

Understanding exempt 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](#)¹ 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](#)².

What is exempt development?

Many types of home renovations and minor building projects don't need approval from a council or private certifier. This is called exempt development.

As long as the building project meets specific standards and land requirements (as defined in the State wide exempt and complying development policy), no planning or building approval is needed.

The first step when planning the building project is to check whether it meets the relevant development standards of the policy.

A number of information sheets are available at the [exempt and complying development policy website](#)³. They provide general information about different types of exempt development.

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

² <http://www.planning.nsw.gov.au/exemptandcomplying>

³ <http://www.planning.nsw.gov.au/exemptandcomplying>

Exempt development

What type of development can be exempt development?

A range of minor developments can be done to residential, commercial and industrial properties, as exempt development.

The exempt and complying development policy divides exempt development into three groups:

1. General Exempt Development (for a broad range of building work),
2. Advertising and Signage Exempt Development (for common types of business signs and other signage),
3. Temporary Uses and Structures (for temporary uses such as filming, builder's sheds and tents and marquees used for specific events).

How do I know if my project is exempt development?

The policy clearly sets out the development standards that a building project must meet, to be exempt development. To be exempt development the project must comply 100% with all of the relevant development standards.

The development standards set the parameters for exempt development and examples of standards in the policy include:

- controlling the number of development types on the lot,
- managing the location, floor area and height of the specified development,
- setting hours of operation, and
- managing noise levels.

If any of the development standards for the particular exempt development type cannot be met, approval is required for the project.

What should I know about exempt development?

Exempt development must have minimal environmental impact and cannot be carried out on land that is:

- a critical habitat under the *Threatened Species Conservation Act 1995* or *Fisheries Management Act 1994*,
- a wilderness area under the *Wilderness Act 1987*, and
- a State heritage item listed on the State Heritage Register (SHR) or an interim heritage item under the *Heritage Act 1977*.

If only part of a lot is subject to the heritage designation, exempt development may be able to be carried out on the part of the land not affected by the heritage listing.

Some exclusions for exempt development

- As well as the above general restrictions for exempt development, some development types have specific exclusions. These additional exclusions protect against negative impacts on land that is especially sensitive or has a special character.
- For example, to protect the character of local heritage items, carports cannot be built in or on a local heritage item. To protect foreshore areas and environmentally sensitive areas, driveways and hardstand spaces cannot be built as exempt development.
- These exclusions are identified in the development standards for each development type.

Exempt development in my local area?

- In some areas the development standards for a specific development type may be varied. These variations apply to areas where the local council has identified that additional complying development can occur without the risk of any negative impacts.

- In addition to the general exclusions listed above, some local exclusions also apply to exempt development. This only happens in very special circumstances and they are listed in Schedule 4 of the policy.

Safety and exempt development

- All exempt development works must comply with relevant provisions of the [Building Code of Australia](#)⁴. If no relevant provisions exist, the works must be structurally adequate.
- Exempt development works must not cause an existing building to contravene the *Building Code of Australia*.
- All exempt development works must be installed in accordance with the manufacturer's specifications (if relevant).

Designated development

- Designated development is a type of development that has high potential to result in environmental impacts.
- Exempt development can be done on lots that contain some types of designated development.
- Designated development is development that is declared to be designated development by an environmental planning instrument or the regulations. If you are unsure you should contact your local council.

Some tips for using the exempt development policy

- The policy includes definitions for many of the specific terms used for exempt development that are used in the policy. See clause 1.5 of the policy. If a specific word is not defined in the policy it may be defined in the model [Standard Instrument LEP](#)⁵.

⁴ <http://www.abcb.gov.au/about-the-national-construction-code/the-building-code-of-australia>

⁵ <http://www.legislation.nsw.gov.au>

- The provisions of the State wide policy do not override other policies or legislation. For example you must get:
 - the land owner's approval to carry out any works on their land,
 - adjoining owners are liable to contribute equally to costs required to maintain a sufficient dividing fence, and
 - covenants and legal agreements that apply to the land still apply (unless they instrument has been imposed by a local council.

Online resources- Find out more about exempt development

- 94% of local councils in NSW have now adopted a model Local Environmental Plan (a Standard Instrument LEP). If your council has a Standard Instrument LEP you can find out what planning policies apply to your land. Go to the [Planning Viewer website](#)⁶.
- [Interactive buildings](#)⁷ is an online interactive tool that can be used to find out if your project can be done as exempt development. The tool can be used to search for specific development types or to browse a model of a typical residential, commercial or industrial building to identify types of exempt development.
- The [Electronic Housing Code](#)⁸ can be used to obtain a certificate of exempt development. Based on the information provided, the certificate confirms that the works can be done as exempt development.

Are any other approvals required?

Before undertaking some types of exempt development, you may need to obtain a separate approval or licence from the local council or utilities providers.

For example, one of the following approvals may be required for certain exempt development types:

- approval under section 68 of the *Local Government Act 1993* is required for certain activities, including the placing of some structures in or over a public place,
- the building of any kerb, crossover or driveway and other work over a public road or footway will require an approval from the relevant roads authority under the *Roads Act 1993*,
- works to waterway structures may need an approval under the *Fisheries Management Act 1994* or a licence under the *Protection of the Environment Operations Act 1997*, and
- if you are removing or pruning a tree or other vegetation, contact your local council first to check the requirements of council's tree preservation policy.

Further Information

For more information visit the [Exempt and Complying Development Policy website](#)⁹ or contact the Department's Exempt and Complying Development Team on 1300 305 695 or by [email](#)¹⁰.

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](#)¹¹ to find out if it is used by your local council or for more details.

⁶ <https://maps.planningportal.nsw.gov.au/Terms>

⁷ <http://interactivebuildings.planning.nsw.gov.au/>

⁸ <http://www.electronichousingcode.com.au/>

⁹ <http://www.planning.nsw.gov.au/exemptandcomplying>

¹⁰ codes@planning.nsw.gov.au

¹¹ <http://www.electronichousingcode.com.au/>