

- (b) must not be on any of the following land:
  - (i) land within a flood control lot,
  - (ii) land identified on an Acid Sulfate Soils Map as being Class 1 or Class 2,
  - (iii) land that is significantly contaminated land within the meaning of the *Contaminated Land Management Act 1997*,
  - (iv) land that is identified by an environmental planning instrument, a development control plan or a policy adopted by the council as being or affected by a coastline hazard, a coastal hazard or a coastal erosion hazard,
  - (v) bush fire prone land.
- (3) The premises on which the development is carried out:
  - (a) must provide or have convenient access to adequate sanitary facilities for use by staff and children attending the service, and
  - (b) must not be located within 200 metres (measured from the closest boundary of the lot on which the development is proposed) from any restricted premises, sex services premises, pubs or registered clubs.
- (4) In this clause:  
**emergency** means an emergency due to an actual or imminent occurrence (such as fire, flood, storm, earthquake, explosion, terrorist act, accident, epidemic or warlike action) which endangers, or threatens to endanger, the safety or health of persons in the early education and care facility or destroys or damages, or threatens to destroy or damage, the facility.

## 29 Home-based child care—exempt development

Development carried out by or on behalf of any person for the purpose of home-based child care is exempt development for the purposes of this Policy if it is not carried out on bush fire prone land.

**Note 1.** No standards are specified for this development. However, exempt development must comply with the general requirements in clause 17.

**Note 2.** The elements that must comprise this type of development are specified in the definition for this development in the Standard Instrument (see also the note to clause 5 (1) of this Policy). If all the elements are not present, the development is not development to which this clause applies.

## 30 Home-based child care—complying development

- (1) Development carried out by or on behalf of any person for the purpose of home-based child care is complying development for the purposes of this Policy if it complies with this clause.  
**Note.** Complying development must also comply with the general requirements in clause 19 (other than clause 19 (2) (c)).
- (2) The use of the dwelling used for home-based child care (the **dwelling**) as a dwelling must be permitted, with or without development consent, under an environmental planning instrument applying to the land on which the development is carried out.
- (3) If the development is carried out on a lot that is wholly or partly bush fire prone land, the following standards also apply:
  - (a) an asset protection zone must be established for the dwelling, that is not on a slope exceeding 18 degrees and that is in accordance with 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* (ISBN 0 9751033 2 6, published by NSW Rural Fire Service in 2010) to *Planning for Bush Fire Protection* (ISBN 0 9751033 2 6),
      - (iii) if another document is prescribed by the regulations for the purposes of section 79BA of the Act—that document,
    - (b) a bush fire emergency management and evacuation plan must be prepared in accordance with the following:
      - (i) *Development Planning A guide to developing a Bush Fire Emergency Management and Evacuation Plan*, published by the NSW Rural Fire Service in December 2014,
      - (ii) AS 3745—2010, *Planning for emergencies in facilities*,
    - (c) the part of the lot on which the development is to be carried out and any associated access way must not be in bush fire attack level-40 (BAL-40) or the flame zone (BAL-FZ),
    - (d) the lot must have direct access to a public road or a road vested in or maintained by the council,
    - (e) either a reticulated water supply must be connected to the lot or a dedicated water supply of at least 10,000L must be stored in a tank on site for fire fighting purposes,
    - (f) a fire hydrant must be located less than 60m from the location on the lot of the proposed development,
    - (g) mains electricity must be connected to the lot,
    - (h) reticulated or bottled gas on the lot must be installed and maintained in accordance with AS/NZS 1596:2014, *The storage and handling of LP Gas* and the requirements of relevant authorities (such as the requirement that metal piping must be used),
    - (i) any gas cylinders on the lot that are within 10m of a dwelling must:
      - (i) have the 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 cylinders,
    - (j) there must be no polymer sheathed flexible gas supply lines to gas meters adjacent to any dwelling on the lot or an adjoining lot.
- Note.** The requirements of AS 3959—2009, *Construction of buildings in bushfire-prone areas* set out in the *Building Code of Australia* also apply.
- (4) A standard specified in subclause (3) (c) is satisfied if one of the following certifies that the development is not in bush fire attack level-40 (BAL-40) or the flame zone (BAL-FZ):
    - (a) a person who is recognised by the NSW Rural Fire Service as a suitably qualified consultant in bush fire risk assessment,
    - (b) the council.
- Note.** More information about the categories of bush fire attack, including the flame zone, can be found in Table A3.4.2 of *Addendum: Appendix 3* (ISBN 0 9751033 2 6 and published by NSW Rural Fire Service in 2010) to the publication titled *Planning for Bush Fire Protection* (ISBN 0 9751033 2 6) published by NSW Rural Fire Service in 2006.
- (5) Clause 19 (2) (c) does not apply to complying development under this clause.