

## Temporary uses and structures

This information sheet explains the requirements for the temporary uses and structures that can be done without the need for any approval. It also covers larger temporary structures and uses that require complying development approval.

### 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 Temporary uses and structures

A range of temporary structures for private or community events, filming, as well as specified temporary uses of land and buildings can be carried out as exempt development under the policy.

To be exempt development the development must:

- have written consent from the owner of the land on which the development is carried out (this includes a council or other public authority),
- not restrict any car parking required by a condition of a development consent applying to the land, or any vehicular or pedestrian access to or from the land,
- not redirect the flow of any surface water or ground water, or cause sediment to be transported onto an adjoining property, and
- not result in damage to any protected tree on or adjoining the site.

Temporary structures are to be erected on a firm and level surface able to support the structure and be in accordance with Australian standards. The person carrying out the development must also have a public liability insurance policy for an amount agreed to by the owner of the land.

Note: Under section 68 of the *Local Government Act 1993* (LG Act) certain activities require the approval of the council. Also, a structure on public land or over a public road requires prior approval of the relevant authority under the LG Act or the *Roads Act 1993*.

<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)

## Development standards

### Temporary uses and structures

There are development standards that must be complied with if constructing or installing various types of temporary structures as exempt development. Some are outlined below; however refer to the appropriate clause in Division 3 of the policy for the full list of relevant development standards.

### Scaffolding, hoardings and temporary construction site fences

The construction, installation and removal of scaffolding, hoarding or temporary construction site fencing is exempt development when used in connection with a building project that is exempt or complying development. The development standards require the development to enclose the site area and be removed immediately after the work has finished. Temporary construction site fences that adjoin a public space must be covered in chain wire mesh.

Note: the *Work Health and Safety Act 2011* and *Work Health and Safety Regulation 2011* contain provisions relating to scaffolds, hoardings and other temporary structures.

### Temporary builder's structures

The construction or installation of a building site shed, office or associated amenities structure is permitted as exempt development as long as the temporary structure is:

- located on the development lot,
- not used for residential purposes, and
- removed at the completion of site works.

## Filming

A number of detailed requirements apply to filming as exempt development and these are set out in clause 2.114 of the policy. Generally the following requirements apply:

- the filming must not create significant interference with the neighbourhood, and

- if filming on private land, the maximum length is 30 days per year.

If filming is carried out for longer than two consecutive days:

- a filming management plan must be lodged with the consent authority five days prior to filming commencing on site, and
- the person carrying out the filming must give notice in writing of the filming to residents within 50m of the location five days prior to filming starting.

Filming may only be carried out on land with a heritage item, within a heritage conservation area or an environmentally sensitive area if the filming meets additional specific requirements.

The construction or installation of a temporary structure (other than a tent or marquee), and a temporary alteration or addition to a building or work solely for filming purposes is also provided for as exempt development. The development standards require that the development must not be accessed by the general public, can remain for a maximum of 30 days for every calendar year for each location, and alterations to buildings must be removed after 30 days

### Extension of trading hours prior to Christmas

This allows the operation of a lawful retail premises for 24 hours a day two weeks prior to Christmas Day.

This only applies to retail in a business zone and does not include licensed food and beverage premises or mixed use developments. This provision only applies to businesses with existing development consent. Except for any condition specifying trading hours, all other conditions of consent must continue to be complied with during the extended trading period.

Note: if the conditions of the consent do not specify hours for the loading or delivery of goods or the removal of waste, the policy restricts these activities to 7am to 7pm.

### Temporary extension of trading hours for licensed premises

Exempt development also includes the operation of a licensed premises (with development approval to operate) to extend hours of trading for an authorised special occasion of local, state or national significance where approved under the *Liquor Act 2007*.

Note: the premises cannot be in the freeze precinct under the *Liquor Act 2007*.

### Major event sites – additional temporary development

Temporary uses in the public domain are permitted as exempt development in major events sites. Temporary uses include community events, commercial events, trading for retail and other commercial purposes (including temporary dining and drinking areas).

'Major events sites' refers to Circular Quay, Darling Harbour, The Rocks, the Overseas Passenger Terminal at Circular Quay, Sydney Olympic Park and the Barangaroo site. The development standards are covered in clause 2.126 of the policy.

### Sydney Cricket Ground – additional temporary development

Exempt development also includes temporary outdoor non sporting events such as concerts and associated equipment, structures and facilities (stages, public address systems, food and beverage outlets, video screens and information or ticket booths) are permitted at the Sydney Cricket and Sports Ground. The development standards are covered in clause 2.128 of the policy.

### Tents, marquees and booths

General development standards apply to tents, marquees and booths as exempt development. In addition, some additional development standards apply when the structures are used for specific purposes.

Most of these standards are outlined in Table 1. However please also note that temporary structures:

- must maintain an unobstructed pedestrian circulation area of at least 1.5m wide around the outside tents or marquees, (unless the tents are side by side),
- must have the required number of exits (refer to clauses 2.118 and 2.120 for details), and
- if internal seating, stalls, tables or other elements are included, a clear path to the exits no longer than 40m required.

Note, tiered seating is not permitted.

### Stages and platforms

The development standards for stages and platforms are also outlined in Table 1. Stages and platforms must also display a notice indicating the actual distributed and concentrated design loading.

### Complying development Tents, marquees or booths for community events

The construction or installation of larger tents, marquees or booths up to 500m<sup>2</sup> for community events can be constructed as complying development.

Further to the development standards outlined in Table 1, structures must be situated to provide required spacing for pedestrian circulation. An unobstructed gap of 1.5m must be provided between neighbouring structures (unless arranged side by side, in which case the 1.5m gap applies to the perimeter of the combined structures).

If the floor area of the structure is larger than 300m<sup>2</sup>, each structure must be located at least 6m away from any other tent or marquee and must contain an emergency lighting and power supply system.

Structures must also have the required exits. Refer to clause 4A.6 for details. Structures with a floor area up to 150m<sup>2</sup> must have an exit at least 850mm wide and 1m for structures with larger floor areas. Structures must also have internal

unobstructed paths no longer than 40m to the exits.

### Stages and platforms for community events

The construction or installation of larger stage or platform of up to 100 m<sup>2</sup> for community events can also be carried out as complying development.

Further to the development standards outlined in Table 1, the stage or platform must resist loads determined in accordance with Australian standards.

### Conditions that apply to both exempt and complying development Temporary uses and structures

All complying development for temporary structures under this policy must comply with the prescribed conditions contained in the *EP&A Regulation 2000*, and the standard conditions located in Schedule 7 of the policy.

The Principal Certifying Authority must be satisfied that all conditions are met prior to work commencing on site

Note: The operating hours for all tents, marquees or booths stages or platforms for filming, private functions or community events, whether being carried out as Exempt or Complying Development, are:

- Monday to Thursday: 7:30am to 11pm,
- Friday to Saturday: 7:30am to midnight
- Sunday: 8am to 8pm

The only exception to this is if the event is carried out on a major event site where additional hours are permitted for some major events, for example New Year's Eve and Australia Day celebrations.

### What else do I need to consider?

- If you propose to remove or prune any existing trees or vegetation, you should contact your council first to make sure you don't need approval for this.

- Any structures that would be located on public land or on or over a public road (including temporary structures) require separate approval from the relevant council or Roads and Maritime Services under the *Roads Act 1993* and the *Local Government Act 1993*.

If your proposal doesn't meet the required standards for either exempt or complying development, you may still be able to do the work, but you must get development approval first. In this case, you should contact your local council to discuss your options.

### 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.

<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/)