

## Boundary adjustments and strata subdivisions

Certain types of subdivision can be undertaken as exempt and complying development. This information sheet provides details about boundary adjustments as exempt development and strata subdivision as complying development.

### Important note

This information sheet is for guidance only and may not contain all the information relevant to every property in NSW. Applicants should refer to the [relevant planning controls](#)<sup>1</sup> before beginning work, or seek professional advice on how the planning controls apply to their property.

The majority of the development that can be done as exempt or complying development in NSW is identified in the State wide exempt and complying development policy (the policy). View the policy at the [Exempt and Complying Development Policy website](#)<sup>2</sup>.

**Exempt development** is minor building work that does not need planning or building approval. [Information sheet 1.1](#)<sup>3</sup> provides more information about exempt development.

**Complying development** is a joint planning and construction approval that can be granted by council or a private certifier. [Information sheet 1.2](#)<sup>4</sup> provides more information about complying development.

Note: As identified in Information Sheets 1.1 and 1.2 exempt and complying development cannot be carried out on certain land.

### Exempt development

A number of types of land subdivision can be undertaken as exempt development under the policy. These include:

- widening a public road
- creating a public reserve
- excising land from a lot that is intended to be used for public purposes, such as a drainage reserve or for public amenities, and
- subdivision to rectify an encroachment on a lot.

These subdivisions only need to be for the purpose stated and are not subject to any additional requirements or development standards.

### Realignment of boundaries

A realignment of the boundaries between two or more lots is another type of subdivision which is specified as exempt development. However these subdivisions must meet the following requirements:

- it cannot be carried out on the site of any heritage item or draft heritage item list in an EPI or draft EPI,
- it cannot create additional lots or any opportunity for additional dwellings, and
- it must not result in any lot that is smaller than the minimum size specified in an EPI, unless the lot is already under the minimum size and that lot increases in size as a result of the boundary realignment.

<sup>1</sup> <https://maps.planningportal.nsw.gov.au/Terms>

<sup>2</sup> [www.planning.nsw.gov.au/exemptandcomplying](http://www.planning.nsw.gov.au/exemptandcomplying)

<sup>3</sup> [www.planning.nsw.gov.au/exemptandcomplyingoverview](http://www.planning.nsw.gov.au/exemptandcomplyingoverview)

<sup>4</sup> [www.planning.nsw.gov.au/exemptandcomplyingoverview](http://www.planning.nsw.gov.au/exemptandcomplyingoverview)

A realignment of the boundaries must not result in any increased fire risk to existing buildings. It also must not adversely affect the provision of existing services on the lot. For example, if moving the lot boundary created a non-compliance with the BCA or if it affected the water or drainage to a lot, an easement may need to be created or additional works to the affected building or drainage would be necessary.

If the land is in a rural RU5 zone or any residential, commercial or industrial zone other than a zone, any boundary adjustment must not result in a change in size to the area of any lot of more than 10% from the current size.

If the land is located in a rural RU1, RU2, RU3, RU4, RU6 zone or any environmental zone, the boundary adjustment must not result in more than a minor change in the area of any lot.

### Section 109J certificates

Prior to registering the plan of subdivision (sometimes referred to as the linen plans) with the Land Titles Office the relevant local council is still required to endorse the plans under section 109J of the Environmental Planning & Assessment Act.

Some councils will request information to demonstrate that the requirements for exempt development have been met. However where these are met the council cannot require applicants to lodge a development applicant for the subdivision and cannot withhold their approval to the section 109J certificate.

### Complying development

Strata subdivision allows an applicant to divide land into two or more new strata lots that can be disposed of separately. The policy allows the strata subdivision of a building or separate buildings into strata lots as Complying Development.

Commercial offices, business, industrial and retail buildings, and residential buildings can all be strata subdivided as complying development.

Residential buildings which can be strata subdivided as complying development include townhouse developments, apartment buildings,

residential flat buildings and multi dwelling housing (three or more dwellings at ground level on the same lot).

The subdivision of a dual occupancy (two dwellings on one lot) is not complying development under the policy.

### Development standards

For strata subdivision of a building, the subdivision is permissible only within five years of a development consent being granted, or a complying development certificate being issued for the building. The subdivision must not contravene any condition of development consent or complying development certificate applying to the development.

If the development consent or complying development certificate was issued prior to 1 January 2011 the strata subdivision must be able to provide car parking spaces for each individual dwelling.

Note: the strata subdivision of a building may require approval of other authorities. Owners must gain all approvals that are required; these approvals may be found in the registered interests on the land, the Strata Schemes Management Act 1996 and the Strata Schemes (Freehold Development) Act 1973.

## Further Information

For more information visit the [Exempt and Complying Development Policy website](#)<sup>5</sup> or contact the Department's Exempt and Complying Development Team on 1300 305 695 or by [email](#)<sup>6</sup>.

## Electronic Housing Code

The Electronic Housing Code website helps applicants determine whether the proposed development qualifies as exempt or complying development and the standards that must be met.

Applications for complying development can also be lodged and tracked online for those council areas which are using the Electronic Housing Code. Visit the [Electronic Housing Code website](#)<sup>7</sup> to find out if it is used by your local council or for more details.

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<sup>5</sup> [www.planning.nsw.gov.au/exemptandcomplying](http://www.planning.nsw.gov.au/exemptandcomplying)

<sup>6</sup> [codes@planning.nsw.gov.au](mailto:codes@planning.nsw.gov.au)

<sup>7</sup> [www.electronichousingcode.com.au/](http://www.electronichousingcode.com.au/)