone R2 Low Density Residential.

## **2.14 Shoalhaven Local Environmental Plan 2014**

### **Land Use Table**

Insert “Manor houses;” in alphabetical order in item 3 of Zone R2 Low Density Residential.

## **2.15 Sutherland Shire Local Environmental Plan 2015**

### **Land Use Table**

Insert “Manor houses;” in alphabetical order in item 3 of Zone R2 Low Density Residential.

## **2.16 Upper Lachlan Local Environmental Plan 2010**

### **[1] Land Use Table**

Insert “Manor houses;” in alphabetical order in item 3 of Zone RU5 Village.

### **[2] Land Use Table, Zone R2 Low Density Residential**

Insert “Manor houses;” in alphabetical order in item 3.